THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

RECEIVED
JUN 10 2019
S.C. SUPREME COURT

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas, Ninth Judicial Circuit
The Honorable J.C. Nicholson, Jr.

Circuit Court Case No. 2013-CP-10-04592
Appellate Case No. 2016-000471

Maria Allwin ..... Petitioner,

v.

Russ Cooper Homes, Inc., Buffington Homes, L.P., and Shope Reno Wharton, ... 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

---

APPENDIX
VOLUME 2 OF 4

Dean Best, Esquire
Best Honeycutt, P.A.
Post Office Box 13466
Charleston, SC 29422
dean@besthoneycutt.com
Attorneys for Respondent Russ Cooper Associates, Inc.

Robert T. Lyles, Jr., Esquire
Lyles & Associates, LLC
342 East Bay Street
Charleston, SC 29401
rtl@lylesfirm.com
843.577.7730
Attorneys for Petitioner

Paul E. Sperry, Esquire
Tyler P. Winton, Esquire
Carlock Copeland & Stair, LLP
40 Calhoun Street, Suite 400
Charleston, S.C. 29401
psperry@carlockcopeland.com
Attorneys for Respondent ShopeReno Wharton

INDEX

1. Record on Appeal 1

2. Final Brief of Appellant 1759

3. Final Reply Brief of Appellant 1783

4. Final Brief of Respondent Russ Cooper Associates, Inc. 1793

5. Final Brief of Respondent Shope Reno Wharton 1840

6. Opinion 5617 of The South Carolina Court of Appeals 1872

7. Petition for Rehearing 1889

8. Order Denying Petition for Rehearing 1902

A. I don't remember when I found out that he was ill. So I don't know if I knew he was ill or if he was ill at this time that you're talking about in 2006. I just don't know.

Q. Do you recall ever seeing termite damage at the house at any time?

A. No.

Q. You have toured the house.

A. Yes.

Q. Have you seen signs of water intrusion or mold?

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

THE WITNESS: Pardon me?

MR. LYLES: Go ahead.

Q. There's something about the question he doesn't like, and you may hear different attorneys at times object to the form of the question being asked. Unless somebody instructs you not to answer, please answer the question if you understand it. If you want --

A. Would you please repeat now the question?

Q. Yes, ma'am. Have you seen evidence of water intrusion or indications of water intrusion

at the home?

A. Yes.

Q. And you've been to the house several times, I take it?

A. Yes.

Q. How early have you seen those signs of water intrusion?

A. I don't know.

Q. What signs of water intrusion have you seen at the home?

A. At the back of the house, back being the ocean side, along the floors, at the French glass doors in the living room.

Q. Were the doors in place when you saw that or had one or more of them been removed?

A. I don't know.

Q. Any other signs of water intrusion or leaks?

A. I don't remember.

Q. How about mold?

A. No.

Q. Settlement, structural concerns?

A. What, did I see any?

Q. Yes, ma'am.

A. No.

Q. Did you go in the basement or what's called the cave, the area sort of under the pool deck?

A. Yes.

Q. You access from the garage?

A. Yes.

Q. Did you see any problems from there, things that caused you concern as a Realtor?

A. Not that I recall.

Q. Have you ever been told that there were problems in that area from water intruding from above?

A. Not that I remember.

Q. Do you recall seeing any cupped or damaged or just odd-looking hardwood flooring?

A. Yes.

Q. Where did you see that?

A. I believe there was cupping of the hardwood floors in Jim's office.

Q. That's on the first floor on the back of the house?

A. It is.

Q. Do you recall when you saw that?

A. I do not.

Q. There were -- and at least in my mind

there was this interest in 2006 to sell the home. I did not see a listing agreement in the Kiawah Island packet. Do you know if the home was formally listed?

A. It was not.

Q. And then there's not any aggressive effort to sell the home. Later there are -- are they called pocket listings, these one-time showings?

A. So the question is?

Q. For a while. And then the house was formally listed again. Is that your general recollection?

A. My recollection is that the house was actually only listed once.

Q. You're correct. I misstated. You're correct. It was only listed once and that was back in 2011, 2012. We'll get there.

A. 2012.

Q. Based on that, the interest in 2006, the pocket showings, which I assume you attended some or all, the one-time showings.

A. One-time showings. Okay.

Q. And then the listing in 2012, does any of that help you determine in your mind when you

saw these damages, the damage at the rear doors, the damage to the flooring in Jim's office?

A. No.

Q. But it would have been at one of the showings or a visit of the home?

A. When and if I noticed anything, it would have been at a visit to the home. I do not remember if it was during a showing.

Q. Were all of your visits to the home business related or did you have occasion to go there socially?

A. Strictly business.

Q. How about roof leaks or water stains on ceilings?

A. I don't remember.

Q. You don't remember when you saw it or you don't remember seeing it?

A. I don't remember seeing any.

Q. In response to Exhibit 215, this Complete Inspection report, what was done?

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

A. What was done?

Q. Yes, ma'am. Well, okay --

A. I don't understand the question.

Q. Was there a plan or a discussion formulated with Mrs. Allwin as to what repairs might be done to address the concerns or defects listed in this Exhibit 215?

A. I don't believe so.

Q. Is that -- okay. You're reasonably confident that this report, Exhibit 215, was received by Mrs. Allwin, correct?

A. I would believe so.

Q. Did you have any conversations with her about Exhibit 215 and its findings?

A. I believe I would have, but I don't recall it.

Q. Do you recall whether she expressed any intention of repairing any of these items in Exhibit 215?

A. I do not remember.

Q. Did you have any conversations with Tori Stein or did you or Kiawah Island Real Estate attempt to identify or communicate with a repair contractor to address any of these items?

A. Again, two questions in one. So --

Q. All right. Simple question.

A. Please.

Q. Did you or Kiawah Island Real Estate

assist Mrs. Allwin in any way in attempting to have the defects listed in Exhibit 215 repaired?

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

A. Not that I remember.

Q. Do you recall speaking with Tori Stein about the Allwin house?

A. Yes.

Q. And that's sort of an ongoing communication with her about various things?

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

Q. You didn't speak to her one time in 2006.

A. I don't know that I spoke to her in 2006. Just that there were conversations somewhere in the past.

Q. Okay. So you don't know what Mrs. Allwin did or intended to do or did not intend to do with respect to Exhibit 215 in its findings. Is that what you're telling me?

A. I do not know. However, there was a follow-up inspection, an environmental inspection.

Q. And we're going to get to that.

A. Okay.

Q. As best you recall, was it Mrs. Allwin's intent to formally list the home or was she just -- was it a passing fancy? Was it a, I'm not sure if I want to sell it or not, or, Cynthia, we're going to sell the house. Let's kick the tires and have it looked over and go ahead and start the process?

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

A. Again, I'm really sorry, but the either/or, would you run that by me one more time?

Q. I'm trying to gauge the intensity of Mrs. Allwin's intent to sell the home in 2006.

A. Okay.

Q. Based on your communication, conferences, e-mails that you had with her, was it your understanding that she was committed to selling the house in 2006 or was she merely surveying the property's value?

A. I do not know what she would have had in mind, but I certainly would have believed that she was sincere.

Q. Because you went down this road of

having the home inspected and having the home surveyed or assessed, appraised -- excuse me -- and then ultimately she had the environmental report done. Is that what you're saying, based on her commitment to those things?

A. Yes.

Q. Exhibit 216, it's a real estate appraisal performed by Joseph Guerry. Was that arranged on Mrs. Allwin's behalf by Kiawah Island Real Estate?

A. I do not remember.

Q. Is the same process true, you provide a list of appraisers to --

A. That is typically the case.

Q. Is Mr. Guerry on that list or was he in 2006?

A. I don't remember.

Q. Do you know if Mr. Guerry inspected, physically inspected the property to prepare this document?

A. I don't know that. However, there are pictures, so I would imagine either he did or someone from his firm.

Q. The property value, and it's on page 2, based on Mr. Guerry's assessment is $17,500,000.

And we'll see subsequent appraisals by Mr. Guerry and we'll see the value drop. July of 2006 was at the top of the bubble, the height of the market, this time frame?

A. 2006 was a high point at the Kiawah Island Real Estate market.

Q. Do you recall any discussions with Mrs. Allwin about this appraisal, Exhibit 216?

A. I do not.

Q. Did you have any concerns about the value in 2006, Mr. Guerry's appraised value of 17 and a half million?

A. Concerns meaning?

Q. Was that in line? Was that what you anticipated?

A. I don't know what I would have anticipated in 2006.

Q. Based on Kiawah Island Real Estate's standard operating procedure, you're reasonably confident that if Mr. Guerry hadn't already sent a copy of Exhibit 216 to Mrs. Allwin that your company would have gotten a copy to her?

A. Yes.

Q. Exhibit 217. This is the environmental report that you mentioned a few minutes ago?

A. Yes.

Q. And the first page, purpose of visit, the Albrecht environmental report states, we were requested to inspect the residence by Mrs. Cynthia Noble.

Do you have any recollection about this request to Albrecht?

A. I do not.

Q. You have no reason to doubt that you requested it or someone on your behalf requested it.

A. The actual request would have been likely made by an assistant.

Q. And this is an assumption on my part, but I'm assuming, given that we are now having what is referred to generally as a mold study, a mold testing done on the house, that you as the listing agent would have -- or potential listing agent -- would have gone out to the house by now and laid eyes on the property.

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

Q. Do you recall having gone out there to look at the property to -- with your own eyes, to see these problems listed in the Complete

Inspection report in the -- and to see why the home is being tested for mold?

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

A. No.

Q. Included in this Exhibit 217 is both the proposal and then some results. The same as before, you would expect that the results from the Albrecht testing would have been, if not sent to Mrs. Allwin directly by Albrecht, Kiawah Island Real Estate would have gotten them in her hands?

A. Yes.

Q. And you don't have any recollection specifically about discussing the mold issues with Mrs. Allwin in 2006?

A. I do not.

Q. At some point there was a decision by Mrs. Allwin, I take it, not to list the home in 2006, because it was not listed. Is that a fair assumption?

A. Correct.

Q. Why was it not listed in 2006?

A. I believe because of an illness in her family.

Q. Is that Mr. Allwin?
A. I was told just that there was an illness in the family at that time.
Q. She has other things to worry about. She's not focusing on the house right now. Is that generally what you understood?
MR. LYLES: Object to the form of the question.
Q. She was focusing on her family issues and was not going to worry about the Kiawah house right now.
A. My understanding was that it was not a good time.
Q. Were you aware that Buffington Homes had made fairly extensive repairs to the home in 2004, 2005?
MR. CANTWELL: Object to the form.
A. I do not remember.
Q. And I'm not just asking about -- well, I guess I was asking. In 2006, you don't recall whether you remember. Is that correct?
A. Whether I remember what?
Q. Excuse me. Let's start over.
A. Thank you.
Q. Are you aware, as you sit here today,

that in 2004, 2005, Buffington Homes made repairs to the Allwin residence?

A. Not that I recall. I remember I wasn't back at work in 2004.

Q. Yes, ma'am, but we're now into 2006. You're dealing with Mrs. Allwin. Problems have been identified with the home, some of them based on the Complete Inspection report and the fact that we're doing mold testing, some might consider significant problems. Did anyone express to you or relay to you at that time that the home had recently undergone repairs by Buffington?

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

A. I don't remember.

Q. At any time has Mrs. Allwin or Tori Stein, anyone acting on her behalf or the home's behalf, expressed to you frustration or difficulty in getting Russ Cooper Associates to come to the home to make repairs?

A. Not that I recall.

Q. Are you aware of any request made to Russ Cooper to return to the home to make repairs?

A. Not that I recall.
Q. Do you know Bob and Mary Lou Cowan?
A. I do not.
Q. Do you know that they lived in the Allwin residence for a while?
A. I did not until a couple of days ago.
Q. What have you done to -- are you Mrs. Allwin's real estate agent today? Is the home listed?
A. The home is not listed right now.
Q. What did you do to prepare for your deposition?
A. I went to the office and printed out my e-mails.
Q. Okay.
A. And I will have -- I looked back through my file and that's it.
Q. Did you talk with anyone prior to your deposition?
A. Anyone meaning?
Q. Meaning anyone, about your testimony or what was going to be asked?
A. Yes.
Q. Who did you talk to?
A. Mr. Lyles.

Q. All right. And what did you-all talk about?

A. How a deposition works, about how long it might last, to answer the questions truthfully.

Q. Okay. Was that by phone or a --

A. By phone.

Q. How long was that phone conversation?

A. About an hour.

Q. Okay. We'll come back to that. Look at Exhibit 218, please. Is this a note from you?

A. This is.

Q. It says, Dear Dan -- and I believe, based on other documents, this was a note to Dan Buffington. Do you recall who --

A. I don't recall writing this note. I don't remember what it was about necessarily, but I could understand why it would be Dan Buffington.

Q. And why can you understand that?

A. Because apparently he was involved in the house.

Q. If I'm reading your note correctly of August 2006, thank you for helping us with this. What are you asking --

A. I don't remember.

Q. Okay. Just so the record's clear, what are you asking Mr. Buffington to help you with?

A. I don't remember.

Q. I can arrange for you to get into the house after Tuesday. My belief is that based on the Complete Inspection report we've looked at and the mold testing documents we've looked at, that there was at least some effort on Mrs. Allwin's behalf to get Mr. Buffington to return to the home to at least at a minimum assess the situation and to figure out what's going on. Is that ringing a bell or is that a fair statement?

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

MR. CANTWELL: Object to the form.

A. I would make the same assumption, but I don't remember.

Q. You note in here, please do not call the Allwins at this time. Is that because of their -- the health situation or --

A. I don't remember.

Q. Have you had any discussions with Dan Buffington or anyone on his staff about the

Allwin residence and construction problems?

A. Since 2006?

Q. At any time.

A. Not that I remember.

Q. Please look at Exhibit 222. And feel free to take your time to look at it, but do you recall receiving this document?

A. I do not.

Q. Do you refute or deny receiving this document?

A. No.

Q. In this it appears that -- and it is a letter to you from Dan Buffington. It appears that Mr. Buffington has reviewed the problems with the home and prepared at least two scopes of work to address those problems. And again, those are the problems we saw in the Complete Inspection report. Does any of this ring a bell?

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

A. Does any of this ring a bell?

Q. Exhibit 222, or Mr. Buffington's involvement --

A. I do not remember this. If you didn't show me this, I wouldn't remember it.

Q. You've looked at a ton of houses over the years.

A. Correct.

Q. Is it -- are they all running together? Is that -- does that impair your ability to remember?

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

Q. And it has been nine years. I mean I appreciate that too.

A. I just don't remember it.

Q. The letter's actually from Johnny Rivera, excuse me, with Buffington Homes. Do you know Mr. Rivera?

MR. CANTWELL: Object to the form.

A. I don't remember him.

Q. Do you know Ms. Rivera?

A. Oh, I didn't know it was a woman.

Q. I didn't either.

A. Or I did not remember her. How do you know it's from Ms. Rivera?

Q. Because Mr. Buffington's attorney just --

A. Oh, I see.

Q. It's signed by Ms. Rivera. This letter

was addressed not to Mrs. Allwin but to you at Kiawah Island Real Estate. Is it fair to assume that you would have relayed this September 11, 2006 letter from Buffington Homes, that's been marked 222, on to Mrs. Allwin?

A. That would be what I would have done. I don't remember doing it, but it's what I would have done.

Q. Sure. In 2006, do you think you would have used e-mail primarily? And it may be in this packet of documents. A forwarding e-mail?

A. That's very possible.

Q. But you don't recall meeting Mr. Buffington or Ms. Rivera or anybody at Buffington Homes about Exhibit 222 and these scopes of repair?

A. I do not.

Q. But it's reasonable to believe that you would have forwarded Exhibit 222 on to Mrs. Allwin upon receipt of it?

A. It is.

Q. Insurance related question. Mrs. Allwin had annual inspections performed by her or at least for some period of time by her homeowners insurance company. There was a water leak in the

kitchen from an icemaker, I believe, at one point and there was also a lightning strike at some point.

So at various times there were various insurance adjusters, insurance inspectors on site on the property. Did you have any dealings, contact, communication with those insurance professionals?

A. I did not.

Q. Have you seen any reports prepared by insurance professionals?

A. Not that I recall.

Q. In 2006 Mrs. Allwin, due to family health issues, due to whatever reason, expressed to you it was not a good time to sell the home. She was not going to do that. When was your next contact with Mrs. Allwin about the home?

A. About selling the house?

Q. Yes, ma'am. Or about anything to do with the house.

A. When was my next contact?

Q. Yes, ma'am.

A. I don't remember.

Q. Okay. In 2009 Mrs. Allwin hired Mr. Lyles' firm. Do you recall any contact or

communication with either Mr. Lyles or Mrs. Allwin about the fact she had hired a lawyer?

A. In 2009?

Q. At any time.

A. At any time? Yes.

Q. What can you tell me?

A. That she had contacted an attorney named Robert Lyles.

Q. Does 2009 sound right?

A. I don't know.

Q. What did she tell you about why she contacted a lawyer?

A. I don't remember the conversation.

Q. But it had to do -- she hired a lawyer to address some issue with the home.

A. It was to do with the house.

Q. Okay. You can't tell me if that was because of construction defects or she was considering making a claim, problems with insurance companies? Is anything ringing a bell?

A. It would have been about the house, but she and I did not discuss typically any kind of details in that regard.

Q. In October of 2009, Gamble Home Services

billed Mrs. Allwin for an October 14, 2009 visit to the home to unlock the house for a real estate showing, but I don't see any reference in the Kiawah Island documents to a showing on that date. Do you have -- can you provide any information about the October 2009?

A. Not specific to that date from memory, but there were one-time showing agreements. And when we had a one-time showing, typically someone from Gamble would open the house for us.

Q. Do you know how often Mrs. Allwin used the house?

A. I do not.

Q. Do you know whether there were periods of years where she did not use the house? She did not step foot in the house?

A. I do not.

MR. BEST: And for those playing at home, Exhibit 315 is the Gamble invoice for that real estate showing.

Q. Do you have Exhibit 319 in your book?

(Exhibit No. 319 was marked for identification.)

(Exhibit No. 320 was marked for identification.)

Q. We are now up to Exhibit 319 and 320. I've handed them to you right here, Ms. Noble.

A. All right.

Q. Exhibit 319 was not addressed to you, but it is an e-mail from Ms. Stein to Mrs. Allwin which references a house showing to someone she refers to as some NASCAR dude. And then the next Exhibit, 320, you'll note on December 7, 2009, someone at Gamble Home Services claims to have met with you for a real estate showing.

Were you -- were you present to a showing in December of 2009 to a real estate dude at the house?

A. To a NASCAR dude?

Q. A NASCAR dude. Excuse me.

A. Well, I don't remember the dates. I did show the house to a NASCAR driver.

Q. Can you reveal who that is?

A. Yes.

Q. Who was it?

A. Kevin Harvick.

Q. Was Mr. Harvick interested in the house?

A. They didn't buy it, so I assume not.

Q. Did he look at several homes that day?

A. I don't remember.

Q. There was not an offer on the home by Mr. Harvick, as you recall?

A. There was not.

Q. Exhibit 327, which I believe you do have. This is an April 27, 2010 one-time showing agreement signed by you and Mrs. Allwin; is that correct?

A. That's correct.

Q. And it references a showing to one Mr. Ryan Abbate, A-B-B-A-T-E. Do you recall the showing to Mr. Abbate? And I believe he looked at the house on more than one occasion?

A. Yes.

Q. Let's put Mr. Abbate aside for just a moment. Do you have Exhibit 332?

A. No. Oh, wait. Yes.

Q. 332 is an e-mail from Tori Stein to Mrs. Allwin in which she references a letter or a report that she is going to prepare for your benefit, which chronicles the repairs and maintenance that Mrs. Allwin has performed on the house.

Do you note anything about this effort by Ms. Stein to prepare such a document?

A. In my e-mails I printed out yesterday, I

don't remember the date, but there is an e-mail from Tori Stein apprising me of things that had been done to the house.

Q. I'll look forward to seeing that, and I appreciate it. When you received e-mails that you printed out that had attachments when you were at the office yesterday, did you make an effort to also print those attachments?

A. Yes.

Q. That is appreciated as well.

I think you have Exhibit 333, which is a May 2010 appraisal by Mr. Guerry who prepared the previous appraisal.

A. Yes.

Q. Do you know why this May 2010 appraisal was prepared?

A. I don't remember specifically why at that time.

Q. Mrs. Allwin tells me the home was paid for and had been paid for, so it was not like a refinancing type situation. Would it make sense or do you believe this may have been prepared in an effort to gauge the property's value for a potential sale?

A. I would believe so.

Q. Was Mrs. Allwin, to your belief, interested in selling the house in 2010?

A. I don't remember specifically if it happened in 2010 that she was interested again. It's just --

Q. Well, we've looked at a couple of one-time showings.

A. Right.

Q. What was the arrangement you had with Mrs. Allwin? Was it -- did you call her out of the blue and say, hey, someone's interested in buying a house, I'd love to show them your house?

A. I had always promised that if there was someone looking for something like she had that I would contact her.

Q. And that's what you did?

A. And that's what I would have done.

Q. Exhibit 333 is Bates stamped at the bottom KIRE 73 through 77. I can't recall if your office put those Bates stamps on there or if I did, but I'll represent to you this came from your file. And so you believe you would have reviewed this in 2010?

A. I believe so.

Q. Do you know whether this appraisal takes

into account any of the construction defects, termite activity, the things we looked at in the 2006 Complete Inspection Services report?

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

A. I would have to read the report to see --

Q. And I will suggest to you if you look on the second page of 333, under extraordinary assumptions, Mr. Guerry says he has not inspected the home and assumes that it's in average physical condition.

A. Okay.

Q. So you're not aware that Mr. Guerry even went back out to the house to prepare Exhibit 333.

A. I don't have any firsthand knowledge if he did or did not other than what his report would say.

Q. When you're -- I don't know anything about a real estate agent's duties. I know very little about it. I'm not casting aspersions, I'm not casting doubt on the performance of you or Kiawah Island Real Estate. I'm just trying to figure out what Mrs. Allwin knew about her house

and when she knew it.

We saw the Complete Inspection report back in 2006, which listed several items that that inspector suggested ought to be repaired or followed up on. We're now into 2010 and we're showing the house.

My question to you is, to your knowledge did Mrs. Allwin do anything to repair those items in the 2006 Complete Inspection report?

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

A. It's the timeline that I don't remember. I know that she -- at some point, I don't know if it would have been before or after -- but that she would have been working with Tori Stein. But I just don't know when.

Q. On the details what was done and what was not done, I need to ask Ms. Stein about that.

A. Yes.

Q. At least to the extent that the repairs were made by Ms. Stein.

A. Please. She would be able to tell you when.

Q. Was there any effort on behalf of Mrs. Allwin or Ms. Stein or anybody acting on

Mrs. Allwin's behalf to keep you and your company apprised of the repairs that were going on at the house?

A. Not on a regular basis, but once in a while, I obviously had gotten something that said, this is what we've done.

Q. Do you have Exhibit 334?

A. No.

(Exhibit No. 334 was marked for identification.)

Q. Exhibit 334 is an e-mail exchange between you and Ms. Stein. And again, I got this from Ms. Stein's file.

A. Sure.

Q. And you're asking her if she has put together the list of improvements yet, and that's the document you said she e-mailed to you at some point --

A. Yes. That must be what I have.

Q. You characterize those as improvements. What do you recall was on the list?

A. I don't remember.

Q. Do you recall -- improvements -- I don't know if you used that as a specific word or as a generic word, but did the list that Ms. Stein

sent you, did it include repairs or maintenance items or --

A. I have no idea. Without looking at that list, I don't remember what was on it.

Q. Let's go back to Mr. Abbate and let's look at Exhibit 336. Am I pronouncing that correctly?

A. You are.

Q. Did Mr. Abbate make an offer on the home?

A. No, he did not.

Q. Do you know why he did not?

A. I don't remember, but I do know that Mr. Abbate has looked at many properties with his agent over the years.

Q. Is he local?

A. No.

Q. Can you give me a state --

A. Florida.

Q. Florida. All right. Okay. Mr. Abbate didn't make an offer, but he did go to the trouble and expense of having a termite inspection done and a home inspection performed by Complete Inspection Services. Do you recall that?

A. I don't remember it, but because of printing out e-mails, I saw something about that so --

Q. Okay. Kiawah Island Real Estate is the exclusive Realtor for Kiawah Island; is that correct?

A. No.

Q. Okay. Explain that --

A. Okay. Kiawah Island Real Estate only sells properties on Kiawah Island and Cassique, the area just off the island.

Q. Yes, ma'am.

A. Kiawah Island Real Estate is not a Multiple Listing Service. So when someone wants to buy property on Kiawah, they can use Kiawah Island Real Estate, they can use a Multiple Listing Service, or they can try to buy directly on their own.

Q. So if I was interested in Kiawah property, I could use my buddy who works for Carolina One as my agent.

A. If you wanted to, you could. But the listings that Kiawah Island Real Estate has, MLS does not have and vice versa.

Q. Right. Your company does not pay to

have them put on that service.

A. Correct.

Q. So if I have property at Kiawah that I want to sell, do the covenants, restrictions, anything out there prohibit me from using a company other than Kiawah Island Real Estate to list --

A. They do not.

Q. So if I wanted to use my buddy at Carolina One to list my house, and it would be on the MLS service, if I used them -- if I used a broker, an agency that subscribed to that service?

A. Yes.

Q. Exhibit 336 is the termite inspection that Mr. Abbate paid for in 2010, and the copy that I have is from Tori Stein. I did not see a copy or I don't recall seeing a copy in the package that Kiawah Island Real Estate sent over.

A. I may or may not have had this since I did not represent this buyer.

Q. Who -- and that was my next question. Which agent at Kiawah Island represented Mr. Abbate?

A. Jim Stuckey.

Q. But for this one-time showing, you were representing Mrs. Allwin.

A. Correct.

Q. And I take it, when Mr. Abbate paid for this termite report, Exhibit 336, even if he decided, I'm not going to make an offer on this house, it would make its way into the file of Mr. Stuckey at Kiawah Island Real Estate and that he would -- regardless of Mr. Abbate's intent, he would have shared this with you and ultimately it would have gotten to Mrs. Allwin?

A. That's a good question. Mr. Abbate would have paid for it. Assuming Mr. Abbate paid this, that report belongs to him, and it would be their choice whether or not they shared it with me and/or Mrs. Allwin. And I don't remember if it was or it was not. We might be able to tell from e-mails, but I don't remember.

Q. This was in the file of Gamble Home Services, Mrs. Allwin's property manager. So do you know how it got to Gamble Home Services?

A. I don't.

Q. You would agree with me it makes sense that it made its way to at least Mrs. Allwin's property manager since it was in their file.

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

A. I --

Q. Whether she actually saw it, you don't know.

A. Correct.

Q. Exhibit 337. And I'm sorry. Back up to 336, which is the termite letter.

A. Okay.

Q. I think you mentioned just a moment ago some e-mails in the documents you produced today that referenced the inspection report, termite inspection --

A. I think so.

Q. Do you recall seeing this in 2010?

A. I don't.

Q. Now go to 337. Do you recall seeing this document in 2010?

A. I do not recall seeing this document.

Q. And you don't know whether Mr. Abbate or Mr. Stuckey in your office shared this document with you?

A. I do not recall.

Q. And do you know how it got to Gamble Home Services as Mrs. Allwin's property manager?

A. I do not.

Q. 337, which is the 2010 Complete Inspection Services report, references many of the problems listed by Complete Inspection Services in its 2006 report. For example, if you turn to the page -- it's the fourth page of the exhibit but it's number 3 at the bottom?

A. Yes.

Q. The inspector does not provide a summary. He refers you to the remarks sections in the body of the report. Just above the heading, basement or lower level, there's a reference to termite activity. Do you see basement or lower level?

A. Correct.

Q. Look above that, two lines.

A. All right.

Q. Do you recall anything about termite activity at the home or termite damage in 2010?

A. I do not. I do not go on these inspections. Okay? Yeah, just -- okay.

Q. I'm with you.

A. All right.

Q. But if you are acting as a buyer's agent, when these reports are prepared on behalf

of your client, is it customary for you to review them?

A. Yes.

Q. As the listing agent, when the buyer's -- if the buyer's agent provides you with these reports, is it customary for you to look at them?

A. Yes.

Q. And then to refer them or provide them to your client, the owner?

A. Yes.

Q. And if necessary, discuss with the owner the concerns or issues of repair that are addressed in these reports.

A. What I suggest to my clients is that they talk directly to the inspector if they have any questions.

Q. Do you know if you had any such conversation with Mrs. Allwin about this report or any report?

A. I don't remember.

Q. Do you know if there was an attempt or effort on Mrs. Allwin's behalf or by anyone acting on her behalf to address or find a contractor to repair the problems identified in

Exhibit 337?

A. Do I -- will you repeat that question?

Q. Yes, ma'am. Do you know if Mrs. Allwin or anybody on her behalf took any action to address, repair, mitigate, remedy the problems identified in this Exhibit 337?

A. I don't know if anyone did for this specific inspection report.

Q. Okay. To your knowledge has Mrs. Allwin or anyone on her behalf made any effort to make repairs based on any other report?

A. I know simply that she had Tori Stein helping her with the house. Tori Stein.

Q. And over the years Tori Stein did a lot of work and billed Mrs. Allwin a lot of money for various repairs. And if I think I understand what you're telling me, it's you're just not exactly sure about the nature of Ms. Stein's repairs and whether they addressed specifically the items listed in these Complete Inspection reports.

A. Correct.

Q. I need to talk with Ms. Stein --

A. Okay.

Q. -- is what you're telling me?

A. That would probably be a good idea.

Q. Pardon me, because I've asked you this question already. I asked you about the Cowans. Do you know them? Did you know them?

A. I do not know them.

Q. You haven't spoken to them?

A. I've never spoken to them to my recollection.

Q. Do you have Exhibit 488?

A. It looks like 485. No. I do not.

Q. It's of little concern. I'll represent to you that -- and you're welcome to look at my marked-up copy, but in November of 2010, you wrote to Ms. Stein -- you referenced a conversation you had with Maria Allwin about the possibilities of a buyer adding a room above the living room -- well, here we go.

A. Okay.

(Exhibit No. 488 was marked for identification.)

Q. I'm handing you 488. And if you look down at the last paragraph on that first page, you're asking Tori about your discussion with Maria about the possibility of pretty extensive interior renovations being done in the grand

room, essentially adding a second floor room -- second story room in that space and a guest cottage over the cabana.

Do you recall this exchange or that conversation with Mrs. Allwin?

A. I don't recall the conversation.

Q. Do you recall whether -- and I take it, based on the fact that you're involved, these are potential improvements or enhancements that -- I don't know if you have suggested or Mrs. Allwin has thought of on her own as a means of making the property more marketable, more attractive?

A. I don't know whose idea it would have been, but it's all -- it's possible that a colleague of mine may have asked, gee, could there be a room put above the living room or could there be a room above the guesthouse.

Q. And in the first paragraph on that first page, Ms. Stein replies back, let's meet Friday to discuss.

Do you recall meeting with Ms. Stein about this issue?

A. I do not.

Q. Do you know whether if -- whether Ms. Stein or Mrs. Allwin ever procured design

drawings or plans to make changes such as those discussed in 488?

A. I don't recall any.

Q. I'll represent to you that there are such plans, but you have not seen them that you recall.

A. Not that I recall.

Q. Do you have 490?

A. We do not.

(Exhibit No. 490 was marked for identification.)

Q. (Tendered.) You're not involved in this e-mail exchange, Exhibit 490, but about two-thirds of the way down in Ms. Stein's e-mail to Al Schweickhardt she references, Mrs. Allwin is putting her house on the market in the spring.

And can you confirm that was Mrs. Allwin's plan in 2010, that she was going to sell this house in 2011?

A. I don't remember.

Q. In 2010 are we still in the period where as clients came in that were interested in something like the Allwin residence you would contact Mrs. Allwin to do a one-time showing?

A. I don't remember specifically for that

time but in a general sense, if ever there was someone interested, I would have contacted her regardless of the year.

Q. As you recall, there was never an instance where Mrs. Allwin said, Cynthia, stop pestering me, quit calling me with these one-time showings?

A. I don't recall that.

Q. Holly Morrison is on staff at Kiawah Island or was back in 2010?

A. She was. She works -- she worked for our marketing department.

Q. Do you have 491?

A. No.

(Exhibit No. 491 was marked for identification.)

Q. Let me hand it to you. This is just an e-mail exchange between you and Holly initially, and then you forwarded it on to Ms. Stein, and you're inquiring about when will the house be available to photograph. And apparently there's an attempt to get it in a catalog.

A. We have a catalog of properties that show our listings that is printed several times a year.

Q. Is it quarterly or --

A. It used to be quarterly and then it became three times a year. I don't know what it was at this time.

Q. But there is at least an effort between you and Holly or some interest in getting --

A. A brochure prepared.

Q. Getting those photographs into the next catalog. But I have not seen a formal listing agreement, I don't think, at this time.

A. No, no. Right. It was not listed at that time. I know that because we only listed it in 2012.

Q. Do you know why it was not listed in 2010?

A. I don't remember that.

Q. This was the end of November. You're asking Ms. Stein, could we have the house ready to photo by the end of January, which is two months away?

A. Uh-huh.

Q. I'll represent to you Ms. Stein is making repairs or she's performing work at the house in the fall of 2010. Do you recall anything about the nature of that work?

A. I do not.

Q. In response to your question, Ms. Stein says, it depends on how close you want to get to take a picture.

Did you follow up with her or can you explain this in any way? Do you have an understanding as to what Ms. Stein meant?

A. I struggle with the time periods is where I struggle, as to what happened when over such a long period of time. That's my greatest struggle in answering these questions. So I don't remember. But at some point, for instance, the French glass doors were off the back of the house and it was boarded up. That could be what this is referring to, but I don't remember if that would have been the time period.

Q. Well, we've looked at here today, we've looked at Complete Inspection reports from 2006, Complete Inspection reports from 2007, Albrecht material, and then there are a host of documents from Tori Stein and Gamble about ongoing work being done at the house we haven't looked at. But my question to you is this.

Is there any doubt in your mind that Mrs. Allwin knew at least as early as 2006 that

there were issues with water intrusion, issues with those rear doors on the back of the house, roof leaks and termite damage?

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

A. The only thing that I know is that -- or would believe is that she would have known what the inspection report said.

Q. Because you-all would have sent those to her.

A. It would have either gone to her directly or maybe to both of us at the same time. And if it had only come to us, it would have gone to her.

Q. Right. But it's Kiawah Island's standard operating procedure to make sure the owner, the client, has access to the information that's being provided through these inspection reports.

A. If it was being procured for the owner.

Q. Yes.

A. Yes.

Q. Or if it was being procured for the buyer and given to you, then you would have sent it on to Mrs. Allwin?

A. Correct.

Q. The home was listed in 2012. Do you recall any destructive testing where components of the home were moved, specifically doors along the back, any other inspections performed by engineers or building consultants in 2011?

A. I don't remember specifically.

Q. Had you spoken with -- aside from the logistics of your deposition here today and where you needed to be today, did you have any conversations with Mr. Lyles or his staff about problems with the home?

A. Yes.

Q. When?

A. I don't remember. I had one phone conversation with Mr. Lyles and either Maria or her son Christopher or maybe both. I'm not sure. But I can't tell you the date. I don't remember.

Q. Would those have been within the past year or --

A. No. Not within the past year.

Q. Tell me about Chris Allwin's involvement with the house.

A. I know that he is Maria's son. And I believe he was being helpful to his mother, but

beyond that, I don't know.

Q. Was the conversation with Chris, was it a separate conversation? Was Maria present or --

A. I don't remember. It was a phone conversation, and I don't remember if Maria was on the phone or not.

Q. And what did you and Chris talk about?

A. I don't remember.

Q. Do you have 529?

A. Yes.

Q. Fuller Engineering is a building consultant group that inspected the Allwin residence, and I'll represent to you that they issued Exhibit 529, which is a preliminary summary of their findings. And then if you'll look at -- if you'll hold -- hold your place there, but also look at 545.

545 is a December 29, 2011, again, preliminary summary of their findings. Do you recall seeing either of these two documents? And I'll tell you that these were issued prior to the full-blown report that I believe was ultimately made available to --

A. Thank you, because I would have seen the full-blown report but I don't recall seeing

these.

Q. Were you made aware of Fuller's involvement in 2011?

A. Not that I recall.

Q. Was there any extensive communication, conversation with you by anybody on Mrs. Allwin's behalf about listing the home prior to its actual listing in 2012? That's a horrible question.

You listed the home in 2012?

A. Correct.

Q. Did you deal with Mrs. Allwin for a matter of weeks before that, a matter of months? Was there an ongoing discussion prior to her decision to list the home in 2012?

A. I don't remember.

Q. I know it's -- yeah. The e-mails you provided would probably be helpful?

A. They will be helpful.

Q. Exhibit 534, I believe you have.

A. I do. No. Wait a minute. 534?

Q. Yes, ma'am.

A. No. I do not.

Q. Fear not. (Tendered.)

(Exhibit No. 534 was marked for identification.)

A. Okay.

Q. This is a one-time showing signed by you and Mrs. Allwin to a prospect from Vienna, Virginia. Do you recall if the prospect from Vienna, Virginia, inspected the home or viewed the home?

A. I do not recall.

Q. I'm assuming there's some interest in keeping this person's identity confidential?

A. Apparently.

Q. Do you know who this person is?

A. I do not.

Q. They were represented by another agent at Kiawah Island Real Estate?

A. Yes, correct.

Q. Do you know whether this prospect from Virginia had the home inspected?

A. I don't believe so.

Q. Is there any -- aside from professional courtesy, is there any prohibition on Kiawah Island Real Estate from revealing the identity of this prospect from Vienna, Virginia?

A. If this prospect asked their agent not to identify themselves, then that agent would not identify them.

Q. Is there some privilege that I'm unaware of in the real estate profession that requires Kiawah Island Real Estate to keep that person's identity confidential, or through the issuance of a subpoena, can I get that information?

A. That's two questions again, so, sorry. Ask me the first part of that.

Q. Yes, ma'am. Is there anything other than professional courtesy that prohibits -- is there any legal prohibition on Kiawah Island Real Estate to reveal --

A. If this prospect has an agency agreement with the other agent and requests confidentiality, then the other agent would need to respect that confidentiality.

Q. Are there any exceptions to that agreement?

A. I don't know.

Q. Were you present when the house was shown to the prospect from Virginia?

A. I don't remember this person, and I don't know if they actually saw the house.

Q. And you're not aware of any inspection reports being prepared?

A. I'm not aware of any.

Q. Do you have 536?
A. We do not.
(Exhibit No. 536 was marked for identification.)
Q. (Tendered.)
A. Thank you.
Q. This is an e-mail exchange from Ms. Stein and Mrs. Allwin. You'll note at the very first paragraph, she's informing Mrs. Allwin that she -- being Tori Stein -- met with you and Holly Morrison at the house for about an hour and a half. Do you recall that meeting in September of 2011?
A. Yes.
Q. And the purpose of that was so you and Ms. Morrison could develop a marketing plan, and those are things like getting the house photographed and getting it in this catalog, correct?
A. Yes.
Q. Do you recall Ms. Stein pointing out areas of damage or areas that needed repair or areas that had been previously repaired during this September visit?
A. I don't remember.

Q. Do you recall whether the e-mail she sent you with the chronicle of repair predated the September meeting or came after?

A. I don't know.

Q. And do you recall whether you discussed that chronology of repair in this meeting?

A. I do not.

Q. Do you know whether Ms. Stein was in the process of making repairs or about to begin repairs in September of 2011?

A. I do not.

Q. Do you have 540? You do not.

A. I do not.

(Exhibit No. 540 was marked for identification.)

Q. (Tendered.) 540 is a one-time showing agreement which is not signed, but it came from your file. Do you recall the prospect B. Parker?

A. I do not.

Q. Do you know whether the home was shown to B. Parker?

A. I doubt it, because I don't remember that. But I -- I'm not sure.

Q. And you don't have a signed agreement?

A. No.

Q. You're not aware of any inspection reports being generated by B. Parker of New York, New York?

A. I do not.

Q. Do you have 546?

A. No.

(Exhibit No. 546 was marked for identification.)

Q. (Tendered.) This is another one-time showing -- I'm handing it to you -- another one-time showing. It's, lo and behold, Mr. Abbate again. He pops up in February of 2012. And I'm sorry, Mr. Stuckey was his agent?

A. Correct.

Q. This agreement is signed by both you and Mrs. Allwin. To the best of your recollection, did Mr. Abbate return to the home for a viewing in February of 2012?

A. I believe so. Because I think that he had seen it two different times. I just don't remember the dates from memory.

Q. We saw the 2010 inspection report by Complete Inspection Services that Mr. Abbate paid for. And now he is circling back some 18 months or so later in 2012 to view the home again. What

do you recall about Mrs. Allwin, the owner's efforts to address any of the concerns raised in the 2010 Complete Inspection report at this time?

A. I don't have any recollection what was or was not done.

Q. Do you recall any conversations with Mr. Stuckey or anybody on Mr. Abbate's behalf about Mr. Abbate's concerns about whether repairs had been made?

A. I do not.

Q. Do you recall Mr. Abbate making any request that repairs be made?

A. I do not.

Q. Did Mr. Abbate make an offer in 2012?

A. He did not.

Q. Was there any discussion on Mr. Abbate's behalf about the possibility of an offer?

A. I would not know that.

Q. Any inquiries that you're aware of about whether the owner was willing to make concessions in price or would consider repair allowance -- a repair allowance, anything along those lines to make the deal happen?

A. With Mr. Abbate?

Q. Yes.

A. Not that I recall.

Q. Do you recall any discussions with Mrs. Allwin about Mr. Abbate coming back and expressing --

A. I don't recall it. But I would have, I would think, pointed out that this is the same person who had seen it at a previous time.

Q. Did Mr. Abbate have the home inspected in 2012 that you're aware of?

A. Not that I'm aware of or not that I recall.

Q. Were the preliminary Fuller Engineering reports that we looked at that were issued in 2011, May and December, I believe, were they given to Mr. Abbate?

A. I don't remember, but before we would give anything like that, I don't know if I had it at that time or didn't have it at that time, number one. But we would not have given that report out without a client signing a waiver, a confidentiality agreement.

Q. Any involvement with the Allwin home by Mr. Abbate after February of 2012 that you recall?

A. Not that I recall.

Q. I think you may have Exhibit 549?
A. I do.
Q. Which is the text portion of the big full-blown report --
A. Yes.
Q. -- that I'm assuming you saw in a large binder?
A. I never had a binder.
Q. Did you have -- did you have -- my question is simply this. What was given to potential purchasers or prospective purchasers once they signed that letter of intent and confidentiality agreement?
A. It was a copy of this -- I don't know if it was this specific one, but it was a copy of the engineering report.
Q. And I'll represent to you that the engineering report -- the full-blown report with all of its attachments, drawings --
A. Right. It was thick.
Q. Very thick. You know, two or three inches, probably, thick. Was that entire packet made available to the purchasers?
A. Yes.
Q. Okay. So to the best of your knowledge,

the entire Fuller report of March 16, 2012, the full -- what we've been referring to as the full-blown report, all of it, its appendices, attachments, exhibits was made available?

A. To?

Q. Prospective purchasers who signed the letter of intent and who signed the confidentiality agreement?

A. Correct. Yes, correct. Not -- let me back up.

Q. Sure.

A. They would not necessarily have signed a letter of intent.

Q. Okay.

A. They would have just signed that confidentiality agreement.

Q. And I'm just referring to a -- I think an e-mail exchange between someone who suggested that might be the course of action that was going to be taken.

A. Uh-huh.

Q. So thank you for that clarification. Do you know why Mrs. Allwin got Fuller Engineering involved?

A. Not specifically.

Q. Do you know whether or -- did she express a desire to assess the home's condition and repair it or assess the home's condition and discount the sales price? Any discussions along those lines?

A. We discussed either having the home on the market with all repairs made or having the home on the market without repairs made.

Q. And ultimately the decision was without repairs made and sell it as is.

A. It was listed as is.

Q. What factors, pros, cons, went into that decision?

A. If a buyer came along and -- let me back up. The property is two oceanfront lots.

Q. Yes, ma'am.

A. Which is a very rare commodity on Kiawah. So a buyer of that caliber, someone who could afford a property like that, may want to design and build their own home.

Q. Raze what's there and start over.

A. So in other words, tear down what's there and do something else. Or we could have a buyer come along who would rather repair or renovate and keep the house.

Q. If I'm understanding you correctly, it seemed like there were maybe potentially more options available or the property may even be more marketable if sold as is without repairs.

A. Not necessarily, because we can have buyers of either opinion.

Q. Did you have any conversations with Mrs. Allwin about filing this lawsuit? Should she -- she said that she asked and spoke with anyone and everyone who would listen to her about whether she should or should not file this lawsuit.

A. Maria -- I do not recall ever having a conversation where we discussed whether she should or should not file a lawsuit. Our conversations would have been primarily about listing and selling the house.

Q. Did she ever discuss her claims against Russ Cooper Associates?

A. No.

Q. How about her claims against Dan Buffington or Buffington Homes?

A. No.

Q. Did she ever discuss -- while she may not have discussed or mentioned the nature of

those claims, did she ever mention the viability, the strength of her claims against Russ Cooper or Dan Buffington or Buffington Homes?

A. Not that I recall.

Q. How about the timing of those claims -- no legal issues were raised, is that what you're telling me?

A. Not that I recall.

Q. Do you have 551?

A. Yes.

Q. I believe -- and we'll look at -- and just so you have the benefit of it -- do you have Exhibit 566?

A. Yes.

Q. And I would keep your place there at the -- okay. 566 is the waiver, disclaimer, confidentiality agreement that prospective purchasers would sign prior to receiving the Fuller Engineering report, correct?

A. Correct.

Q. And that's the first thing listed there, the March 16, 2012, we just looked at a portion of it. That's the full-blown report, correct?

A. I assume so, that that's the one.

Q. And regardless of what date is labeled

there --

A. Okay.

Q. -- it's your belief that when prospective purchasers executed this agreement, 566, they were given a copy of the full-blown report --

A. Correct.

Q. -- whatever date it was dated?

A. Yes.

Q. The next document listed as being provided to prospective purchasers is an estimate from Gamble Home Services dated April 27, 2012 and that document was provided, correct?

A. Yes.

Q. Now, flip back to Exhibit 551. Is that the April 27, 2012 estimate?

A. It is.

Q. And that totals $2,968,000 and some change.

A. Yes.

Q. Did you have any conversations with Ms. Stein about Exhibit 551, her estimate?

A. Not that I recall.

Q. Did you have any conversations with Mr. Lyles or anybody on his staff about this

estimate?

A. Not that I recall.

Q. Did you have conversation with anybody about this estimate?

A. Not that I recall.

Q. Was there any attempt to -- well, scratch that. Were there any prior estimates to Exhibit 551 that you're aware of?

A. Not that I'm aware of.

Q. Was there any effort to make the estimate fit into a sweet spot or to make it higher or lower at any time?

A. Not that I'm aware of.

Q. Do you have 552?

A. No.

(Exhibit No. 552 was marked for identification.)

Q. (Tendered.) I may have asked you -- remind me who Pam Phelps is?

A. She's my assistant.

Q. Okay. Thank you. Exhibit 552 is a May 25, 2012 e-mail from you to Maria and Chris Allwin, and you're providing some information on Jody Guerry, Joseph Guerry?

A. Yes.

Q. Why are you sending that information to the Allwins?

A. Apparently from the context of the e-mail, we had discussed an appraiser.

Q. And was that to gauge the value of the home so it could be listed?

A. I would believe so.

Q. Any reason that you'd be aware of or --

A. No.

Q. And then you note in a meeting with Chris Drury, your broker-in-charge, he suggested -- and this is where I get the letter of intent and a confidentiality agreement.

A. Oh, uh-huh.

Q. As well as earnest money. But what was ultimately determined was once a prospective purchaser signed the confidentiality agreement, they could get a copy of the report.

A. I believe so.

Q. Without having to make an offer or provide earnest money.

A. I believe that's correct.

Q. Do you have 554?

A. I do.

Q. That is the June 11, 2012 appraisal by

Mr. Guerry? And the value of the home in June of 2012, he appraises it at 11,900,000?

A. Correct.

Q. If you look at the document that's Bates stamped KIRE 42, under -- about a couple inches down -- hypothetical conditions?

A. Okay. I'm there.

Q. Do you see where Mr. Guerry notes, the property owner has informed the appraiser that the subject property suffers from structural deficiencies?

A. I see it.

Q. This appraisal is based upon the subject property as if the structural deficiencies do not exist. And my question is is it your understanding that the appraisal of 11,900,000 assumes there are no construction defect problems with the home?

A. According to this, yes.

Q. Do you recall seeing this in 2012?

A. I would imagine that I would have, but I don't recall seeing it.

Q. All right. The value of $11,900,000, was that in line? Was that anticipated? Shocking?

A. Jody Guerry is an appraiser who's very familiar with property on Kiawah. So generally speaking, I agree with his appraisals.

Q. And we've seen -- we've looked at several of his appraisals today. We've seen the property go from 17 and a half million in 2006 down to 11,9 in 2012. And is that just a reflection of the downturn of the economy, real estate values generally?

A. Two things I want to point out. That earlier appraisal in 2006, know that there were two appraisal prices. There's a cost approach and there's a sales approach. Did you notice that?

Q. I'm sure at one point I did, but -- do you recall what the other value was?

A. I don't recall. I think that they were a couple million dollars apart. I think one was 17,9 perhaps -- you just said 17 and a half.

Q. 17,5 is what I recall.

A. Was it 17 and a half? And maybe the other one is 19 something. And oftentimes an appraisal will do both.

Q. Okay.

A. So to answer your question, there was a

downturn in our market in 2008.

Q. Sure. And Kiawah was not isolated --

A. We were not spared.

Q. -- or immune from --

A. We were not spared.

Q. This is the last appraisal I'm aware of. Are you aware of subsequent appraisals?

A. Not that I recall.

Q. The market has come back in the last couple years? A little?

A. It's been relatively flat for the last five years.

Q. Okay. Is that at Kiawah or nationwide?

A. Kiawah.

Q. Do you have an opinion as to what the two lots would be worth absent the Allwin residence but if you -- if she razed the house, R-A-Z-E-D, and sold the two lots, do you have any idea what they would be worth together or separately?

A. They would probably be worth $5 million each. So 10 million.

Q. And that's been relatively flat -- and I generalize you're ballparking it, you're shooting from the hip a little bit, but that value has

been relatively flat for the past five years.

A. Relatively.

Q. Have you had discussions with Mrs. Allwin about that possibility, that the house be razed and the lots sold or that the house be marketed as a potential teardown?

A. When we listed it in 2012, we certainly would have discussed that, and I believe you'll see an e-mail in something that I brought where we talk about that.

MR. BEST: Let's take two seconds right now to go off the record.

(Off-the-record discussion.)

MR. BEST: We're back on the record.

Q. Do you have 555?

A. I do not.

(Exhibit No. 555 was marked for identification.)

Q. Let me hand that to you. 555 is a one-time showing agreement that you and Mrs. Allwin have signed. The prospective purchaser is R. Hayden of London.

Do you know if R. Hayden of London viewed the home?

A. I don't know.

Q. Do you know whether R. Hayden procured any inspections or inspection reports?

A. I don't believe so.

Q. You have Exhibit 557?

A. I do.

Q. That's a June 27, 2012 disclosure statement from a Realtor's -- well, specifically from Kiawah Island Real Estate's perspective, what's the policy on -- what do you tell your owners who are filling out these forms?

A. We tell them that -- first of all, they have to complete them. We can't do it for them.

Q. Right.

A. And to complete it to the best of their knowledge. And if they don't know how to answer a question, what's really helpful to them is to have a preinspection, which will help them answer these, or attach an inspection.

Q. Now, at the time this disclosure statement was signed by Mrs. Allwin, everyone, including Mrs. Allwin, had the benefit of the full-blown Fuller Engineering report from March of 2012, correct?

A. I would believe so.

Q. You have 559?
A. Yes.
Q. That is the listing agreement and it's dated July 27, 2012?
A. Are you asking me?
Q. Yes, ma'am.
A. It is dated July 27th by Maria and our broker by July 30th.
Q. The sales price on the first page is $9,500,000, correct?
A. Correct.
Q. Did the list price fluctuate, change at any point?
A. No, it did not.
Q. Do you have 560?
A. Yes.
Q. All right. That is a July 27, 2012 disclosure statement, which is dated the same day Mrs. Allwin signed the listing agreement. It is a month later than the original disclosure statement she signed. Do you know why she completed a second disclosure statement?
A. I do not.
Q. Is there a policy where an owner creates one before a listing agreement that Kiawah Island

wants them to create another one at the time of listing? I'm just trying to --

A. Sure. Normally the South Carolina disclosure form and the listing agreement go out at the same time and are normally signed at the same time, completed and signed at the same time.

Q. That's Kiawah Island Real Estate's policy.

A. I believe in the state of South Carolina, we are required to give a South Carolina disclosure form that a seller is required to complete at time of listing.

Q. Do you have 561?

A. No, I do not.

(Exhibit No. 561 was marked for identification.)

Q. Let me hand it to you. That one is actually marked at the top for a change. This was a document that came from the Kiawah Island Real Estate package, and I'm assuming this document was created sometime in the summer of 2012. Can you tell me what it is?

A. We ask our sellers to -- this goes to all of our sellers, and it's where they complete what their estimated costs are for carrying the

house, or property. It could be a villa or a cottage. And the purpose of this is when we have buyers, when they want to know what it would cost to maintain the house, water, electricity, cable, the insurance, et cetera, we can share this with them.

Q. Sure. It's readily available to prospective purchasers and, generally speaking, this document is prepared by the owner at or near the time of listing.

A. Correct.

Q. At the bottom there are some handwritten notes -- well, do you know whose handwriting this is?

A. I do not.

Q. Do you know if it's Mrs. Allwin's or maybe Holly in your office was taking this information by phone?

A. Holly is in marketing, so she would not have taken it.

Q. Or Pam. Excuse me.

A. That's possible. However, we don't typically fill out these forms. It goes strictly to our seller.

Q. And you don't know whether Maria Allwin

completed this or whether someone at Gamble completed this?

A. I don't know.

Q. The handwriting at the bottom states, Gamble handles all repairs, management, HVAC, et cetera. Do you see where I'm talking about?

A. I do.

Q. And then there's a dollar figure, $148,367. Is that what has been paid to -- what had been paid to Gamble in the last calendar year?

A. I have no idea. This form does ask at the top that the figures represent what annual costs are.

Q. You just don't know how that figure was arrived at?

A. I do not.

Q. Do you have 565?

A. I do.

Q. And that is a copy of, for lack of a better word, a sales brochure?

A. Correct.

Q. And if I were interested in this property while it was listed, I would walk in, and there would be a spread of these on the

kitchen counter, that type of thing or -- what do you do with them?

A. Brochures go in file cabinets in our offices. And when an agent has a prospect who they believe might be interested in a particular property, the brochure is pulled and shared with the prospect.

Q. Who created Exhibit 565? Would that have been Holly Morrison?

A. That would have been our marketing department for which Holly worked.

Q. Did you review this before it was finalized?

A. I would have looked at it.

Q. Did Mrs. Allwin review --

A. I would have also sent it to -- I don't remember directly, but normal course of business, I will look at it and I will send it to the seller.

Q. For their approval?

A. Correct.

Q. Exhibit 566, you have, and that is the waiver and confidentiality agreement we've looked at previously?

A. Correct.

Q. How many prospective purchasers -- and if you need to ballpark it, that's okay -- actually signed this document and received a full-blown copy of the Fuller Engineering report and Ms. Stein's estimate?

A. To the best of my knowledge, two.

Q. Do you recall who those people were?

A. Let me think for a second. I believe two, because we had two offers is why I'm saying that. And you want to know who made those two offers?

Q. Yes, ma'am.

A. One was Michael Angelakis, and the other, I can't remember the name --

Q. Nicholas Howley?

A. Yes. Thank you.

Q. I have the Howley estimate, but I --

A. Estimate?

Q. Excuse me. Contract, proposal. I don't know that I've seen the Angelakis one.

A. You have it now.

Q. Thank you.

A. Uh-huh.

Q. Do you have 572? I think you do.

A. Yes.

Q. That is the Howley contract, proposed contract?

A. Yes.

Q. And the Howleys are offering $100,000 more than the list price at 9,6?

A. Correct.

Q. What do you recall about this proposal? Why was it more than the list price?

A. We had two buyers submitting contracts at about the same time, certainly within a day.

Q. Which was first, Angelakis or Howley?

A. I'm not sure which one came first. But we'll be able to tell from the documents.

Q. Do you recall the amount of the Angelakis proposal?

A. Yes. It was 8.5 million.

Q. Which is a million less than the list price?

A. List price.

Q. In Mrs. Allwin's deposition, she seemed to recall an offer of at least 10 million, if I'm recalling correctly. Is that ringing a bell with you at all?

A. It does not.

Q. But there is a copy of the Angelakis

proposal in the material you provided.

A. Yes.

Q. And other than the 8.5 million proposal by the Angelakises, you don't recall any other offers by Angelakis?

A. I do not.

Q. And other than the 9.6, you don't recall any other offers from the Howleys?

A. I do not.

Q. Mrs. Allwin rejected both offers, correct?

A. Correct.

Q. If she had both in hand -- did she have both in hand at the same time?

A. She would have. She would not necessarily have received them simultaneously, but she would have had both.

Q. One offer -- both offers were in play at some point at the same time.

A. Correct.

Q. 9.6 million being considerably more than 8.5 million, understandably she would reject the lower offer?

A. Correct.

Q. Why did she reject the $9.6 million

offer, which is more than the list price?

A. She shared with me on -- by phone that the house meant a great deal more to her children than she had realized.

Q. So she was choosing not to sell it.

A. Correct.

Q. And you can't tell me what -- with what frequency Mrs. Allwin and her children used the home.

A. I cannot.

Q. I'll represent to you that she told me at her deposition that she was interested in selling the house because the children were not coming to the house, and at least one of the children had no real emotional tie to the house at all, but what she told you was her children wanted her to keep it.

A. She didn't say they wanted her to keep it. She said -- I do remember this -- that the house meant more to her children than she had realized.

Q. Do you have 574?

A. No.

(Exhibit No. 574 was marked for identification.)

Q. Let me hand that to you. I think these may be notes from the telephone conversation you were just referring to.

A. Uh-Huh.

Q. Exhibit 574 is your handwriting?

A. It is.

Q. And did you make these notes during the phone conversation with Mrs. Allwin?

A. I probably would have, or immediately thereafter.

Q. The first line is, 9.6, very interesting. And I'm assuming that's referring to the Howley offer of 9.6 million?

A. I would assume so, yes.

Q. Is very interesting, your words or Mrs. Allwin?

A. Those would have been her words. I would have been jotting down primarily what she was saying.

Q. Next is, 9 for land, .6 for the house. Is that her thoughts, your thoughts, her valuation, your --

A. I don't know on that.

Q. Next is, her fear with that list price, 1.7 to renovate; is that correct?

A. Correct. That's what it says.
Q. What is the next --
A. With Ross's fee, about 2 million.
Q. Who is Ross?
A. I don't remember a Ross?
Q. Who was the agent representing the Howley's, do you recall?
A. Ellen Walkley.
Q. Is she with Kiawah Island?
A. She is.
Q. Is there a Ross at Kiawah Island? Oh, there's a Ross -- Ross is the expert. Excuse me. Ross is her engineer at Fuller Engineering. Are you attempting to document --
A. What she's saying to me on the phone.
Q. Right. And do you recall, 1.7 to renovate, she's weighing the benefits of keeping the house and repairing it?
A. That would be my understanding.
Q. So she says, 1.7 to renovate. But we've looked at the Gamble estimate of April 2012 of 2.9. Do you know of any other estimates?
A. I do not.
Q. She said, can't in good conscience sell the house. Do you know what she means here, or

what was your understanding of what she meant?

A. I would imagine that what she's thinking at this point -- well, I shouldn't say what I think she's thinking.

Q. And I'll be clear. Is she saying she can't in good conscience sell the house because of the problems it has or because it means that much to her children?

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

Q. What was your understanding if anything?

A. I don't know, but I thought she was referring to -- in the sequence of my notes, to whether or not the numbers made sense to her.

Q. And if she --

A. Because the next line says, nobody wants to sell at that price. I don't know.

Q. As you understood, meaning no one would want to sell that property, being oceanfront, for 9.6 million with a house on it just because of the value of the land?

A. I would imagine.

Q. Next is, want to keep the house?

A. Correct.

Q. The family doesn't want to sell?

A. There you go.
Q. So you recalled earlier that the house meant more to her children than she realized.
A. Sure.
Q. But here you've noted, the family does not want her to sell.
A. Correct.
Q. Next is, house not as bad as she had been initially told; is that correct?
A. Correct.
Q. What's your understanding of her statement?
A. That she didn't feel the house was as bad as she had initially thought conditionwise.
Q. Is it your understanding she's referring to the engineer's reports?
A. That, I don't know.
Q. Well, other than the physical condition of the home, what else would she be referring to?
A. I can't -- I don't know.
Q. She came down with another engineer the other day. Is that --
A. That's what it says, yes.
Q. Is that someone other than Fuller Engineering?

A. I don't know. I wouldn't have asked.

Q. Next statement is, she'll fix it and see where she wants to go from there. Correct?

A. Correct.

Q. At this point she's telling you or she's making the decision during the conversation that she's unlisting --

A. I don't know that she's making the decision right then, but she's certainly explaining it to me.

Q. And she's made it clear to all of us that she does not need the money, but it says, I don't need the money, that's Mrs. Allwin's statement?

A. Correct.

Q. Next you've written, I'm sorry to disappoint them -- oh, she's talking about the Howleys --

A. The buyer, the Howleys, they had written a letter --

Q. Right. Mrs. Allwin actually stated that was the -- that was actually the deal breaker. It was -- she found the letter repulsive. Did she relay that to you?

A. I don't remember. If I can read this --

Q. You write, it was a nice letter.
A. She had -- okay. So there you go. She had misjudged how much the house meant to the family.
Q. Oh, okay. Next it says, with a heavy heart that she calls her -- you?
A. Me. That's -- I'm writing fast. So with a heavy heart that she calls me.
Q. Next, she has sold other things before. She can -- affirmatively, can -- let go; is that correct?
A. Yes.
Q. It's just what she -- it's just not what she needs to do right now. And she's referring to selling the home?
A. Correct.
Q. Anything else you recall from that conversation?
A. Just that she felt badly for me.
Q. Right. And you make your money by selling homes. You don't sell homes, you don't make money. That's a fair statement, correct?
A. Correct.
Q. And I'm not suggesting you would pressure anyone to do anything they didn't want

to do, but was -- was this out of the blue? Her decision not to sell the home at all, was that completely out of the blue, as you recall, before March 27, 2013?

A. I was surprised.

Q. Was there any effort to -- again, not suggesting you would pressure -- put undue pressure on anybody, but was there any words of encouragement? Let's reconsider?

A. No, I wouldn't do that.

Q. And I appreciate that. That's a mark of a professional. Good for you. The next exhibit is 575. I don't think you have a copy of it.

(Exhibit No. 575 was marked for identification.)

Q. Let me hand this to you. That is the letter Mrs. Allwin is sending you where she is officially taking the house off the market?

A. Correct.

Q. What conversations, if any, have you had with Mrs. Allwin since March of 2013?

A. Very, very few. Probably fewer than what I could count on one hand.

Q. Were those social interactions or business interactions?

A. They would be business.

Q. And the nature of that communication was what?

A. A market update perhaps. You know, what's happening with the market.

Q. Because she's considering selling the home once it's repaired?

A. That is my understanding.

Q. And it's your understanding the house is hopefully, I think, wrapping up significant repair and renovation.

A. I know that it is being repaired, and I don't know for sure when it will be completed.

Q. Have you had any conversations with Phillip Smith or anybody on his staff about the nature or status of those repairs?

A. Not with Phillip Smith.

Q. Who do you deal with?

A. I do not know him.

Q. Okay.

A. But I have spoken with Justin Litman.

Q. That's the gentleman whose name I couldn't remember. Thank you.

A. Uh-huh.

Q. For what reason would you have to deal

with Justin Litman?

A. Maria contacted me late last year sometime and was excited about the house and the progress at the house and wanted me to take a look at it.

Q. To show it off or for you to gauge --

A. No. Just for me to see it.

Q. For professional reasons.

A. For -- I would imagine.

Q. Okay. But she has expressed to you a desire to sell the home once the repairs are completed?

A. Yes.

Q. Despite her 2013 letter about the house meaning more to her family than she realized and all that, during this repair process, most recent repair process, by Phillip Smith and Justin Litman, she -- your understanding is that she anticipates selling the home.

A. Yes.

Q. Specifically what conversations have you had with Mrs. Allwin about selling the home upon completion of the repairs?

A. We don't -- I don't know when the repairs will be finished, so we haven't begun any

formal listings or agreements or anything like that.

Q. She's just giving you a heads up, for lack of a better word?

A. Perhaps out there in the future.

Q. And again, your conversations with Justin Litman have been in the nature of what?

A. I have gone to the house to see what Maria wanted me to see, and I met him at the house, outside looking at the back of the house.

Q. Okay. And when was this?

A. In the fall, last fall.

Q. Fall of 2014?

A. Fall of 2014.

Q. And what did Maria want you to see?

A. The view had been opened up.

Q. I'm sorry?

A. Well, let's see. The vegetation had been trimmed so that there was a greater view.

Q. I'm sorry. Is this looking from the house to the ocean?

A. No. Standing with the ocean behind us and looking at the back of the house. And there had been changes to the house in design, architectural changes.

Q. All right. The pool deck --

(Interruption.)

Q. I'm sorry. You were interrupted, Ms. Noble.

A. That's okay.

Q. You were saying that there were some changes to the house?

(Interruption.)

Q. Ms. Noble, you said, ocean to your back, looking at the house, there had been some changes. And I know that Mrs. Allwin told us about the turret on -- if you're looking at the rear, on I believe the right side, the breakfast area off the kitchen, that turret had been removed? Do you recall that?

A. I think it's the turret on the left side.

Q. See, I thought there was another turret and she said there was only one, but one of the turrets had been removed. There was a change in that respect?

A. I believe so.

Q. It's my understanding that the pool deck has been shifted in some way?

A. I don't know.

Q. What other changes did Mrs. Allwin want you to see, I guess is a better question?

A. The cabana had been changed.

Q. In what way?

A. There had been a generator in a room off the cabana, which I think had been removed perhaps, and the configuration. I don't know specifically, but the configuration of the -- layout of the cabana I believe had been changed or was being changed.

Q. Are we talking interior?

A. Oh, the pool cabana. Outside.

Q. Right.

A. A little building outside, the -- yeah, the cabana had had a kitchen, kind of a kitchenette, and a bathroom shower, changing room. And I think there had been some changes in there, but I don't know exactly.

Q. What else did she want you to see?

A. The view had been -- oh, I already said that.

Q. You told me that.

A. Okay. Wallpaper, I believe -- see, I've been there twice. I was there once in the fall and once in January. So I'm not sure what I saw

which visit.

Q. Okay. Well, let's -- let's try to break them up.

A. Okay.

Q. The purpose of the visit in the fall was Mrs. Allwin wanted you to contact Justin and to go see these things that she wanted you to see.

A. Correct.

Q. Because she foresaw the possibility of selling the home upon the completion of repairs.

A. She was -- I don't know if she said that in the fall, but she was excited about the house.

Q. All right. Why did you go out in January?

A. Because she asked me to go back and look at it again, because she was excited. And at that point for sure I believe she was talking about selling it when it was finished.

Q. When you went in the fall, obviously you went around the exterior of the house. Did you go inside the house?

A. I don't remember us going in in the fall. We may have, but I don't remember going in. I think we stood strictly outside. But did go in in January.

Q. In the visit in January, did Maria Allwin call you, e-mail you?

A. She would have e-mailed me.

Q. Is that e-mail in your stack of documents?

A. Probably.

Q. And that is, please, when you get a chance, I'd like you to go back out to the house and --

A. Sure.

Q. -- see whatever? Do you recall specifically what she wanted you to look at in January?

A. No, I don't. But it might be in there.

Q. What do you recall her being excited about, to use your words, or what did she want you to see?

A. I think in general she is excited about or was excited about having the house come back together again. You know, not looking as though it's in a state of disrepair but having it finished again.

Q. Do you know whether she has visited the home during the repair process?

A. I have no idea.

Q. If there's an e-mail -- and we talked about it briefly -- you have handed me three stacks of documents. These are three separate stacks. They're not copies, are they?

A. They're three separate stacks.

Q. The documents in each stack are different.

A. They're all different.

Q. And I sent a subpoena to Kiawah Island Real Estate several months ago, and they produced documents. And then you said earlier off the record -- and if you need to touch this up or comment, please feel free -- but essentially at some point over the weekend you were concerned that your personal e-mails had not been produced.

So you went to the office yesterday and spent, to our great satisfaction and appreciation, some hours printing off those e-mails and attachments, correct?

A. Correct.

Q. And you brought those with you this morning, correct?

A. Correct.

Q. And we say personal e-mails, but these are on your computer --

A. Correct.

Q. -- on the Kiawah Island Real Estate e-mail system.

A. Correct.

Q. We have not had an opportunity obviously to review these documents before today. I hope to not have to invite you back for another deposition, but I just reserve the right. I'm going to scan these documents now, or review them now, while these other attorneys are asking you questions. And they won't even have the benefit of looking at them while they're asking -- or before they ask their questions. So I say all that to say this. We may have to bring you back.

Robert, if you want to say anything on that, that's fine. But we do appreciate you going to the trouble of pulling these documents. Thank you.

With that, I'm going to pass you and I appreciate your time. It was a pleasure to meet you.

A. Very nice to meet you.

MR. LYLES: Just from my standpoint, I haven't talked to her about it. I don't know what your plans are. We'll just

reserve the right to object if we think it's appropriate.

MR. BEST: Understood.

EXAMINATION

BY MR. CANTWELL:

Q. Ms. Noble, are you okay to go forward?

A. Yes.

Q. Do you need a break or are you fine?

A. No.

Q. My name is Josh Cantwell, and I represent Buffington Homes and Dan Buffington in this matter. From your testimony today, it's my understanding you do know who Buffington Homes is; is that correct?

A. I do.

Q. Tell me about your involvement with them.

A. With Dan and --

Q. And Buffington Homes.

A. Just in general?

Q. Yes.

A. They're a builder on the island. They have a reputation for building high-end homes. And I know Dan and Cathy. I've known them for many years.

Q. Have you ever been involved in any other litigation matters involving Buffington Homes?

A. I have not.

Q. You looked at Exhibit Number 222 earlier today. Do you have that in front of you?

A. I do.

Q. And this is a document from Buffington Homes sent September 11, 2006; is that correct?

A. Correct.

Q. And it's addressed to you?

A. Correct.

Q. Is that the PO Box for Kiawah Island Real Estate?

A. It is.

Q. So that's where you would have received mail?

A. Correct.

Q. You don't recall receiving this document as we sit here today.

A. I do not.

Q. But it was your normal course of business, when you received documents concerning the Allwin residence, that you would then forward those on to Mrs. Allwin; is that correct?

A. That would be routine.

Q. Do you recall anything about Dan Buffington or Buffington Homes' involvement with the Allwin residence?

A. I do not.

Q. You don't recall any specific conversations with Dan Buffington or anybody in his office?

A. I do not.

Q. Do you have any idea what their original scope of work was in the 2004, 2005 range?

A. I do not.

Q. Did Mrs. Allwin ever make any complaints to you about Buffington Homes?

A. Not that I recall.

Q. Exhibit Number 218, you also spoke about earlier today. Do you have that one in front of you?

A. I do.

Q. And I believe this was a note that you wrote?

A. It's my writing, yes.

Q. You're not sure if this was to Dan Buffington or not?

A. I would imagine it is.

Q. Just based on the sequencing of the

Complete Inspection Services report and the scopes that were provided thereafter in September of 2006?

A. That would make sense.

Q. Do you recall anything about conversations with Mrs. Allwin during this time?

A. I do not.

Q. You mentioned that there were -- do you have more than one assistant in your office?

A. We have more than one assistant. I personally have one, but over the years, we've had -- I've had different ones.

Q. Okay. Back in this time of 2006, who would have been your assistant?

A. I believe it was Lynn Oliver.

Q. And is she still with Kiawah Island?

A. She is not.

Q. Do you know where she is today?

A. I do not know exactly where she is, but I believe she's working somewhere on James Island.

Q. When you spoke with Mrs. Allwin recently in the 2014, 2015 time frame, did you ever discuss a listing price?

A. We have not.

Q. When you listed the property in 2012 for 9.5 million, what went into coming up with that listing price?

A. I'm sorry. Would you repeat?

Q. When Kiawah Island Real Estate listed the property in 2012, how did you come up with the $9.5 million listing price?

A. We would have reviewed what oceanfront properties were selling -- you know, what lots were selling for at the time. And --

Q. So when you listed it, were you listing it just based on the lot value, nothing for the house?

A. No. It would have been lot value primarily. That's the biggest portion of the value.

Q. Okay.

A. And then something for the house. And what would have been considered, of course, is the estimate for repairs.

Q. From Gamble at the time?

A. Probably. Again, I need to see it in sequence to know. I don't remember when that proposal was.

Q. What was your main method for contact

with the Allwins? Were you commonly just e-mail or were you-all talking by phone? How was -- how did it normally go?

A. Primarily by e-mail.

Q. And do you think that any e-mails between the two parties would be in the documents that you produced today?

A. I believe so.

Q. That's all the questions I have for you right now. I'm just going to reserve my rights with the documents that you produced today to ask you some further questions if we need to. Thank you so much.

A. Thank you.

EXAMINATION

BY MR. GRIMBALL:

Q. Ms. Noble, my name is Heyward Grimball. I represent Air Fasteners of Carolina. Have you ever heard of that company?

A. I have not.

Q. So you have no knowledge of their work on the project, if any?

A. I do not.

Q. You described for Mr. Best a couple specific problems that you could recall or that

you noticed over the years. Do you recall any other small things, you know, any problems with the nails on the property or anything like that?

A. In the master bedroom at some point I noticed wallpaper that was peeling.

Q. Okay. And that's the only thing you can think of?

A. You know, I do not inspect a home.

Q. Well, fair enough.

A. Right.

Q. And you don't ever -- when you're looking at a house and you're thinking about listing or the client is thinking about listing, you don't take notes of those sorts of things. You just sort of -- I mean obviously you have to walk through it at some point. But do you like go through it and say -- you know, how do you --

A. I would look at it with an eye for staging primarily; you know, if they have too many personal photographs sitting around and things like that. And so my eye is strictly from the staging perspective, not the inspection perspective. That's what we leave to the inspectors.

Q. I understand. Well, that's all the

questions for me. Thank you so much for your time.

A. Thank you.

EXAMINATION

BY MR. WINTON:

Q. Good afternoon, Ms. Noble. My name is Tyler Winton. I'm here today on behalf of Shope Reno Wharton. I'll call them SRW for the purposes of my questions today. You're nodding your head. Are you familiar with my client, I take it?

A. Yes, I am.

Q. And how are you familiar with my client? You're just cognizant of the fact that they have designed a lot of homes on Kiawah?

A. The Shope Reno Wharton first came to Kiawah to design the house for the Allwins.

Q. Tell me about your understanding of SRW's involvement on the island thereafter.

A. I have not had them -- I know that they have designed other homes on Kiawah.

Q. Sure.

A. As to how many, I don't know.

Q. Fair enough. I take it that you've not assisted anyone with purchasing or selling

another home on Kiawah that was also designed by SRW; is that correct?

A. I have a listing of another house --

Q. Okay.

A. -- that was designed by Shope Reno Wharton.

Q. You currently do?

A. I currently do.

Q. What residence is that? What is the address?

A. 85 Blue Heron Pond.

Q. Now, I understand that you know that they've designed other homes on Kiawah. Do you have an opinion of their work or services that they provide? Do you have any opinion whatsoever regarding their designs or --

A. We find generally, all of us at Kiawah Island Real Estate, their designs to be aesthetically pleasing. They're attractive.

Q. Were you excited about getting the listing at 85 Blue Heron Pond -- was the fact that it was designed by SRW a positive?

A. Yes. It's very attractive.

Q. When you say it's very attractive, you're saying 85 Blue Heron Pond was very

attractive, or the mere fact that it was also designed by Shope Reno Wharton will also assist, or you believe it will assist in the sale of the home?

A. Okay. Either/or again. I'm sorry.

Q. Yeah. What I was trying to do is clarify what you meant when you said it was very attractive. Were you merely talking about the home itself was aesthetically pleasing?

A. Yes. It's architecturally attractive.

Q. And then in addition to that or separate from that, if you will, I also wanted to know if having a home that you have the listing of that is designed by SRW is a positive. If the mere fact that a home is designed by SRW, will, in your mind, you believe help you to sell the home? Is it a selling point?

A. I would say that it is.

Q. Do you recall talking to Mrs. Allwin or anyone else regarding the design of the subject residence in this case, Mrs. Allwin's home?

A. Do I recall what? I'm sorry?

Q. Sure. Do you recall talking to Mrs. Allwin or anyone else about my client's work on this project?

A. Not that I remember.

Q. Okay. And let me tell you what I'm really getting at, ma'am. I simply want to know if you and Mrs. Allwin sat down and you recall any conversation, whether in person or over the phone, where Mrs. Allwin relayed to you criticism regarding my client's work on her home?

A. Not that I recall.

Q. How about anyone other than Mrs. Allwin? Had you talked to anyone else on the island where they may have expressed any comments related to my client's work and services that they provided on the Allwin residence?

A. None that I recall.

Q. To the extent you have had written communications regarding my client's work on a project, I assume that they'd be contained in these e-mails that everybody's talked about and so, like the other folks around this table, I'm going to repeat again, while we hope we don't have to ask you further questions about it, I'll reserve my right to do so such that there are e-mails in there that pertain to my clients. Okay?

A. Yes.

MR. WINTON: Okay. Thank you, ma'am. I appreciate your time today.

EXAMINATION

BY MR. FREEMAN:

Q. Hi, Ms. Noble. We met when you arrived this morning. My name's Ian Freeman. I don't think you ever met my client, so I'm not even going to bother to tell you who they are. I haven't met them either.

You mentioned earlier that you recalled seeing some water damage or staining at the rear doors of the home in the great room.

A. The wood floors next to the French glass doors, that area.

Q. And would those be the doors that you exit out of the great room and you're going out to the patio for the pool?

A. Yes. Correct.

Q. How many doors were there, do you remember?

A. There are several sets of French glass doors across the back of the great room. And it would be a guess as to how many, but I would guess -- if I had to guess, I'd guess four.

Q. Okay. And are they situated all the way

across the back of the house? I mean were there two to the left, two to the right, two in the middle?

A. Right. I believe -- in the living room, I believe they're equally spaced. And then, of course, off the kitchen, there was another set of French glass doors. And I can't remember if there's a set off the study.

Q. And all those doors stepped out onto a patio to go out to the pool.

A. Correct.

Q. And there was no, you know, covered porch covering those doors, correct?

A. I don't believe so.

Q. Now, when you step out those doors onto that patio, is that like a concrete deck or tile deck, or what was the surface there, do you recall?

A. It's not tile, or was it not tile? It looks -- I'm not sure what it is.

Q. It's not a wooden deck?

A. No.

Q. Okay. And then from that deck, you could step down even further down to the pool deck.

A. Correct.

Q. So there's sort of two levels. There's a level off -- where you step out the doors and then another -- you step down to another level, the pool was lower.

A. Correct.

Q. But you recall at some point during one of your visits seeing evidence of water damage in the house, inside the home, around those doors.

A. Yes.

Q. And I think you also said you recalled seeing evidence of the floors cupping I think in Mr. Allwin's office.

A. Correct.

Q. And as a Realtor -- and I know you're not a construction expert and don't -- aren't holding yourself out as one, but as a Realtor, you do go into homes and have some familiarity with issues such that you would be aware that cupping of the floors may indicate some type of moisture problem, correct?

A. On Kiawah, there are homes with floors that cup. And again, I'm not a contractor. So as to why they're cupping, I can't say.

Q. Let me ask you to turn to Exhibit 215,

which is the July 11, 2006 Complete Inspection Services.

A. Okay.

Q. On the first page, it has a fee that Complete Home Inspections paid -- or charged of $950 for their inspection report. Is that --

A. Correct.

Q. Would that be something that Mrs. Allwin ultimately paid for?

A. That's a good question. When you see my e-mails that I brought today, the copies of e-mails, I know that there was an e-mail in there from Pat McKinney with Kiawah Island Real Estate suggesting perhaps that the company paid for an inspection, I believe at the beginning. So it could have been this one. But ultimately I'm not sure who paid for it.

MR. BEST: Actually it was an appraisal --

THE WITNESS: Oh, was it the appraisal?

MR. BEST: Yes.

A. I'm sorry. It was the appraisal. Thank you.

Q. But typically would your client whose

home is being inspected be responsible for the inspection report charges?

A. Yes, that's correct.

Q. Now, this is dated July 11, 2006, correct, on the first page?

A. Correct.

Q. Turn in to the third page where it's got sort of their inspection report summary?

A. Yes.

Q. And the second line of that, it says, water stains at rear basement walls-indications of water infiltration at rear doors-check flashing and subfloor in this area.

Did I read that correctly?

A. Correct.

Q. If you drop down to about the eighth line below that, to the right of where it has 5-A, it says, cupped hardwood flooring at right side office. Discoloration, loose hardwood at ocean side windows.

Would the findings that Complete Inspection Services made on these issues in July of 2006 indicate to you that the type of -- the damage at the rear doors and cupping of hardwood floors that you identified also existed at that

time, July 2006?

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

A. I'm sorry. I didn't understand.

Q. Does the fact that Complete Inspection Services is finding the same problems that you said you personally observed in July of 2006 indicate to you that indeed the very same things you saw existed at that time?

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

A. I know that I said that I had noticed cupping of hardwood floors in Jim's office, Mr. Allwin's office. I don't know when I noticed that. It could have been then, but I don't know exactly when.

Q. Okay. From this document, does it appear that Complete Inspection Services is identifying the same thing that you've observed in terms of the cupped flooring?

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

A. In other words -- I'm not sure I understand. You're asking me if I'm saying the same thing this is saying?

Q. Yes.

A. Not the second sentence that talks about discoloration or loose hardwood, not that sentence, but strictly the one on cupping, yes.

Q. Cupped hardwood flooring at right side of the office, that's where you saw cupped hardwood flooring, correct?

A. Yes, correct.

Q. And Complete Inspection Services found that cupped hardwood flooring in July of 2006.

A. Correct.

Q. And up at the top, the second line, indications of water infiltration at rear doors.

Are there any other rear doors than the ones off the great room going out to the patio?

A. Yes. There's a rear door off the kitchen, and I can't remember if there's one off the office. We could look at a floor plan and be able to tell you.

Q. But you understand that it's the -- the Ross Fuller and Ms. -- excuse me, I'm sorry -- Ross Fuller and Mrs. Allwin's experts have made repairs all the way across the back of the home, correct?

A. I don't know what repairs have been

made.

Q. When you went out to the house last fall, did you see that they had completely reworked all the doors all the way across the back of the house?

A. When I was there in the fall, I don't know that I went in. I don't remember going into the house. I remember standing at the back, looking at the back of the house, outside.

Q. Had any part of the back of the house been -- had the siding and anything stripped off of it? What was the condition at that time?

A. I'm trying to remember. I don't know if all the siding was on or off the house. It may have been partially on and partially not at that time when I was there.

Q. Did you --

A. I can't remember if all the siding had been replaced yet or not.

Q. Did anybody brief you about what they did?

A. Yes. Justin Litman.

Q. What did he tell you?

A. You know, I don't -- I wasn't taking notes, and I really don't remember a great deal

about the conversation, just that they were excited about the whole process and that it was going well.

Q. Where is the basement or -- that's a bad question. Is there a basement under the great room of the house where the rear doors exit on to the --

A. On Kiawah, we don't have any basements in the traditional sense, because all the houses are built up. So it would refer to an area beneath the living room.

Q. Right, correct. And I'm looking at the Complete Inspection report again, that third page, it says, water stains at rear basement walls.

A. Yes.

Q. And I understand that, you know, we have drive-under garages --

A. Right.

Q. -- and that type of thing. There's not a true basement in that sense, but --

A. Right.

Q. -- is there what they're referring to as basement area here, is that underneath the great room?

A. What he's referring to?

Q. Yes.

A. I'm not sure what he's referring to. But there certainly is an underneath part of the house that would be under the living room and there would be an underneath part that's below the porch or the back patio.

Q. And is it your understanding that Mrs. Allwin has historically experienced water intruding into that basement?

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

A. I don't know other than what the inspection says.

Q. Which doors were you referring to when you say you saw evidence of water damage at the rear doors of the home?

A. The French glass doors that are across the back onto the pool. Because at one point, you know, those were taken off and they were boarded up and there were -- there was flooring that had been pulled up, so you could see.

Q. Okay. Well, if that's where you saw the water intrusion and evidence of water damage, where Complete Inspection Services says,

indications of water infiltration at rear doors, wouldn't that indicate to you that that's -- that you're referring to the same doors, that -- where you saw the damage?

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

A. I wouldn't have seen damage in 2006 there. I saw it later, some years later -- I don't know when -- when that floor was actually pulled up.

Q. You don't know whether Mrs. Allwin hired any contractors to perform any repair work to address the items in the Complete Inspection Services report marked as Exhibit 215, correct?

A. I don't -- you're asking if I know if she hired anyone specifically after this?

Q. Yes.

A. I do not know.

Q. Is it Phillip Campbell that is performing the repairs now? Do you know the name of the contractor who's performing --

A. I've never heard of Phillip Campbell that I remember.

Q. Is it fair to say you don't know the name of the contractor who's been performing the

work for Mrs. Allwin?

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

A. I know -- I've met Justin Litman, and I don't know -- I believe he works for Phillip somebody, but I don't know --

MR. BEST: Smith.

Q. I'm sorry. Phillip Smith.

A. Okay.

Q. Okay. I misspoke.

Prior to the work being performed by Phillip Smith, are you aware of any repair work being done to address the issues in the Complete Inspection Services report marked as Exhibit 215?

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

A. I don't know that there was a repair that was done because of this inspection at that time.

Q. Let me ask you to turn just briefly to Exhibit 217. That's the Albrecht environmental report. Prior to the work of Mr. Phillip Smith, are you aware of any work done at the Allwin residence to address the issues identified in Exhibit 217?

A. I am not aware of when any repairs were begun.

Q. And the Albrecht report is July 24, 2006, correct?

A. Correct.

Q. On the very first page under -- at the bottom of the first page, under first floor, the third sentence in says, the wood beneath the back doors shows signs of vapor intrusion.

Does that indicate to you that that's talking about the same back doors going off the great room to the pool patio where you saw evidence of water damage?

A. I would imagine that that's -- that those are the same doors, because those -- their only back doors are along the back of the house.

Q. If you turn to the very last -- I'm sorry -- the third page in, this signature page for the Albrecht environmental report.

A. The signature page?

Q. Well, and there's Jack Pitts, project manager's name there, but there's not actually a signature. But this report notified Mrs. Allwin that the recommendations above should eliminate the existing fungal contamination, however, will

not address the source of the vapor intrusion causing the contamination.

Did I read that correctly?

A. Yes.

Q. So Albrecht is alerting Mrs. Allwin that even though we may clean up the mold that's manifested, you need to do something to the house to stop the water from coming in, correct?

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

A. I'm sorry. Your question?

Q. Albrecht is notifying Mrs. Allwin that she can clean up the signs of the mold to get your house ready to sell it, but more importantly, Mrs. Allwin, you need to stop the water from coming into your house or otherwise the mold's going to come back, right?

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

A. The document says, however, will not address the source of the vapor intrusion causing contamination, causing the contamination.

Q. So Albrecht was basically alerting Mrs. Allwin that you've got to go perform the other types of remedial tasks like Complete

Inspection has identified to stop the source of the vapor intrusion, correct?

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

A. What I know is that they're saying that the source needs to be addressed. That's the way I would read it.

Q. You've got to stop the leak, correct?

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

A. I can't -- I can't say that. It just says, will address the source.

Q. Turn, if you would, to Exhibit 222. This is the Buffington Homes letter of September 11, 2006, addressed to you. If you look at the second page, it specifically mentions the Complete Inspection Services report.

As indicated previously, our fixed price proposal, scope number one, is limited to the items listed on the report authored by Complete Inspection Services. Correct?

A. Correct.

Q. So Exhibit 222 is referencing Exhibit 215, correct?

A. That's correct.

Q. Under that scope number one, item number 5, in Exhibit 222, that references exterior wall at front porch, pool deck and rear deck. And then under item B is remove French doors and windows.

The French doors and windows that are being referred to there are the ones going across the back of the house going out to that rear deck, correct?

A. I would imagine that that's correct. That is where the French doors are.

Q. Can you step out from the office also onto the rear deck?

A. That's the part I can't remember. We could look at a floor plan, but I can't remember if there's a door directly from the office to the outside.

Q. Under -- look at number 8 in the scope on Exhibit 222. Flooring at office. Item A says, demolish cupped floor. That would be the cupped floor that you saw in Mr. Allwin's office, correct?

A. I would believe so.

Q. And B, waterproof concrete. Does that -- do you recall there being a set of French

doors that you could open and go out of the office onto the deck?

A. I don't remember that.

Q. Item D there says, repair damaged flooring by doors and windows.

A. I'm sorry. Where are you now?

Q. Under 8-D, repair damaged flooring by doors and windows.

A. Yes.

Q. Would that -- would the scope here in any way seem to indicate to you that there is some type of door that you can exit and step outside from the office?

A. It would.

Q. And that the waterproofing -- the waterproofed concrete would be the concrete decking just outside the door?

A. I would believe so.

Q. And this pricing that Buffington Homes gave to Mrs. Allwin was dated September 11, 2006, correct?

A. Correct.

Q. And do you know if Mrs. Allwin undertook this work?

A. I have -- I do not know.

Q. And if she didn't undertake this scope of work with Buffington Homes, do you know if Mrs. Allwin hired any other contractor to perform this work?

A. I do not know.

Q. I hate to do this to you, but would you just turn briefly back to 215 for me. That's the Complete Inspection Services report.

And the third page in, the inspection report summary, there's the item that has 8-A written to the left of it, wood damage noted to lower cedar shake siding at perimeter of rear decks at ground contact. This house was completely clad in cedar shakes?

A. I believe so.

Q. And that's where -- where they're referring to at 8-A is where the siding comes down and touches the pool deck surface or close to it?

MR. CANTWELL: Object to the form.

A. It talks about at ground contact, so I don't know if they mean at the pool deck or on -- literally on the ground.

Q. It says, at perimeter of rear decks. Okay. I see -- you're not sure if that's where

the siding's actually coming down and touching the rear deck itself or that's to the sides of the deck?

A. I'm not sure I understand your question on that one.

Q. Was there -- below the windows and doors, was there shake siding that would come down and touch the pool deck if you recall?

A. Yes.

Q. Let me ask you to turn to Exhibit 549, the Fuller Consulting report.

A. 549?

Q. Yes, ma'am.

A. Okay. Thank you.

Q. This is the Fuller Consulting report that would -- for building envelope repair documents that would have been provided to prospective buyers of the Allwin residence in 2012, 2013, correct?

A. The one that we provided was very thick and this is not, so I'm --

Q. And this may not have all the -- look at the second page of this.

A. Okay.

Q. Where it has, one, scope of work; two,

mechanical scope; three, drawings and details, et cetera?

A. Yes. The contents.

Q. And I'll represent to you -- yes, this is probably just the nine-page or so introduction to the report and does not include -- we don't have marked here all those items one through six referenced.

A. Okay.

Q. But does this appear to be the scope of work document anyway that would have been provided to prospective buyers?

A. It does.

Q. Now, if you would, turn for me to page 6 of 9. Oceanfront patio, item 6.

A. Okay.

Q. 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.

Does it appear to you that Fuller Consulting is identifying the same problems at the location of the rear doors going onto the deck that Complete Inspection Services previously

identified?

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

A. What -- where is the -- what exhibit is the inspection again?

Q. 215.

A. 215. Oh, here it is. And it was 8-A, right?

Q. Well, and there's also -- look at item number 2, water stains at rear basement walls, indications of water infiltration at rear doors, check flashings and subfloor in this area. Next line down, it says, very wet under rear patio.

A. You're on the inspection report?

Q. Yeah. Complete Inspection Services.

A. You're on number 2?

Q. Item 2, and then I went on to 3.

A. Okay. Got it. So you're asking me whether or not I think that what's in this report is referring to the same thing in the other report.

Q. Yes, ma'am.

A. Just give me a second.

MR. LYLES: Object to the question.

A. That's very possible.

Q. It seems to me that it's referring to the same thing that where the great room exterior walls meet the rear deck, you've got these French doors and windows, right?

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

Q. And you've seen some evidence of water damage at this -- at the area of the French doors.

A. That's correct.

Q. And Complete Inspection Services found some evidence of water damage in May of 2006 -- I'm sorry -- July of 2006 and also found water stains at the rear basement walls underneath the rear doors.

And then we fast forward to Exhibit 549 and Mr. Fuller's report of March 16, 2012, and he's also complaining about evidence of water intrusion at the basement level at the ocean side patios and rotted wood framing observed below the French doors. And my question to you is, it would appear from the documents that Mr. Fuller -- I'm sorry -- Mr. Clements at Fuller Consulting in 2012 is identifying the same issues that were identified by Complete Inspection

Services in 2006, correct?

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

A. I don't feel comfortable interpreting anyone's inspection report. And I'm -- I wasn't the inspector. From a layperson's perspective, I could see where it looks as though it's referring to the same.

Q. Well, and I appreciate that. And all I'm really trying to gather is from your understanding of the house and a person that has been involved in efforts to try to sell the house and your having knowledge of the Fuller report and having provided it to prospective buyers and having been involved in getting Complete Inspection Services out to the house to identify these types of issues, that the same areas of the house -- we're specifically talking about the rear French doors going out of the great room on to the back deck leading to the pool -- that was an area that's a source of concern for Complete Inspection Services in 2006, correct?

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

A. It appears so.

Q. And the same area of the house, the great room, French doors leading to the rear deck, was also identified as an area of concern by Fuller Consulting in 2012, correct?

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

A. Correct.

Q. And for both Complete Inspection Services and Fuller Consulting, the issue was water intrusion in this area, correct?

A. Ask that last part again?

Q. For both -- Complete Inspection Services says, indications of water infiltration at rear doors, correct?

A. Indications of -- yes. That's what it says.

Q. And Fuller Consulting also in 2012 they're concerned about water intrusion, correct?

A. Correct.

Q. In this same area, the rear doors leading from the great room to the rear deck.

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

A. It would appear so.

MR. FREEMAN: Thank you, ma'am.

That's all I've got.

EXAMINATION

BY MS. MCINTOSH:

Q. I'll be just a few minutes, Ms. Noble. I'm Caroline McIntosh. I represent Superior Surfaces of Charleston, Inc. Are you familiar with them?

A. I'm not.

Q. You've never come across them in any of your work at Kiawah?

A. Not to my knowledge.

Q. What about a fellow named Tim Crump?

A. Not that I know of.

Q. So you don't have any knowledge of Superior Surfaces' scope of work on Mrs. Allwin's house, correct?

A. I do not.

Q. You don't have any opinions, complaints or criticisms of Superior Surfaces' performance of its scope of work at Mrs. Allwin's house, correct?

A. I do not.

Q. And you don't plan to offer any opinions on Superior Surfaces' performance of its scope of work?

A. I do not.

MS. MCINTOSH: Thank you. That's all I've got.

EXAMINATION

BY MS. WIETERS:

Q. Ms. Noble, I'll be brief. My name is Elizabeth Wieters, and I represent Picquet Roofing. I'm not sure if I'm even pronouncing that correctly, but it's spelled P-I-C-Q-U-E-T. Are you familiar with Picquet at all?

A. I'm not.

Q. So you don't have any information or personal knowledge about the scope of work Picquet might have performed on the Allwin house?

A. I do not.

Q. During your business relationship with the Allwins, how many times did you go out to the house during ongoing construction work where you observed ongoing work being done?

A. I have no idea, but I was not involved on a regular basis to go out -- I didn't go out to check on anyone's work.

Q. Right. I understand.

A. Sure.

Q. Do you think maybe less than five or

less than three times that you went out and actually saw maybe repairmen or construction workers working?

A. You want me to guess as to how many times I've been there when something was being repaired?

Q. No --

A. I'm just not sure I understand.

Q. If you really don't know, but if it's -- if it's less than -- if it's only a few times or multiple times, but you have no idea.

A. Of how many times I went out to --

Q. Went out to the house and there was repair work or ongoing construction work.

A. I would say less than half a dozen.

Q. Okay. Did you ever make any observations about the roof generally?

A. No, I did not.

Q. Did you ever see anyone working on the roof?

A. Not that I recall.

Q. Do you recall ever having any conversations with Mrs. Allwin about the roof in general?

A. Not that I remember.

Q. Did Mrs. Allwin ever discuss Picquet Roofing with you?

A. No, ma'am.

MS. WIETERS: That's all I have. Thank you. And I reserve the right also if I want to look through your e-mails if I see anything that has to do with Picquet Roofing, I might ask you a few more questions about that. Okay. Thank you.

EXAMINATION

BY MR. REESER:

Q. Ms. Noble, my name is Brandon Reeser. It's my understanding that you helped the Allwins pick out those two lots in the '90s; is that correct?

A. Correct.

Q. Did you have any other interactions with them in the '90s before you retired?

A. Not that I remember.

Q. Okay. And then you were retired from 2000 to 2005; is that correct?

A. Correct.

Q. After you came back to Kiawah Island Real Estate, do you remember the first time that you talked with Mrs. Allwin or Chris Allwin or

Mr. Allwin?

A. It would have been sometime in 2006 for sure. If in 2005, I don't remember.

Q. In 2006 do you remember who you talked to? Did you talk to Mrs. Allwin at all or Chris or was it always Mrs. Allwin?

A. It would not have been Chris in 2006. I know I would have talked to Mrs. Allwin. I don't remember if I would have talked to Jim Allwin. I saw him in passing one time in our office, but he was not there to see me or about any business on his house.

Q. Okay. Do you know if Mrs. Allwin took care of the business regarding the house or did Jim?

A. I don't know for sure.

Q. Whenever you would send materials to Mrs. Allwin, would you copy Mr. Allwin on them or would they just be addressed to her?

A. I believe just to her.

Q. You don't remember if those would have been sent by e-mail or regular mail at the time?

A. Probably e-mail primarily. And then if we had anything for her -- well, I think probably e-mail primarily. I don't remember anything

else.

Q. And that was the primary method that you communicated with Mrs. Allwin all through to present day.

A. Correct.

Q. The times that you've gone to the house, have you ever been in the attic?

A. No.

Q. Have you ever been in the upstairs, looked at the upstairs bedroom ceilings? Have you ever seen any water stains or mold or anything like that?

A. Not that I remember.

Q. What about on the ceilings in the first floor? Any mold or water stains on those?

A. Not that I remember.

Q. You've never been in the attic?

A. No, sir.

Q. Do you know, had Mrs. Allwin ever mentioned issues with the insulation in her attic?

A. Not that I remember.

Q. Do you know of a company called Sprayseal Insulation?

A. I do not.

Q. Have you ever used spray foam insulation in any of your homes?

A. Yes, I have.

Q. Do you have any opinions on its use?

A. On its use?

Q. Uh-huh.

A. Whether I like it or not?

Q. Uh-huh. Just from personal experience.

A. In general it keeps attic space cooler than the old fiberglass batting. I like that.

Q. Do you know how it's installed?

A. I've not seen it done, but my understanding is they blow it in.

Q. But you haven't been in the attic space in that home.

A. I have not.

MR. REESER: I think that's about all I've got. Thank you. And for formality's sake, I'll reserve the same right as everyone. I don't think -- I'm pretty sure I'm not going to have any questions for you.

MR. GRIMBALL: Can we just stipulate that everybody reserves that right?

MR. LYLES: I think Dean reserved the right for everybody.

MR. BEST: Anyone on the telephone?

MR. LACOUR: Andy Lacour. No questions.

EXAMINATION

BY MS. FRAGALE:

Q. This is Sarah Fragale, and I represent Builders FirstSource. Have you had any contact with anyone at Builders FirstSource as it relates to the work performed at Mrs. Allwin's home?

A. Not that I'm aware of, no.

Q. Do you have any information as to Builders FirstSource's involvement during the repairs made by Buffington Homes?

A. No, I do not.

MS. FRAGALE: Those are all the questions I've got.

MR. BEST: Anyone else on the telephone?

MR. SMITH: Bachman Smith. No questions. Thank you.

EXAMINATION

BY MR. BEST:

Q. Ms. Noble, I have very briefly skimmed these documents and want to ask you just a couple of questions.

A. Please.

Q. The first contact I see in these e-mails regarding the Allwin house is from Pat McKinney to you. Who is Pat McKinney?

A. Pat McKinney was the president of Kiawah Island Real Estate. For a long time he was the broker-in-charge, and I believe at that time he was the broker-in-charge.

Q. And he is relaying some information about Jim and Maria Allwin's separation. It's my understanding that Mrs. Allwin alleged Mr. Allwin of infidelity and they separated. Is that your understanding?

A. I have no direct knowledge of any of that.

Q. I'm not asking if you have direct knowledge. Is that what you've heard?

A. I'm trying to remember. I don't know that I heard it, but that's what I seem to remember.

Q. That sounds right.

A. That sounds right.

Q. Okay. Mr. McKinney relates to you that the separation seems to be permanent and Mrs. Allwin is pushing to sell the homes in

Greenwich, Kiawah and Beaver Creek, Colorado. Do you recall that?

A. I recall that letter because I printed it out yesterday.

Q. Do you know whether Mrs. Allwin filed for divorce?

A. I have no idea.

Q. Are Karen Bacot, Reagan Bobb and Chris Drury all Realtors? I think Mr. Drury is the broker-in-charge at Kiawah Island Real Estate?

A. Chris Drury is the broker-in-charge. Karen Bacot was in our marketing department but is no longer with Kiawah Island Real Estate, and Reagan Bobb was also in the marketing department but is no longer with Kiawah Island Real Estate.

Q. The e-mail address SCinspect@Yahoo.com, is that Pete at Complete Inspection Services?

A. I believe it is.

Q. I'm just going to show you -- this is a July 6, 2006 e-mail from you to Jody Guerry, the appraiser. And you state, the builder has not returned my call yet. I suspect you might be trying to get Mr. Guerry a set of plans. But do you know what this reference means to a builder?

A. I would imagine -- let me -- may I look?

Q. Sure.

A. I would imagine that I was trying to get a set of plans. That would have been helpful to Jody Guerry, the appraiser, but I don't remember specifically.

Q. But Jody Guerry is not -- he's not involved in repairs out there --

A. No. He's an appraiser.

Q. Right. And that's the point I'm making.

A. Yes. Okay.

Q. Well, it may help if I stay over here for just a moment. In your July 11, 2006 e-mail from Mrs. Allwin to you, she's asking about the Cassique cottages?

A. Yes.

Q. Was she interested in possibly purchasing one of those?

A. That was a possibility.

Q. Because she's selling 133 Flyway?

A. Correct.

Q. She also goes on to say, I will call Allan today. Who is Allan?

A. I would think she would be referring to Allan Shope from Shope Reno Wharton.

Q. Again, trying to get plans possibly to

Mr. Guerry?

A. I don't know if that was the reason but --

Q. She also states, I'm not happy with Gamble Home Services so do not want to involve John Nelson yet. Did she -- did she express other than in this e-mail dissatisfaction with Gamble?

A. Not that I recall.

Q. Do you know the nature of her dissatisfaction or source of her dissatisfaction?

A. I do not.

Q. This is a July 27, 2006 e-mail from Maria Allwin to you. Please feel free to --

A. That would be great.

Q. Mrs. Allwin states, hard to believe that there is still moisture, humidity, mold after we spent so much dollar sign, dollar sign, dollar sign. Do you know what she's referring to here? And I suggest to you it's -- she's recognizing there are still moisture, humidity and mold problems following the Buffington repairs in 2004, 2005.

A. See, I wasn't talking -- I wasn't at work in 2004, 2005. So I wasn't aware that Dan

Buffington was -- his company was doing any of this -- anything. So I did -- I don't know what she was talking about that she'd spent so much money. With whom she'd spent it, I don't know. Is that what you're asking?

Q. Yes, ma'am. What I'm asking you is is she saying or do you understand her to be saying, it's hard to believe the house is still suffering from these types of problems after she spent the money to make repairs in 2004, 2005?

A. Yes. Yes.

Q. She references, Katrina will be upset and the children possibly did not believe this was a happening event.

Was she talking about her divorce? The sale of the house? All of the above?

A. I believe that she's referring to the sale of the house.

Q. Here's an e-mail from Maria Allwin to you dated August 11, 2006. The subject is Dan Buffington, and you'll recall I believe this is dated after the 2006 Complete Inspection Services report --

A. Correct.

Q. -- that you procured on Mrs. Allwin's

behalf. And Mrs. Allwin states, I will wait for the proposal from Dan before authorizing any additional work. Let's see what he comes back with. So you recall I showed you the letter and the scopes of work from Dan Buffington to you.

Is this ringing a bell that, okay, Mrs. Allwin got the Complete Inspection report, she was familiar with the Complete Inspection report. You, somebody on her behalf, contacted Dan Buffington and requested his assistance in addressing those problems?

A. That would be my understanding.

Q. And again, that's confirmed by the August 11, 2006 e-mail. Let's mark that. And the e-mails you have given us are in three groups and they're marked 1 of 3, 2 of 3, and 3 of 3. And this e-mail comes from 1 of 3. And we've marked it as Exhibit 583.

(Exhibit No. 583 was marked for identification.)

(Exhibit No. 584 was marked for identification.)

Q. Okay. Exhibit 584 is an October 1, 2006 e-mail from Maria Allwin to you. And she says simply, due to a devastating illness in our

family, please put the sale of the Kiawah house on hold until we have our bearings. Correct?

A. Correct.

Q. Did you -- and in retrospect or maybe at the time, it's your understanding this relates to Mr. Jim Allwin's diagnosis with cancer.

A. At the time I had no idea, but in retrospect, yes, I would imagine that was what that was. I would believe so.

Q. Do you know the status of -- the status of the Allwins' marital situation, domestic situation, separation as of October 2006?

A. I did not know anything beyond what Pat McKinney had shared in that initial letter that you read at the beginning, where he said it -- their separation appears to be permanent. Because I -- I just would not have known.

Q. Here is a December 1, 2006 e-mail from Maria to you. And it simply says, Dear Cynthia, my life has become incomprehensible. Thank you for your kind thoughts. Maria.

Besides being a sweet e-mail, is this referring to a phone conversation? Had you sent flowers or --

A. I don't know. But if I -- obviously I

knew Jim, and at this point if I -- assuming I was aware of what was going on with his illness, I would have sent a card perhaps, but I don't remember specifically.

Q. An April 28, 2010 e-mail from Maria Allwin to you, and she references her plan is to meet with John Nelson to determine what else has to be done.

Is she referring to repairs to the home or do you know?

A. I don't know.

Q. Anything?

A. Well, I don't know when, but at one point Vice President Biden stayed at the house. And when he stayed there, you know, there were -- whoever was managing the house would have had to prepare it. So I don't know if that's referring to repairs or preparing the house for that kind of visit. I just don't know.

Q. A May 3rd, 2010 e-mail from Maria to John Nelson and Tori, but copying you where Maria is instructing Tori to speak with you about improvements made during the last three years. And that's the list that Tori Stein was going to compile?

A. Probably.

Q. On May 5, 2010, Mrs. Allwin refers to herself as a -- or she is not a motivated seller. It looks like there's an offer -- an unsolicited offer.

A. This may have been referencing one of the one-time showing agreements, and there was no offer that I can recall. So I would imagine she was referring to a one-time showing agreement.

Q. That may have to do with the Abbate -- that's about the time of the Abbate inspections?

A. Yes, yes.

Q. But an offer never came.

A. An offer never came.

Q. Here we go. All right. Are Henry Cleveland, Alicia Morrow and Jim Stuckey, they're all at Kiawah Island Real Estate?

A. Jim Stuckey is a real estate agent. He was the agent representing the Abbates. Henry Cleveland at that time was his associate. And Alicia Morrow is Jim's assistant.

Q. This is a May 11, 2010 e-mail from Jim Stuckey to you, and it forwards a chain of e-mails. And the one I'm interested in is from Henry Cleveland to Alicia Morrow, and it copies

Jim. But it references some meetings at the house. I'm assuming for inspections or what have you?

A. I believe that this is -- he's referencing here -- Henry Cleveland is -- what time an appointment has been made at a house at 25 Cormorant and an appointment at 133 Flyway.

Q. Is this -- do you know whether this is for the Abbates or --

A. I would think that it was, because the Abbates were Jim Stuckey's clients.

Q. And just based on the time --

A. And from the time, correct.

Q. With respect to 133 Flyway, it says, all confirmed, John Nelson to open house. Ricky Miller. Who is Ricky Miller?

A. Ricky Miller is with Miller Pest Control.

Q. To do the termite inspection?

A. He would have been the one to do a termite inspection.

Q. Peter -- how do you pronounce Peter's last name?

A. Kouten.

Q. Kouten. He's the home inspector?

A. Correct.

Q. Aqua Blue, presumably to inspect the pool.

A. That's the swimming pool company.

Q. It says, Russ Cooper and all his guys. Do you know whether Russ Cooper --

A. I believe Russ Cooper met them there.

Q. Met the Abbates there?

A. I believe so.

Q. Do you know whether Russ Cooper -- any other involvement that Russ Cooper had in 2010?

A. Not -- I don't know.

Q. Russ Cooper didn't make any repairs, to your knowledge, in 2010.

A. Not that I know of.

Q. Russ Cooper hasn't made any repairs to the house to your knowledge at all.

A. I don't know. Not to my knowledge.

Q. Okay. And this is -- this is the only listing that I have seen in my review of your e-mails from Tori Stein. It's a 2-28-2010 e-mail. And please feel free to look at this, but I will represent to you this is not a chronology of the repairs done over the last year or three years or any years, but this is

informing you that Maria Cooper has signed a contract presently for Gamble Atlantic or Gamble Home Services, or whatever Tori Stein's company is called, to perform repairs currently at this time.

And then below that, the following is not on the list to do, meaning these are things Tori has proposed that Maria repair, but Maria has elected not to perform.

A. You're asking me that?

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

Q. I'm asking if you've ever seen that to be the case or if you understand this to be the chronology --

A. All I know is --

Q. Is that your understanding or do you understand Exhibit 585 to be the chronology of all repairs that have been performed?

(Exhibit No. 585 was marked for identification.)

A. At the beginning she says, I have a signed addendum for Maria that covers the following. And then she states. I would interpret this -- if that's what you want me to

do.

Q. Uh-huh.

A. I would interpret that she has been authorized to do these things.

Q. And I'll represent to you that's what I believe to be the case too, that Tori is presently, at the time of this document's creation, is undertaking to make these repairs. And then she goes on below to say, Maria has not authorized these particular items, correct?

A. It says, the following is not on the list to do, correct.

Q. And my next question to you is, do you believe, other than 585, that there was some other list that Tori Stein prepared which lists all the repairs she has made historically?

A. You're asking me if there is another list?

Q. Yes, ma'am.

A. Of what she's done?

Q. Yes, ma'am.

A. I don't know.

Q. January of 2011, Maria writes to you that she came down over the weekend to review the damage herself, and that it was indeed severe,

and that she met with Mr. Lyles to decide on the course of action.

We can go back through the timing, but do you know if this was related to the lightning strike or the --

A. I don't know.

Q. -- or was it related to water damage or do you know?

A. I don't know.

Q. Did Greg and India Keith make an offer to purchase the house?

A. Not that I recall.

Q. Did they inspect or view the house?

A. I don't know. Sometimes we have one-time showing agreements and people don't come.

Q. Sure. Is that Greg Keith, local attorney Greg Keith or another Greg Keith?

A. I have no idea.

Q. You don't know whether the Keiths had an inspection performed, do you?

A. I don't believe so.

Q. Was there ever any consideration or plan to auction the home?

A. What does that e-mail say?

Q. From you to Maria, I have talked to Chris Drury about marketing your property and have also checked in with the agents to see if anyone had done an auction here.

A. Okay. So there may have been a question as to whether or not I felt like that was a good idea. I don't recall that conversation.

(Exhibit No. 586 was marked for identification.)

Q. Exhibit 586 is a May 1, 2012 e-mail from Christopher Allwin to you. And he wants to check in on where we are on our side and what next steps should we be taking to move ahead with the sale.

So at least in May of 2012, it's your understanding that Chris Allwin knew about Mrs. Allwin's desire and intent to sell the home and that, at least based on this, he was okay with it.

A. I don't know if he was okay with it, but he certainly obviously understood that that was the direction in which we were moving.

Q. And whether of his own volition or at his mother's request, he's checking in with you to see where we are in that process.

A. I believe so.

Q. February of 2013, you refer to folks who signed the confidentiality agreement. That would be the Howleys or the Angelakises?

A. I believe it was.

Q. You state, I am meeting their contractor as they conduct their due diligence.

Did you meet with the contractor?

A. I don't remember meeting with him, but I know who it was and it was Royal Indigo.

Q. Who was the principal of Royal Indigo?

A. Bob Meister and Craig Gentilin is who works for Royal Indigo.

Q. And do you believe you met with them?

A. I probably would have met with them to open up the house for them.

(Exhibit No. 587 was marked for identification.)

Q. Exhibit 587 is an August 26, 2014 e-mail from Mrs. Allwin to you. And she states that she has a new appraisal for 14 million -- or actually it says $14, but let's assume that it's 14 million. Have you seen this new appraisal?

A. I have not.

MR. BEST: Robert, can you ask

Mrs. Allwin about this?

MR. LYLES: Sure.

MR. BEST: Thank you.

(This page contains Requested Information.)

Q. She also states, I even want to rent the home. Have you discussed with her about the possibility of renting the home?

A. I don't recall discussing rental.

Q. But you agree she states it here.

A. Yes, she does.

Q. She views January of 2015 as a realistic date in her plans to market the home again, correct?

A. Correct.

(Exhibit No. 588 was marked for identification.)

Q. Exhibit 588 is an October 12, 2014 e-mail from Maria Allwin to you, and at the very end, Mrs. Allwin states, get ready, Cynthia, exclamation point, January sale, exclamation point, exclamation point, exclamation point.

Again, you believe she's expressing her intent to sell the home upon completion of repairs?

A. That is my understanding.

Q. And those last two exhibits came from packet 3 of 3. This appears to be an offer from the Howleys for 9.12 --

A. No. It's -- the offer is 9.6.

Q. I'm sorry. That's --

A. And then there's earnest money deposit that would be the balance due.

Q. Pardon me. Thank you.

(Exhibit No. 589 was marked for identification.)

Q. And then Exhibit 589, if you'll just confirm that this document is the Angelakis offer for 8.5 million?

A. Correct.

MR. BEST: Okay. Thank you, ma'am.

EXAMINATION

BY MR. FREEMAN:

Q. Just a couple follow-ups. Ms. Noble, is it fair to say that from 2012 to today the real estate market there on Kiawah has improved in terms of values coming back and coming up?

A. You know, it actually has been relatively flat. I believe last year, for instance, if I remember correctly, I remember the

sales -- our number of sales were actually down. But if you look at the last five years, it's just been relatively flat.

Q. But things are better today than they were in 2009.

A. Yes.

Q. I mean we had from 2008, 2009, 2010, we were in the midst of the Great Recession. You've heard of that, right?

A. Yes.

Q. And it was pretty rough on the real estate market all over the country?

A. Correct.

Q. Kiawah was not immune to the Great Recession.

A. Correct.

Q. Although it probably fared better than some other places. But where we saw I think a $17.5 million appraisal for the Allwin residence at the height of the market and we've seen, you know, 9-, $10 million appraisals for the Allwin house during the course of the Great Recession, the fluctuations in that value in those appraisals were due to economic concerns going on around the country, correct?

A. It would have taken into consideration the market in general. And any appraisal will also take into consideration the house itself and the property.

Q. And you expect that when you -- that when repairs are completed and you do go back and list --

A. I'm sorry?

Q. When the repairs are completed and you do go back and list the Allwins' residence for sale, that you're going to be listing it for more than $9.5 million?

A. I would expect that, yes.

Q. Do you have a ballpark range in mind that you think the Allwins' house could fetch?

A. I do not. I would need to see it finished. And once again, I would suggest another inspection and another appraisal.

Q. What's the highest dollar value sale that's occurred on Kiawah in the last year?

A. For a house?

Q. Yes.

A. 20 -- $20,250,000.

Q. Was that house on two lots?

A. It was. Plus a third lot.

Q. And what's the next lowest -- the next highest sale, if you recall?

A. The next highest for a house?

Q. Yes.

A. I'm not sure what the next highest is. But --

Q. More than 15 million?

A. Probably not. The last one I can recall was -- before this 20,250,000 for a house, would have been around 14. I can't remember exactly.

MR. FREEMAN: Well, I hope you get a big commission off of one of those. Thank you. That's all I've got.

EXAMINATION

BY MR. CANNON:

Q. Ms. Noble, this is Chip Cannon. Sorry I missed you earlier. I was out of my office and now I'm back. I'm sure you all want to get out of there, so I only have two questions for you.

I represent Frank Leigh Painting, and you've testified earlier that you weren't really around much during the construction -- or the renovation process to the home. Have you ever heard of Frank Leigh Painting before?

A. Yes, I have.

Q. And in what context or where have you heard them? Have they performed work on Kiawah before?

A. I see their trucks on Kiawah. It's L-E-I-G-H, right?

Q. Sorry?

A. L-E-I-G-H?

Q. Sorry?

A. Frank Leigh, is the last name L-E-I-G-H?

Q. That's correct.

A. I've seen their trucks on the island.

Q. Do you have any familiarity with them as working at the Allwin house at any point during the renovation process?

A. I do not.

Q. So it's fair to say that you're not familiar what they painted if they painted anything at the Allwin house?

A. I am not.

MR. CANNON: That's all the questions I have. Thank you for your time and patience.

EXAMINATION

BY MR. REESER:

Q. Ms. Noble, Dean showed you an e-mail

from Chris Allwin.

A. Yes.

Q. When did he start getting in contact with you?

A. About the time of that e-mail.

Q. Okay. Do you contact him regularly or is he copied on e-mails you have with Maria?

A. I do not contact him regularly. And is he copied on her e-mails?

Q. Whenever you send an e-mail to Maria, do you copy Chris?

A. No, I do not.

Q. Has he ever e-mailed you directly other times other than that one e-mail?

A. I don't remember.

MR. REESER: Thank you.

EXAMINATION

BY MR. BEST:

Q. The house that recently sold for 20 million --

A. 250.

Q. -- 250, didn't it need some repairs? Weren't there problems with that house?

A. That just closed.

Q. Right.

A. And I am not aware of repairs being needed.

Q. Are you aware of the buyer's intent to spend -- I've heard between 2 to 3 million making repairs?

A. I am not.

Q. Did you close -- were you involved in that deal?

A. Yes, I was.

Q. Were you listing or buying?

A. Buying.

Q. Oh, so you represented the buyer?

A. I represented the buyer.

Q. Was there an inspection -- there was a prepurchase inspection.

A. The purchase was as-is, no repairs needed. And the buyer chose to have inspections done, which was in the contract that we had the right for inspections, the findings of which were to the sole satisfaction of the buyer so that they could have their inspections and then either go through with it or not, which is an as-is contract.

Q. And who is the buyer?

A. Michael Angelakis.

Q. And prior to -- well, who did he have inspect the house?

A. He had Russ Cooper look at the house for him. And then -- I'm not sure who else looked at it beyond that.

Q. And you're not aware of Mr. Angelakis's intent to make millions of dollars worth of repairs to the home.

A. I have no direct knowledge of that.

MR. BEST: Thank you very much.

(The deposition was concluded at 2:43 PM.)

CERTIFICATE OF REPORTER

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

I, J. Lynn Clark, Registered Professional Reporter and Notary Public for the State of South Carolina at Large, do hereby certify that the witness in the foregoing deposition was by me duly sworn to testify to the truth, the whole truth and nothing but the truth in the within-entitled cause; that said deposition was taken at the time and location therein stated; that the testimony of the witness and all objections made at the time of the examination were recorded stenographically by me and were thereafter transcribed by computer-aided transcription; that the foregoing is a full, complete and true record of the testimony of the witness and of all objections made at the time of the examination; and that the witness was given an opportunity to read and correct said deposition and to subscribe the same.

Should the signature of the witness not be affixed to the deposition, the witness shall not have availed himself/herself of the opportunity to sign or the signature has been waived.

I further certify that I am neither related to nor counsel for any party to the cause pending or interested in the events thereof.

Witness my hand, I have hereunto affixed my official seal on May 4, 2015 at Charleston, Charleston County, South Carolina.

J. Lynn Clark
NCRA MERIT REPORTER
REGISTERED PROFESSIONAL REPORTER
RPR, CP-CM, CSR(Iowa)
My Commission expires
February 5, 2017

IN THE COURT OF COMMON PLEAS
FOR THE STATE OF SOUTH CAROLINA
CHARLESTON COUNTY

DEPOSITION OF VICTORIA STEIN

MARIA ALLWIN,

Plaintiff,

vs. CASE NO. 2013-CP-10-4592

RUSS COOPER ASSOCIATES, INC., BUFFINGTON HOMES, LP, and SHOPE RENO WHARTON,

Defendants.

BUFFINGTON HOMES, LP,

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.

DATE: MAY 11, 2015

TIME: 10:00 AM

LOCATION: YOUNG CLEMENT RIVERS
CHARLESTON, SOUTH CAROLINA

REPORTED BY: DARAH NEKOLA, RPR, CSR(IA)
NCRA CERTIFIED REPORTER
CLARK & ASSOCIATES, INC.
CHARLESTON, SC 29415
843-762-6294
WWW.CLARK-ASSOCIATES.COM

A P P E A R A N C E S

ON BEHALF OF PLAINTIFF:

LYLES & LYLES
BY: ROBERT T. LYLES
342 East Bay Street
Charleston, SC 29401

ON BEHALF OF RUSS COOPER ASSOCIATES, INC.:

BEST HONEYCUTT
BY: L. DEAN BEST
8 Sawgrass Road
Charleston, SC 29412

ON BEHALF OF BUFFINGTON HOMES, LP:

YOUNG CLEMENT RIVERS
BY: JOSHUA P. CANTWELL
25 Calhoun Street, Suite 400
Charleston, SC 29401

ON BEHALF OF AIR FASTENERS OF CAROLINA, INC.:

RICHARDSON PLOWDEN & ROBINSON
BY: F. HEYWARD GRIMBALL
40 Calhoun Street, Suite 220
Charleston, SC 29401
Hgrimball@richardsonplowden.com

ON BEHALF OF GAMBLE AND VICTORIA STEIN:

PARKER POE
BY: THOMAS C. HILDEBRAND, JR.
200 Meeting Street, Suite 301
Charleston, SC 29401

ON BEHALF OF PICQUET ROOFING, INC.:

HALL BOOTH SMITH
BY: ALAN BELCHER
40 Calhoun Street, Suite 550
Charleston, SC 29401

BAKER RAVENEL & BENDER
BY: JON ASBILL
3710 Landmark Drive, Suite 400
Columbia, SC 29204

ON BEHALF OF TISCHLER UND SOHN (USA) LIMITED (By Telephone):

TURNER PADGET
BY: JULIAN ALLEN
40 Calhoun Street, Suite 200
Charleston, SC 29401

ON BEHALF OF SPRAYSEAL FOAM INSULATION:

WILSON & HEYWARD
BY: BRANDON T. REESER
PO Box 13177
Charleston, SC 29422
breeser@wilsonheyward.com

ON BEHALF OF LONEY DAVIS:

PRATT-THOMAS WALKER
BY: TOM HESSE
16 Charlotte Street
Charleston, SC 29413

ON BEHALF OF SUPERIOR SURFACES:

LUZURIAGA MIMS
BY: CAROLINE MCINTOSH
50 Immigration Street, Suite 200
Charleston, SC 29403

CLAWSON & STAUBES
BY: Albert A. Lacour, III
126 Seven Farms Drive
Charleston, SC 29429

ON BEHALF OF PLANTATION CONSTRUCTION (By Telephone):

WALL, TEMPLETON & HALDRUP
BY: GRAHAM P. POWELL
PO Box 1200
Charleston, SC 29402
graham.powell@walltempleton.com

MCANGUS GOUDELOCK & COURIE
BY: BEN DAVIS
735 Johnnie Dodds Boulevard,
Suite 200
Mount Pleasant, SC 29464

ON BEHALF OF BUILDERS FIRSTSOURCE-SOUTHEAST GROUP, LLC (By Telephone):

KERNODLE ROOT
BY: SUZANNE ULMER
914 Folly Road, Suite 2
Charleston, SC 29412

ON BEHALF OF FRANK LEIGH CONTRACTORS, INC. (By Telephone):

TURNER PADGET
BY: CHIP CANNON
40 Calhoun Street, Suite 200
Charleston, SC 29401

ON BEHALF OF SHOPE RENO WHARTON:

CARLOCK COPELAND & STAIR
BY: TYLER P. WINTON
40 Calhoun Street, Suite 400
Charleston, SC 29401

INDEX

EXAMINATION		PAGE
	By Mr. Best	9
	By Mr. Hesse	238
	By Mr. Cantwell	241
	By Mr. Lacour	251
	By Mr. Asbill	259
	By Mr. Belcher	262
	By Mr. Winton	263
	By Mr. Reeser	267
	By Ms. Ulmer	274
	By Mr. Cannon	274
	By Mr. Lyles	275
	By Mr. Grimball	278
	By Mr. Best	281
	By Mr. Hesse	285
CERTIFICATE OF REPORTER		289

EXHIBITS - VICTORIA STEIN - 5-11-2015

Exhibit No. 54	Contract Between Buffington Homes and Allwin. Bates Stamped Allwin667	39
Exhibit No. 225	Gamble Proposal for Driveway Repairs. 4-20-2007	47
Exhibit No. 229	Monthly Inspection Reports by Gamble	48
Exhibit No. 232	May '08 Investigation	50
Exhibit No. 242	Repair Proposal	63
Exhibit No. 257	October '08 E-mail to Maria	75
Exhibit No. 260	Contract for Cave Repair	78
Exhibit No. 270	E-mails between Stein and Nelson. January '09	86

Exhibit No. 257	E-mail to Maria Allwin	87
Exhibit No. 277	Picquet Proposal	90
Exhibit No. 279	Proposal from Gamble-Atlantic	91
Exhibit No. 298	E-mail to Maria Allwin	120
Exhibit No. 299	Secret Service Info	121
Exhibit No. 305	Demo Permit, August 24th	122
Exhibit No. 306	Start Up Draw. Media Room Demo	122
Exhibit No. 308	Contract Addendum. August '11	124
Exhibit No. 329	E-mail to Noble	126
Exhibit No. 331	Letter from Maria Allwin	127
Exhibit No. 341	Letter	141
Exhibit No. 342	Letter to Frisch	141
Exhibit No. 344	E-mail Report to Nelson	145
Exhibit No. 349	E-mails to Leigh Henninger	146
Exhibit No. 480	Bay 10 Invoice	150
Exhibit No. 492	Field Addendum	161
Exhibit No. 493	Observations, 12-2-2010	162
Exhibit No. 499	Dixon Rendering, 1-12-2011	167
Exhibit No. 352	Photo	169
Exhibit No. 353	Photo	169
Exhibit No. 354	Photo	169
Exhibit No. 355	Photo	170
Exhibit No. 356	Photo	172
Exhibit No. 355	Photo	172
Exhibit No. 356	Photo	172
Exhibit No. 357	Photo	172
Exhibit No. 358	Photo	172
Exhibit No. 359	Photo	172
Exhibit No. 360	Photo	172
Exhibit No. 362	Photo	173
Exhibit No. 375	Photo	175
Exhibit No. 396	Photo	175
Exhibit No. 395	Photo	176
Exhibit No. 396	Photo	176
Exhibit No. 397	Photo	177
Exhibit No. 398	Photo	177
Exhibit No. 399	Photo	178
Exhibit No. 432	Photo	181
Exhibit No. 435	Photo	183

Exhibit No. 442	Photo	184
Exhibit No. 443	Photo	184
Exhibit No. 444	Photo	184
Exhibit No. 449	Photo	184
Exhibit No. 461	Photo	185
Exhibit No. 462	Photo	185
Exhibit No. 464	Photo	186
Exhibit No. 476	Photo	187
Exhibit No. 477	Photo	188
Exhibit No. 507	E-mails	200
Exhibit No. 532	E-mail	219
Exhibit No. 538	Proposal, 9-15-2011	221
Exhibit No. 571	Addendum for Bid Pricing	236

VICTORIA STEIN,

having been first duly sworn, was examined and testified as follows:

EXAMINATION

BY MR. BEST:

Q. Ms. Stein, again, I'm Dean Best. I represent Russ Cooper Associates, and we're here for your deposition today. I see with you this gentleman, Tom Hildebrand. What capacity is he playing today?

A. He represents Gamble Homes Services whom I work for.

Q. Have you given a deposition before?

A. I have.

Q. How many times?

A. Maybe once or twice.

Q. In relation to?

A. Past work I had done with Atlantic Builders.

Q. Was Atlantic Builders a party or expert witness in those cases?

A. We were a witness. It was a fire loss, and it was about the work we had done there. One of the -- one of the homeowners was suing another homeowner because his unit caused the fire, so

00:13:34 1 they were just looking for information.
00:13:36 2 Q. By way of ground rules, if you need to
00:13:40 3 take a break at any time, please let us know. We
00:13:43 4 are probably going to be here most of the day.
00:13:45 5 If you need to take a break, just let us know.
00:13:48 6 Please say yes or no as opposed to a nod of the
00:13:53 7 head or uh-huh so Darah can take down exactly
00:13:57 8 what you mean and the record will be clear.
00:13:59 9 Sometimes in the course of the
00:14:01 10 deposition people anticipate the rest of the
00:14:03 11 question and go ahead and answer. If you will
00:14:04 12 please let me finish my question, I will do my
00:14:06 13 very best to let you finish your answer before I
00:14:08 14 move on, and it makes her job easier in addition
00:14:11 15 to making the record clear.
00:14:14 16 If we -- so you are represented by
00:14:18 17 counsel today. Gamble Home Services is not a
00:14:24 18 party to this litigation, but I do admonish you,
00:14:28 19 if we take a break, don't make any phone calls,
00:14:30 20 e-mails, have outside communication. And I don't
00:14:36 21 know if attorney-client privilege is -- since
00:14:38 22 you're not a party is in play, but I think under
00:14:42 23 the rules, if you have conversations with Tom, we
00:14:46 24 may be able to ask you about those, so maybe as
00:14:48 25 an abundance of caution, be aware of that.

00:14:53 1 With that, state your full name, please?
00:14:55 2 A. Victoria C. Stein.
00:14:58 3 Q. And your date of birth, please.
00:15:00 4 A.
00:15:03 5 Q. Where were you born and raised.
00:15:06 6 A. I was born in Haleyville, Alabama, and I
00:15:06 7 was raised in Kentucky.
00:15:10 8 Q. And you graduated from high school in
00:15:12 9 Kentucky?
00:15:12 10 A. I did.
00:15:12 11 Q. What year was that?
00:15:17 12 A. 1980.
00:15:18 13 Q. Did you go to college after that?
00:15:19 14 A. I did. I went to Western Kentucky
00:15:22 15 University.
00:15:22 16 Q. Did you graduate from Western Kentucky?
00:15:25 17 A. I am one semester short.
00:15:29 18 Q. What was the field of study there?
00:15:31 19 A. Meteorology.
00:15:32 20 Q. Lots of tornados in that part or --
00:15:35 21 A. Oh, yes. Lots of them.
00:15:36 22 Q. So you left Western Kentucky around '83,
00:15:41 23 '84?
00:15:42 24 A. Yes.
00:15:42 25 Q. And what did you do after that?

00:15:43 A. Traveled. I lived all over the United
00:15:47 States, and then finally landed here in '95.
00:15:52 Q. From the mid '80s to '95, what lines or
00:15:57 line of work were you doing when you were
00:15:58 traveling around?
00:15:59 A. Mainly art. I was an art consultant for
00:16:08 a few years, and then went back to school when I
00:16:12 lived in Eugene, Oregon, for a degree in
00:16:16 hospitality, and then started working for Hyatt
00:16:18 Hotels for about 10 years and so, yeah.
00:16:23 Q. So you do have a degree from the
00:16:25 University of Oregon?
00:16:26 A. Uh-huh. Eugene.
00:16:29 Q. You have to say yes.
00:16:30 A. Yes.
00:16:31 Q. And that's in hospitality hotel
00:16:34 management, that type of thing?
00:16:35 A. Yes.
00:16:35 Q. I will get you trained pretty quickly.
00:16:38 A. Thank you.
00:16:39 Q. Any other degrees or education?
00:16:42 A. Other than -- other than classes that
00:16:50 I've had with the homebuilders association, so
00:16:55 certified green remodeler, aging in place
00:17:02 specialist.

00:17:03 1 Q. So 1995, you landed in the Charleston
00:17:06 2 area?
00:17:06 3 A. Yes.
00:17:06 4 Q. And what were you plans? What brought
00:17:10 5 you here?
00:17:10 6 A. I opened up a business at that time
00:17:14 7 called Window World for a couple of gentlemen,
00:17:19 8 Ernie Chandler and Wayne Knipe (ph). They wanted
00:17:22 9 to just start a window company -- supply company
00:17:27 10 to remodelers and builders for at that time a
00:17:32 11 little known product called a vinyl window, so I
00:17:38 12 educated people and sold windows.
00:17:40 13 Q. Were these vinyl clad or extruded
00:17:43 14 completely vinyl windows?
00:17:43 15 A. They were completely vinyl windows.
00:17:46 16 Q. And how long were you with Window World?
00:17:50 17 A. I would say a couple of years before
00:17:56 18 Ernie and Wayne sold it. And then I went to work
00:17:59 19 for -- what was the lumber company associated
00:18:06 20 with Lowe's? Does anybody remember? I don't. I
00:18:08 21 was an outside salesperson for them. It doesn't
00:18:13 22 matter. It was just a lumber company. It was
00:18:14 23 like Builder's FirstSource. And then I started
00:18:19 24 working, I believe, for Atlantic Builders right
00:18:23 25 around 1998.

00:18:24 1 Q. Okay. And when you were hired on at
00:18:26 2 Atlantic, what were you doing?
00:18:28 3 A. Sales. Sales and construction
00:18:28 4 management.
00:18:33 5 Q. And Paul Stein owned that company at
00:18:36 6 that time?
00:18:37 7 A. He did.
00:18:38 8 Q. And as I recall, I mean, Paul did a lot
00:18:40 9 of insurance work, fire, water damage
00:18:44 10 restoration, that type of stuff.
00:18:45 11 A. Right. In the beginning when I was
00:18:48 12 working at Atlantic Builders, for many years we
00:18:51 13 did -- that's all we did was insurance work.
00:18:55 14 Q. And then how did that change over the
00:18:57 15 years?
00:18:58 16 A. The -- it changed into remodeling. The
00:19:04 17 insurance business was not -- became more and
00:19:08 18 more difficult to be lucrative, so we just got
00:19:11 19 out of that and went into strictly design/build,
00:19:15 20 remodeling.
00:19:17 21 Q. When did you and Mr. Stein marry?
00:19:19 22 A. May 19th. Isn't that awful?
00:19:31 23 Q. Usually it's the husband, but that's
00:19:35 24 okay.
00:19:36 25 A. No. He always remembered our

00:19:40 1 anniversary. I never did. 2009 maybe.
00:19:42 2 Q. When did he pass away? And I'm sorry to
00:19:45 3 hear that he did this pass away.
00:19:47 4 A. That, I remember. July 2nd, 2013.
00:19:56 5 Q. If you can speak up just a little bit,
00:19:58 6 maybe that would help, too.
00:20:00 7 So Atlantic Builders sort of
00:20:09 8 transitioned from insurance restoration work to
00:20:12 9 remodeling over the -- what, the early 2000s,
00:20:18 10 2005, 2010?
00:20:20 11 A. Yes.
00:20:20 12 Q. And where was most of Atlantic's work
00:20:26 13 performed?
00:20:26 14 A. Tri-County. So Charleston, Dorchester,
00:20:32 15 and Berkeley Counties.
00:20:34 16 Q. Okay. I know at some point you got
00:20:41 17 involved with the Allwin residence. Do you know
00:20:43 18 when you got involved with the Allwin residence?
00:20:46 19 A. Are you looking for a specific date?
00:20:47 20 Q. We have documents. It will come up.
00:20:49 21 But do you recall roughly when?
00:20:51 22 A. I would say '08-'09.
00:20:55 23 Q. Was there a particular -- what got you
00:20:58 24 involved with the Allwin residence?
00:21:00 25 A. The home service manager at that time --

00:21:05 1 do I need to explain what Gamble does?
00:21:07 2 Q. Yes, ma'am, if that makes it easier.
00:21:09 3 A. It does. Currently, Gamble Homes
00:21:14 4 Services has three branches. You have your main
00:21:18 5 branch, is the home service managers, and they do
00:21:21 6 home watching for people who have secondary
00:21:25 7 homes. They don't live there all the time. So
00:21:28 8 the home service managers will walk the house
00:21:31 9 maybe once a month, twice a month, whatever the
00:21:33 10 homeowner wants. It's a concierge service. We
00:21:37 11 do everything from pick up their laundry, to buy
00:21:41 12 groceries for them, whatever. And then they have
00:21:51 13 a housekeeping department, and then they have a
00:21:51 14 construction division that I manage.
00:21:54 15 Now, at that time, I worked strictly for
00:21:56 16 Atlantic Builders, and the home service manager
00:21:59 17 for the Allwin home at that time was John Nelson,
00:22:02 18 and he asked me to come over and look at the
00:22:04 19 house because her boardwalk had some issues.
00:22:07 20 Q. And going through the documents, that's
00:22:09 21 exactly what I assumed. John Nelson and Gamble
00:22:16 22 Homes Services did not have a construction
00:22:18 23 division, so to speak, so they would enlist the
00:22:24 24 services of contractors, Atlantic Builders or
00:22:28 25 whoever, to come in and service those clients?

00:22:30 1 A. Correct.
00:22:31 2 Q. When did Gamble Homes Services create
00:22:37 3 this construction business or maintenance
00:22:41 4 division?
00:22:41 5 A. They have always had a maintenance
00:22:44 6 division, but for any one person to take care of
00:22:48 7 it instead of the home service managers? Is that
00:22:51 8 the question?
00:22:51 9 Q. Well, today, is there a Gamble Homes
00:22:56 10 Services, a construction division?
00:22:58 11 A. Yes.
00:22:59 12 Q. And your title again is exactly what?
00:23:02 13 A. I'm vice president, but I manage the
00:23:05 14 construction division for Gamble Homes Services.
00:23:08 15 Q. Okay. And you are an employee of Gamble
00:23:11 16 Homes Services?
00:23:11 17 A. I am. I have been there for a couple of
00:23:13 18 years.
00:23:14 19 Q. Is Atlantic Builders still a going
00:23:16 20 concern?
00:23:17 21 A. No, it's not. I closed that, I would
00:23:20 22 say, two or three years ago.
00:23:22 23 Q. And it's been dissolved with the
00:23:25 24 Secretary of State?
00:23:26 25 A. It has.

00:23:27 1 Q. Some of the documents we will look at
00:23:31 2 bear a letterhead that says Gamble-Atlantic?
00:23:34 3 A. Correct.
00:23:34 4 Q. What is that entity?
00:23:36 5 A. At one point, the owner of Gamble Homes
00:23:44 6 Services, Richard Frisch, and Paul and I formed a
00:23:49 7 partnership, so that -- hence Gamble-Atlantic.
00:23:56 8 Q. And I'm assuming the purpose of that
00:23:58 9 partnership or joint venture was to service -- in
00:24:01 10 a construction capacity, service the clients of
00:24:07 11 Gamble Homes Services?
00:24:08 12 A. Yes. And whoever else wanted work done.
00:24:09 13 So you don't necessarily have to have a contract
00:24:13 14 for Gamble to inspect your homes for me to work
00:24:21 15 for them.
00:24:21 16 Q. The better question may be, what did
00:24:24 17 Gamble-Atlantic do? What was the niche for that
00:24:28 18 company?
00:24:28 19 A. Any kind of repairs to a house.
00:24:29 20 Q. Is it primarily at Kiawah?
00:24:32 21 A. Kiawah. They have some houses at
00:24:36 22 Seabrook but, yes, definitely the Kiawah-Seabrook
00:24:41 23 area.
00:24:41 24 Q. Did Gamble-Atlantic make any attempt to
00:24:45 25 market itself to the full Tri-County area?

00:24:51 1 A. I would say in the last six months or
00:24:53 2 so, we have started advertising now like Isle of
00:24:58 3 Palms, Sullivan's Island, so thinking about
00:25:01 4 branching out in that area.
00:25:02 5 Q. So Gamble-Atlantic still exists?
00:25:04 6 A. Not really. Because once Atlantic
00:25:06 7 Builders was dissolved, there was really no
00:25:09 8 reason to have Gamble-Atlantic anymore. If
00:25:12 9 anything, it's more habit of saying that.
00:25:15 10 Q. Okay. But Gamble Homes Services, now
00:25:18 11 that you are involved, is looking to go beyond
00:25:23 12 simple property management -- simple maintenance
00:25:26 13 to marketing itself as a remodeling company?
00:25:31 14 They're advertising themselves as a three-prong
00:25:34 15 company?
00:25:34 16 A. As a home watching company,
00:25:36 17 housekeeping, and remodeling company.
00:25:39 18 Q. What licenses do you hold besides from a
00:25:43 19 driver's license?
00:25:44 20 A. Motorcycle license.
00:25:45 21 Q. Very good.
00:25:46 22 A. Nothing. I'm not a contractor.
00:25:50 23 Q. Paul held the license, and he was the
00:25:57 24 qualifier for Atlantic Builders I'm assuming?
00:26:01 25 A. Yes.

00:26:01 1 Q. When Paul passed way in 2013, did
00:26:05 2 Atlantic Builders ever have a license qualifier?
00:26:11 3 A. No.
00:26:11 4 Q. Is there a licensed qualifier for Gamble
00:26:17 5 Homes Services?
00:26:17 6 A. Darren Dennis.
00:26:18 7 Q. What is Mr. Dennis's --
00:26:21 8 A. He's the project manager. He's the lead
00:26:23 9 foreman for me.
00:26:23 10 Q. How long has he been employed by Gamble
00:26:38 11 Home Services?
00:26:38 12 A. I'm thinking. Four years.
00:26:39 13 Q. Was he employed by Atlantic before that?
00:26:42 14 A. Yes. I think Darren and I have worked
00:26:44 15 together for 10, 11 years.
00:26:47 16 Q. His name was kind of familiar. I think
00:26:49 17 I may have seen it. Okay. We have a lot of
00:26:55 18 exhibits. We're not going to go through all of
00:27:00 19 them.
00:27:02 20 Off the record.
00:27:04 21 (Discussion off the record)
00:27:46 22 Q. I am handing you what is marked as
00:27:48 23 Exhibit 3, and this is a 1999 letter from Bob
00:27:54 24 Cowan to Mr. and Ms. Allwin. Have you seen this
00:28:01 25 document before?

00:28:02 1 A. I don't remember this.
00:28:16 2 Q. If you will turn to the first page and
00:28:17 3 up in the top right corner, you see the name
00:28:20 4 Allan Shope and a check mark.
00:28:22 5 A. Yes.
00:28:22 6 Q. Is that your handwriting?
00:28:23 7 A. Doesn't look like my handwriting.
00:28:25 8 Q. Okay. Tell me about Bob and, I think
00:28:28 9 it's Mary Lou Cowan.
00:28:38 10 A. They lived at 133 Flyway for a time
00:28:45 11 while their house was being built.
00:28:52 12 Q. But you had no contact with the Cowans
00:28:55 13 while they lived in the Allwin residence?
00:28:57 14 A. No.
00:28:57 15 Q. That was well before your time?
00:29:03 16 A. Yes.
00:29:04 17 Q. But you did speak with the Cowans later?
00:29:12 18 A. I did.
00:29:13 19 Q. And we will get to that. Just to
00:29:21 20 keep -- once -- yeah. You can keep that right
00:29:23 21 there, and then we will put them back in order
00:29:26 22 afterward. Exhibit 11 are some notes made by Jim
00:29:34 23 Allwin before his passing, but my question to you
00:29:37 24 is: The handwriting on the left, Engineer report
00:29:40 25 for HVAC, is that your handwriting?

00:29:44 1 A. It is.
00:29:45 2 Q. So I will tell you, the Bates stamps
00:29:52 3 down at the bottom identify -- you see the Allwin
00:29:57 4 1939?
00:29:58 5 A. I do.
00:29:59 6 Q. That's called a Bates stamp, and it just
00:30:01 7 identifies the source of the document, where I
00:30:06 8 got it from. In this case, Ms. Allwin, and then
00:30:09 9 the document is given a specific number so we
00:30:13 10 know what we're talking about.
00:30:14 11 A. Okay.
00:30:15 12 Q. So at some point, I'm assuming Ms.
00:30:20 13 Allwin gave you a copy of her husband's notes and
00:30:24 14 then you wrote on it and somehow it made its way
00:30:27 15 back to Ms. Allwin's file?
00:30:30 16 A. Okay.
00:30:30 17 Q. Is that a fair assumption?
00:30:35 18 A. I don't remember this. I do know that
00:30:37 19 that's my handwriting. If it got back to Ms.
00:30:40 20 Allwin, I don't know how it got there.
00:30:42 21 Q. Why were you given this document?
00:30:45 22 A. When -- have you been to the house?
00:30:50 23 Q. Yes, ma'am.
00:30:51 24 A. It's huge.
00:30:51 25 Q. It's ginormous.

00:30:54 1 A. Right. It is. 10,600 square feet. So
00:30:58 2 when I was first introduced to the house by John
00:31:04 3 Nelson, there was -- it was just a big house. A
00:31:11 4 lot going on. Typically my job for a homeowner
00:31:15 5 is to be their eyes and their ears in what's
00:31:19 6 going on on the house. I asked for any kind of
00:31:24 7 pertinent information she had about the house to
00:31:27 8 be sent to me just so I could learn a history on
00:31:29 9 it.
00:31:30 10 Q. And you think these notes may have
00:31:33 11 made -- made their way to you from Ms. Allwin?
00:31:37 12 A. Yes.
00:31:37 13 Q. And this would have been after
00:31:39 14 Mr. Allwin passed away in 2007?
00:31:42 15 A. I never met Mr. Allwin.
00:31:44 16 Q. So you believe all these documents were
00:31:46 17 given to you after his death?
00:31:47 18 A. Yes.
00:31:48 19 Q. Backing up just a little bit. What did
00:31:56 20 you do to prepare for your deposition today?
00:31:59 21 A. I met with Tom on Friday, and then
00:32:08 22 Robert was there for a little bit, and then they
00:32:10 23 gave me some documents to just read over. I
00:32:16 24 think there was some excerpts from Ms. Allwin's
00:32:20 25 deposition any time she mentioned me was in

00:32:22 1 there.
00:32:23 2 Q. Do you recall the substance of those
00:32:26 3 conversations when Mr. Lyles was there, Robert?
00:32:31 4 A. I believe so.
00:32:32 5 Q. What were those conversations?
00:32:35 6 A. With Robert?
00:32:36 7 Q. Yes, ma'am.
00:32:38 8 A. Well, let's see. We -- he gave me
00:32:44 9 condolences again on my husband's death. We
00:32:48 10 talked about biking a little bit. You want
00:32:52 11 everything?
00:32:53 12 Q. Yes, ma'am.
00:32:53 13 A. I asked him about his daughter, and then
00:32:55 14 we talked about the case and that, again, they
00:33:02 15 kind of reiterated the rules that you gave me
00:33:05 16 earlier. If I don't know, I don't know. Not to
00:33:09 17 speculate. Not to guess. Not to offer stories.
00:33:13 18 I guess that's what I'm doing now. And then he
00:33:17 19 asked me what I remembered, and I have a hard
00:33:24 20 time remembering my breakfast, so --
00:33:28 21 Q. It's been a while. I understand. Any
00:33:35 22 conversations with Mr. Lyles about when Ms.
00:33:41 23 Allwin knew or first learned of construction
00:33:44 24 defects in the home?
00:33:47 25 A. Construction defects like what?

00:33:51 1 Q. Like anything that was not correctly
00:33:53 2 done when the house was built or during repairs
00:33:56 3 by either Russ Cooper Associates or Dan
00:34:03 4 Buffington Homes?
00:34:04 5 A. My job was to tell her what was going on
00:34:10 6 at the house, not that I would know specifically
00:34:16 7 what caused it, but if I knew there was air
00:34:19 8 leakage around the window, I would tell her that.
00:34:21 9 If there was rot on the house, I would tell her
00:34:23 10 that. So for me to say when did she find out
00:34:30 11 there was construction defects on the house, I
00:34:32 12 don't know when that is.
00:34:33 13 Q. Okay. All right. I am going to show
00:34:38 14 you Exhibit 19, and this is the earliest document
00:34:45 15 that I could find referencing Gamble Home
00:34:49 16 Services. Ms. Allwin or the Allwin's and Gamble
00:34:56 17 Home Services entered into a contract for Gamble
00:34:57 18 to provide those concierge services where they
00:35:02 19 come in a few times a month. I think it was once
00:35:06 20 a week for the Allwin home, and they would stock
00:35:09 21 the refrigerator, crank the car, make sure the
00:35:12 22 battery wasn't dead, that type of thing?
00:35:14 23 A. Exactly.
00:35:15 24 Q. Do you know Amy Ziegler?
00:35:19 25 A. I remember her remotely, yes.

00:35:22 Q. Do you know what role she played with
00:35:28 respect to the Allwin residence?
00:35:29 A. She was a home service manager like John
00:35:31 Nelson.
00:35:31 Q. Would she actually go to the home, or
00:35:33 did she have technicians, for lack of a better
00:35:36 word, who would go out and perform that service?
00:35:39 A. No. Home service manager literally
00:35:41 walks the house. They're the one there.
00:35:45 Q. And if you look at the next page of
00:35:47 Exhibit 19. That's the monthly -- example of the
00:35:53 monthly inspection report that Amy would have
00:35:56 prepared and sent to the Allwins. Is that sort
00:36:00 of consistent with Gamble's process?
00:36:04 A. Yes.
00:36:04 Q. The next page is an actual checklist?
00:36:06 A. Right.
00:36:07 Q. Does Gamble still use a checklist like
00:36:10 this?
00:36:11 A. I don't know. Those three areas of
00:36:17 Gamble I only work my part. I don't know what
00:36:22 the service managers do.
00:36:24 Q. Not within your job description?
00:36:26 A. Not my job.
00:36:27 Q. Exhibit 21, that's a letter from Arrow

00:36:43 1 Service to Bob Cowan back in September of 2001.
00:36:49 2 What I'm interested in is the handwriting just
00:36:52 3 below the middle -- the center of the page toward
00:36:58 4 the bottom. Arrow did this work, $6,000?
00:37:01 5 A. Yes.
00:37:02 6 Q. Is that your handwriting?
00:37:03 7 A. It is.
00:37:03 8 Q. And, again, this document came from Ms.
00:37:07 9 Allwin to me after you had written on it. Why
00:37:13 10 were you given this document?
00:37:14 11 A. It was part of the research for the HVAC
00:37:21 12 system.
00:37:22 13 Q. Which was problematic for years and
00:37:25 14 years and years?
00:37:27 15 MR. LYLES: Object to the form of the
00:37:30 16 question.
00:37:30 17 A. Yes. 133 Flyway had a chiller system,
00:37:36 18 which I was not familiar with. So this was part
00:37:40 19 of learning more about a chiller system, and
00:37:44 20 Arrow was the service company at that time.
00:37:47 21 Q. And we will see at some point later -- a
00:37:50 22 few years later where you do sort of a history
00:37:55 23 and compile and talk to people, do research,
00:37:59 24 review a bunch of documents, and compile a
00:38:03 25 history of repairs, maintenance, things like

00:38:06 1 that; is that correct?
00:38:07 2 A. Yes.
00:38:07 3 Q. And the chiller system that we're
00:38:15 4 talking about here in that exhibit, which was
00:38:18 5 installed by Arrow, was a replacement system to
00:38:21 6 the one that Russ Cooper Associates originally
00:38:22 7 installed when the home was built. Is that your
00:38:24 8 understanding?
00:38:25 9 A. Yes.
00:38:29 10 Q. Do you recall when you would have
00:38:31 11 received that document, Exhibit 21? And you
00:38:37 12 believe it would have been when you did all of
00:38:39 13 that document review? And we will see in your
00:38:43 14 invoices in a few years.
00:38:45 15 A. I would go on my invoices versus my
00:38:48 16 memory.
00:38:49 17 Q. Okay. Exhibit 23 is a November 2001
00:39:01 18 memo from Jim Allwin to Bob Cowan. There's only
00:39:10 19 handwriting towards the center of the page. Is
00:39:13 20 that your handwriting?
00:39:14 21 A. It is.
00:39:14 22 Q. It says, Aware of builder liability-last
00:39:17 23 page.
00:39:18 24 A. Yes.
00:39:28 25 Q. And I believe what Jim Allwin is

00:39:33 1 referring to -- and he's checking off and
00:39:35 2 commenting on several things that Mr. Cowan has
00:39:40 3 mentioned, and I will tell you, I believe Exhibit
00:39:45 4 23 is Mr. Allwin's response to Exhibit 22, a
00:39:53 5 letter from Mr. Cowan.
00:39:54 6 Do you recall -- you have seen Exhibit
00:39:57 7 23 because your handwriting is on it. I believe,
00:40:03 8 based on your handwritten notes on Exhibit 23,
00:40:07 9 you have also seen Exhibit 22; is that correct?
00:40:25 10 A. I don't know. It's old. I don't know.
00:40:30 11 Q. Take a moment to review Exhibit 22 and
00:40:34 12 Exhibit 23 and see if at least, in your opinion,
00:40:41 13 Exhibit 23 is a response to Exhibit 22?
00:40:46 14 A. That seems like a logical assumption.
00:40:49 15 Q. Okay. And you have reviewed Exhibit 23
00:40:51 16 and written upon it, Aware of builder
00:40:55 17 liability-last page?
00:40:58 18 A. Right.
00:41:00 19 Q. And the last page of Exhibit 22
00:41:06 20 states -- and this is from Mr. Cowan to Jim
00:41:10 21 Allwin, Jim, as information, be aware that the
00:41:13 22 statute of limitations will end soon. I am not
00:41:16 23 sure, but I am told it is 13 years in South
00:41:22 24 Carolina for construction projects.
00:41:24 25 Do you see that?

00:41:25 1 A. I do.
00:41:28 2 Q. All right. Have you seen that document
00:41:29 3 before Exhibit 22?
00:41:31 4 A. I don't remember it.
00:41:33 5 Q. Okay. But you made a note on Exhibit 23
00:41:37 6 regarding aware of builder liability?
00:41:39 7 A. I agree with you there.
00:41:40 8 Q. Okay. When you wrote, "Aware of builder
00:41:45 9 liability-last page," who were you referring to?
00:41:48 10 Who was aware of builder liability?
00:41:52 11 A. Whomever read this report.
00:41:54 12 Q. Did you have a conversation with Ms.
00:41:59 13 Allwin at any time about Exhibit 22 or 23?
00:42:04 14 A. I was sent a lot of information.
00:42:08 15 Q. From whom?
00:42:09 16 A. Maria Allwin, and I put it in --
00:42:16 17 Q. Chronological.
00:42:20 18 A. Chronological. Thank you.
00:42:22 19 -- timeline for my understanding of what
00:42:32 20 had happened to that house and who had done what.
00:42:34 21 So this is information that I read. I don't know
00:42:36 22 if anybody else read it.
00:42:38 23 Q. Okay. And I understand you have these
00:42:50 24 documents and you billed Ms. Allwin a pretty good
00:42:54 25 figure for doing that. And I recognize it took

00:42:56 1 time, you were given at lot of stuff and you
00:42:57 2 spoke with people, but that exercise was not just
00:43:06 3 for the HVAC system, correct?
00:43:07 4 A. There was a lot of information in there.
00:43:09 5 It wasn't just HVAC.
00:43:10 6 Q. You did an investigation on what had
00:43:11 7 been done on the roofs?
00:43:17 8 A. Yes.
00:43:19 9 Q. You did an investigation about water
00:43:21 10 leaking into the cave, the basement area?
00:43:24 11 A. Yes.
00:43:25 12 Q. And we will go through -- does Amy
00:44:14 13 Ziegler still work for Gamble?
00:44:15 14 A. No.
00:44:16 15 Q. Do you know if she's still local?
00:44:23 16 A. No.
00:44:23 17 Q. You don't know?
00:44:24 18 A. I don't know.
00:44:25 19 Q. Do you know approximately when she left
00:44:27 20 Gamble?
00:44:34 21 A. No.
00:44:35 22 Q. Were you involved at all with the Allwin
00:44:57 23 residence before Buffington Homes performed its
00:45:02 24 repairs in 2004, 2005?
00:45:05 25 A. No.

00:45:05 1 Q. Were you involved in any way with
00:45:12 2 helping the Allwins interview contractors,
00:45:17 3 nothing like that? Your involvement came after
00:45:20 4 the Buffington repairs?
00:45:21 5 A. Correct.
00:45:22 6 Q. Did you ever speak with Dan Buffington
00:45:29 7 or anybody at Buffington Homes about the repairs?
00:45:32 8 A. I talked to Robbie at one point.
00:45:36 9 Q. Is it Robbie Diamond?
00:45:38 10 A. Yes.
00:45:38 11 Q. And she was the foreman or project
00:45:44 12 superintendent, for lack of a better word, for
00:45:46 13 Buffington Homes when it performed its repairs?
00:45:53 14 A. I believe so, yes.
00:45:53 15 Q. And when did you contact, Robbie?
00:46:03 16 A. Around the same time I would have done
00:46:06 17 this.
00:46:06 18 Q. And you're referring to exhibit --
00:46:07 19 A. When I was actually reviewing all the
00:46:10 20 documents that Maria sent me because that would
00:46:14 21 have been in there, and I would have talked to
00:46:16 22 Robbie at that time.
00:46:21 23 Q. Do you recall the substance of your
00:46:24 24 conversation with Robbie?
00:46:24 25 A. I believe I was asking her what they did

00:46:28 1 at the house.
00:46:28 2 Q. Did you recognize that there were
00:46:31 3 problems or maybe problems with any of the items
00:46:35 4 Buffington Homes worked on in 2004-2005?
00:46:38 5 A. No. I just wanted to know what they
00:46:40 6 did.
00:46:45 7 Q. Do you know who Milt Morgan is?
00:46:50 8 A. That sounds familiar.
00:46:51 9 Q. I will represent to you that he served
00:46:53 10 as a -- for lack of a better word, owners'
00:46:58 11 representative for the Allwins during the
00:47:01 12 Buffington repair?
00:47:02 13 A. Third party. I remember that now.
00:47:04 14 Q. Did you speak with Mr. Morgan during
00:47:06 15 your investigation?
00:47:12 16 A. I believe I did. He was retired when I
00:47:15 17 talked to him.
00:47:16 18 Q. Okay. Did he have any documents that
00:47:18 19 you reviewed?
00:47:19 20 A. If he did, I don't remember it.
00:47:38 21 Q. Do you remember the substance of your
00:47:40 22 conversation with Mr. Morgan?
00:47:45 23 A. I would have asked him what he did and
00:47:47 24 what was the goals or what they were -- what
00:47:51 25 Buffington did at the house.

00:47:52 1 Q. What was the goal of the Buffington
00:47:56 2 repair?
00:47:57 3 A. Do you have a scope?
00:48:07 4 Q. We're going to get to that, yes, ma'am.
00:48:10 5 A. I would rather do that than trying to
00:48:12 6 remember. Honestly.
00:48:13 7 Q. Okay. Have you seen Exhibit 34, this is
00:48:21 8 a Campbell Schneider report prepared for
00:48:29 9 Buffington Homes. Sort of a pre-repair
00:48:31 10 investigation.
00:48:32 11 A. I know Alan Campbell.
00:48:37 12 Q. Where would you have seen that company?
00:48:39 13 A. It would have come to me from Maria
00:48:46 14 Allwin.
00:48:47 15 Q. When you were doing your investigation?
00:48:48 16 A. Yes. Getting to know the house, yes.
00:48:50 17 Q. And we will look at the invoices, too.
00:48:52 18 You would have seen that when you billed for the
00:48:59 19 investigation work, review of documents, and
00:49:01 20 talking with these different individuals who had
00:49:03 21 been involved with the home?
00:49:05 22 A. Yes.
00:49:05 23 Q. If you will keep that clipped on. I
00:49:08 24 don't want it to get a way. If you look on page
00:49:24 25 6, and you will note the report's written by

00:49:32 1 David Roady. Do you know Mr. Roady?
00:49:34 2 A. I do not.
00:49:34 3 Q. Did you speak with Mr. Roady when you
00:49:37 4 were doing your investigative work?
00:49:39 5 A. I don't remember that name.
00:49:42 6 Q. Okay. He goes through and notes fungal
00:49:50 7 growth, water leaks, various issues, and then on
00:49:55 8 page 6 under Conclusions he notes, "The damage to
00:50:00 9 this home appears to be a direct result of the
00:50:03 10 numerous sources of unconditioned air
00:50:05 11 infiltration, steep thermal gradients on finished
00:50:09 12 interior surfaces, and ongoing water intrusion
00:50:11 13 around windows at roof valleys and at several
00:50:17 14 subgrade locations." Do you see that?
00:50:19 15 A. Uh-huh.
00:50:19 16 Q. Do you recall reviewing this document
00:50:21 17 during your investigation?
00:50:22 18 A. I would have reviewed this.
00:50:23 19 Q. And you got this report from Maria
00:50:29 20 Allwin, correct?
00:50:29 21 A. Yes.
00:50:30 22 Q. I'm sorry. I need to take a two-minute
00:50:45 23 break and walk down the hall.
00:50:48 24 (Discussion off the record)
00:54:35 25 Q. I'm showing you Exhibit 37 --

00:54:41 1 A. Are we done with 34?
00:54:46 2 Q. Yes, ma'am, for the moment. Exhibit 37
00:54:51 3 is a letter from Amy Ziegler at Gamble in August
00:54:54 4 of 2003 to the Allwins forwarding the Campbell
00:55:00 5 report we just looked at. And there's some
00:55:08 6 handwriting which says, "Fax to Tori Martindale"
00:55:12 7 and presumably a fax number.
00:55:12 8 A. Yes.
00:55:13 9 Q. Is Martindale your maiden name?
00:55:17 10 A. It was my name before I married Paul.
00:55:17 11 Q. So you were Tori Martindale?
00:55:20 12 A. I am.
00:55:21 13 Q. Do you know whose handwriting that is?
00:55:22 14 A. No.
00:55:22 15 Q. Did Ms. Allwin or someone on her behalf
00:55:28 16 fax this to you, this report? The cover letter
00:55:32 17 from Amy Ziegler in the Campbell Schneider report
00:55:36 18 of August 15th, 2003?
00:55:40 19 A. This could have been in the package.
00:55:47 20 Amy could have sent it to me. I don't know.
00:55:50 21 Q. Okay. All you know is at some point you
00:55:58 22 were given the Campbell Schneider report?
00:56:01 23 A. Yes.
00:56:02 24 Q. When you were doing your investigation,
00:56:22 25 do you recall doing reports, documents, between

00:56:25 1 the Allwins and Milt Morgan?
00:56:33 2 A. Yes.
00:56:34 3 Q. Do you recall reviewing Exhibit 38?
00:57:01 4 A. This looks like the typical letter that
00:57:23 5 Mr. Morgan would have written then. If it was in
00:57:28 6 the package, I would have read it.
00:57:30 7 Q. It looks similar to other letters you
00:57:34 8 have?
00:57:34 9 A. Right. It looks like his format and
00:57:36 10 everything.
00:57:37 11 Q. Okay. But you're confident you reviewed
00:57:40 12 letters to or from or between the Allwins or
00:57:47 13 Mr. Morgan during the Buffington repair?
00:57:51 14 A. Yes.
00:57:51 15 Q. How about Exhibit 39? Have you seen
00:57:53 16 that? Which is a proposal from Roy Davis Smith,
00:58:01 17 Architect.
00:58:14 18 A. I believe so. I remember this gentleman
00:58:21 19 because he wouldn't talk to me.
00:58:23 20 Q. And we will see in your invoices later
00:58:25 21 on where you attempted to reach him at least?
00:58:29 22 A. Right.
00:58:29 23 Q. Why would he not speak with you, do you
00:58:32 24 know?
00:58:32 25 A. Because he worked for Milt Morgan.

00:58:38 1 Q. Right. He thanks you but says, You're
00:58:41 2 not my client?
00:58:42 3 A. Right. Basically.
00:58:48 4 Q. And that presumably Exhibit 39 would
00:58:51 5 have been in the packet that you were given by
00:58:55 6 Ms. Allwin or by someone on behalf of Ms. Allwin?
00:59:01 7 A. Correct.
00:59:01 8 Q. Do you know who installed gutters on the
00:59:09 9 home?
00:59:11 10 A. No.
00:59:17 11 Q. Do you recall seeing Exhibit 40, which
00:59:23 12 is a Piquet Roofing October 2003 roof inspection
00:59:27 13 report?
00:59:30 14 A. No, I did not see those, and I say that
00:59:56 15 because I don't know what this word is, and I
01:00:00 16 would have asked what it was.
01:00:01 17 Q. I'm sorry, what's the word?
01:00:02 18 A. In line one, Follansbee I don't know
01:00:05 19 what that is, and I would have asked.
01:00:25 20 Q. I will represent to you that Follansbee
01:00:29 21 is a manufacturer of roof products. Does that
01:00:34 22 not ring a bell?
01:00:38 23 A. No, it doesn't.
01:00:41 24 Q. Exhibit 45 is a scope of work that Milt
01:00:57 25 Morgan prepared prior to the Buffington repairs.

01:01:05 1 Have you seen this before?
01:01:06 2 A. I don't remember this.
01:01:31 3 Q. Exhibit 49 is a January 2004 letter from
01:01:49 4 Dan Buffington to Mr. and Ms. Allwin where he
01:01:53 5 goes through and points out the problems with the
01:02:03 6 home.
01:02:06 7 A. Okay.
01:02:06 8 Q. Have you seen this before?
01:02:09 9 A. I'm looking for something that will
01:02:39 10 trigger a memory.
01:02:43 11 Q. This might. If you look on the first
01:02:46 12 page, paragraph 1-C, South Carolina has a 13-year
01:02:52 13 statute of limitations for water intrusion. Does
01:02:55 14 that ring a bell? And then towards the middle of
01:03:02 15 that paragraph, I strongly urge you to contact
01:03:06 16 the builder-roofer who installed the roof. If
01:03:08 17 he's unwilling to accept responsibility and
01:03:10 18 replace the roof, I would suggest enlisting legal
01:03:15 19 counsel.
01:03:15 20 A. I see that, but I don't know -- that
01:03:19 21 does not trigger a memory.
01:03:19 22 (Exhibit No. 54 was marked for
01:03:33 23 identification.)
01:03:33 24 Q. Exhibit 54 is the contract between
01:05:11 25 Buffington Homes and the Allwins. Within it is

01:05:26 1 Allwin 667, which is entitled, Scope of work.
01:05:32 2 And my question to you is: Do you
01:05:35 3 recall -- first, do you recall seeing Exhibit 54?
01:05:38 4 A. Yes.
01:05:49 5 Q. And that would have been in the packet
01:05:50 6 that Ms. Allwin gave you for your investigation?
01:05:54 7 A. Yes.
01:05:59 8 Q. And do you see the page marked scope of
01:06:02 9 work?
01:06:02 10 A. I do.
01:06:04 11 Q. Did you glean anything from that? What
01:06:28 12 does that tell you?
01:06:28 13 A. What are you looking for?
01:06:29 14 Q. Well, item number 1, it appears that at
01:06:33 15 least one Tischler window was -- in the breakfast
01:06:39 16 room and one in the sitting room was replaced.
01:06:42 17 A. Yes.
01:06:42 18 Q. Do you know if that work was, in fact,
01:06:45 19 done?
01:06:52 20 A. I believe it was, and the window had
01:06:54 21 lost its vacuum, so it was fogged, so I believe
01:06:58 22 they replaced it.
01:06:59 23 Q. Item number 2 states, "Remove interior
01:07:05 24 trim around windows with evidence of air
01:07:06 25 intrusion. And then caulk or seal the window

01:07:08 frame to the wall system and replace and repaint
01:07:10 the trim."
01:07:12 Do you know that that work was done on
01:07:17 at least a portion of the windows?
01:07:19 A. I'm going to say this. I was given the
01:07:22 scope, and I read it, and I believe that the work
01:07:25 was to be done. But I was not there, and I was
01:07:28 not the third-party person to say it was done, so
01:07:31 I cannot tell you definitely if it was done or
01:07:34 not because I wasn't there.
01:07:40 Q. Once you got involved with the house,
01:07:44 which would have been approximately --
01:07:45 A. '09, '10, maybe.
01:07:47 Q. I'm thinking earlier. Like '07, '08?
01:07:51 A. Okay.
01:07:52 Q. And we will get there in just a moment.
01:07:53 Did you see evidence of air or water intrusion
01:07:55 around windows or at windows?
01:07:57 A. Yes.
01:07:57 Q. How early? I mean, the first time you
01:08:04 walked in the house?
01:08:05 A. Yes.
01:08:05 Q. How about peeling paint on the roof?
01:08:12 Did you notice that the first time you laid eyes
01:08:15 on the house?

01:08:15 1 A. I believe so, yes.
01:08:16 2 Q. How about roof leaks?
01:08:17 3 A. Yes.
01:08:18 4 Q. How about mold and mildew?
01:08:27 5 A. I'm not a mold investigator, but I saw
01:08:30 6 mildew.
01:08:30 7 Q. The first time you looked at the house?
01:08:32 8 A. Yes.
01:08:33 9 Q. Where would that mildew have been
01:08:36 10 located? And I'm not talking about everyday
01:08:36 11 garden variety mildew in the shower or a
01:08:39 12 bathroom. I'm talking evidence of some type of
01:08:41 13 improper condensation or water intrusion.
01:08:44 14 A. Right. There were roof leaks typically
01:08:53 15 in valleys around windows. I remember the
01:08:59 16 chandelier over the foyer around the base of it
01:09:03 17 where it connected to the wall.
01:09:08 18 Q. Yes, ma'am.
01:09:09 19 A. Windows and doors. The basement that
01:09:19 20 was underneath that big deck there.
01:09:22 21 Q. Yes, ma'am.
01:09:24 22 A. Specifically -- I mean, that's a lot of
01:09:26 23 areas, but that's it.
01:09:27 24 Q. And all those things you just mentioned,
01:09:29 25 you noticed that the first time you were at the

01:09:32 1 house?
01:09:33 2 A. I noticed that while I was walking
01:09:35 3 around the house.
01:09:52 4 Q. Exhibit 163 is an April 2004 engineering
01:10:24 5 design and testing report. Do you recall
01:10:29 6 reviewing this?
01:10:29 7 A. Yes.
01:10:40 8 Q. Would that have been in the packet of
01:10:42 9 materials Mrs. Allwin sent you?
01:10:45 10 A. Yes.
01:11:26 11 Q. Have you seen Exhibit 167 before?
01:11:29 12 A. Yes.
01:11:29 13 Q. And that was in the packet that Mrs.
01:11:31 14 Allwin sent you when you were doing your
01:11:33 15 investigative work?
01:11:34 16 A. Yes.
01:11:50 17 Q. How did Mrs. Allwin send you all of
01:11:56 18 these documents? Was it regular mail? Did she
01:11:58 19 overnight them to you?
01:11:59 20 A. I think just overnighted me. Did I say
01:12:06 21 overnight? Not overnight. Just a box that was
01:12:11 22 sent to Gamble for me.
01:12:12 23 Q. Was it a banker's box like -- something
01:12:15 24 I'm showing you right here?
01:12:16 25 A. Good question. I don't remember. And

01:12:19 1 in reality, it probably was sent to Gamble, and
01:12:24 2 they would have opened it and given it to me, so
01:12:27 3 I don't know.
01:12:29 4 Q. Have you seen 174 before, which is a
01:12:59 5 declination letter from AIG, Mrs. Alwin's
01:13:04 6 homeowners insurance saying, We're not going to
01:13:08 7 cover the mold claim you're making at your house?
01:13:10 8 A. Yes.
01:13:10 9 Q. That would have also been in the packet
01:13:14 10 Mrs. Allwin sent you?
01:13:15 11 A. Yes.
01:13:15 12 Q. Do you know who Gamble Home Services
01:15:00 13 would have hired? What contractor it would have
01:15:03 14 hired to perform maintenance items at the house
01:15:06 15 before Atlantic got involved with the Allwin
01:15:09 16 residence?
01:15:10 17 A. Depends on the extent of the work. If
01:15:12 18 it was a minor thing like that toilet repair or
01:15:14 19 something like that, they had handymen on staff,
01:15:19 20 and then it would depend on the magnitude of the
01:15:25 21 work on who they would hire. And every home
01:15:27 22 service manager has the ability to hire whoever
01:15:30 23 they want as long as they have general liability
01:15:34 24 and Workmen's Comp, so it could have been
01:15:37 25 anybody.

01:15:46 1 Q. I have handed you Exhibit 215, which is
01:16:14 2 a July 2006 Complete Inspection Services home
01:16:20 3 inspection report, and if it helps to -- as a
01:16:23 4 reminder, Ms. Allwin was thinking about selling
01:16:27 5 the house at this time, and she had spoken to
01:16:30 6 Cynthia Noble, and Ms. Noble arranged for this
01:16:34 7 report to be done. Essentially, we're going to
01:16:36 8 put the house on the market, let's give it a look
01:16:39 9 over to see what kind of shape it's in.
01:16:41 10 Do you recall seeing that document
01:16:43 11 before?
01:16:43 12 A. Yes.
01:17:00 13 Q. And would this have also been in the
01:17:03 14 package of documents Mrs. Allwin sent you?
01:17:07 15 A. It could have been. I just know I've
01:17:09 16 seen it.
01:17:10 17 Q. If you have seen it, who would you have
01:17:17 18 received it from?
01:17:17 19 A. I could have gotten this from Cynthia.
01:17:21 20 I don't know.
01:17:23 21 Q. Do you recall -- something is perplexing
01:17:30 22 you.
01:17:30 23 A. I was just looking at the date. I was
01:17:32 24 just wondering if I --
01:17:34 25 Q. And I will tell you, there is another

01:17:36 Complete Inspection Services report in 2010.

01:17:40 A. Right. Yeah. Because, you know, the --

01:17:46 Maria was back and forth on selling the house.

01:17:51 This could have been the one I saw or the one in

01:17:55 '10.

01:17:55 Q. Okay. How about Exhibit 217, which is a

01:18:12 July 2006 Albrecht Environmental report?

01:18:15 A. Right.

01:18:16 Q. Mold study essentially.

01:18:18 A. Right.

01:18:19 Q. Have you seen this before?

01:18:20 A. Yes.

01:18:21 Q. And that would have been provided in the

01:18:23 packet of materials Mrs. Allwin gave you during

01:18:25 your investigation?

01:18:26 A. Yes.

01:18:26 Q. All right. Exhibit 222 is a proposal

01:19:16 from Buffington Homes that references the

01:19:21 Complete Inspection Services report that we just

01:19:24 looked at?

01:19:25 A. The one from Albrecht?

01:19:27 Q. No, ma'am. Complete Inspection

01:19:33 Services. It's Exhibit 215.

01:19:43 A. Got it.

01:19:44 Q. Here's 222. And I will represent to you

01:19:47 1 that when Exhibit 215, the Complete Inspection
01:19:52 2 Services report, was prepared, Ms. Noble gave it
01:19:55 3 to Dan Buffington. Dan Buffington then prepared
01:19:59 4 Exhibit 222, which is a proposal for work.
01:20:03 5 A. Yes.
01:20:03 6 Q. Have you seen Exhibit 222 before?
01:20:07 7 A. I remember that other scope that you
01:20:20 8 gave me from Buffington.
01:20:23 9 Q. The 2004 contract?
01:20:24 10 A. Right. The contract, not this one.
01:20:24 11 (Exhibit No. 225 was marked for
01:21:15 12 identification.)
01:21:15 13 Q. Exhibit 225 -- hold on a second. I
01:21:30 14 believe you said earlier your first recollection
01:21:31 15 of being involved with the Allwin residence was
01:21:33 16 doing a boardwalk repair?
01:21:35 17 A. I believe so, yes.
01:21:37 18 Q. I may have looked over that because I'm
01:21:39 19 not really concerned with the boardwalk repair.
01:21:42 20 225 is an April 20th, 2007, Gamble proposal to
01:21:50 21 Mrs. Allwin to perform driveway repairs. Were
01:22:01 22 you involved with that at all?
01:22:13 23 A. No, sir.
01:22:18 24 Q. Exhibit 228 is a July 29, 2007, cover
01:22:26 25 letter and photographs from Paul Issac with AIG.

01:22:39 1 It's a letter to Mr. and Mrs. Allwin.
01:22:42 2 A. Yes.
01:22:42 3 Q. If you look at the first page just under
01:22:44 4 AIG, private client group, there's some
01:22:45 5 handwriting. It says, Buffington before this
01:22:47 6 report.
01:22:47 7 A. Yes.
01:22:48 8 Q. Is that your handwriting?
01:22:49 9 A. It is.
01:22:49 10 Q. What do does that mean, Buffington
01:22:52 11 before this report? Does that mean the
01:22:55 12 Buffington repairs were performed before this
01:22:57 13 report?
01:22:57 14 A. Yes, that makes sense. Because
01:22:59 15 Buffington was '04, right?
01:23:00 16 Q. '04-'05, yes, ma'am.
01:23:02 17 A. And this is '07. Yes, that makes sense.
01:23:05 18 Q. Would you have made this note and
01:23:07 19 reviewed this document, Exhibit 228, during your
01:23:12 20 investigative work when Mrs. Allwin sent you that
01:23:15 21 package?
01:23:15 22 A. Yes.
01:23:15 23 (Exhibit No. 229 was marked for
01:23:15 24 identification.)
01:23:15 25 Q. Exhibit 229 is just an example of

several monthly inspection reports that Gamble is still continuing to issue. Do you know -- and it looks like early on Amy Ziegler is the account manager for the Allwin residence?

A. Right.

Q. Do you know is she still the account manager in 2007 or had she already left?

A. I don't know. I came on --

Q. I will let you keep that. Who has been the account manager for the Allwin residence?

A. Since when?

Q. As soon as Gamble signed on.

A. I know from John Nelson forward. I don't know anything prior to John Nelson, if that makes sense.

Q. From the documents, it suggests Amy Ziegler was at one point and John Nelson and that's all you know?

A. Since then we had Leigh Henninger maybe one other, but I can't remember.

Q. Is Leigh still with Gamble?

A. No.

Q. Is he or she local?

A. She. I don't know.

Q. When did she leave Gamble, if you know?

01:25:06 1 A. Two, three years ago.
01:25:07 2 Q. Do you know whether the Allwins had a
01:25:10 3 property manager or any type of home service
01:25:13 4 prior to Gamble?
01:25:14 5 A. I don't know.
01:25:14 6 (Exhibit No. 232 was marked for
01:26:01 7 identification.)
01:26:01 8 Q. I believe this is the first reference to
01:26:04 9 you I have noticed, and it's Exhibit 232. And it
01:26:16 10 deals with -- I talked to Larry Elkin about this,
01:26:21 11 and it was the pool house, and there was some
01:26:24 12 substance that nobody -- I don't think he ever
01:26:29 13 determined it was some kind of salt deposit or
01:26:32 14 whatever, but there was something growing,
01:26:34 15 spreading, accumulating within the pool house,
01:26:39 16 and this was May of 2008, and you were involved
01:26:41 17 with this investigation?
01:26:42 18 A. I was.
01:26:42 19 Q. But do you recall something before this
01:26:46 20 regarding the boardwalk or would this have been
01:26:50 21 your first involvement with the house?
01:26:53 22 A. I believe my first involvement with the
01:26:58 23 Allwin house was the boardwalk.
01:27:02 24 Q. Was it an extension of the boardwalk?
01:27:04 25 A. No, that came later. She thought it

01:27:11 1 needed to be replaced. I said, No, it's just
01:27:13 2 filthy, and there's a few boards that need to be
01:27:16 3 refastened or maybe replaced, but I saw no reason
01:27:19 4 to replace it.
01:27:21 5 Q. And so you mentioned earlier the first
01:27:24 6 time you went to the house you saw the mildew and
01:27:28 7 stains and different problems. That would have
01:27:31 8 been when you came to the Allwin residence to
01:27:36 9 address this boardwalk or discuss with Ms. Allwin
01:27:43 10 this boardwalk issue?
01:27:44 11 A. Right.
01:27:44 12 Q. And that would have been prior to May of
01:27:47 13 2008?
01:27:47 14 A. I believe so, yes.
01:27:49 15 Q. And you met with Mrs. Allwin?
01:27:52 16 A. When?
01:27:52 17 Q. When you came to look at the boardwalk.
01:27:55 18 A. No.
01:27:56 19 Q. Who did you meet with?
01:27:57 20 A. John Nelson, the home service manager.
01:28:00 21 Q. I'm sorry. I thought you just suggested
01:28:02 22 that you met with her at the house?
01:28:05 23 A. I apologize. No. No.
01:28:09 24 Q. What was the first time you met Mrs.
01:28:13 25 Allwin?

01:28:13 1 A. I don't remember.
01:28:20 2 Q. Had you been working at the house for a
01:28:24 3 significant period of time before you met her?
01:28:26 4 A. I think so. And that's not unusual.
01:28:28 5 Q. Sure.
01:28:29 6 A. Most of our clients are absentee.
01:28:34 7 Q. I think I just asked you this, but when
01:28:45 8 you came to the house for the first time to look
01:28:48 9 at the boardwalk, you're confident it was prior
01:28:54 10 to May of 2008, which is when this pool cabana
01:28:58 11 growth accumulation issue arose?
01:29:00 12 A. Yes.
01:29:00 13 Q. And it was then that you saw these
01:29:02 14 telltale signs of mildew and roof leaks and water
01:29:06 15 intrusion?
01:29:06 16 A. Yes.
01:29:10 17 Q. Did you -- you were there at the house
01:29:13 18 with John Gamble -- when you made that visit?
01:29:17 19 A. John Nelson.
01:29:18 20 Q. John Nelson. Excuse me.
01:29:20 21 A. That's all right.
01:29:21 22 Q. When you saw these signs of water
01:29:22 23 intrusion from the roof and in the cave/basement
01:29:25 24 area, did you point those out to John?
01:29:29 25 A. Yes.

01:29:30 1 Q. Do you know --
01:29:32 2 A. I didn't have to point them out to John.
01:29:34 3 John knew about them already.
01:29:37 4 Q. Was there any discussion about what the
01:29:40 5 homeowner planned to do about that or ought to do
01:29:45 6 about that?
01:29:45 7 A. No.
01:29:45 8 Q. How did you know that John was already
01:29:49 9 aware of those issues?
01:29:50 10 A. Because he gave me a tour of the house,
01:29:56 11 and he just gave me an -- he was interested in
01:29:59 12 working with Mrs. Allwin to help rectify some of
01:30:03 13 the situations.
01:30:04 14 Q. And the situations being the roof leaks,
01:30:06 15 the leak into the cave/basement area, leaks
01:30:10 16 around windows?
01:30:12 17 A. Right.
01:30:12 18 Q. And all of that would have been prior to
01:30:14 19 May of 2008 when this pool cabana issue arose?
01:30:18 20 A. I believe so.
01:30:38 21 Q. All right. Exhibit 235 are some e-mails
01:30:46 22 exchanged between you and Mr. Nelson. If you
01:30:52 23 will, turn to page 2. The first e-mail is June
01:30:56 24 17th, 2008, and you, Tori Martindale, wrote,
01:31:05 25 "Maria Allwin called Buffington this morning. He

01:31:07 1 is pissed. Allwin is sending him a copy of the
01:31:11 2 AIG report." And I believe that's the report of
01:31:13 3 the report we looked at a few moments ago.
01:31:15 4 A. Uh-huh.
01:31:15 5 Q. Say yes.
01:31:16 6 A. Yes.
01:31:17 7 Q. I'm assuming you had some communication
01:31:20 8 with Maria Allwin about this -- her forwarding
01:31:29 9 the AIG report to Buffington; is that correct?
01:31:33 10 A. Yes.
01:31:33 11 Q. And if you will recall, that AIG report
01:31:35 12 had your handwritten notes that the Buffington
01:31:38 13 work was done before the AIG report, correct?
01:31:41 14 A. Yes.
01:31:41 15 Q. And the AIG report noted, even after the
01:31:50 16 Buffington repairs continued, problems with water
01:31:53 17 and air infiltration and resulting damage?
01:31:56 18 A. Right.
01:31:56 19 Q. What did you and Mrs. Allwin talk about
01:32:00 20 on or about June 17th, 2008, regarding Buffington
01:32:04 21 and the AIG report?
01:32:05 22 A. I don't know.
01:32:26 23 Q. Well, I'm looking at your e-mail --
01:32:27 24 A. I know. I'm looking. And, obviously, I
01:32:29 25 understood that, you know, Dan was upset.

01:32:31 1 Q. Well, did she tell you that she had
01:32:33 2 called Dan Buffington?
01:32:34 3 A. I think she forwarded -- I don't know.
01:32:40 4 I mean, obviously, Dan's upset. I said it in the
01:32:44 5 e-mail. But why he's upset, I don't know.
01:32:47 6 Q. But you go on to reference --
01:32:49 7 A. Arrow. Yeah. I didn't know who Arrow
01:32:52 8 was.
01:32:52 9 Q. I'm sorry. I'm still on June 17.
01:32:54 10 A. I apologize.
01:32:55 11 Q. You go on to reference Allwin is sending
01:32:59 12 him a copy of the AIG report.
01:33:01 13 A. Right.
01:33:01 14 Q. So is it a fair assumption to believe
01:33:07 15 that Mrs. Allwin contacted Dan Buffington because
01:33:10 16 her home continues to have air and water
01:33:16 17 intrusion problems following his repair in June
01:33:19 18 2004-2005?
01:33:21 19 A. You are asking me to speculate what she
01:33:23 20 said to him so --
01:33:25 21 Q. I'm asking you, isn't that why she
01:33:27 22 called him, is she let you know that she's
01:33:29 23 communicated with him because she is dissatisfied
01:33:31 24 and expressed that dissatisfaction to you about
01:33:34 25 the condition of her home following the

01:33:37 1 Buffington repairs and she made that expression
01:33:39 2 to you on June 17th, 2008?
01:33:45 3 MR. LYLES: Object to the form of the
01:33:46 4 question.
01:33:46 5 Q. During the course of my examination, you
01:33:48 6 may hear a lawyer object to my question. If you
01:33:48 7 understand the question, you go ahead and answer
01:33:51 8 it. If you would like me to rephrase it, I'm
01:33:53 9 happy to do that.
01:33:54 10 A. I understand. Okay. Then redo it.
01:34:05 11 Q. On June 17, 2008 --
01:34:08 12 A. Right.
01:34:08 13 Q. -- Mrs. Allwin expressed to you her
01:34:12 14 dissatisfaction that her home was continuing to
01:34:16 15 have water and air intrusion problems even after
01:34:19 16 she had spent a considerable amount of money
01:34:22 17 having Dan Buffington and Buffington Homes make
01:34:26 18 repairs in 2004 and 2005; isn't that correct?
01:34:29 19 A. Only because I have to think about it so
01:34:41 20 much I'm going to say I don't know. Because I
01:34:43 21 don't know what Maria said to Buffington that
01:34:45 22 day.
01:34:45 23 Q. Okay. You referenced the AIG report?
01:34:49 24 A. I do.
01:34:49 25 Q. And you believe you had seen it as of

01:34:51 1 June 17th, 2008?
01:34:53 2 A. Yes.
01:34:53 3 Q. And you would have received that from
01:34:59 4 Mrs. Allwin, correct?
01:35:00 5 A. Yes.
01:35:00 6 Q. And the AIG report says what it says,
01:35:14 7 correct?
01:35:14 8 A. The AIG report that I'm thinking of is
01:35:17 9 the one that came in afterwards that talked about
01:35:23 10 the moisture issues.
01:35:25 11 Q. Right. It's Exhibit 228, correct?
01:35:27 12 A. Right.
01:35:28 13 Q. Did you have a conversation with Mrs.
01:35:32 14 Allwin about Exhibit 228?
01:35:36 15 A. This would have been in the timeline
01:35:43 16 that I worked on. So did I talk to her
01:35:46 17 specifically about this? She sent me a bunch of
01:35:50 18 reports. I read them. I did not talk to her
01:35:53 19 specifically about anything. This was for me to
01:35:57 20 learn more about the house.
01:35:58 21 Q. Okay. Look at Exhibit 236. It's an
01:36:25 22 e-mail from Maria Allwin to you, and in the first
01:36:28 23 line she references you following up on the
01:36:34 24 boardwalk.
01:36:34 25 A. Right.

01:36:39 1 Q. Okay. So we're looking at the summer of
01:36:44 2 2008. Late spring/summer of 2008 you're getting
01:36:47 3 involved with the Allwin house.
01:36:49 4 A. Yes.
01:36:49 5 Q. Mrs. Allwin goes on to tell you, I sent
01:36:59 6 Dan Buffington a copy of the inspection, and he
01:37:03 7 will talk to Arrow to see if dehumidifiers can be
01:37:07 8 used.
01:37:08 9 A. Right.
01:37:08 10 Q. Is she referring to the AIG Inspection
01:37:12 11 report, Exhibit 228, that we looked at before?
01:37:17 12 A. I don't know. It says, I sent Dan a
01:37:19 13 copy of the inspection. Which inspection, I
01:37:23 14 don't know.
01:37:23 15 Q. Well, let's go back to Exhibit 235 on
01:37:31 16 the last page where three days earlier you type,
01:37:41 17 Allwin is sending him -- referring to
01:37:43 18 Buffington -- a copy of the AIG report.
01:37:45 19 A. Then that's a good assumption.
01:37:47 20 Q. Okay. Looking back at 236, you don't
01:37:52 21 know of any other inspection report that Mrs.
01:37:54 22 Allwin might have been referring to other than
01:37:57 23 the AIG report, Exhibit 228, correct?
01:38:00 24 A. I don't remember anything else.
01:38:07 25 Q. Mrs. Allwin states to you in her e-mail,

01:38:11 1 "I do not understand how the mold around
01:38:13 2 fixtures, et cetera, escaped inspection until
01:38:17 3 this point. Dan understood my irritation in 2004
01:38:27 4 and 2005. We did a complete overall to the
01:38:30 5 house. Several hundred thousand dollars later
01:38:34 6 and the problem is still there. Kiawah is an
01:38:41 7 ongoing saga." Is that correct?
01:38:43 8 A. Yes.
01:38:43 9 Q. I understand your involvement with the
01:38:46 10 boardwalk. That's clear-cut. That's a specific
01:38:48 11 issue she wants help on. Why is she involving
01:38:51 12 you in this AIG report/Dan Buffington issue? Is
01:39:02 13 this where you're being retained to perform an
01:39:05 14 investigation?
01:39:06 15 A. I don't know.
01:39:12 16 Q. Are you just getting these e-mails
01:39:18 17 and --
01:39:22 18 A. I would get -- could be.
01:39:32 19 Q. I mean, John Nelson has obviously
01:39:34 20 brought you into --
01:39:37 21 A. Right. John has brought me in what is a
01:39:39 22 series of, you know, Maria and I getting to know
01:39:41 23 each other and what's going on at the house. I
01:39:43 24 suppose so.
01:39:44 25 Q. Well, she's relaying to you her

dissatisfaction about the condition of the home even after the Buffington repairs, correct?

A. Yes.

Q. At this point in June of 2008, have you been charged with doing anything about that?

A. Go by my invoices, those dates, and that would tell us when I started my investigation or started reading up on the house.

Q. All right. Let's look at Exhibit 237, and it's an e-mail exchange between you and Mrs. Allwin. The heading is mold and window question. The first e-mail is from Mrs. Allwin on June 23rd, 2008.

A. Uh-huh.

Q. She's thanking you for your note and states, "I'm confident that you will get to the bottom of the issues."

A. Uh-huh.

Q. Does that suggest to you that in June of 2008 you have been charged with investigating the source of problems with the Allwin residence?

A. This could be anything. We did a lot of work on that house. So without it specifically saying which issue, I don't know which issue she's talking about or this e-mail is talking

01:41:33 1 about.
01:41:33 2 Q. Okay. But there were lots of issues in
01:41:38 3 June of 2008, correct?
01:41:41 4 A. I remember an issue where I couldn't
01:41:44 5 extend her boardwalk all the way because I had
01:41:47 6 sea turtles laying eggs in the last dune. So it
01:41:51 7 could have been that issue.
01:41:52 8 Q. Right. But there were lots of water
01:41:55 9 intrusion issues in the house in June of 2008,
01:41:57 10 correct?
01:41:57 11 A. Correct.
01:42:01 12 Q. So you don't know if she's talking about
01:42:02 13 roof leaks or window leaks or leaks into the
01:42:05 14 basement from the pool deck?
01:42:07 15 A. Or turtles.
01:42:08 16 Q. Or turtles.
01:42:09 17 A. Right.
01:42:11 18 Q. But all of those issues existed in the
01:42:14 19 summer of 2008, correct?
01:42:15 20 A. Yes.
01:42:20 21 Q. Exhibit 241 is page 1 of what is
01:42:35 22 presumably a 19-page fax. Have you seen this
01:42:38 23 before?
01:42:38 24 A. I saw this page, and I have been trying
01:42:41 25 to wrap my brain on what that was.

01:42:45 1 Q. Okay. When did you see that page?
01:42:48 2 A. I think it was part of the package that
01:42:51 3 I was given.
01:42:53 4 Q. Shown on Friday?
01:42:54 5 A. Uh-huh. Yeah.
01:42:55 6 Q. The handwriting at the -- well, the
01:43:00 7 handwriting to/from, number of pages, that's not
01:43:02 8 your handwriting, correct?
01:43:04 9 A. That's correct.
01:43:04 10 Q. Do you know if that's Maria Allwin's?
01:43:08 11 A. I don't know.
01:43:09 12 Q. The handwriting -- the last two lines
01:43:15 13 below the middle of the page, referencing an
01:43:17 14 October of 2003 Piquet Roofing. Apparently an
01:43:25 15 opinion in the letter, the roof can be patched
01:43:27 16 and repaired.
01:43:28 17 A. Yes.
01:43:29 18 Q. And then a September -- is that '07 or
01:43:32 19 '05?
01:43:32 20 A. I can't tell either.
01:43:34 21 Q. Letter from Roy Smith to Milt Morgan?
01:43:38 22 A. Right. That's my handwriting.
01:43:40 23 Q. Yes, which suggests to you that during
01:43:48 24 your investigation, you reviewed the October of
01:43:51 25 2003 Piquet Roofing report, correct, because you

01:43:55 1 quoted it here?
01:43:56 2 A. Until you said that, I had no idea.
01:43:59 3 That's just my notes. Something about Piquet
01:44:02 4 Roofing on October 3rd.
01:44:04 5 Q. Okay. And then September of some year,
01:44:07 6 presumably you have reviewed a letter from
01:44:11 7 architect Roy Smith to Milt Morgan?
01:44:14 8 A. Correct.
01:44:20 9 Q. And you would have reviewed those
01:44:22 10 documents you believe sometime about the date of
01:44:24 11 this fax, July 21, 2008?
01:44:26 12 A. Could be.
01:44:26 13 (Exhibit No. 242 was marked for
01:44:26 14 identification.)
01:44:26 15 Q. Exhibit 242 is a proposal for additional
01:44:55 16 work, and it may be that you already had a
01:45:00 17 contract with Mrs. Allwin for possibly the
01:45:02 18 boardwalk repair. I'm not particularly concerned
01:45:07 19 about the nature of these repairs.
01:45:11 20 There's a couple door replacements, and
01:45:16 21 she told us why she wanted those replaced,
01:45:20 22 replacing some rotten handrails. I mean, general
01:45:23 23 maintenance type stuff?
01:45:24 24 A. Right.
01:45:25 25 Q. My question to you is this: Given the

01:45:32 1 2006 Complete Inspection report, which I think
01:45:35 2 was Exhibit 215, and the AIG report, Exhibit 228,
01:45:43 3 was there any interest by Mrs. Allwin in the
01:45:51 4 summer of 2008 when you're out there working to
01:45:54 5 address the problems, defects, causes of the
01:45:58 6 problems, noted in those two reports?
01:46:02 7 A. I'm thinking. I'm trying to put
01:46:11 8 everything kind of in line. I would have written
01:46:18 9 this in response to what she was interested in
01:46:20 10 working on.
01:46:22 11 Q. Okay. When you did your
01:46:26 12 investigation and saw the 2006 Complete
01:46:30 13 Inspection report, if that is the one you in fact
01:46:33 14 saw, and you saw the AIG report, Exhibit 228, did
01:46:40 15 you ever say, Hey, Mrs. Allwin, we really need to
01:46:44 16 address these issues, or you, as the owner, ought
01:46:50 17 to give it some consideration?
01:46:59 18 A. No.
01:47:00 19 Q. Is there a reason you wouldn't have made
01:47:07 20 that suggestion?
01:47:08 21 A. That information was for me to read to
01:47:13 22 understand the house, and then my comment to her
01:47:17 23 would have been, What do you want me to do? And
01:47:23 24 this would have come from it.
01:47:24 25 Q. Okay. And she had the information as

01:47:26 1 well? That's where you got it from?
01:47:28 2 A. Right.
01:47:28 3 Q. We are here. Exhibit 244. All right.
01:47:47 4 I believe this is the first of a couple of
01:47:48 5 invoices that outline your investigation.
01:47:53 6 A. Right.
01:47:53 7 Q. And the first is not quite a $1,900
01:47:59 8 invoice. And on page 2, you describe what you
01:48:04 9 have done.
01:48:05 10 A. Yes.
01:48:06 11 Q. On July 7th, 2008, you spoke with Larry
01:48:22 12 Elkin. Do you recall what that was about?
01:48:24 13 A. Specifically, no. I talk to Larry on
01:48:32 14 and off several times a year.
01:48:34 15 Q. Obviously, if you're billing Mrs.
01:48:37 16 Allwin, it would have been in respect to her
01:48:38 17 residence at Kiawah?
01:48:40 18 A. It would have had something to do with
01:48:42 19 133 Flyway.
01:48:46 20 Q. Okay. July 8th you spoke with Arrow
01:48:47 21 Service and that would have been related to the
01:48:49 22 HVAC, correct?
01:48:50 23 A. Yes.
01:48:50 24 Q. You also had a meeting at 133 Flyway
01:48:53 25 with Larry Elkin.

01:48:53 1 A. Yes.
01:48:55 2 Q. Do you recall if that was the pool
01:49:01 3 cabana or some other problem?
01:49:07 4 A. I don't know.
01:49:07 5 Q. Also on July 8th, you had a telephone
01:49:09 6 conference with John Albrecht with Albrecht
01:49:12 7 Engineering, and I'll remind you we looked
01:49:14 8 earlier at a mold study his firm had performed.
01:49:17 9 A. Two of them.
01:49:18 10 Q. Two of them. What do you recall about
01:49:20 11 this conversation with John Albrecht?
01:49:21 12 A. I would have talked about his report.
01:49:23 13 Q. Okay. On 14 July, 2008, you reviewed
01:49:33 14 reports. There was the Buffington contract and
01:49:35 15 invoices.
01:49:36 16 A. Yes.
01:49:37 17 Q. Smith Engineer, would that have been Roy
01:49:41 18 Smith Architect?
01:49:42 19 A. I think so, yes.
01:49:43 20 Q. Milt Morgan. So you would have reviewed
01:49:49 21 correspondence reports from Milt Morgan?
01:49:51 22 A. Yes.
01:49:52 23 Q. Again, Albrecht Engineering. When you
01:49:57 24 attempted to speak with Roy -- here you say Roy
01:50:01 25 Smith Engineer. So we're confident that the

01:50:03 1 Smith above is not the architect, Roy Davis
01:50:08 2 Smith? Mr. Smith is not an engineer, he's an
01:50:11 3 architect?
01:50:11 4 A. Is he?
01:50:13 5 Q. You identify Roy Smith as an engineer.
01:50:16 6 A. I do.
01:50:17 7 Q. All right. So this would have been the
01:50:21 8 same Roy Smith that was involved -- he made the
01:50:23 9 proposal we looked at earlier?
01:50:26 10 A. To Milt Morgan.
01:50:26 11 Q. To Milt Morgan regarding destructive
01:50:33 12 testing and forensic investigation?
01:50:35 13 A. I believe so.
01:51:06 14 Q. Exhibit 254 is about four months later
01:51:32 15 in October of 2008. It's an invoice from
01:51:43 16 Gamble-Atlantic to Maria Allwin, and it's for
01:51:47 17 your, essentially, investigative services?
01:51:55 18 A. Yes.
01:51:59 19 Q. You have almost 31 hours of
01:52:02 20 investigation. And, again, on the second page,
01:52:11 21 we have got, "Telephoned Roy Smith and meeting
01:52:15 22 with Arrow," and then the bulk of this is
01:52:19 23 document review.
01:52:20 24 A. Yes.
01:52:21 25 Q. So we are essentially 25 hours of

document review, roughly?

A. Uh-huh.

Q. That's in addition to the document review you performed in the first invoice?

A. Uh-huh.

Q. Correct?

A. Yes.

Q. So we have got 25-plus hours of document review. Can you tell me how large of a packet you received? Was it a foot of paper? Six inches of paper?

A. Arrow alone was like a ream of paper, a package of paper, so I don't know. But no.

Q. And I'm trying to get -- I want to make sure we have a good understanding of the scope of your investigation in 2008.

A. Sure.

Q. Part of it had to do with the HVAC?

A. Yes.

Q. And, frankly, I'm not interested in that. It also had to do with the roof leaks and the leaks into the cave in the basement?

A. Yes.

Q. And water intrusion around windows and doors?

01:53:31 A. Yes.
01:53:31 Q. What else? Mold and mildew?
01:53:35 A. Yes.
01:53:35 Q. What else were you aware of in the
01:53:41 summer and fall of 2008 that you were
01:53:43 investigating? What other problems were you
01:53:45 investigating?
01:53:45 A. Anything that would be in those reports
01:53:48 by Alan Campbell and Snyder, Albrecht.
01:53:58 Q. So you had -- let's sort of regroup it
01:54:02 and think about what we have looked at. We have
01:54:05 looked at the Campbell Schneider report?
01:54:07 A. Right.
01:54:07 Q. We have looked at the AIG report?
01:54:09 A. Right.
01:54:10 Q. Possibly could have had the Complete
01:54:16 Inspection report of 2006?
01:54:18 A. The one by Cynthia Noble?
01:54:20 Q. Yes.
01:54:20 A. Yes.
01:54:20 Q. You think you had that?
01:54:22 A. I'm just agreeing with you that that's a
01:54:25 possibility.
01:54:25 Q. You have got the two mold studies?
01:54:31 A. Right, by Albrecht.

01:54:32 1 Q. Right. You have the correspondence to
01:54:37 2 and from Milt Morgan?
01:54:39 3 A. Right.
01:54:40 4 Q. You have the Buffington --
01:54:41 5 A. Right.
01:54:41 6 Q. You have the Buffington -- it says in
01:54:47 7 the first invoice you have the Buffington
01:54:51 8 contracts and -- you have the Buffington contract
01:54:59 9 and invoices?
01:55:01 10 A. Right. But not the one that
01:55:09 11 corresponded with that '06 home inspection
01:55:11 12 report. That, I was not familiar with.
01:55:13 13 Q. Okay. It would have been the '04-'05
01:55:18 14 work that you looked at?
01:55:19 15 A. Right.
01:55:20 16 Q. Anything else that you recall reviewing?
01:55:22 17 A. No.
01:55:31 18 Q. On Exhibit 254, it says, "Copies of
01:55:39 19 document. 511 copies of documents." Do you know
01:55:45 20 why you would have copied documents?
01:55:49 21 A. Probably because I wanted a copy, and I
01:55:53 22 sent them back.
01:55:55 23 Q. Sent the originals back to Mrs. Allwin?
01:55:57 24 A. Uh-huh.
01:55:58 25 Q. Do you think that's maybe why she has

01:56:01 1 documents in her files that has your handwriting
01:56:04 2 on them? Possibly?
01:56:10 3 A. It's logical.
01:56:23 4 Q. The last entry on your line item on the
01:56:26 5 second page of Exhibit 254 it says, "Two hours,
01:56:31 6 prepare report."
01:56:31 7 A. Right.
01:56:36 8 Q. I have not seen -- or if I have seen it,
01:56:37 9 I'm not recognizing anything as Tori Stein's
01:56:41 10 report of October of 2008. What was -- what did
01:56:44 11 you compile?
01:56:46 12 A. That was a report of, in chronological
01:56:50 13 order, what happened at the house. So, you
01:56:54 14 know -- so like Buffington's work would have been
01:57:04 15 before AIG and things like that. So it put it --
01:57:09 16 when everything came to me, it was in just a
01:57:12 17 stack.
01:57:13 18 Q. Hodgepodge of documents?
01:57:16 19 A. Right. I covered my dining room table
01:57:18 20 with paperwork.
01:57:19 21 Q. And it took you 25 hours -- I'm not
01:57:22 22 saying it shouldn't have, but it took you a
01:57:25 23 considerable amount of time just to lay things
01:57:27 24 out and in order?
01:57:28 25 A. Yes.

01:57:29 1 Q. And you laid that out and put it in
01:57:31 2 order?
01:57:31 3 A. I did.
01:57:32 4 Q. What else did your report have?
01:57:33 5 A. Basically that's it. It didn't spell
01:57:38 6 out what was in the reports because that was
01:57:41 7 already in the reports. It just said this
01:57:43 8 happened on this date and this happened on this
01:57:45 9 date.
01:57:45 10 Q. It was a timeline?
01:57:46 11 A. It was.
01:57:46 12 Q. Did you make any recommendations within
01:57:53 13 that report?
01:57:53 14 A. No.
01:57:54 15 Q. What did you do with the report?
01:58:00 16 A. Sent it back to her after I made a copy
01:58:04 17 of it.
01:58:04 18 Q. Did you e-mail it?
01:58:05 19 A. No. I wouldn't have e-mailed that.
01:58:08 20 That was too big.
01:58:10 21 Q. How thick was this timeline?
01:58:12 22 A. Probably a 5-inch binder at least. It
01:58:15 23 was big.
01:58:16 24 Q. Other than -- I'm envisioning an 8 and a
01:58:24 25 half by 11 sheet of paper, on the left is a date,

01:58:28 1 and then a brief description about what happened
01:58:31 2 on that date to the right of that. Is that what
01:58:33 3 the report looked like?
01:58:34 4 A. No. I mean, it was literally, you know,
01:58:40 5 Maria, thank you for your paperwork. This is --
01:58:44 6 please find attached all the documents that you
01:58:46 7 gave me in this order. And this is -- and this
01:58:51 8 is how I'm sending it back to you. I have made
01:58:54 9 copies of it. So on this date, this happened.
01:58:59 10 Albrecht showed up, then Snyder showed up, then
01:59:01 11 whatever.
01:59:03 12 Q. Okay. Again, I'm not minimizing your
01:59:09 13 effort at all, but was the report simply a list
01:59:14 14 of the documents in chronological order?
01:59:17 15 A. See, this was for me.
01:59:22 16 Q. Right. I understand. Because you were
01:59:26 17 charged with --
01:59:28 18 A. Right.
01:59:28 19 Q. -- identifying the cause of all these
01:59:31 20 problems in the house that the home was suffering
01:59:33 21 in the summer and fall of 2008?
01:59:35 22 A. And find out what had happened in the
01:59:37 23 past. What would I think about, you know, going
01:59:42 24 forward whatever. This was for me. So, I mean,
01:59:46 25 did Maria ask me to investigate or anything? No.

01:59:56 1 Now, see at that time, I was just trying to learn
01:59:59 2 for myself. It was a big house.
02:00:01 3 Q. And I appreciate that. But she has paid
02:00:05 4 you almost $7,000 to put these documents in
02:00:09 5 chronological order.
02:00:10 6 A. Right.
02:00:10 7 Q. There had to be something more than
02:00:14 8 paying someone $7,000 to put a stack of documents
02:00:17 9 in chronological order. You were doing it for a
02:00:20 10 reason.
02:00:21 11 A. Right.
02:00:22 12 Q. And that was to identify -- hopefully
02:00:29 13 identify all the work that had been done on the
02:00:31 14 home in the past?
02:00:32 15 A. Right.
02:00:33 16 Q. Then looking at the problems the home
02:00:35 17 was experiencing in 2008, you would be in a
02:00:39 18 position to --
02:00:41 19 A. Offer suggestions on what to do going
02:00:44 20 forward.
02:00:44 21 Q. Exactly. Is that correct?
02:00:48 22 A. Yes.
02:00:53 23 Q. What suggestions did you make going
02:00:56 24 forward after you completed your investigation in
02:00:58 25 October of 2008?

02:01:01 A. I probably would have asked if I could
02:01:03 open up a wall, look at certain things. Do you
02:01:08 want me to paint? You know, what do you want me
02:01:11 to do? And then she would have told me, and I
02:01:14 would have written it up.
02:01:15 Q. You would have presented a contract?
02:01:17 A. I would have.
02:01:23 Q. And you're being paid for your services
02:01:27 at this point in the summer and fall during your
02:01:30 investigation? Would you characterize yourself
02:01:32 as more of a consultant at this point?
02:01:34 A. Yes.
02:01:34 (Exhibit No. 257 was marked for
02:01:58 identification.)
02:01:58 Q. Exhibit 257 is -- we're still in October
02:02:05 of 2008. It's an e-mail to Maria Allwin from
02:02:12 you.
02:02:12 A. Uh-huh.
02:02:12 Q. Do you recall this?
02:02:14 A. Actually, I was just noticing I was
02:02:17 married before '09.
02:02:53 Q. The last sentence in the first
02:02:55 paragraph.
02:02:56 A. I'm sorry. The last sentence in the
02:02:58 first --

02:02:59 1 Q. The first paragraph. First paragraph
02:03:01 2 last sentence.
02:03:01 3 A. Right.
02:03:02 4 Q. "If you choose to go down the legal
02:03:04 5 road, I would be very interested in knowing
02:03:06 6 more."
02:03:06 7 A. Right.
02:03:09 8 Q. I mean, you had a telephone conference
02:03:13 9 with Mrs. Allwin apparently that you refer to.
02:03:16 10 What was she talking about with respect to legal
02:03:20 11 options?
02:03:21 12 A. I do not remember.
02:03:26 13 Q. But on October 7th, 2008, there was a
02:03:33 14 discussion with Mrs. Allwin about possibly
02:03:36 15 pursuing claims or she was considering pursuing
02:03:39 16 claims?
02:03:40 17 A. See, I understand that she was talking
02:03:44 18 about legal action, but if you're going to ask me
02:03:46 19 specifically what she was talking about, I don't
02:03:49 20 know.
02:03:49 21 Q. Okay. But you understand on October
02:03:53 22 17th, 2008, she was considering legal action?
02:03:56 23 A. Right. But, also, if you will read
02:03:58 24 further into that e-mail, you're going to see
02:04:00 25 Arrow.

02:04:01 1 Q. And it may relate to HVAC issues and not
02:04:04 2 other things, but you don't know specifically?
02:04:06 3 A. Correct.
02:04:07 4 Q. Exhibit 261 is a proposal from
02:04:19 5 Gamble-Atlantic to Maria Allwin to do what scope
02:04:36 6 of work?
02:04:36 7 A. The attached. This would have been --
02:04:44 8 this would have been working on the HVAC -- the
02:04:50 9 chiller system that was on the house.
02:05:00 10 Q. Well, let's turn to page 6 of that
02:05:05 11 document, and I'm using your page numbering at
02:05:09 12 the top. It's -- 1424 is the Bates stamp.
02:05:15 13 A. Okay. Yeah. That's the cavern
02:05:18 14 underneath the rear elevation deck.
02:05:20 15 Q. Let's take them one at a time. The
02:05:20 16 first -- and this is your scope of work for this
02:05:23 17 contract, correct? This and the following?
02:05:24 18 A. Yes.
02:05:25 19 Q. The first item on the scope of work is
02:05:28 20 cavern under rear elevation deck.
02:05:31 21 A. Correct.
02:05:32 22 Q. My first question to you is: What was
02:05:34 23 the problem with what the Allwins called the
02:05:37 24 cave?
02:05:37 25 A. It was so wet in there.

02:05:40 1 Q. Where was that water coming from?
02:05:44 2 A. It was coming from the ceiling.
02:05:47 3 Q. From the pool deck above?
02:05:49 4 A. Not the pool deck. So you have the pool
02:05:51 5 deck, and then you had a raised open deck. The
02:05:56 6 cavern or the cave was underneath that raised
02:05:59 7 deck, but not below the pool.
02:06:01 8 Q. Yes, ma'am. Thank you. I understand.
02:06:05 9 Was that deck over the cave leaking in -- all
02:06:13 10 over the place or was it just leaking where the
02:06:15 11 deck tied into the home?
02:06:18 12 A. All over the place.
02:06:20 13 Q. Was it also leaking where the deck tied
02:06:22 14 into the home?
02:06:24 15 A. Could have been.
02:06:29 16 Q. Okay. What was your plan to address
02:06:34 17 that problem in this contract, Exhibit 260?
02:06:34 18 (Exhibit No. 260 was marked for
02:06:44 19 identification.)
02:06:44 20 A. Which problem?
02:06:45 21 Q. We're still in the cave.
02:06:47 22 A. Seal the walls with like an elastomeric
02:06:51 23 paint to seal. It's a product used on basements
02:06:54 24 a lot of times to keep the moisture out. And
02:07:02 25 then it added the moisture barrier on the ground

02:07:07 1 because -- right. That was ground. It wasn't
02:07:10 2 concrete floor. So we would have masked that and
02:07:14 3 then it ran up the walls.
02:07:18 4 Q. Was anything done to the -- to the
02:07:23 5 ceiling of the cave, the bottom side of the pool
02:07:25 6 deck?
02:07:26 7 A. No.
02:07:26 8 Q. Was this a condensation problem or was
02:07:30 9 liquid water coming through the pool deck?
02:07:32 10 A. No, it wasn't. There was -- it was an
02:07:37 11 open floor. An open deck. I mean, I'm sorry,
02:07:41 12 open floor, so it was dirt.
02:07:43 13 Q. In the cave?
02:07:46 14 A. Right. So moisture would evaporate from
02:07:49 15 the floor and condensate on the ceiling and then
02:07:51 16 come back down.
02:07:53 17 Q. There's a scientific term for that,
02:07:56 18 which I forget at the moment, but water vapor
02:07:57 19 rises up from the soil and that was just a dark,
02:07:59 20 damp place?
02:07:59 21 A. It was.
02:08:00 22 Q. Was there any concern on your part
02:08:02 23 about -- and I thought you said there was, but
02:08:06 24 was there -- I may have misunderstood you. Was
02:08:10 25 there any concern on your part that the deck was

02:08:14 1 leaking and contributing to water into the
02:08:19 2 basement?
02:08:19 3 A. No. Not at that time.
02:08:21 4 Q. Who developed this scope of wok for the
02:08:26 5 cave?
02:08:26 6 A. ESS.
02:08:28 7 Q. And that was the HVAC group you brought
02:08:31 8 in to evaluate the HVAC system, but then they
02:08:35 9 also looked at this humidity condensation problem
02:08:38 10 in the cave?
02:08:40 11 A. Right. Environmental engineering.
02:08:44 12 Q. All right. The next section is heating
02:08:47 13 and air system.
02:08:51 14 A. Yes.
02:08:52 15 Q. In a nutshell, what HVAC work did you
02:08:56 16 do? This wasn't a full scope replacement?
02:09:02 17 A. Oh gosh, no. We just modified the
02:09:06 18 existing system that was in there.
02:09:07 19 Q. Is this where we broke it up into more
02:09:10 20 zones? Added some --
02:09:12 21 A. I don't think we broke them down. I
02:09:21 22 think we consolidated.
02:09:22 23 Q. And I'm reading that here, too.
02:09:24 24 A. Right.
02:09:25 25 Q. Okay. That's fine. Next you have,

02:09:26 1 "Seal the following areas for air infiltration."
02:09:32 2 A. Correct.
02:09:32 3 Q. "345 outlets and switches." I am
02:09:37 4 assuming that's every outlet and switch in the
02:09:39 5 house?
02:09:39 6 A. Yes.
02:09:40 7 Q. And so someone for Gamble-Atlantic would
02:09:48 8 remove the outlet switch cover and then do what?
02:09:51 9 A. And then would seal around it so that
02:09:53 10 the air infiltration wouldn't come into the house
02:09:55 11 from the inside of the wall.
02:09:56 12 Q. You could do like a spray foam type
02:09:59 13 seal?
02:09:59 14 A. Yes.
02:09:59 15 Q. Is there a particular product that you
02:10:01 16 need to use to perform that function or is it
02:10:03 17 any --
02:10:05 18 A. You want to make sure it's not
02:10:06 19 flammable.
02:10:07 20 Q. Right.
02:10:07 21 A. But I don't remember what product we
02:10:10 22 used.
02:10:10 23 Q. And the problem there was you have a
02:10:18 24 cool interior. You have warm moist air from the
02:10:21 25 outside that works its way into the home and gets

02:10:24 1 inside at switches and outlets, and so you have
02:10:26 2 mildew or mold condensation issues around those
02:10:30 3 locations.
02:10:30 4 A. Right.
02:10:35 5 Q. And Gamble-Atlantic sealed the 345
02:10:38 6 outlets and switches, correct?
02:10:39 7 A. Correct.
02:10:39 8 Q. 25 large windows, you're essentially
02:10:42 9 doing the same there. Pulling off the interior
02:10:44 10 trim --
02:10:44 11 A. No.
02:10:44 12 Q. How did you do that?
02:10:45 13 A. No. That's not what that says. It
02:10:47 14 says, "Seal perimeter interior casing."
02:10:47 15 Q. Excuse me.
02:10:50 16 A. So I didn't pull anything off.
02:10:52 17 Q. Okay. What -- is this just applying
02:10:53 18 caulk?
02:10:53 19 A. Uh-huh. It is.
02:10:54 20 Q. Where?
02:10:55 21 A. Around the perimeter of -- I'm looking
02:10:58 22 for an example. Do you know what casing is?
02:11:01 23 Q. Yes, ma'am.
02:11:02 24 A. Just sealing around the -- the perimeter
02:11:05 25 of the casing and then the inside of the window

02:11:08 1 all the way around.
02:11:08 2 Q. Okay. At the intersection of the -- on
02:11:12 3 the perimeter of the window casing, where the
02:11:15 4 Sheetrock comes into the casing?
02:11:18 5 A. The Sheetrock should be underneath the
02:11:19 6 casing.
02:11:20 7 Q. Yes, ma'am. At the -- at the edge of
02:11:24 8 the casing --
02:11:27 9 A. Yes. Yes.
02:11:27 10 Q. At its interface with the Sheetrock?
02:11:30 11 A. Correct.
02:11:31 12 Q. And then on the interior of the casing
02:11:39 13 where that casing meets the window?
02:11:40 14 A. Yes, and then the apron.
02:11:43 15 Q. You do underneath the apron at the
02:11:46 16 Sheetrock and --
02:11:46 17 A. Yes.
02:11:47 18 Q. All right. And where it meets the
02:11:49 19 window. And that was with caulk?
02:11:54 20 A. Yes.
02:11:54 21 Q. And Gamble-Atlantic did that on 29 large
02:11:57 22 windows, 69 medium windows, and 62 small windows?
02:12:01 23 A. Yes.
02:12:01 24 Q. And that work would have been performed
02:12:03 25 in late 2008, earlier 2009 probably?

02:12:09 1 A. Yes.
02:12:10 2 Q. And that work was performed just like
02:12:19 3 the switches and outlets to prevent air
02:12:22 4 infiltration from the outside at those locations
02:12:25 5 because the home had been experiencing
02:12:26 6 condensation and, mold, and mildew around those
02:12:28 7 windows?
02:12:29 8 A. Yes.
02:12:38 9 Q. You're doing the same thing at door
02:12:39 10 casings and penetrations where pipes are going
02:12:42 11 through and along nearly 70 feet of base board?
02:12:47 12 A. Correct.
02:12:47 13 Q. Again, air infiltration is a concern.
02:12:50 14 You want to prevent condensation mold and mildew?
02:12:52 15 A. Uh-huh.
02:12:53 16 Q. Yes?
02:12:53 17 A. Yes.
02:12:59 18 Q. The next page, the roof, you're
02:13:02 19 repairing the valley over the bedroom with the
02:13:07 20 map wallpaper?
02:13:08 21 A. Yes.
02:13:08 22 Q. And repairing the valley over the
02:13:11 23 sitting area in the master bedroom. I take it
02:13:14 24 those two rooms had leaks.
02:13:16 25 A. They did?

02:13:17 1 Q. And your company made the repairs in
02:13:21 2 2008-2009, correct?
02:13:22 3 A. Yes.
02:13:22 4 Q. What was the cause of those leaks in the
02:13:26 5 master bedroom?
02:13:26 6 A. The water was coming in at the valley,
02:13:30 7 and so we -- Piquet Roofing went up there and
02:13:36 8 added some Hydro-Stop or some kind of material
02:13:39 9 down the valleys.
02:13:42 10 Q. Was it -- had something hit the roof?
02:13:44 11 Was there storm damage? Was it improper flashing
02:13:46 12 or improper installation?
02:13:48 13 A. I don't have a reason for it. I just
02:13:49 14 know that it leaked, and I knew where it was
02:13:51 15 coming from.
02:13:51 16 Q. Okay. How long had these leaks been
02:13:53 17 going on?
02:13:54 18 A. I don't know.
02:13:56 19 Q. Were these the only problems with the
02:14:04 20 roof that you were aware of in 2008?
02:14:06 21 A. These are the only problems that are
02:14:08 22 repaired.
02:14:08 23 Q. Right. But there were other problems
02:14:10 24 with the roof as well?
02:14:12 25 A. Could have been.

02:14:18 1 Q. Do you recall what any of those were?
02:14:19 2 A. No.
02:14:28 3 MR. BEST: Let's go off the record just
02:14:30 4 a second.
02:14:31 5 (Discussion off the record).
02:14:31 6 (Exhibit No. 270 was marked for
02:23:42 7 identification.)
02:23:42 8 Q. (MR. BEST) Exhibit 270 is an e-mail
02:24:24 9 exchange between you and John Nelson, and you
02:24:26 10 don't need to spend a lot of time reviewing it
02:24:29 11 and maybe until I ask you the question, but about
02:24:32 12 two-thirds of the way down, John Nelson writes,
02:24:36 13 She -- referring to Maria Allwin -- still hasn't
02:24:39 14 mentioned anything to me about coming in. And
02:24:42 15 we're in --
02:24:45 16 A. January.
02:24:46 17 Q. -- January of 2009. You have done your
02:24:48 18 review, your investigation, you have made your
02:24:51 19 proposal, and I believe you have invoiced her for
02:24:56 20 like the first deposit or whatever.
02:24:59 21 A. Right.
02:25:00 22 Q. And there are a couple of e-mails where
02:25:02 23 John was trying to get her to come in. You know,
02:25:04 24 when you're down here, come into the office. Why
02:25:08 25 was that?

02:25:08 A. I don't know.
02:25:12 Q. Okay. Go back and -- to that exhibit.
02:25:36 The last few lines -- and this is your e-mail to
02:25:43 Maria?
02:25:43 A. Second page.
02:25:43 Q. No, ma'am. First page. Very bottom.
02:25:46 Your schedule is our schedule. Let me know when
02:25:49 you would like to come in with a time frame and
02:25:52 we'll adjust. I have already spoken to the crew
02:25:55 for rescheduling, so we just need your itinerary.
02:26:06 A. Right.
02:26:06 Q. Are you talking about her coming into
02:26:09 the office to discuss different things or coming
02:26:12 into the home and you getting your crews out of
02:26:14 the house?
02:26:14 A. The latter. If she was coming in, they
02:26:22 would have vacated.
02:26:22 (Exhibit No. 257 was marked for
02:26:39 identification.)
02:26:39 Q. Exhibit 257 is an e-mail from you to
02:26:46 Mrs. Allwin.
02:26:46 A. Yes.
02:26:47 Q. Second paragraph you state you have an
02:26:50 appointment with Jake Price, an adjuster for AIG,
02:26:55 tomorrow at 10:00 to look at your kitchen, and I

believe this is when the icemaker flooded the kitchen.

A. Yes.

Q. Not concerned about that particularly. The next sentence, Mr. Price mentioned a second claim made of humidity and paint peeling.

Apparently, Mrs. Allwin had made some reference to Mr. Price about that, and he is referring -- or he's telling you about it?

A. No.

Q. Or is he talking about the old 2004 AIG claim that was declined?

A. I don't know. I mean, Jake would have said, you know, Are we going to do anything about this, and it looks like I asked her about it.

Q. Okay. The second claim of humidity and paint peeling, that's separate and apart and different from the icemaker leak in the kitchen.

A. That's how I understand it, yes.

Q. Have you-all completed -- has Gamble-Atlantic completed its repair of sealing the windows and that type of stuff or is that still going on?

A. I think that may still be going on or it had been the tail end of it, because this is the

02:28:31 1 end of January, and she -- and I sent the
02:28:33 2 contract for that work at the end of November, so
02:28:40 3 it would have been close.
02:28:47 4 Q. Were the repairs Gamble-Atlantic made
02:28:50 5 effective in the cave?
02:28:53 6 A. I thought it was, yes.
02:28:54 7 Q. How about sealing the switches and
02:28:59 8 outlets, was that effective?
02:29:03 9 A. I believe so, yes.
02:29:04 10 Q. How about sealing around the doors and
02:29:07 11 other penetrations? Was that effective at
02:29:11 12 stopping air infiltration, condensation, mold and
02:29:16 13 mildew?
02:29:17 14 A. Yes.
02:29:17 15 Q. Exhibit 276 is an invoice to -- actually
02:29:21 16 it's a Picquet Roofing invoice to Atlantic
02:29:27 17 Builders for various roof repairs in February of
02:29:30 18 '09.
02:29:31 19 A. Yes.
02:29:31 20 Q. Would that have been for repairing the
02:29:33 21 two valleys?
02:29:34 22 A. It makes sense.
02:29:35 23 Q. Do you recall any other repair that
02:29:44 24 Picquet made in that time frame?
02:29:46 25 A. No.

02:29:46 1 (Exhibit No. 277 was marked for
02:29:47 2 identification.)
02:29:47 3 Q. Okay. Exhibit 277 is 10 days later.
02:29:54 4 Picquet Roofing is sending you a proposal for
02:30:02 5 nearly $45,000 for various washing of the roof,
02:30:09 6 patching, and application of additional
02:30:12 7 Sealoflex.
02:30:16 8 Is this the roof work that's referred to
02:30:18 9 in your 180-some-thousand dollar November
02:30:24 10 contract to Mrs. Allwin, or is Exhibit 276 the
02:30:28 11 $1,261 various repair the work that's going to be
02:30:33 12 performed under that contract?
02:30:33 13 A. The smaller one.
02:30:34 14 Q. Okay. So in addition anything to the
02:30:36 15 184,000 contract, which included some roof work,
02:30:43 16 Picquet is making a proposal to you in February
02:30:45 17 of 2009 for nearly $45,000 worth of additional
02:30:53 18 work?
02:30:53 19 A. Right.
02:30:54 20 Q. What was the problem here? What was --
02:30:58 21 why is it as soon as it finishes its roof work,
02:31:02 22 it's doing -- proposing to do more roof work?
02:31:07 23 A. In my relationship with my trades, I
02:31:12 24 always ask them is there anything else that you
02:31:14 25 would want to do or is there something that you

02:31:18 1 think ought to be done? And, you know, if they
02:31:20 2 do write it up, tell me why.
02:31:22 3 Q. Why did -- is it Picquet or Picquet?
02:31:30 4 A. I don't know. I think it's Picquet.
02:31:33 5 Q. I think it's Picquet, too. And he has
02:31:37 6 represented them in the past and he says Picquet.
02:31:48 7 Exhibit 277, was this work ever done?
02:31:52 8 A. No.
02:31:52 9 (Exhibit No. 279 was marked for
02:32:06 10 identification.)
02:32:06 11 Q. Exhibit 279 is a proposal from
02:32:12 12 Gamble-Atlantic to Mrs. Allwin, $21,000. You are
02:32:19 13 removing and replacing cedar shakes on knee walls
02:32:23 14 near rear elevation decks.
02:32:25 15 Is this near the house or away from the
02:32:29 16 house at the pool?
02:32:30 17 A. Right. That is the knee wall between
02:32:32 18 the pool and that raised deck.
02:32:34 19 Q. Okay. So that -- not on the house?
02:32:38 20 A. No. This is not on the house.
02:32:39 21 Q. And the first time I went to the house
02:32:42 22 Phillip Smith had it torn apart, so I did not see
02:32:45 23 it in all its glory.
02:32:56 24 Exhibit 280 is a proposal from
02:33:01 25 Gamble-Atlantic for $64,000 and attached to that

02:33:09 1 is -- you will see the Picquet Roofing proposal
02:33:14 2 for $44,000, and then there are -- the last page,
02:33:19 3 I believe, are some notes. Are those your notes?
02:33:21 4 A. Yes.
02:33:23 5 Q. It's America, you know, capitalism. I
02:33:27 6 understand there's markup. You're a contractor,
02:33:30 7 you're marking up. Explain to me these notes on
02:33:33 8 the last page.
02:33:35 9 A. On the last page?
02:33:37 10 Q. So you have essentially a $45,000
02:33:42 11 Picquet Roofing estimate. Then there's a line
02:33:43 12 item $4,500 for Atlantic Builders. Is that a 10
02:33:48 13 percent markup?
02:33:48 14 A. It looks like it. 10 percent.
02:33:50 15 Q. And then a 14,850 line item for GHS,
02:33:56 16 Gamble Home Services; is that correct?
02:33:58 17 A. Yes.
02:33:58 18 Q. What percentage is that?
02:34:00 19 A. I don't have a calculator.
02:34:10 20 Q. But the proposal was made by
02:34:12 21 Gamble-Atlantic?
02:34:12 22 A. Correct.
02:34:13 23 Q. What was the ownership interest?
02:34:15 24 A. At this time? I tell you what I can
02:34:34 25 figure out is that even though it says -- that's

02:34:39 1 not right. When the partnership was entered into
02:34:46 2 between Gamble Home Services and Atlantic,
02:34:54 3 Richard was upfront that, you know, on -- and we
02:34:57 4 tiered it, that on certain jobs that are between
02:35:00 5 these numbers he wanted this percentage and
02:35:05 6 between these numbers he wanted this percentage.
02:35:09 7 So this is saying that on this job, if
02:35:13 8 Maria had signed it, this would have been the
02:35:15 9 breakdown of the moneys. Picquet would have
02:35:17 10 gotten 45, Atlantic Builders would have gotten
02:35:21 11 45, and Gamble would have gotten 14,8.
02:35:25 12 Q. So the $4,500 to ABI is a 10 percent
02:35:34 13 markup. You're marking your contractor up 10
02:35:39 14 percent?
02:35:39 15 A. Correct.
02:35:39 16 Q. For ABI?
02:35:40 17 A. Right.
02:35:41 18 Q. And then Gamble's -- a third of 45,000
02:35:45 19 would be 15,000. So we're looking at --
02:35:47 20 A. 30 percent.
02:35:48 21 Q. 30 percent plus?
02:35:49 22 A. Sure.
02:35:50 23 Q. To Gamble Home Services. So the work
02:35:54 24 that's being performed at the home by Picquet
02:35:57 25 Roofing is being marked up in excess of 40

02:36:00 1 percent, correct?
02:36:01 2 A. Yes.
02:36:05 3 Q. Okay. I mean, I know some contractors
02:36:10 4 have 18 percent markup, overhead and profit. It
02:36:17 5 runs the gamut up to 30.
02:36:19 6 A. It does.
02:36:20 7 Q. Was 40 percent plus markup for
02:36:29 8 Gamble-Atlantic, was that the normal or was this
02:36:33 9 an exception to the rule?
02:36:34 10 A. It went all over the place.
02:36:35 11 Q. It varied from job to job?
02:36:36 12 A. It did.
02:36:37 13 Q. Depending on the size of the job?
02:36:39 14 A. Correct.
02:36:40 15 Q. I'm assuming the smaller the job the
02:36:46 16 higher the markup?
02:36:47 17 A. Yes.
02:36:47 18 Q. Was a markup in excess of 40 percent
02:36:52 19 unusual for Gamble-Atlantic?
02:36:56 20 A. Remember the tier system I was talking
02:37:02 21 about, depending on where it fell on that tier.
02:37:04 22 Q. The price --
02:37:05 23 A. On the mark.
02:37:07 24 Q. Is 40 percent a high markup for work at
02:37:19 25 Kiawah among other contractors?

02:37:21 1 A. No.
02:37:22 2 Q. Did Mrs. Allwin ever express
02:37:25 3 dissatisfaction or any concern about the markup
02:37:28 4 that either Gamble or Gamble-Atlantic or Atlantic
02:37:32 5 charged for work performed by subcontractors?
02:37:35 6 A. She was looking for a service and we
02:37:38 7 gave it to her.
02:37:40 8 Q. Exactly. Okay. It's America.
02:37:44 9 Everybody's got to pay the light bill. All
02:38:15 10 right. Exhibit 282. It's an e-mail exchange
02:38:19 11 between you and Mrs. Allwin. It looks like
02:38:24 12 you-all are trying to set up a meeting with
02:38:26 13 Robert, and I will suggest to you that that's
02:38:28 14 Robert Lyles. And you tell Mrs. Allwin, I have a
02:38:34 15 list.
02:38:39 16 Do you recall a meeting between Mrs.
02:38:41 17 Allwin and Robert Lyles in March of 2009?
02:38:43 18 A. Yes.
02:38:44 19 Q. Did you have a list or did you -- by
02:38:46 20 list, in this e-mail, are you referring to your
02:38:49 21 report, your chronology?
02:38:56 22 A. You know, I don't know, because Maria
02:38:58 23 would get me a list, too. And it could be a list
02:39:00 24 of things that I needed her to choose for me.
02:39:06 25 For example, I did a media room for her. It

could be a list of choices like, What TVs do you want? What kind of speakers do you want? So I don't know.

Q. We're not to the media room yet.

A. I am just giving you an example of what the list could be.

Q. Why were you and Mrs. Allwin meeting with Robert Lyles in March of 2009?

A. At one point -- I'm trying to think of an example. Milt Morgan. Maria liked having a third party looking over people's shoulders every now and then, so I offered up Robert.

Q. You referred Mrs. Allwin to Robert?

A. I did.

Q. To look over whose shoulder?

A. Mine.

Q. Well, that's -- I mean, I don't -- I'm not suggesting anybody is doing anything inappropriate, but it would seem to me that you suggesting to her someone to look over your shoulder is a little -- that just doesn't make sense to me.

A. I did.

Q. So you recommended Mr. Lyles to do what exactly with respect to your work?

02:40:30 1 A. I think all work, any work, anything
02:40:32 2 that had to be done with the house, she just
02:40:36 3 liked having a third party. That's why she
02:40:38 4 had Milt Morgan.
02:40:50 5 Q. Well, Milt is what?
02:40:53 6 A. He was just a third-party person.
02:40:55 7 Q. Right. But what's his trade? What does
02:40:58 8 he do? Is he a construction manager?
02:40:59 9 A. Was he an architect?
02:41:00 10 Q. I'm not sure that he was an architect,
02:41:03 11 but it's my understanding that he is
02:41:09 12 knowledgeable and experienced in the construction
02:41:12 13 field.
02:41:12 14 A. Right.
02:41:14 15 Q. What particular expertise did Mr. Lyles
02:41:18 16 have to oversee or be a third-party observer of
02:41:26 17 your work?
02:41:27 18 A. I have known Robert for a very long
02:41:31 19 time. He was my go-to person with Atlantic
02:41:37 20 Builders.
02:41:37 21 Q. For legal needs?
02:41:38 22 A. Uh-huh. Yes.
02:41:39 23 Q. You need to say yes or no.
02:41:40 24 A. Yes. Yes. So I considered him
02:41:47 25 knowledgeable. I liked working with somebody

that when I talked about a plumbing rough-in, I didn't have to tell them what that meant. Does that make sense?

Q. Completely. I understand that. But you never called Robert Lyles to get advice on how to perform any kind of construction flashing detail or anything like that?

A. Oh, God, no. Like he would know that, right.

Q. Yeah. So your experience with Robert Lyles for years has been Mr. Lyles is providing a legal service? Legal advice?

A. Uh-huh. He read all of our contracts. If I -- seems like they counter-sued somebody that liened me one time.

Q. And they were all -- his services were provided all in the context of a construction setting, but he was providing legal advice, legal services, correct?

A. Yes.

Q. So you have recommended Mr. Lyles to Mrs. Allwin to provide legal advice and services.

A. She was looking for somebody to talk to that could represent her, I guess, in a litany of things, a third party.

02:43:16 Q. Okay. And with respect to 133 Flyway,
02:43:23 what legal advice was she seeking? What
02:43:27 answers -- what questions did she want answers
02:43:30 to?
02:43:30 A. I don't know. You would have to ask
02:43:33 Maria.
02:43:33 Q. Did she ask you for a lawyer in
02:43:37 particular?
02:43:37 A. She was looking for somebody that she
02:43:39 could talk to about issues about her house, about
02:43:43 moving forward, about things that -- there was a
02:43:48 lot going on at that house.
02:43:50 Q. Because of all -- and you say a lot
02:43:52 because of all the problems the home had been
02:43:54 experiencing all the --
02:43:57 A. Yes.
02:43:58 Q. All the reports of continued damages and
02:44:03 water intrusion, what have you, even after she
02:44:07 had made repairs?
02:44:11 A. Yes.
02:44:11 Q. And Mrs. Allwin, apparently, thought
02:44:19 meeting with a lawyer in March of 2009 was a good
02:44:23 idea because she flew down from New York to do
02:44:27 that?
02:44:29 MR. LYLES: Object to the form of the

02:44:31 1 question.
02:44:31 2 A. She was coming down to meet me.
02:44:33 3 Q. Had you met her before?
02:44:34 4 A. I don't know.
02:44:42 5 Q. In person I mean.
02:44:43 6 A. I mean, I'm trying to remember. I don't
02:44:51 7 know if this is the first time I met her or not.
02:44:53 8 I do remember meeting her physically on a
02:44:57 9 holiday. I was working on a holiday to meet with
02:45:00 10 her. That's when she would come down. But I
02:45:03 11 can't remember the first time we met.
02:45:07 12 Q. And I'm just trying to get the lay of
02:45:09 13 the land for this meeting. She was coming down
02:45:11 14 to meet with you to talk about the house and
02:45:13 15 expressed an interest in a lawyer or some other
02:45:18 16 third-party adviser?
02:45:18 17 A. Right. Well, it would have had to have
02:45:21 18 been about the house because that was the only
02:45:22 19 thing I dealt with her about, was on the house.
02:45:24 20 Q. And in response to her request for an
02:45:27 21 advisor or counselor, attorney, whatever, you
02:45:31 22 recommended Mr. Lyles?
02:45:33 23 A. I did.
02:45:33 24 Q. And that was because of all the problems
02:45:36 25 the home had been experiencing?

02:45:38 1 A. She was looking for somebody to talk to
02:45:39 2 about the house.
02:45:40 3 Q. And what her options were because of all
02:45:43 4 the problems she was having with the house even
02:45:45 5 after having made repairs?
02:45:47 6 MR. LYLES: Object to the form of the
02:45:48 7 question.
02:45:48 8 A. I don't know what Maria wanted to talk
02:45:50 9 to Mr. Lyles about.
02:45:54 10 Q. But that's who you recommended?
02:45:55 11 A. Yes.
02:45:56 12 Q. You didn't recommend a general
02:46:02 13 contractor or a construction manager or an
02:46:06 14 engineer or an architect or a forensic
02:46:13 15 investigator?
02:46:16 16 A. Right.
02:46:16 17 Q. Let me finish my question. Mrs. Allwin
02:46:18 18 told you what she was concerned about, she told
02:46:21 19 you what she wanted, and you recommended
02:46:23 20 Mr. Lyles, an attorney in town?
02:46:25 21 A. Right.
02:46:25 22 Q. Who you were aware that was familiar in
02:46:30 23 handling claims, concerns, about construction
02:46:37 24 defects?
02:46:37 25 A. That he knew about construction, yes.

02:46:39 1 Q. All right. Exhibit 283. Are those your
02:46:45 2 notes from that March 2009 meeting?
02:46:47 3 A. You know, there's not a date on it,
02:46:53 4 Mr. Best.
02:46:53 5 Q. I tell you what, it was in Gamble Home
02:46:57 6 Services file.
02:46:57 7 A. Right.
02:46:58 8 Q. Who was at the March 23rd, 2009,
02:47:01 9 meeting? Mr. Lyles, you, and Mrs. Allwin?
02:47:09 10 A. Yes.
02:47:13 11 Q. Anyone else?
02:47:15 12 A. Not that I remember.
02:47:21 13 Q. Okay. Does this look like your
02:47:24 14 handwriting?
02:47:24 15 A. Oh, no. This is my handwriting.
02:47:26 16 Q. No doubt that these are your notes?
02:47:29 17 A. These are my notes.
02:47:30 18 Q. I will suggest to you that it's my
02:47:33 19 belief that these are from your March 2009
02:47:38 20 meeting?
02:47:39 21 A. Is it?
02:47:40 22 Q. Well, my next question is, is it? Do
02:47:45 23 you agree with me or do you disagree with me?
02:47:52 24 A. I don't know. Who's Jim? I mean, I
02:47:55 25 don't know who Jim is.

02:48:01 Q. Well, first of all, whose e-mail address
02:48:06 is dixiedug78?
02:48:12 A. This was during a time when e-mails were
02:48:15 new. Who knows.
02:48:17 Q. All right. Let's put aside the issue of
02:48:21 when these notes were prepared.
02:48:23 A. Okay.
02:48:24 Q. You have Lyles, Tori to do aesthetics.
02:48:28 A. Yeah.
02:48:30 Q. What does that mean?
02:48:34 A. Aesthetics means to me the appearance.
02:48:38 Not to -- you know, paint, wallpaper. It's, you
02:48:45 know, how everything looks.
02:48:46 Q. Physical appearance?
02:48:50 A. Physical appearance, but nothing
02:48:51 structural.
02:48:52 Q. What does that mean, Tori to do
02:48:55 aesthetics?
02:48:55 A. It looks to me that I'm supposed to get
02:48:58 a price to work on the aesthetics of the house.
02:49:02 Q. Okay. Then it says Jim -- and read your
02:49:06 writing after that.
02:49:07 A. I know. It's terrible, isn't it? It
02:49:09 says, "Jim, meet at house with me and Robert."
02:49:13 Q. Who is Jim?

02:49:16 1 A. I know, right? I don't know -- or I
02:49:21 2 don't remember, how's that?
02:49:22 3 Q. But presumably, you are to have Jim meet
02:49:26 4 with you and Robert at the house?
02:49:28 5 A. Yes.
02:49:28 6 Q. And then the next line -- then there's a
02:49:34 7 drawing.
02:49:34 8 A. Of the house.
02:49:38 9 Q. A very basic drawing. I'm not being
02:49:41 10 critical, but a very basic drawing.
02:49:45 11 A. Go ahead.
02:49:46 12 Q. And there's some squiggles at the roof
02:49:48 13 and an X inside -- I don't know if that's a door
02:49:52 14 or window, gable vent, and then some arrows.
02:49:54 15 What are you attempting to depict by that
02:49:59 16 rendering?
02:49:59 17 A. It looks to me like the envelope of the
02:50:03 18 house.
02:50:03 19 Q. That that is -- whenever these notes are
02:50:06 20 made, the envelope, the waterproofing
02:50:18 21 weather-resistant envelope is the concern?
02:50:20 22 A. I have drawn the house. That's what it
02:50:23 23 seems to me.
02:50:24 24 Q. Then you have "estimate to fix system."
02:50:26 25 A. Right.

02:50:27 1 Q. Are you talking about the envelope or
02:50:30 2 are you talking about HVAC? And then below that
02:50:36 3 you have the contract to repair system and
02:50:38 4 aesthetics.
02:50:39 5 A. Right.
02:50:44 6 Q. So is Mr. Lyles asking you to draw up a
02:50:46 7 contract that will repair problems in the home's
02:50:54 8 waterproof envelope and repair the damage caused
02:50:58 9 by leaks or condensation?
02:51:00 10 A. I don't know. I don't think so because
02:51:03 11 I never did that. But I did write a contract,
02:51:05 12 and we just reviewed it, about repairing the HVAC
02:51:09 13 system.
02:51:10 14 Q. Right. But is that what we're talking
02:51:12 15 about here?
02:51:13 16 A. Could be.
02:51:15 17 Q. Did you meet with Robert Lyles?
02:51:19 18 A. And then Jim could be ESS who wrote the
02:51:23 19 report. Jim Clark.
02:51:24 20 Q. Jim Clark. Okay. So you wrote that
02:51:35 21 report -- excuse me, you wrote the contract in
02:51:38 22 November of 2008, correct?
02:51:41 23 A. Right.
02:51:41 24 Q. Jim Clark is with GKA, LLC, Consulting
02:52:32 25 Engineers.

02:52:38 1 A. I don't know. Yeah, I know Jim is with
02:52:41 2 ESS.
02:52:46 3 Q. All right. Let's look at Exhibit 278,
02:52:51 4 which is an HVAC design analysis dated February
02:52:57 5 15th, 2009.
02:53:00 6 A. I'm sorry. Here we go. ESS.
02:53:04 7 Q. And it says on there, "Prepared for
02:53:08 8 ESS." And, excuse me, you're right, this report
02:53:11 9 is prepared by GKA Consulting Engineers, and it's
02:53:16 10 written -- prepared for Jim Clark at ESS.
02:53:20 11 A. Correct.
02:53:20 12 Q. Okay. Was this report and its findings
02:53:37 13 what was repaired in your November 2008 contract?
02:53:43 14 Because I point out that your November 2008
02:53:47 15 contract is a few months before this February
02:53:51 16 2009 report.
02:53:52 17 A. Right. Don't know much about this, but
02:53:56 18 I do know --
02:53:57 19 Q. By "this" you have to refer by number?
02:54:02 20 A. By Exhibit 278, because my contract
02:54:05 21 dated 24 November references an engineering
02:54:12 22 protocol given to me by ESS.
02:54:16 23 Q. Okay.
02:54:16 24 A. So that would have been impossible.
02:54:19 25 Q. In that context, Jim with ESS do you

02:55:18 1 know -- and we have looked at your proposal back
02:55:21 2 in November of 2008. Would these notes have been
02:55:24 3 taken prior to the proposal you made in November
02:55:29 4 of 2008?
02:55:34 5 A. It doesn't have a date on it, Mr. Best.
02:55:37 6 I don't know.
02:55:58 7 Q. You note here, cost of repair, and this
02:56:01 8 is presumably what you have been asked to include
02:56:04 9 in your contractor proposal. Does that say
02:56:08 10 stains at windows?
02:56:09 11 A. Yes.
02:56:09 12 Q. Exhaust fans?
02:56:11 13 A. Exhaust fans, yes.
02:56:13 14 Q. What's the issue with exhaust fans?
02:56:14 15 A. The exhaust fans, ventilation for
02:56:21 16 bathrooms, there was mildew all around them.
02:56:23 17 Q. Because there's not a damper, the
02:56:25 18 outside air is coming in through the vent?
02:56:26 19 A. It could be one reason.
02:56:29 20 Q. You have painting. Is that to paint
02:56:33 21 over the stains?
02:56:34 22 A. It's painting. And then wallpaper.
02:56:39 23 Q. WPR is wallpaper?
02:56:45 24 A. It is.
02:56:45 25 Q. And then wood floors, what's going on

02:56:48 1 with the wood floors?
02:56:58 2 A. You know I am --
02:57:00 3 Q. Wear and what?
02:57:04 4 A. Wear and tear.
02:57:06 5 Q. Oh, excuse me. Wear is what you're
02:57:08 6 saying. W-h-e-r-e?
02:57:11 7 A. No wear, w-e-a-r, and tear, t-e-a-r.
02:57:11 8 Sorry.
02:57:23 9 Q. That's okay. Do you recall any cupping
02:57:26 10 or damage to wood floors from water intrusion?
02:57:29 11 A. The icemaker. Other than that?
02:57:36 12 Q. Right. Specifically at the rear doors
02:57:42 13 in Jim's office is what I'm thinking of.
02:57:45 14 A. Right. Yes. The cupola in Jim's
02:57:49 15 office, which is the first floor far right.
02:57:51 16 Q. The turret I think we're calling it?
02:57:53 17 A. No. Turret is on the left.
02:57:55 18 Q. Okay. When you say "cupola," what do
02:57:57 19 you mean?
02:57:57 20 A. It was the round area in Jim's office.
02:58:05 21 The one that had the cloth wallpaper and
02:58:08 22 the cherry -- all the cherry cabinets in there.
02:58:12 23 There's hardwood floor damage in that area.
02:58:15 24 Q. That started when?
02:58:16 25 A. See, I don't know when it started. I

02:58:20 1 think it was just always there when I -- when I
02:58:24 2 knew the house.
02:58:25 3 Q. It was there in 2008 when you showed up
02:58:27 4 at the house?
02:58:28 5 A. Yes.
02:58:28 6 Q. And where was it visible in 2008?
02:58:32 7 A. Where was it visible in 2008?
02:58:35 8 Q. Yeah. Within the office.
02:58:37 9 A. Jim's -- in that rounded area.
02:58:41 10 Q. Along the edge of the wall?
02:58:44 11 A. I apologize, yes.
02:58:45 12 Q. Which suggested to you that there was a
02:58:48 13 water intrusion problem on that wall?
02:58:49 14 A. Right.
02:58:49 15 Q. Was there a window there that was a
02:58:51 16 concern to you?
02:58:52 17 A. There was full-height windows there, and
02:58:55 18 the deck, part of the deck is outside that
02:58:58 19 window, and it was sloped towards the house.
02:59:01 20 Q. Okay. When did you discover the
02:59:05 21 negative slope on the deck?
02:59:08 22 A. The day I put a level on it.
02:59:12 23 Q. Which was?
02:59:13 24 A. I don't know.
02:59:14 25 Q. You can ballpark it.

02:59:15 1 A. '08, '09, '10. I knew about it.
02:59:24 2 Q. Going to Exhibit 283, these handwritten
02:59:32 3 notes.
02:59:32 4 A. Yes.
02:59:32 5 Q. Within the circle at the bottom you
02:59:34 6 have -- I think it says, "Skip, engineer, roof
02:59:38 7 beam."
02:59:38 8 A. Yes.
02:59:38 9 Q. What does that mean?
02:59:39 10 A. That there was an engineer named Skip
02:59:43 11 that was going to look at the roof beam.
02:59:45 12 Q. Was he going to look at the roof and a
02:59:47 13 beam or a beam in the roof?
02:59:50 14 A. I don't know. Or I should say, I don't
03:00:02 15 remember.
03:00:02 16 Q. Okay. Skip Lewis ring a bell? He's
03:00:09 17 with a firm called H2L in Greenville?
03:00:13 18 A. That sounds familiar, but I can't
03:00:16 19 remember he was tied to this house, but he may
03:00:18 20 have been, but I note that I have Tommy going out
03:00:20 21 to 187 in I'On, too, on this note, and that has
03:00:24 22 nothing to do with this house. So --
03:00:26 23 Q. And that was my next question. That's
03:00:28 24 something completely unrelated?
03:00:29 25 A. Yes. You know, hung up one phone,

03:00:32 1 answered another phone, kept writing on the same
03:00:34 2 piece of paper.
03:00:35 3 Q. How about to the right of that, does
03:00:36 4 that say "plans"?
03:00:37 5 A. Plans, right. It says plans/how to.
03:00:46 6 Q. Entrance?
03:00:47 7 A. Entrance house.
03:00:49 8 Q. Do you know what that means?
03:00:50 9 A. I'm thinking.
03:00:59 10 Q. What does that say along the margin?
03:01:01 11 A. Already going to be out of house so --
03:01:14 12 Q. Something the project?
03:01:15 13 A. Something the project, right. I don't
03:01:23 14 know what that word is.
03:01:28 15 Q. Can you give me any sort of ballpark
03:01:31 16 time frame when these notes would have been made?
03:01:38 17 A. I'm sorry, Mr. Best. I don't know.
03:02:00 18 Q. Let's look at Exhibit 284. And this
03:02:08 19 appears to be an e-mail that you wrote from -- to
03:02:13 20 John Nelson at Gamble --
03:02:14 21 A. Yes.
03:02:14 22 Q. -- summarizing your March 23rd, 2009,
03:02:22 23 meeting with Robert Lyles and Maria Allwin?
03:02:25 24 A. Yes.
03:02:25 25 Q. You note, "Appointment with Robert went

very well. She is pleased with him and thought he grasped the situation very well."

And, again, grasping the situation very well, that's her dissatisfaction about ongoing problems with the home even after repairs were made or what are you referring to?

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

A. I don't know.

Q. Well, what is the situation?

A. Well, see -- and I'm just thinking that if Maria wanted me to figure out what was going on with the house, why wouldn't he ask me to open up some walls? He's just asking me to paint.

Q. He's not asking you to do anything except -- other than --

A. Get a price.

Q. -- get a price, correct?

A. Right.

Q. The next sentence is, He, referring to Robert Lyles, is asking me to get a price to fix all the aesthetic issues in the house?

A. Right.

Q. Which is the same thing you have written in your notes, Exhibit 283?

03:03:58 1 A. Good point.
03:04:02 2 Q. Does that help refresh your recollection
03:04:08 3 as to when you drafted these notes?
03:04:10 4 A. That's what I just said. Good point.
03:04:12 5 Because this would have been aesthetics here.
03:04:14 6 Q. 284 suggests 283 was written during your
03:04:21 7 meeting on March 23rd, 2009?
03:04:24 8 A. That sounds logical, yes.
03:04:25 9 Q. If you go on to the next paragraph in
03:04:27 10 284, A design engineer will be contacting Maria
03:04:30 11 to survey the house for structural issues.
03:04:32 12 A. Uh-huh.
03:04:33 13 Q. He will provide her with a timeline of
03:04:36 14 when certain things need to be done. He will
03:04:41 15 also evaluate the roof and windows, and she's
03:04:44 16 really excited about that.
03:04:48 17 That also correlates to 283 where you
03:04:51 18 have, Skip Lewis, an engineer, looking at the
03:04:52 19 roof.
03:04:52 20 A. Right.
03:04:53 21 Q. Aren't you now fairly confident that 283
03:04:58 22 was prepared during your meeting an March 23,
03:05:02 23 2009?
03:05:02 24 A. Makes sense.
03:05:03 25 Q. The next paragraph -- excuse me. That's

her husband, Jim.

A. Yes, please.

Q. Then she also talks about this desire to do some changes, add a room, and you actually contacted an architect for her and had plans drawn up, correct?

A. No.

Q. No.

A. We talked about it -- maybe I did.

Q. Do you know if Skip Lewis ever came to the house?

A. I don't know.

Q. I will tell you that a week after your meeting on September 30, Robert Lyles called Skip Lewis or someone with H2L about history of water intrusion, and that H2L prepared a proposal to come do the investigative work.

Have you ever seen that?

A. I could have.

Q. It's Exhibit 294. Have you seen that proposal?

A. I do not have a clear memory on this.

Q. You stated in the previous exhibit we looked at, 284, that a design engineer will be contacting the house. He's going to come look at

03:07:13 1 the roof and the windows and that Maria Allwin is
03:07:18 2 really excited about that.
03:07:23 3 I will represent to you the H2L was
03:07:26 4 never hired by either Mr. Lyles' firm or Mrs.
03:07:31 5 Allwin to perform that investigation. Do you
03:07:32 6 know why?
03:07:32 7 A. No.
03:07:43 8 Q. Did you ever talk to Skip Lewis or
03:07:44 9 anybody at H2L?
03:07:47 10 A. I don't remember having a conversation
03:07:49 11 with Skip with H2L.
03:07:51 12 Q. Okay. Exhibit 288 is a contract you
03:07:58 13 have signed on Mrs. Allwin's behalf with
03:08:01 14 Altenbach Designs, hiring architect Altenbach to
03:08:10 15 prepare those room reconfigurations, for lack of
03:08:13 16 a better word.
03:08:13 17 A. Right.
03:08:14 18 Q. Plans were drawn up, correct?
03:08:16 19 A. See we -- it was stages, and I think we
03:08:18 20 went to the first stage or the first rendering
03:08:25 21 and then we stopped. We didn't go any further.
03:08:29 22 Q. Okay. Exhibit 290 is a letter that
03:08:50 23 Mr. Lyles wrote to Mrs. Allwin but copied you on.
03:08:54 24 A. Yes.
03:08:54 25 Q. And you see here where he reports

speaking with Skip Lewis?

A. Yes.

Q. And then about a third of the way into the second paragraph, In furtherance of that, I copied and sent to Skip the materials that Tori put together for me.

What materials did you put together for Mr. Lyles?

A. Remember that report that you were talking about earlier?

Q. The chronology?

A. Yes, that.

Q. Anything other than the summary of documents?

A. No.

Q. And the purpose obviously of getting Skip Lewis or any forensic engineer or forensic consultant at this time is to identify the source of the problems being experienced at the home, the water intrusion, the air intrusion, the condensation, the mold, the roof leaks, the what have you?

A. Uh-huh.

Q. Correct?

A. I'm going to ask for a qualification of

03:09:58 1 that. Are you asking me if I -- if Robert -- if
03:10:02 2 that's what Robert and Maria talked about doing,
03:10:04 3 because I don't know.
03:10:07 4 Q. I'm asking for Tori's Stein's
03:10:09 5 understanding of why Skip Lewis was being dragged
03:10:12 6 into this.
03:10:17 7 A. See, I still don't remember Skip. And I
03:10:24 8 still don't remember anything to do with a roof
03:10:27 9 and the beam.
03:10:27 10 Q. Let's look at Exhibit 290.
03:10:32 11 A. This one.
03:10:33 12 Q. Yes, ma'am. The second line of the
03:10:36 13 second paragraph starting at the middle?
03:10:38 14 A. In furtherance of that?
03:10:41 15 Q. Above that. Second line.
03:10:43 16 A. Okay.
03:10:45 17 Q. I have asked Skip to -- this is Robert
03:10:48 18 Lyles. I have asked Skip to prepare a proposal
03:10:51 19 to do a property condition survey at the home.
03:10:56 20 A. Right.
03:10:58 21 Q. And your understanding of why Mrs.
03:11:00 22 Allwin was considering having Skip Lewis come to
03:11:03 23 the home at an expense of $40,000 to prepare a
03:11:09 24 property condition survey was because she was
03:11:12 25 continuing to have the water intrusion, the roof

leaks, all the other problems we had talked about, even after having the home repaired extensively by Buffington Homes in 2004-2005?

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

Q. Isn't that correct?

A. Mr. Best, one, I don't know what a property condition survey is.

Q. Okay.

A. Two, what's going on between Maria and Mr. Lyles, I don't know. Typically my job was to open up the house and walk people around.

Q. Okay. Ms. Stein, Mrs. Allwin has asked you to refer her to an attorney, correct?

A. She's looking for a third party, yes.

Q. Her attorney, Mr. Lyles, has recommended that a forensic engineer come to the home?

A. Right.

Q. He's making that recommendation to his client, Mrs. Allwin, and copying you on the letter?

A. Uh-huh.

Q. And the reason he's doing that, making that recommendation to have an engineer come all the way down from Greenville to look at this

03:12:29 1 house, you're telling me you have no idea why?
03:12:35 2 It's because the home is continuing to have
03:12:38 3 problems.
03:12:38 4 A. I agree with that.
03:12:40 5 Q. And those problems are water intrusion.
03:12:41 6 You need to say yes or no for me.
03:12:45 7 A. Yes, the house has problems.
03:12:46 8 Q. Roof leaks?
03:12:48 9 A. Yes.
03:12:48 10 Q. Air intrusion at windows and doors?
03:12:55 11 A. Sure.
03:12:55 12 Q. And all of that is occurring even after
03:12:58 13 expensive repairs to the home have been made by
03:13:01 14 Buffington in 2004 and 2005?
03:13:03 15 A. I agree.
03:13:05 16 MR. BEST: All right. Let's go to
03:13:07 17 lunch. Again, I admonish you not to talk about
03:13:11 18 your -- about the substance of your conversation
03:13:14 19 or the facts of this case during lunch, but
03:13:18 20 otherwise, I hope you enjoy your lunch. Let's
03:13:22 21 try to be back by 2:00 or as quick after 2:00 as
03:13:27 22 we can.
04:13:48 23 (Recess).
04:13:51 24 Q. (MR. BEST) We're back on. Did you have
04:13:55 25 any conversations about the substance of your

testimony during lunch?

A. No.

(Exhibit No. 298 was marked for identification.)

Q. Thank you. Exhibit 298 is an e-mail from Maria Allwin to you. The handwriting on there, is it yours?

A. It is.

Q. I guess you're mapping out some possible furniture layouts or movements for the media room?

A. Yes.

Q. I'm really not concerned about that. I'm just letting you get familiar with the document. The handwriting to the right of the drawings, "Appointment, Frank Smith, 8 July" -- 1:00.

A. Right.

Q. -- does that have any relationship to the Allwin house?

A. Yes. I mean, Frank -- let me think. Frank did a couple of things on that house. Let's see. He was with Utilize Spaces, and he updated the AV for me at one point when we did the media room, and then he also did the Lutron

04:15:30 1 repairs when the house was struck by lightning.
04:15:34 2 Q. Okay. This is not Frank Smith, the
04:15:36 3 construction attorney from Columbia?
04:15:38 4 A. No.
04:15:38 5 (Exhibit No. 299 was marked for
04:15:38 6 identification.)
04:15:38 7 Q. Exhibit 299. It just references the
04:15:53 8 secret service is there at the house and that's
04:15:55 9 because Vice President Biden was staying?
04:15:58 10 A. Yes.
04:15:58 11 Q. And did he return maybe in 2012 to stay
04:16:01 12 again? How many times has Biden been to the home
04:16:06 13 that you're aware of?
04:16:08 14 A. One time.
04:16:08 15 Q. And then Exhibit 303 is the contract for
04:16:12 16 the media room?
04:16:15 17 A. Okay.
04:16:16 18 Q. Just -- if you will agree with me or
04:16:19 19 disagree with me.
04:16:20 20 A. Hold on. Let me look for a scope. It
04:16:35 21 doesn't say. There's not a scope integrated into
04:16:39 22 the boilerplate contract, and there's nothing
04:16:43 23 attached to it, so I don't know what this is for.
04:16:47 24 Q. Look back at the previous exhibit.
04:16:52 25 A. This one?

04:16:54 1 Q. Well, the e-mail that references Frank
04:16:57 2 Smith, and above the drawings about half way
04:17:08 3 through the text, there's a bullet that says, "Do
04:17:10 4 the media room. Plan discussed"?
04:17:13 5 A. Right.
04:17:13 6 (Exhibit No. 305 was marked for
04:17:13 7 identification.)
04:17:13 8 Q. And I will show you Exhibit 305, which
04:17:37 9 is dated August 24th, 13 days after Exhibit 303,
04:17:42 10 that says you've received the demolition permit
04:17:46 11 through the building department for the media
04:17:48 12 room and bedroom areas.
04:17:50 13 A. Yes.
04:17:50 14 Q. Is that ringing a bell that Exhibit 303
04:17:52 15 is for the media room work?
04:17:56 16 A. And it could be, Mr. Best. We wrote a
04:17:58 17 lot of contracts that we did not do, and that is
04:18:01 18 a fair assumption, but I cannot say definitively
04:18:07 19 that this contract is for the media room.
04:18:07 20 (Exhibit No. 306 was marked for
04:18:13 21 identification.)
04:18:13 22 Q. Look at Exhibit 306.
04:18:16 23 A. There you go.
04:18:17 24 Q. You will note on 303 there's 40,000 due
04:18:22 25 upon start of construction?

04:18:23 1 A. Uh-huh.
04:18:24 2 Q. And then 306 is a $40,000 invoice for
04:18:30 3 start-up draw. And, presumably, you have written
04:18:33 4 media room?
04:18:34 5 A. Correct.
04:18:34 6 Q. Is 303 the contract for the media room
04:18:41 7 upgrade?
04:18:41 8 A. It's a fair assumption.
04:18:43 9 Q. Okay. We're in the summer of 2009. The
04:18:55 10 spring of 2009 Maria was meeting with you and
04:18:58 11 Robert at the house to talk about the situation.
04:19:03 12 The plan was to have Skip Lewis, the forensic
04:19:05 13 engineer, to come in and look at the windows and
04:19:08 14 the doors and to perform a property condition
04:19:12 15 study, whatever that means.
04:19:14 16 MR. LYLES: Object to the form of the
04:19:20 17 question.
04:19:20 18 Q. It seems to me that Mrs. Allwin has
04:19:24 19 switched gears from this point. We go in the
04:19:27 20 springtime from bringing in a forensic expert to
04:19:31 21 now it's the summer time, and rather than spend
04:19:35 22 money on identifying those -- the source of those
04:19:38 23 problems or the cause of those problems, she's
04:19:40 24 spending almost $200,000 on aesthetic-type issues
04:19:46 25 that really are, I mean, just elective issues;

04:19:49 1 new audiovisual equipment, that type of stuff.
04:19:52 2 Did you have a conversation with her or --
04:19:56 3 A. About what?
04:19:56 4 Q. About her setting aside the structural
04:20:03 5 and waterproofing concerns and focusing on
04:20:06 6 upgrading her audiovisual equipment?
04:20:10 7 MR. LYLES: Object to the form of the
04:20:11 8 question.
04:20:11 9 A. No.
04:20:11 10 Q. That's what she wanted you to do and you
04:20:13 11 were happy to provide that service?
04:20:15 12 A. That was my job.
04:20:17 13 Q. Right. Can you tell me what Exhibit 308
04:20:23 14 is?
04:20:23 15 (Exhibit No. 308 was marked for
04:20:23 16 identification.)
04:20:23 17 A. 308 is an addendum to the contract dated
04:20:45 18 11 August, and I e-mailed it on September 19th,
04:20:52 19 and it's for labor and materials to add matching
04:20:58 20 cabinet doors to the master sitting area.
04:21:04 21 So yes, in the second floor left
04:21:08 22 bedroom, master bath, remove the tub in the maid
04:21:16 23 suite.
04:21:16 24 Q. The one item I do want to ask you is the
04:21:18 25 last entry in the maid suite.

04:21:20 1 A. Right.
04:21:21 2 Q. It says, "Repair garage ceiling drywall,
04:21:24 3 then seal and paint bay area ceiling"?
04:21:27 4 A. Uh-huh.
04:21:28 5 Q. Is this garage work or maid suite work?
04:21:33 6 A. Even though it's under the maid suite,
04:21:35 7 it was the garage ceiling that needed to be
04:21:38 8 repaired.
04:21:39 9 Q. What was wrong with the garage ceiling
04:21:42 10 drywall?
04:21:42 11 A. The master bath whirlpool tub had
04:21:51 12 leaked.
04:21:51 13 Q. There's a big "No" written on here. Who
04:21:54 14 wrote that and what does that mean?
04:21:56 15 A. It means don't do it, that we did not
04:22:01 16 perform this addendum. I mean, you know, I'm
04:22:05 17 looking at it, and I --
04:22:09 18 Q. Let me show you Exhibit 310. It appears
04:22:12 19 that at least possibly a portion of that work was
04:22:17 20 accepted?
04:22:17 21 A. That's what I'm thinking, because I'm
04:22:19 22 looking at some of this stuff, and I know I did
04:22:23 23 it so maybe it's just a revised one. Right.
04:22:24 24 There's a revised one. Right. And so Exhibit
04:22:30 25 310 must have replaced this, and it has less work

04:22:36 1 on it.
04:22:36 2 (Exhibit No. 329 was marked for
04:22:54 3 identification.)
04:22:54 4 Q. We're into 2010 now, and Mrs. Allwin is,
04:23:02 5 if you may recall, considering selling the home
04:23:06 6 again, and Exhibit 329 is an e-mail from you to
04:23:16 7 Cynthia Noble, and you're inviting her to call
04:23:18 8 you if she has any questions about the house
04:23:20 9 because you're familiar with it.
04:23:21 10 You have now done some work on it, and
04:23:23 11 you have done this investigation. You, maybe
04:23:25 12 better than anybody, knows about the problems the
04:23:31 13 house has had and what has been done to attempt
04:23:34 14 to remedy that. And is that basically what
04:23:37 15 you're doing, you're offering your services to
04:23:39 16 Ms. Noble?
04:23:39 17 A. Yes. Because when she would have a
04:23:41 18 potential buyer come by the house, I would meet
04:23:44 19 with her and the potential buyer to answer any
04:23:54 20 kind of questions about work that had been done.
04:23:55 21 Q. And did Mrs. Allwin ask you to write
04:23:59 22 this e-mail to Ms. Noble?
04:24:01 23 A. It is just a professional courtesy.
04:24:02 24 Q. You knew that Mrs. Allwin was interested
04:24:05 25 in selling the home, so you reached out to her

04:24:08 1 Realtor?
04:24:08 2 A. Right.
04:24:18 3 Q. Exhibit 330 is a May 2010 e-mail to you
04:24:24 4 from Mrs. Allwin, and you are sort of just giving
04:24:27 5 her a status report of things that are going on?
04:24:29 6 A. Right.
04:24:29 7 Q. And then the last full paragraph there
04:24:33 8 on the first page --
04:24:35 9 A. Yes.
04:24:35 10 Q. You know that you were writing Cynthia
04:24:38 11 Noble a letter of the work we have done and the
04:24:40 12 last few years --
04:24:41 13 A. Uh-huh.
04:24:41 14 Q. -- so a potential buyer can understand
04:24:43 15 all that you have done to maintain the house and
04:24:45 16 keep it in good working order?
04:24:47 17 A. Right.
04:24:47 18 Q. Did you ever prepare that letter?
04:24:51 19 A. I don't know. I mean, this is something
04:25:02 20 I do for my clients, but I don't know if I did it
04:25:04 21 for Maria or for 133 Flyway.
04:25:10 22 Q. Okay. Do you recall 331?
04:25:10 23 (Exhibit No. 331 was marked for
04:25:47 24 identification.)
04:25:47 25 A. Yes.

04:25:48 1 Q. Mrs. Allwin is instructing you to -- I'm
04:25:53 2 assuming with respect to the letter you are
04:25:58 3 writing for Ms. Noble -- to talk with her before
04:26:01 4 you tell, write, or say anything else?
04:26:03 5 A. Sure.
04:26:04 6 Q. Do you know what she's concerned about
04:26:05 7 here?
04:26:05 8 A. No.
04:26:11 9 Q. And then you state, "John and I started
04:26:14 10 working on the draft letter yesterday, and we're
04:26:16 11 going to send it to you, Mrs. Allwin, before
04:26:22 12 Cynthia receives it."
04:26:24 13 Does this help ring a bell as to whether
04:26:27 14 you actually prepared the letter or completed the
04:26:30 15 letter?
04:26:31 16 A. Obviously, I did it. I started a draft.
04:26:35 17 Where it went from there, I do not remember.
04:26:46 18 Q. Do you have a copy of it?
04:26:47 19 A. No, I don't. Okay. All right.
04:26:54 20 Q. Do you recall 332? In the second
04:27:08 21 paragraph, you are talking about the angle on the
04:27:12 22 letter, and then in the last paragraph, you're
04:27:17 23 talking about different spins on how to present
04:27:20 24 it.
04:27:20 25 A. Uh-huh.

04:27:22 1 Q. What are we spinning and what are we
04:27:25 2 angling?
04:27:26 3 A. I'm trying to think of a nice way of
04:27:39 4 putting that because some homeowners -- you know,
04:27:42 5 I always explain what I have done. Whether --
04:27:48 6 you know, sometimes they just don't want to know
04:27:50 7 about it. I have often said, if I built a house
04:27:57 8 with 2-by-2 pickets, all they care about is the
04:28:00 9 paint job. They're only interested in
04:28:03 10 aesthetics. They just want it to be pretty.
04:28:07 11 So we caulked the windows, we painted,
04:28:09 12 blah, blah, blah. I would always give her a list
04:28:10 13 of what we had done at the house.
04:28:13 14 Q. And on this letter, what type of spin or
04:28:19 15 angle are you suggesting you take?
04:28:28 16 A. Are you suggesting that we wanted to
04:28:30 17 hide something?
04:28:31 18 Q. No, ma'am. I'm asking what you meant in
04:28:35 19 this e-mail.
04:28:35 20 A. Because I can't hide anything.
04:28:37 21 Q. I'm not suggesting you are hiding
04:28:40 22 anything.
04:28:40 23 A. Okay.
04:28:41 24 Q. But you are preparing a letter --
04:28:43 25 A. Right.

04:28:43 1 Q. -- that details or at least chronicles
04:28:50 2 in some measure of detail the work you had
04:28:54 3 performed on the house?
04:28:54 4 A. Right.
04:29:01 5 Q. And the angle or the spin, I mean, in
04:29:03 6 one respect, if you get into too much detail, the
04:29:06 7 house could look like a money pit.
04:29:08 8 A. Right.
04:29:08 9 Q. If you put just the right amount of
04:29:11 10 detail, it may look like Mrs. Allwin is a
04:29:14 11 conscientious owner and has gone to great lengths
04:29:16 12 to maintain this home?
04:29:18 13 A. Right.
04:29:18 14 Q. Is that what you're talking about?
04:29:20 15 A. Yeah. Because take the chiller system,
04:29:24 16 for example.
04:29:25 17 Q. Was hundreds of thousands of dollars.
04:29:29 18 Maybe a million. It was incredible.
04:29:30 19 A. It was a constant maintenance.
04:29:31 20 Q. So that's what we're talking about, the
04:29:33 21 fine line between --
04:29:38 22 A. Too much information on how much I
04:29:39 23 really put into the HVAC system is a good
04:29:42 24 example.
04:29:42 25 Q. Did you list dollar amounts in that

04:29:44 1 report that you recall?
04:29:45 2 A. No.
04:29:48 3 Q. Because that would be shocking
04:29:51 4 potentially you think?
04:29:52 5 A. It was never asked.
04:29:59 6 Q. Exhibit 334, have I given that to you by
04:30:08 7 chance?
04:30:08 8 A. I am on number 332. I don't think so.
04:31:00 9 Q. I will represent to you that on May 5,
04:31:04 10 2010 -- it's Exhibit 334 and you're welcome to
04:31:07 11 look at my highlighted copy -- that you tell
04:31:15 12 Cynthia Noble that you sent the list to Maria for
04:31:18 13 approval?
04:31:18 14 A. Uh-huh.
04:31:18 15 Q. So, apparently, you did draft and
04:31:22 16 complete it. Is this ringing a bell?
04:31:24 17 A. Well, if I said I did it, I did it.
04:31:26 18 Q. Do you know if Maria Allwin ever
04:31:28 19 approved that list and whether it was given to
04:31:31 20 Ms. Noble?
04:31:31 21 A. I don't remember.
04:31:51 22 Q. All right. 336 is a termite inspection
04:31:57 23 report that Ryan Abbate a potential buyer had
04:32:08 24 prepared. You will note at the bottom this came
04:32:10 25 from Gamble Homes Services. The Bates stamp at

04:32:13 1 the bottom?
04:32:13 2 A. Yes.
04:32:13 3 Q. Did you see this in 2010?
04:32:31 4 A. Yes.
04:32:31 5 Q. Did you see it in May of 2010?
04:32:39 6 A. I don't know. My fax says -- my fax
04:32:42 7 cover sheet says -- it doesn't have a date on it.
04:32:48 8 It just says, I left a message on December 2nd,
04:32:52 9 but I don't know if the message is with Andy or
04:32:56 10 with whom.
04:33:04 11 Q. If you look at the last page of that
04:33:05 12 exhibit.
04:33:06 13 A. I am. The fax cover sheet from Atlantic
04:33:10 14 Builders. It says on the bottom that's my -- the
04:33:11 15 whole thing is my handwriting, message, 2
04:33:14 16 December of '10.
04:33:17 17 Q. Who's Andy?
04:33:18 18 A. I don't know.
04:34:13 19 Q. Okay. Do you have any idea why you
04:34:18 20 would have forwarded this report to anyone?
04:34:22 21 A. Unless I was forwarding it to someone
04:34:24 22 to, you know, give me a price on some work in
04:34:29 23 there, and that's -- I was reading over the scope
04:34:34 24 wondering if that would ring a bell on who I
04:34:37 25 would have asked to do the work.

04:34:39 1 Q. And that's my next question. Did Gamble
04:34:45 2 or Gamble-Atlantic or Atlantic Builders, you, do
04:34:49 3 anything to address the damages or concerns set
04:34:52 4 forth in Exhibit 336?
04:34:59 5 A. It's a fair assumption I would have
04:35:02 6 written a scope -- or a proposal to do it.
04:35:05 7 Whether we did anything with it, I don't know.
04:35:07 8 Q. Do you know who you received this report
04:35:09 9 from?
04:35:12 10 A. Either -- I don't know. I mean, it
04:35:19 11 would have been -- either I would have ordered it
04:35:22 12 myself or Cynthia would have sent it to me.
04:35:26 13 Q. Well, and it was -- if you look at the
04:35:28 14 third page, Miller's is billing Ryan Abbate, the
04:35:33 15 potential buyer?
04:35:34 16 A. Okay.
04:35:35 17 Q. So it was done at his request?
04:35:37 18 A. Okay.
04:35:38 19 Q. So this either would have come from Mrs.
04:35:43 20 Allwin or from Cynthia on Mrs. Allwin's behalf?
04:35:47 21 A. Probably. Right.
04:35:48 22 Q. Exhibit 337 is the Complete Inspection
04:36:02 23 report, the 2010 Complete Inspection report.
04:36:07 24 That was prepared for Ryan Abbate a potential
04:36:14 25 purchaser of the home?

04:36:16 A. So he had two done.
04:36:17 Q. Well, Cynthia Noble had one done in
04:36:20 2006. We looked at that this morning. That was
04:36:21 the first time Mrs. Allwin said, I'm interested
04:36:23 in selling the house. And Cynthia says, Let's
04:36:26 kick the tires. That report was prepared?
04:36:30 A. Okay.
04:36:30 Q. This report was prepared at the
04:36:33 instruction or request of Mr. Abbate who was
04:36:37 considering buying the home?
04:36:38 A. Got it. Home inspection report and a CL
04:36:42 100.
04:36:42 Q. Hand in hand?
04:36:43 A. Yes.
04:36:43 Q. Mr. Abbate ultimately did not make an
04:36:49 offer. Do you know why he did not make an offer?
04:36:51 A. No.
04:36:51 Q. Were you again -- this 2010 Complete
04:36:57 Inspection Services report is Bates stamped
04:37:02 Gamble Homes Services.
04:37:03 A. Right.
04:37:03 Q. Did you receive this report in May 2010?
04:37:06 A. Do you have a proposal from me that
04:37:33 marries this?
04:37:36 Q. No.

04:37:39 1 A. Well, then --
04:37:42 2 Q. I say no.
04:37:44 3 A. Right.
04:37:45 4 Q. I don't think so.
04:37:46 5 A. Right. Then I can't say I saw it
04:37:53 6 because -- or nobody was interested in doing
04:37:57 7 anything about it.
04:37:58 8 Q. And by nobody, Mrs. Allwin wasn't
04:38:01 9 interested in doing anything about it?
04:38:02 10 A. I suppose and that's pure speculation.
04:38:05 11 Q. Okay. This document made its way to
04:38:11 12 Gamble Homes Services by some source?
04:38:13 13 A. Right.
04:38:13 14 Q. And that would either very likely be
04:38:16 15 Mrs. Allwin or Cynthia Noble on Mrs. Alwin's
04:38:19 16 behalf?
04:38:19 17 A. Right. But just because I got it,
04:38:21 18 doesn't mean I did anything about it.
04:38:24 19 Q. Or were asked to do anything about it?
04:38:28 20 A. Exactly.
04:38:29 21 Q. Exhibit 338 is the following month, and
04:38:49 22 it is a proposal from you?
04:38:51 23 A. Okay.
04:38:52 24 Q. But it just looks like a lot of
04:38:59 25 painting?

04:39:04 1 A. Uh-huh.
04:39:05 2 Q. My question to you is: You're drafting
04:39:09 3 this proposal -- you may have already answered
04:39:12 4 it. You are drafting this proposal. Why not
04:39:14 5 include all the items listed in the Complete
04:39:18 6 Inspection report or -- you just don't recall
04:39:21 7 being asked to do that, if you had it at the
04:39:23 8 time?
04:39:23 9 A. Right.
04:39:30 10 Q. What's the status of Skip Lewis at this
04:39:32 11 point? We're now more than a year removed from
04:39:34 12 having Skip Lewis on an investigative forensic
04:39:39 13 analysis. Nobody has done that, correct, that
04:39:40 14 you're aware of?
04:39:42 15 MR. LYLES: Object to the form of the
04:39:44 16 question.
04:39:44 17 A. I'm going to annoy you by saying I still
04:39:48 18 don't remember Skip.
04:39:49 19 Q. You do remember the conversation in 2009
04:39:52 20 with Robert Lyles where an investigative forensic
04:39:57 21 type person was going to come in?
04:39:59 22 A. Sure.
04:40:01 23 MR. LYLES: Object to the form of the
04:40:06 24 question.
04:40:06 25 A. Sure. But I don't remember Skip.

04:40:09 1 Q. Do you remember any forensic analysis by
04:40:10 2 an engineer, an architect, someone other than
04:40:13 3 yourself in 2009-2010 or at least through June of
04:40:18 4 2010?
04:40:20 5 A. What year did Fuller come in?
04:40:24 6 Q. I have a lot of dates in my head. And
04:40:31 7 if you want to qualify that, is Fuller -- I know
04:40:35 8 ABS, Ross Clements --
04:40:38 9 A. What year did Ross Clements come in?
04:40:51 10 Q. 2011. Early 2011.
04:40:55 11 A. Right. So we performed some demo for
04:41:00 12 Ross to see some things, so that would be when --
04:41:09 13 let me think. Right, Ross.
04:41:10 14 Q. But 2009 to 2011 -- 2009 when you spoke
04:41:23 15 with Mr. Lyles at the house and the plan was for
04:41:27 16 a structural engineer to come in and look at --
04:41:30 17 remember the windows and doors and Mrs. Allwin
04:41:33 18 was excited about that?
04:41:35 19 A. Uh-huh.
04:41:35 20 Q. To your knowledge, that structural
04:41:38 21 engineer or that structural analysis person did
04:41:41 22 not come until 2011?
04:41:42 23 A. I believe so.
04:41:48 24 Q. When Ross Clements came with Fuller
04:41:50 25 Engineering?

04:41:51 1 A. Right.
04:42:43 2 (Discussion off the record).
04:46:25 3 Q. Exhibit 340 is an e-mail where you
04:46:34 4 inform Mrs. Allwin that you met with the Cowans,
04:46:38 5 and I'm assuming that's Bob and Mary Lou?
04:46:41 6 A. Yes.
04:46:42 7 Q. Why did you meet with the Cowans in June
04:46:47 8 of 2010?
04:46:55 9 A. Seems like they were coming back to stay
04:46:57 10 in the house for a little bit, not an extended
04:46:59 11 stay like the original one. It seems like they
04:47:01 12 were coming back to stay. I mean, visit. Not
04:47:05 13 stay.
04:47:06 14 Q. Sure. I'm with you. And, you know, you
04:47:09 15 and Bob Cowan spent some time walking around the
04:47:11 16 house talking about past and future projects?
04:47:13 17 A. Uh-huh.
04:47:15 18 Q. Past projects. Do you mean that you
04:47:18 19 performed or that were performed while he lived
04:47:20 20 in the house or both?
04:47:22 21 A. Have you met Bob yet?
04:47:26 22 Q. I'm meeting Mr. Cowan tomorrow.
04:47:29 23 A. Right. He's a chatty man.
04:47:32 24 Q. Chatty Cathy?
04:47:33 25 A. He is chatty. So I'm sure we talked

04:47:36 1 about everything.
04:47:39 2 Q. And by future projects, what did Mrs.
04:47:45 3 Allwin have in store or what did you anticipate
04:47:48 4 as the potential future project?
04:47:49 5 A. Well, I mean, obviously this one had the
04:47:53 6 flower pots and the kitchen painting. Did you
04:48:05 7 say you were in the house?
04:48:06 8 Q. I have been to the house a couple of
04:48:09 9 times, yes, ma'am.
04:48:10 10 A. I don't know what kind of changes are in
04:48:12 11 there now, but you know how the great room is a
04:48:14 12 two-story great room, at one point we were going
04:48:17 13 to put a floor in there, and then, of course, you
04:48:20 14 know, she always wanted another entrance to the
04:48:23 15 kitchen instead of having to go up those back
04:48:25 16 stairs and walk around and all that. So those --
04:48:28 17 things like that were always coming back up,
04:48:32 18 being revisited.
04:48:33 19 Q. Were you out at the house specifically
04:48:35 20 to meet the Cowans or were you there for another
04:48:38 21 reason and bumped into them and this was a chance
04:48:42 22 meeting or scheduled meeting?
04:48:43 23 A. No. I'm sure they would have called
04:48:45 24 ahead. My time is not my own.
04:48:50 25 Q. Well, I mean, were you -- I'm not sure

04:48:58 1 that I follow you.
04:48:59 2 A. It would have been scheduled for me to
04:49:03 3 meet with the Cowans at the house.
04:49:05 4 Q. And specifically for you to meet with
04:49:07 5 the Cowans towards what goal?
04:49:14 6 A. To talk about past and future projects
04:49:17 7 on the house.
04:49:17 8 Q. And this -- we're still trying to
04:49:19 9 identify problems with the house and what was
04:49:21 10 done in the past? Is this part of your
04:49:24 11 investigative type thing continued?
04:49:26 12 A. No. I mean, this is years later, so no.
04:49:31 13 I don't think so. I mean, all of that -- all of
04:49:33 14 that would have been done. I wasn't doing that
04:49:35 15 anymore.
04:49:36 16 Q. Okay. And that's what I'm trying to
04:49:38 17 figure out. Then why meet with -- I mean, if the
04:49:42 18 Cowans just needed to get in the house while they
04:49:44 19 were staying, some other tech or someone else
04:49:47 20 would have opened up the house for them; it
04:49:50 21 wouldn't have been you?
04:49:51 22 A. Not necessarily. I mean, Maria liked
04:49:56 23 for me to take care of things; I mean, her people
04:49:59 24 that would come into the house to make sure
04:50:02 25 everything was good. I mean, it happens actually

04:50:06 1 all the time that once I develop a relationship
04:50:09 2 with a homeowner, they start calling me direct
04:50:11 3 for things that they want done versus going
04:50:13 4 through the home service manager.
04:50:15 5 Does that make sense? They have my
04:50:17 6 mobile number, and they just call me. You know,
04:50:20 7 Cowans are coming in. Would you go meet them?
04:50:23 8 Joe Biden is coming in. Will you take care of
04:50:25 9 him? Whatever.
04:50:25 10 (Exhibit No. 341 was marked for
04:50:46 11 identification.)
04:50:46 12 Q. 341 appears to be the same as 338. It's
04:50:51 13 just dated a few days later, and that's 26 June?
04:51:01 14 A. It looks the same.
04:51:01 15 (Exhibit No. 342 was marked for
04:51:02 16 identification.)
04:51:02 17 Q. That's 26 June. And then Exhibit 342,
04:51:08 18 we're into mid July, so about three weeks later,
04:51:12 19 and you're writing to Richard Frisch about roof
04:51:19 20 and siding repairs.
04:51:20 21 A. Uh-huh.
04:51:21 22 Q. And then siding, painting, and repairs
04:51:24 23 are 188,000. And I guess on top of that, the
04:51:28 24 roof options range from 65 to 87 to $107,000. I
04:51:38 25 have a meeting on Monday the 26th of June.

04:51:46 1 I said earlier I didn't recall an
04:51:48 2 estimate or contract that you put together for
04:51:52 3 repairs that addressed the concerns on the
04:51:59 4 termite letter or the Complete Inspection report
04:52:01 5 that Mr. Abbate paid for.
04:52:04 6 Is that the type of repair that you're
04:52:06 7 referring to in Exhibit 342, the siding and
04:52:09 8 painting and roof repairs?
04:52:10 9 A. Is it referencing what? I'm sorry.
04:52:16 10 Q. The siding and painting and roof repairs
04:52:20 11 that you're talking about on Exhibit 342 --
04:52:22 12 A. Right.
04:52:23 13 Q. -- are those intended to address the
04:52:26 14 problems identified in the Complete Inspection
04:52:30 15 Services report of May 2010?
04:52:32 16 A. Who --
04:52:38 17 Q. A month earlier -- or two months
04:52:39 18 earlier.
04:52:45 19 A. What report are you referring to? Here
04:52:47 20 is May, the Complete Inspection --
04:52:49 21 Q. Yes, ma'am.
04:52:50 22 A. I'm sorry. Complete. I forgot that was
04:52:53 23 the name of the company.
04:52:54 24 Q. Yes, ma'am.
04:52:54 25 A. I apologize.

04:52:55 1 Q. So that's exhibit -- remind me what
04:52:57 2 exhibit that is?
04:52:57 3 A. That's 337.
04:52:59 4 Q. Okay.
04:53:00 5 A. So is this referencing this?
04:53:04 6 Q. 342.
04:53:05 7 A. Right. 342 referencing the inspection
04:53:09 8 report?
04:53:09 9 Q. For the record, when we go back and read
04:53:12 10 the transcript and when you say this references
04:53:15 11 this, we have no idea what "this" and "that" are.
04:53:17 12 A. Absolutely. Makes sense. So is the
04:53:21 13 e-mail, number 342, referencing Exhibit Number
04:53:24 14 337, the Complete Inspection Services? You know,
04:53:41 15 I don't think it is because it doesn't talk about
04:53:45 16 rear basement walls. I don't think so. I think
04:53:51 17 it's totally separate.
04:53:53 18 Q. All right. Do you know what siding and
04:53:59 19 painting and repairs are $188,000 -- I'm assuming
04:54:07 20 that's dollars. 188,000. What work that
04:54:11 21 encompasses? What scope of work is being
04:54:15 22 accomplished?
04:54:16 23 A. Siding, painting. I'm not being a smart
04:54:19 24 person.
04:54:21 25 Q. Aleck, yes.

04:54:22 1 A. Yes. Well, that's not the word I was
04:54:25 2 thinking.
04:54:25 3 Q. We all know, but that's okay.
04:54:27 4 A. This house is right on the beach.
04:54:31 5 MR. BEST: Off the record.
04:54:32 6 (Discussion off the record)
04:55:12 7 Q. What are we trying to accomplish with
04:55:17 8 the $188,000 siding and painting?
04:55:23 9 A. The outside of the house was cedar
04:55:28 10 shakes, and it was time for it to be painted. It
04:55:34 11 was due.
04:55:34 12 Q. Stained you mean?
04:55:35 13 A. Restained, yes.
04:55:41 14 Q. And then do you know what the roof
04:55:43 15 options we're talking about here?
04:55:44 16 A. Same thing. The roof options were --
04:55:48 17 let's see. I remember the highest one would have
04:55:51 18 been like a big Hydro-Stop coat, and then it just
04:55:57 19 went down to just painting it the same color. So
04:56:05 20 each option was a little bit more detailed in
04:56:07 21 work and a little bit more work in it, but it was
04:56:10 22 just a matter of it being the time.
04:56:13 23 Q. Was the work done, the restaining of the
04:56:15 24 siding and the work to the roofs?
04:56:17 25 A. Seems like we did option one on painting

the roof.

Q. Do you recall was that localized painting of the --

A. Yes.

Q. Were there leaks?

A. No, aesthetics.

Q. Because paint was peeling?

A. Yes, paint was peeling.

(Exhibit No. 344 was marked for identification.)

Q. 344 is a report -- e-mail report from you to John Nelson where you and Darren spent two hours at the Allwins trying to figure out the source of a bedroom leak.

A. Right. I remember that.

Q. And I think, ultimately, you determined it was condensation maybe in some HVAC lines and ESS will be out to repair?

A. First off, I am trying to remember Michael's bedroom. That was the first one on the left. Right. It was a condensation problem because of the cast iron pipes for the chiller system that was running up in between the common wall between Michael's bedroom and the area -- it seems like electronics where the chiller system

04:58:16 1 were restored.
04:58:17 2 Q. And ESS came and repaired it?
04:58:19 3 A. Uh-huh.
04:58:19 4 (Exhibit No. 349 was marked for
04:58:20 5 identification.)
04:58:20 6 Q. 349?
04:58:27 7 A. And I'm thinking about what you just
04:58:30 8 said. I don't think -- did ESS do that?
04:58:36 9 Q. I don't know.
04:58:36 10 A. I don't think they did because it was
04:58:38 11 just a condensation issue. We just opened up the
04:58:41 12 wall and filled it with stray foam so we could
04:58:44 13 have some better insulation in there. I don't
04:58:49 14 think ESS did anything about that.
04:58:51 15 Q. Exhibit 349 is an e-mail exchange
04:58:54 16 between you and Leigh -- is it Henninger?
04:59:01 17 A. It is.
04:59:09 18 Q. In September of 2010, Leigh writes to
04:59:15 19 you, I'm sure you already know about this, but
04:59:18 20 there's a good amount of mold around the sun
04:59:21 21 chandelier on the second floor.
04:59:23 22 A. Right.
04:59:25 23 Q. And then you write, Mold around the sun
04:59:29 24 chandelier has always been there.
04:59:31 25 A. Right.

04:59:33 1 Q. Are you referring since you became
04:59:35 2 familiar with the home in 2008?
04:59:37 3 A. Yes.
04:59:40 4 Q. She notes, I swear every time I'm in
04:59:47 5 there, I find something I've never seen. And
04:59:50 6 then you reply that recently you have started
04:59:57 7 making small pencil marks on flaws because there
05:00:02 8 are so many you can't remember if they are old or
05:00:05 9 knew. If I see a pencil mark, then I know I have
05:00:09 10 seen it before.
05:00:09 11 A. Right.
05:00:09 12 Q. Are we talking about any kind of -- what
05:00:11 13 are you marking with a pencil?
05:00:13 14 A. Anything. I mean, a water stain. A
05:00:18 15 crack in the drywall maybe underneath a window.
05:00:21 16 Anything really.
05:00:23 17 Q. So if you see a water stain and you mark
05:00:25 18 it with a pencil --
05:00:27 19 A. I'm watching to see if it grows.
05:00:29 20 Q. Right. And how long had you been doing
05:00:32 21 that before September of 2010?
05:00:41 22 A. I think I had just pretty much just
05:00:43 23 started doing that. Yeah. That would be fair.
05:00:56 24 Couple of months.
05:00:58 25 Q. Did -- when you found problems like

05:01:02 1 that, would you let Leigh know so she could
05:01:06 2 include it in her monthly report to Mrs. Allwin?
05:01:08 3 A. Yes. And then Leigh, as the home
05:01:16 4 service manager, would say, Are you interested in
05:01:19 5 doing something about this?
05:01:20 6 Q. To Mrs. Allwin?
05:01:21 7 A. Right.
05:01:21 8 Q. Exhibit 350. You're going to -- this is
05:01:40 9 just a -- where ABS is opening up a file for Bay
05:01:48 10 10 Ventures. Ed Ernst. Is that the principal's
05:01:53 11 name at Bay 10? Does that ring a bell? And 351
05:02:06 12 sort of goes with that, and it appears that
05:02:08 13 Atlantic Builders is hiring Bay 10 Ventures to
05:02:13 14 perform a mold study, and is it September 2010?
05:02:16 15 A. Yes. September 30th, 2010.
05:02:18 16 Q. What was the date of the mold problem in
05:02:22 17 September of 2010?
05:02:53 18 A. I don't remember. First off, I don't
05:03:04 19 know. I don't remember.
05:03:24 20 Q. I'm assuming there was a sufficient mold
05:03:29 21 problem that the need to bring in a consultant --
05:03:34 22 A. Right. I get it. But I can't remember
05:03:36 23 what triggered it.
05:03:37 24 Q. Okay. Why not call Larry Elkin back or
05:03:42 25 ABS directly? Why involve Bay 10 Ventures, which

05:03:48 1 I don't know Mr. Ernst personally, but in my
05:03:53 2 experience, Bay 10 is a general contractor?
05:03:55 3 A. Okay. That's new. I don't know. Larry
05:04:05 4 was not interested in the house anymore. Larry
05:04:08 5 Elkin was not interested in the house anymore.
05:04:10 6 Q. Okay. Let's back up a minute. Did you
05:04:14 7 call Larry in September of 2010 and say, We have
05:04:17 8 a mold problem?
05:04:18 9 A. I can't tell you if I called him on that
05:04:21 10 day, but I do know this, ABS, Applied Building
05:04:25 11 Sciences, is always my first go-to company.
05:04:26 12 Q. And understandably. They enjoy a good
05:04:29 13 reputation.
05:04:30 14 A. They're awesome.
05:04:32 15 Q. At some point in 2010, Mr. Elkin said,
05:04:37 16 I'm not interested in performing work on this
05:04:40 17 house for any particular reason?
05:04:42 18 A. Perhaps for the same reason he gave me
05:04:45 19 the other day. He's too busy.
05:04:52 20 Q. And you called him the other day about
05:04:54 21 something else?
05:04:55 22 A. Another house.
05:04:56 23 Q. Why did you call Bay 10? How did you
05:05:00 24 get Mr. Ernst's, E-r-n-s-t, name?
05:05:06 25 A. Possible referral from somebody else. I

05:05:11 1 don't know. Hilton Head. Yeah. I don't know.
05:05:17 2 You know what I'm saying? All right, Larry, you
05:05:19 3 can't do it. Can you give me somebody else who
05:05:22 4 can? For all I know, Larry would have
05:05:25 5 recommended him.
05:05:29 6 Q. And it's ironic that ABS then opens up a
05:05:33 7 file for Ed Ernst?
05:05:36 8 A. ABS did.
05:05:39 9 Q. I will suggest to you that Exhibit 350
05:05:43 10 is a new file set-up sheet that ABS uses. It may
05:05:50 11 not have been Larry --
05:05:52 12 A. No. It says Larry on it.
05:06:03 13 Q. 479 is the ABS mold study that it
05:06:33 14 performed at Bay 10 Ventures' request. Have you
05:06:43 15 seen this before?
05:06:44 16 A. Uh-huh.
05:06:45 17 Q. Mr. Ernst forwarded it to you when he
05:06:52 18 received it?
05:06:53 19 A. Somebody did.
05:06:58 20 Q. And did you forward this to Mrs. Allwin?
05:07:00 21 A. I don't know. Well, let me back up. If
05:07:06 22 I was under contract to do something for Mrs.
05:07:09 23 Allwin, then I would have sent it to her.
05:07:09 24 (Exhibit No. 480 was marked for
05:07:12 25 identification.)

05:07:12 1 Q. Okay. Well, let me show you Exhibit
05:07:16 2 480, which is Bay 10 Ventures invoice to Atlantic
05:07:24 3 Builders, and Atlantic Builders is being charged
05:07:27 4 almost $4,200 for this mold study.
05:07:32 5 A. Right.
05:07:33 6 Q. You weren't hiring Bay 10 to come out
05:07:37 7 for you -- satisfy your personal curiosity. You
05:07:41 8 were doing this on Mrs. Allwin's behalf and with
05:07:43 9 the expectation that Mrs. Allwin was going to pay
05:07:45 10 Bay 10 directly or reimburse you for paying Bay
05:07:48 11 10?
05:07:48 12 A. Right. She paid me.
05:08:00 13 Q. Do you recognize Exhibit 481? Do you
05:08:08 14 know whose handwriting that is?
05:08:09 15 A. I do not.
05:08:10 16 Q. Do you recognize it as or believe it
05:08:14 17 might be Leigh Henninger?
05:08:15 18 A. It could have been. It could be.
05:08:19 19 Q. All right.
05:08:20 20 A. I don't know.
05:08:20 21 Q. This appears to be an October 28th
05:08:24 22 inspection where someone is making handwritten
05:08:28 23 notes as they walk through the house.
05:08:31 24 Do you recall being present for this or
05:08:33 25 do these items not look familiar to you?

05:08:37 A. I mean, this list is familiar, yes.
05:08:57 Q. There appears to be what may be a second
05:09:01 set of handwriting.
05:09:02 A. Uh-huh.
05:09:04 Q. Do you see the first page it actually
05:09:11 says number 8? Do you know what that number 8
05:09:14 refers to? Is there a 1 through 7 that we're
05:09:16 missing? And if you look at the fax stamp at the
05:09:20 top, it says this is page 3 of 5, but I couldn't
05:09:23 find the first two pages.
05:09:25 A. Right. No. It looks like there's
05:09:29 some -- whoever was writing this was going by
05:09:32 room and numbering the rooms, so that's a safe
05:09:37 assumption.
05:09:37 Q. Look at number 8. Do you see in the
05:09:40 margin -- or near the margin there's the word
05:09:43 "old"?
05:09:43 A. Uh-huh.
05:09:44 Q. Is that your handwriting?
05:09:45 A. It is.
05:09:46 Q. And you're suggesting that the wall
05:09:48 paper coming off the walls below the windows
05:09:50 mostly on the right side and the bathroom is an
05:09:52 old problem?
05:09:54 A. It's old to me, yeah.

05:09:58 1 Q. That would mean going back to possibly
05:10:01 2 2008?
05:10:02 3 A. That I knew about it, yes.
05:10:04 4 Q. I'm sorry?
05:10:05 5 A. That I knew about it, yes.
05:10:09 6 Q. And then under number 10, third floor
05:10:11 7 staircase, there's the handwritten word "roof."
05:10:14 8 Is that your handwriting?
05:10:15 9 A. It is.
05:10:15 10 Q. Is that suggestive that the problem here
05:10:19 11 stems from a roof leak?
05:10:20 12 A. Uh-huh.
05:10:21 13 Q. You need to say yes or no for me.
05:10:23 14 A. Yes.
05:10:24 15 Q. That at least as of October 28, 2010,
05:10:29 16 has not yet been repaired?
05:10:31 17 A. Correct.
05:10:33 18 Q. Or if it has been repaired, the stains
05:10:41 19 that resulted from that leak have not been
05:10:44 20 repaired? The leak has not been repaired, the
05:10:47 21 stains have not been repaired?
05:10:48 22 A. Actually, that's a good point, because
05:10:50 23 there were times when I fixed something that I
05:10:52 24 didn't make the aesthetic stains go away.
05:10:55 25 Q. Okay. How long had those stains listed

under number 10 been there?

A. They were dated. Old. They had been there a while.

Q. More than a year?

A. Yes.

Q. And you had seen them more than a year ago?

A. Right.

Q. The next page -- again, it's dated 10-28-2010. Number 11 in the margin it appears to be "roof add."

A. Right.

Q. Do you know what that means?

A. No, I don't.

Q. Under number 11 on the third floor landing, there's reference to water stains. How long had you been aware of those stains?

A. I'm sorry. Where are you again?

Q. Number 11 it says, "Wall above door" and then "water stain."

A. Uh-huh.

Q. "Wall above door, bath, again, water stain on the right"?

A. Right.

Q. How long have you been aware of those

05:12:31 1 stains?
05:12:31 2 A. I would say I knew about them, but I
05:12:42 3 can't tell you how long. Six months, a year.
05:12:44 4 Whatever. I don't know.
05:12:45 5 Q. Do you think you had known about them
05:12:47 6 for months prior to 2010?
05:12:48 7 A. I knew about them for a while.
05:12:50 8 Q. Excuse me, October of 2010?
05:12:52 9 A. Yeah. I have known about them for a
05:12:54 10 while.
05:12:54 11 Q. Possibly even going back to 2008?
05:12:56 12 A. I'm not going to say that because I
05:13:04 13 don't have any notes on that.
05:13:05 14 Q. Sure. Number 12 is the front blue
05:13:11 15 bedroom. There's reference to a large mold stain
05:13:13 16 on the wall above the first bed.
05:13:17 17 A. Front blue bedroom. Katrina's bedroom.
05:13:22 18 Okay.
05:13:22 19 Q. When do you recall first seeing the
05:13:25 20 large mold stain?
05:13:26 21 A. I did not write that, so I'm not one to
05:13:43 22 say the word "mold." So a large stain, yes.
05:13:46 23 Q. Okay. Sure. There was a large stain
05:13:48 24 above the first bed?
05:13:50 25 A. There's only one bed in there, and I

05:13:52 1 actually don't remember a stain over that bed.
05:13:57 2 Q. All right. Next is "wallpaper coming
05:13:59 3 off wall."
05:14:05 4 A. Wait a minute. Front blue bedroom.
05:14:07 5 Q. And you have written ocean side?
05:14:09 6 A. Ocean side. Is this the third floor
05:14:23 7 bedroom?
05:14:24 8 Q. I'm uncertain.
05:14:28 9 A. Because that's the only room I remember
05:14:32 10 that had two beds in it. And it says, Ocean
05:14:35 11 side, but this doesn't say third floor. So I'm
05:14:40 12 not quite sure where she is on this.
05:14:43 13 Q. Do you recall any bedroom that had water
05:14:48 14 damage below the windows in October of 2010?
05:14:52 15 A. There were several windows that had
05:14:54 16 issues under the windows.
05:14:55 17 Q. All right. And that damage had been
05:14:57 18 there for --
05:14:58 19 A. It could have been there for a while.
05:15:00 20 Q. For months?
05:15:01 21 A. Right.
05:15:03 22 Q. Into 2009?
05:15:05 23 A. Yes.
05:15:06 24 Q. And it was a situation where -- or was
05:15:11 25 it a situation where you could look at the

05:15:14 1 Sheetrock and tell something was obviously wrong?
05:15:16 2 A. Uh-huh.
05:15:16 3 Q. You need to say yes or no for me.
05:15:18 4 A. Yes. I'm sorry. I apologize.
05:15:22 5 Q. And describe that damage to me. Was it
05:15:24 6 just staining or was it --
05:15:25 7 A. Staining.
05:15:26 8 Q. Paint bubbling?
05:15:27 9 A. Staining, water runs, maybe some
05:15:33 10 bubbling from the drywall bubbling.
05:15:39 11 Q. Okay. Under number 13, I believe, if
05:15:55 12 this ranks consistent with your pattern here, you
05:15:58 13 have -- is that the word "no"?
05:16:01 14 A. It is "no."
05:16:02 15 Q. What does no mean?
05:16:03 16 A. I don't know. One, I don't know. And
05:16:14 17 two, I'm not sure which bedroom was yellow.
05:16:19 18 Q. 14 you have written "roof." Are you
05:16:24 19 indicating you believe the concerns stem from a
05:16:27 20 possible roof leak?
05:16:28 21 A. From the roof, yes.
05:16:29 22 Q. Did you ever confirm that it was caused
05:16:32 23 by the roof?
05:16:40 24 A. If there was an interest in doing
05:16:41 25 something, then I would have confirmed it.

05:16:43 1 Q. And if there was not an interest, you
05:16:45 2 would not take it upon yourself to perform an
05:16:49 3 investigation that you weren't going to be paid
05:16:50 4 for?
05:16:51 5 A. And I wasn't going to waste my roofer's
05:16:53 6 time.
05:16:53 7 Q. And then the next page, 15, you have
05:16:58 8 "no" written. Do you know what that suggests or
05:16:59 9 means?
05:17:00 10 A. No, I don't know what it means.
05:17:05 11 Q. 482. And take your time, if you want
05:17:14 12 to --
05:17:14 13 A. I am just trying to remember fireplace
05:17:19 14 on the right, because there was a fireplace on
05:17:20 15 the left, but I don't know what "no" means.
05:17:26 16 Q. Forget 482. 2010 there was a lightning
05:17:42 17 strike that was a huge headache?
05:17:51 18 A. Yes.
05:17:55 19 Q. 484 is a contract between you and Maria
05:18:02 20 Allwin for the roof painting?
05:18:04 21 A. Right.
05:18:09 22 Q. Which is, I guess, ultimately going to
05:18:10 23 be performed. And was it performed under this
05:18:14 24 contract?
05:18:14 25 A. Yes.

05:18:27 1 Q. And then if you look, she's doing option
05:18:29 2 one, which is that $81,000 dollars Hydro-Stop one
05:18:36 3 coat finish.
05:18:36 4 A. Right.
05:18:37 5 Q. And that's to make the roof have a
05:18:38 6 uniform color all the way across, right?
05:18:40 7 A. Uh-huh.
05:18:41 8 Q. And then there is, in addition to the
05:18:45 9 roof work, we're doing a lot of drywall repair
05:18:50 10 and painting in all of these bedrooms, which
05:18:53 11 seems to correspond with the exhibit we just
05:18:55 12 looked at from the October inspection where there
05:18:57 13 was a listing of damage. Do you agree with that?
05:19:01 14 A. I would.
05:19:02 15 Q. And that was about $60,000 worth of
05:19:10 16 work, and you believe all that was performed in
05:19:13 17 2010 or early 2011?
05:19:15 18 A. Yes.
05:19:16 19 Q. Exhibit 485 is a $217,000 contract with
05:19:31 20 Mrs. Allwin for lightning strike repairs, and
05:19:34 21 that was the -- all the electronics that were
05:19:37 22 zapped and damaged and HVAC equipment?
05:19:40 23 A. Right.
05:19:41 24 Q. That's what you were doing in that
05:19:44 25 contract. And that was performed, correct?

A. There's no scope of work with this, but if it had to do with the lightning strike, yes, we did that.

Q. Do you know whether Mrs. Allwin ever had a termite bond on the home?

A. I remember talking to Atlantic Pest at one point, but I can't remember if we had a termite bond or not.

Q. I am going to share with you my marked up copy, and then we can get Darah a clean copy of the original exhibits, but Exhibit 490, it looks like Mrs. Allwin is gearing up to sell the home again. This is in November of 2010, and there's some concerns about settling?

A. Okay.

Q. Do you recall that issue coming up?

A. I know the issues are the whereabouts that we're talking about in the master sitting area, but -- so this is an e-mail to me from Al Schweickhardt asking him if he remembers, so yeah. I don't know much more than that. And, you know, settling here is in parenthesis, so I'm kind of stretching it anyhow on trying to describe to Al what I'm looking at.

Q. Do you recall any followup to this

e-mail exchange between you and Al Schweickhardt?

A. He gave me a price. I would have forwarded it, and if there was any interest, you would see a proposal on us performing it.

(Exhibit No. 492 was marked for identification.)

Q. 492 is what?

A. 492 is a form that -- that the field people would write field addendums on, so if they were out there and they saw something that needed to be done, they would do the pricing for me.

Q. Is this a proposal or is this work that was actually done? Is this someone in the field doing pricing for you or is this someone -- is someone in the field recording work that was actually performed?

A. No. It's an addendum. So that means that without a signature, we don't move forward.

Q. Is this Darren who prepared this?

A. It looks like Darren's handwriting, yes.

Q. So Darren is out there, and he sees something that needs to be done and prepares this Exhibit 492?

A. Right. A field addendum is something we use on things that are not written in the

05:25:35 1 original proposal.
05:25:36 2 Q. So this would be a prelude to a change
05:25:40 3 order or an addendum?
05:25:41 4 A. Right.
05:25:51 5 Q. What problem is he trying to correct
05:25:53 6 with this work?
05:26:09 7 A. The large patio on the back was pitched
05:26:15 8 in some areas, pitched towards the house. So, I
05:26:19 9 believe, Darren is here trying to --
05:26:24 10 Q. Get a positive slope on that surface so
05:26:27 11 the water will come away from the wall?
05:26:29 12 A. Away from the house.
05:26:30 13 Q. Is that because water has been
05:26:31 14 discovered leaking into the basement where that
05:26:33 15 deck ties into the home?
05:26:35 16 A. I believe so, yes.
05:26:36 17 Q. And how long had that problem been going
05:26:39 18 on?
05:26:39 19 A. There was -- I think you have notes from
05:26:45 20 me about the hardwood floor like in the -- Jim's
05:26:49 21 study from a couple of years ago, so it's been a
05:26:53 22 while.
05:26:53 23 Q. Couple of years before 2010?
05:26:55 24 A. I believe so, yes.
05:26:55 25 (Exhibit No. 493 was marked for

identification.)

Q. What is Exhibit 493?

A. This is a proposal -- no, it's not.

Q. It just says "observations"?

A. Yeah. That's what I was just taking back. It's not a proposal. 133 observations dated December 2nd, 2010.

Q. So is this while you're out there doing the lightning strike repairs and you're doing the -- Picquet is doing the roof and you're painting the interiors? Is this additional things that you think ought to be done or at least mentioned to Mrs. Allwin?

A. I know what this is. This is a list that Cynthia Noble and I walked around the house because Maria was thinking about putting the house on the market on the things that Cynthia wanted to do.

Q. Cynthia wanted to do in December of 2010?

A. I think so, yes.

Q. Okay. Look at the second page of that and halfway down it says, "Study."

A. Uh-huh.

Q. Repair hardwood flooring in turret. Are

we talking about Jim's office or the breakfast area?

A. It is.

Q. Jim's office, correct?

A. Correct.

Q. And we have already looked at documents that said that problem had been around for a couple of years?

A. Uh-huh.

Q. Yes?

A. Yes.

Q. And then repair door pans in hardwood flooring one time.

A. Right. One door.

Q. One door. Is that also in Jim's office?

A. Yes.

Q. And eventually there was a door or two removed on the back of the house, and we're going to see that here shortly.

A. Right. That's not in here. Is it? I don't see that in here, but --

Q. Well, says, "Repair door pans and hardwood flooring." Are we talking about a door on the rear of the home at Jim's office?

A. They're only at the rear of the home in

05:29:43 1 Jim's office.
05:29:44 2 Q. Do you recall the door that was removed
05:29:47 3 and you found the framing damage?
05:29:50 4 A. I do.
05:29:51 5 Q. And there was apparently a flashing
05:30:01 6 deficiency and Richard Dixon, somebody from ABS,
05:30:05 7 came out to look it at it?
05:30:07 8 A. Was it Dixon?
05:30:08 9 Q. We will see in a minute. Was that
05:30:11 10 discovery the result of you removing this door
05:30:15 11 that Cynthia Noble wanted you to pull off or to
05:30:19 12 repair the door pan?
05:30:21 13 A. This is a list of things that Cynthia
05:30:22 14 wanted. Doesn't mean we did it.
05:30:24 15 Q. Who helped -- or did Cynthia prepare
05:30:28 16 this list on her own because it's on your
05:30:33 17 letterhead?
05:30:34 18 A. Cynthia and I walked around the house.
05:30:36 19 Q. And she pointed out things you wanted,
05:30:37 20 you made notes, and then you prepared this list?
05:30:38 21 A. Right.
05:30:40 22 Q. And that walk-around would have been
05:30:42 23 late November, very early December?
05:30:46 24 A. Correct.
05:30:47 25 Q. Of 2010. All right. Then next, a few

05:30:51 1 entities below the study on page 2, you see
05:30:54 2 "general" and the last entity is, "flash right
05:30:57 3 rear area on deck around copper downspout.
05:31:01 4 Remove/replace eight deck stones to build up."
05:31:05 5 That was the field work addendum we just
05:31:07 6 looked at that Darren proposed, correct?
05:31:09 7 A. Yes.
05:31:20 8 Q. And then Exhibit 494 is an addendum
05:31:23 9 dated December 2010, and this is a proposal to
05:31:25 10 Mrs. Allwin that is increasing the roofing and
05:31:33 11 interior painting contract that was roughly
05:31:38 12 $140,000. You are now proposing almost $400,000
05:31:44 13 worth of work in this addendum.
05:31:46 14 A. Right.
05:31:46 15 Q. Did Mrs. Allwin approve this addendum?
05:32:04 16 A. No.
05:32:04 17 Q. Do you recall discussing this proposed
05:32:13 18 addendum with Mrs. Allwin?
05:32:16 19 A. Yes.
05:32:24 20 Q. And I take it you explained to her why
05:32:27 21 you believe the work ought to have been done?
05:32:31 22 A. The painting, sure. It's all just time.
05:32:34 23 The wallpaper was peeling. The bath accessories
05:32:43 24 were corroded in the cabana. Sure. Wear and
05:32:49 25 tear on the hardwood flooring. Sure.

05:33:00 1 Q. And she did not approve the $391,000
05:33:05 2 addition in its entirety. Is that what you
05:33:10 3 recall?
05:33:10 4 A. Yes.
05:33:10 5 Q. I will show you 495. This is not signed
05:33:16 6 by Mrs. Allwin, but I'm just looking -- I'm
05:33:21 7 ignoring the handwriting and looking at the typed
05:33:26 8 totals on the last page. It looks like the
05:33:30 9 proposed addendum has been reduced from almost
05:33:34 10 $400,000 down to 99,000?
05:33:40 11 A. Right. 99.
05:33:41 12 Q. And what do you recall was deleted from
05:33:43 13 the proposed addendum work?
05:33:51 14 A. Well, all the -- looks to me like all
05:33:58 15 the cedar shakes and the exterior painting, if
05:34:12 16 all I'm doing is comparing the old -- the
05:34:16 17 original addendum one to the new that the work
05:34:19 18 was done, so the -- all the interior painting, it
05:34:22 19 looks like that was deleted, and refinishing the
05:34:30 20 hardwood floors was deleted. The ceiling,
05:34:38 21 painting all the cabinets, the garage floor
05:34:42 22 painting. I would say three-quarters of it.
05:34:42 23 (Exhibit No. 499 was marked for
05:35:39 24 identification.)
05:35:39 25 Q. All right. 499 appears to be a January

12th, 2011, Rich Dixon -- sort of a rendering that I will tell you I believe is related to the flashing or pan deficiency below at least one rear door that you removed. Do you recall that?

A. I removed one.

Q. Okay. And why did you remove that one? Is that the one that Cynthia Noble wanted removed?

A. No. Cynthia wouldn't have --

Q. Well, that was in the list we compiled, the December 2nd.

A. Yeah, I get it. I'm trying to remember why I removed that -- the hardwood floor inside the house was real wonky, and we were trying to figure out why, so we removed the door.

Q. When you say "wonky," it was cupped and damaged by --

A. Cupped and damaged.

Q. And you had known about that since 2008, correct?

A. Right. I don't know about '08, but I had known about it for a while. Just to clarify.

Q. Sure. Back into 2009 certainly?

A. Sure.

Q. I have a huge stack of documents.

05:37:07 1 A. I saw that.
05:37:08 2 Q. Excuse me, photographs, that Rich Dixon
05:37:11 3 took in January of 2011.
05:37:26 4 (Discussion off the record)
05:37:26 5 (Exhibit No. 352 was marked for
05:37:26 6 identification.)
05:37:26 7 (Exhibit No. 353 was marked for
05:37:27 8 identification.)
05:37:27 9 Q. 352 and 353 are the garage, correct?
05:37:30 10 A. No. This is underneath the house.
05:37:33 11 We're underneath the great room here.
05:37:37 12 Q. Okay. What does one call this area?
05:37:40 13 A. Well, the garage -- I call it the garage
05:37:42 14 where you park the cars.
05:37:44 15 Q. Yes, ma'am.
05:37:44 16 A. This is the storage area underneath the
05:37:52 17 basement maybe.
05:37:58 18 Q. This is towards the rear of the home
05:37:58 19 underneath the great room?
05:38:01 20 A. Correct. And then you go through that
05:38:02 21 door and there's the cave.
05:38:02 22 Q. And you're looking at 353 and you enter
05:38:03 23 through the door --
05:38:04 24 A. The man door that goes out the back.
05:38:04 25 (Exhibit No. 354 was marked for

identification.)

Q. And if you look at 354 in the bottom center, there's some staining here.

A. Right.

Q. And there's an -- a piece of tape with an arrow. I'm not quite sure what that indicates, but do you know if there is a problem that you're aware of that Mr. Dixon identifies in the photograph?

A. I'm actually trying to place it.

(Exhibit No. 355 was marked for identification.)

Q. And 355 might help you, and I will suggest just looking at 352 and 353.

A. You don't need any more. I know where it is. It's there.

Q. So it's to the left of the man door in 352?

A. Right. To the left of the man door in 352, so it goes out to the cave. So here he's shooting onto the man door.

Q. In 355?

A. And in 355 he's shooting down the wall.

Q. And were you with Mr. Dixon throughout his visit?

05:39:12 A. Probably, yes.
05:39:13 Q. Do you know why he is taking photographs
05:39:15 in this area?
05:39:18 A. Because we were trying to figure out
05:39:23 what was going on with that hardwood floor, and
05:39:25 this is underneath that hardwood floor.
05:39:29 Q. All right. In 35 -- in 352 we see the
05:39:42 door in the distance, the man door?
05:39:44 A. Right.
05:39:45 Q. And if you open that door, you walk into
05:39:47 the cave, which is under the deck?
05:39:49 A. Right.
05:39:49 Q. All right. This wall, the wall that the
05:39:52 ladders are hanging on --
05:39:54 A. Right.
05:39:54 Q. -- is if you go straight up, is that the
05:40:00 rear elevation of the house?
05:40:03 A. It is.
05:40:04 Q. So this is -- we're looking at the
05:40:07 foundation wall, a supporting wall of the house?
05:40:10 A. Correct. That's underneath the rear
05:40:12 wall of the house.
05:40:15 Q. So the doors that open up from the great
05:40:23 room and the kitchen area and the study onto the
05:40:25 deck, are immediately above this wall that the

ladders are hanging on?

A. That is correct.

MS. McINTOSH: Is that 352, Dean?

MR. BEST: Yes, ma'am.

(Exhibit Nos. 356 through 360 was marked for identification.)

Q. All right. 356 needs to be turned that way. Several of these photographs have staining depicted on them. 357 as well and, please, go back through all of these if you want to look at them. 358, 359, 360. Is -- was there -- was the source of this what appears to be water staining identified? Is it coming in from above at the doors to the deck or is this simply a condensation problem?

A. Actually, I'm trying to place -- I know we're in the basement. I'm just trying to figure out where we are in the basement.

Q. Looks like that elbow and 359 might be right there and 358 possibly.

A. Right. Yeah. Here we go. See this -- 358 -- in 358 you have a sliding screen door.

Q. Something black. Something dark leaning against the wall, and you can see that about a third of the way in from the left on 352?

05:42:28 1 A. Correct. So if you travel off to the
05:42:31 2 left, that is a dehu.
05:42:34 3 Q. And we're in 358?
05:42:37 4 A. And then this would be, again -- where
05:42:40 5 are we? We're on that -- we're underneath that
05:42:43 6 rear elevation wall.
05:42:46 7 Q. Right. And what I will suggest to you
05:42:47 8 in 358 where you see the water staining, it's --
05:42:53 9 and I recognize there's a 90 degree turnoff of
05:42:56 10 that rear elevation wall, but there is staining
05:42:58 11 on and adjacent to the rear elevation wall.
05:43:03 12 Was there a concern or did anyone ever
05:43:05 13 establish that water was leaking from those rear
05:43:08 14 doors down into this basement area?
05:43:11 15 A. Not with me.
05:43:14 16 Q. Do you suspect that?
05:43:17 17 A. Yeah, I did.
05:43:18 18 Q. How long had those stains been there
05:43:20 19 that you were aware of?
05:43:21 20 A. A while.
05:43:22 21 Q. Okay. We're in January of 2012. Had
05:43:26 22 they -- had you known about it for a year or --
05:43:29 23 A. I would say so, yes.
05:43:29 24 (Exhibit No. 362 was marked for
05:43:30 25 identification.)

05:43:30 1 Q. And 362 is taken from the basement
05:43:42 2 looking up, and you can actually see a hole where
05:43:47 3 the floor -- subfloor was I'm assuming rotten at
05:43:53 4 the door you removed, and there's actually a
05:43:56 5 hole. You can see up into the interior of the
05:43:59 6 home?
05:43:59 7 A. Correct.
05:44:05 8 MR. CANTWELL: Are these from January of
05:44:07 9 2012 or 2011?
05:44:14 10 MR. BEST: January 2011, correct?
05:44:16 11 That's when Mr. Dixon came. Did I say '12
05:44:19 12 earlier?
05:44:19 13 MR. CANTWELL: You just said '12.
05:44:21 14 MR. BEST: Pardon me.
05:44:22 15 MR. CANTWELL: And then she knew about
05:44:22 16 it for a year before that.
05:44:24 17 Q. So you knew about this a year before
05:44:27 18 2011, January of 2011. So you think you would
05:44:31 19 have known about this in early 2010?
05:44:33 20 A. No, I did not. You mean the damage
05:44:36 21 underneath the door?
05:44:37 22 Q. No, ma'am. The staining -- the staining
05:44:40 23 in the basement.
05:44:42 24 A. The staining I knew about.
05:44:44 25 Q. In early 2010 you knew about?

05:44:46 1 A. I believe so, yes.
05:44:47 2 Q. I realize you didn't know about the
05:44:50 3 water damage to the subflooring until the door
05:44:52 4 was removed.
05:44:53 5 A. Correct.
05:44:58 6 Q. But in January of 2010, because you saw
05:45:00 7 the staining, I mean, it's logical that you
05:45:03 8 suspected there was a water intrusion concern at
05:45:06 9 that rear wall?
05:45:08 10 A. Yes.
05:45:08 11 (Exhibit No. 375 was marked for
05:45:08 12 identification.)
05:45:08 13 Q. Exhibit 375 is -- I believe those are
05:45:29 14 the same ladders we saw on the rear elevation
05:45:33 15 wall. We're still in the basement, and there are
05:45:36 16 additional areas of staining. Did staining run
05:45:41 17 the length of that wall in the basement?
05:45:47 18 A. All the way down to the right
05:45:49 19 elevation --
05:45:50 20 Q. In different places.
05:45:52 21 A. Yeah, there were water stains.
05:45:53 22 Q. And you knew about that in early 2010?
05:45:56 23 A. Uh-huh.
05:45:56 24 Q. You need to say yes or no for me.
05:45:59 25 A. Yes.

(Exhibit No. 396 was marked for identification.)

Q. Exhibit 396 appears to be -- I don't know, you tell me.

A. Is it the wall to the right of the window in photo 395.

(Exhibit No. 395 was marked for identification.)

Q. So in 395 we're in the great room, correct?

A. We are.

Q. And in the immediate left of the photo is the last rear door to the right in the great room, and then the wall makes a 90 degree turn, and there's a window with a red and yellow -- red and gold curtain, correct?

A. Yes.

Q. And --

A. And this is a drywall defect.

(Exhibit No. 396 was marked for identification.)

Q. 396 is a drywall defect that is --

A. And this is the door.

Q. Just the door or the window?

A. No. That's a -- that's a door. Is that

05:48:08 1 a big window? It could be just a big window
05:48:10 2 that's supposed to look like a door that leads
05:48:13 3 into Jim's study in Exhibit 396.
05:48:17 4 Q. Okay. Is this where somebody -- 396
05:48:21 5 somebody bumped the wall? Is this water
05:48:23 6 intrusion? What is this?
05:48:25 7 A. I thought it was water intrusion.
05:48:27 8 Q. How long had you noticed that problem?
05:48:28 9 A. I don't know. That could have been new.
05:48:35 10 Do you see any pencil marks?
05:48:35 11 (Exhibit No. 397 was marked for
05:48:40 12 identification.)
05:48:40 13 Q. No, ma'am. Is that the same area 397 or
05:48:47 14 is that --
05:48:48 15 A. Let me get a view on that. It is
05:48:52 16 because in 397 when you look out the window,
05:48:56 17 you're looking at the house next door. Right.
05:49:00 18 So this would be the step up on the patio to
05:49:04 19 Jim's office.
05:49:04 20 (Exhibit No. 398 was marked for
05:49:07 21 identification.)
05:49:07 22 Q. 398 is a ceiling in the great room?
05:49:13 23 A. There it is. It goes that way.
05:49:31 24 Q. With the exhibit sticker at the upper
05:49:34 25 right?

05:49:34 1 A. 398, this is the motorized blind.
05:49:37 2 Q. The left of the photo is the motorized
05:49:42 3 blind?
05:49:42 4 A. And this is the track that it travels
05:49:44 5 in, and that's a windowsill.
05:49:45 6 Q. And do you note any problem or defect in
05:49:47 7 that photograph?
05:49:48 8 A. I mean, I see these stains here, but
05:49:50 9 that could be dust.
05:49:52 10 Q. Does that appear a -- it might be
05:49:54 11 mildew?
05:49:55 12 A. It could be.
05:49:56 13 Q. Or water stains?
05:49:57 14 A. Yeah. But these windows are located on
05:49:59 15 the second area, so we didn't clean up very well.
05:49:59 16 (Exhibit No. 399 was marked for
05:49:59 17 identification.)
05:50:04 18 Q. 399 is the door that you removed?
05:50:08 19 A. That's correct.
05:50:09 20 Q. And that's where we saw the pictures
05:50:12 21 from the basement you could see actually through
05:50:14 22 the subfloor?
05:50:15 23 A. Correct.
05:50:22 24 Q. And 400 you can see portions of -- is
05:50:25 25 that metal flashing?

05:50:26 1 A. Yes.
05:50:27 2 Q. What was causing the leak?
05:50:31 3 A. See, the flashing here was leading into
05:50:38 4 the room so that when water hit this, it didn't
05:50:41 5 go out. It went into the house.
05:50:44 6 Q. Because of the --
05:50:46 7 A. Slope.
05:50:46 8 Q. The slant and slope of the flashing?
05:50:48 9 A. Right. But also, though, there's no --
05:50:51 10 you know, a pan should be cupped up in the back.
05:50:55 11 Q. We call that an end dam.
05:50:57 12 A. Okay.
05:50:58 13 Q. It was not turned up on the rear and the
05:51:01 14 sides?
05:51:01 15 A. On the inside, right.
05:51:02 16 Q. Yes, ma'am.
05:51:03 17 A. So it was just open access.
05:51:10 18 Q. And it looks like at least one course of
05:51:19 19 the hardwood flooring has been pulled up here.
05:51:21 20 A. Uh-huh.
05:51:22 21 Q. Is there a photograph of that somewhere?
05:51:26 22 A. Looks like --
05:51:28 23 Q. At least one?
05:51:29 24 A. Yeah. Because this -- you may be right
05:51:31 25 because it was a plank. You're right.

05:51:35 1 Q. Do you know if there's a photograph or
05:51:37 2 did you document the condition of that plank
05:51:39 3 before it was pulled up?
05:51:44 4 A. I don't remember, but it would have been
05:51:46 5 damaged for me to do that.
05:51:50 6 Q. Okay. 403 we see where the first plank
05:51:54 7 adjacent to the door or the door threshold would
05:51:57 8 have been -- has been removed. And then looking
05:51:59 9 at the second plank in, is that damage -- water
05:52:05 10 staining there or is that --
05:52:08 11 A. I think it's just a bad photo.
05:52:10 12 Q. How long did this door opening stay
05:52:20 13 boarded up?
05:52:21 14 A. I don't know because I didn't put it
05:52:24 15 back.
05:52:25 16 Q. Why did you not put it back?
05:52:31 17 A. Because I wasn't asked to or I wasn't
05:52:36 18 paid to or I don't know the answer to that. I
05:52:38 19 just didn't do it.
05:52:39 20 Q. Okay. Well, tell me how it went down.
05:52:41 21 You obviously removed it for a reason and that
05:52:46 22 was because -- did you remove it specifically for
05:52:49 23 ABS while they were there or did you remove it
05:52:52 24 and then ABS was called in?
05:52:54 25 A. I removed it and then ABS was called in.

05:52:56 1 Q. But you removed it in sort of an
05:52:59 2 investigative role to determine why the floor in
05:53:03 3 that area was, to use your term, wonky?
05:53:06 4 A. Right.
05:53:06 5 Q. And then you noticed that the slant or
05:53:10 6 slope of the flashing. Who made the decision to
05:53:12 7 bring in Rich Dixon and ABS?
05:53:16 8 A. I would have called Maria and asked her
05:53:18 9 to do that.
05:53:18 10 Q. Okay. And she agreed to do that?
05:53:22 11 A. Yes.
05:53:22 12 (Exhibit No. 432 was marked for
05:53:35 13 identification.)
05:53:35 14 Q. All right. 432 has two areas that are
05:54:04 15 boarded up?
05:54:05 16 A. It does.
05:54:08 17 Q. Did ABS ask you to open up another area
05:54:11 18 or had you already opened up both areas or do you
05:54:14 19 just not recall?
05:54:15 20 A. You know, this, when I opened up the
05:54:17 21 first one --
05:54:19 22 Q. Which would have been on the right of
05:54:23 23 432?
05:54:23 24 A. The far right that's closest to the
05:54:26 25 kitchen. That's when I would have stopped and

called Maria and asked for an engineer. And then, Rich may have, at that point when he came in, asked us to remove that one.

Q. The one on the left in 432?

A. Right.

Q. And I'm sorry, the photographs we looked at where the plank was removed adjacent to the door, that was in the great room, correct?

A. It is, yes. In the great room.

Q. At 432, there would have been this opening that's boarded up closest to the kitchen on the right side of the photograph?

A. Right. It's the outside view.

Q. But in addition to that area, there are areas in Jim's study to the left of the photograph in 432 that also had damaged or wonky --

A. It did.

Q. -- flooring?

A. But I don't remember taking that out. I think we stopped at that point.

Q. And you're referring to 432?

A. I am.

Q. Are you familiar with the term "tea staining"?

05:55:37 1 A. Uh-huh.
05:55:37 2 (Exhibit No. 435 was marked for
05:55:38 3 identification.)
05:55:38 4 Q. 435, do you see the discoloration here
05:55:42 5 on the same steps?
05:55:43 6 A. Yes.
05:55:43 7 Q. Wood has tannins and other whatever.
05:55:45 8 Rotting wood, as water travels through it,
05:55:47 9 leeches those tannins out and carries it with it
05:55:51 10 so that you have the dark brown stains in the
05:55:56 11 basement below this wall, and here on the steps
05:55:59 12 you have this dark brown staining. Is that
05:56:02 13 suggestive of a water leak or water damage to you
05:56:04 14 or am I educating you?
05:56:07 15 A. No. I mean, but here's the thing, if I
05:56:10 16 see water stains on the outside --
05:56:15 17 Q. They're supposed to be on the outside,
05:56:15 18 right?
05:56:17 19 A. I happen to think that's a good thing.
05:56:19 20 It's only when they're on the inside.
05:56:23 21 Q. And I understand the logic in that, too,
05:56:25 22 but the darkness and brownness of these stains,
05:56:29 23 doesn't, as a matter of course, cause you
05:56:32 24 particular alarm when they're on the outside?
05:56:35 25 A. No, I didn't realize that was -- what

did you call it?

Q. And I have heard it referred to as like "tea", "ice tea," "tea staining," you know.

A. Right.

(Exhibit Nos. 442 through 444 were marked for identification.)

Q. Do photographs 442, 43, 44, depict any problem that you're aware of? Maybe with the metal flashing?

A. I don't remember any.

(Exhibit No. 449 was marked for identification.)

Q. All right. 449 is what you referred to earlier as the cupola?

A. Turret.

Q. Turret. Okay.

A. 449 is outside Jim's study.

Q. Okay. Did you go into the study with Mr. Dixon and the folks of ABS in January of 2011?

A. Yes.

Q. Okay. Did they express concerns about the turret or the study in 2011?

A. Uh-huh.

Q. What did they say?

05:58:05 1 A. That the deck was sloped toward the
05:58:06 2 house.
05:58:07 3 Q. There was a negative slope that was
05:58:09 4 directing water back toward the house?
05:58:10 5 A. Yes.
05:58:10 6 Q. Are there leaks in the basement below
05:58:17 7 this turret? Can you access that area?
05:58:19 8 A. I believe you can. Some of those stains
05:58:23 9 that are off to the right of that man door --
05:58:28 10 Q. Yes, ma'am.
05:58:28 11 A. -- they're there.
05:58:28 12 (Exhibit No. 461 was marked for
05:58:29 13 identification.)
05:58:29 14 Q. Beginning with Exhibit 461 we're
05:58:47 15 actually inside Jim's study. Do you see any
05:58:52 16 photograph of cupping or water damage in these
05:58:55 17 photographs?
05:58:55 18 A. Here in the turret?
05:58:57 19 Q. You're looking at 461?
05:59:00 20 A. Right. Inside the curved wall.
05:59:01 21 Q. And you notice you had seen that back in
05:59:03 22 2008?
05:59:04 23 A. Yes. And then the interior of the
05:59:12 24 hardwood floor immediately inside the French door
05:59:16 25 on Exhibit Number 462.

05:59:16 1 (Exhibit No. 462 was marked for
05:59:18 2 identification.)
05:59:18 3 Q. And you had seen that back in 2008?
05:59:20 4 A. I've seen it.
05:59:22 5 Q. 2009?
05:59:27 6 A. It's there. 2009-'10.
05:59:31 7 Q. And it's obvious. If you're in the
05:59:32 8 room, when you look at the floor, you can see the
05:59:35 9 difference in the flooring?
05:59:36 10 A. This house -- I mean, these photos
05:59:38 11 actually show all the drapes pulled back.
05:59:44 12 Everything here is very heavy drapes because of
05:59:47 13 the sunshine, so we try to blacken that side of
05:59:50 14 the house. See, they're here. All of those are
05:59:53 15 typically closed. You can't see anything.
05:59:53 16 (Exhibit No. 464 was marked for
05:59:56 17 identification.)
05:59:56 18 Q. Well, looking at 464, you can see
05:59:59 19 discoloration of the floor near the turret that
06:00:01 20 extends into the room beyond the drapes.
06:00:03 21 A. Right.
06:00:04 22 Q. That is sort of --
06:00:06 23 A. That draws my eye, but it may not draw
06:00:09 24 somebody else's eye.
06:00:10 25 Q. Okay. But John Nelson was aware of this

06:00:24 1 in 2008?
06:00:25 2 A. John.
06:00:28 3 Q. You said he gave you a tour of the
06:00:32 4 house?
06:00:33 5 A. Yeah. I'm trying to remember -- I don't
06:00:35 6 remember that at all.
06:00:39 7 Q. Was there termite damage found in the
06:00:42 8 turret?
06:00:42 9 A. I don't remember any termite damage.
06:00:45 10 Q. I am looking at 471. Did you remove
06:00:48 11 this section of flooring?
06:00:50 12 A. I did.
06:00:50 13 Q. And what was -- beyond the pitch of the
06:00:57 14 deck, did ABS have any other opinions about the
06:01:01 15 cause of water damage in this turret area or
06:01:05 16 Jim's study?
06:01:05 17 A. No.
06:01:05 18 (Exhibit No. 476 was marked for
06:01:05 19 identification.)
06:01:18 20 Q. 476, are we in the cave now?
06:01:19 21 A. Yes, we are.
06:01:21 22 Q. And you know we're in the cave and
06:01:22 23 you're pointing at the ceiling. How can you
06:01:24 24 tell?
06:01:24 25 A. Well, because of this Visqueen barrier

that we put on the floor.

Q. The poly on the ground?

A. Yes. And then we ran it up all the --

Q. Columns?

A. -- columns, and this is all dry.

(Exhibit No. 477 was marked for identification.)

Q. What is this ceiling in 476 and 477?

A. I think it's poured concrete.

Q. It has sort of a wood grain effect. Is that some --

A. And that threw us for the longest time, and that was the plywood that formed the concrete that it conformed to.

Q. No extra change, right?

A. Right. Can we take a break?

(Discussion off the record)

Q. Exhibit 492 is the field addendum worksheet that we talked about a few moments ago -- several moments ago where Darren was proposing to repair the pitch on the -- on the deck?

A. Right.

Q. Was that work done?

A. No.

06:09:04 1 Q. Okay. No, it was not done?
06:09:06 2 A. It was not.
06:09:07 3 Q. It was not approved by Mrs. Allwin?
06:09:21 4 A. Obviously not.
06:09:22 5 Q. Would it have been presented to Mrs.
06:09:25 6 Allwin in this form 492?
06:09:28 7 A. No. I would have typed it up.
06:09:38 8 Q. Exhibit 501, are these your handwritten
06:09:47 9 notes?
06:09:48 10 A. They are.
06:09:48 11 Q. All right. Up at the top there's a
06:09:49 12 reference to Jerry Hupy Architect. I will
06:09:51 13 represent to you that I believe he's a local
06:09:52 14 representative for --
06:09:56 15 A. Okay.
06:09:57 16 Q. Do you know that?
06:10:00 17 A. No.
06:10:01 18 Q. Why are you writing Mr. Hupy's name down
06:10:04 19 here?
06:10:04 20 A. I don't know.
06:10:04 21 Q. These are your notes, correct?
06:10:05 22 A. They are.
06:10:06 23 Q. January 13, 2011, you note during Cowan
06:10:10 24 residence.
06:10:11 25 A. Yes.

06:10:11 1 Q. Were you speaking to Mr. Cowan on
06:10:16 2 January 13th, 2011?
06:10:19 3 A. I don't know.
06:10:31 4 Q. All right. It states, "During Cowan
06:10:34 5 residence, water stains on inside of walls
06:10:39 6 common" -- is that within cave?
06:10:41 7 A. -- "within the cave."
06:10:43 8 Q. Within the cave. So we just spent a few
06:10:48 9 moments looking at --
06:10:49 10 A. Right.
06:10:50 11 Q. We just spent a few moments looking at
06:10:52 12 photographs taken by Rich Dixon or ABS in January
06:10:55 13 of 2011 that had water stains on the other side
06:11:02 14 of that foundation wall, not the cave side, but
06:11:04 15 the garage side?
06:11:06 16 A. Right.
06:11:07 17 Q. I believe what you're stating here is
06:11:09 18 that during the Cowan residence, there were water
06:11:12 19 stains along that wall and possibly other walls
06:11:16 20 on the cave side?
06:11:17 21 A. Correct.
06:11:17 22 Q. What is the source of that information
06:11:21 23 that you have just written down here in Exhibit
06:11:25 24 501?
06:11:26 25 A. I mean, the first paragraph, because it

says, Cowan marked the walls, it would be from him.

Q. So did you speak with him in January of 2011?

A. See, I don't think so.

Q. Or maybe he told you that during the visit we looked at earlier and you're just recalling it here?

A. Right.

Q. But can you clarify for me?

A. You know, I think I met with them again, you know, a couple of years later after that initial conversation with them because they were coming in again to stay at the house.

Q. Well, this is the day after Rich Dixon made his rendering, his drawings?

A. Okay.

Q. Do you see that? It's dated January 12?

A. This is the next day.

Q. This is the next day.

A. Right. I don't remember seeking Mr. Cowan out. He was not one to seek out unless you had a lot of time.

Q. Again, chatty?

A. Yes.

06:12:45 1 Q. Next you write Cooper, and I'm assuming
06:12:50 2 that's Russ Cooper Associate?
06:12:52 3 A. Uh-huh.
06:12:53 4 Q. You need to say yes or no for me.
06:12:55 5 A. Yes.
06:12:56 6 Q. Cooper came back to remove steps?
06:12:59 7 A. Uh-huh. Right.
06:13:02 8 Q. Then found void between -- is that LVL?
06:13:14 9 A. The LVL slab concrete.
06:13:14 10 Q. What location are we talking about?
06:13:14 11 A. That would be the steps on the rear
06:13:18 12 elevation ocean side, the steps that lead from
06:13:20 13 that open deck into the great room.
06:13:24 14 Q. The steps we were just looking at that
06:13:27 15 had the tea staining on it?
06:13:29 16 A. Correct.
06:13:29 17 Q. Cooper came back to replace shingles and
06:13:33 18 rotten plywood between doors?
06:13:38 19 A. Right. So in between those French
06:13:46 20 doors, you had columns of cedar shakes, so
06:13:50 21 Cooper, I guess, came back and replaced those.
06:13:52 22 Q. What is the source of your information
06:13:54 23 that Cooper came back to this house to do
06:13:57 24 anything?
06:13:57 25 A. You know, I think it would have to be

06:14:00 1 Mr. Cowan.
06:14:01 2 Q. Right. I will represent to you -- well,
06:14:08 3 are you getting this information from the letters
06:14:17 4 and reports that Mr. Cowan wrote while he was
06:14:21 5 living in the house?
06:14:22 6 A. No.
06:14:22 7 Q. Did Mrs. Allwin give you -- in that
06:14:24 8 package of material, did she include the Cowan
06:14:27 9 reports?
06:14:32 10 A. I'm trying to remember if it was in that
06:14:36 11 package she sent me or if Mr. Cowan gave me his
06:14:40 12 notes. I can't remember which way it was, but,
06:14:42 13 obviously, I had them from Mr. Cowan. I mean, I
06:14:48 14 had Mr. Cowan's notes.
06:14:49 15 Q. You had Mr. Cowan's notes?
06:14:51 16 A. I did.
06:14:51 17 Q. When did you have Mr. Cowan's notes?
06:14:54 18 A. I think from when I started working, you
06:14:59 19 know, when I started doing all that research.
06:15:03 20 Q. Back in 2008?
06:15:04 21 A. Right.
06:15:04 22 Q. And you got them from either Mrs. Allwin
06:15:07 23 or Mr. Cowan?
06:15:08 24 A. Or Mr. Cowan, right.
06:15:09 25 Q. When you made copies, did you send

06:15:13 1 copies of those Cowan correspondence reports back
06:15:16 2 to Mrs. Allwin?
06:15:17 3 A. Yes. There would be no reason not to.
06:15:32 4 Q. So Exhibit 501, you have got five lines
06:15:42 5 here that relate to Russ Cooper coming back to
06:15:45 6 the home to make repairs?
06:15:47 7 A. Right.
06:15:47 8 Q. You, Tori Stein, have no personal
06:15:49 9 knowledge, no firsthand knowledge, of Russ Cooper
06:15:55 10 ever coming back to the house for any reason?
06:15:58 11 A. No, I've never met him.
06:16:00 12 Q. What you have written here is gleaned
06:16:02 13 from either conversations with Bob Cowan or a
06:16:05 14 review of Mr. Cowan's reports to Jim and Maria
06:16:10 15 Allwin?
06:16:10 16 A. Correct.
06:16:10 17 Q. Do you recall after Rich Dixon came out
06:16:13 18 there in January of 2011 going back through your
06:16:17 19 documents to try to --
06:16:18 20 A. No.
06:16:27 21 Q. You note the location of a set of plans?
06:16:30 22 A. They weren't there.
06:16:31 23 Q. They weren't there because you said no.
06:16:33 24 Then you say, Cowan surgery on the 18th. Will
06:16:36 25 call. Does that suggest to you that maybe you

06:16:39 1 are speaking with Mr. Cowan?
06:16:40 2 A. It does because he -- he must have
06:16:44 3 already been -- yeah, he had surgery, right.
06:16:47 4 Q. He had surgery the next week?
06:16:50 5 A. And one of us was going to call back,
06:16:53 6 right. Yes. Makes sense.
06:16:55 7 Q. Okay. So now looking at the notes
06:16:59 8 above, you're thinking that Mr. Cowan is telling
06:17:03 9 you this?
06:17:03 10 A. Uh-huh, yes.
06:17:04 11 Q. And then with respect to the roof, Mr.
06:17:16 12 Cowan tells you, Cooper had three different
06:17:18 13 contractors?
06:17:19 14 A. Yes.
06:17:20 15 Q. During the original construction?
06:17:23 16 A. Yes.
06:17:24 17 Q. And I'm assuming -- and if you look back
06:17:26 18 at the Cowan reports, the roof is sort of a
06:17:30 19 constant problem and has remained a constant
06:17:33 20 problem even through 2011, correct?
06:17:35 21 A. Correct.
06:17:36 22 Q. And then Mr. Cowan tells you Jim -- that
06:17:47 23 being Jim Allwin -- has -- I'm assuming that
06:17:50 24 means Jim Allwin. Is that what you understand?
06:17:53 25 A. That's what I'm thinking also.

06:17:55 1 Q. Jim Allwin has reports from someone who
06:17:58 2 says roof was not done correctly?
06:18:00 3 A. Right.
06:18:00 4 Q. And then you have requested from Maria
06:18:03 5 that same day?
06:18:03 6 A. I have.
06:18:04 7 Q. Did you ever receive a report from
06:18:06 8 Maria?
06:18:06 9 A. Do you have it? Because I don't
06:18:09 10 remember it.
06:18:10 11 Q. I've not -- it does not sound familiar.
06:18:14 12 A. Right.
06:18:14 13 Q. What is this next information about
06:18:21 14 Alexander Graham Bell's house? Looks just like
06:18:25 15 the Allwin house?
06:18:25 16 A. It was Mr. Cowan running on and me
06:18:27 17 having something to do.
06:18:32 18 Q. All right. The next page, are you still
06:18:36 19 on the phone with Mr. Cowan?
06:18:40 20 A. I don't think so.
06:18:41 21 Q. And I'm not trying to be slippery at
06:18:50 22 all. I will point out to you that the first page
06:18:55 23 of Exhibit 501 is Bates stamped 1407.
06:19:01 24 A. Right.
06:19:01 25 Q. And then the second page is Bates

06:19:03 1 stamped 1402?
06:19:05 2 A. Correct.
06:19:06 3 Q. I won't guarantee that all the Gamble
06:19:09 4 documents came to me in chronological order, but
06:19:13 5 can you take a moment to look at the second page
06:19:16 6 of that exhibit and tell me -- or can you tell me
06:19:22 7 if it was prepared at the same time as the first
06:19:25 8 page or at a later time. And the same thing with
06:19:31 9 the last page, which is 1403.
06:19:37 10 A. So the question is, were all three pages
06:19:51 11 done at the same time, Mr. Best?
06:19:55 12 Q. Yes, ma'am.
06:19:57 13 A. I don't have an answer. I don't know
06:19:59 14 that. I don't know.
06:20:01 15 Q. Can you give me a ballpark as to when
06:20:04 16 the last two pages of that Exhibit 501 were
06:20:07 17 prepared?
06:20:12 18 A. There aren't any dates on it, Mr. Best.
06:20:16 19 I don't know.
06:20:16 20 Q. Okay. It's your handwriting?
06:20:18 21 A. It is my handwriting.
06:20:19 22 Q. Was this prepared at the time before
06:20:27 23 Fuller Engineers came in or after Fuller
06:20:30 24 Engineers came? Was it prepared after your March
06:20:34 25 2009 meeting with Robert Lyles? I'm trying to

06:20:37 1 think of some benchmarks here that if you can
06:20:39 2 help -- that you can help narrow down, would be
06:20:43 3 helpful.
06:21:01 4 If you will look at the bottom of Gamble
06:21:04 5 Homes Services, 1402, this may be helpful. Here
06:21:07 6 we're talking about a reduced hourly fee, $150.
06:21:11 7 A. Right.
06:21:11 8 Q. Are we talking about a lawyer's fee or
06:21:14 9 Tori Stein's fee?
06:21:14 10 A. No. My fees were lower than that. This
06:21:25 11 is -- I'm thinking about timeline.
06:21:26 12 Q. Yes, ma'am.
06:21:28 13 A. I don't know when this was written. Was
06:21:30 14 it written around this time, the 11th? It could
06:21:33 15 very well be. Was it all together in the file?
06:21:38 16 Q. Well, it was close in time. The last
06:21:41 17 two pages are 1402, 1403.
06:21:44 18 A. Right.
06:21:45 19 Q. And then the January 13th, 2011, notes
06:21:51 20 are 1407.
06:21:53 21 A. Right.
06:21:54 22 Q. So they're very close within the packet.
06:21:57 23 A. Right. So I'm obviously not talking to
06:22:01 24 Mr. Cowan. So I'm sorry. I have no idea when
06:22:03 25 these were written.

06:22:04 1 Q. Midway through that second page it says,
06:22:11 2 First step, letter to Cooper --
06:22:14 3 A. Yes.
06:22:15 4 Q. -- with litany of problems, laundry
06:22:17 5 list, either fix it or buy my house?
06:22:19 6 A. Right.
06:22:20 7 Q. I'm assuming you are discussing options
06:22:23 8 with either Mrs. Allwin or Mr. Lyles?
06:22:30 9 A. I'm talking to somebody, yes, on the
06:22:33 10 options.
06:22:38 11 Q. You can't give me any context in which
06:22:44 12 these notes are written?
06:22:44 13 A. You're looking for who I'm talking to?
06:22:46 14 Q. I'm looking for any kind of context
06:22:49 15 associated with these notes other than I don't
06:22:53 16 recall when they were written.
06:22:54 17 A. Okay. Well, let's see. I'm talking
06:22:58 18 to -- I'm talking to Robert about options, I
06:23:04 19 suppose, and so these are thoughts of what we
06:23:08 20 could do. I would have to be -- it would have to
06:23:14 21 be Robert. On the options on -- because, you
06:23:19 22 know, a letter to Cooper, and if he decided to
06:23:23 23 fix it, he could fix it.
06:23:26 24 Q. And we're talking about rates, and I'm
06:23:28 25 assuming the possibility of reduced hourly rate,

06:23:32 1 contingency fee, and different fee options, is
06:23:34 2 this before March of 2009? Are you making these
06:23:38 3 notes before March of 2009?
06:23:41 4 A. I don't know.
06:23:47 5 Q. Look at the last page. Read your notes
06:24:08 6 for me, please, just so I'm confident I know what
06:24:11 7 they say.
06:24:13 8 A. Lawsuit dollar amount would encapsulate,
06:24:22 9 may include, lawyer fees. Depends on the
06:24:26 10 contract with Russ Cooper. Medium copy?
06:24:34 11 Q. Need a copy?
06:24:35 12 A. Need a copy. Okay. Construction.
06:24:39 13 Let's see. Damages associated with repair, loss
06:24:42 14 of use, right to use -- or inability to use her
06:24:46 15 home, consequential loss, loss of value because
06:24:51 16 of defects. And then I have thoughts that says,
06:24:56 17 put house on the market for the right price
06:24:57 18 unfixed. Sue for the difference or with some --
06:25:03 19 Q. Someone?
06:25:05 20 A. -- someone tearing it down for the lots.
06:25:11 21 Q. Does that help you remember about when
06:25:35 22 this was written?
06:25:36 23 A. To me, it's options, but when we talked
06:25:40 24 about those options, I don't know.
06:25:40 25 (Exhibit No. 507 was marked for

identification.)

Q. 507. These are e-mail exchanges between you and Robert Lyles and Richard Dixon in late January of 2011. Just a couple of weeks after Rich Dixon had been out to take all these photographs and look at the damage along the door along the rear wall.

A. Okay.

Q. And there's a proposal apparently to meet at the home on January 27. And I'm looking at the first page there, the second paragraph you write to Robert, I will have a history book with me on the transactions on the house.

Is this just a report you gave -- you created back in 2008, the chronology?

A. Yes.

Q. Did you give that book to Robert?

A. I did.

Q. Do you think he still has your copy of that?

A. I don't have it.

Q. Do you recall Mr. Lyles' office giving it back to you?

A. No.

MR. BEST: Off the record.

06:27:25 1 (Discussion off the record)
06:27:47 2 Q. Then you go on to issues on the table
06:27:49 3 for conversation, and I'm assuming this is sort
06:27:51 4 of a scope -- things at least Tori Stein thinks
06:27:54 5 the engineers need to look at when they're at the
06:27:56 6 house.
06:27:56 7 A. Right.
06:27:57 8 Q. Roof installation and long-term leaks
06:27:59 9 inside the walls.
06:28:00 10 A. Correct.
06:28:00 11 Q. And those have been a problem since you
06:28:03 12 became familiar with the house in 2008?
06:28:05 13 A. Correct.
06:28:06 14 Q. Exhaust fans are not vented. And you
06:28:09 15 mean they're not vented to the exterior?
06:28:11 16 A. To the outside, that's correct.
06:28:12 17 Q. Where do they go? They just dump into
06:28:15 18 the attic or you don't know?
06:28:16 19 A. I don't know.
06:28:17 20 Q. When did you discover that that was a
06:28:19 21 problem?
06:28:20 22 A. I always knew that the exhaust fans were
06:28:22 23 a problem because of the --
06:28:24 24 Q. The condensation, mildew --
06:28:25 25 A. Around the fans, but we never cut into

06:28:28 1 the walls to figure out where the vents went, and
06:28:31 2 we never could find exits.
06:28:35 3 Q. There were no vent covers or caps on the
06:28:37 4 exterior that you could see?
06:28:38 5 A. No.
06:28:38 6 Q. Do you know where the exhaust fans ever
06:28:44 7 vented to?
06:28:44 8 A. I still don't know.
06:28:46 9 Q. But you knew about the
06:28:48 10 condensation/mildew issue around --
06:28:51 11 A. I knew there was an issue.
06:28:51 12 Q. But you knew that in 2008-2009?
06:28:53 13 A. Correct.
06:28:54 14 Q. Next, housekeeper suite has a major
06:28:58 15 slope. We're talking about the floor --
06:29:02 16 A. It does. The housekeeper suite has --
06:29:05 17 you walk towards the door to the bathroom, it
06:29:10 18 goes downhill.
06:29:11 19 Q. Is that one of the settlement issues?
06:29:13 20 Remember we looked at the --
06:29:14 21 A. No.
06:29:15 22 Q. When did you become aware of the slope
06:29:18 23 issue in the housekeeper suite?
06:29:20 24 A. Probably the first time I walked around
06:29:22 25 the house.

06:29:22 1 Q. 2008?
06:29:23 2 A. Yes.
06:29:33 3 Q. Skip a few entries and it says, master
06:29:38 4 suite is shifting. I think column in bathroom on
06:29:39 5 right wing is doing something to Katrina's
06:29:40 6 bedroom.
06:29:41 7 A. Right.
06:29:42 8 Q. What do you mean the master suite is
06:29:48 9 shifting, this column?
06:29:52 10 A. The hip or valley that -- Katrina's
06:29:55 11 bedroom is second floor, right wing, front
06:30:01 12 elevation.
06:30:01 13 Q. And front you mean street side or ocean
06:30:04 14 side?
06:30:04 15 A. Front elevation is always where the
06:30:06 16 front door is. So she's on the far right front.
06:30:10 17 Q. Right.
06:30:10 18 A. There's -- I think it was a hip that's
06:30:16 19 right over that. Her bathroom, over the
06:30:20 20 bookcase, and then over there in her small
06:30:22 21 closet, there was a lot of drywall repair, and
06:30:29 22 there was things that needed to -- we just never
06:30:33 23 did open up the walls to find out what was in
06:30:35 24 there.
06:30:35 25 Q. There were cracks and things that

06:30:37 1 suggested to you there was structural movement?
06:30:39 2 A. Right.
06:30:39 3 Q. All right. How about the -- the master
06:30:43 4 suite. That's on the left --
06:30:45 5 A. A second floor, left wing.
06:30:47 6 Q. Same thing going on there, too?
06:30:49 7 A. Yes.
06:30:50 8 Q. So both sides of the house?
06:30:51 9 A. Right.
06:30:52 10 Q. When did you observe that problem?
06:30:57 11 A. I think it's always been there.
06:30:59 12 Q. Since 2008-2009?
06:31:00 13 A. Yeah. Right.
06:31:02 14 Q. Then you have got landscaping or grade.
06:31:07 15 Are there -- were there grading issues?
06:31:10 16 A. Some of the final grade was sloped to
06:31:18 17 the house.
06:31:18 18 Q. And do you know whether there was
06:31:20 19 grading work or any type of adjustment to the
06:31:27 20 grade during the Buffington repairs?
06:31:30 21 A. I don't know.
06:31:30 22 Q. So you don't know whether this is a
06:31:33 23 Cooper or Buffington issue?
06:31:34 24 A. No, I don't.
06:31:35 25 Q. And then you write, Past work that

06:31:40 1 Cooper should have paid for, but Allwins ate the
06:31:43 2 cost of repair. What are you talking about here?
06:31:43 3 A. At this point I'm thinking that
06:31:47 4 Cooper -- that the Allwins did some work on the
06:31:52 5 house that should have been -- that he should
06:31:54 6 have done.
06:31:54 7 Q. Cooper had -- or the Allwins had done a
06:31:57 8 lot of work on the house that arguably stemmed
06:32:00 9 back to either the home's original construction
06:32:03 10 or the Buffington repairs in 2004-2005?
06:32:07 11 A. Correct.
06:32:08 12 Q. And this was not a new discovery on your
06:32:17 13 part in January of 2011. You had held this
06:32:20 14 opinion for quite some time, correct?
06:32:23 15 A. Been thinking about it for a long time.
06:32:25 16 Q. How long had you held that opinion?
06:32:30 17 A. I would say for a couple of years.
06:32:33 18 Q. So we're back to 2009. After you had
06:32:36 19 completed your investigation in 2008 and had time
06:32:39 20 to digest it and let it sink in, did you share
06:32:45 21 that belief with Mrs. Allwin?
06:32:51 22 A. I had shared the belief with her that
06:32:53 23 she needed to do some investigation, and then if
06:32:56 24 she chose not to do it, then that was just
06:32:58 25 my rendering of my opinion.

06:33:00 1 Q. Sure. And consistent with that was the
06:33:04 2 instruction to Mrs. Allwin to Mr. Lyles in the
06:33:08 3 spring of 2009?
06:33:11 4 MR. LYLES: Object to the form of the
06:33:12 5 question.
06:33:12 6 A. No. No. I mean, I can appreciate your
06:33:16 7 thoughts on that but, again, she was looking for
06:33:18 8 somebody to just look over the whole situation.
06:33:22 9 Not just -- the contracts, me, everything, that
06:33:25 10 was going on at that house.
06:33:27 11 Q. It's fair to say in late 2009 or
06:33:44 12 sometime in 2010, based on your review of the
06:33:48 13 documents that Maria Allwin provided you, based
06:33:51 14 on the amount of money that had been spent by the
06:34:00 15 Allwins on making repairs that you believed, upon
06:34:02 16 your review of the documents and talking with Bob
06:34:05 17 Cowan and Milt Morgan and -- that had this been
06:34:13 18 your house, you would have explored your legal
06:34:21 19 options?
06:34:24 20 Knowing what you knew and had you
06:34:26 21 personally spent the money the Allwins had spent,
06:34:29 22 had this been your house, what you're saying here
06:34:33 23 is -- in Exhibit 507, Tori Stein would have
06:34:37 24 explored legal options and possible claims
06:34:44 25 against Russ Cooper and Buffington Homes?

06:34:48 1 MR. LYLES: Object to the form of the
06:34:50 2 question.
06:34:50 3 A. I would have.
06:34:51 4 Q. And all the information that you had
06:34:57 5 available to you was available to Maria Allwin
06:35:00 6 because 99 percent of it she had given to you?
06:35:04 7 A. She gave it to me.
06:35:13 8 Q. Okay. We just looked at an e-mail there
06:35:15 9 that talks about the January 27 meeting. Exhibit
06:35:22 10 510 are some field notes prepared by Rich Dixon?
06:35:26 11 A. Yes.
06:35:27 12 Q. On January 27, 2011, based on these
06:35:38 13 notes, it appears that you were there along with
06:35:42 14 Robert Lyles. Do you recall that meeting at the
06:35:45 15 house?
06:35:45 16 A. I remember meeting at the house with
06:35:49 17 Rich Dixon, yes.
06:35:53 18 Q. And it says, "Observed/removed door.
06:35:58 19 Improper flashing."
06:35:59 20 A. Right.
06:35:59 21 Q. Now, we looked earlier -- and please
06:36:05 22 feel free to go back.
06:36:06 23 A. Sure.
06:36:07 24 Q. We looked earlier at the drawing that
06:36:10 25 Rich Dixon did dated January 12th, 2011, that

06:36:16 1 showed sort of, you know, the flashing -- a
06:36:18 2 flashing detail for those doors.
06:36:22 3 A. Right.
06:36:23 4 Q. Was he out at the house around January
06:36:28 5 11 or January 12 and then came back on January
06:36:31 6 27? Is that your recollection?
06:36:32 7 A. I think so, yes.
06:36:33 8 Q. Going back to Exhibit 510 and don't let
06:36:45 9 me stop you. If you want to refer to that,
06:36:47 10 please do, and they're in chronological order, so
06:36:50 11 I think you're back into December. I think you
06:36:52 12 skipped it.
06:36:53 13 A. Doesn't matter.
06:36:54 14 Q. Go to the third bullet on 510.
06:36:58 15 A. It says Robert was there.
06:37:00 16 Q. Right. It says, Robert Lyles on site.
06:37:02 17 He and Tori discussed privately and told me no
06:37:07 18 suit would be filed due to SL, and I will
06:37:13 19 represent to you that I believe SL stands for
06:37:16 20 statute of limitations.
06:37:18 21 MR. LYLES: Object to the form of the
06:37:21 22 question.
06:37:21 23 Q. What conversations did you and Robert
06:37:23 24 have regarding the statute of limitations and the
06:37:28 25 viability of Mrs. Allwin's claims during this

meeting?

A. I don't know what that -- I don't remember. I mean, here's Rich, you know, speculating on what Robert and I talked about. You're asking me what we talked about four years ago. I don't know.

Q. Okay. Mrs. Allwin has a -- what we have already established is a ginormous oceanfront house on Kiawah Island. She's an extremely wealthy lady, and she has paid you and Atlantic Builders and Gamble Homes Services a lot of money over the years.

A. A ton of money.

Q. And you are at her house with a portion of it ripped open.

A. Uh-huh.

Q. With an engineer and a lawyer?

A. Right.

Q. And the engineer has written down, There is not going to be a lawsuit --

A. Right.

Q. -- for whatever reason. SL stands for the slowness of litigation or the statute of litigation. Whatever.

A. Right.

06:38:33 1 Q. But he has written down Robert Lyles and
06:38:36 2 Tori discuss privately and told me no suit would
06:38:44 3 be filed.
06:38:44 4 A. Right.
06:38:45 5 Q. And taking all of this into
06:38:47 6 consideration -- I recognize it has been four
06:38:49 7 years, but this is kind of a big deal. I mean,
06:38:52 8 there's a lot at stake.
06:38:54 9 A. Right.
06:38:54 10 Q. And when Mr. Dixon writes down that the
06:39:01 11 owner of this grand home is not going to file a
06:39:08 12 lawsuit for whatever reason, I would think that
06:39:10 13 would stick in your memory.
06:39:12 14 MR. LYLES: Object to the form of the
06:39:13 15 question.
06:39:13 16 A. Well, see, Mr. Best, I'm not denying
06:39:16 17 that Robert and I did not talk. We did. But if
06:39:19 18 you're asking me what we talked about on January
06:39:21 19 27th, I don't know.
06:39:24 20 Q. All right. What have you and Robert
06:39:27 21 Lyles ever talked about with respect to the
06:39:29 22 viability, the strength of Mrs. Allwin's claim
06:39:34 23 and specifically the statute of limitations?
06:39:37 24 MR. LYLES: Object to the form of the
06:39:40 25 question.

06:39:40 1 A. He had concerns.
06:39:50 2 Q. He had concerns that the statute of
06:39:52 3 limitations would have lapsed or run and that
06:39:55 4 would --
06:39:59 5 A. Mr. Best, I'm not an attorney, so he
06:40:02 6 could have been talking about statute of
06:40:04 7 limitations, warranties. I don't know. It all
06:40:08 8 kind of runs in together for me. I don't know
06:40:10 9 the difference between them.
06:40:14 10 Q. All right. Skip down a couple of
06:40:18 11 bullets.
06:40:20 12 A. To "Tori said"?
06:40:21 13 Q. Tori said, No lawsuit, but Mrs. Allwin
06:40:24 14 will want her home fixed.
06:40:26 15 A. Right.
06:40:30 16 Q. You don't deny telling Mr. Dixon that
06:40:34 17 there would not be a lawsuit?
06:40:36 18 A. If that is what Richard said, then I
06:40:41 19 suppose I said that to him.
06:40:42 20 Q. Okay. And the source of your
06:40:45 21 information that there would not be a lawsuit
06:40:47 22 was --
06:40:49 23 A. It would have to be Mrs. Allwin.
06:40:51 24 Q. Okay. And the reason why Mrs. Allwin
06:40:53 25 was not going to file a lawsuit and made this

06:40:56 1 decision, which you relayed to Richard Dixon, was
06:41:02 2 why?
06:41:02 3 A. I don't know. I'm not Mrs. Allwin.
06:41:06 4 Q. Turn the next page of the same exhibit?
06:41:25 5 MR. WINTON: What Exhibit Number is
06:41:27 6 that?
06:41:28 7 MR. BEST: 510.
06:41:31 8 Q. And I will tell you, I don't know that
06:41:33 9 the second page goes with the January 27 notes.
06:41:37 10 The first page is ABS, Applied Building Sciences,
06:41:42 11 120. The second page of that exhibit is ABS 73.
06:41:47 12 A. Yes.
06:41:48 13 Q. These appear to be notes Richard Dixon
06:42:09 14 is making based on a conversation I'm assuming
06:42:14 15 with either you or Robert Lyles.
06:42:18 16 Do you know -- do these notes jibe with
06:42:22 17 any conversation you have ever had with Richard
06:42:27 18 Dixon?
06:42:27 19 A. I mean, this is a list of, I guess,
06:42:51 20 concerns that Dixon had. He wanted a copy of all
06:42:57 21 the engineer reports. Stuff that she didn't
06:43:00 22 know.
06:43:01 23 Q. And then below that --
06:43:01 24 A. I mean, it says --
06:43:03 25 Q. Maria new, n-e-w, but let's assume

06:43:06 1 that's k-n-e-w. Maria knew about 95 to 100
06:43:10 2 percent. Do you know what he's referring to?
06:43:12 3 A. No.
06:43:12 4 Q. And stuff she didn't know about will be
06:43:15 5 lawsuit?
06:43:15 6 A. Right.
06:43:23 7 Q. And then a master list of repairs?
06:43:24 8 A. Right.
06:43:26 9 Q. Is that something that you collected for
06:43:29 10 Mr. Dixon?
06:43:29 11 A. No. The list of repairs I've always
06:43:32 12 given you -- or I'm sorry. That you already
06:43:37 13 have, and I'm speculating. Master list of
06:43:40 14 repairs would mean that more destructive testing
06:43:45 15 would have been to be done for them to figure
06:43:49 16 that out.
06:43:49 17 Q. Look at the last page, which is ABS 73,
06:43:54 18 which is, at a minimum, the last two pages go
06:43:57 19 together. And it lists Leigh -- I believe that
06:44:03 20 agent to be Henninger?
06:44:04 21 A. Leigh Henninger.
06:44:05 22 Q. Robert Lyles, Tori, and Richard Dixon?
06:44:08 23 A. Right.
06:44:08 24 Q. Do you recall a meeting with the four of
06:44:10 25 you at the house?

06:44:12 1 A. Yes.
06:44:13 2 Q. Was that before or after January 27,
06:44:16 3 2011?
06:44:17 4 A. Before or after?
06:44:20 5 Q. Was it before the doors were opened up?
06:44:22 6 A. No. I think it was after the doors were
06:44:24 7 opened up.
06:44:28 8 Q. Do you know what this rendering is? The
06:44:33 9 last page?
06:44:33 10 A. Yeah. I'm looking at that. No, I
06:44:47 11 don't.
06:44:47 12 Q. What involvement, if any, did Mrs.
06:45:25 13 Allwin's children have in the repair process?
06:45:27 14 A. Katrina and Michael, with me, nothing.
06:45:38 15 Christopher, he was at one or two meetings. He
06:45:41 16 didn't talk a whole lot. He didn't -- he would
06:45:44 17 encourage me once and a while to see if I could
06:45:47 18 get some answers or get people to respond?
06:45:54 19 Q. Was this before Fuller got involved or
06:45:56 20 after Fuller got involved?
06:45:58 21 A. I believe this was before Fuller got
06:46:00 22 involved.
06:46:00 23 Q. And Fuller came out -- May of 2011 was
06:46:17 24 the first report that I'm aware of, preliminary
06:46:20 25 report. In the three years, let's say 2008,

06:46:28 1 2009, 2010, before that report, do you have any
06:46:31 2 idea how often Mrs. Allwin or her family used the
06:46:35 3 house?
06:46:37 4 A. Not very often. The kids came down
06:46:51 5 maybe one long weekend. Her brother would come
06:46:53 6 down for a week. She always came down around
06:46:59 7 fourth of July. Rare. They didn't come down
06:47:02 8 very often at all.
06:47:03 9 Q. The home was not well used. It was very
06:47:06 10 infrequently used?
06:47:08 11 A. Right. The home service manager walked
06:47:10 12 through it every week.
06:47:11 13 Q. Right. The home service manager was in
06:47:16 14 the house more than anyone really?
06:47:19 15 A. Right.
06:47:20 16 Q. Okay. Look back at Exhibit 501. Do you
06:47:50 17 recall the first page? It's your handwritten
06:47:52 18 notes. The first page is dated January 13, 2011.
06:47:55 19 A. Yes.
06:47:56 20 Q. And the other two pages are not dated?
06:47:59 21 A. Right.
06:47:59 22 Q. And then you're not sure when they were
06:48:02 23 created. The last page of Exhibit 501, the very
06:48:08 24 last thing you write down is that, Thought,
06:48:11 25 either put the house on the market price unfixed

06:48:15 1 and sue for the difference in value or with
06:48:19 2 someone tearing the house down for lots?
06:48:21 3 A. Correct.
06:48:27 4 Q. And then Exhibit 522 is a proposal from
06:48:33 5 Atlantic Coast Construction Management to you for
06:48:37 6 the demolition of the structure?
06:48:46 7 A. Okay.
06:48:47 8 Q. Does that help refresh your recollection
06:48:52 9 that the notes -- the last two pages of 501 were
06:48:57 10 probably written sometime between January and
06:49:00 11 April 2011?
06:49:01 12 A. It does because that would have been the
06:49:04 13 only time we ever talked about razing the house.
06:49:07 14 Q. Okay. Was -- did Mrs. Allwin ever give
06:49:09 15 that any serious consideration that you're aware
06:49:11 16 of?
06:49:12 17 A. You know, I don't think so. I think
06:49:20 18 that was more of -- see, I do quotes like this
06:49:25 19 for Realtors out at Kiawah --
06:49:28 20 Q. Right.
06:49:29 21 A. -- fairly often.
06:49:30 22 Q. But typically for old homes -- older
06:49:36 23 homes?
06:49:36 24 A. Older homes, well, yeah. So no, this is
06:49:43 25 an unusual quote out there especially for a house

06:49:46 1 on a double lot on oceanfront.
06:49:48 2 Q. 524, this came from Buffington's file,
06:49:59 3 but it references a meeting. Present, H. Ross
06:50:05 4 with Fuller Engineering, original architect,
06:50:11 5 general contractor, and John Miller. Were you at
06:50:17 6 this meeting?
06:50:18 7 A. I guess I could have been the
06:50:21 8 contractor.
06:50:22 9 Q. I'm thinking you were the general
06:50:24 10 contractor, number three.
06:50:25 11 A. I'm trying to remember who John Miller
06:50:28 12 is.
06:50:28 13 Q. I was about to ask you who John Miller
06:50:32 14 was.
06:50:32 15 A. Right. There was -- I don't know.
06:50:47 16 Q. Miller's Pest Control? Termites?
06:50:52 17 A. No. Fuller Engineering, that's Ross --
06:50:55 18 Ross Clements.
06:50:59 19 Q. Yes, ma'am.
06:51:00 20 A. No. John Miller wasn't out there from
06:51:03 21 the pest control people, no. There was a
06:51:05 22 gentleman there. I remember him being bald, and
06:51:09 23 he flew in just for the day, and I think he
06:51:14 24 represented the architect -- the original
06:51:18 25 architect. That's all I remember, another person

06:51:22 1 being there.
06:51:23 2 Q. Do you remember being at a meeting while
06:51:29 3 Clements or any of his staff, Fuller Engineering,
06:51:32 4 was on site and anybody from Buffington Homes was
06:51:35 5 there, Robbie or Dan?
06:51:39 6 A. No. No, I don't.
06:52:00 7 Q. All right. 529 is Fuller Engineering
06:52:06 8 preliminary report of May 10, 2011.
06:52:09 9 A. Yes.
06:52:10 10 Q. The documents that Ross says that he has
06:52:17 11 reviewed, did he receive those from you, and it's
06:52:22 12 all the way back to the Campbell Schneider
06:52:24 13 report.
06:52:24 14 A. Yes. I mean, I gave them to Robert.
06:52:29 15 Q. Lyles. Who then gave them to Fuller
06:52:41 16 Engineering?
06:52:41 17 A. I suppose.
06:52:42 18 Q. Do you recall Southern Exposure Painting
06:53:04 19 working on the roof?
06:53:05 20 A. Uh-huh.
06:53:05 21 Q. What did they do?
06:53:06 22 A. They painted the roof.
06:53:08 23 Q. The same thing --
06:53:09 24 A. Remember that roof -- the option one.
06:53:13 25 Q. One coat of Hydro-Stop?

06:53:15 1 A. Uh-huh. They did that.
06:53:15 2 (Exhibit No. 532 was marked for
06:53:20 3 identification.)
06:53:20 4 Q. 532 is -- I will let you look at 532 and
06:53:47 5 533 together. 532 is an e-mail where you're
06:53:52 6 requesting a quote from Tischler, the window
06:53:55 7 manufacturer, for replacement windows, and then
06:53:57 8 533 is an window inspection report prepared by
06:54:02 9 Tischler?
06:54:02 10 A. Right.
06:54:11 11 Q. When you make a request to Tischler to
06:54:14 12 replace so many window, did they just say -- did
06:54:19 13 they take it upon themselves to come to Kiawah to
06:54:22 14 inspect what was going on? Was there a concern?
06:54:25 15 Why did Tischler prepare 533?
06:54:29 16 A. They had already been out. They had
06:54:33 17 already seen the house. They already had one of
06:54:36 18 their guys to come out to look at all the windows
06:54:39 19 and doors to see what kind of maintenance or
06:54:43 20 things needed to be done on it.
06:54:45 21 Q. When was that? 533 is August of 2011.
06:54:54 22 A. Right. I get it, but I don't know when
06:54:56 23 the gentleman came out.
06:54:57 24 Q. Did they come out and perform an annual
06:55:00 25 inspection as part of some maintenance package

06:55:02 1 that Mrs. Allwin had purchased?
06:55:04 2 A. No, I called them.
06:55:05 3 Q. You called them?
06:55:06 4 A. I did.
06:55:07 5 Q. And said, Please come look at the
06:55:08 6 windows and see what needs to be done, if
06:55:12 7 anything?
06:55:12 8 A. Right.
06:55:12 9 Q. So Exhibit 533 is a result of your
06:55:17 10 question of Tischler to come out to perform a
06:55:20 11 walk-through inspection?
06:55:24 12 A. Correct.
06:55:24 13 Q. And as a result of this report, Exhibit
06:55:27 14 533, what was done?
06:55:28 15 A. I didn't do anything with it.
06:55:29 16 Q. Did you give it to Mrs. Allwin?
06:55:31 17 A. I would have integrated it probably into
06:55:35 18 the scope of work to her.
06:55:42 19 Q. Because Tischler would have given you a
06:55:45 20 scope of work for this work, correct?
06:55:46 21 A. But there's no quote in here.
06:55:49 22 Q. Not in that exhibit, no, ma'am. Did you
06:55:58 23 use Langdon Construction to remove those doors on
06:56:01 24 the rear of the home?
06:56:03 25 A. They did some of the deconstruction.

06:56:03 1 (Exhibit No. 538 was marked for
06:56:05 2 identification.)
06:56:05 3 Q. Exhibit 538 is a September 15th, 2011,
06:56:36 4 proposal to do the window repairs, the Tischler
06:56:42 5 repairs, and then also some roofing?
06:56:48 6 A. Yes. Exhibit 538 covers the roof --
06:56:55 7 let's see. It removes the existing metal roof
06:56:58 8 and underlayment, replaces it. It removes all
06:57:06 9 the exterior siding and house wrap. They remove
06:57:12 10 and replace the material stone steps on risers on
06:57:15 11 the rear elevation patio. Do you want me to keep
06:57:23 12 going?
06:57:23 13 Q. What is the amount of this contract?
06:57:25 14 3.3 million?
06:57:26 15 A. Yes.
06:57:26 16 Q. Is this essentially covering -- is this
06:57:34 17 proposal to cover, in addition to the Tischler
06:57:44 18 report, the May of 2011 Fuller Engineering Report
06:57:48 19 and scope of work?
06:57:51 20 A. See, I don't think it -- it may, but if
06:58:02 21 it did, then I would have referenced them. Does
06:58:07 22 that make sense?
06:58:08 23 Q. Right.
06:58:09 24 A. I've done it in the past.
06:58:10 25 Q. And that's kind of what I'm getting at.

06:58:13 1 One, I thought you would have referenced them.
06:58:15 2 And two, it makes sense that if you're doing a
06:58:18 3 proposal that it would include that May report
06:58:22 4 because you received the May 2011 Fuller
06:58:25 5 Engineering Report, correct?
06:58:26 6 A. I did.
06:58:26 7 Q. All right. I'm looking at that. And,
06:58:28 8 again, if you want to refer to it, it's Exhibit
06:58:31 9 529. And on page 4 of 5, there are recommended
06:58:50 10 repairs.
06:58:50 11 A. Right.
06:58:51 12 Q. Do you see that, page 4, recommended
06:58:56 13 repairs?
06:58:57 14 A. Right.
06:58:57 15 Q. The first one is the French door
06:59:01 16 installation and repair damage to the wood
06:59:06 17 framing and flooring. That's where you remove
06:59:09 18 the door along the rear elevation, and Fuller's
06:59:13 19 proposal was to repair -- or recommendation is to
06:59:17 20 repair the flashing and resulting damage in those
06:59:19 21 areas. Is that included in your --
06:59:24 22 A. In this proposal?
06:59:25 23 Q. In your September proposal, Exhibit 538.
06:59:30 24 A. It doesn't look like it because on the
06:59:47 25 last line item -- on page 2 of Exhibit 538 under

06:59:54 1 Tischler Windows and Doors, it says, Windows and
06:59:58 2 doors to be inspected by Tischler to confirm --
07:00:02 3 correct installation. Hold on. Let me think
07:00:04 4 about that. I don't have detach and reset the
07:00:25 5 doors in here. So it makes me think this is
07:00:27 6 not --
07:00:27 7 Q. Well --
07:00:30 8 A. Doesn't coincide.
07:00:34 9 Q. With number one on the May 10 --
07:00:41 10 A. Right. So, I mean, if I was going from
07:00:45 11 this -- by this report, one, I think I would have
07:00:49 12 referenced it as I have in the past. And, two,
07:00:52 13 definitely I would have said detach and reset
07:00:55 14 doors.
07:00:55 15 Q. And that kind of begs the question -- I
07:00:59 16 don't mean to sound impertinent or I'm not trying
07:01:02 17 to be a smart aleck, but why weren't you going
07:01:05 18 off the May 2011 Fuller Engineering Report?
07:01:09 19 A. I don't know.
07:01:10 20 Q. Okay. If not the May 2011 Fuller
07:01:19 21 Engineering Report, what were you going off of?
07:01:22 22 Is it just -- are these Tori Stein's --
07:01:25 23 A. Shooting from the hip. Could be.
07:01:27 24 Q. Did you have conversations with Mrs.
07:01:51 25 Allwin or Robert Lyles or Ross Clements or

anybody while preparing 398 or after you prepared 398 -- excuse me, 538. Your September 2011 --

A. Right. Well, see, I mean, here's another -- I do not know what I'm referencing here because in my contract that I'm offering Mrs. Allwin, I'm removing about replacing that roof; whereas, Ross just wanted it to be painted.

Q. And you are comparing 538 and the May --

A. Correct.

Q. Exhibit 538. And what's the exhibit --

A. 529. So they do not correlate. They don't correspond.

Q. And that begs the question, why don't they?

A. Good question. Don't know the answer.

Q. Mrs. Allwin did not sign that contract, correct?

A. No.

Q. And there was no -- as you recall, no alteration or scaling down of the scope that he agreed for your company to perform?

A. Right. No, I don't remember one.

Q. Do you remember conversations with Mrs. Allwin about this proposal?

A. She said it was high.

07:03:24 1 Q. And I don't have 536, so you're welcome
07:04:13 2 to look at mine. It's an e-mail exchange
07:04:15 3 between -- do you have 536?
07:04:20 4 A. No. Are we going backwards in our
07:04:22 5 exhibits then?
07:04:23 6 Q. Apparently, yes, ma'am. What exhibit
07:04:46 7 are we looking at, Ms. Stein?
07:04:48 8 A. We're looking at an e-mail --
07:04:50 9 Q. It's written in red.
07:04:52 10 A. 536.
07:04:52 11 Q. 536.
07:04:54 12 A. This is an e-mail from me to Maria. The
07:04:57 13 last estimate of work is due today from Tischler.
07:05:03 14 Let's see. The scope of work is long and
07:05:04 15 detailed, so I thought it would be a good idea to
07:05:08 16 go over it in person to explain the nuances of
07:05:10 17 the set of plans so it would be more
07:05:10 18 understandable.
07:05:11 19 Q. Right. And this is two days before the
07:05:15 20 $4 million contract?
07:05:17 21 A. That is correct.
07:05:17 22 Q. Or the 3.3. Whatever it is.
07:05:20 23 A. Right. The 3.3 million.
07:05:21 24 Q. So you're inviting Mrs. Allwin to let
07:05:25 25 you come up to New York or Connecticut to talk

07:05:28 1 about this scope of work?
07:05:30 2 A. I am.
07:05:31 3 Q. Is that helping refresh your
07:05:37 4 recollection?
07:05:37 5 A. About what?
07:05:38 6 Q. About where your scope of work came
07:05:40 7 from, if not Fuller Engineering?
07:05:42 8 A. No. Because it doesn't say here either
07:05:44 9 where I got my information. If this were to say,
07:05:48 10 Here's my scope from Fuller, then I would have
07:05:51 11 said it, but I didn't reference it, and it does
07:05:54 12 not go along with his list of suggestions of
07:05:58 13 repairs.
07:05:58 14 Q. And you just don't remember --
07:06:01 15 A. Don't.
07:06:02 16 Q. And that's fine. Again, the exhibits
07:06:20 17 got out of order a little bit. Exhibit 537 is an
07:06:25 18 e-mail from you that says, Attached is an
07:06:27 19 agreement -- and this is September 15, 2011. The
07:06:30 20 date of the proposal.
07:06:32 21 A. Right.
07:06:32 22 Q. And you state, It covers the 15 points
07:06:35 23 of recommended repairs in the Fuller Consultant
07:06:39 24 Preliminary Summary Report dated 10 May, 2011.
07:06:43 25 Do you see that?

07:06:43 1 A. It does, but it doesn't.
07:06:45 2 Q. It does, but it doesn't?
07:06:47 3 A. The e-mail says that it does, but the
07:06:50 4 contract doesn't, because I didn't attach and
07:06:54 5 reset the doors, and I replaced the roof instead
07:06:57 6 of just painting it.
07:06:58 7 Q. In your contract?
07:06:59 8 A. In my contract. Why I varied from
07:07:03 9 Fuller's, I have no idea.
07:07:05 10 Q. Okay. Was there an expectation that
07:07:10 11 your September 15, 2011, proposal would be used
07:07:14 12 for purposes of litigation? I'm not suggesting
07:07:20 13 you would have inflated the number for any
07:07:22 14 reason, but was the -- was there -- was it
07:07:25 15 requested by Mr. Lyles so he could have it in
07:07:29 16 hand when negotiating with potential defendants?
07:07:34 17 A. No.
07:07:35 18 Q. All right. 545 is the second
07:08:23 19 preliminary summary report, but there is
07:08:28 20 destructive testing at this point in December of
07:08:30 21 2011 by Fuller. You received a copy of that,
07:08:33 22 correct?
07:08:34 23 A. I believe I did, yes.
07:09:05 24 Q. And then 549. 549 is the text portion
07:09:27 25 of the big final Fuller Engineering Report with

07:09:33 1 all the specs and product information and
07:09:38 2 drawings?
07:09:39 3 A. Right.
07:09:40 4 Q. Do you recall seeing that?
07:09:41 5 A. What do you mean by text?
07:09:46 6 Q. Do you remember the Fuller Engineering
07:09:49 7 Report that came in the huge binder?
07:09:52 8 A. Right.
07:09:52 9 Q. And the first 10 pages or so, 9 of 9
07:09:56 10 that I have given you in Exhibit 549, were
07:10:01 11 written by Ross Clements and contain his findings
07:10:06 12 and recommended repairs?
07:10:07 13 A. Right.
07:10:12 14 Q. And then the next 6 inches or so were
07:10:17 15 just product data and drawings --
07:10:20 16 A. I do have that.
07:10:21 17 Q. I'm giving you the text portion prepared
07:10:25 18 by Mr. Clements. You have that?
07:10:27 19 A. I do.
07:10:28 20 Q. And in response to that, you prepared
07:10:41 21 exhibit -- or did you prepare Exhibit 551?
07:10:53 22 A. Right. See, I referenced Fuller
07:11:10 23 Consulting.
07:11:11 24 Q. You did.
07:11:12 25 A. I did.

07:11:13 1 Q. And the price has come down a little bit
07:11:15 2 from 3.3 million to just under 3 million?
07:11:20 3 A. Right. Different scope.
07:11:23 4 Q. Different scope. Truly. Because this
07:11:26 5 one follows the Fuller Engineering scope?
07:11:28 6 A. Right.
07:11:29 7 Q. You have addressed this to Mr. Lyles?
07:11:33 8 A. I did.
07:11:34 9 Q. Did you send this to Mr. Lyles at his
07:11:36 10 request?
07:11:45 11 A. Good question. Don't know the answer.
07:11:48 12 Q. Because this is not -- I mean,
07:11:50 13 everything you have done to date with respect to
07:11:53 14 pricing has been in the form of a proposed
07:11:57 15 contract ready for Maria Allwin to sign.
07:12:00 16 A. But this doesn't --
07:12:01 17 Q. This is nothing. This is simply an
07:12:05 18 estimated budget ready for no one to sign.
07:12:05 19 A. Right.
07:12:09 20 Q. Was this prepared with the expectation
07:12:11 21 that it would be used in negotiating a claim for
07:12:14 22 potential litigation?
07:12:15 23 A. It looks like it, yes.
07:12:16 24 Q. But if Mrs. Allwin asks you to make
07:12:28 25 these repairs, would the price have been the

07:12:30 1 same?
07:12:31 2 A. Yes.
07:12:54 3 Q. 553 is a proposal from you or
07:13:03 4 Gamble-Atlantic to Mrs. Allwin to do a few
07:13:06 5 things, but one of them is to reinstall two doors
07:13:08 6 in the great room to include new pan and header
07:13:14 7 flashing.
07:13:14 8 Have the doors that were removed in
07:13:17 9 roughly January of 2011 just been covered up with
07:13:22 10 plywood and plastic until at least June of 2012,
07:13:30 11 18 months later?
07:13:31 12 A. Yes.
07:13:34 13 Q. Had you made any proposal to Mrs. Allwin
07:13:40 14 prior to June of 2012 to close those up?
07:13:42 15 A. Not that I remember.
07:13:43 16 Q. Was the thought let's leave them open
07:13:45 17 while the engineers are doing their
07:13:48 18 investigation?
07:13:49 19 A. The thought was that I did not want to
07:13:57 20 reset those doors for anybody to think I did that
07:14:02 21 on purpose trying to hide something. That's the
07:14:10 22 thought.
07:14:10 23 Q. And that's okay. This was about to hit
07:14:12 24 the fan, and you wanted -- you didn't want to
07:14:14 25 muddy the waters or anything like that?

07:14:16 1 A. Right.
07:14:17 2 Q. At what point -- and we have looked at
07:14:20 3 the notes that Richard Dixon took in January of
07:14:23 4 2011 about -- or thereabouts, spring of 2011,
07:14:31 5 that there would not be a lawsuit.
07:14:33 6 At what point did Mrs. Allwin say, Okay.
07:14:36 7 There is going to be a lawsuit? When were you
07:14:39 8 informed that there was going to be a lawsuit?
07:14:41 9 MR. LYLES: Object to the form of the
07:14:43 10 question.
07:14:43 11 A. You know, at some point I was out.
07:14:50 12 Mainly because -- well, Maria said that it was
07:14:54 13 because she wanted a fresh point of view or
07:14:57 14 somebody's new eyes that -- whatever. So --
07:15:07 15 Q. You're talking about to do the repair or
07:15:09 16 even --
07:15:10 17 A. I mean, I was just out. I did not go to
07:15:13 18 the house as much. I didn't need to go.
07:15:15 19 Whatever.
07:15:15 20 Q. And there had to be a concern on your
07:15:17 21 part that she's getting ready to sue over this
07:15:22 22 house, which I have been working on. I may get
07:15:26 23 wrapped up in this as well?
07:15:28 24 A. I didn't have any concern on that.
07:15:29 25 Q. But as far as you knew, for whatever

07:15:31 1 reason, you had been stiff armed, or you had been
07:15:39 2 removed from the situation to some degree?
07:15:41 3 A. Yes.
07:15:42 4 Q. And what Mrs. Allwin told you was she
07:15:44 5 just wanted a fresh set of eyes on the situation?
07:15:46 6 A. When pushed, that's what she said. I
07:15:50 7 remember the conversation with her that, you
07:15:52 8 know, the only thing you ever call me to do is
07:15:55 9 bad news.
07:15:57 10 Q. Those were her words?
07:15:58 11 A. Right. And it's true. Most people see
07:16:04 12 my name on their phone and pull out their
07:16:07 13 checkbooks because that's my job.
07:16:09 14 Q. I wish I had that reputation. Robert
07:16:13 15 Lyles has got that reputation, too.
07:16:16 16 MR. LYLES: Sometimes I call people and
07:16:17 17 give them money.
07:16:18 18 A. That's my job. I call people and give
07:16:20 19 them bad news all the time.
07:16:24 20 Q. Okay. You're like Debby Downer. She
07:16:28 21 just couldn't take it anymore.
07:16:31 22 A. I try to joke about it, but it didn't go
07:16:35 23 over very well that day.
07:16:37 24 Q. Do you recall when that conversation was
07:16:39 25 roughly?

07:16:39 1 A. I think it was pretty much right after I
07:16:42 2 pulled that door.
07:16:43 3 Q. January of 2011 roughly?
07:16:45 4 A. Right. Yeah.
07:16:48 5 Q. Because I mean, looking at the
07:16:51 6 correspondence, looking at the proposals, things
07:16:55 7 do kind of shut down after January of 2011.
07:16:59 8 A. Right. Well, yeah. You have my
07:17:07 9 speculation, Mr. Best, that something was going
07:17:09 10 on, but I never opened anything up. I took that
07:17:13 11 door out. It was in your face.
07:17:20 12 Q. You had those speculations. Did you
07:17:22 13 ever make a recommendation -- not saying you were
07:17:24 14 under any obligation to. Did you ever make any
07:17:32 15 suggestion or recommendation to Mrs. Allwin that
07:17:34 16 you would like to or she ought to consider having
07:17:37 17 you perform destructive testing at windows and
07:17:40 18 doors and those other areas where you saw signs
07:17:43 19 of water intrusion?
07:17:45 20 A. Always I would ask her to consider
07:17:46 21 bringing in an engineer and have them do it.
07:17:54 22 Q. When did you make those recommendations
07:17:56 23 to Mrs. Allwin?
07:17:57 24 A. I don't know.
07:17:57 25 Q. Can you give me the years? 2008? 2009?

07:18:01 1 2010?
07:18:01 2 A. At any time during that time period when
07:18:03 3 I was working. I don't know. '09, '10.
07:18:06 4 Something.
07:18:08 5 Q. Okay. And her response to those
07:18:12 6 recommendations -- your recommendations to have
07:18:15 7 an engineer or forensic specialist come in were?
07:18:18 8 A. Obviously, no, because I didn't do it.
07:18:21 9 Q. And these were verbal phone
07:18:24 10 conversations you had or --
07:18:25 11 A. We had some verbal. Most of our
07:18:29 12 conversations were e-mail.
07:18:31 13 Q. Who is Dee Roider, R-o-i-d-e-r?
07:18:50 14 A. What context?
07:19:07 15 Q. I am trying to help you out. Showing
07:19:10 16 you 570. Was she Mrs. Allwin's assistant or --
07:19:50 17 A. Yeah. I think that's who that was. We
07:19:51 18 were having problems getting attention on some
07:19:56 19 invoices and --
07:19:59 20 Q. Getting paid?
07:20:00 21 A. Uh-huh.
07:20:01 22 Q. And you say "we," Gamble-Atlantic or --
07:20:04 23 A. Right. Right. Actually, at this point,
07:20:08 24 I was always the contact for Tischler on the
07:20:13 25 house.

07:20:13 1 Q. Yes, ma'am.
07:20:14 2 A. And Tischler sent a gentleman out to
07:20:22 3 review all the windows and doors to give me a
07:20:27 4 proposal to -- for maintenance or any kind of
07:20:31 5 repairs on the windows and doors, and there was a
07:20:33 6 charge for that because he was there for a while,
07:20:38 7 and they were sending me the invoice, and I was
07:20:43 8 forwarding it to Mrs. Allwin. So whenever they
07:20:46 9 remembered to ask for money, they would call me,
07:20:48 10 and I would get ahold of Mrs. Allwin.
07:20:50 11 Q. Does Mrs. Allwin owe your company any
07:20:55 12 money?
07:20:55 13 A. Not that I know of.
07:20:55 14 (Exhibit No. 571 was marked for
07:20:56 15 identification.)
07:20:56 16 Q. Exhibit 571 is an addendum for bid
07:21:08 17 pricing. Was this an open bid or was
07:21:11 18 Gamble-Atlantic or Atlantic -- Gamble invited to
07:21:17 19 bid on the repair?
07:21:18 20 A. I believe I did.
07:21:21 21 Q. That was your estimate memo to Robert
07:21:26 22 Lyles that we just looked at?
07:21:27 23 A. Right. Yes.
07:21:29 24 Q. Did you have a conversation with Mrs.
07:21:35 25 Allwin or anybody on her behalf about your

07:21:38 1 estimate and how it compared to other bids?
07:21:42 2 A. Huh-uh.
07:21:43 3 Q. Do you consider that a formal bid?
07:21:49 4 A. I think there's another one out there
07:21:50 5 where somebody would sign something.
07:21:52 6 Q. Do you know if the price was the same or
07:21:55 7 roughly --
07:21:55 8 A. It would have been the same thing.
07:21:58 9 Q. Has Gamble continued to act as the home
07:22:11 10 service or property manager during the Phillip
07:22:15 11 Smith repair?
07:22:15 12 A. No.
07:22:16 13 Q. There would be no point really?
07:22:19 14 A. That was discontinued.
07:22:25 15 Q. Do you know if Mrs. Allwin ever
07:22:32 16 expressed any dissatisfaction with Gamble and the
07:22:37 17 quality of services?
07:22:39 18 A. No.
07:22:42 19 Q. Are you familiar with the Phillip Smith
07:22:55 20 repair at all? Have you been by the house to
07:22:58 21 look at it?
07:22:59 22 A. No.
07:22:59 23 Q. Are you aware that in addition to the
07:23:05 24 repairs called for in the Fuller Engineering
07:23:08 25 Report, that Mrs. Allwin has paid for elective

renovations to the home?

A. I have heard some rumors, and I think she also did an addition.

Q. I think there is some -- for various reasons, it's my understanding the living space is actually increased in footage.

A. That's great.

Q. But you don't know the details about that?

A. No, I don't.

Q. And the rumors that you have heard are just talk on the island?

A. Yeah. Kiawah is a small island.

MR. BEST: I do thank you for your time. I'm so glad I got to meet you. I hate it was in this context and thank you. These other folks may have a few questions to ask you.

THE WITNESS: No problem.

EXAMINATION

BY MR. HESSE:

Q. Ms. Stein, my name is Tom Hesse. I represent Loney Davis who -- do you know Loney Davis?

A. I do not.

Q. Going back to Exhibit 492, and I'm sure

07:24:38 1 there's a hard copy there. What I'm trying to do
07:24:41 2 is get an idea of where the location is -- is all
07:24:45 3 that work that is -- that's proposed on that
07:24:51 4 addendum, is it located in one specific area?
07:24:54 5 A. Mr. Hesse, I believe it is. It's on the
07:25:20 6 right elevation outside Jim's office out the
07:25:25 7 turret.
07:25:25 8 Q. I'm not going to make these exhibits.
07:25:27 9 I'm just trying to get acclimated with --
07:25:30 10 A. You see this downspout here, this copper
07:25:34 11 downspout here, it's down there on the level of
07:25:37 12 the porch.
07:25:39 13 Q. Any of these other photos show anything
07:25:42 14 that's -- I guess these are too panoramic really.
07:25:47 15 None of these would help any better, these other
07:25:50 16 photos?
07:25:51 17 A. No. I mean, we looked at the steps that
07:25:56 18 are below these doors here, but this particular
07:26:00 19 field addendum, I believe Darren wrote that
07:26:03 20 around regarding outside Jim's office.
07:26:08 21 Q. And, again, that's Jim's office there?
07:26:10 22 A. Correct.
07:26:11 23 Q. The lower office you called the turret?
07:26:15 24 A. I did.
07:26:15 25 Q. See the shingles that are on Exhibit

07:26:23 1 492, do you know which cedar shingles he's
07:26:27 2 talking about?
07:26:28 3 A. I believe it's down here. Again, it's
07:26:29 4 around that copper downspout.
07:26:32 5 Q. But it's really not visible in the
07:26:34 6 photographs, this photograph that I'm using?
07:26:36 7 A. There aren't any shingles here around
07:26:38 8 these windows because these windows go all the
07:26:40 9 way down to the floor.
07:26:42 10 Q. So you think it's the shingles up here?
07:26:44 11 A. No. Here, by the copper downspout.
07:26:50 12 Right there. You see how you have that little
07:26:53 13 wall there and then you have the copper downspout
07:26:55 14 and then you have more wall, I believe that's it.
07:27:02 15 Q. On 492 it says, Remove and replace
07:27:05 16 travertine stone. Eight pieces.
07:27:08 17 A. Eight pieces.
07:27:08 18 Q. And, again, those would be right outside
07:27:09 19 the --
07:27:09 20 A. I believe so, yes.
07:27:10 21 Q. Okay. Then --
07:27:12 22 A. The only thing that --
07:27:15 23 Q. Go ahead.
07:27:16 24 A. -- trips me up on this is the detach and
07:27:21 25 reset of two fixtures, but -- oh, maybe not.

07:27:25 1 There's one there. But that doesn't make sense.
07:27:28 2 But see, now remember this is a field addendum.
07:27:31 3 He could be covering a couple of light fixtures I
07:27:36 4 dropped off on the scope. But this here, that's
07:27:39 5 there.
07:27:39 6 Q. But the light fixtures aren't the big
07:27:41 7 item. The big item is on this Exhibit 492
07:27:44 8 addendum, right?
07:27:45 9 A. Correct.
07:27:45 10 Q. Now, this addendum was prepared on
07:27:52 11 December 1, 2010; is that correct?
07:27:56 12 A. Yes.
07:27:56 13 Q. As far as the work that is described on
07:28:02 14 addendum one, are the problems -- when were those
07:28:06 15 discovered?
07:28:08 16 A. The evidence of the problems or the
07:28:10 17 problems, Mr. Hesse?
07:28:13 18 Q. Right. The evidence of the problems.
07:28:14 19 A. I think that was pretty early on.
07:28:18 20 Q. When you say "early on," what do you
07:28:23 21 mean?
07:28:23 22 A. '08, '09.
07:28:33 23 MR. HESSE: That's all I have. Thank
07:28:34 24 you.
07:28:34 25 EXAMINATION

07:28:34 1 BY MR. CANTWELL:
07:28:35 2 Q. My name is Josh Cantwell, and I
07:28:37 3 represent Buffington Homes.
07:28:41 4 A. Cowan?
07:28:42 5 Q. Cantwell.
07:28:42 6 A. Cantwell.
07:28:43 7 Q. I represent Buffington. Now, you
07:28:45 8 mentioned earlier today that you had a
07:28:46 9 conversation with some people at Buffington to
07:28:48 10 try and get an idea of the scope of work; is that
07:28:54 11 correct?
07:28:54 12 A. Yes.
07:28:54 13 Q. Did they send you that information that
07:28:55 14 was included in one of the exhibits that we saw
07:28:57 15 earlier or did you just take the notes?
07:29:00 16 A. No. I think all of my information came
07:29:03 17 from Mrs. Allwin.
07:29:05 18 Q. Okay. So she sent you everything in
07:29:07 19 that big packet of stuff that she sent to you.
07:29:13 20 During your discussions with Mrs. Allwin, did she
07:29:15 21 ever complain specifically about any of the work
07:29:18 22 of Buffington Homes?
07:29:19 23 A. No.
07:29:23 24 Q. As we sit here today, do you know
07:29:26 25 exactly what their scope of work was on the

07:29:29 1 project?
07:29:29 2 A. Outside that scope of the work that I
07:29:33 3 spoke to Robbie about for Buffington, that's all
07:29:37 4 I know.
07:29:38 5 Q. At any time during your involvement from
07:29:43 6 2007 or '8 on, did Dan Buffington or anybody with
07:29:48 7 his company ever meet on site with you to discuss
07:29:51 8 any of the construction?
07:29:54 9 A. I can't remember. No.
07:30:05 10 Q. What was Mrs. Allwin's response to you
07:30:11 11 after you did your bid for the repairs --
07:30:16 12 A. Which repair?
07:30:17 13 Q. The latest one in 2011.
07:30:20 14 A. The big one? The 2.9?
07:30:22 15 Q. The 2.9 or 3.3.
07:30:24 16 A. She thought that was high.
07:30:26 17 Q. And what did she do in response to that?
07:30:29 18 A. Nothing.
07:30:30 19 Q. Sometime afterward it seemed like Gamble
07:30:35 20 was no longer working on the house and then --
07:30:39 21 A. I believe -- oh, working on the house?
07:30:42 22 The services of Gamble was continued until
07:30:47 23 Phillip Smith started his work. So once the
07:30:51 24 remodel or the restoration started, that's when
07:30:55 25 we stopped working -- or inspecting the house.

07:30:59 1 But no, I don't believe I did any more work on
07:31:02 2 that house. No, I did not.
07:31:06 3 Q. And that would be since 2011?
07:31:10 4 A. Or '12. Because there was one -- this
07:31:24 5 is '12.
07:31:26 6 Q. What's the date on there?
07:31:27 7 A. It's July 7th, 2012, and it says,
07:31:32 8 Deposit 6-18 of $2,500, and that's what this is.
07:31:40 9 So I'm going to say that June 7th, 2012, Exhibit
07:31:44 10 Number 553, was the last thing I did.
07:31:50 11 Q. Since that time, have you been out to
07:31:53 12 the house at all?
07:31:54 13 A. No.
07:31:54 14 Q. Have you spoken with Mrs. Allwin since
07:31:58 15 that time?
07:31:59 16 A. No, I have not.
07:32:03 17 Q. Other than your conversations with
07:32:05 18 Mr. Lyles to prepare for this deposition, have
07:32:08 19 you spoken with him about the Allwin residence
07:32:11 20 since that time?
07:32:12 21 A. No.
07:32:12 22 Q. How many times do you think you met with
07:32:16 23 Mr. Lyles about the Allwin residence?
07:32:18 24 A. Over what time period?
07:32:19 25 Q. Over from 2000- -- from whenever he was

07:32:22 1 first involved until present.
07:32:27 2 A. Complete guess, about four or five
07:32:37 3 times.
07:32:37 4 Q. Those meetings with Mr. Lyles, was Mrs.
07:32:42 5 Allwin also present for those meetings or was it
07:32:44 6 just between the two of you?
07:32:46 7 A. I think Mrs. Allwin was there on one of
07:32:56 8 them that I can remember definitely.
07:32:59 9 Q. And what meeting was that?
07:33:01 10 A. We were in the kitchen. Chris Allwin
07:33:06 11 was there.
07:33:06 12 Q. So was it a time when they actually came
07:33:09 13 down to the house?
07:33:11 14 A. Yes.
07:33:11 15 Q. Was it reflected in some of the
07:33:13 16 documents that we saw earlier today, one of those
07:33:16 17 inspections?
07:33:16 18 A. So two times. Chris Allwin was there
07:33:45 19 the second time, and then it was just me and
07:33:49 20 Robert and Mrs. Allwin the first time.
07:33:52 21 Q. Okay.
07:33:52 22 A. Right.
07:33:55 23 Q. What did you discuss at each of these
07:33:59 24 meetings? Do you remember that you met in the
07:34:06 25 kitchen? Is there anything that jumps out in

07:34:08 1 your mind that you were discussing?
07:34:10 2 A. Not specifically. I just remember that
07:34:17 3 Chris was there because that was highly usual, if
07:34:20 4 that makes sense.
07:34:21 5 Q. For the second time?
07:34:22 6 A. Yes.
07:34:23 7 Q. What was the first time?
07:34:24 8 A. The first time was that '09 meeting that
07:34:27 9 we have talked about so many times where Robert
07:34:31 10 came to the house and met Mrs. Allwin.
07:34:40 11 Q. Did Mrs. Allwin ever express a concern
07:34:47 12 for you about being unable to do the forensic
07:34:52 13 testing for any reason?
07:34:53 14 A. No.
07:34:53 15 Q. Did she express to you ever that
07:35:00 16 Mr. Buffington had promised to do any work on the
07:35:03 17 house to make any repairs or anything like that?
07:35:05 18 A. In what --
07:35:11 19 Q. Did she ever mention to you anything
07:35:13 20 like Mr. Buffington was going to come out and fix
07:35:17 21 any work or anything like that?
07:35:19 22 A. No.
07:35:20 23 Q. During the 2008 time frame when Gamble
07:35:38 24 was doing its monthly inspections, each month
07:35:41 25 there were inspection reports that were sent to

07:35:45 1 Mrs. Allwin; is that correct?
07:35:46 2 A. Yes.
07:35:46 3 Q. How would that process work exactly?
07:35:52 4 A. I don't know.
07:35:52 5 Q. That was with a different branch of the
07:35:54 6 company?
07:35:55 7 A. Yeah. I don't do anything with them.
07:35:57 8 Q. You don't know whether that was sent
07:35:59 9 with a bill each month for your services or you
07:36:02 10 just weren't involved in that one?
07:36:04 11 A. I was not involved with -- the home
07:36:06 12 watching site of the company, I just don't have
07:36:08 13 anything to do with. I don't know how they do
07:36:09 14 their billing, anything.
07:36:12 15 Q. Was that John Nelson -- was that the
07:36:14 16 gentleman's name who was part of the home
07:36:17 17 watching service at that point in time for the
07:36:21 18 Allwin residence?
07:36:21 19 A. In '08?
07:36:24 20 Q. Yes.
07:36:26 21 A. John introduced me to the house, and I
07:36:28 22 think we established that was around '08-'09. So
07:36:32 23 then yes, John was the home service manager for
07:36:34 24 the Allwin house during that time period.
07:36:38 25 Q. And how long was he the home service

07:36:41 1 manager?
07:36:41 2 A. I believe the whole time he was with
07:36:43 3 Gamble.
07:36:44 4 Q. When did he leave?
07:36:45 5 A. I have no idea. I don't know. I think
07:36:48 6 he was with us maybe four years.
07:36:54 7 Q. Do you know where he is today?
07:36:56 8 A. I believe he's in Ohio. The only person
07:37:01 9 I know that's left this area and went back to
07:37:04 10 Ohio.
07:37:05 11 Q. Do you still have contact information
07:37:10 12 for him?
07:37:10 13 A. No.
07:37:11 14 Q. Have you had any discussions with Ross
07:37:24 15 Clements concerning the Allwin residence?
07:37:28 16 A. Not since the destructive demolition.
07:37:36 17 Q. And that was in January of 2011 when
07:37:40 18 you-all were pulling the doors? Is that the same
07:37:43 19 time or are we talking about after?
07:37:45 20 A. I don't think we pulled doors with Ross.
07:37:48 21 We pulled siding so that we could see around
07:37:51 22 windows and things like that. So maybe some
07:37:54 23 stone, but no.
07:37:56 24 Q. Your discussions with Ross, was that
07:38:00 25 after his initial report in May of 2012?

07:38:06 A. What's the date of that big report of
07:38:09 his, Mr. Cantwell?
07:38:11 Q. Should be in -- hold on. December of
07:38:18 2011.
07:38:19 A. Right. Then after that would be the
07:38:21 last --
07:38:22 MR. BEST: That's actually the second
07:38:24 preliminary. I think March of '12 is the --
07:38:28 that's it right there.
07:38:30 THE WITNESS: The text?
07:38:32 MR. BEST: Yes.
07:38:33 A. That's March 16th, 2012. Right around
07:38:38 that time would have been the last time I talked
07:38:40 to Mr. Ross.
07:38:41 Q. Did he ever discuss with you issues
07:38:46 concerning what may be old problems and what were
07:38:49 new problems?
07:38:51 A. No. Ross and I are pretty professional
07:38:57 about all of this. We just didn't really talk
07:39:02 about it. It wasn't right. So I don't know. He
07:39:05 gave me a report, and I filed the report.
07:39:08 Q. What do you mean it wasn't right?
07:39:10 A. When it's -- when you -- you know when
07:39:14 to talk about things and when not to talk about
07:39:16 things. Kind of like at lunchtime, Mr. Best told

07:39:19 1 me not to talk about any of this stuff while I
07:39:21 2 was at lunch. It's not right to talk about it.
07:39:23 3 Q. Is that because of the concerns of
07:39:26 4 litigation?
07:39:27 5 A. It's just you're not supposed to talk
07:39:29 6 about it when he's working on a project.
07:39:33 7 Q. Fair enough. Tell me about your
07:39:39 8 discussions with Tischler. You said that you
07:39:43 9 were kind of the point person for meetings with
07:39:45 10 them. Do you recall who their representative was
07:39:48 11 that is your contact person?
07:39:50 12 A. I mainly talked to one woman inside the
07:40:00 13 office, but I can't remember her name.
07:40:04 14 Q. Carola. C-a-r-o-l-a.
07:40:17 15 A. Yeah. And I don't remember the name of
07:40:18 16 the gentleman that came down and inspected or
07:40:21 17 stayed at the house. He didn't stay at the
07:40:24 18 house, but inspected the house, and then you
07:40:25 19 would have a scattering of maintenance people
07:40:28 20 that would come in and work on doors or something
07:40:29 21 like that because the locks wouldn't work or
07:40:31 22 something.
07:40:34 23 Q. Were they from Tischler that were
07:40:36 24 working on the doors?
07:40:38 25 A. Only people from Tischler can work on

07:40:40 1 Tischler doors.
07:40:40 2 Q. Is that the same for the windows?
07:40:43 3 A. Yes.
07:41:17 4 MR. CANTWELL: I think that's all the
07:41:18 5 questions I have. Thank you.
07:41:20 6 MR. LACOUR: Are you good to keep going?
07:41:22 7 THE WITNESS: Yeah, I'm fine. Let's get
07:41:23 8 it done.
07:41:23 9 EXAMINATION
07:41:31 10 BY MR. LACOUR:
07:41:31 11 Q. My name is Andy Lacour, and I represent
07:41:38 12 Superior Surfaces. It's a local company owned by
07:41:42 13 Tim Crump. Do you know that company?
07:41:43 14 A. No. I don't know his branch of it.
07:41:46 15 Q. I think Tim lives on James Island. He's
07:41:51 16 a local guy. Do you recall him ever doing work
07:41:54 17 for your company, perhaps?
07:41:55 18 A. No. I have a Superior Services that
07:41:59 19 works with me, but the owner is not Lee Cantrell.
07:41:59 20 Q. The owner is what?
07:42:05 21 A. Is not Lee Cantrell.
07:42:07 22 Q. Tim Crump.
07:42:09 23 A. Man, where did I get that? Right? It's
07:42:11 24 not Tim Crump. I've never worked with Tim Crump.
07:42:21 25 Q. I have been trying to understand sort of

07:42:24 1 the bigger picture of your relationship with Mrs.
07:42:28 2 Allwin. It sounded like she was primarily
07:42:32 3 focused on always having the house look nice?
07:42:35 4 A. Right.
07:42:36 5 Q. You were trying to do the best job you
07:42:40 6 could for her to help her preserve an asset, sort
07:42:45 7 of more than just the looks?
07:42:46 8 A. Right.
07:42:47 9 Q. You have to deal with the structure, how
07:42:50 10 it's aging, how it's weathering, and all that?
07:42:52 11 A. Right.
07:42:52 12 Q. And that for whatever reason, she either
07:42:57 13 didn't care -- I don't want to say that. I don't
07:43:00 14 want to attribute that to her. Maybe she didn't
07:43:02 15 care about the more important structural things,
07:43:05 16 maybe she didn't understand the need for it, but
07:43:07 17 for whatever reason, she didn't always take the
07:43:10 18 advice you gave her in that regard; would that be
07:43:13 19 fair?
07:43:13 20 A. I think it's -- a better answer would be
07:43:15 21 that I'm the eyes and the ears of the homeowners.
07:43:22 22 I can tell them what's going on or what I believe
07:43:25 23 to be going on or what I see. Then I ask, do you
07:43:30 24 want to do anything about it? And they either
07:43:32 25 say, Yes, no, or they don't answer at all. And

07:43:40 1 then I follow up one time. And if they don't
07:43:42 2 reply, I leave it alone.
07:43:44 3 Q. So you would -- it was your practice to
07:43:48 4 follow up and be sure that they heard it, so to
07:43:53 5 speak, in writing?
07:43:54 6 A. In e-mail. And then I always call a
07:43:57 7 couple of days later to make sure they got my
07:43:59 8 e-mail.
07:44:00 9 Q. And as long as you put it out there,
07:44:02 10 that's about as far as you can take it without
07:44:04 11 irritating somebody?
07:44:05 12 A. Well, what's the point in spending any
07:44:07 13 time on it if I'm not getting paid for it.
07:44:10 14 Q. I understand. They're not interested in
07:44:12 15 following through?
07:44:12 16 A. Right.
07:44:13 17 Q. And then it sounds like when she finally
07:44:24 18 got to the point of coming face to face with
07:44:29 19 deferred maintenance, for lack of a better term,
07:44:34 20 she decided to go someplace else for the help?
07:44:37 21 A. I suppose.
07:44:38 22 Q. Your first involvement with this house
07:44:46 23 came long after the Buffington repairs in
07:44:51 24 '04-'05, right?
07:44:52 25 A. That's correct.

07:44:53 1 Q. And I think that was kind of where we
07:44:55 2 started earlier today. So you did not see those
07:44:59 3 repairs underway?
07:45:01 4 A. I did not.
07:45:03 5 Q. You did, however, though, make an
07:45:06 6 attempt to investigate what Buffington had done
07:45:09 7 as you investigated everything that came before
07:45:12 8 that and after that?
07:45:13 9 A. Right. He was on the -- he was just on
07:45:15 10 the list of things that were done at the house.
07:45:17 11 Q. Okay. In connection with your
07:45:21 12 investigation of what Buffington maybe did or
07:45:23 13 didn't do, do you know what the scope of work was
07:45:28 14 concerning the stone pavers on the stairs and the
07:45:33 15 patio outboard of the study and the great room
07:45:43 16 and that side of the house?
07:45:44 17 A. Who did that work? Did Buffington do
07:45:45 18 it?
07:45:46 19 Q. I'm asking you if you know what
07:45:48 20 Buffington did do on that stone area.
07:45:52 21 A. Not right off, no. I mean, if you can
07:45:55 22 give me a scope or something, I can read to you
07:45:57 23 what I think was done, but I don't know what he
07:45:59 24 actually did.
07:46:00 25 Q. Okay. That's what I'm trying to find

07:46:02 1 out. You know, were you ever able to determine
07:46:04 2 what the scope of work was relative to pavers out
07:46:08 3 on that side of the house?
07:46:09 4 A. I do not.
07:46:11 5 Q. Superior was the sub for Buffington, and
07:46:16 6 you've probably guessed by the last question we
07:46:19 7 had something to do with reinstalling pavers out
07:46:21 8 there. And our scope indicates -- well, the
07:46:27 9 purchase order indicates that we were to
07:46:29 10 reinstall some stone pavers where they had
07:46:32 11 already been removed by somebody else, and that's
07:46:34 12 all I've got for location.
07:46:36 13 And my questions to you are, do you know
07:46:39 14 anything more about the location?
07:46:40 15 A. So Superior Surfaces did that work back
07:46:43 16 in '04-'05?
07:46:46 17 Q. Did some work in '04-'05. My question
07:46:49 18 is: Does your investigation tell how much and
07:46:52 19 where?
07:46:52 20 A. No. I don't know.
07:46:53 21 Q. So you are unable to determine which
07:46:56 22 stones and where the stones were that we
07:46:57 23 reinstalled?
07:46:58 24 A. No.
07:46:59 25 Q. And you don't know whether they were up

07:47:01 1 on the steps or down the flat?
07:47:03 2 A. No.
07:47:03 3 Q. Or even whether they were not even
07:47:07 4 adjacent to the house, but down by the pool?
07:47:09 5 A. No.
07:47:10 6 Q. Because as I understand it, there's like
07:47:14 7 two big plywood decks out there?
07:47:17 8 A. There's three.
07:47:18 9 Q. And there's one by the pool which -- I
07:47:21 10 have to believe is probably on grade, on dirt?
07:47:24 11 A. Yes.
07:47:24 12 Q. And then there's the other deck that
07:47:27 13 extends from the pool to the house, which is the
07:47:29 14 elevated slab?
07:47:32 15 A. Correct.
07:47:32 16 Q. And then there was like two steps up?
07:47:34 17 A. Correct.
07:47:34 18 Q. And all that is the same stone paver
07:47:37 19 type stuff?
07:47:37 20 A. Correct.
07:47:37 21 Q. And my thinking would be if you saw a
07:47:42 22 scope of work and it talked about bullnose, that
07:47:44 23 would be the step stones?
07:47:46 24 A. It would be the tread, right.
07:47:47 25 Q. And anything else would be in the field.

07:47:52 1 So if you don't -- if you didn't know anything
07:47:57 2 more about where, then I guess the only other
07:48:00 3 thing I wanted to ask you about was they keep
07:48:02 4 asking you about this addendum, Exhibit 492,
07:48:06 5 where somebody --
07:48:07 6 A. Is that the field addendum?
07:48:09 7 Q. Yeah, the field addendum. Where they
07:48:11 8 scoped out some cedar shingles. Then there's a
07:48:15 9 light fixture, but if you take those out of it,
07:48:18 10 they have got eight pieces of travertine. It
07:48:21 11 says, "Stone, concrete level by the house.
07:48:31 12 Hydro-Stop on the concrete level. Then reinstall
07:48:33 13 stone." It sounds like that work was in the same
07:48:35 14 vicinity as far as you know? Are we talking
07:48:38 15 about the same side of the house?
07:48:39 16 A. No. I'm still thinking that is over by
07:48:42 17 Jim's office on the far right rear of the patio.
07:48:47 18 Q. So if I have my back to the pool and I'm
07:48:50 19 looking at where those doors come out of the
07:48:52 20 great room --
07:48:53 21 A. It's going to be on your far left.
07:48:54 22 Q. It's going to be on the far left?
07:48:56 23 A. Right. With your back to the pool,
07:49:00 24 right, Mr. Lacour?
07:49:02 25 Q. Yes. So the study is far left. Kitchen

07:49:06 1 is far right?
07:49:07 2 A. When your back is to the pool, yes.
07:49:09 3 Q. That's what I'm trying to figure out.
07:49:11 4 So then these would be -- this is where it sounds
07:49:14 5 like it's in the same general area but to the
07:49:17 6 left?
07:49:18 7 A. What is? That field addendum?
07:49:20 8 Q. Yeah.
07:49:21 9 A. Yes.
07:49:21 10 Q. The work in the addendum, if it's to the
07:49:23 11 far left, but it's on the same side of the house
07:49:26 12 as where apparently my client did some work, we
07:49:29 13 just don't know if it's the same exact area or
07:49:34 14 not?
07:49:35 15 A. I have never understood -- I apologize,
07:49:37 16 but I never understood from you where Superior
07:49:40 17 worked for Buffington.
07:49:43 18 Q. What I know is on the side of the house
07:49:44 19 where the two steps down are to the first patio.
07:49:48 20 A. Right.
07:49:48 21 Q. I know that we installed pavers where
07:49:52 22 somebody else had already pulled pavers up, and
07:49:54 23 that's all I know.
07:49:55 24 A. Okay.
07:49:56 25 Q. Right now. And that's why I was asking,

07:49:57 1 did you ever learn anything more?
07:50:00 2 A. No.
07:50:01 3 Q. To know whether our work was over by the
07:50:03 4 study or over by the kitchen or where.
07:50:05 5 A. No.
07:50:06 6 Q. But it sounds like this is on the same
07:50:08 7 side of the house, we just don't know if it's the
07:50:09 8 same area as we worked or not?
07:50:11 9 A. Correct.
07:50:24 10 MR. LACOUR: That's all the questions we
07:50:26 11 have.
07:50:27 12 MS. McINTOSH: I'm Caroline McIntosh. I
07:50:31 13 also represent Superior Surfaces, so he did the
07:50:34 14 dirty work.
07:50:35 15 MR. BELCHER: My name is Alan Belcher,
07:50:37 16 and I represent Picquet Roofing. I don't know if
07:50:40 17 Mr. Stubbs is still on the telephone. Markey,
07:50:43 18 are you still on the phone?
07:50:45 19 MR. ASBILL: This is John Asbill
07:50:47 20 covering for Markey Stubbs.
07:50:50 21 MR. BELCHER: Do you have questions?
07:50:53 22 MR. ASBILL: I just have one.
07:50:56 23 MR. BELCHER: Go ahead.
07:50:56 24 EXAMINATION
07:50:56 25 BY MR. ASBILL:

07:50:59 1 Q. My question, Ms. Stein, I want to go
07:51:01 2 back to something you had discussed earlier in
07:51:04 3 this deposition. You had discussed invoices,
07:51:08 4 Exhibit 276, in the exhibit that Dean showed you
07:51:12 5 discussing work that Picquet Roofing had done in
07:51:16 6 2009. I believe that you discussed that they
07:51:18 7 were patch work repairs over the valley; is that
07:51:22 8 correct?
07:51:22 9 A. Yes.
07:51:22 10 Q. Do you recall at what point the
07:51:27 11 discussion from Gamble's perspective switched
07:51:31 12 from patch work repairs to full removal and
07:51:34 13 replacement of the roof?
07:51:36 14 A. No.
07:51:37 15 Q. Do you recall having any discussions
07:51:40 16 with Mrs. Allwin or Robert Lyles or anybody else
07:51:44 17 involved with maintaining the Allwin residence
07:51:49 18 with regards to switching from patch work repairs
07:51:53 19 to full removal and replacement of the roof?
07:51:55 20 A. No.
07:51:55 21 Q. Does that mean you don't recall anything
07:52:00 22 whatsoever about --
07:52:01 23 A. You asked me -- you asked me do I -- the
07:52:06 24 way I understood the question was that you asked
07:52:08 25 me when we started talking about changing the

07:52:13 1 scope from patching to replacement, and I can't
07:52:17 2 say that I know when that happened. Did I
07:52:23 3 misunderstand you?
07:52:24 4 Q. No, that's fine. I will just give you a
07:52:27 5 little bit of a broader question.
07:52:29 6 Do you recall the underlying rationale
07:52:31 7 for why that switch was made?
07:52:34 8 A. I believe that was discussed in a report
07:52:39 9 by Richard Dixon from Applied Business Sciences.
07:52:44 10 Q. Okay. Was that one of the reports that
07:52:46 11 we discussed earlier in the deposition or based
07:52:52 12 on any conversation with him that you had?
07:52:54 13 A. I don't think we ever talked about that.
07:52:57 14 Q. This is a catch-all. Do you recall
07:53:02 15 anything else whatsoever about switching the
07:53:06 16 patch work repairs to full removal and
07:53:09 17 replacement? Ms. Stein?
07:53:19 18 A. I'm thinking. I'm wondering if you're
07:53:22 19 repeating the same question over and over, and
07:53:24 20 I'm just not understanding.
07:53:25 21 Q. I'm trying to understand -- I'm trying
07:53:27 22 to get sort of a basic understanding of how the
07:53:30 23 switch came.
07:53:31 24 In 2009, Picquet Roofing was doing patch
07:53:33 25 work repairs, and then two years later, you were

07:53:37 1 recommending full removal and replacement of the
07:53:39 2 roof, and I'm trying to understand what made you
07:53:42 3 make that switch. Was it a conversation and
07:53:45 4 report from Richard Dixon and that's it?
07:53:46 5 A. I do not know the specific event that
07:53:50 6 triggered this change over from patching to
07:53:54 7 replacement.
07:53:55 8 MR. ASBILL: Okay. Thank you. No
07:53:57 9 further questions.
07:53:57 10 EXAMINATION
07:53:59 11 BY MR. BELCHER:
07:53:59 12 Q. I will pick up from there. I'm the
07:54:03 13 other lawyer.
07:54:03 14 A. Okay.
07:54:07 15 Q. What did Rich Dixon tell you about the
07:54:11 16 roofs that made you -- that made -- well, first
07:54:14 17 of all, what necessitated patch work on the roof?
07:54:21 18 A. Leaking.
07:54:22 19 Q. Okay. Were the leaks a result of
07:54:26 20 construction deficiencies or just a roof that had
07:54:31 21 run its useful life?
07:54:33 22 A. A metal roof should last forever.
07:54:35 23 Q. Okay. So did your company get Picquet
07:54:41 24 out there to do the patch work?
07:54:43 25 A. Uh-huh.

07:54:44 1 Q. Did you have any issues with the patch
07:54:46 2 work that Picquet had done?
07:54:48 3 A. The roof did not leak anymore in the
07:54:51 4 areas that Picquet worked in. So hence, no, I
07:54:55 5 did not have a problem with them -- their work.
07:54:59 6 Q. So did you have criticisms of the roof
07:55:03 7 in its original condition the way it was
07:55:05 8 installed?
07:55:05 9 A. I'm not a metal roof specialist. I
07:55:10 10 don't know the answer to that. And I did --
07:55:13 11 never went up on it. It was way too high for me.
07:55:16 12 Q. So as far as you know, it leaked,
07:55:18 13 Picquet came out and did patch work, and it
07:55:20 14 stopped leaking?
07:55:21 15 A. Correct.
07:55:22 16 Q. Do you have any criticisms with
07:55:24 17 Picquet's work whatsoever on this residence?
07:55:26 18 A. No.
07:55:28 19 MR. BELCHER: Thank you.
07:55:28 20 EXAMINATION
07:55:31 21 BY MR. WINTON:
07:55:31 22 Q. Hi, Ms. Stein. I'm going to come down
07:55:35 23 here so we can talk more easily and easier for
07:55:38 24 the court reporter to take down what I'm saying.
07:55:40 25 I promise it will be very brief however.

07:55:42 1 My name is Tyler Winton. I represent
07:55:44 2 the architects that have been sued in this case.
07:55:47 3 You're nodding your head there. Shope Reno
07:55:51 4 Wharton as you know.
07:55:51 5 A. Yes.
07:55:52 6 Q. Are you familiar with my clients? Have
07:55:53 7 you heard of them other than in any other context
07:55:58 8 than this case?
07:55:59 9 A. No.
07:55:59 10 Q. You mentioned earlier that at one point
07:56:04 11 in time they were doing some testing on the home.
07:56:08 12 There were engineers present. Some people flew
07:56:12 13 in, and I think you talked about the bald guy
07:56:15 14 that came down on a plane.
07:56:15 15 A. Right.
07:56:16 16 Q. Does that gentleman look familiar? I'm
07:56:18 17 showing you a photo of Jerry Hupy?
07:56:23 18 A. He's bald.
07:56:25 19 Q. That is true.
07:56:37 20 A. I don't know.
07:56:38 21 Q. Don't recognize him?
07:56:40 22 A. No.
07:56:40 23 Q. Did you have any conversations with
07:56:42 24 whoever it is that you believe to be the
07:56:44 25 representative for my client that came down on

07:56:47 1 site?
07:56:47 2 A. Personally?
07:56:48 3 Q. Yes, ma'am.
07:56:48 4 A. That person -- and I speculate on that,
07:56:51 5 that person just kind of stood around and just
07:56:54 6 looked at some of the things that we were looking
07:56:56 7 at, so I don't remember him making any
07:57:00 8 suggestions or anything.
07:57:01 9 Q. And just for a day?
07:57:03 10 A. Yes. You know, I do remember that the
07:57:06 11 person actually flew in that morning and was
07:57:09 12 flying out that night.
07:57:09 13 Q. Okay. And you said you speculated about
07:57:12 14 that. You actually don't know whether or not
07:57:14 15 that was a representative of the architect on
07:57:17 16 site or not; is that correct?
07:57:18 17 A. I think I said in my deposition I don't
07:57:20 18 know who this was. John Miller could have been a
07:57:27 19 representative from the architect. I don't know.
07:57:30 20 I just remember a bald headed guy.
07:57:32 21 Q. Did you ever have any discussions where
07:57:38 22 Mrs. Allwin conveyed to you any complaints
07:57:41 23 relative to the design of her home?
07:57:43 24 A. No. She loved her home.
07:57:48 25 Q. She never talked or wrote to you

07:57:53 1 negatively about my clients and the work that
07:57:55 2 they had performed on her home?
07:57:57 3 A. No.
07:57:57 4 Q. I understand you're not an architect,
07:58:01 5 correct?
07:58:01 6 A. Correct.
07:58:02 7 Q. You don't have a degree in architecture?
07:58:04 8 That's correct?
07:58:04 9 A. Not at all.
07:58:05 10 Q. And you're not licensed?
07:58:06 11 A. No.
07:58:07 12 Q. But do you personally have any
07:58:10 13 criticisms regarding the design of the home in
07:58:16 14 any way?
07:58:16 15 A. And that matters why? I mean, I work --
07:58:21 16 Q. You see a lot of homes.
07:58:22 17 A. I see a lot of houses.
07:58:23 18 Q. You see a lot of homes, so you have
07:58:26 19 various aesthetic preferences, correct?
07:58:28 20 A. Correct.
07:58:28 21 Q. Beyond your own personal preferences for
07:58:31 22 how you would like your home to look, from a care
07:58:34 23 management standpoint, do you have criticisms
07:58:37 24 regarding the design of the Allwin residence?
07:58:41 25 A. I have preferences.

07:58:42 1 Q. Okay.
07:58:43 2 A. And cedar shakes is not it. I would not
07:58:46 3 do that. I consider them high maintenance.
07:58:48 4 Q. Okay.
07:58:50 5 A. Especially on a coastal application.
07:58:53 6 Q. Sure. I understand. Any other
07:58:57 7 comments?
07:58:58 8 A. Oh, no.
07:59:00 9 MR. WINTON: Thank you, ma'am. I
07:59:02 10 appreciate your time.
07:59:02 11 EXAMINATION
07:59:02 12 BY MR. REESER:
07:59:14 13 Q. Ms. Stein, my name is Brandon Reeser.
07:59:14 14 A. Reeser?
07:59:21 15 Q. Yes, ma'am. R-e-e-s-e-r. Reese cup
07:59:21 16 with an R, and I'm not as sweet.
07:59:21 17 A. There you go.
07:59:23 18 Q. Now, you said you had spoken with --
07:59:24 19 A. Who do you represent, Mr. Reeser?
07:59:26 20 Q. I represent an individual who worked on
07:59:29 21 the house in this case. Let's talk a little bit,
07:59:32 22 and I will tell you. You said that you spoke
07:59:35 23 with Robbie Diamond?
07:59:37 24 A. Yes.
07:59:37 25 Q. Okay. Who else did you speak with -- I

07:59:39 1 guess I'm going to look at it as you came on
07:59:42 2 board in 2008-2009.
07:59:44 3 Who did you talk with who was involved
07:59:45 4 in any work on the house before that time?
07:59:47 5 Robbie Diamond?
07:59:48 6 A. Right.
07:59:49 7 Q. And who else?
07:59:50 8 A. You mean other than the engineers and
07:59:55 9 things?
07:59:56 10 Q. Yes, ma'am.
07:59:57 11 A. Other than the engineers and all that?
07:59:59 12 Q. Yes, ma'am.
07:59:59 13 A. Throw a name out. I don't know.
08:00:06 14 Q. Did you talk with Russ Cooper?
08:00:08 15 A. No.
08:00:08 16 Q. Anybody else from Buffington?
08:00:12 17 A. I only remember Robbie.
08:00:15 18 Q. Arrow Services?
08:00:17 19 A. Yes. I did talk to a couple people from
08:00:21 20 Arrow Services.
08:00:22 21 Q. Who did you talk to at Arrow Services?
08:00:23 22 A. Don't remember any names.
08:00:25 23 Q. Do you remember when that might have
08:00:26 24 been?
08:00:27 25 A. I believe that was one of the first

08:00:30 1 things I did for Mrs. Allwin, was to review Arrow
08:00:35 2 invoices.
08:00:36 3 Q. Okay. Do you know when Arrow stopped
08:00:39 4 working on the home in any repair capacity or
08:00:43 5 anything like that?
08:00:43 6 A. There's a letter out there that I wrote
08:00:46 7 that terminated them and that gives you a date of
08:00:50 8 their last time that they worked out there.
08:00:52 9 Q. So did Arrow have a contract with Mrs.
08:00:57 10 Allwin that you-all took over or how did -- how
08:00:59 11 did you come to fire Arrow?
08:01:01 12 A. I found in my questioning to them, when
08:01:07 13 I asked them about certain things that were on
08:01:10 14 their proposals, that things that they said that
08:01:14 15 they did, they didn't. I found items that they
08:01:18 16 said they provided, they didn't. There was a lot
08:01:24 17 of inconsistencies in what they were billing and
08:01:29 18 what they were doing.
08:01:30 19 Q. Okay. And how did that come to your
08:01:33 20 attention? Through investigation or did Maria
08:01:36 21 Allwin say something to you?
08:01:37 22 A. Maria sent me all their invoices.
08:01:39 23 Q. What did Robbie Diamond talk to you
08:01:44 24 about?
08:01:44 25 A. What Buffington did at the house.

08:01:48 1 Q. Do you remember what she told you?
08:01:50 2 A. Not really. I only remember that she
08:01:53 3 said he was a jerk and a sexist.
08:01:55 4 Q. She said who was a jerk and a sexist?
08:01:59 5 A. Dan Buffington.
08:02:01 6 Q. Do you remember when you talked to
08:02:02 7 Robbie?
08:02:03 8 A. I don't think she's with him anymore.
08:02:05 9 Q. I was about to say was Robbie still with
08:02:07 10 Dan at the time?
08:02:07 11 A. I don't think so. I think I ran into
08:02:10 12 her at a homebuilders association meeting.
08:02:13 13 Q. Now, probably an awkward question, have
08:02:17 14 you ever been in the attic of the house?
08:02:19 15 A. Yes.
08:02:20 16 Q. What's up there?
08:02:28 17 A. Well, rafters. I mean, where do you
08:02:30 18 want me to go with this?
08:02:31 19 Q. Whenever you go up there, what do you
08:02:34 20 see?
08:02:34 21 A. Well, let's see. When you -- if you go
08:02:38 22 up the pull-down staircase in the master suite,
08:02:43 23 you have a large platform, and you have some air
08:02:46 24 handlers in there, and you have closed cell foam
08:02:52 25 between the rafters. You see this long tunnel

08:02:55 1 where you're actually looking at the top of the
08:02:59 2 half circle ceiling in the great room, and then
08:03:03 3 when you crawl at the end of that, there's where
08:03:05 4 this ceiling actually raises up, so you have to
08:03:08 5 climb up on the ladder to get over the third
08:03:11 6 floor bedroom, and then you can scuttle down on
08:03:14 7 the right of that, and you can get over on the
08:03:16 8 bedrooms that are on the right wing.
08:03:18 9 Q. Okay. Now, you noted there were roof
08:03:21 10 leaks. Did you see those roof leaks in the
08:03:29 11 attic?
08:03:30 12 A. No. I believe it was closed cell
08:03:33 13 insulation. It wasn't in the field that I saw
08:03:35 14 the leaks. There was only evidence of it in the
08:03:38 15 drywall below the valleys.
08:03:40 16 Q. That evidence that you saw, was that
08:03:42 17 directly below each leak?
08:03:46 18 A. Actually, a really good question since
08:03:52 19 water can hit closed cell insulation and travel.
08:03:56 20 Q. Did you see any evidence of water
08:03:58 21 traveling on the closed cell insulation?
08:04:00 22 A. No. I wouldn't see it from below
08:04:08 23 because the water would be above, right?
08:04:09 24 Q. Sure. Traveling back behind the closed
08:04:12 25 cell insulations coming --

08:04:14 1 A. Between the roof sheathing and the
08:04:15 2 closed cell insulation.
08:04:17 3 Q. Okay. Have you ever performed any work
08:04:18 4 on that closed cell insulation?
08:04:20 5 A. No, I haven't.
08:04:21 6 Q. I represent the guy who put up the
08:04:23 7 closed cell insulation.
08:04:24 8 A. Good for you.
08:04:26 9 Q. Have you seen any issues with his
08:04:29 10 installation? Are you aware of any issues with
08:04:32 11 the closed cell foam insulation?
08:04:34 12 A. No.
08:04:34 13 Q. Have you ever recommended any work done
08:04:36 14 to correct any problems with that closed cell
08:04:39 15 insulation?
08:04:39 16 A. No.
08:04:40 17 Q. I know the various times you have gotten
08:04:43 18 up there have you ever seen any deficiency in the
08:04:49 19 closed cell insulation?
08:04:50 20 A. I wouldn't recognize it if I saw it.
08:04:52 21 Q. But you haven't recommended any work to
08:04:54 22 fix it?
08:04:54 23 A. I don't know if there's anything to be
08:04:56 24 fixed.
08:04:56 25 Q. Do you know if there's anything wrong

08:04:58 1 with the insulation?
08:04:59 2 A. No.
08:05:01 3 Q. Has anybody told you there's anything
08:05:04 4 wrong with the insulation?
08:05:05 5 A. No.
08:05:05 6 Q. No engineer?
08:05:06 7 A. There was a question at one point if any
08:05:16 8 kind of conditioning had been added to the space
08:05:18 9 after the closed cell foam was added, but other
08:05:24 10 than that, I don't think of anything else.
08:05:25 11 Q. What kind of question do you mean?
08:05:28 12 A. Well, let's see. I mean, typically when
08:05:35 13 I add closed cell insulation in a roof, I always
08:05:38 14 put like a 4-inch ductwork that goes into the
08:05:42 15 attic so it helps condition it.
08:05:44 16 Q. Sure.
08:05:44 17 A. So the question was, was that done, and
08:05:47 18 I don't remember the answer.
08:05:48 19 Q. And I'm just trying to -- from what you
08:05:51 20 remember, do you know of anybody telling you that
08:05:53 21 there's a problem with the insulation, either its
08:05:55 22 installation or is it contributing to any of
08:05:57 23 these issues that you have identified?
08:05:59 24 A. I do not remember anybody ever saying
08:06:03 25 anything about that.

08:06:05 1 MR. REESER: That's all I have for you.
08:06:07 2 Thank you, Ms. Stein.
08:06:11 3 MR. LYLES: Anybody on the phone?
08:06:11 4 EXAMINATION
08:06:11 5 BY MS. ULMER:
08:06:14 6 Q. This is Suzanne Ulmer for Builder's
08:06:20 7 FirstSource. Do you know if BFS was involved
08:06:24 8 with this home at any time?
08:06:25 9 A. Suzanne, I'm sorry. I didn't understand
08:06:27 10 your question.
08:06:28 11 Q. Do you know if BFS had any involvement
08:06:31 12 with this home at any time, Builder's
08:06:36 13 FirstSource?
08:06:36 14 A. I did not realize or understand that
08:06:39 15 Builder's FirstSource was the supplier for
08:06:42 16 materials on this house.
08:06:43 17 Q. Do you have any opinions about BFS in
08:06:47 18 general?
08:06:47 19 A. No.
08:06:52 20 MS. ULMER: That's all I have for you.
08:06:53 21 Thank you.
08:06:53 22 EXAMINATION
08:06:53 23 BY MR. CANNON:
08:06:54 24 Q. My name is Chip Cannon. I represent
08:06:57 25 Frank Lee Painting. You ever heard of Frank Lee

08:06:59 1 Painting?
08:06:59 2 A. Yes. I know Frank Lee.
08:07:01 3 Q. You do know. And do you have any
08:07:04 4 opinions as to what Frank Lee did out at the
08:07:08 5 Allwin home?
08:07:08 6 A. Frank Lee painted -- I know he painted
08:07:13 7 the interior of the house. That's all I know.
08:07:21 8 Q. Do you have any opinions of any of the
08:07:23 9 painting that was done inside the Allwin house at
08:07:25 10 any point?
08:07:26 11 A. No.
08:07:26 12 Q. Are you not even aware of when Frank
08:07:36 13 performed any of the painting during the times
08:07:38 14 you touched the property?
08:07:40 15 A. I don't recall ever having a problem
08:07:46 16 with the paint at the Allwin house.
08:07:52 17 MR. CANNON: That's all the questions I
08:07:53 18 have for you. Thank you very much.
08:07:58 19 MR. LYLES: Anybody else?
08:07:58 20 EXAMINATION
08:08:04 21 BY MR. LYLES:
08:08:04 22 Q. I have a few questions. I understood,
08:08:09 23 Ms. Stein, your earlier testimony, and it takes
08:08:11 24 me back to the issues that you were asked about
08:08:13 25 regarding my involvement in 2009 and Skip Lewis.

08:08:20 1 A. Right.
08:08:20 2 Q. Okay. Do you know what Maria asked me
08:08:27 3 to do in 2009?
08:08:28 4 A. I do not.
08:08:29 5 Q. And you can't testify about that, can
08:08:31 6 you?
08:08:31 7 A. No.
08:08:31 8 Q. Do you know what Skip Lewis was asked to
08:08:33 9 do in 2009?
08:08:35 10 A. No.
08:08:35 11 Q. And I think you testified earlier that
08:08:38 12 you do not know what a property condition
08:08:41 13 assessment report is?
08:08:42 14 A. I have not heard that term.
08:08:44 15 Q. When is the last time you were on the
08:08:56 16 project performing work?
08:08:58 17 A. I think we were -- I think I was just
08:09:01 18 talking about that with Mr. Lacour and that was
08:09:04 19 June 2012.
08:09:08 20 Q. What was the work you were performing at
08:09:11 21 that time?
08:09:11 22 A. I think I was resetting the doors and
08:09:13 23 removing/replacing some toilets. Some minor
08:09:16 24 work.
08:09:16 25 Q. And understand you facilitated or

08:09:17 1 assisted Mr. Clements with some of his
08:09:19 2 destructive testing?
08:09:20 3 A. Correct.
08:09:21 4 Q. Have you reviewed the results of his
08:09:24 5 investigation?
08:09:25 6 A. Not recently, but I did at the time.
08:09:29 7 Q. Do you know how much work Mr. Clements
08:09:31 8 has done since you last reviewed his work?
08:09:33 9 A. No, I do not.
08:09:35 10 Q. Are you familiar with Mr. Clements
08:09:38 11 findings and opinions in this case?
08:09:40 12 A. Other than that report of March 2011,
08:09:46 13 no. That's it. That's the last I've heard.
08:09:48 14 Q. And that was the scope of repair that he
08:09:51 15 did?
08:09:52 16 A. Yes.
08:09:52 17 Q. Have you been out to the project since
08:09:58 18 Mr. Smith began doing the repair work?
08:10:01 19 A. No.
08:10:01 20 Q. So you are not familiar with the
08:10:05 21 conditions that were revealed in the course of
08:10:08 22 that repair work?
08:10:09 23 A. No.
08:10:09 24 Q. You're not a lawyer?
08:10:12 25 A. I am not.

08:10:13 1 Q. Do you know what claims Mrs. Allwin is
08:10:18 2 making in this case?
08:10:19 3 A. No, I do not.
08:10:21 4 Q. I understand you're also not a licensed
08:10:27 5 contractor?
08:10:28 6 A. That's correct.
08:10:29 7 Q. And you are not somebody who is
08:10:34 8 qualified to do a forensic investigation of the
08:10:37 9 Allwin house yourself?
08:10:38 10 A. Correct.
08:10:44 11 MR. LYLES: I think that's all the
08:10:46 12 questions I have got for you.
08:10:48 13 THE WITNESS: All right.
08:10:49 14 MR. GRIMBALL: This is Heyward Grimball
08:10:51 15 on the phone. I had mute on when I was trying to
08:10:55 16 ask questions.
08:10:55 17 EXAMINATION
08:11:04 18 BY MR. GRIMBALL:
08:11:04 19 Q. Ms. Stein, I represent Air Fasteners of
08:11:52 20 Carolina, Inc. Have you ever hard of Air
08:11:54 21 Fasteners of Carolina, Inc.?
08:11:54 22 A. No.
08:11:54 23 Q. So you're unfamiliar with what they do?
08:12:00 24 A. Yes. I am unfamiliar.
08:12:03 25 Q. And I only have one other question for

08:12:06 1 you. You testified to Mr. Lyles just now that
08:12:15 2 you're not qualified to do a forensic
08:12:17 3 investigation of the house.
08:12:19 4 Do you think that you're qualified to
08:12:21 5 tell one of your clients or a homeowner, Hey, you
08:12:25 6 need a forensic investigation?
08:12:30 7 A. I believe that I am -- can say that you
08:12:33 8 should -- that you may consider looking into this
08:12:37 9 more, yes, I believe I am.
08:12:39 10 Q. And you did that with Mrs. Allwin when
08:12:44 11 you said, You need to get this checked out, a
08:12:48 12 more in-depth analysis?
08:12:50 13 MR. LYLES: Object to the form of the
08:12:53 14 question.
08:12:53 15 A. I asked if she would like to do more.
08:12:55 16 Q. And you wouldn't ask that if you didn't
08:12:58 17 think that it was necessary?
08:12:59 18 A. You know, it's my job to ask what a
08:13:02 19 homeowner would like to do next, so I can
08:13:06 20 formulate a plan and a cost for them to move
08:13:10 21 forward. That is my job.
08:13:13 22 Q. And it's your job to get homeowners to
08:13:21 23 address actual problems that they have. You
08:13:27 24 wouldn't ask the homeowner what they would like
08:13:30 25 to do next if they didn't need to do something,

right?

A. Redo that again. I mean, rephrase that question, please, Heyward.

Q. You said that it was your job to ask the homeowner what they would like to do next.

A. Right.

Q. And I am just sort of getting at the point that that presupposes that there actually is something that needs to be done?

A. I'm not quite sure how to answer that. I mean, so you're saying that I can ask the question of what you would like to do next, and then the homeowner doesn't have the ability to ask me questions on what to do next or --

Q. No. I'm saying the reason that you ask them what they would like to do next is because there's -- there's a decision to be made. There's a problem that has to be addressed.

A. I see your point. But, you know, I believe I have already explained that I saw what I did, I explained what I saw, and so the question is: Would you like for me to do any more about this?

MR. GRIMBALL: All right. Great. Thank you. That's all for me.

08:14:46 1 THE WITNESS: Thank you, sir.
08:14:46 2
08:14:46 3
08:14:46 4 EXAMINATION
08:14:56 5 BY MR. BEST:
08:14:56 6 Q. I'm sorry. Paul passed away in 2013?
08:15:01 7 A. Yes.
08:15:01 8 Q. And was he the qualifier for -- the
08:15:05 9 license qualifier for Atlantic Builders before he
08:15:09 10 passed?
08:15:09 11 A. He was.
08:15:10 12 Q. And then when Paul passed away, Atlantic
08:15:16 13 Builders, you shut that down?
08:15:17 14 A. I did.
08:15:18 15 Q. The work you do for Gamble as its
08:15:22 16 construction manager --
08:15:23 17 A. Yes.
08:15:23 18 Q. -- I'm sorry, did you tell me that
08:15:27 19 Darren is the qualifier now?
08:15:29 20 A. He is.
08:15:29 21 Q. Have you ever sat for any kind of
08:15:34 22 residential home building or general contracting
08:15:37 23 license exam?
08:15:38 24 A. No.
08:15:39 25 Q. Is it fair to say based on the work you

08:15:44 1 have been doing for the past 20 or so years,
08:15:48 2 on-the-job training, what have you, that you have
08:15:54 3 more construction knowledge than the average
08:15:56 4 bear, the average person?
08:15:58 5 A. Yes.
08:15:59 6 Q. Okay. And you started with Gamble when?
08:16:16 7 A. Which time?
08:16:18 8 Q. I'm sorry. Well, as a Gamble employee,
08:16:22 9 as opposed to an employee of Gamble -- excuse me,
08:16:29 10 when did you become an employee of Gamble Homes
08:16:34 11 Services?
08:16:34 12 A. October 16th, 2012.
08:16:37 13 Q. And prior to that you worked for
08:16:39 14 Atlantic Builders?
08:16:40 15 A. Yeah. I took about a year off.
08:16:45 16 Q. Was that for Paul?
08:16:50 17 A. Partially, yes.
08:16:53 18 Q. In 2008 when you were performing
08:17:13 19 investigative work, compiling information,
08:17:18 20 reviewing documents, talking with all the people
08:17:20 21 involved with the Allwin residence, you describe
08:17:25 22 that work basically as a consultant, and I guess
08:17:28 23 what I'm asking you is, after that, from 2009 to
08:17:39 24 let's say 2011, you're making repairs to the
08:17:44 25 home?

08:17:44 1 A. I am.
08:17:45 2 Q. So in that sense, if not you, Atlantic
08:17:50 3 Builders is serving as the general contractor?
08:17:52 4 A. Right.
08:17:52 5 Q. And Gamble has some part of that as
08:17:59 6 general contractor because Gamble-Atlantic as a
08:18:02 7 joint venture was serving the Allwin residence?
08:18:04 8 A. Okay.
08:18:06 9 Q. You're also advising Mrs. Allwin during
08:18:17 10 that time, 2009 to 2011, about work that
08:18:22 11 potentially ought to be done or further steps,
08:18:25 12 further investigation, she might consider.
08:18:28 13 So in addition to serving as a general
08:18:33 14 contractor, you continued your role, for lack of
08:18:36 15 a better word, as a consultant?
08:18:38 16 A. Right.
08:18:39 17 Q. Okay.
08:18:42 18 A. You know, the word consultant is kind of
08:18:47 19 strong sometimes. Because I would offer an
08:18:54 20 opinion or thoughts or suggestions of what to do
08:19:00 21 next, Maria had -- you know, she didn't always
08:19:06 22 answer me. So, you know, whether she got my
08:19:10 23 e-mail, whether she understood what I was talking
08:19:12 24 about or anything like that, I have no idea
08:19:17 25 whatever was going on in Mrs. Allwin's head.

08:19:19 1 Q. I don't think anybody who has met Mrs.
08:19:22 2 Allwin will disagree with the statement that
08:19:24 3 she's her own woman?
08:19:27 4 A. Most definitely.
08:19:28 5 Q. And Mrs. Allwin admitted -- we went to
08:19:31 6 New York and took her deposition, and she
08:19:39 7 basically suggested that for several years prior
08:19:44 8 to Ross Clements getting involved, that she
08:19:46 9 didn't even set foot in the house or, if she did,
08:19:49 10 she didn't remember it.
08:19:50 11 A. Right.
08:19:50 12 Q. I'm not trying to put words in her mouth
08:19:55 13 or words in your mouth, but were there times when
08:20:00 14 you believed that the home at 133 Flyway was just
08:20:07 15 not a major concern for Mrs. Allwin?
08:20:11 16 A. I felt that 133 Flyway was a source of
08:20:16 17 pain -- not a pain in the ass. Don't get me
08:20:22 18 wrong. It was a source of pain because she and
08:20:24 19 Jim had built that house. It was their dream
08:20:27 20 house to run away, and they raised their kids in
08:20:30 21 it for the summers. That house was a source of
08:20:36 22 emotional pain, and she wasn't interested in
08:20:41 23 feeling that anymore.
08:20:43 24 Q. Okay. And the source of that pain was?
08:20:45 25 A. Jim's death. I am remembering it seems

like he was young. He was in his 50s. He developed a brain tumor, and he died very quickly.

Q. Did you know that the Allwins were separated when his was diagnosed?

A. No, I did not know that.

Q. There's another story there.

A. I did not know that one. That's too bad.

MR. BEST: That's all the questions I have. Thank you.

EXAMINATION

BY MR. HESSE:

Q. Ms. Stein?

A. Mr. Hesse.

Q. I looked back and the question I asked you about this Exhibit 492 was not very good. And, again, Exhibit 492 is the addendum dated December 1, 2010, from Atlantic Builders. And what I wanted to ask you was the problems that are being corrected as suggested by addendum one, Exhibit 492, when were those problems discovered? Your answer was early on; is that correct?

A. Mr. Hesse, do that again for me. So, I mean, if this is a field addendum, then that

08:22:07 1 means that there is an active contract going on.
08:22:13 2 Does that make sense? Because this is an
08:22:14 3 addendum that adds more work to an existing
08:22:17 4 contract. So I am saying that somewhere around
08:22:25 5 December 1st, we were working on the Allwin
08:22:28 6 house. And in this area, the foreman found more
08:22:32 7 work to be done, and this is what he wrote up
08:22:34 8 that needed to be done.
08:22:35 9 Q. I understand that, but -- and I am
08:22:37 10 actually kind of replowing old ground, but the
08:22:40 11 way you answered my question earlier was -- I was
08:22:44 12 asking the problems that are being corrected
08:22:47 13 there, when were those problems discovered, and
08:22:52 14 you asked me, Are you talking about evidence of
08:22:57 15 the problems or the problems?
08:22:58 16 A. Right.
08:22:59 17 Q. A simple question is: The problems that
08:23:05 18 are being corrected, when were they first
08:23:08 19 discovered?
08:23:12 20 A. When were the problems first discovered?
08:23:16 21 Good question in that most of what I saw for the
08:23:27 22 longest time was evidence, so didn't know the
08:23:32 23 solution because I didn't know what the cause
08:23:35 24 was. So having said that, do you want to know
08:23:41 25 when the evidence was first seen or when we

08:23:44 1 figured out what we probably ought to do about
08:23:46 2 it?
08:23:47 3 Q. I want to know when Mrs. Allwin would
08:23:50 4 have known about the problems that are being
08:23:53 5 corrected.
08:23:54 6 A. Here?
08:23:54 7 Q. Right.
08:23:56 8 A. This is a field addendum, which means
08:23:58 9 that I would have -- once I received it, within a
08:24:06 10 day, that afternoon, whatever, would have been --
08:24:09 11 would have written up an addendum that would have
08:24:11 12 corresponded with work so it would have been
08:24:14 13 right around this date.
08:24:17 14 Q. Okay. When I asked you this question
08:24:19 15 earlier and you said the evidence of problems
08:24:20 16 would have been discovered in 2008-2009, what did
08:24:23 17 you mean by that?
08:24:24 18 A. Well, evidence meaning like in this
08:24:34 19 situation it would have been in Jim's study, that
08:24:36 20 half round area; the hardwood floor was in
08:24:40 21 obvious distress.
08:24:41 22 Q. And that would have been discovered in
08:24:44 23 2008-2009?
08:24:45 24 A. Sure.
08:24:45 25 Q. My one last question I promise is: When

08:24:49 Vice President Biden came to stay at the house,
08:24:53 did he sleep in the right wing or the left wing?
08:24:56 A. I was not allowed to know because I
08:24:58 might have shot him.
08:25:12 (The deposition was concluded at 6:22
p.m.)

CERTIFICATE OF REPORTER.
STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

I, DARAH L. NEKOLA, Registered Professional Reporter and Notary Public for the State of South Carolina at Large, do hereby certify that the witness in the foregoing deposition was by me duly sworn to testify to the truth, the whole truth and nothing but the truth in the within-entitled cause; that said deposition was taken at the time and location therein stated; that the testimony of the witness and all objections made at the time of the examination were recorded stenographically by me and were thereafter transcribed by computer-aided transcription; that the foregoing is a full, complete and true record of the testimony of the witness and of all objections made at the time of the examination; and that the witness was given an opportunity to read and correct said deposition and to subscribe the same.

Should the signature of the witness not be affixed to the deposition, the witness shall not have availed himself/herself of the opportunity to sign or the signature has been waived.

I further certify that I am neither related to nor counsel for any party to the cause pending or interested in the events thereof.

Witness my hand, I have hereunto affixed my official seal on May 25th, 2015, at Charleston, Charleston County, South Carolina.

DARAH L. NEKOLA
REGISTERED PROFESSIONAL REPORTER
RPR, CSR(Iowa)
My Commission expires
January 7, 2018

RECEIVED
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

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 3 OF 4

Robert T. Lyles, Jr.
Lyles & Lyles, LLC
342 East Bay Street
Charleston, SC 29401
(843)577-7730
Attorney for Appellant

L. Dean Best, Jr.
Jenny Costa Honeycutt
Best Honeycutt, P.A.
Post Office Box 13466
Charleston, SC 29422
(843)783-29422
Attorney for Respondent Russ Cooper Associates, Inc.

Paul E. Sperry
Tyler P. Winton
Carlock Copeland & Stair, LLP
40 Calhoun Street, Suite 400
Charleston, SC 29401
(843)727-0307
Attorney for Respondent Shope Reno Wharton

INDEX

Orders

Order Granting Summary Judgment (December 16, 2015)[1] 7

Order Denying Motion to Alter or Amend (January 28, 2016) 37

Pleadings and Related Matters

Complaint filed August 5, 2013 38

Amended Complaint filed October 8, 2014 42

Shope Reno Wharton's Motion to Dismiss filed November 20, 2014 49

Russ Cooper Associates Inc.'s Motion for Summary Judgment (April 27, 2015) 56

Russ Cooper Associates Inc.'s Memorandum in Support of Motion for Summary Judgment Filed September 9, 2015[2] 62

Shope Reno Wharton's Memorandum in Support of Motion to Dismiss, or in the Alternative, Summary Judgment filed September 15, 2015 and all exhibits; 89

Plaintiff's Memorandum in Opposition to Russ Cooper Associates Inc.'s and Shope Reno Wharton's Motion for Summary Judgment filed September 15, 2015 139

Affidavit of Maria Allwin (September 10, 2015) 177

Affidavit of Ross Clements (September 10, 2015) 189

Notice of Motion and Motion to Alter or Amend Judgement Under Rule 59(e) SCRCP (December 28, 2015) 195

[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.

Notice of Appeal and Proof of Service (March 2, 2016) 200

Transcripts

Transcript of Hearing on Motion for Summary Judgment (September 15, 2015) 233

Deposition of Maria Allwin (January 26, 2015) 275

Deposition of Cynthia Noble (April 27, 2015) 466

Deposition of Victoria Stein (May 11, 2015) 651

Deposition of Robert Cowan (May 12, 2015) 940

Deposition of Russ Cooper (August 26, 2015) 1000

Exhibits

Exhibits to RCA's Memorandum in Support of Motion for Summary Judgment (September 9, 2015) and to the Trial Court's Order Granting Summary Judgment dated December 16, 2015:

Exhibit 3 – February 4, 1999 letter; 1085

Exhibit 4 – February 8, 1999 document; 1088

Exhibit 6 – March 24, 2000 letter; 1090

Exhibit 8 – May 3, 2000 memorandum; 1094

Exhibit 12 – March 23, 2001 letter; 1095

Exhibit 14 – May 21, 2001 letter; 1103

Exhibit 15 – May 24, 2001 letter; 1106

Exhibit 16 – June 1, 2001 letter; 1108

Exhibit 18 – June 23, 2001 Cowan letter; 1111

Exhibit 19 – August 2001 inspection report; 1113

Exhibit 20 – September 4, 2001 memo; 1116

Exhibit 21 – September 19, 2001 letter from Aero to Cowan; 1118

Exhibit 22 – October 24, 2001 memo regarding maintenance; 1119

Exhibit 24 – January 8, 2002 memo; 1121

Exhibit 25 – March 5, 2002 memo; 1122

Exhibit 26 – April 15, 2002 email regarding roof paint and caulk; 1123

Exhibit 27 – April 23, 2002 fax; 1124

Exhibit 28 – August 22, 2002 project list; 1125

Exhibit 30 – November 20, 2002 email; 1127

Exhibit 31 – March 4, 2003 Buffington Homes memo; 1131

Exhibit 32 – July 21, 2003 Buffington Homes document; 1134

Exhibit 34 – Campbell, Schneider and Associates, LLC letter; 1137

Exhibit 37 – August 15, 2003 Gamble letter; 1155

Exhibit 38 – September 15, 2003 letter from the Morgan Company; 1172

Exhibit 39 – September 12, 2003 Roy Davis Smith letter; 1175

Exhibit 41 – October 11, 2003 letter from Morgan Company; 1177

Exhibit 44 – November 9, 2003 letter/fax from Morgan Company; 1183

Exhibit 45 – November 13, 2003 scope of work; 1187

Exhibit 49/51 – January 8, 2004 letter from Buffington Homes; 1190

Exhibit 54 – February 19, 2004 contract and budget; 1200

Exhibit 58 – March 30, 2004 letter from adjuster; 1209

Exhibit 62-150 – March 5, 2004 photographs 1223

Exhibit 163 – April 27, 2004 J. David Horne, P.E. report; 1269

Exhibit 165 – May 7, 2004 Buffington Homes Report; 1275

Exhibit 167 – May 10, 2004 Buffington Homes Report; 1277

Exhibit 172 – May 28, 2004 Buffington Homes memo; 1285

Exhibit 174 – June 7, 2004 AIG letter; 1293

Exhibit 178 – July 6, 2004 Buffington Homes letter; 1296

Exhibit 182 – September 24, 2004 fax; 1298

Exhibit 212 – November 30, 2005 repair invoice; 1303

Exhibit 213 – Buffington Homes Statement December 28, 2005; 1304

Exhibit 215 – July 11, 2006 inspection report; 1305

Exhibit 217 – July 24, 2006 report regarding mold; 1315

Exhibit 220 – September 5, 2006 email regarding mold investigation; 1337

Exhibit 221 – September 6, 2006 email regarding mold investigation; 1338

Exhibit 222 – September 11, 2006 estimate; 1339

Exhibit 228 – July 29, 2007 AIG letter; 1343

Exhibit 229 – October 2007 inspection report; 1354

Exhibit 230 – April 2008 inspection report; 1355

Exhibit 235 – June 17-19, 2008 emails; 1356

Exhibit 236 – June 20, 2008 email; 1358

Exhibit 237 – June 23, 2008 email; 1359

Exhibit 243 – July 2007 inspection report regarding leaks and damage; 1360

Exhibit 244 – July 24, 2008 Gamble-Atlantic invoice; 1361

Exhibit 249 – September 2008 inspection report; 1363

Exhibit 254 – October 14, 2008 investigation invoice; 1364

Exhibit 257 – October 17, 2008 email from Tori Stein; 1366

Exhibit 258 – October 2008 inspection report; 1367

Exhibit 260 – November 24, 2008 email from Tori Stein; 1368

Exhibit 261 – November 24, 2008 proposal; 1369

Exhibit 276 – February 2, 2009 invoice for roof repairs; 1377

Exhibit 280 – February 27, 2009 proposal for additional roof work; 1378

Exhibit 282 – March 17, 2009 emails regarding meeting; 1381

Exhibit 284 – March 23, 2009 Tori Stein email; 1382

Exhibit 287 – March 30, 2009 note; 1383

Exhibit 290 – April 6, 2009 letter from Lyles; 1384

Exhibit 294 – May 26, 2009 H2L proposal; 1385

Exhibit 323 – December 9, 2009 email from Tori Stein; 1388

Exhibit 336 – May 14, 2010 termite inspection report; 1391

Exhibit 337 – May 14, 2010 home inspection report; 1395

Exhibit 360 – exemplar photograph of basement leak; 1405

Exhibit 362 – Exemplar photograph of basement leak; 1406

Exhibit 366 – Exemplar photograph of basement leak; 1407

Exhibit 529 – Fuller Consulting May 10, 2011 preliminary summary; 1408

Exhibit 545 – December 29, 2011 report; 1413

Exhibit 549 – March 16, 2012 scope of repair to address defects and damage; 1426

Exhibit 583- August 11, 2006 email regarding proposal to address damage; 1437

Exhibit 590 – July 27, 2006 email; 1438

Exhibit 591 – August 21, 2006 email regarding reports/estimate to address damage; 1439

Exhibit 592 – Report, Gamble-Atlantic, LLC 1440

Exhibit 593 – April 28, 2001 Cowan notes; 1450

Exhibit 594 – June 13, 2001 Cowan memo; 1453

Exhibit 595 – September 4, 2001 moisture detection report regarding leaks, damage, and research into forensic experts; 1454

Exhibit 596 – December 2002 inspection report; 1457

Exhibit 597 – January 2003 inspection report; 1459

Exhibit 598 – March 2003 inspection report 1460

Exhibit 599 – April 2003 inspection report; 1461

Exhibit 600 – March 24, 2009 invoice; 1462

Exhibit 601 – August 1, 2010 email regarding painting; 1463

Exhibit 602 – Stein Email; 1464

Exhibit 603 – Stein Email; 1465

Exhibit 604 – timeline 1466

Other Materials and Documents

Letter from Lyles to SRW dated February 23, 2011 1469

Supplemental Materials[3]

Russ Cooper Associates Inc.'s Answer to Complaint 1471

Russ Cooper Associates Inc.'s Answer to Amended Complaint 1479

Exhibit 42 Morgan Letter to Allwin dated October 19, 2003 1488

Maria Allwin Transcript Volume Two 1489

Shope Reno Wharton's Answer to Amended Complaint 1720

[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.

IN THE COURT OF COMMON PLEAS
FOR THE STATE OF SOUTH CAROLINA
CHARLESTON COUNTY

DEPOSITION OF ROBERT COWAN

MARIA ALLWIN,

Plaintiff,

vs. CASE NO. 2013-CP-10-4592

RUSS COOPER ASSOCIATES, INC., BUFFINGTON HOMES, LP, and SHOPE RENO WHARTON,

Defendants.

BUFFINGTON HOMES, LP,

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.

DATE: MAY 12, 2015

TIME: 10:00 AM

LOCATION: YOUNG CLEMENT RIVERS
CHARLESTON, SOUTH CAROLINA

REPORTED BY: DARAH NEKOLA, RPR, CSR(IA)
NCRA CERTIFIED MERIT REPORTER
CLARK & ASSOCIATES, INC.
CHARLESTON, SC 29415
843-762-6294
WWW.CLARK-ASSOCIATES.COM

A P P E A R A N C E S

ON BEHALF OF PLAINTIFF:

LYLES & LYLES
BY: ROBERT T. LYLES
342 East Bay Street
Charleston, SC 29401

ON BEHALF OF RUSS COOPER ASSOCIATES, INC.:

BEST HONEYCUTT
BY: L. DEAN BEST
8 Sawgrass Road
Charleston, SC 29412

ON BEHALF OF BUFFINGTON HOMES, LP:

YOUNG CLEMENT RIVERS
BY: JOSHUA P. CANTWELL
25 Calhoun Street, Suite 400
Charleston, SC 29401

ON BEHALF OF AIR FASTENERS OF CAROLINA, INC.:

RICHARDSON PLOWDEN & ROBINSON
BY: F. HEYWARD GRIMBALL
40 Calhoun Street, Suite 220
Charleston, SC 29401
Hgrimball@richardsonplowden.com

ON BEHALF OF PICQUET ROOFING, INC.:

HALL BOOTH SMITH
BY: ELIZABETH WIETERS
40 Calhoun Street, Suite 550
Charleston, SC 29401

BAKER RAVENEL & BENDER
BY: JON ASBILL
3710 Landmark Drive, Suite 400
Columbia, SC 29204

ON BEHALF OF TISCHLER UND SOHN (USA) LIMITED (By Telephone):

TURNER PADGET
BY: RICHARD DUKES
40 Calhoun Street, Suite 200
Charleston, SC 29401

ON BEHALF OF SPRAYSEAL FOAM INSULATION:

WILSON & HEYWARD
BY: BRANDON T. REESER
PO Box 13177
Charleston, SC 29422
breeser@wilsonheyward.com

ON BEHALF OF SUPERIOR SURFACES:

LUZURIAGA MIMS
BY: CAROLINE MCINTOSH
50 Immigration Street, Suite 200
Charleston, SC 29403

CLAWSON & STAUBES
BY: Albert A. Lacour, III
126 Seven Farms Drive
Charleston, SC 29429

ON BEHALF OF PLANTATION CONSTRUCTION (By Telephone):

WALL, TEMPLETON & HALDRUP
BY: KATHERINE STANTON
PO Box 1200
Charleston, SC 29402

MCANGUS GOUDELOCK & COURIE
BY: BEN DAVIS
735 Johnnie Dodds Boulevard, Suite 200
Mount Pleasant, SC 29464

ON BEHALF OF BUILDERS FIRSTSOURCE-SOUTHEAST GROUP, LLC (By Telephone):

KERNODLE ROOT
BY: SARAH L. FRAGALE
914 Folly Road, Suite 2
Charleston, SC 29412

ON BEHALF OF FRANK LEIGH CONTRACTORS, INC. (By Telephone):

TURNER PADGET
BY: BRITTANY BOYKIN
40 Calhoun Street, Suite 200
Charleston, SC 29401

ON BEHALF OF SHOPE RENO WHARTON:

CARLOCK COPELAND & STAIR
BY: TYLER P. WINTON
40 Calhoun Street, Suite 400
Charleston, SC 29401

ON BEHALF OF LONEY DAVIS:

PRATT-THOMAS WALKER
BY: IAN W. FREEMAN
16 Charlotte Street
Charleston, SC 29413

INDEX

EXAMINATION	PAGE
By Mr. Best	5
By Mr. Hesse	53
By Mr. Winton	54
By Mr. Reeser	55
CERTIFICATE OF REPORTER	60

(NO EXHIBITS WERE MARKED)

ROBERT COWAN,

having been first duly sworn, was examined and testified as follows:

EXAMINATION

BY MR. BEST:

00:27:25 Q. Mr. Cowan, I represent Russ Cooper Associates. That's the firm -- the general contractor that built the Allwin residence back in the '90s on Kiawah. My name is Dean Best. We met just a few moments ago. For the record, your son, Robby, is here with you; is that correct?

00:27:44 A. Yes.

00:27:45 Q. I'm hopeful that this won't take very, very long. I have just got some documents I would like to show you and ask you some questions about.

00:27:54 A. Okay.

00:27:55 Q. If you don't understand my question or any of the questions anybody asks you, just let us know, and we will be happy to repeat it, rephrase it, whatever you like. If you need to stop for any reason, just let me know, and we're happy to do that.

00:28:10 A. Okay.

00:28:11 Q. If you would, please -- and I may remind

00:28:14 1 you, I'm not trying to be rude, but as opposed to
00:28:18 2 an uh-huh or nod of the head, if you will give a
00:28:22 3 good clear yes or no to the question, we will
00:28:25 4 have a good, clean record and everybody will know
00:28:28 5 exactly what you meant. Is that all right?
00:28:30 6 A. Uh-huh.
00:28:31 7 Q. You need to say yes.
00:28:32 8 A. Yes. I'm sorry. Can I make a quick
00:28:35 9 comment? I have extremely bad hearing, and I
00:28:38 10 have nerve damage and certain voices just doesn't
00:28:44 11 come through to me very well, high-pitched
00:28:47 12 voices, and bear with me because I can't help it.
00:28:49 13 Q. We will all try to lower a register and
00:28:53 14 try to accommodate you. Glad to do that.
00:28:56 15 A. Very good.
00:28:56 16 Q. I don't mean to pry into your health
00:29:00 17 situation, but I understand you might have a bit
00:29:04 18 of a memory loss problem? You need to say yes or
00:29:09 19 no for me.
00:29:10 20 A. Yes. I'm sorry.
00:29:11 21 Q. Are you on any medication like Aricept
00:29:14 22 or anything like that to help with that
00:29:17 23 condition?
00:29:17 24 A. Not for memory loss. I'm a bit
00:29:22 25 diabetic, and I have -- let's see. See, I can't

00:29:31 1 remember. I have sugar -- not sugar diabetes,
00:29:40 2 but I have a low blood sugar problem and what
00:29:44 3 have you and a number of things, but I'm okay
00:29:46 4 most of the time. If I get tired or real hungry,
00:29:50 5 then things start not to work for me very well.
00:29:54 6 Q. Yes, sir. And if at any time you need
00:29:57 7 to take a break, you just let us know, and we
00:30:00 8 will try to be out of your hair and get you on
00:30:02 9 your way.
00:30:03 10 A. Very good. Thank you.
00:30:05 11 Q. There was a time in the -- I guess the
00:30:09 12 late '90s, around 2000, where you lived at the
00:30:13 13 Allwin residence with your wife?
00:30:14 14 A. Yes, sir.
00:30:15 15 Q. And why were you living there?
00:30:16 16 A. Well, we -- my wife and I knew Jim and
00:30:24 17 Maria Allwin, and we -- I lived right around the
00:30:30 18 corner from them. And in the early days when the
00:30:34 19 house was first built, we met them and got to
00:30:40 20 know them, and they knew us. They knew of me
00:30:44 21 because I worked at Kiawah for quite a few years.
00:30:48 22 And when we sold our house on Kiawah, we --
00:30:57 23 temporarily because we wasn't going to live there
00:31:02 24 permanently. I was getting ready to retire, and
00:31:04 25 we sold our house, and we rented a house on

00:31:08 Seabrook Island, an owner that I knew because I used to work there also.

00:31:14 And Maria called my wife, and when she was talking to her about something else and realized that we had rented a house. She said, Oh, God, don't do that. Move into our house. Live there as long as you want to. When we come down, you-all can visit the kids, which is what we always did, and that's how we ended up there.

00:31:37 Q. All right. Super. What did you do at Kiawah workwise? What was your job? You said you worked at Kiawah. What did you do?

00:31:45 A. I managed the property owners association, the POA.

00:31:49 Q. Where are you from originally?

00:31:52 A. Came to South Carolina from Georgia. Atlanta. I worked there with Six Flags Over Georgia, and we came to Seabrook Island, and I worked there for 10 years, and the opportunity came next door, and I went to Kiawah.

00:32:17 Q. And how long did you manage the POA at Kiawah?

00:32:19 A. At Kiawah?

00:32:22 Q. Yes, sir.

00:32:23 A. It was right at 10 years.

00:32:25 1 Q. And you left there around the late '90s
00:32:30 2 sometime?
00:32:31 3 A. My dates get mixed up.
00:32:33 4 Q. I understand.
00:32:34 5 A. I left there, and we bought a home out
00:32:38 6 at Stono Ferry, and we moved out there. After a
00:32:44 7 couple of three years, we moved out there.
00:32:46 8 Q. All right. Let's start going through
00:32:48 9 these exhibits, and then maybe once we get
00:32:50 10 finished with that, I will follow up with some
00:32:52 11 more background stuff. But if you will open that
00:32:54 12 notebook there and the documents have little
00:32:58 13 tabs -- Robert can help you, if you need it, but
00:33:01 14 document number 3, tab number 3.
00:33:13 15 A. Yes, sir.
00:33:14 16 Q. This appears to be a letter, and it is
00:33:17 17 signed on the last page Bob and Mary Lou, but do
00:33:24 18 you recognize that as your writing or your wife's
00:33:26 19 writing?
00:33:29 20 A. It is not my writing. I don't think
00:33:35 21 it's my wife's. But -- just a moment.
00:33:43 22 Q. Yes, sir. Feel free. Take your time.
00:33:57 23 A. I don't recall seeing this. I'm not
00:33:59 24 saying I didn't, but I don't recall seeing it.
00:34:03 25 It doesn't look -- I recall it. I'm sure this

00:34:24 1 was my memo. I didn't type it, but someone did
00:34:27 2 for me.
00:34:34 3 Q. You-all were out there -- and we will go
00:34:37 4 through some documents. You-all were out there
00:34:39 5 for, it looks like, maybe over a year that you
00:34:45 6 lived in the house. Does that sound right?
00:34:48 7 A. I think -- a little over a year.
00:34:50 8 Q. Okay. Do you know -- can you remember
00:34:54 9 exactly when you moved out of the house into your
00:34:57 10 house?
00:34:57 11 A. I really don't. I do not recall.
00:35:01 12 Q. After you moved out of the Allwin house
00:35:04 13 into you and your wife's house, did you continue
00:35:07 14 to kind of help the Allwins with maintenance or
00:35:12 15 checking on the property at all?
00:35:14 16 A. No, I did not.
00:35:15 17 Q. But let's look at this document, and you
00:35:23 18 start off the letter, This is a list of major
00:35:27 19 items that I feel you should be aware of as they
00:35:29 20 need addressing very soon.
00:35:31 21 And can you recall that while you were
00:35:33 22 there, you would periodically send letters or
00:35:36 23 faxes, memos, to the Allwins about problems you
00:35:41 24 saw in the home; is that right?
00:35:44 25 A. Occasionally I would, yes. If it was

00:35:48 1 serious, and I felt -- me being there and I could
00:35:54 2 see it, I felt they should know about it.
00:35:56 3 Q. Yes, sir. Did you have phone calls with
00:35:58 4 the Allwins about those problems?
00:36:00 5 A. Not that much. Occasionally, but not
00:36:08 6 usually. I think there was a couple of memos
00:36:12 7 similar to this in the file, but I just felt like
00:36:16 8 I needed to -- if I could see it myself, I felt
00:36:20 9 obligated to them to tell them.
00:36:22 10 Q. Absolutely.
00:36:22 11 A. And that's basically what it was.
00:36:24 12 Q. I understand that. Did -- when you had
00:36:27 13 conversations with them when they were up in New
00:36:32 14 York or Connecticut or up north or when they came
00:36:35 15 down, did you talk to both Jim and Maria?
00:36:38 16 A. I don't recall.
00:36:40 17 Q. Do you recall any conversations with
00:36:42 18 Maria about the house and the problems you saw?
00:36:45 19 A. I really don't. There wasn't much
00:36:52 20 communication back and forth between us and them
00:36:56 21 because they're very busy, and I would call and
00:37:00 22 maybe leave a message with Jim's secretary
00:37:04 23 occasionally, but I did not put everything in
00:37:07 24 writing, no.
00:37:08 25 Q. But, again, as you say, as you saw

00:37:11 1 problems that you thought maybe somebody ought to
00:37:13 2 check out, you felt obligated to let them know
00:37:20 3 about it?
00:37:22 4 A. Them or Mr. Cooper, yeah.
00:37:24 5 Q. If you look at the second paragraph
00:37:34 6 there before you get to the item number 1, you
00:37:39 7 write, I would recommend that you involve the
00:37:46 8 architect, Mr. Bernard Wharton.
00:37:48 9 Do you know if the Allwins ever had the
00:37:52 10 architect come back to the house?
00:37:53 11 A. I couldn't know, no. I do not recall
00:37:56 12 that.
00:38:01 13 Q. The last half of that sentence you say,
00:38:03 14 As a courtesy to Russ Cooper, I have made him
00:38:09 15 aware of these situations? You see that?
00:38:11 16 A. The first paragraph.
00:38:12 17 Q. It's right above the number 1, heating
00:38:14 18 and ventilation, right above that?
00:38:16 19 A. Yeah.
00:38:17 20 Q. How did you let Mr. Cooper know about
00:38:22 21 this situation?
00:38:24 22 A. I don't recall. I know that I
00:38:25 23 communicated with Russ a number of times, but I
00:38:29 24 swear, I do not remember when or what.
00:38:34 25 Q. I understand. Did you know Russ before

00:38:36 1 you lived in the Allwin house?
00:38:38 2 A. No, I did not.
00:38:39 3 Q. Was there any kind of caretaker or did
00:38:49 4 the Allwins have a property manager that sort of
00:38:51 5 checked in on the house before you and Mary Lou
00:38:56 6 moved in?
00:38:56 7 A. I don't know that. I am not aware of
00:39:07 8 it, and there was a property manager group
00:39:13 9 involved in it at some point sometime down the
00:39:17 10 road, but I couldn't tell you what year or
00:39:18 11 anything about it.
00:39:20 12 Q. Yes, sir.
00:39:21 13 A. But I did not communicate with the
00:39:28 14 property --
00:39:29 15 Q. If you turn the page, you have sort of
00:39:31 16 topics listed here. And number 2 is, Leaks in
00:39:35 17 the roof. Do you see that?
00:39:38 18 A. Yes.
00:39:39 19 Q. Where do you recall leaks in the roof
00:39:41 20 while you and Mary Lou lived in the house?
00:39:44 21 A. Location on the roof?
00:39:49 22 Q. Yes, sir. Or in rooms where you saw
00:39:53 23 signs of water intrusions?
00:39:55 24 A. There was leaks in the valleys of the
00:39:58 25 roof, the master suite, the chimneys, the kitchen

00:40:15 1 area. There's considerable number of leaks in
00:40:17 2 the roof.
00:40:18 3 Q. Fair to say numerous leaks?
00:40:18 4 A. Numerous leaks.
00:40:19 5 Q. And that's all while you were living in
00:40:20 6 the house from 1999 to 2000?
00:40:22 7 A. Yes, during that period. I couldn't
00:40:25 8 tell you what month.
00:40:26 9 Q. Yes, sir. And you wrote -- just like
00:40:27 10 you have done here, you wrote to the Allwins and
00:40:29 11 let them know about those numerous roof leaks?
00:40:33 12 A. Not specific leaks probably. I don't
00:40:40 13 know. I just don't remember. It has been so
00:40:43 14 long.
00:40:43 15 Q. In that same paragraph number 2, Mr.
00:40:46 16 Cowan, you talk about Russ Cooper getting
00:40:52 17 involved and that Russ -- looking about the
00:40:54 18 middle of the paragraph, Russ is aware of the
00:40:57 19 other two leaks. Then if you go on down, Russ
00:41:03 20 assures me he will bring the roofer back in and
00:41:06 21 make these repairs as quickly as possible.
00:41:09 22 Did Russ Cooper come back out to the
00:41:12 23 house or bring his roofer?
00:41:13 24 A. I don't recall him coming back to the
00:41:15 25 house or the roofer.

00:41:17 1 Q. All right. And is it -- is it possible
00:41:24 2 that they did come back and because of your
00:41:27 3 memory loss you just don't recall or do you think
00:41:30 4 they did not come back?
00:41:32 5 A. I think they did not come back, but
00:41:41 6 that's just my memory because roof leaks were
00:41:45 7 continuous.
00:41:46 8 Q. The time you and your wife lived there
00:41:49 9 the roof leaks were continuous?
00:41:51 10 A. Uh-huh.
00:41:51 11 Q. Is that a yes?
00:41:52 12 A. Yes, sir.
00:41:53 13 Q. The next section, Mr. Cowan, is basement
00:41:56 14 leaks. The next section is basement leaks.
00:41:59 15 A. Next page?
00:42:01 16 Q. No, sir. The next numbered paragraph,
00:42:02 17 number 3. When you talk about the basement, what
00:42:07 18 exactly -- what part of the house are you talking
00:42:09 19 about?
00:42:10 20 A. Let me refresh my memory here. The
00:42:23 21 basement it's a large open basement. There's a
00:42:29 22 number -- a number of leaks. Do you want to go
00:42:39 23 through this?
00:42:40 24 Q. Well, I want to identify the basement
00:42:43 25 first, and I have only been out to the house a

00:42:46 1 couple of times, and they were doing some
00:42:48 2 construction, but the way I recall, if you're in
00:42:51 3 the garage, there's the area where the cars park,
00:42:57 4 and then if you go around toward the back of the
00:42:59 5 house, like you're walking toward the pool under
00:43:01 6 the house, there's a wall, and there's kind of a
00:43:04 7 storage area in front of that, but you can go
00:43:07 8 through a door and walk under the deck. If you
00:43:12 9 walk out of the -- when you're in the great room
00:43:15 10 and walk out of those rear doors out on that deck
00:43:19 11 from the garage area underneath the house, you
00:43:21 12 can open the door and walk underneath that deck
00:43:24 13 and there's a dirt floor.
00:43:27 14 A. From the basement part you can walk
00:43:30 15 underneath it.
00:43:31 16 Q. And when you say "basement," you're
00:43:32 17 talking about the storage area under the house
00:43:37 18 that has concrete floor?
00:43:39 19 A. Yes. The entire area.
00:43:41 20 Q. All right.
00:43:41 21 A. Yes.
00:43:42 22 Q. What do you call the area -- when you
00:43:45 23 walk through that door, open the door and walk
00:43:47 24 through it, underneath that deck, the Allwins
00:43:49 25 call it the cave.

00:43:50 1 A. The what?
00:43:51 2 Q. The cave. What do you call that area?
00:43:56 3 A. I read that somewhere, but I wasn't
00:43:58 4 aware of that. But there's the main basement
00:44:04 5 area, which is the same size as the house. On
00:44:10 6 the back toward the ocean, there was an
00:44:15 7 unfinished area underneath the deck as you walk
00:44:19 8 out the back doors.
00:44:21 9 Q. Yes, sir.
00:44:21 10 A. There's an unfinished area there, and it
00:44:24 11 was a dirt floor, and I think that's what they're
00:44:29 12 calling the cave. I'm not sure.
00:44:30 13 Q. I think you're right.
00:44:32 14 A. I never heard that before.
00:44:34 15 Q. Where did you see the leaks?
00:44:38 16 A. The wall separating the basement to the
00:44:42 17 dirt section, the entire length of the house,
00:44:48 18 which was underneath the living room windows and
00:44:52 19 doors and what have you, that entire wall water
00:44:58 20 would come down on the inside of it with a hard,
00:45:03 21 blowing rain.
00:45:04 22 Q. And if you're standing -- just let me
00:45:10 23 show you some pictures because I think we know
00:45:13 24 exactly what you're talking about, and these are
00:45:18 25 numbered, so if you refer to these pictures, Mr.

00:45:20 1 Cowan, let's refer to them by number. If you
00:45:23 2 look at number 352, you're in this basement area,
00:45:28 3 and I believe that door here is the door -- if
00:45:31 4 you open it, you will go out into that unfinished
00:45:34 5 area.
00:45:34 6 A. I think that's right.
00:45:35 7 Q. And then -- I want to make sure we have
00:45:52 8 got a picture that kind of shows where it is.
00:45:55 9 A. This is --
00:45:57 10 Q. 366. All right. Go ahead, sir.
00:46:00 11 A. 366, this is the door going out into the
00:46:03 12 dirt section, which is underneath the big white
00:46:08 13 patio on top.
00:46:09 14 Q. Yes, sir.
00:46:09 15 A. This is looking toward --
00:46:13 16 Q. Toward Jim's office?
00:46:14 17 A. Yes. Toward the back there. This
00:46:20 18 entire wall here, hard, blowing rain, water would
00:46:22 19 run down the wall. And, also, there was -- I
00:46:28 20 don't know if it's in any of this, the water on
00:46:32 21 this wood up here was causing some of the wood to
00:46:38 22 rot.
00:46:38 23 Q. And you saw that -- you're talking about
00:46:41 24 the wood up at the top of the wall?
00:46:44 25 A. Yes, here. And the floor joists ran

00:46:48 1 across here on top of this stuff here across, and
00:46:52 2 the water would come down. And a couple of these
00:46:55 3 pictures you just showed me had the water stains
00:46:57 4 on the wall. You could see it very clearly.
00:47:00 5 This is water stains.
00:47:01 6 Q. You're looking at 362?
00:47:03 7 A. 362. That's all water stains.
00:47:09 8 Q. 360. And these pictures were taken
00:47:13 9 several years later, but this is similar to the
00:47:18 10 water staining you saw in 1999-2000?
00:47:23 11 A. Yeah. Probably wasn't quite that bad,
00:47:26 12 but it was there.
00:47:27 13 Q. Yes, sir. Did you ever go into the
00:47:35 14 unfinished section, walk through that door and
00:47:37 15 see if there were leaks on the other side of that
00:47:40 16 wall?
00:47:40 17 A. I was in the other side of the wall, and
00:47:44 18 I'm not sure if I recall -- I don't recall
00:47:46 19 looking for water leaks there. Because of the
00:47:49 20 way the structure is, the water could go inside.
00:47:59 21 Q. All right, sir. Mr. Cowan, if you will,
00:48:02 22 go to the next tab and look at document number 4.
00:48:06 23 Robert help him out.
00:48:08 24 A. I'm sorry.
00:48:09 25 Q. Yes, sir. We're going to a new

00:48:11 1 document.
00:48:15 2 A. This?
00:48:15 3 Q. Yes, sir. Do you recognize this and
00:48:20 4 it's -- Mr. Cowan, I will just point out to you
00:48:42 5 that it looks like a list of, obviously,
00:48:44 6 miscellaneous repairs and maintenance items to
00:48:46 7 accomplish ASAP, and it looks like some things to
00:48:49 8 be done, and then at the end of some of the
00:48:52 9 items, it will note, you know, repair and the
00:48:55 10 date. And then some of them refer to Bob. And
00:49:00 11 I'm assuming that's you. Bob ordered Dornbracht,
00:49:06 12 some cartridge maybe for the shower. But note,
00:49:11 13 some of these are in early 1998.
00:49:16 14 Is that before you got involved with the
00:49:17 15 house?
00:49:18 16 MR. LYLES: Object to the form of the
00:49:19 17 question.
00:49:19 18 A. I don't recall. I really don't. I
00:49:24 19 don't remember seeing this before either. I
00:49:26 20 don't know that I was involved with it.
00:49:28 21 Q. Okay.
00:49:30 22 A. I just don't remember. Well, it's
00:49:33 23 saying Bob repaired or Bob this, that, and I
00:49:36 24 wouldn't say that about myself, so I don't think
00:49:40 25 this is my list.

00:49:40 1 Q. All right, sir. If you will look at
00:50:14 2 document number 6, tab 6.
00:50:16 3 A. 6?
00:50:17 4 Q. Yes, sir.
00:50:24 5 A. That's my writing.
00:50:26 6 Q. I was just about to ask. Do you believe
00:50:29 7 this is a memo you wrote to Jim and Maria Allwin
00:50:34 8 in March of 2000?
00:50:38 9 A. It appears to be, yes.
00:50:42 10 Q. Okay. And, Mr. Cowan, I will tell you
00:50:48 11 that this document came from Mrs. Allwin. That's
00:50:56 12 where I got it from. Do you think it's safe to
00:50:58 13 say that you mailed this to them or faxed it to
00:51:01 14 them?
00:51:03 15 A. Possibly. Yeah, sure.
00:51:12 16 Q. It looks like in March of 2000, if you
00:51:17 17 go down about halfway of the page, you will see a
00:51:19 18 section, Damage from AC and roof leaks.
00:51:23 19 A. Say again. I'm sorry.
00:51:25 20 Q. Damage from AC and roof leaks about
00:51:29 21 two-thirds of the way down.
00:51:31 22 A. Damage -- I'm sorry.
00:51:34 23 Q. Is it safe to say that in March of 2000
00:51:38 24 that the roof was continuing to leak?
00:51:44 25 A. Obviously, yes.

00:51:52 1 Q. If you turn the page, about halfway down
00:52:00 2 there's a section, Roof leaks?
00:52:04 3 A. Yes.
00:52:04 4 Q. And you note there was a very hard rain
00:52:07 5 and you found three new leaks.
00:52:13 6 A. Yes. I don't remember writing it, but
00:52:15 7 it's obviously my writing.
00:52:16 8 Q. Okay. Can you tell us where those three
00:52:20 9 new leaks were? Do you remember? It's been a
00:52:28 10 while, sir. I understand.
00:52:28 11 A. I couldn't begin to tell you the
00:52:31 12 location of them.
00:52:32 13 Q. Then you write, Russ C. will handle.
00:52:39 14 That means Russ Cooper?
00:52:42 15 A. Yes. I'm sure it does. That would be
00:52:51 16 the only Russ C. I know.
00:52:53 17 Q. Do you remember talking with Russ Cooper
00:52:54 18 or having any communication with Russ Cooper
00:52:56 19 about these roof leaks in the spring of 2000?
00:52:59 20 A. I don't recall a specific conversation
00:53:03 21 with him, but from the word go -- I may be
00:53:09 22 jumping the gun here, but from the word go, when
00:53:13 23 I noticed things like that that would cause
00:53:19 24 damage to the house, I would call Russ and either
00:53:22 25 tell him or leave a message with his wife.

00:53:25 1 Q. Maria?
00:53:26 2 A. I would be crazy not to.
00:53:30 3 Q. And you just don't recall Russ Cooper
00:53:33 4 ever coming out to address these roof leaks?
00:53:35 5 A. There's been occasions when he came out,
00:53:40 6 maybe one of his men with him or one of his men
00:53:43 7 by himself, but me in those days, I was still
00:53:48 8 working, I believe. And I would not be at the
00:53:51 9 house all day every day, and he could have come
00:53:54 10 and gone. I have no idea.
00:53:57 11 Q. Do you have a clear recollection of Russ
00:54:02 12 Cooper or one of his subcontractors coming back
00:54:07 13 to the home and making any specific repair?
00:54:08 14 A. Any? Any time, any place?
00:54:18 15 Q. Is there any one thing that you clearly
00:54:20 16 remember them coming back and fixing?
00:54:27 17 A. He had his foreman -- and I cannot
00:54:36 18 remember the young man's name -- come out and
00:54:43 19 attempt to repair the leaking on the back glass
00:54:46 20 doors. He tore shingles all from around them to
00:54:52 21 explore where the water was coming in, and he
00:54:55 22 worked on it for I'm guessing a week or more.
00:54:59 23 But there again, when Russ was there or
00:55:04 24 his men, I assumed that they knew what they were
00:55:07 25 doing, and I'm sure they did, and they worked on

00:55:11 1 it, and I didn't attempt to guide them or tell
00:55:14 2 them how or anything else.
00:55:16 3 Q. Yes, sir. Absolutely. If you look at
00:55:21 4 the next section at the very bottom, basement
00:55:25 5 leaks on that same page.
00:55:27 6 A. Uh-huh.
00:55:27 7 Q. It says, See photos. Russ C. will get
00:55:31 8 with you to discuss area where shingles removed
00:55:35 9 at rear steps was necessary to inspect.
00:55:39 10 Is that what you were just talking
00:55:41 11 about, where the cedar shakes were taken off
00:55:47 12 there at the rear doors and the steps?
00:55:49 13 A. Yes. The back of the house -- I guess
00:55:56 14 you have seen photographs?
00:55:57 15 Q. Yes, sir.
00:55:58 16 A. The back of the house was sliding glass
00:56:05 17 doors, and they were bordered up and down with
00:56:08 18 wood shingles, and water is leaking around those
00:56:10 19 windows and getting into it and, consequently,
00:56:13 20 rotting the sheathing underneath the shingles and
00:56:15 21 what have you. And I think that's what I was
00:56:18 22 referring to and the water -- those leaks would
00:56:22 23 go in the basement, the water.
00:56:24 24 Q. And that was my next question. Where
00:56:27 25 were the leaks showing up, and you saying in the

00:56:29 1 basement.
00:56:29 2 A. The basement wall that we just looked
00:56:31 3 at.
00:56:31 4 Q. Was there any damage or signs of leaks
00:56:34 5 on the hardwood floor inside those doors?
00:56:37 6 A. At that time, I'm not aware of any
00:56:45 7 damage to the hardwood floor. Years later, I
00:56:48 8 think they began to show, but at that time --
00:56:52 9 because the hardwood floor was up here, and the
00:56:54 10 basement was down here, so the water naturally is
00:56:58 11 going to find the lowest point.
00:57:00 12 Q. Gravity. Yes, sir.
00:57:04 13 A. That sounds reasonable.
00:57:05 14 Q. Do you recall any conversations with Jim
00:57:09 15 or Maria Allwin about those basement leaks and
00:57:13 16 that repair?
00:57:15 17 A. I don't recall any specific conversation
00:57:20 18 with them, no.
00:57:21 19 Q. All right. Sir, if you will look at
00:57:59 20 document number 12. Do you recall this document?
00:58:13 21 A. I don't recall it in detail but,
00:58:36 22 obviously, it came from me.
00:58:37 23 Q. There's some handwriting -- if you go to
00:58:40 24 the very last page. Turn one more page, sir.
00:58:53 25 A. I'm sorry.

00:58:53 1 Q. Turn one more. Is that your handwriting
00:59:07 2 down at the bottom, a note to Jim?
00:59:16 3 A. I believe it is.
00:59:24 4 Q. And the last thing that I believe is
00:59:30 5 your handwriting it says, Roof leaks and painting
00:59:33 6 appears to be the most important problems at this
00:59:36 7 point. Did I read that correctly?
00:59:39 8 A. Yeah. Yes, sir. I don't know that
00:59:44 9 that's an accurate statement, but it was just my
00:59:50 10 opinion at that point.
00:59:50 11 Q. Yes, sir. That was your opinion at the
00:59:52 12 time, and you believe you sent these documents to
00:59:56 13 Jim and Maria Allwin back in --
00:59:59 14 A. This document -- these four pages or
01:00:03 15 whatever it was.
01:00:04 16 Q. Yes, sir. Back in March of 2001.
01:00:08 17 A. I don't know.
01:00:13 18 Q. And again --
01:00:13 19 A. It would appear that I did.
01:00:15 20 Q. Okay. And I will tell you that Mrs.
01:00:18 21 Allwin gave these documents to me so she had
01:00:20 22 them.
01:00:21 23 A. Then I sent it to her. Obviously, I
01:00:24 24 did. I don't recall it, but it would be hard to
01:00:28 25 say I didn't. May I ask a question off the

01:00:46 1 record to this gentleman?
01:00:49 2 MR. BEST: Sure. Go ahead.
01:00:50 3 (Discussion off the record)
01:01:34 4 Q. If you will look at document number 14.
01:01:38 5 A. Say again? 40?
01:01:41 6 Q. 14.
01:01:43 7 A. 14.
01:01:49 8 Q. It looks like you got some fancy
01:01:52 9 letterhead, Mr. Cowan.
01:01:57 10 A. I don't know where that came from.
01:01:59 11 Q. Exhibit 14 is -- looks like a May 21,
01:02:09 12 2001, letter that you wrote to Mr. Allwin in
01:02:15 13 Connecticut about the status of different things
01:02:17 14 going on at the home. And, again, Mrs. Allwin
01:02:21 15 provided this document to me. I got it from her.
01:02:24 16 Don't you believe that you mailed this to
01:02:28 17 Mr. Allwin back in May of 2001?
01:02:31 18 A. Uh-huh.
01:02:32 19 Q. You need to say yes or no for me, sir.
01:02:34 20 A. Yes. I'm sorry. Yes. Can I glance --
01:02:45 21 Q. Yes, sir. Please do.
01:02:57 22 A. I'm sure that's my doing.
01:02:59 23 Q. Under roof leaks you will see a
01:03:02 24 paragraph A, Roof leaks. Your first sentence
01:03:06 25 says, The roof leaks have been an ongoing problem

01:03:10 1 from the beginning.
01:03:13 2 Do you recall what you meant by "the
01:03:15 3 beginning"? Did you mean since the house was
01:03:17 4 built or since you moved into the house?
01:03:20 5 A. I don't know. Obviously, I was in the
01:03:29 6 house a few times before I moved in, so I don't
01:03:34 7 know. I assume that's probably when we moved in,
01:03:38 8 and it was my observation that they had been
01:03:42 9 ongoing for quite a while.
01:03:45 10 Q. Did you recall when you visited
01:03:48 11 socially -- because you knew the Allwins before
01:03:52 12 you moved into the house?
01:03:54 13 A. Yes.
01:03:55 14 Q. Do you recall any complaints Mr. Allwin
01:03:59 15 or Mrs. Allwin had about the home? Roof leaks or
01:04:03 16 leaks in the basement or windows anything like
01:04:05 17 that?
01:04:06 18 A. I don't know. I really don't. I
01:04:15 19 couldn't tell you when these leaks and things
01:04:19 20 started, no.
01:04:21 21 Q. If you will look at the next document,
01:04:25 22 document 15. Is this your handwriting, sir?
01:04:39 23 A. I think so, yes.
01:04:40 24 Q. And, again, I got this document from
01:04:43 25 Mrs. Allwin. Do you believe that if you went to

01:04:47 1 the trouble to write this memo to Mr. Allwin, you
01:04:51 2 believe you sent it to him? Is that fair?
01:04:53 3 A. I'm not sure I understand.
01:04:56 4 Q. Did you send this to Mr. Allwin? And I
01:05:01 5 will tell you that Mrs. Allwin gave me this
01:05:02 6 document.
01:05:03 7 A. Yes. I don't know if I mailed it
01:05:06 8 directly to him or Maria. Obviously, it went to
01:05:11 9 one or the other.
01:05:17 10 Q. The next document is Exhibit 16. Turn
01:05:30 11 one more page, sir. Couple of more pages. Is
01:05:42 12 this your handwriting Mr. Cowan?
01:05:43 13 A. I think so.
01:05:44 14 Q. This looks like a letter that you wrote
01:05:48 15 to Russ Cooper. Do you recall writing this?
01:05:51 16 A. I don't recall writing it, but obviously
01:05:55 17 I did.
01:05:55 18 Q. And you're not surprised because, like
01:05:58 19 you say, you would contact Mr. Cooper and let him
01:06:04 20 know about problems you saw?
01:06:06 21 A. Say that again.
01:06:07 22 Q. You're not surprised that you see a
01:06:10 23 letter that you have written to Mr. Cooper
01:06:13 24 because you have already said when you saw
01:06:14 25 problems, you would contact him or give him a

01:06:17 call?
01:06:17 A. Right. Right. Yes.
01:06:18 Q. Do you recall Mr. Cooper coming out or
01:06:24 doing anything in response to this letter?
01:06:28 A. I do not. I couldn't say because he
01:06:34 may, he may not. I don't know.
01:06:37 Q. Mr. Cowan, if you will turn the page,
01:06:53 and maybe about the fifth or sixth bullet down it
01:07:00 says, Jim A. I'm assuming that's Jim Allwin.
01:07:05 Office door --
01:07:06 A. Yes.
01:07:06 Q. -- floor sinking below door. Appears
01:07:09 that the wall is sitting on single floor joist.
01:07:15 Do you remember that problem?
01:07:16 A. Yes.
01:07:17 Q. What was the problem? What brought it
01:07:20 to your attention?
01:07:21 A. His door -- these are very large, heavy,
01:07:26 heavy doors.
01:07:27 Q. Yes, sir.
01:07:28 A. And the door was dragging, and it
01:07:34 appeared to be some unevenness there, and I went
01:07:37 down in the basement myself and looked at it, and
01:07:39 the beams underneath were not placed
01:07:46 appropriately under the walls, in my opinion, and

01:07:52 1 I'm not a structural engineer and that's what I
01:07:57 2 was referring to.
01:07:57 3 Q. And while we're on that topic, do you
01:07:59 4 have any construction experience or training?
01:08:04 5 A. Yes, I do.
01:08:05 6 Q. All right.
01:08:09 7 A. I headed up the construction of Six
01:08:12 8 Flags Over Georgia for about six or seven years.
01:08:15 9 I was responsible for building the world's
01:08:19 10 largest wooden roller coaster in that period. So
01:08:22 11 I'm knowledgeable, but people doing the work
01:08:25 12 probably was more knowledgeable than me.
01:08:27 13 Q. Yes, sir. Do you hold any licenses,
01:08:32 14 building license, or anything like that?
01:08:33 15 A. No, I do not.
01:08:35 16 Q. Are you college educated?
01:08:38 17 A. I'm sorry?
01:08:39 18 Q. Are you college educated?
01:08:43 19 A. No, I am not.
01:08:44 20 Q. High school?
01:08:45 21 A. High school.
01:08:46 22 Q. What did you do after high school?
01:08:48 23 A. Joined the Coast Guard.
01:08:49 24 Q. How long were you in the Coast Guard?
01:08:51 25 A. Four years.

01:08:52 1 Q. And when did you get out of the Coast
01:08:55 2 Guard?
01:08:55 3 A. November 1957.
01:09:01 4 Q. What did you do after that?
01:09:02 5 A. Went to work for a new car dealer. I
01:09:08 6 was a mechanic in the Coast Guard.
01:09:08 7 Q. Yes, sir.
01:09:10 8 A. Worked for a new car dealer, and I did
01:09:12 9 that for a year, possibly two. Went in business
01:09:20 10 with my brother-in-law doing roofing and sheet
01:09:24 11 metal work and what have you. After that --
01:09:27 12 Q. Now, were you swinging hammers or were
01:09:33 13 you just doing office work?
01:09:34 14 A. No, I was swinging hammers. And after
01:09:37 15 that, we split up, and I was offered a job at Six
01:09:46 16 Flags Over Georgia, and I worked there for six or
01:09:55 17 seven years. I'm not quite clear on it. It was
01:10:00 18 when they were just building the park.
01:10:03 19 And from there, I was offered a position
01:10:07 20 at Callaway Gardens, which is a horticultural
01:10:13 21 center south of Atlanta. And my job there was I
01:10:18 22 was in charge of the maintenance, landscaping,
01:10:21 23 and what have you of the area, not the
01:10:29 24 horticultural part of the garden. And from
01:10:31 25 there, I went to Seabrook Island.

01:10:34 1 Q. Based on your job experience and work
01:10:38 2 experience, it sounds like while you might not
01:10:43 3 undertake to go build a house by yourself, but
01:10:47 4 you have some working knowledge of construction
01:10:49 5 and construction issues, construction science?
01:10:53 6 A. Absolutely. We have built two houses of
01:10:56 7 our own.
01:10:56 8 Q. Did you act as a general contractor for
01:10:59 9 yourself or did you hire a general contractor?
01:11:00 10 A. Little of each.
01:11:03 11 Q. Look at tab Number 18. This is typed up
01:11:30 12 nice and pretty. It appears to be a memo to Jim
01:11:36 13 and Maria Allwin. It says from Bob and Mary Lou.
01:11:40 14 Do you recall this document?
01:11:41 15 A. I don't recall it in detail, but it
01:11:46 16 wouldn't surprise me.
01:11:48 17 Q. Do you recall if you and Mary Lou were
01:11:54 18 still living in the house in June of 2001?
01:11:57 19 A. I don't recall, no. I do not. I'm not
01:12:05 20 good on dates and numbers.
01:12:11 21 Q. If you look down on item Number 4 toward
01:12:14 22 the bottom it says, Roof leaks.
01:12:17 23 A. Roof leaks, yes.
01:12:19 24 Q. Item number B, Roof valley. Russ Cooper
01:12:23 25 repaired valley. I need to inspect after hard

01:12:26 rain.

01:12:26 Is that refreshing your recollection at

01:12:28 all?

01:12:32 A. I don't remember any detail about it. I

01:12:35 wouldn't -- I'm sure he made an attempt to repair

01:12:43 it, and he may have repaired it. I can't say.

01:12:47 Q. You don't dispute sending this document

01:12:49 to Jim and Maria Allwin back in June of 2001?

01:12:54 A. I don't dispute it?

01:12:55 Q. That's what I'm asking you.

01:12:57 A. No. No. The document is what it says.

01:13:01 I can't say if everything was done, but I wrote

01:13:05 it and mailed it to them, and I don't know from

01:13:09 there.

01:13:15 Q. All right, sir. Look at tab 20. Is

01:13:32 this a document that you prepared or had somebody

01:13:38 type for you that you sent to Jim Allwin back in

01:13:41 September of 2001?

01:13:44 A. Give me just a moment.

01:13:50 Q. Yes, sir. You take your time.

01:14:19 A. That appears to be my thoughts. Can I

01:14:49 speak to you for just a second?

01:14:53 MR. BEST: I have no problem.

01:15:00 (Discussion off the record)

01:15:17 A. I want to make it very, very clear that

01:15:19 1 the entire time that I was involved with the
01:15:23 2 Allwin house in any form or fashion, we did live
01:15:30 3 there at Maria's request for I don't know how
01:15:34 4 many years. A few years. Free. Didn't pay the
01:15:38 5 light bill or anything. But I want to make it
01:15:41 6 very, very clear, I did not work for the Allwins.
01:15:44 7 I did not receive any compensation whatsoever,
01:15:49 8 period. The only compensation you could even
01:15:53 9 dream of would be occasionally when Maria would
01:15:56 10 come down she would bring my wife a little doodad
01:16:01 11 for the table and trinket and stuff like that,
01:16:05 12 but I received nothing, period. And I want to
01:16:07 13 make that very clear.
01:16:08 14 Q. Yes, sir. And --
01:16:10 15 A. If that's okay.
01:16:11 16 Q. And that's fine. And you told -- and I
01:16:14 17 don't think anyone is suggesting you had any
01:16:18 18 obligation to fix anything or to do whatever.
01:16:22 19 A. I did this as a friend. Everything you
01:16:26 20 see with my name on it.
01:16:27 21 Q. I understand that. If you look at
01:16:30 22 document number 21, sir. Just pull tab 21.
01:16:35 23 A. Okay.
01:16:41 24 Q. And feel free to look at the document,
01:16:43 25 Mr. Cowan, but you will probably recall while you

were there there were problems with the air-conditioning system, the HVAC.

A. Yes.

Q. Just a few. Yes. I'm not so concerned about the problems with the HVAC system because that was replaced later on, but if you look just a few lines into that letter from Dan Cartin at Aero, he notes some problems with mildew growing on the Sheetrock.

A. Let me find where -- I don't recall the details of it, but that was an ongoing thing.

Q. Yes, sir. Did you recall mildew or mold growing anywhere in the house while you lived in it?

A. Yes.

Q. Do you recall where that was occurring?

A. There was problems in the kitchen, the little breakfast nook. There was problems on the kitchen ceiling, which was directly beneath the master bedroom. There was problems in the master bedroom sitting area, the interior wall. There was problems in the children's bedrooms where the large beams come down at an angle and valleys leaking getting water in the walls in the Sheetrock. There was minor problems in Jim's

01:18:37 1 office. Water getting underneath the floor
01:18:41 2 causing it to buckle and expand and dry.
01:18:49 3 There was -- of course, the basement was
01:18:52 4 in a world of its own. Let me think a minute.
01:19:05 5 There was some in the great room near the kitchen
01:19:10 6 door. There was a passage door there, and I'm
01:19:15 7 not -- I think there was a problem over the
01:19:19 8 fireplace on the west end of the great room.
01:19:31 9 It's been a long time.
01:19:33 10 Q. Yes, sir.
01:19:34 11 A. There were mold and mildew problems as a
01:19:40 12 result of leaking windows, louvers, roof,
01:19:44 13 whatever.
01:19:44 14 Q. Right. And you mentioned in some of
01:19:47 15 these there was some plumbing leaks that may have
01:19:50 16 contributed to that, too?
01:19:52 17 A. There was two occasions where the third
01:19:58 18 floor master suite, I should say, Kohler
01:20:06 19 Manufacturing had a defect in their plumbing
01:20:13 20 fittings that connected the commode to the water,
01:20:19 21 and there was a bathtub where the drainpipe was
01:20:23 22 not glued, the PVC pipe. And as luck would have
01:20:28 23 it, we were in Atlanta when that happened, and it
01:20:32 24 made a pretty big mess. Kohler replaced the
01:20:39 25 fittings. I wrote on them for I don't know how

01:20:45 1 long to do it, and then the plumbing fixture, the
01:20:48 2 plumber, Russ came back -- Russ had the plumber
01:20:52 3 come back -- or no, he didn't. I knew the
01:20:55 4 plumber personally, and he came back and fixed
01:20:58 5 that. There was other smaller leaks?
01:21:04 6 Q. Yes, sir. And the mildew that you just
01:21:06 7 talked about in all of those different areas,
01:21:09 8 that was mildew that you remember being there
01:21:11 9 when you were living in the house.
01:21:18 10 A. Yeah. I think so. I wouldn't swear.
01:21:23 11 Q. How often did the Allwins come and stay
01:21:25 12 in the house while you and Mary Lou lived there?
01:21:28 13 A. While we were there?
01:21:29 14 Q. Yes, sir.
01:21:30 15 A. I don't remember. When they came we
01:21:38 16 would go to Atlanta and visit with our daughters.
01:21:41 17 It gave us a break, too.
01:21:43 18 Q. Do you think it was -- they primarily
01:21:47 19 visited in the summertime or --
01:21:50 20 A. I would say mostly summer.
01:21:52 21 Q. Was it -- do you remember it being once
01:21:54 22 a month going to Atlanta or --
01:21:57 23 A. No. No. It was nowhere near -- they
01:22:00 24 didn't visit that much the house.
01:22:02 25 Q. Look at -- we're getting near the end, I