

**STATE OF SOUTH CAROLINA
In The Court Of Appeals**

**APPEAL FROM BERKELEY COUNTY
Court of Common Pleas**

Hon. Dale E. Van Slambrook., Master In Equity

Case No. 2012-CP-08-2981

Rita Brooks,

Respondent,

v.

Velocity Powersports, LLC, American Honda Finance
Corporation and American Honda Motor Co. Inc.,

of which Velocity Powersports LLC is the

Appellant.

RECORD ON APPEAL

Mary Leigh Arnold
Mary Leigh Arnold, P.A.
749 Johnnie Dodds Blvd., Ste. B
Mt. Pleasant, SC 29464
(843) 971-6053 - phone
Attorney for Appellant

Donald B. Clark
677 Shortwood Street
Charleston, S.C. 29412
(843) 720-9029

Edward J. Dennis, IV
112 Stoney Avenue
Moncks Corner, S.C. 29461
(843) 761-5212
Attorneys for Respondent

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STATE OF SOUTH CAROLINA)
)
COUNTY OF BERKELEY)
)
RITA BROOKS)
)
) **ORDER OF FINAL JUDGMENT**
)
Plaintiff,)
)
vs.)
)
)
)
VELOCITY POWERSPORTS, LLC,)
AMERICAN HONDA FINANCE)
CORPORATION and AMERICAN HONDA)
MOTOR CO., Inc.)
)
Defendants

The above entitled case came before the Court for hearing on August 28, 2018. Present were the Plaintiff, Rita Brooks, her attorney, Edward J. Dennis, IV, and the Defendant, Velocity Powersports, LLC, with its Counsel, Mary Leigh Arnold. All issues as to Defendants American Honda Finance Corporation and American Honda Motor Co., Inc. have been resolved and a Stipulation of Dismissal filed on August 3, 2015. Said Defendants did not appear at the hearing.

A review of the file establishes that the Defendant, Velocity Powersports, LLC, hereinafter “Defendant”, was duly served with the Summons and Complaint in this action on November 1, 2012. Defendant filed and served an Answer and Counterclaim dated November 23, 2012. Thereafter Plaintiff made her Reply thereto. This matter was referred to the Master-in-equity by Order filed with the Court on May 16, 2018.

Testimony was received by the Court and documentary evidence adduced by the parties in support/defense of the claims/counterclaim as plead before the Court. Based upon a preponderance of the evidence before me, I make the following findings of Fact and Conclusions of Law:

1. **I FIND AND CONCLUDE** that the Plaintiff resides in Berkeley County and that the Defendant is a corporation organized and licensed under the laws of the State of South Carolina with its principal place of business in the County of Berkeley, South Carolina; and,

2. **I FIND AND CONCLUDE** that that on April 24, 2010, the Plaintiff purchased a Honda Aqua Jet Ski, hereinafter "watercraft", from the Defendant at its business located at 151 Gateway Drive, Ladson, in Berkeley County, South Carolina; and,
3. **I FIND AND CONCLUDE** that the Plaintiff returned to the Defendant's place of business on April 9, 2012, and delivered the watercraft into the care, custody and control of the Defendant for purposes of certain repairs, and a "summerization" or "tune up"; and,
4. **I FIND AND CONCLUDE** that the Defendant was unable or unwilling to perform the repairs to the watercraft and after determination of such did accomplish the "summerization" or "tune-up" and charged or billed the Plaintiff for parts and labor attendant to the performance of such "summerization" or "tune-up"; and,
5. **I FIND AND CONCLUDE** that Plaintiff declined to pay the Defendant for the services billed or charged without the performance of certain necessary repairs by the Defendant as originally requested by the Plaintiff; and,
6. **I FIND AND CONCLUDE** that the Defendant refused to permit the Plaintiff to pick up the watercraft without payment for the services performed; and,
7. **I FIND AND CONCLUDE** that the Defendant notified the Plaintiff of its intention to charge for storage fees by letter dated May 22, 2012; however, the Defendant failed to report the watercraft as unclaimed to the Department of Motor Vehicles; and,
8. **I FIND AND CONCLUDE** that all claims, liens or costs for storage by the Defendant are forfeit as in such cases made and provided by S.C. Code of Law, Section 56-19-840; and,
9. **I FIND AND CONCLUDE** that the Defendant wrongfully charged the Plaintiff for storage fees and its refusal to release the watercraft without payment of the storage fees constitutes an unfair trade practice, capable of repetition which affects the public interest and that the Defendant's actions were wilful and wanton in that the Defendant knew or should have known that its conduct was unfair and deceptive and therefore a violation of this States' statutes concerning unfair and

deceptive acts and practices; and,

10. **I FIND AND CONCLUDE** that as a result of the Defendant's conduct in violation of the Unfair Trade Practices Act, the Plaintiff has lost the use of the watercraft since April, 2012 and until the present or a period seventy-seven (77) months; and,

11. **I FIND AND CONCLUDE** that that the Plaintiff's monthly payment under the Retail Instalment Contract and Security Agreement between the Plaintiff and the Defendant was \$191.14; and,

12. **I FIND AND CONCLUDE** that the uncontroverted testimony as to the reasonable value of loss of use of the watercraft to the Plaintiff was equal to her monthly payment in the amount of \$191.14; and,

13. **I FIND AND CONCLUDE** that the sum of \$191.14 multiplied by seventy-seven (77) months or a total of \$14,717.78 to be the actual damages suffered by the Plaintiff; and,

14. **I FIND AND CONCLUDE** that the amount of actual damages should/must be trebled pursuant to the Unfair Trade Practices Act and that the total amount of damages then equals \$44,153.34 plus reasonable attorney fees and costs; and,

15. **I FIND AND CONCLUDE** that the amount of attorney fees and costs shall be determined at a later hearing to be scheduled by the Court; and,

16. **I FIND AND CONCLUDE** as to the remaining causes of action asserted by the Plaintiff that the preponderance of the evidence favors the Defendant; and,

THEREFORE, it is

ORDERED that judgment be entered against the Defendant, Velocity Powersports, LLC., in the amount of \$44,153.34, actual and treble damages, in favor of the Plaintiff under her Unfair Trade Practices Act cause of action; and it is

FURTHER ORDERED that the Plaintiff be denied relief under her Breach of Warranty, Violation of Magnuson-Moss Warranty Act, Negligence, Constructive Fraud and Fraud causes of action; and it is

FURTHER ORDERED that the attorney fees and costs to be awarded to the

Plaintiff be scheduled for hearing and determination by the Court at a later date; and it is

SO ORDERED!

Dale E. VanSlambrook
Master-In-Equity, Berkeley County
Ninth Judicial Circuit

Dated: _____
Moncks Corner, SC



Berkeley Common Pleas

Case Caption: Rita Brooks VS Velocity Powersports, Llc , defendant, et al

Case Number: 2012CP0802981

Type: Master/Order/Other

AND IT SO ORDERED!

s/Dale E. Van Slambrook #3079

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STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
COUNTY OF BERKELEY) FOR THE NINTH JUDICIAL CIRCUIT
RITA BROOKS) CASE NO.- 2012-CP-08-2981
)
)
) **ORDER ON MOTION FOR**
Plaintiff,) **RECONSIDERANTION AND**
) **SUPPLEMENTAL ORDER OF FINAL**
vs.) **JUDGMENT**
)
)
)
VELOCITY POWERSPORTS, LLC,)
AMERICAN HONDA FINANCE)
CORPORATION and AMERICAN HONDA)
MOTOR CO., Inc.)
Defendants)

The above entitled case came before the Court upon Motion for Reconsideration filed on October 17, 2018 by the Defendant through counsel, Velocity Powersports, LLC. Present were the Plaintiff's attorney, Edward J. Dennis, IV, and the Defendant's attorney, Mary Leigh Arnold.

Upon consideration of the Defendant's Motion, the Plaintiff's Return thereto and argument of counsel, the Court Orders that:

1. Defendant's request for relief is hereby denied; and,
2. This Court's Order dated October 8, 2018, is hereby supplemented to include the following additional findings of fact and conclusions of law by way of clarification, to wit:
 - a. **I FIND AND CONCLUDE** that while S.C. Code §56-19-840, appears to be applicable to the case at bar, that the applicability of the statute is not solely determinant of the Defendant's storage lien claim, but cumulative and in addition to the fact that the Defendant attempted to recover a charge for which the Defendant was not entitled; and,
 - b. **I FIND AND CONCLUDE** that the Defendant knew or should have known that the summerization charge was an incomplete, partial, superfluous, unnecessary repair and without value to the Plaintiff; and,
 - c. **I FIND AND CONCLUDE** that on the basis of the foregoing alone that the lien claim fails and that such is sufficient basis to support the unfair trade practice claim of the

Plaintiff; and it is

SO ORDERED!

Dale E. Van Slambrook
Master-In-Equity, Berkeley County
Ninth Judicial Circuit

Dated: _____, 2018
Moncks Corner, SC



Berkeley Common Pleas

Case Caption: Rita Brooks VS Velocity Powersports, Llc , defendant, et al

Case Number: 2012CP0802981

Type: Master/Order/Other

AND IT SO ORDERED!

s/Dale E. Van Slambrook #3079

Electronically signed on 2018-12-05 10:40:46 page 3 of 3

STATE OF SOUTH CAROLINA)
COUNTY OF BERKELEY)
RITA BROOKS)

Plaintiff,)
vs.)

VELOCITY POWERSPORTS, LLC,)
AMERICAN HONDA FINANCE)
CORPORATION and AMERICAN HONDA)
MOTOR CO., Inc.)

Defendants)

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT
CASE NO.- 2012-CP-08-2981

FINAL ORDER
(Attorney Fees and Costs)

The above entitled case came before the Court on February 20, 2019, pursuant to that Order of Final Judgement dated October 8, 2018, and by agreement of the parties as to time, date and procedure. This is a telephone conference/hearing to determine whether and how much of the attorney fees and costs sought by the Defendant is to be awarded by the Court.

The parties have agreed that this hearing is within the jurisdiction of the Court notwithstanding that the Defendant, Velocity Powersports, LLC filed a Notice of Appeal as to the Order of the Court on or about January 2, 2019, and attached hereto. The parties have agreed that the Court may determine and award any fees and costs based upon the Affidavit(s) for Plaintiff together with the Defendant's responsive writing in opposition and argument was heard by the court from counsel.

Based upon the foregoing the Court makes the following findings of fact and conclusions of law:

1. **I FIND AND CONCLUDE** that this court has jurisdiction to hear and determine the issues of attorney fees and costs claimed by the Plaintiff; and,
2. **I FIND AND CONCLUDE** that the fees and costs claimed by the Plaintiff in the amount of \$6,108.12 are reasonable; and,
3. **I FIND AND CONCLUDE** that the nature, extent and difficulty of the legal services rendered, time and labor devoted to the case, the professional standing of

counsel, contingency of compensation, the fee customarily charged in this location for similar services and the beneficial results obtained support the award of attorney fees and costs; and,

THEREFORE, it is

ORDERED, that judgement be entered against the Defendant, Velocity Powersports, LLC., in the amount of \$6,108.12 as and for attorney fees and costs incurred by the Defendant; and it is

ORDERED that the cumulative judgement to be entered in this case against the Defendant, Velocity Powersports, LLC, in favor of the Plaintiff, Rita Brooks, is \$50,261.46 (\$44,153.34 prior Order of Final Judgement + \$6,108.12); and it is

SO ORDERED!

Dale E. VanSlambrook
Master-In-Equity, Berkeley County
Ninth Judicial Circuit

Dated: _____



Berkeley Common Pleas

Case Caption: Rita Brooks VS Velocity Powersports, Llc , defendant, et al

Case Number: 2012CP0802981

Type: Order/Attorney Fees

AND IT SO ORDERED!

s/Dale E. Van Slambrook #3079

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STATE OF SOUTH CAROLINA

COUNTY OF BERKELEY

RITA BROOKS

Plaintiff,

vs.

VELOCITY POWERSPORTS, LLC,
AMERICAN HONDA FINANCE
CORPORATION and AMERICAN
HONDA MOTOR CO., Inc.

Defendants

) IN THE COURT OF COMMON PLEAS
) FOR THE NINTH JUDICIAL CIRCUIT
) CASE NO.- 2012-CP-08-2981

COMPLAINT
(JURY TRIAL DEMANDED)

2012 OCT 15 PM 3:55
MADEY TOWN
CLERK OF COURT
BERKELEY COUNTY, SC
FILED

The Plaintiff, complaining of the Defendants, alleges the following:

1. That the Plaintiff, RITA BROOKS, is a resident of Berkeley County, South Carolina.
2. That the Defendant, Velocity Powersports, LLC is a corporation organized and licensed under the laws of the State of South Carolina with its principle place of business in the County of Berkeley, State of South Carolina; and,
3. That the Defendant, American Honda Finance Corporation is a corporation organized and licensed under the laws of the State of California and is doing business in the County of Berkeley, State of South Carolina; and,
4. That the Defendant American Honda Motor Co., Inc is a corporation organized and licensed under the laws of the State of California and is doing business in the County of Berkeley, State of South Carolina; and,
5. That on or about April 24, 2010, the Plaintiff purchased a Honda Aqua Jet Ski from the Defendant, Velocity Powersports, LLC; and,
6. That on or about April 24, 2010, the Plaintiff purchased a service contract/warranty from the Defendant, American Honda Motor Co., Inc.; and
7. That on or about April 24, 2010, the Plaintiff financed the Honda Aqua Jet Ski and service contract/warranty from the Defendant, American Honda Finance Corporation, and

8. On or about April 9, 2012, I returned the Honda Aqua Jet Ski to Velocity Powersports, LLC, for repairs, due to issues with the reverse lever, not being able to attain and maintain correct speeds and/or having operation issues with an FI warning light; and,
9. On or about May 22, 2012, the Defendant, Velocity Powersports, LLC informed the Plaintiff that the vehicle was ready for pickup after tune-up and that they had been unable to repair the other issues; and,
10. To date said vehicle has been unable to be repaired and is still in the possession of Velocity Powersports, LLC; and,
11. That the Defendants, Velocity Powersports, LLC and American Honda Motor Co., Inc, have failed and refused to repair the subject vehicle under the service contract/warranty; and,
12. The Plaintiff continues to be obliged to make payments to American Honda Finance Corporation without the use and enjoyment of the product; and,
13. That the Plaintiff has had to hire an attorney to represent her in this matter; and,

FOR A FIRST CAUSE OF ACTION

(Breach of Warranty)

14. That the Plaintiff repeats paragraphs one (1) through thirteen (13) as if repeated herein verbatim.
15. The Defendants, Velocity Powersports, LLC, and American Honda Motor Co., Inc, expressly warranted to the Plaintiff the repairs of defects in parts and/or workmanship in the Plaintiff's vehicle; and,
16. Although said Defendants have attempted to limit the Plaintiff's rights under the warranty to the replacement or repair of defects in parts and/or workmanship under the terms of the express warranty, this exclusive remedy has failed to serve its essential purpose, in that the Defendant has failed to correct the Plaintiff's vehicle's defects after an extended period of time in their custody and control; and,
17. The Defendant, Velocity Powersports, LLC and American Honda Motor Co., Inc, impliedly warranted that the Plaintiff's vehicle was suitable to be used for the ordinary purposes for which these vehicles are used; and,

18. The Defendants, Velocity Powersports, LLC and American Honda Motor Co., Inc, breached all implied and express warranties to the Plaintiff, and as a direct and proximate result of the Defendants, Velocity Powersports, LLC and American Honda Motor Co., Inc. breaches, the Plaintiff has suffered actual, consequential and incidental damages; and,

FOR A SECOND CAUSE OF ACTION

(VIOLATION OF MAGNUSON-MOSS WARRANTY ACT)

19. That the Plaintiff repeats paragraphs one (1) through eighteen (18) as if repeated herein verbatim; and,
20. Upon information and belief, the Defendant Velocity Powersports, LLC, is a supplier of consumer products engaged in the business of making vehicles directly or indirectly available to consumers; and,
21. The Defendants, Velocity Powersports, LLC and American Honda Motor Co., Inc, failed to comply with its service contract/warranty obligations to the Plaintiff under its written and/or implied warranties in the following particulars:
- a. In failing to provide the Plaintiff with a vehicle which was free from defects;
 - b. In failing to provide the Plaintiff with a vehicle which would pass without objection in the trade;
 - c. In failing to provide the Plaintiff with a vehicle of fair average quality for goods of that type;
 - d. In failing to provide the Plaintiff with a vehicle which was fit for the ordinary purposes for which such vehicles are used; and
 - e. In failing to properly repair, replace or adjust defects in the vehicle's parts and/or workmanship.
22. The Plaintiff has afforded the Defendants, Velocity Powersports, LLC and American Honda Motor Co., Inc, a reasonable opportunity to cure its failure to comply with its warranty obligations, but the Defendant has failed and refused to do so; and,
23. The Plaintiff has left the subject vehicle in the custody and control of the Defendant, Velocity Powersports, LLC and American Honda Motor Co., Inc, and demanded a repair

in accordance with the service contract/warranty, however, the Defendants have failed and refused the Plaintiff's request; and,

24. The Plaintiff continues to stand ready to pick up the subject vehicle or exchange it for a refund of her money or a working vehicle; and,

25. The Plaintiff is, therefore, informed and believes that she has complied with the requirements of 15 U.S.C. 2301 et seq. to the best of her ability; and,

26. As a direct and proximate result of the acts above, the Defendants, Velocity Powersports, LLC and American Honda Motor Co., Inc, upon information and belief, has violated 15 U.S.C. 2301 et seq., commonly known as the Magnuson-Moss Warranty Act, and as a direct and proximate result of the Defendants' violation, the Plaintiff has suffered actual, consequential and incidental damages, and he has incurred attorney's fees and costs in bringing this action; and,

FOR A THIRD CAUSE OF ACTION

(NEGLIGENCE)

27. That the Plaintiff repeats paragraphs one (1) through twenty-six (26) as if repeated herein verbatim; and,

28. That the Defendants, Velocity Powersports, LLC and American Honda Motor Co., Inc., owed a duty to the Plaintiff in one or more of the following particulars:

- a. To hire salesmen who would represent properly the vehicles being offered for sale to the Defendant's customers;
- b. To hire people with the proper education and knowledge to represent properly the items being offered for sale;
- c. To train its service personnel how to repair the subject Honda Aqua Jet Ski;
- d. To train its service personnel as to how to inspect properly a Honda Aqua Jet Ski;
- e. To refrain from selling defective Honda Aqua Jet Skis to consumers;
- f. To disclose to the Plaintiff the true speed at which the subject vehicle will operate;
- g. To repair properly the subject vehicle;

- h. To rescind the contract between the Plaintiff and the Defendant once the Defendant realized it had provided false information to the Plaintiff.
- i. To exercise ordinary and reasonable due care in dealing with the Plaintiff.

- 29. That the Defendants, Velocity Powersports, LLC and American Honda Motor Co., Inc, have failed to perform one or more of the aforesaid duties owed to the Plaintiff; and,
- 30. That as a result of the negligence, carelessness, gross negligence, recklessness, willfulness and wantonness of the Defendant, the Plaintiff has lost the value of the Honda Aqua Jet Ski for which she contracted, she has lost the money she has paid to the Defendant for the purchase of this vehicle, she has lost the money she has paid to the Defendant to finance the purchase of this vehicle, the vehicle has depreciated in value, she has incurred additional expenses in maintaining and repairing this vehicle; and she has suffered embarrassment, humiliation, aggravation and inconvenience as a result of the Defendant's conduct; and,
- 31. That as a result of the said Defendant's negligence, carelessness, gross negligence, recklessness, willfulness and wantonness, the Plaintiff demands that the said Defendants, Velocity Powersports, LLC and American Honda Motor Co., Inc, reacquire the subject vehicle, and pay her actual damages, together with punitive damages, together with prejudgment interest, the costs and disbursements of this action; and,

FOR A FOURTH CAUSE OF ACTION

(UTPA Violation)

- 32. That the Plaintiff repeats paragraphs one (1) through thirty-one (31) as if repeated herein verbatim; and,
- 33. That the aforementioned acts and practices of the Defendants, Velocity Powersports, LLC and American Honda Motor Co., Inc, were unfair and deceptive; and,
- 34. That the aforementioned acts and practices of the said Defendants are against the public interest and that these acts and practices are capable of repetition; and,

35. That the said Defendants' actions were willful and wanton in that the Defendant knew or should have known that their conduct was unfair and deceptive and, therefore, a violation of this State's statutes concerning unfair and deceptive acts and practices; and,
36. That as a result of the said Defendants' violation of the Unfair Trade Practices Act, the Plaintiff has lost the value of the Honda Aqua Jet Ski for which he contracted, she has lost the money he has paid to the Defendant for the purchase of this vehicle, she has lost the money he has paid to the Defendant to finance the purchase of this vehicle, the vehicle has depreciated in value, she has incurred additional expenses in maintaining and repairing this vehicle, and she has suffered embarrassment, humiliation, aggravation and inconvenience as a result of the Defendant's conduct.
37. That as a result of the said Defendants' violation of the Unfair Trade Practices Act, Plaintiff demands the rescission of the contract covering the vehicle, and she is entitled to three (3) times her actual damages, together with attorney's fees, together with the costs and disbursements of this action.

FOR A FIFTH CAUSE OF ACTION

(Constructive Fraud)

38. That the Plaintiff repeats paragraphs one (1) through thirty-seven (37) as if repeated herein verbatim; and,
39. That the Defendant's (singular and plural) agents and employees failed to disclose material facts regarding the vehicle to the Plaintiff; and,
40. That the Defendant's agents and employees made false representations of material fact to the Plaintiff; and,
41. That the Defendant's (singular and plural) agent and employee knew or should have known that the representations which were made to the Plaintiff were false; and,
42. That the Plaintiff was unaware of the falsity of the representations and at the time the representations were made, the Plaintiff was unable to discover the falsity of the representations made by the Defendant's agent and employee; and,
43. That the Plaintiff had a right to rely and did rely upon the representations made by the Defendant's agent and employee; and,

44. That the Defendant (singular and plural) failed to fulfill its obligations to the Plaintiff, and,
45. That as a result of the Defendant's constructive fraud, the Plaintiff has lost the value of the Honda Aqua Jet Ski for which she contracted, she has lost the money she has paid to the Defendant for the purchase of this vehicle, she has lost the money she has paid to the Defendant to finance the purchase of this vehicle, the vehicle has depreciated in value, she has incurred additional expenses in maintaining and repairing this vehicle, and she has suffered embarrassment, humiliation, aggravation and inconvenience as a result of the Defendants' conduct.
46. That as a result of the Defendant's constructive fraud, the Plaintiff demands that the Defendant accept the return of the subject vehicle, pays off the outstanding loan on the vehicle, and reimburse her for her actual damages, together with punitive damages, together with prejudgment interest, together with the costs and disbursements of this action; and,

FOR A SIXTH CAUSE OF ACTION

(FRAUD)

47. That the Plaintiff repeats paragraphs one (1) through forty-six (46) as if repeated herein verbatim; and,
48. That the Defendants' agent and employee intended that the Plaintiff relies upon its misrepresentations of material fact concerning the condition of the vehicle; and,
49. That as a result of the Defendants' fraud, the Plaintiff has lost the value of the Honda Aqua Jet Ski for which she contracted, she has lost the money she has paid to the Defendant(s) for the purchase of this vehicle, she has lost the money she has paid to the Defendant(s) to finance the purchase of this vehicle, the vehicle has depreciated in value, she has incurred additional expenses in maintaining and repairing this vehicle, and she has suffered embarrassment, humiliation, aggravation and inconvenience as a result of the Defendants' conduct; and,
50. That as a result of the Defendants' fraud, the Plaintiff demands actual damages, together with punitive damages, together with prejudgment interest, together with the costs and disbursements of this action; and,

STATE OF SOUTH CAROLINA

COUNTY OF BERKELEY

RITA BROOKS

Plaintiff,

vs.

VELOCITY POWERSPORTS, LLC,
AMERICAN HONDA FINANCE
CORPORATION and AMERICAN
HONDA MOTOR CO., Inc.

Defendants

) IN THE COURT OF COMMON PLEAS
) FOR THE NINTH JUDICIAL CIRCUIT
) CASE NO - 2012-CP-08-2981

VERIFICATION

FILED
OCT 15 PM 3:55
CLERK OF COURT
BERKELEY COUNTY, SC

I, **RITA BROOKS**, appearing first before the Notary Public, state that I am the Plaintiff in this matter. I have read the attached Complaint and know or believe the contents and allegations are true to the best of my knowledge, except for those matters stated which are alleged on information and belief.

Rita Brooks

RITA BROOKS

SWORN to before me this

8th

day of October, 2012.

Isabel M. Odeh

Notary Public for South Carolina

My Commission expires: 5/10/16

) IN THE COURT OF COMMON PLEAS
) FOR THE NINTH JUDICIAL CIRCUIT
) CASE NO. - 2012-CP-08-2981

FOR THE NINTH JUDICIAL CIRCUIT

CASE NO.- 2012-CP-08-2981

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A MARY LEIGH ARNOLD P.A.

Attorney and Counselor at Law

749 Johnnie Dodds Blvd
Suite B
Mount Pleasant, South Carolina
29464

T 843 971 6053

F 843 971 6055

Sammie@maryarnoldlaw.com

November 23, 2012

Berkeley County Common Pleas
The Honorable Mary P. Brown
300 California Avenue
Moncks Corner, South Carolina 29461

Re: Brooks vs. Velocity Powersports, LLC et. al.
Civil Action No. 2012-CP-08-2981

Dear Ms. Brown:

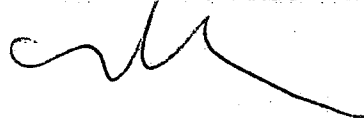
Enclosed find the original Answer of Defendant Velocity Powersports, LLC in the above referenced matter.

Thank you in advance for your assistance with this matter.

With kind regards, I am

Very truly yours,

MARY LEIGH ARNOLD, P.A.



Mary Leigh Arnold

enclosures

cc: Velocity Powersports LLC
Edward Dennis, Esq.

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
COUNTY OF BERKELEY) CIVIL ACTION NUMBER 2012-CP-08-2981

RITA BROOKS

Plaintiff,

vs.

VELOCITY POWERSPORTS, LLC
AMERICAN HONDA FINANCE
CORPORATION and AMERICAN
HONDA MOTOR CO., INC.,

Defendants.

ANSWER and COUNTERCLAIM

JURY TRIAL DEMANDED

TO: EDWARD J. DENNIS, IV, ATTORNEY FOR PLAINTIFF:

The Defendant, VELOCITY POWERSPORTS, LLC hereby answers the Complaint of Plaintiff, RITA BROOKS (hereinafter "Plaintiff") and asserts Counter Claims as follows:

FIRST DEFENSE

1. Defendant denies each and every allegation of the Complaint of the Plaintiff that is not specifically admitted, denied or otherwise explained herein.
2. Defendant admits the allegations of Paragraphs 1 and 2.
3. Defendant lacks knowledge and information sufficient to form an opinion or belief as to the allegations of Paragraphs 3 and 4 and therefore denies the same and demand strict proof thereof.
4. Defendant admits the allegations of Paragraph 5.
5. Defendant lacks knowledge and information sufficient to form an opinion or belief as to the allegations of Paragraphs 6 and 7 and therefore denies the same and demand strict proof thereof.

6. Defendant admits the allegations of Paragraph 8.

7. Defendant admits so much of the allegations of Paragraph 9 as alleges the subject vehicle was presented to Defendant for inspection and work. Defendant denies the remaining allegations of said Paragraph and demands strict proof thereof.

8. Defendant denies the allegations of Paragraphs 10 and 11 and demands strict proof thereof.

9. The allegations of Paragraphs 12 and 13 constitute legal conclusions which this Defendant is required neither to admit nor deny.

10. In response to the allegations of Paragraph 14 Defendant repeats each and every allegation contained herein.

11. Defendant denies the allegations of Paragraphs 15, 16, and 17 and demands strict proof thereof.

12. The allegations of Paragraph 18 constitute legal conclusions which this Defendant is required neither to admit nor deny. In the event such allegations do not constitute legal conclusions Defendant denies the same and demands strict proof thereof.

13. In response to the allegations of Paragraph 19 Defendant repeats each and every allegation contained herein.

14. Defendant denies the allegations of Paragraphs 20, 21, 22, and 23 and demands strict proof thereof.

15. The allegations of Paragraphs 24, 25 and 26 constitute legal conclusions which this Defendant is required neither to admit nor deny. In the event such allegations do not constitute legal conclusions Defendant denies the same and demands strict proof thereof.

16. In response to the allegations of Paragraph 27 Defendant repeats each and every

allegation contained herein.

17. Defendant denies the allegations of Paragraphs 28, 29, and 30 and demands strict proof thereof.

18. The allegations of Paragraph 31 constitute legal conclusions which this Defendant is required neither to admit nor deny. In the event such allegations do not constitute legal conclusions Defendant denies the same and demands strict proof thereof.

19. In response to the allegations of Paragraph 32 Defendant repeats each and every allegation contained herein.

20. Defendant denies the allegations of Paragraphs 33, 34, 35 and 36 and demands strict proof thereof.

21. The allegations of Paragraphs 37 constitute legal conclusions which this Defendant is required neither to admit nor deny. In the event such allegations do not constitute legal conclusions Defendant denies the same and demands strict proof thereof.

22. In response to the allegations of Paragraph 38 Defendant repeats each and every allegation contained herein.

23. Defendant denies the allegations of Paragraphs 39, 40, 41, 42, 43, 44, and 45 and demands strict proof thereof.

24. The allegations of Paragraph 46 constitute legal conclusions which this Defendant is required neither to admit nor deny. In the event such allegations do not constitute legal conclusions Defendant denies the same and demands strict proof thereof.

25. In response to the allegations of Paragraph 47 Defendant repeats each and every allegation contained herein.

26. Defendant denies the allegations of Paragraphs 48 and 49 and demands strict

proof thereof.

27. The allegations of Paragraph 50 constitute legal conclusions which this Defendant is required neither to admit nor deny. In the event such allegations do not constitute legal conclusions Defendant denies the same and demands strict proof thereof.

**FOR AND AS A FIRST DEFENSE
(Failure to State Claim)**

28. Further answering said Complaint and for a further defense thereto Defendant alleges that Plaintiff's Complaint fails to set forth a sufficient cause of action.

**FOR AND AS A SECOND DEFENSE
(Waiver)**

29. Further answering said Complaint and for a further defense thereto Defendant alleges that Plaintiff's Complaint is barred by the doctrines of waiver and estoppel.

**FOR AND AS A THIRD DEFENSE
(Breach of Contract)**

30. Further answering said Complaint and for a further defense thereto Defendant alleges that Plaintiff breached the terms of the subject contract and/or service terms and therefore is barred from bringing the within action.

**FOR AND AS A FOURTH DEFENSE
(Statute of Limitations)**

31. Further answering said Complaint and for a further defense thereto Defendant alleges that the within claims is barred by the applicable statute of limitations and/or the claimed warranty, if any, has expired.

**FOR AND AS A FIFTH DEFENSE
(Lack of Warranty)**

32. Further answering said Complaint and for a further defense thereto Defendant

alleges that the with claims are barred due to the lack of any alleged warranty from Defendant.

FOR AND AS A SIXTH DEFENSE

(Failure to Maintain)

33. Further answering said Complaint and for a further defense thereto Defendant alleges that the with claims are barred due to the Plaintiff's failure to properly maintain the vehicle/product, misuse of the vehicle.

FOR AND AS A SEVENTH DEFENSE

(Disclaimer)

34. Further answering said Complaint and for a further defense thereto Defendant alleges that the with claims are barred due to principle of disclaimer.

FOR AND AS A EIGHTH DEFENSE

(Affirmative Defenses)

35. Further answering said Complaint and for a further defense thereto Defendant specifically pleads as an affirmative defense to the allegations of the Complaint, accord and satisfaction, comparative negligence, duress, fraud, illegality, laches, statute of limitations; laches, misrepresentation, mistake, payment, release, waiver, standing, lack of consideration or any other matter constituting avoidance or affirmative defense which may arise and develop as discovery in this progresses.

FOR AND AS A NINTH DEFENSE

(Reservation and Non-Waiver)

36. Defendant reserves and does not waive any additional or further defenses as may be revealed by additional information that may be acquired in discovery.

FOR AND AS A TENTH DEFENSE AND BY WAY OF COUNTERCLAIM

(Breach of Contract and Good Faith and Fair Dealing)

37. All prior allegations not inconsistent with this cause of action are realleged and incorporated by reference herein.

38. Plaintiff presented the subject vehicle to Defendant and requested that Defendant perform services and repairs on the subject vehicle.

39. Defendant performed the services as requested by Plaintiff. Defendant further conducted an inspection on the vehicle.

40. Defendant expended time and costs performing the services requested by Plaintiff.

41. Defendant has made demand upon Plaintiff for the time and costs expended at Plaintiff's request.

42. Plaintiff has failed and refused to pay for the services rendered.

43. Plaintiff has abandon the vehicle and left said vehicle in Defendant's possession incurring storage costs.

44. Plaintiff has failed and refused to pay for storage costs.

45. Every contract has an implied duty of good faith and fair dealing.

46. Plaintiff breached her agreement and duty of good faith and fair dealing with Defendant by the following but not limited to the following: failing to pay for services rendered; failing to pay for expenses incurred; failing and refusing to pay for storage costs and fees.

47. As a result of the breach of Plaintiff, Defendant has suffered damages including, but not limited to, actual, consequential, incidental, expectation, and special damages against Plaintiff in the appropriate amount, costs, and such other and further relief as the court deems just and proper.

FOR AND AS ELEVENTH DEFENSE AND BY WAY OF COUNTERCLAIM

(Unjust Enrichment)

48. All prior allegations not inconsistent with this cause of action are realleged and incorporated by reference herein.

49. Plaintiff has been unjustly enriched at the expense of and to the detriment of Defendant by failing to act in good faith and failing to pay for services rendered.

50. Defendant is informed and believes it is entitled to recover from the Plaintiff all benefits and monies improperly withheld and received, any benefits received from the Plaintiff for its breach and inappropriate application of a modification program.

**FOR AND AS TWELTH DEFENSE AND BY WAY OF COUNTERCLAIM
(Storage Costs)**

51. All prior allegations not inconsistent with this cause of action are realleged and incorporated by reference herein.

52. Pursuant to S.C. Code Ann. 29-15-10 et. seq. Defendant is entitled to recover for storage fees incurred as a result of Plaintiff leaving the subject vehicle after repairs have been completed.

53. Defendant is entitled to sale the subject vehicle and apply proceeds of the sale to amounts due and owing.

54. Defendant is entitled to recover against Plaintiff all statutory damages, and attorneys fees and costs.

PRAYER FOR RELIEF

WHEREFORE. having fully answered the Complaint, Defendant Velocity demands that

same be dismissed and that it be permitted to recover all statutory, actual, special, incidental, treble and exemplary damages against Plaintiff, as may be determined by the trier of fact, and that she recover her costs herein.

JURY TRIAL DEMANDED



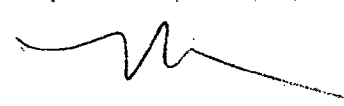
MARY LEIGH ARNOLD, PA
749 Johnnie Dodds Blvd, Suite B
Mount Pleasant, SC 29465
Phone: 843-971-6053

Mount Pleasant, SC
November 23, 2012

CERTIFICATE OF MAILING

The undersigned, Attorney for Defendant Velocity, hereby certifies that on **November 23, 2012**, a copy of the attached Answer was placed in an envelope, with first-class postage prepaid, and mailed to:

Edward Dennis
112 SToney Avenue
Moncks Corner, SC 20461



STATE OF SOUTH CAROLINA

COUNTY OF BERKELEY

RITA BROOKS

Plaintiff,

vs.

VELOCITY POWERSPORTS, LLC,
AMERICAN HONDA FINANCE
CORPORATION and AMERICAN
HONDA MOTOR CO., Inc.

Defendants

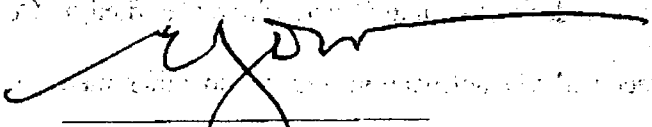
) IN THE COURT OF COMMON PLEAS
) FOR THE NINTH JUDICIAL CIRCUIT
) CASE NO.- 2012-CP-08-2981

) **REPLY TO DEFENDANT'S**
) **VELOCITY POWERSPORTS, LLC**
) **ANSWER AND COUNTERCLAIM**

Plaintiff, replying to the Answer and Counterclaim of the Defendant alleges and would show unto this Honorable Court as follows:

1. She denies the allegations set forth in paragraphs thirty-nine (39) through fifty-four (54); and,
2. She reiterates the allegations set forth in her complaint and the relief stated therein; and,

Wherefore, Plaintiff having fully replied to Defendant's Answer and Counterclaim prays for dismissal of the Defendant's Counterclaim(s) and for relief consistent with her Complaint.


Edward J. Dennis IV
Attorney at Law

112 Stoney Avenue

Moncks Corner, South Carolina 29461

phone: 843/761-5212 fax 843/761-5214

Dated: January 8, 2016
Moncks Corner, SC

16 JAN -8 PM 2:03
COURT
CLERK
COUNTY, S.C.

STATE OF SOUTH CAROLINA)
) IN THE COURT OF COMMON PLEAS
 COUNTY OF BERKELY) NINTH JUDICIAL CIRCUIT

RITA BROOKS,) Civil Action No. 2012-CP-08-2981

Plaintiff,)

vs.)

MOTION TO RECONSIDER

VELOCITY POWERSPORTS LLC,)
 AMERICAN HONDA FINANCE)
 CORPORATION AND AMERICAN)
 HONDA MOTOR COM., INC.)

Defendants.)

PLEASE TAKE NOTICE that the Defendant, Velocity Powersports LLC (hereinafter "Defendant" or "Velocity"), by and through its undersigned attorney, move before the Honorable Dale E. Van Slambrook, Master In Equity for Berkeley County, at Chambers, Berkeley County Courthouse, Moncks Corner, South Carolina, at such place and time as the court may appoint to reconsider that certain Order, which was filed on October 8, 2018 (hereinafter "the Order"), and received via notification and by no other means on October 8, 2018. Defendants make the motion pursuant all applicable Rules of Civil Procedures including but not limited to Rules, 11, 52, 56, 59, and 60. The basis for said motion is as follows:

1. The Court erred in determining the Plaintiff established a claim under her fourth cause of action for unfair trade practices.
2. The Court erred by failing to follow the law as proscribed by the South Caroline Unfair Trade Practices Act, S.C. Code Ann. §39-5-20 et. seq. A plaintiff must prove the

following elements to recover on an unfair trade practices claim: "(1) the defendant engaged in an unfair or deceptive act in the conduct of trade or commerce; (2) the unfair or deceptive act affected [the] public interest; and (3) the plaintiff suffered monetary or property loss as a result of the defendant's unfair or deceptive act(s)." *Health Promotion Specialists, LLC v. S.C. Bd. of Dentistry*, 403 S.C. 623, 638, 743 S.E.2d 808, 816 (2013). The Plaintiff did not meet its burden.

3. The Court erred by determining an unfair practice had occurred because an alleged breach of contract does not constitute an unfair trade practice. *See Key Company, Inc. vs. Fameco Distributors, Inc.* 292 S.C. 524, 357 S.E.2d 476 (Ct. App. 1987).

4. The Court erred by determining it was unfair to require a customer to pay for services before releasing a vehicle that work had been performed upon. "An act is 'unfair' when it is offensive to public policy or when it is immoral, unethical, or oppressive; a practice is 'deceptive' when it has a tendency to deceive." *Johnson v. Collins Entm't Co.*, 349 S.C. 613, 636, 564 S.E. 2d 653, 665 (2002); *see also deBondt v. Carlton Motorcars, Inc.*, 342 S.C. 254, 269, 536 S.E.2d 399, 407 (Ct.App.2000) (stating "[a]n unfair trade practice has been defined as a practice which is offensive to public policy or which is immoral, unethical, or oppressive" and "[a] deceptive practice is one which has a tendency to deceive"). There is nothing unfair or deceptive and in fact it is counter intuitive to take the position it is unfair to require a customer to pay for services agreed upon and rendered. The public expects it will have to pay for services rendered. It simply cannot be an unfair or deceptive act under S.C. Code §39-5-20 to require a customer to pay for services and repairs it agreed to pay before releasing the vehicle worked upon.

5. The Court erred by determining Defendant committed an unfair trade practice after affirmatively finding the Plaintiff refused to pay for services rendered for "summarization"

or "tune-up." It is inconsistent to find the admitted refusal to pay by one constitutes an unfair trade practice by another to request payment for services.

6. The Court erred by determining the alleged unfair trade practices had an impact upon the public interest.

7. The Court erred by determining Plaintiff suffered actual damages. S.C. Code Ann §39-5-140 allows for the recovery of actual damages by one who suffers and ascertainable loss of money or property, real or personal, as a result of an unfair or deceptive method. Any loss of use was caused by Plaintiff's failure to pay for services and retrieve her vehicle. Plaintiff cannot be the cause of the loss by breaching the terms of service then seek to recover for the same.

"Actual damages under UTPA include special or consequential damages that are the natural and proximate result of the deceptive conduct." *See Global Prot. Corp. v. Halbersberg*, 332 SC. 149, 159, 503 S.E. 2d 483, 488 (Ct. App. 1998). Any loss of use occurred because Plaintiff refused and failed to pay her outstanding bill for services rendered after demand for payment was made. Any loss of use occurred after Plaintiff refused and failed to retrieve her vehicle before storage fees started to accrue after written notice. No damages were suffered because of the natural or proximate result of conduct by Defendant.

8. The Court erred by determining Plaintiff's independent obligation to pay under her purchase finance agreement equated to the value of loss of use.

9. The Court erred by determining Defendant refused to release the vehicle without payment of the storage fees when it recognized the letter of May 22, 2015 provided Plaintiff with notice of the intent to charge storage fees if Plaintiff did not retrieve the vehicle and pay her outstanding bill. These findings are inconsistent.

10. The Court erred in determining a willful violation occurred.

11. The Court erred by determining Defendant was not entitled to storage fees pursuant to its counterclaim.

12. The Court erred by failing to consider the Service Agreement signed by Plaintiff obligated her to pay for storage fees and award Defendant the storage fees that under its theory of breach of contract.

13. The Court erred by failing to grant Defendant judgment on its cause of action for breach of contract and unjust enrichment in contradiction to its finding Plaintiff intentionally failed to pay for services rendered.

14. The Court erred by failing to consider the Plaintiffs undisputed testimony that Defendant gave her the opportunity to retrieve her property prior to the imposition of storage fees.

15. The Court erred by determining all claims for storage were forfeited under S.C. Code Ann. §56-19-840, by virtue of Plaintiff failing to assert such as an affirmative defense.

The Court erred in making findings of fact and conclusions of law. It is requested that the Court vacate its prior order and enter judgment in favor of the Defendant.

RESPECTFULLY SUBMITTED,

MARY LEIGH ARNOLD, PA

s/Mary Leigh Arnold

Mary Leigh Arnold

749 Johnnie Dodds Blvd., Suite B

Mt. Pleasant, SC 29464

Phone: 843-971-6053

Facsimile: 843-971-6055

October 17, 2018
Mt. Pleasant, SC

STATE OF SOUTH CAROLINA

COUNTY OF BERKELEY

RITA BROOKS

Plaintiff,

vs.

VELOCITY POWERSPORTS, LLC,
AMERICAN HONDA FINANCE
CORPORATION and AMERICAN
HONDA MOTOR CO., Inc.

Defendants

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT
CASE NO.- 2012-CP-08-2981

**RETURN TO DEFENDANT'S MOTION
FOR RECONSIDERATION and
PLAINTIFF'S MOTION FOR
HEARING/DETERMINATION OF
ATTORNEY FEES**

TO: The Defendant, Velocity Powersports, LLC and their Attorney of Record, Mary L. Arnold and The Honorable Dale E. VanSlambrook, Master In Equity:

Plaintiff makes return to the Defendant's (Velocity Powersports, LLC) Motion to Reconsider as follows:

1. Defendant's assignment of error to the Court is without merit. It is an attempt to relitigate the case by ignoring facts addressed at trial and mistaking or misapplying the law; and,
2. This Court's decision is supported in part by Daisy Outdoor Advertising, 317 S.C. at ____ 451 S.E. 2d at 39, wherein that Court stated, "we conclude that based upon the evidence presented, the trial judge reasonably could find Daisy's actions had the potential for repetition and, therefore, adversely affected the public interest."; and,
3. Here, like the Daisy case, the trial record supports that Velocity willfully engaged in an unfair trade practice, capable of repetition which adversely affects the public interest. Velocity willfully charged the Plaintiff for storage fees and refused to release the watercraft without payment of the storage fees. Plaintiff did not agree to pay storage fees and it is undisputed that the repairs were never completed by Velocity. Moreover, the Court concluded that Velocity failed to report the watercraft as unclaimed thereby forfeiting any claim or lien as a matter of law which the Court should not ignore irrespective of whether was South Carolina Code of Law §56-19-840 was affirmatively plead or not; and,

4. Lastly, Defendant, Velocity, assigns error to this Court in determining that Plaintiff's actual damages equated to the amount of money Plaintiff was paying monthly under her finance agreement. Plaintiff testified that she believed that such amount was fair in valuing her loss of use. Plaintiff's testimony was undisputed at trial; therefore, this Court found and finds that such amount was uncontroverted in the record of trial.

WHEREFORE, Plaintiff prays judgment of this Court in accord with it's prior Order dated October 8, 2018 and for scheduling of a hearing by the Court ten (10) days hence for determination of the award to the Plaintiff for attorney fees and costs in this case.

/s/ Edward J. Dennis, IV

DENNIS LAW FIRM, L.L.C.
Edward J. Dennis, IV
Attorney at Law
112 Stoney Avenue
Moncks Corner, SC 29461
843/761-5212
Fax: 843/761-5214

Dated: November 11, 2018
Moncks Corner, SC

STATE OF SOUTH CAROLINA

COUNTY OF BERKELEY

RITA BROOKS

Plaintiff,

vs.

VELOCITY POWERSPORTS, LLC,
AMERICAN HONDA FINANCE
CORPORATION and AMERICAN
HONDA MOTOR CO., Inc.

Defendants

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT
CASE NO.- 2012-CP-08-2981

AFFIDAVIT OF
ATTORNEY FEES

PERSONALLY appeared before me, Edward J. Dennis, IV, the affiant, who, being first duly sworn, swears or affirms that he/she knows the following facts to be true of his/her own knowledge, except as to those matters stated upon information and belief, which he/she believes to be true:

That the attached Affidavit and documents fairly and accurately detail the agreement(s) between counsel and the Plaintiff for attorney fee compensation in the subject case. Moreover, affiant says as follows:

1. That he/Dennis Law Firm, LLC is the Attorney for the Plaintiff in the above referenced matter; and,
2. That he was admitted to the South Carolina Bar in 1977, and since that time, has been engaged in private practice, and is currently practicing in Moncks Corner, South Carolina; and,
3. That he is and/or has been an active member of the South Carolina Bar, American Bar Association, Association of Trial Lawyers of America and South Carolina Trial Lawyer's Association; and,
4. That he is actively engaged in trial practice in the Courts of the State; and,
5. That he incorporates herein Rule 32. Rules of Practice of the South Carolina Supreme Court which contains the Canons of Professional Ethics and further call the attention of the Court to the handlings in Nienow vs. Nienow, 268 S. C. 161, 232 S. E. 2nd, 504 (1977) and Atkinson vs. Atkinson, 279 S. C. 255 S. E. 2nd 14 (S.C. App., 1983) concerning the factors and criteria which should be considered in the setting of attorney fees. He relies upon the discretion of this Court in the determination of the amount of fees, based, among other things, upon the

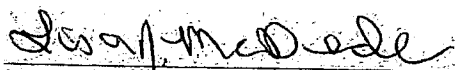
Court's file, the Court's knowledge of the litigation between these parties, which reflects the difficulty of the services rendered, the time necessarily expended, the result accomplished, the professional standing of counsel, and fees customarily charged in this area for similar legal services; and,

6. That based on the time necessarily devoted to this case and criteria which have been held relevant in the getting of attorney fees, costs, the undersigned, on behalf of his client, requests that this Court review the file herein, together with this Affidavit, and grant judgment in favor of the undersigned or his client against the adverse party in a sum which may be determined by the Court to be reasonable attorney fees, costs, and suit money, and that Respondent may be required to pay the same within a reasonable time as may be determined by this Court.

FURTHER AFFIANT SAYETH NOT!

s/ Edward J. Dennis, IV
DENNIS LAW FIRM, L.L.C.
Edward J. Dennis, IV
Attorney at Law
112 Stoney Avenue
Moncks Corner, SC 29461
843/761-5212
Fax: 843/761-5214

SWORN TO before me this
29th Day of November, 2018



Notary Public for South Carolina
My Commission Expires: 7/26/26

STATE OF SOUTH CAROLINA

COUNTY OF BERKELEY

RITA BROOKS

Plaintiff,

vs.

**VELOCITY POWERSPORTS, LLC,
AMERICAN HONDA FINANCE
CORPORATION and AMERICAN
HONDA MOTOR CO., Inc.**

Defendants

**IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT
CASE NO.- 2012-CP-08-2981**

**AFFIDAVIT OF
LISA J. McDEDE**

PERSONALLY appeared before me, Lisa J. McDede, the affiant, who, being first duly sworn, swears or affirms that he/she knows the following facts to be true of his/her own knowledge, except as to those matters stated upon information and belief, which he/she believes to be true.

1. Per the attached statement, the Dennis Law Firm, LLC has received \$1,900.00 as and for payments made by Rita M. Brooks; and,
2. Per the attached statement, The Dennis Law Firm, LLC has spent \$996.66 in costs associated with this action; and,
3. The time documented to prosecute a Motion to Compel Discovery in this matter is \$1,561.46, per the attached Affidavit of Attorney Fees; and,
4. The time documented to defend against the Motion for Summary Judgment in this matter is \$1,650.00; per the attached Affidavit of Attorney Fees; and,
5. The total for the foregoing is:

\$1,900.00

\$ 996.66

\$1,561.46

\$1,650.00

\$6,108.12

FURTHER AFFLIANT SAYETH NOT!

Lisa J. McDede
Lisa J. McDede

SWORN TO AND SUBSCRIBED

before me this 27th day of August, 2018.

Notary Public of South Carolina My Commission Expires: 5/15/28

Books & Bills
Dennis Law Firm, L.L.C.
Edward J. Dennis, IV
Attorney at Law

Date	Expense	Escrow	Costs
5/21/12	deposit to operating	\$375.00	
7/16/12	Deposit to Escrow	\$900.00	
10/11/12	#1254 Filing Fee Berkeley County		\$150.00
10/30/12	56 copies and postage to mail 5 packages to client		
	Defendants and Ms. Arnold		\$25.65
12/16/13	Cash to operating for mediation	\$500.00	
7/8/15	#3359 Berkeley County continuance		\$25.00
7/28/15	#1390 John West mediation fees		\$500.00
2/11/16	12 copies and postage		\$5.12
3/2/16	16 copies for mailing & postage		\$1.87
10/11/16	32 copies for filing		\$11.20
	#3696 operating for filing fees		\$25.00
	#3704 operating for filing fees		\$25.00
10/20/16	8 copies & postage		\$3.27
5/11/17	#4022 Berk Co filing fee - operating		\$25.00
	121 copies of discovery		\$42.35
	#4024 - mailing discovery		\$7.20
2/26/18	#4109 Berk Co. Filing fee order - operating acct		\$25.00
6/4/18	#2059 for filing fees dep turst	\$125.00	
6/13/18	#1605 Master In Equity filing fees		\$125.00
		\$1,900.00	\$996.66

STATE OF SOUTH CAROLINA

COUNTY OF BERKELEY

RITA BROOKS

Plaintiff,

vs.

VELOCITY POWERSPORTS, LLC,
AMERICAN HONDA FINANCE
CORPORATION and AMERICAN
HONDA MOTOR CO., Inc.

Defendants.

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT
CASE NO.- 2012-CP-08-2981AFFIDAVIT OF
ATTORNEY FEES

PERSONALLY appeared before me, Dennis Law Firm, LLC, and EDWARD J. DENNIS, IV, whom, first being duly sworn, deposes and says as follows:

1. That he is the Attorney for the Plaintiff, Rita Brooks, in the above referenced matter.
2. That he was admitted to the South Carolina Bar in 1977, and since that time, has been engaged in private practice, and is currently practicing in Moncks Corner, South Carolina.
3. That he is and/or has been an active member of the South Carolina Bar, American Bar Association, Association of Trial Lawyers of America and South Carolina Trial Lawyer's Association.
4. That he actively engaged in trial practice.
5. That at the time of the Plaintiff's initial conference with the undersigned, or soon thereafter, the Plaintiff was advised the undersigned charged at a rate of Two Hundred (\$250.00) Dollars per hour for attorney hours, in or out of the office and Seventy-Five (\$75.00) Dollars per hour for paralegal charges as provided in the fee agreement signed by the Plaintiff.
6. That the undersigned, in accordance with his time and expense records, states to the Court that the attached itemization of attorney fees and costs is true at a total amount of:

Attorney Fees To Date:

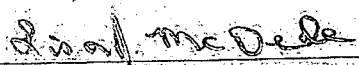
\$1,561.46

7. That the above time and expenditures have been computed as of January 3, 2017, and do not include services rendered subsequent to that date, and does not contemplate a factor for results obtained.
8. That based on the time necessarily devoted to this case and criteria which have been held relevant in the getting of attorney fees, costs, the undersigned, on behalf of his client, requests that this Court review the file herein, together with this Affidavit, and grant judgment in favor of the undersigned or his client against the adverse party in a sum which may be determined by the Court to be reasonable attorney fees, costs, and suit money, and that Respondent may be required to pay the same within a reasonable time as may be determined by this Court.

FURTHER AFFIANT SAYETH NOT!


DENNIS LAW FIRM, L.L.C.
Edward J. Dennis, IV
Attorney at Law
112 Stoney Avenue
Moncks Corner, SC 29461
843/761-5212
Fax: 843/761-5214

SWORN TO before me this
3rd Day of January, 2017


Notary Public for South Carolina
My Commission Expires: 7/26/26

Books L.R. Billing
Dennis Law Firm, L.L.C.
Edward J. Dennis, IV
Attorney at Law

Date	Expense	Worker	Time	Amount	Escrow	Costs
	Admin fee to establish file			\$75.00		
2/11/16	draft discovery to Sammie Arnold	EJD	1	\$250.00		
	edit discovery and send to Sammie	LJM	0.4	\$30.00		
	12 copies and postage					\$5.12
3/2/16	Draft notice of taking deposition	EJD	0.2	\$50.00		
	coordinate time for depo, Aff of mailing & Transmittal	LJM	0.4	\$30.00		
	16 copies for mailing & postage					\$1.87
3/24/16	email to Sammie re discovery responses	LJM	0.2	\$15.00		
7/5/16	email to Sammie re discovery responses	LJM	0.2	\$15.00		
10/11/16	draft Motion to Compel	EJD	0.5	\$125.00		
	edit motion and prepare for filing	LJM	0.3	\$22.50		
	draft Affidavit for Mtn to compel	LJM	0.3	\$22.50		
	32 copies for filing					\$11.20
	#3696 operating for filing fees					\$25.00
	#3704 operating for filing fees					\$25.00
10/20/16	Mail Mtn to Compel to Sammie	LJM	0.2	\$15.00		
	8 copies & postage					\$3.27
12/5/16	Review discovery documents from Sammie	EJD	1	\$250.00		
	emails/PC to/from court & counsel re continuance	EJD	0.2	\$50.00		
		LJM	0.2	\$15.00		
1/3/17	Affidavit of attorney fees for Mtn to Compel	EJD	0.1	\$25.00		
1/4/17	attend hearing	EJD	1	\$250.00		
estimate	draft order	EJD	1	\$250.00		
				\$1,490.00	\$0.00	\$71.46
	total					\$1,561.46

STATE OF SOUTH CAROLINA

COUNTY OF BERKELEY

RITA BROOKS

Plaintiff,

vs.

VELOCITY POWERSPORTS, LLC,
AMERICAN HONDA FINANCE
CORPORATION and AMERICAN
HONDA MOTOR CO., Inc.

Defendants

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT
CASE NO. - 2012-CP-08-2981

AFFIDAVIT OF
ATTORNEY FEES

BERKELEY COUNTY, S.C.

16 NOV - 8 PM 2:04

PERSONALLY appeared before me, Dennis, Law Firm, LLC, and EDWARD J. DENNIS, IV, whom, first being duly sworn, deposes and says as follows:

1. That he is the Attorney for the Petitioner in the above referenced matter.
2. That he was admitted to the South Carolina Bar in 1977, and since that time, has been engaged in private practice, and is currently practicing in Moncks Corner, South Carolina.
3. That he is and/or has been an active member of the South Carolina Bar, American Bar Association, Association of Trial Lawyers of America and South Carolina Trial Lawyer's Association.
4. That he actively engaged in trial practice with seventy (70%) percent of his practice being in the Family Courts.
5. That he incorporates herein Rule 32, Rules of Practice of the South Carolina Supreme Court which contains the Canons of Professional Ethics and further call the attention of the Court to the handlings in Nienow vs. Nienow, 268 S. C. 161, 232 S. E. 2nd, 504 (1977) and Atkinson vs. Atkinson, 279 S. C. 255 S. E. 2nd 14 (S.C. App., 1983) concerning the factors and criteria which should be considered in the setting of attorney fees. He relies upon the discretion of this Court in the determination of the amount of fees, based, among other things, upon the Court's file, the Court's knowledge of the litigation between these parties, which reflects the difficulty of the services rendered, the time necessarily expended, the result accomplished, the fact that there is not contingency of compensation in a domestic relations case, the professional standing of counsel, and fees customarily charged in this area for similar legal services.
6. That at the time of the Petitioner's initial conference with the undersigned, or soon thereafter, the Petitioner was advised the undersigned charged at a rate of Two

Hundred (\$750.00) Dollars per hour for attorney hours, in or out of the office and Seventy-Five (\$75.00) Dollars per hour for paralegal charges as provided in the fee agreement signed by the Petitioner. Additional fee consideration includes fees for the handling of collateral or ancillary law suits, and reimbursement of fees collected pursuant to agreement, or Court Order.

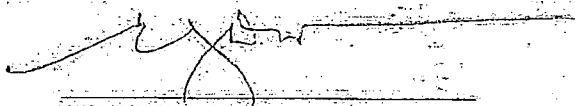
7. That the undersigned, in accordance with his time and expense records, states to the Court that the attached itemization of attorney fees and costs is true at a total amount of:

Attorney Fees To Date: \$1,650.00

8. That the above time and expenditures have been computed as of January 8, 2016, and do not include services rendered subsequent to that date, and does not contemplate a factor for results obtained.

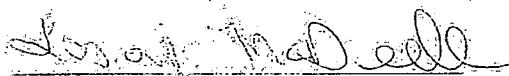
9. That based on the time necessarily devoted to this case and criteria which have been held relevant in the getting of attorney fees, costs, the undersigned, on behalf of his client, requests that this Court review the file herein, together with this Affidavit, and grant judgment in favor of the undersigned or his client against the adverse party in a sum which may be determined by the Court to be reasonable attorney fees, costs, and suit money, and that Respondent may be required to pay the same within a reasonable time as may be determined by this Court.

FURTHER AFFIANT SAYETH NOT!



DENNIS LAW FIRM, L.L.C.
Edward J. Dennis, IV
Attorney at Law
112 Stoney Avenue
Moncks Corner, SC 29461
843/761-5212
Fax: 843/761-5214

SWORN TO before me this
8th Day of January, 2016



Notary Public for South Carolina
My Commission Expires: 8/16/16

STATE OF SOUTH CAROLINA

COUNTY OF BERKELEY

RITA BROOKS

Plaintiff,

VS.

VELOCITY POWERSPORTS, LLC,
AMERICAN HONDA FINANCE
CORPORATION and AMERICAN
HONDA MOTOR CO., Inc.

Defendants

) IN THE COURT OF COMMON PLEAS
) FOR THE NINTH JUDICIAL CIRCUIT
) CASE NO. 2012-CP-08-2981

ITEMIZED STATEMENT OF TIME
AND CHARGES ON MOTION FOR
SUMMARY JUDGMENT BY
VELOCITY POWERSPORTS, LLC

1. Prepare and draft Return to Defendant, Velocity Powersports, LLC Motion for Summary Judgment - 3 hours = \$750
2. Travel and appear at hearing - 3 hours = \$500
3. Review and draft a(ny) Court Order - 1 hour = \$250
4. Paralegal time - 2 hours @ \$75 = \$150

Total = \$1,650

Edward J. Dennis, IV
Attorney at Law
112 Stoney Avenue
Moncks Corner, South Carolina 29461
phone: 843/761-5212 fax 843/761-5214

Dated: January 8, 2016
Moncks Corner, SC

BENTLEY & COMPANY, S.O.

100

Dennis Law Firm, LLC

Edward J. Dennis, IV
Attorney and Counselor at Law
112 Stoney Avenue
Moncks Corner, SC 29461
(843) 761-5212 (843) 761-5214/fax
ejdiv@homesc.com

May 21, 2012

PERSONAL AND CONFIDENTIAL

Mrs. Rita Brooks
1009 Cass Drive
Moncks Corner, SC 29461

Re: Rita Brooks vs. Velocity Powersports and Honda

Dear Ms. Brooks:

This letter conforms to our rules of professional conduct that require all fee agreements between lawyers and their clients to be in writing. This letter shall serve to confirm the fee arrangement for the handling of your case.

You have been charged a flat retainer fee of \$750.00, plus costs, against which we will bill for the above-stated cause of actions. You agree that if and when the case is resolved, any award of attorney fees will remain with the Dennis Law Firm after reimbursement to you in the amount of \$900.

Our billing rates are as follows: (i) Edward J. Dennis, IV - \$250.00 per hour; and (ii) Paralegals - \$75.00 per hour. You are also responsible for costs associated with this matter. Initially advanced costs include a fee of \$75.00 for case file administration. Completed facsimiles, long distance telephone calls will be billed at a flat rate of \$5.00 per call. Mileage and postage will be billed at prevailing rates. Photocopies will be billed at \$0.35 each. Other out of pocket expenses include filing fees and service of process fees. Should your account balance ever be more than thirty (30) days in arrears, interest at the rate of 1.5% per month shall be charged.

You understand that I may take depositions of certain witnesses. The deposition transcripts generally cost between \$250.00 and \$750.00 each, depending upon the length of the deposition and other factors. Those costs are your responsibility and are not part of our fee. You understand and agree that the costs of depositions must be paid by you directly to the court reporting company within thirty (30) days of the court reporting company's billing to me. I will not take any depositions without first receiving your authority to do so.

Please review the above paragraphs closely. If this letter accurately reflects the agreement reached by you and I, please sign the enclosed copy of this agreement as your acceptance of the terms of my employment. Thereafter, please return both pages to me in the enclosed, self-addressed.

envelope.

If you do not understand the fee arrangement or do not believe it to accurately reflect our agreement, please contact me at once. I trust, however, that you will find it appropriate.

Very truly yours,
DENNIS LAW FIRM, L.L.C.



Edward J. Dennis, IV
Attorney and Counselor at Law

EJDIV/ljm

I hereby acknowledge and accept the terms as set forth herein.

5-21-12

Date

Ms. Rita Brooks

Ms. Rita Brooks

CONTRACT FOR THE SERVICES OF
DENNIS LAW FIRM, L.L.C.

STATE OF SOUTH CAROLINA

COUNTY OF BERKELEY

This Contract is herewith made and entered into this 3rd day of October, 2012, by and between Rita Brooks (hereinafter referred to as "Client") and Dennis Law Firm, L.L.C. (hereinafter referred to as "Attorney")

Client, being advised by Attorney that she has a potential cause of action by reason of a Breach of Contract for services, which occurred on or about April 9, 2012, hereby retains and employs Attorney and they agree:

- A. To make all reasonable efforts to obtain a compromise settlement of said claim in an amount satisfactory to Client and Attorney.
- B. That upon failure to obtain such settlement, to then bring suit thereon, if appropriate, in the appropriate Court; and
- C. To do all things deemed appropriate in preparation for trial in attempting to settle or secure judgment (including appealing only if Attorney deems appropriate) on behalf of Client.

Attorney retains the right to withdraw as counsel if, after investigation, it deems there is no meritorious cause of action. In the event that Client withdraws and the case is transferred to another attorney, or if Client proceeds on his/her own, then there will be a lien on the proceeds of the case for all costs advanced and the reasonable value of legal services rendered. This Contract shall serve as an authorization of said lien.

Client initials

Attorney initials

It Is Agreed that in full compensation for its services, Attorney shall receive a contingency fee in the event of recovery based upon the total amount of recovery according to the following schedule:

- A. Upon compromise settlement prior to filing suit -- 33 1/3%;
- B. From filing of suit to judgment with no appeal -- 40%;
- C. If appealed by any party to the Supreme Court of South Carolina or any other Court of Appeals -- 50%;

D. In addition to the above, initially advanced costs include preliminary investigation fee, filing fees and an initial fee of \$75.00 for case file administration. Complete facsimiles, long distance telephone calls and mobile telephone calls will be billed at a flat rate of \$5.00 per call. Mileage and postage will be billed at prevailing rates. Photocopies will be billed at \$.35 each.

It Is Agreed that said fee compensation shall be solely for the professional services of Attorney. Without regard to the final determination of the matter, Client will pay all costs and expenses incurred on the matter.

It Is Further Agreed that no settlement shall be made without Client's consent that Attorney has the exclusive right to take all legal steps to enforce Client's claim and that Client will not settle this claim in any manner without the prior written consent of Attorney.

Client initials

Attorney initials

In Testimony Whereof, said parties have executed this Contract, having read this Contract and agreeing to its terms and conditions, and that there are no other agreements between the parties.

Isaac McDede
Witness

Rita M. Brooks
Rita Brooks

Isaac McDede
Witness

Edward J. Dennis, IV
Edward J. Dennis, IV

Date: October 3, 2012.

STATE OF SOUTH CAROLINA	)	
COUNTY OF BERKELY	)	IN THE COURT OF COMMON PLEAS
	)	NINTH JUDICIAL CIRCUIT
RITA BROOKS,	)	Civil Action No. 2012-CP-08-2981
	)	
Plaintiff,	)	
	)	
vs.	)	Opposition to Attorney Fee Motion
	)	
VELOCITY POWERSPORTS LLC,	)	
AMERICAN HONDA FINANCE	)	
CORPORATION AND AMERICAN	)	
HONDA MOTOR COM., INC.	)	
	)	
Defendants.	)	
	)	
	)	

The Defendant, Velocity Powersports LLC (hereinafter "Defendant" or "Velocity"), by and through its undersigned attorney, hereby respectfully submits this memorandum in opposition to Plaintiff's Affidavit for attorneys' fees before the Honorable Dale E. Van Slambrook, Master In Equity for Berkeley County, at Chambers, Berkeley County Courthouse, Moncks Corner, South Carolina, and asserts any request for attorneys' fees should be denied on the following grounds.

ARGUMENT

Under South Carolina law, six factors should be considered in determining the reasonableness of an attorneys fee, including: the nature, extent and difficulty of the legal services rendered; time and labor devoted to the case; the professional standing of counsel; contingency of compensation; the fee customarily charged in the location for similar services; and beneficial results obtained. Baron Data Systems, Inc. v. Loter, 297 S.C. 382, 377 S.E. 2d 296 (1989), and Blumberg v. Nealco, 310 S.C. 492, 494, 427 S.E.2d 659, 661 (1993). There must be sufficient evidence in the record to support each of the six factors analyzed for an award of attorney's fees. See Taylor v. Medenica, 331 S.C. 575, 580, 503 S.E.2d 458, 461 (1998).

The affidavit submitted does not contain sufficient evidence as to the six elements the Court is required to evaluate. There being insufficient evidence to analyst the six factors before

the Court, the Court cannot award attorneys' fees.

CONCLUSION

Based on the above any consideration for an award of attorney fees should be denied.

S/Mary Leigh Arnold

Mary Leigh Arnold (#419)

MARY LEIGH ARNOLD, P.A.

749 Johnnie Dodds Blvd, Suite B

Mt. Pleasant, SC 29464

(843) 971-6053

ATTORNEY FOR DEFENDANT

1 STATE OF SOUTH CAROLINA
2 COUNTY OF BERKELEY

3 RITA BROOKS,

4 Plaintiff,

5 vs. CASE NO. 2012-CP-08-2981

6 VELOCITY POWERSPORTS, LLC, AMERICAN HONDA
7 FINANCE CORPORATION and AMERICAN HONDA MOTOR
CO., INC.,

8 Defendants;

9
10 HEARING BEFORE: JUDGE DALE EDWARD VAN SLAMBROOK

11 DATE: August 28, 2018

12 TIME: 9:36 a.m.

13 LOCATION: Berkeley County Master-In-Equity
14 300-B California Avenue
Moncks Corner, South Carolina

15
16 REPORTED BY: Julie L. Bonomo

17
18
19 A. WILLIAM ROBERTS, JR., & ASSOCIATES

20 Fast, Accurate & Friendly

21 Charleston, SC Hilton Head, SC Myrtle Beach, SC
(843) 722-8414 (843) 785-3263 (843) 839-3376

22 Columbia, SC Greenville, SC Charlotte, NC
23 (803) 731-5224 (864) 234-7030 (704) 573-3919

24 Asheville, NC
25 (828) 123-9876



A. WILLIAM ROBERTS, JR., & ASSOCIATES (800) 743-DEPO
scheduledepo.com

1 APPEARANCES OF COUNSEL:

2 ATTORNEYS FOR PLAINTIFF

3 RITA BROOKS:

4 DENNIS LAW FIRM

5 BY: EDWARD J. DENNIS, IV

6 112 Stoney Avenue

7 Moncks Corner, South Carolina 29461

8 843-761-5212

9 Ejdiv@homesc.com

10 ATTORNEYS FOR DEFENDANT

11 VELOCITY POWERSPORTS, LLC:

12 MARY L. ARNOLD

13 BY: MARY LEIGH ARNOLD, PA

14 749 Johnnie Dodds Boulevard

15 Suite B

16 Mount Pleasant, South Carolina 29464

17 843-971-6053

18 Sammie@maryarnoldlaw.com

19 (INDEX AT REAR OF TRANSCRIPT)

1 (PLF. EXH. 1, Sales Contract, was
2 marked for identification.)

3 (PLF. EXH. 2, State of South Carolina
4 Department of Natural Resources Certificate of
5 Title, was marked for identification.)

6 (PLF. EXH. 3, Certified Letter,
7 5/22/12, was marked for identification.)

8 (PLF. EXH. 4, Repair Order, was marked
9 for identification.)

10 (PLF. EXH. 5, Letter, 5/25/12, was
11 marked for identification.)

12 (PLF. EXH. 6, Photographs, were marked
13 for identification.)

14 (PLF. EXH. 7, Photographs, were marked
15 for identification.)

16 (PLF. EXH. 8, Interactive Network
17 Document, was marked for identification.)

18 (PLF. EXH. 9, Affidavit of Lisa McDede,
19 was marked for identification.)

20 THE COURT: All right. Have you all
21 got everything marked out?

22 MR. DENNIS: I believe we do, Your
23 Honor.

24 THE COURT: All right.

25 MS. ARNOLD: Your Honor, I believe we

1 have gone ahead and just marked Plaintiff's for
2 right now which there is many overlap between
3 Plaintiff's and Defendants'. I may have a few more
4 when we go to the defense case that we'll mark
5 right beforehand.

6 THE COURT: Okay.

7 MS. ARNOLD: I'll just wait and see how
8 it goes and see what it is I may want to add.

9 THE COURT: All right. So as far as
10 the documents that you have already got marked, are
11 those in the objection or just marked for
12 identification?

13 MR. DENNIS: I understand they're
14 without objection.

15 MS. ARNOLD: Yes, Your Honor, we went
16 through them and those are being marked without
17 objection.

18 THE COURT: Okay. And how many do we
19 have marked as Plaintiff's Exhibits?

20 MR. DENNIS: It would be nine, Your
21 Honor, by our count.

22 THE COURT: Nine. Madam Court
23 Reporter, is that right?

24 THE COURT REPORTER: Yes, Your Honor.

25 THE COURT: Okay. So just as a

1 preliminary matter, we are going to admit the
2 referenced exhibits. Nine of them, Plaintiff's
3 Exhibits 1 through 9 without objection.

4 I've got the pretrial brief which I
5 have been able to glance at if not exhaustively.
6 So are there any other pretrial matters that we
7 need to address, any motions from the Plaintiff or
8 from the Defense?

9 MR. DENNIS: I discussed with counsel
10 the possibility of my calling Mr. Cristo in our
11 case in chief and with permission from the Court to
12 treat him as adverse. She indicates she had no
13 objection and I believe that to be my right.

14 MS. ARNOLD: Your Honor, I believe he
15 can call Mr. Cristo in this case. And I believe
16 that it would be a proper ruling for and be
17 determined an adverse witness quite honestly,
18 yes.

19 THE COURT: Okay. We'll proceed under
20 that assumption unless something changes when that
21 witness is called.

22 MR. DENNIS: All right, sir.

23 THE COURT: So any other motions,
24 anything else you need to address?

25 MR. DENNIS: Nothing from the

1 Plaintiff, Your Honor.

2 MS. ARNOLD: Your Honor, all I can see
3 quite honestly is that, I don't see anything that's
4 been adverse submitted to us as far as exhibits. I
5 don't know who they really anticipate calling at
6 the time of trial. I may have some objections to
7 someone being called as a witness depending on
8 their personal knowledge and their familiarity with
9 the situation, but we'll deal with that when it
10 comes up, Your Honor.

11 THE COURT: We'll just address those as
12 they appear, if they appear, I guess I should say.

13 MS. ARNOLD: Yes, sir.

14 THE COURT: All right. Plaintiff ready
15 to proceed?

16 MR. DENNIS: We are, Your Honor.

17 THE COURT: And the Defense?

18 MS. ARNOLD: We are, Your Honor.

19 THE COURT: Okay. Mr. Dennis?

20 MR. DENNIS: Ms. Rita Ann Brooks we
21 call to the stand, Your Honor.

22 THE COURT: Good morning, Ms. Brooks.

23 RITA ANN BROOKS:

24 being first duly sworn, testified as follows:

25 THE COURT: Give your name, spell your

1 last name, and give your address for the court

2 reporter... Okay...

3 THE WITNESS: Rita Ann Brooks,

4 B-R-O-O-K-S, 102 Sandlewood Drive, Summerville,

5 South Carolina.

6 THE COURT: All right. Mr. Dennis.

7 DIRECT EXAMINATION.

8 BY MR. DENNIS:

9 Q. May it please the Court, Your Honor,
10 Ms. Brooks you're a resident of Berkeley County.

11 A. Dorchester County.

12 Q. Dorchester?

13 A. At the present.

14 Q. At the time of filing this lawsuit,
15 were you a resident of Berkeley County?

16 A. Yes, sir.

17 Q. What is your occupation?

18 A. I'm an owner and an operator of a
19 barbershop in Summerville.

20 Q. Okay. Are you engaged in the business
21 of buying or selling watercraft and specifically
22 jet skis?

23 A. No, sir.

24 Q. Have you owned a jet ski? Do you own a
25 jet ski?

1 A. Yes, sir.

2 Q. Okay. And are you the owner of a 2007
3 Honda AquaTrax F-12 VIN No. US-HPSE129OC707?

4 A. Yes, sir.

5 Q. How did you acquire that craft?

6 A. I purchased it at Velocity Powersports.

7 Q. And where is Velocity Powersports
8 located?

9 A. Ladson, South Carolina.

10 Q. Okay. Is that 151 Galaxy Drive?

11 A. I believe so.

12 Q. Is that in Berkeley County?

13 A. Yes, sir.

14 Q. What does Velocity do?

15 A. They sell motorcycles, all-terrain
16 vehicles, jets skis, power sports.

17 Q. Have you ever purchased anything from
18 them before this watercraft?

19 A. No, sir.

20 Q. What was the date of your purchase?

21 A. That was April 24, 2010.

22 Q. And did you purchase it at the business
23 address Galaxy Drive in Ladson in Berkeley County?

24 A. Yes, sir.

25 Q. Did you go there by yourself?

1 A. No, sir.

2 Q. Who was with you?

3 A. My boyfriend, Jerry Call.

4 Q. Is he present in the courtroom today?

5 A. Yes, sir.

6 Q. When you arrived there, whom did you
7 speak with?

8 A. We spoke to a salesperson, Scotty Boyd.

9 Q. Did you speak with anybody else?

10 A. Later on, we spoke to the finance
11 manager.

12 Q. Did you speak with anyone else other
13 than Scotty Boyd about this watercraft other than
14 sales manager later on?

15 A. Not that day, no.

16 Q. And did you agree to purchase the
17 watercraft in your discussions with Mr. Boyd?

18 A. Yes, sir.

19 MR. DENNIS: May I approach, Your
20 Honor?

21 THE COURT: Yes.

22 BY MR. DENNIS:

23 Q. I'll show you several what appear to be
24 several documents, Ms. Brooks, which have been
25 marked Plaintiff's Exhibit No. 1, and ask you if

1 you can identify those, please.

2 A. Yes, sir. This was a sales contract
3 for the purchase of the jet ski.

4 Q. All right. And directing your
5 attention to that contract, upper left-hand corner,
6 there is a description of purchase. What does it
7 indicate as to whether the watercraft is new or
8 used?

9 A. There is a couple Xs by new.

10 Q. Did Mr. Boyd tell you it was new?

11 A. Yes, sir.

12 Q. And the year of the watercraft?

13 A. 2007.

14 Q. And the make?

15 A. It was the Honda ARX12T3D7.

16 Q. All right. The model and vehicle
17 identification you have already testified to, is
18 that correct?

19 A. Yes, sir.

20 Q. Did you sign that? Is that your
21 signature at the bottom of the page?

22 A. Yes, sir.

23 Q. It indicates accepted by and that
24 signature appears illegible to me. Do you know
25 whose signature that is on this contract?

11

1 A. No, sir.

2 Q. Okay. All right. And the other
3 document which is a yellow page, identify that for
4 us, please.

5 A. This is my payment agreement with Honda
6 Finance.

7 Q. How did you pay for the vehicle?

8 A. We paid \$2,000 down and arranged
9 financing for monthly payments for five years.

10 Q. All right. What's the amount of the
11 payment monthly?

12 A. 191.14.

13 Q. Have you made all of those payments?

14 A. Yes.

15 Q. Did you purchase anything else at the
16 time that you purchased this watercraft?

17 A. Yes, sir.

18 Q. What else did you purchase?

19 A. Well, the jet ski came with a trailer.
20 We also purchased life vests. We purchased a cover
21 for the jet ski and fire extinguisher.

22 Q. Do you have any use for those items if
23 the jet ski is not functioning?

24 A. No, sir.

25 Q. What was your total of payments under

1 this contract?

2 A. I can't read it.

3 Q. You're struggling to read the light
4 print on it?

5 A. Yes, sir.

6 Q. Are there any handwritten notations at
7 the bottom that indicate the amount?

8 A. Yes, sir.

9 Q. Okay. What is the total amount,
10 principal and interest, payable under that
11 contract?

12 A. \$12,829.01.

13 Q. And you, in fact, paid those moneys?

14 A. Yes, sir.

15 Q. All right. Thank you. Was there a
16 cost or a charge for the warranty that you
17 purchased?

18 A. Yes, sir.

19 Q. What was the cost of that?

20 A. I believe it was \$825.

21 Q. To your knowledge, were all of those
22 moneys paid to Velocity?

23 A. Well, to Honda Finance.

24 Q. Okay. You don't know what part of
25 those moneys Velocity received?

1 A. No, sir.

2 MR. DENNIS: Your Honor, we offer this
3 into evidence as Plaintiff's Exhibit No. 1.

4 MS. ARNOLD: No objection, Your Honor.

5 THE COURT: It is admitted as No. 1.

6 MR. DENNIS: Re-approach, Your Honor?

7 THE COURT: Yes.

8 BY MR. DENNIS:

9 Q. Ms. Brooks, I handed you Plaintiff's
10 Exhibit marked No. 2, it appears to be, it's a copy
11 which has been substituted for the original. It
12 appears to be a State of South Carolina Department
13 of Natural Resources certificate of title. Is that
14 what was issued to you upon completion of the
15 payments?

16 A. Yes, sir.

17 Q. Okay. Is there currently any lien or
18 debt upon this watercraft or any of the items that
19 you purchased from Velocity?

20 A. Not that I know of.

21 Q. Have you placed any lien or debt upon
22 that?

23 A. No, sir.

24 MR. DENNIS: Plaintiff's No. 2, if it
25 please the Court, Your Honor.

1 THE COURT: Yes.

2 MS. ARNOLD: No objection.

3 BY MR. DENNIS:

4 Q. Did the salesman tell you that when you
5 purchased that watercraft that Honda no longer made
6 jet skis?

7 A. No, sir.

8 MS. ARNOLD: Your Honor, I'm going to
9 object to this leading, but I know this is nonjury.

10 I just want the objection on the record.

11 THE COURT: So noted. Go ahead.

12 BY MR. DENNIS:

13 Q. What, if anything, did the salesperson
14 tell you about Honda's manufacturer of watercraft
15 the day you purchased that vehicle or that
16 watercraft?

17 A. They just said that had some left over
18 due to the bad economy.

19 Q. Okay.

20 A. They had some earlier models.

21 Q. Did he tell you that Honda no longer
22 made watercraft?

23 A. No, sir.

24 Q. Had he told you that, would you have
25 purchased this watercraft?

1 A. No, sir.

2 Q. Did the salesperson sell you the
3 warranty?

4 A. No, sir.

5 Q. Who sold you the warranty?

6 A. The finance managers.

7 Q. Do you recall his name?

8 A. No, sir.

9 Q. Did you have any contact with anybody
10 else that day?

11 A. No, sir.

12 Q. Was everybody nice to you?

13 A. Oh, yes, sir.

14 Q. Did you take delivery of the watercraft
15 that day?

16 A. Yes, sir.

17 Q. Okay. Did you use-- and this is what
18 year?

19 A. This is 2010.

20 Q. Okay. And did you use it in the year
21 2010?

22 A. Yes, sir.

23 Q. Did it work satisfactorily?

24 A. Yes, sir.

25 Q. Did you have occasion to take it to

1 Velocity for any repair or service?

2 A. Not in 2010.

3 Q. Did you take it anyplace else for
4 repair or service?

5 A. No, sir.

6 Q. How about in 2011? Did you take it to
7 Velocity for repair or service?

8 A. No, sir.

9 Q. Did you take it any other place for
10 repair or service?

11 A. No, sir.

12 Q. What happened in 2012?

13 A. We took it out the first time on the
14 water and we couldn't get it to go above about 30
15 to 35 miles an hour.

16 Q. What, if any, other issues or problems
17 were there with the jet ski at that point?

18 A. We had had a little bit of problem with
19 the reverse shifting. It would stick and also if
20 you were out of the water for a little bit of time,
21 it could cut off on you.

22 Q. Did you operate it after you noticed
23 those problems?

24 A. Yes, sir.

25 Q. Okay. When did you take it to

1 Velocity? How soon thereafter?

2 A. We took it to Velocity the next day.

3 Q. So you noticed those problems when you
4 operated it for the first time in 2012?

5 A. Yes, sir.

6 Q. You took it the next day to Velocity?

7 A. Yes, sir.

8 Q. And who did you speak with at Velocity
9 on that day?

10 A. Dave Carp, the service writer.

11 Q. Do you recall the date exactly?

12 A. That was April 9, 2012.

13 Q. Okay. And David Carp is who did you
14 say?

15 A. He was the service writer.

16 Q. Had you ever met him before?

17 A. No, sir.

18 Q. Did you speak with him when you arrived
19 or speak with some receptionist and were you
20 directed to him?

21 A. No. We had spoken directly to him. We
22 had taken the jet ski around to the service area.

23 Q. Did he introduce himself?

24 A. Yes, sir.

25 Q. Did he identify what he did?

1 A. Not that I recall.

2 Q. Okay. Did you talk to him about the
3 jet ski?

4 A. Yes, sir.

5 Q. Did he indicate that he could help you
6 or did he refer you to anyone else?

7 A. No. He indicated he could help us.

8 Q. All right. And what was the discussion
9 between you and he? What did you say to him and
10 what did he say to you?

11 A. Basically the problems we were having
12 with the ski and at that time they -- we told them
13 to go ahead and do a tune-up as far as oil change,
14 spark plugs, whatever for the new season. I gave
15 him all the information on my warranty and extended
16 warranty. He wrote all of that down and he told me
17 everything would be covered under the warranty
18 except for the tune-up.

19 He also told me that -- this was on a
20 Monday afternoon -- that someone would contact me
21 that Wednesday or Thursday and let me know what was
22 going on with my jet ski.

23 Q. Was anything else said by you to him or
24 him to you?

25 A. Not that I recall.

1 Q. Were you asked to sign anything or
2 presented with any writing?

3 A. Right when I was getting ready to
4 leave, because we had had to wait for quite a long
5 time, there were several people ahead of us. He
6 said, oh, wait, I just need you to sign this here
7 saying that you're leaving the jet ski for service.

8 Q. Was there something typed on that form
9 or was it a form? Did you read it?

10 A. No. He basically just said sign here
11 so we can service your jet ski.

12 Q. Okay. Do you recall whether anything
13 was typed or noted on there about the problems that
14 you complained of or any costs for services?

15 A. No, sir.

16 Q. You don't recall or there weren't --
17 there were none?

18 A. There were none, nothing else typed.

19 Q. Did he give you a copy of that writing?

20 A. No, sir.

21 Q. Have you since seen what purported to
22 be -- that writing purported to be?

23 A. I don't understand the question.

24 Q. Have you seen -- have you since seen or
25 been presented with a document that you supposedly

1 signed that day?

2 A. Yes, sir.

3 Q. Was that presented to you at the time
4 that the Defendant made a motion for a summary
5 judgment in this case?

6 A. Yes, sir.

7 MR. DENNIS: Re-approach, Your Honor?

8 THE COURT: Yes.

9 BY MR. DENNIS:

10 Q. Ms. Brooks, I'm going to show you what
11 appears to be a repair order as Plaintiff's Exhibit
12 No. 4. Direct your attention to Page 2. Actually,
13 there are two Page 2s, and ask you about the first
14 Page 2. Does your signature appear on that page?

15 A. No, sir.

16 Q. Does that have some services detailed
17 with costs on it?

18 A. Yes, sir.

19 Q. Okay. Direct your attention to the
20 second Page 2. Does that have services and costs
21 detailed on it?

22 A. Yes, sir.

23 Q. Are they the same as on the other
24 Page 2? Take your time and compare.

25 A. No, sir.

1 Q. What are the differences?

2 A. One has a warranty written on it: Zero
3 hours warranty labor, subtotal warranty, job
4 subtotal warranty, with the technician's name.

5 Q. And the next Page 2, does have or
6 doesn't have any warranty information on it?

7 A. Nothing that says warranty, no.

8 Q. Okay. But the amounts are the same for
9 some services provided; is that correct?

10 A. Yes, sir.

11 Q. Does your signature appear on that
12 page?

13 A. Yes, sir.

14 Q. Could that have been the document that
15 you signed?

16 A. No, sir. Not at all.

17 Q. Okay. Did you tell the Court that in
18 response to the motion for summary judgment?

19 A. Yes, sir.

20 Q. Had you ever seen this, any part of
21 this repair order before?

22 A. No, sir.

23 Q. Your Honor, I would offer this as
24 Plaintiff's Exhibit No. 4.

25 THE COURT: It's entered without

1 objection.

2 BY MR. DENNIS:

3 Q. What contacts did you have with
4 Velocity after you left your watercraft with them
5 on April 9, 2012?

6 A. On April 24th, I called to check on the
7 process -- on the progress.

8 Q. Had they -- had you had any contact
9 from them since April 9th?

10 A. No, sir.

11 Q. When you contacted them, with whom did
12 you speak?

13 A. The service writer Dave Carp.

14 Q. What did you say to Mr. Carp?

15 A. I wanted to know the progress on the
16 jet ski, getting it fixed.

17 Q. What was his response to you?

18 A. He said that they were working on it.
19 They hadn't had time to look at it.

20 Q. Did he mention to you warranty work or
21 any summarization or tune-up?

22 A. No, sir.

23 Q. Did he say you owed him any money?

24 A. No, sir.

25 Q. Did he tell you he would get in touch

1 with you thereafter?

2 A. Not that I recall.

3 Q. Okay. When thereafter did you have any
4 contact with Velocity?

5 A. I called them back on the 26th of
6 April.

7 Q. All right. And with whom did you speak
8 on that occasion?

9 A. Dave Carp the service writer.

10 Q. What did you say to him?

11 A. I still wanted to know the progress on
12 the jet ski.

13 Q. What did he say to you?

14 A. They were troubleshooting it, but they
15 didn't have an answer yet.

16 Q. Did he specifically mention warranty
17 work, or tune-up, or summerization?

18 A. No, sir.

19 Q. Did he mention any cost attendant to
20 either one of them?

21 A. No, sir.

22 Q. When did you next have contact with
23 Velocity?

24 A. I called them on May 2nd.

25 Q. With whom did you speak on that

1 occasion?

2 A. Dave Carp the service writer.

3 Q. What did you say to Mr. Carp?

4 A. I want to know the progress on my jet
5 ski repair.

6 Q. What did he say to you?

7 A. He said they were still trying to
8 troubleshoot it and diagnose it.

9 Q. Did he mention anything to you about
10 warranty work, or about summerization, or tune-up
11 or any cost attendant to either?

12 A. No, sir.

13 Q. Did he say he would call you back?

14 A. Not that I recall.

15 Q. When did you next have contact with
16 Velocity?

17 A. On May 7th, I went to Velocity.

18 Q. Did you go by yourself?

19 A. No. I went with my boyfriend Jerry
20 Call.

21 Q. He is present in the courtroom?

22 A. Yes, sir.

23 Q. What did you do when you got to
24 Velocity on May 7th?

25 A. We went into the service area to look

1 for the jet ski.

2 Q. Did you find it?

3 A. Yes, sir.

4 Q. When you say the service area, is that?

5 A. Inside.

6 Q. Where is that? Inside?

7 A. Yes.

8 Q. Okay. What did you observe about your
9 jet ski, if anything?

10 A. It was inside, and the technician was
11 working on another unit, and we asked him about it.

12 Q. Okay. Do you remember that
13 technician's name?

14 A. P.J. Wilson.

15 Q. He is the technician whose name appears
16 on some notes that were produced by the Defendant
17 which is one of our exhibits?

18 A. Yes, sir.

19 Q. Expect to be one of the exhibits; is
20 that correct?

21 A. Yes, sir.

22 Q. Did you have any conversation with any
23 technician other than Mr. Wilson on that day?

24 A. No, sir.

25 Q. Did you speak with Mr. Carp on that

1 day?

2 A. Yes, sir.

3 Q. What did you say to him?

4 A. We need to know the progress on the
5 ski.

6 Q. What did he say to you?

7 A. I believe it was Mr. Wilson had told us
8 that they had tried to get the codes to come up on
9 the jet ski.

10 Q. What is your understanding of codes?

11 A. It has a computer in it like newer
12 vehicles do and to diagnose if it has issues.

13 Q. So Mr. Carp, you don't recall anything
14 Mr. Carp said to you?

15 A. No, sir.

16 Q. Do you recall anything else of your
17 conversation Mr. Wilson?

18 A. I believe he said they had called Honda
19 to try to diagnose the problem and they didn't have
20 any luck with what they told them.

21 Q. Did he make any mention of warranty
22 work versus summerization or tune-up?

23 A. None.

24 Q. Did anybody tell you you owed them any
25 money?

1 A. No.

2 Q. When did you next have contact with
3 Velocity?

4 A. Let me back up, if I may. I believe we
5 also spoke to the service manager.

6 Q. When?

7 A. On the 7th.

8 Q. Okay. Who is the service manager?

9 A. Byron Hager.

10 Q. Did he introduce himself to you or did
11 you know him?

12 A. I knew him.

13 Q. Did you know him from Velocity or
14 elsewhere?

15 A. He had been in my barbershop before.

16 Q. Okay. Did he identify himself as a
17 manager?

18 A. Yes, sir.

19 Q. What, if anything, did he say to you?

20 A. We had asked him about the progress of
21 the ski and who else we could talk to, and he told
22 us, well, we found out that we're not having a
23 problem with the waste gate. We've had problems
24 with earlier units as far as the water flowing out
25 the back or something. He said, your unit does not

1 have that problem. And we said, well, we need to
2 find out what is going on with it and what is wrong
3 with the turbo or the brain of the unit.

4 And he told Mr. Call and myself that
5 they had taken in two jet skis similar to mine.

6 MS. ARNOLD: Your Honor, I'm going to
7 object her testimony if she is testifying about a
8 third-party conversation.

9 MR. DENNIS: She is testifying to a
10 conversation she had with an employee or agent of
11 Velocity.

12 THE COURT: I'll allow it.

13 THE WITNESS: He told me that they had
14 taken in two jet skis like mine on trade, and they
15 didn't know that they had issues because they would
16 crank and run, and that they tried to -- they had
17 sold them apparently new units. They had taken
18 these units in on trade and they tried to fix them
19 after they found out they had problems. One of
20 them they spent about \$3,000 on, the other one
21 about \$5,000 on in parts. And they could not get
22 them to run and that they didn't even have money to
23 pay their technicians to work on these units, and
24 that they had ended up in the salvage yard in
25 Atlanta.

1 Q. What, if any, concerns did that cause
2 you about the future of your jet ski?

3 A. That caused me great concern.

4 Q. Had you contacted a lawyer at that
5 point?

6 A. Not at that point.

7 Q. Following that discussion with
8 Mr. Hager and those statements made by him, did you
9 contact a lawyer?

10 A. Not until the 21st of May which was my
11 next visit to Velocity.

12 Q. All right. Perhaps I'm getting ahead
13 of you or ahead of myself. After May 7th, did you
14 have any contact with Velocity?

15 A. On the 21st.

16 Q. What happened on that day? What was
17 the nature of your contact?

18 A. We returned to Velocity and we talked
19 to Dave Carp, the service writer, and he said they
20 still hadn't diagnosed what was wrong with the ski,
21 but their -- the -- let me back up. Their service
22 manager would be returning to work because he had
23 been on sick leave because he had hurt his back in
24 motor cross, and that if anyone could fix my ski,
25 he could, and he would be returning to work the

1 next day. And he would he would call and let me
2 know about my jet ski.

3 Q. Did Mr. Carp or anyone say anything to
4 you about warranty work versus tune-up or
5 summerization?

6 A. No, sir.

7 Q. Did anybody tell you that you owed them
8 any money?

9 A. No, sir.

10 Q. What, if anything, did you observe
11 differently about the location and condition of
12 your watercraft?

13 A. It was outside in the very back lot.

14 Q. Did you walk to the back lot?

15 A. Yes, sir.

16 Q. Who was with you?

17 A. My boyfriend Jerry Call.

18 Q. Okay. And what did you observe about
19 the watercraft other than it being outside?

20 A. We took the hood off and it was -- had
21 been taken apart.

22 Q. Okay. Any other observations?

23 A. Not at that point.

24 Q. Okay. Did you speak to -- had you seen
25 that, observe the condition of your watercraft

31

1 before you spoke with anyone at Velocity that day?

2 A. I'm sorry?

3 Q. Had you already spoken with someone at
4 Velocity that day?

5 A. No. We looked at the unit first.

6 Q. Okay. Did you ask them about where the
7 unit was and what the condition of it was?

8 A. They told us they had taken it out and
9 they had water tested it and tried to diagnose it.

10 Q. What, if anything, did they say about
11 it being dismantled?

12 A. Just that they were looking at it and
13 they were working on it.

14 Q. Did they give you any reason for it
15 being outside?

16 A. No.

17 Q. Is it then that you contacted an
18 attorney?

19 A. Yes, sir.

20 Q. Was I that attorney?

21 A. Yes, sir.

22 Q. When did you next have any contact with
23 Velocity after meeting with me?

24 A. As far as calling or going down there?

25 Q. Yes, ma'am.

1 A. Direct contact October 28, 2013.

2 Q. All right. Did you have any
3 communication from Velocity after you met with me
4 and after May 21st?

5 A. Not to that point, no.

6 Q. You testified that you were told that
7 Mr. King would return the following day, correct?

8 A. I'm sorry, yes, yes.

9 Q. All right. And that Mrs. King would
10 contact you. And did Mrs. King contact you?

11 A. Yes, he did.

12 Q. By telephone?

13 A. Yes, sir.

14 Q. What did he say to you?

15 A. He told me that I owed them money and I
16 need to come and pick up the jet ski.

17 Q. What did you say to him?

18 A. I said I thought you were going to fix
19 the jet ski.

20 Q. And he said what?

21 A. He said, no, we're not going to work on
22 it any longer.

23 Q. Did he say why?

24 A. He said because I had contacted an
25 attorney.

1 Q. Okay. Did he tell you how he knew that
2 you had contacted an attorney?

3 A. He didn't say.

4 Q. Did you get a letter from Mr. King?

5 A. Yes, sir. The next day.

6 Q. Okay.

7 MR. DENNIS: May I approach, Your
8 Honor?

9 THE COURT: Yes.

10 BY MR. DENNIS:

11 Q. Ms. Brooks, I'll show you what are
12 copies of what appears to be a certified or a
13 letter sent by certified mail. It appears to have
14 a letter from Mr. Brooks [sic], and it appears to
15 have a five-page repair order. Have you seen that
16 before? Exhibit 3?

17 A. Yes, sir.

18 Q. You received that by certified mail?

19 A. Yes, sir.

20 Q. When did you receive it? Let me
21 rephrase. Had you received this certified letter
22 from Mr. King when he called you on the 22nd, the
23 day after your visit --

24 A. No, sir.

25 Q. -- on the 21st?

1 A. No, sir.

2 Q. What does Mr. King tell you in that
3 letter? Read it if you will, publish it.

4 A. "Dear, Ms. Brooks, As of the date of
5 this letter, you still have not picked up your 2007
6 Honda ARX12T3. Enclosed is a copy of your repair
7 order showing a balanced owed of \$219.92. We will
8 be charging you a storage fee of \$25 per day
9 starting May 28, 2012.

10 "Also, if we do not receive payment
11 within the next 30 days, we will initiate
12 proceedings with the magistrate's office to take
13 possession of that unit. If you have any questions
14 please contact me. 843-841-5371. Sincerely, Billy
15 King, Service Manager."

16 Q. What is that date of that letter?

17 A. May 22nd.

18 Q. That is the day after you visited
19 Velocity?

20 A. Yes, sir. The day he was to return to
21 work.

22 Q. Does he say when the servicing was done
23 on the unit?

24 A. Not in the letter.

25 Q. On the 21st when you were there, did

1 they tell you that you owed any money?

2 A. No, sir.

3 Q. All right. Let's look at the repair
4 order. How many pages is the repair order?

5 A. This version?

6 Q. Yes, ma'am. The exhibit you're looking
7 at.

8 A. Five pages.

9 Q. All right. Do you see any page that
10 looks like the page that you previously looked at
11 and identified in Plaintiff's Exhibit No. 4, that
12 was Page No. 2 in Plaintiff's No. 4. Is there a
13 page like that in this five-page repair order?

14 A. No, sir.

15 Q. And direct your attention to Page 4.
16 Does that page have numbers typed in for certain
17 work allegedly performed?

18 A. Yes, sir. Parts and labor.

19 Q. What is the amount?

20 A. Total amount 219.92.

21 Q. Okay. I'm going to re-direct your
22 attention to Page 2 of the repair order that you
23 previously looked at which is Plaintiff's Exhibit
24 No. 4. Are the numbers the same?

25 A. No, sir.

1 Q. On that Page No. 4, that you're looking
2 at there, it has a line for your signature. Is
3 your signature on that repair order?

4 A. No, sir.

5 Q. Is your signature on any of those five
6 pages of that repair order?

7 A. No, sir.

8 Q. Did you ever agree to pay Velocity for
9 storage?

10 A. No, sir.

11 Q. I'll direct your attention to Page 1 of
12 this repair order, and specifically parts and a
13 price. What is your understanding of that Page 1?

14 A. Okay. They have a part description
15 "PGM/F1 unit, \$779.75." Extension carried over
16 shows a zero.

17 Q. Do you know what that part is?

18 A. I believe that is the brain or whatever
19 for the unit to control the operation. I'm not a
20 technician. I'm not exactly sure.

21 Q. Is there a provision for labor cost
22 related to that part number?

23 A. No, sir.

24 Q. Whether there is an amount there, do
25 you see a line item for labor?

1 A. It says, "Diagnose ski codes zero
2 hours."

3 Q. Okay. So there is no charge to you on
4 that page, correct?

5 A. Correct.

6 Q. Okay. On Page 2, is there any
7 indication of a charge to you?

8 A. No, sir.

9 Q. On Page No. 3 you have previously
10 discussed, correct?

11 A. Yes, sir.

12 Q. Page No. 4 is the page where it
13 provides for your signature you discussed, correct?

14 A. Yes, sir.

15 Q. Okay. Page 5, any numbers or any
16 billing on that?

17 A. No.

18 Q. Any indication anything was repaired?

19 A. No.

20 Q. What is your --

21 MR. DENNIS: Your Honor, we would offer
22 this as Plaintiff's Exhibit No. 3.

23 THE COURT: It's without objection.

24 BY MR. DENNIS:

25 Q. What part of tune-up or summerization

1 is a repair in your view?

2 A. None. It would be just a service.

3 Q. All right. Have you ever seen any bill
4 or has anybody from Velocity told you they repaired
5 anything?

6 A. No, sir.

7 MR. DENNIS: Indulge me just a moment,
8 Your Honor.

9 BY MR. DENNIS: All right.

10 Q. When did you next have contact with or
11 from Velocity after you got this certified letter
12 from Mr. King?

13 A. Someone called me back within about a
14 couple of days and wanted to know if I was going to
15 pick up the jet ski.

16 Q. Was that after you had spoken with
17 Mr. King?

18 A. Yes, sir.

19 Q. Do you know who called you?

20 A. I'm not positive.

21 Q. What was your position on paying this
22 bill?

23 A. I didn't understand why I owed anything
24 if it wasn't repaired.

25 Q. What value is a tune-up or

1 summerization on a vehicle that doesn't work?

2 A. None whatsoever.

3 Q. Was that your primary purpose in going
4 to Velocity for a tune-up or summerization?

5 A. No, sir.

6 Q. Was it for repair?

7 A. For repair.

8 Q. You don't know when they supposedly did
9 this tune-up or summerization, correct?

10 A. No, sir.

11 Q. They didn't mention it to you on the
12 21st of May when you were there, correct?

13 A. Correct.

14 Q. And when did you first hear about any
15 bill or anything being owed?

16 A. When Billy King called me.

17 Q. On what day?

18 A. That Tuesday. That would have been --

19 Q. The day after you were there?

20 A. Yes, sir. May 22, 2012.

21 Q. What efforts did you make on your own
22 behalf to resolve these issues with Velocity?

23 A. I made many efforts.

24 Q. Okay. Tell the Court about those,
25 please.

1 A. I contacted the Better Business Bureau
2 and wrote a complaint online.

3 Q. Okay. What else, if anything?

4 A. I contacted Channel 2 News. I
5 contacted Consumer Affairs in Columbia.

6 Q. Anything else?

7 A. I wrote a letter to Mr. Cristo, the
8 owner of Velocity at his home address that was
9 listed on the state business website.

10 Q. Anybody else?

11 A. Not that I can remember.

12 Q. What, if any, efforts did you make to
13 communicate with Honda?

14 A. I also called Honda. I had to leave a
15 message. They returned the call about --

16 Q. I don't want you to testify as to what
17 they told you.

18 A. Okay.

19 Q. You contacted Honda?

20 A. Yes, sir.

21 Q. Did you get any response from
22 Mr. Cristo?

23 A. No, sir.

24 Q. Was Channel 5 able to help you?

25 A. No, sir.

1 Q. Was the Better Business Bureau able to
2 help you?

3 A. No, sir.

4 Q. Was Honda able to help you?

5 A. No, sir.

6 Q. Was Consumer Affairs in Columbia able
7 to help you?

8 A. No, sir.

9 Q. And so you got back in touch with me;
10 is that correct?

11 A. Yes, sir.

12 Q. And retained my office to assist you
13 with this; is that correct?

14 A. Yes, sir.

15 MR. DENNIS: Reapproach, Your Honor?

16 THE COURT: Yes.

17 BY MR. DENNIS: I'll show you Plaintiff's Exhibit

18 No. 5, which appears to be a two-page letter to

19 Mary Arnold from Dennis Law Firm. Do you recognize

20 that letter?

21 A. Yes, sir.

22 Q. Do you authorize and direct Dennis Law
23 Firm to communicate with Ms. Arnold as attorney for
24 Velocity?
25

1 A. Yes, sir.

2 Q. Is that a statement of your position at
3 the time?

4 A. Yes, sir.

5 Q. Okay.

6 MS. ARNOLD: Is that No. 6?

7 MR. DENNIS: 5. Do we need
8 reconciliation? Are you okay?

9 MS. ARNOLD: I'm good.

10 MR. DENNIS: Plaintiff's No. 5 without
11 objection I understand, Your Honor. Re-approach
12 Your Honor?

13 THE COURT: Yes.

14 BY MR. DENNIS:

15 Q. Ms. Brooks, I'll show you Plaintiff's
16 Exhibit No. 9, which is a multipart writing begins
17 affidavit of Lisa McDede as what appears to be date
18 and services provided to you and the cost of those
19 services, a couple of affidavits, attorneys fees in
20 connection with parts of this litigation, defensive
21 motion for summary judgment, motion to compel, and
22 two fee agreements between you and Dennis Law Firm.
23 Review that and see if that is an accurate
24 statement, please, and tell us whether you are
25 familiar with those documents?

1 MS. ARNOLD: Your Honor, if I may while
2 she looks at that... I'm not objecting to that.
3 That is the beginning of the mail I received
4 yesterday. If it's going to be used later on for a
5 petition for attorney's fees, I don't have an
6 objection to its admission. I do have an objection
7 to its ability to be used for that purposes. The
8 first affidavit is from Lisa at Mr. Dennis' Law
9 Office. I'm not sure that that is an appropriate
10 document to use. I just want to note those
11 objections, not admissibility, but something later
12 down the line as to its ability to prove. I think,
13 Blumberg Standards.

14 THE COURT: I understand.

15 MS. ARNOLD: Thank you.

16 THE COURT: It's admitted, but you're
17 reserving objection as to amounts or the propriety
18 of the fees... I understand.

19 MS. ARNOLD: Correct. Thank you, Your
20 Honor.

21 BY MR. DENNIS:

22 Q. Have you reviewed the documents?

23 A. Yes, sir.

24 Q. Did you see the two engagement letters
25 with Dennis Law Firm?

1 A. Yes, sir.

2 Q. Did you enter those agreements with
3 Dennis Law Firm?

4 A. Yes, sir.

5 Q. And the first agreement calls for a
6 retainer and certain costs; is that correct?

7 A. Yes, sir.

8 Q. You paid those -- that retainer and
9 those initial costs?

10 A. Yes, sir.

11 Q. Do you recall the amounts?

12 A. The first one is 1,561.46.

13 Q. Any other amounts that you have paid to
14 Dennis Law Firm?

15 A. I'm not sure of the total.

16 Q. Okay. And the second engagement letter
17 acknowledges a partial -- an hourly rate and then a
18 contingency fee arrangement; is that correct?

19 A. Yes, sir.

20 Q. With regards to the affidavits in
21 support of various undertakings by Dennis Law Firm
22 on your behalf, do you believe that the services
23 and the hours detailed in there were reasonably
24 necessary to prosecute or defend your case?

25 MS. ARNOLD: Your Honor, I object to

1 that. I don't think she is qualified to testify to
2 that.

3 THE COURT: I'll allow it.

4 THE WITNESS: Yes, sir.

5 BY MR. DENNIS:

6 Q. And you haven't been able to pay those
7 moneys, have you?

8 A. I'm sorry?

9 Q. You haven't been payable to pay those
10 moneys represented in the affidavit with the motion
11 to compel or motion or the defense of the summary
12 judgment motion, correct?

13 A. Yes, sir.

14 Q. You have not been able to pay those or
15 you have paid those? Look at the amounts. 1,650
16 and 1,561, you haven't paid those amounts of
17 moneys, have you?

18 A. No, sir. No, sir.

19 Q. Okay. I direct your attention to the
20 billing, left-hand column. What does that indicate
21 that you have paid? Left-hand side?

22 A. 375, \$900, \$500, and 125.

23 Q. For a total of how much?

24 A. \$1,900.

25 Q. Okay. And are there cost details there

1 that have been paid on your behalf by Dennis Law
2 Firm?

3 A. Yes, sir.

4 Q. What are total?

5 A. \$996.66.

6 Q. All right. But you haven't paid those
7 costs separately?

8 A. No, sir.

9 Q. The total that you paid Dennis Law Firm
10 is \$1,900, correct?

11 A. Yes, sir.

12 Q. Are you aware of any response that was
13 made to the letter of demand upon Velocity
14 Powersports through their attorney which is
15 Plaintiff's exhibit that you reviewed earlier, the
16 letter of demand? Aware of any response that they
17 made to that letter?

18 A. No, sir.

19 Q. At some point in time, did you request
20 and instruct me to file suit in this matter?

21 A. Yes, sir.

22 Q. Okay. And that is the case pending
23 before the Court today, correct?

24 A. Yes, sir.

25 Q. Six years ago?

1 A. Six and a half.

2 Q. It's been a long time?

3 A. Yes, sir.

4 Q. In the interim period, have you paid
5 taxes?

6 A. Yes, sir.

7 Q. Property taxes on this unit?

8 A. Yes, sir.

9 Q. The watercraft?

10 A. Yes, sir.

11 Q. Did you pay those taxes in 2012?

12 A. Yes, sir.

13 Q. When did you pay those taxes?

14 A. Usually, in January.

15 Q. Okay. And is it for the coming year or
16 the year past?

17 A. They're paid in arrears.

18 Q. Okay. So Velocity has had your jet ski
19 since April 9, 2012?

20 A. Yes, sir.

21 Q. And you have paid taxes in January of
22 2013 for 2012, correct?

23 A. Yes, sir.

24 Q. What was the amount of those taxes?

25 A. I don't have that in front of me.

1 Q. Do you remember approximately?

2 A. Taxes were around \$100 a year.

3 Q. Okay. Has it been around \$100 for
4 every year since then?

5 A. Yes, sir.

6 Q. So you paid taxes in 2014 for 2013?

7 A. Yes, sir.

8 Q. 2015 for 2013 [sic]?

9 A. Yes, sir.

10 Q. And 2016 for 2015?

11 A. Yes, sir.

12 Q. 2017 for 2016?

13 A. Yes, sir.

14 Q. And you haven't paid anything for 2018
15 as of this point, correct?

16 A. Correct.

17 Q. Who has that had exclusive custody and
18 control of this watercraft since April 9, 2012?

19 A. Velocity.

20 Q. You have seen the vehicle as you have
21 testified. Have you touched it or altered it in
22 any way?

23 A. No, sir.

24 Q. After this suit was instigated, did you
25 have occasion to view your jet ski again?

1 A. Yes, sir.

2 Q. Did you go to Velocity?

3 A. Yes, sir.

4 Q. When did you do that?

5 A. That was October 28, 2013.

6 Q. Did you see anybody when you were
7 there?

8 A. Yes, sir.

9 Q. Who was that?

10 A. We saw the service writer, David Carp.

11 Q. What did you say to him?

12 A. We wanted to know why the jet ski was
13 in such horrible condition.

14 Q. You saw the jet ski when you were
15 there?

16 A. Yes, sir. And I took pictures.

17 Q. Where was it located?

18 A. In the very back of the back lot
19 outside, exposed to the elements.

20 Q. Okay. Was the cowl down on it? Was
21 the engine protected?

22 A. The cowl was down, but we removed it
23 and looked inside.

24 Q. Okay. What did you see?

25 A. We saw half of the motor missing. We

1 saw water inside the unit and what looked to be oil
2 floating around. We saw some rags in it. We saw
3 the seat looked like it had been torn or replaced
4 with a different seat.

5 MR. DENNIS: May I approach, Your
6 Honor?

7 THE COURT: Yes.

8 BY MR. DENNIS:

9 Q. I'm showing you Plaintiff's Exhibit
10 No. 6 and asking you if you recognize these
11 photographs.

12 A. Yes, sir.

13 Q. Did you take those pictures?

14 A. Yes, sir.

15 Q. How did you take them?

16 A. I took them with a cell phone.

17 Q. Okay... How did you get them from the
18 cell phone to those images?

19 A. I put the chip in my computer and
20 printed them out.

21 Q. Okay. Did these accurately reflect
22 what you saw and observed about the vehicle on that
23 day?

24 A. Yes, sir.

25 MR. DENNIS: Plaintiff's Exhibit No. 6,

1 Your Honor?

2 THE COURT: That is without objection.

3 BY MR. DENNIS:

4 Q. Does that look like storage worth \$25 a
5 day to you?

6 A. No, sir.

7 Q. You say you saw someone at Velocity
8 that day. Who did you see?

9 A. I saw the service writer, Dave Carp.

10 Q. What did you say to him?

11 A. What is going on with my jet ski and
12 why is it left out and torn half apart and in such
13 poor condition?

14 Q. What did he say to you?

15 A. He pulled up the ticket or by my name
16 and he said, gee, I didn't even know we still had
17 this unit. This paperwork went upstairs over a
18 year ago.

19 Q. Okay. See anybody else at Velocity
20 that day and speak to them?

21 A. No. But we told him that the owner
22 needed to call us.

23 Q. Did the owner call you?

24 A. Eventually.

25 Q. How soon thereafter?

1 A. I spoke to him on the phone on October
2 28th of '13, so I spoke to him about a month later..

3 Q. What did he say to you when he called?

4 A. He told me that the only thing he could
5 do at this point was that they could put the unit
6 back together, but he would not promise me that it
7 would run. He would pay his technicians to put it
8 back together. What that meant, I do not know, but
9 don't expect it to run, that I didn't owe anything
10 if I would come pick it up at that point.

11 Q. Was that acceptable to you?

12 A. No, sir.

13 Q. Any other occasion that you went to
14 Velocity, saw the watercraft or spoke with anybody
15 after that?

16 A. Yes, sir. We went back on December 9,
17 2013.

18 Q. And with whom did you speak on that
19 day?

20 A. We spoke with Mr. Cristo, the owner.

21 Q. What did you say to him?

22 A. We wanted to know the progress on
23 getting the jet ski fixed.

24 Q. What did he say to you?

25 A. He made the same offer. That he

1 wouldn't promise it to run, he just wanted it gone
2 and over with. He was not very pleasant and he was
3 insulting. We also -- Jerry Call was with me and
4 Mr. Kevin Strickland was with me, and he was very
5 insulting.

6 Q. How did it make you feel?

7 A. Pretty small. After I spent all this
8 money with them, this is their attitude with me.

9 Q. You testified that they were nice to
10 you the day you bought it?

11 A. Yes, sir.

12 Q. When did that change?

13 A. After I took it in to have it serviced,
14 repaired.

15 MR. DENNIS: Indulge me just a moment,
16 Your Honor. May it please the Court, re-approach,
17 if I may?

18 THE COURT: Yes.

19 BY MR. DENNIS:

20 Q. I'll show you Plaintiff's Exhibit
21 No. 7, Ms. Brooks. It appears to be three
22 photographs, ask you if you can identify those.

23 A. The first one appears to be my jet ski
24 and I assume the other two are the same.

25 Q. Did you take those pictures?

1 A. No, sir.

2 Q. Do you know when they were taken?

3 A. It is my belief that they were taken
4 when there was an inspection of the ski on December
5 4th of 2014.

6 Q. I was present?

7 A. Yes, sir.

8 Q. Okay. Various attorneys were present?

9 A. Yes, sir.

10 Q. I don't see in any of these pictures
11 any of the parts that you made reference to as
12 being disassembled from the engine. Are they in
13 here?

14 A. That's not all the parts. I mean,
15 those pictures are not showing the whole unit
16 inside.

17 Q. Okay. Is that a complete engine? I'm
18 directing your attention to the third photograph.
19 Is that the complete engine or are there parts
20 missing?

21 A. I'm not qualified to answer that.

22 Q. Okay. Did you see a -- what else did
23 you observe with or at the unit --

24 A. I saw a bucket --

25 Q. --- in Photo No. 1 --

1 A. --- that had additional parts.

2 Q. Hold on one second. Let me finish my
3 question. In Photo No. 1, there appears to be a
4 bucket near the front of the jet ski watercraft?

5 A. Yes, sir.

6 Q. Did you see that bucket on that day?

7 A. Yes.

8 Q. Was anything in the bucket?

9 A. There were parts.

10 Q. Were they part of your jet ski?

11 A. I assume so.

12 Q. All right. Is that the last time you
13 saw the jet ski?

14 A. Yes, sir.

15 Q. In the letter of demand that you
16 authorized and directed me to make to Velocity,
17 which is Plaintiff's No. 5, you take a position as
18 to the value of loss of use to you; is that
19 correct?

20 A. Yes, sir.

21 Q. Okay. How do you value loss of use
22 with regards to the jet ski watercraft?

23 A. Well, at that point, I was still making
24 payments on it.

25 Q. How many months of payments did you

1 have at the time that you delivered this water ski
2 to Velocity, approximately?

3 A. How many had I made or have left?

4 Q. How many did you have left?

5 A. Three years.

6 Q. Okay. What is -- the amount of that
7 payment was what?

8 A. Approximately.

9 Q. Is it in the letter of demand Paragraph
10 Item No. 3?

11 A. Okay. I believe it's 191 and change.

12 Q. Item No. 3, read that for us, please.

13 A. Either your client or Honda will need
14 to compensate my client for loss of use on the
15 product equal to her monthly payments for two
16 month's time.

17 Q. What is your monthly payment?

18 A. Around 191 a month.

19 Q. How many months has this watercraft
20 been in the exclusive care and control, or I
21 shouldn't say care or control, possession of
22 Velocity?

23 A. Since April 2012.

24 Q. Six years?

25 A. Six and a half.

1 Q. Twelve months in a year?

2 A. Uh-huh.

3 Q. Times a payment of what?

4 A. It's rounded it off to \$200.

5 Q. Okay. Do you think you have been
6 treated fairly?

7 A. No, sir.

8 Q. What would make things right for you as
9 an outcome to this case?

10 A. Well, I guess we're looking at mainly
11 monetarily is about all you can do at this point.

12 Q. Do you want the unit back?

13 A. No. To what end?

14 Q. Monetarily, what does that look like
15 for you?

16 A. I would like to have the total price
17 that I paid, plus the warranty price.

18 Q. Okay.

19 A. Plus my taxes.

20 Q. Okay.

21 A. My insurance I paid on it.

22 Q. What insurance did you pay on it? Do
23 you maintain insurance on it to this day?

24 A. No, sir.

25 Q. How many years did you maintain

1 insurance on it?

2 A. Two years.

3 Q. What did that cost you?

4 A. \$200 a year.

5 Q. So \$400 for the two years you
6 maintained insurance on it?

7 A. Yes, sir.

8 Q. And loss of use you just testified to;
9 is that correct?

10 A. Yes, sir. And all of my attorneys fees
11 paid. And also I feel I have been damaged,
12 embarrassed in my neighborhood, everybody asking me
13 when was I getting my jet ski back. We had several
14 friends and neighbors that we went to the river
15 with. They thought I had it repossessed, that I
16 wasn't making the payments. I was embarrassed.
17 What can you say? I took it somewhere, they didn't
18 fix it and I never got it back, but I made a
19 contract to pay my payments, and I paid my
20 payments, and I still don't have anything.

21 Q. You asked in your complaint for
22 punitive damages?

23 A. Yes, sir.

24 Q. Why is that?

25 A. Because I feel I have been harmed.

1 Q. Do you feel like you were punished by
2 Velocity?

3 A. Yes, sir.

4 Q. What do you feel like they're owed on
5 their storage claim, counterclaim for storage?

6 A. Nothing.

7 MR. DENNIS: Indulge me just a moment
8 if you will, Your Honor.

9 THE COURT: Okay.

10 MR. DENNIS: Your Honor, I think we
11 could have maybe a five-minute recess. I think
12 maybe I'm concluded with this witness. I just want
13 five minutes to review my file before I speak with
14 Ms. Brooks.

15 THE COURT: Good time for a break.
16 Let's take a break of 10 minutes. Okay. And
17 Ms. Brooks, you remain under oath and you can't
18 talk to Mr. Dennis during the break. Okay? The
19 first thing I'm going to ask you when you come back
20 is did you talk to him?

21 THE WITNESS: Yes, sir.

22 THE COURT: Okay? The answer to that
23 would be no.

24 THE WITNESS: Yes, sir.

25 THE COURT: Thank you, ma'am. Stand

1 released for 10 minutes.

2 THE WITNESS: Yes, sir.

3 (A brief recess was taken.)

4 THE COURT: Ms. Books, did you talk to
5 Mr. Dennis about the case during the break?

6 THE WITNESS: No, sir.

7 THE COURT: Thank you. Have a seat,
8 Mr. Dennis.

9 MR. DENNIS: Thank you, Your Honor.

10 May it please the Court.

11 BY MR. DENNIS:

12 Q. Ms. Brooks have you ever leased this
13 watercraft to anyone?

14 A. No, sir.

15 Q. Anybody ever use it other than you or
16 your boyfriend Jerry Call?

17 A. No, sir.

18 Q. Ever put it in saltwater?

19 A. No, sir.

20 Q. Anybody from Velocity ever tell you
21 that you have done anything to abuse the watercraft
22 or void the warranty?

23 A. No, sir.

24 Q. Anybody from Velocity ever tell you
25 that they needed money from you in advance to make

1 application for the warranty?

2 A. No, sir.

3 Q. Very well. Please answer any questions
4 that Ms. Arnold or the Court may have of you.

5 THE COURT: Ms. Arnold?

6 MS. ARNOLD: May it please the Court,
7 thank you, Your Honor.

8 CROSS-EXAMINATION

9 BY MS. ARNOLD:

10 Q. Ms. Brooks, I'm going to hand you what
11 was marked as Plaintiff's No. 1,

12 MS. ARNOLD: May I approach, Your
13 Honor?

14 THE COURT: Yes.

15 BY MS. ARNOLD:

16 Q. Thank you. And that is a document you
17 and Mr. Dennis spoke about earlier, correct?

18 A. Yes, ma'am.

19 Q. That is your original purchase
20 agreement, is that correct?

21 A. Yes, ma'am.

22 Q. You purchased this vehicle back in
23 April of 2010, correct?

24 A. Yes, ma'am.

25 Q. If you will be so kind as to flip that

1 pink page over for us and look to the back. Let me
2 help you. It just makes it easier. I'm going to
3 get you to look at provisions, it says,
4 "Limitations of warranty." Do you see that
5 provision there?

6 A. Yes, ma'am.

7 Q. Okay. And the top item -- and when you
8 purchased this vehicle, you purchased it, it was a
9 2007 model, correct?

10 A. Yes.

11 Q. But you purchased it new, correct?

12 A. Yes.

13 Q. Okay. And if you will look at where
14 that limitations of warranty and read for the Court
15 the first paragraph that says "new." Let me --
16 I'll point right directly to you. Down here, it's
17 very hard, Paragraph 10. It's identified as
18 Paragraph 10 in that document?

19 A. "New: As is." The only warranties
20 applied to this vehicle are those offered by the
21 manufacturer. The selling dealer hereby expressly
22 disclaims all warranties, either expressed or
23 implied, including any implied warranties of
24 merchantability of fitness for particular purpose
25 and neither assumes or authorizes any other person

1 to assume for it any liability in connection with
2 the sale of this vehicle. Buyer shall not be
3 entitled to recover from the selling dealer any
4 consequential damages to property, damages for loss
5 of use, loss of time, loss of profits or income, or
6 any other incidental damages."

7 Q. Okay. Thank you, Ms. Brooks. After
8 you purchased this vehicle or ski in April of 2010,
9 you used it that spring and summer of 2010?

10 A. That season, yes.

11 Q. And following the season, did you have
12 the vehicle or the ski winterized before putting it
13 up for the season?

14 A. Yes, ma'am.

15 Q. Where did you have it winterized?

16 A. In my garage.

17 Q. Did you have any dealer or authorized
18 Honda dealer perform any services that winterized
19 it at the end of the season?

20 A. No, ma'am.

21 Q. And when you used it during the 2010
22 season, did you use it without event? It worked
23 and operated appropriately?

24 A. Yes, ma'am.

25 Q. Okay. And then when the spring came

1 around for 2011, you pulled it out of your garage
2 and y'all started to use it again for the 2011
3 season; is that correct?

4 A. Yes, ma'am.

5 Q. Okay. And then at the end of the 2011
6 season, did you take it to any dealer and/or repair
7 service to have it winterized before putting it up
8 after the 2011 season?

9 A. My boyfriend is a qualified mechanic.

10 Q. Did your boyfriend do something to this
11 machine?

12 A. He made sure the battery was running,
13 charged during the wintertime. He also changed the
14 oil after the first season.

15 Q. Okay. Did you take it in -- you didn't
16 take it back to Velocity, did you, to have it
17 winterized on either the 2010 -- end of the 2010
18 season or at the end of the 2011 season; is that
19 correct?

20 A. Correct.

21 Q. Okay. And if anybody did any of this
22 vehicle then, then it was your boyfriend Mrs. Jerry
23 Call; is that correct?

24 A. Yes, ma'am.

25 Q. He is not an authorized Honda repair

1 person or dealer for jet skis, is he?

2 A. It says if you're qualified you can do
3 the work yourself.

4 Q. But my question to you is, he is not an
5 authorized or certified technician for Honda, is
6 he?

7 A. No, ma'am.

8 Q. Okay. Thank you. So then after the
9 2011 season you brought it back out for the Spring
10 of 2012 correct?

11 A. Yes, ma'am.

12 Q. And when you brought it out for 2012,
13 you ran into some difficulties; is that correct?

14 A. Yes, ma'am.

15 Q. Were those the difficulties you
16 reported to Velocity being you were seeing water,
17 it looked like, in the gas tank possibly or the
18 gas?

19 A. The main reason was the turbo wasn't
20 working properly.

21 Q. Is it correct that your description of
22 that, when you brought it to Velocity was that it
23 was only going 35 miles per hour versus 60 miles
24 per hour?

25 A. Yes, ma'am.

1 Q. Did y'all generally run this thing 60
2 miles per hour?

3 A. It would go that fast. We didn't
4 normally run it that fast.

5 Q. Okay. That's awful fast, it seems to
6 me, but I'm not a -- I'm a water person, but not a
7 jet ski.

8 MR. DENNIS: Object to the form of the
9 question, Your Honor.

10 THE COURT: Just ask the questions.

11 MS. ARNOLD: Thank you, Your Honor.

12 BY MS. ARNOLD:

13 Q. When you brought it to Velocity, you
14 requested that they perform a tune-up, did you not?

15 A. Yes, ma'am.

16 Q. When you brought it to Velocity for the
17 tune-up you expected or you anticipated or you
18 expected and you were told you would have to pay
19 for the tune-up service, correct?

20 A. Yes, ma'am.

21 Q. And you agreed to pay for the tune-up
22 service, did you not?

23 A. Yes, ma'am.

24 Q. Okay. I'm going to hand you what we
25 have marked as Defendant's No. 1.

1 MS.. ARNOLD: May I approach, Your
2 Honor?

3 THE COURT: Yes.

4 BY MS. ARNOLD:

5 Q. And get you to look at that for me and
6 see if you can identify that, Ms. Brooks. Let me
7 take that out of your way so it's not falling.
8 Have you seen this document before, Ms. Brooks?

9 A. Yes, ma'am.

10 Q. And I think it's the third page in. If
11 you will, go to the third page in for me. And on
12 that page, and I believe in the lower portion of
13 that page, do you see a signature?

14 A. Yes, ma'am.

15 Q. Okay. Is that your signature, is it
16 not?

17 A. It appears to be my signature.

18 Q. Okay. Is it or is it not your
19 signature?

20 A. It's a copy of my signature.

21 Q. Okay. All right. While we are at this
22 point, I'm going to hand you what was previously
23 marked as Plaintiff's No. 9. And I'm going to go
24 to the -- several pages back in, and please feel
25 free to look at this. And on that page, is your

1 signature on that page, Ms. Brooks?

2 A. Yes, ma'am.

3 Q. Okay. Thank you. Now, Ms. Brooks,
4 after you brought the ski to Velocity, did Velocity
5 -- Velocity advised you that they did diagnostic
6 and could not determine what the problem was with
7 what I would call the speed, 65 miles -- or 35
8 miles per hour versus 60 miles per hour; is that
9 correct?

10 A. They continued saying they were looking
11 into it, trying to fix it.

12 Q. Did they tell you that they were going
13 to have to do a more extensive teardown on the unit
14 in order to determine or diagnose the problem?

15 A. They told me they would try to continue
16 to work on it.

17 Q. My question was: Did they tell you,
18 did they not tell you that they were going to have
19 to do a more extensive teardown on it so they could
20 see if they could determine what the problem was?

21 A. They told me they had to look at it
22 further.

23 Q. Okay. And they -- told you, did they
24 not, that in order for them to look at it further,
25 that there may be work that they were going to have

1 to do that would not be covered by a warranty by
2 Honda?

3 A. No, ma'am. Nobody ever told me that.

4 Q. Is it not correct that you instructed
5 them or you said that you would not pay for the
6 work performed?

7 A. Repeat the question.

8 Q. Okay. Did you not tell Velocity that
9 you would not pay for the work performed?

10 A. That is a double negative -- I don't.

11 Q. Did you refuse to pay the invoice to
12 Velocity?

13 A. I didn't have an invoice at that point.

14 Q. At any point, did you refuse pay the
15 invoice to Velocity?

16 A. I was going to pay for the
17 summerization which was \$249. There was no invoice
18 for \$249.

19 Q. Did you not receive an invoice for less
20 than \$249?

21 A. Yes, I did, and it was very confusing
22 because I didn't know whether it was a diagnostic,
23 summerization -- the summerization is supposed to
24 be 249. At no point did anyone explain anything to
25 me from Velocity about the invoices.

1 Q. Did you refuse to pay the invoice to
2 Velocity that was less than 249? I believe it was
3 \$219. Did you refuse to pay that?

4 A. I have not paid it to this point.

5 Q. So you refused to pay it; is that
6 correct?

7 A. So far.

8 Q. Okay. That's what I wanted. I'm going
9 to hand you what has also been marked as --
10 Ms. Brooks, during the course of this, when you had
11 refused to pay the invoice, did you not also tell
12 Velocity that you were going to sue them?

13 A. No, ma'am. I told them that I needed
14 to know when they were going to have the jet ski
15 fixed. I went and talked to an attorney to try to
16 hurry them up to get at least a date or some idea
17 of completion. I did not sue them for six months.

18 Q. My question was: Did you not threaten
19 to bring action against Velocity?

20 A. No, ma'am. I told them I was going to
21 talk to an attorney.

22 Q. You did tell them you were going to
23 talk to an attorney?

24 A. I did not threaten to sue them.

25 Q. But you said, I'm going to go talk to

1 an attorney; is that correct?

2 A. Yes, ma'am.

3 Q. Let me get that out of your way. So
4 after-- in May of 2012, you spoke with the service
5 manager Billy King, correct?

6 A. Yes, ma'am.

7 Q. Okay. And at that time, did Mr. King
8 advise you, you needed to pay for the services and
9 the tune-up that had been rendered and come and get
10 your ski?

11 A. Yes, ma'am.

12 Q. And you refused to pay the invoice at
13 that time, correct?

14 A. A tune-up does me no good if the ski is
15 not running.

16 Q. I understand, but you refused to pay
17 the invoice for the services rendered, correct?

18 A. Yes, ma'am.

19 Q. Okay. And then you refused to come and
20 get the ski; is that not correct?

21 A. Yes, ma'am.

22 Q. After that, you received a letter from
23 Velocity, certified mail, correct?

24 A. Yes, ma'am.

25 Q. And that is what has been marked as

1 Plaintiff's No. 3; is that not correct?

2 A. Yes, ma'am.

3 Q. Okay. And that letter said, okay,
4 please pay your invoice, and by the way, we will
5 start charging you storage fees if you do not come
6 get the ski; is that correct?

7 A. Yes, ma'am.

8 Q. Okay. And you still did not come pick
9 up the ski at that point, correct?

10 A. It wasn't repaired.

11 Q. You left it there --

12 A. Yes.

13 Q. -- at that point in time? And you
14 still didn't pay the invoice for services worked,
15 correct?

16 A. Correct.

17 Q. And I'm going to hand you back,
18 Ms. Brooks, what I identified as Defendant's No. 1
19 where I handed you or showed you the page that has
20 -- that you said appears to have your signature on
21 it; is that correct?

22 A. All this other stuff was not on this
23 page when I signed the paper at Velocity.

24 Q. Okay. But on that page, where your --
25 is your -- appears your signature, if you will look

1 up a couple of paragraphs, do you see? If I may
2 approach, I'll just make it easier for you. I'm
3 going to point you to this line right there. Did
4 you see --

5 A. Ma'am, I was not even given an
6 opportunity to read this paper. It was shoved in
7 front of me. Sign this because this says that
8 you're leaving your jet ski for repair. We waited
9 over an hour or more in line trying to get the
10 service order written up. It was hot outside.

11 That was last thing we were doing. The man said,
12 by the way, I need you to sign this saying you're
13 leaving your ski for repair.

14 Q. And on that document you signed, does
15 it not say that there could be storage fees of \$25
16 a day?

17 A. Yes, ma'am.

18 Q. Okay. Thank you, Ms. Brooks. Now,
19 Ms. Brooks, you knew that you could have picked the
20 ski up and taken it to another dealer to have it
21 looked at by someone else, correct?

22 A. If it's torn apart, is that going to
23 void my warranty?

24 Q. My question is, Ms. Brooks, was that
25 you knew you could pick the ski up and go get it

1 and take it to another authorized Honda dealer to
2 do repairs, correct?

3 A.: I did not know that I could take it to
4 another authorized Honda dealer, no.

5 Q.: Did you write a letter to Honda with
6 regard to this particular ski?

7 A.: I believe I did.

8 Q.: Okay. Let's mark this and I'll show it
9 to you.

10 MS. ARNOLD: That will be Defendant's
11 No. 2.

12 THE COURT: Any objection on
13 Defendant's 1 or 2?

14 MS. ARNOLD: Thank you, Your Honor, we
15 move into evidence Defendant's No. 1.

16 THE COURT: Mr. Dennis, any objection
17 to No. 1.

18 MR. DENNIS: No. No objection, Your
19 Honor.

20 THE COURT: Entered without objection;
21 (DFT. EXH. 1, Repair Order, was marked
22 for identification.)

23 THE COURT: Now, as to No. 2?

24 MR. DENNIS: Is this 1 or 2?

25 MS. ARNOLD: That's No. 2.

1 MR. DENNIS: 2 is the work order. No
2 objection to 1. No objection to 2, providing my
3 client identifies this the letter. She says she
4 wrote a letter, if she identifies the letter.

5 THE COURT: All right.

6 (DFT. EXH. 2, Letter, 6/28/12, was
7 marked for identification.)

8 BY MS. ARNOLD:

9 Q. Ms. Brooks, I'm going to hand you
10 Exhibit No. 2 and ask you to look at that for me,
11 please, ma'am. I'm sorry. Ms. Brooks, are those
12 the letter? Can you identify those letters for the
13 Court, please?

14 A. It appears to be the letters that I
15 wrote.

16 Q. Okay. And you wrote a letter, one to
17 Honda; is that not correct? The first page?

18 A. Yes, ma'am.

19 Q. And then the second was a letter I
20 think that you wrote to Mr. Cristo that you made
21 mention of earlier, too; is that not correct?

22 A. This is not the entire letter that I
23 wrote to Mr. Cristo.

24 Q. It's not? Okay.

25 A. No.

1 Q. You can take the back part of that, if
2 you want, then remove that.

3 A. I had a long narrative of my
4 experience.

5 Q. You had an additional page added onto
6 this, is that what you're trying to tell me?

7 A. Yes, ma'am.

8 Q. Okay. In the letter that you wrote to
9 Honda, at the bottom of the page does it not say
10 that you would like to take your ski to another
11 dealer to be repaired?

12 A. It doesn't say I would take it. It
13 says I want Velocity to fix it or another service
14 dealer.

15 Q. Okay. So you were aware that another
16 service dealer could make repairs to this vehicle?

17 A. I didn't know who could make it once it
18 left my hands, if Velocity voided my warranty.

19 Q. Okay. I'm going to get you to go back
20 and look back at, again, Defendant's No. 1. Sorry
21 for jumping back and forth, but if you'll look at
22 that last little verbiage above your signature, and
23 if you could read that for the Court, please,
24 Ms. Brooks?

25 A. "I understand that if the manufacturer

1 warranty is not covered by my repair. I am
2 responsible for the full amount at the rate of \$94
3 per hour."

4 Q. And you and I were talking about a May
5 time period after you had received the letter and
6 had had an opportunity to retrieve the ski, but you
7 chose not to in May of 2012. Weren't you given an
8 opportunity again by Velocity at a later date to
9 come and pick up the ski, but you refused?

10 A. It was not in the shape -- it would
11 probably never run again. Why would I pick it up?
12 I wanted my jet ski fixed. I still had an extended
13 warranty.

14 Q. My question to you, though, Ms. Brooks,
15 was: Didn't Velocity give you an opportunity after
16 the May 2012 time period to come and pick up your
17 ski and take it home; is that not correct?

18 A. Yes, my damaged ski.

19 Q. I'll take that so you don't have to
20 hold onto it.

21 MS. ARNOLD: Nothing further, Your
22 Honor.

23 THE COURT: What's the status of
24 Exhibit No. 2?

25 MS. ARNOLD: Your Honor, we move both

1 Plaintiff's Exhibit No. 2 into evidence which was
2 for a letter that I took the last page off of.

3 MR. DENNIS: I object, Your Honor.
4 It's not a complete instrument and document as her
5 testimony. So I object to the partial document.

6 MS. ARNOLD: Your Honor, if I might
7 then?

8 BY MS. ARNOLD:

9 Q. Ms. Brooks, I'm going to hand you back
10 again what's been marked as Defendant's No. 2. Is
11 what is marked as Defendant's No. 2 a letter written
12 by you?

13 A. I believe it is.

14 Q. Is that a letter written by you to
15 Honda?

16 A. Yes, ma'am.

17 Q. Okay. Did you send that letter to
18 Honda?

19 A. Yes, ma'am.

20 Q. And as a result of that letter, did you
21 get -- have conversations with Honda?

22 A. Not as a result of this letter, no.

23 Q. Okay. Is that the letter that was sent
24 to Honda by you?

25 A. Yes, ma'am.

1 Q. Okay.

2 MS. ARNOLD: Nothing further, Your
3 Honor. We move Defendant's No. 2 into evidence.

4 THE COURT: Do you have objection to
5 the entire letter coming in, Mr. Dennis?

6 MR. DENNIS: Not if it's an integral --
7 integrative letter, Your Honor. I may be a little
8 confused. There was some mention of a letter to
9 Mr. Cristo and Velocity.

10 MS. ARNOLD: We took the letter to
11 Mr. Cristo off.

12 MR. DENNIS: Off?

13 MS. ARNOLD: Yes.

14 MR. DENNIS: Thank you. No objection,
15 Your Honor.

16 THE COURT: It's admitted as
17 Defendant's No. 2 without objection.

18 MS. ARNOLD: Thank you, Your Honor.

19 THE COURT: Anything further?

20 MS. ARNOLD: Nothing further, Your
21 Honor.

22 THE COURT: Any redirect?

23 MR. DENNIS: Briefly, Your Honor.

24 REDIRECT EXAMINATION

25 BY MR. DENNIS:

1 Q. Did Velocity tell you you could pick up
2 your watercraft without paying for it in Mr. King's
3 letter?

4 A. Not in Mr. King's letter, no.

5 Q. Okay. At some later point, Mr. Cristo
6 offered that to you after you filed suit, correct?

7 A. Yes, sir.

8 Q. And the condition of the vehicle at
9 that time was, per the pictures that you--

10 A. Vastly deteriorated.

11 Q. -- presented in Plaintiff's No. 6,
12 correct?

13 A. Exactly.

14 Q. And indeed, even when you received the
15 call from Mr. King and his certified letter a
16 couple of days later, your watercraft had already
17 been dismantled and placed in the back lot in the
18 elements, correct?

19 A. Exactly.

20 Q. You couldn't pick it up pursuant to
21 Mr. King's letter without payment, could you?

22 A. No, sir.

23 Q. Did you feel like you owed them
24 anything at that point?

25 A. No, sir.

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1 Q. What concerns, if any, did you have
2 about the condition of it?

3 A. I was greatly concerned.

4 Q. What concerns did you have, if any,
5 about the warranty being compromised?

6 A. That was the point I was trying to
7 make. I didn't feel like with it torn down in that
8 condition that I could take it to another service
9 center. If Velocity didn't want to fix it, they
10 could've taken it.

11 Q. Counsel asked you about paying for
12 repairs or service, summerization, or tune-up. Is
13 that why you took your jet ski in?

14 A. No, sir.

15 Q. Okay.

16 A. No, sir.

17 Q. Page 2 of the document, she points that
18 you may have signed in blank. It says when the
19 repairs are completed, correct?

20 A. Yes, sir.

21 Q. Repairs were never completed on your
22 jet ski, were they?

23 A. No, sir. No, sir.

24 MR. DENNIS: Thank you.

25 THE COURT: You can step down, ma'am.

1 MR. DENNIS: I call Sue McDede to the
2 stand, Your Honor.

3 THE COURT: Come on up.

4 MR. DENNIS: Ms. McDede, of course, is
5 employed by Dennis Law Firm, Your Honor, and her
6 testimony is in an effort to cure the limited
7 assent of counsel to the use of the affidavit.
8 That's the limited nature of her testimony, since
9 it's not admitted into evidence.

10 THE COURT: Is there any continuing
11 objection to the affidavit for fees?

12 MS. ARNOLD: Yes, Your Honor, and I
13 would also object to Ms. Dede's being able to
14 testify along those lines.

15 THE COURT: Let's do it this way. The
16 attorneys fees are appropriately requested under
17 the statutes. I have to make a determination as to
18 whether they're entitled first. I'll take up the
19 scope of the attorney's fees, amounts of attorney's
20 fees if necessary. So I'll just -- we'll hold off
21 on testimony regarding the fees until we have
22 completed the substance of the case. Okay?

23 MS. ARNOLD: Thank you.

24 THE COURT: You can step back. Thank
25 you. All right. Mr. Dennis, anything else?

1 MR. DENNIS: I would call Mr. Cristo to
2 the stand, Your Honor.

3 THE COURT: Mr. Cristo.

4 GERALD CRISTO

5 being first duly sworn, testified as follows:

6 THE COURT: Give your name and spell
7 your last name and your address for the court
8 reporter.

9 THE WITNESS: Full legal name, I go by
10 Gerry, by Gerald Cristo, C-R-I-S-T-O, 1022 Barfield
11 Street, Daniel Island, South Carolina.

12 THE COURT: Mr. Dennis?

13 MR. DENNIS: If it please the Court,
14 Your Honor, request permission of the Court to
15 examine Mr. Cristo as an adverse witness under the
16 circumstances of this case.

17 THE COURT: Any objections?

18 MS. ARNOLD: No, Your Honor. I believe
19 he is an adverse witness.

20 THE COURT: Yes, sir.

21 MR. DENNIS: Thank you, Your Honor.

22 DIRECT EXAMINATION

23 BY MR. DENNIS:

24 Q. Mr. Cristo, are you the owner or an
25 owner of Velocity Powersports, LLC?

1 A. An owner.

2 Q. Describe the ownership entity for me,
3 please.

4 A. Three partners, myself, and two other
5 gentlemen each own a third and I'm the managing
6 member.

7 Q. Do any of those two partners have any
8 knowledge of this case?

9 A. They do.

10 Q. Okay. Do they have any knowledge of
11 the work performed on this watercraft?

12 A. No, just a general understanding of it.

13 Q. What part do you have in the work of a
14 technician as the, say, operating manager?

15 A. I don't get involved in the mechanical
16 aspect of it.

17 Q. We have some notes from a technician
18 which have been produced under discovery and I
19 think we have stipulated as to their admission.
20 Would you know anything about the technician's
21 undertaking notes and actions in this case?

22 A. Just what I have read in the notes.

23 Q. Just what you have read. Are you
24 technically savvy about these things?

25 A. No. I'm a finance guy. I have a

1 general understanding.

2 Q: Speaking of finance, Velocity
3 Powersports sold this watercraft to Ms. Brooks,
4 correct?

5 A. Yes.

6 Q: Did you sell it at a profit?

7 A: I didn't look, but I hope so.

8 Q: Okay. You're not a nonprofit, correct?

9 A. No.

10 Q: You're in the business for profit?

11 A: Yes, sir.

12 Q: Do you know what the profit was on this
13 particular watercraft?

14 A: I don't know.

15 Q: Okay. Velocity Powersports sold her a
16 warranty to Honda as well, correct?

17 A. Yes. We sold her a warranty through
18 Honda.

19 Q: All right. Does Velocity make a profit
20 on that?

21 A: We try to, yes.

22 Q: You get a percentage of what you sell
23 by way of warranties?

24 A: It's so the warranty is issued backed
25 from Honda. That warranty part of the selling of

1 it, it's good at any certified Honda dealer in the
2 United States. They charge us a cost and then we
3 mark it up accordingly.

4 Q. That is for work that you do?

5 A. No, no.

6 Q. When you sell the warranty, in this
7 case for \$5, \$600, do you get a percentage of that?

8 A. But not for work to be performed in the
9 future. We get -- it's an insurance product for
10 lack of a better word; I would assume.

11 Q. Let me make sure I ask you the right
12 question.

13 A. Okay.

14 Q. I'm not asking you about work performed
15 in the future. There was a charge for an extended
16 warranty sold to Ms. Brooks. Did you make money
17 off of that?

18 A. I don't know specifically, but I hope
19 so.

20 Q. What is your agreement with Honda?
21 When you sell a warranty, do you get a certain
22 percentage of that \$5 or \$600?

23 A. The way warranties work from Honda or
24 any manufacturer is, depending on the timeframe
25 that the warranty is sold, they charge a specific

1 cost. Whatever that cost is, I can mark it up over
2 that cost and sell it to the consumer.

3 Q. In that, is there an answer to whether
4 Velocity made money off this warranty sale or not?

5 A. I did not look at the margin that was
6 made on this warranty sale. I do know we had to
7 pay Honda whatever their cost is associated with a
8 warranty.

9 Q. So you don't know how much of a profit
10 you made?

11 A. That's right.

12 Q. Or what your commission was, but you
13 made money off of it?

14 A. Again, I'll try to clarify. I don't
15 know if we marked it up or not. I didn't -- I will
16 be honest, I didn't look. But I would assume we
17 made a profit, but I don't know. There are
18 instances where we sell a warranty and we sell it
19 at cost to help sell the unit. So I don't know if
20 this was the case. I just didn't look.

21 Q. Did Velocity Powersports make a profit
22 in 2012?

23 A. As a dealership?

24 Q. Yeah.

25 A. As a company?

1 Q. As a company?

2 A. Yes.

3 Q. What was that profit? If you would
4 address yourself to me, please.

5 A. It seems like that would be a -- and
6 I'm not being confrontational so please --

7 Q. As to an objection or an instruction
8 from the Court, the question to you is: Did you
9 make a profit in 2012, and what was that profit?

10 A. We made a profit.

11 MS. ARNOLD: Your Honor, objection on
12 the grounds that it's relevancy at this particular
13 point in time. There was no evidence during the
14 course of discovery that was not asked for, not
15 requested, nor produced, and I'm not sure of it's
16 relevancy at this stage right now.

17 THE COURT: There is a request for the
18 punitive damages. I'll allow it.

19 THE WITNESS: I don't know the specific
20 amount, 2012, I really don't. It was profit, but I
21 don't know the exact dollar amount.

22 BY MR. DENNIS:

23 Q. Can you give me an approximate amount?

24 A. 300,000.

25 Q. That is distributed equally amongst the

1 partners?

2 A. It's an LLC so it's whatever it goes
3 through. We don't always make distributions.

4 Q. Did you make a profit in 2013?

5 A. We did.

6 Q. Do you know what approximate amount of
7 the profit was?

8 A. Again, somewhere probably in that
9 neighborhood on a tax report basis, yes.

10 Q. How about 2014?

11 A. Yes.

12 Q. 2015?

13 A. Yes.

14 Q. 2016?

15 A. Yes.

16 Q. 2017?

17 A. Yes.

18 Q. And every year approximately \$300,000?

19 A. It varies. We made more in the last
20 three or four years because the economy is better.

21 Q. Okay. What is the approximate increase
22 over and above \$300,000 in the last three years?

23 A. 200,000 more, \$300,000 more.

24 Q. So approaching a half million or more
25 the last three years?

1 A. Yes.

2 Q. Do you have any independent knowledge
3 of when the work that was charged for on the
4 watercraft belonging to Ms. Brooks in this case,
5 when that was accomplished?

6 A. Can you ask that question again,
7 please?

8 Q. Do you have any independent knowledge
9 of when the work performed on Ms. Brooks'
10 watercraft was accomplished?

11 A. Well, I know they were -- from reading
12 the notes from the technician, they looked at it in
13 April of 2012 and May of 2012.

14 Q. All right.

15 MR. DENNIS: May I approach the
16 witness, Your Honor?

17 THE COURT: Yes.

18 BY MR. DENNIS:

19 Q. I'll show you three pages of what
20 appear to be notes. This was produced for me in
21 discovery and it appears to be technician's notes
22 relevant to this watercraft and ask you if you have
23 seen those before.

24 A. Well, all of them look like they're
25 duplications. Is that what you intended?

1 Q. No. You're correct. Are there more
2 pages of notes, technician's notes, than the one,
3 do you know?

4 A. To my knowledge, that is the only one
5 that was attached to the original, I think
6 Exhibit 1.

7 Q. The only one that was produced that
8 you're aware of?

9 A. Yes.

10 MR. DENNIS: Well, while we look to see
11 if there is more.

12 THE COURT: All right.

13 MR. DENNIS: This will be for purposes
14 of identification Plaintiff's No. 10. Re-approach,
15 Your Honor?

16 THE COURT: Yes.

17 BY MR. DENNIS:

18 Q. It will be on the middle of the page.
19 There is a 5/22, presumably a dated. You have read
20 these before?

21 A. I read them, yes, in preparation for
22 today.

23 Q. You have read technician's notes before
24 as a part of your management?

25 A. Very limited, but I have.

1 Q. What does that mean to you, that 5/22?

2 A. The date that it was looked at.

3 Q. Okay. All right.

4 A. That was my interpretation of it.

5 Q. What does it indicate was done on 5/22?

6 A. Clear the fault codes, change the oil
7 and filter, changed the spark plugs, put the ski
8 I don't know if it was actually in the physical
9 water or on a hose, but they were testing, you
10 know, the compression of it. They checked the fuel
11 pressure, put vacuum pressure on the pump on the
12 fuel, check the turbo, west gate fuel is fresh,
13 free of water, remove the intake boom.

14 Q. Okay. The first couple of items that
15 you read, was that the work that was billed for?

16 A. The fault code, the first three lines,
17 is that what you asked?

18 Q. Yeah.

19 A. The fault code, no. To change the oil
20 filter and spark plugs, yes.

21 Q. Is that the basis -- I'm going to show
22 you Plaintiff's Exhibit No. 4. Is that the basis
23 for the charges that are detailed on Page 2
24 totalling \$219?

25 A. I think it's in conjunction with it,

1 yes. They read -- my understanding of it is, yes,
2 it's the oil changes, the spark plugs, the labor
3 time for the technician to change the oil, replace
4 the spark plugs, those items.

5 Q. So everything that Ms. Brooks has been
6 billed for was done on the 22nd day of May noted
7 there on the technician's notes?

8 A. That, I don't know. I don't know if
9 that is when the notes were made or if he had
10 worked on it other times and he just summarized it
11 on 5/22.

12 Q. I'm asking you to look at what is
13 detailed in the notes. I'm asking you to look at
14 the repair order and ask you if those notes match
15 up with what she was billed for?

16 A. Well, that is a separate question than
17 you just asked, but, yes, she was billed for oil
18 change, spark plugs, and for the time that the
19 technician spent on the maintenance component of
20 it.

21 Q. So no work billed to Ms. Brooks was
22 done until May 22nd?

23 A. No. Like I just told you, I don't know
24 if he summarized it on the 22nd and some work was
25 done prior to that. I know on 4/17, he did some

1 work with the codes.

2 Q. You know that from what?

3 A. Well, the notes here say 4/17, so if
4 we're going to go under that premise, I'm assuming
5 he started some work on 4/17. See that date right
6 there, 4/17. So obviously he did something on
7 4/17.

8 Q. Is there anything about change engine
9 oil or filter prior to 5/22?

10 A. Yeah, it says water in oil, but I don't
11 know what he did. You're asking me, I'm telling
12 you, I don't know if he did any work between those
13 dates.

14 Q. Does it show on his notes that he did
15 any work that was billed for prior to 5/22?

16 A. No.

17 Q. All right. 5/22 is the day after
18 Ms. Brooks was there checking on her watercraft,
19 correct?

20 A. Yes.

21 Q. 5/22 is the day that Billy King
22 returned, correct, from his extended absence?

23 A. I'm assuming. I don't know when he
24 returned.

25 Q. Let me show you Plaintiff's Exhibit

1 No. 3, which is in evidence. It's a letter from
2 the service manager Billy King on May 22nd
3 enclosing a bill. Do you recognize that?

4 A. I do.

5 Q. Okay. So what Ms. Brooks is being
6 charged for is work that was done not until May
7 22nd?

8 A. Well, as I just said earlier, I don't
9 know the timeframe of the work. I know the work
10 was performed. I know that we put spark plugs in
11 and I know we did multiple oil changes on it.

12 Q. Well, according to this memorandum
13 technician's notes, it was done on 5/22, correct?

14 A. Remember what I just said, those are
15 when the notes -- my impression is those are when
16 the notes were copied down. I do not know if he
17 did work prior to that or what time. So a
18 technician can work on things throughout a time
19 period and he may just summarize it on 5/22. I'm
20 telling you I don't know. I wasn't in the shop.

21 Q. So the notes may not be accurate as to
22 date, is that what you're telling me?

23 A. No. I think the notes were when he
24 made the notes were on 5/22 is what I think.

25 Q. All right.

1 A. Do I know if he looked at the ski on
2 5/22, I do not know the specific date that he
3 looked at it.

4 Q. Do you agree with me that 5/22 is the
5 date? That is what it means in this, correct?

6 A. That would be my assumption, yes.

7 Q. It says changed engine oil and filter
8 5/22?

9 A. Okay.

10 Q. And that is the work that you billed to
11 Ms. Brooks in Plaintiff's Exhibit No. 3 and
12 Plaintiff's Exhibit No. 4, correct?

13 A. If you can show me the exhibit just to
14 double check.

15 Q. While you're at it, you can match them
16 up for me, if you will, because the amounts are
17 different. Can you explain the difference in the
18 amounts and why there are two repair orders?

19 A. Well, there is really only one repair
20 order. If you look at the repair order number, I
21 believe they will be consistent, right? So the
22 repair orders are of an active document. Okay. So
23 they are a snapshot in time as work progresses with
24 the vehicle.

25 So when Ms. Brooks came in, the first

1 repair order would have been that snapshot in time
2 that we had done the work. As the technician or
3 the service writer engages with the customer or the
4 unit, we update that repair order as it progresses.
5 So that would be why either the cost change or the
6 notes of things changed. Just because it's an
7 active document, rolling, if you will.

8 We don't close out a repair order until
9 it's cashiered. Once it's cashiered, you can't
10 alter it. But as it's open because, obviously, we
11 have anywhere from 150 to 200 open ROs, there is no
12 way to physically track it, so we make notes. The
13 initial repair order is an estimate. It clearly
14 documents the business transaction between us and
15 the customer and that is what we did with
16 Ms. Brooks.

17 Q. On the five-page repair order, there is
18 no signature from her. Why is that?

19 A. If you think about it, every engagement
20 we have with the customer, we don't go physically
21 get them to sign it. It would be -- it's
22 impossible. We either have verbal communication is
23 typically how we do it. It's a running document.
24 Every time we update it, we don't ask.

25 Q. Well, it's your form, right? You

1 create the form, correct?

2 A. Well, it's system generated.

3 Q: Your system, correct?

4 A. Correct.

5 Q. It has provision for her signature,
6 correct?

7 A. It does.

8 Q. And that five-page bill that's
9 different from the three-page bill doesn't have her
10 signature, correct?

11 A. It does not.

12 Q. Okay. Why is there a three-page repair
13 order with her signature?

14 A. Because when she initially came in, we
15 created the repair order. We outlined the basic
16 context of what we were going to do for the service,
17 which included, she raised an issue of water in the
18 oil, a maintenance that we were going to do. We
19 summarized that initial repair order, had her sign
20 it so that we understood the engagement of it with
21 the customer.

22 Also clearly in that repair order it
23 says that if there is work to be performed outside
24 of anything where the warranty might not cover it,
25 it was the responsibility of the customer. But we

1 don't do it as it's a running document. We
2 probably made, I don't know how many different
3 entries, 20 or 30 different entries over the period
4 of time. We're not going to get 20 or 30 different
5 signatures.

6 Q. Why did you select the three-page
7 repair order with her signature on it of these two
8 repair orders to present to this Court in your
9 motion for summary judgment?

10 A. So when we had discovery, when you guys
11 asked us for information, we -- typically a
12 standard practice is when a customer comes in, we
13 create a repair order. We make an initial repair
14 order that's signed by the customer and we keep a
15 hard copy of it. So we file it away. And then, as
16 it progresses, we update our system.

17 So when I was asked to produce
18 information, I went and pulled our hard copy of the
19 repair order which is Exhibit 1. And then, when we
20 sent a repair order to Ms. Books, I'm assuming the
21 service manager pulled what he had in the system
22 through that date and said this is what is owed.
23 And then, when you asked for all of our documents,
24 we pulled another repair order, and that repair
25 order would include any additional work or

1 correspondence like Honda at one point engaged us
2 to do it and we updated the notes in the system.

3 with what Honda had. So it's a living document.

4 Q. Well, you or your attorney made the
5 motion for summary judgment. My question to you
6 is: Why did you attach that motion for summary
7 judgment, only Page 2 of a three-page repair order
8 when there was a five-page repair order that was
9 not signed?

10 A. I don't know the answer to that
11 question.

12 Q. Could it have been self-serving and
13 deceitful?

14 A. No, in fact, I think if you look at
15 what was presented at every interval we provided
16 the whole thing. Okay? Think about it. We
17 provided the hard --

18 Q. I thought about it.

19 A. -- copy. You asked the question and --

20 Q. Yes.

21 A. -- I'm just going to answer it. As for
22 all of our information, we gave our hard copy of
23 the repair order with the customer's signature.
24 That document changed. At every point in time, all
25 we did is we went into our system and printed the

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1 repair order of our contact with the customer and
2 the manufacturer and outlined it.

3 Q. It's not what you gave to the Court in
4 your motion for summary judgment. You gave him a
5 piece of a document that had a signature on it,
6 correct?

7 A. Actually, I don't know what my attorney
8 presented.

9 Q. Well, you signed an affidavit in that
10 case?

11 A. Okay.

12 Q. And you attached that document.

13 A. To my knowledge, you have all repair
14 the orders because you're asking of different ones.

15 To me --

16 Q. There are two in evidence.

17 MS. ARNOLD: Your Honor, I'm going to
18 object to the question as argumentative with the
19 witness. The motion for summary judgment was
20 submitted to the Court with an affidavit. The
21 attachment to the motion for summary judgment was
22 on the ground that we're entitled to summary
23 judgment on the basis of the storage fees at a
24 date.

25 THE COURT: I understand.

1 MS. ARNOLD: Judge Nicholson looked at
2 it and that document just showed the amount.

3 THE COURT: I understand the position
4 of the Defendant as well as the Plaintiff. We can
5 move forward.

6 MR. DENNIS: Yes, sir.

7 BY MR. DENNIS: Now, the second page of

8 Q. The signed document the second Page 2
9 on the three-page work order, which is Plaintiff's
10 No. 4, were those numbers on that page when you
11 asked Rita Brooks to sign it or you don't know?

12 A. Can you show me?

13 Q. Sure. There appears to be a signature
14 there and there are numbers that are added to your
15 form?

16 A. Okay. So what is the question?

17 Q. Page 2?

18 A. I see.

19 Q. My question is: When she signed that,
20 were those numbers on there?

21 A. Yes.

22 Q. You know that?

23 A. Well, I do know that, yeah, because I
24 know how our repair orders print, so yes. In other
25 words, there is no way that we had her sign this in

1 blank and then our system you can clearly tell it's
2 a system-generated form and that's the way our
3 system does.

4 Q. They could've generated it from the
5 system, correct, and had her sign the form, right,
6 without putting any numbers in it, couldn't they?

7 A. No.

8 Q. It's impossible?

9 A. You're not going to generate -- that is
10 a system-generated form.

11 Q. Is it impossible to generate the form
12 without numbers on it?

13 A. No, I cannot do that.

14 Q. Can somebody else in your --

15 A. No.

16 Q. Your business do that?

17 A. No.

18 Q. Okay.

19 MR. DENNIS: No. 10 for purposes of
20 identification. Move to place into evidence, Your
21 Honor, Plaintiff's No. 11.

22 THE COURT: What about No. 10? Is 10
23 in? Is there an objection to 10?

24 THE COURT REPORTER: I still have my
25 sticker here.

1 MS. ARNOLD: It's not on 10. I think
2 he was intending this to be 10; is that right?

3 THE COURT: Mr. Dennis?

4 MS. ARNOLD: Mr. Dennis, which were you
5 intending that to be 10?

6 MR. DENNIS: I understood it was 10,
7 correct?

8 THE COURT REPORTER: I have 10 here.

9 MR. DENNIS: So this is 11.

10 MS. ARNOLD: No, it would be 10.

11 MR. DENNIS: It would be 10, yeah,
12 Plaintiff's Exhibit No. 10.

13 MS. ARNOLD: Your Honor, yes, we would
14 object to this on the grounds that -- sorry.

15 MR. DENNIS: Go ahead.

16 MS. ARNOLD: On the grounds that I
17 don't believe he got proper authentication from
18 Mr. Cristo. He is not a preparer of it. They are
19 not his notes. They are documents that are
20 maintained at Velocity, but I don't believe that
21 that is proper foundation for its admission and we
22 would object.

23 MR. DENNIS: It's been identified as
24 technician's notes in the ordinary course of
25 business. Your Honor, it was produced to us in

1 discovery.

2 THE COURT: I'll allow it. That is
3 Plaintiff's No. 11. Overrule Defendant's
4 objection.

5 MR. DENNIS: Yes.

6 THE COURT REPORTER: Okay. Is this 10
7 or 11?

8 (Discussion off the record.)

9 (PLF. EXH. 10, Handwritten Notes, were
10 marked for identification.)

11 BY MR. DENNIS:

12 Q. So Mr. Cristo, what do you have
13 firsthand knowledge of with regards to Ms. Brooks'
14 dealing with Velocity, if anything?

15 A. My understanding in the knowledge of

16 Q. What is your firsthand knowledge? Not
17 what somebody told you, not what you read. What
18 firsthand knowledge do you have, if anything?

19 A. So I make sure I understand and answer
20 correctly.

21 Q. Okay.

22 A. I'm aware that she had an issue with
23 her ski.

24 Q. But somebody else told you that,
25 correct?

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1 A. I knew it was in the shop. I looked at
2 the repair order.

3 Q. Okay.

4 A. So I knew there was a problem with the
5 unit. I knew we performed some basic maintenance
6 work on it, and I know there was a discussion on
7 whether an item of repair was warrantable or not
8 warrantable.

9 Q. Do you have any writing or document
10 evidencing a request to her for money to pursue the
11 warranty work?

12 A. Say that again. I'm sorry.

13 Q. Do you have any writing that was
14 delivered to Ms. Brooks telling her that Velocity
15 needed X number of dollars from her to process her
16 warranty claim?

17 A. We communicated from our service
18 manager, service writers, that in order to proceed
19 to look and see if it was a warrantable item, the
20 teardown was more extensive. We didn't know where
21 it would go and --

22 Q. Let me repeat my question.

23 A. Okay.

24 Q. Do you have any knowledge, can you
25 produce a writing --

1 A. No.

2 Q. -- to Ms. Brooks, informing her of what
3 you just described?

4 A. No.

5 Q. So what you believe was told to her is
6 what is reported to you and whatever response she
7 made is simply what's been reported to you; is that
8 correct?

9 A. Yes.

10 Q. Are any of those people here in the
11 courtroom with you today that would have a part in
12 that communication?

13 A. Well, Billy King is the service manager
14 and he had some communication.

15 Q. Is he here?

16 A. He is behind you.

17 Q. Okay. Is your technician here who
18 authored these notes that we just went through?

19 A. No.

20 Q. Is he still employed by you?

21 A. No.

22 Q. Do you know where he is?

23 A. He is in Kentucky somewhere. I don't
24 know the area.

25 Q. Did you discuss with your attorney

1 subpoenaing him?

2 A. No.

3 Q. Is the salesperson still with your
4 company?

5 A. No.

6 Q. Do you know where he is?

7 A. He is working at a tractor dealership.

8 At least that is my understanding. I don't know if
9 he is still here.

10 Q. Did you discuss with your attorney
11 subpoenaing him to testify?

12 MS. ARNOLD: Objection, Your Honor.

13 That is just calling for attorney-client privilege.

14 THE COURT: Don't get into the
15 attorney-client privilege --

16 MR. DENNIS: All right.

17 THE COURT: Mr. Dennis. So I'll
18 sustain the objection. If you can rephrase it, you
19 can.

20 MR. DENNIS: I'm sorry. What did you
21 say, Your Honor?

22 THE COURT: If you can rephrase it.

23 MR. DENNIS: Yes, sir.

24 BY MR. DENNIS:

25 Q. Is Dave Carp still employed with you?

1 A. No.

2 Q. Do you know where he is?

3 A. No.

4 Q. Did you attempt to subpoena him?

5 A. No.

6 Q. Is Byron Hager still employed with you?

7 A. Yes.

8 Q. Is he here today?

9 A. No.

10 Q. Is he going to testify?

11 A. No.

12 Q. Did you subpoena him?

13 A. No.

14 Q. What conversations, if any, have you
15 had directly with Rita Brooks?

16 A. The conversation that I recall is our
17 face-to-face meeting. I don't know the date of it.
18 I think she referenced December. I don't know when
19 it was, but I have had a conversation with her in
20 person.

21 Q. Onsite?

22 A. Yes.

23 Q. Is that when you called her boyfriend a
24 rocket scientist in a derogatory manner?

25 A. I don't recall saying that, but I do

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1 recall being on the showroom floor. It was those
2 two people and another individual. I remember I
3 believe their name was Jerry, getting somewhat
4 heated, argumentative, very boisterous to the point
5 where he kept saying, I'm a technician and I
6 understand it, I know what I'm doing. To the point
7 where I got concerned and I had to threaten to call
8 the police because I felt like he was getting
9 extremely volatile and he also wasn't the customer.
10 And at that point I'm like, we need to cease and
11 desist this.

12 I was trying to resolve it. I was
13 putting a good faith effort forward. In no way did
14 I try to diminish or demean Ms. Brooks, but her
15 boyfriend was extremely argumentative and
16 confrontational. I offered --

17 Q. Were they --

18 A. I offered a solution. Again, offered
19 to absorb the cost of the unit. Offered to put it
20 back together. Offered to waive the fees. Okay.
21 Provided they gave a release, obviously. All of
22 those were declined.

23 Q. You told her you would not guarantee
24 that the unit would work, correct?

25 A. That's correct. I mean, I didn't know

1 if it would work or not.

2 Q. What explanation did you offer to her
3 for having left the unit outside and exposed to the
4 elements for months on end?

5 A. All of our skis are kept outside.
6 Every single one of them. We have -- at any given
7 point we could have 30 to 70 skis on our premises.
8 There is no way we can store them inside. Now,
9 what customers do is those that have covers, and

10 I believe Ms. Brooks said she had a cover. She
11 could have brought her cover in there and we could
12 have used that. But there is no way I can store a
13 ski up in my warehouse with all my customers.

14 Now, I did do this. After our
15 face-to-face meeting, the next day, I had my lot
16 guys totally detail the unit and put it up in my
17 warehouse because I realized things were not going
18 to get better and I put it in the warehouse and
19 it's been in the warehouse ever since.

20 Q. That is when Honda and the attorneys
21 were coming to look at the unit, correct?

22 A. No, that's not correct.

23 Q. You managed to store it then and
24 brought it down to the garage?

25 A. That's actually not correct.

1 Q. Yeah.

2 A. You asked the question, do I have an
3 opportunity to address it is, the day after she was
4 present, I initiated my guys to clean it, take all
5 the stuff and put it in my warehouse, not when the
6 attorneys -- not when Honda was coming. That was
7 much later. The day after I initiated it, I also,
8 because there were some questions on the seat.
9 They were making innuendoes and references that we
10 switched the seat covers.
11 I even had my service writer check and
12 call Honda and verify the color of the seat because
13 they were saying it was a different color and it
14 wasn't.

15 Q. Did you have your people put the unit
16 back together?

17 A. I did not.

18 Q. Okay. So when my client testifies as
19 to Plaintiff's Exhibit No. 7 and the black bucket
20 there containing parts, those were parts to this
21 jet ski, correct?

22 A. Correct. And you can see the ski has
23 been cleaned.

24 Q. Looks good on the outside. What value,
25 Mr. Cristo, is it to a consumer and user of a jet

1 ski to have the oil changed and filter changed and
2 the tune-up and summerization on a unit like this
3 that won't run correctly? What value is there?

4 A. I would advocate the value would be to
5 do it before that, which she didn't do. But she
6 brought it in. She brought it in for two issues,
7 from what I can understand. She wanted some
8 maintenance done and we couldn't determine the
9 run-ability to it provided we had to do certain
10 steps to get to that point. That was my
11 understanding.

12 Q. My question to you: What value is the
13 work that was performed have to her with a unit
14 that doesn't run?

15 A. Well, first of all you would have to
16 ask a technician or somebody competent on it, but
17 you couldn't get any form of diagnosis if my
18 understanding is right, until you did this first
19 step.

20 Q. We could ask one of your technicians if
21 they were here, correct, but they're not. Correct?

22 A. There is a gentleman that could answer
23 that. He is here. I have a certified technician
24 present.

25 Q. Okay.

1 A: So we can answer that if you would
2 like.

3 MR. DENNIS: Indulge me just a moment,
4 Your Honor, I think I'm about finished.

5 BY MR. DENNIS:

6 Q. Did you ever personally inspect this
7 unit as to its condition?

8 A. Did I? The only time I ever looked at
9 the unit was with them on that date.

10 Q. Did you ever see the unit in the same
11 condition that is shown in Plaintiff's Exhibit
12 No. 6?

13 A. I did.

14 Q. Did you see oil and gas mixed together
15 within the unit itself?

16 A. I did not see that, but I saw -- if you
17 want to bring it back to me, I'll tell you what I
18 saw. I didn't see the oil on the engine, but I saw
19 the outside of the ski, looking like it was
20 weathered because it's been outside.

21 Q. Let me rephrase my question. Did you
22 ever look on the inside of the ski?

23 A. No. I didn't look inside of the ski
24 other than when they opened up the hold. I didn't
25 look for oil or any of that stuff.

1 MR. DENNIS: Nothing further, Your
2 Honor.

3 MS. ARNOLD: Your Honor, I can either
4 move now for a directed verdict as I call
5 Mr. Cristo back when we put on the defense side of
6 the equation or you could have me do him in full
7 now. Whatever is the Court's preference.

8 THE COURT: Mr. Dennis?

9 MR. DENNIS: As to my preference as to
10 what she does?

11 THE COURT: Any position?

12 MR. DENNIS: I don't know that there is
13 anybody direct insofar as the motion for judgment,
14 Your Honor. Perhaps that is a matter of semantics,
15 but I'll leave that to counsel as to how she wants
16 to proceed or however the Court wants to direct
17 her.

18 THE COURT: It's my understanding your
19 position is you don't want to ask questions in
20 full. At this point in time, you want to make a
21 motion for the directed verdict.

22 MS. ARNOLD: Correct, Your Honor, yes.

23 THE COURT: So I'll deny the motion for
24 the directed verdict. Motion for directed verdict
25 and/or take it under advisement, I guess, and let

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1 you go ahead and ask the questions in full.

2 MS. ARNOLD: Thank you.

3 THE COURT: I may ask one or two and
4 maybe this will take it back to Dennis.

5 Mr. Cristo, you indicated that y'all
6 were using the term "summerization" which is kind
7 of like the opposite of winterization. You do
8 summerization before you use it in the spring when
9 you bring it out?

10 THE WITNESS: Correct, correct.

11 THE COURT: Is that what you're talking
12 about?

13 THE WITNESS: Yes, sir.

14 THE COURT: That would be a tune-up for
15 lack of a better term; is that right?

16 THE WITNESS: I'm not as a mechanic
17 inclined, but, yeah. It's --

18 THE COURT: Is there any difference
19 that y'all charge for a summerization versus a
20 tune-up?

21 THE WITNESS: We don't use the term
22 tune-up technically, but the summerization -- and
23 there is a gentleman who we can put on the stand.

24 THE COURT: Your understanding. I know
25 what you're saying.

1 THE WITNESS: It's -- there is a
2 winterization and a summerization process. Okay?

3 THE COURT: I understand.

4 THE WITNESS: That are advocated. The
5 summerization includes -- I think they reput the
6 oil in, I don't know about the spark plugs. They
7 check the fluids, they fully inspect the entire
8 skis. That is essentially the process. Now I think
9 it's a little more comprehensive, but I don't know
10 the -- there is like a 30-point check that they go
11 through. I don't know the specifics of that.

12 THE COURT: Did you indicate that you
13 thought it was appropriate to do either the
14 summerization tune-up or a combination of the two
15 before they did an evaluation to find out what the
16 problems were?

17 THE WITNESS: Well, I think the
18 summerization and winterization are a preventative
19 maintenance process that's recommended by the
20 manufacturers all the time on skis. My
21 understanding was they brought the ski in for a
22 run-ability issue. Okay. It had two issues. It
23 had the code issue and then it had water getting
24 into the oil. It wasn't going fast enough. There
25 was a two-stage process. My understanding was they

1 were going to do some maintenance work that was
2 defined in the repair order and told to her, and
3 that's where she gave -- it was an estimate that
4 she signed.

5 THE COURT: That was the maintenance
6 work?

7 THE WITNESS: They were trying to
8 determine how the oil was getting -- the water was
9 getting in the oil. Okay? So the maintenance work
10 was to clear all of that, flush the oil, change it
11 so that they could run it again to see whether
12 water was getting back into the oil, which it was.

13 THE COURT: Would that have been the
14 tune-up or summerization?

15 THE WITNESS: I think it was part of
16 the overall process.

17 THE COURT: Okay. All right. Okay.
18 Thank you.

19 THE WITNESS: Okay.

20 MS. ARNOLD: May I proceed, Your Honor?

21 THE COURT: Yes.

22 CROSS-EXAMINATION.

23 BY MS. ARNOLD:

24 Q. Mr. Cristo, I'm going to hand you what
25 has been marked, I believe, Plaintiff's No. 1 and

1 ask you to look at that and tell me if you can.

2 identify it for the Court, please?

3 A. I can.

4 Q. Okay. And what is it?

5 A. It is a buyer's order and a retail
6 contract for the purchase of the ski.

7 Q. And the particular ski that we're
8 talking about here today?

9 A. Yes. Yes.

10 Q. And if you look on the backside of that
11 page, the pink page, and if you look to
12 Paragraph 10, what does it say?

13 A. It says, "New: As is. The only
14 warranties applied to this vehicle are those
15 offered by the manufacturer or the selling dealer
16 hereby expressly."

17 THE COURT REPORTER: Slow down, please,
18 sir.

19 THE WITNESS: I'm sorry. "Explains all
20 warranties, either express or implied, including
21 any implied warranties for merchantability of
22 fitness of this particular purpose and neither
23 assumes nor authorizes any person to assume for any
24 liability in connection with the sale of this
25 vehicle. Buyer shall not be able to recover from

1 the selling dealer any consequential damages to the
2 property, damages for loss of use, loss of time,
3 loss of profits or income, or any incidental
4 damages."

5 Q. Who was the selling dealer in this
6 particular transaction?

7 A. We were.

8 Q. We meaning Velocity Powersports, LLC?

9 A. Velocity, yes.

10 Q. Thank you. Mr. Cristo, you were
11 talking to -- what type -- you were talking to
12 Mr. Dennis about the difference in the invoicing
13 for the repair orders. And I'm going to hand you
14 what has been marked as Defense Exhibit No. 1 and
15 ask if you can identify that?

16 A. I can.

17 Q. What is that?

18 A. That is first repair order that was
19 created when Mrs. Brooks brought this ski in.

20 Q. What appears on Page 3 of that
21 particular document?

22 A. A summary of the first initial
23 estimates and Ms. Brooks' signature.

24 Q. Okay. And at the bottom of that
25 paragraph, what is stated about a customer's

1 obligation to pay for warranty work?

2 A. "I understand that if the manufacturer
3 warranty does not cover my repair, I am responsible
4 for the full amount due at the rate of \$94 per
5 hour."

6 Q. Okay. And what does that document
7 state about storage fees?

8 A. It says, "A fee of \$25 per day will be
9 charged if a watercraft is not picked up within
10 five days of completion."

11 Q. Okay. Now, what type of system do you
12 have to maintain your repair order records?

13 A. We have a system that is used by 70, 80
14 percent, maybe even higher, of all dealerships in
15 the country called Lightspeed. It's owned by --
16 it's called CDK Lightspeed and it's owned by ADP.

17 Q. Okay. And what has been identified as
18 Exhibit No. 1, this was -- at what point in time
19 did this take place?

20 A. From what I can tell, it was when
21 Ms. Brooks first came in and they created the
22 repair order identifying what the expectations are
23 and what we were going to do.

24 A. (DFT. EXH. 3, Repair Order, was marked
25 for identification.)

1 MS. ARNOLD: Mark that as No. 3.

2 MR. DENNIS: If I may just speak to
3 counsel, Your Honor.

4 (Discussion off the record.)

5 BY MS. ARNOLD:

6 Q. Mr. Cristo, I'll hand you what has been
7 marked as Defendant's No. 3 and ask you if you can
8 look at that and identify it for the Court, please.

9 A. Okay. Is there a specific question?

10 Q. Yes. Can you identify that for the
11 Court?

12 A. Yes. It's a repair order printed on
13 2/27/13.

14 Q. Look through it please, sir, and see if
15 you can tell me what the combination of those
16 documents are.

17 A. So you have, from what I can tell, you
18 have one repair order that we printed on 2/27/13.
19 And then included in here was the original repair
20 order. So the one on 2/27 shows all the documents,
21 all the work that we have done, and all the
22 communication from the time of the original repair
23 work.

24 Q. Is this what you detailed, the running
25 entry that you described earlier?

1 A. Yes. Again, so it's a continuation of
2 it. So it's a snapshot of a point in time on where
3 we are with this repair order.

4 Q. And for each one of these documents on
5 it, do you identify when a customer comes in for
6 service, do you give it an identifying number?

7 A. A repair order number, yes. If you
8 look at the top, it's 2 -- it looks -- I can't
9 tell. It's a little hard. But 28860 I believe is
10 on all of them.

11 Q. Okay.

12 A. That is the identifier.

13 Q. That is how you would identify this
14 particular --

15 A. Yes. So it shows like on it, as you
16 can see, it shows the different work we have
17 performed. Again, it came in for a run-ability
18 issue. It wasn't performing. Part of a
19 run-ability issue could be spark plugs, bad gas,
20 bad oil. So that's part of when you had asked the
21 question earlier of why, that could have been one
22 component also of a run-ability issue. Which
23 wouldn't have been a warranty item if one of these
24 things would've solved it.

25 In reading the notes on here, after

1 they performed those things, water was still
2 showing in the oil. Okay? That means it's a more
3 comprehensive issue. There were red flags
4 associated with this unit coming in. There was no
5 history of maintenance work at our store or any
6 other store. That's a red flag when you go to
7 submit a warranty claim to a manufacturer. The
8 unit wasn't in the best condition. There was rust
9 on the turbo. Okay? Those are red flags.

10 I have done this a long time. Part of
11 why we put on the repair order that is the
12 responsibility if the warranty doesn't cover it is
13 because we're trying to make good business
14 decisions, and I don't want to go to a customer
15 after the fact and say we spent four hours and
16 another \$500, but it's not covered under warranty.
17 We communicate it up front.

18 We communicated to Ms. Brooks that
19 there was that potential with this issue. She
20 refused. She threatened on multiple occasions
21 attorneys. And that is when we made a business
22 decision that was it was better to stop on the
23 maintenance side of it. She didn't want to
24 authorize us going any further because of what we
25 were telling her that there was a red flag with

1 this and we didn't know for sure if the
2 manufacturer was going to cover it. Okay? She
3 stopped us. We stopped and we said pay us for what
4 we have done so far and that's when she refused.
5 And that is detailed and outlined in all of the ROs
6 and in the notes.

7 Q. What is the outstanding invoice for the
8 work that was performed by Velocity on this --

9 A. Well, we wrote it off, but it's \$219.

10 Q. Is that --

11 A. Which, by the way, is under what it
12 really is. If you look at the technician notes on
13 one of the exhibits it says four hours. We
14 probably have way more time than that, but I can't
15 charge that time, but I paid a technician for it,
16 but I can't bill it and didn't bill it.

17 Q. What has been paid to Velocity with
18 regards to the work performed on this particular
19 ski?

20 A. Nothing.

21 Q. Okay. At what point in time did
22 Velocity stop performing any work with regard to
23 this particular ski?

24 A. The day that I believe Mr. King
25 submitted the letter is when we made a business

1 decision that I have a customer who has signalled
2 on multiple occasions that they were going to
3 contact an attorney or sue us. They called the
4 cashier and made that comment. They made to David
5 Carp on a number of occasions --

6 MR. DENNIS: Objection, Your Honor.

7 THE COURT: On the basis?

8 MR. DENNIS: There is no foundation for
9 this testimony. He has already testified to his
10 limited contacts with my client. What he is
11 testifying to is the cashier, who is -- it's
12 hearsay.

13 THE COURT: All right. Don't tell us
14 anything as to what somebody else may have said.

15 THE WITNESS: Yes, sir.

16 THE COURT: I'll sustain the objection.

17 BY MS. ARNOLD:

18 Q. Mr. Cristo, I handed you what has been
19 previously marked as I believe it's Plaintiff's
20 number -- look on the yellow sticker on the front
21 for me. Just do it quick for the record.

22 A. No. 3.

23 Q. Have you seen that document before?

24 A. I have.

25 Q. Okay. What is that document?

1 A. This is the letter from Billy King to
2 Ms. Brooks outlining that she owes us \$219.92, that
3 we want payment for it, that she has to come pick
4 up her ski, and if we don't get the money or she
5 picks up the ski then it's going to incur service
6 charges. And then if that, as they accumulate, we
7 would try to take possession of it with the
8 magistrate.

9 Q. How many occasions did Velocity give
10 Ms. Brooks an opportunity to come pick up the ski
11 and remove it from your premises?

12 A. I don't know the frequency of it. I
13 know -- I know we have a letter. I have hearsay
14 from employees that have told me on multiple
15 occasions.

16 Q. What communications did you have with
17 Ms. Brooks About the opportunity to come pick up
18 the ski?

19 A. The conversation that I have had with
20 her that I recall is the physical one face to face.
21 She mentioned a phone call. I will be honest, I
22 don't recall the phone call, but I do recall the
23 face-to-face meeting where I told her face to face
24 basically a vision of what I just outlined was I'll
25 waive the fee, I'll waive the storage, I'll put it

1 back together, you have to sign a release. I was
2 trying to make a good business decision to make it
3 go away.

4 Q. What warranty work, if any, was
5 conducted by Velocity on this particular ski?

6 A. No warranty work was done or submitted
7 to Honda.

8 Q. Why is that?

9 A. Because we never got deep enough into
10 it because Ms. Brooks did not authorize us to go
11 any further. When we knew the ski was more
12 comprehensive, the signals that we were getting
13 which is water was still in the oil, we knew that
14 it was going to be a much more comprehensive
15 teardown. We also knew that there was a
16 probability that the manufacturer would decline
17 that warranty because of the red flags that I
18 discussed earlier. So we stopped and communicated
19 to her that that wouldn't be the case.

20 Q. Okay. How long has this ski -- how
21 long has Ms. Brooks left the ski in your location?

22 A. Since she first brought it in in April
23 of 2012.

24 Q. And through today's date, is that
25 correct?

1 A. Correct.

2 Q. Where is the ski presently housed?

3 A. It is housed in our warehouse. I have
4 had to move it hundreds of times probably. It's in
5 the way, but we have it stored inside in our
6 warehouse on the second floor.

7 Q. Okay.

8 MS. ARNOLD: Nothing further at this
9 time, Your Honor.

10 THE COURT: Mr. Dennis?

11 MR. DENNIS: May it please the Court?

12 THE WITNESS: Excuse me. Do I keep the
13 exhibit?

14 MS. ARNOLD: I'll get it.

15 REDIRECT EXAMINATION

16 BY MR. DENNIS:

17 Q. Mr. Cristo, you don't dispute that
18 Ms. Brooks delivered her watercraft to you with the
19 request that the run-ability issue be fixed, do
20 you?

21 A. I'm reading the notes. I was told that
22 that is notes.

23 Q. I'm not asking you about the notes. Do
24 you dispute or not that she delivered the
25 watercraft to you with the request that the

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1 run-ability issue be addressed? Do you dispute
2 that?

3 A. No.

4 Q. Do you dispute that the warranty work
5 was never done?

6 A. No, it wasn't done.

7 Q. Do you dispute that your technician or
8 Mr. Carp told her that it would all be covered by
9 warranty.

10 MS. ARNOLD: Objection.

11 THE WITNESS: I do dispute that because
12 that's --

13 THE COURT: Hang on. Objection?

14 MS. ARNOLD: Yes, Your Honor. He has
15 got his questions with testimony that has not been
16 admitted into evidence and it's hearsay. He is
17 talking about a technician's remarks that have not
18 -- the technician is not here.

19 THE COURT: I'll allow him to ask the
20 questions. Go ahead.

21 BY MR. DENNIS:

22 Q. Ms. Brooks testified as to multiple
23 conversations with Mr. Carp, and specifically when
24 she left the watercraft that she was told it would
25 be covered by warranty. Do you dispute that?

1 A. I do.

2 Q. Do you have any writing to support that
3 dispute?

4 A. Well, you're asking my opinion?

5 Q. No. I'm asking if you have any writing
6 to support that dispute?

7 A. No, I don't have any writing.

8 Q. Okay. Do you dispute that?

9 A. But it does say in the repair order if
10 it's not covered. So it does define that if it's
11 an item that is not covered by warranty it's the
12 responsibility of the consumer.

13 Q. Do you dispute on both repair orders,
14 the initial one and then the five-page one that is
15 unsigned over Mr. King's signature, both of them
16 mentioned warranty work?

17 A. Can you show them to me?

18 Q. The Plaintiff's 4 and Plaintiff's 3.
19 Plaintiff's 3 is the five-page repair order.
20 Plaintiff's 4 is the three-page, but a duplicate
21 Page 2.

22 A. Okay.

23 Q. Don't both of those mention warranty
24 work?

25 A. Okay. They do mention warranty work,

1 yes.

2 Q. All right. Do any of those repair
3 orders indicate that she needs to pay any money for
4 that warranty work?

5 A. No. But they were mentioned here as,
6 one, identifying it, and we never submitted any
7 warranty claims to Honda.

8 Q. Is there anything in your repair orders
9 that tell Rita Brooks that she needs to come up
10 with money to prosecute or pursue the warranty?

11 A. No.

12 Q. Okay. And do you dispute that these
13 repairs were not completed?

14 A. We completed what we discussed. It
15 says in here --

16 Q. You didn't complete the repairs, did
17 you, because part of the repairs were the warranty
18 work, correct?

19 A. Okay. The initial repair order says we
20 will review that, but no, the diagnosis was not
21 completed, correct.

22 Q. Both of your repair orders make
23 reference to warranty work, correct?

24 A. Different unrelated items, but, yes.

25 Q. Was that warranty work ever done?

1 A. No warranty work was done.

2 Q. All right. So repairs were not
3 completed on this unit, correct?

4 A. That is correct. We did not do any
5 warranty work on the ski.

6 Q. Doesn't your form on Page 2,
7 Plaintiff's Exhibit No. 4, say that a storage fee
8 will be charged after completion of repairs. Do
9 you dispute that?

10 A. I'm sorry. Will be charged if
11 watercraft is not pick up after five days.

12 Q. After completion?

13 A. -- after completion.

14 Q. After completion of repairs?

15 A. Correct. That's what it says.

16 Q. And repairs weren't completed?

17 A. We performed the basic service, but no,
18 we did not, but that is the whole bone of
19 contention we're here, right, is that we did not
20 submit a claim.

21 Q. These were the repairs that were done
22 on, as best we can tell from the notes you produced
23 in discovery from your technician, that the
24 repairs, the servicing that was done on the 22nd
25 day of May, correct?

1 A. I'm not sure what the question is.

2 Q. Those amounts that you're claiming are
3 owed for the service done on the 22nd of May,
4 correct?

5 A. We discussed that earlier. I'm not
6 sure when they were performed. The note says the
7 22nd.

8 Q. Everything that we have says the 22nd
9 of May, doesn't?

10 A. It does, but let's say it's the 22nd,
11 then, yes.

12 Q. Do you have anything else that says
13 another date?

14 A. I'll go with you on the 22nd. I don't
15 know if that's --

16 Q. Thank you.

17 A. -- the date or not. But it is for the
18 work that was performed, which is the oil changes,
19 the technician --

20 Q. Which is incomplete repairs, correct?

21 A. No.

22 Q. Well, you didn't complete the warranty
23 work, did you?

24 A. No, but we performed the maintenance
25 work.

1 Q. What good --

2 A. Then we acknowledged and defined that
3 to Ms. Brooks and she refused to come and get her

4 --
5 Q. What good does a summerization do to a
6 vehicle, watercraft that won't perform?

7 A. It's all part of the process. And
8 again, I am not a technician. But it is all part
9 of the process of finding out the run-ability
10 issues of it. Okay? If a ski is designed to go 60
11 miles an hour and it goes 35, there is a reason.
12 What is the reason? Is it spark plugs? Is it bad
13 gas? Is it a higher issue? Okay? It's much like
14 a doctor doing a diagnosis. Again, I am not a
15 technician, but I am giving you an overview.

16 Q. If you don't know, I don't know want
17 you to testify. Thank you. Did you respond to the
18 letter that she wrote to you before she filed suit?

19 A. I don't remember the letter.

20 Q. Okay. Did you have your lawyer respond
21 to the letter of demand that I wrote before we
22 filed suit?

23 A. I don't remember what Sammie did or
24 what --

25 Q. These offers that you say that you --

1 the offer that you say that you made onsite that
2 she could pick up her watercraft, she wouldn't have
3 to pay for it, you would reassemble it, but
4 wouldn't guaranty it would work. That's after the
5 lawsuit had been pending for over a year, correct?

6 A. I don't know the timeframe, but, yes.

7 Q. When Mr. King --

8 A. Somewhere in that timeframe that she
9 discussed --

10 Q. When Mr. King wrote his letter on the
11 22nd, you wanted 200 and some odd dollars?

12 A. Right.

13 Q. From her before she picked it up,
14 correct?

15 A. Correct.

16 Q. So she had to be willing to pay you
17 that money to pick it up, right?

18 A. Correct.

19 Q. Thank you, Mr. Cristo.

20 THE COURT: You can step down. Thank
21 you.

22 Mr. Dennis?

23 MR. DENNIS: I have Ms. McDede to
24 testify or I can testify as to the attorney's fees.
25 Typically, they're handled by way of an affidavit.

1 Just the form I tried to put it in, I didn't talk
2 to counsel in advance except for her to say that
3 she was okay with that format. I really didn't
4 understand her reservation, but I want to be
5 responsive.

6 THE COURT: As to the substance of the
7 case, any other witness that you're going to be
8 calling?

9 MR. DENNIS: Not in our case in chief,
10 Your Honor.

11 THE COURT: Okay. All right. I'll
12 hold in abeyance the issue as to the attorney's
13 fees, testimony of the matter of presentation so we
14 can discuss that either at the conclusion of all
15 the testimony. Or if need be, when I make a
16 decision relative to the substance of the case. So
17 how much have you got for testimony in addition to
18 what you have elicited from Mr. Cristo?

19 MS. ARNOLD: Mr. King will be the main
20 purpose of that, Your Honor.

21 THE COURT: How long do y'all
22 anticipate taking with Mr. King?

23 MS. ARNOLD: I'm not sure quite
24 honestly, Judge, I would anticipate the same amount
25 of time potentially.

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1 THE COURT: All right. It's 12:30 now.
2 Let's take an hour, hour and 15 minutes for lunch.
3 Okay? Unless y'all want to plow through. If y'all
4 want to plow through, I'm good with that.
5 Otherwise, if we take an hour and 15 minutes, then
6 we'll be running into the afternoon. If y'all want
7 to talk about it between yourselves and your
8 clients and tell me what you want to do. Either
9 way is fine by me.

10 MR. DENNIS: I would just as soon have
11 the break, Your Honor, with the one witness
12 remaining and a set of cross, maybe redirect and
13 recross, I think we're not in danger of running
14 beyond today so I think we can finish this
15 afternoon, certainly.

16 MS. ARNOLD: That's fine, Your Honor.

17 THE COURT: No problem. All right,
18 then. It is now 12:30. We'll be back here at 1:45
19 to restart, and we're going to close up and lock
20 the door so they can leave stuff here; is that
21 right? Are we going to lock the door for them?

22 THE BAILIFF: Yes, sir.

23 THE COURT: Okay. We'll lock the door.

24 Madam Court Reporter?

25 THE COURT REPORTER: Yes, Your Honor.

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1 THE COURT: Those items that you have
2 that are into the record already, I would like to
3 take those with me to take a look at it if there is
4 no objection.

5 MS. ARNOLD: No objection.

6 MR. DENNIS: No objection. Thank you.

7 (A luncheon recess transpired from
8 12:27 p.m. to 1:51 p.m.)

9 THE COURT: Ready to go forward?

10 MR. DENNIS: Yes, sir.

11 MS. ARNOLD: Yes, sir.

12 THE COURT: All right. Where are we at
13 right now? Madam Court Reporter, I will give you
14 these back.

15 THE COURT REPORTER: Thank you.

16 MS. ARNOLD: Your Honor, I'm ready to
17 proceed.

18 THE COURT: Please do.

19 MS. ARNOLD: Your Honor, we'll call
20 Billy King to the witness stand.

21 THE COURT: Mr. King, come on up.

22 BILLY KING
23 being first duly sworn, testified as follows:

24 THE COURT: Sit down, give your name
25 and spell your last name and your address for the

1 court reporter.. Okay.

2 THE WITNESS: Billy King, K-I-N-G, 228
3 Michael Lane, Moncks Corner, South Carolina.

4 DIRECT EXAMINATION

5 BY MS. ARNOLD:

6 Q. Mr. King, how long have you lived in
7 that particular location?

8 A. For about 20 years.

9 Q. Okay. What are you presently doing?

10 A. I own and operate a utility trailer in
11 an equipment trailer business.

12 Q. How long have you been doing that?

13 A. Part-time for six years now. Full-time
14 since this past March.

15 Q. Prior to March, where were you
16 employed?

17 A. Velocity Powersports.

18 Q. What was your position at Velocity?

19 A. Service manager.

20 Q. How long did you hold that position?

21 A. For nearly 13 years.

22 Q. Okay. In that position, describe for
23 the Court a little bit please what functions you
24 performed.

25 A. I oversaw kind of the repair order

1 process. I helped diagnose vehicles with the
2 technicians, also oversaw the warranty process.

3 Q. Okay. Do you yourself have any
4 particular certification?

5 A. Yes. I'm Honda AquaTrax certified, I
6 was Polaris certified, Suzuki, Kawasaki.

7 Q. Was that four of your main certifications for the different manufacturers?
8

9 A. Yes.

10 Q. Can describe for the Court what a
11 typical warranty process would be for a jet ski
12 when it comes to Velocity for an alleged warranty
13 issue?

14 A. Sure. So it really starts with the
15 repair order process and the repair order being
16 written up and us documenting the customer's
17 complaint, you know, of the vehicle. So it starts
18 there. Once we do that, we line it up into
19 scheduling to go to a technician. At that point,
20 the technician receives the repair order on the
21 vehicle and gets it in for diagnostics.

22 Q. With this particular vehicle, was
23 Ms. Brooks' vehicle, did you ever have an
24 opportunity to look at it?

25 A. Yes.

1 Q. Describe to the Court what you saw when
2 you had an opportunity to look at this vehicle.

3 A. Got you. Well, it was -- the vehicle
4 had several issues. One is it was throwing codes
5 and it was having maybe a run-ability issue where
6 it would only go up to 30 or 35 miles an hour. The
7 second issue was that it was ingesting water into
8 the engine oil. So those were the two issues that
9 it had.

10 Q. What would Velocity typically do to
11 address those two issues or determine the problems
12 being caused there?

13 A. So without us knowing how the water got
14 in the oil, we would basically start by performing
15 the summerization service. That can kind of
16 eliminate a couple of things with the ski. During
17 the service of the summerization, we change the
18 engine oil filter and we change the spark plugs.
19 If the spark plugs are partially fouled or have an
20 issue going on there, that could have been the
21 low-speed issue that it was having, and if the ski
22 had ever been flipped over or sank or anything,
23 that could've explained water ingestion into the
24 oil.

25 Q. What work did Velocity do with this

1 particular jet ski?

2 A. We had basically changed and flushed
3 the engine oil, installed the spark plugs and test
4 ran the ski.

5 MS. ARNOLD: Excuse me. Indulge me for
6 one minute, Your Honor. I was just looking for...

7 BY MS. ARNOLD:

8 Q. Mrs. King I will hand you what has been
9 marked as Defendant's No. 3, and ask you if you can
10 identify that?

11 A. Yes. This is the repair order for
12 Ms. Brooks.

13 Q. Okay. In there, does it detail the
14 work that was done on this particular ski?

15 A. Yes. It explains, you know, some of
16 the diagnostics as well as it looks like the
17 servicing of the ski and summerization.

18 Q. Okay. What was charged to Ms. Brooks
19 for work performed?

20 A. What was charged to Ms. Brooks was the
21 summerization full service at half the labor cost.
22 What was charged was the replacement of the spark
23 plugs, replacement of engine oil, the lubing of the
24 ski, and replacement of the engine oil filter.

25 Q. What has been paid, to your knowledge,

1 on Ms. Brooks' invoice?

2 A. To my knowledge, nothing.

3 Q. Okay. What happened with regard to the
4 issue with the speed or the low speed of this
5 particular vehicle?

6 MR. DENNIS: I'm going to object to the
7 absence of foundation, Your Honor. I don't know
8 what the source of this information is. The
9 testimony has been there has been no contact with
10 Mr. King until he returned maybe on the 22nd. So I
11 would ask for a foundation as to his information
12 and knowledge.

13 THE COURT: I think that's appropriate.

14 BY MS. ARNOLD:

15 Q. Mr. King, do you recall when you saw
16 this particular vehicle?

17 A. I don't recall the exact date of when I
18 saw it, but I was involved with P.J. Wilson in
19 helping to try and diagnose the water-injection
20 issues. I looked over the ski multiple times with
21 him.

22 Q. Okay. With regard to y'all's
23 inspection, what happened? Did that deal with the
24 issue with the low speed?

25 A. So we basically were never able to

1 continue diagnostics with that. So we were never
2 able to determined what happened with it.

3 Q. When, if ever, was anything presented
4 to Honda on a warranty claim?

5 A. Never.

6 Q. Okay. Why?

7 A. We were never allowed to continue
8 diagnostics. The warranty process of it, the way
9 that it works with Honda is you have to -- when you
10 have a case like this where you don't know exactly
11 what is causing it, the customer has to grant you
12 authorization to begin the teardown process and to
13 continue diagnostics with the understanding that if
14 warranty doesn't pick up and cover it, that they
15 would be responsible for repairs and that was not
16 done by Ms. Brooks.

17 Q. I'm going to, I think it's No. 3. And
18 it is Plaintiff's Exhibit No. 3 and ask you to look
19 at that and tell me, tell the Court if you can
20 identify it.

21 A. Yes. This is the letter that we had
22 sent out urging Ms. Brooks to pick up her ski.

23 Q. Who authored that letter?

24 A. Ma'am?

25 Q. Who authored that letter?

1 A: I did, along with, you know, with
2 management.

3 Q: How was the letter sent?

4 A: By certified mail.

5 Q: What is it you're telling Ms. Brooks at
6 this particular time?

7 A: At this particular time, what we were
8 telling her is that we, you know, basically, you
9 know, done the basic servicing of the ski and that
10 we no longer wished to continue working on the ski
11 and we wanted her to come pick it up.

12 Q: On any occasions did you have a chance
13 to have a verbal discussion with Mr. Brooks?

14 A: Yes, over the phone.

15 Q: What was said during the course of that
16 conversation with Ms. Brooks?

17 A: I tried explaining to her that, you
18 know, that we basically -- that we no longer wished
19 to work on the ski and we wanted her to come pick
20 it up from us.

21 Q: When did she come and pick up the ski?

22 A: She never did.

23 Q: After that occasion, did you have a
24 chance to look at the ski again?

25 A: Yes.

1 Q. On what occasion did you have a chance
2 to look at the ski?

3 A. After that, there was, I guess,
4 multiple things that had transpired. At some point
5 Honda had called and wanted us to continue trying,
6 to figure out what was wrong with it. So we pulled
7 it back in and started to look at it again. But
8 shortly after that, we basically stopped with that.

9 MS. ARNOLD: I'm going to have this
10 marked as Defendant's No. 4, if I might, please.

11 (DFT. EXH. 4, Internal Repair Order
12 Note, was marked for identification.)

13 BY MS. ARNOLD:

14 Q. I'm going to hand you what has been
15 marked as Defendant's Exhibit No. 4, Mr. King, and
16 ask you if you can identify that for the Court?

17 A. Yes. These are notes that we had made
18 internally on our repair order regarding the
19 different like levels and different times of when
20 we had discussed things with Honda and Ms. Brooks.

21 Q. In determining if there was a problem
22 in dealing with the complaint made by Ms. Brooks
23 when she brought in the ski, was there a certain
24 process that you needed to follow to eliminate
25 issues?

1 A. Yes.

2 Q. So what was that process?

3 A. The diagnostic process basically almost
4 starts with doing the service of the ski. When it
5 comes back to the speed issue, that could have been
6 caused by spark plugs, so we changed the spark
7 plugs. We had also -- with the engine oil, not
8 knowing how water had gotten into the oil, we
9 changed the oil and flushed the oil.

10 Q. When would that have been done?

11 A. That was done initially when the ski
12 was first dropped off, first taken into the shop
13 for repair.

14 Q. In looking what has been now marked as
15 Defendant's No. 4, do you see, I'm assuming --
16 three-quarters down the way, any notations that may
17 have been entered by you?

18 A. Yes. I had called Ms. Brooks and
19 explained that we no longer, you know, wanted to
20 work on the ski and that she owes \$219.92 for the
21 oil change and the spark plug replacement. And
22 that, you know, we wanted her to basically just
23 come and pick it up. And that she was wishing --
24 she told me that she wanted me to talk to her
25 lawyer and that was it. That was the end of the

1 conversation.

2 Q. Okay. What is Velocity's policy with
3 regard to work performed when a consumer brings in
4 a ski for repairs and in warranties whether it's
5 covered by warranty or not?

6 A. Sure. So the policy is, and this is
7 really kind of with the manufacturer. The policy
8 is you first have to diagnose the vehicle and then
9 prove that it's an actual warranty failure to get
10 warranty coverage. We knew the ski had an issue,
11 but we were never able to prove the failure for a
12 warranty. So we were never able to get warranty
13 coverage on the ski.

14 Q. What does the service department advise
15 a consumer of their obligation to pay for work that
16 is not covered by warranty?

17 A. Got you. We basically tell every
18 customer that comes in, if, you know, if we have to
19 perform a repair that warranty has not covered or
20 warranty does not cover the repair, then they're
21 responsible for the repair.

22 Q. Do you have that in any written spot or
23 any place for the benefit of the consumer?

24 A. Got you. Yes. I believe it's on back
25 of the repair work.

1 Q. Yes. I'll hand you what has been
2 marked as Defendant's No. 1, and is that where that
3 policy is present or written policy?

4 A. So, yes. It says, "I understand that
5 if the manufacturer warranty does not cover my
6 repair, that I am responsible for the full amount
7 due at the rate of \$94 per hour."

8 Q. What was the first phase with this
9 particular vehicle of determining the problem?

10 A. So the first phase was really getting
11 it in and performing the service to see if that
12 would eliminate any of the customer's complaints
13 with the ski.

14 Q. What would have been the second phase
15 after that?

16 A. The second phase after that was, after
17 performing the service, determining if there was an
18 actual problem with the ski above and beyond, you
19 know, the service itself, and then we would take
20 diagnostics further. Once the diagnostic process
21 goes further, if teardown has to occur of the
22 engine or of the component, the customer has to
23 grant us authorization to tear that ski down or
24 that vehicle down with the understanding that if
25 warranty does not cover the repair, then they are

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1 responsible for the teardown time and/or the repair
2 cost.

3 Q. When was more detailed teardown of this
4 particular vehicle -- when was that done?

5 A. So we knew that it was going to have to
6 require more teardown time after we were done
7 performing the first initial portion of the service
8 with flushing the engine and the oil. We had
9 realized that after flushing the oil and getting
10 that correct, when we were test running the ski on
11 the water hose and also on the test pond, we had
12 lake water, pooling water, was remixing with the
13 engine oil.

14 Q. So were you able to complete the
15 entirety of what I'll call phase 2?

16 A. No, ma'am.

17 Q. Why not?

18 A. Because Ms. Brooks would not authorize
19 us to tear the ski down with the understanding that
20 she was would be responsible for the repair if
21 Honda did not pay for them.

22 Q. As a result of, what was decided by
23 Velocity?

24 A. It went on for a little while, but at
25 the end of it basically, you know, we decided once

1 she started threatening lawsuits and everything
2 that we were just done with it and didn't want to
3 -- didn't want to continue working on the ski.

4 Q. Would that have been when you then
5 issued the May 22nd letter?

6 A. Yes.

7 MS. ARNOLD: Nothing further at this
8 time, Your Honor. Oh, excuse me, Your Honor, I
9 would move into evidence I believe what was marked
10 as Defendant's No. 4, which was the guest service.

11 MR. DENNIS: Without objection.

12 THE COURT: Defendant's 4 without
13 objection.

14 MS. ARNOLD: Thank you, Your Honor.

15 THE COURT: Mr. Dennis?

16 CROSS-EXAMINATION

17 BY MR. DENNIS:

18 Q. Were you absent from work for an
19 extended period in, what year was this, 2012?

20 A. Yes, sir.

21 Q. What period of time were you absent
22 for?

23 A. The exact dates I just don't recall.

24 Q. Were you working when Ms. Brooks
25 brought her ski in in April?

1 A. On that day, no, sir, I don't believe I
2 was.

3 Q. Were you working the day before?

4 A. No, sir.

5 Q. Were you working the day after?

6 A. No, sir.

7 Q. What period of time were you working at
8 Velocity after the jet ski was brought in on April
9 the 9th?

10 A. It was about the week after is when I
11 had returned to work. I had injured myself in a
12 dirt bike wreck, and I was out for that.

13 Q. So when Dave Carp told her on May the
14 21st that you would return to work the next day,
15 that was not true?

16 A. It was sometime very soon thereafter.
17 Like I said, I don't recall the exact date, but I
18 do know that it was -- I had come back shortly
19 after she had dropped the ski off.

20 Q. All right. Well, let's get the date
21 straight because it's not matching up here. She
22 left the ski on April 9th.

23 A. Okay.

24 Q. You weren't there the day before or the
25 day after. I thought you testified you came in a

1 week later.

2 A. It was roughly within that timeframe.

3 Q. Dave Carp says you didn't return to
4 work until the 22nd --

5 MS. ARNOLD: Objection, Your Honor.

6 BY MR. DENNIS:

7 Q. -- according to Miss --

8 MS. ARNOLD: I'm going to object.

9 THE COURT: Go ahead.

10 MS. ARNOLD: He is trying to impeach
11 him with a document or more of a testimony of a
12 Dave Carp that has not been here, but I think with
13 the document that is undetermined whether or not
14 those injuries were the exact dates. But he is
15 using testimony that has not been solicited by a
16 witness.

17 THE COURT: There was some testimony as
18 to the May 21st date. So I'm not exactly sure
19 where. So go ahead. I'll overrule the objection.

20 BY MR. DENNIS:

21 Q. So did you return to work on the 22nd
22 of May?

23 A. I don't recall the exact date of when I
24 did, sir.

25 Q. Well, the letter that you wrote to

1 Ms. Brooks was dated the 22nd of May. Did you do
2 that the day you returned?

3 A. It must have been because I had --
4 whenever we had reviewed the case and went over
5 everything, if that was the date, then I would have
6 -- I would have been there for that.

7 Q. So you don't know that you were there
8 between April 9th and May 21st; is that correct?

9 A. Well, to start with I had -- what had
10 happened to me was I had fractured some vertebrae
11 in my back. I was still mobile, so I was coming in
12 actually periodically and checking on things and
13 looking at things during that timeframe. So I was
14 in and out of the shop for several weeks whenever I
15 was recuperating from that.

16 Q. All right. What work did you perform
17 on this jet ski after April 9th and before -- and
18 through May 22nd, if any?

19 A. Got you. My work would have been
20 basically overseeing what P.J. was doing.

21 Q. Was any other technician involved with
22 this jet ski other than -- is it P.J. Wilson?

23 A. Yes, sir.

24 Q. Any other technician involved?

25 A. No, sir. Just him and myself, I

1 believe.

2 Q. All right. Well, your involvement was
3 reviewing what he did. You had no hands-on, did
4 you?

5 A. Other than -- well, when you're working
6 in the shop environment, hands-on, yes, you do have
7 hands-on. If the technician is having trouble with
8 a vehicle, I'm very much hands-on whenever I would
9 go out and help with things. So if he, you know,
10 was having trouble with something, I could have
11 been there with the manual overseeing it, I could
12 have been there holding a wrench for him, I could
13 have done multiple different things.

14 Q. Did you water test this vehicle?

15 A. I was there running it on a water hose
16 with him several times, yes.

17 Q. Did you move this watercraft to the
18 back lot?

19 A. No, sir.

20 Q. You know that it was moved to the back
21 lot; is that correct?

22 A. Yes, sir. The back lot, though, is
23 where we store all of the customers' vehicles. So
24 in reference to the back lot, you know, that's
25 where everything was stored.

1 Q. Well, who tore the vehicle down?

2 A. Got you. That would have been

3 P.J. Wilson.

4 Q. When?

5 A. It was torn down -- there was a time
6 period where Ms. Brooks had evidently stopped

7 making payments on the vehicle, and Honda had come

8 in and authorized us to begin the diagnostic

9 process again after she had declined it. So there

10 was a period of time there where we had started

11 working on it shortly after that. We stopped again

12 and that's where we --

13 Q. So you tore the vehicle down?

14 A. No, sir. Our technician would have.

15 Q. P.J. Wilson tore the vehicle down?

16 A. Yes, sir.

17 Q. Without the owner's permission?

18 A. When it was going through I believe a

19 repossession process, Honda had -- Honda Financial

20 was the one that had come --

21 Q. What part of that is permission from
22 the owner to tear it down, if any?

23 A. None. It was permission from Honda to
24 begin.

25 Q. Okay. So your testimony that you don't

1 tear down a vehicle without authorization from the
2 owner and a promise to pay is not accurate, is it?

3 A. Well, in that case, though, when Honda
4 has stepped in and said, hey, listen, we need to go
5 ahead and I want to, you know, find out, diagnose
6 what was going on with this. That was basically
7 them telling us that, hey, we are --- you know, if
8 this is covered under warranty, then we're going to
9 --- they're going to pick it up and help. At some
10 point thereafter, things had, you know, had changed
11 and she had either caught up on payments or
12 something and we basically ceased again.

13 Q. The vehicle watercraft is torn down at
14 that point, though, correct?

15 A. It was very limited. We were still --
16 I think we had, if I remember right we had the --
17 you know, the ECU was looked into and certain other
18 things. It was --- it was very, very limited. The
19 front engine cover possibly was off of it as well.

20 Q. Well, if it was picked up in that
21 condition and put in the water, it wouldn't run,
22 would it?

23 A. No, sir. Not in that condition, no,
24 sir.

25 Q. And you did that on Honda's

1 authorization without the knowledge and permission
2 of the owner; is that correct?

3 A. I don't recall if they were discussed
4 -- if it was discussed with her at that point.

5 Q. Well, you recall real clearly certain
6 discussions you had with my client. You don't
7 recall that?

8 A. No, sir. Because I wasn't the one in
9 communication with her continuously. Our service
10 writers were and some other things so.

11 Q. So what Mr. Carp said to her would be
12 more reliable than what you're saying; is that
13 right?

14 MS. ARNOLD: Objection as to the form.

15 THE COURT: Overruled.

16 BY MR. DENNIS: That's all, thank you.

17 Q. So what Mr. Carp told her would be more
18 reliable or more accurate than what you're telling
19 us; is that correct?

20 A. Yes, sir. Mr. Carp was, you know, he
21 was the one, the main one that was communicating.

22 Q. What Mr. Wilson would've told her, that
23 would be more accurate than what you have told us,
24 correct?

25 A. No, sir. I'm pretty familiar with what

1 P.J. had went through on this.

2 Q. All right. Well, let's see how
3 familiar you are. I'm going to show you
4 Plaintiff's No. 10.

5 A. Yes.

6 MR. DENNIS: If I may approach the
7 witness, Your Honor?

8 THE COURT: Yes.

9 BY MR. DENNIS:

10 Q. It says, to one page, can you identify
11 that for us?

12 A. Yes, sir. This looks like technician's
13 notes in regards to what he was checking on the
14 scheme.

15 Q. Have you ever seen those before?

16 A. Yes, sir. I have seen many of those.

17 Q. Is that your technician P.J. Wilson's
18 writing?

19 A. Yes, sir, I believe it is.

20 Q. Do you see down below the middle of the
21 page 5/22?

22 A. Could you point that out for me, sir?
23 Okay.

24 Q. In your experience from your review of
25 these and how they're maintained or completed, is

1 that the date that these things were done?

2 A. Not necessarily. The date that they
3 were done, whenever he was, you know, the work may
4 have been or the testing of this could have been
5 done a day or so or sometimes even more prior,
6 because whenever they're making notes on things,
7 they might not necessarily do it at the exact dates
8 that it's done. He was gathering thoughts or
9 gathering process and whenever he was doing the
10 repair process it could have been over the course
11 of several days.

12 Q. Well, the note here is dated 5/22.
13 Could that have taken place before the previous
14 note of 4/17?

15 A. Got you. It's definitely possible, but
16 I don't believe it.
17 Q. It's more likely that the entry on 5/22
18 was after 4/17, correct?

19 A. Yes, I would think so.

20 Q. What does P.J. Wilson tell us was done
21 on 5/22?

22 A. He said they had cleared fault codes.
23 He could not duplicate the codes. Changed the
24 engine oil and filter. Changed spark plugs.

25 Q. All right.

1 A. He was --

2 Q. Let me stop you there.

3 A. Uh-huh.

4 Q. The change engine oil, filter, change
5 spark plugs?

6 A. Uh-huh.

7 Q. Is that what you billed my client for?

8 A. Yes, that is.

9 Q. Let me ask you this: You wrote your
10 letter on the 22nd. Were they changing the oil and
11 replacing the spark plugs before you wrote the
12 letter, while you were writing the letter, or after
13 you wrote the letter?

14 A. All of that would have been changed
15 before the letter was written.

16 Q. And you would know that from what?

17 A. Because when you first start the repair
18 process of diagnosing and repairing the ski.

19 Q. Generally speaking?

20 A. The first thing that we do would be the
21 basic stuff, the spark plugs.

22 Q. But you didn't do it here?

23 A. The spark plugs would have been done.

24 Q. You have no notes that indicate that
25 you did it in this instance, do you?

1 A. No, sir.

2 Q. You're just testifying as to policy?

3 A. Yes, sir.

4 Q. You don't have any independent
5 recollection of how this watercraft was treated, do
6 you?

7 A. No, sir. Not in that case.

8 Q. Is P.J. Wilson a certified Honda
9 mechanic?

10 A. Yes, sir, he is.

11 Q. Is it your testimony that Ms. Brooks
12 never authorized Velocity to tear down the
13 watercraft for further diagnosis?

14 A. That is correct.. She did not authorize
15 us to tear down the watercraft.

16 Q. Is it your testimony that she never
17 acknowledged that she would be responsible for cost
18 if there was no warranty coverage?

19 A. That was stated on the repair order, I
20 believe, when she signed it in the very beginning
21 of that. That if warranty did not cover any of the
22 repair, that she would be responsible for the
23 repair.

24 Q. She signed for it, acknowledging that,
25 correct?

1 A. Yes.

2 Q. Well, there is your authorization, is
3 it not?

4 A. No, sir. Because there are certain
5 costs in things involved in doing that. When you
6 have a major teardown of a vehicle and we know that
7 it's going to be major teardown, we get, you know,
8 authorization from the customer directly
9 understanding, hey, this is what we're going to
10 have to do and we explain it. If they don't
11 authorize us to do it at that point, then we don't.

12 Q. Well, help me with this. This is your
13 form. This is her signature, it's on Page 2. It's
14 a duplicate Page 2, and what Mr. Cristo says is the
15 early repair order. This is what it says, "I
16 understand that if the manufacturer warranty does
17 not cover my repair, I am responsible for the full
18 amount due at the rate of \$94 per hour."

19 A. Yes, sir.

20 Q. What is missing from that?

21 A. After the basic diagnostics were done,
22 we always go to a customer and communicate what we
23 have done, what we have checked, and all of these
24 things. If additional diagnostic time is warranted
25 at that point, we would gain that authorization

1 from the customer before we continue.

2 Q. So you get a second authorization?

3 A. Yes, we would.

4 Q. All right. So where was that in this
5 case?

6 A. She never granted it, sir.

7 Q. When was it presented to her and by
8 whom?

9 A. Over the telephone is how that was.

10 Q. How do you present somebody with a form
11 for signature over the phone?

12 A. It's a verbal consent.

13 Q. But this is a signature on a form?

14 A. Yes, sir.

15 Q. So sometimes with writing and sometimes
16 verbal?

17 A. No, sir. If you -- so if you bring in
18 a vehicle for repair, you're going to come in,
19 you're going to explain to us what is going on with
20 it, and we're going to present you with the repair
21 order and for you to sign there. After we get the
22 vehicle in and we assess it and look at it, we're
23 going to call you back and communicate what is
24 going on with it at that point. If it needs
25 additional repair or if it needs something above

1 and beyond what we have written up initially, then
2 you would give us consent over that.

3 Q. When was she presented with another
4 repair order to sign?

5 A. There is only one repair order, sir,
6 for the signature.

7 Q. All right. And that would be
8 Plaintiff's No. 4; is that right?

9 A. Yes, sir.

10 Q. That you have there?

11 A. R028860.

12 Q. And the second repair in order this
13 case went with your letter of the 22nd of May; is
14 that correct?

15 A. The same repair order I believe, sir.
16 It's the same --

17 Q. The second one is five pages, the first
18 one is enumerated three pages, but there are two
19 second pages?

20 A. Yes, sir. So as -- when we first, like
21 I was saying, when you bring the vehicle in for
22 diagnostics or for repair work, if there is any
23 additional things that we see or find or as notes
24 change and grow and as we add things to do it, that
25 repair order pages were changed.

1 Q. When was that presented to my client?

2 A. When the additional changes were
3 presented to your client?

4 Q. Yeah, yeah.

5 A. Throughout the phone conversations.

6 Q. And you had this phone conversation
7 with her?

8 A. David Carp had, sir.

9 Q. So you don't know anything about this,
10 do you?

11 A. Yes, sir, I do.

12 Q. You're just telling us what David Carp
13 may have told you; is that right?

14 A. No, sir. I oversaw everything.

15 Q. Were you part of the conversation?

16 A. No, sir, not directly.

17 Q. All right. So you didn't talk with my
18 client about authorizing the teardown or accepting
19 the cost for it, did you?

20 A. Not until I called her right before the
21 letter was sent out.

22 Q. Well, at that point in time y'all
23 weren't working anymore, had do not touch on
24 everything, right?

25 A. Yes, sir. I believe so.

1 Q. But her watercraft is torn down, not
2 with her permission, but at Honda's request; is
3 that correct?

4 A. The teardown of that, of the dates I'm
5 not exactly sure of.

6 Q. But on the 22nd, it's torn down,
7 correct? Not with her -- at her direction or
8 permission, but at Honda's direction; is that
9 correct?

10 A. I don't remember the exact dates of the
11 teardown.

12 Q. When did you put this equipment back
13 together?

14 A. Got you? I'm not sure that it is back
15 together, sir.

16 Q. And the time that you were there after
17 May of last year until you left in March of this
18 year, you being the supervisor and overseer of
19 things, did you witness somebody putting it back
20 together?

21 A. No sir. We had basically cleaned the
22 ski and detailed it, and then we stored it in our
23 warehouse.

24 Q. Okay. So it was left with a shiny
25 exterior. I'm referring to Plaintiff's Exhibit

1 No. 7 and a black bucket of parts; is that right?

2 A. Yes, sir. It looks like it.

3 Q. That's what you wanted Ms. Brooks to
4 pick up?

5 A. Yes, sir. That would be her ski.

6 Q. And you wanted her to pay money?

7 A. For the service that was performed,
8 yes, sir.

9 Q. What good is that service to her with a
10 broken down watercraft and the primary reason that
11 she took it in for repair undone? It doesn't run.
12 What good is it to her?

13 A. So we had to do a portion of the
14 service to determine, you know, what warranty --
15 what warranty exists or even if there was a
16 warranty.

17 Q. When was that done? P.J.'s notes
18 indicates it was done on May 22nd.

19 A. I know, sir, but the -- the service was
20 done whenever the --

21 Q. When was it done?

22 A. It was done at the time of drop off,
23 when we got the ski into the shop.

24 Q. Did you do it?

25 A. No, sir, I did not.

1 Q. So you don't know that... You agree with
2 me that P.J.'s notes say it was done on the 22nd,
3 correct?

4 A. His notes say that, sir.

5 Q. Plaintiff's Exhibit 10, I directed your
6 attention above the entry of 5/22 to the entry of
7 4/17. What is noted there as having been done with
8 regards to this watercraft?

9 A. It talked about us testing several
10 components of the ski in relation to the throttle
11 position sensor and to the -- and also to the MST
12 switch. That is the manifold surface temperature.
13 And it also references us testing those components.
14 It also says in regards to that that we need to
15 replace the ECM and retest.

16 Q. Okay. It was dropped off on April 9th.
17 This is a note made on April 17th. If the plugs
18 and oil had been done, why wouldn't it have been
19 noted in that 4/17 note?

20 A. Got you. Again, when the technician
21 writes up notes, it may not be exactly on that date
22 so I have got no real answer for you on that other
23 than we basically will perform certain tasks, we'll
24 document it, and then we'll go from there.

25 Q. How about this for an answer: On the

1 22nd day of April when y'all decided after you had
2 torn down her watercraft at Honda's request and
3 direction, without hers, you decide that you're not
4 going to work on this anymore. So you hurriedly do
5 this service summarization and bill her for it.
6 How about that for an answer?

7 A. No, sir, we would not do that.

8 Q. But your notes don't indicate any
9 different, do they?

10 A. No, sir, they don't.

11 Q. Or P.J.'s notes?

12 A. P.J.'s notes.

13 Q. And you supervise him, correct?

14 A. Yes, sir.

15 Q. When you talked to her, talking about
16 Ms. Brooks, you talked to her on the phone one
17 time, is that right?

18 A. Yes, sir. I believe so.

19 Q. Defendant's No. 4, says that somebody
20 talked to Rita, asked her that Brooks, Rita
21 Brooks?

22 A. I would assume so, sir.

23 Q. Asked her about pick-up ski. She said
24 she did not want to pay for service because ski was
25 not fixed. Was that you that had that conversation?

1 with her?

2 A. Yes, sir, probably... I would have to
3 look at my notes on there.

4 Q. She told you why she wasn't going to
5 pick it up and why she wasn't paying for it, right?
6 Because repairs were not completed. And they
7 weren't completed, were they?

8 A. Got you. We don't even know the actual
9 problem with the ski to complete the repairs.

10 Q. Yeah. Any question that when
11 Ms. Brooks delivered the ski on April 9th, she left
12 you the warranty information and everything you
13 needed to proceed?

14 A. Got you. I don't recall. I wasn't
15 there during that process.

16 Q. Well, overseeing these things?

17 A. When it comes to warranty and checking
18 for things, like I said, we have to basically
19 diagnose the problem and then the manufacturer
20 tells us what is covered and what isn't covered and
21 they basically take it from there.

22 Q. Were you present when Mr. Carp spoke
23 with Rita Brooks on April 9th?

24 A. I don't recall, sir.

25 Q. She testified Mr. Carp told her that

1 the warranty would cover everything. You don't
2 know differently, do you?

3 A. I know that that is not our policy,
4 sir.

5 Q. Okay. But you don't know if he
6 deviated from policy, correct?

7 A. I do not know that, but I would say,
8 no, that he definitely did not.

9 Q. Okay. But you don't know. I had a
10 question about the repair order that you sent in
11 your letter on the 22nd. The first page that's
12 Exhibit No. 3, I think. You were the author of
13 this letter and the enclosure, the repair order; is
14 that correct? To Rita Brooks on the 22nd?

15 A. Yes, sir.

16 Q. This is Plaintiff's No. 3. Were you
17 directed to write that letter?

18 A. That letter is kind of a generic letter
19 that is used for vehicles that aren't picked up.
20 So yes, I was the -- I had written the letter.
21 Like I said, that is a letter that's really on
22 file.

23 Q. Explain to me what Page 1 is here.
24 It's got a part number?

25 A. Uh-huh.

1 Q. It's got a price of \$779.75. There is
2 some labor to diagnose ski codes, but there is no
3 charge for labor. What is that all about?

4 A. That is one of the repair jobs. When
5 the ski was dropped off by Ms. Brooks, where it
6 says codes and components, that is one of the jobs
7 that we had written up for the jet ski.

8 Q. One of the jobs that you had written
9 up?

10 A. Yes, sir. One of the customer
11 complaints that we had got --

12 Q. So did you determine that part needed
13 to be replaced?

14 A. We determined that throughout what
15 little bit of diagnostics that we did, that part
16 was the next step we needed to do to try to repair
17 the ski.

18 Q. And you informed her of that on the
19 22nd of May?

20 A. I don't recall if I informed her of
21 that, no, sir.

22 Q. Well, it's part of your certified mail.
23 So you informed her of that on May 22nd?

24 A. It would have been through the mail. I
25 don't recall if I communicated it --

1 Q. Correct. When was she informed of that
2 before that date, if I at all?

3 A. It would have been a conversation
4 through one of the service writers, sir.

5 Q. Did you have that conversation with
6 her?

7 A. No, sir.

8 Q. So you don't know whether that
9 conversation ever took place, do you?

10 A. I don't, sir.

11 Q. You don't have any technician's notes,
12 as unreliable as they are as to date, you don't
13 have any technician's notes to indicate that that
14 conversation was had, do you?

15 A. No, sir.

16 MR. DENNIS: Your Honor, if you would
17 indulge me just a minute, I think I'm done.

18 THE COURT: Okay.

19 BY MR. DENNIS:

20 Q. Mr. King, do you know if -- do you even
21 know if all the parts of jet ski are there?

22 A. Got you. I haven't viewed the jet ski
23 in quite sometime, sir.

24 Q. Well, when you left in March or when
25 you worked there from May 22nd until you left in

1 March of this year, did you ever inventory the
2 parts to see if we had a hole?

3 A. What I can -- what I can say is when
4 the jet ski was put upstairs in the warehouse, all
5 of the components to the jet ski was there, yes,
6 sir.

7 Q. But they weren't put together, parts in
8 a bucket and then --

9 A. There were some components that were in
10 the storage box, yes, sir.

11 Q. Were they essential to the running of
12 the unit? Would they have run without the parts in
13 the bucket?

14 A. No, sir.

15 MR. DENNIS: Okay. Nothing further.

16 Thank you, Your Honor.

17 MS. ARNOLD: A few points of
18 clarification, Your Honor.

19 THE COURT: Sure.

20 (A brief pause transpired.)

21 REDIRECT EXAMINATION

22 BY MS. ARNOLD:

23 Q. I'm going to hand you back what has
24 been marked as Defendant's No. 4. Mr. King, if you
25 look at the top of that document, do you see where

1 it starts I think I'll call it three paragraphs
2 down and it starts with the word, "Dana called
3 back"?

4 A. Yes.

5 Q. And what time period is that talking
6 about?

7 A. So that, where it says, "Dana called
8 back," that was on 2/25/13.

9 Q. Okay. And Dana is with whom?

10 A. She was with American Honda.

11 Q. Okay.

12 A. She was with Honda.

13 Q. And she was doing what?

14 A. She was basically the person that was
15 responsible for the, I guess, the repossession of
16 the ski.

17 Q. Okay. And in the note what was she
18 advising Velocity?

19 A. She was -- basically had taken control
20 of the ski at that point and she was advising us
21 that she wished to begin diagnostic process again
22 to figure out what was wrong with the ski.

23 Q. And again because it seemed confusing
24 when you were testifying earlier?

25 A. Sure.

1 Q. This was in a February 2013 time
2 period?

3 A. Yes.

4 Q. Well after May of 2012, correct?

5 A. Yes.

6 Q. Okay.

7 A. There was a lot of time that had
8 elapsed over all of this.

9 Q. As you go further down in that same
10 notation, it's what I'll call almost the last
11 paragraph on that document?

12 A. Okay.

13 Q. Do you see where it has a date of April
14 27, 2012? All the way down, sweetheart... Sorry.

15 Down, down, down. There (indicating).

16 A. Right there. Okay?

17 Q. Yes, sir.

18 A. This is where she had talked to Chad

19 Malone, one of our service writers, or we had
20 talked to her. It says, that we -- "The customer

21 called. That we had told her that we're still
22 trying to diagnose the ski. Talked to Rita. Asked
23 about picking up the ski at another point also."

24 Q. And the time entry date or the day
25 entry there is April 24, 2012; is that correct?

1 A. Yes, that is correct.

2 Q. Okay. Okay. And ultimately, no
3 warranty work was done on this particular vehicle,
4 correct?

5 A. No, ma'am.

6 Q. Okay. Why was the warranty work not
7 done on this vehicle?

8 A. The warranty work was not done because
9 we never got authorization from the customer to
10 begin the repairs, to begin the warranty
11 diagnostics.

12 Q. What decisions were made by you and
13 Velocity in May of 2012 at that point in time?

14 A. Because your combative, and she was
15 threatening, we basically decided to stop, you
16 know, working on the ski.

17 Q. And is that what you had memorialized
18 in your letter of May 22nd, the purpose of that
19 letter?

20 A. That was the purpose of the letter.
21 Yes, ma'am.

22 MS. ARNOLD: Nothing further, Your
23 Honor.

24 THE COURT: Give me Now 10, please.

25 MS. ARNOLD: 10 yes, sir.

1 THE COURT: If there is a copy for the
2 witness to take a look at.

3 MS. ARNOLD: There you go. Sorry. You
4 want this, Your Honor.

5 THE COURT: You have got No. 10 in
6 hand, Mr. King?

7 THE WITNESS: Yes, sir, I do.

8 THE COURT: One of the questions I have
9 and I think you just answered it, the teardown of
10 this was done in '13; is that right?

11 THE WITNESS: I believe so, yes. It
12 was -- the teardown took place quite a long time
13 after the -- Ms. Brooks basically wouldn't have
14 given us authorization. It was during the period
15 of time where Honda had taken control of it and
16 granted us authorization to do that.

17 THE COURT: 2013?

18 THE WITNESS: Yes, sir.

19 THE COURT: Not in 2012?

20 THE WITNESS: That is correct, yes,
21 sir.

22 THE COURT: So at the time you wrote
23 the letter, it was still relatively in one piece?

24 THE WITNESS: It was, sir, yes.

25 THE COURT: Y'all had done some

1 diagnosis on it?

2 THE WITNESS: Yes, sir. So the process
3 was, during the diagnostics, is we bring it in and
4 we connect it to our shop computer and we run
5 through it. We don't -- we don't physically tear
6 down anything, you know, greatly into the engine
7 for diagnostics unless we get prior authorization
8 from either the manufacturer or the customer giving
9 us permission to do that.

10 THE COURT: Okay. I'm looking at
11 No. 10 right now. I see the notes that I
12 understood were taken by the other technician. You
13 see near the top where it says in the margin ECM?
14 Do you see that?

15 THE WITNESS: Are you talking about on
16 the right-hand side?

17 THE COURT: Yes.

18 THE WITNESS: Yes, sir. Where it says
19 12 volts next to it.

20 THE COURT: What is that talking about?

21 THE WITNESS: So what we're looking
22 into is the manifold surface temperature input
23 voltage. It was not -- what he is saying is is
24 that that was not good. What is he is referring to
25 there the -- it was showing 12 volts of direct

1 voltage going into the ECU and the spec for the
2 manual should have been 4.75 to 5.25 volts.

3 THE COURT: Too many volts going in?

4 THE WITNESS: Yes.

5 THE COURT: What does ECM stand for?

6 THE WITNESS: ECM stand for engine
7 management. It's basically the computer of the jet
8 ski. Honda calls it a PGM-FI unit which is
9 programmed fuel injection.

10 THE COURT: So ECM is the computer?

11 THE WITNESS: Yes, sir.

12 THE COURT: And it stands for what
13 again? What's the E stand for?

14 THE WITNESS: Engine management.

15 THE COURT: What does the C stand for?

16 THE WITNESS: Control.

17 THE COURT: Engine control management?

18 THE WITNESS: Yes.

19 THE COURT: So that is the computer?

20 THE WITNESS: Yes, sir.

21 THE COURT: What does the "okay" above
22 it mean?

23 THE WITNESS: So the "okay" above it
24 where it has that referenced, I'm not sure what he
25 would really mean by "okay" on that unless he was

1 saying that it's -- basically it's time to, you
2 know, try the computer, which I think he references
3 down below that where he says need to replace ECM
4 and retest.

5 THE COURT: So it needs to be replaced
6 or not?

7 THE WITNESS: It needed to be --
8 whenever you're dealing with things that are
9 throwing like random codes and they're having
10 issues that you can't pinpoint and say exactly,
11 okay, this is the culprit, you have to replace it
12 with a known good unit and retest. That is where
13 we were with this is it had to be replaced and
14 retest.

15 THE COURT: What do these notes say?
16 It's got ECM. You're telling me it's got the
17 numbers that don't seem to match up and says need
18 to replace and retest. Can you tell from those
19 notes whether it was or wasn't?

20 THE WITNESS: No, sir. All I can tell
21 from his notes here on this is that he suspected
22 the ECM was an issue.

23 THE COURT: Okay. And then what about
24 the last line before we jump down there. What does
25 that mean? No point? Starts with no point? What

1 does that mean?

2 THE WITNESS: Yes, sir. So let's see.
3 It says, no point in servicing on until ECM is
4 approved.

5 THE COURT: What is servicing?

6 THE WITNESS: What is servicing means
7 is basically going through and servicing the ski.
8 What he is trying to -- what he is saying there is
9 we had -- during the initial process of it, we had
10 changed the spark plugs and changed the engine oil
11 and started the beginning of the servicing of the
12 ski. There was no point in him continuing on with
13 the remainder of the service until these other
14 things had been addressed.

15 So basically we performed the, you
16 know, the spark plug replacement, the engine oil
17 replacement.

18 THE COURT: In that top part of the
19 notes, is there anything in there that indicates
20 what was actually, what little bit of servicing,
21 what portion of the servicing was actually done?

22 THE WITNESS: No, sir. I don't believe
23 that it does in these notes.

24 THE COURT: Okay. Thank you.

25 THE WITNESS: Yes, sir.

1 THE COURT: Anything in followup?

2 RECROSS-EXAMINATION

3 BY MR. DENNIS:

4 Q. Is the ECM, was that covered by
5 Ms. Brooks' warranty?

6 A. We wouldn't know that unless Honda told
7 us that, yes, it was covered.

8 Q. You diagnosed a problem with it. Is it
9 covered by a warranty or not?

10 A. No, sir. Honda makes that
11 determination, sir.

12 Q. Okay. Have you ever had a problem with
13 the ECM on one of these units?

14 A. I have had multiple problems with ECMS
15 on a lot of different units.

16 Q. Okay. Was it covered by warranty?

17 A. It depends on the unit itself. Honda
18 makes that.

19 Q. How many times was it not covered by
20 warranty?

21 A. Quite a lot, sir.

22 Q. How many times was it covered?

23 A. Some.

24 Q. You won't know because you never
25 processed the warranty, right?

1 A. No, sir. That's not how the warranty
2 would work. We gain -- Honda grants us
3 authorization before the warranty is processed.

4 Q. I don't know how it worked. It didn't
5 work very well for Ms. Brooks, obviously. I want
6 to direct your attention one more time to the page
7 that was signed by Ms. Brooks.

8 MS. ARNOLD: Should be right up there,
9 isn't it this one?

10 BY MR. DENNIS:

11 Q. You've got it. Okay. This is the
12 second Page 2, the signed Page 2 of the three-page
13 repair order and publish that. Read that for me,
14 please, that paragraph.

15 A. The first paragraph, sir?

16 Q. Yes.

17 A. "By signing the repair order, customer
18 authorizes the repair work to be done along with
19 any necessary materials. Velocity Powersports and
20 employees may operate the vehicle for purposes of
21 testing and inspection and/or delivery at my risk.
22 An express mechanics lien is acknowledged on the
23 above vehicle to secure repairs. It's understood
24 that Velocity Powersports will not responsible for
25 losses or damage, a vehicle left in case of fire,

1 theft, or any other case beyond our control.

2 Q. Thank you.

3 MR. DENNIS: I don't know have anything.
4 further, Your Honor.

5 THE COURT: Ms. Arnold?

6 REDIRECT EXAMINATION

7 BY MS. ARNOLD:

8 Q. One last point of clarification,
9 Mr. King, if I might.

10 A. Uh-huh.

11 Q. You have been talking about this
12 document which has been identified as No. 10 and
13 you were talking about the ECM unit correct?

14 A. Uh-huh.

15 Q. Does the ECM unit have anything to do
16 with the oil or the water issue that was going on
17 with this particular vehicle?

18 A. No. It has no issue with the water
19 ingestion into the engine work.

20 Q. Totally separate, correct.

21 A. Totally separate, yes. It's two
22 separate issues.

23 MS. ARNOLD: Nothing further, Your
24 Honor. All right. You can step down. Thank you.

25 THE COURT: Anything further?

1 MS. ARNOLD: Nothing further, Your
2 Honor.

3 THE COURT: All right. Anything in
4 reply, Mr. Dennis?

5 MR. DENNIS: No, Your Honor, nothing in
6 reply.

7 THE COURT: Okay. Madam Court
8 Reporter, I will give you this one back so I don't
9 hold onto that.

10 THE COURT REPORTER: Thank you.

11 THE COURT: What I would like to do is
12 I want to review my notes, review the documents.
13 I'm going to ask that the court reporter to keep
14 the original documents and to forward to me a copy
15 of all of the exhibits that are identified for my
16 review. I'll look at that and I will come to a
17 conclusion. I'm going to do one of about three
18 things. I'm either going to give instructions to
19 one or both of you.

20 If I give it to one, then it would be
21 to draw up an order and I'd send an outline as to
22 my thoughts of what should be included and how the
23 result should be arrived at. The other way to do
24 it would be to suggest competing orders, orders
25 from each side so I can further get clarification

1 as to your exact positions regarding the arguments
2 and so forth. And then either choose one of those
3 or hybrid both of those because I'm sure both of
4 y'all are better order writers than I am.

5 So let me look at it first to see if I
6 can save one of y'all the trouble on it, and then I
7 will go from there. Okay?

8 MS. ARNOLD: Yes, sir.

9 THE COURT: All right. And then, if
10 necessary, we'll all determine how to address the
11 attorney's fees. Okay?

12 MS. ARNOLD: Thank you, Your Honor.

13 MR. DENNIS: Thank you, Your Honor.

14 THE COURT: Thank y'all. Y'all did a
15 good job and I appreciate y'all making it so
16 efficient.

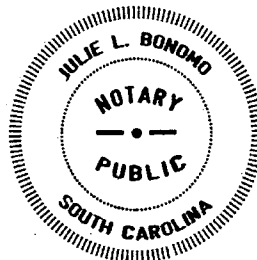
17 (The deposition was concluded at 2:48
18 p.m.)

CERTIFICATE OF REPORTER

I, Julie L. Bonomo, Court Reporter and
Notary Public for the State of South Carolina at
Large, do hereby certify that the foregoing
transcript is a true, accurate, and complete
record.

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 this 20th day of November,
2018, at Charleston, Charleston County, South
Carolina.



Julie L. Bonomo
Court Reporter
My Commission expires
July 28, 2027

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2 McDede

3 PLF. EXH. 10, Handwritten 105 9

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5 DFT. EXH. 1, Repair Order 74 21

6 DFT. EXH. 2, Letter, 6/28/12 75 6

7 DFT. EXH. 3, Repair Order 121 24

8 DFT. EXH. 4, Internal Repair 147 11

9 Order Note

10

11 (Exhibits not attached,

12 returned to counsel.)

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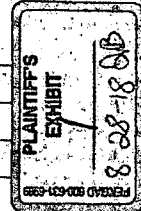
25

151 Gateway Dr
(College Park & I-26)
LADSON, SC 29456



(843) 871-5371

HONDA Kawasaki SED YAMAHA Can-Am



PURCHASER				DATE	SALESPERSON	STOCK#
PURCHASER(S)				CITY, STATE, ZIP		
STREET				HOME PHONE	BUSINESS PHONE	
DESCRIPTION OF PURCHASE				DATE OF BIRTH (A)	DRIVER LICENSE (A)	
NEW	YEAR	MAKE	MODEL	DATE OF BIRTH (B)	DRIVER LICENSE (B)	
USED						

VEHICLE IDENTIFICATION	KEY	SETTLEMENT	
	MILES	BASE PRICE	

ACCESSORIES		FREIGHT & DESTINATION CHARGES	\$289.00
		ACCESSORIES	
		ASSEMBLY & PREPARATION	\$245.00
		SERVICE CONTRACT	
		GAP	
		LOJACK	
		TIRE & WHEEL	
		PRE-PAID MAINTENANCE	
		ADMINISTRATIVE FEES	\$129.00
		TRADE ALLOWANCE	
		PAYOFF ON TRADE	
LABOR TO INSTALL		SUBTOTAL	
TOTAL		TAX	

NOTICE
PURCHASER AGREES TO DELIVER SATISFACTORY EVIDENCE OF TITLE TO ANY USED MOTOR VEHICLE TRADED IN PART OF THE CONSIDERATION FOR THE MOTOR VEHICLE ORDERED HERE UNDER AT THE TIME OF DELIVERY OF SUCH USED MOTOR VEHICLE TO DEALER PURCHASER WARRANTS ANY SUCH USED MOTOR VEHICLE TO BE HIS OR HER PROPERTY FREE AND CLEAR OF ALL LIENS AND ALL ENCUMBRANCES EXCEPT AS OTHERWISE NOTED HEREIN.

ON CREDIT SALE
CHARGES WILL BE MADE BY FINANCE INSTITUTION

THIS CONTRACT IS SUBJECT TO LIMITED WARRANTIES
SEE REVERSE SIDE FOR LIMITATIONS

NEW	Manufacturer's Warranty	SEE ITEM 10
USED	W/Remaining Manufacturer's Warranty	SEE ITEM 11
USED	As Is	SEE ITEM 12

ATTACHMENTS (TO BE MADE PART OF THIS CONTRACT)

1. ODOMETER DISCLOSURE TRADE-IN NEW USED
2. OTHER

DEPOSIT TO BE REFUNDED IF CUSTOMER'S OFFER NOT
ACCEPTED BY AN AUTHORIZED OFFICIAL OF THE COMPANY

Receipt No. Cash Check Date By

Receipt No. Cash Check Date By

Receipt No. Cash Check Date By

DESCRIPTION OF TRADE-IN

YEAR	MAKE	MODEL
VEHICLE IDENTIFICATION #		
TITLE NO.	LICENSE NO.	
COLOR	MILEAGE	
LIENHOLDER	PAYOFF AMOUNT	
ADDRESS	PAYOFF DATE	

COMMENTS:

9218.80
2000.00 DOWN
11218.80
1610.21 interest
1289.01

DELIVERY DATE / /

ACCEPTED BY
Dealer or his Authorized Representative

DATE
INITIALS

CASH OR CASHIERS CHECK ONLY

(A) BUYER(S) SIGNATURE

248 YEAR(S) SIGNATURE

ADDITIONAL TERMS AND CONDITIONS

1. As used in this order, the terms (a) "Dealer" shall mean the authorized Dealer to whom this order is addressed and who shall become a party here to by its acceptance hereof, (b) "Purchaser" shall mean the party executing this order as such on the face here of, and (c) "Manufacturer" shall mean the particular manufacturers that manufactured the vehicle or chassis purchased, it being understood by Purchaser and Dealer that Dealer is in no respect the agent of the Manufacturer; that Dealer and Purchaser are the sole parties to this order and that reference to Manufacturer herein is for the purpose of explaining generally certain contractual relationships existing between Dealer and Manufacturer with respect to new motor vehicles.

2. Manufacturer has reserved the right to change the price to Dealer of new motor vehicles without notice. In the event the price to Dealer of new motor vehicles of the series and body type ordered hereunder to Purchaser, Dealer reserves the right to change the cash delivered price of such motor vehicle to Purchaser accordingly. If such delivered price is increased by Dealer, Purchaser may, if dissatisfied therewith, cancel this order, in which event if a used motor vehicle has been traded on as part of the consideration for such new motor vehicle, such used motor vehicle shall be returned to Purchaser upon payment of reasonable charge for storage and repair (if any) or, if such used motor vehicle has been previously sold by Dealer, then the amount received therefor, less a selling commission of 15% and any expense incurred in storing, insuring, conditioning or advertising said used motor vehicle for sale, shall be returned to Purchaser.

3. If the used motor vehicle which has been traded in as part of the consideration for the motor vehicle order hereunder is not delivered to Dealer until delivery to Purchaser of such motor vehicle, the used motor vehicle shall be reappraised at that time and such reappraised value shall determine the allowance made for such used motor vehicle. If such reappraised value is lower than the original allowance therefore shown on the front of this order, Purchaser may, if dissatisfied therewith, cancel this order, provided, however, that such right to cancel is exercised prior to the delivery of the motor vehicle ordered hereunder to the Purchaser and surrender of the used motor vehicle to Dealer.

4. Unless this Order shall have been cancelled by Purchaser, under and in accordance with the provisions of Paragraph 2 or 3 above, Dealer shall have the right, upon failure or refusal of Purchaser to accept delivery of the motor vehicle ordered hereunder and to comply with the terms of the order, to retain as liquidated damages any cash deposit made by Purchaser, and in the event a used motor vehicle has been traded in as a part of the consideration for the motor vehicle ordered hereunder, to sell such used motor vehicle and reimburse himself out of the proceeds of such sale for the expenses specified in Paragraph 2 above, and for such other expenses and losses as Dealer may incur or suffer as a result of such failure or refusal by Purchaser.

5. Manufacturer has reserved the right to change the design of any new motor vehicle, chassis, accessories or parts thereof at any time without notice, and without obligation to make the same or any similar change upon any motor vehicle, chassis, accessories or parts thereof previously purchased by or shipped to dealer or being manufactured or sold in accordance with Dealer's orders. Correspondingly, in the event of any such change by Manufacturer, Dealer shall have no obligation to Purchaser to make the same or any similar change in any motor vehicle, chassis, accessories or part thereof ordered by its customer, either before or subsequent to delivery here of to Purchaser.

6. Dealer shall not be liable for failure to deliver or delay in delivering the motor vehicle covered by this order where such failure or delay is due, in whole or in part, to any cause beyond the control or without the fault or negligence of Dealer. In the event delivery of the vehicle being purchased cannot be made within thirty (30) days, the used motor vehicle traded in would be subject to reappraisal in accordance with reappraisal terms as specified in Paragraph 3 above.

7. The price for the motor vehicle specified on the face of this order includes reimbursement for Federal Excise taxes but does not include sales taxes, use taxes or occupational taxes based on sales volume (Federal, State or Local) unless expressly so stated. Purchaser assumes and agrees to pay, unless prohibited by law, and such sales, use or occupational taxes imposed on or applied to the transaction covered by this order, regardless of which party may have primary liability therefor.

8. The Purchaser, before or at the time of delivery of the motor vehicle covered by this order, will execute such other forms of agreement or documents as may be required by the terms and conditions of payment indicated on the front of this order.

9. The Dealer does not warrant or in any way guarantee the mileage indicated on the vehicle's odometer to be accurate, correct or that it may not have been so changed or adjusted by owners or persons in possession prior to Dealer.

LIMITATIONS AS TO WARRANTIES

10. NEW: "As is" The only warranties applying to this vehicle are those offered by the Manufacturer. The selling dealer hereby expressly disclaims all warranties, either express or implied, including any implied warranties of merchantability or fitness for a particular purpose, and neither assumes nor authorizes any other person to assume for it any liability in connection with the sale of this vehicle. Buyer shall not be entitled to recover from the selling dealer any consequential damages to property, damages for loss of use, loss of time, loss of profits, or income, or any other incidental damages.

11. USED: (with remaining transferable manufacturer's warranty): "As is...". The only warranties applying to this vehicle are those offered by the manufacturers, and the applicability of an existing manufacturer's, if any, shall be determined solely by such manufacturer's warranty. The selling dealer hereby expressly disclaims all warranties, either express or implied, including any implied warranties of merchantability or fitness for a particular purpose, and neither assumes nor authorizes any other person to assume for it any liability in connection with the sale of this vehicle. Buyer shall not be entitled to recover from the selling dealer any consequential damages, damages to property, damages for loss of use, loss of time, loss of profits or income or any other incidental damages.

12. USED (other): "As is...": with all faults": Any used vehicle sold to Purchaser by Dealer under this order is sold at time of delivery by dealer without any guarantee or warranty, expressed or implied, including any implied warranty of merchantability or fitness for a particular purpose, as to its condition or the condition of any part thereof except as may be otherwise specifically provided in writing on the face of this order or in a separate writing furnished to Purchaser by Dealer.

SC DEPARTMENT OF NATURAL RESOURCES			
TEMPORARY WATERCRAFT CERTIFICATE OF NUMBER			
OWNER'S NAME RITA M BROOKS		CHECK ONE ☒ New Registration ☐ Valid Transfer--Current Decal ☐ Valid Transfer--Expired Decal	
OWNER'S SIGNATURE <i>Rita M Brooks</i>			
ADDRESS 1009 CASS DR			
CITY MONCK'S CORNER	STATE SC	ZIP 29461	
HULL IDENTIFICATION NO. US-HPSE1290C707	MAKE HONDA	LENGTH	STATE OF USE SC
PROPULSION TYPE Inboard	DATE OF ISSUE 4/24/2010	0987715	

DETACH THIS CARD

0083

WWW.DNR.SC.GOV

08AD6387 FM-015-08

Page 1

**TEMPORARY CERTIFICATE OF NUMBER
IS NOT TO BE DISPLAYED.**

Carry this certificate and copy of bill of sale on board during operation up to sixty (60) days from date of purchase as proof of a recent application being submitted. This copy is a temporary certificate valid up to (60) days. Your registration card and/or title will be mailed at a later date. A temporary certificate of number is not valid for rental boats or a boat without a hull id number.

This temporary certificate is only valid for a new watercraft or a watercraft with registration decal(s) and may not be honored in other states. SC Code of Laws, 1976, Section 50-23-345 (d) prohibits duplicating or updating temporary certificates or updating bills of sale.

Page 2

SOUTH CAROLINA RETAIL INSTALLMENT CONTRACT AND SECURITY AGREEMENT American Honda Finance Corporation (Rev. 11/04) (Page 1 of 2)
 Expires © 1995, 1996 Bankers Systems, Inc., St. Cloud, MN Form AHS-RSS055C-11/11/2004 251S AND SERVICES - NOT FOR HOME IMPROVEMENT OR MANUFACTURED HOMES

ADDITIONAL TERMS OF THIS CONTRACT AND SECURITY AGREEMENT

GENERAL TERMS: You have been given the opportunity to purchase the Goods and described services for the Cash Price or the Total Sale Price. The Total Sale Price is the total price of the Goods and any services if you buy them over time. You agree to purchase the items over time. The Total Sale Price shown in the TRUTH IN LENDING DISCLOSURES assumes that all payments will be made as scheduled. The actual amount you will pay may be more or less depending on your payment record.

We do not intend to charge or collect, and you do not agree to pay, any finance charge or fee that is more than the maximum amount permitted for this sale by state or federal law. If you pay a credit service charge or fee that is contrary to this provision, we will, instead, apply it first to reduce the principal balance, and when the principal has been paid in full, refund it to you.

You understand and agree that some payments to third parties as a part of this contract may involve money retained by us or paid back to us as commissions or other remuneration.

You agree this Contract will be governed by the laws of the State of South Carolina including the Uniform Commercial Code. If any section or provision of this Contract is not enforceable, the other terms will remain part of this Contract.

NAME AND LOCATION: Your name and address indicated on the front of this Contract are your exact legal name and your principal residence. You will provide us with at least thirty (30) days notice prior to changing your name or principal address.

BALLOON PAYMENT: If any payment is more than twice as large as the average of earlier scheduled payments, you may refinance that payment when due without penalty. Your right is subject to the exceptions specified in S.C. Code Ann. § 37-2-405.

PREPAYMENT: You may prepay this Contract in full or in part at any time. Any partial prepayment will not excuse any later scheduled payments until you pay in full.

A refund of any prepaid, unearned insurance premiums may be obtained from us or from the insurance company named in your policy or certificate of insurance.

OWNERSHIP AND DUTIES TOWARD PROPERTY: By giving us a security interest in the Property, you represent and agree to the following:

- A. Our security interest will not extend to consumer goods unless you acquire rights to them within 10 days after we enter into this Contract, or they are installed in, or affixed to the Goods.
- B. You will defend our interests in the Property against claims made by anyone else. You will do whatever is necessary to keep our claim to the Property ahead of the claim of anyone else.
- C. The security interest you are giving us in the Property comes ahead of the claim of any other of your general or secured creditors. You agree to sign any additional documents or provide us with any additional information we may require to keep our claim to the Property ahead of the claim of anyone else. You will not do anything to change our interest in the Property.
- D. You will keep the Property in your possession in good condition and repair. You will use the Property for its intended and lawful purposes. Unless otherwise agreed in writing, the Property will be located at your address listed on page 1 of this Contract.
- E. You will not attempt to sell the Property (unless it is property identified inventory) or otherwise transfer any rights in the Property to anyone else, without our prior written consent. You will not permit the Property to become attached to any real estate without first providing us an opportunity to preserve our first priority status.
- F. You will pay all taxes and assessments on the Property as they become due.
- G. You will notify us of any loss or damage to the Property. You will provide us reasonable access to the Property for the purpose of inspection. Our entry and inspection must be accomplished lawfully, and without breaching the peace.

DEFAULT: You will be in default on this Contract if any one of the following occurs (except as prohibited by law):

- A. You fail to make a payment as required by this Contract.
- B. The prospect of payment, performance, or realization of the Property is significantly impaired.

If you default, you agree to pay our reasonable attorneys' fees limited to 15% of the unpaid debt after default and referral, if we refer this contract to an attorney who is not a salaried employee of ours. You also agree to pay any other reasonable expenses and charges allowed by law.

If an event of default occurs as to any one of you, we may exercise our remedies against any or all of you.

REMEDIES: If you are in default on this Contract, we have, subject to any right to cure that you may exercise, all of the remedies provided by law and this Contract:

- A. We may require you to immediately pay us, subject to any refund required by law, the remaining unpaid balance of the amount financed, credit service charges and all other agreed charges.
- B. We may pay taxes, assessments, or other fees or make repairs to the Property if you have not done so. We are not required to do so. This amount will be due immediately. This amount will earn credit service charges from the date paid at the rate described in the PROMISE TO PAY AND PAYMENT TERMS section until paid in full.
- C. We may require you to make the Property available to us at a place we designate that is reasonably convenient to you and us.

D. We may take possession of the Property by legal process or self help after providing any notice required by applicable law, but in doing so we may not breach the peace or unlawfully enter onto your premises. We may then sell the Property and apply what we receive as provided by law to our reasonable expenses and then toward your obligations.

E. Except when prohibited by law, we may sue you for additional amounts if the proceeds of a sale do not pay all of the amounts you owe us.

By choosing any one or more of these remedies, we do not waive our right to later use another remedy. By deciding not to use any remedy, we do not give up our right to consider the event a default if it happens again.

You agree that if any notice is required to be given to you of an intended sale or transfer of the Property, notice is reasonable if mailed to your last known address, as reflected in our records, at least 10 days before the date of the intended sale or transfer (or such other period of time as is required by law).

PROPERTY INSURANCE: You agree to buy property insurance on the Property protecting against loss and physical damage and subject to a maximum deductible amount indicated in the PROPERTY INSURANCE section, or as we will otherwise require. You will name us as loss payee on any such policy. In the event of loss or damage to the Property, we may require additional security or assurances of payment before we allow insurance proceeds to be used to repair or replace the Property. You agree that if the insurance proceeds do not cover the amounts you still owe us, you will pay the difference. You may purchase or provide the insurance through any insurance company reasonably acceptable to us. You will keep the insurance in full force and effect until this Contract is paid in full.

If you fail to obtain or maintain this insurance, or name us as a loss payee, we may obtain insurance to protect our interest in the Property. This insurance may include coverages not required of you. This insurance may be written by a company other than one you would choose. It may be written at a rate higher than a rate you could obtain if you purchased the property insurance required by this Contract. We will add the premium for this insurance to the amount you owe us. Any amount we pay will be due immediately. This amount will earn credit service charges from the date paid at the rate described in the PROMISE TO PAY AND PAYMENT TERMS section until paid in full.

CREDIT INSURANCE: CREDIT INSURANCE MAY NOT COVER THE AMOUNT DUE UNDER THIS CONTRACT. YOU SHOULD REVIEW YOUR POLICY OR CERTIFICATE TO DETERMINE THE EXACT AMOUNT OF COVERAGE.

OBLIGATIONS INDEPENDENT: Each person who signs this Contract agrees to pay this Contract according to its terms. This means the following:

- A. You must pay this Contract even if someone else has also signed it.
- B. We may release any co-buyer or guarantor and you will still be obligated to pay this Contract.
- C. We may release any security and you will still be obligated to pay this Contract.
- D. If we give up any of our rights, it will not affect your duty to pay this Contract.
- E. If we extend new credit or renew this Contract, it will not affect your duty to pay this Contract.

WARRANTY: Warranty information is provided to you separately.

WAIVER: To the extent permitted by law, you agree to give up your rights to require us to do certain things. Except for giving a required notice of right to cure for the failure to make a payment, we are not required to: (1) demand payment of amounts due; (2) give notice that amounts due have not been paid, or have not been paid in the appropriate amount, time or manner; or, (3) give notice that we intend to make, or are making, this Contract immediately due.

THIRD PARTY AGREEMENT

By signing below you agree to give us a security interest in the Property described in the SALE section. You also agree to the terms of this Contract, including the WAIVER section above, except that you will not be liable for the payments it requires. Your interest in the Property may be used to satisfy the Buyer's obligation. You agree that we may renew, extend, change this Contract, or release any party or property without releasing you from this Contract. We may take these steps without notice or demand upon you.

You acknowledge receipt of a completed copy of this Contract.

Signature _____ Date _____

NOTICE: ANY HOLDER OF THIS CONSUMER CREDIT CONTRACT IS SUBJECT TO ALL CLAIMS AND DEFENSES WHICH THE DEBTOR COULD ASSERT AGAINST THE SELLER OF GOODS OR SERVICES OBTAINED PURSUANT HERETO OR WITH THE PROCEEDS HEREOF. RECOVERY HEREUNDER BY THE DEBTOR SHALL NOT EXCEED AMOUNTS PAID BY THE DEBTOR HEREUNDER.

ASSIGNMENT BY SELLER

Seller sells and assigns this Retail Installment Contract and Security Agreement (Contract), to the Assignee, its successors and assigns, including all its rights, title and interest in this Contract, and any guarantee, executed in connection with this Contract. Seller gives Assignee full power, either in its own name or in Seller's name, to take all legal or other actions which Seller could have taken under this Contract. (SEPARATE AGREEMENT: If this Assignment is made "under the terms of a separate agreement" as indicated on page 1, the terms of this assignment are described in a separate writing(s) and not as provided below.)

Seller warrants:

- A. This Contract represents a sale by Seller to Buyer on a time price basis and not on a cash basis.
- B. The statements contained in this Contract are true and correct.
- C. The down payment was made by the Buyer in the manner stated on page 1 of this Contract and, except for the application of any manufacturer's rebate, no part of the down payment was loaned or paid to the Buyer by Seller or Seller's representatives.
- D. This sale was completed in accordance with all applicable federal and state laws and regulations.
- E. This Contract is valid and enforceable in accordance with its terms.
- F. The names and signatures on this Contract are not forged, fictitious or assumed, and are true and correct.
- G. This Contract is vested in the Seller free of all liens, is not subject to any claims or defenses of the Buyer, and may be sold or assigned by the Seller.
- H. A completely filled-in copy of this Contract was delivered to the Buyer at the time of execution.
- I. The Goods have been delivered to the Buyer in good condition and have been accepted by Buyer.
- J. Seller has or will perfect a security interest in the Property in favor of the Assignee.

If any of these warranties is breached or untrue, Seller will, upon Assignee's demand, purchase this Contract from Assignee. The purchase shall be in cash in the amount of the unpaid balance (including credit service charges) plus the costs and expenses of Assignee, including attorneys' fees.

Seller will indemnify Assignee for any loss sustained by it because of judicial set-off or as the result of a recovery made against Assignee as a result of a claim or defense Buyer has against Seller.

Seller waives notice of the acceptance of this Assignment, notice of non-payment or non-performance and notice of any other remedies available to Assignee.

Assignee may, without notice to Seller, and without affecting the liability of Seller under this Assignment, compound or release any rights against, and grant extensions of time for payment to be made, to Buyer and any other person obligated under this Contract.

UNLESS OTHERWISE INDICATED ON PAGE 1, THIS ASSIGNMENT IS WITHOUT RECOURSE.

WITH RECOURSE: If this Assignment is made "with recourse" as indicated on page 1, Assignee takes this Assignment with certain rights of recourse against Seller. Seller agrees that if the Buyer defaults on any obligation of payment or performance under this Contract, Seller will, upon demand, repurchase this Contract for the amount of the unpaid balance, excluding credit service charges, due at that time.



State of South Carolina

Department of Natural Resources

CERTIFICATE OF TITLE



FOR A WATERCRAFT

TITLE NUMBER WAA0950329	REGISTRATION NUMBER: SC-5514-CC	COUNTY 18	DATE OF ISSUE 06/05/2017
HULL ID NUMBER HPSE1290C707	MAKE HONDA	MODEL ARX12T	YEAR 2007
LENGTH 10' 6"	CONSTRUCTION FIBERGLASS	INBOARD S/N SW01E5004663	

OWNER RITA M. BROOKS 102 SANDLEWOOD DR SUMMERVILLE SC 29483 8246	CO-OWNER(S)

FIRST LIEN HOLDER

SECOND LIEN HOLDER

The above named lien holder(s) hereby affirm(s) that the lien on this property has been fully satisfied, and the above named lien holder releases any and all interest in the property.

FIRST LIEN HOLDER

SECOND LIEN HOLDER

Signature

Signature

Official Title

Official Title

Day

Month

Year

Day

Month

Year

Notice to lien holder:

When a lien is discharged, the lien holder shall note that fact on the face of the certificate of title. Within thirty days of discharging the lien, the holder shall present it to the department. Section 50-23-140(b)

ERASURES OR ALTERATIONS VOID THIS TITLE



Seller

- Under penalty of law, you must have a title to assign at time of transfer. Title must be in Seller's name.
- Complete Section 1 below.
- Notify DNR with Request for Boat and/or Motor Status Change Form within 30 days of sale/transaction date. Mail notice to:
SCDNR Watercraft Section
PO Box 167
Columbia, SC 29201-0167
- Failure to notify SCDNR of sale can result in continued personal property tax assessments to the owner of record.

Purchaser

- Obtain Watercraft/Outboard Motor Title Application.
- Complete application and submit to SCDNR with correct fees, Certificate of Title and documents within 30 days of sale/transaction.
- Applications submitted after 30 days from date of sale/transaction are subject to late fees.
- Mail applications to:
SCDNR Watercraft Section
PO Box 167
Columbia, SC 29201-0167

For additional information and forms go to www.dnr.sc.gov/boating.

SECTION 1: TRANSFER TITLE. ERASURES OR ALTERATIONS VOID THIS TITLE.

1. Purchaser Name(s): _____

4. Purchase Price: \$ _____

2. Address: _____
City State Zip

5. Less Trade in: \$ _____

3. Date of Sale/Transaction: _____
Month Day Year6. Balance Subject to
Casual Sales Tax: \$ _____

Under penalty of perjury, I certify that the information above is true and correct, that this property is free of any liens or adverse claims except as noted on the face and that all personal property taxes have been paid to date. I understand all current year personal property taxes are the responsibility of the seller(s) unless an otherwise enforceable agreement has been reached between the seller and purchaser. I understand my failure to notify the SCDNR of the sale/transaction can result in continued property tax assessments to the owner of record.

X _____ Date _____
Signature of OwnerX _____ Date _____
Signature of Co-OwnerX _____ Date _____
Signature of Co-Owner

Complete Entire Section

SECTION 2: REASSIGNMENT BY PERMITTED MARINE DEALER. ERASURES OR ALTERATIONS VOID THIS TITLE.

1. Purchaser Name(s): _____

2. Address: _____
City State Zip3. Date of Sale/Transaction: _____
Month Day Year

I, _____ do hereby convey this property to the purchaser(s) named above and, under penalty of perjury, certify that this information is true and correct and that this property is free of any liens or adverse claims except as noted on the face and that all personal property taxes have been paid to date. I understand all current year personal property taxes are the responsibility of the seller(s) unless an otherwise enforceable agreement has been reached between the seller and purchaser.

X _____
Authorized Permitted Marine Dealer Signature_____
Permit Number

VELOCITY POWERSPORTS
151 GATEWAY DR LADSON SC 29456

CERTIFIED MAIL

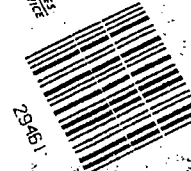


7011 1570 0002 6767 3609

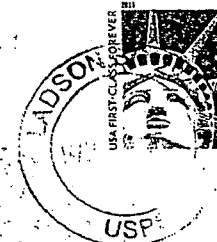
Rita Brooks
1009 Cuss Drive
Moncks Corner SC 29461



1000



29461



U.S. POSTAGE
LADSON, SC
MAY 23 2008
UNIT 12
\$5.50
000026718-02



VELOCITY POWERSPORTS
151 GATEWAY DR LADSON SC 29458

CERTIFIED MAIL™



7011 1570 0002 6767 3609

Rita Brooks
1009 Cass Drive
Moncks Corner SC 29461



2946198246



VELOCITY POWERSPORTS

151 Gateway Drive
Ladson, SC 29456

May 22, 2012

Rita M. Brooks
1009 Cass Drive
Moncks Corner, SC 29461

Dear Ms. Brooks,

As of the date of this letter, you still have not picked up your 2007 Honda ARX 12T3. Enclosed is a copy of your repair order showing a balance owed of \$219.92. We will be charging a storage fee of \$25 per day starting on May, 28 2012. Also, if we do not receive payment within the next 30 days we will initiate proceedings with the Magistrates Office to take possession of the unit.

If you have any questions please contact me at 843-841-5371.

Sincerely,

Billy King
Service Manager

VELOCITY POWERSPORTS LLC

151 GATEWAY DRIVE
LADSON, SC 29456
843-871-5371 843-873-6466

Repair Order

R/O Number: 28860

Date In: 4/9/2012

Date Promised: 4/9/2012

Today Date: 5/23/2012

Date Closed:

Repair Order For:

BROOKS, RITA M.
1009 CASS DR
MONCK'S CORNER, SC 29461
c:843-709-4082 h:GU0357 w:843-832-2352

Unit Name:

Location:

Units for this Repair Order

Service Writer: DAVID KARP

Year	Make	Model	VIN / Serial No	Color	Plate	Key Board	Miles
2007	HONDA	ARX12T3D7	US-HPSE1290C707	BLACK		86 HRS	

Job: HAS CODES IN COMP

Job For: 2007 HONDA ARX12T3D7 F-12XGSCAP US-HPSE1290C707

Description

HAS HAD CODES FOR 2 YEARS SINCE THEY BOUGHT IT IN 2010..

HAS F.I.L LIGHT CODE, CUSTOMER WOULD SHUT OFF AND THEN
RESTART AND RIDE...

Parts

Part Number	Quantity	Description	Each Price	Extension
38770-HW1-691	0	PGM-FI UNIT	\$779.75	\$0.00
Parts Subtotal				\$0.00

Labor

Description	Job Code	Technician	Quantity	Line Total
DIAGNOSE SKI CODES		P.J WILSON	0 Hours	\$0.00
Labor Subtotal				\$0.00

Recommendations

REMOVE AND INSPECT THE TURBO
(THE TURBO DOSE HAVE A LOT OF RUST BUILD UP THAT
CAN CAUSE ISSUES WITH THE WASTE GATE SHAFT)

Resolution

RAN SKI ON HDS FOUND TWO STORED FAIL CODES
ONE TP (THROTTLE POSITION SENSOR) SENSOR AND
ONE MST(MANIFOLD SURFACE TEMP) .

MST INPUT VOLTAGE = 12V SPEC = 4.75-5.25V

THE SIGNAL WIRE FROM THE ECM TO THE MST SWITCH
CHECKS GOOD. = NEED TO INSTALL A KNOWN GOOD
ECU THEN RETEST.

CHANGED THE OIL AND FILTER
INSTALLED NEW SPARK PLUGS

AFTER WATER TESTING THE SKI WE FOUND THAT
WATER IS ENTERING THE ENGINE OIL. = THIS CONDITION
WILL NEED TO BE DIAGNOSED

VELOCITY POWERSPORTS LLC

151 GATEWAY DRIVE
LADSON, SC 29456
843-871-5371 843-873-6466

Repair Order

R/O Number: 28860

Date In: 4/9/2012

Today Date: 5/23/2012

Date Promised: 4/9/2012

Date Closed:

Repair Order For:

BROOKS, RITA M.
1009 CASS DR
MONCK'S CORNER, SC 29461
c:843-709-4082 h:GU0357 w:843-832-2352

Unit Name Location

Job: HAS CODES IN COMP (Continued)

Job For: 2007 HONDA ARX12T3D7 F-12XGSCAP US:HPSE1290C707

CHECKED FUEL PRESSURE = 43 PSI GOOD

CHECKED FUEL = CHECKS GOOD

• WHEN WATER TESTING THE SKI WILL REV UP FINE BUT
IT WILL ONLY HOLD A HIGH REV FOR ABOUT 15 SEC.
THEN THE SKI WILL LOOSE POWER AND REV SLOW
AND SLUGGISH.
(THIS CONDITION CAN BE CAUSED BY A FAILING
TURBO)

REMOVED THE TUBRO INTAKE BOOT= NO SIGNS OF
RESTRICTION.

Job Subtotal

\$0.00

VELOCITY POWERSPORTS LLC

151 GATEWAY DRIVE
LADSON, SC 29456
843-871-5371 843-873-6466

Repair Order

R/O Number: 28860

Date In: 4/9/2012

Date Promised: 4/9/2012

Today Date: 5/23/2012

Date Closed:

Repair Order For:

BROOKS, RITA M.

1009 CASS DR

MONCKS CORNER, SC 29461

c:843-709-4082 h:GU0357 w:843-832-2352

Unit Name:

Location:

Job: SUMMERIZE/ FULL SERVICE

Job For: 2007 HONDA ARX12T3D7 F-12XGSCAP US-HPSE1290C707

Description

\$249.00 SPECIAL

CUSTOMER SAID IT LOOKS LIKE WATER IN OIL PLEASE CHECK..

Parts

Part Number	Quantity	Description	Each Price	Extension
2-IMR9D-9H	4	NGK SPARK PLUG #6544/04	\$17.95	\$71.80
BULK OIL	4	10W40 BULK OIL	\$5.95	\$23.80
MISC	4	OET	\$0.02	\$0.08
293600016	1	LUBE-BOMBAR	\$10.95	\$10.95
140303	1	HIFLO HF303 FILTER	\$9.95	\$9.95
Parts Subtotal				\$116.58

Labor

Description	Job Code	Technician	Quantity	Line Total
OIL CHANGE / SPARK PLUGS		P.J WILSON	1 Hours	\$94.00
Labor Subtotal				\$94.00

Recommendations

DIAGNOSE WATER INJECTION INTO THE ENGINE OIL.

Resolution

CHANGED THE OIL AND FILTER / INSTALLED NEW SPARK PLUGS

TEST RAN THE SKI = WATER HAS REENTEDED THE OIL

Job Subtotal \$210.58

Job: REVERSE IS HARD TO GET BACK TO FORWARD

Job For: 2007 HONDA ARX12T3D7 F-12XGSCAP US-HPSE1290C707

Description

WHEN U PUT IT IN REVERSE U HAVE TO SHUT SKI OFF PUT IT IN FORWARD THEN START SKI BACK UP.

Job Subtotal \$0.00

VELOCITY POWERSPORTS LLC

151 GATEWAY DRIVE
LADSON, SC 29456
843-871-5371 843-873-6466

Repair Order

R/O Number 28860

Date In 4/9/2012

Today Date: 5/23/2012

Date Promised 4/9/2012

Date Closed:

Repair Order For:

BROOKS, RITA M.

1009 CASS DR

MONCKS CORNER, SC 29461

c:843-709-4082 h:GU0357 w:843-832-2352

Unit Name

Location

Customer Job Totals

Parts	\$116.58
Labor	\$94.00

Total of Customer Jobs **\$210.58**

Repair Order Subtotal **\$210.58**

Sales Tax **\$9.34**

Repair Order Total **\$219.92**

Total Amount Due **\$219.92**

BY SIGNING REPAIR ORDER CUSTOMER AUTHORIZES THE REPAIR WORK TO BE DONE ALONG WITH THE NECESSARY MATERIALS. VELOCITY POWERSPORTS AND ITS EMPLOYEES MAY OPERATE VEHICLE FOR PURPOSES OF TESTING, INSPECTION, AND OR DELIVERY AT MY RISK. AN EXPRESS MECHANICS LIEN IS ACKNOWLEDGED ON ABOVE VEHICLE TO SECURE THE AMOUNT OF REPAIRS. IT IS UNDERSTOOD THAT VELOCITY POWERSPORTS WILL NOT BE HELD RESPONSIBLE FOR LOSS OR DAMAGE TO VEHICLE OR ARTICLES LEFT ON VEHICLE IN CASE OF FIRE OR THEFT OR ANY OTHER CAUSE BEYOND OUR CONTROL.

A FEE OF \$ 15.00 PER DAY WILL BE CHARGED IF VEHICLE NOT PICKED UP WITHIN 5 DAYS OF COMPLETION.

A FEE OF \$ 25.00 PER DAY WILL BE CHARGED IF WATERCRAFT IS NOT PICKED UP WITHIN 5 DAYS OF COMPLETION

ANY VEHICLE DEEMED TO DIRTY WILL BE CHARGED A FEE OF \$35

ALL S.B.T ENGINES HAVE WARRANTY FROM S.B.T ONLY NO WARRANTY FROM VELOCITY POWERSPORTS IS IMPLIED OR EXPRESSED. S.B.T ENGINE WARRANTY DOES NOT COVER LABOR TO INSTALL OR REMOVE ENGINE, PARTS OR FLUIDS. S.B.T WARRANTY COVERS THE ENGINE ONLY NOT LABOR.

ANY AFTERMARKET PERFORMANCE WORK PARTS AND ACCESSORIES CAN VOID THE ORIGINAL MANUFACTURE WARRANTY.

I UNDERSTAND THAT IF THE MANUFACTURE WARRANTY DOES NOT COVER MY REPAIR I AM RESPONSIBLE FOR THE FULL AMOUNT DUE AT THE RATE OF \$94.00 PER HR.

SIGN HERE

X.....

I REQUEST THAT YOU SAVE ALL OLD PARTS YES OR NO

ALL ESTIMATES WILL REQUIRE MIN OF \$94.00 FEE IF THE UNIT IS NOT REPAIRED.

VELOCITY POWERSPORTS LLC

151 GATEWAY DRIVE
LADSON, SC 29456
843-871-5371 843-873-6466

Repair Order

R/O Number: 28860

Date In: 4/9/2012

Today's Date: 5/23/2012

Date Promised: 4/9/2012

Date Closed:

Repair Order For:

BROOKS, RITA M.

1009 CASS DR

MONCKS CORNER, SC 29461

c:843-709-4082 h:GU0357 w:843-832-2352

Unit Name:

Location:

WARRANTY PARTS RETURNED TO SERVICE WRITER DATE _____

SIGNED: _____

VELOCITY POWERSPORTS LLC

151 GATEWAY DRIVE
LADSON, SC 29458
843-871-5371 843-873-6466

Repair Order

R/O Number: 28860

Date In: 4/9/2012

Date Promised: 4/9/2012

Today Date: 4/9/2012

Date Closed:

Repair Order For:

BROOKS, RITA M.
1009 CASS DR
MONCKS CORNER, SC 29461
c:843-709-4082 h:GU0357 w:843-832-2352

Unit Name Location

DO NOT TOUCH

Units for this Repair Order

Year	Make	Model	VIN / Serial No.	Color	Plate	Key Board	Miles
2007	HONDA	ARX12T3D7	US-HPSE1290C707	BLACK			86 hrs

Job: HAS CODES IN COMP (Warranty Job)

Job For: 2007 HONDA ARX12T3D7 F-12XGSCAP US-HPSE1290C707

Description

HAS HAD CODES FOR 2 YEARS SINCE THEY BOUGHT IT IN 2010.

HAS F.I. LIGHT CODE, CUSTOMER WOULD SHUT OFF AND THEN RESTART AND RIDE...

Labor

Description

FULL CODES AND CHECK

Job Code

Technician

P.J. WILSON

Quantity

0 Hours

Line Total

Warranty

Labor Subtotal

Job Subtotal

Warranty

Warranty

Job: SUMMERIZE/ FULL SERVICE

Job For: 2007 HONDA ARX12T3D7 F-12XGSCAP US-HPSE1290C707

Description

\$249.00 SPECIAL

CUSTOMER SAID IT LOOKS LIKE WATER IN OIL PLEASE CHECK.

Labor

Description

FULL SERVICE/SUMMERIZE

Job Code

Technician

P.J. WILSON

Quantity

2 Hours

Line Total

\$188.00

Labor Subtotal

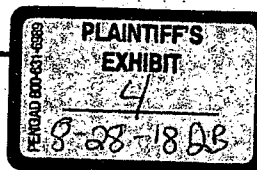
Job Subtotal

\$188.00

\$188.00

DO NOT TOUCH

Page 1



VELOCITY POWERSPORTS LLC

151 GATEWAY DRIVE
LADSON, SC 29456
843-871-5371 843-873-6466

Repair Order

R/O Number: 28860

Date In: 4/9/2012

Date Promised: 4/9/2012

Today Date: 4/9/2012

Date Closed:

Repair Order For:

Unit Name Location

BROOKS, RITA M.
1009 CASS DR
MONCK'S CORNER, SC 29461
c:843-709-4082 h:GU0357 w:843-832-2352

Job: REVERSE IS HARD TO GET BACK TO FORWARD (Warranty Job)

Job For: 2007 HONDA ARX12T3D7 F-12XGSCAP US-HPSE1290C707

Description

WHEN U PUT IT IN REVERSE U HAVE TO SHUT SKI OFF PUT IT IN
FORWARD THEN START SKI BACK UP.

Labor

Description

Job Code Technician

REVERSE ISSUE

P.J WILSON

Quantity

0 Hours

Line Total

Warranty

Labor Subtotal

Warranty

Job Subtotal

Warranty

Customer Job Totals

Labor

\$188.00

Total of Customer Jobs

\$188.00

Other Charges

ShopSupplies

\$11.28

Repair Order Subtotal

\$199.20

Sales Tax

\$0.91

Repair Order Total

\$200.19

Total Amount Due

\$200.19

BY SIGNING REPAIR ORDER CUSTOMER AUTHORIZES THE REPAIR WORK TO BE DONE ALONG WITH THE NECESSARY
MATERIALS. VELOCITY POWERSPORTS AND ITS EMPLOYEES MAY OPERATE VEHICLE FOR PURPOSES OF TESTING,
INSPECTION, AND OR DELIVERY AT MY RISK. AN EXPRESS MECHANICS LIEN IS ACKNOWLEDGED ON ABOVE VEHICLE
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IN CASE OF FIRE OR THEFT OR ANY OTHER CAUSE BEYOND OUR CONTROL.

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ALL S.B.T ENGINES HAVE WARRANTY FROM S.B.T ONLY NO WARRANTY FROM VELOCITY POWERSPORTS IS

Page 2

VELOCITY POWERSPORTS LLC

151 GATEWAY DRIVE
LADSON, SC 29456
843-871-5371 843-873-6466

Repair Order

R/O Number: 28860

Date In: 4/9/2012

Date Promised: 4/9/2012

Today Date: 4/9/2012

Date Closed:

Repair Order For:

BROOKS, RITA M.

1009 CASS DR

MONCKS CORNER, SC 29461

c:843-709-4082 h:GU0357 w:843-832-2352

Unit Name

Location

Customer Job Totals

Labor \$188.00

Total of Customer Jobs \$188.00

Other Charges

Shop Supplies \$11.28

Repair Order Subtotal \$199.28

Sales Tax \$0.91

Repair Order Total \$200.19

Total Amount Due \$200.19

BY SIGNING REPAIR ORDER CUSTOMER AUTHORIZES THE REPAIR WORK TO BE DONE ALONG WITH THE NECESSARY MATERIALS. VELOCITY POWERSPORTS AND ITS EMPLOYEES MAY OPERATE VEHICLE FOR PURPOSES OF TESTING, INSPECTION, AND OR DELIVERY AT MY RISK. AN EXPRESS MECHANICS LIEN IS ACKNOWLEDGED ON ABOVE VEHICLE TO SECURE THE AMOUNT OF REPAIRS. IT IS UNDERSTOOD THAT VELOCITY POWERSPORTS WILL NOT BE HELD RESPONSIBLE FOR LOSS OR DAMAGE TO VEHICLE OR ARTICLES LEFT ON VEHICLE IN CASE OF FIRE OR THEFT OR ANY OTHER CAUSE BEYOND OUR CONTROL.

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ANY AFTERMARKET PERFORMANCE WORK PARTS AND ACCESSORIES CAN VOID THE ORIGINAL MANUFACTURE WARRANTY.

I UNDERSTAND THAT IF THE MANUFACTURE WARRANTY DOES NOT COVER MY REPAIR I AM RESPONSIBLE FOR THE FULL AMOUNT DUE AT THE RATE OF \$94.00 PER HR.

SIGN HERE

REQUEST THAT YOU SAVE ALL OLD PARTS YES OR NO

ALL ESTIMATES WILL REQUIRE MIN OF \$94.00 FEE IF THE UNIT IS NOT REPAIRED.

VELOCITY POWERSPORTS LLC

151 GATEWAY DRIVE
LADSON, SC 29456
843-871-5371 843-873-6466

Repair Order

R/O Number: 28860

Date In: 4/9/2012

Today Date: 4/9/2012

Date Promised: 4/9/2012

Date Closed:

Repair Order For:

BROOKS, RITA M.

1009 CASS DR

MONCKS CORNER, SC 29461

cc:843-709-4082 h:GU0357 w:843-832-2352

Unit Name Location

IMPLIED OR EXPRESSED. S.B.T ENGINE WARRANTY DOES NOT COVER LABOR TO INSTALL OR REMOVE ENGINE,
PARTS OR FLUIDS. S.B.T WARRANTY COVERS THE ENGINE ONLY NOT LABOR. ##

ANY AFTERMARKET PERFORMANCE WORK PARTS AND ACCESSORIES CAN VOID THE ORIGINAL MANUFACTURE
WARRANTY.

I UNDERSTAND THAT IF THE MANUFACTURE WARRANTY DOES NOT COVER MY REPAIR I AM RESPONSIBLE FOR THE
FULL AMOUNT DUE AT THE RATE OF \$94.00 PER HR.

SIGN HERE

X.....

REQUEST THAT YOU SAVE ALL OLD PARTS YES OR NO

ALL ESTIMATES WILL REQUIRE MIN OF \$94.00 FEE IF THE UNIT IS NOT REPAIRED.

WARRANTY PARTS RETURNED TO SERVICE WRITER DATE _____

SIGNED _____

Dennis Law Firm, LLC

Edward J. Dennis, IV
Attorney and Counselor at Law
112 Stoney Avenue
Moncks Corner, SC 29461
(843) 761-5212 (843) 761-5214/fax
ejdiv@homesc.com

May 25, 2012

Via email only

Mary L. Arnold, Esquire
749 Johnnie Dodds Blvd, Suite B
Mt. Pleasant, SC 29464

RE: Rita Brooks and Velocity Powersports

Dear Mrs. Arnold:

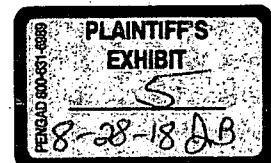
This office has undertaken legal representation of Mrs. Rita Brooks, a customer of your client, Velocity Powersports. Mrs. Brooks asserts various claims of breach of contract and warranty against your client and Honda, the manufacture of the product purchased by her from your client. My client's claim(s) extend to loss of use, etc., as a result of your client's failure to repair the product in a timely manner.

Following my telephone call to you, in fact the day after, your client telephoned my client to advise that they changed the oil and the spark plugs and that if my client did not pay for and retrieve the item this week, that storage charges would begin to accrue and be owing by her.

Firstly, please direct your client not to contact my client except in writing or through me. Secondly, my several phone calls to you over the last two (2) days have gone without a return call from you. If all contact between you and I is to be in writing then the attorney fees incurred by my client will be significantly higher.

My client's position is as follows:

1. We can arrange for the unit to be tested in order to determine whether the sudden and belated repair(s) by your client are acceptable; and,
2. Either your client or Honda will need to pay my client's attorney fees in the amount of \$500; and,
3. Either your client or Honda will need to compensate my client for loss of use on the product equal to her monthly payments for two (2) months time; and,
4. If the item is not repaired, then my client will require a new item or the return of all monies paid by her plus her attorney fees; and,



5. Failure to accomplish the foregoing within one (1) week's time will necessitate the filing of a lawsuit in a Court of appropriate jurisdiction.

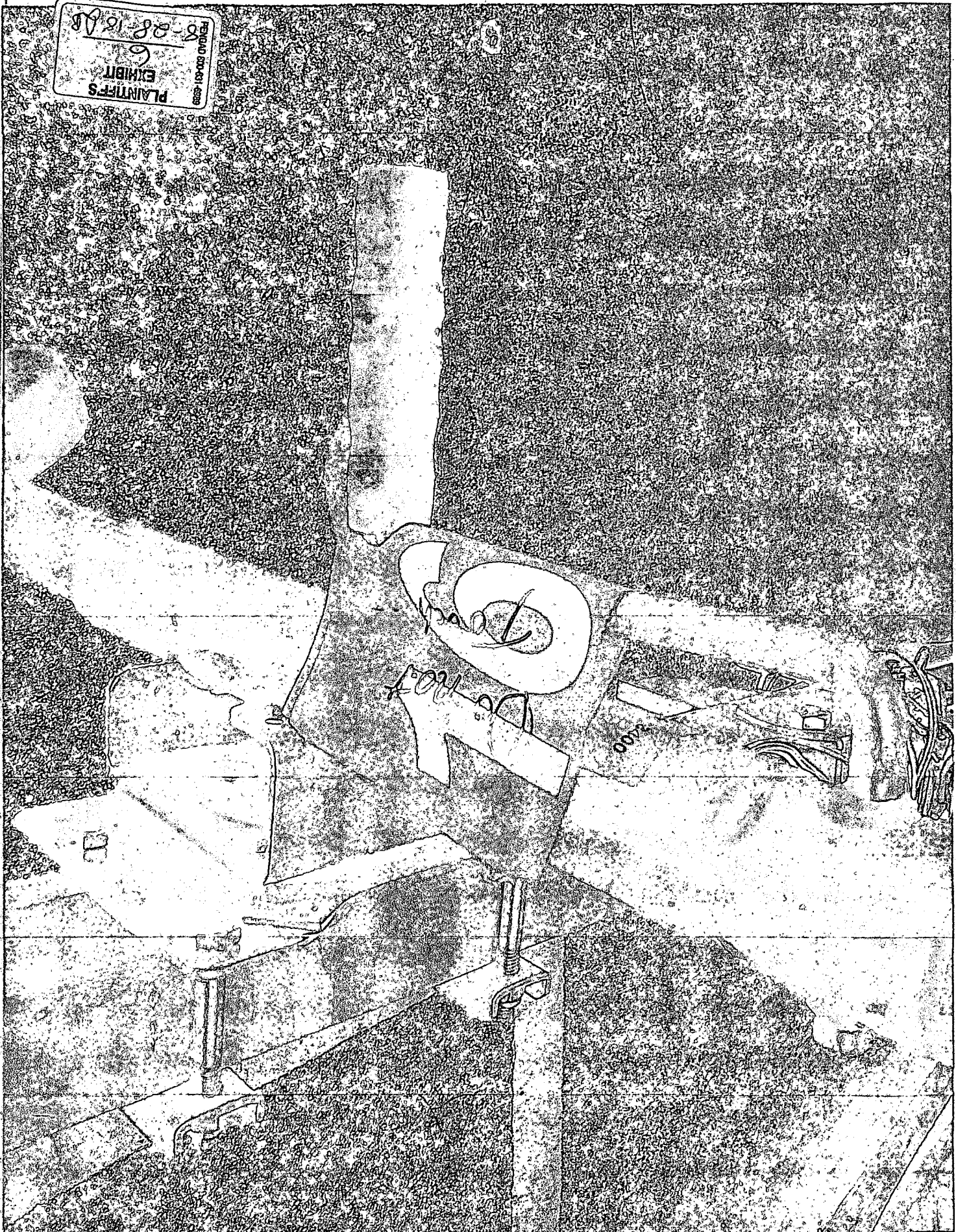
Sincerely,
DENNIS LAW FIRM, L.L.C.

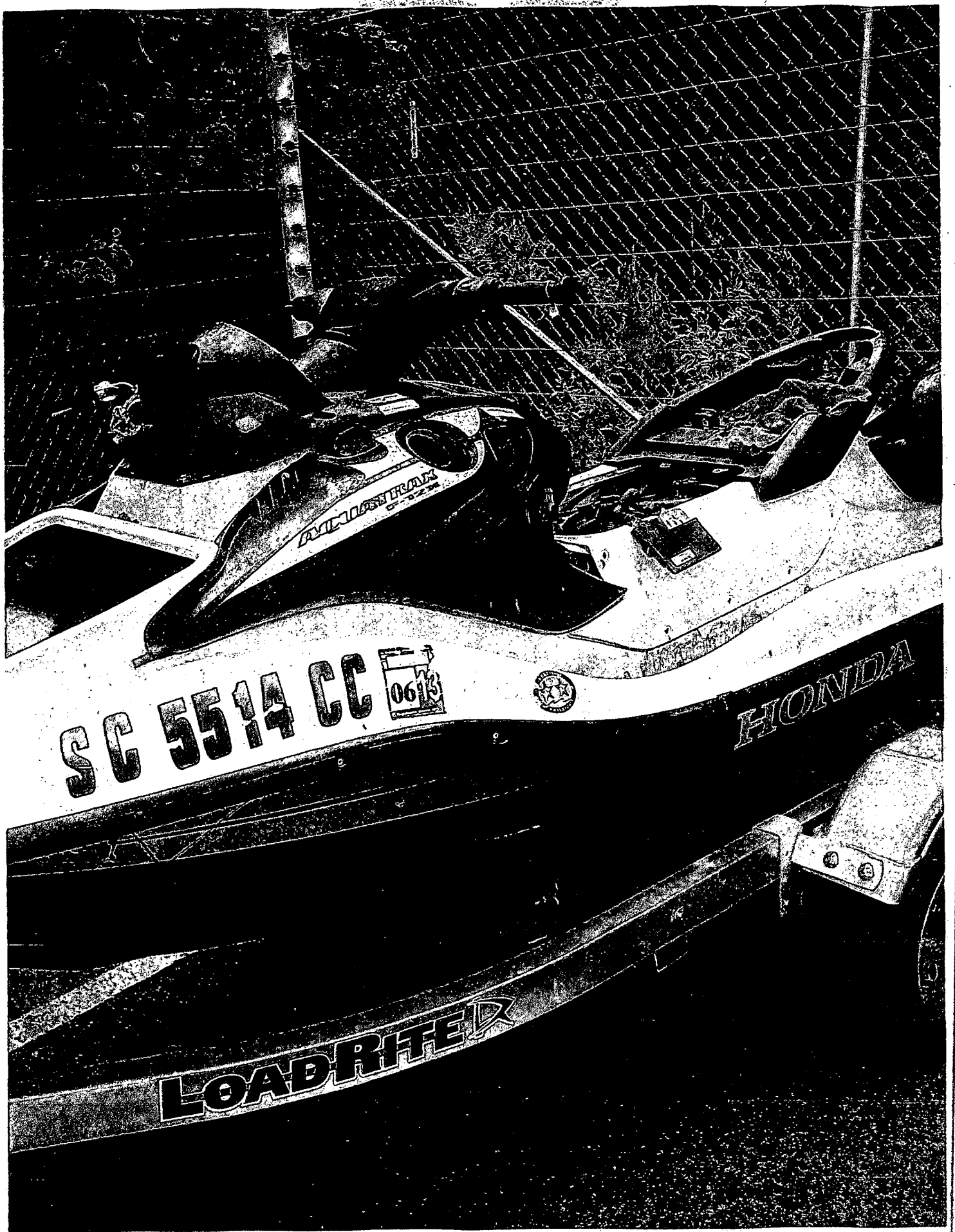
Edward J. Dennis, IV
Attorney at Law

EJDIV/ljm
Enclosures:
Cc: client

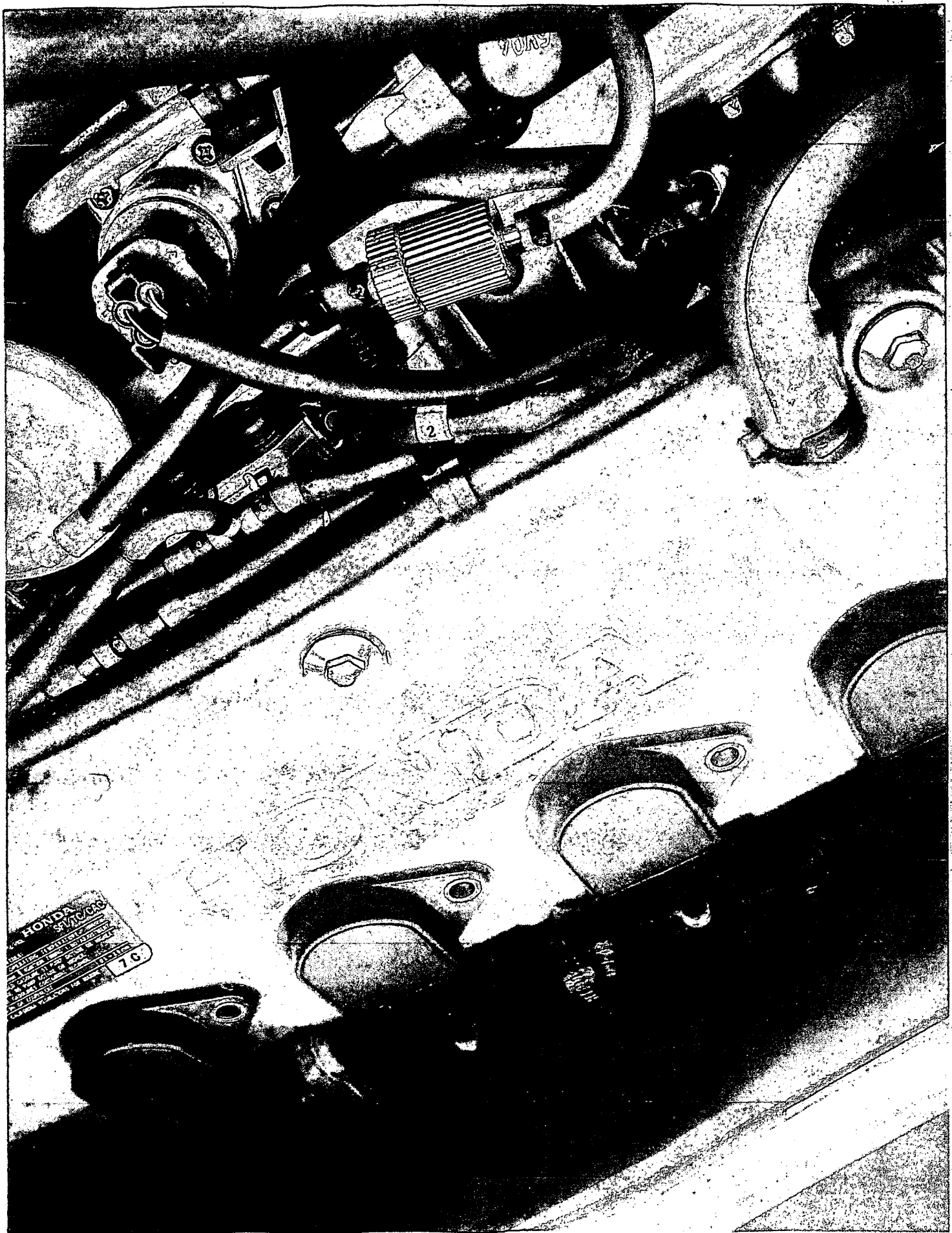
P.S. We have since talked by telephone this morning. Attached hereto are some notes and information from my file. Please advise at your earliest convenience. Thank you.

PLANNERS
EXHIBIT
6
8-88-10-18

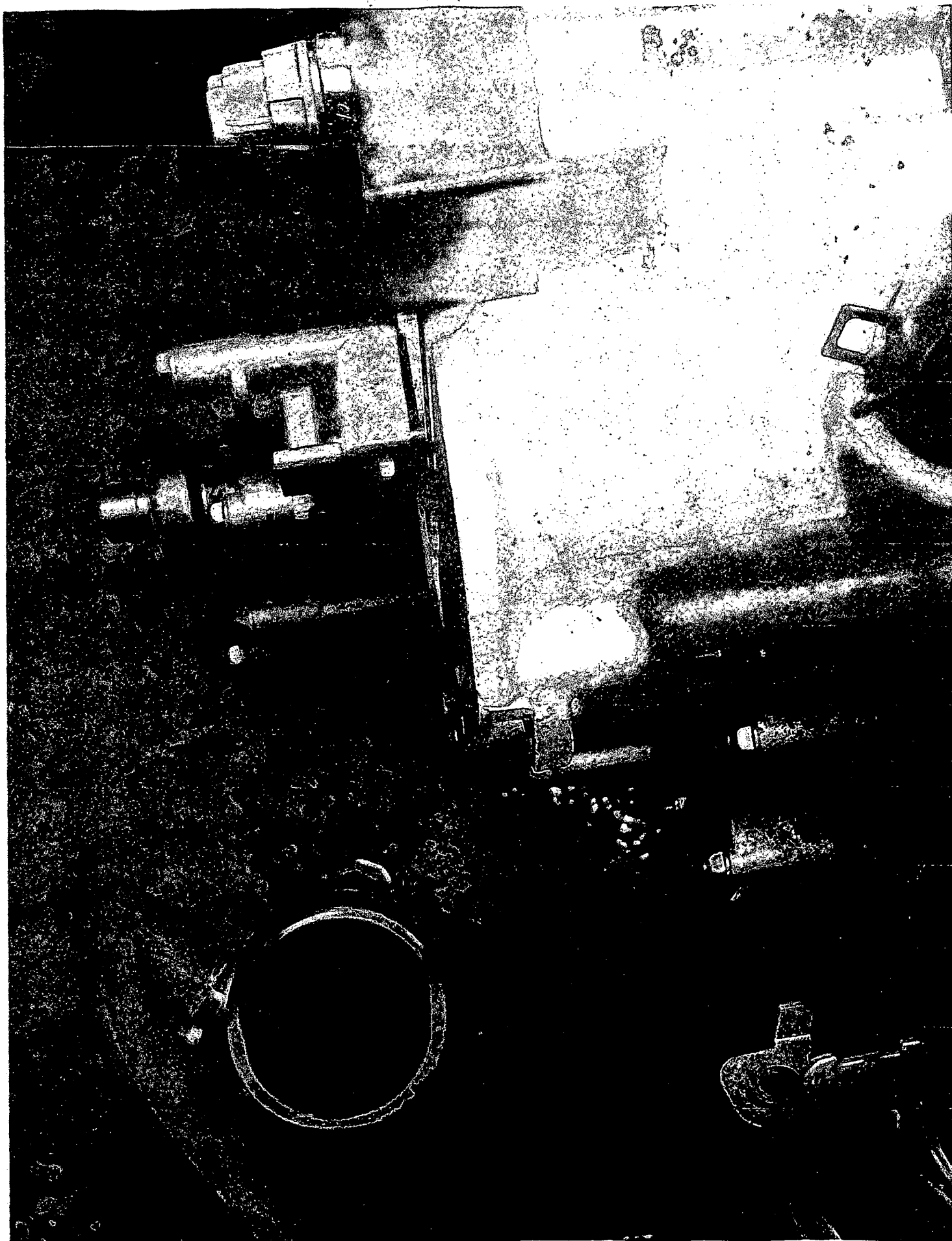




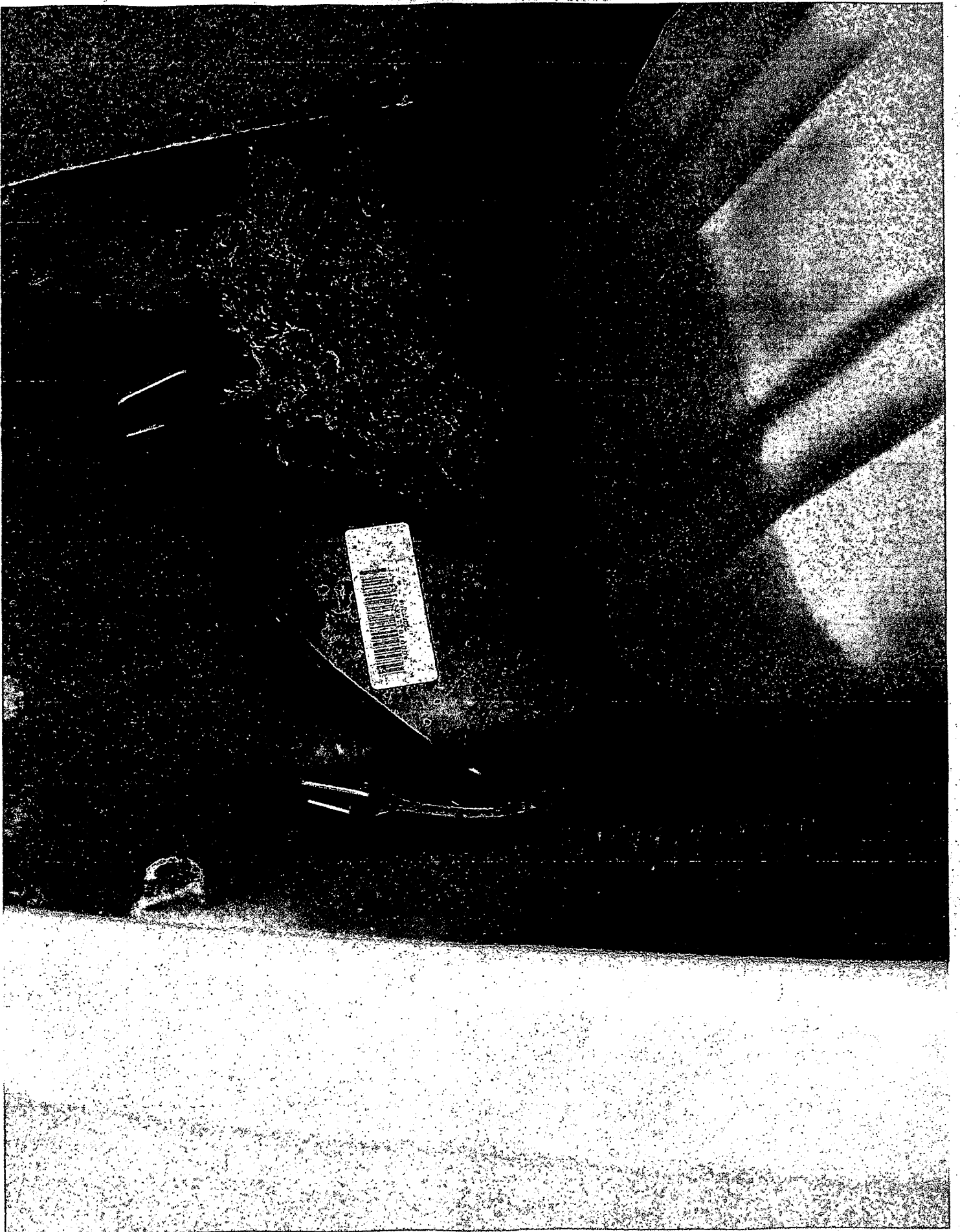




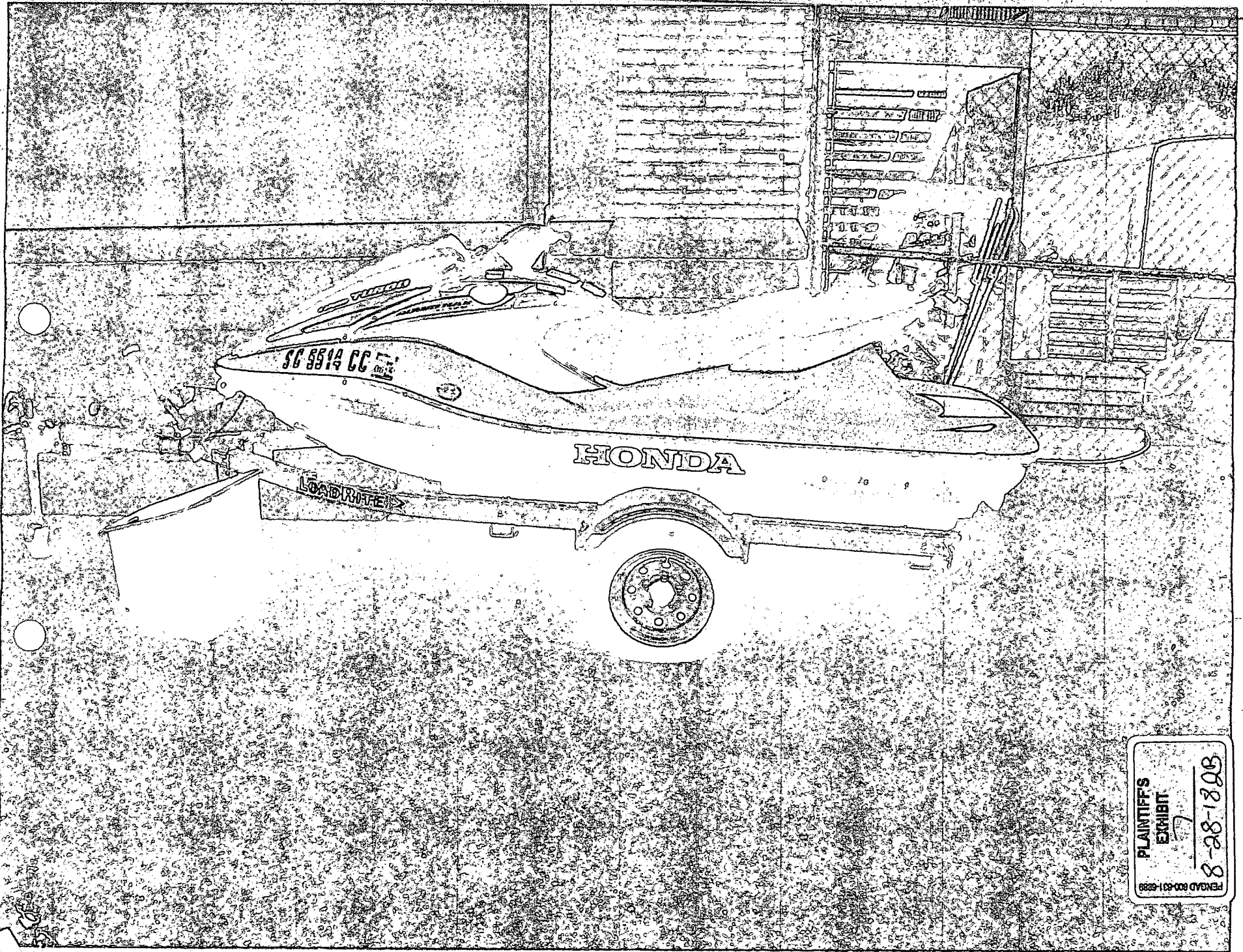




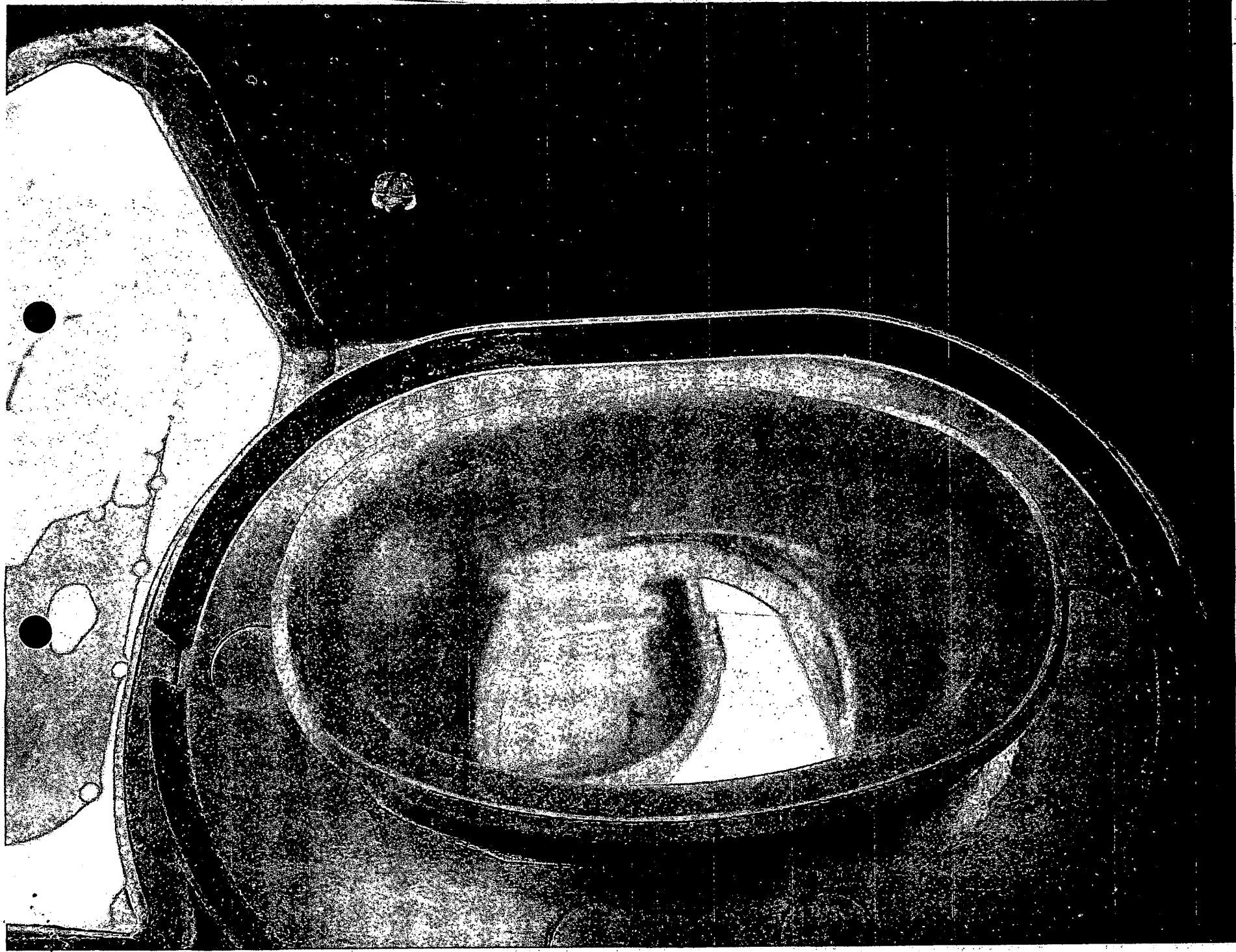


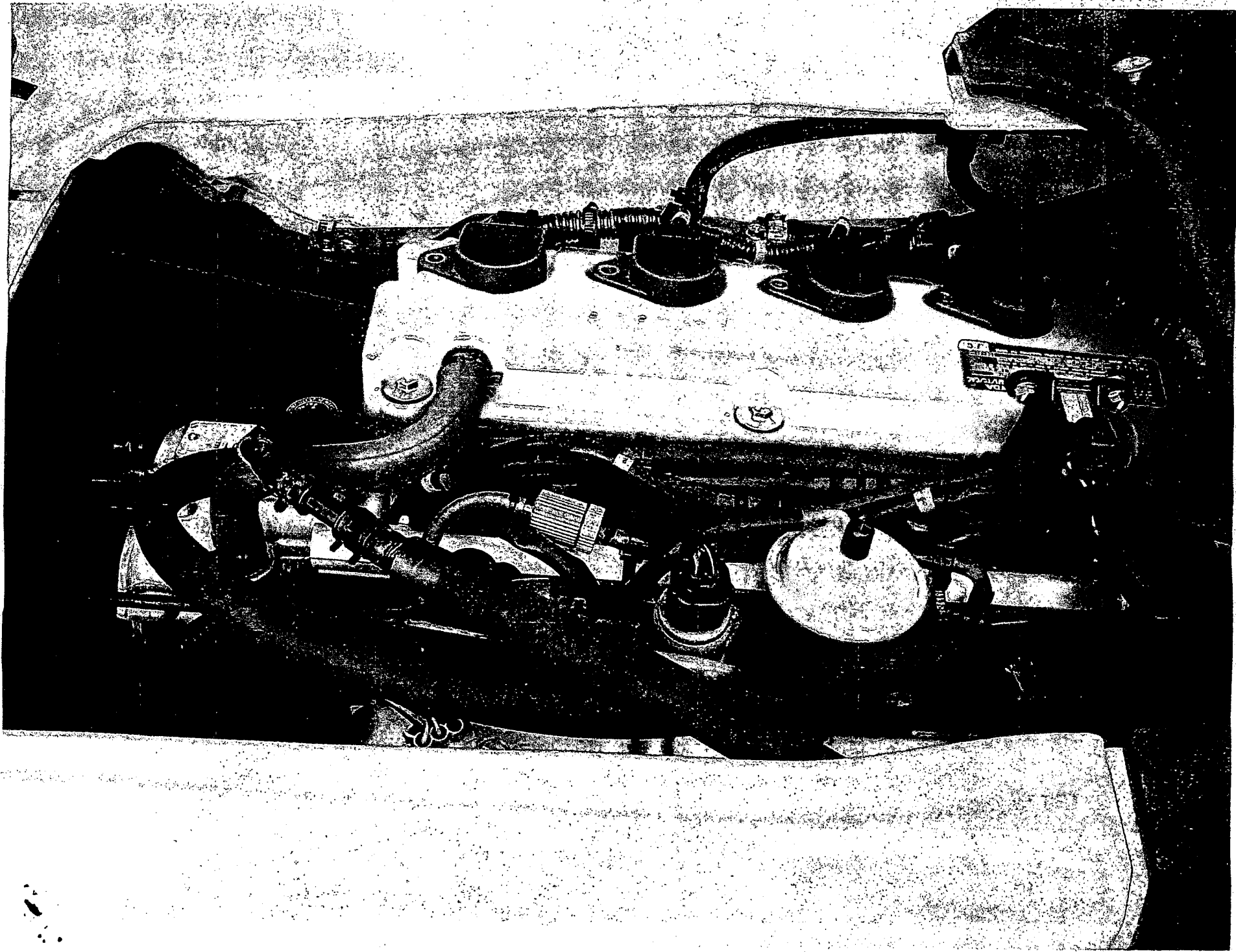






PLAINTIFFS
EXHIBIT
8-28-1808
PENAD 800-631-6288





INTERACTIVE NETWORK

DEALER: 105830

UNIT INFORMATION

04/13/18

VIN: US-HPSE1290C707 PRODUCT USE:
 MODEL & YEAR: ARX12T3D 2007 FIRST USE DATE: 04/24/2010
 ENGINE NUMBER: 5004663 RETAIL SALE DATE: 04/24/2010
 SALE REGISTERED ON: 04/27/2010
 CURRENT CUSTOMER : BROOKS RITA M
 PREVIOUS CUSTOMER: BROOKS RITA N

WARRANTIES:

TYPE:	START DATE	END DATE	CANC DATE
STANDARD WARRANTY:	04/24/2010	04/23/2011	
CERTIFY PRE OWNED:			
HONDA PROTECTION PLAN:			
EXPIRED	04/24/2011	04/24/2014	HPP

CLAIM HISTORY:

DATE: FAILED PART DESC: NO REPAIR FOUND

Campaign/Recall Information (Completed Campaigns are marked with a "C")

JDS APX12 02-07 FUEL TANK RECALL

**Campaigns without a "C" may have already been completed, but AHM has not yet received notification. Before beginning any repairs, be sure to consult the campaign Service Bulletin for complete details, especially the "Identification" section. If the unit bears the confirming completion indicator (most often a punch mark), then no further action is necessary. Note that some campaigns have an expiration date.



282

Brooks, R. Billing
Dennis Law Firm, L.L.C.
Edward J. Dennis, IV
Attorney at Law

Date	Expense	Escrow	Costs
5/21/12	deposit to operating	\$375.00	
7/16/12	Deposit to Escrow	\$900.00	
10/11/12	#1254 Filing Fee Berkeley County		\$150.00
10/30/12	56 copies and postage to mail 5 packages to client		
	Defendants and Ms. Arnold		\$25.65
12/16/13	Cash to operating for mediation	\$500.00	
7/8/15	#3359 Berkeley County continuance		\$25.00
7/28/15	#1390 John West mediation fees		\$500.00
2/11/16	12 copies and postage		\$5.12
3/2/16	16 copies for mailing & postage		\$1.87
10/11/16	32 copies for filing		\$11.20
	#3696 operating for filing fees		\$25.00
	#3704 operating for filing fees		\$25.00
10/20/16	8 copies & postage		\$3.27
5/11/17	#4022 Berk Co filing fee – operating		\$25.00
	121 copies of discovery		\$42.35
	#4024 – mailing discovery		\$7.20
2/26/18	#4109 Berk Co. Filing fee order – operating acct		\$25.00
6/4/18	#2059 for filing fees dep turst	\$125.00	
6/13/18	#1605 Master In Equity filing fees		\$125.00
		\$1,900.00	\$996.66

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT
CASE NO.- 2012-CP-08-2981

CASE NO.- 2012-CP-08-2981

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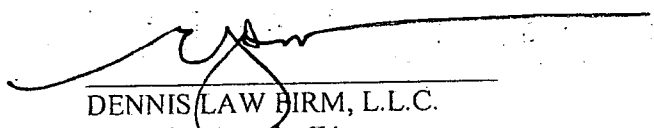
De

- 17

\$1,561.46

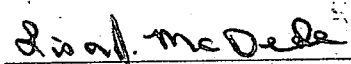
7. That the above time and expenditures have been computed as of January 3, 2017, and do not include services rendered subsequent to that date, and does not contemplate a factor for results obtained.
8. That based on the time necessarily devoted to this case and criteria which have been held relevant in the getting of attorney fees, costs, the undersigned, on behalf of his client, requests that this Court review the file herein, together with this Affidavit, and grant judgment in favor of the undersigned or his client against the adverse party in a sum which may be determined by the Court to be reasonable attorney fees, costs, and suit money, and that Respondent may be required to pay the same within a reasonable time as may be determined by this Court.

FURTHER AFFIANT SAYETH NOT!



DENNIS LAW FIRM, L.L.C.
Edward J. Dennis, IV
Attorney at Law
112 Stoney Avenue
Moncks Corner, SC 29461
843/761-5212
Fax: 843/761-5214

SWORN TO before me this
3rd Day of January, 2017



Notary Public for South Carolina
My Commission Expires: 7/26/26

Brooks, R. Billing
Dennis Law Firm, L.L.C.
Edward J. Dennis, IV
Attorney at Law

Date	Expense	Worker	Time	Amount	Escrow	Costs
	Admin fee to establish file			\$75.00		
2/11/16	draft discovery to Sammie Arnold	EJD	1	\$250.00		
	edit discovery and send to Sammie	LJM	0.4	\$30.00		
	12 copies and postage					\$5.12
3/2/16	Draft notice of taking deposition	EJD	0.2	\$50.00		
	coordinate time for depo, Aff of mailing & Transmittal	LJM	0.4	\$30.00		
	16 copies for mailing & postage					\$1.87
3/24/16	email to Sammie re discovery responses	LJM	0.2	\$15.00		
7/5/16	email to Sammie re discovery responses	LJM	0.2	\$15.00		
10/11/16	draft Motion to Compel	EJD	0.5	\$125.00		
	edit motion and prepare for filing	LJM	0.3	\$22.50		
	draft Affidavit for Mtn to compel	LJM	0.3	\$22.50		
	32 copies for filing					\$11.20
	#3696 operating for filing fees					\$25.00
	#3704 operating for filing fees					\$25.00
10/20/16	Mail Mtn to Compel to Sammie	LJM	0.2	\$15.00		
	8 copies & postage					\$3.27
12/5/16	Review discovery documents from Sammie	EJD	1	\$250.00		
	emails/PC to/from court & counsel re continuance	EJD	0.2	\$50.00		
		LJM	0.2	\$15.00		
1/3/17	Affidavit of attorney fees for Mtn to Compel	EJD	0.1	\$25.00		
1/4/17	attend hearing	EJD	1	\$250.00		
estimate	draft order	EJD	1	\$250.00		
				\$1,490.00	\$0.00	\$71.46
	total					\$1,561.46

STATE OF SOUTH CAROLINA

COUNTY OF BERKELEY

RITA BROOKS

Plaintiff,

vs.

VELOCITY POWERSPORTS, LLC,
AMERICAN HONDA FINANCE
CORPORATION and AMERICAN
HONDA MOTOR CO., Inc.

Defendants

) IN THE COURT OF COMMON PLEAS
) FOR THE NINTH JUDICIAL CIRCUIT
) CASE NO. - 2012-CP-08-2981

AFFIDAVIT OF
ATTORNEY FEES

CLERK OF COURT
BERKELEY COUNTY, S.C.

16 JAN -8 PM 2:04

PERSONALLY appeared before me, Dennis Law Firm, LLC, and EDWARD J. DENNIS, IV, whom, first being duly sworn, deposes and says as follows:

1. That he is the Attorney for the Petitioner in the above referenced matter.
2. That he was admitted to the South Carolina Bar in 1977, and since that time, has been engaged in private practice, and is currently practicing in Moncks Corner, South Carolina.
3. That he is and/or has been an active member of the South Carolina Bar, American Bar Association, Association of Trial Lawyers of America and South Carolina Trial Lawyer's Association.
4. That he actively engaged in trial practice with seventy (70%) percent of his practice being in the Family Courts.
5. That he incorporates herein Rule 32. Rules of Practice of the South Carolina Supreme Court which contains the Canons of Professional Ethics and further call the attention of the Court to the handlings in Nienow vs. Nienow, 268 S. C. 161, 232, S. E. 2nd, 504 (1977) and Atkinson vs. Atkinson, 279, S. C. 255 S. E. 2nd 14 (S.C. App., 1983) concerning the factors and criteria which should be considered in the setting of attorney fees. He relies upon the discretion of this Court in the determination of the amount of fees, based, among other things, upon the Court's file, the Court's knowledge of the litigation between these parties, which reflects the difficulty of the services rendered, the time necessarily expended, the result accomplished, the fact that there is no contingency of compensation in a domestic relations case, the professional standing of counsel, and fees customarily charged in this area for similar legal services.
6. That at the time of the Petitioner's initial conference with the undersigned, or soon thereafter, the Petitioner was advised the undersigned charged at a rate of Two

Hundred (\$750.00) Dollars per hour for attorney hours, in or out of the office and Seventy-Five (\$75.00) Dollars per hour for paralegal charges as provided in the fee agreement signed by the Petitioner. Additional fee consideration includes fees for the handling of collateral or ancillary law suits, and reimbursement of fees collected pursuant to agreement, or Court Order.

7. That the undersigned, in accordance with his time and expense records, states to the Court that the attached itemization of attorney fees and costs is true at a total amount of:

Attorney Fees To Date: \$1,650.00

8. That the above time and expenditures have been computed as of January 8, 2016, and do not include services rendered subsequent to that date, and does not contemplate a factor for results obtained.

9. That based on the time necessarily devoted to this case and criteria which have been held relevant in the getting of attorney fees, costs, the undersigned, on behalf of his client, requests that this Court review the file herein, together with this Affidavit, and grant judgment in favor of the undersigned or his client against the adverse party in a sum which may be determined by the Court to be reasonable attorney fees, costs, and suit money, and that Respondent may be required to pay the same within a reasonable time as may be determined by this Court.

FURTHER AFFIANT SAYETH NOT!



DENNIS LAW FIRM, L.L.C.

Edward J. Dennis, IV

Attorney at Law

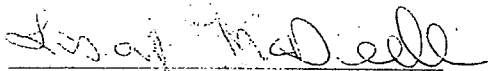
112 Stoney Avenue

Moncks Corner, SC 29461

843/761-5212

Fax: 843/761-5214

SWORN TO before me this
8th Day of January, 2016



Notary Public for South Carolina

My Commission Expires: 8/16/16

STATE OF SOUTH CAROLINA

COUNTY OF BERKELEY

RITA BROOKS

Plaintiff,

vs.

VELOCITY POWERSPORTS, LLC,
AMERICAN HONDA FINANCE
CORPORATION and AMERICAN
HONDA MOTOR CO., Inc.

Defendants

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT
CASE NO. - 2012-CP-08-2981

ITEMIZED STATEMENT OF TIME
AND CHARGES ON MOTION FOR
SUMMARY JUDGMENT BY
VELOCITY POWERSPORTS, LLC

1. Prepare and draft Return to Defendant, Velocity Powersports, LLC, Motion for Summary Judgment - 3 hours = \$750
2. travel and appear at hearing - 3 hours = \$500
3. Review and draft a(ny) Court Order - 1 hour = \$250
4. Paralegal time - 2 hours @ \$75 = \$150

Total = \$1,650


Edward J. Dennis, IV
Attorney at Law

112 Stoney Avenue

Moncks Corner, South Carolina 29461

phone: 843/761-5212 fax 843/761-5214

Dated: January 8, 2016

Moncks Corner, SC

16 JAN -8 PM 2:04
CLERK OF COURT
BERKELEY COUNTY, S.C.

Dennis Law Firm, LLC

Edward J. Dennis, IV
Attorney and Counselor at Law
112 Stoney Avenue
Moncks Corner, SC 29461
(843) 761-5212 (843) 761-5214/fax
ejdiv@homesc.com

May 21, 2012

PERSONAL AND CONFIDENTIAL

Mrs. Rita Brooks
1009 Cass Drive
Moncks Corner, SC 29461

Re: Rita Brooks vs. Velocity Powersports and Honda

Dear Ms. Brooks:

This letter conforms to our rules of professional conduct that require all fee agreements between lawyers and their clients to be in writing. This letter shall serve to confirm the fee arrangement for the handling of your case.

You have been charged a flat retainer fee of \$750.00, plus costs, against which we will bill for the above stated cause of actions. You agree that if and when the case is resolved, any award of attorney fees will remain with the Dennis Law Firm after reimbursement to you in the amount of \$900.

Our billing rates are as follows: (i) Edward J. Dennis, IV - \$250.00 per hour; and (ii) Paralegals - \$75.00 per hour. You are also responsible for costs associated with this matter. Initially advanced costs include a fee of \$75.00 for case file administration. Completed facsimiles, long distance telephone calls will be billed at a flat rate of \$5.00 per call. Mileage and postage will be billed at prevailing rates. Photocopies will be billed at \$0.35 each. Other out of pocket expenses include filing fees and service of process fees. Should your account balance ever be more than thirty (30) days in arrears, interest at the rate of 1.5% per month shall be charged.

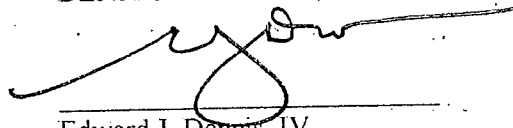
You understand that I may take depositions of certain witnesses. The deposition transcripts generally cost between \$250.00 and \$750.00 each, depending upon the length of the deposition and other factors. Those costs are your responsibility and are not part of our fee. You understand and agree that the costs of depositions must be paid by you directly to the court reporting company within thirty (30) days of the court reporting company's billing to me. I will not take any depositions without first receiving your authority to do so.

Please review the above paragraphs closely. If this letter accurately reflects the agreement reached by you and I, please sign the enclosed copy of this agreement as your acceptance of the terms of my employment. Thereafter, please return both pages to me in the enclosed, self-addressed

envelope.

If you do not understand the fee arrangement or do not believe it to accurately reflect our agreement, please contact me at once. I trust, however, that you will find it appropriate.

Very truly yours,
DENNIS LAW FIRM, L.L.C.



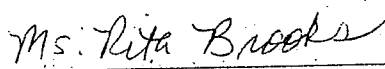
Edward J. Dennis, IV
Attorney and Counselor at Law

EJDIV/ljm

I hereby acknowledge and accept the terms as set forth herein.

5-21-12

Date



Ms. Rita Brooks

**CONTRACT FOR THE SERVICES OF
DENNIS LAW FIRM, L.L.C.**

STATE OF SOUTH CAROLINA

COUNTY OF BERKELEY

This Contract is herewith made and entered into this 3rd day of October, 2012, by and between Rita Brooks (hereinafter referred to as "Client") and Dennis Law Firm, L.L.C. (hereinafter referred to as "Attorney").

Client, being advised by Attorney that she has a potential cause of action by reason of a Breach of Contract for services, which occurred on or about April 9, 2012, hereby retains and employs Attorney and they agree:

- A. To make all reasonable efforts to obtain a compromise settlement of said claim in an amount satisfactory to Client and Attorney;
- B. That upon failure to obtain such settlement, to then bring suit thereon, if appropriate, in the appropriate Court; and
- C. To do all things deemed appropriate in preparation for trial in attempting to settle or secure judgment (including appealing only if Attorney deems appropriate) on behalf of Client.

Attorney retains the right to withdraw as counsel if, after investigation, it deems there is no meritorious cause of action. In the event that Client withdraws and the case is transferred to another attorney, or if Client proceeds on his/her own, then there will be a lien on the proceeds of the case for all costs advanced and the reasonable value of legal services rendered. This Contract shall serve as an authorization of said lien.

Client initials

Attorney initials

It Is Agreed that in full compensation for its services, Attorney shall receive a contingency fee in the event of recovery based upon the total amount of recovery according to the following schedule:

- A. Upon compromise settlement prior to filing suit -- 33 1/3%;
- B. From filing of suit to judgment with no appeal -- 40%;
- C. If appealed by any party to the Supreme Court of South Carolina or any other Court of Appeals -- 50%;

D. In addition to the above, initially advanced costs include preliminary investigation fee, filing fees and an initial fee of \$75.00 for case file administration. Complete facsimiles, long distance telephone calls and mobile telephone calls will be billed at a flat rate of \$5.00 per call. Mileage and postage will be billed at prevailing rates. Photocopies will be billed at \$.35 each.

It Is Agreed that said fee compensation shall be solely for the professional services of Attorney. Without regard to the final determination of the matter, Client will pay all costs and expenses incurred on the matter.

It Is Further Agreed that no settlement shall be made without Client's consent; that Attorney has the exclusive right to take all legal steps to enforce Client's claim and that Client will not settle this claim in any manner without the prior written consent of Attorney.

Client initials

Attorney initials

In Testimony Whereof, said parties have executed this Contract, having read this Contract and agreeing to its terms and conditions, and that there are no other agreements between the parties.

Lisa M. DeDe

Witness

Rita M. Brooks

Rita Brooks

Lisa M. DeDe

Witness

Edward J. Dennis, IV

Edward J. Dennis, IV

Date: October 3, 2012

82-46-1

[illegible]

Wrench 4/2007

MST 12 is OK

5/22 Cleared fault codes - cannot duplicate codes!
 Cleared engine oil & filter!

Changed engine oil
Changed spark plugs

Ski when first put in and ski at 5000rpm for 15 seconds! Starts revving, very sluggish! If continued, ski will eventually get to where it will not run! No codes! Does throw TP (the sensor code right before it dies! Believe this is a forced code by operator - not related to issue!

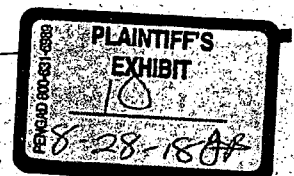
Fuel pressure = 43 psi = Good

Fuel pressure = 43 psi = Good!
Put vacuum/pressure pump on fuel pressure regulator -
increased + decreased fuel pressure - no change - sk.
only runs worse!
i.e. smoothly it seems!

Turbo wastegate operates smoothly it seems!

Turbo wastegate operates on
Fuel is fresh + free of water
Turbo wastegate not at turbo

Turbo wastegate operates.
Fuel is fresh + free of water!
Removed intake boot at turbo to check for restriction on
intake - ski runs same!



VELOCITY POWERSPORTS LLC

151 GATEWAY DRIVE
LADSON, SC 29456
843-871-5371 843-873-6466

Repair Order

R/O Number: 28860

Date In: 4/9/2012

Date Promised: 4/9/2012

Today Date: 4/9/2012

Date Closed:

Repair Order For:

BROOKS, RITA M.
1009 CASS DR
MONCKS CORNER, SC 29461
c:843-709-4082 h:GU0357 w:843-832-2352

Unit Name

Location

DO NOT TOUCH

Units for this Repair Order

Service Writer: DAVID KARP

Year	Make	Model	VIN / Serial N	Color	Plate	Key Board	Miles
2007	HONDA	ARX12T3D7	US-HPSE1290C707	BLACK			86 hrs

Job: HAS CODES IN COMP (Warranty Job)

Job For: 2007 HONDA ARX12T3D7 F-12XGSCAP US-HPSE1290C707

Description

HAS HAD CODES FOR 2 YEARS SINCE THEY BOUGHT IT IN 2010.

HAS F.I. LIGHT CODE, CUSTOMER WOULD SHUT OFF AND THEN RESTART AND RIDE..

Labor

Description

PULL CODES AND CHECK

Job Code

Technician

P.J WILSON

Quantity

0 Hours

Line Total

Warranty

Labor Subtotal

Warranty

Job Subtotal

Warranty

Job: SUMMERIZE/ FULL SERVICE

Job For: 2007 HONDA ARX12T3D7 F-12XGSCAP US-HPSE1290C707

Description

\$249.00 SPECIAL

CUSTOMER SAID IT LOOKS LIKE WATER IN OIL PLEASE CHECK.

Labor

Description

FULL SERVICE/SUMMERIZE

Job Code

Technician

P.J WILSON

Quantity

2 Hours

Line Total

\$188.00

Labor Subtotal

\$188.00

Job Subtotal

\$188.00

DO NOT TOUCH

DEFENDANT'S
EXHIBIT

8-28-1800

Page 1

Brooks 1510
SERVICE ADVISOR
28860
R.O.#

CLAIM CHECK
PLEASE PRESENT THIS STUB TO CASHIER
WHEN CALLING FOR YOUR VEHICLE
THANK YOU **1510**

VELOCITY POWERSPORTS LLC

151 GATEWAY DRIVE
LADSON, SC 29456
843-871-5371 843-873-6466

Repair Order

R/O Number: 28860

Date In: 4/9/2012

Date Promised: 4/9/2012

Today Date: 4/9/2012

Date Closed:

Repair Order For:

BROOKS, RITA M.

1009 CASS DR

MONCKS CORNER, SC 29461

c:843-709-4082 h:GU0357 w:843-832-2352

Unit Name

Location

Job: REVERSE IS HARD TO GET BACK TO FORWARD (Warranty Job)

Job For: 2007 HONDA ARX12T3D7 F-12XGSCAP US:HPSE1290C707

Description

WHEN U PUT IT IN REVERSE U HAVE TO SHUT SKI OFF PUT IT IN FORWARD THEN START SKI BACK UP.

Labor

Description	Job Code	Technician	Quantity	Line Total
REVERSE ISSUE		P.J WILSON	0 Hours	Warranty
			Labor Subtotal	Warranty
			Job Subtotal	Warranty

Customer Job Totals

Labor \$188.00

Total of Customer Jobs \$188.00

Other Charges

Shop Supplies \$11.28

Repair Order Subtotal \$199.28

Sales Tax \$0.91

Repair Order Total \$200.19

Total Amount Due \$200.19

BY SIGNING REPAIR ORDER CUSTOMER AUTHORIZES THE REPAIR WORK TO BE DONE ALONG WITH THE NECESSARY MATERIALS. VELOCITY POWERSPORTS AND ITS EMPLOYEES MAY OPERATE VEHICLE FOR PURPOSES OF TESTING, INSPECTION, AND OR DELIVERY AT MY RISK. AN EXPRESS MECHANICS LIEN IS ACKNOWLEDGED ON ABOVE VEHICLE TO SECURE THE AMOUNT OF REPAIRS. IT IS UNDERSTOOD THAT VELOCITY POWERSPORTS WILL NOT BE HELD RESPONSIBLE FOR LOSS OR DAMAGE TO VEHICLE OR ARTICLES LEFT ON VEHICLE IN CASE OF FIRE OR THEFT OR ANY OTHER CAUSE BEYOND OUR CONTROL.

A FEE OF \$ 15.00 PER DAY WILL BE CHARGED IF VEHICLE NOT PICKED UP WITHIN 5 DAYS OF COMPLETION.

A FEE OF \$ 25.00 PER DAY WILL BE CHARGED IF WATERCRAFT IS NOT PICKED UP WITHIN 5 DAYS OF COMPLETION

ANY VEHICLE DEEMED TO DIRTY WILL BE CHARGED A FEE OF \$35

ALL S.B.T ENGINES HAVE WARRANTY FROM S.B.T ONLY NO WARRANTY FROM VELOCITY POWERSPORTS IS

VELOCITY POWERSPORTS LLC

151 GATEWAY DRIVE
LADSON, SC 29456
843-871-5371 843-873-6466

Repair Order

R/O Number: 28860

Date In: 4/9/2012

Date Promised: 4/9/2012

Today Date: 4/9/2012

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BROOKS, RITA M.
1009 CASS DR
MONCK'S CORNER, SC 29461
c:843-709-4082 h:GU0357 w:843-832-2352

Unit Name Location

Customer Job Totals

Labor \$188.00

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A FEE OF \$ 25.00 PER DAY WILL BE CHARGED IF WATERCRAFT IS NOT PICKED UP WITHIN 5 DAYS OF COMPLETION

ANY VEHICLE DEEMED TO DIRTY WILL BE CHARGED A FEE OF \$35

ALL S.B.T ENGINES HAVE WARRANTY FROM S.B.T ONLY NO WARRANTY FROM VELOCITY POWERSPORTS IS IMPLIED OR EXPRESSED. S.B.T ENGINE WARRANTY DOES NOT COVER LABOR TO INSTALL OR REMOVE ENGINE, PARTS OR FLUIDS. S.B.T WARRANTY COVERS THE ENGINE ONLY NOT LABOR.

ANY AFTERMARKET PERFORMANCE WORK PARTS AND ACCESSORIES CAN VOID THE ORIGINAL MANUFACTURE WARRANTY.

I UNDERSTAND THAT IF THE MANUFACTURE WARRANTY DOES NOT COVER MY REPAIR I AM RESPONSIBLE FOR THE FULL AMOUNT DUE AT THE RATE OF \$94.00 PER HR.

 SIGN HERE

I REQUEST THAT YOU SAVE ALL OLD PARTS YES OR NO

ALL ESTIMATES WILL REQUIRE MIN OF \$94.00 FEE IF THE UNIT IS NOT REPAIRED.

VELOCITY POWERSPORTS LLC

151 GATEWAY DRIVE
LADSON, SC 29456
843-871-5371 843-873-6466

Repair Order

R/O Number: 28860

Date In: 4/9/2012

Date Promised: 4/9/2012

Today Date: 4/9/2012

Date Closed:

Repair Order For:

BROOKS, RITA M.
1009 CASS DR
MONCKS CORNER, SC 29461
c:843-709-4082 h:GU0357 w:843-832-2352

Unit Name

Location

IMPLIED OR EXPRESSED. S.B.T ENGINE WARRANTY DOES NOT COVER LABOR TO INSTALL OR REMOVE ENGINE,
PARTS OR FLUIDS. S.B.T WARRANTY COVERS THE ENGINE ONLY NOT LABOR. ##

ANY AFTERMARKET PERFORMANCE WORK PARTS AND ACCESSORIES CAN VOID THE ORIGINAL MANUFACTURE
WARRANTY.

I UNDERSTAND THAT IF THE MANUFACTURE WARRANTY DOES NOT COVER MY REPAIR I AM RESPONSIBLE FOR THE
FULL AMOUNT DUE AT THE RATE OF \$94.00 PER HR.

SIGN HERE

X.....

I REQUEST THAT YOU SAVE ALL OLD PARTS YES OR NO

ALL ESTIMATES WILL REQUIRE MIN OF \$94.00 FEE IF THE UNIT IS NOT REPAIRED.

WARRANTY PARTS RETURNED TO SERVICE WRITER DATE _____

SIGNED _____

INTERACTIVE NETWORK

DEALER: 105830

UNIT INFORMATION

04/09/12

VIN: US-HPSE1290C707
MODEL & YEAR: ARX12T3D 2007
ENGINE NUMBER: 5004663

PRODUCT USE:
FIRST USE DATE: 04/24/2010
RETAIL SALE DATE: 04/24/2010
SALE REGISTERED ON: 04/27/2010
RITA M
RITA M

CURRENT CUSTOMER : BROOKS
PREVIOUS CUSTOMER: BROOKS

WARRANTIES:

TYPE:	START DATE	END DATE	CANC DATE
STANDARD WARRANTY:	04/24/2010	04/23/2011	
CERTIFY PRE OWNED:			
HONDA PROTECTION PLAN:			
ACTIVE	04/24/2011	04/24/2014	HPP

CLAIM HISTORY:

DATE: 04/15/2010 FAILED PART DESC: MIRROR, L. *NH1*

CAMPAIGN NOT REPORTED AS COMPLETED:

** There are no outstanding campaigns needing to be completed **

© 2000 - 2012, American Honda Motor Co., Inc. All Rights Reserved.

46-1

[illegible]

Wrench 4/2007

NST 12 is OK

5/22 Cleared fault codes - correct duplicate codes!

Changed engine oil & filter

Changed spark plugs!

Ski when first put in water will rev up just fine! Hold ski at 5000rpm for 15 seconds! Starts revving slowly/sluggish! If continued, ski will eventually get to where it will not run! No codes! Does throw TP (throttle position) sensor code right before it dies! Believe this is a forced code by operator - not related to issue!

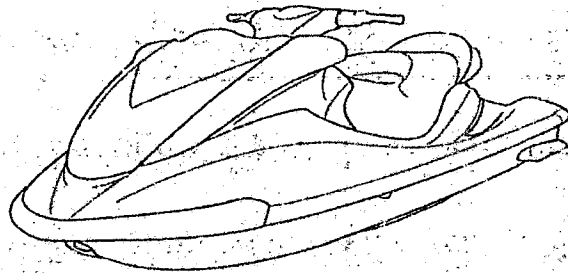
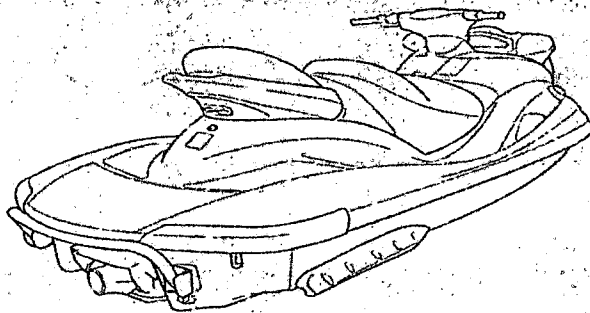
Fuel pressure = 43 psi = Good!

Put vacuum/pressure pump on fuel pressure regulator - increased + decreased fuel pressure - no change - ski only runs worse!

Turbo wastegate operates smoothly it seems!

Fuel is fresh + free of water!

Removed intake boot at turbo to check for restriction in intake - still runs same!



NAME

ADDRESS

PHONE

E-MAIL

VIN

YEAR

MAKE

MODEL

COLOR

MILES/HRS

INSPECTION

EXHIBIT 8

To: Customer Service

June 28, 2012

Rita M. Brooks

1009 Cass Drive
Moncks Corner, SC 29461
843-709-4082
rbrooks918@homesc.com

Honda ARX12T3d 2007
Vin# US-HPSE1290C707
Extended Warranty# SC2010000000149
36 months
Issue- 4-24-2010
Expire- 4-24-2014

Bought at-
Velocity Powersports
151 Gateway Drive
Ladson, SC 29456

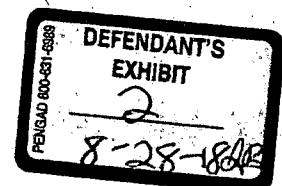
The jet ski will not run faster than 35mph. When purchased the ski would run 60mph. Dealer thinks I need a new turbo, but will not do the warranty work and has threatened to take the ski. The ski has been at Velocity almost 3 months now. Summerville in Charleston, SC with NO jet ski. I am VERY frustrated.

I am enclosing the repair order and my experience with Velocity Powersports.

I want my jet ski repaired by Velocity or another Honda Service Center or a replacement ski or the return of my purchase price and refund of unused warranty amount. I have found after some research that some of the Honda skiis with turbos have had problems. Please respond in a timely manner.

Sincerely,

Rita M. Brooks



VELOCITY POWERSPORTS LLC

151 GATEWAY DRIVE
LADSON, SC 29458
843-871-5371 843-873-8488

Repair Order

R/O Number: 28860

Date In: 4/9/2012

Date Promised: 4/9/2012

Today Date: 2/27/2013

Date Closed:

Repair Order For:

BROOKS, RITA M.

1009 CASS DR

MONCKS CORNER, SC 29461

c:843-709-4082 h:GUD357 w:843-832-2352

Unit Name Location

Units for this Repair Order

Service Writer: DAVID KARP

Year	Make	Model	VIN / Serial No.	Color	Plate	Key Board	Miles
2007	HONDA	ARX12T3D7	US-HPSE1290C707	BLACK		86 HRS	

Job: HAS CODES IN COMP

Job For: 2007 HONDA ARX12T3D7 F-12XGSCAP US-HPSE1290C707.

Description

HAS HAD CODES FOR 2 YEARS SINCE THEY BOUGHT IT IN 2010..

HAS F.I.L LIGHT CODE, CUSTOMER WOULD SHUT OFF AND THEN RESTART AND RIDE..

Parts

Part Number	Quantity	Description	Each Price	Extension
38770-HW1-691	0	PGM-FI UNIT	\$779.75	\$0.00
Parts Subtotal				\$0.00

Labor

Description	Job Code	Technician	Quantity	Line Total
DIAGNOSE SKI CODES		P.J WILSON	0 Hours	\$0.00
Labor Subtotal				\$0.00

Recommendations

REMOVE AND INSPECT THE TURBO
(THE TURBO DOSE HAVE A LOT OF RUST BUILD UP THAT CAN CAUSE ISSUES WITH THE WASTE GATE SHAFT)

Resolution

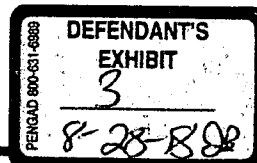
RAN SKI ON HDS FOUND TWO STORED FAIL CODES
ONE TP (THROTTLE POSITION SENSOR) SENSOR AND
ONE MST(MANFOLD SURFACE TEMP) .

MST INPUT VOLTAGE = 12V SPEC = 4.75-5.25V

THE SIGNAL WIRE FROM THE ECM TO THE MST SWITCH
CHECKS GOOD. = NEED TO INSTALL A KNOWN GOOD
ECU THEN RETEST.

CHANGED THE OIL AND FILTER
INSTALLED NEW SPARK PLUGS

AFTER WATER TESTING THE SKI WE FOUND THAT
WATER IS ENTERING THE ENGINE OIL. = THIS CONDITION
WILL NEED TO BE DIAGNOSED



VELOCITY POWERSPORTS LLC

151 GATEWAY DRIVE
LADSON, SC 29456
843-871-5371 843-873-8468

Repair Order

R/O Number: 28860

Date In: 4/8/2012

Date Promised: 4/8/2012

Today Date: 2/27/2013

Date Closed:

Repair Order For:

BROOKS, RITA M.

1009 CASS DR

MONCK'S CORNER, SC 29461

c:843-709-4082 h:GU0357 w:843-832-2352

Unit Name

Location

Job: HAS CODES IN COMP (Continued)

Job For: 2007 HONDA ARX12T3D7 F-12XGSCAP US-HPSE1290C707

CHECKED FUEL PRESSURE = 43 PSI GOOD

CHECKED FUEL = CHECKS GOOD

WHEN WATER TESTING THE SKI WILL REV UP FINE BUT
IT WILL ONLY HOLD A HIGH REV FOR ABOUT 15 SEC.
THEN THE SKI WILL LOOSE POWER AND REV SLOW
AND SLUGGISH.
(THIS CONDITION CAN BE CAUSED BY A FAILING
TURBO)

REMOVED THE TURBO INTAKE BOOT= NO SIGNS OF
RESTRICTION.

Job Subtotal

\$0.00

VELOCITY POWERSPORTS LLC

151 GATEWAY DRIVE
LADSON, SC 29458
843-871-5371 843-873-8488

Repair Order

R/O Number: 28860
Date In: 4/9/2012
Date Promised: 4/9/2012

Today Date: 2/27/2013
Date Closed:

Repair Order For:

BROOKS, RITA M
1009 CASS DR
MONCKS CORNER, SC 29461
c:843-709-4082 h:GU0357 w:843-832-2352

Unit Name Location

Job: SUMMERIZE/ FULL SERVICE

Job For: 2007 HONDA ARX12T3D7 F-12XGSCAP US-HPSE1290C707

Description

\$249.00 SPECIAL

CUSTOMER SAID IT LOOKS LIKE WATER IN OIL PLEASE CHECK.

Parts

Part Number	Quantity	Description	Each Price	Extension
2-IR9D-9H	4	NGK SPARK PLUG #8544/04	\$17.95	\$71.80
BULK OIL	4	10W40 BULK OIL	\$5.95	\$23.80
MSC	4	OET	\$0.02	\$0.08
293800018	1	LUBE-BOMBAR	\$10.95	\$10.95
140303	1	HIFLO HF303 FILTER	\$9.95	\$9.95
Parts Subtotal				\$116.58

Labor

Description	Job Code	Technician	Quantity	Line Total
OIL CHANGE / SPARK PLUGS		P.J WILSON	1 Hours	\$94.00
Labor Subtotal				\$94.00

Recommendations

DIAGNOSE WATER INJECTION INTO THE ENGINE OIL.

Resolution

CHANGED THE OIL AND FILTER / INSTALLED NEW SPARK PLUGS

TEST RAN THE SKI = WATER HAS REBTEDED THE OIL

Job Subtotal \$210.58

Job: REVERSE IS HARD TO GET BACK TO FORWARD

Job For: 2007 HONDA ARX12T3D7 F-12XGSCAP US-HPSE1290C707

Description

WHEN U PUT IT IN REVERSE U HAVE TO SHUT SKI OFF PUT IT IN FORWARD THEN START SKI BACK UP.

Job Subtotal \$0.00

VELOCITY POWERSPORTS LLC

151 GATEWAY DRIVE
LADSON, SC 29456
843-871-5371 843-873-8466

Repair Order

R/O Number: 28860

Date In: 4/8/2012

Date Promised: 4/8/2012

Today Date: 2/27/2013

Date Closed:

Repair Order For:

BROOKS, RITA M.

1009 CASS DR

MONCKS CORNER, SC 29461

c:843-709-4082 h:GU0357 w:843-832-2352

Unit Name

Location

Customer Job Totals

Parts	\$118.58
Labor	\$94.00

Total of Customer Jobs \$210.58

Repair Order Subtotal \$210.58

Sales Tax \$9.34

Repair Order Total \$219.92

Total Amount Due \$219.92

BY SIGNING REPAIR ORDER, CUSTOMER AUTHORIZES THE REPAIR WORK TO BE DONE ALONG WITH THE NECESSARY MATERIALS. VELOCITY POWERSPORTS AND ITS EMPLOYEES MAY OPERATE VEHICLE FOR PURPOSES OF TESTING, INSPECTION, AND OR DELIVERY AT MY RISK. AN EXPRESS MECHANICS LIEN IS ACKNOWLEDGED ON ABOVE VEHICLE TO SECURE THE AMOUNT OF REPAIRS. IT IS UNDERSTOOD THAT VELOCITY POWERSPORTS WILL NOT BE HELD RESPONSIBLE FOR LOSS OR DAMAGE TO VEHICLE OR ARTICLES LEFT ON VEHICLE IN CASE OF FIRE OR THEFT OR ANY OTHER CAUSE BEYOND OUR CONTROL.

A FEE OF \$ 15.00 PER DAY WILL BE CHARGED IF VEHICLE NOT PICKED UP WITHIN 5 DAYS OF COMPLETION.

A FEE OF \$ 25.00 PER DAY WILL BE CHARGED IF WATERCRAFT IS NOT PICKED UP WITHIN 5 DAYS OF COMPLETION.

ANY VEHICLE DEEMED TO DIRTY WILL BE CHARGED A FEE OF \$35

ALL S.B.T. ENGINES HAVE WARRANTY FROM S.B.T ONLY NO WARRANTY FROM VELOCITY POWERSPORTS IS IMPLIED OR EXPRESSED. S.B.T ENGINE WARRANTY DOES NOT COVER LABOR TO INSTALL OR REMOVE ENGINE, PARTS OR FLUIDS. S.B.T WARRANTY COVERS THE ENGINE ONLY NOT LABOR.

ANY AFTERMARKET PERFORMANCE WORK PARTS AND ACCESSORIES CAN VOID THE ORIGINAL MANUFACTURE WARRANTY.

I UNDERSTAND THAT IF THE MANUFACTURE WARRANTY DOES NOT COVER MY REPAIR I AM RESPONSIBLE FOR THE FULL AMOUNT DUE AT THE RATE OF \$94.00 PER HR.

SIGN HERE

X.....

I REQUEST THAT YOU SAVE ALL OLD PARTS YES OR NO

ALL ESTIMATES WILL REQUIRE MIN OF \$94.00 FEE IF THE UNIT IS NOT REPAIRED.

VELOCITY POWERSPORTS LLC

151 GATEWAY DRIVE
LADSON, SC 29496
843-871-5371 843-873-8466

Repair Order

R/O Number: 28860

Date In: 4/9/2012

Today Date: 2/27/2013

Date Promised: 4/9/2012

Date Closed:

Repair Order For:

BROOKS, RITA M.

1009 CASS DR

MONCKS CORNER, SC 29481

c:843-708-4082 h:GU0357 w:843-832-2352

Unit Name

Location

WARRANTY PARTS RETURNED TO SERVICE WRITER DATE _____

SIGNED _____

VELOCITY POWERSPORTS LLC

151 GATEWAY DRIVE
LADSON, SC 29458
843-871-5371 843-873-8468

Repair Order

R/O Number: 28880

Date In: 4/9/2012

Date Promised: 4/9/2012

Today Date: 4/9/2012

Date Closed:

Repair Order For:

BROOKS, RITA M.
1009 CASS DR
MONCKS CORNER, SC 29481
c:843-709-4082 h:GU0357 w:843-832-2352

Unit Name

Location

DO NOT TOUCH

Units for this Repair Order

Year	Make	Model	VIN / Serial No.	Color	Plate	Key Board	Miles
2007	HONDA	ARX12T3D7	US-HPSE1290C707	BLACK			86 hrs

Job: HAS CODES IN COMP (Warranty Job)

Job For: 2007 HONDA ARX12T3D7 F-12XGSCAP US-HPSE1290C707

Description

HAS HAD CODES FOR 2 YEARS SINCE THEY BOUGHT IT IN 2010..

HAS F.I. LIGHT CODE, CUSTOMER WOULD SHUT OFF AND THEN RESTART AND RIDE..

Labor

Description

FULL CODES AND CHECK

Job Code

Technician

P.J. WILSON

Quantity

0 Hours

Line Total

Warranty

Labor Subtotal

Warranty

Job Subtotal

Warranty

Job: SUMMERIZE/ FULL SERVICE

Job For: 2007 HONDA ARX12T3D7 F-12XGSCAP US-HPSE1290C707

Description

\$249.00 SPECIAL

CUSTOMER SAID IT LOOKS LIKE WATER IN OIL PLEASE CHECK..

Labor

Description

FULL SERVICE/SUMMERIZE

Job Code

Technician

P.J. WILSON

Quantity

2 Hours

Line Total

\$188.00

Labor Subtotal

\$188.00

Job Subtotal

\$188.00

DO NOT TOUCH

Page 1

VELOCITY POWERSPORTS LLC

151 GATEWAY DRIVE
LADSON, SC 29456
843-871-5371 843-873-8488

Repair Order

PO Number: 28860
Date In: 4/9/2012
Date Promised: 4/9/2012

Today Date: 4/9/2012
Date Closed:

Repair Order For:

BROOKS, RITA M.
1009 CASS DR
MONCKS CORNER, SC 29461
c:843-709-4082 h:GU0357 w:843-832-2352

Unit Name Location

Job: REVERSE IS HARD TO GET BACK TO FORWARD (Warranty Job)

Job For: 2007 HONDA ARX12T3D7 F-12XGSCAP US-HPSE1290C707

Description

WHEN U PUT IT IN REVERSE U HAVE TO SHUT SKI OFF PUT IT IN FORWARD THEN START SKI BACK UP.

Labor

Description	Job Code	Technician	Quantity	Line Total
REVERSE ISSUE		P.J WILSON	0 Hours	Warranty
			Labor Subtotal	Warranty
			Job Subtotal	Warranty

Customer Job Totals

Labor	\$188.00
Total of Customer Jobs	\$188.00

Other Charges

Shop Supplies	\$11.28

Repair Order Subtotal	\$199.28

Sales Tax	\$0.91

Repair Order Total	\$200.19

Total Amount Due	\$200.19

BY SIGNING REPAIR ORDER CUSTOMER AUTHORIZES THE REPAIR WORK TO BE DONE ALONG WITH THE NECESSARY MATERIALS. VELOCITY POWERSPORTS AND ITS EMPLOYEES MAY OPERATE VEHICLE FOR PURPOSES OF TESTING, INSPECTION, AND OR DELIVERY AT MY RISK. AN EXPRESS MECHANICS LIEN IS ACKNOWLEDGED ON ABOVE VEHICLE TO SECURE THE AMOUNT OF REPAIRS. IT IS UNDERSTOOD THAT VELOCITY POWERSPORTS WILL NOT BE HELD RESPONSIBLE FOR LOSS OR DAMAGE TO VEHICLE OR ARTICLES LEFT ON VEHICLE IN CASE OF FIRE OR THEFT OR ANY OTHER CAUSE BEYOND OUR CONTROL.

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ANY VEHICLE DEEMED TO DIRTY WILL BE CHARGED A FEE OF \$35

ALL S.B.T ENGINES HAVE WARRANTY FROM S.B.T ONLY NO WARRANTY FROM VELOCITY POWERSPORTS IS

VELOCITY POWERSPORTS LLC

151 GATEWAY DRIVE
LADSON, SC 29456
843-871-5371 843-873-8466

Repair Order

R/O Number: 28860
Date In: 4/8/2012 Today Date: 4/8/2012
Date Promised: 4/8/2012 Date Closed:

Repair Order For:

BROOKS, RITA M.
1009 CASS DR
MONCKS CORNER, SC 29461
c:843-709-4082 h:GU0357 w:843-832-2352

Unit Name Location

Customer Job Totals	
Labor	\$188.00
Total of Customer Jobs	\$188.00
Other Charges	
Shop Supplies	\$11.28
Repair Order Subtotal	\$199.28
Sales Tax	\$0.91
Repair Order Total	\$200.19
Total Amount Due	\$200.19

BY SIGNING REPAIR ORDER CUSTOMER AUTHORIZES THE REPAIR WORK TO BE DONE ALONG WITH THE NECESSARY MATERIALS. VELOCITY POWERSPORTS AND ITS EMPLOYEES MAY OPERATE VEHICLE FOR PURPOSES OF TESTING, INSPECTION, AND OR DELIVERY AT MY RISK. AN EXPRESS MECHANICS LIEN IS ACKNOWLEDGED ON ABOVE VEHICLE TO SECURE THE AMOUNT OF REPAIRS. IT IS UNDERSTOOD THAT VELOCITY POWERSPORTS WILL NOT BE HELD RESPONSIBLE FOR LOSS OR DAMAGE TO VEHICLE OR ARTICLES LEFT ON VEHICLE IN CASE OF FIRE OR THEFT OR ANY OTHER CAUSE BEYOND OUR CONTROL.

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ANY AFTERMARKET PERFORMANCE WORK PARTS AND ACCESSORIES CAN VOID THE ORIGINAL MANUFACTURE WARRANTY.

I UNDERSTAND THAT IF THE MANUFACTURE WARRANTY DOES NOT COVER MY REPAIR I AM RESPONSIBLE FOR THE FULL AMOUNT DUE AT THE RATE OF \$94.00 PER HR.



Rita Brooks SIGN HERE

I REQUEST THAT YOU SAVE ALL OLD PARTS YES OR NO

ALL ESTIMATES WILL REQUIRE MIN OF \$94.00 FEE IF THE UNIT IS NOT REPAIRED.

VELOCITY POWERSPORTS LLC

151 GATEWAY DRIVE
LADSON, SC 29458
843-871-5371 843-873-6488

Repair Order

R/O Number: 28860

Date In: 4/9/2012

Date Promised: 4/9/2012

Today Date: 4/9/2012

Date Closed:

Repair Order For:

BROOKS, RITA M.
1009 CASS DR
MONCKS CORNER, SC 29461
c:843-709-4082 h:GU0357 w:843-832-2352

Unit Name

Location

IMPLIED OR EXPRESSED. S.B.T ENGINE WARRANTY DOES NOT COVER LABOR TO INSTALL OR REMOVE ENGINE,
PARTS OR FLUIDS. S.B.T WARRANTY COVERS THE ENGINE ONLY NOT LABOR. ##

ANY AFTERMARKET PERFORMANCE WORK PARTS AND ACCESSORIES CAN VOID THE ORIGINAL MANUFACTURE
WARRANTY.

I UNDERSTAND THAT IF THE MANUFACTURE WARRANTY DOES NOT COVER MY REPAIR I AM RESPONSIBLE FOR THE
FULL AMOUNT DUE AT THE RATE OF \$94.00 PER HR.

SIGN HERE

X.....

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ALL ESTIMATES WILL REQUIRE MIN OF \$94.00 FEE IF THE UNIT IS NOT REPAIRED.

WARRANTY PARTS RETURNED TO SERVICE WRITER DATE _____

SIGNED _____

BROOKS, RITA M.
1009 CASS DR
MONCK'S CORNER SC 29461

4/8/2012
Text

28860

2007 HONDA ARX12T3D7 US-HPSE1290C707

DO NOT CALL RITA BROOKS....HONDA REPO SKI....CALL DANA @ HONDA FOR ANY QUESTIONS..2-25-13 DAVID

HONDA CALLED AND SAID THEY ARE GOING TO REPO THIS SKI, THEY WANT TO KNOW WHAT IS THE ESTIMATE TO REPAIR SKI, THEY WILL PAY FOR OUR TIME TO DIAG, I TALKED TO JERRY HE SAID OK FOR US TO DIAG SKI FOR HONDA..ALSO HAS BILL FROM SERVICE OF \$219.92 OWED TO VELOCITY...HONDA CONTACT IS DANA STRIGGLES 800-632-8129 EXT 67875...LEFT DANA MESSAGE TO CALL BACK..2-25-13 DAVID

DANA CALLED BACK AND APPROVED 2 HRS DIAG...2-25-13 DAVID

EMAIL TO HONDA..DANA @ HONDA DANA_STRIGGLES@AHM.HONDA.COM

HONDA HAS A HOLD ON SKI DO NOT RELEASE...EVEN IF BILL PAID...NICOLE AT HONDA CALLED, SAID PAYMENTS WERE NOT GETTING PAID....DO NOT RELEASE SKI WITHOUT TALKING TO BYRON OR JERRY..8-11-12 DAVID

TALKED TO JULIE...800-632-8129 EXT 67859.....
10-24-12 DAVID TALKED TO JULIE AT HONDA
SHE IS GOING TO CHECK WITH HER SUPERVISOR AND SEE IF THEY ARE GOING TO REPO.....

JULIE CALLED BACK SHE SAID RITA BROOKS
SENT A DO NOT CONTACT LETTER TO HONDA SO THEY CANNOT CALL HER, THEY WILL NOT REPO AT THIS TIME, AS THEY CANNOT CALL CUSTOMER. 10-24-12 DAVID

DO NOT CALL RITA BROOKS....DO NOT CALL....DO NOT CALL...5-30-12 DAVID
DO NOT TOUCH SKI TALK TO BYRON OR JERRY... LAWYER INVOLVED..5-21-12
DO NOT RELEASE SKI.....DO NOT RELEASE SKI...SEE BYRON OR JERRY..5-21-12
DAVID..OK TO RELEASE..OWES 219.92...DAVID

DAVID TALKED TO HONDA, THEY CALLED
ASKING ABOUT SKI, I EXPLAINED EXACTLY WHAT WE DID AND HOW WE STOPPED WORKING WHEN SHE TOLD US ABOUT LAWYER..5-25-12 DAVID

LETTER SENT TO P/U BY 28TH OR
STORAGE STARTS..PER BILLY 5-25-12 DAVID

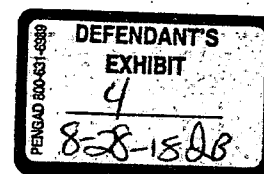
CALLED MS BROOKS EXPLAINED THAT WE
NO LONGER WISH TO WORK ON THE SKI AND THAT SHE OWES 219.92 FOR THE OIL CHANGE AND SPARK PLUGS, AND TOPLEASE PICK UP THE SKI. HER REPLY WAS THAT SHE WISHES US TO TELL THAT TO HER LAWYER. BK 5/22

SC2010000000149 HONDA WARRANTY... EXP 04-24-2014 WRENCH CODES ARE BATTERY VOLTS..BOOK IS INCORRECT

SPOKE TO CUSTOMER AND EXPLAINED
WE ARE TRYING TO FIGURE OUT THE ELECTRICAL ISSUE WITH THE SKI. 4-24-12 CM

CUSTOMER CALLED AGAIN AND I TOLD
HER THAT WE ARE STILL TRYING TO DIAGNOSE THE SKI. 4-27-12 CM
TALKED TO RITA, ASKED HER ABOUT P/U SKI, SHE SAID SHE DID NOT WANT TO PAY FOR SERVICE BECAUSE SKI WAS NOT FIXED, SHE ASI

DO NOT CALL RITA BROOKS AGAIN....DO NOT CALL....DO NOT CALL...5-30-12 DAVID



BROOKS, RITA M.
1009 CASS DR
MONCK'S CORNER SC 29461

4/9/2012
Text

28880

2007 HONDA ARX12T3D7 US-HPSE1290C707

DO NOT CALL RITA BROOKS....HONDA REPO SKI.....CALL DANA @ HONDA FOR ANY QUESTIONS..2-25-13 DAVID

HONDA CALLED AND SAID THEY ARE GOING TO REPO THIS SKI, THEY WANT TO KNOW WHAT IS THE ESTIMATE TO REPAIR SKI, THEY WILL PAY FOR OUR TIME TO DIAG, I TALKED TO JERRY HE SAID OK FOR US TO DIAG SKI FOR HONDA..ALSO HAS BILL FROM SERVICE OF \$219.92 OWED TO VELOCITY...HONDA CONTACT IS DANA STRIGGLES 800-632-8129 EXT 67875...LEFT DANA MESSAGE TO CALL BACK..2-25-13 DAVID

DANA CALLED BACK AND APPROVED 2 HRS DIAG...2-25-13 DAVID

EMAIL TO HONDA..DANA @ HONDA DANA_STRIGGLES@AHM.HONDA.COM

HONDA HAS A HOLD ON SKI DO NOT RELEASE...EVEN IF BILL PAID...NICOLE AT HONDA CALLED, SAID PAYMENTS WERE NOT GETTING PAID....DO NOT RELEASE SKI WITHOUT TALKING TO BYRON OR JERRY..8-11-12 DAVID

TALKED TO JULIE...800-632-8129 EXT 67859.....
10-24-12.DAVID TALKED TO JULIE AT HONDA
SHE IS GOING TO CHECK WITH HER SUPERVISOR AND SEE IF THEY ARE GOING TO REPO.....

JULIE CALLED BACK SHE SAID RITA BROOKS
SENT A DO NOT CONTACT LETTER TO HONDA SO THEY CANNOT CALL HER, THEY WILL NOT REPO AT THIS TIME, AS THEY CANNOT CALL CUSTOMER. 10-24-12 DAVID

DO NOT CALL RITA BROOKS.....DO NOT CALL.....DO NOT CALL...5-30-12 DAVID
DO NOT TOUCH SKI TALK TO BYRON OR JERRY... LAWYER INVOLVED..5-21-12
DO NOT RELEASE SKI.....DO NOT RELEASE SKI.....SEE BYRON OR JERRY..5-21-12
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LETTER SENT TO P/U BY 28TH OR
STORAGE STARTS..PER BILLY 5-25-12 DAVID

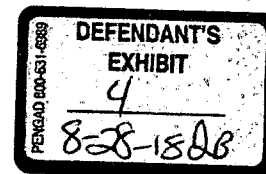
CALLED MS BROOKS EXPLAINED THAT WE
NO LONGER WISH TO WORK ON THE SKI AND THAT SHE OWES 219.92 FOR THE OIL CHANGE AND SPARK PLUGS, AND TO PLEASE PICK UP THE SKI. HER REPLY WAS THAT SHE WISHES US TO TELL THAT TO HER LAWYER. BK 5/22

SC201000000149 HONDA WARRANTY... EXP 04-24-2014 WRENCH CODES ARE BATTERY VOLTS..BOOK IS INCORRECT

SPOKE TO CUSTOMER AND EXPLAINED
WE ARE TRYING TO FIGURE OUT THE ELECTRICAL ISSUE WITH THE SKI. 4-24-12 CM

CUSTOMER CALLED AGAIN AND I TOLD
HER THAT WE ARE STILL TRYING TO DIAGNOSE THE SKI. 4-27-12 CM
TALKED TO RITA, ASKED HER ABOUT P/U SKI, SHE SAID SHE DID NOT WANT TO PAY FOR SERVICE BECAUSE SKI WAS NOT FIXED, SHE ASKED

DO NOT CALL RITA BROOKS AGAIN....DO NOT CALL...DO NOT CALL...5-30-12 DAVID



**STATE OF SOUTH CAROLINA
In The Court Of Appeals**

**APPEAL FROM BERKELEY COUNTY
Court of Common Pleas**

Hon. Dale E. Van Slambrook., Master In Equity

Case No. 2012-CP-08-2981

Rita Brooks,

Respondent,

v.

Velocity Powersports, LLC, American Honda Finance
Corporation and American Honda Motor Co. Inc.,

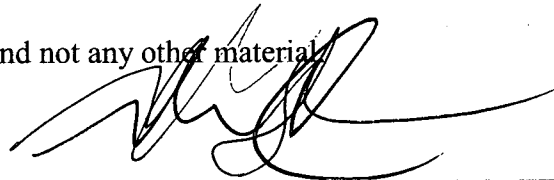
of which Velocity Powersports LLC is the

Appellant.

CERTIFICATE OF COUNSEL

The undersigned hereby certifies that the Record of Appeal contains all material
proposed to be included by any of the parties and not any other material.

July 2, 2019



Mary Leigh Arnold, Esquire
Mary Leigh Arnold, P.A.
749 Johnnie Dodds Blvd., Suite B
Mt. Pleasant, South Carolina 29465
(843) 971-6053 (phone)
(843) 971-6055 (fax)
Sammie@maryarnoldlaw.com
Attorney for Appellants

Other Counsel of Record:

Donald B. Clark
677 Shortwood Street
Charleston, S.C. 29412

RECEIVED

JUL 05 2019

SC Court of Appeals

(843) 720-9029

Edward J. Dennis, IV
112 Stoney Avenue
Moncks Corner, S.C. 29461
(843) 761-5212
Attorneys for Respondent

