

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM PICKENS COUNTY
Court of General Sessions
Charles B. Simmons, Master in Equity

Appellate Court Case No.: 2020-000396

RECEIVED

Feb 18 2021

SC Court of Appeals

Terrance "Terry" Carrol, ... Appellant,

v.

Debra Mowery, TD Realty, Upstate RE Group,
Hawk Shadow Business Services, LLC, and Debra Mower Realtor, ... Respondents.

RECORD ON APPEAL

VOLUME I

J. Falkner Wilkes (SC Bar #12893)
114 Whitsett Street
Greenville, SC 29601
(864) 282-1292
jfalknerwilkes@gmail.com

Counsel for Appellant

Luke Anthony Burke
Bruce Wyche Bannister
BANNISTER, WYATT & STALVEY,
LLC
PO Box 10007
Greenville, SC 29603

bbannister@bannisterwyatt.com
lburke@bannisterwyatt.com

Attorneys for Respondents

February 18, 2021.

INDEX

Order of Reference to Special Referee	1
Order (under appeal) filed January 06, 2020	4
Order (denying Plaintiff's post trial motions)	10
Lis Pendens, May 16 2018	12
Amended Lis Pendens, June 18, 2018	14
Summons and Complaint, May 16, 2018	16
Answer and Counterclaim, June 15, 2018	38
Summons and Amended Complaint June 18, 2018	50
Answer to Amended Complaint and Counterclaims, June 26, 2018	70
Reply to Answer and Counterclaim, July 11, 2018	82
Motion for Partial Summary Judgment.	93
Return to Motion for Summary Judgment	129
Transcript	
Terry Carroll	
direct	144
corss	181
John Noel Quinn	
direct	219
cross	223
Constance Fern Quinn	
direct	224
cross	229
redirect	234
Sandra Harkins	
direct	242
cross	246
Roan Boyd Southerlin	
direct	249
voir dire.	251
direct	253
cross	265
Debra Mowery	
direct	271
cross	303
redirect	329
Terry Carroll	
direct	331
cross	345
Exhibits	
Plaintiff's 1 Bank account statements.	367
Plaintiff's 2 Checks.	384

Plaintiff's 3 Modification of Deed of Trust	385
Defendant's 21 Expense Sheets	386
Defendant's 20 Articles of Incorporation Upstate RE Group.....	399
Defendant's 19 Edward Jones Statement	401
Defendant's 18 Income Tax Return	402
Defendant's 17 Inspection Report 204 S. 9th Street.....	445
Defendant's 16 Inspection Report 109 Linda Lane	477
Defendant's 11 Title Jaguar	521
Defendant's 10 Lease Agreement.....	522
Defendant's 9 Articles of Incorporation TD Realty, LLC	531
Defendant's 8 Articles of Incorporation Hawk Shadow Business, LLC	533
Defendant's 7 Notice and Certificate of Mechanics Lien.....	538
Defendant's 6 Settlement Statement 530 Popefield Road	540
Defendant's 5 Closing Disclosure 4548 Church Street, Whiteford, MD	546
Defendant's 4 Deed MD.....	548
Defendant's 3 Special Warranty Deed Popefield Road	550
Defendant's 2 Special Warranty Deed Woodside Mills.....	552
Defendant's 1 Corrective Title	554
Certificate	Last

STATE OF SOUTH CAROLINA

COUNTY OF PICKENS

Terence "Terry" Carroll,

Plaintiff,

vs.

Debra Mowery, TD Realty, Upstate RE
Group, Hawk Shadow Business Services,
LLC, and Debra Mower Realtor,

Defendants.

IN THE COURT OF COMMON PLEAS
THIRTEENTH JUDICIAL CIRCUIT

**ORDER OF CONTINUANCE AND
ORDER OF REFERENCE TO
SPECIAL REFEREE**

C.A. No. 2018-CP-39-00585

This matter came before the Court on September 25, 2019, for a hearing on Defendants' Motion for Partial Summary Judgment and a trial on the merits. At the call of the case, Plaintiff was present with his attorney, James P. O'Connell, and Defendant Debra Mowery was present with her attorneys, Bruce W. Bannister and Luke A. Burke.

At the outset of the hearing, Plaintiff's counsel moved for a continuance due to an injury that counsel suffered the day before the hearing. Plaintiff's counsel advised the Court that he had been prescribed medication for his injury and did not believe he could effectively represent his client at this hearing. Plaintiff consented to dismiss the Lis Pendens and Amended Lis Pendens filed in this case and cancel the Certificate of Mechanics and or Materialman's Lien filed May 18, 2018, so long as any proceeds from the sale are held in escrow by Bannister, Wyatt & Stalvey, LLC, until trial or resolution of this case.

Defendants did not object to the continuance due to Plaintiff's agreement to dismiss the Lis Pendens and cancel the Mechanics Lien and Defendants agreed to hold any proceeds from the sale of any of the property subject to the Lis Pendens and Amended Lis Pendens is held in escrow until trial of this case.

The parties further agreed to refer this case to Judge Charles B. Simmons, Jr. to act as special referee. The parties further agreed that Judge Simmons will hear any motions and hold trial of this case in the Greenville County Courthouse.

NOW, THEREFORE, IT IS ORDERED, ADJUDGED AND DECREED that:

1. The hearing on Plaintiff's Motion for Partial Summary Judgment is CONTINUED.
2. Trial of this case is CONTINUED.
3. The Lis Pendens filed in this case on May 16, 2018, and the Amended Lis Pendens filed in this case are DISMISSED.
4. Within ten days after this Order is filed, Plaintiff shall cancel the Notice and Certificate of Mechanics and or Materialman's Lien filed on May 18, 2018, by filing appropriate documents with the Pickens County Register of Deeds.
5. If any of the properties previously subject to the Lis Pendens and Amended Lis Pendens are sold, then any proceeds from the sale shall be held in escrow by Bannister, Wyatt & Stalvey, LLC, until trial or resolution of this case.
6. The above-captioned action is referred to Judge Charles B. Simmons, Jr. to act as special referee for final, non-jury adjudication, and Judge Simmons may hear any motions and hold trial of this case in the Greenville County Courthouse.

IT IS SO ORDERED.

SIGNATURE PAGE TO FOLLOW

Judge Edward W. Miller
Thirteenth Judicial Circuit



Pickens Common Pleas

Case Caption: Terence Carroll VS Debra Mowry , defendant, et al

Case Number: 2018CP3900585

Type: Order/Other

So Ordered

s/ Edward W. Miller

Electronically signed on 2019-10-16 10:07:13 page 3 of 3

STATE OF SOUTH CAROLINA

COUNTY OF PICKENS

Terence "Terry" Carroll,

Plaintiff,

vs.

Debra Mowery, TD Realty, Upstate RE
Group, Hawk Shadow Business Services,
LLC, and Debra Mower Realtor,

Defendants.

IN THE COURT OF COMMON PLEAS
THIRTEENTH JUDICIAL CIRCUIT

ORDER

C.A. No. 2018-CP-39-00585

This matter was before the Court on December 17, 2019, for a hearing on Plaintiff's Motion to Compel Discovery, Defendants' Motion for Partial Summary Judgment, and a trial on the merits.

Plaintiff initiated this case on May 16, 2018, by filing a Lis Pendens Notice of Pendency of Action, Summons and Notice with Complaint attached, and Complaint. Defendant was properly served with same. On June 15, 2018, Defendants filed an Answer and Counterclaim of Defendants. On June 18, 2018, Plaintiff filed an Amended Complaint alleging causes of action for (1) Unjust Enrichment, (2) Interest in and for Real Estate, (3) Intentional Infliction of Emotional Distress, (4) Specific Performance of Contract, (5) Breach of Contract, (6) Temporary Injunction, (7) Restitution, (8) Constructive Fraud, (9) Breach of Trust, and (10) Quantum Meruit. On June 26, 2018, Defendant filed an Answer to Amended Complaint and Counterclaim of Defendants denying Plaintiff's requests for relief, stating affirmative defenses of (1) Statute of Frauds, (2) Statute of Limitations, and (3) Laches, and alleging causes of action for (1) Interference with Contractual Relationship, (2) Abuse of Process, (3) Slander of Title, (4) Conversion, (5) Eviction, and (6) Offset.



This case was referred to me by an Order of Continuance and Order of Reference to Special Referee filed October 16, 2019, to act as special referee for Pickens County for final, non-jury adjudication of the matter and related motions. At the call of the case, Plaintiff was present with his attorney, James P. O'Connell, and Defendant Debra Mowery was present with her attorneys, Bruce W. Bannister and Luke A. Burke.

At the outset of the hearing, the Court heard argument regarding Plaintiff's Motion to Compel Discovery and reviewed the exhibits presented with the motion. The motion was filed on November 25, 2019. Defendant filed a Return to Motion to Compel Discovery on December 16, 2019. Based on the argument of counsel and a review of the file and exhibits presented related to this motion, the Court finds that, based upon the timing and the substance of the motion, Plaintiff's Motion to Compel Discovery should be denied.

At the outset of the hearing, the Court considered Defendants' Motion for Partial Summary Judgment and reviewed the exhibits presented with the motion. The motion was filed on September 20, 2019. Plaintiff filed a Return to Motion for Summary Judgment on October 15, 2019, and a Return to Motion for Summary Judgment as Amended on November 19, 2019. Based on a review of the file and exhibits presented related to this motion, the Court finds that Defendants' Motion for Summary Judgment should be denied at this time and the matter proceed to trial on the merits.

Plaintiff called three witnesses in his case in chief: Plaintiff, his sister, and his brother-in-law. After Plaintiff's case was presented, Defendants renewed their Motion for Partial Summary Judgment as a Motion for Involuntary Non-suit pursuant to Rule 41(b) SCRPC. Based on the argument of counsel and the evidence presented in Plaintiff's case, the Court finds that:

2 

- (1) Plaintiff's cause of action for Intentional Infliction of Emotional Distress should be dismissed because Plaintiff did not present any evidence that he suffered emotional distress so severe that no reasonable man could be expected to endure it or any evidence that Defendants' conduct was so extreme and outrageous as to exceed all possible bounds of decency which must be regarded as atrocious and utterly intolerable in civilized community. *See Ford v. Hutson*, 276 S.C. 157, 162, 276 S.E.2d 776, 778 (1981). Further, even had the same been established, there was no proof of any amount of damages.
- (2) Plaintiff's cause of action for Specific Performance of Contract should be dismissed because Plaintiff did not present clear evidence of a valid agreement and did not present clear evidence of the terms of any alleged agreement. *See Campbell v. Carr*, 361 S.C. 258, 264, 603 S.E.2d 625, 628 (Ct. App. 2004). Further, the alleged agreement concerns the sale or transfer of real property and Plaintiff admitted that there was never a written agreement between the parties. Therefore, suit upon the alleged agreement is barred by the Statute of Frauds. *See* S.C. Code §32-3-10.
- (3) Plaintiff's cause of action for Constructive Fraud should be dismissed because Plaintiff did not present any evidence of fraud by Defendants. Plaintiff testified that he knew that all real property and other titled property were titled in Defendant Debra Mowery's name. Therefore, Plaintiff was aware of the facts and was not entitled to reasonably rely upon any representation to the contrary. *See, e.g., Woods v. State*, 314 S.C. 501, 506, 431 S.E.2d 260, 263 (Ct. App. 1993).



(4) Plaintiff's cause of action for Breach of Trust should be dismissed because Plaintiff did not present any evidence that a fiduciary relationship existed between the parties. *See SSI Medical Services, Inc. v. Cox*, 301 S.C. 493, 500, 392 S.E.2d 789, 794 (1990).

(5) Defendants' Motion should be denied as it relates to Plaintiff's causes of action for Interest in Real Estate (Constructive Trust) and Breach of Contract.

Defendants called three witnesses in their case in chief: Defendant Debra Mowery, her friend, and a home inspector who was qualified over Plaintiff's objection as an expert in home inspections and residential construction.

After Defendants case was presented, Plaintiff was called in rebuttal.

Upon the conclusion of trial, the parties agreed that they would exchange the following personal property at a time and place mutually agreeable to the parties and communicated through their attorneys. Therefore, Defendant shall give Plaintiff the riding mower, tiller, croquet set, and fireplace from Pope Field garage at a time within the next 30 days and at a place arranged through the parties' attorneys.

Based upon the obvious animosity and hurt feelings, the Court finds that Plaintiff and Defendant Debra Mowery should be mutually restrained from contacting, harassing, coming around, molesting, or otherwise bothering the other party in any way whatsoever. The only exception to this restraining order is that the parties may meeting to exchange personal property as noted above.

I have reviewed and considered all testimony and exhibits presented by the parties. The thrust of Plaintiff's argument is that the Court should enforce a marriage-like contract between the parties even though no marriage existed. Further, Plaintiff requests that the Court



enforce an alleged oral contract that he testified the parties entered into over a decade ago; however, he does not present clear terms of the alleged contract other than to claim that he is entitled to half of Defendant Debra Mowery's property.

Both parties testified that they were the sole income producer in their relationship while the other party had little to no income. However, it is more likely that both parties contributed money and time to the relationship. As such, it is more likely that neither party contributed significantly more or less than the other party. Further, in the event that either party did contribute more than the other party, such contribution should be considered a gift to the other party. There is insufficient proof of amounts contributed by either to the relationship or to the expenses related thereto and any "profit" made on any of the real estate dealings between the parties.

Therefore, based on a preponderance of the evidence, the Court finds that Plaintiff's causes of action for (1) Unjust Enrichment, (2) Interest in and for Real Estate, (3) Breach of Contract, (4) Restitution, and (5) Quantum Meruit should be denied. Further, Plaintiff's cause of action for Temporary Injunction should be denied as moot. The Court also finds by a preponderance of the evidence that Defendants' causes of action for (1) Interference with Contractual Relationship, (2) Abuse of Process, (3) Slander of Title, (4) Conversion, and (5) Offset should be denied. Defendant's cause of action for Eviction is denied as moot because Plaintiff willingly relocated from the property.

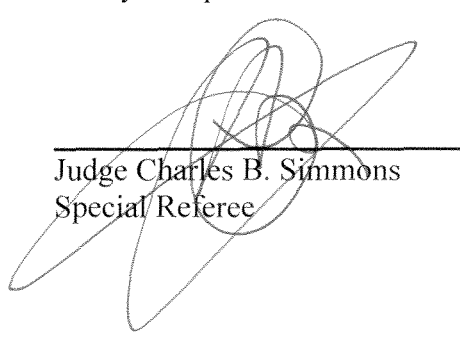
NOW, THEREFORE, IT IS ORDERED, ADJUDGED AND DECREED that:



1. I have jurisdiction to hear this case and related motions as special referee pursuant to the Order of Continuance and Order of Reference to Special Referee filed October 16, 2019.
2. Plaintiff's Motion to Compel Discovery is DENIED.
3. Defendants' Motion for Partial Summary Judgment is DENIED.
4. The relief requested by Plaintiff is DENIED.
5. The relief requested by Defendant is DENIED.
6. Plaintiff and Defendant Debra Mowery are mutually restrained from contacting, harassing, coming around, molesting, or otherwise bothering the other party in any way whatsoever.
7. The parties shall exchange personal property at a time and place arranged through their attorneys and this exchange is the only exception to this restraining order.

IT IS SO ORDERED.

1/6/2020



Judge Charles B. Simmons
Special Referee

STATE OF SOUTH CAROLINA

COUNTY OF PICKENS

Terence "Terry" Carroll,

Plaintiff,

vs.

Debra Mowery, TD Realty, Upstate RE
Group, Hawk Shadow Business Services,
LLC, and Debra Mower Realtor,

Defendants.

IN THE COURT OF COMMON PLEAS
THIRTEENTH JUDICIAL CIRCUIT

**ORDER
(PLAINTIFF'S MOTION FOR
RECONSIDERATION ALTERATION
AND OR AMENDMENT)**

C.A. No. 2018-CP-39-00585

This matter was before the Court on December 17, 2019, for a trial on the merits. An Order was filed on January 6, 2020, determining all issues in this case. On January 17, 2020, Plaintiff filed a Motion for Reconsideration Alteration and or Amendment pursuant to Rules 52(b) and 59(e) SCRCF. On January 28, 2020, Plaintiff filed an Affidavit in support of Plaintiff's motion.

On February 7, 2020, the Court held a conference call to hear argument of counsel regarding Plaintiff's motion. James P. O'Connell was present on the call representing Plaintiff and Luke A. Burke was present on the call representing Defendants.

Plaintiff argued that Defendant Debra Mowery has been unjustly enriched by money invested and labors performed by Plaintiff. Specifically, Plaintiff argued (1) the parties equally contributed money and time to the relationship for profit; (2) there is insufficient proof of amounts contributed by either party to the relationship or to the expenses related thereto and any profit made on any of the real estate dealings between the parties; and, (3) therefore, Plaintiff should recover one half of the value of the real estate properties, the same as Defendant because Plaintiff has conferred a benefit on Defendant, Defendant knows of the

benefit conferred, and retention of the benefit would be inequitable without paying for its value.

Defendants argue that the law is tailored in the areas of marital contracts and real property transfers and ownership to specifically avoid claims of equitable division between unmarried parties and disputes of ownership of real property like the claims raised by Plaintiff. The parties have never been married or held themselves out to be married and the real property disputed by Plaintiff has always been titled solely in Defendant Debra Mowery's name.

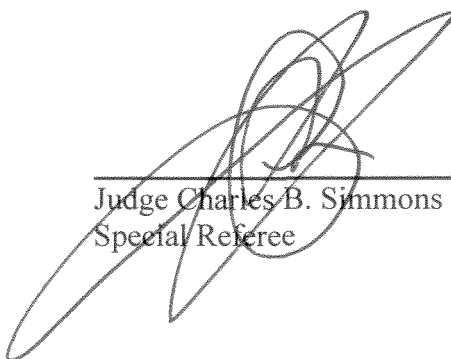
The Court has considered the arguments of counsel and finds that the arguments raised in support and opposition to this motion are similar to those raised and previously considered at trial. Therefore, the Court finds that Plaintiff's motion should be denied.

NOW, THEREFORE, IT IS ORDERED, ADJUDGED AND DECREED that:

1. Plaintiff's Motion for Reconsideration Alteration and or Amendment is DENIED.

IT IS SO ORDERED.

Date 2/17/20



Judge Charles B. Simmons
Special Referee

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF PICKENS	)	THIRTEENTH JUDICIAL CIRCUIT
	)	
TERENCE "TERRY" CARROLL,	)	Civil Action No. 2018-CP-39-
PLAINTIFF,	)	
-VS-	)	LIS PENDENS NOTICE OF
	)	PENDENCY OF ACTION
DEBRA MOWERY and	)	
T D REALTY,	)	
DEFENDANT.	)	Jury Trial Requested

NOTICE IS GIVEN AND GRANTED, that an action or suit has been begun and is now pending or Order issued, in the above referred to Court or the Office of the Master in Equity or Special Referee: UPON THE COMPLAINT of the named, PLAINTIFF, against the named DEFENDANTS, for a Complaint for Plaintiff, named above as shown by the Complaint filed herewith this date and in the Office of the Clerk of Court and concerning the charges as reported in the Complaint and hereinbelow: The real estate and or premises, owned of record by Defendants, is at the time of filing and of this Notice, is described as: ALL THAT certain piece, parcel or lot of land lying and being situate in the State of South Carolina, County of Pickens as shown as:

REAL PROPERTY ONE:

Description All that certain piece, parcel or lot of land, with all improvements there, Situate, lying and being as shown Lot No. 5 of Cherry Dale Subdivision on plat prepared for Robin D. Lawson and Pam B. Lawson, dated November 7, 1990 recorded In Plat Book 40 at page 61, reference is made to plat for a more particular description.

Property sold at public sale deed dated September 3, 2014 and recorded September 22, 2014 in Deed Book 1632 at page 2369, Pickens County Register of Deeds Office, From Special Referee, R. Murray Hughes, to Ocwen Loan Servicing LLC and Federal Home Loan Mortgage Corporation, which then assigned it's bid to Federal National Mortgage Corporation, then the same real property was conveyed to Debra Mowery By deed dated January 26, 2015 recorded January 28, 2015 in Deed Book 1658 at page 224 in the Register of Deeds Pickens County SC. See Corrective Deed recorded July 27, 2017 Deed Book 1882 at page 30.

TMS 5028-17-12-4119/ physical&Grantees address 109 Linda Lane, Easley SC 29642

REAL PROPERTY TWO:

Description, all that piece, parcel or lot of land, with all improvements, lying and being in Woodside Mills Village in the Town of Easley, SC Pickens SC and being more particularly described as Lot No. 241 as shown on a plat entitled A Subdivision Of Woodside Mills Easley SC December 1951 and recorded in the Register of Deeds Office Pickens County SC in Plat Book 1920 at page 136 & 137. Lot is shown as NO. 415 Ninth Street fronting 97.8 ft.

Deed Book 1827 page 215 recorded 12-29-2016, Grantor US Bank National Assoc. As Indenture Trustee for CSMC Trust 2014-CIMI Mortgage Backed Notes, Series 2014-CIMI, to Debra Mowery, previously by Deed of Special Referee Pickens County (misnamed Easley County SC) recorded May 9, 2016 Deed Book 1768 page 10 in the ROD Office Pickens County SC.

TMS 5019-19-60-4852, physical address 204 South Ninth Street Easley SC 29640

REAL PROPERTY THREE:

All that piece, parcel or lot of land in State of South Carolina, County of Pickens, About one mile south of Easley SC on Pope Field Road, known and designated at Tract No. Three(3) on plat of lands of T. D. Wade plat by JC Smith February 3, 1950, Beginning at iron pin on highway at the line of Home Maulding, then along Highway North 58-15 West 221.9 ft to iron pin; then North 24 East 225 ft to iron pin on land of Reeves Estate then South 70 East 37.7 ft to a stone, then with lands of Reeves Estate And Home Mauldin South 12 East 315.4 ft to iron pin on the road.

This is the same real property conveyed to USBank National Association as Indenture Trustee for Springleaf Mortgage Loan Trust 2013-1, by and through Nationstar Mtg. LLC as Attorney in Fact by Deed of Daniel Hunt Special Referee for Pickens County South Carolina recorded on July 15, 2016 in Deed Book 1785 page 261 ROD Office Pickens County SC. Then by Grantor to Debra Mowery by Deed recorded in Deed Book 1796 page 188 8-30-2016.

TMS 5028-09-16-6537/Physical address 539 Pope Field Road Easley SC grantees address 109 Lind Lane Easley SC 29642.

_____, _____
Easley, SC

____s/JAMES P. O'CONNELL
Attorney for the Plaintiff
James P. O'Connell #4259
139 Grace Drive
Easley, South Carolina 29640
Phone/Fax: (864) 220-0005
aellenburgjpocoffice@yahoo.com

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF PICKENS	)	THIRTEENTH JUDICIAL CIRCUIT
	)	
TERENCE "TERRY" CARROLL,	)	Civil Action No. 2018-CP-39-585
	)	
PLAINTIFF,	)	AMENDED
-VS-	)	LIS PENDENS
	)	NOTICE OF PENDENCY
	)	OF ACTION
DEBRA MOWERY and	)	
T D REALTY, and	)	
UPSTATE RE GROUP, and	)	
HAWK SHADOW BUSINESS SERVICES, LLC.	)	
And	)	
DEBRA MOWER REALTOR	)	
DEFENDANTS.	)	

NOTICE IS GIVEN AND GRANTED, that an action or suit has been begun and is now pending or Order issued, in the above referred to Court or the Office of the Master in Equity or Special Referee: UPON THE COMPLAINT of the named, PLAINTIFF, against the named DEFENDANTS, for a Complaint for Plaintiff, named above as shown by the Complaint filed herewith this date and in the Office of the Clerk of Court and concerning the charges as reported in the Complaint and hereinbelow: The real estate and or premises, owned of record by Defendants, is at the time of filing and of this Notice, is described as: ALL THAT certain piece, parcel or lot of land lying and being situate in the State of South Carolina, County of Pickens as shown as:

REAL PROPERTY ONE:

Description All that certain piece, parcel or lot of land, with all improvements there, Situate, lying and being as shown Lot No. 5 of Cherry Dale Subdivision on plat prepared for Robin D. Lawson and Pam B. Lawson, dated November 7, 1990 recorded In Plat Book 40 at page 61, reference is made to plat for a more particular description. Property sold at public sale deed dated September 3, 2014 and recorded September 22, 2014 in Deed Book 1632 at page 2369, Pickens County Register of Deeds Office, From Special Referee, R. Murray Hughes, to Ocwen Loan Servicing LLC and Federal Home Loan Mortgage Corporation, which then assigned it's bid to Federal National Mortgage Corporation, then the same real property was conveyed to Debra Mowery By deed dated January 26, 2015 recorded January 28, 2015 in Deed Book 1658 at page 224 in the Register of Deeds Pickens County SC. See Corrective Deed recorded July 27, 2017 Deed Book 1882 at page 30.
TMS 5028-17-12-4119/ physical&Grantees address 109 Linda Lane, Easley SC 29642

REAL PROPERTY TWO:

Description, all that piece, parcel or lot of land, with all improvements, lying and being in Woodside Mills Village in the Town of Easley, SC Pickens SC and being more particularly described as Lot No. 241 as shown on a plat entitled A Subdivision Of Woodside Mills Easley SC

December 1951 and recorded in the Register of Deeds Office Pickens County SC in Plat Book 1920 at page 136 & 137. Lot is shown as NO. 415 Ninth Street fronting 97.8 ft. Deed Book 1827 page 215 recorded 12-29-2016, Grantor US Bank National Assoc. As Indenture Trustee for CSMC Trust 2014-CI MI Mortgage Backed Notes, Series 2014-CIMI, to Debra Mowery, previously by Deed of Special Referee Pickens County (misnamed Easley County SC) recorded May 9, 2016 Deed Book 1768 page 10 in the ROD Office Pickens County SC.

TMS 5019-19-60-4852, physical address 204 South Ninth Street Easley SC 29640

REAL PROPERTY THREE:

All that piece, parcel or lot of land in State of South Carolina, County of Pickens, About one mile south of Easley SC on Pope Field Road, known and designated at Tract No. Three(3) on plat of lands of T. D. Wade plat by JC Smith February 3, 1950, Beginning at iron pin on highway at the line of Home Maulding, then along Highway North 58-15 West 221.9 ft to iron pin; then North 24 East 225 ft to iron pin on land of Reeves Estate then South 70 East 37.7 ft to a stone, then with lands of Reeves Estate And Home Mauldin South 12 East 315.4 ft to iron pin on the road. This is the same real property conveyed to USBank National Association as Indenture Trustee for Springleaf Mortgage Loan Trust 2013-1, by and through Nationstar Mtg. LLC as Attorney in Fact by Deed of Daniel Hunt Special Referee for Pickens County South Carolina recorded on July 15, 2016 in Deed Book 1785 page 261 ROD Office Pickens County SC. Then by Grantor to Debra Mowery by Deed recorded in Deed Book 1796 page 188 8-30-2016. TMS 5028-09-16-6537/Physical address 539 Pope Field Road Easley SC grantees address 109 Lind Lane Easley SC 29642.

Easley, SC

_____, _____
 s/JAMES P. O'CONNELL #4259
 Attorney for the Plaintiff
 James P. O'Connell #4259
 139 Grace Drive
 Easley, South Carolina 29640
 Phone/Fax: (864) 220-0005
aellenburgjpocoffice@yahoo.com

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS

COUNTY OF PICKENS)

THIRTEENTH JUDICIAL CIRCUIT

TERENCE "TERRY" CARROLL,

) Civil Action No. 2018-CP-39-

PLAINTIFF,

) SUMMONS and NOTICE with

-VS-

) COMPLAINT

) attached

DEBRA MOWERY and

T D REALTY,

DEFENDANT.)

Jury Trial Requested

TO DEFENDANTS NAMED ABOVE, YOU ARE SUMMONED AND REQUIRED TO ANSWER OR OTHERWISE PLED to the pleading of the party issuing this Summons and Notice, in this action above captioned, which is this date served upon you with the pleading attached to the Summons and Notice, YOU ARE DIRECTED to serve your responding pleading to this pleading at the following address: Party's attorney, James P. O'Connell, Attorney at Law, 139 Grace Drive, Grace Office Park, Easley, South Carolina (SC) 29640 or by Certified Mail at this address.

Within thirty (30) days after the day of service, not to include the day of service, if served by Certified Mail Return Receipt Requested, addressee only, the addition of five (5) days is added to the time to Answer or otherwise plead, and IF YOU FAIL TO ANSWER or otherwise plead or respond in writing, within the time noted, the party serving will apply to the Court for the relief requested in the pleading and JUDGMENT will be entered against you by DEFAULT.

IF YOU ARE A MINOR, INCOMPETENT OR A PRISONER a personal Guardian ad Litem may be or will be appointed for you by law, IF YOU DO NOT APPLY, for a Guardian ad Litem to be appointed. IF YOU are currently in the service of any armed forces of the USA, advise Promptly.

May 15, 2018

s/James P. O'Connell

Plaintiff's Attorney

James P. O'Connell

139 Grace Drive

Easley, South Carolina 29640

Phone 864-220-0005 FAX 498-7210

jpatrickoconnell@yahoo.com

Easley, SC

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF PICKENS	)	THIRTEENTH JUDICIAL CIRCUIT
	)	
TERENCE "TERRY" CARROLL,	)	Civil Action No. 2018-CP-39-
	)	
PLAINTIFF,	)	
-VS-	)	COMPLAINT
	)	
DEBRA MOWERY and	)	
T D REALTY,	)	
	)	
DEFENDANT.	)	Jury Trial Requested

The Plaintiff named above Complaining of the Defendants named above would respectfully show and allege to the Court:

A. Reserving any and all rights to any and all Motions to include that of an Injunction.

STATEMENT OF FACTS OF THE CAUSES OF ACTION

1. The parties are citizens of the United States of America, residents of the State of South Carolina and residing in Pickens County. The Defendants business T D Realty is a business organized under the laws of South Carolina and operating principally in Pickens County South Carolina.

2. The parties entered into contract and a series of contracts starting in the State of Maryland and then moving to and continuing in the South Carolina County of Pickens.

3. The contracting was and continued in Pickens County South Carolina, to acquire real estate for the purposes of repair and or renovations then resale and for other personal property, to include vehicles.

4. The parties have over the course of their agreement and contract conducted business to have acquired real estate, using funds from both parties and the parties have acquired personal property to include cash and vehicles.

5. The parties have over the course of the agreement and contract have acquired other properties to include the establishment of businesses and companies, for example the Defendant T and D Realty.

6. Plaintiff is a co-partner, co-owner, and the like of any and all property and properties, to include checking accounts, savings accounts, pension accounts, company accounts, safe deposit boxes, cash held privately and held by others for Defendants.

7. Plaintiff states that the current actions of the Defendants are intended to have caused Plaintiff to be penniless and homeless and or fear the same as Plaintiff came to understand and discover that no real and or personal property so acquired by the parties was legally titled in and to the Plaintiff, but only in the Defendant Mowery.

8. Plaintiff and Defendants had a contract agreement of each party, Plaintiff and Defendants to share and share alike in the real estate and property of the parties; and

a history of the relationship would show that the parties intended to have an equal Partnership and or ownership of the properties, real and personal the parties acquired.

9. Recently Defendants have removed cash monies and personal property from the parties accounts, cash held in safes and at the residence the parties shared, and other properties, to include Plaintiff being informed a real property of the parties is to be sold or is being sold. Further, Defendants have entered into and have started another business and or company, using the funds, property and labors of the Plaintiff.

FOR A FIRST CAUSE OF ACTION
Unjust Enrichment

10. The Statement of Facts for the Causes of Action is repeated here by incorporation by reference.

11. Plaintiff is due and owed from Defendants any and all funds and monies due for any and all work and the like done for the acquisition of the properties acquired by the plaintiff and defendants.

12. Plaintiff by and with the contract and agreement of the Defendants did certain labors and constructions and investments in and to the acquiring of and the use of any and all properties acquired by the parties, Plaintiff and Defendants.

13. Plaintiff as part of the labors and work under the parties agreement and contract did fix and rebuild Defendant Mowery daughter's vehicle, Plaintiff did completely rebuilt

rebuild and rehab the parties first investment real property 4548 Church St. Whiteford Maryland. The parties used funds from Defendant Mowery's settlement and other funds but used the labors of Plaintiff for the renovations and rebuilding for all the real estate the parties purchased as partners, co-owners, co-shareholders, etc., real estate and businesses in South Carolina.

14. Plaintiff has been and continues to be the party providing the labor for the rehab, rebuilding, renovating and the like of all real estate the parties have purchased together.

15. Plaintiff was informed by Defendants that Defendants did not want to support Plaintiff recently and the parties did agree and contract to equally divide any and all Property, both real and personal, and that is when Plaintiff discovered Defendants had Withdrawn and removed all cash from the safe and the accounts. Defendants informed Plaintiff that Defendants would no longer provide and cash to Plaintiff and also the Plaintiff would have no access to any and all property.

16. Defendants informed Plaintiff that the real property at 539 Pope Filed was being sold and Plaintiff had no rights. Defendant informed Plaintiff that Plaintiff had no rights title or interest in anything. Defendants phoned the police to have Plaintiff removed, but the police informed Defendants that the matter was civil and Defendants could not remove Plaintiff and can not lock Plaintiff out of the property.

17. Defendants have all keys to all property including vehicles and refuses to give to Plaintiff any keys. Defendants also removed and have confiscated Plaintiff's cell phone. Plaintiff is requesting the immediate return of the Plaintiff's work truck and the ownership of the jaguar vehicle, and equal division of the real estate, cash and any other property.

18. Plaintiff also did labors and construction on other property of the Defendants and the Defendants family without any compensation.

19. The above noted labors and construction work is sometimes known as sweat Equity, which Plaintiff must be compensated for by the Defendants.

20. Plaintiff requests the Court to ascertain the valuation of the real and personal property of the parties, Plaintiff and Defendants, and to equally divide that property into equal shares of value, because Plaintiff did and was conferring upon Defendants benefits, which were not gifts, as is shown above in the Complaint, and Defendants have received those benefits for Defendants own use to include the selling and or sale of real property for profits; and that Plaintiff is not receiving any of the profits and or funds or assets from any of the selling and or sale of the parties property, which would not only be inequitable but also completely in violation of the parties understood and agreement upon agreement and contract.

FOR A SECOND CAUSE OF ACTION
Interest in and for Real Estate

20. The First Cause of Action are repeated here by incorporation by reference.

21. Plaintiff states the Defendants and Plaintiff acquired the ownership and or any interests in and to the following described real estate and personal properties:

REAL PROPERTY ONE:

Description All that certain piece, parcel or lot of land, with all improvements there, Situate, lying and being as shown Lot No. 5 of Cherry Dale Subdivision on plat prepared for Robin D. Lawson and Pam B. Lawson, dated November 7, 1990 recorded In Plat Book 40 at page 61, reference is made to plat for a more particular description.

Property sold at public sale deed dated September 3, 2014 and recorded September 22, 2014 in Deed Book 1632 at page 2369, Pickens County Register of Deeds Office, From Special Referee, R. Murray Hughes, to Ocwen Loan Servicing LLC and Federal Home Loan Mortgage Corporation, which then assigned it's bid to Federal National Mortgage Corporation, then the same real property was conveyed to Debra Mowery By deed dated January 26, 2015 recorded January 28, 2015 in Deed Book 1658 at page 224 in the Register of Deeds Pickens County SC. See Corrective Deed recorded July 27, 2017 Deed Book 1882 at page 30.

TMS 5028-17-12-4119/ physical&Grantees address 109 Linda Lane, Easley SC 29642

REAL PROPERTY TWO:

Description, all that piece, parcel or lot of land, with all improvements, lying and being in Woodside Mills Village in the Town of Easley, SC Pickens SC and being more particularly described as Lot No. 241 as shown on a plat entitled A Subdivision Of Woodside Mills Easley SC December 1951 and recorded in the Register of Deeds Office Pickens County SC in Plat Book 1920 at page 136 & 137. Lot is shown as NO. 415 Ninth Street fronting 97.8 ft.

Deed Book 1827 page 215 recorded 12-29-2016, Grantor US Bank National Assoc. As Indenture Trustee for CSMC Trust 2014-CI MI Mortgage Backed Notes, Series 2014-CIMI, to Debra Mowery, previously by Deed of Special Referee Pickens County (misnamed Easley County SC) recorded May 9, 2016 Deed Book 1768 page 10 in the ROD Office Pickens County SC.

TMS 5019-19-60-4852, physical address 204 South Ninth Street Easley SC 29640

REAL PROPERTY THREE:

All that piece, parcel or lot of land in State of South Carolina, County of Pickens, About one mile south of Easley SC on Pope Field Road, known and designated at Tract No. Three(3) on plat of lands of T. D. Wade plat by JC Smith February 3, 1950, Beginning at iron pin on highway at the line of Home Maulding, then along Highway North 58-15 West 221.9 ft to iron pin; then North 24 East 225 ft to iron pin on land of Reeves Estate then South 70 East 37.7 ft to a stone, then with lands of Reeves Estate And Home Mauldin South 12 East 315.4 ft to iron pin on the road.

This is the same real property conveyed to USBank National Association as Indenture Trustee for Springleaf Mortgage Loan Trust 2013-1, by and through Nationstar Mtg. LLC as Attorney in Fact by Deed of Daniel Hunt Special Referee for Pickens County South Carolina recorded on July 15, 2016 in Deed Book 1785 page 261 ROD Office Pickens County SC. Then by Grantor to Debra Mowery by Deed recorded in Deed Book 1796 page 188 8-30-2016.

TMS 5028-09-16-6537/Physical address 539 Pope Field Road Easley SC grantees address 109 Lind Lane Easley SC 29642.

22. Plaintiff had and has an ownership interest in and to the above noted real estate properties, as Plaintiff funds were used to purchase the real properties and that the Plaintiff has been and was the only party performing labor and construction on and for the real properties to improve, rebuild, renovate and or refurbish all the real estate owned by, acquired by and in the possession of the Defendants.

23. The interest claimed by the Plaintiff is sometimes referred to a a constructive Trust.

FOR A THIRD CAUSE OF ACTION
For the Intentional Infliction of Emotional Distress

24. The First and Second Causes of Action are repeated here by incorporation by reference.

25. Plaintiff alleges that Defendant intentionally and recklessly inflicted severe emotional distress to the Plaintiff, as Defendants did in a grossly painful and disrespectful method deny the Plaintiff any and all rights and interests in and to the real and personal property the parties had attained and acquired during the agreement and contract to the point of attempting illegally to disenfranchise Plaintiff of any and all rights Plaintiff has in and to the properties so acquired by the parties.

26. Plaintiff alleges the actions of the Defendants by themselves and any agent or agents have and are intending to cause Plaintiff severe emotional distress, because Defendants are claiming Plaintiff has no rights, title and interest in an to any real property. Defendants are have intended as a consequence of Defendants actions the break down of the Plaintiff and to have Plaintiff become destitute, homeless and without any property real and or personal.

27. Plaintiff alleges Defendants by their conduct and by it's agents conduct was and is both extreme and outrageous, as the same conduct was intended to evoke from the Plaintiff fear and dread and the same conduct is not to be tolerated in a civilized society. The Plaintiff alleges Defendants conduct continues to cause emotional distress to the Plaintiff. The Plaintiff alleges Defendant's conduct is severe in that the conduct continues to this date, and, Plaintiff still has fears, nightmares of the circumstances,

of being homeless and penniless. The Plaintiff alleges that no other person could or would be expected to endure the same acts of the Defendants and their agents. Plaintiff alleges Defendants conduct did and continues to cause severe emotional distress, and Defendant should compensate the Plaintiff for the causing of the same, in the amount of One Hundred Thousand (\$100,000.00) Dollars, after the equal division of the real estate and personal property of the Plaintiff and Defendants.

FOR A FOURTH CAUSE OF ACTION
For the Specific Performance of Contract

28. The prior Causes of Action are repeated here by incorporation by reference.

29. As has been reported above the parties have and have had a contract for the Purchase of and reselling of real estate and that contract must be enforced as the parties have intended over the course of the parties agreement of at least ten years.

30. The parties intended to be and are equal partners, co-owners and the like of The properties the real estate and equipment and other personal property so bought and purchased as above written in this Complaint.

31. There is and will be very clear evidence of a ongoing contract and agreement as above stated in this Complaint.

32. The parties agreement and contract has been and is continuing to be carried out by the parties, as one aspect of the agreement and contract the receiving or rents

and or other payments from the purchased property to include proceeds from and sale and or any other transfer.

33. The Plaintiff has and continued to perform the Plaintiff's part of the parties Contract and agreement and until the blocking and unilateral ending and termination Of the parties contract and agreement, Plaintiff was performing Plaintiff's part of the agreement and contract of the parties and was and is attempting to continue the parties agreement and contract.

34. Plaintiff requests the specific performance of the parties contract and agreement by the equal division of the parties properties, real and personal, as is found by the Court.

FOR A FIFTH CAUSE OF ACTION
For the Breach of Contract by Defendants

35. The prior Causes of Action are repeated here by incorporation by reference.

36. The parties had and have a contract agreement and the Defendants have breached the contract and agreement as is stated above in this Complaint; as any contract has an implied covenant of good faith and fair dealing.

37. Plaintiff has been fulfilling Plaintiff's rights, duties and obligations by and under the parties agreement and contact, but that the recent actions of Defendants have breached the parties agreement and contract, as Defendants have terminated

the agreement and contract and not allowed Plaintiff any rights under the contract.

38. Defendants are liable to Plaintiff for any and all valuation of the property of the Parties agreement and contract to include any recent sells or sales of the real property, which Plaintiff is informed and believes is occurring.

39. Defendants should and must be accountable for the breach of the parties Contract in the amount of an equal division of the parties assets in all property To include any and all accounts and the like and any cash and or monies held Privately and or in the possession of others on behalf of Defendants.

FOR A SIXTH CAUSE OF ACTION
For the A Temporary Injunction against Defendants

40. The prior Causes of Action are repeated here by incorporation by reference.

41. Plaintiff is advised that Defendant could be and or are selling, have sold and have hidden funds of the Plaintiff and Defendants.

42. Plaintiff will request of the Court for an injunction as to the Defendants to Hold any and all sales and or if already sold or being sold that the funds and or Proceeds from any and all sells and or sales of any property that could be and or is that of the Plaintiff and Defendants, be held in escrow or by the Court; to be divided equally by the Court at any future date and time.

43. Plaintiff understands Defendants are removing and have removed property

of the Plaintiff and the property is required to be preserved pending the rights of parties during this action.

44. Plaintiff will suffer most irreparable harm if the injunction is not granted as the funds, monies and properties of the parties contract and agreement will forever be not available to the Court to divide equally, as is the intent of the Defendants.

45. Plaintiff knows that the parties have an equal ownership of any and all assets of the parties and that Plaintiff will have a one half equal ownership of any and all property which includes any proceeds and or funds from any sale of the parties property in any manner whatsoever.

46. Plaintiff believes there is no other adequate remedy at law other than this Injunction. The Plaintiff requests the Court issue an injunction to prevent any sale and or transfer of any property of the parties.

FOR A SEVENTH CAUSE OF ACTION
For Restitution by Defendants

46. The prior Causes of Action are repeated here by incorporation by reference.

47. Plaintiff requests the restitution of any and all funds from Defendants that would be and are due and owing to the Plaintiff.

48. Plaintiff did as Plaintiff contracted, by placing Plaintiff's funds into the Possession of the Defendants for the benefit of the Plaintiff and Defendants.

49. Plaintiff did as Plaintiff contracted, by performing labors and work on the properties of the parties to include the repair, renovations and upgrading of the properties for resale and for renting and or the providing of additional funds to the parties.

50. The parties both the Defendants and the Plaintiff have been and were realizing benefits from the parties actions. The benefits included money, cash, living expenses, and other compensations. Defendants have come to remove the properties of the parties from the Plaintiff by denying Plaintiff any rights to any of the property and or funds of the parties, to include the denying Plaintiff any rights and interests in and to the properties of the parties.

51. That the allowing of the Defendants to retain any and all profits, funds, and other property of the Plaintiff would be and is inequitable.

52. Plaintiff is requesting the valuation of the entire properties of the parties and the payment to the Plaintiff of an equal one half share of any and all property.

FOR A EIGHTH CAUSE OF ACTION
Constructive Fraud by Defendants

53. The prior Causes of Action are repeated here by incorporation by reference.

54. Defendants informed and Plaintiff operated by the representations of the Defendants that the parties would be and were equal parties and the parties by their

Payments and Plaintiffs labors would share equally as to all property and sales.

55. Defendants have now shown that Defendants did not at intend to share equally with Plaintiff the property of the parties nor any assets and or cash or other values of the agreement and contract.

56. Plaintiff and Defendants have and had this agreement and and contract for years and operated under the agreement and contract, except that all properties were placed into the name of the Defendants and not the Plaintiff, which was not made known to the Plaintiff with reasonable certainty. The providing of funds by the Plaintiff and the providing of labors and work by Plaintiff were material to the parites agreement and contract.

57. Defendants did know that after a period of time that Defendants were not operating upon the same agreement and contract as Defendants have been and are removing and transferring property of the parties for the benefit of Defendants and not for Plaintiff.

58. Plaintiff has been over the years acting on the representations of Defendants that the agreement and contract are in effect and that the parties have been using the funds of the parties for living expenses and operating expenses and also for the materials for the labors of the Plaintiff as to the properties of the parties.

59. Plaintiff has known nothing of the Defendants actions to remove cash, funds, and the like from the parties and that the Defendant have and are terminating the Plaintiff to the agreement and contract for the purpose of denying Plaintiff the Plaintiff's equal one half share.

60. Plaintiff has been and was relying on the representations of the Defendants To continue to labor and perform actions for the benefit of the parties agreement And contract, without Plaintiff knowing of the Defendants false promises of the Parties sharing equally in and to the property, profits and assets of the parties.

61. Plaintiff not only relied upon the representations of the Defendants and acted upon those representations in reliance of the statements of the parties equally sharing in all, Plaintiff rightfully relied upon the statements but that the Plaintiff is now being injured by and from those statements and representations.

62. Plaintiff requests the Court to grant to Plaintiff one half of all property In whatever form or shape and wherever held and by any other parties, and to Order Defendants to pay over to Plaintiff One Hundred Thousand (\$100,000.00) Dollars for the Defendants constructive fraud, as the funds obtained by Defendants Did not belong entirely to Defendants, and are being withheld from Plaintiff to Cause irreparable harm to Plaintiff as noted above in this Complaint; and those Funds are being withheld from Plaintiff due to Defendants fraud, breach of trust

and breach of fiduciary duty as here stated and above in this Complaint. The Defendants did rely on the Plaintiff having confidence in Defendants to equitably And in good conscience divide equally all properties in whatever form. Defendants Unconscionable conduct of taking any and all funds and then leaving Plaintiff Homeless and penniless, should have the Court grant to Plaintiff any further Damages the Court would deem fair and equitable.

FOR A NINTH CAUSE OF ACTION
Breach of Trust by Defendants

63. The prior Causes of Action are repeated here by incorporation by reference.

64. Plaintiff as reported above in this Complaint, states Defendant have been And are committing breach of trust.

65. Defendants have been and removing funds and assets the rightfully are in the possession of the Plaintiff and Defendant, without any approval of Plaintiff.

66. Plaintiff states that assets of the parties, including to but not limited to, Real property, have been and are being transferred to include by selling, without Plaintiff receiving Plaintiff's just and equal share.

67. All property of the Plaintiff and Defendants was deeded to, titled to, and in any other means or ways granted to Defendants for the benefit of the Plaintiff and Defendants. The trust thereby created by and between Plaintiff and Defendants

66. Plaintiff states that assets of the parties, including to but not limited to, Real property, have been and are being transferred to include by selling, without Plaintiff receiving Plaintiff's just and equal share.

67. All property of the Plaintiff and Defendants was deeded to, titled to, and in any other means or ways granted to Defendants for the benefit of the Plaintiff and Defendants. The trust thereby created by and between Plaintiff and Defendants was that any and all assets, were to be held by both parties for the benefit of both parties, and each party was to act accordingly in a fiduciary relationship, with the Defendants and Plaintiff using the funds from the sale and or rental or otherwise for the benefit of both parties, for example living expenses, materials, and payment for labor and work provided.

68. Plaintiff requests the equal division of the parties assets, including any and all real estate and funds wherever held and by whoever has those funds. Plaintiff requests One Hundred Thousand (\$100,000.00) Dollars in damages, as is also reported and stated in this Complain.

FOR A TENTH CAUSE OF ACTION
Quantum Meriut

69. The Statement of Facts and the prior Causes of Action is repeated here by incorporation by reference.

70. Plaintiff is due and owed from Defendants any and all funds and monies due For any and all work and the like done for the acquisition of the properties acquired by the plaintiff and defendants.

71. Plaintiff by and with the contract and agreement of the Defendants did certain labors and constructions and investments in and to the acquiring of and the use of any and all properties acquired by the parties, Plaintiff and Defendants.

72. Plaintiff as part of the labors and work under the parties agreement and contract did fix and rebuild Defendant Mowery daughter's vehicle, Plaintiff did completely rebuilt rebuild and rehab the parties first investment real property 4548 Church St. Whiteford Maryland. The parties used funds from Defendant Mowery's settlement and other funds but used the labors of Plaintiff for the renovations and rebuilding for all the real estate the parties purchased as partners, co-owners, co-shareholders, etc., real estate and businesses in South Carolina.

73. Plaintiff has been and continues to be the party providing the labor for the rehab,

rebuilding, renovating and the like of all real estate the parties have purchased together.

74. Plaintiff was informed by Defendants that Defendants did not want to support Plaintiff recently and the parties did agree and contract to equally divide any and all property, both real and personal, and that is when Plaintiff discovered Defendants had withdrawn and removed all cash from the safe and the accounts. Defendants informed Plaintiff that Defendants would no longer provide and cash to Plaintiff and also the Plaintiff would have no access to any and all property and for labors performed.

75. Defendants informed Plaintiff that the real property at 539 Pope Filed was being sold and Plaintiff had no rights. Defendant informed Plaintiff that Plaintiff had no rights title or interest in anything. Defendants phoned the police to have Plaintiff removed, but the police informed Defendants that the matter was civil and Defendants could not remove Plaintiff and can not lock Plaintiff out of the property. Defendants had not and continue to not be paying Plaintiff for the labor and work of the Plaintiff.

76. Defendants have all keys to all property including vehicles and refuses to give to Plaintiff any keys. Defendants also removed and have confiscated Plaintiff's cell phone. Plaintiff is requesting the immediate return of the Plaintiff's work truck and the ownership of the jaguar vehicle, and equal division of the real estate, cash and any other property and payments for any and all labor and work for the properties.

77. Plaintiff also did labors and construction on other property of the Defendants and the Defendants family without any compensation.

78. The above noted labors and construction work is sometimes known as sweat Equity, which Plaintiff must be compensated for by the Defendants.

79. Plaintiff requests the Court to ascertain the valuation of the real and personal property of the parties, Plaintiff and Defendants, and to equally divide that property into equal shares of value, because Plaintiff did and was conferring upon Defendants benefits, which were not gifts, as is shown above in the Complaint, and Defendants have received those benefits for Defendants own use to include the selling and or sale of real property for profits; and that Plaintiff is not receiving any of the profits and or funds or assets from any of the selling and or sale of the parties property, which would not only be inequitable but also completely in violation of the parties understood and agreement upon agreement and contract, to include any and all labors and work done and being done for the benefit of the parties on the properties of the parties. Plaintiff is informed and believes that Plaintiff is due and owed at the minimum \$300,000.00 for all labors and work.

THE PLAINTIFF REQUESTS THE COURT TO GRANT TO FOLLOWING
RELIEF:

1. The amount due the Plaintiff as noted above, for each cause of action as requested from the Defendants.

2. The amount of reasonable attorney fees and the costs of this action, from the Defendants.

3. The Plaintiff to recover judgment against the Defendants in the amount requested for each cause of action as requested and the Plaintiff should also recover not only for the damages noted but also for punitive damages for the likelihood the Defendant's conduct is continuing and was done with the reason to destroy the Plaintiff.

4. For such other relief as the Court deems just.

_____, 2018

s/James P. O'Connell
ATTORNEY FOR THE PLAINTIFF
JAMES P. O'CONNELL

139 Grace Drive
Easley, SC 29640

Phone 864-220-0005 Fax 220-0005 & 498-7210

jpatrickoconnell@yahoo.com

JURY TRIAL REQUESTED

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	THIRTEENTH JUDICIAL CIRCUIT
COUNTY OF PICKENS	)	
	)	
Terence "Terry" Carroll,	)	ANSWER AND COUNTERCLAIM OF
	)	DEFENDANTS
Plaintiff,	)	
	)	
vs.	)	C.A. No. 2018-CP-39-00585
	)	
Debra Mowery and TD Realty,	)	
	)	
Defendants.	)	
	)	

The defendants, Debra Mowery and TD Realty, ("Defendant") answering the Complaint of the plaintiff, Terrence "Terry" Carroll, ("Plaintiff") would respectfully show unto this Court:

FOR A FIRST DEFENSE
(Dismissal Pursuant to Rule 12(b)(6) SCRCP)

1. Plaintiff's Complaint fails to assert a claim against Defendant, or facts sufficient to constitute a cause of action against Defendant upon which relief can be granted.
2. Therefore, Plaintiff's Complaint should be dismissed pursuant to Rule 12(b)(6) SCRCP.

FOR A SECOND DEFENSE
(General Denial)

3. Defendant denies each and every allegation contained in the Complaint not hereinafter specifically admitted, qualified, or explained and demands strict proof thereof.
4. Defendant denies that Plaintiff is entitled to an injunction as suggested in Paragraph A of the Complaint.
5. Defendant admits the allegations of Paragraph 1; but asserts that the proper name of the business is TD Realty, LLC.
6. Defendant denies the allegations of Paragraphs 2 and 3.

7. Defendant denies the allegations of Paragraph 4 and specifically denies that Plaintiff has contributed any funds to Defendant's business ventures.

8. Defendant denies the allegations of Paragraphs 5 and 6.

9. Defendant denies the allegations of Paragraph 7; except, Defendant admits that Plaintiff has no ownership interest in Defendant's real and personal property.

10. Defendant denies the allegations of Paragraph 8.

11. Defendant denies the allegations of Paragraph 9 and specifically denies that Plaintiff has contributed any funds or property to Defendant's business ventures.

FIRST CAUSE OF ACTION

12. Defendant incorporates the previous Paragraphs of this Answer in response to Paragraph 10 of the Complaint.

13. Defendant denies the allegations of Paragraphs 11 – 15.

14. Defendant denies the allegations of Paragraph 16; except, Defendant admits that Plaintiff has no ownership interest in Defendant's real and personal property.

15. Defendant denies the allegations and requests for relief contained in Paragraph 17.

16. Defendant denies the allegations of Paragraphs 18 and 19.

17. Defendant denies the allegations and requests for relief contained in Paragraph 20.

SECOND CAUSE OF ACTION

18. Defendant incorporates the previous Paragraphs of this Answer in response to the second Paragraph 20 (misnumbered) of the Complaint.

19. Defendant denies the allegations of Paragraph 21.

20. Defendant denies the allegations of Paragraph 22 and specifically denies that Plaintiff has contributed any funds to Defendant's business ventures.

21. Defendant denies the allegations of Paragraph 23.

THIRD CAUSE OF ACTION

22. Defendant incorporates the previous Paragraphs of this Answer in response to Paragraph 24 of the Complaint.

23. Defendant denies the allegations of Paragraph 25; except, Defendant admits that Plaintiff has no ownership interest in Defendant's real and personal property.

24. Defendant denies the allegations of Paragraphs 26 and 27.

FOURTH CAUSE OF ACTION

25. Defendant incorporates the previous Paragraphs of this Answer in response to Paragraph 28 of the Complaint.

26. Defendant denies the allegations and requests for relief contained in Paragraphs 29 - 34.

FIFTH CAUSE OF ACTION

27. Defendant incorporates the previous Paragraphs of this Answer in response to Paragraph 35 of the Complaint.

28. Defendant denies the allegations of Paragraphs 36 – 39.

SIXTH CAUSE OF ACTION

29. Defendant incorporates the previous Paragraphs of this Answer in response to Paragraph 40 of the Complaint.

30. Defendant denies the allegations of Paragraph 41 and specifically denies that Plaintiff has any funds in Defendant's possession or control.

31. Defendant denies the allegations and requests for relief contained in Paragraph 42.

32. Defendant denies the allegations of Paragraph 43 and specifically denies that Plaintiff has any property in Defendant's possession or control.

33. Defendant denies the allegations and requests for relief contained in Paragraphs 44 – 46.

SEVENTH CAUSE OF ACTION

34. Defendant incorporates the previous Paragraphs of this Answer in response to the second Paragraph 46 (misnumbered) of the Complaint.

35. Defendant denies the allegations and requests for relief contained in Paragraph 47.

36. Defendant denies the allegations of Paragraphs 48 and 49, and specifically denies that Plaintiff has contributed any funds to Defendant's business ventures.

37. Defendant denies the allegations of Paragraph 50; except, Defendant admits that Plaintiff has no ownership interest in Defendant's real and personal property.

38. Defendant denies the allegations and requests for relief contained in Paragraphs 51 and 52.

EIGHTH CAUSE OF ACTION

39. Defendant incorporates the previous Paragraphs of this Answer in response to the Paragraph 53 of the Complaint.

40. Defendant denies the allegations of Paragraph 54, and specifically denies that Plaintiff has contributed any payments to Defendant's business ventures.

41. Defendant denies the allegations of Paragraph 55; except Defendant admits that it was never Defendant's intention to share Defendant's assets, cash, or other valuables with Plaintiff.

42. Defendant denies the allegations of Paragraphs 56 and 57; except, Defendant admits that Plaintiff has no ownership interest in Defendant's real and personal property.

43. Defendant denies the allegations and requests for relief contained in Paragraphs 58 – 62.

NINTH CAUSE OF ACTION

44. Defendant incorporates the previous Paragraphs of this Answer in response to the Paragraph 63 of the Complaint.

45. Defendant denies the allegations of Paragraphs 64 – 66.

46. Defendant denies the allegations of Paragraph 67; except, Defendant admits that Plaintiff has no ownership interest in Defendant's real and personal property.

47. Defendant denies the allegations of second Paragraphs 66 (misnumbered).

48. Defendant denies the allegations of second Paragraph 67 (misnumbered); except, Defendant admits that Plaintiff has no ownership interest in Defendant's real and personal property.

49. Defendant denies the allegations and requests for relief contained in Paragraph 68.

TENTH CAUSE OF ACTION

50. Defendant incorporates the previous Paragraphs of this Answer in response to the Paragraph 69 of the Complaint.

51. Defendant denies the allegations of Paragraphs 70 – 74.

52. Defendant denies the allegations of Paragraph 75; except, Defendant admits that Plaintiff has no ownership interest in Defendant's real and personal property.

53. Defendant denies the allegations and requests for relief contained in Paragraphs 76 – 79.

FOR A THIRD DEFENSE
(Statute of Frauds)

54. Defendant incorporates the previous Paragraphs of this Answer where not contradictory with this defense.

55. Plaintiff alleges that the parties entered into a contract “at least ten years” ago.

56. Defendant denies that the parties entered into any contract.

57. Plaintiff is estopped from bringing an action upon any agreement that is not to be performed within the space of one year from the making thereof unless such agreement is in writing signed by Defendant.

58. No written agreement exists between the parties.

59. Therefore, Plaintiff’s action should be dismissed.

FOR A FOURTH DEFENSE
(Statute of Limitations)

60. Defendant incorporates the previous Paragraphs of this Answer where not contradictory with this defense.

61. Plaintiff’s action is wholly or partially barred by the applicable statute of limitations.

62. Therefore, Plaintiff’s action should be dismissed.

FOR A FIFTH DEFENSE
(Laches)

63. Defendant incorporates the previous Paragraphs of this Answer where not contradictory with this defense.

64. Plaintiff’s equitable causes of action are wholly or partially barred by the equitable doctrine of laches.

65. Therefore, Plaintiff’s action should be dismissed.

FOR A SIXTH DEFENSE AND BY WAY OF COUNTERCLAIM
(Interference with Contractual Relationship)

66. Defendant incorporates the previous Paragraphs of this Answer where not contradictory to this Counterclaim.

67. Defendant owns property located at 539 Pope Field Road, Easley, South Carolina ("Pope Field").

68. Pope Field is solely titled in Defendant's name.

69. Defendant entered into a contract with a prospective buyer to sell Pope Field.

70. Plaintiff knew about Defendant's contract for the sale of Pope Field.

71. The closing of the sale of Pope Field was scheduled for May 18, 2018.

72. On May 16, 2018, Plaintiff wrongfully filed this action.

73. Plaintiff's purpose of filing this action was to wrongfully interfere with Defendant's contract for the sale of Pope Field.

74. On May 17, 2018, Plaintiff wrongfully filed a false mechanic's lien allegedly encumbering Pope Field.

75. Plaintiff is not a licensed contractor; and, therefore, he is not entitled to file a true mechanic's lien on any property.

76. On May 17, 2018, Plaintiff contacted the prospective buyer to inform him that a mechanic's lien had been filed encumbering Pope Field.

77. Plaintiff's purpose of filing the false mechanic's lien and for informing the prospective buyer about the false mechanic's lien was to wrongfully interfere with Defendant's contract for the sale of Pope Field.

78. Due to Plaintiff's actions, the prospective buyer breached the contract and refused to purchase Pope Field.

79. Plaintiff has no legitimate justification for interfering with Defendant's contract.

80. Defendant has suffered damages in an amount to be determined proximately caused Plaintiff's actions.

81. Defendant has suffered mental anguish due to Plaintiff's actions and is entitled to recover damages to compensate her for same.

82. Plaintiff's actions were willful, wanton, or reckless, and therefore, Defendant is entitled to punitive damages.

FOR A SEVENTH DEFENSE AND BY WAY OF COUNTERCLAIM
(Abuse of Process)

83. Defendant incorporates the previous Paragraphs of this Answer where not contradictory to this Counterclaim.

84. As stated previously, Plaintiff's ulterior purpose for filing this action was to gain an objective which is not legitimate in filing this action: to prevent the sale of Defendant's property and to extort money from her to which Plaintiff is not entitled.

85. As stated previously, Plaintiff's ulterior purpose for filing a false mechanic's lien was to gain an objective which is not legitimate in the use of a mechanic's lien: to prevent the sale of Defendant's property and to extort money from her to which Plaintiff is not entitled.

86. This ulterior purpose was Plaintiff's sole and paramount reason for filing this action and the false mechanic's lien.

87. Defendant has suffered damages in an amount to be determined proximately caused by Plaintiff's actions.

88. Plaintiff's actions were willful, wanton, or reckless, and therefore, Defendant is entitled to punitive damages.

FOR AN EIGHTH DEFENSE AND BY WAY OF COUNTERCLAIM
(Slander of Title)

89. Defendant incorporates the previous Paragraphs of this Answer where not contradictory to this Counterclaim.

90. In conjunction with this action, Plaintiff filed a *lis pendens* falsely asserting that he has an ownership interest in three parcels of real property owned solely by Defendant.

91. Plaintiff filed a false mechanic's lien and asserted that this mechanic's lien encumbered Pope Field.

92. Plaintiff contacted the prospective buyer of Pope Field and notified him of the false mechanic's lien.

93. Plaintiff's publication of the foregoing statements was derogatory to Defendant's title to these properties.

94. Plaintiff took these actions with malice toward Defendant in an effort to disrupt her sale of these properties and extort money from her.

95. The sale of Pope Field was canceled due to Plaintiff's publications.

96. The value of all of Defendant's real property is diminished due to Plaintiff's publications.

97. Defendant has suffered damages in an amount to be determined proximately caused by Plaintiff's actions.

98. Defendant has incurred attorney's fees attempting to counteract Plaintiff's publications.

FOR A NINTH DEFENSE AND BY WAY OF COUNTERCLAIM
(Conversion)

99. Defendant incorporates the previous Paragraphs of this Answer where not contradictory to this Counterclaim.

100. Plaintiff has taken from Defendant and refused to return the keys to Pope Field.

101. Plaintiff has removed numerous items from Pope Field including tools and other equipment that were purchased by Defendant and are Defendant's property.

102. Plaintiff purchased several items, including, but not limited to, gasoline, using Defendant's credit cards and accounts without Defendant's permission.

103. Plaintiff removed an \$800 rent check, which was the monthly rent from Defendant's property, from Defendant's possession and deposited said check without Defendant's permission.

104. Defendant has suffered damages in an amount to be determined proximately caused by Plaintiff's actions.

FOR A TENTH DEFENSE AND BY WAY OF COUNTERCLAIM
(Eviction)

105. Defendant incorporates the previous Paragraphs of this Answer where not contradictory to this Counterclaim.

106. Defendant is the owner of premises located at 109 Linda Lane, Easley, South Carolina ("Linda Lane").

107. Plaintiff has been residing at the above described premises, without a written or oral lease agreement or any writing or agreement evidenced otherwise.

108. Plaintiff has never paid any rent to Defendant for residing at Linda Lane.

109. Plaintiff is a tenant at will and is not a renter, tenant, or holder of any interest in Linda Lane.

110. In April 2018, Defendant demanded that Plaintiff removed himself from Linda Lane.

111. Plaintiff has previously refused to vacate Linda Lane.

112. Grounds for this ejectment are that the occupancy has ended, and Defendant is entitled to immediate possession of the premises

FOR AN ELEVENTH DEFENSE
(Offset)

113. Defendant incorporates the previous Paragraphs of this Answer where not contradictory to this Counterclaim.

114. Defendant has suffered damages due to Plaintiff's conduct and Defendant is entitled to offset any amount owed to Plaintiff by way of damages.

WHEREFORE, Defendant moves for the following relief:

- 1) Dismissal of Plaintiff's Complaint;
- 2) Cancellation of Plaintiff's Notice of and Certificate of Mechanics and or Materialman's Lien;
- 3) Cancellation of Plaintiff's Lis Pendens Notice of Pendency of Action;
- 4) An injunction against Plaintiff disparaging or slandering title to Defendant's real property;
- 5) Eviction of Plaintiff from Defendant's Property;
- 6) A judgment against Plaintiff for all damages caused to Defendant pursuant to Defendant's counterclaims including, but not limited to, actual, consequential, punitive damages, attorney's fees and costs of litigation; and
- 7) Such other relief as the Court deems just and proper.

BANNISTER, WYATT & STALVEY, LLC

s/Luke A. Burke

Bruce W. Bannister – SC Bar No. 15679

Luke A. Burke – SC Bar No. 100033

401 Pettigru Street (29601)

P. O. Box 10007 (29603)

Greenville, South Carolina

Phone: (864) 298-0084

Fax: (864) 298-0146

June 15, 2018
Greenville, South Carolina

*Attorneys for the Defendants Debra Mowery and
TD Realty, LLC*

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
COUNTY OF PICKENS) THIRTEENTH JUDICIAL CIRCUIT
TERENCE "TERRY" CARROLL,) Civil Action No. 2018-CP-39-585

PLAINTIFF,)
-VS-) SUMMONS
AND NOTICE
AMENDED
COMPLAINT
attached

DEBRA MOWERY and)
T D REALTY, and)
UPSTATE RE GROUP, and)
HAWK SHADOW BUSINESS SERVICES, LLC.

And)
DEBRA MOWER REALTOR)
DEFENDANTS.) Jury Trial Requested

TO DEFENDANTS NAMED ABOVE, YOU ARE SUMMONED AND REQUIRED TO ANSWER OR OTHERWISE PLED to the pleading of the party issuing this Summons and Notice, in this action above captioned, which is this date served upon you with the pleading attached to the Summons and Notice, YOU ARE DIRECTED to serve your responding pleading to this pleading at the following address: Party's attorney, James P. O'Connell, Attorney at Law, 139 Grace Drive, Grace Office Park, Easley, South Carolina (SC) 29640 or by Certified Mail at this address. Within thirty (30) days after the day of service, not to include the day of service, if served by Certified Mail Return Receipt Requested, addressee only, the addition of five (5) days is added to the time to Answer or otherwise plead, and IF YOU FAIL TO ANSWER or otherwise plead or respond in writing, within the time noted, the party serving will apply to the Court for the relief requested in the pleading and JUDGMENT will be entered against you by DEFAULT.

IF YOU ARE A MINOR, INCOMPETENT OR A PRISONER a personal Guardian ad Litem may be or will be appointed for you by law, IF YOU DO NOT APPLY, for a Guardian ad Litem to be appointed. IF YOU are currently in the service of any armed forces of the USA, advise Promptly both to the Clerk of Court and the attorney above.

_____, 20____

Easley, SC

Plaintiff's Attorney 4259
James P. O'Connell
139 Grace Drive
Easley, South Carolina 29640
Phone 864-220-0005 FAX 498-7210
jpatrickoconnell@yahoo.com

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF PICKENS	)	THIRTEENTH JUDICIAL CIRCUIT
	)	
TERENCE "TERRY" CARROLL,	)	Civil Action No. 2018-CP-39-585
	)	
PLAINTIFF,	)	AMENDED
-VS-	)	COMPLAINT
	)	
DEBRA MOWERY and	)	
T D REALTY, and	)	
UPSTATE RE GROUP, and	)	
HAWK SHADOW BUSINESS SERVICES, LLC.	)	
And	)	
DEBRA MOWER REALTOR	)	
DEFENDANTS.	)	Jury Trial Requested

The Plaintiff named above Complaining of the Defendants named above would respectfully show and allege to the Court:

- A. Reserving any and all rights to any and all Motions to include that of an Injunction.

STATEMENT OF FACTS OF THE CAUSES OF ACTION

1. The parties are citizens of the United States of America, residents of the State of South Carolina and residing in Pickens County. The Defendants business T D Realty is a business organized under the laws of South Carolina and operating principally in Pickens County South Carolina.
2. The parties entered into contract and a series of contracts starting in the State of Maryland and then moving to and continuing in the South Carolina County of Pickens.
3. The contracting was and continued in Pickens County South Carolina, to acquire real estate for the purposes of repair and or renovations then resale and for other personal property, to include vehicles.
4. The parties have over the course of their agreement and contract conducted business to have

acquired real estate, using funds from both parties and the parties have acquired personal property to include cash and vehicles.

5. The parties have over the course of the agreement and contract have acquired other properties to include the establishment of businesses and companies, for example the Defendant T and D Realty. and UPSTATE RE GROUP, and HAWK SHADOW BUSINESS SERVICES, LLC. And DEBRA MOWER REALTOR, and any new businesses or entities of the Defendants formed without the Plaintiff's knowledge.

6. Plaintiff is a co-partner, co-owner, and the like of any and all property and properties, to include checking accounts, savings accounts, pension accounts, company accounts, safe deposit boxes, cash held privately and held by others for Defendants.

7. Plaintiff states that the current actions of the Defendants are intended to have caused Plaintiff to be penniless and homeless and or fear the same as Plaintiff came to understand and discover that no real and or personal property so acquired by the parties was legally titled in and to the Plaintiff, but only in the Defendant Mowery.

8. Plaintiff and Defendants had a contract agreement of each party, Plaintiff and Defendants to share and share alike in the real estate and property of the parties; and a history of the relationship would show that the parties intended to have an equal Partnership and or ownership of the properties, real and personal the parties acquired.

9. Recently Defendants have removed cash monies and personal property from the parties accounts, cash held in safes and at the residence the parties shared, and other properties, to include Plaintiff being

informed a real property of the parties is to be sold or is being sold. Further, Defendants have entered into and have started another business and or company, using the funds, property and labors of the Plaintiff.

FOR A FIRST CAUSE OF ACTION
Unjust Enrichment

10. The Statement of Facts for the Causes of Action is repeated here by incorporation by reference.

11. Plaintiff is due and owed from Defendants any and all funds and monies due for any and all work and the like done for the acquisition of the properties acquired by the plaintiff and defendants.

12. Plaintiff by and with the contract and agreement of the Defendants did certain labors and constructions and investments in and to the acquiring of and the use of any and all properties acquired by the parties, Plaintiff and Defendants.

13. Plaintiff as part of the labors and work under the parties agreement and contract did fix and rebuild Defendant Mowery daughter's vehicle, Plaintiff did completely rebuilt rebuild and rehab the parties first investment real property 4548 Church St. Whiteford Maryland. The parties used funds from Plaintiff's Mowery's settlement for the purchase Of the first real property and used Defendant's settlement funds for the purchase of the First real estate in South Carolina and other funds from each and used the labors of Plaintiff for the renovations and rebuilding for all the real estate the parties purchased as partners, co-owners, co-shareholders, etc., real estate and businesses in South Carolina.

14. Plaintiff has been and continues to be the party providing the labor for the rehab, rebuilding, renovating and the like of all real estate the parties have purchased together.

15. Plaintiff was informed by Defendants that Defendants did not want to support Plaintiff recently and the parties did agree and contract to equally divide any and all Property, both real and personal, and that is when Plaintiff discovered Defendants had Withdrawn and removed all cash from the safe and the accounts. Defendants informed Plaintiff that Defendants would no longer provide and cash to Plaintiff and also the Plaintiff would have no access to any and all property.

16. Defendants informed Plaintiff that the real property at 539 Pope Filed was being sold and Plaintiff had no rights. Defendant informed Plaintiff that Plaintiff had no rights title or interest in anything. Defendants phoned the police to have Plaintiff removed, but the police informed Defendants that the matter was civil and Defendants could not remove Plaintiff and can not lock Plaintiff out of the property.

17. Defendants have all keys to all property including vehicles and refuses to give to Plaintiff any keys. Defendants also removed and have confiscated Plaintiff's cell phone. Plaintiff is requesting the immediate return of the Plaintiff's work truck and the ownership of the jaguar vehicle, and equal division of the real estate, cash and any other property.

18. Plaintiff also did labors and construction on other property of the Defendants and the Defendants family without any compensation.

19. The above noted labors and construction work is sometimes known as sweat Equity, which Plaintiff must be compensated for by the Defendants.

20. Plaintiff requests the Court to ascertain the valuation of the real and personal property of the parties, Plaintiff and Defendants, and to equally divide that property into equal shares of value, because Plaintiff did and was conferring upon Defendants benefits, which were not gifts, as is shown above in

the Complaint, and Defendants have received those benefits for Defendants own use to include the selling and or sale of real property for profits; and that Plaintiff is not receiving any of the profits and or funds or assets from any of the selling and or sale of the parties property, which would not only be inequitable but also completely in violation of the parties understood and agreement upon agreement and contract.

21. As to Defendant, Upstate RE Group, Inc., Plaintiff is the Vice President, and this is a real estate Brokerage currently with one broker and three agents. Plaintiff did consulting with the President and Broker Cole Reynolds, also, placed and installed signs along with pick up, built the office, hauled furniture, installed appliances for clients attend showings, and was involved with decision makings. The business was supposed to pay the Plaintiff and Defendant Mowery for use of the office space, and that rent was to be used for the growing of the business.

22. As to Defendant Hawk Shadow Business Service, LLC; located at 109 Linda Lane, Easley SC is a tax preparation business and accounting business, of which the Plaintiff invested funds, mainly to purchased tax software. Plaintiff performed general Office work which was billed to clients by Defendant Mowery. Plaintiff built the office. Plaintiff also hauled and placed furniture.

23. As to Defendant Mowery Realtor, located at 109 Linda Lane, Easley SC; that Business was operated from the residence of the Plaintiff and Defendant Mowery, which was for the parties income from that business.

24. As reported above Plaintiff invested funds or cash money, to Defendant Mowery to obtain her real estate license. Plaintiff further did indeed consult with Defendant Mowery as to clients

especially as to the condition of the real estate of the Client. Plaintiff also transported Defendant Mowery to real estate showings.

25. Plaintiff prior to the parties relationship have certain tools and a work trailer. Further, those tools are necessary for Plaintiff to make a living. Plaintiff did acquire a Jaguar XJS, (which upon information and belief Defendant Mowery is not taking care of) Plaintiff requests all lawn tools including a riding mower, weed eater and tiller. Upon Information and belief, Defendant Mowery pays someone to perform the labors that were preformed by Plaintiff. Plaintiff is requesting all keys to all equipment. Further, Plaintiff requests all his guns, ammunition, accessories and sporting goods. Further, The following household goods, equipment, accessories, and the like, to include: the Dresser his sister gave him, all Plaintiff's clothes, Plaintiff's henkels knives with wooden Block he had before the relationship; his cookware, pots and pans, silverware, meat slicer, his barware (from his mother) all pewter plates and other cookware., Plaintiff's Bose stereo system including Onkyo receivers (Plaintiff's before the relationship); his Television, his xbox system and all games, his Klipchs TV speaker system, his wooden Ship model materials, his croquet set, his albums of dvd movies including James Bond Collection; his cabinet which contains the television gifted to Plaintiff by Bob Simi; his Barrels in the game room; all nick-nacks in game room; his pictures in game room and Storage, including the glass enclosed cork 3-d carving in the hall bath (his before the Relationship); everything in his closet; there is other personal property which will be Noted later, but, Plaintiff requests access to the location for inventory.

26. Plaintiff requests that he have at least a few days a week with the Plaintiff And Defendant's

dog. The dog has or suffers from distoid lupus and diarrhea, when Plaintiff is not with the dog for any long periods of time.

27. Plaintiff requests that if Defendant will not allow the personal property to Be returned to Plaintiff then the Court award and grant monetary funds equivalent to The value of those items.

FOR A SECOND CAUSE OF ACTION
Interest in and for Real Estate

28. The First Cause of Action are repeated here by incorporation by reference.

29. Plaintiff states the Defendants and Plaintiff acquired the ownership and or any interests in and to the following described real estate and personal properties:

REAL PROPERTY ONE:

Description All that certain piece, parcel or lot of land, with all improvements there, Situate, lying and being as shown Lot No. 5 of Cherry Dale Subdivision on plat prepared for Robin D. Lawson and Pam B. Lawson, dated November 7, 1990 recorded In Plat Book 40 at page 61, reference is made to plat for a more particular description. Property sold at public sale deed dated September 3, 2014 and recorded September 22, 2014 in Deed Book 1632 at page 2369, Pickens County Register of Deeds Office, From Special Referee, R. Murray Hughes, to Ocwen Loan Servicing LLC and Federal Home Loan Mortgage Corporation, which then assigned it's bid to Federal National Mortgage Corporation, then the same real property was conveyed to Debra Mowery By deed dated January 26, 2015 recorded January 28, 2015 in Deed Book 1658 at page 224 in the Register of Deeds Pickens County SC. See Corrective Deed recorded July 27, 2017 Deed Book 1882 at page 30.
TMS 5028-17-12-4119/ physical&Grantees address 109 Linda Lane, Easley SC 29642

REAL PROPERTY TWO:

Description, all that piece, parcel or lot of land, with all improvements, lying and being in Woodside Mills Village in the Town of Easley, SC Pickens SC and being more particularly described as Lot No. 241 as shown on a plat entitled A Subdivision Of Woodside Mills Easley SC December 1951 and recorded in the Register of Deeds Office Pickens County SC in Plat Book 1920 at page 136 & 137. Lot is shown as NO. 415 Ninth Street fronting 97.8 ft. Deed Book 1827 page 215 recorded 12-29-2016, Grantor US Bank National Assoc. As Indenture Trustee for CSMC Trust 2014-CI MI Mortgage Backed Notes, Series 2014-CIMI, to Debra Mowery, previously by Deed of Special Referee Pickens County (misnamed Easley County SC) recorded May 9, 2016 Deed Book

1768 page 10 in the ROD Office Pickens County SC. TMS 5019-19-60-4852, physical address 204 South Ninth Street Easley SC 29640

REAL PROPERTY THREE:

All that piece, parcel or lot of land in State of South Carolina, County of Pickens, About one mile south of Easley SC on Pope Field Road, known and designated at Tract No. Three(3) on plat of lands of T. D. Wade plat by JC Smith February 3, 1950, Beginning at iron pin on highway at the line of Home Maulding, then along Highway North 58-15 West 221.9 ft to iron pin; then North 24 East 225 ft to iron pin on land of Reeves Estate then South 70 East 37.7 ft to a stone, then with lands of Reeves Estate And Home Mauldin South 12 East 315.4 ft to iron pin on the road. This is the same real property conveyed to USBank National Association as Indenture Trustee for Springleaf Mortgage Loan Trust 2013-1, by and through Nationstar Mtg. LLC as Attorney in Fact by Deed of Daniel Hunt Special Referee for Pickens County South Carolina recorded on July 15, 2016 in Deed Book 1785 page 261 ROD Office Pickens County SC. Then by Grantor to Debra Mowery by Deed recorded in Deed Book 1796 page 188 8-30-2016. TMS 5028-09-16-6537/Physical address 539 Pope Field Road Easley SC grantees address 109 Lind Lane Easley SC 29642.

30. Plaintiff had and has an ownership interest in and to the above noted real estate properties, as Plaintiff funds were used to purchase the real properties and that the Plaintiff has been and was the only party performing labor and construction on and for the real properties to improve, rebuild, renovate and or refurbish all the real estate owned by, acquired by and in the possession of the Defendants.

31. The interest claimed by the Plaintiff is sometimes referred to a a constructive Trust.

FOR A THIRD CAUSE OF ACTION
For the Intentional Infliction of Emotional Distress

32. The First and Second Causes of Action are repeated here by incorporation by reference.

33. Plaintiff alleges that Defendant intentionally and recklessly inflicted severe emotional distress to the Plaintiff, as Defendants did in a grossly painful and disrespectful method deny the Plaintiff any and all rights and interests in and to the real and personal property the parties had attained and acquired during the agreement and contract to the point of attempting illegally to disenfranchise Plaintiff of any

and all rights Plaintiff has in and to the properties so acquired by the parties.

34. Plaintiff alleges the actions of the Defendants by themselves and any agent or agents have and are intending to cause Plaintiff severe emotional distress, because Defendants are claiming Plaintiff has no rights, title and interest in an to any real property. Defendants are have intended as a consequence of Defendants actions the break down of the Plaintiff and to have Plaintiff become destitute, homeless and without any property real and or personal.

35. Plaintiff alleges Defendants by their conduct and by it's agents conduct was and is both extreme and outrageous, as the same conduct was intended to evoke from the Plaintiff fear and dread and the same conduct is not to be tolerated in a civilized society. The Plaintiff alleges Defendants conduct continues to cause emotional distress to the Plaintiff. The Plaintiff alleges Defendant's conduct is severe in that the conduct continues to this date, and, Plaintiff still has fears, nightmares of the circumstances, of being homeless and penniless. The Plaintiff alleges that no other person could or would be expected to endure the same acts of the Defendants and their agents. Plaintiff alleges Defendants conduct did and continues to cause severe emotional distress, and Defendant should compensate the Plaintiff for the causing of the same, in the amount of One Hundred Thousand (\$100,000.00) Dollars, after the equal division of the real estate and personal property of the Plaintiff and Defendants.

FOR A FOURTH CAUSE OF ACTION
For the Specific Performance of Contract

36. The prior Causes of Action are repeated here by incorporation by reference.

37. As has been reported above the parties have and have had a contract for the Purchase of and reselling of real estate and that contract must be enforced as the parites have intended over the

course of the parties agreement of at least ten years.

38. The parties intended to be and are equal partners, co-owners and the like of The properties the real estate and equipment and other personal property so bought and purchased as above written in this Complaint.

39. There is and will be very clear evidence of a ongoing contract and agreement as above stated in this Complaint.

40. The parties agreement and contract has been and is continuing to be carried out by the parties, as one aspect of the agreement and contract the receiving or rents and or other payments from the purchased property to include proceeds from and sale and or any other transfer.

41. The Plaintiff has and continued to perform the Plaintiff's part of the parties Contract and agreement and until the blocking and unilateral ending and termination Of the parties contract and agreement, Plaintiff was performing Plaintiff's part of the agreement and contract of the parties and was and is attempting to continue the parties agreement and contract.

42. Plaintiff requests the specific performance of the parties contract and agreement by the equal division of the parties properties, real and personal, as is found by the Court.

FOR A FIFTH CAUSE OF ACTION
For the Breach of Contract by Defendants

43. The prior Causes of Action are repeated here by incorporation by reference.

44. The parties had and have a contract agreement and the Defendants have breached the contract and agreement as is stated above in this Complaint; as any contract has an implied covenant of good

faith and fair dealing.

45. Plaintiff has been fulfilling Plaintiff's rights, duties and obligations by and under the parties agreement and contract, but that the recent actions of Defendants have breached the parties agreement and contract, as Defendants have terminated the agreement and contract and not allowed Plaintiff any rights under the contract.

46. Defendants are liable to Plaintiff for any and all valuation of the property of the Parties agreement and contract to include any recent sells or sales of the real property, which Plaintiff is informed and believes is occurring.

47. Defendants should and must be accountable for the breach of the parties Contract in the amount of an equal division of the parties assets in all property To include any and all accounts and the like and any cash and or monies held Privately and or in the possession of others on behalf of Defendants.

FOR A SIXTH CAUSE OF ACTION
For the A Temporary Injunction against Defendants

48. The prior Causes of Action are repeated here by incorporation by reference.

49. Plaintiff is advised that Defendant could be and or are selling, have sold and have hidden funds of the Plaintiff and Defendants.

50. Plaintiff will request of the Court for an injunction as to the Defendants to Hold any and all sales and or if already sold or being sold that the funds and or Proceeds from any and all sells and or sales of any property that could be and or is that of the Plaintiff and Defendants, be held in escrow or by the Court; to be divided equally by the Court at any future date and time.

51. Plaintiff understands Defendants are removing and have removed property of the Plaintiff and the property is required to be preserved pending the rights of parties during this action. If the actions is not granted Plaintiff knows these funds, monies and properties of the parties contract and agreement will forever be not available to the Court to divide equally.

52. Plaintiff knows that the parties have an equal ownership of any and all assets of the parties and that Plaintiff will have a one half equal ownership of any and all property which includes any proceeds and or funds from any sale of the parties property in any manner whatsoever.

54. Plaintiff believes there is no other adequate remedy at law other than this Injunction. The Plaintiff requests the Court issue an injunction to prevent any sale and or transfer of any property of the parties and for the temporary possession of the personal property above stated.

FOR A SEVENTH CAUSE OF ACTION
For Restitution by Defendants

55. The prior Causes of Action are repeated here by incorporation by reference.

56. Plaintiff requests the restitution of any and all funds from Defendants that would be and are due and owing to the Plaintiff.

57. Plaintiff did as Plaintiff contracted, by placing Plaintiff's funds into the Possession of the Defendants for the benefit of the Plaintiff and Defendants.

58. Plaintiff did as Plaintiff contracted, by performing labors and work on the properties of the parties to include the repair, renovations and upgrading of the properties for resale and for renting and or the providing of additional funds to the parties.

59. The parties both the Defendants and the Plaintiff have been and were realizing benefits from the parties actions. The benefits included money, cash, living expenses, and other compensations. Defendants have come to remove the properties of the parties from the Plaintiff by denying Plaintiff any rights to any of the property and or funds of the parties, to include the denying Plaintiff any rights and interests in and to the properties of the parties.

60. That the allowing of the Defendants to retain any and all profits, funds, and other property of the Plaintiff would be and is inequitable.

61. Plaintiff is requesting the valuation of the entire properties of the parties and the payment to the Plaintiff of an equal one half share of any and all property.

FOR A EIGHTH CAUSE OF ACTION
Constructive Fraud by Defendants

62. The prior Causes of Action are repeated here by incorporation by reference.

63. Defendants informed and Plaintiff operated by the representations of the Defendants that the parties would be and were equal parties and the parties by their Payments and Plaintiffs labors would share equally as to all property and sales.

64. Defendants have now shown that Defendants did not at intend to share equally with Plaintiff the property of the parties nor any assets and or cash or other values of the agreement and contract.

65. Plaintiff and Defendants have and had this agreement and and contract for years and operated under the agreement and contract, except that all properties were placed into the name of the Defendants and not the Plaintiff, which was not made known to the Plaintiff with reasonable certainty. The providing of funds by the Plaintiff and the providing of labors and work by Plaintiff

were material to the parties agreement and contract.

66. Defendants did know that after a period of time that Defendants were not operating upon the same agreement and contract as Defendants have been and are removing and transferring property of the parties for the benefit of Defendants and not for Plaintiff.

67. Plaintiff has been over the years acting on the representations of Defendants that the agreement and contract are in effect and that the parties have been using the funds of the parties for living expenses and operating expenses and also for the materials for the labors of the Plaintiff as to the properties of the parties.

68. Plaintiff has known nothing of the Defendants actions to remove cash, funds, and the like from the parties and that the Defendant have and are terminating the Plaintiff to the agreement and contract for the purpose of denying Plaintiff the Plaintiff's equal one half share.

69. Plaintiff has been and was relying on the representations of the Defendants To continue to labor and perform actions for the benefit of the parties agreement And contract, without Plaintiff knowing of the Defendants false promises of the Parties sharing equally in and to the property, profits and assets of the parties.

70. Plaintiff not only relied upon the representations of the Defendants and acted upon those representations in reliance of the statements of the parties equally sharing in all, Plaintiff rightfully relied upon the statements but that the Plaintiff is now being injured by and from those statements and representations.

71. Plaintiff requests the Court to grant to Plaintiff one half of all property In whatever form or

shape and wherever held and by any other parties, and to Order Defendants to pay over to Plaintiff One Hundred Thousand (\$100,000.00) Dollars for the Defendants constructive fraud, as the funds obtained by Defendants Did not belong entirely to Defendants, and are being withheld from Plaintiff To Cause irreparable harm to Plaintiff as noted above in this Complaint; and those Funds are being withheld from Plaintiff due to Defendants fraud, breach of trust and breach of fiduciary duty as here stated and above in this Complaint. The Defendants did rely on the Plaintiff having confidence in Defendants to equitably And in good conscience divide equally all properties in whatever form. Defendants Unconscionable conduct of taking any and all funds and then leaving Plaintiff Homeless and penniless, should have the Court grant to Plaintiff any further Damages the Court would deem fair and equitable.

FOR A NINTH CAUSE OF ACTION
Breach of Trust by Defendants

72. The prior Causes of Action are repeated here by incorporation by reference.

73. Plaintiff as reported above in this Complaint, states Defendant have been
And are committing breach of trust.

74. Defendants have been and removing funds and assets the rightfully are in
the possession of the Plaintiff and Defendant, without any approval of Plaintiff.

75. Plaintiff states that assets of the parties, including to but not limited to, Real property, have
been and are being transferred to include by selling, without Plaintiff receiving Plaintiff's just and
equal share.

76. All property of the Plaintiff and Defendants was deeded to, titled to, and in any other means or ways granted to Defendants for the benefit of the Plaintiff and Defendants. The trust thereby created by and between Plaintiff and Defendants was that any and all assets, were to be held by both parties for the benefit of both parties, and each party was to act accordingly in a fiduciary relationship, with the Defendants and Plaintiff using the funds from the sale and or rental or otherwise for the benefit of both parties, for example living expenses, materials, and payment for labor and work provided.

77. Plaintiff requests the equal division of the parties assets, including any and all real estate and funds wherever held and by whoever has those funds. Plaintiff requests One Hundred Thousand (\$100,000.00) Dollars in damages, as is also reported and stated in this Complaint.

FOR A TENTH CAUSE OF ACTION
Quantum Merit

78. The Statement of Facts and the prior Causes of Action is repeated here by incorporation by reference.

79. Plaintiff is due and owed from Defendants any and all funds and monies due For any and all work and the like done for the acquisition of the properties acquired by the plaintiff and defendants.

80. Plaintiff by and with the contract and agreement of the Defendants did certain labors and constructions and investments in and to the acquiring of and the use of any and all properties acquired by the parties, Plaintiff and Defendants.

81. Plaintiff as part of the labors and work under the parties agreement and contract did fix and rebuild Defendant Mowery daughter's vehicle, Plaintiff did completely rebuilt rebuild and rehab the

parties first investment real property 4548 Church St. Whiteford Maryland. The parties used funds from Defendant Mowery's settlement and other funds but used the labors of Plaintiff for the renovations and rebuilding for all the real estate the parties purchased as partners, co-owners, co-shareholders, etc., real estate and businesses in South Carolina.

82. Plaintiff has been and continues to be the party providing the labor for the rehab, rebuilding, renovating and the like of all real estate the parties have purchased together.

83. Plaintiff was informed by Defendants that Defendants did not want to support Plaintiff recently and the parties did agree and contract to equally divide any and all property, both real and personal, and that is when Plaintiff discovered Defendants had withdrawn and removed all cash from the safe and the accounts. Defendants informed Plaintiff that Defendants would no longer provide and cash to Plaintiff and also the Plaintiff would have no access to any and all property and for labors performed.

84. Defendants informed Plaintiff that the real property at 539 Pope Filed was being sold and Plaintiff had no rights. Defendant informed Plaintiff that Plaintiff had no rights title or interest in anything. Defendants phoned the police to have Plaintiff removed, but the police informed Defendants that the matter was civil and Defendants could not remove Plaintiff and can not lock Plaintiff out of the property. Defendants had not and continue to not be paying Plaintiff for the labor and work of the Plaintiff.

85. Defendants have all keys to all property including vehicles and refuses to give to Plaintiff any keys. Defendants also removed and have confiscated Plaintiff's cell phone. Plaintiff is requesting the immediate return of the Plaintiff's work truck and the ownership of the jaguar vehicle, and equal division of the real estate, cash and any other property and payments for any and all labor and work for

the properties.

86. Plaintiff also did labors and construction on other property of the Defendants and the Defendants family without any compensation.

87. The above noted labors and construction work is sometimes known as sweat Equity, which Plaintiff must be compensated for by the Defendants.

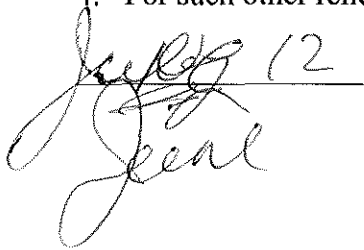
88. Plaintiff requests the Court to ascertain the valuation of the real and personal property of the parties, Plaintiff and Defendants, and to equally divide that property into equal shares of value, because Plaintiff did and was conferring upon Defendants benefits, which were not gifts, as is shown above in the Complaint, and Defendants have received those benefits for Defendants own use to include the selling and or sale of real property for profits; and that Plaintiff is not receiving any of the profits and or funds or assets from any of the selling and or sale of the parties property, which would not only be inequitable but also completely in violation of the parties understood and agreement upon agreement and contract, to include any and all labors and work done and being done for the benefit of the parties on the properties of the parties. Plaintiff is informed and believes that Plaintiff is due and owed at the minimum \$300,000.00 for all labors and work.

THE PLAINTIFF REQUESTS THE COURT TO GRANT TO FOLLOWING RELIEF:

1. The amount due the Plaintiff as noted above, for each cause of action as requested from the Defendants or as calculated by the Court for each Cause of Action, to include reasonable costs for any real and or personal property that is the Plaintiff's or is found to be part of the Plaintiff's.
2. The amount of reasonable attorney fees and the costs of this action, from the Defendants.

2. The Plaintiff to recover judgment against the Defendants in the amount requested for each cause of action as requested and the Plaintiff should also recover not only for the damages noted but also for punitive damages for the likelihood the Defendant's conduct is continuing and was done with the reason to destroy the Plaintiff.

4. For such other relief as the Court deems just.

A handwritten signature in cursive script, appearing to read 'James P. O'Connell', is written over a horizontal line.

_____, 2018

s/James P. O'Connell #4259
ATTORNEY FOR THE PLAINTIFF
JAMES P. O'CONNELL

139 Grace Drive

Easley, SC 29640

Phone 864-220-0005 Fax 220-0005 & 498-7210

jpatrickoconnell@yahoo.com

JURY TRIAL REQUESTED

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	THIRTEENTH JUDICIAL CIRCUIT
COUNTY OF PICKENS	)	
	)	
Terence "Terry" Carroll,	)	ANSWER TO AMENDED COMPLAINT
	)	AND COUNTERCLAIM OF DEFENDANTS
Plaintiff,	)	
	)	
vs.	)	C.A. No. 2018-CP-39-00585
	)	
Debra Mowery, TD Realty, Upstate RE	)	
Group, Hawk Shadow Business Services,	)	
LLC, and Debra Mower Realtor	)	
	)	
Defendants.	)	
	)	

The defendants, Debra Mowery, TD Realty, Upstate RE Group, Hawk Shadow Business Services, LLC, and Debra Mower Realtor ("Defendant") answering the Complaint of the plaintiff, Terence "Terry" Carroll, ("Plaintiff") would respectfully show unto this Court:

FOR A FIRST DEFENSE
(Dismissal Pursuant to Rule 12(b)(6) SCRCP)

1. Plaintiff's Complaint fails to assert a claim against Defendant, or facts sufficient to constitute a cause of action against Defendant upon which relief can be granted.
2. Therefore, Plaintiff's Complaint should be dismissed pursuant to Rule 12(b)(6) SCRCP.

FOR A SECOND DEFENSE
(General Denial)

3. Defendant denies each and every allegation contained in the Complaint not hereinafter specifically admitted, qualified, or explained and demands strict proof thereof.
4. Defendant denies that Plaintiff is entitled to an injunction as suggested in Paragraph A of the Complaint.

5. Defendant admits the allegations of Paragraph 1; but asserts that the proper name of the business is TD Realty, LLC.

6. Defendant denies the allegations of Paragraphs 2 and 3.

7. Defendant denies the allegations of Paragraph 4 and specifically denies that Plaintiff has contributed any funds to Defendant's business ventures.

8. Defendant denies the allegations of Paragraphs 5 and 6.

9. Defendant denies the allegations of Paragraph 7; except, Defendant admits that Plaintiff has no ownership interest in Defendant's real and personal property.

10. Defendant denies the allegations of Paragraph 8.

11. Defendant denies the allegations of Paragraph 9 and specifically denies that Plaintiff has contributed any funds or property to Defendant's business ventures.

FIRST CAUSE OF ACTION

12. Defendant incorporates the previous Paragraphs of this Answer in response to Paragraph 10 of the Complaint.

13. Defendant denies the allegations of Paragraphs 11 – 15.

14. Defendant denies the allegations of Paragraph 16; except, Defendant admits that Plaintiff has no ownership interest in Defendant's real and personal property.

15. Defendant denies the allegations and requests for relief contained in Paragraph 17.

16. Defendant denies the allegations of Paragraphs 18 and 19.

17. Defendant denies the allegations and requests for relief contained in Paragraph 20.

18. Defendant denies the allegations of Paragraphs 21 – 24.

19. Defendant denies the allegations and requests for relief contained in Paragraphs 25 – 27.

SECOND CAUSE OF ACTION

20. Defendant incorporates the previous Paragraphs of this Answer in response to the second Paragraph 28 of the Complaint.

21. Defendant denies the allegations of Paragraph 29.

22. Defendant denies the allegations of Paragraph 30 and specifically denies that Plaintiff has contributed any funds to Defendant's business ventures.

23. Defendant denies the allegations of Paragraph 31.

THIRD CAUSE OF ACTION

24. Defendant incorporates the previous Paragraphs of this Answer in response to Paragraph 32 of the Complaint.

25. Defendant denies the allegations of Paragraph 33; except, Defendant admits that Plaintiff has no ownership interest in Defendant's real and personal property.

26. Defendant denies the allegations of Paragraphs 34 and 35.

FOURTH CAUSE OF ACTION

27. Defendant incorporates the previous Paragraphs of this Answer in response to Paragraph 36 of the Complaint.

28. Defendant denies the allegations and requests for relief contained in Paragraphs 37 - 42.

FIFTH CAUSE OF ACTION

29. Defendant incorporates the previous Paragraphs of this Answer in response to Paragraph 43 of the Complaint.

30. Defendant denies the allegations of Paragraphs 44 – 47.

SIXTH CAUSE OF ACTION

31. Defendant incorporates the previous Paragraphs of this Answer in response to Paragraph 48 of the Complaint.

32. Defendant denies the allegations of Paragraph 49 and specifically denies that Plaintiff has any funds in Defendant's possession or control.

33. Defendant denies the allegations and requests for relief contained in Paragraph 50.

34. Defendant denies the allegations of Paragraph 51 and specifically denies that Plaintiff has any property in Defendant's possession or control.

35. Defendant denies the allegations and requests for relief contained in Paragraphs 52 and 54.

SEVENTH CAUSE OF ACTION

36. Defendant incorporates the previous Paragraphs of this Answer in response to the second Paragraph 55 of the Complaint.

37. Defendant denies the allegations and requests for relief contained in Paragraph 56.

38. Defendant denies the allegations of Paragraphs 57 and 58, and specifically denies that Plaintiff has contributed any funds to Defendant's business ventures.

39. Defendant denies the allegations of Paragraph 59; except, Defendant admits that Plaintiff has no ownership interest in Defendant's real and personal property.

40. Defendant denies the allegations and requests for relief contained in Paragraphs 60 and 61.

EIGHTH CAUSE OF ACTION

41. Defendant incorporates the previous Paragraphs of this Answer in response to the Paragraph 62 of the Complaint.

42. Defendant denies the allegations of Paragraph 63, and specifically denies that Plaintiff has contributed any payments to Defendant's business ventures.

43. Defendant denies the allegations of Paragraph 64; except Defendant admits that it was never Defendant's intention to share Defendant's assets, cash, or other valuables with Plaintiff.

44. Defendant denies the allegations of Paragraphs 65 and 66; except, Defendant admits that Plaintiff has no ownership interest in Defendant's real and personal property.

45. Defendant denies the allegations and requests for relief contained in Paragraphs 67 – 71.

NINTH CAUSE OF ACTION

46. Defendant incorporates the previous Paragraphs of this Answer in response to the Paragraph 72 of the Complaint.

47. Defendant denies the allegations of Paragraphs 73 – 75.

48. Defendant denies the allegations of Paragraph 76; except, Defendant admits that Plaintiff has no ownership interest in Defendant's real and personal property.

49. Defendant denies the allegations and requests for relief contained in Paragraph 77.

TENTH CAUSE OF ACTION

50. Defendant incorporates the previous Paragraphs of this Answer in response to the Paragraph 78 of the Complaint.

51. Defendant denies the allegations of Paragraphs 79 – 83.

52. Defendant denies the allegations of Paragraph 84; except, Defendant admits that Plaintiff has no ownership interest in Defendant's real and personal property.

53. Defendant denies the allegations and requests for relief contained in Paragraphs 85 – 88.

FOR A THIRD DEFENSE
(Statute of Frauds)

54. Defendant incorporates the previous Paragraphs of this Answer where not contradictory with this defense.

55. Plaintiff alleges that the parties entered into a contract “at least ten years” ago.

56. Defendant denies that the parties entered into any contract.

57. Plaintiff is estopped from bringing an action upon any agreement that is not to be performed within the space of one year from the making thereof unless such agreement is in writing signed by Defendant.

58. No written agreement exists between the parties.

59. Therefore, Plaintiff’s action should be dismissed.

FOR A FOURTH DEFENSE
(Statute of Limitations)

60. Defendant incorporates the previous Paragraphs of this Answer where not contradictory with this defense.

61. Plaintiff’s action is wholly or partially barred by the applicable statute of limitations.

62. Therefore, Plaintiff’s action should be dismissed.

FOR A FIFTH DEFENSE
(Laches)

63. Defendant incorporates the previous Paragraphs of this Answer where not contradictory with this defense.

64. Plaintiff's equitable causes of action are wholly or partially barred by the equitable doctrine of laches.

65. Therefore, Plaintiff's action should be dismissed.

FOR A SIXTH DEFENSE AND BY WAY OF COUNTERCLAIM
(Interference with Contractual Relationship)

66. Defendant incorporates the previous Paragraphs of this Answer where not contradictory to this Counterclaim.

67. Defendant owns property located at 539 Pope Field Road, Easley, South Carolina ("Pope Field").

68. Pope Field is solely titled in Defendant's name.

69. Defendant entered into a contract with a prospective buyer to sell Pope Field.

70. Plaintiff knew about Defendant's contract for the sale of Pope Field.

71. The closing of the sale of Pope Field was scheduled for May 18, 2018.

72. On May 16, 2018, Plaintiff wrongfully filed this action.

73. Plaintiff's purpose of filing this action was to wrongfully interfere with Defendant's contract for the sale of Pope Field.

74. On May 17, 2018, Plaintiff wrongfully filed a false mechanic's lien allegedly encumbering Pope Field.

75. Plaintiff is not a licensed contractor; and, therefore, he is not entitled to file a true mechanic's lien on any property.

76. On May 17, 2018, Plaintiff contacted the prospective buyer to inform him that a mechanic's lien had been filed encumbering Pope Field.

77. Plaintiff's purpose of filing the false mechanic's lien and for informing the prospective buyer about the false mechanic's lien was to wrongfully interfere with Defendant's contract for the sale of Pope Field.

78. Due to Plaintiff's actions, the prospective buyer breached the contract and refused to purchase Pope Field.

79. Plaintiff has no legitimate justification for interfering with Defendant's contract.

80. Defendant has suffered damages in an amount to be determined proximately caused Plaintiff's actions.

81. Defendant has suffered mental anguish due to Plaintiff's actions and is entitled to recover damages to compensate her for same.

82. Plaintiff's actions were willful, wanton, or reckless, and therefore, Defendant is entitled to punitive damages.

FOR A SEVENTH DEFENSE AND BY WAY OF COUNTERCLAIM
(Abuse of Process)

83. Defendant incorporates the previous Paragraphs of this Answer where not contradictory to this Counterclaim.

84. As stated previously, Plaintiff's ulterior purpose for filing this action was to gain an objective which is not legitimate in filing this action: to prevent the sale of Defendant's property and to extort money from her to which Plaintiff is not entitled.

85. As stated previously, Plaintiff's ulterior purpose for filing a false mechanic's lien was to gain an objective which is not legitimate in the use of a mechanic's lien: to prevent the sale of Defendant's property and to extort money from her to which Plaintiff is not entitled.

86. This ulterior purpose was Plaintiff's sole and paramount reason for filing this action and the false mechanic's lien.

87. Defendant has suffered damages in an amount to be determined proximately caused by Plaintiff's actions.

88. Plaintiff's actions were willful, wanton, or reckless, and therefore, Defendant is entitled to punitive damages.

FOR AN EIGHTH DEFENSE AND BY WAY OF COUNTERCLAIM
(Slander of Title)

89. Defendant incorporates the previous Paragraphs of this Answer where not contradictory to this Counterclaim.

90. In conjunction with this action, Plaintiff filed a *lis pendens* falsely asserting that he has an ownership interest in three parcels of real property owned solely by Defendant.

91. Plaintiff filed a false mechanic's lien and asserted that this mechanic's lien encumbered Pope Field.

92. Plaintiff contacted the prospective buyer of Pope Field and notified him of the false mechanic's lien.

93. Plaintiff's publication of the foregoing statements was derogatory to Defendant's title to these properties.

94. Plaintiff took these actions with malice toward Defendant in an effort to disrupt her sale of these properties and extort money from her.

95. The sale of Pope Field was canceled due to Plaintiff's publications.

96. The value of all of Defendant's real property is diminished due to Plaintiff's publications.

97. Defendant has suffered damages in an amount to be determined proximately caused by Plaintiff's actions.

98. Defendant has incurred attorney's fees attempting to counteract Plaintiff's publications.

FOR A NINTH DEFENSE AND BY WAY OF COUNTERCLAIM
(Conversion)

99. Defendant incorporates the previous Paragraphs of this Answer where not contradictory to this Counterclaim.

100. Plaintiff has taken from Defendant and refused to return the keys to Pope Field.

101. Plaintiff has removed numerous items from Pope Field including tools and other equipment that were purchased by Defendant and are Defendant's property.

102. Plaintiff purchased several items, including, but not limited to, gasoline, using Defendant's credit cards and accounts without Defendant's permission.

103. Plaintiff removed an \$800 rent check, which was the monthly rent from Defendant's property, from Defendant's possession and deposited said check without Defendant's permission.

104. Defendant has suffered damages in an amount to be determined proximately caused by Plaintiff's actions.

FOR A TENTH DEFENSE AND BY WAY OF COUNTERCLAIM
(Eviction)

105. Defendant incorporates the previous Paragraphs of this Answer where not contradictory to this Counterclaim.

106. Defendant is the owner of premises located at 109 Linda Lane, Easley, South Carolina ("Linda Lane").

107. Plaintiff has been residing at the above described premises, without a written or oral lease agreement or any writing or agreement evidenced otherwise.

108. Plaintiff has never paid any rent to Defendant for residing at Linda Lane.

109. Plaintiff is a tenant at will and is not a renter, tenant, or holder of any interest in Linda Lane.

110. In April 2018, Defendant demanded that Plaintiff removed himself from Linda Lane.

111. Plaintiff has previously refused to vacate Linda Lane.

112. Grounds for this ejectment are that the occupancy has ended, and Defendant is entitled to immediate possession of the premises

FOR AN ELEVENTH DEFENSE
(Offset)

113. Defendant incorporates the previous Paragraphs of this Answer where not contradictory to this Counterclaim.

114. Defendant has suffered damages due to Plaintiff's conduct and Defendant is entitled to offset any amount owed to Plaintiff by way of damages.

WHEREFORE, Defendant moves for the following relief:

- 1) Dismissal of Plaintiff's Complaint;
- 2) Cancellation of Plaintiff's Notice of and Certificate of Mechanics and or Materialman's Lien;
- 3) Cancellation of Plaintiff's Lis Pendens Notice of Pendency of Action;
- 4) An injunction against Plaintiff disparaging or slandering title to Defendant's real property;
- 5) Eviction of Plaintiff from Defendant's Property;
- 6) A judgment against Plaintiff for all damages caused to Defendant pursuant to Defendant's counterclaims including, but not limited to, actual, consequential, punitive damages, attorney's fees and costs of litigation; and

7) Such other relief as the Court deems just and proper.

BANNISTER, WYATT & STALVEY, LLC

s/Luke A. Burke

Bruce W. Bannister – SC Bar No. 15679

Luke A. Burke – SC Bar No. 100033

401 Pettigru Street (29601)

P. O. Box 10007 (29603)

Greenville, South Carolina

Phone: (864) 298-0084

Fax: (864) 298-0146

June 26, 2018
Greenville, South Carolina

Attorneys for the Defendants

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF PICKENS	)	THIRTEENTH JUDICIAL CIRCUIT
	)	
TERENCE "TERRY" CARROLL,	)	Civil Action No. 2018-CP-39-585
	)	
PLAINTIFF,	)	REPLY TO
-VS-	)	ANSWER and COUNTERCLAIM
	)	
DEBRA MOWERY and	)	
T D REALTY, and	)	
UPSTATE RE GROUP, and	)	
HAWK SHADOW BUSINESS SERVICES, LLC.	)	
And	)	
DEBRA MOWER REALTOR	)	
DEFENDANTS.	)	Jury Trial Requested

The Plaintiff named above Replying to the Answer and Counterclaim of the Defendants named above would respectfully show and allege to the Court:

- A. Reserving any and all rights to any and all Motions to include that of an Injunction.
- B. Plaintiff reports and corrects the Complaint by indicating that the Plaintiff and Defendant had other businesses owned and operated by both parties or one party for the other party the names of those entities is and are known by the Defendant Mowery AND are subject to and party's to this action.
- C. Plaintiff informs the Court that the allegations of the Complaint Paragraph 81., due to a Scriveners error, should have indicated that the Plaintiff's settlement was the basis for the Purchase of the real property and structures located at 109 Linda Lane, Easley SC, not the Defendant's settlement.

PLAINTIFF REPLYING TO THE DEFENSES OF THE DEFENDANTS AND ANY DEFENDANTS

NOT NAMED, ARE MADE PART AND PARCEL PART OF THIS ACTION AND REPLY.

D. Any allegations made by the Answer and Counterclaim which are not replied to are denied to include any and all inferences from those allegations and strict proof is demanded.

1. AS TO THE FOR A FIRST DEFENSE (Dismissal Pursuant to Rule 12(b)(6) SCRCP, As to paragraph 1., these allegations are denied and as is shown by the pleadings, sufficient facts and or allegations were made and are made to join all parties, and constitute each and every cause of action as to Defendants.

2. AS TO THE FOR A FIRST DEFENSE (Dismissal Pursuant to Rule 12(b)(6) SCRCP, As to paragraph 2., these allegations are denied and as is shown by the pleadings, more than enough Information is provided to constitute each and every cause of action as to any and all Defendants.

3. AS TO THE FOR A SECOND DEFENSE (General Denial) As to 3., these allegations denied and as is shown by the pleadings, sufficient facts and or allegations were made and are made to join all parties, and constitute each and every cause of action as to Defendants. As to paragraph 4., these allegations are denied and as is shown by the pleadings, as there is plead sufficient information for a Court to hear and rule as to any injunction. As to paragraph 5., no response of Reply is needed or required, as the name supplied to Plaintiff was as stated. As to paragraph 6., no reply required. As to Paragraph 7., as will be shown, Plaintiff has contributed funds and also labors and equipment, etc., to the acquisitions of the parties and the parties businesses, profits, and any other assets. As to paragraph 9. Defendant admits that Plaintiff has an ownership interest in and to at least the real and personal property Of the Defendant and that admission must sustain this suit and division of all assets of the parties.

As to paragraph 8., Plaintiff states no reply is required as Plaintiff has ownership rights as plead. As to Paragraph 10., no reply is required as Plaintiff has ownership rights and interest in and to the assets of the parties as plead. As to paragraph 11. Plaintiff will be showing and Defendant knows of the funds and labors of the Plaintiff as to the parties properties and businesses.

4. AS TO THE FIRST CAUSE OF ACTION, As to paragraph 12., the replies are as stated by the replies as reported above. As to paragraph 13., no reply required. As to paragraph 14. Plaintiff does have ownership rights in both the real property and the personal property of Defendants. As to paragraphs 15. Through 19., no reply is required, as Plaintiff does have ownership interests in all the real property and personal property of the Defendants, named and unnamed.

5. AS TO THE SECOND CAUSE OF ACTION, As to paragraph 20., the replies are as stated by the replies as reported above. As to paragraphs 21., through 23., replies are not required except as the Plaintiff has ownership and interests in and to the real and personal property of the Defendant and the companies and entities of the Defendants named and unnamed.

6. AS TO THE THIRD CAUSE OF ACTION, As to paragraph 24., the replies are as stated by the replies as reported above. As to paragraphs 25., AND 26., replies are not required except as the Plaintiff has ownership and interests in and to the real and personal property of the Defendant and the companies and entities of the Defendants named and unnamed.

7. AS TO THE FOURTH CAUSE OF ACTION, As to paragraph 27., the replies are as stated by the replies as reported above. As to paragraph 28., replies are not required except as the Plaintiff has ownership and interests in and to the real and personal property of the Defendant and the companies and

entities of the Defendants named and unnamed.

8. AS TO THE FIFTH CAUSE OF ACTION, As to paragraph 29., the replies are as stated by the replies as reported above. As to paragraphs 30., no reply is required except as the Plaintiff has ownership and interests in and to the real and personal property of the Defendant and the companies and entities of the Defendants named and unnamed.

9. AS TO THE SIXTH CAUSE OF ACTION, As to paragraph 31., the replies are as stated by the replies as reported above. As to paragraphs 32., through 35., replies are not required except as the Plaintiff has ownership and interests in and to the real and personal property of the Defendant and the companies and entities of the Defendants named and unnamed and Plaintiff's funds were used.

10. AS TO THE SEVENTH CAUSE OF ACTION, As to paragraph 36., the replies are as stated by the replies as reported above. As to paragraphs 37., through 40., replies are not required except as the Plaintiff has ownership and interests in and to the real and personal property of the Defendant and the companies and entities of the Defendants named and unnamed and Plaintiff's funds and labors were used..

11. AS TO THE EIGHTH CAUSE OF ACTION, As to paragraph 41., the replies are as stated by the replies as reported above. As to paragraphs 42., through 453., replies are not required except as the Plaintiff has ownership and interests in and to the real and personal property of the Defendant and the companies and entities of the Defendants named and unnamed, and denied as to never Defendants intention to share with Plaintiff, the inference is that there was by Plaintiff the payment of funds and labors as plead but unknown to Plaintiff the Defendant was not intending to share.

12. AS TO THE NINTH CAUSE OF ACTION, As to paragraph 46., the replies are as stated by the replies as reported above. As to paragraphs 47., through 49., replies are not required except as the Plaintiff has ownership and interests in and to the real and personal property of the Defendant and the companies and entities of the Defendants named and unnamed and as understood now Defendant had no intention to share even though Defendants used the funds and labors of the Plaintiff.

13. AS TO THE TENTH CAUSE OF ACTION, As to paragraph 50., the replies are as stated by the replies as reported above. As to paragraphs 51., through 53., replies are not required except as the Plaintiff has ownership and interests in and to the real and personal property of the Defendant and the companies and entities of the Defendants named and unnamed and as replied to above.

14. AS TO THE FOR A THIRD DEFENSE (Statute of Frauds), As to paragraph 54., the replies are as stated by the replies as reported above. As to paragraphs 55., through 59., replies are not required except as the Plaintiff has ownership and interests in and to the real and personal property of the Defendant and the companies and entities of the Defendants named and unnamed, and that all actions Have been and were on going until Defendants attempted to force out Plaintiff. The month to month And year to year continuation of the parties agreement and agreements is as reported.

15. AS TO THE FOURTH DEFENSE (Statute of Limitations), As to paragraph 60., the replies are as stated by the replies as reported above. As to paragraphs 61., and 62., replies are not required except as the Plaintiff has ownership and interests in and to the real and personal property of the Defendant and the companies and entities of the Defendants named and unnamed; the statute does not Apply here as the parties agreement and agreements were on going and continuous..

16. AS TO THE FIFTH DEFENSE .(Laches), As to paragraph 63., the replies are as stated by the replies as reported above. As to paragraphs 64. And 65., replies are not required except as the Plaintiff has ownership and interests in and to the real and personal property of the Defendant and the companies and entities of the Defendants named and unnamed; laches does not apply as the ongoing nature of the parties relationship and agreement and agreements was continuous and on going and continuous to this date..

17. AS TO THE SIXTH DEFENSE AND BY WAY OF COUNTERCLAIM.(Interference with a Contractual Relationship), As to paragraph 66., the replies are as stated by the replies as reported above. As to paragraphs 67. through 82., replies are not required except as the Plaintiff has ownership and interests in and to the real and personal property of the Defendant and the companies and entities of the Defendants named and unnamed; laches does not apply as the ongoing nature of the parties relationship and agreement and agreements was continuous and on going and continuous to this date and as to the alleged interference with the prospective sale, the Plaintiff states that Plaintiff was offered a share of the sale proceeds as the real property of Pope Field was owned by Plaintiff and Defendant. There purpose of this filing and the Materialman's Lien were and are to provide Plaintiff with the Plaintiff one half share of proceeds from the sale, to enforce the parties agreement and agreements. There was no and is no wrongful filing as Plaintiffs funds, labors and equipment was used in and for the acquisition of the real property as well as other real properties. The lien was not and is not false as Plaintiff did provide funds and labors for the real property stated. The legal justification for the filing of this action and the lien was to and is to protect the Plaintiff's ownership rights and interests and to be paid for the funds,

and labor and equipment of the Plaintiff as relates to this real property. Defendants did not and could not have suffered any mental anguish as Defendants knowingly were selling the real property without the knowledge of the Plaintiff in violation of the Plaintiffs and Defendants agreement and agreements. Also, if any mental anguish that would be for the Plaintiff as Plaintiff was being forced out without any due compensation and behind Plaintiff's back. At no time were any actions of the Plaintiff, willful, wanton, or reckless as were the Defendants, and it is the Plaintiff that is due punitive damages.

18. AS TO THE FOR A SEVENTH DEFENSE AND BY WAY OF COUNTERCLAIM (Abuse of Process), As to paragraph 83., the replies are as stated by the replies as reported above. As to paragraphs 84. And 88., replies are not required except as the Plaintiff has ownership and interests in and to the real and personal property of the Defendant and the companies and entities of the Defendants named and unnamed; laches does not apply as the ongoing nature of the parties relationship and agreement and agreements was continuous and on going and continuous to this date. Plaintiff has and does have a purpose or many purposes legitimate for filing of the action plus the Materialman's Lien, as reported by the Complaint and this reply, Defendants are and now continuing to deny the interests of the Plaintiff as to share of the proceeds from any sales of all real estate of the parties, and all and any businesses of the parties based on the parties ongoing understanding as to their agreement and or agreements. As reported by the Complaint and this Reply all actions of the Plaintiff are legitimate and those of the Defendants are not and are intended to deny the Plaintiff the interests and proceeds from the parties businesses and properties. Defendants are not suffering any damages from the actions of the Plaintiff but Plaintiff is and is now suffering from the action of the Defendants. Plaintiff denies all the

allegations against the Plaintiff and does repeat that the actions of the Defendants are the reason and reasons for this action and Plaintiff must receive punitive damages for those actions.

19. AS TO THE EIGHTH DEFENSE AND BY WAY OF COUNTERCLAIM.(Slander of Title), As to paragraph 89., the replies are as stated by the replies as reported above. As to paragraphs 90. And 98., replies are not required except as the Plaintiff has ownership and interests in and to the real and personal property of the Defendant and the companies and entities of the Defendants named and unnamed; laches does not apply as the ongoing nature of the parties relationship and agreement and agreements was continuous and on-going and continuous to this date.. There was no false assertion of title, as stated Plaintiff and Defendants have an agreement or agreements as to ownership. The Defendant Mowery placed the real properties in Defendants name for the selling of those properties. There is no false Lis Pendens, no false Mechanic's Lien, all are filed to claim the rights and interests of Plaintiff as the parties agreed. There is and was no malice as will be shown and at no time was there any derogatory to any title(s) as known by Defendants that Plaintiff has ownership rights and rights of interest in and to the titles to the real estate. The valuation of the real property is and has not been diminished except by the actions of the Defendants, by the Defendants actions of removing the Plaintiff from the businesses and entities of the Defendants and the attempts to and attempting to transfer real properties of the parties. Plaintiff is the party that is suffering from the actions of the Defendants. Any attorney fee and costs of Plaintiff should be paid for by the Defendants. The allegations of the Defendants are denied.

20. AS TO THE NINTH DEFENSE AND BY WAY OF COUNTERCLAIM (Conversion)), As

to paragraph 99., the replies are as stated by the replies as reported above. As to paragraphs 100. through 104., all these allegations are denied as it is the Defendants that have converted the interests and ownership of the property noted and other properties of the parties from the Plaintiff, the replies are not required except as the Plaintiff has ownership and interests in and to the real and personal property of the Defendant and the companies and entities of the Defendants named and unnamed; laches does not apply as the ongoing nature of the parties relationship and agreement and agreements was continuous and on going and continuous to this date. The keys to the property were that of the Plaintiff and and Defendants so both would possess the keys. The property removed allegedly from the real estate was that of both parties or the Plaintiffs. As to the check for rent that those funds were used for both parties is an issue before the Court if any. Plaintiff has and is suffering since the forced removal of the Plaintiff from Plaintiffs rightful ownership and interests in and to all property of the parties.

21. AS TO THE TENTH DEFENSE ANY BY WAY OF COUNTERCLAIM (Eviction), As to paragraph 105., the replies are as stated by the replies as reported above. As to paragraphs 106., and 112., replies are not required except as the Plaintiff has ownership and interests in and to the real and personal property of the Defendant and the companies and entities of the Defendants named and unnamed; laches does not apply as the ongoing nature of the parties relationship and agreement and agreements was continuous and on going and continuous to this date.. The allegations are denied, and as Defendants are or is not the sole owner of the real estate 109 Linda Lane, Defendants with the Plaintiff obtained the real property and structures there and are both owners of said property. And any Owner normally and generally may not be evicted from their own property. As the Defendants and the

Plaintiff admitted by the Defendants here resided together for years over ten and by their agreement and agreements have been co-owners of all the properties of the property stated, by ownership, no lease is required of either party. Plaintiff has been supplying funds and labor for years and the Defendants have not been paying any leases or rents neither. As as here stated by Defendants Plaintiff did reside and live at this property and was removed by the illegal actions of the Defendants. As there was no occupancy under the theory of a lease and the parties shared ownership and interest in and to the property neither is able to claim immediate ownership.

22. AS TO THE ELEVENTH DEFENSE (Offset), As to paragraph 113., the replies are as stated by the replies as reported above. As to paragraph 114, reply is not required except as the Plaintiff has ownership and interests in and to the real and personal property of the Defendant and the companies and entities of the Defendants named and unnamed; laches does not apply as the ongoing nature of the parties relationship and agreement and agreements was continuous and on going and continuous to this date.. Here Defendants acknowledge that Plaintiff is owed for Plaintiffs share of funds and labors!

THE PLAINTIFF REQUESTS THE COURT TO GRANT TO FOLLOWING RELIEF:

1. The amount due the Plaintiff as noted above, for each cause of action as requested from the Defendants or as calculated by the Court for each Cause of Action, to include reasonable costs for any real and or personal property that is the Plaintiff's or is found to be part of the Plaintiff's, as requested by the Complaint and this Reply.
2. The amount of reasonable attorney fees and the costs of this action and by the Reply, from the Defendants.

3. The Plaintiff to recover judgment against the Defendants in the amount requested for each cause of action as requested and by the Reply and the Plaintiff should also recover not only for the damages noted but also for punitive damages for the likelihood the Defendant's conduct is continuing and was done with the reason to destroy the Plaintiff.

4. For such other relief as the Court deems just.

 July 7, 2018

s/James P. O'Connell #4259
ATTORNEY FOR THE PLAINTIFF
JAMES P. O'CONNELL
139 Grace Drive
Easley, SC 29640
Phone 864-220-0005 Fax 220-0005 & 498-7210
jpatrickoconnell@yahoo.com

JURY TRIAL REQUESTED

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	THIRTEENTH JUDICIAL CIRCUIT
COUNTY OF PICKENS	)	
	)	
Terence "Terry" Carroll,	)	
	)	MOTION FOR PARTIAL
Plaintiff,	)	SUMMARY JUDGMENT AND
	)	SUPPORTING MEMORANDUM OF LAW
vs.	)	
	)	
Debra Mowery, TD Realty, Upstate RE	)	C.A. No. 2018-CP-39-00585
Group, Hawk Shadow Business Services,	)	
LLC, and Debra Mower Realtor	)	
	)	
Defendants.	)	
	)	

TO: TERENCE "TERRY" CARROLL, PLAINTIFF, BY AND THROUGH HIS ATTORNEY OF RECORD, JAMES P. O'CONNELL, ESQ.:

YOU WILL PLEASE TAKE NOTICE that the undersigned, as attorney for the defendants ("Defendant"), hereby moves, pursuant to Rule 56 SCRPC, for an Order granting partial summary judgment in favors of Defendant. In support of this Motion, Defendant will show that there are no genuine issues of material fact and the plaintiff's claims for (1) Interest in Real Estate, (2) Intentional Infliction of Emotional Distress, (3) Specific Performance of Contract, (4) Breach of Contract, (5) Constructive Fraud, and (6) Breach of Trust fail as a matter of law.

I. PROCEDURAL BACKGROUND

On May 16, 2018, the plaintiff ("Plaintiff") filed a Lis Pendens Notice of Pendency of Action, a Summons and Notice with Complaint, and a Complaint. On May 17, 2018, these documents were served upon Defendant accompanied by an improper Notice of and Certificate

of Mechanics and or Materialman's Lien.¹ **Exhibit A.** On June 15, 2018, Defendant filed an Answer and Counterclaim of Defendants. On June 18, 2018, Plaintiff filed a Summons and Notice Amended Complaint and Amended Complaint. On June 26, 2018, Defendant filed an Answer to Amended Complaint and Counterclaim of Defendants. On July 11, 2018, Plaintiff filed a Reply to Answer and Counterclaim.

II. STANDARD OF REVIEW

A party is entitled to summary judgment when there is no genuine issue as to any material fact and the party is entitled to judgment as a matter of law. Rule 56(c) SCRPC; *McCune v. Myrtle Beach Shooting Indoor Shooting Range, Inc.*, 364 S.C. 242, 246, 612 S.E.2d 462, 464 (Ct. App. 2005). "In determining whether any triable issues of fact exist, the evidence and all inferences which can be reasonably drawn from the evidence must be viewed in the light most favorable to the nonmoving party." *Strother v. Lexington County Recreation Comm'n*, 332 S.C. 54, 61, 504 S.E.2d 117, 121 (1998).

III. INTEREST IN REAL ESTATE (CONSTRUCTIVE TRUST)

Plaintiff's second cause of action is for an interest in real estate by way of a constructive trust. To establish a constructive trust, a plaintiff must establish the following elements:

- (1) The defendant has acquired property or title to property; and
- (2) The defendant used actual or constructive fraud, duress, abuse of confidence, or unconscionable conduct in order to acquire the property.

No action shall be brought whereby: . . . (4) To charge any person upon any contract or sale of lands, tenements or hereditaments or any interest in or concerning them . . . Unless the agreement upon which such action shall be brought or some memorandum or note

¹ Plaintiff admits that he is not a licensed contractor nor is he certified in construction or general contracting. **Exhibit B** (Depo Transcript) 13:16-24; 89:21-24.

thereof shall be in writing and signed by the party to be charged therewith or some person thereunto by him lawfully authorized.

S.C. Code § 32-3-10 (State of Frauds).

It is clear from the public record that the subject real property is titled solely in Defendant Debra Mowery's name. **Exhibit C** (Deeds). **Exhibit B** 44:1 – 45:2. Further, Plaintiff admitted that there are no written agreements regarding transferring ownership of the subject properties. **Exhibit B** 21:12-15; 23:22 – 24:3; 24:22-24; 54:5-16; 68:1-17; 73:24 – 74:2. Therefore, any direct attempt by Plaintiff to bring an action for an interest in the real property is expressly barred by the Statute of Frauds.

However, Plaintiff attempts to circumvent the Statute of Frauds by alleging that a constructive trust was created because “his funds were used to purchase the real properties” and Plaintiff “was the only party performing labor and construction on and for the real properties.” Am. Comp. ¶ 30. Defendant explicitly denies these allegations, but, viewing the evidence in the light most favorable to Plaintiff, if his allegations are true, this still would not entitle Plaintiff to a constructive trust absent constructive fraud, duress, abuse of confidence, or unconscionable conduct. Here, Plaintiff does not allege and has not provided any evidence of such actions by Defendant. As such, at most Plaintiff's allegations would entitle him to recovery under a theory of unjust enrichment, which could allow him to recover a judgment but would never entitle him to take ownership of Defendant's real property.

Further, constructive fraud, duress, abuse of confidence, or unconscionable conduct could not exist in this case because Plaintiff explicitly knew and agreed to title the properties in Debra Mowery's name. Plaintiff testified that titling the property in Debra Mowery's name was “deliberate,” **Exhibit B** 44:1 – 45:2, and it was intentional to put all of the properties in Debra Mowery's name. **Exhibit B** 60:1-10. The parties specifically discussed the matter with a

closing attorney, who asked, “Do you just want it in her name,” and the parties answered affirmatively. **Exhibit B** 45:3-9. And, even if Plaintiff did not actually know that the deeds were in Debra Mowery’s name, he would still have had constructive notice of this fact because the deeds are a public record.

Therefore, Defendant respectfully requests that Plaintiff’s cause of action for interest in real estate be dismissed with prejudice.

IV. INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

Plaintiff’s third cause of action is for intentional infliction of emotional distress. To recover for the intentional infliction of emotional distress, a plaintiff must establish that:

- (1) the defendant intentionally or recklessly inflicted severe emotional distress or was certain or substantially certain that such distress would result from his conduct;
- (2) the conduct was so “extreme and outrageous” as to exceed “all possible bounds of decency” and must be regarded as “atrocious, and utterly intolerable in a civilized community;”
- (3) the actions of the defendant caused the plaintiff’s emotional distress; and
- (4) the emotional distress suffered by the plaintiff was ‘severe’ so that ‘no reasonable man could be expected to endure it.

Ford v. Hutson, 276 S.C. 157, 162, 276 S.E.2d 776, 778 (1981). “Initially, the court determines whether the defendant’s conduct may reasonably be regarded as so extreme and outrageous as to permit recovery, and only where reasonable persons might differ is the question one for the jury. *Shupe v. Settle*, 315 S.C. 510, 517, 445 S.E.2d 651, 655-56 (Ct. App. 1994) (citing *Holtzscheiter v. Thomson Newspapers, Inc.*, 306 S.C. 297, 411 S.E.2d 664 (1991)).

Plaintiff alleges that Defendant:

inflicted severe emotional distress to the Plaintiff, as Defendants did in a grossly painful and disrespectful method deny the Plaintiff any and all rights and interests in and to the real and personal property the parties had attained and acquired during the agreement and contract to the point of attempting to illegally disenfranchise Plaintiff of any and all rights Plaintiff has in and to the properties so acquired by the parties.

Am. Comp. ¶ 33. Despite the extreme language, Plaintiff essentially alleges that Defendant breached its agreement with Plaintiff and deprived him of property. Although Defendant denies that any such agreement existed, viewing the evidence in the light most favorable to Plaintiff, this allegation does not rise to the level of being so extreme and outrageous as to permit recovery.

Therefore, Defendant respectfully requests that Plaintiff's cause of action for intentional infliction of emotional distress be dismissed with prejudice.

V. SPECIFIC PERFORMANCE OF CONTRACT

Plaintiff's fourth cause of action is for specific performance of contract. The elements of a cause of action for specific performance are:

- (1) Clear evidence of a valid agreement;
- (2) Partial execution of the agreement by one party with the approval of the other;
and
- (3) The ability and willingness of the party seeking specific performance to perform his or her obligations under the contract.

Campbell v. Carr, 361 S.C. 258, 264, 603 S.E.2d 625, 628 (Ct. App. 2004).

No action shall be brought whereby: . . . (4) To charge any person upon any contract or sale of lands, tenements or hereditaments or any interest in or concerning them; or (5) To charge any person upon any agreement that is not to be performed within the space of

one year from the making thereof . . . Unless the agreement upon which such action shall be brought or some memorandum or note thereof shall be in writing and signed by the party to be charged therewith or some person thereunto by him lawfully authorized.

S.C. Code § 32-3-10 (State of Frauds).

Plaintiff alleged that “the parties have and have had a contract for the Purchase of and reselling of real estate and that contract must be enforced as the parties have intended over the course of the parties’ agreement of at least ten years.” Am. Comp. ¶ 37.

Here, there is no evidence of a valid agreement because any alleged agreement between the parties was never written. As such, any such agreement would violate the Statute of Frauds in two ways. First, would be an agreement concerning an interest in land. Second, it would be an agreement that is not to be performed within a year of its making.

Further, the lack of a written document makes it impossible to determine with certainty the terms of the alleged agreement, which, in turn, makes it impossible for the Court to order a party to specifically perform the indefinite terms.

Therefore, Defendant respectfully requests that Plaintiff’s cause of action for specific performance be dismissed with prejudice.

VI. BREACH OF CONTRACT

Plaintiff’s fifth cause of action is for breach of contract. To recover for breach of contract, the plaintiff must prove:

- (1) A binding contract entered into by the parties;
- (2) Breach or unjustifiable failure to perform the contract; and
- (3) Damage suffered by the plaintiff as a direct and proximate result of the breach.

Fuller v. Eastern Fire & Cas. Ins. Co., 240 S.C. 75, 89, 124 S.E.2d 602, 610 (1962).

Again, any alleged agreement between the parties would violate the Statute of Frauds. *See Section V, supra.*

Therefore, Defendant respectfully requests that Plaintiff's cause of action for breach of contract be dismissed with prejudice.

VII. CONSTRUCTIVE FRAUD

To establish constructive fraud all elements of actual fraud except the element of intent must be established. *Woods v. State*, 314 S.C. 501, 506, 431 S.E.2d 260, 263 (Ct. App. 1993) (citing *O'Quinn v. Beach Associates*, 272 S.C. 95, 249 S.E.2d 734 (1978)). As such, a plaintiff must prove the following elements to recover in an action for constructive fraud:

- (1) A representation;
- (2) Its falsity;
- (3) The speaker ought to have known its falsity;
- (4) Materiality;
- (5) Intent that the representation be acted upon;
- (6) The hearer's ignorance of its falsity;
- (7) The hearer's reliance on its truth;
- (8) The hearer's right to rely thereon; and
- (9) The hearer's consequent and proximate injury.

Id.; see also *Kahn Construction Co. v. South Carolina National Bank of Charleston*, 275 S.C. 381, 384, 271 S.E.2d 414, 415 (elements of fraud).

Constructive fraud conduct could not exist in this case because Plaintiff explicitly knew and agreed to title the properties in Debra Mowery's name. Plaintiff testified that titling the property in Debra Mowery's name was "deliberate," **Exhibit B** 44:1 – 45:2, and it was

intentional to put all of the properties in Debra Mowery's name. **Exhibit B** 60:1-10. The parties specifically discussed the matter with a closing attorney, who asked, "Do you just want it in her name," and the parties answered affirmatively. **Exhibit B** 45:3-9.

Further, even if Plaintiff did not actually know that the deeds were in Debra Mowery's name, he would still have had constructive notice of this fact because the deeds are a public record. As such, Plaintiff did not have a right to reasonable rely upon any representation contrary to the public record.

Therefore, Defendant respectfully requests that Plaintiff's cause of action for constructive fraud be dismissed with prejudice.

VIII. BREACH OF TRUST

Plaintiff's ninth cause of action is for breach of trust. One standing in a fiduciary relationship with another is subject to liability to the other for harm resulting from breach of duty imposed by the relation. Restatement (Second) of Torts § 874 (1979). A fiduciary relationship exists when one reposes special confidence in another so that the latter, in equity and good conscience, is bound to act in good faith and with due regard to the interests of the one reposing the confidence. *SSI Medical Services, Inc. v. Cox*, 301 S.C. 493, 500, 392 S.E.2d 789, 794 (1990) (citing *Island Car Wash, Inc. v. Norris*, 292 S.C. 595, 358 S.E.2d 150 (Ct.App.1987)).

There is no evidence of any fiduciary relationship between Plaintiff and Defendants. The parties are adults who have no legal relationship. Further, there is no legal trust in existence for Defendant to breach. Even if, for sake of argument, the Court ordered that a constructive trust should come into existence based on Defendant's actions, Defendant could not breach that trust until it exists. As such, Plaintiff's cause of action would be premature.

Therefore, Defendant respectfully requests that Plaintiff's cause of action for constructive fraud be dismissed with prejudice.

IX. CONCLUSION

For the reasons set forth above, Defendant is entitled to partial summary judgment and Defendant respectfully requests that Plaintiff's causes of action for (1) Interest in Real Estate, (2) Intentional Infliction of Emotional Distress, (3) Specific Performance of Contract, (4) Breach of Contract, (5) Constructive Fraud, and (6) Breach of Trust be dismissed with prejudice pursuant to Rule 56 SCRPC.

Respectfully Submitted,
BANNISTER, WYATT & STALVEY, LLC

s/Luke A. Burke
Bruce W. Bannister (SC Bar # 15679)
Luke A. Burke (SC Bar # 100033)
P. O. Box 10007 (29603)
401 Pettigru Street (29601)
Greenville, South Carolina
Phone: 864-298-0084
Fax: 864-298-0146

September 20, 2019
Greenville, South Carolina

EXHIBIT A

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

COUNTY OF PICKENS

THIRTEENTH JUDICIAL CIRCUIT

TERENCE "TERRY" CARROLL,

NOTICE OF AND CERTIFICATE OF
MECHANICS AND OR MATERIALMAN'S LIEN

TO:

DEBRA MOWERY and
T D REALTY,

DEFENDANTS,

NOTICE IS HEREBY GIVE THAT: TERENCE "TERRY" CARROLL

109 LINDA LANE

EASLEY SC 29642

IS DUE AND OWED THE SUM OF: ~~\$100,000.00~~ ^{\$66,000.00 SIXTY ONE} (ONE HUNDRED THOUSAND AND NO CENTS) DOLLARS

FROM: DEFENDANTS DEBRA MOWERY and T D REALTY

ADDRESS OF REAL PROPERTY LOCATED AT: 539 POPE FIELD ROAD, EASLEY SC

A STATEMENT of just and true account of said indebtedness, with all just credits given, being attached and made part hereof, together with interest (none) except any statutory amount, from date: MAY 3rd, 2018;

THE DEBT IS DUE THE UNDERSIGNED for: HOURLY WORK INCOME FOR PAINTING, PREPARING AND COMPLETEING THE JOB THAT WAS AGREED TO AND CONTRACTED. PLAINTFF STATES THAT THE JOB WAS NOT PAID FOR AS AGREED AND CONTRACTED DUE TO THE DEFENDANTS FAILING TO PAY FOR WORK LABOR ALREADY DONE AND RECEIVED.

THE OWNER AND OR CONTRACTOR OR AUTHORIZED PARTY, person or persons so authorized, or rightfully acting for said owner, or said is due the undersigned because such improvements and or materials have been provided or completed, for an on any structures, buildings, houses, etc. located thereon, within the last ninety (90) days of the date hereof, to wit on or after the date noted above.

THAT BY VIRTUE THEREOF: by the service and filing of this Notice and Certificate and pursuant to the provisions of the Statutes in such cases made and provided, the undersigned has or claims a lien to secure the payment of the debt so due and the costs of enforcing said lien upon the real property and any structures located there located. hearin and above mentioned, located at: address as indicated above and described and stated here:

ELECTRONICALLY FILED - 2019 Sep 20 3:41 PM - PICKENS - COMMON PLEAS - CASE#2018CP3900585

REAL PROPERTY THREE:

All that piece, parcel or lot of land in State of South Carolina, County of Pickens, About one mile south of Easley SC on Pope Field Road, known and designated at Tract No. Three(3) on plat of lands of T. D. Wade plat by JC Smith February 3, 1950, Beginning at iron pin on highway at the line of Home Maulding, then along Highway North 58-15 West 221.9 ft to iron pin; then North 24 East 225 ft to iron pin on land of Reeves Estate then South 70 East 37.7 ft to a stone, then with lands of Reeves Estate And Home Mauldin South 12 East 315.4 ft to iron pin on the road. This is the same real property conveyed to USBank National Association as Indenture Trustee for Springleaf Mortgage Loan Trust 2013-1, by and through Nationstar Mtg. LLC as Attorney in Fact by Deed of Daniel Hunt Special Referee for Pickens County South Carolina recorded on July 15, 2016 in Deed Book 1785 page 261 ROD Office Pickens County SC. Then by Grantor to Debra Mowery by Deed recorded in Deed Book 1796 page 188 8-30-2016.

TMS 5028-09-16-6537/Physical address 539 Pope Field Road Easley SC
grantees address 109 Lind Lane Easley SC 29642.

THE FORGOING IS TRUE OF MY OWN KNOWLEDGE:

T. J. Williams
signed (with position if corporation)

SWORN TO AND SUBSCRIBED TO BEFORE ME THIS

May 17, 2018

[Signature]
NOTARY PUBLIC FOR SOUTH CAROLINA

MY COMMISSION EXPIRES: 3/31/2018

STATE OF SOUTH CAROLINA
COUNTY OF PICKENS

STATEMENT OF ACCOUNT

PERSONALLY APPEARED BEFORE ME, the undersigned officer or owner or authorized person: Terence Carroll, AND UPON OATH, I state that the amount this just and correct and due and owing at this time and date is: ~~\$100,000.00~~ 0.00. The same has been adjusted for any lawful offsets, and payments and credits known to me to have been allowed. I am an officer of the corporation noted or I am the person who performed the labor and or provided the materials or both, or I am the owner of the business that has contracted and provide both the labor and the materials as indicated. I am authorized to make this statement Affidavit.

SWORN TO BEFORE ME THIS DATE

T. J. Williams
signed (position & or Ownership)

May 17, 2018
[Signature]
NOTARY PUBLIC FOR SOUTH CAROLINA

MY COMMISSION EXPIRES: 3/31/2018

EXHIBIT B

STATE OF SOUTH CAROLINA COURT OF COMMON PLEAS
COUNTY OF PICKENS THIRTEENTH JUDICIAL CIRCUIT

TERENCE "TERRY" CARROLL,
Plaintiff(s),

v

CA No. 2018-CP-39-00585

DEBRA MOWERY, TD REALTY,
UPSTATE RE GROUP, HAWK
SHADOW BUSINESS SERVICES,
LLC, AND DEBRA MOWERY REALTOR,
Defendant(s).

D E P O S I T I O N

WITNESS: TERENCE WADE CARROLL
DATE: Tuesday, August 6, 2019
TIME: 1:04 p.m.
LOCATION: Bannister, Wyatt & Stalvey, LLC
 401 Pettigru Street
 Greenville, South Carolina
TAKEN BY: Attorneys for the Defendants
REPORTED BY: NISHA GORDON, Court Reporter

LEGAL EAGLE

Post Office Box 5682
Greenville, South Carolina 29606
864-467-1373
depos@legaleagleinc.com

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

A P P E A R A N C E S

ATTORNEYS FOR THE PLAINTIFF

TERENCE "TERRY" CARROLL:

JAMES P. O'CONNELL

BY: JAMES P. O'CONNELL, ESQUIRE

139 Grace Drive

Easley, South Carolina 29640

(864) 220-0005

jpatrickoconnell@yahoo.com

ATTORNEYS FOR THE DEFENDANTS

DEBRA MOWERY, TD REALTY, UPSTATE RE GROUP,

HAWK SHADOW BUSINESS SERVICES, LLC, AND

DEBRA MOWERY REALTOR:

BANNISTER, WYATT & STALVEY, LLC

BY: LUKE A. BURKE, ESQUIRE

401 Pettigru Street

Greenville, South Carolina 29601

(864) 298-0084

lburke@bannisterwyatt.com

ALSO PRESENT:

Debra Mowery

1 TERENCE WADE CARROLL, being first duly
2 sworn, testified as follows:

3 EXAMINATION

4 BY MR. BURKE:

5 Q. Mr. Carroll, my name is Luke Burke. I'm
6 the attorney for Debra Mowery, as well as her businesses
7 that you've sued in this case.

8 What is your full name?

9 A. Terence Wade Carroll.

10 Q. And what is your current address?

11 A. 109 Linda Lane, Easley, South Carolina
12 29642.

13 Q. Is that your mailing address?

14 A. No. That's where my house is, our house.

15 Q. Okay. And what is your mailing address?

16 A. 81 Audubon Road, Ware Shoals, 29692.

17 Q. Let me start by kind of explaining some of
18 the deposition process. I'm required by the rules to
19 tell you that if you have a question about one of my
20 questions or anything I say, please direct those towards
21 me and not towards your attorney. If you do talk to
22 your attorney during a break or something like that,
23 then I'm allowed to ask you what you spoke about. So I
24 don't want to get into any attorney-client privilege
25 issues, so please just refrain from doing it.

1 Q. Okay.

2 A. And I need three classes for engineering to
3 graduate. So that was a BSAE, and the other one was a
4 BA, a bachelor's of arts, in business. I think it's a
5 BABA, but I'm not -- they changed it, so I'm not sure at
6 this time.

7 Q. Okay. When did you attend St. Mary's?

8 A. I would have been 20 probably. So it would
9 have been right around '82, probably, is when I started.

10 Q. How about the second school?

11 A. I think it was '91. I think.

12 Q. That's when you started, or that's --

13 A. I think '91.

14 Q. I'm sorry. And what was the second school?

15 A. University of Alabama.

16 Q. Okay. Have you taken any certification
17 classes?

18 A. Certification classes? For anything
19 specific?

20 Q. Just off the top of my head, maybe
21 construction, appraisers, appraisals, anything like
22 that? General contracting?

23 A. Reading stuff online. I mean, nothing
24 certified.

25 Q. Okay. Have you ever been arrested?

1 Q. Okay.

2 A. Well, I guess I should clarify that,
3 because one of her sons is moving here.

4 Q. Will he live in Pickens County?

5 A. No.

6 Q. Okay.

7 A. It will be Oconee.

8 Q. When is the last time you filed taxes?

9 A. That would have been before Debra and I
10 met. I was claimed as a dependent on there when she
11 filed her taxes. She claimed me as a dependent, to my
12 knowledge.

13 Q. Okay. When did you meet?

14 A. We've been discussing that, me and my
15 family, because I don't remember the exact date, but I'm
16 pretty sure it was in either 2005 or 2006. I'm pretty
17 certain.

18 Q. Okay. Was that around when she was getting
19 divorced from her husband?

20 A. Yes. Her divorce was not complete when we
21 met. She was separated, I guess, is the term.

22 Q. And where were you working at that time?

23 A. I was working for myself. I've worked for
24 myself pretty much all my life. I mean, when I was in
25 college, I worked for a company, but I've always done

1 identification.)

2 BY MR. BURKE:

3 Q. Okay. Do you recognize Exhibit Number 1
4 that you've been handed?

5 A. Yes.

6 Q. Is this the amended complaint that your
7 attorney filed on your behalf?

8 A. Uh-huh, yes.

9 Q. Okay. Let's look at paragraph 2 on page 1
10 of the amended complaint.

11 A. All right. Number 2.

12 Q. It mentions a series of contracts between
13 you and Ms. Mowery and all of her businesses. Were
14 those contracts written down anywhere?

15 A. No.

16 Q. So what were the agreements?

17 A. Well, the initial agreement -- I'll read
18 what it says. Our initial agreement was for the house
19 we bought when we were living on Main Street, and I
20 couldn't see paying rent, 650 a month, to stay there
21 when it was right when all the houses were coming
22 available.

23 I said, "We can get houses a lot cheaper
24 than the rent, and I can do all the work on it and fix
25 it up. Let's find one that we can pay cash for, get it

1 house.

2 I paid 61,000 for the house. The mortgage
3 I paid off was 30,000 and something with NBRS. I asked
4 her where the mortgage was. She said NBRS. I went down
5 to NBRS and asked them how much was the mortgage, and
6 they told me it was 30,000 and change.

7 And I wrote the check right there to NBRS
8 and paid off that mortgage, and I also paid off one of
9 her credit cards. It was 7,600, and a few other things
10 that I paid. Right now I don't remember what they were,
11 but there were a few other things too. And, basically,
12 we had -- well, I had bills, but she didn't have any
13 bills after that.

14 Q. Okay. Was the deed to the Church Street
15 house in her name or --

16 A. Yes.

17 Q. It was not in joint names?

18 A. No.

19 Q. And when you paid these things off, they
20 were paid from your car accident settlement, correct?

21 A. Yes.

22 Q. Okay. When you agreed that she would buy
23 the house and you would work on it, was that agreement
24 ever written down anywhere?

25 A. No.

1 Q. Was there any writing or document ever
2 produced about that agreement?

3 A. No.

4 Q. When -- and help me understand. When you
5 paid everything off, did you say, Okay, now I own 75
6 percent and you owe 25 percent?

7 A. Yes, that's what we talked about. When I
8 told her I was going to go pay off the mortgage --
9 because she told me how much it was, or roughly. She
10 didn't say exactly. She just said what it was and what
11 the interest rate was and the interest on her credit
12 card.

13 When she told me that, I said, "Okay, but
14 you understand that now I'm half owner, more?" You
15 know, I was trying to explain to her how it works.

16 And she said, "Yeah, I agree."

17 Q. Okay.

18 A. She said, "That's fine."

19 I said, "Okay."

20 So I went down and paid it off, \$30,000. I
21 wrote a check.

22 Q. And was that agreement ever written down
23 anywhere?

24 A. No. We had it outside on the porch. I
25 remember outside on the patio. I remember it

1 Q. Did you ever receive any 1099s or any --

2 A. No.

3 Q. -- tax documents for the people you were
4 doing work for?

5 A. No.

6 Q. What was Debra doing at the time? What was
7 her job?

8 A. She was doing Hawk Shadow Business
9 Services.

10 Q. When did she start Hawk Shadow Business
11 Services?

12 A. When did she?

13 Q. Yes.

14 A. I don't know.

15 Q. Was it before she met you?

16 A. Yes.

17 Q. Are you claiming any interest in that
18 company?

19 A. I invested in it.

20 Q. How did you invest in Hawk Shadow Business
21 Services?

22 A. Cash.

23 Q. Where did that cash come from?

24 A. My settlement or from the jobs I did maybe.
25 More than likely from my settlement, because at that

1 A. It was Tony Morella and Connie Morella,
2 and, actually, they had multiple houses that I would
3 just work on. And, actually, they have multiple houses
4 up -- they have beach houses, actually, that we would
5 work on. And she actually worked on that house too.

6 Q. She worked on your house in Maryland?

7 A. The beach house.

8 Q. Okay.

9 A. No, she didn't do anything there.

10 Q. So how much money did you invest in Hawk
11 Shadow Business Services?

12 A. Just every once in a while, I would write
13 her a check. She said she would need money for her tax
14 software and didn't have it. So I wrote her a check.
15 At one point I wrote her a \$5,000 check. I wrote her a
16 \$1,000 check.

17 And I don't remember exactly the other
18 ones, but I do remember those. It's just when she asked
19 me for money.

20 Q. Was there any written documentation of
21 transferring shares or membership interest to you in
22 Hawk Shadow Business Services?

23 A. No.

24 Q. Were there any loan documents wrote out
25 that says Hawk Shadow owes you \$5,000?

1 A. You should be able to, uh-huh.

2 Q. Okay.

3 A. She may have the receipts for them. I
4 don't know. She's got the files.

5 Q. Okay. Were they titled in A Friend with a
6 Boat Rentals, or were they titled otherwise?

7 A. They were titled either to a Friend with a
8 Boat Rentals or to me.

9 Q. Okay.

10 A. And the trailers as well.

11 Q. All right. So when did you buy Linda Lane?

12 A. I don't know the exact date off the top of
13 my head.

14 Q. Okay.

15 A. It was about 2015.

16 Q. Okay.

17 A. I don't know the date. It was right after
18 we moved my sister and brother-in-law here. I have it
19 written down here, but I'm just not good at recalling
20 dates.

21 Q. Is that property, Linda Lane, titled in
22 your name?

23 A. No.

24 Q. Whose name is it titled in?

25 A. Debra's.

1 Q. Is there any --

2 A. That was deliberate.

3 Q. Why was that deliberate? Explain.

4 A. Because she is handling all the paperwork.
5 She's doing all of the business end of our family unit.
6 She was doing all of that. So we titled it specifically
7 for her so that she wouldn't have to come to me if we
8 wanted to do anything. If we wanted to get a mortgage
9 on it, if we wanted to sell it, if we -- whatever we
10 wanted to do, if I was going to be here working on the
11 house and she was going to be in Maryland, which she
12 was, we wanted all of the documentation of everything
13 going to her so that she could handle it and I wouldn't
14 have to travel back and forth to sign documents.

15 To agree, we just did it on the phone.
16 Okay. This is what we're going to do. Okay. Go ahead
17 and do it without me having to transfer -- be there.
18 You know what I mean?

19 That was the main reason we did it; also,
20 for tax reasons. So that was deliberate so that she
21 would have the authority to be up here to do it without
22 me having to transfer -- be there. You know what I
23 mean? So it was deliberate.

24 We discussed it. I was at all the closings
25 and we talked it over, and we decided that it would be

1 better if we titled everything in her name. That's what
2 we did.

3 Q. Did you discuss that with the closing
4 attorney?

5 A. I don't recall.

6 Q. He had to draft the deed?

7 A. I think one of them at the table -- I think
8 one of them said, "Do you just want it in her name?"

9 And we said, "Yes. It's for tax reasons."
10 But I don't recall actually sitting there having a
11 conversation with him saying this is why we're here, you
12 know. I don't recall that. It could have happened, but
13 I don't recall it.

14 Q. What money was used for the down payment on
15 Linda Lane?

16 A. Down payment on Linda Lane?

17 Q. Was there --

18 A. You mean the earnest money?

19 Q. No. I mean --

20 A. We didn't have a down payment. We paid
21 cash for it.

22 Q. Okay. I mean, where did the money come
23 from?

24 A. The cash we mortgaged. We had an equity
25 line on our house in Maryland. So you could say we used

1 I found something that somebody had that was left over,
2 I would buy it and store it until I was ready to use it.
3 So I saved us a lot of money. It didn't cost a lot of
4 money in materials for the houses, relatively speaking.

5 Q. Sure.

6 And for the 4548 Church Street house, is
7 there any writing in existence where Debra signed and
8 said that she would transfer an ownership interest to
9 you?

10 A. Not to my knowledge.

11 Q. For the 109 Linda Lane house, is there any
12 writing in existence that Debra Mowery signed that said
13 or agreed that she would transfer an ownership interest
14 to you?

15 A. No, not to my knowledge. We didn't do
16 things in writing.

17 Q. I understand.

18 A. I mean, we were a couple. We were family.
19 I mean, I don't know anybody that does that with their
20 family.

21 Q. How long did it take you to do this work on
22 the 109 Linda Lane house?

23 A. Well, I was still working, doing things on
24 it, when we split up. So from the time we found it
25 until the end, on and off, because I didn't work on

1 other houses. When I found the -- what we have as a
2 rental house now, I found that online in an auction, and
3 I told her we need to buy it. And so we discussed it.
4 We went and looked at it, and we bought it.

5 I was the one that did all the
6 communications on it. I was the one that we found it at
7 auction. I also went and bid on it at auction. We
8 did -- we bought that, and I started working on that,
9 you know, so we could start generating income from it.

10 So I stopped working on Linda Lane to work
11 on that house. And then there would be other days when
12 I wouldn't work on Linda and went and worked on that
13 Pope Field or -- you know, just one day or the other.
14 So I was still doing things to it because I was still
15 doing the addition when we split up.

16 Q. Okay. So the work on Linda Lane was not
17 completed when you split up?

18 A. The house was mostly done. The only thing
19 really left to do on the house was countertops, and we
20 were contracting those out. So, I mean, there's always
21 little things when you have a house, you know, like
22 adding a door. That came -- for the outside, that came,
23 and when we decided to have -- when we decided to
24 start -- I'm sorry -- Upstate RE Group, when we decided
25 to do that, I added an outside -- I had changed all the

1 locks, put new lights on so that the real estate agents
2 could come in and out this door, but they couldn't come
3 in this door. I put a door between the rooms so they
4 couldn't go between the rooms, to keep our dog out.

5 So there's a lot of things I did, but, you
6 know, it was constantly changing.

7 Q. Right.

8 A. There was always something to do. Always.
9 But the majority of the work, it was less than a year.
10 It was like maybe eight months before we moved in. And
11 that's when the majority of the work was done.

12 Q. So approximately --

13 A. It was very livable. I mean, it was
14 comfortable. It wasn't just a shack.

15 Well, we had the cabinets. We still had to
16 get them done and the tops. So we lived without
17 cabinets for a little while.

18 Q. But the addition behind the house is not
19 complete yet?

20 A. No.

21 Q. And the rental house you're talking about,
22 that's the 9th Street house; is that correct?

23 A. Yes.

24 Q. How did you learn about that house?

25 A. I found it on auction.

1 Q. Was it a foreclosure?

2 A. It was an auction. I don't --

3 Q. Okay.

4 A. -- remember. It was cash only.

5 Q. Okay.

6 A. All of the houses have been cash only.

7 Every one.

8 Q. And how much did you purchase that for, the
9 9th Street house?

10 A. About 10,000. Actually, what happened was
11 we put in a pre-auction offer, which was denied, and
12 that was for 14,000, fourteen-five or something like
13 that. And they denied it, and then they wouldn't let us
14 put in because you can only put in one, but I didn't
15 notice at the time. So I only put in one offer.

16 When I went in to put in another offer,
17 they declined that and said you can only put in one
18 offer. You have to wait for the auction. So we waited
19 for the auction. I think it started -- I can't
20 remember, but it was cheap. It was like 10 bucks or
21 something like that for the whole house.

22 And we ended up getting the house for right
23 full costs of 7,500. That was at the bid, but by the
24 time you pay the premiums and whatever, it came out to
25 exactly 10,000. So we got it for 10,000.

1 Q. Okay. And --

2 A. And I did all the bidding on it. I was the
3 communications guys for all of the closing agents. I
4 was the one that communicated. That was my side of what
5 we did.

6 Q. And where did the money --

7 A. It came out of our joint account.

8 Q. So the BB&T account?

9 A. As far as I know, that's where it came
10 from. I'm pretty sure I just put it on a card. Usually
11 what happened was I'd ask Debra, "Which card do you want
12 me to use? What account do we want to pay for this
13 from? How do we want to use this?" And that's how it
14 worked.

15 So it would have been one of our joint
16 accounts. I don't know which one.

17 Q. Okay.

18 A. But more than likely, it was the BB&T
19 account.

20 (Defendants' Exhibit Number 3, Photocopy of
21 Terence Carroll's Credit Cards with Handwritten Notes,
22 was marked for identification.)

23 BY MR. BURKE:

24 Q. On Exhibit 3, are these the cards you're
25 talking about?

1 A. Yes.

2 Q. Okay.

3 A. One of them got cut off there. That's just
4 the ones I had in my wallet, I think, when I took this.
5 That's our TD Realty account that has my name on it.
6 That's my BB&T account. All of these cards in my name,
7 we shared all of the accounts, to my knowledge.

8 Q. And is this your handwriting on here?

9 A. Yeah. I'm not sure what -- hold on. Yes,
10 it is.

11 Q. But one of these cards were for the money
12 you paid on 9th Street?

13 A. It would have been the BB&T. It wouldn't
14 have been in any of these other ones.

15 Q. Okay.

16 A. It would have been this one or her BB&T
17 account. She had two: one she called the black one, and
18 the other one. I don't know which one. I don't
19 remember which one, what she used actually to open the
20 bidding account.

21 The auction site was my account, but I
22 don't know what card we used. It could have been this
23 one; it could have been one of her two. I'm not sure,
24 but it was one of those three. It wasn't any of these
25 other ones, I can tell you that. I'm fairly certain.

1 Q. Okay. And when you won that auction, who
2 did they deed the property to?

3 A. We put it in Debra's name, like all of
4 them.

5 What was supposed to happen is when we
6 opened up the TD Realty business, we opened that
7 business to handle our rental properties. That's what
8 it was for. This 204 was supposed to be titled in that
9 business name. So we put it in Debra's name so that she
10 could retitle everything.

11 Everything was supposed to go in that
12 business name to protect us from being sued because it
13 was going to be a rental house. We didn't want it in
14 our names. If we got sued, we'd lose everything. So
15 all of that was supposed to go into the business name.
16 It just never happened.

17 Q. So everything eventually was supposed to be
18 in TD Realty?

19 A. It was supposed to go to TD Realty. Terry
20 Debra Realty is what that stands for.

21 Q. And then you purchased another house, Pope
22 Field?

23 A. Yeah. I found that at auction too. And it
24 was right around the corner right behind the other
25 house, and it was in an up-and-coming area. I mean, it

1 Q. That was done by you or by your brothers?

2 A. My brothers.

3 Q. Okay. Is that completed on 9th Street?

4 A. To my knowledge, it is, unless something
5 has broken since. She won't allow me access to it, so I
6 don't know.

7 Q. Is that property rented right now?

8 A. To my knowledge, it is, but like I said,
9 she won't allow me access.

10 Q. Is there any writing in existence where
11 Debra Mowery agreed to grant you any ownership interest
12 in 204 South 9th Street?

13 A. Not to my knowledge.

14 Q. To your knowledge, is there any written
15 agreement between you and Debra Mowery that stated that
16 you would transfer your real property into TD Realty?

17 A. No. It was all done verbally. We were a
18 family unit. We talked about it, discussed it. We
19 agreed on it.

20 It was supposed to be done. My name was
21 supposed to be on TD Realty. That's what TD stands for:
22 Terry Debra. I did not know that my name was not on
23 that business.

24 Q. Let's look at 539 Pope Field. Is this a
25 comprehensive list of everything that has been done at

1 She said, "I want the money now."

2 I said, "Okay."

3 So that's what I did. It sold that
4 weekend. The guy came from Tennessee, I think, to buy
5 it. And what we did was -- so I took him for a test
6 drive. He tried to talk us down, of course, but we said
7 no, and he bought the car.

8 He paid cash. Debra said she wanted to
9 make sure the hundreds were real. We went straight up
10 to BB&T. They went through them with the little pen.
11 The money was deposited in the account right then and
12 there into our joint account, and that was \$13,900.

13 And that will show up on the bank
14 statements when we get them from you guys. You haven't
15 sent them yet or the tax returns. We're still waiting
16 for them.

17 Q. And what is Debra's brother's name?

18 A. Michael Cavanaugh.

19 Q. Okay. Okay.

20 A. And he says he's paid it all, but like I
21 said, all that money, she collected it all. I was here.
22 She was down there, and she went to pick the money up.
23 Where she deposited it, you'll have to ask her.

24 Q. And is there any written document signed by
25 Debra Mowery agreeing to transfer ownership from

1 539 Pope Field to you?

2 A. Not to my knowledge.

3 Q. And you've talked a little bit about being
4 a family unit, so let's talk about that a little bit.

5 Have you ever proposed to Ms. Mowery?

6 A. Once. She said it was a joke and said no.

7 Q. When was that?

8 A. I don't remember when that was. We were
9 here. We acted like we were married, though. I mean, I
10 gave her a ring, and she wore that on her left hand. I
11 gave her three rings probably, actually.

12 We talked about getting married many times,
13 actually going through the ceremony, but we were going
14 to do it in the islands after we got some money saved
15 up.

16 Q. So you bought her a ring, and she wore that
17 on her left ring finger?

18 A. Yes. Different ones. I mean, like I said,
19 I think I bought her three. One of them got stolen when
20 we got robbed.

21 Q. Was it a diamond ring, or what kind of ring
22 was it?

23 A. One of them had diamonds in it. I think
24 one was jade. I think one was a ruby. I don't remember
25 what the other was, like a green, a real nice green.

1 Pendens Notice of Pendency of Action, Filed June 18,
2 2018, was marked for identification.)

3 BY MR. BURKE:

4 Q. You've been handed Exhibit 4. Do you know
5 what a lis pendens is?

6 A. Yes, I do.

7 Q. What is your understanding of the reason
8 you filed a lis pendens?

9 A. I am not sure I understand what you mean.

10 Q. Well, you understand that when you file a
11 lis pendens, it gives notice to people that may purchase
12 the property that there's litigation pending?

13 A. Right.

14 Q. And do you understand that that makes them
15 less likely to want to purchase the property?

16 A. Yes. I mean, we wouldn't buy a house that
17 had a lien on it.

18 Q. And you also filed a mechanics lien; is
19 that correct?

20 A. Yes, I did.

21 Q. Are you a licensed contractor?

22 A. No.

23 Q. Are you licensed in anything?

24 A. No.

25 (Defendants' Exhibit Number 5, Settlement

1 CERTIFICATE OF REPORTER

2 I, Nisha Gordon, Court Reporter and Notary Public
3 for the State of South Carolina at Large, do hereby certify:

4 That the reading and signing of the foregoing
5 deposition by the witness is not waived.

6 That the foregoing deposition was taken before me on
7 the date and at the time and location stated on page 1 of this
8 transcript; that the deponent was duly sworn to testify to the
9 truth, the whole truth, and nothing but the truth; that the
10 testimony of the deponent and all objections made at the time
11 of the examination were recorded stenographically by me and
12 were thereafter transcribed; that the foregoing deposition as
13 typed is a true, accurate, and complete record of the testimony
14 of the deponent and of all objections made at the time of the
15 examination to the best of my ability.

16 I further certify that I am neither related to nor counsel
17 for any party to the case pending or interested in the events
18 thereof.

19 Witness my hand, I have hereunto affixed my official
20 seal this 23rd day of August, 2019, at Simpsonville,
21 Greenville County, South Carolina.

22 _____
23 Nisha Gordon

24 Notary Public for S.C.

25 My Commission Expires: 6/14/2022

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF PICKENS	)	THIRTEENTH JUDICIAL CIRCUIT
	)	
TERENCE "TERRY" CARROLL,	)	Civil Action No. 2018-CP-39-585
	)	
PLAINTIFF,	)	RETURN TO
-VS-	)	MOTION for SUMMARY JUDGMENT
	)	
DEBRA MOWERY and	)	
T D REALTY, and	)	
UPSTATE RE GROUP, and	)	
HAWK SHADOW BUSINESS SERVICES, LLC.	)	
And DEBRA MOWERY, REALTOR	)	
DEFENDANTS.	)	

The Plaintiff named above Returning to the Motion for Summary Judgment would inform the Court:

- A. Plaintiff states the parties were and until Defendant’s actions and the denial of Plaintiff’s interest in the real properties acquired with Plaintiff’s money and labor, and based upon the trust of Plaintiff in Defendant by the parties relationship which was both a personal and a business venture.
- B. As reported there was no formal written contract, but as has been plead and will be shown to the Court, there had been and was an ongoing relationship, that like a marriage, was renewed every day by the parties, until Defendant’s actions, which included informing Plaintiff that Plaintiff had no rights to and no division of the sale of Pope Road real Property, which Defendant was selling.

As to I. Procedural Background:

- 1. Upon learning of the sale, Plaintiff filed a Complaint and filed a Materialman’s Lien to protect

Plaintiff's rights and interests in the real property of their relationship and that Defendant did file both a Restraining Order and an Eviction action to remove Plaintiff from the home both parties were living in and residing at, Linda Lane, Easley SC. Plaintiff filed a responsive pleading to the Eviction action. Plaintiff had filed an action in the Court of Common Pleas, with a Lis Pendens, for the purposes of notifying anyone of the Plaintiff's interest in the three real properties.

2. The Court is advised that Defendants were attempting to sell the Pope Field real property and were not including Plaintiff in the division of the proceeds. The Disposition Notice from the Magistrate Court is attached as to the Eviction notice as is the Disposition Notice of the Magistrate as to the Restraining Order.

II. As to Standard of Review:

1. Plaintiff has reasonably plead, many issues of material fact to the Court. Plaintiff advises the Court that the relationship of the parties was both personal and business, that no written agreement was made as would have been as if the parties were in a marriage.
2. Defendant appears to leave out Plaintiff's monetary contributions, especially as to the acquisition of property, especially real property; and the Plaintiff's labor for repairing, restoring, renovating and adding value to the acquired real property.
3. Plaintiff was not served with Defendants last over 700 pages of Discovery until emailed Monday September 16, 2019 of which to download of the attachment was not operable and receipt by DVD Happened September 19, 2019.
4. Plaintiff understands the Court is supposed to resolve in the nonmoving parties favor if there is any

Factual basis plead for the court to hear the facts of the case.

As to III. Interesse in Real Estate (Constructive Trust):

1. The three real properties are deeded to Defendant but the facts would show that Plaintiff had been The party finding the properties, engaging in the acquisition and had believed Defendant Mower was placing the real property title in both parties names as he trusted the Defendant because of the parties relationship.
2. Defendants used Plaintiff's funds to acquire the real properties and used Plaintiff's labor to Improve and add value to the real property.
3. The parties agreement was based on Plaintiff's expertise on repair, renovation and remodeling and Defendants knowledge of taxes and use of taxes to reduce any taxes.
4. As shown, Defendant Mowery used the abuse of confidence and trust by Plaintiff and as now shown unconscionable conduct to have Plaintiff supply money for purchasing and labor for improving the real properties for sale, as will be shown starting with the first house in Maryland.
5. The properties were placed in Defendants name, unknown to Plaintiff, but, as all times by Defendants knowledge of the tax laws, so there would be no tax consequences on the sale of the properties and or use of the properties for rentals.
6. The Court is advised to review the Safe Deposit Box Entry Card to indicate Plaintiff did have a Signature authority as to the funds received and used for the properties, which is attached.
7. Also, the Court's attention is called to the case of Beckham v. Short, 298SC349(1989) 380SE2d826, For the view that a constructive trust was in the case a matter of fact.

As to IV. Intentional infliction of Emotional Distress:

1. Defendant did file an action for eviction as to Plaintiff, who, was living and residing with Mowery was being evicted from the home the parties had been residing in almost like husband and Wife.
2. The action, stunned Plaintiff, who at first only understood that Defendant Mowery was sleeping in a Separate bed and had started acting differently, and Defendant attempted to remove Plaintiff from their Home by an Eviction action and a request for a Restraining Order.
3. Defendants Eviction attempt made Plaintiff leave the parties home, stay with others, and wonder Why, Defendant was doing this to Plaintiff, as Plaintiff had been believing the parties were a couple.
4. Likening the eviction to a partner throwing the other partner out without any explanations, Defendant was very much stunned and did suffer severe anxiety and if the actions of Defendant did not exceed the Bounds of decency what would?

As to V. Specific Performance of Contract:

1. The parties for ten years or more adhered to their agreement, just like a marriage, each party did contribute, Plaintiff with money and labor and Defendant with Defendants knowledge of taxes and operation of business.
2. Plaintiff did supply money to purchase the properties, and was even the party that found and selected the properties; the same would show the existence of a contract.
3. Plaintiff has until the filing of the eviction, always contributed funds and labor to the parties union per their unwritten agreement, as is shown by the signature card and the Bank Account which had Plaintiff's name.

4.The existence of the relationship for over ten years, the residing together for over ten years, and the facts that Plaintiff's funds and labors were used, proves the existence of a contract.

As to VI. Breach of Contract:

- 1.Repeating earlier responses, and the parties adhering to their agreement for ten years, until the Actions of the Defendant Mowery shows a binding contract.
- 2.The actions of Defendants, prior to the filing of this action show the breach of contract.
- 3.Plaintiff's damages are the loss of rental income, the loss of return on the value of any sale of any property all come from the breach by Defendants.
4. Find attached the "A Birthday Letter to Terry" which shows the depth of the contract.

As to VII. Constructive Fraud:

- 1.Plainiff did not know of any breakdown or cancelation of the parties relationship, both the personal and the business, until the advising of the sale of Pope Field and that Plaintiff was to receive nothing.
2. Representation, for ten years Defendant by word and deed kept the existence of the agreement.
- 3.Unknown to Plaintiff, at sometime during the last months of the relationship, Defendant did change the agreement which was based on the truthfulness of the agreement and relationship, thereby Defendant was hiding Defendants true intents, which is the falsity of keeping Plaintiff believing in the parties.
- 4.Defendant knew at time or point of the advising Plaintiff that there was no longer an agreement or relationship but Plaintiff was to receive nothing even though there had been the expression of the love trust of Defendant Mowery to Plaintiff Terry Carroll.

5. Defendants actions effect the Plaintiff understanding of the parties agreement, especially as here Defendant requests everything with nothing to Plaintiff, which is material to the parties agreement.

6. Plaintiff did not know, did act on the Defendants statements and action as shown, Plaintiff did especially rely on those statements and action which Plaintiff believed to be true, Plaintiff had a right to rely on the Defendants actions and statements, as part of the ten years together, and the Plaintiff is being injured because Defendant states Plaintiff is entitle to nothing.

7. Construction fraud occurred here as Plaintiff had believed the properties would be title in his name with Defendant or that the reason for titling in Defendants name was for tax purposes.

8. Plaintiff has no reasons to check the recording of the deeds as Plaintiff believed the parties had the relationship and agreement., and Plaintiff had a right to rely on the Defendant being honest in the actions of Defendant to Plaintiff. Plaintiff did not know any of actions of Defendant until the sale of the Pope Field real estate.

As to VII. Breach of Trust:

1. Plaintiff believed in Defendant, as Defendant has specialized knowledge of tax laws as Defendant Informed Plaintiff, and Defendant advisement of Defendants business knowledge of real estate..

2. The financial relationship was shown during the ten years together by the party's keeping money in a cash box at their home.

3. Until the attempted sale of the Pope Field property Plaintiff has complete trust in the Defendant.

4. As reported, the relationship of the parties was like that of husband and wife, there is no written Contract. The parties lived together, cohabitated together, bought properties together, used their funds

Together, and acted like a partnership for approximately ten years. See again "A Birthday Letter to Terry" attached.

Respectfully submitted:

September 25, 2019

s. James P. O'Connell 4259
Plaintiff's Attorney
139 Grace Dr Easley SC 29640
Phone/Fax 864-220-0005
E mail jpatrickoconnell@yahoo.com

STATE OF SOUTH CAROLINA)
COUNTY OF PICKENS) IN THE COURT OF COMMON PLEAS
) THIRTEENTH JUDICIAL CIRCUIT

TERENCE "TERRY" CARROLL,)
 Plaintiff,)
 vs.)

DEBRA MOWERY, TD REALTY,)
UPSTATE RE GROUP, HAWK)
SHADOW BUSINESS SERVICES,)
LLC, and DEBRA MOWERY)
REALTOR,)
 Defendants.)

C.A. No. 2-18-CP-39-00585

The Trial on Merits taken in the aforementioned matter was heard before the Honorable Charles B. Simmons taken before Rachel H. Wood, Court Reporter and Notary Public, at Master in Equity Court, Greenville County Courthouse, 305 East North Street, Suite 313, Greenville, South Carolina, on the 17th day of December, 2019, commencing at the hour of 9:01 a.m.

REPORTED BY: Rachel H. Wood, Court Reporter

LEGAL EAGLE

Post Office Box 5682

Greenville, South Carolina 29606

864-467-1373 / depos@legaleagleinc.com

1 APPEARANCES:

2
3 JAMES P. O'CONNELL, Esquire
4 Attorney at Law
5 139 Grace Drive
6 Easley, South Carolina 29640
7 (864) 220-0005
8 (Jpatrickoconnell@yahoo.com)
9 Attorney for the Plaintiff,

10
11 BRUCE W. BANNISTER, Esquire
12 LUKE A. BURKE, Esquire
13 Bannister, Wyatt & Stalvey, LLC
14 401 Pettigru Street
15 Post Office Box 10007 (29603)
16 Greenville, South Carolina 29601
17 (864)298-0084
18 Attorney for the Defendants.
19
20
21
22
23
24
25

INDEX

1		
2		
3	TESTIMONY OF TERENCE "TERRY" CARROLL	
4	Examination by Mr. O'Connell.....	9
5	Examination by Mr. Bannister.....	46
6	TESTIMONY OF JOHN NOEL QUINN	
7	Examination by Mr. O'Connell.....	84
8	Examination by Mr. Bannister.....	88
9	TESTIMONY OF CONSTANCE FERN QUINN	
10	Examination by Mr. O'Connell.....	90
11	Examination by Mr. Bannister.....	94
12	Examination by Mr. O'Connell.....	99
13	TESTIMONY OF SANDRA HARKINS	
14	Examination by Mr. Bannister.....	107
15	Examination by Mr. O'Connell.....	112
16	TESTIMONY OF ROAN BOYD SOUTHERLIN	
17	Examination by Mr. Bannister.....	114
18	VOIR DIRE EXAMINATION OF ROAN BOYD SOUTHERLIN	
19	Examination by Mr. O'Connell.....	116
20	CONTINUED TESTIMONY OF ROAN BOYD SOUTHERLIN	
21	Examination by Mr. Bannister.....	118
22	Examination by Mr. O'Connell.....	130
23		
24		
25		

1 INDEX (Continued)

2 TESTIMONY OF DEBRA MOWERY

3 Examination by Mr. Bannister.....136

4 Examination by Mr. O'Connell.....168

5 Examination by Mr. Bannister.....194

6 REBUTTAL TESTIMONY OF TERENCE "TERRY" CARROLL

7 Examination by Mr. O'Connell.....196

8 Examination by Mr. Bannister.....211

9 Certificate of Reporter.....232

10

11 EXHIBITS

12 PLAINTIFF'S EXHIBIT NUMBER 1.....225

13 PLAINTIFF'S EXHIBIT NUMBER 2.....226

14 PLAINTIFF'S EXHIBIT NUMBER 3.....226

15 DEFENDANT'S EXHIBIT NUMBER 1.....145

16 DEFENDANT'S EXHIBIT NUMBER 2.....145

17 DEFENDANT'S EXHIBIT NUMBER 3.....146

18 DEFENDANT'S EXHIBIT NUMBER 4.....146

19 DEFENDANT'S EXHIBIT NUMBER 5.....147

20 DEFENDANT'S EXHIBIT NUMBER 6.....147

21 DEFENDANT'S EXHIBIT NUMBER 7..... 61

22 DEFENDANT'S EXHIBIT NUMBER 8.....150

23 DEFENDANT'S EXHIBIT NUMBER 9.....152

24 DEFENDANT'S EXHIBIT NUMBER 10.....153

25 DEFENDANT'S EXHIBIT NUMBER 11.....155

EXHIBITS (Continued)

DEFENDANT'S EXHIBIT NUMBER 12.....	156
DEFENDANT'S EXHIBIT NUMBER 13.....	49
DEFENDANT'S EXHIBIT NUMBER 15.....	58
DEFENDANT'S EXHIBIT NUMBER 16.....	120
DEFENDANT'S EXHIBIT NUMBER 17.....	120
DEFENDANT'S EXHIBIT NUMBER 18.....	158
DEFENDANT'S EXHIBIT NUMBER 19.....	159
DEFENDANT'S EXHIBIT NUMBER 20.....	159
DEFENDANT'S EXHIBIT NUMBER 21.....	144

(Defendant's Exhibit Number 1 through Number 20 were marked prior to hearing. Defendant's Exhibit 14 was not introduced into evidence.)

(THIS TRANSCRIPT MAY CONTAIN QUOTED MATERIAL. SUCH MATERIAL IS REPRODUCED AS READ OR QUOTED BY THE SPEAKER.)

1 THE COURT:

2 All right. Mr. Burke, are we ready to go on the
3 record?

4 MR. BURKE:

5 Yes, Your Honor. I think we are fine.

6 THE COURT:

7 All right.

8 MR. BURKE:

9 We're getting our client.

10 THE COURT:

11 All right. This is 2018-00585 in the matter of Carroll
12 versus Mowery and others. This is 2018-CP-39-00585.
13 The case is referred and Mr. O'Connell I'll be glad to
14 hear from you, sir.

15 MR. O'CONNELL:

16 Your Honor, may it please The Court. We have asked for
17 a Motion to Compel on the Defendants. And it's based
18 on -- we kept writing the Defendants after filing our
19 Interrogatories and stuff last year. Now, this case is
20 not more than about 18 months old. I beg to differ
21 with the Defendants saying it's over two years old, but
22 it wasn't filed (excuse me, Your Honor) until May 16th,
23 2018, and then amended June 18th of 2018. We did our
24 Interrogatories July 21st and requested for her to
25 produce July 21st of 2018. We did a second set August

1 7th of 2019. I have dug out about 15 letters written
2 to the Defendants' attorney asking for documents and
3 stuff. I can pass this up to The Court as my -- part
4 of my Motion to Compel. Let me --

5 THE COURT:

6 I have no reason to question that.

7 MR. O'CONNELL:

8 Okay.

9 THE COURT:

10 The Motion wasn't filed until was it last week?

11 MR. O'CONNELL:

12 About two weeks ago, Your Honor.

13 THE COURT:

14 All right.

15 MR. O'CONNELL:

16 And the only request is we did the things to the bank,
17 the subpoenas to the bank trying to get their records
18 and we didn't get a one of the bank's records till
19 either last night or yesterday afternoon and there's
20 five, 600 pages on each one of them.

21 THE COURT:

22 Well, were the bank records subpoenaed?

23 MR. O'CONNELL:

24 Well, I subpoenaed them after I couldn't get them from
25 the Defendants and I believe it was the Defendants'

1 duty because they are the ones who could get them
2 quicker than I could.

3 THE COURT:

4 All right. Well, if the bank didn't timely comply with
5 your subpoena then that's certainly nothing the defense
6 lawyers. The bottom line is you're protected on the
7 record and we're going to move into the trial.

8 MR. O'CONNELL:

9 Okay. I appreciate it. Thank you.

10 THE COURT:

11 Yes, sir.

12 MR. O'CONNELL:

13 And, Your Honor, may I have one other -- may I sit
14 during the hearing.

15 THE COURT:

16 Yes, sir.

17 MR. O'CONNELL:

18 Thank you very much.

19 THE COURT:

20 For medical reasons, correct?

21 MR. O'CONNELL:

22 Yes, thank you, Your Honor.

23 THE COURT:

24 All right. All right. You can call your first
25 witness.

1 MR. O'CONNELL:

2 Your Honor, if it please The Court I would like to call
3 Terence Terry Carroll to the stand please.

4 THE COURT:

5 All right. Will you come around, please, sir.

6 MR. BANNISTER:

7 So, Judge, we do have some Motions related to the
8 Cause of Action in this case and to potentially limit
9 the testimony due to the time frame.

10 THE COURT:

11 Mr. Bannister, it's trial day. We're going to go ahead
12 and build the record and you can make Motions at the
13 close any testimony that's appropriate.

14 MR. BANNISTER:

15 Thank you, Your Honor.

16 THE COURT:

17 Thank you.

18 *****

19 TERENCE "TERRY" CARROLL, first being duly sworn, was examined
20 and testified as follows:

21 *****

22 THE COURT:

23 Come around have a seat, please, sir. And if you'll
24 state your full name.

25 THE WITNESS:

1 Terence William Carroll.

2 THE COURT:

3 All right. Thank you. All right, Mr. O'Connell.

4 MR. O'CONNELL:

5 Your Honor, may it please The Court.

6 EXAMINATION BY MR. O'CONNELL:

7 Q. Where do you reside?

8 A. I currently live at 81 Autobahn Road in Ware Shoals.

9 Q. When this Action started were you -- you're a citizen
10 of the United States, is that correct?

11 A. Yes.

12 Q. And you were living in Pickens County?

13 A. Yes.

14 Q. And you were living in Pickens County at least one year
15 prior to filing this Action; is that correct?

16 A. Yes.

17 Q. As far as you know the Defendant Debra Mowery, M-o-w-e-
18 r-y, was a resident of Pickens County also?

19 A. Correct.

20 Q. As a matter of fact, you and she lived together; is
21 that correct?

22 A. Yes.

23 Q. And what was the address of where you lived?

24 A. 109 Linda Lane, Easley.

25 Q. Okay.

1 A. 29642.

2 Q. The other Defendants TD Realty, what is your
3 relationship with TD Realty?

4 A. That was the -- well, TD stands for Terry/Debra. We
5 started up a real estate company to -- to -- because we
6 were buying rental houses, so we started -- TD Realty
7 was supposed to take -- take the income from the rental
8 houses and that was -- that was our -- that was our
9 business for the rental properties.

10 Q. Okay.

11 A. All the -- all the houses were supposed to be titled in
12 that business and -- and that never happened.

13 Q. Okay. What is Upstate RE Group?

14 A. That was a brokerage, a real estate brokerage firm that
15 we started in our basement with Cole Reynolds. He was
16 the broker-in-charge. We paid -- we paid for Cole to
17 get his business license and -- I mean his brokerage
18 license and then we -- we -- I remodeled the basement.
19 First, I remodeled the basement as the living quarters
20 for our house and then I remodeled it as an office when
21 we opened the brokerage -- the brokerage in the
22 basement.

23 Q. And what is Hawk Shadow Business Services, LLC?

24 A. That's Debra -- Debra started that business as a tax
25 preparation business service business.

1 Q. And last but not least, Debra Mowery Realtor?

2 A. That was the -- that was -- she was getting tired of
3 doing the tax business and we -- we wanted -- actually
4 -- we were buying -- we were buying so many houses and
5 looking at so many houses, every time we put in an
6 offer for a house they would come back say, "Oh,
7 there's an offer already pending or a contract
8 pending," or they would say there was multiple offers.
9 So we decided that we would get her her -- her real
10 estate license so that we would have access to the MLS
11 and we would find houses as soon as they came on the
12 market.

13 Q. Okay.

14 A. And so we paid for her to get her real estate license
15 and for her to have access to the MLS she had to go to
16 work for a broker, because you have to work for a
17 broker for two years before you can -- can be on your
18 own.

19 Q. Okay.

20 A. So she went -- she went to work for Charter Realty and
21 from them she gets a 1049 or a 1099. I'm not sure
22 which tax form it is, but it's for her taxes. She had
23 to have a separate business, so we started that
24 business so that she could get her checks from Charter
25 deposited into that account.

1 Q. Okay. When did you first meet the Defendant Mowery?

2 A. Well, the first meeting, actual meeting it was phone
3 calls. The first meeting was her and her friend,
4 Sandy, went on a -- on a bus ride, one of those bar-hop
5 bus ride things. And the very first meeting she called
6 me when she got back from that to come pick her up and
7 that's what I did. I went and picked her up and that
8 was our very first meeting.

9 Q. What year was that? Approximately what year was that?

10 A. I think it was 2005.

11 Q. Okay.

12 A. It may have been 2006.

13 Q. Did there come a time when you got more close to Ms.
14 Mowery?

15 A. We were close from that day on actually, but it just
16 naturally progressed as relationships do, and -- and we
17 ended up moving in together and -- and decided that we
18 were going to be together forever. I mean we were --
19 we were talking marriage and -- and the relationship
20 just grew.

21 Q. Okay.

22 A. And we've been together ever since.

23 Q. Where did all this occur? Where were you located when
24 all this occurred?

25 A. Hartford -- Hartford County, Maryland.

1 Q. Okay. Did you buy or get a residence up there in
2 Maryland?

3 A. Yes. First we rented a house, a duplex. And then --
4 I don't like rent, so we decided we were going to buy a
5 house. And this house came up right on our street and
6 -- but it was a cash only house. And so we talked
7 about it and -- and we agreed that -- that Debra would
8 buy the house and I would fix it. Fix it up, because
9 it wasn't financeable. You couldn't finance the house.
10 I'm sorry I have a dry mouth. And so she bought -- she
11 bought the house and she -- she got a mortgage on it.
12 I'm not sure how she did it, but the bank -- she
13 actually got a mortgage on our rental unit that we were
14 renting. I don't know how she did that, but -- or at
15 least that's what's on the contract. The -- the -- the
16 deed from the bank and it has our address of the rental
17 house. And -- but later it was corrected to the house
18 that we bought, which is 4548 Church Street. She
19 corrected it. Somehow she increased the mortgage
20 amount. The original amount was 25,000 and somehow she
21 got it up to -- she went and increased it to over
22 31,000.

23 THE WITNESS:

24 May I have a drink?

25 THE COURT:

1 Oh, yes, sir. Yes, take your time.

2 THE WITNESS:

3 My mouth is really dry.

4 Q. Okay. Go ahead.

5 A. And so that's what happened. She bought the house and
6 I think she took money out of her 401(k) and I really
7 don't know exactly how she -- she bought the house,
8 because that wasn't my part of our agreement. Her side
9 was to buy the house and my side was to fix it up and
10 that was to do everything. And I bought materials for
11 the house and -- and completely totally rehabbed it.
12 It was -- we had to put all new heating in it, all new
13 wiring, all new plumbing. I added a whole full
14 bathroom, a whole full shower, everything. Redid the
15 floors. I added crown molding. I added closets. Just
16 a total rehab. I have pictures of the house in your
17 book here. And it came out beautiful. Everybody --
18 everybody commented on it, how beautiful it was. And
19 -- and so I took care of my half and we lived there.
20 And we -- we agreed that it was our house. We shared
21 it. It was our house.

22 MR. BANNISTER:

23 Judge, I'm going to add an objection just for the
24 record. He's talking about something that happened
25 back in 2006 in Maryland. One of our procedural issues

1 was that the Statute of Limitations would limit him
2 from that. I won't raise that objection again if I
3 could just be protected on the record.

4 THE COURT:

5 Yeah, if we can kind of move from 2005 and '6 up to the
6 relevant time period.

7 MR. BANNISTER:

8 Thank you, Your Honor.

9 MR. O'CONNELL:

10 Your Honor, I will put on the record I have to show the
11 history of trust and the relationship --

12 THE COURT:

13 I understand.

14 MR. O'CONNELL:

15 -- being built up here.

16 THE COURT:

17 So let's flip the calendar pages a little quicker then.

18 MR. O'CONNELL:

19 Your Honor, I tried to explain to my client he had to
20 speak up and tell the story.

21 THE COURT:

22 That's fine.

23 Q. Let's move up to 2010 then. What happened in 2010
24 relevant to this case?

25 A. What in 2010?

1 Q. Were you involved in a car accident or something?

2 A. Oh, yes. I was driving Debra's Jeep actually to go get
3 a part. I was in a car accident and broke my ankle in
4 three places. And then after like two years later I
5 got a settlement from that. It was 117,000 and change.
6 I can't remember. It was closer to 118 or \$117,000.

7 Q. What did you do with that money?

8 A. I deposited it half into my checking account and half
9 into my -- I started a savings account because that was
10 back when the economy was really bad and we didn't know
11 what was going on. We discussed it and so what we
12 actually did when I went to the bank I was going to get
13 half of it in cash and we were going to put it in a
14 safety deposit box, but the bank wouldn't cash that
15 much money because it was like \$60,000. They said they
16 wouldn't have that much cash. And what they did was
17 she told me, the lady at the bank, Tracy, told me to
18 just open -- open a savings account and just pull the
19 money out. Over the course of the next month just pull
20 it out in little amounts and put it in a safety deposit
21 box and that's what I did.

22 Q. What did you do with the money?

23 A. I put it in the safety deposit box.

24 Q. Okay. After that what did you do?

25 A. At MBRS. That was we had a shared account at MBRS and

1 I put it in the safety deposit box at MBRS and in that
2 account.

3 Q. In 2010 you were still with Ms. Mowery; is that
4 correct?

5 A. Correct.

6 Q. In 2010 did you and she enter into any agreement to buy
7 a house, or get another house, or anything?

8 A. Yes, we -- well, since I had all this money and the
9 first house worked out so good we decided we were going
10 to buy another house as part of our -- our retirement.
11 And we looked around Maryland. We looked at so many
12 houses and we put in offers on a few. And just the
13 same thing with the real estate agents, we kept getting
14 multiple offers or it's sold and the same thing
15 happened again. And so that's part of the history of
16 why we got Debra's license.

17 Q. Okay. What happened to that house?

18 A. Which -- which --

19 Q. The one you bought in 2010?

20 A. Oh, we bought -- we didn't buy a house in 2010.

21 Q. Okay.

22 A. It was 2015. We bought a house -- actually we went --
23 we went to Florida and looked at a house there because
24 I bought -- I bought a Hatteras motor yacht there, a
25 53-foot. And so we went to -- we went to Florida and

1 while we there we really liked the area and after the
2 boat deal was through, because the boat was in
3 Maryland, but -- but the guy that owned it was in Vero
4 Beach. So we went to Vero Beach and did that deal
5 there and I paid for the whole trip and we stayed at
6 really nice motels and rented a convertible and had a
7 really nice trip. And then we came back and we
8 actually had -- when we -- when we came back we had put
9 in an offer for a house there for 90,000, and they told
10 us that it was denied. You know they told us like four
11 times it was denied and then when we came back to
12 Maryland she actually called me the next day and said,
13 "Terry, they accepted your offer," and I said, "We're
14 not interested anymore. We're back in Maryland now,
15 we're looking at other stuff." And so that house fell
16 through and then after that we -- I guess to move
17 along. My brother and sister -- my sister and brother-
18 in-law moved to Easley and so we helped move them here.
19 And while we were here we saw so many vacant houses we
20 was just like this is the perfect market. So that's
21 what we did. We scheduled appointments with Gary
22 Thompson, he's one of my witnesses, to look at houses.
23 And so after we -- after we moved my brother-in-law and
24 sister here and we went back to Maryland I was in
25 contact with Gary back and forth and he was sending us

1 properties and I was sending him properties that I was
2 looking at different sites, and we scheduled to come
3 back and meet with him to look at -- look at
4 properties. And that's what we did and he ended up
5 showing us the 109 Linda Lane house, which is the one
6 we ended up buying.

7 Q. Okay. Where did the money come from to buy that house?

8 A. It came out of -- it came out of our joint account at
9 MBRS and I -- I believe what actually happened was
10 Debra did all the paperwork for our relationship. That
11 was her side of our family. She did the -- she did all
12 the paperwork, because she had the tax service business
13 and she was supposed to be good at it. But I believe
14 she got a loan from AgFirst. I think it was AgFirst
15 and deposited that into our joint account at MBRS and
16 we paid for the house at Linda Lane out of that. And
17 after that I moved here. She stayed in Maryland and I
18 moved down here to rehab that house, which I totally
19 rehabbed it. Everything. New plumbing, all new
20 plumbing. I added all new -- a whole new bathroom. I
21 added a whole full closet in the -- in the master
22 bedroom. I added another closet. I redid the basement
23 because the basement was unfinished. I mean it was
24 bad. I completely refinished the basement. I added a
25 new exterior door so that she had a separate, because

1 it had like an in-laws -- the basement was set up --
2 it used to be a garage, but it was set up like a living
3 quarters on one side and then like a mother-in-law
4 suite on the other side with a separate bathroom, but
5 it didn't have an outside entrance. It only had an
6 entrance to come from downstairs. You could only get
7 in one way. And none of that was finished anyway. It
8 was just set up for it. So I completely redid all
9 that.

10 Q. Okay. How was the Linda Lane house paid for? Where
11 did that money come from and who put the money into it?

12 A. It was cash -- it was a cash purchase, because that's
13 when we got our better deals. It was like 61,000 for a
14 four-bedroom. So that's how we made our money was --
15 was we would pay cash for the house and then I would do
16 all the work to fix them up. And the equity in the
17 house would jump 100 -- you know, over 100 percent. So
18 that was my side of what we were doing. And the money
19 came from that loan that we got. And the -- it was
20 deposited to our joint MBRS account and that's where
21 the money came from, out of that account to pay for the
22 house. We were trying to keep it -- that business side
23 organized and that was the account that was used for
24 the housing. And what happened was -- well, that house
25 in Maryland, I've got to back up, because the house in

1 Maryland this is important. With my settlement money I
2 paid off the first house. She was supposed to buy it,
3 but she -- she got a mortgage for it. And she came to
4 me and she said that she couldn't afford the mortgage.
5 When I got my settlement I went down to the bank and
6 asked them how much was the balance on the mortgage and
7 they told me. It was 31,000 and change. And I wrote a
8 check right there at the bank, right there to them to
9 pay the mortgage off. So the house was free and clear
10 at that point in Maryland. And that's when we decided
11 to buy another house. So I was getting ahead of myself
12 there. That's an important fact I think. And I also
13 gave her \$5,000 to inject into her Hawk Shadow business
14 and I injected \$5,000 into my boat rental business. So
15 there was \$40,000 spent right there in -- in the same
16 day. And so the house was free and clear. Then she
17 got another mortgage on the house in Maryland to buy
18 the house in Easley. That's where -- that's where that
19 mortgage came from. It came because we -- we spent all
20 my cash that we were going to use to buy a house to pay
21 off that first house and then we bought the house on
22 Linda Lane with another mortgage. When we sold our
23 house in Maryland, when we moved here, that mortgage
24 got paid off. So, again, we had a four bedroom, three
25 and one-half bath -- or a bathhouse with no mortgage,

1 no nothing again. And we had \$71,000 in the bank.
2 That's was all from my labor. That's where all that
3 money came from.

4 Q. Okay. During this time didn't you buy some kind of car
5 that is subject to this suit?

6 A. Yes. Actually that was before we bought -- I bought a
7 convertible Jaguar at an auction. We were -- we were
8 working on the house in Maryland, my brother and I, and
9 -- and I saw it online because I used to go to auctions
10 a lot. I used to find and sell a lot of stuff at
11 auctions as a matter of fact. And I found this Jaguar
12 on auction and I -- I used to have a Porsche 928 and
13 when I bought that car I was flipping between, well, do
14 I want the Jag or do I want the Porsche, but at that
15 point I was more into sport cars. Later in life I was
16 more into the convertibles. So when that came up for
17 auction we -- Debra and I had stayed out one night at
18 Joe's Crab Shack grand opening and we got free crab
19 legs for a year. So we were going to go -- I kind of
20 sprung it on her. We were going to take my brother to
21 Joe's Crab Shack to have dinner and on the way there I
22 said I want to stop by and look at this car on the way
23 and that's what we did. We went to the auction. I
24 ended bidding and winning the auction and I paid a \$500
25 deposit that night because they said it had to be in

1 cash. So I asked the auctioneer and she said -- I
2 said, "Well, I don't have that much cash with me and
3 they won't let me pull it out of the bank." And she
4 said, "We just need a \$500 deposit." So we went right
5 down to the ATM, which is right down the street.
6 That's in the book, the records of that. To the ATM
7 and I pulled out \$500. I put -- put the \$500 down, bid
8 on the car, won the car, and then the next day I gave
9 Debra \$10,000 cash. I pulled that out of my account.
10 That's in the records as well. And she and her friend
11 Debbie Tokash made a day of it and drove down and
12 picked the car up and brought it back the next day.

13 Q. Okay. And so far the first nine exhibits or eight
14 exhibits are in our Exhibit Book for The Court; is that
15 correct?

16 A. Correct.

17 Q. And is that --

18 A. All -- all the facts are in the notebook for you.

19 Q. And we've actually given a copy of the book to the
20 Defendants here; is that correct?

21 A. Yes.

22 Q. Okay.

23 A. His book is lined up exactly with the Judge's book.

24 Q. Okay. Well, let's get to the almost present now. Did
25 you say it was 110 Linda Lane?

1 A. 109.

2 Q. 109 Linda Lane. Did you live at 109 Linda Lane?

3 A. Yes, I lived there before Debra did because we weren't
4 -- we weren't -- Linda Lane was originally going to be
5 an investment property. So I came here, traveled back
6 and forth, to see her and her daughter, Taylor. My
7 daughter Taylor. And she stayed in Maryland. And one
8 time on one of her trips here she just liked this house
9 so much better and liked the area so much better we
10 decided to sell the house in Maryland and move here and
11 that's what we ended up doing. So I went back to
12 Maryland and -- and did the little minor -- little
13 tiny, minor things that we had to do to sell it and we
14 ended up -- we bought it for 61,000 and we sold it for
15 169, so that tells you how much worked I did on it.

16 Q. Go ahead.

17 A. And, in fact, when the Realtor came to look, the
18 Realtor and Debra, they wanted to sell the house for
19 149 and I said, "No, that's too cheap." I said, "It's
20 way too cheap." I was killing myself.

21 Q. How long did you reside at the 109 Linda Lane?

22 A. Well, when I first came down it was almost six or seven
23 months before we decided to move and then we moved in
24 -- in 2015 is when we actually moved. And -- and 2018
25 is when she -- she forced me out.

1 Q. Okay. So you were living there about two years or
2 three years; is that correct?

3 A. Yes.

4 Q. And there was no mortgage payments, or rent payments,
5 or anything; is that right?

6 A. At first there wasn't, but eventually -- eventually we
7 got a line of credit on the house. But -- there was
8 actually like two lines of credit. We ended up paying
9 one line credit off with the second line of credit.
10 But when we sold the house -- when we sold the house in
11 Maryland that generated 71,000 in cash. And so we had
12 71,000 in the bank and change. I don't remember the
13 exact number in our -- in our joint MBRS account. No,
14 I'm sorry, the BB&T account. Yeah, the BB&T account.
15 Debra Mowery and Terence Carroll on the account and I
16 think the account number was 80 -- the last four are
17 8910 I think is what it is. And so the house in
18 Maryland was paid off. The mortgage on the house was
19 paid off and we ended up having the 71,000 in the bank.
20 And when we did that we decided to -- we needed to get
21 another house. We needed enough -- we wanted to get
22 rental properties. That was our whole plan. So I
23 found a property online on an auction, which I always
24 did. And we actually submitted an offer for that house
25 and it was denied. And this was before Debra got her

-- her license and -- or it might have been right around the same time, but she wasn't -- she wasn't -- she wasn't a Realtor yet, because what happened was when we -- when I found the first one on the auction I called Gary, our Realtor, and I asked him if he wanted to represent us and he said, "You're better off to just doing it yourself. It's an auction is easy. Just go on in and put in what you want to pay for it and you don't have to -- I won't have to get a commission out of it." So that's what I did. I registered for the auction. I signed up for it. We -- we put in a pre-auction offer. That was denied. And when the auction came around we ended up getting it for \$10,000 plus -- including all the fees. So we got a nice house for ten grand, which was pretty good.

Q. What was the address of this property?

A. That's the 204 South 9th Street.

Q. South?

A. South 9th Street.

Q. 9th Street.

A. I'm sorry.

Q. Did you do any work on this house or any labor?

A. Yes, I totally rehabbed that one. We -- I was still doing some other stuff, because -- well -- yes, and we discussed it and we -- we decided my brothers are in

1 the industry as well. So we discussed it and we wanted
2 to get the house for rent and have that money coming on
3 monthly. So we -- I called my brothers and my nephew
4 and they -- my sister was actually doing her house at
5 the same time, so they were coming back and forth to
6 help her. And I asked them if they wanted to come work
7 for us and we agreed how much we were going to pay them
8 and -- and set them up and they came over and just
9 slammed it out in a month. They didn't do everything.
10 I still had about a month's worth of work to do, but
11 that's all we could really afford to pay them is for
12 that one month. And they redid the roof, a whole new
13 roof on it. We completely gutted the whole thing. All
14 new drywall practically. I think there was two walls
15 that we didn't put new drywall on, but completely -- I
16 completely redid the bathroom. The major things that
17 they did was the beaming underneath it because the
18 floor was -- was falling in basically. So it needed to
19 be resupported. So we put a beam in. We put pillars
20 underneath.

21 THE COURT:

22 Mr. O'Connell, is the beam and the roofing and what
23 they did, is that relevant to the bigger picture of
24 what the issues are?

25 MR. O'CONNELL:

1 Yes, Honor, if I may.

2 THE COURT:

3 All right. Then let's move on.

4 MR. O'CONNELL:

5 That's part of his Quantum Meruit argument is he did
6 labor that he wasn't paid for.

7 THE COURT:

8 All right.

9 MR. O'CONNELL:

10 On both houses by the way. All three of them.

11 THE WITNESS:

12 All four.

13 Q. Okay. So you did labor and work. Who paid for like
14 the materials and such?

15 A. That came out of our joint account.

16 Q. Okay.

17 A. The first -- the very first one that came out of my
18 account and her account. I mean it was just whoever.
19 If we saw something we wanted it, we would buy it, but
20 we had a joint account that we paid most of that out
21 of.

22 Q. Okay. And do you know how much that house -- is it
23 rented?

24 A. Yes, it was rented from the first day. It was 800 a
25 month.

1 Q. 800 a month. Did you take any of that rent money? Did
2 you get any of that rent money?

3 A. I picked the rent up every time and I took it and
4 deposited in the TD account. Every -- every month or
5 the -- the renters came to me. Every once in a while
6 they would go see her, but usually I was the one
7 dealing with the tenants. I did all the showings for
8 the rental. I communicated with them. I was the one
9 that actually listed it for rent and then after --
10 later after we started our -- our real estate business,
11 Upstate RE Group, we advertised it through that, but I
12 still did the showings for it.

13 Q. So you advertised the 10 -- the 9th Street property?

14 A. Sure. The 20 -- 204 rental house. We -- we -- we
15 advertised that through the Upstate RE Group.

16 Q. Okay.

17 A. Just for rent when it came -- when it came vacant, but
18 it never stayed vacant. I mean it was -- it was rented
19 almost every month.

20 Q. Is that all bought and paid for by now?

21 A. Yes, we paid cash for it, 10,000.

22 Q. Is anything owed on it?

23 A. That came out of our joint account as well. Out of the
24 proceeds from the sale of that Maryland house. That's
25 where that 10,000 came from. It's in the -- you can

1 follow it in the bank statements, in the -- in the
2 folder. You can see where the money went in and you
3 can see where the money came out.

4 Q. And that's part of the book, what we gave the defense?

5 A. Yes.

6 Q. Let me ask you: What do you think the house on 10 --
7 well, Linda Lane, I'll call it, what you do think it's
8 worth?

9 A. It's a four bedroom with a -- with an in-law suite with
10 a separate door. I think it's worth at least 220. At
11 least

12 Q. 220,000?

13 A. And I put a full addition on it as well. A 14-by-14
14 addition and a 14-by-25 deck. That's right when I was
15 working on those is when I was forced out.

16 MR. BANNISTER:

17 Judge. I have an objection.

18 THE COURT:

19 Yes, sir.

20 MR. BANNISTER:

21 He's not the owner of the property and he can't testify
22 to the value unless he's a licensed appraiser.

23 MR. O'CONNELL:

24 Your Honor, he worked on the property. He bought --
25 they bought it together. Just because it's held --

1 THE COURT:

2 I understand. But Mr. Bannister's objection as I
3 understand it is that the case law in South Carolina is
4 if you're an owner you can testify to the value, if not
5 then you have to be a licensed appraiser. So how do
6 you get around Mr. Bannister's objection?

7 MR. O'CONNELL:

8 Because he was supposed to be an owner and his name was
9 just not put on the property.

10 THE COURT:

11 Mr. Bannister, I'm going to allow it for the limited
12 purpose if the evidence establishes he had an equitable
13 ownership interest in it then I think it's appropriate,
14 but otherwise I will sustain your objection subject to
15 --

16 MR. BANNISTER:

17 Thank you, Your Honor.

18 THE COURT:

19 -- evidence as we move ahead.

20 THE WITNESS:

21 Well, I can give a little testimony to that.

22 THE COURT:

23 Well, you have got a lawyer who is going to make sure
24 all that -- all the bases are touched. Okay.

25 THE WITNESS:

1 I'm sorry.

2 THE COURT:

3 No, that's fine.

4 Q. Okay. Then so 109 -- I've got a Linda Lane property.
5 I've got a 9th Street property. Any other properties?

6 A. Yes, right after we bought the 9th Street property it
7 was -- I think it was in that following week another
8 house came up on the auction site that I visited
9 routinely and I really liked it. It was right around
10 the corner from our other house. It was keeping all
11 our houses and so I showed it to Debra and she really
12 liked it because it had a pool. But it was a cash only
13 as well, as every house we bought. All of them were
14 cash only because that's how we made our money, was
15 we'd buy them cheap and I'd do all the work and -- and
16 sell them high. I mean that's how you do it. And so
17 539 Pope Field Road is the house that came up on
18 auction and we ended up winning that one. I did all
19 the bidding. All the -- all of the -- I registered for
20 the auction and the only thing we did was put the
21 titles in her name. We did that deliberately. We
22 talked about why we were going to do that. She did all
23 the paperwork for -- for our family. She did
24 everything. She filed all taxes. She did it all
25 because I'm not good at it as you can see. What

1 happened was with the first house we put that in her
2 name and it worked out fine. So -- so when we bought
3 the house here the reason -- I think it's important to
4 let you know why we did that. When we bought the house
5 here she was going to be in Maryland and I was going to
6 be here. So we put the house strictly in her name so
7 that I wouldn't have to travel back and forth if there
8 were documents you had to sign, if we were going to get
9 a mortgage, if we were going to get another loan. We
10 didn't want to be faxing or traveling back and forth or
11 whatever. And that was the whole reason why we put it
12 and we started the TD Realty to put all of these -- all
13 of these business houses were supposed to be put in
14 that company name. And I was supposed -- it was
15 Terry/Debra. I was supposed to be on there and I just
16 found out that I'm not even listed as an owner on that
17 business.

18 Q. Is that because of her expertise doing what?

19 A. That's what she does is paperwork. I mean business
20 services. When I met her that was her business that
21 she had started and throughout the years I just gave
22 her money and -- to put into her business when she --

23 Q. Okay. During --

24 A. When I first met her the business, the Hawk Shadow
25 business, she had an office and I think three

1 employees. And she had to get rid of the employees one
2 by one. They went. And then she had to get rid of the
3 office and then I made an office in the third floor of
4 our house so that she could still run her business out
5 of our house. And then when we -- when we moved --
6 when we moved here, you know, she went from three
7 employees down to just her. When we moved here I -- I
8 -- I set up the in-law suite as her office. That's why
9 I put that exterior door on there so she could have
10 clients come and go without having to go through our
11 house. So I put a full exterior door on there and
12 crown molding, and chair molding, and all kinds of
13 beautiful moldings.

14 Q. Didn't you put a deck on some house? Which house did
15 you put the deck on?

16 A. Well, I repaired the deck on the rental unit, but I
17 built a deck. When we -- what happened was after we
18 bought the house on Pope Field and that came out of the
19 same joint account, that money. You can see that in
20 the bank statements. Well, when we bought the house at
21 Pope Field and I started renovating it we just got
22 looking at it. It was a smaller house, but it had a
23 pool, and we decided we were going to sell the Linda
24 Lane house and move into the Pope Field house. And
25 just make it into a really nice -- really nice two --

1 two-person house. And so I started doing that and when
2 we decided to do that to increase the value of the
3 Linda Lane house, because I wanted to get 220 for it we
4 decided to put the addition on the kitchen and the big
5 deck because it had a huge deck on it when we bought
6 it, but it was rotten so I tore it all off. And -- and
7 so I put a 14-by-25 deck, a beautiful big deck, and the
8 14-by-14 addition. And during -- before I could
9 complete it is when she forced me out.

10 Q. Okay. Let's talk about this being forced out. What
11 happened? Can you tell The Court what happened as far
12 as you know?

13 A. She just -- she wasn't happy. She was just not happy
14 with me, or not happy with her, or not happy with us.
15 She just was not happy and she came to me and said she
16 -- she wanted to see other people. And I mean we
17 weren't fighting that night. I'm not saying we didn't
18 fight before, but we weren't fighting that night. We
19 were talking and she just said that she wanted to split
20 and we said, "Okay. Well, what are we going to do with
21 all our assets?" And we said we're going to split them
22 50/50 and just move -- and just go on and that's what
23 we -- that's what -- that night that's what I thought
24 we were going to do. And I'm like, "Okay. Let's call
25 it quits and let's go." And the next day I went to put

1 gas in my truck and my credit card was canceled.

2 Q. Then what happened?

3 A. Well, I'm like this ain't no good. Then I went to put
4 gas on the other card. These are cards in my name.
5 They weren't in -- they were in my name. And I went to
6 use the other one and it was canceled. So then I went
7 down to the bank. It might have been -- I don't know
8 if I went to the bank that day, but it was that stretch
9 of two or three days, whatever it was. It was right
10 after she told me that she wanted me to leave. I
11 couldn't -- I didn't have access to the bank account.
12 My name was off the bank account. And I'm like, "How
13 in the world? What is going on here?" So then I went
14 back to the safe, to the house to get cash out of the
15 safe, because I put a safe in the house to keep the
16 cash in because most -- a lot of my business was with
17 cash, and I went back and opened the safe and all the
18 cash was gone out of the safe.

19 Q. What happened to the Jaguar?

20 A. She took the keys. She took the keys to everything.
21 She took the keys to the lawn mower.

22 Q. What about your --

23 A. I couldn't even cut the grass at the properties.

24 Q. What about your work van, or work shed, or whatever
25 it's called, work trailer?

1 A. That -- that -- that was -- well, when we -- we moved
2 here we discussed it and we decided that we were going
3 to buy a trailer rather than rent a truck, because it
4 was going to take three or four trips to move all our
5 stuff here from -- from Maryland to here. A U-haul
6 truck would have been really expensive, so we just
7 decided to buy a cargo trailer. So I went down to -- I
8 -- I shopped around first to find the best deal and I
9 ended up buying one in North Carolina. So I took cash
10 out of the safety deposit box and I went and bought it
11 and that was my cash. And then -- then -- because our
12 reasoning was we would use the trailer to move us back
13 and forth and then I could put all my tools in the
14 trailer and park it at the houses I was working at so I
15 wouldn't have to have another storage unit or whatever.
16 And so we bought the trailer, moved us down, and then I
17 put all my tools in the trailer and it was parked in
18 the -- in the yard. And then after we split and
19 between the lawyers and all I asked to take it and she
20 denied me, so it sat there for a year and then I just
21 went and took it because I called the sheriff and the
22 sheriff told me to go get it if it had your tools in
23 it. So that's what I did and it's a good thing because
24 she was starting -- starting -- start -- somebody had
25 cut my lock off the back. A lot of my tools were

1 missing out of it. And so it was a good thing I did go
2 and get it.

3 Q. Do you know what happened to the Jaguar?

4 A. She's still driving it as far as I know. I seen her
5 driving it the last few days.

6 Q. Have you seen --

7 A. It's parked at the house. Because originally --
8 originally they said they would give me back anything
9 that I could produce a receipt for, which she knew I
10 didn't have any receipts because she kept them all
11 because she did the taxes. But she didn't know that I
12 had a copy of the receipt for the -- for the Jaguar and
13 it has my name on it, Terry Carroll, paid cash. And
14 she denied to give me the car. So I got nothing. She
15 took -- she took -- she took the houses, took the car,
16 took the bank accounts, took the cash out of the safe
17 and -- and left me (witness getting emotional).

18 Q. Okay. Answer this: As part of being removed from the
19 premises was a suit filed in Magistrate Court?

20 A. I'm sorry. She left me to fend for myself.

21 Q. Were you evicted from the property?

22 A. I'm sorry?

23 Q. Were you evicted from the Linda Lane property?

24 A. She tried to have me evicted and -- and we went to the
25 Magistrate and he saw what was going on and -- and he

1 told me -- he looked me in the eye and he said, "Mr.
2 Carroll, I can't express how important it is --"

3 MR. BANNISTER:

4 Judge, I'll object to whatever the Magistrate said.

5 THE COURT:

6 Okay. You can't say what somebody else says.

7 THE WITNESS:

8 Oh, okay. I thought it would be in the transcript.

9 THE COURT:

10 Okay.

11 Q. What has occurred since then?

12 A. Anyway it was dismissed.

13 Q. What has occurred since then?

14 A. I'm sorry?

15 Q. What has happened since then?

16 A. Since then it's been a battle just to try to get my
17 personal property. I still have Christmas decorations
18 from my grandmother that are in the attic. I still
19 have -- and -- and she went through everything before
20 she would let me pick up anything. She -- she wouldn't
21 even let me see what was still in the house that
22 belonged to me. She just went through it and set it
23 out for me. "Here to go get it." And -- and that's
24 basically what I did and that's why we're here.

25 Q. So you're asking The Court to equally divide the

1 property up; is that correct?

2 A. I'm asking that I get a -- I think what's fair is that
3 we split like the properties like we agreed and I'm
4 also looking for mental anguish and I have actual
5 damages, too, because I had to -- I had to rent a
6 place. And I had to pay for hotels, because if it
7 wasn't for my sister and brother-in-law I would have
8 been on the street. And I had to -- when she -- when
9 she did all this stuff to me, she did all these things,
10 made up all these stories to -- to make me look like
11 somebody I'm not.

12 Q. During your relationship with Ms. Mowery did you have
13 any kind of relationship with anybody else other than,
14 you know, just talking and acquaintance type?

15 A. No.

16 Q. I'm talking about sexual relationships or anything of
17 that nature?

18 A. There was no actual -- no actual intercourse, no. It
19 was all just flirting. We were big flirts.

20 Q. You were a big flirt?

21 A. Both of us were.

22 Q. Okay. So what do you think based on your knowledge of
23 the situation, what do you think the amount you should
24 be getting is?

25 A. Well, I -- I'm thinking half of the property. The

1 values of the properties alone is probably close to
2 300. Somewhere around 300,000 and then whatever we're
3 were suing for -- for mental anguish and damages and
4 the lack of use of my car. The lack of use of my
5 funds. I've been -- I've been basically put -- put in
6 limbo for a year and a half because I have nothing -- I
7 had nothing but what was in my wallet is what she left
8 for me. Well -- and there was money I had from selling
9 my boat. That was \$2,500, which was the only money I
10 had, was \$2,500 from the sale of my boat. I sold the
11 boat because she came to me when I was building the
12 addition. She came to me and said that we didn't have
13 money to buy the windows for the addition. I said,
14 "Okay. Well, I'll sell the boat and get the money,"
15 because we were trying to get the addition done so we
16 could sell Linda Lane and then we would be -- we would
17 have money. Lots of money again. And so I sold the
18 boat and bought -- I went and bought the windows. We
19 installed the windows and that was the only money left.
20 It was like \$2,500 was the only money I had, which
21 thank God I had that.

22 Q. Okay. During this time, say from 2010 on were you
23 filing income taxes?

24 A. No, she was claiming me as a dependent. We -- she --
25 she said that was -- that was how we would maximize our

1 returns is if I was claimed as a dependent. Because it
2 didn't really look like I had an income because I was
3 working on our houses. That's what I did every day. I
4 wasn't -- well, I did do a couple of side jobs when she
5 said she needed some money. I would go find something
6 to do. I did -- I did one bathroom. I did a
7 contracting job and all that money went into our
8 account which she used to pay bills with.

9 Q. So you weren't like a "boy toy"?

10 A. I didn't get a -- I didn't get a paycheck or anything
11 like -- no. It was just if I needed something I went
12 and bought it. It was my account. It was my money as
13 much as hers. It was -- it was -- we had a shared
14 account. That's what it was for. So I did not get a
15 paycheck or -- or nothing.

16 Q. And those tax returns are also part of your exhibits in
17 that blue notebook up there; is that right?

18 A. Yes, but I don't know how accurate they are because
19 they don't -- some of them -- some of them say they
20 were prepared in 2019. So -- and she -- I don't -- I
21 don't know where she got them from. They don't say.
22 The ones that I've always seen she has say client copy
23 stamped across it or they sale file copy stamped across
24 it. One of those says client copy stamped across it,
25 but all the other ones don't have nothing stamped and

1 some of them aren't even signed. And two of them have
2 2019 dates on it and one of them was from 2016 I think
3 and the other one was 2015. That shows she just --
4 according to the dates it shows she just prepared them
5 that -- two months -- it was one month before we had
6 our first court hearing that we requested them in
7 Discovery. So it looked like she just went in and did
8 something. I don't know what she did. The dates were
9 wrong. And when I went to through the bank accounts,
10 with what little bit of time I had to do it, the bank
11 account -- the deposits from the State Treasury and
12 1040 they don't match up the tax return, so I don't
13 know if they're accurate or not. I don't know what
14 they are.

15 Q. What about the QuickBooks something they sent us in
16 Discovery?

17 A. They sent those -- they sent us saying that was -- that
18 was the only bank statement she could get was -- she
19 did everything in QuickBooks, because we requested --
20 we requested the bank statements from day one and they
21 just kept giving us excuses of why they couldn't give
22 them to us. First -- first -- first they said that
23 they gave them to us. Then when we requested them
24 again they said, "Are you sure we didn't give them to
25 you? You'd better check again." So I checked again.

1 No, they're not in there. Then we sent them another
2 saying we still don't have them and then they said that
3 she doesn't have bank statements because she does all
4 QuickBooks and I said that's not true. That's how she
5 enters the QuickBooks. She gets the bank statement and
6 she goes through and she adjusts the QuickBooks. And
7 then when we told them that they sent us another letter
8 saying that I left the bank statements out in the rain
9 and that's why they don't have them. And I'm like I
10 haven't even been in the house. How am I going to
11 leave them in the rain? And then the last time they
12 said that if we wanted them we'd have to subpoena them
13 and that was like a month ago and that's what we did.
14 We subpoenaed them and we just got some last night and
15 I've been going through them and they -- they show
16 exactly what I'm telling you.

17 Q. Okay. Did you come across a mortgage that was for a
18 piece of property you guys owned that had Debra Mowery,
19 a married individual?

20 A. Yeah, that was the mortgage for -- I'm pretty sure
21 that's our line of credit.

22 Q. And the reason you bring that up because it says Debra
23 Mowery, a married individual; is that correct?

24 A. Correct.

25 Q. Showing that she considered herself being married; is

1 that right?

2 A. We considered ourselves as married.

3 Q. Okay.

4 MR. O'CONNELL:

5 At this time answer any questions the Defendant has for
6 you.

7 THE COURT:

8 All right. Who is going to do the cross?

9 MR. BANNISTER:

10 I am, Your Honor.

11 THE COURT:

12 All right.

13 MR. BANNISTER:

14 Thank you, Your Honor.

15 EXAMINATION BY MR. BANNISTER:

16 Q. You're not taking the position today that you-all are
17 married, are you?

18 A. We acted just like we were married. We talked about
19 it. We were planning -- we were -- when we first
20 talked about it we were planning on going to the
21 islands to get married and we wanted to make sure we
22 had enough money to do the ceremony is what I'm talking
23 about. We wanted to make sure we had enough money to
24 bring the people down that couldn't afford to come down
25 on their own. That was our plan.

1 Q. So you weren't married yet? You had plans in the
2 future to maybe get married, but you -- you're not
3 taking the position in This Court today for the first
4 time that you-all were married?

5 A. We never had a ceremony, no. We acted like we were
6 married. That's what -- that's the only way I can tell
7 you. We did everything as one unit. We discussed
8 everything. Any major decision we had to make --

9 Q. Who did you --

10 A. -- any time we were going to spend any major money we
11 talked about it. If we were going to -- if we were
12 going to send money to her family we discussed it,
13 which we did a few times.

14 Q. Are you asking This Court to determine that you were in
15 fact married to Ms. Mowery today? Are you asking Judge
16 Simmons to find today that you were married --

17 A. No.

18 Q. -- during all this time?

19 A. No.

20 Q. Okay. So you-all in essence were living together and
21 you were unmarried?

22 A. Correct.

23 Q. Okay. All right. Do you deny that the trailer that
24 you talked about being your trailer with your tools was
25 titled in Ms. Mowery's name?

1 A. Yes, I do.

2 Q. You deny that?

3 A. Yes, there's no title.

4 Q. You deny that she signed the purchase documents?

5 A. Yes, I was the one who bought it.

6 Q. Okay. Let me show you what's premarked as Defendant's
7 Exhibit 13 referencing a trailer.

8 A. That's -- that's not the -- that's not the cargo
9 trailer.

10 Q. What is that?

11 A. That's the horse trailer. We bought a horse trailer
12 with cash because her daughter does -- does -- her
13 daughter likes horses and she bought a horse for her
14 16th birthday. And we told her, we went to her and we
15 said --

16 MR. BANNISTER:

17 Judge, I'd like you to instruct the witness to answer
18 the question.

19 Q. The question was was the trailer titled in your name or
20 not?

21 A. Yes, it was.

22 Q. And the answer is yes or no.

23 MR. O'CONNELL:

24 No, Your Honor, he has the right to explain the answer.

25 THE COURT:

1 All right. All right. Let's start over. Show him the
2 bill of sale, Defendant's 13.

3 A. It's a title.

4 THE COURT:

5 Is that a title or a bill of sale?

6 MR. BANNISTER:

7 He identified that as the title to horse trailer.

8 THE COURT:

9 All right.

10 MR. BANNISTER:

11 I'd offer Defendant's 13 into evidence.

12 THE COURT:

13 All right. So you agree there's a horse trailer and
14 that's the horse trailer. All right. Then let's move
15 on.

16 THE WITNESS:

17 That's not my cargo trailer.

18 Q. Do you agree that the Jaguar is titled in Debra's name?

19 A. Yes.

20 Q. Do you agree that all the real estate you just
21 described from back to 2006 to the real estate that's
22 currently owned was titled in Debra's name, Ms.
23 Mowery's name?

24 A. Yeah, that was a conscious decision that we made to do
25 that.

1 Q. So you knew about it --

2 A. All the settlements I was there at every one of them.

3 Q. You knew about it when it was happening? You agreed to
4 it? You weren't tricked or defrauded?

5 A. They were supposed to be -- they were supposed to be
6 trans -- the titles were supposed to be transferred
7 into the TD business name and that was never done.

8 Q. And --

9 A. And that was another reason why we put it all in her
10 name so she could do that without me having to come
11 down and sign it. It was all -- we talked about it.
12 It was why we did it. And it was also better on taxes.
13 This is what we talked about. I don't know if it's
14 true, but it was all designed to be better for us to --
15 to have more income.

16 Q. As it relates to the real estate do you have anything
17 in writing where you and Ms. Mowery wrote down what
18 your agreement was as it related to how you-all were
19 going to handle the real estate that was titled in Ms.
20 Mowery's name?

21 A. I don't think I have anything like that. We didn't
22 really write -- we didn't write. I mean we texted
23 between each other, but we didn't -- we didn't have
24 contracts with each other. We'd be doing that every
25 day because every day things changed. I mean she would

1 -- I would call and I would say, "I'm going to put a
2 closet over here. What do you think about that?" And
3 she'd say, "Well, I don't really want a closet there."
4 And I'd say, "Well, how about if I put it over here and
5 we'll do this?" So I mean I don't know how you can do
6 -- do that. I mean we'd be -- we'd do it every day.
7 We talked about what we were going to do every day.

8 Q. But from 2006 to now you never had anything you put in
9 writing about the real estate related to you-all --
10 whatever you say the agreement was between how you
11 would handle it?

12 A. How we would handle it, no, I don't think we actually
13 wrote a contract.

14 Q. So when the house in Maryland sold -- when did it sell,
15 what year?

16 A. 2015 I believe was the date -- was the year. It was
17 when we moved here, because we put the house in
18 Maryland on -- on the market and it sold in a month
19 because it was such a beautiful house. And during that
20 month between the closing, between the closing date --
21 the sale date and the closing date that's the month
22 that I -- I moved us down so when the closing went she
23 just brought the car down and that was it. The week
24 before she brought the Jeep down. Her last trip she
25 brought my car back down.

1 Q. So you raised the issue that some of your personal
2 property -- well, did you get the riding mower, the
3 weed eater, and the tiller?

4 A. No.

5 Q. Did you pick that up?

6 A. I got the weed eater. I called -- I sent her a message
7 and asked her if I could use it because she wasn't
8 using it and --

9 Q. If you'll just answer yes or no. Did you get it or
10 not?

11 A. The only thing I took was the weed eater. The lawn
12 mower she took -- she -- I asked her to use it and she
13 took the key so I couldn't even start the thing. And
14 it sat there for a year. It sat outside right where I
15 left it the last time I used it. She didn't do
16 anything with it. She paid somebody to cut the grass
17 and I told her I would cut it. If she would just let
18 me use the lawn mower I would cut the grass at the
19 three properties -- at the two properties. One of them
20 was rented, but she -- she wouldn't do that either
21 because she knew I could use the lawn mower to make
22 some money.

23 Q. So your answer is, no, you did not get lawn mower?

24 A. I did not touch the lawn mower or the tiller.

25 Q. But you did get the weed eater?

1 A. I did take the weed eater.

2 Q. Did you have guns and ammo, accessories, and sporting
3 goods that you picked up?

4 A. Yes.

5 Q. You said there was a dresser that your sister gave you.
6 Did you pick that up?

7 A. I'm sorry what was that?

8 Q. A dresser your sister gave you?

9 A. Yes.

10 Q. You picked it up?

11 A. Yeah.

12 Q. All right. You said you had some clothes. Have you
13 gotten your clothes?

14 A. Yes.

15 Q. Henckel knives and wood block. Did you get those?

16 A. Henckel? Yes.

17 Q. Okay. Cookware, pots, pans, and a meat slicer; did you
18 pick those up?

19 A. Yes.

20 Q. And that's --

21 A. That's property that belonged to me.

22 Q. Ms. Mowery gave you that stuff; is that right?

23 A. She allowed me to take it. She didn't give it to me.

24 Q. Okay. She allowed you take the things you asked for by
25 putting them out where you could come get them and take

1 them?

2 A. Correct.

3 Q. Okay. How about the pewter plates and other cookware,
4 did you pick those up?

5 A. Yes.

6 Q. The Bose stereo system including some receivers?

7 A. Yes.

8 Q. Did you pick up a television?

9 A. No, she -- she kept the TV.

10 Q. You didn't get any TV?

11 A. I don't recall getting any TV, no. I bought a brand
12 new TV. It's in my house now.

13 Q. How about your Xbox and games?

14 A. Yes, I got them.

15 Q. How about the TV speaker system?

16 A. Yes.

17 Q. Wooden ship model material?

18 A. Yes.

19 Q. Croquet set?

20 A. No, she refused to give that to me. I bought the
21 croquet set when my brothers were coming down to work
22 on the rental house so we could play, because we played
23 when we were kids.

24 Q. Croquet is like a --

25 A. I thought it would be fun.

1 Q. -- that's a game; right?

2 A. Yeah.

3 Q. Croquet, the game?

4 A. Yeah. It was an antique croquet set that I had bought
5 at the thrift store and she said she bought it.

6 Q. Do you still want it?

7 A. Yeah, I want it.

8 Q. How about DVD movies?

9 A. She gave me some of them, yes.

10 Q. She didn't give you all the movies?

11 A. No.

12 Q. Which ones are you missing?

13 A. I only remember when I see an advertisement. I'm like
14 I had movie, but I don't have it anymore. She must
15 have kept it.

16 Q. So you can't tell this Judge today what movies she
17 didn't give you?

18 A. No.

19 Q. You just think there's some out there that you should
20 have that you don't have?

21 A. I don't care that she kept the movies. It's okay.

22 Q. So we're settled on the movies?

23 A. I mean a lot them -- a lot of them we bought when we
24 were together.

25 Q. So you're not asking for any additional movies?

1 A. No.

2 Q. Okay.

3 A. No.

4 Q. There's a barrel in the game room, did you get that?

5 A. Yes.

6 Q. A cabinet containing a TV gifted by Bob?

7 A. Oh, that's the TV she's talking about, yes. That was
8 the -- that was the -- so I did pick up that TV. That
9 was the game -- the game room TV that we used to play
10 Xbox or the Play Station with. So, yeah, I did get
11 that but it doesn't work as a TV. It's only a monitor.

12 Q. You asked for a glass enclosed cork 3D carving in the
13 hall bath. Did you get that?

14 A. Yes.

15 Q. Did you get everything that was in your closet? I mean
16 you asked for everything in your closet?

17 A. I got everything that was there when I got there. I
18 don't know what she took out before I got there because
19 I wasn't there anymore.

20 Q. Well, I mean are you asking --

21 A. She -- she went through everything. She went through
22 everything and put it in a pile and that's all -- that
23 was what she let me take. Everything else she had the
24 doors locked and wouldn't let me -- wouldn't let me
25 have access to anything.

1 Q. On May the 7th your lawyer sent a letter to us saying
2 you wanted a bed. Did you get a bed?

3 A. I got the bed. She left it out in the rain.

4 Q. You wanted a grill. Did you get the grill?

5 A. I got the grill.

6 Q. Lawn tools from the shed? Did you take all the lawn
7 tools from the shed?

8 A. She kept most of them. I have -- I have some.

9 Q. The electric edger, you took that?

10 A. Yes.

11 Q. Supplies from the little shed?

12 A. That was the little storage unit where the tiller was
13 in the back. And, no, I haven't gotten the stuff out
14 of that yet.

15 Q. Did you take the gardening supplies?

16 A. Gardening supplies? Some.

17 Q. And you took the trailer?

18 A. I took the trailer because it had my tools in it.

19 Q. And the --

20 A. I didn't know if she was getting ready to sell it. I
21 didn't know what she was getting ready to do.

22 Q. At the time that you took the shed you'd been placed on
23 a no trespass notice. Do you recall that not to come
24 back on the property?

25 A. Nope. The only thing that -- nobody ever told me I

1 wasn't allowed to go to my own house. There was never
2 any court order saying I couldn't go to my house. I
3 didn't go there when she was there. I went there when
4 I was -- when she was not there.

5 Q. Let me show you what's been marked Defendant's 15. It
6 was sent to your lawyer. Are you aware that Ms. Mowery
7 had informed your lawyer that you were not to come back
8 on any of the properties that were in her name?

9 A. Yeah, I'm --

10 Q. You were aware of that or not?

11 A. I -- I got a copy of this, yes.

12 MR. BANNISTER:

13 All right. Judge, I'd offer that as Defendant's 15.

14 THE COURT:

15 Is that a letter or an order?

16 MR. BANNISTER:

17 That is a letter to --

18 THE COURT:

19 All right.

20 (Introduction of document,
21 Trespass Letter,
22 as Defendant's Exhibit Number 15.)

23 THE WITNESS:

24 There was no order, Your Honor. It was just a letter
25 sent to my lawyer saying don't come around no more.

1 Q. So when you said you weren't on notice that you weren't
2 to trespass what you meant was no one had ordered you
3 thus far not to go on Ms. Mowery's property?

4 A. Correct. I did receive that letter.

5 Q. Did you cut the locks so you could take that trailer?

6 A. I did. I had two locks. There was two locks on it.
7 She put one on it and one of the locks was mine and I
8 cut her lock off.

9 Q. You took the trailer out of the garage or the driveway?

10 A. It was in the driveway, yes.

11 Q. All right. August 7th letter you said you wanted the
12 antique bar ware. Did you get that?

13 A. No, she -- she kept that. She's kept the majority of
14 that.

15 Q. Did you get any of it?

16 A. I've got -- I got like four pieces of little stuff that
17 obviously she didn't want.

18 Q. Isn't it true you've already taken the Christmas
19 decorations?

20 A. No. She still --

21 Q. You filed this Action. Do you recall when you filed
22 the Action?

23 A. It was in June I think of 2018. I think it was June.

24 Q. All right.

25 A. No, it wouldn't have been June. It would have been --

1 it probably would have been -- it may have been May or
2 June. Right around that area, that time.

3 Q. Did you have your lawyer file a Mechanic's Lien
4 alleging that you were a mechanic and you were
5 authorized to file lien for work that you had done and
6 not been paid for?

7 A. We -- we filed a Journeyman's Lien on the Pope Field
8 house because she was trying to sell it and I asked her
9 --

10 Q. Is this a copy of that lien?

11 A. When she went -- when she went to sell it I said -- I
12 said --

13 MR. BANNISTER:

14 Judge, I'd ask you to instruct the witness to answer
15 the question.

16 THE COURT:

17 If you'd just answer the question and then you can
18 explain it.

19 THE WITNESS:

20 Okay. I'm sorry.

21 Q. Is that a copy the Mechanic's Lien that was filed on
22 your behalf by your lawyer to stop the sale of that
23 piece of property?

24 A. It looks like it.

25 MR. BANNISTER:

1 Judge, I'd offer that as Defendant's 7.

2 THE COURT:

3 All right.

4 (Introduction of document,
5 Mechanic's Lien,
6 as Defendant's Exhibit Number 7.)

7 Q. Are you a licensed contractor in South Carolina?

8 A. No.

9 Q. And you filed suit --

10 A. But you don't need to be to work on your house, so I
11 didn't need it.

12 Q. You filed suit alleging that Ms. Mowery owes you
13 \$61,000 for work that you did on that house?

14 A. That was the Pope Field house, yes.

15 Q. Did you -- I saw the big -- I saw the big notebook of
16 papers. Did you invoice Ms. Mowery for the work that
17 you had done on the house?

18 A. Did I send her an invoice?

19 Q. Yes, sir. You said that you -- your Mechanic's Lien
20 says that you were entitled -- that you had not been
21 paid --

22 A. Oh, I told her --

23 Q. -- money for the work that you had done. I'm asking
24 you did you send her an invoice? Anything in writing
25 that said, "You owe me \$61,000."

1 A. No.

2 Q. "If you don't pay I will file a Mechanic's Lien"?

3 A. No, nothing in writing. When --

4 Q. Isn't it true that your intention of filing --

5 MR. O'CONNELL:

6 Let him answer the question. He said no and then he
7 gets right to answer his question.

8 THE COURT:

9 All right. You can explain.

10 A. What we did was we discussed it and I said I'll just
11 take half of the sale price, which was 30,000. She had
12 a contract from a guy. Actually I met the guy there
13 and he wanted to hire me as a consultant to work on the
14 house and help him with the house even. And I said
15 I'll do that. And then when I asked her for -- for
16 half of the sale price she laughed at me, because we'd
17 already split up then. You know but she laughed at me
18 and said, "You're not getting anything out of this."
19 And I said, "Well, you've got to pay me for the work
20 I've done. I'm sitting here doing work now."

21 Q. What was the sale price on the house?

22 A. She had a contract for 61,000, which I told her was too
23 -- not enough. The house right next door was in worse
24 shape than that one and it just sold for 90,000. And I
25 tried to tell her to get 90, but she -- she -- she

1 doesn't listen to me.

2 Q. In your Mechanic's Lien you alleged that she owed you
3 \$61,000, which would have been 100 percent of the sale
4 price of that house. Is your position now that you
5 were only entitled to \$30,000 for the work that you had
6 done?

7 A. No. No. No, that's not my position. That's what I --
8 that's what I offered. When she went to sell it I
9 offered to split it with her 50/50, because that was
10 what -- she had a contract for 61,000. So to me that's
11 what the house was worth because that's what she had
12 the contract on. To me it was worth 90,000, but since
13 she had the contract I said, "Okay. Well, let's split
14 it. We'll split it down the middle." And she laughed
15 at me. And so then I said, "Well, I'm entitled to the
16 full amount." I paid for -- I paid -- the purchase
17 price came out of our joint account so I paid for half
18 of it. I should have got half of it when we sold it.
19 That -- that is in the bank statement, Your Honor, the
20 purchase price from our joint account. It has my name
21 on it and her name on it. The money came out of there.
22 It was a wire transfer.

23 Q. Mr. Carroll, didn't you send the Mechanic's Lien to the
24 buyer and tell him that you had a lien on the house for
25 work you had done and to clear the lien he'd have to --

1 you'd have to be paid the \$61,000 you claimed?

2 A. No, that's not what happened.

3 Q. Isn't it true that you sent it to him to make sure he
4 didn't buy the house?

5 A. I didn't send him -- I didn't send him the lien. He
6 asked me, he said he wanted to hire me to be -- to be
7 --

8 MR. BANNISTER:

9 I'm going to object. I'm going to object to him
10 testifying to what somebody else told him about some
11 future job.

12 THE COURT:

13 I will sustain the objection.

14 MR. BANNISTER:

15 Thank you, Your Honor.

16 Q. Mr. Carroll --

17 A. Like I say he asked me to be a consultant on the house.
18 Is that fair to say?

19 THE COURT:

20 That's fine.

21 THE WITNESS:

22 Okay.

23 Q. You signed a statement of account that says you're owed
24 61,000. You're not telling the Judge today you're owed
25 61,000 for work you did on that house?

- 1 A. If you want to say how much work I did on the house,
2 yes, I want -- that's what -- the amount of work I did
3 on the house is worth \$61,000. The reason I said
4 30,000 is because she had the contract for 61 and we
5 should just split it like we agreed to do the whole
6 time. That's why I said 30,000. But, yes, I'm saying
7 the work I did on that house, if she was to -- if you
8 want to say on all these houses, if you want say that
9 I'm not entitled to half I'm only entitled to the work
10 I did on it it's going to be a whole lot more than
11 half. A whole lot more.
- 12 Q. Did you --
- 13 A. Just the one -- just the -- just the one addition alone
14 would be \$60,000 and the deck is probably another
15 15,000, so you're looking at 75 just on the last work
16 I've done in the last four months.
- 17 Q. So you described this joint account. The truth is the
18 account is in Ms. Mowery's name and you have --
- 19 A. No, it was in our names.
- 20 Q. -- the authority to sign on that account to write
21 checks out of it; isn't that true?
- 22 A. That's the -- that's the TD account. The other account
23 where the money for the houses came out of was a joint
24 account with my name on it.
- 25 Q. And who put --

1 A. Debra Mowery and Terence Carroll.

2 Q. -- who put the money in the account?

3 A. I did. First, I did from the sale -- from my
4 settlement and it went into a safe deposit box, which
5 she went in whenever she needed money for her business
6 or for any of the business to pay bills. She went into
7 the safe deposit box and took the cash out, which was
8 my cash, and deposited it into whichever account she
9 wanted to put it in. But the first account with the
10 first house, the first house down here that was our
11 joint BB&T account and it had my name on it and her
12 name on it. It wasn't -- I wasn't just signatory. And
13 that's where the money came into when we sold --
14 because that was what it was for was for that side of
15 our business relationship to have all the money for the
16 housing to go into that account. That's what it was
17 for.

18 Q. Mr. Carroll, isn't it true that you prior to you
19 getting a job after the separation or breakup, whatever
20 you want to call it, you had not filed taxes since back
21 in the '80s?

22 A. No, that's not true.

23 Q. When is the last time you filed a tax return before you
24 met Ms. Mowery?

25 A. It would have been -- it would have been probably a few

1 years before we met. Just a few years I had -- I had
2 -- I don't remember the exact date, but it was a few
3 years before we met.

4 Q. So when you said that Ms. Mowery, it was on Ms.
5 Mowery's advice that you didn't file taxes you had
6 stopped filing taxes before you met her, before you
7 picked her up the first time and took her home after
8 the -- after she had gone out on the bus drinking tour?
9 You weren't filing taxes already; were you?

10 A. I was a couple of years behind. We were going to -- we
11 were supposed to straighten that out, but we never did.

12 Q. Ms. Mowery was supposed to straighten that out for you?

13 A. No, I said we were supposed to straighten it out. She
14 owns a tax business. That's what she did.

15 Q. Is this the safe deposit box you're referring to?

16 A. Yes.

17 Q. It shows the --

18 A. That's the BB&T safe deposit box.

19 Q. So would you agree with me that that safe deposit box
20 is leased by Debra Mowery? It's her safe deposit box?

21 A. No, I'm on it as well.

22 Q. Show me that.

23 A. You just can't see -- see right here where it says
24 leased to. This is a copy, Your Honor. This is what
25 they gave me. But on leasee two over here that's where

1 my name is. If I wasn't on it I wouldn't have been
2 able to get into it.

3 Q. So when was the last time Ms. Mowery accessed the safe
4 deposit box? What year was that?

5 A. '16.

6 Q. All right. So when you testified that you went to the
7 safe deposit box and she had taken all the cash out
8 after this separation is that what you -- is that what
9 you were --

10 A. Yes, that's the safety deposit box.

11 Q. That's what you were referring to? That's the place
12 where you went to get the cash that --

13 A. Yes.

14 Q. -- that Ms. Mowery had emptied it out?

15 A. If you look at it Debra went to the safety deposit box
16 every month to take cash out to pay bills because she
17 wasn't making enough money down here and I was working
18 on the houses, so I didn't really have a steady income.
19 I did a few jobs, but. And if you look she didn't go
20 again. Since 2016 she didn't go back because I guess
21 -- I don't know whether it was empty or not, but when I
22 went in 2018 because I thought oh, the safety deposit
23 box, there might be some cash in there. I still had
24 the key. So when I went in there it was empty.
25 Because I didn't have any money, so I was thinking

1 where can I get it from?

2 Q. So are you claiming any interest in Hawk Shadow
3 Business Services?

4 A. I'm saying through the years I have put money into her
5 account to run that business.

6 Q. Would you agree --

7 A. A lot of money.

8 Q. -- would you agree with me if I said that that business
9 existed prior to you-all meeting?

10 A. Yes.

11 Q. And do you have anything in writing where Ms. Mowery
12 wrote down that she was transferring to you any
13 interest in her pre-relationship business?

14 A. No.

15 Q. Are you claiming any interest in her license as a
16 Realtor?

17 A. Yes, we started that together.

18 Q. So the fact that she went and got a real estate license
19 you're saying you're entitled to some compensation for
20 that?

21 A. Yes, because I paid for it. That -- that money came
22 out of the safe deposit box to put her -- that was all
23 part of our plan to get access to the MLS is the whole
24 reason why she went to -- to -- to become a Realtor.
25 She still was operating the tax business. She went.

1 And we discussed it and we said we want to get quicker
2 access to the MLS so that when the properties hit the
3 market we can be the first ones to offer and she would
4 save -- by being a Realtor she would save us a lot of
5 money because we wouldn't have to pay commissions to
6 another real estate. It made perfect sense. I mean
7 that's why we did it. That's the whole reason why we
8 did it. So she stopped -- stopped doing anything else
9 she was doing and she went to the school and I paid for
10 it. In fact, in there, there's a check in there that
11 was used to pay for it. And then she got her license.

12 Q. Were you --

13 A. And then we decided -- I'm sorry. Go ahead.

14 Q. Mr. Carroll, were you aware that she was going to be
15 the licensed Realtor and that you would not be listed
16 on that license?

17 A. Yes.

18 Q. All right. And the Upstate Real Estate Group you said
19 that was a corporation started between you, Ms. Mowery,
20 and Cole Reynolds. Were you aware that the company was
21 titled with Cole Reynolds and Ms. Mowery?

22 A. No, it was not originally. It was not suppose -- I was
23 supposed to be vice president. She was supposed to be
24 president and treasurer. I was supposed to be vice
25 president and originally Cole wasn't even going to be

1 part of the company. He was -- he was the broker. We
2 paid for him to get his license, because he was a young
3 -- a young guy. He didn't have a lot of money. So he
4 -- he actually -- how that happened was we -- Debra
5 went -- Debra went to work at Charter Realty to get
6 access to the MLS. That's where she was working, her
7 realty. She met Cole there because Cole was working
8 there. She -- she came back and said, "You've got to
9 meet Cole. I like Cole. You know you've got to meet
10 Cole." And -- and she said he's looking for investors.
11 I said, "Oh. What is he -- what is he doing?" And she
12 said he wants to open a brokerage. I said, "Okay.
13 Well, let's meet with him." So Cole came down to our
14 house and gave us a presentation. He had it all, a
15 nice little investors packet worked out and it made --
16 made pretty good sense. And he was looking to get
17 money from us is what he was doing. And so he gave me
18 the pitch. You know he -- he told me everything about
19 the business and Debra and I discussed it and we were
20 like, well, why don't we -- because I asked Cole, I
21 said, "Why don't we just open our own brokerage,"
22 because he wanted to do a franchise with the Next -- a
23 NextHome Franchise. All that's in that packet, Your
24 Honor. And -- and I said, "Why don't we just open our
25 own brokerage. Why do we want to have to pay franchise

1 fees?" And Cole said the branding, it's all branding.
2 We need to have the exposure for that. And I said,
3 "Well, okay. Let's try it." And then all through the
4 thing we communicated back and forth and -- and we
5 changed the name a few times and then we agreed on a
6 name. It was going to be Upstate RE Group and I was
7 supposed to be vice president. I thought just until I
8 received that document that you sent us that I wasn't
9 listed as vice president. It was a shock to me because
10 I know I signed the document where it said sign. I
11 know I signed it.

12 Q. Would you agree with me that the title of vice
13 president would not infer an ownership interest anyway?

14 A. It would to me.

15 Q. And the TD Realty would you agree that is a company
16 titled or started and owned by Ms. Mowery?

17 A. No, we opened that together. TD stands for Terry and
18 Debra.

19 Q. And you were listed as the vice president, but there's
20 nothing in the documents to show you owned --

21 A. I'm not listed on that one either.

22 Q. -- you don't have any documents --

23 A. She -- she does all the paperwork. She's the one that
24 fills out all the documents for all of that stuff. So
25 by me not being on it it may have been a thing of

1 convenience for her. I don't know, but we started that
2 real estate business. The whole purpose of it was to
3 put the rental properties in. And we were -- I mean we
4 were getting them cheap from the auction house and it
5 wasn't costing us -- well, it cost me everything. It
6 wasn't costing her nothing for me to fix them up.

7 Q. Mr. Carroll, she was working at the time. She had an
8 income?

9 A. As far as I know.

10 Q. And --

11 A. I didn't -- I mean I made deposits for her. I ran to
12 the bank and deposited the checks for her in her
13 account, in her Hawk Shadow account.

14 Q. And she had a job, too; right? Wasn't she making --
15 wasn't she earning money to put into the account?

16 A. I imagine.

17 Q. And wasn't that the money that you were using to buy
18 materials for all the things you just listed? The
19 outside door to the suite, the deck, the fancy molding
20 you put in?

21 A. Yeah.

22 Q. Weren't those bills being paid by Ms. Mowery?

23 A. Well, they were being paid by both of us, but she was
24 putting money into the account to pay them, yes.

25 Q. Right.

1 A. But I was doing work on the houses building equity.
2 That was what -- that was her side of what she was
3 supposed to do for our family. She was supposed to
4 make the -- the regular deposits to keep the bills.
5 You know the TV paid, the Internet paid. That stuff.
6 And I was going to make us the big money in the equity.
7 That's -- that was what we agreed. That's how we --
8 that's why we transferred. When we moved here I was
9 paying the cell phone bill for everybody, her family,
10 my mother. But she ended up -- she turned that off,
11 too, Your Honor. She turned off -- she took my cell
12 phone or it miraculously disappeared one night. And
13 she turned off my mother's cell phone because I had
14 been paying the bill. I bought her a cell phone for
15 Christmas one year. And on her birthday she turned it
16 off and that caused her trouble at work because she
17 didn't know it was going to be turned off. Because I
18 went down to -- when we transferred all the bills, when
19 I moved here all of -- all of the bills were being paid
20 out of our Maryland house. So we transferred
21 everything into her name so she could take care of it
22 there. She went to the safe deposit box and took cash
23 out of the box if she needed it and whatever money I
24 had went into those accounts. Also I sold the 53-foot
25 boat that I told you I'd bought. We ended up selling

1 to her brother and -- for \$42,000. I only paid 15 for
2 it. All of that money, all of that \$42,000 went into
3 our joint account that the houses were bought out of,
4 that the bills were paid out of. All of that money. I
5 didn't -- I didn't do anything with it. It all went
6 into our joint account and she wrote the checks to pay
7 the bills and I have those -- even the text messages
8 between her brother and me, Your Honor, will show when
9 she picked up the checks from her brother and deposited
10 it in the account. And then when -- when -- after we
11 moved here --

12 MR. BANNISTER:

13 Judge, I don't mean to interrupt the soliloquy --

14 THE WITNESS:

15 This is important.

16 MR. BANNISTER:

17 -- but if it's not responsive --

18 THE COURT:

19 If you'll ask the question.

20 MR. BANNISTER:

21 Thank you, Your Honor.

22 Q. In 2006 when you met Ms. Mowery she was still married,
23 wasn't she?

24 A. Yes.

25 Q. She didn't get divorced until 2011. Do you recall

1 that?

2 A. I don't recall the exact year, but it was after we were
3 together, yes.

4 Q. Do you know that -- do you know -- do you deny that she
5 received a settlement in that divorce of \$118,751?

6 A. I don't recall the exact amount, but I know it was a
7 lot, but she still owed her lawyers \$90,000 for that
8 divorce, Your Honor.

9 Q. Would you agree that some of that money went into the
10 safe deposit box?

11 A. No, it did not.

12 Q. She had some cash that she put --

13 A. She deposited the whole check into her account.

14 Q. And then took it out just like you did and put money in
15 the --

16 A. I don't know what she did with it. That was -- that
17 was her settlement. I don't know what she did with
18 that money.

19 Q. Well, do you know whether she put it into the safe
20 deposit box or not?

21 A. I know she didn't because I know how much was in there
22 and I was the one putting the money in the safe deposit
23 box.

24 Q. So all those trips to the safe deposit box you said you
25 didn't know how much she had taken out, you don't know

1 how much she put in either, do you?

2 A. That -- that receipt that you have for this. That was
3 the box that was here. I'm talking -- you're talking
4 -- when there was a settlement you're talking about the
5 safety deposit box we had in Maryland.

6 Q. So you don't have any --

7 A. And she didn't put cash in that box.

8 Q. Mr. Carroll, you don't have any knowledge of whether
9 she put money in or took money out when she made those
10 trips; do you?

11 A. For that one?

12 Q. Yes.

13 A. Or for the Maryland one?

14 Q. Did you go with her? Did you go with her to the bank?

15 A. When we opened the account I did.

16 Q. Did you go with her when she went to the safe deposit
17 box?

18 A. No, she said she needed to get money. I said go down
19 to the box and get it and that's what she did.

20 Q. Do you know -- do you know if she put money in or took
21 money out?

22 A. She took it out.

23 Q. That's what you --

24 A. To pay bills.

25 Q. And you just want The Court to believe that she took

1 that cash out and that all that cash --

2 A. The bank statement will show deposits the same days as
3 she went to the safety deposit box, so.

4 Q. So what are you doing now, Mr. Carroll?

5 A. Why would she take -- what am I doing now?

6 Q. Yeah.

7 A. I work for a company.

8 Q. What do you do?

9 A. I am a crew leader for a high-end -- we do commercial
10 installs like this type of stuff. Desks, signs. It's
11 commercial work. I'm a crew leader.

12 Q. Okay. How much money do you make?

13 A. With bonuses and all about 90,000.

14 Q. So you have the ability to make \$90,000 a year and
15 you're doing that now?

16 A. Yes, but before when I was working on these houses I
17 was making 100,000 in six months.

18 Q. You're not -- you're not -- you're not asking This
19 Court to award you any kind of support or maintenance
20 from Ms. Mowery where she should have to pay you to
21 keep you up now that you-all separated?

22 A. No. Why would I?

23 Q. You are asking This Court to equitably divide the
24 property that Ms. Mowery accumulated from 2006 to now;
25 aren't you?

1 A. That we accumulated.

2 Q. And I mean -- that has been accumulated in Ms. Mowery's
3 name from 2006 to now; is that right?

4 A. Yes.

5 Q. And you think that split should be 50/50?

6 A. I think that's generous on my part.

7 Q. To let her keep 50 percent of the properties in her
8 name?

9 A. Uh-huh.

10 Q. Are you asking for a specific delivery of any of the
11 real estate or you just want money now?

12 A. From the -- from the first time I've made her so many
13 offers of just let me have this and go away and she
14 turned everything down. She said that -- she said that
15 her lawyers told her she could get everything and so
16 she wouldn't even -- she offered me \$10,000.

17 MR. BANNISTER:

18 Judge, I'm going to object to him offering testimony
19 about offers that went back and forth and ask that that
20 be stricken.

21 THE COURT:

22 It's noted on the record. Let's move on.

23 MR. O'CONNELL:

24 Your Honor, but he asked about it.

25 THE COURT:

1 Let's move on.

2 MR. BANNISTER:

3 I asked what he wanted, Judge, and I'm still waiting
4 for the answer.

5 Q. What is it that you want? What are you asking this
6 Judge to give you? Specific pieces or property or just
7 cash?

8 A. I'll -- I would like to have cash or if she wants to
9 give -- or if the Judge wants to award all three pieces
10 of property to me that would be fine, too. I mean I'm
11 -- I'm -- I just want my fair -- what I wanted from the
12 very start I just want what's my fair share, but now I
13 have -- I have actual damages. And -- and the -- all
14 of the stuff that I had to buy because -- I mean
15 everything. Towels, you know, sheets for the bed,
16 everything. She kept all of that. I didn't get -- I
17 had to start over from scratch for everything. So all
18 of that stuff that we had accumulated that I had paid
19 for just as much as she did through all this time,
20 because it came out of our account, if you look at the
21 bank statements you'll see the money was transferred
22 from this account to that account, back from this
23 account, back over to that account. The money was put
24 in this account and this check was written on this
25 account to put money so she could write a check on that

1 account. So all that money was just commercial money.
2 So you're asking me what I want. I want a fair and
3 equal split of the equitable -- of what the properties
4 are worth and then I want my pain and suffering and my
5 damages. That's what I want.

6 Q. Do you think This Court ought to subtract from any of
7 those moneys you're asking for any of the expenses that
8 were paid by Ms. Mowery on her earnings for you to live
9 since 2006 to now?

10 A. Absolutely, no. If that was true then I would be
11 wanting money that I paid for her, for her daughter. I
12 lent her daughter money to buy her horse that she --
13 that we gave her for her 16th -- well, she bought it --
14 we gave her one on her 16th birthday. Then she sold
15 that one and bought another one. I loaned her money.
16 I would be asking for that money, but I just -- just
17 let it go. She can keep the horse. And it's Taylor
18 anyway. I don't want to bother Taylor. But I loaned
19 her the money to buy the horse, so, no.

20 Q. You don't want This Court do any accounting for any of
21 the benefits that you received from 2006 when you
22 started living with Ms. Mowery to 2018 when you filed
23 this case? You don't want The Court to take into
24 account anything that she did to cover your expenses;
25 is that right?

1 A. She wasn't covering my expenses. My expenses -- when I
2 sold the boat, Your Honor, \$42,000. All of that money
3 went into our bank account. So I was -- my money was
4 coming in in checks and cash all the time, through this
5 whole thing. Her brother he still owed us -- owed us
6 \$11,000 when we moved down here. So he was -- they
7 were thinking he was going to go to jail because he had
8 assaulted somebody. So he sent his BMW down here --

9 MR. BANNISTER:

10 Judge, I'm going to object to the soliloquy about --

11 THE COURT:

12 If you will just limit the response to --

13 THE WITNESS:

14 It's an amount of money that came from him.

15 THE COURT:

16 Now, you're talking about a BMW and a possible criminal
17 charge. That really has nothing to do with his
18 question. So if you'll ask the question again, Mr.
19 Bannister.

20 THE WITNESS:

21 But the BMW was --

22 THE COURT:

23 Thank you, sir. I've told you what's going to happen.

24 Thank you.

25 MR. BANNISTER:

1 Judge, no other questions.

2 THE COURT:

3 All right. Mr. O'Connell?

4 MR. O'CONNELL:

5 Nothing on redirect right now.

6 THE COURT:

7 All right. Thank you, sir. You can step down. Mr.

8 O'Connell, how many other witnesses do you have?

9 MR. O'CONNELL:

10 I think we've only got these two nice ladies and a
11 gentleman.

12 THE COURT:

13 About how long do you anticipate their testimony?

14 MR. O'CONNELL:

15 Fifteen minutes.

16 THE COURT:

17 Is that real time 15 minutes or is that lawyer time 15
18 minutes?

19 MR. O'CONNELL:

20 I like that. It's probably real time, Judge. I've
21 only got a couple of questions. I don't even know if
22 they're going to question them about anything.

23 THE COURT:

24 All right. Do you-all want to take a short break now
25 or if you --

1 MR. O'CONNELL:

2 If you don't mind.

3 THE COURT:

4 All right. We'll take about a ten-minute break.

5 MR. BANNISTER:

6 Thank you, Your Honor.

7 (Off the Record 10:23 a.m. -- 10:35 a.m.)

8 JOHN NOEL QUINN, first being duly sworn, was examined
9 and testified as follows:

10 THE COURT:

11 Thank you. Come around and have a seat, please sir.

12 MR. O'CONNELL:

13 Your Honor, may it please The Court.

14 THE COURT:

15 Yes, sir.

16 EXAMINATION BY MR. O'CONNELL:

17 Q. Please state your name and address to The Court.

18 A. John Noel Quinn.

19 Q. What's your address?

20 A. 214 Vista Circle, Easley, South Carolina.

21 Q. And how do you know the Plaintiff here, Mr. Terence
22 Carroll?

23 A. Terry is a brother-in-law of mine.

24 Q. Okay. A strange question, but how long has been he
25 been your brother-in-law?

1 A. Twenty-two years.

2 Q. Okay. Would you know what he does for a living or what
3 he does?

4 A. Yes. Yes, I do.

5 Q. Okay. What does he do?

6 A. He's in construction. Home remodeling, repairs, and
7 additions.

8 Q. Okay. Were you present or did you see any work being
9 done on I think it's Linda Lane? I'll call it Linda
10 Lane?

11 A. Yes, sir, I witnessed Terry doing all the work to the
12 house on Linda Lane.

13 Q. And based on only your own knowledge what would you
14 say, was he doing a good job, a bad job, an indifferent
15 job, or what?

16 A. Absolutely excellent.

17 Q. Okay. And what about is it 9th Street? I think it --
18 I call it the 9th Street property. Did you see any
19 work being done on that?

20 A. Yes, I visited 9th Street daily when my other brother-
21 in-laws were down here doing the repair works on the
22 home for it to be saved as a rental home.

23 Q. And Terry did all the work on that, too?

24 A. Yes, sir, he did.

25 Q. Other than what you and the brothers may have helped

1 out on?

2 A. Right. We helped out, yes.

3 Q. Okay. You didn't break for pizza and beer after a
4 while did you or anything like that?

5 A. I probably did.

6 Q. Okay. What about the -- I think it's the Pope Field
7 property?

8 A. Yes, sir, I helped do a little bit of the clean up over
9 there at Pope Field.

10 Q. And did you see any work Terry was doing over there,
11 Mr. Carroll was doing?

12 A. Yes, I witnessed him and my other brother-in-laws do a
13 lot of demolition that needed to be done at that home.

14 Q. So all in all you seen Terry Carroll, Terence Carroll,
15 working on all three of these properties?

16 A. Yes, sir, absolutely.

17 Q. Did you see him do any work when they were up in
18 Maryland? I think they lived in Maryland.

19 A. He took an old, I'd say over a 100-year old home and
20 completely went through the house, replumbed it, all
21 new electrical work, completely outside and inside, and
22 brought the house back to a great state. It was a
23 historical property I think.

24 Q. Okay. During that time was he with Ms. Mowery, Debra
25 Mowery?

1 A. Yes, they did live together.

2 Q. And during that time did you notice any relationship
3 between them?

4 A. Absolutely. Absolutely.

5 Q. And what would you say that relationship was?

6 A. It was -- as a couple, as people that copulate
7 together.

8 Q. Did you know anything further like their business
9 relationship?

10 A. Yes, they told me and my wife many times about their
11 business plans and expectations. And the reason why
12 they were moving here because of the values of the
13 properties were very low at that time and they'd fall
14 into their business plans that they had together about,
15 you know, a life together.

16 Q. So from your conversations with the Defendant Ms.
17 Mowery would you say they were partners in a business?

18 A. Absolutely, yes.

19 Q. Okay. Anything else you want to inform The Court
20 about?

21 A. No, just that I know that most of Terence Carroll's
22 money went into that business and to provide for her
23 and live together as a live-in couple. They -- they
24 were a couple. That's all I have to say.

25 Q. Okay. Thank you very much. Answer any questions the

1 Defense may have.

2 EXAMINATION BY MR. BANNISTER:

3 Q. You're related to the Plaintiff; right?

4 A. Yeah. He is a brother-in-law of mine, yes.

5 Q. So you're married to his sister?

6 A. Yes.

7 Q. Do you have any experience in the construction
8 business?

9 A. Absolutely.

10 Q. Are you a licensed contractor?

11 A. I am not.

12 Q. Are you a home inspector? A licensed home inspector?

13 A. I have no licenses at all.

14 Q. What do you do for a living?

15 A. I am a military veteran and after the military -- I was
16 an electronics technician. I trained in the military.
17 I continued that career up until about a year and a
18 half ago and now I am in the construction business and
19 I am -- I have remodeled three of my own homes and
20 built additions on them. And I'm an electronics
21 technician, so residential electrical work is not very
22 complicated for me.

23 Q. So did you see anybody else working at these houses
24 with Mr. Carroll when you visited?

25 A. The only people I ever saw working at his houses was

1 his brother-in-law, Joe, and his nephew, Jake Flanary.

2 MR. BANNISTER:

3 Judge, no other questions.

4 MR. O'CONNELL:

5 Nothing on redirect.

6 THE COURT:

7 All right. Thank you, sir. You may step down.

8 MR. O'CONNELL:

9 Your Honor, if it would please The Court I would like
10 to call Constance Fern Quinn.

11 THE COURT:

12 All right. If you'd come around, please.

13 CONSTANCE FERN QUINN, first being duly sworn, was
14 examined and testified as follows:

15 THE COURT:

16 Thank you. Go around and have a seat, please. And if
17 you'll state your full name.

18 THE WITNESS:

19 Constance Fern Quinn.

20 MR. O'CONNELL:

21 Thank you, Your Honor.

22 EXAMINATION BY MR. O'CONNELL:

23 Q. Where do you live?

24 A. We live at 214 Vista Circle in Easley.

25 Q. How long have you been here in South Carolina?

1 A. Since 2016. 2016. Oh, 2012. I'm sorry.

2 Q. Okay. You're going to have to speak up. I can't hear
3 you.

4 A. 2012.

5 Q. Okay.

6 THE COURT:

7 Yeah, feel free to pull that to you.

8 MR. O'CONNELL:

9 Thank you, Your Honor.

10 Q. During that time have you seen my client and the
11 Defendant Ms. Mowery together?

12 A. Oh, yes.

13 Q. Where did you reside prior to moving here?

14 A. In Maryland.

15 Q. Okay. How long?

16 A. St. Mary's County.

17 Q. Okay. Did you see Ms. Mowery and my client together
18 then?

19 A. Yes.

20 Q. Did Ms. Mowery state to you anything about their
21 business, or their relationship, or anything?

22 A. You mean in Maryland or here?

23 Q. Anywhere. Starting in Maryland.

24 A. Both actually. Yeah, they -- they lived as a -- as a
25 couple in Maryland. They renovated the house together.

1 He helped her with her business, the tax business.
2 When they got here they talked about fixing houses to,
3 you know, get their retirement going because they
4 planned on using that as a retirement plan, to have
5 rental homes. Terry said he wanted to have about ten
6 and she was in agreement.

7 Q. And you knew --

8 A. They talked extensively about that.

9 Q. And you knew this from your conversations with the
10 Defendant Ms. Mowery?

11 A. Yes.

12 Q. And did you know anything about moneywise what they
13 were doing with their money or anything of that nature?

14 A. I -- I saw Ms. Mowery work sometimes. She actually did
15 my taxes twice. I don't think she made much money. I
16 don't know for sure. I saw Terry buying some things
17 very often. I saw her spend money and brag about
18 spending money. I saw Terry buy her jewelry. I saw --
19 I saw him sleeping on a floor so he could stay there
20 and work on the houses. When they split up he came and
21 lived with us for six months. He didn't have any place
22 to go. And she took everything basically.

23 Q. When he came to live with you when they split up do you
24 recall what time that was?

25 A. You mean what time of year?

1 Q. Yeah, what time of year? Yes.

2 A. I think it was the end of April.

3 Q. Okay. What year?

4 A. Or the end of May. A year and a half ago.

5 Q. Okay.

6 A. 2017.

7 Q. Can you tell The Court anything about how his emotional
8 state or how he was acting?

9 A. He was a total wreck. He was -- she took everything
10 from him. He texted me every day because there was
11 something different every day. She would -- she would
12 verbally abuse him. Her friend actually told him to
13 get out his -- out of her refrigerator when he was
14 there to get a drink. She tried to lock him out of the
15 house. She tried to accuse him of domestic violence,
16 which was not true. And she tried to have him arrested
17 and the cop had to tell her to go away because she was
18 being abusive and obnoxious.

19 Q. How long did you think --

20 A. You can tell I'm nervous.

21 Q. Excuse me. How long do you think if he's over it how
22 long -- is he over it yet?

23 A. No. No, he's not over yet.

24 Q. Okay. Do you know any --

25 A. And I'm not over it yet either. I'm sorry.

1 Q. Okay. Do you know anything about their business
2 relationship?

3 A. I do know that when they started the recent real estate
4 venture that they were going to do -- well, when they
5 moved down here they had planned on buying houses to
6 rent out. And Terry came down and lived here for
7 about, I guess about six to eight months by himself
8 working on the house while she was working in Maryland.
9 I never saw her do anything to any of the houses. I
10 did more work on the houses than she ever did. She
11 never painted. She never cleaned. She didn't do
12 anything.

13 Q. Are you upset with her?

14 A. And they -- they had talked extensively to me and to my
15 husband. You know when they would come over they would
16 talk about their plans for real estate properties and
17 buying rentals and fixing them up. And then they
18 decided that she was going to be a real estate agent
19 and Terry was going to work the construction end and
20 they were going to get it together and that was going
21 to be their retirement. And she was extremely happy
22 about it and so was Terry. They were really excited
23 that was what they were going to do. And they talked
24 about their future plan. Not just for now and not just
25 for her and not just for him, it was for them with

1 their retirement.

2 Q. And as I had asked you, I've learned a little more
3 about pregnant pauses a long time ago. What do you
4 think today? I was asking you are you upset with her
5 today about her -- whatever she's done to your brother?

6 A. I'm extremely upset with her.

7 Q. Would that cloud your testimony today as to their
8 actions prior to 2018?

9 A. No, sir. No.

10 Q. Okay. Answer any questions the Defense may have.

11 THE COURT:

12 Your witness.

13 MR. BANNISTER:

14 Thank you, Your Honor.

15 EXAMINATION BY MR. BANNISTER:

16 Q. So the Defendant is -- I'm sorry. The Plaintiff is
17 your brother?

18 A. Yes.

19 Q. Do you love him?

20 A. Most definitely.

21 Q. He came to live with you after he moved out of his
22 house with Ms. Mowery?

23 A. Yes.

24 Q. How long did he stay with you?

25 A. It was about six months.

1 Q. Is he now working full time?

2 A. It was six months. Yes, it was about six months. Can
3 you ask that again?

4 Q. Is he now working full time?

5 A. Yes, he is.

6 Q. Does he still live with you?

7 A. No.

8 Q. Is he making good money?

9 A. As far as I know. I don't know his personal finances,
10 but as far as I know, yes, he works steady.

11 Q. So do you know about as much about his personal
12 finances now as you did before he separated with Ms.
13 Mowery?

14 A. Probably, yes, but I knew more about their plans
15 because not only did I have him telling me what they
16 were doing, but I had her as well telling me what they
17 were doing. I also know right now that my brother has
18 been sick and he's on short-term disability, so his
19 income now is less.

20 Q. So he's not working right now?

21 A. He's on disability right now. Just short term until he
22 gets --

23 Q. Is he currently working or is he on disability?

24 A. He's still employed with the company. He's still
25 employed with the company, yes.

1 Q. The construction company?

2 A. Yes.

3 Q. And they're still paying him \$90,000 a year, but he
4 doesn't go to work every day?

5 A. I don't -- I don't know how much he makes.

6 Q. Do you know if he goes to work every day?

7 A. Well, he can't right now. He's recuperating from
8 cancer.

9 Q. Recuperating from cancer. So this case is important to
10 him to take care of him; isn't it?

11 A. No. No, he --

12 Q. You're telling This Court you're not worried about what
13 happens to him long term?

14 A. I don't think this case is about him being taken care
15 of.

16 Q. So what does he want?

17 A. I think Terry has proven that he can take care of
18 himself and others very well.

19 Q. All right. You said that he gave jewelry. Did he give
20 any other gifts or was it just one piece of jewelry
21 that you saw?

22 A. Well, she -- Ms. Mowery told me that they had been
23 robbed and it was about \$10,000 worth of jewelry that
24 was missing. So I don't know how much of that Terry
25 bought, but there was several times when she said, "He

1 bought me jewelry for Christmas."

2 Q. Any other gifts to Ms. Mowery or her family?

3 A. Yes, he --

4 Q. Between 2006 and --

5 A. -- he helped Taylor get the horse. That I know of.

6 Q. So that's Ms. Mowery's daughter?

7 A. Yes.

8 Q. So he helped her buy a horse?

9 A. Yes.

10 Q. Did he ever give gifts to you?

11 A. Yes.

12 Q. What kind of gifts?

13 A. Just regular Christmas and birthday gifts, yes.

14 Q. All right. How about to your husband?

15 A. Gifts to my husband?

16 Q. Sure.

17 A. Yes, the same thing. Birthday, Christmas gifts mainly.

18 Q. What kind of gifts? Just cheap stuff or --

19 A. Well, just we don't -- we don't spend a lot on that
20 kind of thing for Christmas. So, you know, that's kind
21 of subjective. I could say cheap or you could say
22 cheap, but that's not what those type of gifts are for.

23 Q. How about --

24 A. No, he did not buy me jewelry.

25 Q. Do you have any other brothers or sisters?

1 A. Yes, I have four brothers.

2 Q. Do you know whether or not he gave them Christmas
3 gifts, birthday gifts?

4 A. Yeah, we all gave each other presents.

5 Q. Did he do anything -- have you got any nieces and
6 nephews?

7 A. Yes.

8 Q. Did Mr. Carroll give them any gifts?

9 A. I don't know.

10 Q. You don't know whether your brother --

11 A. Well, I know I can speak for my children.

12 Q. -- gave your nieces and nephews birthday gifts?

13 A. I can speak for my children. He gave my children gifts
14 sometimes. They gave gifts together when they gave
15 Christmas presents or birthday. They usually was
16 together, when they were together.

17 MR. BANNISTER:

18 No other questions, Your Honor.

19 THE COURT:

20 Anything else?

21 MR. O'CONNELL:

22 Your Honor, if I may.

23 EXAMINATION BY MR. O'CONNELL:

24 Q. When you said "they" you meant who?

25 A. What are you asking?

1 Q. When you said "they" gave gifts together who were you
2 talking about?

3 A. Terry and Debra gave us gifts as a couple together.

4 Q. Okay. Thank you very much.

5 A. They bought things for us for Christmas and birthdays
6 as a couple.

7 Q. Okay. Thank you very much.

8 THE COURT:

9 All right. Thank you, Ms. Quinn. You may step down.
10 Any other witnesses from Plaintiff?

11 MR. O'CONNELL:

12 None, Your Honor. Thank you very much. That's our
13 Case in Chief.

14 THE COURT:

15 All right. I'll be glad to move into the Defendant's
16 testimony.

17 MR. BANNISTER:

18 Your Honor, I understand you're getting to the
19 testimony. I have filed a Motion for Summary Judgment.
20 I would renew that as a Directed Verdict Motion instead
21 based on the evidence that's been introduced thus far.

22 THE COURT:

23 All right. Specifically -- and I will take it as a
24 Motion for an Involuntarily Non-Suit, but specifically
25 what's the Motion based on?

1 MR. BANNISTER:

2 So on each of the Causes of Action. One is
3 Constructive Trust, which would be that the property is
4 his. He's offered nothing in writing ever other than
5 -- other than his testimony he had some an oral
6 agreement, and, therefore --

7 THE COURT:

8 Does part performance not take it out of that?

9 MR. BANNISTER:

10 So, Judge, not a -- I don't believe so. I believe
11 there would have to be -- he would have to show that
12 the Defendant acquired the title, that there was some
13 fraud, duress, abuse or unconscionable conduct to avoid
14 -- to create the Constructive Trust. There are other
15 Causes of Action, Judge, but I don't think a
16 Constructive Trust is one that he has sufficient --

17 THE COURT:

18 All right. I'm going to deny the Motion on that.
19 What's the next one?

20 MR. BANNISTER:

21 Thank you, Your Honor. Intentional Infliction of
22 Emotional Distress he's offered no --

23 THE COURT:

24 I'm going to grant the Motion.

25 MR. BANNISTER:

1 Thank you, Your Honor. Specific performance of the
2 contract he didn't show any -- it's our position that
3 --

4 THE COURT:

5 Mr. O'Connell, what's the contract that he specifically
6 performed?

7 MR. O'CONNELL:

8 Your Honor, may I remain seated?

9 THE COURT:

10 Yes, sir.

11 MR. O'CONNELL:

12 The contract is a verbal contract and a day-by-day
13 contract between two individuals who come into work,
14 even if they own the business like a bar together
15 without any contract. They come in together and their
16 contract is they're both there. They're both working.
17 They're both towards an achievable goal and the goal is
18 to run a business.

19 THE COURT:

20 Is it specific performance? Typically where you have a
21 specific agreed upon purpose and if -- unless The Court
22 takes actions the purpose can't be met, so I'm
23 struggling to what -- what is the specific contract
24 that is sought to be specifically performed here?

25 MR. O'CONNELL:

1 As you heard from the testimony, the specifickness was
2 we will put our money together. We will buy houses
3 together. We will flip the houses and resale the
4 houses to make money. And that's what they've done.
5 They've actually made money off of each individual item
6 they did.

7 THE COURT:

8 All right. I'm going to grant -- there may be a Breach
9 of Contract. I don't know. But on Specific
10 Performance I'm going to grant the Motion.

11 MR. BANNISTER:

12 So the next one will be Breach of Contract.

13 THE COURT:

14 Sir?

15 MR. BANNISTER:

16 I said the next one would be Breach of Contract.

17 THE COURT:

18 I'm going to deny that one.

19 MR. BANNISTER:

20 Thank you, Your Honor. The next one would be
21 Constructive Fraud, which he would be required to prove
22 fraud. I don't believe he's offered any testimony.

23 THE COURT:

24 What's the fraud under the elements of South Carolina?

25 MR. O'CONNELL:

1 If I remember them all, Your Honor, they actually got
2 together with the purpose of working together for an
3 ultimate goal, which was ended when she kicked him out
4 of the house by eviction. And that the fraud is she
5 knew all along or at last -- at least the last year or
6 so of the agreement is that she doesn't want to work
7 for that goal. She was finding the time to kick him
8 out.

9 THE COURT:

10 All right. Go ahead. I'm sorry.

11 MR. O'CONNELL:

12 Oh, no. And -- and it's the -- they got so that he
13 relied on their relationship. He had a right to rely
14 on it because they had done that for ten years or
15 longer. They had been doing this for quite some time,
16 so he had a right to rely on it and then all of a
17 sudden it's over and done. In one day it's over and
18 done with.

19 THE COURT:

20 All right. I'm going to grant the Motion. Again, I
21 don't think this touches all the bases on the elements
22 of fraud.

23 MR. BANNISTER:

24 Thank you, Your Honor. The last one is Breach of
25 Trust. The Plaintiff would have to prove that there

1 was a fiduciary relationship that would have allowed
2 him to rely on her and a fiduciary duty --

3 THE COURT:

4 What's the fiduciary relationship here?

5 MR. O'CONNELL:

6 It's the combination of the money. He put money in.
7 She used the money --

8 THE COURT:

9 But the fiduciary relationship is a special high level
10 of trust under the case law of South Carolina, so what
11 is this that it rises to the category of being a
12 particular fiduciary relationship between Mr. Carroll
13 and Ms. Mowery?

14 MR. O'CONNELL:

15 That they were together. They were in a business
16 together and he puts money in. She did one part. He
17 did one part. And the relationship -- the fiduciary
18 relationship is he -- she actually used 90 percent of
19 his money or more and he did all the work and she reaps
20 all the benefit from it.

21 THE COURT:

22 All right. Mr. Bannister, why isn't this a fiduciary
23 relationship? They're in a relationship of trust.
24 They've been together for a lot of years. He says the
25 agreement was clear. She was going to take care of the

1 paper. I was going to do the labor. And now I got
2 booted out and all this was part of a plan.

3 MR. BANNISTER:

4 So I've got two answers to that. One, he's on notice
5 --

6 THE COURT:

7 Give me the best one.

8 MR. BANNISTER:

9 All right. So quickly. He's on notice of all of the
10 paperwork. He said they deliberately put everything in
11 her name. The loans were in her name. The credit
12 cards were in her name. The paperwork was in her name
13 on purpose. So there's -- there's no -- that doesn't
14 create a fiduciary duty. He's on notice that she's
15 taken title to everything and he has nothing in his
16 name. And the second is, Judge, what he's trying to do
17 is say because we were dating and living together that
18 that creates a fiduciary duty by Ms. Mowery to him
19 because they were -- they were sharing expenses as if
20 they were married, but he doesn't claim they were
21 married. So what he's trying to do is convert this in
22 that a dating relationship is sufficient for him to
23 rely on to get him into a fiduciary relationship, which
24 is just not --

25 THE COURT:

1 All right. I'm going to grant the Motion. I just
2 don't think under the case law of South Carolina that
3 this is a fiduciary relationship category.

4 MR. BANNISTER:

5 Thank you, Your Honor.

6 THE COURT:

7 All right. So now let's move ahead.

8 MR. BANNISTER:

9 Thank you. Can I see if my first witness is here?

10 THE COURT:

11 Yes, sir. And how many witnesses do you anticipate,
12 Mr. Bannister?

13 MR. BANNISTER:

14 So three total.

15 THE COURT:

16 All right. Is there somebody else you can call, Mr.
17 Bannister?

18 MR. BANNISTER:

19 Judge, I'd call Sandra Harkins.

20 THE COURT:

21 All right. Please come around please, ma'am.

22 SANDRA SHELLITO HARKINS, first being duly sworn, was
23 examined and testified as follows:

24 THE COURT:

25 Come around and have a seat, please. And if you'll

1 state your full name.

2 THE WITNESS:

3 Sandra Shellito Harkins.

4 THE COURT:

5 If you would pull that microphone down a little bit
6 more. There you go.

7 EXAMINATION BY MR. BANNISTER:

8 Q. Ms. Harkin, you stated your name for the record. How
9 do you know the parties in this Action?

10 A. Debra has been my best friend for years.

11 Q. Years being now long?

12 A. Oh, probably since 2005.

13 Q. All right. So you knew her when she was still married?

14 A. I knew her when she was -- I helped her move things out
15 of her house. We were both going through a divorce at
16 the same time.

17 Q. Okay.

18 A. She -- so I met her in the summer of 2005.

19 Q. All right. So you were there when she met --

20 A. Uh-huh.

21 Q. -- the Plaintiff in this Action?

22 A. Yes.

23 Q. And you've been friends from then to now?

24 A. Uh-huh. Yes.

25 Q. Where do you live now?

1 A. I live in Florida. Hernando Beach.

2 Q. All right. And you visit up here on occasion?

3 A. On occasion.

4 Q. Have you had opportunities to personally observe Ms.
5 Mowery and Mr. Carroll?

6 A. Yes.

7 Q. Describe for me what you observed.

8 A. In the beginning they tried to have a relationship and
9 it seemed nice and -- and good. And then Terry broke
10 his ankle and at that time Debra wasn't really happy.
11 And nobody really understood why she stayed with him so
12 long.

13 Q. During the time he broke his ankle was he working?

14 A. I don't think he ever worked full time since I've known
15 him. I know he was buying and selling junk. That's
16 all I knew at that time.

17 Q. Were you aware he had a boat business?

18 A. Yeah.

19 Q. Do you know whether or not he made money on the boat
20 business?

21 A. He did not.

22 Q. Do you know where he got the money to get out of the
23 boat business?

24 A. To get out of it?

25 Q. Yeah.

1 A. The only thing I know is that Debra had said that most
2 of the boats went to the junkyard because it just
3 didn't work.

4 Q. This was the buying and selling stuff that he -- that
5 you referred to?

6 A. I thought we were talking about the boat business. I'm
7 sorry.

8 Q. Yeah. Would you describe the boats as junk or was that
9 other junk?

10 A. They didn't -- I think he rented four or five times
11 within a year and a half and most of the time they
12 broke down when they were out.

13 Q. Okay.

14 A. The boats.

15 Q. And did you know when they moved down here?

16 A. I do.

17 Q. Did you have a chance to visit with Ms. Mowery and Mr.
18 Carroll when they lived in South Carolina?

19 A. Yes. Uh-huh.

20 Q. And did you observe how they managed things on a day-
21 to-day basis?

22 A. I was there in January of 2018. I -- I don't -- I
23 don't understand your question actually.

24 Q. So if --

25 A. Did I observe how they were relating to each other

1 then? Is that what you mean?

2 Q. Yeah, who did what -- who did what in the house?

3 A. Well, it was -- it was January and Terry was on the
4 computer most of the time and -- and politics. He's
5 into politics and he -- he was --

6 Q. What days of the week --

7 A. -- he was lazy.

8 Q. What days of the week were you here?

9 A. Oh, I don't know what days of the week. I was here for
10 about a week in January of 2018. And at that time they
11 were not happy. I know that.

12 Q. And did you observe what time Mr. Carroll would leave
13 to go to work and what time he would come back, or did
14 he ever leave?

15 A. He did not at that point in time. I think -- I think
16 that the -- the rental house was finished. Pope Street
17 was just a mess and it was in the middle of winter and
18 he was at the house.

19 Q. All right. Did you ever have any conversation with Mr.
20 Carroll about their marital status?

21 A. No.

22 Q. How about with Ms. Mowery?

23 A. Yeah, she didn't want to get married. Yes.

24 Q. So she never told you they were married already?

25 A. No. No. No.

1 Q. Did she say they were engaged?

2 A. No, never. No.

3 Q. From your conversations with her would she have
4 accepted had he asked?

5 A. No, she would not have.

6 Q. Were you there when Ms. Mowery asked Mr. Carroll to
7 leave?

8 A. Yes.

9 Q. How did that go?

10 A. Wait. Wait. I was there before he left, so I wasn't
11 there when she asked him to leave. I was there and he
12 was spending his days at his sister's house. I
13 assumed. Okay. That's what we assumed. And he would
14 come home late at night to her house.

15 Q. Did you observe him taking anything out of the house
16 when he left?

17 A. I did not, no. That was prior to him moving.

18 Q. Okay. Answer any questions that Mr. O'Connell has for
19 you.

20 THE COURT:

21 Your Witness.

22 MR. O'CONNELL:

23 Your Honor, may it please The Court.

24 EXAMINATION BY MR. O'CONNELL:

25 Q. Harking back, you said you met the parties together in

1 2005; is that correct?

2 A. Yes, right before Christmas.

3 Q. And you were going through a divorce?

4 A. We were both going through a divorce.

5 Q. And so she was living with a divorced man while she was
6 going through a divorce?

7 A. I'm sorry?

8 Q. She was living with Terry while she was going through a
9 divorce?

10 A. Yeah. Right. They were separated. She was separated
11 from her husband. When she met Terry she had left her
12 husband and that's when they met.

13 Q. And you said he was piddling around selling boats or
14 the boats went to the junkyard; is that right?

15 A. That's what I saw. Okay. That's what I remember Debra
16 telling me.

17 Q. Do you know if he received any kind of settlement for
18 an accident or anything?

19 A. I do remember her telling me about that, yeah.

20 Q. Okay.

21 A. Uh-huh. He was -- he was -- he could not work during
22 that year and a half. He could not work and Debra took
23 care of him.

24 Q. Okay. You said in January 2018 you were here for about
25 a week?

1 A. Approximately. I don't remember how many days it was.
2 I know it wasn't any more than a week.

3 Q. Do you recall what the weather was like?

4 A. It was cold.

5 Q. Okay. Rainy or anything? Snowy?

6 A. Not snowing. I mean it could have rained a day or two.
7 I don't know.

8 Q. All right. Do you know when my client, the Plaintiff,
9 gave Ms. Mowery a ring?

10 A. Pardon me?

11 Q. A ring for her finger? Do you know when that happened?

12 A. I remember that. Yeah, it wasn't an engagement ring.

13 Q. I didn't ask that. I said, "Do you remember it?"

14 A. I apologize.

15 Q. Do you remember that?

16 A. I do remember that.

17 Q. Did he give her another ring sometime?

18 A. He could have.

19 Q. All right.

20 MR. O'CONNELL:

21 I have no further questions, Your Honor.

22 THE COURT:

23 Anything else?

24 MR. BANNISTER:

25 No, Your Honor.

1 THE COURT:

2 All right. Thank you, ma'am. You can step down. Call
3 your next witness.

4 MR. BANNISTER:

5 I call Roan Southerlin.

6 ROAN BOYD SOUTHERLIN, first being duly sworn, was
7 examined and testified as follows:

8 THE COURT:

9 You can come around and have a seat, please, sir. And
10 if you'll state your full name.

11 THE WITNESS:

12 Roan Boyd Southerlin.

13 THE COURT:

14 Spell Southerlin, please, sir.

15 THE WITNESS:

16 S-o-u-t-h-e-r-l-i-n.

17 THE COURT:

18 All right. Thank you. All right. Mr. Bannister.

19 MR. BANNISTER:

20 Thank you.

21 EXAMINATION BY MR. BANNISTER:

22 Q. Mr. Southerlin, what do you do for a living?

23 A. I'm a licensed builder. I'm also a home inspector and
24 I also have my real estate license.

25 Q. And what training have you gotten to get -- to become a

1 home inspector?

2 A. Well, my background. I started in construction when I
3 was 14. I did electrical work for eight years. I went
4 -- when I graduated high school I went to work for Duke
5 Power. I stayed there for about two years. I left out
6 of Duke Power to go get my electrical engineering
7 degree and after two years of being in school I just
8 decided that was not the direction I wanted to go. I
9 came out and started building houses with a man that I
10 knew. In 1993 I got my builder's license and I've been
11 in the building industry full time since then.

12 MR. BANNISTER:

13 Judge, I would offer him as an expert in building -- or
14 home inspections and specifically construction code
15 requirements.

16 MR. O'CONNELL:

17 Your Honor, I object. He's not -- there's nothing to
18 indicate he's got any advanced degrees that --

19 THE COURT:

20 Well, let me. Do you have any voir dire of Mr.
21 Southerlin?

22 MR. O'CONNELL:

23 Yes, I'd like to ask him a few questions.

24 THE COURT:

25 Certainly. You have that right.

1 MR. O'CONNELL:

2 Okay.

3 VOIR DIRE EXAMINATION BY MR. O'CONNELL:

4 Q. Do you have any advance degrees like college degrees in
5 the home construction business, electrical engineering,
6 plumbing or anything?

7 A. No, sir, I've got -- I do have certifications in
8 several things as a home inspector. As -- as a builder
9 I do have a state license where I've had to take tests
10 and be approved by the state to be a builder.

11 Q. Okay. A home inspector is that where you just have --
12 you can't prod or anything, you can just look; is that
13 right?

14 A. Right. A home inspector would do a visual inspection
15 only.

16 Q. That's right. And what's the criteria for being a home
17 inspector?

18 A. As a builder, a licensed builder in the State of South
19 Carolina --

20 Q. A home inspector?

21 MR. BANNISTER:

22 Judge, he's answering the question.

23 THE WITNESS:

24 I'm answering the question, sir.

25 THE COURT:

1 Go ahead, sir.

2 A. The State of South Carolina allows me as a licensed
3 builder to also be a home inspector.

4 Q. As a licensed builder how many homes have you built?

5 A. It would be about impossible for me to count. Several
6 -- several hundred. Probably close to a 1,000.

7 Q. Okay. How many other inspections have you done?

8 A. I've been a home inspector for four years now.

9 Q. Four years.

10 MR. O'CONNELL:

11 Your Honor, I don't see how he's an expert in anything
12 other than he's got a license to build houses.

13 Q. What is your license like? What level is it? They
14 have different levels; right?

15 A. Mine is a residential builder's license.

16 Q. Is that it? It's a residential builder's license?

17 A. Yes, sir.

18 Q. Thank you.

19 MR. O'CONNELL:

20 Your Honor, I object. He's not an expert.

21 THE COURT:

22 All right. Mr. Bannister, he's being offered for what
23 purpose here this morning?

24 MR. BANNISTER:

25 He's being offered as an expert on home inspections and

1 the requirements for building houses. And I would
2 offer him based on the fact he's a licensed builder.
3 He's a licensed home inspector and he just testified
4 he's built over a 1,000 houses himself.

5 THE COURT:

6 All right. I find him qualified.

7 MR. BANNISTER:

8 Thank you, Your Honor.

9 THE COURT:

10 Subject, of course, Mr. O'Connell's objection.

11 MR. O'CONNELL:

12 Thank you, Your Honor.

13 EXAMINATION BY MR. BANNISTER:

14 Q. Mr. Southerlin, were you contacted by Debra Mowery
15 regarding some homes that she owned and wanted to have
16 inspected?

17 A. Yes, sir, my office was.

18 Q. What were the addresses that she asked you to help her
19 look at?

20 A. I would have to look at the report to verify that, but
21 109 Linda Lane and 204 South 9th Street.

22 Q. All right. And did you prepare -- did you do
23 inspections on those two houses?

24 A. Yes, sir.

25 Q. All right. Is that a true and accurate copy of the

1 inspection that you did showing what work you had --
2 what you looked at?

3 A. (Witness reviewing document.) Yes, sir.

4 Q. And is that how you normally present an Inspection
5 Report at your business?

6 A. Yes, sir.

7 Q. And did you, in fact, provide a copy to Ms. Mowery?

8 A. Typically we provide a copy to whoever hires us, plus
9 generally they have a Realtor. They're usually
10 purchasing a house.

11 MR. BANNISTER:

12 Judge, I would offer the inspection on 109 Linda Lane
13 as Defendant's 16 and the inspection on 204 South 9th
14 Street as Defendant's 17.

15 THE COURT:

16 All right.

17 MR. O'CONNELL:

18 Your Honor, I would object to these inspections because
19 they're done September 13th of 2019. Not when this
20 property was taken over by the parties and not -- and
21 after my client was kicked out of all the properties.

22 THE COURT:

23 All right. You can certainly go into that on cross.

24 MR. O'CONNELL:
25

1 MR. O'CONNELL:

2 Okay. Thank you very much.

3 (Introduction of previously marked document,
4 Inspection Report 109 Linda Lane Property,
5 as Defendant's Exhibit Number 16.

6 Introduction of previously marked document,
7 Inspection Report 204 South 9th Street Property,
8 as Defendant's Exhibit Number 17.)

9 THE COURT:

10 Go ahead.

11 MR. BANNISTER:

12 Thank you, Your Honor.

13 Q. When you were doing these inspections were you aware
14 that there was litigation over these properties?

15 A. She had mentioned something that morning when I showed
16 up that she was going through a divorce and that was
17 the reason she was doing the inspections.

18 Q. All right. Do you remember exactly what she said or
19 did you just know there was some argument over --

20 A. I don't remember exactly what was said, no, sir.

21 Q. All right. Let's look at the inspection for 204 South
22 9th Street. Tell me could the house at 204 South 9th
23 Street be sold based on your inspection of the
24 property? Was there anything wrong with it? That's
25 what I'm asking.

1 MR. O'CONNELL:

2 Your Honor, I'm going to object. How can he tell
3 whether the house can be sold or not when he's a home
4 inspector?

5 THE COURT:

6 Rephrase the question.

7 Q. After you did the inspection did you determine there
8 was anything wrong with the house?

9 A. Typically what we find, when we find something we -- we
10 write it up in a way that it shows up on the Summary
11 Page. So the Summary Page shows the things that we
12 find wrong.

13 Q. Hold on one second.

14 A. The Summary Page is page 7 of 32.

15 MR. BANNISTER:

16 Judge, I'll hand you those up.

17 THE COURT:

18 Thank you, sir.

19 Q. All right. What page is the Summary Page on?

20 A. Page 7 of 32.

21 Q. All right. So kind of run through the problems that
22 you found in the property.

23 A. Let me see. Start down Number 1B we see the crawl
24 space has been dug out. We always recommend having
25 somebody else -- many times we recognize -- recommend

1 that a structural engineer if we see something that
2 appears to be a substantial issue, but recommend having
3 the piers evaluated to make sure they're properly
4 supportive. 1C the ceiling gaps where pipes and wires
5 entered foundation wall. And 2B floor joist loose from
6 the girder under the front porch. 2C the girder under
7 the porch is free floating on one end. It should be
8 supported at both ends. Number 6 the deck is pulling
9 away from the house at the rear entry door.

10 Q. So as you go through -- I'm going to let you keep
11 going, but as you go through those problems as an
12 inspector you just recommend these are things that need
13 to be fixed --

14 A. Yes, sir.

15 Q. -- on the house?

16 A. Yes, sir.

17 Q. Okay.

18 A. As an inspector we go through and like I said we try to
19 find all the problems.

20 Q. Yes, sir.

21 A. Let me see. Number 9 there's some missing trim, lower
22 trim to the fascia. Number 10 there's some gaps around
23 the flashing on the roof, on the chimney.

24 Q. Did it appear to have a new roof, fairly new?

25 A. I don't -- right off the top of my head I don't

1 remember.

2 Q. Would that be somebody who replaced the roof you would
3 expect them to properly put flashings up on the
4 chimney?

5 A. Yes, sir.

6 Q. Okay. Keep going.

7 A. Number 12 extend the pipe on the water pressure relief
8 valve to the exterior.

9 Q. Where did it go?

10 A. Give me just a second to look through the pictures and
11 see if there was one there. Many times when we see a
12 water heater has been replaced, especially in cases
13 where a homeowner does it, or just a friend of the
14 family, or somebody does it, we'll see that the water
15 heater pressure relief valve is either not installed.
16 I mean not the valve, but the piping for the pressure
17 relief valve has either not been installed or it just
18 runs from the water heater down to the ground or
19 something. But it should extend -- it should go from
20 wherever the water heater is to the exterior of the
21 house and be -- we like to see it within six inches to
22 the ground. Based on the picture on the water heater
23 that I see on page 15 there's a pipe on the pressure
24 relief valve, but it extends down partially on the side
25 of the water heater. It does not go to the exterior of

1 the house.

2 Q. Is that something that a licensed homebuilder or a
3 licensed contractor would do or is that -- would that
4 not -- would that not pass inspection?

5 A. There are -- there are certain things that inspectors,
6 county inspectors, look for that they would like to
7 see. On all new construction they want to see it
8 vented to the outside -- not vented but draining to the
9 outside of the house and they want to see it close to
10 the ground. They don't necessarily measure it for six
11 inches, but they do make sure that it's close to the
12 ground.

13 Q. Okay. All right. What else? Anything else?

14 A. Number 15 open knockouts noted in the main electrical
15 panel. (Witness reviewing exhibit.) Down around
16 Number 21 the crawl space is partially insulated. 21B
17 it only has three and a half inches of insulation in it
18 and then 21C the insulation that's there is installed
19 backwards. The vapor barriers should be -- should face
20 the conditioned area of the house. (Witness reviewing
21 exhibit.) It's a little warm in here (taking coat
22 off).

23 THE COURT:

24 Yes, sir.

25 A. Those are some of the main -- main items that I see on

1 the 204 9th Street.

2 Q. Okay. Could you tell whether the recently made repairs
3 had been done by -- could you tell if it had been done
4 by a licensed contractor or not?

5 MR. O'CONNELL:

6 Your Honor, I'm going to object. His question is
7 recently made repairs. What does the word recently
8 mean?

9 THE COURT:

10 I sustain the objection.

11 Q. Could you determine that work had been done to the
12 house?

13 A. I could tell that work had been done to the house, yes,
14 sir.

15 Q. And the work that you observed that had been done to
16 the house could you tell whether it appeared to be done
17 by a licensed contractor or not?

18 A. Some of the things appeared to be, some of the things
19 did not appear to be.

20 Q. Did the repairs appear to be finished?

21 A. (Witness reviewing exhibit.) From the pictures I've
22 seen and based on recollection it's hard for me to
23 remember on that, because I inspect two houses a day
24 every day.

25 Q. Yes, sir.

1 A. So going back on memory it's kind of hard to remember.

2 Q. All right. Let's go to 109 Linda Lane in Easley. Did
3 you inspect that one?

4 A. Yes, sir.

5 Q. That's Defendant's Number 16. Did you do a similar
6 Summary Page on that?

7 A. Yes, sir.

8 Q. Is that page 7?

9 A. It should be somewhere around the same page number.
10 Yes, sir.

11 Q. Did you note any issues with that house?

12 A. (Witness reviewing exhibit.) Number 5 the deck is
13 secured to the house with masonry nails. Number 6 the
14 deck is greater than 30 inches above grade and it
15 didn't have a rail on it. The same with Number 8 the
16 porch height requires a 36-inch rail. Number 10 the --
17 the crawl space under the addition did not have any
18 kind of access door or any kind of doors installed to
19 prevent pests from getting in there. Number 12
20 accordion style drain pipe under the kitchen sink.
21 Number 13 again the water pressure relief pipe. Number
22 14 the electrical panel covers were missing. Number 15
23 white wires in the sub-electrical panel used as hot
24 wires need to be identified as -- as service wires. 16
25 the service wire appears low to the ground. Number 19

1 loose and hanging wires need to be properly secured in
2 the crawl space and terminated and cover junction
3 boxes. Number 19B loose or hanging wires need to be
4 stapled to the floor joist. 19C open electrical
5 junction boxes need to have black cover plates
6 installed. Number 21 the missing electrical panel
7 cover is -- or missing electrical panel cover. Number
8 22 there was several missing interior lights. Number
9 26 the floors in the addition need to be properly
10 installed. 27 handrails along interior stairways. 28
11 step threads were not level. Number 29 interior window
12 trim in addition had not been installed. 29B
13 replacement windows had been installed, but storm
14 windows had been left in place, which meant that some
15 of the storm windows could not be opened due to the
16 replacement windows. Those are -- those are the main
17 things that I see as far as the construction aspect.

18 Q. All right. And when you were there could you tell that
19 there had been some work done on the house?

20 A. Yes.

21 Q. And could you tell from your observation and your
22 experience whether or not that work was done by a
23 licensed contractor?

24 A. Again, some of it appeared to be. Some of it didn't
25 appear to be.

1 Q. So the deck that was put on you said it was anchored to
2 the house with?

3 A. With masonry nails.

4 Q. Masonry nails. Is that -- is that not the proper way
5 to do it?

6 A. Well, typically when you mount a deck to the house if
7 you're going into masonry you'll drill it and put in a
8 lag shield and run lag bolts into it or you can use a
9 Tapcon where you drill through the wood and through the
10 brick and secure it with a Tapcon. But masonry nails
11 are usually only about three to three and a half inches
12 long. So you're only securing it with about an inch to
13 an inch and a half of a masonry nail. You want
14 something a little more substantial.

15 Q. Does Easley have a requirement that a contractor pull a
16 permit to do those, to build a deck like that or change
17 out a water heater or --

18 A. Most jurisdictions do not require a homeowner or a
19 contractor to pull a permit to build a deck or a water
20 heater, things of that nature.

21 Q. Is there any kind of inspection that happens after
22 those things are done?

23 A. Typically, no.

24 Q. So when do those kind of mistakes normally get caught
25 in the stream of commerce?

1 A. If it's a new construction they get caught during the
2 new construction phase. But on an existing house when
3 someone comes in and removes a deck and replaces a deck
4 or repairs a water heater those things typically don't
5 get caught until somebody gets ready to sell a house or
6 something of that nature.

7 Q. And what happens when you get ready to sell the house
8 and there's an Inspection Report like this? What
9 typically happens?

10 A. Those things are called -- those things are called out
11 and then it becomes a negotiating point between the
12 buyer and the seller. If the buyer wants everything
13 fixed and brought up to a certain standard they send in
14 a repair request to the seller. The seller then gets
15 with their Realtor and they say we're willing to fix
16 item, this item, and this item, but some items we're
17 not willing to fix. And in real estate there's only
18 certain -- certain repairs that are required repairs,
19 which is if a roof is leaking it has to be repaired.
20 If windows were broken they have to be repaired. You
21 have to have functioning heat, functioning air, running
22 water, and hot water. Those are some of the required
23 repairs.

24 Q. On the Linda Lane house would you have -- based on your
25 experience and expertise would you have an estimate of

1 what it would cost to repair all those things?

2 A. (Witness reviewing exhibit.) Securing the house -- I
3 mean securing the deck to the house --

4 THE COURT:

5 If you could just give a -- just a one price instead of
6 going line by line.

7 A. Okay. (Witness reviewing exhibit.) If the things were
8 called out probably somewhere 8 to \$9,000 range.

9 Q. All right. How about on the same sort of sum total on
10 South 9th Street?

11 A. (Witness reviewing exhibit.) Probably somewhere around
12 5 to 6,000.

13 MR. BANNISTER:

14 No other questions, Your Honor.

15 THE COURT:

16 All right. Your witness, Mr. O'Connell.

17 MR. O'CONNELL:

18 Thank you, Your Honor.

19 EXAMINATION BY MR. O'CONNELL:

20 Q. Let me ask you. Don't I know you from some place?

21 MR. BANNISTER:

22 I object to the question, Your Honor.

23 MR. O'CONNELL:

24 No, no, I used to -- no --

25 THE COURT:

1 What kind of question is that?

2 MR. O'CONNELL:

3 Judge, you've got let me explain. I know Advantage
4 Inspection. I used to know Charlie Shipman and --

5 THE COURT:

6 You may ask him questions, but like do I know you from
7 somewhere may not be particularly relevant today.

8 MR. O'CONNELL:

9 Well, it's relevant because I --

10 THE COURT:

11 I appreciate the social skills.

12 MR. O'CONNELL:

13 Okay. Thank you very much.

14 THE COURT:

15 Let's narrow it to the issue in front of The Court.

16 MR. O'CONNELL:

17 Okay.

18 Q. You said that these reports, the inspection was done
19 9/13 of 2019. That's -- is that September the 13th of
20 2019?

21 A. Yes, sir, the dates that is on them would be the date
22 that I did them.

23 Q. Okay. And that's about a year and five months after
24 Mr. Carroll was removed from the property; is that
25 correct?

1 A. I have no information on that.

2 Q. Okay. And when you met Ms. Mowery did she say she
3 wanted this done because they were going through a
4 divorce?

5 A. When I started the inspections throughout the
6 conversation she said that she was doing the
7 inspections because she was going through a divorce.

8 Q. Okay. And let me ask you. You're -- as a home
9 inspector you're only required to do eyesight and you
10 can't poke or prod or anything; is that right?

11 A. We -- we don't remove any covers except for on a gas
12 furnace. We'll remove the inspection cover. The only
13 probing we can do is if we see potential rotten wood.
14 We can take a screw driver and probe it to see if it's
15 rotten. We do have a moisture meter that we stick into
16 wood to evaluate the moisture content of the wood, but
17 it's very minor probing, yes, sir.

18 Q. Okay. So you don't know when all these things could
19 have gone wrong with this house, do you?

20 A. No, sir.

21 Q. Okay. And they could have gone six months earlier,
22 three months earlier; is that correct?

23 A. They could have, yes, sir.

24 Q. What do you know about a floating deck, a free-floating
25 deck?

1 A. A free-floating deck?

2 Q. Yes.

3 A. Typically those are installed on mobile homes where
4 they're completed detached from a mobile home. The
5 reason that is is because the perimeter where you need
6 to secure the deck is usually a metal band and so they
7 have to do a completely free-floating deck.

8 Q. And the house that had the free-floating deck was the
9 deck okay?

10 A. Well, those -- like I say those are typically on
11 trailers and they are fine.

12 Q. The deck was fine?

13 A. Yes, sir.

14 Q. Okay. And the only qualm you had about it it wasn't
15 attached to the house; is that right?

16 A. Well, the method that it was attached to the house, at
17 least this particular one, yes, sir.

18 Q. Does it have to be attached to the house?

19 A. Well, on a trailer there's no way to attach it. But
20 typically on a stick-built structure it typically is
21 attached to the house.

22 Q. Okay.

23 MR. O'CONNELL:

24 I don't have any further questions. Thank you, Your
25 Honor.

1 THE COURT:

2 Any further very brief questions?

3 MR. BANNISTER:

4 No, Your Honor.

5 THE COURT:

6 All right. Thank you, sir. May Mr. Southerlin be
7 excused?

8 MR. BANNISTER:

9 Yes, Your Honor.

10 MR. O'CONNELL:

11 Yes, Your Honor, I have no -- we don't want to keep him
12 around. He's got work to do.

13 THE COURT:

14 All right. Mr. Bannister, you-all only have one
15 witness left?

16 MR. BANNISTER:

17 My client, yes.

18 THE COURT:

19 How long do you anticipate? What I'm debating is do we
20 go ahead and break for lunch or do we push through?

21 MR. O'CONNELL:

22 Push through.

23 MR. BANNISTER:

24 What time is the latest you go to lunch?

25 THE COURT:

1 Supper.

2 MR. BANNISTER:

3 What's that?

4 THE COURT:

5 Supper.

6 MR. O'CONNELL:

7 Let's just push through.

8 MR. BANNISTER:

9 So based on how we're moving along I would say we would
10 be probably done with her in an hour.

11 THE COURT:

12 All right. As long as you-all don't ruin the track
13 record you're building then let's move ahead.

14 MR. BANNISTER:

15 Now, I don't want to make any guarantees.

16 MR. O'CONNELL:

17 Is that lawyer time or real time?

18 THE COURT:

19 I've learned the difference, Mr. O'Connell.

20 MR. O'CONNELL:

21 I have, too, Your Honor.

22 THE COURT:

23 All right.

24 MR. BANNISTER:

25 I call Debra Mowery.

1 THE COURT:

2 Yes, sir.

3 DEBRA MOWERY, first being duly sworn, was examined and
4 testified as follows:

5 THE COURT:

6 Come around and have a seat, please. And if you'll
7 state your full name.

8 THE WITNESS:

9 Debra Mowery.

10 THE COURT:

11 All right. Mr. Bannister.

12 EXAMINATION BY MR. BANNISTER:

13 Q. Ms. Mowery, there's some time frames I need to get
14 straight. In May of 2015 what houses did you own?

15 A. In 2015 in May I still owned 4548 Church Street and 109
16 Linda Lane.

17 Q. 539 Pope Field?

18 A. In -- no, Pope Field was purchased in 2016.

19 Q. It was purchased in 2016. How about 204 South 9th
20 Street?

21 A. 2016.

22 Q. All right. So I'm talking about the properties. Do
23 you still own 109 Linda Lane?

24 A. Yes.

25 Q. And when is the last time work was done on 109 Linda

1 Lane?

2 A. About a year -- well, about four or five months ago.

3 Q. All right. And by -- when was the last time work was
4 done on Linda Lane by Mr. Carroll? I didn't make that
5 clear.

6 A. It was about a year and a half, maybe two years ago.

7 Q. All right. And 204 South 9th Street do you still own
8 it?

9 A. Yes, sir.

10 Q. Is it in your name?

11 A. Yes, sir.

12 Q. And when is the last time Mr. Carroll has done any work
13 on 9th Street?

14 A. 2016.

15 Q. All right. 539 Pope Field do you still own it?

16 A. Yes.

17 Q. Is it still in your name?

18 A. Yes.

19 Q. When is the last time Mr. Carroll did any work on Pope
20 Field?

21 A. Probably about the same time. 2016.

22 Q. All right. And 4548 Church Street is that the house in
23 Maryland?

24 A. Yes.

25 Q. Has that house been sold?

1 A. Yes, sir.

2 Q. The monies from that house have been spent or gone or

3 --

4 A. Yes.

5 Q. All right. You heard some testimony about when you-all

6 met. When you-all got together was Mr. Carroll

7 working?

8 A. Sporadically.

9 Q. He didn't have like a full-time --

10 A. No.

11 Q. -- job making \$90,000 a year?

12 A. No.

13 Q. All right. And why did you -- did he move in with you?

14 A. In 2016, yes. I'm sorry. 2006.

15 Q. 2006 he moved in with you --

16 A. Uh-huh.

17 Q. -- into the house that you owned?

18 A. I rented at the time.

19 Q. Okay. And what was you-all's understanding of who

20 would pay for food, rent, utilities at that time?

21 A. There was no real agreement, written or other. I paid

22 all the bills on Main Street and Terence Carroll lived

23 there.

24 Q. Okay. So he did live with you?

25 A. Uh-huh.

- 1 Q. Did you buy the groceries?
- 2 A. Yes.
- 3 Q. Did you pay the power bill?
- 4 A. Yes.
- 5 Q. Water bill?
- 6 A. Yes.
- 7 Q. Where did that money come from?
- 8 A. I owned a business, Hawk Shadow Business Services.
- 9 Q. And was that the business they were talking about doing
- 10 taxes?
- 11 A. Yes.
- 12 Q. All right. Did you ever transfer any ownership
- 13 interest in that business to Mr. Carroll?
- 14 A. No.
- 15 Q. All right. When did you-all move to South Carolina?
- 16 A. 2016.
- 17 Q. All right. Tell me how you came to acquire the home --
- 18 the properties that you own in South Carolina. Which
- 19 one was first?
- 20 A. Okay. Linda Lane was the first one. I took a mortgage
- 21 out on my house 4548 Church Street and --
- 22 Q. And that's the one that was in Maryland?
- 23 A. That's one that was in Maryland.
- 24 Q. Okay.
- 25 A. And I bought Linda Lane.

1 Q. So when you took the mortgage out on the house you
2 owned in Maryland were you the only personal guarantor?

3 A. Yes.

4 Q. Did Mr. Carroll sign on and take responsibility for
5 that debt?

6 A. No.

7 Q. If you had not been able to pay that mortgage did Mr.
8 Carroll have any legal obligation to you or the bank to
9 take care of that?

10 A. No.

11 Q. Okay. So it was your debt to buy Linda Lane?

12 A. That is correct.

13 Q. All right. And what shape was Linda Lane in when you
14 bought it?

15 A. It was a foreclosure and it needed work, yes. It
16 needed a rehab.

17 Q. All right. And did Mr. Carroll come down here like he
18 testified and stay in that house and do work?

19 A. He -- yes, he came down shortly after it was purchased
20 in 2015.

21 Q. All right. And how did he pay for his food, and gas,
22 and the material to make those repairs?

23 A. I gave him use of my credit cards and he used those to
24 buy most of them and I paid all the other bills.

25 Q. So you were paying the mortgage payment on the house.

1 You provided him with a credit card to charge his
2 living expenses. Did you-all -- who paid for the
3 material at Linda Lane?

4 A. I did.

5 Q. All right. You heard described I think previously, or
6 correct me if I'm wrong, that you-all had a joint
7 account at BB&T; is that true?

8 A. There was an account that he had signature on at BB&T.

9 Q. But it wasn't a joint account, right of survivorship?

10 A. Not to my knowledge, no. No.

11 Q. Did you-all ever have any financial account where you-
12 all were joint owners where that if either one of you
13 died the other one would get that money?

14 A. No.

15 Q. So when you granted him signatory authority on that
16 account was that for your convenience?

17 A. I gave him signatory authority on most of my accounts
18 for that reason, for -- for convenience as if he needed
19 something I didn't have to be there.

20 Q. I'm going to show you something and I believe if you
21 will just tell The Court what that is.

22 A. These are reports showing the amount that I spent on
23 Terence Carroll in the course of each year.

24 Q. So from the year you met can you just quickly tell The
25 Court how much you spent on Mr. Carroll that you can

1 trace back through your accounts from I guess 2006 or
2 '7 till now? Till 2018 when you-all separated?

3 A. (Witness reviewing documents.) It's about 201,000.

4 Q. And that's just what you've gone back through your
5 records to determine how much of your money you spent
6 that you can tie back to him? How did you do that?
7 Like utilities how did you determine what utilities?

8 A. I have QuickBook records. I went through those and I
9 got the totals for each year and then appropriated, you
10 know, half to myself and half to him. For some items
11 such as his automobile insurance I paid 100 percent.
12 For all of the Verizon Wireless bills I paid 100
13 percent. Groceries I primarily paid, but I only took
14 what I paid for. I don't have the information on what
15 he may have paid for.

16 Q. On some of these you put rent. What rent? Is that
17 what you think is the fair value of him living there
18 was or what?

19 A. Well, in 2018 where it says rent \$5,400 that would be a
20 charge, a very reasonable charge, for him to rent a
21 place. He probably couldn't even get a place for 400
22 and some dollars a month, but the rental on the 109
23 Linda Lane is about \$1,600 so I just was being fair.

24 Q. But that would be what he would have paid had he been
25 renting somewhere instead of living with you?