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THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Dorchester County
Court of Common Pleas

Diane Schafer Goodstein, Circuit Court Judge

Appellate Case No. 2015-000058
Trial Court Case No. 2013-CP-18-00735

William McFarland and Jennifer McFarland,

Appellants,

v.

Mansour Rashtchian and Amy Rashtchian,

Respondents.

RECORD ON APPEAL
VOLUME II

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THE COURT: All right. Very well. Thank you.

Call your next witness, please.

MS. LIETZOW: Marissa.

MARISSA MCFARLAND,

being first duly sworn, testified as follows:

THE COURT: All right. Would you spell your first name for our record, please.

THE WITNESS: M-A-R-I-S-S-A.

THE COURT: Thank you. Your witness.

DIRECT EXAMINATION BY MR. STUCKEY:

Q. And give us your name, please.

A. Marissa McFarland.

Q. And where do you live, Miss Marissa McFarland?

A. REDACTED.

Q. And who lives there with you?

A. My mom, dad and brother.

Q. Okay. Who are your mom and dad?

A. William and Jennifer McFarland.

Q. Are they present here in court?

A. Yes.

Q. And are they the plaintiffs bringing this lawsuit?

A. Yes.

Q. And who is your brother?

A. REDACTED McFarland.

Q. And how old are you right now?

A. I'm 21.
Q. And M[REDACTED] McFarland is how old?
A. 11.
Q. So you are ten years older --
A. Yes.
Q. -- than M[REDACTED] McFarland; is that correct?
A. Yes, sir.
Q. Do you have any other brothers and sisters?
A. No, sir.
Q. And let me ask you a little bit about your background, please, Marissa. That's what your friends call you; is that correct?
A. Yes, sir.
Q. Okay. Were you born and raised in the Summerville area?
A. I was born in Virginia, but I've been in Summerville since I was two or three months old, so I consider it home.
Q. Okay. And what kind of -- where did you attend school for elementary and -- elementary school and so forth?
A. I went to Summerville Catholic School.
Q. Okay. And after Summerville Catholic School, where did you go to school?
A. Summerville High School.
Q. And approximately how many students are at Summerville High?
A. When I was there it was over 3,000, I think.

(Judge and attorneys confer.)

Q. Marissa, what course of study are you taking at the College of Charleston?

A. I'm a business management manager or administration.

Q. And what class are you in at college?

A. I'm a junior, so I graduate in 2016.

Q. Now, directing your attention back to April the 26th, 2011, basically three years ago or so, do you recall that date?

A. Yes, sir.

Q. And where were you living at that time?

A. The same address: REDACTED.

Q. And would you tell the ladies and gentlemen of the jury, please, approximately midafternoon or a little later after that what happened at your home?

A. Well, I had gotten home from school probably like an hour ago, and I was in the kitchen getting a glass of water, and I heard screaming outside the window. We have a three-story house, so I was on the second story, and there's a sun room with -- that's all windows that face our backyard. And I could hear distinctly the F-word being said multiple times.

Q. What were the words you heard being said?

A. Well, I heard yelling, and I went to the window because I knew that there was landscapers in the backyard, and I

wasn't sure what was going on. And I saw a truck with a trailer full of mulch, the landscapers' truck, being backed up into our back gate. And I saw my dad and two other -- two other landscapers. One was driving. And I saw Mr. Rashtchian out there as well.

Q. How far were you away from the truck?

A. I was on the second story, and it's probably about 15 or 20 yards or so.

Q. And what attracted your attention to go out and check what was going on?

MR. CLEVELAND: Object to the leading, Your Honor.

THE COURT: Overruled.

THE WITNESS: So it was the sound of yelling and the F-word. It was aggressive. That's not normal sounds that you hear throughout the day.

Q. And when you looked out of the window, where did you see your father?

A. He was in the middle of Flud Street, which is the street behind our house near the back gate.

Q. Who else did you see other than your father, the two landscapers and the person who was driving the truck?

A. Mr. Rashtchian.

Q. You say "Mr. Rashtchian." Would you look around the court and indicate if you see him, please.

A. I do.

Q. And would you indicate where he is.
A. Over there (indicating).
Q. Okay. That's the gentleman behind counsel table; is that correct?
A. Yes, sir.
MR. STUCKEY: Okay. Let the record reflect, Your Honor, that she's indicated the defendant in this action.
THE COURT: Very well.
Q. Did you know Mr. Rashtchian at the time?
A. No, sir. I've only seen him maybe, you know, outside in his yard when I was outside in my yard but never any formal contact.
Q. So after hearing what was going on out on Flud Street or in your driveway, what did you do?
A. Well, I stood up there and listened for a second because I was confused by why someone would be, you know, yelling at -- at first I thought he was yelling at the landscapers, but then I realized he was yelling at my father. And he was, you know, saying, "Why would you work for someone like that? He stole all his money from his father-in-law," you know, "How could you work for someone who's a liar and a cheat?" And then stuff like that kept being said.
And my dad kept saying, you know, "Why are you saying that? Who told you this? Why would you say something like that."

And then probably like midway through, my mom called me downstairs to our, like, family room where my brother was. And she said, you know, "Something's going on in the backyard with the neighbors. I'm going to go out there," and, you know, "Make sure your brother's okay."

Q. Now, when she said, "Make sure your brother's okay," did that mean she was going out to the vehicle to check on your brother, or what did it mean to you?

A. Oh, that she was going out in the backyard to be with my dad, and my brother and I were inside. She didn't want him running out there.

Q. And at that time how old were you?

A. I was 17.

Q. And how old was M[REDACTED]?

A. Seven.

Q. And what happened after that?

A. Well, my brother was upset and confused and he wanted to listen to make sure that my mom was okay. He's always really protective over his mom and myself. So he was -- he kept just wanting to go outside and listen, so I let him stand on the back porch with me so we could listen and make sure everything was okay.

Q. Did you hear anything else going on?

A. When my mom went out there, I believe Mrs. Rashtchian came out as well and said, you know, "You -- you talk to me,

B." Should I say the word or can I --

Q. Let me say, did "B" stand for bitch? Is that what was said?

A. Yes, sir.

Q. Okay. Would you indicate, please, if you see Mrs. Rashtchian in the room?

A. I do.

Q. And would you indicate who she is, where she is, please.

A. Over there next to Mr. Rashtchian (indicating).

Q. And are you indicating the defendant in this case, Amy Rashtchian?

A. Yes, sir.

Q. Okay. And what happened after that?

A. She was, you know, like I said, aggressively coming at my mom. And my mom was asking Mr. Rashtchian, you know, "Why are you saying these things about my family? Who told you this?"

And Mrs. Rashtchian said, you know, "You talk to me." And then she looked at my dad and said -- Mrs. Rashtchian looked at my dad and said, you know, "Ask me who comes in your house when you're out of town. Just ask me who comes in your house."

And I think at that point my parents were turning to come inside, and she grabbed my dad by the arm and swung him around and he said, you know, "Don't you touch me."

Q. So what did you do?

A. I brought M[redacted] inside at that point. When they started to turn and come back into the yard, I brought him inside.

Q. When this was going on about what you just testified to, how far away were you?

A. On the back porch, it's probably like 15 yards, I'd say.

Q. And where were you positioned?

A. Well, right by our back door on our back porch kind of like -- there's, like, three pillars, so right around there.

Q. And what happened next?

A. After my parents came inside or --

Q. Yes.

A. My mom called her mom, and she was really upset. She made sure that -- you know, she asked if anyone had been saying anything about where my parents' business came from or why she would be, you know, cheating or why someone would say she was cheating on her husband.

And then she talked to M[redacted] and I to, you know, ask what we heard. Make sure we were okay.

Q. What was M[redacted]'s reaction?

MR. CLEVELAND: Objection. Hearsay, relevance.

MR. STUCKEY: She observed -- she observed --

THE COURT: What did she observe?

MR. STUCKEY: Yes.

THE COURT: Overruled.

THE WITNESS: Well, he was crying and really upset. He was mad. He kept wanting to go out there and say something. Like I said, he's really, really protective. And my dog was out there with my mom, and he was nervous about our dog, Cooper, being out there because he was just a puppy. And, like, it took us a couple minutes to calm him down and tell him everything's okay.

Q. What did you observe as to how this affected your mom?

A. Well, ever since the incident it's been kind of ongoing. I mean, she doesn't feel --

MR. CLEVELAND: Objection. Relevance as far as any additional contact with the defendants.

THE COURT: Very well. Can you --

MR. STUCKEY: I'm sorry, Your Honor. I meant to try to isolate it more.

THE COURT: Okay. If you'll do that, please.

Q. At this particular time, you observed your mother; is that correct?

A. Yes, sir.

Q. And how was she reacting?

A. She was very upset. She was crying. She was nervous that not only if I could have heard it, that other neighbors could have heard it and think that some of the things said were true --

MR. CLEVELAND: Objection, speculation.

THE WITNESS: In my opinion.

THE COURT: Overruled, you may proceed.

MR. STUCKEY: Thank you, Your Honor.

Q. And would you go ahead, Marissa, and repeat your answer to that?

A. Just that I -- she was upset that, you know, if I could have heard and -- from my house that other neighbors in the neighborhood could have heard and believed that it was true as well.

Q. Was she crying?

A. Yes, she was. She's been crying for a while now.

Q. Was she crying when she called your grandmother, Mrs. Moffa?

A. Yes, sir.

Q. And what was your father's reaction? What did you observe as far as his reaction?

A. At first confusion, and then I think I observed the same thing in him. It was embarrassment that other neighbors could have had heard and believed that, you know, we -- or not we, but that they had stolen the money for the house that they live in.

Q. Have you ever had any boyfriends come and visit -- I guess you have -- your home; is that correct?

A. Yes, sir.

MR. STUCKEY: The question was, Your Honor, she said she'd not been involved in this case by giving any previous statements until she gave a deposition, and that I believe she said -- and she testified, I believe, that the parents did not want her to be involved in the case. And then I asked, "Well, when you gave a deposition, under what circumstances and why did you give the deposition?"

THE COURT: You may proceed overruled.

MR. STUCKEY: Thank you, Your Honor.

A. The Rashtchians attorney, Mr. Cleveland, subpoenaed me.

Q. And he's the one who subpoenaed you to give a deposition in this case; is that correct?

A. Yes, sir.

MR. STUCKEY: That's all we have, Your Honor.

THE COURT: All right. Cross-examination.

MR. CLEVELAND: Thank you, Your Honor.

CROSS-EXAMINATION BY MR. CLEVELAND:

Q. Mr. Stuckey was asking you a moment ago concerning boys coming over to your house. They would come to visit you from time to time?

A. Yes, sir. I had friends come over, and some of them are boys.

Q. Sure.

And that was while you were in high school and living at home back during the time of the incident in this matter?

A. Yes, sir.
Q. And do you deny that your parents had to go and pick you up after this incident occurred because you were someplace else?
A. Can you restate that question?
Q. You weren't here yesterday for the testimony of Stephon Johnson, were you?
A. No, sir.
Q. Do you deny that you were actually somewhere else at the time of this incident such that your parents had to come and pick you up after this incident occurred?
A. I'm still a little confused by the wording, but I was there, so, no, my parents did not have to come pick me up.
Q. And when you heard this incident, you didn't call the police, did you?
A. No, sir.
Q. In fact, no one at your home called the police on the day of the incident; is that correct?
A. No, sir.
Q. And then when the police did come to your house on May 10, 2011, about two weeks after the incident, you did not give the police a statement; is that correct?
A. No, sir. I was a minor.
Q. You were 17 years old at that time?
A. Yes, sir.

Q. And that was because your parents didn't want you involved in the incident; that's why you didn't give a statement to the police?
A. Yes, sir.
Q. And did you hear the landscapers laughing during this incident?
A. If they were, it wasn't something that stuck in my mind. I was a little more concerned about what was going on.
Q. And I think that you said that when you first looked outside, your dad was in front of the truck in front of -- in Flud Street; is that correct?
A. Yes, sir.
Q. So the truck was still -- the trailer was in the process of being parked at that time?
A. Yes, sir.
Q. You're sure your father wasn't back checking out the gate behind the trailer to make sure that they didn't hit the gate?
A. I don't think so. I know that they were backing up the trailer. Throughout the incident they backed the trailer in and parked the truck.
Q. And the truck and trailer were hitched when you saw it; is that correct?
A. At the first time of seeing it, yes.
Q. And it's your testimony that you've never heard your

father use any profanity; is that correct?
A. Only if he's very, very upset. And he tries not to ever cuss around my brother and I.
Q. Do you remember hearing your father use profanity on the day of the incident?
A. He said, I think, you know, "What the hell." And when Mr. Rashtchian said, "You're an A-hole," he said back, "No, you're an A-hole."
Q. Did you hear your father use the F-word on the day of the incident?
A. I did not.
Q. I'm going to ask you, if you would -- I guess I need to give it to you.
(The Court's Exhibit 18 marked for identification.)
Q. If you would, please turn to Page 30 of your deposition?
And question, Line 23: "Have you ever heard your father use any profanity?"
"ANSWER": No, sir."
Was that your sworn testimony?
A. Yes, sir.
MS. LIETZOW: Your Honor, I believe the next question and answer is going to be an improper impeachment because it doesn't contradict what her testimony already is.
THE COURT: Okay. Let me see. Would you all approach.
MR. CLEVELAND: I'll be happy to read the next question,

THE COURT: Okay. Very well. Denied.

What else have you got? Anything else?

MR. LEECH: That's it.

THE COURT: Okay. Very well. Everybody ready?

MR. CLEVELAND: One additional thing, Your Honor, we've raised this a couple of times over the last couple of days, but we would make a motion to amend our answer to include mitigation as set forth under Rule 9(h), I believe. And I think Your Honor mentioned that our defense of provocation really is self-defense. We would ask that it be converted to self-defense, if that is, in fact --

THE COURT: It's just the term. It's just -- I don't think you need -- I don't think you need to amend that. It's just -- it means the same thing, provocation, self-defense. In some jurisdictions it's considered provocation. You know, and just the charge that's on our computer speaks in terms of self-defense.

I wouldn't -- you know, I wouldn't keep you from doing that just to be inclusive. I don't know that you want to substitute, maybe just add to it.

MR. CLEVELAND: Certainly.

THE COURT: I'm very comfortable that they mean the same thing.

MR. CLEVELAND: Yes, Your Honor.

THE COURT: All right. Now, with regards to the

mitigation, it certainly has been in the case, in the trial, in the case. I'll hear from you all about that, mitigation, motion to amend.

MR. STUCKEY: Your Honor, I don't think there's any mitigation that I know of that would justify the slanderous statements per se.

THE COURT: Got it. Wonderful. Thank you so much. I'll allow it.

MR. CLEVELAND: Thank you, Your Honor.

THE COURT: Okay. Anything else?

MR. CLEVELAND: I think we're ready to go, Your Honor.

THE COURT: Wonderful. Jury, please.

(The jury enters the courtroom at 2:04 p.m.)

THE COURT: All right. Ladies and gentlemen, we'll now turn back to the plaintiff for the plaintiff's case in chief.

Please call your next witness.

MS. LIETZOW: Your Honor, the plaintiff rests.

THE COURT: Thank you so much.

We will now turn to the defense.

MR. CLEVELAND: Thank you, Your Honor. At this time we call Mr. Mansour Rashtchian to the stand, please.

THE COURT: Yes, sir.

THE WITNESS: Mansour Rashtchian.

MANSOUR RASHTCHIAN,

being first duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. CLEVELAND:

Q. How old are you, Mr. Rashtchian?

A. 60.

Q. And tell me a little bit about you. Where are you born and raised?

A. I was born in Tehran, Iran.

Q. Tell me about your education after that.

A. I graduated from high school in Tehran. I joined Iranian Navy, and they send me to come to US to go to the Citadel for my higher education. I graduated from Citadel with BS, a bachelor of science in electrical engineering.

Q. And what year was that?

A. 1980.

Q. And tell me about your employment. Where have you been employed since graduating?

A. Upon my graduation from Citadel, two weeks later I start working for Santee Cooper.

Q. And what was your position with Santee Cooper?

A. I started with the entry-level engineer, and I progress to supervisor of system protection and control before I retired in 2004.

Q. And since 2004 what type of work have you done?

A. I am a residential home builder.

Q. And let's turn our attention to your wife, Amy. When was it that the two of you started dating?

A. We met each other in 1976. I believe I could say love at first sight, and we got engaged 1978, and we got married 1980, after I graduated.

Q. And what were your plans as far as what you were going to do after graduation from the Citadel and marrying Amy initially?

A. We were planning to go back to Iran.

Q. And what happened that caused you to change those plans?

MR. STUCKEY: Objection. I think Your Honor has ruled on that, I believe.

THE COURT: I think this is going to conclude or very closely conclude this part of the testimony, I would believe, based on what I understood before. Yes?

MR. CLEVELAND: Yes, Your Honor.

THE COURT: Yes.

Q. What happened to cause you to change your plans?

A. As a situation Iran which had happened, referring to the revolution of 1979, I decided not to go back.

Q. And then moving on to after getting married, tell me about Amy. Did she work outside the home?

A. She worked -- when we got married, she worked until 1985. We decided to have kids and have our own -- have a family. And 1985 she was working at Dupont. That was a very physical work for a female, and we decided for her to basically take volunteer retire -- voluntary layoff and stay

home. Of course she was pregnant.
Q. Okay. And has she performed any work since DuPont?
A. She did not work 'til our kids were old enough to go to school. After that she start helping me with my business, with M&R Construction, which I started that while I was employed at Santee Cooper.
Q. Very good.
You mentioned children. How many children did you have?
A. I have two boys.
Q. And what are their names and ages?
A. My oldest one is Brett; he's 28 years old. And my youngest one is Blaise; he's 22 years old.
Q. Tell me about Brett. Where did he go to high school?
A. He went to -- initially he went to Summerville Catholic. And for a little bit he went to Summerville Elementary. After that he went to Pinewood.
Q. And then any additional education or training after high school?
A. He has a bachelor of science in business administration, business management from Clemson University.
Q. And is he currently employed?
A. Yes, sir.
Q. Where does he work?
A. He works for Harbor National Bank of Mount Pleasant.
Q. Thank you.

And tell us about your younger son, Blaise. First off, how old is he?

A. He's 22.

Q. And tell us about his education, if you would.

A. He has a -- he has a bachelor of science of business from Citadel.

Q. And what year did he graduate from the Citadel?

A. He graduated from Citadel this year, and I had the honor to hand him his diploma.

Q. Because you're a Citadel graduate as well?

A. Yes, sir.

Q. And are you and your wife involved relating to the Citadel?

A. Yes. Especially this last four years when my youngest son was in there, I knew the -- all the homesickness all these cadets, they do -- my wife and I, we did a lot of entertaining them, letting them come to our home. Our home was open for entire class, his classmate at the Citadel. And we would cook, especially Wednesday nights we would cook for them to come and for us to entertain them.

Q. Very good.

And is Blaise currently employed?

A. Yes, sir.

Q. Where does he work?

A. He worked for Benefitfocus in Daniel Island.

Q. Okay. Now, let's turn our attention to where you currently live. What's your current home address?
A. I live at 97 Flud Street. It's in Summerville off Central Avenue.
Q. And when did you move there?
A. We moved there -- I start building our house 1999. I build it, and we moved, I believe it was early 2000.
Q. And the neighborhood of Live Oak Village, where is that in relation to your home?
A. It's right across street from our house.
Q. And the McFarlands' home, where is it specifically in relation to your home?
A. It is just about right across street from our house.
Q. And when did they move into their home?
A. I believe it was very late 2002.
Q. Okay. Let's talk about the first interaction, if you will, that you had with the McFarlands. I think that was 2002. We've heard about a firework incident. Tell me about what happened.
A. It was our family tradition for two days of the year to have firework. One was 4th of July, and the other one was New Year Eve [sic]. In this particular area in which my home is, we have a lot of pine trees, oak trees and all that. We can't shoot the firecrackers in our yard -- in our street because the minute it even goes up, it's going to hit the

tree. It's going to fall right in our yard.

The -- it was New Year Eve. We were shooting firecrackers, bottle rockets. We had a little pot set in middle of the Flud Street. It's wide open. We put them in there. My kids, my two kids at that time, Brett was 16 and Blaise was 10. They were running with one of those flames. They were starting it. Firework was going off. They were running back to our mailbox or the yard.

The next thing I know, somebody is yelling from their yard. At that time they didn't have that fence. I don't believe they had that fence. I see a gentleman approaching in, if I may say, "What the hell are you all doing? You are targeting my home. You all need to stop."

Q. Who was it that said that?

A. It was Mr. McFarland.

Q. And just so we're clear, you're referring to the gentleman that's to my immediate right; is that correct?

A. Yes, sir.

Q. Okay. The plaintiff in this case?

A. Yes, sir.

Q. And what happened after he said that to you?

A. I told him, I said, you know, "The bottle rockets, they have their own mind. They go up. Who knows where they gonna to land." I said, "For that, I apologize." I said, "We'll come back the next morning. If there's anything around that

area, we'll be more than happy to pick up -- pick it up."

It wasn't enough for him.

Q. What did he say next?

A. "You're not supposed to do this." You're doing this, my home, and it is illegal to shoot firecrackers. You are doing it illegally."

Q. And do you know if it is, in fact, illegal or was at the time?

A. It is legal in the city of Summerville.

Q. Okay.

A. And as he was walking back toward his house, and he was saying, "You are not supposed to do this. You're not supposed to do this."

And finally I turned around and say, "You don't own the road." I did tell him that. I told him, "You don't own the road."

He turned around and told me, "Why don't you go where you came from."

Q. How did it make you feel when he said, "Why don't you go back where you came from"?

A. He belittle me.

Q. Are you a citizen of the US?

A. Yes.

Q. When did you become a citizen of the US?

A. 1988. I'm sorry.

Q. How would you describe the statement that Mr. McFarland said to you, "Why don't you go back to where you came from"? How would you characterize that?

A. It was mean. If he had said that to me, it wouldn't have bothered me so much. My two boys were right by me.

Q. You've heard some testimony in this case about the term of "racism."

A. Yes.

MS. LIETZOW: Objection, Your Honor.

THE COURT: Let me hear the rest of the question.

Q. How would you characterize the statement that Mr. McFarland made to you in 2002 when you were using or blowing up fireworks?

A. Basically --

THE COURT: Overruled.

A. -- from saying that, I knew he's referring to me because of my accent. I had a little bit heavier accent than I do now. Everybody says I have a southern accent, but it's not a southern accent.

And that's what happened. He did that. I felt very belittled in front of my two boys.

Q. Okay. Let's move forward now to 2009. We've heard about the incident that occurred relating to the survey. So start off and tell me -- don't tell me what anybody said to you that's not a party to this lawsuit, but did you take any

action on behalf of the Mazells relating to the survey?

A. Yes, sir. I ordered a survey for them.

Q. And what happened as far as you delivering the survey to the Mazells?

A. I picked up the survey from the survey place. I was going home. I took it to my house. I parked my car in my driveway and I took the survey to deliver it to Mrs. Mazell. I knew Mrs. Mazell and then they used that back gate from the Flud Street. They don't have -- I think they got something in their front yard, but their entrance to their garage and everything is from Flud Street.

I took it back. I was going leave it on the back step. That's where they go normally -- they go upstairs. And as I was approaching the back step going up, I notice Mrs. Mazell was on your -- as you're looking at their backyard, it was on the right-hand side on the corner under some shady tree or whatever it was and he was talking to Mr. and Mrs. Mazell.

Q. So it's both Mr. and Mrs. Mazell that were there?

A. Yes, sir.

Q. Or Mr. and Mrs. McFarland?

A. Mr. and Mrs. McFarland both. They were on that corner talking to Mrs. Mazell.

Q. Okay. And what happened next?

A. Mrs. Mazell, their driveway is a rock, 88 rock. That's a construction terminology. As I was walking, Mrs. Mazell

heard me. She turned around --

Q. Well, don't tell us what she said, if anything, but --

A. She turned around. She was crying to me. She walked up to me, and when she did that, it was some discussion between her and I. And I put my hand around her neck and I said, "Why don't you call" -- basically -- "Mike." And then this was, I knew from the time they told me to order the survey, apparently for some property issue, whose fence is in whose yard.

And I didn't care about all that. All I wanted to do, when I asked to do that, I feel like I was helping a neighbor, plus I get discount. I get discount. I get $100 discount, better than if you or any other member in this room do that. And I just wanted to help a neighbor.

And I took and delivered that to them. And she said, "Let me pay you." She offered to pay --

Q. Don't tell us what somebody else says --

A. Okay.

Q. -- far as Mrs. Mazell. But did you have any interaction with Mr. or Mrs. McFarland after delivering the survey to Ms. Mazell?

A. Yes, sir. After I give the survey, I turn around to go home. I walk down the rock driveway. As I get right by the Flud Street, they have a gate. Mrs. McFarland cut through Mr. and Mrs. Mazell's, and she caught up with me after I made

the turn on the Flud Street. She got up at Flud Street and she start talking about our light shining at her bedroom and, "I can't sleep at night." She kept going and going and going.

Q. Was she doing anything with her hands?

A. Well, I wasn't really -- I had not, one time turned around yet. I mean, up to this point. Then I turned around and looked at her from corner of my eyes, and she's saying, "You need to go ahead and adjust that light. You need to go adjust that light."

She kept doing her finger like that (indicating) 'til we reached my driveway. She kept continuing with this thing about light. And then as we reach my first driveway, we have a little circular driveway. When I reached the first circular driveway, she said, "We are good people. We are good people." She kept repeating that.

And I was going go check my mail before I went inside. It's my job to pick the mail up most of the time. And as I reached toward, picked it up, she kept repeating, "We are good people."

And I turned around, as I start going toward my house, I said, "Why don't you let somebody else judge if you guys are good people or not." And she was in my driveway. Even though it's a town property, it's a concrete. I put it in.

She was already 12, 13 feet, maybe not quite that much,

into the property, but somehow she knew where the property line is. She was in my driveway ask me if she can come basically in my property further. And I was firm. I said "no," and I went inside and that was end of it.

Q. Now, did you ever adjust your floodlights?

A. Yes, I did.

Q. And when did you do that?

A. Well, about that weekend. The way my work is, I work -- I work just about -- I leave most of the time 7:30 in the morning, and I don't get back until 4:30, 5:00. Sometimes I get back because I'm my own bookkeeper and everything. I'm my secretary. I'm the president. I'm the vice president. I'm everything.

And when I came -- it was a weekend. I was adjusting that light. I turn around and I see Mr. McFarland is standing under his porch with little handheld camera. He is videotaping me.

Q. Now, let's move forward to between 2009 and 2011. Did you have any interaction with Mr. or Ms. McFarland?

A. The punishment started with Mr. McFarland.

Q. What happened?

A. For some reason or the other, I'm assuming they figured I took a side on their dispute with the Mazells. It had nothing to do with that. All I did, I helped a neighbor.

As I start going out, they got very lovely yard. They

work on it, both of them, all the time. For that we got to admire them. We got to commend them for that. They even do that on their right-of-way, where they refer to as right-of-way grass. Their right-of-way grass is nicer than most people's yard. They maintain that. I admire them for that. And they spend a lot of time with the edger, blower. Normally he handles the edger and she handles the blower.

As I'm heading out of my property going to the Flud Street, right after that incident, I can't tell you how many days after, the middle finger start showing. And I start, you know, the only -- especially during summertime, when you get in your car and your car is hot, everybody rolls their window down before. You know, you go about 100 feet before you let the car cool off. I start hearing this comment from the lip. You can't help it, your --

MS. LIETZOW: Objection, Your Honor.

THE COURT: Yes.

MS. LIETZOW: This is going to get into testimony that you previously excluded.

(Judge and attorneys confer.)

Q. Mr. Rashtchian, let me reorient you a little bit. A minute ago I think you said that the punishment began shortly after the survey was delivered to the Mazells; is that correct?

A. Yes, sir.

Q. And you said something about the middle finger started appearing, if I heard your testimony. So I want you to expand on that for me for just a moment.

When you say that you started seeing the middle finger, who was that from?

A. Mr. McFarland.

Q. Where was Mr. McFarland when you saw him extending his middle finger towards you?

A. He -- he was right across street on the other side on his right -- town side. We are referring to it -- we've been referring to it as the town side grass, the edge all the way around the street and all that.

He was working. At the minute my car would crank, as I'm going out, the middle finger is out, and as I'm going out, having eye contact, plus he would say loud enough, because he would stop his equipment to make sure I'd hear it, he'd refer to me as sand N-word.

Q. Sand N-word?

A. Yes, sir.

Q. Did he say "N-word"?

A. No.

Q. I'm not going to ask you to say that offensive term --

A. No. He said the full thing.

Q. Okay. Now, when you say, "Extending the middle finger," is that what some people call the bird or flipping people off

and that type of thing?
A. Yes.
Q. How many times did Mr. McFarland flip you off and either say or mouth the word "sand N-word" to you between 2009 when you delivered the survey to the -- Ms. Mazell and when this incident occurred on April 26, 2011?
A. You know, it's hard to say. Probably around ten times, if I had to guess.
Q. How did it make you feel for Mr. McFarland to say to you sand N-word?
A. Excuse me. That's a big punishment. I don't deserve that.
Q. Let's move on now --
A. I'm American citizen.
Q. I'm sorry?
A. I'm American citizen. I don't deserve that.
Q. Are you okay to continue?
A. Yes.
Q. Okay. Let's change gears for a moment now. Let's go ahead and talk about the incident that occurred April 26, 2011.
A. We were sitting in our living room. We have a living room right on the front. We got a -- it's kind of triple window looking at our front yard. I just had gone inside. I'd been working. I took off early that day and I was doing

some yard work. They were doing some yard work.

And it was somewhere around 4:30, something like that. I went inside to drink some water and -- and just to relax a little bit. The next thing I see is trailer we are talking about. It pulled in.

Q. How long was the trailer?

A. Based on experience I have with the trailers, I'm in construction business. Trailer, as Mr. Johnson had mentioned, is a 16 footer. Each trailer, they got four feet of the angle for their trailer on the front, and most trucks are 17, 18 feet. If you add all that together, from the end of the trailer to front of truck, you're looking at 37 feet.

Q. And the rear drive, or more like a concrete pad, I guess, in the plaintiffs' yard where the gate is, do you know what that distance is approximately?

A. Because as we've been talking about the 50-foot right-of-way, the road itself is only 18 feet. Each one of us got 16 feet on each side.

Q. Of the right-of-way into your --

A. Yes, sir.

Q. Okay.

A. And where their pin is, there's a brick pillar on there, and they got a double gate, very beautiful gate in there. From the front of the pillar to the road, the maximum is 16 feet, maybe 17 feet if their pillars are little bit inside

their property.

Q. I'm going to ask you, if you would, to draw a diagram for us so that I can follow you. Sir, if you don't mind stepping down.

Do you think you could use this marker to draw a diagram to show us, I guess, where Flud Street is, where the plaintiffs' yard and your house and your drive are?

A. This is Flud Street. As it goes end of the road it gets like that. It's an empty lot right here. My lot and my house is right here. I have a circular driveway like this and this is my house sitting right here (drawing).

Q. And where's the gate to the rear of the plaintiffs' yard?

A. Mr. McFarland's gate starts straight parallel with this and this is his gate (drawing). If I had to guess -- I haven't measured it, if I had to guess and the opening is somewhere around 10 feet, plus/minus.

Q. Okay. And the concrete pad that extends into the McFarland yard, can you draw that for us?

A. Sure. This is -- if he -- it's not to scale. This is that -- what we call town right-of-way. Their town right-of-way is right here. This is where those two pillars I was talking about, and they got double gate right here. And this is the area we are talking about is 16 feet, plus/minus (drawing).

Q. Okay. Now, what did you see when you looked out the window before this incident occurred?
A. Mr. Johnson, he came in here.
Q. Try not to draw too much on it if you would.
A. Sure.
Q. Just point with your pen kind of show us --
A. Sure. Mr. Johnson pulled in here, and he start backing right to Mr. McFarland's property. He went back and forth couple times. He never ran over my grass.
Q. And by the time that you went outside, had he already stopped the truck and trailer?
A. Yes, sir.
Q. Can you draw for us where the truck and trailer were located when you went out or left your home, walked outside your home?
A. This was the trailer. I would say the front of the hitch was somewhere right in here (drawing). He did not go all the way to the end. As you overheard, he's very protective of his grass and all that. He doesn't want any of this --
MS. LIETZOW: Objection, Your Honor. He doesn't know what Mr. McFarland wants or doesn't want.
THE COURT: Sustained.
Q. If you would, now draw for us the location of Mr. Johnson's truck when you exited your home on the day of

the incident.
A. Mr. Johnson's truck, Mr. Johnson's truck was like this angle, just like that. I would say he was -- he was plus/minus 18 inches from edge of my grass.
Q. Let me show you -- here we go. Let me show you a diagram that's been marked and introduced into evidence as Defendants' Exhibit No. 6, prepared by Mr. Stephon Johnson. It appears that the truck is at a right angle with the trailer in that drawing. Is it physically possible for the truck and trailer to be at a right angle?
A. You will jackknife. You will jackknife. You go in there. You do it in there. I've tried to pull trailer. I'm not good at it, and I had to get somebody to come and pull me out because I jackknifed.
Q. Okay. Now, what did you see while you were looking out the window before going outside?
A. The -- we notice, I notice, my wife and I, we were looking, one of them, and I'm assuming was -- it was Lance Johnson was here unloading the mulch. The other two workers, I don't know if they had one wheelbarrow or two wheelbarrow. They were coming in. Lance Johnson was filling the wheelbarrow. They were going and dumping it wherever they were dumping it.
The next thing I see, a car comes and stops right here (indicating). Mr. McFarland comes out from wherever he comes

out. He comes out here and he direct this car to go on my grass.

Q. How many cars did Mr. McFarland direct to go over your grass?

A. Two cars.

Q. And what did you do when you saw that?

A. I told my wife, I said, "I can't believe what this guy just did." The reason I said that, again, he's very protective of his side. Do it on -- it's fine to do it on your side; it's not fine to do it on my side.

Q. What did you do?

A. I went outside. I approached in here. He still was standing here. I guess he was going direct additional cars to go. It was 5:00 almost. It was homecoming traffic was coming home.

Q. And you've drawn enough for me. Let me get that board back so you can have a seat.

Whenever you went outside, you say that Mr. McFarland was still in the road?

A. Yes, sir.

Q. Tell me what happened.

A. I told him, "Why are you so inconsiderate? These are the kind of crap you do. Nobody likes you around here." I said -- I turned around, I told Lance, which he was at end of the trailer, I said, "You need to move this truck."

Q. And don't tell me anything that Lance said, but did Mr. McFarland say anything at that time?
A. Yes. He -- Mr. Johnson never talked, for the record. Mr. McFarland was right. I had reached him by then. Mr. McFarland said, "They're not going to move 'til they finish their work."
Q. I'm sorry. Say that one more time?
A. They are not going to move their truck 'til they finish their work.
Q. There's testimony earlier, I think, about claiming you attacked Lance. Did you attack Lance?
A. Never spoke to Lance except one time I told him, "You need to move your truck," and Mr. McFarland said, "They're not going to move."
Q. When Mr. McFarland told you that they were not going to move the truck until they finished the job, what happened next? What did you say?
A. I told him I'm not going allow any more cars or trucks to go over my property.
Q. Then what happened?
A. That is when Mr. McFarland start -- I said, "I'm gonna call, I'm gonna go call City of Summerville Police."
He said -- he basically told me, "Go do whatever you want to do."
And it was -- that kind of stuff was going on, and when

I told him I was going call the police, he turn around and said, "I know all about you. I know all about you."

I turned around and says, "Look, I have seen you videotaping me, you doing this, you using binoculars, telescope," whatever I said at that time. I think he can do whatever he want.

That's when he turned around told me, "Why don't you go get your green card?"

Q. How did it make you feel when he said, "Why don't you go get your green card"?

A. Same thing as before. I can't take that. If you want to call that public forum, it is public forum. I don't deserve that. I am American citizen.

Q. Are you proud to be an American citizen?

A. That's the best thing ever happened. After my wife and my two kids, that's best thing ever happened to me.

Q. Now, when you went out to speak with Mr. McFarland, how loud was your voice?

A. I was -- initially, it was firm, reasonable, not raised yet.

Q. When did your voice rise to another level?

A. After he told me, "Go get your green card."

Q. What did you say next?

A. I told him he's an F'ing racist.

Q. Did you say F'ing or did you --

A. I said the whole thing.
Q. Okay. And were you angry at that time?
A. Yes.
Q. What was Mr. McFarland's response to that?
A. It was something back and forth, back and forth. The next thing he tells me, "I know what kind of shoddy contractor you are."

I don't even know where that came from. And he just throws this little tiddy bitty stuff out, and I had no idea where that came from. And that infuriated me. I have built many, many homes in different subdivisions.

Q. Now, when did you start building homes?
A. Initially my first house I built was 1984 as an individual.
Q. And when did you start your business? I think you said it was when you were still employed with Santee Cooper?
A. 1989, when I was still employed at Santee Cooper, yes, sir.
Q. Okay.
A. That was my side job.
Q. And you've been a full-time home builder since 2004?
A. When I retired from Santee Cooper.
Q. And you're still a full-time home builder?
A. Yes, sir. We're going through some rough time.
Q. I understand.

What about -- how many new homes have you built in the Summerville area?

A. I have built very few homes around Summerville area. I've built a couple at Summerton, Summerville. Most of the homes I have built is in Coosaw Creek Country Club.

Q. Okay. Now, how did you respond to it when Mr. McFarland said that he knew what type of shoddy contractor you were?

A. That made me mad. I turned around and told him, "I'm a self-made person. I came to this country with one suitcase and I didn't steal my in-laws' business."

Q. Do you admit that you showed poor judgment by --

A. That was very poor judgment. I should have never said that. I admit that.

Q. Are you sorry that you said that?

A. Of course I am.

Q. What happened after that?

A. Well, after that, when I said that, he got very angry about the in-laws' business. He said couple more things. I said couple more things. I really don't know what happened.

He departed. He went toward his house, and I put my two trash cans -- because I was going go inside, I put my two trash cans and I went toward my house, just to make sure no more cars go over my grass. And as I went in, I left a -- I was -- one side of our yard, we got a real bad spot for grass and all that. I left the water running.

I went inside 30, 35 minutes, say plus/minus couple minutes, that water was washing the dirt up. I looked outside. Nobody was around. I went outside to move the water to another spot. I was in my -- the other driveway, our Sequoia was parked in there. End of the Sequoia is right at end of so-called town property or town right-of-way, whatever we want to call that.

I was -- put the water from the other side. I brought it to the center. As I was putting it down, the next thing I see somebody behind me repeating, "What have you heard about my in-laws business -- my parents' business? Where have you heard?" I turned around, her finger was going all over.

Q. Now, where was she at the time when you first saw Ms. McFarland?

A. She was about 15, 16 feet, right in end of my, where my Sequoia was parked but over my grass.

Q. So let me make sure that I understand that. Was she on Flud Street?

A. No. I can show it on this picture.

Q. Yes, that would be very helpful. Thank you.

A. This is where my Sequoia was parked, and I was here and Mrs. McFarland met me right here.

Q. So she was --

A. Somewhere around this area right here. It could have been right here, you know (indicating).

Q. So she was on your property?
A. Yes.
Q. And you said that she was saying something about, "Where did you hear about my parents' business?"
A. That's all she wanted to know, "Where have you heard it? Where have you heard it?"
Q. And did you say anything back to her?
A. No. I ignored her.
Q. What did you do?
A. As far as I was concerned, that conversation was over, that issue was over. But she wouldn't have none of that.
Q. What happened?
A. She kept pointing her finger at me and she backed me -- I had -- I had the hose, because when I got up, I didn't want us to get wet. I had folded my hose stopping from running the water everywhere, you know, for nobody to get wet, and the -- she pinned me basically by keep doing this (indicating), and I don't mind telling you, I'm -- I am very, very -- when a lady puts their finger in your face, I back off.
Q. And did you ever say anything to Ms. McFarland?
A. No. I wouldn't have -- I wouldn't have done because I didn't want to get in conversation with her and -- but she wouldn't have none of it.
Q. What happened next?

A. My wife saw her putting her finger on my face from the window. She came out. She said --

Q. Pardon me. Go ahead.

A. She said --

MS. LIETZOW: Objection, Your Honor, hearsay.

MR. CLEVELAND: She's a party, Your Honor.

THE COURT: I know. It's not an admission by a party opponent. So tell me what -- it is hearsay.

MR. CLEVELAND: Ms. McFarland is a plaintiff in this case and --

THE COURT: Not Ms. McFarland. I thought the question was his wife.

MR. CLEVELAND: I apologize. I apologize.

THE COURT: If it's Plaintiffs, it's an admission by party opponent. If it's his wife, it's hearsay. I hope that's helpful.

MR. CLEVELAND: Thank you, Your Honor.

THE COURT: Yes.

Q. Don't tell me what your wife said, but what happened next? What did Ms. Mc -- after -- well, let me see how I can phrase this.

Did your wife say anything?

A. Yes, she did.

Q. And did Ms. McFarland respond to what your wife said?

A. Yes, she did.

Q. And what did Ms. McFarland say?
A. Ms. McFarland keep repeating it, "I want him to tell me where he has heard it from."
Q. Now, did all of you stay there on your property or did people move at some point?
A. It was some conversation start happening between -- at this time most of the conversation turned between my wife and Mrs. McFarland.
Q. Did they remain there on your yard or did people move at some point?
A. When the conversation happened between my wife and Mrs. McFarland, as basically moved to back of my Sequoia, that's when Mr. McFarland appeared in our yard, got between him, his wife, Jennifer, and my wife Amy.
Q. And what happened next?
A. Mr. McFarland keep going back and forth between my wife. He was 4 inches (indicating) if that much from my wife's face, screaming at her, spitting all over her face.
Q. What was he saying?
A. Things about, "He needs to tell us where he has heard that from," and the whole discussion at that time about where I have heard. I cannot speak about what Amy said. That's what is restricting me saying what was said.
Q. Did you say anything else during that incident?
A. No.

Q. Then what happened?
A. Only thing I told Ms. McFarland was your -- about where you have heard and all that, only thing I told her was, "Your husband deserve what he got." I did say that.
Q. What were you referring to when you said your husband got what he deserved?
A. When he told me I'm a shoddy contractor and I responded with that in-laws business.
Q. Did you overhear Mr. or Mrs. McFarland -- strike that.
Did all of you move to Flud Street at some point?
A. Yes.
Q. And tell me how that occurred.
A. Well, we moved to the Flud Street. At that time, somewhere around that, I think they move the trailer or they moved the truck. The trailer never got moved. They moved it or maybe they moved the trailer. I really can't remember if they unhitched it or they did it. They moved it.
Amy and I decided to go pick up our two trash cans, which we had right over at the edge of our grass, to go inside. And then this thing happened between Ms. McFarland and my wife about Ms. McFarland said something about, "We are not moving." And my wife said something responsible. She could see exactly what was said.
Q. Was there ever any comment about, "We know all about or anything like that"?

A. Mr. McFarland right there, he kept saying, "I know all about you. I know all about you." That is the phrase he loves to use. That's one phrase. The other one says, "I'm not finished with you." He has said that many times to me, and he kept saying, "I'm not finished with you. I'm not finished with you. I know everything about you."

That's when my wife made that comment. She will -- she could say what she said.

Q. Now, during this incident when all of you were out in the street, Flud Street, was there any profanity?

A. Yes.

Q. Was there profanity by you?

A. All of us.

Q. And were your voices loud?

A. Initially, no. At the end, yes.

Q. Whose voices were loud?

A. All of us.

Q. Where were the landscapers during this incident when all of you were in the -- Flud Street using profanity and loud voices?

A. As we were going to get our trash can, we looked to the left. Like I said, that truck was moved. Like I said, I can't remember which way it was moved. Right by their back porch, they have a little circular area with a water fountain. Two of them were sitting back there, and I didn't

see the third one.
Q. Did you see them doing anything? Were they --
A. No. They were laughing their heart out.
Q. Now, did Ms. McFarland have a dog during this incident?
A. No.
Q. What was she doing with her hands during this incident?
A. Going right at my face (indicating).
Q. Did your wife ever touch Mr. McFarland?
A. No. Mr. McFarland was spitting all over her face.
Q. Did you ever use the word "cheat" during this incident?
A. Never.
Q. Did you ever say anything about people going to the McFarlands' house?
A. The comment was not made like that, but that comment was made by my wife.
Q. My question to you, though, is did you ever make a comment about anybody coming to the McFarlands' house?
A. Never.
Q. Are you aware of anybody going to the McFarlands' house on any occasions?
A. Couple weeks before that incident -- answer is "yes." Couple weeks before that incident.
Q. What happened?
A. We -- it was Saturday. I think it was on a weekend. It was a lot of jet fighters were flying overhead, and I think

it was some kind of show or something. I'm not too sure exactly what it was at the Charleston Air Force base or something like that.

We notice a silver sport utility had parked between Mr. McFarland and Mr. Knight, which is the closest to the Central Avenue. My son, being a Citadel -- cadet at the Citadel, he was a freshman, and all his buddies coming to our house, I was scared to death if one of them had parked on Mr. McFarland's grass. And I was concerned about that.

I went outside to investigate it because I was going in and out. I went out to investigate to see whose car is that. I was looking to see if there's any kind of Citadel sticker on it or -- I went out there --

MS. LIETZOW: Objection, Your Honor. I'm going to -- this is a narrative that is not relevant to this case.

MR. CLEVELAND: I'm happy to ask him the next question, Your Honor.

THE COURT: Thank you.

MR. CLEVELAND: Sure.

Q. I think my question a minute or so ago was did you ever see anyone go to the McFarland house.

A. When I approached the road, I notice a young man, teenager, was going from front of -- across front of the Mr. and Mrs. Knight's property.

Q. And where was he headed? What direction?

A. He was going toward their front yard. And I stood over there. It's a neighborly thing. You watch for each other, and I was concerned about it. I thought, "Where is this guy going?"

The next time I saw, he goes in front of their property. He comes around their garage. As where I was watching, he was on the rear left corner of the Knights' property going toward Mr. and Mrs. McFarland's house.

Q. Did you ever say anything on the day of the incident about Mrs. McFarland being unchaste?

A. No.

Q. Did you ever say anything on the day of the incident about Mrs. McFarland committing adultery?

A. Never.

Q. Did you ever say anything on the day of the incident about Mrs. McFarland being unfaithful to her husband?

A. Never.

Q. Did you ever say anything about, "We will not stop until you move," or anything similar to that?

A. That was a discussion between my wife and Mrs. McFarland. I really didn't know what they were saying. But we're not moving. I'm not moving. We're not moving. I really don't remember all that.

Q. The incident that occurred on April 26th, 2011, how would you describe it?

A. It was foolish. It should never happened.
Q. Now, after the day of the incident, when's the next time that you had any contact with anybody concerning this incident?
A. It was two weeks later when Summerville Police Department, I think now I know his name was Officer Terranova, knocked on our door.
Q. Don't tell us what anybody said, but as a result of that, did you prepare a statement?
A. He asked us if we wanted --
Q. Don't tell us what he said.
A. Oh.
Q. But as a result of --
A. We completed voluntary statement.
Q. I'm going to ask you to let me finish my question --
A. Sorry.
Q. -- so we have a clear record.
As a result of you meeting with the officer about two weeks after this incident, what did you do?
A. We prepared the voluntary statement.
Q. Did you tell the truth in that statement?
A. Everything happened, yes, sir.
Q. Have you seen the plaintiffs since the day of the incident, other than in each others' yards?
A. See them work out there in the yard, and they have

pleasure of blowing their stuff in our yard, but since that incident, I don't even complain anymore.

Q. How do you feel about living next door to the McFarlands at this time?

A. Hate it.

Q. What do you plan to do to remedy that situation?

A. We are in the process of moving.

Q. And what are your plans as far as moving?

A. We have a piece of property. I've already pulled the permit on. Having a little bit hard time securing the loan for it. Between my two boys and my siblings, we gonna help to build that house.

Q. And when is it that you hope to move into another home away from Flud Street?

A. We have already cleared the lot. We have already put the dirt and all that, and I would say within July or August, we will be gone. It takes about seven, eight months to build a custom home.

MR. CLEVELAND: Mr. Rashtchian, those are all the questions I have. Thank you for your time.

THE COURT: Cross-examination.

CROSS-EXAMINATION BY MR. STUCKEY:

Q. Good afternoon, Mr. Rashtchian.

A. Good afternoon, Mr. Stuckey.

Q. We have not met or talked to each other, I don't

believe, during the course of this case, have we?
A. No, sir.
Q. Have not met.
You built your home in 1999 you've told us; is that correct?
A. Yes, sir.
Q. And in about 2002, the McFarlands, as the first people over in Live Oak Village, built a house and moved in; is that correct?
A. That's correct.
Q. And that was sometime in, what, August, September or so of 2002?
A. It was later than that. It was late. It was right before end of the year.
Q. Later than that.
And then around, I guess it was New Year's Eve maybe of 2003, would that be fair, or sometime late in 2002, that's when the bottle rocket incident started; is that right?
A. I think it was New Year's Eve of 2003, yes.
Q. Okay. Of 2003, right?
A. Yes, sir.
Q. Okay. And you don't question that some bottle rockets that were from your property went over on Mr. McFarland's property?
A. They have their own mind. They go wherever they like to

Q. Because you weren't --

MR. CLEVELAND: Objection.

THE COURT: You're talking on each other.

Q. So I believe you got your citizenship in 1985; is that correct?

A. No, sir, 1988.

Q. 1988.

A. March 1988.

Q. Okay. But in any event, you never -- you've never served in the United States military at all?

A. No, sir.

Q. Okay. And you've told us that Flud Street is an 18-foot street, as best you can tell. And you are some sort of -- I believe you're an electrical engineer, is that right, rather than a mechanical engineer? But you say it's 18 feet wide; is that right?

A. Yes, sir.

Q. Okay. And it's a paved road?

A. Yes, sir.

Q. And on each side of it, from the side, you have 16 feet on each side?

A. Approximately.

Q. Okay.

A. Plus/minus, yes, sir.

Q. Okay. So what you've got, you've got 18 feet of paved

surface. And then on the McFarlands' side, you have 16 feet from the edge of the pavement to their property line. And on the other side of the property, from the edge of the pavement to the property line of the Rashtchians is 16 feet?

A. Yes, sir.

Q. A total of 50 feet, which is a standard right-of-way road easement, right?

A. Yes, sir.

Q. Okay. And so you had -- you saw that the two gentlemen who had testified in this case earlier, Stephon Johnson and Lance Johnson, were with their truck and with their trailer, and they were backing into -- into the driveway of the McFarlands; is that right?

A. The car was only parked, I believe, as Lance said, we were working. He had already parked the car.

Q. Who had parked the car?

MR. CLEVELAND: Objection. Hearsay, Your Honor.

MR. STUCKEY: What?

MR. CLEVELAND: He's asking him questions about what other people have said.

THE COURT: I'm with you. I don't think -- okay. Very well.

MR. STUCKEY: I'm just trying to establish a history or trying to lay the scene, Your Honor, as to what was -- what was going on.

THE COURT: Okay.

Q. And so, Mr. Rashtchian, have you ever had the pleasure of trying to back up a trailer if you have a boat on the trailer?

A. I have, sir.

Q. You have. And you said that you couldn't turn it or you couldn't back it at a right angle because the trailer would jackknife?

A. If you try to make a 90-degree turn.

Q. No, but you don't have to make a 90-degree turn. You can make a gradual turn.

A. That's what they did.

Q. Okay. They made a gradual turn. And then you said that, as I understood your testimony, that the vehicle then pulled up two or three times, I believe you said. And each time you just turn a little bit more, and then you straighten the trailer out, and then you -- eventually you back straight back; isn't that right?

A. Mr. Stuckey, if you are pulling to the wide area, you can do whatever you want. When your trying to get on somewhere around 10, 11, these trailers are somewhere around 7 feet wide.

Q. I understand. I --

A. When you try to turn in it, we talked Mr. McFarland's standing in there directing them to go back and forth.

Q. Right.
A. Mr. McFarland did not -- we were watching the entire thing. Mr. McFarland did not want one tire on any of his grass.
Q. Right.
A. And that is where they were trying -- they had to take the angle they did to make sure they don't go over Mr. McFarland's -- we refer to right-of-way grass.
Q. Okay. But they backed the trailer up and they had the trailer put back in the driveway, did they not?
A. The trailer went in the driveway.
Q. Okay.
A. It was in front of the gate. It didn't go all the way back in. They could have gone all the way over the grass.
Q. Okay. And so then you said Mr. McFarland was interested in that the tires not go over on the grass on his median. And also you've told us that the truck did not -- the tires did not go on your median.
A. Mr. Johnson never drove on our grass.
Q. Never drove over your property at all?
A. Yes, sir.
Q. So he got the -- he got it backed in. He didn't run over the grass of Mr. McFarland. He didn't run over the grass of Mr. Rashtchian; is that right?
A. That's correct.

Q. Okay. And as I understand it now -- we've had the testimony of Bill McFarland. We had the testimony of Stephon Johnson. We've had the testimony of Lance Johnson. But your testimony is that cars could not come down Flud Street without being directed by Bill McFarland to go over to the grass on your median; is that right?

A. The car could not go to the Flud Street. Mr. McFarland was in front of the truck, directing it to go over our grass and over the culvert, which we have installed over the ditch. It's a plastic culvert, which is only -- again, it's a construction terminology. When you use those plastic --

Q. I understand.

A. -- you have to have -- you have to have minimum of nine inches of dirt in order to be able to drive car over it. If you want anything more than that, you've got to have more dirt you've got over this culvert. It's easier for the trucks to go over. I paid for that pave -- those pipes, I installed it. I --

Q. I understand that. If I might interrupt.

A. May I finish?

MR. CLEVELAND: Your Honor, please don't allow Mr. Stuckey to interrupt my client.

THE COURT: Let me say this: Be mindful not to talk over him, because the court reporter can't get it, but I think this is nonresponsive.

Ask him another question, please.

MR. STUCKEY: I think it's -- I agree with, Your Honor. I agree with Your Honor.

Q. Sir, did someone at that point, Mr. Rashtchian, run over your culvert, your buried culvert on your property?

A. Mr. McFarland directed two cars to go over that area, yes, sir.

Q. No, not that area. Did it break anything on your culvert or anything?

A. No, that's why I was concerned.

Q. Okay. You were concerned?

A. If that thing -- if that culvert has any kind of sink, anything like that, I have no idea, because I haven't dug it to inspect it, no, sir. I haven't checked to see what kind of damage it may have caused.

Q. Okay. Well, I think, Mr. Rashtchian, what concerns all of us and really the mystery of this entire thing is obviously something caused you to dash out into Flud Street; isn't that right?

A. Driving the car over my culvert did, yes, sir.

Q. Okay. That's what you say caused it. Okay. And we've heard the testimony of the other witnesses, and you say that, but obviously, in any event, you come charging out of your home; is that right?

A. I think it -- I don't see -- I'm 60. At that time I was

57 years old, and I have never been into any kind of mental hospital. I have no reason to go out there and rush at somebody for no reason, Mr. Stuckey.

Q. And so at that point then you -- what is the exact language that you can tell the ladies and gentlemen of the jury as to what you told Bill McFarland about stealing his business from his father-in-law?

A. When he told me I'm a shoddy contractor, I turned around and told him, "I'm a self-made person. I came to this country with one suitcase. I did not steal my in-laws' business."

Word by word, that's what I said.

Q. Okay. "I did not steal my in-laws' business"?

A. Yes, sir.

Q. An obvious inference from that was or statement is that Bill McFarland stole his in-laws' business. That's what you meant, wasn't it?

A. He interpreted that.

Q. Isn't that what you meant?

A. You could say that.

Q. No, I'm asking you. I mean, you wanted to really hit him hard and say something that would really be hurtful, didn't you?

A. He hurt me when he called me a shoddy contractor. That was a response. It was tit for tat.

Q. Okay. Well, it's not -- I mean, we can get into the legal specificities of it, Mr. Rashtchian, but I dare say, in the law, it's not tit for tat when you call someone a shoddy contractor and he then says you stole, that you are a thief.

MR. CLEVELAND: Objection. Argumentive and talking about the law, Your Honor. Improper question.

THE COURT: Do you have a question? Do you have a question?

Q. And so that's your perception of it then, that what he said, if he said it, if he said it, was what you said, but, I mean, and you admit that that's what you said. There's no question about that, because that's been introduced to the ladies and gentlemen of the jury through your deposition, and you've told us here with your sworn testimony, right?

A. Mr. Stuckey, I don't deny I said that. I did that after he called me shoddy contractor. I'm a proud contractor. I've been in this business for a long time. I've never had any complaint with the state board or any lawsuit, anything like that with any of my clients all these years I have built a house.

Q. Okay.

A. And not many contractors can sit in my chair and say that.

Q. Okay.

A. He attacked my business.

Q. As a matter of fact, as a follow up to that, as I understood your direct testimony, you said that when Jennifer McFarland came out that you said, "Your husband got what he deserved"?

A. After he called me shoddy contractor, what I said, yes, I meant that. Yes, sir, I did say that.

Q. Okay. And you said also you've told us that that was bunch of foolishness, that it never should have happened?

A. Oh, indeed.

MR. STUCKEY: If Your Honor will indulge me a moment.

THE COURT: Certainly.

MS. LIETZOW: Hey Becky, can we have the beach sound for a second?

(Attorneys confer.)

THE COURT: I'll tell you, let's take our afternoon break. Ladies and gentlemen, I'm going to ask you to please step to your jury room. Do not discuss this matter or allow anyone to discuss it with you. When everybody's had an opportunity to have your comfort break, knock on the door so that you all can return. Thank you.

(The jury retires to the jury room at 3:34 p.m.)

THE COURT: I was just going to share with you, don't discuss your testimony with anyone, but feel free to take a break.

You all take your break, have a comfort break. Don't go

very far, because when the jury's ready to reconvene, I want us prepared to reconvene. So don't go too far.

(Recess held.)

(The jury enters the courtroom at 3:46 p.m.)

THE COURT: All right. We'll continue with cross-examination. Yes, sir.

MR. STUCKEY: Thank you, Your Honor.

Q. Mr. Rashtchian, you've told us that after this confrontation and goings-on were going on out on Flud Street between you and Bill McFarland and maybe Amy McFarland and maybe Jennifer McFarland that your wife Amy came out; is that correct?

A. Yes.

Q. Okay. And you were right there because you heard what she said; is that correct?

A. What Ms. McFarland said, yes, sir.

Q. No, I'm speaking of what Amy said when she came out.

A. Yes, sir.

Q. Okay. And is this basically the essence of it to, I guess, the McFarlands or to Jennifer McFarland, "Don't talk to him. You talk to me, you bitch." And she gets in her face and she says, "Don't talk to him. Let's make this fair. Let's go. Let's go"?

A. No, sir.

Q. She did not say that?

appropriate.

You may respond.

THE WITNESS: She did not do that.

Q. Okay. And I believe you said that since 2003 or 2011, Mr. Rashtchian, you have not seen the McFarlands or had any dealings with them?

A. From 2011 on, we had two other dealing, but I understood Her Honor has ruled I cannot talk about it.

MR. STUCKEY: Okay. That's all we have, Your Honor.

THE COURT: Very well. Redirect.

MR. CLEVELAND: No, thank you, Your Honor. We have no other questions.

THE COURT: Very well. You may come down, sir.

Call your next witness, please.

MR. CLEVELAND: Thank you, Your Honor. At this time we call Ms. Amy Rashtchian to the stand.

AMY RADY RASHTCHIAN,

being first duly sworn, testified as follows:

THE COURT: Your witness.

DIRECT EXAMINATION BY MR. CLEVELAND:

Q. Thank you. Amy how old are you?

A. I'm 60.

Q. And where did you go to high school?

A. I went to high school in North Charleston, R.B. Stall High.

Q. Did you graduate?
A. Yes.
Q. What year?
A. 1973.
Q. And any additional education or training after that?
A. I had about a year of drafting, but I did not complete that. It was a two-year degree.
Q. And then tell us about your employment, if you would, after high school and your education?
A. I was a year at Trident Tech, and I really needed to go to work, and so I had a few small jobs downtown. And then I was at St. Francis Hospital as a unit clerk, and I was probably there three years.
Q. And what was your last job that you worked before taking a break to raise a family?
A. DuPont. And that was in -- I left in 1985.
Q. And now going back to when you met Mansour, can you tell me when that was?
A. I met Mansour in 1977. He was a sophomore at the Citadel.
Q. And did you all become engaged?
A. We became engaged in 1978.
Q. And were you eventually married?
A. Yes.
Q. 1980?

A. Yes.
Q. And your children, did Mansour get all that information correct as far as their education and jobs.
A. Yes, he did.
Q. Let's cut to the chase and talk about when you moved to Flud Street, okay?
A. We moved in the year 2000. I believe we were in the home, and at the time, across from us, Live Oak Village was a facility. It didn't have any construction or housing in it.
Q. There's been testimony that the plaintiffs moved in in late 2002; is that correct to the best of your knowledge?
A. Yes.
Q. Were you outside and present when this fireworks incident occurred on New Year's Eve in 2002?
A. Yes, I was.
Q. And tell us what you saw and what you heard.
A. Well, it was about 9:00 in the evening. It wasn't terribly late, but it was New Year's Eve. And my oldest son, he was 15 or 16, and he had a friend with him. And then our younger son, he's six years younger, he had a little friend with him.

And we were shooting bottle rockets and fireworks in the street. And at the time, we -- there was no construction, but McFarlands' house was constructed, and I believe they had moved in recently. And as we were shooting bottle rockets,

in my recollection, I saw one person come out of the house and come out towards the road.

Q. Who was that?

A. It was Mr. McFarland.

Q. Let me ask you, were you targeting Mr. McFarland's house?

A. Oh, no. Because since we build houses, we know you don't aim, but as Mansour said, it was possible something could have had fallen over there.

But at any rate, Mr. McFarland came out and we had never met him. We had seen him. And we were very surprised because he went right into it and --

Q. What did he say?

A. Bam. "You're targeting my house. I've got bottle rockets falling. They're going to cause a fire," and it was illegal and that we needed to stop immediately. And he was angry right from the beginning.

Q. And what was your response?

A. Well, Mansour said, trying defuse it, I guess, just said, you know, "That's possible. Some might have fallen. We'll be glad to go in the morning and pick them up."

And he wasn't having any of that, and he was still angry and said that we had to leave the street and he was calling the police and so --

Q. Did the police show up?

A. They did show up about 20 minutes later, maybe 25, and he spoke to my husband. I was inside. We had brought the kids inside. And he told Mansour that we were allowed to shoot the fireworks --

MS. LIETZOW: Objection, Your Honor. She's stating what the police officer said to her husband.

THE WITNESS: Oh, sorry.

THE COURT: Sustained.

THE WITNESS: Okay.

Q. And let's don't talk about what the officer said.

A. Sure.

Q. But were you present when Mr. McFarland told your husband, "Go back where you came from"?

A. Oh, that's the last thing he said. When we were in the street and everything and he had said to Mansour, when Mansour offered to go, we would pick them up in the morning, he said he was calling the police. And he said, "Why don't you go back and get your green card."

And our first response was who heard that? You know, our kids. And it was really upsetting, because here we had new neighbors, and this is what we're going to have to deal with, and we have kids.

Q. Now, did he say, "Go get your green card," or did he say, "Go back where you came from"?

MR. STUCKEY: Leading question.

THE WITNESS: Oh, I'm sorry. That's -- but that's correct, because first he said, "Why don't you go back where you came from," and it was a question. And I apologize. I did mix that up, but it was, "Why don't you go back where you came from?"

Q. Who did Mr. McFarland direct that comment to?

A. Well, we both felt it was directed at him. He had a heavy accent, and I don't know where he would be telling me to go back to, so --

Q. And?

A. And excuse me, I'm very nervous. I'm --

Q. Let's move on now to 2009.

A. Mm-hmm.

Q. Were you present when Mansour delivered the survey to Ms. Mazell?

A. No, I wasn't present.

Q. Did you see or hear -- did you see anything that occurred that day?

A. I did. I saw -- well, Mansour came home for lunch. I knew he had picked up a survey. And he said, I'm running across the street and delivering this survey. And, you know, I was just casually watching as he was going over there, and I could clearly see him go up the Mazells' drive with the survey, and I could see all the way to the right side, and I could see Sofia Mazell, and I saw Mrs. McFarland. And I

didn't -- I don't think I saw Mr. McFarland at that time.

And Sofia was hunched kind of over with her back to me, but she turned -- when she turned around, I couldn't see tears, but it was -- she had all the signs of distress. And Mansour walked up to her and put his arm around her shoulders and kind of led her away. And then they started walking back down her drive, and they didn't say much.

I don't know what they talked about, but he gave her the survey and he came back down the driveway. And as he was coming down, I saw Mrs. McFarland come cutting across and kind of it was in Mazells' yard still at the time. And I did see Mr. McFarland on his property but holding back and just, like, observing, I guess.

And she was talking to Mansour, and you could tell she was angry, I mean, there was that finger going. And Mansour, kind of, didn't respond, it didn't look like it to me, and walked to her mailbox, and she followed him. And in that time frame, he might have spoke to her. I'm not sure. And then he came up -- came up, but --

Q. Let's move forward now to the incident that occurred in this case back on April 26th, 2011.

A. Mm-hmm.

Q. Tell me what's the first thing that you remember that was unusual about that day.

A. Well, it was a normal day. We were working in the yard.

McFarlands were working in their yard, but we weren't conversing or anything. And it was about 5:00, 5-ish, and we were watching the news. We had a front room at the time, and Mansour was drinking water and looking out the sidelights, which you could really see directly to where their little, like, pad is and concrete in the right side looking out of our driveway.

And a long bed and truck had pulled -- had come up. And I guess that in the interim, they had positioned. And all of a sudden my husband's face just dropped. And he said, "I can't believe this guy is doing this." And he said, "He is directing traffic to go up and around" --

MS. LIETZOW: Objection, Your Honor. She's testifying as to what her husband said.

THE WITNESS: Okay.

THE COURT: Hold on.

MR. CLEVELAND: I'll be happy to ask my next question, Your Honor.

THE COURT: Very well. Thank you.

Q. Did you look out the window at that time?

A. Yes.

Q. Did you see cars being directed by Mr. McFarland?

A. Yes.

Q. Around the truck into your yard?

A. I did.

Q. And was the road, for the most part, blocked by the landscapers' truck at that time?
A. It was. The landscaper's truck was not on our property but there was no way you could go around it without going up fairly high onto our -- over that culvert and drainage.
Q. And did Mansour leave the house?
A. He did.
Q. And tell me, did you leave the house at that time?
A. No, I didn't.
Q. Did you watch what happened outside?
A. Yes, I did.
Q. Tell us what you saw.
A. Mansour went down our driveway, and I could see two workers in the back of the bed of the truck, and they were shoveling the mulch off. And I couldn't really see Mr. McFarland but from the waist up, but he was positioned near the front of the truck and he was facing Mansour.

And Mansour went directly towards him but not up too close, but I would say my husband was angry, and I could see they were exchanging words, and it looked like both of them were saying things back and forth to each other. And I did not see him addressing the workers. They kept -- they were trying to work.
Q. And how long was it until that part of the incident ended?

A. Five minutes. It wasn't a long -- a long thing. And, you know, their gates were open. I could see into the yard pretty much, and I just saw, like I said, the two workers.

Q. Now, what happened after the initial incident?

A. Mansour came in the house and he just had this odd look on his face and said that -- the first thing he said was, "I can't believe he -- this guy said this."

MS. LIETZOW: Objection, Your Honor. She can't testify to what her husband said.

THE WITNESS: Oh, okay. Sorry.

THE COURT: Sustained.

Q. How long was it that Mansour was in the house before he left the house?

A. I'm going to say a good 30, 35 minutes, because we -- you know, I did advise him, I said, "Just stay in the house. Let's just stay in the house."

Q. And then what happened next?

A. After about 40 minutes, I looked out and it was all clear. I mean, the truck wasn't blocking anymore, and I think another load of mulch they had brought, but we noticed our hose had been left kind of near where we were working, and he said, "I've got to go out and" --

MS. LIETZOW: Objection, Your Honor.

THE WITNESS: Okay. Sorry. He went out and --

THE COURT: Sustained.

Q. Just tell us what Mansour did.
A. He went out to move the hose.
Q. And were you watching at that time?
A. Yes. And --
Q. What did you see?
A. It was all clear. He walked out to -- looking out we have a right side, left side, looking out. He went to the left side and bent over, and he had his back to the road and was doing something. I guess he was moving the hose.
Q. Then what happened?
A. I saw Mrs. McFarland come up from I don't know if it was the little gate or their big gate, but came up and was behind him, and she looked like she came onto the -- what they call the easement or town grass. And I could see her. I couldn't hear her, though. I couldn't hear what she was saying (indicating).

And he kept his head down and kind of tried to keep her to the back of him. And so he stood up and was kind of backing as she was talking to him. And every time he'd take a step backwards, she was coming forward and had her finger right in his face (indicating).

Q. Was there a dog or a puppy?
A. Oh, no. She was just doing this (indicating), and she was empty handed. And I just remember thinking, "Oh, this is not good," because I did not see Mr. McFarland out there.

And I thought, "She could say anything, you know, accuse him of anything."

So I said -- and I regret this, but I went out. And I went out, walked firmly. I didn't wave my hands. I wasn't pointing or shouting, but, you know, I was upset and alarmed for my husband. And I -- she was close to my husband, but -- and he had backed up to our Sequoia. We have a car there.

Q. Was Ms. McFarland, did she actually get on your property?

A. Yes, she was on our property, because Mansour -- yes. As she was talking to him and he was backing and moving up, she was kind of following along, and he was backed up -- that's why he was backed up against the -- my Sequoia, which is why I said, you know, "He can't go any further, let me go out there." And --

Q. What did you do or say once you got out there?

A. The first thing I said is, "You need to get off our property." And I said, "If you need to" -- I said, "I don't want to see you with your finger in my husband's face again," because this was the second time I had seen this. I said, "If you need to make a point with him," I said, "you can talk to me, and Mr. McFarland can talk to my husband."

And -- excuse me, and I didn't know his name at the time, but I don't want to keep saying "that guy." So I said, "You can -- Your husband can talk to my husband."

And she, all she really was saying was, "Where did you hear this about my husband's business?" And she was mainly upset about that.

Q. Now, when you walked out there, did you scream in a loud voice?

A. No, but I was loud, I'm sure.

Q. Did you use the B-word?

A. No, I never did. And I also never said, "Let's get it on," or, "Let's get going," or -- I did not say that, and I did not call her the B-word.

Q. Did you challenge anybody to a fight or anything else?

A. No, sir. I mean, no, I didn't.

Q. What happened after you walked out and asked Ms. McFarland to speak to you rather than your husband?

A. She -- we kind of were moving as a -- Mansour was out there, I was out there, Ms. McFarland. We kind of were walking down the driveway. And all of a sudden Mr. McFarland comes in, and by then we're in the street in front but closest to our driveway.

And it was just -- and I believe at that point I did say to -- addressing Mrs. McFarland, I said, "Your husband is an F'ing racist."

Q. So you admit to profanity?

A. Yes, I did say that. That was the main thing I was upset about. And --

Q. Let me ask you this --
A. Mm-hmm.
Q. -- what did you hear Mr. McFarland say while you were there in Flud Street?
A. He said that Mansour was -- he didn't say "shoddy," he said "shitty" this time contractor. He knows all about him. He knows all about us. He knows everything we do. And Mrs. McFarland mainly -- you know, it was pretty chaotic, and mainly was talking about her father's business.
Q. And what was Mr. McFarland's voice level while you all were having this --
A. It was loud --
Q. -- in the street?
A. -- and he kept going in my space, and I, you know --
Q. How close did he get to you?
A. Like this (indicating). Maybe about like this (indicating). And I really was scared, not -- I did not think Mr. McFarland was going to hurt me, but I felt he wanted my husband to initiate a swing at him. And he was saying, "Hit me. Hit me," or, "Why don't you," like go ahead.

And, you know, you're not thinking it out at the time, but I think he would have had loved for my husband to take a swing at him and --
Q. Did your husband take a swing at him?

A. No, no.
Q. Did you ever touch Mr. McFarland's arm?
A. Never, no.
Q. Did anyone spit in your face?
A. He didn't spit, but I could feel, you know, just from the yelling, a spray (indicating).
Q. And when the comment was made, "We know all about you," did you say anything in response?
A. I really don't remember. I'm sorry.
Q. Did you say anything to anyone about needing to be concerned about who comes to their house?
A. Oh, I did, but it wasn't at that point. We were kind of walk -- it was like everybody was kind of pooped. It didn't take that long, and I remember looking around, and I could see those workers just laughing their heads off. It was just -- it was embarrassing. They were the only ones I saw out there, and they were well into the back part of the property.

And we walked on down towards where our other driveway was near our mailbox. And by then we were all talking in a kind of quiet voice. And I said to Mrs. McFarland, I said kind of tired like, I said, you know, "Nobody around here likes you." You know, "Nobody likes you," something to that effect.

And she said in a real flippant voice, "Well, we're not

going anywhere or moving anywhere." And I said, "No, people like you never do." And I said, "We aren't either."

And as we were walking back, it was very poor judgment, but it was kind of like, you know, "Here you are worried about your own grass and yard, and you're doing this to us," and I said, "You really need to be worried, you know, about yourselves and your own affairs." And I just said -- I said, "Instead of worrying about us, you both ought to be worried about who comes over to your house when you're both not home."

And it was a memory of a couple weeks prior, there had been cars parked there. We didn't -- I didn't see anybody, but -- and it was that. It was not meant to be anything horribly egregious, but it was just sheer frustration. They just keep digging at us. And it was really, "Mind your own business," you know, not go after everybody else.

Q. Did you ever say anything about Ms. McFarland cheating?

A. Never.

Q. Did you say anything about Mrs. McFarland being unfaithful?

A. Never.

Q. Did you say anything about Mrs. McFarland being unchaste?

A. Never.

Q. Did you mean to imply that she was unfaithful or

unchaste?
A. Never, never.
Q. And was that pretty much the end? Have you told us about the entire incident at this point?
A. And it looked like Mansour was about to say something, and I wanted it to end, and I just said -- kind of tossed, "Let them figure it out." And that was it.
Q. And did you walk back inside at that time?
A. Yes, we went inside.
Q. And was the next involvement that you had relating to this incident when the police came to see you about two weeks later?
A. Correct.
Q. Did you give a statement at that time?
A. No, we didn't, but we were given paperwork that we could fill in and bring to the police station and --
Q. Did you eventually do that?
A. Yes. We felt, you know, we were angry, righteous anger, and, yes, we'll fill out a voluntary statement, of course, and --
Q. Did you tell the truth in that statement?
A. We did, warts and all. We told what we did, and I felt like we were very honest.
MR. CLEVELAND: Thank you, ma'am. Those are all the questions I have.

Q. Okay. He said just, "Go back where you came from"?
A. "Why don't you go back where you came from."
Q. Okay.
A. And you were asking me if I thought he meant go back to the Citadel, and he didn't say that either.
Q. Go back to Iran, is that --
A. No, sir.
Q. That was the inference you got?
A. I don't know if he knew where he was from, but it was obvious he had a foreign accent. He's dark-complected. So I just did think that that's what it meant.
Q. And you saw -- your testimony is that you saw Mr. McFarland out in the street, out in Flud Street, directing traffic onto your property?
A. Mr. McFarland?
Q. Yes, Mr. McFarland.
A. Yes, I saw one car. I think my husband saw two.
Q. Okay. Now, at that point what was the position of the truck and the trailer that contained the mulch?
A. The bed, it was a flatbed and it was a long flatbed, was backed as far as it could into the pad, the concrete pad that they have, which is quite short. So it's not as if that trailer can back way up into their own property.

So part of that trailer was in the street, and then the truck was kind of turned a little from where I could see.

And there was -- there wasn't any room. A car could not have gone around that without going up onto our property.

Q. Actually, the trailer was parked -- was backed all the way onto the McFarlands' property as far as it could back up on the pad, wasn't it?

A. Yes, but it was a long trailer and it -- there's --

Q. Well, it was a 16-foot trailer your husband's testified to.

A. This is what I saw.

Q. And the testimony has been that it was 16 feet from the very front, from the edge of the pavement on the right-of-way over toward their property, and then they put an additional pad that they added 10 or 12 feet onto the 16-foot right-of-way, so there was plenty of room for the --

A. No, there wasn't.

Q. -- plenty of room for the trailer to get off the road, wasn't it?

A. No, sir, no.

Q. Okay.

A. This is what I remember, and I don't notice things like hitches and types of trailers --

Q. I understand.

A. -- and so on. All I know is that I saw the car actually go up into our yard, and there wasn't room. I mean, it was that simple.

A. I don't -- I don't remember, no.
Q. And you didn't know Bill McFarland's name, because I believe --
A. I don't remember.
Q. -- your testimony was that you referred to him as "that guy" basically.
A. I said "that guy," correct. But Mansour might have told me after he came in, Bill -- you know, I don't know. But I don't mind if you want to assume that I knew his name, I mean --
Q. Now, when you came out, Ms. Rashtchian, again, asking the position of the trailer and the truck, was Flud Street obstructed that you -- that no vehicle could get by without going out over the grass?
A. Correct.
Q. That's what you're saying?
A. Yes.
Q. Did you take any of those matters up with the Johnsons, with Mr. Lance Johnson, who was the boss, or the others?
A. No, sir, and Mansour didn't either. He works with subcontractors all the time, and they do what they're instructed to do. And it's just -- he works with people that are subcontractors. He doesn't yell or blame them if they're following instructions.
MR. STUCKEY: And that's all we have, Your Honor.

THE COURT: Okay. Redirect.

MR. CLEVELAND: No, thank you, Your Honor.

THE COURT: All right. You may come down.

Call your next witness, please.

MR. CLEVELAND: Defense rests, Your Honor.

THE COURT: All right. Very well. Will there be any reply?

MS. LIETZOW: May we confer, Your Honor?

THE COURT: Momentarily.

Ladies and gentlemen, there's a matter that I must take up outside your presence. Please step to your jury room. Do not discuss this matter or allow anyone to discuss it with you. We will be with you shortly.

(The jury retires to the jury room at 4:34 p.m.)

(Brief recess.)

MR. STUCKEY: Your Honor, we have no reply.

THE COURT: All right. Motions?

MR. LEECH: Your Honor, we'd like to renew our motion for directed verdict regarding the statement in question that no reasonable juror could find that the statement made was a defamatory per se statement.

THE COURT: Thank you so much. Denied.

MR. STUCKEY: Your Honor, we'd move for a directed verdict on behalf of the allegations against Mr. McFarland, that is that he stole his father-in-law's business.

Mr. Rashtchian has admitted that he did that. That was put in through our testimony in chief, through the deposition and also through the cross-examination of Mr. Rashtchian when he testified.

It's a blatant lie, as evidenced by the testimony of both Mr. McFarland and Lou Moffa who is the father-in-law involved.

And this is slander per se, where damages are presumed. So we've got -- the liability is uncontested, absolutely uncontested. And then we've got the damages, of course, rise from the fact that it's slanderous per se. So we would ask for a directed verdict for the Court against the allegations of cause of action.

THE COURT: How are you asking the Court to handle the issue of self-defense with regards to your request?

MR. STUCKEY: Well, the thing about that, Your Honor, what is self-defense and what is provocation. You can't try to shoot a gnat with a shotgun kind of thing. And as Mr. Rashtchian said on the stand, he was called a shoddy contractor.

Well, I don't know what a shoddy contractor is. It might be a cause of action or it might not be a cause of action. But in any event, it's not slanderous per se. And slanderous per se, we submit that it's not sufficient provocation that's been put in by -- that's offered by the

defense to rebut the slanderous per se cause of action.

THE COURT: Got it. Got it.

Mr. Leech.

MR. LEECH: Yes, Your Honor.

THE COURT: Let me ask you this question: Just as in his opening, Mr. Cleveland pretty much indicated that with regard to the allegations regarding Mr. McFarland that the statement, this statement, that you stole your father-in-law's business or words to that effect, they were, in fact, slander per se, correct?

MR. CLEVELAND: No, Your Honor. If I could respond to that, I think what I said was that it was poor judgment for him to say that. It's our position that --

THE COURT: Remember the dollar, nominal damages?

MR. CLEVELAND: Yes, Your Honor, and if I could address that, what I said at that point was it's our position that you should return a verdict in favor of the defense. Should you -- should you award any damages, the appropriate amount would be one dollar.

THE COURT: Okay. Here's my point, if I can get to my point.

MR. CLEVELAND: I'm sorry, Your Honor.

THE COURT: My point is for you, Mr. Cleveland, you came pretty close to saying that there's a problem here with this statement. So it seems to me that -- and you address your

issue here. It seems to me that under these circumstances, it very well may be that the appropriate way to proceed is to tell the jury that -- that the plaintiff -- that it's undisputed that there was a statement made, that the statement was false and the statement impugned Mr. McFarland in his profession.

The question, therefore, becomes, ladies and gentlemen, whether or not the defendants have sustained their burden to prove self-defense, provocation.

Let me hear from you with regards to that.

MR. CLEVELAND: I think that's accurate, Your Honor. And also I'd request a charge that the statement relating to him being a shoddy contractor impugns his reputation in his business, which is defamation per se as well.

THE COURT: I will let you argue that.

MR. CLEVELAND: Okay.

THE COURT: Rather than me instruct, because since there is no cause of action, I think that would be a charge on the facts, to be quite frank with you, just given the posture of this case.

MR. CLEVELAND: Yes, Your Honor.

THE COURT: If it was otherwise, then I might do otherwise, but I don't think I will just tell them that this allegation equates to this. I don't normally do it that way.

So let me hear from you all about that, about proceeding

to tell them that you don't need to worry about whether or not this statement was made, that this statement was false and that this statement impugned Mr. McFarland in his profession, that it would be slander per se under our law, unless you, the jury, were to find that the defendants have proven, by the greater weight or the preponderance of the evidence, the affirmative defense of self-defense, which is --

MR. STUCKEY: Which Your Honor will instruct them on.

THE COURT: Oh, yes.

MR. STUCKEY: And that's fine.

THE COURT: Okay. I think that's appropriate. I think that's appropriate.

Now, and then -- and, of course, I'll go into the damages, that the damages are presumed in the event they find slander per se.

Now --

MR. STUCKEY: We also move for directed verdict, Your Honor, on behalf of Jennifer McFarland as to what was said about her, that her character was impugned and that under both South Carolina common law and statutory law that is slander per se and that I think everybody admitted that except, except the Rashtchians.

The Rashtchians were the only ones who contested that, but we think the overwhelming weight of the evidence is that

since it's slanderous per se and since that was admittedly done by everybody but the Rashtchians, who deny it, then we submit we're entitled to a directed verdict on that.

THE COURT: Well, this is really interesting. If you'll recall, the Johnsons heard, "You need to be looking about who's coming in your house when you're not here." The question is for the jury -- I would ask is not -- is the question for this jury to determine who they were speaking of. Were they speaking of Mrs. McFarland or were they speaking about the daughter?

MR. STUCKEY: Speaking of Mrs. McFarland or --

THE COURT: Or the young Ms. McFarland.

MR. STUCKEY: Oh, yes, yes.

THE COURT: So I think with regards to that that I must deny the motion for directed verdict with regards to Mrs. McFarland, because it's for the jury to determine with whom they were speaking and what was intended.

Obviously that would be slander by innuendo, but if they find it was slander per se, you know, if they believe that the comment was made as alleged by the plaintiffs and made with regards to Mrs. McFarland.

MR. STUCKEY: Thank you, Your Honor.

THE COURT: Anything additionally to that, Mr. Leech?

MR. LEECH: Yes. I mean, Your Honor already denied my directed verdict on the same issue, so I think it's the

on damages, and we would like all of that down through the paragraph -- Subparagraph 5, wounded feelings caused by injury to reputation and would like to add there, add and similar injuries incapable of definite money valuation.

And that's from the case of -- well, it's several cases. It's the Whittaker case, 189 S.C. 243; *Capps v. Watts*, 271 S.C. 276; *Lilly*, 178 S.C. 278. And those are the ones, Your Honor, where plaintiff is entitled to recover actual damages for the injury the statement has caused him. These damages include, number one, injury to reputation and standing in the community; number two, embarrassment; number three, personal humiliation; number 4, mental anguish and suffering.

THE COURT: I thought it was in there. Is it not already in there?

MR. STUCKEY: I don't think it is, Your Honor, no.

THE COURT: Well, it should be. Okay.

MR. STUCKEY: And then wounded feelings caused by injury to reputation, and then add as additional or similar injuries incapable of definite money valuation.

THE COURT: Okay.

MR. STUCKEY: And I gather whether the jury's reconvened, you're going to instruct them that you have considered the evidence and you're going to direct a verdict as to -- as we discussed yesterday, as to Mr. McFarland's case, and that is subject to modification or diminution of

damages or whatever; is that correct?

THE COURT: Yes. What I will tell them is that I have made a determination that the plaintiff, Mr. McFarland, has met his burden to prove slander per se and the issue for them will be to determine whether or not -- with regards to Mr. McFarland, whether or not the defendant has met their burden of proof that self-defense is applicable.

MR. STUCKEY: Okay. Well, Your Honor, in that regard --

THE COURT: Yes.

MR. STUCKEY: -- we think probably that he's got an argument about mitigation of damages, but we don't think when it's slander per se that there's any defense of self-defense. And I think self-defense, as I read the cases, seems to relate directly to libel, libel cases. In other words, a newspaper publishes an article and then the defendant comes back and publishes something else or in that regard.

So I don't think it's self-defense. I think it's probably more of a justification at the most or it's -- or mitigation at the most. In other words, that it's not a defense to say you can't recover at all because it's per se.

They can recover, and it's just as Your Honor has said. It just leaves open the issue of damages. And the defendant might have an argument as to mitigation or justification or something of that case, type, but we don't think it's a direct self-defense kind of thing.

THE COURT: Okay.

MR. LEECH: As Your Honor knows, libel is actionable per se. We're talking about actionable per se and similar, same situation, slander per se and actionable per se versus libel. It's also actionable per se. We're not -- it's the same -- same -- really same cause of action. And so we believe Your Honor's already addressed it in her charges and we're satisfied with your charges.

MR. STUCKEY: There's a distinct difference, as counsel knows, Your Honor, between libel and slander.

THE COURT: Well, he knows that. Yes. What he's just saying is that it isn't limited only to libel.

And is self-defense -- Mr. Stuckey argues that self-defense is not a complete defense but rather mitigation. Do you want to be heard on that, Mr. Leech?

MR. LEECH: Your Honor cited in her charge *Cartwright v. Herald*. I didn't double check your own. I figured Your Honor, you know, had it right, so I didn't double check your own citations.

THE COURT: Okay. Very well.

MR. LEECH: But I believe that that's sufficient.

THE COURT: Very well.

MR. STUCKEY: I read Cartwright, Your Honor, and Cartwright is a libel case, of course, because it was *Cartwright v. Herald Publishing Company*.

THE COURT: Right.

MR. STUCKEY: And that's the same kind of thing as far as self-defense is concerned. But we don't think on libel that -- particularly when you have libel per -- or slander per se, that that's a defense. In other words --

THE COURT: I gotcha. I got that argument. I will take another look and to be absolutely certain.

MR. STUCKEY: Okay.

THE COURT: But I don't think it's limited to libel, and I do think that it is a -- can be a total bar, but I will double check. I will double check.

MR. STUCKEY: Thank you, Your Honor. I think the case of *Johnston v. Life & Accident Insurance Company*, which is 192 S.C. 518 7 S.E.2d 463, and that's a 1940 case. And it talks about justification and mitigation and so forth.

THE COURT: Yes.

MR. STUCKEY: On that, and in that regard, I'd like to know, maybe the defense can tell us, because it has to be related in time -- closely in time --

THE COURT: Yes.

MR. STUCKEY: -- and proximity.

THE COURT: Yes.

MR. STUCKEY: And we'd like to know what particular actions, maybe to help us in our argument, they consider in mitigation and justification.

THE COURT: They will tell you in their closing, I'm sure. They're not going to leave that undiscussed.

MS. LIETZOW: Your Honor, I think his concern, and correct me if I'm wrong, was that we wanted -- if it was going to relate to the defense of self-defense or provocation, our understanding was it has to be during that same banter, the same back and forth, the same argument right there.

THE COURT: Yes. Right.

MS. LIETZOW: So the previous two years where Mr. Rashtchian may have been driving or leaving his driveway and saw Mr. McFarland flip him off or mouth a derogatory word to him, that's not provocation for then two years later slander per se.

So we just wanted to make sure prior to closing arguments that we all sort of understood and agreed that the self-defense, provocation, was limited to the argument that occurred on the afternoon of April 26, 2011.

THE COURT: When they start talking about the provocation, there's no -- that is correct, that absolutely is -- would be the time of the provocation, the time of the self-defense.

However, these people's relationship was as it was. And it's much like, if you use as an analogy, the criminal law, self-defense in the criminal law. The fact that you -- a

couple of things that happened. The fact that you'd had a fight with the victim over the course of the last two years every time you saw each other, either you -- you know, you're gesturing in such a way to cause you concern about violence, to give you a sort of, if you will, a heightened sense of alarm.

And the fact that you had a fight or a number of fights for the last couple of years plays into your conduct on the day in question, but it is the actions on the day in question that the jury has to consider whether or not those were provocation, but you can't help who people are, and the jury needs to know.

Now, having said that, if the conduct of the past two years would not cause a reasonable person to have a heightened concern such that that provocation would cause provocation on the day of the incident, the jury can assess all of that, because you have to -- the jury will make a determination based on a normal, reasonable person of ordinary sensitivities.

But it's all relevant into who were these people as that day approached. Who were they, what did they experience with each other, and that's why the two years before and the alleged flipping off, as you say, and the alleged gesturing and the alleged statements are important for the jury to know.

All right. So what else have you got?

MR. STUCKEY: And our specific objection, Your Honor, to be tailored with those remarks goes to the proposed charge on Page 7 under self-defense.

THE COURT: Okay.

MR. STUCKEY: And mainly not to label it self-defense, but to label it something as far as justification or mitigation and to also put in there the immediacy of it. In other words arising out of the same incident in which -- that it's alleged by the plaintiff that he was damaged by the slanderous statements of the defendants.

THE COURT: I don't even see the one you're talking about. You're looking at the charge itself or are you looking at their proposed charges?

MR. LEECH: Talking about your charges.

THE COURT: Gotcha.

MR. LEECH: I think is what he's talking about.

MR. STUCKEY: I've got one I picked up yesterday, Your Honor. I thought it was your charge instead of something --

THE COURT: No, no, no. Okay --

MR. LEECH: Your Honor, I believe the case refers to it -- I just pulled it up. It calls it self-defense, and then it also says, "Case files have been a well-established rule of self-defense from libel or slander." And that's on Page 498, I think, of the -- maybe it's southeastern

reporter. I'm pulling it up on my computer.

MR. STUCKEY: What case are you talking about?

THE COURT: I'm happy --

MR. LEECH: The Cartwright case.

THE COURT: Okay. Okay. Very well. What else do you have?

MR. STUCKEY: I don't think there's anything else right now, Your Honor.

THE COURT: Thank you so much.

MR. STUCKEY: Oh, wait a minute. Let me see --

THE COURT: Now, do you object to any of the defendants' additional proposed charges?

MS. LIETZOW: Well, I mean, Your Honor, the first one that they -- I guess they're not numbered yet, but the one that goes onto a second page, I think you've already covered this in your charges, but I --

THE COURT: Right. And the same with the second one.

MS. LIETZOW: Right. So I don't think we need to even address those.

THE COURT: Right. Very good.

MS. LIETZOW: We were fine with --

THE COURT: Yes.

MS. LIETZOW: Let's see. And then there's another one that's quite lengthy, I believe, your instructions yesterday for any charges that were going to be proposed today would be

myself. Obviously, something motivated him to come out. And I don't know. They did not get along. And, you know, there's a saying, "Envy is a green-eyed monster." I think jealousy is a green-eyed monster right along with that.

Mr. Rashtchian, to -- Mansour Rashtchian, to his credit, said from the stand, you know, "I'm a self-made man. I arrived with one suitcase, and I formed my company, M&L Construction Company. I got a degree from the Citadel. I worked for 24 years for Santee Cooper, and I'm a self-made man."

Well, that's true. That's true. And -- but then he turns around, for whatever reason, for whatever reason, and attacks Bill McFarland. And Bill McFarland, who lives right across the street from him, he attacks him by saying, well, you know, basically, I guess, "You ain't a self-made man. You're not a self-made man like I am because you stole your father-in-law's business."

And he admits that, and there's really no question about that. And the law in South Carolina, as Her Honor will charge you, and the law, the common law, which is historically what has been decided by cases all over the United States, is that there are a couple of things that are supposed to be slanderous per se. Not supposed to be, they are.

There are really five of them, but we're only dealing

"This is the reason why no one likes you."

And his response was, "Go get your green card."

And once again, this is to Mansour, who is a very proud American. You heard him yesterday, the best thing that's happened to him other than his wife and children was becoming a US citizen.

And I think a lot of us take it for granted. And it's heartwarming to hear stories like we hear from Mansour to remember and understand how important it is to be a US citizen. He's living the American dream, and I salute him for that. He came over with a suitcase and, in fact, is a self-made man.

Well, what else did the plaintiff say to him? And once again, I don't want to leave anything out. Mansour was angry with that statement. He responded with saying, "You're an F'ing racist," okay?" Which is true.

What else did the plaintiff say? He said, "I know what type of shoddy contractor you are."

And one of the things that Mr. Stuckey was referring to earlier that of the five types of defamation that are per se, one of them is your fitness for your business, your profession. That was defamation per se by Mr. McFarland against Mr. Mansour.

And, yes, he did respond saying something that he admits was poor judgment, something he should not have said, but it

was provoked and in self-defense of the statement made by Mr. McFarland.

On the verdict form -- you're going to have two verdict forms, the first one, one of them's going to say, "We" -- well, it's going to be for William McFarland. And it's going to say, "We find in favor of the plaintiff for blank actual damages" or "We find in favor of the defendant.' You'll have a second verdict form that says, "We find" -- for Jennifer McFarland saying, "We find in favor of Jennifer McFarland for blank actual damages" or "We find in favor of the defendant."

We're just addressing William's now, but on that verdict form, I ask you to find in favor of the defendant, Mr. Rashtchian, finding that he was provoked, that it was self-defense, his statement.

Now, let's change gears. Let's talk about the statement that Amy made. Our defenses to that are several. One, they have the burden of proof in this case. They failed to prove the case as to Ms. Rashtchian and the statement made.

Well, how did this occur once again? Amy came out of the house to protect her husband after Ms. McFarland had followed him into the drive, had backed him up against the vehicle. They were -- while they were in the street, once again, everybody was using loud voices, using profanity, the McFarlands are saying, "You need to be -- we know everything

the case law says, both the Johnson case as well as the McLeod case.

What it says is that the jury is to look at the facts and the circumstances that surround the events, and if the parties have proven either mitigating or aggravating circumstances, that the jury certainly can consider those mitigating and those aggravating circumstances when determining the amount of damages.

It doesn't have those specific charges, Mr. Leech, that you have proposed. My concern is that those could be perceived as a charge on the facts, and I'm going to charge the general language but not the specific language. So after the charge, if you need to make an exception, you would do it then.

All right. Thank you all.

MS. LIETZOW: Thank you, Your Honor.

MR. STUCKEY: Your Honor, is Your Honor going to use the term "self-defense" or are you going to use "mitigation" and "justification."

THE COURT: Well, justification and self-defense are not mitigation. Justification --

MR. STUCKEY: Provocation.

THE COURT: Self-defense and provocation, those are the same. Mitigation is something different, so I'm going to speak in terms of self-defense, provocation, maybe

justification -- I don't know, justification may be tossed in there, because those are consistent with one another. Mitigation is something different. I want to talk about mitigation and aggravation, in fact.

MR. STUCKEY: Basically contemporaneous with what went on out on the street on April 26th.

THE COURT: That they are to consider the facts and the circumstances then and there surrounding the event and to make a determination whether the party has proven mitigation and aggravation by the great weight or preponderance of the evidence.

MR. LEECH: Did you make a decision on the character one, about the bad character?

THE COURT: I looked at your case law, I looked at your dissent, and that is not what the case says. What it says is it says you could be so horrible that everybody knows somebody in their community that is so despicable, has such a horrible reputation that you ponder whether or not that person's reputation could possibly be damaged. No, I'm not going to charge it.

(Recess held.)

(The jury enters the courtroom at 11:10 a.m.)

THE COURT: Ladies and gentlemen, you have heard the evidence and the arguments of both sides. It is now my duty to explain to you the law applicable to this case.

towards either side, the opportunity for the witness to have seen the matters and the thing about which -- things about which the witness has testified, and you can consider the way the witness acts on the witness stand.

Ladies and gentlemen, you did not check your common sense at the courthouse door. You brought it all. You brought it in here. You take it in there. Ladies and gentlemen, you judge the credibility or the believability of witnesses as I have discussed, but certainly that was not an exhaustive list. Those were simply examples.

Now, we are going to talk about the claim, which is -- has been brought by these plaintiffs, which is defamation. And then I'm going to talk to you about some defenses and a few other matters.

Ladies and gentlemen, I have made a determination as a matter of law, and that has to do with one of the statements. It is the statement regarding Mr. McFarland, and I have made a determination that that statement is a statement which is -- would meet the definition of slander per se.

Now, you do not have to concern yourself with whether or not Mr. McFarland has made out that claim for slander per se. There is an affirmative defense, which is a complete defense, and it is the -- it's referred to in the law as self-defense, provocation or justification, and they're used interchangeably, depending on the case that you look at,

sometimes depending on the state that you're looking at. It's maybe called more often justification, provocation. South Carolina, we call it justification or self-defense or provocation. We've called it that as well.

So you will consider that defense, because it is an absolute defense to slander per se. The defendants have the burden of proving self-defense. I'm going to talk about those elements in just a moment.

Now, as to the claim involving Mr. McFarland, again, don't worry about the defamation, his defamation action. You do, though -- would determine whether or not the defendants have met their burden regarding their affirmative defense of self-defense.

Now, ladies and gentlemen, the plaintiffs claim that the defendants communicated defamatory statements about each of them to another person. This action is based on the violation of the plaintiffs, each of them, their right to enjoy a good reputation without false and defamatory attacks. Defamatory language is language that tends to injure or adversely affect a plaintiff's reputation.

In order to recover in this case, in order to make out her claim for defamation, the plaintiff and, again, Ms. McFarland, Ms. Jennifer McFarland, must make out her claim, again, by the greater weight or the preponderance of the evidence, for defamation.

In order to recover in this case Ms. McFarland, if you will, must prove that defamatory language was communicated by a defendant about the plaintiff. A defamatory statement is one which tends to attack the honesty, integrity, virtue or reputation of a person and exposes the person to disgrace, public hatred, avoidance, contempt or ridicule.

A defamatory statement does not have to be a direct, open or positive attack. It may be merely a suggestion, a hint or insinuation which is false and malicious, as long as the meaning is plain.

In deciding whether the statement was defamatory, you must give the words used their ordinary and popular meaning. The intent and meaning of the words must be determined from the words themselves and the context in which they were used. All parts of the statement public considered together to determine the statement's true meaning.

A defendant must prove that the statement -- excuse me.

Now, ladies and gentlemen, the plaintiff must prove that the statement was not true, was not true. A statement is not defamatory if it is substantially true. I'll talk about that in just a little bit.

Now, even if a defendant made a statement for no good purpose, or even if it was inspired by ill will towards a plaintiff, and even if the statement made by a defendant was made solely for the purpose of harming a plaintiff, the

statement is not defamation if it is true or substantially true.

Now, ladies and gentlemen, lastly, a plaintiff and, again, I'm talking -- I'm speaking with regards to Ms. McFarland, must prove that the statement was communicated to someone other than the plaintiff.

And for slander actions, it's not enough that the statement was made within the hearing of another person. The plaintiff must prove that the statement was heard by another person who understood that the statement referred to the plaintiff. And the plaintiff must prove that the defendant made the statement knowing or reasonably knowing, expecting it to reach a third person.

Ladies and gentlemen, there is another kind of -- encompassed within the heading of slander is slander per se. Slander per se. There are certain statements that are considered to be what is called slanderous per se. If a statement is slanderous per se, injury to the plaintiff is presumed, and the plaintiff does not have to prove special damages. And we'll talk about that in just a little bit.

What do we mean by these general damages that are -- would be presumed? Statements which charge the plaintiff with a commission of a crime of moral turpitude, contraction of a sexually transmitted disease, adultery, unchastity or unfitness in the plaintiff's business or profession are

slanderous per se.

In deciding whether a crime is one of moral turpitude, you should focus on the duty to society which is breached by the commission of the crime. If you find that the statement was slanderous per se and that the defendants have failed to prove self-defense, then you -- or self-defense or truth, then you should return a verdict for the plaintiff and must award the plaintiff at least nominal damages.

Nominal damages may be only a small or trivial sum, and nominal damages are required because the law presumes that some actual damage to the plaintiff's reputation and character directly and proximately resulted from the defendant's defamatory statement.

Now, ladies and gentlemen, I want to talk about self-defense. I want to talk about self-defense, which is an affirmative defense. Then I'm going to talk to you regarding truth. When you speak in terms of defenses to slander or slander per se, you talk about truth as an absolute defense is the term that's used.

Going to first talk about self-defense, then we're going to talk about truth as an absolute defense, and these are defenses that the defendants have pled to the defamation alleged by and shown by Mr. McFarland. Now, the defendants must maintain the burden of proof regarding these defenses. That burden of proof is by the greater weight or the

preponderance of the evidence.

Self-defense, the defendants claim the defense of self-defense. Even if the statement was defamatory or statements were defamatory, the statement or statements will not support an action for defamation if the statement or statements were invited or brought about by the plaintiff that you are considering. And of course you do this for both plaintiffs.

If the plaintiff verbally attacked the defendant, the defendant is allowed to reply to that attack as long as the reply is made in good faith and without malice. However, the defendant is responsible or the defendants are responsible if the statement in response to the plaintiff's attack goes beyond the plaintiff's attack or uses language that is unnecessarily defamatory.

Self-defense, which is also referred to as provocation or justification, must have been so recent as to induce a fair presumption that the injury complained of, the slander, the slander per se, was inflicted during the continuance of feeling and passions, excited by the provocation. The cause and manner of speaking the slander and all the circumstances then and there existing ought to be considered by you, the jury, in determining whether or not the defense of self-defense exists.

Now, ladies and gentlemen, truth as an absolute defense.

Ladies and gentlemen, the defendants have raised the defense of truth. Truth is an affirmative defense in the law. The defendants must prove this defense by the greater weight or the preponderance of the evidence. A sufficient defense is made out where the evidence establishes the statements were substantially true.

It is not necessary to establish the literal truth of the precise statements made. Slight inaccuracies or expression are immaterial, provided the defamatory charge is true in substance. The defendant need not justify every word of the statement, so long as the statement substance or gist is proven true. The statements must be viewed in their entirety. Variances in their particular material may be disregarded but tested whether the statements as made would have a different effect on the mind of the hearer than the truth would have produced.

You must determine from the evidence presented what the truth was and compare that with the statements which you find were made by the defendant, considering the statements according to the ordinary meaning of the language used.

There can be no recovery in defamation for a statement of fact that is true, although the statement is made for no good purpose and is inspired by ill will towards the person about whom it is published and made solely for the purpose of harm.

Now, the defense of truth is a complete defense. And what that means is it is an absolute or a complete defense to an action for slander if you believe that the statement made is founded in truth, meaning that if the statement itself is true or substantially true, then with regards to that statement, that would not be a defamatory statement.

Now I want to talk to you about damages. Ladies and gentlemen, when you consider the plaintiffs' claims and what I have informed you regarding Mr. McFarland having established the slander per se and the defendants' defenses, if you determine that one or both of these plaintiffs is entitled to a verdict, then your next consideration for that plaintiff or those plaintiffs would be that of damages, how much in monetary damages would you award.

Ladies and gentlemen, the kind of damages which you would consider are called actual or compensatory damages. Compensatory damages or actual damages are those damages which are intended to compensate to make the injured party whole, to put that person in the same position that he or she or they were in prior to the injury and damages received insofar as it's possible to do with money.

Now, ladies and gentlemen, I would tell you that the very essence of an action for defamation is that the plaintiff or plaintiffs has or have suffered damage as a result of the injurious effect of the defamation upon his or

her or their reputation. Actual proof of damages is not required, ladies and gentlemen, when the defamation is actionable per se, meaning slander per se.

Ladies and gentlemen, when there is slander per se, the damages are presumed. Presumed.

Ladies and gentlemen, if you find that the defendant has failed to meet the burden of proof regarding self-defense as it relates to Mr. McFarland, then you would award some amount of damage. And I'm going to talk to you about aggravating and mitigating circumstances in a moment, but if you find that the defendants have failed to meet their burden of proof regarding self-defense, provocation, justification, then you must award some amount of damages.

Now, ladies and gentlemen, if you find that Ms. McFarland has sustained her burden with regards to her claim for slander per se, and if you find that the defendants failed to meet their burden with regards to either truth or either self-defense, then, again, damages would be presumed and you would award some amount of damage. You would consider mitigation that I'm going to talk about in just a moment, but you would award some amount of damage.

Now, ladies and gentlemen, if a defamation is actionable per se, then the law presumes the defendant acted with common law, actual malice and that the plaintiff or plaintiffs suffered general damages. Such defamation is actionable

without proof of special damages. Words actionable per se carry with them the presumption that actual damage to reputation and character directly and proximately resulted therefrom, and it is not necessary to allege or prove any actual or special damages.

If a defamation is not actionable per se -- I'm going to stop there, ladies and gentlemen, because the type of defamation with which you are dealing is the type that is or would be actionable per se.

Ladies and gentlemen, where a plaintiff is entitled to recover actual damages for the injury the statement has caused him or her or them, these damages include injury to reputation and standing in the community, embarrassment, personal humiliation, mental anguish and suffering, wounded feelings caused by the injury to reputation and similar such injuries.

Ladies and gentlemen, these injuries are incapable of mathematical certainty. There's no formula by way they can be determined, which is why these kinds of general damages, ladies and gentlemen, we leave to the judgment of you, our jury. However, you must not consider passion or prejudice or speculation or guess when considering the damages, but you should base your decision on your good common sense and judgment.

Now, ladies and gentlemen, with regards to damages,

there can be mitigation or aggravation. Depending on the facts and circumstances, the manner of the speaking, these matters, either the mitigation, which would lessen the damage, the aggravation, which perhaps would increase the damages.

Based on your view and based on your judgment, you certainly may consider mitigation that you find has been shown by the greater weight of or the preponderance of the evidence and aggravation that you may find has been shown by the greater weight or the preponderance of the evidence.

Now, ladies and gentlemen, I want to talk to you about a statute, because, like slander per se, it addresses one of the areas where the law is concerned in slander per se. And if I could put my hands on that statute.

Ladies and gentlemen, the difference between a statutory law and the common law that we've been talking about is that the common law is developed by people living and experience, and it is articulated in case law, which means the law which is articulated in decisions by our Supreme Court and by the Court of Appeals. That's the common law. They articulate this is the common law.

There's another type of law. It's called the statutory law. That's what legislators do in Columbia. They pass statutes. They pass rules for us to live by. So while I've talked to you already about the common law as it relates to

slander, I'm now going to speak with you about a statute, and that statute is 15-75-10, and it is entitled "Imputation of Want of Chastity to Female."

It states as follows: "If any person shall utter and publish, either by writing or verbally, any words of and concerning any female imputing to her a want of chastity, the person so uttering and publishing such words shall be liable for damages in a civil action brought by the female of whom the words may be uttered and published..." and, again, without proving any special damage, which we've talked about, and it goes on to say subject to the rules of evidence.

Now, ladies and gentlemen, I have now charged you, as is my duty, but I would not want any of my words, either during the course of the trial in ruling on matters of evidence or my words now, to be perceived by you as being a comment on the facts.

Ladies and gentlemen, I am charged with the responsibility of giving you the instruction on the law. You will take the law as I have given to you, of course, and you will apply it to the facts as you find them to be. Whether or not some or all of these different provisions apply, as I have already instructed you, depend upon what you find to be the facts.

Now, ladies and gentlemen, in a moment I'm going to go over with you the verdict form. There are two things that I

want to tell you about the verdict form even before we talk about it. Number one, your verdict must be unanimous. It must be unanimous. That means this must be the verdict of each and every one of you.

Did you notice I skipped the two of you? When my jury leaves me on this next occasion, you all stay with me. You are our alternates.

Ladies and gentlemen, this must be the verdict of each and every one of you. This is not majority rules and this is certainly not an instance where any one of you will dictate the verdict, but this must be the verdict of each and every one of you.

Now, ladies and gentlemen, secondly, I want to share with you that I have put the possible verdicts on this piece of paper. Ladies and gentlemen, I put two possible verdicts for each of these two plaintiffs on a piece of paper. One of them is first. The other is second.

So I want you to know I could have just as easily put the second verdict first and the first verdict second. I just mention that to you because you are to take no hidden meaning in the order in which these possible verdicts have been placed on paper. Ladies and gentlemen, it's just reality. If you put two things on a piece of paper, one's got to be first and the other one's got to be second.

Now, ladies and gentlemen, the way that we have set up

the verdict form is I've done one for the plaintiff Jennifer McFarland, I have one done for the plaintiff William McFarland, so as to each of these plaintiffs, there are two possible verdicts.

Now, ladies and gentlemen, the first possible verdict is this: We, the jury, unanimously find for the plaintiff, Jennifer McFarland, in the amount of blank dollars actual damages. If this is found to be the unanimous verdict of the jury, then, Madam Presiding Juror, once the amount of actual damages has been determined, I'm going to ask you -- and the verdicts reached, you'll fill out this verdict form, and you will write the amount of actual damages on this line in words and numbers, like you do a check.

And then also, if this is found to be the unanimous verdict of this jury, just circle it so it's very clear which of these two possible verdicts is the unanimous verdict of the jury.

The second possible verdict is this: We, the jury, unanimously find for the defendants. Ladies and gentlemen, if this is found to be the unanimous verdict of the jury, I want you to circle it so then it's clear that this is the unanimous verdict of this jury. Then you'll date it and today, for your informational purposes, is December the 12th. And you know who are.

Now, the second verdict form is this: We, the jury,

unanimously find for the plaintiff, William McFarland, in the amount of blank dollars actual damages. If this is found to be the unanimous verdict of this jury, then, again, you would determine what are the actual damages for Mr. McFarland and you would write those damages on this line in words and numbers like you do a check and then circle it so it's clear that this is intended to be the unanimous verdict of the jury.

The second possible verdict is: We, the jury, unanimously find for the defendants. If this is found to be the unanimous verdict of this jury, you just circle that likewise. Just circle it.

Now, ladies and gentlemen, again, you would -- once you have reached your verdict, once you've filled out your verdict form, you will date it and sign it. Today, again, for your informational purposes, is December the 12th.

When you have finished your deliberations and you have filled out your verdict form, you will knock on the door and you will return to the courtroom. You will then pass your verdict forms to Lisa, who will pass it to me. You do not publish the verdict form.

Now, please keep in mind that all 12 of you must be present to deliberate. All 12 of you must be present to deliberate. If anybody needs to take a comfort break, not a problem. Stop your deliberations, take your comfort break

So what I'm going to ask you all to do for me is to just stay 15 minutes into the deliberations. Stay for lunch. Stay right on if you want to. We'd love to have you, but I do want to ask you to stay sequestered for 15 minutes into the deliberations. So if you'll go with Lisa, she's going to stick you somewhere else. Don't go in with the jury, though.

(Alternate jurors exit the courtroom.)

THE COURT: All right. Exceptions, additions, from the plaintiffs?

MR. STUCKEY: May it please the Court, I understood Your Honor to charge that provocation basically, justification, mitigation, all of those you sort of lumped together and sort of intermingled them and self-defense, basically those four things, quote, Is an absolute defense to slander per se, end quote.

THE COURT: What?

MR. STUCKEY: Is an absolute defense to slander per se.

THE COURT: What is? Truth.

MR. STUCKEY: Provocation, justification, mitigation and self-defense, mainly, mainly self-defense, but Your Honor amplified self-defense, as I understood it, to incorporate provocation, justification and mitigation. And the quote was, quote, Is an absolute defense to slander per se, end quote. And I just don't believe that self-defense is an absolute defense to slander per se.

Basically and we cited to the Court the case of *Johnston v. Life & Casualty Insurance Company*, 192 S.C. 518, and that talks about the mitigation of damages and so forth. So basically, basically -- and if you look at Rule 9, Subparagraph H, it's under libel and slander, and the Johnston case is cited, cites that old rule, which is basically the same now as our present rule, quote, In such case, the opposing party may in his answer, allege both the truth of the matter charged as inflammatory -- which Your Honor has defined as truth being an affirmative defense -- and any mitigating circumstances reducing, reducing the amount of damages and whether he proved the justification or not, he may give in evidence the mitigating circumstances.

So that talks about mitigation. It talks about justification. It talks about reducing the amount of damages, but I don't see in that anywhere, Your Honor, that it says that that's an absolute defense. Call it self-help --

THE COURT: That's because here's what happened in the Johnston case: In the Johnson case that you're referring to, the defendants failed to plead the affirmative defense of truth.

MR. STUCKEY: That's right.

THE COURT: And that -- thank you. And the court in that decision was reversed because the court failed to allow

the defendants to raise truth as a mitigation. And so what the court is talking about in the Johnston case is that if you want to allege truth as an absolute defense, you've got to plead it. It's an affirmative defense. It has to be pled.

But if you don't, if you don't, you're still not permitted from showing mitigation, because aggravation and mitigation -- and it talks about the dual rule that aggravation as well as mitigation are issues to be considered by the jury with regards to damages, with regards to the award of damages, but that truth is an absolute defense, but you've got to plead it and prove it. But even if you don't, you can still raise it in terms of mitigation to damages, so I would respectfully deny your request.

MR. STUCKEY: I would agree 100 percent with what Your Honor said. However, counsel has raised, I think, both truth and he attempts to plead mitigation and provocation and things like that and the Court went on to say, after talking about the infirmity of the plaintiffs' pleadings, it went on to say that clearly Mr. Chief Justice Simpson and the eminent jurists, Associate Justices McKeever and McGowan, then associated with him on the court, thought that the pleas of justification and mitigation were not so correlated that justification must be pleaded in haec verba before mitigation could be given in evidence.

So they do a distinct discussion of provocation and mitigation. They don't mention the so-called self-defense. They don't label it self-defense. They labeled it as mitigation and provocation and justification and -- but nowhere, Your Honor, does it say that those are an absolute defense to slander per se. They aren't an absolute defense to slander per se, particularly, particularly when we --

THE COURT: Okay. I got it. I got it. I note your exception. I got it. I got it. I got your argument. I just -- I disagree, and I have got to make those calls.

Tell me what your next one is. Tell me what your other concerns are.

MR. STUCKEY: Well further on, Your Honor, Your Honor charged if slander per se -- if it's slander per se and the defendant has failed to prove self-defense, then you can find a verdict for the -- for the plaintiff. Well, that's putting the burden on us or putting the burden on the defendant to prove self-defense, but if he proves self-defense, we don't think that is a complete -- that it's no such thing -- we don't think there's any such thing as self-defense.

We think it's mitigation and provocation and justification, and those deal not with the liability, particularly when you're dealing with per se slander, not with the liability of the defendants but as a reduction and reducing damages.

THE COURT: Okay.

MR. LEECH: Do we need to -- I thought you denied it already.

THE COURT: I thought I did too.

MR. LEECH: Okay.

THE COURT: Okay. I gather that --

MR. LEECH: I disagree.

THE COURT: -- on behalf of the defendants and in your research that you concur that self-defense is an absolute defense.

MR. LEECH: Yes, ma'am.

THE COURT: And a total defense. And the cases say so specifically.

MR. LEECH: Cartwright v -- whatever you cited, the Cartwright case, I believe.

THE COURT: Okay. Very well. Thank you.

All right. Respectfully denied and your exception is noted thereto.

Yes, it is the Cartwright case. Let me read for you just for the record. The Cartwright case, the language in the Cartwright case that is relevant is -- and in the Cartwright case, let me cite it for you: Supreme Court of South Carolina 220 S.C. 492: "The case, therefore, falls within the well-established rule of self-defense from libel or slander, so to say that" --

MR. STUCKEY: Would Your Honor direct me please to the page.

THE COURT: Yes, sir, it is --

MR. LEECH: 498.

THE COURT: Thanks, 498. Yes, 498.

All right. "Thus it seems to be definitely settled that when one person assails another" -- and this is talking about in the press, "the latter is entitled to make reply therein and so long as the reply does not exceed the occasion, does not exceed the occasion, which is typical and normal self-defense. He cannot be held responsible for any resultant injury."

Thank you, sir. What else?

All right. Anything from the defense?

MR. LEECH: Your Honor, we respectfully take exception to the -- several of the charges not given, one of which was from the Ralph King Anderson charge, Section 13-10. I'll -- I've already handed it up, so I will read it out to you.

THE COURT: Sure.

MR. LEECH: Also several mitigation charges, we also take exception to those not being given as well, including whether the plaintiffs' reputation remained unchanged in the eye of people that hear it, whether the people who heard it or to whom the published statement was made did not -- whether or not they believed the statement.

circumstances. I'm fairly satisfied that that came out okay.

All right. Noting your exception for the record.

All right. Would you all do me a favor and please take a look at the exhibits, please, and the verdict forms and make sure that what is going back to this jury is what is supposed to go back to the jury.

And I thank you all for your efforts. And let me just say to both sides, I wish you well, all of you well going forward after today, because I tend not to speak to folks once the verdict comes in.

Very well. Thank you. We'll be in recess until we hear from the jury.

(Evidence and verdict forms to jury at 12:10 p.m.)

(Recess held.)

THE COURT: All right. It is my understanding that the jury has reached its verdict. Anything before we bring the jury out from the plaintiffs?

From the defense?

MR. CLEVELAND: No, Your Honor, just my clients will be stepping in --

THE COURT: Give them a moment to come in. Absolutely.

(Recess held.)

THE COURT: All right. Very well. Let's have the jury.

(The jury enters the courtroom at 12:59 p.m.)

THE COURT: All right. Ms. Nathaniel, as our presiding

juror, it's my understanding that the jury has reached its verdicts; is that correct?

PRESIDING JUROR: Correct.

THE COURT: If you'll pass it to Lisa, she will pass it to me. Thank you very much.

I find the verdicts to be in due and appropriate form. If you would publish them for me, please, ma'am.

CLERK OF COURT: In the case entitled State of South Carolina County of Dorchester, William and Jennifer McFarland versus Mansour Rashtchian and Amy Rashtchian, Court of Common Pleas for the First Judicial Circuit bearing Case No. 2013 CP 1800735, we, the jury, unanimously find for the defendants. We, the jury, unanimously find for the defendants.

Both verdicts are signed by the jury foreperson December 12, 2014.

Ladies and gentlemen of the jury, was this your verdict in the jury room and is this still your verdict?

THE JURY: Yes.

THE COURT: If so, please indicate by raising your right hand for us.

Let me observe that all of our jurors have their right hands raised. Thank you.

Anything before we dismiss the jury from the plaintiffs?

MR. STUCKEY: Nothing from the plaintiffs, Your Honor.

THE COURT: From the defendants?

Monday? Your check will get you to Jedburg. It is a very small token of all that you have given us, which, of course, is your dear and precious time. And again, each moment of it, we are all so very grateful.

Let me just tell you that you all have been wonderful. Your attendance this week has been prompt. You've given us your attention, and for all of that I am truly grateful. It has been an honor and a privilege. Have a wonderful weekend. Have a wonderful holiday season, and you better go quickly before who knows what else will come up. But thank you all so much.

(The jury retires to the jury room at 1:04 p.m.)

THE COURT: All right. Anything from the plaintiffs?

MR. STUCKEY: A couple of motions, Your Honor, we move on behalf of both defendants in the same case, although for dual plaintiffs, for a new trial on the grounds as I enumerated in my objections to Your Honor's charge, which euphemistically, quite frankly, I think that we were charged out of court, but of course you know the law better than I, so I will certainly defer to your superior knowledge of it.

But we want to preserve that and we would ask for a new trial on the grounds that the Court erred in charging that so-called self-defense, which -- and their corollaries apparently of provocation, justification and mitigation, quote, Is an absolute defense to slander per se, end quote,

and your further charge that if there is slander per se and the defendant has failed to prove self-defense, then you can find a verdict, which is basically saying that -- that if the defendant does prove self-defense, so-called self-defense, then you could find a verdict for the defendants.

So I just think, Your Honor, that as based on our argument and based on Rule 9(h), libel and slander, providing that, quote, In such case the opposing party may in his answer, allege both the truth of the matter charged as defamatory and any mitigating circumstances reducing -- which I've underlined -- the amount of damages and whether he proved the justification or not, he may give in evidence the mitigating circumstances, end quote.

So I don't think that so-called self-defense or provocation or justification or mitigation are an absolute defense to slander per se. I think what you have to do, as Your Honor instructed the jury with, I believe, three elements of it that they -- you had found by directed verdict, and the only matter left open was for the jury to assess the amount of damages that under the provocation, justification and mitigation rule, as set forth in *Johnston v. Life & Casualty Insurance Company*, 192 S.C. 518, that the jury should have then assessed the damages.

And I think clearly, clearly Mr. McFarland should have gotten a verdict based on that even if it was a one dollar

nominal damages. But I think when you -- when they're told that that's an absolute defense, absolute defense, then -- to slander per se, then I think the jury was left with basically no alternative but to then, despite the fact that we were three quarters or nine tenths there with the verdict to then have that nullified. And that's our position, Your Honor.

THE COURT: Got it. Thank you so much.

Anything that you all want to add to it for purposes of the record arguments going up?

MR. LEECH: We just reincorporate all of the previous arguments on the same matter, as well as your judge's arguments on the matter.

THE COURT: All right. The only thing that I would not -- that I don't want to stand with the argument is I don't accept that mitigation is the same defense as provocation, self-defense and justification. It isn't the same. Although while mitigation isn't self-defense, self-defense, if not proven, can still be mitigation.

So I just -- that would be the only thing that I would add to it. And I would respectfully deny your motion.

Anything else?

MR. STUCKEY: Nothing further by the plaintiff, Your Honor.

THE COURT: All right. How about from the defense?

MR. CLEVELAND: No, thank you, Your Honor.

THE COURT: Thank you all. We will be adjourned.

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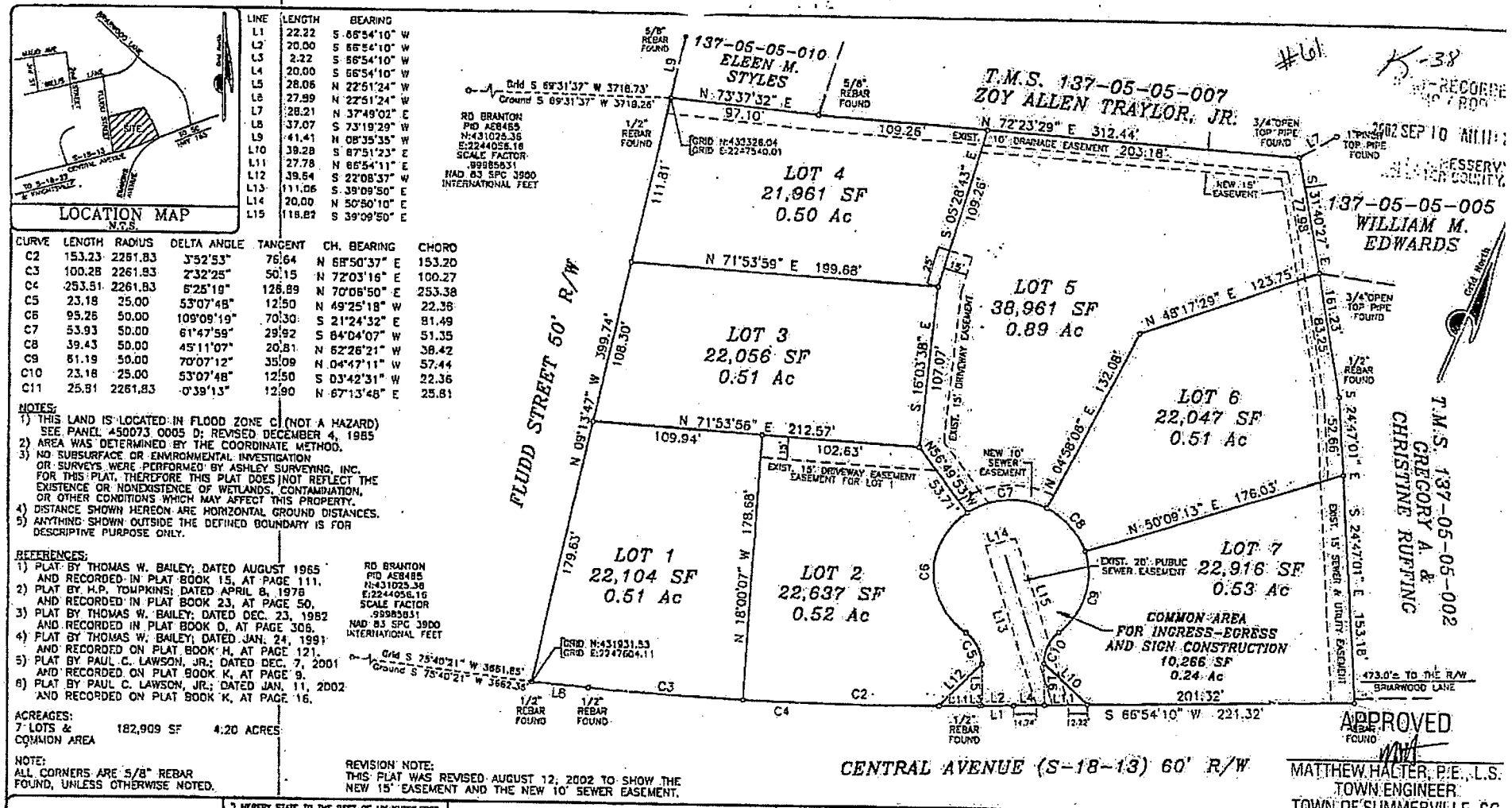


#61 K-38

RE-RECORDED TO CORRECT ERROR

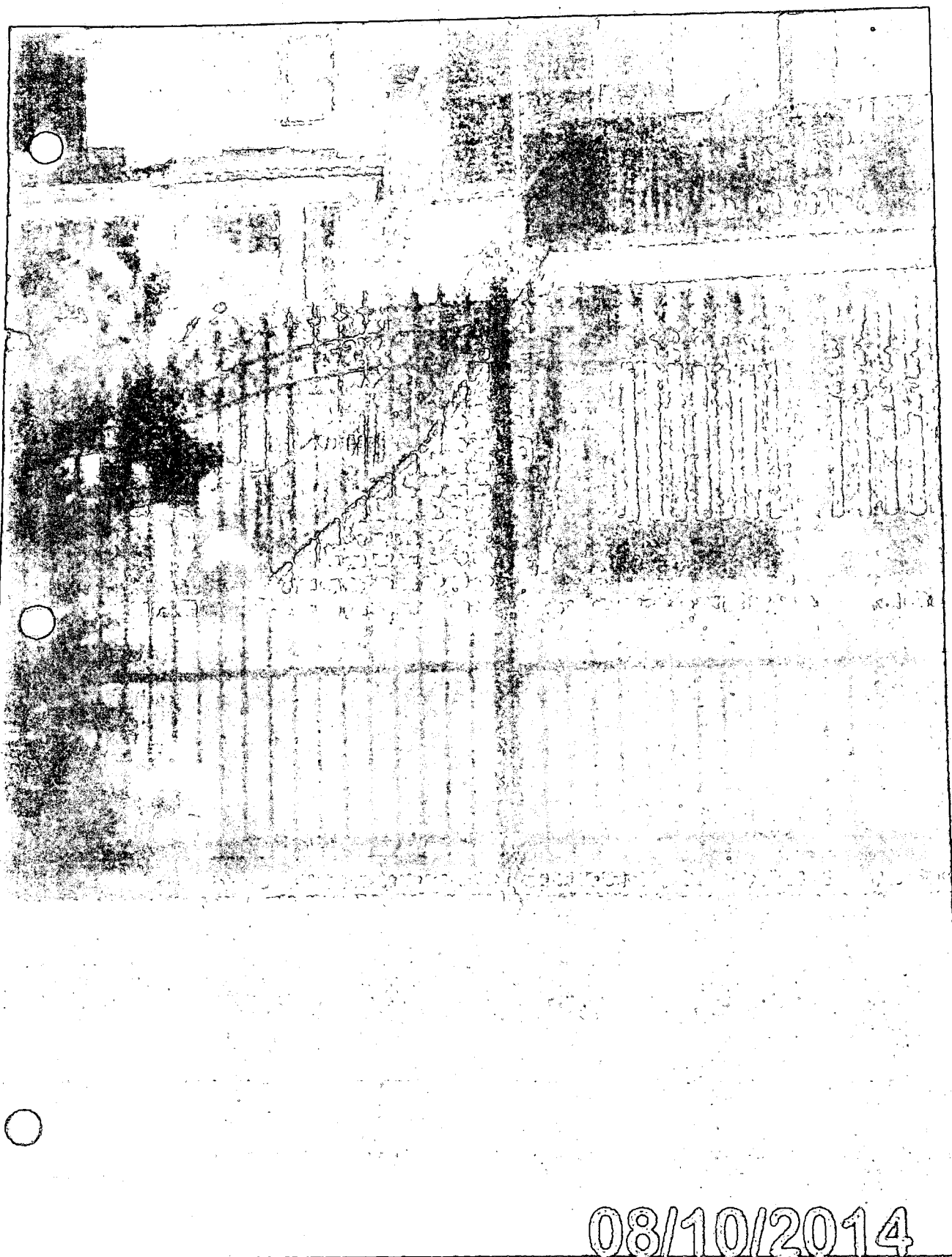
2002 SEP 10 AM 11:2

DORCHESTER COUNTY

ROA 539

104.147
Client Docs0120

PLAINTIFF'S EXHIBIT 19
12-9-14
PENGAD 800-631-6989



08/10/2014

PLAINTIFF'S EXHIBIT 12
12/9/14

Rashtchian 22

PLAINTIFF'S EXHIBIT
12/9/14

Rashtchian 068

SUMMERVILLE POLICE DEPARTMENT

Page 1 of 1

{ } Victim
{X} Witness
{ } Accused

VOLUNTARY STATEMENT FORM

DATE 5/10/11 TIME 1858

OCA # 11-35708

NAME Lance Elliott Johnson SOCIAL SECURITY # REDACTED

ADDRESS REDACTED Goose Creek SC REDACTED PHONE 343-6838

EMPLOYMENT Self PHONE

RACE Black SEX Male DATE OF BIRTH 4/22/82 EDUCATION 11

~~Wendy Dee~~

We were in the yard working I Lance Johnson was parked in the street and a guy From behind bills House rushed out his yard screaming and Cursing using fowl language at us saying get the F off the Road Son of a b" and he just started Rushing towards us screaming in bills and Jeniffer Face saying a lot of personal things about them like you better watch who is Loving in your House while you are out of town and he said you are a rases Son of a b it was just Crazy then his wife came out and did the same thing Screaming in Jeniffers face yelling saying all kinds of harsh things.

PLAINTIFF'S EXHIBIT 6 1D 1E

PENGAD 800-631-6989

I HAVE READ (HAD READ TO ME) THE FOREGOING STATEMENT WHICH I HAVE MADE FREELY AND VOLUNTARILY. THE FACTS CONTAINED THEREIN ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE.

WITNESS: L-55

SIGNATURE

SIGNATURE L-55

SIGNATURE N. TERRANOVA L-55

SIGNATURE

I HAVE RECEIVED A COPY OF THIS STATEMENT

SIGNATURE

3c1313506409

McFarland

From: McFarland <b21536@bellsouth.net>
Sent: Friday, July 27, 2012 11:25 AM
To: dhannemann@sc.rr.com; Tom Morris (tmorrisjr@sc.rr.com)
Cc: 'mkmazell@yahoo.com'; 'donknig8@aol.com'; 'cummingslaw@bellsouth.net'; Carlton Holcombe (summervillemech@bellsouth.net); Kathleen Greene (kjpm@Knology.net); brandt@shelbournelaw.com
Subject: FW: Mazell's HOA Dues Payment
Attachments: mazell certified ltr tracking log.jpg

You have misrepresented the facts in your July 20, 2012 letter.

In clarification, **there is no LOVHOA policy regarding certified mail, only common sense in play.** There is no physical building for #REDACTED. When a postal employee enters into LOV they find (7) homes but there are (8) mailboxes. There is no physical building of which the postal person can exit their vehicle, present the certified letter and obtain the required human signature necessary for the delivery of a certified letter. It is for this reason, in the past years the homeowners of LOVHOA (including the Mazell's) have been requested in writing not to send certified mail to REDACTED as again there is no physical location. There are several ways in which payments can be made to LOVHOA, regular mail (which all other homeowners successfully use), hand delivery and US Postal Service delivery confirmation. These options have always been available to the Mazell's, equally, the same as all other homeowners

Four payments were received on time: #REDACTED, #REDACTED, #REDACTED and #REDACTED, these payments were sent via US mail and received without a problem, prior to the due date. The LOVHOA statements were mailed on April 27th which provided for more than the required (30) days prior to the due date of on or before May 31st. Assessments not paid when due shall be delinquent. It is the same for LOVHOA as it is for payments due to mortgage companies, equity lines or credit cards, when payments are not received when due, they are past due. Past due statements are sent when payments are past due.

The US Postal Service tracking log for the Mazell's certified letter state it was expected to be delivered, past due, on June 15th, I enclose a copy of the US Postal Service tracking log for your review. Your offer to pick up this letter was only made via email on June 27th, the US Postal Service tracking number you supplied showed the item was to be returned to sender on June 30th. Furthermore, the US Postal Service track and confirm log states that the sender of the certified mail was notified that the item was available for pick up on July 2nd, but it remained unclaimed by the Mazell's until July 12th, another (10) days. Even then it was over a week before it was forwarded by you to the LOVHOA. Why was the payment not forwarded for almost (3) weeks after the Mazell's were notified that their certified letter was returned? (51 days past the due date of May 31st). Again as the bylaws state "Any assessments of an owner or any portions thereof which are not paid when due, shall be delinquent". As outlined in Article VI of the LOVHOA covenants and bylaws, penalties and fines have been incurred on the Mazell's account and will be billed accordingly with the next statement.

The Mazell's are responsible for their account. As you were the only one who inquired on the Mazell's payment, (not the Mazell's themselves) I followed up with you via email on July 10th informing you that the LOVHOA had not received the Mazell's payment and that it was past due. You did not reply to me at all.

Regarding your duties as Secretary of the HOA, Mr. Carlton Holcombe has requested in writing to you several times that you provide him with a copy of the minutes/proxies of the special members meeting held on May 31st. You refused his request because he objected to your meeting. Your written reply to Mr. Holcombe via email dated June 7, 2012 states

"since you claim the meeting was improper, neither the minutes nor proxies will be provided". After receiving your refusal Mr. Holcombe again made the same request for you to provide him with the minutes/proxies, to date he has not been given the requested copies from you. Roberts Rules state that you must make the minutes available to the members.

The minutes you provided me on June 15th for the Special members HOA meeting held on May 31st meeting are incomplete as they exclude motions made and accounting of votes taken during this meeting. Roberts Rules state that **all** motions and the accounting of votes must be included in the minutes recorded by the Secretary. You are again requested to forward to Mr. Holcombe a corrected complete set of minutes and proxies for the special members HOA meeting held on May 31st.

Your letter appears to accuse me of making a policy that does not exist and not following the bylaws in your effort to make the LOVHOA responsible for the Mazell's not making their payment on time. Your accusations are misplaced and inappropriate. Further they appear slanderous and only cause further discord amongst the LOV homeowners. Coupled with the comments made about me at the recent special members HOA meeting, they cause me great concern and I demand that you stop your malicious and defamatory comments.

Sincerely;

Bill McFarland
LOVHOA, President and BOD

Enclosure:

Cc: Norbert Cummings
Michael Knight
Carlton Holcombe
Michael Mazell
Kathleen Green

_Farland

From: McFarland <b21536@bellsouth.net>
Sent: Thursday, August 23, 2012 12:40 PM
To: 'Tom Morris'
Cc: 'dhannemann@sc.rr.com'; 'kjpm@Knology.net'
Subject: RE: Morris electrical wire

Mr. Morris;

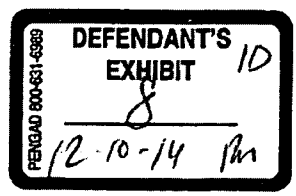
I didn't imply that we had a casual conversation, I said that we spoke, which is a fact. It is quite interesting how you replay a conversation in a context that did not occur. Unfortunately, I have listened to the recorded tape of the Special Members meeting held on May 31st and it was ugly. The verbal attacks you, your wife and the Hannemann's put forth to the Holcombe's and KJPM were uncalled for and out of line. In that same meeting you likened me to Hilter, which is not only offensive to me but to Mrs. Holcombe as a German native. That kind of conduct does not in any way lend to "peace and harmony" that was the guise for that meeting. Your claim that I chose not to attend this Special BOD meeting is completely false. It is impossible for me to have chosen not to attend that meeting when I was not notified of this meeting. For whatever reason, you sent the meeting notice to your home address not mine. Attorney Anton Sterba signed an official affidavit confirming the notice was sent to #REDACTED not to my address. I am certain that an Attorney would not sign a legal document without verifying the letter was addressed to the same address he is stating on the affidavit, I know that my Attorney would not. Furthermore, the SC Articles of Incorporation, which supersede the LOVHOA covenants and bylaws, states that a BOD's vote is not to be counted to determine whether to authorize, approve or ratify an issue that he has a personal interest in. You then used this vote of approval of your landscaping plans to vote to reduce your fine to $100.00. The actions from your Special BOD meeting, from the improper notice and votes are not valid. Lawsuits are usually the result when contracts are broken.

The plans you submitted were not detailed but rather they were limited to a drawing of some plants and shrubs and excluded any reference to your lighting plans, which is again why KJPM asked the question regarding the black line.

Your comment on endless letters and emails and when it will stop is amusing to me, as yet here I am replying to another one from you that most certainly requires a response. Regarding my opinion that you do not write your own letters, to me it is obvious, I simply made a statement as to my feelings on this matter.

Bill McFarland
LOVHOA President and BOD

-----Original Message-----
From: Tom Morris [mailto:tmorrisjr@sc.rr.com]
Sent: Wednesday, August 22, 2012 10:46 PM
To: 'McFarland'
Cc: dhannemann@sc.rr.com; kjpm@Knology.net
Subject: RE: Morris electrical wire



Mr. McFarland:

In response to your letter concerning our conversation on the morning of Friday, August 17, we obviously didn't have a casual conversation between neighbors as your letter implied. After a visit to Michael and Donna Knight's house, you called out to me after I had passed your driveway and asked me, "Is Donna going to help you with the meeting?" My response to you was "oh, we are going to have a meeting?" Your reply was yes and it was going to be ugly and was

going to get out of hand. You also implied that there were going to be lawsuits. I did not solicit any conversation with you nor did I spend a lot of time listening to you. My statement to you was simply "do what you need to do." These constant issues are becoming cumbersome as well as tiresome. This certainly doesn't help with the peace and harmony of our community. As for KJPM, a closer observation was all that was needed to define a hose versus an electrical wire. She is, after all, the property manager. As for the detailed plans, they were submitted at the BOD meeting you chose not to attend. To address your statement that I was attempting to intimidate KJPM is so far from the truth. I simply stated facts pertaining to my feelings and my property.

In closing, I am reiterating my final statement to you on that unsolicited conversation on Friday, August 17. Yes, I write my own letters and find it odd that you ask that question. However, I look forward to the day when we will no longer have to respond to your endless emails and letters.

Tom Morris
LOVHOA, BOD

-----Original Message-----
From: McFarland [mailto:b21536@bellsouth.net]
Sent: Tuesday, August 21, 2012 11:47 AM
To: 'Tom Morris'
Cc: dhannemann@sc.rr.com; Kathleen Greene
Subject: RE: Morris electrical wire

Mr. Morris;

Following up on our conversation the other day in the driveway regarding your email below, I looked into this and the letter you forwarded that implies that the property manager is in some way attempting harass you, I can't disagree more with your contention. During her normal course of duty, KJPM had a question on what the black line crossing your property was. The green hose was obviously a garden hose but it wasn't obvious that the black line was a second garden hose. Had you submitted a detailed plan for your landscaping and lighting as required by the bylaws, she would have known that the landscape lighting would be properly installed and lines buried.
KJPM was hired under a unanimous vote of the BOD when you and Mr. Hannemann would not enforce a violation against a homeowner, you yourself, at that
time, said that hiring a property manager was "a wonderful idea". KJPM
should be allowed to perform her duties without the continued attempts of you and Mr. Hannemann to intimidate her. This kind of drama in the neighborhood is neither required nor desired. It would be in the best interest of our community and also regarding the issue of peace and harmony to not make issues when this is clearly a non-issue, again it was only a question, period. Hopefully this issue is now closed.

Bill McFarland
LOVHOA President and BOD

-----Original Message-----
From: Tom Morris [mailto:tmorrisjr@sc.rr.com]
Sent: Thursday, August 16, 2012 12:18 PM
To: kjpm@Knology.net
Cc: dhannemann@sc.rr.com; Bill Mcfarland
Subject: RE: Morris electrical wire

Dear Mrs. Greene,
Please see attached letter regarding my garden hose you mistakenly identified as an electrical wire.
Tom

-----Original Message----
From: Kathleen J. Greene [mailto:kjpm@Knology.net]
Sent: Monday, August 06, 2012 12:53 PM
To: Tom Morris
Subject: RE: Morris electrical wire

Mr. Morris,

During two separate recent visits to Live Oak I saw a green garden hose and a black line crossing your drive. It appeared to me the black line was an electrical cord running to your center island, if not, then please let me know what the black line is for? Are the black line and the garden hose temporary? I have not taken pictures.

Kathleen J. Greene
K.J. Property Management, LLC
843-763-0943 office
843-534-6926 cell
www.kjpm.net

On Thu 08/02/12 2:16 PM , "Tom Morris" tmorrisjr@sc.rr.com sent:
> Hello, please send me a picture. Obviously you all see something that
> I donot.
> Thanks,
> Tom
>
> -----Original Message-----
> From: Kathleen J. Greene [kjpm@Knology .net] Sent: Thursday, August
> 02, 2012 11:42 AM
> To: dhannema
> nn@sc.rr.com; McFarland LOV; tmorrisjr
> @sc.rr.comSubject: Morris electrical wire
>
> Hello ~ On a recent visit I noted an electrical line on the Morris
> property.Section 7.21 Exclusion of Above Ground Utilities. Please bury
> the
line
> asap.Let me know when you've accomplished this so I can note it in the
file.
> Thanks much ~
> Kathleen J. Greene
> K.J. Property Management, LLC
> 843-763-0943 office
> 843-534-6926 cell
> www.kjpm.net .
>
>
>
> -----
> No virus found in this message.
> Checked by AVG - www.avg.comVersion: 2012.0.2197 / Virus Database:
2437/5172 - Release Date:

> 08/02/12
>
>
>

No virus found in this message.
Checked by AVG - www.avg.com
Version: 2012.0.2197 / Virus Database: 2437/5184 - Release Date: 08/07/12

No virus found in this message.
Checked by AVG - www.avg.com
Version: 2012.0.2197 / Virus Database: 2437/5215 - Release Date: 08/21/12

REDACTED
Summerville, SC REDACTED
September 30, 2012

Mr. William McFarland, President
& Board of Director
Mrs. Jennifer McFarland, Treasurer
105 Oak Village Lane
Summerville, SC 29483

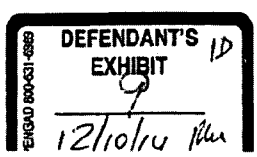
Dear Mr. President:

It has come to our attention that certain actions taken by you without approval from the Board of Directors may have placed the Live Oak Village Homeowners Association in legal jeopardy.

In early June a Board of Director was given a check for their homeowner's association dues by Ms. Sophia Mazell, residing at REDACTED Summerville, SC. I placed this check in an envelope and sent it via Certified Mail on June 14, 2012 to the Live Oak Village Homeowners Association mail box at REDACTED Summerville, SC. (See attached receipt). This certified letter was never delivered due to a policy related by you that certified mail cannot be delivered to REDACTED Summerville, SC because there is no physical location. Shortly thereafter, in an e-mail to you, I indicated I would go to the Post Office and sign for the Certified Letter. You never responded to my offer. The certified letter was retrieved from the Post Office by the HOA member at REDACTED on July 12, 2012 and returned to me. I then placed the unopened certified mail envelope in a Priority Mail envelope and sent it to you at REDACTED Summerville, SC, your home address, with Delivery Confirmation on July 20, 2012. (See attached) The United States Post Office indicates this Priority Mail envelope was delivered to you on July 21, 2012 at 10:14 am. Therefore, the annual dues payment for REDACTED REDACTED Summerville, SC was in your or your wife's, the HOA Treasurer, possession as of July 21, 2012 and was not deposited into the Live Oak Village Homeowners bank account.

Along with the Annual Live Oak Village Homeowners Association meeting notice, sent to REDACTED REDACTED Summerville, SC on or about September 1, 2012, you or your wife included a late fee assessment. This late fee assessment was neither discussed with nor approved by the Board of Directors. The unopened certified mail envelope sent June 14, 2012 should have been considered timely payment and not subject to any late fees. At this point it is unclear as to why the annual dues assessment for REDACTED was not deposited in a timely manner.

This matter is further compounded by a complaint issued by the Solicitor's office against Ms. Sophia Mazell, REDACTED Summerville, SC for issuing a "worthless check" on or about September 20, 2012. Failure to deal with the annual dues payment check for REDACTED REDACTED in a reasonable and timely manner has placed the Live Oak Village Homeowners Association in legal jeopardy based on your and or your wife's individual actions not in conformance with HOA rules and policies. Additionally, the failure of any officer in the Live Oak Village Homeowners Association to fulfill their duties potentially also places all members of the association in legal jeopardy. The actions or inactions by you or your wife to deposit an



104.147
Client Docs0278

annual dues payment in a timely manner are not actions consistent with the duties of the President, Board of Director and Treasurer of the HOA. Therefore, we, as Board of Director members do hereby renounce these actions and affirm these actions were not taken on behalf of the Live Oak Village Homeowners Association. The Live Oak Village Homeowners Association is not responsible for any consequences, legal or otherwise, that may arise from these actions. We, as Board of Director members, do hereby request the resignation of you as President and Board of Director and your wife, Jennifer McFarland, Treasurer effective immediately.

Respectfully,

David Hannemann, Secretary and Board of Director

Thomas Morris, Jr., Board of Director

cc: Mr. Norbert Cummings
Mr. & Mrs. Michael Knight
Mr. & Mrs. Carlton Holcombe
Mr. & Mrs. Michael Mazell
Ms. Kathleen Greene

104.147
Client Docs0279

DEFENDANT'S EXHIBIT 10
12-10-14

STATE OF SOUTH CAROLINA)
)
COUNTY OF DORCHESTER)

IN THE COURT OF COMMON PLEAS

CIVIL ACTION COVERSHEET

LIVE OAK VILLAGE HOMEOWNERS' ASSOCIATION, et al.
Plaintiff(s)

vs.

THOMAS MORRIS, et al.
Defendant(s)

2012-CP - 18- 2583

CERTIFIED COPY
2012 NOV 16 PM 12:55
CLERK OF COURT
DORCHESTER COUNTY

Submitted By: P. Brandt Shelbourne
Address: 131 E. Richardson Ave., Summerville, SC 29483

SC Bar #: 15143
Telephone #: 843-871-2210
Fax #: 843-875-2274
Other:
E-mail:

NOTE: The coversheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for the use of the Clerk of Court for the purpose of docketing. It must be filled out completely, signed, and dated. A copy of this coversheet must be served on the defendant(s) along with the Summons and Complaint.

DOCKETING INFORMATION (*Check all that apply*)

**If Action is Judgment/Settlement do not complete*

☐ JURY TRIAL demanded in complaint. ☒ NON-JURY TRIAL demanded in complaint.
☐ This case is subject to ARBITRATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
☐ This case is subject to MEDIATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
☐ This case is exempt from ADR. (Proof of ADR/Exemption Attached)

NATURE OF ACTION (*Check One Box Below*)

Contracts
- ☐ Constructions (100)
- ☐ Debt Collection (110)
- ☐ Employment (120)
- ☐ General (130)
- ☐ Breach of Contract (140)
- ☐ Other (199)

Torts - Professional Malpractice
- ☐ Dental Malpractice (200)
- ☐ Legal Malpractice (210)
- ☐ Medical Malpractice (220)
- Previous Notice of Intent Case # 20____-CP-_____-_____
- ☐ Notice/ File Med Mal (230)
- ☐ Other (299)

Torts – Personal Injury
- ☒ Assault/Slander/Libel (300)
- ☐ Conversion (310)
- ☐ Motor Vehicle Accident (320)
- ☐ Premises Liability (330)
- ☐ Products Liability (340)
- ☐ Personal Injury (350)
- ☐ Wrongful Death (360)
- ☐ Other (399)

Real Property
- ☐ Claim & Delivery (400)
- ☐ Condemnation (410)
- ☐ Foreclosure (420)
- ☐ Mechanic's Lien (430)
- ☐ Partition (440)
- ☐ Possession (450)
- ☐ Building Code Violation (460)
- ☐ Other (499)

Inmate Petitions
- ☐ PCR (500)
- ☐ Mandamus (520)
- ☐ Habeas Corpus (530)
- ☐ Other (599)

Administrative Law/Relief
- ☐ Reinstate Drv. License (800)
- ☐ Judicial Review (810)
- ☐ Relief (820)
- ☒ Permanent Injunction (830)
- ☐ Forfeiture-Petition (840)
- ☐ Forfeiture—Consent Order (850)
- ☐ Other (899)

Judgments/Settlements
- ☐ Death Settlement (700)
- ☐ Foreign Judgment (710)
- ☐ Magistrate's Judgment (720)
- ☐ Minor Settlement (730)
- ☐ Transcript Judgment (740)
- ☐ Lis Pendens (750)
- ☐ Transfer of Structured Settlement Payment Rights Application (760)
- ☐ Confession of Judgment (770)
- ☐ Petition for Workers Compensation Settlement Approval (780)
- ☐ Other (799)

Appeals
- ☐ Arbitration (900)
- ☐ Magistrate-Civil (910)
- ☐ Magistrate-Criminal (920)
- ☐ Municipal (930)
- ☐ Probate Court (940)
- ☐ SCDOT (950)
- ☐ Worker's Comp (960)
- ☐ Zoning Board (970)
- ☐ Public Service Comm. (990)
- ☐ Employment Security Comm (991)
- ☐ Other (999)

Special/Complex /Other
- ☐ Environmental (600)
- ☐ Automobile Arb. (610)
- ☐ Medical (620)
- ☐ Other (699)
- ☐ Pharmaceuticals (630)
- ☐ Unfair Trade Practices (640)
- ☐ Out-of State Depositions (650)
- ☐ Motion to Quash Subpoena in an Out-of-County Action (660)
- ☐ Sexual Predator (510)

Submitting Party Signature: _____ Date: 11.13.14

Note: Frivolous civil proceedings may be subject to sanctions pursuant to SCRCP, Rule 11, and the South Carolina Frivolous Civil Proceedings Sanctions Act, S.C. Code Ann. §15-36-10 et. seq.

DEFENDANT'S EXHIBIT 21

FOR MANDATED ADR COUNTIES ONLY

Allendale, Anderson, Beaufort, Clarendon, Colleton, Florence, Greenville, Hampton, Horry, Jasper, Lee, Lexington, Pickens (Family Court Only), Richland, Sumter, Union, Williamsburg, and York

SUPREME COURT RULES REQUIRE THE SUBMISSION OF ALL CIVIL CASES TO AN ALTERNATIVE DISPUTE RESOLUTION PROCESS, UNLESS OTHERWISE EXEMPT.

You are required to take the following action(s):

1. The parties shall select a neutral and file a "Proof of ADR" form on or by the 210th day of the filing of this action. If the parties have not selected a neutral within 210 days, the Clerk of Court shall then appoint a primary and secondary mediator from the current roster on a rotating basis from among those mediators agreeing to accept cases in the county in which the action has been filed.

2. The initial ADR conference must be held within 300 days after the filing of the action.

3. Pre-suit medical malpractice mediations required by S.C. Code §15-79-125 shall be held not later than 120 days after all defendants are served with the "Notice of Intent to File Suit" or as the court directs. (Medical malpractice mediation is mandatory statewide.)

4. Cases are exempt from ADR only upon the following grounds:

   a. Special proceeding, or actions seeking extraordinary relief such as mandamus, habeas corpus, or prohibition;

   b. Requests for temporary relief;

   c. Appeals

   d. Post Conviction relief matters;

   e. Contempt of Court proceedings;

   f. Forfeiture proceedings brought by governmental entities;

   g. Mortgage foreclosures; and

   h. Cases that have been previously subjected to an ADR conference, unless otherwise required by Rule 3 or by statute.

5. In cases not subject to ADR, the Chief Judge for Administrative Purposes, upon the motion of the court or of any party, may order a case to mediation.

6. Motion of a party to be exempt from payment of neutral fees due to indigency should be filed with the Court within ten (10) days after the ADR conference has been concluded.

Please Note: **You must comply with the Supreme Court Rules regarding ADR. Failure to do so may affect your case or may result in sanctions.**

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FIRST JUDICIAL CIRCUIT
COUNTY OF DORCHESTER	)	
	)	CASE NO.: 2012-CP-18-2583
LIVE OAK VILLAGE HOMEOWNERS' ASSOCIATION, INC., JENNIFER MCFARLAND, CARLTON HOLCOMBE, and UTE HOLCOMBE	)	
Plaintiffs,	)	SUMMONS
VS.	)	
THOMAS MORRIS, DAVID HANNEMANN, SOFIA MAZELL, and MICHAEL MAZELL	)	
Defendants.	)	

CERTIFIED COPY
2012 NOV 16 PM 12:55
Cheryl Richardson
CLERK OF COURT
DORCHESTER COUNTY

TO THE DEFENDANTS ABOVE-NAMED:

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

By: _____

P. Brandt Shelbourne, Esq. (SCB 15143)
131 E. Richardson Avenue
Summerville, SC 29483
(843) 871-2210

ATTORNEY FOR PLAINTIFFS

Summerville, South Carolina
November 13, 2012

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FIRST JUDICIAL CIRCUIT
COUNTY OF DORCHESTER	)	
	)	CASE NO.: 2012-CP-18-2583
LIVE OAK VILLAGE HOMEOWNERS' ASSOCIATION, INC., JENNIFER MCFARLAND, CARLTON HOLCOMBE, and UTE HOLCOMBE	)	
Plaintiffs,	)	**COMPLAINT**
	)	**(Declaratory Judgment, Conspiracy, Slander, Defamation)**
VS.	)	
THOMAS MORRIS, DAVID HANNEMANN, SOFIA MAZELL, and MICHAEL MAZELL	)	
Defendants.	)	

CERTIFIED COPY
2012 NOV 16 PM 12:55
CLERK OF COURT
DORCHESTER COUNTY

TO DEFEDANTS, ABOVE-NAMED:

Plaintiffs Live Oak Village Homeowners' Association, Inc., Jennifer McFarland, Carlton Holcombe, and Ute Holcombe (hereinafter "Plaintiffs") hereby complain of Defendants Thomas Morris, David Hannemann, Sofia Mazell and Michael Mazell (hereinafter "Defendants") as follows:

1. Plaintiff Live Oak Village Homeowners' Association, Inc. is a corporation organized in accordance to existing laws in the state of South Carolina. At all times relevant to this lawsuit, it has been operating in Dorchester County

2. Plaintiffs Jennifer McFarland, Carlton Holcombe, and Ute Holcombe at all times relevant have resided in the Live Oak Village subdivision located in Dorchester County, South Carolina and are members of the Live Oak Village Homeowners' Association.

3. Individual Defendants at all times relevant have resided in the Live Oak Village subdivision located in Dorchester County, South Carolina and are members of the Live Oak Village Homeowners, Association.

AS AND FOR A FIRST CAUSE OF ACTION
(Declaratory Judgment as to Defendants Thomas Morris and David Hannemann)

4. Upon information and belief Defendants Thomas Morris and David Hannemann report to be officers of the Live Oak Village Homeowner's Association.

5. Upon information and belief Defendants Thomas Morris and David Hannemann have been acting outside the scope of their authority as members of the Board of Directors of Live Oak Village Homeowner's Association and should be prohibited from doing so.

6. Upon information and belief, Defendants Thomas Morris and David Hannemann have willfully operated and continue to willfully operate outside of the scope of their authority by taking action or failing to take action as required by the covenants and restrictions, including but not limited to the following acts:

A. voting to waive fines that applied to themselves;

B. failing to hold timely or properly noticed Home Owners Association or Board of Directors meetings;

C. allowing unauthorized persons to vote and participate in Board of Directors meetings;

D. voting on matters in which they have a personal financial interest;

E. voting in violation of South Carolina Code § 33-31-83;

F. failing to properly handle HOA funds;

G. failing to enforce covenants and restrictions in a uniform and unbiased manner;

H. violating the covenants and restrictions.

7. Said aforementioned acts and omissions are willful and intentional misconduct.

8. Unless this Court enjoins and prohibits Defendants Thomas Morris and David Hannemann from continuing to act outside their scope of authority, Plaintiffs will suffer irreparable damage to their ability to reside at their property and have no adequate remedy at law.

9. Plaintiffs are entitled to Declaratory Judgment declaring that Defendants Thomas Morris and David Hannemann are acting outside of the scope of their authority and injunctive relief prohibiting Defendants from taking further action and/or serving on the Board of Directors of the Live Oak Village Homeowner's Association.

AS AND FOR A SECOND CAUSE OF ACTION
(Conspiracy as to all Defendants)

10. Plaintiffs reallege and reincorporate each and every allegation above as if set out fully verbatim herein.

11. That at all times all Defendants have conspired against Plaintiffs for the purpose of injuring Plaintiffs.

12. As a direct and proximate result, Plaintiffs have incurred special damages including, but not limited to attorney's fees and costs in defending against Defendants' actions and loss of Homeowners' Association fees.

AS AND FOR A THIRD CAUSE OF ACTION
(Slander and Defamation as to Defendants Sofia Mazell and Michael Mazell)

13. Plaintiffs reallege and reincorporate each and every allegation above as if set out fully verbatim herein.

14. Upon information and belief Defendants Sofia Mazell and Michael Mazell have committed slander and defamation against Plaintiff Jennifer McFarland by alleging she is unchaste and having extra-marital relations; that she committed criminal acts by stealing her father's

business; that she is racist; and that she invades Defendants privacy by peering into their windows, all of which are untrue and amount to slander per se and defamation.

15. As a direct and proximate result of Defendants Sofia Mazell and Michael Mazell's slander, slander per se and defamation Plaintiff Jennifer McFarland has been damaged and suffered actual damages and is entitled to the same and to punitive damages in an amount to be determined by the trier of fact.

WHEREFORE, Plaintiffs pray for:

(a) Declaratory Judgment against Defendants Thomas Morris and David Hannemann declaring that Defendants are acting outside of their scope of authority on the Live Oak Village Homeowner's Association Board of Directors;

(b) Injunctive Relief prohibiting Defendants Thomas Morris and David Hannemann from taking further action and/or serving on the Live Oak Village Homeowner's Association Board of Directors contrary to the express terms of the covenants and by-laws;

(c) Special damages incurred as a result of Defendants' conspiracy;

(d) Actual and punitive damages as allowed by law;

(e) Attorney's fees and costs in bringing this action; and

(f) Any such other and further relief this Court deems just and proper.

By: _____

P. Brandt Shelbourne, Esq. (SCB 15143)
131 E. Richardson Avenue
Summerville, SC 29483
(843) 871-2210

ATTORNEY FOR PLAINTIFFS

Summerville, South Carolina
November 13, 2012

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FIRST JUDICIAL CIRCUIT
COUNTY OF DORCHESTER	)	
	)	CASE NO.: 2012-CP-18-2583
LIVE OAK VILLAGE HOMEOWNERS' ASSOCIATION, INC., JENNIFER MCFARLAND, CARLTON HOLCOMBE, and UTE HOLCOMBE	)	
Plaintiffs,	)	
VS.	)	
THOMAS MORRIS, DAVID HANNEMANN, SOFIA MAZELL, and MICHAEL MAZELL	)	
Defendants.	)	

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2012 NOV 16 PM 12:55
CLERK OF COURT
DORCHESTER COUNTY

VERIFICATION

PERSONALLY appeared before me, CARLTON HOLCOMBE and UTE HOLCOMBE, who, being first duly sworn, deposes and says that they have read the foregoing Complaint, and that they are the Plaintiffs herein; that all of the allegations contained therein are true of their own knowledge, except those things so stated upon information and belief, and as to those, they believe the same to be true.

CARLTON HOLCOBE

UTE HOLCOMBE

SWORN TO before me this

16th day of November, 2012.

Sarah E. Stives (LS)
NOTARY PUBLIC FOR SOUTH CAROLINA
My Commission Expires: Feb. 14, 2022

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FIRST JUDICIAL CIRCUIT
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Defendants.	)	

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PERSONALLY appeared before me, WILLIAM MCFARLAND, President of Live Oak Village Homeowners' Association, Inc., who, being first duly sworn, deposes and says that he has read the foregoing Complaint, and that Live Oak Village Homeowners' Association, Inc, is the Plaintiff herein; that all of the allegations contained therein are true of his own knowledge, except those things so stated upon information and belief, and as to those, he believes the same to be true.

W. M. McFarland

WILLIAM MCFARLAND
President, Live Oak Village Homeowners' Association, Inc.

SWORN TO before me this

16th day of November, 2012.

Sarah E. Stivel (LS)

NOTARY PUBLIC FOR SOUTH CAROLINA
My Commission Expires: Feb. 14, 2022

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FIRST JUDICIAL CIRCUIT
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Defendants.	)	

CERTIFIED COPY
2012 NOV 16 PM 12:55
CLERK OF COURT
DORCHESTER COUNTY

PERSONALLY appeared before me, JENNIFER MCFARLAND, who, being first duly sworn, deposes and says that she has read the foregoing Complaint, and that she is the Plaintiff herein; that all of the allegations contained therein are true of her own knowledge, except those things so stated upon information and belief, and as to those, she believe the same to be true.

JENNIFER MCFARLAND

SWORN TO before me this

16th day of November, 2012.

Sarah E. Stives (LS)

NOTARY PUBLIC FOR SOUTH CAROLINA

My Commission Expires: Feb. 14, 2022

April 26, 2011 Tuesday Late afternoon

CONFIDENTIAL AND PRIVELIGED INFORMATION FOR Lance Johnson

Lance Johnson was delivering a trailer of mulch that was to be installed in our back yard. He was parked on Flud St. in order to use the back entry of our property and was in the process of un-hitching his trailer from his truck (2-3 minutes) when a red car came up Flud St. toward Central Ave. and barely touched on the grass that is located in front of Rashtchian's property. We later we received, upon request, a plat from the Town of Summerville Engineers office, showing that the grass in question is not on Rashtchian's property but in the Town of Summerville's R/W. It should be noted the Landscapers vehicle was not on his property, not even close to the grass in the R/W and at no time did he enter on his property.

Mansour Rashtchian came charging out of his house and began attacking Lance "[redacted], you're not supposed to be in the street, they just ran over my grass"

Bill was coming around the truck and was telling Mansour "he's moving the truck now" but before he could finish

Mansour turned his attack on Bill screaming"You're a f-ahole, nothing but a f-ahole. I know all about you, your nothing but a f-ahole"

Bill "What the hell is your problem"

Mansour kept repeating, screaming loudly "I know everything about you, I know who you are, I know all about you" repeatedly

Mansour screaming"Nobody likes you – you're a f-ahole. Your making those poor people move (points to Mazells house) you need to move."

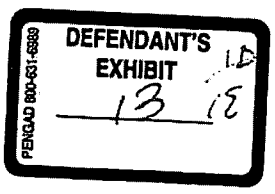
Bill "We've lived here over 8 years, you never said one word to us, and now you come out screaming at me, no you're the ahole, leave me the hell alone"

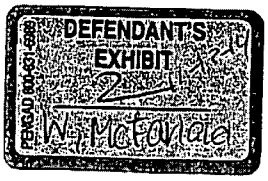
Mansour screaming"You're not allowed to use this gate, they're the only ones (points to Mazell's house) who have permission from the DOT. Just go stay in your castle"

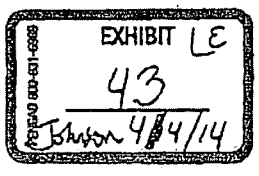
Bill "You don't tell me what to do on my own property, get the hell away from me and leave these people alone"

Mansour screaming"F-you, you're a f-ahole I know about you and I know you look in her bedroom window with a telescope (again points to Mazell's house). Yeah , I know what goes on in your house and I know about the people that sneak into your house through the back when you're out of town. Your wife cheats on you, I know about the those kind of people that come to your house when you're out of town"

At this time Bill came into the house to alert me to what is going on and tell me that Mansour said that I was cheating on him. As we were walking to the fence, we clearly heard Mansour screaming at Lance, KB and Terron "How can you work for these bad people, they're racists, they steal their money, she cheats on her husband"







At this time we came around the fence again and said "What the hell is wrong with you?"

Bill "Are you out of your mind? Where the hell are you getting this bullshit from? Mansour points at Mazell's house and says "that women"

Mansour screaming "I know all about you, I know you stole your business and your money from your wife's father, you stole all your money, you f-ahole"

Bill "You don't know what you're talking about. It not true. Where the hell are you getting this from? Who's telling you these things?" Mansour again points at Mazell's house. Mansour storms into his house.

We were just standing there dumbfounded when Mansour came out of his house again and I walked to the street in front of his driveway.

Jennifer "I need you to tell me why you're attacking us and what business you have telling lies about me and my family. You don't know anything about me or my father, who told you that crap? We don't know you at all, what is your problem?" points at Mazell's house, No verbal response at all.

Jennifer "I'm asking you a simple direct question, why are you lying about me in this way, who told you this about my father? You have no right saying these things about me and my family that aren't true"

Then his wife Amy comes running out of the house and gets straight in my face, yelling.

Amy "Bitch, let's make this fair, you don't talk to him, you talk to me - you bitch"

Jennifer "I'm asking him a simple question to explain where he heard this and why he's lying about me and attacking us. We don't even know you people."

Amy "Don't talk to him, talk to me, let it be fair, let's go" waving her arms in the air

Jennifer "Why can't he answer a simple question about the statements that came out of his mouth?

Amy began screaming "I know all about your husband, he's a racist"

Jennifer "WHAT are you talking about, he is not a racist at all"

Amy "yeah" Mansour "your husband is a racist, he is a fing racist"

Bill and I walked back into the house to get our portable phone to call the police and as we were walking through our backyard we heard Mansour and Amy screaming at Lance and his workers:

Amy screaming "He's a racist, he's no good"

CONFIDENTIAL AND PRIVELIGED INFORMATION FOR Lance Johnson

Masour screaming"How can you work for him, he's a fing racist, you shouldn't work for him, you shouldn't do anything for him at all. They steal money from family and she cheats on her husband"

Lance and his workers did not reply and to get away they walked into our backyard.

Jennifer to Mansour "Why won't you answer my question, you said it, tell why you are saying these awful things about me?"

Bill walks up to me to lead me away from them "don't even bother"

Amy to Mansour "That bitch won't let it go" to me "your husband is a racist" Mansour "fing racist"

As we are walking to our backyard, Amy gets up in Bill's face and touched his arm. "I know all about you, I know what you are"

Bill to Amy "You DO NOT touch me"

Amy "What are you going to do about it, you're nothing?" Then Amy pushes her elbow on him.

Bill again "You DO NOT touch me"

Amy again "What are you going to do about it?"

Mansour made a threatening move toward Bill and me, and Bill said "try it, go ahead try it"

Mansour "What are you going to do call the police"

Bill "Just stay away from me and my family, stay off my property"

We were moving towards the entrance of our property and they followed us to the street just behind our gate

Jennifer "You people are acting crazy, you need to back off and go home"

At this time Lance came back out to get more mulch.

Amy yelling"We're not backing off as long as you live here and we won't stop until you leave until you move, we're not going to stop"

Mansour "Yeah you need to leave, nobody likes you"

Bill and I walk away back into our own yard and they go back to their driveway and Amy yells to Bill "Yeah ask me about the people that sneak in your backyard while you're out of town, I'll tell you all about it. Just ask me I'll tell you everything" Mansour "yeah"

As we were walking further into our backyard we heard them again say to Lance again "they are bad people, they steal and cheat"

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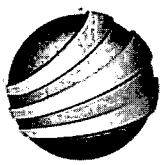
In the Matter Of:

MCFARLAND vs. RASHTCHIAN

2013-CP-18-0735

MAJID RASHTCHIAN

August 29, 2014



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STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF DORCHESTER	)	CASE NO.: 2013-CP-18-0735
	)	
William McFarland and	)	
Jennifer McFarland,	)	
	)	
Plaintiffs,	)	
	)	
vs.	)	
	)	
Mansour Rashtchian and	)	
Amy Rashtchian,	)	
	)	
Defendants.	)	

VIDEOTAPED DEPOSITION
OF MAJID RASHTCHIAN
TAKEN ON BEHALF OF THE DEFENDANTS
AUGUST 26, 2014
3:16 P.M. TO 3:58 P.M.

REPORTED BY:
DALE WATERMAN, COURT REPORTER

APPEARANCES OF COUNSEL

ON BEHALF OF THE PLAINTIFFS:

MR. JAMES STUCKEY

ON BEHALF OF THE DEFENDANTS:

MR. DAVID CLEVELAND, ESQ.

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DEPOSITION of MAJID RASHTCHIAN

AUGUST 26, 2014

THE VIDEOGRAPHER: Just to clarify for the record, who do we have as counsel? If you could just spell out your name for the record.

I have Mr. Cleveland already.

MR. CLEVELAND: Yes, I'm David Cleveland. I represent the Defendants in this case, Mansour and Amy Rashtchian.

MR. STUCKEY: I'm James A. Stuckey of the Charleston Law Center at the law firm of Stuckey Law Offices, and I represent the Plaintiffs, Mr. and Mrs. McFarland.

THE VIDEOGRAPHER: Could you spell your last name, sir?

MR. STUCKEY: S-t-u-c-k-e-y.

THE VIDEOGRAPHER: Thank you.

This is the deposition of Mr. Majid Rashtchian for the matter of McFarland, William versus Rasthchian, Mansour, file number 137783 in the State of South Carolina, County of Dorchester.

The deposition is held in Montreal, Quebec, on August 29, 2014 at 3:16 p.m. Sean Prouse for the videographer and Dale Waterman for Court Reporter.

Please proceed.

THE COURT REPORTER: Sir, would you like to be affirmed or would you like to use the Bible and do a ---

THE WITNESS: Bible or affirm, doesn't make any difference.

THE COURT REPORTER: It's up to you.

THE WITNESS: Okay. I use the Bible.

THE COURT REPORTER: Put your right hand on the Bible.

Could you please state your name for the record?

THE WITNESS: Majid Rashtchian.

THE COURT REPORTER: Can you spell your last name, please?

THE WITNESS: R-a-s-h-t-c-h-i-a-n.

THE COURT REPORTER: Do you swear that the testimony you're about to give will be the truth, the whole truth ---

THE WITNESS: Yes.

THE COURT REPORTER: --- and nothing but the truth, so help you God?

THE WITNESS: Yes, I do.

THE COURT REPORTER: Witness is sworn.

MR. STUCKEY: Can we also stipulate and

agree that all objections except to the form of question are waived until time of trial?

MR. CLEVELAND: This was not noticed as a trial deposition, so yes, this is a discovery deposition. That will be fine.

Thank you.

THEREUPON:

MAJID RASHTCHIAN

Was duly sworn and testified under oath as follows:

DIRECT EXAMINATION

BY MR. CLEVELAND:

Q Mr. Rashtchian, my name is David Cleveland. I introduced myself to you a few minutes ago.

As you know, I have the pleasure of representing your brother, Mansour, and his wife, Amy, in a lawsuit brought by William and by Jennifer McFarland.

Where do you live?

A I live in Montreal, Canada.

Q And tell us about your education, if you would.

A I -- after high school in Iran, I went to Norwich University in Vermont. And after that, I

continued my education in McGill University, Canada, Montreal

Q And what type of work do you?

A At the present time, I'm a consultant in a fashion industry, and I work on assignments in terms of restructuring and organizing the companies' production line, quality streamlining, engineering and methods.

Q How long have you lived in Canada?

A Since 1980.

Q I'm sorry. I didn't pick up that last part.

A Since year 1980.

Q And are you a citizen of Canada?

A Yes, I am.

Q And if I understood you earlier correctly, you were born in Iran. Is that correct?

A That's right.

Q Have you had the opportunity to visit your brother, Mansour, and his wife, Amy, in Summerville, South Carolina?

A Yes, I have, a couple of times.

Q And have you had the opportunity to see one or more of their neighbours who live there close by them in Summerville?

A One in particular, yes.
Q Okay. And Mr. Court Reporter, would you please hand the witness Defendant's Exhibit No. 1?
Mr. Rashtchian, do you recognize Defendant's Exhibit No. 1?
A Yes, sir, I do.
Q And what is that exhibit?
A This is the picture of Mansour's neighbour right across the street.
Q Have you ever had any interaction with the man that's seen in Exhibit No. 1?
A Yes, I had in a very, very short period. Yes, I did.
Q Tell us what happened.
A Well, when I was visiting Mansour back in year 2011 and one afternoon, we were walking on the street. Mansour and I used to go for a walk sometimes. And this gentleman was working right outside of his house, and I think he was doing gardening or he was cutting his grass, something that nature.
And as we passed by, this gentleman called us "damn sand niggers".
And at that point, I didn't know what it meant. It was the first time that I heard something

like that. I've heard "niggers" before, but I didn't know what "sand nigger" means.

And when I asked Mansour what is this man saying, he turned around and he told me that, "Never mind. Let's go, and I'll explain to you later".

And then he explained to us that basically what he's doing is calling us "niggers". And he told me that he has had some problem with -- with this neighbour.

Q Mr. Rashtchian, those are all the questions I have. Thank you so much for your time today.

A Thank you, sir.

Q Mr. Stuckey, the attorney for the McFarlands, may have some questions for you.

CROSS-EXAMINATION

BY MR. STUCKEY:

Q Mr. Rashtchian, good afternoon, sir. I am James Stuckey, and I am the attorney for the two Plaintiffs in this case, the McFarlands, William McFarland, Bill McFarland, and his wife, Jennifer McFarland.

And I was going to ask you to describe for us what Bill McFarland looked like, but I see I've been short-circuited on that by your being presented a

picture.

So this photograph that is introduced as Defendant's Exhibit 1, you affirm that that is the gentleman who lives next -- across the street from the Rashtchians. Is that correct?

MR. CLEVELAND: Object to form of the question. You can answer it.

THE WITNESS: Yes, sir.

Q (By Mr. Stuckey) Okay. Now, would you give us the date, please?

You stated that you ran into the man you've identified as Mr. McFarland one time. And what date was that, please, sir?

A Sir, I cannot give you an exact date, but I would say that I was with Mansour from the last week of month of June to first week of month of August, almost for a month and a half.

I would say it was somewhere around beginning of month of July. Which day, I don't remember, sir.

Q And what year are we talking about, Mr. Rashtchian?

A Year 2011.

Q Okay. So 2011, and you say that it was some time between what dates?

A I would say around first week of month of July.

Q You have visited your brother on how many occasions since he's been living on Flood Street in Summerville?

A From my memory, twice.

Q So that's -- he's been living there, I believe, about 14 years. Would that be correct?

A That is correct, sir, yes.

Q And during that period of time, you've visited him twice.

A From my memory. I would say twice or three times. That's right.

We have visited each other in other places. We have visited each other in England with my sisters, so we had other visits other than the two, three times that I mentioned that to you.

Q So when you would come and visit the Rashtchians, how long would you normally stay?

A How long -- I'm sorry?

Q When you would visit with your brother and his wife ---

A Yeah.

Q --- how long would you stay at that residence?

A Usually it would be around two weeks, but this particular instance, it was longer because at that point, I went -- I came to visit my brother for a different reason. We were looking for a business. I was planning to see if I can invest in Charleston, so I needed more time in order to look around and look at the business opportunities.

Q And so you're saying this was during the period of July of 2011. Is that correct?

A That's right.

Q And during that period of time, you stayed approximately how long?

A I stayed, as I mentioned -- mentioned earlier, from -- I arrived around last week of June 2011 and I left first week of August the same year.

Q Okay. So you stayed approximately -- would it be fair to say you stayed approximately five weeks? Would that be fair?

A Five to six weeks. Yes, sir.

Q Okay. And during that time, how many times did you encounter the man you've identified as Mr. McFarland?

A I also saw him a couple of times that he was working either in his back yard or outside of his house basically doing grass work, trimming and stuff

like that.

Q And what was his approach to you at those times?

A Well, I was inside the house. You see, the way the Mansours house is, his living room, his window is facing this gentleman's back yard. So you could see him when he was working, at times, outside. You could see him, that he's working there.

Q Let me ask you this. During this time, did your brother have any floodlights or lights set up on his property that were directly towards the McFarlands' home?

A I'm sorry. Ask the question again. It wasn't clear.

Q The question was, during this time when you were there during July and the first week of August, 2011 and stayed for approximately five weeks, did you notice any -- any either cameras or floodlights that were on your brother's property that were directed toward the McFarlands' home?

A No, sir, I don't recall that.

Q You don't recall that you noticed any is your answer.

A That's right.

Q Is that correct?

A I didn't notice anything, and he didn't mention anything, so I didn't notice it, no.

Q Okay. Give us your date of birth, please, Mr. Rashtchian.

A REDACTED 1955.

Q And so that makes you how old as of today?

A Fifty-eight (58). In REDACTED, will be 59.

Q Now, you were contacted, I guess, by either your brother or by Mr. Cleveland about your agreeing to appear and give us the benefit of your knowledge and what you know about this case. Is that correct?

A That's correct.

Q Okay. And did Mr. Cleveland contact you first or did your brother contact you first?

A It was my brother telling me that his lawyer, Mr. Cleveland, will contact me. And ---

Q And would you ---

A Yes.

Q And would you share with us, please, when you talked with Mr. Cleveland, what he was interested in your assisting us with as far as your testimony? In other words, what did he want from you which he thought might benefit his case?

A Well, he told me ---

MR. CLEVELAND: Objection.

THE WITNESS: He told me that he's representing my brother and he asked me whether I do remember that -- what happened during that period. And I said yes. And then there was -- and also, he sent me a picture which is basically same picture as I seen here saying that you is -- do you recall this person or do you know who this person is.

And then I confirmed yes, this is the gentleman that basically I encountered with my brother that particular day

Q (By Mr. Stuckey) And concerning that encounter, what time of day was this?

A It was towards late afternoon, and probably around 5 o'clock, 5:30, 4:30. Something around that time.

Q Okay. And as I understand it, you and Mansour had walked from his property out onto the street. Is that correct?

A Well, we walked out of the property and we did -- we walked few times. And we used to go towards end of the -- his house, end of the street, then go through the woods and then end up in the main street and then walk and come back to his house.

Q Okay. And you say that you encountered Mr. McFarland. Where was he at that time?

A As I said, he was right outside his -- outside of his house and I believe that he was trimming, he was doing something of that nature right outside his -- outside of his fence and on the street. Not on the street itself, but there was a green area right outside of his fence and he was working there.

Q Okay. And he was trimming some bushes or something. Is that correct?

A I believe that he was trimming something.

Q Okay. And was there anybody else around who heard or witnessed this other than you and Mansour and Mr. McFarland?

A No, sir. At that point, it was me and my brother and Mr. McFarland.

Q Are you married?

A Yes, I am.

Q Okay. Have any children?

A Yes, sir. I have three of them.

Q Were any of them with you at this time during July of 2011?

A No, sir, they were not. I was by myself on that particular trip.

Q So you'd come from Montreal by yourself.

Is that correct?

A That's right.

Q Okay. Now, what was it, if anything, that you think precipitated Mr. McFarland saying what he did to you and Mansour?

MR. CLEVELAND: Object to form of the question. You can answer.

THE WITNESS: I can?

Q (By Mr. Stuckey) Yes, please.

A Well, I really don't know because at that point, I had no idea what he's saying and why he's saying.

Q Okay.

A It was only after -- yes, go ahead.

Q No, go ahead. I don't want to cut you off.

A It was ---

Q Finish your answer, please.

A It was only after the fact that my brother explained in -- to me that there are -- they are having some problems with the neighbour across the street.

Q So you did not know that Mansour and Mr. McFarland were having any problems prior to that. Is that correct?

A That's right.

Q And approximately how far were the two of you away from Bill McFarland when you say that he said what he said?

A I would say probably around 10 feet to 12 feet.

Q Okay. So basically, then, he was on the side of the road trimming his bushes. And where were you and Mansour walking at that point ---

A We were ---

Q --- at the point that he said what he said?

MR. CLEVELAND: Object to form of the question. You can answer.

THE WITNESS: We were on the other side of the road, close to Mansour's house.

Q (By Mr. Cleveland) Okay. And so you know, of course, that the road that you've described is known as Flood Street. Is that correct?

A That's right.

Q Okay. So Bill McFarland was on the -- was close to his fence, I gather you say, on a grassy part away from Mansour's house and that you and Mansour were walking across Flood Street on the opposite side. Is that correct?

A That's right.
Q Okay. And tell us as best you recall, Mr. Rashtchian, exactly what Bill McFarland said.
A He said, "Damn sand niggers". That's all he said.
Q And repeat that again because I didn't quite pick it up.
A "Damn sand niggers".
Q Okay. And did you consider that that was directed toward you and Mansour?
A Well, the way he said it, the tone, it came across that it was toward -- towards us, directed towards us. And as I said earlier, when I asked my brother what he's saying, that's when he explained to me that basically he's calling us "niggers".
Q Well, not "niggers", but "sand niggers". Is that correct?
A Well, the way my brother explained it here is that -- as I said, this was the first time I heard such a slang. He told me that people from Middle East, they're called "sand niggers", which is basically equivalent to "niggers".
That's what I understood.
Q Okay. So basically, you were told that by Mansour. Is that correct?

A Yes, sir. As I said, that was the first time I heard that slang.

Q So you never had heard that while you were growing up in Iran. Is that correct?

A No, sir.

Q Well, I represent to you, Mr. Rashtchian, that I never, ever had heard the term in my entire life until I got involved in this case. And it -- I might ask you this.

I mean, Iran is a rather barren country. Do they have a good bit of desert?

MR. CLEVELAND: Object to the form of the question. Answer.

THE WITNESS: Well, Iran has desert, yes, just like America has Arizona.

Q `(By Mr. Stuckey) Yes. So Iran has a fair amount of sand. Is that right?

A Well, I never seen or been in that part of the country. I grew up in Tehran, and so even though Iran has desert, but I never seen or visited that part of the country.

Q Now, do you know what this case is about, Mr. Rashtchian?

A Well ---

Q Have you discussed it with Mansour so that

you know what the case involves and how your testimony might aid his case?

MR. CLEVELAND: Object to form of the question. You may answer.

THE WITNESS: Well, the only thing that I do know that Mr. McFarland has sued my brother and the only thing that he asked me in here is that -- that his lawyer will contact me and -- with regards to the -- that particular incident that happened in year 2011. And he asked me just to explain that what happened.

That's as much as a discussion that we had together.

Q (By Mr. Stuckey) Now, have you ever had any other involvement with Bill McFarland other than this one incident you've described in -- apparently in early July of 2011?

A No, sir, I haven't had any more -- any other involvement.

Q Ever seen him any other time other than this particular time?

MR. CLEVELAND: Object to form of the question. You can answer.

THE WITNESS: Yes, I have seen him. As I mentioned earlier, I saw him few times, as a matter of

fact, when I was inside Mansour's house seeing him. He's working his back yard.

And also, a couple of times that Mansour and I, we were driving in. We also saw him that, again, he was working in his back yard and so on and so forth.

But I did not have any -- any contact, direct contact with him.

Q (By Mr. Stuckey) Now, what about any contact you may have had with Mrs. McFarland, Jennifer McFarland?

A I also have seen her working with Mr. McFarland in the back yard, but I haven't had any direct contact with her, no.

Q Okay. In other words, you've never heard her say anything or you've had no interaction with her at all. Is that correct?

A That's correct.

Q Now, you've said, I believe, that you consider, and I trust that maybe all of us would consider, that the term "sand nigger" is a derogatory, uncomplimentary term. Is that correct?

A Well, the way I understood afterwards, yes, it is, especially the tone that he could say and then "sand nigger". I find it, yes.

Q In other words, you consider it an insulting term.

A Yes, it is. Yes, sir.

Q Okay. What about a slanderous term? Is it -- do you consider that slander ---

MR. CLEVELAND: Object to the form of the question.

Q (By Mr. Stuckey) --- that somebody would call -- would call somebody that particular term?

MR. CLEVELAND: Object to the form of the question. You can answer.

THE WITNESS: I don't know, sir. I mean, it's -- I do not know what do you mean by slander.

Q (By Mr. Stuckey) Okay. Well, let me ask you, Mr. Rashtchian, if somebody made a statement that would inquire about your knowledge, if any, about what we call a defamation, which is slander -- if somebody said, "You stole your money from my wife's father", would you consider that slanderous?

MR. CLEVELAND: Object to the form of the question. You can answer.

THE WITNESS: I don't know. Depends on the circumstances, sir, that who's it being said to, how's it being said to. I do not know. I can't tell you that.

Q (By Mr. Stuckey) Okay. You're married. You've told us you're married. You've told us that you have two children, I believe. Is that correct? Three children.

A That's right. Yes, sir.

Q Right?

A Yes, sir.

Q Okay. And what about if somebody were circulating around the statement that your wife cheated on you? How would you consider that?

MR. CLEVELAND: Object to the form of the question. You can answer.

THE WITNESS: Well, definitely I would not be happy about it and I would try to find out who this person is and why this person is saying something like this and what are the facts.

Q (By Mr. Stuckey) But I'm sure you're perfectly confident, having had three children and being happily married, that that would be a false and derogatory statement, would it not?

MR. CLEVELAND: Object to the form of the question. You can answer it.

THE WITNESS: It will offend me, yes, until such time I find out why this person is saying what he's saying.

Q (By Mr. Stuckey) What about the statement "I know about the people that sneak into your house through the back when you're out of town. Your wife cheats on you". And that could be either directed toward either you or some other person.

What would you think of that statement?

MR. CLEVELAND: Object to the form of the question. You can answer it.

THE WITNESS: I will not be happy about it and I will want definitely to know that why this person is saying what they're saying.

Look, I trust my wife very much so, but I would just try to find out what the facts are.

Q (By Mr. Stuckey) Well, let me ask you this. Let's say that somebody calls you a "sand nigger" and you represent that my client, Bill McFarland, has done that.

Do you think that would justify you in saying and circulating the statement, "I know about the people that sneak into your house through the back when you're out of town and your wife cheats on you"?

Would the fact that you've been called a "sand nigger" justify your saying that and circulating that around about a person?

MR. CLEVELAND: Object to the form of the

question. You can answer.

THE WITNESS: Look, it really doesn't, but it all depends on the circumstances, you know. If somebody is -- is basically is insulting me, naturally, I will have the tendency to insult the person, too.

I'm talking about my own personality, you know. It's the way -- if somebody insults me, definitely I will not be happy and perhaps I will insult the person, too, the same.

Q (By Mr. Cleveland) Okay. Now, you're two years younger than Mansour. Is that correct?

A Around a year and a half. Yes, sir.

Q Okay. And Mansour left -- he left Iran in about 1975. Is that correct?

A That's correct, sir, yes.

Q And you were still living in Iran at that period of time, I believe. Is that right?

A Yes, sir.

Q And as I understand it, Mansour's tuition was paid through The Citadel, the military college of South Carolina here in Charleston, so that he could attend The Citadel. Is that correct?

A Well, his tuition was paid by the Iranian Navy.

Q And that's because, at that time, he was enlisted and a member of the navy. Is that right?
A That's right. Yes, sir.
Q And the Shah, at that time, I believe was in power and sort of the supreme being or the ruler of Iran. Is that correct?
A That's correct.
Q And so Mansour got out of Iran -- he was gone before the problem with the United States Embassy and Iran occurred. Is that right?
MR. CLEVELAND: Object to the form of the question. You can answer.
THE WITNESS: That's right.
Q (By Mr. Stuckey) And you attended Norwich University and you also attended McGill University in Canada. Is that right?
A Yes, sir.
Q And what is the most advanced degree that you obtained?
A BComm in accounting.
Q In what?
A Business. That's BComm, major in accounting.
Q And so you are basically a trained accountant. Is that right?

A Yes. I started my career as an accountant, too.

Q And I believe you have two older sisters, Soror and Farah, who are still in Tehran, Iran. Is that correct?

A Yes, sir.

Q And you have another sister, I believe, Farara(sic), who is in Manchester, England. Is that right?

A Yes. Her name is Farima, and she lives in Manchester. Yes, sir.

Q Okay. Now, I'm going to ask you this since I'm very unfamiliar with this.

When you are named in Iran, do you have a name that means something? In other words, would Farah or Mansour have some particular designation that maybe might describe a character trait?

MR. CLEVELAND: Object to form of the question. You can answer.

THE WITNESS: You mean as a family, as a group? Is that what you mean?

Q (By Mr. Stuckey) No. I mean as a specific name. Like my name's Jimmy, and I don't know that I means anything other than Jimmy, but in Iran, do you have a particular character trait that you

might name for a particular child when the child is born?

A Well, my father used to call us names which was basically cute names and in our childhood. So -- but other than that, Mansour, Farah, Soror, those are their names. That's what everybody called them, and that's how everybody knows them.

Q In other words, Mansour doesn't mean anything other than maybe Jimmy or Pete or John or something like that. Is that correct?

A That's right, yes.

Q And the last time, Mr. Rashtchian, that you had visited with your brother, Mansour, here in South Carolina was when?

A It was in year 2013, I believe. Yeah, 2013.

Q Okay.

A I visited Mansour and also my sister, Farima, also, came and we had the family reunion.

Q So you had a family reunion. And would that have been October of 2013?

A I would say so. It was around that time. Yes, sir.

Q Okay. So who all got together at the family reunion?

A It was Mansour's house, myself and my sister, Farima.

Q Okay. And so Soror and Farah were, of course, still in Iran. Is that correct?

A Yes, sir.

Q Have you maintained contact with them as far as correspondence and keeping in touch with them?

A Yes, sir. We speak regularly. Every two weeks or every three weeks, we have a telephone conversation, yes.

Q Mr. Rashtchian, if you would excuse us just a moment, I'd like to confer with my clients, and then I think we can probably wrap this up.

THE VIDEOGRAPHER: You're off at the record at 3:52 p.m. for a short recess.

(The deposition was in recess from 3:52 to 3:54 p.m.)

THE VIDEOGRAPHER: We are back on the record at 3:54 p.m.

Q (By Mr. Stuckey) Thank you, Mr. Rashtchian. We're back now. I think we can finish and wrap this up.

How did you travel down to Charleston from Montreal or wherever you were living at the time in 2011?

A I flew by airline.
Q And what airline did you take?
A I can't recall that, sir. That was three years ago.
Q Okay. And how would you have paid for your ticket? Would that have been by a credit card or would it have been by cheque or cash or whatever?
A It would have been by credit card, sir.
Q And did you fly directly -- a direct flight to Charleston and then turn around and leave Charleston and then fly back to Montreal?
A Yes, I had -- I believe that I had a connecting flight through Atlanta. And I went back directly to Montreal, yes.
Q So you would have had a flight from Montreal to Atlanta, and from Atlanta to Charleston, and then you would have stayed a period of perhaps five weeks, as you've told us, and then you would have turned around and flew from Charleston back to Atlantic and, from Atlanta, to Montreal. Is that correct?
A That's correct. I'm not completely 100 percent sure that whether Atlanta was the connecting city, but that's where I believe that I connected to, yes.

Q Okay. Well, that's all the questions I have. We appreciate your being with us, and thanks for your testimony.

A Thank you, sir.

MR. CLEVELAND: Mr. Rashtchian, this is David. I have no additional questions for you, but I would like for us to put on the record, Mr. Court Reporter, I noticed the deposition, so if you would please send me a sealed original along with a copy, of course, with a bill for that.

Mr. Stuckey requested that the deposition be videotaped, so if you would please send him the original video along with a copy. I assume he'd like a copy. And I would like a copy of the video as well. And of course, he'll bear the expense for his copies. I'll just bear the expense for mine.

THE COURT REPORTER: Acknowledged.

MR. CLEVELAND: And Mr. Rashtchian, one additional thing. You do have the right to read and sign your deposition, and you can waive that right. Most people waive it, but it's entirely up to you.

If you like, our court reporter can send you the transcript, you can review it and make sure that it is correct or, once again, you can just waive that and let them send it on directly to us. It's

your call to make.

THE WITNESS: Okay, sir. I understand.

MR. CLEVELAND: Thank you.

MR. STUCKEY: Mr. Rashtchian, you speak how many languages?

THE WITNESS: I speak Persian, I speak Turkish, English and French.

MR. STUCKEY: That's kind of what I was thinking since you're living in Montreal. Congratulations.

THE WITNESS: Thank you, sir.

MR. CLEVELAND: Well, unless there's anything else that you guys need from us, we will go ahead and sign off. Thank you so much for your help today.

THE VIDEOGRAPHER: We are off the record at 3:58 p.m.

(The deposition was concluded at 3:58 p.m.)

C E R T I F I C A T I O N

I, Dale Waterman, a certified court reporter in the Province of Ontario, hereby certify the foregoing pages to be an accurate transcription of my notes/records to the best of my skill and ability, and I so swear.

_____

Dale Waterman

Court Reporter / Sténographe

September 9, 2014

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

WILLIAM McFARLAND and JENNIFER McFARLAND Plaintiffs -v- MANSOUR RASHTCHIAN and AMY RASHTCHIAN Defendants	Case No: 2013-CP-18-0735

VIDEOTAPED DEPOSITION

OF

MS. FARIMA RASHTCHIAN

On Monday, October 27th 2014

Commencing at 1:53 pm

Taken at:

The Regus Centre
Peterhouse
Oxford Street
Manchester M1 5AN
United Kingdom

Reported by: Miss Pamela Henley

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BY: MR. DAVID CLEVELAND
(Via videoconference)

In attendance:

Mr. William McFarland and Ms. Jennifer McFarland

Mr. Mansour Rashtchian and Ms. Amy Rashtchian

Videographer: Mr. David Ross Elliott

Court Reporter: Miss Pamela Henley

I N D E X

DEPONENT

Ms. Farima Rashtchian (Sworn)

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THE VIDEOGRAPHER: Good afternoon. This is the beginning of DVD 1, volume 1 in the video deposition of Ms Farima Rashtchian being held at the offices -- the Regus Centre, Peterhouse, Oxford Street, Manchester M1 5AN in the United Kingdom.

This is being taken on 27th October 2014 at 1.53 pm as indicated on the video screen.

This deposition is being taken in the matter of William McFarland and Jennifer McFarland, the plaintiffs, versus Mansour Rashtchian and Amy Rashtchian, the defendants.

The case number is 2013-CP-18-0735, and it is being heard before the Court of Common Pleas of the State of South Carolina in the County of Dorchester.

The Court Reporter is Pamela Henley of Esquire Deposition Solutions. And my name is David Ross Elliott, also here on behalf of Esquire Deposition Solutions as the official videographer.

Would all counsel introduce themselves, please, and state who they represent.

MR CLEVELAND: I am David Cleveland. I have the pleasure of representing the Rashtchians, the defendants in this case.

MR STUCKEY: I am James A Stuckey of Stuckey Law Offices in Charleston, South Carolina. I represent the two plaintiffs; William McFarland and Jennifer McFarland.

THE VIDEOGRAPHER: Thank you. And would the Court reporter now, please, swear in the witness.

THE COURT REPORTER: Before we do that may I ask the three other people in the room to identify themselves for the record, please.

MR CLEVELAND: With me to my right are Mansour and Amy Rashtchian and to my left are William and Jennifer McFarland.

THE COURT REPORTER: That is lovely. Thank you very much.

Ms Farima Rashtchian
having been duly sworn
testified as follows:

THE COURT REPORTER: The other thing is, if you do not mind if I could ask to have the order now so I do not have to worry about it at the end in case I forget. I have been told it is standard delivery; is that still the case for the transcript?

MR CLEVELAND: Yes, ma'am. If we

could get the deposition transcript within two weeks, that should be fine.

THE COURT REPORTER: That is fine. You do not need a rough, do you?

MR STUCKEY: No, thank you.

THE COURT REPORTER: Thank you very much.

EXAMINED BY MR CLEVELAND

MR CLEVELAND: Ms Rashtchian, I am David Cleveland. I have the pleasure of representing your brother, Mansour, and his wife, Amy, in this lawsuit brought by the McFarlands.

Q. Would you please state your full name for the record?

A. My name is Farima Rashtchian.

Q. Where do you live?

A. I live in Manchester, United Kingdom.

Q. Where were you born and raised?

A. I was born in Iran, Tehran, and I was in Iran up to age of 24, and I have been living in Manchester for 22 years.

Q. Are you a citizen of England?

A. Yes, I am.

Q. And tell us about your education,

please?

A. Well, I had my diploma in Iran. And when I came to England I have HNC in computing and then I took lots of training to become a qualified payroll manager.

Q. Are you currently employed?

A. I am currently self-employed. I have my own business.

Q. And what type of business is that?

A. It is a catering business, sir.

Q. Have you had an opportunity to visit your brother, Mansour and his wife Amy, who live in Summerville, South Carolina?

A. Yes, couple of times I think I have been in Charleston four times and the last time was 2013, October 2013.

MR CLEVELAND: And, Madam Court Reporter, we sent you a photograph earlier which we ask that you mark as Defendant's Exhibit 1. Would you please hand that to the witness.

THE COURT REPORTER: Yes.

(Exhibit 1 marked for identification)

BY MR CLEVELAND:

Q. Ms Rashtchian, can you identify Defendant's Exhibit 1?

A. Yes, sir. This gentleman is Mansour's neighbour who lives opposite Mansour's house.

Q. And have you had any interaction with the gentleman seen in Defendant's Exhibit Number 1?

A. Yes, it was in October 2012 that I saw this gentleman only for very, very short time.

Q. Where did you see him?

A. Excuse me?

Q. Where did you see the gentleman in the photograph?

A. It was opposite Mansour's house in Flood Street.

Q. And tell us what occurred.

A. We were going for a walk with my brother, Mansour, and what I remember because this happened in 2012, October, when I came to Charleston to -- specially in that particular time to be with Amy because she was going through a rough time, we decided to go for a walk with Mansour. What I remember that when I stepped on Flood Street it was a little bit noisy, a gentleman was doing some kind of gardening. I do not know what kind, but it was noisy. That is all

I remember. And then as soon as the noise was cut down this gentleman was behind us called me another sand nigger.

Q. And what was your reaction to that?

A. Well, to be honest with you I was very shocked and excuse my French, well, I said "bloody hell", turned around and saw this gentleman was looking right into my eyes and what really, really remained in my mind it was the eyes full of hatred that was looking at me, and I could not understand why he was making such a comment in such a civilised country. And I could not digest why it was happening and -- but my brother told me that -- I said, "what is going on", my brother said, "keep going". And we carried on going. So that is what happened that day.

Q. Did you do or say anything to Mr McFarland before he said "another sand nigger"?

A. No, sir, I did not say anything because my brother told me keep going. That is why I did not say anything. I just looked at him and as I said I never forget that eyes full of hatred and up to this moment I do not know why somebody was looking at me with such a hate. I did not do anything.

MR CLEVELAND: Thank you, Ms Rashtchian, those are all the questions I have for you now. Mr Stuckey, the attorney for Mr and Mrs McFarland may have some questions for you.

A. Sure.

BY MR STUCKEY:

Q. Ms Rashtchian, normally our practice is that you take an oath before you testify in a case, in a legal case, and normally that is done on a holy bible, and what religion are you?

A. Well, I was born Muslim, but I not practicing Islam any more. If any swearing I will do it on bible, sir.

Q. I am sorry, I did not understand. Because of your accent I not understand that last part. What did you say about the bible?

A. I said I am not practicing Islam any more and if it is any book that I should swear on it I choose bible instead of Koran.

Q. But you (unintelligible) --

THE COURT REPORTER: Mr Stuckey, I am sorry, could you start that question again. I did not quite catch it.

BY MR STUCKEY:

Q. My question was this morning you elected not to take your oath on the bible, but to go ahead and have the Court Reporter present some litany or form of oath that she presented, is that correct?

MR CLEVELAND: Objection to the form of the question. You can answer.

A. Well, I do not know what -- (to the Court Reporter) because you ask me to affirm and I did it. I did not know. You did not ask me for any option. That is why I just did what you told me to do.

BY MR STUCKEY:

Q. So there was not any discussion with you and the Court Reporter as to whether or not you would take an oath on the holy bible or whether you would just have one presented to you and affirm your testimony, is that correct?

A. That is correct, sir. There was -- we did not talk about this at all.

Q. Okay. And when did you, I do not know whether renounce is the proper word or not, but when you did stop practicing being a Muslim?

MR CLEVELAND: Objection to the form of the question. You can answer.

A. Well, in Iran after my brother was executed I decided to do that, sir.

BY MR STUCKEY:

Q. And so let me ask you this, is Mr Mansour Rashtchian -- what religion is he now?

MR CLEVELAND: Object to the form of the question. You can answer.

A. Well, as far as I am aware he chose Christianity, and because he has been in America most of his life so I believe he is a Christian.

BY MR STUCKEY:

Q. And what about your brother, Majid Rashtchian?

A. He is too because all the children are Christian as well.

THE COURT REPORTER: Mr Stuckey, if I could just to ask for the spelling of the name of Ms Rashtchian's brother.

THE WITNESS: M-A-J-I-D.

BY MR STUCKEY:

Q. And what about your two sisters who are still in Iran, Sourour and Farah?

A. What about the religion you are asking me?

Q. I am.

A. Okay. I am not sure if they are practicing Islam or not, sir, but what you have to be aware of if you change your religion from Islam to anything in Iran you will be executed, sir. So that is all I can say.

Q. So let me ask you this, under those circumstances have you or Mansour or your brother, Majid, have you gone back to Tehran to visit Sourour and Farah?

A. Not Majid and Mansour. No. They have not. But I have, yes.

Q. So you did not envisage you would have any problems, is that correct?

A. Well, I did not announce anywhere that -- because I have not changed my religion. All it is just I do not practice Islam any more as Islamic government wants me to. It is just I try to be a human, sir. That is all I can say.

Q. So to your knowledge then Mansour since he has been here in the United States has not gone back to Iran, is that correct?

MR CLEVELAND: Object to the form of the question. You can answer.

A. Since Iranian revolution, no, he has not been in Iran, which is 1979.

BY MR STUCKEY:

Q. Iraq or Iran?

A. Iran, sir. That is what we call it, Iran.

Q. Well, I understood you to say Iraq, did I misunderstand your pronunciation --

A. No, sir. I said Iran, sir.

Q. -- now, tell us the exact date, please, you say that this incident occurred?

A. I cannot tell you the exact date, sir, because it was 2 years ago. All I can say it was October 2012, and it was mid-October, middle of October, round about that time it was.

Q. Middle of October 2012, so during that period of time you visited with Mansour on Flood Street in Summerville during what length of time?

A. Well, the reason I came to South Carolina in that particular trip was basically spend time with Amy because Amy just lost her younger sister and she was devastated. She was very, very upset. So I came to be a comfort for her.

Q. I move to strike that answer as completely unresponsive because I did not ask you

that. I asked you what period of time were you visiting Mansour in Summerville during October of 2012.

A. Sorry, sir, it was 2 weeks.

Q. And during what period of time?

A. Well, from mid-October for 2 weeks.

Q. Well, I guess the middle of October could be the latter 2 weeks of October or the middle 2 weeks of October --

A. Sir --

Q. -- you prepared your testimony here today, I trust so, could you give us the exact dates that you were -- that you say you heard these things said during October of 2012?

MR CLEVELAND: Object to the form of the question. You can answer.

A. I cannot give you exact dates, sir. But all I can say I know Amy's sister passed away, I think, 9th October, and about a week after I was in South Carolina. But exact date I do not know. I can check my passport, but exact date that that incident happened, unfortunately, I could not tell you because I do not remember.

Q. Okay. Well, would you please check your passport and get that information to

Mr Cleveland who is representing your brother in this case so we will know and can know the exact dates that you were in the United States during October of 2012; can you do that?

MR CLEVELAND: Object to the form of the question. You can answer.

A. Sure. I do not have my passport with me, but I can do it later on if you want me.

MR STUCKEY: Yes, I would like you to do that, please.

A. No problem, sir.

Q. Tell me the circumstances that you say this happened with my client Mr Bill McFarland and Mr Rashtchian, so as I understand it you and your brother, Mansour, were walking out on Flood Street?

A. That is right, sir. We were -- we had a route that we used to go for a walk which was towards the wood I used to call it, so we came out of the house and we usually go turn left towards the wood, and it was at that point that I heard the comment that Mr McFarland made.

Q. What was Mr McFarland doing?

A. He was doing some kind of gardening work, but all I remember that it was noisy. I

remember it was noisy. And as soon as the noise stopped that is why I could hear it very clearly he made the comment that I just told you earlier.

Q. And what was the comment again if you could repeat that?

A. Sure. He said, "another sand nigger".

Q. Had you ever heard the term, "sand nigger" before, or is that -- was that a new term to you?

A. Never heard it before. I have been in this country 22 years and I never heard it, but it was not difficult to put two and two together and know that I was called a nigger basically.

Q. Now, what did you observe or think had prompted such a thing? Why would Mr McFarland just out of the clear blue sky, as we might say, do something like that?

MR CLEVELAND: Object to the form of the question. You can answer.

A. At that point I did not know, but when I asked my brother he said that he has been having problem with this neighbour. And also he said that a year before that when my brother, Majid, was there he made a similar comment like

that to him as well.

BY MR STUCKEY:

Q. What have you done, Ms Rashtchian, to prepare for your testimony and this deposition today?

A. What do you mean by that, sir? I do not understand.

Q. Well, I mean have you conferred with your brother, Mansour Rashtchian? Have you conferred with Mr Cleveland, his lawyer? Have you received any correspondence back and forth by email or mail?

A. No, sir. I mean the last -- I have been -- I always speak to my brothers. With regards to this, even to this moment I do not know exactly what the problem is with -- between my brother and Mr McFarland because my brother is a very private person and he never actually explained it to me what was going on.

And another thing I think because I am the youngest in the family my brother never tells me anything to worry me. So even to this moment I do not know exactly what is going on between them.

Q. Well, my question was, what contact

by correspondence, email or telephone have you had with your brother's lawyer, Mr David Cleveland, who is present here today?

A. Well, the first time I spoke to Mr Cleveland was, I think, about -- it was in June, May or June, June, I think it was in June, that I spoke to him about what I know. And then about 2 weeks ago I received a picture, and that is about it. With Mr Cleveland.

Q. Mr Cleveland discussed your testimony here today, is that correct?

A. Well, we talked once before in June, and then today he just told me that you are going to be presented a picture, and just answer the question everything that you know. That is all he told me before we started the testimony.

Q. I guess he told you the picture was of my client, Mr Bill McFarland, did he not?

MR CLEVELAND: Object to the form of the question. You can answer.

A. He said that he sent the picture, yes. Yes, it is this picture that is here. He said this lady here, she is going to present that picture to me.

BY MR STUCKEY:

Q. Have you ever had any other contacts with Bill McFarland other than the one you have related as being some time in October 2012?

A. No, sir, I have not.

Q. What about any contacts with his wife, Jennifer McFarland? Have you ever had any contacts with her?

A. No, sir, I have not. I have not seen her --

Q. Seen her --

A. -- no, I have not seen her, no.

Q. -- and you have visited your brother, Mansour, I believe you said four times, is that correct?

A. That is correct, sir.

Q. And your brother has not related to you or told you any of the circumstances about any difficulties which may have been between him and Mr McFarland and maybe would have precipitated or caused any of this, is that correct?

A. No, sir. I do not know anything about the actual problem between them. I do not know.

Q. On one occasion --

A. Sorry. All I know that Mr McFarland is suing my brother. But what for I do not know exactly. I was just witness for what I heard. That is all I know about it.

Q. -- okay. And you say the last time you were here in the Charleston area was in 2013, is that correct?

A. That is right, sir. I came to America to see my brother and also my brother, Majid, was in South Carolina as well. So we had like a, sort of, little family reunion, sir.

Q. So the two of you, your brother Majid, and you visited Mansour Rashtchian in October of 2013, is that correct?

A. That is correct, sir.

MR STUCKEY: Madam Court Reporter, if you would indulge us just one moment, we are going to go off the record and take a break and then I may or may not have some further questions.

(Off the record at 2.18 pm)

(On the record at 2.20 pm)

BY MR STUCKEY:

Q. Ms Rashtchian, when you say that you heard my client, Bill McFarland, direct the term, "sand nigger" or "niggers" plural to you and

Mansour Rashtchian what was Mansour's reaction?

A. Mansour did not say anything, and it all happened, sir, in maybe a few seconds. Mansour -- the only reaction Mansour had just told me to keep --

Q. You have answered the question. You said he did not do anything. That was my question. I think you fully answered so if you would just limit it to that, that will be fine.

MR CLEVELAND: You have the right to finish your response, Ms Rashtchian. Please do so.

A. The only reaction my brother had just told me to keep going.

BY MR STUCKEY:

Q. Now, you have grown up with Mr Mansour Rashtchian, would you say he has a temper? Does he, sort of, have a short fuse as far as his reactions are concerned when he has a temper?

A. I have not seen it. I have never seen my brother getting angry. Not at me anyway. Never.

MR STUCKEY: Okay. If you would get that information for us, Ms Rashtchian, from

your passport and then if you could, by looking at that if you could narrow it down when you think this alleged incident occurred with Mr McFarland then I think that completes it. If you get that to Mr Cleveland those are all the questions I have. Thank you very much for being with us today.

THE WITNESS: You are welcome.

MR CLEVELAND: I object to that last statement.

Ms Rashtchian, those are all the questions that we have for you today. Thank you so much for your time.

THE WITNESS: Thank you very much.

(The deposition concluded at 2:23 pm)

CERTIFICATE OF WITNESS

I, Farima Rashtchian, am the witness in the foregoing deposition. I have read the foregoing deposition and, having made such changes and corrections as I desired, I certify that the transcript is a true and accurate record of my responses to the questions put to me on Monday, October 27th 2014.

Signed_____

Farima Rashtchian

Dated this _____ day of_____ 2014

CERTIFICATE OF COURT REPORTER

I, Pamela E Henley, Court Reporter, do hereby certify that I took the stenotype notes of the foregoing deposition and that the transcript thereof is a true and accurate record transcribed to the best of my skill and ability

I further certify that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken, and that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of the action.

_____

Pamela E. Henley

November 3, 2014

STATE OF SOUTH CAROLINA IN THE COURT OF COMMON PLEAS

COUNTY OF DORCHESTER CASE NO. 2013-CP-18-0735

WILLIAM MCFARLAND AND JENNIFER MCFARLAND,

Plaintiffs,

-VS-

MANSOUR RASHTCHIAN AND AMY RASHTCHIAN,

Defendants.

The videotaped deposition of Mansour Rashtchian, given before Vicki Small, Court Reporter and Notary Public, at the Law Offices of Clawson & Staubes, 126 Seven Farms Drive, Suite 200, Charleston, South Carolina, on Monday, January 6, 2014, commencing at 8:56 a.m.

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A-P-P-E-A-R-A-N-C-E-S

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Also present: Amy Rashtchian
Jennifer McFarland
William McFarland

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Mansour Rashtchian (sworn)

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(Mansour Rashtchian, having been first duly sworn, testified as follows:)

EXAMINATION BY MR. BURKE:

Q. Just an opening matter, Mr. Rashtchian, what is the correct way to pronounce your name?

A. Mansour.

Q. Your last name too.

A. Rashtchian.

Q. Mr. Rashtchian, have you ever had your deposition taken before?

A. No.

Q. You were here -- you were present when the plaintiffs were deposed back in November; is that correct?

A. Yes.

Q. Same ground rules as that day. I'm asking you questions. You've been placed under oath just as you would be as if we were in trial. The court reporter is taking down everything that we say just as if we were in court. Our rules provide that once the deposition has begun, if you have any questions regarding your deposition or any question about what I'm asking you or the substance of your deposition testimony, you must direct them to me and not to your attorney.

If we take a break, you cannot discuss the substance of your testimony or anything about your deposition while it's still taking place, even with your attorney or your wife. Do you understand that?

A. Yes.

Q. And if you do that during a break, I'm allowed to inquire about things that were discussed. Do you understand that?

A. Yes.

Q. We originally noticed your deposition for November 25th of 2013. We were unable to start at that day, but you're here today voluntarily. Are you under the influence of any medications or anything that would affect your ability to render testimony today?

A. No, sir.

Q. Okay. Again, this make take a little while. It's not the Spanish Inquisition or an endurance contest. If you need a break for any reason, let me know, and I'll be happy to accommodate you. If I ask you a question and you answer it, I will assume that you understood it. Is that fair?

A. Yes, sir. Mr. Burke, I'm -- just to follow up to what I just said, I am under the diabetes

medication, and depending how my sugar fluctuates, I may have to take a break to adjust that.

Q. That's fine. Are you a type one diabetic?

A. Two.

Q. So, yeah, if you need a break for any reason related to that, certainly let me know. And I see you've got some juice over there, which certainly that will help. Okay. Again, if you have any questions about what I'm asking you or you're unsure what I'm asking you, please direct those questions to me and I'll be happy to rephrase the question. Okay?

A. Yes.

Q. Let's start off real easy. Can you tell me your full name, sir.

A. Mansour Rashtchian.

Q. Do you have any middle name?

A. No, sir.

Q. Where were you born, Mr. Rashtchian?

A. Tehran, Iran.

Q. When were you born in Tehran?

A. 1954. August 1954.

Q. How long did you live in Iran?

A. Until 1975. 21 years.

Q. What caused you to immigrate to the United States?

A. I joined the Iranian Navy under the Shah, and they sent me to the United States to go to school at The Citadel.
Q. Had you had -- the age of 21, what type of education had you completed in Iran at that point?
A. High school graduate.
Q. After you graduated from high school, did you then go into the navy?
A. Yes, sir.
Q. All right, sir. Did you have any specialized training in the Iranian Navy before you came to The Citadel?
A. I was just a normal midshipman in Iran and spent a lot of time training for English.
Q. Do you have any brothers or sisters; any brothers and sisters at all?
A. Yes, sir. I have two sisters in Tehran. One sister in Manchester, England; one brother in Montreal, Canada; and one brother in heaven.
Q. Your two sisters that are still in Iran, what are their names?
A. Souror.
Q. Can you spell that.
A. S-O-U-R-O-R.
Q. How old is she?

A. 63.
Q. And your other sister?
A. Farah, 65.
Q. Have those sisters ever visited you here in the United States?
A. No, sir.
Q. All right, sir. How about your sister in Manchester, England; what's her name?
A. Farima.
Q. And has she ever visited you here in the United States?
A. Three times.
Q. And I believe you said you had one brother who is no longer with us.
A. Yes.
Q. When was he killed?
A. 1998.
Q. Your other brother who is in Canada, what is his name?
A. Majid.
Q. Where does he live in Canada?
A. Montreal.
Q. Has he ever visited you here in the United States?
A. Yes, numerous times.
Q. How often would you say Majid visits you?

A. Last one he visited me about end of June, July of 2011. The last time he visited was October 2013. I'll say every other year or so.
Q. All right, sir. Is your brother now -- is he a Canadian Citizen or is he still an Iranian National?
A. He's a Canadian citizen.
Q. And you are an American Citizen now; is that right?
A. Yes, sir.
Q. When did you --
A. 1985.
Q. I know we kind of went over this in the ground rules. I may have skipped over it. You may know what I'm getting ready to ask you --
A. Sure.
Q. -- and it's kind of the natural way people talk; you anticipate what folks are going to say. And in a deposition it can kind of muddle the transcript if we're talking over each other. So even if you think you know what I'm going to ask --
A. Sure.
Q. -- please wait until my question is finished before you answer so we don't talk over each

other.
A. Yes, sir.
Q. Thank you. All right, sir. Your brother in Canada, what type of work does he do up there?
A. He was the production vice president at 3011 -- of 2011. After that he is the consultant with the manufacturing of clothing.
Q. Clothing you said?
A. Yes,sir.
Q. All right, sir. Let's -- excuse me. Where do you currently reside, Mr. Rashtchian?
A. 97 Fludd Street, Summerville.
Q. How long have you lived at that address?
A. Over 13 years.
Q. So you would have moved there around 2000, 2001?
A. Yes, 2000.
Q. Where did you live before that?
A. 628 Central Avenue, right behind our house.
Q. Roughly how long were you at that address?
A. Four years.
Q. All right, sir. As far as your family here in America, you have your wife, Amy, who is here with you today?
A. Yes.
Q. Do you have any children?

A. I have two boys.
Q. What are their names and ages?
A. My oldest son's name is Bret. My youngest son's name is Blaise.
Q. How old is Bret?
A. 27.
Q. Where does he live?
A. Downtown Charleston.
Q. What type of work does he do?
A. He's in the banking business.
Q. What bank does he work for?
A. Harbor National.
Q. Did he go to school here in South Carolina?
A. He's a Clemson grad.
Q. Has he gotten any graduate degrees or just undergrad at Clemson?
A. Undergrad.
Q. How long has he lived on his own? How long did he live with you-all at your house on Fludd Street?
A. He's been away on his own approximately four years.
Q. Is he married or not?
A. No.
Q. How about your son Blaise; how old is he?
A. He's 21.

Q. And you spell that B-L-A-I-S-E; is that correct?
A. S-E, yes, sir.
Q. He's 21. Is he in school now or out of school?
A. He is a senior at The Citadel.
Q. Even though he's in school, is his official residence still at your house at 97 Fludd Street?
A. Yes, sir.
Q. I can't remember how it works when you get to be an upper classman at The Citadel. He still lives on campus, right?
A. Yes, sir.
Q. He doesn't have an apartment or anything downtown?
A. No, sir.
Q. And is he married?
A. No.
Q. All right, sir. Do you have any other relatives over the age of 18 who live in Charleston or Dorchester Counties that we haven't talked about?
A. I have my brother-in-law who lives in Dorchester County.
Q. Who is your brother-in-law?
A. Danny Player.
Q. Is he married?
A. His wife is deceased.
Q. Does he have any children?

A. Yes, two sons.
Q. All right. Either of them over the age of 18?
A. Yes, both of them are.
Q. What are their names?
A. Matthew and Robert.
Q. All right, sir. You came to The Citadel in 1975; is that correct?
A. Yes, sir.
Q. When did you graduate from The Citadel?
A. May 2nd, 1980.
Q. That's a five- or six-year span. Were you going back and forth to Iran during that period, or were you in the United States the whole time?
A. I only went to Iran twice, last time 1978.
Q. All right, sir. What company were you in at The Citadel?
A. Alpha.
Q. When you graduated in 1980, what degree did you receive?
A. BS in electrical engineering.
Q. What was it like going to The Citadel as an Iranian National in 1975? Tell me what that was like. Was it difficult?
A. It was difficult. It was a culture shock --
Q. Go ahead. I'm sorry.

A. And the biggest issue was the language barrier.
Q. You had had some English training before you came to The Citadel, correct?
A. Yes, sir.
Q. But obviously being immersed in it every day was different. Did you -- in 1975 when you came in -- did you come in as a regular, freshman knob year?
A. Yes, sir.
Q. I'm sure you found your knob year as enjoyable as most people do?
A. Yes, sir.
Q. All right, sir. When you graduated from The Citadel with your degree, excuse me, in electrical engineering what was your first employment that you recall?
A. Santee Cooper.
Q. What did you do at Santee Cooper?
A. Entry-level engineer.
Q. How long approximately were you at Santee Cooper?
A. 24 years.
Q. Where were you working for Santee Cooper during those 24 years?
A. In Moncks Corner.
Q. Were you in Moncks Corner the whole time?
A. Yes, sir.

Q. Did you retire from Santee Cooper or just move on after 24 years?
A. Full retirement.
Q. What was your level or status at Santee Cooper when you retired?
A. The supervisor of the unit.
Q. What type of unit was that?
A. Protection and control.
Q. What does that mean in terms of what you were doing?
A. Protecting the transmission lines.
Q. When you protected the transmission lines, would you be going out and looking at them to make sure that the lines are in good shape, the trees are not on them; what type of things would y'all be doing?
A. We were -- my unit was responsible for construction and maintenance and installation of all of the protective device in the substation protecting the transmission lines.
Q. And when you retired after 24 years, what year was that roughly; do you recall?
A. 2004.
Q. What did you do after you retired in 2004?
A. I did my construction business full time.

Q. Were you doing it on the side during the time you were still --
A. My wife and I, we were operating -- she was operating throughout the day and when I was getting off of job, I was continuing while she was picking my kids up from school.
Q. And that's M&R Construction?
A. Yes.
Q. You founded that in 2000; is that right?
A. No.
Q. Before that?
A. 1999 it was incorporated.
Q. I see actually a date of incorporation of 1998. Does that sound correct?
A. Close enough.
Q. When you were incorporated in 1998, you were still full time at Santee Cooper. Tell me what type of things M&R Construction was doing then when you were still working full time?
A. We were building homes.
Q. How did you start getting into the residential construction business?
A. I built my first house and I built my second house and I fell in love with it.
Q. When did you get your residential builder's

license for the first time?
A. I believe it was 1998.
Q. What type of license do you now hold?
A. Same thing, residential builder.
Q. Is it a limited, unlimited license?
A. It's a typical -- whatever that residential building contractor license state of South Carolina issues.
Q. Have you ever had your license suspended or revoked for any reason?
A. No, sir.
Q. To your knowledge, have there been any complaints filed with the LLR or with the builders board?
A. No, sir.
Q. Looking at the information on M&R Construction Incorporated on the Secretary of State's office, it shows a forfeiture in October of 2000. Do you recall that?
A. What does that mean? I don't know what that means.
Q. It depends. Sometimes it can be an administrative forfeiture for failure to file a corporate document or pay a fee. Do you recall anything about that?
A. I don't recall.

Q. And it shows a reinstatement in 2001. Do you have any recollection of that?
A. No, sir.
Q. Have you had any other incorporated businesses of which you are a member or a founder other than M&R Construction Incorporated?
A. Doing active business, no.
Q. What other things have you been involved in?
A. We just have one unit, one property, which it is under LLC.
Q. Is that 907 North Cedar Street, LLC?
A. Yes, sir.
Q. All right. Now, what is that related to?
A. That is just a commercial project property. When we purchased it, we wanted to keep it separate from M&R Construction.
Q. Is it a commercial property; is there a building on that property now?
A. No, sir. It was. We removed that property, which it was a danger to the public.
Q. So it was kind of a nuisance structure and you tore it down. Is there any building on that property currently?
A. No, sir.
Q. Do you rent that property at all?

A. No, sir.
Q. Just hold it for investment value?
A. Well, we tried to download [sic] it. Due to the market we can't even give it away.
Q. Okay. On M&R Construction it lists the registered agent information as 628 Central Avenue. That's your old address, correct?
A. Yes, sir. Before we moved to here.
Q. Mr. Rashtchian, have you been involved in any other businesses other than M&R that we have not spoken about?
A. No, sir.
Q. Are you familiar with a Royal Persian Rug website?
A. Yes, sir.
Q. Can you tell me a little bit about that.
A. We purchased a whole bunch of rugs from the Pars TV during an auction. The purpose of those rugs are: It's an Iranian culture, when the kids gets married you give them a lot of rugs as a souvenir and as a start off for the families. We picked out a few rugs. Also when I was buying that, I decided to go ahead and buy some additional rugs for the setup of my homes. Like if I have a spec house, I would go in and set it up -- setup of a house basically.

Q. Stage it?
A. Stage it. Thank you. My son's girlfriend, she suggested why don't we put these things in some kind of website just to see if anybody would be interested and also it may be an advertisement in the long run when someone comes and inquires about that because it's something about M&R Construction. We have not sold one single rug from that website and most of it -- I've given a couple of them to my oldest son. And a couple of them we have technically have given to my youngest son, which hopefully when he gets married within the next year or so he will have them.
Q. The website is up. There's no LLC or no business for hat?
A. Oh, no. No, sir.
Q. Where are the rugs stored now?
A. Some of it is at my house. Some of it is at my son's house, which we gave it to him.
Q. So there's no separate business facility for that?
A. No, sir. My bedroom is taken with those.
Q. Any other business ventures or anything else that we have not discussed?
A. No, sir.
Q. Let me back up a minute. Are you a member of any

social clubs or any groups like that in Dorchester County or locally?

A. No, sir.

Q. Do you attend any church or worship center?

A. No, sir.

Q. Are you a member of any social media networks like Facebook or Linked-In, anything like that?

A. No, sir.

Q. Mr. Rashtchian, have you ever been a party to another lawsuit other than this one?

A. No, sir.

Q. Has M&R Construction ever been subject to a lawsuit?

A. No, sir.

Q. Anybody ever filed a claim, a mechanic's lien, anything like that?

A. No, sir.

Q. Has anybody ever filed a workers' comp claim or anything like that against M&R?

A. No, sir.

Q. I ask everybody this, so please don't be offended. Do you have any criminal record at all beyond a minor traffic citation?

A. No, sir.

Q. Have you ever been arrested for anything other

than a minor traffic citation?
A. No.
Q. You mentioned earlier that you were treated for type one diabetes?
A. Type two.
Q. Type two, excuse me. Have you ever been treated by a physician, a psychiatrist or any counselor for any type of mental problems?
A. No.
Q. Before we kind of get started on the incident that gave rise to the lawsuit, I wanted to show you -- I guess I'll have the court reporter mark it as Exhibit 1.

MR. CLEVELAND: Has that been produced to us before?

MR. BURKE: I don't think so. It's just a plat. So if you want to take a look at it and talk to him. It's just to kind of set where everybody's lots are.

A. Yes. I'm familiar with that.

(Plaintiff's Exhibit No. 1 marked.)

Q. Mr. Rashtchian, what I've handed to you is what's been marked as Plaintiff's Exhibit 1. It's just a copy of a plat and it shows the Live Oak Village neighborhood and then Fludd Street is the boundary

on one side and it also shows the lot that is your property; is that correct?

A. Yes, sir.

Q. Does that appear to be a fair and accurate representation of those neighborhoods?

A. It does not -- yes, it is very accurate. Yes, sir.

Q. I just did that so, again, we could make sure if we were talking about the neighborhood we knew where everything was. All right, sir. You said you lived at your residence on 97 Fludd Street since roughly 2000, 2001, correct?

A. Yes, sir.

Q. When you first moved to the neighborhood, your new house, what condition of development was Live Oak Village? How far along was it?

A. They just knocked down that old retirement home.

Q. So it just started?

A. Yes, sir.

Q. Did you know anybody that was going into Live Oak Village or involved with that development?

A. No, sir.

Q. So when you moved there you really knew nothing about the neighborhood that was going up across the street?

A. That would be untrue if I said that. I knew Mr. Willis purchased the property and he was going to subdivide that.
Q. But you didn't know anybody involved with the development of that property really?
A. I thought Mr. Willis was the developer.
Q. All right, sir. Did you build any homes or put out a bid for any homes in Live Oak Village?
A. No, sir. We did want to buy the property, but Mr. Willis was willing to pay a lot more than we were.
Q. Okay. That usually gets it.
A. Yes, sir.
Q. So when they build Live Oak Village, about what time period is it when there first started to be houses over there across Fludd Street?
A. I would say beginning of 2002, roughly.
Q. Did you have any issues during construction of Live Oak Village with some of the lots on the side that adjoined Fludd Street, as far as access, construction vehicles, things like that?
A. Are you talking about these lots right here?
Q. Yes, sir.
A. The only problem we had during the construction was how all the trash and all that, it was not being controlled during the construction and wind

and all that was blowing the trash everywhere, which we talked to Mr. Drummond and he corrected that.

Q. Who is Mr. Drummond.

A. He's the one who built all those homes in there.

Q. So the only issue you recall during the construction that was kind of a nuisance was trash blowing off the site?

A. Yes, sir.

Q. Were there any runoff issues? Sometimes the silt fence, things get through?

A. I don't recall.

Q. Obviously, the reason that we're here today, the lawsuit, there's an incident that took place in April of 2011. We believe it took place on April 26, 2011. I'm going to use the term probably altercation to describe that. Are you familiar with that term?

A. Yes, sir.

Q. It means a noisy argument. You know what that means. It's more like -- really just kind of a run-in; it's kind of somebody had a kind of heated dispute. Do you understand that to be correct?

MR. CLEVELAND: Object to the form of the question. You can answer. I assume all

objections are reserved until the time of trial except as to form?

MR. BURKE: Yes.

MR. CLEVELAND: Thanks.

A. Yes.

Q. And when I talk about there being an incident or altercation with the McFarlands, Bill and Jennifer, is there another one that you're aware of other than the one we're going to talk about here in April of 2011?

A. There was December of 2002 when the McFarlands just moved to their house.

Q. Is this the firework incident?

A. Yes, sir.

Q. I'm going to talk about that later. I'm going to come back to that because I want to get into the thing today. But is that the only other issue that you recall?

A. It was another one. The July of 2010 -- 2009, I'm sorry.

Q. I'm not familiar with that one. So why don't you tell me about that incident.

A. That is when I delivered the survey to Mrs. Mazell. She was in the process of talking to Mr. and Mrs. McFarland. They were not happy, the

fact I delivered the survey to Mrs. Mazell. Mrs. McFarland cut through the Mazell's yard, followed me to my house, pointing his [sic] finger at my back.

Q. That was Mr. or Mrs.?

A. Mrs. And so on and so on and so on.

Q. Obviously we're here about some issues that went on between you, so I'm going to ask you with specificity what you recall. When you say you delivered a survey to Mrs. Mazell, did you perfonm a survey for her?

A. No, sir. Mr. and Mrs. Mazell asked me to help them to survey their property. Mr. Mazell told me there was an issue about the fence between their two property, disputes where the fence is supposed to be on whose yard it is. He asked me to find a surveyor. I told him yes. He said, is there any way you could ask him to survey my property. I did ask him to survey his property. I do a lot of business with this survey company. I went to pick up that -- my survey for another piece of property. The owner said Mazell's survey is ready; would you mind taking it to them or I can call them to come pick it up. I said, I'm going home for lunch; I'll be more than happy to pick it

up and drop it in the -- I went home for lunch. I parked my car in my driveway. I walked over to put it in her back porch because that's how they go in and out of their house. I figured as they're going upstairs, they will see; they will pick it up. As I approached their back porch, back steps -- their back gate was always open.

When I approached their back porch and I noticed Mrs. Mazell's back was to me and she was talking to Mr. and Mrs. McFarland, and she heard me. She turned around. She started coming towards me. She was tearful. The tear was coming down both her eyes. She walked toward me. I put my hand around her neck and we walked towards Central Avenue. No. I'm sorry. Towards Fludd Street where the gate is, entrance to their property. She told me what all the problems they're having with them and about this issue with the fence between the two lots.

I told her, I said, why don't you call Mike; let Mike come home. And she said -- I believe she says he's at Manning. I think he was working in Manning, South Carolina, at a Dodge dealership or a Ford dealership. I can't remember which one. She said, no, I can't take him away from his work.

And I said, here it is, your survey. Go ahead and I will get with Mike about it later.

She said, let me go write you a check. I said don't worry about it. I'll take care of it later. Second thing I know, as I walk to my house, Mrs. McFarland cuts through their yard, follows me to Central Avenue. First thing that comes out of her mouth to me is, By the way, your floodlight shines on my bed at night and I cannot sleep at night. Basically I ignored her. I walked toward my house. We have a circular driveway. When I reached my first circular driveway, she was still behind me.

Basically, I guess you can say, I blanked it out because I wasn't really listening to what she was saying till I reached my mailbox. And then before I reached my mailbox she started saying, We are good people; we are good people; we are good people. As I was entering my property, I said, Let somebody else judge if y'all are good people. And I turned around to go to my property. She was in my driveway. I'm not too sure if she was past the point where the property line is or not. I didn't pay attention to that. She asked me if she could come inside our property and I said, no, and

I went inside. That was the other incident with her.

Q. So that incident, the only person that you spoke with or had words with was Jennifer McFarland on that incident; is that correct?

A. Yes. Mr. McFarland went into -- and I could see him in their property but he never came to their gate or anything like that. He stayed back.

Q. Your recollection is the only thing that she said to you was that your floodlight shined into her bedroom window and she couldn't sleep at night, was the first thing, complaint?

A. That was the first complaint.

Q. Then she kept saying, We are good people?

A. Yes, sir.

Q. And you don't recall anything else other than you saying, Let someone else judge if you're good people or not?

A. I did say that.

Q. Do you recall anything else about that altercation?

A. When she asked me to enter my property and I told no.

Q. Did she not come on your property --

A. She did not.

Q. All right. Now, let me back up a little bit through there. You said you were helping the Mazells find a surveyor. Obviously I think the Mazells are going to come up a little bit in this deposition. What is your relationship with the Mazells?

A. I've been to their house, actually to their upstairs porch one time. That's our relationship. Good, neighborly, which we have with everybody on the street just about.

Q. So you would not say that you were friends with the Mazells?

A. We have never gone out for dinner together.

Q. Never eaten together?

A. No.

Q. Never been in their house other than the one time you just mentioned?

A. Yes, sir.

Q. How did they come to you about the survey issue?

A. He called me.

Q. He knew you well enough to call you about that?

A. Yes.

Q. He just knew you were a contractor?

A. Yes. My sons are all over the town. Everybody has my cell phone number.

Q. So when Mike Mazell comes to you about the surveyor, you help him find a surveyor and get the survey done on their property; is that right?
A. Yes, sir. And I had no idea what the dispute is.
Q. Right. So when you go to physically deliver the survey because the surveyor says, you're going to be by there, would you do it, when you go on the property, to the Mazells's back gate you said Mrs. Mazell was having a discussion with Mr. and Mrs. McFarland at that time?
A. At the corner of her property, from the corner of their property, within their property and Mrs. McFarland's property.
Q. I believe you said earlier that when she came to you she was tearful about the issues that they were having and that you said you would pay for the survey?
A. No. She offered to go get her checkbook to pay for the survey. I said don't worry about it; I'll get with Mike later.
Q. So they did pay for it later?
A. They did. Oh, yes, sir.
Q. I just want to make sure: You didn't pay for it?
A. Oh, no.
Q. Is there anything else about that incident in 2009

that you recall that we have not discussed?
A. No, sir.
Q. Have you ever had words -- well, let me back up. Since we're on that topic, let's go ahead and talk about the New Year's Eve, December of 2002 fireworks incident. Why don't you tell me your recollection of that.
A. It has been a family tradition for two days of the year, New Year's Eve and Fourth of July eve to have firework. We were shooting firecracker, bottle rockets actually, right at the middle of Fludd Street. We cannot shoot in yard because we've got pine trees, oak trees everywhere. As we were shooting both sons were there, a couple of their friends were there, and my wife and I, we were sitting, supervising our kids. The second thing we notice, Mr. McFarland is coming out of his door underneath his back porch, approaching the road, screaming, "Y'all are targeting my house. What the hell is going on?" Please keep in mind, this is the first interaction we have with the McFarlands since they moved to their home, October of 2002. She [sic] accused us of targeting his house. And we -- I was the one who approached Mr. McFarland. But my kids and their

friends, they were still around. And I told Mr. McFarland, there is a possibility some of these bottle rockets, they may land on your house; for that we apologize. That was not enough for him. He pressed it, pressed it. You're not supposed to do it; you're targeting my house. It is against the law. I don't know where they moved from. It is against the law to shoot firecrackers -- fire -- bottles. I told him, In the state of South Carolina, it's not. And he said he's going to go call the police, and he did go call the police. The policemen came and I don't know if he filed a police report or not. I've never seen it, a hard copy of it.

Q. Did you talk to the police that night?

A. Yes, sir.

Q. What did they tell you?

A. They said it's just a -- please make sure the stuff doesn't fall on their homes. With a bottle rocket, of course you know, it has a mind of its own.

Q. Did you speak with anybody that night on the McFarland property other than Mr. McFarland?

A. It was another gentlemen in there. He never approached the road. He never approached the

road; he stood in the back. But Mr. McFarland crossed their property and entered Central Avenue -- I mean, I'm sorry, Fludd Street -- to talk with us.

Q. So it's your recollection this is the first time that you've seen Bill McFarland but you know now that you had the words exchanged with Bill McFarland and not so much somebody else; is that your recollection?

A. Yes, sir. Yes, sir. Please keep in mind, that was 12 years ago.

Q. You were shooting just regular old stick bottle rockets?

A. We had a little flowerpot we were putting in it; it was going straight up.

Q. But you'd agree with me that some of them may have gotten on the McFarlands' property?

A. Yes, but not hitting his home. That's the way we felt.

Q. Do you recall about what time of evening this was?

A. It was dusk.

Q. So not like at midnight or anything?

A. Oh, no.

Q. Your boys -- gosh, let me look back here. How old do you think your boys were back then?

A. My oldest son was, I believe, 15 or 16. My youngest son was 10.
Q. And after the police come and talk to you, did you continue to shoot fireworks or did y'all stop for the day?
A. It stopped forever. We haven't shot -- before Mr. McFarland went inside to call the police after -- everything with Mr. McFarland is a heated conversation. I learned that the first day when I met him. Next thing, to me, before he went inside, Why don't you go where you came from.
Q. When was this?
A. Right there during the fire --
Q. The fireworks?
A. Yes, sir. Right before he went in to call the police, he said, Why don't you go where you came from.
Q. What did you say to that?
A. Shocked. Saying that in front of my 10- and 16-year-old boy, shocked.
Q. Did you respond at all?
A. No.
Q. Do you recall anything else that was said to you on that evening?
A. I don't believe so. Again, it's 12 years ago.

Q. All right, sir. Anything else about that incident that we have not discussed that you recall?
A. To the best of my knowledge, I think that's it.
Q. So aside from the incident in 2011 that's the reason for this lawsuit, basically you had two other incidents with the McFarlands: the 2002 fireworks incident and the 2009 issue delivering the survey to Mrs. Mazell; is that correct?
A. Yes.
Q. To your knowledge, have you had any other interactions with Bill or Jennifer McFarland personally?
A. No.
Q. Let's move on to the incident of why we're here today. Again, this is what I call an altercation that took place in November -- excuse me, April 26th, 2011. Tell me in the best of your recollection what you recall about the altercation that took place on Fludd Street with the landscapers and the McFarlands.
A. We were --- I'd been working out in my yard just like they were working in their yard. I took a break. I went inside. My wife and I, we sat in the front living room where our TV used to be and we started watching news. The truck pulled in

with a load of mulch in the back, backed in to Mr. McFarland's property. He had to go back and forth once or twice. Our couch is in there, sitting in there, you know. It's normal to just look outside in the windows, curtains open and everything. He really didn't come over our grass. He came within inches of the grass. He backed in but he backed in, which his front tire or bumper was right at the edge of the grass. Mr. McFarland was right out in the street, on the front of the truck. And we thought, originally we thought, my wife and I thought, they're just going to go ahead and disconnect and just move the truck. But they stayed in there. They start unloading. Being late afternoon all of the incoming cars are coming. The neighborhood are going home. The next thing I know, Mr. McFarland directed two cars to go over our front grass. Not only they ran over the right-of-way area, they went also over our grass and over the culvert, which I have paid, I have installed. And I could not believe Mr. McFarland would be so inconsiderate to do such a thing like that.

Q. If I may, Mr. Rashtchian, let me stop you for just a second. Exhibit 1 there, it shows the layout of

the properties involved in this issue, shows the Fludd Street right-of-way?
A. Yes, sir.
Q. Fludd Street really, as shown on that plat, is a 50-foot right-of-way, to your knowledge; is that correct?
A. The road is only 18 feet. Yes, sir.
Q. So the road -- so part of your front grass and your property is actually part of the Fludd Street right-of-way; is that correct?
A. It is mine and his, yes, sir.
Q. Do you understand how much of your grass is part of the right-of-way?
A. If I had to guess it -- I'm not too sure if that road is a 50 feet -- the road is 18. I would say probably 12 to -- 12 feet. 12, 13 feet, something like that, if I had to guess it.
Q. Of your grass --
A. Front yard.
Q. -- is part of the right-of-way?
A. Yes, sir.
Q. You understand then since that's part of the right-of-way, if you have grass on it or part of your driveway, that's not really your fee-simple-owned property, is it?

MR. CLEVELAND: Object to the form. You can answer.

Q. Go ahead. You can answer.

A. It is not but I maintain it. I sodded the yard, I water it, I fertilize it, and I maintain it. The city never has to come or the county never comes and maintains that property.

Q. But if the city did come and drove their trucks on it or wanted to do something with that property --

A. They have every right to do it.

Q. Okay. Thank you. All right, sir. Let's go back to what you were talking about when -- and I believe the landscape business is called Strictly Business, I believe. Did you talk to any of the landscapers; do you know their names just by recollection?

A. The only reason I know their names -- I've never seen them. They were, I believe, Johnsons. The only reason I know is because of the paperwork they filled.

Q. From the incident in this lawsuit?

A. Yes.

Q. Okay. So when they backed their truck into the McFarland house, you said they did not get on your grass at all; is that right?

A. Yes.
Q. And once their truck is parked, it's blocking Fludd Street so that a car can't get around it; is that correct?
A. That's true.
Q. Your testimony is, the way that truck was parked, it was blocking all of Fludd street?
A. Entire Fludd Street, yes.
Q. Did you walk out there -- I mean, once you went out there, when you went out of your house, do you recall seeing -- how much distance would you say was between the edge of your grass and the landscape truck?
A. I would say less than 18 inches, maybe 2 feet. Please keep in mind I did not measure.
Q. Yes, sir. You said that you had been doing some work in the yard that day and had gone back in the house to watch the news. Does that tell you roughly what time of day this happened?
A. If I had to guess, it would be around four-thirty and five, something like that.
Q. And so when people -- let me ask it this way. How many homes are down Fludd Street from your house, like coming off Central down Fludd?
A. I'll say nine, ten, something like that.

Q. And so there were cars coming home at 5:00?
A. Yes, sir.
Q. And your testimony is that you were looking out the window and you saw Bill McFarland direct traffic and direct two cars around the truck, the landscape truck, onto your grass to go around it; is that right?
A. Yes, sir.
Q. Now let's pick up where we were then. What happened after that?
A. That's when I went out there and I ask him how come he's inconsiderate and he's directing the cars to go over my grass. That's when I turned around and asked the landscapers. They need to move their car. Mr. McFarland replied, They're not going to move their trucks until they are finished their work. I told Mr. McFarland, I will not allow any more cars to drive over my grass. I turned around and told the landscapers if they don't move their truck, I have no choice to go call the City of Summerville Police. I was reluctant to call the City of Summerville Police. Number one, that is not a matter my wife and I would do in our business, for every little incident, we call the City of Summerville Police.

The other thing is, not knowing who these landscapers are, we did not want them -- to make them upset to a point, they know where we live, to come back later on to have a retaliatory measure toward our home or my wife or my kids or whatever, because I don't know these people. For that reason, we did not go call the City of Summerville Police. Again, I told Mr. McFarland he's inconsiderate; there is no one in the neighborhood cares for him because of his kind of -- the first word I used was "crap he does." McFarland told me, Why don't you go get your green card.

Q. Let's stop there. Let's back up for some of the stuff you said. So you're looking out your window of your house. You said you could see Mr. McFarland direct two cars around the landscape truck, correct, and that was enough to upset you to go outside the house to say something about it, right?

A. Yes.

Q. Okay. So when you go out, what kind of mood are you in when you go out to the street to talk to them?

A. I wasn't happy.

Q. And what type of tone of voice, what kind of

things are you saying when you're telling him he's inconsiderate?

A. It was firm. It was unhappy, but it was not furious yet.

Q. Okay. Not yet. So when you first go out, and obviously the only other interaction you've had with Mr. McFarland before is in 2002 regarding the fireworks issue, correct? It's the only other time you've spoken to him, right?

A. Yes.

Q. So in the intervening nine years you never talked to this man?

A. But I've seen his actions.

Q. Did you even know his name at that point?

A. No.

Q. So when you go out and you tell him he's being inconsiderate, you agree with me that you were upset?

A. I was upset, yes.

Q. Then did he become upset?

A. He was -- he got upset. We will say we both were -- you could call it at edge.

Q. Okay.

A. You asked if we have had any other incident with McFarlands up to 2009. They have done a lot of

stuff to us or others by coming out seven days a week, blowing their stuff on everybody else's yard, our yard. We have always ignored it. It isn't worth it to go out and deal with that. We have looked -- we just strived -- basically we looked the other way.

Q. Let me ask you a question. When you talk about -- you said when you have an issue, you tell him, no one in the neighborhood cares for you because of the crap that you do, roughly; is that --

A. This kind of crap you do.

Q. When you say no one in the neighborhood cares for you, are you talking about people in Live Oak Village?

A. Yes.

Q. Now, technically you don't live in Live Oak Village, correct?

A. Yes.

Q. So who are you talking to in Live Oak Village that you have knowledge of issues that the McFarlands have done relating to that neighborhood?

A. From 2009, I knew what -- after that incident which what they had done with the Mazells, and I knew about all of the stuff he had with the previous owner of the Knights' house, Pete Knight,

and that kind of stuff and some other ones I can't recall. I have some notes but I can't recall them right at this minute.

Q. So when you talk about issues with the Mazells, you had actually spoken with the Mazells to some extent about issues they'd had with the McFarlands related to the survey, right?

A. It was the survey and what they were doing. It was my impression of that one incident which Mr. and Mrs. Mazell -- we have had some other -- my wife had some other interaction with Mrs. Mazell prior to -- I don't know if it was prior to that incident. But Mrs. Mazell had told my wife they are moving; they are getting ready to move. They are just having issues with the McFarlands and they're getting ready to move.

I also have heard from Pete about some of the issues over them having some get-together, them calling the cop or him driving over their little corner of the grass, which the City of Summerville Police was dispatched over Mrs. Knight driving over the corner, probably about eight inches of their grass.

Q. Let's back up a little bit. As far as talking to the Mazells, which one of them would you have

actually spoken to, Mike or the wife?
A. I have spoken to Mrs. Mazell, throughout the years they were in there, two, maybe three times. Mr. Mazell, maybe four times.
Q. All right. During those conversations, what did they tell you about the McFarlands?
A. It is impossible to live in this house; we have no choice to move.
Q. They told you basically that they were moving because they couldn't bear to be next to the McFarlands?
A. They couldn't take the harassment and the punishment. It was coming, hammering on them on a daily basis.
Q. Did they tell you that they were also in foreclosure?
A. I knew their home -- because of the type of business I have, I knew their home was in short sale. As a matter of fact, we talked about attempting to buy their home, but based on the circumstances with them, we lost a lot of money over that.
Q. Would you agree with me then, if they were having problems paying their mortgage and were in foreclosure, having a short sale, that might be

another reason to move from the house?
A. Well, we were not close enough with them to know. If we did not have basically our home almost paid off, we would have moved from our house a long time ago.
Q. Would you agree with me, though, that if they were in foreclosure that might be a better reason to move than the McFarlands?
A. I can't say that.
Q. Let's go back to the altercation on the 26th. When we last were talking about it, I asked you about, no one in the neighborhood cares for you because of the crap that you do, and the things we discussed with he Mazells and Pete Knight issues. Were you aware of any other issues with neighborhoods, excuse me, with neighbors, in Live Oak Village related to things the McFarlands had allegedly done?
A. I'm not one hundred percent sure. But, for example, the Mazells knew when they were cleaning the ditches and all that, they were blowing it right in theirs. The Knights and them, they knew they clear -- they threw everything in there, but everybody was looking the other way.
Q. Other than issues with the Mazells and the

Knights, you don't know any other people in Live Oak Village who had a direct problem with Bill and Jennifer McFarland?

A. If it was, I don't recall at this moment.

MS. BURKE: I think we need to take a little break and change the tape.

(Deposition went off the record for a brief period of time.)

Q. All right, sir. Before we took a little break there, we were talking about some of the issues between you, the McFarlands, and the Mazells. I want to ask you a follow-up question about -- when I was asking you about the Mazells' house going into foreclosure and short sale, you made a comment about you losing money on that somehow. Can you explain that to me, how that happened, what you meant by that.

A. We considered buying that home when it was for sale in order to do some improvement in it and basically turn it around, flip it back, and put it back on the market. It was unbelievably priced. Based on the -- all the pressure and the interaction with the McFarlands, nobody on the earth was going, taking that project over.

Q. So because the Mazells' house was a short sale and

was a good deal, you thought about buying it and flipping it --

A. Doing some repair.

Q. -- doing some upfit to it, fix it up and sell it but did not because of the relationship with the McFarlands; is that correct?

A. Yes.

Q. So you never put a contract on it or anything like that, just thought about doing that?

A. That's correct.

Q. How far did you get in discussions with anyone, if at all, about buying the Mazell house out of foreclosure? Did you talk to them or their agent?

A. Agent, no. I do most of my own due diligence through the Internet and comp and all that.

Q. I think where we'd left off in talking about the altercation the afternoon of the 26th was when you had told Mr. McFarland, no one in the neighborhood cares for you because of the crap that you do. And he had responded to you, go get your green card?

A. Yes.

Q. Can you pick up from there.

A. That is when I got real upset. I guess that was the point when I started using the -- tell him he

was an F-ing racist.
Q. Let me just ask you. I'm not trying to be cute by asking it this way. But when you -- when someone says to you, go get your green card, and I understand that that may be offensive to you as someone who has immigrated to his country, from Iran especially, but is that statement in and of itself, go get your green card, is that racist?
MR. CLEVELAND: Object to the form of the question. You can answer.
A. That's something for the courts to decide.
Q. Let me put it this way. If I say to someone from England who's here illegally, "go get your green card," and they have the same ethnic background as me, is that a racist statement in your opinion?
MR. CLEVELAND: Object to the form of the question. You can answer.
A. Tone makes a lot of difference.
Q. But, again, it's not directed at your particular race or heritage, is it?
MR. CLEVELAND: Object to the form of the question. You can answer.
A. I will say what the dictionary says about a racist.
Q. Okay. What is that?

A. When you -- basically you have a problem with someone based on their race, color of skin, and place of origin.
Q. So is it fair for me to assume then that you would take the part of that statement, place of origin, and go get your green card, and then make a racist statement to you?
A. An accent, yes.
Q. But again 'd agree with me that just the words on their face, go get your green card, is not a racist set of words?
MR. CLEVELAND: Object to the form of the question. You can answer.
A. That's for the court to decide.
Q. I'm asking you for your opinion. What's your opinion?
MR. CLEVELAND: Same objection.
A. It is racist in my opinion. I would never say that to someone else.
Q. Is there a racist term or slur in the phrase, go get your green card?
A. Based on the tone he used to tell me that, yes.
Q. So based on the tone but not necessarily the words? There's not like a racist slur in those words, correct?

MR. CLEVELAND: Object to the form of the question. You can answer.

A. The words are something the court have to decide.

Q. But you'd agree with me that the four words, go get your green card, in and of themselves, are not racist words?

MR. CLEVELAND: Object to the form of the question. You can answer.

Q. You can answer.

A. Again, in my opinion that's what the courts have to decide.

Q. I'm going to ask it one more time because I think it's pretty straightforward. Four words, got get your green card, are any of those words in and of themselves racist terms?

MR. CLEVELAND: Object to the form of the question.

A. It was to me for the courts to decide.

Q. You'd agree with me that the words, go get your green card, are not the same as calling somebody a racist name, are they?

MR. CLEVELAND: Object to the form of the question. You can answer.

A. McFarland has in the past, between the survey incident and this incident, had used a whole bunch

of racial names with me, and follow up of that, that is why I took it as a racist, based on comments he has made between the July of 2009, I believe, when I delivered the survey and the incident of April 2011.

Q. What types of things has Bill McFarland said that were racist during that time period that you just discussed and to whom did he say those things?

A. I had a habit of leaving my property with my front of truck -- we have a circle driveway, drive to make the circle to go out. McFarlands had a habit of -- which they got a lovely home, and they work or they pay somebody all these years to maintain it. For that, we admire that. However, every time I was going out after that incident, especially during the summertime when my window is down -- I'm just going to say that word one time. I will never repeat it again. He would use the sand nigger word to me. He would show me his middle finger numerous, numerous times.

Q. All right, sir. You just told me that sometime between the July 2009, 2011 incidents, when you would drive by the back of the McFarland house, you would have your car window down and could hear Mr. McFarland use the term "sand nigger" directed

at you, correct?
A. Yes, sir.
Q. How many times did that happen?
A. Numerous times.
Q. Numerous times?
A. It came to a point, I would not go forward anymore. I would back my car to the Fludd Street. To this date, I do everything I can to go back to the Fludd Street. I don't want to face out anymore.
Q. Okay. And you also testified that Mr. McFarland also flipped you off or shot you the middle finger every time that you drove by him; is that correct?
A. Yes.
Q. And again, window down, you saw this? Almost every time you saw him, this happened?
A. If he was working out in his -- outside his back gate.
Q. When he used -- now, you agree with me that the term we both used, which is repugnant, and I won't repeat it more than it's necessary here today, that that is a racist term, correct?
A. There is no other way to explain that. Yes.
Q. That term that you used, that you described and we talked about, has anyone else ever heard

Mr. McFarland used that term?
A. My younger brother and younger sister, they have heard, both of them, yes.
Q. Tell me about that. When did that happen?
A. Late June, early July of 2011, my brother was visiting me from Montreal. We were -- left our property by mailbox, my circle driveway by the mailbox. As we turned left to go to the end of the Fludd Street, there's a little dirt path that you can cut into the Gadsden subdivision where we used to live a long, long, long time ago. And as we passed Mr. McFarland, we were on our side of the street; Mr. McFarland was on his side. And he had stopped either to do something with his edger -- he was edging in there. He used the word "damn sand niggers." Excuse me. I shouldn't have said that. Sand n-word.
Q. So where were you and your brother and your sister when this took place?
A. Right between my two -- driveway, circle driveway right in front of my house.
Q. Are you in a car, out of the car?
A. We were walking. We were going for a walk to the end of the Fludd Street.
Q. And he is -- you say he's edging. Is he inside

his fence or outside his fence?
A. No. He's edging the edge of the road, which you referred to it as a common right-of-way. I have to give him, they maintain that common driveway very nice.
Q. So he's edging the right-of-way when you walk by with your bother and sister. Is it just the three of you?
A. No, no. Just me and my brother.
Q. Just you and your brother. Okay. And he uses that racist term again directly to the two of you?
A. To both of us, yes, sir.
Q. Looks you in the eye and says that?
A. Actually we did not -- we were going straight. We have done everything we can not to have eye contact with him, based on the incidents in the past. When he said that, my brother and I, we both turn around. My bother asked me, What did he say? And I told him, Just keep on going. We kept going.
Q. So even though he goes -- according to your version of events, he goes to the trouble of say this repugnant term to you and your brother -- how far away, is he 10 feet away from him?
A. No. I would say 18 feet because he was on the

other side of the road between the road and the ditch on his side.

Q. Says this to you, no response from you other than your bother saying, what did he just say, and you saying just to ignore him, keep going?

A. I told my brother about the -- as we walking I told him about the incident of April. I said, we just need to stay away from him. I told him basically, something is wrong with him. That's exactly what I told him: Something is wrong with him.

Q. Now, going back to the first time that you say that this term -- the time period this term was used by McFarland towards you, was after the July 2009 incident with the Mazells. How quickly after that incident is the first time you recall Mr. McFarland saying this loud enough that you could hear it driving by with your window down?

A. It didn't take long. I can't tell you how many days.

Q. How loud is he saying this where you can hear it with your window down, driving a car by? Is he shouting it at you?

A. You know, as you're coming out of your front, not only you can hear that, you can also -- you can't

help just sitting in your car -- standing right in front of your driveway with the lip service. Between the two, you know what he's telling you.

Q. So he's standing there in front of your driveway as you pull out, and a combination of hearing it and being able to read his lips, you know he's calling you that repugnant term?

A. Can we stop for a second.

Q. Sure.

THE WITNESS: Can we go off the record please.

MR. CLEVELAND: Sure.

(Off record discussion)

MR. BURKE: We just went back off the record for a moment and Mr. Rashtchian has something he would like to say on the record.

THE WITNESS: Mrs. McFarland is sitting behind their attorney. As I am trying to be respectful to Mr. Burke and keeping my eyes on Mr. Burke, Mrs. McFarland is making gestures, face, and it's very uncomfortable.

MR. BURKE: Obviously, I'm talking to you. I can't see what's going on behind me. I have to take you at your word for that. But at the same time, I don't hear anything behind me --

MRS. RASHTCHIAN: And Mr. McFarland is staring

me down.

MR. BURKE: Excuse me. You're not under oath, ma'am. You're not under oath.

MRS. RASHTCHIAN: But I still -- it's happening.

MR. BURKE: Mrs. Rashtchian, that's fine. Nothing goes on the record that's not under oath. And if it happens again, we're going to have a problem. We've got to keep things under control.

Q. Mr. Rashtchian, back where we were before you went off the record, I was asking about these incidents where Mr. McFarland allegedly used a repugnant racial term, which I'm not going to repeat again. And you said that you could hear him. As you would turn out of your driveway with your window down, you could either see him at the head of your driveway, either read his lips and/or hear him using that term; is that right?

A. Yes, sir.

Q. Had to have been saying it loud enough for you to hear it over your car as you drive by, correct?

A. Please keep in mind, I don't have a 1945 car. It is a truck, very quiet. Yes, I could hear him.

Q. What kind of truck do you have?

A. It's a 2008 Nissan.

Q. So all these times that he is allegedly saying this very offensive term to you, including in right in your presence with your brother, you do nothing about that?
A. No.
Q. When I asked you earlier if you'd had any other discussions with Mr. McFarland whatsoever, you only told me about this altercation here that we're talking about today, the 26th, and the thing back in 2002. You said you'd never had words with them before, right?
A. Altercation. My understandable of altercation is having direct conversation. We did not have direct conversation. It was a one-way. That's why I said, not any more.
Q. My recollection is, and I may be incorrect, that I asked you if you'd had any other discussions with him at all during that time period; I thought you said no. But that's not correct, right?
MR. CLEVELAND: Object to the form of the question. You can answer.
A. That's not correct.
Q. With respect to this term that has been used that you say Mr. McFarland has called you, has anyone else ever heard him use that term other than you

and/or your brother?
A. Again, my younger sister.
Q. When did your younger sister hear it? Tell me about this one.
A. October of 2012.
Q. How did that happen October 2012?
A. She was visiting us. We basically were doing the same thing. This time we had already passed Mr. McFarland. She came for a 14-day visit. And we would try to go for a walk. Our house was going through some rough times during that time. That was the main reason for her visit. We would go down the street, and we would try to go as early as we can because of October, you know, it starts getting dark early around here. We were past our driveway. Mr. McFarland was somewhere around the little bridge they've got in their back -- they've got a little gate. They've got a little bridge. He was right in front or back of the bridge. I don't recall exactly his exact location. His comment was, Here is another sand n-word.
Q. Again, just unprovoked as you walked past him he said that?
A. Yes.

Q. What type of situation was going on at your house on October of 2012? You said it was kind of a rough time.
A. My sister-in-law just had passed.
Q. Is that why your sister had come to visit?
A. To comfort my wife. Yes. Comfort.
Q. These incidents were raised for the first time, to my knowledge, in your discovery responses in this case. But neither your brother nor your sister are listed as witnesses in this case. Would you agree with me they may now be witnesses in this case?
A. Yes, sir.
Q. Can you or your attorney please provide me contact information on how I can speak to your brother Majid and your sister about these incidents?
A. Yes.
Q. With regard to the use of that particular term and the people who heard it, is there anything else about that that you need to tell me today?
A. The only response from my sister was -- I will never forget with her British accent. She said, Bloody hell. And my comment to her was, Keep going, Sis.
Q. All right, sir. And again, you think this

happened for the first time shortly after the incident at the Mazells' with the survey in July of 2009; is that right?

A. Yes, sir.

Q. And continued -- how often would you say that this happened over that two-year period?

A. If they were working out in the yard -- I probably would see them not every time they were maintaining their yard, every so often. It's hard for me to say that. Twice or once a month. I don't know.

Q. So over that period, more than five, more than ten?

A. More than five.

Q. Maybe less than ten?

A. Yes. My assumption was they thought we are taking sides, and that's what I felt those comments were, in my opinion.

Q. You're saying because you've taken sides?

A. Because we did that survey for them.

Q. So you believe, correct me if I'm wrong, that you think because they think you were associated with the Mazells or had taken their side, you think that's where this animosity came from?

A. They think -- I thought, based on me helping them

get that survey they felt like basically we have chosen a side, and we had nothing to take a side on this case. That was their interpretation.

Q. But you believe that's why you think the McFarlands were upset with you, is they feel like you had taken a side with the Mazells against them?

A. Yes.

Q. Is that correct? Okay.

A. Especially since from 2002, 2007 we haven't had hardly any incident, both ignoring each other.

Q. With regard to the use of the particular term we had discussed or any other directly racist or inflammatory language, is there anybody else who heard that other than you, your brother, or your sister?

A. No, sir.

Q. Let's go back to the incident on April 26th, 2011. Now, we left off before we went on that kind of side tangent about the "go your green card" comment. And you said that's when you got very upset; is that correct?

A. Yes, sir.

Q. Okay. Kind of pick it up from there about what happened after that was said to you, how you

reacted and what you recall from that point?
A. I did tell him he's an F-ing racist.
Q. What else do you recall?
A. His hammering did not started right there. He continued to say, I know what kind of shoddy contractors you are.
Q. You say after he makes the green card comment you call him an F-ing racist, using the actual term, not an abbreviation. And then do you recall anything else that you said at that time before he makes the contractor comment?
A. Yes, sir. I turn around and I told the -- one of the landscaper who was on back of the trailer, "Why would y'all work for this F-ing racist?"
Q. Then your recollection is at that point Mr. McFarland says, I know what kind of -- you said shoddy contractor you are?
A. Shoddy contractor you are. I know all about you. That's a word he uses on most of his conversations throughout there. He repeated that many times. I know all about you; I know all about you; I know all about you.
Q. Did he ever expand on that at all other than just keep repeating that?
A. Keep repeating that.

Q. What do you recall saying after that?
A. I told him instead of worrying about -- I told him you can go ahead and videotape me, look at my house, look at my property with the video camera or telescope. In Farsi telescope is the word for binoculars, telescope and everything.
Q. You say you can look at my house with a video camera or a telescope?
A. I said, you can go ahead and do -- when he says I know everything about you, my interpretation of that is they've been -- we have been under video surveillance by them either through the video camera, through binoculars or some kind of video, hand-held video recorder, which that hand-held video recorder, most of the time gets operated by Mrs. Mazell -- Mrs. McFarland.
Q. Okay. All right. So let's delve into that a little bit. You say that when he says, I know all about you, you say, you can look at my house with your video camera, your telescope. You meant that because you felt like you were being watched by them?
A. I go to change my light bulb on my floodlight, Mr. McFarland is under his porch videotaping my back from under his porch with the hand-held

camera. I have turned around; I have seen that. I've seen -- sometimes I will come and unload some material on my side of my house, which I may decide to use it at my own house or just move it from truck and truck. Mr. McFarland, on his upper porch with his binoculars, basically looking close to see what I'm doing in my property.

Q. So your testimony is that you made the statement about -- when he said, I know all about you, you said you can look at my house and video camera, is based on things you had observed before that day with the McFarlands?

A. Yes.

Q. Did you ever make any comment about them looking into other people's houses or windows?

A. No.

Q. Did you ever make any comment about them looking in a neighbor's house with a telescope?

A. No. I used the word telescope. I do not know how the layout of the next-door neighbor is to make that judgment.

Q. Do you -- had you ever spoken with the Mazells or any other neighbor about any issue like that?

A. No, sir.

Q. Anyone ever tell you that they felt like they had

been looked in or observed by the McFarlands?
A. We have never had any discussion. I have never had discussion with Mazells in regard to them looking into their home. I do not know how their layout of their home is.
Q. So if anyone says that on the 26th during this altercation that you said to the McFarlands, I know you look in your neighbors' windows with a telescope or something to that effect, you did not say that?
A. I did not say that. It is their interpretation of what was said.
Q. Your testimony is that you said, you can look at my house with your video camera, your telescope, based on what you had observed previously?
A. After he said I know everything about you, yes.
Q. Now, you mentioned an issue about you changing your floodlight and Mr. McFarland maybe videotaping that. This is after Mrs. McFarland made the comment to you about the floodlight shining in her bedroom; is that right?
A. Yes.
Q. Were you aware that that was going on? Before that point and after she told you, did you ever change the trajectory of your floodlight?

A. Yes. That's exactly what I was doing. I was adjusting it lower, yes, sir.
Q. Okay. So you say you lowered it down --
A. Yes, sir.
Q. -- so it wouldn't shine on them?
A. Yes, sir. Their bedroom is on the second floor, and my floodlight is only 12 feet up in the air, shining it down. And as a courtesy, after she said that, yes, I lowered it. If I go to change that light bulb, if the light bulb goes out, I would do the same thing.
Q. How often do you leave your floodlight on at night?
A. We used to leave it off till -- probably till 11, 12, depending if one of my kids are out, coming home. As of two months we have decided, not knowing the situation and what is going on, we are leaving floodlights now all night long.
Q. So you say now since 2011, 2012 you leave your floodlights on all night; is that correct?
A. No. Since -- for the last two and a half months we are leaving it on.
Q. You say that's related to issues with this lawsuit?
A. No. It is mainly, we are now a lot more concerned

about McFarlands now since they have a camera with all kinds of capabilities, which monitors our house and our driveway 24/7.

Q. Do you know if that video camera is filming your house?

A. It is right at my driveway, yes, sir.

Q. Where's that camera located that you're talking about?

A. He, on his testimony, he said he has two. The main one, which I can see, is on the -- from the back, on the left corner, shines straight at our driveway.

Q. But it's on their house or on the fence?

A. Is on their house.

Q. How far away from the road is the back of their house, roughly?

A. I'll say about 45, 50 feet. Rough guesstimate.

Q. Your opinion is that that camera is pointed at your driveway, not at their backdoor?

A. Yes, sir.

Q. Why do you believe that?

A. When the camera is under the eave, please keep in mind my engineering background, from the angle of that I can see what the angle is. The angle is not shining straight down to capture their

property. It is out past the road. Basically you're looking through the public property into our yard.

Q. So your testimony is that you -- from seeing this camera from outside their property from a distance, that because of your engineering background, you can tell that the camera is not pointed -- is pointed more at your house than at their backdoor; is that right?

A. It is almost straight on a 90 degree or 160 degrees, 50 degrees, something like that, with the angle of their eaves. It's straight, straight.

Q. You don't have any specific knowledge; you've never seen any footage or anything that shows that that camera is pointed directly at your driveway?

A. No, sir. No, sir.

Q. It's just based on your observations and deductions from that?

A. Yes. I've done some investigation on that kind of cameras and I know roughly what their capabilities are.

Q. What type of investigation did you do into those type of cameras?

A. Those are the -- I believe they have a night vision capability. They have roughly about 120

plus feet of surveillance.
Q. Can you tell from the ways you have to be to see that camera what type and model it is?
A. All I did -- based on Mr. McFarland's testimony, he purchased it from Sam's. I went to Sam's site and looked at the model and all that, and I figured out which model it is.
Q. After Mr. McFarland's deposition which was over a month ago and he testified about what type of cameras he had, you went to the Sam's website and looked at what they had available; is that right?
A. I looked to see what the capability of these cameras are.
Q. Again, based on his deposition, which you were present for and his testimony that he bought his security cameras from Sam's, you went to the Sam's website to try to investigate these cameras?
A. Yes. And also looked to see if there's any cameras and security system I could purchase for my own house.
Q. But your knowledge of his camera system is based simply on your observations from it, from across the street --
A. Yes, sir.
Q. -- and then what you saw on the Sam's Club

website?
A. Yes, sir.
Q. You don't have any specific knowledge of exactly what he's got, where it's pointed, how it's set up, all that stuff?
A. No, sir.
Q. Now, it kind of came up in that response -- you'd agree with me that you were present when Mr. And Mrs. McFarland were deposed on November 25th; is that right?
A. Yes, sir.
Q. You were here all day. Those depositions took eight and a half hours to conclude. It's been over a month since those depositions took place. Would you agree with me?
A. Yes, sir.
Q. So you've had time to go back and look over their testimony and kind of investigate things; is that right?
MR. CLEVELAND: Object to the form of the question.
A. No.
Q. You just told me you went and looked back into their camera at Sam's Club. Did you do anything else like that in response to their deposition?

A. No, sir. The only thing -- we don't have a copy of their testimony. The only thing I looked at, remember recalling was that camera purchased from Sam's.

Q. Let's go back to the incident on the 26th. When we left off, you had made the comment -- or Mr. McFarland had said, I know all about you. You said, you can look in my window with a telescope, however that comment went. What do you remember then after that?

A. Mr. McFarland said -- McFarland said I know what kind of shoddy contractor you are. And that is when I turned around and told him I'm a self-made person; I came to U.S. with one suitcase. I'm a self-made person and I did not -- and I believe I used the word steal; the word steal, takeover, it means the same thing to me -- of your in-laws' business. He was very, very upset about that comment.

Q. Let's just stop there. So after he makes the comment, you say, about you allegedly being a shoddy contractor, you tell him, I'm a self-made man; I've made my own business. And your testimony is that you told him, I did not steal my in-laws' business; is that correct?

A. Yes.
Q. You made a comment about what the word steal means, but you did use the word steal, correct?
A. I did, yes.
Q. In your testimony -- okay. Do you have any knowledge about how Bill McFarland or Jennifer McFarland obtained their business or what they -- their work and where did that knowledge come from?
A. Initially I heard it in Summerville in a restaurant called Perkins. A friend of mine, subcontractor, we went into this particular place and sometimes he likes -- we like to go just sit. We sat in one of the booths, my back to North Main Street facing my friend. And there were two couples who were sitting behind us.

And from the discussion I could tell that they are old Summervillians. They know a lot about Summerville. They were talking about Live Oak Village. They were talking about how the neighborhood has turned out to be so beautiful. And all they were doing, they were praising the neighborhood. The conversation turned to out be -- one of the -- most of the conversation was between two ladies. One of the ladies says, I wouldn't live in that neighborhood for -- I

wouldn't live in that neighborhood, something to that affect. And their conversation went on to why. They were talking about a lot of frictions in the neighborhood. Please keep in mind there's a booth between us; I'm hearing bits and pieces.

The other thing that happened was, one of the ladies said -- they started talking about the gentleman named John Payne who used to live in that neighborhood. These two ladies, they were talking about one neighbor across the street from Mrs. Payne. She goes to Mr. Payne's house one day very upset. Apparently had some kind of argument with her husband and her comment to -- she makes a comment about -- I don't how these ladies. They knew about this, but based on what I was hearing is she would complain about: I don't know why my husband treats me the way he does or something to that effect. And if it wasn't because of my parents, we wouldn't have anything or he wouldn't have anything. I don't recall exactly the word, which one it was. That's the first time I ever heard about -- when they said neighbors across the street, there are three neighbors across the street. One was Mazell and one was Knights, and the other ones, of course, are Mr. and

Mrs. McFarland. And I took the assumption at that time they were talking about Mr. and Mrs. McFarland.

Q. Let's back up. There was a lot there. So you admit you said to Bill McFarland, I didn't steal my in-laws business, right?

A. Yes.

Q. And the basis for that statement is, you were in a Perkins Restaurant in Summerville with a subcontractor --

A. It was a follow-up to that.

Q. It was, I'm sorry, what?

A. I didn't make that comment solely based on that.

Q. Before I go down that road, then, what other basis did you have to make that comment? Where else had you heard and from what source, that Bill McFarland stole his business from his in-laws, quote, unquote?

A. It followed up to late 2010, right around, if I had to guess, at the end of the year, late December. Pete and Michael Knight, they were having some kind of function in the little back porch, and the gate was open. Some of those folks, they were standing out there and they invited me to go in there. But I walked over

there and they were having some drinks and all that. I don't know what the status was. I don't drink, and I did not really enter the property. Most of the conversation was right at their gate. They have a gate similar to that but they don't have a driveway leading to that gate. I made a comment to Pete, It's been awhile or something; do you miss living in this neighborhood? His comment was, Hell no. At that time, it was not quite dusk yet. It was -- the McFarlands were up there. You could hear the blower going everywhere.

I turned around and I asked him, Do you miss that? Then he said, Heck no. Then I brought it up and I said, a conversation about, Have you-all heard anything about this thing with John Payne and McFarlands and all that? And both said they have heard the same thing on some kind of party; Mrs. Payne had told some folks, which about Mrs. McFarland's visits to her house and they had witnessed and heard the same thing. They did not necessarily volunteer that. It just came to the conversation; they have heard the same thing.

Q. Okay. Hold on. So, let me go back for a second. I wasn't clear about what you just said there. You said you were at this party and you brought up

the McFarlands with both Mr. Payne and -- excuse me, with the issue with the Paynes and the McFarlands with both Pete and Michael Knight, and they made some comment about Jennifer McFarland visiting the Payne house? Is that what you're talking about?

A. Did he -- do you know anything about this thing about one of the neighbors -- and I told them, I said -- I'm assuming Mrs. McFarland going to Mr. Payne's house and mentioning something about the takeover business or something like that of Mr. McFarland of her parents' business.

Q. Why would you bring that up to them at that time?

A. Because they were out there doing it and it was just a general statement. It was rumor on the street and I just asked them if they had heard it.

Q. You're testimony is that because you're standing there and talking outside the gate at this function with Pete and Michael Knight, you bring up the issue of the McFarlands, hear the leaf blower, say, Do you miss that? Of course not. And then you ask them about this issue where Jennifer went to Mr. Payne's house and either complained about Bill and/or --

A. What I asked him was, Have y'all heard about this,

Jennifer McFarland going to John Payne's house and complaining about Bill and the family business? Word on word, exactly, I believe that's what I said, asked.

Q. So you asked them, basically repeating what you overheard in a Perkins Restaurant earlier, correct? That's where you heard that for the first time?

A. Yes, sir.

Q. So you bring it up and repeat that to both Pete and Michael Knight that, do they know anything about that story about the McFarlands, right?

A. They said they have heard the same thing.

Q. What did they say they -- who did they say they had heard it from?

A. They said they heard it on some party they were attending with Mrs. Payne was talking about it.

Q. So Mrs. Payne was talking about it?

A. Yes.

Q. All right. So you would agree with me then though, that you, on that particular instance, you took it upon yourself to bring this issue up and repeat the gossip that you had heard in a Perkins Restaurant to two people to try to get confirmation; is that right?

MR. CLEVELAND: Object to the form of the question. You can answer.

A. That was not my intention. It was a general conversation.

Q. What was your intention?

A. General conversation.

Q. Just passing the time, bring up the neighbors; have you heard that they have marital problems, and he stole his business?

MR. CLEVELAND: Object to the form of the question. You can answer.

A. That's not what I said.

Q. Tell me again what your intention was in raising that issue on your own with Michael and Pete Knight?

A. Pete Knight especially doesn't care a lot for Mrs. McFarland and Mr. McFarland.

Q. What's your understanding of why that is?

A. Numerous calling the -- once or twice. I know twice at least, calling the cops on him, Summerville Police Department on them.

Q. Were you involved in those incidents --

A. No, sir.

Q. -- or are those just things that you have heard again through other people?

A. Oh, yeah. Oh, yeah.
Q. Let me ask you a question in general: Do you believe everything that you hear from people out on the street?
A. The conversation I heard in the Perkins Restaurant, I was curious about it. And it was not two teenagers talking about it. It was two couples, I would say, early '50s, talking about it. And it looked like they were -- had a lot of knowledge of what goes on in Summerville. I was just curious.
Q. Let's go back to that then. You're in the restaurant, in the Perkins. Roughly what time period do you think this was?
A. I would say somewhere around 11:30, 11:45 a.m.
Q. I mean like what year?
A. I believe it was 2010 also.
Q. So roughly --
A. Late 2000 -- October, November, December of 2010.
Q. Who was the subcontractor that you were with in the Perkins Restaurant?
A. Charles Bennett.
Q. Who does he work with?
A. He is an independent subcontractor.
Q. Does his business have a name?

A. No.
Q. What type of subcontractor is he?
A. He digs foundations.
Q. So he's just d/b/a Charles Bennett foundation work?
A. Yes.
Q. So you and Charles Bennett are at the Perkins and you overhear -- is this the booth directly behind you?
A. Yes.
Q. When you overhear them talking, you tell Charles Bennett to be quiet so you can listen to them?
A. No, sir.
Q. How are you picking up their conversation if you're not --
A. Those two ladies, they were loud enough.
Q. Let me finish. How are you picking up their conversation behind you if you're not telling Charles Bennett to be quiet so you can hear them?
A. Both of us were having our lunch. It was not a lot of conversation between us. We were in the process of eating, and the ladies behind me were loud enough, which I could hear.
Q. So you can overhear them because they're talking loudly enough and your testimony was that these

seemed like older people. I believe the term you used was "old Summervillians," and they started talking about Live Oak Village, right?

A. Yes, sir.

Q. And then you hear them bring up the story about Jennifer McFarland and Bill McFarland, right?

A. They did not name them by the name. Neighbor across the street, that was the word they used.

Q. So they didn't even name the people they were talking about, right?

A. Yes, sir.

Q. And you somehow made the inference that it was the McFarlands?

A. Well, based on the fact, who lives across the street from that, I just put two and two together.

Q. So these people behind you in Perkins don't even use a name, tell a story about some people who live in Live Oak Village, and based on your knowledge acquired from wherever infer then that they are talking about Bill and Jennifer McFarland; is that fair to say?

A. That's fair to say.

Q. And then after you overhear this conversation piecemeal in a Perkins Restaurant from two women you don't know, part of it about people that

aren't named, you then take it upon yourself to raise that issue to Pete and Michael Knight and repeat it and ask them if they've heard that?

MR. CLEVELAND: Object to the form of the question. You can answer.

A. What I asked was, Have y'all heard about Jennifer's visit to John Payne's house.

Q. So you repeated what you had heard in the Perkins Restaurant to Pete and Michael Knight; is that right?

MR. CLEVELAND: Object to the form. You can answer.

Q. And asked them if they had heard that?

A. I did not give all the details. My thing to them was, Have you-all heard about Jennifer's trips to Paynes' house.

Q. I don't think that's what you said before, and we'll look at the record.

A. Sure.

Q. But you'd agree with me that based on what you overheard in a Perkins Restaurant with people you don't know, talking about people they didn't even name, you then repeated it regarding the McFarlands to Pete and Michael Knight; is that fair to say?

MR. CLEVELAND: Object to the form of the question. You can answer.

A. What I -- I did ask them if they have heard about Jennifer's trip to -- that's exactly what I asked them. If I said something different before on the transcript, that was not correct. This is what I told them.

Q. Would you agree with me that it may not be the most prudent thing or the most reasonable thing to repeat overheard gossip in a restaurant where people aren't even named, to repeat that about other people directly to yet another set of people?

MR. CLEVELAND: Object to the form of the question.

Q. Is that just the last thing to be doing in general?

A. The detail of that conversation was not to extent which you are making your question. All I said was, Have y'all heard about Jennifer McFarland's -- as a matter of fact, if I remember, I didn't even use her name. I said, do you remember -- I pointed at -- because she was out there working with him -- have you heard about her trip to John Payne's house?

Q. So you don't say her name and because she's out there working with a leaf blower, it's clear who you're talking about?
A. Yes.
Q. So even though --
A. Facing the yard --
Q. Even if you didn't use her name, even though you testified you did before, if you didn't use her name you indicated to make it clear that you were talking about Jennifer McFarland, correct?
A. It was no doubt we were talking about her.
Q. You didn't just say out of the blue to two guys, did you hear about this woman making a trip to John Payne's house and they said Jennifer McFarland?
A. The conversation was, Have you heard, she was out there, that we both were standing on their -- because they were working, we were glancing at them and that's when I said, have you heard about her trip to John Payne's house. Please keep in mind, we're talking about over two years ago. I'm just trying to remember to the best of my knowledge.
Q. I understand. But again you'd agree with me that there was no question in your mind that you were

referring to Jennifer McFarland when you asked that question to Mike --

A. Yes.

Q. Okay. And your testimony is then that both Michael and Pete Knight said that they had heard that same story from John Payne's wife; is that correct?

A. Yes.

Q. Tell me, to the best of your recollection, what Pete said and what Michael said.

A. Well, they said they were in a party. Apparently Mrs. Payne -- again, I don't remember one hundred percent of it. Something about maybe she had some drinks or something and she was talking about Jennifer's trip to their home and this business issue and all that.

Q. Again, I know it's a long time ago. Do you recall what Pete said and what Michael said?

A. I don't remember all the details, no, sir.

Q. Did anything go beyond, in your mind, receiving some confirmation from them that, yes, they had heard this same story?

A. Yes, I got that confirmation.

Q. Did you hear anything from them that would independently verify on their part, yes, I was

there and I saw that, or were they just repeating that they had heard the same story?
A. They said from that party. They were in that party; they had heard Mrs. Payne repeating that. They did say they were in that party.
Q. So your understanding was both Pete and Michael were at a party where Mrs. Payne told this story about Jennifer McFarland?
A. She was repeating the -- she was repeating about -- she was saying about Mrs. McFarland's trip to her house. And I think it is more Pete than it was from Michael.
Q. Okay. So just to back up. I'm just trying to be clear. When you raise this issue with them, they say, yes, they've heard of it, and their basis is that Mrs. Payne told one or both of them that at a party?
A. She was talking not directly at them. She was talking throughout the party and they overheard it during the party.
Q. So again somebody overheard something about Jennifer McFarland, right?
A. You could say that, yes, sir.
Q. Is there any other circumstance that leads you to believe or gave basis to your statement that Bill

McFarland stole his in-laws' business other than those two incidents kind of put together?

A. No, sir.

Q. Would you agree with me that you did not have any independent knowledge as to the truth or falsity of that statement?

MR. CLEVELAND: Object to the form of the question. You can answer it.

A. I think between the two, in my mind, I came to conclusion that that was what had happened, based on the two incidents.

Q. Based on you overhearing people talking in a restaurant and Pete and Michael Knight possibly overhearing someone talking at a party, you felt like that was enough to make that statement true enough for you to repeat?

MR. CLEVELAND: Object to the form of the question. You can answer.

A. After he told me "shoddy contractor," it was a retaliation, yes.

Q. So when he called you a shoddy contractor, that made you angry, right?

A. Yes.

Q. You take your reputation seriously?

A. Yes, sir.

Q. And in retaliation you said that he stole his father-in-law's business?
A. Based on what I've heard out on the street.
Q. I know where you heard it. But you said it to him, correct?
A. Yes.
Q. Who else was present when you said that?
A. I don't believe -- it was three workers in there. Two of them were spreading that. One of them may, may -- I think one of those two guys was maybe in the back of the trailer or truck or whatever unloading the mulch, pushing the mulch in a wheelbarrow.
Q. The guys who were spreading the mulch, how far away are they?
A. From the front of the truck to the back of the truck is -- because we were right at the edge of my property, I would say about 33 feet roughly.
Q. Let's just call it 35 feet to be safe. Let's say they're approximately 35 feet away. Are you yelling now at Bill McFarland and vice versa?
A. It is loud but it is not basically shouting.
Q. Voices raised?
A. Voices raised.
Q. Everybody's a little bit angry now?

A. Yes.
Q. You also agree with me that maybe one of the other guys was by the trailer when this was going on?
A. At end of the trailer.
Q. End of trailer. How far away is that, 20 feet?
A. Right by his gate. From the edge of the road on my side almost to where the gate is.
Q. Was Mrs. McFarland present at this time?
A. No.
Q. Do you know if she was somewhere where she could have heard this?
A. No.
Q. When I say that and you say no, you couldn't see her from where you were, correct?
A. That's true.
Q. Do you know if she was on the back porch or somewhere where you could not see her?
A. I don't know where she was, but she was nowhere around.
Q. You couldn't see her?
A. Yes.
Q. She came out later, though, right?
A. After Mr. McFarland went inside.
Q. Do you know if anybody else was around that could have heard that comment other than the

landscapers?
A. One landscaper could have, but I don't know. There's no way the other two because they were right by his back porch under his porch. That's where they were unloading the wheelbarrow.
Q. Okay. Just a minute ago I asked you about that and you said they were inside the fence, 35 feet away at the most.
A. No. That's not what I said.
Q. You said 33 and I gave you 35.
A. I said where Mr. McFarland and I were to where that landscaper was on back of the trailer. It was 33 feet between us and that one guy unloading the trailer. The other two were deep inside Mr. McFarland's property with the wheelbarrow unloading he mulch.
Q. You agree with me that you testified earlier that at this point voices are raised, right?
A. Yes, sir.
Q. Mr. McFarland's property, they have a fence. Is it a solid brick-wall fence?
A. No.
Q. Does it have like --
A. Wrought iron.
Q. -- wrought iron in the middle and open in the

middle?
A. And bushes, yes.
Q. You agree with me that you could probably see and probably hear a little bit through that kind of fence, wouldn't you?
MR. CLEVELAND: Object to the form of the question. You can answer.
A. I don't believe we were loud enough for that.
Q. Okay. All right. So after you -- you're upset by Mr. McFarland saying you ran a shoddy contracting business. You make the comment, you say in retaliation, that you didn't steal your in-laws' business. What happens next?
A. That is when --
MR. BURKE: I'm sorry. Let me stop for a minute to change the tape. Thank you.
(Deposition went off the record for a brief period of time.)
Q. Thank you. Before we took a break there to take a break, Mr. Rashtchian, I was asking you again about the incident or the altercation on April 26th, 2011. Let me back up real quick before we do that. There was a comment made earlier when we were talking about that you -- we were talking about being able to see the McFarland's house, and

you made a comment about where their bedroom was. How do you know which room is their bedroom on their house?

A. Those are all -- there are some Googe house plans in there, and I'm familiar with all the different Googe house plans.

Q. So just because you're familiar with the plan, not because you've seen anything in their house?

A. No, sir. I've never been inside that house.

Q. You've never seen anything from outside that would indicate that?

A. No, sir.

Q. Before we went off the record, I was asking you about -- back to the incident or altercation we were talking about. We had left off where Mr. McFarland had made the comment about you being a shoddy contractor. You had said it made you mad; in retaliation you made the comment about him stealing his father-in-laws' business. Tell me what happened after that.

A. He got very upset. And it was some profanity went on between the two of us. I really cannot recall where all those profanities were. And it was from him and me both. And this point again I turned around and told the landscapers if they don't move

their trucks I'm going to call the City of Summerville Police, hoping they would move the truck. Mr. McFarland again said they are not moving until they finished their work. After that, basically he went toward his backyard. He went under his porch. That's when for the first time -- I don't know where -- because it takes longer for me from where we were to go toward -- of course, I kept my eyes toward their house and that's when she [sic] met Mrs. McFarland. And I went inside while my water still was running outside on the right-hand side. And I went inside.

Q. So there's a break in the incident at this point?

A. 35 to 40 minutes, maybe not that long. I don't really know how long but it was a break, yes.

Q. So tell me what happens when to go back inside your house.

A. Well, when I went inside the house and I could not see Mr. or Mrs. McFarland outside but the workers were still at their trailer. Right before I went inside, I put my two trash cans at the edge of my driveway to prevent other cars from driving over my grass, and I went inside. About 35, 40 minutes, in that range, my water was washing the

dirt on the right-hand side, when you're facing my house. I went out to move that hose. And as I was moving the hose, the next thing I know, Mrs. McFarland is behind me shouting.

Q. Let me stop you there just for a second, Because I'm trying to keep the time line where we were. You said after you told them to move the truck one last time or you were going to call the police and Mr. McFarland says we're not moving the truck until their done. He goes back in his yard, goes on the back porch. You see Mrs. McFarland for the first time then.

A. I go inside.

Q. And you turn around and go back inside. And you say you put your trash cans at the edge of your driveway before you went inside --

A. Yes.

Q. -- in an effort to keep people driving through there; is that right?

A. Over the concrete -- end of the concrete right in over the concrete at the end of my driveway.

Q. Is Fludd Street -- is it paved in this time period?

A. It is paved. It's very narrow, 18 feet wide.

Q. Okay. I couldn't remember if it was dirt or

paved. So you put your trash cans out there on the street and you go back in your house; is that right?

A. Yes, sir.

Q. What happens when you go back in your house during that 35-, 40-minute break?

A. Well, basically I told my wife what happened. I got some water. It was just about some -- based on my health was some snack thing I ate. I told my wife I'm going to go out and remove -- the water is washing all the dirt on that side.

Q. So you go inside. Are you still kind of upset?

A. I was pretty cool. It was over. My thing is, I get over stuff very quick.

Q. So you go inside, and you tell your wife what happened, correct?

A. Yes, sir.

Q. What kind of discussion do you-all have about that?

A. You know, I told him -- basically he called me -- to go get my green card and maybe told me what kind of shoddy contractor I am. And she said, what did you say? And I told her exactly what I said a little bit earlier.

Q. Okay. So do you recall anything specifically that

your wife told you during that break period?
A. No, sir.
Q. And you believe you just kind of repeated to her what happened in the street when you were inside, about what you felt like was an insult to you about your work?
A. I didn't go through all the details. One thing is, I treasure my wife. I don't get her involved with a lot of stuff. I just wanted to tell her the bare minimal.
Q. Okay. All right. So then after a 35-, 40-minute break or interlude, for lack of a better word, you said you saw your hose start to wash part of the things away on the right-hand side for your yard; is that right?
A. Yes, sir. That's very shady. It's very hard to keep the grass growing in there. And we have to do a lot more maintenance on that side.
Q. Is this the right-hand side of your yard as you face out your front door or as you face your house?
A. As you are facing my house.
Q. So if I'm looking at your front door, on the right-hand side?
A. Yes, sir.

Q. Okay. So you go outside and go to your left, going out the front door --
A. Yes.
Q. -- to that side of your yard and to go move the hose. And then tell me what happens next.
A. As I bend over to pick the -- we don't have a sprinkler system. And I picked it up. And to move it I normally hold my hose to stop the water. I don't go cut the water off. And the next thing I know, Mrs. McFarland is behind me shouting, What have you heard? She was furious.
Q. Okay.
A. What have you heard, she's saying, about my father's business?
Q. Okay. Is your back to Fludd Street when you pick up the hose?
A. Yes, sir.
Q. Where is she when you first turn around and see her?
A. Right behind me on my driveway at edge of the property line.
Q. So she's either right on the edge of Fludd Street or edge of your driveway?
A. She is in my driveway as per, I guess you refer to it, an easement area.

Q. How far is she onto your -- the paved part of your driveway?
A. I would say about four, five feet, by the ditch.
Q. Okay. And when you turned around -- so you have like a drainage ditch across the bottom there, the culvert you talked about?
A. Yes, sir.
Q. When you turn around, she's upset and says -- she wants to know where you heard the things about her father's business, right?
A. Yes, sir.
Q. Tell me what happens then.
A. I keep ignoring her. And the -- when I turned around, her finger was flying in the air about, You cannot go say this kind of stuff. Where have you heard that? I need to know where you have heard that. That's all she wanted to know, where I've heard that. As far as I was concerned, that conversation was over. And I did not -- the other thing is, I did not want to get into -- I don't get in shouting match or any kind of profanity or anything like that with the ladies. It has never been my practice. It when will be.
Q. So when you turn around she's yelling at you about, where did you hear the things about my

father's business, that you had said to Bill and in front of the landscapers. And she's wagging her finger in your face --

MR. CLEVELAND: Object to the form of the question?

A. Yes, sir.

Q. -- from the beginning?

A. I did not know she was pointing her finger until I turned round.

Q. Did you notice anything about her? When you turned around, was she holding anything?

A. No.

Q. She wasn't holding a puppy?

A. No.

Q. Did you at any point in time feel threatened by Jennifer McFarland?

A. She -- because where the hose was, it was close enough -- which I'm always concerned about interaction with females. All they have to -- turn around basically and accuse me of something. For that reason I was very careful not to get close to her. No, I did not feel threatened by her. No.

Q. When she's saying these things to you and pointing her finger at you, are you standing still? Do you

retreat? What happens?
A. I believe as I was moving the water -- I think I put the water down just for a second. I don't how I hold it up, the hose under my foot; I don't recall. The water was stopped. When she said something about where have you heard that, I don't recall if I said that, but I may have turned around and told her, your husband got what he deserved, or something like that.
Q. So you may have responded to her and said, your husband got what he deserved?
A. Something like that. I don't recall exact word.
Q. But you did speak to her?
A. Maybe one of two words. I haven't had ten words with her except between the incidents with the survey and that with her.
Q. Okay. Whether she's out there, do you see anybody else out in the street that you can see other than Jennifer McFarland?
A. No.
Q. Is Mr. McFarland out there, the landscapers?
A. No. Mr. McFarland was not out there, no.
Q. So after she keeps questioning you instantly about where did you hear those things about my father and you didn't want to engage her, but you may

have said, Your husband got what he deserved. Do you recall anything else after that?

A. I don't recall.

Q. Why did you just not tell her where you had heard these things if you had just overheard them in a Perkins Restaurant or from people in the neighborhood?

A. Under the circumstances, everybody upset, no. That was not the place to say.

Q. But saying your husband got what he deserved was appropriate?

A. I believe that's what I said.

Q. What do you recall after that happened?

A. After that, my wife apparently saw Mrs. McFarland doing -- Mrs. McFarland Basically shaking her hands at me, her fingers at me. At this time basically I no longer was my back to her, and my wife came out. We both are very protective of each other, and she came out and said, If you need to talk to him, you need to talk to me; your husband can talk to Mansour.

Q. So you did not talk to your wife before she came out of the house; is that right? She just came out when she saw this?

A. She saw the incident. In her mind and my mind,

when a male is interacting with a female, it is an unfair advantage for the females. That's why she came out.

Q. Explain that to me, please.

A. When you're having a dispute, on this case, the female can always claim this and that and that. My wife felt like that's unfair.

Q. So that's why she came out of the house, was to sort of protect you from some claim from Jennifer McFarland potentially?

A. Well, I won't call it claim. To say if she needs to talk about these issues, she can talk to her. I believe that's what she said: You need to talk to me and your husband can talk to my Mansour, or something to that effect.

Q. What happened after that?

A. Then Jennifer start yelling at both of us and the conversation at that time mainly turned between my wife and Mrs. McFarland.

Q. At this point in time, to your recollection, is it just you and Jennifer and Amy?

A. Yes.

Q. The landscapers are not around?

A. No. Two of the landscapers retreated right there (indicating). They have a little circle with a

tree in the middle with some water fountain or something you can hear. Two of them retreated in there. I don't know where the third one was.

Q. But the truck is still there?

A. Oh, Yeah. Truck is still there. Truck still --

Q. Okay. Is Mr. McFarland there then?

A. No.

Q. Tell me what you recall, the words that were exchanged between your wife and Mrs. McFarland at this time.

A. When Mrs. McFarland kept asking that about where I have heard that business, the whole issue at this time, the discussion was about the business. She -- I don't know. She was furious. Please keep in mind, this is just my assumption. I felt like she had some kind of fear or something. She was very shaken. My wife kept telling her, you need to talk to me and all that. She kept moving her fingers on my face because I wasn't standing next to my wife. Some point, discussion came, I don't remember all the details because my wife and her talking about making -- is uncomfortable, the situation in the neighborhood. Jennifer said, We are not moving. My wife says, We're not moving. At that time I was basically ready for it to be

over.
Q. Okay. Tell me when -- what you recall about either you or your wife making any comment about people coming and going out of the McFarland house when Bill McFarland is not there.
MR. CLEVELAND: Object to the form of the question. You can answer.
A. That was not in that stage when that came out.
Q. Okay. If it's later, we'll get to it. That's fine.
A. Mr. McFarland joined us at that point. Roughly around that area Mr. McFarland joined us (indicating).
Q. How long do you think that period was when it was just you, Amy, and Jennifer before Bill came out?
A. I'd say four or five minutes, if that long.
Q. During this four- or five-minute period, all you really recall is Jennifer keeping asking, why are you saying this about my father and our business; where did you hear that, that kind of stuff?
A. Yes.
Q. Do you recall anything of substance being said by either you or your wife related to anything other than the family business issue?
A. It was issue about who goes in and out of your

house. It came up after Mr. McFarland joined all of us.

Q. Tell me what happened -- tell me about that, when he came out. What happened when he came out again?

A. When we were talking about the -- most of the conversation was between my wife and Mrs. McFarland. Then they started talking about we're not moving, you're not moving, that kind of stuff. Mr. McFarland got right in my wife's face and about four inches from her face and telling her something about, We are not moving. She repeated and repeated the same thing and insulting. I don't remember all the insult words. At that stage I was ready for it to be over. Mr. McFarland keep repeating the words, I know everything about y'all. I know everything about y'all. I know everything about y'all. He probably repeated that three, four times. I remember that.

Q. So when Mr. McFarland comes back out, you say your recollection is he comes up to your wife?

A. He goes right in her face.

Q. And gets close to her face, correct? Do you recall either of them touching each other?

A. No.
Q. To your recollection, at all, did your wife and Bill McFarland ever have any physical contact?
A. No.
Q. Did anybody, to your recollection, in this confrontation ever have any physical contact?
A. No.
Q. You said a couple times in your testimony that you were kind of ready for this to be over; is that right?
A. Yes, by all means.
Q. Was there anything that prevented you from turning around and walking back in your house?
A. As we start to go at that time, basically we all -- it was almost over. We went, at that time, from this driveway. We have already reached -- by the way, at some point I moved the water when my wife came out. We moved to the front of my property, the middle of it. As we were going, passing the truck to go to the other side to go back in, Mr. McFarland started making the comment, I know everything about you; I know everything about you. That's when my wife turned around, told both of them, Instead of you-all worrying about everybody else, worry about who goes in and

out of your house when you guys are not home.
Q. Okay. And your wife said that?
A. Yes.
Q. Your recollection is she said to both of them, worry about who goes in and out of your house when you're not home, not to Bill about Jennifer?
A. No. To neither one of them. It was directed at both of them.
Q. What is your understanding of what that comment meant?
A. A couple weeks prior to this incident we observed a car parked right between the property between Mr. and Mrs. Mazell-- no, Mr. and Mrs. McFarland and Mr. and Mrs. Knight. Most of the car was parked over on McFarland's property, right over area, on the road, sitting on grass, on the road side of the ditch. They are very protective of that. They don't allow anybody to park in there. They monitor that area. Better than most people they do their yard, which they are commendable for it, commend them for that. We have -- based on we having teenage son, we are scared to death. It is one of our friends -- one of my sons, he was at that time freshman or junior -- sophomore at the college. We were scared to death one of his

friends -- he was a sophomore -- have parked in there. I believe it was Saturday. I asked my son, Is this one of your friend's car? He came and looked. He said, No, Dad, I don't know whose car is that. He went inside.

Then I noticed a young man, right there, jumped that short -- I believe the fence was -- it cut through the front of the Knights' property. He went through the front of the Knights' property. He went around. I did not see him after that till he showed up and the driver -- the parking side of their home, he showed up walking, going toward their home. Donna Knight came out and I asked Donna, Who the hell is that cutting through your yard? She said she don't know. Her and I, we started laughing. And that was the last time we saw it. Michael Knight saw that also. All three of us saw that. That was reference to that issue.

Q. So let's back up through that. So this car parked, as your facing the McFarland house, to the left of their property, down the right-of-way?

A. As from our front door, you looking at it, that's their property, the car was parked right here (indicating).

Q. Okay. Okay. Is that still -- that's on the edge of the Knights' and the McFarlands' right-of-way basically?
A. Yes. Most of it was in Mr. McFarland's property.
Q. So if you're looking out your front door, it's to the right, not to the left?
A. Yes, sir.
Q. Towards Central Avenue?
A. Yes, sir.
Q. So you see this car. What time of day is this again?
A. Around 11, 11:30, 12:00.
Q. At night or the afternoon?
A. No, daytime.
Q. Broad daylight, okay. So you see this car; you see a teenage boy get out of the car, right?
A. I never saw his face.
Q. But could you -- what kind of person do you think got out of the car?
A. I would say probably a teenager.
Q. Male or female?
A. Male.
Q. Couldn't see his face, looked to be a teenage boy; is that fair?
A. Yes.

Q. What type of car was it roughly?
A. It was a silver car.
Q. Sedan, pickup truck?
A. Sport utility.
Q. Big like a Sequoia, small like a --
A. No. Small like the 4Runner, very small one.
Q. Where are you standing when you see this? Were you in your house or out in the front yard?
A. Actually right by my mailbox because I went to investigate it to see whose the car is. My son came out and looked. I was still out there right in that area (indicating).
Q. So were you in the house when you first saw it and walked out?
A. Originally I saw that car from my living room; it was parked in there.
Q. So then when you see the car parked there, you walk out your -- down your driveway and that's when you see a teenage male get out and cut through the Knights' yard?
A. Yes, sir.
Q. Towards the McFarland house?
A. Yes, sir.

THE WITNESS: Can we take a break.

MR. BURKE: Sure.

(Deposition went off the record for a brief period of time.)

Q. Mr. Rashtchian, before we took a break there, we were talking about an incident where you observed a teenage boy, teenage male, who had parked his car, you say, kind of on the boundary, right-of-way between the McFarland and then the Knight property; is that right?

A. Yes, sir.

Q. And you saw him get out of the car and go --

A. I did not see him get out of the car.

Q. Tell me what you saw.

A. He was already out of the car. When I looked down the street, he was cutting through the --

Q. The Knights' yard?

A. Knights' front yard.

Q. Where was he the next time you saw him?

A. The left corner, rear corner, of Knights' property where their driveway is, ducking, kind of ducking, going toward their home.

Q. Was he in the lot, like going deep in the lot, or was he near the front still?

A. He was almost at that rock area or where -- I could see him behind the Knights' trash can or something.

Q. At this point in time, you're standing in your driveway, correct?
A. I'm at end of my driveway by my -- I think mostly in the Fludd Street, from the front of the car I just crossed -- I move in the -- I made sure -- I think I was right across street somewhere in here (indicating).
Q. So you had walked up the street a little bit?
A. Yes. Because after I'd looked at this car and all that, my son came, when I inspected it. I mean, I looked at it across this way and saw the gentleman. He was somewhere in here (indicating). And that's when I saw -- I'm sorry.
Q. If you want to use the drawing, you can.
A. Yeah. If I can have a pen, I will mark it in there. The gentleman was somewhere, if this is the Knight's property, he was somewhere in this area right here.
Q. So in the back of their property. Oh, excuse me. As their house faces their front yard, really?
A. This is their front right here (indicating). That's what -- their driveway is in here somewhere, and he was in somewhere. And I was somewhere in here, and that's when I saw Donna and her and I had a chit-chat before I went in side.

We had chit-chat right there.
Q. Where did you see him when he was in the Knights' yard, where you drew that circle, go over to the McFarland house?
A. I believe he either -- I don't recall if he jumped in here or he jumped in here to go over.
Q. But on the Knights' fence?
A. On the Knights' fence. It's a short fence.
Q. Did you ever see him go into the McFarland property?
A. All I saw was he was ducking in there. I asked Miss Donna, who is that going through your yard? She said she didn't know, and that was another conversation.
Q. So just to back up. You see that car parked. You see the young man when he's out of the car?
A. I saw him, he was walking right around in here (indicating). When I was here, he was somewhere right around here.
Q. He jumped the fence where you indicated there?
A. Somewhere around here he jumped the fence, yes, sir, on the section in front of their home.
Q. On the Knight property?
A. On the Knight property.
Q. And then you say you saw him again when he was

sort of by their driveway; is that right?
A. At end of their house, somewhere in their driveway, yes, sir.
Q. Okay. Did you ever see him go into the McFarland house?
A. He ducked; he went toward their house or inside. I didn't see it.
Q. Okay. So he went toward the McFarland house?
A. Yes.
Q. You're pretty familiar with the McFarlands' property. Don't they have a large fence around the entire property?
A. They do. Where they went from here -- when he ducked in here, I have no idea which way they [sic] went. I have no idea.
Q. So you don't know if he went in the McFarland house or not?
A. My thing was, I know they [sic] didn't go to her house because she says -- I asked her, who is that guy. She said, I don't know. And he was already -- the way the angle is, he was already past her house. He was going towards this way (indicating).
Q. Okay. When you say this way, you're almost pointing towards the front of the McFarlands'

yard?
A. Toward this area right here. I didn't see after that where he went.
Q. So once you saw him in that spot by the driveway, you never saw him again?
A. No.
Q. Did you see him when he left the property?
A. No.
Q. Okay. How long do you think the car was there?
A. I didn't pay attention. I don't recall.
Q. So you see this car, a strange car, enough to make you go out, walk to your driveway and see this guy, watch him go in the neighbor's property, but you're not sure how long the car was there or when it left?
A. After that, we knew it was not any of my son's car, I was disinterested in it.
Q. When you talked to Donna Knight about this, what do you-all -- what does she tell you at the end of the driveway?
A. I said, Donna, who the heck is -- or something like that, who just jumped your fence, or something to that effect. She said, I have no idea.
Q. Did she seem concerned that somebody was cutting

through her property?
A. Oh, she was laughing.
Q. Did she seem to have any idea who it was at all?
A. I'm not too sure.
Q. Did she tell you she saw where that young man went?
A. You have to ask her. We didn't discuss that.
Q. She didn't tell you that?
A. No.
Q. So based on this incident, you saw a car parked on Fludd Street between the Knight and McFarland properties, saw a young man cut through the Knight property and you saw him by the Knights' driveway; is that fair to say?
A. Yes.
Q. Is that the extent of what you saw or what you observed about this young man's escapades that day?
A. Well, the thing was, he was going toward their home, toward Mr. and Mrs. McFarland's home. And that's why I said, Worry about who goes in and out of your house.
Q. That's fine because that's where I'm going next. But based upon what you saw, you never saw that person go in and out of the McFarland home, did

you?
A. Inside the home, no, sir.
Q. Did you see him go over the fence or ever on their property?
A. Not necessarily, no.
Q. Well, either you did or you didn't.
A. I didn't.
Q. Okay. So then if you saw this young man, the only time you ever saw him, he was either on the right-of-way or on the Knights' property. Why would you make the assumption that he went in the McFarlands' property?
A. Where the car was parked and where he was and where he was heading.
Q. But the only times you saw him, he's parked kind of between the Knight and the McFarland property, right?
A. And where he was at the end -- at end of their driveway going toward their home.
Q. All right. And the only time you saw him he's on the Knights' property, correct?
A. Yes.
Q. Did you think that he went in and out of that house?
A. No. Because Mrs. Knight was -- when I asked

Mrs. Knight who is that, she said, I have no idea. She started laughing.

Q. So based upon what you saw that day and her not knowing who that young man was, you not ever seeing where he went, why would you then tell the McFarlands in the middle of this incident, You need to be aware of who's going in and out of your house? How do you get to there?

A. It was just a -- you could say it was a issue which we assumed that guy went toward their house.

Q. Okay. So you made an assumption based on something that you did not see, correct?

A. Well, I did not see this gentleman go in their house, no.

Q. But it was enough for you to make that assumption and then repeat this to them in a heated argument that they need to be aware of was going in and out of their house, correct?

A. When he kept repeating, we know everything about you know, we know everything about you numerous times, that's when my wife made that comment to them to worry about who goes in and out of your house.

Q. So your testimony is that when she made that comment the only thing that she was referring to

was this young man cutting across the Knights' yard?
A. Yes, sir.
Q. And your wife didn't even witness that, you did; is that right?
A. Yes, but I told her that.
Q. So you repeated it to her and that was enough for her to tell them --
A. Well, actually she was involved by getting my son to go out there and making sure it's not one of his friends' car. She was involved with that issue also. But actually going in there, talking to Donna Knight, I was the one who walked over there, talked to Mrs. Knight.
Q. Did you ever have any discussions or ever say -- during this whole incident with the McFarlands in the street related to the landscaping truck, did you ever make any comments about people going in and out of the McFarland house or was it just your wife?
A. My wife.
Q. You never made any of those comments?
A. When I started to say anything, my wife said let them go figure it out on their own.
Q. What do you think she meant by that?

A. Exactly who is basically -- let them go investigate to see if -- whoever this person was, let them to figure it out. The incident about the car parked there and all that, she said let them figure it out.

Q. Let me ask you this. If you were -- there were several people that were here during this incident who overheard things. Everybody's memory is a little bit different. The people who are involved in this incident who are not you or your wife took the comment that was made by your wife to mean, to be directed to Bill McFarland, that he needed to watch out who was coming in and out of his house while he traveled on business. The implication to them was that they were going to see Jennifer McFarland. Is that incorrect?

MR. CLEVELAND: Object to the form of the question.

A. We don't even know what kind of business Mr. McFarland has.

Q. Well, you do now, right?

A. Wait a minute.

Q. Okay. I'm sorry.

A. I'm talking about during the incident.

Q. You knew he had his father-in-law's business,

right?
A. We did. We did. However, we didn't know if he travels. We have no idea. Mr. and Mrs. McFarland, they are in their home 24/7.
Q. You think they're in their house 24/7?
A. They -- my point to that is, we have never noticed, which Mr. McFarland being absent from his home for a long time. They are always together. They're always working together. They enjoy working in their yard, morning, afternoon, evenings.
Q. In your experience being their neighbor, your testimony is, you don't think either Mr. McFarland or Mrs. McFarland is gone from the house for long periods of time; is that right?
A. We have not noticed that. We have no -- we have no knowledge of Mr. McFarland going to a trip. We have no idea of that.
Q. And you say whenever you see them they're together working in the yard or doing things; is that right?
A. Yes, sir.
Q. So again, I'm having a problem understanding how when you see this teenager cutting through the Knights' property you make the assumption or your

wife does to the point to tell them, You need to know who's going in and out of your house when you're not there. You just told me they're always there.

MR. CLEVELAND: Object to the form of the question. You can answer.

Q. Do you understand the question?

A. I completely understand your question. Mr. McFarland has a couple direct statements he makes to people around him: I know everything about you; I know everything about you, one more time. And he also has: I'm not finished with you; I'm not finished with you. Those are the comments in the general neighborhood, which Mr. McFarland makes all the time. We take that as a threatening thing.

Q. So even if you take that as a threat, again, I'm having trouble understanding why you would say -- you just told me that they always seem to be home and always seem to be together. Why would they need to know --

A. When I say together, meaning working on their yard together.

Q. All right. If the McFarlands are always home or always seem to be home, why would your wife make

the statement that you need to be aware of who's going in your house when you're not home?

MR. CLEVELAND: Object to the form of the question. You can answer.

A. It was meant to be based on what you just said, about always being together. It was not meant to be for either one of them, cheating on the other one. The word cheating, I didn't even know what the word cheating was brought up here. We heard from them the meaning of word "cheating."

Q. If other people who heard this altercation, including either of the McFarlands or the landscapers or anybody else who heard it, if they got the impression that the comments your wife made about people coming in and out of the house was intended to imply that Jennifer McFarland was being unfaithful to her husband while he was traveling on business, would that be an incorrect interpretation?

A. The word business was never, ever, ever was repeated.

Q. How about went out of town, just out of town?

A. It was not repeated either.

Q. How about just away from the home?

A. It was never repeated.

Q. So what's the basis of the comment, You need to know who's going in and out of your house?
A. Basically, worry about yourself.
Q. Okay. All right. So again, if somebody who heard this altercation, if they understood the comment that your wife made to be about people coming in and out of the house in a way that implied that Jennifer McFarland was unfaithful to her husband or may have been, that would be an incorrect interpretation?
A. We cannot help what other people, they do, interpret what was said. The answer is no.
Q. Thank you. Is there any other basis for the comments your wife made about people coming in and out of the McFarland house other than the incident with the teenage boy parking and cutting through the Knight yard?
A. No, sir.
Q. That's the whole -- that's it?
A. Yes.
Q. Did you overhear anything else at a party, at Perkins, anywhere else?
A. No, sir.
Q. Just to be clear, during this entire altercation, neither you, to your recollection, nor your wife

ever made any comment that you feel could be construed that Jennifer McFarland was ever unfaithful to her husband?

A. No, sir.

Q. The issue with the teenage boy again, you said it was a couple of weeks prior to this incident of April 2011. Do you recall roughly what date or time period it was, weekend, weekday?

A. It was a weekend.

Q. And again, you said it was midday like 11:30, 12? You have to say yes or no. I apologize.

A. Yes.

Q. All right. So going back to the altercation. When you your wife makes that comment about you need to be aware who's going -- you may want to be aware of who's going in and out of your house when you're not there, what happens next?

A. We basically departed. That was the end of it, where my wife said let them figure it out themselves. That's when we went inside.

Q. Do you recall anything else that was said by either your wife or you or either of the McFarlands around the end of the incident that we have not discussed?

A. No, sir.

Q. All right. You said repeatedly that Bill McFarland kept saying, I know all about you; I know all about you; I know everything that you do. Did you ever say anything like that to them?
A. No.
Q. You never said anything like that?
A. That is phrase Mr. McFarland uses.
Q. Mr. Rashtchian, did you ever, at any point in time, point to the Mazell house and say to Bill or Jennifer McFarland, I know you look at her bedroom window with a telescope?
A. No, sir.
Q. Do you know anything about that statement other than the discussion that we had earlier about telescope and that you feel like they were looking at you?
A. They were looking at me, yes, sir.
Q. You never pointed or referenced the Mazells' house in any way during this incident?
A. No, sir. Mazells never came up in our conversation during this incident.
Q. When you -- after your wife says, Let them figure it out for themselves, you both go back in your house, and that's the end of the incident from your perspective?

A. Yes, sir.
Q. What happened after you go back in the house? Did you see them out there? When did the truck move? What happened after that?
A. Basically it was just about the -- it was late enough, I think, the landscapers had already finished and we went inside. We did not even worry about it. And after another 45 minutes or 50 minutes, one of us -- I can't remember which one -- came out and turned off the water and went right inside because it was still running.
Q. Okay. During the time period where there's the break in the incident for about 45 minutes and you go back out there and your wife comes out and then it ends, did you ever see another car drive on your grass or be directed on your grass during that time?
A. No.
Q. So during that like hour --
A. It was like a dead -- well, it was a dead issue.
Q. During this altercation, Mr. Rashtchian, did you ever, when asked by either Bill or Jennifer McFarland, who's telling you these things, ever point at the Mazell house?
A. Mrs. McFarland kept asking, where have you heard

that; where have you heard that? Throughout that whole thing it was ignore, ignore, ignore, till my wife came out.

Q. So you ignored her, never gestured, never did anything --

A. No, sir.

Q. -- other than maybe say, Your husband got what he deserved?

A. Yes.

Q. When your wife came out of the house when you were having the confrontation with Mrs. McFarland, do you recall her saying, when she came out, Bitch, let's make this fair; you don't talk to him; you talk to me?

A. She said let's make it even. You talk to me and your husband can talk to my husband.

Q. But you don't recall any profanity accompanying that?

A. I don't believe my wife used that comment.

Q. Again, just to be clear, you deny that at any point in this time you ever said or implied that Jennifer McFarland was unfaithful to or cheated on her husband?

A. Never.

Q. Do you deny that you ever said that they steal

money from family, other than the comment you made about him stealing his business from his father-in-law?

A. I didn't say he stole it. I said, I didn't steal my in-laws' business.

Q. Would you agree with me, you're talking to Bill McFarland, implying someone stole their business from their in-laws? Is it fair for me to assume that you were directing that to Bill McFarland?

MR. CLEVELAND: Object to the form of the question. You can answer.

A. You can take that assumption, yes.

Q. Do you recall, at the end of this incident when you and your wife are going back to your house, did your wife ever say anything like or similar to: We're not backing off as long as you live here and we won't stop until you leave or move; we're not going to stop?

A. It was not necessarily in that manner you phrased it. All she said was, Y'all make everybody uncomfortable or something to that effect. That is when Mrs. McFarland says, We are not moving, and my wife says, We are not moving. That was the end of it. From beginning to end, that was the end of it, period.

Q. Do you remember Amy saying, in the driveway as you were going back in your house, towards Bill and Jennifer Mr. McFarland, Yeah, ask me about the people that sneak in your backyard while you're out of town. I'll tell you all about it. Just ask me. I will tell you everything?

MR. CLEVELAND: Object to the form of the question. You can answer.

A. I'll go back to the same answer that I gave in the previous. When Mr. McFarland said, I know everything about you, all she said was worry about who goes in and out of your house, and that was the end of the conversation and we went home.

Q. After this is over and you go back in the house with your wife, did y'all have any discussions about what just happened, that you can recall?

A. Just what unreasonable people they are and couldn't believe they have the audacity to, you know, direct the trucks to go over, the considerations [sic]. In general, that was it.

Q. When was the next time that you heard anything about this incident?

A. Basically that's why we were concerned. It was over till we -- we got the file -- we got served with a summons on May 2nd.

Q. You're talking about the suite papers, the lawsuit?
A. Yes, sir.
Q. Did you speak with the police about this incident?
A. Oh, the police, of course. Thank you for verifying that. About two weeks later they -- it appeared everything was staged, Mr. and Mrs. McFarland had called the workers to come work on their homes and they called the Summerville Police Department and basically filed a complaint about the incident after two weeks.

MR. BURKE: Will the court reporter mark that as Exhibit 2, please. All documents were produced in discovery. It's a packet basically of the police report, incident report, that stuff, all marked in one packet. I just marked it collectively to make it easier, hopefully.

(Plaintiff's Exhibit No. 2 marked.)

Q. Mr. Rashtchian, what I've handed to you has been marked as Plaintiff's Exhibit No. 2, is a packet of documents. And I'd like you to take a look through there and see if you recognize those documents, can identify them.

MR. CLEVELAND: Of course, I would object to the extent that you're asking about documents that

he did not prepare, since you have the entire package.

MR. BURKE: Sure. Mr. Rashtchian, your microphone.

THE WITNESS: Sorry.

MR. BURKE: It's easy to do.

THE WITNESS: Thank you.

A. They only thing I notice in here missed -- the other Johnson's statement is not here.

Q. Stephon Johnson, I believe?

A. Yes, sir.

Q. But otherwise, have you seen the documents in that packet?

A. Yes, sir.

Q. I'm going to ask you some questions about those. What's been marked as Exhibit 2, on page one, and to just kind of speed things up, that appears to be an incident report from the Summerville Police Department that is dated May 11th, 2011, at the bottom. Do you see that?

A. Yes.

Q. And it has an incident date of 4/26/2011, which is the altercation we've been talking about here today; is that right?

A. If that is the exact date. I don't recall the

exact date. If we are taking the assumption that was the exact date.

MR. CLEVELAND: Can I have a continuing objection to all your questions relating to Plaintiff's Exhibit No. 2 to the extent that you're asking him about documents that he did not prepare himself?

MR. BURKE: Sure, absolutely.

Q. You said you had seen this report before, correct?

A. Yes, sir.

Q. It's signed at the bottom by a Patrolman Terranova?

A. Mr. Terranova, Officer Terranova and another officer came and knocked on our house and they asked about what we have said and they had discussions with Mr. and Mrs. McFarland first and as he was leaving he gave us a volunteer statement -- a voluntary statement form. He asked me if I would fill it out, and I told him after discussion with an attorney I would return it to him. As he was leaving our door he said, well, based on what documents they have, y'all have admitted to everything, before he left our house.

Q. He said that you-all had admitted to everything?

A. Yes.

Q. How did you feel about that?
A. We don't question police officer, and we didn't basically follow up or anything like that. But that made my wife real uncomfortable, Mr. Terranova making that statement.
Q. Why did you feel like he made that statement?
A. Basically, as far as we were concerned on his eyes, we were already guilty.
Q. Why do you think that was?
A. I don't know why he made that statement. That statement was uncalled for. It was -- I'm not too sure an officer in the police department should have made that statement. You're not guilty until proven guilty.
Q. All right. On that first page of what's marked as Exhibit 2 there is a narrative portion of the report. About midway through it says, "I spoke with the landscaping crew, Stephon Johnson and Lance Johnson who corroborated McFarland's statements were true. It's a typo for "were." But do you see that statement there?
A. Yes, sir.
Q. Do you -- and it says later that McFarland, Stephon, and Lance completed voluntary written statements detailing the events. Did he tell you

that when he met with you, that he'd already spoken to them?

A. No, sir.

Q. You think the fact that he felt like that Lance and Stephon Johnson had corroborated the McFarlands' statements may have been why he felt like it was true or felt like you admitted everything?

MR. CLEVELAND: Object to the form of the question.

A. He could assume that.

Q. Further down the narrative it says, "Rashtchian stated McFarland was rude and used obscene language to him during their conversation. Rashtchian stated he will complete a voluntary written statement detailing the events and drop it off at a later date after he contacted his attorney." Do you see that there?

A. Yes.

Q. Do you recall having that discussion with Officer Terranova?

A. Yes.

Q. All right. Did you in fact complete a statement, a written statement?

A. I did complete a written statement.

Q. Did you speak with an attorney at that time about this incident when the police came or before or during the time you completed your statement?
A. I never showed these statements, mine or hers, to an attorney.
Q. So even though you said you wanted to speak with an attorney, you don't think you did before your statement?
A. We didn't.
Q. Okay. Do you have an attorney who works for your business generally or helps you with things?
A. No, sir. I use different attorneys for different applications.
Q. Do you have an accountant for your business that you use all the time?
A. I do my own accounting.
Q. Have you ever used an outside accounting firm for your taxes or anything?
A. No, sir.
Q. All right. If you would turn over to page three of Exhibit 2, which, again, for identification and purposes of expedience, I will identify as Summerville Police Department Voluntary Statement Form of Lance Elliott Johnson, dated May 10th, 2011. And have you seen that statement before,

sir?
A. Yes.
Q. In reading Mr. Johnson's statement, kind of going through the middle there -- well, it's pretty short. He says, "We were in the yard working. I, Lance Johnson, was parked in the street and a guy from behind Bill's house rushed out of his yard screaming and cursing, using foul language at us and saying, get the F off the road, son of a B, and he just started rushing towards us screaming at Bill and Jennifer's face, saying a lot of personal things about them like, you better watch who's coming in your house when you are out of town and he said you are a racist son of a B. It was just crazy. Then his wife came out and did the same thing, screaming in Jennifer's face and saying all kinds harsh things." Did I read that correctly?
A. That statement is not correct.
Q. But did I read it correctly?
A. Yes.
Q. You disagree with the statement?
A. Yes, sir.
Q. And your disagreement would be based on what you told me here today, correct?

A. Number one thing is, Mrs. McFarland wasn't even out there when I went out there; he says she was. The entire statement is incorrect. And it almost -- it appears to be that this gentleman has been coached.

Q. Okay. But that's your conclusion based on what you recall from the event, correct?

A. Yes, sir.

Q. Again, in the statement that I read, did I read anything incorrectly?

A. No, sir.

Q. I understand you disagree with the substance of it.

A. Yes.

Q. On the next page there's a supplemental report from Officer Terranova where it says -- it talks about your agreeing to complete witness statements and a narrative that says, "Mansour advised that he would drop off the statements at a later date after he spoke with his attorney. On May 13th, 2011, I received signed statements from Mansour and Amy Rashtchian. A supplemental report was completed referencing the original case number. So based on that, do you recall completing reports -- do you recall both of you completing

written reports over a period of two or three days and returning them to the police officer?

A. I dropped it at Summerville Police Department, yes, sir.

MR. BURKE: I think we will stop there.

(Deposition went off the record for a brief period of time.)

Q. Mr. Rashtchian, we're back on the record. We were talking about Exhibit 2. There is a packet of police reports and statements that were given by various witnesses in this case. One of the things I wanted to ask you before we got into your statement is: Do you recall speaking to the Mazells on the day the police came to your house and the reports were taken?

MR. CLEVELAND: Object to the form of the question. You can answer it.

A. I don't recall.

Q. Do you recall speaking with the Mazells about this case since the time of the April 26, 2011 incident at all?

A. I did go to Mr. Mazell's house. I don't recall if we spoke about this.

Q. When you went over there, when do you think that was?

A. I'm not -- I don't recall.
Q. Close to this incident, a year later, a week ago? Can you ballpark it for me?
A. A couple weeks, couple months. I cannot recall.
Q. Closer to the incident than today; is that fair to say?
A. Yes.
Q. And you don't recall speaking to them at all about this dispute with the McFarlands?
A. Don't recall.
Q. Have you spoken with them at all since this lawsuit was filed?
A. No.
Q. During the McFarlands' depositions, some documents were produced and introduced related to the Mazells and some issues at Live Oak Village. Do you know if those documents came from their attorney Brad Young or from the Mazells?
A. I have no idea.
Q. Let's go back to Exhibit 2. I believe page eight begins your statement. And, again, does this appear to be a true and accurate copy of the statement you gave on May 11, 2011? Does it appear to be an accurate copy?
A. Yes, sir.

Q. Going through the statement, about two-thirds of the way down it says, "I reminded him how he has made other neighbors uncomfortable and how no one likes or cares for him. He told me about the incident we had nine years ago, the fireworks issue." Other than the issues we talked about with the Mazells' survey issue and maybe -- was it John Payne's driveway; is that right? Or was it Pete Knight's driveway? I get them confused.

A. Yes.

Q. Other than those issues, again, are you aware of any other issues with neighbors that we have not discussed that you're aware of?

A. I don't recall. No. Not until the day of the incident, no.

Q. On page two of your statement, about halfway down, you're giving a narrative about what happened that day. And it says, "I told him how none of the neighbors like him. He told me he has heard what king," I think it's a misprint, "of contractor I am. I am residential home builder." You agree with me, that statement says he told you what kind of contractor you are; is that right?

A. Yes, sir.

Q. It doesn't say he told me I was a shoddy

contractor?

A. He used the word shoddy. I did not put that in there at the time of the police incident.

Q. Is there any reason why you wouldn't put that in a written statement you gave a couple weeks after this incident?

A. I didn't think that we would be here.

Q. Because we're here now, is it more important?

A. No. Well, we are here. I'm just saying exactly what was said that day. This was really just for the narrative of, quick narrative of, what happened that day.

Q. Further down that page there is a sentence that beings, "This neighbor has called many times the Summerville Police Department complaining about various things. A check of a police department log book will show how many times this neighbor has called the police department." Now, again, we talked about the survey issue with the Mazells and Michael Knight's driveway. Nothing has come up before now about police calls by or against the McFarlands. What are you talking about here?

A. Mr. McFarland has a habit of every small incident, which it could be solved between the neighbors, he likes to get the City of Summerville Police

involved. That was my reference to that.
Q. Tell me, to the best of your recollection, with as much specificity as you can, what incidents you're aware of where Bill McFarland has called the police on a neighbor.
A. I knew about him calling the Summerville Police Department once or twice on Pete. And he has called it on us twice, the incident of the firework. I'm not too sure about those landscapers before that or after. I don't recall if it was that time before that.
Q. When you say the incidents with Pete Knight two times, what do you know about the times he allegedly called the police on Pete Knight?
A. All I know, based on what I've heard again, from Mr. Knight, which one time they were having a party; he called on them. And the other one was him driving over his grass or something, corner of his grass.
Q. Do you know anything about either of those incidents other than what was told to you by Pete Knight?
A. No.
Q. You said he called the police on you twice. Once was the firework incident in 2002. What would the

second incident be?
A. This incident.
Q. Now, this incident they called the police to make a report. But they didn't call the police on you, something different, just related to this particular incident?
A. In my mind it is calling the police on me.
Q. Other than those, you're not aware of any other incidents where Mr. and Mrs. McFarland have called the police on --
A. There are a couple of other ones. I don't recall right at this minute.
Q. If you recall it generally, why do you think you recall it?
A. Because I don't have all the dates in front of me.
Q. Do you recall anything about what the bases for those would have been or what caused that incident?
A. Not really.
Q. On the third page of your report -- well, let me go back to the first page, same page. It says, "When he told me to go get my green card, I let him know what I thought about him, which included some profanity. I told him based on what I have heard out on the streets, I did not steal my

in-laws' business." So you agree with me there that you say in your written statement there that you told him that you did not steal your in-laws' business?

A. Yes.

Q. Okay. And again, you said based on what you heard out on the streets, in this report, is what you mean there, what you told us today about overhearing the people in Perkins Restaurant?

A. And --

Q. And the Knights?

A. Yes, sir.

Q. That was the basis for that statement?

A. Yes, sir.

Q. At the bottom of your statement on page three it brings up the issue with Billy Padget and Padget Lawn Care. Who had you heard about that from?

A. Mr. Padget used to -- that was another police report I was saying. Mr. Padget told me he does not want to cut my grass anymore because he doesn't want to have to deal with him anymore, with Mr. McFarland.

Q. So the knowledge of that incident came from talking to Billy Padget and him refusing to cut your grass anymore?

A. He said he does not want to deal with Mr. McFarland. Yes, sir.
Q. Do you understand now, because of this litigation, what happened between Mr. Padget and Mr. McFarland?
A. After that police report I do, yes, sir.
Q. Do you understand that Mr. McFarland got a restraining order against Mr. Padget because he threatened him about removing survey markers?
A. Yes, sir.
Q. Based upon what you know now, do you still feel like that was Mr. McFarland's fault or his problem with Mr. Padget?

MR. CLEVELAND: Object to the form of the question. You can answer it.

Q. You can answer.
A. No, sir.
Q. At the end of your statement you say, "We would like to get a restraining order against this neighbor." Did you ever follow up on that?
A. No, sir.
Q. You go on to say, "We feel like he is unstable and has an anger management issue. We are concerned about our safety and safety of our two sons." Is that right?

A. Yes, sir.
Q. Do you still feel that way?
A. Yes.
Q. If you were concerned as of the date of this report about you think he's unstable, concerned about your safety and your two sons and you mentioned getting a restraining order, why did you not follow through with that?
A. My understanding is in order to get a restraining order it has to be some kind of contact or threat.
Q. Did you investigate the matter with an attorney or call the town?
A. No, sir.
Q. So that understanding about what you need to get a restraining order is based upon what?
A. Just a general Google-ing and investigation on the computer.
Q. And based upon that Google-ing and investigating on your own you felt like you didn't have enough grounds to get a restraining order?
MR. CLEVELAND: Object to the form of the question. You can answer.
A. Yes.
Q. And to this day, are you still concerned about your safety and that of your family?

A. Yes.
Q. Why is that?
A. To this day I feel like Mr. McFarland and Mrs. McFarland both are angry and unstable. We are concerned about our safety, ourselves, as much as we can.
Q. With that concern, have there been any other incidents between you and Mrs. McFarland since this one in April 2011?
A. No.
Q. Other than the issues you detailed with Mr. McFarland originally repeating a racist epithet to you, have you had any other incidents with him?
A. No, sir.
Q. Do you have any interaction with him that causes you to have some physical fear for your safety?
A. The anger and hate on his face causes me to have that feeling.
Q. Anything else?
A. No, sir.
Q. Anything he's ever done to you, approaching you physically, threatening you, anything like that?
A. No, sir.
(Plaintiff's Exhibit No. 3 marked.)

Q. Mr. Rashtchian, what I have just handed to you are purported to be the answers to -- the plaintiffs files for what we call Request for Admission, and your attorney filed answers to these in October of 2013. Have you seen that document before today?
A. Yes, sir.
Q. Are you familiar with the responses there?
A. Yes, sir.
Q. The first request to admit was that -- it says, "Admit that an altercation took place between you and William McFarland on April 26, 2011, where your property joins Fludd Street in Summerville, South Carolina." Do you see that?
A. Yes, sir.
Q. And we've been talking about that altercation here today for about five hours. Are you familiar with that incident?
A. Yes.
Q. Do you know why you objected to that or your attorney objected to that request on the basis it was vague?
A. You have to talk to Mr. Cleveland about that.
Q. Do you have any confusion about what I'm asking there in number one?
A. No, sir.

Q. Based upon that, looking at number two, it says, "Admit there were other persons present at the time of this altercation including members of the landscaping crew working for the McFarlands." Your attorney objected to that request for admission; that it was also vague. We talked here today about there being landscapers present; is that right?

A. Not at close proximity.

Q. But they were there?

A. They were there.

Q. And you don't have any confusion that there were three landscapers there on the property at some point in time during this altercation?

MR. CLEVELAND: Object to the form of the question.

A. Yes.

Q. Number three, it says, "Admit that, during this altercation you called William McFarland a racist." And the answer goes on to say, "The defendant objects to this request to admit on the basis that it's vague." Then it says, notwithstanding this objection, it volunteers that you admit that William McFarland is a racist and that this defendant called William McFarland a

racist after William McFarland told this defendant to go get his green card. Isn't that correct?

A. Yes.

Q. Now, in this response you objected to it and then went ahead to admit that he's a racist and gave an instance where you believe he was racist related to the "go get your green card" statement; is that correct?

A. Yes.

Q. And we talked about why you believe that to be a racist statement earlier today, right?

A. Yes.

Q. But in this answer where you bring up things that show he's a racist, you don't mention him -- use of the repugnant racial epithet, which we've talked about, in front of you, your brother, and your sister, do you?

A. We only prepared to answer per the incident of 2011.

Q. Again, it doesn't mention those incidents, does it?

A. No.

Q. And the reason you say for that is you felt like you were restricting your answers on this to the 2011 April incident; is that right?

A. Yes.
Q. Number four says, "Admit during this altercation that you said William McFarland had stolen his business from his father-in-law." Again this was objected to, that it is vague. Then notwithstanding is it says defendant denies request to admit number four. Do you see that?
A. Yes, sir.
Q. And here today, though, you've admitted that you said that he stole his business from his father-in-law, right?
MR. CLEVELAND: Object to the form of the question. You can answer.
A. Yes.
Q. And not only that, you put it in writing in a police report that he stole his business from his father-in-law, right?
MR. CLEVELAND: Object to the form of the question.
A. Yes.
Q. Thank you. Number five says, "Admit that during this altercation you said that people snuck in and out of the backdoor of the McFarland home while Mr. McFarland was away on business." That request was objected to, that it was vague and then it was

denied. Now, today we have discussed the issue with the teenage boy parking and cutting through the Knight yard. And is that, again, your testimony about anything related to that issue about people coming and going from the house?

A. Yes.

Q. Nothing else beyond that teenage boy parking and cutting through the Knight yard?

A. Yes.

Q. Number six says, "Admit that during this altercation you stated or implied that Jennifer McFarland was unfaithful to her husband while he was away on business." That was objected to on the basis of vagueness as well, then was denied. And again today you deny that you ever made any such statement?

A. Yes.

Q. Number eight says you "Admit that the above statements were made to or in the presence of third parties." Number eight, the answer is, it's only objected to on basis of vagueness but it's not answered. Would you agree with me that any statements that were made between you and Bill and Jennifer McFarland, there may have been a third-party present in the area who could have

heard them, whether it was a landscape crew or Bill or Jennifer McFarland with regard to comments made to the other one?

MR. CLEVELAND: Object to the form of the question.

A. No.

Q. You don't agree with me that there were people in the area when you had this altercation?

MR. CLEVELAND: Object to the form of this question.

A. Their distance and where they were, I'm not too sure.

Q. But you saw three landscape people in the area during the time of this altercation, correct?

MR. CLEVELAND: Object to the form of the question.

A. Yes.

Q. And Bill and Jennifer McFarland were present together at some point in time during this altercation, correct?

MR. CLEVELAND: Object to the form of the question.

A. Yes.

Q. And you'd agree with me that Bill McFarland could hear things that you said to Jennifer, right?

A. Yes.
Q. You'd agree with me that Jennifer McFarland could probably hear things you said to Bill, right?
MR. CLEVELAND: Object to the form of the question.
A. No.
Q. No? She couldn't hear things you said to Bill?
A. No.
Q. And is your basis for that that most of the exchange you had with Bill McFarland is when you believe she was in the house?
A. She was, yes.
Q. Okay. That's fine. Number ten says, "Admit that all or part of the substance of the above statements were relayed to you by another person or persons." The answer there was an objection on the grounds of vagueness and ambiguity. Again, ask you that question: You'd agree with me that basically everything that has been alleged that you've said about the McFarlands, with the exception of the teenage male that you viewed going through the Knight's yard, you overheard either from people in a Perkins Restaurant or from the Knights at a party?
MR. CLEVELAND: Object to the form of the

question. You can answer.
A. Yes.
(Plaintiff's Exhibit No. 4 marked.)
Q. Mr. Rashtchian, what the court reporter just handed to you has been marked as Exhibit 4 to your deposition are your answers to interrogatories that were filed by the plaintiff's in this case. As you know, those are written questions that you and your attorney have to answer. And in this case, have you seen this document before?
A. Yes, sir.
Q. Did you speak with your attorney and assist them or his office in formulating these responses? Don't tell me what you said, just that if you talked to them.
A. Yes.
Q. Interrogatory number four asks you about the names and addresses of any insurance companies that have coverage in this matter, and you listed a State Farm policy, a one-million-dollar liability policy and an excess liability policy for two million dollars; is that correct?
A. Yes, sir.
Q. Do you have an understanding as to what position State Farm has taken regarding this claim as far

defending it? Have they sent you a reservation of rights letter, anything like that?

A. You have to ask Mr. Cleveland.

Q. Okay. Have you seen, to your knowledge, a reservation of rights letter, anything about coverage?

A. You have to speak to Mr. Cleveland.

Q. Okay. Number 12 asked you about any prior accidents or claims. And it says, "Mansour Rashtchian was involved in a motor vehicle accident about 20 years ago and received a settlement." Do you recall that?

A. Yes.

Q. Did that ever get to the point of a lawsuit, or was it settled before a suit was filed, if you can recall?

A. It never went to a lawsuit.

Q. Do you recall roughly what your injuries were and what the amount of the settlement was?

A. I don't recall.

Q. It wasn't a million dollars?

A. No.

Q. More than a thousand, less than a million?

A. Yes.

Q. Number 16 asks you about relatives over the age of

18 that live in Dorchester County. It listed Daniel Player, and we talked about him and his children who may be over 18 now. And it lists your son as Brandt Rashtchian. That supposed to be Bret, correct?

A. Yes.

Q. Interrogatory number 21 asks in detail for each and every fact, observation or other basis for your assertion that William McFarland is a racist. And the answer says, "See statements provided by witnesses in response to interrogatory one. Furthermore, William McFarland has made statements such as, 'Why don't you go where you came from, damn sand n-word, and another sand n-word." And we talked about those instances where your testimony is that he said that racial epithet to you personally while you were driving by in the car sometimes, one time while you and your brother were walking past his property, and one time to you and your sister while you were walking past his property; is that right?

A. Yes, sir.

Q. Again, is there anyone else who would have knowledge about those racial epithets being uttered by Mr. McFarland?

A. He --
Q. Direct knowledge, direct knowledge.
A. No.
Q. And again, you'd agree with me that the response to interrogatory number 21 is the first time that those instances of alleged racist conduct were raised in this lawsuit?
A. Including his comment, "Go get your green card."
Q. Right. Right. The ones that are on that page, that's the first time that --
A. Yes.
Q. -- we heard about those, was in November of 2013? Number 23 asked about the looking into the neighbor's window with a telescope. The answer is you object to it because it assumes facts that are not correct. And your testimony here today is that the telescope comment was regarding them looking at your house, correct?
A. Yes.
Q. Not a neighbor's house. Number 24 talks about people coming in and out of the McFarland home. The answer is, "Defendant objects to interrogatory 24 on the basis that it's vague, ambiguous, and assumes facts that are not correct." It says, "Notwithstanding this objection, a teenager has

entered the McFarland property on one or more occasions." Is that what we talked about here today with the teenage boy who parked his car on the right-of-way between the Knight and McFarland property lines and cut through the Knight yard?

A. Yes.

Q. Any other incident like that that you know of?

A. No, sir.

Q. So the one or more is not correct; it's just the one that you know of, right?

A. What I saw.

Q. Just the one you've seen?

A. What I have seen.

Q. Do you know of anybody else who has seen anybody going in and out of that house that you're aware of?

A. I don't know.

Q. Interrogatory number 26 asks about people, the names and addresses of persons who heard, understood, or otherwise ascertained any of the allegations in the prior interrogatories. Meaning, did they hear any conduct that we were asking about. And the answer says, "Pete Knight and Michael Knight have indicated that Jennifer McFarland went to John Payne's house and told him

that William McFarland was treating her poorly. She also stated that he took everything from her parents." Based on your testimony here today, is the basis for that statement the conversation you had with Pete and Michael Knight at the party?

A. Yes.

Q. At the back gate of --

A. Off their gate, yes, sir.

Q. And when you say indicated -- I'm guilty of this too. Lawyers write these things and we use lawyer words. When you say "indicated," they told you that; is that right?

A. They said they have heard the same thing.

Q. So when they indicated, they didn't send a smoke signal; they told you that in words?

A. Yes.

Q. And you understood that?

A. Yes.

Q. Okay. The next paragraph says Brandt -- which we know is supposed to be Bret; you can tell me -- says heard William McFarland say why don't you go where you came from. Can you tell me when that incident happened and was it in fact Bret?

A. It was Bret and it was in 2002.

Q. Oh, this is the fireworks?

A. Fireworks.
Q. Okay. Okay. So that's related to -- let me ask it this way. You mentioned that earlier, that the fireworks -- that comment was made during the fireworks incident. Is Bret the only person who would have heard that other than you?
A. There is another person who heard it with Bret, yes.
Q. Who else would have been able to hear that comment in the 2002 firework incident?
A. John Burgess.
Q. Do you know where he lives?
A. Somewhere in Summerville. No. Sorry. James Island, I think.
Q. Is he roughly Bret's age?
A. Yes.
Q. Were they schoolmates at all?
A. They went to Clemson together.
Q. Now, it goes on there to talk about the incidents with Majid and your sister Farima. Let me ask you. When Majid comes to visit you, I'm assuming he flies from Canada?
A. Yes, sir.
Q. How long does he normally stay?
A. That particular time he stayed three weeks.

Q. Okay. And your sister, obviously, she takes a boat; she flies from England when she comes over, correct?
A. Yes, sir.
Q. And she was over that time -- was she there because your sister-in-law had passed away?
A. Yes. She wanted to spend some time with my wife.
Q. And the last sentence there is, "Donna Knight saw a teenager walk from her yard into the McFarland's yard." Now, based on the testimony here today, did Donna Knight tell you she saw the teenage boy go into the McFarland's yard?
A. Toward McFarland's yard.
Q. She didn't tell you she saw him go in the yard, saw him go in the house, anything like that?
A. No. After, when we turned around, that teenager was gone. We didn't know where he went.
Q. Okay. Thank you. Mr. Rashtchian, would you agree with me that you sometimes have an issue with your temper, in general?
MR. CLEVELAND: Object to the form of the question.
A. No.
Q. Do you lose your temper periodically?
A. No.

Q. Do you ever lose it in public?
A. No.
Q. Have you ever been banned or asked not to coach any longer at the Summerville Soccer Club by anyone there, anyone who runs that club?
A. I don't recall, no.
Q. Do you recall any incidents that happened when you were coaching for the Summerville Soccer Club, as far as yelling at players or other parents that would have caused something like that to happen?
A. No.
Q. Do you recall an incident in 2011 between yourself and Carlton Holcombe, a neighbor in Live Oak Village?
A. Yes, sir.
Q. What can you tell me about that?
A. The South Carolina real estate agent approached me about looking at Mr. Carlton's house about the possibility of doing some remodeling for one of his clients. David Smoak is the gentleman who contacted me. We went through the gate and I met with his potential buyers, which they are the dentists who reside in Coosaw. She told me about all the changes she wants to do, for me to prepare an estimate. The next day we went to the home.

And I told David Smoak, it's going to take me a while because I've already lined up four or five, something like that, subcontractors to come and prepare their estimate.

While I was letting the subs come and go in and out of the house on the second day, Mr. McFarland was on his porch with the binoculars, monitoring everything we were doing and basically keeping eye on. You know, I assume he's the president of the POA; he's home all the time. I didn't think much of it. We kept allowing the contractors go in and out. The last one left out; I closed the door. As I was leaving, I noticed Mr. and Mrs. McFarland. They were at the gate working on a keypad and talking to a gentleman in a beige truck. As I approached the truck, the gentleman departed from, separated from them, came toward me and asked what I was doing in his home.

I had no idea he was the -- when he approached me he was the homeowner. And I told him I'm preparing an estimates for the potential client. He told me, Get the F out of my property; if you ever go to my property I will call Summerville Police Department. I left right

there. As soon as I got out of gate, I called Chip Allen who was the listing agent of that property, and I told -- I asked Chip if he had permission to put a lock box on this property allowing agents to take the people in.

He said, indeed he did. And I told him about the interaction of what happened. He said he was wrong and based on the lockbox, I've got every right to be in that house. That's when I called David Smoak. That was a $75,000 job for me. I told David Smoak, I'm not going to pursue this; they need to find somebody else. David wanted for me to know why it happened and I told him I just cannot go through this day in, day in, day. And he relayed that message to potential buyers. They changed their mind not to buy the property either or pursue to put an offer on it, I should say.

Q. So you do recall an incident with Carlton Holcombe's property that was listed for sale?

A. Yes, sir.

Q. Do you recall Carlton trying to change the gate code at Live Oak Village to keep you out of there?

A. I have -- no.

Q. Do you recall Mr. Holcombe trying to flag you down to talk to you as you were leaving the property

and you ignored him until he stepped out in front of your truck to get you to stop?

A. No, sir.

Q. Do you recall Mr. Holcombe telling you, you did not have permission to enter his property ever again?

A. Not in those words, no, sir.

Q. Do you recall calling Mr. Holcombe a fucking asshole and told him that his house was no good and wanted to tell the people and everyone not to buy his home?

MR. CLEVELAND: Object to the form of the question. You can answer.

A. No.

Q. Do you recall Mr. Holcombe telling you that he didn't give a shit what you did, just to stay the hell out of Live Oak Village and off his property or he would call the police on you?

MR. CLEVELAND: Object to the form of the question. You can answer.

A. He said if I enter his home again he will call Summerville Police Department. I don't know the sentences.

Q. And after you -- as you left, do you recall saying "fuck you" to Mr. Holcombe and aggressively

revving your engine and speeding out of the neighborhood close to him?

MR. CLEVELAND: Object to the form of the question.

A. No, sir.

Q. Do you recall flipping the middle finger to the McFarlands on your way out.

MR. CLEVELAND: Object to the form of the question.

A. No, sir.

Q. Mr. Rashtchian, do you recall an incident with the McFarlands, another landscaper with the McFarlands this year in November named Fred Hernandez?

A. Yes, sir.

Q. Can you tell me about that incident.

A. They were blocking Fludd Street, making it impossible for us to leave our property.

Q. What happened?

A. As I backed off -- the next day we have an important date. We were at the -- I probably went in and out my property ten times. And every time going back, this gentleman was blocking the road, and I did my best go get out of my property. I had to get as close as I could to his trailer in order to get out of my property.

Q. But you could get out, right?
A. Barely, yes, sir.
Q. Did you exchange words with Mr. Hernandez?
A. No.
Q. You didn't talk to him at all about moving his truck?
A. No, sir.
Q. Did you get close to them with your truck or make it look like you were going to try to hit them?
MR. CLEVELAND: Object to the form of the question. You can answer.
A. No, sir.
Q. Do you recall anything else about any incident you had with Fred Hernandez of ARH Landscape?
A. No, sir.
Q. Mr. Rashtchian, do you know John Payne?
A. I've met John Payne once or twice.
Q. Have you ever had any conversations with him that you recall in general or about the McFarlands in particular?
A. No, sir.
Q. When was the last time you spoke with either one of the Mazells?
A. With Mr. Mazell approximately about -- I don't recall since this incident I've had any discussion

with him. I was trying to find a discussion before that. Since the incident, I don't believe I have spoken to him.

Q. So you don't believe you've spoken with either one of the Mazells since this incident?

A. I don't recall.

Q. How soon after this April 2011 incident do you know when they left the neighborhood, when they moved?

A. I believe they moved out late 2012. I think. I'm not one hundred percent sure.

Q. Right. When was the last conversation you had with any of the Knights, either Donna, Michael or Pete?

A. I had a conversation with Pete because of our business on many occasions. The last conversation I had with Mrs. Knight was somewhere around Thanksgiving.

Q. What did y'all talk about then?

A. About her trip to -- she went to some foreign trip and then she just got back from Michael Knight's uncle or something funeral and mainly about a restaurant called Fox and Hound her parents used to own.

Q. Do you recall any conversations with Pete, Michael

or Donna Knight that involved the McFarlands in any way other than the conversation at the party where you asked about her going over to John Payne's house?

A. Michael Knight, at one time he called me and said an attorney keeps calling and leaving me a message, in regard to some message. He said, I don't know what it is, if I know anything about it. I said, I don't think it is any attorney I know of. And he said the message has been left on his to call back. Next time I talked to him he said, well, Mr. McFarland, on Sunday morning, he knocked on his door and asked if there's a package he has. He said he didn't have the package. And then he said don't worry about that attorney thing I told you. Apparently it's his attorney; he's trying to call me because McFarland told him if he has spoken to an attorney; he keeps trying to call him. That's all I know.

Q. Did he tell you -- did you tell him that you thought it had anything to do with this case at all?

A. I told him it's probably about this case but I didn't believe it was our attorney.

Q. Did you tell him that you had named him by name in

your interrogatory responses as someone who had told him things about the McFarlands?

A. No, sir. No, sir. All he wanted to know, who is this attorney calling?

Q. Do you think he'd like to know that?

A. I don't believe he --

MR. CLEVELAND: Object to the form of the question. You can answer.

Q. You can repeat your answer, please.

A. It was never discussed.

Q. I mean, you understand that you're being sued by the McFarlands for defamation for things that you have allegedly said about them, right?

A. Yes, sir.

Q. And you have said now in your interrogatory responses and testifying here today that the Knights may have told you similar things and therefore may have also defamed the McFarlands; do you understand that?

MR. CLEVELAND: Object to the form of the question.

A. I told the truth.

MR. BURKE: Okay. I'm going to hand you some pictures that were introduced at either Bill or Jennifer's deposition. I can't remember. I've

only got one copy of those, David.
Q. If you can just look at those and tell me if you could identify those and who took those pictures.
A. Either my wife took it or I did it.
Q. Well, how about, can you help me narrow it down to either you or her?
A. I think my wife took all these three pictures.
Q. You think she took all three?
A. Yes, sir.
Q. You don't have any recollection of taking any of those pictures?
A. Not these three.
Q. Have you taken other pictures of the McFarland house?
A. Yes, sir.
Q. Where are those pictures?
A. They are at my house.
Q. Why have you taken pictures of the McFarland home?
A. It's not of the McFarlands' home. It is from the way they blocked the Fludd Street.
Q. So you have pictures of other people blocking Fludd Street related to the McFarlands?
A. Mainly landscapers.
Q. And those are the only pictures that you have taken of the McFarland home; is that right?

A. And there are some pictures as I'm going out, if it's blocking or close to my driveway. I've taken a picture from basically the roadway, not necessarily their home.
Q. Have you provided those pictures to your attorney?
A. Mr. McFarland -- Mr. Cleveland has all the pictures we have provided.
Q. Are there any pictures in your possession of the McFarland home or anything related them and Fludd Street that you have not produced to your attorney?
A. I can't recall.
MR. BURKE: David, would you, please, mind producing those to me?
MR. CLEVELAND: Sure.
Q. How many pictures do you think you've taken of the McFarland home and Fludd Street since this incident?
A. These pictures I have taken from our front yard and the public right-of-way.
Q. I understand.
A. Numbers, I'm not too sure.
Q. I understand that. How many do you think you've taken?
A. I'm not too sure.

Q. Can you ballpark it for me: less than a hundred, more than ten?

MR. CLEVELAND: Object to the form of the question. You can answer.

A. I say between one and fifty, probably.

Q. And your attorney has all of those? What do you take pictures with when you take pictures, your phone or a camera?

A. iPhone.

Q. Do you have your iPhone with you?

A. No, sir.

Q. Who is your cellular carrier, sir?

A. Verizon.

Q. Is that account in your name or M&R construction?

A. My name.

(Plaintiff's Exhibit No. 6 marked.)

MR. BURKE: These are pictures that were produced to me by my clients, so you have not seen them yet. If you need to take a minute to speak about them, you certainly may.

MR. CLEVELAND: Why don't we take a quick break for just a few minutes.

MR. BURKE: Let me go ahead and give you -- there are some that they gave me that I will mark as well. That's the last ones they provided to me

that shows the floodlight and one of the same parked cars that's in one of those other pictures. This was given to me today of another car parked over there. That's all I've got. So you can talk about all those.

(Deposition went off the record for a brief period of time.)

Q. Mr. Rashtchian, we're back on the record. What has been handed to you now, which has been marked as Plaintiff's Exhibit 6, which is a set of 11 photographs. And those were provided to you and your attorney today. Y'all have had a chance to speak with those -- speak about those. Are you generally familiar with what appears to be depicted in those photographs?

A. Yes.

Q. Looking at photograph number one, on the first page, can you identify the vehicles in that photograph?

A. One of them is our car. The other one, I believe, is my brother-in-law's car.

Q. Which one?

A. The grey one.

Q. I've got a black and white copy. The one in front is whose car?

A. My brother-in-law's truck.
Q. And what is the car behind it?
A. That's our Sequoia.
Q. And your brother-in-law, do you know what kind of truck he has? It's kind of hard to see there.
A. It is the --
Q. It looks like a Ford.
A. It is -- I believe it's the Toyota Tacoma. I think.
Q. So you believe that's your brother-in-law's truck and your Sequoia, correct? Does that appear to be your Sequoia?
A. Yes, sir.
Q. And I represent to you this is the view from the McFarland's yard across Fludd Street to your house. Does it appear to you that both those cars are parked on the grass of your right-of-way?
A. They are partially on the grass, partially on the road.
Q. And I'll represent to you that this picture was taken in May, May 23rd, 2011. Did you have an issue at all with you or your brother-in-law parking on the grass on that particular day?
A. No, sir.
Q. Second picture appears to be a gray Infinity. Can

you identify that car, who's vehicle that is?
A. That's either our car or my son's car.
Q. What kind of car do you have that would match that car?
A. I don't -- this is a very bad picture. I don't know if this is blue or gray. If it's blue, it is ours. If it's gray, it's my son's.
Q. What kind of blue car do you have?
A. Infinity.
Q. Does your brother -- excuse me. Does your son also have a gray Infinity?
A. Yes, graphite.
Q. If it's your son's car, is it Bret's?
A. Yes.
Q. Does it appear from that picture that that car is also parked partially on the grass and partially on your property?
A. Not blocking the Fludd Street, yes, sir.
Q. But partially on the grass and partially on Fludd Street?
A. Yes, sir.
Q. And I'll represent to you, the date of that picture was May 25th, 2011, also.
MR. CLEVELAND: Where is that marked on the photograph?

MR. BURKE: It's not. It was given to me by -- it's a representation subject to its quality.

MR. CLEVELAND: And the same way that you and I had this discussion at the last deposition, of course, we reserve the right to re-notice your clients' depositions since they had documents that were requested but not produced to us before their depositions.

MR. BURKE: That's fine.

MR. CLEVELAND: If you could also produce for us any documents that would indicate when the photographs were taken.

MR. BURKE: We will do the same with each others' photographs.

Q. The third photograph in the line, I believe that is a little bit better of the car. Does that appear to be Bret's car or your car?

A. No, sir. The silver one on the road, it is my youngest son's car.

Q. So that's Blaise's car?

A. Yes, sir.

Q. Which picture are you looking at, just to make sure we're looking at the same one? Yeah. I'm sorry. I'm here. I think this is the one I had.

It's number three. I tried to get them in order.
Yes, that one.
A. That's the one we were talking about it.
Q. You're not sure again if that's Bret's or yours from looking at it?
A. I'm not too sure really if that's even an Infinity. It could be.
Q. Since you cannot identify it, we won't go forward with that. The next picture is two sport utility vehicles. Can you identify those cars.
A. The silver one is Blaise's car.
Q. What about the kind of maroon one?
A. The red, maroon-red one is his friend Ashton's.
Q. Okay. In looking at that picture, does it appear that Ashton is parked or stopped partially on the grass and partially on the road?
A. Yes. This car, my son's car, is not parked. It appears they are leaving the house. They are having a discussion in the middle of the road while they are departing, is what it appears to me.
Q. Does it appear to you that Ashton's car is parked partially on your grass and partially on the road?
A. Yes.
Q. Did you have any problem with them doing that?

A. No, sir.
Q. Is Ashton a classmate of Blaise's at The Citadel?
A. They don't go to the same school. They are classmates, yes.
Q. What is his full name?
A. I don't know his last name.
Q. Did they go to high school together?
A. High school, yes, sir.
Q. Where did they go to high school?
A. Pinewood.
Q. Pinewood Prep?
A. Yes, sir.
Q. Let's go to the next picture. And again, this appears to be the same maroon car; which is Ashton's car again. Does it appear to be Ashton's car again?
A. Yes, sir.
Q. Okay. And again it appears to be parked partially on the grass and partially on Fludd Street?
A. They have been directed to park like that.
Q. Okay. So you told them to park on the grass and partially on the street, right?
A. Yes.
Q. And you're okay with that?
A. Yes, sir.

Q. I'll represent to you this picture was taken December 1st, 2013.
A. Yes, sir.
Q. Go to the next one which shows, I believe, a white Mercedes SUV. Do you recognize that vehicle?
A. Yes, sir.
Q. Whose car is that?
A. That's my oldest girlfriend's car.
Q. Your wife just looked at you funny on that one.
A. My oldest son's girlfriend. Sorry.
Q. I want you to edit the tape if you need to on that one. So that is Bret's girlfriend's car?
A. Yes, sir.
Q. What's her name?
A. Ashton Pratt.
Q. Does she live in Summerville or does she live in Charleston?
A. Charleston.
Q. Are you hoping to give one of those rugs to her when they get married?
A. Be more than happy to.
Q. Again, it appears from looking at this picture that her car is parked partially on Fludd Street and partially on the grass; is that right?
A. Yes.

Q. And you're okay with that. The next picture, I believe, shows the back of a sequoia?
A. Yes.
Q. And does that again -- does that appear to be your car taken through the McFarland fence?
A. It appears, yes, sir.
Q. And from looking at that picture, does it appear again that your car is parked partially on Fludd Street and partially on your grass?
A. Partially, yes, sir.
Q. The next two pictures look to be, I think, a Chevy Cavalier or a small Chevrolet, a black car. Do you recognize that car?
A. I'm lost.
Q. It should be --
A. I've got more single pictures in here than you have.
Q. They should be the last two color ones that are full-page. Whose car is that, if you recognize it?
A. Are you looking at this car?
Q. Yes, both of those. The one from the front and the one from the side. I believe they are the same view.
A. That belongs to my youngest son's girlfriend.

Q. That's Blaise's girlfriend?
A. Yes.
Q. What's her name?
A. Logan.
Q. Logan. Does Logan have a last name?
A. Kelley.
Q. Does she come over to your house when you're not home?
A. All the time.
Q. And you're okay with her parking just barely on the grass too?
A. In order to free up Fludd Street, yes, sir.
Q. The next picture is the four on one sheet, which is in there. There's a duplicate of, I believe, the gray car. We weren't sure what color it was. And then what appear to be three pictures of looking out of the McFarland upstairs window and the downstairs window at your floodlight. Does that appear to be the floodlight on your house?
A. Yes.
Q. Thank you. This is the floodlight that you say you adjusted after Jennifer McFarland complained about it; is that correct?
A. Yes, sir.
Q. It's pretty visible from their house, would you

agree with me?
A. Depending on what level you're looking at.
Q. All right. The last picture you have there, the full page, again, I believe that's Blaise's girlfriend's car?
A. If it's a black car, that's her car.
Q. It should be the last one. It's really kind of a grainy copy.
A. This?
Q. Yes, sir.
A. Yes.
Q. All right. Just to kind of wrap up, Mr. Rashtchian. Briefly, can you tell me -- I'd asked you if you'd used attorneys in Summerville related to your business. Can you tell me the names of any attorneys you've used for your business in the last five years, just their names and generally what they did?
A. I've used Pete Wyckoff for closing. I have used Jenny Horne for closing and Tony Stovall (ph) for closing.
Q. Do you use any attorneys for any other business-related matters or just for closings, generally?
A. For closing.

Q. Has Brandt Shelbourne ever represented you before?
A. I don't recall. I don't think so.
Q. Kind of going back over some notes here. So I apologize; I may jump around. When you used the phrase that Mr. McFarland said over and over, I know all about you; I know all about you; he's kind of known for that phrase, where have you heard this from other than from him? Who else has told you that he says that around the neighborhood?
A. It is just a phrase he constantly uses with us. That's why I say he's good at using those comments.
Q. So you're knowledge of that extends from your interactions with him --
A. Yes, sir.
Q. -- not from somebody else?
A. Yes, sir.
Q. Just to kind of wrap up the issue with the teenage boy parking and going through the Knights' yard. You testified earlier that you saw him go into the Knights' yard and never saw him on the McFarlands' property or in their house; is that correct?
A. All I saw, just like I mentioned, from that corner he went past that corner. How far he went out, I

cannot recall.
Q. Do you know if the McFarlands have a daughter?
A. Yeah.
Q. Do you know roughly how old she is?
A. I think she's about either my younger son's age or a year younger.
Q. So a teenager, I guess, maybe late teens or --
A. Yes.
Q. Are you making any statement or making any implication about a young man going into that house to do anything untoward with the McFarlands' daughter?
MR. CLEVELAND: Object to the form of the question.
A. No.
MR. BURKE: I think that's all I have. Thank you. You can take it if you want.
(Deposition went off the record for a brief period of time.)
EXAMINATION BY MR. CLEVELAND:
Q. Mansour, I do have a few questions for you. First off, let me show you the Plaintiff's Exhibit No. 2. That's the incident report and documents that plaintiff's counsel showed you; is that correct?
A. Yes, sir.

Q. And it describes the incident as -- it's an incident report; is that correct?
A. Yes.
Q. And then when plaintiff's counsel sent you the requests for admission to fact, he referred to an altercation; is that correct?
A. Yes, sir.
Q. He did not define altercation, did he?
A. Yes, sir.
Q. He did define altercation?
A. No, sir.
Q. Okay. Now, at the beginning of today's deposition, some four or five hours ago, he spent some time with you talking about what an altercation is and over my objections referred to this incident as an altercation; is that correct?
A. Yes, sir.
Q. So you would agree that his request to admit using the word altercation without it being defined is vague and ambiguous?
MR. BURKE: Objection.
Q. You can answer.
A. Yes.
Q. He also asked you a question about you making a statement that Mr. McFarland stole his in-laws'

business and the statement that you made is included in your statement provided to the officer, which was: The only thing you told him was that, based on what you'd heard on the street, you did not steal your in-laws' business; is that correct?

A. Yes, sir.

Q. So you did not say to him or in front of anybody else that he stole his in-laws' business; is that correct?

MR. BURKE: Objection.

A. Yes, sir.

MR. CLEVELAND: Thank you, sir. Those are all the questions I have.

FURTHER EXAMINATION BY MR. BURKE:

Q. Just very quickly, Mr. Rashtchian. During Mr. McFarland's deposition your attorney asked him, said that Mike Mazell had said to -- had told someone that Bill McFarland had said to him: Tell your friend, that F-ing terrorist, he is going to pay, or something like that. Do you recall giving knowledge of that conversation or where that came from?

A. Yes, sir.

Q. Tell me about that.

A. Late 2012 after the court case, apparently they had -- Mr. McFarland told Mr. Mazell something about, I'm not finished with that F-ing -- the F-ing terrorist issue, I think that thing happened in the post office. It did not happen with Mr. Mazell. I'm getting crossed on that.

Q. Tell me about that.

A. It was late 2011 while I was leaving the Summerville post office. Mr. McFarland was coming out of the Summerville post office. I was parked right in front of the door. I made numerous trips to that place and once or twice before I have seen Mr. McFarland's truck in front of the post office, and I basically went around, did not stop. This particular day, apparently he was driving different car. As he left the post office, he saw me sitting in my truck, going through my mail. He looked me right at -- spit on my car and called me an F-ing terrorist.

Q. So at the post office in Summerville in late 2011, you were coming out --

A. I was in my truck.

Q. You were in your car, he's coming out and you say he looks at you, spits on your car, and calls you an F-ing terrorist?

A. Yes.
Q. Would you agree with me that issue might have something to do with the claims that he's a racist?
MR. CLEVELAND: Object to the form of the question. You can answer.
A. That adds up to a lot of stuff, that adds up to a pile, which makes me feel he's a terrorist [sic], yes, sir.
Q. That's again another incident or confrontation you had with Mr. McFarland, which we had not talked about today, right?
A. Yes, sir.
Q. That seems pretty memorable to me.
A. Well, I only answered the questions you had.
Q. I asked you about any conversations you'd had with him at all since that time and that one didn't come up. And now you remember this incident at the post office where he spit on your car and called you an F-ing terrorist.
MR. CLEVELAND: Object to the form of the question.
A. Yes, sir.
Q. Anything else he's ever said or done to you bad, untoward that you didn't like that we haven't

talked about here today?

A. I believe that sums it up.

MR. BURKE: Okay. Thank you. That's all I have.

(Deposition concluded at 1:54 p.m.)

STATE OF SOUTH CAROLINA)
: C-E-R-T-I-F-I-C-A-T-E
COUNTY OF CHARLESTON)

I, Vicki Small, Court Reporter and Notary Public, certify that I did have Mansour Rashtchian to appear before me at 8:56 a.m. on Monday, January 6, 2014, at the Law Offices of Clawson & Staubes, 126 Seven Farms Drive, Suite 200, Charleston, South Carolina; that the witness was sworn and cautioned to tell the truth; these pages constitute a true and accurate transcript of the testimony given at that time and place.

I further certify that I am not of counsel or kin to any of the parties to this cause of action, nor am I interested in any manner in its outcome.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this the 20th day of January, 2014.

_____

Vicki Small
Notary Public for South Carolina
My Commission Expires: 03/27/22

Certificate of Counsel

The undersigned counsel for Appellants certifies that, in accordance with Rule 210(c), SCACR, this **Record on Appeal** contains all material proposed to be included by any party that was presented to the lower court and not any other material. The undersigned also certifies that this **Record on Appeal** complies with the Supreme Court of South Carolina's Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings issued April 15, 2014.

Respectfully submitted,

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Dated: 1/22/16

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Dorchester County
Court of Common Pleas

Diane Schafer Goodstein, Circuit Court Judge

Appellate Case No. 2015-000058
Trial Court Case No. 2013-CP-18-00735

RECEIVED
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SC Court of Appeals

William McFarland and Jennifer McFarland,

Appellants,

v.

Mansour Rashtchian and Amy Rashtchian,

Respondents.

PROOF OF SERVICE

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I, Stephen L. Brown, of Young Clement Rivers, LLP, counsel for Appellants above named, do hereby certify that I have served the **RECORD ON APPEAL VOLUMES I and II** on the above-named Respondents by depositing a copy of the same in the United States Mail, postage prepaid, on January 25, 2016, addressed as follows to their counsel of record:

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YOUNG CLEMENT RIVERS, LLP

By: Stephen L. Brown
Stephen L. Brown

Charleston, South Carolina

Dated: January 25, 2016