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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

Deadra L. Jefferson, Circuit Court Judge

Appellate Case No. 2019-001599
Trial Court Case No. 2018-CP-10-4907

Karyn Cavanaugh,

Appellant,

v.

New Age Contractors, LLP,

Respondent.

RECORD ON APPEAL

William K. Kalivas, SC Bar # 80201
7455 Cross County Road, Suite 1
Charleston, SC 29423-0578
Telephone: 843-760-0220
Email: wkalivas@scnlaw.com
Attorney for Respondent

Ransome H. Helmly, SC Bar # 78081
Law Office of Ransome H. Helmly, LLC
409 Coleman Blvd., Ste. 200
Mt. Pleasant, SC 29464
Telephone: 843-884-0184
Email: rhh@helmlylaw.com
Attorney for Appellant

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Court of Common Pleas

Deadra L. Jefferson, Circuit Court Judge

Case No. 2018-CP-10-4907

New Age Contractors, LLP,

Respondent,

v.

Karyn Cavanaugh,

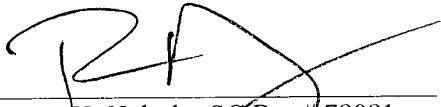
Appellant.

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JULIE J. ARMSTRONG
CLERK OF COURT
BY 

NOTICE OF APPEAL

Karyn Cavanaugh appeals the order of the Honorable Deadra L. Jefferson dated August 13, 2019. Appellant received written notice of entry of this order on August 20, 2019.

September 18, 2019



Ransome H. Helmly, SC Bar # 78081
Law Office of Ransome H. Helmly, LLC
409 Coleman Blvd., Ste. 200
Mt. Pleasant, SC 29464
843-884-0184
Attorney for Appellant

Other Counsel of Record:
William Kalivas, Esq.
Smith, Closser & Wheeler, PA
Post Office Box 40578
Charleston, SC 29423
843-760-0220
Attorney for Respondent

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)
)
Karyn Cavanaugh,)
)
Appellant,)
)
vs.)
)
New Age Contractors, LLP,)
)
Respondent.)

IN THE COURT OF COMMON PLEAS
Docket No. 2018-CP-10-4907

ORDER

Presiding Judge:
Date of Hearing:
Appellant's Attorney:
Respondent's Attorney:
Court Reporter:

Hon. Deadra L. Jefferson
July 31, 2019
Ransome H. Helmly, Esq.
William Kalivas, Esq.
Cheri Milligan

FILED
2019 AUG 13 PM 3:21
JULIE J. JARVIS, JR.
CLERK OF COURT

This matter comes before the court on a notice of appeal by Appellant Karyn Cavanaugh ("Appellant") filed October 10, 2018. Appellant filed her complaint in the Charleston County Small Claims Court on March 26, 2018 against New Age Contractors, LLP ("Respondent"). The case was heard on September 10, 2018 before the Honorable Henry W. Guerard. Appellant appeared *pro se* and presented no additional witnesses. Respondent was represented by Steven L. Smith, Esq. After careful consideration of the arguments of counsel and a review of the record, including the Magistrate Court's Return, filed March 4, 2019, this Court hereby dismisses Appellant Karyn Cavanaugh's appeal and affirms the Magistrate Court's Judgment.

FACTS

On June 17, 2015, the parties entered into a contract for residential home repairs for water damages to Appellant's home located at 31 Krier Lane, Mt. Pleasant, South Carolina 29464. Appellant claimed that Respondent breached the contract by failing to perform fully under the

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contract after Appellant paid Respondent in full. Appellant sought reimbursement for the uncompleted work in the amount of \$7,500.

At the hearing, Appellant testified that the contract was based on an insurance estimate for the repair of leaking or failing roof drains that ran down the side of Appellant's home. The estimate was based on the leaking or failing roof, which was believed to be the original problem. She further testified that the contract specifically listed every item that the Respondent was responsible for repairing or replacing. Respondent was to remove the stucco siding in the immediate area of each drain, make repairs, and reinstall the siding. However, as soon as Respondent began to remove the siding, Respondent discovered the home was suffering from serious wood rot and termite damage. The damages was far more extensive that either party expected.

After discovering the additional damage, the parties had multiple conversations regarding how to proceed and financing. The Appellant and her husband asked Respondent to continue to assist them with completing the repairs and obtaining additional insurance proceeds. Respondent agreed, and continued to do so until the unpaid balance owed by the Appellant reached \$9,852.08, at which time Respondent ceased repairing the home. Appellant then initiated these proceedings.

CONCLUSIONS OF LAW

On an appeal from the Magistrate's Court, the Circuit Court, acting as the appellate court, reviews the matters raised in the notice of appeal. S.C. CODE ANN. § 18-3-70 (2013) ("The appeal must be heard by the Court of Common Pleas upon the grounds of exceptions made and upon the papers required under this chapter, without the examination of witnesses."). "Upon hearing the appeal, the appellate court shall give judgment according to the justice of the case, without regard to technical errors and defects which do not affect the merits." S.C. CODE ANN. § 18-7-170 (2013).

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“In giving judgment, the court may affirm or reverse the judgment of the court below, in whole or in part, as to any or all the parties and for errors of law or fact.” Id. See Bowers v. Thomas, 373 S.C. 240, 244, 644 S.E.2d 751, 753 (Ct. App. 2007) (citing S.C. CODE ANN. § 18-7-170 (2014), *et seq.*); See also S.C. CODE ANN. § 14-25-95 (2014) (Municipal Court Appeals to Circuit Court).

This Court’s review of this appeal is limited to matters, which were raised and ruled upon by the trial court. Wilder Corp. v. Wilke, 330 S.C. 71, 76, 497 S.E.2d 731, 733-34 (1998) (citing Creech v. S.C. Wildlife & Marine Res. Dep’t, 328 S.C. 24, 491 S.E.2d 571 (1997) (“It is axiomatic that an issue cannot be raised for the first time on appeal, but must have been raised to and ruled upon by the trial judge to be preserved for appellate review. . . Moreover, an objection must be sufficiently specific to inform the trial court of the point being urged by the objector”)).

As the circuit court noted in its order, the circuit court, pursuant to S.C. CODE ANN. § 18-7-170 (1985), in appeals from the magistrate court, ‘may affirm or reverse the judgment of the [magistrate], in whole or in part, as to any or all the parties or for errors in law or fact.’ Nonetheless, the circuit court is restricted regarding which issues it may entertain in determining whether a judgment should be affirmed or reversed, either in whole or in part. See Sanders v. Hayes, 128 S.C. 181, 122 S.E. 572 (1924) (where the defendant failed to object at the trial that the magistrate was related to the plaintiff although his attention was called to it, that objection cannot be raised on appeal); Hill v. Garrett, 83 S.C. 572, 65 S.E. 821 (1909) (wherein the court held the objections, on appeal from a magistrate court, were not available unless raised below). Also, the parties to an appeal from the magistrate court are restricted to the theory on which the case was tried in the magistrate court. 51 C.J.S. *Justices of the Peace* § 141, at 299 (1967); see White v. Livingston, 231 S.C. 301, 306, 98 S.E.2d 534, 537 (1957) (“It is well settled that one cannot present and try his case on one theory and thereafter advocate another theory on appeal.”).

Indigo Assocs. v. Ryan Inv. Co., 314 S.C. 519, 523, 431 S.E.2d 271, 273 (Ct. App. 1993) (citations omitted).

A party seeking to preserve an issue at trial for appellate review must raise it to the lower court. Wilder, 330 S.C. at 76, 497 S.E.2d at 273-74. See also Staubes v. City of Folly Beach, 399

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S.C. 406, 412, 529 S.E.2d 543, 546 (2000) (“[A]n issue cannot be raised for the first time on appeal, but must have been raised to and ruled upon by the court to be preserved for appellate review.”); Burke v. AnMed Health, 393 S.C. 48, 54, 710 S.E.2d 84, 87 (Ct. App. 2011) (“A contemporaneous objection is typically required to preserve issues for appellate review.”).

“If the losing party has raised an issue in the lower court, but the court fails to rule upon it, the party must file a motion to alter or amend the judgment in order to preserve the issue for appellate review.” I’On, L.L.C. v. Town of Mt. Pleasant, 338 S.C. 406, 420–22, 526 S.E.2d 716, 723–24 (2000) (“This approach is in keeping with the view, as expressed in Rule 220(c), SCACR, that an appellate court may affirm the lower court’s judgment for any reason appearing in the record on appeal. An affirmance promotes judicial economy and finality in private and public affairs, which are important public policies.”).

Appellant raises the following issues on appeal: that the Magistrate erred in considering evidence barred by the parol evidence rule; that the Magistrate erred in ruling Defendant established that a material change in the terms of the contract occurred; that the Magistrate erred in preventing the Appellant from introducing relevant evidence during the course of her testimony; and that the Magistrate erred in considering evidence precluded by the collateral source rule.

Appellant raised no issue that forms the basis of her appeal to the Magistrate Court during the hearing, nor did she make any post-trial motions to address any of these issues. Therefore, Appellant’s arguments are not preserved for appellate review. Accordingly, this Court affirms the Magistrate Court’s decision and dismisses Appellant’s appeal. Moreover, “[a] *pro se* litigant who knowingly elects to represent himself assumes full responsibility for complying with substantive and procedural requirements of the law.” State v. Burton, 356 S.C. 259, 265 n. 5, 589 S.E.2d 6, 9

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n. 5 (2003). That Appellant opted to proceed *pro se* rather than seek representation by a licensed South Carolina attorney does not relieve her from the technical requirements of the law.

However, alternatively, the Court addresses the merits of the Appellant's arguments on appeal. There exists no evidence in the record to support a finding that parol evidence was introduced, because the interpretation of the contract was not at issue. There is also more than adequate evidence in the record to support a finding that the terms of the original contract were materially altered by the conduct of the parties. Specifically, the original contract was for the replacement of a series of drains, which scope was ultimately enlarged by agreement of the parties resulting in extensive additional repairs to the entire side of the home because of moisture and termite damage. Moreover, while evidence of Appellant's insurance and prior settlement was introduced, the evidence was germane to the underlying basis of the contract terms, especially in light of the fact that Appellant sought to have Respondent assist Appellant with procurement of additional insurance funds as an inducement to continue working without additional compensation. Moreover, the Appellant introduced insurance documentation as a main component of her claim through her testimony. Further, Appellant filed these documents with her Summons and Complaint as exhibits and documentation of her claims. Having raised the issue the Appellant cannot limit the Respondent from inquiry on the matter on cross-examination or inquiry for clarification by the Court.

The Appellant likewise contends that the Magistrate erred in preventing the Appellant from introducing relevant evidence during the course of her testimony. There is no support for this contention in the record on appeal. The record reflects that Appellant had a full and fair opportunity to make a complete presentation of her claims. The record fails to reflect any denied attempts by Appellant to introduce additional evidence or documents. In fact, the record clearly reflects that

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the lower Court considered every document asked of it by the Appellant. Appellant's counsel has characterized Judge Guerard's questioning of the parties as inappropriate. The Court finds this assertion wholly without merit. The record, more specifically the transcript, is clear that any inquiry made of the Appellant by the Court clearly inured to her benefit. It is clear from the record that Judge Guerard's questions were an attempt to assist the Appellant and clarify the issues before him and not an attempt to interfere in any way with the Appellant's presentation of her case.

“Section 18-7-170 of the South Carolina Code (1985) articulates the standard of review to be applied by the Circuit Court in an appeal of a magistrate’s judgment: Upon hearing the appeal, the appellate court shall give judgment according to the justice of the case, without regard to technical errors and defects which do not affect the merits. In giving judgment, the court may affirm or reverse the judgment of the court below, in whole or in part, as to any or all the parties and for errors of law or fact.” Bowers v. Thomas, 373 S.C. 240, 244, 644 S.E.2d 751, 753 (Ct. App. 2007).

THEREFORE, this Court having found more than adequate evidentiary support in the record, no error of law, and finding no abuse of discretion, AFFIRMS the decision of the lower court.

AND IT IS SO ORDERED.



Hon. Deadra L. Jefferson
Presiding Judge
Ninth Judicial Circuit

August 9, 2019
Charleston, South Carolina

6-1006


In The Matter Of:
Karyn Cavanaugh v.
New Age Contractors, LLP

Charleston County Small Claims Court
September 10, 2018
Audio tape transcription

**MILLIGAN COURT
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SCHEDULE@COURTREPORTINGSC.COM

843.224.5211

Original File 091018cavanaugh.TXT
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Audio tape transcription

STATE OF SOUTH CAROLINA)
 :
COUNTY OF CHARLESTON) IN THE SMALL CLAIMS COURT
 CASE NO. 2018-CP-10-4907
 CASE NO. 2018CV1010600326

KARYN CAVANAUGH,)
)
 Plaintiff,)
)
 - vs -)
)
NEW AGE CONTRACTORS, LLP,)
)
 Defendant.)

* Audio Transcription *

HEARING DATE: September the 10th, 2018

LOCATION: Charleston County Small Claims Court

MAGISTRATE JUDGE: Henry W. Guerard

TRANSCRIBED BY: Kimberli S. Hogle
 Professional Court Reporter, Scopist,
 Transcriptionist and Notary Public

A P P E A R A N C E S

For the Plaintiff : Pro Se
By: KARYN CAVANAUGH

For the Defendant : Smith, Closser & Wheeler, PA
NEW AGE CONTRACTORS By: STEVEN L. SMITH, ESQUIRE
7455 Cross County Road, Suite 1
North Charleston, SC 29418

For the Defendant : DAVID "JUNIOR" NEWELL, JR.
WITNESS New Age Contractors, LLP
President

Audio tape transcription

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* Defendant's Exhibits 1 through 5 were marked for
identification.

1 THE COURT: This is Charleston County Small
2 Claims Court Judge Henry Guerard, presiding in this
3 matter of Karyn Cavanaugh versus New Age Contractors,
4 LLP. Small claims case 2018CV10106326. This is Monday
5 September 10th, 2018. You're prepared to go forward at this
6 time?

7 MS. CAVANAUGH: Yes.

8 THE COURT: No other witnesses beside yourself?

9 MS. CAVANAUGH: No, Your Honor.

10 THE COURT: All right. And, Mr. Smith, anything
11 before we get started?

12 MR. SMITH: Other than she failed to answer the
13 counterclaim, but I don't think that's a big deal.

14 THE COURT: Not required to make (inaudible) court
15 rules. It is deemed denied. All right, then. Ms.
16 Cavanaugh, if you would bring whatever you need, come on up
17 and take the stand for me, please? And if you can just set
18 that on the ledge there in front of you. Stand toward me.
19 Left hand on the Bible and raise your right. Do you
20 solemnly swear the testimony you'll give in this proceeding
21 will be the truth, the whole truth, and nothing but the
22 truth, so help you God?

23 MS. CAVANAUGH: I do.

24 THE COURT: All right. Please have a seat and make
25 yourself comfortable.

EXAMINATION

BY THE COURT:

Q And your full name for the record, please?

A Karyn Chamerda Cavanaugh.

Q I'm sorry, middle name?

A Chamerda, C-H-A-M-E-R-D-A.

Q All right. Thank you. All right. Could you tell me what this is all about, please?

A I have a contract that I entered in with New Age Construction in the amount of \$32,594.10.

Q You said 32,000 --

A \$32,594.10.

Q Yes.

A It specifically identified 45 line items that were to be completed, and New Age was paid for this, and there are 19 items that were not completed.

Q Okay. You said 45 items and 19 not --

A Yes.

Q What were the 19 items?

A The 19 items dealt with reapplication of the stucco, and they were R&R metal lath and stucco, paint stucco. More -- it was more just putting on stucco and painting the stucco, and that was never done. No stucco was put on my house. It was left without stucco at all.

Q Okay.

1 A And I have pictures that show what it looks like
2 years later.

3 Q Pictures that look like -- that show what it looks
4 like what?

5 A What it looks like still, to this day. There's
6 still no stucco on it.

7 MR. SMITH: We'll stipulate there's no stucco.

8 Q I thought you said "years later."

9 A Well, yeah, it has been years later now. It's
10 three years later.

11 Q Okay. Okay. More specifically, a little over
12 three years ago. Date contracted, April 7. Date of loss,
13 3/29. Inspection, April 8. Completed, October 21. The
14 insurance company filled all of that out?

15 A This -- the -- the contract that I entered into
16 with New Age Construction was based on the estimate that the
17 insurance company provided on what they thought it would be
18 to complete the work done.

19 Q Okay. Karyn and Kenneth Cavanaugh?

20 A Yes. Kenneth is my ex-husband.

21 Q Okay. But he was also an insured at the time and
22 an owner of the home at the time?

23 A Yes.

24 Q "Please be advised we have received and reviewed
25 the documents regarding your recent claim with Frontline

0

1 Insurance. New Age Contractors, LLP, will maintain and
2 complete any and all repairs as outlined in the insurance
3 Xactimate -- oh, that's a cute one -- estimate prepared by
4 Ellen Wescott on April 8, 2015. Total cost reflected via
5 the Xactimate."

6 MR. SMITH: Xactimate.

7 THE COURT: I'm sorry?

8 MR. SMITH: Xactimate is the name of the program.

9 MR. NEWELL: Correct. Yeah, it's an estimating
10 program.

11 THE COURT: Mighty presumptuous. It's still an
12 estimate. "Provided from Frontline Insurance claim on
13 number 090026094 is for 32,594.10. Thank you for the
14 opportunity, and I look forward to working with you. Tradd
15 Frazier, superintendent." Kenneth Cavanaugh. Insured,
16 Kenneth and Karyn Cavanaugh. 31 Krier?

17 A Krier Lane.

18 Q Okay. The last two pages of your answer
19 (inaudible.) Okay, these are the things you're asserting
20 were not done?

21 A I'm sorry, on what page of the contract?

22 Q The very last two pages of your complaint that you
23 submitted with us. After the estimate, there are two pages
24 which are not -- or do not appear. Maybe I don't understand
25 their format. But everything says Frontline Insurance with

1 the logo at the top until you get to the total of 32,594.10.

2 Who wrote "Contract with New Age," you?

3 A Yes, that's me.

4 Q Page 8?

5 A Yeah.

6 Q October 21, 2015. What's the next page? Who
7 generated that?

8 A I don't have that next page.

9 Q It's your complaint.

10 A Oh. Oh, that was my spreadsheet where I was trying
11 to keep track of everything that was done and not done.

12 Q Okay.

13 A During the process, there was a lot going on. So I
14 was trying to keep track of what was done and what was not
15 done, but there was a lot of things that seemed that were
16 not done. But the easiest for me to identify was, of
17 course, the stucco because it's pretty apparent that the
18 stucco wasn't put on.

19 Q So --

20 A So I'm limiting my complaint to the stucco, because
21 the stucco, nothing was -- there was absolutely no
22 reapplication of stucco.

23 Q Then why did you accept the job three years ago?

24 A Why did I accept it?

25 Q Yes.

1 A I didn't.

2 Q You hadn't brought a lawsuit before now, and you're
3 living -- did you sell the house?

4 A No.

5 Q Did it go to your husband in the divorce?

6 A We were -- we were litigating it during the
7 divorce, yes.

8 Q Okay. It's still subject to litigation in family
9 court?

10 A No, we finished that.

11 Q Okay. How did that come out?

12 A I -- I -- I remortgaged the house, and it's in my
13 name only now.

14 Q Okay. But it wasn't in your name only when this
15 was done, and the contract wasn't in your name only?

16 A No. Well, it was in my name only by June 30th,
17 2015.

18 Q By what?

19 A By a quitclaim deed.

20 Q June -- a quitclaim deed doesn't move a contract.
21 It moves --

22 A No, no. The contract was still in both of our
23 names; correct.

24 Q Well, the contract was only signed by Kenneth?

25 A Correct.

1 Q Okay.

2 A But we were still married at the time.

3 Q Yeah. Okay. The quitclaim deed was when?

4 A June 30th, 2015.

5 Q From Kenneth to you?

6 A From Kenneth and Karyn to Karyn.

7 Q Okay, fair enough. Then if I'm looking at your
8 spreadsheet correctly, the items you're taking exception to
9 are No. 4 and 5, 9, 11, 12, 18, 25, 26, 37, 38 and 44?

10 A Yes.

11 Q Sound right?

12 A Yes.

13 Q Okay. And the biggest items are 9 at 1,100 plus
14 for lath; and 44, 2,300 for painting. Okay. Somehow I feel
15 like we're leaving something out. It's kind of hard to
16 miss. Stucco is the entire exterior treatment of your
17 house, is it not?

18 A Correct.

19 Q So what does it look like?

20 A I have pictures. Would you like to see them?

21 Q Well, I mean -- okay. It still had stucco, but it
22 needed to be replaced, or what?

23 A New Age, they --

24 Q Back up a second.

25 A -- pulled it off.

1 Q I'm sorry?

2 A They took it off. And then they were supposed to
3 reapply, and they did not.

4 Q So what did they do?

5 A Nothing.

6 Q So your house has been unfinished for three years?

7 A Yes.

8 Q Okay. Okay. What's the picture you want me to
9 look at?

10 A This is what it looks like.

11 THE COURT: You're smiling way too much.

12 MR. SMITH: (inaudible)

13 THE COURT: I mean, obviously, I can't get there
14 from here.

15 A These are my photos. This is a closeup of what it
16 looks like.

17 Q Okay. So why was it left like that?

18 A Because they were waiting for more insurance money,
19 and the insurance company said, "No, we have to review
20 this."

21 Q Why were they waiting for more insurance money?

22 A That I have -- I wouldn't know.

23 Q Huh?

24 A I wouldn't know. They stopped work on it and they
25 left.

1 Q See, that's sort of the problem. Your contract is
2 for 32,000, and yet the insurance company wouldn't pay the
3 32?

4 A No, they did. And I paid -- and I paid New Age
5 Construction.

6 Q The whole 32,000?

7 A Yes.

8 Q Okay. But so what are we waiting for more money
9 for?

10 A I'm not waiting for more money.

11 Q Well, yeah, you are. You're suing them now. But
12 you're -- then what did that have -- if you're not waiting
13 for any more money, what does that have to do with the case?
14 I'm lost.

15 A There was a delay, and the insurance company said,
16 "Oh, we have to review things." And in the interim, New Age
17 Construction packed up their stuff and left, and they said,
18 "Call us when you get some insurance money."

19 MR. SMITH: We're missing a whole segment of this
20 case.

21 THE COURT: Totally. I mean, clearly you can't get
22 there from here.

23 BY THE COURT:

24 Q There were supplemental claims?

25 A Yes.

1 Q Okay. What were those?

2 A With the insurance company?

3 Q Yeah.

4 A For additional water damage, yes.

5 Q Where?

6 A They said -- they looked at -- they looked at the
7 extent of the damage and they said, "Oh, it looks like it
8 was more extensive than we originally thought, so we'll take
9 a look at this again, and we'll take it under advisement,"
10 and that took a couple months for them to take a look and go
11 through everything. In the interim, I had a couple of
12 engineering reports. They sent out their engineers. They
13 hemmed and hawed about what actually should be replaced,
14 what would be covered under my policy limits, what was dry
15 rot versus wet rot versus mold versus termites versus -- and
16 they tried to parse out and provide with an additional
17 amount.

18 Q Okay.

19 A In the interim, my house just sat there with no
20 work being done on it.

21 Q All right. At that point, New Age had left or was
22 still working?

23 A They left.

24 Q Okay. So was it necessary to leave this siding
25 exposed to pursue that additional claim?

1 A Well, yes, it was, as long as it -- as long as it
2 wasn't -- as long as it was not actively leaking. And any
3 active leaks, I took care of, you know, temporarily. But,
4 yes, it was necessary to leave it while the insurance
5 company was taking a look at it. Yeah, there was inspectors
6 over and it was -- it was open and exposed.

7 Q If they had gone on and replaced the stucco, then
8 your additional claim would have been covered up. Is that
9 true or not?

10 A I don't really know because I don't really
11 understand all the --

12 Q Did somebody tell you to stop until they
13 reevaluated it?

14 A No.

15 Q Okay. Then I'm still confused. Why would -- if
16 New Age was going to do \$32,000 worth of work, including
17 replace the stucco on the side of your house, nobody told
18 them not to do it, and they got their 32,000, and then they
19 walked off without doing over almost seven to eight thousand
20 dollars' worth of work?

21 A Yes.

22 Q Wow. And no --

23 A They said -- they said it was more extensive than
24 they thought. And I was --

25 Q What was --

1 A The damage to the underlying house.

2 Q First, I don't know who "they" are.

3 A New Age Construction.

4 Q Said the damage was more extensive?

5 A Yes.

6 Q And told you to file a supplemental claim?

7 A Yes.

8 Q Called in the insurance company?

9 A Yes.

10 Q Got them back over there?

11 A Yes.

12 Q And they found more damage?

13 A Yes.

14 Q Okay. So, and where did you go from there?

15 Because all of that had to have gotten done by the end of
16 2015 or the first of '16.

17 A Yeah, that was in 2016.

18 MR. SMITH: Filed a Chakeris lawsuit.

19 THE COURT: I'm sorry?

20 MR. SMITH: Filed a Chakeris lawsuit.

21 A I filed a --

22 MR. SMITH: Johnny Chakeris.

23 THE COURT: Oh.

24 A I filed a lawsuit against the builder, because then
25 it became apparent there was even more damage.

1 Q The homebuilder?

2 A Yes.

3 Q Which wasn't New Age?

4 A No.

5 Q How old is the house?

6 A Ten years old.

7 Q Okay. So we found structural damage?

8 A Yes.

9 Q Or deficiencies?

10 A Right.

11 Q Defects?

12 A Yes.

13 Q How did that go?

14 A It's still in process. The lawsuit with the
15 builder has been settled, and right now I'm having people
16 work on the house as we speak.

17 Q Okay. All right. And so you believe these items
18 left out, which -- oh, I know the other thing I meant to do.
19 On your spreadsheet, there are not 19 items. Two, four,
20 six, eight, ten, eleven, and they add up to -- yeah, they do
21 add up to about 16. Okay, that adds up to \$7,642. And
22 that's what you're asking for today, \$7,500 to cover these
23 11 items?

24 A Yes, Your Honor.

25 Q All right. And, okay, that's what you were saying;

1 you just decided to focus on the stucco because it's so
2 obvious?

3 A Right.

4 THE COURT: And you all stipulate those eleven
5 items were not done; is that correct?

6 MR. SMITH: That's correct.

7 THE COURT: Good enough. All right. Cross --
8 BY THE COURT:

9 Q Is there anything else you want to say?

10 A No, Your Honor.

11 THE COURT: Cross-examination, Mr. Smith.

12 MR. SMITH: Thank you.

13 EXAMINATION

14 BY MR. SMITH:

15 Q Ms. Cavanaugh, this contract ended up being a lot
16 more than originally anticipated; right?

17 A No. I think the contract is pretty
18 straightforward. It is what it is.

19 Q Well, they were hired to do a certain scope of
20 work; and when they pulled off some of the material, they
21 found termites. Right?

22 A Well, we knew there was termites before they pulled
23 it off. I had -- I had a different contractor. I had Mark
24 Milovich, who found out that there was termites. So we knew
25 there was termites, yes.

1 Q How much have you paid New Age?

2 A I paid -- so far I've paid \$54,407.

3 Q And that was obviously for a lot more work than
4 originally anticipated under the \$32,000 contract; right?

5 A Well, there was another contract for the interior
6 portions, so I think it -- I think it was -- it covered the
7 interior and the exterior.

8 Q How much did you get from your lawsuit?

9 A I don't think I'm allowed to disclose.

10 Q How much did you get from your lawsuit?

11 A I don't think I'm allowed to disclose.

12 THE COURT: Why not?

13 A I think they -- they made me sign a non-disclosure.

14 THE COURT: Would you show me that?

15 A I don't have that with me.

16 BY MR. SMITH:

17 Q Well, we're in court right now. That's going to be
18 a source of revenue for this job, so I think I can ask.
19 It's relevant.

20 A Okay, as long as -- I don't mind telling you as
21 long as I don't get in trouble for it, if it's okay to
22 disclose it.

23 THE COURT: I'm not a party to that, so I have no
24 earthly idea. But, I mean, I'm not going to publish the
25 proceedings unless --

1 A Oh, okay. My portion was about 430,000.

2 Q All right. How much did you settle for?

3 A I don't remember the exact amount.

4 THE COURT: Your portion as opposed to Kenneth's?

5 A No. My portion as opposed to the lawyer's and the
6 expert's.

7 BY MR. SMITH:

8 Q Expert fees and everything?

9 A Yeah.

10 Q So it must have been about 600,000?

11 A Yes.

12 THE COURT: Yeah, that sounds about right.

13 BY MR. SMITH:

14 Q So was -- and that lawsuit came up after the
15 Xactimate claim, original Xactimate issue and everything;
16 right?

17 A Yes.

18 Q That came up after New Age started the work; right?

19 A Yes, sir.

20 Q So you can see how much more extensive this became,
21 above what the original contract was; right?

22 A Yes, sir.

23 Q You understand, they only billed you for what
24 they've done. So it's hard for you to sit here and say "I
25 paid the contract balance." You paid a lot more than a

1 contract balance; right? But it may not be for the items in
2 the contract; does that make sense?

3 A Yes. But the -- but the point is, is that I
4 contracted New Age to do certain items; and if they didn't
5 want to do those items, they should have -- we should have
6 redone the contract and so that it had the exact scope of
7 what was being worked on.

8 Q You understand that you may owe \$8,000 under the
9 original contract still for the stucco work?

10 A Well, if -- if I had an itemized list of exactly
11 what was done, one, two, three, four, five, exactly like the
12 contract, and what additional was done in an itemized list,
13 and I could compare that back and forth, but I never
14 received that from New Age. And the contract said take off
15 stucco, put on stucco. No stucco was put on. I never
16 received a revised contract.

17 And, in fact, I did receive something from New Age,
18 but it was a completion of work done. And they asked me to
19 sign the certification of completion, in which they said
20 that there was no amount owed and there would be no liens
21 filed against the property. So --

22 Q Was that for one of the draws?

23 A No, it was at the end. This was in October of
24 2015. I received a certification of completion of repairs
25 from someone named Martha in New Age's office. It said

0

1 "Please sign this." She sent this to me, oh, on September
2 14th, 2015, please send this -- "Please sign this," and I
3 did not sign it.

4 Q And that was for the work that had been done?

5 A The work as outlined in the contract, which said
6 put stucco on.

7 Q Do you have a breakdown of all the -- of the
8 applications that you paid and what you paid for?

9 A I have -- no. I have a couple draws from the
10 escrow account. There was three draws from the escrow
11 account; one for 25,000, one for 25,000, one for 2,905, and
12 then a personal check for \$900 and a personal check for 500.

13 Q And you have no clue what those payments were for?

14 A I never received any kind of itemization of what
15 they were for. No, I do not.

16 Q So you don't know whether they were under the
17 original contract or not?

18 A I assume they would be under the original contract
19 because I never had any other contract.

20 Q Well, you had bills that were sent to you for
21 additional work. I mean, they did additional work above and
22 beyond the contract; right?

23 A Not that I know of. I never saw any additional
24 work done.

25 Q You're sitting on the stand, under oath?

1 A Yes.

2 Q And you're saying that New Age didn't do any work
3 above and beyond the terms of the original contract?

4 A They --

5 Q But you paid -- almost paid them twice the amount
6 of the contract.

7 THE COURT: Hold on, hold on. Stop right there and
8 let her answer.

9 A I don't know what additional work they would have
10 done. It was to rip off the boards, replace them, put
11 stucco on. They ripped off some boards, they put up some
12 waterproof -- non-waterproof paint, and they didn't put the
13 stucco back on. I'm not really sure what additional work
14 you're talking about.

15 Q Why did you pay them almost \$60,000 then if they
16 didn't do more work than the original 32?

17 A Well, actually, the first 25,000 draw, I gave
18 permission. The second 25,000 draw, they took without my
19 permission. And I have an email trail. They just went and
20 they took it from the bank, and the bank mistakenly gave it
21 to them.

22 THE COURT: Who took it?

23 A New Age Construction.

24 THE COURT: Well, they can't do that without you.

25 A They did. So I filed a complaint with the banking

1 commission, TD Bank, that one of their newer people -- I
2 have an email that says, "Keep the money coming; the
3 customer has already approved it." It was from Martha in
4 the New Age office. And TD Bank mistakenly just gave them
5 the money.

6 THE COURT: Okay. It wasn't due?

7 A I don't -- I don't think so because it was on
8 7/7/2015, and not much of the work was done. I gave them --
9 I agreed on the initial 25,000 draw because they needed to
10 get started. They needed to do their scaffolding. They
11 needed to get the materials. So, that was reasonable. That
12 was in June of 2015. On 7/7 -- I learned in August that on
13 July 7th, 2015, they got another draw of \$25,000, unbeknown
14 to me, just by going to the bank and saying, oh, the
15 customer approved it, and for some reason, they gave it to
16 them.

17 THE COURT: Okay.

18 A So that was 50,000 in total. And then I gave them
19 the original -- the last \$2,900. They said they needed it
20 to finish some of the painting inside. So I said, "Okay,
21 you can have that," and then I gave them an additional
22 check. And then they said, "Well, call us when you get more
23 insurance money."

24 THE COURT: Okay.

25 A And they left.

1 THE COURT: And what was it -- how involved was
2 Kenneth at this time?

3 A He was not very involved.

4 Q You were doing most of the talking with the
5 insurance company and the contractors and everybody?

6 A Well, I was doing most of the talking with Tradd
7 Frazier, who was the foreman at the time, yes.

8 THE COURT: Foreman for New Age?

9 A Yes.

10 THE COURT: And you didn't question whether or not
11 they had done that much work or whether or not they were
12 entitled to the money?

13 A I did.

14 THE COURT: You were upset, in retrospect, over the
15 middle draw; but you approved the third draw?

16 A Right, right.

17 THE COURT: After you knew the second draw had been
18 paid?

19 A Right. Because I probably would have approved the
20 second draw because it looked like there was a lot of work
21 going on. And to me, I couldn't tell. When I look at these
22 different line items, I'm not really sure if I'm qualified
23 to say whether or not this was complete or not. So I was --

24 THE COURT: That's what he's been waiting for you
25 to say.

1 A Well, on each individual. But I know what the
2 entire thing -- I could see if stucco was put on or not.
3 But I would have to say that -- that whether or not they did
4 exactly what they said on each one of these things, you
5 know, seal the surface area with latex-based stain blocker,
6 one coat. Well, did they do one coat? Did they do two
7 coats? I wasn't really supervising the job. I work
8 full-time, so I wasn't the person --

9 THE COURT: Let me try -- let me rephrase
10 something Mr. Smith asked you a moment ago. Do you know if
11 they did any work for your house that wasn't in either of
12 the original contracts for the interior or exterior work?

13 A No, I do not know that.

14 THE COURT: Is it possible?

15 A It is possible that they ripped off more than they
16 originally had planned.

17 THE COURT: What do you mean "ripped off"?

18 A Well, because I remember at one point Tradd saying,
19 "Oh, we're going to have to keep ripping more plywood off."

20 THE COURT: Okay.

21 A So perhaps there was no plywood ripped off than was
22 in the contract. Yet, there was never anything in writing
23 that told me what was ripped off as opposed to, well, this
24 is --

25 THE COURT: Did you ask for it?

1 A Yes, several times.

2 THE COURT: And nobody gave it to you?

3 A I sent several emails to the office that I needed
4 an itemized list of the contract work that was done and what
5 -- several times to Martha and New Age Construction, and I
6 have -- I know I have an email trail from it.

7 THE COURT: Do you remember about when those emails
8 were going back and forth?

9 A In August and September of 2015.

10 THE COURT: When was the third draw that you
11 approved?

12 A September of 2015.

13 THE COURT: Why did you approve it? I promise
14 you'll get mail if you don't approve money. It comes to a
15 screeching halt.

16 A Because there was some guys that were inside
17 painting, and they said, "We're not painting any more until
18 you do the third draw."

19 THE COURT: Okay. Say fine, give me the paperwork.
20 You give me the paperwork. You tell Junior to get me the
21 paperwork. I'll authorize the money. You'll get paid. But
22 that's all right. Go ahead.

23 A It's a little bit difficult when there's a bunch of
24 guys in your house, painting your bedroom, and they would
25 say, "We need more money; you better give us the third

1 draw." So I did, and then I actually even gave them a
2 personal check.

3 THE COURT: To whom?

4 A To New Age Construction. Because they said, "The
5 painting is more than we thought it was going to be," so I
6 gave them a personal check for 500 and something dollars.
7 And they said, "We're not going to finish in your bedroom
8 until you do that."

9 THE COURT: And who is telling you this?

10 A Tradd.

11 THE COURT: Okay.

12 A And that was on September 9th, 2015. I gave a
13 personal check for \$598 in addition to the last, the third,
14 final draw.

15 THE COURT: Okay. There's no obligation at this
16 point on your part, but that would have been the part where
17 I would have said all right, we need face-to-face time with
18 me and Junior Newell and whatever this lady is on the
19 adjuster, because it's totally out of control, I have no
20 idea what's going on, and people are threatening me. That's
21 going to stop today.

22 A Right.

23 THE COURT: But --

24 A Well, that's when I sent an email to New Age
25 Construction and said I need an itemized list of everything

1 that was done, and they did not provide that with me. And a
2 couple weeks later, I received something that said, "Well,
3 we did additional work and you owe additional money," and
4 then --

5 THE COURT: For what?

6 A There was no itemization that said what it was for.

7 BY MR. SMITH:

8 Q I'm going to show you a copy of this. Do you
9 recall getting that?

10 A I do.

11 Q Well, that's itemized, isn't it?

12 A No. It doesn't have any amounts. It just says a
13 list of things, but it doesn't say what is what. Removal of
14 stucco. What, the whole house? The roof? The penthouse?
15 It doesn't tell me anything. Removal of -- it doesn't tell
16 me any kind of scope of it. It doesn't tell me anything.

17 Q Isn't that an itemized list? I mean, you want
18 measurements?

19 A No. I want amounts. I want an amounts breakdown.
20 I want an amount breakdown.

21 Q Of how much each item cost?

22 A Yes.

23 THE COURT: Oh, I see. It did have a total. It's
24 got a number.

25 MR. SMITH: Got a number.

1 THE COURT: It just didn't have itemized pricing.

2 MR. SMITH: Well, it had an itemized statement of
3 what was to be done.

4 A Right. So after I asked for that -- after I asked
5 for that, this isn't itemized of what has to be done.

6 THE COURT: Right.

7 BY MR. SMITH:

8 Q And so those are extras that were due at the time,
9 before the stucco even went back on; right? I mean, at that
10 point, the stucco is not on your house.

11 A No. No, no, there was no stucco on my house. But
12 the whole point is, is that I don't have a contract to do
13 that. I had a contract to do this, and this was not done.

14 Q On September 10th, 2015, you knew that they already
15 had exceeded the balance of what they were doing, what they
16 had been paid; right? Before the stucco even went on?

17 A Well, there's still no stucco on. But, yeah, this
18 is what they sent me after I said, "What's going on here?
19 Send me a list of what's been done and what needs to be
20 done." I got this. It wasn't exactly clear of what -- is
21 this -- this is stuff -- this is stuff they already did? Or
22 is this stuff that's still needed to be done?

23 THE COURT: Well, let me ask you a different
24 question. Is any of that stuff on the original contract?

25 A Yes.

1 THE COURT: Is it?

2 A Yes.

3 THE COURT: Okay.

4 A Removal of stucco is on the original contract, and

5 --

6 THE COURT: Okay. How big is this house?

7 A What?

8 THE COURT: How big is the house?

9 A 6,000 square feet.

10 THE COURT: Okay. The original included taking
11 stucco off of all the house or just part of it?

12 A Part of it.

13 THE COURT: And then when they did that, they
14 discovered termite damage; is that correct?

15 A The termite damage was there before they started
16 taking it off, yes. It was evident.

17 THE COURT: Okay.

18 BY MR. SMITH:

19 Q And didn't they keep taking more and more and more
20 and more material off, chasing the termites?

21 A The one side, yeah. Yeah. But that was what I
22 thought they were supposed to do anyway. It went from -- it
23 went from the master bedroom to my daughter's room, and that
24 was -- that was outlined in the original contract.

25 Q How do you know that that was outlined in the

1 original contract?

2 A Because Ellen Wescott put Mave's(ph) room, master
3 bedroom, Charlotte's room.

4 THE COURT: Wait a minute. On the outside?

5 A Yes.

6 THE COURT: Where are you? Reference to bedrooms
7 usually refers to interior painting, but maybe not.

8 A I don't know. Let me see. Yeah, maybe that was on
9 the interior. Sorry. But it says master bedroom.

10 BY MR. SMITH:

11 Q Which page are you on?

12 A Page 4.

13 THE COURT: Okay.

14 BY MR. SMITH:

15 Q See item 16 where it says "Remove metal lath and
16 stucco"?

17 A Yes.

18 Q It only says 216 square feet.

19 A Okay.

20 Q That's not a very big area, is it?

21 A It's 20-by-10.

22 THE COURT: It's what?

23 A That's a 20-by-10. That's the whole side of my
24 bedroom.

25 Q You think that's the whole side; 20 feet by 10 feet

1 is the whole side of your bedroom? Of the master bedroom?

2 A Yeah. The bedroom is not even 20 feet long, and
3 there's -- and it's 10-foot ceilings. Yeah, that sounds
4 right.

5 Q Now, we're talking about exterior. We're not
6 talking about interior; right?

7 A Yeah. But exterior, that would make sense. That
8 would be right.

9 Q Did they go beyond the master bedroom? They
10 removed the stucco on the entire side of your house. As a
11 matter of fact, two sides of your house.

12 A There's stucco off one side of my house, and a
13 little bit of the other part.

14 Q And didn't you -- at the time, didn't you realize
15 that that was more than you had originally contracted for?
16 I think you said one of their -- one of their --

17 A Yeah, it was -- it was -- it was -- I think it was
18 slightly more, but I'm not really sure how much that would
19 be. I think that applying stucco is probably more expensive
20 than removing stucco. Removing stucco, it seems like it's
21 pretty easy to remove it, and -- but applying -- reapplying
22 it seems like it's the lion's share of what -- the work that
23 needed to be done, and that wasn't done.

24 Q How much have you spent in fixing this house?

25 A So far?

1 Q Yes.

2 A 300,000.

3 Q That doesn't make any sense because you got 400 and
4 some -- you got 400 and some thousand from your insurance
5 company.

6 A Correct.

7 THE COURT: You haven't spent it all yet?

8 A I haven't spent it. I'm not in the -- I am not
9 even in -- I have about six months more of work to be done
10 on there. I'm on four different --

11 Q What needed to be done?

12 A Well, they had to redo all the waterproofing that
13 wasn't actually done correctly. Water was pouring into the
14 house. They had to redo everything that was done, reapply
15 -- replace all the plywood that was done, plus all the way
16 around the house.

17 Q What needs to be done?

18 A What still needs to be done? The entire roof needs
19 to be done. The scuppers need to be reworked. The gutters
20 need to be put on. The house needs to have a whole -- the
21 whole underlayment, the grid, and then stucco needs to be
22 put on the entire house, and then it has to be painted.

23 Q Why does the stucco have to be put on the entire
24 house?

25 A Because the contractors, they won't -- they won't

1 -- they won't provide a warranty for just doing partial, so
2 they have to do the entire thing.

3 Q Who is the contractor?

4 A APS Services.

5 Q Were they a sub under New Age?

6 A No. No, I don't -- I don't know. They never said
7 anything about New Age.

8 Q They weren't the ones doing the original work?

9 A No. They never -- I didn't have any stucco work
10 done on the house under New Age.

11 Q Do you know whether or not they were the ones who
12 removed it all?

13 A It was Tradd and his guys. I don't know who they
14 were. They were --

15 Q How did you meet APS?

16 A He was doing work on the -- Rob and Jenn Cino's(ph)
17 house next to me, and I asked them to come over.

18 Q Have you asked APS to give you proposals for your
19 lawyer?

20 A No, I did not. They were never -- I never met them
21 before until -- April was the first time I met them.

22 Q I will tell you that this is the package I received
23 from defense counsel of your answers to interrogatories in
24 the original case. Do you not recognize any of those?

25 A Oh. No, I never looked at these. These were all

1 -- my lawyer handled it.

2 THE COURT: The lawyer didn't show you -- tell you
3 he was doing this?

4 A They received a couple of different estimates. Was
5 this -- but this isn't the estimate that I saw. I saw an
6 estimate from Dow Construction.

7 Q Dow was your general -- was the one putting
8 together the package?

9 A Yeah. I saw the Dow Construction estimate. I
10 never saw this. My lawyer shared with me Dow Construction.
11 And then subsequently, I had some other -- some other
12 estimates done, too, that were, you know, seven, eight
13 hundred thousand. I never saw -- I never saw APS anything.

14 Q And those talk about removing a lot of stucco?

15 THE COURT: Removing what?

16 MR. SMITH: A lot of stucco.

17 THE COURT: Oh.

18 BY MR. SMITH:

19 Q If you look at the first, I think removal of stucco
20 is \$133,000; right?

21 A Yep.

22 Q So New Age --

23 A Well, that's removal and -- that's removal and
24 reapply.

25 THE COURT: All right. But what was in your

1 estimate was to remove and reapply, and it was less than
2 \$8,000. So there's a significant gulf there.

3 BY MR. SMITH:

4 Q You said earlier that you talked to one of the
5 workers on the project who told you it was exceeding what
6 they had expected; correct?

7 A Yes.

8 Q And you, in fact, paid more than the original
9 contract amount?

10 A Yes, I did.

11 Q But you don't know how those payments were applied?
12 You don't know if the original contract has been paid in
13 full, or --

14 A Yes, I do, because I received that thing from New
15 Age that says it was paid in full and that there's going to
16 be no liens on my house.

17 Q But you didn't sign that did you, because you
18 didn't agree with it?

19 A Well, I don't think that they finished it, so, no,
20 I didn't. I thought it was a little underhanded. I was
21 like, that -- that just didn't seem --

22 THE COURT: But see, now you can't take advantage
23 of it because you didn't agree with it then, and you're not
24 agreeing with it now. So...

25 A No, I don't think -- if they think I didn't pay

1 them for the amount in the contract, then could you please
2 show me the lines on the contract that I didn't pay for?
3 I'll be more than happy to pay for what -- what -- what is
4 in the contract that I didn't pay for. I'll be more than
5 happy to pay for it.

6 Q So you don't know what you paid for and what you
7 did not pay for?

8 A I think I paid for everything that was on the
9 contract, but I didn't receive everything on the contract.

10 Q I thought, before, you said you didn't know what
11 was being paid, that they actually, I think you said, went
12 to the bank and got a check directly?

13 A Well, they did go to the bank directly, but I just
14 -- everything that -- I don't think that you can point to
15 anything on this contract here for 32,594 that I didn't pay
16 for. What is it -- are you saying that I didn't pay for
17 something on here?

18 Q Do you know -- what I'm asking is, do you know how
19 your payments were applied, whether it was for the extra
20 work that was being done and not the original contract?

21 A Well, I'm going to hope it wasn't for the extra
22 work being done because I didn't have a contract for the
23 extra work that was being done. If New Age did extra work,
24 well, that was very nice; but they should have come to me
25 and said let's cut a new contract for the extra work that

1 needs to be done. I paid --

2 Q But you knew they were doing extra work. You
3 already testified to that.

4 A Right, right. In September, after they already
5 took most of the money, they said, "Oh, well, I think
6 there's more stuff that needs to be done." "Fine." I was
7 all willing to pay for it if they would have come down and
8 met with me and talked about it. Instead, they sent me a
9 blanket thing that said a bunch of stuff that I wasn't
10 really sure if it needed to be done or if they did it, and
11 there was no itemization of it.

12 But in terms of this contract, I paid for all these
13 line items on this contract I think in full, and I did not
14 receive all of these line items that I contracted for.

15 Q Okay. Can you show me that?

16 A Yes.

17 Q Where you paid for all the items?

18 A I can show you -- yeah, I can show you my payments,
19 and I can show you --

20 Q Show me where on those payments it says contract
21 balance?

22 A The payments are a draw from the bank, so it
23 doesn't have a contract balance.

24 Q So you don't know what the bank was paying for and
25 what they weren't paying for?

1 A The bank was paying for --

2 Q Work that they were doing?

3 A No, work per the contract.

4 Q Then why did they pay almost \$60,000?

5 A Because that was -- there was two different
6 contracts. There was one for 32,000 and one for 26,000,
7 which is 59,000.

8 Q Where is the other contract?

9 A Right here.

10 Q Did they do any work under that contract?

11 A Yeah, they did some work.

12 Q Some, but not all?

13 A No, not all.

14 Q So why are people paying contracts in full when
15 they're not doing the work?

16 A That's a good question, but it's not a question I
17 can answer because I'm not TD Bank.

18 THE COURT: Well, but you've had three years to get
19 them to straighten that out for you.

20 BY MR. SMITH:

21 Q And TD Bank sent an inspector to see what they were
22 doing, didn't they, before they made payment?

23 A No, they did not.

24 Q What did TD Bank do, just hand them a check?

25 A Yes, they did.

1 Q When they gave them a bill, TD Bank just handed
2 them a check?

3 A Yes, they did.

4 Q Did you have any conversations with TD Bank about
5 it?

6 A I did indeed.

7 Q What did they say? I'm curious.

8 A They said, "We're very sorry. We're very, very
9 sorry," and they are firing the person that did it, and they
10 -- they realized that they messed up. They said it was a
11 newer person, and she thought that I approved it, even
12 though I was not a party to the email, and she sent the
13 draw. It was a human error.

14 THE COURT: Again, I have the same problem. There
15 was a draw approved before and after that while you knew
16 there were issues --

17 A No. There was one draw approved after that, the
18 2,900.

19 THE COURT: Right. That's what I just said. And
20 there was one approved before.

21 A The initial one to get the work started, yes.

22 THE COURT: So you're engaged in the process. You
23 understood there was some kind of glitch on the second draw
24 with TD. You didn't say that it was a total fail. And you
25 certainly approved the third draw.

1 A Yes, I did.

2 THE COURT: Okay. At that point, you had or had
3 not resolved your confusion or issues with TD Bank?

4 A Had not.

5 THE COURT: Okay. That was still ongoing?

6 A Yes.

7 THE COURT: Over the second draw?

8 A Correct.

9 THE COURT: All right.

10 A It came to light when I went to do the third draw
11 and I realized that they had done the second draw without my
12 permission. And so -- and that was human error by TD Bank,
13 and they owned up to that. But the bottom line is, is I
14 contracted for items one through 45, and I did not receive
15 items one through 45.

16 THE COURT: That's far from the bottom line.

17 A But I believed I paid items one through 45.

18 THE COURT: And why did you believe that?

19 A Because I gave them the amount on the contract.

20 THE COURT: And you thought all the rest of the
21 work was a Christmas present?

22 A I did not contract for that work.

23 THE COURT: Well, hold on, hold on. And you're
24 telling me that work was never approved or no go-ahead or
25 anything?

1 A Absolutely not. I would not approve that. I have
2 absolutely no emails. I have absolutely no written
3 documentation that says I said just go hog wild on my house.

4 THE COURT: Okay. It was never discussed that this
5 was needed work or not?

6 A Mr. Newell said when -- when -- "We are going to
7 get to the point where we're going to need to sit down and
8 have a discussion about the insurance money is going to run
9 out, and we're going to probably need it to go further.
10 We're going to have to sit down and have a discussion." We
11 never sat down and had that discussion.

12 THE COURT: Okay. Why not?

13 A Because as the summer progressed, they said, "Okay,
14 I think we're going to need to do more," and then they just
15 left, and then that was it. We never had the discussion.

16 THE COURT: Okay.

17 BY MR. SMITH:

18 Q They had to leave the stucco in the condition it
19 was in for your litigation; correct?

20 A No. I had not filed law -- I had not -- did not
21 file a lawsuit.

22 THE COURT: Hold on, stop. That is in direct
23 contradiction to an answer you gave me 20 minutes ago. So
24 which is true and which is the lie? Because I'm getting
25 tired of this. He's already questioned you about something

1 else you testified to 20, 30 minutes earlier, and you
2 totally contradicted yourself.

3 A I'm not an engineer, so I -- I'm not qualified.

4 THE COURT: No. But you're a person that knows
5 about telling the truth.

6 A Yes.

7 THE COURT: And your story has evolved in the last
8 30 minutes, in two specific cases, from yes to no.

9 A Can you repeat the question?

10 BY MR. SMITH:

11 Q You filed suit in 2015?

12 A Yes.

13 Q And so the litigation was pending right about the
14 time these last bills were done. So it was pending when
15 they were still on the job?

16 A I don't believe so. I believe I filed suit in
17 November of 2015. So I believe it was after they were off
18 the job.

19 Q And they couldn't cover up the stucco. They
20 couldn't redo the stucco when you're getting ready to sue
21 somebody; right? Because they're going to come in and do
22 their own tests?

23 A Yes, that is correct. And that -- they said I can
24 make temporary repairs, but not to undergo a big -- any kind
25 of major construction efforts to fix it because that would

1 be -- the whole point is -- right, yeah.

2 Q So when New Age left, they had to leave it in that
3 condition so you could maintain your lawsuit. You can make
4 temporary repairs, but don't cover it up because we're
5 getting ready to sue people?

6 A There was at least a month and a half between when
7 they left and when I filed lawsuits -- this lawsuit.

8 Q Which meant you were talking to the lawyer during
9 that time who told you you can do temporary repairs but
10 don't cover it up?

11 A They told me that in late 2015, yes.

12 Q So you had constructed them not to cover it up. As
13 a matter of fact, you amended in 2016 to bring in additional
14 parties who would have done their own testing?

15 A Correct.

16 Q And then you didn't bring this suit until 2018?

17 A Yes, sir.

18 Q After -- when did you settle your case?

19 A 2018.

20 THE COURT: This was filed April 27th?

21 A Yeah.

22 Q Did you ever notify New Age to come back and finish
23 the work, or did you just sue them?

24 A No, I did not notify them. No, I did not.

25 Q So how did they know that it was ready to be fixed?

0

1 I mean, you said you could do temporary repairs up until
2 then. How would they have been put on notice if they needed
3 to come out and do additional work?

4 A I wasn't going to have them do additional work. If
5 I called them to have them do additional work, are you
6 saying that they would have come back to finish up putting
7 on the stucco? Is that -- that was their intention?

8 Q All I'm saying is I think the reasonable person
9 would have thought, that if I had paid for it, I'm going to
10 notify these people that, hey, the lawsuit is over, I've got
11 my money, come back out here and finish your work. I think
12 that's what a reasonable person would have done.

13 A No, I don't think so because -- because I think
14 that my lawyer, John Chakeris, talked to New Age, and New
15 Age said that they want some money from me because they
16 think they did additional work outside of the scope of
17 contract. So, it was a little bit more of an adversarial
18 relationship.

19 And based on the fact that I didn't get any kind of
20 documentation while the job was on, I didn't think it was a
21 good idea to use them as a contractor for such a -- the
22 scope of this project, with so much work to be done,
23 especially I -- I work full-time, and I travel a lot. I
24 can't be on the site all the time.

25 Q So what you're telling me now is somebody did ask

1 them to come back and do it? Johnny Chakeris?

2 A No, I don't -- I don't believe -- well, I can't
3 speak for John Chakeris, but I don't -- I know that he had a
4 conversation with him.

5 THE COURT: But he speaks for you; that's the
6 problem.

7 A I think he -- he asked them how much -- like, how
8 much it would be, but -- or I'm not really sure. I can't --
9 I'm not going to say something that I don't really have
10 knowledge of.

11 Q So nobody asked them to come back and redo the
12 stucco?

13 A No.

14 Q Even though you thought you paid for it, you didn't
15 ask --

16 A Yes.

17 Q -- ask them to come back --

18 A Yes, sir.

19 Q -- and do it. You just sued them?

20 A Yes, sir.

21 MR. SMITH: I don't have any other questions, Your
22 Honor.

23 A Are you saying that -- are you saying that they
24 want to come back and put the stucco back on?

25 Q After this testimony, I wouldn't do any work for

1 you. I would advise them --

2 A I would say -- I would say I have a contract that
3 said you're going to do X, Y and Z, and they only did X, not
4 Y and Z. I don't think that that's unreasonable to ask
5 somebody to do that. And when they left in September, it
6 wasn't -- it wasn't -- there was no Johnny Chakeris involved
7 in that.

8 They left in September, and there was absolutely
9 nobody at my house for months. And it was -- a possibility
10 of no potential more insurance money, and they said, "Well,
11 see ya," and the house was in a bad situation. I did have
12 to make temporary repairs because there was water coming in
13 and it wasn't waterproofed.

14 And the bottom line is, is I paid for stucco
15 reapplication. There was none. And as a result, I did have
16 a lot of -- I did have a lot of water intrusion inside, and
17 I did not -- I did not go and sue him for that. I'm not
18 suing him for the damage when it was raining inside my
19 house.

20 Q Well, that's been my point all along. Show me
21 where you paid for the work to be done under the contract.
22 You don't know what the bank paid for.

23 A I know that the bank paid the amount that the
24 contract stated, on the face of the --

25 THE COURT: Hold on, now. How do you know it?

1 A Because I have a contract, and they paid that
2 amount.

3 THE COURT: How do you know that?

4 A As opposed to -- because I --

5 THE COURT: Did somebody tell you that? Did you
6 see documents?

7 A Well, the -- TD Bank said, "Well, this is your
8 draw, and this is going towards the contract."

9 THE COURT: So you have documents. Could you show
10 us those?

11 BY MR. SMITH:

12 Q Actually, you said -- you said "as opposed to."
13 What, as opposed to the bank paying for extras? That's my
14 point. How do you know it was under the original contract
15 versus paying for extras? That's -- that's my question.

16 A Because I didn't contract for extras. I didn't
17 allow -- I didn't ask for extras. I did not contract for
18 extras.

19 Q But you knew they were doing it.

20 A I did not know that until after it was already
21 done.

22 Q That guy told you "We're going beyond what we
23 originally thought."

24 A That was back -- that was in September, though. By
25 that time, I was in and out. I'm not even on site. I

1 travel all the time for work. I'm not even there.

2 Q But TD Bank made the payments.

3 A TD Bank --

4 Q You don't know whether they were paying for the
5 extras or for the amounts under the original contract?

6 A If they were paying for the extras, then I have
7 even a bigger problem with TD Bank. Because why would they
8 be paying for the extras when there's no contract to
9 substantiate that?

10 Q Well, they have an invoice to substantiate it.

11 A They never received this invoice.

12 Q No. They had the \$25,000 invoice that they paid;
13 right?

14 A Not that I ever saw. I just received an email from
15 them.

16 THE COURT: Okay. The work done by insurance was
17 because of what?

18 A The work done by insurance?

19 THE COURT: Yeah. What was the insured loss?

20 A Water damage.

21 THE COURT: From?

22 A From water leaking in from the roof.

23 THE COURT: Because of what? That's not an insured
24 loss.

25 A Builder defect.

1 THE COURT: I'm sorry? That's not an insured loss.

2 A The insured loss was the damage, the resulting
3 damage from the water. Yes, it was insured.

4 THE COURT: Okay. But not from a weather event or
5 -- you just had all this roof leaking, and they insured the
6 damage created by the roof leak?

7 A Yes.

8 BY MR. SMITH:

9 Q And termites.

10 THE COURT: Okay.

11 A I don't think the termites were an insured loss. I
12 think that the -- the -- I don't think that they were
13 covering the loss on the termites. I thought it was only on
14 the mold and on the water.

15 THE COURT: The bank --

16 BY MR. SMITH:

17 Q Oh, so then the termite damage wasn't part of the
18 original Xactimate issue then, because that would have only
19 been insurance stuff.

20 THE COURT: Okay. But and TD is your mortgage
21 bank?

22 A Yes.

23 THE COURT: Okay. So they were co-payee, joint
24 payees, whatever?

25 A Correct.

1 THE COURT: Okay.

2 A Did you want to see the emails from TD Bank?

3 THE COURT: Sure.

4 A Those were the emails for the draws.

5 THE COURT: Okay. From Martha Johnston to
6 Fournier, Chelsea; Jamie Stevens. Subject, Ken Cavanaugh
7 bank transfer, July 7, 2015, 8:18 a.m. "Good morning,
8 Chelsea. We need another bank transfer for the same amount
9 as last time. The customer has already approved it. I have
10 included Jamie at Andy Cook's office." Who is Andy Cook?

11 A I have no idea.

12 MR. NEWELL: That's our accountant in our business
13 office in Edisto.

14 THE COURT: Okay. "She is the lady you spoke with
15 the last time. If either of you have any questions, please
16 contact me. Junior said this needs to happen today. Thanks
17 ladies, and have a blessed week. Thank you, Martha Johnson
18 -- Johnston, New Age Contractors."

19 A I was not a party to that email, and I didn't find
20 out about that email until late August.

21 THE COURT: Right. I'm just trying to find out who
22 were the parties and what was going on.

23 BY MR. SMITH:

24 Q These are the two invoices that total -- I just
25 pulled the first two. Those are the first two draws that

1 total \$50,000. You see that's referencing the same
2 contract, the same everything? You didn't get those? Those
3 are addressed to your husband.

4 THE COURT: Okay. That's going to lead me back.
5 Listed to -- at this point, Kenneth still lived there?

6 A Yes.

7 THE COURT: Y'all were still married?

8 A Yes.

9 THE COURT: Okay. You said you're out of town a
10 lot. What do you do for a living?

11 A I manage a portfolio in New York.

12 THE COURT: Okay. And what does Kenneth do for a
13 living?

14 A He works at Daimler Mercedes.

15 THE COURT: Okay. Here in Charleston?

16 A In Ladson, yep.

17 THE COURT: Okay. The truck plant?

18 A Yes.

19 THE COURT: The house is actually located where? I
20 apologize, I don't --

21 A Mt. Pleasant.

22 THE COURT: Yeah, but a subdivision?

23 A I'On.

24 THE COURT: Okay. That retirement community of
25 yours.

1 MR. SMITH: It is my retirement community.

2 THE COURT: Okay. That's an old joke.

3 A Yeah, I don't recall seeing these. But that shows
4 that I paid for the 26,000.

5 BY MR. SMITH:

6 Q Well, it shows you paid 50,000 for a \$26,000
7 contract, doesn't it?

8 A It shows I paid 50,000 for a \$26,000 contract and a
9 \$32,000 contract. There was two contracts.

10 THE COURT: Okay. Hold on a minute. Let me jot
11 that down. Exterior contract was how much?

12 A 26,421 -- oh, no. I'm sorry, that's interior. It
13 was 26,421 --

14 THE COURT: Okay, that's fine. 26,421 was
15 interior.

16 A And 32,594 was exterior.

17 THE COURT: Okay. And hold on just a minute.

18 MR. SMITH: And that's only halfway through.

19 THE COURT: All right, \$59,000. And this draw -- I
20 mean, at what point were you already at \$50,000 into the
21 project?

22 MR. SMITH: Draw two of four.

23 THE COURT: I'm sorry?

24 MR. SMITH: Draw two of four.

25 BY MR. SMITH:

1 Q Right?

2 A There was only three draws, so it was --

3 THE COURT: Okay. But you only had 9,000 left
4 after the second draw, and you approved 25,000 more three
5 weeks later?

6 A I didn't approve 25,000 three weeks later.

7 THE COURT: What did you do? I'm sorry, I --

8 A On June 17th, I approved 25,000. And then I did
9 not approve that one on July 7th. As you can see, I'm not
10 on copy on any of those emails.

11 THE COURT: Hold on. But then -- and you had no
12 indication that you were already 50,000 into it by then?

13 A Absolutely none.

14 THE COURT: Okay. But when you approved the third
15 draw was when?

16 A That was in September 2015.

17 THE COURT: And it was for how much?

18 A 2,909.

19 THE COURT: Almost \$30,000 in September, when you
20 were fully aware by then you had 50,000 in the project
21 already. Tell me how that works.

22 A But it's 2,909, not 29,000. \$2,909 was the third
23 draw.

24 THE COURT: Oh, okay.

25 A Because that was a drop in the bucket compared to

1 -- that was --

2 THE COURT: Yes. And were any other payments made?

3 A Yes. I had a check that I wrote to them for \$900,
4 and then I had a check that I wrote to them for \$598.

5 THE COURT: Okay. More, as you might say, pocket
6 change. At that point, we haven't even gotten to the 59.

7 A Right.

8 THE COURT: Okay. But you believe you paid in
9 full. Where is the rest of it?

10 A Well, I think it overlaps with the interior
11 contract, because a lot of stuff wasn't done on the interior
12 as well.

13 THE COURT: You didn't say a word about that in
14 your lawsuit.

15 A No, I didn't.

16 THE COURT: Why not?

17 A Because according to them, they say I paid for the
18 external. And based on that thing that they sent me, that
19 everything was paid in full based on the contract --

20 THE COURT: Which you didn't sign, so I can't use
21 it. That doesn't help you. That's what I was trying to
22 explain a minute ago. You keep drawing that out like it
23 binds them.

24 A So if I signed it -- if I go and sign it right now,
25 then -- then I can use it?

1 THE COURT: No. It's a moment that's passed. But
2 let's do this --

3 A Well, here's his invoices. I'm not sure. They say
4 paid, and they address both the interior and the exterior,
5 and they say paid.

6 THE COURT: These are yours?

7 MR. SMITH: Those are mine. They've been entered
8 into evidence, Defendant's Exhibits 1 and 2, or just one is
9 fine.

10 THE COURT: Okay. And I apologize, I think I'm
11 missing your point. He presented these to you to show that
12 they had gotten 50,000 toward the job?

13 A Right.

14 THE COURT: Okay. And so his point he was arguing
15 at the time was, at this point, you already had 50,000 in
16 the job. You know it went over. But your point is, they
17 show paid. And what does that mean to you?

18 A It shows to me that I'm abiding by the contract.
19 I'm doing everything per the contract. The contract is
20 pretty specific. I am paying them, per the contract,
21 everything they have asked, per the contract, and they're
22 not adhering to the contract. And that's my problem, is
23 that I signed a contract. They say they did additional. I
24 did not ask them to do additional. I did not tell them to
25 do additional.

1 THE COURT: Did Kenneth?

2 A No, he did not.

3 THE COURT: You say that instantly and --

4 A He was at work almost all the time. He doesn't get
5 home until 6 o'clock at night, hardly ever even saw them.

6 THE COURT: Okay. So as far as you know, he was
7 never engaged in this at all?

8 A Not at all, unless they have testimony to the --

9 THE COURT: No. I just asked because --

10 A Absolutely not. He was never home. And so,
11 therefore, I know that he wasn't there for that.

12 THE COURT: Just out of curiosity, Mr. Smith, you
13 haven't raised a point, and maybe I'm creating problems that
14 aren't there, but he's not a necessary part of this
15 litigation?

16 MR. SMITH: I'm not --

17 THE COURT: You're going to let that go?

18 MR. SMITH: Yeah, I'm going to let that go.

19 THE COURT: I will, too. Going to get that out of
20 my mind. Okay.

21 A But I wasn't -- I was under the impression that
22 they were going to sit down and talk when we needed to talk,
23 about providing more money, and that never happened. And it
24 became pretty apparent that the work wasn't exactly up to
25 snuff, either, and I wasn't going to be using them. And

1 they left, and they did not do what they said they would do
2 in the contract.

3 THE COURT: Okay. But then why didn't that
4 conversation take place?

5 A Well, I was dealing mostly with Tradd. I hardly
6 ever saw Mr. Newell. It was mostly with Tradd.

7 THE COURT: Okay. But who told you they were
8 leaving the job until more money came?

9 A Tradd.

10 THE COURT: Okay. At that point, you didn't say
11 Tradd, I guess this is where Junior and I sit down and talk?

12 A Yeah.

13 THE COURT: Okay.

14 A And I sent an email. I said, "I think we need to
15 talk," and I never got anything.

16 THE COURT: Okay. So you tried to engage the
17 conversation?

18 A Yes. I got this thing that says this is what you
19 owe -- or I'm not sure if this is what you owe or what I
20 needed to do. And I sent something back to Martha that said
21 I needed something a little bit more detailed that says
22 exactly what needs to be -- what has been done and what
23 needs to be done so I can really reconcile that. Because I
24 was trying to keep a spreadsheet of what was done and what
25 needed to be done based on my contract.

1 THE COURT: Well, let me ask you this: When did
2 you start going -- when did you discover that the house
3 actually had construction defects?

4 A In November -- late November of 2014.

5 THE COURT: '14?

6 A Yes.

7 THE COURT: Okay. So that was existing before all
8 of this?

9 A Uh-huh.

10 THE COURT: Construction defects? Termite issues?

11 A Yeah. In November of 2014, we called Chris
12 Ravenel, who was the builder, and he said -- he came over,
13 and he said, "Oh," and he said, "Eek," and he said, "I'm not
14 coming back; I declared bankruptcy, and I'm a new company."
15 So then we had another -- we hired another guy who started
16 -- he took out some walls and he took out -- he replaced
17 some plywood on the side. And then he said, "This job is a
18 little too big for me, so you're going to need to find
19 somebody else."

20 And so I started calling around and I got some
21 other people, you know, and then I got -- I talked to my
22 insurance agent. And he goes, "Some of this damage might be
23 covered by insurance, so you should call your insurance
24 company." So I did, and I have Frontline Insurance. And
25 that's when Ellen Wescott came over, and she said, "Oh,

1 well, we do" -- she goes, "Some of this will be covered,"
2 you know, "I'll send you a check." And she goes, "I have
3 somebody who works well within the bounds of the insurance
4 company and works with the estimates, and that would be New
5 Age Construction" --

6 THE COURT: Yep.

7 A -- "if you would like." And I said, "That would be
8 great." Because I'm having a hard time having it and people
9 come over and, you know, scheduling people. And so Mr.
10 Newell came out, and he seemed great. So we said, "Okay,
11 here's the contract. Can you do everything that Ellen says
12 that she's going to pay for within this?" And he signed a
13 contract that said, yeah, I'm going to do all these line
14 items per what Ellen said, and that's how it transpired.

15 And then over the summer, you know, I was traveling
16 a lot. There was a lot going on, and they're ripping off
17 stuff and there was scaffolding. And then it was in August
18 I found that there was additional draws and that the money
19 was gone and it was going to be more, and then -- and I
20 asked for documentation and I didn't get it, and that was
21 it.

22 And then it was a couple months after that that I
23 went to John Chakeris and said, "This is just getting
24 crazy." Because water was pouring in. I was making
25 temporary repairs. There was one temporary repair I made

1 for the roof that was \$5,000 just for them to put additional
2 stuff on the roof. I mean, it was getting very, very
3 expensive. And so I went to John Chakeris, and he said,
4 "We'll take your case and we'll see what we can do to help
5 you get some money."

6 THE COURT: And so who did they end up suing?

7 A Chris Ravenel.

8 THE COURT: Who had already gone bankrupt?

9 A His insurance company.

10 THE COURT: Right. They went after his bond.

11 A Yes.

12 THE COURT: Okay. And you had a contractor
13 involved in that?

14 A I had an engineer, Bob Sisnroy, that I paid to do
15 the --

16 THE COURT: Sure. You haven't had any of the work
17 done?

18 A They are doing it right now, yes.

19 THE COURT: You have a contractor doing that?

20 A Yes, I do.

21 THE COURT: Did you just happen in conversation or
22 anything else, did the contractor say something about, you
23 know, there's no stucco on the side of this house; you want
24 me to help you with that, too? Or --

25 A Well, that was the whole point in getting the

1 contractor, is him saying -- they're saying okay, we're
2 going to have to put more -- we're going to get -- put stuff
3 on immediately.

4 THE COURT: Okay. Did you tell him you were suing
5 the other contractor and maybe he could help you in
6 testifying as to what was and wasn't done, and what was up
7 to code and what wasn't, all these questions you --

8 A The contractor that I have now, did I tell him I
9 was suing New Age? Or --

10 THE COURT: Right. Or did you --

11 A Yes.

12 THE COURT: Okay.

13 A I did.

14 THE COURT: And he didn't want to get involved?

15 A No, I didn't ask them to get involved. John
16 Chakeris told me not to talk about it to anybody.

17 THE COURT: Not to talk --

18 A About just -- just not talk about the lawsuit or
19 any of the specifics.

20 THE COURT: No, not talk about the lawsuit. You
21 just tell him I've hired a guy to come fix this work. And
22 so you then have a licensed contractor sitting here that can
23 testify about what didn't get done and what -- and explain
24 to you the information you had, and tell you, well, he's
25 charged you for this and it didn't get done; he's charged

1 you for that. Or he's charged you for all these things,
2 and, yes, he did them, but they're not in your contract.

3 A Oh, did I hire a contractor to testify for those
4 things that are done and not done? Is that what you're
5 asking me?

6 THE COURT: I think the answer to that is no.

7 A Right, the answer is no.

8 THE COURT: Right. And I'm asking you maybe you
9 didn't think that would have been a good idea?

10 A Well, I think I -- I -- I consulted a lot with Bob
11 Sisnroy, the engineer, so I knew what was done and what was
12 not done.

13 THE COURT: But you can't testify to what he told
14 you.

15 A No, I cannot.

16 THE COURT: Okay. You believe you can't testify to
17 that because of the non-disclosure. I can tell you, you
18 couldn't testify to it in my court because it would be
19 hearsay.

20 A Correct.

21 THE COURT: You would have to bring Sisnroy.

22 A Right. So that's why -- and that's why -- and
23 that's why I didn't -- I tried not to -- when I brought this
24 lawsuit, I tried not to go into some of the line items that
25 I was not -- I didn't feel I could say with certainty were

1 or were not done. So that's why I highlighted the ones with
2 the stucco, because that is black and white. No stucco was
3 put on. There was no -- there was no metal lath. There was
4 no painting of stucco. There was nothing put on. And I
5 clearly contracted for him to do that.

6 THE COURT: Okay. Anything else?

7 A No, I think that's it. I think that's it. I had a
8 contract for him to do this, and he didn't do it. And he's
9 saying, oh, well, I did all those other things for you, and
10 I'm, you know, but I'm like, no.

11 First of all, he didn't make it clear what he was
12 doing for me. And if he did do those things for me, I would
13 have gladly paid if he had put them out and put an actual
14 number and some dimensions. I would not ever not want to
15 pay my contractors. And that's why I even -- you know, I
16 would have paid for anything that needed to be done. But he
17 -- they didn't -- they didn't provide any communication when
18 asked for it, and I had to fall back on the contract because
19 the contract is -- we both signed the contract. He said he
20 was going to put the stucco on. He clearly did not. And
21 everything else is outside of the scope of that.

22 I have to say -- I have to -- I have to say, take a
23 look at the contract. The contract was not adhered to. If
24 he's saying I didn't pay him for some of the things that
25 were in here, then, okay, well, I'll right a check right now

1 for some of the things if I didn't pay for it. But I can
2 identify, very clearly, that there are multiple items on
3 this contract that he did not -- he did not complete, and I
4 believe he was paid for them.

5 THE COURT: Well, let me do this, and you can just
6 ask. In regard to the stucco itself, do you know how much
7 stucco he was supposed to take off in the first place?

8 A How many square feet?

9 THE COURT: Uh-huh.

10 A I think about a thousand square feet, 800 square
11 feet. I'm just guessing. I don't know.

12 THE COURT: Since you didn't want to get -- haul in
13 the contractor, you don't think calling the lady that did
14 the appraisal from the insurance company would have helped?

15 A Calling Ellen Wescott?

16 THE COURT: Sure.

17 A And saying how many square feet of stucco?

18 THE COURT: No, having her here as a witness. You
19 can't just ask her because --

20 A I guess -- she has it written down.

21 THE COURT: Let me quit confusing you with that.
22 Let's just go to the other point I was trying to make. Do
23 you know how many square feet he actually took off?

24 A No.

25 THE COURT: Okay. You said how much stucco is off

1 your house right now?

2 A The entire side of stucco. A whole --

3 THE COURT: Okay. So if I'm looking at your house
4 from the street, does the house face the street?

5 A Yes.

6 THE COURT: Okay. So I'm looking at the front?

7 A Yes.

8 THE COURT: And it's essentially rectangular?

9 A Yeah. It's a big -- it looks like a big square.
10 It's a big rectangle. It like a piece of cheese.

11 THE COURT: Okay. And right now, the whole right
12 side or left side --

13 A The whole left side has no stucco. Well, that's
14 actually not true. There is still stucco on the bottom.
15 Like, the whole kind of top left side does not have stucco.

16 THE COURT: Okay. Any other parts? Or is it all
17 just on that one side?

18 A The top part of that side, and then a little chunk
19 on the right-hand side.

20 THE COURT: Okay.

21 A But there's total stucco on the front, and there's
22 total stucco on the back.

23 THE COURT: Okay. All right. A minute ago, you
24 were trying to go through, and I forgot the insurance
25 companies do things by rooms.

1 A Yes.

2 THE COURT: And so even when she's talking about
3 stucco, she's talking about the stucco outside of a given
4 room?

5 A Correct.

6 THE COURT: Does she show replacement of stucco on
7 this bid for every room on the left side of the house?

8 A Every room on the second floor, yes.

9 THE COURT: Okay.

10 A Yeah.

11 THE COURT: And on the right?

12 A No. It doesn't look like she has replacement for
13 on the right.

14 THE COURT: Okay.

15 A Well, I mean, but as soon as she says things like
16 left-sided dwelling, right-sided dwelling, so I'm actually
17 not clear exactly what -- I can't really say for certainty.
18 But she did reference the right side of the dwelling in some
19 of her numbers, but I don't know if she included putting the
20 stucco on. I don't think it goes down to that level.

21 THE COURT: Okay. In the actual -- (long pause) --
22 okay. Anything else for this witness, Mr. Smith?

23 BY MR. SMITH:

24 Q You don't how much original stucco was included in
25 the estimate?

1 A The actual square footage? No. I know it's the
2 second floor on the right side, and then I think outside of
3 Clay's room is what we talked about, and that's the amount
4 that was taken off.

5 Q And you don't know how much was actually removed in
6 square footage?

7 A It looks likes the amount that was described was
8 removed.

9 Q Now, did they do any framing?

10 A What do you mean?

11 Q Like wood. Did they replace any of the rotten
12 wood?

13 A The plywood? Yeah.

14 Q Any plywood, any two-by-fours, anything.

15 A I know that they replaced plywood, yep.

16 Q How about the framing? The framing is like the
17 two-by-four (inaudible) sheathing.

18 A Well, I know -- I remember Mark Milovich did that
19 in the master bedroom, but I don't think -- I don't think
20 they needed to do it in Charlotte or Mave's room, further
21 down, but I'm not sure. I would have to ask for --

22 Q Do you know how much of that was included in the
23 original estimate?

24 A I know that there were some line items for a
25 framer. There's plywood, there's lumber, there's carpenter,

1 general framer per hour, like \$1,400, but it doesn't break
2 it down by -- it breaks it down by hour. It doesn't break
3 it down by square footage.

4 Q Do you know whether they did additional framing
5 that wasn't covered in that estimate?

6 A Not that I know of, no.

7 Q Do you have any clue? You're sitting here telling
8 me you don't really know what they did.

9 A Well, I know that they -- they did not provide
10 anything for me in writing that says that they did anything
11 extra at all.

12 Q And you don't know whether they did any extra in
13 framing, do you?

14 A How would I know that? There is absolutely no way
15 for me to actually know that.

16 MR. SMITH: I don't have any other questions.

17 THE COURT: All right.

18 MS. CAVANAUGH: Did you want your thing?

19 THE COURT: Sorry?

20 MS. CAVANAUGH: Oh, I'm sorry. To him. Do you
21 want your --

22 MR. SMITH: Yeah, I do.

23 MS. CAVANAUGH: Why did I get \$7.92 credit?

24 THE COURT: Yes, ma'am. Unless you have something
25 else to say, that's it.

1 MS. CAVANAUGH: I just want to reiterate that I
2 think I adhered to my part of the contract, and I think I --
3 and I think I paid what I was supposed to pay. And I did
4 not receive anything that says I didn't pay what I was
5 supposed to pay per the contract. And obviously, the
6 contract was not fulfilled.

7 THE COURT: Okay. Thank you, ma'am.

8 MR. SMITH: I'm going to call Junior Newell first,
9 please?

10 THE COURT: Yes, sir. All right. Left hand on the
11 Bible, raise your right. Do you solemnly swear the
12 testimony you'll give in this proceeding is the truth, the
13 whole truth, and nothing but the truth, so help you God?

14 MR. NEWELL: I do.

15 THE COURT: And your full name, please?

16 MR. NEWELL: David Newell, Jr.

17 THE COURT: Yes, sir.

18 EXAMINATION

19 BY MR. SMITH:

20 Q Junior, did you do any work on the Cavanaugh house?

21 A Yes, sir.

22 Q When you went to estimate the cost of the project,
23 what did you look at?

24 A We looked at water damage, framing damage,
25 sheathing damage, stucco damage caused by water intrusion,

1 and some termite damage.

2 Q Did you have the Xactimate estimate?

3 A I did.

4 Q I'm going to show you a package of documents and
5 ask you if you can identify that?

6 A This was the contract between New Age and the
7 Cavanaughs, and the copy of the insurance company's
8 Xactimate estimate.

9 MR. SMITH: I would like to introduce -- I didn't
10 see a copy of it introduced yet. I thought --

11 THE COURT: I've been referring to the one she
12 included in the complaint.

13 MR. SMITH: That's it. But let's go ahead and
14 label that as Defendant's Exhibit No. 2 or 3. I don't know
15 what you did on the last one.

16 THE COURT: Okay. These were yours, 1 and 2?

17 MR. SMITH: Yeah.

18 THE COURT: Okay. It doesn't make any difference
19 which is which; right?

20 MR. SMITH: No, it doesn't.

21 (Defendant's Exhibit No. 1, No. 2 and No. 3 marked
22 for I.D.)

23 BY MR. SMITH:

24 Q What happened on the job?

25 A We started the job and, upon removing the first bit

1 of stucco from the outside, found that the damage underlying
2 was extensive. There was extensive water damage. There was
3 live termites. And it became -- the damage kept growing all
4 the way down, down the side of the building, down to the
5 ground floor. To the roof, and all the way down the left
6 side of the building.

7 Q Did the amount of stucco -- what were you hired to
8 do?

9 A We were hired to repair the damage underneath each
10 scupper, based on the insurance report.

11 Q And that would have entailed removing stucco, and
12 then fixing whatever estimated framing? I mean, nobody
13 knows what's behind it.

14 A Correct.

15 Q The estimate amount of framing behind it?

16 A Correct. The report was that the scuppers on the
17 roof had failed, and the water from those scuppers and from
18 the roof was running down behind the sheathing, behind the
19 stucco, and we knew there was damage at the stucco -- at the
20 stucco, at each scupper location. But the damage got
21 greater as it went down, but nobody knew how much damage
22 there was.

23 Q When you estimated it, did you know about the live
24 termite issue?

25 A No. No, sir. We knew that there was termite

1 damage because it was evident in the walls that had been
2 opened; but at the time, there were no live termites in that
3 area.

4 Q Did y'all exceed the amount of work that was called
5 for in the original contract?

6 A We did.

7 Q And tell me how that happened.

8 A Well, one of the first things we had to do was put
9 up more scaffolding because the original contract for the
10 scaffolding did not get us nearly as far as we needed to go
11 on one side of the building.

12 THE COURT: Let me ask you to clarify something.
13 You said you were supposed to remove the siding and replace
14 it under each scupper?

15 A In those areas, sir, yeah.

16 THE COURT: Okay. How many scuppers?

17 A I believe there was three or four on that one side
18 of the building.

19 THE COURT: How far apart are they?

20 A Approximately 10, 15 feet.

21 THE COURT: And how much material would you have
22 been removing under each one?

23 A Probably a 20 square foot area.

24 THE COURT: Okay. But, and so you would be doing
25 it from eave to ground?

1 A No, just in the areas where the damage was heavier,
2 at the top, at the -- where the scupper was.

3 THE COURT: At the top?

4 A Yes, sir.

5 THE COURT: But is it possible just to remove the
6 siding in a small -- in a small column?

7 A Uh-huh. Yes, sir.

8 THE COURT: You wouldn't be taking off the entire
9 side?

10 A No, sir.

11 THE COURT: So what were you actually anticipating
12 doing? Give me a scope of work to repair this area under
13 each scupper.

14 A Removing the stucco. Removing the sheathing.

15 THE COURT: How much stucco under each one?

16 A Twenty square feet.

17 THE COURT: Okay. So just three or four feet wide?

18 A Correct.

19 THE COURT: Eight or ten feet down?

20 A Correct. Doing a patch back, replacing the
21 sheathing if necessary, and then putting the stucco back on
22 top of it, and then painting to match.

23 THE COURT: Okay. Sorry.

24 MR. SMITH: That's all right.

25 BY MR. SMITH:

1 Q How much did you end up removing?

2 A The entire side of the house.

3 Q And did you go around another side?

4 A We went to the right side of the house and started
5 going down that side of the house as well, yes, sir.

6 Q Did you ever reach the end of the termite damage?

7 A No, sir. We actually -- when we left the property,
8 I made the homeowners aware that there are still live
9 termites in the right-hand side of the house.

10 Q Why did you stop?

11 A We stopped getting paid.

12 Q Did you have a discussion -- who did you have your
13 discussions with, was it Ken or Karyn Cavanaugh?

14 A I had discussions with Ken separately. I had
15 discussions with Karyn separately. I had discussions with
16 both of them together.

17 Q And did you tell them that they were exceeding the
18 scope of the original work?

19 A Yes, sir.

20 Q Were they very much aware of that?

21 A Yes, sir, because money became an issue.

22 Q Tell me how. What do you mean money became an
23 issue?

24 A They asked us to help them with the insurance
25 company to get additional funds, and help show the insurance

1 company that we had found additional damage. The insurance
2 company would not pay for the termite damage, but they would
3 pay for the additional wood and rot or wood damage, moisture
4 damage. So they asked us to help with the insurance company
5 to do that, and we continued to open up and show the
6 insurance company what we had, what the damage was.

7 Q And who asked you to do that?

8 A Ken and Karyn.

9 Q So Karyn knew that had it had exceeded?

10 A They knew it had exceeded once the scaffolding went
11 down the entire side of the building. We came to them and
12 said, "Look, we need to scaffold the entire side of the
13 building because the damage is extensive."

14 Q And this was after the contract had been entered
15 into, obviously?

16 A Correct.

17 Q And did you help them get more money from their
18 insurance company?

19 A We did.

20 Q And that was done at their request?

21 A Yeah.

22 Q Did you show the insurance company the problems,
23 and did they, in fact, give you more money?

24 A They did. They didn't give us the money, but money
25 went to the Cavanaugh's.

1 THE COURT: I'm sorry, what?

2 A The insurance company never pays the contractor
3 directly. All the monies go to the insured.

4 THE COURT: Okay.

5 A So we provided the insurance company with pictures.
6 They came back out and reinspected. We also helped the
7 Cavanaughs with Terminix because, of course, they had a live
8 termite problem, and they were under bond. I don't know
9 what happened with that, but we got Terminix out on the site
10 and got them there to treat and take care of the -- take
11 care of the live termites. And we continued to call them
12 back to continue to treat the live termites that we had
13 found.

14 Q All right. So did you ever reach the end of the
15 live termites?

16 A No, sir.

17 Q What happened with the money issue?

18 A We got down to the end, and they were very honest
19 with us. They said, "Look, we're running out of money; we
20 don't have much money left here to do." That's why we
21 slowed down and said, "Look, we're gonna have to -- we'll
22 waterproof this temporarily, and then you need to resolve
23 this issue. We would be happy to come back and continue the
24 work; but please be informed, you have live termites still
25 in your home and we need to get them. We need to get them

1 out."

2 Q Did you send them an invoice on September 10th,
3 2015?

4 A I did.

5 Q And was that while you were still on the job?

6 A Yes.

7 Q Is that the invoice that caused the problems?

8 A Yes. I mean, this was the last invoice that we had
9 had up to a point of what -- the work we had completed. We
10 were billing for what we had done so far, and this was the
11 balance of when -- when the Cavanaughs came to me and said,
12 "I'm sorry, we're out of money." And I said, "Well, this is
13 your balance of what you owe me; and if you can't pay this,
14 I can't continue."

15 Q And you only billed them for work that you did?

16 A Correct.

17 Q So you didn't bill in advance? She's saying you
18 were paid under the contract, and you haven't done these
19 items. You didn't bill -- nobody bills in advance for
20 stuff, do they?

21 A No.

22 Q Did you bill for items in the contract that you had
23 not done?

24 A No.

25 Q Currently, with what you completed, and you got to

1 the end of the line, how much do they owe you?

2 A 9,800 -- 9,862.08.

3 Q And that represents what you billed them up to that
4 point, plus that bill, represents money due for work you
5 actually performed?

6 A That is correct.

7 Q Do you know of any reason why that bill should be
8 reduced? Or any of the other items that Miss Cavanaugh has
9 brought up today, do you have any idea or any reason to
10 think that you're not entitled to that money?

11 A No, sir, not at all.

12 Q Everything that you've billed, and everything
13 you've asked for, you've actually done?

14 A That is correct.

15 MR. SMITH: I don't have any other questions, Your
16 Honor.

17 THE COURT: Questions?

18 MS. CAVANAUGH: Yes.

19 BY MS. CAVANAUGH:

20 Q First question, you said you removed everything on
21 the right-hand side of the house?

22 THE COURT: Left.

23 Q Oh. Left-hand side of the house?

24 A Yes, ma'am.

25 Q This is a picture of the left-hand side of the

1 house that I took on April 29th, 2018. It looks like
2 there's still stucco all over the bottom part of that house.
3 Is that your testimony, that you took everything off?
4 Because it looks to me like there's still stucco on that
5 part of the house.

6 A Yes, ma'am, there is stucco on the bottom. That's
7 actually attached to the concrete because the bottom part of
8 the house is concrete. So that stucco is actually --

9 Q So you didn't take all the stucco off of the right
10 side -- or the left side. You only took partial amounts
11 off?

12 A Well, technically, it's not stucco on the bottom of
13 the house.

14 Q Well, that looks like stucco to me. They're
15 telling me it's stucco. That's stucco.

16 A It's part of the concrete structure made to look
17 like stucco.

18 Q That, to me -- I disagree, because this looks like
19 stucco to me. You're saying that this is not stucco here?
20 This part right here is not stucco?

21 A No, ma'am. It's concrete. The whole first floor
22 of your house is concrete.

23 Q What were the dates --

24 THE COURT: Hold on just a second, if you can hold
25 that thought. Is there a difference between synthetic

1 stucco and non-synthetic stucco?

2 A Yes, sir, there is.

3 THE COURT: What's the difference?

4 A There's also something called EIFS as well.
5 They're all different systems applied to different
6 substrates to create a different part of -- a different
7 waterproofing system, depending on what it's going against.

8 THE COURT: What were you removing?

9 A Stucco.

10 THE COURT: Okay.

11 A Stucco with a lath system underneath the back,
12 applied to sheathing, with a waterproofing membrane behind
13 it.

14 THE COURT: And what is the stucco she's referring
15 to?

16 A It's a straight trowel-on concrete application.

17 THE COURT: Okay.

18 A To block.

19 MR. SMITH: It's called hard coat stucco.

20 BY MS. CAVANAUGH:

21 Q Could you tell me the --

22 THE COURT: You wouldn't be removing that; right?

23 A No, sir. Because there would be no water behind it
24 because it's part of the concrete foundation.

25 THE COURT: It's applied almost like paint to the

1 surface of the concrete?

2 A Yes, sir. It's concrete on concrete that bonds as
3 well.

4 THE COURT: Right. It's what we used to call real
5 stucco?

6 A Yes, sir. It's not --

7 THE COURT: Before the Germans invented synthetic
8 stucco to cover up crumbling buildings.

9 MS. CAVANAUGH: I think I'm getting real stucco
10 now. But anyway --

11 THE COURT: I'm sorry?

12 MS. CAVANAUGH: I think I'm getting real stucco
13 now.

14 THE COURT: You don't have a concrete house, for
15 one thing.

16 MS. CAVANAUGH: Well, they're putting up -- they're
17 putting up like a whole channel system with like -- with
18 this concrete kind of things, and then they're putting
19 stucco on that.

20 THE COURT: Okay.

21 MS. CAVANAUGH: So I'm hoping I'm getting something
22 that's not gonna --

23 THE COURT: Does that describe something you're
24 familiar with?

25 A No, sir, it doesn't.

1 MS. CAVANAUGH: Oh, okay.

2 THE COURT: Well, you may very well be getting a
3 different product, because synthetic stucco is created --

4 MS. CAVANAUGH: Right, right. Yeah, no, I know.

5 THE COURT: We have Pacific siding and, what is it,
6 poly-butyl pipe and every other --

7 MS. CAVANAUGH: Chinese drywall.

8 THE COURT: Yeah. And every other construction
9 nightmare we've had come out of China.

10 MS. CAVANAUGH: Yeah.

11 BY MS. CAVANAUGH:

12 Q Could you tell me the dates of those discussions
13 that you said that you had with me and with Ken? Because
14 I'm not recalling any actual dates that we actually had a
15 discussion. In fact, I was traveling most of that summer,
16 and Ken was in Germany. So I'm kind of wondering when the
17 dates of the discussions were during the months of July and
18 August that you actually sat down with us? Because this is
19 something that is somewhat new to me, that you're recalling
20 these discussions that you had that said things are going to
21 be --

22 MR. SMITH: I object to the question. I wasn't
23 going to object after the first eight sentences, but --

24 THE COURT: If you want to testify, you can
25 testify, but that's not a question.

1 BY MS. CAVANAUGH:

2 Q Well, could you tell me what dates you had the
3 discussions?

4 A I don't know those dates.

5 Q Do you have any emails that show me that you were
6 saying that you were going to -- that it was going to cost
7 more?

8 A No, I don't.

9 Q Terminix, what kind of contact -- who did you
10 contact with Terminix? Because I testified that it was in
11 November of 2014 Terminix came out, and they were treating
12 the termites. Subsequent to that, I didn't even meet you
13 until April 2015.

14 MR. SMITH: Your Honor, once again, I'm going to
15 object.

16 BY MS. CAVANAUGH:

17 Q All right. Do you have any dates on the Terminix
18 issue, that you were working with Terminix, or any people?
19 Who were you working with at Terminix?

20 A We called their field supervisor to come out and
21 see the damage. That's standard procedure that any house
22 under bond, no matter whom the company is, or who the client
23 is we're working for, if a house is under bond and live
24 termites are found, we are to contact their field inspector
25 or field supervisor to have them come out.

1 THE COURT: And you don't do that through the
2 owner?

3 A We do. Because we, obviously, have to contact the
4 owner to know who the bond company is to get that
5 information.

6 THE COURT: Do you remember who you discussed that
7 with?

8 A With Karyn and Ken. That's how I knew who had the
9 bond on the house.

10 THE COURT: Okay.

11 BY MS. CAVANAUGH:

12 Q We had already been working with Terminix.

13 THE COURT: You don't argue with him.

14 MS. CAVANAUGH: What?

15 THE COURT: You can come back and testify again to
16 follow up on all that. Please make notes to yourself about
17 what you want -- how you want to address it. But all you
18 can do right now is ask him questions.

19 BY MS. CAVANAUGH:

20 Q Did you -- do you think you left the house in a
21 waterproof condition?

22 A We did, but it was not left in a waterproof
23 condition to withstand three years of the weather.

24 Q Do you recall me calling you in October and telling
25 you that the water was actively pouring into the family

1 room?

2 A Yes, ma'am.

3 THE COURT: What year?

4 BY MS. CAVANAUGH:

5 Q Of 2015. After you left, packed up, do you recall
6 me calling you and telling you that it wasn't waterproof?

7 A Yes, ma'am, I do. And I also recall sending our
8 guys back over there to seal it back up again.

9 Q No. You -- when -- can you tell me when that date
10 was? Because there was -- as far as I know, there wasn't --
11 you never came back in October.

12 A It was the next day.

13 Q No, that was in September, the first time that it
14 was leaking. I'm talking about in October of 2015.

15 MR. SMITH: Your Honor, I'm going to object again.
16 I'm sorry.

17 THE COURT: I'll let that one go.

18 MS. CAVANAUGH: Sorry.

19 THE COURT: Could it be that you're confused about
20 September or October? Did you go more than once?

21 A We went more than once, Your Honor. We went two or
22 three times. And then we -- because in the end, we didn't
23 part ways in a bad fashion. It was just that we needed to
24 get paid and we would be happy to come back and continue
25 working. And if somebody calls me and says, hey, I've got

1 water pouring in my house, we're going to go help, and not
2 invoice for anything like that. So we did return two or
3 three times, based on phone calls from Karyn to --

4 THE COURT: What did you have to do when you went
5 back?

6 A Fix the temporary patching at the corners. The
7 hardest part to waterproof is at the very end of the house
8 where it turns around, where we have waterproofing meeting
9 the existing stucco, joints or whatever. That's where we
10 had to rewaterproof again because we had water intrusion.

11 Q Did you think you fixed it?

12 A Yes, ma'am. As a matter of fact, the gentleman who
13 fixed it is the same gentleman who is working on your house
14 now.

15 Q How many square feet were you contracted to remove
16 and replace?

17 A Less than a thousand.

18 Q How many square feet did you remove?

19 A Probably 15 to 20,000.

20 Q 15 to 20,000?

21 A I mean, it's a big -- we took off the whole entire
22 left side of the house.

23 Q Can you be more specific?

24 A How much more specific do you need me to be?

25 Q That 15 to 20,000, that's a difference of --

1 there's a 25 percent differ -- I mean, that's a big amount.

2 How much do you think you took off?

3 A I'm going to guess that it's also a big difference
4 from the 135,000 to put it back on versus the 8,000 we were
5 going to be paid to --

6 Q How much did you put back on?

7 A None.

8 Q How much were you contracted to put back on?

9 A Less than a thousand square feet.

10 Q And you put absolutely zero back on; right?

11 A We put no stucco back on the house.

12 Q Did you ever, ever ask me to sign another contract
13 for any other additional work outside of the scope of the
14 original contract?

15 A We did not.

16 Q Did you ever send me an email that identified the
17 exact amounts that you went over and give me any kind of
18 breakdown of the amounts?

19 A It was impossible to tell you what the exact
20 amounts were overage because we hadn't uncovered all the
21 damage. We still had live termites. And at the time, we
22 were still uncovering damage, live termites --

23 Q When I asked for a status as to exactly what was
24 going on, it was impossible at that point to give an exact
25 estimate as --

1 A We sat down and said this is --

2 Q Not an estimate, but a --

3 A -- this was what I --

4 THE COURT: Let him finish, please.

5 A When you asked me to tell you what was going on, I
6 gave you an invoice of where we were to this day. And I
7 said, "This is where we are. This is what we've done. This
8 is what we've done up to this point. This is what you owe
9 me. And we still have live termites, we still have framing
10 damage, and we still have structural damage in your house on
11 the right-hand side. I suggest you pay this invoice and we
12 move forward because you have live termites in your house."

13 You told me you didn't have any money; you were
14 waiting on the insurance company. I told you we were going
15 to have to break down and pull off the job because I cannot
16 pay my subcontractors and my guys without having payment.

17 Q Do you have any -- do you have any further
18 documentation other than just a list of things which include
19 things like a porta potty? Which it doesn't have -- it
20 doesn't have any kind of metrics attached to it. Do you
21 have any other list of what was done?

22 A I have approximately 300 pictures of damage, and I
23 have a packet here of all the day sheets and all of the
24 receipts of all of the work that was done from day one that
25 we submitted to you.

1 Q And have you quantified all the work that was done
2 based on the contract?

3 A This is based on what we did from day one.

4 Q Based on the contract, can you go through each line
5 item on the contract with me and tell me whether or not it
6 was done and whether or not it was paid for?

7 A I mean, I certainly can.

8 Q Can we do that?

9 A Sure.

10 Q Do you have a copy of the contract?

11 MR. SMITH: Your Honor, I think we've admitted that
12 the items she pointed out, he didn't do because he didn't
13 get to them yet.

14 THE COURT: Okay. And was everything else done?

15 A Yes, sir.

16 BY MS. CAVANAUGH:

17 Q Everything else on the contract that I didn't point
18 out specifically, you're maintaining that you did do?

19 A I'm agreeing with whatever the 11 items that you
20 said that had to do with the stucco, we did not put up, yes.

21 THE COURT: Okay. But, and there were other items
22 on the original estimate. What is that thing called?

23 A Xactimate.

24 MS. CAVANAUGH: Xactimate.

25 THE COURT: Xactimate, that didn't get done as

1 well?

2 A I would have to look at those, the balance of the
3 11 to 19 items, to know for sure what --

4 BY MS. CAVANAUGH:

5 Q For example, on the interior contract --

6 THE COURT: Okay. I'm going to rein this in.
7 You're not suing for those today; you made that clear.

8 MS. CAVANAUGH: You're right, I did.

9 BY MS. CAVANAUGH:

10 Q So could you specifically tell me what I did not
11 pay for on the contract that I have with you?

12 THE COURT: That's where you're asking the same
13 question.

14 MS. CAVANAUGH: Oh, okay. Never mind.

15 BY MS. CAVANAUGH:

16 Q And you have no additional emails to me after
17 October -- do you have any emails -- if you say I owed you
18 money, wouldn't a reasonable person send -- continue to send
19 me emails or overdue notices? Do you have any documentation
20 that showed me any kind of overdue, if I truly owed you that
21 amount? Where would be the late notices that I never
22 received?

23 A We have call records of when we called and spoke to
24 you, Miss Johnston in our office.

25 Q And you do have that? And did Miss Johnston ever

1 call me?

2 A (No verbal response.)

3 Q She did?

4 A Uh-huh.

5 Q Because I don't think she would have my phone
6 number.

7 A I'm pretty sure we had your phone number on file.

8 Q Actually, because, no, I did get a new phone number
9 in --

10 MR. SMITH: Your Honor, I'm going to object. This
11 is just testimony.

12 THE COURT: It's not an argument. You ask him
13 questions; you get answers; you ask another question.

14 MS. CAVANAUGH: Okay. All right.

15 THE COURT: And, like I said, make notes to
16 yourself for your follow-up or rebuttal to all of this.

17 BY MS. CAVANAUGH:

18 Q Okay. What did Miss Johnston say I said to her?
19 Oh, I can't ask you that. That's hearsay.

20 THE COURT: Let me do this. When did you get the
21 new phone number?

22 MS. CAVANAUGH: End of 2015.

23 THE COURT: When in '15?

24 MS. CAVANAUGH: I would have to take a look. I
25 don't know. I'm sorry.

1 THE COURT: Well, depending on when -- okay.

2 MS. CAVANAUGH: But --

3 THE COURT: Are you sure you --

4 MS. CAVANAUGH: I do -- but you know what?

5 Actually, I do have the same home phone number, and I do
6 have all my Comcast records going back for years. So I can
7 actually document that if you -- and so it's not an issue.

8 BY MS. CAVANAUGH:

9 Q And when was the last time you called me?

10 A I don't know. I would assume that we probably gave
11 up at the end of 2015 because you were -- you and your
12 husband were very clear that you had no more money, and you
13 were moving forward with a lawsuit to sue --

14 Q So you don't bill people that owe you money because
15 they say that they're not paying you money?

16 A We sent an invoice and we -- I mean, there's no
17 sense in making call after call after call. We knew what
18 was going on. At that point, John Chakeris had contacted
19 us, and we --

20 Q You made no attempt to send me to collections?

21 MR. SMITH: Your Honor, she's got to let him finish
22 testimony.

23 MS. CAVANAUGH: Oh, I'm sorry.

24 THE COURT: You spoke to Chakeris yourself?

25 A Yes, sir. Him and his firm called me and asked me

1 for photographs and documentation.

2 THE COURT: Right.

3 A What we had done. Robert Sisnroy, we actually
4 performed the work for Robert Sisnroy on site. He hired us,
5 as he does with many of his cases, to --

6 THE COURT: Sisnroy is the engineer?

7 A Yes, sir. He's the --

8 THE COURT: Okay. Sisnroy got in touch with you?

9 A Yes, sir. We work for him anyway, all the time.

10 THE COURT: And paid you?

11 A Yes, sir.

12 THE COURT: To go back to this job?

13 A And take samples and remove stuff for him, and then
14 seal it back up, yes, sir.

15 THE COURT: Okay. And do you remember when you did
16 that?

17 A It was sometime late in 2015, I would guess.

18 THE COURT: Still in '15?

19 A Yeah, we were still there. And --

20 THE COURT: Okay. So the lawsuit against the
21 builder, or anticipating the lawsuit against the builder,
22 had begun while you were doing your work?

23 A Yes, sir, or at the very tail end.

24 THE COURT: I'm sorry?

25 A Or at the very tail end of it, yes, sir.

1 THE COURT: And you provided this information for
2 Mr. Sisnroy?

3 A Absolutely.

4 THE COURT: When do you believe Mr. Chakeris called
5 you?

6 A Sometime that fall of -- fall of 2015.

7 THE COURT: And did y'all ever discuss where you
8 stood financially?

9 A Yes, sir.

10 THE COURT: And why were you discussing that?

11 A Because I really thought we were going to move
12 forward with the project. I was attempting to help.

13 THE COURT: And he asked what the balance was at
14 that time?

15 A Yes, sir, he did. And I said, "Would you please
16 speak to your client and let her know that I can't proceed
17 until we get the balance paid, and I would be happy to come
18 back and continue."

19 THE COURT: And you told him what the balance was?

20 A Yes, sir. I think he actually even asked for the
21 invoice.

22 THE COURT: And this is that \$9,800 figure?

23 A Yes, sir.

24 THE COURT: Did you ever hear any more about that?

25 A No, sir.

1 THE COURT: You only had the one conversation with
2 Chakeris?

3 A No, we had -- we had more conversations than that,
4 but it tailed off after -- I would say we didn't have any
5 conversations after 2015.

6 THE COURT: Okay. Did he ever, in the beginning of
7 those conversations, indicate that he might try to use you
8 as a witness? Or he just wanted what you had?

9 A He indicated he may use me as a witness.

10 THE COURT: Okay.

11 A And he did -- did subpoena all of our stuff, or
12 asked for all of it I believe, and we sent everything to
13 him.

14 THE COURT: And did you ever suggest that there
15 would be a problem with your testifying if you didn't get
16 paid or if your bill wasn't current? Or that didn't really
17 come up?

18 A I don't really know the answer to that. If I --

19 THE COURT: I'm sorry?

20 A I can't refuse to testify, can I?

21 THE COURT: Well, your lawyer hasn't objected yet.

22 MR. SMITH: Right.

23 A I don't know. I mean, if Mr. Chakeris said I need
24 you to testify, I don't know what my answer would be. I
25 don't know how that applies. I would have to ask.

1 THE COURT: Okay.

2 A I mean, I'm not going to refuse. I would -- I was
3 -- in that point in time, I was trying to help everything go
4 forward.

5 THE COURT: At that point, you still thought you
6 were going to get to finish the job?

7 A Yes, sir. Yeah. Like I said, I had told them they
8 still had live termites in their house. We were obviously
9 moving forward with it. Things were great.

10 THE COURT: Okay, regarding doing the work that
11 wasn't in the original scope, which became fairly extensive
12 --

13 A Yes, sir.

14 THE COURT: -- what authority or authorization did
15 you believe you had to do that?

16 A We had theirs.

17 THE COURT: I'm sorry?

18 A We had theirs.

19 THE COURT: How?

20 A Verbal conversations. They were there the majority
21 of the time. She says that nobody was home. There was
22 always somebody home. We had access to the house. They
23 came in. They viewed the work. They had people coming out
24 to look at the work. And we constantly, every day was an
25 update, "We found more damage. We found more damage.

1 Please get Terminix back out here. We found more live
2 termites." It was a constant update, weekly update, daily
3 update.

4 THE COURT: And that you were well off the original
5 trail?

6 A Absolutely. I would say well off. We were double.
7 And we were still finding damage. There was still -- that
8 was my concern to her. "You need to contact the insurance
9 company. You need to get Terminix in here. You need to get
10 people because we have not found the end. This is
11 extensive."

12 THE COURT: And there were conversations about them
13 running out of money?

14 A Yes, sir. They told me that. They said, "We're
15 not -- we only have so much money. We have the insurance
16 company's money. We need to do something." That's when I
17 suggested "You need to contact the insurance company. You
18 need to contact Terminix. See how much this is covered
19 under bond. I can't have those conversations with Terminix
20 about how much they're going to give you." We made
21 suggestions to try help the process move along.

22 THE COURT: Okay.

23 BY MS. CAVANAUGH:

24 Q Who viewed the work? You said people came and
25 viewed the work on a daily basis, on a weekly -- who viewed

1 the work?

2 A You were there. Your husband was there. Those are
3 --

4 Q Any -- did any kind of experts come and review the
5 work?

6 A Well, by the time we got toward the end, yes, there
7 was guys coming to look at stuff. Robert Sisnroy came to
8 look at it. There was another gentleman there.

9 Q What was the date you left the job?

10 A I don't know what the date was we disassembled all
11 the scaffolding and left. I'm not sure.

12 Q You don't know the date of that?

13 A Not off the top of my head, no.

14 THE COURT: Let me suggest something. You've got a
15 specific date in mind? It's a legitimate question to say
16 wasn't it September 9th, 2015, or --

17 MS. CAVANAUGH: Yeah, but I didn't want to.

18 THE COURT: I'm sorry?

19 MS. CAVANAUGH: Yes.

20 THE COURT: Ask him. Whatever the date is, ask him
21 if he could been --

22 BY MS. CAVANAUGH:

23 Q Weren't you gone by September 10th, 2015?

24 THE COURT: I was close.

25 A I don't know.

1 Q Wasn't the lawsuit with John Chakeris filed on
2 November 7th, 2015, two months after you had not been there?

3 A I have no idea what the date was that was -- the
4 lawsuit was filed. Sorry, I don't.

5 Q Were you ever at my house with Bob Sisnroy?

6 A Yes.

7 Q Do you know the dates of that?

8 A No, I don't.

9 THE COURT: But it probably would have been before
10 he filed a lawsuit. You wouldn't have done that, and then
11 -- you would have done the work in preparation of deciding
12 where or what he was going to file on. Do you follow what
13 I'm saying?

14 MS. CAVANAUGH: No, I understand. But, actually, I
15 didn't have Bob Sisnroy come to my house until afterwards.
16 I had somebody else that was from the insurance company that
17 was at my house. And the lawsuit I know was filed on
18 November 7th, 2015.

19 THE COURT: Well, then Sisnroy would have been
20 there before then.

21 MS. CAVANAUGH: Actually, Sisnroy came in
22 afterwards. He wasn't there before --

23 THE COURT: He could have if he based it on
24 somebody else. I doubt your lawyer took this case on and
25 filed a lawsuit before he had at least the fundamentals of

1 his cause of action figured out.

2 MS. CAVANAUGH: No. We had -- we had Craig Rogers
3 as an engineer.

4 THE COURT: Okay. So you --

5 MS. CAVANAUGH: So we did have Craig Rogers, and
6 then Sisnroy came in afterwards.

7 THE COURT: Okay. That's certainly plausible.
8 Sometimes you go a different way or decide who is a better
9 one. You're still worried they're (inaudible) going to
10 discover the first one that you no longer want.

11 MS. CAVANAUGH: So, I think that's it. I don't
12 have any other questions.

13 MR. SMITH: I have a few.

14 FURTHER EXAMINATION

15 BY MR. SMITH:

16 Q Your subcontractor, the one who did all this work,
17 is actually redoing her house now?

18 A That's correct.

19 THE COURT: What's that name?

20 A APS Services.

21 THE COURT: They were subbing for you?

22 A Yes.

23 THE COURT: What did they do for you?

24 A They were doing the removal of the stucco.

25 THE COURT: Okay.

1 BY MR. SMITH:

2 Q And they're the ones that she's hired, apparently,
3 to come out and complete?

4 A That's correct.

5 Q Originally, this claim started at approximately
6 \$50,000 with an insurance company; right?

7 A Uh-huh. Yes, sir.

8 Q It resulted in a settlement of 600,000?

9 A Yes, sir.

10 Q Clearly, this thing has just grown exponentially
11 from what you signed the contract on?

12 A Yes, sir.

13 Q I don't think anybody can argue that, can they?

14 A No.

15 MR. SMITH: I don't have any other questions.

16 THE COURT: Any other questions?

17 MS. CAVANAUGH: No, sir.

18 THE COURT: Okay. You can step down. Thank you.
19 Anything else from the defendant? Mr. Smith, that's it?

20 MR. SMITH: That's it, Your Honor. I'm sorry.
21 Defendant rests.

22 THE COURT: All right. You wanted to say? You're
23 still under oath.

24 MR. SMITH: Your Honor, I would ask that these be
25 admitted into evidence.

1 THE COURT: Yes.

2 MR. SMITH: These are the bills that clearly show

3 --

4 THE COURT: All right. Defendant's 4 and 5.

5 (Defendant's Exhibit No. 4 and Defendant's Exhibit
6 No. 5 marked for I.D.)

7 MS. CAVANAUGH: I do want to say that there was a
8 period of time after Junior left where I wasn't really sure
9 I was going to be filing a lawsuit. And I was -- one of my
10 neighbors came to me and said, "You need to talk to John
11 Chakeris," and so I did file a lawsuit in November. But
12 before that, it was touch or go whether or not I was going
13 to file a lawsuit because I didn't know if I was going to be
14 able to. But I would like to testify there was never any
15 kind of email from Junior telling me --

16 THE COURT: Never what?

17 MS. CAVANAUGH: Any kind of email or any kind of
18 discussions with Junior saying this is going to be more and
19 you owe me more money and the scope is now larger. And I
20 challenged him to find any kind of email because there
21 wasn't anything.

22 In fact, he was not at the job site most of the
23 time. It was Tradd Frazier. And I was there when I wasn't
24 traveling, but I travel extensively. And there was somebody
25 there at the house, my kids, my teenaged kids. So there was

1 somebody at the house, but they were teenagers, and there
2 wasn't anybody looking or supervising what was going on
3 outside of the house.

4 THE COURT: Okay.

5 MS. CAVANAUGH: And I did not have any kind of
6 email trail at all that says, okay --

7 THE COURT: He didn't say he sent you an email. He
8 said he had a conversation with you, face-to-face.

9 MS. CAVANAUGH: Right. And I did not see him at
10 all during the summer. I saw Tradd all the time.

11 THE COURT: Okay.

12 MS. CAVANAUGH: I did not see Junior. He did not
13 sit down with me. He did not sit down with me and Ken. And
14 he did not tell us -- at one point, he told us, "Oh, I think
15 this is going to be more," but there was no specifics talked
16 about. There was no authorization to do additional work.
17 We had the contract. It was very specific. He did not
18 fulfill his part of the contract. And I rest.

19 THE COURT: Okay. Anything in closing? I think
20 that was a closing argument.

21 MR. SMITH: Well, the only thing is, clearly, Your
22 Honor, when this thing was contemplated and the original
23 contract was signed, everybody thought it was a \$50,000
24 issue. What resulted was a \$600,000 settlement, which means
25 that she left some money on the table. It must have been a

1 million dollar claim.

2 THE COURT: Right.

3 MR. SMITH: So clearly, what occurred was way more
4 than what was originally contemplated when that contract was
5 signed. I mean, I don't see how anybody, with a straight
6 face, can say this didn't exceed what we originally thought
7 when we signed that contract. Clearly, clearly, clearly, it
8 didn't. And the insurance company paid 600 grand on
9 something they thought was 50 grand to start with.

10 What happened was, they had conversations. It
11 exceeded the amount of the original contract. I don't think
12 there's any question about that. It kept going, kept going.
13 They ran out of money, which happens a lot. When you get in
14 that little bridge area between the time the client realizes
15 they don't have enough money and you get something for them
16 in a litigation mode, they run out of money. I mean, it's
17 understandable. So the insurance company ain't giving you
18 any more. You have to sue them. So you've got about a
19 year-and-a-half, two-year lag.

20 I mean this is standard stuff; run into it all the
21 time. Homeowner says, "Don't have enough money to keep
22 going; you've got to sue them to get me more money to fix my
23 house." I mean, this is standard. I've done a million of
24 them. And that's what happened. We exceeded the amount of
25 the contract. They clearly had a discussion about it

1 because they were given an itemized list of, hey, here's
2 what you owe us now. And when that was given to her, there
3 was no stucco on her house being put back up. I mean, it
4 was still being torn off. So she had to have known that
5 they had exceeded the contract balance, we owe you more
6 money.

7 I mean, I don't see how somebody hands you an
8 invoice and says this is for work that we're still doing,
9 we've got to keep going, we're not at the end of the
10 termites, and no more stucco has been reapplied. At that
11 point, you've got to realize, you know, if this guy is
12 asking for more money, we've exceeded the contract balance
13 dramatically because we haven't even started getting into
14 replacing stuff. So, I think she knew. And I get it, I
15 mean, you try to save every penny you can when you get 600
16 grand, but it's just not the way to do it.

17 THE COURT: Okay. You get the final word if you
18 want to say anything else.

19 MS. CAVANAUGH: I didn't know the extent. And if
20 Junior had come to me with a written proposal, or even a
21 verbal proposal, on the extent of the work that needed to be
22 done, we could have sat down and talked about it. He packed
23 up his scaffolding on 9/10, after I gave him the final draw,
24 and he left, and that was it. So I don't think -- I don't
25 think that he -- and he left my house in a vulnerable

1 position, and I don't think that I owe him anything. And
2 there was never any discussions about specifics of going
3 over the contract. I thought \$52,000 was a lot. It seemed
4 like it was enough to do what needed to be done. And if we
5 needed more, we should have sat down and created a new
6 contract. I have the contract; it wasn't adhered to.

7 THE COURT: Okay. Mr. Smith, you're pursuing your
8 counterclaim?

9 MR. SMITH: That's correct, Your Honor.

10 THE COURT: In what amount?

11 MR. SMITH: It was 9,700. You have the invoice.
12 But it's \$7,500.00 is the most we can get. There's no
13 attorney's fees or any other provisions.

14 THE COURT: I'm sorry?

15 MR. SMITH: There's no attorney's fees or any other
16 provisions.

17 THE COURT: All right, then. After considering the
18 evidence and testimony, I find in favor of the defendant.
19 The plaintiff's claim is denied. The defendant's
20 counterclaim is granted, \$7,500.00 owed by Miss Cavanaugh to
21 New Age. Thank you all very much.

22 MR. SMITH: Thank you, Your Honor.

23 MS. CAVANAUGH: I don't get that. I don't have a
24 contract with him.

25 THE COURT: I'm sorry?

1 MS. CAVANAUGH: I don't get it. I don't have a
2 contract with him. I -- I didn't --

3 THE COURT: You're done. Thank you.

4 MS. CAVANAUGH: I just want a little bit of insight
5 on it.

6 THE COURT: I'm sorry?

7 MS. CAVANAUGH: I just -- can you just give me a
8 little insight on your -- on your --

9 THE COURT: I just did. You lost.

10 MS. CAVANAUGH: But I didn't have a contract with
11 him.

12 THE COURT: I'm not going to argue with you.
13 You're free to go. Thank you.

14 MS. CAVANAUGH: I just was looking for a little bit
15 of insight, just so I can know what I did wrong. I just
16 want to know what I did wrong.

17 THE COURT: You brought no witnesses, no proof, and
18 you made a claim you can't prove. And plus, I did not
19 believe you. I did believe him.

20 MS. CAVANAUGH: About what?

21 THE COURT: Everything. Thank you.

22 (The hearing was concluded.)
23
24
25

1 STATE OF SOUTH CAROLINA)

2 : C-E-R-T-I-F-I-C-A-T-E

3 COUNTY OF CHARLESTON)

4 I, Kimberli S. Hogle, Notary Public, certify that I
5 did transcribe this transcript of the Charleston County
6 Small Claims Court hearing from September 10th, 2018, and
7 that the foregoing pages constitute a true and accurate
8 transcript of the testimony given at that time and place.

9 I further certify that I am not of counsel or
10 kin to any of the parties to this cause of action, nor am I
11 interested in any manner in its outcome.

12 IN WITNESS WHEREOF I have hereunto set my
13 hand and seal this the 22nd day of June, 2019

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18 Notary Public for South Carolina.
19 My Commission Expires October 2, 2022.
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STATE OF SOUTH CAROLINA	)	COURT OF COMMON PLEAS
	)	NINTH JUDICIAL CIRCUIT
COUNTY OF CHARLESTON	)	
	)	
Karyn Cavanaugh,	)	CASE NO. 2018-CP-10-04907
	)	
APPELLANT,	)	TRANSCRIPT OF RECORD
	)	
VS.	)	ORIGINAL
	)	
New Age Contractors, LLP,	)	
	)	
RESPONDENT.	)	
	)	

July 31, 2019

Charleston, South Carolina

B E F O R E:

The Honorable Deadra L. Jefferson

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

Ransome H. Helmly, Esquire
For the Appellant

William K. Kalivas, Esquire
For the Respondent

Certified Transcript Provided For: Ransome H. Helmly

Phyllis Norton, CVR-Master, Nationally Certified Verbatim Court Reporter
636 Long Point Road, Unit G, #74, Mt. Pleasant, South Carolina 29464
PNorton@sccourts.org

I N D E X

HEARING -- 03

EXHIBITS - None Proffered

CERTIFICATION OF TRANSCRIPT -- 21

If you need an additional copy of this transcript or a sealed transcript or if opposing counsel requires a copy of the transcript, you should contact the court reporter.

Certification will satisfy Rule 80, Stenographic Report of Transcript as Evidence.

1 THE COURT: This is Karyn Cavanaugh vs. New Age
2 Contractors, LLP, 2018-CP-10-4907. Notice of appeal was filed
3 on October 10th of 2018. The matter was heard in the
4 Magistrate's Court on September 10th of 2018. The return was
5 filed on March 4th of 2019. The matter was heard in Small
6 Claims Court on March 26th of 2018.

7 Plaintiff was seeking -- the appellant in this case is
8 Karyn Cavanagh. The respondent is New Age Contractor's, LLP.
9 The appellant was seeking reimbursement for work she claimed
10 had not been completed by the respondent.

11 The summons and complaint were filed on May 9th of 2018,
12 and answer and counterclaim was filed on May 29th of 2018. It
13 was a general denial and several affirmative defenses and a
14 counterclaim for \$7,500 for work the respondent claimed had
15 not been -- had been completed but not paid for.

16 And I misstated it. The case was actually heard on
17 September 10th of 2018. Ms. Cavanaugh appeared pro se and had
18 no additional witnesses other than herself, the respondent was
19 represented by Steve Smith, and David Junior Newell who was
20 president of New Age Contractors, LLP.

21 The court took testimony, and the court indicates that
22 this is the first that the plaintiff -- or the appellant has
23 raised the parole evidence rule, that it was not raised in the
24 lower court and therefore was waived and not preserved.

25 After the court considered the evidence the court denied

1 the plaintiff's complaint and ruled in favor of the defendant
2 on his counterclaim, and the court issued judgment in favor of
3 the defendant in the amount of \$7,500.

4 And what the court found, the lower court found, is that
5 the original contract was to replace a series of downspouts
6 but the scope of the work was ultimately enlarged and resulted
7 in repairing damage to the entire side of the house which was
8 a massive change or alteration in the original contract.

9 The court denies that any evidence was precluded -- that
10 the plaintiff was ever precluded from presenting any relevant
11 testimony or evidence and basically in essence indicates that
12 many of the grounds raised in the appeal are being raised for
13 the first time, that being unclean hands, that being equitable
14 estoppel, and that being any reference to the collateral
15 source rule. And this return was submitted by Judge Guerard
16 on March 4th of 2019.

17 Okay. The appellant may proceed.

18 MR. HELMLY: Thank you, Your Honor. May it please the
19 court.

20 THE COURT: Yes, sir.

21 MR. HELMLY: Randy Helmly here on behalf of Ms. Karyn
22 Cavanaugh. Your Honor, I am going to try to keep this as
23 simple as possible. I think you have outlined the issues ---

24 THE COURT: And it needs to be restricted to issues she
25 raised in the lower court. I am not considering anything new

1 that was not raised in the lower court and preserved. She is
2 still bound by the rules of presentation.

3 MR. HELMLY: Certainly, Your Honor. In that instance --
4 Ms. Cavanaugh and New Age Contractors had a contract. He was
5 to perform certain work under that contract as identified in
6 the scope of repair generated by her insurance company. And
7 money was allocated for those repairs.

8 Admittedly, New Age did not perform certain parts of that
9 contract. They indicate they did additional work above and
10 beyond the scope of repairs. The magistrate's return
11 indicates that there was material significant alteration to
12 that contract.

13 Your Honor, in order for that to happen, specifically in
14 the context of a construction contract there have to be
15 certain material terms that are considered. There has to be
16 mutual assent. There has to be a meeting of the minds in that
17 circumstance.

18 THE COURT: Or he can be compensated in quantum meruit if
19 he did the work ---

20 MR. HELMLY: Your Honor, that was not raised. That was
21 not -- their counterclaim was breach of contract. The
22 magistrate found in favor of their counterclaim which was a
23 breach of contract. In order for him to do that he would have
24 had to have found an express contract. In order to have that
25 express contract there has to be certain terms; price, ---

1 THE COURT: I think he says ---

2 MR. HELMLY: --- scope ---

3 THE COURT: --- that in his return, doesn't he?

4 MR. HELMLY: Pardon?

5 THE COURT: He says that in his return, doesn't he?

6 MR. HELMLY: Says what, Your Honor?

7 THE COURT: That the scope of the work was enlarged and
8 went from what was originally contemplated to resulting in
9 repairing damage to the entire side of the house which
10 constituted a massive change or alteration of the original
11 contract.

12 MR. HELMLY: Your Honor, there is no evidence in that
13 record, in the transcript, presented to suggest that New Age
14 and Ms. Cavanaugh had a meeting of the mind with regard to
15 those alterations and enlarged scope.

16 THE COURT: What transcript are you referring to?

17 MR. HELMLY: Your Honor, I have a copy of -- I emailed
18 the court a memorandum earlier this week. Also provided a
19 copy of -- we received the audio transcript from Magistrate's
20 Court. I had that transcribed. I have a condensed
21 transcript. I have an official copy here, Your Honor,
22 depending on ---

23 THE COURT: Who officially transcribed it?

24 MR. HELMLY: Cheri Milligan, Milligan Court Reporting.

25 THE COURT: I don't know that she can certify a record

1 for that. Can she do that? Is there any rule that provide
2 for a non-court employee to certify a transcript from a --
3 from a part of the unified court system?

4 MR. HELMLY: Not that I am aware of, Your Honor, that
5 prevents her from doing so. You know, all we were provided
6 after multiple requests from the magistrate was a ---

7 THE COURT: That is all they had to do.

8 MR. HELMLY: --- was a CD ---

9 THE COURT: And they don't have to ---

10 MR. HELMLY: I understand that, Judge.

11 THE COURT: Yeah, and they don't have to do that. They
12 don't have to record it at all actually. But I think it is
13 good that they do.

14 MR. HELMLY: Well, fortunately here they did.

15 THE COURT: I am listening.

16 MR. HELMLY: May I approach, Your Honor?

17 THE COURT: For what purpose?

18 MR. HELMLY: To provide a case.

19 THE COURT: You can just give me the citations.

20 MR. HELMLY: Your Honor, Rose Electric versus Cooler
21 Erectors of Atlanta. It is 418 S.C.424 794 S.C. 2nd 382.

22 THE COURT: You need to slow down for the court reporter.
23 Correct?

24 THE COURT REPORTER: (Nods.)

25 THE COURT: Yeah, you need to slow down for her and

1 repeat that.

2 MR. HELMLY: I'm sorry, Your Honor. That is okay.

3 THE COURT: It is hard for -- we tend to speak fast. She
4 has to take down everything that we say. If you could repeat
5 what you just said for her benefit.

6 MR. HELMLY: Rose Electric, Inc. versus Cooler Erectors
7 of Atlanta, Inc.

8 THE COURT REPORTER: Could you spell that, please. Is it
9 K, C?

10 MR. HELMLY: C-O-O-L-E-R.

11 THE COURT REPORTER: Thank you.

12 MR. HELMLY: And that is 418 S.C. 424 and 794 S.C. 382.
13 (WHEREUPON, pause.)

14 THE COURT: Don't wait for me to look at you to talk to
15 me ---

16 MR. HELMLY: Okay.

17 THE COURT: --- to keep talking.

18 MR. HELMLY: Your Honor, in that case, it is a case
19 involving a construction contract. The court goes to great
20 lengths to discuss the existence of the contract in that case.
21 In that case, similar to this one, as alleged by New Age there
22 was an express or a verbal alteration of the contract. In
23 this case the court specifically states that certain terms
24 such as price, time, and place are indispensable and that when
25 a cost is not agreed on it is fatal to the contract or the

1 alleged contract and it is unenforceable.

2 THE COURT: Did you raise all of that before the lower
3 court?

4 MR. HELMLY: Your Honor, she presented evidence. One of
5 the ---

6 THE COURT: That is not my question. Issue of
7 preservation did she raise that issue before the lower court?

8 MR. HELMLY: I am not sure I understand, Judge. She --
9 I ---

10 THE COURT: She has to raise the issue for it to be
11 preserved. People can represent themselves. That is the
12 purpose of the Magistrate's Court. Of course it is not a
13 technical court. However, you can't come retry a case on
14 appeal. You have to have raised these things before the
15 magistrate. And it doesn't have to be magical or technical
16 language. But in substance it has to have been raised.

17 MR. HELMLY: She did raise it. She said we have no
18 contract, we never discussed the terms of the new agreement,
19 we never discussed price. She raised that. She introduced it
20 as evidence. She did raise that before the lower court.

21 There is no evidence -- the only time that price was even
22 involved in this case was after they left the job site and
23 gave her an invoice for the additional -- alleged additional
24 work performed. There was no meeting of the minds. There was
25 no discussion about it. There was no price.

1 So the only contract we are left with, Your Honor, is the
2 original contract whereby the contractor was supposed to
3 perform under the original scope of work and admittedly did
4 not complete that work. Took draws on all of that money. In
5 fact exhausted all of the draws on the money allocated for
6 that particular scope of work when in fact he did not do the
7 work involved.

8 (WHEREUPON, pause.)

9 THE COURT: I hope you are not -- you can continue
10 talking. I can do several things at one time. I do research
11 while you are talking. I read your pleadings while I am
12 talking.

13 MR. HELMLY: And so, ---

14 THE COURT: Yeah.

15 MR. HELMLY: --- you know, that is -- that is really at
16 the core of this case, Judge, is that the court essentially
17 ignored the only valid and unambiguous contract, went to great
18 lengths to find one that frankly did not exist, you know, and
19 in the process treated my client horribly.

20 THE COURT: I know Judge Guerard, and I doubt that very
21 seriously.

22 MR. HELMLY: Your Honor, I implore you to read the
23 transcript.

24 THE COURT: Yeah, he ---

25 MR. HELMLY: It is ---

1 THE COURT: He has a wonderful -- I have just never known
2 him to have a poor temperament toward anyone. Now you might
3 not like a decision, but that don't mean you were treated
4 poorly.

5 MR. HELMLY: Your Honor, this is not sour grapes. This
6 is an hour and twenty minutes of my client on the stand being
7 examined often in tandem by Mr. Smith and Judge Guerrard
8 raising issues that frankly the defense never raised.

9 You know, I have also had the privilege of appearing
10 numerous times sitting alongside a judge in a clerkship. And
11 frankly I have never seen anybody treated like this that had a
12 legitimate dispute.

13 THE COURT: Well ---

14 MR. HELMLY: But that's, ---

15 THE COURT: I am going to review it ---

16 MR. HELMLY: --- you know, aside from those issues, Judge
17 ---

18 THE COURT: I am going to review it based on the record.
19 And I am going to look at what was presented. And I am going
20 to see if there is any factual support for the decision and if
21 there are any preserved errors of law. I am not going to
22 substitute my judgment for his. I was not there. I did not
23 see the witnesses. I did not judge their credibility. I
24 don't know.

25 But I am going to stick with what the appropriate

1 standard is. And I am not going to get into what I perceive
2 as any aspersions on the lower court's character. I think
3 that is inappropriate.

4 MR. HELMLY: Your Honor, it is my understanding the
5 standard review is a Magistrate's Court is de novo and that
6 the court ---

7 THE COURT: I can.

8 MR. HELMLY: --- can consider all of the evidence and
9 render its own decision as it is presented.

10 Now maybe Ms. Cavanaugh didn't preserve as a lawyer would
11 preserve an issue in a case, but she certainly raised all of
12 the relevant issues with regard to the existence of a contract
13 and the lack of a meeting of the minds on any subsequent
14 alteration or new agreement.

15 And the court having found in favor of the defendant's
16 counter claim for breach of contract committed an error of
17 law. You can't find that contract. The terms aren't there;
18 price in particular, which is fatal to that contract.

19 And at the very least, Judge, there should have been a
20 set-off between the damages. But I don't even believe that
21 was appropriate. He admittedly did not complete certain
22 portions of that contract. Unilaterally enlarged the scope or
23 repair and then at the end when he walked off the job site,
24 decided, you know, he wanted to get paid for it. Well, it
25 doesn't work that way. All of that is in the record. It is

1 stated ad nauseam in the record.

2 One of the issues raised at the lower court hearing was a
3 subsequent lawsuit that Ms. Cavanaugh filed against the
4 builder of the home. That lawsuit proceeded -- she got a
5 settlement on it. It was introduced and considered by Judge
6 Geurard. She got a significant settlement in that.

7 It is a collateral source, Judge. At the very least it
8 is not relevant. It is prejudicial as it confuses the issue
9 that is thrown out there as a red herring. And it was
10 entirely inappropriate for the court to consider that.

11 On the other hand, Ms. Cavanaugh tried to introduce a
12 document that was an admission by the -- by New Age or a
13 statement against interest saying that they had completed the
14 project, saying that they had taken all of the money for the
15 draw. And the court would not consider that. Said you didn't
16 sign it so you couldn't -- it couldn't be introduced.

17 THE COURT: Who didn't sign it?

18 MR. HELMLY: She didn't sign it. She didn't sign it
19 because it was -- she didn't agree that they had completed the
20 work as they had alleged.

21 THE COURT: So how would that come -- be an admission
22 against interest?

23 MR. HELMLY: They sent her a certificate of completion
24 saying we want you to sign this. It was being used as
25 evidence to represent the fact that they requested and

1 received all of the money pursuant to the contract and all of
2 the money allocated for that specific scope of repair.

3 THE COURT: Anything further?

4 MR. HELMLY: Last thing, Judge. Certainly not my
5 intention to impugn the character of the court. But it
6 certainly is my obligation to point out when I see an inequity
7 in a proceeding.

8 THE COURT: And you can ---

9 MR. HELMLY: Yes, she is unrepresented ---

10 THE COURT: And you can do that without impugning his
11 character. And I have been very clear that I am not going to
12 entertain that. I think it is inappropriate.

13 MR. HELMLY: I haven't impugned anyone's character. I
14 call it like I see it. I believe that she was treated
15 inappropriately. And I think if you read the transcript you
16 will agree with that.

17 Thank you, Your Honor.

18 THE COURT: You are welcome.

19 Would the respondent like to respond? I know that
20 sounded redundant. I apologize.

21 MR. KALIVAS: That is all right. Thank you, Your Honor.

22 THE COURT: You are welcome.

23 MR. KALIVAS: Will Kalivas here on behalf of the
24 respondent. And I will be brief at the risk of relitigating
25 everything that was tried in Magistrate Court. There -- I

1 reviewed the transcript as well. There was -- I mean ---

2 THE COURT: Which brings to mind a question. Do you have
3 any objection to the transcript that was provided by Mr.
4 Helmly?

5 MR. KALIVAS: I don't, Your Honor.

6 THE COURT: Okay.

7 MR. KALIVAS: I don't have any issue with that. I think
8 it supports the judge's decision in the lower court. The
9 plaintiff -- the appellant did not -- other than testimony did
10 not attempt to introduce any evidence. There was no offer of
11 admitting anything into evidence and so there was nothing for
12 the judge to say I am not admitting that other than her
13 referencing the document that counsel just referenced.

14 The -- and again without relitigating the fact -- it is
15 the same contract, Your Honor. Insurance company -- she filed
16 a claim with an insurance company. They came out and said
17 here is the damage to your house. My client came in, reviewed
18 the scope of the work for that damage and said this is the
19 amount your insurance company is putting on it and we will
20 agree to do this work.

21 They get up there and start pulling off the siding and
22 low and behold the damage behind the siding is much more
23 extensive than originally anticipated. And they found live
24 termites. So they have to continue removing this siding just
25 to be able to make these repairs. And this was an issue that

1 came up at trial was plaintiff not presenting any additional
2 witnesses.

3 There were two parties to this contract, Ms. Cavanaugh
4 and Mr. Cavanaugh. The testimony shows that New Age
5 Contractor said that they communicated with the parties as far
6 as needing to enlarge the scope of the work. And they did
7 that.

8 I mean that is kind of the issue here is she said one
9 thing, they said another, and then the judge rendered a
10 decision based on his review of the evidence and his sitting
11 there listening to the testimony of the witnesses.

12 And so they say, well, we didn't agree to that. But yet
13 my client was paid for work above and beyond the original
14 scope of work. And this wasn't a situation where he just said
15 I am not going to fulfill the rest of this contract. They
16 stopped getting paid so they were unable to finish the rest of
17 the contract. The balance that she was referring to was
18 putting the stucco back up. You cannot put the stucco back up
19 if it is going to be covering up live termites and water
20 damage.

21 And her claim was for reimbursement for funds she alleges
22 were paid for work that wasn't completed. My client's
23 testimony was that all of the work that was billed, all of the
24 work that was paid for, was work that was actually completed.

25 They admitted they didn't put the stucco back up. And

1 they also acknowledged that they were not paid for that. They
2 invoiced all the work. It was paid by TD Bank I believe
3 through money provided by the insurance company. And there
4 was not a single dime they accepted for work that they did not
5 complete. And the counterclaim was based on the fact that
6 they completed work for which they weren't even paid.

7 And that is basically it, Your Honor. I don't see any
8 evidentiary issues when I reviewed the transcript and nor do I
9 believe that any were preserved to be addressed here today.

10 THE COURT: And I assume you appeared with the
11 respondent, or did someone appear -- or did they -- did they
12 appear pro se as well?

13 MR. KALIVAS: No, Steve Smith handled the trial, Your
14 Honor. I work with Steve Smith and I am here just to handle
15 the appeal.

16 THE COURT: Okay. Anything further?

17 MR. KALIVAS: No, Your Honor. And just briefly. I have
18 appeared before Judge Guerrard before. He -- he asks his own
19 questions. He asks them over -- over both parties.

20 And you will see the transcript is obviously her -- the
21 plaintiff's testimony first and then the defendant's. And he
22 interrupts and asks questions of his own throughout the entire
23 proceeding.

24 I didn't see it as unfair. I know that when it comes to
25 construction cases he often asks people why didn't you bring

1 your contractor, why did you bring in this case the insurance
2 adjuster who said this was the work that needs to be completed
3 or the other party to the contract her husband. And I know
4 that was an issue. But otherwise, Your Honor, I think the
5 transcript and the return speaks for themselves.

6 Thank you.

7 THE COURT: You are welcome. Mr. Helmly, do you have a
8 copy of the transcript?

9 MR. HELMLY: I do, Your Honor.

10 THE COURT: Would you provide that to the court, please?

11 MR. HELMLY: Sure. I would be happy to give you the
12 original, Judge, if you would like.

13 THE COURT: It is up to you.

14 MR. HELMLY: I have got certified copies.

15 THE COURT: Whichever -- whichever one is -- this is
16 going to become a part of the record. Do you have ---

17 MR. HELMLY: So let me give you a certified copy in case
18 we need this one.

19 THE COURT: Yeah, I was about to say.

20 (WHEREUPON, document provided to the court.)

21 THE COURT: Thank you very much. I am going to take the
22 matter under advisement. I need to read the record and I need
23 to in more detail read the return now having the benefit of
24 argument.

25 But I will say for the record, and I have no hesitation in

1 saying this, before I became a judge I appeared before Judge
2 Guerard and he was never rude to me.

3 Now he does interpret you and ask questions. But that is
4 his prerogative sitting in the court of equity. I ask
5 questions. That is my prerogative. And it really inures to
6 your benefit because oftentimes lawyers don't ask the
7 questions that the judge needs the answer to. It doesn't mean
8 you are being rude. It just means you are direct.

9 Now unfortunately most people in life never experience
10 anyone who is direct because people dance around the truth.
11 But that does not mean that you are rude. And, again, I have
12 appeared before him when I was in practice and I found him to
13 be quite congenial and helpful. He never once was ever rude
14 to me. And I am speaking from personal experience.

15 Any review of this will be confined to the facts that
16 were presented, the testimony that was presented, and any
17 evidence that was produced in conjunction with the appeal.
18 And I will make an informed decision regarding it.

19 I hope to try to do it by the end of the week. I am not
20 making any promises. I have got a lot of nonjury. I have got
21 a lot of reading to do.

22 But I find that when I read close in proximity it does go
23 a little bit better. So I might be reading at lunch. I will
24 see how far I get. But I will try to get y'all something out
25 fairly quickly so you can know how you need to proceed.

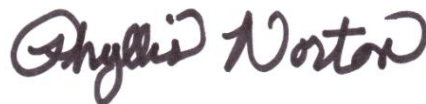
1 Have a great day.
2 MR. KALIVAS: Thank you, Your Honor.
3 MR. HELMLY: Thank you, Your Honor.
4 THE COURT: You are welcome.
5 (WHEREUPON, the hearing adjourned.)

(NOTE: Please contact the court reporter for additional copies or certified transcripts.)

CERTIFICATE

I, the undersigned Phyllis Norton, Official Court Reporter for the Ninth 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 proceedings had and evidence introduced in the captioned case, relative to appeal, in the court for South Carolina, on July 31, 2019.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.



PHYLLIS NORTON, CVR

Date: October 1, 2019

Certified Transcript Provided For: Ransome H. Helmly
Certification Reference #2019-1001 Original

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

Karyn Cavanaugh

Plaintiff

-versus-

New Age Contractors, LLP

Defendant

IN THE SMALL CLAIMS COURT

CASE NO: **2018-CP-10-4907**

CASE NO: 2018CV1010600326

RETURN

2019 MAR -4 PM 3:44
JULIE J. ANDERSON
CLERK OF COURT

This case was filed in the Charleston County Small Claims Court on March 26, 2018. In her complaint, the Plaintiff stated work outlined in a contract between the parties and attached to the complaint was not completed by the Defendant. The Defendant was paid in full but the job was not finished. The Plaintiff wanted to be reimbursed for the work not completed. She asked for judgement against the Defendant in the amount of \$7,500.00.

The Defendant was served the Summons and Complaint on May 9, 2018 and filed an Answer and Counter Claim on May 29, 2018. The Defendant denied the allegations of the Complaint, made several affirmative defenses and counterclaimed for \$7500.00 for work completed and not paid for.

The case was heard on September 10, 2018. The Plaintiff appeared Pro se with no additional witnesses. The Defendant was represented by Attorney Steve Smith and its president, David "Junior" Newell, Jr.

The Plaintiff testified the contract, which was based on an insurance estimate listed specifically every item the defendant was to repair or replace. The Defendant began the work and then left the job leaving 19 items, for which it had been paid, undone. The cost

of those items exceeded the court's jurisdiction. The Plaintiff asked for judgement against the Defendant of \$7,500.00.

Mr. Newell then testified that the initial problem was believed to be leaking or failing roof drains running down the side of the multi story house behind the siding at periodic intervals down the left side of the house.. He was to remove the stucco siding in the immediate area of each drain, make repairs and reinstall the siding. As soon as they started to remove the siding at each drain they discovered the problem was much larger than anticipated. The damage was much more extensive than either party had expected. There was much more wood rot and termite damage as well as live termites which had not been expected. They eventually removed all the stucco siding from the entire left side of the home. He had many conversations with Karyn Cavanaugh, Ken Cavanaugh and both Cavanaughs together about the problem. They asked him to continue and to assist them in getting more money from the insurance company which he did. They had several conversations about running out of money if they kept persuing this newly discovered unanticipated problem. They asked Mr. Newell to please work with them as they tried to figure out how to get all the work done and paid for. Mr. Newell agreed to do that until the unpaid balance reached \$9,852.08 with no more money appearing to be available any time soon. At that point he pulled off of the job.

After considering the the evidence and testimony of each party the court denied the Plaintiff's Complaint and ruled in favor of the Defendant On its counter claim. The Court issued Judgement in favor of the Defendant against the plaintiff in the amount of \$7500.00.

In her appeal the Plaintiff first raises the parole evidence rule. The Court was not interpreting the contract and is at a loss as to how the parole evidence rule applies. If the Plaintiff could be a little more specific about how the court violated the parole evidence rule the Court might be better able to respond.

The Plaintiff next says the evidence of the Defendant was not sufficient to establish a material change or alteration of the terms of the original contract. The Court found that a contract to replace a series of down spouts that ultimately resulted in repairing damage to the entire side of the house constituted a massive change or alteration of the original contract.

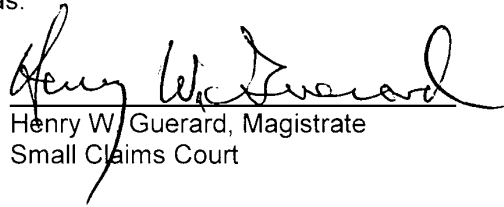
The Plaintiff then says she was precluded from offering relevant testimony and evidence. Until reference is made to specific evidence or testimony the Court is unable to respond.

The Plaintiff says the Court considered evidence preclude by the collateral source rule but does not say what evidence she is referring to. Again the Court does not know how to respond.

The Plaintiff says the decision is the result of errors of fact but no such facts are given to which the Court can respond.

The Plaintiff asserts the Defendant's counterclaims should be dismissed based on equitable estoppel and unclean hands but offers no basis as to how those theories might apply. The Court is unable to respond.

Having fully answered the Appeal, the entire matter is submitted to the wisdom and discretion of the Court of Common Pleas.


Henry W. Guerard, Magistrate
Small Claims Court

Charleston, South Carolina
March 4, 2019

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)

Karyn Cavanaugh,)
)
Appellant,)
)
v.)
)
New Age Contractors, LLP,)
)
Respondent.)
_____)

COURT OF COMMON PLEAS

2018-CP-10-

MAGISTRATE CIVIL CASE NUMBER

2018CV1010600326

NOTICE OF APPEAL

FILED IN CHARLESTON COUNTY
OCT 10 2018
CITY SMALL CLAIMS COURT

Plaintiff/Appellant, Karyn Cavanaugh, hereby gives Notice of Appeal from the judgment of the Magistrate's Court in the above-referenced action to the Circuit Court of Common Pleas for County of Charleston, South Carolina.

This Notice of Appeal is made subsequent to notice of the judgment which was announced in the Magistrate's Court on September 10, 2018.

The Appellant's exceptions to the judgment of the Magistrate are set forth as follows:

1. The underlying action involved the breach and non-performance by Defendant/Respondent of a legally binding, enforceable, and unambiguous contract with Plaintiff/Appellant. The Magistrate considered evidence presented by Defendant/Respondent outside the four corners of the contract and precluded by the parole evidence rule. Accordingly, Defendant/Respondent's counterclaims should have been precluded and dismissed as a matter of law.

2. Notwithstanding the aforementioned exception, the evidence presented by Defendant/Respondent, even if admissible, was not sufficient to establish a material

change or alteration of the terms of the original contract and therefore the judgment rendered by the Magistrate could not be supported by the evidence.

3. Plaintiff/Appellant was improperly precluded from offering relevant testimony and evidence during the course of the proceeding, including but not limited to, admissions by Defendant/Respondent regarding performance of the subject contract, and suffered prejudice as a result.

4. The Defendant/Respondent offered, and the Magistrate considered, evidence precluded by the collateral source rule and therefore the judgment rendered was in error.

5. The judgment rendered by the Magistrate was the result of errors in fact including, but not limited to, errors related to work completed, change orders, and agreements to same.

6. Based on the above exceptions, judgment should have been entered in favor of Plaintiff/Appellant in the amount of \$7500.00

7. Defendant/Respondent's counterclaims should have been dismissed based on the doctrines of equitable estoppel and unclean hands.

8. Plaintiff/Appellant reserves the right to assert additional exceptions upon receipt of the Magistrate's return and transcription of the audio recording of the hearing.

Respectfully submitted,



Ransome H. Helmly, Esq. (SC Bar # 78081)
Law Office of Ransome H. Helmly, LLC
409 Coleman Blvd., Ste. 200
Mt. Pleasant, SC 29464
p: 843-884-0184
f: 843-284-9871
rh@helmylaw.com
Attorney for Appellant

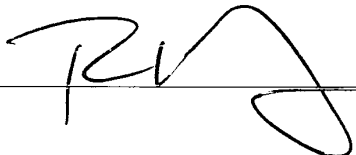
October 10, 2018
Mt. Pleasant, South Carolina

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing pleading was served upon opposing counsel in the following manner:

_____ by US Mail First Class;
☒ by hand-delivery;
_____ by facsimile transmission; and/or
_____ by E-MAIL.

this 10th day of Oct, 2018

By 

STATE OF SOUTH CAROLINA

COUNTY OF Charleston

Karyn Cavanaugh

Plaintiff(s)

vs.

New Age Contractors LLC

Defendant(s)

Submitted By: Randy Helmly

Address: Law Office of Ransome H. Helmly, LLC

409 Coleman Blvd., Ste. 200

Mt. Pleasant, SC 29464

2018CV1010600326

IN THE COURT OF COMMON PLEAS

CIVIL ACTION COVERSHEET

2018 -CP- 10 4907

FILED IN CHARLESTON COUNTY

OCT 10 2018

CITY SMALL CLAIMS COURT

SC Bar #:

78081

Telephone #:

843-884-0134

Fax #:

843-884-9871

Other:

E-mail:

rh@hellylaw.com

NOTE: The coversheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for the use of the Clerk of Court for the purpose of docketing cases that are NOT E-Filed. It must be filled out completely, signed, and dated. A copy of this coversheet must be served on the defendant(s) along with the Summons and Complaint. This form is NOT required to be filed in E-Filed Cases.

DOCKETING INFORMATION (Check all that apply)

*If Action is Judgment/Settlement do not complete

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

NATURE OF ACTION (Check One Box Below)

- Contracts**
- ☐ Constructions (100)
- ☐ Debt Collection (110)
- ☐ General (130)
- ☐ Breach of Contract (140)
- ☐ Fraud/Bad Faith (150)
- ☐ Failure to Deliver/Warranty (160)
- ☐ Employment Discrim (170)
- ☐ Employment (180)
- ☐ Other (199)

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

- Torts - Personal Injury**
- ☐ Conversion (310)
- ☐ Motor Vehicle Accident (320)
- ☐ Premises Liability (330)
- ☐ Products Liability (340)
- ☐ Personal Injury (350)
- ☐ Wrongful Death (360)
- ☐ Assault/Battery (370)
- ☐ Slander/Libel (380)
- ☐ Other (399)

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

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

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

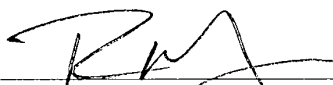
- Judgments/Settlements**
- ☐ Death Settlement (700)
- ☐ Foreign Judgment (710)
- ☐ Magistrate's Judgment (720)
- ☐ Minor Settlement (730)
- ☐ Transcript Judgment (740)
- ☐ Lis Pendens (750)
- ☐ Transfer of Structured Settlement Payment Rights Application (760)

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

- Special/Complex /Other**
- ☐ Environmental (600)
- ☐ Automobile Arb. (610)
- ☐ Medical (620)
- ☐ Other (699)
- ☐ Sexual Predator (510)
- ☐ Permanent Restraining Order (680)
- ☐ Interpleader (690)
- ☐ Pharmaceuticals (630)
- ☐ Unfair Trade Practices (640)
- ☐ Out-of State Depositions (650)
- ☐ Motion to Quash Subpoena in an Out-of-County Action (660)
- ☐ Pre-Suit Discovery (670)

- ☐ Confession of Judgment (770)
- ☐ Petition for Workers Compensation Settlement Approval (780)
- ☐ Incapacitated Adult Settlement (790)
- ☐ Other (799)

Submitting Party Signature:



Date:

10/10/2018

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

Effective January 1, 2016, Alternative Dispute Resolution (ADR) is mandatory in all counties, pursuant to Supreme Court Order dated November 12, 2015.

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

Pursuant to the ADR Rules, you are required to take the following action(s):

1. The parties shall select a neutral and file a "Proof of ADR" form on or by the 210th day of the filing of this action. If the parties have not selected a neutral within 210 days, the Clerk of Court shall then appoint a primary and secondary mediator from the current roster on a rotating basis from among those mediators agreeing to accept cases in the county in which the action has been filed.
2. The initial ADR conference must be held within 300 days after the filing of the action.
3. Pre-suit medical malpractice mediations required by S.C. Code §15-79-125 shall be held not later than 120 days after all defendants are served with the "Notice of Intent to File Suit" or as the court directs.
4. Cases are exempt from ADR only upon the following grounds:
 - a. Special proceeding, or actions seeking extraordinary relief such as mandamus, habeas corpus, or prohibition;
 - b. Requests for temporary relief;
 - c. Appeals
 - d. Post Conviction relief matters;
 - e. Contempt of Court proceedings;
 - f. Forfeiture proceedings brought by governmental entities;
 - g. Mortgage foreclosures; and
 - h. Cases that have been previously subjected to an ADR conference, unless otherwise required by Rule 3 or by statute.
5. In cases not subject to ADR, the Chief Judge for Administrative Purposes, upon the motion of the court or of any party, may order a case to mediation.
6. Motion of a party to be exempt from payment of neutral fees due to indigency should be filed with the Court within ten (10) days after the ADR conference has been concluded.

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

STATE OF SOUTH CAROLINA

2018CV1010600326
CIVIL CASE NUMBER

COUNTY OF CHARLESTON

IN THE MAGISTRATE'S COURT

TRANSCRIPT OF JUDGMENT
FIND FOR DEFENDANT

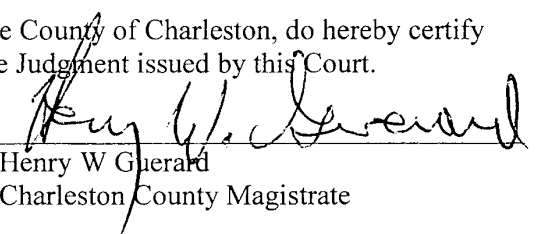
Names of Parties Against Whom Judgment is Granted	Attorneys
Karyn Cavanaugh 31 Krier Lane Mt Pleasant, SC 29464	

Names of Parties To Whom Judgment is Granted	Attorneys
New Age Contractors, Llp P O Box 40578 Charleston, SC 29423	Steven L. Smith

DAMAGES AND COSTS

Amount of Judgment:	\$7,500.00
Costs:	
Attorney Fees	\$0.00
Interest	\$0.00
Court Costs / Filing Fees	\$0.00
Total Amount of Judgment:	\$7,500.00
Date of Judgment:	September 10, 2018

I, Henry W Guerard, Magistrate in and for the County of Charleston, do hereby certify that the foregoing is a correct transcript of the Judgment issued by this Court.


Henry W Guerard
Charleston County Magistrate

September 10, 2018

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

)
) **2018CV1010600326**
) CIVIL CASE NUMBER

)
) **IN THE MAGISTRATE'S COURT**
)

)
) **SUMMONS**

Karyn Cavanaugh
31 Krier Lane
Mt Pleasant, SC 29464
(646) 342-9094

PLAINTIFF(S)

Vs

AGENT

New Age Contractors, Llp
827 Oyster Park Drive #C
Edisto Island, SC 29438

Junior Newell
1725 A Signal Point Road
Charleston, SC 29412

DEFENDANT(S)

TO THE DEFENDANT(S) NAMED ABOVE:

YOU ARE SUMMONED and required to Answer the allegations and present any appropriate Counterclaims/Crossclaims to the attached Complaint/Counterclaim within THIRTY days from the first day after receipt of this Summons. Your Answer must be received by the:

**Charleston County
Small Claims - City
995 Morrison Drive P. O. Box 941
Charleston, SC 29403
Phone: (843) 724-6720 Fax: (843) 724-6785**

If you fail to Answer within the prescribed time, a Judgment by Default will be rendered against you for the amount or other remedy requested in the attached Complaint, plus interest and costs. **If you desire a jury trial, you must request one within five (5) business days before the date of trial.** If no jury trial is timely requested, the matter will be heard and decided by the Judge.

READ ATTACHED INSTRUCTIONS CAREFULLY

April 27, 2018

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

)
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2018CV1010600326
CIVIL CASE NUMBER

IN THE MAGISTRATE'S COURT

SUMMONS

Karyn Cavanaugh
31 Krier Lane
Mt Pleasant, SC 29464
(646) 342-9094

PLAINTIFF(S)

Vs

AGENT

New Age Contractors, LLP
827 Oyster Park Drive #C
Edisto Island, SC 29438

Junior Newell

DEFENDANT(S)

TO THE DEFENDANT(S) NAMED ABOVE:

YOU ARE SUMMONED and required to Answer the allegations and present any appropriate Counterclaims/Crossclaims to the attached Complaint/Counterclaim within THIRTY days from the first day after receipt of this Summons. Your Answer must be received by the:

Charleston County
Small Claims - City
995 Morrison Drive P. O. Box 941
Charleston, SC 29403
Phone: (843) 724-6720 Fax: (843) 724-6785

If you fail to Answer within the prescribed time, a Judgment by Default will be rendered against you for the amount or other remedy requested in the attached Complaint, plus interest and costs. **If you desire a jury trial, you must request one within five (5) business days before the date of trial.** If no jury trial is timely requested, the matter will be heard and decided by the Judge.

READ ATTACHED INSTRUCTIONS CAREFULLY

March 26, 2018

Case No: 18-0326
Filed: FILED IN CHARLESTON COUNTY
Served: MAK 5/18
Default: [Signature]
Hearing: CITY SMALL CLAIMS COURT

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

IN THE SMALL CLAIMS COURT

Plaintiff: Karyn Cavanaugh
Street Address: 31 Krier Lane
City: Mt Pleasant State: SC Zip: 29464
Phone: 646-342-9094

Defendant: Junior Newell, New Age Construction
Street Address: 827 Oyster Park Drive #C
City: Edisto Island State: SC Zip: 29438
Phone: (843) 202-5024

I, the plaintiff in this civil action, make the following claim against the defendant:

- 1.) I believe that the defendant is a resident of P/A Junior Newell.
- 2.) Check a, b, or c to indicate the type of suit and supply documents required.
- a. () This is a suit on a note; Two (2) copies of note attached. Defendant has defaulted in payment of said note with balance of \$ _____ now due and payable.
- b. () This is a suit on an account; Two (2) copies of statement attached. Sign as affiant swearing to statement and have your signature notarized.

SWORN and subscribed before me this

22 day of March 20 18

Attached to this complaint is a statement of account which I swear to be true and correct, with no part of the balance having been paid.

NOTARY PUBLIC, State of South Carolina
My Commission Expires: _____

Affiant=s Signature (Plaintiff)

c. (✓) OTHER. This is a claim based on the following facts: (Describe Complaint)

Work outlined in attached contract dated 6/17/2015 was not completed.
Payment in full was made by plaintiff in the amount of \$32,594.10. House was left in incomplete condition with no stucco re-applied. Plaintiff requests reimbursement for work not performed.
(attach supplement if necessary)

3.) I believe because of the following information, that I am entitled to, and request a judgment for

\$ 7500.00 and/or other relief:

(Include any costs resulting from this action. (Example: court costs, legal fees, interest))

I STATE UNDER PENALTY OF PERJURY THAT THE ABOVE IS CORRECT AND TRUTHFUL.

3/20/18
Date

Karyn Cavanaugh
Signature of Plaintiff or Attorney

FORM C32-5270



P.O. Box 400. Edisto Island, SC. 29438
Newage.contractors@yahoo.com
843-202-5024

License Number: G116850

June 17, 2015

Karyn and Kenneth Cavanaugh
31 Krier Lane
Mount Pleasant, SC 29464

Subject: Claim No. 090026094 / Limited Fungi, Wet and Dry Rot

Dear Mr. Cavanaugh,

Please be advised we have received and reviewed the documents regarding your recent claim with Frontline Insurance.

New Age Contractors, LLP will maintain and complete any and all repairs as outlined in the insurance xactimate. Estimate prepared by Ellen Westcoat on April 8, 2015.

Total cost reflected via the xactimate provided from Frontline Insurance Claim No. 090026094 is for \$32,594.10

Thank you for the opportunity, and we look forward to working with you.

Tradd Frazier - Superintendent

A handwritten signature in black ink, appearing to read "Tradd Frazier", written over a horizontal line.

Kenneth Cavanaugh

A handwritten signature in black ink, appearing to read "Kenneth Cavanaugh", written over a horizontal line.

FRONTline Frontline Insurance
INSURANCE

7131 Business Park Lane
Suite 300
Lake Mary, Florida 32746
Phone: 1-877-444-5228

Insured: Karyn and Kenneth Cavanaugh
Property: 31 Krier Lane
Mt. Pleasant, SC 29464-6642

Claim Rep.: Kim Maiocchi

Business: (321) 249-8152

Estimator: Ellen Westcoat

Business: (843) 814-1327

Claim Number: 009-26094

Policy Number: FFH3-54417

Type of Loss: Limited Fungi, Wet and Dry
Rot

Date Contacted: 4/7/2015

Date of Loss: 3/29/2015

Date Received: 4/7/2015

Date Inspected: 4/8/2015

Date Entered: 4/7/2015 4:33 PM

Date Est. Completed: 10/21/2015 1:10 PM

Price List: SCCH7X_APR15
Restoration/Service/Remodel

Estimate: 2015-04-0700926094RS

Company: Frontline Homeowners Insurance
Policy Type: Homeowners
Policy Form: HO 00 03 10 00
Policy Date: March 14, 2014 through March 14, 2015

Coverage A: \$ 870,000.00

Coverage B: \$ 87,000.00

Coverage C: \$ 435,000.00

Coverage D: \$ 174,000.00

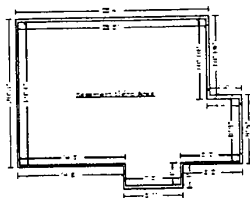
Deductible: \$ 5,000.00

Mortgagee: TD Bank, NA

7131 Business Park Lane
Suite 300
Lake Mary, Florida 32746
Phone: 1-877-444-5228

2015-04-0700926094RS

Basement Living



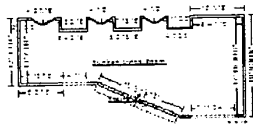
Basement Living Area

Height: 9'

946.50 SF Walls	562.81 SF Ceiling
1509.31 SF Walls & Ceiling	562.81 SF Floor
62.53 SY Flooring	105.17 LF Floor Perimeter
105.17 LF Ceil. Perimeter	

DESCRIPTION	QUANTITY	UNIT COST	RCV	DEPREC.	ACV
1. Containment Barric/Airlock/Decon. Chamber	220.00 SF	0.56	123.20	(0.00)	123.20
2. R&R Metal lath & stucco	300.00 SF	4.30	1,290.00	(171.90)	1,118.10
3. Mask and prep for paint - plastic, paper, tape (per L.F)	300.00 LF	1.10	330.00	(99.00)	231.00
4. Stucco Plasterer - per hour	16.00 HR	35.17	562.72	(56.27)	506.45
Above line item labor added to replace stucco style to match.					
5. Paint stucco	600.00 SF	0.64	384.00	(115.20)	268.80
Above line item quantity changed to paint replaced stucco two coats to match.					
Totals: Basement Living Area			2,689.92	442.37	2,247.55
Total: Basement Living			2,689.92	442.37	2,247.55

Main Level



Sunken Living Room

Height: 11' 6"

1267.78 SF Walls	562.92 SF Ceiling
1830.70 SF Walls & Ceiling	562.92 SF Floor
62.55 SY Flooring	112.30 LF Floor Perimeter
124.36 LF Ceil. Perimeter	

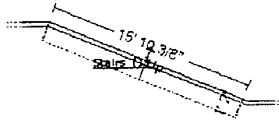
Missing Wall - Goes to Floor
Missing Wall - Goes to Floor
Door
Door
Door

4' 1" X 6' 8"
7' 11 3/4" X 6' 8"
4' 1/2" X 0"
4' 1/2" X 0"
4' 2 7/16" X 0"

Opens into Exterior
Opens into Exterior
Opens into Exterior
Opens into Exterior
Opens into Exterior

FRONTLINE Frontline Insurance
INSURANCE

7131 Business Park Lane
Suite 300
Lake Mary, Florida 32746
Phone: 1-877-444-5228



Subroom: Stairs (1)

Height: 17'

18.47 SF Walls & Ceiling
8.65 SY Flooring

18.47 SF Ceiling
77.84 SF Floor

Missing Wall 15' 10" X 17' Opens into Exterior
Missing Wall 1' 2" X 17' Opens into Exterior
Missing Wall 1' 1 13/16" X 17' Opens into Exterior

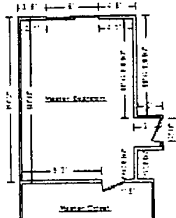
DESCRIPTION	QUANTITY	UNIT COST	RCV	DEPREC.	ACV
6. Containment Barrier/Airlock/Decon. Chamber	220.00 SF	0.56	123.20	(0.00)	123.20
7. Remove Metal lath & stucco	300.00 SF	0.48	144.00	(0.00)	144.00
8. R&R House wrap (air/moisture barrier)	300.00 SF	0.23	69.00	(0.00)	69.00
9. Metal lath & stucco	300.00 SF	3.82	1,146.00	(0.00)	1,146.00
10. Mask and prep for paint - plastic, paper, tape (per LF)	124.36 LF	1.10	136.80	(41.04)	95.76
11. Stucco Plasterer - per hour	16.00 HR	35.17	562.72	(56.27)	506.45
Above line item labor added to replace stucco style to match.					
12. Paint stucco	600.00 SF	0.64	384.00	(115.20)	268.80
Above line item quantity changed to paint two coats to match.					
Totals: Sunken Living Room			2,565.72	212.51	2,353.21

Total: Main Level

2,565.72 212.51 2,353.21

Second Level

7131 Business Park Lane
Suite 300
Lake Mary, Florida 32746
Phone: 1-877-444-5228



Master Bedroom

Height: 8'

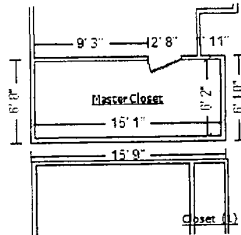
557.33 SF Walls
813.11 SF Walls & Ceiling
28.42 SY Flooring
69.67 LF Ceil. Perimeter

255.78 SF Ceiling
255.78 SF Floor
69.67 LF Floor Perimeter

Door 2' 8" X 0" Opens into MASTER_CLOSE
Door 2' 8" X 0" Opens into Exterior
Door 6' X 0" Opens into Exterior

DESCRIPTION	QUANTITY	UNIT COST	RCV	DEPREC.	ACV
13. Containment Barrier/Airlock/Decon. Chamber	220.00 SF	0.56	123.20	(0.00)	123.20
14. Wood window unit - Detach & reset	1.00 EA	80.69	80.69	(0.00)	80.69
15. Electrician - per hour	8.00 HR	74.47	595.76	(0.00)	595.76
Above line item labor added to remove outlets prior to framing repair and repalce in conjunction with contractor.					
16. Remove Metal lath & stucco	216.00 SF	0.48	103.68	(0.00)	103.68
17. R&R House wrap (air/moisture barrier)	216.00 SF	0.23	49.68	(4.32)	45.36
18. Metal lath & stucco	216.00 SF	3.82	825.12	(123.77)	701.35
19. Header - double 2" x 12" - treated	20.00 LF	8.36	167.20	(16.72)	150.48
20. R&R Sheathing - plywood - 5/8" - treated	216.00 SF	2.10	453.60	(37.37)	416.23
21. 2" x 4" lumber - treated (.667 BF per LF)	200.00 LF	1.81	362.00	(36.20)	325.80
22. Carpenter - General Framer - per hour	32.00 HR	45.57	1,458.24	(0.00)	1,458.24
Above line item labor added to place temporary support posts, during exterior framing repair.					
23. Temporary shoring post - Screw jack (per day)	40.00 DA	27.28	1,091.20	(0.00)	1,091.20
Above line item quantity added for 4 posts for 10 days.					
24. Mask and prep for paint - plastic, paper, tape (per LF)	69.67 LF	1.10	76.64	(22.99)	53.65
25. Stucco Plasterer - per hour	16.00 HR	35.17	562.72	(56.27)	506.45
Above line item labor added to replace stucco style to match.					
26. Paint stucco	432.00 SF	0.64	276.48	(82.94)	193.54
Above line item quantity changed to paint two coats to match.					
Totals: Master Bedroom			6,226.21	380.58	5,845.63

7131 Business Park Lane
Suite 300
Lake Mary, Florida 32746
Phone: 1-877-444-5228



Master Closet

Height: 8'

340.00 SF Walls	93.01 SF Ceiling
433.01 SF Walls & Ceiling	93.01 SF Floor
10.33 SY Flooring	42.50 LF Floor Perimeter
42.50 LF Ceil. Perimeter	

Door

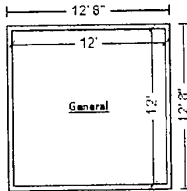
2' 8" X 0"

Opens into MASTER_BEDRO

DESCRIPTION	QUANTITY	UNIT COST	RCV	DEPREC.	ACV
27. Containment Barrier/Airlock/Decon. Chamber	80.00 SF	0.56	44.80	(0.00)	44.80
28. Wood window unit - Detach & reset	1.00 EA	80.69	80.69	(0.00)	80.69
29. Electrician - per hour	8.00 HR	74.47	595.76	(0.00)	595.76
Above line item labor added to remove outlets prior to framing repair and repalce in conjunction with contractor.					
30. Remove Metal lath & stucco	84.00 SF	0.48	40.32	(0.00)	40.32
31. R&R House wrap (air/moisture barrier)	84.00 SF	0.23	19.32	(1.68)	17.64
32. Metal lath & stucco	84.00 SF	3.82	320.88	(48.13)	272.75
33. 2" x 4" lumber - treated (.667 BF per LF)	96.00 LF	1.81	173.76	(17.38)	156.38
34. Carpenter - General Framer - per hour	32.00 HR	45.57	1,458.24	(0.00)	1,458.24
Above line item labor added to place temporary support posts, during exterior framing repair.					
35. Temporary shoring post - Screw jack (per day)	40.00 DA	27.28	1,091.20	(0.00)	1,091.20
Above line item quantity added for 4 posts for two days.					
36. Mask and prep for paint - plastic, paper, tape (per LF)	42.50 LF	1.10	46.75	(14.03)	32.72
37. Stucco Plasterer - per hour	16.00 HR	35.17	562.72	(56.27)	506.45
Above line item labor added to replace stucco style to match.					
38. Paint stucco	168.00 SF	0.64	107.52	(32.26)	75.26
Above line item quantity changed to paint entire north face of the dwelling to match.					
Totals: Master Closet			4,541.96	169.75	4,372.21

FRONTline Frontline Insurance

7131 Business Park Lane
Suite 300
Lake Mary, Florida 32746
Phone: 1-877-444-5228



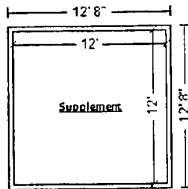
General

Height: 8'

384.00 SF Walls	144.00 SF Ceiling
528.00 SF Walls & Ceiling	144.00 SF Floor
16.00 SY Flooring	48.00 LF Floor Perimeter
48.00 LF Ceil. Perimeter	

DESCRIPTION	QUANTITY	UNIT COST	RCV	DEPREC.	ACV
39. Dumpster load - Approx. 20 yards, 4 tons of debris	1.00 EA	435.00	435.00	(0.00)	435.00
40. Tarp - all-purpose poly - per sq ft (labor and material)	1,200.00 SF	0.59	708.00	(0.00)	708.00
Above line item to apply tarps on ground to catch debris.					
41. Scaffolding Setup & Take down - per hour	40.00 HR	27.63	1,105.20	(0.00)	1,105.20
42. Scaffold - per section (per week)	96.00 WK	48.00	4,608.00	(0.00)	4,608.00
Above line item added for 12 sections for 6 weeks to remove and replace stucco, damaged sheathing and framing, including stucco finish.					
43. Water Extraction & Remediation Technician - per hour	40.00 HR	39.38	1,575.20	(0.00)	1,575.20
Above line item added to set positive air flow inside containment barriers to prevent bacteria from entering dwelling.					
44. Paint stucco	3,600.00 SF	0.64	2,304.00	(691.20)	1,612.80
Above line item added to paint stucco at west elevation to match.					
45. Final cleaning - construction - Commercial	1,800.00 SF	0.12	216.00	(0.00)	216.00
Totals: General			10,951.40	691.20	10,260.20
Total: Second Level			21,719.57	1,241.53	20,478.04

Supplement



Supplement

Height: 8'

384.00 SF Walls	144.00 SF Ceiling
528.00 SF Walls & Ceiling	144.00 SF Floor
16.00 SY Flooring	48.00 LF Floor Perimeter
48.00 LF Ceil. Perimeter	

DESCRIPTION	QUANTITY	UNIT COST	RCV	DEPREC.	ACV
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7131 Business Park Lane
Suite 300
Lake Mary, Florida 32746
Phone: 1-877-444-5228

CONTINUED - Supplement

DESCRIPTION	QUANTITY	UNIT COST	RCV	DEPREC.	ACV
46. Stucco & Exterior Plaster (Bid Item)	1.00 EA	30,985.00	30,985.00	(0.00)	30,985.00
Above line item price changed to match stucco replacement per New Age Contractors:					
S 21,457.00 Left Side Dwelling					
S 9,528.00 Right Side Dwelling					
S 30,985.00 Total Supplemental Repairs					
Totals: Supplement			30,985.00	0.00	30,985.00
Total: Supplement			30,985.00	0.00	30,985.00
Line Item Totals: 2015-04-0700926094RS			57,960.21	1,896.41	56,063.80

Grand Total Areas:

5,906.44 SF Walls	2,585.15 SF Ceiling	8,491.59 SF Walls and Ceiling
2,644.52 SF Floor	293.84 SY Flooring	678.99 LF Floor Perimeter
0.00 SF Long Wall	0.00 SF Short Wall	691.05 LF Ceil. Perimeter
2,644.52 Floor Area	2,807.39 Total Area	5,805.95 Interior Wall Area
5,413.38 Exterior Wall Area	624.58 Exterior Perimeter of Walls	
0.00 Surface Area	0.00 Number of Squares	0.00 Total Perimeter Length
0.00 Total Ridge Length	0.00 Total Hip Length	

Coverage	Item Total	%	ACV Total	%
Dwelling	0.00	0.00%	0.00	0.00%
Other Structures	0.00	0.00%	0.00	0.00%
Contents	0.00	0.00%	0.00	0.00%
M50 Limited Fungi - PAID	26,975.21	46.54%	30,664.00	49.74%
M50 Limited Fungi Supplement	30,985.00	53.46%	30,985.00	50.26%
Total	57,960.21	100.00%	61,649.00	100.00%

FRONTline Frontline Insurance
INSURANCE

7131 Business Park Lane
Suite 300
Lake Mary, Florida 32746
Phone: 1-877-444-5228

Summary for M50 Limited Fungi - PAID

Line Item Total			26,975.21
Overhead	@	10.0%	2,697.52
Profit	@	10.0%	2,697.52
Material Sales Tax	@	8.500%	223.85
Replacement Cost Value			\$32,594.10
Less Depreciation			(1,930.10)
Actual Cash Value			\$30,664.00
Net Claim			\$30,664.00
Total Recoverable Depreciation			1,930.10
Net Claim if Depreciation is Recovered			\$32,594.10

Ellen Westcoat

*Contract w/
New Age*

Fungi, Wet, Dry, Rot	Item Number	Description		RCV	Not Done
Basement Living Area	1	Containment Barrior/Air Lock	220 sf	\$ 123.20	
	2	R&R Metal lath & stucco	300 sf	\$ 1,290.00	
	3	Mask and prep for paint - plastic	300 sf	\$ 330.00	
	4	Stucco plasterer	16 hr	\$ 562.72	\$ 562.72
	5	Paint stucco	600 sf	\$ 384.00	\$ 384.00
	Total			\$ 2,689.92	
Sunken Living Room	6	Containment Barrior/Air Lock	220 sf	\$ 123.20	
	7	Remove metal lath & stucco	300 sf	\$ 144.00	
	8	R&R House wrap (air/moisture barrier)	300 sf	\$ 69.00	
	9	Metal lath & stucco	300 sf	\$ 1,146.00	\$ 1,146.00
	10	Mask and prep for paint - plastic	124.36 lf	\$ 136.80	
	11	Stucco plasterer	16 hr	\$ 562.72	\$ 562.72
	12	Paint stucco	600 sf	\$ 384.00	\$ 348.00
	Total			\$ 2,565.72	
Second level - MBR	13	Containment Barrior/Air Lock	220 sf	\$ 123.20	
	14	Wood window unit - detach and reset	1	\$ 80.69	
	15	Electrician - per hour	8 hr	\$ 595.76	
	16	Remove Metal lath and stucco	216 sf	\$ 103.68	
	17	R&R House wrap (air/moisture barrier)	216 sf	\$ 49.68	
	18	Metal lath & stucco	216 sf	\$ 825.12	\$ 825.12
	19	Header - double 2"x 12" treated	20 lf	\$ 167.20	
	20	R&R sheathing - plywood - 5/8" treated	216 sf	\$ 453.60	
	21	2"x4" lumber - treated	200 lf	\$ 362.00	
	22	Carpenter - General Framer - per hour	32 hr	\$ 1,458.24	
	23	Temporary shoring post - screw jacket	40 da	\$ 1,091.20	
	24	Mask and prep for paint - plastic, paper, tape	70 lf	\$ 76.64	
	25	Stucco plasterer	16 hr	\$ 562.72	\$ 562.72
	26	Paint Stucco	244 sf	\$ 276.48	\$ 276.48
	Total			\$ 6,226.21	
Second level - MBR closet	27	Containment Barrior/Air Lock	80 sf	\$ 44.80	
	28	Wood window unit - detach and reset	1	\$ 80.69	
	29	Electrician - per hour	8 hr	\$ 595.76	
	30	Remove Metal lath and stucco	84 sf	\$ 40.32	
	31	R&R House wrap (air/moisture barrier)	84 sf	\$ 19.32	
	32	Metal lath & stucco	84 sf	\$ 320.88	
	33	2"x4" lumber - treated	96 lf	\$ 173.76	
	34	Carpenter - General Framer - per hour	32 hr	\$ 1,458.24	
	35	Temporary shoring post - screw jacket	40 da	\$ 1,091.20	
	36	Mask and prep for paint - plastic, paper, tape	43 lf	\$ 46.75	
	37	Stucco plasterer	16 hr	\$ 562.72	\$ 562.72
	38	Paint Stucco	168 sf	\$ 107.52	\$ 107.52
	Total			\$ 4,541.96	
General	39	Dumpster load - 20 yards, 4 tons	1	\$ 435.00	
	40	Tarp	1200 sf	\$ 708.00	
	41	Scaffolding set up and take down	40 hr	\$ 1,105.20	
	42	Scaffold per section	96 wk	\$ 4,608.00	
	43	Water extraction and remediation tech per hour	40 hr	\$ 1,575.20	
	44	Paint stucco	3600 sf	\$ 2,304.00	\$ 2,304.00
	45	Final Cleaning - construction - commercial	1800 sf	\$ 216.00	
	Total			\$ 10,951.40	

11-11-11

11-11-11

11-11-11

11-11-11

11-11-11

Work
Not
perf.
\$ 7,642.00

11-11-11				Line total check	
Line item Total	\$	26,975.21	\$	48,706.42	
Overhead	\$	2,697.52	\$	4,820.63	
Profit	\$	2,697.52	\$	4,820.63	
Tax	\$	229.85	\$	667.90	
	\$	32,594.10	\$	59,015.58	

Contract amt.

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)
)
Karyn Cavanaugh)
)
Plaintiff)
)
vs)
)
New Age Contractors, LLP)
)
Defendant)
_____)

IN THE MAGISTRATES COURT

CASE NO. 2018-CV-10-10600326

Answer and Counterclaim

FILED IN CHARLESTON COUNTY

MAY 29 2018

CITY SMALL CLAIMS COURT

The Defendant, by its undersigned attorney, answering the Complaint of Plaintiff, alleges as follows:

1. That each and every allegation contained in the Complaint not specifically admitted or denied, is hereby denied and strict proof is demanded thereof.

2. That the Defendant denies the allegations contained in the Complaint.

**FURTHER ANSWERING THE COMPLAINT
AND AS AN AFFIRMATIVE DEFENSE THERETO
(Acceptance)**

3. The Defendant re-alleges the allegations contained in the preceding paragraphs as if fully restated herein.

4. The Defendant is informed and believes that the Plaintiff is barred from the requested relief by way of acceptance of the items now complained of.

**FURTHER ANSWERING THE COMPLAINT
AND AS A SECOND AFFIRMATIVE DEFENSE THERETO
(Reservation of Additional Defenses)**

5. The Defendant re-alleges the allegations contained in the preceding paragraphs as if fully restated herein

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

**FURTHER ANSWERING THE COMPLAINT
AND AS A THIRD AFFIRMATIVE DEFENSE THERETO
(Contractual Responsibility Limited by Scope of Agreement)**

7. The Defendant re-alleges the allegations contained in the preceding paragraphs as if fully restated herein.

8. That the conditions and deficiencies alleged to exist are not within the scope of services which were requested of Defendant, whose responsibility is limited only to those conditions and deficiencies, if any, which are within the scope of services described in the agreement; and such constitutes a complete defense to all claims for breach of contract.

**FURTHER ANSWERING THE COMPLAINT
AND AS A FOURTH AFFIRMATIVE DEFENSE THERETO
(Duties Alleged Beyond Scope of Services)**

9. The Defendant re-alleges the allegations contained in the preceding paragraphs as if fully restated herein.

10. That the duties and obligations alleged are not within the scope of services which were provided by the Defendant, and such duties and obligations lie beyond the scope of services provided and such constitutes a complete defense to all claims for negligence.

**FURTHER ANSWERING THE COMPLAINT
AND AS A FIFTH AFFIRMATIVE DEFENSE THERETO
(Estoppel)**

11. The Defendant re-alleges the allegations contained in the preceding paragraphs as if fully restated herein.

12. That the Defendant is informed and believes that the Plaintiff is estopped from claiming the relief complained of in the Complaint.

**FURTHER ANSWERING THE COMPLAINT
AND AS A SIXTH AFFIRMATIVE DEFENSE THERETO
(Intervening & Superseding Cause)**

13. The Defendant re-alleges the allegations contained in the preceding paragraphs as if fully restated herein.

14. That the damage suffered by Plaintiff, if any, was due to and caused by and was the direct and proximate result of the intervening and superseding negligence, willfulness, wantonness and recklessness of the Plaintiff or of other over whom the Defendant had not control, resulting directly and proximately in the damage of which the Plaintiff complains and such constitutes a complete defense to all claims for negligence.

**FURTHER ANSWERING THE COMPLAINT
AND AS A SEVENTH AFFIRMATIVE DEFENSE THERETO
(Negligence)**

15. The Defendant re-alleges the allegations contained in the preceding paragraphs as if fully restated herein.

16. That all of the problems stated in the Complaint were caused solely by the negligence of the Plaintiff.

**FURTHER ANSWERING THE COMPLAINT
AND AS A EIGHTH AFFIRMATIVE DEFENSE THERETO
(No Duty Under Trade Usage and Standard Industry Practice)**

17. The Defendant re-alleges the allegations contained in the preceding paragraphs as if fully restated herein.

18. That the duties and obligations alleged to exist were not obligations imposed upon the Defendant within the usage of the trade at the time and were not imposed upon it under the usual and customary practices of the industry at the time, and such constitutes a complete defense to all claims for negligence.

**FURTHER ANSWERING THE COMPLAINT
AND AS A FIRST COUNTERCLAIM
(Breach of Contract)**

19. The Defendant re-alleges the allegations contained in the preceding paragraphs as if fully restated herein.

20. The parties entered into a contract by which the Defendant was to perform work at the Plaintiffs home.

21. The Plaintiff has failed to make payments for labor and materials provided by the Defendant at the Plaintiffs home pursuant to the contract.

22. The Defendant has suffered damages as a direct and proximate result of Plaintiff's breach of the Agreement, and Defendant is due the principal sum of Seven Thousand Five Hundred and 00/100 Dollars (\$7,500.00), plus interest and attorney's fees.

23. As a direct and proximate result of Plaintiff's breach, the Defendant is entitled to recover actual damages from Plaintiff in the amount of Seven Thousand Five Hundred and 00/100 Dollars (\$7,500.00), plus interest and attorney's fees

WHEREFORE, having fully answered the Complaint of Plaintiff, the Defendant prays that this Court inquire into the matters set forth herein, dismiss the Complaint of the Plaintiff, grant the Defendant judgment against the Plaintiff as to its counterclaim contained herein and grant such other and further relief as the Court deems just and proper.

SMITH | CLOSSER, P.A.



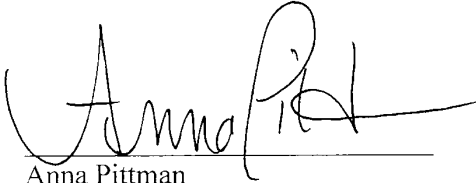
Steven L. Smith (SC Bar No.: 05173)
Zachary J. Closser (SC Bar No.: 74005)
Samuel M. Wheeler (SC Bar No.: 101008)
7455 Cross County Road, Suite 1
P.O. Box 40578
Charleston, SC 29423-0578
843-760-0220
Attorney for the Defendant

May 24, 2018
Charleston, South Carolina
18-136

CERTIFICATE OF SERVICE

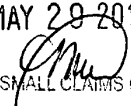
I certify that on this date a copy of the Answer and Counterclaim was served by mailing or hand delivery on the following:

Karyn Cavanaugh
31 Krier Lane
Mt Pleasant, SC 29464


Anna Pittman

5/24, 2018
Charleston, South Carolina
18-163

FILED IN CHARLESTON COUNTY

MAY 29 2018

CITY SMALL CLAIMS COURT



New Age Contractors, LLP

PO BOX 400

EDISTO ISLAND, SC 29438

2501

Invoice

Date	Project #
6/22/2015	15-06-1528

Bill To	Service Location
Ken Cavanaugh 31 Krier Lane Mt. Pleasant, SC 29464	

P.O. No.	Terms
	Due on receipt

Description	Rate	Amount
Water Damage Repairs Reference Frontline Insurance Claim No. 090026094 / Dated: May 7, 2015 / Prepared by Ellen Westcoat		
Limited Fungi, Wet and Dry Rot / Claim No. 090026094 Total Cost from Frontline Insurance Co. Xactimate = \$32,594.10		
Water Damage / Claim No. 090026094 Total Cost from Frontline Insurance Co. Xactimate = \$26,421.48		
Construction Draw No. 1 of 4	25,000.00	25,000.00

Thank You For Your Business	Total	\$25,000.00
MAKE ALL CHECKS PAYABLE TO: New Age Contractors, LLP PO Box 400 Edisto Island, SC 29438 (843) 202-5024	Payments/Credits	-\$25,000.00
	Balance Due	\$0.00



New Age Contractors, LLP
PO BOX 400
EDISTO ISLAND, SC 29438

O&L

Invoice

Date	Project #
9/1/2015	15-06-1528c

Bill To
Ken Cavanaugh 31 Krier Lane Mt. Pleasant, SC 29464

PAID
07/07/2015

Service Location

P.O. No.	Terms
	Due on receipt

Description	Rate	Amount
Water Damage Repairs Reference Frontline Insurance Claim No. 090026094 / Dated: May 7, 2015 / Prepared by Ellen Westcoat		
Limited Fungi, Wet and Dry Rot / Claim No. 090026094 Total Cost from Frontline Insurance Co. Xactimate = \$32,594.10		
Water Damage / Claim No. 090026094 Total Cost from Frontline Insurance Co. Xactimate = \$26,421.48		
Construction Draw No. 2 of 4	25,000.00	25,000.00

Thank You For Your Business	Total	\$25,000.00
MAKE ALL CHECKS PAYABLE TO: New Age Contractors, LLP PO Box 400 Edisto Island, SC 29438 (843) 202-5024	Payments/Credits	-\$25,000.00
	Balance Due	\$0.00



NEW AGE CONTRACTORS, LLP
PO BOX 400
EDISTO ISLAND, SC 29438

Δ&4

Invoice

Date	Project #
9/10/2015	15-06-1528d

Bill To
Ken Cavanaugh 31 Krier Lane Mt. Pleasant, SC 29464

Service Location
31 Krier Lane Mt. Pleasant, SC 29464

P.O. No.	Terms
	Due on receipt

Description	Rate	Amount
Extras and Overage Charges Removal of stucco Removal of sheathing located on left and right side of residence Removal of structural termite damage Installation of waterproofing Installation of interior drywall Installation of interior trim through out residence Dumpster and portable toilet charges/ fees Painting interior as needed extra labor and materials Installation and removal of scaffolding Interior floor and wall protection preparation to allow repairs to be complete Extras and Overage Charges \$9870.00 (Nine thousand eight hundred seventy dollars)	9,870.00	9,870.00

Thank You For Your Business	Total	\$9,870.00
MAKE ALL CHECKS PAYABLE TO: New Age Contractors, LLP PO Box 400 Edisto Island, SC 29438 (843) 202-5024	Payments/Credits	-\$7.92
	Balance Due	\$9,862.08

Page



Daily Work Sheet

Date: 6-15-15 Day: Monday Client/HOA Name: Mon Conventry
Job Location/Address: 31 Krier Ln Mt Pleasant
Community Complex: ION
Arrival Time: 1:00 Departure Time: 4:30
Project Complete: Yes ☐ No ☒ Additional Info: _____

Personnel On Job Site

Project Manager:		Arrive Time:		Depart Time:		
Superintendent:	<u>Todd</u>	4	Arrive Time:	<u>1:00</u>	Depart Time:	<u>4:30</u>
Technician:	<u>ERC</u>	1	Arrive Time:	<u>8:30</u>	Depart Time:	<u>3:30</u>
Technician:			Arrive Time:		Depart Time:	
Technician:			Arrive Time:		Depart Time:	

Purchases

Purchaser	Vender and Vender Location	Amount	Description of Items Purchased
<u>Todd</u>	<u>Lowe's</u>	<u>131.78</u>	<u>Hamboard + Ply</u>

Mon Conventry
31 Krier Lane
ION



LOWE'S HOME CENTERS, LLC
1104 MARKET CENTER BLVD.
MOUNT PLEASANT, SC 29464 (843) 881-5757

SALES# S0539H01 1122712 TRANS# 41387852 06-15-15

491792 12FTX40OFT PNTS PLSTC (S 21.98
434618 RAMBOARD 3-50 FLOOR PROTE 59.56
2 @ 29.78
658760 FROGTOPE 1.08 IN MULTI SU 26.94
3 @ 8.90
373051 KUBALT 50 PIECE DRYPALL B 9.98

SURTOTAL: 121.46
TAX: 10.32
INVOICE TOTAL: 131.78
VISA: 131.78

0130:XXXXXXXXXX1534 AMOUNT:131.78 AUTHCD:027296
SUPEE REFID:307863053954-06/15/15 13-04:23

CUSTOMER CODE: 31 Krier

STORE: 0539 TERMINAL: 55 06/15/15 13-04:28
OF ITEMS PURCHASED: 7
EXCLUDES FEES, SERVICES AND SPECIAL ORDER ITEMS



THANK YOU FOR SHOPPING LOWE'S.
SEE REVERSE SIDE FOR RETURN POLICY.
STORE MANAGER: TONY FRODLE

HAVE THE LOWEST PRICES, GUARANTEED!
OTHER STORES, UP

Exterior		
Other		

Description of Work Completed Daily

Put Plywood over the joists in bedroom on 3rd story left of the house. Put down/laid Hamboard on floor in the room. Removed up debris in the bedroom, before laying Hamboard. Put Hamboard on exterior also. The Angel's guys started setting up the scaffolding.

Completed By: Todd Date: 6-15-15



Dehuc / HVAC Work Sheet

Date: <u>06/16/15</u>	Day of Week: <u>Tues</u>	Client/HOA Name: <u>Ken Cavanaugh (ION)</u>
Job Location/Address: <u>31 Krier Ln</u>	City / Town: <u>31 Krier Ln. 10K Mt. Pleasant</u>	
Community Complex: <u>ION</u>	Client Type: <u>Priority</u>	Retail
Arrival Time: <u></u>	Departure Time: <u></u>	
Project Complete: Yes ☒ No ☐	Additional Info: <u></u>	
Type of Job: HVAC Dehuc Ductwork	Job Purpose: Estimate Inspection/Investigation Repair New Install PM	
Personnel On Job Site		
Project Manager: <u>Chris</u>	7	Arrive Time: <u>9:30A</u> Depart Time: <u>4:30p</u>
Superintendent: <u>TRAD</u>	4	Arrive Time: <u>1:00</u> Depart Time: <u>9:00</u>
Technician: <u>Wes</u>	7	Arrive Time: <u>9:30A</u> Depart Time: <u>4:30p</u>
Technician: <u></u>		Arrive Time: <u></u> Depart Time: <u></u>
Purchases		
Purchaser: <u>Chris</u>	Vender and Vender Location: <u>Lowe's</u>	Amount: <u>\$77.11</u> Description of Items Purchased: <u>2x6x12 / Lock key /</u>

KEN
CAVANAGH
31 KRIER



SALES#: 50661601 1605549 TRANS#: 4045970 06-16-15

31070 2X6X12 TOP CHOICE KD WILT 90.00
7.89 DISCOUNT EACH -0.39
12 @ 7.50
69700 1-7/8IN X 30OFT NO HOLD J 7.09
7.46 DISCOUNT EACH -0.37
11931 5-8 GAL DRYWALL FILTER BA 14.23
14.98 DISCOUNT EACH -0.75
41953 MASTER LOCK PORTABLE KEY 28.48
29.08 DISCOUNT EACH -1.50
11022 1-1/4 IN X 6-FT GALV CORN 25.28
1.66 DISCOUNT EACH -0.08
16 @ 1.50

SUBTOTAL: 165.08
TAX: 14.03
TOTAL: 179.11
INVOICE 08735 TOTAL: 179.11
W/C: 0.58
TOTAL DISCOUNT: 0.58
H/C: XXXXXXXXXX0260 AMOUNT: 179.11 AUTHCD: 120659
KEYED (REF ID: 459945066108 06/16/15 09:05:45)

STORE: 0661 TERMINAL: 08 06/16/15 09:05:57
OF ITEMS PURCHASED: 31
EXCLUDES FEES, SERVICES AND SPECIAL ORDER ITEMS

Refrigerant: R-410a R-22 Other:	Pounds of Refrigerant Used:
Description of Work Completed Daily: <u>Removed & labelled Shinklers on Right side of house:</u> <u>stored in garage. Built support wall under roof trusses in 3RD FLOOR LEFT REAR</u> <u>BEDROOM. Started demo on exterior wall 3RD FLOOR LEFT REAR BEDROOM.</u> <u>Cleaned up and removed debris.</u>	
Completed By:	Date:



Daily Work Sheet

Date: 6-17-19 Day: Wednesday Client/HOA Name: Ken Eavarough
 Job Location/Address: 31 Bruce Ln. Mt. Pleasant
 Community Complex: IOM
 Arrival Time: 9:30 Departure Time: 5:30
 Project Complete: Yes ☐ No ☒ Additional Info: _____

Personnel On Job Site

Project Manager:		Arrive Time:		Depart Time:	
Superintendent:	<u>Todd</u>	<u>1.5</u>	Arrive Time: <u>9:30</u>	Depart Time: <u>11:00</u>	
Technician:	<u>Tony</u>	<u>7.5</u>	Arrive Time: <u>10:00</u>	Depart Time: <u>5:30</u>	
Technician:	<u>Lee</u>	<u>7.5</u>	Arrive Time: <u>10:00</u>	Depart Time: <u>5:30</u>	
Technician:			Arrive Time:	Depart Time:	

Purchases

Purchaser	Vender and Vender Location	Amount	Description of Items Purchased
<u>Todd</u>	<u>Lowes</u>	<u>89.91</u>	<u>2x6x12 SUGAR</u>
<u>Tony</u>	<u>Lowes</u>	<u>162.01</u>	<u>PLYWOOD</u>

Equipment and Consumables

QTY	Equipment / Supplies	QTY	Consumables

Job Details

Purpose	What Room of Property	What Caused The Problem	How Was This Repaired
Plumbing			
Electrical			
Carpentry			
Windows			
Doors			
Walls/Ceilings			
Roof/Flashing			
Exterior			
Other			

Description of Work Completed Daily

Continue Demo 3rd Floor back bed Room

Completed By:

Todd

Date:

6-17-19



NEW AGE CONTRACTORS, LLP.

Daily Work Sheet

Date:	<u>6-18-15</u>	Day:	<u>Thurs</u>	Client/HOA Name:	<u>Ken Cavanaugh</u>
Job Location/Address:	<u>31 Knier Lane WCN</u>			☒ M.T.P.	
Community Complex:					
Arrival Time:	<u>8</u>	Departure Time:	<u>11</u>		
Project Complete:	Yes <u>?</u>	No	Additional Info:		

Personnel On Job Site

Project Manager:		Arrive Time:		Depart Time:		
Superintendent:		Arrive Time:		Depart Time:		
Technician:	<u>AL</u>	<u>3</u>	Arrive Time:	<u>8</u>	Depart Time:	<u>11</u>
Technician:	<u>Clark</u>	<u>3</u>	Arrive Time:	<u>8</u>	Depart Time:	<u>11</u>
Technician:			Arrive Time:		Depart Time:	

Purchases

Purchaser	Vender and Vender Location	Amount	Description of Items Purchased

Equipment and Consumables

QTY	Equipment / Supplies	QTY	Consumables

Job Details

Purpose	What Room of Property	What Caused The Problem	How Was This Repaired
Plumbing			
Electrical			
Carpentry			
Windows			
Doors			
Walls/Ceilings			
Roof/Flashing			
Exterior			
Other			

Description of Work Completed Daily

<u>DROP OFF SHEET ROCK AND TRAYLOR</u>
<u>HAD TAKEN SHEET ROCK FROM TREESCAPE</u>
<u>EXTRA MATING</u>

Completed By:

[Signature]

Date:



NEW AGE CONTRACTORS, LLP.

Daily Work Sheet

Date: June 18 2015 Day: Thur Client/HOA Name: Ken Cavaneagh
 Job Location/Address: 31 Krier Lane TOP
 Community Complex: _____
 Arrival Time: 8:30 Departure Time: ~~8:30~~ 5:00
 Project Complete: Yes No Additional Info: _____

Personnel On Job Site

Project Manager:	<u>Todd</u>	6	Arrive Time:	<u>8:30</u>	Depart Time:	<u>~~8:30~~ 2:30</u>
Superintendent:	<u>Tony</u>	9.5	Arrive Time:	<u>8:30</u>	Depart Time:	<u>5:00</u>
Technician:	<u>Gumbay</u>	4	Arrive Time:	<u>1:00</u>	Depart Time:	<u>5:00</u>
Technician:	<u>Clark</u>	1.5	Arrive Time:	<u>9:30</u>	Depart Time:	<u>5:00</u>
Technician:			Arrive Time:		Depart Time:	

Purchases

Purchaser	Vender and Vender Location	Amount	Description of Items Purchased
<u>Chris</u>	<u>Lowe's</u>	<u>279.84</u>	<u>2x4's 2x8's Plywood</u>

Ken Cavaneagh
31 Krier Lane



NEVER STOP IMPROVING
 LOWE'S HOME CENTERS, LLC
 1104 MARKET CENTER BLVD.
 MOUNT PLEASANT, SC 29564 (843) 881-5757

SALES# 50639652 96905 TRANS# 41644617 06-18-15
 -- SALE --

74168 2X6X12 TOP CHOICE #2 SYP 47.34
 6 @ 7.89
 224272 42MM 24CT 3/4 CONTR. CHOT 14.90
 12248 19/32 STUDIO FLOOR SQ. EDG 173.82
 6 @ 28.97
 77081 2X8X15 TOP CHOICE #2 SYP 21.76
 2 @ 10.89

SUBTOTAL: 257.92
 TAX: 21.92
 INVOICE 56447 TOTAL: 279.84
 VISA: 279.84

UTSR:XXXXXXXXXX0436 AMOUNT:279.84 AUTHED:022956
 SHIPED REFID:6446405355 06/18/15 12:24:09
 CUSTOMER CODE: 31 Krier line

STORE: 0539 TERMINAL: 56 06/18/15 12:24:16
 # OF ITEMS PURCHASED: 15
 EXCLUDES FEES, SERVICES AND SPECIAL ORDER ITEMS

THANK YOU FOR SHOPPING LOWE'S.
 SEE REVERSE SIDE FOR RETURN POLICY.
 STORE MANAGER: TODD FRIDDLE

WE HAVE THE LOWEST PRICES, GUARANTEED!
 IF YOU FIND A LOWER PRICE, WE WILL BEAT IT BY 10%.
 SEE STORE FOR DETAILS

Roof/Flashing		
Exterior		
Other		

Description of Work Completed Daily

Continue Demo 3rd Floor back bedroom.
start Retrame.

Completed By:

Will H. Hagan

Date:

June 18 2015



NEW AGE CONSTRUCTION, LLP.

Daily Work Sheet

Date:	6/20/15	Day:	Monday	Client/HOA Name:	Ken Cunningham
Job Location/Address:	31 Maple Ln.				
Community Complex:	TON				
Arrival Time:	9:00	Departure Time:	5:00		
Project Complete:	Yes	Additional info:			

Personnel On Job Site:

Project Manager:	GUMPY	8	Arrive Time:	9:00	Depart Time:	5:00
Superintendent:	Travis	8	Arrive Time:	9:00	Depart Time:	5:00
Technician:	Lee	8	Arrive Time:	9:00	Depart Time:	5:00
Technician:	Wes	5	Arrive Time:	9:00	Depart Time:	2:00
Technician:	Clady	8	Arrive Time:	9:00	Depart Time:	5:00

Purchases

Purchaser	Vender and Vender Location	Amount	Description of Items Purchased
Travis	Lowe's	27.10	Cooler
Gumpy	Lowe's	340.00	2x6 & plywood

Equipment and Consumables

QTY	Equipment / Supplies	QTY	Consumables

Job Details

Purpose	What Room of Property	What Caused The Problem	How Was This Repaired
Plumbing			
Electrical			
Carpentry			
Windows			
Doors			
Walls/Ceilings			
Roof/Flashing			
Exterior			
Other			

Description of Work Completed Daily

Finished framing the master bedroom wall & sided the 3 ceiling / roof joist. Stucco guys put up more scaffolding on the East left side of rear deck. Sided the upper part of the outside wall of the A.D. room. Installed ~~2x6~~ hurricane clips to the ceiling joint. Cleaned up alot of debris on ground on 1st floor.

Completed By:

Travis

Date:

6/22/15



NEW AGE CONTRACTORS, LLP

Daily Work Sheet

Date:	6-23-15	Day:	Tuesday	Client/HOA Name:	Ken Cunningham
Job Location/Address:	31 Miller Ln. Mt Pleasant				
Community Complex:	TON				
Arrival Time:	9:00	Departure Time:	5:00		
Project Complete:	Yes	Additional Info:	(NO)		

Personnel On Job Site

Project Manager:		Arrive Time:		Depart Time:	
Superintendent:	Todd	6	Arrive Time: 11:00	Depart Time: 5:00	
Technician:	Tony	4	Arrive Time: 9:00	Depart Time: 5:00	
Technician:	Lee	4	Arrive Time: 9:00	Depart Time: 5:00	
Technician:	Wes	5	Arrive Time: 9:00	Depart Time: 2:00	

Purchases

Purchaser	Vender and Vender Location	Amount	Description of Items Purchased
Todd	Lowes	140.96	screw & blades
Todd	Lowes	104.11	2x6

Equipment and Consumables

QTY	Equipment / Supplies	QTY	Consumables

Job Details

Purpose	What Room of Property	What Caused The Problem	How Was This Repaired
Plumbing			
Electrical			
Carpentry			
Windows			
Doors			
Walls/Ceilings			
Roof/Flashing			
Exterior			
Other			

Description of Work Completed Daily

Dumpster change out. Mike from Terminix came out to take a look at the termite damage. He said that he had to go into room / dining room. He said that he had a piece of 2x6 wall & plywood. From our corner to front window. The guys removed more of the left side.

Completed By:

Todd

Date:

6-23-15



NEW AGE CONSTRUCTION, LLP

Daily Work Sheet

Date:	6-21-15	Day:	Wednesday	Client/HOA Name:	Ken Cavanaugh
Job Location/Address:	31 Kew Ln. Mt Pleasant				
Community Complex:	FON				
Arrival Time:	9:00	Departure Time:	5:00		
Project Complete:	Yes ☒		Additional Info:		

Personnel On Job Site

Project Manager:			Arrive Time:		Depart Time:	
Superintendent:	Trade	7.5	Arrive Time:	9:30	Depart Time:	4:00
Technician:	Tony	9	Arrive Time:	9:00	Depart Time:	5:00
Technician:	Lee	9	Arrive Time:	9:00	Depart Time:	3:00
Technician:	Way	2.5	Arrive Time:	12:00	Depart Time:	2:30

Purchases

Purchaser	Vender and Vender Location	Amount	Description of Items Purchased
Trade	Lowe's	46.86	Joist
Trade	Lowe's	23.85	Skill saw blades
Tony	Lowe's	261.31	Plywood
Tony	Lowe's	42.05	Amboard & Joist

Equipment and Consumables

QTY	Equipment / Supplies	QTY	Consumables

Job Details

Purpose	What Room of Property	What Caused The Problem	How Was This Repaired
Plumbing			
Electrical			
Carpentry			
Windows			
Doors			
Walls/Ceilings			
Roof/Flashing			
Exterior			
Other			

Description of Work Completed Daily

Amboard gripped out. Stairs guys keep repairing on left side. Trade note plywood from rear of house - forward on balcony (master) & piano room. Remove & replace more of the studs in piano room & dinning room.

Completed By:

Trade

Date:

6-21-15



NEW AGE CONTRACTORS, L.P.

Daily Work Sheet

Date: 6-25-15 Day: Thursday Client/HOA Name: Ken Cavanaugh

Job Location/Address: 31 Jones

Community Complex: ION

Arrival Time: 8:30 Departure Time: 5:00

Project Complete: Yes ☐ No ☒ Additional Info: _____

Personnel On Job Site:

Project Manager:	Arrive Time:	Depart Time:
Superintendent: <u>Timb</u>	<u>9:00</u>	<u>5:00</u>
Technician: <u>Law Tony</u>	<u>8:30</u>	<u>5:00</u>
Technician: <u>Mark</u>	<u>7:30</u>	<u>5:00</u>
Technician: <u>Milton (Labor) TROIAN</u>	<u>8:30</u>	<u>5:00</u>

Purchases			
Purchaser	Vender and Vender Location	Amount	Description of Items Purchased
<u>Timb</u>	<u>Quicks</u>	<u>173.60</u>	<u>shapping & nails</u>
<u>Timb</u>	<u>Lowe's</u>	<u>563.44</u>	<u>shapping & nails</u>

31 KILMER LANE
ION



NEVER STOP IMPROVING
LOWE'S HOME CENTERS, LLC
1104 MARKET CENTER BLVD.
MOUNT PLEASANT, SC 29464 (843) 901-5757

SALES#: 805398M3 134594 TRANS#: 41245922 06-25-15

654990 RT9 FCB 77.5 SF 15RM93TN 85.46
44.90 DISCOUNT EACH -2.25
2 @ 42.73
169489 4200L 50CT 3ML CONTR CHOI 24.68
25.98 DISCOUNT EACH -1.30
12242 19/32"X48 RTD SHEATHING 206.05
20.07 DISCOUNT EACH -1.00
15 @ 19.07
74168 2X6X12 TOP CHOICE #2 SYP 112.50
7.09 DISCOUNT EACH -0.39
15 @ 7.50
78082 2X10X12 TOP CHOICE #2 SYP 10.61
11.17 DISCOUNT EACH -0.56

SUBTOTAL: 519.30
TAX: 44.14
INVOICE 56857 TOTAL: 563.44
LAR: 563.44
TOTAL DISCOUNT: 27.21
LAR:XXXXXXXXXX0164 AMOUNT:563.44 AUTHCD:001555
SWIPED REFIN: 06/25/15 11:27:34
LAR PO: 31 KRIER
ACCOUNT NAME: NEW AGE CONTRACTORS
AUTH BUYER: FROZIER TROAD

ACCOUNT WILL BE BILLED UPON MERCHANDISE TRANSACTION
DATE FOR STOCK MERCHANDISE AND NO LATER THAN 90 DAYS
FROM TRANSACTION DATE FOR SDS OR DIRECT DELIVERY
MERCHANDISE.

Roof/Flashing	
Exterior	
Other	

Description of Work Completed Daily

Remove & replace plywood behind the stove guys of the kitchen. Added in blocking for railers. Stove guys remove shims on the rear ~~column~~ column & on the top above the roof drains.

Completed By: Timb Date: 6-25-15



NEW AGE CONTRACTORS, LLP

Daily Work Sheet

Date: 6-26-15 Day: FRIDAY Client/HOA Name: Ken Cavanaugh

Job Location/Address: 31 KIRK LANE PLEASANT

Community Complex: ION

Arrival Time: 8:30 Departure Time: 5:15

Project Complete: Yes Additional Info:

Personnel On Job Site

Project Manager:	<u>Gumbel</u>	<u>9</u>	Arrive Time:	<u>8:00</u>	Depart Time:	<u>5:15</u>
Superintendent:	<u>Trick</u>	<u>8.5</u>	Arrive Time:	<u>8:30</u>	Depart Time:	<u>5:15</u>
Technician:	<u>Lee</u>	<u>9</u>	Arrive Time:	<u>9:00</u>	Depart Time:	<u>5:15</u>
Technician:	<u>Much</u>	<u>10</u>	Arrive Time:	<u>7:30</u>	Depart Time:	<u>5:15</u>
Technician:			Arrive Time:		Depart Time:	

Purchases

Purchaser	Vender and Vender Location	Amount	Description of Items Purchased
<u>Trick</u>	<u>Lowe's</u>	<u>62.85</u>	<u>Ken nails</u>

Ken Cavanaugh
31 KIRK LANE
ION

LOWE'S
NEVER STOP
IMPROVING

LOWE'S HOME CENTERS, LLC
1104 MARKET CENTER BLVD.
MOUNT PLEASANT, SC 29464 (843) 881-5757

SALES#: S05390LC2 1796734 TRANS#: 12326110 06-26-15

176437 IIT 2-3/8X.113 RS DRITE S 57.93
60.90 DISCOUNT EACH -3.05

SUBTOTAL: 57.93
TAX: 4.92
INVOICE 10456 TOTAL: 62.85
LAW: 62.85

TOTAL DISCOUNT: 3.05
MYLOWE'S CARD NUMBER: 401000499972709

LAR: XXXXXXXXXX0164 AMOUNT: 62.85 OUTING: 001055
SHIPPED REF ID: 06/26/15 09:47:23

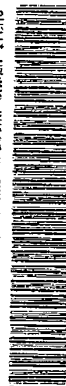
LAW TO: 31 KIRK
ACCOUNT NAME: NEW AGE CONTRACTORS
AUTH BUYER: FRAZIER TRADD

ACCOUNT WILL BE BILLED UPON MERCHANDISE TRANSACTION
DATE FOR STOCK MERCHANDISE AND NO LATER THAN 90 DAYS
FROM TRANSACTION DATE FOR SOS OR DIRECT DELIVERY
MERCHANDISE.

STORE: 0539 TERMINAL: 18 06/26/15 09:47:23

OF ITEMS PURCHASED: 1

EXCLUDES FEES, SERVICES AND SPECIAL ORDER ITEMS



Roof/Flashing	
Exterior	
Other	

Description of Work Completed Daily

Removal & Replaced more plywood & studs in the wall behind kitchen oven.
Steve guys prepped the new plywood for sealing. Sealed plywood from master bedroom
to the girls room down to piano room on first story. Plywood & blocked
the girls room & bathroom on third story.

Completed By:

Trick

Date:

6-26-15



NEW AGE CONTRACTORS, LLP.

Daily Work Sheet

Date:	6-29-15	Day:	Monday	Client/HOA Name:	Ken Cavonius
Job Location/Address:	31 Kiewit Lane NE Pleasant				
Community Complex:	EON				
Arrival Time:	9:00	Departure Time:	5:30		
Project Complete:	Yes	Additional Info:			

Personnel On Job Site

Project Manager:			Arrive Time:	8:30	Depart Time:	5:30
Superintendent:	Todd	6	Arrive Time:	9:00	Depart Time:	12:00
Technician:	Mark, Frankie	10 to 2x	Arrive Time:	7:30	Depart Time:	5:00
Technician:	Tony, Chuck	2 to 2x	Arrive Time:	10:00	Depart Time:	12:00
Technician:	Wes	7	Arrive Time:	7:30	Depart Time:	8:30

Purchases

Purchaser	Vender and Vender Location	Amount	Description of Items Purchased
Todd	CMT	282.86	Hanger Nails & nails

Equipment and Consumables

QTY	Equipment / Supplies	QTY	Consumables

Job Details

Purpose	What Room of Property	What Caused The Problem	How Was This Repaired
Plumbing			
Electrical			
Carpentry			
Windows			
Doors			
Walls/Ceilings			
Roof/Flashing			
Exterior			
Other			

Description of Work Completed Daily

Steve guys are sealing the rooms & coating the plywood. Replaced the plywood on the 2nd & 3rd story habitat gameroom & girls room/bathroom. Replaced the wall that had moisture & termite damage.

Completed By:

Todd

Date:

6-29-15



NEW AGE CONSTRUCTORS, LLP

Daily Work Sheet

Date: 6-30-15 Day: Tuesday Client/HOA Name: Ken Carpenter
 Job Location/Address: 31 Kirtler Lane, PLEASANT
 Community Complex: IRON
 Arrival Time: 7:30 Departure Time: 5:00
 Project Complete: Yes ☐ No ☒ Additional Info: _____

Personnel On Job Site					
Project Manager:	<u>Trudd</u>	<u>5</u>	Arrive Time:	<u>12:00</u>	Depart Time: <u>5:00</u>
Superintendent:	<u>Much</u>	<u>9.5</u>	Arrive Time:	<u>7:30</u>	Depart Time: <u>5:00</u>
Technician:	<u>Eric</u>	<u>7</u>	Arrive Time:	<u>8:30</u>	Depart Time: <u>3:00</u>
Technician:	<u>Gunnie & Clark</u>	<u>99 2x</u>	Arrive Time:	<u>8:00</u>	Depart Time: <u>5:00</u>
Technician:	<u>Wes</u>	<u>6</u>	Arrive Time:	<u>8:00</u>	Depart Time: <u>2:00</u>

Purchases			
Purchaser	Vender and Vender Location	Amount	Description of Items Purchased
Trude	74 Lumber	839.24	2x5 & Plywood
Cumbe	Louis	43.83	Boys

Equipment and Consumables

QTY	Job Description	Unit Price	Total Price
	349260 LEN 1/2 IN X 50-FT TUST N	27.15	
	28.56 DISCOUNT EACH	-1.43	
	346290 BHK 3/4-IN CHAIN SPRING L	3.77	
	3.97 DISCOUNT EACH	-0.20	
	40836 LWH SPILN PRO CHK RL AND	9.48	
	9.98 DISCOUNT EACH	-0.50	
	SUBTOTAL:	40.40	
	TAX:	3.43	
	INVOICE 06205 TOTAL:	43.83	
	UTSA:	43.83	
	TOTAL DISCOUNT:	2.13	
	UTSA:XXXXXXXXXXXX0438 AMOUNT:43.83 AUTOCID:074910		
	SWIPED REFID:66696066106 06/30/15 08:22:49		
	CUSTOMER CODE: 31 Kirtler Lane		

SALES: S06610V1 1942304 TRANS: 95666612 06-30-15

Ken Carpenter
 LONE'S HOME CENTERS, LLC 31 Kirtler Lane
 770 DANIEL ELLIS DR.
 CHARLESTON, SC 29412 (843) 795-9774

THANK YOU FOR SHOPPING LONE'S.
 SEE REVERSE SIDE FOR RETURN POLICY.
 STORE MANAGER: DAN BLARY

OF ITEMS PURCHASED: 3
 EXCLUDES FEES, SERVICES AND SPECIAL ORDER ITEMS

STONE: 0661 TERMINAL: 06 06/30/15 08:22:59

UTSA:XXXXXXXXXXXX0438 AMOUNT:43.83 AUTOCID:074910

SWIPED REFID:66696066106 06/30/15 08:22:49

CUSTOMER CODE: 31 Kirtler Lane

UTSA:XXXXXXXXXXXX0438 AMOUNT:43.83 AUTOCID:074910

SWIPED REFID:66696066106 06/30/15 08:22:49

CUSTOMER CODE: 31 Kirtler Lane

UTSA:XXXXXXXXXXXX0438 AMOUNT:43.83 AUTOCID:074910

SWIPED REFID:66696066106 06/30/15 08:22:49

CUSTOMER CODE: 31 Kirtler Lane

Description of Work Completed Daily

Shado Crap water soaked up to the Cant corner where it water leaks. Remove the shado in wall of the of girls room where her book shelf is broken. Replaced shado & plywood all the way to finish of the house.

Completed By: Trudd Date: 6-30-15

NAC

NEW AGE CONTRACTORS, LLP.

Daily Work Sheet

Date:	7-1-15	Day:	Wednesday	Client/HOA Name:	Van Casterburg
Job Location/Address:	31 Krier Ln				
Community Complex:	3 ON				
Arrival Time:	7:30	Departure Time:	5:00		
Project Complete:	Yes	(No)	Additional Info:		

Personnel On Job Site

Project Manager:	Todd	3	Arrive Time:	1:30	Depart Time:	4:30
Superintendent:	Mark	4.5	Arrive Time:	2:30	Depart Time:	5:00
Technician:	Crumb	9	Arrive Time:	8:00	Depart Time:	5:00
Technician:	Eric	7	Arrive Time:	10:00	Depart Time:	5:00
Technician:	Millen (Lube)	THAN 2.5	Arrive Time:	9:00	Depart Time:	4:30

Purchases

Purchaser	Vender and Vender Location	Amount	Description of Items Purchased
Todd	UNT	215.21	nails & shipping
Todd	31 Lumber	169.70	19/32 plywood

Equipment and Consumables

QTY	Equipment / Supplies	QTY	Consumables

Job Details

Purpose	What Room of Property	What Caused The Problem	How Was This Repaired
Plumbing			
Electrical			
Carpentry			
Windows			
Doors			
Walls/Ceilings			
Roof/Flashing			
Exterior			
Other			

Description of Work Completed Daily

Spence Guy's cut & remove the top of wall that had shingles on it.
Painted the sealer on wall that was done yesterday when with the shingles.
Remove the metal cap that was at top of the wall on left side.
Started removing the plywood in/at top of wall. Dumpster trip

Completed By:

Todd

Date:

7-1-15



NEW AGE CONTRACTORS, LLP.

Daily Work Sheet

Date:	7-2-15	Day:	Thursday	Client/HOA Name:	Ken Cunningham
Job Location/Address:	31 Pine Lane Mt. Pleasant				
Community Complex:	I ON				
Arrival Time:	7:30	Departure Time:	4:30		
Project Complete:	Yes	(No)	Additional Info:		

Personnel On Job Site:

Project Manager:		Arrive Time:		Depart Time:	
Superintendent:	Tank	5	Arrive Time:	10:30	Depart Time: ~~10:30~~ 4:30
Technician:	Mark	9	Arrive Time:	7:30	Depart Time: 4:30
Technician:	Camber	7:5	Arrive Time:	8:00	Depart Time: 4:30
Technician:			Arrive Time:		Depart Time:

Purchases

Purchaser	Vender and Vender Location	Amount	Description of Items Purchased

Equipment and Consumables

QTY	Equipment / Supplies	QTY	Consumables

Job Details

Purpose	What Room of Property	What Caused The Problem	How Was This Repaired
Plumbing			
Electrical			
Carpentry			
Windows			
Doors			
Walls/Ceilings			
Roof/Flashing			
Exterior			
Other			

Description of Work Completed Daily

Removed & replace the top of wall plywood from front to back. Installed the rest of the sheathing. Three guys finished under putting the wall.
--

Completed By:

Tank

Date:

7-2-15



NEW AGE CONTRACTORS, LLP

Daily Work Sheet

Date: 7/28/15 Day: Monday Client/HOA Name: Ken Cavanaugh
 Job Location/Address: 31 Mercer Ln
 Community Complex: 30N
 Arrival Time: 7:30 Departure Time: 5:30
 Project Complete: Yes ☒ No ☐ Additional Info: _____

Personnel On Job Site

Project Manager:	<u>Trudi</u>	<u>20</u>	Arrive Time:	<u>8:30</u>	Depart Time:	<u>4:30</u>
Superintendent:	<u>Trudi</u>	<u>3</u>	Arrive Time:	<u>9:00</u>	Depart Time:	<u>12:00</u>
Technician:	<u>Mark</u>	<u>10</u>	Arrive Time:	<u>7:30</u>	Depart Time:	<u>5:30</u>
Technician:	<u>Crumbie</u>	<u>9</u>	Arrive Time:	<u>8:00</u>	Depart Time:	<u>5:00</u>
Technician:	<u>Clark (TRUDY)</u>	<u>9</u>	Arrive Time:	<u>8:00</u>	Depart Time:	<u>5:00</u>

Purchases

Purchaser	Vender and Vender Location	Amount	Description of Items Purchased
<u>Trudi</u>	<u>Lowie's</u>	<u>294.66</u>	<u>Nails, Insulation</u>
<u>Trudi</u>	<u>CNT</u>	<u>64.00</u>	<u>nails (plumb)</u>
<u>Trudi</u>	<u>SV lumber</u>	<u>12.14</u>	<u>nails (working)</u>
<u>Crumbie</u>	<u>Lowie's</u>	<u>810.61</u>	<u>plywood</u>

Equipment and Consumables

QTY	Equipment / Supplies	QTY	Consumables

Job Details

Purpose	What Room of Property	What Caused The Problem	How Was This Repaired
Plumbing			
Electrical			
Carpentry			
Windows			
Doors			
Walls/Ceilings			
Roof/Flashing			
Exterior			
Other			

Description of Work Completed Daily

Remove & replace the plywood & the studs behind the rear column on the left side of the house. Bent the metal grip edge for the left side of the house & installed it. Shave cups shaver cutting on right side. Remove the sheetrock in the dining room & living room. Installed master bedroom walls.

Completed By:

Trudi

Date:

7/28/15

Walls



NEW AGE CONTRACTORS, LLP.

Daily Work Sheet

Date:	1-7-15	Day:	Tue	City:	
Job Location/Address:	31 Krier Lane Mt Pleasant				
Community Complex:	ION				
Arrival Time:	8:30	Departure Time:	2:40		
Project Complete:	Yes	No	Additional Info:		

Personnel On Job Site

Project Manager:	Tradd	Arrive Time:		Depart Time:	
Superintendent:	Chris	6 Arrive Time:	8:30	Depart Time:	2:40
Technician:	Mark	6 Arrive Time:	8:30	Depart Time:	2:40
Technician:	Clark (TECHN)	4 Arrive Time:	7:30	Depart Time:	11:30
Technician:		Arrive Time:		Depart Time:	

Purchases

Purchaser	Vender and Vender Location	Amount	Description of Items Purchased

Equipment and Consumables

QTY	Equipment / Supplies	QTY	Consumables

Job Details

Purpose	What Room of Property	What Caused The Problem	How Was This Solved
Plumbing			
Electrical			
Carpentry			
Windows			
Doors			
Walls/Ceilings			
Roof/Flashing			
Exterior			
Other			

Description of Work Completed Daily

Removed sheetrock from both walls bedrooms to expose damage, Removed sheetrock in the living room & bathroom to expose damage. Installed insulation in master bedroom & Piano room.

Completed By:

Chris McClellan

Date:

1-7-15



Daily Work Sheet

Date: 7-8-15 Day: Wed Client/HOA Name: Ken Cavanaugh
 Job Location/Address: 31 Kricker Lane City / Town: Mt Pleasant
 Community Complex: ION
 Arrival Time: 12:30 Departure Time: 2:30
 Project Complete: Yes ☐ No ☒ Additional Info: _____

Personnel On Job Site

Project Manager:	<u>Tradd</u>	<u>3.5</u>	Arrive Time:	<u>9:00</u>	Depart Time:	<u>12:30</u>
Superintendent:	<u>Chris</u>	<u>2</u>	Arrive Time:	<u>12:30</u>	Depart Time:	<u>2:30</u>
Technician:			Arrive Time:		Depart Time:	
Technician:			Arrive Time:		Depart Time:	
Technician:			Arrive Time:		Depart Time:	

Purchases

Purchaser	Vender and Vender Location	Amount	Description of Items Purchased

Equipment and Consumables

QTY	Equipment / Supplies	QTY	Consumables

Job Details

Purpose	What Room of Property	What Caused The Problem	How Was This Repaired
Plumbing			
Electrical			
Carpentry			
Windows			
Doors			
Walls/Ceilings			
Roof/Flashing			
Exterior			
Other			

Description of Work Completed Daily

Cut out sheetrock in boy's room & family room
ceiling on first floor.

Completed By:

Chris McElhiney

Date:

7-8-15



NEW AGE CONTRACTORS, LLP.

Daily Work Sheet

Date:	7-9-15	Day:	Thursday	Client/HOA Name:	Van Courtenough
Job Location/Address:	31 Kaur Ln				
Community Complex:	T.O.N				
Arrival Time:	11:00	Departure Time:	10:00		
Project Complete:	Yes	Additional Info:			

Personnel On Job Site

Project Manager:		Arrive Time:		Depart Time:	
Superintendent:	Todd	Arrive Time:	11:00	Depart Time:	10:00
Technician:		Arrive Time:		Depart Time:	
Technician:		Arrive Time:		Depart Time:	
Technician:		Arrive Time:		Depart Time:	

Purchases

Purchaser	Vender and Vender Location	Amount	Description of Items Purchased

Equipment and Consumables

QTY	Equipment / Supplies	QTY	Consumables

Job Details

Purpose	What Room of Property	What Caused The Problem	How Was This Repaired
Plumbing			
Electrical			
Carpentry			
Windows			
Doors			
Walls/Ceilings			
Roof/Flashing			
Exterior			
Other			

Description of Work Completed Daily

Shane Coops removing on right side. ~~wood~~ under damage to plywood along with live termites + damage.

Completed By:	Todd	Date:	7-9-15
---------------	------	-------	--------



Daily Work Sheet

Date: 7/13/2015 Day: Monday Client/HOA Name: Ken Cavanaugh
 Job Location/Address: 31 Krier Lane City / Town: mt. Pleasant
 Community Complex: Ion
 Arrival Time: 12:00 Departure Time: 1:35
 Project Complete: Yes ☐ No ☐ Additional Info:

Personnel On Job Site

Project Manager:	<u>Tcadd</u>	Arrive Time:		Depart Time:	
Superintendent:	<u>Chris</u>	1.5	Arrive Time: <u>12:00</u>	Depart Time: <u>1:35</u>	
Technician:	<u>Clark</u>	1.5	Arrive Time: <u>12:00</u>	Depart Time: <u>1:35</u>	
Technician:			Arrive Time:	Depart Time:	
Technician:			Arrive Time:	Depart Time:	

Purchases

Purchaser	Vender and Vender Location	Amount	Description of Items Purchased

Equipment and Consumables

QTY	Equipment / Supplies	QTY	Consumables

Job Details

Purpose	What Room of Property	What Caused The Problem	How Was This Repaired
Plumbing			
Electrical			
Carpentry			
Windows			
Doors			
Walls/Ceilings			
Roof/Flashing			
Exterior			
Other			

Description of Work Completed Daily

Started ripping off plywood then it started to pour rain

Completed By: Chad Schindler Date: 7/13/15



NEW AGE CONTRACTORS, LLP.

Daily Work Sheet

Date:	2-14-15	Day:	Tuesday	Client/HOA Name:	Ken Cavanaugh
Job Location/Address:	31 LANE, MURPLESSANT				
Community Complex:	DON				
Arrival Time:	11:30	Departure Time:	5:00		
Project Complete:	Yes	Additional Info:			

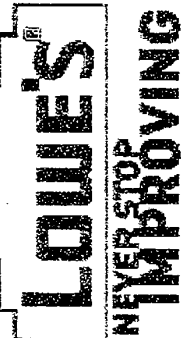
Personnel On Job Site

Project Manager:			Arrive Time:		Depart Time:	
Superintendent:	Todd	2.5	Arrive Time:	2:00	Depart Time:	4:30
Technician:	Aiden	5.5	Arrive Time:	11:30	Depart Time:	5:00
Technician:	Chuck	5.5	Arrive Time:	11:30	Depart Time:	5:00
Technician:	Eric	2.5	Arrive Time:	11:30	Depart Time:	2:00

Purchases

Purchaser	Vender and Vender Location	Amount	Description of Items Purchased
Todd	Lowe's	36.67	Pony Bars

KENCAVANUGH
31 LANE
LANE



LOWE'S HOME CENTERS, LLC
3125 BLENN MCCONNELL PKWY
CHARLESTON, SC 29414 (843) 852-9099

SALES: 50655XIII 1677134 TRANS: 41094159 07-14-15

296301 BOSTITCH SPRING STEEL WIRE 33.80
17.79 DISCOUNT EACH -0.89
2 @ 16.90

SUBTOTAL: 33.80
TAX: 2.87
INVOICE 06/59 TOTAL: 36.67
LAW: 36.67

TOTAL DISCOUNT: 1.70
LAW: XXXXXXXXXX8164 AMOUNT: 36.67 AUTHCD: 001048
SWIPE REFID: 07/14/15 13:16:07

LAW: 31KOTIER
ACCOUNT NAME: NEW AGE CONTRACTORS
AUTH BUYER: FRAZIER THRO

ACCOUNT WILL BE BILLED UPON MERCHANDISE TRANSACTION
DATE FOR STOCK MERCHANDISE AND NO LATER THAN 90 DAYS
FROM TRANSACTION DATE FOR SOS OR DIRECT DELIVERY
MERCHANDISE.

STORE: 0655 TERMINAL: 05 07/14/15 13:16:19
OF ITEMS PURCHASED: 2
EXCLUDES FEES, SERVICES AND SPECIAL ORDER ITEMS



FOR SHOPPING LOWE'S.
FOR RETURN POLICY.

Walls/Ceilings	
Roof/Flashing	
Exterior	
Other	

Description of Work Completed Daily

Remove & replaced some plywood on the right side. Shingles from the bottom going up. Picked up/cleaned the yard up from debris.

Completed By: Todd Date: 2-14-15



NEW AGE CONTRACTORS, LLP.

Daily Work Sheet

Date:	7/15/15	Day:	Wednesday	Client/HOA Name:	Ken Cavanaugh
Job Location/Address:	31 Krier Lane MT. PLEASANT				
Community Complex:	Ion				
Arrival Time:	10:00	Departure Time:	5:00		
Project Complete:	Yes	No	Additional Info:		

Personnel On Job Site

Project Manager:	Tradd	2	Arrive Time:	1:00	Depart Time:	3:00
Superintendent:	Chris	7	Arrive Time:	10:00	Depart Time:	5:00
Technician:	Clark	7	Arrive Time:	10:00	Depart Time:	5:00
Technician:			Arrive Time:		Depart Time:	
Technician:			Arrive Time:		Depart Time:	

Purchases

Purchaser	Vender and Vender Location	Amount	Description of Items Purchased
Chris	Lowe's, James Island	135.39	Plywood & Saw horses

31 Krier Lane / Ken Cavanaugh

LOWE'S HOME CENTERS, LLC
770 DANIEL ELLIS DR.
CHARLESTON, SC 29412 (843) 795-9774

SALES#: S0661UC1 2026364 TRANS#: 95963204 07-15-15

SALE

77883 ERCO METAL FOLDING SIGNOR 34.18
17.99 DISCOUNT EACH -0.90
2 @ 17.09
12242 19/32"X4X8 RTD SHEATHING 90.60
19.07 DISCOUNT EACH -0.95
5 @ 18.12

SUBTOTAL: 124.78
TAX: 10.61
INVOICE TOTAL: 135.39
LAW: 135.39

TOTAL DISCOUNT: 6.55

LAR:XXXXXXXXXX8164 AMOUNT:135.39 AUTHID:001147

SUTPED REFID: 07/15/15 08:28:20

LAR PO: 31 KRIER

ACCOUNT NAME: NEW AGE CONTRACTORS

AUTH BUYER: MCCLELLAN PATRICK

ACCOUNT WILL BE BILLED UPON MERCHANDISE TRANSACTION DATE FOR STOCK MERCHANDISE AND NO LATER THAN 90 DAYS FROM TRANSACTION DATE FOR SDS OR DIRECT DELIVERY MERCHANDISE.

STORE: 0661 TERMINAL: 06 07/15/15 08:28:30

OF ITEMS PURCHASED: 7

EXCLUDES FEES, SERVICES AND SPECIAL ORDER ITEMS



THANK YOU FOR SHOPPING LOWE'S.

SEE REVERSE SIDE FOR RETURN POLICY.

STORE MANAGER: DAN BLARY

WE HAVE THE

IF YOU FIND

Roof/Flashing		
Exterior		
Other		

Description of Work Completed Daily

Continued demo on right side of building

Completed By:

Chris Schell

Date:

7/15/15



NEW AGE CONTRACTORS, LLP.

Daily Work Sheet

Date: 7/16/15 Day: Thursday Client/HOA Name: Ken Cunningham
 Job Location/Address: 31 Laker Ln. Mt Pleasant
 Community Complex: ION
 Arrival Time: 8:30 Departure Time: 5:30
 Project Complete: Yes ☒ No ☐ Additional Info: _____

Personnel On Job Site

Project Manager:		Arrive Time:		Depart Time:	
Superintendent:	<u>Todd</u>	9.5	Arrive Time:	<u>9:00</u>	Depart Time: <u>5:30</u>
Technician:	<u>Crumbly</u>	9.5	Arrive Time:	<u>8:30</u>	Depart Time: <u>5:30</u>
Technician:	<u>Lee</u>	5.5	Arrive Time:	<u>12:00</u>	Depart Time: <u>5:30</u>
Technician:	<u>Carrice (Train)</u>	9	Arrive Time:	<u>8:30</u>	Depart Time: <u>5:30</u>

Purchases

Purchaser	Vender and Vender Location	Amount	Description of Items Purchased
<u>Todd</u>	<u>Lowe's</u>	<u>38.09</u>	<u>SawZaw blades</u>
<u>Todd</u>	<u>84 Lumber</u>	<u>54.25</u>	<u>2x12</u>
<u>Todd</u>	<u>89 Lumber</u>	<u>20.33</u>	<u>2x12</u>

KEN CUNNINGHAM
31 KRIER LN



NEVER STOP IMPROVING
 LOWE'S HOME CENTERS, LLC
 1104 MARKET CENTER BLVD.
 MOUNT PLEASANT, SC 29464 (843) 881-5757

SALES#: 50539101 1122712 TRANS#: 41061742 07-16-15

10094 LIX 9TH 6TPT BL-H RECIP B 19.93
 20.96 DISCOUNT EACH -1.05
 294561 LIX 8TH 14TPT RECIP BLD 5 15.18
 15.98 DISCOUNT EACH -0.80

SUBTOTAL: 38.11
 TAX: 2.98
 INVOICE TOTAL: 38.09
 LAR: 38.09

TOTAL DISCOUNT: 1.85

LAR: XXXXXXXXXXXX164 AMOUNT: 38.09 AUTHCD: 001051
 SHIPPED REF: 07/16/15 11:49:16

LAR POL: 31 KRIER LN
 ACCOUNT NAME: NEW AGE CONTRACTORS
 AUTH BUYER: FRAZIER TRAD

ACCOUNT WILL BE BILLED UPON MERCHANDISE TRANSACTION
 DATE FOR STOCK MERCHANDISE AND NO LATER THAN 90 DAYS
 FROM TRANSACTION DATE FOR SPS OR DIRECT DELIVERY
 MERCHANDISE.

STORE: 0339 TERMINAL: 35 07/16/15 11:49:22
 # OF ITEMS PURCHASED: 2
 EXCLUDES FEES, SERVICES AND SPECIAL ORDER ITEMS



Exterior		
Other		

Description of Work Completed Daily

Remove the rest of the plywood on the right side near the stairs bathroom is located. Remove a 2x12 ban board on 3rd story & replace. Remove & replace the studs that were moisture damaged in the bathroom.

Completed By: Todd Date: 7/16/15



NEW AGE CONTRACTORS, LLP.

Daily Work Sheet

Date:	7/27/17	Day:	Friday	Client/HOA Name:	Ken Cunningham
Job Location/Address:	31 JANE LANE MT. PLEASANT				
Community Complex:	DON				
Arrival Time:	8:30	Departure Time:	5:30		
Project Complete:	Yes	Additional Info:			

Personnel On Job Site

Project Manager:		Arrive Time:		Depart Time:		
Superintendent:	Truck	6	Arrive Time:	10:00	Depart Time:	4:00
Technician:	Lee	4.5	Arrive Time:	8:30	Depart Time:	5:00
Technician:	Cumby	4.5	Arrive Time:	8:30	Depart Time:	5:00
Technician:			Arrive Time:		Depart Time:	

Purchases

Purchaser	Vendor and Vendor Location	Amount	Description of Items Purchased
Truck	89 Lumber	292.63	Ply wood

Equipment and Consumables

QTY	Equipment / Supplies	QTY	Consumables

Job Details

Purpose	What Room of Property	What Caused The Problem	How Was This Repaired
Plumbing			
Electrical			
Carpentry			
Windows			
Doors			
Walls/Ceilings			
Roof/Flashing			
Exterior			
Other			

Description of Work Completed Daily

Remove 2x10 header above the second story window on right side. Found a termite carton in between header. removed it & painted.

Completed By:

Truck

Date:

7/27/17



Daily Work Sheet

Date: 7-22-15 Day: Wed Client/HOA Name: Ken Cavanaugh

Job Location/Address: 31 Krier Lane MT. PLEASANT

Community Complex: Iron

Arrival Time: 1:30 Departure Time: 5:00

Project Complete: Yes ☐ No ☐ Additional Info:

Personnel On Job Site

Project Manager:	<u>Tradd</u>	Arrive Time:		Depart Time:	
Superintendent:	<u>Chris</u>	<u>3.5</u>	Arrive Time:	<u>1:30</u>	Depart Time:
Technician:	<u>Allen</u>	<u>1</u>	Arrive Time:	<u>2:00</u>	Depart Time:
Technician:	<u>Clark</u>	<u>3.5</u>	Arrive Time:	<u>1:30</u>	Depart Time:
Technician:			Arrive Time:		Depart Time:

Purchases

Purchaser	Vender and Vender Location	Ambunt	Description of Items Purchased

Equipment and Consumables

QTY	Equipment / Supplies	QTY	Consumables

Job Details

Purpose	What Room of Property	What Caused The Problem	How Was This Repaired
Plumbing			
Electrical			
Carpentry			
Windows			
Doors			
Walls/Ceilings			
Roof/Flashing			
Exterior			
Other			

Description of Work Completed Daily

Installed solid blocking, finished plywood and started

strapping on center of right wall

Completed By: Chh Schlot Date: 7-22-15



Daily Work Sheet

Date: 7-23-15 Day: Thursday Client/HOA Name: Kim Casaroghy
 Job Location/Address: 31 KIRK LANE MT. PLEASANT
 Community Complex: ION
 Arrival Time: 9:00 Departure Time: 11:00
 Project Complete: Yes ☒ No ☐ Additional Info: _____

Personnel On Job Site

Role	Name	Count	Arrive Time	Depart Time
Project Manager:				
Superintendent:	<u>Todd</u>	<u>5</u>	<u>10:30</u>	<u>11:00</u>
Technician:	<u>Wendy</u>	<u>2</u>	<u>9:00</u>	<u>11:00</u>
Technician:	<u>Mike</u>	<u>2</u>	<u>9:00</u>	<u>11:00</u>
Technician:				

Purchases

Purchaser	Vender and Vender Location	Amount	Description of Items Purchased

Equipment and Consumables

QTY	Equipment / Supplies	QTY	Consumables

Job Details

Purpose	What Room of Property	What Caused The Problem	How Was This Repaired
Plumbing			
Electrical			
Carpentry			
Windows			
Doors			
Walls/Ceilings			
Roof/Flashing			
Exterior			
Other			

Description of Work Completed Daily

Finished the shimming on the right side of the window. The window was
shipped off on the shimming on the window.

Completed By:

Todd

Date:

7-23-15



Daily Work Sheet

Date: 7-29-15 Day: Wednesday Client/HOA Name: Ken Cavanaugh
 Job Location/Address: 31 Maple Ln Mt Pleasant
 Community Complex: ION
 Arrival Time: 9:30 Departure Time: 1:00
 Project Complete: Yes ☒ No ☐ Additional Info: _____

Personnel On Job Site

Project Manager:	Arrive Time:	Depart Time:
Superintendent: <u>Truitt</u> <u>3.5</u>	Arrive Time: <u>9:30</u>	Depart Time: <u>1:00</u>
Technician: <u>Eric</u> <u>3.5</u>	Arrive Time: <u>9:30</u>	Depart Time: <u>1:00</u>
Technician:	Arrive Time:	Depart Time:
Technician:	Arrive Time:	Depart Time:

Purchases

Purchaser	Vender and Vender Location	Amount	Description of Items Purchased

Equipment and Consumables

QTY	Equipment / Supplies	QTY	Consumables

Job Details

Purpose	What Room of Property	What Caused The Problem	How Was This Repaired
Plumbing			
Electrical			
Carpentry			
Windows			
Doors			
Walls/Ceilings			
Roof/Flashing			
Exterior			
Other			

Description of Work Completed Daily

Remove the window's on the window in bedroom. The window was broken. Fixed/installed the piece of the window. The window broke off of piece of glass removal (bottom). Installed window with replacement piece over the old window.

Completed By: Truitt Date: 7-29-15



Daily Work Sheet

Date:	7-31-15	Day:	Friday	Client/HOA Name:	Ken Cunningham
Job Location/Address:	31 Krier Ln MD. Pleasant				
Community Complex:	ION.				
Arrival Time:	9:00	Departure Time:	1:00		
Project Complete:	Yes	Additional Info:			

Personnel On Job Site

Project Manager:		Arrive Time:		Depart Time:	
Superintendent:	Timber	Arrive Time:	9:00	Depart Time:	1:00
Technician:		Arrive Time:		Depart Time:	
Technician:		Arrive Time:		Depart Time:	
Technician:		Arrive Time:		Depart Time:	

Purchases

Purchaser	Vender and Vender Location	Amount	Description of Items Purchased
Timber	Lowe's	187.80	sheetrock, screws

31 KRIER LN.



LOWE'S HOME CENTERS, LLC
1104 MARKET CENTER BLVD.
MOUNT PLEASANT, SC 29564 (843) 801-5757

SALES# 50539612 1258600 TRANS# 41352841 07-31-15

112029 5 LB 1-1/4-IN BLK DRYWALL 20.87
21.97 DISCOUNT EACH -1.10
350129 LAFARGE 1/2" 4" X 8' L.V.D 151.68
9.90 DISCOUNT EACH -0.50
16 @ 9.48

SUBTOTAL: 172.55
TAX: 14.57
INVOICE TOTAL: 187.22
LAW: 187.22

TOTAL DISCOUNT: 9.10
LOR-XXXXXXXXXX0164 AMOUNT: 187.22 AUTHCD: 001215
SWTPEE REF ID: 07/31/15 10:27:46

PO: 31 KRIER
ONE NEW AGE CONTRACTORS
C/O: FRAZIER TRAIL

ORDER WILL BE FILLED UPON MERCHANDISE TRANSACTION
WITH THE SAME MERCHANDISE AND NO LATER THAN 90 DAYS
FROM ORDER DATE FOR SCS OR DIRECT DELIVERY
MERCHANDISE.

STORE: 0539 TERMINAL: 56 07/31/15 10:27:52
OF ITEMS PURCHASED: 17
EXCLUDES FEES, SERVICES AND SPECIAL ORDER ITEMS



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Exterior		
Other		

Description of Work Completed Daily

Sheetrock guys started prepping the basement. They will be hanging sheetrock in the known areas, filling all holes and taping.

Completed By:	Timber	Date:	7/31/15
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NEW AGE CONTRACTORS, LLP.

Daily Work Sheet

Date: 8-18-15 Day: Tuesday Client/HOA Name: Ken Cavanaugh.
 Job Location/Address: 31 Krier Lane Mt Pleasant South Carolina.
 Community Complex: ION
 Arrival Time: 7:30 Departure Time: 860-751-9115
 Project Complete: Yes ☒ Additional Info: 5:30

Personnel On Job Site

Project Manager:		Arrive Time:		Depart Time:	
Superintendent:	<u>lee</u>	Arrive Time:	<u>7:30</u>	Depart Time:	<u>5:30</u>
Technician:	<u>T-RAD</u>	Arrive Time:	<u>2:30</u>	Depart Time:	<u>3:30</u>
Technician:		Arrive Time:		Depart Time:	
Technician:		Arrive Time:		Depart Time:	

Purchases

Purchaser	Vender and Vender Location	Amount	Description of Items Purchased
<u>lee</u>	<u>Lowe's MtP</u>	<u>26.78</u>	<u>NAILS for trim.</u>
			<u>1 1/2 Finish / 1" Bradlys</u>

Ken Cavanaugh

LOWE'S

LOWE'S HOME CENTERS, LLC
 1104 MARKET CENTER BLVD.
 MOUNT PLEASANT, SC 29464 (843) 881-5757

SALES#: 8053933 TRANS#: 12902510 08-18-15

475943 HIT 180 1-IN BRAD NAIL EG 4.74
 4.99 DISCOUNT EACH -0.25
 125106 HIT 2-1/2-IN X 15-GR FINI 19.94
 20.99 DISCOUNT EACH -1.05

SUBTOTAL: 24.60
 TAX: 2.10
 INVOICE TOTAL: 26.70
 LAR: 26.70

TOTAL DISCOUNT: 1.30
 LAR: XXXXXXXXXX8164 AMOUNT: 26.78 AUTHCD: 001073
 SWIPED REFID: 08/18/15 08:55:16
 LAR PD: ION 31 KRIER LANE
 ACCOUNT NAME: NEW AGE CONTRACTORS
 AUTH BUYER: GARBENSON LEE

ACCOUNT WILL BE BILLED UPON MERCHANDISE TRANSACTION
 DATE FOR STOCK MERCHANDISE AND NO LATER THAN 90 DAYS
 FROM TRANSACTION DATE FOR SOS OR DIRECT DELIVERY
 MERCHANDISE.

STORE: 0539 TERM AL: 18 08/10/15 08:55:25
 # OF ITEMS PURCHASED: 2
 EXCLUDES FEES, SERVICES AND SPECIAL ORDER ITEMS

Roof/Flashing		
Exterior		
Other		

Description of Work Completed Daily

Start installing Crown Base shoe window casing & Base
cap in Living Room, Bedroom, Bathroom

Completed By:

[Signature]

Date:

8-18-15



Daily Work Sheet

Date: 8-19-15 Day: Wednesday Client/HOA Name: Ken Cavanaugh
 Job Location/Address: 31 Krier Lane 4' on Mount Pleasant SC
 Community Complex: I'ON Phone: 860-781-9115
 Arrival Time: 7:30 Departure Time: 5:30
 Project Complete: Yes ☐ No ☒ Additional Info: _____

Personnel On Job Site

Project Manager:	Arrive Time:	Depart Time:
Superintendent: <u>LEE</u>	Arrive Time: <u>7:30</u>	Depart Time: <u>5:30</u>
Technician: <u>T-RAD</u>	Arrive Time: <u>7:30</u>	Depart Time: <u>8:30</u>
Technician:	Arrive Time:	Depart Time:
Technician:	Arrive Time:	Depart Time:

Purchases

Purchaser	Vender and Vender Location	Amount	Description of Items Purchased
T-RAD	Buck	94.96	Crown, Casing, Small crown

Equipment and Consumables

QTY	Equipment / Supplies	QTY	Consumables

Job Details

Purpose	What Room of Property	What Caused The Problem	How Was This Repaired
Plumbing			
Electrical			
Carpentry			
Windows			
Doors			
Walls/Ceilings			
Roof/Flashing			
Exterior			
Other			

Description of Work Completed Daily

Installed Base & Base Cap & Crown in 1st Floor Dining Room, Custom Make Base Cap to Fit. Install Crown & Speed Base in upstairs Back Bedroom, install Base and Base Cap in Mt Bedroom, Custom Fit Base Cap, install Apron on Mt Bedroom window, install Speed Base & Crown in Mt Bedroom

Completed By: [Signature]

Date: 8-19-15

* Need crown & Speed Base in 1st Floor Bathroom, And Mt Bedroom And Back Bedroom & Bathroom



NEW AGE CONTRACTORS, LLP.

Daily Work Sheet

Date:	8-20-15	Day:	Thursday	Client/HOA Name:	Ken Cavanaugh
Job Location/Address:	31 Krier Lane Mount Pleasant, SC.				
Community Complex:	Lion				
Arrival Time:	2:00	Departure Time:	8:30		
Project Complete:	Yes	No	Additional Info:		

Personnel On Job Site

Project Manager:		Arrive Time:		Depart Time:		
Superintendent:	LEE	3:5	Arrive Time:	2:00	Depart Time:	5:30
Technician:	ERIC	2:5	Arrive Time:	2:00	Depart Time:	5:30
Technician:			Arrive Time:		Depart Time:	
Technician:			Arrive Time:		Depart Time:	

Purchases

Purchaser	Vender and Vender Location	Amount	Description of Items Purchased

Equipment and Consumables

QTY	Equipment / Supplies	QTY	Consumables

Job Details

Purpose	What Room of Property	What Caused The Problem	How Was This Repaired
Plumbing			
Electrical			
Carpentry			
Windows			
Doors			
Walls/Ceilings			
Roof/Flashing			
Exterior			
Other			

Description of Work Completed Daily

Finish installing 2 pcs Crown with Speed Base, King Sheet
Rock in Master Bedroom, Install Crown in 1st Floor Bathroom
Install Crown in Boys Bathroom, Install Crown in
Girls Bedroom and Floor in BACK.

Completed By:

Date:

8-20-15



NEW AGE CONTRACTORS, LLP.

Daily Work Sheet

Date:	8-21-15	Day:	Friday	Client/HOA Name:	Ken Cavanaugh
Job Location/Address:	31 Kner Lane Mount Pleasant, South Carolina				
Community Complex:	IOW				
Arrival Time:	7:30	Departure Time:	8:00		
Project Complete:	☒ Yes	No	Additional Info:		

Personnel On Job Site

Project Manager:		Arrive Time:		Depart Time:	
Superintendent:	ILL	7:30	Arrive Time:	7:30	Depart Time: 3:00
Technician:	ERR	7:30	Arrive Time:	7:30	Depart Time: 3:00
Technician:			Arrive Time:		Depart Time:
Technician:			Arrive Time:		Depart Time:

Purchases

Purchaser	Vender and Vender Location	Amount	Description of Items Purchased

Equipment and Consumables

QTY	Equipment / Supplies	QTY	Consumables

Job Details

Purpose	What Room of Property	What Caused The Problem	How Was This Repaired
Plumbing			
Electrical			
Carpentry			
Windows			
Doors			
Walls/Ceilings			
Roof/Flashing			
Exterior			
Other			

Description of Work Completed Daily

Finish installing Brown & speed Base in Upstairs Bedrooms And Bathroom And 1st Floor Bathroom in the Back of Move By Elevator.
--

Completed By:

Date:

8-21-15



Daily Work Sheet

Date:	8-24-15	Day:	Monday	Client/HOA Name:	Ken Cavanaugh
Job Location/Address:	31 Krier Lane Mount Pleasant, SC				
Community Complex:	IOW				
Arrival Time:	7:30	Departure Time:	9:30		
Project Complete:	YES	No	Additional Info:		

Personnel On Job Site

Project Manager:		Arrive Time:		Depart Time:	
Superintendent:	Lee	Arrive Time:	7:30	Depart Time:	9:30
Technician:		Arrive Time:		Depart Time:	
Technician:		Arrive Time:		Depart Time:	
Technician:		Arrive Time:		Depart Time:	

Purchases

Purchaser	Vender and Vender Location	Amount	Description of Items Purchased

Equipment and Consumables

QTY	Equipment / Supplies	QTY	Consumables

Job Details

Purpose	What Room of Property	What Caused The Problem	How Was This Repaired
Plumbing			
Electrical			
Carpentry			
Windows			
Doors			
Walls/Ceilings			
Roof/Flashing			
Exterior			
Other			

Description of Work Completed Daily

MAKE missing piece to upstairs Master Bedroom window. was missing before we started work

Completed By:

Date:

8-24-15



Daily Work Sheet

Date:	8-26-19	Day:	Wednesday	Client/HOA Name:	Ken Cummings
Job Location/Address:	31 Baker Ln. MT. PLEASANT				
Community Complex:	ION				
Arrival Time:	10:00	Departure Time:	1:30		
Project Complete:	Yes	Additional Info:			

Personnel On Job Site

Project Manager:		Arrive Time:		Depart Time:	
Superintendent:	Tate	3.5	Arrive Time:	10:00	Depart Time:
Technician:		Arrive Time:		Depart Time:	
Technician:		Arrive Time:		Depart Time:	
Technician:		Arrive Time:		Depart Time:	

Purchases

Purchaser	Vender and Vender Location	Amount	Description of Items Purchased

Equipment and Consumables

QTY	Equipment / Supplies	QTY	Consumables

Job Details

Purpose	What Room of Property	What Caused The Problem	How Was This Repaired
Plumbing			
Electrical			
Carpentry			
Windows			
Doors			
Walls/Ceilings			
Roof/Flashing			
Exterior			
Other			

Description of Work Completed Daily:

Installed the book shelves in front of the dining room. Then moved the couch out of the master bedroom. Then clean/vacuumed up the floor. Removed the leftover debris from when the door was installed. Installed a new seal type over the seam of metal flashing on the left side of the window.
--

Completed By:	Tate	Date:	8-26-19
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NEW AGE CONTRACTORS, LLP.

Daily Work Sheet

Date:	9-1-15	Day:	Tuesday	Client/HOA Name:	Ken Casarino
Job Location/Address:	31151st	Mk. Pleasant			
Community Complex:	ION				
Arrival Time:	2:30	Departure Time:	4:00		
Project Complete:	Yes	(No)			
Additional Info:					

Personnel On Job Site

Project Manager:		Arrive Time:		Depart Time:		
Superintendent:	Todd	1.5	Arrive Time:	2:30	Depart Time:	4:00
Technician:		Arrive Time:		Depart Time:		
Technician:		Arrive Time:		Depart Time:		
Technician:		Arrive Time:		Depart Time:		

Purchases

Purchaser	Vender and Vender Location	Amount	Description of Items Purchased
Todd	ABC	20.93	Down post

Equipment and Consumables

QTY	Equipment / Supplies	QTY	Consumables

Job Details

Purpose	What Room of Property	What Caused The Problem	How Was This Repaired
Plumbing			
Electrical			
Carpentry			
Windows			
Doors			
Walls/Ceilings			
Roof/Flashing			
Exterior			
Other			

Description of Work Completed Daily

Re-installed the outlets in the kitchen. Also replaced the outlets on roof & out back. Had 1 PD that hung out of the street. Re-installed the old down spout on neighbors house. Took about 1.5 hrs to get everything finished.

Completed By:

Todd

Date:

9-1-15



NEW AGE CONTRACTORS, LLP.

Daily Work Sheet

Date: 9/2/15 Day: Wed Client/HOA Name: Ken Cavanagh

Job Location/Address: 31 Krier Ln Mt. P SC

Community Complex: ION

Arrival Time: 9:00 Departure Time: 1

Project Complete: Yes ☒ No ☐ Additional Info: Need to wire Red wire

in Fan so light is on its own switch
red wire is there

Personnel On Job Site

Project Manager:	Arrive Time:	Depart Time:
Superintendent: <u>Eric</u>	Arrive Time: <u>9</u>	Depart Time: <u>1</u>
Technician:	Arrive Time:	Depart Time:
Technician:	Arrive Time:	Depart Time:
Technician:	Arrive Time:	Depart Time:

Purchases			
Purchaser	Vender and Vender Location	Amount	Description of Items Purchased
<u>Eric</u>	<u>Lowe's JI</u>	<u>19.84</u>	<u>Spray Paint, screws, wire nut</u>

KEN CAVANAGH
31 KRIER LANE
ION



LOWE'S HOME CENTERS, LLC
770 DANIEL ELLIS DR.
CHARLESTON, SC 29412 (843) 795-9774

SALE -
SALES#: S06610V1 1942384 TRANS#: 95198787 09-02-15

98722 12-02 ANODIZED BRONZE R-0 7.36
3.88 DISCOUNT EACH -0.19
2 @ 3.69
502050 SPECTRA 10-CT 8 X 1/2 WHIT 1.74
0.92 DISCOUNT EACH -0.05
2 @ 0.87
409431 10CT #6-32X1.5IN SS NCHEN 1.83
1.98 DISCOUNT EACH -0.10
291607 0.5-IN X 20-FT 6-CT ELCT 4.92
5.18 DISCOUNT EACH -0.26
49645 ORANGE VIRENUTS 25-PACK 2.37
2.49 DISCOUNT EACH -0.12

SUBTOTAL: 18.29
TAX: 1.55
INVOICE TOTAL: 19.84
LAW: 19.84

TOTAL DISCOUNT: 0.96
MY LOWE'S CARD NUMBER: 481000499972725

LAR:XXXXXXXXXX8164 AMOUNT:19.84 AUTHCD:001081
SHIPPED REFID: 09/02/15 08:59:58

LAR PO: ION
ACCOUNT NAME: NEW AGE CONTRACTORS
CASH BUYER: THOMPSON ERIC

ACCOUNT WILL BE BILLED UPON MERCHANDISE TRANSACTION
DATE FOR STOCK MERCHANDISE AND NO LATER THAN 90 DAYS
FROM TRANSACTION DATE FOR SOS OR DIRECT DELIVERY
MERCHANDISE.

E. Thompson

SPRINT, NCCS TCDUTM01 06 09/02/15 09:00:05

Roof/Flashing			
Exterior			
Other			

Description of Work Completed Daily

Installed Ceiling Fan in master, re-installed outlets & cover plates in master
Put up register & smoke detector.
Put curtain rods back up, re-hung light & Fan in bathroom

Completed By:

E. Thompson

Date:

9/2/15

1120



NEW AGE CONTRACTORS, LLP.

Daily Work Sheet

Date: 9-3-15 Day: Thurs Client/HOA Name: Ken Cavanaugh
Job Location/Address: 31 Hrier Lane Mt. P. SC ION
Community Complex: ION
Arrival Time: 9 Departure Time: 11
Project Complete: Yes ☐ No ☐ Additional Info: _____

Personnel On Job Site

Project Manager:	Arrive Time:	Depart Time:
Superintendent: <u>Eric</u>	Arrive Time: <u>9</u>	Depart Time: <u>11</u>
Technician:	Arrive Time:	Depart Time:
Technician:	Arrive Time:	Depart Time:
Technician:	Arrive Time:	Depart Time:

Purchases

Purchaser	Vender and Vender Location	Amount	Description of Items Purchased

Equipment and Consumables

QTY	Equipment / Supplies	QTY	Consumables

Job Details

Purpose	What Room of Property	What Caused The Problem	How Was This Repaired
Plumbing			
Electrical			
Carpentry			
Windows *			
Doors			
Walls/Ceilings			
Roof/Flashing			
Exterior			
Other			

Description of Work Completed Daily

Fixed Ceiling Fan where light is on separate switch. Removed old grout + applied unsanded grout Caulk around where Back splash meets granite + along the Sides
Cleaned up

Completed By:

[Signature]

Date:

9/3/15



Daily Work Sheet

Date:	8-5-15	Day:	Wednesday	Client/HOA Name:	Ken Cavunough
Job Location/Address:	31 Haver Ln.	MT. PLEASANT			
Community Complex:	I-ON				
Arrival Time:	~~9:45~~ 9:45	Departure Time:			10:45
Project Complete:	Yes	No		Additional Info:	

Personnal On Job Site

Project Manager:		Arrive Time:		Depart Time:	
Superintendent:	<i>Todd</i>	Arrive Time:	<i>9:45</i>	Depart Time:	<i>10:45</i>
Technician:		Arrive Time:		Depart Time:	
Technician:		Arrive Time:		Depart Time:	
Technician:		Arrive Time:		Depart Time:	

Purchases

Purchaser	Vender and Vender Location	Amount	Description of Items Purchased
Timber	Lowes	15.00	Stairs

[illegible]

Description of Work Completed Daily

Robin (Scott's guy) came to look at the parking lot across the street.
Jesus suited the needed urgent. Out to remove the root and all of it
causing dirt ~~and~~ went.

Completed By:

Date _____



Daily Work Sheet

Date:	8-6-15	Day:	Thursday	Client/HOA Name:	Ken Cavanaugh
Job Location/Address:	31 Haver Ln. JON MT. PLEASANT				
Community Complex:	JON				
Arrival Time:	11:30	Departure Time:	2:00		
Project Complete:	Yes	(No)	Additional Info:		

Personnel On Job Site

Project Manager:		Arrive Time:		Depart Time:		
Superintendent:	Todd	2.5	Arrive Time:	11:30	Depart Time:	2:00
Technician:			Arrive Time:		Depart Time:	
Technician:			Arrive Time:		Depart Time:	
Technician:			Arrive Time:		Depart Time:	

Purchases

Purchaser	Vender and Vender Location	Amount	Description of Items Purchased

Equipment and Consumables

QTY	Equipment / Supplies	QTY	Consumables

Job Details

Purpose	What Room of Property	What Caused The Problem	How Was This Repaired
Plumbing			
Electrical			
Carpentry			
Windows			
Doors			
Walls/Ceilings			
Roof/Flashing			
Exterior			
Other			

Description of Work Completed Daily

Remove all plastic wall in the piano room. Remove the plastic covering in game room. Remove all materials that were not needed in the game room. Remove all the plastic & tape that was over the windows.
--

Completed By:

Todd

Date:

8-6-15



NEW AGE CONTRACTORS, LLP.

Daily Work Sheet

Date: 9/4/15 Day: Friday Client/HOA Name: Ken Cavanaugh
Job Location/Address: 31 Krier Lane, 30010, Mt. P, SC ION
Community Complex: ION
Arrival Time: 430 Departure Time: 600
Project Complete: Yes → my Part Additional Info: 6

Personnel On Job Site

Project Manager:	Arrive Time:	Depart Time:
Superintendent: <u>Eric</u>	Arrive Time: <u>430</u>	Depart Time: <u>630</u>
Technician:	Arrive Time:	Depart Time:
Technician:	Arrive Time:	Depart Time:
Technician:	Arrive Time:	Depart Time:

Purchases

Purchaser	Vender and Vender Location	Amount	Description of Items Purchased

Equipment and Consumables

QTY	Equipment / Supplies	QTY	Consumables

Job Details

Purpose	What Room of Property	What Caused The Problem	How Was This Repaired
Plumbing			
Electrical			
Carpentry			
Windows			
Doors			
Walls/Ceilings			
Roof/Flashing			
Exterior			
Other			

Description of Work Completed Daily

Went to job site, had to clean out trailer, had to put 10 sheets of plywood in trailer, had to put 5/8 sheetrock in trailer & any other material that belong to us. Brought trailer back & put in the proper location

Completed By:

Eric King

Date:

9/4/15

Cavanaugh, Karyn

From: Fournier, Chelsea E <Chelsea.Fournier@td.com>
Sent: Tuesday, July 28, 2015 9:52 AM
To: Cavanaugh, Karyn
Subject: FW: Ken Cavanaugh Bank Transfer

Good Morning:

The other \$25k was released around 7/7/15 as a wire to the builder. Email shown below.

Additionally, another email was sent a little later that morning and is shown here:

From: Martha Johnston [mailto:martha.newage@yahoo.com]
Sent: Tuesday, July 07, 2015 9:08 AM
To: Fournier, Chelsea E
Subject: Re: Ken Cavanaugh Bank Transfer

I just spoke with Junior. He said we are no where near completion. There is more money coming from the insurance company due to multiple and large change orders. There is no need for a final inspection at this time.

Thank You

Martha Johnston
New Age Contractors
43-377-7709
martha.newage@yahoo.com

From: "Fournier, Chelsea E" <Chelsea.Fournier@td.com>
To: Martha Johnston <martha.newage@yahoo.com>; Janie Stevens <janie@andycookcpa.com>
Sent: Tuesday, July 7, 2015 8:47 AM
Subject: RE: Ken Cavanaugh Bank Transfer

Good Morning:

We can have the wire sent out today but it will not be released until 3PM. In order to have the remaining funds released, we need to see the final requisition sheet come through and we will order a final inspection. Can you please also make sure the builder understands this requirement and that the builder and borrower sign off on the remaining funds of \$2,909.42?

Thank you!

Chelsea Fournier

Chelsea Fournier

Insurance Loss Servicer & Converted Construction Loan Servicer

RBO Specialty Channel Mortgage Operations

FD Bank, America's Most Convenient Bank

140 Mill Street Bates Mill #3 Lewiston, ME 04240

Mail Stop: ME2-001-023

Phone: 207-755-6224| Fax: 207-755-6331

PTO ALERT: 7/2, 7/3, 7/10, 7/17

From: Martha Johnston [mailto:martha.newage@yahoo.com]

Sent: Tuesday, July 07, 2015 8:18 AM

To: Fournier, Chelsea E; Janie Stevens

Subject: Ken Cavanaugh Bank Transfer

Good morning Chelsea,

We need another bank transfer for the same amount as last time: The customer has already approved it. I have included Janie at Andy Cook's office. She is the lady you spoke with the last time. If either of you have any questions, please contact me. Junior said this needs to happen today. Thanks ladies and have a blessed week.

Thank You

Martha Johnston

New Age Contractors

843-377-7709

martha.newage@yahoo.com

This message and any attachments may contain confidential or privileged information and are intended only for the use of the intended recipients of this message. If you are not the intended recipient of this message, please notify the sender by return email, and delete this and all copies of this message and any attachments from your system. Any unauthorized disclosure, use, distribution, or reproduction of this message or any attachments is prohibited and may be unlawful.

1283

NAC
NEW AGE CONTRACTORS, LLP.

P.O. Box 400, Edisto Island, SC. 29438
Newage.contractors@yahoo.com
843-202-5024

License Number: G116850

June 17, 2015

Karyn and Kenneth Cavanaugh
31 Krier Lane
Mount Pleasant, SC 29464

Subject: Claim No. 090026094 / Limited Fungi, Wet and Dry Rot

Dear Mr. Cavanaugh,

Please be advised we have received and reviewed the documents regarding your recent claim with Frontline Insurance.

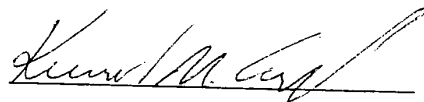
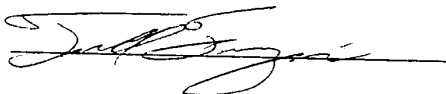
New Age Contractors, LLP will maintain and complete any and all repairs as outlined in the insurance xactimate. Estimate prepared by Ellen Westcoat on April 8, 2015.

Total cost reflected via the xactimate provided from Frontline Insurance Claim No. 090026094 is for \$32,594.10

Thank you for the opportunity, and we look forward to working with you.

Tradd Frazier - Superintendent

Kenneth Cavanaugh



FRONTline Frontline Insurance
INSURANCE

7131 Business Park Lane
Suite 300
Lake Mary, Florida 32746
Phone: 1-877-444-5228

Insured: Karyn and Kenneth Cavanaugh
Property: 31 Krier Lane
Mt. Pleasant, SC 29464-6642

Claim Rep.: Kim Maiocchi

Business: (321) 249-8152

Estimator: Ellen Westcoat

Business: (843) 814-1327

Claim Number: 009-26094

Policy Number: FFH3-54417

Type of Loss: Limited Fungi, Wet and Dry
Rot

Date Contacted: 4/7/2015

Date of Loss: 3/29/2015

Date Received: 4/7/2015

Date Inspected: 4/8/2015

Date Entered: 4/7/2015 4:33 PM

Date Est. Completed: 10/21/2015 1:10 PM

Price List: SCCH7X_APR15

Restoration/Service/Remodel

Estimate: 2015-04-0700926094RS

Company: Frontline Homeowners Insurance

Policy Type: Homeowners

Policy Form: HO 00 03 10 00

Policy Date: March 14, 2014 through March 14, 2015

Coverage A: \$ 870,000.00

Coverage B: \$ 87,000.00

Coverage C: \$ 435,000.00

Coverage D: \$ 174,000.00

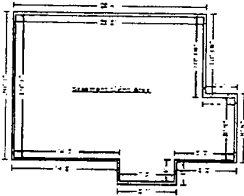
Deductible \$ 5,000.00

Mortgagee: TD Bank, NA

7131 Business Park Lane
Suite 300
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Phone: 1-877-444-5228

2015-04-0700926094RS

Basement Living



Basement Living Area

Height: 9'

946.50 SF Walls	562.81 SF Ceiling
1509.31 SF Walls & Ceiling	562.81 SF Floor
62.53 SY Flooring	105.17 LF Floor Perimeter
105.17 LF Ceil. Perimeter	

DESCRIPTION	QUANTITY	UNIT COST	RCV	DEPREC.	ACV
1. Containment Barrier/Airlock/Decon. Chamber	220.00 SF	0.56	123.20	(0.00)	123.20
2. R&R Metal lath & stucco	300.00 SF	4.30	1,290.00	(171.90)	1,118.10
3. Mask and prep for paint - plastic, paper, tape (per L.F)	300.00 LF	1.10	330.00	(99.00)	231.00
4. Stucco Plasterer - per hour	16.00 HR	35.17	562.72	(56.27)	506.45
Above line item labor added to replace stucco style to match.					
5. Paint stucco	600.00 SF	0.64	384.00	(115.20)	268.80
Above line item quantity changed to paint replaced stucco two coats to match.					
Totals: Basement Living Area			2,689.92	442.37	2,247.55
Total: Basement Living			2,689.92	442.37	2,247.55

Main Level



Sunken Living Room

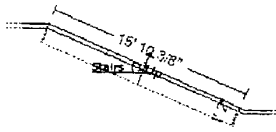
Height: 11' 6"

1267.78 SF Walls	562.92 SF Ceiling
1830.70 SF Walls & Ceiling	562.92 SF Floor
62.55 SY Flooring	112.30 LF Floor Perimeter
124.36 LF Ceil. Perimeter	

Missing Wall - Goes to Floor	4' 1" X 6' 8"	Opens into Exterior
Missing Wall - Goes to Floor	7' 11 3/4" X 6' 8"	Opens into Exterior
Door	4' 1/2" X 0"	Opens into Exterior
Door	4' 1/2" X 0"	Opens into Exterior
Door	4' 2 7/16" X 0"	Opens into Exterior

FRONTline Frontline Insurance
INSURANCE

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Subroom: Stairs (1)

Height: 17'

18.47 SF Walls & Ceiling
8.65 SY Flooring

18.47 SF Ceiling
77.84 SF Floor

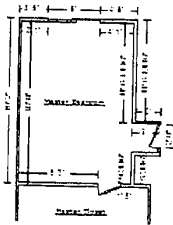
Missing Wall	15' 10" X 17'	Opens into Exterior
Missing Wall	1' 2" X 17'	Opens into Exterior
Missing Wall	1' 1 13/16" X 17'	Opens into Exterior

DESCRIPTION	QUANTITY	UNIT COST	RCV	DEPREC.	ACV
6. Containment Barrier/Airlock/Decon. Chamber	220.00 SF	0.56	123.20	(0.00)	123.20
7. Remove Metal lath & stucco	300.00 SF	0.48	144.00	(0.00)	144.00
8. R&R House wrap (air/moisture barrier)	300.00 SF	0.23	69.00	(0.00)	69.00
9. Metal lath & stucco	300.00 SF	3.82	1,146.00	(0.00)	1,146.00
10. Mask and prep for paint - plastic, paper, tape (per LF)	124.36 LF	1.10	136.80	(41.04)	95.76
11. Stucco Plasterer - per hour	16.00 HR	35.17	562.72	(56.27)	506.45
Above line item labor added to replace stucco style to match.					
12. Paint stucco	600.00 SF	0.64	384.00	(115.20)	268.80
Above line item quantity changed to paint two coats to match.					
Totals: Sunken Living Room			2,565.72	212.51	2,353.21

Total: Main Level	2,565.72	212.51	2,353.21
Second Level			

FRONTline Frontline Insurance
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Master Bedroom

Height: 8'

557.33 SF Walls
813.11 SF Walls & Ceiling
28.42 SY Flooring
69.67 LF Ceil. Perimeter

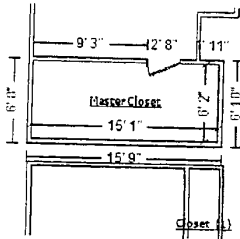
255.78 SF Ceiling
255.78 SF Floor
69.67 LF Floor Perimeter

Door 2' 8" X 0" Opens into MASTER_CLOSE
Door 2' 8" X 0" Opens into Exterior
Door 6' X 0" Opens into Exterior

DESCRIPTION	QUANTITY	UNIT COST	RCV	DEPREC.	ACV
13. Containment Barrier/Airlock/Decon. Chamber	220.00 SF	0.56	123.20	(0.00)	123.20
14. Wood window unit - Detach & reset	1.00 EA	80.69	80.69	(0.00)	80.69
15. Electrician - per hour	8.00 HR	74.47	595.76	(0.00)	595.76
Above line item labor added to remove outlets prior to framing repair and repalce in conjunction with contractor.					
16. Remove Metal lath & stucco	216.00 SF	0.48	103.68	(0.00)	103.68
17. R&R House wrap (air/moisture barrier)	216.00 SF	0.23	49.68	(4.32)	45.36
18. Metal lath & stucco	216.00 SF	3.82	825.12	(123.77)	701.35
19. Header - double 2" x 12" - treated	20.00 L.F	8.36	167.20	(16.72)	150.48
20. R&R Sheathing - plywood - 5/8" - treated	216.00 SF	2.10	453.60	(37.37)	416.23
21. 2" x 4" lumber - treated (.667 BF per LF)	200.00 LF	1.81	362.00	(36.20)	325.80
22. Carpenter - General Frammer - per hour	32.00 HR	45.57	1,458.24	(0.00)	1,458.24
Above line item labor added to place temporary support posts, during exterior framing repair.					
23. Temporary shoring post - Screw jack (per day)	40.00 DA	27.28	1,091.20	(0.00)	1,091.20
Above line item quantity added for 4 posts for 10 days.					
24. Mask and prep for paint - plastic, paper, tape (per LF)	69.67 L.F	1.10	76.64	(22.99)	53.65
25. Stucco Plasterer - per hour	16.00 HR	35.17	562.72	(56.27)	506.45
Above line item labor added to replace stucco style to match.					
26. Paint stucco	432.00 SF	0.64	276.48	(82.94)	193.54
Above line item quantity changed to paint two coats to match.					
Totals: Master Bedroom			6,226.21	380.58	5,845.63

FRONTline Frontline Insurance
INSURANCE

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Master Closet

Height: 8'

340.00 SF Walls
433.01 SF Walls & Ceiling
10.33 SY Flooring
42.50 LF Ceil. Perimeter
93.01 SF Ceiling
93.01 SF Floor
42.50 LF Floor Perimeter

Door

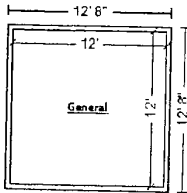
2' 8" X 0"

Opens into MASTER_BEDRO

DESCRIPTION	QUANTITY	UNIT COST	RCV	DEPREC.	ACV
27. Containment Barrier/Airlock/Decon. Chamber	80.00 SF	0.56	44.80	(0.00)	44.80
28. Wood window unit - Detach & reset	1.00 EA	80.69	80.69	(0.00)	80.69
29. Electrician - per hour Above line item labor added to remove outlets prior to framing repair and repalce in conjunction with contractor.	8.00 HR	74.47	595.76	(0.00)	595.76
30. Remove Metal lath & stucco	84.00 SF	0.48	40.32	(0.00)	40.32
31. R&R House wrap (air/moisture barrier)	84.00 SF	0.23	19.32	(1.68)	17.64
32. Metal lath & stucco	84.00 SF	3.82	320.88	(48.13)	272.75
33. 2" x 4" lumber - treated (.667 BF per LF)	96.00 LF	1.81	173.76	(17.38)	156.38
34. Carpenter - General Frammer - per hour Above line item labor added to place temporary support posts, during exterior framing repair.	32.00 HR	45.57	1,458.24	(0.00)	1,458.24
35. Temporary shoring post - Screw jack (per day) Above line item quantity added for 4 posts for two days.	40.00 DA	27.28	1,091.20	(0.00)	1,091.20
36. Mask and prep for paint - plastic, paper, tape (per LF)	42.50 LF	1.10	46.75	(14.03)	32.72
37. Stucco Plasterer - per hour Above line item labor added to replace stucco style to match.	16.00 HR	35.17	562.72	(56.27)	506.45
38. Paint stucco Above line item quantity changed to paint entire north face of the dwelling to match.	168.00 SF	0.64	107.52	(32.26)	75.26
Totals: Master Closet			4,541.96	169.75	4,372.21

FRONTline Frontline Insurance
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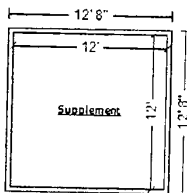
General

Height: 8'

384.00 SF Walls	144.00 SF Ceiling
528.00 SF Walls & Ceiling	144.00 SF Floor
16.00 SY Flooring	48.00 LF Floor Perimeter
48.00 LF Ceil. Perimeter	

DESCRIPTION	QUANTITY	UNIT COST	RCV	DEPREC.	ACV
39. Dumpster load - Approx. 20 yards, 4 tons of debris	1.00 EA	435.00	435.00	(0.00)	435.00
40. Tarp - all-purpose poly - per sq ft (labor and material)	1,200.00 SF	0.59	708.00	(0.00)	708.00
Above line item to apply tarps on ground to catch debris.					
41. Scaffolding Setup & Take down - per hour	40.00 HR	27.63	1,105.20	(0.00)	1,105.20
42. Scaffold - per section (per week)	96.00 WK	48.00	4,608.00	(0.00)	4,608.00
Above line item added for 12 sections for 6 weeks to remove and replace stucco, damaged sheathing and framing, including stucco finish.					
43. Water Extraction & Remediation Technician - per hour	40.00 HR	39.38	1,575.20	(0.00)	1,575.20
Above line item added to set positive air flow inside containment barriers to prevent bacteria from entering dwelling.					
44. Paint stucco	3,600.00 SF	0.64	2,304.00	(691.20)	1,612.80
Above line item added to paint stucco at west elevation to match.					
45. Final cleaning - construction - Commercial	1,800.00 SF	0.12	216.00	(0.00)	216.00
Totals: General			10,951.40	691.20	10,260.20
Total: Second Level			21,719.57	1,241.53	20,478.04

Supplement



Supplement

Height: 8'

384.00 SF Walls	144.00 SF Ceiling
528.00 SF Walls & Ceiling	144.00 SF Floor
16.00 SY Flooring	48.00 LF Floor Perimeter
48.00 LF Ceil. Perimeter	

DESCRIPTION	QUANTITY	UNIT COST	RCV	DEPREC.	ACV
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2015-04-0700926094RS

10/21/2015

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FRONTline Frontline Insurance
INSURANCE

7131 Business Park Lane
Suite 300
Lake Mary, Florida 32746
Phone: 1-877-444-5228

CONTINUED - Supplement

DESCRIPTION	QUANTITY	UNIT COST	RCV	DEPREC.	ACV
46. Stucco & Exterior Plaster (Bid Item)	1.00 EA	30,985.00	30,985.00	(0.00)	30,985.00
Above line item price changed to match stucco replacement per New Age Contractors:					
S 21,457.00 Left Side Dwelling					
S 9,528.00 Right Side Dwelling					
S 30,985.00 Total Supplemental Repairs					
Totals: Supplement			30,985.00	0.00	30,985.00
Total: Supplement			30,985.00	0.00	30,985.00
Line Item Totals: 2015-04-0700926094RS			57,960.21	1,896.41	56,063.80

Grand Total Areas:

5,906.44 SF Walls	2,585.15 SF Ceiling	8,491.59 SF Walls and Ceiling
2,644.52 SF Floor	293.84 SY Flooring	678.99 LF Floor Perimeter
0.00 SF Long Wall	0.00 SF Short Wall	691.05 LF Ceil. Perimeter
2,644.52 Floor Area	2,807.39 Total Area	5,805.95 Interior Wall Area
5,413.38 Exterior Wall Area	624.58 Exterior Perimeter of Walls	
0.00 Surface Area	0.00 Number of Squares	0.00 Total Perimeter Length
0.00 Total Ridge Length	0.00 Total Hip Length	

Coverage	Item Total	%	ACV Total	%
Dwelling	0.00	0.00%	0.00	0.00%
Other Structures	0.00	0.00%	0.00	0.00%
Contents	0.00	0.00%	0.00	0.00%
M50 Limited Fungi - PAID	26,975.21	46.54%	30,664.00	49.74%
M50 Limited Fungi Supplement	30,985.00	53.46%	30,985.00	50.26%
Total	57,960.21	100.00%	61,649.00	100.00%

2015-04-0700926094RS

10/21/2015

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FRONTline **Frontline Insurance**
INSURANCE

7131 Business Park Lane
Suite 300
Lake Mary, Florida 32746
Phone: 1-877-444-5228

Summary for M50 Limited Fungi - PAID

Line Item Total			26,975.21
Overhead	@	10.0%	2,697.52
Profit	@	10.0%	2,697.52
Material Sales Tax	@	8.500%	223.85
Replacement Cost Value			\$32,594.10
Less Depreciation			(1,930.10)
Actual Cash Value			\$30,664.00
Net Claim			\$30,664.00
Total Recoverable Depreciation			1,930.10
Net Claim if Depreciation is Recovered			\$32,594.10

Ellen Westcoat

*Contract w
New Age*

Fungi, Wet, Dry, Rot	Item Number	Description	RCV	Not Done
Basement Living Area	1	Containment Barrier/Air Lock	220 sf \$ 123.20	
	2	R&R Metal lath & stucco	300 sf \$ 1,290.00	
	3	Mask and prep for paint - plastic	300 sf \$ 330.00	
	4	Stucco plasterer	16 hr \$ 562.72	\$ 562.72
	5	Paint stucco	600 sf \$ 384.00	\$ 384.00
	Total		\$ 2,689.92	
Sunken Living Room	6	Containment Barrier/Air Lock	220 sf \$ 123.20	
	7	Remove metal lath & stucco	300 sf \$ 144.00	
	8	R&R House wrap (air/moisture barrier)	300 sf \$ 69.00	
	9	Metal lath & stucco	300 sf \$ 1,146.00	\$ 1,146.00
	10	Mask and prep for paint - plastic	124.36 lf \$ 136.80	
	11	Stucco plasterer	16 hr \$ 562.72	\$ 562.72
	12	Paint stucco	600 sf \$ 384.00	\$ 348.00
	Total		\$ 2,565.72	
Second level - MBR	13	Containment Barrier/Air Lock	220 sf \$ 123.20	
	14	Wood window unit - detach and reset	1 \$ 80.69	
	15	Electrician - per hour	8 hr \$ 595.76	
	16	Remove Metal lath and stucco	216 sf \$ 103.68	
	17	R&R House wrap (air/moisture barrier)	216 sf \$ 49.68	
	18	Metal lath & stucco	216 sf \$ 825.12	\$ 825.12
	19	Header - double 2"x 12" treated	20 lf \$ 167.20	
	20	R&R sheathing - plywood - 5/8" treated	216 sf \$ 453.60	
	21	2"x4" lumber - treated	200 lf \$ 362.00	
	22	Carpenter - General Framing - per hour	32 hr \$ 1,458.24	
	23	Temporary shoring post - screw jacket	40 da \$ 1,091.20	
	24	Mask and prep for paint - plastic, paper, tape	70 lf \$ 76.64	
	25	Stucco plasterer	16 hr \$ 562.72	\$ 562.72
	26	Paint Stucco	244 sf \$ 276.48	\$ 276.48
Total			\$ 6,226.21	
Second level - MBR closet	27	Containment Barrier/Air Lock	80 sf \$ 44.80	
	28	Wood window unit - detach and reset	1 \$ 80.69	
	29	Electrician - per hour	8 hr \$ 595.76	
	30	Remove Metal lath and stucco	84 sf \$ 40.32	
	31	R&R House wrap (air/moisture barrier)	84 sf \$ 19.32	
	32	Metal lath & stucco	84 sf \$ 320.88	
	33	2"x4" lumber - treated	96 lf \$ 173.76	
	34	Carpenter - General Framing - per hour	32 hr \$ 1,458.24	
	35	Temporary shoring post - screw jacket	40 da \$ 1,091.20	
	36	Mask and prep for paint - plastic, paper, tape	43 lf \$ 46.75	
	37	Stucco plasterer	16 hr \$ 562.72	\$ 562.72
	38	Paint Stucco	168 sf \$ 107.52	\$ 107.52
Total			\$ 4,541.96	
General	39	Dumpster load - 20 yards, 4 tons	1 \$ 435.00	
	40	Tarp	1200 sf \$ 708.00	
	41	Scaffolding set up and take down	40 hr \$ 1,105.20	
	42	Scaffold per section	96 wk \$ 4,608.00	
	43	Water extraction and remediation tech per hour	40 hr \$ 1,575.20	
	44	Paint stucco	3600 sf \$ 2,304.00	\$ 2,304.00
	45	Final Cleaning - construction - commercial	1800 sf \$ 216.00	
Total			\$ 10,951.40	

\$ 7,642.00

Line total check

Line item Total	\$	26,975.21	\$	48,706.42
Overhead	\$	2,697.52	\$	4,820.63
Profit	\$	2,697.52	\$	4,820.63
Tax	\$	229.85	\$	667.90
	\$	32,594.10	\$	59,015.58

Work
Not
perf.

Contract amt.

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)

2018CV1010600326
CIVIL CASE NUMBER

IN THE MAGISTRATE'S COURT
AFFIDAVIT OF SERVICE

Karyn Cavanaugh
31 Krier Lane
Mt Pleasant, SC 29464
(646) 342-9094

PLAINTIFF(S)

Vs

AGENT

New Age Contractors, Llp
827 Oyster Park Drive #C
Edisto Island, SC 29438

DEFENDANT(S)

843-377-7709
Junior Newell
1725 A Signal Point Road
Charleston, SC 29412

PERSONALLY APPEARED BEFORE ME

WHO, BEING DULY SWORN, SAYS THAT, ON THE 9th DAY OF MAY 2018,
S/HE SERVED JUNIOR NEWELL 12:52 PM

THE DEFENDANT ABOVE NAMED, BY DELIVERING COPIES THEREOF TO

PERSONALLY AND LEAVING THE SAME WITH

SAME

AT 1725 A Signal Point RD

, THE PLACE OF RESIDENCE/WORK/OTHER OF SAID DEFENDANT AND
THAT THE DEPONENT IS NOT A PARTY TO THIS ACTION.

☐ UNABLE TO LOCATE AND SERVE THE ABOVE PROCESS ON THE DEFENDANT AFTER DILIGENT EFFORTS
TO DO SO. THE PROCESS IS RETURNED UNEXECUTED.

Samuel E. Durbin
DEPUTY SHERIFF/CONSTABLE/PROCESS SERVER

DATE

May 9, 2018

SUBSCRIBED AND SWORN TO BEFORE ME THIS

10 DAY OF MAY, 2018
Marsha Sullivan
NOTARY PUBLIC OF SOUTH CAROLINA

Return to:

Small Claims - City
995 Morrison Drive
P. O. Box 941
Charleston, SC 29403
Phone: (843) 724-6720
Fax: (843) 724-6785

5-8-18 11:44 AM Left Note

FILED IN CHARLESTON COUNTY

MAY 10 2018
M. Sullivan
CITY SMALL CLAIMS COURT

LAW OFFICE OF
RANSOME H. HELMLY, LLC

409 COLEMAN BLVD., SUITE 200

MT. PLEASANT, SC 29464

P: 843-884-0184

F: 843-284-9871

rh@helmylaw.com

October 10, 2018

FILED IN CHARLESTON COUNTY
OCT 10 2018
CITY SMALL CLAIMS COURT

Via Hand-Delivery

Clerk of Court

Charleston County Magistrate Court

995 Morrison Drive

Charleston, SC 29403-4237

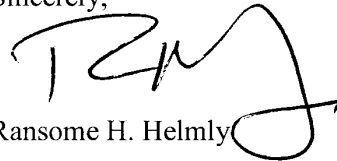
Re: Karyn Cavanaugh v. New Age Contractors LLP
Magistrate Civil Case No.: 2018CV1010600326

Dear Clerk of Court:

Please find enclosed for filing in the above matter the original and two copies of a Notice of Appeal in the above-referenced action. This Notice of Appeal is being filed contemporaneously in the Charleston County Court of Common Pleas. Kindly file the original and return the clocked copies. As always, thank you for your assistance. Please do not hesitate to give me a call if you have any questions or concerns.

With kindest regards, I am

Sincerely,



Ransome H. Helmy

cc: Steven L. Smith, Esq. (via hand-delivery)
Karyn Cavanaugh (via email)

enc: as stated

Niteki S. Williams

From: Karyn <karyncavanaugh@comcast.net>
Sent: Monday, September 24, 2018 11:28 AM
To: CitySmallClaims
Subject: Fwd: Case: 2018CV1010600326

FILED IN CHARLESTON COUNTY

SEP 24 2018
CITY SMALL CLAIMS COURT

CAUTION: This email originated outside of Charleston County. Do not click links or open attachments from unknown senders or suspicious emails. If you are not sure, please contact IT helpdesk.

>
>
>
>
> Good morning,
> I am requesting the case file for the above referenced case. I would like copies of the evidence presented, the transcript or tape recording of the proceeding if there is no transcript and a copy of the judgement and rationale. My phone number is 646-342-9094. I understand there is a fee and will be able to come to your office and pay in person.
> Thank you!
> Karyn Cavanaugh
>
> Sent from my iPad

**STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON**

Karyn Cavanaugh
31 Krier Lane
Mt Pleasant, SC 29464

Steven L Smith, Esq
PO Box 40578
Charleston, SC 29423

RE: Karyn Cavanaugh

Vs New Age Contractors, Llp

PLAINTIFF(S)

DEFENDANT(S)

CASE #: 2018CV1010600326

Please be advised that the above referenced case has been rescheduled. The new court date is **September 10, 2018 at 9:00 AM.**

Witnesses subpoenaed prior to the rescheduling will be reminded that they are under continuing subpoena.

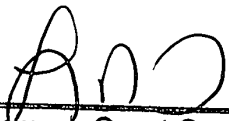
If you settle this case, please notify this Court in writing on this form and return it to the address listed at the bottom of this form.

THIS CASE HAS NOW BEEN SETTLED. PLEASE STOP ALL ACTION.

Signature

Print Name

Telephone Number



Summary Court Specialist

**Small Claims - City
995 Morrison Drive P. O. Box 941
Charleston, SC 29403
Phone: (843) 724-6720 Fax: (843) 724-6785**

July 23, 2018

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

Karyn Cavanaugh
31 Krier Lane
Mt Pleasant, SC 29464

Steven L Smith, Esq
PO Box 40578
Charleston, SC 29423

RE: Karyn Cavanaugh

Vs

New Age Contractors, Llp

PLAINTIFF(S)

DEFENDANT(S)

CASE #: 2018CV1010600326

A Bench Trial has been scheduled in this Court for **July 23, 2018 at 9:00 AM.**

Please disregard any previous default date given for your appearance. If any party does not appear, that party's case may be dismissed and a judgment may be entered against them.

If you have any witnesses, books or any evidence bearing on this claim, you need to bring them with you at the time of the hearing. If you need to subpoena witnesses, your request for the subpoenas must be submitted to this court, in writing, two (2) weeks prior to the hearing date and a fee of eight (\$8.00) dollars will be charged for each subpoena. This fee must be remitted when the subpoena is requested.

If you settle this case, please notify this Court in writing on this form and return it to the address listed at the bottom of this form.

THIS CASE HAS NOW BEEN SETTLED. PLEASE STOP ALL ACTION.

Signature

Print Name

Telephone Number



Summary Court Specialist

Small Claims - City
995 Morrison Drive P. O. Box 941
Charleston, SC 29403
Phone: (843) 724-6720 Fax: (843) 724-6785

May 31, 2018

Smith | Closser, P.A.

Attorneys at Law
7455 Cross County Road, Suite One
Post Office Box 40578
Charleston, South Carolina 29423-0578

Steven L. Smith
ssmith@scnlaw.com

Office – 843-760-0220
Fax – 843-552-2678
www.smithclosser.com

May 24, 2018

FILED IN CHARLESTON COUNTY

MAY 29 2018

CITY SMALL CLAIMS COURT

Charleston County Small Claims Court
995 Morrison Drive
Charleston, SC 29403

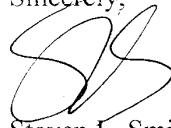
Re: Karyn Cavanaugh v. New Age Contractors, LLP
Case No.: 2018CV1010600326
SJC File No.: 18-163

Dear Clerk:

Enclosed please find an original and one copy of the Answer and Counterclaim of Defendant, New Age Contractors LLP, in the above referenced matter. Please file same and return the filed copy in the envelope provided.

If you have any questions concerning this or any other matter please do not hesitate to contact me.

Sincerely,



Steven L. Smith

SLS/kap
Enclosures

cc: Karyn Cavanaugh
New Age Contractors, LLP

Karyn Cavanaugh
31 Krier Lane
Mt Pleasant, SC 29464

Case # 2018CV1010600326

Cavanaugh v. New Age Contractors LLP

Please serve defendant at:

1725A Signal Point Road
Charleston, SC 29412

FILED IN CHARLESTON COUNTY

APR 27 2018

CITY SMALL CLAIMS COURT

DATE

4/27/18

SIGNATURE

Harry Cavanaugh

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

Karyn Cavanaugh
31 Krier Lane
Mt Pleasant, SC 29464

NOTIFICATION OF NON-SERVICE

RE: Karyn Cavanaugh

Vs New Age Contractors, Llp

PLAINTIFF(S)

DEFENDANT(S)

CASE NUMBER: 2018CV1010600326

Please be advised that your civil action has been returned from the Charleston County Sheriff's Department/Constable/Process Server with non-service for the following reason(s):

- ☐ Defendant does not reside in Charleston County
- ☐ Defendant no longer resides at given address
- ☐ Defendant is deceased
- ☐ Defendant's address is unknown
- ☐ Vacant Lot
- ☐ Apartment number or lot number required
- ☐ Defendant never home
- ☐ Unable to serve after five or more attempts
- ☐ Restraining Orders - There is NOT a fee of \$10 to attempt service at a new address.

Other: Defendant not at this address, apt. C is empty.

Please note that **the Court must receive any new address within 30 days** from the date of this letter with a fee of \$10 to attempt service at the new address. Should no new address be supplied within the number of days stated above, this action will be dismissed and you will be required to re-file for further action. Please submit any new information to the below address or fax to the number shown.

Small Claims - City
995 Morrison Drive P. O. Box 941
Charleston, SC 29403
Phone: (843) 724-6720 Fax: (843) 724-6785


Summary Court Specialist

April 12, 2018

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

2018CV1010600326
CIVIL CASE NUMBER

IN THE MAGISTRATE'S COURT
AFFIDAVIT OF SERVICE

Karyn Cavanaugh
31 Krier Lane
Mt Pleasant, SC 29464
(646) 342-9094

PLAINTIFF(S)

Vs

AGENT

New Age Contractors, LLP
827 Oyster Park Drive #C
Edisto Island, SC 29438

Junior Newell

DEFENDANT(S)

PERSONALLY APPEARED BEFORE ME _____
WHO, BEING DULY SWORN, SAYS THAT, ON THE _____ DAY OF _____ 20____,
S/HE SERVED _____
THE DEFENDANT ABOVE NAMED, BY DELIVERING COPIES THEREOF TO

_____ PERSONALLY AND LEAVING THE SAME WITH

AT _____,
_____, THE PLACE OF RESIDENCE/WORK/OTHER OF SAID DEFENDANT AND
THAT THE DEPONENT IS NOT A PARTY TO THIS ACTION.

☒ UNABLE TO LOCATE AND SERVE THE ABOVE PROCESS ON THE DEFENDANT AFTER DILIGENT EFFORTS
TO DO SO. THE PROCESS IS RETURNED UNEXECUTED.

*NOT AT THIS Address
Building is Empty #C Suite A is open*

DEPUTY SHERIFF/CONSTABLE/PROCESS SERVER

SUBSCRIBED AND SWORN TO BEFORE ME THIS
_____ DAY OF _____, 20____

DATE

NOTARY PUBLIC OF SOUTH CAROLINA

Return to:
Small Claims - City
995 Morrison Drive
P. O. Box 941
Charleston, SC 29403
Phone: (843) 724-6720
Fax: (843) 724-6785

FILED IN CHARLESTON COUNTY

APR 12 2018
[Signature]
CITY SMALL CLAIMS COURT

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

)
) **2018CV1010600326**
) CIVIL CASE NUMBER

) IN THE MAGISTRATE'S COURT
)
)

)
) **SUMMONS**

Karyn Cavanaugh
31 Krier Lane
Mt Pleasant, SC 29464
(646) 342-9094

PLAINTIFF(S)

Vs

AGENT

New Age Contractors, LLP
827 Oyster Park Drive #C
Edisto Island, SC 29438

Junior Newell

DEFENDANT(S)

TO THE DEFENDANT(S) NAMED ABOVE:

YOU ARE SUMMONED and required to Answer the allegations and present any appropriate Counterclaims/Crossclaims to the attached Complaint/Counterclaim within THIRTY days from the first day after receipt of this Summons. Your Answer must be received by the:

**Charleston County
Small Claims - City
995 Morrison Drive P. O. Box 941
Charleston, SC 29403
Phone: (843) 724-6720 Fax: (843) 724-6785**

If you fail to Answer within the prescribed time, a Judgment by Default will be rendered against you for the amount or other remedy requested in the attached Complaint, plus interest and costs. **If you desire a jury trial, you must request one within five (5) business days before the date of trial.** If no jury trial is timely requested, the matter will be heard and decided by the Judge.

READ ATTACHED INSTRUCTIONS CAREFULLY

March 26, 2018

STATE OF SOUTH CAROLINA)

COUNTY OF CHARLESTON)

2018CV1010600326
CIVIL CASE NUMBER

IN THE MAGISTRATE'S COURT

ANSWER

Karyn Cavanaugh
31 Krier Lane
Mt Pleasant, SC 29464
(646) 342-9094

PLAINTIFF(S)

Vs

AGENT

New Age Contractors, Llp
827 Oyster Park Drive #C
Edisto Island, SC 29438

DEFENDANT(S)

Junior Newell
1725 A Signal Point Rd
Charleston, SC 29412

On _____ I was served with a Complaint requiring me to answer within thirty days from the date of service. My Answer, which is hereby filed with the **Charleston County Summary Court**, is as follows:

CHECK ONE:

A. ☐ I contest the jurisdiction of the court based on the following: (use additional pages if necessary)

B. ☐ I admit everything in the complaint and do not want a trial.

C. ☐ I admit that I am responsible, but not for the total amount claimed by the Plaintiff(s) because: (use additional pages if necessary)

D. ☐ I deny that I am responsible at all because: (use additional pages if necessary)

YOU MUST FILE THIS DOCUMENT WITH THE COURT WITHIN THIRTY DAYS

THE DEFENDANT/PLAINTIFF STATES THAT THE INFORMATION CONTAINED IN THIS ANSWER IS TRUE AND CORRECT TO THE BEST OF HIS/HER KNOWLEDGE.

DATED: _____

SIGNATURE OF DEFENDANT(S) (OR ATTORNEY)

****IF MORE THAN ONE DEFENDANT, ALL MUST FILE ANSWER****

PLEASE RETURN TO:

Small Claims - City
995 Morrison Drive, P. O. Box 941
Charleston, SC 29403
Phone: (843) 724-6720

STATE OF SOUTH CAROLINA)

COUNTY OF CHARLESTON)

2018CV1010600326
CIVIL CASE NUMBER

IN THE MAGISTRATE'S COURT

ANSWER

Karyn Cavanaugh
31 Krier Lane
Mt Pleasant, SC 29464
(646) 342-9094

PLAINTIFF(S)

Vs

AGENT

New Age Contractors, LLP
827 Oyster Park Drive #C
Edisto Island, SC 29438

Junior Newell

DEFENDANT(S)

On _____ I was served with a Complaint requiring me to answer within thirty days from the date of service. My Answer, which is hereby filed with the **Charleston County Summary Court**, is as follows:

CHECK ONE:

A. ☐ I contest the jurisdiction of the court based on the following: (use additional pages if necessary)

B. ☐ I admit everything in the complaint and do not want a trial.

C. ☐ I admit that I am responsible, but not for the total amount claimed by the Plaintiff(s) because: (use additional pages if necessary)

D. ☐ I deny that I am responsible at all because: (use additional pages if necessary)

YOU MUST FILE THIS DOCUMENT WITH THE COURT WITHIN THIRTY DAYS

THE DEFENDANT/PLAINTIFF STATES THAT THE INFORMATION CONTAINED IN THIS ANSWER IS TRUE AND CORRECT TO THE BEST OF HIS/HER KNOWLEDGE.

DATED: _____

SIGNATURE OF DEFENDANT(S) (OR ATTORNEY)

****IF MORE THAN ONE DEFENDANT, ALL MUST FILE ANSWER****

PLEASE RETURN TO:

Small Claims - City
995 Morrison Drive, P. O. Box 941
Charleston, SC 29403
Phone: (843) 724-6720

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)
)
)

2018CV1010600326
CIVIL CASE NUMBER
2019-CP-10-1091
IN THE MAGISTRATE'S COURT

RETURN OF THE CIVIL APPEAL

Karyn Cavanaugh
31 Krier Lane
Mt Pleasant, SC 29464
(646) 342-9094

PLAINTIFF(S)

Vs

New Age Contractors, Llp
P O Box 40578
Charleston, SC 29423

DEFENDANT(S)

The attached documents comprise the case file of the Small Claims - City. As required by Section 18-7-60, SC Code of Laws, this file is transmitted to the Court of Common Pleas as the result of an appeal. The following documents are attached:

- ☒ Summons, Complaint and Proof of Service
- ☐ Pretrial Motions and Orders granting or denying
- ☐ Jury Strike Proceedings (if applicable)
- ☒ Trial proceedings, summary of trial
- ☐ Instructions given to jury or denied
- ☒ Order of Judgment signed by the Trial Judge
- ☐ Post-trial Motions and Orders granting or denying
- ☒ All papers and notices of hearings and trial
- ☒ Notice of Appeal and date filed with the Court
- ☐ Other (describe):

HWG/1ad
JUDGE/CLERK

Small Claims - City
995 Morrison Drive
P. O. Box 941
Charleston, SC 29403
Phone: (843) 724-6720
Fax: (843) 724-6785

March 4, 2019

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)
)
Karyn Cavanaugh,)
)
Appellant,)
)
v.)
)
New Age Contractors, LLP,)
)
Respondent.)
_____)

COURT OF COMMON PLEAS

2018-CP-10-4907

**APPELLANT'S
MEMORANDUM IN SUPPORT OF
APPEAL**

2019 JUL 31 PM 4:51
JULIE J. ARMSTRONG
CLERK OF COURT

FILED AB

INTRODUCTION

Appellant Karyn Cavanaugh submits this memorandum in support of her appeal of the September 10, 2018 judgment of the Magistrate's Court. The Court should reverse the Magistrate's judgment on the following grounds:

1. The Magistrate failed to recognize and/or consider the breach of the only valid, unambiguous, and enforceable contract between the parties.
2. The Magistrate found a separate or altered contract in favor of Respondent despite, as a matter of law, the insufficiency of the evidence presented.
3. The underlying proceeding was conducted in a manner which failed to do substantial justice between the parties and gave the appearance of impropriety inconsistent with the scope and purpose of Magistrates Court.

BACKGROUND

On June 17, 2015, Appellant Karyn Cavanaugh ("Ms. Cavanaugh"), and Respondent, New Age Contractors, LLP ("New Age"), entered into a contract for residential home repairs for water damage to the Ms. Cavanaugh's home located at 31 Krier Lane, Mt. Pleasant, South Carolina 29464. Memo Ex. A. The scope of repair was set forth

in an estimate or “Exactimate” prepare by Frontline Insurance Company (“Frontline”), the Appellant’s home insurer. See Memo Ex. E – Hrg. Transcr. 60:2. Specifically, the scope of repair included forty-five (45) line items that were to be completed. Among the items to be repaired was a section of exterior stucco to be removed and reapplied.¹ New Age agreed to complete the repairs for \$32,594.10. The funds for the repairs were held by TD Bank and were to be disbursed in draws requested by New Age.

During repairs New Age discovered additional water damage as well as evidence of live termite damage. Consequently, New Age began tearing off more and more stucco from the left side of the home. The cost of this “additional” work was never disclosed to Ms. Cavanaugh nor discussed in specific detail. Nevertheless, New Age moved forward with the work and, ultimately, removed the entire left side of the home’s stucco as well as a portion of the right side of the home’s stucco. In the process, New Age requested and received multiple draws from TD Bank and exhausted all of the available insurance proceeds.² See Mag. Return Def.’s Exs. 1 & 2. On September 10, 2015, New Age packed up and abandoned the job site without having completed repairs. Subsequently, New Age sent Ms. Cavanaugh an overage invoice for extra labor and supplies beyond the contract price in the amount of \$9,870.00.

On March 20, 2018, the Ms. Cavanaugh filed the underlying lawsuit against New Age in the Charleston County Magistrate Court for breach of contract, seeking \$7,500.00

¹ Although nineteen (19) items listed were not completed, the Court corrected Appellant that only eleven (11) that she was actually suing for regarding stucco reapplication were being considered as her potential damages in the proceeding. These items listed under the Exactimate are labeled as numbers 4, 5, 9, 11, 12, 18, 25, 26, 37, 38, and 44.

² On June 25, 2015 and July 7, 2015, New Age requested and received bank withdraws in the total amount of \$50,000.00. Interestingly, New Age requested the second draw without obtaining authorization or providing notice to Ms. Cavanaugh. See Appellant’s Exhibit C.

in reimbursement for draws taken on work not completed. The case was heard by Magistrate Judge Henry W. Guerard on September 10, 2018. Ms. Cavanaugh appeared pro se while New Age was represented by counsel. The entire proceeding was conducted over approximately a two-hour period, an hour and twenty minutes of which consisted of a “tag-team” examination of Ms. Cavanaugh by the Court and counsel for New Age.

After considering the evidence and testimony provided by the parties, the Magistrate denied the Ms. Cavanaugh’s claim and granted New Age’s counterclaim for breach of contract and awarded New Age \$7,500.00 in damages. In doing so, the Magistrate essentially ignored the only valid contract between the parties and created a contract where one did not exist. Given that the Magistrate’s judgment and award is based on errors of both fact and law, it should be reversed.

ARGUMENT

I. The Original Contract

On June 17, 2015, the parties entered into an unambiguous written contract which stated: “New Age Contractors, LLP will maintain and complete all repairs as outlined in the insurance exactimate. Estimate prepared by Ellen Westcoat on April 8, 2015. Total cost reflected via the exactimate provided from Frontline Insurance Claim No. 090026094 is for \$32,594.10.” There is no dispute as to the terms of this contract and scope of repair contemplated. See Mag. Return, Def.’s Ex. 3. There is also no dispute that the work that the repairs outlined in the contract’s scope of repair were not completed. See Appellant’s Ex. E (Hrg. Transcr. 6:7) (“[w]e’ll stipulate there’s no stucco”). Ms. Cavanaugh also presented evidence that New Age requested and received draws which exhausted all of the funds set aside for the repairs. See Memo Ex. C. At the hearing, Ms. Cavanaugh presented

evidence that the line items New Age admittedly did not complete totaled \$7,642.00. See Memo Ex. B.

The cardinal rule of contract interpretation is to ascertain and give effect to the intention of the parties. Chan v. Thompson, 302 S.C. 285, 395 S.E.2d 731 (Ct. App. 1990). In determining the intention of the parties, the court first looks to the language of the contract. C.A.N. Enterprises, Inc. v. South Carolina Health and Human Services Finance Commission, 296 S.C. 373, 373 S.E.2d 584 (1988). If the language is clear and unambiguous, the language alone determines the contract's force and effect. Conner v. Alvarez, 285 S.C. 97, 328 S.E.2d 334 (1985). The terms in an unambiguous contract are to be given their plain, ordinary, and popular meaning. C.A.N. Enterprises, Inc., 296 S.C. at 377, 373 S.E.2d at 586. If a contract is unambiguous, extrinsic evidence cannot be used to give the contract a meaning different from that indicated by its plain terms. Id. at 377-78, 373 S.E.2d at 586. Also, the purport of a written agreement is to be gleaned from the contents of the whole instrument. Carr v. United Van Lines, Inc., 289 S.C. 194, 345 S.E.2d 734 (Ct. App. 1986). United Dominion Realty Trust, Inc. v. Wal-Mart Stores, Inc., 413 S.E.2d 866, 307 S.C. 102 (Ct. App. 1991).

Here, it is fairly simple. The parties had an unambiguous contract. New Age admitted that it did not complete all of the repairs outlined in the scope of repair. Nonetheless, it requested and received all of the monies set aside for those repairs. Where the language of a written contract is clear and unambiguous, a court must give the contract its full force and effect. United Dominion Realty Trust, Inc. v. Wal-Mart Stores, Inc., 413 S.E.2d 866, 307 S.C. 102 (Ct. App. 1991). Despite the undisputed and unambiguous terms of the contract, as well as the evidence presented and admitted in support of the same, the

Magistrate failed to give the contract any consideration and committed an error of law in doing so.

II. The Magistrate's Judgment

The Magistrate's judgment and Return provide little insight as to the basis for his decision. The Magistrate's Return merely states "[a]fter considering the evidence and testimony of each party the court denied the Plaintiff's Complaint and ruled in favor of the Defendant on its counter claim." See Mag. Return, p. 2. New Age's sole counterclaim against Ms. Cavanagh was for breach of contract. See Def.'s Answer and Counterclaim. Thus, in order to reach such a decision, the Magistrate would have had to find that either the original contract was altered or that a new contract for the "additional" work had been formed between the parties. The record is entirely devoid of any evidence that would, as a matter of law, allow the Magistrate to reach such conclusion.

A written contract may be modified by a subsequent agreement of the parties, "provided the subsequent agreement contains all the requisites of a valid contract." Florence City-County Airport Comm'n v. Air Terminal Parking Co., 283 S.C. 337, 341, 322 S.E.2d 471, 473 (Ct. App. 1984). Those requisites include an offer, acceptance, and valuable consideration. Id. In the context of a construction contract, certain terms, such as price, time and place, are considered to be indispensable and must be set out with reasonable certainty. McPeters v. Yeargin Const. Co., Inc., 290 S.C. 327, 331, 350 S.E. 2d 208, 211 (Ct. App. 1986); see also Stanley Smith & Sons, 283 S.C. at 434, 322 S.E.2d at 477 (noting price is an essential term in a construction contract). Even if the parties intend to be bound by an agreement, the absence of material terms renders the agreement unenforceable. Rose Elec., Inc. v. Cooler Erectors of Atl., Inc., 418 S.C. 424, 794 S.E.2d

382 (Ct. App. 2016). Thus, for a contract to be binding, material terms cannot simply be left for future agreement and two essential terms including the scope of the work to be performed and the amount of compensation must be initially established. Aperm of S.C. v. Roof, 290 S.C. 442, 447, 351 S.E.2d 171, 173 (Ct. App. 1986); W.E. Gilbert & Assocs. v. S.C. Nat. Bank, 285 S.C. 421, 423, 330 S.E.2d 307, 309 (Ct. App. 1985).

Here, the evidence presented by New Age was insufficient to establish that a modification of the original contract, a change order, or a new agreement had been agreed upon by the parties. New Age failed to establish with any reasonable certainty the extent of the scope of the “additional” repairs, the time frame for the additional repairs, and, most importantly, the cost of those repairs. The only evidence offered that even remotely addressed the costs associated with the “additional” work was an invoice submitted to Ms. Cavanaugh after New Age had left the job site and after the all the funds had been exhausted. See Mag. Return, Def.’s Ex. 4. Where parties are contemplating a construction contract, a missing price term is fatal to the finding that an express or implied contract exists. Rose Elec., Inc. v. Cooler Erectors of Atl., Inc., 418 S.C. 424, 794 S.E.2d 382 (Ct. App. 2016).

In addition to there being no material term evidence of an additional price, scope, or time that would normally confirm a contract change order, there is also minimal evidence of words or conduct between the parties evidencing their mutual intent to make any change. If an agreement is manifested by words, the contract is said to be express. Thomas v. Lomax, 82 Ga.App. 592, 61 S.E.2d 790 (1950). If it is manifested by conduct, it is said to be implied. Dowling v. Charleston & W.C. Ry. Co., 105 S.C. 475, 81 S.E. 313

(1913). In either case, the parties must manifest a mutual intent to be bound. Hughes v. Edwards, 265 S.C. 529, 220 S.E.2d 231 (1975); Shealy v. Fowler, 182 S.C. 81, 188 S.E.

An implied contract, like an express contract, rests on an actual agreement of the parties to be bound to a particular undertaking. The parties must manifest their mutual assent to all essential terms of the contract in order for an enforceable obligation to exist. Edens v. Laurel Hill, Inc., *supra*. If one of the parties has not agreed, then a prerequisite to formation of the contract is lacking. Shealy v. Fowler, *supra*.; Stanley Smith & Sons v. Limestone College, 322 S.E.2d 474, 283 S.C. 430 (S.C. App., 1984)

In the Magistrate proceeding, New Age argued that oral conversations took place as to agreements about the additional work being carried out. See Memo Ex. E – Hrg. Transcr. 97:14). The only evidence of a potential alteration of the original contract was New Age’s testimony. Specifically, New Age stated they were given authorization through oral conversations to carry out the additional work. Id. However, New Age was unable to provide any specifics regarding these conversations or the date of any of these conversations alleged to have taken place. See Memo Ex. E – Hrg. Transcr. 83:11.

On the other hand, Ms. Cavanaugh testified that she was never aware and never agreed that New Age would be performing additional and substantial work that would require considerably more funds. If Ms. Cavanaugh was in fact aware of this additional work as alleged, she would not simply agree to it without first consulting her insurer on whether it would provide those additional funds and *what* those additional funds would be. While the testimony surrounding the existence of the alleged oral agreements is in dispute, there is one fact throughout this case that remains common – which is that New Age is unable to provide any evidence, whether through testimony or by exhibit, of a *price* term

for the modified contract. As clearly articulated in Rose Elec., Inc. v. Cooler Erectors of Atl., Inc., a missing price term in an alleged contract is “fatal to finding an express contract where, as here, the parties are contemplating a construction project.” Rose Elec., Inc. v. Cooler Erectors of Atl., Inc., 418 S.C. 424, 794 S.E.2d 382 (S.C. App., 2016). Though the Respondent may argue that an express or implied change to the contract occurred in this case, this claim fails to satisfy the legal requirements for valid contract alteration, thus the Magistrate erred in finding Ms. Cavanaugh to be in breach of an alleged modified contract.

Given that no evidence of a price term was ever presented, much less any other essential term, the Court could not, as a matter of law, find an enforceable agreement upon which New Age’s counterclaims could be granted.

III. The Inequity of the Proceeding

“All civil actions in the magistrates court shall be conducted in such a manner as to do substantial justice between the parties according to the rules of substantive law.” South Carolina Rules of Magistrates Court: Scope & Purpose. Sadly, the underlying proceeding was not conducted in a manner that did substantial justice to Ms. Cavanaugh. In fact, it seems the opposite was done. Throughout, Ms. Cavanaugh was subjected to condescension. At times, she was mocked:

Cavanaugh: But the bottom line is, is I contracted for items 1 through 45 and I did not receive items 1 through 45.

The Court: That’s far from the bottom line.

A: But I believed I paid items one through 45.

The Court: And why did you believe that?

A: Because I gave them the amount on the contract.

The Court: And you thought all the rest of the work was a Christmas present?

See Memo Ex. E - Hrg. Transcr. 41:13.

Additionally, during her hour and twenty minutes of testimony, Ms. Cavanaugh was questioned at length by both the Magistrate and counsel for New Age. Seemingly, all of the testimony elicited bolstered New Age's case and harmed Ms. Cavanaugh's. At one point during her testimony, counsel for New Age indicated he had no further questions for Ms. Cavanaugh, but the Magistrate continued to examine Ms. Cavanaugh for an additional thirty minutes. See Memo Ex. E - Hrg. Transcr. 45:21. During this time, counsel for New Age continued to question Ms. Cavanaugh, often in tandem with the Magistrate. Even after the Magistrate seemingly completed his line of questioning, he allowed counsel to yet again question Ms. Cavanaugh. See Memo Ex. E - Hrg. Transcr. 67:21.

Furthermore, at times during the hearing the Magistrate appeared to unjustly pick apart Ms. Cavanaugh's presentation of evidence and arbitrarily invoke evidentiary rules. Notably, at no point did counsel for New Age object to the evidence or testimony offered by Ms. Cavanaugh. The Magistrate, however, made *sua sponte* evidentiary rulings. For example:

The Court: But you can't testify to what he told you.

Ms. Cavanaugh: No, I cannot.

The Court: Okay. You believe you can't testify to that because of the non-disclosure. I can tell you, you couldn't testify to it in my court because it would be hearsay.

See Memo Ex. E - Hrg. Transcr. 63:13.

The Court also continuously critiqued the Ms. Cavanaugh's case, consequently, aiding New Age's case in the process. For example:

Ms. Cavanaugh: Oh, did I hire a contractor to testify for those things that are done and not done? Is that what you're asking me?

The Court: I think the answer to that is no.

Ms. Cavanaugh: Right, the answer is no.

The Court: Right. And I'm asking you maybe you didn't think that would have been a good idea?

Ms. Cavanaugh: Well, I think -- I -- I consulted with Bob Sisnroy, the engineer, so I knew what was done and what was not done.

See Memo Ex. E - Hrg. Transcr. 63:3.

The Court: Since you didn't want to get -- haul in the contractor, you don't think calling the lady that did the appraisal from the insurance company would have helped?

Ms. Cavanaugh: Calling Ellen Wescott?

The Court: Sure.

Ms. Cavanaugh: And saying how many square feet of stucco?

The Court: No, having her here as a witness. You can't just ask her because--

Ms. Cavanaugh: I guess -- she has it written down.

The Court: Let me quit confusing you with that. Let's just go to the other point I was trying to make. Do you know how many square feet he actually took off?

Ms. Cavanaugh: No.

See Memo Ex. E - Hrg. Transcr. 65:12.

The Court: Let me try -- let me rephrase something Mr. Smith asked you a moment ago. Do you know if they did any work for your house that wasn't in either of the original contracts for the interior or exterior?

Kavanaugh: No I do not know that.

See Memo Ex. E - Hrg. Transcr. 25:9

Mr. Smith: Well that's been my point all along. Show me where you paid for the work to be done under the contract. You don't know what the bank paid for.

Ms. Cavanaugh: I know that the bank paid the amount that the contract stated, on the face of the --

The Court: Hold on, now. How do you know it?

Ms. Cavanaugh: Because I have a contract, and they paid that amount.

The Court: How do you know that?

Ms. Cavanaugh: As opposed to -- because I--

The Court: Did somebody tell you that? Did you see documents?

Ms. Cavanaugh: Well, the -- TD Bank said, Well, this is your draw, and this is going towards the contract.

The Court: So you have documents. Could you show us those?

Mr. Smith: Actually, you said -- you said, 'as opposed to'. What, as opposed to the bank paying for extras? That's my point. How do you know it was under the original contract versus paying for extras?

Ms. Cavanaugh: Because I didn't contract for extras. I did not contract for extras.

Mr. Smith: But you knew they were doing it.

Ms. Cavanaugh: I did not know that until after it was already done.

See Memo Ex. E - Hrg. Transcr. 47:20.

Mr. Smith: You said earlier that you talked to one of the workers on the project who told you it was exceeding what they had expected; correct?

Ms. Cavanaugh: Yes.

Mr. Smith: And you, in fact, paid more than the original contract amount?

Ms. Cavanaugh: Yes. I did.

Mr. Smith: But you don't know how those payments were applied? You don't know if the original contract has been paid in full, or--

Ms. Cavanaugh: Yes, I do, because I received that thing from New Age that says it was paid in full and that there's going to be no liens on my house.

Mr. Smith: But you didn't sign that did you, because you didn't agree with it?

Ms. Cavanaugh: Well, I don't think that they finished it, so, no, I didn't. I thought it was a little underhanded. I was like, that just didn't seem—

The Court: But see, now you can't take advantage of it because you didn't agree with it then, and you're not going agreeing with it now. So....

See Memo Ex. E - Hrg. Transcr. 36:4.

In addition to the prejudicial line of tag-team questioning by the counsel and the Magistrate in the above excerpts, Ms. Cavanaugh was often prevented from offering relevant testimony and evidence during the course of the proceeding. Specifically, the Magistrate would not admit a Certificate of Completion generated by New Age and sent to Ms. Cavanaugh for her signature. See Memo Ex. D. The document stated that all items under the contract were completed for the agreed upon price and that, if executed, no liens would be placed on the Appellant's home. Id. The Magistrate arbitrarily refused this document even though it was relevant to the critical issue of payment and the credibility of New Age's claims and defenses.

On the other hand, the Magistrate allowed collateral source evidence to be repeatedly discussed. Specifically, New Age discussed at length a lawsuit filed by Ms. Cavanaugh against the builder of the home in November 2015 and the settlement obtained as a result. New Age. The evidence was used to argue that the original contract amount between Ms. Cavanaugh and New Age was insufficient and the overages invoiced by New Age were justified. The Magistrate clearly gave considerable weight to this evidence.

Mr. Smith: Well, the only thing is, clearly, Your Honor, when this thing was contemplated and the original contract was signed, everybody thought it was [a] \$50,000 issue. What resulted was a \$600,000 settlement, which

means that she left some money on the table. It must have been a million-dollar claim.

The Court: Right.

See Memo Ex. E – Hrg. Transcr. 104:21-25; 105:1-2.

South Carolina has long followed the collateral source rule that compensation received by an injured party from a source wholly independent of the wrongdoer should not be deducted from the amount of the damages owed by the wrongdoer to the injured party. The only requirement for qualification as a collateral source is that the source be wholly independent of the wrongdoer. A source is wholly independent and therefore collateral when the wrongdoer has not contributed to it and when payments to the injured party were not made on behalf of the wrongdoer. Pustaver v. Gooden, 566 S.E.2d 199, 350 S.C. 409 (Ct. App. 2002) (internal citations omitted). Clearly, the settlement Ms. Cavanaugh obtained in a subsequent lawsuit is a collateral source and any discussion of it should have been precluded. The settlement amount was nothing more than a red herring used to confuse the issues and paint Ms. Cavanaugh as unreasonable. It bore no relevance to the contract dispute at hand and its consideration was erroneous.

There are other example of comments or exchanges that made Ms. Cavanaugh feel like she was not getting a fair hearing. For example, while showing pictures of the damage to her home, this exchange occurred:

The Court: Okay, Okay. What's the picture you want me to look at?

Ms. Cavanaugh: This is what it looks like.

The Court: [To Mr. Smith] You're smiling way too much.

Mr. Smith: (inaudible)

The Court: I mean, obviously, I can't get there from here.

See Memo Ex. E - Hrg. Transcr. 11:8.

...

The Court: The house is actually located where? I apologize, I don't.

A: Mt. Pleasant.

The Court: Yeah, but what subdivision?

A: I'on.

The Court: [To Mr. Smith] Okay. That retirement community of yours.

Mr. Smith: It is my retirement community.

The Court: Okay. That's an old joke.

See Memo Ex. E - Hrg. Transcr. 52:19.

On numerous occasions, the Magistrate seemed more adversary than impartial finder of fact. Again, for example:

Ms. Cavanaugh: ...But I would like to testify there was never any kind of email from Junior telling me –

The Court: Never what?

Ms. Cavanaugh: Any kind of email or any kind of discussions with junior saying this is going to be more and you owe me more money and the scope is now larger. And I challenged him to find any kind of email because there wasn't anything. In fact, he was not at the job site most of the time. It was Tradd Frazier. And I was there when I wasn't traveling, but I travel extensively. And there was somebody there at the house, my kids, my teenaged kids. So there was somebody at the house, but they were teenagers, and there wasn't anybody looking or supervising what was going on outside of the house.

The Court: Okay.

Ms. Cavanaugh: And I did not know have any kind of email trail at all that says, okay –

The Court: He didn't say he sent you an email. He said he had a conversation with you, face to face.

From start to finish, the underlying proceeding was conducted with the appearance of impropriety. Ms. Cavanaugh was laughed at and unjustifiably impugned for seemingly no reason. Ms. Cavanaugh's final exchange with the Magistrate is illustrative of the manner in which the entire proceeding was seemingly conducted:

The Court: All right, then. After considering the evidence and testimony, I find in favor of the Defendant. The Plaintiff's claim is denied. The defendant's counterclaim is granted, \$7,500.00 owed by Miss Cavanaugh to New Age. Thank you all very much.

Mr. Smith: Thank you, Your Honor.

Ms. Cavanaugh: I don't get that. I don't have a contract with him.

The Court: I'm Sorry?

Ms. Cavanaugh: I don't get it. I don't have a contract with him. I – I didn't—

The Court: You're done. Thank you.

Ms. Cavanaugh: I just want a little bit of insight on it.

The Court: I'm sorry?

Ms. Cavanaugh: I just – can you just give me a little insight on your – on your –

The Court: I just did. You lost.

Ms. Cavanaugh: But I didn't have a contract with him.

The Court: I'm not going to argue with you. You're free to go. Thank you.

Ms. Cavanaugh: I was just looking for a little bit of insight, just so I can know what I did wrong. I just want to know what I did wrong.

The Court: You brought no witnesses, no proof, and you made a claim you can't prove. And plus, I did not believe you. I did believe him.

Ms. Cavanaugh: About what?

The Court: Everything. Thank you.

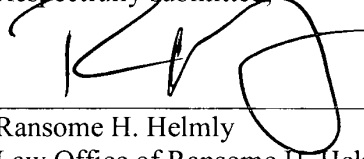
See Memo Ex. E - Hrg. Transcr. 107:17.

There above excerpts represent only a handful of examples of the mistreatment Ms. Cavanaugh received during this proceeding. This Court is implored to read the entire transcript. No litigant, especially one who chooses to pursue a legitimate claim in what is meant to be the people's court, should be subjected to such disparate and indecorous treatment.

CONCLUSION

Based on the foregoing, the September 10, 2018 judgment of the Magistrate should be reversed in its entirety and Ms. Cavanaugh should be awarded damages in the amount of \$7500.00.

Respectfully submitted,



Ransome H. Helmly
Law Office of Ransome H. Helmly, LLC
409 Coleman Blvd., Ste. 200
Mt. Pleasant, SC 29465
P: (843) 884-0184
F: (843) 284-9871
rh@helmylaw.com
Attorney for Defendant

July 29, 2019
Mount Pleasant, South Carolina

2018-CF-10-4907

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing was served upon opposing counsel in the following manner:

_____ via hand-delivery;
_____ via US Mail First Class;
_____ by facsimile transmission; and/or
☒ by E-MAIL.

this 29 day of Aug, 2019

By: _____



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CLERK OF COURT

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SC Court of Appeals

Certificate of Counsel

The undersigned counsel for Appellant certifies that, in accordance with Rule 210(c), SCACR, this **Record on Appeal** contains all material proposed to be included by any party that was presented to the lower court and not any other material. The undersigned also certifies that this **Record on Appeal** complies with the Supreme Court of South Carolina's Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings issued April 15, 2014.

Respectfully submitted,

s/Ransome H. Helmly

Ransome H. Helmly, SC Bar # 78081
Law Office of Ransome H. Helmly, LLC
409 Coleman Blvd., Ste. 200
Mt. Pleasant, SC 29464
Telephone: 843-884-0184
Email: rhh@hellylaw.com
Attorney for Appellant

Mt. Pleasant, South Carolina

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