

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM ANDERSON COUNTY
COURT OF COMMON PLEAS

R. Lawton McIntosh, Circuit Court Judge

Case No.: 2017-CP-04-01382

RECEIVED
FEB 27 2020
SC Court of Appeals

Federal Logistics, Inc.....Respondent,

v.

DMP Construction, LLC,.....Appellant.

RECORD ON APPEAL

VOLUME ONE

William Norman Epps III
Post Office Box 2167
Anderson, South Carolina 29622
(864) 224-2111
Attorney for Appellant

Craig H. Allen
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STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF ANDERSON	)	
Federal Logistics, Inc.,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	ORDER FOR JUDGMENT
	)	
DMP Construction, LLC,	)	2017-CP-04-01382
	)	
Defendant.	)	
_____	)	

This matter came before me for jury trial on December 5, 2018. At the conclusion of the presentation of the evidence, both parties made motions for directed verdict. The parties had previously stipulated that there was a valid and binding contract between them for the freight brokerage services. The only issue to be determined was the amount due to the Plaintiff. Plaintiff asserts the balance due is the total of the non-discounted charges of \$54,377.24 plus interest of 1½% per month from May 15, 2016 to date of trial. Defendant asserts that the amount due is \$16,421.28 plus interest of 1½% per month from May 15, 2016 to date of trial.

I find that there is no issue of fact to be determined by the jury in this matter. Defendant admitted to signing the agreement and to the terms and conditions that govern the relationship. The terms and conditions require payment to be made timely, and if payment was not made timely Plaintiff could reissue invoices for their services at the non-discounted rate. The agreement further provided that if payments were not made timely, interest of 1½% per month would accrue on the account and Defendant would liable for recovery of reasonable attorney's fees. It is undisputed that Plaintiff provided the services requested by the Defendant and the Defendant has not paid timely. Plaintiff reissued for the non-discounted charges. Defendant asserts that the

non-discounted charges include interest at a daily rate not allowed by the contract, however there is no evidence in the record that the non-discounted charges are anything other the full cost of the shipments without discount. Accordingly, for these reasons and for all reasons stated by the Court in the record, I have directed verdict in favor of Plaintiff for the sum of \$54,377.24 plus interest at 1½% per month from May 15, 2016 to date of trial plus reasonable attorney's fees. After reviewing and considering the affidavit of Plaintiff's counsel, and considering all the relevant factors regarding award of attorney's fees, including the time necessarily expended, the reputation of counsel, and the results obtained, I find that attorney's fees in the sum of \$8,100.00 would be a reasonable attorney's fee award for Plaintiff's attorney in this action.

THEREFORE, IT IS ORDERED that Plaintiff have judgment against the Defendant, DMP Construction, LLC, for the principal sum of \$54,377.24, plus interest of \$24,469.50, plus reasonable attorney's fees of \$8,100.00, making a total of Eighty-Six Thousand Nine Hundred Forty-Six and 74/100 (\$86,946.74) Dollars.

IT IS SO ORDERED.

[SIGNATURE PAGE TO FOLLOW]

FORM 4

STATE OF SOUTH CAROLINA
COUNTY OF ANDERSON
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NO. 2017-CP-04-01382

Federal Logistics, Inc.

DMP Construction, LLC

PLAINTIFF(S)

DEFENDANT(S)

Submitted by: s/Craig H. Allen
P. O. Box 10854, Greenville, SC 29603
864-239-0444
craig@craigallenlaw.com

Attorney for : ☒ Plaintiff ☐ Defendant
or
☐ Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- ☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☒ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered. ☐ See Page 2 for additional information.
- ☐ **ACTION DISMISSED (CHECK REASON):** ☐ Rule 12(b), SCRPC; ☐ Rule 41(a), SCRPC (Vol. Nonsuit); ☐ Rule 43(k), SCRPC (Settled); ☐ Other
- ☐ **ACTION STRICKEN (CHECK REASON):** ☐ Rule 40(j), SCRPC; ☐ Bankruptcy; ☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other
- ☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☒ See attached order (formal order to follow) ☐ Statement of Judgment by the Court:

ORDER INFORMATION

This order ☒ ends ☐ does not end the case.

Additional Information for the Clerk : _____

INFORMATION FOR THE JUDGMENT INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)
Federal Logistics, Inc.	DMP Construction, LLC	\$86,946.74
		\$
		\$
If applicable, describe the property, including tax map information and address, referenced in the order: N/A		

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. **Note: Title abstractors and researchers should refer to the official court order for judgment details.**

Circuit Court Judge

Judge Code

Date

For Clerk of Court Office Use Only

This judgment was entered on the _____ day of _____, 20____ and a copy mailed first class or placed in the appropriate attorney's box on this _____ day of _____, 20____ to attorneys of record or to parties (when appearing pro se) as follows:

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

CLERK OF COURT

Court Reporter:

ADDITIONAL INFORMATION REGARDING DECISION BY THE COURT AS REFERENCED ON PAGE 1.

This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.



Anderson Common Pleas

Case Caption: Federal Logistics Inc VS Dmp Construction Llc

Case Number: 2017CP0401382

Type: Order/Judgment and Form 4

S/R. LAWTON McINTOSH

S/R.LAWTON McINTOSH

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STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF ANDERSON	)	
Federal Logistics, Inc.,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	ORDER DENYING DEFENDANT'S
	)	POST-TRIAL MOTION
DMP Construction, LLC,	)	2017-CP-04-01382
	)	
Defendant.	)	
_____	)	

This matter came before the Court on Defendant's post-trial motion to vacate the judgment and/or grant a new trial. Arguments were heard January 31, 2019. On considering the arguments of counsel, I find that Defendant's motion should be denied.

The parties stipulated at trial that the Defendant owed Plaintiff either \$16,421.28 plus interest, or \$54,377.24 plus interest. At the conclusion of Defendant's case, timely motions for directed verdict were made by the parties. The Court granted Plaintiff directed verdict for \$54,377.24 plus interest.

Defendant moved to vacate the judgment, and instead enter a judgment for the lesser sum of \$16,421.28 plus interest, or alternatively to grant a new trial. Defendant argued that the undiscounted amounts billed and sued upon included improper interest. Defendant seems to rely upon e-mails sent to the Defendant which contained admittedly incorrect information about the interest accruing on the account. However, there is no evidence that the undiscounted amounts billed by Plaintiff included any such improper interest, nor that Plaintiff has sued for any such improper interest. At trial, the Court requested Defendant's counsel to explain how the Plaintiff had calculated and included the alleged improper interest into the amounts billed. Defendant has been unable to do so, and it appears that no means of re-calculations or manipulations of the numbers

results in any improper interest being included in the amounts billed. Furthermore, Defendant was admittedly not billed nor sued for any such improper interest.

The Court recognizes that in ruling upon the motion for directed verdict, it does not have authority to decide credibility issues or resolve conflicts in testimony, but in essence must determine whether a verdict for the Defendant would be *reasonably possible* under the facts as liberally construed in its favor. See Harvey v. Strickland, 350 S.C. 303, 566 S.E.2d 529 (2002) (emphasis added). “However, this does not give the Court license to ignore facts unfavorable to that party [Defendant].” Bultman v. Barber, 277 S.C. 5, 281 S.E.2d 791, 792 (1981).

At trial, Marco Petrovic, the owner of the Defendant, admitted that he reviewed and signed the Freight Broker Agreement with the Plaintiff, which clearly set forth that Defendant was to receive discounted rates in exchange for prompt payment. Plaintiff explained that this arrangement allowed it to promptly pay the trucking companies, thereby enabling it to offer to its customers (including the Defendant) the discounted rates. Defendant further admitted that it failed to pay promptly for the transportation services as agreed, and that it knew it would then be billed the undiscounted rates under the terms of the Agreement. Defendant further admitted that under the terms of the Agreement, it would have to pay interest on the undiscounted amounts at the rate of 1.5% per month. Importantly, the Defendant also admitted that it did not dispute with Plaintiff the undiscounted amounts charged in writing as it was required to do under the Agreement. Defendant’s responses to Requests for Admission were published at trial wherein the Defendant admitted that it received the invoices sued upon for the undiscounted amounts. A party is bound by its responses to Requests for Admission. Rule 36, SCRCP. There was no evidence presented of any complaints made to the Plaintiff in writing regarding the amounts claimed due, despite requests

for same made through Plaintiff's Interrogatories and Requests for Production directed to Defendant.

Importantly, there was no testimony or other evidence that the balance of \$54,377.24 sued upon included interest, only speculation by counsel. However, statements or arguments of counsel are not evidence and may not be considered as evidence. See Shinn v. Kreul, 311 S.C. 94, 427 S.E.2d 695 (S.C.App. 1993).

Therefore, I find that viewing the evidence and inferences to be drawn therefrom in the light most favorable to the Defendant, who oppose the directed verdict motion, it would not be reasonably possible for the Defendant to obtain a verdict in its favor (i.e. a verdict that the balance due was only \$16,421.28 plus interest). Defendant seeks to use suppositions and arguments in the place of evidence. The Defendant admitted to signing and reviewing the Agreement between the parties Defendant admitted being aware under the terms of the Agreement that it would be quoted a discounted rate, but that if it failed to timely pay the discounted rate it would lose the discount and be billed the full amount by the Plaintiff. The Defendant further admitted being aware that interest on the unpaid balance would accrue at 1.5% per month. Defendant also admitted that it received invoices for the undiscounted amounts sued upon, and that it had not disputed any of those invoices in writing as required by the terms of the parties' Agreement. Accordingly, under the terms of the Agreement, the undiscounted amounts billed were conclusively presumed valid (per Paragraph 7 of the Agreement).

Accordingly, IT IS ORDERED that the post-trial motion of the Defendant to vacate the Order for Judgment filed December 13, 2018 and/or to grant a new trial is denied.

IT IS SO ORDERED.

[SIGNATURE PAGE TO FOLLOW]



Anderson Common Pleas

Case Caption: Federal Logistics Inc VS Dmp Construction Llc

Case Number: 2017CP0401382

Type: Order/Other

S/R. LAWTON McINTOSH

S/R.LAWTON McINTOSH

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SUMMONS FOR RELIEF (Complaint Served)

Craig H. Allen, P.A., Attorney at Law
605 Pettigru Street
Greenville, SC 29601

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF ANDERSON	)	
Federal Logistics, Inc.,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	SUMMONS
	)	
DMP Construction, LLC,	)	2017-CP-04-_____
	)	
Defendant(s).	)	
_____	)	

TO THE DEFENDANT(S) ABOVE NAMED:

YOU ARE HEREBY SUMMONED and required to answer the Complaint in this action, of which a copy is herewith served upon you, and to serve a copy of your Answer to the said Complaint on the subscribers at their offices, 605 Pettigru Street, Greenville, South Carolina 29601, within thirty (30) days after the service hereof, exclusive of the day of such service. If you fail to answer the Complaint within that time, judgment by default will be rendered against you for the relief demanded in the Complaint.

CRAIG H. ALLEN, P.A.

BY: s/ Craig H. Allen
Craig H. Allen, S.C. Bar #000329
P.O. Box 10854
Greenville, SC 29603
864-239-0444

Attorney for Plaintiff

Greenville, SC
July 4, 2017

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF ANDERSON	)	
Federal Logistics, Inc.,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	COMPLAINT
	)	(Non-Jury)
DMP Construction, LLC,	)	2017-CP-04-_____
	)	
Defendant.	)	
_____	)	

The above-named Plaintiff, complaining of the Defendant herein, would respectfully show the Court:

FOR A FIRST CAUSE OF ACTION
(Account debt)

I.

That Plaintiff is a corporation duly organized and existing under and by virtue of the laws of the State of Georgia.

II.

That, upon information and belief, the Defendant is a South Carolina limited liability company, with principal offices and agents in the County of Anderson, State of South Carolina.

III.

That, on or about November 16, 2015, Defendant applied for credit with Plaintiff and GlobalTranz Enterprises and executed and delivered to Plaintiff its credit application, a copy of which is attached hereto as Exhibit A and incorporated herein by reference; that as specifically agreed in Exhibit A, Defendant acknowledged and agreed to the terms conditions found on the

website, a copy of which terms and conditions is attached hereto as Exhibit B and incorporated herein by reference; as set forth in Exhibit B, Defendant agreed to pay interest on past due balances at the rate of 1½ % per month and all costs of collection, including reasonable attorneys fees.

IV.

That thereafter and at Defendant's special instance and request, and upon Defendant's promise and agreement to pay Plaintiff therefor as set forth in Exhibit B, Plaintiff provided, sold and delivered its freight brokerage services to Defendant from time to time for the transports and carriages as set forth in the itemized statement of account, a copy of which is attached hereto as Exhibit C and incorporated herein by reference; that said freight brokerage services were provided at the time or times, in the character and amounts, and at the agreed prices as set forth in Exhibit C; that as appears by reference to Exhibit C, after allowing Defendant credit for all payments made on the account as set forth therein, there remains due and owing Plaintiff by Defendant the sum of Fifty-Four Thousand Three Hundred Seventy-Seven and 24/100ths (\$54,377.24) Dollars; that although demand for payment of this balance has been made upon Defendant, Defendant has failed and refused to pay the same.

V.

That, as set forth in Exhibit B, Plaintiff is also entitled to recover from Defendant interest on the aforesaid balance due at the rate of 1½ % per month from May 15, 2016, together with reasonable attorneys fees; that Plaintiff is informed and believes that not less than 15% would be a reasonable attorney fee in this action.

FOR A SECOND CAUSE OF ACTION
(Quantum Meruit)

VI.

That each and every allegation contained in the First Cause of Action above is hereby adopted and incorporated herein by reference.

VII.

That at the special instance and request of Defendant, and upon its promise and agreement to pay therefor, Plaintiff furnished its freight brokerage services to Defendant from time to time for the transports and carriages as set forth in Exhibit C; that the reasonable value of the aforesaid freight brokerage services provided to Defendant by Plaintiff as aforesaid, and unpaid, is Fifty-Four Thousand Three Hundred Seventy-Seven and 24/100ths (\$54,377.24) Dollars, all as set forth in Exhibit C; that the aforesaid balance of the value of said freight brokerage services provided by Plaintiff in the sum of Fifty-Four Thousand Three Hundred Seventy-Seven and 24/100ths (\$54,377.24) Dollars has not been paid, notwithstanding Plaintiff's demand for such payment.

VIII.

That at all times Plaintiff was furnishing the said freight brokerage services, the Defendant knew that said freight brokerage services were being furnished by Plaintiff and that Plaintiff expected to be paid therefor; that the Defendant accepted the said freight brokerage services furnished by Plaintiff and have received and enjoyed the benefits thereof; that despite receiving the benefits of said freight brokerage services furnished by Plaintiff, the Defendant has not paid Plaintiff for said freight brokerage services; that accordingly, the Defendant has been unjustly enriched at the expense of Plaintiff and under these circumstances, it is unjust and inequitable to allow the Defendant to retain said benefits without paying Plaintiff therefor.

IX.

That accordingly, Plaintiff is entitled to recover of the Defendant the unpaid balance of the reasonable value of the freight brokerage services furnished by Plaintiff in the sum of Fifty-Four Thousand Three Hundred Seventy-Seven and 24/100ths (\$54,377.24) Dollars.

WHEREFORE, Plaintiff prays for judgment as follows:

1. Judgment against the Defendant, DMP Construction, LLC, for the sum of Fifty-Four Thousand Three Hundred Seventy-Seven and 24/100ths (\$54,377.24) Dollars, plus interest thereon at the rate of 1½ % per month from May 15, 2016, plus with reasonable attorneys fees of not less than 15% of the total balance due, and for the costs of this action; and
2. Alternatively, that Plaintiff have judgment against the Defendant, DMP Construction, LLC, for the sum of Fifty-Four Thousand Three Hundred Seventy-Seven and 24/100ths (\$54,377.24) Dollars, the reasonable value of the freight brokerage services provided to Defendant by Plaintiff; and
3. That Plaintiff have such other and further relief as to the Court seems just and proper.

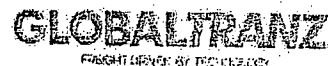
CRAIG H. ALLEN, P.A.

BY: s/ Craig H. Allen
Craig H. Allen, S.C. Bar #000329
P.O. Box 10854
Greenville, SC 29603
864-239-0444

Attorney for Plaintiff

Greenville, SC
July 4, 2017

Exhibit A



GlobalTranz Enterprises, Inc.

Sales Rep

Rich Foss / Federal Logistics

ALL FIELDS MUST BE FILLED OUT OR CREDIT WILL BE DENIED

COMPANY INFORMATION

Check one: ☐ Corporation ☐ Limited Liability Company ☒ Proprietorship ☐ Other

Cortera Link ID:

Applicant Exact Legal Name of Business:

DMP Construction

Physical Address of Business:

407 River Heights Cir

City:

Anderson

State:

SC

Zip:

29621

Billing Address:

407 River Heights Cir

City:

Anderson

State:

SC

Zip:

29621

Person to Contact: In Accounts Payable:

Ester

A/P Email:

Ester@dmpsouth.com

Payable Phone Number:

864-367-0423

Fax Number:

Date Business Began:

12 years ago

Line of Business:

Parent Company (if applicable):

Street Address:

City:

State:

Zip:

Authorized Signatory (The authorized signatory agrees that you have the powers to commit your organization to a binding agreement):

Marko Petrovic

Primary Shipping Needs (Check one) ☒ LTL ☒ Truckload

Credit Required:

Please attach a list of all your business names and addresses that will be shipping and receiving.

THE ABOVE INFORMATION is for the purpose of obtaining credit and is warranted to be true. I/we hereby authorize the company to whom this application is made to investigate the references pertaining to my/our credit and financial responsibility. You agree to accept electronic signatures and/or faxed copies of this document as creating legal effect. THE AUTHORIZED SIGNATORY SIGNING THIS APPLICATION ON BEHALF OF ITS COMPANY CONSENTS AND BINDS ITS COMPANY TO THE TERMS AND FOUND ON WWW.CARRIERRATE.COM (Click to access Terms and Conditions).

Authorized Signatory:

Marko Petrovic

Title:

OWNER

Print signature name:

Marko Petrovic

Date:

11/16/15

Fax back to our confidential fax number 602-218-4230
Attention: Credit Department

Exhibit B



FREIGHT DRIVEN BY TECHNOLOGY

FREIGHT BROKER AGREEMENT
TERMS AND CONDITIONS

The Customer ("Customer") and GlobalTranz Enterprises, Inc., a Delaware corporation ("GlobalTranz") and Federal Logistics, Inc., a Georgia Corporation ("Federal Logistics"), hereby agrees as follows:

1. **Parties.** Customer is a Shipper and/or Consignee of certain goods it wishes to have transported. GlobalTranz Enterprises, Inc. is registered as a transportation freight broker with the FMCSA under docket number MC-501299, with offices at 7350 N. Dobson Road, Suite 130, Scottsdale, AZ 85256. Federal Logistics, Inc. is registered broker/agent with GlobalTranz under docket number MC-382939, with mailing address at 950 Eagles Landing Pkwy, #280, Stockbridge, GA 30281. GlobalTranz and Federal Logistics are not acting as either a Motor Carrier, or Common Carrier, or Contract Carrier within the meaning of USC Title 49. GlobalTranz and Federal Logistics contract with various freight carriers ("Carriers") on behalf of Customer for the purpose of arranging transportation of Carrier's goods in interstate and foreign commerce. GlobalTranz and Federal Logistics reserve the right, in their sole discretion, to refuse any shipment at any time. GlobalTranz, Federal Logistics, and the Customer may be collectively referred to as the "Parties" or individually either may be referred to as "Party" in this Agreement.
2. **Tariffs; Terms and Conditions of Carrier.** In the event of a conflict in the terms of this Agreement and applicable tariff then in effect with the carrier, this Agreement shall apply to the transport and shall take precedence in the interpretation of the rights and obligations of the Parties. Customer is responsible for requesting and reviewing Tariffs in effect with a designated Carrier. GlobalTranz/ Federal Logistics are not obligated to provide copies of motor carrier tariffs, or any information contained therein, to Customer.
3. **Bills of Lading.** The Customer is to use the GlobalTranz/Federal Logistics' system-generated Bill of Lading ("BOL"). The Customer shall complete all the appropriate documents required for carriage, in light of the services being sought, and the pick up or destination requested. In the event the Customer fails to timely and properly complete the appropriate documents, GlobalTranz/Federal Logistics may at its option, but without obligation, complete, correct or replace the documents. If a substitute form of BOL is needed to complete delivery of this shipment for any reason and GlobalTranz/Federal Logistics completes that document, the terms of the completed BOL will govern and GlobalTranz/Federal Logistics will be exonerated from all liability for undertaking such actions on behalf of the Customer including specifically liability for, in whole or in part, negligence by GlobalTranz/Federal Logistics. All Bills of Lading are non-negotiable and will have been prepared by the Customer or by GlobalTranz/Federal Logistics on behalf of the Customer in accordance with the Customer's instructions and approved by the Customer, and shall be deemed, conclusively, to have been prepared by the Customer. The Customer is to provide the GlobalTranz/Federal Logistics BOL. GlobalTranz/Federal Logistics shall have no obligation to make any payments or honor any rate quotes in any of the following instances: (i) the unauthorized alteration or use of bill of lading, or (ii) tendering of shipments to any carrier other than that designated by GlobalTranz/Federal Logistics, or (iii) the use of any bill of lading not authorized or issued by GlobalTranz/Federal Logistics.
4. **Customer Representations and Warranties to GlobalTranz.** The Customer represents and warrants that at all times during the term of this Agreement, it will be in compliance with all applicable laws, rules, and regulations, including applicable laws relating to customs, import and export required by country to, from, through or over which the shipment may be carried. The Customer agrees to furnish such information and complete and attach to the BOL such documents as are necessary to comply with such laws. Any individual or entity acting on behalf of the Customer in scheduling shipments or undertaking any other performance hereunder warrants and represents that he, she or it has the right to act on behalf of and legally bind the Customer. GlobalTranz/ Federal Logistics assume no liability for any loss or expense due to the failure of the Customer to comply with this paragraph and Customer shall defend, indemnify and hold GlobalTranz/ Federal Logistics harmless for any claims or damages resulting from violation of this paragraph, including attorney's fees and costs incurred by GlobalTranz/Federal Logistics.
5. **Payment.** All charges are payable in US Dollars and are due and payable fifteen (15) days from the date of delivery (net/15). Past due invoices shall be subject to an additional charge at the rate of 1½% per month of the average outstanding balance due. All funds received by GlobalTranz/Federal Logistics will be applied to the oldest (based on pick-up date) invoiced BOL outstanding. Overpayments do not accrue interest. In the event past due invoices are given to an attorney or collection agency for collection, Customer agrees to pay, in addition to the account balance, all interest payments, and collection costs including reasonable attorney's fees.
6. **Credit Approval.** Payment terms and credit limits are subject to credit approval, which shall be determined from time to time, in the sole and absolute discretion of GlobalTranz/Federal Logistics. The Customer grants GlobalTranz/Federal Logistics the right to perform such credit and background searches as GlobalTranz/Federal Logistics deems necessary. When paying by credit card or electronic funds, the Customer agrees it will be responsible for all charges due and owing, including any adjustments, on account or such Customer's shipment. The Customer authorizes GlobalTranz/Federal Logistics to charge the Customer's credit card or bank account for any charges.
7. **Determination of Charges.** The Customer shall be liable for all charges payable on account of such Customer's shipment. Such charges may include transportation, fuel and other applicable accessorial charges, any charges made by the carrier(s) after the shipment, and all duties, customs assessments, governmental penalties, fines and taxes. GlobalTranz/Federal Logistics reserve the right to amend or adjust charges and to re-invoice the Customer in the following events: (i) if the original quoted amount was based upon incorrect information provided by the Customer; or (ii) if additional services by the carrier were

Page 1 of 3

GlobalTranz® Freight Broker Agreement-V7-24-2014

required; or (iii) if the Customer authorized the carrier to perform the pick up, transportation and delivery functions other than contemplated by the BOL; or (iiii) if overdue invoices exceed 30 days with non payment from Customer, rates may reflect original cost with no discount. Any dispute by customer of any invoice issued by GlobalTranz/Federal Logistics shall be made in writing, specifically indicating the nature of the dispute and made within 30 days from the date of the invoice. In the event GlobalTranz/Federal Logistics do not receive timely written notice of the dispute, the charges will be conclusively presumed to be valid.

8. Lien. GlobalTranz/Federal Logistics shall have a lien on the shipment for all sums due it relating to this shipment or any other amounts owed by Customer. Customer authorizes GlobalTranz/Federal Logistics to advise third parties of asserted liens and to hold possession of any shipment against which a lien is asserted.

9. Claims and Limitations of Liability. GlobalTranz/Federal Logistics is not liable for any loss, damage, misdelivery or non-delivery caused by:

(i) the act, default or omission of a Carrier; the Customer or any other party who claims interest in the shipment; or (ii) the nature of the shipment or any defect therein; or (iii) a violation by the Customer of any provision of this Agreement, the BOL, the carrier's tariff, including, improper or insufficient packing, securing, marking or addressing; or (iv) failure to observe any of the rules relating to shipments not acceptable for transportation or shipments acceptable only under certain conditions; or (v) acts of God, perils of the air, public enemies, public authorities, acts or omissions of Customs or quarantine officials, war, riots, strikes, labor disputes, shortages, weather conditions or mechanical delay or failure of vehicles, aircraft or other equipment; or (vi) the acts or omissions of any person other than employees of GlobalTranz; or (vii) the selection of carrier for a particular shipment. Customer acknowledges that in order to provide competitive rates for the services, that the parties have agreed as a material term of this Agreement that the risk of loss or damage incurred as a result of GlobalTranz' alleged liability shall be limited to the fees that GlobalTranz has earned with respect to the subject shipment. Customer specifically acknowledges that GlobalTranz shall have no liability for negligent acts or omissions of its employees except to the extent such actions or omissions constitute gross negligence. There is a minimum claim amount of fifty dollars (\$50) (after limit of liability rule has been applied) on damage/shortage claims in order for GlobalTranz to file a claim with the carrier. There is a minimum claim amount of fifty dollars (\$50) (after the 1/3 rule has been applied) on for concealed damage claims in order for GlobalTranz to file a claim with the carrier.

10. Insurance. The Customer will look solely to its own insurance, a Shipper's policy, or insurance provided by the carrier for damage to goods in transit. Each carrier's governing tariff will determine the standard liability cargo insurance coverage offered on any shipment, subject to any exception value. If the shipment contains freight with a predetermined exception value, as determined by the selected carrier, the maximum exception liability will override the liability coverage otherwise provided by the tariff. The Customer acknowledges a claim for damages does not relieve it for payment under the terms of this Agreement. Timely payment is a condition precedent to the processing of a damage or insurance claim. All freight cargo claims should be submitted immediately to GlobalTranz/Federal Logistics for transmission to the Carrier or its insurer. GlobalTranz/Federal Logistics will attempt to assist in the resolution of freight claims, but has no responsibility or liability therefore. Where a damage claim is submitted with carrier on behalf of Customer, GlobalTranz/Federal Logistics shall have a lien on any amounts recovered to the extent of open past due invoices on the Customer's account. GlobalTranz/Federal Logistics has optional Shippers Interest Contingent Cargo Liability Insurance ("Third Party Insurance") available for purchase by the Customer. GlobalTranz/Federal Logistics has no responsibility or liability with respect to the issuance or denial of Third Party Insurance, or in the payment or denial of claims.

11. Disclaimer of Warranties. EXCEPT AS EXPRESSLY PROVIDED IN THIS AGREEMENT, GLOBALTRANZ/FEDERAL LOGISTICS MAKES NO WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, WITH REGARD TO SHIPMENTS, WAREHOUSED GOODS, ITEMS IN TRANSIT OR DELIVERIES OR WITH REGARD TO THE INFORMATION PROVIDED ON THE WEBSITE OR SERVICES RELATED TO TRANSACTIONS CONDUCTED ON THIS WEBSITE. GLOBALTRANZ CANNOT GUARANTEE DELIVERY BY ANY SPECIFIC TIME OR DATE. IN NO EVENT, SHALL GLOBALTRANZ BE LIABLE FOR ANY SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES, INCLUDING DAMAGES RELATING TO LOSS OF PROFITS OR INCOME, WHETHER OR NOT SUCH DAMAGES WERE REASONABLY FORESEEABLE OR MADE KNOWN TO GLOBALTRANZ/FEDERAL LOGISTICS.

12. Rates. "Less than Load" Rates ("LTL") rates are based on the calculated density and/or freight class as determined by the National Motor Freight Classification ("NMFC") and are weight based. All displayed transit times are estimates only and do not include day of pickup. LTL pickup dates are not guaranteed. Truckload rates ("TL") rates are based on Dock Door Pickup/Dock Door Delivery and Shipper Load/Consignee Unload and are mileage based. Additional fees may apply for charges including, Tractor Detention, Trailer Detention, and Driver Assistance. Customer must tender this load to carrier at the agreed upon rate, or pay a "truck ordered, not used" penalty at cost. Air Freight rates are based on the greater of actual or dimensional weight. If an Air Freight shipment contains oversize freight, additional charges and transit delays may apply. Van Line rates are based on mileage, weight (actual or density) and commodity/product type. Flatbed rates are based on transport equipment type, mileage and weight. If a shipment includes over-dimensional freight, additional charges and transit days may apply. All displayed transit times are estimates only and do not include day of pickup. Pickup dates are not guaranteed.

13. Guaranteed Services. GlobalTranz/Federal Logistics will provide LTL Guaranteed Services for additional charge, if requested by the Customer. LTL delivery times generally do not begin to run until the day after the pickup of the shipment, except as otherwise noted by the carrier selected. Guaranteed Service transit times do not include holiday and/or "no service" days as defined by the individual carrier. The Customer is liable for all charges related to the shipment. In the event of a carrier's failure to comply with the guaranteed service requested, the Customer shall have fourteen (14) days from the actual delivery date of shipment to file a written claim request with GlobalTranz/Federal Logistics. If GlobalTranz/Federal Logistics does not timely receive a claim request within fourteen (14) days, the service provided by the LTL carrier will be deemed to have met all guaranteed service standards and the claim request will be considered invalid and denied. In the event of the carrier's failure to comply with the guaranteed service requested and after the carrier has agreed to liability and has paid the amount to Customer to GlobalTranz/Federal Logistics, GlobalTranz/Federal Logistics will credit the account of Customer with such amount and paid by the carrier. In no event shall GlobalTranz/Federal Logistics be liable, nor will any account be credited if the Customer does not use GlobalTranz/Federal Logistics BOL.

14. Attorneys' Fees. Should any legal proceeding be commenced between the Parties concerning the terms of this Agreement, or the rights and duties of the Parties, the prevailing party in such proceeding shall be entitled, in addition to such other relief as may be granted, to costs, expenses and reasonable attorney fees.

15. Binding Nature of Agreement; Assignment. This Agreement shall be binding upon and inure to the benefit of the Parties

hereto and their respective heirs, personal representatives, successors and assigns, except that no party may assign, delegate or transfer any of its obligations under this Agreement without the prior written consent of the other party hereto, which consent shall not be unreasonably withheld.

16. Headings. The headings used in this Agreement are used for administrative purposes only and do not constitute substantive matter to be considered in construing the terms of this Agreement.
17. Execution. This Agreement shall be binding upon receipt by GlobalTranz/Federal Logistics of Customer's acknowledgment of its intent to be bound thereby, as evidenced by its designation of acceptance of GlobalTranz's web page or by its execution of the BOL, or by other acknowledgment by the Customer.
18. No Other Parties to Benefit. This Agreement is made for the sole benefit of the Parties hereto and their successors and permitted assigns. Except as expressly provided herein, no other person or entity is intended to or shall have the rights or benefits hereunder, whether as third-party beneficiaries or otherwise.
19. Remedies. In the event of a breach of this Agreement or any term hereof by any party, the other Party shall have all rights and remedies available at law, in equity, or under the terms of this Agreement, except as otherwise limited herein.
20. Construction. This Agreement is intended to express the mutual intent of the Parties hereto, and irrespective of the identity of the Party or counsel who prepared this document, no rule of strict construction shall be applied against any Party.
21. Governing Law, Forum; Venue. This Agreement is deemed executed, delivered and performed in the State of Arizona, and the substantive laws of the State of Arizona and Federal law as applied in Arizona without reference to choice of law principles and specifically excluding the United Nations Convention on Contracts for the International Sales of Goods, shall govern its interpretation and enforcement. Any action brought to interpret or enforce any provisions of this Agreement, or otherwise relating to or arising from this Agreement, shall be commenced and maintained in the Superior Court in and for the County of Maricopa in the State of Arizona and each Party consents to jurisdiction and venue in such court for such purposes.
22. Modification and Waive and Complete Agreement. No provision of this Agreement shall be amended, waived or modified except by an instrument in writing signed by the Parties hereto. This Agreement contains the entire agreement between the parties hereto with respect to the matters covered herein. This Agreement supersedes all agreements or documents entered into between the parties.
23. Materiality. All covenants, agreements, representations and warranties made herein shall be deemed to be material and to have been relied on by the Parties in entering into this Agreement and shall survive the acceptance of this Agreement.
24. Severability; Integration. The inapplicability or unenforceability of any provision of this Agreement shall not limit or impair the operation or validity of any other provision of this Agreement. This Agreement and the documents incorporated into this Agreement by reference, constitutes and embodies the full and complete understanding and agreement of the Parties hereto and supersedes all prior understandings, whether oral or written. No representation, promise, inducement or statement of intention has been made by any Party hereto which is not contemplated by or embodied in this Agreement, and no Party hereto shall be bound by or liable for any alleged misrepresentation, promise, inducement or statement of intention not so set forth.
25. Additional Instruments and Acts. The Parties to this Agreement shall execute (with acknowledgment or in affidavit form, if required) any further or additional instruments, and shall perform any acts, which are or may become reasonably necessary to effectuate and carry out the purposes of this Agreement, without the necessity of incurring any additional expense.
26. Interpretation. In this Agreement the singular includes the plural, and the plural the singular; words importing any gender include the other genders; references to "writing" include printing, typing, lithography and other means of reproducing words in a tangible visible form; the words "including," "includes" and "include" shall be deemed to be followed by the words "without limitation."
27. Authority. By execution of this Agreement, the signatories hereto represent and warrant their authority to act in the capacity stated. By execution of this Agreement each Party represents and warrants its right, power and authority to enter into and to perform its obligation under this Agreement.

Exhibit C

DMP Construction - Statement

As of 10/17/16

Invoice #	Due Date	Days Overdue	Amount Due Original with Discount	Amount Due without Discount for Non Payment	Payment from DMP	Remaining Balance Due
1065	2/13/2016	247	\$2,000.00	\$3,564.40	\$1,000.00	\$2,564.40
1071	3/5/2016	226	\$2,100.00	\$6,758.10	\$0.00	\$6,758.10
1072	2/18/2016	242	\$295.36	\$395.81	\$0.00	\$395.81
1073	2/18/2016	242	\$346.05	\$866.89	\$0.00	\$866.89
1074	2/18/2016	242	\$2,655.71	\$8,411.66	\$0.00	\$8,411.66
1075	2/26/2016	234	\$1,250.00	\$7,954.40	\$0.00	\$7,954.40
1076	3/5/2016	226	\$608.70	\$5,785.25	\$0.00	\$5,785.25
1086	3/23/2016	208	\$1,649.20	\$3,884.40	\$0.00	\$3,884.40
1088	3/26/2016	205	\$2,100.00	\$6,758.10	\$0.00	\$6,758.10
1091	4/7/2016	193	\$2,800.00	\$9,156.00	\$0.00	\$9,156.00
1099	5/15/2016	155	\$616.26	\$1,842.23	\$0.00	\$1,842.23
Totals			\$16,421.28	\$55,377.24	\$1,000.00	<u>\$54,377.24</u>

STATE OF SOUTH CAROLINA
COUNTY OF ANDERSON

IN THE COURT OF COMMON PLEAS

Federal Logistics, Inc.,

Plaintiff,

-vs-

DMP Construction, LLC,

Defendant.

ANSWER

Jury trial demanded

CASE NO.: 2017-CP-04-1382

COMES NOW the Defendant, DMP Construction, LLC, would respectfully show unto the Court and allege the following:

FOR A FIRST DEFENSE AND BY WAY OF ANSWER

1. That the Defendant denies each and every allegation of the Complaint, not hereinafter admitted, modified or changed, and demands strict proof thereof.
2. The Defendant admits the allegations contained in Paragraph one and two of the Complaint.
3. The Defendant admits the allegations of Paragraphs three of the Complaint inasmuch as it states that Defendant applied for credit with the Plaintiff and GlobalTranz Enterprises and executed and delivered to Plaintiff its credit application, as the documents speak for themselves.
4. The Defendant denies the allegations contained in Paragraph four of the Complaint and demands strict proof thereof. The Defendant would further show unto the Court that the terms of the Plaintiff and GlobalTranz Enterprises freight broker agreement, terms and conditions is a contract of adhesion and there no agreement on the amounts charged or price and there is no explanation of amounts charged or discounts in the freight broker agreement or in the statement attached as Exhibit C. The Defendant further denies that it owes Plaintiff the sum of \$54,377.24 as set forth in the Complaint and demands strict proof thereof.
5. The Defendant denies the allegations of Paragraph five and demands strict proof thereof.
6. The Defendant denies the allegations of Paragraphs six, seven, eight and nine of the

Complaint and demands strict proof thereof. The Defendant further denies that it owes Plaintiff the sum of \$54,377.24 as set forth in the Complaint or that it ever agreed to the amounts charged or the price and demands strict proof thereof.

FOR A SECOND DEFENSE
(South Carolina Rules of Civil Procedure 12(b)(6))

7. The Defendant reiterates and incorporates the allegations of the first and second defense and makes them a part herein by reference.
8. Your Defendant, upon information and belief, would show unto the Court that the Complaint fails to state a cause of action for quantum merit against the Defendant for which relief can be granted and that the Complaint should be dismissed as to this cause of action pursuant to SCRPC Rule 12(b)(6).

WHEREFORE, having answered the Complaint of the Plaintiff, the Defendant, DMP Construction, LLC, respectfully pray as follows:

1. That the Plaintiff's complaint be dismissed with costs; and
2. For such other and further relief as this Court deems just and proper.

JURY TRIAL DEMANDED!

Respectfully submitted,

EPPS, NELSON, EPPS & PERKINS

S/William N. Epps III
William N. Epps, III
230 West Whitner Street
Post Office Box 2167
Anderson, South Carolina 29622
(864) 224-2111
ATTORNEYS FOR THE DEFENDANT

September 4, 2017
Anderson, South Carolina

STATE OF SOUTH CAROLINA
COUNTY OF ANDERSON

IN THE COURT OF COMMON PLEAS

Federal Logistics, Inc.,

Plaintiff,

-vs-

DMP Construction, LLC,

Defendant.

**NOTICE OF MOTION AND
MOTION TO VACATE AND/OR FOR A
NEW TRIAL**

Case No.: 2017-CP-04-1382

**TO: CRAIG H. ALLEN, ESQUIRE, ATTORNEY FOR PLAINTIFF,
FEDERAL LOGISTICS, INC.:**

PLEASE TAKE NOTICE that the Defendant, by and through it's undersigned attorney, will respectfully move before the Judge of the Court of Common Pleas in the Tenth Judicial Circuit, within 5 days of service of this motion or as soon thereafter as counsel may be heard, for an Order granting the Defendant's Motion to Vacate and/or for a New Trial based on the following grounds:

The Order of Judgment was entered December 13, 2018 granting judgment against the Defendant, DMP Construction, LLC, for the principal sum of \$54,377.24, plus interest of \$24,469.50, plus reasonable attorney fees of \$8100.00, making a total of eighty-six thousand nine hundred forty six and 74/100 (\$86,946.74) dollars. The trial court advised the parties at the conclusion of the trial on December 5, 2018 that if evidence was found that the Plaintiff charged the Defendant impermissible daily interest on the invoices at issue that the Court would vacate it's judgment, grant the Defendant's requested relief of the original amount due of \$16,421.28 plus interest of 1.5% per month from May 15, 2016 to date of trial and attorney fees. The Plaintiff at trial

entered e-mails from Plaintiff to Defendant regarding past due invoices with attached current statements of amounts due to Plaintiff. (Plaintiff's Exhibit 5). The only statement entered into evidence from the Plaintiff was from October 17, 2016 to Defendant in the amount of \$54,377.24. (See Plaintiff's Exhibit 4).

The Defendant was able to retrieve the original e-mails from Rich Fair of Federal Logistics to DMP Construction, LLC as well as the original attachments regarding the outstanding invoices sent directly to the Defendant. Attached hereto, is the complete original email dated June 14, 2016, which was entered as Plaintiff's Exhibit 5, which states,

I am following up with you regarding the outstanding invoices DMP still owes Federal Logistics. Some of these are now over 100 days past due. As communicated previously, these overdue balances are subject to a 1.5% late fee per day they are overdue. As such, the original total balance of \$16,421.28 has a current daily interest charge of \$246.32. I have attached a statement as of today reflecting each invoice's original balance, # of days overdue, and the corresponding late fees now also due as a result of non-payment.

The statement attached to the email on June 14, 2016 sent to the Defendant, DMP Construction, LLC, referenced invoice numbers; 1065, 1071, 1072, 1073, 1074, 1075, 1076, 1086, 1088, 1091 and 1099, with the original amount due plus interest charge of 1.5% per day. (Exhibit A). The next email attached hereto is from Rich Fair of Federal Logistics to DMP Construction, LLC dated August 3, 2016 sending an updated invoice and interest up through August 2, 2016. Again, the statement to DMP Construction, LLC, dated July 13, 2016, referenced the above invoice numbers with the original amount due plus additional late interest fees of 1.5% a day. (Exhibit B). The next email attached is an email from Rich Fair, dated August 4, 2016, to Jeremy@bbcollects.com and Ester Barakat of DMP Construction, LLC, regarding collection of the invoices referenced herein, as well as paperwork to backup the invoices. The statement regarding the amounts owed on August 4,

2016, was the DMP Construction Statement as of July 13, 2016, referencing the original amount due with late interest fees of 1.5% per day. (Exhibit C). The final email attached is from Rich Fair, dated October 17, 2016, to DMP Construction, LLC with a current statement of October 17, 2016, which for the first time references a discount but also includes late interest S.C. fees of 8.75%. (Exhibit D).

The attached emails and statements sent contemporaneously to the Defendant in 2016 referenced late interest fees of 1.5% a day, which is contrary to the testimony of Rich Fair that he never sent an invoice referencing daily late interest fees or the daily late interest fee was a misprint or a mistake.

Therefore, the Defendant very respectfully requests that this Court vacate its Judgment against the Defendant and grant the Defendant's requested relief of a balance due of \$16,421.28 plus interest of 1.5% per month from May 15, 2016 to date of trial and allow an affidavit of attorney fees.

In the alternative, if the Trial Court does not vacate its judgment, then Defendant respectfully requests that the Court grant the Defendant's Motion for a New Trial. That the Trial Court erred in finding that there was no issue of fact to be determined by the jury and directing a verdict on the amount due to Plaintiff. This Court found that "Defendant asserts that the non-discounted charges include interest at a daily rate not allowed by the contract, however there is no evidence in the record that the non-discounted charges are anything other the full cost of the shipments without discount". However entered into evidence was a email from Plaintiff to Defendant on June 14, 2016 stating that the amount due Plaintiff was \$16,421.28 with a daily interest charge of \$246.32, attached hereto. Further said e-mail's subject line stated "Past due invoice and daily interest calculated". Also entered into evidence was a document created by the Plaintiff and in possession of the Plaintiff that he failed to disclose to Defendant during the pendency of this case that stated that Plaintiff was charging the

individual invoices a daily late interest rate of 1.5 %, attached hereto. Further both the discounted invoices and non-discounted invoices state that failure to timely pay incurs a daily 3.5% late charge. The Plaintiff did admit to charging other individuals that he did business with the 3.5% late charge. That coupled with the gross discrepancy between the original amounts owed and the non-discounted amounts should have been submitted to the jury. The trial court is not at liberty to pass upon the veracity of the witnesses and determine the case according to its view of the weight of the evidence. *See Brown v. Orndorff*, 309 S.C. 320, 325, 422 S.E.2d 151, 154 (Ct. App. 1992)(We are not at liberty to pass upon the veracity of the witnesses and determine the case according to our view of the weight of the evidence). *See also Graham v. Whitaker*, 282 S.C. 393, 321 S.E.2d 40 (1984).

In ruling on a motion for directed verdict, the trial court is required to view the evidence and the inferences which reasonably can be drawn therefrom in the light most favorable to the party opposing the motion and to deny the motion where either the evidence yields more than one inference or its inference is in doubt. *Strange v. South Carolina Dep't of Highways & Pub. Transp.*, 314 S.C. 427, 429–30, 445 S.E.2d 439, 440 (1994). When considering directed verdict motions, neither the trial court nor the appellate court has authority to decide credibility issues or to resolve conflicts in the testimony or evidence. *Creech v. South Carolina Wildlife and Marine Resources Dep't*, 328 S.C. 24, 491 S.E.2d 571 (1997). “In essence, we must determine whether a verdict for a party opposing the motion would be reasonably possible under the facts as liberally construed in his favor.” *Bultman v. Barber*, 277 S.C. 5, 7, 281 S.E.2d 791, 792 (1981). “If the evidence is susceptible to more than one reasonable inference, the case should be submitted to the jury.” *Quesinberry v. Rouppasong*, 331 S.C. 589, 594, 503 S.E.2d 717, 720 (1998). *Harvey v. Strickland*, 350 S.C. 303, 308–09, 566 S.E.2d 529, 532 (2002).

In this case, the Trial Court in deciding the Plaintiff's directed verdict motion, impermissibly commented on the credibility of Rich Fair of Federal Logistics, Inc and assigned weight to the above referenced evidence, particularly Defendant's Exhibit 3, attached hereto. The evidence submitted at trial taken in light most favorable to the Defendant was susceptible to more than one reasonable inference, and the case should have been submitted to the jury.

Therefore the Defendant very respectfully requests that the trial court grant Defendant's Motion for a New Trial.

This Motion is based on applicable laws and statutes of the State of South Carolina .

EPPS, EPPS & PERKINS

S/William N. Epps III
William N. Epps III, SC Bar No. 73158
230 West Whitner Street
Post Office Box 2167
Anderson, South Carolina 29622
(864) 224-2111; (864) 224-3536 - Fax
ATTORNEYS FOR THE DEFENDANT

Anderson, South Carolina

Dated: December 19, 2018

Marko Petrovic <dmpsouth@gmail.com>

Mon 12/17/2018, 10:18 AM

You :

Fed_Logistics_DMPState...
11 KB

Download Save to OneDrive

----- Forwarded message -----

From: **Rich Fair** <richfair1@gmail.com>

Date: Tue, Jun 14, 2016 at 1:42 PM

Subject: Past due Invoice and daily Interest calculated

To: Ester Barakat <ester@dmpsouth.com>, <dmpsouth@gmail.com>

Good afternoon,

I am following up with you regarding the outstanding invoices DMP still owes Federal Logistics. Some of these are now over 100 days past due. As communicated previously, these overdue balances are subject to a 1.5% late fee per day they are overdue. As such, the original total balance of \$16,421.28 has a current daily interest charge of \$246.32. I have attached a statement as of today reflecting each invoice's original balance, # of days overdue, and the corresponding late fees now also due as a result of non-payment.

Please advise payment status for each of these invoices as soon as possible and/or call me to discuss payment arrangements. I will send a hard copy of the statement along with a copy of each invoice in the mail to your attention as well.

Rich

ELECTRONICALLY FILED - 2018 Dec 19 3:53 PM - ANDERSON - COMMON PLEAS - CASE#2017CP0401382



DMP Construction - Statement*As of 6/14/16*

Invoice #	Due Date	Days Overdue	Original Amount Due	Late Interest	
				Fees @ 1.5% per day	Total Due Now
1065	2/13/2016	122	\$2,000.00	\$3,660.00	\$5,660.00
1071	3/5/2016	101	\$2,100.00	\$3,181.50	\$5,281.50
1072	2/18/2016	117	\$295.36	\$518.36	\$813.72
1073	2/18/2016	117	\$346.05	\$607.32	\$953.37
1074	2/18/2016	117	\$2,655.71	\$4,660.77	\$7,316.48
1075	2/26/2016	109	\$1,250.00	\$2,043.75	\$3,293.75
1076	3/5/2016	101	\$608.70	\$922.18	\$1,530.88
1086	3/23/2016	83	\$1,649.20	\$2,053.25	\$3,702.45
1088	3/26/2016	80	\$2,100.00	\$2,520.00	\$4,620.00
1091	4/7/2016	68	\$2,800.00	\$2,856.00	\$5,656.00
1099	5/15/2016	30	\$616.26	\$277.32	\$893.58
Totals			\$16,421.28	\$23,300.45	\$39,721.73

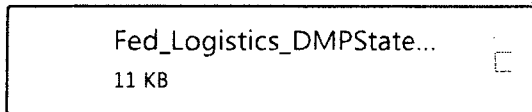
Fwd: DMP Updated Statement 8/2/16

MP

Marko Petrovic <dmpsouth@gmail.com>

Mon 12/17/2018, 10:16 AM

You



Download Save to OneDrive

----- Forwarded message -----

From: **Rich Fair** <richfair1@gmail.com>

Date: Wed, Aug 3, 2016 at 12:12 PM

Subject: Fwd: DMP Updated Statement 8/2/16

To: Anna Cooper <anna@dmpsouth.com>, Marko Petrovic <dmpsouth@gmail.com>, Ester Barakat <ester@dmpsouth.com>

Here is you updated invoice and interest thru 8/2/2016

Rich

----- Forwarded message -----

From: **Jessica Mayo** <mayojessica75@yahoo.com>

Date: Tue, Aug 2, 2016 at 1:56 PM

Subject: DMP Updated Statement 8/2/16

To: Rich Fair <richfair1@gmail.com>

ELECTRONICALLY FILED - 2018 Dec 19 3:53 PM - ANDERSON - COMMON PLEAS - CASE#2017CP0401382



DMP Construction - Statement*As of 7/13/16*

Invoice #	Due Date	Days Overdue	Original Amount Due	Late Interest Fees @ 1.5%	Total Due Now
				per day	
1065	2/13/2016	171	\$2,000.00	\$5,130.00	\$7,130.00
1071	3/5/2016	150	\$2,100.00	\$4,725.00	\$6,825.00
1072	2/18/2016	166	\$295.36	\$735.45	\$1,030.81
1073	2/18/2016	166	\$346.05	\$861.66	\$1,207.71
1074	2/18/2016	166	\$2,655.71	\$6,612.72	\$9,268.43
1075	2/26/2016	158	\$1,250.00	\$2,962.50	\$4,212.50
1076	3/5/2016	150	\$608.70	\$1,369.58	\$1,978.28
1086	3/23/2016	132	\$1,649.20	\$3,265.42	\$4,914.62
1088	3/26/2016	129	\$2,100.00	\$4,063.50	\$6,163.50
1091	4/7/2016	117	\$2,800.00	\$4,914.00	\$7,714.00
1099	5/15/2016	79	\$616.26	\$730.27	\$1,346.53
Totals			\$16,421.28	\$35,370.09	\$51,791.37

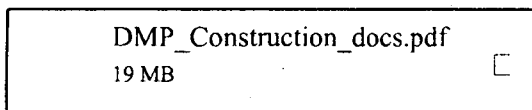
Fwd: DMP Construction

MP

Marko Petrovic <dmpsouth@gmail.com>

Mon 12/17/2018, 10:20 AM

You



Download Save to OneDrive

----- Forwarded message -----

From: **Ester Barakat** <ester@dmpsouth.com>

Date: Mon, Aug 8, 2016 at 9:29 AM

Subject: Fwd: DMP Construction

To: Marko Petrovic <dmpsouth@gmail.com>

----- Forwarded message -----

From: **Rich Fair** <richfair1@gmail.com>

Date: Thursday, August 4, 2016

Subject: Fwd: DMP Construction

To: Jeremy L <jeremy@bbcollects.com>, Ester Barakat <ester@dmpsouth.com>

Good Morning Jeremy,

Here is the invoice with back up paper work in this PDF. Let me know if you need more information. Can we put a Lean on Property either current building and or the one in Anderson 407 River Heights Circle Anderson, SC 29621 they ownis .

Will this also ping their credit?

New Address

DMP Construction / Hotel Tops
107 Twenty Nine Ct
Williamston SC 29697

Phone Number Office 864-841-2424 Anna (handles writing checks)

Marko Petrovic 864-367-6297 Owner



dmpsouth@gmail.com

Ester Barakat 973-668-2861



ester@dmpsouth.com

valentina@dmpsouth.com

Anna Cooper anna@dmpsouth.com

Let me know what else you need.

Rich

----- Forwarded message -----

From: **Jessica Mayo** <mayojessica75@yahoo.com>

Date: Thu, Aug 4, 2016 at 9:11 AM

Subject: DMP Construction

To: Rich Fair <richfair1@gmail.com>

--

Respectfully,

Ester Barakat

407 River Heights Circle

Anderson, SC 29621

(864) 367.0423

Work/Office

(855) 844-8090

Fax

DMP Construction - Statement					
As of 7/13/16					
Invoice #	Due Date	Days Overdue	Original Amount Due	Late Interest Fees @ 1.5% per day	Total Due Now
1065	2/13/2016	171	\$2,000.00	\$5,130.00	\$7,130.00
1071	3/5/2016	150	\$2,100.00	\$4,725.00	\$6,825.00
1072	2/18/2016	166	\$295.36	\$735.45	\$1,030.81
1073	2/18/2016	166	\$346.05	\$861.66	\$1,207.71
1074	2/18/2016	166	\$2,655.71	\$6,612.72	\$9,268.43
1075	2/26/2016	158	\$1,250.00	\$2,962.50	\$4,212.50
1076	3/5/2016	150	\$608.70	\$1,369.58	\$1,978.28
1086	3/23/2016	132	\$1,649.20	\$3,265.42	\$4,914.62
1088	3/26/2016	129	\$2,100.00	\$4,063.50	\$6,163.50
1091	4/7/2016	117	\$2,800.00	\$4,914.00	\$7,714.00
1099	5/15/2016	79	\$616.26	\$730.27	\$1,346.53
Totals			\$16,421.28	\$35,370.09	\$51,791.37

Federal Logistics Inc
950 Eagles Landing Pkwy #280
Stockbridge, GA 30281
(678) 898-5535
richfair1@gmail.com

INVOICE

BILL TO
ESTER
DMP CONSTRUCTION
407 RIVER HEIGHTS CIR
ANDERSON, SC 29621

INVOICE # 1065
DATE 01/29/2016
DUE DATE 02/13/2016
TERMS Net 15

Please detach top portion and return with your payment.

ACTIVITY	QTY	RATE	AMOUNT
Truckload 1/29/2016 Flatbed 22 pcs @ Pendelton SC to Holiday Inn Express Uniontown, PA BOL # 1302016	1	1,950.00	1,950.00
Tarp	1	50.00	50.00

Late daily fee of 3.5% on outstanding balance for any payments past due
date as reflected on invoice. We appreciate your prompt payment.

PAYMENT 1,000.00
BALANCE DUE **\$1,000.00**

ELECTRONICALLY FILED - 2018 Dec 19 3:53 PM - ANDERSON - COMMON PLEAS - CASE#2017CP0401382

Page 1 of 1

SHIP FROM

Name: Anatoliy Stone
Address: 330 Williams St
City/State/Zip: Pendelton, Sc 29670
SID#:

Bill of Lading Number: 01292016

BAR CODE SPACE

FOB: ☐

SHIP TO

Name: Holiday Inn Express
Address: 355 Walmart Drive
City/State/Zip: Uniontown, PA 15401
CID#: Eric 814-257-8242

Location #:

FOR: ☐**THIRD PARTY FREIGHT CHARGES BILL TO:**

Name: Federal Logistics Inc. / Rich Fair 678-898-5535
Address: 950 Eagles Landing Parkway
City/State/Zip: Stockbridge, Ga 30281

CARRIER NAME: FEDERAL LOGISTICS

Trailer number:

Seal number(s):

SCAC:

Pro number:

BAR CODE SPACE

Freight Charge Terms: *(freight charges are prepaid unless marked otherwise)*

Prepaid _____ Collect _____ 3rd Party ☒ X

☐ Master Bill of Lading: with attached underlying Bills of Lading
(check box)

CUSTOMER ORDER INFORMATION

GRAND TOTAL

CARRIER INFORMATION

RECEIVING

STAMP SPACE

GRAND TOTAL

Where the rate is dependent on value, shippers are required to state specifically in writing the agreed or declared value of the property as follows:

"The agreed or declared value of the property is specifically stated by the shipper to be not exceeding

per

COD Amount: \$

Fee Terms: Collect: ☐ Prepaid: ☒
Customer check acceptable: ☐

NOTE Liability Limitation for loss or damage in this shipment may be applicable. See 49 U.S.C. - 14706(c)(1)(A) and (B).

RECEIVED, subject to individually determined rates or contracts that have been agreed upon in writing between the carrier and shipper, if applicable, otherwise to the rates, classifications and rules that have been established by the carrier and are available to the shipper, on request, and to all applicable state and federal regulations.

The carrier shall not make delivery of this shipment without payment of freight and all other lawful charges.

Shipper Signature

SHIPPER SIGNATURE / DATE

This is to certify that the above named materials are properly classified, packaged, marked and labeled, and are in proper condition for transportation according to the applicable regulations of the DOT.

Trailer Loaded:

☐ By Shipper
☐ By Driver

Freight Counted:

☐ By Shipper
☐ By Driver/pallets said to contain
☐ By Driver/Pieces

CARRIER SIGNATURE / PICKUP DATE

Carrier acknowledges receipt of packages and required placards. Carrier certifies emergency response information was made available and/or carrier has the DOT emergency response guidebook or equivalent documentation in the vehicle.
Property described above is received in good order, except as noted.

**ANATOLIY STONE****SETTING A BOLD STANDARD.**

330 Williams St. Pendleton, SC 29670

Invoice

Date	Invoice #
2/8/2016	3543

Bill To
DMP Construction 407 River Heights Cir Anderson, SC 29621

Ship To
Holiday Inn Express Uniontown PA Order Placed by Valentina.

		P.O. Number	Terms	Rep	Project	
			Due on receipt	IZ	4th Order Holiday Inn Express	
Quantity	Item Code	Description			Price Ea...	Amount
2,800	5009	San Diego Field Cobble			2.25	6,300.00T
400	5009C	San Diego Field Cobble Corners			5.00	2,000.00T
26	PALLET01	PALLET 32"x48"x30" (NON REFUNDABLE)			10.00	260.00T
INVOICES ASSIGNED & PAYABLE TO: Anatoliy Stone Products, P.O. BOX 7 LaFrance, SC 29656 Office: (864) 231-1256 - (864) 502-0138 Fax: (864) 642-0260					Subtotal	\$8,560.00
					Sales Tax (7.0%)	\$599.20
					Total	\$9,159.20
Payments/Credits		\$0.00			Balance Due	\$9,159.20

Federal Logistics Inc
950 Eagles Landing Pkwy #280
Stockbridge, GA 30281
(678) 898-5535
richfair1@gmail.com

INVOICE

INVOICE # 1071
DATE 02/19/2016
DUE DATE 03/05/2016
TERMS Net 15

BILL TO
ESTER
DMP CONSTRUCTION
407 RIVER HEIGHTS CIR
ANDERSON, SC 29621

Please detach top portion and return with your payment.

ACTIVITY	QTY	RATE	AMOUNT
Truckload 2/16/2016 Laredo, TX o Anderson, SC 12 skids @ 31000 lbs F02390	1	1,850.00	1,850.00
Detention Lerado Pick up J O Alvarez Drive In line for Pick up 7 hours	5	50.00	250.00

Late daily fee of 3.5% on outstanding balance for any payments past due
date as reflected on invoice. We appreciate your prompt payment.

BALANCE DUE

\$2,100.00

Federal Logistics Inc
950 Eagles Landing Pkwy #280
Stockbridge, GA 30281
(678) 898-5535
richfair1@gmail.com

INVOICE

INVOICE # 1072
DATE 02/03/2016
DUE DATE 02/18/2016
TERMS Net 15

BILL TO
ESTER
DMP CONSTRUCTION
407 RIVER HEIGHTS CIR
ANDERSON, SC 29621

Please detach top portion and return with your payment.

ACTIVITY	QTY	RATE	AMOUNT
LTL 2/03/2016 Anatoliy Stone to Holiday Inn Charlotte, NC 2 skids 2160 lbs Quoted \$218.11 reweight 2727 lbs	1	218.11	218.11
Reweight Reweight 567 lbs over original weight	1	77.25	77.25

Late daily fee of 3.5% on outstanding balance for any payments past due
date as reflected on invoice. We appreciate your prompt payment.

BALANCE DUE

\$295.36

GLOBALTRANZ

Rich Fair <rfair@globaltranz.com>

Bill Of Lading - 7302460

1 message

donotreply@globaltranz.com <donotreply@globaltranz.com>

Mon, Feb 1, 2016 at 5:52 PM

Reply-To: donotreply@globaltranz.com

To: ester@dmpsouth.com, rfair@globaltranz.com

GLOBALTRANZStraight Bill of Lading - Short Form -
Original - Not Negotiable

Phone : (866)275-1407

BOL NO : 7302460

Fax : (623)209-0093

Noon Guaranteed Service

Shipper Anatoliy Stonw
Address: 330 Williams St
 Pendleton, SC 29670
Country: USA
Contact Name: Igor
Phone No: (864) 502-0138
Fax No:

Carrier: Southeastern **Shipment Date:** 02/02/2016
Freight Lines
PO # : **Est. Transit Days:** 1 day(s)
Shipper Ref #: **Carrier PRO #:**
Origin Terminal: **Destination Terminal:**
 P:(864) 277-3220 P:(704) 597-9828
Noon Guaranteed Service

Consignee Holiday Inn
Address: 108 Airport Commons Dr
 Charlotte, NC 28208
Country: USA
Contact Name: Giovanni
Phone No: (564) 221-9061
Fax No:
Opening Hours: 8:00 AM
Closing Hours: 3:00 PM

Third Party Billing Information :

All charges prepaid to :
 GlobalTranz
 PO BOX 71730
 Phoenix AZ 85050
 Direct billing inquiries to : (866) 275-1407
GTZ BOL NO : 7302460

Comments/Special Instructions:**Noon Guaranteed Service****Pickup Remarks:****Delivery Remarks:**

Package Name	Pallets	Pieces	HM	Description	Weight	Class	Length	Width	Height	NMFC#
Pallets(40x48)	3	3		Stone	2160 lbs	50	32 In	40 In	30 In	182340
Total:	3	3			2160 lbs					

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**ANATOLIY STONE****SETTING A BOLD STANDARD.**

330 Williams St. Pendleton, SC 29670

Invoice

Date	Invoice #
1/27/2016	3510

Bill To
DMP Construction 407 River Heights Cir Anderson, SC 29621

Ship To
Holiday Inn Express Charlotte NC

P.O. Number	Terms	Rep	Project
	Due on receipt	IZ	TANS ONLY 2ND ORDER

Quantity	Item Code	Description	Price Ea...	Amount
300 3	3023 PALLET01	White Antique Olde Country Ledge CUSTOM COLOR (THE TANS ONLY) PALLET 32"x48"x30" (NON REFUNDABLE) 2160 LBS	2.35 10.00	705.00T 30.00T

INVOICES ASSIGNED & PAYABLE TO:
Anatoliy Stone Products,
P.O. BOX 7
LaFrance, SC 29656
Office: (864) 231-1256 - (864) 502-0138
Fax: (864) 642-0260

Subtotal	\$735.00
Sales Tax (7.0%)	\$51.45
Total	\$786.45
Balance Due	\$786.45

Payments/Credits	\$0.00
-------------------------	--------

Federal Logistics Inc
950 Eagles Landing Pkwy #280
Stockbridge, GA 30281
(678) 898-5535
richfair1@gmail.com

INVOICE

INVOICE # 1073
DATE 02/03/2016
DUE DATE 02/18/2016
TERMS Net 15

BILL TO
ESTER
DMP CONSTRUCTION
407 RIVER HEIGHTS CIR
ANDERSON, SC 29621

Please detach top portion and return with your payment.

ACTIVITY	QTY	RATE	AMOUNT
LTL 02/02/2016 OJ Alvarez Laredo, TX to Holiday Inn Summerville, SC 2 skids @ 1130 lbs F02280	1	346.05	346.05

Late daily fee of 3.5% on outstanding balance for any payments past due
date as reflected on invoice. We appreciate your prompt payment.

BALANCE DUE

\$346.05

ELECTRONICALLY FILED - 2018 Dec 19 3:53 PM - ANDERSON - COMMON PLEAS - CASE#2017CP0401382

**AAA COOPER TRANSPORTATION**

P.O. Box 6827 Dothan, Alabama 36302 334-793-2284
 (AACT) Toll Free: 800-522-1812
 www.aaacooper.com Local Direct: 864-877-1853

**Delivery Receipt**

AACT Freight Bill Number

Page

90921540 -2 1 of 1

GRE		PLT	PCS	HM	DESCRIPTION	WGTLBS	RATE
Confirmon DMP CONSTRUCTION 107 TWENTY NINE CT WILLIAMSTON SC 29697 Received in good order except as noted. Show completion firm name and signature. Initials not accepted. Carrier must be notified within 5 days on all concealed damage.			2		BACK SPLASH NMFC# 34642 65X96X75IN ATTN: ESTER C/PH# 864 367 0423 OPENING HOUR: 8AM CLOSING HOUR: 4PM ANY PROBLEMS W/DEL PLS CONTACT GLOBALTRANZ @ 866 375 1497 SHIPPER REF# F02533 PO# 90921540	6162	
	STRETCH WRAP INTACT UNLESS OTHERWISE NOTED ABOVE						
(Received by - Print Name) Ronald (Received by - Signature)							
Received Date _____							
Shipper 253200 JO ALVAREZ 1 ANDY RAMOS RD TEX MEX IND PK LAREDO TX 78043	LRD		2	TTL	*PREPAID	6162	PPD
Inside Delivery ☐ Residential Delivery ☐ Sort & Seg ☐ Paid by: Ship/3P ☐ Cons ☐ Liftgate ☐ Construction Site ☐ Charge ☐ Cash \$ ☐ Check # ☐							
Initial to Acknowledge Receipt of the Above Services. Additional charges may apply and be the responsibility of the requestor, pursuant to item 135 of AACT 160 Rules T							
Pickup Date	2016-04-11	Beyond Route/At					
PO Number	F02533	Prior Carrier/FB					
BOL Number	7611104	From	AACT	To			
Appl Contact	RICH W/GLOBALTRANZ						
Appl Date	2016-04-15 After 08:00A Before 05:00P	Phone	864-000-0000				
Delivered By Driver	Delivery Trailer						
(Print Name) 533402							
Date/Time	4.15.16	Pieces	2				
Printed: 2016-04-15 08:52:20 (Po) 90921540 -2							

APPOINTMENT DELIVERY REQUIRED
DEL 4-15-16 BEFORE 5PM DRIVER
CALL 30 MIN PRIOR 8643670423

20130414

Federal Logistics Inc
950 Eagles Landing Pkwy #280
Stockbridge, GA 30281
(678) 898-5535
richfair1@gmail.com

INVOICE

INVOICE # 1074
DATE 02/03/2016
DUE DATE 02/18/2016
TERMS Net 15

BILL TO
ESTER
DMP CONSTRUCTION
407 RIVER HEIGHTS CIR
ANDERSON, SC 29621

Please detach top portion and return with your payment.

ACTIVITY	QTY	RATE	AMOUNT
LTL 2/02/2016 Laredo TX to Anderson, SC 5 skids at 14000k lbs then Rerouted	1	1,880.71	1,880.71
Hot Shot 2/05/2016 Duncan SC to Summerville, SC 5 @14000 k Lbs	1	775.00	775.00

Late daily fee of 3.5% on outstanding balance for any payments past due
date as reflected on invoice. We appreciate your prompt payment.

BALANCE DUE

\$2,655.71



AAA COOPER TRANSPORTATION
 P O Box 6827 Ooltah, Alabama 36302 334-793-2224
 (AACT) Toll Free 800-642-5962
 www.aaacooper.com Local Direct 843-764-3825



Delivery Receipt

AACT Freight Bill Number
90396118 -3 Page
1 of 1

Consignee	CHS	PLT	PCS	HM	DESCRIPTION	WGT/LBS	RATE
421778 HOLIDAY INN 1021 HOLIDAY DR SUMMERVILLE SC 29483 Received in good order except as noted. Show completed form name and signature. Initials not accepted. Carrier must be notified within 5 days on all concealed damage. <i>Travis Mahoney</i> (Received by - Print Name) <i>[Signature]</i> (Received by - Signature) Received Date _____			2		SHOWER BASE 36X60X48 NMFC# 158260-5 HRS: 8AM-3PM ANY PROBLEMS W/ DEL PLS CALL GLOBALTRANZ @ 866-275-1407 ATTN: TRAVIS COST PER 854-356-3121 SHRINK WRAPPED PALLET ** WNI @ HOU ** WEIGHT VERIFICATION FEE ** DIMENSIONED @ HOU ** STRETCH WRAP INTACT UNLESS OTHERWISE NOTED ABOVE	1130	

Shipper	LRD	2	2	TTL (2 on 2 PLT) *PREPAID	1130	PPD
253200 OJ ALVAREZ 1 ANDY RAMOS RD TEX MEX IND PK LAREDO TX 78043				Inside Delivery ___ Residential Delivery ___ Sort & Seg ___ Liftgate ___ Construction Site ___ Charge ___ Cash \$ ___ Check # ___ Initial to Acknowledge Receipt of the Above Services. Additional charges may apply and to the responsibility of the requestor, pursuant to Item 105 of AACT 100 Rules 1		

Pickup Date	2016-02-02	Beyond Route/At	
PO Number	90396118	Prior Carrier/EB	
BOL Number	7316672	From	AACT To
Apt Contact		Phone	
Apt Date		Delivery Trailer:	
Delivered By Driver	<i>P. Allen</i> (Print Name)	9619	
Date/Time	2/5/16	Pieces	2
Print Time Printed 2/5/16 05:07:19 AM		Pro 60386118 -3	

Hampton INN
Summerville
SC

20160205

GLOBALTRANZ

Rich Fair <rfair@globaltranz.com>

Bill Of Lading - 7316672

1 message

donotreply@globaltranz.com <donotreply@globaltranz.com>

Tue, Feb 2, 2016 at 3:01 PM

Reply-To: donotreply@globaltranz.com

To: ester@dmpsouth.com, rfair@globaltranz.com

GLOBALTRANZ		Straight Bill of Lading - Short Form - Original - Not Negotiable		Phone : (866)275-1407																																		
		BOL NO : 7316672		Fax : (623)209-0093																																		
Shipper OJ Alvarez Address: #1 Andy Ranos Rd Tex Mex I ndustrail Park Laredo, TX 78042 Country: USA Contact Name: Rogelio Phone No: (956) 721-5912 Fax No:		Carrier: AAA Cooper PO # : Shipper Ref #: Origin Terminal: P:(956) 726-9923 Shipment Date: 02/02/2016 Est. Transit Days: 3 day(s) Carrier PRO #: Destination Terminal: P:(843) 764-3825																																				
Consignee Holiday Inn Address: 1021 Holiday Drive Summerville, SC 29483 Country: USA Contact Name: Travis Phone No: (864) 356-3121 Fax No: Opening Hours: 8:00 AM Closing Hours: 3:00 PM		Third Party Billing Information : All charges prepaid to : GlobalTranz PO BOX 71730 Phoenix AZ 85050 Direct billing inquiries to : (866) 275-1407 GTZ BOL NO : 7316672																																				
Comments/Special Instructions: Pickup Remarks: Delivery Remarks:																																						
<table border="1"> <thead> <tr> <th>Package Name</th> <th>Pallets</th> <th>Pieces</th> <th>HM</th> <th>Description</th> <th>Weight</th> <th>Class</th> <th>Length</th> <th>Width</th> <th>Height</th> <th>NMFC#</th> </tr> </thead> <tbody> <tr> <td>Pallets(40x48)</td> <td>6</td> <td>2</td> <td></td> <td>Shower base</td> <td>832 lbs</td> <td>100</td> <td>36 In</td> <td>60 In</td> <td>48 In</td> <td>158260-5</td> </tr> <tr> <td>Total:</td> <td>6</td> <td>2</td> <td></td> <td></td> <td>832 lbs</td> <td></td> <td></td> <td></td> <td></td> <td></td> </tr> </tbody> </table>						Package Name	Pallets	Pieces	HM	Description	Weight	Class	Length	Width	Height	NMFC#	Pallets(40x48)	6	2		Shower base	832 lbs	100	36 In	60 In	48 In	158260-5	Total:	6	2			832 lbs					
Package Name	Pallets	Pieces	HM	Description	Weight	Class	Length	Width	Height	NMFC#																												
Pallets(40x48)	6	2		Shower base	832 lbs	100	36 In	60 In	48 In	158260-5																												
Total:	6	2			832 lbs																																	

ELECTRONICALLY FILED - 2018 Dec 19 3:53 PM - ANDERSON - COMMON PLEAS - CASE#2017CP0401382

INVOICE

Invoice#: 151150

JASON O MACKEY

4252 INDIANA AVE
WINSTON SALEM NC 27105
Phone #: 336-602-4344 MC#: 942154
Fax# :

Date: 2/18/16

Amount: \$450.00

BILL TO:

FEDERAL LOGISTICS
950 EAGLES LANDING PKWY
STOCKBRIDGE, GA 30281

Contact: RICH FAIR
Phone#: 678-898-5535
Fax#:

Shipper

AAA COOPER
1140 ROGERS BRIDGE ROA
DUNCAN, SC 29334

Contact:
Phone#: 864-877-1893
Fax#:

Consignee

HOLIDAY INN
1021 HOLIDAY INN DR.
SUMMERVILLE, SC 29483

Contact:
Phone:
Fax:

Pickup Date	BOL#	PO#	Delivery Date	Miles Charges	Weight
02/05/2016	11212015	903961159	02/05/2016	\$0.00	

Stop	Company Name, Address, City, State and Zip Code	Delivery Date/Time
1	HOLIDAY INN, 1021 HOLIDAY INN DR., SUMMERVILLE, SC 29483	02/05/2016

Flat Rate: \$450.00 + Miles Charge: \$0.00 + Accessorials: \$0.00

Amount Due: \$450.00

14K lbs

B:11 \$ 750.00

**AAA COOPER TRANSPORTATION**

P.O. Box 6827 Dothan, Alabama 36302 334-793-2284

(AACT)

Toll Free: 800-922-1812

www.aaacooper.com Local Direct: 864-877-1893

AACT Freight Bill Number

90396115 -9

Page

1 of 1

Consignee	GRE	PLT	PCS	HM	DESCRIPTION	WGT/LBS	RATE
863586 DMP CONSTRUCTION 407 RIVER HEIGHTS CIR ANDERSON SC EXIT DUNCAN SC 29334			5		SHOWER BASE NMFC# 158260-5 60L 30W 82H 60X30X96 PER ITEM 490 ATTN: ESTER C/PH# 864 367 0469 OPENING HRS: 8AM-4PM ANY PROBLEMS WITH DELIVERY PLEASE CALL GLOBALTRANZ AT 866 275 1407 ** WNI @ SAA ** WEIGHT VERIFICATION FEE	2835	
Received in good order except as noted. Show completed firm name and signature. Initials not accepted. Carrier must be notified within 5 days on all concealed damage.							
(Received by - Print Name)							
X (Received by - Signature)							
Received Date _____							
STRETCH WRAP INTACT UNLESS OTHERWISE NOTED ABOVE							
253200 OJ ALVAREZ 1 ANDY RAMOS RD TEX MEX IND PARK LAREDO TX 78045	LRD	5	5	TTL (5 on 5 PLT) *PREPAID	2835	PPD	
Inside Delivery _____ Residential Delivery _____ Sort & Seg _____ Paid by: Ship/3P _____ Cons _____							
Liftgate _____ Construction Site _____ Charge _____ Cash \$ _____ Check # _____							
Initial to Acknowledge Receipt of the Above Services. Additional charges may apply and be the responsibility of the requestor, pursuant to Item 135 of AACT 180 Rules T							

Pickup Date	2016-02-02	Beyond Route/At	
PO Number	90396115	Prior Carrier/FB	
BOL Number	7316894	From	AACT To
Apt Contact			
Apt Date		Phone	
Delivered By Driver		Delivery Trailer:	
(Print Name)		281317	
Date/Time		Pieces	
Date/Time Printed 2016-02-05 09:09:38			
Pro 90396115 -9			

Payment of freight charges are due within 15 days.

NEWFB4

20180205



AAA COOPER TRANSPORTATION
 P.O. Box 6827 Dothan, Alabama 36302 334-793-2284
 (AACT) Toll Free: 800-822-1812
 www.aaacooper.com Local Direct: 864-877-1893

us omer

AACT Freight Bill Number

90396115

-9

Page

1 of 1

Consignee

863586
DMP CONSTRUCTION
407 RIVER HEIGHTS CIR
ANDERSON SC EXIT
DUNCAN SC 29334

GRE

PLT

PCS

HM

DESCRIPTION

WGT/LBS

RATE

5
 SHOWER BASE NMFC# 158260-5
 60L 30W 82H
 60X30X96 PER ITEM 490
 ATTN: ESTER
 C/PH# 864 367 0469
 OPENING HRS: 8AM-4PM
 ANY PROBLEMS WITH DELIVERY
 PLEASE CALL GLOBALTRANZ
 AT 866 275 1407
 ** WNI @ SAA **
 WEIGHT VERIFICATION FEE

2835

Received in good order except as noted. Show completed firm name and signature. Initials not accepted. Carrier must be notified within 5 days on all concealed damage.

S.O'Donnell

(Received by - Print Name)

[Signature]

(Received by - Signature)

Received Date

STRETCH WRAP INTACT UNLESS OTHERWISE NOTED ABOVE

pu time 11:20
 2-5-16

253200

LRD

OJ ALVAREZ
1 ANDY RAMOS RD TEX MEX IND
PARK
LAREDO TX 78045

5

5

TTL (5 on 5 PLT) *PREPAID

2835

PPD

Inside Delivery Residential Delivery Sort & Seg Paid by: Ship/3P Cons
 Liftgate Construction Site Charge Cash \$ Check #

Initial to Acknowledge Receipt of the Above Services. Additional charges may apply and be the responsibility of the requestor, pursuant to Item 135 of AACT 190 Rules T

Pickup Date 2016-02-02

PO Number 90396115

BOL Number 7316894

Apt Contact

Apt Date

Delivered By Driver

Beyond Route/At

Prior Carrier/B

From

AACT

To

Phone

Delivery Trailer:

281317

Date/Time Printed 2016-02-05 09:09:38

Pro

90396115 -9

Payment of freight charges are due within 15 days.

DROP OFF
 TIME 3:35

[Signature]

(Print Name)

Pieces

Date/Time

NEWFB4

20160205

**CARRIER RATE
CONFIRMATION**

FLI DISPATCH: (678) 898-5535
 CARRIER PAYMENTS:
 950 Eagles Landing Parkway
 Stockbridge, GA 30281
 AP PHONE: 678-898-5535
 AP EMAIL: fi.rfair@gmail.com

PO#: REF#: 11212015
 SERVICE: ACCESSORIAL:

SERVICE TYPE: EUV
 TRAILER TYPE: VAN
 BED SIZE: 26

CARRIER INFORMATION:

CARRIER NAME
 LEGAL NAME:
 MC#: 942159

DISPATCHER:
 PHONE: 207-894-0045
 FAX:
 EMAIL:

CARRIER QUOTE:

COMMODITY:
 DESCRIPTION:
 WEIGHT: 3500 lbs
 PALLETS: 5
 PIECES:

DRIVER: (Required) Jason
 DRIVER PHONE: (Required) 3366024344
 TRAILER NUMBER:

IMPORTANT LOAD NOTES:**ORIGIN:**

FACILITY: AAA Cooper
 STREET: 1140 Rogers Bridge ROA
 CITY/STATE/ZIP: Duncan, SC
 FAX:

PICKUP DATE: 02-05-2016
 HOURS: 1000 - 1200
 CONTACT: 864-877-1893

PICKUP #:
 APPOINTMENT REQUIRED: No
 APPOINTMENT MADE: No
 LUMPER REQUIRED: No

PICKUP NOTES:**DESTINATION:**

FACILITY: Holiday Inn
 STREET: 1021 Holiday Inn Dr.
 CITY/STATE/ZIP: Summerville, SC
 FAX:

DELIVERY DATE: 0205-2016
 HOURS: 7:00 - 15:00
 CONTACT: 864-356-3121

DELIVERY#:
 APPOINTMENT REQUIRED: No
 APPOINTMENT MADE: No
 LUMPER REQUIRED: No

DELIVERY NOTES:**RATE INFORMATION:**

BASE RATE: \$450.00
 TOTAL RATE: 450.00

FLI SIGNATURE: Rich Fair (678) 898-5535

CARRIER SIGNATURE: *Marina Barankovich* 2/5/16

Driver must call Federal Logistics (FLI) to be dispatched. The Carrier or Driver must call FLI prior to entering detention. Time stamped BOL required for detention pay within 48 hours of delivery. Carrier must immediately notify FLI if shipper's instructions do NOT match this Rate Confirmation. Carrier agrees that it will be the sole Carrier for the entire shipment and there will be no brokering of said load to another Carrier. Co-Brokering will result in non-payment of the load. Missed pickup and/or delivery date(s)/times will result in rate reduction up to 20% per day. Mechanical failure delay with supporting receipt will not be penalized. Accurate tracking updates must be provided daily. Federal Logistics terms for payment are (30) days from the date of receipt of invoice, Rate Confirmation and Proof of Delivery. Proof of Delivery must be signed by Consignee. Please email invoice, rate confirmation and proof of delivery to invoices@globaltrans.com for payment. Quick Pay and/or Fuel Advance must be approved prior to loading. POD due within 5 days of delivery; Rate reduction of 1% per day each day thereafter. Carrier may not break any seal. Proper load temperature is the Driver/Carrier's responsibility. Driver must verify at the time of pickup that the Bill of Lading matches the temperature on this load confirmation. By accepting this load you are guaranteeing that any operating Transport Refrigeration Units (TRU's) are compliant with the California Air Resources Board's (CARB) TRU Airborne Toxic Control Measure (ATCM) requirements and regulations for the transportation of freight at any point in the State of California. Carrier agrees to the terms and conditions of the FLI Broker/Carrier Agreement between Federal Logistics and the Motor Carriers, and such Agreement governs this Carrier Rate Confirmation between the parties even in the event the carrier does not sign this Carrier Rate Confirmation, but provides the transportation as described herein. In the event of any conflict between the Agreement or the Carrier Rate Confirmation, the Agreement shall govern and then any terms as set forth in this Carrier Rate Confirmation shall apply. The Carrier agrees to and must comply with all Department of Transportation and other governmental regulations when transporting hazard materials.

Thank you,
 Rich
 fi.rfair@gmail.com

Federal Logistics Inc
950 Eagles Landing Pkwy #280
Stockbridge, GA 30281
(678) 898-5535
richfair1@gmail.com

INVOICE

INVOICE # 1075
DATE 02/11/2016
DUE DATE 02/26/2016
TERMS Net 15

BILL TO
ESTER
DMP CONSTRUCTION
407 RIVER HEIGHTS CIR
ANDERSON, SC 29621

Please detach top portion and return with your payment.

ACTIVITY	QTY	RATE	AMOUNT
LTL 2/11/2016 Lerado TX to Uniontown, PA Holiday Inn 4 skids 13206 REF # F02386	1	1,250.00	1,250.00

Late daily fee of 3.5% on outstanding balance for any payments past due
date as reflected on invoice. We appreciate your prompt payment.

BALANCE DUE

\$1,250.00

ELECTRONICALLY FILED - 2018 Dec 19 3:53 PM - ANDERSON - COMMON PLEAS - CASE#2017CP0401382

Federal Logistics Inc.
CARRIER RATE CONFIRMATION

FLI DISPATCH: (678) 898-5535
CARRIER PAYMENTS:
950 Eagles Landing Parkway
Stockbridge, GA 30281
AP PHONE: 678-898-5535
AP EMAIL: fi.rfair@gmail.com

ELECTRONICALLY FILED - 2018 Dec 19 3:53 PM - ANDERSON - COMMON PLEAS - CASE#2017CP0401382



#: REF#: 02112016
VICE: ACCESSORIAL:
VICE TYPE: Partial
TRAILER TYPE: VAN
E: 45

PRO#: 02112016

CARRIER QUOTE:
COMMODITY:
DESCRIPTION: Shower pa
WEIGHT: 13206lbs
PALLETS: 4
PIECES:

CARRIER INFORMATION:

CARRIER NAME: Seagate Freight
LOCAL NAME:
#: 600925

DISPATCHER:
PHONE: 214-880-6340
FAX:
EMAIL:

DRIVER: (Required) _____
DRIVER PHONE: (Required) _____
TRAILER NUMBER:

IMPORTANT LOAD NOTES:

ORIGIN:
CITY: JO Alvarez
EET: 1 Andy Ramos RD Tex Mex Ind PK
Y/STATE/ZIP: Lerado, TX 78042

PICKUP DATE: 2/11/2016
HOURS: 1200 to 1600
CONTACT:

PICKUP #: F02386
APPOINTMENT REQUIRED: No
APPOINTMENT MADE: No
LUMPER REQUIRED: No

PICKUP NOTES:

DESTINATION:

CITY: Holiday Inn
EET: 355 Walmart Dr
Y/STATE/ZIP: Uniontown, PA 15401

DELIVERY DATE: 11-21-2015
HOURS: 7:00 - 15:00
CONTACT: Eric 814-257-8242

DELIVERY #:
APPOINTMENT REQUIRED: No
APPOINTMENT MADE: No
LUMPER REQUIRED: No

DELIVERY NOTES:

RATE INFORMATION:
BASE RATE: \$900.00
TOTAL RATE: 900.00

SIGNATURE: Rich Fair (678) 898-5535

CARRIER SIGNATURE:

Carrier must call Federal Logistics (FLI) to be dispatched. The Carrier or Driver must call FLI prior to entering detention. Time stamped BOL required for detention pay within 48 hours of delivery. Carrier must immediately call FLI if shipper's instructions do NOT match this Rate Confirmation. Carrier agrees that it will be the sole Carrier for the entire shipment and there will be no brokering of said load to another Carrier. Co-Brokering result in non-payment of the load. Missed pickup and/or delivery date(s)/times will result in rate reduction up to 20% per day. Mechanical failure delay with supporting receipt will not be penalized. Accurate tracking rates must be provided daily. Federal Logistics terms for payment are (30) days from the date of receipt of Invoice, Rate Confirmation and Proof of Delivery. Proof of Delivery must be signed by Consignee. Please email invoice, rate confirmation and proof of delivery to tlinvoices@globaltranz.com for payment. Quick Pay and/or Fuel Advance must be approved prior to loading. POD due within 5 days of delivery; Rate reduction of 1% per day thereafter. Carrier may not break any seal. Proper load temperature is the Driver/Carrier's responsibility. Driver must verify at the time of pickup that the Bill of Lading matches the temperature on this confirmation. By accepting this load you are guaranteeing that any operating Transport Refrigeration Units (TRU's) are compliant with the California Air Resources Board's (CARB) TRU Airborne Toxic Control Measure (V) requirements and regulations for the transportation of freight at any point in the State of California. Carrier agrees to the terms and conditions of the FLI Broker/Carrier Agreement between Federal Logistics and Motor Carriers, and such Agreement governs this Carrier Rate Confirmation between the parties even in the event the carrier does not sign this Carrier Rate Confirmation, but provides the transportation as described herein. In the event of any conflict between the Agreement or the Carrier Rate Confirmation, the Agreement shall govern and then any terms as set forth in this Carrier Rate Confirmation shall apply. The Carrier agrees to and must comply with all Department of Transportation and other governmental regulations when transporting hazard materials.

Thank you,
1
air@gmail.com



Federal Logistics Inc
950 Eagles Landing Pkwy #280
Stockbridge, GA 30281
(678) 898-5535
richfair1@gmail.com

INVOICE

INVOICE # 1076
DATE 02/19/2016
DUE DATE 03/05/2016
TERMS Net 15

BILL TO
ESTER
DMP CONSTRUCTION
407 RIVER HEIGHTS CIR
ANDERSON, SC 29621

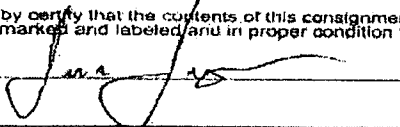
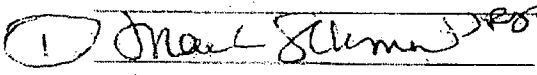
Please detach top portion and return with your payment.

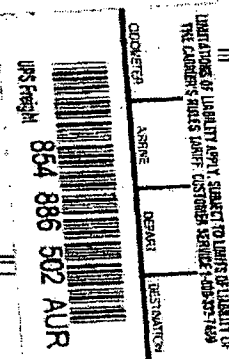
ACTIVITY	QTY	RATE	AMOUNT
LTL 2/19/2016 St Charles IL to Summerville, SC 1 skid at 2587 G delivery	1	608.70	608.70

Late daily fee of 3.5% on outstanding balance for any payments past due
date as reflected on invoice. We appreciate your prompt payment.

BALANCE DUE

\$608.70

Shipper Address: Holiday Inn Express 155 38th Ave Saint Charles, IL 60174 Country: USA Contact Name: Jeff Phone No: (630) 991-6485 Fax No:		Carrier: UPS Freight PO #: Shipper Ref #: Origin Terminal: P:(630) 851-9525 Shipment Date: 02/23/2016 Est. Transit Days: 2 day(s) Carrier PRO #: Destination Terminal: P:(843) 744-3396																																		
Consignee Address: Holiday Inn 1021 Holiday Drive Summerville, SC 29483 Country: USA Contact Name: Travis Phone No: (864) 356-3121 Fax No: Opening Hours: 9:00 AM Closing Hours: 4:00 PM		Third Party Billing Information: All charges prepaid to: GlobalTranz PO BOX 71730 Phoenix AZ 85050 Direct billing (inquiries to): (868) 275-1407 GTZ BOL NO: 7405859																																		
Comments/Special Instructions: Liftgate Origin Pickup Remarks: Lift gate needed																																				
<table border="1"> <thead> <tr> <th>Package Name</th> <th>Pallets</th> <th>Pieces</th> <th>HM</th> <th>Description</th> <th>Weight</th> <th>Class</th> <th>Length</th> <th>Width</th> <th>Height</th> <th>NMFC#</th> </tr> </thead> <tbody> <tr> <td>Pallets(40x48)</td> <td>1</td> <td>1</td> <td></td> <td>Shower base</td> <td>1127 lbs</td> <td>100</td> <td>36 in</td> <td>40 in</td> <td>60 in</td> <td>158260-5</td> </tr> <tr> <td>Total:</td> <td>1</td> <td>1</td> <td></td> <td></td> <td>1127 lbs</td> <td></td> <td></td> <td></td> <td></td> <td></td> </tr> </tbody> </table>				Package Name	Pallets	Pieces	HM	Description	Weight	Class	Length	Width	Height	NMFC#	Pallets(40x48)	1	1		Shower base	1127 lbs	100	36 in	40 in	60 in	158260-5	Total:	1	1			1127 lbs					
Package Name	Pallets	Pieces	HM	Description	Weight	Class	Length	Width	Height	NMFC#																										
Pallets(40x48)	1	1		Shower base	1127 lbs	100	36 in	40 in	60 in	158260-5																										
Total:	1	1			1127 lbs																															
Any problems with delivery, please contact GlobalTranz at (868)275-1407 The authorized signatories signing this document on behalf of its company consents and bind its company to the terms and conditions found on www.carrierrate.com. Shipper Certification: I hereby certify that the contents of this consignment are fully and accurately described above by proper shipping name and are classified, packaged, marked and labeled and in proper condition for carriage by land/air according to applicable national governmental regulations. Shipper's Signature:  Date: 12/24 Trailer#: 460241 Driver's Signature: _____ Date: _____ Trailer#: _____ Drivers Certification: Carrier acknowledges receipt of packages in good order, condition and quantity unless otherwise stated hereon. Carrier certifies emergency response information and required placards were made available and/or carrier has the D.O.T. emergency response guidebook or equivalent in the vehicle. Consignee Signature: _____ Print Name: _____ Company Name:  Date: 2/24/16 Permanent post-office address of the Shipper: * Mark with "X" to designate material as defined in Title 49 CFR																																				



Federal Logistics Inc
950 Eagles Landing Pkwy #280
Stockbridge, GA 30281
(678) 898-5535
richfair1@gmail.com

INVOICE

INVOICE # 1086
DATE 03/08/2016
DUE DATE 03/23/2016
TERMS Net 15

BILL TO
ESTER
DMP CONSTRUCTION
407 RIVER HEIGHTS CIR
ANDERSON, SC 29621

Please detach top portion and return with your payment.

ACTIVITY	QTY	RATE	AMOUNT
Truckload 3/8/2016 Anatoly Stone PU and DMP PU Deliver to Holiday Inn Uniontown, PA	1	1,649.20	1,649.20

Late daily fee of 3.5% on outstanding balance for any payments past due
date as reflected on invoice. We appreciate your prompt payment.

BALANCE DUE

\$1,649.20

GLOBALTRANZ.

Straight Bill of Lading - Short Form - Original - Not Negotiable

BOL NO : 7467134

Shipper Anatoly Stone
Address 330 Williams St
 Pendleton, SC 29670
Country USA
Contact Name Igor
Phone Number (854) 502-0138
Fax Number

Carrier :RAFA TRANS INC
Shipment Date:03/08/16
Carrier Pro# :
Ref # :
Carrier Quote # :
P/O # :



Consignee Holiday Inn
Address 355 Walmart Dr
 Uniontown, PA 15401
Country USA
Contact Name Eric
Phone Number (814) 257-8242
Fax Number

Third Party Billing Information:

All charges are prepaid to:
GlobalTranz
PO BOX 71730
Phoenix AZ 85050
Direct billing inquires to : (866) 276-1407
GTZ BOL NO : 7467134

Stop # 1: Pickup

Name: DMP Cnstruction
Street: 407 River Heights Circle
City/State/Zip: Anderson, SC 29621

Comments/Special Instructions:**Pickup Remarks :****Delivery Remarks :**

Pallets	Pieces	isHazard	Description	Weight	FreightClass	Length	Width	Height	NMFC	Stackable
17	17		Stone	25000		48	48	48		false

The authorized signatories signing this document on behalf of its company consents and bind its company to the terms and conditions found on www.carrierrate.com.

Shipper Certification : I hereby certify that the contents of this consignment are fully and accurately described above by proper shipping name and are classified, packaged, marked and labeled and in proper condition for carriage by land/air according to applicable national governmental regulations.

Shipper's Signature: _____**Date:** 3/8/16**Trailer#:** _____**Driver's Signature:** _____**Date:** _____**Trailer#:** _____

Drivers Certification: Carrier acknowledges receipt of packages in good order, condition and quantity unless otherwise stated hereon. Carrier certifies emergency response information and required placards were made available and/or carrier has the D.O.T. emergency response guidebook or equivalent in the vehicle.

Subject to Section 7 of conditions of applicable bill of lading. If this shipment is to be delivered to the consignee without recourse on the consignor, the consignor shall sign the following statement: The carrier shall not make delivery of this shipment without payment of freight and all other lawful charges.

Consignor's Signature: _____**Consignee Signature:** _____**Print Name:** _____**Company Name:** _____**Date:** _____

Permanent post-office address of the Shipper:

* Mark with "X" to designate material as defined in Title 49 CFR

Federal Logistics Inc
950 Eagles Landing Pkwy #280
Stockbridge, GA 30281
(678) 898-5535
richfair1@gmail.com

INVOICE

INVOICE # 1088
DATE 03/11/2016
DUE DATE 03/26/2016
TERMS Net 15

BILL TO
ESTER
DMP CONSTRUCTION
407 RIVER HEIGHTS CIR
ANDERSON, SC 29621

Please detach top portion and return with your payment.

ACTIVITY	QTY	RATE	AMOUNT
Truckload 3/11/016 Laredo TX to Anderson, SC PO # F02468 11 pcs @ 18511 lbs	1	1,950.00	1,950.00
Waiting Time 3/11/016 Laredo TX to Anderson, SC 3 hours	3	50.00	150.00

Late daily fee of 3.5% on outstanding balance for any payments past due
date as reflected on invoice. We appreciate your prompt payment.

BALANCE DUE

\$2,100.00

ELECTRONICALLY FILED - 2018 Dec 19 3:53 PM - ANDERSON - COMMON PLEAS - CASE#2017CP0401382

Date: 03/11/2016		BILL OF LADING		Page 1 of 1				
SHIP FROM Name: JO Alvarez Address: 1 Andy Ramos Rd Tex Mex Ind Pk City/State/Zip: Lerado Tx 78042 SID#: _____ FOB: ☐				Bill of Lading Number: 01152016 BAR CODE SPACE				
SHIP TO Name: DMP Construction Location #: _____ Address: 407 River Height Cir City/State/Zip: Anderson, SC 29621 CID#: _____ FOB: ☐				CARRIER NAME: FEDERAL LOGISTICS/IMPERIAL Trailer number: _____ Seal number(s): _____ SCAC: _____ Pro number: _____				
THIRD PARTY FREIGHT CHARGES BILL TO: Name: Federal Logistics Inc. / Rich Fair 678-898-5535 Address: 950 Eagles Landing Parkway City/State/Zip: Stockbridge, Ga 30281				BAR CODE SPACE				
SPECIAL INSTRUCTIONS: F02468				Freight Charge Terms: (freight charges are prepaid unless marked otherwise) Prepaid _____ Collect _____ 3 rd Party ☒				
				☐ Master Bill of Lading: with attached underlying Bills of Lading (check box)				
CUSTOMER ORDER INFORMATION								
CUSTOMER ORDER NUMBER	# PKGS	WEIGHT	PALLET/SLIP (CIRCLE ONE)		ADDITIONAL SHIPPER INFO			
	11 ☒	21 k	☒	N	bathroom walls			
			Y	N				
			Y	N				
			Y	N				
			Y	N				
			Y	N				
			Y	N				
			Y	N				
GRAND TOTAL								
CARRIER INFORMATION								
HANDLING UNIT		PACKAGE		WEIGHT	H.M. (X)	COMMODITY DESCRIPTION Commodities requiring special or additional care or attention in handling or stowing must be so marked and packaged as to ensure safe transportation with ordinary care. See Section 2(e) of NMFC Item 360	LTL ONLY	
QTY	TYPE	QTY	TYPE				NMFC #	CLASS
						Bathroom Walls		
				GRAND TOTAL				
Where the rate is dependent on value, shippers are required to state specifically in writing the agreed or declared value of the property as follows: *The agreed or declared value of the property is specifically stated by the shipper to be not exceeding _____ per _____						COD Amount: \$ _____ Fee Terms: Collect: ☐ Prepaid: ☒ Customer check acceptable: ☐		
NOTE Liability Limitation for loss or damage in this shipment may be applicable. See 49 U.S.C. § 14706(c)(1)(A) and (B). RECEIVED, subject to individually determined rates or contracts that have been agreed upon in writing between the carrier and shipper, if applicable, otherwise to the rates, classifications and rules that have been established by the carrier and are available to the shipper, on request, and to all applicable state and federal regulations.						The carrier shall not make delivery of this shipment without payment of freight and all other lawful charges.		
SHIPPER SIGNATURE / DATE This is to certify that the above named materials are properly classified, packaged, marked and labeled, and are in proper condition for transportation according to the applicable regulations of the DOT.						SHIPPER SIGNATURE _____		
Trailer Loaded: ☐ By Shipper ☐ By Driver						Freight Counted: ☐ By Shipper ☐ By Driver/pallets said to contain ☐ By Driver/Pieces		
CARRIER SIGNATURE / PICKUP DATE Carrier acknowledges receipt of packages and required placards. Carrier certifies emergency response information was made available and/or carrier has the DOT emergency response guidebook or equivalent documentation in the vehicle. Property described above is received in good order, except as noted.						CARRIER SIGNATURE _____		

Handwritten signature and date:
 3/13/16

Federal Logistics Inc
950 Eagles Landing Pkwy #280
Stockbridge, GA 30281
(678) 898-5535
richfair1@gmail.com

INVOICE

INVOICE # 1091
DATE 03/23/2016
DUE DATE 04/07/2016
TERMS Net 15

BILL TO
ESTER
DMP CONSTRUCTION
407 RIVER HEIGHTS CIR
ANDERSON, SC 29621

Please detach top portion and return with your payment.

ACTIVITY	QTY	RATE	AMOUNT
Truckload 3/21/2016 Laredo TX to Comfort Inn Woodstock VA. F02502	1	2,600.00	2,600.00
Waiting Time 3/21/2016 JO Alvarez 6 hours waiting time bill for 4	4	50.00	200.00

Late daily fee of 3.5% on outstanding balance for any payments past due
date as reflected on invoice. We appreciate your prompt payment.

BALANCE DUE

\$2,800.00

ELECTRONICALLY FILED - 2018 Dec 19 3:53 PM - ANDERSON - COMMON PLEAS - CASE#2017CP0401382

GLOBALTRANZ

CARRIER RATE CONFIRMATION

BOL#: 7518949



Robert 030 INV#1190-3677
DIV: 3/23/16

GENERAL DISPATCH
GTZ DISPATCH: (678) 898-5535
GTZ DISPATCH FAX:
CARRIER PAYMENTS:
INVOICE/POD/RATE CON submit to: TLINVOICES@globaltranz.com
PAYMENT INQUIRY/ACCOUNTS/QUESTIONS: tag@globaltranz.com

PO#: F02502
REF#:
PRO#:
CARRIER QUOTE:

SERVICE:

SERVICE TYPE: Full
TRAILER TYPE: Van
SIZE: 58

ACCESSORIAL(S):**COMMODITY:**

DESCRIPTION: Shower walls ...
WEIGHT: 23000 lbs
PALLETS: 20
PIECES: 20

CARRIER INFORMATION:

CARRIER NAME: EPL Express Inc
LEGAL NAME: EPL EXPRESS INC.
MC#: 658077 (10/27)

DISPATCHER: Eric
PHONE: (662) 252-5171
FAX:
EMAIL: epl@express@yahoo.com

DRIVER: (Required) _____

DRIVER PHONE: (Required) _____

TRAILER NUMBER: _____

Drivers may receive a text message via cell phone with an offer to accept GPS tracking, participation is voluntary and not required.

IMPORTANT LOAD NOTES:**ORIGIN:**

FACILITY: J O Alvarez
STREET: 1 Andy Ramos Rd, Laredo
CITY/STATE/ZIP: Laredo, TX 78043
FAX:

PICKUP DATE: 09-21-2016
HOURS: 08:00 - 16:00
CONTACT: Rogelio

REF #:

PICKUP #: F02502
APPOINTMENT REQUIRED: NO
APPOINTMENT MADE: NO

PICKUP NOTES:**DESTINATION:**

FACILITY: Comfort Inn
STREET: 2011 Motel Dr
CITY/STATE/ZIP: Woodstock, VA 22664
FAX:

DELIVERY DATE: 09-21-2016
HOURS: 09:00 - 16:00
CONTACT: Rich

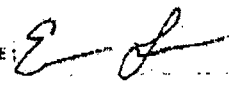
REF #:

DELIVERY#:
APPOINTMENT REQUIRED: No
APPOINTMENT MADE: No

DELIVERY NOTES:

RATE INFORMATION:
BASE RATE: \$2,400.00
TOTAL RATE: \$2,400.00

GTZ SIGNATURE: Rich Fair (678) 898-5535

CARRIER SIGNATURE: 

Driver must call GlobalTranz (GTZ) to be dispatched. The Carrier or Driver must call GTZ prior to entering destination. Time stamped BOL required for extension pay rate is 48 hours of delivery. Carrier must immediately notify GTZ if shipper's instructions do NOT match this Rate Confirmation. Carrier agrees that it will be the sole Carrier for the entire shipment and there will be no brokerage of said load to another Carrier. Carrier agrees to meet in non-payment of the load. Missed pickup and/or delivery date(s)/times will result in rate reduction up to 20% per day. Mechanical failure delay with supporting receipt will not be assessed. Accurate tracking codes must be provided daily. GlobalTranz's terms for payment are (60) days from the date of receipt of invoice. Rate Confirmation and Proof of Delivery. Proof of Delivery must be signed by Consignee. Please email invoice, rate confirmation and proof of delivery to tlinvoices@globaltranz.com for payment. Quick pay and/or fuel advance must be approved prior to loading. POD due within 5 days of delivery. Rate reduction of 1% per day each day thereafter. Carrier may not break any seal. Proper load temperature is the Driver/Carrier's responsibility. Driver must verify at the time of pickup that the BOL of Lading matches the temperature on this rate confirmation. By accepting this load you are guaranteeing that any operating Transport Refrigeration Units (TRUs) are compliant with the California Air Resources Board's (CARB) Title Airborne Toxic Control measure (ATTOM) requirements and regulations for the transportation of freight at any point in the State of California. Carrier agrees to the terms and conditions of the GlobalTranz Broker/Carrier Agreement between GlobalTranz and the Motor Carrier, and such Agreement governs this Carrier Rate Confirmation between the parties even in the event the carrier does not sign this Carrier Rate Confirmation, but provides the transportation as described herein. In the event of any conflict between the Agreement or the Carrier Rate Confirmation, the Agreement shall govern and it is hereby agreed as set forth in this Carrier Rate Confirmation shall apply. The Carrier agrees to and must comply with all Department of Transportation and other governmental regulations when transporting hazardous materials. No secondary bills will be accepted after 30 days from delivery date.

03/24/2016 04:12 PM 0000

03/24/2016 07:23 FAX

GLOBALTRANZ		Straight Bill of Lading - Short Form - Original - Not Negotiable																							
Shipper: Address: J O Alvarez 1 Andy Ramos Rd, Laredo Laredo, TX 78045 USA Country: Mexico Contact Name: Rogelio Phone Number: (856) 723-5521 Fax Number:		BOL NO : 7618949 Carrier: EPL Express Inc Shipment Date: 03/21/18 Carrier Prod: Ref #: Carrier Quota #: PO #: 3702502 																							
Consignee: Address: Comfort Inn 1011 Motel Dr Woodstock, VA 22654 USA Country: USA Contact Name: Rich Phone Number: (540) 459-7800 Fax Number:		Third Party Billing Information: All charges are prepaid to: GlobalTranz PO BOX 71730 Phoenix AZ 85080 Direct Billing Inquiries to: (866) 275-4407 GTZ BOL NO: 7618949																							
EPL EXPRESS INVOICE # 1100-3671 LOAD # 7518949																									
Comments/Special Instructions: Pickup Remarks : Delivery Remarks :																									
<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th>Seals</th> <th>Pieces</th> <th>Weight</th> <th>Description</th> <th>Weight</th> <th>Freight Class</th> <th>Length</th> <th>Width</th> <th>Height</th> <th>MMFC</th> <th>Stackable</th> </tr> </thead> <tbody> <tr> <td>1</td> <td>1</td> <td>2000</td> <td>Boxed van</td> <td>2000</td> <td></td> <td>32</td> <td>60</td> <td>64</td> <td></td> <td></td> </tr> </tbody> </table>	Seals	Pieces	Weight	Description	Weight	Freight Class	Length	Width	Height	MMFC	Stackable	1	1	2000	Boxed van	2000		32	60	64			The authorized signatories signing this document on behalf of its company consents and binds the company to the terms and conditions found on www.carriers.com . Shipper Certification : I hereby certify that the contents of this consignment are fully and accurately described above by proper shipping name and are classified, packaged, marked and labeled and in proper condition for carriage by kindler according to applicable national governmental regulations.		
Seals	Pieces	Weight	Description	Weight	Freight Class	Length	Width	Height	MMFC	Stackable															
1	1	2000	Boxed van	2000		32	60	64																	
Shipper's Signature:  Date: 3/21/18	Trailer: Date:																								
Driver's Signature: Date:																									
Driver's Certification: Carrier acknowledges receipt of packages in good order, condition and quantity unless otherwise stated herein. Carrier certifies emergency response information and required placards were made available and/or carrier has the D.O.T. emergency response guidebook or equivalent in the vehicle. Subject to Section 7 of conditions of applicable bill of lading. If this shipment is to be delivered to the consignee without recourse on the part of the shipper, the shipper shall sign the following statement: The carrier shall not make delivery of this shipment without payment of freight and all other lawful charges.																									
Consignee's Signature:  Print Name: Ken Reynolds Date:																									
Company Name: Permanent post-office address of the Shipper: *Mark with "X" to designate material as defined in Title 49 CFR																									



03/24/2018 04:12 PM

03/24/2018 07:23 PM

Federal Logistics Inc
950 Eagles Landing Pkwy #280
Stockbridge, GA 30281
(678) 898-5535
richfair1@gmail.com

INVOICE

BILL TO
ESTER
DMP CONSTRUCTION
407 RIVER HEIGHTS CIR
ANDERSON, SC 29621

INVOICE # 1099
DATE 04/15/2016
DUE DATE 05/15/2016
TERMS Net 30

Please detach top portion and return with your payment.

ACTIVITY	QTY	RATE	AMOUNT
LTL J O Alvarez Laredo TX to DMP 107 Twenty nine ct. Williamston SC 29697 F02533.	2	308.13	616.26

BALANCE DUE

\$616.26

ELECTRONICALLY FILED - 2018 Dec 19 3:53 PM - ANDERSON - COMMON PLEAS - CASE#2017CP0401382



SHOWER WALLS, S A DE C V

R.F.C.: SWA0912245F9
 AVE. SAN ROQUE No. 200 B-18
 LOS REYES, CP:67277
 JUAREZ, NUEVO LEON, MEXICO

Tels.: 13441504, 88613990, Fax:13441504

Invoice/Factura de Venta dolar

Referencia: F02533
 Folio Fiscal: 6CE96F9E-05FD-469A-A9A1-BD91FCEDB939
 Fecha Exp.: 30/mar/2016
 2016-03-30 T 13:34:44
 Fecha y hora de Certificación:
 2016-03-30T13:32:14

Cliente: 3030 DMP CONSTRUCTION

R.F.C.: XEXX010101000

Dirección: 407 RIVER HEIGHT CIR

Colonia: C.P: 29621

Municipio: ANDERSON

Estado: SC, USA

Teléfono: T.Cambio: 17.40

Consignado A:

C.P:

Crédito: Contado

Forma de Pago: PAGO EN UNA SOLA EXHIBICION

P.O. FFI-REPLACEMENT

Agente:

Via Embarque: CAJA 24 KARISAN

Cantidad	Código	Unidad	Descripción	Valor Unitario	Importe
43.00	0	PIEZA	60" X 82" CONFETTI WALL PANEL SOLID WHITE PANEL 60" X 82" MOD CONFETTI BLANCO	40.00	1,720.00
2.00	0	PIEZA	60" X 96" CONFETTI WALL PANEL SOLID WHITE PANEL 60" X 96" MOD CONFETTI BLANCO	50.00	100.00
2.00	0	PIEZA	36" X 96" CONFETTI WALL PANEL SOLID WHITE PANEL 36" X 96" MOD CONFETTI BLANCO	30.00	60.00
1.00	0	No aplica	A FRAME EMBALAJE	50.00	50.00
					1,930.00

Lugar de Expedición: JUAREZ, N.L.

Observaciones: NW: 2,795.34 KG
 GW: 2,625.34 KG

SubTotal: 1,930.00

IMPORTE CON LETRA:

(One Thousand Nine Hundred Thirty Dollars And No Cents)

I.V.A.:

TOTAL: 1,930.00

No de Serie del Certificado del SAT: 00001000000202639521

Número de Serie del Certificado de Sello Digital: 00001000000401589571



Sello Digital del Emisor:

o01QQMUUSit+qmEk8Ldmndhvx6Eq9S6/r0wyelH2v9u00M+kYTYlg2mdDBkP04PKeTCdWAle/OCbYUngjUFlv0C8nKVPInKs+57/QQh6F0QOMy46WZ0Q3yEv
 h9A44hm8MULM1VeK02HISRXOTrd7/KUcZujYevJkKxHDEX88Ba5B3P2TLV3LirPS+6JhgxZq3ssec3VAQ7wvoUJX+oSkM+1/r4TxBFIahTH8TV7HBXogTG7P+
 WYj1okhwsN1yFqB2qef9QKdnuRDoeLqYkt+ZDcHecC81V5MJdQdqv4B2ZyDw6jKicceUTGec1hk8a48AOH8oeFg==

Sello Digital del SAT:

QK28JfUJ11p482cOmV3cM4JxotubC6vFk80zyPDCa7TF3wgSDbVKeW62prA2rkVYbYg95gcBvGlgNsI0b6DogY9YrID0HMcYfy7Qgd9Ln9sfq17a5nYuQuQF4BXMZ
 cpC6iw25dcVIG2Kx5KF7eCeD1IJOG6pN2S2NictGfC=

Cadena original del complemento de certificación digital del SAT:

||1|.0|6CE96F9E-05FD-469A-A9A1-BD91FCEDB939|2016-03-30T13:32:14|001QQMUUSit+qmEk8Ldmndhvx6Eq9S6/r0wyelH2v9u00M+kYTYlg2mdDBkP04PKeTCc
 WRAle/OCbYUngjUFlv0C8nKVPInKs+57/QQh6F0QOMy46WZ0Q3yEvJkKxHDEX88Ba5B3P2TLV3LirPS+6JhgxZq3ssec3VAQ7wvoUJX+oSkM+1/r4TxBFIahTH8TV7HBXogTG7P+WYj1okhwsN1yFqB2qef9QKdnuRDoeLqYkt+ZDcHecC81V5MJdQdqv4B2ZyDw6jKic
 ceUTGec1hk8a48AOH8oeFg==|00001000000202639521||

Método de Pago: WIRE TRANSFER

Cuenta de Pago: NO IDENTIFICADO

Régimen Fiscal: Exportaciones

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P.O. Box 6827, Dethen, Alabama 36302-3347-2284
 (AACT) Toll Free 800-522-1812
 www.aaacooper.com Local Direct 864-577-1893

**Delivery Receipt**

AACT Freight Bill Number

Page

90921540 -2**1 of 1**

Consignee	GRE	PLT	PCS	HM	DESCRIPTION	WGTLBS	RATE
DMP CONSTRUCTION 107 TWENTY NINE CT WILLIAMSTON SC 29697			2		BACK SPLASH NMFC# 34642 65X96X75IN ATTN: ESTER C/PH# 864 367 0423 OPENING HOUR: 8AM CLOSING HOUR: 4PM ANY PROBLEMS W/DEL PLS CONTACT GLOBALTRANZ @ 866 275 1407 SHIPPER REF# F02533 PO# 90921540	6162	
Received in good order except as noted. Show completed firm name and signature. Invoices not accepted. Carrier must be notified within 5 days on all concealed damage.							
(Received by - Print Name)							
* Ronald							
(Received by - Signature)							
Received Date _____							
STRETCH WRAP INTACT UNLESS OTHERWISE NOTED ABOVE							

Shipper	LRD	2	TTL	*PREPAID	6162	PPD
253200 JO ALVAREZ 1 ANDY RAMOS RD TEX MEX IND PK LAREDO TX 78043						
Inside Delivery _____ Residential Delivery _____ Sort & Seg _____ Paid by: Ship/3P _____ Cons _____ Liftgate _____ Construction Site _____ Charge _____ Cash \$ _____ Check # _____ Inital to Acknowledge Receipt of the Above Services. Additional charges may apply and be the responsibility of the requester, pursuant to Item 135 of AACT 199 Rules T						

Pickup Date	2016-04-11	Beyond Route/At	
PO Number	F02533	Prior Carrier/EB	
BOL Number	7611101	From	AACT To
Appt Contact	RICH W/GLOBALTRANZ		
Appt Date	2016-04-15 After 08:00A Before 05:00P	Phone	864-000-0000
Delivered By Driver	Delivery Trailer:		
(Print Name)		533402	
Date/Time	4.15.16	Pieces	2
Date/Time Printed: 2016-04-15 18:52:29 Pro 90921540 -2			

APPOINTMENT DELIVERY REQUIRED
DEL 4-15-16 BEFORE 5PM DRIVER
CALL 30 MIN PRIOR 8643670423

20160414

Marko Petrovic <dmpsouth@gmail.com>

Mon 12/17/2018, 10:15 AM

You

Fed_Logistics_DMPState...
12 KB

Download Save to OneDrive

----- Forwarded message -----

From: **Rich Fair** <rfair@globaltranz.com>

Date: Mon, Oct 17, 2016 at 12:28 PM

Subject: Fwd: DMP Construction - Current Statement

To: Ester Barakat <ester@dmpsouth.com>, Marko Petrovic <dmpsouth@gmail.com>, <anna@dmpsouth.com>

----- Forwarded message -----

From: **Jessica Mayo** <jmayo@globaltranz.com>

Date: Mon, Oct 17, 2016 at 8:59 AM

Subject: DMP Construction - Current Statement

To: Rich Fair <rfair@globaltranz.com>

Please see attached

Up Dated statement with Interest and discount removed.

--

Rich Fair | Agent / Owner

GLOBAL TRANZ

O: 678-898-5535 | Email: rfair@globaltranz.com

5415 E. High Street, Suite 460

Phoenix, AZ 85054

ELECTRONICALLY FILED - 2018 Dec 19 3:53 PM - ANDERSON - COMMON PLEAS - CASE#2017CP0401382



DMP Construction - Statement*As of 10/17/16*

Invoice #	Due Date	Days Overdue	Amount Due		Payment from DMP	Remaining Balance Due	Late Interest	
			Original Amount Due with Discount	without Discount for Non Payment			S.C. Fees @ 8.75%	Total Now Due
1065	2/13/2016	247	\$2,000.00	\$3,564.40	\$1,000.00	\$2,564.40	\$224.39	\$2,788.79
1071	3/5/2016	226	\$2,100.00	\$6,758.10	\$0.00	\$6,758.10	\$591.33	\$7,349.43
1072	2/18/2016	242	\$295.36	\$395.81	\$0.00	\$395.81	\$34.63	\$430.44
1073	2/18/2016	242	\$346.05	\$866.89	\$0.00	\$866.89	\$75.85	\$942.74
1074	2/18/2016	242	\$2,655.71	\$8,411.66	\$0.00	\$8,411.66	\$736.02	\$9,147.68
1075	2/26/2016	234	\$1,250.00	\$7,954.40	\$0.00	\$7,954.40	\$696.01	\$8,650.41
1076	3/5/2016	226	\$608.70	\$5,785.25	\$0.00	\$5,785.25	\$506.21	\$6,291.46
1086	3/23/2016	208	\$1,649.20	\$3,884.40	\$0.00	\$3,884.40	\$339.89	\$4,224.29
1088	3/26/2016	205	\$2,100.00	\$6,758.10	\$0.00	\$6,758.10	\$591.33	\$7,349.43
1091	4/7/2016	193	\$2,800.00	\$9,156.00	\$0.00	\$9,156.00	\$801.15	\$9,957.15
1099	5/15/2016	155	\$616.26	\$1,842.23	\$0.00	\$1,842.23	\$161.20	\$2,003.43
Totals			\$16,421.28	\$55,377.24	\$1,000.00	\$54,377.24	\$4,758.01	\$59,135.25

ELECTRONICALLY FILED - 2018 Dec 19 3:53 PM - ANDERSON - COMMON PLEAS - CASE#2017CP0401382
18 DEC 05 AM 9:20:15
Anderson, CL, CLERK, CLERK



Google recommends using Chrome
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ester@dmpsouth.com

Gmail

Move to Inbox

More

COMPOSE

Re: Past due Invoice and daily Interest calculated

Inbox

Starred

Important

Sent Mail

Drafts

Categories

[Gmail] Trash

[imap] Drafts

[imap] Sent

[imap] Trash (4,815)

Call log (1)

Junk

Notes

SMS

More



Rich Fair <richfair1@gmail.com>
to Ester, Marko

Hello,

I am some what surprised that I have not heard from anyone regarding this past due amount and daily interest accruing. It has been 2 weeks as of today

Awaiting your reply to this matter.

Rich

On Tue, Jun 14, 2016 at 1:42 PM, Rich Fair <richfair1@gmail.com> wrote:
Good afternoon,

I am following up with you regarding the outstanding invoices DMP still owes Federal Logistics. Some of these are now over 100 days past due. As cor balance of \$16,421.28 has a current daily interest charge of \$246.32. I have attached a statement as of today reflecting each invoice's original balance

Please advise payment status for each of these invoices as soon as possible and/or call me to discuss payment arrangements. I will send a hard copy

Rich



Click here to [Reply](#), [Reply to all](#), or [Forward](#)

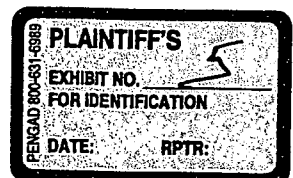
Rich

+

4.14 GB (21%) of 19 GB used
[Manage](#)

[Terms](#) - [Privacy](#)

Jessica Mayo



'18 DEC 6 AM 9:19:44
Anderson, SC CDC, CP/BS



DMP Construction - Statement					
As of 7/13/16					
Invoice #	Due Date	Days Overdue	Original Amount Due	Late Interest Fees @ 1.5% per day	Total Due Now
1065	2/13/2016	171	\$2,000.00	\$5,130.00	\$7,130.00
1071	3/5/2016	150	\$2,100.00	\$4,725.00	\$6,825.00
1072	2/18/2016	166	\$295.36	\$735.45	\$1,030.81
1073	2/18/2016	166	\$346.05	\$861.66	\$1,207.71
1074	2/18/2016	166	\$2,655.71	\$6,612.72	\$9,268.43
1075	2/26/2016	158	\$1,250.00	\$2,962.50	\$4,212.50
1076	3/5/2016	150	\$608.70	\$1,369.58	\$1,978.28
1086	3/23/2016	132	\$1,649.20	\$3,265.42	\$4,914.62
1088	3/26/2016	129	\$2,100.00	\$4,063.50	\$6,163.50
1091	4/7/2016	117	\$2,800.00	\$4,914.00	\$7,714.00
1099	5/15/2016	79	\$616.26	\$730.27	\$1,346.53
Totals			\$16,421.28	\$35,370.09	\$51,791.37

State of South Carolina
County of Anderson

Court of Common Pleas

Federal Logistics, Inc.,)	
)	
Plaintiff,)	Transcript of Record
v.)	2017-CP-04-01382
)	
DMP Construction, LLC,)	
)	
<u>Defendant.</u>)	

December 5, 2018
Anderson, South Carolina

B E F O R E:

The Honorable R. Lawton McIntosh, Judge; and a jury.

A P P E A R A N C E S:

Craig Allen, Esquire
Attorney for the Plaintiff

W. Norman Epps, III, Esquire
Attorney for the Defendant

Lisa Scott
Circuit Court Reporter

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- - -

E X H I B I T S

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EVD.</u>
1	Plaintiff's - credit app		X
2	Plaintiff's - terms & cond.		X
3	Plaintiff's - invoices		X
4	Plaintiff's - stmt. of act.		X
5	Plaintiff's - e-mails		X
1	Defendant's - agreement		X
2	Defendant's - e-mail		X
3	Defendant's - DMP statement		X

- - -

P R O C E E D I N G S

- - -

THE COURT: Good morning, ladies and gentlemen.
Can you hear okay?

PROSPECTIVE JURORS: (Affirmative responses.)

THE COURT: Very good. Ladies and gentlemen,
we're going to start jury selection in the second
trial this week. The case is *Federal Logistics
Incorporated v. DMP Construction, LLC*.

Before we get started, I need to ask you some
questions about the case and make sure that
everybody is okay to sit on the jury, and I remind
you that you're still under oath from Monday
morning.

The first question this morning is: Is anybody
related by blood or marriage to any officer,
employee, agent, member, or shareholder of Federal
Logistics Incorporated or DMP Construction, LLC? If
so, would you please stand.

PROSPECTIVE JURORS: (No responses.)

THE COURT: Has any member of the jury panel
ever had a close personal or social relationship
with any officer, employee, agent, member, or
shareholder of Federal Logistics Incorporated or DMP
Construction, LLC? If so, would you please stand.

1 PROSPECTIVE JURORS: (No responses.)

2 THE COURT: Ladies and gentlemen, the witnesses
3 in this case on behalf of the plaintiff will be
4 Richard Fair. Is Mr. Fair here?

5 MR. FAIR: Yes, sir.

6 THE COURT: Would you please stand, sir, and
7 face the jury panel.

8 MR. FAIR: (Complying.)

9 THE COURT: Thank you, sir.

10 Then on behalf of the defendant is Marko
11 Petrovic. Mr. Petrovic, would you please stand.

12 MR. PETROVIC: (Complying.)

13 THE COURT: Mr. Epps, you also mentioned an
14 Ester Barakat. Is she ---

15 MR. EPPS: She's not here, Your Honor.

16 THE COURT: She's not going to be here?

17 MR. EPPS: No, sir.

18 THE COURT: All right. Very good.

19 Has any member of the jury panel ever been
20 related by blood or marriage or have they ever had a
21 close personal or social relationship with either
22 Mr. Fair or Mr. Petrovic? If so, would you please
23 stand.

24 PROSPECTIVE JUROR: (Standing.)

25 THE COURT: Yes, ma'am. What is your jury

1 number?

2 PROSPECTIVE JUROR: Fifty-seven.

3 THE COURT: Fifty-seven?

4 PROSPECTIVE JUROR: Yes.

5 THE COURT: You're Ms. Hendrickson?

6 PROSPECTIVE JUROR: Yes, sir.

7 THE COURT: And do you know Mr. Petrovic or
8 Mr. Fair?

9 PROSPECTIVE JUROR: Mr. Petrovic. We attend
10 the same church.

11 THE COURT: You attend the same church?

12 PROSPECTIVE JUROR: Yes, sir.

13 THE COURT: And do you socialize with him
14 outside of church?

15 PROSPECTIVE JUROR: No, sir.

16 THE COURT: Would the fact that you attend the
17 same church as Mr. Petrovic cause you to be unable
18 to be unfair or impartial to both sides of this
19 case?

20 PROSPECTIVE JUROR: No, sir, Your Honor.

21 THE COURT: Mr. Allen, any additional voir dire
22 of this potential juror?

23 MR. ALLEN: Do you -- you attend the same
24 Sunday school class or anything like that?

25 PROSPECTIVE JUROR: No.

1 MR. ALLEN: And, of course, other activities at
2 church with Mr. Petrovic?

3 PROSPECTIVE JUROR: No.

4 MR. ALLEN: Okay. Thank you.

5 THE COURT: Mr. Epps, do you have any
6 additional voir dire?

7 MR. EPPS: No, sir, Your Honor.

8 THE COURT: Thank you. Mr. Allen, would you
9 stand up and introduce yourself and your law firm,
10 please, sir?

11 MR. ALLEN: I'm Craig Allen. I'm with the law
12 firm of Craig Allen, P.A., in Greenville, South
13 Carolina. I'm the attorney for the plaintiff,
14 Federal Logist -- Logistics, LLC -- I mean, Inc.
15 I'm sorry.

16 THE COURT: Mr. Epps, would you do the same?

17 MR. EPPS: Yes, sir, Your Honor.

18 Ladies -- ladies and gentlemen, my name is
19 William Norman Epps, III. I'm an attorney with the
20 law firm of Epps, Epps, & Perkins here in Anderson
21 County, and I represent the defendant in this
22 matter, DMP Construction, LLC.

23 THE COURT: All right. Ladies and gentlemen,
24 has any member of the jury panel ever been
25 represented by or are you currently represented by

1 either of these attorneys here in court or any
2 members of their law firms? If so, would you please
3 stand.

4 PROSPECTIVE JUROR: (Response.)

5 THE COURT: Yes, ma'am. What is your jury
6 number?

7 PROSPECTIVE JUROR: Nine.

8 THE COURT: Number 9. You're Ms. Baumgartner?

9 PROSPECTIVE JUROR: Yes. And I had Epps, Epps,
10 & Nelson represented me.

11 THE COURT: I'm sorry?

12 PROSPECTIVE JUROR: I had them represent me in
13 my divorce.

14 THE COURT: Mr. Epps?

15 PROSPECTIVE JUROR: Yes.

16 THE COURT: And how long has that been?

17 PROSPECTIVE JUROR: Ten years.

18 THE COURT: And would the fact that you were
19 formerly represented by Mr. Epps or a member of his
20 firm prevent you being fair and impartial to both
21 sides of this case?

22 PROSPECTIVE JUROR: No, sir.

23 THE COURT: All right. Any additional voir
24 dire, Mr. Allen?

25 MR. ALLEN: None, Your Honor.

1 THE COURT: Mr. Epps?

2 MR. EPPS: No, sir, Your Honor.

3 THE COURT: Thank you, ma'am.

4 All right. Gentlemen, unless you request, I'm
5 assuming that you have no additional questions
6 today. If you do, just let me know.

7 (No responses.)

8 THE COURT: All right. Ladies and gentlemen,
9 this is the case of a matter of contract where the
10 plaintiff alleges that the defendant owes certain
11 monies to it and based on the contract itself.

12 Has any member of the jury panel read, heard,
13 or seen anything about the case of *Federal*
14 *Logistics, Inc. v. DMP Construction, LLC*, prior to
15 today? If so, would you please stand.

16 PROSPECTIVE JURORS: (No responses.)

17 THE COURT: And as a follow-up to that, has any
18 member of the jury panel formed or expressed an
19 opinion about any issue or matter involving the case
20 of *Federal Logistics Incorporated v. DMP*
21 *Construction, LLC*? If so, would you please stand.

22 PROSPECTIVE JURORS: (No responses.)

23 THE COURT: Is any member of the jury panel
24 aware of any bias or prejudice they may harbor
25 against either of these parties, any of the

1 officers, employees, shareholders, or members of
2 their respected corporations in this matter? If so,
3 would you please stand?

4 PROSPECTIVE JURORS: (No responses.)

5 THE COURT: Does any juror know any reason
6 whatsoever why he or she should not be selected to
7 serve in the trial of this matter with particular
8 emphasis being placed upon your ability to be fair
9 and impartial to both the plaintiff and defendant in
10 this matter? If you know of any reason why you
11 should not serve, would you please stand.

12 PROSPECTIVE JURORS: (No responses.)

13 THE COURT: All right. Very good. Mr. Clerk,
14 let's just do 12. Everybody okay with just 12
15 jurors instead of an alternate?

16 MR. ALLEN: I'm fine with that.

17 MR. EPPS: I'm fine with that, Your Honor.

18 THE COURT: All right. Very good. If you will
19 provide us a list. You need about ten minutes to
20 look at it?

21 MR. ALLEN: Yes, Your Honor.

22 MR. EPPS: Yes, sir.

23 THE COURT: All right. Ladies and gentlemen,
24 I'm going to give these attorneys about ten minutes
25 to review the jury list in this matter, then we'll

1 come back and have jury selection. You're welcome
2 to stay in here or you're welcome to go about, but
3 if you'll be back here at about five minutes after
4 10:00, we'll begin the jury selection in this
5 matter. We're in recess for ten minutes.

6 (From 9:53 to 10:08 p.m., brief recess.)

7 THE COURT: The plaintiff ready?

8 MR. ALLEN: The plaintiff's ready, Your Honor.

9 THE COURT: The defense ready?

10 MR. EPPS: The defense is ready, Your Honor.

11 THE COURT: Mr. Clerk.

12 THE CLERK: If it pleases the Court?

13 THE COURT: Yes, sir.

14 THE CLERK: Ladies and gentlemen, I want to
15 again remind you that we're going to use numbers 1
16 through 20, and that is not your number. So if you
17 hear your number called and one of these attorneys
18 strikes your number, they're not talking about you.
19 Okay. We'll go back to your numbers in just a
20 minute.

21 I would ask that the -- that the attorneys
22 please use the left-hand column, numbers 1 through
23 20, and we will start with the plaintiff. Who would
24 you like to strike first?

25 MR. ALLEN: The plaintiff would strike Number

1 9.

2 THE CLERK: Number 9. Defense?

3 MR. EPPS: Strike Number 6.

4 THE CLERK: Six. Plaintiff?

5 MR. ALLEN: Plaintiff strikes Number 11.

6 THE CLERK: Eleven.

7 MR. EPPS: Defense strikes Number 14.

8 THE CLERK: Plaintiff?

9 MR. ALLEN: Plaintiff would strike Number 3.

10 THE CLERK: Defense?

11 MR. EPPS: Defense strikes Number 17.

12 THE CLERK: And plaintiff?

13 MR. ALLEN: Plaintiff would strike Number 7.

14 MR. EPPS: Defense strikes Number 20.

15 THE COURT: What number was that?

16 THE CLERK: Twenty. All right. I'll review.

17 I have that the plaintiff struck Number 3, 7, 9, and
18 11.

19 MR. ALLEN: That's correct.

20 THE CLERK: All right. And I have defense
21 struck 6, 14, 17, and 20.

22 MR. EPPS: That's correct.

23 THE CLERK: All right. Now, we'll go back to
24 the numbers that you do have. And if I call your
25 number and name, if you would come through the gate

1 and come to the bailiff, we'll put you in the jury
2 box. Please bring everything with you that you got
3 with you this morning.

4 Our first juror is Number 58, Jack Hensley, Jr.
5 Next is Number 64, Audrey S. Holden. Next is Number
6 7, Charles M. Bailes. Next is Number 102, Stephanie
7 N. Queen. Next is Number 56, Deborah D. Haynie.
8 Next is Number 18, Alison T. Brock. Next is Number
9 106, Elaine K. Richter. Next is Number 16, Benjamin
10 A. Branyon. Next is Number 100, Ashley D. Peebles.
11 Next is Number 36, Sarah G. Daley. Next is Number
12 67, Dianne D. Humphrey. And the last juror is
13 Number 119, Bernadette Y. Smith.

14 THE COURT: Mr. Bailiff, you will do the same
15 thing for that juror we did earlier this week,
16 please, sir?

17 THE BAILIFF: Yes, sir.

18 THE COURT: All right. Ladies and gentlemen,
19 those of you who have been selected, this is not
20 going to be a long trial. I anticipate it will be
21 done today, so -- just so you can make plans.

22 Now, if you would though, I'm going to ask you
23 to go with the bailiff and go back and pick someone
24 to be your foreperson. The foreperson is someone
25 who will preside over your deliberations at the end

1 of case when you begin your deliberations. And,
2 also, they're someone who will communicate with the
3 Court if there's a need for communication.

4 Once that person is selected, if you would
5 write your name down on a piece of paper the bailiff
6 will give to you. Take a tally of your fellow
7 jurors and determine if anyone wants a pad or pen to
8 use to take notes during the course of this trial.
9 If you'll just simply write that number down, if
10 there's anyone who would like have pad and pen.
11 Give it back to the bailiff, and then we'll continue
12 the trial in just a few minutes.

13 I do have, for your information, a quick
14 hearing I have to do at 10:30, which should take
15 about 10 or 15 minutes and then we'll begin just to
16 let you know. But if you'll go with the bailiff
17 now, please.

18 (At 10:13 a.m., jury left the courtroom.)

19 THE COURT: All right. Ladies and gentlemen, I
20 guess some of you skated through and didn't have to
21 go serve, but I want to thank each and every one of
22 you for your willingness to be here and your
23 willingness to serve. This is the last trial we'll
24 be doing this week.

25 I don't know, Mr. Clerk, how many resolved was,

1 what, 20 or 30 just for the threat of you being out
2 there.

3 Lawyers have a tendency to wait until the last
4 minute. And then when you start to come to the
5 gate, they start settling the case, don't they guys,
6 except for y'all.

7 All of that being said, thank you. You're
8 excused for the week. And you don't have -- you
9 can't be called back here for three years, so thank
10 you very much.

11 (At 10:14 a.m., unselected jurors were
12 excused.)

13 THE COURT: Is there any objection or can y'all
14 stipulate to the exhibits that are being proposed?

15 MR. ALLEN: Yes, sir.

16 MR. EPPS: No objections, Your Honor.

17 THE COURT: All right. Why don't you go ahead
18 and place those on the record, your exhibit numbers.

19 MR. ALLEN: Oh, okay. All right. I'll do
20 that.

21 Plaintiff's Exhibit 1 will be the credit
22 application; Plaintiff's Exhibit 2 will be the terms
23 and conditions; Plaintiff's Exhibit 3 will be the
24 invoices; Plaintiff's Exhibit 4 will be the
25 statement of account; and Plaintiff's Exhibit 5 will

1 be some e-mails, a couple of e-mails.

2 THE COURT: And, Mr. Epps, those are admitted
3 without objection; is that correct?

4 MR. EPPS: Yes, sir, Your Honor.

5 (Plaintiff's Exhibit Nos. 1 through 5 were
6 received into evidence.)

7 THE COURT: Do you have any exhibits that you
8 would like to have marked?

9 MR. EPPS: No, sir, Your Honor.

10 THE COURT: And you're just going to give me
11 your affidavit of fees after the fact depending on
12 what the jury does?

13 MR. ALLEN: Yes, Your Honor.

14 THE COURT: All right. Let me make sure I
15 understand, especially now that we're out of the
16 presence of the jury.

17 The defendant does not dispute that monies are
18 owed. It's just the amount of monies; is that
19 correct?

20 MR. EPPS: That's correct, Your Honor.

21 THE COURT: So when I prepare my charge to the
22 jury, I don't need to go over -- I can stipulate
23 there is a binding contract between the parties, and
24 the only issue is the amount due under the contract
25 for services provided. And then I'll charge them on

1 what the elements of damages are on the contract.

2 Y'all disagree with that?

3 MR. ALLEN: I don't disagree.

4 MR. EPPS: I don't disagree.

5 THE COURT: Okay. And besides that, the
6 verdict form will just be for the plaintiff in the
7 amount of "X" dollars, not an option for finding for
8 the defendant.

9 MR. ALLEN: That's right.

10 MR. EPPS: That's right, Your Honor.

11 THE COURT: Okay. Yes, sir.

12 MR. ALLEN: One other thing that I wanted to
13 publish to the jury at the conclusion of Mr. Rich's
14 testimony, the admissions that were given in
15 response to our request for admission.

16 THE COURT: Well, if they're admitted, you have
17 a right to publish them.

18 MR. EPPS: Yeah, that's fine.

19 THE COURT: That's fine. Not a problem.

20 MR. ALLEN: Just wanted to let ---

21 THE COURT: Okay. Very good. I have a quick
22 hearing at 10:30. Let's just kind of hang loose.
23 It should not take long. We have somebody who's
24 kind of got a problem, so we're going to have to
25 deal with a telephone call and we've got part here

1 and part there.

2 (From 10:21 to 10:38 a.m., brief recess.)

3 THE COURT: All right. I was going to tell the
4 jury in opening that the parties stipulate and agree
5 that there's an existing binding contract between
6 the parties, that the only issue for them to
7 determine in the trial of this matter is the amount
8 due to the plaintiff under the contract. Does
9 everybody agree with that or not?

10 MR. ALLEN: I think so.

11 MR. EPPS: Yes, Your Honor.

12 THE COURT: Bring them in, please.

13 THE BAILIFF: (Complying.)

14 (At 10:40 a.m., jury entered the courtroom.)

15 THE COURT: You're our forelady?

16 THE FORELADY: Yes.

17 THE COURT: If you will use that seat each time
18 you come in and out of the courtroom. It helps me
19 keep up with administrative matters.

20 The rest of you can sit wherever you would like
21 to. For the juror here, I'm going to let you use
22 that seat to go out.

23 THE CLERK: If it pleases the Court?

24 THE COURT: Yes, sir.

25 THE CLERK: Ladies and gentlemen, I need to put

1 you under oath, so if I could ask you to stand and
2 raise your right hands, please.

3 THE JURORS: (Complying.)

4 THE COURT: Do you and each of you solemnly
5 swear or affirm that you shall well and truly try
6 the issues joined in the case of *Federal Logistics*
7 *Incorporated v. DMP Construction, LLC*, and a true
8 verdict render according to the law and evidence.
9 If you will, say "I do."

10 THE JURORS: (Collectively:) "I do."

11 THE CLERK: Have a seat.

12 THE JURORS: (Complying.)

13 THE CLERK: I have got 12 pads and pens here,
14 so I'm going to pass those out.

15 THE COURT: All right. Does everybody have a
16 pad and pen?

17 THE JURORS: (Affirmative responses.)

18 THE COURT: Ladies and gentlemen, as I said
19 earlier, this is a case of a contract between the
20 plaintiff and defendant. The plaintiff asserts in
21 this case that monies were owed under the contract.

22 I'll tell you now, after speaking with the
23 attorneys, the parties stipulate that there was a
24 binding existing contract between the parties. So
25 you may not, madam forelady, debate that issue in

1 this case when you begin your deliberations. You
2 must accept the fact that there was a contract
3 between the parties. The only issue that you're
4 being called upon to determine today is any amount
5 due under that contract to the plaintiff. That's
6 the only issue you'll be called upon to determine.

7 Now, ladies and gentlemen, I don't know if any
8 of you have ever been involved in a trial previously
9 other than this week; however, I suspect that
10 everyone of you has watched on TV something that
11 purports to be a trial, whether it be civil as this
12 case or criminal in other courts.

13 Let me dispel any notions you may have about
14 trials. They're nothing like they are in the
15 movies. They're nothing like TV. They're very
16 slow. They're very deliberate and they're very
17 methodical, but they're a fundamental part of our
18 democracy that every citizen is entitled to,
19 including corporations. Corporations are treated
20 just like citizens or individuals. So the fact that
21 these are corporations or LLCs in this matter should
22 not matter to you whatsoever. They are treated just
23 like they're individuals in this case.

24 Now, the attorneys in this matter, like all
25 attorneys, when they're sworn in, they take an

1 ethical oath to zealously represent their client's
2 interest in the case. And you can expect no less in
3 this case. It's going to be short, but it doesn't
4 mean it's not important to both parties and to these
5 attorneys. You can expect because of these
6 attorneys' professionalism and their oath, that they
7 will be professional and be competent and they will
8 be ethical in this matter because they are officers
9 of the court.

10 Now, you just took an oath that you will
11 attempt to bring a fair and just verdict in this
12 matter. What that means is, the parties and the
13 attorneys and this Court has the right to expect
14 you -- that you will be fair, that you will be
15 impartial, and that you will be ethical in your
16 dealings in this matter.

17 Now, what I tell you now is not the law that
18 you apply in this case. I'll give that to you at
19 the end of this matter and then to begin your
20 deliberations. Right now, I'm just giving you a
21 basic road map so you can understand where you are
22 throughout these proceeding so that you will
23 understand what is going on.

24 Now, those of you who take notes, be careful.
25 Don't become so engrossed in taking notes that you

1 miss somebody's reaction on the witness stand,
2 because at the end of the case you will be called
3 upon to find facts. You are called the sole judges
4 of what the facts are, and that's another way of
5 saying what your verdict is going to be. But in
6 making that determination, you will need to look at
7 the witnesses and look at their credibility and
8 determine whether or not there's any testimony that
9 is elicited in either through direct or
10 cross-examination which you wish to believe, and if
11 there's any you wish not to believe.

12 And if somebody makes a subtle reaction while
13 they're on the stand, if you're so engrossed in
14 taking notes, you may miss that, and that may an
15 indicator as to whether or not you should or should
16 not believe their testimony. I just give you that
17 as a quick note.

18 Also, madam forelady, the fact that a note --
19 somebody may have something written down in their
20 notes, doesn't mean it trumps somebody's memory of
21 that same issue. That's why they're called
22 deliberations. You'll just have to hire -- may have
23 to hash that out between the two of you. That's for
24 the 12 of you. Excuse me.

25 As I told you, you are to determine the facts

1 in this case. And you're to determine what those
2 facts are from the testimony that is brought forth
3 from this witness stand. The only real testimony
4 that you may consider -- or the evidence that you
5 may consider as evidence is the responses of the
6 witnesses to questions being asked them on direct or
7 cross-examination and any exhibits that I allow into
8 evidence in this case.

9 Therefore, you may not consider other things as
10 evidence. For example, in just a minute, both
11 attorneys will get up and give you opening
12 statements. What they tell you is not evidence.
13 It's their contentions about their case and what
14 they intend to show you throughout this trial, but
15 it's not evidence. Their questions to the witnesses
is not evidence. Only the true evidence that you
may consider as such is the responses by the
witnesses and the exhibits that have been allowed
into evidence. And from that, you will determine
what the facts are in this case. You will be the
sole judges of what those facts are. In other
words, what the verdict is going to be.

No one has the right to evade your province as
being the fact finders. I cannot. These attorneys
cannot. No one involved in the system can. You and

you alone will determine what the facts are. And those will be determined from what I just told you.

Now, ladies and gentlemen, the law makes you the sole judges of the facts, makes you the sole judge of the law. You must accept the law as I give it to you. You may not think it should be something other than what it is. I'll tell you that if I'm incorrect, there's a Court of Appeals and a Supreme Court who will correct me if I make a mistake, but you must accept it as I give it to you. And when you took your oath, you promised that you would do just that or you affirmed that you would do just that.

Now, ladies and gentlemen, until you're advised to begin your deliberations, do not speak with anybody about this case, that includes amongst yourselves. You cannot speak with each other about events that may have occurred during these proceedings until you have begun your deliberations and I tell you you can do so. That includes e-mailing friends, e-mailing one another, or having any other type communications.

Also, you may not look up anything about any participant in this case -- myself, the attorneys, the parties. You may not look up any issue that you

hear about in this case or any issue that you think will be helpful. It will be the parties -- their attorneys' responsibility to prove their case to you, and you may not engage in what you call independent jury research. The -- the attorneys will have a chance to cross-examine you about your research. So if you limit your determination based solely on what's presented here in the courtroom, you'll do your duty.

Now, ladies and gentlemen, every case that comes before the Court, whether it be civil or criminal, there are five phases. First, there's opening statements by the attorneys; then there's the presentation of the evidence; then there's closing statements by the attorneys; I will then charge you on the law; and then you will begin your deliberations. I tell you that so that you know where you are during the course of these proceedings.

In any case, there are typically objections. Lawyers have an ethical obligation to object any time they feel like the process is not being followed. If there are objections in this case and I let you stay in the courtroom when I rule on those objections, you may not consider the fact that there

was an objection nor my rulings on those objections in your deliberations.

Madam forelady, it will be your responsibility to make sure that no juror attempts to insert any ruling on my -- on objections or objections in your deliberations.

Now, in this case, the plaintiff is sitting closest to the jury. The reason for that is, the plaintiff has the burden of proof. The plaintiff has to prove its claim that it's owed monies from the defendant in this matter.

Now, in civil cases and in this case, the burden of proof is what we call a preponderance or the greater weight of the evidence. In criminal cases, it's proof beyond a reasonable doubt and it's a much higher burden of proof. In civil cases, if you imagine right now that we have a scale of justice and they're equal, at the end of this case when you consider the plaintiff's claim, if the scales tip ever so slightly in favor of the plaintiff, then the plaintiff would have met its burden of proof and you will find for the plaintiff.

On the other hand, if they remain equal or tip ever so slightly for the defendant, then the plaintiff would have failed in meeting his burden of

proof in this matter.

That being said, the plaintiff ready to proceed with opening statements?

MR. ALLEN: The plaintiff's ready, Your Honor.

THE COURT: Is defense ready?

MR. EPPS: Yes, sir, Your Honor.

THE COURT: Any additions or exceptions to my initial statements to the jury?

MR. ALLEN: No, Your Honor.

MR. EPPS: No, sir, Your Honor.

THE COURT: All right. Mr. Allen.

MR. ALLEN: Thank you, Your Honor. May it please the Court?

THE COURT: Yes, sir.

MR. ALLEN: Ladies and gentlemen, I'm Craig Allen. I'm the attorney for the plaintiff, Federal Logistics, Inc.

Let me tell you a little bit about what my client does. They are a freight or transportation brokerage company. They provide -- they help people find a way to ship their products or ship products back and forth, either to some place or from some place.

My client was referred to the defendant, DMP Construction, LLC. And DMP, in fact, engaged my

client, contracted with them to provide some freight brokerage services for them to help them find people who will ship some product back and forth for them.

At the beginning of the relationship, the defendant entered into a credit application. Signed a credit application agreeing to certain terms and conditions that would apply to their relationship.

They agreed in that credit application that they would pay the invoices timely. They agreed that they'd pay the interest on the outstanding balance at the rate of one and a half percent a month, yet they did not pay the invoices timely. They further agreed in that -- in that contract that if they did not pay the invoices timely, then they would not get the discounted price that my client had negotiated.

So the defendant -- after entering into this agreement, the defendant did contact us from time to time and asked us to provide certain services and get freight shipped for them. They made these requests of us. We found the services, the trucking services that would make the shipment for them, and we provided that service.

The shipments were, in fact, made. The defendant received the invoices for these shipments,

but they've not paid all of the invoices. They made one small payment on this outstanding account of \$1,000, but that was it. The remaining balance of these invoices is unpaid. The balance is -- the balance remaining on this in -- these invoices is \$54,377.24, plus interest as allowed under the agreement.

As you can see, this -- this isn't a real sensational case. It doesn't have any sex appeal or anything like that. Probably won't be very exciting, but it is a case that's important to my client. We will show you that we provided the services as requested for the defendant. We billed him for the services, and they have not paid. It's been more than two years since the services were provided, and we have not been paid.

At the conclusion of all the evidence, we'll ask you to return a verdict in our favor for the amount outstanding on this account with the interest as agreed in the -- in the contract. That's pretty much it. Thank you.

THE COURT: Mr. Epps.

MR. EPPS: Yes, sir, Your Honor. May it please the Court?

THE COURT: Yes, sir.

MR. EPPS: Opposing counsel?

MR. ALLEN: Yes, sir.

MR. EPPS: Ladies and gentlemen of the jury, thank you for your service here today. Again, my name is Norman Epps. I represent the defendant in this action, DMP Construction, LLC.

And as the plaintiff's attorney told you, Mr. Allen said there is a -- an agreement. DMP Construction entered into a contract, a credit application and a broker -- and a freight brokerage agreement for Federal Logistics to provide services -- freight services to DMP Construction.

At the rate pursuant to that terms and agreement you'll hear, at a rate of any -- well, the rates are not set forth in that terms and agreement. Discounts as opposing -- as plaintiff's attorney told you, discounts are not explained in those terms and agreement.

Also, any unpaid -- he's correct. Any unpaid balances is charged at a rate of 1.5 interest per month. You will hear through the testimony and the evidence presented to you therein lies the problem. These -- we're dealing with 11 invoices. Eleven invoices from Federal Logistics to DMP Construction, LLC, from on or about February 2018 to May -- to

February of 2016 to May 2016. So there are 11 invoices at issue.

You will see discounted rates and other rates. You will see various interest rates, and therein lies the problem. Upon receiving of these invoices, there were e-mails back and forth between Federal Logistics and DMP Construction, LLC. Approximately, probably 729 e-mails and calls back and forth throughout the term of their relationship.

There was an issue. There is a discrepancy. There was a discrepancy as to the -- what is the amount owed? What is the proper amount owed?

And then that today, ladies and gentlemen, is your job, and it is an important job. It's an important job for, again, the plaintiff. It's an important job for the defendant in this matter. And sometimes -- and jury service is a fundamental duty. And if certain disputes sometimes cannot get settled, it rises to you fine ladies and gentlemen to make a decision in this matter to be the finders of fact. And -- and that's where we're at.

So, again, I -- I hope and I don't expect this to be a long trial. I believe we had two witnesses total. My client is here. My client will testify. Mr. Marko Petrovic, he will testify. You'll hear

from him, and then you'll make your decision. We -- we would hope -- we'd expect that after you hear the testimony, you look at the evidence, we're asking for -- we don't dispute -- and, again, we don't -- the defendant does not dispute that monies are owed to Federal Logistics. It is the amount that is owed to Federal Logistics. That is the dispute. That is the -- that is -- that is the dispute in this matter that you fine ladies and gentlemen need to resolve in this case.

Again, thank you for your service. Again, I'm hoping we'll try to be very quick, as quick as possible in this matter, and I look forward to -- I will -- I'll be able to speak again with you soon during closing arguments. Thank you.

THE COURT: Mr. Allen, call your first witness, please, sir.

MR. ALLEN: May it please the Court?

THE COURT: Yes, sir.

MR. ALLEN: The plaintiff would call Richard Fair.

THE WITNESS: (Approaching.)

THE CLERK: And if you would, please raise your right hand so I can swear you in.

THE WITNESS: (Complying.)

THE CLERK: Do you solemnly swear or affirm the testimony you shall give to be the truth, the whole truth, and nothing but the truth?

THE WITNESS: I do.

THE CLERK: If you would, please state your name for the court reporter.

THE WITNESS: Richard Fair.

RICHARD FAIR,
having been produced and first duly sworn as a witness on behalf of the Plaintiff, then testified as follows:

DIRECT EXAMINATION

BY MR. ALLEN:

Q. Rich, I can call you Rich in court?

A. Yes, sir.

Q. Thank you. Rich, what's your position with Federal Logistics?

A. Owner and president of Federal Logistics.

Q. Okay. How long has Federal Logistics been in business?

A. Twenty-five years.

Q. And explain a little bit about what Federal Logistics does for its clients.

A. We're a brokerage service between a customer -- customers and also trucking, whether it be LTL, full

truck load. Help them buy down rates. If there is a problem with a shipment, we're the ones that make the phone call and take care of all the issues that may go along with that if that is the problem.

Q. Okay. You mentioned LTL. What does that mean?

A. Less than truckload. I'm sorry.

Q. All right. And what benefit do you provide to your clients as opposed to them just doing this -- this work on their own or getting their own freight services?

A. Outside of going directly to a carrier or a truck, we -- we basically buy down rates just through sheer volume and also relationships with carriers. And also with -- with that, we have software that we pay for, a monthly fee to find trucks in certain areas of the country.

There is verbiage known as a "backhaul," which would be a much better rate than actually a "headhaul." The headhaul rate is usually about five to six times more than a backhaul rate. The backhaul rate is somebody is trying to get back to a particular location. And that's the language you would like to find.

Q. Okay. All right. And what -- what do you do for Federal Logistics? Are you -- you're the

president and the owner. Do you do pretty much all the work?

A. Yeah, I'm the guy. I'm the sole man. I work for myself. I'm a small business. I make phone calls with the carriers, with the trucks. I speak to the truck. Set the rates with the truck. Talk to the customers, let them know what the rate's going to be. Get the information back. Go ahead and set the shipment up and make sure it's delivered along the way.

Q. Okay. All right. Now -- and did you provide these freight brokerage or transportation brokerage services to DMP construction?

A. I did.

Q. All right. Tell me a little bit about how you began business with them?

A. It was a referral through a mutual friend and which a lot of my business is through referral. Met with those guys a couple of times. Told them I could actually help them out and possibly save money. They were already familiar with the brokers. They've used other brokers, so they put me in the mix and I was able to win some of their business along the way.

MR. ALLEN: Okay. All right. May I approach?

THE COURT: Yes, sir.

BY MR. ALLEN:

Q. Mr. Fair, I have shown you a document that's marked Plaintiff's Exhibit 1. Can you tell me what that is?

A. That's our credit application.

Q. Okay. And this is the credit application for DMP Construction?

A. Yes, sir.

Q. All right. And the credit application appears to be signed by Mr. Petrovic; is that correct?

A. That is correct.

Q. Hope I'm pronouncing that correctly. And I believe the credit application appears to be dated November 16th of 2015?

A. That is correct.

Q. Okay. Now, the credit application down there. Can you read the capitalized -- I think it's the last sentence there on the credit application.

A. As far as "click to access terms and conditions"?

Q. Well, no, not that last sentence. The one before that.

A. "Authorized signatures sign this application on behalf of this company, contingents, and bind its

company to the terms found on

www.carrierrate.com ---

Q. Okay.

A. --- to access the terms and conditions."

Q. All right. So it's there. "Authorized signature has signed this application on behalf of its company, contingents, and binds its company to the terms, and found on www.carrierrate.com," correct?

A. Uh-huh.

THE REPORTER: Make sure you say "yes" or "no."

THE WITNESS: Oh, yes.

BY MR. ALLEN:

Q. Let me show you now what is marked Plaintiff's Exhibit 2, and I'll just ask you. Are these the terms and conditions that the credit application is referring to?

A. This is the one I provided to them. Yes.

Q. All right. Do these provide the terms and conditions for your contract relationship with the defendant?

A. They do.

Q. All right. And this is what the defendant agreed to when he signed the credit application?

A. It is.

MR. ALLEN: All right. At this time we'd move both Exhibits 1 and Exhibits 2 into evidence.

THE COURT: Those have been admitted previously by stipulation?

MR. EPPS: That's right. Yes, sir.

MR. ALLEN: Thank you, Your Honor.

BY MR. ALLEN:

Q. All right. Again, looking at Exhibit 2, looking down at paragraph 5. Does it say there in paragraph 5 past due invoices are subject to a service charge or interest at the rate of one-and-a-half percent a month?

A. It does.

Q. Okay. And let's look at another place on this -- on this exhibit. Let's look at paragraph 7 particularly. In the middle of paragraph 7 at the -- it starts with, "Global Trans/Federal Logistics reserves the right to amend or adjust charges and reenforce customer in the following events." And then it lists several events.

And Number 3 or Number 4, I'm sorry, it says, "If overdue invoices exceed 30 days with nonpayment from customer, rates may reflect original cost with no discount;" is that correct?

A. That is correct.

Q. All right. The following sentence says, "Any dispute by customer of any invoice issued by Global Trans/Federal Logistics shall be made in writing, specifically indicating the nature of the dispute and made within 30 days from the date of the invoice;" is that correct?

A. That is correct.

Q. It says, "In the event Global Trans/Federal Logistics do not receive timely written notice of the dispute, the charges will be conclusively presumed to be valid;" is that correct?

A. That's correct.

Q. All right. Explain -- explain to me how DNP Construction would -- you're asking for services in the particular cases?

A. It's either via phone or e-mail or text, saying that they've got a need for, you know, a shipment, whether it be from Texas to Atlanta.

For example, give me the address, pieces, weight, and possibly even the type of truck they need, whether it may be a flatbed or van, or if it needs to be covered, or if not in a van, maybe a tarped flatbed.

Q. Okay. And what would y'all do with that?

A. We would go out and source that either through

our relationships via phone and just contacting or we jump online and find out what carriers are actually in the area and looking to come back towards Atlanta. Again, like I referred to earlier, was a backhaul to try to get the better rate.

Q. All right. How long did you provide these services for DMP?

A. Approximately, a year and a half.

Q. Okay. Did you stop some time in the middle of 2016?

A. Yeah, after nonpayment.

Q. Okay. And did -- did you start prior to the credit application which is dated November of 2015?

A. No, sir.

Q. Okay. So it would've been that period of time?

A. (Nonverbal response.)

Q. Okay. All right. How many loads did you -- did you broker for them?

A. I believe it was 11.

Q. All right. Are these the only shipments -- the one we're talking about today, are these the only ones you did for them?

A. No. We did do previous business with them also, and they paid those.

Q. Okay. All right. Well, explain to me your

pricing for the brokerage service that you provide?

A. Again, it goes back to what trucks are available in the area. If they're sitting there waiting to move in the direction that we're looking to go, it's a better rate. If it's not, then we have to pay for a truck maybe moving to that location. Relocating is what it would be considered.

Fuel is also added into it. If it's a team or a single driver, time constraints. So there's several variables that go into the type of truck.

Q. All right. And if -- if the defendant or anyone in the defendant's position were to contact the trucking company directly trying to get these services on their own, would they get the same rates that you're able to provide?

A. No. They would not.

Q. All right. So are the rates you provided a discounted rate for them?

A. Yes.

Q. Okay. And was all of this explained to DMP Construction?

A. It was.

Q. Did you explain this to Mr. Petrovic or someone else on his staff?

A. I did.

Q. Okay. And were they also made aware, in addition to the -- to the terms and conditions of this contract, were they also made aware that if they did not pay on a timely basis that they would not be able to pay just the discounted amount?

A. Right.

Q. They would have to pay the full -- the full price?

A. That is correct. We are not a bank.

Q. All right. Now, when you found a load for DMP for a particular request that they had, did you advise them of the price at which the rate could be shipped -- the shipment could be made?

A. We did. And we were also competing against other brokers also, as well.

Q. All right. Okay. Mr. Fair, I've showed you a document marked exhibit -- Plaintiff's Exhibit 3. Can you explain what those are?

A. Invoices for DMP.

Q. Okay. Now, let me also go ahead and provide this to you, as well. Also, showing you Exhibit 4. Can you tell me what Exhibit 4 is?

A. It's a statement, a DMP Construction statement as of 10/17/2016.

Q. Okay. Now, the invoices that are -- that I provided to you, Exhibit 3, are those the invoices that are shown on Exhibit 4?

A. They are.

Q. Okay. Now, let's talk about each of these -- each of these individual invoices. Which -- the first invoice is what?

A. What type of -- what type of load or what?

Q. Invoice No. 1065; is that correct?

A. That is an invoice, yeah, 1065.

Q. Okay. And what is the amount of that invoice?

A. \$2,614.64.

Q. Okay. And looking at the statement of account, Exhibit 4. I see the invoice -- the balance remaining on your statement account shows \$2,564.40. What's the difference?

A. A thousand dollars.

Q. I mean, there's a -- there's a \$100 difference in those two amounts; is that correct?

A. Oh, between the two, yes. Yes, sir.

Q. All right. What was that \$100 charge?

A. For the tarp.

Q. For the tarp. Okay.

A. Yes, sir.

Q. Now, that is not showing on the charges that

are on your statement of account; is that right?

A. That is correct.

Q. So are you asking the jury just to award you what's on the statement of account?

A. That would be fine. Yes.

Q. All right. Now, is the amount shown on that invoice the amount without any discount; is that correct?

A. That is correct.

Q. All right. And let me look -- let's look at the next invoice. This is Invoice No. 1071. And what is the amount of that invoice?

A. \$7,008.00.

Q. Okay. And what is the balance on your statement of account for Invoice 1071?

A. \$6,750.10.

Q. Okay. And the difference is some extra charges; is that correct?

A. That is correct.

Q. That have been added to the invoice?

A. That is correct.

Q. All right. And let's look at Invoice No. 1072. And what is the balance on Invoice 1072?

A. Remaining balance is \$395.81.

Q. Okay. Is that the amount that you're asking

for on the statement of account?

A. Yes.

Q. All right. Let's look at Invoice 1073. And what's the amount due on Invoice 1073?

A. 8,000 -- excuse me. \$866.89.

Q. Okay. And that is the amount you're asking for on that invoice?

A. I am. Yes.

Q. All right. Let's look at Invoice No. 1074. What's the amount on that invoice?

A. 8,411.66.

Q. All right. And that is the amount you're asking for on your statement of account; is that correct?

A. That is correct.

Q. All right. Let's look at Invoice 1075.

A. \$7,954.40.

Q. And is that the amount you're asking for on your statement of account?

A. I am.

Q. All right. Let's look at Invoice 1076.

A. \$5,785.25.

Q. And that's what's on your statement of account; is that correct?

A. That is correct.

Q. Let's look at Invoice 1086.

A. 3,884.40.

Q. All right. And that's the amount on your statement of account; is that correct?

A. That is correct.

Q. Let's look at Invoice 1088.

A. \$6,758.10.

Q. And that is the amount on your statement of account; is that right?

A. That is correct.

Q. Invoice 1091?

A. 9,156.

Q. All right. And that's the amount on your statement of account; is that correct?

A. That is correct.

Q. And Invoice 1099.

A. It is \$1,842.23.

Q. All right. That's the amount on your statement of account?

A. It is.

Q. Is that right?

A. Uh-huh.

Q. Total amount -- total remaining balance on your statement of account is what?

A. \$54,377.24.

Q. Okay. Now, I believe this statement of account reflects that a partial payment was made of \$1,000; is that right?

A. That is correct.

Q. All right. Do you recall when that payment was made?

A. I don't recall. I actually went up there to talk about the unpaid balance. And they said that they would give me a check of good faith showing they would pay this off, and that's what they gave me.

Q. Okay. All right. Looking at your statement of account, Exhibit 4, you have a column there that says "original amount due with discount;" is that correct?

A. Correct.

Q. All right. Now, those amounts are smaller than the amounts that are showing on your invoices that you're asking for; is that correct?

A. That is correct.

Q. All right. So explain the discount and the other amount.

A. Again, it's part of the negotiation with the carriers. When somebody asks for a quote or something, it could be 7, 14, or even a month out.

And when they do that, you don't know what truck is going to be in that area at that time. So when you provide a number, it may just be an arbitrary number of what roughly has been going on for the past 30, 60, 90 days. So there is a history of what goes on in the carrier world, whether it be LTL or truck -- or truckload.

Q. Okay. Now, if the defendants would've paid on a timely basis, then would they pay the amount due with the discount?

A. Oh, absolutely.

Q. Okay. Did they pay on a timely basis?

A. Did not.

Q. All right. And what -- what has that caused? What affect has that had on you and your company?

A. Well, part of the reason why we do get favorable rates is because I do pay very quickly in the company, either within a couple of weeks or if not quicker. By doing that, it keeps our rates down low.

Whenever I did not receive payment, it caused me not to be able to pay the carriers as quick and it also bump -- it becomes a nationwide deal where they know that you didn't pay the payment on time and so my rates went above over 10 to 15 percent for

future business. When I work with people, I mean, it's -- it's tough to get business.

MR. ALLEN: Okay. All right. At this time we would move Exhibits 3 and 4 into evidence.

THE COURT: It's already admitted.

MR. ALLEN: Thank you, Your Honor.

BY MR. ALLEN:

Q. Have there been any other payments made on this account other than the \$1,000 payment that's shown on your statement, Exhibit 4?

A. No, sir.

Q. All right. Prior to filing this lawsuit, had you received any written note -- notification or notice from the defendant disputing the amounts that were being charged?

A. No, sir.

Q. And did the defendants receive copies of the invoices that you've identified here?

A. Yes, sir.

Q. All right. Did they receive a copy of a statement of account like the one that you've shown here?

A. They did. Yes, sir.

Q. Okay. And did they provide you with any written dispute claiming those weren't the right

amounts?

A. Not at all.

Q. All right. And I believe as you noted these -- all of these services or these whatever you call them, the movers were provided between February of 2016 and May of 2016; is that right?

A. That is correct.

Q. Now, did you have conversations with anyone at Federal Logistics about the outstanding account?

A. At Federal Logistics?

Q. I'm sorry.

A. I'm the only employee.

Q. Sorry. A conversation with anyone at DMP Construction regarding the outstanding account?

A. Oh, yes.

Q. Okay. And did they give you any reason or excuse as to why they had not paid?

A. I was told by Ester that and also the new office manager they hired, it was due to a job that they were working on that they had not gotten paid on yet, but as soon as they got paid that they would make -- make payment to me.

Q. All right. Did you make them aware that they were no longer entitled to the discounted price?

A. I did.

Q. Okay. Show you a -- now, Rich, I'm showing a document marked Exhibit 5. Are these a couple of e-mails between you and Anna at DMP ---

A. Yes, sir.

Q. --- Construction? Okay. And this is -- these are dated, it looks like, June, July, and August of 2016; is that right?

A. That is correct.

Q. All right. Looking at the first page of Exhibit 5. You sent her an e-mail on June 14th where you sent it to some -- who did you send that e-mail to?

A. I sent it to Ester and Marko.

Q. Okay. And you referred to another e-mail where you said the balance was 16,421.28?

A. Yes, sir.

Q. And you're asking them to discuss payment arrangements with you; is that right?

A. That is correct.

Q. Now, that 16,421.28, would that have been the amount with the discount?

A. That is. Yes.

Q. All right. And, thereafter, did you inform them that they were no longer entitled to a discounted rate?

A. Absolutely.

Q. All right. You had -- you had some e-mail correspondence with people at DMP on this account; is that right?

A. Yes, sir.

Q. In any of those e-mails, did they ever say that they disputed the rates that you were asking?

A. They did not.

Q. All right. And is that even after you had informed them of the full price of the -- of the loads, the \$54,000?

A. They did not.

Q. All right. What is the total balance due on your account?

A. 54,377.24.

Q. And are you asking also for the award of interest under the terms of the agreement at one-and-a-half percent a month from May the 5th -- 15th of 2016?

A. Yes, sir.

MR. ALLEN: All right. That's all the questions I have of Mr. Fair. I have -- I do have the request for admission that I'd like to publish to the jury, and I'll -- I'll do that either now or at the conclusion.

THE COURT: I'll leave that to your discretion.
Whenever you'd like to do that.

MR. ALLEN: I can do it at the conclusion of
cross-examination.

THE COURT: Okay.

MR. EPPS: May it please the Court?

THE COURT: Yes, sir.

CROSS-EXAMINATION

BY MR. EPPS:

Q. Mr. Fair, how are you?

A. I'm fine.

Q. And you'll have to excuse me. I'm just getting
over a cold, so if you need me to repeat anything or
ask a question again, please let me know. Okay.

A. All right.

Q. As you stated, you're the president -- owner
and president of Federal Logistics, right?

A. That is correct.

Q. Okay. And you testified to your credit
application that Marko Petrovic of DMP Construction
filled out to get your freight services, correct?

A. That's correct.

Q. And then you testified to the terms of the
freight broker agreement, the terms and conditions;
is that right?

A. That is correct.

Q. And you agree that any past due invoices were subject to an additional charge of one point -- one-and-a-half -- 1.5 percent per month; is that right?

A. That is correct.

Q. All right. And that's standard in the freight industry?

A. It is.

Q. Okay. And that was the terms and conditions. Now, anywhere in this -- these terms and conditions where you explain the discounted portion of your charges?

A. I did not.

Q. Okay. And any -- in any e-mails -- and you testified to e-mails. In any e-mails, did you -- or written documentation, did you inform DMP of the discounted rates?

A. In e-mail, no, I did not.

Q. Okay. In any written form?

A. No.

Q. Okay. Now, you testified that you had that discussion with DMP, right?

A. I did.

Q. Okay. Who did you have that discussion with?

A. With Marko and Ester.

Q. With Marko and Ester. Okay. But there's no written correspondence of that; is that right?

A. That is correct.

Q. All right. Now I believe ---

MR. EPPS: May I approach, Your Honor?

THE COURT: Yes, sir.

BY MR. EPPS:

Q. Now, I'm going to hand you what's been marked and entered as Plaintiff's Exhibit 3.

A. Yes, sir.

Q. That -- that is the -- is that -- that is the invoices that deal with the 11 -- with the 11 -- that's the -- that's the 11 invoices that deal with this case; is that correct?

A. That is correct.

Q. Okay. Now, when were these invoices generated?

A. On the -- within either that the day or the day of, a couple days.

Q. So they were -- they were generated contemporaneously with the services provided?

A. Absolutely.

Q. Okay. Now, anywhere on these invoices, did it -- did it state the discounted price?

A. No, it does not.

Q. Okay. And, in fact, does it itemize anything on these invoices?

A. No. Whenever I did my original as presentation, I did let them know that fuel costs do go up and down, but never -- we were sitting there negotiating prices. I'm not going to talk about itemizing fuel services by a driver, whether it may be a tarp or no tarp. If they decide it's right for tarp, I'll add it on. If not, I won't.

Q. Okay. But none of that was -- was identified in these invoices regarding this rate?

A. No.

Q. Okay. And these rate -- these invoices state nothing about a discounted price; is that correct?

A. That is correct.

Q. Okay. Now, and I'll notice on all 11 of these invoices that the bottom says you have a late daily fee of 3.5 percent on outstanding balance for any payments past due -- past due date as reflected on the invoice.

A. Uh-huh.

Q. All right. Do you charge 3.5 percent daily fee on any past due?

A. Do I?

Q. Yes.

A. Or have I in the past?

Q. Yes, sir.

A. I have. Yes.

Q. Okay. Even though they -- okay. Did you process a 3.5 percent daily fee on outstanding invoices in this matter?

A. I have not.

Q. Okay. But you do -- you're telling this jury you do process a 3.5 percent interest on any past due?

A. I have imposed that before. Yes.

Q. Okay. And that's daily, correct?

A. The way it reads.

Q. It says late daily fee of 3.5 percent on outstanding balance for any payments past due.

A. Then it was a daily.

Q. Okay. A daily fee?

A. Yes.

Q. All right. And that's certainly inconsistent with the terms and conditions in this case; is that right?

A. With the 1.5. Yes.

Q. Okay. Now, I'm going to hand you what's been entered as Plaintiff's Exhibit 4. That is your outstanding statement?

A. Yes, sir.

Q. Okay. As to the 11 invoices that are at issue today; is that right?

A. That's correct.

Q. Okay. Now, in your communications with DMP Construction -- with DMP, those e-mails that have been entered -- and we'll get to that in a minute. When Anna from DMP asked for an outstanding for the balance and the interest owed to -- to Federal Logistics, is that the document that was e-mailed to her?

A. I believe it was.

Q. Okay. So there was no -- all right. So it wasn't the original invoices. It was the outstanding balance, correct?

A. I believe it was. And if I'm not mistaken, I believe I didn't -- I may have e-mailed it also, but I FedExed everything, all of that paperwork to her also.

Q. Okay. Now, that out -- that statement -- that statement that is entered into evidence dealing with these 11 invoices, all right, let's just go -- you went down the list and you testified that the amount due on Invoice 1065 was \$3,564.40; is that right?

A. No. Oh, it was originally. Yes. Correct.

Q. Yes.

A. Remaining balance.

Q. And the discounted price was \$2,000?

A. That's correct.

Q. Okay. So you're saying if you could pay -- if they had paid, originally it had been discount -- the \$2,000 would be the discounted price, correct?

A. That is correct.

Q. Okay. All right. On the next invoice of 1071, you testified that the amount without the discount was \$6,758.10. Now, the amount with the discount is \$2100. That's a significant increase. Significant, right?

A. Sure.

Q. Okay. But the discounted price was never put on the -- on the written invoices sent it -- and sent to DMP, right?

A. They had the original -- the original price, the original invoice, is that what you're referring to?

Q. Yes.

A. The \$2100, they had the original invoice.

Q. They had -- well, so you're saying there's -- there's -- there's a different invoice than the invoice that you've entered into evidence in this

case?

A. There was original invoices, but they were provided on 3/5. The \$2100 they could've paid without the -- that penalty.

Q. Now, hold -- okay. Let's be clear. You've entered into evidence as -- what's been entered as Plaintiff's 3 are invoices reflecting the total -- what you claim was the total amount due without the invoice -- without the discount.

A. Without the discount.

Q. Okay. You're telling me and this -- this Court and this jury that you submitted other invoices with the discounted account to DNB -- DMP?

A. I did.

Q. Okay. And did you ever provide those in discovery, sir?

A. They were provided. They got a copy, you got a copy, and my attorney got a copy.

Q. Okay. They were never provided in -- in -- in pursuant -- did you provide them pursuant to interrogatories and requests for production in this case?

A. I have -- I don't know that.

Q. If I could tell you they were not, would you believe that?

A. (Nonverbal response.)

Q. So you're telling this Court that even though you come in here and you say these are the invoices sent to DMP, there were additional invoices sent with the discounted rates that you've not provided the defendant?

A. They have the invoices from the original dates when those shipments were done for the total amount of 16,421.28.

Q. Okay. Do you have them here with you today? Do you have those documents on you today?

A. I -- I could check to see if I do. I'm not sure if I actually brought those or not.

Q. Okay.

A. But obviously each and every one -- everyone here as far as my attorney and you and also Mr. -- DMP.

Q. Okay. Well, I can tell you during the course of this litigation, I never saw those documents.

A. Okay.

Q. Now, let's go to, all right, 1072. On that invoice, you testified that the -- that amount due and owing -- owing was 395.81.

A. That's correct.

Q. Okay. And a discounted rate was 2 -- \$295.36?

A. That is correct.

Q. And as to Invoice 1073, that amount due was 866.89, and the discounted rate was 346.05; is that right?

A. That is correct.

Q. As to Invoice 1074, the non-discounted rate is \$8,411.66?

A. Uh-huh.

Q. But the discounted rate was \$2,655.71; is that right?

A. That's correct.

Q. As to Invoice 1075, your invoice presented in court today and what you're asking this -- this jury to award you is \$7,954.40.

A. Uh-huh.

Q. And the discounted rate is \$1,250?

A. That is correct.

Q. That's a significant discount?

A. It is. That's why you use -- that's why you use somebody like me.

Q. That is -- all right. Now, let's go to 1076. What you're asking this jury to award Federal Logistics is \$5,785.25?

A. Uh-huh.

Q. But the non-discounted -- or the discounted

rate is \$608.70?

A. That's correct.

Q. Over, I would say, 90 percent of -- of that amount?

A. Uh-huh.

Q. Now, 10 -- Invoice 1086 is -- what you're asking for is \$3,884.40?

A. Uh-huh. Yes.

Q. And the discounted rate was \$1,649.20?

A. That is correct.

Q. Again, less than half, right?

A. Uh-huh. Yes.

Q. On Invoice 1088, you're asking for \$6,758.10, right?

A. That is correct.

Q. And the -- the -- the original amount, what you say is with the discount, is \$2100, right?

A. That is correct.

Q. Less than three times that amount, right?

A. Yes.

Q. On Invoice 1091, you have an amount that you're asking for of \$9,156?

A. Yes.

Q. The original amount with the discount was \$2,800, right?

A. That's correct.

Q. Now, on 1099, Invoice 1099, the last one in May of 2016, you're ask -- you're ask -- what you're asking for is \$1,842.23, right?

A. That's correct.

Q. Okay. And your discounted rate or the discount -- the original -- the discounted price was \$616.26, right?

A. That is correct.

Q. Okay. Those are significant increases ---

A. They are.

Q. --- that were billed to DMP? Now, did you charge any interest regarding those increases?

A. Those are not with interest.

Q. Okay. Now -- now, I'm going to hand you -- you talked about -- well, you talked about e-mail correspondence between yourself and someone at Federal Logistics with DMP, correct?

A. Between myself?

Q. I'm going to hand you Plaintiff's Exhibit 5. And a small -- that is your e-mail, and I think you testified, was that to Ester?

A. I believe it was to Ester and Marko both were copied on it.

Q. Okay. Did you speak a lot with Ester?

A. Yes.

Q. And, in fact, there was a lot of texts or there was a lot of -- a lot of texts and phone calls going back and forth?

A. There were.

Q. Okay. All right.

A. That's how we generate the majority of our conversations.

Q. Okay. At least over 700 such phone calls or e-mails?

A. If you say so.

Q. Okay. All right. Now, you testified that you say, "I'm following up with you regarding outstanding invoices DMP still owes Federal Logistics." Now, this is in June of 2016, right?

A. It is.

Q. Okay. And it is nearly a month after that final invoice on May 15th of 2016, right?

A. It is.

Q. Okay. Now, you say some of these, you say, are following up with you regarding outstanding invoices that DMP still owes Federal Logistics, right?

A. Yes.

Q. Some of these are now over 100 days past due. As balance of 16,421.28 has a current daily interest

rate of \$246.32? Is that what you put?

A. That is what I put.

Q. I've attached a statement as of today reflecting each invoice and the original balance. Okay. So you stated that the amount due and owing or the balance was 16,421.28?

A. That was the original balance. Yes.

Q. With a daily interest rate of 246.32?

A. If that's what that number punches out to be.

Q. Okay.

A. If I did it correctly.

Q. Okay. That's 1.5 percent of 16,421.28?

A. Okay.

Q. Okay. And you charge that daily?

A. That's what it was per the agreement.

Q. Okay. That was what -- okay.

A. Yes, sir.

Q. That was per the agreement that you're going to charge that daily rate -- daily interest rate?

A. Yes.

Q. Okay. When, in fact, that's not what this agreement says?

A. It says monthly on that agreement? Maybe I'm wrong.

Q. 1.5 percent per month.

A. Okay.

Q. But you're charging 1.5 percent daily?

A. I'd have to go back and rework those numbers. I'm not sure exactly. I can get a calculator and find it real quick for you.

Q. Okay. But that's your e-mail? That's your e-mail to Ester?

A. That is my e-mail to Ester.

Q. That has a current daily interest charge of 4 -- \$246.36?

A. That is correct.

Q. Okay. And you'll agree that's not -- that's -- that's not -- that's not in accordance with this -- with the terms and conditions of this -- of the -- of the carrier -- of the freight brokerage agreement, right?

A. That is correct.

Q. Okay. In the course of this case, discovery went -- and you asked discovery and request for production with it, and you answered some questions; is that right?

A. Sure.

Q. Okay. And you provided -- you provided your -- your -- your attorney documents, and they provided it to me; is that right?

A. Sure. Yes.

Q. Okay. Now, I'm going to hand you what was presented in your request for production -- answers for request for production in November of 2017. Will you identify that document?

A. Yes, sir.

Q. Okay. And that is a -- that is the -- that is the DMP Construction statement that is entered as -- basically a similar -- that is the exact same DMP Construction statement that was entered into evidence in this case; is that right?

A. That is correct.

MR. EPPS: Okay. Now, Your Honor, can we take a two-minute break? My client advises that he needs to take a -- take a quick break.

THE COURT: Yes, sir. Madam forelady, would you take the jury back to the jury room? Let's go ahead and take a morning break, and we'll continue this when we come back.

(At 11:44 a.m., jury left the courtroom.)

(From 11:44 a.m. to 12:07 p.m., recess.)

THE COURT: While we're here, how do you intend to get the calculation of interest before the jury?

MR. ALLEN: I can provide the monthly amount. In fact, that -- I believe that one e-mail, that

amount that says "per day" is actually the per month amount on that amount.

THE COURT: He ain't going per day I'm telling you.

MR. ALLEN: Oh, I understand that. I understand that. And that -- because that said "per day," but it should've been per month obviously. But anyway, we can -- I can -- I can provide them the calculation for the per month.

THE COURT: Well, you have to have it calculated. I'll let y'all look at it because I don't want the jury -- you don't want the jury to do math and try to do that.

MR. ALLEN: Okay.

THE COURT: All right. That being said, are you ready to go?

MR. EPPS: Yes, sir, Your Honor.

THE COURT: All right. Mr. Allen, are you ready to go?

MR. ALLEN: Yes, Your Honor.

THE COURT: Bring them out, please, sir.

THE BAILIFF: (Complying.)

(At 12:08 p.m., jury entered the courtroom.)

THE COURT: All right. Mr. Epps.

MR. EPPS: Yes, sir, Your Honor.

BY MR. EPPS:

Q. All right. Mr. Fair?

A. Yes, sir.

Q. You have that document I handed -- handed up to you, correct?

A. Yes, sir.

Q. Okay. Now ---

THE COURT: Has that document been marked as an exhibit?

MR. EPPS: No -- no, sir.

THE COURT: Okay.

BY MR. EPPS:

Q. But that is the same -- that is a similar copy with the -- with the statement from, I believe you have it up with you, the DMP statement?

A. Yes.

Q. Okay.

A. Similar.

Q. And that's the one that's entered into evidence. And that's dated -- that's as of October 17th of 2016, correct?

A. That is October 17, 2016, was the one that's been ---

Q. That's the one that's entered into evidence?

A. Correct.

Q. Okay. Now, the one I handed to you was provided through discovery in this case?

A. Okay.

Q. Okay. And that is the exact same statement as of -- it says as of 1/4 -- 1 -- January the 4th, 2017, right?

A. That is correct.

Q. And off to the right of the remaining balance due, you've got "late interest, South Carolina fees at 8.75 percent."

A. Uh-huh.

Q. And right next to it, it says, "Total due as of October 17, 2016"?

A. Okay.

Q. Okay. And Federal Logistics generated this document, right?

A. Yes.

Q. Okay. And did you add 8.75 percent?

A. There's not a column up under it. No.

Q. Okay. But you add late interest fees, South Carolina fees, 8.75 percent, and then right next to it, total due as 10/17/2016?

A. It could've been -- it could've been a line item there, but it's not there. There's no number there up under it, is there?

Q. Where would you think that you would have the -- certainly, your contract of your -- the terms and agreement, the freight brokerage agreement with DMP did not allow for certainly late interest fees of 8.75 percent, correct?

A. And there's not a line there on it, so it's not being calculated in.

Q. Okay. But it's on that document?

A. It is on the document.

Q. Okay. And it's before you get to the total due as to 10/17 of 2016?

A. Excuse me. Could you rephrase that?

Q. And that column is right -- is -- is before -- is to the left of, you say, total amount due as to 10/17 of 2016, correct?

A. To the left? It's to the right.

Q. It's to the right. Excuse me. It's to the right of -- of where you -- where it's stated "late interest South Carolina fees at 8.75 percent."

A. That is correct. It is to the right and there's no line items up under it.

MR. EPPS: Okay. Your Honor, I would move at this time to mark that document as -- as Defendant's 1 and enter it into evidence?

MR. ALLEN: If I can just see what we're

talking about?

THE COURT: Sure.

(Counsel reviewing document.)

MR. ALLEN: Okay. Yeah.

THE COURT: That'll be admitted as Defendant's
No. 1.

(Defendant's No. 1 was received into evidence.)

BY MR. EPPS:

Q. All right. Now, I'm going to go back to some e-mails into evidence. And, again, in the course of the discovery, you provided e-mails and correspondence to us during the -- during the -- during the pendency of this case, correct?

A. Correct.

Q. Now, I will ask you, no where in any of those e-mails, written correspondence, or anything that was sent to us, was there any -- any description or discussion about discounts -- discount rates between Federal Logistics and DMP, correct?

A. I don't know.

Q. Okay. Now, you also -- there was e-mail correspondence with Anna from DMP when she was requesting the invoices and interest owed to Federal Logistics, correct?

A. If you say it, yeah. I don't have a copy of

the e-mail in front of me.

Q. Okay. Now, I'm going to hand you -- this has been entered into evidence. That e-mail was telling -- what's the date of that e-mail to DMP?

A. July 14, 2016.

Q. Okay. And what does it say?

A. It says, "Thanks for the follow-up regarding the outstanding balance owed to Federal Logistics. I am scheduled to meet with Calhoun and Pruitt from South Carolina next week to collect the monies owed, so timing -- so timing is of the essence.

"Attached is an updated statement per our request -- per your -- excuse me -- per your -- per your request for all invoices and balances. Please advise at your soonest, Rich."

Q. Okay. So you've already contacted -- or you were contacting an attorney regarding collecting these fees; is that right?

A. I had reached out to them to set up a meeting to talk -- start talking about this. Yes.

Q. Okay. Now, you also -- can you identify that document?

A. Yep. Uh-huh.

Q. And is that an e-mail -- well, let me before I want to ask you this. Did you -- did you put a lien

on the goods transported for DMP?

A. Did not.

Q. Okay. But you could have through the contract; is that right?

A. Could have.

Q. Okay. But you didn't put -- you didn't do a lien?

A. No.

Q. Okay. But you're -- is that an e-mail regarding to discuss putting a lien on property owned by DMP or property of the owner?

A. This is an e-mail that said that you can put a mechanics lien. Yes.

Q. Okay. And you were requesting -- you were requesting -- or you were inquiring about whether it would ping their credit?

A. To be honest with you, I don't know. It's on there, but, yeah, I don't understand why it even asked that. It's not -- wasn't any of my business.

Q. Okay. But it's on there?

A. It is.

Q. And you wrote that, right?

A. I did.

Q. Okay. Who did you write that to?

A. To Ester.

Q. To Ester, but it's -- it's -- it states to Jeremy. Who is Jeremy?

THE COURT: Just one second. Do you need them to speak up?

A JUROR: Yes, sir.

THE COURT: Okay. Would you speak up and would you scoot more to the microphone, please?

THE WITNESS: Yes, sir. Be glad to.

THE COURT: Thank you.

THE WITNESS: Jeremy would've been -- I guess this has been forwarded to a collection company that I was also talking to about. He was looking for correspondence.

BY MR. EPPS:

Q. Okay. And you gave them the address and information regarding DMP, correct?

A. True.

Q. And Ester's information, right?

A. Yeah. And the place -- the place of business.

Q. What's the date of that e-mail?

A. It's August 4, 2016.

MR. EPPS: Your Honor, I'd like at this time to mark this document as Defendant's 2 to enter it into evidence.

THE COURT: Any objection?

(No response.)

THE COURT: Any objection?

MR. ALLEN: No, Your Honor.

THE COURT: Okay. It will be admitted.

(Defendant's Exhibit No. 2 was received into evidence.)

BY MR. EPPS:

Q. So that was by August 2016 -- I mean, August -- yeah, August 2016, correct?

A. That is correct.

Q. And at that point in time, you had already been sent to a credit -- credit agency, right?

A. I don't know if I had already entered into an agreement with those guys to start collecting, or if it was just trying to get some groundwork.

Q. Okay. But you were basically contacting an attorney and you -- regarding these invoices?

A. Yes. At that point, there was some invoices that were eight months past due at that point.

Q. Okay. And did you get verbal -- there was a lot -- there was some back and forth -- was there some back and forth regarding the amounts that were due to Federal Logistics?

A. Yes, sir.

Q. Okay. And that was between you and Ester or

you and Mr. Petrovic?

A. Ester.

Q. Ester?

A. Yes.

Q. Okay. So there was a dispute as to the amounts due and owing Federal Logistics?

A. Not at all. She never disputed it. There was -- that never got disputed.

Q. Yeah, you testified there was a dispute between you and Ester regarding the amounts due to Federal Logistics.

A. No. I never said that there was a dispute between Ester and I.

Q. I said -- okay. Well, then -- you just testified that there was a -- you had discussions with Ester from DMP regarding the amounts due to Federal Logistics?

A. What I said was, we had discussions about the invoices that have not been paid to Federal Logistics and why -- and why they hadn't been paid.

Q. Okay.

A. And I was told that they hadn't been paid because you guys had not -- they had not been paid by the project that they were currently working on.

Q. Okay. And -- but there was -- it's your

testimony there was no discussion, no dispute as to the amounts owed?

A. No.

Q. There was no discussions or discussions had regarding the interest rates?

A. Not at all.

Q. Okay. Or the -- the -- do you have anybody else in your company?

A. No. I'm the only one.

Q. It's you by you yourself and that's it, right?

A. Yes.

Q. Now -- and how long did you communicate with Ester about these unpaid invoices?

A. Obviously, probably for eight, nine months.

Q. Eight or nine months?

A. Uh-huh.

Q. Okay. And after May of 2016, you continued to communicate with her for at least another three months, right?

A. That is correct.

Q. Okay.

A. I wanted to give them every opportunity just to go ahead and pay the correct balance.

Q. And you're telling this Court that y'all never had a discussion about the amounts listed that are

due to Federal Logistics?

A. We didn't because up until a certain point, I was willing to accept the original amount. But after a certain point in time, I'm not a bank.

Q. Okay. When did you -- all right. And, again, there's no correspondence or e-mail correspondence from you to them regarding the discounted amount; is that right?

A. That is correct.

Q. Okay. And what you're telling -- and what you're telling this jury -- now, you're telling this jury that you -- there are -- there are different invoices than what you've prevented -- presented to this Court -- additional invoices than what you've presented to this Court of the discounted rates, right?

A. There is.

Q. Okay.

A. That was the original amount of the 16,421.

Q. Okay. But you didn't provide those and you haven't provided them yet. You don't have those here today, right?

A. Do I have them personally with me? No, I do not personally.

Q. Okay. Now, you -- but your invoices that you

have entered into evidence at the bottom says a daily -- a late daily fee of 3.5 percent?

A. (No response.)

Q. And everyone of those invoices at -- in June of 2016 were late. You'll agree with that?

A. That you -- yes. They were by that.

Q. Okay. All right. And you're telling this -- this -- this Court that -- that -- or this jury that there was no discussion about concerns about the amounts, the different -- the difference between the amounts that were -- the discounted amounts and the non-discounted amounts?

A. There was not.

Q. Okay. But you have previously charged late daily fees of 3.5 percent, correct?

A. And that actually is set up for somebody who does not have a contract with us. Somebody that has 1.5 -- a contract, do -- they do get 1.5 percent.

Q. 3.5 percent a day?

A. One point. I'm talking about 1.5 is per the contract.

Q. Okay. But your invoices says 3.5.

A. That's for somebody who's not -- that doesn't have a contract.

Q. Okay.

A. It's just on the invoice. That's for somebody that I -- that I work with and have -- and have worked with for years.

Q. Okay. Do you -- do you know what -- do you know what that is, 3.5 -- 3.5 percent a day is? Do you know what that is?

A. Obviously, I don't.

Q. It's called extortion. Okay. So but you have -- you're telling -- you have previously charged individuals three point interest late -- late interest -- late interest because there's a 3.5 percent a day, right?

A. Yes. I did one time.

Q. Okay. And in your e-mail that you put into evidence, you stated that the amount due and owing was \$16,421.28 with a daily interest rate -- with a daily rate of \$246.18 daily, right?

A. That must have been a typo. I'm sure it is.

Q. A typo?

A. Uh-huh.

Q. All right. And you're bringing that up now in front of this jury that it was a typo, but you presented that and you put it into evidence. You presented it in discovery, and you never once said anything about a typo.

A. I told you that earlier that I could actually get a calculator and work that up for you and let you know what the -- what it is.

Q. Okay. Well, but you would -- you would agree with me that charging one point -- even 1.5 percent a day interest would be extortion, right?

MR. ALLEN: I'll have to object.

THE COURT: Sustained. Rephrase that, please.

MR. EPPS: Yes, sir.

BY MR. EPPS:

Q. But you'll agree that's -- that's basically your statement that you -- your e-mail to DMP?

A. What statement?

Q. About the daily interest rate on 16,421.28?

A. If it's -- I'm not sure.

MR. EPPS: Well, don't look at him.

MR. ALLEN: Sir, I'm sorry. I'm not sure what the question is.

THE COURT: I'm not sure either. Go ahead and try that again.

BY MR. EPPS:

Q. That's your statement in your e-mail to DMP about the amount owed is 16,421.28 was the daily ---

A. That was original amount owed was the 16,421.28.

Q. Okay. With -- with the daily interest rate per your words?

A. No. That was just the invoice. No interest at that point.

Q. Okay. Well, you -- okay. Do you not understand -- well, do you understand where it would cause DMP some concern if they did, in fact, get an invoice with a -- with a discounted rate of -- let's take for instance just for example 1076.

THE COURT: One second. Do you have an objection? If so, state it.

MR. ALLEN: I do have an objection. I'm sorry, Your Honor, but I believe he's assuming facts that aren't in evidence here.

THE COURT: Overruled. Go ahead.

BY MR. EPPS:

Q. Let's just take for a -- just this one.

A. Uh-huh.

Q. 1076 with a -- with a due date of March 5, 2016, you said the original amount due was \$608.70?

A. Right.

Q. That's the discounted price?

A. That is correct.

Q. But the non-discounted price is \$5,785.25?

A. That's correct.

Q. And you don't think that wouldn't cause DMP a concern about the amounts they've been charged for your -- for -- for -- for your services?

A. If they would've paid their fees, their charges on -- on time, that 5,785 would've never ever entered.

I was able -- I had a truck in the area. We took care of it for that rate. If we did not have a truck in the area for that rate, that's what the rate escalates to without a discount.

Q. Okay. But you understand their -- they would have a concern about the amounts?

A. If they would've paid their bills on time, there would be no concerns on any of these amounts because I -- all of these were okayed. The 16,421, every time we set up a truck, they were, "I need a quote. I need to know what the number's going to be on the truck." And that's the way -- that's the way the business is done.

I didn't just send a truck out there and arbitrarily shoot them a number after the freight's delivered for \$2,000. That's unheard of.

Q. Okay. And you don't think that it would cause DMP a concern when they have several documents that have different interest rates than what is set forth

in that terms and agreement?

A. I can understand the concern, but all they would be concerned about would be the 1.5 that they signed on for.

MR. EPPS: Okay. If the Court would grant me one moment.

(Brief recess.)

MR. EPPS: Your Honor, I have no further questions at this time.

THE COURT: All right. Redirect?

MR. ALLEN: Yes, Your Honor. Thank you.

REDIRECT EXAMINATION

BY MR. ALLEN:

Q. Okay. I'm referring now to exhibit -- to Exhibit 1.

THE COURT: Defense or plaintiff, please.

BY MR. ALLEN:

Q. Defendant's. I'm sorry. Defendant's Exhibit 1. I've got it right here. The amounts -- this is the exhibit that shows different columns for some different entry -- potential interest rates; is that correct?

A. That is correct.

Q. All right. Now, are there any amounts entered under those columns?

A. No, there's not.

Q. All right. Are there -- is there any interest added to the invoice totals on that exhibit?

A. No, there's not.

Q. And are the invoice totals on that exhibit the same as the invoice totals on Plaintiff's Exhibit 1?

A. It is.

Q. All right. Plaintiff's Exhibit 1 just doesn't have the empty columns for various interest rates; is that correct?

A. That's correct.

Q. All right. And your interest rate for your contract is 1.5 percent per month?

A. Yes, sir.

Q. All right. Now, they asked you about an e-mail. They asked you about the e-mail. This is Exhibit 5, Plaintiff's Exhibit 5. They asked you about an e-mail where you were talking about the balance of -- the discounted balance of 16,421.28, correct?

A. That is correct.

Q. And you mentioned has a current daily interest charge of \$246.32, correct?

A. That is correct.

Q. Now, if that \$246.32 is one-and-a-half percent

of 16,421.28, did you simply mistake daily for monthly?

A. I did.

Q. Is there any daily interest rate of \$246.32 included on Plaintiff's Exhibit 1, your Exhibit 4, your statement of account?

A. There is not.

Q. Okay. Now, you mentioned in your examination that there were invoices for the discounted amounts that were sent to the defendants?

A. Yes.

Q. All right. Do you think you might have those with you?

A. I don't know if I do or not.

Q. All right. Do you want to look?

A. I can.

Q. All right. Where?

A. It would be in my bag.

Q. In your bag?

A. Yes, sir. Yes, I do have them.

Q. You do have them?

A. I do.

Q. All right. Now, that's not something that you had sent me prior; is that correct?

A. No. Probably not.

MR. ALLEN: Okay. All right.

MR. EPPS: Your Honor, I would like --
apparently, if he failed to turn those documents
over, I wonder what else he's got in that file
folder.

THE COURT: Well, hang on. We're not doing
that right now. Any objection to him admitting
those regular -- those invoices that he found in the
bag?

MR. EPPS: Yes, sir. If I -- if I could look
at them.

THE COURT: I'll let you look at the rest of
those things, but not right now.

MR. EPPS: Yes, sir. No objection, Your Honor.

THE COURT: They'd be admitted as a group
exhibit.

MR. ALLEN: Group exhibit, Your Honor?

THE COURT: Yes.

MR. ALLEN: Yes, Your Honor. Thank you.

BY MR. ALLEN:

Q. Okay. That's marked Plaintiff's Exhibit 6.
Tell me what's in there.

A. There are the original invoices that were sent
to DMP; the BOLs that were used for the shipments.

Q. What's a BOL?

A. It's a bill of labelling that basically let's the driver and the shipper and the company of what the -- where it's being delivered to, what the product is, the amount, the weights, all of that type thing.

Q. Okay. All right. Now, when you say original invoices, are these the invoices with the discount applied?

A. They are.

Q. And is that discount applied because you had issued the BOL?

A. That is correct.

Q. All right. And were these invoices sent to the -- to DMP?

A. They were.

Q. Okay. Now, you had previously identified Exhibit 3, which are the invoices without the discount; is that correct?

A. That's correct.

Q. Now, were those invoices also sent to DMP?

A. They were.

Q. Okay. And there was -- they asked you about a statement that was -- that was printed. The one -- I think it's their Exhibit 1 or 2. The one that had the empty columns for interest in it?

A. Yes, sir.

Q. Was that statement provided to DMP?

A. Yes.

Q. All right. Was a copy of your statement that's exhibit -- Plaintiff's Exhibit 4, was that provided to DMP?

A. It was.

Q. All right. Now, all of these documents reflect a discounted amount, and then they reflect the full amount without the discount?

A. That is correct.

Q. Okay. How is the full amount without the discount determined?

A. It goes back to -- through our system and through data that they punch in the system, what it would be without a discount. If you qualify for a discount through your credit rating and that type thing.

Q. All right.

A. If you don't have it, if you don't have a discount at all, then you don't get anything. And you wouldn't -- you wouldn't do business with us.

Q. Counsel mentioned the statement at the bottom of these invoices that are Exhibit 3 that says "late daily fee of 3.5 percent." Did you ever attempt to

charge them a late daily fee of 3.5 percent?

A. I did not.

Q. Did you ever demand of them payment of a late daily fee of 3.5 percent?

A. I did not.

MR. ALLEN: All right. That's all the questions I've got, Your Honor.

THE COURT: Go ahead.

MR. EPPS: I would just -- Your Honor, I may have a few questions, but I know you -- if I could look through those, those newly presented...

THE COURT: I tell you, let's do this. Since he -- he's going to be here, look at them over lunch. If you want to call him back to the stand, you can.

MR. EPPS: Yes, sir.

THE COURT: Thank you, sir. You may step down.

(Witness excused.)

THE COURT: Madam foreperson, ladies and gentlemen of the jury, I'm going to go ahead and break for lunch now. I'm going to ask that you be back in your jury room at 2:15, and we will resume testimony at that time.

(At 12:42 p.m., jury was excused for lunch.)

THE COURT: Also, is there anything in that bag

that you -- that he can't look at while we're on lunch break that you're aware of? I mean, if there's any personal items that are not related, certainly, he doesn't have the right to go rummage through that. That bag -- take -- that's Mr. Fair's bag. Do you wish to look through that?

MR. EPPS: Yes, sir, Your Honor. If he's got any other documents related to this case, then ---

THE COURT: Mr. Allen, can you go check and verify? He just wants to know if there's any other documents in there.

MR. ALLEN: I understand. I understand.

THE COURT: All right. Does anybody need to be in the courtroom while we're out to lunch?

(No response.)

THE COURT: You just to need to make arrangement with Elizabeth and our bailiffs. Normally, they like to have...

All right, guys, 2:15.

(From 12:44 to 2:17 p.m., lunch recess.)

THE COURT: All right. Anything before we bring the jury in?

MR. EPPS: I just want to make sure, Your Honor, it's my understanding, I believe that the plaintiff is still on the stand.

THE COURT: Well, I think he was let off the stand with the idea that you had a right to call him back if you wanted to. Okay. Now, if you want to put him back on the stand, I'll let you.

MR. EPPS: I -- I would like to because there is a document that was found that I would like to ask him about -- ask him questions about.

THE COURT: Do you mind coming around, Mr. Fair?

MR. FAIR: No, sir.

(At 2:19 p.m., jury entered the courtroom.)

THE COURT: All right. Mr. Epps.

MR. EPPS: Yes, sir, Your Honor. May it please the Court?

THE COURT: Yes, sir.

RE CROSS EXAMINATION

BY MR. EPPS:

Q. Mr. Fair, you testified previously that the original amount due with the discount, the discrepancy between that -- that amount and the amount due without the discount was based -- was based on the rates that you get as a brokerage -- broker in the freight service business; correct?

A. Yes, sir.

Q. Okay. And during your -- during, while you

were on the stand, you had an opportunity to look through your -- your bag, your personal effects, for some documents that -- that were in question that result -- that are relevant to this case; is that correct?

A. You asked for the current invoices. That's correct.

Q. That's right. And you found the current invoices; is that right?

A. I did.

Q. Okay. I was also allowed to look through your file folder that you had with you that had documents pertaining to this case; is that correct?

A. That is correct.

Q. Okay. I'm going to hand you the document that was in your file folder, sir, and can you identify that document?

A. Yeah, it's a sheet that I -- a worksheet that I probably was working on. I'm not very proficient at Excel, so one of those sheets that never went anywhere.

Q. Okay. And it says, "DMP Construction statement as of July the 13th, 2016," correct?

A. That's what it says.

Q. And the invoices are the exact 11 invoices that

are at issue today, correct?

A. Right.

Q. And the due dates are the same due dates that are -- that the invoices were due in this case, correct?

A. I don't have both of them sitting up here, so I don't know.

Q. Well, then, sir, I'll hand you Plaintiff's Exhibit 4.

A. Yes, sir.

Q. Okay. And, again, there is an original amount due on this statement as of July 13, 2016, which reflects the original amount due from DMP Construction to Federal Logistics, right?

A. Per this, yes.

Q. Yes. And that amount due to Federal Logistics was \$16,421.28?

A. That is the original amount of the new invoices.

Q. Okay. And that's the amount on Plaintiff's Exhibit 4 that you said that was with the discount you -- the discount that you got as being a broker in the freight industry?

A. No. The \$16,421.28 is the invoice that I submitted to DMP for the services rendered.

Q. Okay. But on Plaintiff's Exhibit 4 you said that is the original cost with the discount that you received as a broker in the industry?

A. No. This is the total amount of the invoices that you looked at, the one in my bag, that matched up with these numbers, total of \$16,421.28.

Q. Okay. Well, I'm going to ask you again. That is per -- Plaintiff's Exhibit 4, that is the original amount due with the discount?

A. That is the original amount due to DMP. That is the invoice from me to them.

Q. Okay.

A. Are you -- if you're looking for the -- the discount that -- that I -- that we paid the carrier, the discount to them, no, it's not.

Q. No?

A. That's what it appears that you're asking.

Q. Now, what is -- what is the next column over? What does that say, sir?

A. It says, "Amount due without discount for nonpayment."

Q. No. What is -- that document I handed to you, what does it say to the right of the original amount due?

A. I'm sorry. I was looking at four. It says,

"Original amount due."

Q. Okay. What is this ---

A. The one next to that says, "Late fee at 1.5 percent per day."

Q. All right. So you got the original amounts due that are the exact original amounts due in Plaintiff's 4 for amount due with discount, correct? Then you have calculated late interest fees of 1.5 percent per day on those amounts.

A. As I said, I was working on a spread -- spreadsheet in Excel. I'm not proficient at it. And I knew it wasn't right, so whenever I -- I had the wrong things in the wrong column, the wrong place, so I never -- it never went anywhere. It should've been thrown in the garbage.

Q. And as of July the 13th of 2016, the total amount -- you have the total amount due from DMP Construction to Federal Logistics at -- as \$51,791.37.

A. Right.

Q. And you testified -- and that is the difference -- you testified to this Court and to this jury that the difference between the original amount with the discount and the original amount without the discount for nonpayment did not include any late

fees or interest?

A. That is correct.

Q. And you did it -- that's solely on your -- your services as a broker -- broker in the freight industry, correct?

A. Uh-huh.

Q. Okay. When, in fact, this document was in your possession, right?

A. Sure.

Q. It was in your file folder?

A. Uh-huh.

Q. It was in your bag that you brought in here to court. It was a document that was not disclosed during the pendency of this case as a document generated by you -- by you, right?

A. I generated the document, but it wasn't a correct document so I didn't send it to anyone.

Q. Okay. Well, it's real convenient now to say it's not correct, but it's in your -- it's in your possession. And you calculated -- and when in actuality, the difference between the amount with the discount and the amount without the discount is the fact that you calculated late interest fees at 1.5 percent per day on those amounts?

A. Correct.

Q. And that's what you did?

A. That's what it shows there. That's why I'm saying it was an incorrect document. It never went anywhere. It stayed in the file.

Q. Sir, you're under oath.

A. Excuse me?

Q. I said, "Sir, you are under oath."

A. I agree with you.

Q. Okay. And how else is it supposed to look when this document is in your possession in your bag in your file with documents related to this case after you've testified to this Court and to this jury that this discounted price is solely on your services and not interest fees or late fees and such, but now you have a document that shows the difference in these two amounts as being late interest fees of 1.5 percent per day?

A. Because I'm under oath, that's why.

Q. Sir?

A. Because you asked the question why, and I said because I'm under oath. There's no reason to lie.

Q. And there's no reason -- excuse me?

A. There's no reason to lie about it. I'm not going to lie.

Q. Okay. So that's what you were doing. You were

charging legal interest -- legal -- late interest fees of 1.5 percent per day in this matter?

A. No.

Q. You're saying no?

A. Exactly. No.

Q. Okay. But that's not what you say on your own documents; is that right?

A. This document was never used for anything.

MR. EPPS: Okay. Your Honor, I would move at this time to enter this DMP Construction statement dated 7/13 -- or as of 7/13/2016 as Defendant's No. 3, I believe.

THE COURT: Any objection?

MR. ALLEN: No objection, Your Honor.

(Defendant's Exhibit No. 3 was received into evidence.)

MR. EPPS: I'd ask that it be published to the jury.

THE COURT: Yes, sir.

MR. EPPS: If the Court would give me a moment.

(Brief recess.)

MR. EPPS: Your Honor, I have no further questions at this time.

THE COURT: All right. Any recross or redirect? Excuse me.

FURTHER REDIRECT EXAMINATION

BY MR. ALLEN:

Q. Mr. Fair, get the right exhibit.

A. This one?

Q. That one right there. There you go. Let me ask you this: The amount of your invoices without discount and your statement, which is Exhibit 4, is that asking for the same amount that's on this Excel spreadsheet statement?

A. Yeah, the original amount.

Q. No. Not -- not the original amount, the amount -- the total amount due?

A. No. They're different. 51,791, and the other, 54,377.

Q. All right. And did you ever send that statement that's marked Defendant's Exhibit 3 to the defendant?

A. No. It was incorrect.

Q. Did you ever demand that the defendant pay late fees of one and a half percent per day by putting an amount on it and saying that's what you owe?

A. I did not.

MR. ALLEN: All right. That's all we have.

THE COURT: Thank you, sir. You can step down.

(Witness excused.)

THE COURT: Call your next witness, please, sir.

MR. ALLEN: Your Honor, at this time we'd like to publish to the jury the responses to the request on admission.

THE COURT: Okay. Sir.

MR. ALLEN: Defendant's response to plaintiff's request for admission.

THE COURT: Explain to the jury what the request for admission is.

MR. ALLEN: Okay. A request for admission is a -- is a thing we do in preparation for trial where we can ask a party to admit certain facts, and they can admit those facts for purposes of this case. And so we asked the defendant in this case to admit certain facts, and they have admitted certain facts. And that's what I am now going to read to you.

Number one: That on or about November 16, 2015, defendant executed and delivered to plaintiff the credit application, a copy of which is attached hereto, it's Exhibit A, and incorporated here in my records.

Answer: Admit.

Number two: That thereafter, defendant requested plaintiff provide brokerage or

transportation services to defendant for each of the loads identified in the following invoices, copies of which are attached hereto as Exhibit B.

And then the invoices are listed. Invoice 1065; Invoice 1071; Invoice 1072; Invoice 1073; Invoice 1074; Invoice 1075; Invoice 1076; Invoice 1086; Invoice 1088; Invoice 1091; Invoice 1099.

Answer: Admit.

Number three: That plaintiff arranged for and brokered the transportation of the loads identified in each of the invoices attached hereto as Exhibit B.

Answer: Admit.

Number four: That defendant made a partial payment to plaintiff of \$1,000 on or about June 14, 2017, to be applied toward payment of the defendant's account with plaintiff.

Answer: Admit.

Number five: That defendant received from plaintiff each of the invoices attached hereto Exhibit B on or shortly after the date of each respective invoice.

Answer: Admit.

Those are admissions made by the defendant in response to our requests.

THE COURT: Any additional witnesses, Mr. Allen?

MR. ALLEN: No further witnesses from plaintiff, Your Honor.

MR. EPPS: Well, Your Honor, I would -- did you stop at five?

MR. ALLEN: Yeah.

MR. EPPS: I'd ask them to -- well, okay.

THE COURT: We're going to reserve motions until after we have the case in chief, all right, gentlemen?

Call your first witness, please.

MR. EPPS: Yes, sir. I call Mr. Marko Petrovic, Your Honor.

THE CLERK: Would you please come forward and raise your right hand?

THE WITNESS: (Complying.)

THE CLERK: Do you solemnly swear or affirm the testimony you're about to give to be the truth, the whole truth, and nothing but the truth?

THE WITNESS: I do.

THE CLERK: If you would, please come around and take a seat at the witness stand.

THE WITNESS: (Complying.)

THE CLERK: And if you would, please state your

name for the court reporter.

THE WITNESS: Marko Petrovic.

MARKO PETROVIC,

having been produced and first duly sworn as a witness on behalf of the Defendant, testified as follows:

DIRECT EXAMINATION

BY MR. EPPS:

Q. Mr. Petrovic, can you state your full name for the record, sir?

A. Marko, M-a-r-k-o, Petrovic, P-e-t-r-o-v-i-c.

Q. Are you a member, a managing member of DMP Construction, LLC?

A. Yes, sir. I'm the president.

Q. Okay. And what -- what -- what is DMP in business of doing?

A. DMP is in business of providing services to hotels, providing millwork countertops, and some exterior finishes.

Q. Okay. And -- and that's what -- and -- and in the course of DMP doing business, that's what -- did you -- do you utilize freight services to deliver goods and...

A. Yes. I do several.

Q. Okay. And explain to the jury about that.

A. So basically whenever we have a shipment and we have to bring materials to the job site, we acquire a -- what's called a price from a shipper. And then we just simply shop around whichever one is cheaper to go with.

Q. Okay. And how did you get involved with Federal Logistics?

A. Like Rich mentioned, that we came in contact through Ester and another friend of his.

Q. Okay. And who is Ester?

A. Ester is my sister.

Q. Okay. And is she employed with DMP?

A. Not anymore.

Q. Okay. But she was in 2016, correct?

A. Uh-huh.

Q. Okay. And you filled out a credit -- a credit application that is contained in -- that is Plaintiff's Exhibit 1?

A. Yes.

Q. Okay. And also the terms and conditions were -- that is -- that were -- that are entered as Plaintiff's Exhibit 2 dealt with, I guess, the agreement between you -- was the agreement between you and Federal Logistics to provide these freight services, correct?

A. That's correct. Yes, sir.

Q. Okay. And what was the interest rate on the past due -- any past due balances?

A. So 1.5 percent is what -- just like the contract says, monthly.

Q. Monthly?

A. Uh-huh.

Q. Okay. Now -- and so you -- but you -- you admit that DMP utilized Federal Logistics in the course of doing business, correct?

A. Yes.

Q. As for freight services, right?

A. Yes.

Q. And do you admit at -- at that -- that there -- you filled out the credit application?

A. Yes.

Q. You admit that it -- that's the terms and agreement that were subject to the -- to the credit -- credit application, correct?

A. Yes.

Q. Okay. Did you receive the invoices that were entered into evidence?

A. Yes, sir. Original invoices whenever we lock in the price. Whichever company we go with, we lock in the price for a certain amount, and that's what

we expect to be invoiced.

Q. Okay. Now, did you receive the invoices, let me ask, that were plaintiffs? Did anybody explain to you the difference between a discounted rate and a non-discounted rate?

A. First of all, we never received any to compare. Whenever we shop around, you only get one price. You don't really get three prices and, you know, from one vendor. You know, this is your discount. This is your nondiscount rate.

It's simply a price, just like you're shopping for anything. And you choose a carrier to go by, and you move forward with that carrier. That is the budget number that you allocate and that's what you move forward with.

Q. Okay. Did -- were the freight rates ever explained to you?

A. No. If I -- if I'd known the prices would be as such if we missed a payment, I would never go with them. Simply we might choose to go with them. We did not choose to go. They might be a few percent less than the other carrier, but certainly not, you know, 3 or 4 percent, three and a half times more than the other carriers because that is not industry standards.

Q. Well, let me -- but you admitted that you -- that DMP owes Federal Logistics ---

A. Most definitely.

Q. --- money, correct?

A. Yes, sir.

Q. Now, what was -- and you had -- before this -- did you have a relationship with Federal Logistics before November of '15 when this credit application was filled out?

A. Yes. We've done several trucking services with them.

Q. Were there any -- were there any issues prior to 2016?

A. Not that I can recall, no.

Q. Okay.

A. I mean, it was simply paid and, you know, so, no.

Q. So what -- what -- did anything happen in 2016 which affected DMP?

A. We entered the -- the legal battle with a client that owed us about \$187,000. Still to this date, we were trying to battle, so we had a very hard time paying our bills simply as that.

Q. Okay. Did you or somebody at DMP contact Federal Logistics regarding this problem?

A. Yeah, we tried to reach a couple of times, you know, before hiring a debt collector, I believe, before the attorney.

Q. Now, I'm going to hand you what's been entered as Plaintiff's 3 and Plaintiff's 6. Did DMP receive both sets of invoices?

A. These are the invoices that we have received, yes, with the amounts. That's correct.

Q. Okay. So there was -- now, those are the invoices that were presented today after Mr. Fair looked in his bag; is that right?

A. Yes.

Q. Okay. But you did receive those, correct?

A. I received the ones that total out to 16,400 and change.

Q. Okay. And that's the -- the original amount due, right?

A. Correct.

Q. Okay. And what about the -- the -- I believe it's Plaintiff's 3?

A. No. We did not receive this until very late or when he came up with the lawyer involvement.

Q. Right.

A. I mean, this is -- this all new. This was never issued to us. There's no record of that

issued to us. I'm looking at the dates. There's no such thing as that to my knowledge, so I ---

Q. Now, that's the one with -- that's -- that's -- that's the Plaintiff's Exhibit 3 that had the -- had the non -- it says non ---

A. Supposedly non, yeah.

Q. --- non-discounted payment?

A. Right.

Q. Okay. Now, did DMP attempt to rectify the situation?

A. To our best we could in the beginning. You know, as a good promise faith, I did issue a thousand dollar check even though it was very hard for us at that moment.

However, at a later date, I believe a debt collector -- I don't know the name. There's one that engaged, and we came to on a table and negotiated over the phone and explained I'm ready to pay. This was 2017. I believe early 2017, I was ready to pay the balance.

MR. ALLEN: Your Honor, I hate to interrupt, but if he's going to get into settlement discussions, that would not be ---

THE COURT: I sustain that objection.

MR. ALLEN: Thank you.

BY MR. EPPS:

Q. All right. Did -- you received -- DMP received the DMP Construction statement as of -- I think it was October of 2016? I think it's up there on the...

A. I don't think it's here.

Q. I think it's right here.

A. Okay.

Q. Plaintiff's 4.

A. Plaintiff's 4.

Q. Did you receive that statement?

A. I don't recall seeing this statement.

Q. Well, that was the statement that was -- did someone from DMP receive that statement? That's the statement that has been entered as of October of 2016.

A. October, so that this was later. Okay.

Q. Okay. But that's the statement that says that -- that plaintiffs entered that dealt with -- that detailed the original amount due with the discount and amount due without the discount for nonpayment; is that correct?

A. Correct.

Q. Okay. Now, let me ask again. Were you -- did you and Mr. Fair ever have a discussion about

discounts or a discount related to his services as a -- as a broker?

A. Not personally. I've never -- I haven't talked much other than, you know.

Q. Well, during your relationship while you were -- while DMP was ---

A. A lot of my communication was through Ester and we -- we might've had a few on the phone, but it was far and few in between I can tell you that.

So, you know, after I saw these invoices, obviously, it was an issue and I wasn't prepared to -- to pay for that because I don't think it was fair and it's not industry standard so...

Q. Okay. Well, when you saw -- what caused you a concern when -- when you saw this invoice or this statement?

A. It was very disturbing, number one.

THE COURT: Would you speak a little louder. I didn't hear you.

THE WITNESS: It was clearly a disturbing invoice. Nowhere would I even in the right state of mind would I enter this contract -- into any agreements if I'm being invoiced a thousand dollars and I'm paying 300 times more than that. I would never enter this to save 2 or 3 percent because

there's somebody else in line. It was secured at pricing at the rate.

Q. So it concerned you the dramatic -- the substantial increase and ---

MR. ALLEN: Object to leading, Your Honor.

THE COURT: Rephrase.

MR. EPPS: Yes, sir.

BY MR. EPPS:

Q. Did it concern you for the -- the -- that was a substantial increase from the original amount due to the non -- to the non-discounted price?

A. It was most definitely concerning. Yes.

Q. Did you raise that concern with Federal Logistics?

A. I haven't directly spoken to them. It was -- this was in October as you mentioned, and then I believe later in January of 2017. There was a party that was negotiating this with us.

Q. Did -- did Ester have that communication with Federal Logistics?

MR. ALLEN: I'm going to object again. I'm sorry, unless he's speaking from personal knowledge and in regards to hearsay regarding anything she told him.

THE COURT: Well, it wouldn't be hearsay, but

you have to establish the basis of his knowledge.

MR. EPPS: Yes, sir.

BY MR. EPPS:

Q. You -- did you -- you -- did -- you had a concern regarding that statement, correct?

A. Most definitely. Yes.

Q. Did you advise or direct anybody that worked for DMP to -- to discuss your concerns or -- or to relay concerns to Federal Logistics?

A. Yes. But at that point, I believe there was no more contact with Mr. Rich.

Q. Okay. And, in fact, through his e-mails -- through his e-mails, he had advised that he had -- he had -- he had consulted an attorney or was seeking ---

A. Legal.

Q. Now, this is Plaintiff's Exhibit 5, and these are e-mails between Federal Logistics and DMP?

A. Correct.

Q. That first e-mail dealt -- that first e-mail dealt with the original amount due and owing of \$16,421.28, correct?

A. That is correct.

Q. Okay. And did that concern you regarding the statement of daily interest being owed?

A. Well, daily interest is not something that we sign an agreement on. I believe maybe was perhaps a scare tactic of some kind. You know, I don't -- I'm not seeing it from the paperwork. I believe \$246 is a daily and not a monthly, and this certainly wasn't something we agreed on.

Q. Well, were you concerned about what you were being charged for?

A. Most definitely. Yes.

Q. From those invoices, could you discern how those rate -- or what you were being charged for?

A. Yes. This is -- obviously, again, this is daily charges and not monthly charges.

Q. Well, I'm going to hand you what's been entered and marked or marked and entered as Defendant's 3. Have you ever seen that document?

A. No.

Q. Okay. And was that document found today on Mr. Fair?

A. I believe it shined some light, so, yes.

Q. And that document reflects the DMP statement as of July 2016?

A. Yes.

Q. And does it -- that document state that DMP was being charged late interest fees at the rate of

1.5 percent per day?

A. It sure does.

Q. Does that cause you a concern?

A. Most definitely and it makes sense why the amount was 16,421.28.

Q. Do you admit that DMP owes Federal Logistics \$16,421.28?

A. Yes, sir.

Q. Do you think DMP should have to pay 1.5 -- late fees of 1.5 percent per day?

A. No, sir.

Q. Is that in accordance with the terms and agreement that you signed back in November of 2015?

A. That does not agree what we signed.

Q. And, in fact, do you think that that breaches the terms and agreement that you signed back in November of 2017?

A. Most definitely.

Q. Before coming to this day and before litigation being issued, did you attempt to pay the 16,421.28?

A. I wanted to settle many times.

MR. ALLEN: Your Honor, I'm going to object to settlement.

THE COURT: I sustain that. Ladies and gentlemen, the settlement offers and negotiations

are not admissible in court, and I'm asking you not to consider that in any form or fashion. Do not go back into settlement again.

MR. EPPS: Yes, sir.

BY MR. EPPS:

Q. Are you asking this jury to consider the original amount owed to Federal Logistics?

A. Yes.

Q. And are you -- if interest is considered, that it be done per the terms of the terms and conditions of the contract?

A. Yes, sir.

Q. Do you think it's fair to be charged 1.5 -- late fees of 1.5 percent per day?

A. No, sir. This is not by any means no practice of any business that I know of.

MR. EPPS: Mr. Petrovic, I have no more questions at this time. Please answer any questions opposing counsel may have.

THE WITNESS: Okay.

CROSS-EXAMINATION

BY MR. ALLEN:

Q. Mr. Petrovic?

A. Yes, sir.

Q. You did sign the credit application, right?

A. Yes.

Q. And you received a copy of the terms and conditions, right?

A. Most definitely.

Q. All right. You read the terms and conditions?

A. Yes.

Q. All right. So you know under the terms and conditions that you must make payment within 15 days or you will pay a late charge of one and a half percent per month of the unpaid balance, correct?

A. Yes.

Q. All right. You did not pay any of these invoices, even the ones you admit receiving, you did not pay any of those within 15 days or within 30 days, did you?

A. That's correct.

Q. All right. And, in fact, it's been now two-and-a-half years at least and they're still not paid, correct?

A. That's correct.

Q. One partial payment was made in June of 2017 more than a year after the latest invoice I believe, and that was only for \$1,000, right?

A. That's right.

Q. All right. Now, did you read the part in the

terms and conditions that said that if you do not pay timely, you would not be entitled to the discounted amount?

A. Yes.

Q. Okay. In fact, I believe it says if overdue invoices exceed 30 days of nonpayment from customer, rates may reflect original cost with no discount, correct?

A. Yes.

Q. And that's why you use a freight broker like Federal Logistics is because they can buy down those rates. They can get you that discounted amount, correct?

A. On some of the shipping, sir.

Q. Okay. But you still use them?

A. Whichever one they were lower at. Yes.

Q. Okay. All right. So counsel was asking about do you think it's fair. Do you think it's fair to use them to get the discounted rates based on the strength of the business they do and then not pay them at all? Do you think that's fair?

A. It's not fair to pay the bill. Yes. That's not fair if that's what you're asking.

Q. It's not fair to not pay the bill?

A. Yes. It's not fair.

Q. And, in fact, do you think it's fair that now the -- the plaintiff had to incur additional cost going forward with other business and other clients because now they could not negotiate as good a discount because they were unable to pay your bills. Is that fair?

A. That's fair.

Q. That's fair?

A. I'm sorry. That is not fair in that sense. Yes.

Q. Okay. All right. Now, I believe -- let me see. I'm going to show you this. I'm going to show you this. This is Plaintiff's Exhibit 2. This is again the terms and conditions. And you agree, of course, that the terms and conditions cover this contract that you have with Federal Logistics, correct?

A. That is correct.

Q. This covers your agreement with ---

A. Yes. It does cover the agreement. Yes.

Q. Okay. All right. Looking on that page though, this is on the second page. This is under this Section 7. In the middle of that paragraph, it says, "Any dispute by customer of any invoice issued by Global Trans Federal Logistics shall be made in

writing, specifically indicating the nature of the dispute and made within 30 days to the date of the invoice," correct?

A. Yes.

Q. All right. You've made no such dispute with Federal Logistics, have you?

A. Not with the original invoices, sir.

Q. Okay. You made no such disputes with the subsequent invoices, the subsequent billings that you've received, did you?

A. That's the only ones I've received, sir.

Q. I notice you brought no documents with you here today?

A. I did, sir. They're over there.

Q. You did? Do you recall us requesting production of documents from you?

A. Do I recall production of documents?

Q. Do you recall that? Through your attorney, we requested you to produce documents similar to the documents we produced to your attorney?

A. Right.

Q. You recall that. Okay. You recall we asked for all e-mails, text messages, letters, correspondence, and any other written communication between the plaintiff and the defendant from

November 16, 2015, through the date this action was commenced. Do you recall us asking for those documents?

A. I believe those e-mails were exchanged. Yes.

Q. Yes. We received no such documents, did we?

A. Okay.

Q. All right. Do you recall -- do you recall us asking you to produce any payment made by the defendant to the plaintiff or to Global Trans since January 1 of 2015? Do you recall us asking you to produce that?

A. I believe so, but it's been a while.

Q. All right. And, again, no documents were produced, correct?

A. That's correct.

Q. No documents were produced to us?

A. No.

Q. And, in fact, you testified just now that you received those invoices, the invoices with the discounts. You -- you say, we -- we got these?

A. The original ones, sir.

Q. The ones with the discount?

A. There is no two invoices with discount. There never -- the Rich invoice -- there's only one invoice, sir. Invoice that you see here, which is

the original invoice. At later a date, he has simply sent his invoices to us.

There was no -- there's no -- none of this. If I knew that I was entering, that there's a discount between one and the other and if I saw that I was -- example, \$1000 versus \$8,000, I would never get into that agreement, because he provided that information, but that was obviously not hidden from us, as I would say. He'd simply then -- this is what we invoiced. This is what we shopped. Just like with any company, this is the price we paid.

Q. So you did get the invoices at a later date, the invoices -- the invoice of Exhibit 3?

A. I don't -- I don't recall.

THE COURT: All right. Stop. Stop. Stop.

MR. ALLEN: I'm sorry.

THE COURT: Do not answer until he completes the question, and then let him answer.

MR. ALLEN: I'm sorry. Yes, Your Honor.

THE WITNESS: I do not recall that we have these invoices e-mailed to us. Okay. I don't recall.

Now, that -- that did come up later -- later date when the letter -- you know, the lawyers got involved.

BY MR. ALLEN:

Q. Okay. You also recall us asking interrogatories through your attorney? Do you recall that?

A. I believe that, yeah.

Q. All right. And we asked you to set forth a list of all photographs, plats, sketches, or other prepared documents in possession of the party that relate to the claim or defense in this action, correct?

A. Correct.

Q. And we got no such list? We got no such response; is that right?

A. Right.

Q. But you say you got the ones that -- which invoices you say you got?

A. The original invoices.

Q. What exhibit number is that?

A. Exhibit No. 3.

Q. Exhibit No. 3?

A. Sorry. It's Number 6.

Q. Exhibit No. 6?

A. Yes.

Q. So you did get those invoices?

A. Original ones, yes.

Q. And you have not produced those to us either?

A. Okay.

Q. I guess you didn't produce them to your attorney because he was surprised that my client had some?

A. No. He was surprised that your client had something different. Stated 1.5 percent daily interest.

Q. Let's see. We also asked you to identify each invoice claimed to be due by us for which you deny that we provided any transportation services, and we got no response to that, right?

A. Okay.

Q. All right. We also asked you to identify all instances where the defendant advised the plaintiff that the invoices were disputed and set forth the person making the communication, to who it was made, the mode of the communication, the date of the communication, and the substance of the communication. Do you remember that request?

A. As you can recall.

Q. And we got no response?

A. Okay.

Q. You think it's fair then for us to believe that there were no such communications? There were no

communications about disputing the amount that was due.

A. Again, I don't have the invoices until a later date when you guys presented them to us, so I did have the original ones.

Q. You had done business with Federal Logistics prior to the credit application?

A. Right.

Q. And you said everything went fine?

A. Uh-huh.

Q. Right?

A. Yes.

Q. That's because you paid those bills, right?

A. Yes.

Q. Okay. All right. But you haven't paid these bills?

A. No. Through circumstances, yes. That's correct.

Q. I'm sorry. What was that?

A. Due to circumstances, yes, sir, with the business, yeah. I was not able to pay them at that time.

Q. You're still in business?

A. Myself, yes. There's no employees or nothing.

Q. All right. But that -- and that happened,

what, two, two-and-a-half years ago?

A. Yes, sir.

Q. Okay. They were carrying these loads for you, and you weren't paying them?

A. Right.

Q. You received more than just the invoices, correct? You received statements periodically showing the amount that was due, right?

A. From which dates to which dates? There's only ones that we received from this point on was the original invoices and then the ones you guys presented to us.

Q. I'm sorry. What was that?

A. So we got the original invoices which was on the record that we have, and then the ones that you brought without the discount.

Q. Okay.

A. Right.

Q. Did you receive any other statements?

A. The statements that we asked for. Yes, in your e-mail.

Q. You got statements and those statements showed the discount amount and the -- and the amount without the discount, did it not?

A. On the Exhibit 5? I don't recall showing it

because it says strictly we owe 16,421, and then it says daily interest charges of 246.32. And this was on June 14th to Anna.

Q. Who is Anna Cooper in your office?

A. She no longer works there. She was in accounting.

Q. Okay. All right. And she got statements from Federal Logistics, correct?

A. On this date, yes, June 14th.

Q. So your testimony, that's the only statement you ever received?

A. No. We received a few other e-mails and statements.

Q. You received other e-mails with statements?

A. Uh-huh.

Q. Okay. So you were getting statements from them. They're trying to get you to pay, and you're not paying them?

A. Right.

Q. All right. Did any of those statements have -- have interest figured on them?

A. I don't recall, sir.

Q. You don't recall?

A. No.

Q. So it wasn't for any confusion about the amount

due of interest that you weren't paying, it's just you weren't paying?

A. Because of my condition, sir, I was not paying. Yes, sir.

Q. And then so I guess that -- that didn't become as their issue that they got to deal with; is that right?

A. It was unfortunate. Like I said, it's not something that I could've done anything. In a good faith promise, we issued a \$1,000 check and it was a later date, but the business is in survival mode.

Q. All right. You agree they did work? They provided you the services, correct?

A. Yes.

Q. They billed you for the services, correct?

A. Yes.

Q. All right. And you've not paid?

A. Yes.

Q. All right. They did work for you between February and the middle of May I believe, correct?

A. I believe so, yeah.

Q. And all they've received -- I'm sorry. All they've received for those invoices is a \$1,000 payment that was made a year later in June of 2017, right?

A. Correct.

Q. You admitted that you owe my client, which you say the -- you owe them the discounted amount, right? The amount on the invoices that are, I think, Exhibit 6, you agree you owe them that?

A. Right.

Q. And that totals up to the \$16,421.28, correct?

A. That's correct.

Q. You agree that under the terms and conditions you owe one-and-a-half percent a month on that amount?

A. That's correct.

Q. Is that correct?

A. That's correct. Just like it states.

MR. ALLEN: That's all the questions I've got, Your Honor.

THE COURT: Redirect?

MR. EPPS: Very briefly, Your Honor.

REDIRECT EXAMINATION

BY MR. EPPS:

Q. Mr. Petrovic?

A. Yes, sir.

Q. That original amount owed was 16,421.28, correct?

A. That's correct.

Q. Okay. And it's been 30 months since May of 2016, correct?

A. That's correct.

Q. All right. Now, at 1.5 percent per month, have you calculated what that amount would be for 30 months?

A. I believe somewhere around \$7200.

Q. Would it be \$7,389.60?

A. That's correct.

Q. And if you added 1.5 percent a month for 30 months from May of 2016 and add -- well, if you added that interest -- added that -- that amount to \$16,421.28, it would come to \$23,810.88; is that correct?

A. That correct.

Q. Okay. Now -- and you had -- there's no dispute about that DMP owes money to Federal Logistics, correct?

A. That's correct.

Q. Okay. Are you asking that that be amount -- that that be a -- that that be the amount that DMP owes to Federal Logistics?

A. That's correct.

Q. Okay. Now, but that's a far cry from \$54,377.24, correct?

A. Yes.

MR. EPPS: Okay. I have no further questions.

THE COURT: Thank you, sir. You may step down.

THE WITNESS: (Complying.)

THE COURT: Any additional witnesses?

MR. EPPS: No, sir, Your Honor.

THE COURT: Is that the defense's case?

MR. EPPS: That's the defense's case, yes, sir.

THE COURT: Do you anticipate any reply?

MR. ALLEN: No, Your Honor.

THE COURT: Very good. All right. Madam forelady, ladies and gentlemen of the jury, I have some administrative matters to take up now. If you'd go back to the jury room. It will probably be a few minutes. I'm going to go over the law and what I'm going to charge in this case and hear some other motions, but if you will go back to your jury room and I will call you back out in a few minutes.

(At 3:11 p.m., jury left the courtroom.)

THE COURT: All right. Mr. Allen, motions? Or Mr. Epps, motions?

MR. ALLEN: Your Honor, at this time we'd move for a directed verdict. We believe the evidence clearly shows that they had a contract. They had an agreement. This was the -- this was the amount that

was due. They did not pay in accordance with the contract. They didn't pay the un-discounted amount, which is set forth in the invoices. They've admitted to receiving the invoices. We think we're entitled to judgment for the amount billed for plus the interest.

THE COURT: Mr. Epps?

MR. EPPS: Your Honor, I'd ask that ---

THE COURT: I'm inclined to grant the motion, quite frankly, and I think your client has an unambiguous contract that says if you don't pay within this designated time frame, they're subject to these non-discounted rates. Why shouldn't I grant a motion for directed verdict?

MR. EPPS: Your Honor, I would say ---

THE COURT: Or involuntary ---

MR. EPPS: --- I would submit, Your Honor, that -- well, the -- based on the plaintiff's testimony and the document that was found ---

THE COURT: That document that was found means nothing. It's just something he had in his worksheet. Didn't send it to you. Didn't try to enforce it. It doesn't mean a thing.

MR. EPPS: But it's consistent with the increase with the -- with this -- this apparent ---

this -- this ---

THE COURT: Have you done -- I've heard over and over and over and over again in this case about daily interest at 1.5 percent. Have you done any math to determine whether that was ever attempted? Because there's no evidence in the record that these figures are other than as they're testifying to by the plaintiff. That is the non-discounted amounts.

MR. EPPS: Well, his -- his statement as of July 13, 2016, calculated as late interest fees.

THE COURT: I -- I -- I know what that document says. It's a worksheet that he never sent to your client. It means nothing. I mean, it just has no relevance.

MR. EPPS: But it's consistent with the -- what this is. What he's submitted ---

THE COURT: It doesn't matter. I'm telling you, it doesn't matter. It did not go out to this defendant.

Give me that contract, please.

(Complying.)

THE COURT: In this case, you have terms and conditions, which your client stipulated to more than once, and any admissions that he agreed to.

Paragraph 7 says that if the invoices exceed

30 days for nonpayment, rates may reflect the original cost with no discount, and that's what happened.

He admitted they didn't pay it over 30 days. There's no evidence in the record that these figures are other than the non-discounted prices that he would've had to pay if he didn't have this discount or go somewhere else. So why shouldn't I direct the verdict against him or his company?

MR. EPPS: Well, I think there's evidence in the record that -- that -- there's at least evidence in the record that this is not a discounted rate. It's -- it's like it's interest. It's late interest fees.

THE COURT: The question I asked a minute ago is exactly directly to that issue and that exists. Have you done any math on these things to see if the plaintiff attempted to insert daily interest at the rate of 1.5 percent over the amount due?

MR. EPPS: The evidence is -- the evidence is ---

THE COURT: Did you do any math, Mr. Epps, yes or no?

MR. EPPS: I didn't, no, sir, Your Honor.

THE COURT: Well, answer to what the issue is

in this case.

MR. EPPS: Based on his -- well, based on his e-mail talking about the daily interest rate of 246.18 on the original amount due, that's in the record of him ---

THE COURT: The bill is the bill is the bill. Anything out there that shows that there was interest included in these figures? And if there was, he isn't entitled to it.

But from what I've seen at this juncture, appears to be no genuine issue of material fact. Even viewed in the light most favorable to your client, which I have to do, that there's an undisputed contract. The contract unambiguously, if you don't pay within 30 days, we may charge you the non-discounted price.

Then you have the non-discounted price being charged for nonpayment in 30 days. There's no evidence other than what they assert to be typos, but there's no evidence that there was any insertion of daily interest in these figures. If you show it to me.

MR. EPPS: It's this.

THE COURT: That document doesn't mean anything, Mr. Epps. Doesn't mean anything at all.

MR. EPPS: It is in evidence. It is generated by the plaintiff, testified ---

THE COURT: I -- I -- I can tell you, I know what it was. I've been sitting here listening the whole time. I could care less. It doesn't mean anything. It doesn't mean a thing.

Looking at these figures, and you keep dancing around my question, is anything on Exhibit 4, when I say, for example, Invoice 1065, which is the original discounted price of \$2,000 with the nonpayment amount being 2564.40. Anything that shows that there was -- that you can show that there was daily interest added to the original discounted price of \$2,000? Anything?

MR. EPPS: I would submit it's the document that -- that was -- is entered into evidence. That's at least viewed, I would indicate, the light most favorable to the defendant, that's in the evidence.

THE COURT: And it is in the evidence, but it isn't most favorable to him. Doesn't mean a thing. It has no -- it has nothing. It's no relevance. It's something that is worksheet and never sent out.

And, again, by the fact that you don't answer my question tells me that you have not uncovered,

because I know you well enough to know that you would be beating the horse with it in here if you could show that there was a 1.5 percent daily interest rate added to the included figure because the way you were questioning here is that all they simply did was take the \$2,000 amount, add the 1.5 percent daily interest to it, and through the period of that statement, that's the added amount to it. And there's no evidence of that. You can't prove that. That's just your questions, and your questions are not evidence.

So I'm asking again, based on your research in this case, did you find any evidence that there was daily interest added to these figures, other than this -- this worksheet you ran across today and his statement saying there's daily interest in the actual billing because that's what the concern is in this case. The actual billing, was it -- can you prove any daily interest rate that's been included.

MR. EPPS: And that, Your Honor, again, I mean, it -- it's his e-mail -- his e-mail to DMP regarding the original amount due, the 246.18, I believe it was, which is 1.5 percent.

THE COURT: If you did -- you're able to figure out 82 percent on the date.

MR. EPPS: And in the ---

THE COURT: Hang on. I'm going to listen to you.

MR. EPPS: Yes, sir.

THE COURT: I want you to do me a favor.

MR. EPPS: Yes, sir.

THE COURT: Okay. You have 247 days. You have your phone up here?

MR. EPPS: Yes, sir.

THE COURT: Okay. Eighteen percent daily interest on \$2,000 times 247 days is what?

MR. EPPS: Can you say that again, Your Honor? I'm sorry.

THE COURT: If you had -- I'm looking at the Invoice 1065 on Exhibit 4.

MR. EPPS: Yes, sir.

THE COURT: If you figure 18 percent daily interest against that 2,247 days, what figure do you come up with?

MR. EPPS: You're talking Defendant's Exhibit 4?

THE COURT: Plaintiff's Exhibit 4.

MR. EPPS: Which is this?

THE COURT: Yeah, come here and let me show you.

(Sidebar discussion.)

THE COURT: For the record, Mr. Allen, the question that I asked for, what is the interest on \$2,000 times 247 days at 80 percent -- 18 percent daily interest and it's 7,400 ---

MR. ALLEN: At 1.5 percent daily interest is \$7,410.

THE COURT: Okay.

MR. ALLEN: According to my calculations.

THE COURT: 1.5 percent at the annual one. That's right. Okay. 1.5 percent.

So the point I'm trying to make, Mr. Epps, if you look at the invoices, you have the price that is originally invoiced, which is the discounted price, added with their -- I'm sure their charges so they can make a profit. Then you have the price that was billed for nonpayment for 30 days pursuant to rule -- I mean, paragraph 7 of the terms and conditions, which is 3564.40.

I know some of these things jump like crazy. I was kind of surprised to see it myself, but there's nothing that shows any inclusion of 1.5 percent daily interest rate on any amounts billed in this case.

MR. EPPS: Well ---

THE COURT: There's nothing. I know you think this worksheet is evidence, but it was never sent to your client as same kind of evidence. It's not sent on the part of the plaintiff.

MR. EPPS: Well, I tell you, Your Honor. You got an e-mail where he's charging the 1.5 percent that should be charged monthly. He says it's daily. You've got -- you got these invoices that says ---

THE COURT: I agree, it's sloppy. Okay. I agree that it's sloppy. Was it ever actually billed or attempted to be collected? And from what I've seen it's no. If you show me something that they attempted to collect that, then this jury will hear it; otherwise, they're not.

MR. EPPS: Well, and I would say, that coupled with the e-mail, the -- the invoice that says -- there is testimony he's billed -- or he's billing 3.5 percent daily on some cases, but it's on that invoice, which is clearly, I'd say, unconscionable, that coupled with what he had on his person today in this courtroom, that, I mean, frankly submit -- frankly, I mean, that should've been disclosed. He had documents that he didn't disclose at all on his person. He had the original invoices that we got for the first time today.

THE COURT: I don't believe that. I've heard enough, that your client admitted they owe damages. In fact, he said it in here.

MR. EPPS: He said he got the originals.

THE COURT: Well, that's what you just said, he didn't get them. He didn't get it.

MR. EPPS: Well, I understand that, but he -- but as far as there was a question about the second one, but the first invoices that were put in I think were Plaintiff's 3.

THE COURT: Again -- okay. Y'all step back.

(Complying.)

THE COURT: Again, in this case, what it appears to me looking in the light most favorable to your client, there's some evidence that there's allegations or claims of daily interest rates, but there's no evidence that it was ever billed, which is a different matter.

What the only evidence in the record that I see is billing for the discounted rate and then billing for the non-discounted rate. So that being said, I see that there's claims of it, but there's no proof that you presented at all that they attempted to claim -- that attempted to assert and include 1.5 percent daily interest rates anywhere. And if

there is, tell me because I'm just missing it. I don't see it.

MR. EPPS: I mean, I'll just say, Your Honor, at the very -- I mean, I -- it's -- it's -- it is evidence, that means evidence there ---

THE COURT: There's evidence ---

MR. EPPS: It doesn't say it on the statement, but, I mean, they are consistent with that is -- that the amounts that they're claiming. This statement that as of July 13, 2016, he's got an amount due of 51,794.

And then in October, it's 54,370 with the amount that's claimed here today. I -- and he -- and, you know, you've got a document generated by him on his person. He comes, you know, and then it's real convenient he gets in front of a jury and says, "That's just a worksheet. I didn't mean nothing by it."

But you have it on your person. You have it in your documents. You have it in your documents with other documents that -- that are relevant to this case that deal with this case that is part of this case. That coupled with this e-mail to DMP Construction saying that the original amount of 16,441.28 is incurring a daily interest charge of, I

think it's 248.18, which is 1.5 percent. That coupled with, you know, he just testified that he has charged other people daily interest rates of up to 3.5 percent.

THE COURT: That has no relevance.

MR. EPPS: But that coupled with -- then, again, I would respectfully submit that this document that he had on hand, a DMP statement -- construction statement of late interest fees at 1.5 percent per day, is very similar to the amount -- the original amount -- the original amount owed and the amount claimed here. And that's a few months prior, but it's very similar to the amount claimed here today of 54,377.24. I think it's enough to at least submit it to the jury and let the jury make a decision.

THE COURT: I disagree with you. I think that there's no evidence whatsoever that I have been pointed to, other than this worksheet that was never sent to your client nor claimed. It's just a worksheet that was admitted by the plaintiff would be incorrect. You have a contract, the terms and conditions of which say that he will be billed. It's clear. It's unambiguous. The rates were not specified because I'm sure that there's no way to

put them in there because they vary.

However, there's what he was billed in this case for his non-payments was the non-discounted price, and so it's not a jury issue in this case. I don't see it at all. You got a contract. It's unambiguous. He signed it. He read it and he knew he didn't bill the additional amount. He knew that. I mean, he did and now he's going to have to pay. Now he's going to have a judgment against him. Okay.

I want you to go ahead and make a record. If I'm wrong, they'll correct me, but I don't see this being a jury question. Okay.

MR. EPPS: And, again, Your Honor, just respectfully, I think coupled with his e-mail saying he's calculating a daily interest rate on the -- on the original amount of 16,421.28 at -- I believe it was -- let me get it correct. That balance is 16,421.28 -- this is Plaintiff Exhibit 5 -- has a current daily interest charge of 246.32. That's his evidence. That's what he testified. That's his e-mail to DMP Construction.

I think, you know, certainly there's no -- there's no definition, no -- no clarity of what a discount is. He testified that that's what he gets

his rates through being a broker in the freight broker business or freight service business.

You know, that coupled with the document. I mean, that's, -- you know, there's no -- there's no -- the itemized list is the Plaintiff's No. 3, which was the -- which was the amount -- the amount due without the discount for nonpayment. Again ---

THE COURT: Well, let me -- may I ask you another way? What questions of fact do you claim exists in this case that need to be resolved by the jury?

MR. EPPS: Is that the amount owed, whether it's the original amount or the original amount plus the 1.5 interest per month correctly calculated under -- under the term -- the contract terms and agreement?

THE COURT: So you're asking the jury to go, back and perform these calculations? There's no evidence in the record.

MR. EPPS: Right. He testified that at the end of the -- that 1.5 percent monthly is 7,000 on the original amount of 16,421.28 is \$7,390 -- 89.60.

THE COURT: That's an incorrect way of calculating it. You have to calculate individual daily invoices from the date of invoice from the due

date on the invoice. You can't do a figure -- they have to be individually done because it's going to vary.

MR. EPPS: Well, that's what the plaintiff did stating in his e-mail on daily interest charges of 246.32.

THE COURT: I understand there's an e-mail where he says it's a daily interest rate, right, and that he was incorrect, but there's nothing that was billed to your client to reflect any inclusion of a daily interest rate anywhere.

So in my mind, there's no question. There's a contract. Everybody stipulated that too. Your client said he read it. It says what it says, and he's billed what he's billed. I mean, I don't see any questions of fact in this case at all. I really don't.

I know that those raise some suspicions as to claims of daily interest rates, but there's no -- there's nothing in there for the jury to decide because they weren't included in any billing at all. If you can point me out to it ---

MR. EPPS: Well, because I hadn't -- again, let me -- may I look through Plaintiff's Exhibit 6 because this was produced ---

THE COURT: Y'all had this case for a year or better, so I figured you would've done that before today.

MR. EPPS: Well, I didn't ---

THE COURT: Right.

MR. EPPS: --- receive this until today.

THE COURT: Right.

(From 3:33 to 3:41 p.m., brief recess.)

THE COURT: I'm going to direct a verdict in favor of the plaintiff in this matter in the amount of \$54,377.24 actual damages, which is the non-discounted total amount for Invoices 1065, 1071, 1072, 1073, 1074, 1075, -76, -86, -88, -91, and -99.

In making that finding, there's no genuine issue of material of fact. The parties entered in an agreement that the contract provides they pay within 15 days, paragraph 7.

Now, it spells out the right of the plaintiff to charged a non-discounted amount upon the timely payment. There's no genuine issue of material of fact that the defendant did not make any timely payments at all. Therefore, under the terms of the contract -- undisputed terms of the contract and admitted that plaintiff was entitled to bill him for the nondiscount amount.

There was an issue created by the plaintiff through, quite frankly, sloppy paperwork that it was a claim of prejudgment or daily interest of 1.5 percent. There's no evidence that was ever billed in any form or fashion, even viewed in the light most favorable. I know there's claims as to it, and it's clearly that, but there's no -- there is zero attempt to bill any interest -- daily interest on these amounts.

Therefore, the actual damage of 54377.24, reflecting a \$1,000 payment from the defendant from the original billing price. You'll be entitled to 18 percent annual interest of 1.5 percent monthly interest on 2,000 from the due date on each one of these invoices from the due date. You don't get to start it from the bill date. They're from the due date, right?

MR. ALLEN: Your Honor, what we acquiesce for in the complaint, we just simplified it and made it as of, I think, the due date of that last invoice, May 15, 2016.

THE COURT: Okay. Then you're limited to that. All right. Then you're entitled to prejudgment of interest from that date in the amount of 1.5 percent.

MR. ALLEN: Up to today would be 24,877.32.

THE COURT: Okay. Just share those with Mr. Epps.

I know -- Norman, I know you vehemently disagree with me. I understand that, but that's for the record. Just share the math. If it's wrong, fine.

If on the other hand, I'm going to tell you this, I do not know procedurally how proper it is, but in taking this case away from the jury, if you find that there has been actual inclusion -- inclusion of this daily interest ---

MR. EPPS: Yes, sir.

THE COURT: --- in the figures, then by way of timely file post-trial motion ---

MR. EPPS: Yes, sir.

THE COURT: --- I'm going to grant his relief, okay, so be aware that may happen.

I don't think it will, but you're also entitled to attorney's fees in this matter. Now, have you looked at his affidavit of attorney's fees?

MR. EPPS: I haven't seen an affidavit of attorney's fee. He submitted into pleadings for 15 percent.

MR. ALLEN: I have not prepared an affidavit at

this time.

THE COURT: Do you -- well, would you prepare one and give it to Mr. Epps within ten days? You will have the right if you feel like you want to cross-examine Mr. Allen about what he's included in his affidavit. You certainly have that right to do so.

MR. EPPS: Yes, sir. Yes, sir.

THE COURT: Okay. And let me explain something mainly to you, but for both sides of this case. When the case -- the jury determines facts, factual issues. If there's a dispute of facts or the facts are capable of more than one inference, then it's up to the jury to determine what those facts are.

In this case, in making a ruling that I did, and I know you disagree with me, but I have people disagree with me every day because I have to make a ruling. I found that there is no dispute as to the facts. And as a matter of law, they're entitled to a judgment. That's based upon your contract, terminology, the contract, and the fact that these figures are reflective of a non-discounted amount, not anything else. That's why I made this ruling. Okay, sir?

That being said, you still -- after I file,

your attorney will have ten days to file post-trial motions. And after that, they get 30 days to appeal if they want to do that, but I'm going to grant their -- the judgment as stated. If you'll prepare an order and get it to Mr. Epps. Do your attorney's fees, as well. Okay?

MR. ALLEN: Yes, Your Honor.

THE COURT: Now, I'm going to bring the jury back in here.

MR. EPPS: Yes, sir.

THE COURT: I'm just going to tell them what I did, so that way they understand they're not going to hear the case. You're welcome to stay. You're welcome to go.

Anything else, Norman, that you feel like you need to put on the record to protect the record itself?

MR. EPPS: No, sir, Your Honor. I think I ---

THE COURT: Okay..

MR. EPPS: Nothing further at this time.

THE COURT: Okay. Again, if you show me that they agreed, then I'm going to change the judgment to the original plus the amount he's asking, and you'll have to pay his fees. Okay? All right. You will then -- you will no longer be the prevailing

party. Okay. So I don't think that's going to happen, but that's -- that's what it is.

All right. Bring the jury in, please, sir.

THE BAILIFF: (Complying.)

THE COURT: All right. Now, ladies and gentlemen of the jury, I have directed a verdict in this case, which means you will not be deciding this case. I know that breaks your heart, but I ruled as a matter of law that there's no genuine issue of material fact.

The parties have a contract. The terms of the contract, whether wise or unwise, allow the plaintiff to charge a non-discounted rate by the clear language of the contract. There's no evidence -- there's claims of inclusion in the pretrial 1.5 percent interest on amounts due, but there's never any billings of the same. So I have granted judgment in favor of the plaintiff in the amount that they claimed, so you don't have to decide this case.

All right. Does anybody have questions about anything at all?

(No responses.)

THE COURT: Anybody have any comments?

A JUROR: (Indicating.)

THE COURT: Yes, sir.

A JUROR: For future reference for future jurors, if we're sitting there and we go into deliberation over a trial such as this, I know it doesn't pertain to this trial, but do we get the evidence?

THE COURT: Yeah. Yeah, and, again, a lot of times, you see that TV screen and that little projector, people are flashing up there so you can look at it while it's going over, but each trial is a different animal, but you do have anything that is admitted into evidence is sent back to you and you're able to look at it.

That being said, thank you for your service. Without you, the system does not work. It's certainly not a perfect system, but I would challenge anybody to find one that works better anywhere in the world, and we're fortunate to be able to have it. So you're free to go.

(At 3:50 p.m., jurors were excused from further service.)

THE COURT: All right, guys. Thank you. I appreciate.

MR. ALLEN: You want a form order -- us to do a form order and send it to ---

THE COURT: Form order with verdict directed in favor of the plaintiff for the amount of damages and attorney's fees. And you are to provide -- you are to provide a formal order.

MR. ALLEN: Okay. Thank you, Your Honor.

THE COURT: Norman, I'm sorry, brother, but I know -- I've watched him try a lot of cases and he's real good. Today it's just the facts were with him. You did a good job. Take care.

(At 3:51 p.m., the proceedings concluded.)

- - -

C E R T I F I C A T E O F R E P O R T E R

STATE OF SOUTH CAROLINA

COUNTY OF ANDERSON

I, the undersigned, Lisa Scott, Circuit Court Reporter for the Tenth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete transcript of record of all the proceedings had and the evidence introduced in the trial of the captioned cause, relative to appeal in the Circuit Court for Anderson County, South Carolina, on the 5th day of December, 2018.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

July 1, 2019

/s/Lisa Scott

Lisa Scott
Circuit Court Reporter

STATE OF SOUTH CAROLINA)

COUNTY OF ANDERSON)

COURT OF COMMON PLEAS
2017-CP-04-01382

FEDERAL LOGISTICS, INC.,)
PLAINTIFF,)

VS.)

DMP CONSTRUCTION, LLC,)
DEFENDANT.)

TRANSCRIPT OF RECORD

ORIGINAL

January 31, 2019
Anderson, South Carolina

B E F O R E:

THE HONORABLE R. LAWTON MCINTOSH, JUDGE.

A P P E A R A N C E S:

CRAIG H. ALLEN, ESQ.
Attorney for the Plaintiff

WILLIAM N. EPPS, III, ESQ.
Attorney for the Defendant

HOLLIE M. JENKINS
Circuit Court Reporter

I N D E X

(There were no witnesses called.)

E X H I B I T S

(There were no exhibits introduced.)

P R O C E E D I N G S

1
2 THE COURT: All right. Mr. Epps, and, Mr. Allen, are
3 you guys ready to go?

4 MR. EPPS: Yes, sir, Your Honor.

5 MR. ALLEN: Yes, Your Honor.

6 THE COURT: All right. And I -- I have some memory
7 of this. I know we had a bench trial. There was some
8 question as to -- about the way the interest rates were
9 calculated. And I can't remember the specifics, but I
10 think Mr. Epps' position was he never charged this in the
11 past and now he did -- or what -- what was the issue? I
12 can't --

13 MR. EPPS: Your Honor, may it please the Court.

14 We had a jury trial on December the 5th, 2018. And
15 the parties stipulated that there was a contract for
16 freight services between Federal Logistics, Incorporated,
17 and DMP Construction, LLC.

18 THE COURT: It was a jury trial?

19 MR. EPPS: It was a jury trial.

20 And at the conclusion of -- well, at the -- at the
21 end, the Court granted a directed verdict in favor of the
22 Plaintiff on judgment. And -- and the issue that was
23 before the jury was whether the invoices -- the amounts
24 that were claimed by the Plaintiff as the amounts owed by
25 DMP Construction to Federal Logistics were amounts without

1 discount, or as we -- our position was that -- that DM --
2 Federal Logistics was charging impermissible daily
3 interest of 1.5 percent. The contract that was at issue
4 held that any late charges for Federal -- for -- any late
5 charges on the invoices to DMP were to be charged at 1.5
6 percent per month.

7 During the course of trial, there was a great
8 disparity between the original amounts owed, which were
9 16 -- the original amount owed that DMP owed Federal
10 Logistics was \$16,421.28. Federal Logistics claimed that
11 without a discount, it was owed \$54,377.24. There was a
12 great disparity in that -- in that -- in that -- the
13 amounts owed. Again, DMP agreed they owed Federal
14 Logistics money. We said that we owed the \$16,421.28 with
15 interest calculated at 1.5 percent from that time to the
16 date of trial.

17 During the course of the trial, there were
18 invoices -- it -- there was -- there were evidence entered
19 by Federal Logistics, e-mails -- certain e-mails that
20 Federal Logistics had in its subject line, Late fee
21 interest -- well, Amounts owed, invoice owed, as -- as
22 well as daily interest calculated.

23 And there were e-mails from Rich Fair, who was
24 president of Federal Logistics, telling Ester Williams,
25 who was an employee at DMP, that they were charging --

1 that the -- the current amount balance of \$16,421.28, and
2 you're getting charged a daily interest rate of 246 and
3 some change, which was 1.5 percent per day. That went
4 into evidence.

5 Other e-mails dealing with Rich Fair communicating
6 with -- sending invoices to DMP, as well as Federal
7 Logistics sending invoices to a collection company were
8 entered into evidence.

9 During the course of the trial, Mr. Fair testified he
10 never sent a -- an invoice with daily interest -- 1.5
11 percent daily interest calculated. And he had a
12 document -- he pulled out a -- a -- a briefcase, so to
13 speak, and pulled out some documents.

14 And upon looking at the documents, he had a document
15 that was entered into evidence -- evidence, subsequently,
16 that was calculating the monies owed from -- from DMP to
17 Federal Logistics. And it calculated in that what was
18 owed, 1.5 percent per -- daily -- late -- late fees per
19 day, daily interest fees. That went into evidence. He
20 testified that it was a mistake and misprint, that it was
21 never sent to DMP Construction, LLC.

22 At the conclusion of the testimony, the Court
23 directed verdict -- directed a verdict for the Plaintiff
24 in the amount that the Plaintiff was asking for in the
25 amount of \$54,377.24, plus interest of \$24,400 --

1 69 cents -- \$24,469.50, plus reasonable attorneys fees.
2 That was allowed under the contract.

3 At -- at the conclusion of that directed verdict
4 ruling, the Court did say if -- Your Honor did say if --
5 if there's evidence -- if there's a timely motion for --
6 timely post-trial motion and there's evidence that Federal
7 Logistics or Rich Fair charged impermissible daily
8 interest of 1.5 percent, I will vacate my ruling, order,
9 grant DMP what they're asking for, which would be under
10 our -- what we argued the amount owed to Federal Logistics
11 was \$23,810.88, and allow an affidavit -- or allow
12 attorneys fees for the Defense side as the prevailing
13 party.

14 Subsequently, Your Honor, DMP Construction did --
15 were able to extract those e-mails that were sent. They
16 were into evidence -- they were in evidence by the
17 Plaintiff. They were able to extract those e-mails that
18 were sent in 2016 to DMP Construction, specifically, for
19 Ester Williams.

20 I will tell you, Your Honor, there was -- Plaintiff's
21 Exhibit No. 5 was a -- was an e-mail that was kind of cut
22 off. The actual e-mail -- and it's in the motion -- that
23 was retrieved by DMP Construction. The actual e-mail sent
24 to DMP Construction, along with a -- an invoice that was
25 dated -- that was dated as of June 14th, 2016, said this,

1 I am following up -- this is Rich Fair to DMP. I am
2 following up with you regarding the outstanding invoices
3 DMP still owes Federal Logistics. Some of these are now
4 over a hundred days past due. And as communicated
5 previously, these overdue balances are subject to a 1.5
6 percent late fee per day as they are overdue. As such,
7 the original total balance of \$16,421.28 has a current
8 daily interest charge of \$246.32. I have attached a
9 statement as of today reflecting each invoices original
10 balance, amount with days overdue, and corresponding late
11 fees now, also, due as a result of nonpayment.

12 The subject line said, Daily interest fee charge.
13 That's the total e-mail -- that's the original e-mail sent
14 in June of 2016 on June 14th, 2016, directly to DMP that
15 was -- they were able to retrieve. And -- and that was
16 attached to -- to this -- to my motion, as opposed to
17 Plaintiff's Exhibit No. 5, which that was the e-mail, but
18 it was cut off.

19 So in -- the actual invoice that was sent to DMP was
20 Plaintiff's Exhibit A, which as of the DMP Construction
21 statement as of 6/14/16 was the invoice with the original
22 amounts owed, the late interest fees of 1.5 percent per
23 day. And the total amount due at that time was
24 \$39,721.73, which included the late interest fee -- the
25 late 1.5 percent per day.

1 So that was entered. The e-mail was entered into
2 evidence by the Plaintiff. But the actual invoice was --
3 the actual invoice that was attached to that e-mail was
4 not entered. And that was able to be retrieved by DMP.
5 That was attached -- and that was attached to my motion
6 for a new trial -- to vacate and for a new trial.

7 Also, Your Honor --

8 THE COURT: I don't have it.

9 MR. EPPS: You don't have it?

10 THE COURT: I have your motion, but I don't have
11 anything but your memorandum -- or your motion, I mean.
12 If you have it, I'd appreciate --

13 MR. EPPS: I do, yes, sir. Yes, sir.

14 THE COURT: Do you need that to argue with?

15 MR. EPPS: No. I have another copy, Your Honor.

16 In -- in Plaintiff's Exhibit -- or Exhibit A attached
17 to my motion, that was originally -- that was the actual
18 e-mail that was entered at the trial -- jury trial as
19 Plaintiff's Exhibit No. 5. And -- and attached is the --
20 the corresponding statements sent by Federal Logistics to
21 DMP contemporaneously with that June 14, 2016, e-mail.

22 Also, attached -- also, attached, the next e-mail,
23 which is Exhibit B -- which is Exhibit B is from Rich Fair
24 of Federal Logistics to DMP Construction dated August 3rd,
25 2016, sending an updated invoice and interest up through

1 August 2nd of 2016. Again, that statement to DMP attached
2 to my motion is what was retrieved by DMP that was sent
3 contemporaneously with that e-mail as Exhibit B.

4 And it showed the above -- the -- the added -- the at
5 issue invoice numbers with the original amount due, plus
6 additional late interest of 1.5 percent a day. And that
7 is attached to Exhibit B. And that was an updated invoice
8 and interest through 8/2/16.

9 And the statement that was sent directly to DMP as of
10 7/13/16 were the original amount due, as well as interest
11 calculated at 1.5 percent per day with a total amount due
12 of \$51,791.37. Again, that was sent directly to DMP
13 contrary to what Mr. Fair testified to.

14 Also --

15 THE COURT: What did he -- what did he testify to?
16 That he wasn't adding this 1.5 --

17 MR. EPPS: He was not adding 1.5 percent interest.
18 He never sent any -- he never sent an invoice or a
19 statement to DMP referencing 1.5 percent interest.

20 And when I entered -- when I found that document on
21 his -- on his person and -- and questioned him -- and it
22 was entered into evidence. He testified that he was --
23 that was a mistake. He was playing around. He never sent
24 it and it was a mistake.

25 THE COURT: Okay. Mr. --

1 Hang on. I'm going to let you -- I'm going to let
2 you go forward. Hang on.

3 (Pause.)

4 THE COURT: Go ahead.

5 MR. EPPS: And so, also, entered into evidence was --
6 was an e-mail sent to -- sent to -- sent by Rich Fair to
7 Jeremy at BBcollect.com. Now, he sent that to -- they
8 were going to put a lien on the amounts due by DMP.

9 All right. They said, Here's the invoice for backup
10 paperwork in his PDF. Let me know if you need more
11 information. Can we put a lien on the property, the
12 current building, or the one in Anderson at 407 River
13 Heights that they -- also, can we --

14 THE COURT: Don't -- don't read to me. I can -- I
15 can just -- I'll read them. Just tell me which one --
16 where they are. And I will go over them.

17 MR. EPPS: That statement -- the statement sent to
18 BBcollect.com was the DMP statement as of July 13th, 2016,
19 with the late interest fee of 1.5 percent per day.

20 THE COURT: Okay.

21 MR. EPPS: Also, the invoices -- and if you remember,
22 the invoices -- the original invoices -- because when he
23 got back, he -- he got the original invoices that he
24 hadn't provided, the ones where he claimed was without the
25 discount. And when he put in those invoices, those

1 invoices were directed to Ester at DMP Construction. And,
2 also, it was the original amounts. At the bottom, it
3 said, There's a late daily fee of 3.5 percent on
4 outstanding balance -- a late daily fee of 3.5 percent on
5 outstanding balances for payments past due.

6 And when I asked him about that, he testified that he
7 just put that on there, that he -- that he didn't ever
8 charge them late interest fees daily, that he does that to
9 certain people. He does that to people who do not have
10 contracts. That was his testimony. So that information
11 was sent to the collection company.

12 Also, Your Honor, attached as Exhibit D is an
13 upstate -- is an updated statement sent to DMP on October
14 17th, 2016, which was the actual statement that was
15 entered into evidence by Rich Fair of Federal Logistics.

16 Now -- and -- and again, DMP was able to extract the
17 actual e-mail, as well as the actual attachment that was
18 sent contemporaneously with it as of October 17, 2016.
19 What was sent to DMP was -- and it was the first time they
20 reference a discount -- a discount for nonpayment. And
21 they get there -- the balance due of \$54,377.21, which was
22 about \$3,000 -- two to \$3,000 more than the July statement
23 of \$51,000.

24 But they, also, included to DMP late interest --
25 South Carolina fees of 8.75 percent for a total due that

1 was sent to DMP of \$59,135.25.

2 Again, and I attached Plaintiff's Exhibit No. 5 that
3 said, you know, that was what was entered by the
4 Plaintiff. The e-mail was not -- it was cut off. But the
5 subject line was, Past due invoice and daily interest
6 calculated.

7 And, Your Honor -- and then Plaintiff's --
8 Defendant's Exhibit No. 3 was the actual -- that was the
9 statement of July 13th, 2016, that was -- actually, when I
10 found it, we entered it into evidence. And that's when
11 Rich Fair testified that I was -- I was messing around.
12 It was a joke. It was a mistake. I never sent that.

13 So based -- you know, that, Your Honor, is -- based
14 on -- on that as the Court's ruling regarding any evidence
15 that -- that they did charge impermissible daily interest,
16 that the Court would vacate its ruling. We'd ask that the
17 Court do so in that matter.

18 In the alternative, Your Honor, we had asked the
19 Court to grant a new trial in that -- in regard to the
20 motion for directed verdict. Taking in view of the
21 evidence and the inferences, which reasonably can be
22 drawn, therefore, in the light most favorable to -- to the
23 Defendant in this case that -- we'd ask the Court to -- to
24 grant a new trial from that directed verdict motion -- I
25 mean, Your Honor -- and, specifically, we contend that,

1 you know, obviously, the Court looks at the evidence and
2 does not weigh the evidence. It was a jury trial.

3 Obviously, there was evidence entered that referenced
4 daily interest rates -- impermissible daily interest
5 rates. If the contract was 1.5 percent per month, there
6 was, certainly, evidence. Again, there was his testimony
7 that -- that he did not -- he did not send that. He,
8 also -- but there were invoices that were sent directly to
9 DMP that referenced the 3.5 percent daily interest rate.

10 He testified -- and there were gross disparities in
11 the original amount owed and the amount -- the
12 non-discounted amount he was claiming. So you go from
13 \$16,000 -- 16,000 and some odd dollars to \$54,000. There
14 was a great disparity. He testified particularly when
15 that evidence -- that e-mail that he put in his -- his own
16 evidence, his own e-mail stated in his own words that he
17 was charging a daily interest charge of \$246.32 on the
18 original amount owed. His subject line in the -- in his
19 own e-mail, you know, was, Past due invoice and daily
20 interest calculated.

21 Again, when that evidence -- when he found -- found
22 that document on -- in his -- in his possession that is
23 consistent with -- that is what he sent to DMP back in
24 2016, he testified that, again, that was a mistake. It
25 was a joke. He was just messing around, never sent it.

1 However, it was into evidence. And, you know, the --
2 the weight -- it's the weight, and veracity, and
3 credibility of the -- of the witnesses -- the witnesses
4 and the evidence that's what -- our position is that
5 was -- that was a jury question. There was evidence in
6 the record. There was evidence in the trial that -- that
7 could lead a jury to believe -- to infer -- at least,
8 infer or to -- to believe that 1.5 percent --
9 impermissible 1.5 percent daily interest was being
10 charged. And that was up to a jury to make that
11 determination regarding the evidence, regarding Rich
12 Fair's testimony.

13 So, Your Honor, we're asking that the Court vacate
14 its -- vacate its judgment in this matter and -- and issue
15 a judgment for the Defendant in the amount that we had
16 requested, which was 16 -- which was 16,000 -- 16,421.28,
17 plus 1. -- 1.5 percent per month interest from May 15,
18 2016, to the date of trial, which would be 23 --
19 \$23,810.88 and -- and allow an affidavit of attorney fees,
20 if the -- if the Court would -- if the Court would --
21 would so find.

22 In the alternative, we ask the Court to -- to vacate
23 the judgment and allow us to have a new trial in this
24 matter.

25 THE COURT: All right. Thank you.

1 Mr. Allen.

2 MR. ALLEN: May it please the Court.

3 THE COURT: Yes, sir.

4 MR. ALLEN: First, Your Honor, to the extent that the
5 Defendant is arguing about exhibits that they are now
6 producing that were not produced for trial and were not
7 entered into evidence at trial, we would object to -- to
8 the entire argument and the entire consideration of any
9 such exhibits.

10 We had, specifically, asked the Defendant in our
11 production of documents, which I queried him on while he
12 was testifying, Didn't we ask for all e-mails, text
13 messages, letters, correspondence, any other written
14 communication between Plaintiff and Defendant from
15 November 16, 2015, through the date that this action was
16 filed? They produced nothing.

17 THE COURT: But that -- that's a little circular when
18 that -- that was produced and sent by your client, too, at
19 the same time; right, allegedly?

20 MR. ALLEN: I'm sorry. Oh, oh --

21 THE COURT: This information that Mr. Epps was
22 talking about came from your client?

23 MR. ALLEN: The e-mails did, which we had already
24 provided to them in -- in our discovery. We had already
25 provided that. And there's no question that he sent

1 e-mails to them and -- and he had sent invoices to them.
2 And the invoices said interest will run at 3.5 percent
3 daily rate. And the e-mails were -- were asking for
4 interest at -- at 1.5 percent on a daily rate. No
5 question that he did that. He did not collect it. We did
6 not sue for it. Quite frankly, they never objected to any
7 of those submissions either.

8 The -- the point, I think, that -- that was being
9 made -- and -- and I think that Your Honor had asked
10 Defense Counsel is, if you can show me through
11 calculations that the invoice amounts he's claiming now,
12 the \$59,000 or \$54,000 is the original amount, plus
13 interest at a daily rate of 1.5 percent, show me. I'll --
14 I'll then go back to the \$16,000. Because, clearly,
15 that's -- and -- and I've tried, Your Honor.

16 I went through the calculations. There is no way
17 that you can make these calculations equal these amounts.
18 You can look at the amounts and you can tell clearly that
19 it won't do. Because some of the non-discounted amounts
20 were not as much higher than the discounted amounts. Some
21 were more higher.

22 So it -- it's not consistent and there's no way to
23 make -- to -- there's no evidence that the non-discounted
24 amounts included impermissible daily interest. There's no
25 evidence of that. These other things do not -- they don't

1 match up.

2 Mr. Fair testified where the non-discounted amounts
3 came from. So -- so, I mean, that's where we are.

4 They -- and they still to this day have not shown us how
5 you arrive at the \$54,000 amount by using daily interest.

6 THE COURT: All right.

7 MR. ALLEN: They still haven't shown us that. They
8 can't because it doesn't. And that's not where it came
9 from.

10 I want to point out that the Defendant admitted when
11 he testified that he signed and reviewed the agreement.
12 The agreement said, Past due invoices are subject to
13 initial charge at the rate of one and a half percent per
14 month -- the average outstanding balance due. Okay.
15 That's what the agreement was. He knew it. We knew it.
16 So he must have known that was the interest that he was
17 being charged.

18 The agreement, also, said that Globaltrans [phonetic] --
19 the Plaintiff reserves the right to amend or adjust charges
20 and to reinforce -- the customer in the following events.
21 And one of those events is if overdue invoices exceed
22 30 days with nonpayment from customer, rates may reflect
23 original costs with no discount. That was the testimony
24 from Rich Fair. That's how the 59,000 -- or \$54,000 figure
25 came into being.

1 The agreement further says, In the event we do not
2 receive written notice of the dispute -- of any dispute
3 with the charges -- oh, it says, Any dispute by the
4 customer of any invoice shall be made in writing,
5 specifically, reflecting the nature of the dispute made
6 within 30 days to [inaudible]. And it says, In the event
7 we do not receive timely written notice, the charges will
8 conclusively be presumed to be valid.

9 In addition, we produced to the Defendant copies of
10 the invoices. And these invoices show the amounts without
11 discount. We asked them in request for production to
12 admit that we provided that transportation, which they
13 admitted. And -- and that they received copies of these
14 invoices shortly after the dates of the invoices. They
15 admitted that. Admissions and requests are conclusively
16 determined for purposes of trial.

17 There were no complaints on the balances, as I've
18 said, provided to us in writing and, I think, no testimony
19 that any complaints with these balances that -- that may
20 have been erroneously referred to in e-mails. But the
21 amount that we sued for is the correct amount. It is the
22 non-discounted amount.

23 The Defendant knew he was getting a discounted amount
24 just based on the plain terms of the agreement. He failed
25 to pay properly as agreed. He knew that he'd have to pay

1 the undiscounted amount. He knew he'd have to
2 interest at one and a half percent a month. And
3 disputed any of these amounts charged.

4 Other than Counsel's speculation that the
5 undiscounted amount includes interest, which is not
6 evidence in this case, there is no evidence that the
7 undiscounted amount includes interest.

8 The stipulation at trial was that either 16,421.28
9 was owed with interest after that or 54,377.24 was owed
10 with interest after that. So it's clear that from the
11 only evidence in the case, the only reasonable decision
12 the jury could make is that 54,377 was the amount owed.

13 THE COURT: Of course, I directed a verdict.

14 MR. ALLEN: And -- and that's why you directed the
15 verdict.

16 And, in fact, from -- from the cases that were cited
17 by Mr. Epps, the case of Bultman where they talked about,
18 you know, directed verdict being the evidence in the light
19 most favorable to the non-moving party. The Court, also,
20 said, However, this does not give the Court license to
21 ignore facts unfavorable to that party, such as in this
22 case. In essence, we must determine whether a verdict for
23 a party opposing the motion would be reasonably possible
24 under the facts literally -- literally construed in their
25 favor.