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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

The Honorable J.C. Nicholson, Jr.
Trial Court Case No. 2013CP1004592

Appellate Case No. 2016-000471

MARIA ALLWIN APPELLANT,

v.

RUSS COOPER ASSOCIATES, INC., BUFFINGTON HOMES, L.P., AND SHOPE RENO
WARTON, ... DEFENDANTS,

OF WHOM, RUSS COOPER ASSOCIATES, INC., AND SHOPE RENO
WARTON ARE THE RESPONDENTS.

BUFFINGTON HOMES, L.P., ... THIRD-PARTY PLAINTIFF,

v.

ALBRECHT ENVIRONMENTAL, INC., ALL POINTS CONSTRUCTION, INC., PATRIOTS
DRYWALL, INC., PICQUET ROOFING, INC., SPRAYSEAL FOAM INSULATION, AND
TISCHLER UND SOHN (USA) LIMITED, ... THIRD-PARTY DEFENDANTS.

RECORD ON APPEAL
VOLUME 4 OF 4

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¹ All Exhibits to the Order Granting Summary Judgment correspond to the Exhibits to Russ Cooper Associates Inc.'s Memorandum in Support of Summary Judgment and are included in the Exhibit section below.

² All Exhibits to Russ Cooper Associates Inc.'s Memorandum in Support of Summary Judgment correspond to the Exhibits to the Order Granting Summary Judgment and are included in the Exhibit Section below.

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³ The following materials were not originally designated as matters to be included in the Record on Appeal; however, they have been added to the Record on Appeal by agreement of the parties.

FULLER
CONSULTING ENGINEERS, INC.FCE File No. 11137.00
May 10, 2011

Mr. Robert Lyles
Lyles and Lyles, LLC
342 E Bay St.
Charleston, SC 29401

Re: Preliminary Summary of Visual Survey and Destructive Testing
Allwin Residence
133 Flyway Drive
Kiawah Island, SC 29455

Dear Robert,

Pursuant to your request, Fuller Consulting Engineers, Inc. (FCE) has performed a site visit at the above referenced property. The purpose of the site visit was to study the current condition of the existing building components and to determine the cause of water-related damage previously observed within the residence. This report provides a summary of our findings to date.

SCOPE of WORK PERFORMED

FCE has performed a limited review of previously published reports and documents prepared by other entities related to the residence. At this time, FCE has reviewed the following reports and documents:

1. Campbell, Schneider and Assoc. Report (dated August 15, 2003)
2. Applied Building Sciences Report (dated December 13, 2004)
3. Engineering Design and Testing Corp. (dated April 27, 2004)
4. Timeline of Repair Work Performed and Reports Produced (b/n 1999 and 2006)
5. Shope Reno Wharton Architectural Drawings (original date of July 21, 1992)
6. ABS Proposal for Scope of Work (dated March 15, 2011)
7. ABS Proposal for Flashing/Cladding Investigation (dated March 29, 2011)

FCE has also performed a site visit, which was conducted over two (2) days, April 21-22, 2011. Tori Stein and Darin Dennis assisted FCE with gaining access to the residence and with the destructive testing. Our on-site work included visual observations of the interior and exterior of the residence, including the basement, habitable spaces, attic, and roof. Our on-site work also included destructive testing at interior and exterior locations that were believed to be problematic or thought to be

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www.fullerce.com

contributing to the observed interior damages. At this time, FCE has conducted destructive test cuts at the following locations:

1. Great Room French Door Sill (Exterior Tile and R.O. Flashing)
2. Master Bedroom Window Sill
3. Master Bedroom Window Sill/Jamb Trim (Interior)
4. Master Bathroom Window Sill
5. Roof to Wall Flashing Below Master Bathroom Window
6. Master Bedroom Valley Drywall (Interior)
7. Media Room Window Sill
8. Bathroom Window Sill at Media Room
9. Bathroom Window Head at Media Room
10. Roof to Wall Flashing Below Bathroom Window at Media Room
11. Breakfast Room Turret
12. Study Turret Wood Flooring (Interior)
13. Study Turret Tile/Deck to Wall Flashing
14. Tile/Deck to Wall Flashing at Study (Oceanfront)
15. Tile at Outside Edge of Patio at Transition Steps
16. Patio Knee Wall at Wood Shingles

OBSERVATIONS

During our site visit we observed various existing conditions that we considered to be noteworthy. The following list has been generated to serve as a set of talking points to discuss the existing conditions observed at the subject residence.

1. Standing Seam Metal Roof

- 1.1 Hydro-stop Installed at Joints
- 1.2 Repainted Roof
- 1.3 Gutters
- 1.4 Peeling paint
- 1.5 Crack in Hydro-stop
- 1.6 Roof Underlayment
- 1.7 Roof to Wall Flashing

2. Attic

- 2.1 HVAC Chiller System
- 2.2 Spray-foam Insulation
- 2.3 Fiberglass Batt Insulation

3. Exterior Wall Claddings

- 3.1 Hard Coat Stucco/Accessories at Chimneys
- 3.2 Hard Coat Stucco/Accessories at Retaining Walls
- 3.3 Wood Shingles (stain)
- 3.4 Tyvek WRB (incomplete, butt-jointed to window trim, and reverse-lapped with R.O. flashing)
- 3.5 Water-stained Plywood Sheathing

4. Window Installation

- 4.1 Tischler mahogany windows
- 4.2 Air Infiltration (gaps in spray foam)
- 4.3 Incomplete Tyvek WRB
- 4.4 Pan Flashing (outside termination of pan, height of vertical leg, and end dams)
- 4.5 Rotted Window Sill at Master Bathroom Window
- 4.6 Ferrous Metal Screws for Window Trim
- 4.7 Paint/Stain of Exterior Window Components

5. French Door Installation

- 5.1 Tischler Mahogany Doors
- 5.2 Incomplete Tyvek WRB
- 5.3 Inadequate Rough Opening Flashing
- 5.4 Inadequate Pan Flashing at French Doors (folded under subflooring)
- 5.5 Inadequate Repairs Attempted

6. Patio Waterproofing

- 6.1 Study Turret Deck to Wall Flashing
- 6.2 Oceanfront Deck to Wall Flashing
- 6.3 Line of Damage at Deck to Wall Transition in CMU
- 6.4 Extent of Waterproofing (start and stop)
- 6.5 Slope of Patio (above and below)
- 6.6 Rotted Wood at Patio Knee Walls/Half Columns

7. Interior

- 7.1 Wall Coverings
- 7.2 Moisture Staining on Drywall (interior, below windows and near south chimney)
- 7.3 Fungal Growth/Mildew (interior, below windows and attic penetrations)
- 7.4 Rotted Wood and Buckling of Hardwood Flooring (study turret and inside of French doors)

CONCLUSIONS

Based on our on-site observations and a review of the available documentation, FCE believes that the existing residence has been well-maintained. However, we did observe existing conditions that do require additional maintenance. We also observed original construction defects and inadequate repair work that has caused damage to the residence and needs to be corrected. The following list summarizes those issues that we believe need to be repaired and/or maintained at this time. We have also generated a list of issues that we believe require additional investigative work in order to determine if repairs are required.

Recommended Repairs

- ✓ 1. French Door Installation/Flashing and Damage to Wood Framing/Flooring
- ✓ 2. Deck to Wall Flashing/Waterproofing and Damage to Wood Framing (Oceanfront Patio)
- ✓ 3. Deck to Wall Flashing/Waterproofing and Damage to Wood Framing/Flooring (Study Turret)
- ✓ 4. Repair Tyvek Reverse-lapped with Other Flashings and Incomplete
- ✓ 5. Window Pan Flashing Installation at Outside of Sill
- ✓ 6. Replace Rotted Wood at Master Bathroom Window Sill
- ✓ 7. Replace Curled Wood Shingles
- ✓ 8. Paint/Stain Exterior of Windows/Doors
- ✓ 9. Replace Rusted Ferrous Metal Screws at Window Sill/Trim
- ✓ 10. Peeling Paint on Metal Roof
- ✓ 11. Cracked Hydro-stop on Metal Roof
- ✓ 12. Repair Stucco Cladding/Accessories at Chimneys
- ✓ 13. Repair Stucco Cladding/Accessories at Retaining Walls
- ✓ 14. Replace Rotted Wood at Patio Knee Walls/Half Columns
- ✓ 15. Interior Wall Coverings

Additional Investigative Work

- 16. Air Infiltration and Condensation – Spray Foam at Rough Openings and Tyvek
- 17. HVAC Chiller System - Positive/Negative Pressure
- 18. Mildew @ Attic Penetrations
- 19. Moisture Staining Below Windows on Interior
- 20. Window Installation and Pan Flashing
- 21. Patio Waterproofing and Flashing
- 22. Turret Repair Work and Flashing
- 23. Degradation of Interior Veneer Plaster
- 24. Discoloration of Ceiling in Great Room
- 25. Metal Roof Condition and Roof Underlayment

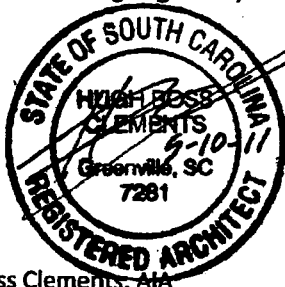
SUMMARY

FCE requests a copy of all available documentation and project binders related to the subject residence in order to evaluate the above mentioned issues. This information should include maintenance logs, reports and scopes of work produced by other entities related to the residence. Progress photos of previous repair work at the patio and turret would also be beneficial.

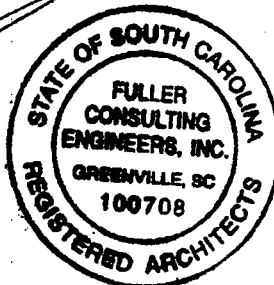
This report is provided with a reasonable degree of architectural certainty. In the event that additional relevant information becomes available, we reserve the right to respectively amend the opinions expressed herein. Please contact me if you have any questions or require additional information.

Sincerely,

Fuller Consulting Engineers, Inc.



H. Ross Clements, AIA
Director of Architecture and Forensic Services



FCE File No. 11137.00
December 29, 2011

Mr. Robert Lyles
Lyles and Lyles, LLC
342 East Bay St.
Charleston, SC 29401

Re: Preliminary Summary of Visual Survey and Destructive Testing
Allwin Residence
133 Flyway Drive
Kiawah Island, SC 29455

Dear Robert,

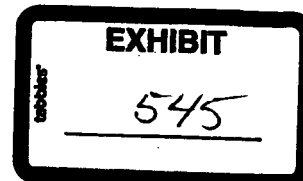
As requested, Fuller Consulting Engineers, Inc. (FCE) has performed an additional visual survey at the above referenced property. The purpose of the visual survey was to perform additional destructive testing and to orient Mr. Warren E. Maddox, P.E. of EYP to the residence so that he can study potential mechanical issues at the subject residence. The visual survey was performed on December 6, 2011. This report provides a preliminary summary of our findings to date.

OBSERVATIONS

During the visual survey, FCE performed a walk-through of the home with Darin Dennis of Gamble Atlantic and Warren Maddox. We documented existing interior conditions that were observed to have changed since our prior visual survey on April 21 and 22, 2011. Darin Dennis assisted FCE with the destructive test cuts. At this time, FCE has conducted the following additional destructive test cuts:

1. South Chimney Stucco at Roof-to-Wall Joint (Exterior)
2. 3rd Floor Bedroom Window (Exterior Shingle/WRB Installation Below Sill)
3. Great Room French Door Steps (Exterior Tile and Patio Waterproofing)
4. Media Room Bathroom Window Trim (Interior)

In addition to the destructive testing, we observed various existing conditions that are considered to be noteworthy, including but not limited to, interior drywall with water staining and mildew/mold. Interior drywall conditions similar to these were reported to FCE by Tori Stein and Darin Dennis, but were not visible during our previous site visit due to repainting that had been completed prior to our



work at the residence in April. The following provides a summary of the relevant observations noted by FCE during our recent survey work. Our summary, at this time, does not include observations related to Warren Maddox's work.

Exterior

1. One (1) layer of asphalt saturated building felt was observed behind the stucco cladding at the South chimney as shown in Photo 1A. The felt was also observed to be incomplete at the test cut location as shown in Photo 1B. This condition allows moisture to gain access to unprotected wood building components and is considered to be a violation of accepted industry standards.
2. The Tyvek brand weather resistive barrier (WRB), which is located behind the wood shingle siding was observed to be incomplete below the third floor, oceanfront bedroom window as shown in Photos 2A and 2B. This condition allows moisture to gain access to unprotected wood building components and is considered to be a violation of accepted industry standards. Earlier in the year, FCE observed similar WRB deficiencies at other window test cut locations as well.
3. Below the concrete and stone steps at the oceanfront French doors, the patio deck-to-wall waterproofing was observed to be split horizontally along a ninety degree bend in the waterproofing as shown in Photos 3A and 3B. This condition allows moisture to enter the concrete masonry unit (CMU) foundation wall below, resulting in water intrusion to the basement and damage to the ferrous metal reinforcing within the wall. Photos 4A and 4B show the water stains observed along the CMU foundation wall, as viewed from the basement area.
4. As previously reported, water intrusion has occurred at the pan flashing of the oceanfront, French doors. The French door pan flashing is located above the area described in Issue 3. Photos 5A and 5B show the pan flashing and rotted wood floor framing that exists below the doors. These two (2) photos were taken during our visual survey in April, 2011.
5. Window sill trim was observed to be falling off the residence at a second floor bedroom window on the South elevation as shown in Photo 6A. The nail heads were observed to have rusted away, leaving only a portion of the nail shank visible.

Interior

6. Mildew/mold was observed on the ceiling of the bathroom, adjacent to the media room as shown in Photo 6B. The interior trim was removed. Mildew/mold was observed on the back side of the trim, which faces the wall as shown in Photo 7A. With the interior trim removed, gaps were observed in the spray foam insulation between the window frame and the rough opening framing as shown in Photo 7B. These gaps allow uncontrolled air to enter the residence from the exterior, which leads to condensation and mildew/mold. Earlier in the year, FCE

observed similar gaps around the master bedroom window on the East elevation as shown in Photos 8A and 8B.

7. Interior drywall was observed to be water stained at the underside of roof valleys as shown in Photo 9A. This condition was not visible to FCE earlier in the year, but was reported to be a re-occurring condition by Tori Stein and Darin Dennis. The observed condition is an indication that there are on-going roof leaks at the roof valleys, which allow moisture to enter the residence.
8. The interior drywall below the breakfast room windows was observed to be deteriorated as shown in Photo 9B. The condition of the drywall has become worse since our visual survey earlier in the year, indicating that the air/moisture intrusion that occurs around the windows is a dynamic problem.

CONCLUSIONS

Consistent with our summary letter dated May 10, 2011, FCE believes that there are existing conditions at the residence that require additional maintenance. However, we have also observed numerous original construction defects and inadequate repair work that have caused damage to the residence and need to be corrected.

Based on our on-site observations, the testing that we performed during our recent visual survey confirmed our theory that the patio waterproofing at the deck-to-wall joint is defective and is contributing to the observed water infiltration/staining of the CMU foundation wall in the basement. The visual survey was also beneficial because we were able to observe the interior of the residence through seasonal changes. This allowed us to observe the occurrence of the reported water intrusion and mildew/mold growth at window/attic penetrations.

Our destructive testing also confirmed systemic deficiencies related to the WRB installation over the exterior sheathing and of the spray foam installation around windows. The observed conditions have failed to protect the residence from air infiltration and water damage.

The recent testing has informed our decision making process regarding the required repairs. In addition to the **Recommended Repairs** that we specified in our summary letter dated May 10, 2011, FCE believes that issues related to the items listed under the section entitled **Additional Investigative Work** will now need to be included with the recommended repairs for the residence. Also, based upon the limited discussions that I have had with Warren Maddox at this time, I believe he will have recommendations related to the performance of the HVAC/Chiller system that should aid in reducing the air infiltration that occurs at the residence and improve the efficiency of the system.

As previously agreed, FCE will continue to develop a repair scope and design details for the subject residence. We will also coordinate with Warren Maddox and incorporate his recommendations into the repair scope.

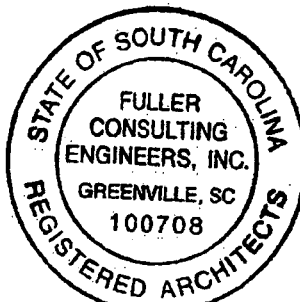
SUMMARY

Based on my review of our time/expense on this project to date, I believe we still have room to work within the combined total budget for *Recommended Repairs* and *Additional Investigative Work* as stated within our May 11, 2011 proposal. The scope of work has expanded and therefore as stated in our budget proposal, the cost associated with design work may exceed the recommended budget. However, we will do our best to work within the previously stated budget. In the event that we are going to exceed the budget, you will be notified as soon as possible. Currently, I believe we have utilized approximately \$18,000 of the budgeted amount of \$30-45,000.

This report is provided with a reasonable degree of architectural certainty. In the event that additional relevant information becomes available, we reserve the right to respectively amend the opinions expressed herein. Attached to this report are representative photographs which further describe the issues set forth within the report. Please contact me if you have any questions or require additional information.

Sincerely,

Fuller Consulting Engineers, Inc.



H. Ross Clements, AIA
Director of Architecture and Forensic Services



PHOTO 1A: View of South chimney test cut location and single layer of building felt.
PHOTO 1B: View of incomplete building felt at roof-to-wall flashing.



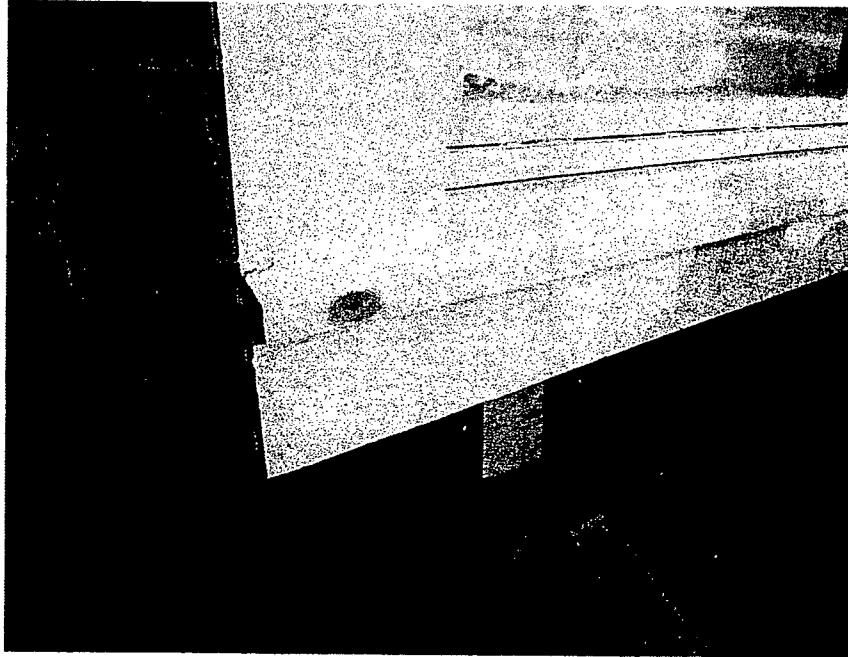


PHOTO 2A: View of incomplete Tyvek brand WRB at third floor, bedroom window.

PHOTO 2B: View of water stained exterior wall sheathing below third floor, bedroom window.





PHOTO 3A: View of patio waterproofing at deck-to-wall joint and rotted wood band joist.
PHOTO 3B: View of split waterproofing at ninety degree bend in material shown above.



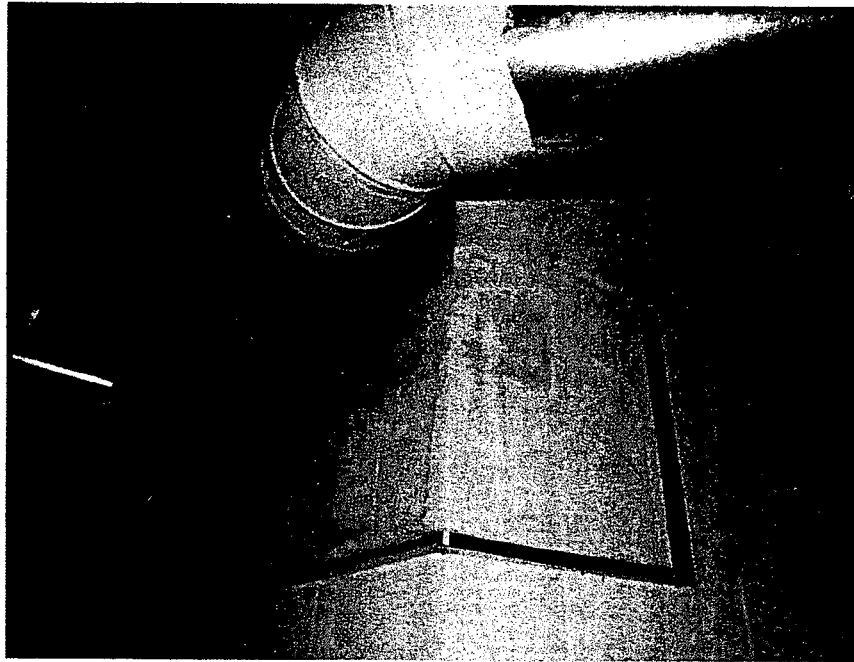
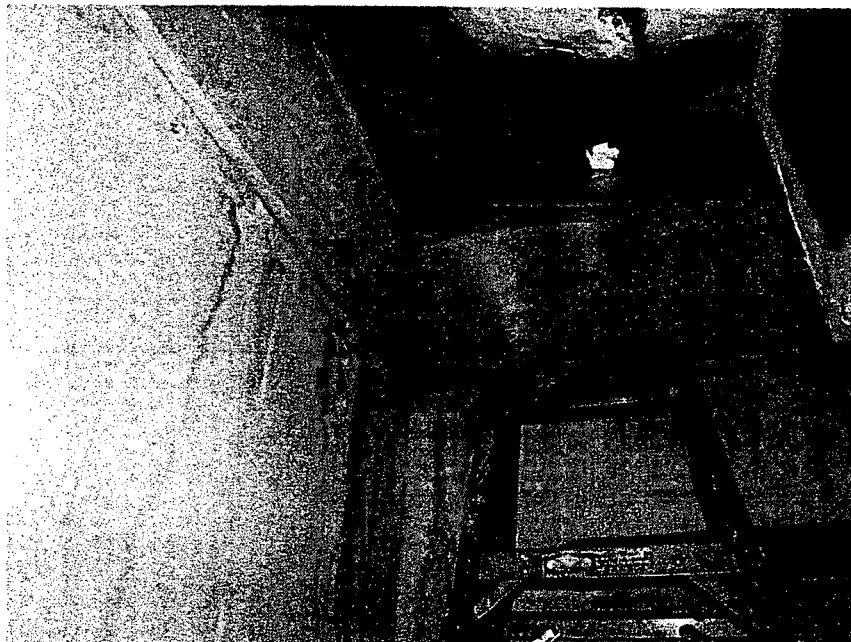


PHOTO 4A: View from basement of water stained CMU foundation wall.

PHOTO 4B: View of water stained CMU wall and rotted wood above at French door.



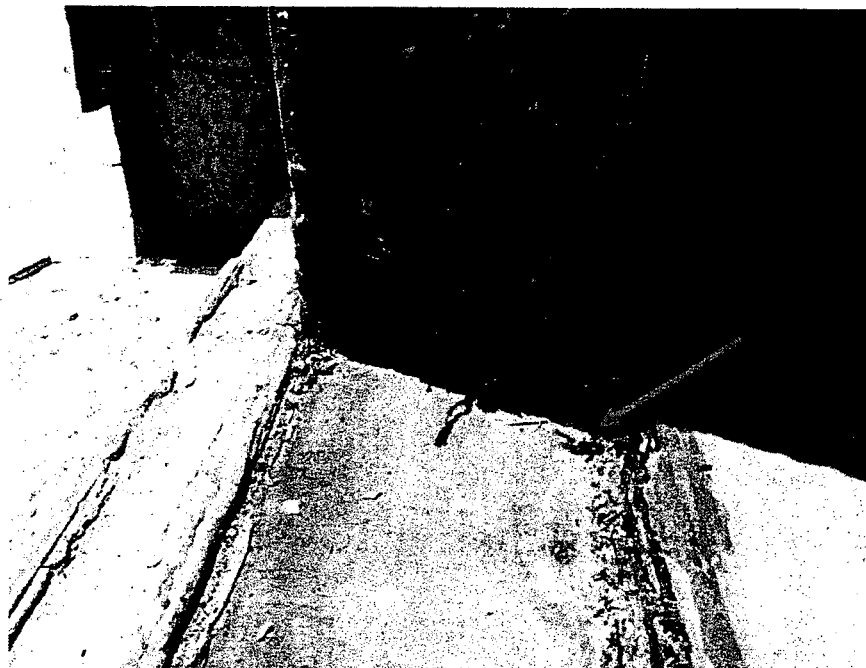


PHOTO 5A: View of French door pan flashing sloped to interior and back leg folded down.
PHOTO 5B: View of rot damaged floor framing and decking at French door.



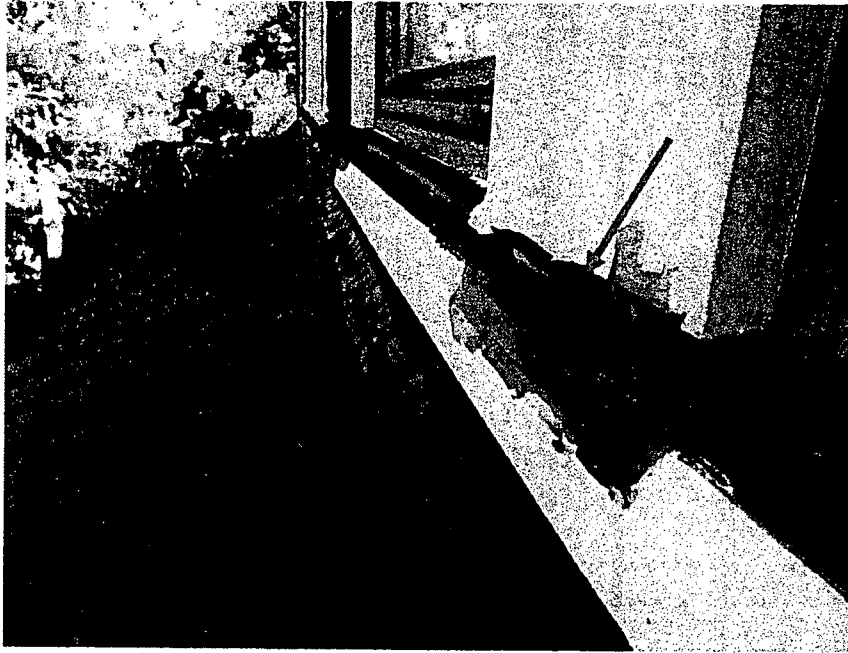


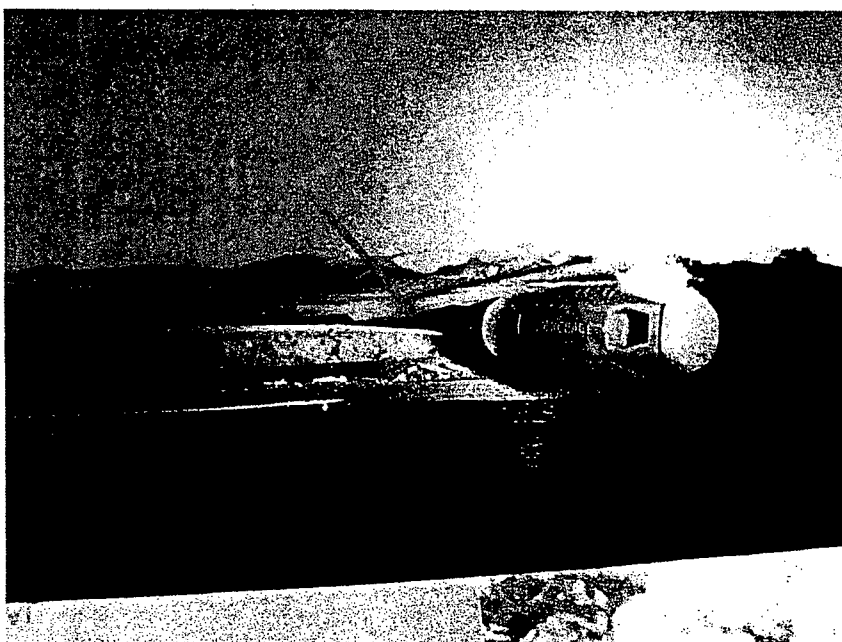
PHOTO 6A: View of loose window sill trim and rusted nail on South elevation.

PHOTO 6B: View of mildew/mold on ceiling in media room bathroom, above window trim.





PHOTO 7A: View of mildew/mold on backside of interior window trim at media bathroom.
PHOTO 7B: View of gaps in the spray foam installation at perimeter of bathroom window.



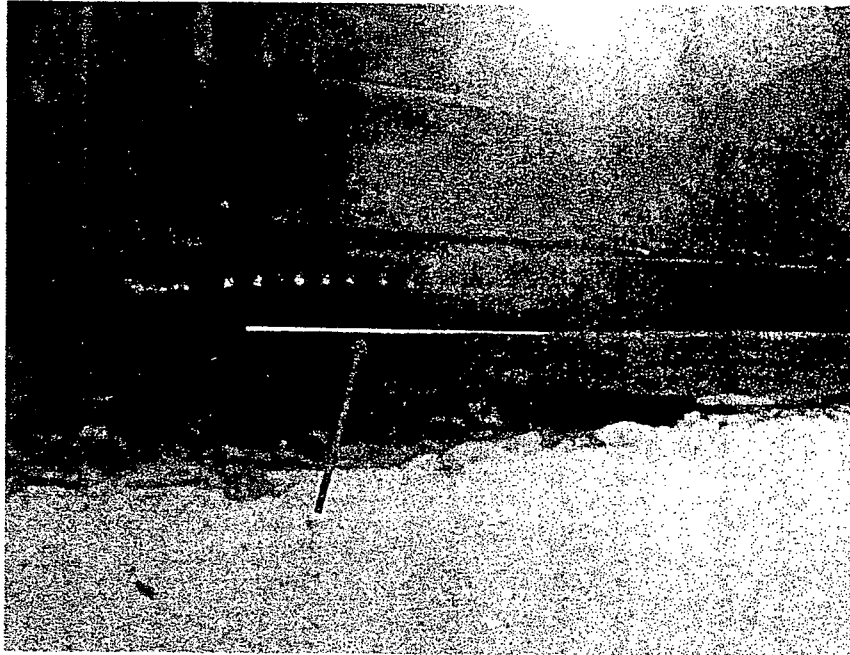


PHOTO 8A: View of gap in the sealant installation at master bedroom window, East elevation.
PHOTO 8B: View of gap in the spray foam installation at perimeter of m. bedroom window.



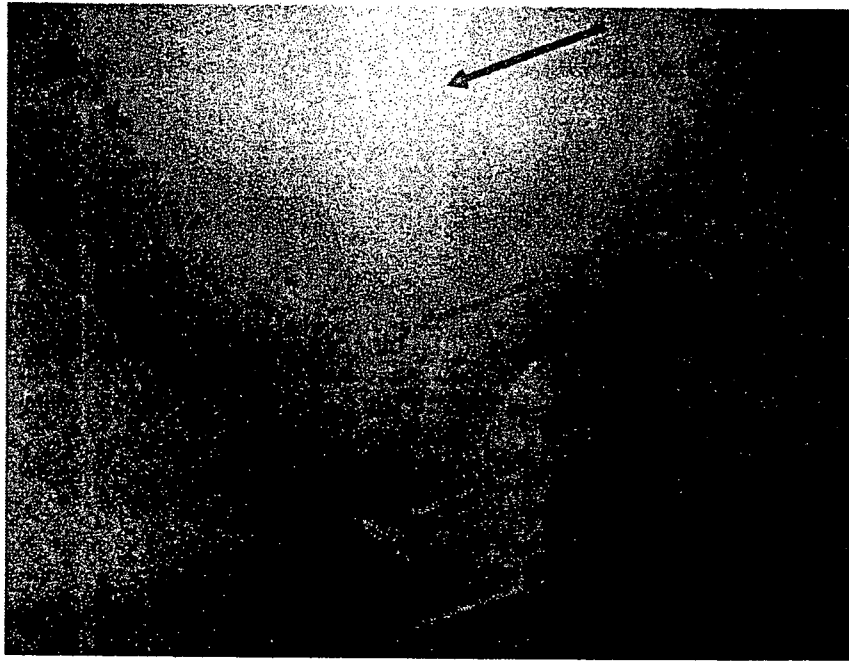


PHOTO 9A: View of water stains on interior drywall at underside of roof valley, South elevation.
PHOTO 9B: View of moisture damaged interior drywall at breakfast room.



Allwin Residence

133 Fly Way Drive

Kiawah Island, South Carolina

Building Envelope Repair Documents



1	Scope of Work (FCE)
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FULLER

CONSULTING ENGINEERS, INC.

FCE File No. 11137.00

March 16, 2012

Mr. Robert Lyles
Lyles and Lyles, LLC
342 East Bay St.
Charleston, SC 29401

Re: Scope of Work for Residential Repairs
Allwin Residence
133 Flyway Drive
Kiawah Island, SC 29455

Dear Robert:

Pursuant to the request of the Allwin family, Fuller Consulting Engineers, Inc. (FCE) has prepared the following scope of work for recommended repairs at the above referenced property. The scope of work is based on our understanding of the deficiencies at the subject residence from visual observation and destructive testing during the past year. Additionally, we have reviewed reports/logs prepared by other entities and reviewed the original construction documents, which were prepared by Shope Reno Wharton of Greenwich, CT.

During the past year, FCE has been assisted in our evaluation of the subject residence by Warren E. Maddox, P.E. of EYP, who is also based out of Greenville, SC. A scope of work for recommended repair of mechanical/HVAC related issues has been prepared by EYP and incorporated into this repair scope by reference.

Photos of the existing exterior of the home are contained at the end of this document.

SCOPE OF WORK

The following provides a general description of the existing conditions related to each area of the residence. Following the description, FCE has provided a written scope of repair with specifications, which are recommended to correct the observed deficiencies. All repairs shall be in accordance with the scope of work, architectural repair drawings and details and specified manufacturer's recommendations:

1. Roof

The existing standing seam metal roof has recently been painted green and a mesh-reinforced Hydro-stop waterproofing was installed at the valleys and joints. Despite these remedial efforts, moisture damage at roof valleys has continued to occur on the interior of the residence. The lifespan of the current roofing system has substantially diminished and replacement with a Terne-Coated Stainless Steel metal roof is recommended. The existing gutters and downspouts were observed to be in poor condition as well, thus, warranting a full replacement.

1.1 Remove existing standing seam metal roof and roof underlayment.

1.2 Remove existing roof to wall flashing and install new roof to wall flashing.

1.3 Replace existing damaged roof decking as required.

- Decking shall be plywood of equivalent thickness to match existing. Attachment shall be as required by the applicable code.

1.4 Install new standing seam metal roof, roof underlayment, and drip edge.

- The specified underlayment is Carlisle WIP 403HR Heat-Resistant Self-Adhering Roofing Underlayment. Underlayment shall be installed in accordance with manufacturer's recommendations for metal roof systems.
- Install new metal drip edge at eaves and rakes around entire roof perimeter, with TCS II metal. Flash all dormers, walls, chimneys and roof penetrations with like material.
- Install new Follansbee Steel TCS II (Terne Coated Stainless Steel) 24 gauge standing seam metal roof per the included specification document and manufacturer's recommendations. New metal roof and applicable flashings shall be integrated with the specified waterproofing materials in a water-shedding manner as shown in the architectural repair drawings and details (Tab 3).
- The owner shall be provided written warranties as provided by the manufacturer upon completion of the project.
- FCE will consider substitutions proposed by the contractor if performance characteristics are greater than or equal to the specified product. Roofing submittals shall be provided by the roof manufacturer and/or supplier which specify the code required design pressure ratings and the design pressure ratings of the roof material and installation. The selected Contractor shall submit the alternate roofing material, construction shop drawings and substituted underlayment product to FCE for review and written approval.

1.5 Remove and replace gutters and downspouts.

- FCE recommends that the Contractor install 6" half-round TCS II gutters and accessories to match roof material selection. All fasteners shall be corrosion resistant, 316 stainless steel. Gutters shall slope adequately for drainage to downspouts. Downspouts shall extend from the eave to the ground and dispense away from the structure. TCS II Raingood materials and shop drawings can be found under Follansbee Steel manufacturer's documents in Tab 5.

2. Stucco at Chimneys and Retaining Walls

As installed, one (1) layer of incomplete asphalt saturated building felt was observed at the south chimney. This condition allows moisture to gain access to the plywood exterior wall sheathing and roof decking. Additionally, cap flashing at the top of the chimneys was observed to extend approx. 1"-2" over the stucco cladding. Sealant was also not observed under the drip edge at the cap flashing. As a consequence of these existing conditions, the asphalt saturated felt, chimney caps/flashing, hard coat stucco and accessories at chimney locations should be replaced. Furthermore, the hard coat stucco cladding was observed to be in poor condition at retaining/landscaping walls. As a consequence of these existing conditions, the existing hard coat stucco and accessories at all retaining/landscaping walls should be replaced.

2.1 Remove and replace hard-coat stucco cladding and accessories at chimneys.

- Rotted wood shall be repaired as required. Install one layer of 30# asphalt-saturated building felt, one layer of Dupont Tyvek Stuccowrap, stainless steel metal lath with zinc stucco accessories, and hard coat stucco (3-coat Portland cement). Properly integrate felt and Tyvek Stuccowrap with roof to wall flashing in a water-shedding manner. Refer to details S1-S3.
- Texture and finish color shall match existing.

2.2 Remove and replace hard-coat stucco cladding and accessories at retaining walls.

- Install stainless steel metal lath with zinc stucco accessories, and hard coat stucco (3-coat Portland cement). Refer to details S1-S3.

2.3 Remove and replace metal cap and counter flashing at chimneys.

- A new multi-flue chimney shroud and caps should be fabricated using the same material as to match the standing seam metal roof and properly installed with a minimum of 6 inches overlapping the top edge of the stucco. Apply a continuous bead of silicone sealant at the underside of the drip edge at the cap flashing. Refer to detail S4.

3. Exterior Walls (Main Residence)

Deficiencies were observed at the exterior walls of the subject residence including, but not limited to: gaps in the spray foam insulation around window and door rough openings, incomplete weather barrier over the exterior sheathing, and reverse-lapped wall-to-roof joints. The extent and consistency of the observed deficiencies warrants the removal and replacement of exterior cladding, as well as the removal and reinstallation of the windows and doors.

3.1 Remove and replace existing wood shingles, window/door casing, wood trim, and weather barrier. Salvage existing window/door casing and trim as allowed for reinstallation. (Refer to construction detail C1 and the *Cedar Shake & Shingle Bureau's Wall Manual* in Tab 6 for installation standards.)

- The wood shingles, trim boards, weather resistive barrier, and flashings shall be removed from the entirety of the structure and property elements. All damaged and rotted wood shall be replaced prior to installation of new weather barrier. Flashing at belt trims, aprons, and decorative piers at the foundation level should be 316 Stainless Steel. All flashings and weather barriers shall be installed in a water-shedding manner in accordance with the applicable building code and accepted industry standards.
 - Replace exterior trim boards as necessary to properly install weather barrier with new rough opening flashings. New trim boards and mouldings shall match grade and specie of existing material. All trim is to be sealed with and painted with coatings recommended for coastal environments (a Premium or better 100% acrylic topcoat) prior to installation. End grains of all boards should be sealed with a marine-grade epoxy sealant prior to installation. Attachment of trim shall be with 316 Stainless Steel flat head finish screw fasteners, penetrating a minimum of 1.5" into the wall structure.
 - Install new #1, premium grade 18" Western Red Cedar smooth sawn shingles (single coursing) at all existing wood shingle sidewall locations. Match existing shingle exposure, yet not to exceed 7" based on a horizontally level coursing pattern. Pre-dip or stain shingle materials before installation. Install shingles using 4d 1-1/2" (minimum recommended size) 316 Stainless Steel ring shank nails approximately 1" above the butt line of the succeeding course. With cedar shingles up to 10" wide, install two (2) nails in each shingle 3/4" from each edge. For shingles wider than 10", two (2) additional nails should be driven approximately 1" apart at the center of the shingle. Inside shingle corners shall be alternately laced with flashing behind. Outside corners shall be alternately laced.
 - Existing electrical fixtures and receptacles on the exterior of the subject residence shall be removed as required and reinstalled upon completion of the building envelope repairs.
- 3.2 Remove and replace damaged 3/4" plywood exterior wall sheathing as necessary.
- 3.3 Replace rotted rim board, blocking and sill plates along the rear patio.
- 3.4 Replace rotted interior sub-flooring adjacent to exterior wall and above rim board as necessary.
- 3.5 Seal new cedar shingles and paint existing trim.
- Finish exterior wall surfaces with final coat of stain or paint as applicable in a coastal environment. Pre-dip or stain shingle materials before installation. Finish colors shall be selected by Architect with input from Homeowner.
- 3.6 Refinish existing architectural metal components.
- Exposed ferrous-metal connectors and fasteners (at roof overhang brackets) shall be properly cleaned-wash surfaces with a biodegradable cleaner to remove all salt, dirt, or other surface contaminants; power tool clean with a power wire brush to abrade the surface. Apply PPG 95-245 Rapid Coat DTR Epoxy Primer for a first coat. Followed by two coats of PPG 95-812 Pitthane Ultra Gloss Aliphatic Urethane. Architect shall select color with Homeowner.

- Handrails at main entry shall be replaced with new 316 stainless steel handrails in accordance with all applicable building codes. Install with 316 stainless steel fasteners.

4. Exterior Walls (Pool Cabana)

- 4.1 Remove and replace existing wood shingles and weather barrier.
- 4.2 Remove and reinstall existing window/door casing/trim as required to integrate new weather barrier with existing rough opening flashings.
- 4.3 Seal new cedar shingles and paint existing trim.

5. Windows and Doors

Air and moisture intrusion has been observed on the interior of the subject residence at the perimeter of windows and doors. The observed damage is considered to exist, in part, because of inadequate waterproofing and pan flashing at window/door, sill, and jamb locations. Additionally the existing Tischler windows and doors have been observed to allow water to enter the residence through the weather seals at operable sashes and through the frame/glazing pocket at fixed windows.

5.1 Remove and reinstall existing windows and doors (details W1-W4 & D1-D3).

- All windows and doors shall be carefully removed from their openings and stored in a dry, protected location. Windows and doors that appear to have no performance defects shall be refinished and prepared for reinstallation. The preparation of all window and door units shall include caulking the joints and painting the exterior surface of the window as well as wet sealing the glass to the frame. Window and door units that are found to have performance defects that cannot be repaired through normal preparation as stated above, please notify the architect.
- The existing Tischler windows and doors shall be reinstalled in accordance with the FCE details contained within this notebook and the attached manufacturer's recommendations.

5.2 Remove and replace rough opening flexible flashings, as well as metal head flashing and sill pan flashing (details W1-W4 & D1-D3).

- Install new self-adhering flexible flashing at jambs, head and sill. Extend flashing up jambs 8" and lap over weather barrier at the sill. Jamb flashing shall lap over vertical leg of end dam at sill pan flashing. Install new stainless steel pan flashing at window and door sills. The pan flashing shall have end dams with welded joints. End dams and back dams should extend 2" vertical at French Doors (1" at Windows). The pan shall be the full width of rough opening and installed with a continuous bead of urethane sealant at end dams and 3 continuous rows of sealant at bottom of pan (no fasteners permitted through bottom of pan).

5.3 Replace damaged rough opening framing as necessary.

5.4 Remove and reinstall window/door trims.

- Attachment of trim shall be with 316 stainless steel flat finish head screw fasteners, penetrating a minimum of 1.5" into the wall structure. A continuous bead of urethane sealant shall be installed on the attached side of trim prior to securing with fasteners.
- Replace exterior window and door casing/trim boards with Honduran mahogany (Typ.) to match existing as necessary.

5.5 Install spray foam insulation within rough opening and urethane sealant at exterior window/door perimeters (details W1-W4 & D1-D3).

- Rough opening sealants shall be installed prior to exterior and interior casing/trim. Install closed-cell backer rod and a continuous bead of urethane sealant at the exterior jamb, header, and underside of pan flashing. After exterior sealant has set, install a closed-cell, low-pressure spray foam (manufactured for doors/windows) in the cavity between the unit frame and rough opening, around the perimeter.

5.6 Install continuous perimeter air seal with backer rod and urethane sealant at interior window and door frames (details W1-W4 & D1-D3).

- Install closed-cell backer rod and a continuous bead of urethane sealant at the interior jamb, sill, and header. This combination of sealant and insulation will provide a continuous air and insulated seal around the perimeter of the window frame.

5.7 Paint/stain/restore exterior of windows/doors and trim.

- All trim is to be sealed with and painted with coatings recommended for coastal environments (a Premium or better 100% acrylic topcoat) prior to installation. End grains of all boards should be sealed with a marine-grade epoxy sealant.
- Finish exterior wall surfaces with final coat of stain or paint as applicable. Finish colors shall be selected by Architect with input from Homeowner.

6. Oceanfront Patio

Evidence of water intrusion at the basement level was observed at the intersection of the ocean side patio and wood residential structure. Rotted wood framing was observed below the French doors. At the base of the study's turret, inadequate flashing and waterproofing were observed. The cavity below the subflooring at the study turret is also not insulated or vapor controlled. The extent and consistency of the waterproofing deficiencies warrants full removal of the patio finish material and waterproofing.

6.1 Remove and replace existing precast concrete tiles and thickset mud-bed.

- Remove existing stone tiles and thick set mortar bed on the entire ocean-front patio, and steps leading from the residence. Waterproofing and flashing shall be removed at deck-to-wall intersections and concrete deck. Replace rotted wood with pressure treated wood products and in accordance with the construction documents. After existing tiles and mud-bed are removed, Contractor shall notify Architect for a site inspection and repair recommendations for framing members.

- Install new stone tiles in thick set mortar bed to provide a 1/8" per 1'-0" slope away from residence towards exterior edge of patio.
 - Stone tiles shall be selected to match existing tile as close as possible. Final product selection shall be coordinated with the architect and owner.
- 6.2 Remove and replace concrete and CMU patio steps adjacent to French doors and at transition to Pool deck. (detail P1 & P4)
- 6.3 Install new reinforced concrete curb and waterproofing at the study turret as shown in the construction documents (details P8 & P9).
- 6.4 Remove and replace patio waterproofing and deck-to-wall flashing along perimeter of patio (details P1-P11).
- The concrete deck should be checked for positive slope away from the residence. If the existing deck is not found to have positive slope, promptly notify the Architect. The existing deck shall be properly cleaned and prepared for installation of new waterproofing membrane.
 - Install new deck-to-wall waterproofing and deck drainage mat in accordance with the construction documents (P1-P11) and manufacturer's specifications. New waterproofing system consists of the following Carlisle manufactured components:
 - CCW MiraDRAIN 9800 - Aggregate Free Drainage Composite Mat
 - CCW – 525 – H & V – Liquid-applied Waterproofing Membrane
 - CCW – 860/861 – Self adhering Sheet Applied Waterproofing (used w/ appropriate contact adhesive)
 - CCW – 702, 702LV, 702 WB – Adhesive (use per appropriate application)
 - CCW – 705 – Air and Vapor Barrier Strips (Window and Door rough opening flashing).
 - Travel-Tack - Aerosol Contact Adhesive (for use with CCW – 705)
 - CCW – 704 – Mastic
 - CCW LM-800XL – Liquid Mastic
 - CAV-GRIP - Adhesive (use per appropriate application)
- 6.5 Remove and replace patio knee walls/half columns and railings as required to implement waterproofing repairs.

7. Interiors

Air and moisture intrusion damage has been observed by FCE during site visits and through the years by the management company. Mold and mildew spores at exterior walls, electrical junction boxes adjacent to vertical chases, window/door perimeters, and ceiling penetrations into the attic have been documented. Moisture damaged drywall and degradation of interior veneer plaster (leading to cracking and peeling paint at window/door perimeters) in numerous locations has been discovered. Rotted wood subfloor and buckling of hardwood flooring has also been observed (study turret and inside French doors to patio).

- 7.1 Patch and repair oak flooring at exterior door locations. Refinish all main floor oak flooring to match existing finish.
- Hardwood flooring shall be completely refinished by sanding and removing all existing finish coats and providing a new finish coat application in accordance with acceptable industry standards.
- 7.2 Remove drywall and install closed-cell spray foam insulation at interior sloped ceiling locations.
- At all sloped ceilings of living spaces, remove existing gypsum board and batt insulation. Carefully remove any wood trim and store for reinstallation.
 - Install closed-cell spray foam to entirety of framing cavity from existing spray foam line to furthest reachable outside edge of rafters. Install new Level 5 gypsum finish to match existing walls.
- 7.3 Patch and repair damaged and/or affected interior gypsum board and wall coverings as required. Interior gypsum board shall have a Level 5 finish (plaster veneer over entire surface).
- Provide a unit price and allowance for the repair of moisture damaged existing interior finishes, including wood trim, gypsum board (drywall), Level 5 finish, and batt insulation.
 - Replace the damaged interior finishes once the exterior repairs have been completed.
 - Replace damaged trim with like material and style to match existing.
- 7.4 Remove all interior wall coverings on exterior walls.
- Abate all wall surfaces that are found to have mold and/or mildew growth. Seal finished wall surface with a mold-inhibiting primer and finish with a premium grade acrylic or latex based paint. FCE will consider substitutions of the finish wall surface (i.e. wall coverings) if the covering is greater than 10 perms per ASTM E-96-00 Standard Test for Water Vapor Transmission of Materials. The permeability of a wall covering depends on the weight and porosity of the material.
 - Wall covering submittals shall be provided by the contractor from the manufacturer with the results of the permeability testing and criteria. Application specifications shall also be included in the submittal to the Architect.
- 7.5 Paint/stain interior gypsum board and trim to match existing interior finishes.
- 7.6 Seal vertical wall chases extending into attic space with closed-cell spray foam.
- 7.7 Paint CMU wall within basement to match existing color.
- Clean and properly prepare basement and crawlspace concrete masonry unit (CMU) walls for coating installation. Prime existing coating as required. Contractor shall install elastomeric wall coating on walls in crawlspace and basement in accordance with manufacturer's specifications.

8. HVAC Repair

Negatively pressurized interior atmospheric conditions have been observed within the residence. Mold and mildew have also been observed at window/door penetrations and interior chase wall penetrations. Repairing the HVAC deficiencies will reduce unconditioned air

infiltration, improve the efficiency of the system, and further reduce the possibility of condensation at wall penetrations, causing mold and mildew.

8.1 Refer to EYP narrative and scope of repair under Tab 2.

SUMMARY

This scope of work is provided with a reasonable degree of architectural certainty. In the event that additional relevant information becomes available, we respectfully reserve the right to make the required changes by addendum.

The above referenced construction documents and specifications have been attached to this scope of work for the contractor's use. Please feel free to contact me if you have any questions.

Sincerely,

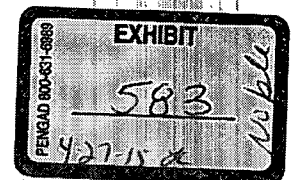
Fuller Consulting Engineers, Inc.

H. Ross Clements, AIA
Director of Architecture and Forensic Services



Re: Dan Buffington
MAllwin
to:
cynthia_noble
08/11/2006 09:06 PM
Hide Details
From: MAllwin@aol.com
To: cynthia_noble@kiawahisland.com,

i will wait for the proposal from dan before authorizing any add'l work -- lets see what he comes back with --
maria





Re: A colleague of mine has a prospect looking for something special on the ...
MAllwin

to:

cynthia_noble

07/27/2006 08:09 PM

Hide Details

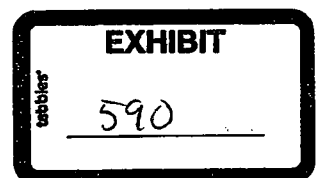
From: MAllwin@aol.com

To: cynthia_noble@kiawahisland.com,

History: This message has been replied to.

hi cynthia,

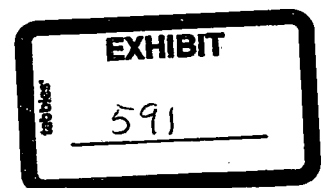
i have the info you sent - will review it tonite - hard to believe that there is still moisture/humidity/mold after we spent so much \$\$\$ but — funny that an interested party is in kiawah - do please show the house - but let's talk first about logistics - katrina will be very upset — i need to talk to her first. i think the children did not believe that this was a happening event — what they thought — i don't know.
maria





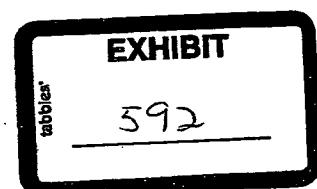
Re: update
MAllwin
to:
cynthia_noble
08/21/2006 01:36 PM
Hide Details
From: MAllwin@aol.com
To: cynthia_noble@kiawahisland.com,
History: This message has been forwarded.

hi cynthia,
yes, please send one copy of the appraisal - i look forward to buffington's report.
maria



Report
For
133 Flyaway
Kiawah Island, SC

Victoria Stein, CAPS
Vice President,
For Gamble-Atlantic, LLC



Appraiser's Statement

The purpose of this report is to assist in an opinion evaluating what is contributing to the reappearance of fungi on the interior. The accuracy of this report is limited to information that was provided and non-intrusive observation of the structure. Due to the fact that a lot of money has been expended researching the source of fungus growth my opinion is established by verbal discussion with experts.

Introduction

The residence is a 10,600 square foot 2-story house located on beachfront property in an A6 flood zone built in 1992 by Russ Cooper. The first floor and second floors are elevated and is supported by a combination of continuous concrete masonry units (CMU) along the perimeter of the structure and internal CMU piers. The ground floor is fully enclosed, conditioned space and is utilized as a combination Garage, Storage Area and Recreation Area. The exterior is a combination of stucco finish and cedar shake siding. The roofing system is a metal roof with copper gutters and down spouts.

Also located on the lot is a Cabana, an elevated in ground pool and approximately 5,000 square feet of open stone decking. A portion of the stone decking is supported by suspended concrete slab.

Permit number B 49000 was issued by Charleston County Building Department to Russell Cooper on 30 September 1992. Certificate of Occupancy was granted by Charleston County on 18 May 1994.

Mechanical trades for the original construction:

- Davis Plumbing
- Hunter Brothers Electrical
- Kirby Heating and Air

Investigation

Mechanical Engineering Consulting Associates, (MECA) was contracted in 1999 to study and provide a recommendation on how to improve the current HVAC system. They calculated that the cooling load would require a 28-ton system but recommended the installation of a 3 phase 40-ton chiller system. This system was installed by AERO in 2001.

There were several reports produced by home inspectors, engineers and architects addressing the observation of mold issues from starting shortly after the installation of the new chiller system.

In 2003 Buffington Homes was contracted to perform improvements on the structure relating to moisture issues.

Jim Clark with ESS at my request walked through the residence with me to re-address the HVAC system. Utilizing his calculation he was in agreement with MECA cooling load requirement of a 28-ton system but disagreed with the usage of the 3 phase 40-ton chiller system.

Conclusion

It is my opinion that major contributing factor for the high humidity that is supporting the presents of fungus growth is the installation of the 40-ton chiller system. MECA was on the correct path to address what the proper load requirements for your home. The original 15-ton HVAC system was undersized by 46% and the introduction of the 40-ton chiller system was 30% oversized. An undersized HVAC system will produce the same environmental effect as an oversized system. Jim Clark with ESS agrees with MECA calculation that a 28-ton system would provide eco-friendly environment. The other minor contributing issues that have been the focus of many studies, reports and conclusions should still be addressed.

There have been consistent high humidity levels since completion of house in 2001. Oversized units operate inefficiently. It cycles too often and does not run long enough to dehumidify hence a "clammy damp feeling". Oversized units break down more often and cost more to operate. Houses with consistent high humidity levels over time develop mold issues, buckling floors, peeling wall paper, compromised drywall (paint peals).....

See the following Energy Star government web site:
http://www.energystar.gov/index.cfm?c=heat_cool.pr_hvac

The current conditions of 133 Flyway are as follows:
Interior paint peeling
Cracked trim joints thru-out house
Buckling wood floor in equipment roof by maid suite
Peeling wallpaper

Mildew in closet ceilings
Mildew around electrical switches and outlets
Mildew and sweating registers
Buckling drywall in various locations
Mildew around windows
Maid's bathroom does not have heating and air register input**
Exhaust fan dampers in most baths are compromised**
Drywall repairs needed under most roof valleys**
Buckled hardwood flooring turret area of media room**
High moisture levels in underground area under pool deck area**
Mildew on wall in basement common with underground area under pool deck area

Reoccurring theme of high humidity moisture related history of chiller system since its installation in 2001.

**Not related to HVAC issue.

Suggested Repairs

A environmental engineer should be retained to investigate the HVAC system and condition of the house for remediation.

They will probably encourage the effort to balance the humidity system add in-line dehumidification system to specified air handlers to remove extra humidity and replace "P" traps in air handlers to "J" traps to rid system of trapped moisture being pulled into conditioned space.

The space under rear elevation deck should have ground moisture barrier and walls painted with Sherman Williams exterior super paint satin finish with M1 (mildew resistant) additive.

Repair/add damper system to all exhaust fans including bathrooms, dryers, hood

Seal around all windows, doors, outlets, switches, registers

Considerations for future

1. Seek legal council to recoup monetary past and future costs on chiller related issues. I believe there is documentation to support the reimbursement of the following:

- a. Mold mitigation - current and past (after 2001)
 - b. Dehumidification appliances
 - c. Moisture repairs after 2001
 - d. Albrecht report of 2006
 - e. AERO repairs to system
- 2. Sell the house - as is. Full disclosure paperwork will have to be filled out in detail to ensure no possibility of future liabilities.
 - 3. Bare the cost of repairs.
 - 4. Make repairs as needed.

AERO Exhibit

The following is a review and summary all invoices and history of the HVAC on 133 Flyway.

In April '99 Jim Allwin rec'd a report from Clayton Williams, a mechanical engineer of Mechanical Engineering Consulting Associates, Inc. (MECA)

MECA's Report basically condemned the heating and air system that had been originally installed because it was grossly undersized by 10 tons. (Original HVAC units totaled 18 tons when it should have been 28 tons.) His recommendation was to replace the entire system - heating and air including the ducting system with the current 40 ton chiller system.

There is a letter from AERO of April '99 stating that the costs of the removal and replacement of the HVAC system would be "around \$455,000.00". The letter seems to be a "Time and Material" contract in that they state their services and a 15% manager's fee for sub-contractors. I found nothing with signatures from Jim.

The following is a break-down of the final number:

\$475,159.00 AERO*

\$ 86,673.00 Russ Cooper**

\$ 2,355.00 3 Oaks Landscape

\$101,000.00 Atlantic Electric

\$665,187.00 total paid to AERO for turn-key replacement of the heating and air system

*Overage of contract amount at \$20,159.00 BUT cost of Berkeley Electric was added into AERO's total. BE's costs was \$19,335.00 to run the additional power needed to the house from the street.

I understand from AERO conversations that they were instructed to deal with Russ Cooper for this project in lieu of Cooper contacting Jim. (This is understandable in that all letters and documents from the Cowan's regarding Cooper was tenuous stressing documentation and follow-up.) While there is no detail on Cooper's scope I would assume he was responsible for the demolition of the ductwork, drywall for access, drywall repairs, and trim repairs.

I have the invoices from AERO for 133 Flyway dating April 2000 to January '07 - total of 7 years 7 months. Dates and invoices are inclusive of the new chiller system installed in 2000 - Grand total of \$731,907.80.

The following is a breakdown after one subtracts the HVAC replacement.

\$29,495.00 Maintenance of new system (Roughly \$330.00 month)

\$20,716.06 Repairs to Chiller system

\$ 1,048.04 Repairs to old system to keep it running while being replaced

\$14,732.46 Misc. household repairs - Viking stove, ice maker, fire alarms.....Cowans used them for sealing ceiling openings to encapsulate house better

\$ 829.50 Water heater repairs

\$66,720.80 Difference between Grand total over 7 years minus HVAC replacement

Note: Computer at AERO controls temperature settings in house - not on-site thermostats.

Buffington Construction Exhibit

On 14 May 2004 Robbie Diamond of DCTCL, L.P., license number C5944, pulled permit number 139783 for "Renovation to existing square footage" for the amount of \$333,000.00.

In letters to Jim Allwin Buffington references 2003 report from Campbell, Schneider and Associates' (CSA) concerns but uses Milt Morgan's Memo of 10 November 2003 for writing scope for construction scope.

Missing items from Buffington scope noted in CSA recommendations in correcting moisture intrusion issues:

1. Seal the joints at the bottom of walls behind base boards with expanding foam or caulk
2. Seal all plumbing and electrical penetrations through the air conditioned envelope with expanding foam or caulk.
3. Ensure that exhaust fans or vents have properly working back draft dampers installed. Seal the large vent on the wall of the garage.
4. Seal the perimeter joints between ("all" is assumed) windows and rough openings with expanding foam or caulk.
5. Seal large vent on wall of garage.

There was an additional amount approximately \$68,000.00 that were appr'd by Milt Morgan for overages due to pool house roof replacement, foam insulation, uncovered decay inside wall cavities and associated costs like debris removal and cleaning.

Buffington's scope is well written in that his company is strictly used as a tool to accomplish other's recommendations therefore liability can be passed on to others such as the roofer, Milt Morgan, CSA and Albrecht Environmental.

Russ Cooper Construction

The list of items that could have been laid as the responsibility of the builder are numerous but bottom line is that the Statue of Limitations ran out in May of 2007.

- Original HVAC unit was undersized by 10 tons
- Roof issues
- Culverts in basement
- Landscaping grade issues
- Window issues
- Door issues
- Cabana roof system

While there was a great deal of work done on the house by Russ Cooper Construction in 2001 under the guidance of AERO - there was no permit pulled per Charleston County Building Department.

4-28-01

Revised work List per Conservation w/ Jim A. Muro

status

Completed
by

1. BASEMENT, Convert Dressing Rm to Bike storage.

- Done a. Build Bike rack. B.C.
Done b. Install wire shelving for fishing gear. B.C.
Done c. install wire shelving in laundry room.
Done d. Paint bare areas & touch up. B.C. - woody.
e. clean basement floors. woody.
f. replace fan time clock. B.C.

2. outside misc.

- a. Paint cooling towers. As needed. AERO
Done b. Paint Elec service conduit and Panel.
Done c. Repair wood shingles at - Service Panel, Chiller room.
Done d. Pressure wash Patios/Steps/Stairs. Rusty.
Done g. clean floor in cabana. B.C.
h. Boardwalk; replace Boards, repair storage box at End. B.C.
closer, faucet.

Done I. Touch up trim in cabana. (woody)

3. Landscape;

- Done a. Restore sod & Berms west end of House. to include replace sod, Trim trees, Pine straw. Clark C
b. Basement drains, convert to vents.
c. Screen BEE Transformers; Both. Clark C
Done d. replace sod (spot) Rear yard. Clark C
e. design & Build Trellis over walk from Parking for blue price
f. Front step Planters, clean up & Plant color. B.C. - Clark

EXHIBIT

593

001450 in 03914

4. ~~Attic~~ Roof Leaks (call Facal, Dave, Russ)

a. Vent Houvers,

6. Roof Valley

c. thru wall Penetration at fiber optic cable.

~~to chimney from smoke back vent and~~

5. Misc Exterior

Done - a. complete clearing & sealing Patio furniture. B.C. Woody,

b. Hand casts, Patio, replace all Brackets. (Grant) B.C.

c. replace face Light sockets, as needed. B.C.

Done

d. Audio Speakers, grille rusted. Cabana - B.C.

e. water proof rear of door (complete) Russ

Done

f. Stair Shingles, Chuck Pitman.

Done - g. Replace MR-16 Bulbs, over front door. B.C. Woody

h. Pool Light.

Done - i. Paint new Chiller Room.

6. Interior

a. trim doors, reset stairer plates

b. repair light fixture at front door. B.C. Woody

c. solar screen on Attic windows - ?

Done

d. replace Light Bulbs in Grant rm ceiling - 2 B.C. W

Done

* replace All 4. Bulbs over windows on whole painting B.C. W

* e. Leak at Fire Place Flue, west END. in attic. B.C. W

f. Rewired ceiling light 2nd F. Hall. B.C.

g. Office door Settlement, ? Russ -

h. Fiber optic Lighting, G-Rm. reconnection.

i. Adj cabinet doors.

Interior Painting.

7. Great Rm

Contracted to John Ballen River

- ~~Done~~ 1. Ceiling Beam, clean skim coat, Paint.
- ~~Done~~ 2. repair Bad Places, touch up ceiling.
- ~~Done~~ 3. Sand, Caulk, Prime & Paint Fire Places wood work.
- ~~Done~~ 4. clean caulk Joints at trim.
- ~~Done~~ 5. Repaint End walls, & Touch up columns as needed.
- ~~Done~~ 6. include 2nd Floor Hall & Stairway.

7. repair kitchen wall & Paint. left corner at door.

~~Done~~

JB

Patch holes where thermostats removed. & repaint.
Kitchen, Elevator Door, Hall Guest Area,
Master BR. Round Rm.

~~Done~~

8.

Remove Wall Covering.

Contracted to Karts Painting.

Kids Rm. Bath Rm.

2 BRs, 2 BA Rms.

MEMO

To: Dan Cartin
From: Bob Cowan
Subject: Air Conditioning
Date: June 13, 2001

AS
DT
6-20-01 Dan, a few items that need your attention. Please give me your feed back so I can inform Jim Allwin of the status.

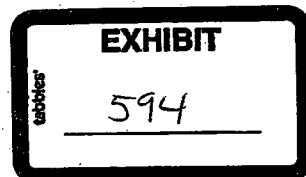
- Fixed 1. Chiller is off. Reported by phone.
- Fixed 2. Third floor unit still not working.
- Problem 3. Maids room unit did not work yesterday. Fan on, no cool air.
- ? 4. Bare pipe in basement sweating, dripping on floor. Also, thermostats, control valves, etc.
- ? 5. Attic, air handlers units sweating.
- ? 6. Sweating on duct work where insulation was torn due to damper adjustments.
- ? 7. Chiller room wall still open.
- ? 8. Chiller room floor still leaks into overhang below.

Miscellaneous Information.

Spoke to David Orner, Honeywell, he has ordered material/parts to install Fire Shut Down System. He is to call you and coordinate schedule to install.

Russ Cooper, is working on a proposal to repair louvers, or remove and replace with improved end wall louvers. Will let you know when I receive.


Bob Cowan



Live on Two moisture Consultants.
Have not spoke to either.
I am told that cost runs approx \$5,000?

To: Jim Allwin

Date: September 4, 2001

Fr: Bob Cowan

CC: Dan Cartin ✓ 9-5-01 Reviewed
Russ Cooper

Re: House Inspection

Subject: Moisture Detection

Jim, for your information, please give me a call when you can. I will review this list with Dan and Russ.

Third Floor

- Gold Room, ceiling okay, moisture reading below windows #7, 19 %, at light switch #7 19%. Also mold.
- Blue Room, moisture readings,
 1. Below roof beam, #10, 28 %.
 2. Below window #10, 28%.
 3. Baseboard right of window #10 28%.
- Bath, A/C register sweating, ceiling damaged. Also mold.

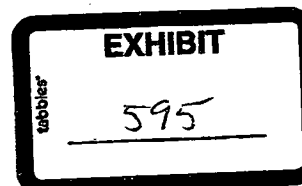
Second Floor

- Media Room, Bath okay, below window left end, round window #10 28%.
- Christopher's Room, Bath ceiling damaged, mold build up, register sweating.
Note: Area where drop ceiling installed, sheetrock damaged at roof beam. Moisture #10, 28% plus window sills, moisture #10, 28%.
- Michael's Room, Bath ceiling damaged, mold. Register sweating.
- Katrina's Room okay, Bath okay.
- Hallway, ceiling at Katrina's room door has mold.
- Master bedroom Suite - Windows, most show moisture reading of #10, 28%. Mold build up at window trim and walls.
- Closets, both Jim and Maria's. Registers sweating, ceiling damaged, mold build up. Floor finish damaged due to registers sweating.

First Floor

- Kitchen.
- Breakfast Room, moisture below windows #10, 28% plus sheetrock damage.
- Dining Room, okay.
- Great Room, beam over rear doors, sheetrock damage repeat of previous problems.
- Guest Bath Room, ceiling mold build up.
- Guest [Green] Bedroom, ceiling damaged at closet door. Repeat of previous problem. Moisture reading #8, 20%.
- Guest [yellow] Bedroom, okay.
- Office, okay.

- Russ C. call me when he received letter. Said he would come and check moisture with his meter. he did not show.
- Dan C. called. said he would follow up and work on Register Problem / Sweating -



001454 in 03900

1. Bob Siskroy 795-0450
4.400 Plus

2. Bobby Hodgefield.
881-3636

Consultants

Samp

Bob—

Re: Engineers

1. If you are working with an attorney (especially one with a major firm), the attorney probably will have a recommendation of someone with whom he works well.
2. Can't reach my friend. Left phone message. She has a stucco home & the attorney (a stucco specialist) sent an engineer, Robert Hedgepath. His office is at 145 Hwy 41, Suite C, Mt. Pleasant, SC 29465 Phone 881-3636.
3. Robert Sisnroy. He's the one I had a beef with in that he indicted a property he had never even seen.....But, he was recommended by someone at KRA....and today when I called Life Cycle Engineering (which used to use moisture forensics, but no longer does) John Ledbetter recommended Sisnroy. Sisnroy takes 3-4 days to do an analysis, apparently is very thorough and has often been a plaintiff witness in court. He works from his home at 714 Beauregard, James Island 29412 Phone 795-0308.

good luck, gale



Monthly Inspection Report

133 Flyway - Allwin

December 2002

11/27/02

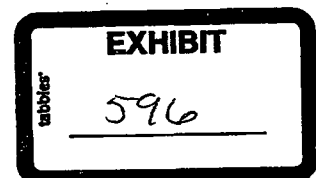
- Saw several dead wasps in house. Will monitor.
- Found cracks in caulk around window trim throughout house.
- Left house disarmed for Aero Services.

12/3/02

- Evidence of moles in yard at right side of house.
- Pine tree that had fallen over boardwalk at to benches has been removed.
- Weeds in grass in back yard.
- Saw several more dead wasps in house.
- Mold on wine bottles in wine refrigerator by dining room.
- Three light in garage that I had changed are flickering again. Possibly a problem with ballast since bulbs were just changed.

12/10/02

- Seal on window behind table off of kitchen area (curved window) has popped up.
- Tubs and showers in all baths have cracks in grout. Recommend caulking.
- Cracks in caulk in molding above doors from kitchen to back deck.
- Mildew on all second floor bathroom vents.
- Wallpaper behind toilet in second floor twin bedroom is peeling up.
- Mildew on wall across from master bath shower.
- Wallpaper loose at seam behind towel bar in master bath near tub.
- Crack between baseboard and wall in master bathroom on wall across from shower.
- Cracks in caulk around molding above projector screen.
- Cracks in sheet rock wall to left at top of third floor stairs.
- Chipping paint on round window of third floor bath.
- Wallpaper loose to left of windows in third floor twin bedroom.
- Cracks between baseboard and wall under windows in third floor twin bedroom.
- Crack between wall and ceiling above 6 pictures third floor twin room.
- Cracks between wall and risers - stairs to third floor.
- Areas of ceiling throughout house where sheet rock is chipping.



12/17/02

- Checked exterior showers and found the water is turned off. I drained the showers in preparation for winter.
- Leak in living room has gotten slightly worse. There were several very small pieces of sheet rock on floor under the leak.
- Can light in third floor landing is pulling out of ceiling.

12/26/02

- More cracking on ceiling of living room at both ends.
- More cracking and chipping of sheet rock on beam in second floor bunk bedroom.
- Noted tears in and deterioration of window screens of 2nd and 3rd floor windows.



Monthly Inspection Report

133 Flyway - Allwin

January 2003

1/2/03

- Noted mildew on first floor powder room ceiling.
- Mildew and algae on front steps and driveway.
- Stain on tile in third floor bathroom from rusted nails in air vent on ceiling.
- Light in back of mbr closet is now hanging from socket.
- Mildew on ceiling of master bath water closet.

1/7/03

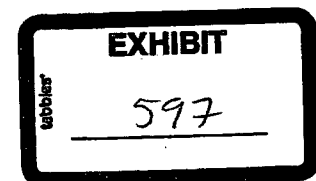
- Debris from palmettos in back yard and in beds and yard along side of house.
- More cracking in caulk at trim around doors from kitchen to back deck.
- Chipping paint on wall above and to the right of these same kitchen doors.

1/14/03

- Mildew on ceiling above stationary door closest to the desk in first floor study.
- More chipping paint on ceiling above door to first bunk room on the left.
- Chipping paint at bottom of window trim of window in second bunk room on left (window behind the blue chair).
- Toilet in bathroom of above room would not flush. Noted a few drops of water on floor behind toilet, so I turned it off.
- Mildew at end of second floor hall has gotten worse.
- More cracking dome ceiling in master bedroom.

1/21/03

- Cracks in caulk of trim and bead board at stairs up from garage.
- Solar shades in foyer will not rise. Living room shades work fine.
- Ice forming back left corner of refrigerator.
- Paint chipping and drywall crumbling under 3 windows in breakfast area. Also, water stains around these windows.
- Several beams on top of cabana are rotted.





Monthly Inspection Report

133 Flyway - Allwin

March 2003

2/25/03

- Weeds in grass at mailbox.
- More mildew on ceiling of bath off media room on second floor.

3/4/03

- Oak trees at front of house to the right and left of front steps are overhanging the roof.

3/11/03

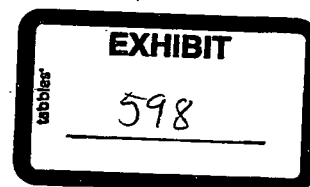
- Did a pre-arrival inspection.
- Turned on water to outdoor showers.

3/17/03

- Tv in media room was on when I arrived. I turned it off.

3/25/03

- Did a departure inspection.
- Moved trash can to end of drive so that it could be replaced with new can.
- Moved recycling out for pick up.





Monthly Inspection Report

133 Flyway - Allwin

April 2003

4/1/03

- Recommend washing pool deck, driveway and front steps.

4/7/03

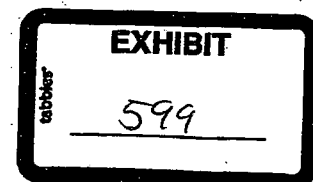
- Cold damaged portions of creeping fig need to be pruned away from retaining walls.
- Recommend removing dead palmetto on other side of fence (behind basketball goal).
- Recommend removing vines on palmetto to the right of the steps to back pool deck. I think palmetto underneath is dead.
- Recommend pruning trees at front of house away from roof. I can have an arborist take care of this.
- Recommend having wax myrtles along drive and on right side of house pruned to relieve top heaviness. I can have an arborist do this, as well.
- Sago palms at front steps and end of drive have been pruned.
- Weeds in grass throughout yard. Also, weeds in beds throughout yard.
- Pine straw in beds at back is thin.
- Swimming pool tile needs to be brushed.
- More mildew on ceiling of bath off first bunk room on left.
- More mildew on ceiling at end of second floor hall.

4/15/03

- Did a pre-arrival inspection.
- Evidence of rats in basement. I will have contacted you concerning this.
- Leak in cabana on kitchen wall. I will have contacted you concerning this.
- Crack in ceiling around vent in second floor bathroom with blue and white wallpaper.

4/21/03

- Did a departure inspection.



Gamble-Atlantic

130 Gardeners Circle, PMB 150
Freshfields Village
John's Island, SC 29455

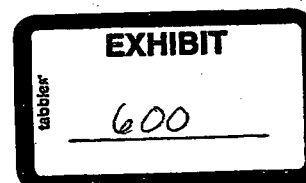
Invoice

Date	Invoice #
3/24/2009	82

Bill To
Maria Allwin 65 Upper Cross Road Greenwich, CT 06831

P.O. No.	Terms	Project
		Moisture Repairs

Quantity	Description	Rate	Amount
	Final Invoice for Interior Repairs Proposal HVAC system has been tested and balanced for modifications completed by ESS Engineering. All outlets/switches/ baseboards/windows have been sealed. Engineer Report has been delivered. Master toilet replaced. Contents have been reset. Construction related cleaning and debris is complete.	10,480.62	10,480.62
		Total	\$10,480.62



001462
Allwin 03833

Subj: Exterior breakdown painting - 133 Flyway
Date: 8/1/2010 4:13:37 P.M. Eastern Daylight Time
From: tori@abi.comcastbiz.net
To: MAllwin@aol.com
CC: john@gamblehomeservices.com

Maria,

I have been thinking about the breakdown of the exterior painting. While I completely understand the issue of such a large amount for exterior painting - I know you understand the issues regarding the stressed cedar shakes and the unprotected windows - so we just need to figure out a more palatable break-down.

Give me some feedback on completing the work by elevation - Front, right, garage and rear which would include the cabana. The overhangs are in good shape so we'll delete that aspect of the painting although we'll keep the fascia behind the gutters. The trim around the windows are also in good shape although the windows need attention.

I would also like to suggest that the front, right and garage windows are painted like the rear elevation. While the stain does protect the windows - paint lasts much longer - the rear elevation is a perfect example of that.

If we broke down the exterior by painting the elevations then it would break down as follows:

Front elevation - \$75K

Right elevation - \$52K

Garage elevation - \$54K

Rear and Cabana - \$52K

Tori

Tori Stein, CAPS, CGP

Gamble Atlantic, LLC

2009 Remodeler of the Year for Tri-County

2009 President for Charleston Trident Home Builders Association

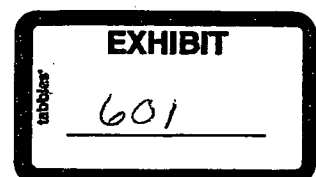
2008 Remodeler of the Year for Tri-County

2008 recipient South Carolina Pinnacle Award for

Best Remodeling Project: \$250,000 - \$500,000 range

2008 recipient Charleston Prism Award for

Best Remodeling Project: \$250,000 - \$500,000 range



Sunday, August 01, 2010 AOL: MAllwin

001463
AOL 03677

Addendum Started
16 Nov 10

Tori Stein

To: Leigh
Subject: Allwin

See answers below after statement.

I have a VM from Cynthia Noble requesting an appt. to walk the house for staging purposes. She wants to understand our scope of work and Maria also told her to point out to me if there are additional work that should be done. I will encourage Cynthia to address the exterior paint.

I will let you know the time for this appt. since I will obviously need my "assistant" to be with me to ensure my full understanding of the scope and to offer suggestions. Lol and tf.

Tori

Below are the additional items that Maria would like done: ~~Quotes for additional painting~~
will be rec'd Monday.

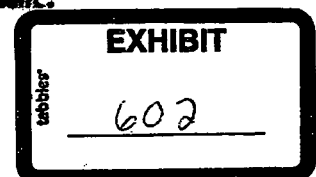
- 1. Remove the wallpaper in 2nd bedroom on the 2nd floor. Paint in white linen.
- 2. Scrape and paint the ceiling in the kitchen.
- 3. Scrape and paint the short wall in the kitchen; the wall to the left of the back door (the one we go in and out of.)
- 4. Scrape and paint the ceiling in the maid's bathroom.
- 5. Replace the jetted tub in the master bedroom with a garden style tub. ~~(working)~~

Additional items she would like to ask the insurance company/us:

- 1. Can we install lighting throughout the house that is more "user friendly"? ~~Not what~~
changing housing which means \$\$\$.
- 2. She wants to know how long Vantage has been in business and a little information on the company. Will mail literature.
- 3. Pull inspection report. Found it and will address possible issues in email to Maria. As noted to Maria - the inspection report is incomplete mainly because inspector only had 3 hours to walk the house before he had to get out. (Michael was coming in for a walk at the time and Maria only gave the inspector a limited time.) He did not have enough time for a thorough inspection so many items are not noted. But I will stick to the items we can deal with the new one since Maria does not want "to know". Perhaps I will give a report of the issues like the back doors on Cynthia too although she's another person who likes to stick her head in the sand.
- 4. She does not want a sign in front of the house while the work is done. ~~It will not be~~
done.
- 5. She gave us the wallpaper for the master bedroom; can we use it? ~~No - but painter giving~~
me a price to remove wpr and paint.
- 6. Need to call Sunny to check the pool cover. Do you want to do this or do you want me to? Can you send me contact information? I will need C of I if pool cover does not work.
- 7. We are now using the parents bedroom on the 1st floor to put the artwork in. She wants all the little items throughout the house boxed up. Movers scheduled for 23 November.

Items Maria is taking care of:

- 1. She is calling Atlantic Pest regarding the termite bond. I have a copy of this too if she does not.
- 2. She is going to look up the scope regarding the wall and chiller pipe. Should we maybe re-send that to her? I will wait a week and ask her if she found it w/ an attachment.



Tori Stein

To: John Nelson
Subject: Allwin

Very nice phone call from Maria - she looooooooooves house and all her tv's and a/v and and and.

Couple things for me -

1st and 2nd floor lights in hallways will not go out -Lutron was just working there so I wonder if they tripped something.

Rear elevation door in Great Room is not closing correctly

Lots of bulbs out?

Giant planter pots for front steps

Cancel satellite dish subscription? I will call Frank.

Paint kitchen walls and ceiling

Could you get the area rug at the front door cleaned and something about the front bedroom's carpet on the ocean side has a lot of spots too?

She asked what her next project should be - I took a deep breath and told her that she needed to get serious about painting the exterior of the house and the roof. The gable sheathing needed to be replaced too. She said - "I knew that I just wanted to hear you say it." What is that - a mind game? Anyhow, I will send her some numbers but she wants to wait until August.

There are rumblings from the White House that Bidon may be coming down again. Life is good.

T.

Tori Stein, CAPS, CGP

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130 Gardeners Circle



ALLWIN

Time Line for 133 Flyway

1993 133 Flyway completed – 10,663 square feet

4-20-99 MECA (Engineering firm) recommends replacement of undersized HVAC to 40 ton Chiller system

4-4-00 Contract with AERO to remove/replace HVAC system
Note: Cowan's are living in house

5-3-00 Russ Cooper working on water leaks at rear doors

6-19-00 AERO starts after Kiawah ARB app'r'l
Russ Cooper building Chiller Rm and condenser platforms

3-11-01 AERO final invoice

3-17-01 Punch list for AERO
Cowan note: Ventilation problem in basement area

3-21-01 Cowan note: Multiple roof leaks w/ locations
Basement wall leaks
Chiller Room addition leaks
Structural settlement noticed w/ beam issue under office door

3-23-01 Memo from Cowan
Roof still leaking over master bedroom valley

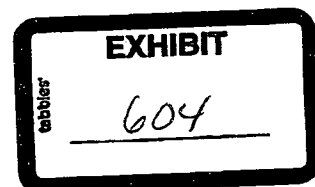
3-24-01 Painting has started – Kiawah-Seabrook Painting, Inc.
"Russ scheduled to complete work at kitchen doors today. Reported to Russ other leaks, note these are old leaks." Louvers were not flashed when originally installed.

6-1-01 Letter from Cowan to Russ Cooper noting outstanding construction related problems
Roof leaks, louver flashing, kitchen wall moisture, leaks in basement, water leaks in Chiller room, fireplace chimney leak, structural issues at office door, leak in wall of Master bedroom
Note to Jim Allwin that Cooper would start next week.

8-14-01 Notes from Gamble talking about mildew, leaking windows & water stains

9-4-01 Letter from Cowan – High moisture readings noted in several areas thru out the house.
Mainly around windows (19 – 28%) Starting to see mold. "Repeat of previous problems"

10-24-01 Letter from Cowan – Unresolved issues. Cooper did not show up for meeting.
Mention of awareness that Statue of Limitations for Builders was 13 years in SC



001466 00817

- 11-9-01 Memo from Jim Allwin to Cowan: Attack moisture issues thru attic and possibly light Fixtures
- 8-39-02 Memo from Cowan: Roof leaks, basement wall leaks, moisture in exterior wall, louvers Leak, rear elevation doors leak, a/c sweating – has been since installation of new system
- 3-04-03 Memo from Robbie to Dan Buffington re: meeting w/ Maria Allwin & GHS
Discusses contents placement and curtains
- 8-15-03 Campbell, Schneider and Associates report
Amy of GHS was HMS
Thermal barrier/envelope leakage
- 10-03 Picquet Roofing – “Roof can be patched and repainted”
- 1-08-04 Letter from Buffington referencing SC Statue of Limiations
Because of major roof issues and suggesting legal counsel
Notes that his roof repairs are temporary.
- 2-2-04 Roy Davis Smith – Architect
Invoice for consulting services from August '03 to Dec '03
Smith remembered mold issues on barrel ceiling and need for
Insulation in attic to stop dew point being reached in barrel
- 2-19-04 Contract between Buffington and Allwins \$238,504.00
- 4-5-04 Engineering Design & Testing Corp. inspection
Issues mainly with thermal envelope
- 4-9-04 Buffington is working on house
Roofer has started
Tischler window issues
- 4-19-04 Albrecht Engineering
Surface mold growth in several areas
Wall cavity samples taken of south (rear) and west (left) elevations
Report centers around ground level moisture
- 4-22-04 Albrecht Engineering met w/ Buffington, Morgan
Campbell, Schneider and Associates report of 8-15-03 discussed
- 5-04-04 Buffington draw request: \$26,128.71
- 5-07-04 Buffington weekly progress report
Repairs done to rotten studs and sheathing on tower
Painter has painted most of ceiling and are working on the walls

Foam insulation installer starting attic (SpraySeal 215-4040)

5-24-04 Flood Relief Design from Albrecht Enironmental regarding
Hydrostatic vents and moisture in crawl space

5-28-04 Memo from Diamond of Buffington to Milt regarding cost overruns
Due to rotten wood, Engineer report costs, carpenter ant damage...

6-7-04 AIG Insurance
References reports by Campbell, Schneider and Associates
Dates 6-30-03 and 8-17-03
Claim denied due to poor construction analysis

9-07-04 Buffington progress billing \$3,651.00

12-13-04 ABS report to Dan Buffington
Stress cracks in front elevation wall unrelated to construction

1-18-05 Milt Morgan
Appr'l on Buffington payment
References ABS @ cracks in drywall around front door

2-3-05 Final invoice from Buffington for \$68,541.68

2-15-05 Milt Morgan
Final progress billing from Buffington
References second contract from Buffington (need copy \$68K?)

7-00-06 Albrecht report to Cynthia Noble.
Recommendations were made to elimainate fungal contamination
But did not address the source of the vapor intrusion

Engineers:

4-20-99 Mechanical Engineering Consulting Assoicates reviews HVAC
8-15-03 GHS hired Campbell, Schneider and Assoc.
4-19-04 Buffington hired Albrecht Engineering
4-27-04 Crawford hired Engineering Design & Testing Corp. Inspection
8-08-04 Milton Morgan hired Roy Davis Smith Engineering
1-18-05 Milt Morgan hires ABS @ cracks in drywall around front door
6-00-06 Cynthia Noble hires Albrecht Environmental

LYLES & LYLES, LLC
ATTORNEYS AT LAW
342 East Bay Street
P.O. Box 773 (29402)
Charleston, South Carolina 29401
Telephone: (843) 577-7730
Facsimile: (843) 577-7172

Robert T. Lyles, Jr.
Member

Direct: (843) 735-5560
E-mail: rtl@lylesfirm.com

February 23, 2011

VIA CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Shope Reno Warton
18 Marshall Street, Ste. 114
South Norwalk, CT 06854

Re: 133 Flyway Drive, Kiawah Island, South Carolina

Gentlemen,

I have been retained by Maria Allwin and her family in connection with significant deficiencies at the residence known as 133 Flyway on Kiawah Island (The "Home"). You served as the architect for the Home. Ms. Allwin is contemplating putting the Home on the market. In the course of that process, a limited investigation has revealed numerous and significant deficiencies related to the Home. These deficiencies relate to the design/installation of doors and windows, waterproofing and sealant, flashing installation and other deficiencies which have lead to significant damage and which have prevented Ms. Allwin and her family from using the Home.

As a result of these deficiencies and the damages to property resulting therefrom, Ms. Allwin faces a significant financial burden, including the cost to complete a thorough investigation of the home, as well as repair of the home, which will inevitably be very expensive. Alternatively, Ms. Allwin may attempt to sell the Home in "as is" condition and take a substantial loss on the purchase price. She has not decided, at this point, which option she will choose.

Since you served as the design professional for the Home, Ms. Allwin hereby requests that you contact me and make arrangements to investigate the conditions at the Home and assist her with the evaluation and repair of those conditions.

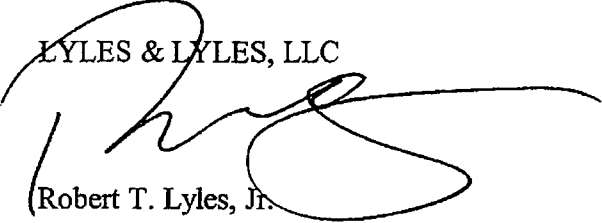
If you refuse to investigate and correct the conditions at the project in a suitable manner, Ms. Allwin will be forced to deal with those issues on her own and reserves any and all legal rights and remedies she may have against you as a result. In that event, you are also notified of the conditions at the Home and should you choose to review and inspect these prior to repair, arrangements for a site visit must be made with my office as soon as possible.

Please forward this letter to your attorney and to your insurance agent/broker and any known liability insurance carriers. I also hereby request that you make your files relative to the Home available for my review.

If you have any questions or wish to discuss this further, please feel free to call me.

Sincerely,

LYLES & LYLES, LLC



Robert T. Lyles, Jr.

RTL:bl

cc: Maria Allwin
Christopher Allwin

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

Maria Allwin,

Plaintiff,

vs.

Russ Cooper Associates, Inc., and Buffington
Homes, L.P.,

Defendants.

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT
CASE NO.: 2013-CP-10-4592

**ANSWER OF DEFENDANT RUSS
COOPER ASSOCIATES, INC.**

FILED
2013 DEC 12 PM 5:29
JULIE J. ANDERSON
CLERK OF COURT
BY _____

Defendant Russ Cooper Associates, Inc. ("Russ Cooper"), by and through the undersigned attorneys, hereby answering the Plaintiff's Complaint, states as follows:

1. Russ Cooper admits the allegations of Paragraphs 1, 2, and 3.
2. The allegations of Paragraph 4 set forth conclusions of law which require no response from Russ Cooper. To the extent any response is required, Russ Cooper denies the same and demands strict proof thereof.
3. Answering the allegations of Paragraph 5, Russ Cooper admits that it acted as the general contractor for the original construction of the Project and that Buffington performed certain repairs to the Project. Russ Cooper denies the remaining allegations of said Paragraph and demands strict proof thereof.
4. Russ Cooper denies the allegations of Paragraphs 6, 7, 8, and 9, and demands strict proof thereof.

**AS TO THE FIRST CAUSE OF ACTION
(Negligence and Gross Negligence)**

5. Answering the allegations of Paragraph 10, Russ Cooper incorporates by reference its previous responses as if repeated herein verbatim.

6. Russ Cooper denies the allegations of Paragraphs 11, 12, and 13 (including any and all subparts thereto), and demands strict proof thereof.

**AS TO THE SECOND CAUSE OF ACTION
(Breach of Implied Warranty of Service)**

7. Answering the allegations of Paragraph 14, Russ Cooper incorporates by reference its previous responses as if repeated herein verbatim.

8. Russ Cooper denies the allegations of Paragraphs 15, and 16, and demands strict proof thereof.

9. Russ Cooper denies any and all allegations not specifically admitted hereinabove.

**FURTHER ANSWERING AND AS AN ADDITIONAL
AND AFFIRMATIVE DEFENSE**

11. That all claims asserted against Defendant are barred by the applicable statute of limitations and/or the applicable statute of repose.

**FURTHER ANSWERING AND AS AN ADDITIONAL
AND AFFIRMATIVE DEFENSE**

12. Plaintiff's claims, if any, are barred, or should be reduced, by Plaintiff's own comparative negligence and recklessness by Plaintiff's failure to properly maintain the property and to mitigate her damages.

**FURTHER ANSWERING AND AS AN ADDITIONAL
AND AFFIRMATIVE DEFENSE**

13. Plaintiff's claims, if any, are the result of acts and omissions of other entities over whom Defendant have no control, barring Plaintiff's claims against Defendant.

**FURTHER ANSWERING AND AS AN ADDITIONAL
AND AFFIRMATIVE DEFENSE**

14. That all claims are barred by the doctrine of Laches.

**FURTHER ANSWERING AND AS AN ADDITIONAL
AND AFFIRMATIVE DEFENSE**

15. That the final completion and acceptance of the work undertaken by Defendant pursuant to the original contract and all modifications thereto constitutes a complete defense to all claims asserted by Plaintiff.

**FURTHER ANSWERING AND AS AN ADDITIONAL
AND AFFIRMATIVE DEFENSE**

16. That Plaintiff failed to give Defendant reasonable notice of the existence of any alleged defects due to faulty workmanship and/or materials and failed to provide Defendant a reasonable opportunity to correct any such alleged defects.

17. That Plaintiff's failure to give Defendant notice of and an opportunity to correct any alleged defects due to faulty workmanship and/or materials constitutes a complete defense to all claims of breach of warranty.

**FURTHER ANSWERING AND AS AN ADDITIONAL
AND AFFIRMATIVE DEFENSE**

18. Upon information and belief, any express or implied warranties were limited in duration from the date of completion and acceptance of the project by the Owner.

19. That the failure of Plaintiff within the warranty period from the date of the completion and acceptance of the project by the Plaintiff, to give notice of or make any claim for alleged deficiencies in the workmanship and/or materials provided by Defendant constitutes a complete defense to all claims asserted by Plaintiff.

**FURTHER ANSWERING AND AS AN ADDITIONAL
AND AFFIRMATIVE DEFENSE**

20. Plaintiff's Complaint is barred by payment and/or release.

**FURTHER ANSWERING AND AS AN ADDITIONAL
AND AFFIRMATIVE DEFENSE**

21. Plaintiff has waived and/or is estopped from asserting the claims set forth in her

Complaint.

**FURTHER ANSWERING AND AS AN ADDITIONAL
AND AFFIRMATIVE DEFENSE**

22. If Plaintiff sustained injuries and damages in the manner alleged in the Complaint, which injuries and damages are specifically denied by Defendant, then the alleged injuries and damages were sustained not as the result of any fault, neglect, breach of warranty (express or implied) or want of due care on the part of Defendant nor of anyone for whose conduct Defendant is any way responsible, but solely through the fault, neglect, breach of warranty (express or implied) and want of due care on the part of Plaintiff, all of which will be shown at the trial of this case, and for which Plaintiff can have no recovery against Defendant or, in the alternative, for which Plaintiff's recovery should be appropriately reduced.

**FURTHER ANSWERING AND AS AN ADDITIONAL
AND AFFIRMATIVE DEFENSE**

23. Plaintiff's claims fail to state facts sufficient to constitute causes of action against Defendant.

**FURTHER ANSWERING AND AS AN ADDITIONAL
AND AFFIRMATIVE DEFENSE**

24. Defendant has contractually limited its warranty and non-warranty obligations and exposure to the Plaintiff, excluding liability for many claims the Plaintiff is making, barring Plaintiff's claims and/or Plaintiff's claimed damages, including Plaintiff's claim for consequential damages, in whole or in part, against Defendant.

**FURTHER ANSWERING AND AS AN ADDITIONAL
AND AFFIRMATIVE DEFENSE**

25. Plaintiff's claims are barred and/or should be stayed or dismissed by virtue of the Plaintiff's failure to comply with the South Carolina Notice and Opportunity to Cure Construction Dwelling Defects Act, South Carolina Code §40-59-810-860 (1976 as amended).

**FURTHER ANSWERING AND AS AN ADDITIONAL
AND AFFIRMATIVE DEFENSE**

26. Plaintiff's claims are barred by her own comparative negligence in failing to provide an adequate design for the structure.

**FURTHER ANSWERING AND AS AN ADDITIONAL
AND AFFIRMATIVE DEFENSE**

27. That by furnishing plans, specifications and drawings to Defendant, Plaintiff impliedly warranted that those plans, specifications and drawings were suitable and fit for use by Defendant in performing its work as called for in the contract documents.

28. That to the extent that the plans, specifications and drawings were defective, insufficient, conflicting and incomplete, Plaintiff has breached its implied warranty and all claims asserted by Plaintiff against Defendant are therefore barred.

**FURTHER ANSWERING AND AS AN ADDITIONAL
AND AFFIRMATIVE DEFENSE**

29. That the Plaintiff's claim for punitive damages violate the South Carolina State Constitution and like provisions of the United States Constitution and, therefore, pursuant to S.C.R.C.P. 12(b)(6), Defendants request the Plaintiff's claim for punitive damages be dismissed.

**FURTHER ANSWERING AND AS AN ADDITIONAL
AND AFFIRMATIVE DEFENSE**

30. Plaintiff's claims are barred by the doctrine of corporate immunity.

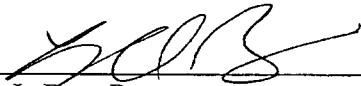
**FURTHER ANSWERING AND AS AN ADDITIONAL
AND AFFIRMATIVE DEFENSE**

31. Defendant hereby gives notice that it intends to rely upon such other affirmative defenses as may become available or apparent during the course of discovery, and thus reserves the right to amend its Answer to assert any such defenses.

WHEREFORE, Defendant prays that Plaintiff's Complaint be dismissed with costs, and that it be given judgment against the Plaintiff to include attorney's fees, costs, and other expenses

incurred in defending this action, that this matter be tried before a jury, and for such further and other relief as this Court may deem just and proper.

BEST HONEYCUTT, P.A.

By: 
L. Dean Best

Post Office Box 13466

8 Sawgrass Road, Suite A (29412)

Charleston, South Carolina 29422

T: (843) 793-4744

Email: Dean@besthoneycutt.com

*Attorneys for Defendant Russ Cooper
Associates, Inc.*

December 11, 2013
Charleston, South Carolina

CERTIFICATE OF SERVICE

I, Dani Knecht, an employee of Best Honeycutt, P.A., do hereby certify that a true and correct copy of the foregoing has been provided by U.S. Mail, postage pre-paid, and/or via electronic mail to all other counsel of record, on this 11th day of December, 2013, to the following:

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Lyles & Lyles, LLC
342 East Bay Street
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Attorneys for Plaintiff

Edward D. Buckley, Jr., Esquire
Joshua P. Cantwell, Esquire
Young Clement Rivers, LLP
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jcantwell@ycrlaw.com
ebuckley@ycrlaw.com
Attorneys for Buffington Homes, L.P.



Dani Knecht

FILED
2013 DEC 12 PM 5:29
JULIE J. ARMSTRONG
CLERK OF COURT
BY _____

1478

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STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

Maria Allwin,

Plaintiff,

vs.

Russ Cooper Associates, Inc., and Buffington
Homes, L.P.,

Defendants.

Buffington Homes, L.P.,

Third-Party Plaintiff,

vs.

Air Fasteners Of Carolina, Inc., Albrecht
Environmental, Inc., All Points
Construction, Inc., Berlin G. Myers Lumber
Corp., Builders FirstSource-Southeast
Group, LLC f/k/a Builders FirstSource
Southeast Group, Inc., Frank Leigh
Contractors, Inc., Patriots Drywall, Inc.,
Picquet Roofing, Inc., Plantation
Construction, Sprayseal Foam Insulation,
L&L Services, LLC, Loney Davis, Superior
Surfaces Of Charleston, Inc., & Tischler Und
Sohn (USA) Limited,

Third-Party Defendants,

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT
CASE NO.: 2013-CP-10-4592

**ANSWER OF DEFENDANT RUSS
COOPER ASSOCIATES, INC. TO
PLAINTIFF'S FIRST AMENDED
COMPLAINT**

BY

JULIE A. STRONG
CLERK OF COURT

2014 NOV -6 PM 2:03

FILED

Defendant Russ Cooper Associates, Inc. ("Russ Cooper"), by and through its undersigned attorneys, hereby answering the Plaintiff's First Amended Complaint, states as follows:

1. Russ Cooper admits the allegations of Paragraphs 1, 2, and 3.
2. Answering the allegations of Paragraph 4, Russ Cooper admits that SRW is an

architectural firm located in South Norwalk, Connecticut that provided design services for the original construction of the subject residence. Russ Cooper denies the remaining allegations of said Paragraph and demands strict proof thereof.

3. The allegations of Paragraph 5 set forth conclusions of law which require no response from Russ Cooper. To the extent any response is required, Russ Cooper denies the same and demands strict proof thereof.

4. Answering the allegations of Paragraph 6, Russ Cooper admits that it acted as the general contractor for the original construction of the Project, that SRW provide design services for the Project, and that Buffington performed certain repairs to the Project. Russ Cooper denies the remaining allegations of said Paragraph and demands strict proof thereof.

5. Russ Cooper denies the allegations of Paragraphs 7 (and all its subparts), 8, 9, and 10, and demands strict proof thereof.

**AS TO THE FIRST CAUSE OF ACTION
(Negligence and Gross Negligence)**

6. Answering the allegations of Paragraph 11, Russ Cooper incorporates by reference its previous responses as if repeated herein verbatim.

7. Russ Cooper denies the allegations of Paragraphs 12, 13 (and all its subparts), and 14, and demands strict proof thereof.

**AS TO THE SECOND CAUSE OF ACTION
(Breach of Implied Warranty of Service)**

8. Answering the allegations of Paragraph 15, Russ Cooper incorporates by reference its previous responses as if repeated herein verbatim.

9. Russ Cooper denies the allegations of Paragraphs 16, and 17, and demands strict proof thereof.

**AS TO THE THIRD CAUSE OF ACTION
(Negligence as to SRW)**

10. Answering the allegations of Paragraph 18, Russ Cooper incorporates by reference its previous responses as if repeated herein verbatim.

11. The allegations of Paragraphs 19 (and all its subparts), and 20, set forth an action against parties other than Russ Copper and, therefore, require no response from Russ Cooper. To the extent any response is required, Russ Copper denies the same and demands strict proof thereof.

**AS TO THE FOURTH CAUSE OF ACTION
(Breach of Express and Implied Warranty as to SRW)**

12. Answering the allegations of Paragraph 21, Russ Cooper incorporates by reference its previous responses as if repeated herein verbatim.

12. The allegations of Paragraphs 22, 23, and 24, set forth an action against parties other than Russ Copper and, therefore, require no response from Russ Cooper. To the extent any response is required, Russ Copper denies the same and demands strict proof thereof.

13. Russ Cooper denies the relief sought in the WHEREFORE paragraph.

14. Russ Cooper denies any and all allegations not specifically admitted hereinabove.

**FURTHER ANSWERING AND AS AN ADDITIONAL
AND AFFIRMATIVE DEFENSE**

15. That all claims asserted against Defendant are barred by the applicable statute of limitations and/or the applicable statute of repose.

**FURTHER ANSWERING AND AS AN ADDITIONAL
AND AFFIRMATIVE DEFENSE**

16. Plaintiff's claims, if any, are barred, or should be reduced, by Plaintiff's own comparative negligence and recklessness by Plaintiff's failure to properly maintain the property and to mitigate her damages.

**FURTHER ANSWERING AND AS AN ADDITIONAL
AND AFFIRMATIVE DEFENSE**

17. Plaintiff's claims, if any, are the result of acts and omissions of other entities over whom Defendant have no control, barring Plaintiff's claims against Defendant.

**FURTHER ANSWERING AND AS AN ADDITIONAL
AND AFFIRMATIVE DEFENSE**

18. That all claims are barred by the doctrine of Laches.

**FURTHER ANSWERING AND AS AN ADDITIONAL
AND AFFIRMATIVE DEFENSE**

19. That the final completion and acceptance of the work undertaken by Defendant pursuant to the original contract and all modifications thereto constitutes a complete defense to all claims asserted by Plaintiff.

**FURTHER ANSWERING AND AS AN ADDITIONAL
AND AFFIRMATIVE DEFENSE**

20. That Plaintiff failed to give Defendant reasonable notice of the existence of any alleged defects due to faulty workmanship and/or materials and failed to provide Defendant a reasonable opportunity to correct any such alleged defects.

21. That Plaintiff's failure to give Defendant notice of and an opportunity to correct any alleged defects due to faulty workmanship and/or materials constitutes a complete defense to all claims of breach of warranty.

**FURTHER ANSWERING AND AS AN ADDITIONAL
AND AFFIRMATIVE DEFENSE**

22. Upon information and belief, any express or implied warranties were limited in duration from the date of completion and acceptance of the project by the Owner.

23. That the failure of Plaintiff within the warranty period from the date of the completion and acceptance of the project by the Plaintiff, to give notice of or make any claim for alleged deficiencies in the workmanship and/or materials provided by Defendant constitutes a

complete defense to all claims asserted by Plaintiff.

**FURTHER ANSWERING AND AS AN ADDITIONAL
AND AFFIRMATIVE DEFENSE**

24. Plaintiff's Complaint is barred by payment and/or release.

**FURTHER ANSWERING AND AS AN ADDITIONAL
AND AFFIRMATIVE DEFENSE**

25. Plaintiff has waived and/or is estopped from asserting the claims set forth in her Complaint.

**FURTHER ANSWERING AND AS AN ADDITIONAL
AND AFFIRMATIVE DEFENSE**

26. If Plaintiff sustained injuries and damages in the manner alleged in the Complaint, which injuries and damages are specifically denied by Defendant, then the alleged injuries and damages were sustained not as the result of any fault, neglect, breach of warranty (express or implied) or want of due care on the part of Defendant nor of anyone for whose conduct Defendant is any way responsible, but solely through the fault, neglect, breach of warranty (express or implied) and want of due care on the part of Plaintiff, all of which will be shown at the trial of this case, and for which Plaintiff can have no recovery against Defendant or, in the alternative, for which Plaintiff's recovery should be appropriately reduced.

**FURTHER ANSWERING AND AS AN ADDITIONAL
AND AFFIRMATIVE DEFENSE**

27. Plaintiff's claims fail to state facts sufficient to constitute causes of action against Defendant.

**FURTHER ANSWERING AND AS AN ADDITIONAL
AND AFFIRMATIVE DEFENSE**

28. Defendant has contractually limited its warranty and non-warranty obligations and exposure to the Plaintiff, excluding liability for many claims the Plaintiff is making, barring

Plaintiff's claims and/or Plaintiff's claimed damages, including Plaintiff's claim for consequential damages, in whole or in part, against Defendant.

**FURTHER ANSWERING AND AS AN ADDITIONAL
AND AFFIRMATIVE DEFENSE**

29. Plaintiff's claims are barred and/or should be stayed or dismissed by virtue of the Plaintiff's failure to comply with the South Carolina Notice and Opportunity to Cure Construction Dwelling Defects Act, South Carolina Code §40-59-810-860 (1976 as amended).

**FURTHER ANSWERING AND AS AN ADDITIONAL
AND AFFIRMATIVE DEFENSE**

30. Plaintiff's claims are barred by her own comparative negligence in failing to provide an adequate design for the structure.

**FURTHER ANSWERING AND AS AN ADDITIONAL
AND AFFIRMATIVE DEFENSE**

31. That by furnishing plans, specifications and drawings to Defendant, Plaintiff impliedly warranted that those plans, specifications and drawings were suitable and fit for use by Defendant in performing its work as called for in the contract documents.

32. That to the extent that the plans, specifications and drawings were defective, insufficient, conflicting and incomplete, Plaintiff has breached its implied warranty and all claims asserted by Plaintiff against Defendant are therefore barred.

**FURTHER ANSWERING AND AS AN ADDITIONAL
AND AFFIRMATIVE DEFENSE**

33. That the Plaintiff's claim for punitive damages violate the South Carolina State Constitution and like provisions of the United States Constitution and, therefore, pursuant to S.C.R.C.P. 12(b)(6), Defendants request the Plaintiff's claim for punitive damages be dismissed.

**FURTHER ANSWERING AND AS AN ADDITIONAL
AND AFFIRMATIVE DEFENSE**

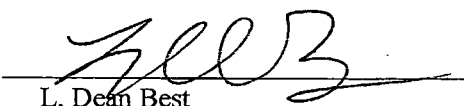
34. Plaintiff's claims are barred by the doctrine of corporate immunity.

RESERVATION AND NON-WAIVER

35. Defendant hereby gives notice that it intends to rely upon such other affirmative defenses as may become available or apparent during the course of discovery, and thus reserves the right to amend its Answer to assert any such defenses.

WHEREFORE, Defendant prays that Plaintiff's Complaint be dismissed with costs, and that it be given judgment against the Plaintiff to include attorney's fees, costs, and other expenses incurred in defending this action, that this matter be tried before a jury, and for such further and other relief as this Court may deem just and proper.

BEST HONEYCUTT, P.A.

By: 

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*Attorneys for Defendant Russ Cooper
Associates, Inc.*

November 5, 2014
Charleston, South Carolina

CERTIFICATE OF SERVICE

I, Dani Knecht, an employee of Best Honeycutt, P.A., do hereby certify that a true and correct copy of the foregoing has been provided by U.S. Mail, postage pre-paid, and/or via electronic mail to all other counsel of record, on this 5th day of November, 2014, to the following:

Robert T. Lyles, Jr., Esquire
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Attorneys for L&L Services, LLC

FILED
2014 NOV - 6 PM 2:03
JULIE A. HARRIS, CLERK OF COURT

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Graham.powell@walltempleton.com

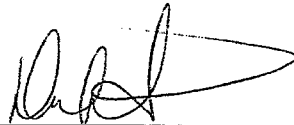
And

P. Gunnar Nistad, Esquire
Benjamin B. Davis, Esquire
McAngus Goudelock & Courie, LLC
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Attorneys for Plantation Construction

Bonum S. Wilson, III, Esquire
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bwilson@wilsonheyward.com

Attorneys for Sprayseal Foam Insulation



Dani Knecht

THE MORGAN COMPANY OF CHARLESTON, INC.

Construction Program Management and Consulting

19 October 2003

Mr. and Mrs. James Allwin
133 Flyway Drive
Kiawah Island, SC 29455

Re: 133 Flyway Drive
Kiawah Island, South Carolina

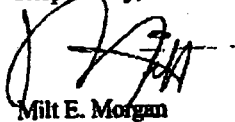
Dear Mr. and Mrs. Allwin:

Just wanted to let you know that late this past week, I received some follow-up information from Dan Cartin of Aero Services as well as from Deveaux Picquet of Picquet Roofing. Dan had been in contact with the engineering firm in Columbia, SC, from whom he had requested the information mentioned in my previous correspondence. The engineer, who is also a consultant to the Medical University of South Carolina (MUSC), will be in town this Tuesday and we have arranged a meeting at 133 Flyway with him that afternoon. It is our intention to discuss the various options related to the air transfer in the attic area with him.

Deveaux supplied me with some estimated costs associated with repairing and refurbishing the roof as well as an estimated cost of replacement of the roof which he feels will be required at some time in the future. I am sorting through those numbers and will discuss them with him again before forwarding them to you.

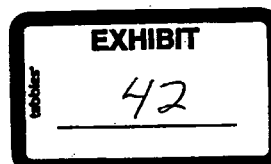
I will correspond with you later in the week after our Tuesday meeting at your home. Thank you for your consideration.

Respectfully,


Milt E. Morgan

MEM:mjm

Post Office Box 477, Charleston, South Carolina 29402
Telephone: 843/768-5446 Facsimile: 843/768-5448 E-mail Address: morgcocpm@bellsouth.net



Allwin 01449

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

MARIA ALLWIN VOLUME 2

MARIA ALLWIN,

Plaintiff,

vs.

RUSS COOPER ASSOCIATES, INC.,
and BUFFINGTON HOMES, L.P.,

Defendants.

BUFFINGTON HOMES, L.P.,

Third-Party Plaintiff,

vs.

AIR FASTENERS OF CAROLINA, INC., ALBRECHT
ENVIRONMENTAL, INC., ALL POINTS CONSTRUCTION,
INC., BERLIN G. MYERS LUMBER CORP., BUILDERS
FIRSTSOURCE-SOUTHEAST GROUP, LLC f/n/a BUILDERS
FIRSTSOURCE SOUTHEAST GROUP, INC., FRANK LEIGH
CONTRACTORS, INC., PATRIOTS DRYWALL, INC.,
PICQUET ROOFING, INC., PLANTATION CONSTRUCTION,
SPRAYSEAL FOAM INSULATION, L&L SERVICES, LLC,
LONEY DAVIS, SUPERIOR SURFACES OF CHARLESTON,
INC., and TISCHLER UND SOHN (USA) LIMITED,

Third-Party Defendants.

315 Madison Avenue
New York, New York

January 27, 2015
10:05 AM

MARIA ALLWIN, the Plaintiff herein, taken
by the Defendants, before a Notary Public of the
State of New York, pursuant to Order.

1 A p p e a r a n c e s:

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LYLES & LYLES, LLC
Attorneys for Plaintiff
342 East Bay Street
Charleston, South Carolina 29401
BY: ROBERT T. LYLES, JR.

BEST HONEYCUTT, P.A.
Attorneys for Defendant
RUSS COOPER ASSOCIATES, INC.
8 Sawgrass Road, Suite A
Charleston, South Carolina 29412
BY: L. DEAN BEST

YOUNG CLEMENT RIVERS, LLP
Attorneys for Defendant/Third-Party
Plaintiff BUFFINGTON HOMES, L.P.
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Charleston, South Carolina 29402
BY: JOSHUA P. CANTWELL

CARLOCK COPELAND & STAIR, LLP
Attorneys for Defendant
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Charleston, South Carolina 29401
BY: TYLER P. WINTON

RICHARDSON PLOWDEN & ROBINSON, P.A.
Attorneys for Third-Party Defendant
AIR FASTENERS OF CAROLINA, INC.
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1 MARIA ALLWIN,
2 having been previously been duly sworn by a
3 Notary Public of the State of New York, was
4 examined and testified as follows:

5 EXAMINATION

6 BY MR. BEST:

7 Q. Ms. Allwin, you realize you're still
8 under oath?

9 A. Yes.

10 Q. Did you discuss the substance of your
11 testimony with anyone last night?

12 A. No.

13 Q. All right. Thank you.

14 (Exhibit No. 261 was marked for
15 identification.)

16 Q. I'm going to show you what's been marked
17 as Exhibit 261.

18 A. Okay.

19 Q. And ask if you've seen that document
20 before.

21 A. Yeah, I've seen this.

22 Q. And we'll look at some documents later
23 on where you made at least a few payments. If
24 you'll notice on the first page there is a
25 payment schedule?

1 A. Yeah.

2 Q. Did you make all of the payments under
3 this contract for \$185,480?

4 A. I don't recall that.

5 Q. You don't recall whether you did or
6 didn't?

7 A. I don't recall whether I did or did not
8 make all the payments.

9 Q. And I'm not suggesting you owe anybody
10 money, but I am asking do you know whether all of
11 the items in this contract to be performed by
12 Atlantic Builders were actually performed? Were
13 all these repairs made?

14 A. I don't recall that. I would have to
15 check the bills to see. I don't remember.

16 Q. You don't know one way or the other.

17 A. I do not.

18 Q. Can you tell me as you sit here today
19 what repairs Buffington made in 2004-2005?

20 A. Sure. My understanding is that
21 Buffington was responsible for the removing of
22 the stone at the deck level of the doors, and
23 fixing that water, whatever that -- fixing the
24 stone there, and then he took the shingle around --

25 Q. I'm sorry. Because of water intrusion

1 into the basement?

2 A. I would imagine so.

3 Went around the turret, took the shingle
4 off the turret, on the bottom, off the kitchen
5 window, and the shingle on the side by the
6 kitchen, removed that, over the driveway side. I
7 don't recall anything else he did.

8 Q. Do you recall him doing any work around
9 windows?

10 A. Not specifically, no. The kitchen
11 bottom. I don't recall the windows.

12 Q. The understanding you just described,
13 that was your understanding back in 2004-2005
14 also. You knew he was doing that work then.

15 A. That's what I recall.

16 (Exhibit No. 274 was marked for
17 identification.)

18 Q. Okay. I'm showing you what we've marked
19 as Exhibit 274. It's an e-mail exchange between
20 you and Tori Stein.

21 A. Uh-huh.

22 Q. Where you are forwarding her a copy of
23 the AIG claim denial letter that we looked at
24 yesterday.

25 A. Okay.

1 Q. Or at least that's what it appears to
2 be. And I just want to make sure, did you review
3 that claim denial letter when you sent this
4 e-mail in January 2009?

5 A. I might have just sent it to her to look
6 at it.

7 Q. Okay. Why did you send it to her to
8 look at?

9 A. To see what we could do, to get the
10 house -- see what she evaluated from it, if she
11 could evaluate it with me.

12 Q. Because of the problems set forth in
13 that letter?

14 A. Yes.

15 (Exhibit No. 275 was marked for
16 identification.)

17 Q. Exhibit 275 is an e-mail from Tori Stein
18 to you regarding an appointment with Jake Price,
19 an adjuster for AIG, and I believe this may have
20 related to -- I know you had a couple of
21 incidents. I think this may have been the
22 lightning strike? Do you recall what kind of
23 claim you made for AIG in 2009?

24 A. I did have a lightning strike claim,
25 yes. I don't recall the dates, but it's possible

1 that's what this was.

2 Q. Tori mentions in the last paragraph of
3 her e-mail, Mr. Price mentions a second claim
4 made of humidity and paint peeling.

5 Did you make a second claim?

6 A. No.

7 Q. Do you have any correspondence from AIG
8 in 2009 concerning an investigation and
9 inspection? Do you know if AIG made an
10 inspection?

11 A. I don't recall that.

12 (Exhibit No. 276 was marked for
13 identification.)

14 Q. Exhibit 276 is an invoice from Picquet
15 Roofing to Atlantic Builders for various roof
16 repairs. Do you know what roof repairs --

17 A. I do not.

18 Q. You have to let me finish my sentence.
19 Thank you. I know you know where I'm going. We
20 just need to have a clear record.

21 You don't know what roof repairs were
22 made in February 2009.

23 A. I do not know.

24 (Exhibit No. 278 was marked for
25 identification.)

1 Q. Exhibit 278 is an HVAC design analysis
2 that was prepared for Environmental Solutions and
3 Service. They go by ESS.

4 A. Uh-huh.

5 Q. It was prepared by GKA Consulting
6 Engineers. Have you seen this before?

7 A. No, I have not.

8 Q. Do you know why you were having another
9 HVAC analysis performed in 2009?

10 A. Yeah, I do. I do know why, although I'm
11 not sure of the dates, but the system kept
12 turning on and off, the new chiller system that
13 we had installed by Aero, and it was reaching a
14 point of desperation that we had to do something
15 else.

16 Q. Okay. Is it fair to say that you're not
17 looking to Russ Cooper or Russ Cooper Associates
18 for any type of recovery in this litigation due
19 to the HVAC system installed by Aero?

20 A. Yes, that's true.

21 Q. Okay.

22 A. I'm not looking to Russ Cooper for any
23 of that, or anybody else.

24 Q. What are you looking to Russ Cooper and
25 Russ Cooper Associates for in this litigation?

1 A. I am so glad you asked me that. You
2 went through 278 exhibits for the one question.
3 I'm looking to Russ Cooper for compensation and
4 for everything that I discovered subsequent to
5 this.

6 Q. I'm sorry. Subsequent to when?

7 A. Subsequent to when I realized that I had
8 a problem of magnitude that Tori identified as
9 the water coming in underneath the house, and at
10 that time I called upon forensic people to help
11 me figure out what indeed was going on there.

12 Q. That was Fuller Engineering?

13 A. Yes. Somebody independent who did not
14 have a history with the house, had not been there
15 before, was not conflicted, totally fresh eyes to
16 look at my problem with me and explain to me
17 exactly what was going on. And so he did. And
18 he went through the whole house, and he did this
19 destructive testing, which is a terrible thought
20 to think that I'm doing destructive testing on
21 the house, but nonetheless, I went through it
22 with him, and identified all these things that I
23 had no knowledge of.

24 I think in all these documents, 278
25 documents, nowhere did it say that someone said

1 to us, someone said to Jim, pay this, and Jim
2 said no. We did, as stewards of that house,
3 everything that was asked of us, thousands of
4 dollars, but Jim never said, hey, man, what are
5 you doing? Which I see in your faces would have
6 been the response, perhaps, you would have done,
7 but that wasn't his. He went there, he wanted it
8 fixed and he fixed it, to the best of the
9 knowledge he had with the information that was
10 given to him at the time. And now I'm acting
11 with the best of the knowledge of the information
12 that's been given to me at this time, and that's
13 this destructive testing and advice from other
14 people, and that's where I am.

15 What happened before, I can't -- you
16 know -- we -- everyone tried to do something. I
17 can't say you fucked up, but there are
18 fundamental problems with that house, with the
19 design and building of that house, that no one
20 could have expected, least of all the homeowner.

21 Q. I appreciate your answer, and if I'm
22 understanding what you're telling me, it's that
23 you didn't know that there were problems with the
24 house until you received the report from Ross
25 Clements at Fuller Engineering?

1 MR. LYLES: Object to the form of
2 the question.

3 A. That's not what I said.

4 Q. Okay.

5 A. I fixed all the problems of the house
6 that I was confronted with in 278 documents.

7 Q. We haven't looked at all of those, but I
8 see your point.

9 A. Okay. The ones you skipped over, I
10 assumed you skipped because there's nothing to
11 say, but I'm saying to you that in 278 documents,
12 nowhere do you see my husband saying, I'm not
13 doing this, so your question is did I -- were the
14 only problems the problems that I got from that
15 letter? No. Everything else we fixed, and
16 everything I fixed subsequent.

17 Q. Yes, ma'am. I'm not suggesting you
18 didn't make efforts or your husband didn't make
19 efforts to repair the house.

20 A. Okay.

21 Q. What I am suggesting is you knew about
22 these problems, and we've looked at some of the
23 278 documents we've been through, and they
24 establish you and/or your husband were made aware
25 of problems with the original construction years

1 before you filed this lawsuit.

2 MR. LYLES: Object to the form of
3 the question.

4 Q. Do you disagree with that?

5 A. I'm not answering -- I don't understand
6 what you're saying. I think we're playing
7 semantics. I don't know how to respond to that.
8 I'm sorry.

9 Q. We can come back to that.

10 A. Okay.

11 Q. You paid Dan Buffington, I believe it
12 was almost \$360,000. We looked at that
13 yesterday, correct?

14 A. Okay.

15 Q. And he was paid much of that money, if
16 not all of that money, to repair problems in the
17 home that stemmed from the original construction
18 done by Russ Cooper Associates, correct?

19 A. I don't recall what that was all for.

20 Q. Did you think it was maintenance?

21 A. Yeah. Yeah, I thought it was, you know,
22 we're on the beach, things get wet and you have
23 to fix it.

24 Q. You weren't aware that Russ Cooper
25 potentially or subcontractors who built the house

1 originally had done anything wrong.

2 A. I don't recall thinking that Russ Cooper
3 did anything wrong, no.

4 Q. When did you realize Russ Cooper
5 potentially had done anything wrong?

6 A. When he hung up the phone on me when I
7 called him to ask him his advice.

8 Q. And that was in response to what again?

9 A. That was in response to the call I
10 received from Tori that the doors were -- the
11 flashings were in or out.

12 (Exhibit No. 280 was marked for
13 identification.)

14 Q. Look at Exhibit 280. Have you seen that
15 before, please?

16 A. I see it, yes.

17 Q. Okay. The first page is the invoice, or
18 a proposal, actually, from Atlantic Builders.

19 A. Uh-huh.

20 Q. Excuse me. Gamble-Atlantic, certain
21 roofing repairs. Have you seen the two pages
22 behind it which are the proposal that Gamble
23 received from Picquet Roofing to do that work and
24 the last page being Gamble's calculation of the
25 fee they're going to charge you?

1 A. I did not see that. It's very
2 interesting, but I did not see that.

3 Q. It is interesting that they've marked up
4 his price almost 50 percent.

5 A. Yeah. That's very funny, isn't it? I
6 did not know that.

7 Q. Is that the source of some irritation
8 today?

9 A. No.

10 Q. No.

11 A. Everyone has to make money.

12 (Exhibit No. 282 was marked for
13 identification.)

14 Q. Exhibit 282 is an e-mail exchange
15 between you and Tori Stein regarding a meeting
16 with Robert. I'm assuming that's a meeting with
17 Robert Lyles?

18 A. Yes, it is.

19 Q. Why did you engage or why were you
20 meeting with Robert Lyles?

21 A. I needed help to decide action to take
22 once I realized the magnitude of what was going
23 on, and I didn't even know what was going on, and
24 I felt I needed someone professional to stand by
25 my side to help me navigate the building process

1 down in Kiawah, and it had to be someone from the
2 area who was respected in the community.

3 Q. And the purpose of hiring an attorney
4 that met those qualifications was to help you
5 identify your options and advise you with respect
6 to the history of problems you were having with
7 the home.

8 A. The purpose was to advise me as to how
9 to move forward with what I had to do and come up
10 with a strategy.

11 Q. And what was the goal? To do what?

12 A. To come up with a strategy, to decide
13 what to do.

14 Q. With respect to the home's repair?

15 A. Yes, with respect to the home's repair.

16 Q. Okay. Why hire a lawyer?

17 A. I needed somebody that I could trust who
18 would be on my payroll, so to speak, and somebody
19 who would be -- that I could say things and
20 bounce ideas off as opposed to someone who I felt
21 had a vested interest in what was going on.

22 Q. Was one of the options you were
23 considering at this time -- I'm assuming one of
24 the options you were considering at this time was
25 the potential for litigation and pursuing claims

1 against the people who had made repairs or built
2 your home.

3 A. No.

4 MR. LYLES: I'm going to object to
5 the question and just instruct Maria not to
6 disclose anything about what you and I talked
7 about. Dean's question is limited to what your
8 thoughts were prior to your mention of me, and
9 that's fine, but otherwise --

10 MR. BEST: That's fine.

11 THE WITNESS: Okay. Thank you.

12 What was your question?

13 Q. Sure. One of the options you were
14 considering was pursuing people who built your
15 home or had companies that built your home or had
16 made previous repairs. Is that why you hired a
17 lawyer?

18 A. No. I just told you why.

19 Q. And if I understand you correctly, you
20 were hiring a lawyer to help you find the people
21 or develop a plan with the people to make repairs
22 to your home.

23 A. Yes.

24 Q. But as of March 17th, 2009, you had a
25 clear appreciation that there were problems with

1 your home that needed repair. Is that a fair
2 statement?

3 A. Yes.

4 Q. You weren't concerned who might be
5 responsible for the problems with your home. Is
6 that what you're saying?

7 A. I always thought I was responsible as
8 the homeowner. I'm following the lead my husband
9 set. We're the homeowner, we're responsible,
10 what am I doing?

11 Q. Okay. Why not hire -- I'm just
12 concerned, or confused, really, about why hire a
13 lawyer to serve in that capacity when I would
14 imagine there are a host of general contractors,
15 engineers, architects who would be better suited
16 to develop a repair plan or maintenance plan for
17 your home. Why a lawyer?

18 A. You know, that's a good question. I
19 don't know. I think I feel more comfortable with
20 an attorney who has, as I said, no vested
21 interest in what I do but my well-being.

22 Q. So what was your plan, what was --
23 again, not getting into the communications that
24 you had with Robert, but what was he tasked with
25 assisting you with?

1 A. We found some outside service
2 contractors to help us look at the house. He
3 took whatever records I had. He -- I spoke to
4 him about it. I shared some of my thoughts on
5 what was going on, and he was tasked to helped me
6 find someone to fix it and someone to do the
7 additional -- though I dreaded it, additional,
8 you know, discovery of what else was -- could
9 possibly be wrong.

10 Q. The testing on your --

11 A. Yeah.

12 Q. -- testing on your home, even
13 destructive testing, if necessary.

14 A. Right.

15 Q. You were willing --

16 A. When I first heard that expression, yes,
17 destructive testing.

18 Q. And that was in 2009.

19 A. Whatever year that was.

20 Q. What problems were you having with the
21 home, as you recall, in 2009?

22 A. The problems of the air conditioning
23 always turning on and off, and I always felt like
24 that was one of the problems with the humidity in
25 the house. Could never get it balanced. There

1 were always service calls for them to come out
2 and fix it, them being Aero.

3 I felt that the roof leaking was never
4 perfect. The water -- well, that was roof. I
5 don't know. And then the windows just not
6 closing right.

7 Q. By closing right, you mean their
8 operation, or not being -- allowing air?

9 A. You couldn't close them, you couldn't
10 pull it closed and shut, lock them.

11 Q. How long had that been going on?

12 A. Maybe a year or two, and since then.

13 Q. You were still having mold problems in
14 2009, correct?

15 A. To the extent that there's mold, yeah,
16 around the fixtures.

17 Q. Around the --

18 A. The light fixtures and air vents.

19 Q. How about around windows?

20 A. I don't recall it around windows.

21 Q. We've got hardwood cupping and water
22 intrusion into the basement in 2009?

23 A. The basement was actually still -- the
24 basement was secured.

25 Q. Since when?

1 A. I don't recall, whatever that date is.
2 Tori put this cave thing in the basement.

3 Q. The plastic on the floor?

4 A. That plastic thing, and that, I think,
5 secured that whole area.

6 Q. It's my understanding the plastic was
7 put down on the dirt.

8 A. On the floor, yes. On the ground, dirt,
9 but also on the walls. There's some plastic on
10 either side, and in the wine cellar, the wine
11 cooler, they closed that up as well.

12 Q. Okay. I believe Tori, about this time,
13 maybe in 2010, installed some waterproofing on
14 that basement wall?

15 A. Right. I think we're talking about the
16 same thing.

17 Q. Okay.

18 A. And then on the basement wall itself, in
19 the basement, they -- she painted this water --
20 this thing, this paint, waterproof paint.

21 Q. Did you actually go down and look at
22 that at some point?

23 A. I'm sure I did. I don't recall it.
24 Yeah, yeah. I went down and looked at it, and I
25 saw the cave. I went into the cave.

1 Q. You mentioned the mold, the roof, the
2 windows. The basement had been a problem, but
3 you think it had been secured.

4 A. Yes.

5 Q. But you knew before 2009 that the water
6 intrusion was getting into the basement, and in
7 fact, Dan Buffington had worked on that in 2004
8 and 2005, correct?

9 A. Yes.

10 (Exhibit No. 283 was marked for
11 identification.)

12 Q. Look at Exhibit 283. Have you seen this
13 document before?

14 A. No.

15 Q. This is a document that Tori Stein
16 produced with -- Gamble Home Services produced.

17 A. Uh-huh.

18 Q. And I believe this to be Tori's notes
19 from your March 23, 2009 meeting with Robert
20 Lyles at the home.

21 A. Okay.

22 Q. Do you recall that meeting?

23 A. What was the date?

24 Q. March 23rd, 2009.

25 A. Yes, I do recall that meeting.

1 Q. Who was present at that meeting?

2 A. Robert, myself, maybe my son -- I don't
3 recall, he came down with me for the ride -- and
4 Tori.

5 Q. There's a reference to, I think, Jim met
6 at house with -- or maybe met Robert. Was there
7 a Jim present?

8 A. I don't recall anybody else. Who's Jim?

9 Q. That's what I'm asking you.

10 A. Oh, I don't know. I'm sorry.

11 Q. Do you know whose e-mail address that is
12 on the top right, dixiedug?

13 A. No, I do not.

14 Q. What was the purpose of that meeting in
15 March of 2009?

16 A. The purpose of the meeting was for us to
17 talk to Tori together, Robert and I, to see what
18 she understood of what she had found in the
19 house.

20 Q. And did she relay her knowledge about
21 the history or problems of the house?

22 A. I don't recall if she relayed her
23 history. I think she said what was wrong at the
24 current moment.

25 Q. There is a listing of sorts, you'll

1 note, in the middle, estimate to fix system,
2 contract to repair system and aesthetics. That
3 system, is she talking about the HVAC system or
4 do you know?

5 A. I do not know.

6 Q. What are the aesthetics?

7 A. I don't know.

8 Q. She has cost to repair. I believe
9 that's stains at windows, exhaust fans, painting,
10 WPR. Do you know what that stands for?

11 A. No, I do not.

12 Q. Wood floors and drywall. Was Tori
13 tasked with preparing a contract to repair these
14 aesthetic items that had been damaged due to
15 mold, water intrusion?

16 A. No. Tori took a lot of things on her
17 own idea to help me figure out what was going on.
18 I don't recall ever saying to her come up with a
19 contract to do all this.

20 Q. At the very top, under Allwin, there's a
21 note that says, Lyles, Tori to do aesthetics.

22 A. Yeah. What is aesthetics?

23 Q. Well, it's the visual appearance.

24 A. Yeah. I know. I get that. I don't
25 know what's her perception of aesthetics. I

1 don't know what that means.

2 Q. Did Mr. Lyles task Tori Stein with
3 coming up with a contract or setting a price to
4 make these aesthetic cosmetic repairs in the
5 house?

6 A. No.

7 Q. Within the circle down at the bottom
8 left there's a reference to Skip, ENG, which I
9 will suggest to you stands for engineer. It's a
10 reference to Skip Lewis, and that it is a
11 reference to Skip Lewis, roof and beam.

12 Was there a plan to get Skip Lewis
13 involved with the house?

14 A. Not that I know. I don't know who Skip
15 Lewis is.

16 Q. Have you ever spoken with Skip Lewis?

17 A. No.

18 Q. Does an engineering firm called H2L ring
19 a bell?

20 A. No.

21 Q. What were the problems with the roof and
22 the beam in March of 2009?

23 A. I don't know what the beam is that she's
24 referring to, and the roof is just my perception
25 or my lack of information about what was going

1 on, and was the roof still -- was there still a
2 leak, was there water, what was -- and what could
3 I do. I don't know what she means by beam and I
4 don't know who Skip is.

5 Q. Okay. What else was accomplished at
6 this meeting?

7 A. Not very much else, not very much.

8 Q. How long did that meeting last?

9 A. I don't recall. A few hours.

10 Q. I'm assuming you walked through the
11 house?

12 A. We walked through the house, yes.

13 Q. And Tori pointed out problems that she
14 knew about?

15 A. No. Tori pointed out what she had seen
16 now that we needed to look at again -- look at.

17 Q. So she pointed out problems that she
18 knew about.

19 A. That she knew about at the time, yes.

20 Q. And you were there with her as she
21 walked through the house.

22 A. Uh-huh.

23 Q. You have to say yes or no for me,
24 please.

25 A. Yes.

1 Q. Mr. Lyles was there with you as well
2 while she did that.

3 A. Yes.

4 (Exhibit No. 284 was marked for
5 identification.)

6 Q. Let's look at Exhibit 284, which is an
7 e-mail dated March 23rd, 2009. It's the same day
8 as your meeting with Mr. Lyles at the house.

9 A. Uh-huh, yes.

10 Q. An e-mail to John at Gamble Home
11 Services. Near the top, she -- and I believe Ms.
12 Stein is referring to you -- she loves the
13 kitchen floor. And apparently you stated, I
14 should have done this throughout the house.

15 I believe that was possibly a reference
16 to the icemaker leak that damaged some kitchen
17 floors that were replaced. Does that ring a
18 bell?

19 A. Yes.

20 Q. That icemaker leak is not part of this
21 lawsuit?

22 A. No.

23 Q. No, I'm correct?

24 A. Yes, you're correct.

25 Q. Ms. Stein stated you took pictures, at

1 least of the cave. She couldn't believe it, and
2 you couldn't believe it. Do you have those
3 photographs?

4 A. No. They were -- were there cell phone
5 photos then? I don't recall. Whatever it is, I
6 don't have them.

7 Q. She signed a contract to do some siding
8 repair at the pool deck.

9 A. Uh-huh.

10 Q. And then she has -- Tori has a list of
11 miscellaneous things to do.

12 A. Uh-huh.

13 Q. What were those things Tori was to do?

14 A. I don't recall.

15 Q. She notes the appointment with Robert
16 went well and that Mr. Lyles is asking Tori to
17 get a price to fix all of the aesthetic issues in
18 the house. Is that refreshing your recollection?

19 A. No.

20 Q. Ms. Stein states, I am groaning. You
21 probably have a good idea how long that will
22 take. I am depressed. This suggestion here,
23 obviously, is that there's a significant amount
24 of aesthetic repair that needs to be made.

25 What can you tell me that was going on

1 other than mold around fixtures? Were there
2 stains from water leaks that had not been
3 repaired?

4 A. I don't understand what Tori's aesthetic
5 issues are. In my mind, there were none. I
6 thought the house looked great.

7 Q. Was there any still hardwood cupping or
8 flooring damage in the house in 2009?

9 A. I don't recall any.

10 Q. Ms. Stein writes to John that a design
11 engineer will be contacting Maria to survey the
12 house for structural issues. What structural
13 issues were going on?

14 A. I don't know what that means. Who was
15 that, do you know?

16 Q. We're going to get to that. I do know.

17 A. Okay. Good.

18 Q. And again, Skip Lewis doesn't ring a
19 bell.

20 A. No.

21 Q. The engineer will also evaluate the roof
22 and windows. She's really excited about that.

23 A. Uh-huh.

24 Q. Again, roof leaks have been an ongoing
25 problem with the home.

1 A. Uh-huh.

2 Q. You need to say yes or no.

3 A. Yes.

4 Q. And the windows -- the problem you had
5 with the windows in 2009 was they would not
6 operate to your satisfaction. They wouldn't
7 close and --

8 A. Yes.

9 Q. Toward the middle of the next paragraph
10 she notes that you asked her to get a designer or
11 an architect to give you a price for some
12 drawings to add a floor in the great room to
13 create a media room, and then adding a screen
14 porch over the rear elevation deck and adding
15 stairs from the garage to the kitchen. And I
16 believe an architect was retained to perform that
17 work, correct?

18 A. Yes.

19 Q. Were plans actually drawn up? Do you
20 have drawings?

21 A. Yes.

22 Q. Could you provide those to Mr. Lyles,
23 please?

24 A. I don't know.

25 Q. Do you know where they are?

1 A. I do not.

2 Q. When Mr. Smith did his repair work, the
3 most recent repair work, did you go forward with
4 that plan and add the media room?

5 A. No, I did not.

6 Q. Did you do any of these things?

7 A. No, none of them.

8 Q. Did you add anything over the pool
9 cabana?

10 A. No, nothing.

11 Q. So I was there when repairs were
12 beginning, but the great room still exists --

13 A. Yes.

14 Q. -- it's still open to the second story.

15 A. Yes.

16 (Exhibit No. 287 was marked for
17 identification.)

18 Q. Please look at Exhibit 287.

19 A. Uh-huh.

20 Q. This is a document that was produced by
21 H2L, an engineering firm in the upstate of South
22 Carolina. And they are, I believe, phone notes
23 taken on March 30th by Skip Lewis in a conference
24 with your attorney. And you had retained Mr.
25 Lyles by March 30th, 2009? He was acting on your

1 behalf as your counsel?

2 A. Yes, he was.

3 Q. It looks like Mr. Lyles contacted Mr.
4 Lewis on March 30, 2009. Does that sound
5 consistent or just refreshing your recollection
6 at all?

7 A. It's not.

8 Q. The issue is a building condition
9 assessment request. You see that?

10 A. Where is that?

11 Q. Under issue, at the top.

12 A. Oh, issue, yes.

13 Q. A building condition assessment request?
14 Do you not recall any plan to hire an engineer to
15 come in to assess the condition of your
16 residence?

17 A. Yes. We did do that. We did want -- I
18 did want that.

19 Q. Okay.

20 A. I don't know who it ended up --

21 Q. So that was the plan in March of 2009,
22 because you wanted to know exactly what was wrong
23 with your home.

24 A. Right.

25 Q. If you drop down a few lines, you'll see

1 history of problems with water infiltration and
2 HVAC issues. That's consistent with the problems
3 you knew you were having with your home, correct?

4 A. Yes.

5 Q. Owner has spent dollar sign, dollar
6 sign, dollar sign over a number of years with
7 engineers and contractors in an effort to remedy
8 problems.

9 That's a true statement, correct?

10 A. Yes.

11 Q. Spent over, plus or minus, \$300,000 with
12 Buffington on window work.

13 That's a true statement, correct?

14 A. Yes.

15 Q. Spent \$700,000, plus or minus, to
16 replace the HVAC system. That was back in 2000.

17 That's a true statement, correct?

18 A. Yes.

19 Q. Appear to have, among other issues,
20 negative air problem. Do you understand what a
21 negative air --

22 A. No.

23 Q. Okay. Have you had any conversations
24 with anyone who suggested that, due to the
25 environmental dynamic and the way your HVAC

1 system functions, that there is a negative
2 pressure, meaning outside air is drawn into the
3 home versus inside air being pushed out into the
4 environment? Does that make sense?

5 A. It doesn't make sense, but I have heard
6 someone try to explain that to me.

7 Q. When did you first learn that your house
8 may have a negative pressure or negative air
9 problem?

10 A. I don't recall when.

11 Q. It appears that Mr. Lyles is reporting
12 this to Mr. Lewis, or maybe it's speculation on
13 Mr. Lewis' part, but you just don't recall when
14 you learned that.

15 A. No, I don't recall.

16 Q. Mr. Lewis notes a need for comprehensive
17 assessment and plan of attack. That's exactly
18 what you understand the engineer was going to be
19 asked to do, correct?

20 A. Yes.

21 Q. The current property manager is
22 compiling history of prior actions and reports.
23 Does that refresh your recollection as to what,
24 if anything, Ms. Tori Stein was asked to do
25 following the meeting with Mr. Lyles?

1 A. Sure. That makes sense. She would be
2 the one.

3 Q. Okay. And you recalled yesterday where
4 in the -- at least, at least the few months
5 before Ms. Stein spent, I think it was 7- or
6 \$8,000 poring over past reports, compiling
7 repairs, was her work -- does this now refresh
8 your recollection as to what she was doing in
9 those invoices?

10 A. Yeah, it does.

11 Q. So the invoices she sent you for 7- or
12 \$8,000 where she was reviewing documents, talking
13 with Roy Smith, talking with Bob Cowan, gathering
14 a history and reviewing historical documents, why
15 was she doing that?

16 A. I think, as I said before, she took a
17 lot of things on her own to do on my behalf, and
18 I'm -- I don't recall ever telling her to do any
19 of that, and she did it. She was always one step
20 ahead of what was, I think -- what she thought I
21 needed to do.

22 Q. But she billed you several thousand
23 dollars for that work.

24 A. Right, and I paid it.

25 Q. The last note in Mr. Lewis's record is

1 H2L requested to prepare a proposal. Have you
2 seen a proposal from H2L?

3 A. No, I have not.

4 Q. RTL -- I'm assuming that's Mr. Lyles --
5 will be sending information as quickly as can be
6 assembled. Do you know what information Mr.
7 Lyles ultimately, if anything, sent to Mr. Lewis?

8 A. I do not.

9 (Exhibit No. 288 was marked for
10 identification.)

11 Q. Exhibit 288 is a proposal from Altenbach
12 Design. This is the architect who designed the
13 -- enclosing the great room for the media room,
14 the screen porch. Have you seen that before?

15 A. I don't recall seeing it. I don't even
16 remember their name.

17 Q. You did receive design drawings --

18 A. I did.

19 Q. Do you have any idea where they might
20 be?

21 A. I think that they are with Ross, Ross
22 Clements. I gave him everything I had. I think
23 he might have -- or -- I don't know. I've got to
24 look.

25 Q. Would you mind looking?

1 A. I will. They were very nice drawings.
2 Or maybe Cynthia has them, the art -- the real
3 estate, because I thought -- I still think it's a
4 great idea to do.

5 Q. Okay. I'll check with her as well, but
6 if you run across them when you're looking, if
7 you could give those to Robert, please.

8 A. Okay.

9 (This page contains Requested
10 Information.)

11 (Exhibit No. 290 was marked for
12 identification.)

13 Q. Exhibit 290 is a letter from Mr. Lyles
14 to you. He's copied Tori Stein. He references
15 the meeting on March 23rd, 2009. Do you recall
16 seeing this letter before?

17 A. No. Yeah. I mean, I did get this
18 letter, yes.

19 Q. You'll see that Mr. Lyles reported to
20 you that he had reviewed the project with Skip
21 Lewis at H2L?

22 A. Uh-huh.

23 Q. And he had asked Skip to prepare a
24 proposal to do a property condition survey at
25 your home, and you understood that in April of

1 2009.

2 A. Yes.

3 Q. He also notes, I've copied and sent to
4 Skip the materials that Tori put together for Mr.
5 Lyles. You see that?

6 A. Yes.

7 Q. What did Tori put together for Mr.
8 Lyles?

9 A. I have no idea.

10 Q. Mr. Lyles was going to invite Mr. Lewis
11 to view your home on his next trip to Charleston.
12 Do you know if Mr. Lewis ever made it to your
13 home?

14 A. I do not.

15 (Exhibit No. 294 was marked for
16 identification.)

17 Q. Exhibit 294 is a proposal from H2L and
18 Mr. Lewis for -- in the rate section, it says,
19 HVAC and building envelope concerns. Have you
20 seen this document before?

21 A. I don't recall seeing this document.

22 Q. Mr. Lyles reported in April that the
23 plan is, I've spoken with Skip, he's going to get
24 you a proposal. Were you on the lookout? Were
25 you anticipating a proposal?

1 A. Yeah, I guess.

2 Q. Exhibit 294, are you confident you've
3 never seen it or you don't recall seeing it?

4 A. I don't recall seeing it.

5 Q. Was there any follow-up on your part --
6 well, let me ask this question. Was this
7 proposal ever accepted by you or on your behalf?

8 A. I don't recall this company at all.

9 Q. It's my understanding that H2L was not
10 retained to do the property assessment.

11 A. Oh, well. That's good. I don't recall
12 them.

13 Q. And then, at least with respect to
14 engineers, there does not appear to be any
15 involvement or request for engineers to be
16 involved for several years.

17 A. Several years?

18 Q. Yes. Do you know why there was a lapse
19 or a gap of involvement by an engineer or a
20 consultant?

21 A. No, I do not.

22 Q. Mr. Lewis's proposal was to come to your
23 home, perform visual, nonintrusive, nondestructive
24 testing, submit a report for your findings and
25 prepare a potential scope of work. And his fee

1 for that work was \$45,000. Was that something
2 you would have paid or would have considered
3 paying had you been presented with this, or ever
4 -- I'm assuming you hadn't been already presented
5 with it. I'm not suggesting you weren't, but is
6 that a fee you would have paid?

7 A. As I paid everything else that was
8 submitted to me, I'm sure I would have paid that
9 as well.

10 (Exhibit No. 303 was marked for
11 identification.)

12 Q. Exhibit 303 is an August 11, 2009
13 contract proposal from Gamble-Atlantic, and this
14 is for the renovation of the media room. Do you
15 recall that work?

16 A. Yes.

17 Q. The contract price was \$188,833 and some
18 change. What were you doing to the media room?

19 A. The media room had these huge cabinets,
20 and had -- well, when we built the house -- the
21 state-of-the-art media pull-down TV, but of
22 course now, you know, the house is dated. And so
23 I wanted to put in a new TV media system and
24 remove all that big bulky cabinetry and just put
25 one giant TV on the wall and then a little TV for

1 the games so you could do two things at once, and
2 then take out what I was thought was child
3 furniture and put in adult furniture. My kids
4 were growing, and I wanted it to look more user
5 friendly for them.

6 Q. I think you'll agree with me, almost
7 \$200,000 is a significant amount of money.

8 A. Uh-huh.

9 Q. You have to say yes or no, please.

10 A. Yes.

11 Q. Given the retention of Mr. Lyles in
12 March of 2009 and the search for an engineer to
13 do a property condition assessment to address
14 exterior wall concerns and roof concerns, my
15 question is simply this. Why focus on the media
16 room at almost \$200,000 when there are arguably
17 more pressing matters to be addressed?

18 MR. LYLES: Object to the form of
19 the question.

20 A. That's none of your business. It was
21 something I wanted to do.

22 Q. Unfortunately, it is my business because
23 we're in this lawsuit.

24 A. Okay. What's your question?

25 Q. My question is why did you spend

1 \$200,000 on a media room instead of signing up
2 Gamble-Atlantic or Ms. Stein or some other
3 contractor or engineer to investigate the
4 problems you were having with the house?

5 A. I don't know.

6 Q. And the media room work was done,
7 correct?

8 A. It -- yes. And they also did the kids'
9 rooms and took out bunkbeds, cabinetry, painted,
10 new carpeting. Removed all that baby stuff.

11 (Exhibit No. 310 was marked for
12 identification.)

13 Q. And that's the next exhibit, Exhibit
14 310, where you'll see in addition to the 188,000
15 for the original agreement amount for the media
16 room, there was an additional \$19,000, and that
17 was for the work you just mentioned, correct?

18 A. Yes.

19 (Exhibit No. 321 was marked for
20 identification.)

21 Q. Exhibit 321 is an e-mail exchange
22 between Tori and you and your daughter Katrina,
23 with a K.

24 A. Uh-huh.

25 Q. And the second paragraph, it says the

1 techs -- and I'm assuming that's Tischler, it is,
2 it's Tischler techs. The Tischler techs also
3 looked at the back doors, and most of them will
4 not open because they are painted shut.

5 Do you recall that?

6 A. No, I don't.

7 Q. Who painted those doors prior to
8 December 9, 2009?

9 A. I don't know.

10 (Exhibit No. 327 was marked for
11 identification.)

12 Q. Exhibit 327 is a one-time showing
13 agreement. Apparently Mr. Ryan Abbate,
14 A-b-b-a-t-e, was interested in looking at your
15 house and you signed that in April 2010, correct?

16 A. Yes.

17 Q. It's been almost a year now since the
18 meeting with Mr. Lyles at the house and Tori and
19 the contact Mr. Lyles had with Skip Lewis. Aside
20 from the media room work and the work you did in
21 updating the children's bedrooms, was there any
22 other repair work, investigation, work by
23 contractors, work by design professionals in an
24 effort to identify the water intrusion and other
25 envelope issues you were having with the house?

1 A. I don't recall.

2 (Exhibit No. 330 was marked for
3 identification.)

4 Q. All right. Exhibit 330, there are
5 several issues in here, but the one I'm focused
6 on at the moment is toward the bottom, almost the
7 last paragraph, Tori is writing an e-mail to you.
8 Do you recall this e-mail?

9 A. No, I don't, but can I read it?

10 Q. Sure. Take your time.

11 A. Okay.

12 Q. The last primary paragraph is, I'm in
13 the process of writing Cynthia Noble a letter of
14 the work we had done in the last few years at
15 your home so the potential buyer can understand
16 all that you have done to maintain the house and
17 keep it in good working order.

18 Did Tori write that letter?

19 A. I don't know. I -- I don't know.

20 (Exhibit No. 332 was marked for
21 identification.)

22 Q. Exhibit 332 is a May 4, 2010 e-mail from
23 Tori to you.

24 A. Uh-huh.

25 Q. Last full paragraph, Tori writes -- or

1 Tori is sending you a list dating back to the
2 extension of the boardwalk, and I'm not sure what
3 that date is, but did she send you a list of
4 repairs or a repair work history, as this
5 suggests?

6 A. I don't recall seeing that, no, but it
7 says that's what she's doing. I was being very
8 up front with any potential purchaser that was
9 coming through the door, unlike a lot of other
10 cases that I'm sure you're involved with, and I
11 had nothing to hide. And so I wanted everything
12 up front, unlike many of the cases I'm sure
13 you're involved with.

14 Q. I appreciate that. I'm sure the
15 potential purchasers appreciated that. I'm not
16 suggesting you would do anything otherwise.

17 A. Well, I'm sure that a lot of people do,
18 but I do not.

19 Q. And I'm not suggesting you did, let's be
20 clear, but what I am interested in is the
21 understanding that you and Ms. Stein had as to
22 the nature of the problems your house had
23 experienced over the years as of May 2010.

24 MR. LYLES: Object to the form of
25 the question. Go ahead.

1 A. I think the -- what I was hoping, what I
2 think should have been in that letter, what I was
3 asking her was to tell what we were doing right
4 now, what had to be done at that moment.

5 Q. What was to be done?

6 A. To be done at that moment.

7 Q. Was included in that list an expectation
8 that an engineer such as Skip Lewis come in
9 and -- let me finish my question -- come in and
10 perform a property condition assessment?

11 A. I don't know that.

12 (Exhibit No. 333 was marked for
13 identification.)

14 Q. Exhibit 333 is a May 4th, 2010 real
15 estate appraisal for your home. Have you seen
16 this document before?

17 A. Yes, I have.

18 Q. And why was this appraisal performed?

19 A. The appraisal was performed so that we
20 could get a good value for the house in the
21 current market and get some good comps for the
22 house.

23 Q. And due to the -- I think the last
24 appraisal we looked at was for 2006. It was in
25 excess of 17 million..

1 A. 17, right.

2 Q. And due to the market downturn, this was
3 now between 10 and 11 million.

4 A. It was also because of the work that had
5 to be done on the house.

6 Q. Okay.

7 A. We took a discount.

8 Q. All right. If you look at page 2?

9 A. This?

10 Q. Yes. Under the section called
11 Extraordinary Assumptions, the appraiser writes,
12 at the direction of the client, the subject
13 property has not been inspected. This appraisal
14 is based upon the assumption that the subject
15 property is in average physical condition and
16 upon the assumption that the physical
17 characteristics gathered from the data sources
18 below are accurate and reliable.

19 A. Hmm.

20 Q. That seems to be counter to what you
21 just said.

22 A. Yeah. Well, it's counter to what my
23 understanding was of what this was for.

24 Q. So it looks like, at the direction of
25 the client, and that -- did Ms. Noble procure

1 this for you?

2 A. Oh, yes.

3 Q. Okay. So potentially at Ms. Noble's
4 direction, the home was not inspected. So it
5 looks like the appraiser never actually went back
6 to your house, but he drew from his 2006
7 information regarding square footage, et cetera.
8 Do you know anything to the contrary?

9 A. I don't know anything either way.

10 Q. Did this value of 10 to 11 million
11 surprise you, disturb you?

12 A. Neither.

13 Q. You had the same response, it is what it
14 is.

15 A. (Indicating.)

16 Q. Again, I'm not trying to pry, but it
17 does matter in litigation such as this. Are
18 there any liens on the house?

19 A. No.

20 Q. No mortgages, nothing like that.

21 A. The house is free.

22 Q. Thank you.

23 MR. WINTON: Off the record.

24 (Off-the-record discussion.)

25 (Exhibit No. 336 was marked for

1 identification.)

2 Q. Exhibit 336 is a CL-100, what we call in
3 South Carolina a termite letter. By state law,
4 as I understand it, before the sale of every
5 residential structure, there has to be a termite
6 inspection where a licensed pest control guy goes
7 in and looks for termites. And apparently Mr.
8 Abbate made an offer on your home because he is
9 paying for a termite inspection.

10 Do you recall an offer from Mr. Abbate?

11 A. I do not recall an offer from him.

12 Q. And he may have had that done prior to
13 an offer.

14 Have you seen this termite letter before
15 that we got from Gamble Home Services?

16 A. No, I have not seen this. Can I read
17 it?

18 Q. Sure.

19 A. Well, it says he ordered it, here it is.

20 Q. Don't write on it, please, or let me
21 know you're writing on it.

22 A. I'm not. I'm just pointing, he wrote on
23 it here.

24 Q. Who's he?

25 A. Well, Abbate. It says bill to Ryan

1 Abbate.

2 Q. Right. Mr. Abbate requested this.

3 A. So I'm assuming he requested it, right?

4 Q. Right.

5 A. I didn't see it.

6 Q. And you'll note the Bates stamp at the
7 bottom, these documents were produced by Gamble
8 Home Services.

9 A. Oh, okay.

10 Q. Do you recall whether your property
11 manager sent you a copy of this?

12 A. I don't.

13 Q. Again, it's dated May 14, 2010. Under
14 the section Infestation, paragraph 1, there is
15 visible evidence of active subterranean termites,
16 and yes is checked.

17 A. Uh-huh.

18 Q. So you're telling me --

19 A. Yes, I see it here.

20 Q. You were not aware of an active termite
21 infestation in May of 2010.

22 A. No, I was not.

23 Q. If your property manager, who apparently
24 received a copy of this at some point, was aware
25 of an active termite infestation in May of 2010,

1 would you expect Gamble Home Services to have
2 informed you?

3 A. Yes.

4 Q. I think we said yesterday, you were
5 completely unaware of active termites at your
6 house --

7 A. Yes.

8 Q. -- at any time.

9 That same section, under Infestation, I
10 have a few questions for that. You may want to
11 keep it handy. Number 4, the question is, there
12 is evidence below the first main floor of the
13 presence of, A, active wood-destroying fungi or
14 moisture, wood moisture, content, 28 percent or
15 above. And there's -- and yes is checked. Your
16 property manager didn't inform you of this.

17 A. No, I don't recall that at all.

18 Q. Again, the next, B, wood-destroying
19 fungi is present but not active, less than 28
20 percent wood moisture content.

21 So apparently there was some of both,
22 because that is also checked yes. Do you see
23 that?

24 A. Uh-huh, I see it.

25 Q. You would have expected your property

1 manager to inform you of that condition as well,
2 correct?

3 A. Yes.

4 Q. Go down to Damage. It states, at the
5 time of this inspection, there was visibly
6 damaged wooden members. You would have expected
7 your property manager to inform you of that,
8 correct?

9 A. Yes.

10 Q. If you turn the page, what the inspector
11 does, whenever he answers yes to those questions,
12 he has to write a written comment. And you'll
13 see, about five or six lines down, 1A, signs of
14 active subterranean termite activity, front right
15 wall behind gutter downspout.

16 Is that refreshing your recollection,
17 that location, as to where there might have been
18 activity?

19 A. No.

20 Q. The last three lines of that line
21 section, under Damage, we -- being the termite
22 inspection company -- recommend a complete and
23 thorough evaluation by a qualified building
24 expert to determine what repair, if any, is
25 necessary to this property with respect to the

1 fungi and the termite activity, because that's
2 what he's there to inspect.

3 Did Ms. Stein or anybody at Gamble Home
4 Services inform you of the need to have your home
5 evaluated due to wood-damaging fungus or termite
6 activity?

7 A. No, I don't recall.

8 Q. You would have expected them to forward
9 this, all this information in this report, to
10 you, correct? Is that a yes? You would have
11 expected them to send this information and report
12 to you, correct?

13 A. No, not the report, but something.

14 (A recess was taken.)

15 (Exhibit No. 337 was marked for
16 identification.)

17 Q. Ms. Allwin, I'm showing you what we've
18 marked as Exhibit 337.

19 A. Uh-huh.

20 Q. This is a new home inspection report
21 prepared by Complete Inspection Services for Ryan
22 Abbate, and it's dated May 14th, 2010. Have you
23 seen this document before?

24 A. No, I have not.

25 Q. It was in Gamble Home Services' file,

1 and like the termite report we looked at, 336,
2 you would have expected Gamble to have notified
3 you or sent you a copy of this report due to the
4 problems found in it. If you need a moment to
5 look.

6 Let me do this. In May of 2010, was
7 your home an active listing with Cynthia Noble
8 and Kiawah Real Estate or was it a
9 permissive-type thing?

10 A. It was what they called pocket listing.

11 Q. Let's go back and look at 327, and feel
12 free to review the selections you made regarding
13 agency, but was Cynthia Noble acting as your
14 agent in these pocket listings?

15 A. Yes.

16 Q. And if Ms. Noble received the termite
17 report we just looked at, or any home inspection
18 report, you would expect her to relay, if not the
19 report, at least the information contained in the
20 report to you, correct?

21 A. Yes.

22 Q. Going back to 337. If you look on the
23 fourth page, I believe, under Structural?

24 A. Uh-huh.

25 Q. There's a reference to the CL-100

1 report, which is the termite inspection report,
2 and signs of prior termite activity?

3 A. Am I on the right page? Where are you?
4 Page 4?

5 Q. Go back one page, please.

6 A. Oh, page 3?

7 Q. Yes, ma'am. And you'll note in the
8 different -- under the different sections, the
9 inspector is looking at -- he has written
10 comments at the end, and that's what I'm going to
11 be asking you about.

12 A. Okay.

13 Q. You see the reference to termite
14 activity the home inspector found in May of 2010.

15 A. Yes, signs of prior termite activity.

16 Q. Right. And also below that, wet walls
17 at sides of house, indications of water
18 infiltration at windows, have evaluated by
19 contractor.

20 Were you aware of any of these problems
21 in May of 2010?

22 A. No.

23 Q. Going down to the bottom of the page,
24 the section on basement or lower level, the
25 inspector writes, rear basement walls are wet,

1 water infiltration at rear doors, check flashings
2 and subfloor in this area.

3 Were you aware of water intrusion into
4 the basement in May of 2010?

5 A. I don't know what rear doors are that
6 he's referring to. I don't know what this is. I
7 was not aware of it.

8 Q. I will suggest to you they're the rear
9 doors above the basement where you had water
10 intrusion previously.

11 A. Are you saying this is water
12 infiltration at rear doors of the house?

13 Q. Yes, ma'am.

14 A. Oh, I don't -- the back doors? Yeah.
15 You know, sometimes there was water there, yes.

16 Q. Okay. We looked a few exhibits ago, we
17 had the e-mail that Tori wrote to John at Gamble
18 about the March 2009 inspection with you and Mr.
19 Lyles, and Tori noted that you took photographs
20 of the cave and you couldn't believe it.

21 A. Right.

22 Q. Tori had already -- or Atlantic Builders
23 had already made repairs to the basement in that
24 area in March of 2009?

25 A. Okay, yeah.

1 Q. Did it ever concern you or did you ever
2 have a concern that any of the repairs performed
3 by Ms. Stein and Atlantic Builders were faulty or
4 ineffective?

5 A. No.

6 Q. The inspector, again on the bottom of
7 that page 3, he notes that it's humid under house
8 and there was a dehumidifier and sump pump
9 installed and operational.

10 Who installed the dehumidifiers in the
11 basement?

12 A. I don't recall who. There were several.
13 There were several dehumidifiers in the basement.

14 Q. And I think they were installed at
15 different times. Does that ring a bell?

16 A. Yes. And they're actually throughout
17 the house, too, we had others.

18 Q. Do you know what a sump is?

19 A. Yeah, the thing the water goes through
20 and it pumps out.

21 Q. Yes, ma'am.

22 A. Right.

23 Q. Do you know when that was installed?

24 A. I have no idea.

25 Q. At the bottom of page 4 there's a

1 recommendation that a commercial HVAC contractor
2 evaluation be performed prior to closing. That's
3 news to you, correct?

4 A. Yes.

5 Q. Go to page 7 of the report. In the
6 middle, under Remarks, cupped hardwood flooring
7 and office windows, ocean side windows and doors,
8 water infiltration noted. Water stains, mildew
9 noted in several closets and under circular room
10 windows, ceiling stains at circular rooms.

11 It goes on to state, this company did
12 not perform essentially a mold or mildew
13 assessment.

14 A. Uh-huh.

15 Q. Do you recall these problems being
16 apparent in your home or existing in your home in
17 May of 2010?

18 A. Yes.

19 Q. Did it cause you any concern that you
20 had any of these problems that we've looked at in
21 this report in May of 2010?

22 A. No.

23 Q. Do you think it's normal to have cupping
24 hardwood floors or --

25 A. Cupped. It doesn't say cupping. It

1 says cupped hardwood flooring, which means it had
2 been done before. I think I might have thought
3 it had happened before, and we fixed it, and we
4 just didn't fix the hardwood flooring. It
5 doesn't say cupping.

6 Q. Excuse me. Cupped hardwood floors.

7 A. Cupped implies to me it had happened
8 before and it was repaired. So I assumed
9 everything that was in 2010 was repaired.

10 Q. So the use of the word cupped instead of
11 cupping suggests to you that it had cupped in the
12 past and had been repaired, and in May of 2010,
13 at the time the inspector noted it, it was not in
14 a state of cupping.

15 A. Cupping.

16 Q. Do you know what cupped hardwood floors
17 are?

18 A. No, I don't, but --

19 Q. You have no idea what that means.

20 A. No. I mean, I know what I think it
21 means.

22 Q. What do you --

23 A. I think it means the wood's not -- the
24 hardwood floors are not flat and level. They
25 sort of buckle.

1 Q. That's close enough. I'll accept that
2 definition.

3 A. Thank you. I've learned a lot.

4 Q. But your floors had cupped prior to May
5 of 2010 and you were aware of that.

6 A. Yes.

7 Q. Did it not cause you any concern?

8 A. No.

9 Q. This report goes on to page 8 to talk
10 about roof leaks, other signs of water
11 infiltration around windows, wood damage to the
12 shakes, which are the exterior cladding, and wood
13 damage to your handrails. That's on page 9.

14 None of this information or this report
15 was sent to you by your real estate agent or by
16 your property manager; is that correct?

17 A. I don't recall seeing this report, no.

18 Q. You would have expected your real estate
19 agent and your property manager to have sent this
20 information to you as soon as they received it,
21 correct?

22 A. I don't expect anything anymore.

23 Q. Okay. You signed an agreement with
24 Gamble Home Services to be your property manager,
25 correct?

1 A. Did I? I don't recall signing it.

2 Q. Okay.

3 A. Or was it just an ongoing relationship?
4 I don't know.

5 Q. I believe you signed a contract, but I
6 don't have a copy of it with me.

7 A. Okay.

8 Q. Do you recall any obligations within any
9 written agreement you might have had with Gamble
10 about their duty to relay information to you?

11 A. No.

12 Q. Did you have an expectation that they
13 would relay significant information about
14 problems or damage to your home to you so that it
15 could be addressed and remedied?

16 A. Yes.

17 (Exhibit No. 338 was marked for
18 identification.)

19 Q. Exhibit 338 is a proposal from Tori
20 Stein at Gamble-Atlantic for \$31,000 and some
21 change to, as I understand it, paint your
22 kitchen, including the cabinets. Do you recall
23 this proposal?

24 A. Not really.

25 Q. Was this work done?

1 A. No.

2 Q. In light of the Complete Inspection
3 Services report we just looked at, Exhibit 337,
4 and again, going back to the meeting in March of
5 2009 when you have retained counsel to hire an
6 engineer to come in and do a building condition
7 assessment, again, much like the media room
8 repair, Ms. Stein is giving you an estimate to
9 paint your kitchen, and my question is why aren't
10 you getting an estimate from her to perform
11 repairs for the issues listed in the Complete
12 Inspection Services report?

13 MR. LYLES: Object to the form of
14 the question.

15 A. I don't know.

16 Q. Based on your comments and based on the
17 documents we've looked at, it appears to me --
18 and I'll just ask if you'll agree -- that Ms.
19 Stein had no reservation or hesitation in sending
20 you proposals for work to do at your house. Is
21 that a fair statement?

22 A. Yeah, that's fair.

23 (Exhibit No. 340 was marked for
24 identification.)

25 Q. Exhibit 340 is an e-mail exchange

1 between you and Tori Stein in June of 2010. Tori
2 writes that she met Bob, or actually met the
3 Cowans this morning, and then she and Bob spent
4 some time walking around the house talking about
5 past and future projects.

6 What was the purpose of Tori meeting the
7 Steins (sic) at the house in June of 2010?

8 A. I think that's when the Cowans were
9 going to stay over for a few days and Tori wanted
10 to meet them, and they took it upon themselves to
11 walk around and talk about the house.

12 Q. Do you know what they talked about?

13 A. I have no idea.

14 Q. Up above, there's a reference to
15 proposals. That in addition to the kitchen
16 painting, she sent a proposal to get some
17 extremely large flower pots. Do you recall that?

18 A. Yes.

19 Q. Do you know if those pots were
20 purchased?

21 A. I think they were, yes, for the front.
22 They had rotted.

23 Q. Right. But you don't recall Ms. Stein
24 sending you an estimate to perform the repairs
25 for the problems listed in Exhibit 337.

1 A. I do not.

2 (Exhibit No. 347 was marked for
3 identification.)

4 Q. Exhibit 347 is another e-mail exchange
5 between you and Tori Stein.

6 A. Uh-huh.

7 Q. The last full paragraph, Ms. Stein
8 states she met with the adjuster today.

9 Do you know why there was an adjuster at
10 your house in September of 2010?

11 A. I do not know who --

12 Q. Do the names Ed Ernst, E-r-n-s-t, or Bay
13 Ten Ventures meaning anything to you?

14 A. No.

15 Q. Do you know if Bay Ten or Mr. Ernst were
16 retained to perform any services at your house?

17 A. I don't know who they are.

18 (Exhibit No. 350 was marked for
19 identification.)

20 Q. Let me show you Exhibit 350. The first
21 page -- and I believe this was created September
22 29, 2010. That's the date on it.

23 A. Okay.

24 Q. For lack of a better term, this is a
25 file setup sheet, Applied Building Sciences,

1 which is a group of engineers in Charleston that
2 split off from Campbell, Schneider Associates.
3 Do you recall that report, and Mr. Elkin?

4 A. Uh-huh.

5 Q. Mr. Elkin, at this time, was with
6 Applied Building Sciences, and you'll see his
7 initials here, JLE, for J. Lawrence Elkin.
8 They're apparently being contacted by Bay Ten
9 Ventures and Mr. Ernst to perform a mold and
10 moisture inspection at your house in September
11 2010. Do you know anything about this?

12 A. I do not.

13 Q. Is this a follow-up to the March 2009
14 meeting with counsel where you're going to look
15 for engineers or some type of building consultant
16 to inspect your home?

17 A. I don't know what this is.

18 Q. You had no contact with Mr. Ernst
19 directly?

20 A. I don't recall any contact with him.

21 (Exhibit No. 351 was marked for
22 identification.)

23 Q. Exhibit 351 is a letter from Ed Ernst at
24 Bay Ten Ventures to Ms. Stein wherein he recounts
25 the scope of work he's been hired to do, which is

1 essentially perform a mold or mildew assessment.

2 You see this?

3 A. Yes.

4 Q. You don't know anything about that.

5 A. I don't recall it, no.

6 Q. You note, second to last full paragraph,
7 for this work, commissioned Maria Allwin or the
8 owner's agent agrees to reimburse Bay Ten
9 Ventures for all costs incurred.

10 Was Ms. Stein authorized to make this
11 obligation for you?

12 A. No.

13 Q. Do you know if you paid for Bay Ten
14 Ventures' work?

15 A. I don't know.

16 (Exhibit No. 479 was marked for
17 identification.)

18 Q. Exhibit 479 is an October 21, 2010 mold
19 report prepared by ABS and sent to Ed Ernst at
20 Bay Ten Ventures. Have you seen this document
21 before?

22 A. No, I haven't.

23 Q. Do you know if this was sent to Tori
24 Stein?

25 A. I don't know where this was sent.

1 Q. We're now into October of 2010. From
2 March of 2009, when you met with Robert Lyles and
3 Tori Stein at your house and developed this plan
4 to move forward with an investigation to identify
5 the problems with your home so they can be
6 remedied, has any building consultant, anyone
7 with construction expertise, been to your home
8 that you're aware of to look at the house, to
9 address those concerns other than the mold
10 assessment that was performed in October 2010?

11 A. I don't recall anybody.

12 (Exhibit No. 481 was marked for
13 identification.)

14 Q. Exhibit 481 are handwritten notes. Do
15 you recognize the handwriting or know who
16 prepared this document?

17 A. I do not.

18 Q. Have you ever seen this document before?

19 A. No, I have not.

20 Q. This document was produced by Gamble
21 Home services, your property manager. And you
22 still had an ongoing relationship with Gamble,
23 they were still your property manager, correct?

24 A. Yes.

25 Q. It appears that someone has walked

1 through your house and made notes of various
2 problems. Do you see that?

3 A. Yes.

4 Q. Did your property manager inform you or
5 share this information with you in late 2010?

6 A. I don't recall ever seeing this.

7 Q. There are some notes in the margin on
8 the left. For example --

9 A. Old?

10 Q. -- old and roof. Do you know whose
11 handwriting that is?

12 A. I do not.

13 Q. If you look at the first page, they're
14 numbering items, it starts with 8, 9, runs
15 through 15. You don't know what items 1 through
16 7 are.

17 A. I do not.

18 Q. Assuming they exist.

19 (Exhibit No. 484 was marked for
20 identification.)

21 Q. Exhibit 484 is an agreement that you
22 signed, you'll note on the last page, between you
23 and Gamble-Atlantic to perform roof painting and
24 related repairs for a cost of, based on some
25 options you selected, \$140,000 and some change.

1 A. Okay.

2 Q. Do you recall seeing this document and
3 signing it?

4 A. Yes, uh-huh.

5 Q. Again, you'll agree with me that
6 \$140,000 is not an insignificant amount of money.
7 Is that a fair statement?

8 A. No.

9 Q. It's not a fair statement?

10 A. No.

11 Q. \$140,000 is a lot of money. Would you
12 agree with that?

13 A. No.

14 Q. Okay. Do you know that it's far more
15 than the average person in Charleston County
16 makes in a year?

17 A. I have no idea about that. It's far
18 less than my taxes are, so I -- I don't know.

19 Q. My question to you is simply why is Ms.
20 Stein moving forward with repairs much like has
21 been done in the past without having this
22 building condition assessment performed, the
23 consultant you were desiring way back in 2009?

24 A. I don't know why I did that.

25 Q. Was this work performed?

1 A. Yes, some of it was.

2 Q. Did you follow up with anyone about the
3 lack of involvement by a building consultant to
4 investigate the problems with your home and come
5 up with a repair plan?

6 A. No.

7 (Exhibit No. 485 was marked for
8 identification.)

9 Q. Exhibit 485 is another agreement with
10 Tori Stein and Gamble-Atlantic that I believe you
11 signed on the same day as the exhibit we just
12 looked at, and it's for \$217,000-plus for
13 lightning strike repairs.

14 Do you recall seeing and signing this
15 document?

16 A. Yes, I do.

17 Q. What did the lightning strike damage?
18 It was my understanding it was primarily an
19 electrical problem, including the HVAC system, as
20 well as some other issues, but can you give me a
21 summary of what was damaged by the lightning
22 strike?

23 A. Sure. It was the garage doors. It was
24 the power draperies in the house. It was all the
25 interior audio equipment that we had just put in.

1 It was all the boxes in the house for the
2 interior audio. It was the HVAC communication
3 equipment. It was all the Internet connections,
4 it was the landscape sprinkler system. It was
5 the sump pump in the basement. It was whatever
6 was connected.

7 Q. Did you make an insurance claim for
8 that?

9 A. Yeah.

10 Q. Did the insurance company pay --

11 A. Yes.

12 Q. -- pay Gamble-Atlantic?

13 A. No. They paid me.

14 Q. How much did they pay you for that
15 repair?

16 A. I don't recall.

17 Q. Was it more or less than \$217,000?

18 A. I don't recall.

19 (Exhibit No. 494 was marked for
20 identification.)

21 Q. Exhibit 494 is a December 2, 2010
22 proposal from Tori Stein at Gamble-Atlantic to
23 you. And you recall a couple of exhibits ago we
24 just looked at a November 2010 agreement for the
25 roofing repair and some other items for \$140,000.

1 Now she's proposing almost an additional \$400,000
2 for additional repairs to include repairs to the
3 cabana and refinishing the floors, among other
4 things. Did you enter into this agreement --

5 A. No, I did not.

6 Q. Why did you not?

7 A. I didn't want to do it.

8 Q. Why did you not want to do it?

9 A. I had other things on my mind and I
10 didn't want to spend the money on this.

11 Q. Did you have any conversations with Tori
12 Stein about her perceived need for you to do
13 this?

14 A. I don't recall.

15 Q. Do you know why she sent you the
16 proposal? Did you ask for it?

17 A. No, I did not.

18 (Exhibit No. 495 was marked for
19 identification.)

20 Q. Exhibit 495 is a December 27, 2010
21 proposed addendum to that roof contract. And
22 this one, instead of the addendum costing almost
23 \$400,000, it's now just under \$100,000, and I'm
24 assuming -- well, I know the proposed scope of
25 work has been cut back drastically. Did you

1 enter into that agreement for the addendum at a
2 cost of an additional \$100,000?

3 A. Yes, I did this.

4 (Exhibit No. 496 was marked for
5 identification.)

6 Q. Exhibit 496 is where you paid a \$45,000
7 deposit on that addendum that you just looked at.

8 A. Okay.

9 Q. Do you agree or disagree?

10 A. It says paid, so I assume I paid it.

11 (Exhibit No. 498 was marked for
12 identification.)

13 Q. Exhibit 498 is another ABS, Applied
14 Building Sciences, setup sheet, and it's dated
15 January of 2011, and the project managers
16 involved are gentlemen by the names of Al
17 Schweickhardt and Richard Dixon.

18 Do either of those names mean anything
19 to you?

20 A. No.

21 Q. To the best of your recollection, you've
22 never spoken or had any communication with either
23 Mr. Schweickhardt or Mr. Dixon.

24 A. Yes, I have not.

25 Q. During the Buffington repairs in

1 2004-2005, Mr. Schweickhardt was called out to
2 your home to look at some drywall cracks. When
3 you walk in the front door, I recall there's some
4 fairly large columns; is that right?

5 A. Yes.

6 Q. There were some cracks in the sheetrock
7 in those columns, and Mr. Buffington had
8 structural concerns and called Mr. Schweickhardt
9 out to look at those. Do you recall or know
10 anything about that?

11 A. No, I do not.

12 Q. Have you seen -- I suspect you have not
13 seen page 2. I'm going to hand it to you. I'm
14 sorry. You have not seen page 2 of this
15 document, which is an e-mail exchange between
16 Richard Dixon and Mr. Schweickhardt, and in the
17 third full paragraph, Schweickhardt is telling
18 Dixon you will be looking at water-damaged
19 framing under doors.

20 My questions to you are this. Who
21 contacted ABS to get involved with your house,
22 and is this when you discovered the damaged
23 framing under the rear doors that Tori Stein had
24 pulled out?

25 A. I don't know who contacted him, and the

1 timing seems about right to be the time that she
2 took the frames off -- the doors off the frames.

3 Q. And she was taking the doors off the
4 frames as part of --

5 A. I have no idea.

6 Q. Okay.

7 A. I have no idea why she did that.

8 Q. Okay. The contracts that you signed
9 back in November and December 2010, just a month
10 or two before this document is dated, did that
11 include any repair to those rear doors?

12 A. Did it say that?

13 Q. I don't know. I'm asking your
14 recollection.

15 A. I don't recall that, no.

16 Q. The last paragraph on that second page
17 references your intent to sell the home in the
18 spring.

19 A. Yes.

20 Q. Was that your intent?

21 A. Yes.

22 Q. Has the home ever been listed, a
23 full-blown active listing?

24 A. I think for maybe two or three months it
25 was on the Kiawah Island web page as a listing.

1 Q. When was that?

2 A. I don't -- probably just before this.

3 Q. Do you recall what the asking price was?

4 A. No, I don't.

5 Q. You were not present when Mr. Dixon went
6 to your home, correct?

7 A. Yes, correct.

8 Q. Who shared with you the information that
9 we talked about yesterday with the negative pitch
10 or the improperly installed flashing under the
11 rear doors?

12 A. I don't recall.

13 Q. Were you at the house and did you see
14 the doors removed?

15 A. No, I did not.

16 Q. So you called Mr. Cooper in January of
17 -- in 2011 from Manhattan?

18 A. Yes.

19 Q. Did Ms. Stein or anyone send you
20 photographs of the removed door and the flashing
21 condition?

22 A. No.

23 Q. Have you seen photographs of the --

24 A. Subsequently, yes.

25 Q. Have you seen photographs of the

1 flashing condition at the rear doors? And your
2 answer was?

3 A. No. Oh, my answer was subsequent. What
4 was your question? That wasn't exactly right.

5 Q. Have at any time you seen photographs of
6 the flashing condition at the rear doors?

7 A. Yes.

8 Q. But you say it was subsequent to early
9 2011.

10 A. Yes.

11 Q. When did you see those photographs?

12 A. After that --

13 Q. Months? Years? Last week?

14 A. A few months later.

15 Q. Who sent you photographs?

16 A. I think Tori sent them.

17 Q. I have a series of photographs that
18 Richard Dixon took during his site visits in
19 January of 2011. Do you know whether the
20 photographs you saw were taken by the engineer
21 from ABS or Ms. Stein?

22 A. I have no idea who took the photos.

23 (Exhibit No. 410 was marked for
24 identification.)

25 (Exhibit No. 411 was marked for

1 identification.)

2 (Exhibit No. 412 was marked for
3 identification.)

4 (Exhibit No. 413 was marked for
5 identification.)

6 (Exhibit No. 414 was marked for
7 identification.)

8 Q. I'll show you Exhibit 410 and --

9 A. 410?

10 Q. 410, 411, 412, 413, 414. Do you believe
11 these are the photographs you saw?

12 A. Yes.

13 Q. Whoever sent those photographs to you,
14 were they just photographs of the flashing
15 condition at the rear door or did they send
16 additional photographs of problems with the home?

17 A. I don't recall any other photos.

18 Q. Do you still have those photographs?

19 A. No.

20 Q. Were they sent to you by mail or by
21 e-mail?

22 A. I don't know.

23 (Exhibit No. 470 was marked for
24 identification.)

25 Q. Have you seen a photograph like Exhibit

1 470? You mentioned a hole where you could see
2 the framing.

3 A. No. Where is that?

4 Q. I'm assuming that's -- I think that's
5 actually in the office.

6 A. Okay.

7 Q. But we'll have to ask Mr. Dixon exactly
8 where that is.

9 A. If he's the one that took the photos.

10 Q. He did.

11 A. Oh, okay.

12 (Exhibit No. 501 was marked for
13 identification.)

14 Q. Exhibit 501 are some handwritten notes.
15 Do you know who prepared these?

16 A. No, I don't.

17 Q. There's a reference at the top to Jerry
18 Huby with a Connecticut phone number and a
19 statement that he might be an architect. Who is
20 Jerry Huby?

21 A. Jerry Huby is the Shope Reno Wharton
22 architect on site, I think on Kiawah, the
23 Charleston architect representing SRW down there.

24 Q. Is he an employee or does he have some
25 adjunct relationship with SRW?

1 A. I have no idea his relationship.

2 Q. Does he have a sign in front of his
3 office that says Shope Reno Wharton?

4 A. I did not go see his office.

5 Q. What involvement has Jerry Huby had with
6 your house?

7 A. He has no involvement. He did not
8 design the house. He did not -- I don't think he
9 was involved with the building of the house. I
10 don't remember him involved with that.

11 Q. Has Mr. Huby been to your house?

12 A. I have no idea. Prior to this?

13 Q. Has Mr. Huby ever been to your house?

14 A. Yes, he has.

15 Q. When has Mr. Huby been to your house?

16 A. He came out to the house to meet me
17 there to talk about the house.

18 Q. Talk about problems with the house?

19 A. Talk about what I was thinking.

20 Q. Okay. Were you thinking, I want to make
21 design changes to my home, or are you thinking, I
22 have concerns about problems with my home that I
23 want addressed?

24 A. Yeah. I was thinking I had problems and
25 I needed help addressing.

1 Q. When did Mr. Huby meet you at your
2 house?

3 A. Is this the day he came?

4 Q. Ma'am, I don't know.

5 A. I don't recall when he came.

6 Q. Would it have been before or after
7 January of 2011?

8 A. It would have been after.

9 Q. Prior to January of 2011, or early 2011,
10 when you called Mr. Cooper -- let that be our
11 benchmark.

12 A. Yes.

13 Q. -- what involvement did Shope Reno
14 Wharton or any representative of Shope Reno
15 Wharton have with your house after its
16 completion?

17 A. I think very little involvement.

18 Q. We know the article was written after
19 the house was completed.

20 A. Yes.

21 Q. And we looked at that Exhibit 1. Do you
22 recall anyone contacting Shope Reno Wharton, or
23 are you aware of anyone contacting Shope Reno
24 Wharton on behalf of you or your husband
25 expressing any concern about the home's

1 construction or design prior to 2011?

2 A. I think over time people did try to get
3 drawings from Shope because we didn't have a good
4 set of drawings. So I'm sure along the way,
5 maybe Tori contacted them. Maybe Buffington
6 asked for it. Maybe people at Gamble wanted the
7 drawings, which I -- which we didn't have
8 available, and maybe to speak to them about the,
9 you know, concept of what the roof -- how the
10 roof sat on the house, since it is a big roof.

11 Q. And all of that contact, to the extent
12 it was made, was due to problems you were having
13 with the home and either active repairs or a
14 desire to repair those problems, correct?

15 MR. WINTON: Objection.

16 A. A desire to understand what we could do.

17 Q. Did you ever contact, or anyone on your
18 behalf or for your husband contact Shope Reno
19 Wharton about concerns with the construction
20 specifically of the home prior to 2011?

21 A. I don't know that.

22 Q. After 2011, or 2011 and after, what
23 involvement has Shope Reno Wharton had with your
24 home?

25 A. None.

1 Q. Well, Mr. Huby came to your house.

2 A. Right.

3 Q. What other involvement?

4 A. That was it.

5 Q. Why did Mr. Huby come to your house?

6 A. I asked him to come and look at the
7 house with me to see what it was and what -- the
8 doors were off, and what he thought could be
9 done. I was starting to formulate in my own head
10 what was going on with the house and how I could
11 address those issues that seemed to not be
12 addressed.

13 And so I spoke -- he was there, and we
14 spoke about things, the windows, Tischler
15 windows, you know, the repairing of those windows
16 two and three times for a lot of money,
17 repainting the roof, redoing the roof for a lot
18 of money, and did he have any idea -- and the
19 window, the shingles, you know, coming on, coming
20 off. New shingles. What did I need to do here?

21 And he didn't think I needed to do
22 anything. He didn't think I needed to do
23 anything with the shingles and I should not do
24 it, not do this destructive work that I needed --
25 that I had heard about, that I was considering.

1 Q. The destructive testing.

2 A. Yeah, yes.

3 Q. Can you pinpoint with any ballpark
4 accuracy when you met with Mr. Huby at the house?

5 A. I came down specifically for that
6 meeting, so -- and I was working at the time in
7 2011. So it would have had to be at a time when
8 I was not working. So on a day that I wasn't
9 working.

10 Q. You were working at the school then?

11 A. Yes. And I had just started work, so I
12 didn't want to take off. So it would have had to
13 be on a, you know, holiday --

14 Q. Or winter break or --

15 A. Or a long weekend or maybe a late
16 afternoon and I jetted down and back.

17 Q. Were the doors still --

18 A. Off?

19 Q. -- off when you went to the house?

20 A. Yeah, I don't recall. I believe they
21 were. They were off for a very long time.

22 Q. The photographs we looked at, 410
23 through 414 that showed the doors removed, do you
24 remember seeing that live and in person?

25 A. Yes.

1 (Exhibit No. 501 was marked for
2 identification.)

3 Q. Looking at 501, these notes. During the
4 Cowan residence, there were water stains on the
5 inside of the walls.

6 A. Do we know who wrote this?

7 Q. I don't know.

8 A. So then what am I reading? Something we
9 don't know who wrote it? I mean --

10 Q. Okay.

11 A. Whose handwriting is this?

12 Q. I have no idea. Look at page 2.

13 A. Uh-huh.

14 Q. In the middle it says First step.

15 A. Uh-huh.

16 Q. Letter to Cooper with litany of
17 problems, laundry list. Either fix it or buy my
18 home.

19 Do you recall having a conversation
20 about a plan to write Mr. Cooper a letter such as
21 that?

22 A. No, I do not.

23 Q. Below that there's -- on the left you'll
24 see a demand letter with a 30-day timeline, 31st
25 day file lawsuit.

1 Were you considering litigation against
2 Russ Cooper Associates in January of 2011?

3 A. I wasn't. I don't know who wrote this.

4 Q. Well, it came from -- it was in the
5 notes from Gamble Home Services, so my assumption
6 it's possibly Tori Stein or someone on her
7 behalf. Did Ms. Stein encourage you to file a
8 lawsuit against Russ Cooper?

9 A. No.

10 Q. At the bottom of that second page it
11 says, fees, reduced hourly fee, \$150 an hour,
12 contingent fee, 20 percent, where it's typically
13 30 to 40 percent, and an associate fee, \$120 per
14 hour. Do you know what that's referring to?

15 A. I do not.

16 Q. Is it referring to the fees you were
17 paying in this lawsuit?

18 A. I don't know what this is.

19 Q. Do you know -- I don't mean this to
20 sound the way it's going to sound. Do you know
21 what your financial arrangement is with Mr.
22 Lyles?

23 A. Yes.

24 Q. He's being paid a fee. Do you know what
25 it is? I'm not telling you to tell me what it

1 is. Do you know what it is?

2 A. Yes.

3 Q. Again, the last page talks about a
4 lawsuit and the potential for recovery, or the
5 potential damages that might be recovered in the
6 lawsuit. Do you recall having a conversation
7 with anyone about these subjects outside your
8 attorney or his staff?

9 A. No, I do not.

10 Q. You never had conversations with Tori
11 Stein or anyone from Gamble Home Services about a
12 potential lawsuit and the damages that might be
13 recovered.

14 A. Yeah. I think -- I think I might have
15 had that conversation. I think it might have
16 been something that was on advice that I think
17 she might have given me.

18 Q. And what advice did she give you?

19 A. Just to consider it.

20 Q. And you would consider suing who?

21 A. A host of people.

22 Q. Such as?

23 A. I don't know. I meant that facetiously.
24 I don't know who. I did not think that far
25 ahead.

1 Q. Did you task Ms. Stein with exploring
2 that?

3 A. No, I did not.

4 Q. The last note on that exhibit, the last
5 page, it just says, thought, put house on market
6 for -- that's unintelligible -- but for some
7 price unfixed, sue for difference, or with
8 someone tearing house down for lots.

9 Do you remember a discussion like that?

10 A. Yes, that was a strategy.

11 Q. That was a discussion with Ms. Stein?

12 A. That was a strategy I discussed with
13 everybody, to get their opinion on what I should
14 do.

15 Q. So sell the house unrepaired --

16 A. With all the information included that
17 was wrong with it, unlike a lot of things other
18 people do, for a discounted price, take the house
19 down, and I have some estimates for that, what it
20 would cost to take it down and just sell the
21 lots. Or say the house sells for 10 and it's
22 appraised for 20. Then because it's falling
23 apart, it costs 10 to fix it, so get the 10.

24 Q. Okay.

25 A. A lot of different strategies. I talked

1 to a lot of people about this.

2 Q. And that's my question. Who did you
3 speak to?

4 A. Everybody. Every single person I know,
5 I asked, what do you think about this? Everyone.
6 Up here, teachers, my parents, everybody. I
7 needed advice.

8 Q. And what was the advice that you got?

9 A. Do what you think is best.

10 Q. And what did you think was best?

11 A. I thought it was best to fix the house
12 and bring it up to the original -- or bring it
13 up -- bring it back to original glory and sell it
14 for a good price.

15 Q. Do you know how much you paid Phillip
16 Smith for the repair?

17 A. It's ongoing.

18 Q. What stage are they in now?

19 A. They're framing the back wall.

20 Q. And there were some changes to the back
21 wall?

22 A. Yes.

23 Q. What changes were made?

24 A. Well, because the turret was not able --
25 we were unable to really resolve the issue of the

1 turret windows and the framing of those windows
2 and get new windows, because of course they don't
3 make windows that size anymore at Tischler. So I
4 said, take the turret down, although it is one of
5 the architectural features of the home, and just
6 say it's a new home now.

7 And so I started at square one with just
8 looking at the house free of the constraints of
9 the Shope Reno Wharton design. So we took the
10 turret down because it could not be repaired, and
11 are jumping the kitchen out to the pool deck.
12 And so because the deck could never be fixed and
13 the pool deck, the first level where the water
14 was always seeping into the turret, we now
15 secured that as a house instead of exterior.

16 And so, of course, because we're doing
17 all that, we have to rip up all the tile on the
18 terrace, which then showed us that -- which we
19 would have never done because it's in perfect
20 shape, it's just tile -- that there was no
21 waterproof membrane underneath the tile
22 originally installed. So that was why everything
23 was always wet below.

24 So I have to put a new tile down -- new
25 deck down for that. And then I thought, well,

1 since I'm doing all this, I might as well take a
2 look at other issues that had not been resolved
3 over time. And one of them was the study on the
4 side where the floor had cupped. And it was
5 discovered that that was because there's no
6 pitch. The pitch goes in on the concrete deck
7 instead of out. And so any time it rained, the
8 water went into the house and not out of the
9 house. So you can't fix that because that's the
10 frame of the house, it's concrete.

11 So I said, screw it, just take that
12 porch down. So we just stopped the terrace at
13 the end of the -- of the great room wall, and
14 that's just the gate. That will just be a fence.
15 And then we took out those, those windows, those
16 circular Tischler windows there that also were
17 never installed properly.

18 And so because we did it on that side,
19 we had to do the second floor, and so we have now
20 almost a flat somewhat bay window, but not
21 exterior sticking out. And the whole bottom of
22 the house now on that side is secured because
23 there's no water coming in; no means for water to
24 accumulate to go into the house.

25 Q. You mentioned a couple of items that

1 were newly discovered during the repairs, and one
2 was the lack of waterproofing underneath the --

3 A. Right.

4 Q. -- tile on the deck.

5 A. Yes.

6 Q. And another one was the what we call
7 negative slope on the deck, where it's pitched
8 toward the house as opposed to away from the
9 house so water can shed off. Wasn't that
10 negative slope issue at least partially addressed
11 or attempted to be addressed during the
12 Buffington repairs?

13 A. Yes, it was.

14 Q. So that's not entirely a new situation
15 then.

16 A. I guess so, yes, you're right.

17 Q. What other new items were discovered
18 during Phillip Smith's repair, if any?

19 A. Well, Phillip Smith's repair is
20 different than the destructive engineering. So
21 Phillip Smith's repair is not really what I'm
22 talking about. I'm talking about Ross Clements'
23 destructive engineering or destructive testing,
24 if you will.

25 Q. I appreciate that. Let me ask you a

1 more specific question.

2 A. Yeah.

3 Q. What defects or problems in the home
4 directly related to the work of Russ Cooper
5 Associates and its subcontractors has Phillip
6 Smith found during his work, that you're aware
7 of, that is new, that you did not know before?

8 MR. LYLES: Object to the form of
9 the question.

10 Q. If you understand the question, you can
11 answer it.

12 A. No, I don't. I --

13 Q. Has Phillip Smith's work at your house
14 over the past few years revealed any problems
15 with your home that you were not previously aware
16 of that you attribute to Russ Cooper and his
17 subcontractors?

18 MR. LYLES: Object to the form of
19 the question. Go ahead.

20 A. Yes.

21 Q. And I'm asking you to list those things.

22 A. Well, I think the doors.

23 Q. What doors?

24 A. The back doors, and the rotted
25 underneath from the --

1 Q. Okay. We knew about that in January of
2 2011, correct?

3 A. Yeah, but that's --

4 Q. Okay. I'm talking about Phillip Smith's
5 work.

6 A. That's the wrong question then. Phillip
7 Smith is the contractor doing the work, right?
8 He doesn't find things.

9 Q. Yes, ma'am. My question is simple. Has
10 Phillip Smith's work revealed, or during the
11 process of tearing down the turret to build
12 something new, and this destructive process
13 related -- necessary destructive process related
14 for his work, has he uncovered, exposed, revealed
15 and brought to your attention any problems with
16 the home that you weren't already aware of?

17 MR. LYLES: Object to the form of
18 the question.

19 Q. When he began his work.

20 A. Yeah.

21 Q. And those are?

22 A. The window seal that I mentioned, that
23 you can look through the windows, the Tischler
24 windows.

25 Q. There's a gap in between the window and

1 the --

2 A. And the frame.

3 Q. -- the frame of the house.

4 A. Right. The windows are not framed and
5 attached to the house.

6 Q. Okay.

7 A. And you can see through it. This
8 membrane that I mentioned.

9 Q. On the pool deck, right.

10 A. On the pool deck. The shingle, the
11 house was not -- when you take the shingle off,
12 there's no waterproofing underneath it.

13 Q. Do you know where that was located?

14 A. In various spots through the house, and
15 they have photographs. I don't know
16 specifically. Throughout the house, throughout
17 the exterior of the house, are these areas of no
18 waterproofing. I'd want to consult my notes.

19 Q. Do you have notes?

20 A. Well, I have Phillip Smith and Ross
21 Clements' reports. I need to consult that to be
22 clearer.

23 Q. I'm just asking about what you recall
24 today.

25 A. I recall those major things, but there

1 are a number of other things.

2 Q. The gaps between the windows, I think
3 you testified earlier you don't recall that Dan
4 Buffington made any repairs to the windows.

5 A. That's right.

6 Q. If I represent to you that Dan
7 Buffington in 2004-2005 was charged with sealing
8 around windows to previous air intrusion, is that
9 -- can you confirm, deny? You have no idea.

10 MR. CANTWELL: Objection.

11 A. I have no idea.

12 Q. The pool deck issue, you talked about a
13 lack of a waterproofing membrane. Is it your
14 understanding that that was required by code in
15 1994?

16 A. I have no idea what was code.

17 Q. So you don't know if it's a code
18 violation, a violation of any industry standards,
19 correct?

20 A. I understood it to be a violation of
21 industry standards.

22 Q. Industry standards today or when Mr.
23 Smith was doing his repairs or industry standards
24 in 1994?

25 A. It was unclear.

1 Q. Did Mr. Smith or anyone make a
2 representation that there should have been, in
3 1994, when the house was built, a waterproofing
4 membrane under that tile?

5 A. I drew that conclusion from the
6 comments, yes.

7 Q. But you can't speak to specific
8 requirements.

9 A. I don't know what it meant.

10 Q. While you did not appreciate, prior to
11 Mr. Smith's repair of your home, that there was a
12 lack of a waterproofing membrane underneath the
13 pool deck, you were well aware, and we've gone
14 over it in detail, that where the pool deck
15 joined your house, there were leaks into the
16 basement, correct?

17 A. Yes.

18 Q. The waterproofing behind the shingles,
19 you can't give me specific locations, correct?

20 A. Which, which exercise?

21 Q. Can you give me specific locations where
22 there were voids or -- in the waterproofing or
23 had --

24 A. Oh, oh, for this, for this -- the
25 destructive testing you mean?

1 Q. For anything.

2 A. Yeah. Okay. So the side of the house
3 where the master bedroom is, that side of the
4 house had no waterproofing, whatever should go
5 under the level that goes on top of the shingle.
6 The side of the house --

7 Q. And by the shingles you mean the shakes;
8 is that correct? On the side of the house?

9 A. Yeah. I understand that shingles,
10 shake, goes on, is the last -- is the final, the
11 final product. Underneath is this Tyvek stuff,
12 and underneath that is something else, and then
13 underneath that is this waterproofing thing.
14 That's my understanding that was not there.

15 Q. Okay. Are we talking about something
16 that is applied across the field of a wall
17 waterproofing or something that is localized at a
18 penetration such as a window or a door?

19 A. I understood it to be a big sheet, a big
20 thing, a swath of stuff.

21 Q. While that was brought to light, to your
22 attention, during Mr. Smith's repair, you were
23 well aware -- and we've looked at the history of
24 window leaks and mold around windows -- that had
25 been going on for years prior to Mr. Smith's

1 repair; is that correct?

2 A. Uh-huh, yes. But I repaired them all.

3 THE WITNESS: Can I get a drink?

4 MR. BEST: Absolutely.

5 (Luncheon recess.)

6 Q. Going back to 2011, where we mentioned
7 before the break Mr. Schweickhardt and Dixon come
8 into your house. Do you recall any further
9 investigation by those two gentlemen?

10 A. I don't recall their investigation --

11 Q. At all.

12 A. -- or any further.

13 Q. Okay. Do you recall an issue where they
14 were trying to be enlisted to assist in an
15 investigation of your home but an issue arose
16 where they informed Mr. Lyles of the potential
17 for conflict of interest because they had done
18 work for Buffington in the past?

19 A. No, I do not.

20 (Exhibit No. 508 was marked for
21 identification.)

22 Q. Exhibit 508 is an e-mail from Tori Stein
23 to you suggesting a meeting at the house in
24 January of '11. Did you meet with Tori on that
25 day?

1 A. That could be the day that I met with
2 her, yes.

3 (Exhibit No. 509 was marked for
4 identification.)

5 Q. Exhibit 509 is an e-mail exchange
6 between Tori Stein and Richard Dixon at ABS
7 regarding also meeting at your house on Sunday.
8 Do you recall meeting Mr. Dixon or an engineer at
9 your house on that day in January?

10 A. I don't recall that.

11 (Exhibit No. 510 was marked for
12 identification.)

13 Q. Exhibit 510 are notes taken by Richard
14 Dixon on January 27th, 2011, when he was at your
15 house.

16 A. Uh-huh.

17 Q. I'll at least represent to you he was at
18 your house on January 27th. You've not seen
19 these documents before.

20 A. No, I have not.

21 Q. You were not there that day.

22 A. I don't recall that I was..

23 Q. The third bullet, Robert Lyles on site.
24 Do you know why Mr. Lyles was there?

25 A. I do not.

1 Q. He, referring to Mr. Lyles, and Tori
2 discussed privately and told me no suit would be
3 filed due to SL, and I'll suggest to you that SL
4 stand for statute of limitations.

5 A. Uh-huh.

6 Q. Do you know anything about this
7 conference?

8 A. No, I do not.

9 Q. Did Tori or Richard Dixon tell you
10 anything about that conference?

11 A. No.

12 Q. Did Mr. Lyles tell you anything about
13 that conference?

14 MR. LYLES: Object to that. Don't
15 answer that question.

16 MR. BEST: Are you taking the
17 position that Tori Stein is Ms. --

18 MR. LYLES: You asked her --

19 MR. BEST: I asked her -- excuse
20 me.

21 Q. Did anybody, including Mr. Lyles, tell
22 you anything about what Mr. Lyles and Tori Stein
23 spoke about?

24 MR. LYLES: Object, and tell you
25 not to answer anything that relates to

1 conversations that you and I had.

2 THE WITNESS: Okay.

3 MR. BEST: All right. We'll come
4 back to it.

5 Q. Did you have any conversation with Tori
6 Stein or anyone other than your counsel about
7 filing or not filing a lawsuit in early 2011?

8 A. I don't know what Tori said. She's not
9 an attorney, so I'm sure if she said anything to
10 me, I discount that. I don't know what she said,
11 I don't recall, but even if she did, I discount
12 what she says on that.

13 Q. I appreciate it, but the question is do
14 you recall her telling you --

15 A. I don't recall her telling me anything
16 about it, but even if she did, I would discount
17 it.

18 Q. Well, for example, the issue of whether
19 to repair the house or tear it down, you spoke
20 with everybody in the world, anybody and
21 everybody.

22 A. Uh-huh, I did.

23 Q. Did you speak with anybody and everybody
24 or anybody about whether to file a lawsuit over
25 this house?

1 A. That was one of the options, yes.

2 Q. Who did you talk about --

3 A. Anybody and everybody. The man in the
4 street, people at school, my family, people on
5 Kiawah. I told everybody about this on Kiawah.

6 Q. Including --

7 A. In Charleston, everywhere.

8 Q. Including Tori Stein?

9 A. Yeah, including Tori Stein, including
10 everybody.

11 Q. You just don't recall the particulars of
12 the conversation you had with Tori Stein.

13 A. Right.

14 Q. Did you speak about it with Cynthia
15 Noble?

16 A. Yeah, I spoke to everybody. The
17 receptionist with the office at KRA. I told
18 everybody how bad it was.

19 Q. And what time period are we talking
20 about?

21 A. From this time period on.

22 Q. What did Cynthia Noble have to say about
23 it?

24 A. She said, you know, let's see what we
25 can do, let's see what you want to do, think

1 about it. No one told me what to do. I was just
2 venting to everybody I knew.

3 Q. Did you talk to the Cowans about it?

4 A. I'm sure I spoke to the Cowans about it,
5 yes. It was unnerving to think that I had to
6 take the house down, that that was a solution --
7 that would be an answer.

8 Q. Did any construction professional or
9 design professional recommend razing the house?

10 A. No. I did, in my infinite wisdom.

11 So what is this? Do we know who wrote
12 this?

13 Q. Yes, ma'am, Richard Dixon.

14 A. Richard Dixon. Okay.

15 Q. The last note on the first page is
16 moisture at windowsills, previous repairs. Do
17 you know what repairs, if any, have been made
18 prior to January 2011 to the windows themselves?

19 A. No, I don't.

20 Q. The next page, a few lines in, it says,
21 Maria, it's n-e-w, new, about 95 to 100 percent.

22 A. Uh-huh.

23 Q. Do you know what that's in reference to?

24 A. No, I don't.

25 Q. The next line is stuff she didn't know

1 about will be lawsuit. Do you know what this
2 refers to?

3 A. No.

4 Q. Had a decision been made as of January
5 27th, 2011, to file a lawsuit?

6 A. No.

7 Q. When did you make the decision to file
8 the lawsuit?

9 A. When we brought Ross on, Ross Clements,
10 to do that destructive testing, and I think that
11 was like in '12. I don't recall the date.

12 Q. The next page of that exhibit, there are
13 some names, and I'm assuming those are the folks
14 who were in attendance during Mr. Dixon's visit
15 to your home in January. Do you recognize the
16 first name?

17 A. No, I do not.

18 (Exhibit No. 511 was marked for
19 identification.)

20 Q. Exhibit 511, even though it's stamped
21 Draft, it is signed by Mr. Dixon and appears to
22 be a summary of his observations that he made in
23 January of 2011.

24 Have you seen that document before?

25 A. No, I haven't. I don't recall seeing

1 this.

2 Q. Mr. Dixon came back to your house in
3 February 12, 2011, but you don't know anything
4 about that. Is that a fair statement?

5 A. Yes.

6 (Exhibit No. 514 was marked for
7 identification.)

8 Q. Exhibit 514 is a letter from Mr. Lyles
9 to Dan Buffington putting him on notice of
10 various problems, deficiencies relating to
11 insulation of windows and doors, waterproofing
12 and sealant installation, flashing installation
13 and numerous other deficiencies, which have led
14 to significant property damage. Do you recall
15 seeing this document?

16 A. Yes.

17 Q. You were aware that this demand letter
18 was going to be sent to Mr. Buffington in
19 February of 2011.

20 A. Yes.

21 Q. I'll represent to you that a like letter
22 was sent to Russ Cooper & Associates and Russ
23 Cooper in October of 2011. We'll get to that,
24 and my question to you is, why was the letter not
25 sent to Russ Cooper in February of 2011?

1 A. I have no idea.

2 Q. At this time frame, were you holding Dan
3 Buffington and Buffington Homes more responsible
4 for the problems with your home than Russ Cooper
5 Associates?

6 MR. POWELL: Object to the form.

7 A. No.

8 Q. I'm just trying to figure out why --

9 A. I don't -- I wasn't holding him more
10 responsible, no.

11 Q. Who were you holding responsible for the
12 problems with your home?

13 A. I was holding everybody responsible.

14 Q. You just don't know why a similar letter
15 didn't go to Russ Cooper.

16 A. I don't know why, no.

17 (Exhibit No. 517 was marked for
18 identification.)

19 Q. Exhibit 517 is a March 15, 2011 proposal
20 that I'll have to presume was mailed to you. It
21 has your address.

22 A. Uh-huh.

23 Q. Where ABS is proposing to do further
24 investigations at your home for the price of
25 roughly \$7,000. Have you seen this before? And

1 that includes destructive testing.

2 A. Does it?

3 Q. Yes. In paragraph 2, the first
4 sentence.

5 A. Including destructive testing. I
6 represent to you that this was sent to me, I'm
7 sure I got it. I don't remember specifically
8 reading this, or -- I don't remember it
9 specifically but, yes, it did come to me and,
10 yes, I'm sure I saw it.

11 Q. Do you have any particular recollection
12 of this?

13 A. No, not specifically.

14 Q. How about remotely, do you have any
15 recollection of this?

16 A. Not even remotely.

17 Q. Thank you.

18 Do you know if this proposal was
19 accepted?

20 A. I'm sure it wasn't, since I don't
21 remember it.

22 Q. And I'll represent to you, due to the
23 potential for conflict, because ABS had done work
24 for Dan Buffington and may have been concurrently
25 doing work for Dan Buffington, the decision was

1 made it would be best if you found another
2 engineer so as to avoid that conflict between ABS
3 and Buffington, but you don't recall anything
4 about that.

5 A. No. So was this even sent, do you know,
6 or was it drafted and just not sent?

7 Q. It's in ABS's files and it's signed, so
8 beyond that --

9 A. So we have to assume it was sent, right?
10 Okay. I don't know.

11 (Exhibit No. 519 was marked for
12 identification.)

13 Q. Exhibit 519 is also -- this is actually
14 a scope of repair that ABS prepared for work to
15 be done at your home. You've never seen this
16 before.

17 A. No. But why are they still doing --
18 sending -- you know, doing things if they are
19 conflicted out?

20 Q. Well, because potentially they would
21 have to testify against Dan Buffington, and
22 that's what they were trying to avoid.

23 A. Okay.

24 (Exhibit No. 521 was marked for
25 identification.)

1 Q. Exhibit 521 is some exchanges between
2 Tori Stein and some other folks at Gamble.

3 A. Uh-huh.

4 Q. I'm referring to this comment in the
5 middle where Tori references that Chris Allwin
6 has pulled me back into this mess for now to see
7 if I can get some answers and light some fires.

8 What was Chris's involvement in all this
9 process?

10 A. He was not involved at all. And I
11 actually saw this e-mail in your stack and I had
12 no idea about that at all. He would -- he would
13 come down with me just to come and keep me
14 company, or he'd play golf and I'd be at the
15 house. I don't know. I find it very hard to
16 believe that he would contact her without me or
17 try to pull her in without me knowing it. It
18 implies that Christopher contacted her without me
19 knowing about it. The whole thing about this
20 e-mail is very hard for me to understand.

21 Q. Okay. Is it fair to say that your son
22 Christopher had little or no involvement in this
23 process of trying to identify problems and get
24 repairs made, or this lawsuit?

25 A. Yes. I was the decisionmaker.

1 Christopher was not. And I -- has pulled me back
2 into this mess, I don't know what that means.

3 Q. Okay. How about your other children --

4 A. No.

5 Q. -- Katrina and Michael, same --

6 A. Same thing.

7 Q. What is your children's opinion of the
8 house and the problems the house is experiencing,
9 to the best of your knowledge?

10 A. My kids love Kiawah, and they love what
11 Kiawah represents to them, which is our family
12 life down there, and their dad's life down there,
13 but they understand that they don't go there and
14 it's not feasible for us to keep it going anymore
15 and have fun down there when no one's there. And
16 so they're on board with everything I'm doing. I
17 tell them everything.

18 Q. You mentioned some estimates that you
19 had to raze the home, r-a-z-e, raze.

20 A. Uh-huh, take it down, yeah.

21 (Exhibit No. 522 was marked for
22 identification.)

23 Q. Exhibit 522 is an estimate from Atlantic
24 Coast Construction Management.

25 A. Yeah.

1 Q. Did you instruct Tori Stein to go get
2 those types of estimates?

3 A. I asked for that, yes.

4 Q. This was the only estimate I saw for
5 that type of work. Do you have others?

6 A. No, I'm sure she didn't get any others.
7 That's 522?

8 Q. Yes, ma'am.

9 (Exhibit No. 524 was marked for
10 identification.)

11 Q. This is the first reference to Fuller
12 Engineering, at least that I have on me, in this
13 Exhibit 524. It's from Buffington's document
14 production. Do you recall anyone from Buffington
15 coming to your house in the spring of 2011 to
16 meet with your representatives?

17 A. No, I do not.

18 Q. Under Present, it says, number 1, H.
19 Ross with Fuller Engineering.

20 Do you know who that is?

21 A. I do not, no.

22 Q. 2, it says original architect. Was this
23 possibly when Mr. Huby appeared or did someone
24 come down from SRW in New England?

25 A. I have no idea.

1 Q. You were not here for this meeting.

2 A. I was not here.

3 Q. Number 3, it says general contractor.

4 You don't know if that's referring to Buffington
5 Homes or Russ Cooper Associates.

6 A. I don't know who that refers to.

7 Q. Do you know who John Miller is, number
8 4?

9 A. Don't know John Miller.

10 Q. Is there anything at all you can tell me
11 about this document or a meeting of construction
12 folks at your house in April of 2011?

13 A. No, I don't.

14 (Exhibit No. 529 was marked for
15 identification.)

16 Q. Okay. Exhibit 529 is a May 10, 2011
17 Fuller, F-u-l-l-e-r, Engineering report to Mr.
18 Lyles. It's just a preliminary summary of their
19 observations and destructive testing. Have you
20 seen this document before?

21 A. Yes, I have.

22 Q. You mentioned Ross Clements' name
23 earlier. Have you ever spoken or met with Ross
24 Clements?

25 A. Yes.

1 Q. When did you first meet with Mr.
2 Clements?

3 A. Around that time, around that time, that
4 spring.

5 Q. You met him at the house?

6 A. Yes.

7 Q. Had he prepared this May 10, 2011
8 report?

9 A. Before meeting me at the house?

10 Q. Yes, ma'am.

11 A. I don't recall when he prepared this.

12 Q. After preparing this report, did he sit
13 down or did you have a telephone conversation to
14 review his findings?

15 A. Yes.

16 Q. Tell me about that.

17 A. He very methodically went through the
18 issues that he discovered and those issues that
19 we see here and thoughts he had on what I should
20 do next, and -- knowing my ultimate end game was
21 to sell the house.

22 Q. And he recommended various repairs,
23 correct?

24 A. He suggested a lot of different things.

25 Q. Including additional investigative work.

1 A. Yes. Most importantly was that
2 additional investigative work.

3 Q. And you retained Fuller Engineering to
4 do that.

5 A. Yes, I did.

6 (Exhibit No. 533 was marked for
7 identification.)

8 Q. Exhibit 533 is a -- actually, due to a
9 stapling error, this is actually several
10 documents, but the first few pages are a Tischler
11 und Sohn walk-through investigation?

12 MR. DUKES: What number is that?

13 MR. BEST: 533. Off the record.

14 (Off-the-record discussion.)

15 MR. BEST: 533, for the folks
16 playing at home, is Gamble Home Services, 2846
17 through 2855, and it's dated August 25, 2011.

18 Q. Have you seen that document before?

19 A. No, I have not.

20 Q. Do you know why Tischler was in your
21 house in the summer of 2011?

22 A. Tischler had a -- we had a problem with
23 all the windows, so Tischler -- I guess somebody
24 called them to come in and take a look at it and
25 they finally came down to look at it.

1 Q. Okay.

2 A. I don't know who, I don't know when.

3 Q. I'll represent to you that Tori Stein --

4 A. Okay.

5 Q. -- contacted Tischler and requested an
6 estimate for the replacement of certain
7 windows --

8 A. Okay.

9 Q. -- and presumably, even this inspection
10 by Tischler. Does that ring any bell at all?

11 A. That doesn't ring a bell, but it's very
12 logical.

13 (Exhibit No. 580 was marked for
14 identification.)

15 Q. I'm going out of order, but I'm marking
16 as Exhibit 580, it's Gamble Home Services 2872
17 through 2875, and is a September 15, 2011
18 proposal from Gamble-Atlantic to you to make
19 significant repairs to your home at a price in
20 excess of \$3.3 million.

21 A. Uh-huh.

22 Q. Do you recall seeing that document
23 before?

24 A. Yes, I do.

25 Q. You did not enter into that agreement

1 with --

2 A. No, I did not.

3 Q. -- Tori Stein's company.

4 A. No.

5 MR. BEST: Off the record.

6 (Off-the-record discussion.)

7 Q. If the goal at this time was to repair
8 the home, to restore it to its former glory so it
9 could be sold, why did you not enter into that
10 contract?

11 A. I wanted other offers, other bids. I
12 wanted to understand what else other people saw,
13 and I didn't -- I didn't want to just take it at
14 face value.

15 Q. Okay. Other agreements, contracts you
16 had with Tori Stein's company, you did not get
17 competing bids or second opinions.

18 A. Competing bids, right.

19 Q. But at 3.3 million, are we now into the
20 realm of a significant amount of money?

21 A. No.

22 Q. Why then not just let Tori, given her
23 history with the home, her knowledge of the home,
24 let her do the work?

25 A. For that very reason.

1 Q. Because her prior repairs had been
2 ineffective?

3 A. No, because I wanted fresh eyes to look
4 at it and I wanted somebody else's opinion about
5 what had to be done.

6 Q. Well, I thought Mr. Clements from Fuller
7 Engineering was giving you that decisive opinion.

8 A. He was. He did not give it -- I don't
9 know that he communicated with Tori, I don't know
10 what they had to say to each other, and I was
11 waiting to hear what that was. I think this was
12 a one-off of the whole experience.

13 Q. I'm sorry. What do you mean by a
14 one-off?

15 A. I think it was -- she knew I wanted to
16 do something and that I was eager to fix the
17 house. I understood I had things I had to do,
18 and I think she, in looking to help me, went
19 ahead to do this, as she always did.

20 Q. Are you saying you did not ask Ms. Stein
21 to prepare this proposal?

22 A. I might have asked her to, yeah. It's
23 reasonable that I would have said to her, why
24 don't you see what you can come up with. That
25 sounds like something I would say, but never

1 under the assumption that it was a given that
2 they would do it.

3 Q. Did she ever call you and say, Maria,
4 I'm sending you a multimillion-dollar proposal so
5 just be prepared, I don't want you to be shocked
6 by the figure?

7 A. No, I don't recall that.

8 Q. Did you have any concerns about the
9 quality of Gamble-Atlantic's or Ms. Stein's prior
10 work or concerns about their ability to complete
11 the Fuller scope of work? Did that factor into
12 your decision not to sign this proposal?

13 A. I don't know that she saw the Fuller
14 scope of work. I can't attest to that, and I
15 never questioned her ability, no. On previous
16 work, no.

17 Q. How was Phillip Smith chosen to do the
18 work at the house ultimately?

19 A. Phillip Smith was identified by a --
20 with a few other people, a few other contractors
21 who came out to the house. I met them. We
22 walked through, talked about what I thought I
23 wanted to do. They had Ross Clements' report
24 handy so that they knew what the scoop was, and
25 the scope, so to speak, and could comment and --

1 could comment effectively on that.

2 Q. Do you recall who -- I'm sorry. I
3 didn't mean to cut you off.

4 A. I do not.

5 Q. You don't recall who the other builders
6 were.

7 A. I do not.

8 Q. Do you remember how many there were?

9 A. I think there were three people.

10 Q. Why did you choose Phillip Smith?

11 A. I did a background check on him. I
12 called references on him. I went to see other
13 projects that he did. His price was reasonable,
14 and he struck me as a reasonable person.

15 Q. The proposal from Ms. Stein that we
16 marked 580, that's been previously marked as 538
17 but we're leaving 580.

18 (Exhibit No. 537 was marked for
19 identification.)

20 Q. 537 is the transmittal letter where Tori
21 sent you a copy of this proposal.

22 A. Yes..

23 Q. And she specifically references that she
24 is covering the 15 points of recommended repairs
25 in the Fuller report.

1 A. Good. That's good to know. Thank you.

2 Q. Do you recall conferences or discussions
3 with Ms. Stein about the repairs called for in
4 the Fuller report, or any complexities or
5 problems she anticipated in effecting those
6 repairs?

7 A. No.

8 Q. Any concerns she had.

9 A. She had no concerns.

10 Q. She had no thoughts, no comments,
11 nothing to make about the proposed Fuller
12 repairs.

13 A. No. I think she thought they were
14 logical and she could do it.

15 (Exhibit No. 539 was marked for
16 identification.)

17 Q. 539 is the estimate I'd mentioned a few
18 minutes ago prepared by Tischler und Sohn and
19 forwarded to Tori Stein for \$166,000 in window
20 replacements. Have you ever seen this before?

21 A. No, I haven't.

22 Q. And you don't recall whether you
23 requested that Ms. Stein specifically obtain that
24 estimate from Tischler.

25 A. That's correct.

1 (Exhibit No. 541 was marked for
2 identification.)

3 Q. 541 is an e-mail from Tori Stein to you
4 dated November 15th, 2011. Do you recall seeing
5 this?

6 A. No.

7 Q. I'm interested in this last full
8 paragraph where she's talking about the temporary
9 board-up performed earlier in the year to cover
10 door openings.

11 My question to you is this. The
12 photographs we looked at earlier where the rear
13 doors were removed in January 2011?

14 A. Yes.

15 Q. In November of 2011, are those rough
16 openings still empty? Is there not a door there?

17 A. I believe that's correct.

18 Q. Why weren't those doors replaced prior
19 to November of 2011?

20 A. Well, people were coming out to look at
21 it, I think. You couldn't get the doors back up,
22 the bottom piece, because she took the doors off,
23 didn't -- you couldn't get the door back in. I
24 think they jimmy-rigged something to put the
25 doors back up. That's my understanding.

1 (Exhibit No. 542 was marked for
2 identification.)

3 Q. Exhibit 542 appears to be -- have you
4 seen this before?

5 A. No.

6 Q. It appears to be an agreement, albeit
7 after the fact, I think, where Ms. Stein is
8 charging you for destructive testing assistance
9 she gave to your experts from January to
10 November, and then time for apparently a
11 temporary boarding-up of the voids where the
12 doors had been removed.

13 Did you pay this? Did you agree to it?

14 A. I'm pretty sure I paid this.

15 (Exhibit No. 545 was marked for
16 identification.)

17 Q. Exhibit 545 is a December 29, 2011
18 report prepared by Fuller Engineering and sent to
19 Mr. Lyles. Is this a report that Fuller
20 Engineering prepared following its additional
21 investigation?

22 A. Yes, it is.

23 Q. Have you seen this document before?

24 A. Yes, I have.

25 Q. Have you had any conversations with

1 Fuller Engineering personnel about that
2 particular report?

3 A. They just explained it to me, yes.

4 Q. Was this a face-to-face meeting or a
5 telephone call?

6 A. What's the date? I don't think it was
7 face-to-face. It must have been a phone call.

8 Q. How many times have you met Fuller
9 Engineering personnel face-to-face?

10 A. I don't know. Maybe eight times, ten
11 times.

12 Q. And that was always at your house?

13 A. Yes.

14 Q. And those have been eight to ten
15 separate days.

16 A. As opposed to what, one day? No. Yes,
17 eight, eight to ten separate days.

18 Q. How many conversations on the telephone
19 have you had with Fuller Engineering personnel?

20 A. Countless.

21 Q. How about before Phillip Smith began his
22 repairs? How many conversations with Fuller
23 Engineering personnel?

24 A. Countless.

25 (Exhibit No. 549 was marked for

1 identification.)

2 Q. Exhibit 549 is the very first portion,
3 the text portion, of essentially a scope of
4 repair, Fuller's instructions to bidding
5 contractors on what it wants performed at the
6 house.

7 A. Uh-huh.

8 Q. Have you seen that document before?

9 A. Yes, I have.

10 Q. Does that document contain all of the
11 work, to your understanding, that needs to be
12 performed at the house?

13 A. As of this date, I would assume so.

14 I --

15 Q. And the only thing new that you are
16 aware of, since that document was created, was
17 the void around the windows where you could see
18 daylight, the waterproofing membrane under the
19 deck. And then there was one other one, but we
20 talked about it earlier.

21 A. The shingle --

22 Q. The Tyvek under the shakes.

23 A. No, not the Tyvek. The thing that goes
24 under the Tyvek.

25 Q. Waterproofing under the shakes.

1 A. Yeah.

2 Q. Anything else after the date of this --

3 A. I really think there are other things.
4 I need to really get my own check and see, or ask
5 him.

6 Q. And by him, you mean Mr. Clements.

7 A. Yes.

8 (Exhibit No. 551 was marked for
9 identification.)

10 Q. Exhibit 551 is an estimate that Tori
11 Stein provided to Mr. Lyles, and she's
12 essentially putting a price on the Fuller
13 engineer's scope of work, but instead of it being
14 3.3 million, it is now 2.9 million. Do you know
15 what the change was?

16 A. I do not.

17 Q. Have you seen this document before?

18 A. I don't recall this document, no.

19 Q. Do you know whether you or Mr. Lyles
20 requested this document from Tori Stein?

21 A. I don't think I did. I don't know what
22 he did, no.

23 Q. Do you know if there was ever a
24 discussion by you or by anyone on your behalf
25 with Tori Stein wherein there was a request made

1 for her to review her numbers and see if some
2 reductions could be found?

3 A. I don't know that.

4 Q. You don't know whether this document was
5 prepared as a meaningful bid on the repair or
6 whether it was prepared for purposes of potential
7 litigation.

8 A. I don't know what it was prepared for.

9 Q. On the second page of Exhibit 551
10 there's some handwriting. Do you recognize the
11 handwriting?

12 A. No, I don't.

13 Q. These documents bear the Allwin Bates
14 stamp, so I'm assuming they came from your files.
15 Is this your handwriting?

16 A. No, it is not.

17 Q. Do you recognize it as any of your
18 children's handwriting?

19 A. Nope.

20 (Exhibit No. 553 was marked for
21 identification.)

22 Q. Exhibit 553 is a proposal from Tori
23 Stein in June of 2012 to reinstall the two doors,
24 two rear doors, in the great room that were
25 removed in January of 2011. I'm just trying to

1 confirm, those doors had been removed and the
2 openings boarded up for a year and a half now.

3 A. No. I think they were done prior to
4 this. I don't think it was a year and a half. I
5 think she just billed me then.

6 Q. Do you know when those doors were
7 reinstalled?

8 A. I do not, no.

9 Q. If you look down at the bottom, it says,
10 -- toward the bottom, agreement amount.

11 A. Uh-huh.

12 Q. Almost \$6,000. Deposit, \$2,500, balance
13 due upon completion.

14 A. Yes.

15 Q. And then in handwriting, up at the top
16 corner, do you know whose handwriting this is?

17 A. I do not.

18 Q. It says, deposit paid, which suggests to
19 me the work has not yet been performed, otherwise
20 you would pay it in its entirety. Deposit paid
21 June 18th, 2012. Do you have any reason to
22 dispute that information?

23 A. No, I do not.

24 Q. Is it possible that as of June 2012,
25 those doors had not been reinstalled, or do you

1 contest that?

2 A. It's possible.

3 (Exhibit No. 554 was marked for
4 identification.)

5 Q. Exhibit 554 is a June 11, 2012 property
6 appraisal, again, by Joseph Guerri, G-u-e-r-r-y.
7 The value this time is 11,900,000.

8 A. Uh-huh.

9 Q. Do you recall why this appraisal was
10 requested?

11 A. Well, I wanted to put the house on the
12 market again, test what the market was -- how the
13 market was down there.

14 Q. The next page, second page, in the cover
15 letter addressed to you, first sentence, at your
16 request, I have physically inspected the
17 above-referenced property.

18 Do you know that Mr. Guerri actually
19 went back to the property?

20 A. I do not.

21 Q. Do you know if this appraisal is based
22 on the property's as-is condition or whether it
23 assumes that there are no problems with the home?

24 A. Well, if you look here, it says the
25 property owner has informed the appraiser that

1 the subject property suffers from structural
2 deficiencies, blah, blah, blah. So I would
3 assume that it represents that it -- that he has
4 knowledge of the things I need to do with the
5 house.

6 Q. Okay.

7 A. This appraisal is based upon the subject
8 property as if the structural deficiencies do not
9 exist. Oh, do not exist. So it should be noted
10 that this assumption -- oh, okay.

11 Q. And you're looking --

12 A. So I didn't finish reading it.

13 Q. And you're looking at the document Bates
14 stamped KIRE42?

15 A. Right.

16 Q. Under hypothetical condition

17 A. Right.

18 Q. So you informed Mr. Guerry that the
19 house has problems?

20 A. Right.

21 Q. But his estimate assumes it does not
22 have problems.

23 A. Right. That's what it says. Okay.

24 Q. How was that going to help you in
25 setting the sales price?

1 A. It's irrelevant to me.

2 Q. Okay. You wanted this appraisal so you
3 would know what the market would bear.

4 A. Right.

5 Q. Okay? Were you going to use the
6 appraisal figure, deduct the cost of repairs from
7 a bid you got from a contractor and sell the
8 house for the difference?

9 A. That was part of my plan, yes.

10 Q. Were you using Ms. Stein's estimates,
11 the two that we've looked at, 3.3 million or 2.9,
12 to set the sales price?

13 A. No.

14 Q. Whose estimates were you going to use?

15 A. I think whoever I decided to go with. I
16 don't think at that time I was going with
17 Gamble's bid.

18 Q. Okay. Is the focus in the middle of
19 2012 to make the repairs and sell it or to get
20 information about hypothetical values and the
21 cost of repairs and sell it at a discounted
22 price?

23 A. Those were the two options. I hadn't
24 decided what I was doing.

25 Q. Or was it helping you to determine

1 whether making repairs was even worthwhile or
2 cost effective?

3 A. I mean, I suppose.

4 Q. Can you give me any specific
5 information?

6 A. I mean, if the repairs are \$3 million
7 and the house is worth 11,9, that means I need to
8 get 14 to sell it. And is that, you know, a
9 number that the market supports on Kiawah Island
10 in 2012-13. I don't know. It's kind of how I
11 was looking at it. Or anyone else's bid that
12 came through.

13 Q. Are you still working with Ms. Noble
14 presently about selling your home?

15 A. The house is under construction, as I'm
16 sure you know. I'm doing all these terrific
17 things to it. I asked her to go by and see it,
18 and she was very enthusiastic.

19 Q. Has any potential buyer looked at the
20 home while it was under construction by Mr.
21 Smith?

22 A. No, not that I know of, but you know
23 Kiawah, people walk through.

24 Q. As you sit here today, your plan is to
25 complete the repairs and then list the home for

1 sale?

2 A. Yes.

3 Q. What are you going to list the home for?

4 A. I have no idea.

5 (Exhibit No. 557 was marked for
6 identification.)

7 Q. Exhibit 557 is a South Carolina
8 Residential Property Condition Disclosure
9 Statement. Do you recall completing and signing
10 this document?

11 A. Yep, I do.

12 Q. The document asks you, as the owner, if
13 there are any problems with the home in certain
14 categories.

15 A. Uh-huh.

16 Q. And you indicated yes under siding and
17 structural components and roof. Excuse me. The
18 first section is foundation, slab, fireplaces,
19 floors, windows, and also goes into siding. You
20 answered yes to roof as well as yes to water
21 seepage. You see where I'm referring to?

22 A. Yes.

23 Q. Then on page 3, in the comments section,
24 you'll note the instruction, if you answered yes
25 to any of the above questions, please use the

1 following space for your explanation.

2 Is that your handwriting?

3 A. Yes.

4 Q. Will send engineer report when reviewed.

5 A. Yes.

6 Q. What engineering report are you talking
7 about?

8 A. I'm referring to the report that Ross
9 prepared. The binder that's -- no, bigger than
10 that (indicating).

11 Q. Yes, ma'am. But it's the one that has
12 all the drawings, everything that the --

13 A. Everything, everything.

14 Q. All right. Had you not reviewed that as
15 of June 2012?

16 A. I don't think I mean when I review it.

17 Q. When who reviews it?

18 A. I think will send engineer report -- oh,
19 I don't know what I mean there, but I don't think
20 I mean when I review it. I think I'm saying
21 we'll send engineer report when they review --
22 when, you know, a person comes to see the house,
23 they'll get an engineer report. They signed a
24 confidentiality agreement to receive that report.

25 (Exhibit No. 559 was marked for

1 identification.)

2 Q. Do you recall seeing Exhibit 559 and
3 signing that?

4 A. Yes.

5 Q. You listed the house in July of 2012 for
6 9 and a half million dollars?

7 A. Yes.

8 Q. Why did you list the house at this time?

9 A. It was a turning point in the process.
10 We had the binder from Ross with all the drawings
11 and understanding of the work that was -- the
12 magnitude of the destructive testing was revealed
13 to me, and I felt I had to make a decision,
14 either cut -- you know, cut bait or go. And so I
15 put the house on the market to see what would
16 happen when potential purchasers came through and
17 received this binder of daunting information that
18 had to be done to the house, and how this number
19 would float in the community at large at this
20 time of the year in this time of the, you know,
21 cyclical cycle of financial markets on Kiawah
22 Island.

23 Q. And I appreciate that, and the price,
24 I'm assuming, the price of 9.5 million, going
25 back to the Exhibit 554, your estimate, you got

1 an \$11.9 million appraisal. The delta between
2 11.9 and 9.5 is 2.4 million. So you had -- did
3 you use the repair bids that Ms. Stein prepared,
4 the 3.3 million and the 2.9 million, to determine
5 the deduction in value that --

6 A. It wasn't just her bid. It was several
7 other people as well had come through. I don't
8 recall who they are. And I thought, given what
9 it is and what I rounded it around, and I said
10 9.5. Also how it would be perceived in the
11 market in Kiawah.

12 Q. You said other people came through.

13 A. Yes. There were other -- I mentioned
14 that before. There were other contractors. I
15 don't know who they are.

16 Q. Mr. Smith is not involved yet, we're not
17 even close to Mr. Smith yet.

18 Prior to this listing in July of 2012,
19 what contractors other than Tori Stein had been
20 through your house with the thought of bidding --

21 A. Oh, this is prior to that? Oh, then I'm
22 totally incorrect. Thank you for pointing that
23 out.

24 Q. Well, let me clarify.

25 A. Please do, because I'm totally -- I

1 got -- I'm wrong then.

2 Q. Well, I might have confused both of us
3 and I apologize if I have.

4 (Exhibit No. 549 was marked for
5 identification.)

6 Q. Exhibit Number 549 is Mr. Clements'
7 instructions to the builder, this is his scope of
8 work, this is the work he wants done.

9 A. Okay.

10 Q. And it's dated March of 2012.

11 A. Right.

12 Q. When did Phillip Smith and these other
13 builders come through your house to provide
14 estimates?

15 A. Let me find that.

16 Q. I'm sorry. I didn't mean to cover it up
17 if you need to look at it.

18 A. Yeah, I do.

19 I think we got this in 2012, and after
20 this, we gave this to potential contractors to
21 come through and see the house, using his book.
22 Yes, that's right. So what's the date of this?

23 Q. The property listing is July of 2012.

24 A. So it would seem that all of this
25 happened at the same time, in the same time

1 frame.

2 Q. And my question to you is -- and I
3 apologize if I confused you.

4 A. You did.

5 Q. My question to you is simply did you
6 have the benefit of the input, including any cost
7 estimates, bids, from these other general
8 contractors other than Tori Stein when you
9 decided to list the house for sale with Cynthia
10 Noble in July of 2012?

11 A. No, I don't think I did.

12 Q. You think those general contractors,
13 other than Tori Stein, came after you listed the
14 house for sale?

15 A. Yes.

16 Q. Did you get any offers while the house
17 was listed?

18 A. Yes.

19 Q. How many offers did you get?

20 A. One or two.

21 Q. Do you recall what the offer prices
22 were?

23 A. Yes.

24 Q. What were they?

25 A. One was for the listing price, and

1 somebody else came in after that a little bit
2 more.

3 Q. \$100,000 more.

4 A. No, \$500,000 more.

5 Q. Somebody offered you 10 million for the
6 house.

7 A. Yes.

8 Q. Why was the decision made not to sell
9 the house for \$10 million?

10 A. I didn't want to. I wasn't giving it
11 away. I felt that was a giveaway.

12 Q. That statement begs the question then
13 why in the world would you consider listing the
14 house for 9.5 million?

15 A. You know, you're looking for a rational
16 thought here. I understand that. That's how you
17 think. I was not in a rational thought moment.
18 I wanted to see what would happen. I saw what
19 happened and I pulled my -- I changed my mind.

20 Q. Did you make a counteroffer or
21 counterdemand in response to the \$10 million
22 offer?

23 A. Well, apparently in South Carolina you
24 don't do that. If you get the offer, you --
25 you're not allowed, it's not precedent to say,

1 oh, by the way, I changed my price. They were
2 jumping for joy at 10 million.

3 Q. Did you consider, after you declined
4 that offer, changing the sales price?

5 A. No. It told me the price was too low,
6 and that I should do the work -- the lots go for
7 5 million each, so basically that's saying the
8 lots are for 10 million and the value of the
9 house is zero. I have two lots, and two
10 oceanfront lots are nonexistent right now.

11 Q. Had you decided to tear the house down,
12 could you have subdivided your lots?

13 A. Yes.

14 Q. Did you explore that possibility?

15 A. No.

16 Q. So you're assuming you could have
17 subdivided the lots is what you're telling me.

18 A. Well, they're two independent lots.

19 Q. Do they have a single tax map number for
20 tax purposes?

21 A. No. They're 133, 134. So I assume
22 those are two different lots.

23 Q. It's a single street address, correct?
24 For both properties?

25 A. I made Kiawah do that single street

1 address just because it was confusing to people,
2 seeing 133, 134.

3 Q. The point I'm making is, you spoke with
4 no one, particularly at Kiawah Island, about the
5 possibility of subdividing your two lots.

6 A. No.

7 Q. I'm correct?

8 A. Yes.

9 (Exhibit No. 560 was marked for
10 identification.)

11 Q. Exhibit 560 is a second disclosure
12 statement dated a month later, July 2012.

13 A. Uh-huh.

14 Q. Do you recall signing that?

15 A. Yes.

16 Q. I'm assuming the first one we looked at
17 in June, Exhibit 557, may have been one of those
18 pocket showings, and then you completed this
19 after actually listing the house with Cynthia
20 Noble. Is that your recollection?

21 A. It could be. I don't know.

22 (Exhibit No. 565 was marked for
23 identification.)

24 Q. Do you recall seeing Exhibit 565, which
25 is a sales brochure for the house?

1 A. Yes.

2 Q. Was that in a magazine or is that a
3 free -- was this available to purchasers in the
4 home?

5 A. I think it was a freestanding thing.

6 Q. Right.

7 A. A freestanding brochure.

8 Q. Right. Did you review that before its
9 completion?

10 A. Yes.

11 Q. And so you approved its content.

12 A. Yes.

13 Q. Were all these photographs taken in 2012
14 or were they old photographs?

15 A. I don't know.

16 (Exhibit No. 566 was marked for
17 identification.)

18 Q. Exhibit 566 is the disclosure and
19 confidentiality agreement that potential
20 purchasers would sign and then receive a copy of
21 the Fuller Engineering report.

22 A. Uh-huh.

23 Q. And just to be clear, the documents that
24 were produced to potential purchasers were not --
25 excuse me. The big book prepared by Fuller, that

1 was to be made available to them --

2 A. Yes.

3 Q. -- as well as Ms. Stein's April 27th,
4 2012 estimate, correct?

5 A. That's what it says here.

6 Q. Was that the 2.9 or the 3.3?

7 A. I don't know.

8 (Exhibit No. 551 was marked for
9 identification.)

10 Q. I'm showing you Exhibit 551. That would
11 have been the \$2.9 million estimate.

12 A. Okay.

13 Q. I'm asking you, is that the one --

14 A. I don't know. I don't know. I'm sorry.
15 I don't remember. Well, it says April 27th and
16 this is April 27th, so yes, it is the 2.9 number.

17 Q. That's what I'm asking you.

18 Is this refreshing your recollection at
19 all as to any differences in the 2.9 estimate she
20 gave to Mr. Lyles and the \$3.3 million estimate
21 she gave to you?

22 A. No, it's not.

23 MR. LYLES: Take a couple of
24 minutes, Dean?

25 MR. BEST: Yes, that would be

1 great.

2 (A recess was taken.)

3 (Exhibit No. 572 was marked for
4 identification.)

5 Q. Exhibit 572 is an offer from Mr.
6 Nicholas Howley for \$9,120,000, which is
7 obviously less than the listing price but it's a
8 cash offer. Do you recall that?

9 A. Yes, I do.

10 Q. And that's the one that was obviously
11 not in excess of the offer. You think there was
12 another written offer for 10 million?

13 A. Yes, I believe there was.

14 Q. Soon hereafter you took the house off
15 the market?

16 A. Yes.

17 Q. Why did you take the house off the
18 market?

19 A. I thought we went through that.

20 Q. If you could remind me, please.

21 A. My understanding of the Kiawah Island
22 real estate is that the lots are worth 5 million
23 each, and so two lots, \$10 million.

24 Q. Did you get any new information about
25 the value of the lots or were you assuming just

1 based on the offers you got that that was for
2 land value only because the house was in such
3 shape that it was worthless?

4 A. No, no. That was never -- no. My
5 understanding is that there was a transaction
6 just prior to this on Kiawah for one oceanfront
7 lot that was much narrower than mine and it was
8 \$5 million. And so I'm thinking, okay, that's 5,
9 it's not a good lot. I have two beautiful lots,
10 that's 10, and this guy's offering me 9? I don't
11 think so.

12 Q. Okay. So the new information based on
13 the sale of the less attractive lot factored into
14 your decision --

15 A. Yes.

16 Q. -- to remove it from the active listing.

17 A. Thank you for making me sound so
18 logical.

19 Q. Did your children's thoughts or concerns
20 about the home factor into the decision to
21 discontinue the active listing?

22 A. No.

23 Q. Were you using the house at all in 2011,
24 2012, 2013?

25 A. No.

1 Q. Was there a particular reason why you
2 were not using it? Just a change in lifestyles,
3 you didn't have --

4 A. Yes.

5 Q. The kids were gone again so you simply
6 just were not going to the beach.

7 A. Exactly.

8 Q. Was anyone, aside from Vice President
9 Biden, using the house with any degree of
10 regularity in 2011, 2012, 2013?

11 A. No, nobody.

12 Q. Do you know, as you sit here today -- I
13 think the Cowans did stay in it briefly --

14 A. Yes.

15 Q. -- maybe in that period. Anyone else
16 you can think of who was in that house to stay
17 and use it?

18 A. No, nobody.

19 Q. Do you think your kids went down there
20 at all during those three years?

21 A. No, they did not.

22 Q. You went down during that time frame to
23 meet with Mr. Clements and other Fuller
24 Engineering folks?

25 A. Yes.

1 Q. Would you stay in the house?

2 A. No.

3 Q. Where would you stay?

4 A. I stayed with a friend or at The
5 Sanctuary.

6 Q. Who's the friend you stayed with?

7 A. My neighbors, people on Kiawah that I
8 know.

9 Q. Yes, ma'am. I'm -- can you tell me who
10 they are?

11 A. Oh, my neighbor Kathy Leonard. She
12 lives behind me.

13 Q. Across the street?

14 A. No. The back -- you know, the back, in
15 back of me, on Kiawah.

16 Q. Between you and the street.

17 A. Right. And then I mostly stayed at The
18 Sanctuary.

19 (Exhibit No. 573 was marked for
20 identification.)

21 Q. Exhibit 573 is an e-mail that Mr. Nick
22 Howley wrote you --

23 A. Yeah.

24 Q. -- which I think is becoming more and
25 more common. You make an offer on a house and

1 then you --

2 A. Oh, is it?

3 Q. Well, do you remember seeing this?

4 A. Oh, yes, I saw it. This was his death
5 sentence.

6 Q. Yes.

7 A. He wrote, I look forward to have
8 grandchildren and want to establish a beautiful
9 long family beach haven.

10 I'm thinking, so do I. Why would I sell
11 the house at 9.1 to you? It was handwritten, by
12 the way, the note that I received.

13 Q. Do you know who typed this up?

14 A. I do not.

15 Q. Do you know who Ellen Walkley is?

16 A. No, I do not.

17 (Exhibit No. 576 was marked for
18 identification.)

19 Q. Exhibit 576, dated April 4th, 2013, is
20 what I believe to be Mr. Phillip Smith's
21 preliminary cost estimate.

22 A. Uh-huh.

23 Q. Have you seen this document before?

24 A. Yes, I have.

25 Q. And his preliminary cost total is just

1 short of \$2.3 million.

2 A. Uh-huh. Okay.

3 Q. How are we doing on the budget? How
4 much has been spent to date in repairing your
5 home?

6 A. Maybe 1.8, 1.9.

7 Q. Do you know that because you've been
8 tracking your payments to Mr. Smith or do you --

9 A. Yes.

10 Q. Okay. So is he on budget?

11 A. Yes.

12 Q. Do you think the project is going to
13 come in underneath this budget?

14 A. No.

15 Q. What additional costs do you expect will
16 cause the budget to go over?

17 A. As I mentioned to you, we are doing
18 additional work at the house.

19 Q. Okay. And we don't need to rehash all
20 that.

21 A. Okay.

22 Q. Do you have an idea of how much that
23 additional work is going to cost you?

24 A. About 1.5.

25 Q. In addition to the 2.9 here, or 2.3.

1 A. Whatever.

2 Q. Whatever it is. So we're looking at a
3 total repair cost when Mr. Smith is finished of
4 roughly 3.7 million?

5 A. Roughly, yes.

6 Q. How often do you communicate with Mr.
7 Smith?

8 A. Every week, every ten days.

9 Q. Is that in the form of a telephone call,
10 e-mail --

11 A. Yes, both, calls, e-mails. I'll shoot
12 an e-mail down there. I hear from him, he hears
13 from me.

14 Q. Do you get photographic updates or
15 reports about the status of the work?

16 A. Yes, I get photos. Whenever anything
17 interesting comes along, they'll send me a
18 photograph. And then I'm -- I always get a
19 monthly -- or I get an every two-week, biweekly
20 report from them.

21 Q. Is any of the work Mr. Smith is
22 performing or is to perform at your house an
23 elective? And by elective I mean, for example,
24 the kitchen could -- and I don't know if he's
25 doing this, in fact I think he's not updating the

1 kitchen, but if you chose to update the kitchen,
2 new appliances, new whatever, that's nothing
3 that's caused by any defect that -- or presumably
4 nothing you'd be asking for in a lawsuit. It's
5 just something you have chosen to do electively.
6 You understand the difference?

7 A. Yes, I do.

8 Q. Is any of the 3.7 that is to be spent on
9 repairing your home for elective renovations that
10 you have chosen to do?

11 A. Well, 2.2 minus 3.7 is the elective work
12 I'm doing.

13 Q. Okay. So in this lawsuit, you're
14 looking for 2.2 million of the 3.7 or whatever
15 will be paid to be attributed to construction
16 defects that you would seek recovery for in this
17 lawsuit.

18 A. Yes.

19 Q. What else are you seeking to recover in
20 this lawsuit?

21 A. Well, what else do you have? I --

22 Q. Well, before the Fuller report, your
23 family wasn't using the house, correct?

24 A. Correct.

25 Q. So you're not going to claim loss of use

1 for a house that you weren't using. Is that a
2 fair statement?

3 A. I defer to Robert on that.

4 Q. Okay.

5 I think you've claimed attorney's fees
6 in this lawsuit. What's your fee arrangement
7 with Mr. Lyles, or do you know how much you have
8 incurred in legal fees?

9 A. I defer to Robert on that.

10 Q. Okay.

11 As you sit here today, do you know of
12 anything else you are asking for in your lawsuit?

13 A. I would defer to Robert on that as well.

14 Q. Okay.

15 Your artwork and furniture, were they
16 moved on site or were they moved to a different
17 location?

18 A. Yes. All the valuable art in Kiawah was
19 moved to the house in Connecticut. All the
20 sculptures, exterior sculptures were moved to the
21 house in Connecticut. The outdoor furniture was
22 moved to the house in Connecticut. All the
23 little, you know, decorative pieces were moved to
24 the house in Connecticut. In Kiawah right now
25 there's -- furniture is in storage, draperies, et

1 cetera, are in storage, and then the smaller
2 pieces of furniture are in a guest bedroom on the
3 first floor.

4 Q. Do you know how much your moving and
5 storage fees are?

6 A. Moving and storage fees are --

7 Q. And you're referring to the budget?

8 A. I am referring to what he's charging me
9 for it.

10 Q. Let me ask you a different question. Do
11 you know what Mr. Smith has charged you, not the
12 preliminary budget, what he's actually charged
13 you to date for those moving and storage fees?

14 A. I don't think he's charged me yet for
15 it.

16 Q. Do you know if those fees are in excess
17 of what he has pointed out or designated in his
18 preliminary budget?

19 A. Well, he didn't charge me yet. I don't
20 know what they are.

21 (Exhibit No. 29 was marked for
22 identification.)

23 Q. Let me show you Exhibit 29, backing way
24 up.

25 A. 29?

1 Q. Yes, ma'am, the number 29. In prior
2 questioning, I mistakenly represented to you that
3 your attorney did not write a demand letter to
4 Russ Cooper Associates in February of 2011 like
5 he did to --

6 A. Buffington.

7 Q. -- Dan Buffington. It turns out he has,
8 in fact. In this Exhibit 29, the October letter
9 to Russ Cooper's counsel, he references prior
10 letter, and he also wrote a demand letter to
11 Shope Reno Wharton in February 2011. Have you
12 seen this exhibit before?

13 A. Yes, I have.

14 Q. In Exhibit 29, Mr. Lyles points out some
15 work --

16 A. Uh-huh.

17 Q. -- some work that Mr. Cooper performed
18 in 1999, 2000 and 2001.

19 A. Uh-huh.

20 Q. Do you agree with those statements
21 regarding the scope of any repair work Russ
22 Cooper made?

23 A. This sound correct, yes. Sounds
24 correct, yes.

25 Q. In the next paragraph, Mr. Lyles points

1 out repair work that was done by Mr. Cooper in I
2 think 2000 or 2001 that you have most recently,
3 in 2011, once those doors were removed, you
4 discovered new problems, and that's specifically
5 the negative slope on the flashing that we talked
6 about earlier. Is that your understanding?

7 A. Yes, it is.

8 Q. Who worked on those doors or on the
9 waterproofing where the deck ties into your house
10 since 2000 and 2001?

11 A. I don't think anybody.

12 Q. I thought we had established --

13 A. Oh, maybe Gamble did some work?

14 Q. Well, Gamble did do some work because
15 you took photographs of the cave.

16 A. Right.

17 Q. And Buffington also did some work as
18 well, didn't it?

19 A. Yes.

20 Q. Did anybody else do work in that area?

21 A. No.

22 Q. And the Buffington repairs would have
23 been the 2004-2005 time frame.

24 A. Yes.

25 Q. So since Russ Cooper completed its work

1 in this area where the pool deck ties into the
2 main house, where those rear doors are, at least
3 Buffington and Gamble and its subcontractors
4 would have performed work in those areas,
5 correct?

6 A. Correct.

7 Q. Since 2001, I think we've established
8 Russ Cooper has not been to your house for any
9 reason that you're aware of, correct?

10 A. Correct.

11 Q. At no time did Russ Cooper ever
12 represent to you that he was going to make any
13 type of repair; is that correct?

14 A. Yes, that's correct.

15 Q. Russ Cooper never made any
16 representation or took any action that led you to
17 believe a lawsuit wouldn't be necessary because
18 he was going to come back and take care of these
19 problems. Is that a fair statement?

20 A. Yeah.

21 MR. BEST: Ms. Allwin, it was a
22 pleasure meeting you. I hate it was under these
23 circumstances, but I'm going to pass you and let
24 these other folks have a few moments with you.

25 THE WITNESS: Okay.

1 EXAMINATION

2 BY MR. CANTWELL:

3 Q. Ms. Allwin, are you okay to move forward
4 this afternoon?

5 A. Sure.

6 Q. All right. Great.

7 We met yesterday. My name is Josh
8 Cantwell, and I represent Buffington Homes in
9 this case. Dean has been very thorough over the
10 last two days, but there are some specific areas
11 that I'd like to talk with you about the limited
12 scope of my client.

13 MR. CANTWELL: If we can mark this
14 as the next exhibit, please.

15 (Contract for Renovation of
16 Residence was marked Exhibit 581 for
17 Identification.)

18 (Exhibit No. 581 ^ was marked for
19 identification.)

20 Q. Now, we talked a lot about this
21 yesterday, but in 2004, you hired Mr. Buffington
22 to come in and do certain repairs to your home;
23 is that correct?

24 A. Yes.

25 Q. Take a minute, if you would, and is this

1 the contract for renovation of your residence
2 from the 2004 time frame?

3 A. It looks it, yes.

4 MS. McINTOSH: Josh, real quick,
5 could you give us the Bates numbers?

6 MR. CANTWELL: Absolutely.
7 Buffington 305, and then it goes on --

8 THE WITNESS: Well, there's a
9 break, 312, and then 347 to 3 -- 347, 348, 349.

10 MS. McINTOSH: Okay. So 305 to
11 312? I'm sorry.

12 THE WITNESS: Yes, and then 347 to
13 349, and then 319 and 320.

14 MS. McINTOSH: Okay. Thank you.

15 THE WITNESS: Sure.

16 Q. This contract was between Buffington
17 Homes and you and your husband; is that correct?

18 A. Yes.

19 Q. Is that your signature down at the -- or
20 your initials down at the bottom of the first
21 page?

22 A. Yes.

23 Q. And are those your initials on all the
24 subsequent pages?

25 A. Yes.

1 Q. Under the notation for owner?

2 A. Yes.

3 Q. Tell me, what was your understanding of
4 Mr. Buffington's scope of work on the residence?

5 A. He had -- he was going to address the
6 issues that were identified. He was going to --
7 yeah, the foundation walls were something he
8 was -- he had identified, and he actually --
9 that's actually the one thing that remains in
10 perfect condition.

11 Q. Okay. Great. We spoke a little bit
12 about this at first, but how did you come across
13 Mr. Buffington?

14 A. He has a great reputation down there,
15 and we asked a few people to give us references,
16 and his name came up several times. We saw one
17 or two of his homes that he had done, and I don't
18 recall where they were. And we did, you know,
19 sort of a credit check. Jim, my husband, did
20 some kind of credit check at the time, and my
21 husband -- we met him and my husband was
22 impressed with him and so we went with him.

23 Q. During the construction, were you
24 involved in the daily process at all or did your
25 husband handle it?

1 A. Neither my husband nor I were involved
2 in the daily process.

3 Q. Okay. Is that because you were kind of
4 deferring to Milt Morgan to oversee the
5 renovation?

6 A. Yes.

7 Q. How did you meet Milt Morgan?

8 A. I think someplace in here we saw a
9 document that said it was an introductory letter
10 from a friend of ours who said Milt Morgan is
11 your guy, and my husband called him and engaged
12 his services.

13 Q. And what type of services exactly was he
14 supposed to provide for the Buffington
15 renovation?

16 A. Just to be a liaison, someone my husband
17 could talk to in between the project.

18 Q. Do you know if Mr. Morgan created the
19 actual scope for the renovation?

20 A. I do not know that.

21 Q. As we sit here today, what items do you
22 believe are the responsibility of Buffington
23 Homes, if any?

24 A. I defer to Robert on that, I'm not -- I
25 can't answer that.

1 Q. Okay. If you don't mind, can you turn
2 to Buffington 311, which is Exhibit A to the
3 contract.

4 A. Uh-huh.

5 Q. Now, this sets forth the actual scope of
6 work for the renovation; is that correct?

7 A. Yes.

8 Q. Is it fair to state that the items on
9 here would only be the potential items that could
10 be items associated with Buffington Homes; is
11 that correct?

12 A. Yes.

13 Q. I believe yesterday you testified that
14 during the renovations performed by Buffington,
15 you were actually down in Kiawah at some point in
16 time; is that correct?

17 A. Yes, I was.

18 Q. Was that the summer of 2004?

19 A. It must have been, yes.

20 Q. Tell me about that time.

21 A. Well, there were all these people
22 running around the house, and anxious to get the
23 job done. The house was hot. We had to bring
24 in, you know, outside air conditioners, you know,
25 like robot-sized things to bring in, and they

1 tried very hard to get it done.

2 Q. Did you ever have any problems with Mr.
3 Buffington or any of his crews during the
4 renovation process?

5 A. No.

6 Q. Were there ever any complaints from
7 either the Cowans or anybody like that that was
8 in town during the renovations?

9 A. No. Were there any? No, no. There
10 weren't any. They were fine.

11 Q. When was the last time that you spoke
12 with Mr. Buffington?

13 A. When was this over? 2004, 2005?

14 Q. I can represent to you that the initial
15 renovation was done by 2005.

16 A. Then that was the last time.

17 Q. Okay. You never contacted him at any
18 point in time, you specifically, stating that he
19 needed to come fix any problems with your house;
20 is that correct?

21 A. I don't recall ever calling him, no.

22 Q. There was never any telephone
23 conversation like the one you referenced with
24 Russ Cooper or anything like that?

25 A. No.

1 Q. Okay. Great. Do you recall ever
2 talking with anyone else at Buffington Homes
3 besides Dan Buffington? Robbie (ph) Diamond is
4 another person that used to work with him. Do
5 you recall her?

6 A. Vaguely recall her. I don't think I
7 spoke to anybody else.

8 Q. When was the last time that you were
9 down in Kiawah?

10 A. I think I was down in October.

11 Q. October 2014?

12 A. Yes.

13 Q. At what level was the construction at
14 that time? By Phillip Smith.

15 A. Right. It was, it was a construction
16 site, and it was all -- the shingles were off. I
17 think we were talking about the mechanical
18 stands. So there was a lot of -- for the new AC
19 going in, there was a lot of activity over by the
20 side. I think the -- those huge units were out,
21 the AC units that are no longer in use. That's
22 it. It was a construction site.

23 Q. You mentioned with Dean that you weren't
24 down at the house between 2011 and 2013; is that
25 correct?

1 A. Did I?

2 Q. Just a minute ago you briefly said that
3 you didn't go down to the house during that time
4 frame.

5 A. (Indicating.)

6 Q. How about prior to that, 2010 and 2009?
7 Do you recall going down to Kiawah during those
8 years?

9 A. We never -- I never went down to stay.
10 I went down for a party or a golf outing. It was
11 always a day trip back and forth. I never --

12 Q. Do you remember any specific instances
13 where you went down to Kiawah during the 2009 or
14 '10 time frame? Even just a day trip, a party or
15 a golf --

16 A. You know, I would have to check my
17 schedule. Thank you for pointing that out. I
18 don't remember.

19 Q. Okay, fair enough. Did you ever make
20 any sort of claim or file a lawsuit or anything
21 like that against Aero Corporation, the HVAC
22 company?

23 A. No.

24 Q. Did you ever consider doing so?

25 A. No.

1 Q. Did you ever have any contact with
2 them -- after they had budgeted over \$700,000 for
3 repairs for the HVAC system, did you ever have
4 any contact with them after that to come out and
5 fix these problems?

6 A. I personally did not, no.

7 Q. Do you have Exhibit Number 228 in front
8 of you in that stack?

9 A. Yeah, here it is.

10 Q. This was a July 29th, 2007 letter from
11 AIG, correct?

12 A. Uh-huh.

13 Q. Do you recall receiving this letter?

14 A. Yes, I do.

15 Q. The letter indicates that an AIG
16 representative has done an investigation of the
17 house and there's evidence of high levels of
18 moisture and moisture present around the lower
19 edges and sides of many of the ocean-facing
20 windows; is that correct? In the second
21 paragraph of the letter.

22 A. Yes, that's what it says.

23 Q. And it actually has photos taken --

24 A. Uh-huh.

25 Q. -- photos that were taken by the AIG

1 representative during that investigation,
2 correct?

3 A. It does have photographs, yes.

4 Q. It also indicates that there were high
5 levels of water found in the upstairs bedrooms
6 and a pitched ceiling finish?

7 A. Yes.

8 Q. Do you recall that?

9 A. I see it here.

10 Q. Did you do anything at this time in
11 order to repair those conditions?

12 A. No.

13 Q. In the third paragraph it states, water
14 inundation into a home, slow or fast, can cause
15 substantial damage to a home, including
16 structural and trim wood to rot, and may also
17 lead to the generation of mold; is that correct?

18 A. That's what it says.

19 Q. After receiving that letter, did you
20 ever forward that information to Mr. Buffington?

21 A. I don't think I did, no.

22 Q. Yesterday there was mention of -- there
23 was an e-mail from you and I believe to Ms.
24 Stein, talking about a report -- an AIG report
25 had been sent to Mr. Buffington and he was,

1 quote, pissed.

2 A. Uh-huh.

3 Q. Do you recall that conversation?

4 A. I do. Is that this report?

5 Q. That's what I'm asking, exactly if
6 that's what --

7 A. I don't know.

8 Q. Do you recall that conversation with Mr.
9 Buffington?

10 A. I do not.

11 Q. But that was your e-mail to --

12 A. That was my e-mail.

13 Q. -- Ms. Stein?

14 A. Probably didn't impress me that much.
15 Probably wasn't that pissed.

16 Q. Did Mr. Buffington come out and do any
17 subsequent repairs at that point?

18 A. I don't know. I'm sorry.

19 MR. BEST: Off the record.

20 (Off-the-record discussion.)

21 (Exhibit No. 230 was marked for
22 identification.)

23 Q. Here's a copy of Exhibit Number 230, and
24 that's a monthly inspection report from Gamble
25 Home Services; is that correct?

1 A. Yes.

2 Q. Do you recall how often you had received
3 these reports from Gamble?

4 A. No.

5 Q. It indicates monthly inspection but we
6 haven't really seen --

7 A. Uh-huh.

8 Q. -- one for each month, but in this
9 Exhibit 230, it states that floor in the front
10 guest room, dining room side, seems to be
11 warping. I detect uneven floorboards when
12 walking around; is that correct?

13 A. That's what it says, yes.

14 Q. Do you know if Tori was completing these
15 or who from Gamble would have done these
16 inspections?

17 A. I don't know.

18 Q. Do you know if they were e-mailed to you
19 or if you received them in the mail?

20 A. I don't think e-mail was going then. I
21 don't -- I don't remember.

22 Q. There's a number of these exhibits. I'm
23 not going to go through each one, but there's a
24 notation on some of them which says that we're
25 including this basically with our invoice for

1 services for whatever amount of time.

2 Does that refresh your recollection
3 about when you would receive any of these?

4 A. Yeah, that's how they would do it, yes.

5 Q. And then presumably you would pay them
6 for whatever they did --

7 A. Uh-huh.

8 Q. -- and then go from there. Okay.

9 What exactly did you expect for Gamble
10 Home Services to do for you?

11 A. Check the alarm, check the security,
12 make sure the fire alarm was always on and
13 stored, take care of my cars that were there,
14 walk through, make sure the house was still in
15 order.

16 Q. If there was a notation in any of these
17 inspection reports about maintenance, repairs or
18 issues that would come up like this one in April
19 of 2008, how would you handle that?

20 A. Maybe they would call me. We would see
21 what had to be done, you know, come up with a
22 project idea, is it just this, is it something
23 else? I don't know.

24 (Exhibit No. 235 was marked for
25 identification.)

1 Q. Exhibit No. 235. This is the e-mail
2 that we mentioned --

3 A. Uh-huh.

4 Q. -- in June of 2008. It states, Maria
5 Allwin called Buffington this morning. He is
6 pissed. Allwin is sending him a copy of the AIG
7 report.

8 A. Uh-huh.

9 Q. Do you recall any of --

10 A. I do not, no, I don't.

11 (Exhibit No. 236 was marked for
12 identification.)

13 Q. And then 236 --

14 A. 236?

15 Q. It should be in this --

16 MR. LYLES: (Hanging.)

17 Q. Is actually your e-mail to Tori. In
18 this e-mail, there's reference to Mr. Buffington
19 talking to Aero to see if dehumidifiers can be
20 used. Do you recall that conversation?

21 A. I do not, no.

22 Q. You don't know if there was any
23 follow-up in regards to the installation of any
24 dehumidifiers at that point in time?

25 A. I know we had dehumidifiers in the

1 house. I do not know -- actually, all over the
2 house. I do not know how that -- who or what
3 triggered that.

4 Q. Do you believe that there was any more
5 communication from you to Mr. Buffington after
6 this June 20th, 2008 e-mail?

7 A. I don't think so.

8 (Exhibit No. 237 was marked for
9 identification.)

10 Q. Do you have Exhibit Number 237 in front
11 of you?

12 MR. LYLES: Off the record.

13 (Off-the-record discussion.)

14 Q. Exhibit 237 is an e-mail conversation
15 between you and Tori Martindale in June of 2008,
16 and it references the Tischler windows on the
17 second floor.

18 A. Uh-huh.

19 Q. Do you recall this conversation?

20 A. No, I don't.

21 Q. On the bottom portion of it, in your
22 message to Tori, it states, I just thought of
23 something. Did Tischler install the new windows
24 yet? John ordered the windows. Could the poor
25 window performance contribute to the current

1 mold?

2 Do you recall anything about that?

3 A. Isn't that so logical though?

4 Q. Sure.

5 A. I don't know.

6 Q. You don't remember what you were
7 thinking at that point in time?

8 A. Well, I think that the windows were
9 faulty, and if they weren't replaced yet. And
10 Tischler sent the wrong size in some previous
11 e-mail we saw, so we had to reorder it. They're
12 custom made. They had to take a very long time
13 to come. And so I guess I'm thinking, you know,
14 the current mold situation is building up because
15 the windows are faulty.

16 Q. So at that point in time, it's at least
17 a concern of yours regarding the performance of
18 the window and whether that's contributed to the
19 water intrusion and mold issues.

20 A. Yes. I think I'm reaching for straws of
21 something to answer.

22 MR. CANTWELL: Off the record.

23 (Off-the-record discussion.)

24 Q. At any point in time did you ever think
25 that Gamble wasn't giving you all of the

1 information about what was going on at your
2 residence?

3 A. No.

4 Q. You thought that they were providing you
5 with good input as to the conditions of the
6 residence throughout the whole time that they
7 were taking care of the property?

8 A. Yes.

9 Q. Was there any reason for you to believe
10 that the statements that they made in their
11 monthly reports weren't true?

12 A. No.

13 Q. Did you work with anyone else at Kiawah
14 Island aside from Cynthia Noble?

15 A. No. In the real estate office?

16 Q. Yes.

17 A. Yes. No, just Cynthia.

18 Q. When did you first decide to put the
19 house on the market?

20 A. Um --

21 Q. Yesterday, there were a series of home
22 inspection reports that were done --

23 A. Yeah.

24 Q. -- in the 2006 time frame. Do you
25 recall those?

1 A. 2006, yes.

2 Q. Does that make sense for --

3 A. Yes.

4 Q. -- why were you listing the house at
5 that point?

6 A. My children were grown and nobody was
7 going down.

8 Q. At that point in time, were you relying
9 on Ms. Noble to be kind of your eyes and ears of
10 the whole real estate market at that point?

11 A. Yes, of course.

12 Q. Did you make any trips during that
13 2006-2007 time frame to Kiawah?

14 A. I believe I did, yes.

15 Q. Do you recall when that was or --

16 A. No.

17 Q. -- would that be another instance where
18 you would need to check your --

19 A. I need to check on that.

20 Q. There were references yesterday to
21 proposals that were sent by Mr. Buffington's
22 office to do some additional work in 2006. Do
23 you recall any of those proposals for subsequent
24 work in 2006?

25 A. No, I don't.

1 Q. Do you have Exhibit No. 222 in front of
2 you?

3 A. 222?

4 Q. Yes.

5 A. Yes, it's right here.

6 Q. I think we briefly touched on this
7 yesterday, but Mr. Buffington's office had
8 provided you this scope, or actually two scopes
9 for additional work on your home in September of
10 2006, correct?

11 A. Well, he provided Cynthia.

12 Q. Right. And she was your real estate
13 agent at that time, correct?

14 A. Yes.

15 Q. And she was kind of your eyes and ears
16 concerning the sale of the property at that time,
17 correct?

18 A. Yes.

19 Q. Would it be logical that if she would
20 have received this bid, she would have provided
21 that to you to see if you wanted to do this work?

22 A. Not necessarily.

23 Q. Why not?

24 A. I think maybe she held it to see what,
25 what was going on or what I -- what else she

1 could do, who else she could speak to. I can't
2 speak for what she was thinking.

3 Q. At this point in time, scope one
4 suggests to remedy all the items noted in the
5 inspection report performed by Complete
6 Inspection Services of 7-11-2006. Do you see
7 where that is?

8 A. Uh-huh.

9 Q. For a price of \$282,000, correct?

10 A. 282, yes, I see that.

11 Q. And then in addition to that, there's
12 further recommendation by Buffington Homes for
13 scope number 2; correct?

14 A. Yes.

15 Q. When Mr. Buffington first did the
16 limited renovation on the house in 2004, he told
17 you that the roof repairs were not a complete
18 fix; is that correct?

19 A. Yes.

20 Q. And it would need additional work at
21 some point in time, correct?

22 A. Yes.

23 Q. This work was never performed by Mr.
24 Buffington; is that correct?

25 A. Correct.

1 Q. We talked about this a little bit
2 before, but you decided not to have Gamble do the
3 ultimate total repairs to the home. What exactly
4 was your reason for doing that after having such
5 a history with them over so many years?

6 A. I think, as I answered, I wanted a fresh
7 pair of eyes to look at the project and to not be
8 jaded with what they thought had been done or not
9 done, and I wanted to see what else someone else
10 would discover.

11 Q. But at that point in time, Ross Clements
12 of Fuller Consulting was generating the actual
13 scope of what work was going to be performed,
14 right?

15 A. You know, you make a valid point. I
16 still wanted somebody else.

17 Q. Was there something that happened at
18 some point to where you didn't want to work with
19 Gamble anymore?

20 A. No.

21 Q. Were you still using their services up
22 until the construction started?

23 A. Yes, I was.

24 (Exhibit No. 337 was marked for
25 identification.)

1 Q. Do you have Exhibit Number 337 in front
2 of you?

3 A. 337? Yes.

4 Q. Do you recall this document from
5 Complete Inspection Services?

6 A. No, I don't.

7 Q. This is from May of 2010. It was sent
8 to Kiawah Island Real Estate, but I'd assume Ms.
9 Noble would have also shared this information
10 with you.

11 A. You can assume it. I don't.

12 Q. Okay.

13 A. I don't know what she did with it.

14 Q. So you don't know whether you made any
15 repairs directly from the recommendations
16 included in this report; is that correct?

17 A. I don't recall seeing the report, so I
18 don't know that I made any repairs from the
19 report.

20 Q. Do you recall a company called Albrecht
21 Environmental?

22 A. I saw their paperwork in here somewhere.

23 Q. They did a number of different mold
24 assessments in the house, one of which was in
25 July of 2006. Do you recall that?

1 A. No, not specifically.

2 Q. I apologize. I'm just trying to find an
3 exhibit number. Exhibit Number 217.

4 A. Here it is, 217.

5 Q. Do you recall receiving this report from
6 Albrecht Environmental?

7 A. No, I don't.

8 Q. The report states that there was mold
9 found on the first floor during its field
10 investigation, correct?

11 A. It says that, yes.

12 Q. And there's also mold on the second
13 floor around windows, all over the bathroom
14 windows, things of that nature, correct?

15 A. It says that here, yes.

16 Q. And they do a number of swab samples
17 about conditions throughout the whole residence.
18 Is that a fair assessment?

19 A. That's what they say here.

20 Q. At the end they state that the -- in the
21 findings and recommendations section on page 3 --

22 A. Yes.

23 Q. -- all HVAC registers should be cleaned,
24 infected sheetrock should be removed, exposed
25 framing should be cleaned, the ceiling in the

1 closet of the bedrooms should be removed.

2 A. Uh-huh.

3 Q. It goes on and on and on, 1 through 7.

4 You don't recall ever receiving this report?

5 A. No, I don't.

6 Q. Do you know whether this report was ever

7 sent to Gamble Construction or to Ms. Noble?

8 A. I have no idea.

9 Q. But it is addressed to you on the first
10 page.

11 A. Uh-huh, I see that.

12 Q. Do you have Exhibit Number 218 in front
13 of you?

14 A. Yes.

15 Q. This is a handwritten note I believe to
16 be from Cynthia Noble, I believe, to Mr.

17 Buffington in August of 2006. Is that what it
18 indicates?

19 A. Yes.

20 Q. It mentions that you were going to call
21 him or you were going to call John directly? Do
22 you know anything about that?

23 A. No, I don't.

24 Q. You don't know who John is?

25 A. Don't you think that says, Maria will

1 call you directly?

2 Q. Okay. All right. Well, do you recall
3 ever calling Mr. Buffington?

4 A. No, I don't recall that, but I think
5 that's what it says.

6 Q. Okay. Got you.

7 Ms. Noble states, please do not call the
8 Allwins at this time.

9 A. Right.

10 Q. Do you know why she would have said
11 that?

12 A. My husband was going through his
13 treatments, and at this time we were going to
14 Germany for some other treatment.

15 Q. Got you. Okay.

16 A. And so I think she just said don't call
17 them.

18 Q. Got you. Did Mr. Buffington ever call
19 you at any point in time?

20 A. I don't recall.

21 Q. Do you recall there ever being issues in
22 regards to performance of the work during the
23 Buffington renovation?

24 A. No.

25 Q. Was there anything that Mr. Buffington

1 promised to do that he didn't do during that
2 renovation?

3 A. No.

4 Q. After reviewing the expert reports in
5 this case and meeting with your experts, do you
6 know of any specific criticism of the work that
7 was performed by Mr. Buffington?

8 A. I defer that language to Robert.

9 Q. Okay. Aside from construction issues
10 that would be specific for an engineer to talk
11 about --

12 A. Uh-huh.

13 Q. -- do you have any personal beliefs
14 about anything that Mr. Buffington did wrong?

15 A. No, I don't.

16 MR. CANTWELL: Fair enough.

17 What I'd like to do is just give the
18 other people an opportunity to ask you questions
19 about their specific clients and I may have some
20 follow-up, but thank you.

21 EXAMINATION

22 BY MR. POWELL:

23 Q. Ms. Allwin, Graham Powell. Good
24 afternoon. I represent Plantation Construction.

25 You did not file a lawsuit against

1 Plantation Construction. I assume you've seen
2 the lawsuit that you filed?

3 A. Yes.

4 Q. You filed suit against Russ Cooper, you
5 filed suit against Buffington Homes, and you
6 later amended your complaint and filed a suit
7 against Shope Reno Wharton.

8 A. Uh-huh.

9 Q. And Buffington elected to then file suit
10 against my client, so that's why we're here.

11 A. Uh-huh.

12 Q. I will represent to you that the scope
13 of work for Plantation Construction was obviously
14 associated with the Buffington repairs. And what
15 Plantation Construction did was to remove the
16 cedar shakes at the turret area --

17 A. Okay.

18 Q. -- pull off old waterproofing that was
19 there in order to see what damage was behind it,
20 and then they put the new waterproofing and new
21 shakes back up. They were also responsible for
22 building the new decorative pergola on top of the
23 pool house. Do you know what I'm talking about
24 when I refer to that?

25 A. Yes, I do, uh-huh.

1 Q. While I'm at it, have you ever had any
2 problems with that decorative pergola?

3 A. No. It's still there.

4 Q. As I understand it from your responses
5 to some of Mr. Best's questions regarding the
6 work that Mr. Smith is doing, you had an initial
7 budget of over \$2.2 million, and to date have
8 been charged approximately 1.8 of that, correct?

9 A. Yes.

10 Q. And then what Mr. Best referred to as
11 elective renovations, you anticipate those to
12 amount to \$1.5 million approximately, correct?

13 A. Yes.

14 Q. And as I understand it from your prior
15 testimony, those elective renovations get rid of
16 the rounded areas on the house that have the
17 curved Tischler windows, which would include, if
18 you're facing the house from the beach, those on
19 the left-hand side as well as those at the second
20 and first floor of the turret.

21 A. Exactly.

22 Q. That's correct?

23 A. Yes.

24 Q. Okay. And then you're going to -- the
25 turret as it exists now, or at the time that my

1 client was out there doing work, you have the
2 first floor, that's a breakfast room, and above
3 that is the master bedroom?

4 A. Yes.

5 Q. Okay. And when you say, I'm going to
6 extend the breakfast room, is it going to be in
7 the same area that it is in now where the turret
8 is or is some other room going to be extended and
9 become a kitchen?

10 A. Some other room is going to become the
11 kitchen.

12 Q. Okay. Is there an architect for what we
13 refer to as the elective renovations?

14 A. Ross Clements is the architect.

15 Q. And he's prepared plans for the
16 renovations, correct?

17 A. Yes.

18 Q. When did he do that?

19 A. Last year.

20 Q. Do you know about what time last year?

21 A. Maybe just before Easter of last year.

22 So April -- March, April of last year, 2014.

23 Q. And I know you discussed this some
24 earlier. I think you mentioned something had to
25 do with the ordering of Tischler windows and them

1 not making a certain type of window anymore? Is
2 that what led to your decision to do the elective
3 renovations?

4 A. No.

5 Q. Okay.

6 A. I felt like since I was taking the house
7 apart, I'd make my dream house come back, or
8 do -- make my dream house, and so I always -- I
9 didn't like the design of the turret kitchen
10 entrance. You walk into the kitchen from the
11 patio and there's no mud room, there's no down
12 space, you're in the kitchen. So I always wanted
13 to have a space between the two to walk in, like
14 a mud room kind of space.

15 And then I thought the kitchen with the
16 breakfast on the side was just out of the way.
17 So I wanted it to be -- enjoy the view of the
18 beach, but really what I wanted was a porch on
19 the second floor bedroom. So I knew if I created
20 something below, I could stick a porch on top and
21 that's my bedroom, and so that will be a porch.

22 Q. When did you make the decision that this
23 is what you wanted to do?

24 A. I don't recall. Around that -- I
25 discussed it with Ross, and told him I always

1 wanted to do something, and can you take a look
2 at this. It slowed the progress down because he
3 had to stop everything.

4 Q. He being Mr. Smith.

5 A. Yeah. And Ross, to stop everything and
6 reevaluate and look at the drawings.

7 Q. Mr. Smith had already begun his repairs
8 when you made the decision to make the elective
9 renovations and went to Ross to get plans to do
10 so, correct? Mr. Smith had already begun repairs
11 when you made the decision to make the elective
12 renovations and went to Mr. Clements to get plans
13 to do so --

14 A. Yeah.

15 Q. -- correct? So he had to stop the work
16 that was in progress so that those renovation
17 plans could be prepared and then implemented,
18 correct?

19 A. Yes.

20 Q. And has Mr. Smith now resumed repairs
21 and is he working on those renovations?

22 A. Yes.

23 Q. At the point that Mr. Smith stopped
24 making repairs, had repairs been made to the
25 turret area?

1 A. Yes.

2 Q. But the turret area is going to be
3 completely gone by the end of this project,
4 correct?

5 A. It's gone now.

6 Q. It's gone now. All right.

7 So did Mr. Smith charge you for repairs
8 that you made to the turret area even though you
9 decided to ultimately get rid of the turret?

10 A. I assume so.

11 Q. You said that the \$1.5 million is not
12 something you were seeking in the lawsuit,
13 correct?

14 A. Yes.

15 Q. But what was included in the Phillip
16 Smith estimate of approximately \$2.2
17 million-plus, those are things that you are
18 seeking in the lawsuit, correct?

19 A. I'm deferring that to Robert.

20 Q. All right. Are you seeking in the
21 lawsuit as damages anything associated with the
22 turret since you ultimately made the decision to
23 have the turret removed?

24 A. Yes.

25 Q. You would agree with me that had you

1 decided before Mr. Smith started the repair
2 process that what you were ultimately going to do
3 were to make these additional elective
4 renovations for which you'd gotten plans from Mr.
5 Clements, had you made that decision at the
6 beginning, then you would not have incurred any
7 costs associated with repairs to the turret, you
8 would just knock it down, correct?

9 A. I don't know what that means.

10 Q. Okay. If you made a decision in the
11 beginning that you were going to extend the
12 breakfast room and put a porch off the master
13 bedroom as is now the case, then you wouldn't
14 have had to incur any costs to repair the turret
15 area since you were going to knock it down
16 anyway. Do you understand that?

17 A. Very tricky.

18 Q. Do you understand that?

19 A. Yeah, I understand it.

20 Q. Okay. Do you agree with me that that is
21 the case?

22 A. No.

23 Q. Okay. Why not?

24 A. I don't -- I don't like the idea of
25 that. I'm not going to agree with that, just on

1 general principle.

2 Q. You don't agree with me that had you
3 made the decision to do the renovations that you
4 ultimately decided to do at the outset that you
5 would not have had to incur any separate cost to
6 repair the turret that you ultimately knocked
7 down. You don't agree with that.

8 A. I agree with that.

9 Q. You do agree with it.

10 A. Yeah, I agree. But it's my prerogative
11 to make a decision in the process.

12 Q. I understand. We were talking about a
13 conversation you had with Mr. Huby --

14 A. Yes.

15 Q. -- earlier today, and you mentioned a
16 number of problems in the context of that
17 conversation, and I wanted to ask you some
18 follow-ups on that. One was shingles falling off
19 of the house. And my client put shingles on the
20 turret area, and -- what you refer to as shingles
21 and then Dean refers -- we call them shakes.

22 A. Okay.

23 Q. And then on the rest of the house, those
24 would have been the original shakes installed by
25 Russ Cooper, correct?

1 A. Yes.

2 Q. Did you have a problem with any cedar
3 shakes falling off of your house that were
4 installed after Buffington did its repairs to the
5 turret?

6 A. No.

7 Q. You mentioned gaps in the waterproofing
8 material that was discovered when destructive
9 testing occurred, correct?

10 A. Yes.

11 Q. When my client, Plantation Construction,
12 went out and did repairs to the turret, I'll
13 represent to you that they told me that they
14 put -- they took down old waterproofing and put
15 new waterproofing up on the turret.

16 Were any of the gaps that you mentioned
17 earlier in waterproofing behind cedar shakes,
18 were any of those located on the turret area
19 after the Buffington repairs?

20 A. I don't recall that.

21 Q. Will you look at Exhibit 237? We just
22 looked at it not too long ago.

23 A. Yes.

24 Q. Mr. Cantwell was asking about your
25 e-mail to Tori. In the e-mail that preceded that

1 from Tori to you, if you'll look at the last
2 paragraph, the third of three paragraphs, it
3 says, if you think of anything else that may have
4 happened since the Buffington mediation, then
5 please forward it.

6 Do you see that?

7 A. Yes.

8 Q. What does she mean by the Buffington
9 mediation?

10 A. I don't know. I guess she means the
11 work that Buffington did in, you know, '06.

12 Q. You think she means if you think of
13 anything that may have happened since the
14 Buffington repairs?

15 A. Yes.

16 Q. That's what you think she means?

17 A. I can't speak for what she means though.

18 Q. Do you know what we're referring to when
19 we say mediation in the context of a lawsuit?

20 A. You mean like this, right? Mediation is
21 talk about it and coming up to a solution.

22 Q. Correct.

23 A. Mediate, yeah. I don't think that's
24 what this means, but --

25 Q. Have you had that kind of mediation with

1 Buffington?

2 A. No, no, not at all. Maybe she means
3 remediation?

4 Q. Right. Okay.

5 In the next sentence she says, I opened
6 a file for this. What is this?

7 A. I don't know.

8 Q. Since Buffington did its repairs to the
9 house and to the turret in 2004-2005, have you
10 ever had the cedar shakes -- or did you, since
11 they're no longer -- that turret's no longer
12 there -- did you ever have the cedar shakes
13 stained or painted?

14 A. No.

15 Q. In that Exhibit 237 from June of 2008,
16 you're talking with Tori about the Tischler
17 windows and you're talking about -- there's some
18 talk about mold, and you say, John ordered the
19 windows. Could the poor window performance
20 contribute to the current mold.

21 What poor window performance do you
22 mean?

23 A. I think, as we said, the windows were
24 leaking in the turret, and they ordered the
25 window. It came the wrong size, so we had to get

1 a different window, and that took time.

2 Q. Right. And we don't need to go back
3 through that, and I remember, and I think we went
4 into in some detail yesterday about a leak in a
5 window versus a leak around a window.

6 For either set of curved windows at the
7 turret, those on the master bedroom level and
8 those on the kitchen level, did you ever see any
9 water above the windows, any evidence of any
10 moisture damage above the windows?

11 A. Yeah.

12 Q. You did. On what floor?

13 A. The kitchen had moisture above the
14 windows.

15 Q. Did you ever see any evidence of
16 moisture damage above the windows at the master
17 bedroom?

18 A. I don't recall that.

19 Q. Do you know if there were ever any roof
20 leaks right above the master bedroom in the
21 turret?

22 A. Not that I recall.

23 Q. My client, Plantation Construction, also
24 repaired some of the trim at the turret where
25 there was damage in conjunction with the

1 Buffington repairs in 2004 and 2005. Did you
2 ever have any problem with the interior trim
3 itself that was not caused by damage from some --
4 from water somewhere else? Was there ever a
5 problem just with the trim job?

6 A. No.

7 Q. Do you know what Buffington did at the
8 base of the turret where the pool decking meets
9 the turret? You know what work they did there?

10 A. They took the shingles off, they put the
11 shingle back on, they took the trim around -- no,
12 I don't know -- they took the shingle off and
13 they put the shingle back on. I don't know
14 anything else.

15 Q. Did Buffington tell you that there was a
16 problem at that area that needed to be fixed?

17 A. I don't recall that.

18 (Exhibit No. 158 was marked for
19 identification.)

20 Q. Look at Exhibit 158 for me, please,
21 ma'am.

22 A. We don't have 158 here.

23 MR. BEST: It's the progress
24 report?

25 MR. POWELL: Yes.

1 MR. BEST: Here you go.

2 Q. If you'll look down to the fourth
3 paragraph that starts with, Plantation
4 Construction has stripped the interior trim.

5 You see that?

6 A. Yes.

7 Q. Go to the second to last sentence in
8 that paragraph. It says, also the
9 weatherproofing was on top of the stone and under
10 the siding, and it should be behind the stone so
11 that water cannot reach the wood that abuts the
12 stone.

13 Do you see that?

14 A. Yes.

15 Q. And did Buffington fix that location, or
16 do you know?

17 A. I do not know.

18 MR. POWELL: That's all I have.

19 Thank you.

20 EXAMINATION

21 BY MR. DUKES:

22 Q. Ms. Allwin, I'm Richard Dukes. I
23 represent Tischler und Sohn.

24 A. Oh, that's interesting.

25 Q. Why so?

1 A. No. Just -- just interesting.

2 I'm sorry. Richard? Yes.

3 Q. Why do you think Tischler is in this
4 lawsuit at all?

5 A. I think Tischler is in this lawsuit
6 because they did the initial construction and put
7 the windows in and did a bad job at it. And
8 subsequent repairs, which were requested on
9 behalf of all my representatives, were paid for
10 promptly by us and never solved the problem.

11 Q. Okay. On what do you base your
12 testimony --

13 A. My professional opinion.

14 Q. Okay. Do you have any background in the
15 construction industry?

16 A. No, I don't.

17 Q. Have you ever held a general
18 contractor's license?

19 A. No, I don't.

20 Q. Have you ever supervised the
21 installation of windows in any structure?

22 A. No.

23 Q. Have you ever built anything?

24 A. Nope.

25 Q. Do you have any education in the field

1 of structural engineering?

2 A. Nope.

3 Q. Have you ever worked for a general
4 contractor?

5 A. No.

6 Q. Have you ever been on a crew installing
7 windows in any structure?

8 A. No.

9 Q. And at what point in time did you first
10 notice what you believed was poor installation of
11 the Tischler und Sohn windows?

12 A. When we were doing the destructive
13 testing and the windows were taken down to the --
14 the house was taken down to the basic framing.

15 Q. Which set of renovations was that?

16 A. Right now, in 2000-whatever, '11, '12,
17 with Ross Clements.

18 Q. No. It was back I think during the
19 Buffington renovations that you said you noticed
20 a window that you could see --

21 A. No.

22 Q. -- the beach in a gap between the window
23 frame and the framing on the building structure.

24 A. No. That was not during the Buffington.

25 Q. Okay. Was it before that?

1 A. If I did, I misspoke. It was after
2 that.

3 Q. When was that?

4 A. As I said, it was with Ross Clements,
5 when he took the windows in his destructive
6 testing.

7 Q. You had your contractor put the Tischler
8 windows back in your house, right? Now, in this
9 renovation?

10 A. No.

11 Q. You've removed all the Tischler windows
12 from your house?

13 A. No. I don't understand your question.

14 Q. Well, you said --

15 A. We took the windows out and put them
16 back in, yes, the Tischler windows, but the new
17 windows are not Tischler windows.

18 Q. Who manufactured the new windows?

19 A. I don't recall.

20 Q. So the windows that got removed were
21 only from the turret?

22 A. No, throughout the house.

23 Q. You removed all the windows in the
24 house.

25 A. We took the windows out and put them

1 back in, yes, sir.

2 Q. Every one of them.

3 A. Just about, I think, yes.

4 Q. Who put the windows back in your house?

5 A. Phillip Smith, the contractor, who's
6 there now.

7 Q. Did Mr. Smith consult with Tischler at
8 all regarding the removal and reinstallation of
9 those windows?

10 A. I have no idea.

11 Q. Have you ever communicated with anyone
12 at Tischler yourself?

13 A. Yes.

14 Q. When was that?

15 A. Over the course of all these years.
16 They have an office in Connecticut, and I think I
17 even went to the office to speak to them.

18 Q. About what?

19 A. This project. We looked at the windows
20 that they had, and then for the second house we
21 were building.

22 Q. Did you buy Tischler windows for the
23 second house you built?

24 A. No, we did not.

25 Q. Why not?

1 A. I don't recall. I think it was just
2 they took too long and we were anxious to get
3 going.

4 Q. You said earlier that in the process of
5 deciding to tear down the turret, that one of the
6 reasons was that Tischler didn't make the size
7 window that was going to go in that space
8 anymore. Who told you that?

9 A. I don't recall. Somebody told me.

10 Q. Was it anybody from Tischler?

11 A. No.

12 Q. How often did you have Tischler come
13 down and maintain your windows from the time they
14 were first installed until today?

15 A. They came down once or twice.

16 Q. That's all? In the past 20 years, they
17 came down once or twice?

18 A. Yes, I believe so. To do the general
19 maintenance, yes, I believe so.

20 Q. You didn't contact Tischler to have them
21 come maintain your windows every year or every
22 other year?

23 A. No, I didn't.

24 Q. As we sit here today, do you have any
25 knowledge of the installation instructions for

1 Tischler windows? Whose job it is to prepare the
2 framing around the window space and whose job it
3 was to put the windows into that space.

4 A. My, as you pointed out, very
5 unprofessional knowledge of that is that the
6 contractor puts the space in, creates the space,
7 and Tischler is there to supervise how it goes
8 in.

9 Q. Were any of the windows removed during
10 any of the renovation projects prior to the
11 current one?

12 A. Well, when they had to be repaired and
13 replaced, yes.

14 Q. And who did those repairs and
15 replacements?

16 A. I understand Tischler was there to do
17 it.

18 Q. After Tischler repaired and replaced
19 those windows, did that solve the problem with
20 that particular window?

21 A. No.

22 Q. Did you notify Tischler of that?

23 A. I don't recall.

24 Q. How many times have you had to have a
25 particular window repaired and replaced?

1 A. Two, two times.

2 Q. And when were those repairs done?

3 A. I don't recall. We went through the
4 dates. I'm fogged up right now.

5 MR. DUKES: That's all I have for
6 you.

7 THE WITNESS: Okay.

8 (A recess was taken.)

9 EXAMINATION

10 BY MS. MCINTOSH:

11 Q. Are you familiar with Superior Surfaces
12 outside of this lawsuit?

13 A. No.

14 Q. Superior Surfaces is another third-party
15 defendant in this lawsuit, and I take it you're
16 not familiar with their scope of work at your
17 home.

18 A. No.

19 Q. Well, Superior Surfaces, I'll represent
20 to you, replaced various stone pavers in the pool
21 deck area that were either broken or pulled up
22 during the 2004 renovations by Buffington Homes.

23 Were you ever at the home during these
24 renovations and recall any communication with the
25 workmen replacing the stone pavers in your pool

1 deck area?

2 A. No.

3 Q. Would anybody in your family have been
4 having conversations with them or did they deal
5 directly with Buffington Homes?

6 A. We dealt with Buffington Homes.

7 Q. Are you familiar with a fellow named Tim
8 Crump?

9 A. No.

10 Q. I know we've talked about issues you've
11 had with your pool deck area as a whole, but what
12 I'm going to ask you is have you had any problems
13 with the stone pavers themselves?

14 A. No.

15 Q. What sort of routine maintenance do you
16 perform in the pool deck area, if any?

17 A. Yeah. We power wash it all the time, to
18 the code of whatever -- it's coquina stone, so
19 it's whatever it needs, that's what we do.

20 Q. You said you power wash it all the time.
21 Once a year, four times a year?

22 A. Whatever the -- whatever it calls for,
23 that's what we do, but certainly at least once a
24 year.

25 Q. When you say, whatever it calls for, is

1 there some, I don't know, guidelines?

2 A. There's some guideline for it.

3 Q. For coquina stone?

4 A. I don't know what it is, but I do
5 remember somebody telling me that, and doing some
6 maintenance to it.

7 Q. Do you know who coordinates that
8 maintenance? Is that done through Gamble?

9 A. Yes.

10 MS. McINTOSH: All right. That's
11 all I've got. Thank you.

12 THE WITNESS: That's it?

13 MS. McINTOSH: Uh-huh.

14 THE WITNESS: Okay.

15 EXAMINATION

16 BY MR. WINTON:

17 Q. Good afternoon, Mrs. Allwin. For the
18 benefit of the record, my name is Tyler Winton,
19 and as you know, I'm here today on behalf of the
20 architect, Shope Reno & Wharton. I'm just going
21 to say SRW for short.

22 A. Thanks.

23 Q. How did you and your husband come to
24 hire SRW?

25 A. We had heard about them from friends in

1 Connecticut. They built -- they designed our
2 friend's home. They also have a very big
3 presence in Connecticut -- in the northeast, and
4 we like their work. They are, you know, renowned
5 in their field, and we always see their things
6 and like it.

7 Q. Okay. Very good. What was the name of
8 your friend's home, if you don't mind me asking?

9 A. You know, I don't really remember.

10 Q. Okay. Fair enough.

11 A. It was a long time ago. I don't
12 remember.

13 Q. You understood them to have a good
14 reputation.

15 A. Yes.

16 Q. Both up here and on Kiawah, correct?

17 A. I don't know about Kiawah. Certainly I
18 know up here.

19 Q. Fair enough. Did you enjoy the process
20 of designing the home with SRW?

21 A. Yes.

22 Q. What was your role in that process, in
23 that design process?

24 A. I put the wish list up all the time of
25 what I wanted.

1 Q. Do you still have that wish list?

2 A. No.

3 Q. Where did it come out of?

4 A. My head.

5 Q. Okay. All right. Fair enough. I'll
6 look forward to talking to you more at some other
7 time about that wish list.

8 I guess big picture, did my clients help
9 you to take into account things on your wish
10 list, bring them into fruition and design a
11 structure that embodied the things that you
12 wished for?

13 A. Yes.

14 Q. Is it fair to say that you felt SRW to
15 be professional and knowledgeable in their field
16 during the time in which you were working with
17 them to design the home?

18 A. Yes.

19 Q. Were you involved in the negotiation of
20 the contract with SRW?

21 A. No.

22 Q. Do you have any recollection or
23 understanding of the terms of the contract?

24 A. No.

25 Q. Generally speaking, what's your

1 understanding of my client's role in the project,
2 the designing of your home?

3 A. In the design of my home?

4 Q. Yes, ma'am.

5 A. Or in the --

6 Q. Altogether, what did you think my client
7 was going to do for you?

8 A. Right. So he took this wish list, we
9 went and we met with them. They created this
10 beautiful home based on things that we had told
11 him that we wanted. They came to visit us in the
12 Chappaqua house, to see how we lived with our
13 children. We visited the site with them, and
14 they translated all that into the design of that
15 beautiful house.

16 They made a three-dimensional model of
17 the house, and they were very proud of it, as
18 were we.

19 Q. Are you aware of any contract
20 administration responsibilities that my client
21 had?

22 A. What is a contract --

23 Q. Sure, sure. A lot of times you'll hear
24 it referred to as CA. Sometimes an architect
25 will go to a project during construction to

1 observe the construction taking place. I believe
2 earlier there may have been testimony that you
3 were aware that they would have come down to the
4 site while Mr. Cooper was building the home.

5 A. Right. So my understanding is that
6 Allan Shope went down very frequently, and he
7 signed the payment bill, the front page of
8 every -- what seems to be a standard document,
9 AIA document, that says, I warrant that this is
10 correct and okay to pay.

11 Q. Okay.

12 A. And it came from the office. Dorothy,
13 the young lady that's there, would send it or
14 Allan would send it, somebody would send it, I
15 don't know how, and we a paid it.

16 Q. You said very frequently. Is it your
17 understanding that a representative of SRW came
18 down approximately once a month?

19 A. Yes, at least once a month.

20 Q. You said that they would sign a
21 document -- we call them pay apps a lot of the
22 time -- and that you believed, in signing that
23 document, he was warranting that it was okay to
24 pay. Is that --

25 A. Well, it said okay to pay, so, yes.

1 Q. What was your understanding of what that
2 meant, okay to pay? Did you think that he was
3 guaranteeing the work of Mr. Cooper?

4 A. Yes.

5 Q. That was your understanding of it.

6 A. Yes.

7 Q. Would you expect my clients to be able
8 to observe, or whoever went down on site, work
9 that was taking place when they weren't there?

10 A. Yes.

11 Q. How would they do that, ma'am?

12 A. They should know what's going on.
13 They're the professional.

14 Q. In 2011, it's my understanding that you
15 called Russ Cooper.

16 A. Yes.

17 Q. And that you noted an issue with the pan
18 flashing as it relates to the rear doors. I
19 think it's been referred to as negative slope; is
20 that correct?

21 A. Yes.

22 Q. And this appears, from your testimony,
23 to have been a rather unpleasant call.

24 A. (Indicating.)

25 Q. At that same time, did you have a call

1 or place a call to anyone at SRW?

2 A. I don't recall calling them.

3 Q. You don't recall ever calling SRW; is
4 that correct?

5 A. I don't recall calling them.

6 Q. Do you know if your husband or anyone on
7 your behalf ever called SRW after the
8 construction of the home?

9 A. I don't know that. You know they built
10 my second home, right?

11 Q. Yes, ma'am. I understand they built
12 your home in Connecticut.

13 A. Yes.

14 Q. And that was after the construction of
15 this residence.

16 A. Yes, because it was so much fun the
17 first time, we did it again the second.

18 Q. I understand that you utilized SRW but
19 that you utilized a different general contractor.

20 A. Well, yeah, Russ was in Kiawah and so we
21 did the bidding process again in Greenwich and
22 came up with somebody else.

23 Q. And you didn't have any problems --

24 A. No.

25 Q. -- with that home, did you, ma'am?

1 A. No, I did not.

2 Q. And how long did you live in that home?

3 A. I lived in that home 15 years.

4 Q. SRW had an office on Kiawah, didn't
5 they, in the mid-90s. Were you aware of that?

6 A. Yes.

7 Q. Consequently, if you had an issue with
8 your home, you could have gone to them and
9 discussed it with them, correct?

10 A. It never occurred to me.

11 Q. Yesterday Mr. Best discussed with you a
12 number of ongoing issues that had manifested
13 themselves well in advance of 2011, correct?

14 A. Yes.

15 Q. I have no interest in replotting that
16 same ground, and I certainly understand that your
17 testimony as in your position has been that, just
18 as your husband had done in the past, when you
19 noted an issue, you fixed it; is that correct?
20 Is that fair to say?

21 A. If I was presented with an invoice or a
22 suggestion to do something and someone told me
23 what it was, I did it, yes.

24 Q. I'm sorry if this is redundant, but just
25 to be clear.

1 A. It's okay.

2 Q. Prior to 2011, you, or no one on your
3 behalf, had reached out to SRW to address any of
4 the issues on your home; is that correct?

5 A. I don't recall that. I don't -- I don't
6 know.

7 Q. You don't recall reaching out to anyone.

8 A. I know I did not.

9 Q. You don't recall instructing anybody to
10 contact SRW, correct?

11 A. No.

12 Q. At any point in time prior to 2011, did
13 you believe that SRW was to blame for any
14 problems at your home?

15 A. No.

16 Q. After 2011, did you come to believe that
17 SRW was to blame for any issues at your home?

18 A. Yes.

19 Q. Tell me about what problems and when you
20 came to that understanding.

21 A. I think the -- in my unprofessional
22 construction knowledge, it would seem to me that
23 the installation of windows is a basic function
24 of the house, and that SRW and Russ together
25 should have known what they were doing with

1 Tischler there. And what was shown to me at that
2 time was a frame and looking through to the
3 beach, and to me, that's not right, in my
4 unprofessional opinion as a homemaker in
5 Greenwich, Connecticut.

6 Q. When did you come to that opinion, that
7 my client, SRW, was to blame for this window
8 installation issue?

9 A. As I reflected looking out the hole to
10 the beach, I thought, how did this happen? Who
11 was watching what was going on here? And
12 re-reflected long and hard on the process of
13 building a house, and an expectation of
14 professionalism, and the people we paid a fee
15 for, a presented fee.

16 Q. I'm just trying to determine -- and I
17 understand that it took some time for you to
18 reflect upon that and to develop this thought
19 that there was somebody to blame, but can you
20 help me learn what period in time you developed
21 that thinking, when you came to the understanding
22 that my client was to blame for the window
23 installation issue?

24 A. You know, a few months after that, as I
25 reflected on what I was confronted with, I

1 continued to think about the window installation
2 and the good faith that we showed over the years
3 replacing the windows and finding out that indeed
4 that had nothing to do with it, that it was that
5 the windows were not secured to the frame of the
6 house, as was represented to me and as I saw that
7 day.

8 Q. And when is that day? I'm sorry.

9 A. I don't -- you know, that was the day I
10 was down at Kiawah with Ross and -- I'll check
11 all those dates.

12 Q. It was certainly during destructive
13 testing, correct?

14 A. Yes, during destructive testing.

15 Q. Would it have been during the first
16 round of destructive testing?

17 A. No.

18 Q. And I can do some investigation on my
19 own to look back and see when the windows were
20 pulled, and we'll have an opportunity to depose
21 Russ, too, but you believe it was at the point in
22 time in which a window was removed. What window
23 was it in the home?

24 A. It was the infamous breakfast windows,
25 the curved breakfast window that's -- that opens

1 and closes that's not stationary.

2 Q. Certainly we know this is after 2011,
3 though, correct?

4 A. I believe so, yes.

5 Q. Okay. Fair enough. Are you aware of
6 any design professionals that have criticized SRW
7 for their work on your home?

8 A. You know, people always say things, yes.

9 Q. A design professional, though? Another
10 architect?

11 A. Yeah.

12 Q. And who was that, ma'am?

13 A. The person, I forgot who it was, who
14 came to tell me about closing in, you know, the
15 great room. I had somebody come -- the drawings
16 that I don't have -- to close the great room in
17 and make it a media room.

18 Q. Okay. That architect.

19 A. Whoever that was, he had some things to
20 say about the way the house looked.

21 Q. Aesthetically?

22 A. Aesthetically, yes. I didn't ask him
23 for his opinion.

24 Q. In terms of -- okay. I understand.

25 A. Is that what you meant?

1 Q. Well, I certainly asked too broad of a
2 question, and I got a correct answer from you.
3 So it was just an aesthetic criticism based on --

4 A. Right.

5 Q. Okay. I understand now.

6 (Exhibit No. 582 was marked for
7 identification.)

8 Q. I'm going to hand you a document --
9 let's go ahead and mark this as the next exhibit.

10 A. So 582.

11 MR. WINTON: I'm now marking
12 Exhibit 582. It's a February 23rd, 2011 letter
13 from Robert to my client. For those of you
14 watching at home, it's attached to our motion to
15 dismiss.

16 MR. LYLES: Is this something that
17 was provided in advance of the deposition as part
18 of Dean's --

19 MR. BEST: It was not included in
20 my packet, no.

21 MR. WINTON: Let me give you a copy
22 of it.

23 MR. LYLES: Sure.

24 Q. My only question really relates to the
25 last sentence of the first paragraph. I'll bring

1 it out for a couple of reasons. One is I think
2 it helps us form this timeline that Dean's done a
3 good job of creating as we've gone along.

4 And Ms. Allwin, I'll give you all the
5 time you'd like to take a look at the letter, but
6 again, my only question is about the last
7 sentence of that first paragraph. So after you
8 read that, let me know?

9 A. These deficiencies, is that what you --

10 Q. Yes, ma'am, that sentence.

11 A. Okay.

12 MR. WINTON: Pursuant to 30(j)(8),
13 if you want to talk to your client about it.

14 MR. LYLES: If she wants to.

15 You're free to answer the question. If
16 you'd like to talk to me about that exhibit, you
17 can, but if you don't want to, you don't have to.

18 Q. My only question is that when I read
19 this, I presume that by February 23rd, 2011, you
20 were aware that there were deficiencies relative
21 to the design of your home; is that correct?

22 A. Uh-huh, yes.

23 Q. And were the design deficiencies that
24 you're speaking of again the installation of
25 windows here?

1 MR. LYLES: Object to the form of
2 the question.

3 Q. Or were you aware of any other design
4 deficiencies at this point in time?

5 A. I had my own suspicions of other things.

6 Q. Okay.

7 A. But I don't know.

8 Q. All right. Well, not related to this
9 letter, what were those other suspicions? As I
10 talked to you before, it was my understanding
11 that you blamed my client, as well as others, for
12 issues related to the installation of the windows
13 on your home.

14 MR. LYLES: Object to the form of
15 the question.

16 Q. Are there other matters that you --

17 A. Well, in the design function of the
18 house, I think that designing a -- in an
19 unprofessional housewife from Greenwich,
20 Connecticut, with -- I'm not a professional
21 designer. I don't profess to be or pretend to
22 be, but were I to make an assessment, it would
23 seem to me that the way the great room is
24 designed, with being more than three stories
25 tall, two and a half stories, and sloping the

1 roof down like that (indicating), on the beach,
2 on Kiawah, in South Carolina, would be
3 problematic. With the load-bearing AC that was
4 initially designed, was no way that was going to
5 work. In my unprofessional opinion.

6 Q. Okay.

7 A. And I think that's a design flaw.

8 Q. Okay. And I'm just asking for your
9 opinion.

10 A. I know. I understand.

11 Q. That's all.

12 A. I appreciate the opportunity to tell you
13 what I think is a design flaw.

14 Q. Okay. Anything else at all that you
15 want to blame my client for? That's what I'm
16 here for. Lay it on me.

17 A. I also think the design of the attic
18 dormers, again, for being in South Carolina, I
19 think the heat rises and there was no way to get
20 the heat out of the building, and I think that's
21 a design flaw. I'm not claiming that here in
22 this case. I'm just claiming my personal
23 opinion.

24 Q. Well, then let's govern our conversation
25 a little bit more concisely to what you're

1 claiming here in this case and what you blame my
2 client for, so that I can have that as I move
3 forward.

4 A. Well, but in effect, because the roof
5 was -- because the great room was so big and the
6 load of the AC was so poorly designed, initially,
7 was the first round that we had to take the whole
8 thing apart and go through that \$500,000 Aero
9 expense.

10 Q. Yes, ma'am. I understand that.

11 A. So, yeah.

12 Q. Okay. Okay. And there are obviously
13 other trades involved in that and there are
14 mechanical contractors that do those load
15 calculations that may be outside the purview of
16 my client, but that's for Robert and I to fight
17 about some day, I suppose.

18 A. Okay. You can talk about that.

19 Q. Anything else as relates to what you're
20 seeking in this case --

21 A. No.

22 Q. -- that you blame my client for?

23 A. No.

24 Q. So I've just got the windows
25 installation.

1 A. And --

2 Q. And the great room.

3 A. The window installation and the
4 waterproofing underneath the shingle.

5 Q. Okay.

6 A. I think that's a fundamental.

7 Q. Okay. In --

8 A. Throughout the house, wherever those
9 gaps were, I think should be an SRW thing. Where
10 he wrote to me, okay to pay, what was I paying
11 for? Waterproofing that was not done? I don't
12 know that.

13 Q. You don't know that what? I'm sorry?

14 A. I don't know that I was paying for
15 waterproofing to be put up on the walls, the
16 exterior walls, if it's not there now.

17 Q. Anything else, ma'am?

18 A. You know, if I think about it, I'm sure
19 I'll think of something else, but right now, no.

20 Q. I'm sure we'll have another time to talk
21 and I'll be able to ask you a few more follow-ups
22 at that point in time.

23 Just a few last questions. You had
24 mentioned earlier that you had a meeting with
25 Jerry. It's my understanding that he came and

1 met with you in response to -- or after this
2 February 23rd, 2011 letter; is that --

3 A. Yes.

4 Q. That would be the timing in which it
5 happened?

6 A. Yes.

7 Q. Do you recall that that meeting happened
8 approximately during one of the rounds of
9 destructive testing at your residence?

10 A. The initial.

11 Q. The initial one.

12 A. Yes.

13 Q. Do you recall any conversation with
14 Jerry regarding the importance of maintaining
15 your home?

16 A. No.

17 Q. Don't recall any conversations or
18 representations that he made to you about the
19 importance of having your home painted, caulked
20 and sealants being maintained.

21 A. No.

22 Q. At any point in time did anyone from SRW
23 ever agree to assist you with the evaluation and
24 repair of the condition of your home?

25 A. He -- I asked him if he would be willing

1 to think about something to help me, and he said
2 he didn't think some of the things that were
3 going to occur in the upcoming weeks were
4 necessary. And then I asked him to sign a letter
5 to that effect, and he said no. So then I
6 figured maybe they are necessary anyway, and I
7 went ahead and did it.

8 Q. You asked Jerry to sign a letter saying
9 what?

10 A. Well, he said you don't need to take the
11 shakes down and I'm sure it's all good and
12 waterproofed and I don't think that's necessary.
13 The shingles, you know, the exterior shingles?
14 And I said, okay. Well, are you -- would you
15 give me a letter to that effect so that I can
16 give that to a potential purchaser, that this
17 does not need to be done? And he said no.

18 Q. Okay.

19 A. So then that made me conclude in my
20 unprofessional way that maybe I need to do that.

21 Q. Did you ask Jerry or anyone at SRW to do
22 anything else?

23 A. No.

24 Q. Did SRW say they were willing -- or
25 Jerry say they were willing to do anything

1 further to help you after that site visit?

2 A. Yes.

3 Q. Okay. What?

4 A. He offered me a sum of money for help.

5 Q. Is it your understanding that he offered
6 you money to assist with the repair efforts or --

7 A. Well, I guess. I don't know what he was
8 offering. Maybe it was -- I don't know what
9 he -- what he meant, but he did offer me a sum of
10 money, which I did not take.

11 Q. Did SRW say they would be willing to
12 help you moving forward if they were asked to do
13 so by you?

14 A. No.

15 Q. Do you recall telling Jerry that you
16 appreciated his willingness to meet with you?

17 A. Yes. I'm always polite. I didn't
18 appreciate the offer he gave me, but, you know.

19 Q. Do you recall telling Jerry that you had
20 no intention of suing SRW?

21 A. No.

22 MR. WINTON: Mrs. Allwin, we're
23 nearing the witching hour, so I appreciate your
24 time and your courtesy. I'm going to reserve my
25 right to ask you questions at a later date.

1 THE WITNESS: Okay. If you think
2 of anything, let me know.

3 MR. WINTON: Thank you, ma'am.

4 MR. BEST: For folks on the phone,
5 I think Ms. Allwin has some commitments she has
6 to get to, so we're actually going to stop right
7 now. The deposition will be terminated so that
8 Ms. Allwin can communicate with Robert and
9 maintain the privilege, but myself and I'm
10 assuming all reserve the right to re-notice Ms.
11 Allwin's deposition at a later date. And we'll
12 work with you on that, but appreciate your help.
13 We've gotten a lot of information.

14 THE WITNESS: Okay.

15 MR. BEST: And we appreciate you
16 and the City welcoming us so warmly. Thank you
17 so much.

18 (Time noted: 4:50 PM.)
19
20
21
22
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24
25

C E R T I F I C A T E

STATE OF NEW YORK)

) ss

COUNTY OF NEW YORK)

I, MICHAEL T. REHFELD, a Shorthand
Reporter and Notary Public within and for the
State of New York, do hereby certify:

That MARIA ALLWIN, the witness whose
examination was held on January 27, 2015, as
hereinbefore set forth, was duly sworn, and that
this transcript of such examination is a true
record of the testimony given by such witness.

I further certify that I am not
related to any of the parties to this action by
blood or marriage, and that I am in no way
interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto set my
hand this 2nd day of February, 2015.

Michael T. Rehfield

specifically admitted herein, each and every allegation of the Plaintiff's First Amended Complaint is expressly denied.

FOR A FIRST DEFENSE

The Plaintiff fails to state a cause of action upon which relief may be granted.

FOR A SECOND DEFENSE

Some or all of the Plaintiff's claims are or may be barred by the Statute of Limitations and/or Statute of Repose.

FOR A THIRD DEFENSE

Some or all of the Plaintiff's claims are or may be barred by the doctrines of waiver, laches, and/or estoppel.

FOR A FOURTH DEFENSE

Some or all of the Plaintiff's claims are or may be the result of the acts and/or omissions of some party or parties other than SRW, with a result that the Plaintiff cannot recover from SRW.

FOR A FIFTH DEFENSE

Some or all of the Plaintiff's claims are or may be barred by the Plaintiff's failure to mitigate any damages.

FOR A SIXTH DEFENSE

Any claims alleged by the Plaintiff for breach of warranty should be barred to the extent that the Plaintiff failed to give proper notice of any alleged breach of any warranty.

FOR A SEVENTH DEFENSE

The work and services provided by SRW were at all times applicable to the subject project in conformity with the industry standards for that time.

FOR AN EIGHTH DEFENSE

Any award of punitive damages for the Plaintiff would violate constitutional safeguards provided to SRW by the United States and South Carolina Constitutions.

FOR A NINTH DEFENSE

The Plaintiff may not have a contract or may not be in privity with SRW.

FOR A TENTH DEFENSE

The allegations of the First Amended Complaint fail to state a claim for which any prejudgment interest may be granted.

FOR AN ELEVENTH DEFENSE

Some or all of the Plaintiff's claims are or may be barred, or in the alternative, reduced to the extent of comparative negligence of the Plaintiff.

FOR A TWELFTH DEFENSE

SRW has not had an opportunity to conduct a sufficient investigation or to engage in adequate discovery regarding the circumstances of the Plaintiff's allegations. SRW intends to act as best it can to inform itself of the pertinent facts and prevailing circumstances surrounding any reported injury or damage to the Plaintiff as alleged in the First Amended Complaint, and gives notice of its intent to assert any further affirmative defense that its information-gathering process may indicate is supported by fact and law. SRW reserves the right to amend this Answer and assert such defenses.

FOR A THIRTEENTH DEFENSE

Some or all of Plaintiff's claims may fail for lack of standing.

FOR A FOURTEENTH DEFENSE

To the extent Plaintiff may seek to recover any claims based upon any allegation of professional negligence against this Defendant (any such claims are denied by this Defendant), those claims should be denied and the action dismissed for failure to serve an appropriate expert's affidavit with the First Amended Complaint in compliance with S.C. Code Ann. §15-36-100.

Each allegation of the Plaintiff's First Amended Complaint not specifically admitted is denied. This Defendant responds to the individually numbered paragraphs of the First Amended Complaint as follows:

PARTIES AND JURISDICTION

1. This Defendant lacks sufficient knowledge, information or belief to answer the allegations set forth in Paragraphs 1-3 and therefore denies the same.

2. In response to Paragraph 4, this Defendant admits only that it is an architectural firm located in South Norwalk, Connecticut. This Defendant denies all remaining allegations contained in Paragraph 4.

3. In response to Paragraph 5, this Paragraph contains statements of law to which no response is required. To the extent a response is required, this Defendant lacks information or knowledge sufficient to admit or deny the allegations contained in this Paragraph, and therefore, denies the same.

4. In response to Paragraph 6, this Defendant admits only that it provided design services pursuant to its agreement with the Plaintiff. Responding further, the remaining

allegations are directed to Defendants other than SRW, thus, no response is required. To the extent a response is required, SRW lacks sufficient information to form a belief as to those allegations in Paragraph 6, and therefore, denies the same.

5. This Defendant lacks sufficient knowledge, information or belief to answer the allegations set forth in Paragraph 7, including subparts a-d. Responding further, SRW lacks sufficient information to form a belief as to the allegations in Paragraph 7 directed to other Defendants, and therefore, denies the same.

6. In response to Paragraph 8, SRW denies those allegations directed to it and demands strict proof thereof. Responding further, SRW lacks sufficient information to form a belief as to the allegations in Paragraph 8 directed to other Defendants, and therefore, denies the same.

7. In response to Paragraph 9, SRW denies those allegations directed to it and demands strict proof thereof. Responding further, SRW lacks sufficient information to form a belief as to the allegations in Paragraph 9 directed to other Defendants, and therefore, denies the same.

8. This Defendant denies the allegations against it set forth in Paragraph 10 as stated. Responding further, SRW lacks sufficient information to form a belief as to the allegations in Paragraph 10 directed to other Defendants, and therefore, denies the same.

9. In response to Paragraph 11, SRW reasserts its answers to the previous paragraphs as if set forth verbatim herein.

10. As to the allegations contained in Paragraphs 12-14 and all subparts, those allegations are directed to Defendants other than this Defendant and, thus, no response is required. To the extent a response is required, this Defendant lacks sufficient information to form a belief as to the allegations in Paragraphs 12-14, and therefore, denies the same.

11. In response to Paragraph 15, SRW reasserts its answers to the previous paragraphs as if set forth verbatim herein.

12. As to the allegations contained in Paragraphs 16-17, those allegations are directed to Defendants other than this Defendant and, thus, no response is required. To the extent a response is required, this Defendant lacks sufficient information to form a belief as to the allegations in Paragraphs 16-17, and therefore, denies the same.

13. In response to Paragraph 18, SRW reasserts its answers to the previous paragraphs as if set forth verbatim herein.

14. This Defendant denies the allegations contained in Paragraph 19, including subparts a-e.

15. This Defendant denies the allegations contained in Paragraph 20.

16. In response to Paragraph 21, SRW reasserts its answers to the previous paragraphs as if set forth verbatim herein.

17. This Defendant denies the allegations contained in Paragraph 22.

18. This Defendant denies the allegations contained in Paragraph 23.

19. This Defendant denies the allegations contained in Paragraph 24.

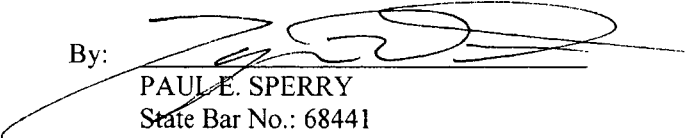
20. As to the last unnumbered paragraph, following Paragraph 24, beginning with "WHEREFORE", this paragraph contains a prayer for relief, which requires no response. However, to the extent a response is required, SRW denies the allegations directed to it and demands strict proof thereof.

WHEREFORE, having fully responded to the allegations of the Plaintiff's First Amended Complaint, SRW prays for judgment in favor of SRW, for costs associated with defending this action, and for any such further relief as this Court may find just and proper.

Respectfully submitted,

CARLOCK, COPELAND & STAIR, LLP

By:



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Charleston, South Carolina 29401-3531
843-727-0307

TYLER P. WINTON
State Bar No.: 77877

Attorneys for Defendant Shope Reno Warton

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

MARIA ALLWIN,

Plaintiff,

vs.

RUSS COOPER ASSOCIATES, INC., et al

Defendants.

) IN THE COURT OF COMMON PLEAS

) THE NINTH JUDICIAL CIRCUIT

) CASE NO.: 2013-CP-10-4592

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CERTIFICATE OF SERVICE

FILED
2014 NOV 20 PM 3:19
JULIE J. ARMSTRONG
CLERK OF COURT

I hereby certify that I have this day served a copy of the within and foregoing pleading upon all parties to this matter by depositing a true copy of same in the U.S. Mail, proper postage prepaid, addressed to counsel of record as follows:

For the Plaintiff

Robert T. Lyles, Esq.
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Richard S. Dukes, Jr., Esq.
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Charleston, SC 29413-2129

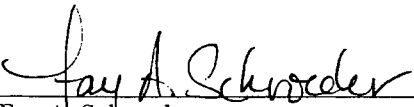
Attorney for Picquet Roofing

S. Markey Stubbs, Esq.
Baker, Ravenel & Bender, L.L.P.
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Columbia, SC 29204

Attorney for Sprayseal Foam Insulation

Bonum S. Wilson, III, Esq.
Wilson & Heyward, LLC
P.O. Box 13177
Charleston, SC 29422

This 19th day of November, 2014.


Fay A. Schroeder
Secretary to Tyler P. Winton

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NOV 16 2016

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

J.C. Nicholson, Jr., Circuit Court Judge

Case No. 2016-000471

MARIA ALLWIN APPELLANT,

V.

RUSS COOPER HOMES, INC., BUFFINGTON HOMES, L.P., AND SHOPE RENO
WARTON DEFENDENTS,

OF WHOM RUSS COOPER ASSOCIATES, INC., AND SHOPE RENO WARTON ARE THE
RESPONDENTS.

BUFFINGTON HOMES, L.P., THIRD-PARTY PLAINTIFF,

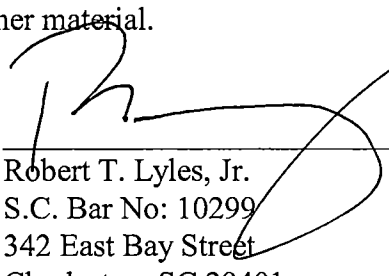
V.

ALBRECHT ENVIRONMENTAL, INC., ALL POINTS CONSTRUCTION, INC., PATRIOTS
DRYWALL, INC., PICQUET ROOFING, INC., SPRAYSEAL FOAM INSULATION, AND
TISCHLER UND SOHN (USA) LIMITED, ... THIRD-PARTY DEFENDANTS

CERTIFICATE OF COUNSEL

The undersigned hereby certified that the Record on Appeal contains all material proposed to be
included by any of the parties and not any other material.

November 16, 2016



Robert T. Lyles, Jr.
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342 East Bay Street
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Attorney for Appellant

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THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

J.C. Nicholson, Jr., Circuit Court Judge

Case No. 2016-000471

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OCT 31 2016

SC Court of Appeals

MARIA ALLWIN APPELLANT,

V.

RUSS COOPER ASSOCIATES, INC., BUFFINGTON HOMES, L.P., AND SHOPE RENO
WARTON, ... DEFENDANTS,

OF WHOM, RUSS COOPER ASSOCIATES, INC., AND SHOPE RENO
WARTON ARE RESPONDENTS

BUFFINGTON HOMES, L.P., ... THIRD-PARTY PLAINTIFF,

V.

ALBRECHT ENVIRONMENTAL, INC., ALL POINTS CONSTRUCTION, INC., PATRIOTS
DRYWALL, INC., PICQUET ROOFING, INC., SPRAYSEAL FOAM INSULATION, AND
TISCHLER UND SOHN (USA) LIMITED, ... THIRD-PARTY DEFENDANTS

PROOF OF SERVICE

I certify that I have served Appellant's Record of Appeal by hand delivering, on October 26, 2016 to the counsel below:

Dean Best
Best Honeycutt, P.A.
Post Office Box 13466
Charleston, SC 29422

Attorney for Respondent Russ Cooper Associates, Inc.

Paul E. Sperry
Carlock Copeland & Stair, LLP
40 Calhoun Street, Suite 400
Charleston, SC 29401

Attorney for Respondent Shope Reno Wharton

October 26, 2016

A handwritten signature in black ink, appearing to read 'R. Lyles', is written over a horizontal line.

Robert T. Lyles, Jr., Esquire
Lyles & Lyles, LLC
P. O. Box 773
Charleston, SC 29401
Attorney for Appellant

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NOV 16 2016

SC Court of Appeals

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November 16, 2016

The Honorable Jenny Abbott Kitchings
Clerk, South Carolina Court of Appeals
1220 Senate Street
Columbia, SC 29201

Re: *Maria Allwin v. Russ Cooper Associates, Inc. and Shope Reno Wharton*
Appellate Case Number: 2016-000471

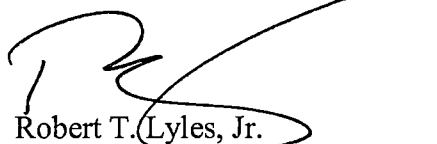
Honorable Kitchings:

Enclosed for filing please find 15 copies of the Record on Appeal.

Thank you, and with kindest regards, I remain

Very truly yours,

LYLES & LYLES, LLC



Robert T. Lyles, Jr.

RTL/sw

Enclosure (as stated above)

cc: L. Dean Best
Jenny Costa Honeycutt
Paul Eliot Sperry