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**THE STATE OF SOUTH CAROLINA**
**In the Court of Appeals**

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**APPEAL FROM CHARLESTON COUNTY**
Court of Common Pleas for the Ninth Circuit

The Honorable Mikell Scarborough, Master in Equity

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Case No. 2016-CP-10-2955

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Appellate Case No. 2021-000272

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TCC of Charleston, Inc. ..... *Plaintiff and Appellant/Respondent*.

v.

Concord and Cumberland, LLC, Concord & Cumberland HPR, Leo Hall, Diane Hall, Bea H. Smith, Margaret C. Pope, William D. Foster, Jr., Gene G. Foster, Mattison J. MacGillivray, Teresa MacGillivray, Pamela L. Vaughn, Nelia A. Patricio, Trustee of the Nelia A. Patricio Revocable Trust Agreement, Stuart D. Reeves, Edward T. Strom, Barbara K. Henderson, James R. Clarke, Paul A. Brim, Robert K. Seidl, Jennifer M. Seidl, Robert Kenneth Seidl, II, M. Bert Storey, Thomas R. Mather, Edward T. Strom, 304 Concord & Cumberland, LLC, Marion M. Simpson f/k/a Marion Moore McDonald Simpson, Kathy Gardner, Gregory J. Gardner, Freeman Waterfront Properties, LLC, Jo-Ann Cooper, Betty Y. Segal, Robert M. Levin, and Bonita K. Levin, Donald D. Leonard, Betty L. Beatty, Mattellen, LLC, and Thomas R. Debnam, Trustee of the Trust Agreement of Thomas R. Debnam,. ..... *Defendants and Respondents/Appellants*.

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**RECORD ON APPEAL**
**VOL. 5 of 6**

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EPTING & RANNIK, LLC
Jaan G. Rannik, Esq.
46A State Street
Charleston, SC 29401
P: 843-377-1871
F: 843-377-1310
jgr@epting-law.com

*ATTORNEY FOR APPELLANT/RESPONDENT*

WOMBLE BOND DICKINSON (US) LLP
F. Cordes Ford, IV, Esq.
Henry E. Grimball, Esq.
Robert Andrew Walden, Esq.
P.O. Box 999
Charleston, SC 29402
P: 843-720-4631
Cordes.ford@wbd-us.com
Henry.grimball@wbd-us.com

Andrew.walden@wbd-us.com

*ATTORNEYS FOR ALL RESPONDENTS/APPELLANTS EXCEPT FOR BETTY BEATTY*

CLEMENT RIVERS, LLC
Edward D. Buckley, Esq.
W. Siaw Barr, Jr., Esq.
Russell G. Hines, Esq.
William Cole Shannon, Esq.
25 Calhoun Street, Suite 400
Charleston, SC 29401
P: 843-720-5488
ebuckley@ycrlaw.com
rhines@ycrlaw.com
sbarr@ycrlaw.com
*ATTORNEYS FOR RESPONDENT/APPELLANT BETTY BEATTY*

# INDEX

**ORDERS**


1. Form 4 Judgment in a Civil Case [Hon. Deadra Jefferson] dated November 3, 2016 ..... 000001

2. January 3, 2017 Order [Hon. Roger M. Young, Sr.] Staying Case and Compelling Arbitration ..... 000003

3. Corrected Arbitration Award dated August 12, 2019 ..... 000007

4. January 30, 2020 Order and Form 4 [Hon. Deadra L. Jefferson] Denying HPR Motion to Vacate ..... 000016

5. May 1, 2020 Order [Hon. Deadra L. Jefferson] Denying HPR Motion for Reconsideration ..... 000027

6. August 11, 2020 Order [Hon. Jennifer B. McCoy] on Pending Motions and Order of Reference ..... 000041

7. S.C. Court of Appeals Order Dismissing Appeal (App. Case No.: 20-000875) ..... 000044

8. Betty L. Beatty proposed Order Granting Partial Summary Judgment dated November 18, 2020 ..... 000046

9. February 16, 2021 Order [Mikell R. Scarborough] Granting Partial Summary Judgment to Betty L. Beatty ..... 000064

10. February 16, 2021 Order [Hon. Mikell R. Scarborough] re: various motions ..... 000083

11. Form 4 Judgment in a Civil Case [Mikell R. Scarborough] Entering Judgment to Betty L. Beatty filed February 22, 2021 ..... 000098

12. March 2, 2021 Order [Hon. Mikell R. Scarborough] Awarding Attorneys' Fees ..... 000104

13. Form 4 Judgment on the Arbitration Award of $2,216,899.06 in favor of TCC of Charleston dated March 11, 2021 ..... 000110

14. March 26, 2021 Order [Hon. Mikell R. Scarborough] Denying Motion for Reconsideration ..... 000115


**PLEADINGS**


15. Summons and Complaint, with all supporting exhibits, filed June 6, 2016 ..... 000120

16. TCC of Charleston, Inc.'s Lis Pendens filed June 10, 2016 ..... 000260

17. Amended Summons and Amended Complaint, with all supporting exhibits, filed June 10, 2016 ..... 000276

18. TCC of Charleston, Inc.'s Amended Lis Pendens filed June 16, 2016 ..... 000431

19. Amended Notice and Certificate of Mechanic's Lien, with all supporting exhibits, recorded June 10, 2016 ..... 000447

20. Answer of Concord & Cumberland HPR, with all supporting exhibits, dated October 31, 2016 ..... 000466

21. Betty L. Beatty's Answer to Amended Complaint dated January 17, 2020 ..... 000473

22. Second Amended Complaint dated August 24, 2020 ..... 000478

23. Betty L. Beatty's Answer to Plaintiff's Second Amended Complaint dated September 3, 2020 ..... 000599

24. Answer of Certain Unit Owner Defendants to Second Amended Complaint and Motion to Stay (Jury Trial Demanded) filed September 14, 2020 ..... 000607

**MOTIONS (*with all supporting exhibits*)**

25. TCC Motion to Stay and Compel Arbitration, with all supporting exhibits, filed June 6, 2016 ..... 000615

26. HPR Proposed Order re Arbitration Award, dated March 22, 2019 ..... 000745

27. TCC of Charleston Proposed Order to Panel (in arbitration proceedings) ..... 000765

28. TCC of Charleston's Motion for Prejudgment Interest, Cost of Arbitration, and Attorney's Fees and Costs and TCC's Motion to Provide Fees and Costs Billing, with all supporting exhibits, dated April 26, 2019 ..... 000785

29. Concord & Cumberland HPR's Motion for Reconsideration (*filed in Arbitration proceedings*) dated May 17, 2019 ..... 000811

30. TCC Motion to Lift Stay filed June 17, 2019 ..... 000824

31. Concord & Cumberland HPR's Motion for Change of Award (*filed in Arbitration proceedings*) dated July 15, 2019 ..... 000826

32. Concord and Cumberland HPR's Motion to Vacate the Arbitration Award or, Alternatively, to Modify or Correct the Arbitration Award dated July 16, 2019 .....000854

33. Concord & Cumberland HPR's Motion for Change of Corrected Award (*filed in Arbitration proceedings*) dated September 7, 2019 .....000928

34. Concord and Cumberland HPR's Motion to Vacate the Corrected Award or, Alternatively, to Modify or Correct the Corrected Award dated November 18, 2019.....001250

35. Concord & Cumberland HPR's Motion for Summary Judgment with all supporting exhibits dated December 6, 2019.....001265

36. Concord and Cumberland HPR's Memo of Law (1) In Opposition to Motion to Lift Stay (2) In Support of Motion to Vacate or Correct the "Corrected Arbitration Award" and (3) In Support of Motion for Summary Judgment with all supporting exhibits dated December 11, 2019.....001290

37. Concord & Cumberland HPR's Motion to Reconsider, Alter or Amend the Court's Order on Motion to Lift Stay and Motions to Vacate or Correct Arbitration Award dated February 10, 2020.....001707

38. TCC of Charleston, Inc.'s Memorandum in Opposition of Concord and Cumberland HPR's Motion to Reconsider, Alter, or Amend the Court's Order with all supporting exhibits dated March 12, 2020.....001742

39. Concord and Cumberland HPR's Reply to TCC of Charleston's Memorandum in Opposition to Motion to Reconsider, Alter, or Amend with all supporting exhibits dated April 21, 2020 .....001748

40. Betty L. Beatty's Motion for Partial Summary Judgment, with all supporting exhibits, dated May 8, 2020.....001820

41. Concord and Cumberland HPR's Motion to Deposit Funds dated May 11, 2020 ....001827

42. Plaintiff's Motion to Amend with all supporting exhibits dated May 15, 2020.....001830

43. TCC of Charleston, Inc.'s Objection to Proceeding, Memorandum in Opposition to Pending Motions for Summary Judgment, and Response to Motion to Deposit Funds, with all supporting exhibits, dated May 22, 2020.....001953

44. Betty L. Beatty's Reply to TCC of Charleston's Memorandum in Opposition to Motion for Summary Judgment with all supporting exhibits dated May 27, 2020 ...002014

45. Concord & Cumberland HPR's Reply to TCC of Charleston, Inc.'s Objection to Proceeding, Memorandum in Opposition to Pending Motions for Summary Judgment,

and Response to Motion to Deposit Funds, and Opposition to TCC's Motion to Amend, with all supporting exhibits, dated May 27, 2020 ..... 002028

46. TCC of Charleston's Motion to Confirm Arbitration Award, with all supporting exhibits, dated July 30, 2020 ..... 002035

47. TCC Motion for Attorney's Fees, with all supporting exhibits, dated September 11, 2020 ..... 002060

48. Concord & Cumberland HPR's Motion to Dismiss Plaintiff's Second Amended Complaint and Motion for Attorney's Fees, with all supporting exhibits, filed September 14, 2020 ..... 002062

49. TCC Motion to Amend Statement of Account with all supporting exhibits, dated October 1, 2020 ..... 002081

50. Concord & Cumberland HPR's Memorandum of Law in Support of Its Position as to the Pending Motions, with all supporting exhibits, dated October 27, 2020 .... 002106

51. HPR Proposed Order re 11/05/2020 hearing, dated November 16, 2020 ..... 002118

52. TCC Proposed Order to Judge Scarborough dated December 4, 2020 ..... 002130

53. TCC Omnibus Response and Objections to Filings and Submittals to Betty Beatty with all supporting exhibits dated November 30, 2020 ..... 002132

54. TCC Omnibus Response and Objections to Filings and Submittals to Concord and Cumberland HPR with all supporting exhibits dated November 30, 2020 ..... 002155

55. Concord & Cumberland HPR's Motion to Strike TCC's Omnibus Response and Objections to Filings and Submittals of Concord and Cumberland HPR, with all supporting exhibits, dated December 3, 2020 ..... 002207

56. Individual Homeowners' Motion for Summary Judgment with all supporting exhibits dated January 17, 2021 ..... 002234

57. TCC Motion for Reconsideration and/or Clarification with all supporting exhibits dated March 12, 2021 ..... 002240

58. HPR Memorandum in Opposition to TCC Motion for Reconsideration with all supporting exhibits dated March 17, 2021 ..... 002248

59. Betty L. Beatty Memorandum in Opposition to TCC of Charleston, Inc.'s Motion for Reconsideration with all supporting exhibits dated March 19, 2021 ..... 002254

60. TCC of Charleston, Inc.'s Reply in Support of Motion for Reconsideration with all

supporting exhibits dated March 19, 2021 ..... 002268

61. Trial Brief of TCC of Charleston, Inc. (filed in arbitration proceedings) dated January 17, 2019 ..... 002270

**AFFIDAVITS (*with all supporting exhibits*)**

62. F. Cordes Ford, IV Affidavit of Attorney's Fees dated November 18, 2020 ..... 002302

63. Henry E. Grimball's Affidavit of Attorneys Fees dated November 18, 2020 ..... 002369

64. R. Andrew Walden's Affidavit of Attorneys Fees dated November 18, 2020 ..... 002376

65. F. Cordes Ford, IV Affidavit of Attorney's Fees dated February 22, 2021 ..... 002386

66. Henry E. Grimball's Affidavit of Attorneys Fees dated February 22, 2021 ..... 002429

67. R. Andrew Walden's Affidavit of Attorneys Fees dated February 22, 2021 ..... 002431

68. Affidavit of Angela Gross, with all supporting exhibits, dated November 3, 2020 .. 002434

69. Affidavit of Andrew K. Epting, Jr., with all supporting exhibits, dated November 3, 2020 ..... 002493

70. Affidavit of Service of Betty Beatty dated June 22, 2016 ..... 002495

**TRANSCRIPTS**

71. Transcript of January 27, 2021 Hearing before Hon. Mikell R. Scarborough ..... 002496

72. Transcript of November 5, 2020 Hearing before Hon. Mikell R. Scarborough ..... 002532

73. Transcript of May 28, 2020 Hearing before Hon. Jennifer B. McCoy ..... 002597

74. Transcript of December 16, 2019 Hearing before Hon. Deadra L. Jefferson ..... 002632

**OTHER**

75. TCC Email to Judge Scarborough re Hearing on Attorneys Fees dated February 26, 2021 ..... 002673

76. Email serving Corrected Arbitration Award dated August 12, 2019 ..... 002675

77. TCC Arb. Exh. 32 – June 26, 2015 Chris Ogiba email to AKE ..... 002676

78. TCC Arb. Exh. 33 – May 27, 2015 Letter Agreement ..... 002679

79. TCC Arb. Exh. 73 – PCO 130 .....002681

80. TCC Arb. Exh. 130 – PCO 142 .....002694

81. TCC Arb. Exh. 155 – Dagg Timesheets .....002695

82. TCC Arb. Exh. 157 – Summary exhibit .....002697

83. Agreement to Arbitrate dated January 18, 2017 .....002700

84. Notice of Appeal dated March 31, 2021, appealing Order dated March 26, 2021 Denying Plaintiff's Motion to Reconsider its February 16, 2021 and March 3, 2021 orders.....002704

85. Notice of Appeal dated June 1, 2020, appealing Order on Motion to Lift Stay and Motions to Vacate or Correct Arbitration Award and Order on Concord & Cumberland HPR's Motion to Alter/Amend.....002712

86. TCC's Notice of Appeal, with all supporting exhibits, dated March 11, 20201 .....002739

87. Defendant Betty L. Beatty's letter to Judge Scarborough regarding TCC's Omnibus Response and Objections to Filings and Submittals of Betty Beatty dated December 3, 2020.....002799

88. Andrew K. Epting, Jr., Esquire's letter to Judge Scarborough dated December 4, 2020

.....002803

89. Concord & Cumberland HPR's letter to Judge Scarborough regarding proposed Order resolving Motion to deposit Funds dated December 17, 2020 .....002804

90. Concord & Cumberland HPR's letter to Charleston County Clerk of Court depositing funds dated April 22, 2021.....002808

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# CONCORD AND CUMBERLAND HORIZONTAL PROPERTY REGIME

## Bylaws

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## ARTICLE VII

## POWERS AND DUTIES OF THE BOARD OF DIRECTORS

7.1 Duties.

It shall be the duty of the Board of Directors to:

(a) Maintenance.

Perform the maintenance described in the Master Deed;

(b) Insurance.

Maintain insurance as required by the Master Deed;

(c) Discharge of Liens.

Discharge by payment, if necessary, any lien against the Common Elements and assess the cost thereof to the Member or Members responsible for the existence of the lien;

(d) Assessments.

Fix, levy, collect and enforce Assessments as set forth in the Master Deed;

(e) Expenses and Obligations.

Pay all expenses and obligations incurred by the Association in the conduct of its business including, without limitation, all licenses, taxes, or governmental charges levied or imposed against the property of the Association;

(f) Records.

Cause to be kept a complete record of all its acts and affairs and to present a statement thereof to the Members at the annual meeting of the Members, at any special meeting when such statement is requested in writing by one-fourth (¼) of the Members; keep adequate and correct books and records of account, minutes of proceedings of its Members, Board and committees, and a record of its Members giving their names and addresses and classes of membership;

(g) Supervision.

Supervise all officers, agents and employees of the Association, and to see that their duties are properly performed;

(h) Enforcement.

Enforce these Bylaws and the Master Deed;

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(i) Review of Financial Records.

Review on at least a quarterly basis a current reconciliation of the Association's operating and reserve accounts, the current year's actual reserve revenues and expenses compared to the current year's budget, and an income and expense statement for the Association's operating and reserve accounts. In addition, the Board shall review the latest account statements prepared by the financial institutions where the Association has its operating and reserve accounts. For purposes herein, "reserve accounts" shall mean monies that the Association's Board has identified for use to defray the future repair or replacement of, or additions to, these major components that the Association is obligated to maintain.

(j) Reserve Account Withdrawal Restrictions.

Require that at least two (2) signatures are needed for the withdrawal of monies for the Association's reserve accounts, at least one (1) of which shall be that of a member of the Board. One (1) signature may be that of the Association's manager or such manager's designee.

(k) Reserve Account Fund Management

The Board shall not expend funds designated as reserve funds for any purpose other than the repair, restoration, replacement, or maintenance of, or litigation involving the repair, restoration, replacement, or maintenance of, major components which the Association is obligated to repair, restore, replace, or maintain and for which the reserve fund was established.

(l) Reserve Studies.

At least every five (5) years the Board shall cause an independent analysis of the reserve component of the operating budget to be conducted to confirm that component replacement costs and useful lives are accurately reflected in the reserve allocation.

7.2 Powers. The Board of Directors shall have power to:

(a) Manager:

Employ a manager as provided in the Master Deed;

(b) Adoption of Rules; Set Aside Common Element Parking for Handicap.

Adopt rules in accordance with the Master Deed, including rules setting aside Common Element parking spaces as handicap parking only, and adopt rules limiting the number of cars that will be permitted to be parked in the Common Element parking spaces;

(c) Assessments, Liens and Fines.

Levy and collect Assessments and impose fines as provided in the Master Deed.

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(d) Enforcement (Notice and Hearing).

Enforce these Bylaws and/or the Master Deed, provided that at least fifteen (15) days' prior notice of any charges (other than Assessment) or potential discipline or fine and the reasons therefor are given to the Member affected, and that an opportunity is provided for the Member to be heard, orally or in writing not less than five (5) days before the effective date of the discipline or fine (subject to Section 16.5 of the Master Deed and the limitations of such Section), said hearing to be before the Board. Any notice required herein shall be given by any method reasonably calculated to provide actual notice. Any notice given by mail shall be given by first class or registered mail sent to the last address of the Member as shown on the Association's records.

(e) Contracts.

Contract for goods and/or services in accordance with the Master Deed.

(f) Delegation.

Delegate its authority and powers to committees, officers or employees of the Association or to a manager employed by the Association. The Board may not delegate the authority to procure insurance, make capital expenditures for additions or improvements chargeable against the reserve funds; to conduct hearings concerning compliance by an Owner or his tenant, lessee, guest or invitee with the Master Deed or rules and regulation promulgated by the Board, or to make a decision to levy monetary fines, impose special Assessments against individual Units, temporarily suspend an Owner's rights as a Member of the Association or otherwise impose discipline following any such hearing; to make a decision to levy Annual or Special Assessments; or to make a decision to bring suit, record a claim of lien, or institute foreclosure proceedings for default in payment of Assessments. Any such delegation shall be revocable by the Board at any time. The members of the Board, individually or collectively, shall not be liable for any omission or improper exercise by the manager of any such duty, power or function so delegated by written instrument executed by a majority of the Board.

(g) Appointment of Trustee.

Appoint a trustee as provided in the Master Deed.

(h) Borrowings.

Borrow money (1) for the purpose of improving the Regime, or any portion thereof, (2) for constructing, repairing, maintaining or improving any facilities located or to be located within the Regime, (3) for providing services authorized herein, and, (4) to give as security for the payment of any such loan a mortgage or other security instrument conveying all or any portion of the Common Elements; provided, however, that the lien and encumbrance of any such security instrument given by the Association will be subject and subordinate to any and all rights, interest, options, licenses, easements, and privileges herein reserved or established for the benefit of Developer, any Owner, or the holder of any Mortgage, irrespective of when such Mortgage is executed or given.

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(i) Other Powers.

In addition to any other power contained herein or in the Master Deed, the Association may exercise the powers granted to a nonprofit mutual benefit corporation as enumerated in the Nonprofit Corporation Act.

7.3 Prohibited Acts.

The Board shall not take any actions prohibited of it under the Master Deed except with the vote or written consent of a majority of the Members other than Developer.

## ARTICLE VIII

## OFFICERS AND THEIR DUTIES

8.1 Enumeration of Officers.

The officers of this Association shall be a President and Secretary, who shall at all times be members of the Board of Directors, a Vice President, and a Treasurer, and such other officers as the Board may from time to time by resolution create.

8.2 Election of Officers.

The Developer shall have the sole right to appoint and remove officers during the Transition Period. Thereafter, all officers shall hold office at the pleasure of the Board.

8.3 Term.

The Board shall elect the officers of this Association annually and each shall hold office for one (1) year unless he or she shall sooner resign, or shall be removed, or otherwise disqualified to serve.

8.4 Special Appointments.

The Board may elect such other officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority, and perform such duties as the Board may, from time to time, determine.

8.5 Resignation and Removal.

Any officer may be removed from office (but not from the Board, if the officer is also a Board member) by the Board with or without cause. Any officer may resign at any time by giving written notice to the Board, the President or the Secretary. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

# EXHIBIT J

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## Angela Gross

**From:** Angela Gross on behalf of Andrew K. Epting
**Sent:** Wednesday, June 15, 2016 10:51 AM
**To:** CFord@wcsr.com
**Cc:** Andrew K. Epting; Michelle Endemann; Katherine Aiken
**Subject:** Concord and Cumberland
**Attachments:** 2016 06 10 - Amended Mechanic's Lien.pdf; 2016 06 10 - Lis Pendens FILED.pdf; 2016 06 10 - Amended Summons and Amended Complaint FILED.pdf

SENT ON BEHALF OF ANDREW K. EPTING, JR., ESQUIRE:

Cordes,

Please find attached the Amended Lien and Foreclosure suit regarding the above referenced matter. The individual owners of each unit need to be served with these documents. I intend to have them served this week unless you can accept service or have a representative who can accept on behalf of each owner. If personal service to each is necessary, please advise the homeowners of the forthcoming service as a courtesy.

Drew

Andrew K. Epting, Jr., Esquire
ANDREW K. EP TING, JR., LLC
46A State Street
Charleston, SC 29401
Telephone: (843) 377-1871
Facsimile: (843) 377-1310
ake@epting-law.com

# EXHIBIT K

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| | |
|---|---|
| **STATE OF SOUTH CAROLINA )**<br>**)**<br>**COUNTY OF CHARLESTON )** | **IN THE COURT OF COMMON PLEAS FOR THE NINTH JUDICIAL CIRCUIT** |
| TCC OF CHARLESTON, INC.<br><br>Plaintiff,<br><br>v.<br><br>CONCORD AND CUMERLAND, LLC., CONCORD & CUMBERLAND HPR, LEO HALL, DIANE HALL, BEA H. SMITH, MARGARET C. POPE, WILLIAM D. FOSTER, JR., GENE G. FOSTER, MATTISON J. MACGILLIVRAY, TERESA MACGILLIVRAY, PAMELA L. VAUGHN, NELIA A. PATRICIO, Trustee of the Nelia A. Patricio Revocable Trust Agreement, STUART D. REEVES, EDWARD T. STROM, BARBARA K. HENDERSON, JAMES R. CLARKE, PAUL A. BRIM, ROBERT K. SEIDL, JENNIFER M. SEIDL, ROBERT KENNETH SEIDL, II, M. BERT STOREY, THOMAS R. MATHER, EDWARD T. STROM, 304 CONCORD & CUMBERLAND, LLC, MARION M. SIMPSON F/K/A MARION MOORE MCDONALD SIMPSON, KATHY GARDNER, GREGORY J. GARDNER, FREEMAN WATERFRONT PROPERTIES, LLC, JOHN FREEMAN, JO-ANN COOPER, BETTY Y. SEGAL, ROBERT M. LEVIN AND BONITA K. LEVIN, DONALD D. LEONARD, BETTY L. BEATTY, MATTELLEN, LLC, AND THOMAS R. DEBNAM, Trustee of the Trust Agreement of Thomas R. Debnam,<br><br>Defendants. | Case No.: 2016-CP-10-2955<br><br>**AFFIDAVIT OF JOHN GAMBLE** |

PERSONALLY appeared before me, JOHN GAMBLE, who states as follows:

1. My name is John Gamble. I have been a process server in the Charleston area for 35 years.

2. In June 2016, was hired by Andrew K. Epting, Jr. LLC to serve process on unit owners at 175 Concord Street, Charleston, 29401.

3. I was given the door access code to the building and, on June 22, 2016, I was able to enter the building and serve several of the defendants. I was not able to serve the majority of the defendants at that time.

4. The owners I served indicated they were aware of the action and were expecting to be served with the same.

5. The next time I attempted to enter the building to serve defendants, the door access code had been changed so I could not get into the building. No one would let me into the building. In my opinion the code was changed to help remaining defendants avoid service.

6. Further affiant sayeth naught.

JOHN GAMBLE

SWORN to before me this 22
day of May, 2020.

Notary Public for South Carolina
My Commission Expires: 4.26.28



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# EXHIBIT L

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**IN THE MATTER OF THE ARBITRATION BETWEEN:**

**Civil Action No. 2016-CP-10-2955**

| | |
|---|---|
| TCC OF CHARLESTON, INC. | ) |
| | ) |
| Plaintiff, | ) |
| | ) |
| v. | ) |
| | ) |
| CONCORD & CUMBERLAND HPR, | ) |
| | ) |
| | ) |
| Defendant. | ) |
| | ) |

**Panel Order No. 4: Reasoned Award**

## I. Introduction

This matter is before the undersigned pursuant to the Order of Judge Roger M. Young, Sr., dated December 30, 2016, to stay Case No. 2016-CP-10-2955 (the "Lawsuit") and compel arbitration of a dispute between TCC of Charleston, Inc. ("TCC") and Concord & Cumberland HPR ("C&C") (cumulatively the "Parties"), the Arbitration Agreement entered into between the Parties on January 18, 2017, and appointment in accordance with S.C. Code Ann. § 15-48-30.

Generally, this matter involves a construction project at a condominium building located at 175 Concord Street in Charleston, South Carolina (the "Project"). The dispute is one over payment for work performed by TCC. In short, after achieving substantial completion of the Project, TCC claimed entitlement to its alleged total costs incurred for the Project and seeks payment of the difference between that amount and the amount previously invoiced to and paid by C&C. C&C denies TCC's claim of entitlement as (1) invalid under the applicable contract, (2) inequitable, and (3) impermissibly speculative in the nature of and quantification of TCC's alleged damages.

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Further, based on the law noted herein, to sustain a claim for its total costs, TCC must show that they are not responsible for any of the additional costs. That is an express element that must be met in the jurisdictions that allow total cost claims. Here, TCC has admitted that they cannot differentiate in their total cost ledger what amounts were the result of Salem delays or poor quality of work. This alone is fatal to TCC's claim. Additionally, there is nothing about the nature of the claimed losses that makes it impossible or highly impractical for TCC to have determined what costs are attributable to particular instances of delay, there is significant doubt that TCC's bid was realistic given its own analysis of Salem's bid, and there is significant doubt that TCC's actual costs were reasonable, especially in light of the cost basis for window preparation and installation work.

## V. Conclusion and Reasoned Award

After consideration of the Findings of Fact and Conclusions of Law set forth above, we award TCC of Charleston, Inc. the retainage of $305,565.75 upon its submission of a revised Pay Application 18 to C&C.

The fees and expenses of the Panel are to be borne by TCC. As both parties have deposited $41,250.00 with the panel prior to commencement of the arbitration hearing, the award shall be reduced by $41,250.00 to equal $264,315.76, and TCC shall satisfy any remaining amounts due with the Panel.

Further, the Panel agrees to entertain a motion by C&C for payment by TCC of its attorney's fees and expenses incurred in this matter if submitted with 10 days of issuance of this Reasoned Award.

Once determined with finality, the Award shall be paid within 90 days hereof.

This Award is in full settlement of all claims submitted to this Arbitration. All claims not expressly granted herein are hereby denied.

| | | |
|---|---|---|
| STATE OF SOUTH CAROLINA | ) | IN THE COURT OF COMMON PLEAS |
| | ) | |
| COUNTY OF CHARLESTON | ) | FOR THE NINTH JUDICIAL CIRCUIT |
| TCC OF CHARLESTON, INC., | ) | CASE NO. 2016-CP-10-2955 |
| | ) | |
| Plaintiff, | ) | |
| | ) | |
| vs. | ) | |
| | ) | |
| CONCORD AND CUMERLAND, LLC., CONCORD & CUMBERLAND HPR, LEO HALL, DIANE HALL, BEA H. SMITH, MARGARET C. POPE, WILLIAM D. FOSTER, JR., GENE G. FOSTER, MATTISO J.MACGILLNRAY, TERESA MACGILLIVRAY, PAMELA L.VAUGHN, NELIA A. PATRICIO, Trustee of the Nelia A. Patricio Revocable Trust Agreement, STUART D. REEVES, EDWARD T. STROM, BARBARA K.HENDERSON, JAMES R. CLARICE, PAUL A. BRIM, ROBERT K. SEIDL, JENNIFER M. SEIDL, ROBERT KENNETH SEIDL,II, M. BERT STOREY, THOMAS R. MATHER, EDWARD T. STROM, 304 CONCORD & CUMBERLAND, LLC, MARION M. SIMSPON F/KA MARION MOORE MCDONALD SIMPSON, KATHY GARDNER, GREGORY J. GARDNER, FREEMAN WATERFRONT PROPERTIES, LLC, JO-ANN COOPER, BETTY Y. SEGAL, ROBERT M. LEVIN AND BONITA K. LEVIN, DONALD D. LEONARD, BETTY L. BEATTY, MATTELLEN, LLC, AND THOMAS R. DEBNAM, Trustee of the Trust Agreement of Thomas R. Debnam, | ) | **DEFENDANT BETTY L. BEATTY'S REPLY TO TCC OF CHARLESTON'S MEMORANDUM IN OPPOSITION TO MOTION FOR SUMMARY JUDGMENT** |
| | ) | |
| Defendants. | ) | |
| | ) | |

TO: JAAN B. RANNIK, ESQUIRE, ATTORNEY FOR PLAINTIFF:

Betty L. Beatty ("Beatty"), by and through the undersigned counsel, responds as follows to the Plaintiff's Memorandum in Opposition to Pending Motions for Summary Judgment:

**A. TCC cannot change the date of substantial completion to retroactively make service timely.**

Beatty's Motion for Summary Judgment is straightforward. TCC failed to serve its notice of lien upon her within 90 days of March 17, 2016. Its affidavit of service reflects that Beatty was served on July 27, 2016. TCC has submitted to this Court four (4) sworn statements attesting that "[T]he last date of furnishing materials and services was March 17, 2016." *See* Verified Complaint filed May 19, 2016; Sworn Statement of Account dated May 19, 2016; Verified Amended Complaint filed June 10, 2016; and Sworn Statement of Account dated June 10, 2016.

TCC now seeks to amend its complaint to, *inter alia*, remove the allegations in paragraph 10 of the Amended Complaint, verified by TCC's president under oath, that the last date of furnishing materials and services was March 17, 2016. TCC arbitrated this matter and the panel or arbitrators found that substantial completion occurred one week earlier, on March 8, 2016.

TCC sought and was awarded pre-judgment interest based upon that date. *See* TCC's Motion for Pre-judgment interest, attached hereto as Exhibit "A". In that motion, TCC sought interest on its award from March 8, 2016. The Arbitration Panel, in its Corrected Arbitration Award, *see* Exhibit "C" to Concord and Cumberland's Motion for Summary Judgment, found that TCC sought pre-judgment interest from March 8, 2016, and that substantial completion occurred on March 8, 2016. *See* p. 8 of Corrected Award. In her order filed May, 1 2020, Judge Jefferson found at the top of page 3, that "substantial completion occurred on March 8, 2016).

The findings of the arbitrators and Judge Jefferson are the law of this case. *See United States v. U.S. Smelting Ref. & Mining Co.*, 339 U.S. 186, 198, (1950) ("The rule of the law of the case is a rule of practice, based upon sound policy that when an issue is once litigated and

decided, that should be the end of the matter"); *Flexon v. PHC-Jasper, Inc.*, 413 S.C. 561, 573, 776 S.E.2d 397, 404 (S.C. Ct. App. 2015) ("Law of the case rules have developed to maintain consistency and avoid reconsideration of matters once decided during the course of a single continuing lawsuit.") (citations omitted). Further, TCC is judicially estopped to deny that March 8, 2016 or March 17, 2016, at the very latest, is the date of last service. TCC is estopped to deny its four (4) sworn statements field in this Court in which it attested, under penalty of perjury, that March 17, 2016, was the last day materials or services were provided. *Cothran v. Brown*, 357 S.C. 210, 215, 592 S.E.2d 629, 632 (S.C. 2004) ("Judicial estoppel is an equitable concept that prevents a litigant from asserting a position inconsistent with, or in conflict with, one the litigant has previously asserted in the same or related proceeding.").

TCC seeks to refer this matter to the Master-in-Equity. There is no motion for an order of reference pending before the Court, nor is reference of this law case proper. A Mechanic's Lien is an action at law. *Butler Contracting, Inc. v. Court St., LLC*, 369 S.C. 121, 127, 631 S.E.2d 252, 255 (S.C. 2006) ("A proceeding for the enforcement of a statutory lien, such as a mechanic's lien, is legal in nature.") (citing *Willard v. Finch,* 123 S.C. 56, 116 S.E. 96 (S.C. 1923); *Stoudenmire Heating & Air Conditioning Co. v. Craig Bldg. Partnership*, 308 S.C. 298, 301, 417 S.E.2d 634, 636 (S.C. Ct. App.1992)). Moreover, the Lien statute specifically refers to trial by jury. S.C. Code Ann. § 29–5–230 ("Every material question of fact arising in the case shall be submitted to a jury, if required by either party. . . ."). Beatty hereby demands trial by jury of all matters so triable.

**B. The Proposed Amended Complaint.**

The proposed Amended Complaint differs from the Second Amended complaint in a few key ways:

The allegations regarding the last date of supplying material or services have been removed from the First Cause of Action for Mechanic's Lien Foreclosure in the Second Amended Complaint. The Proposed Amended Complaint contradicts TCC's prior sworn testimony in the form of two (2) verified complaints and two (2) sworn statements of account. For purposes of summary judgment, a verified complaint is the same as an affidavit. *Dawkins v. Fields*, 354 S.C. 58, 67, 580 S.E.2d 433, 438–39 (S.C. 2003); *see also Al-Mujahidin v. Franklin*, No. CV 9:15-1978-BHH, 2016 WL 3440602 (D.S.C. June 23, 2016) ("Plaintiff cannot save his claim from summary judgment by submitting a sworn statement that contradicts not only *his previous sworn allegations in his verified Complaint*, but also his own exhibits attached to his affidavit . . . .") (emphasis added) (citing *Bickerstaff v. Vassar College*, 196 F.3d 435, 455 (2d Cir. 1999) ("It is beyond cavil that a party may not create an issue of fact by submitting an affidavit in opposition to a summary judgment motion that . . . contradicts affiant's previous ... testimony.") (internal quotations and citations omitted); *Kennedy v. Allied Mutual Ins. Co.,* 952 F.2d 262, 266 (9th Cir. 1991) (party cannot create issue of fact by contradicting prior sworn testimony)).

The Second Cause of Action for breach of contract previously simply alleged that the Defendants breached their contracts with TCC. The proposed amendment recognizes that TCC had no contract with Beatty and alleges that Beatty is estopped to deny she is obligated to Plaintiff as a result of the arbitration award.

The Second Cause of Action fails to state facts to constitute a claim for breach of contract, as the Plaintiff alleges no contract between Beatty and TCC. The elements of breach of contract are as follows: (1) the existence of the contract, (2) its breach, and (3) the damages caused by such breach. *Fuller v. E. Fire & Cas. Ins. Co.*, 240 S.C. 75, 89, 124 S.E.2d 602, 610 (S.C. 1962). TCC has not proposed any allegations to establish that there was a contract between Beatty and TCC.

TCC has not proposed any allegations to establish that Beatty breached the aforementioned non-existent contract**.** TCC has not proposed any allegations to establish that Beatty's breach has caused damages.

Likewise, TCC has alleged nothing to support a claim for estoppel against Beatty. There is no allegation that she has taken or seeks to take a position inconsistent with any position she has previously taken in this action.

The Third Cause of Action formerly sought recovery for Quantum Meruit. The proposed amendment now seeks to recover in "Equity". It states no claim cognizable under the laws of South Carolina.

The Plaintiff is estopped to deny its repeated sworn testimony before this Court attesting that the last date of service was March 17, 2015.

The Plaintiff is estopped to deny that the date of substantial completion was March 8, 2016, as the arbitrators and Judge Jefferson have found. TCC is estopped to deny its four (4) previous sworn statements in this action identifying March 17, 2016, as the last date it supplied materials or rendered services for this project. Beatty was untimely served with the lien notice on June 22, 2016. Therefore, the lien dissolved, and she is entitled to her attorney's fees incurred in defending a suit upon a dissolved lien.

YOUNG CLEMENT RIVERS, LLP

By: s/ Edward D. Buckley, Jr.
Edward D. Buckley, Jr. (SC Bar No. 994)
Jason A. Daigle (SC Bar No. 73308)
W. Siau Barr, Jr. (SC Bar No. 76353)
P.O. Box 993
Charleston, SC 29402
(843) 720-5436

ebuckley@ycrlaw.com
jdaigle@ycrlaw.com
sbar@ycrlaw.com
Attorneys for Defendant Betty L. Beatty

Charleston, South Carolina

Dated: May 27, 2020.

# EXHIBIT A

**IN THE MATTER OF THE ARBITRATION BETWEEN:**

| | | |
|---|---|---|
| TCC OF CHARLESTON, INC.<br><br>Plaintiff,<br><br>v.<br><br>CONCORD & CUMBERLAND HPR,<br><br>Defendant. | ) | **TCC OF CHARLESTON'S MOTION FOR PREJUDGMENT INTEREST, COSTS OF ARBITRATION, AND ATTORNEYS' FEES AND COSTS**<br><br>**(TCC'S MOTION TO PROVIDE FEES AND COSTS BILLING *IN CAMERA*)** |

This matter came before the Panel for a hearing beginning on January 21, 2019 and concluding on January 24. After consideration of the evidence, the Panel awarded TCC of Charleston, Inc. ("TCC") $2,023,074.45 for all claims asserted in this proceeding and retained jurisdiction, consistent with the Parties' arbitration agreement, to hear motions for prejudgment interest, the cost of the arbitration, and attorneys' fees and costs.

## I. PREJUDGMENT INTEREST

The Parties' agreement specified that "[p]ayments due and unpaid under the Contract shall bear interest from the date payment is due at the rate stated below," and that the specified rate would be "[p]rime as published in the Wall Street Journal." Contract § 15.2 (AIA 102-2007). Pursuant to SC law, interest is compounded annually. This yields a total of $287,647.79 in prejudgment interest through April 23, 2019.[1] *See* **Exh. 1** (affidavit of Morgan McKnight).

The Panel found due $2,023,074.25.[2] TCC is due $287,674.79 in prejudgment interest.

[1] Interest is accruing at $345.80 per day based on the current rate of 5.5% and a compounded balance of $2,294,842.32. *See* **Exh. 1** (affidavit of Morgan McKnight).

[2] For ease, TCC has used the date of substantial completion, recognizing that between substantial completion on March 8 and the October billing an additional $442,099.82 was added. This said, PCO 83 (in the amount of $434,620.00) was due in June 2015. To request interest on this PCO

## II. COSTS OF THE ARBITRATION

The Parties' arbitration agreement provides for an award of the costs of the arbitration and attorneys' fees pursuant to the mechanics' lien laws. **Exh. 2** (arbitration agreement). TCC's arbitration costs total $84,493.85 and fall into two categories — those paid directly by TCC, and those paid by TCC's counsel and reimbursed by TCC.

Costs paid directly by TCC totaled $57,176.34 and included payments to the AAA, fees to the Panel, mediation fees, and payments directly to ProLegal for several document productions and Cloud storage fees. *See* **Exh. 1** (affidavit of Morgan McKnight).

The costs reimbursed by TCC totaled $27,317.51 and fit into four categories – electronic discovery ($11,069.51), deposition transcripts ($5,941.95), service of process ($2,807.50), and miscellaneous (filing fees, copies, etc.) ($7,765.55). *See* **Exh. 3** (affidavit of Jaan G. Rannik).

For the reasons stated in the affidavits of John David Griffith and Jaan G. Rannik, **Exhs. 3 & 4**, TCC requests the Panel award its costs of $84,493.85.

## III. ATTORNEYS' FEES AND COSTS

Pursuant to the Parties' arbitration agreement (**Exh. 2**), "the Arbitrators shall assess, in whole or in part, their fees and expenses incurred in connection with Arbitration as part of their award in accordance with S.C. Code § 15-48-110 *and the fee provision contained in the Mechanic's Lien Laws*." Indeed, among TCC's claims was the foreclosure of the amended mechanics' lien filed June 10, 2016 (first filed June 6, 2018) pursuant to the mechanics' lien law, S.C. Code Ann. § 29-5-10 *et seq*. Section 29-5-10(b) specifies the mechanism for the award of attorneys' fees relating to this cause of action.

---

and other PCOs from their due dates more than accommodate the additional $400,000 billed in October 2016.

Under that section, attorneys' fees go to the prevailing party, which is specified to mean the party whose offer of settlement is closer to the ultimate verdict. When no offer of settlement is made under the statute,[3] the defendant's offer is considered to be zero and the plaintiff's offer is considered to be the amount prayed for in the pleadings. Here, no offer was made under the statute by either party. Accordingly, the HPR's offer is considered to be $0.00 and TCC's offer is considered to be the $2,385,503.57 requested in TCC's amended mechanic's lien.

Because TCC's offer is closer to the verdict of $2,023,074.45 awarded by the Panel, it is the prevailing party under the mechanics' lien statute and should be awarded its attorneys' fees as set forth in section 5 of the parties' agreement to arbitrate.

As background on the arbitration agreement, the Parties agreed that arbitration should occur only with the HPR (rather than with all of the individual unit owners as well) to reduce the number of lawyers, the time, and the expense. This was done, however, with the proviso that attorneys' fees would be nonetheless available pursuant to the mechanics' lien laws, which is why that language was included in the agreement.

### A. The Amount of the Fees and Request for *in Camera* Review

TCC incurred attorneys' fees of $899,563 between the date the lien was filed and the date TCC submitted its proposed order; of that amount, TCC has paid $697,257 to date. *See* **Exh. 5** (affidavit of Andrew K. Epting, Jr.). If the Panel will approve an *in camera* review, TCC will submit its invoices to the Panel.

In order to cogently present its case to the Panel, TCC's attorneys were required to reconstruct what occurred on the job; as agreed by the Parties and the witnesses, this job was

[3] Any such offer must explicitly "state that it is made under this section." S.C. Code Ann § 29-5-10(b).

convoluted to an unrivaled degree, and the fees reflect the amount of work required. Myriad discovery issues also contributed to the fees. *See* **Exh. 3** (affidavit of Jaan G. Rannik).

Pursuant to the mechanics' lien laws and the Parties' arbitration agreement incorporating the same, TCC requests the Panel award it $899,563 in attorneys' fees. For reference, a 40% contingency on this recovery would total approximately $810,000.

## IV. PROJECT INSURANCE

TCC obtained insurance for the project, benefitting TCC and the owner. The premiums for that insurance were $25 per $1,000 of the contract value. The project insurance was originally part of the contract; but, in order to save on license and permit expenses, which are calculated on the basis of the costs of a project, the HPR requested to take the project insurance out of the contract and pay it directly. This was accomplished by a change order.

In October 2015, the premiums increased based upon an increase in the anticipated contract value ($6,501,813) and an extension of the completion date; this increase was paid by the HPR.

Now, pursuant to the Panel's award, the final contract value is $7,594,592.69, a difference of $1,092,779.69. This increase in the contract amount requires payment of additional premiums, the amount of which was not possible to calculate prior to the Panel's ruling. Based on the Panel's award and the increase in the contract amount by $1,092,779.69 over the October 2015 estimate, the resulting increase in the premium would be $24,575. The undersigned have asked the insurance company for confirmation and hope to have this next week.

## V. CONCLUSION

TCC requests the Panel award it $899,563 in attorneys' fees, $84,493.85 in arbitration costs, $287,674.79 in prejudgment interest through April 23, 2019 (plus $345.80 per day going forward), and $24,575 in increased premiums (subject to confirmation).

In addition, anticipating that the HPR may appeal the Panel's ruling and award, including any award of TCC's attorneys' fees and that additional fees will be incurred in the course of any appeal of the Panel's ruling, TCC requests the Panel retain jurisdiction to award further fees and costs as necessary in the future.

Finally, TCC notes that upon confirmation the interest rate will be the post-judgment rate.

Respectfully submitted,

**ANDREW K. EPTING, JR., LLC**

This 26th day of April, 2019
Charleston, SC

Andrew K. Epting, Jr., Esquire
Jaan G. Rannik, Esquire
46A State Street
Charleston, South Carolina 29401
843-377-1871
843-377-1310 (fax)
ake@epting-law.com
jgr@epting-law.com

*ATTORNEYS FOR TCC OF CHARLESTON, INC.*

**IN THE MATTER OF THE ARBITRATION BETWEEN:**

| | | |
|---|---|---|
| TCC OF CHARLESTON, INC.<br><br>Plaintiff,<br><br>v.<br><br>CONCORD & CUMBERLAND HPR,<br><br>Defendant. | ) | **AFFIDAVIT OF MORGAN MCKNIGHT** |

PERSONALLY appeared before me, MORGAN MCKNIGHT, who states as follows:

1. My name is Morgan McKnight, and I am the Accounting and Office Manager of TCC of Charleston, Inc.

2. The Wall Street Journal prime rate from March 8, 2016, to present is as follows:

| | |
|---|---|
| March 8, 2016 | 3.50% |
| December 15, 2016 | 3.75% |
| March 16, 2017 | 4.00 % |
| June 15, 2017 | 4.25% |
| December 14, 2017 | 4.50% |
| March 22, 2018 | 4.75% |
| June 14, 2018 | 5.00% |
| September 27, 2018 | 5.25% |
| December 20, 2018 | 5.50% |

3. Beginning with the sum awarded by the Panel as due of $2,023,074.25 and using the rates as they changed over time and compounding on a yearly basis:



EXHIBIT 1

Blumberg No. 5116

| CONCORD & CUMBERLAND INTEREST CALCULATION | | | | | |
|---|---|---|---|---|---|
| | | | | | |
| **Date of Published Rate** | **WSJ Prime Rate** | **Daily Periodic Rate** | **Days in Billing Period** | **Interest** | **Compounding Balance** |
| 3/8/2016 | 3.50% | | | | $2,023,074.25 |
| 12/15/2016 | 3.50% | 0.0096% | 282 | $54,706.14 | |
| 3/8/2017 | 3.75% | 0.0103% | 83 | $17,251.56 | $2,095,031.95 |
| 3/16/2017 | 3.75% | 0.0103% | 8 | $1,721.94 | |
| 6/15/2017 | 4.00% | 0.0110% | 91 | $20,892.92 | |
| 12/14/2017 | 4.25% | 0.0116% | 182 | $44,397.46 | |
| 3/8/2018 | 4.50% | 0.0123% | 84 | $21,696.50 | $2,183,740.77 |
| 3/22/2018 | 4.50% | 0.0123% | 14 | $3,769.20 | |
| 6/14/2018 | 4.75% | 0.0130% | 84 | $23,871.58 | |
| 9/27/2018 | 5.00% | 0.0137% | 105 | $31,409.97 | |
| 12/20/2018 | 5.25% | 0.0144% | 84 | $26,384.37 | |
| 3/8/2019 | 5.50% | 0.0151% | 78 | $25,666.43 | $2,294,842.32 |
| 4/23/2019 | 5.50% | 0.0151% | 46 | $15,906.72 | |
| | | | **Total:** | **$287,674.79** | |

4. Interest through April 23, 2019, totals $287,674.79.

5. TCC has directly paid $57,176.34 in costs of the arbitration; an additional $27,317.51 was paid by counsel and reimbursed by TCC. TCC's total costs were $84,493.85.

SONIA MEISENBACH NOTARY PUBLIC MY COMMISSION EXPIRES 6/16/2027 SOUTH CAROLINA

Morgan McKnight

MORGAN MCKNIGHT

SWORN to before me this 25th day of April, 2019.

Sonia Meisenbach (L.S.)

NOTARY PUBLIC FOR SOUTH CAROLINA

My Commission Expires: 6/16/27

ELECTRONICALLY FILED - 2020 May 27 11:56 AM - CHARLESTON - COMMON PLEAS - CASE#2016CP1002955

| | |
|---|---|
| STATE OF SOUTH CAROLINA<br>COUNTY OF CHARLESTON | ) IN THE COURT OF COMMON PLEAS<br>) FOR THE NINTH JUDICIAL CIRCUIT<br>) CASE NO. 2016-CP-10-2955 |
| TCC OF CHARLESTON, INC.<br><br>Plaintiff,<br>vs.<br><br>CONCORD AND CUMERLAND, LLC., CONCORD & CUMBERLAND HPR, LEO HALL, DIANE HALL, BEA H. SMITH, MARGARET C. POPE, WILLIAM D. FOSTER, JR., GENE G. FOSTER, MATTISON J. MACGILLIVRAY, TERESA MACGILLIVRAY, PAMELA L. VAUGHN, NELIA A. PATRICIO, Trustee of the Nelia A. Patricio Revocable Trust Agreement, STUART D. REEVES, EDWARD T. STROM, BARBARA K. HENDERSON, JAMES R. CLARKE, PAUL A. BRIM, ROBERT K. SEIDL, JENNIFER M. SEIDL, ROBERT KENNETH SEIDL, II, M. BERT STOREY, THOMAS R. MATHER, EDWARD T. STROM, 304 CONCORD & CUMBERLAND, LLC, MARION M. SIMPSON F/K/A MARION MOORE MCDONALD SIMPSON, KATHY GARDNER, GREGORY J. GARDNER, FREEMAN WATERFRONT PROPERTIES, LLC, JO-ANN COOPER, BETTY Y. SEGAL, ROBERT M. LEVIN AND BONITA K. LEVIN, DONALD D. LEONARD, BETTY L. BEATTY, MATTELLEN, LLC, AND THOMAS R. DEBNAM, Trustee of the Trust Agreement of Thomas R. Debnam,<br><br>Defendants. | **CONCORD & CUMBERLAND HPR'S REPLY TO TCC OF CHARLESTON, INC.'S OBJECTION TO PROCEEDING, MEMORANDUM IN OPPOSITION TO PENDING MOTIONS FOR SUMMARY JUDGMENT, AND RESPONSE TO MOTION TO DEPOSIT FUNDS, AND OPPOSITION TO TCC'S MOTION TO AMEND** |

Concord & Cumberland HPR ("HPR") hereby submits this Reply to TCC of Charleston, Inc.'s ("TCC") Objection to Proceeding, Memorandum in Opposition to Pending Motions for

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Summary Judgment, and Response to Motion to Deposit Funds, and Opposition to TCC's Motion to Amend, as follows:

## I. THIS COURT HAS JURISDICTION TO DECIDE THE PENDING MOTIONS

TCC's argument that jurisdiction of a mechanic's lien foreclosure action lies only with the master-in-equity is simply wrong. The mechanic's lien statute provides: "Every material question of fact arising in the case shall be submitted *to a jury*, if required by either party or deemed proper by the court, and the trial shall be had upon a question stated or an issue framed or otherwise, as the court may order." S.C. Code § 29-5-230 (emphasis added). Further, Rule 53, SCRCP, indicates that a Court "may" refer some or all of an action to a master. It is a permissive rule, not mandatory. Where individual homeowner defendants have potential affirmative defenses and counterclaims that may require a jury trial, reference to the master at this stage would be premature. Regardless, this Court has jurisdiction to decide the pending motions, per Rule 53, SCRCP.

## II. THE HPR IS ENTITLED TO SUMMARY JUDGMENT AS A MATTER OF LAW

The HPR is seeking summary judgment only as to the foreclosure action TCC asserts against the HPR – as a matter of law. TCC's assertion that it must conduct discovery as to the individual unit owners is not relevant.

The law is clear that a horizontal property regime cannot be encumbered by any lien, and, therefore, cannot be subject to a foreclosure action. The Arbitration Panel ("Panel") already looked at this issue and agreed. Specifically, the Panel stated "S.C. Code Ann. § 27-3[1]-2[3]0 requires that TCC's lien must be filed against the property owners rather than the HPR."[1] (Exhibit C to

[1] TCC has never challenged this finding of the Panel under the procedure set forth at S.C. Code § 15-48-130 or -140, and its ability to do so has expired. Accordingly, the HPR's motion seeks enforcement of the Panel's finding on this issue of law.

ELECTRONICALLY FILED - 2020 May 27 11:56 AM - CHARLESTON - COMMON PLEAS - CASE#2016CP1002955

HPR's Motion for Summary Judgment, Corrected Arbitration Award, p. 6). However, TCC argues that, because the HPR's bylaws set forth duties of the HPR as it relates to contracts entered into by the HPR for the common areas, that the HPR can somehow be encumbered and foreclosed against in court. As indicated in the HPR's motion, the situation proffered by TCC is specifically envisioned by the statute, and the remedy directs liens to be filed only against each unit. Unlike a lien against the entire regime, this statutory structure gives each owner a way to obtain relief, such as paying their fractional share of improvements to the common elements.

Further, the case cited by TCC, Resolution Tr. Corp. v. Eagle Lake & Golf Condos., 310 S.C. 473, 476- 477 (Ct. App. 1993), reinforces the HPR's arguments – not TCC's - by holding:

> The first sentence of § 27–31–230(a) provides "**No lien arising subsequent to recording the master deed ... shall be effective against the property**." Here, appellant's mortgage was recorded approximately nineteen months after the master deed. A mortgage is a lien on real property. S.C. Code Ann. § 29–1–10 (1991); see, e.g., Weatherly v. Medlin, 141 S.C. 290, 139 S.E. 633 (1927). Words used in a statute should be given their plain and ordinary meaning. First Baptist Church v. City of Mauldin, 308 S.C. 226, 417 S.E.2d 592 (1992); Citizens for Lee County v. Lee County, 308 S.C. 23, 416 S.E.2d 641 (1992). **Appellant's mortgage is ineffective under the statute's plain language**.

(emphasis added). Resolution dealt with a mortgage lien. This case involves a mechanic's lien. Under the statute, the outcome is the same. The plain language of the statute does not allow any lien against a regime. Accordingly, the Court should grant summary judgment to the HPR on TCC's lien foreclosure action against it as a matter of law.

## III. THE HPR'S MOTION TO DEPOSIT FUNDS SHOULD STOP INTEREST FROM ACCRUING DURING APPEAL

The case law cited by TCC, Renaissance Enterprises v. Ocean Resorts, Inc., 334 S.C. 324, 327 (1999), is wholly distinguishable from and does not apply to the facts of this case. In Renaissance, the issue was whether the Court should stop the accrual of interest during

ELECTRONICALLY FILED - 2020 May 27 11:56 AM - CHARLESTON - COMMON PLEAS - CASE#2016CP1002955

supplemental proceedings instituted to enforce a final judgment. That situation is starkly different than the current situation for two reasons – (1) Renaissance did not address appeals, and (2) a final judgment was already entered.

As the HPR has already briefed, but states again here for the Court's convenience, in Duval v. Heritage Life Ins. Co., 339 S.C. 616, 529 S.E.2d 566 (Ct. App. 2000), the Court of Appeals stated:

> In Russo v. Sutton, [317 S.C. 441, 454 S.E. 2d 895 (1995)], the supreme court held a judgment debtor's deposit of funds into court pursuant to Rule 67, SCRCP, pending the debtor's own appeal stops the accrual of interest on the judgment. The rationale was that "such a rule encourages the debtor to pay the judgment and assures the judgment creditor the funds will be available." [Id. at 442, 454 S.E. 2d at 896]. This court has followed that rule. [See, e.g.; Small v. Pioneer Machinery, Inc., 330 S.C. 62, 65, 496 S.E. 2d 884, 885 (Ct. App. 1998) ("A judgment debtor's deposit of funds into the court pending his own appeal prevents further accrual of interest on the judgment.")].

(footnotes inserted in brackets in quotation). Thus, as outlined by Duval and Russo, Rule 67, SCRCP, allows money to be paid into Court, pending appeal, for the benefit of both parties. The benefit to the judgment debtor is that it stops interest from accruing while the debtor seeks an appeal. For the judgment creditor, it provides security for the amount initially awarded in the event the judgment debtor's appeal is unsuccessful. Importantly, this procedure obviates the future need for supplemental proceedings to execute on a final judgment – the very context out of which Renaissance arose. In short, without this symbiotic relationship explained in Duval and Russo, Rule 67 would be meaningless and a judgment debtor would have no incentive to utilize the rule.

Regardless as to whether TCC or the HPR is correct on the timing of filing an appeal, there is no final judgment and an appeal is likely forthcoming. As such, this Court should grant the HPR's motion to deposit funds and specify that the accrual of interest is stopped.

ELECTRONICALLY FILED - 2020 May 27 11:56 AM - CHARLESTON - COMMON PLEAS - CASE#2016CP1002955

## IV. TCC'S MOTION TO AMEND SHOULD BE DENIED

First, TCC's motion to amend should be denied as it is futile. See Jennings v. Jennings, 389 S.C. 190, 209, 697 S.E.2d 671, 681 (Ct. App. 2010) ("Although leave to amend should generally be 'freely given,' ... it may be denied where the proposed amendment would be futile."), rev'd on other grounds, 401 S.C. 1, 736 S.E.2d 242 (2012). For instance, TCC seeks to assert a cause of action for "Equity." Of course, no such cause of actions actually exists. Nevertheless, TCC appears to assert a third path to recover attorneys' fees from the HPR. "In South Carolina, the authority to award attorney's fees can come only from a statute or be provided for in the language of a contract. There is no common law right to recover attorney's fees." Harris–Jenkins v. Nissan Car Mart, Inc., 348 S.C. 171, 176, 557 S.E.2d 708, 710 (Ct. App. 2001) (citing Jackson v. Speed, 326 S.C. 289, 486 S.E.2d 750 (1997); American Fed. Bank, FSB v. Number One Main Joint Venture, 321 S.C. 169, 467 S.E.2d 439 (1996); Blumberg v. Nealco, Inc., 310 S.C. 492, 427 S.E.2d 659 (1993); Baron Data Sys., Inc. v. Loter, 297 S.C. 382, 377 S.E.2d 296 (1989); Dowaliby v. Chambless, 344 S.C. 558, 544 S.E.2d 646 (Ct. App. 2001); Harvey v. South Carolina Dep't of Corrections, 338 S.C. 500, 527 S.E.2d 765 (Ct. App. 2000); Global Protection Corp. v. Halbersberg, 332 S.C. 149, 503 S.E.2d 483 (Ct. App. 1998); Prevatte v. Asbury Arms, 302 S.C. 413, 396 S.E.2d 642 (Ct. App. 1990)). Regarding this issue, the Panel has already made a finding:

> The construction contract between TCC and HPR does not contain a prevailing party attorney fee provision. No statutory authority has been provided to the Panel as a basis to award attorney fees.

(Corrected Arbitration Award, p. 7). This Court should not allow TCC to create a new cause of action to circumvent the Panel's finding on this matter and create a novel path for attorneys' fees.

Second, the amended complaint asserts an estoppel claim against the unit owners, labeled as a breach of contract claim. Upon inspection, TCC fails to allege even the basic elements of a

ELECTRONICALLY FILED - 2020 May 27 11:56 AM - CHARLESTON - COMMON PLEAS - CASE#2016CP1002955

breach of contract claim and is simply seeking to foreclose each individual unit owners' rights to assert defenses and counterclaims. The case against the individual unit owners was stayed by Judge Young's Order. The arbitration proceeded as between TCC and the HPR only. Now that the contract amount between TCC and the HPR has been determined subject to the HPR's right to appeal the result, the actions asserted against the individual property owners, which were expressly stayed by Court Order, can proceed, with each unit owner entitled to their rights and defenses thereto.

One such right and defense relates to the timing requirements to file and serve a mechanic's lien. In its amendment, TCC proposes to delete its alleged date of "final completion" of the construction project, an allegation upon which they proceeded to arbitrate and have obtained an award. TCC is bound to this date of final completion by judicial estoppel and cannot retract it now in order to assert a different date as to the individual unit owners. See Cothran v. Brown, 357 S.C. 210 (2004) (citing Colleton Reg. Hosp. v. MRS Med. Rev. Systs., 866 F. Supp. 896, 900 (D.S.C.1994)) ("Judicial estoppel is an equitable concept that prevents a litigant from asserting a position inconsistent with, or in conflict with, one the litigant has previously asserted in the same or related proceeding."); see also Zimmerman v. Central Union Bank, 194 S.C. 518, 532, 8 S.E.2d 359, 365 (1940) ("[W]here a party assumes a certain position in a legal proceeding, and succeeds in maintaining that position, he may not thereafter, simply because his interests have changed, assume a contrary position."). Accordingly, the motion to amend on this point must be denied.

Third, even if TCC's motion to amend is granted in whole or in part, the HPR's motion for summary judgment as to the foreclosure action is unaffected and ripe, and can and should be decided by this Court.

Respectfully submitted,

WOMBLE BOND DICKINSON (US) LLP

*s/ Cordes Ford*

F. Cordes Ford IV (S.C. Bar No. 71644)
R. Andrew Walden (S.C. Bar No. 101004)
5 Exchange Street (29401)
P.O. Box 999
Charleston, SC 29402
(843) 722-3400
Cordes.Ford@wbd-us.com
Andrew.Walden@wbd-us.com

*Attorneys for Defendant Concord & Cumberland HPR*

May 27, 2020

Charleston, SC

ELECTRONICALLY FILED - 2020 May 27 11:56 AM - CHARLESTON - COMMON PLEAS - CASE#2016CP1002955

ELECTRONICALLY FILED - 2020 Jul 30 3:31 PM - CHARLESTON - COMMON PLEAS - CASE#2016CP1002955

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| **STATE OF SOUTH CAROLINA**<br><br>**COUNTY OF CHARLESTON** | ) | **IN THE COURT OF COMMON PLEAS FOR THE NINTH JUDICIAL CIRCUIT** |
| TCC OF CHARLESTON, INC.<br><br>Plaintiff,<br><br>v.<br><br>CONCORD AND CUMERLAND, LLC., CONCORD & CUMBERLAND HPR, LEO HALL, DIANE HALL, BEA H. SMITH, MARGARET C. POPE, WILLIAM D. FOSTER, JR., GENE G. FOSTER, MATTISON J. MACGILLIVRAY, TERESA MACGILLIVRAY, PAMELA L. VAUGHN, NELIA A. PATRICIO, Trustee of the Nelia A. Patricio Revocable Trust Agreement, STUART D. REEVES, EDWARD T. STROM, BARBARA K. HENDERSON, JAMES R. CLARKE, PAUL A. BRIM, ROBERT K. SEIDL, JENNIFER M. SEIDL, ROBERT KENNETH SEIDL, II, M. BERT STOREY, THOMAS R. MATHER, EDWARD T. STROM, 304 CONCORD & CUMBERLAND, LLC, MARION M. SIMPSON F/K/A MARION MOORE MCDONALD SIMPSON, KATHY GARDNER, GREGORY J. GARDNER, FREEMAN WATERFRONT PROPERTIES, LLC, JO-ANN COOPER, BETTY Y. SEGAL, ROBERT M. LEVIN AND BONITA K. LEVIN, DONALD D. LEONARD, BETTY L. BEATTY, MATTELLEN, LLC, AND THOMAS R. DEBNAM, Trustee of the Trust Agreement of Thomas R. Debnam,<br><br>Defendants. | ) | Case No.: 2016-CP-10-2955<br><br>**TCC OF CHARLESTON, INC.'S MOTION TO CONFIRM ARBITRATION AWARD AND TO STAY GRANTING OF REQUESTED RELIEF** |

Plaintiff TCC of Charleston, Inc. ("TCC") moves for confirmation of the arbitration award entered August 19, 2019 (**Exh. A**) and simultaneously moves to stay confirmation until all

ELECTRONICALLY FILED - 2020 Jul 30 3:31 PM - CHARLESTON - COMMON PLEAS - CASE#2016CP1002955

issues are adjudicated. The award must be confirmed, as this Court previously denied Concord & Cumberland HPR's ("the HPR's") motion to vacate, modify, or correct the arbitration award (**Exh. B**), and thus is required by statute to confirm it. S.C. Code §§ 15-48-130(d) ("If the application to vacate is denied and no motion to modify or correct the award is pending, the court shall confirm the award."), 140(b) (if a motion to modify or correct the award is denied, "the court shall confirm the award as made"); 9 U.S.C. § 9 ("at any time within one year after the award is made any party to the arbitration may apply to the court so specified for an order confirming the award, and thereupon the court must grant such an order unless the award is vacated, modified, or corrected as prescribed in sections 10 and 11 of this title").

TCC moves now, because the Federal Arbitration Act ("FAA") requires that any motion to confirm be filed within one year of the date of the arbitration award, which here was August 19, 2019. 9 U.S.C. § 9. There has been no contention that the FAA applies to or governs this matter; however, to foreclose any argument that the eventual motion to confirm would be untimely, TCC files this motion now and simply requests it not be heard until there is a final adjudication of the issues among the parties.

TCC also moves to confirm under the State Act, as the arbitration award was not vacated, and therefore TCC is entitled to confirmation. TCC requests relief pursuant to this motion not be granted until all proceedings are concluded.

**[signature on following page]**

**Respectfully submitted,**

**EPTING & RANNIK, LLC**

This 30th day of July, 2020
Charleston, SC

/s/ Jaan G. Rannik
Jaan G. Rannik
46A State Street
Charleston, South Carolina 29401
843-377-1871
843-377-1310 (fax)
jgr@epting-law.com

*ATTORNEY FOR TCC OF CHARLESTON, INC.*

ELECTRONICALLY FILED - 2020 Jul 30 3:31 PM - CHARLESTON - COMMON PLEAS - CASE#2016CP1002955

# EXHIBIT A

ELECTRONICALLY FILED - 2020 Jul 30 3:31 PM - CHARLESTON - COMMON PLEAS - CASE#2016CP1002955

ELECTRONICALLY FILED - 2020 Jul 30 3:31 PM - CHARLESTON - COMMON PLEAS - CASE#2016CP1002955

**IN THE MATTER OF THE ARBITRATION BETWEEN**

| | | |
|---|---|---|
| TCC OF CHARLESTON, INC., Plaintiff, | ) | **Civil Action No. 2016-CP-10-2955** |
| v. | ) | **CORRECTED ARBITRATION AWARD** |
| CONCORD & CUMBERLAND HPR, Defendant. | ) | |

This matter comes before the undersigned Arbitration Panel pursuant to Concord & Cumberland HPR's ("HPR") Motion for Change of Award. For the reasons set forth below, HPR's Motion for Change of Award is granted in the following respects. This Corrected Arbitration Award corrects, amends, and supplements this Panel's prior Arbitration Award dated April 16, 2019. The Post Award Order dated July 12, 2019, is withdrawn.

In finding the sum of $2,023,074.45 recoverable by TCC of Charleston, Inc. ("TCC") in the Arbitration Award dated April 16, 2019, the Panel included the amounts in PCO 143 (TCC Exhibit 124), PCO 144R (TCC Exhibit 123), and PCO 146 (TCC Exhibit 125), as part of the recovery to TCC. In calculating interest for the Post Award Order, the Panel mistakenly referred back to Pay Application No. 17, and the sums therein, instead of the above exhibits or TCC Exhibit 128.[1]

[1] Exhibit 128 references PCO 144. However, the value included in TCC Exhibit 128 for PCO 144 is $128,041.00, which is the amount of PCO 144R rather than the value of PCO 144.

ELECTRONICALLY FILED - 2020 Jul 30 3:31 PM - CHARLESTON - COMMON PLEAS - CASE#2016CP1002955

In reviewing HPR's Motion to Correct Award, this Panel also realized it had erroneously included $9,608.00 in the Arbitration Award for the transom door based on PCO 145 (TCC Exhibit 131 and TCC Exhibit 128). The claim for the transom door was withdrawn during the hearings. Accordingly, the Panel's Arbitration Award dated April 16, 2019, should be corrected to deduct the amount of the transom door claim.

**THEREFORE, THE PANEL ISSUES THE FOLLOWING CORRECTED ARITRATION AWARD:**

This matter is before the undersigned pursuant to the Order of Judge Roger M. Young, Sr., dated December 30, 2016, to stay Case No. 2016-CP-10-2955 (the "Lawsuit") and compel arbitration of a dispute between TCC of Charleston, Inc. ("TCC") and Concord & Cumberland HPR ("HPR") (cumulatively the "Parties"), the Arbitration Agreement entered into between the Parties on January 18, 2017 (the "Arbitration Agreement"), and appointment in accordance with S.C. Code Ann. § 15-48-30.

The merits hearing was conducted January 21 - 24, 2019. Each party was represented by counsel and presented exhibits and witness testimony. TCC called as witnesses John David Griffith, Chris Burrell, Ryan Tomberlin, Gary Moore, and Zan Edens. HPR called as witnesses Trey McCraw and Shawn Mellin. At the conclusion of the hearing, the Panel requested that TCC provide a summary or itemization of its damages claim and that each party present proposed Orders. Each side provided a proposed Order on or before March 21, 2019, and the hearing was closed at that time.

Based upon the evidence presented; after careful consideration of all the testimony, exhibits, submissions, arguments of counsel; proposed orders submitted by the parties; and review

ELECTRONICALLY FILED - 2020 Jul 30 3:31 PM - CHARLESTON - COMMON PLEAS - CASE#2016CP1002955

of the applicable law, the Panel makes the following Findings relevant to this proceeding and issues this Corrected Arbitration Award.

**Findings**

On February 27, 2014, HPR contracted with TCC to perform a scope of work at 175 Concord. The contract was cost plus a fee, with a guaranteed maximum price ("GMP") of $3,923,939.00. The contract consisted of an A102 and A201 as modified by the parties. HPR designated Tom Mather as its initial owner's representative and the project architect was Shawn Mellin of Glick Boehm and Associates ("GBA").

The scope of work for the contract was developed by GBA based upon GBA's investigations performed in prior litigation of HPR and the individual unit owners against the original developer, contractor, and subcontractors. Generally, TCC was to declad the building, apply waterproofing, replace the windows, and apply new cladding.

A Notice to Proceed was issued on July 28, 2014. The contract required the work to be substantially complete 306 days after the Notice to Proceed, to-wit: May 30, 2015. Substantial completion actually occurred on March 8, 2016.

It is undisputed that the condition of the building was different than what TCC contemplated when it originally submitted its bid. During the course of the work, at least 134 proposed change orders ("PCOs") were requested by TCC. $1,953,145.00 of the PCOs were paid by HPR, increasing the total contract to $5,877,084.00 as of February 2016. The paid PCOs were paid on a cost-plus basis.

This dispute involves architect approved but unpaid PCOs; architect approved but unpaid retainage; and, remaining unapproved PCOs. TCC is entitled to be paid PCOs 143, 144R, 146, and unpaid retainage. TCC performed additional work outside the original scope of work which

ELECTRONICALLY FILED - 2020 Jul 30 3:31 PM - CHARLESTON - COMMON PLEAS - CASE#2016CP1002955

was not approved and was not paid. TCC was inefficient in its prosecution of some of the additional work and is only entitled to be paid a portion of the remaining unapproved PCOs. The Panel finds based on the testimony of TCC and HPR that the work performed by TCC and its subcontractors was inefficient in the amount of 25% of the remaining unapproved amounts claimed.

**Effect of Conditional Lien Waivers Accompanying Payment Application No. 17 and Prior Payment Applications**

HPR has maintained in its proposed Arbitration Award, its Motion for Reconsideration, and its Motion for Change of Arbitration Award that the Conditional Release and Waiver of Lien executed by TCC and accompanying Payment Application No. 17 which HPR paid, as well as others executed by TCC, bars a significant portion of recovery, "at least $996,180.71", sought by TCC. Credible testimony at the hearing was presented and considered by the Panel that TCC and HPR agreed to address outstanding PCOs and TCC's claims for additional costs at the end of the project.

The Panel finds that TCC provided Conditional Release and Waiver of Liens with each application for payment. Each Conditional Release and Waiver of Lien contained the following:

> The undersigned TCC of Charleston, Inc. in consideration of receipt of payment in the amount of $_____, for materials, labor and services rendered and supplied as of _____ (the date of the period covered by the Payment Application), and does hereby release and waive all claims and liens existing as of _____ (the date of the period covered by the Payment Application), against Concord & Cumberland HPR C/O McAlister Preferred Properties on account of, or in any way resulting from or in connection with construction located at 175 Concord St., Charleston, SC in the County of Charleston, State of South Carolina.

The Panel finds that some of the PCOs and TCC's claims for additional costs were subsequently submitted and paid by HPR which arose and existed as of the date of the execution

ELECTRONICALLY FILED - 2020 Jul 30 3:31 PM - CHARLESTON - COMMON PLEAS - CASE#2016CP1002955

of the Conditional Release and Waiver of Liens. Knowing that TCC had signed Conditional Release and Waiver of Liens, HPR nonetheless agreed to PCOs; signed the Change Orders; and, made payment for claims that may have otherwise been released or barred by the Conditional Release and Waiver of Liens. HPR cannot now claim that the Conditional Release and Waiver of Liens bar TCC's claims.

**Correction of Award**

The corrected total award is based, in part, on the sum of approved and unpaid PCOs in the amounts of $258,799.00 (PCO 143), $128,041.00 (PCO 144R), and $266,168.00 (PCO 146) plus retainage in the amount of $305,565.00 as itemized in TCC Exhibit 161. These sums total $958,573.00. Additionally, a portion of the disputed amount of $1,417,322.87 and a portion of the stone tower is also awarded. However, both parties testified that PCO 145 for the transom door in the amount of $9,608.00 (TCC Exhibit 131) should not be included.

Based on the evidence presented and testimony of both parties, the Panel concludes and finds that the disputed claims and work performed by TCC, including the stone tower had an inefficiency factor of 25 percent (25%) of the amount claimed. TCC is also entitled to receive 8.25 percent (8.25%) for data processing fees and profit on the corrected award. The total award to TCC is calculated as follows:

A. TCC's award is based on the unadjusted sum of $258,799.00 (PCO 143) + $128,041.00 (PCO 144R) + $266,168.00 (PCO 146) + $305,565.00 (Retainage) + $1,417,322.87 (Disputed amount from Exhibit 161) + $32,540.00 (Stone Wall) = $2,408,435.87.

B. Less the disputed unpaid PCOs by 25%, including 8.25% profit and data processing on the 25% deduction due to TCC's inefficiencies.

$1,417,322.87 – ($1,417,322.87 x 25%) (1.0825) = $1,033,759.87. The inefficiency adjustment is $383,563.00 including O&P and data processing.

ELECTRONICALLY FILED - 2020 Jul 30 3:31 PM - CHARLESTON - COMMON PLEAS - CASE#2016CP1002955

C. The stone tower adjustment is $32,540.00 – ($32,540.00 x 25%) (1.0825) = $23,733.86. NOTE: The inefficiency adjustment is $8,806.14 including O&P and data processing.

D. Calculated Corrected Award:

| | |
|---|---|
| $958,573.00 | Approved and unpaid PCOs excluding transom door |
| $1,033,759.87 | Disputed amount from Exhibit 161 with inefficiency deduction |
| $23,733.86 | Adjusted stone tower with inefficiency deduction |
| $2,016,066.73 | Corrected Award |

E. The corrected total award to TCC with all adjustments exclusive of interest and fees and excluding counsel fees incurred in the conduct of the arbitration is $2,016,066.73.

**Attorney Fees**

Litigants are not entitled to recover attorney fees absent a written agreement to do so or statutory authority allowing for the recovery of attorney fees. The Order of Judge Roger M. Young, Sr., dated December 30, 2016, provides in pertinent part "the parties have consented to an arbitration of the dispute between Plaintiffs and Defendant CONCORD & CUMBERLAND HPR ("Regime") and stay of Plaintiffs (*sic*) foreclosure request as to the remaining Defendants." Section 5 of the Arbitration Agreement between TCC and HPR states as follows:

> 5. *Fees and Expenses of Arbitrators* - All fees and expenses incurred and charged by the Arbitrators prior to the hearing shall be borne equally between the Parties, with Trident bearing one-half and the HPR bearing one-half. However, *the Arbitrators shall assess, in whole or in part, their fees and expenses incurred* in connection with the Arbitration as a part of their award in accordance with S.C. Code Ann. § 15-48-110 and the fee provision contained in the Mechanic's Lien Laws. *(emphasis added).*

S.C. Code Ann. § 15-48-110 grants to an arbitrator limited jurisdiction to award "the arbitrator's expenses, and fees, together with other expenses." S.C. Code Ann. § 27-3-20 requires that TCC's lien must be filed against the property owners rather than the HPR. Accordingly, the language in Section 5 of the Arbitration Agreement mandates that this Panel award "their fees and

ELECTRONICALLY FILED - 2020 Jul 30 3:31 PM - CHARLESTON - COMMON PLEAS - CASE#2016CP1002955

expenses incurred in connection with the Arbitration … in accordance with" the prevailing party fee provision "in the Mechanic's Lien Laws."

The construction contract between TCC and HPR does not contain a prevailing party attorney fee provision. No statutory authority has been provided to the Panel as a basis to award attorney fees. Accordingly, this Panel finds it is without jurisdiction to entertain a Motion for Attorney Fees. Both TCC's and HPR's requests for attorney fees are denied without prejudice to either TCC or HPR to seek attorney fees before the Court of Common Pleas for Charleston County, South Carolina.

**S.C. Code Ann. § 15-48-110 Arbitrators Expenses and Fees, Other Expenses**

Section 5 of the Arbitration Agreement mandates that this Panel make an award of the Panel's "fees and expenses incurred in connection with the Arbitration." The Panel finds in accordance with S.C. Code Ann. § 15-48-110 and the prevailing party fee provision contained in the Mechanic's Lien Laws that TCC is entitled to recover from the HPR its deposit of $44,250.00 paid by it. Upon HPR paying TCC the amount of the deposit ($44,250.00), any funds remaining in the Elmore Goldsmith, P.A. Trust Account for arbitrator fees and expenses shall, at the conclusion of the arbitrators' service, be paid to the HPR.

S.C. Code Ann. § 15-48-110 also provides for an award of "other expenses, not including counsel fees incurred in the conduct of the arbitration." The Panel has reviewed TCC's claimed costs and finds that TCC is entitled to and awards TCC $21,691.02 for other expenses, not including counsel fees incurred in the conduct of the arbitration.

ELECTRONICALLY FILED - 2020 Jul 30 3:31 PM - CHARLESTON - COMMON PLEAS - CASE#2016CP1002955

**Correction of Interest Calculation**

Article 15.2 of AIA Document A102-2007, *Standard Form of Agreement Between Owner and Contractor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price* dated February 27, 2014, as modified, between TCC and HPR provides:

> § 15.2 Payments due and unpaid under the Contract shall bear interest from the date payment is due at the rate stated below, or in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located.
> *(Insert rate of interest agreed upon, if any.)*
>
> Prime as published in the Wall Street Journal %

TCC seeks interest at 5.5% from March 8, 2016. HPR contends that Panel does not have jurisdiction to award interest under the parties Arbitration Agreement; that a sum certain due was not known until the arbitration award; and, that the amount awarded arising under Article 15.2 must be specified.

PCOs 143, 144R, and 146, were all approved by the architect no later than August 29, 2017. The project was substantially complete on March 8, 2016. Through no fault of TCC, retainage in the amount of $305,565.00 was never paid. This Arbitration Panel finds TCC is entitled to recover interest on PCOs 143, 144R, 146 and retainage totaling $958,573.00 since September 29, 2017, at the rate of 4% compounded annually through August 1, 2019.

IT IS THEREFORE ORDERED:

1. TCC is entitled to recover against HPR the sum of $2,016,066.73 for all claims asserted in this proceeding including, but not limited to, approved and unapproved PCOs and retainage.

2. TCC and HPR's respective motions for an award of their attorney fees are denied without prejudice to seek attorney fees before the Court of Common Pleas as the prevailing party under S.C. Code Ann. § 29-5-10, *et seq*.

3. TCC is entitled to recover its arbitrator deposit in the amount of $44,250.00 against HPR. Upon HPR paying TCC the amount of the deposit

($44,250.00), any funds remaining in the Elmore Goldsmith, P.A. Trust Account for arbitrator fees and expenses shall, at the conclusion of the arbitrators' service, be paid to the HPR.

4. TCC is entitled to recover its expenses, not including counsel fees, incurred in the conduct of the arbitration in the amount of $21,691.02 against HPR pursuant to S.C. Code Ann. § 15-48-110.

5. TCC is entitled to recover interest on the sum of PCOs 143, 144R, and 146 and retainage, totaling $958,573.00, since September 29, 2017, at the rate of 4% compounded annually through August 1, 2019 in the amount of $71,667.31. Interest shall accrue at the rate of $112.90 per day thereafter until (1) this Corrected Arbitration Award is satisfied and paid in full; or (2) until judgment is entered on this Corrected Arbitration Award, whichever first occurs.

AND IT IS SO ORDERED.

August 12, 2019

Alan O. Campbell, Arbitrator

John L. McCants, Arbitrator

L. Franklin Elmore, Arbitrator





ELECTRONICALLY FILED - 2020 Jul 30 3:31 PM - CHARLESTON - COMMON PLEAS - CASE#2016CP1002955

# EXHIBIT B

ELECTRONICALLY FILED - 2020 Jul 30 3:31 PM - CHARLESTON - COMMON PLEAS - CASE#2016CP1002955

ELECTRONICALLY FILED - 2020 Jan 30 5:35 PM - CHARLESTON - COMMON PLEAS - CASE#2016CP1002955

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| **STATE OF SOUTH CAROLINA** | ) | **IN THE COURT OF COMMON PLEAS** |
| | ) | **FOR THE NINTH JUDICIAL CIRCUIT** |
| **COUNTY OF CHARLESTON** | ) | |
| TCC OF CHARLESTON, INC.<br><br>Plaintiff,<br><br>v.<br><br>CONCORD AND CUMERLAND, LLC., CONCORD & CUMBERLAND HPR, LEO HALL, DIANE HALL, BEA H. SMITH, MARGARET C. POPE, WILLIAM D. FOSTER, JR., GENE G. FOSTER, MATTISON J. MACGILLIVRAY, TERESA MACGILLIVRAY, PAMELA L. VAUGHN, NELIA A. PATRICIO, Trustee of the Nelia A. Patricio Revocable Trust Agreement, STUART D. REEVES, EDWARD T. STROM, BARBARA K. HENDERSON, JAMES R. CLARKE, PAUL A. BRIM, ROBERT K. SEIDL, JENNIFER M. SEIDL, ROBERT KENNETH SEIDL, II, M. BERT STOREY, THOMAS R. MATHER, EDWARD T. STROM, 304 CONCORD & CUMBERLAND, LLC, MARION M. SIMPSON F/K/A MARION MOORE MCDONALD SIMPSON, KATHY GARDNER, GREGORY J. GARDNER, FREEMAN WATERFRONT PROPERTIES, LLC, JO-ANN COOPER, BETTY Y. SEGAL, ROBERT M. LEVIN AND BONITA K. LEVIN, DONALD D. LEONARD, BETTY L. BEATTY, MATTELLEN, LLC, AND THOMAS R. DEBNAM, Trustee of the Trust Agreement of Thomas R. Debnam,<br><br>Defendants. | ) | Case No.: 2016-CP-10-2955<br><br>**ORDER ON MOTION TO LIFT STAY AND MOTIONS TO VACATE OR CORRECT ARBITRATION AWARD** |

ELECTRONICALLY FILED - 2020 Jan 30 5:35 PM - CHARLESTON - COMMON PLEAS - CASE#2016CP1002955

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| Presiding Judge: | Hon. Deadra L. Jefferson |
| Plaintiff's Attorneys: | Jaan Rannik, Esq., and Andrew Epting, Jr., Esq. |
| Defendant Concord and Cumberland, LLC's Attorney: | Cordes Ford, Esq. |
| Defendant Concord and Cumberland HPR's Attorney: | Andrew Walden, Esq. |
| Date of Hearing: | December 16, 2019 |
| Court Reporter: | Lorraine Harris |

This matter came before the Court on December 16, 2019 for a hearing on TCC of Charleston's ("TCC's") Motion to Lift Stay, filed June 17, 2019 and the Concord & Cumberland HPR's ("the HPR's") Motion to Vacate or Modify Arbitration Award, filed July 16, 2019.[1] After reviewing the materials and authorities filed with this Court and considering the record and arguments presented at the hearing, the Court rules as follows.

## FINDINGS OF FACT

This is a construction contract payment dispute arising from a repair project at condominiums located at 175 Concord Street in Charleston, South Carolina (the "Project"). The HPR was the Project owner. TCC was the Project's general contractor. The dispute centers on TCC's final pay application, Pay Application eighteen (18), and TCC's resulting claim for $2,385,503.57. The parties do not dispute payment in full of the first seventeen (17) pay applications.

The dispute was referred to binding arbitration by agreement. After the hearing, issuance of an initial Award, and exchange and consideration of subsequent motions, the Arbitration Panel (the "Panel") issued a Corrected Arbitration Award granting TCC $2,016,066.73, plus interest and

[1] While this Order refers to the HPR's "motion" (singular), the HPR filed two separate motions to vacate — one filed on July 16, 2019 relating to the initial award delivered by the arbitrators, and one filed November 18, 2019 relating to the corrected award signed by the arbitrators on August 12, 2019. The only award properly before the Court is the corrected award, and this award forms the basis for the Court's ruling on the HPR's motions.

ELECTRONICALLY FILED - 2020 Jan 30 5:35 PM - CHARLESTON - COMMON PLEAS - CASE#2016CP1002955

costs. TCC commenced this action by filing a lawsuit in Charleston County against the HPR on June 6, 2016. TCC amended the Complaint on June 10, 2016 to add the individual condominium unit owners as captioned herein. Contemporaneously with filing the initial Complaint on June 6, 2016, TCC filed a Motion to Stay and Compel Arbitration. The HPR consented to Arbitration in a Consent Order filed with this Court on December 30, 2016, and the arbitration proceeded on the claims between TCC and the HPR.

The Parties entered into an Arbitration Agreement on January 18, 2017, which provides in relevant part, "this dispute is to be decided by final and binding arbitration pursuant to S.C. Code § 15-48-10 et. seq. …" The Panel agreed to issue a "Reasoned Award" as stated in Panel Order No. 1, dated April 19, 2017. The arbitration hearing was held January 21 – 24, 2019, and the Panel issued its initial Award on April 16, 2019. After the exchange of post-hearing motions and the Panel's issuance of a Post Award Order, the HPR submitted a Motion to Change Award to the Panel on July 15, 2019. To preserve its right to judicial review, the HPR also filed an initial Motion to Vacate with this Court.

Subsequently, the Panel issued a Corrected Arbitration Award on August 19, 2019. The HPR then submitted a Motion to Change the Corrected Arbitration Award, asserting the Panel's manifest disregard of well-settled contract law, which resulted in the Panel's October 23, 2019 "Order on HPR Motion for Change of Corrected Arbitration Award." The HPR then filed the present Motion to Vacate Corrected Arbitration Award on November 18, 2019 and its Memorandum of Law in support on December 11, 2019.

ELECTRONICALLY FILED - 2020 Jan 30 5:35 PM - CHARLESTON - COMMON PLEAS - CASE#2016CP1002955

## CONCLUSIONS OF LAW

### I. Motion to Lift Stay

On January 3, 2016, Judge Roger M. Young signed a consent order staying this matter pending binding arbitration between TCC and the HPR. That arbitration has taken place and ended with a Corrected Arbitration Award signed on August 12, 2019. The arbitration having taken place, the stay is no longer in effect by the terms of the consent order signed by Judge Young. Moreover, as agreed to by counsel for the HPR, the HPR's filing of their motion to vacate the arbitration award is itself a consent to lift the stay.

### II. Motion to Vacate or Correct the Corrected Arbitration Award

#### A. Legal Standard

Because "[a]rbitration is a favored method of settling disputes in South Carolina," Pittman Mortg. Co., Inc. v. Edwards, 327 S.C.72, 76 (1997), "[t]he scope of judicial review for an arbitrator's decision is among the narrowest known at law because to allow full scrutiny of such awards would frustrate the purpose of having arbitration at all." Group III Mgmt., Inc. v. Suncrete of Carolina, Inc., 425 S.C. 141, 149 (Ct. App. 2018) (internal quotations omitted). "Generally, an arbitration award is conclusive and courts will refuse to review the merits of an award." Pittman, 327 S.C. at 76.

Reviewing an arbitration award, the court's function is limited "to determin[ing] whether the arbitrators did the job they were told to do—not whether they did it well, or correctly, or reasonably, but simply whether they did it." Id. at 150 (internal quotation omitted). "Even a clearly erroneous interpretation of the contract cannot be disturbed." Gissel v. Hart, 382 S.C. 235, 241 (2009) (internal quotation omitted).

ELECTRONICALLY FILED - 2020 Jan 30 5:35 PM - CHARLESTON - COMMON PLEAS - CASE#2016CP1002955

"Therefore, as long as the arbitrator is even arguably construing or applying the contract and acting within the scope of his authority, that a court is convinced he committed serious error does not suffice to overturn his decision." Group III, 425 S.C. at 151 (quoting United Paperworkers Int'l Union v. Misco, Inc., 484 U.S. 29, 38 (1987)).

A court may vacate an arbitration award only under very narrow circumstances: the four statutory grounds enumerated in S.C. Code Ann. § 15-48-130(a);[2] and one common law ground—manifest disregard of the law, as stated in Gissel v. Hart, 382 S.C. 235, 241 (2009).

Regarding the former, "[a]rbitrators exceed their powers only if the issue resolved by them is not within the scope of the agreement to arbitrate." Pittman, 327 S.C. at 77. It is the scope of the arbitration agreement, and not the pleadings, that determines what matters have been referred to the arbitrators. Id.

Regarding manifest disregard of the law, "[a] court may vacate an arbitration award under the manifest disregard standard only when a plaintiff has shown that: (1) the disputed legal principle is clearly defined and is not subject to reasonable debate; and (2) the arbitrator refused to apply that legal principle." Group III, 425 S.C. at 154–55. More precisely, "manifest disregard of the law is established only where the arbitrator[] understand[s] and correctly state[s] the law, but proceed[s] to disregard the same." Id. at 155 (alterations in original). The manifest disregard standard "is not an invitation to review the merits of the underlying arbitration." Id. (internal quotation omitted).

With regard to modification of an arbitration award, a court may modify the award only "so as to effect its intent," S.C. Code Ann. § 15-48-140(b), and only if one of three grounds set

[2] Of which only one—the arbitrators exceeding their authority—is advanced by the HPR as grounds for vacating this award; accordingly, the other grounds set forth in this statute are not discussed.

ELECTRONICALLY FILED - 2020 Jan 30 5:35 PM - CHARLESTON - COMMON PLEAS - CASE#2016CP1002955

forth in S.C. Code Ann. § 15-48-140(a) is applicable. These grounds are: an evident mistake in the calculation of figures or the description of any person, thing, or property referred to in the award; award by the arbitrators on a matter not submitted to them, so long as correcting the award does not affect the merits; or imperfection in the form of the award unrelated to the merits of the controversy.

**B. Public Policy Behind the Exacting Legal Standard**

There is a strong State and Federal policy in favor of arbitration of disputes. Pittman, 327 S.C. at 75; Trident Tech. College v. Lucas & Stubbs, Ltd., 286 S.C. 98, 103 (1985). The Parties agreed that each would appoint their own arbitrator and that the party-appointed arbitrators would jointly select the third arbitrator. This is a case involving construction, and the HPR selected John McCants, Esq., and TCC selected Frank Elmore, Esq., each known for his extensive experience in construction litigation. Mr. McCants and Mr. Elmore selected Alan Campbell, an engineer, as the third arbitrator. The qualifications of this panel to preside over a full arbitration proceeding on the merits in their area of expertise is an example that justifies the strong policy in favor of arbitration. After four (4) days of testimony, during which 200 exhibits were submitted into evidence, the panel issued a unanimous decision in favor of TCC.

Given the panel's experience in disputes of this nature, it is not without significance or logic that the Parties stipulated to final and binding arbitration. See AT&T Mobility LLC v. Concepcion, 563 U.S. 333, 348 (2011) (recognizing arbitration's benefit of giving parties the "ability to choose expert adjudicators to resolve specialized disputes."). Notwithstanding this stipulation, the Court continues and considers the HPR's motion.

ELECTRONICALLY FILED - 2020 Jan 30 5:35 PM - CHARLESTON - COMMON PLEAS - CASE#2016CP1002955

### C. HPR's Arguments for Vacating or Modifying the Award

#### 1. Not A Reasoned Award

The HPR argues that the arbitrators failed to deliver a "reasoned award" as required by the arbitration agreement, requiring vacating or modification of the award. South Carolina courts have not directly defined a "reasoned award." However, the Supreme Court of South Carolina held, "[a]rbitrators need not specify their reasoning or the basis of the award so long as the factual inferences and legal conclusions supporting the award are 'barely colorable.'" Pittman, 327 S.C. at 77, 488 S.E.2d at 338.

The Court finds that the nine (9) page order submitted by the arbitrators explains the basis for the amounts awarded and the grounds for the award. The factual inferences and legal conclusions are sufficient to support the arbitrators' findings, and the award therefore constitutes a reasoned award within the meaning of the parties' arbitration agreement. Accordingly, the HPR's Motion to Vacate is heard and respectfully Denied on this ground.

#### 2. Manifest Disregard of Applicable Law

The HPR argues that the arbitrators manifestly disregarded the law in declining to enforce the lien waiver attached to Pay Application 17 and in "wrongfully eviscerat[ing] the GMP"[3] referred to in the contract between TCC and the HPR. A review of the applicable law and of the arbitrator's final award shows the HPR's position to be untenable.

As this Court noted during the hearing, the arbitrators made express findings that are consistent with the applicable law and provided reasoning supporting those findings. For example, with regard to the lien waiver, the arbitrators dedicated an entire page of their order to a discussion of why the lien waiver was not enforceable in the circumstances, stating:

[3] "GMP" stands for Guaranteed Maximum Price.

ELECTRONICALLY FILED - 2020 Jan 30 5:35 PM - CHARLESTON - COMMON PLEAS - CASE#2016CP1002955

> Knowing that TCC had signed Conditional Release and Waiver of Liens, HPR nonetheless agreed to PCOs; signed the Change Orders; and made payment for claims that may have otherwise been released or barred by the Conditional Release and Waiver of Liens. HPR cannot now claim that the Conditional Release and Waiver of Liens bar TCC's claims.

Corrected Award at 5. The Court finds no error or manifest disregard of the law in the panel's finding, especially in light of a contemporaneous email from HPR's agent confirming the agreement.

In its initial Award, filed December 11, 2019, as to the contract price, the panel found that "[i]t is undisputed that the condition of the building was different than what TCC contemplated when it originally submitted its bid" and that certain proposed change orders "were paid on a cost-plus basis" pursuant to agreements between TCC and agents of the HPR. Award at 3. The Court finds no error or manifest disregard of the law in the panel's finding that the GMP provided for in the contract was overcome by the agreement that TCC would fix out-of-scope items and be compensated for those items on a time and material basis. Further, as the issue of the contract price was not corrected or reversed by the Corrected Award,

These findings by the panel indicate that, far from disregarding the law, the panel considered and applied the law, and reached a result that the HPR simply disagrees with. The HPR has not carried its burden of showing the arbitrators manifestly disregarded the law, and this argument for vacating the arbitration award is unavailing. Accordingly, the HPR's Motion to Vacate is heard and respectfully Denied as to this ground.

### 3. Exceeding Authority

The HPR also argues that the award should be vacated, or in the alternative modified, because the arbitrators exceeded their authority in awarding $29,000.00 relating to the "Stone

ELECTRONICALLY FILED - 2020 Jan 30 5:35 PM - CHARLESTON - COMMON PLEAS - CASE#2016CP1002955

tower," a portion of the exterior of the property not in the original scope of the contract. The Court disagrees.

As noted *supra*, arbitrators only exceed their authority when they rule on something not submitted to them. Here, as the Court noted during oral argument, the language of the referral in the arbitration agreement is very broad, applying to "certain disputes [that] have arisen regarding performance and payment on the Project," with "Project" being referred to in the agreement as "exterior repairs to Concord & Cumberland located at 175 Concord Street, Charleston, South Carolina." The Stone Tower work relates to the exterior of the building and is within the scope of the referral to the panel. To the extent there is doubt about the scope of the referral, the doubts are to be resolved in favor of arbitration. See Faltaous v. Anderson Ocean Club Dev., LLC, 388 S.C. 45, 48, 693 S.E.2d 434, 435 (Ct. App. 2010) ("[a]ny doubts concerning the scope of arbitrable issues should be resolved in favor of arbitration.").

Moreover, the HPR acknowledges that TCC asked for this precise relief in their pretrial brief, that the issue was tried, that the relief was asked for requested by TCC in its post-trial proposed order to the panel.

The Court therefore finds that the award relating to the Stone Tower was within the scope of the arbitrators' authority, as the Parties gave them this authority. The arbitrators did not exceed their authority and this basis for vacating or modifying the award likewise is unavailing. Accordingly, the HPR's Motion to Vacate is heard and respectfully Denied as to this ground.

**4. Evident Miscalculation**

The South Carolina Arbitration Act grants the Court authority to modify or correct an award if some technical issue with the award means that its intent would not be effective without modification. See S.C. Code Ann. § 15-48-140(b) ("If the application is granted, the court shall

ELECTRONICALLY FILED - 2020 Jan 30 5:35 PM - CHARLESTON - COMMON PLEAS - CASE#2016CP1002955

modify and correct the award so as to effect its intent…"). The Court finds no such technical issue, such as any "evident miscalculation of figures," "evident mistake in the description of any person, thing, or property," imperfection in the form of award, or any other basis provided under the statute. The award is not subject to modification or correction. Accordingly, the HPR's Motion to Vacate is heard and respectfully Denied as to this ground.

## III. Conclusion

Precedent is clear, even were the Court to believe the arbitrators committed error on these topics, the United States Supreme Court has stated, "[i]t is not enough… to show that the [arbitrator] committed an error—or even a serious error." Stolt-Nielsen S.A. v. Animal Feeds Int'l Corp., 559 U.S. 662, 671 (2010). It is not the prerogative of this Court to substitute its own judgment for that of the arbitrators who presided over the arbitration proceeding. Accordingly, having reviewed the arbitration panel's award and considering the record and the arguments of counsel it is hereby ordered that the Plaintiff's Motion to Lift Stay is Granted, and the HPR's Motion to Vacate or Modify is Denied.

**AND IT IS SO ORDERED.**

_____
Hon. Deadra L. Jefferson
Presiding Judge
Ninth Judicial Circuit

January _____, 2020
Charleston, South Carolina

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Charleston Common Pleas

**Case Caption:** Tcc Of Charleston Inc VS Concord And Cumberland Llc , defendant, et al

**Case Number:** 2016CP1002955

**Type:** Order/Form 4

IT IS SO ORDERED.

s/D.L. Jefferson Ninth Judicial Circuit Judge 2128

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| **STATE OF SOUTH CAROLINA** ) | | **IN THE COURT OF COMMON PLEAS** |
| ) | | **FOR THE NINTH JUDICIAL CIRCUIT** |
| **COUNTY OF CHARLESTON** ) | | |
| TCC OF CHARLESTON, INC. | ) | |
| | ) | |
| Plaintiff, | ) | |
| | ) | Case No.: 2016-CP-10-2955 |
| v. | ) | |
| | ) | |
| LEO HALL, DIANE HALL, BEA H. SMITH, MARGARET C. POPE, WILLIAM D. FOSTER, JR., GENE G. FOSTER, MATTISON J. MACGILLIVRAY, TERESA MACGILLIVRAY, PAMELA L. VAUGHN, NELIA A. PATRICIO, Trustee of the Nelia A. Patricio Revocable Trust Agreement, STUART D. REEVES, EDWARD T. STROM, BARBARA K. HENDERSON, JAMES R. CLARKE, PAUL A. BRIM, ROBERT K. SEIDL, JENNIFER M. SEIDL, ROBERT KENNETH SEIDL, II, M. BERT STOREY, THOMAS R. MATHER, EDWARD T. STROM, 304 CONCORD & CUMBERLAND, LLC, MARION M. SIMPSON F/K/A MARION MOORE MCDONALD SIMPSON, KATHY GARDNER, GREGORY J. GARDNER, FREEMAN WATERFRONT PROPERTIES, LLC, JOHN FREEMAN, JO-ANN COOPER, BETTY Y. SEGAL, by and through her Assignee, DONALD D. LEONARD, ROBERT M. LEVIN AND BONITA K. LEVIN, DONALD D. LEONARD, BETTY L. BEATTY, MATTELLEN, LLC, AND THOMAS R. DEBNAM, Trustee of the Trust Agreement of Thomas R. Debnam, | ) | **MOTION FOR ATTORNEYS' FEES** |
| Defendants. | ) | |

Plaintiff TCC of Charleston ("TCC") moves this Court for an award of attorneys' fees as the prevailing party in an arbitration between TCC and the Concord and Cumberland HPR ("the HPR").

TCC believed the question of fees under the statute had been submitted to the Panel by agreement, the agreement to arbitrate stating:

> [T]he Arbitrators shall assess, in whole or in part, their fees and expenses incurred in connection with the Arbitration as a part of their award in accordance with S.C. Code § 15-48-110 and the fee provision contained in the Mechanic's Lien Laws.

In pre-trial briefs, both parties requested the arbitrators award them their attorneys' fees. After the Panel unanimously ruled in TCC's favor, however, the HPR persuaded the Panel that the question of fees was not submitted to it by the parties. The Panel left it for the Court to decide, holding:

> [The Panel] is without jurisdiction to entertain a Motion for Attorney Fees. Both TCC's and HPR's requests for attorney fees are denied without prejudice to either TCC or HPR to seek attorney fees before the Court of Common Pleas for Charleston County, South Carolina.

As this case has now returned to the courts and been referred to this Court by Judge McCoy, TCC moves this Court for its attorneys' fees as the prevailing party under the mechanic's lien statute.

**Respectfully submitted:**

**EPTING & RANNIK, LLC**

This 11th day of September, 2020
Charleston, S.C.

*/s/ Jaan Rannik*
Jaan G. Rannik, Esq.
46A State Street
Charleston, South Carolina 29401
Phone: 843-377-1871
Fax: 843-377-1310
jgr@epting-law.com

*ATTORNEY FOR PLAINTIFF*

ELECTRONICALLY FILED - 2020 Sep 14 5:39 PM - CHARLESTON - COMMON PLEAS - CASE#2016CP1002955

| | | |
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| STATE OF SOUTH CAROLINA<br>COUNTY OF CHARLESTON | ) | IN THE COURT OF COMMON PLEAS<br>FOR THE NINTH JUDICIAL CIRCUIT<br>CASE NO. 2016-CP-10-2955 |
| TCC OF CHARLESTON, INC.<br><br>Plaintiff,<br>vs.<br><br>CONCORD AND CUMERLAND, LLC., CONCORD & CUMBERLAND HPR, LEO HALL, DIANE HALL, BEA H. SMITH, MARGARET C. POPE, WILLIAM D. FOSTER, JR., GENE G. FOSTER, MATTISON J. MACGILLIVRAY, TERESA MACGILLIVRAY, PAMELA L. VAUGHN, NELIA A. PATRICIO, Trustee of the Nelia A. Patricio Revocable Trust Agreement, STUART D. REEVES, EDWARD T. STROM, BARBARA K. HENDERSON, JAMES R. CLARKE, PAUL A. BRIM, ROBERT K. SEIDL, JENNIFER M. SEIDL, ROBERT KENNETH SEIDL, II, M. BERT STOREY, THOMAS R. MATHER, EDWARD T. STROM, 304 CONCORD & CUMBERLAND, LLC, MARION M. SIMPSON F/K/A MARION MOORE MCDONALD SIMPSON, KATHY GARDNER, GREGORY J. GARDNER, FREEMAN WATERFRONT PROPERTIES, LLC, JO-ANN COOPER, BETTY Y. SEGAL, ROBERT M. LEVIN AND BONITA K. LEVIN, DONALD D. LEONARD, BETTY L. BEATTY, MATTELLEN, LLC, AND THOMAS R. DEBNAM, Trustee of the Trust Agreement of Thomas R. Debnam,<br><br>Defendants. | ) | **CONCORD & CUMBERLAND HPR'S MOTION TO DISMISS PLAINTIFF'S SECOND AMENDED COMPLAINT**<br><br>**AND**<br><br>**MOTION FOR ATTORNEYS' FEES.** |

TO: TCC OF CHARLESTON, INC. AND ITS ATTORNEYS

ELECTRONICALLY FILED - 2020 Sep 14 5:39 PM - CHARLESTON - COMMON PLEAS - CASE#2016CP1002955

Defendant Concord & Cumberland HPR ("HPR") hereby moves this Court for an Order dismissing all causes of action asserted against the HPR under the following South Carolina Rules of Civil Procedure: (1) failure to state a claim as to Plaintiff's foreclosure of mechanic's lien cause of action pursuant to Rule 12(b)(6); (2) lack of subject matter jurisdiction pursuant to Rule 12(b)(1); (3) improper venue pursuant to Rule 12(b)(3); or, alternatively, (4) insufficiency of service of process pursuant to Rule 12(b)(5). Further, the HPR requests its attorneys' fees as the prevailing party in defending against the foreclosure of mechanic's lien cause of action. For the reasons set forth herein, the HPR's motions should be granted.

**Background Facts**

1. The core of this dispute is Plaintiff TCC of Charleston, Inc.'s ("Plaintiff" or "TCC") claim for compensation of its alleged total costs incurred in a construction project at the Concord & Cumberland condominium building in the face of a guaranteed maximum price contract ("GMP Contract") and subsequent releases and lien waivers TCC executed and delivered to the HPR.

2. TCC commenced this action by filing a lawsuit against the HPR on June 6, 2016 for (1) foreclosure of mechanic's lien, (2) breach of contract, and (3) *quantum meruit*.

3. Plaintiff amended the Complaint on June 10, 2016 to join the individual condominium unit owners. Contemporaneously with filing the initial Complaint on June 6, 2016, Plaintiff also filed a Motion to Stay and Compel Arbitration based on a forum selection clause within the GMP Contract.

4. The HPR consented to the arbitration, which was subsequently ordered by Judge Roger M. Young, Sr. on December 30, 2016. Specifically, Judge Young's Order provides that "the parties have consented to an arbitration of the dispute between Plaintiffs [sic] and Defendant

ELECTRONICALLY FILED - 2020 Sep 14 5:39 PM - CHARLESTON - COMMON PLEAS - CASE#2016CP1002955

CONCORD & CUMBERLAND HPR ("Regime") and stay of Plaintiffs [sic] foreclosure request as to the remaining Defendants . . . ."

5. Over the course of the next 3 years, Plaintiff and the HPR arbitrated all claims against the HPR, which resulted in an Arbitration Award and, subsequently, a Corrected Arbitration Award, to Plaintiff.

6. The HPR thereafter moved to correct or vacate the Award. The motion was heard by Judge Jefferson and denied.

7. The HPR moved for reconsideration. Judge Jefferson denied the motion, ruling on the briefs without argument.

8. The HPR then noticed an appeal of Judge Jefferson's Orders, as her denial was effectively a confirmation of the Award per S.C. Code Ann. § 15-48-130. Indeed, TCC has alleged that the Award was "confirmed by the Circuit Court on May 1, 2020."

9. Nonetheless, TCC moved to dismiss the appeal by arguing that the Award was not confirmed, and the Court of Appeals recently granted the motion.

10. Contemporaneously, TCC has filed a motion to confirm the Arbitration Award.

11. TCC also moved to amend its Complaint. Judge McCoy granted this motion on August 11, 2020.

12. Plaintiff filed its Second Amended Complaint on August 24, 2020 and again asserted claims against the HPR for (1) foreclosure of mechanic's lien, (2) breach of contract, and (3) equity.

ELECTRONICALLY FILED - 2020 Sep 14 5:39 PM - CHARLESTON - COMMON PLEAS - CASE#2016CP1002955

## MOTION TO DISMISS

### I. TCC's Foreclosure of Mechanic's Lien Cause of Action Must Be Dismissed for Failure to State Facts Sufficient to Assert a Cause of Action Against the HPR.

13. In its initial pleading, Plaintiff filed a foreclosure of mechanic's lien cause of action against the HPR, which was referred to arbitration. Plaintiff reasserts the cause of action in the Second Amended Complaint.

14. Under Rule 12(b)(6), a defendant may move to dismiss a complaint based on a failure to state facts sufficient to constitute a cause of action. Baird v. Charleston County, 333 S.C. 519, 511 S.E.2d 69 (1999).

15. As indicated above, the Panel issued an Award and, later, a Corrected Award, which the HPR intends to appeal on other grounds once this Court confirms the award.

16. In the Panel's latest Corrected Arbitration Award, the Panel held that a mechanic's lien cannot be filed against the HPR. (Exhibit A, Corrected Arbitration Award.)

17. Specifically, the Panel found that "S.C. Code Ann. 27-3-20 requires that TCC's lien must be filed against the property owners rather than the HPR." Id. at 6 (emphasis added) (citation error in original). This finding was not challenged by Plaintiff and is thus the Law of the Case. See, e.g., Sentry Eng'g & Const., Inc. v. Mariner's Cay Dev. Corp., 287 S.C. 346, 350–51, 338 S.E.2d 631, 634 (1985) (finding that unless a motion is filed regarding a finding in an arbitration award, the finding in the award becomes the law of the case).

18. In short, an action against the HPR to foreclose a mechanic's lien cannot stand as a matter of law. The Horizontal Property Act (the "Act"), S.C. Code § 27-31-10 et seq., provides the following in § 27-31-230:

SECTION 27-31-230. Liens arising subsequent to recording of master deed or lease.

ELECTRONICALLY FILED - 2020 Sep 14 5:39 PM - CHARLESTON - COMMON PLEAS - CASE#2016CP1002955

> (a) **No lien arising subsequent to recording the master deed or lease as provided in this chapter**, and while the property remains subject to this chapter, **shall be effective against the property**. During such period **liens or encumbrances shall arise or be created only against each apartment and the percentage of undivided interest in the common elements appurtenant to such apartment**, in the same manner and under the same conditions in every respect as liens or encumbrances may arise or be created upon or against any other separate parcel of real property subject to individual ownership; provided, that no labor performed or materials furnished with the consent or at the request of a co-owner or his agent or his contractor or subcontractor, shall be the basis for the filing of a mechanic's or materialman's lien against the apartment or any other property of any other co-owner not expressly consenting to or requesting the same, except that such express consent shall be deemed to be given by the owner of any apartment in the case of emergency repairs thereto. **Labor performed or materials furnished for the common elements**, if duly authorized by the council of co-owners, the administrator or board of administration or other administration specified by the bylaws, in accordance with this chapter, the master deed, lease or bylaws, shall be deemed to be performed or furnished with the express consent of each co-owner and **shall be the basis for the filing of a mechanic's or materialman's lien against each of the apartments** and shall be subject to the provisions of subparagraph (b) hereunder.
>
> (b) In the event a lien against two or more apartments becomes effective, the owners of the separate apartments may remove their apartment and the percentage of undivided interest in the common areas and facilities appurtenant to such apartment from the lien by payment of the fractional or proportional amounts attributable to each of the apartments affected. Such individual payment shall be computed by reference to the percentages appearing in the master deed or lease. Subsequent to any such payment, discharge or other satisfaction, the apartment and the percentage of undivided interest in the common elements appurtenant thereto shall thereafter be free and clear of the lien so paid, satisfied or discharged. Such partial payment, satisfaction or discharge shall not prevent the lienor from proceeding to enforce his rights against any apartment and the percentage of undivided interest in the common elements appurtenant thereto not so paid, satisfied or discharged.

(Emphasis added.)

19. The Act explicitly references the mechanic's lien statute and provides that the procedure for a mechanic's lien is for the lien to be filed against the individual apartments. Further, the Act states that no lien against the HPR "shall be effective against the property." Id. Nonetheless, TCC filed the mechanic's lien against the HPR and asserted a cause of action to foreclose it.

ELECTRONICALLY FILED - 2020 Sep 14 5:39 PM - CHARLESTON - COMMON PLEAS - CASE#2016CP1002955

20. Because the HPR cannot be the subject of a mechanic's lien by statute, Plaintiff has certainly failed to state facts sufficient to assert a foreclosure of mechanic's lien cause of action against the HPR. A lien against an entity that cannot own real property is impossible and facts do not exist that would make it so.

21. As such, the HPR requests that this Court either (1) enforce the Panel's finding and dismiss this cause of action as a matter of law or (2) make its own determination regarding the same and dismiss this cause of action as it relates to the HPR.

## II. TCC's Breach of Contact and Equity Claims Should Be Dismissed for Lack of Subject Matter Jurisdiction and/or Improper Venue.

22. This Court should dismiss Plaintiff's breach of contract and equity claims pursuant to Rule 12(b)(1) and/or Rule 12(b)(3), SCRCP[1], as all claims against the HPR were referred to Arbitration and have already been adjudicated.

23. Indeed, Plaintiff requested, and the HPR consented, to the case being stayed in the Circuit Court in 2016 to allow the dispute with the HPR to be arbitrated.

24. Plaintiff and the HPR have spent the last 3 years arbitrating the dispute, which has resulted in an award to Plaintiff that is currently pending confirmation by this Court and an appeal.

25. Plaintiff cannot now seek to require the HPR to again respond to pleadings in the Circuit Court by filing a Second Amended Complaint asserting the same claims. That would be

[1] Courts are undecided on the appropriate treatment of a motion to dismiss based on a forum-selection clause. See, e.g., In re Millennium Studios, Inc., 286 B.R. 300, 306 (D.Md.2002) ("There is currently no procedural mechanism specifically tailored to handle a motion to dismiss based on a forum-selection clause. The Fourth Circuit has not decided the issue of what approach to take and which subsection of Rule 12(b) is most appropriate for the situation."). Other circuits have characterized such motions as motions under Fed.R.Civ.P. 12(b)(1), (3), or (6). See, e.g., Silva v. Encyclopedia Britannica Inc., 239 F.3d 385 (1st Cir.2001) (treating motion to dismiss based on forum-selection clause as a Rule 12(b)(6) motion to dismiss); Lipcon v. Underwriters at Lloyd's, London, 148 F.3d 1285 (11th Cir.1998) (holding that motions to dismiss based on forum-selection clause should be analyzed under Rule 12(b)(3)); AVC Nederland B.V. v. Atrium Inv. P'ship, 740 F.2d 148 (2d Cir.1984) (affirming dismissal of action under Rule 12(b)(1) on basis of forum-selection clause). Not only does this case involve a prior motion by Plaintiff to stay the case based on a forum selection clause and compel arbitration, but it now involves an order of the Court to refer all claims between Plaintiff and the HPR to arbitration. As such, the analysis is the same and these claims must be dismissed.

ELECTRONICALLY FILED - 2020 Sep 14 5:39 PM - CHARLESTON - COMMON PLEAS - CASE#2016CP1002955

unjust, unfair, and outside the realm of good conscious. Plaintiff has had its "day in Court" as it relates to the claims against the HPR.

26. Further, Plaintiff has substituted "Equity" for "*Quantum Meruit*" in an effort to generate a cause of action for the recovery of attorney's fees, when one does not exist. Even if "Equity" is a viable cause of action, which it is not, Plaintiff's prior claim for "*Quantum Meruit*" surely encompassed it.[2]

27. If this Court does not find Plaintiff's "Equity" claim to be a recast version of its prior "*Quantum Meruit*" claim, then this Court should defer to Judge Young's Order and the forum selection clause in the construction contract and refer any new claims still pending against the HPR back to arbitration.

## III. Alternatively, Plaintiff's Foreclosure of Mechanic's Lien Cause of Action Against the HPR Should be Dismissed Under Rule 12(b)(5) Based on Insufficient Service of Process.

28. The HPR has never been served with this lawsuit or the mechanic's lien, as is required provided by statute. S.C. Code Ann. § 29-5-10 et seq.

29. Therefore, in the alternative, this Court should dismiss the foreclosure action for failure to perfect the lien under S.C. Code Ann. § 29-5-10 et seq., and pursuant to Rule 12(b)(5), SCRCP.

## MOTION FOR ATTORNEYS' FEES

30. Attorneys' fees and costs are only appropriate and can only be awarded if authorized by contract or statute. See Baron Data Sys., Inc. v. Loter, 297 S.C. 382, 383, 377 S.E.2d 296, 297 (1989) (providing the rule that attorney's fees are not recoverable unless authorized by contract or statute); Jackson v. Speed, 326 S.C. 289, 486 S.E.2d 750 (1997); Blumberg v. Nealco,

[2] *Quantum meruit* is an equitable doctrine which allows recovery for unjust enrichment under a quasi-contract theory. Columbia Wholesale Co. v. Scudder May N.V., 312 S.C. 259, 261, 440 S.E.2d 129, 130 (1994).

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Inc., 310 S.C. 492, 427 S.E.2d 659 (1993). Here, the Panel has ruled that neither the GMP Contract, nor the subsequent arbitration agreement, provides for attorneys' fees or costs.

31. Thus, the only potential basis for recovery of attorneys' fees in this case is by statute.

32. S.C. Code Ann. § 29–5–10(a) requires the court to award reasonable attorney's fees and costs to the party defending against the mechanic's lien if the defending party "prevails" in the action. See Utilities Constr. Co. v. Wilson, 321 S.C. 244, 248, 468 S.E.2d 1, 3 (Ct.App.1996) ("[T]he Legislature ... intended to afford a property owner [the] remedy [of recovering attorney's fees and costs] where a mechanic attempts to enforce a defective or wrongful mechanic's lien.") (citation omitted).

33. Our courts have defined "prevailing party" as "the one who successfully prosecutes the action or successfully defends against it, prevailing on the main issue, even though not to the extent of the original contention ... the one in whose favor the decision or verdict is rendered and judgment entered." See Heath v. County of Aiken, 302 S.C. 178, 182–83, 394 S.E.2d 709, 711 (1990) (citation omitted); Seckinger v. Vessel Excalibur, 326 S.C. 382, 483 S.E.2d 775 (Ct.App.1997) (stating the defendant is entitled to an award of attorney's fees as the "prevailing party" if the trial court determines a mechanic's lien cannot be enforced against the defendant).

34. As discussed herein, an action against the HPR for a mechanic's lien and subsequent foreclosure cannot stand as a matter of law and cannot be enforced.[3] S.C. Code Ann. § 27-31-230. It matters not that Plaintiff prevailed on the Breach of Contract claim and was issued an Award by the Arbitration Panel. See Wilson, 321 S.C. at 249–50, 468 S.E.2d at 3–4 (upholding

[3] This truth is precisely why TCC amended its lien and lawsuit to assert mechanic's liens against each property owner. If this action is not otherwise resolved, TCC may proceed to prosecute the foreclosure actions against each owner under the mechanic's lien statute, subject, of course, to the claims and defenses of each owner.

ELECTRONICALLY FILED - 2020 Sep 14 5:39 PM - CHARLESTON - COMMON PLEAS - CASE#2016CP1002955

an award of attorney fees to a property owner who successfully defended a contractor's claim for a mechanic's lien, even though the owner lost on the contractor's claims for unjust enrichment and breach of contract).

35. Because a lien cannot be enforced against a horizontal property regime as provided by law and as held by the Panel, the HPR is the prevailing party.

36. As the prevailing party, this Court should award the HPR all attorneys' fees associated with defending against the original and amended foreclosure of mechanic's lien causes of action asserted by Plaintiff.

**CONCLUSION**

Based on the above, the HPR requests that this Court dismiss all causes of actions against the HPR and award it all attorney's fees reasonably associated with the defense of the mechanic's lien foreclosure action.

WOMBLE BOND DICKINSON (US) LLP

*/s/ F. Cordes Ford IV*

F. Cordes Ford IV (S.C. Bar No. 71644)
R. Andrew Walden (S.C. Bar No. 101004)
Henry E. Grimball (S.C. Bar No. 2313)
5 Exchange Street (29401)
P.O. Box 999
Charleston, SC 29402
(843) 722-3400
Cordes.Ford@wbd-us.com
Andrew.Walden@wbd-us.com
Henry.Grimball@wbd-us.com

*Attorneys for Defendant*
*Concord & Cumberland HPR*

September 14, 2020

Charleston, SC

# EXHIBIT “A”

**IN THE MATTER OF THE ARBITRATION BETWEEN**

| | | |
|---|---|---|
| TCC OF CHARLESTON, INC., | ) | **Civil Action No. 2016-CP-10-2955** |
| | ) | |
| Plaintiff, | ) | |
| | ) | |
| v. | ) | **CORRECTED ARBITRATION AWARD** |
| | ) | |
| | ) | |
| CONCORD & CUMBERLAND HPR, | ) | |
| | ) | |
| | ) | |
| Defendant. | ) | |
| | ) | |

This matter comes before the undersigned Arbitration Panel pursuant to Concord & Cumberland HPR's ("HPR") Motion for Change of Award. For the reasons set forth below, HPR's Motion for Change of Award is granted in the following respects. This Corrected Arbitration Award corrects, amends, and supplements this Panel's prior Arbitration Award dated April 16, 2019. The Post Award Order dated July 12, 2019, is withdrawn.

In finding the sum of $2,023,074.45 recoverable by TCC of Charleston, Inc. ("TCC") in the Arbitration Award dated April 16, 2019, the Panel included the amounts in PCO 143 (TCC Exhibit 124), PCO 144R (TCC Exhibit 123), and PCO 146 (TCC Exhibit 125), as part of the recovery to TCC. In calculating interest for the Post Award Order, the Panel mistakenly referred back to Pay Application No. 17, and the sums therein, instead of the above exhibits or TCC Exhibit 128.[1]

[1] Exhibit 128 references PCO 144. However, the value included in TCC Exhibit 128 for PCO 144 is $128,041.00, which is the amount of PCO 144R rather than the value of PCO 144.

In reviewing HPR's Motion to Correct Award, this Panel also realized it had erroneously included $9,608.00 in the Arbitration Award for the transom door based on PCO 145 (TCC Exhibit 131 and TCC Exhibit 128). The claim for the transom door was withdrawn during the hearings. Accordingly, the Panel's Arbitration Award dated April 16, 2019, should be corrected to deduct the amount of the transom door claim.

**THEREFORE, THE PANEL ISSUES THE FOLLOWING CORRECTED ARITRATION AWARD:**

This matter is before the undersigned pursuant to the Order of Judge Roger M. Young, Sr., dated December 30, 2016, to stay Case No. 2016-CP-10-2955 (the "Lawsuit") and compel arbitration of a dispute between TCC of Charleston, Inc. ("TCC") and Concord & Cumberland HPR ("HPR") (cumulatively the "Parties"), the Arbitration Agreement entered into between the Parties on January 18, 2017 (the "Arbitration Agreement"), and appointment in accordance with S.C. Code Ann. § 15-48-30.

The merits hearing was conducted January 21 - 24, 2019. Each party was represented by counsel and presented exhibits and witness testimony. TCC called as witnesses John David Griffith, Chris Burrell, Ryan Tomberlin, Gary Moore, and Zan Edens. HPR called as witnesses Trey McCraw and Shawn Mellin. At the conclusion of the hearing, the Panel requested that TCC provide a summary or itemization of its damages claim and that each party present proposed Orders. Each side provided a proposed Order on or before March 21, 2019, and the hearing was closed at that time.

Based upon the evidence presented; after careful consideration of all the testimony, exhibits, submissions, arguments of counsel; proposed orders submitted by the parties; and review

of the applicable law, the Panel makes the following Findings relevant to this proceeding and issues this Corrected Arbitration Award.

**Findings**

On February 27, 2014, HPR contracted with TCC to perform a scope of work at 175 Concord. The contract was cost plus a fee, with a guaranteed maximum price ("GMP") of $3,923,939.00. The contract consisted of an A102 and A201 as modified by the parties. HPR designated Tom Mather as its initial owner's representative and the project architect was Shawn Mellin of Glick Boehm and Associates ("GBA").

The scope of work for the contract was developed by GBA based upon GBA's investigations performed in prior litigation of HPR and the individual unit owners against the original developer, contractor, and subcontractors. Generally, TCC was to declad the building, apply waterproofing, replace the windows, and apply new cladding.

A Notice to Proceed was issued on July 28, 2014. The contract required the work to be substantially complete 306 days after the Notice to Proceed, to-wit: May 30, 2015. Substantial completion actually occurred on March 8, 2016.

It is undisputed that the condition of the building was different than what TCC contemplated when it originally submitted its bid. During the course of the work, at least 134 proposed change orders ("PCOs") were requested by TCC. $1,953,145.00 of the PCOs were paid by HPR, increasing the total contract to $5,877,084.00 as of February 2016. The paid PCOs were paid on a cost-plus basis.

This dispute involves architect approved but unpaid PCOs; architect approved but unpaid retainage; and, remaining unapproved PCOs. TCC is entitled to be paid PCOs 143, 144R, 146, and unpaid retainage. TCC performed additional work outside the original scope of work which

was not approved and was not paid. TCC was inefficient in its prosecution of some of the additional work and is only entitled to be paid a portion of the remaining unapproved PCOs. The Panel finds based on the testimony of TCC and HPR that the work performed by TCC and its subcontractors was inefficient in the amount of 25% of the remaining unapproved amounts claimed.

**Effect of Conditional Lien Waivers Accompanying Payment Application No. 17 and Prior Payment Applications**

HPR has maintained in its proposed Arbitration Award, its Motion for Reconsideration, and its Motion for Change of Arbitration Award that the Conditional Release and Waiver of Lien executed by TCC and accompanying Payment Application No. 17 which HPR paid, as well as others executed by TCC, bars a significant portion of recovery, "at least $996,180.71", sought by TCC. Credible testimony at the hearing was presented and considered by the Panel that TCC and HPR agreed to address outstanding PCOs and TCC's claims for additional costs at the end of the project.

The Panel finds that TCC provided Conditional Release and Waiver of Liens with each application for payment. Each Conditional Release and Waiver of Lien contained the following:

> The undersigned TCC of Charleston, Inc. in consideration of receipt of payment in the amount of $_____, for materials, labor and services rendered and supplied as of _____ (the date of the period covered by the Payment Application), and does hereby release and waive all claims and liens existing as of _____ (the date of the period covered by the Payment Application), against Concord & Cumberland HPR C/O McAlister Preferred Properties on account of, or in any way resulting from or in connection with construction located at 175 Concord St., Charleston, SC in the County of Charleston, State of South Carolina.

The Panel finds that some of the PCOs and TCC's claims for additional costs were subsequently submitted and paid by HPR which arose and existed as of the date of the execution

of the Conditional Release and Waiver of Liens. Knowing that TCC had signed Conditional Release and Waiver of Liens, HPR nonetheless agreed to PCOs; signed the Change Orders; and, made payment for claims that may have otherwise been released or barred by the Conditional Release and Waiver of Liens. HPR cannot now claim that the Conditional Release and Waiver of Liens bar TCC's claims.

## Correction of Award

The corrected total award is based, in part, on the sum of approved and unpaid PCOs in the amounts of $258,799.00 (PCO 143), $128,041.00 (PCO 144R), and $266,168.00 (PCO 146) plus retainage in the amount of $305,565.00 as itemized in TCC Exhibit 161. These sums total $958,573.00. Additionally, a portion of the disputed amount of $1,417,322.87 and a portion of the stone tower is also awarded. However, both parties testified that PCO 145 for the transom door in the amount of $9,608.00 (TCC Exhibit 131) should not be included.

Based on the evidence presented and testimony of both parties, the Panel concludes and finds that the disputed claims and work performed by TCC, including the stone tower had an inefficiency factor of 25 percent (25%) of the amount claimed. TCC is also entitled to receive 8.25 percent (8.25%) for data processing fees and profit on the corrected award. The total award to TCC is calculated as follows:

A. TCC's award is based on the unadjusted sum of $258,799.00 (PCO 143) + $128,041.00 (PCO 144R) + $266,168.00 (PCO 146) + $305,565.00 (Retainage) + $1,417,322.87 (Disputed amount from Exhibit 161) + $32,540.00 (Stone Wall) = $2,408,435.87.

B. Less the disputed unpaid PCOs by 25%, including 8.25% profit and data processing on the 25% deduction due to TCC's inefficiencies.

   $1,417,322.87 – ($1,417,322.87 x 25%) (1.0825) = $1,033,759.87. The inefficiency adjustment is $383,563.00 including O&P and data processing.

C. The stone tower adjustment is $32,540.00 – ($32,540.00 x 25%) (1.0825) = $23,733.86. NOTE: The inefficiency adjustment is $8,806.14 including O&P and data processing.

D. Calculated Corrected Award:

| | |
|---|---|
| $958,573.00 | Approved and unpaid PCOs excluding transom door |
| $1,033,759.87 | Disputed amount from Exhibit 161 with inefficiency deduction |
| $23,733.86 | Adjusted stone tower with inefficiency deduction |
| $2,016,066.73 | Corrected Award |

E. The corrected total award to TCC with all adjustments exclusive of interest and fees and excluding counsel fees incurred in the conduct of the arbitration is $2,016,066.73.

**Attorney Fees**

Litigants are not entitled to recover attorney fees absent a written agreement to do so or statutory authority allowing for the recovery of attorney fees. The Order of Judge Roger M. Young, Sr., dated December 30, 2016, provides in pertinent part "the parties have consented to an arbitration of the dispute between Plaintiffs and Defendant CONCORD & CUMBERLAND HPR ("Regime") and stay of Plaintiffs (*sic*) foreclosure request as to the remaining Defendants." Section 5 of the Arbitration Agreement between TCC and HPR states as follows:

> 5. *Fees and Expenses of Arbitrators* - All fees and expenses incurred and charged by the Arbitrators prior to the hearing shall be borne equally between the Parties, with Trident bearing one-half and the HPR bearing one-half. However, *the Arbitrators shall assess, in whole or in part, their fees and expenses incurred* in connection with the Arbitration as a part of their award in accordance with S.C. Code Ann. § 15-48-110 and the fee provision contained in the Mechanic's Lien Laws. *(emphasis added).*

S.C. Code Ann. § 15-48-110 grants to an arbitrator limited jurisdiction to award "the arbitrator's expenses, and fees, together with other expenses." S.C. Code Ann. § 27-3-20 requires that TCC's lien must be filed against the property owners rather than the HPR. Accordingly, the language in Section 5 of the Arbitration Agreement mandates that this Panel award "their fees and

expenses incurred in connection with the Arbitration … in accordance with" the prevailing party fee provision "in the Mechanic's Lien Laws."

The construction contract between TCC and HPR does not contain a prevailing party attorney fee provision. No statutory authority has been provided to the Panel as a basis to award attorney fees. Accordingly, this Panel finds it is without jurisdiction to entertain a Motion for Attorney Fees. Both TCC's and HPR's requests for attorney fees are denied without prejudice to either TCC or HPR to seek attorney fees before the Court of Common Pleas for Charleston County, South Carolina.

**S.C. Code Ann. § 15-48-110 Arbitrators Expenses and Fees, Other Expenses**

Section 5 of the Arbitration Agreement mandates that this Panel make an award of the Panel's "fees and expenses incurred in connection with the Arbitration." The Panel finds in accordance with S.C. Code Ann. § 15-48-110 and the prevailing party fee provision contained in the Mechanic's Lien Laws that TCC is entitled to recover from the HPR its deposit of $44,250.00 paid by it. Upon HPR paying TCC the amount of the deposit ($44,250.00), any funds remaining in the Elmore Goldsmith, P.A. Trust Account for arbitrator fees and expenses shall, at the conclusion of the arbitrators' service, be paid to the HPR.

S.C. Code Ann. § 15-48-110 also provides for an award of "other expenses, not including counsel fees incurred in the conduct of the arbitration." The Panel has reviewed TCC's claimed costs and finds that TCC is entitled to and awards TCC $21,691.02 for other expenses, not including counsel fees incurred in the conduct of the arbitration.

**Correction of Interest Calculation**

Article 15.2 of AIA Document A102-2007, *Standard Form of Agreement Between Owner and Contractor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price* dated February 27, 2014, as modified, between TCC and HPR provides:

> § 15.2 Payments due and unpaid under the Contract shall bear interest from the date payment is due at the rate stated below, or in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located.
> *(Insert rate of interest agreed upon, if any.)*
>
> Prime as published in the Wall Street Journal %

TCC seeks interest at 5.5% from March 8, 2016. HPR contends that Panel does not have jurisdiction to award interest under the parties Arbitration Agreement; that a sum certain due was not known until the arbitration award; and, that the amount awarded arising under Article 15.2 must be specified.

PCOs 143, 144R, and 146, were all approved by the architect no later than August 29, 2017. The project was substantially complete on March 8, 2016. Through no fault of TCC, retainage in the amount of $305,565.00 was never paid. This Arbitration Panel finds TCC is entitled to recover interest on PCOs 143, 144R, 146 and retainage totaling $958,573.00 since September 29, 2017, at the rate of 4% compounded annually through August 1, 2019.

IT IS THEREFORE ORDERED:

1. TCC is entitled to recover against HPR the sum of $2,016,066.73 for all claims asserted in this proceeding including, but not limited to, approved and unapproved PCOs and retainage.

2. TCC and HPR's respective motions for an award of their attorney fees are denied without prejudice to seek attorney fees before the Court of Common Pleas as the prevailing party under S.C. Code Ann. § 29-5-10, *et seq*.

3. TCC is entitled to recover its arbitrator deposit in the amount of $44,250.00 against HPR. Upon HPR paying TCC the amount of the deposit

($44,250.00), any funds remaining in the Elmore Goldsmith, P.A. Trust Account for arbitrator fees and expenses shall, at the conclusion of the arbitrators' service, be paid to the HPR.

4. TCC is entitled to recover its expenses, not including counsel fees, incurred in the conduct of the arbitration in the amount of $21,691.02 against HPR pursuant to S.C. Code Ann. § 15-48-110.

5. TCC is entitled to recover interest on the sum of PCOs 143, 144R, and 146 and retainage, totaling $958,573.00, since September 29, 2017, at the rate of 4% compounded annually through August 1, 2019 in the amount of $71,667.31. Interest shall accrue at the rate of $112.90 per day thereafter until (1) this Corrected Arbitration Award is satisfied and paid in full; or (2) until judgment is entered on this Corrected Arbitration Award, whichever first occurs.

AND IT IS SO ORDERED.

August 12, 2019

Alan O. Campbell, Arbitrator

John L. McCants, Arbitrator

L. Franklin Elmore, Arbitrator

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|---|---|
| **STATE OF SOUTH CAROLINA** ) | **IN THE COURT OF COMMON PLEAS** |
| ) | **FOR THE NINTH JUDICIAL CIRCUIT** |
| **COUNTY OF CHARLESTON** ) | |
| TCC OF CHARLESTON, INC. ) | |
| ) | |
| Plaintiff, ) | |
| ) | Case No.: 2016-CP-10-2955 |
| v. ) | |
| ) | |
| LEO HALL, DIANE HALL, BEA H. SMITH, MARGARET C. POPE, WILLIAM D. FOSTER, JR., GENE G. FOSTER, MATTISON J. MACGILLIVRAY, TERESA MACGILLIVRAY, PAMELA L. VAUGHN, NELIA A. PATRICIO, Trustee of the Nelia A. Patricio Revocable Trust Agreement, STUART D. REEVES, EDWARD T. STROM, BARBARA K. HENDERSON, JAMES R. CLARKE, PAUL A. BRIM, ROBERT K. SEIDL, JENNIFER M. SEIDL, ROBERT KENNETH SEIDL, II, M. BERT STOREY, THOMAS R. MATHER, EDWARD T. STROM, 304 CONCORD & CUMBERLAND, LLC, MARION M. SIMPSON F/K/A MARION MOORE MCDONALD SIMPSON, KATHY GARDNER, GREGORY J. GARDNER, FREEMAN WATERFRONT PROPERTIES, LLC, JOHN FREEMAN, JO-ANN COOPER, BETTY Y. SEGAL, by and through her Assignee, DONALD D. LEONARD, ROBERT M. LEVIN AND BONITA K. LEVIN, DONALD D. LEONARD, BETTY L. BEATTY, MATTELLEN, LLC, AND THOMAS R. DEBNAM, Trustee of the Trust Agreement of Thomas R. Debnam, | **PLAINTIFF'S MOTION TO AMEND STATEMENT OF ACCOUNT** |
| Defendants. ) | |

Plaintiff TCC of Charleston ("TCC") moves this honorable Court for leave to amend the statement of account attached as an exhibit to their mechanic's lien[1] to correct the date last worked and to conform the statement of account to an issue submitted to and decided by the arbitration

[1] Filed with the Register of Deeds at Book 0560, Page 116.

ELECTRONICALLY FILED - 2020 Oct 01 11:53 AM - CHARLESTON - COMMON PLEAS - CASE#2016CP1002955

panel. The original statement of account and proposed amendment are attached as **Exhibits 1** & **2**.

A lien or suit to foreclose is not invalidated by an error in the statement of account. S.C. Code Ann. § 29-5-100 ("Proceedings not invalidated by inaccuracy of statement of account"). Another section of the mechanic's lien statute provides that "[t]he court may at any time allow either party to amend his pleadings as in other civil actions." S.C. Code Ann. § 29-5-180. Rule 15(a), SCRCP provides that leave to amend "shall be freely given" when justice so requires and does not prejudice any other party. *Parker v. Spartanburg Sanitary Sewer District*, 362 S.C. 276, 286 (Ct. App. 2005).

Motions to amend are thus to be liberally granted absent a showing by the party opposing the amendment that it would be prejudiced by that amendment. *Id*. The prejudice envisioned is a lack of notice that a new issue is to be tried and a lack of opportunity to refute it. *Stanley v. Kirkpatrick*, 357 S.C. 169, 174 (2004). The date of last work was raised before the arbitration panel in 2019; there is no prejudice to Defendants.

The statement of account lists the last date of work on the project in question as March 16, 2016. This was the date of substantial completion. **Exh. 3** (John David Griffith Affidavit). The last date of work was later, as confirmed in an affidavit by Ryan Tomberlin, project superintendent, and by the arbitration panel's award of moneys for work on the stone tower occurring after substantial completion. **Exh. 4** (Tomberlin Affidavit); **Exh. 5** (Corrected Award) at 5 ("a portion of the stone tower is also awarded"); *see also Wood v. Hardy*, 235 S.C. 131, 140 (1959) ("[W]here a claimant, after a contract is substantially completed, does additional work or furnishes additional material which is necessary for the proper performance of his contract, and which is done in good faith at the request of the owner or for the purpose of fully completing the contract, and not merely

as a gratuity or act of friendly accommodation, the period for filing the lien will run from the doing of such work or the furnishing of such materials, irrespective of the value thereof.").

Accordingly, Plaintiff respectfully requests leave to amend its statement of account. Prior to filing this motion, Plaintiff sought Defendants' consent to this amendment.

**Respectfully submitted:**

**EPTING & RANNIK, LLC**

This 1st day of October, 2020
Charleston, SC

*/s/ Jaan Rannik*
Andrew K. Epting, Jr.
Jaan G. Rannik
46A State Street
Charleston, SC 29401
P: 843.377.1871
F: 843.377.1310
ake@epting-law.com
jgr@epting-law.com
*ATTORNEYS FOR PLAINTIFF*

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# EXHIBIT 1

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# EXHIBIT "A"

STATE OF SOUTH CAROLINA )
COUNTY OF CHARLESTON )

STATEMENT OF ACCOUNT

I hereby certify that on this 10 day of June, 2016, personally appeared before me, John David Griffith, who being duly sworn deposes and says:

1. That he is an officer of TCC OF CHARLESTON, INC. a corporation organized and doing business under the laws of the State of South Carolina and has been duly authorized by said Corporation to make this Affidavit.
2. That there is justly due and owing to TCC OF CHARLESTON, INC., Plaintiff, over and above any discount the sum of $2,385,503.57 together with interest and attorney's fees and costs.
3. That the said indebtedness represents material purchased and services performed by the Plaintiff for the Defendant(s) for improvements to the property described in EXHIBIT B.
4. That the last day work was performed or materials provided to the property described in EXHIBIT B was March 17, 2016.
5. That the Plaintiff has not, directly or indirectly, received any part of the money or goods charged herein as due or received any security or satisfaction for which credit has not already been given.
6. That the Plaintiff keeps regular books of account and that the keeping of said books of account is in the charge of or under supervision of the Affiant. The entries in said books of account are made in the ordinary course of business. Said entries show that the Defendant is indebted to the Plaintiff in the manner and amount herein set forth.

TCC OF CHARLESTON, INC.

BY: John Earl Griffith

ITS Pres.

SWORN TO BEFORE ME THIS 10th
DAY OF JUNE 2016.

Melissa Kander

NOTARY PUBLIC FOR SOUTH CAROLINA
MY COMMISSION EXPIRES: 6-30-2025

MELISSA SWARTZLANDER NOTARY PUBLIC MY COMMISSION EXPIRES 6/30/2025 SOUTH CAROLINA

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# EXHIBIT 2

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**EXHIBIT "A"**

STATE OF SOUTH CAROLINA ) AMENDED STATEMENT OF ACCOUNT
COUNTY OF CHARLESTON )

I hereby certify that on this ____ day of October, 2020, personally appeared before me, JOHN DAVID GRIFFITH, and said:

1. That he is an officer of TCC OF CHARLESTON, INC. (license # 112242) a company organized and doing business under the laws of the State of South Carolina and has been duly authorized by said Corporation to make this Affidavit.
2. That there is justly due and owing to TCC OF CHARLESTON, INC., over and above any discount, the sum of $2,385,503.57 together with interest and attorney's fees and costs.
3. That the said indebtedness represents material purchased and services performed by the Plaintiff for the Defendant(s) for improvements to the property described in EXHIBIT B.
4. That work was performed and/or materials provided to the property described in EXHIBIT B within 90 days of the filing and service of the lien.
5. That the Plaintiff has not, directly or indirectly, received any part of the money or goods charged herein as due or received any security or satisfaction for which credit has not already been given.
6. That the Plaintiff keeps regular books of account and that the keeping of said books of account is in the charge of or under supervision of the Affiant. The entries in said books of account are made in the ordinary course of business. Said entries show that the Defendant is indebted to the Plaintiff in the manner and amount herein set forth.

TCC OF CHARLESTON, INC.

BY: _____

ITS _____

SWORN TO BEFORE ME THIS _____
DAY OF SEPTEMBER, 2020.

_____
NOTARY PUBLIC FOR SOUTH CAROLINA
MY COMMISSION EXPIRES: _____

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# EXHIBIT 3

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| **STATE OF SOUTH CAROLINA** )<br>)<br>**COUNTY OF CHARLESTON** ) | **IN THE COURT OF COMMON PLEAS FOR THE NINTH JUDICIAL CIRCUIT** |
| TCC OF CHARLESTON, INC.<br><br>Plaintiff,<br><br>v.<br><br>CONCORD AND CUMERLAND, LLC., CONCORD & CUMBERLAND HPR, LEO HALL, DIANE HALL, BEA H. SMITH, MARGARET C. POPE, WILLIAM D. FOSTER, JR., GENE G. FOSTER, MATTISON J. MACGILLIVRAY, TERESA MACGILLIVRAY, PAMELA L. VAUGHN, NELIA A. PATRICIO, Trustee of the Nelia A. Patricio Revocable Trust Agreement, STUART D. REEVES, EDWARD T. STROM, BARBARA K. HENDERSON, JAMES R. CLARKE, PAUL A. BRIM, ROBERT K. SEIDL, JENNIFER M. SEIDL, ROBERT KENNETH SEIDL, II, M. BERT STOREY, THOMAS R. MATHER, EDWARD T. STROM, 304 CONCORD & CUMBERLAND, LLC, MARION M. SIMPSON F/K/A MARION MOORE MCDONALD SIMPSON, KATHY GARDNER, GREGORY J. GARDNER, FREEMAN WATERFRONT PROPERTIES, LLC, JOHN FREEMAN, JO-ANN COOPER, BETTY Y. SEGAL, ROBERT M. LEVIN AND BONITA K. LEVIN, DONALD D. LEONARD, BETTY L. BEATTY, MATTELLEN, LLC, AND THOMAS R. DEBNAM, Trustee of the Trust Agreement of Thomas R. Debnam,<br><br>Defendants. | Case No.: 2016-CP-10-2955<br><br>**AFFIDAVIT OF JOHN DAVID GRIFFITH** |

PERSONALLY appeared before me, JOHN DAVID GRIFFITH, who states as follows:

1. My name is John David Griffith. During the construction of this project and events leading up to and through the arbitration, I was President and Treasurer of TCC of Charleston, Inc., and Trident Construction Co.

2. I was involved with the Concord and Cumberland project from its beginning, and I signed the verified complaint and the statement of account relating to the project.

3. When I signed the statement of account, I referred to the date of substantial completion.

4. Ryan Tomberlin, the project superintendent, was on the site performing contract work in the months following substantial completion. Further, additional work on the project was performed and additional Proposed Change Orders were submitted through August 2017.

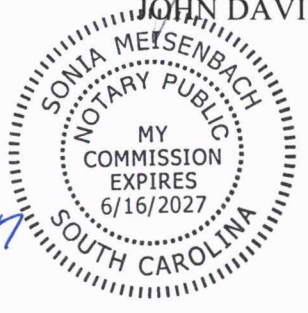
5. The above work was performed because it was necessary to complete the project and the owner requested it.

6. Further affiant sayeth naught.

JOHN DAVID GRIFFITH

SWORN to before me this 28th day of September, 2020.

Notary Public for South Carolina
My Commission Expires: 6/16/2027




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# EXHIBIT 4

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| **STATE OF SOUTH CAROLINA** )<br>)<br>**COUNTY OF CHARLESTON** ) | **IN THE COURT OF COMMON PLEAS FOR THE NINTH JUDICIAL CIRCUIT** |
| TCC OF CHARLESTON, INC.<br><br>Plaintiff,<br><br>v.<br><br>CONCORD AND CUMERLAND, LLC., CONCORD & CUMBERLAND HPR, LEO HALL, DIANE HALL, BEA H. SMITH, MARGARET C. POPE, WILLIAM D. FOSTER, JR., GENE G. FOSTER, MATTISON J. MACGILLIVRAY, TERESA MACGILLIVRAY, PAMELA L. VAUGHN, NELIA A. PATRICIO, Trustee of the Nelia A. Patricio Revocable Trust Agreement, STUART D. REEVES, EDWARD T. STROM, BARBARA K. HENDERSON, JAMES R. CLARKE, PAUL A. BRIM, ROBERT K. SEIDL, JENNIFER M. SEIDL, ROBERT KENNETH SEIDL, II, M. BERT STOREY, THOMAS R. MATHER, EDWARD T. STROM, 304 CONCORD & CUMBERLAND, LLC, MARION M. SIMPSON F/K/A MARION MOORE MCDONALD SIMPSON, KATHY GARDNER, GREGORY J. GARDNER, FREEMAN WATERFRONT PROPERTIES, LLC, JOHN FREEMAN, JO-ANN COOPER, BETTY Y. SEGAL, ROBERT M. LEVIN AND BONITA K. LEVIN, DONALD D. LEONARD, BETTY L. BEATTY, MATTELLEN, LLC, AND THOMAS R. DEBNAM, Trustee of the Trust Agreement of Thomas R. Debnam,<br><br>Defendants. | Case No.: 2016-CP-10-2955<br><br>**AFFIDAVIT OF RYAN TOMBERLIN** |

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PERSONALLY appeared before me, RYAN TOMBERLIN, who states as follows:

1. My name is Ryan Tomberlin. I am over the age of 18, and I have been a Project Superintendent with Trident for 7 years.

2. I was the Project Superintendent for the project at Concord & Cumberland, located at 175 Concord Street.

3. TCC believed substantial completion of the project was March 17, 2016.

4. As part of completing the work provided for in the contract, and at the request of the owner, Trident performed additional work following substantial completion, including:

    a. On April 21, 2016, I was onsite supervising the installation of railings on the fourth-floor terrace. Trident managed traffic and operated a lift for a subcontractor, Molony Metals.

    b. On May 4, 2016, I met the HPR's construction manager, Trey McCraw, onsite to review and verify proper installation of the railings.

    c. On May 5, 2016, I met Trey McCraw onsite to review potential water intrusion issues.

    d. From June 7 through June 9, 2016, I was onsite performing warranty work regarding trim at the request of Trey McCraw.

5. The above work was performed because it was necessary to complete the project and the owner requested it and not for purposes of extending any dates relevant to the mechanic's lien statute.

6. Further affiant sayeth naught.

RYAN TOMBERLIN

SWORN to before me this 22
day of May, 2020.

Notary Public for South Carolina
My Commission Expires: 4.26.28

# EXHIBIT 5

**IN THE MATTER OF THE ARBITRATION BETWEEN**

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| TCC OF CHARLESTON, INC., Plaintiff, | ) | **Civil Action No. 2016-CP-10-2955** |
| v. | ) | **CORRECTED ARBITRATION AWARD** |
| CONCORD & CUMBERLAND HPR, Defendant. | ) | |

This matter comes before the undersigned Arbitration Panel pursuant to Concord & Cumberland HPR's ("HPR") Motion for Change of Award. For the reasons set forth below, HPR's Motion for Change of Award is granted in the following respects. This Corrected Arbitration Award corrects, amends, and supplements this Panel's prior Arbitration Award dated April 16, 2019. The Post Award Order dated July 12, 2019, is withdrawn.

In finding the sum of $2,023,074.45 recoverable by TCC of Charleston, Inc. ("TCC") in the Arbitration Award dated April 16, 2019, the Panel included the amounts in PCO 143 (TCC Exhibit 124), PCO 144R (TCC Exhibit 123), and PCO 146 (TCC Exhibit 125), as part of the recovery to TCC. In calculating interest for the Post Award Order, the Panel mistakenly referred back to Pay Application No. 17, and the sums therein, instead of the above exhibits or TCC Exhibit 128.[1]

[1] Exhibit 128 references PCO 144. However, the value included in TCC Exhibit 128 for PCO 144 is $128,041.00, which is the amount of PCO 144R rather than the value of PCO 144.

In reviewing HPR's Motion to Correct Award, this Panel also realized it had erroneously included $9,608.00 in the Arbitration Award for the transom door based on PCO 145 (TCC Exhibit 131 and TCC Exhibit 128). The claim for the transom door was withdrawn during the hearings. Accordingly, the Panel's Arbitration Award dated April 16, 2019, should be corrected to deduct the amount of the transom door claim.

**THEREFORE, THE PANEL ISSUES THE FOLLOWING CORRECTED ARITRATION AWARD:**

This matter is before the undersigned pursuant to the Order of Judge Roger M. Young, Sr., dated December 30, 2016, to stay Case No. 2016-CP-10-2955 (the "Lawsuit") and compel arbitration of a dispute between TCC of Charleston, Inc. ("TCC") and Concord & Cumberland HPR ("HPR") (cumulatively the "Parties"), the Arbitration Agreement entered into between the Parties on January 18, 2017 (the "Arbitration Agreement"), and appointment in accordance with S.C. Code Ann. § 15-48-30.

The merits hearing was conducted January 21 - 24, 2019. Each party was represented by counsel and presented exhibits and witness testimony. TCC called as witnesses John David Griffith, Chris Burrell, Ryan Tomberlin, Gary Moore, and Zan Edens. HPR called as witnesses Trey McCraw and Shawn Mellin. At the conclusion of the hearing, the Panel requested that TCC provide a summary or itemization of its damages claim and that each party present proposed Orders. Each side provided a proposed Order on or before March 21, 2019, and the hearing was closed at that time.

Based upon the evidence presented; after careful consideration of all the testimony, exhibits, submissions, arguments of counsel; proposed orders submitted by the parties; and review

of the applicable law, the Panel makes the following Findings relevant to this proceeding and issues this Corrected Arbitration Award.

**Findings**

On February 27, 2014, HPR contracted with TCC to perform a scope of work at 175 Concord. The contract was cost plus a fee, with a guaranteed maximum price ("GMP") of $3,923,939.00. The contract consisted of an A102 and A201 as modified by the parties. HPR designated Tom Mather as its initial owner's representative and the project architect was Shawn Mellin of Glick Boehm and Associates ("GBA").

The scope of work for the contract was developed by GBA based upon GBA's investigations performed in prior litigation of HPR and the individual unit owners against the original developer, contractor, and subcontractors. Generally, TCC was to declad the building, apply waterproofing, replace the windows, and apply new cladding.

A Notice to Proceed was issued on July 28, 2014. The contract required the work to be substantially complete 306 days after the Notice to Proceed, to-wit: May 30, 2015. Substantial completion actually occurred on March 8, 2016.

It is undisputed that the condition of the building was different than what TCC contemplated when it originally submitted its bid. During the course of the work, at least 134 proposed change orders ("PCOs") were requested by TCC. $1,953,145.00 of the PCOs were paid by HPR, increasing the total contract to $5,877,084.00 as of February 2016. The paid PCOs were paid on a cost-plus basis.

This dispute involves architect approved but unpaid PCOs; architect approved but unpaid retainage; and, remaining unapproved PCOs. TCC is entitled to be paid PCOs 143, 144R, 146, and unpaid retainage. TCC performed additional work outside the original scope of work which

was not approved and was not paid. TCC was inefficient in its prosecution of some of the additional work and is only entitled to be paid a portion of the remaining unapproved PCOs. The Panel finds based on the testimony of TCC and HPR that the work performed by TCC and its subcontractors was inefficient in the amount of 25% of the remaining unapproved amounts claimed.

**Effect of Conditional Lien Waivers Accompanying Payment Application No. 17 and Prior Payment Applications**

HPR has maintained in its proposed Arbitration Award, its Motion for Reconsideration, and its Motion for Change of Arbitration Award that the Conditional Release and Waiver of Lien executed by TCC and accompanying Payment Application No. 17 which HPR paid, as well as others executed by TCC, bars a significant portion of recovery, "at least $996,180.71", sought by TCC. Credible testimony at the hearing was presented and considered by the Panel that TCC and HPR agreed to address outstanding PCOs and TCC's claims for additional costs at the end of the project.

The Panel finds that TCC provided Conditional Release and Waiver of Liens with each application for payment. Each Conditional Release and Waiver of Lien contained the following:

> The undersigned TCC of Charleston, Inc. in consideration of receipt of payment in the amount of $_____, for materials, labor and services rendered and supplied as of _____ (the date of the period covered by the Payment Application), and does hereby release and waive all claims and liens existing as of _____ (the date of the period covered by the Payment Application), against Concord & Cumberland HPR C/O McAlister Preferred Properties on account of, or in any way resulting from or in connection with construction located at 175 Concord St., Charleston, SC in the County of Charleston, State of South Carolina.

The Panel finds that some of the PCOs and TCC's claims for additional costs were subsequently submitted and paid by HPR which arose and existed as of the date of the execution

of the Conditional Release and Waiver of Liens. Knowing that TCC had signed Conditional Release and Waiver of Liens, HPR nonetheless agreed to PCOs; signed the Change Orders; and, made payment for claims that may have otherwise been released or barred by the Conditional Release and Waiver of Liens. HPR cannot now claim that the Conditional Release and Waiver of Liens bar TCC's claims.

**Correction of Award**

The corrected total award is based, in part, on the sum of approved and unpaid PCOs in the amounts of $258,799.00 (PCO 143), $128,041.00 (PCO 144R), and $266,168.00 (PCO 146) plus retainage in the amount of $305,565.00 as itemized in TCC Exhibit 161. These sums total $958,573.00. Additionally, a portion of the disputed amount of $1,417,322.87 and a portion of the stone tower is also awarded. However, both parties testified that PCO 145 for the transom door in the amount of $9,608.00 (TCC Exhibit 131) should not be included.

Based on the evidence presented and testimony of both parties, the Panel concludes and finds that the disputed claims and work performed by TCC, including the stone tower had an inefficiency factor of 25 percent (25%) of the amount claimed. TCC is also entitled to receive 8.25 percent (8.25%) for data processing fees and profit on the corrected award. The total award to TCC is calculated as follows:

A. TCC's award is based on the unadjusted sum of $258,799.00 (PCO 143) + $128,041.00 (PCO 144R) + $266,168.00 (PCO 146) + $305,565.00 (Retainage) + $1,417,322.87 (Disputed amount from Exhibit 161) + $32,540.00 (Stone Wall) = $2,408,435.87.

B. Less the disputed unpaid PCOs by 25%, including 8.25% profit and data processing on the 25% deduction due to TCC's inefficiencies.

$1,417,322.87 – ($1,417,322.87 x 25%) (1.0825) = $1,033,759.87. The inefficiency adjustment is $383,563.00 including O&P and data processing.

C. The stone tower adjustment is $32,540.00 – ($32,540.00 x 25%) (1.0825) = $23,733.86. NOTE: The inefficiency adjustment is $8,806.14 including O&P and data processing.

D. Calculated Corrected Award:

| | |
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| $958,573.00 | Approved and unpaid PCOs excluding transom door |
| $1,033,759.87 | Disputed amount from Exhibit 161 with inefficiency deduction |
| $23,733.86 | Adjusted stone tower with inefficiency deduction |
| $2,016,066.73 | Corrected Award |

E. The corrected total award to TCC with all adjustments exclusive of interest and fees and excluding counsel fees incurred in the conduct of the arbitration is $2,016,066.73.

**Attorney Fees**

Litigants are not entitled to recover attorney fees absent a written agreement to do so or statutory authority allowing for the recovery of attorney fees. The Order of Judge Roger M. Young, Sr., dated December 30, 2016, provides in pertinent part "the parties have consented to an arbitration of the dispute between Plaintiffs and Defendant CONCORD & CUMBERLAND HPR ("Regime") and stay of Plaintiffs (*sic*) foreclosure request as to the remaining Defendants." Section 5 of the Arbitration Agreement between TCC and HPR states as follows:

> 5. *Fees and Expenses of Arbitrators* - All fees and expenses incurred and charged by the Arbitrators prior to the hearing shall be borne equally between the Parties, with Trident bearing one-half and the HPR bearing one-half. However, *the Arbitrators shall assess, in whole or in part, their fees and expenses incurred* in connection with the Arbitration as a part of their award in accordance with S.C. Code Ann. § 15-48-110 and the fee provision contained in the Mechanic's Lien Laws. *(emphasis added).*

S.C. Code Ann. § 15-48-110 grants to an arbitrator limited jurisdiction to award "the arbitrator's expenses, and fees, together with other expenses." S.C. Code Ann. § 27-3-20 requires that TCC's lien must be filed against the property owners rather than the HPR. Accordingly, the language in Section 5 of the Arbitration Agreement mandates that this Panel award "their fees and

expenses incurred in connection with the Arbitration … in accordance with" the prevailing party fee provision "in the Mechanic's Lien Laws."

The construction contract between TCC and HPR does not contain a prevailing party attorney fee provision. No statutory authority has been provided to the Panel as a basis to award attorney fees. Accordingly, this Panel finds it is without jurisdiction to entertain a Motion for Attorney Fees. Both TCC's and HPR's requests for attorney fees are denied without prejudice to either TCC or HPR to seek attorney fees before the Court of Common Pleas for Charleston County, South Carolina.

**S.C. Code Ann. § 15-48-110 Arbitrators Expenses and Fees, Other Expenses**

Section 5 of the Arbitration Agreement mandates that this Panel make an award of the Panel's "fees and expenses incurred in connection with the Arbitration." The Panel finds in accordance with S.C. Code Ann. § 15-48-110 and the prevailing party fee provision contained in the Mechanic's Lien Laws that TCC is entitled to recover from the HPR its deposit of $44,250.00 paid by it. Upon HPR paying TCC the amount of the deposit ($44,250.00), any funds remaining in the Elmore Goldsmith, P.A. Trust Account for arbitrator fees and expenses shall, at the conclusion of the arbitrators' service, be paid to the HPR.

S.C. Code Ann. § 15-48-110 also provides for an award of "other expenses, not including counsel fees incurred in the conduct of the arbitration." The Panel has reviewed TCC's claimed costs and finds that TCC is entitled to and awards TCC $21,691.02 for other expenses, not including counsel fees incurred in the conduct of the arbitration.

**Correction of Interest Calculation**

Article 15.2 of AIA Document A102-2007, *Standard Form of Agreement Between Owner and Contractor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price* dated February 27, 2014, as modified, between TCC and HPR provides:

> § 15.2 Payments due and unpaid under the Contract shall bear interest from the date payment is due at the rate stated below, or in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located.
> *(Insert rate of interest agreed upon, if any.)*
>
> Prime as published in the Wall Street Journal %

TCC seeks interest at 5.5% from March 8, 2016. HPR contends that Panel does not have jurisdiction to award interest under the parties Arbitration Agreement; that a sum certain due was not known until the arbitration award; and, that the amount awarded arising under Article 15.2 must be specified.

PCOs 143, 144R, and 146, were all approved by the architect no later than August 29, 2017. The project was substantially complete on March 8, 2016. Through no fault of TCC, retainage in the amount of $305,565.00 was never paid. This Arbitration Panel finds TCC is entitled to recover interest on PCOs 143, 144R, 146 and retainage totaling $958,573.00 since September 29, 2017, at the rate of 4% compounded annually through August 1, 2019.

IT IS THEREFORE ORDERED:

1. TCC is entitled to recover against HPR the sum of $2,016,066.73 for all claims asserted in this proceeding including, but not limited to, approved and unapproved PCOs and retainage.

2. TCC and HPR's respective motions for an award of their attorney fees are denied without prejudice to seek attorney fees before the Court of Common Pleas as the prevailing party under S.C. Code Ann. § 29-5-10, *et seq*.

3. TCC is entitled to recover its arbitrator deposit in the amount of $44,250.00 against HPR. Upon HPR paying TCC the amount of the deposit

($44,250.00), any funds remaining in the Elmore Goldsmith, P.A. Trust Account for arbitrator fees and expenses shall, at the conclusion of the arbitrators' service, be paid to the HPR.

4. TCC is entitled to recover its expenses, not including counsel fees, incurred in the conduct of the arbitration in the amount of $21,691.02 against HPR pursuant to S.C. Code Ann. § 15-48-110.

5. TCC is entitled to recover interest on the sum of PCOs 143, 144R, and 146 and retainage, totaling $958,573.00, since September 29, 2017, at the rate of 4% compounded annually through August 1, 2019 in the amount of $71,667.31. Interest shall accrue at the rate of $112.90 per day thereafter until (1) this Corrected Arbitration Award is satisfied and paid in full; or (2) until judgment is entered on this Corrected Arbitration Award, whichever first occurs.

AND IT IS SO ORDERED.

August 12, 2019

Alan O. Campbell, Arbitrator

John L. McCants, Arbitrator

L. Franklin Elmore, Arbitrator

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| STATE OF SOUTH CAROLINA<br>COUNTY OF CHARLESTON | ) | IN THE COURT OF COMMON PLEAS<br>FOR THE NINTH JUDICIAL CIRCUIT<br>CASE NO. 2016-CP-10-2955 |
| TCC OF CHARLESTON, INC.<br><br>Plaintiff,<br>vs.<br><br>CONCORD AND CUMERLAND, LLC., CONCORD & CUMBERLAND HPR, LEO HALL, DIANE HALL, BEA H. SMITH, MARGARET C. POPE, WILLIAM D. FOSTER, JR., GENE G. FOSTER, MATTISON J. MACGILLIVRAY, TERESA MACGILLIVRAY, PAMELA L. VAUGHN, NELIA A. PATRICIO, Trustee of the Nelia A. Patricio Revocable Trust Agreement, STUART D. REEVES, EDWARD T. STROM, BARBARA K. HENDERSON, JAMES R. CLARKE, PAUL A. BRIM, ROBERT K. SEIDL, JENNIFER M. SEIDL, ROBERT KENNETH SEIDL, II, M. BERT STOREY, THOMAS R. MATHER, EDWARD T. STROM, 304 CONCORD & CUMBERLAND, LLC, MARION M. SIMPSON F/K/A MARION MOORE MCDONALD SIMPSON, KATHY GARDNER, GREGORY J. GARDNER, FREEMAN WATERFRONT PROPERTIES, LLC, JO-ANN COOPER, BETTY Y. SEGAL, ROBERT M. LEVIN AND BONITA K. LEVIN, DONALD D. LEONARD, BETTY L. BEATTY, MATTELLEN, LLC, AND THOMAS R. DEBNAM, Trustee of the Trust Agreement of Thomas R. Debnam,<br><br>Defendants. | ) | **MEMORANDUM OF LAW IN SUPPORT OF CONCORD AND CUMBERLAND HPR'S POSITION AS TO THE PENDING MOTIONS** |

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Defendant Concord and Cumberland HPR ("HPR") respectfully submits this memorandum of law in support of its position regarding the motions scheduled for hearing on November 5, 2020 at 10:00 AM before The Honorable Mikell R. Scarborough.

The following motions relevant to the HPR, listed in order of filing, are pending before this Court:

(1) Defendant Concord & Cumberland HPR's Motion for Summary Judgment as to Plaintiff's Foreclosure of Mechanic's Lien Cause of Action, filed December 6, 2019;

(2) Concord and Cumberland HPR's Motion to Deposit Funds, filed May 11, 2020;

(3) TCC of Charleston, Inc.'s Motion to Confirm Arbitration Award and to Stay Granting of Requested Relief, filed July 30, 2020;

(4) TCC's Motion for Attorneys' Fees, filed September 11, 2020; and

(5) Concord and Cumberland HPR's Motion to Dismiss Plaintiff's Second Amended Complaint and Motion for Attorneys' Fees, filed September 14, 2020.

**Requested Relief**

This case is proceeding on two paths. The first path involves confirmation of the arbitration award and encompasses motions (2) and (3) above. The second path is the final disposition of all causes of action still pending against the HPR, which involves motions (1), (4), and (5) above.

Regarding the first path, the HPR requests that this Court GRANT TCC of Charleston, Inc.'s ("TCC") Motion to Confirm the Corrected Arbitration Award but without the requested delay. This is necessary to allow the HPR to appeal the award, which must occur before a

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foreclosure action can proceed against the unit owner defendants.[1] See C-Sculptures, LLC No. 3 v. Brown, 393 S.C. 27 (2011) (finding that the appeal of an arbitration award is akin to an appeal on the merits and should stay the case pursuant to Rule 241 SCACR). The HPR also requests that this Court GRANT its Motion to Deposit Funds into Court pending the outcome of the appeal.

Regarding the second path, the HPR requests that this Court GRANT its Motion for Summary Judgment as to Plaintiff's Foreclosure of Mechanic's Lien Cause of Action and/or its Motion to Dismiss Plaintiff's Second Amended Complaint as it relates to the HPR.[2]

Pursuant to Judge Roger M. Young, Sr.'s Order on December 30, 2016, all causes of action against the HPR were referred to arbitration. TCC had asserted three causes of action: breach of contract, *quantum meruit*, and foreclosure of mechanic's lien. The Arbitration Panel (the "Panel") rendered its decision without a specific finding as to each cause of action; however, by the award of a dollar amount, the Panel effectively disposed of the breach of contract and the alternative *quantum meruit* claim. Further, the Panel effectively disposed of the foreclosure of mechanic's lien cause of action when it stated that "the lien must be filed against the property owners rather than the HPR" based on The Horizontal Property Act (the "Act"), S.C. Code § 27-31-10 et seq., and further disposed of TCC's claim for attorney's fees by finding no agreement between the parties allowing such a recovery. While the HPR timely challenged the award based on the Panel's disposition of the breach of contract/quantum meruit claims, TCC never challenged the Panel's disposition of the foreclosure of mechanic's lien and attorney's fees claim. Accordingly, the Panel's latter ruling is the law of the case. Nonetheless, TCC, having fully pursued recovery of attorneys' fees against the HPR from the Panel and obtained the above result, seeks now a second

[1] The HPR previously filed an appeal that TCC challenged on the basis that the award was not yet confirmed.
[2] To the extent the filing of the Second Amended Complaint makes the Motion for Summary Judgment moot, the Motion to Dismiss encompasses the same arguments espoused and the same relief is requested.

ELECTRONICALLY FILED - 2020 Oct 27 4:42 PM - CHARLESTON - COMMON PLEAS - CASE#2016CP1002955

bite at the apple from this Court. This Court should not allow it. Rather, this Court should give effect to the Panel's unchallenged conclusion, GRANT the HPR's Motion for Summary Judgment and the HPR's Motion to Dismiss, GRANT the HPR's Motion for Attorney's Fees for prevailing in defense of the foreclosure of mechanic's lien cause of action, and DENY TCC's Motion for Attorney's Fees.

Thereafter, the HPR will appeal Judge Jefferson's denial of the HPR's Motions to Vacate or Correct the Arbitration Award. Once complete, the award amount will become final, and will then render, by calculation pursuant to the Master Deed, the claimed amount of the several liens against the unit owners, and TCC can then pursue its foreclosure of mechanic's lien causes of action against the unit owners, including any claims it may have to attorneys' fees. Of course, if the matter avoids resolution and actually reaches that point, the owners will have the right to assert their own individual claims and defenses – for example, they will certainly assert failure by TCC to serve the lien or lawsuit, or to timely do so - and, of course, they will each have the opportunity to offer settlement in order to mitigate their risk of exposure to attorney's fees, as would TCC.

## Background Facts

This case arises from a repair project at condominiums located at 175 Concord Street in Charleston, South Carolina. The HPR hired TCC as the general contractor and entered into a Guaranteed Maximum Price Contract ("GMP Contract") for the project. After substantial completion of the project, TCC requested payment of extra costs ultimately totaling $2,385,503.57 above and beyond the GMP, with no supporting change order or back-up documentation, and based almost completely on costs incurred prior to a Conditional Release and Waiver of Lien that was sworn to and executed by TCC and paid by the HPR. As such, a dispute arose.

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TCC commenced this action by filing a lawsuit against the HPR on June 6, 2016 for (1) foreclosure of mechanic's lien, (2) breach of contract, and (3) *quantum meruit*. TCC amended the Complaint on June 10, 2016 to join the individual condominium unit owners. Contemporaneously with filing the initial Complaint on June 6, 2016, TCC also filed a Motion to Stay and Compel Arbitration based on a forum selection clause within the GMP Contract.

The HPR consented to the arbitration, which was subsequently ordered by Judge Roger M. Young, Sr. on December 30, 2016. Specifically, Judge Young's Order provides that "the parties have consented to an arbitration of the dispute between Plaintiffs [sic] and Defendant CONCORD & CUMBERLAND HPR ("Regime") and stay of Plaintiffs [sic] foreclosure request as to the remaining Defendants . . . ." Over the course of the next 3 years, TCC and the HPR arbitrated all claims against the HPR, which resulted in an Arbitration Award and, subsequently, a Corrected Arbitration Award.

The HPR has pursued all available statutory remedies to have the Corrected Arbitration Award vacated or amended based on the Arbitration Panel's manifest disregard of the law, but the HPR is hamstrung in its appeal until this Court expressly confirms the award. The HPR filed an appeal after receiving Judge Jefferson's order denying the motion to vacate and the subsequent motion for reconsideration, but the Court of Appeals found that the appeal was not ripe until the award was confirmed.

At the same time it was moving to dismiss the HPR's appeal for lack of "confirmation," TCC ironically filed its own motion to confirm the Arbitration Award, but has specifically requested that a ruling on the motion be held in abeyance in a, thus far successful, effort to prevent the appeal. Contemporaneously, TCC filed a Second Amended Complaint on August 24, 2020

ELECTRONICALLY FILED - 2020 Oct 27 4:42 PM - CHARLESTON - COMMON PLEAS - CASE#2016CP1002955

and again asserted claims against the HPR for (1) foreclosure of mechanic's lien, (2) breach of contract, and (3) equity.

## ARGUMENT

### I. THE COURT SHOULD GRANT TCC'S MOTION TO CONFIRM THE ARBITRATION AWARD, WITHOUT THE REQUESTED DELAY, AND THE HPR'S MOTION TO DEPOSIT.

This Court should GRANT TCC's Motion to Confirm the Arbitration Award, without the requested delay, in order to allow the HPR's appeal to proceed, and stay the case as to the unit owner defendants. The South Carolina Court of Appeals issued a decision directly on point in C-Sculptures, LLC v. Brown, 393 S.C. 27, 709 S.E.2d 705 (Ct. App. 2011). In C-Sculptures, a general contractor (C-Sculptures) filed an action to foreclose a mechanic's lien against property owners (Brown) over a construction contract payment dispute. The case was referred to arbitration and then, after the award was issued by the arbitrator, the case was referred to the Master-In-Equity for Richland County, Joseph M. Strickland. Based on the case posture and the pending appeal of the arbitration award, Judge Strickland stayed the foreclosure action. Id. at 29-30. In affirming Judge Strickland's ruling, the Court of Appeals found that the appeal of an arbitration award is akin to a traditional appeal on the merits and that the case was properly stayed under Rule 241, SCACR. Id. at 31.

The only difference here is that Judge Jefferson failed to expressly confirm the award when she denied the HPR's motions to vacate. (Ord. on Mot. to Lift Stay and Mots. To Vacate or Correct Arb. Award, January 30, 2020.) Perhaps this was simply an oversight, as procedurally, when it denies such a motion, the Court should automatically confirm the award per statute. See S.C. Code Ann. § 15-48-130(d) ("If the application to vacate is denied and no motion to modify or correct the award is pending, the court shall confirm the award."). Because the HPR's motions to vacate

ELECTRONICALLY FILED - 2020 Oct 27 4:42 PM - CHARLESTON - COMMON PLEAS - CASE#2016CP1002955

and to modify or correct were denied, and because there were no other like motions pending - for example, TCC had filed none - the HPR took the denial as a statutory confirmation of the award and filed an appeal. Nonetheless, the Court of Appeals dismissed the appeal and remitted back to this Court until confirmation of the award. As such, this Court should confirm the award, stay the case as to the unit owners, and allow the appeal to proceed.

Further, this Court should grant the HPR's motion to deposit funds pursuant to Rule 67, SCRCP. In Duval v. Heritage Life Ins. Co., 339 S.C. 616, 529 S.E.2d 566 (Ct. App. 2000), the Court of Appeals stated:

> In Russo, v. Sutton, [317 S.C. 441, 454 S.E. 2d 895 (1995)], the supreme court held a judgment debtor's deposit of funds into court pursuant to Rule 67, SCRCP, pending the debtor's own appeal stops the accrual of interest on the judgment. The rationale was that "such a rule encourages the debtor to pay the judgment and assures the judgment creditor the funds will be available." [*Id.* at 442, 454 S.E. 2d at 896]. This court has followed that rule. [See, e.g.; Small v. Pioneer Machinery, Inc., 330 S.C. 62, 65, 496 S.E. 2d 884, 885 (Ct. App. 1998) ("A judgment debtor's deposit of funds into the court pending his own appeal prevents further accrual of interest on the judgment.")].

(footnotes inserted in brackets in quotation).

Given that the deposit of the award amount would serve the underlying principle stated in Russo, supra, the HPR requests that this Court finally grant the HPR's aged motion.

## II. THE COURT SHOULD DISMISS ALL CAUSES OF ACTION, INCLUDING BUT NOT LIMITED TO THE FORECLOSURE OF MECHANIC'S LIEN AND EQUITY CAUSES OF ACTION, AGAINST THE HPR.

### a. TCC's Foreclosure of Mechanic's Lien Cause of Action Must Be Dismissed for Failure to State Facts Sufficient to Assert a Cause of Action Against the HPR.

It is legally impossible for TCC to assert a mechanic's lien against the HPR. Notwithstanding this reality, TCC has continued to assert, and the HPR has continued to defend against, the foreclosure cause of action for four years, resulting in many thousands of dollars in

ELECTRONICALLY FILED - 2020 Oct 27 4:42 PM - CHARLESTON - COMMON PLEAS - CASE#2016CP1002955

attorneys' fees. As discussed above, all causes of action against the HPR, including the foreclosure of mechanic's lien, were referred to arbitration for disposition. In the arbitration, the Panel found that "S.C. Code Ann. 27-3-20 requires that TCC's lien must be filed against the property owners rather than the HPR." (emphasis added) (citation error in original). This finding was not challenged by TCC and is thus the Law of the Case. See, e.g., Sentry Eng'g & Const., Inc. v. Mariner's Cay Dev. Corp., 287 S.C. 346, 350–51, 338 S.E.2d 631, 634 (1985) (finding that unless a motion is filed regarding a finding in an arbitration award, the finding in the award becomes the law of the case); C-Sculptures, LLC, 393 S.C. at 32, 709 S.E.2d at 707 ("Because C-Sculptures did not file a motion to alter or amend that finding within the order, it is the law of the case."); Toler's Cove Homeowners Ass'n v. Trident Constr. Co., 355 S.C. 605, 610, 586 S.E.2d 581, 584 (2003) (stating that a finding by the lower court "is the law of the case because neither party has taken issue with that finding."); see also ML-Lee Acquisition Fund, L.P. v. Deloitte & Touche, 327 S.C. 238, 489 S.E.2d 470 (1997) (unappealed ruling is law of the case); Ex parte Morris, 367 S.C. 56, 65, 624 S.E.2d 649, 653-54 (2006) (stating an unappealed ruling is the law of the case); Judy v. Martin, 381 S.C. 455, 459, 674 S.E.2d 151, 153 (2009) ("[A]n unappealed ruling becomes the law of the case and precludes further consideration of the issue on appeal.").

The HPR now simply requests that this Court take the next steps and dismiss the foreclosure of mechanic's lien cause of action and award the HPR its attorneys' fees. Independent of the Panel's statement on the issue, an action against the HPR to foreclose a mechanic's lien cannot stand as a matter of law. The Horizontal Property Act (the "Act"), S.C. Code § 27-31-10 et seq., provides the following in § 27-31-230:

> SECTION 27-31-230. Liens arising subsequent to recording of master deed or lease.
>
> (a) **No lien arising subsequent to recording the master deed or lease as provided in this chapter**, and while the property remains subject to this chapter,

ELECTRONICALLY FILED - 2020 Oct 27 4:42 PM - CHARLESTON - COMMON PLEAS - CASE#2016CP1002955

> **shall be effective against the property**. During such period **liens or encumbrances shall arise or be created only against each apartment and the percentage of undivided interest in the common elements appurtenant to such apartment**, in the same manner and under the same conditions in every respect as liens or encumbrances may arise or be created upon or against any other separate parcel of real property subject to individual ownership; provided, that no labor performed or materials furnished with the consent or at the request of a co-owner or his agent or his contractor or subcontractor, shall be the basis for the filing of a mechanic's or materialman's lien against the apartment or any other property of any other co-owner not expressly consenting to or requesting the same, except that such express consent shall be deemed to be given by the owner of any apartment in the case of emergency repairs thereto. **Labor performed or materials furnished for the common elements**, if duly authorized by the council of co-owners, the administrator or board of administration or other administration specified by the bylaws, in accordance with this chapter, the master deed, lease or bylaws, shall be deemed to be performed or furnished with the express consent of each co-owner and **shall be the basis for the filing of a mechanic's or materialman's lien against each of the apartments** and shall be subject to the provisions of subparagraph (b) hereunder.
>
> (b) In the event a lien against two or more apartments becomes effective, the owners of the separate apartments may remove their apartment and the percentage of undivided interest in the common areas and facilities appurtenant to such apartment from the lien by payment of the fractional or proportional amounts attributable to each of the apartments affected. Such individual payment shall be computed by reference to the percentages appearing in the master deed or lease. Subsequent to any such payment, discharge or other satisfaction, the apartment and the percentage of undivided interest in the common elements appurtenant thereto shall thereafter be free and clear of the lien so paid, satisfied or discharged. Such partial payment, satisfaction or discharge shall not prevent the lienor from proceeding to enforce his rights against any apartment and the percentage of undivided interest in the common elements appurtenant thereto not so paid, satisfied or discharged.

(Emphasis added.)

The Act explicitly references the mechanic's lien statute and provides that the procedure for a mechanic's lien is for the lien to be filed against the individual apartments according to each apartment's percentage share of the undivided interest in the common areas. Further, the Act states that "no lien" against the HPR "shall be effective against the property." Id. Nonetheless, TCC filed the mechanic's lien against the HPR and asserted a cause of action to foreclose it. TCC did so yet again in its most recent Second Amended Complaint. Because the HPR cannot be the

ELECTRONICALLY FILED - 2020 Oct 27 4:42 PM - CHARLESTON - COMMON PLEAS - CASE#2016CP1002955

subject of a mechanic's lien by statute, this Court should GRANT the HPR's Motion for Summary Judgment and/or Motion to Dismiss[3] the foreclosure of mechanic's lien causes of action.

Alternatively, this Court should GRANT the HPR's motion based on insufficient service of process. The HPR has never been served with the mechanic's lien or this lawsuit, as is required by statute. S.C. Code Ann. § 29-5-10 et seq. Therefore, in the alternative, this Court should dismiss the foreclosure action for failure to perfect the lien under S.C. Code Ann. § 29-5-10 et seq., and pursuant to Rule 12(b)(5), SCRCP.

Further, because the HPR cannot be the subject of a mechanic's lien, the HPR is the prevailing party and should be awarded its attorneys' fees. Attorneys' fees and costs are only appropriate and can only be awarded if authorized by contract or statute. See Baron Data Sys., Inc. v. Loter, 297 S.C. 382, 383, 377 S.E.2d 296, 297 (1989) (providing the rule that attorney's fees are not recoverable unless authorized by contract or statute); Jackson v. Speed, 326 S.C. 289, 486 S.E.2d 750 (1997); Blumberg v. Nealco, Inc., 310 S.C. 492, 427 S.E.2d 659 (1993). Here, the Panel has ruled that neither the GMP Contract, nor the subsequent arbitration agreement, provides for attorneys' fees or costs. Thus, the only potential basis for recovery of attorneys' fees in this case is by statute.

S.C. Code Ann. § 29–5–10(a) requires the court to award reasonable attorney's fees and costs to the party defending against the mechanic's lien if the defending party "prevails" in the action. See Utilities Constr. Co. v. Wilson, 321 S.C. 244, 248, 468 S.E.2d 1, 3 (Ct.App.1996) ("[T]he Legislature ... intended to afford a property owner [the] remedy [of recovering attorney's fees and costs] where a mechanic attempts to enforce a defective or wrongful mechanic's lien.") (citation omitted). Our courts have defined "prevailing party" as "the one who successfully

[3] To the extent the Second Amended Complaint made the Motion for Summary Judgment moot, the same relief is requested in the Motion to Dismiss.

ELECTRONICALLY FILED - 2020 Oct 27 4:42 PM - CHARLESTON - COMMON PLEAS - CASE#2016CP1002955

prosecutes the action or successfully defends against it, prevailing on the main issue, even though not to the extent of the original contention ... the one in whose favor the decision or verdict is rendered and judgment entered." See Heath v. County of Aiken, 302 S.C. 178, 182–83, 394 S.E.2d 709, 711 (1990) (citation omitted); Seckinger v. Vessel Excalibur, 326 S.C. 382, 483 S.E.2d 775 (Ct.App.1997) (stating the defendant is entitled to an award of attorney's fees as the "prevailing party" if the trial court determines a mechanic's lien cannot be enforced against the defendant).

It matters not that Plaintiff prevailed on the breach of contract claim and was issued an award by the Panel. See Wilson, 321 S.C. at 249–50, 468 S.E.2d at 3–4 (upholding an award of attorney's fees to a property owner who successfully defended a contractor's claim for a mechanic's lien, even though the owner lost on the contractor's claims for unjust enrichment and breach of contract). Because a lien cannot be enforced against a horizontal property regime under law, and as held by the Panel, the HPR is the prevailing party.

For these reasons, this Court should DENY TCC's Motion for Attorneys' Fees and GRANT the HPR's Motion for Attorneys' Fees.

**b. TCC's Equity Cause of Action Must Be Dismissed.**

This Court should dismiss TCC's re-asserted breach of contract and equity claims pursuant to Rule 12(b)(1) and/or Rule 12(b)(3), SCRCP, as all claims against the HPR were referred to arbitration and have already been adjudicated. Indeed, Plaintiff requested, and the HPR consented, to the case being stayed in the Circuit Court in 2016 to allow the dispute with the HPR to be arbitrated. Plaintiff and the HPR have spent the last 4 years arbitrating the dispute, which has resulted in an award to Plaintiff that is currently pending confirmation by this Court and an appeal. Plaintiff cannot now seek to require the HPR to again respond to pleadings in the Circuit Court by filing a Second Amended Complaint asserting the same claims.

ELECTRONICALLY FILED - 2020 Oct 27 4:42 PM - CHARLESTON - COMMON PLEAS - CASE#2016CP1002955

Further, Plaintiff has substituted "Equity" for "*Quantum Meruit*" in an effort to manufacture a cause of action for the recovery of attorney's fees, when one does not exist and cannot be stated. Even if "Equity" is a viable cause of action, which it is not, Plaintiff's prior claim for "*Quantum Meruit*"[4] surely encompassed it and was before the Panel.

If for some reason this Court does not find Plaintiff's "Equity" claim to be a recast version of its prior "*Quantum Meruit*" claim, then this Court should defer to Judge Young's Order and the forum selection clause in the construction contract and refer any new claims still pending against the HPR back to arbitration.

## CONCLUSION

Based on the above, the HPR requests that this Court dismiss all causes of actions against the HPR and award it all attorney's fees reasonably associated with the defense of the mechanic's lien foreclosure action.

WOMBLE BOND DICKINSON (US) LLP

*/s/ F. Cordes Ford IV*

F. Cordes Ford IV (S.C. Bar No. 71644)
R. Andrew Walden (S.C. Bar No. 101004)
Henry E. Grimball (S.C. Bar No. 2313)
5 Exchange Street (29401)
P.O. Box 999
Charleston, SC 29402
(843) 722-3400
Cordes.Ford@wbd-us.com
Andrew.Walden@wbd-us.com
Henry.Grimball@wbd-us.com

*Attorneys for Defendant*
*Concord & Cumberland HPR*

October 27, 2020
Charleston, SC

[4] *Quantum meruit* is an equitable doctrine which allows recovery for unjust enrichment under a quasi-contract theory. Columbia Wholesale Co. v. Scudder May N.V., 312 S.C. 259, 261, 440 S.E.2d 129, 130 (1994).

| | | |
|---|---|---|
| STATE OF SOUTH CAROLINA<br>COUNTY OF CHARLESTON | ) | IN THE COURT OF COMMON PLEAS<br>FOR THE NINTH JUDICIAL CIRCUIT<br>CASE NO. 2016-CP-10-2955 |
| TCC OF CHARLESTON, INC.<br><br>Plaintiff,<br>vs.<br><br>CONCORD AND CUMERLAND, LLC., CONCORD & CUMBERLAND HPR, LEO HALL, DIANE HALL, BEA H. SMITH, MARGARET C. POPE, WILLIAM D. FOSTER, JR., GENE G. FOSTER, MATTISON J. MACGILLIVRAY, TERESA MACGILLIVRAY, PAMELA L. VAUGHN, NELIA A. PATRICIO, Trustee of the Nelia A. Patricio Revocable Trust Agreement, STUART D. REEVES, EDWARD T. STROM, BARBARA K. HENDERSON, JAMES R. CLARKE, PAUL A. BRIM, ROBERT K. SEIDL, JENNIFER M. SEIDL, ROBERT KENNETH SEIDL, II, M. BERT STOREY, THOMAS R. MATHER, EDWARD T. STROM, 304 CONCORD & CUMBERLAND, LLC, MARION M. SIMPSON F/K/A MARION MOORE MCDONALD SIMPSON, KATHY GARDNER, GREGORY J. GARDNER, FREEMAN WATERFRONT PROPERTIES, LLC, JO-ANN COOPER, BETTY Y. SEGAL, ROBERT M. LEVIN AND BONITA K. LEVIN, DONALD D. LEONARD, BETTY L. BEATTY, MATTELLEN, LLC, AND THOMAS R. DEBNAM, Trustee of the Trust Agreement of Thomas R. Debnam,<br><br>Defendants. | ) | **ORDER** |

THIS MATTER comes before the Court for a hearing on the following motions pursuant to an Order of Reference issued by Judge McCoy on August 11, 2020:

(1) Defendant Concord & Cumberland HPR's Motion for Summary Judgment as to Plaintiff's Foreclosure of Mechanic's Lien Cause of Action, filed December 6, 2019;

(2) Defendant Betty L. Beatty's Motion for Partial Summary Judgment, filed May 8, 2020;

(3) Concord and Cumberland HPR's Motion to Deposit Funds, filed May 11, 2020;

(4) TCC of Charleston, Inc.'s Motion to Confirm Arbitration Award and to Stay Granting of Requested Relief, filed July 30, 2020;

(5) TCC's Motion for Attorneys' Fees, filed September 11, 2020;

(6) Concord and Cumberland HPR's Motion to Dismiss Plaintiff's Second Amended Complaint and Motion for Attorneys' Fees, filed September 14, 2020; and

(7) TCC of Charleston Inc.'s Motion to Amend Statement of Account, filed October 1, 2020.

The hearing occurred in person on November 5, 2020, in the Master in Equity's courtroom located at 100 Broad Street, Courtroom 2A, Charleston, SC 29401. Present for the hearing were counsel for Plaintiff TCC of Charleston, Inc. ("TCC"), counsel for Concord & Cumberland HPR ("HPR"), and counsel for unit owner and individual defendant Betty Beatty.

Prior to the hearing, the Court received memoranda of law from TCC and the HPR. After studying the motions, memoranda, statutes, and case law diligently, and hearing the oral arguments of counsel, I find, conclude, and hold as a matter of the law the following:

## BACKGROUND

This case arises from a repair project at condominiums located at 175 Concord Street in Charleston, South Carolina. The HPR hired TCC as the general contractor and, at the end of the project, a contractual dispute arose as to payment. TCC commenced the present action against the HPR on June 6, 2016, by filing a Notice and Certificate of Mechanic's Lien, sworn Statement of Account, and verified Complaint. Subsequently, on June 10, 2016, TCC filed an Amended Notice and Certificate of Mechanic's Lien, sworn Statement of Account, and verified Amended Complaint adding all of the individual property owners to the case. In both verified Complaints and sworn Statements of Account, TCC swore under oath that the last date of furnishing materials and services was March 17, 2016. The HPR and certain unit owners answered the Amended Complaint and admitted that March 17, 2016, was, indeed, the last date of furnishing materials or labor on the project. TCC first served the unit owners with the mechanic's lien and pleadings starting on June 22, 2016.

Following the initial pleadings, the HPR consented to arbitration, which was ordered by Judge Roger M. Young, Sr. on December 30, 2016. Judge Young stayed the foreclosure action against the remaining unit owner Defendants, pending the arbitration. Over the next 3 years, TCC and the HPR arbitrated all claims against the HPR, which resulted in an Arbitration Award and, subsequently, a Corrected Arbitration Award of $2,016,066.73 for all claims, plus interest and arbitration costs. However, somewhat complicating matters, the Arbitration Panel, while finding that the Horizontal Property Regime Act at S.C. Code § 27-31-230 required that TCC's lien must be filed against the property owners rather than the HPR, expressly reserved the award of attorney's fees based on prevailing party status to the Circuit Court.

The HPR moved to vacate or change the Corrected Arbitration Award in the Circuit Court, which motions were denied by Judge Deadra L. Jefferson. However, Judge Jefferson did not expressly confirm the Corrected Arbitration Award.

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

This case has a complicated procedural history, but the important facts relevant to these motions are outlined above and incorporated throughout this section. Specifically, dispositive to most of the pending motions, TCC (1) swore under oath, in two verified Complaints and Statements of Account, that March 17, 2016, was the date of last furnishing labor or materials on the project, which was admitted by the HPR and certain unit owners in their answers, and (2) first served its mechanic's lien on June 22, 2016, 5 days too late.

The law is clear on this issue. A mechanic's lien is a creature of statute and arises inchoate. *See Butler Contracting, Inc. v. Court St., LLC*, 369 S.C. 121, 130, 631 S.E.2d 252, 257 (2006) ("A mechanic's lien is purely statutory. Therefore, the requirements of the statute must be strictly followed."); *see also Shelley Constr. Co. v. Sea Garden Homes, Inc.*, 287 S.C. 24, 27, 336 S.E.2d 488, 490 (Ct. App. 1985) (stating "mechanic's liens are purely statutory and can only be acquired and enforced in accordance with the conditions of the statute creating them," and that "[t]he lien arises, inchoate, when the labor is performed or the materials are furnished."); *Ferguson Fire & Fabrication, Inc. v. Preferred Fire Prot., L.L.C.*, 409 S.C. 331, 341, 762 S.E.2d 561, 566 (2014) ("[W]hen the labor is performed or material is furnished, the right exists but the lien has not been perfected.") (quoting *Butler Contracting*, 369 S.C. at 128, 631 S.E.2d at 256). "For an inchoate lien to become valid, the lien must be perfected and enforced in compliance with South Carolina's mechanic's lien statutes." *Id.* at 342 (citing *Preferred Sav. & Loan Ass'n v. Royal Garden Resort,*

*Inc.*, 301 S.C. 1, 389 S.E.2d 853 (1990)). The Court in *Shelley Constr. Co.*, *supra*, succinctly outlined the steps to perfect the lien as follows:

> [T]o perfect and enforce the lien against the property, the person claiming it must: (1) serve and record a certificate of lien within ninety days after he ceases to furnish labor or materials...; (2) bring suit to foreclose the lien within six months after he ceases to furnish labor or materials ...; and (3) file notice of pendency of the action within six months after he ceases to furnish labor or materials ....
>
> 287 S.C. at 27, 336 S.E.2d at 490.

Relevant to the specific facts of this case is step (1), which is enumerated in S.C. Code Ann. § 29-5-90, and provides that a person seeking to enforce a mechanic's lien must file and serve "upon the owner ... a statement of a just and true account of the amount due" "within ninety days after [a contractor] ceases to labor on or furnish labor or materials for such building . . . ." Otherwise, the "lien shall be dissolved." *Id.*; *see also Butler Contracting*, 369 S.C. at 131, 631 S.E.2d at 257 ("The deadline to serve ... a mechanic's lien begins running from the date the last material was furnished ...."). Therefore, the date of last furnishing materials and labor and the date of service of the mechanic's lien are crucially important.

The South Carolina Court of Appeals recently affirmed the above stated law in *Kitchen Planners, LLC v. Friedman*, No. 2017-001522, 2020 WL 3551777, at *1 (S.C. Ct. App. July 1, 2020), which is a particularly relevant to this case.

In *Kitchen Planners*, a contractor filed a pleading and lien stating that it provided labor and materials on a project "in or around March 16, 2015 and continuing through August 18, 2015." The contractor served the owner with the lien on November 17, 2015 – 91 days later – and the owner then filed a motion to dismiss the mechanic's lien as being untimely. The Circuit Court dismissed the foreclosure action, and the contractor appealed. The contractor argued that it could cure the timeliness issue by amending its pleadings to assert a later date when it actually finished

work on the project. The Court of Appeals disagreed and affirmed the Circuit Court. In doing so, the Court of Appeals found that the contractor was bound by the dates asserted in its pleadings and on the face of the lien. *Id.* at *5. Thus, Kitchen Planners failed to serve and file its mechanic's lien within ninety days of the last date it supplied materials or labor on the project. *Id.* at *8.

***i. TCC of Charleston, Inc.'s Motion to Amend Statement of Account***

TCC seeks to amend its Statement of Account to reflect a later date of last furnishing labor or materials on the project. TCC argues that the date originally submitted was the date of substantial completion and that TCC has since provided additional labor or materials on the project, which would cure the fact that the lien was served untimely. However, TCC submitted four separate statements under oath that the date of last furnishing labor or materials was March 17, 2020. The HPR and certain unit owners answered the last such statement in the verified Amended Complaint and admitted the allegation as true.

Although TCC now, 4 years and 4 months after the initial filings, seeks to amend its Statement of Account to assert a later date as the date it last furnished labor or materials, this court relies heavily on TCC's allegation in its verified Complaint, which the HPR and certain unit owners admitted, and finds that TCC is bound by the March 17, 2020 date. *See Kitchen Planners, No. 2017*-001522, 2020 WL 3551777, at *5 *(*finding that "Kitchen Planners is bound by the dates asserted in its pleadings and on the face of the lien*."); see also Postal v. Mann*, 308 S.C. 385, 387, 418 S.E.2d 322, 323 (Ct. App. 1992) ("The allegations, statements, or admissions contained in a pleading are conclusive as against the pleader and a party cannot subsequently take a position contradictory of, or inconsistent with, his pleadings and the *facts which are admitted by the pleadings are taken as true against the pleader for the purpose of the action*.") (emphasis added); *Elrod v. All*, 243 S.C. 425, 436, 134 S.E.2d 410, 416 (1964) ("[A] party cannot subsequently take

a position contradictory of, or inconsistent with, his pleadings and the facts which are admitted by the pleadings are to be taken as true against the pleader for the purpose of the action. Evidence contradicting such pleadings is inadmissible."); *Johnson v. Alexander*, 413 S.C. 196, 202, 775 S.E.2d 697, 700 (2015) ("Parties are generally bound by their pleadings and are precluded from advancing arguments or submitting evidence contrary to those assertions.")

Accordingly, TCC is bound by the March 17, 2020, date in its pleadings and on the face of its lien. TCC's Motion to Amend Statement of Account is therefore DENIED.

***ii. Motions for Dismissal and Summary Judgment***

***a. Foreclosure of Mechanic's Lien***

Prior to this hearing, TCC filed affidavits with the Court attaching all affidavits of service related to this case. Reviewing the record, it is apparent that June 22, 2016, was the first date of service on any Defendant. Because the last date of furnishing was March 17, 2016, service on or after June 22, 2016, was at least 5 days too late. Although TCC's lien arose inchoate as of March 17, 2016, TCC failed to timely perfect the lien, and it is therefore DISSOLVED as a matter of statutory law. S.C. Code Ann. § 29-5-90. This Court GRANTS both Betty Beatty and the HPR's Motions for Summary Judgment and/or Motion to Dismiss as to the foreclosure of mechanic's lien cause of action. Although not yet before the Court on motion from the remaining property owner defendants, the logical extension of this order is that the mechanic's lien was not perfected in a timely manner against any property owner defendant and is dissolved; therefore, TCC's Foreclosure of Mechanic's Lien cause of action is DISMISSED as to all remaining parties.

Further, as an additional and independent ground for dismissal of the foreclosure action against the HPR, this Court finds that the HPR cannot be the subject of a mechanic's lien by law. *See* S.C. Code Ann. § 27-31-230 (stating that a mechanic's lien must be filed against the property

owners and that "no lien … shall be effective against the property.") The HPR is not a property owner.

***b. Breach of Contract***

The parties consented to arbitration between TCC and the HPR, and Judge Young issued an Order on December 30, 2016, that provided: "[T]he parties have consented to an arbitration of the dispute between Plaintiffs [sic] and Defendant CONCORD & CUMBERLAND HPR ("Regime") and stay of Plaintiffs [sic] foreclosure request as to the remaining Defendants . . . ." The arbitration resulted in an award to TCC of over two million dollars. As such, this Court finds that TCC's breach of contract claim against the HPR has already been decided and is now moot. Therefore, this Court GRANTS the HPR's Motion to Dismiss TCC's Second Amended Complaint as it relates to the breach of contract claim.

**c. Equity/*Quantum Meruit***

Judge Young ordered all claims against the HPR to arbitration, which included foreclosure of mechanic's lien, breach of contract, and *quantum meruit*. The Panel explicitly stated that the award of $2,016,066.73 was for "all claims asserted in this proceeding." Although not specified by the Panel whether the award was based on contract or *quantum meruit*, this Court finds that the *quantum meruit* claim against the HPR was referred to arbitration and disposed of therein with the award. *JASDIP Props. SC, LLC v. Estate of Richardson*, 395 S.C. 633, 639, 720 S.E.2d 485, 488 (Ct.App.2011) (citing Franke Assocs. by Simmons v. Russell, 295 S.C. 327, 332, 368 S.E.2d 462, 465 (1988)) ("A breach of contract claim and *quantum meruit* claim can be alternative rather than inconsistent remedies."). As such, similar to the breach of contract claim, this cause of action is moot.

With this finding and conclusion, TCC does not have any claims still existing against the HPR for adjudication in the Circuit Court from the first two Complaints. However, TCC filed a Second Amended Complaint on August 24, 2020, and asserted a new claim for "equity". TCC argues that the equity claim was included simply to ensure the HPR remained active in the foreclosure litigation in order to require payment under the HPR's bylaws. The HPR argues that TCC filed the equity claim in an effort to obtain attorney's fees. To the extent TCC intends to seek attorney's fees based on equity, this court forecloses that possibility, as attorney's fees can only be awarded based on a contract or statute. The Panel was clear that there was no contractual basis to award attorney's fees, and this Court's ruling dismissing the mechanic's lien foreclosure action bars any statutory right that TCC might have to attorneys' fees.

Although the fee issue is foreclosed by this ruling, and there is no longer a foreclosure action against any defendant, this Court has requested additional briefing on the issue of whether the equity action can stand solely to ensure payment of the award to TCC by the HPR under its bylaws. As such, dismissal of the equity cause of action is taken under advisement pending additional briefing by the parties.

***iii. Motion to Confirm the Award and Motion to Deposit***

Prior to the hearing, TCC argued that the award should not be confirmed until it knows the extent of its fees associated with the Circuit Court foreclosure action. This Court has dismissed all foreclosure actions based on TCC's failure to timely perfect the lien, and based on the legal impossibility of TCC asserting a lien against the HPR. As such, TCC's argument is moot. Regardless, TCC agreed in the hearing that the award should be confirmed.

Further, even if a foreclosure action were to survive, which it does not, this Court finds the law cited by the HPR in *C-Sculptures, LLC v. Brown*, 393 S.C. 27, 709 S.E.2d 705 (Ct. App. 2011)

persuasive as it relates to confirmation. Specifically, the parties need to know the final amount of the award, which will be determined following any potential appeal on the merits. For these reasons, this Court CONFIRMS the Corrected Arbitration Award, effective upon service of this order on the parties.

As the HPR has forecast an appeal of the Corrected Arbitration Award and Judge Jefferson's subsequent denial of the HPR's Motion to Vacate or Correct, this Court takes under advisement its ruling on the HPR's Motion to Deposit but intends to grant the Motion to Deposit pending calculations by the parties. The Court has requested additional briefing on what interest, if any, will run on the amount deposited.

***iv. Motions for Attorneys' Fees***

Attorneys' fees and costs are only appropriate and can only be awarded if authorized by contract or statute. *See Baron Data Sys., Inc. v. Loter*, 297 S.C. 382, 383, 377 S.E.2d 296, 297 (1989) (providing the rule that attorney's fees are not recoverable unless authorized by contract or statute); *Jackson v. Speed*, 326 S.C. 289, 486 S.E.2d 750 (1997); *Blumberg v. Nealco, Inc.*, 310 S.C. 492, 427 S.E.2d 659 (1993). TCC failed to perfect its lien timely, thus there is no statutory basis for attorneys' fees in this case. Because there is no statutory or contractual basis for attorneys' fees, TCC's Motion for Attorneys' fees is DENIED.

Further, because the HPR is not and cannot be the subject of a mechanic's lien, which findings have resulted in dismissal of TCC's foreclosure cause of action against the HPR, the HPR is the prevailing party in the lien foreclosure and should be awarded its attorneys' fees. S.C. Code Ann. § 29–5–10(a) requires the court to award reasonable attorney's fees and costs to the party defending against the mechanic's lien if the defending party "prevails" in the action. *See Utilities Constr. Co. v. Wilson*, 321 S.C. 244, 248, 468 S.E.2d 1, 3 (Ct.App.1996) ("[T]he Legislature ...

intended to afford a property owner [the] remedy [of recovering attorney's fees and costs] where a mechanic attempts to enforce a defective or wrongful mechanic's lien.") (citation omitted). Our courts have defined "prevailing party" as "the one who successfully prosecutes the action or successfully defends against it, prevailing on the main issue, even though not to the extent of the original contention ... the one in whose favor the decision or verdict is rendered and judgment entered." *See Heath v. County of Aiken*, 302 S.C. 178, 182–83, 394 S.E.2d 709, 711 (1990) (citation omitted); *Seckinger v. Vessel Excalibur*, 326 S.C. 382, 483 S.E.2d 775 (Ct.App.1997) (stating the defendant is entitled to an award of attorney's fees as the "prevailing party" if the trial court determines a mechanic's lien cannot be enforced against the defendant). It matters not that Plaintiff "prevailed" on the breach of contract claim and was issued an award by the Panel. *See Wilson*, 321 S.C. at 249–50, 468 S.E.2d at 3–4 (upholding an award of attorney's fees to a property owner who successfully defended a contractor's claim for a mechanic's lien, even though the owner lost on the contractor's claims for unjust enrichment and breach of contract).

As the prevailing party, the HPR is entitled to attorneys' fees and costs and the HPR's Motion is GRANTED. The HPR is ordered to provide Affidavits of Attorneys' Fees within 10 days of this Order for review and contest by TCC, at which time this Court will award the HPR its reasonable attorneys' fees and costs under its separate order.

**CONCLUSION**

Accordingly, it is

ORDERED ADJUDGED AND DECREED that

(1) TCC of Charleston Inc.'s Motion to Amend Statement of Account is DENIED;

(2) TCC's Motion for Attorneys' Fees is DENIED;

(3) Defendant Concord & Cumberland HPR's Motion for Summary Judgment as to Plaintiff's Foreclosure of Mechanic's Lien Cause of Action is moot and is incorporated in the HPR's Motion to Dismiss Plaintiff's Second Amended Complaint. Accordingly, Concord and Cumberland HPR's Motion to Dismiss Plaintiff's Second Amended Complaint is GRANTED as to TCC's claims for foreclosure of mechanic's lien and breach of contract. The HPR's requested dismissal of the "Equity" cause of action is taken under advisement pending additional briefing by the parties;

(4) Defendant Betty L. Beatty's Motion for Partial Summary Judgment is GRANTED;

(5) Concord and Cumberland HPR's Motion to Deposit Funds is taken under advisement pending additional briefing and calculations by the parties;

(6) TCC of Charleston, Inc.'s Motion to Confirm Arbitration Award is GRANTED, but TCC's requested stay of the confirmation is DENIED;

(7) The HPR's Motion for Attorneys' Fees is GRANTED, with the amount to be determined pending submission of Affidavits of Attorneys' Fees by the HPR for review and contest by TCC.

(8) Additionally, TCC's mechanic's lien was not timely perfected and is statutorily dissolved; therefore, TCC's Foreclosure of Mechanic's Lien cause of action is DISMISSED as to all remaining parties.

IT IS SO ORDERED.

November __, 2020

_____
The Honorable Mikell R. Scarborough
Master-In-Equity

| | |
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| **STATE OF SOUTH CAROLINA** | **IN THE COURT OF COMMON PLEAS** |
| | **FOR THE NINTH JUDICIAL CIRCUIT** |
| **COUNTY OF CHARLESTON** | |
| TCC OF CHARLESTON, INC., | |
| Plaintiff, | |
| | CASE NO. 2016-CP-10-2955 |
| vs. | |
| CONCORD AND CUMERLAND, LLC., CONCORD & CUMBERLAND HPR, LEO HALL, DIANE HALL, BEA H. SMITH, MARGARET C. POPE, WILLIAM D. FOSTER, JR., GENE G. FOSTER, MATTISO J.MACGILLNRAY, TERESA MACGILLIVRAY, PAMELA L.VAUGHN, NELIA A. PATRICIO, Trustee of the Nelia A. Patricio Revocable Trust Agreement, STUART D. REEVES, EDWARD T. STROM, BARBARA K.HENDERSON, JAMES R. CLARICE, PAUL A. BRIM, ROBERT K. SEIDL, JENNIFER M. SEIDL, ROBERT KENNETH SEIDL,II, M. BERT STOREY, THOMAS R. MATHER, EDWARD T. STROM, 304 CONCORD & CUMBERLAND, LLC, MARION M. SIMSPON F/KA MARION MOORE MCDONALD SIMPSON, KATHY GARDNER, GREGORY J. GARDNER, FREEMAN WATERFRONT PROPERTIES, LLC, JO-ANN COOPER, BETTY Y. SEGAL, ROBERT M. LEVIN AND BONITA K. LEVIN, DONALD D. LEONARD, BETTY L. BEATTY, MATTELLEN, LLC, AND THOMAS R. DEBNAM, Trustee of the Trust Agreement of Thomas R. Debnam, | **ORDER ON PENDING MOTIONS** |
| Defendants. | |

This Court, having reviewed the post-argument submittals of the parties, concludes that the discovery bearing upon the provision of notice of the lien should be concluded before this Court decides the matters pending before it.

The Parties are ordered to confer and advise this Court the time required to accomplish the discovery bearing upon the pending motions.

**IT IS SO ORDERED**.

_____
Mikell R. Scarborough
Master-in-Equity
Charleston County

Dated:_____

ELECTRONICALLY FILED - 2020 Nov 30 4:24 PM - CHARLESTON - COMMON PLEAS - CASE#2016CP1002955

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|---|---|---|
| **STATE OF SOUTH CAROLINA** | ) | **IN THE COURT OF COMMON PLEAS** |
| | ) | **FOR THE NINTH JUDICIAL CIRCUIT** |
| **COUNTY OF CHARLESTON** | ) | |
| TCC OF CHARLESTON, INC.<br><br>Plaintiff,<br><br>v.<br><br>CONCORD & CUMBERLAND HPR, LEO HALL, DIANE HALL, BEA H. SMITH, MARGARET C. POPE, WILLIAM D. FOSTER, JR., GENE G. FOSTER, MATTISON J. MACGILLIVRAY, TERESA MACGILLIVRAY, PAMELA L. VAUGHN, NELIA A. PATRICIO, Trustee of the Nelia A. Patricio Revocable Trust Agreement, STUART D. REEVES, EDWARD T. STROM, BARBARA K. HENDERSON, JAMES R. CLARKE, PAUL A. BRIM, ROBERT K. SEIDL, JENNIFER M. SEIDL, ROBERT KENNETH SEIDL, II, M. BERT STOREY, THOMAS R. MATHER, EDWARD T. STROM, 304 CONCORD & CUMBERLAND, LLC, MARION M. SIMPSON F/K/A MARION MOORE MCDONALD SIMPSON, KATHY GARDNER, GREGORY J. GARDNER, FREEMAN WATERFRONT PROPERTIES, LLC, JOHN FREEMAN, JO-ANN COOPER, BETTY Y. SEGAL, by and through her Assignee, DONALD D. LEONARD, ROBERT M. LEVIN AND BONITA K. LEVIN, DONALD D. LEONARD, BETTY L. BEATTY, MATTELLEN, LLC, AND THOMAS R. DEBNAM, Trustee of the Trust Agreement of Thomas R. Debnam,<br><br>Defendants. | ) | Case No.: 2016-CP-10-2955<br><br>**TCC OMNIBUS RESPONSE AND OBJECTIONS TO FILINGS AND SUBMITTALS OF BETTY BEATTY** |

## I. INTRODUCTION

TCC of Charleston, Inc. ("TCC") responds and objects to the filings and submittals of Betty Beatty ("Ms. Beatty").[1] The relief sought in her proposed order would have this Court

[1] TCC incorporates the exhibits, objections, and arguments made in response the HPR's submittals and affidavits into this response.

ELECTRONICALLY FILED - 2020 Nov 30 4:24 PM - CHARLESTON - COMMON PLEAS - CASE#2016CP1002955

reverse a prior order of Judge McCoy and would invalidate TCC's lien based on an inaccuracy in the statement of account. This is impermissible. Accordingly, Ms. Beatty is not entitled to summary judgment. Should the Court hold otherwise, the amount of fees sought by the HPR is inconsistent with the law.

TCC first addresses the applicable law, then discusses the effect of TCC's amendment of its prior pleadings, why it would be error to invalidate TCC's lien, and why Ms. Beatty's request for fees is impermissible, followed by a summary listing of its objections to Ms. Beatty's proposed order.

## II. STATEMENT OF LAW

As acknowledged in Ms. Beatty's proposed order:

> Mechanic's liens are creatures of statute, and the requirements of the statute must be strictly followed. *Kitchen Planners, LLC v. Friedman*, ___ S.E.2d ___ No. 2017-001522, 2020 WL 3551777, at *3 (S.C. Ct. App. July 1, 2020). Sections 29–5–10 to 440 of the South Carolina Code (2007 & Supp. 2019) set forth the requirements for establishing and enforcing a mechanic's lien. The statutes establish three (3) distinct steps in that process, namely (1) creation, (2) perfection, and (3) enforcement of the lien. *Ferguson Fire & Fabrication, Inc. v. Preferred Fire Prot., LLC*, 409 S.C. 331, 340, 762 S.E.2d 561, 565 (S.C. 2014). For the lien to become valid, the lien must be perfected and enforced in compliance with South Carolina's mechanic's lien statutes. The lien arises inchoate when the labor is performed or material is furnished, but the lien has not been perfected until the statutory requirements are met. *Id.* at 341, 762 S.E.2d at 256.
>
> To perfect and enforce the lien against the property, the person claiming it must: (1) record and serve a certificate of lien within ninety (90) days after he ceases to furnish labor or materials; (2) bring suit to foreclose the lien within six (6) months after he ceases to furnish labor or materials; and (3) file notice of pendency of the action within six (6) months after he ceases to furnish labor and materials. If the person claiming the lien fails to take any one of these steps, the lien against the property is dissolved. *Kitchen Planners*, 2020 WL 3551777, at *4 (quoting *Shelley Construction*

ELECTRONICALLY FILED - 2020 Nov 30 4:24 PM - CHARLESTON - COMMON PLEAS - CASE#2016CP1002955

> *Co. v. Sea Garden Homes, Inc.*, 287 S.C. 24, 27, 336 S.E.2d 488, 490 (S.C. Ct. App. 1985)).

Beatty Proposed Order at 3–4. TCC agrees with these statements of the law. TCC further agrees that:

> The rules of statutory interpretation are clear: the General Assembly is presumed to intend for the words of a statute to mean what they say. *Hodges v. Rainey*, 341 S.C. 79, 85, 533 S.E.2d 578, 581 (S.C. 2000).

*Id.* at 10. To this point, TCC directs the Court to Section 29-5-100 of the South Carolina Mechanic's Lien Statute, entitled "Proceedings not invalidated by inaccuracy of statement of account." S.C. Code § 29-5-100. *See infra*.

## III. TCC'S PRIOR VERIFIED PLEADINGS ARE A NULLITY

Ms. Beatty's argument that TCC is bound by the date of last work contained in its prior, now-amended pleading is misplaced.

### A. Judge McCoy Granted TCC Leave to Amend

As noted previously to this Court, Judge McCoy heard argument on various motions in May 2020—including TCC's motion to amend—and granted that motion, referring the remaining motions (primarily relating to foreclosure) to this Court to be heard once discovery was complete. **Exh. A** (Order). TCC's proposed amended pleading removed of the reference to an incorrect last date of work, and the amendment was opposed on this basis. Judge McCoy considered the evidence presented regarding the correct date of last work and rejected the argument against the amendment. *Id.* TCC filed its amended pleading on August 24, 2020.

ELECTRONICALLY FILED - 2020 Nov 30 4:24 PM - CHARLESTON - COMMON PLEAS - CASE#2016CP1002955

### B. An Amended Pleading Renders the Prior Pleading a Nullity

An amended pleading supersedes the prior pleading, rendering it a nullity. *Duncan v. CRS Sirrine Engs., Inc.*, 337 S.C. 537, 541–42 (Ct. App. 1999).[2] Nevertheless, much is made by Ms. Beatty of the inclusion of the date of last work in the prior verified pleadings filed by TCC in 2016.[3] This argument is disingenuous given the effect of TCC's amendment of the pleading.

### C. "Sham Affidavit"

As to the statement of account that TCC seeks to amend, Ms. Beatty insists that a Court cannot consider the amendment of the pleading, or the Panel's award for work in January 2017, or affidavits[4] from TCC regarding the same, because they are "sham affidavits" submitted solely to contradict a prior statement of the party in order to create a dispute of fact and defeat summary judgment. This entirely misstates the situation.

First, TCC has already amended its pleading to remove the error as to the statement of account, with leave of Court. Second, it is undisputed that TCC argued to the arbitration Panel that it continued to perform work on the project well beyond the date of substantial completion. It is undisputed that the Panel awarded TCC costs for work performed through January 2017. Most importantly, it is undisputed that TCC *actually was* on the job and performing work under the contract after March 17, 2016. Nevertheless, Ms. Beatty contends that TCC's effort to amend is for an improper purpose.

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[2] Whether verified or otherwise.

[3] Ms. Beatty's proposed order references "sworn statements" no fewer than *34* times, and discusses TCC's complaint and First Amended Complaint on ten of eighteen pages.

[4] Ms. Beatty argues that Mr. Griffith never explained why he included the March 17, 2016 date in the complaint and statement of account; however, Mr. Griffith *did* submit such an affidavit to the Court on October 27, 2020. **Exh. B**.

ELECTRONICALLY FILED - 2020 Nov 30 4:24 PM - CHARLESTON - COMMON PLEAS - CASE#2016CP1002955

As she must. The only basis for the Court to ignore the evidence TCC submitted regarding the date of last work is for the Court to determine it was presented solely for fraudulent or "sham" purposes. Judge McCoy rejected this argument, and this Court must too.

## IV. IT WOULD BE ERROR TO INVALIDATE TCC'S LIEN BECAUSE OF AN INACCURACY IN THE STATEMENT OF ACCOUNT

The South Carolina mechanic's lien statute expressly provides that liens are not invalidated by errors in the statement of account. S.C. Code § 29-5-100 ("Proceedings not invalidated by inaccuracy of statement of account"). This is necessarily true as to matters that are not required to be included in the statement of account. The only items required to be included in a statement of account are "a just and true account of the amount due to him" and "a description of the property intended to be covered by the lien." S.C. Code § 29–5–90. Therefore, an error in the statement of account as to the date of last work is not a basis to invalidate a lien. Yet this is precisely what Defendants urge here, contrary to the plain statutory language.

Ms. Beatty's proposed order posits—for the first time—that this language applies only to "non-fatal" errors in the statement of account.[5] She further notes that section 29-5-100 refers only to errors as to the amount of the lien and the description of the property. The provision, however, is entitled "Proceedings not invalidated by inaccuracy of statement of account," without reference to "fatal" or "nonfatal" inaccuracies. And, naturally the provision expressly refers only to errors regarding the amount of the lien or the description of the property, because these are the only elements the statute requires to be included in the statement of account. *See*

[5] The term "non-fatal" appears nowhere in the statute, and as Ms. Beatty notes, "The rules of statutory interpretation are clear: the General Assembly is presumed to intend for the words of a statute to mean what they say." Proposed Order at 10.

ELECTRONICALLY FILED - 2020 Nov 30 4:24 PM - CHARLESTON - COMMON PLEAS - CASE#2016CP1002955

S.C. Code § 29-5-90 (requiring service of "a statement of a just and true account of the amount due him, with all just credits given, together with a description of the property intended to be covered by the lien sufficiently accurate for identification"). It is not a limitation on the nature of forgivable errors, especially given the unequivocal title of the provision — "Proceedings not invalidated by inaccuracy of statement of account."

### A. Statements of Account May Be Amended

Ms. Beatty argues that a statement of account are not pleadings that may be amended and that not a single instance exists of a party being allowed to amend its statement of account, or even seeking to. TCC points to this Court's order in *Low Country Case & Millwork, Inc. v. Library Associates, LLC*, No. 2019-CP-10-02249 granting precisely that relief. **Exh. C**.

### B. Date of Last Work

TCC should be allowed to amend its statement of account to reflect the uncontested reality of the last date of work as litigated and decided in arbitration.

Ms. Beatty's proposed order states that, "[f]rom June 2016 until May 2020, TCC made no effort"[6] to correct the date of last work, and that TCC's efforts to amend the statement of account is nothing more than a "last minute effort to present a genuine issue of material fact to prevent the entry of summary judgment."[7] Further, Ms. Beatty would have the Court find Mr. Tomberlin's affidavit regarding his work following substantial completion to be a "sham affidavit." This is untrue.

There is no dispute—and has been no dispute for at least three years—that TCC actually performed work pursuant to its contract well after March 2016. The HPR's construction

[6] Beatty Proposed Order at 7.

[7] *Id.* at 16.

ELECTRONICALLY FILED - 2020 Nov 30 4:24 PM - CHARLESTON - COMMON PLEAS - CASE#2016CP1002955

manager, Trey McCraw, requested Trident return to the job at least four times between March and June 2016. **Exh. D** (Tomberlin affidavit). In December 2017, the HPR reviewed TCC's project file containing daily time reports and labor records showing TCC onsite through January 2017, and TCC produced these records to the HPR in March 2018. The daily logs, cost detail reports, and time sheets were identified as exhibits by Trident prior to the January 2019 arbitration hearing and were submitted into evidence before the Panel for the purpose of showing the extent and duration of TCC's work on the project.

No Defendant has, will, or ever could produce any evidence to refute the fact that TCC last supplied materials or labor to the project after March 2016. In short, Mr. Tomberlin's affidavit is not a "sham" affidavit entered to create a dispute of fact; it is—as Judge McCoy found when granting TCC leave to amend its pleading—sufficient to establish the inaccuracy of the date of last work set forth in TCC's pleading. Ms. Beatty's argument is especially discordant given that, as late as January 2020, she filed an answer denying that March 17, 2016 was the last date of work.[8]

## V. MS. BEATTY'S REQUEST FOR FEES

Should she prevail on her motion for summary judgment, Ms. Beatty's request for approximately $65,000 in attorneys' fees is improper and inconsistent with the law. Caselaw limits the recovery of fees to those incurred in successfully defending a lien foreclosure action. In *Utilities Construction Co. v. Wilson*, the Court of Appeals stated:

> Utilities next argues the attorney fee award was excessive in view of the fact Wilson was required to defend two other causes of action and the fee awarded necessarily compensated her attorney for time spent in defending all three causes of action. We agree.

[8] If TCC is to be bound by its prior pleadings, Ms. Beatty must be also.

ELECTRONICALLY FILED - 2020 Nov 30 4:24 PM - CHARLESTON - COMMON PLEAS - CASE#2016CP1002955

> [. . .]
>
> We find an abuse of discretion as to the amount of the attorney fee award and remand to the trial court for entry of an award *based upon the time Wilson's counsel spent defending the mechanic's lien cause of action only*.

321 S.C. 244, 250 (Ct. App. 1996) (emphasis added).

Ms. Beatty first filed a pleading in this matter on January 17, 2020, not previously having answered TCC's complaint filed June 10, 2016. Nevertheless, the fee affidavit submitted by Mr. Buckley includes time from 2016–2019, prior to even filing a pleading in this case. This time should be struck. Further, time entries are included for attorneys Siau Barr and Michael Molony; TCC's counsel is unaware that Mr. Barr or Mr. Molony represented Ms. Beatty, having interacted with them only in their capacity as counsel for Betty Segal (a prior unit owner TCC dismissed by agreement) and not Betty Beatty.

Ms. Beatty did not move for summary judgment until May 11, 2020 after the stay had been lifted. Ms. Beatty seeks $65,000 in attorneys' fees for work over six months relating to the sole argument that Ms. Beatty was served with the lien more than 90 days after March 17, 2016, the erroneous date of last work. This Court should not allow it.

## VI. OBJECTIONS

Should the Court be inclined to sign Ms. Beatty's proposed order, TCC notes the following objections thereto:

1. The Court has not heard argument on the amount or nature of Ms. Beatty's attorneys' fees, and an award of fees would be premature.
2. The affidavit submitted in support of Ms. Beatty's request for attorneys' fees should be struck; it is not probative to the amount of recoverable fees, if any, because it includes work performed unrelated to obtaining a ruling granting her motion for summary judgment.

ELECTRONICALLY FILED - 2020 Nov 30 4:24 PM - CHARLESTON - COMMON PLEAS - CASE#2016CP1002955

3. References to allegations in prior, now-amended pleadings is improper, as those pleadings are void by virtue of having been amended.

4. Judge McCoy rejected the HPR's argument that TCC should not be allowed to amend its pleading to remove the incorrect date of last work, constituting a finding by Judge McCoy that the date of last work was not March 17, 2016. No motion was filed for reconsideration of Judge McCoy's order. This Court cannot and should not rule otherwise.

5. TCC notes it could not have moved previously to amend its pleading as the case was stayed from December 2016 until May 2020 and TCC was concerned about waiver of arbitration rights prior to December 2016.

6. The South Carolina Mechanic's Lien Statute provides that no lien shall be invalidated due to an error in the statement of account. S.C. Code § 29-5-100. By binding TCC to an error as to the date of last work contained in the statement of account and therefore finding untimely service, TCC's lien would be impermissibly invalidated by an inaccuracy in the statement of account.

7. TCC objects to the inclusion of any finding that the arbitration pane "made no findings regarding" the last date of work (proposed order, p. 7), given that the Panel heard evidence and awarded damages to TCC for work performed after March 2016.

8. TCC objects to the inclusion of any finding that Mr. Griffith and/or Trident "has made no effort to explain or correct his prior sworn statements" regarding the date of last work, given the affidavit of Mr. Griffith submitted to this Court on October 27, 2020.

9. TCC objects to any finding regarding the effect of a date of last work falling after the filing of a lien as no argument on the subject was presented to the Court.

10. TCC objects to any finding that TCC is bound by the date of last work in its statement of account based upon the assumptions of title examiners as that is entirely speculative, there is no evidence before the Court on the subject, and the subject itself was not argued before or presented to the Court.

11. TCC objects to this Court granting relief inconsistent with TCC's entitlement to move forward with its claim for attorneys' fees as a "prevailing party" and then confirmation of the arbitration award, urging the Court to reconsider its stated orientation.

Respectfully submitted,

**EPTING & RANNIK, LLC**

This 30th day of November, 2020
Charleston, SC

*/s/ Jaan Rannik*
Andrew K. Epting, Jr.
Jaan G. Rannik
46A State Street
Charleston, South Carolina 29401
843-377-1871
843-377-1310 (fax)
ake@epting-law.com
jgr@epting-law.com

*ATTORNEYS FOR TCC OF CHARLESTON, INC.*

ELECTRONICALLY FILED - 2020 Nov 30 4:24 PM - CHARLESTON - COMMON PLEAS - CASE#2016CP1002955

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# EXHIBIT A

ELECTRONICALLY FILED - 2020 Aug 11 10:59 AM - CHARLESTON - COMMON PLEAS - CASE#2016CP1002955
ELECTRONICALLY FILED - 2020 Nov 30 4:24 PM - CHARLESTON - COMMON PLEAS - CASE#2016CP1002955

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| **STATE OF SOUTH CAROLINA** ) | **IN THE COURT OF COMMON PLEAS** |
| ) | **FOR THE NINTH JUDICIAL CIRCUIT** |
| **COUNTY OF CHARLESTON** ) | |
| TCC OF CHARLESTON, INC. ) | |
| ) | Case No.: 2016-CP-10-2955 |
| Plaintiff, ) | |
| ) | |
| v. ) | |
| ) | |
| CONCORD AND CUMERLAND, LLC., CONCORD & CUMBERLAND HPR, LEO HALL, DIANE HALL, BEA H. SMITH, MARGARET C. POPE, WILLIAM D. FOSTER, JR., GENE G. FOSTER, MATTISON J. MACGILLIVRAY, TERESA MACGILLIVRAY, PAMELA L. VAUGHN, NELIA A. PATRICIO, Trustee of the Nelia A. Patricio Revocable Trust Agreement, STUART D. REEVES, EDWARD T. STROM, BARBARA K. HENDERSON, JAMES R. CLARKE, PAUL A. BRIM, ROBERT K. SEIDL, JENNIFER M. SEIDL, ROBERT KENNETH SEIDL, II, M. BERT STOREY, THOMAS R. MATHER, EDWARD T. STROM, 304 CONCORD & CUMBERLAND, LLC, MARION M. SIMPSON F/K/A MARION MOORE MCDONALD SIMPSON, KATHY GARDNER, GREGORY J. GARDNER, FREEMAN WATERFRONT PROPERTIES, LLC, JO-ANN COOPER, BETTY Y. SEGAL, ROBERT M. LEVIN AND BONITA K. LEVIN, DONALD D. LEONARD, BETTY L. BEATTY, MATTELLEN, LLC, AND THOMAS R. DEBNAM, Trustee of the Trust Agreement of Thomas R. Debnam, | **PROPOSED ORDER ON PENDING MOTIONS AND ORDER OF REFERENCE** |
| Defendants. ) | |

ELECTRONICALLY FILED - 2020 Aug 11 10:59 AM - CHARLESTON - COMMON PLEAS - CASE#2016CP1002955
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This case was filed June 6, 2016. A stay was consented to and entered on January 30, 2017 to allow for arbitration; following arbitration, there was no consent to move the case forward prior to the entry of Judge Jefferson's May 1, 2020 order.

Before this Court are (i) TCC of Charleston, Inc.'s ("TCC's") motion to amend the complaint based on the arbitration award and the order of May 1, 2020, (ii) summary judgment motions by the Concord & Cumberland HPR ("the HPR") and Ms. Betty Beatty ("Ms. Beatty") respectively, and (iii) the HPR's motion to deposit funds with the Court. The Court has also been made aware of discovery served by TCC following the lifting of the stay.

Rule 15(b) provides that leave to amend a pleading should be freely given, and the Court grants TCC's motion to amend. Given the pending amendment, pending discovery requests, and the lack of a final judgment, the Court finds it would be inappropriate to consider the remaining motions at this time.

Further, it appears to the Court that the parties' disputes are best decided by the Master in Equity, who should entertain the present motions at the appropriate time along with such other issues as exist or arise between the parties.

**NOW THEREFORE:**

1. TCC's motion to amend is granted;
2. This matter is referred to the Master in Equity for all purposes, including for a decision at the appropriate time on the HPR's and Ms. Beatty's motions for summary judgment and the HPR's motion to deposit funds.

**AND IT IS SO ORDERED!**

This _____ day of _____, 2020

_____
The Hon. Jennifer B. McCoy
Judge, Ninth Judicial Circuit

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Charleston Common Pleas

**Case Caption:** Tcc Of Charleston Inc VS Concord And Cumberland Llc , defendant, et al

**Case Number:** 2016CP1002955

**Type:** Order/Other

So Ordered

s/Jennifer B. McCoy #2764

ELECTRONICALLY FILED - 2020 Nov 30 4:24 PM - CHARLESTON - COMMON PLEAS - CASE#2016CP1002955

# EXHIBIT B

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| **STATE OF SOUTH CAROLINA )**<br>**)**<br>**COUNTY OF CHARLESTON )** | **IN THE COURT OF COMMON PLEAS FOR THE NINTH JUDICIAL CIRCUIT** |
| TCC OF CHARLESTON, INC.<br><br>Plaintiff,<br><br>v.<br><br>CONCORD AND CUMERLAND, LLC., CONCORD & CUMBERLAND HPR, LEO HALL, DIANE HALL, BEA H. SMITH, MARGARET C. POPE, WILLIAM D. FOSTER, JR., GENE G. FOSTER, MATTISON J. MACGILLIVRAY, TERESA MACGILLIVRAY, PAMELA L. VAUGHN, NELIA A. PATRICIO, Trustee of the Nelia A. Patricio Revocable Trust Agreement, STUART D. REEVES, EDWARD T. STROM, BARBARA K. HENDERSON, JAMES R. CLARKE, PAUL A. BRIM, ROBERT K. SEIDL, JENNIFER M. SEIDL, ROBERT KENNETH SEIDL, II, M. BERT STOREY, THOMAS R. MATHER, EDWARD T. STROM, 304 CONCORD & CUMBERLAND, LLC, MARION M. SIMPSON F/K/A MARION MOORE MCDONALD SIMPSON, KATHY GARDNER, GREGORY J. GARDNER, FREEMAN WATERFRONT PROPERTIES, LLC, JOHN FREEMAN, JO-ANN COOPER, BETTY Y. SEGAL, ROBERT M. LEVIN AND BONITA K. LEVIN, DONALD D. LEONARD, BETTY L. BEATTY, MATTELLEN, LLC, AND THOMAS R. DEBNAM, Trustee of the Trust Agreement of Thomas R. Debnam,<br><br>Defendants. | Case No.: 2016-CP-10-2955<br><br>**AFFIDAVIT OF JOHN DAVID GRIFFITH** |

PERSONALLY appeared before me, JOHN DAVID GRIFFITH, who states as follows:

1. My name is John David Griffith. During the construction of this project and events leading up to and through the arbitration, I was President and Treasurer of TCC of Charleston, Inc., and Trident Construction Co.

2. I was involved with the Concord and Cumberland project from its beginning, and I signed the verified complaint and the statement of account relating to the project.

3. When I signed the statement of account, I referred to the date of substantial completion.

4. Ryan Tomberlin, the project superintendent, was on the site performing contract work in the months following substantial completion. Further, additional work on the project was performed and additional Proposed Change Orders were submitted through August 2017.

5. The above work was performed because it was necessary to complete the project and the owner requested it.

6. Further affiant sayeth naught.

JOHN DAVID GRIFFITH

SWORN to before me this 28th day of September, 2020.

Notary Public for South Carolina
My Commission Expires: 6/16/2027

SONIA MEISENBACH NOTARY PUBLIC MY COMMISSION EXPIRES 6/16/2027 SOUTH CAROLINA



ELECTRONICALLY FILED - 2020 Nov 30 4:24 PM - CHARLESTON - COMMON PLEAS - CASE#2016CP1002955

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# EXHIBIT C

ELECTRONICALLY FILED - 2020 Mar 17 1:23 PM - CHARLESTON - COMMON PLEAS - CASE#2019CP1001108
ELECTRONICALLY FILED - 2020 Nov 30 4:24 PM - CHARLESTON - COMMON PLEAS - CASE#2016CP1002955

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| **STATE OF SOUTH CAROLINA** ) | **IN THE COURT OF COMMON PLEAS** |
| ) | **FOR THE NINTH JUDICIAL CIRCUIT** |
| **COUNTY OF CHARLESTON** ) | |
| ) | |
| LOWCOUNTRY CASE & MILLWORK, INC. ) | Case No.: 2019-CP-10-2249 |
| ) | |
| Plaintiff, ) | |
| ) | **ORDER GRANTING IN PART** |
| v. ) | **PLAINTIFF'S MOTION TO AMEND** |
| ) | |
| LIBRARY ASSOCIATES, LLC and BALFOUR BEATTY CONSTRUCTION, LLC ) | |
| ) | |
| Defendants. ) | |

This matter comes before the Court on Lowcountry Case and Millwork, Inc.'s ("Lowcountry's") motion to amend its complaint and mechanic's lien for purposes of updating the lien amount in the statement of account. After considering each of the arguments made by Counsel at the hearing of this matter, I now rule on every argument made as follows:

The Court finds (i) that it is consistent with equity and is not prejudicial to any party to allow Plaintiff to amend its lien amount via an amended statement of account and (ii) that it is unnecessary for Plaintiff to file a new or amended lien or amend its complaint. The amendment of the statement of account will not alter the date of the lien.

Lowcountry's motion is therefore **GRANTED IN PART** and Lowcountry may file an amended statement of account.

This ____ day of March, 2020

_____
The Hon. Mikell R. Scarborough
Master in Equity

ELECTRONICALLY FILED - 2020 Mar 17 1:23 PM - CHARLESTON - COMMON PLEAS - CASE#2019CP1001108
ELECTRONICALLY FILED - 2020 Nov 30 4:24 PM - CHARLESTON - COMMON PLEAS - CASE#2016CP1002955

Charleston Common Pleas

**Case Caption:** Balfour Beatty Construction LLC VS Library Associates LLC , defendant, et al

**Case Number:** 2019CP1001108

**Type:** Master/Order/Other

So Ordered

s/Mikell R. Scarborough 3062

ELECTRONICALLY FILED - 2020 Nov 30 4:24 PM - CHARLESTON - COMMON PLEAS - CASE#2016CP1002955

# EXHIBIT D

ELECTRONICALLY FILED - 2020 Nov 30 4:24 PM - CHARLESTON - COMMON PLEAS - CASE#2016CP1002955

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| **STATE OF SOUTH CAROLINA** )<br>)<br>**COUNTY OF CHARLESTON** ) | **IN THE COURT OF COMMON PLEAS FOR THE NINTH JUDICIAL CIRCUIT** |
| TCC OF CHARLESTON, INC.<br><br>Plaintiff,<br><br>v.<br><br>CONCORD AND CUMERLAND, LLC., CONCORD & CUMBERLAND HPR, LEO HALL, DIANE HALL, BEA H. SMITH, MARGARET C. POPE, WILLIAM D. FOSTER, JR., GENE G. FOSTER, MATTISON J. MACGILLIVRAY, TERESA MACGILLIVRAY, PAMELA L. VAUGHN, NELIA A. PATRICIO, Trustee of the Nelia A. Patricio Revocable Trust Agreement, STUART D. REEVES, EDWARD T. STROM, BARBARA K. HENDERSON, JAMES R. CLARKE, PAUL A. BRIM, ROBERT K. SEIDL, JENNIFER M. SEIDL, ROBERT KENNETH SEIDL, II, M. BERT STOREY, THOMAS R. MATHER, EDWARD T. STROM, 304 CONCORD & CUMBERLAND, LLC, MARION M. SIMPSON F/K/A MARION MOORE MCDONALD SIMPSON, KATHY GARDNER, GREGORY J. GARDNER, FREEMAN WATERFRONT PROPERTIES, LLC, JOHN FREEMAN, JO-ANN COOPER, BETTY Y. SEGAL, ROBERT M. LEVIN AND BONITA K. LEVIN, DONALD D. LEONARD, BETTY L. BEATTY, MATTELLEN, LLC, AND THOMAS R. DEBNAM, Trustee of the Trust Agreement of Thomas R. Debnam,<br><br>Defendants. | Case No.: 2016-CP-10-2955<br><br>**AFFIDAVIT OF RYAN TOMBERLIN** |

ELECTRONICALLY FILED - 2020 Nov 30 4:24 PM - CHARLESTON - COMMON PLEAS - CASE#2016CP1002955

PERSONALLY appeared before me, RYAN TOMBERLIN, who states as follows:

1. My name is Ryan Tomberlin. I am over the age of 18, and I have been a Project Superintendent with Trident for 7 years.

2. I was the Project Superintendent for the project at Concord & Cumberland, located at 175 Concord Street.

3. TCC believed substantial completion of the project was March 17, 2016.

4. As part of completing the work provided for in the contract, and at the request of the owner, Trident performed additional work following substantial completion, including:

    a. On April 21, 2016, I was onsite supervising the installation of railings on the fourth-floor terrace. Trident managed traffic and operated a lift for a subcontractor, Molony Metals.

    b. On May 4, 2016, I met the HPR's construction manager, Trey McCraw, onsite to review and verify proper installation of the railings.

    c. On May 5, 2016, I met Trey McCraw onsite to review potential water intrusion issues.

    d. From June 7 through June 9, 2016, I was onsite performing warranty work regarding trim at the request of Trey McCraw.

5. The above work was performed because it was necessary to complete the project and the owner requested it and not for purposes of extending any dates relevant to the mechanic's lien statute.

6. Further affiant sayeth naught.

RYAN TOMBERLIN

SWORN to before me this 22
day of May, 2020.

Angela Goddard Gross

Notary Public for South Carolina
My Commission Expires: 4.26.28

ELECTRONICALLY FILED - 2020 Nov 30 4:27 PM - CHARLESTON - COMMON PLEAS - CASE#2016CP1002955

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| **STATE OF SOUTH CAROLINA** | ) | **IN THE COURT OF COMMON PLEAS** |
| | ) | **FOR THE NINTH JUDICIAL CIRCUIT** |
| **COUNTY OF CHARLESTON** | ) | |
| TCC OF CHARLESTON, INC.<br><br>Plaintiff,<br>v.<br><br>CONCORD & CUMBERLAND HPR, LEO HALL, DIANE HALL, BEA H. SMITH, MARGARET C. POPE, WILLIAM D. FOSTER, JR., GENE G. FOSTER, MATTISON J. MACGILLIVRAY, TERESA MACGILLIVRAY, PAMELA L. VAUGHN, NELIA A. PATRICIO, Trustee of the Nelia A. Patricio Revocable Trust Agreement, STUART D. REEVES, EDWARD T. STROM, BARBARA K. HENDERSON, JAMES R. CLARKE, PAUL A. BRIM, ROBERT K. SEIDL, JENNIFER M. SEIDL, ROBERT KENNETH SEIDL, II, M. BERT STOREY, THOMAS R. MATHER, EDWARD T. STROM, 304 CONCORD & CUMBERLAND, LLC, MARION M. SIMPSON F/K/A MARION MOORE MCDONALD SIMPSON, KATHY GARDNER, GREGORY J. GARDNER, FREEMAN WATERFRONT PROPERTIES, LLC, JOHN FREEMAN, JO-ANN COOPER, BETTY Y. SEGAL, by and through her Assignee, DONALD D. LEONARD, ROBERT M. LEVIN AND BONITA K. LEVIN, DONALD D. LEONARD, BETTY L. BEATTY, MATTELLEN, LLC, AND THOMAS R. DEBNAM, Trustee of the Trust Agreement of Thomas R. Debnam,<br>Defendants. | ) | Case No.: 2016-CP-10-2955<br><br>**TCC OMNIBUS RESPONSE AND OBJECTIONS TO FILINGS AND SUBMITTALS OF CONCORD & CUMBERLAND HPR** |

## I. INTRODUCTION

TCC of Charleston, Inc. ("TCC") responds and objects to the filings and submittals of Concord & Cumberland HPR ("the HPR"). The relief the HPR seeks would have this Court

ELECTRONICALLY FILED - 2020 Nov 30 4:27 PM - CHARLESTON - COMMON PLEAS - CASE#2016CP1002955

reverse a prior order of Judge McCoy and would invalidate TCC's lien based on an inaccuracy in the statement of account. This is impermissible.

Further, under the circumstances of this case, that a lien cannot lie against the HPR does not necessarily entitle the HPR to summary judgment. Such a ruling would be premature in any event, as would an award of attorneys' fees to the HPR. Should the Court hold otherwise, the amount of fees sought by the HPR is inconsistent with the law.

TCC first notes what was and what was not before this Court, then discusses why the HPR is not entitled to fees, why the amount of fees claimed by the HPR is impermissible, why it would be error to invalidate TCC's lien, and TCC's position regarding confirmation of the arbitration award, followed by a summary listing of TCC's objections to the HPR's proposed order.

## II. WHAT WAS, OR WAS NOT, ARGUED BEFORE THE MASTER IN EQUITY

### A. Argued Before the Court

HPR's Motion for Summary Judgment, its Motion to Dismiss, and TCC's Motion to Amend the Statement of Account were argued during the November 5, 2020 hearing before this Court. Having indicated an intended ruling on these motions, the Court also addressed TCC's motion for confirmation of the arbitration award.

### B. Not Reached by the Court

The Court did not reach the HPR's motion to deposit funds into Court or TCC's Motion for Fees.

ELECTRONICALLY FILED - 2020 Nov 30 4:27 PM - CHARLESTON - COMMON PLEAS - CASE#2016CP1002955

### C. Not Before the Court

There is no motion for summary judgment filed by the individual property owners as to the foreclosure actions against them.[1] The HPR acknowledges this, but requests the Court grant that relief anyway, stating: "Although not yet before the Court on motion [a dispositive motion] from the remaining property owner defendants . . . ." HPR Proposed Order at 7.

## III. ENTITLEMENT TO FEES

Under the circumstances of this case, the conclusion that no foreclosure action will lie as to the HPR is not the same as a ruling that the HPR is entitled to summary judgment, dismissal, or its fees as a prevailing party.

### A. What Was Before the Panel

This action was filed by TCC against the HPR on June 6, 2016; it was amended on June 10, 2016, as the common elements were owned by the individual unit owners. In recognition that a foreclosure action would not lie as to the HPR, the foreclosure action was stayed, and the contract action against the HPR referred to arbitration.

There can be no doubt of this for, as stated by the HPR to the arbitration panel:

> [T]he Order [of Judge Young compelling arbitration] withholds the foreclosure actions to the Circuit Court.

**Exh. A** at 1;

> [T]he only cause of action before the Panel is a breach of contract claim.

*Id.* at 2;

> [T]he foreclosure actions were stayed . . . to allow TCC and the Regime to *arbitrate the dispute between them, the breach of contract claim*.

[1] With the exception of Ms. Beatty.

ELECTRONICALLY FILED - 2020 Nov 30 4:27 PM - CHARLESTON - COMMON PLEAS - CASE#2016CP1002955

*Id.* (emphasis added);

> This [the breach of contract claim] was briefed by both parties in their pre-trial briefs and was the only cause of action arbitrated at the hearing. In fact, TCC's pre-trial brief was extensive, very detailed, and, notably, only addressed a breach of contract.

*Id.* at 2, n. 1; and

> This Panel does not have jurisdiction over the foreclosure actions; therefore, the mechanic's lien statute and its procedures are not implicated in this Arbitration.

*Id.* at 5. Mr. Ford's fee affidavit (at footnote 2) also notes that the foreclosure action was stayed "as to all defendants."

### B. TCC's Attempts to Move Forward with Foreclosure as to Individual Defendants

Despite having agreed that arbitration was final and binding and that the Panel could award prevailing party fees,[2] the HPR has filed the following motions seeking to undo the Panel's award: a motion to reconsider and two motions to correct the arbitration award (before the Panel), a motion to vacate the arbitration award and a motion for reconsideration of the denial of the motion to vacate (before the Circuit Court), and an appeal of the denials of the motions to vacate and to reconsider (to the Court of Appeals). This consumed the period of May 17, 2019 until September 11, 2020.

While important context, the point is that TCC attempted to move forward with the foreclosure suit as to the individual defendants, not as to the HPR:

> Plaintiff seeks to lift the stay so as to proceed to confirm the award and pursue its claims against the individual defendants.

---

[2] Included in the HPR's proposed Award submitted to the Panel was: "Further, the Panel agrees to entertain a motion by C&C for payment by TCC of its attorneys' fees . . . ." It was only after an unfavorable result that the HPR contended the Panel did not have authority to award fees.

**Exh. B** (TCC's June 12, 2019 Motion to Lift Stay). HPR's counsel objected to lifting the stay:

> The HPR's position is that the Arbitration Panel retains jurisdiction at this point, and thus we have not consented to lift the stay.

**Exh. C** (August 28, 2019 email from C. Ford, Esq.).

### C. December 12, 2019

Even after the HPR filed its motion for summary judgment on December 6, 2019, Mr. Ford stated his continued objection to lifting the stay on December 12:

> We do object to lifting the stay, as we think the Motion to Lift [the stay] is subject to the Motion to Vacate or Correct [the arbitration award].

**Exh. D**. The HPR could have taken but did not take any action in the lawsuit until after Judge Jefferson denied the HPR's motion to reconsider on May 1, 2020. Yet, it now seeks fees for its efforts before the Panel and the Court and the Court of Appeals related to unwinding the Panel's award.

### D. Hearing Before Judge McCoy

It was not until the hearing before Judge McCoy on May 28, 2020 that the HPR attempted to be heard on summary judgment. As previously explained to this Court,[3] Judge McCoy deferred ruling on the summary judgment motions and granted TCC leave to amend its complaint. **Exh. E**; *see also infra*.

#### *1. TCC's Objections*

All of the activity before the Court from prior to May 1, 2020 involved the HPR's effort to vacate the arbitration award. TCC understood that the HPR sought to obtain dismissal as, if dismissed, TCC could not confirm an award against them. TCC ultimately did want to confirm

[3] TCC Memorandum on Certain Pending Motions of the HPR, dated October 27, 2020.



ELECTRONICALLY FILED - 2020 Nov 30 4:27 PM - CHARLESTON - COMMON PLEAS - CASE#2016CP1002955

ELECTRONICALLY FILED - 2020 Nov 30 4:27 PM - CHARLESTON - COMMON PLEAS - CASE#2016CP1002955

the award, but only after its entitlement to fees had been heard in order to prevent the HPR from appealing more than once. Yes, TCC opposed the HPR's motion for summary judgment, not because it believed the HPR had a real property interest, but rather because they needed to remain a party in order that complete relief be obtained and the award be confirmed.[4] As this Court will have recognized, had the HPR obtained a dismissal, the Court could not have confirmed an arbitration award against them as they would no longer be a party to the suit or an appeal.

### *2. TCC's Amended Complaint*

TCC moved to amend its complaint[5] in two particulars: (i) to remove the incorrect date of last work and (ii) to assert equitable claims. To that end, TCC presented evidence to Judge McCoy of the last day of work, including an affidavit from Mr. Tomberlin:

> 4. As part of completing the work provided for in the contract, and at the request of the owner, Trident performed additional work following substantial completion, including:
>
> a. On April 21, 2016, I was onsite supervising the installation of railings on the fourth-floor terrace. Trident managed traffic and operated a lift for a subcontractor, Malony Metals.
>
> b. On May 4, 2016, I met the HPR's construction manager, Trey McCraw, onsite to review and verify proper installation of the railings.
>
> c. On May 5, 2016, I met Trey McCraw onsite to review potential water intrusion issues.
>
> d. From June 7 through June 9, 2016, I was onsite performing warranty work regarding trim at the request of Trey McCraw.

[4] By its conduct in pursuing its summary judgment, the HPR must have accepted that the stay must be lifted for the Court to proceed.

[5] And attached its proposed Second Amended Complaint to its motion for the Court's consideration.

ELECTRONICALLY FILED - 2020 Nov 30 4:27 PM - CHARLESTON - COMMON PLEAS - CASE#2016CP1002955

**Exh. F**. TCC also cited the *Butler* case to Judge McCoy, which states:

> The deadline to serve and record a mechanic's lien begins running from the date the last material was furnished or work performed, regardless of whether such material or work is insignificant and regardless of whether the final work is delayed, provided the reason for the delay is not to improperly extend the period for perfecting the lien.

*Butler Contracting, Inc. v. Court St., LLC*, 369 S.C. 121, 131 (2006).

### *3. The HPR's Opposition & Judge McCoy's Ruling*

The HPR opposed the amendment, arguing it was futile:

> In its amendment, TCC proposes to delete its alleged date of "final completion" of the construction project, an allegation upon which they proceeded to arbitrate and have obtained an award. TCC is bound to this date of final completion by judicial estoppel and cannot retract it now in order to assert a different date as to the individual unit owners.

HPR Reply, May 27, 2020 at 6. Judge McCoy rejected the HPR's argument and granted the motion, stating:

> Rule 15(b) provides that leave to amend a pleading should be freely given, and the Court grants TCC's motion to amend.

**Exh. E**. The Order stated further:

> Given the pending amendment, pending discovery requests, and the lack of a final judgment, the Court finds it would be inappropriate to consider the remaining motions at this time.

*Id.*

### *4. Ramifications of Amendment*

#### *a. On Prior Pleadings*

The HPR dedicated pages three to six of its proposed order to the significance of TCC's prior pleadings. This is misplaced, as those pleadings became a nullity once amended as authorized by Judge McCoy. As the Court of Appeals explained:

ELECTRONICALLY FILED - 2020 Nov 30 4:27 PM - CHARLESTON - COMMON PLEAS - CASE#2016CP1002955

> While Duncan asserts Sirrine should be bound by its original pleadings, even the cases Duncan relies on as authority relieve a party from its original pleadings when the party withdraws or amends its pleadings. *See, e.g.*, *Elrod v. All*, 243 S.C. 425, 436, 134 S.E.2d 410, 416 (1964) ("We consider the pleadings in this case in the light of the general rule, that the parties to an action are judicially concluded and bound by such unless withdrawn, altered or stricken by amendment or otherwise." (emphasis added)).

*Duncan v. CRS Sirrine Engineers, Inc.*, 337 S.C. 537, 541–42 (Ct. App. 1999).

*b. <u>On Issue of Summary Judgment or Dismissal</u>*

TCC is not bound by allegations set forth in a complaint that has subsequently been amended. TCC sought to amend precisely for the purpose of removing the incorrect date of last work, which the HPR opposed, arguing that TCC was bound to that date. HPR Reply (May 27, 2020) at 6. In rejecting that argument, Judge McCoy found that the date of last work asserted in TCC's prior pleading was incorrect, did not bind TCC, and that TCC was entitled to amend. No motion to reconsider these findings was filed by the HPR, and they cannot be reversed by this Court.

Judge McCoy further noted that discovery was served by TCC and was and remains pending. It is well-settled that a motion for summary judgment should not be granted before a party has had the opportunity to discover information bearing on issues central to the motion. *Carolina Alliance for Fair Empl. v. S.C. Dep't of Labor, Licensing & Reg.*, 337 S.C. 476, 484, (Ct. App. 1999) (noting summary judgment is not appropriate "where further inquiry into the facts of the case is desirable to clarify the application of the law"); *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 250 n. 5 (1986) ("summary judgment [must] be refused where the nonmoving party has not had the opportunity to discover information that is essential to his opposition").

Here, discovery remains pending that bears on the question of when the individual homeowners received notice of the lien. The mechanic's lien statute, of course, does not specify

ELECTRONICALLY FILED - 2020 Nov 30 4:27 PM - CHARLESTON - COMMON PLEAS - CASE#2016CP1002955

how a lien must be served, but allows courts to authorize any measure of providing notice that "under the circumstances of the case, [are] considered most proper and effectual." S.C. Code § 29-5-200. Before this Court can determine whether the first notice provided to the homeowners was proper and effectual, it must be discovered when and by what means the individual homeowners received notice of the lien. Remember, counsel for the HPR[6] accepted service of the lien on June 15, 2016; TCC has requested all subsequent communications between the HPR and the individual homeowners regarding the lien, as well as the date each individual homeowner retained Mr. Ford as their counsel. Those requests remain outstanding.

These objections to the summary judgment motions were raised before Judge McCoy, who held:

> Given the pending amendment, *pending discovery requests*, and the lack of a final judgment, the Court finds it would be inappropriate to consider the remaining motions at this time.

**Exh. E** (emphasis added). The same remains true now. The incorrect date of last work has been removed from the prior pleadings and provides no basis for summary judgment, and probative discovery remains pending. This Court should not and cannot overrule Judge McCoy. And, of course, regardless of the amendment, dismissal as to the HPR would be inappropriate before confirmation of the arbitration award.

*c. Appeal by the HPR*

The HPR appealed Judge Jefferson's January 30 and May 1orders on June 1, 2020. TCC moved to dismiss the appeal on July 30, 2020. The basis for moving to dismiss was that, as there had been no confirmation of the arbitration award, the denial of a motion to vacate the award is

[6] Who also represents the majority of the individual unit owners. TCC has argued that service on the HPR constitutes service on all the homeowners under the facts of this case.

ELECTRONICALLY FILED - 2020 Nov 30 4:27 PM - CHARLESTON - COMMON PLEAS - CASE#2016CP1002955

interlocutory and not immediately appealable. TCC further noted Judge Jefferson's orders were not final orders, given the HPR's pending motion for summary judgment and TCC's desire to confirm the award and to amend the pleading. The Court of Appeals' dismissal of the appeal confirms that there was no final order from which to appeal; TCC had yet to confirm the award as to this very party. Necessarily, the HPR should not be dismissed if this Court intends to confirm the award.[7]

***5. Before This Court***

In briefing and oral argument before this Court, TCC did not advance that it was entitled to foreclose on the HPR. In fact, counsel—consistent with this case's history and reenforced since amendment of the pleadings on August 24, 2020—recognized foreclosure against the HPR as to the property was not possible as the HPR did not own the common elements:

> It is true that the common elements are owned by the individual defendants and TCC seeks to foreclose on the real property and sued them [the individual homeowners] for this reason.

TCC Memo on Pending Motions of the HPR, Oct. 27, 2020, at 8.

In sum, the HPR cannot "prevail" on what is not in dispute, since Mr. Ford's individual clients have never pursued dismissal of the foreclosure, they also cannot be a prevailing party.

## IV. QUANTUM OF FEES

Should this Court find that the HPR is entitled to fees, it must be recognized that the fees sought by the HPR are inconsistent with what is allowed by law. Caselaw limits the recovery of fees to those incurred in successfully defending a lien foreclosure action. In *Utilities Construction Co. v. Wilson*, the Court of Appeals stated:

[7] TCC's counsel consented to confirmation during the hearing as the Court advised it was not allowing TCC to pursue its attorneys' fees.

ELECTRONICALLY FILED - 2020 Nov 30 4:27 PM - CHARLESTON - COMMON PLEAS - CASE#2016CP1002955

> Utilities next argues the attorney fee award was excessive in view of the fact Wilson was required to defend two other causes of action and the fee awarded necessarily compensated her attorney for time spent in defending all three causes of action. We agree.
>
> [. . .]
>
> We find an abuse of discretion as to the amount of the attorney fee award and remand to the trial court for entry of an award *based upon the time Wilson's counsel spent defending the mechanic's lien cause of action only*.

321 S.C. 244, 250 (Ct. App. 1996) (emphasis added).

**A. HPR's Request for Fees**

The HPR seeks an award of fees in excess of $270,000, representing all of HPR's counsel's time since April 2019. This is inappropriate.

The HPR previously argued that the stay of the foreclosure action must remain in place until the HPR's motion to vacate the arbitration award had been decided, and that the stay prevented the HPR's motion for summary judgment from moving forward. On December 12, 2019, HPR's counsel wrote:

> We do object to lifting the stay, as we think the Motion to Lift [the stay] is subject to the Motion to Vacate or Correct [the arbitration award]. When the court resolves the latter, perhaps Monday, or perhaps sometime thereafter, and perhaps after remand, the stay might then be lifted, and the most recent motion [for summary judgment] would become ripe.

**Exh. D**. The HPR prevented TCC from moving for fees or to amend its pleading from June 2019 through May 2020; the obvious point being that all effort prior to allowing the stay of the foreclosure to be lifted cannot be related to seeking dismissal of the foreclosure action.

Nevertheless, the HPR now seeks fees during the time the stay was in place— *i.e.*, prior to May of 2020 (or September 2020, when its appeal was dismissed)—despite taking the position that its motion for summary judgment could not have proceeded during that time. The HPR also

ELECTRONICALLY FILED - 2020 Nov 30 4:27 PM - CHARLESTON - COMMON PLEAS - CASE#2016CP1002955

seeks to recover fees for portions of its time before the arbitration panel, which is especially strident in light of the HPR's repeated contentions that the foreclosure actions were outside of the Panel's jurisdiction. *Supra* Part II.A.1; **Exh. A**.

Second, the HPR makes no effort to segregate its time between its efforts to overturn the arbitration award and its pursuit of summary judgment on the issue of foreclosure. In the period of time encompassing the fees submitted by the HPR, the HPR had also filed three motions before the arbitration Panel, a motion to vacate the award in circuit court, a motion for reconsideration in circuit court, an appeal to the Court of Appeals, and a motion to deposit fees in circuit court. The affidavits from HPR's counsel seek to induce this Court to award fees for all of those motions.

Finally, as noted *supra*, TCC has not taken the position that it could foreclose against the HPR. The HPR seeks more than a quarter of a million dollars in fees for prevailing on an issue that TCC did not oppose. That TCC opposes dismissal of the HPR as a party to this lawsuit is not the same as seeking to foreclose on the HPR.

## V. IT WOULD BE ERROR TO INVALIDATE TCC'S LIEN BECAUSE OF AN INACCURACY IN THE STATEMENT OF ACCOUNT

### A. Amendment of Pleading

Once a pleading has been amended, the prior pleading is a nullity. *Duncan v. CRS Sirrine Engineers, Inc.*, 337 S.C. 537, 541–42 (Ct. App. 1999). Judge McCoy permitted TCC to amend its pleading to remove the inaccurate date of last work, which TCC did. Anything contained in the prior pleadings is void, and TCC is not bound by those allegations. *Postal v. Mann*, 308 S.C. 385, 387 (Ct. App. 1992) ("It is well settled that parties are judicially bound by their pleadings *unless withdrawn, altered or stricken by amendment or otherwise*." (emphasis added)).

ELECTRONICALLY FILED - 2020 Nov 30 4:27 PM - CHARLESTON - COMMON PLEAS - CASE#2016CP1002955

### B. Inaccuracy in Statement of Account & Service

What remains then is the inaccuracy in the statement of account regarding the last date of work. The mechanic's lien law expressly states that an inaccuracy in the statement of account cannot form the basis for invalidating a lien. S.C. Code § 29-5-100 ("Proceedings not invalidated by inaccuracy of statement of account"). This is necessarily true as to matters that are not required to be included in the statement of account. The only items required to be included in a statement of account are "a just and true account of the amount due to him" and "a description of the property intended to be covered by the lien." S.C. Code § 29-5-90. Therefore, an error in the statement of account as to the date of last work is not a basis to invalidate a lien. Yet that is precisely what Defendants urge here, contrary to the plain statutory language.

The HPR cites, *inter alia*, the *Butler*[8] case for the proposition that a lien arises inchoate by virtue of providing labor or materials to a project and that the lien must be perfected by timely filing and service to be completed. Proposed Order at 4–6. TCC agrees with the statements of law provided by the HPR. The law is indeed clear on the subject: "To perfect a mechanic's lien, a claimant must '*serve* and record a certificate of lien *within ninety days after he ceases to furnish labor or materials*.'" *Kitchen Planners, LLC v. Friedman*, --- S.E.2d ---, 2020 WL 3551777, at *5 (Ct. App. 2020) (quoting *Shelley Contsr. Co. v. Sea Garden Homes, Inc.*, 287 S.C. 24, 27 (Ct. App. 1985)) (emphases in original). The relevant date is the date of last work. The law does not, for example, require that a party serve its lien "within 90 days of the date provided in the statement of account." TCC *did* serve its lien before 90 days had expired since its date of last work.

[8] *Butler Contracting, Inc. v. Court St., LLC*, 369 S.C. 121, 130 (2006).

ELECTRONICALLY FILED - 2020 Nov 30 4:27 PM - CHARLESTON - COMMON PLEAS - CASE#2016CP1002955

### C. TCC's Efforts to Amend the Statement of Account Are Not Fraudulent or a Sham

While not required, as the lien cannot be invalidated on this basis, TCC should be allowed to amend its statement of account to reflect the uncontested reality of the last date of work. Courts have the authority to permit the amendment of a statement of account; indeed, this very Court has done so this year. **Exh. G**.

Defendants' proposed orders contend that TCC should not be permitted to amend because it did not raise the error regarding the last day of work during the period of June 2016 and May 2020 and because TCC's efforts to amend the statement of account nothing more than an effort to create a dispute of fact. This is untrue.

There is no dispute—and has been no dispute for at least three years—that TCC actually performed work pursuant to its contract after March 2016. The HPR's construction manager, Trey McCraw, requested Trident return to the job at least four times between March and June 2016. **Exh. F** (Tomberlin affidavit). In December 2017, the HPR reviewed TCC's project file containing daily time reports and labor records showing TCC onsite through January 2017, and TCC produced those records to the HPR in March 2018. *See* **Exh. H** (Rannik Affidavit). The daily logs, cost detail reports, and time sheets were identified as exhibits by Trident prior to the January 2019 arbitration hearing and were submitted into evidence before the Panel for the purpose of showing the extent and duration of TCC's work on the project. *Id.*

No Defendant has, will, or ever could produce any evidence to refute the fact that TCC last supplied materials or labor to the project well after March 2016. In short, Mr. Tomberlin's affidavit is not a "sham" affidavit entered to create a dispute of fact; it is—as Judge McCoy found when granting TCC leave to amend its pleading—sufficient to establish the inaccuracy of the date of last work set forth in TCC's pleading.

ELECTRONICALLY FILED - 2020 Nov 30 4:27 PM - CHARLESTON - COMMON PLEAS - CASE#2016CP1002955

### D. The *Kitchen Planners* Case

The HPR cites the *Kitchen Planners* case, --- S.E.2d ---, 2020 WL 3551777 (2020), in support of its contention that TCC's lien must be dissolved. That case, read in its entirety, actually supports the notion that TCC should be permitted to correct the erroneous last day of work.

In *Kitchen Planners*, the property owner moved to dismiss the lien foreclosure suit against it, arguing it was not timely served. The trial court found that, unlike here, "no credible evidence exist[ed] to show that [the contractor] provided any materials or labor" after the date of last work set forth in its pleading and its lien, that the lien was not served within 90 days of that last work, and granted the motion. *Id.* at *2. The contractor appealed.

The Court of Appeals noted that "parties are bound by their pleadings *unless withdrawn, altered or stricken by amendment or otherwise.*" *Id.* at *4 (quoting *Postal v. Mann*, 308 S.C. 385, 387 (Ct. App. 1992) (emphasis added)). The Court acknowledged that the contractor would have had the right to amend its pleading to correct any error as to the date of last work. *Id.* However, it held the contractor to the date of last work as stated in its pleading because the contractor there, unlike here, had not actually moved to amend its pleading. *Id.*

Further, the Court of Appeals agreed with the trial court that, even reading the evidence in the light most favorable to the contractor, there was insufficient evidence that any materials or labor were in fact provided after the date set forth in the pleading and that the evidence actually suggested the contrary. *Id.* Again, that is distinguishable from the present case, where there is no dispute that TCC *did* perform work well after March 2016.

Here, TCC amended its pleading to remove the inaccurate date of last work and provided uncontested evidence to establish that the date of last work was later than March 2016. Per *Kitchen Planners*, TCC's lien should not be invalidated.

ELECTRONICALLY FILED - 2020 Nov 30 4:27 PM - CHARLESTON - COMMON PLEAS - CASE#2016CP1002955

### E. Conclusion

Respectfully submitted, it would be error to invalidate TCC's lien.

## VI. CONFIRMATION OF ARBITRATION AWARD

At the hearing before this Court, the HPR moved that TCC's motion to confirm should be granted. TCC has noted its objection to confirmation until this Court awards fees to it as the prevailing party. If this Court determines that TCC cannot pursue its lien foreclosure against the individual homeowners, then the Court should confirm the award, which will allow this issue to be appealed as well.

## VII. OBJECTIONS TO THE HPR'S PROPOSED ORDER

Should the Court be inclined to sign the HPR's proposed order, TCC notes the following objections thereto:

1. A ruling in favor of the HPR on summary judgment and/or dismissal does not amount to a ruling that the HPR is entitled to its attorneys' fees.
2. The Court has not heard argument on the amount or nature of the HPR's attorneys' fees, and an award of fees would be premature.
3. The affidavits submitted in support of the HPR's request for attorneys' fees should be struck; they are not probative to the amount of recoverable fees, if any, because they do not segregate the fees related to different efforts.
4. No motion has been filed seeking summary judgment or dismissal in favor of the individual unit owners, and the inclusion of any such finding in the HPR's order is improper as the question is not before the Court.
5. TCC notes it does not consent to an outright confirmation of the arbitration award as explained *supra*.
6. TCC objects to the dismissal of the HPR.

ELECTRONICALLY FILED - 2020 Nov 30 4:27 PM - CHARLESTON - COMMON PLEAS - CASE#2016CP1002955

7. References to allegations in prior, now-amended pleadings is improper as those pleadings are voided by virtue of having been amended.

8. Judge McCoy rejected the HPR's argument that TCC should not be allowed to amend its pleading to remove the incorrect date of last work, constituting a finding by Judge McCoy that the date of last work was not March 17, 2016. No motion was filed for reconsideration of Judge McCoy's order. This Court cannot and should not rule otherwise.

9. TCC notes it could not have moved previously to amend its pleading as the case was stayed from December 2016 until May 2020 and TCC was concerned about waiver of arbitration rights prior to December 2016.

10. The South Carolina Mechanic's Lien Statute provides that no lien shall be invalidated due to an error in the statement of account. S.C. Code § 29-5-100. By binding TCC to an error as to the date of last work contained in the statement of account and therefore finding untimely service, TCC's lien would be impermissibly invalidated by an inaccuracy in the statement of account.

11. TCC objects to the HPR being permitted to deposit funds in the amount requested by the HPR and objects to any finding that such deposit would halt the accrual of interest on the arbitration award.

12. TCC objects to the statements in the HPR's proposed order that all claims against the HPR were arbitrated, given the HPR's repeated contentions before the arbitration panel that the panel jurisdiction only over the breach of contract cause of action.

13. TCC objects to the inclusion of any finding regarding the *quantum meruit* cause of action in TCC's prior pleading. The subject is not before the Court as it was not included in any filing or argument before the Court. In addition, that pleading has been amended and the cause of action removed.

14. TCC objects to the inclusion of any finding by this Court that the arbitration panel found there was no statutory basis for an award of attorneys' fees. The panel

found only that it lacked jurisdiction to award fees and expressly reserved any decision on fees to the circuit court.

15. TCC objects to the absence of a ruling on whether the HPR's obligation to satisfy the homeowners' lien obligations precludes the grant of summary judgment or dismissal in favor of the HPR.

16. TCC objects to the absence of a ruling on whether service of the lien on the HPR constitutes service of the individual homeowners.

17. TCC objects to the grant of summary judgment in the HPR's favor while discovery remains pending that is probative to the issues involved.

18. TCC objects to this Court granting relief inconsistent with TCC's entitlement to move forward with its claim for attorneys' fees as a "prevailing party" and its motion for confirmation of the arbitration award, urging the Court to reconsider its stated orientation.

Respectfully submitted,

**EPTING & RANNIK, LLC**

This 30th day of November, 2020
Charleston, SC

*/s/ Jaan Rannik*
Andrew K. Epting, Jr.
Jaan G. Rannik
46A State Street
Charleston, South Carolina 29401
843-377-1871
843-377-1310 (fax)
ake@epting-law.com
jgr@epting-law.com

*ATTORNEYS FOR TCC OF CHARLESTON, INC.*

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# EXHIBIT A

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**IN THE MATTER OF THE ARBITRATION BETWEEN:**

| | | |
|---|---|---|
| TCC OF CHARLESTON, INC.<br><br>Plaintiff,<br><br>v.<br><br>CONCORD & CUMBERLAND HPR,<br><br>Defendant. | ) | **RESPONSE TO TCC OF CHARLESTON'S MOTION FOR PREJUDGMENT INTEREST, COSTS OF ARBITRATION, AND ATTORNEYS' FEES AND COSTS** |

Concord & Cumberland HPR ("C&C" or "Regime"), responding to TCC of Charleston's ("TCC") Motion for Prejudgment Interest, Costs of Arbitration, and Attorneys' Fees and Costs, prays that this Panel follow the black letter of the law and the plain language of the documents in this case and deny TCC's motion as a matter of law. C&C provides the following grounds in support of denial:

## ARGUMENT

TCC relies on the Arbitration Award's reference to Article 5 of the Arbitration Agreement as grounds for an award of prejudgment interest, attorneys' fees, and costs. A review of the Order compelling arbitration, the Arbitration Agreement, and common and statutory law, evidences a fatal flaw in TCC's reasoning. Specifically, the Order withholds the foreclosure actions to the Circuit Court and Article 5 of the Arbitration Agreement does not address attorneys' fees and costs; therefore, the issue of attorneys' fees, costs, and pre-judgment interest are not ripe for decision by this Panel based on a lack of jurisdiction to hear this matter. The Panel must deny this motion.

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*A. The Order compelling arbitration explicitly withholds the foreclosure actions to be decided by the Circuit Court.*

The Regime is not a property owner and cannot be subject to a lien (*see* Section C); therefore, the only cause of action before the Panel is a breach of contract claim.[1] The Order compelling arbitration explicitly states:

> Whereas, the Plaintiff filed a motion to stay and compel arbitration in the above-styled action, and whereas the parties have consented to an arbitration of the dispute between Plaintiffs and Defendant Concord & Cumberland HPR ("Regime"), and ***stay of Plaintiffs foreclosure request*** as to the remaining Defendants . . . this matter is stayed as to all Defendants to allow the arbitration to proceed between Regime and Plaintiffs.

Thus, the foreclosure actions were stayed, not dismissed, to allow TCC and the Regime to arbitrate the dispute between them, the breach of contract claim. Procedurally, the mechanic's liens and foreclosure actions against the individual property owners could not move forward at the Circuit Court until the amount in controversy in those actions was determined. Because the work was associated with the common elements of the building and the construction contract was between TCC and the Regime, the logical step was to arbitrate the contract dispute in order to determine a sum certain.[2] Without this sum certain, the mechanic's liens and foreclosure actions against the individual Defendants were not ripe for decision. Stated otherwise, once the Panel has awarded an amount due to TCC, each homeowner is entitled to its full rights and defenses under the mechanic's lien statute. This includes, but is not limited to, each homeowner's defenses with regard to filing and service of the liens and the right to make offers of settlement for proportional shares of the determined amount in conjunction with the attorneys'

---

[1] This was briefed by both parties in their pre-trial briefs and was the only cause of action arbitrated at the hearing. In fact, TCC's pre-trial brief was extensive, very detailed, and, notably, only addressed a breach of contract. C&C mentioned foreclosure of the mechanic's lien and quantum meruit in its pre-trial brief solely to state that they were not before the Panel. Until now, this was never in dispute.

[2] There was a valid dispute regarding the amounts owed, if any. Even now, adherence to the actual law indicates that TCC cannot meet the elements necessary to establish a total cost claim, which is effectively what was awarded by the Panel, though modified by a finding of TCC inefficiency. C&C seeks reconsideration of that award in a separate motion.

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*C. Even if the Panel retained jurisdiction over the foreclosure actions, which it does not, the Panel would be forced to dismiss the foreclosure action against the Regime as a matter of law.*

The Regime does not own property and cannot be subject to a lien.[5] An action against the Regime for a mechanic's lien and subsequent foreclosure cannot stand as a matter of law. SC Code § 27-31-230 provides:

> SECTION 27-31-230. Liens arising subsequent to recording of master deed or lease.
>
> (a) No lien arising subsequent to recording the master deed or lease as provided in this chapter, and while the property remains subject to this chapter, shall be effective against the property. During such period liens or encumbrances shall arise or be created only against each apartment and the percentage of undivided interest in the common elements appurtenant to such apartment, in the same manner and under the same conditions in every respect as liens or encumbrances may arise or be created upon or against any other separate parcel of real property subject to individual ownership; provided, that no labor performed or materials furnished with the consent or at the request of a co-owner or his agent or his contractor or subcontractor, shall be the basis for the filing of a mechanic's or materialman's lien against the apartment or any other property of any other co-owner not expressly consenting to or requesting the same, except that such express consent shall be deemed to be given by the owner of any apartment in the case of emergency repairs thereto. Labor performed or materials furnished for the common elements, if duly authorized by the council of co-owners, the administrator or board of administration or other administration specified by the bylaws, in accordance with this chapter, the master deed, lease or bylaws, shall be deemed to be performed or furnished with the express consent of each co-owner and **shall be the basis for the filing of a mechanic's or materialman's lien against each of the apartments** and shall be subject to the provisions of subparagraph (b) hereunder.
>
> (b) In the event a lien against two or more apartments becomes effective, the owners of the separate apartments may remove their apartment and the percentage of undivided interest in the common areas and facilities appurtenant to such apartment from the lien by payment of the fractional or proportional amounts attributable to each of the apartments affected. Such individual payment shall be computed by reference to the percentages appearing in the master deed or lease.

[5] *See Resolution Trust Corp. v. Eagle Lake and Golf Condominiums*, 310 S.C. 473, 427 S.E.2d 646 (S.C. 1993) (holding that a mortgage given by a condominium developer on the entire project, after the filing of the master deed, was void pursuant to § 27-31-230 since the purpose of the statute was to prevent either an individual condominium owner, or the developer, from encumbering the interest of others once the master deed is filed.) A mortgage is a lien and this case upholds the fact that a Regime cannot be subject to a lien, only the individual owners.

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# EXHIBIT B

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| | | |
|---|---|---|
| STATE OF SOUTH CAROLINA | ) | IN THE COURT OF COMMON PLEAS |
| | ) | FOR THE NINTH JUDICIAL CIRCUIT |
| COUNTY OF CHARLESTON | ) | Case No.: 2016-CP-10-2955 |

TCC OF CHARLESTON, INC.

Plaintiff,

v.

CONCORD AND CUMERLAND, LLC., CONCORD & CUMBERLAND HPR, LEO HALL, DIANE HALL, BEA H. SMITH, MARGARET C. POPE, WILLIAM D. FOSTER, JR., GENE G. FOSTER, MATTISON J. MACGILLIVRAY, TERESA MACGILLIVRAY, PAMELA L. VAUGHN, NELIA A. PATRICIO, Trustee of the Nelia A. Patricio Revocable Trust Agreement, STUART D. REEVES, EDWARD T. STROM, BARBARA K. HENDERSON, JAMES R. CLARKE, PAUL A. BRIM, ROBERT K. SEIDL, JENNIFER M. SEIDL, ROBERT KENNETH SEIDL, II, M. BERT STOREY, THOMAS R. MATHER, EDWARD T. STROM, 304 CONCORD & CUMBERLAND, LLC, MARION M. SIMPSON F/K/A MARION MOORE MCDONALD SIMPSON, KATHY GARDNER, GREGORY J. GARDNER, FREEMAN WATERFRONT PROPERTIES, LLC, JO-ANN COOPER, BETTY Y. SEGAL, ROBERT M. LEVIN AND BONITA K. LEVIN, DONALD D. LEONARD, BETTY L. BEATTY, MATTELLEN, LLC, AND THOMAS R. DEBNAM, Trustee of the Trust Agreement of Thomas R. Debnam,

Defendants.

FILED
2019 JUN 17 PM 1:45
JULIE J. ARMSTRONG
CLERK OF COURT
BY
SB

**PLAINTIFF'S MOTION TO LIFT STAY**

On December 30, 2016, the Honorable Roger M. Young, Sr. entered an Order which

states that this case was "stayed as to all Defendants to allow the arbitration to proceed between the Regime and the Plaintiff." On April 16, 2019, the Arbitration Panel delivered an award.

In anticipation of the Panel concluding its work, Plaintiff seeks to lift the stay so as to proceed to confirm the award and pursue its claims against the individual defendants.

Counsel for the Plaintiff sought Defendant counsel's consent and hearing nothing files this motion.

Respectfully submitted,

**ANDREW K. EPTING, JR., LLC**

This 12th day of June, 2019
Charleston, SC

Andrew K. Epting, Jr., Esquire
Jaan G. Rannik, Esquire
46A State Street
Charleston, South Carolina 29401
843-377-1871
843-377-1310 (fax)
ake@epting-law.com
jgr@epting-law.com

*ATTORNEYS FOR TCC OF CHARLESTON, INC.*

CERTIFICATE OF SERVICE
THE UNDERSIGNED HEREBY CERTIFIES that true and correct copies of the pleading or paper to which this certificate is affixed was served upon the party(s) to this action in accord with the applicable Court Rules by electronic transmission or by hand delivery or by regular U.S. Mail, postage prepaid, properly addressed to the attorney(s) of record for such party(s).

Signed this 13 day of JUNE, 2019 at Charleston, South Carolina





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# EXHIBIT C

**To:** Caroline Crisler. Leonard <ccleonard@charlestoncounty.org>; Andrew K. Epting <ake@epting-law.com>; Laura Dukes Beck <LBeck@charlestoncounty.org>
**Cc:** Martha S. Dennis <MDennis@charlestoncounty.org>; Jaan Rannik <jgr@epting-law.com>; Walden, Andrew <Andrew.Walden@wbd-us.com>
**Subject:** RE: TCC v. Concord and Cumberland, 2016-CP-10-2955

All -

The HPR's position is that the Arbitration Panel retains jurisdiction at this point, and thus we have not consented to lift the stay. In short, the Panel has recently modified its prior Orders and made new findings, which we are reviewing.

I am not opposed to setting the Motion to Lift the Stay for hearing, but if it is set too soon, it may well be premature. I agree it would not be prudent to add the Motion to Vacate for hearing at this time.

Kind regards - Cordes

**Cordes Ford**
Partner
Womble Bond Dickinson (US) LLP

**d:** 843-720-4631
**m:** 843-425-7270
**e:** Cordes.Ford@wbd-us.com

5 Exchange Street
PO Box 999 (29402)
Charleston, SC 29401

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**From:** Caroline Crisler. Leonard <ccleonard@charlestoncounty.org>
**Sent:** Wednesday, August 28, 2019 12:01 PM
**To:** Andrew K. Epting <ake@epting-law.com>; Laura Dukes Beck <LBeck@charlestoncounty.org>
**Cc:** Ford, Cordes <Cordes.Ford@wbd-us.com>; Martha S. Dennis <MDennis@charlestoncounty.org>; Jaan Rannik <jgr@epting-law.com>
**Subject:** RE: TCC v. Concord and Cumberland, 2016-CP-10-2955

I can put the Motion to List Stay on a roster. Unless all of you agree, I think it would not be prudent to add the Motion to Vacate that has been filed until the Motion to Lift Stay has been heard and ruled on. Let me know how you would like to proceed. THANKS

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# EXHIBIT D

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## Jaan Rannik

**From:** Andrew K. Epting
**Sent:** Thursday, December 12, 2019 16:17
**To:** Ford, Cordes
**Cc:** Jaan Rannik; Walden, Andrew
**Subject:** RE: hearing next week

Ok, we will argue the stay and then you can argue the substituted vacation motion. We will not go forward with the SJ motion

*Drew*

Andrew K. Epting, Jr., LLC
46A State Street
Charleston SC 29401
843-377-1871

---

**From:** Ford, Cordes [mailto:Cordes.Ford@wbd-us.com]
**Sent:** Wednesday, December 11, 2019 5:00 PM
**To:** Andrew K. Epting <ake@epting-law.com>; Walden, Andrew <Andrew.Walden@wbd-us.com>
**Cc:** Jaan Rannik <jgr@epting-law.com>
**Subject:** RE: hearing next week

Drew –

We do object to lifting the stay, as we think the Motion to Lift is subject to the Motion to Vacate or Correct. When the court resolves the latter, perhaps Monday, or perhaps sometime thereafter, and perhaps after remand, the stay might then be lifted, and the most recent motion would become ripe.

We are prepared to have the prior motion to vacate subsumed into (or substituted by) the most recent one and heard Monday if the Court allows. In the event the stay is lifted, do you object to going forward with our most recent motion?

Thanks and best – Cordes

**Cordes Ford**
Partner
Womble Bond Dickinson (US) LLP

**d:** 843-720-4631
**m:** 843-425-7270
**e:** Cordes.Ford@wbd-us.com

5 Exchange Street
PO Box 999 (29402)
Charleston, SC 29401

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**From:** Andrew K. Epting <ake@epting-law.com>
**Sent:** Wednesday, December 11, 2019 4:20 PM
**To:** Ford, Cordes <Cordes.Ford@wbd-us.com>; Walden, Andrew <Andrew.Walden@wbd-us.com>
**Cc:** Jaan Rannik <jgr@epting-law.com>
**Subject:** hearing next week

Have not looked at your most recent motion but that you file suggests there is no objection to lifting the stay? Are we substituting your most recent vacation motion and going forward?

*Drew*

Andrew K. Epting, Jr., LLC
46A State Street
Charleston SC 29401
843-377-1871

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# EXHIBIT E

ELECTRONICALLY FILED - 2020 Aug 11 10:59 AM - CHARLESTON - COMMON PLEAS - CASE#2016CP1002955
ELECTRONICALLY FILED - 2020 Nov 30 4:27 PM - CHARLESTON - COMMON PLEAS - CASE#2016CP1002955

| | |
|---|---|
| **STATE OF SOUTH CAROLINA** ) | **IN THE COURT OF COMMON PLEAS** |
| ) | **FOR THE NINTH JUDICIAL CIRCUIT** |
| **COUNTY OF CHARLESTON** ) | |
| TCC OF CHARLESTON, INC. ) | |
| ) | Case No.: 2016-CP-10-2955 |
| Plaintiff, ) | |
| ) | |
| v. ) | |
| ) | |
| CONCORD AND CUMERLAND, LLC., CONCORD & CUMBERLAND HPR, LEO HALL, DIANE HALL, BEA H. SMITH, MARGARET C. POPE, WILLIAM D. FOSTER, JR., GENE G. FOSTER, MATTISON J. MACGILLIVRAY, TERESA MACGILLIVRAY, PAMELA L. VAUGHN, NELIA A. PATRICIO, Trustee of the Nelia A. Patricio Revocable Trust Agreement, STUART D. REEVES, EDWARD T. STROM, BARBARA K. HENDERSON, JAMES R. CLARKE, PAUL A. BRIM, ROBERT K. SEIDL, JENNIFER M. SEIDL, ROBERT KENNETH SEIDL, II, M. BERT STOREY, THOMAS R. MATHER, EDWARD T. STROM, 304 CONCORD & CUMBERLAND, LLC, MARION M. SIMPSON F/K/A MARION MOORE MCDONALD SIMPSON, KATHY GARDNER, GREGORY J. GARDNER, FREEMAN WATERFRONT PROPERTIES, LLC, JO-ANN COOPER, BETTY Y. SEGAL, ROBERT M. LEVIN AND BONITA K. LEVIN, DONALD D. LEONARD, BETTY L. BEATTY, MATTELLEN, LLC, AND THOMAS R. DEBNAM, Trustee of the Trust Agreement of Thomas R. Debnam, | **PROPOSED ORDER ON PENDING MOTIONS AND ORDER OF REFERENCE** |
| Defendants. ) | |

ELECTRONICALLY FILED - 2020 Aug 11 10:59 AM - CHARLESTON - COMMON PLEAS - CASE#2016CP1002955
ELECTRONICALLY FILED - 2020 Nov 30 4:27 PM - CHARLESTON - COMMON PLEAS - CASE#2016CP1002955

This case was filed June 6, 2016. A stay was consented to and entered on January 30, 2017 to allow for arbitration; following arbitration, there was no consent to move the case forward prior to the entry of Judge Jefferson's May 1, 2020 order.

Before this Court are (i) TCC of Charleston, Inc.'s ("TCC's") motion to amend the complaint based on the arbitration award and the order of May 1, 2020, (ii) summary judgment motions by the Concord & Cumberland HPR ("the HPR") and Ms. Betty Beatty ("Ms. Beatty") respectively, and (iii) the HPR's motion to deposit funds with the Court. The Court has also been made aware of discovery served by TCC following the lifting of the stay.

Rule 15(b) provides that leave to amend a pleading should be freely given, and the Court grants TCC's motion to amend. Given the pending amendment, pending discovery requests, and the lack of a final judgment, the Court finds it would be inappropriate to consider the remaining motions at this time.

Further, it appears to the Court that the parties' disputes are best decided by the Master in Equity, who should entertain the present motions at the appropriate time along with such other issues as exist or arise between the parties.

**NOW THEREFORE:**

1. TCC's motion to amend is granted;
2. This matter is referred to the Master in Equity for all purposes, including for a decision at the appropriate time on the HPR's and Ms. Beatty's motions for summary judgment and the HPR's motion to deposit funds.

**AND IT IS SO ORDERED!**

This _____ day of _____, 2020

_____
The Hon. Jennifer B. McCoy
Judge, Ninth Judicial Circuit

ELECTRONICALLY FILED - 2020 Aug 11 10:59 AM - CHARLESTON - COMMON PLEAS - CASE#2016CP1002955
ELECTRONICALLY FILED - 2020 Nov 30 4:27 PM - CHARLESTON - COMMON PLEAS - CASE#2016CP1002955

Charleston Common Pleas

**Case Caption:** Tcc Of Charleston Inc VS Concord And Cumberland Llc , defendant, et al

**Case Number:** 2016CP1002955

**Type:** Order/Other

So Ordered

s/Jennifer B. McCoy #2764

ELECTRONICALLY FILED - 2020 Nov 30 4:27 PM - CHARLESTON - COMMON PLEAS - CASE#2016CP1002955

# EXHIBIT F

ELECTRONICALLY FILED - 2020 Nov 30 4:27 PM - CHARLESTON - COMMON PLEAS - CASE#2016CP1002955

| | |
|---|---|
| **STATE OF SOUTH CAROLINA** )<br>)<br>**COUNTY OF CHARLESTON** ) | **IN THE COURT OF COMMON PLEAS FOR THE NINTH JUDICIAL CIRCUIT** |
| TCC OF CHARLESTON, INC.<br><br>Plaintiff,<br><br>v.<br><br>CONCORD AND CUMERLAND, LLC., CONCORD & CUMBERLAND HPR, LEO HALL, DIANE HALL, BEA H. SMITH, MARGARET C. POPE, WILLIAM D. FOSTER, JR., GENE G. FOSTER, MATTISON J. MACGILLIVRAY, TERESA MACGILLIVRAY, PAMELA L. VAUGHN, NELIA A. PATRICIO, Trustee of the Nelia A. Patricio Revocable Trust Agreement, STUART D. REEVES, EDWARD T. STROM, BARBARA K. HENDERSON, JAMES R. CLARKE, PAUL A. BRIM, ROBERT K. SEIDL, JENNIFER M. SEIDL, ROBERT KENNETH SEIDL, II, M. BERT STOREY, THOMAS R. MATHER, EDWARD T. STROM, 304 CONCORD & CUMBERLAND, LLC, MARION M. SIMPSON F/K/A MARION MOORE MCDONALD SIMPSON, KATHY GARDNER, GREGORY J. GARDNER, FREEMAN WATERFRONT PROPERTIES, LLC, JOHN FREEMAN, JO-ANN COOPER, BETTY Y. SEGAL, ROBERT M. LEVIN AND BONITA K. LEVIN, DONALD D. LEONARD, BETTY L. BEATTY, MATTELLEN, LLC, AND THOMAS R. DEBNAM, Trustee of the Trust Agreement of Thomas R. Debnam,<br><br>Defendants. | Case No.: 2016-CP-10-2955<br><br>**AFFIDAVIT OF RYAN TOMBERLIN** |

ELECTRONICALLY FILED - 2020 Nov 30 4:27 PM - CHARLESTON - COMMON PLEAS - CASE#2016CP1002955

PERSONALLY appeared before me, RYAN TOMBERLIN, who states as follows:

1. My name is Ryan Tomberlin. I am over the age of 18, and I have been a Project Superintendent with Trident for 7 years.

2. I was the Project Superintendent for the project at Concord & Cumberland, located at 175 Concord Street.

3. TCC believed substantial completion of the project was March 17, 2016.

4. As part of completing the work provided for in the contract, and at the request of the owner, Trident performed additional work following substantial completion, including:

    a. On April 21, 2016, I was onsite supervising the installation of railings on the fourth-floor terrace. Trident managed traffic and operated a lift for a subcontractor, Molony Metals.

    b. On May 4, 2016, I met the HPR's construction manager, Trey McCraw, onsite to review and verify proper installation of the railings.

    c. On May 5, 2016, I met Trey McCraw onsite to review potential water intrusion issues.

    d. From June 7 through June 9, 2016, I was onsite performing warranty work regarding trim at the request of Trey McCraw.

5. The above work was performed because it was necessary to complete the project and the owner requested it and not for purposes of extending any dates relevant to the mechanic's lien statute.

6. Further affiant sayeth naught.

RYAN TOMBERLIN

SWORN to before me this 22
day of May, 2020.

Angela Goddard Gross

Notary Public for South Carolina
My Commission Expires: 4.26.28

ELECTRONICALLY FILED - 2020 Nov 30 4:27 PM - CHARLESTON - COMMON PLEAS - CASE#2016CP1002955

# EXHIBIT G

ELECTRONICALLY FILED - 2020 Mar 17 1:23 PM - CHARLESTON - COMMON PLEAS - CASE#2019CP1001108
ELECTRONICALLY FILED - 2020 Nov 30 4:27 PM - CHARLESTON - COMMON PLEAS - CASE#2016CP1002955

| | |
|---|---|
| **STATE OF SOUTH CAROLINA** ) | **IN THE COURT OF COMMON PLEAS** |
| ) | **FOR THE NINTH JUDICIAL CIRCUIT** |
| **COUNTY OF CHARLESTON** ) | |
| ) | |
| LOWCOUNTRY CASE & MILLWORK, INC. ) | Case No.: 2019-CP-10-2249 |
| ) | |
| Plaintiff, ) | |
| ) | **ORDER GRANTING IN PART** |
| v. ) | **PLAINTIFF'S MOTION TO AMEND** |
| ) | |
| LIBRARY ASSOCIATES, LLC and BALFOUR BEATTY CONSTRUCTION, LLC ) | |
| ) | |
| Defendants. ) | |

This matter comes before the Court on Lowcountry Case and Millwork, Inc.'s ("Lowcountry's") motion to amend its complaint and mechanic's lien for purposes of updating the lien amount in the statement of account. After considering each of the arguments made by Counsel at the hearing of this matter, I now rule on every argument made as follows:

The Court finds (i) that it is consistent with equity and is not prejudicial to any party to allow Plaintiff to amend its lien amount via an amended statement of account and (ii) that it is unnecessary for Plaintiff to file a new or amended lien or amend its complaint. The amendment of the statement of account will not alter the date of the lien.

Lowcountry's motion is therefore **GRANTED IN PART** and Lowcountry may file an amended statement of account.

This ____ day of March, 2020

_____
The Hon. Mikell R. Scarborough
Master in Equity

ELECTRONICALLY FILED - 2020 Mar 17 1:23 PM - CHARLESTON - COMMON PLEAS - CASE#2019CP1001108
ELECTRONICALLY FILED - 2020 Nov 30 4:27 PM - CHARLESTON - COMMON PLEAS - CASE#2016CP1002955

Charleston Common Pleas

**Case Caption:** Balfour Beatty Construction LLC VS Library Associates LLC , defendant, et al

**Case Number:** 2019CP1001108

**Type:** Master/Order/Other

So Ordered

s/Mikell R. Scarborough 3062

ELECTRONICALLY FILED - 2020 Nov 30 4:27 PM - CHARLESTON - COMMON PLEAS - CASE#2016CP1002955

# EXHIBIT H

ELECTRONICALLY FILED - 2020 Nov 30 4:27 PM - CHARLESTON - COMMON PLEAS - CASE#2016CP1002955

| | | |
|---|---|---|
| **STATE OF SOUTH CAROLINA** | ) | **IN THE COURT OF COMMON PLEAS** |
| | ) | **FOR THE NINTH JUDICIAL CIRCUIT** |
| **COUNTY OF CHARLESTON** | ) | |
| TCC OF CHARLESTON, INC.<br><br>Plaintiff,<br><br>v.<br><br>CONCORD & CUMBERLAND HPR, LEO HALL, DIANE HALL, BEA H. SMITH, MARGARET C. POPE, WILLIAM D. FOSTER, JR., GENE G. FOSTER, MATTISON J. MACGILLIVRAY, TERESA MACGILLIVRAY, PAMELA L. VAUGHN, NELIA A. PATRICIO, Trustee of the Nelia A. Patricio Revocable Trust Agreement, STUART D. REEVES, EDWARD T. STROM, BARBARA K. HENDERSON, JAMES R. CLARKE, PAUL A. BRIM, ROBERT K. SEIDL, JENNIFER M. SEIDL, ROBERT KENNETH SEIDL, II, M. BERT STOREY, THOMAS R. MATHER, EDWARD T. STROM, 304 CONCORD & CUMBERLAND, LLC, MARION M. SIMPSON F/K/A MARION MOORE MCDONALD SIMPSON, KATHY GARDNER, GREGORY J. GARDNER, FREEMAN WATERFRONT PROPERTIES, LLC, JOHN FREEMAN, JO-ANN COOPER, BETTY Y. SEGAL, by and through her Assignee, DONALD D. LEONARD, ROBERT M. LEVIN AND BONITA K. LEVIN, DONALD D. LEONARD, BETTY L. BEATTY, MATTELLEN, LLC, AND THOMAS R. DEBNAM, Trustee of the Trust Agreement of Thomas R. Debnam,<br><br>Defendants. | ) | Case No.: 2016-CP-10-2955<br><br>**AFFIDAVIT OF JAAN G. RANNIK** |

PERSONALLY appeared before me, JAAN G. RANNIK, ESQ., stating as follows:

ELECTRONICALLY FILED - 2020 Nov 30 4:27 PM - CHARLESTON - COMMON PLEAS - CASE#2016CP1002955

1. My name is Jaan Rannik, and I am a partner with Epting & Rannik, LLC and have been involved in this litigation since October 2016.
2. I participated in the arbitration between TCC of Charleston, Inc. ("TCC") and the Concord and Cumberland HPR ("the HPR") and am familiar with the evidence and arguments presented to the Panel.
3. TCC produced over 42,000 pages of documents in the arbitration. TCC's production included daily logs prepared by the project superintendent, Ryan Tomberlin, cost detail reports generated by Trident's accounting department, and time sheets for employees who provided labor to the project.
4. The HPR was in possession of these records no later than March 2018.
5. The daily logs, cost detail reports, and time sheets were identified as exhibits by Trident prior to the arbitration hearing and were submitted into evidence before the Panel in January 2019 for the purpose of showing the amount of time and the duration of TCC's efforts on the project.
6. Trident's arbitration exhibit 127 showed work by the project superintendent through May 11, 2016. **Exh. 1** (excerpt).
7. Trident's arbitration exhibits 155 and 157 show the expense and duration of work on stone tower through January 2017. **Exhs. 2** & **3**.
8. Based upon these records, and upon TCC's counsel's arguments that Trident remained on the job through January 2017 (set forth in briefing in April and May, 2019), the Panel found Trident was entitled to costs it incurred on the project through January 2017.
9. Further affiant sayeth naught.

Jaan G. Rannik

SWORN to before me this 30th
day of November, 2020.

Notary Public for South Carolina
My Commission Expires: 4.26.28

ELECTRONICALLY FILED - 2020 Nov 30 4:27 PM - CHARLESTON - COMMON PLEAS - CASE#2016CP1002955

# EXHIBIT 1

ELECTRONICALLY FILED - 2020 Nov 30 4:27 PM - CHARLESTON - COMMON PLEAS - CASE#2016CP1002955

ELECTRONICALLY FILED - 2020 Nov 30 4:27 PM - CHARLESTON - COMMON PLEAS - CASE#2016CP1002955

# TCC LABOR COST BREAKDOWN

**Run On :** 03/15/2016 **Detail Report** **: Page #**
**At :** 02:09:43 PM **TCC OF CHARLESTON, INC.**
**As Of :** 03/15/2016 **JC6_5D1.RPT**

**Phase :** 01 **Cost :** 110 **SUPERINTENDENT**
**Job :** T1401 CONCORD & CUMBERLAND EXT **PM :** CHRIS BURRELL **Last Cost :** 03/10/16
**SUPT :** RYAN TOMBERLIN

| | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|
| 526 | 6 / 2014 | 06/18/2014 | 0 | 9121 | 1,064.49 | JE 01 | Journal Reference | RECORD COSTS FOR CONC | |
| 520 | 7 / 2014 | 07/16/2014 | 5 | 8021 | 2,600.00 | 07/13/2014 | P/E Date: 07/13/2014 | Job Hours: | 45.00 |
| 520 | 7 / 2014 | 07/23/2014 | 5 | 8021 | 2,600.00 | 07/20/2014 | P/E Date: 07/20/2014 | Job Hours: | 40.00 |
| 520 | 7 / 2014 | 07/30/2014 | 5 | 8021 | 2,600.00 | 07/27/2014 | P/E Date: 07/27/2014 | Job Hours: | 44.00 |
| 520 | 8 / 2014 | 08/06/2014 | 5 | 8021 | 2,600.00 | 08/03/2014 | P/E Date: 08/03/2014 | Job Hours: | 44.00 |
| 520 | 8 / 2014 | 08/13/2014 | 5 | 8021 | 2,600.00 | 08/10/2014 | P/E Date: 08/10/2014 | Job Hours: | 43.00 |
| 520 | 8 / 2014 | 08/20/2014 | 5 | 8021 | 2,600.00 | 08/17/2014 | P/E Date: 08/17/2014 | Job Hours: | 46.00 |
| 520 | 8 / 2014 | 08/27/2014 | 5 | 8021 | 2,600.00 | 08/24/2014 | P/E Date: 08/24/2014 | Job Hours: | 45.00 |
| 520 | 9 / 2014 | 09/10/2014 | 5 | 8021 | 2,600.00 | 08/31/2014 | P/E Date: 08/31/2014 | Job Hours: | 46.50 |
| 520 | 9 / 2014 | 09/10/2014 | 5 | 8021 | 2,600.00 | 09/07/2014 | P/E Date: 09/07/2014 | Job Hours: | 48.00 |
| 520 | 9 / 2014 | 09/17/2014 | 5 | 8021 | 2,600.00 | 09/14/2014 | P/E Date: 09/14/2014 | Job Hours: | 46.00 |
| 520 | 9 / 2014 | 09/25/2014 | 5 | 8021 | 2,600.00 | 09/21/2014 | P/E Date: 09/21/2014 | Job Hours: | 48.00 |
| 520 | 10 / 2014 | 10/01/2014 | 5 | 8021 | 2,600.00 | 09/28/2014 | P/E Date: 09/28/2014 | Job Hours: | 48.00 |
| 520 | 10 / 2014 | 10/08/2014 | 5 | 8021 | 2,600.00 | 10/05/2014 | P/E Date: 10/05/2014 | Job Hours: | 45.00 |
| 520 | 10 / 2014 | 10/15/2014 | 5 | 8021 | 2,600.00 | 10/12/2014 | P/E Date: 10/12/2014 | Job Hours: | 52.00 |
| 520 | 10 / 2014 | 10/22/2014 | 5 | 8021 | 2,600.00 | 10/19/2014 | P/E Date: 10/19/2014 | Job Hours: | 44.00 |
| 520 | 10 / 2014 | 10/29/2014 | 5 | 8021 | 2,600.00 | 10/26/2014 | P/E Date: 10/26/2014 | Job Hours: | 55.00 |
| 520 | 11 / 2014 | 11/05/2014 | 5 | 8021 | 2,600.00 | 11/02/2014 | P/E Date: 11/02/2014 | Job Hours: | 51.00 |
| 520 | 11 / 2014 | 11/12/2014 | 5 | 8021 | 2,600.00 | 11/09/2014 | P/E Date: 11/09/2014 | Job Hours: | 45.50 |
| 520 | 11 / 2014 | 11/19/2014 | 5 | 8021 | 2,600.00 | 11/16/2014 | P/E Date: 11/16/2014 | Job Hours: | 56.50 |
| 520 | 11 / 2014 | 11/25/2014 | 5 | 8021 | 2,600.00 | 11/23/2014 | P/E Date: 11/23/2014 | Job Hours: | 48.00 |
| 520 | 12 / 2014 | 12/03/2014 | 5 | 8021 | 2,600.00 | 11/30/2014 | P/E Date: 11/30/2014 | Job Hours: | 38.00 |
| 520 | 12 / 2014 | 12/10/2014 | 5 | 8021 | 2,600.00 | 12/07/2014 | P/E Date: 12/07/2014 | Job Hours: | 51.00 |
| 520 | 12 / 2014 | 12/17/2014 | 5 | 8021 | 2,600.00 | 12/14/2014 | P/E Date: 12/14/2014 | Job Hours: | 60.50 |
| 520 | 12 / 2014 | 12/23/2014 | 5 | 8021 | 260.00 | 12/21/2014 | P/E Date: 12/21/2014 | Job Hours: | 4.00 |
| 520 | 12 / 2014 | 12/23/2014 | 5 | 8021 | 130.00 | 12/21/2014 | P/E Date: 12/21/2014 | Job Hours: | 2.00 |
| 520 | 12 / 2014 | 12/23/2014 | 5 | 8021 | 2,600.00 | 12/21/2014 | P/E Date: 12/21/2014 | Job Hours: | 53.00 |
| 520 | 12 / 2014 | 12/31/2014 | 5 | 8021 | 2,600.00 | 12/28/2014 | P/E Date: 12/28/2014 | Job Hours: | 37.00 |
| 520 | 1 / 2015 | 01/07/2015 | 5 | 8021 | 2,600.00 | 01/04/2015 | P/E Date: 01/04/2015 | Job Hours: | 55.00 |
| 520 | 1 / 2015 | 01/14/2015 | 5 | 8021 | 2,600.00 | 01/11/2015 | P/E Date: 01/11/2015 | Job Hours: | 58.50 |
| 520 | 1 / 2015 | 01/21/2015 | 5 | 8021 | 2,600.00 | 01/18/2015 | P/E Date: 01/18/2015 | Job Hours: | 64.50 |
| 520 | 1 / 2015 | 01/28/2015 | 5 | 8021 | 2,600.00 | 01/25/2015 | P/E Date: 01/25/2015 | Job Hours: | 61.00 |
| 520 | 2 / 2015 | 02/04/2015 | 5 | 8021 | 2,600.00 | 02/01/2015 | P/E Date: 02/01/2015 | Job Hours: | 64.50 |
| 520 | 2 / 2015 | 02/11/2015 | 5 | 8021 | 2,600.00 | 02/08/2015 | P/E Date: 02/08/2015 | Job Hours: | 62.00 |
| 520 | 2 / 2015 | 02/18/2015 | 5 | 8021 | 2,600.00 | 02/15/2015 | P/E Date: 02/15/2015 | Job Hours: | 67.00 |
| 520 | 2 / 2015 | 02/18/2015 | 5 | 8021 | 2,600.00 | 02/15/2015 | P/E Date: 02/15/2015 | Job Hours: | 54.50 |
| 520 | 2 / 2015 | 02/18/2015 | 5 | 8021 | 2,600.00 | 02/15/2015 | P/E Date: 02/15/2015 | Job Hours: | 25.00 |
| 520 | 2 / 2015 | 02/25/2015 | 5 | 8021 | 2,600.00 | 02/22/2015 | P/E Date: 02/22/2015 | Job Hours: | 49.00 |
| 520 | 3 / 2015 | 03/04/2015 | 5 | 8021 | 2,600.00 | 03/01/2015 | P/E Date: 03/01/2015 | Job Hours: | 40.00 |
| 520 | 3 / 2015 | 03/11/2015 | 5 | 8021 | 2,600.00 | 03/08/2015 | P/E Date: 03/08/2015 | Job Hours: | 23.00 |
| 520 | 3 / 2015 | 03/11/2015 | 5 | 8021 | 2,600.00 | 03/08/2015 | P/E Date: 03/08/2015 | Job Hours: | 34.00 |
| 520 | 3 / 2015 | 03/25/2015 | 5 | 8021 | 2,600.00 | 03/22/2015 | P/E Date: 03/22/2015 | Job Hours: | 60.00 |
| 520 | 3 / 2015 | 03/25/2015 | 5 | 8021 | 2,600.00 | 03/22/2015 | P/E Date: 03/22/2015 | Job Hours: | 47.00 |
| 520 | 4 / 2015 | 04/01/2015 | 5 | 8021 | 2,600.00 | 03/29/2015 | P/E Date: 03/29/2015 | Job Hours: | 57.50 |
| 520 | 4 / 2015 | 04/01/2015 | 5 | 8021 | 2,600.00 | 03/29/2015 | P/E Date: 03/29/2015 | Job Hours: | 54.50 |
| 520 | 4 / 2015 | 04/08/2015 | 5 | 8021 | 2,600.00 | 04/05/2015 | P/E Date: 04/05/2015 | Job Hours: | 46.50 |
| 520 | 4 / 2015 | 04/08/2015 | 5 | 8021 | 2,600.00 | 04/05/2015 | P/E Date: 04/05/2015 | Job Hours: | 41.00 |
| 520 | 4 / 2015 | 04/15/2015 | 5 | 8021 | 2,600.00 | 04/12/2015 | P/E Date: 04/12/2015 | Job Hours: | 50.00 |
| 520 | 4 / 2015 | 04/15/2015 | 5 | 8021 | 2,600.00 | 04/12/2015 | P/E Date: 04/12/2015 | Job Hours: | 20.00 |
| 520 | 4 / 2015 | 04/22/2015 | 5 | 8021 | 2,600.00 | 04/19/2015 | P/E Date: 04/19/2015 | Job Hours: | 47.00 |
| 520 | 4 / 2015 | 04/22/2015 | 5 | 8021 | 2,600.00 | 04/19/2015 | P/E Date: 04/19/2015 | Job Hours: | 47.50 |
| 520 | 4 / 2015 | 04/29/2015 | 5 | 8021 | 2,600.00 | 04/26/2015 | P/E Date: 04/26/2015 | Job Hours: | 45.00 |
| 520 | 4 / 2015 | 04/29/2015 | 5 | 8021 | 2,600.00 | 04/26/2015 | P/E Date: 04/26/2015 | Job Hours: | 36.00 |
| 520 | 5 / 2015 | 05/06/2015 | 5 | 8021 | 2,600.00 | 05/03/2015 | P/E Date: 05/03/2015 | Job Hours: | 60.00 |
| 520 | 5 / 2015 | 05/06/2015 | 5 | 8021 | 2,600.00 | 05/03/2015 | P/E Date: 05/03/2015 | Job Hours: | 47.00 |
| 520 | 5 / 2015 | 05/13/2015 | 5 | 8021 | 2,600.00 | 05/10/2015 | P/E Date: 05/10/2015 | Job Hours: | 51.50 |
| 520 | 5 / 2015 | 05/13/2015 | 5 | 8021 | 2,600.00 | 05/10/2015 | P/E Date: 05/10/2015 | Job Hours: | 50.00 |
| 520 | 5 / 2015 | 05/21/2015 | 5 | 8021 | 2,600.00 | 05/17/2015 | P/E Date: 05/17/2015 | Job Hours: | 50.00 |
| 520 | 5 / 2015 | 05/21/2015 | 5 | 8021 | 2,600.00 | 05/17/2015 | P/E Date: 05/17/2015 | Job Hours: | 54.00 |
| 520 | 5 / 2015 | 05/27/2015 | 5 | 8021 | 2,600.00 | 05/24/2015 | P/E Date: 05/24/2015 | Job Hours: | 43.00 |
| 520 | 5 / 2015 | 05/27/2015 | 5 | 8021 | 2,600.00 | 05/24/2015 | P/E Date: 05/24/2015 | Job Hours: | 26.00 |
| 520 | 5 / 2015 | 05/27/2015 | 5 | 8021 | 585.00 | 05/24/2015 | P/E Date: 05/24/2015 | Job Hours: | 9.00 |
| 520 | 6 / 2015 | 06/03/2015 | 5 | 8021 | 2,600.00 | 05/31/2015 | P/E Date: 05/31/2015 | Job Hours: | 48.50 |
| 520 | 6 / 2015 | 06/10/2015 | 5 | 8021 | 2,600.00 | 06/07/2015 | P/E Date: 06/07/2015 | Job Hours: | 41.00 |
| 520 | 6 / 2015 | 06/17/2015 | 5 | 8021 | 2,600.00 | 06/14/2015 | P/E Date: 06/14/2015 | Job Hours: | 40.00 |
| 520 | 6 / 2015 | 06/24/2015 | 5 | 8021 | 2,600.00 | 06/21/2015 | P/E Date: 06/21/2015 | Job Hours: | 42.00 |
| 520 | 7 / 2015 | 07/01/2015 | 5 | 8021 | 2,600.00 | 06/28/2015 | P/E Date: 06/28/2015 | Job Hours: | 28.50 |
| 520 | 7 / 2015 | 07/09/2015 | 5 | 8021 | 2,600.00 | 07/05/2015 | P/E Date: 07/05/2015 | Job Hours: | 35.50 |
| 520 | 7 / 2015 | 07/15/2015 | 5 | 8021 | 2,600.00 | 07/12/2015 | P/E Date: 07/12/2015 | Job Hours: | 34.00 |
| 520 | 7 / 2015 | 07/23/2015 | 5 | 8021 | 2,600.00 | 07/19/2015 | P/E Date: 07/19/2015 | Job Hours: | 32.50 |
| 520 | 7 / 2015 | 07/29/2015 | 5 | 8021 | 2,600.00 | 07/26/2015 | P/E Date: 07/26/2015 | Job Hours: | 39.50 |
| 520 | 8 / 2015 | 08/05/2015 | 5 | 8021 | 2,600.00 | 08/02/2015 | P/E Date: 08/02/2015 | Job Hours: | 36.00 |
| 520 | 8 / 2015 | 08/12/2015 | 5 | 8021 | 2,600.00 | 08/09/2015 | P/E Date: 08/09/2015 | Job Hours: | 47.00 |

| | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| 520 | 8 / 2015 | 08/19/2015 | 5 | 8021 | 2,600.00 | 08/16/2015 | P/E Date: 08/16/2015 | Job Hours: | 46.00 |
| 520 | 8 / 2015 | 08/19/2015 | 5 | 8021 | 2,600.00 | 08/16/2015 | P/E Date: 08/16/2015 | Job Hours: | 40.00 |
| 520 | 8 / 2015 | 08/26/2015 | 5 | 8021 | 2,600.00 | 08/23/2015 | P/E Date: 08/23/2015 | Job Hours: | 47.00 |
| 520 | 9 / 2015 | 09/02/2015 | 5 | 8021 | 2,600.00 | 08/30/2015 | P/E Date: 08/30/2015 | Job Hours: | 46.00 |
| 520 | 9 / 2015 | 09/09/2015 | 5 | 8021 | 2,600.00 | 09/06/2015 | P/E Date: 09/06/2015 | Job Hours: | 46.00 |
| 520 | 9 / 2015 | 09/16/2015 | 5 | 8021 | 2,600.00 | 09/13/2015 | P/E Date: 09/13/2015 | Job Hours: | 46.50 |
| 520 | 9 / 2015 | 09/23/2015 | 5 | 8021 | 2,600.00 | 09/20/2015 | P/E Date: 09/20/2015 | Job Hours: | 49.00 |
| 520 | 9 / 2015 | 09/30/2015 | 5 | 8021 | 2,600.00 | 09/27/2015 | P/E Date: 09/27/2015 | Job Hours: | 44.00 |
| 520 | 10 / 2015 | 10/07/2015 | 5 | 8021 | 2,600.00 | 10/04/2015 | P/E Date: 10/04/2015 | Job Hours: | 39.50 |
| 520 | 10 / 2015 | 10/14/2015 | 5 | 8021 | 2,600.00 | 10/11/2015 | P/E Date: 10/11/2015 | Job Hours: | 48.00 |
| 520 | 10 / 2015 | 10/21/2015 | 5 | 8021 | 2,600.00 | 10/18/2015 | P/E Date: 10/18/2015 | Job Hours: | 51.50 |
| 520 | 10 / 2015 | 10/28/2015 | 5 | 8021 | 2,600.00 | 10/25/2015 | P/E Date: 10/25/2015 | Job Hours: | 46.00 |
| 520 | 11 / 2015 | 11/04/2015 | 5 | 8021 | 2,600.00 | 11/01/2015 | P/E Date: 11/01/2015 | Job Hours: | 42.50 |
| 520 | 11 / 2015 | 11/11/2015 | 5 | 8021 | 2,600.00 | 11/08/2015 | P/E Date: 11/08/2015 | Job Hours: | 44.50 |
| 520 | 11 / 2015 | 11/18/2015 | 5 | 8021 | 2,600.00 | 11/15/2015 | P/E Date: 11/15/2015 | Job Hours: | 47.00 |
| 520 | 11 / 2015 | 11/24/2015 | 5 | 8021 | 2,600.00 | 11/22/2015 | P/E Date: 11/22/2015 | Job Hours: | 52.00 |
| 520 | 12 / 2015 | 12/02/2015 | 5 | 8021 | 2,600.00 | 11/29/2015 | P/E Date: 11/29/2015 | Job Hours: | 56.50 |
| 520 | 12 / 2015 | 12/09/2015 | 5 | 8021 | 2,600.00 | 12/06/2015 | P/E Date: 12/06/2015 | Job Hours: | 52.00 |
| 520 | 12 / 2015 | 12/16/2015 | 5 | 8021 | 2,600.00 | 12/13/2015 | P/E Date: 12/13/2015 | Job Hours: | 43.00 |
| 520 | 12 / 2015 | 12/23/2015 | 5 | 8021 | 2,600.00 | 12/20/2015 | P/E Date: 12/20/2015 | Job Hours: | 42.50 |
| 520 | 12 / 2015 | 12/29/2015 | 5 | 8021 | 2,600.00 | 12/27/2015 | P/E Date: 12/27/2015 | Job Hours: | 30.00 |
| 520 | 12 / 2015 | 12/29/2015 | 5 | 8021 | 2,600.00 | 01/03/2016 | P/E Date: 01/03/2016 | Job Hours: | 40.00 |
| 520 | 12 / 2015 | 12/29/2015 | 5 | 8021 | 2,600.00 | 01/03/2016 | P/E Date: 01/03/2016 | Job Hours: | 40.00 |
| 520 | 1 / 2016 | 01/20/2016 | 5 | 8021 | 2,600.00 | 01/17/2016 | P/E Date: 01/17/2016 | Job Hours: | 60.00 |
| 520 | 1 / 2016 | 02/01/2016 | 5 | 8021 | 2,600.00 | 01/31/2016 | P/E Date: 01/31/2016 | Job Hours: | 58.00 |
| 520 | 2 / 2016 | 02/08/2016 | 5 | 8021 | 2,600.00 | 02/05/2016 | P/E Date: 02/05/2016 | Job Hours: | 40.00 |
| 520 | 2 / 2016 | 02/11/2016 | 5 | 8021 | 2,600.00 | 02/07/2016 | P/E Date: 02/07/2016 | Job Hours: | 42.50 |
| 520 | 2 / 2016 | 02/17/2016 | 5 | 8021 | 2,600.00 | 02/14/2016 | P/E Date: 02/14/2016 | Job Hours: | 52.50 |
| 520 | 2 / 2016 | 02/27/2016 | 5 | 8021 | 2,600.00 | 02/21/2016 | P/E Date: 02/21/2016 | Job Hours: | 51.50 |
| 520 | 2 / 2016 | 03/02/2016 | 5 | 8021 | 2,600.00 | 02/28/2016 | P/E Date: 02/28/2016 | Job Hours: | 52.50 |
| 520 | 3 / 2016 | 03/09/2016 | 5 | 8021 | 2,600.00 | 03/06/2016 | P/E Date: 03/06/2016 | Job Hours: | 48.00 |
| 520 | 3 / 2016 | 03/16/2016 | 5 | 8021 | 2,600.00 | 03/13/2016 | P/E Date: 03/13/2016 | Job Hours: | 10.00 |
| 520 | 3 / 2016 | 03/23/2016 | 5 | 8021 | 2,600.00 | 03/20/2016 | P/E Date: 03/20/2016 | Job Hours: | 36.00 |
| 520 | 3 / 2016 | 03/30/2016 | 5 | 8021 | 2,600.00 | 03/27/2016 | P/E Date: 03/27/2016 | Job Hours: | 40.00 |
| 520 | 4 / 2016 | 04/27/2016 | 5 | 8021 | 487.50 | 04/24/2016 | P/E Date: 04/24/2016 | Job Hours: | 7.50 |
| 520 | 4 / 2016 | 05/04/2016 | 5 | 8021 | 520.00 | 05/01/2016 | P/E Date: 05/01/2016 | Job Hours: | 8.00 |
| 520 | 4 / 2016 | 05/11/2016 | 5 | 8021 | 195.00 | 05/08/2016 | P/E Date: 05/08/2016 | Job Hours: | 3.00 |

**Cost Code Totals:**

| | | | |
|---|---|---|---|
| **Labor :** | **269,977.50** | **Job Hours:** | **4,760.00** |
| **Others :** | **1,064.49** | | |
| **Total:** | **271,041.99** | | |

**Phase : 01 Cost : 130 PROJECT MANAGEMENT**

| | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|
| 520 | 6 / 2014 | 06/05/2014 | 5 | 8021 | 432.00 | 06/02/2014 | P/E Date: 06/02/2014 | Job Hours: | 6.00 |
| 520 | 6 / 2014 | 06/12/2014 | 5 | 8021 | 576.00 | 06/09/2014 | P/E Date: 06/09/2014 | Job Hours: | 8.00 |
| 520 | 6 / 2014 | 06/19/2014 | 5 | 8021 | 576.00 | 06/16/2014 | P/E Date: 06/16/2014 | Job Hours: | 8.00 |
| 520 | 6 / 2014 | 06/26/2014 | 5 | 8021 | 576.00 | 06/23/2014 | P/E Date: 06/23/2014 | Job Hours: | 8.00 |
| 520 | 6 / 2014 | 07/03/2014 | 5 | 8021 | 576.00 | 06/30/2014 | P/E Date: 06/30/2014 | Job Hours: | 8.00 |
| 520 | 7 / 2014 | 07/10/2014 | 5 | 8021 | 576.00 | 07/07/2014 | P/E Date: 07/07/2014 | Job Hours: | 8.00 |
| 520 | 7 / 2014 | 07/17/2014 | 5 | 8021 | 576.00 | 07/14/2014 | P/E Date: 07/14/2014 | Job Hours: | 8.00 |
| 520 | 7 / 2014 | 07/24/2014 | 5 | 8021 | 576.00 | 07/21/2014 | P/E Date: 07/21/2014 | Job Hours: | 8.00 |
| 520 | 7 / 2014 | 07/31/2014 | 5 | 8021 | 576.00 | 07/28/2014 | P/E Date: 07/28/2014 | Job Hours: | 8.00 |
| 520 | 8 / 2014 | 08/07/2014 | 5 | 8021 | 576.00 | 08/04/2014 | P/E Date: 08/04/2014 | Job Hours: | 8.00 |
| 520 | 8 / 2014 | 08/14/2014 | 5 | 8021 | 576.00 | 08/11/2014 | P/E Date: 08/11/2014 | Job Hours: | 8.00 |
| 520 | 8 / 2014 | 08/21/2014 | 5 | 8021 | 576.00 | 08/18/2014 | P/E Date: 08/18/2014 | Job Hours: | 8.00 |
| 520 | 8 / 2014 | 08/28/2014 | 5 | 8021 | 576.00 | 08/25/2014 | P/E Date: 08/25/2014 | Job Hours: | 8.00 |
| 520 | 9 / 2014 | 09/04/2014 | 5 | 8021 | 576.00 | 09/01/2014 | P/E Date: 09/01/2014 | Job Hours: | 8.00 |
| 520 | 9 / 2014 | 09/11/2014 | 5 | 8021 | 576.00 | 09/08/2014 | P/E Date: 09/08/2014 | Job Hours: | 8.00 |
| 520 | 9 / 2014 | 09/18/2014 | 5 | 8021 | 576.00 | 09/15/2014 | P/E Date: 09/15/2014 | Job Hours: | 8.00 |
| 520 | 9 / 2014 | 09/25/2014 | 5 | 8021 | 576.00 | 09/22/2014 | P/E Date: 09/22/2014 | Job Hours: | 8.00 |
| 520 | 9 / 2014 | 10/02/2014 | 5 | 8021 | 576.00 | 09/29/2014 | P/E Date: 09/29/2014 | Job Hours: | 8.00 |
| 520 | 10 / 2014 | 10/09/2014 | 5 | 8021 | 576.00 | 10/06/2014 | P/E Date: 10/06/2014 | Job Hours: | 8.00 |
| 520 | 10 / 2014 | 10/16/2014 | 5 | 8021 | 576.00 | 10/13/2014 | P/E Date: 10/13/2014 | Job Hours: | 8.00 |
| 520 | 10 / 2014 | 10/23/2014 | 5 | 8021 | 576.00 | 10/20/2014 | P/E Date: 10/20/2014 | Job Hours: | 8.00 |
| 520 | 10 / 2014 | 10/30/2014 | 5 | 8021 | 576.00 | 10/27/2014 | P/E Date: 10/27/2014 | Job Hours: | 8.00 |
| 520 | 11 / 2014 | 11/06/2014 | 5 | 8021 | 576.00 | 11/03/2014 | P/E Date: 11/03/2014 | Job Hours: | 8.00 |
| 520 | 11 / 2014 | 11/13/2014 | 5 | 8021 | 576.00 | 11/10/2014 | P/E Date: 11/10/2014 | Job Hours: | 8.00 |
| 520 | 11 / 2014 | 11/20/2014 | 5 | 8021 | 576.00 | 11/17/2014 | P/E Date: 11/17/2014 | Job Hours: | 8.00 |
| 520 | 11 / 2014 | 11/27/2014 | 5 | 8021 | 576.00 | 11/24/2014 | P/E Date: 11/24/2014 | Job Hours: | 8.00 |
| 520 | 12 / 2014 | 12/04/2014 | 5 | 8021 | 576.00 | 12/01/2014 | P/E Date: 12/01/2014 | Job Hours: | 8.00 |
| 520 | 12 / 2014 | 12/11/2014 | 5 | 8021 | 576.00 | 12/08/2014 | P/E Date: 12/08/2014 | Job Hours: | 8.00 |
| 520 | 12 / 2014 | 12/18/2014 | 5 | 8021 | 576.00 | 12/15/2014 | P/E Date: 12/15/2014 | Job Hours: | 8.00 |
| 520 | 12 / 2014 | 12/25/2014 | 5 | 8021 | 576.00 | 12/22/2014 | P/E Date: 12/22/2014 | Job Hours: | 8.00 |
| 520 | 12 / 2014 | 01/01/2015 | 5 | 8021 | 576.00 | 12/29/2014 | P/E Date: 12/29/2014 | Job Hours: | 8.00 |
| 520 | 1 / 2015 | 01/08/2015 | 5 | 8021 | 576.00 | 01/05/2015 | P/E Date: 01/05/2015 | Job Hours: | 8.00 |
| 520 | 1 / 2015 | 01/15/2015 | 5 | 8021 | 576.00 | 01/12/2015 | P/E Date: 01/12/2015 | Job Hours: | 8.00 |
| 520 | 1 / 2015 | 01/22/2015 | 5 | 8021 | 576.00 | 01/19/2015 | P/E Date: 01/19/2015 | Job Hours: | 8.00 |
| 520 | 1 / 2015 | 01/29/2015 | 5 | 8021 | 576.00 | 01/26/2015 | P/E Date: 01/26/2015 | Job Hours: | 8.00 |
| 520 | 2 / 2015 | 02/05/2015 | 5 | 8021 | 576.00 | 02/02/2015 | P/E Date: 02/02/2015 | Job Hours: | 8.00 |
| 520 | 2 / 2015 | 02/12/2015 | 5 | 8021 | 576.00 | 02/09/2015 | P/E Date: 02/09/2015 | Job Hours: | 8.00 |
| 520 | 2 / 2015 | 02/19/2015 | 5 | 8021 | 576.00 | 02/16/2015 | P/E Date: 02/16/2015 | Job Hours: | 8.00 |
| 520 | 2 / 2015 | 02/26/2015 | 5 | 8021 | 864.00 | 02/23/2015 | P/E Date: 02/23/2015 | Job Hours: | 12.00 |

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# EXHIBIT 2

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# Summary of Extras After Completion

Concord & Cumberland

| | |
|---|---|
| Labor Other | $ 2,187.00 |
| Labor Heather | $ 6,922.50 |
| Material - December | $ 20,436.74 |
| - March | $ 6,384.00 |
| - October | $ 2,347.67 |
| **Total** | **$ 38,277.91** |
| | |
| **(Subtractions)** | |
| PCO 142 ( Stone Tower) | $ (715.00) |
| | $ (207.00) |
| PCO 145 ( Miss Betty's) | $ (8,585.81) |
| **Total after subtractions** | $ 28,770.10 |
| | |
| **Other additions** | |
| Fuel and Telephone | $ 570.00 |
| Keating | $ 3,200.00 |
| | |
| **Grand Total** | $ 32,540.10 |

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# EXHIBIT 3

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TCC OF CHARLESTON, INC.
HEATHER DAGG HOURS
2016-2017
CONCORD & CUMBERLAND

**PR Group: 1** — **Weekly payroll**

| Pay Seq | Date | State Loc | Craft/Class | PRDept/JCDept | Ins | Cert | GL/JC/EMCo's Job/Phase | Eq CTCompanies Equipment | CostCode | quipmentUsage | EC | Rate | Hours |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| **PR End Date: 12/11/16** | | | | | | | | | | | | | |
| **Employee: 1015 Dagg Heather** | | | | | | | | | | | | | |
| 1 | 12/05/16 | 1015 | SC/SC | 10/00 | 3/ 30 | SC/5403 | Y 1/1/ 14001-/01-630- | 0 | | 0.00 | 1 | 65.00000 | 2.50 |
| 1 | 12/05/16 | 1015 | SC/SC | 10/00 | 3/ 30 | SC/5403 | Y 1/1/ 14001-/02-100- | 0 | | 0.00 | 1 | 65.00000 | 5.50 |
| | | | | | | | Timecard Totals for 12/05/16 : | | | | | | |
| 1 | 12/06/16 | 1015 | SC/SC | 10/00 | 3/ 30 | SC/5403 | Y 1/1/ 14001-/01-630- | 0 | | 0.00 | 1 | 65.00000 | 7.50 |
| 1 | 12/06/16 | 1015 | SC/SC | 10/00 | 3/ 30 | SC/5606 | Y 1/1/ 14001-/01-110- | 0 | | 0.00 | 1 | 65.00000 | 2.00 |
| | | | | | | | Timecard Totals for 12/06/16 : | | | | | | |
| 1 | 12/07/16 | 1015 | SC/SC | 10/00 | 3/ 30 | SC/5403 | Y 1/1/ 14001-/01-630- | 0 | | 0.00 | 1 | 65.00000 | 5.50 |
| 1 | 12/07/16 | 1015 | SC/SC | 10/00 | 3/ 30 | SC/5606 | Y 1/1/ 14001-/01-110- | 0 | | 0.00 | 1 | 65.00000 | 3.50 |
| | | | | | | | Timecard Totals for 12/07/16 : | | | | | | |
| 1 | 12/08/16 | 1015 | SC/SC | 10/00 | 3/ 30 | SC/5403 | Y 1/1/ 14001-/01-630- | 0 | | 0.00 | 1 | 65.00000 | 6.00 |
| 1 | 12/08/16 | 1015 | SC/SC | 10/00 | 3/ 30 | SC/5606 | Y 1/1/ 14001-/01-110- | 0 | | 0.00 | 1 | 65.00000 | 3.00 |
| | | | | | | | Timecard Totals for 12/08/16 : | | | | | | |
| 1 | 12/09/16 | 1015 | SC/SC | 10/00 | 3/ 30 | SC/5403 | Y 1/1/ 14001-/01-630- | 0 | | 0.00 | 1 | 65.00000 | 0.50 |
| 1 | 12/09/16 | 1015 | SC/SC | 10/00 | 3/ 30 | SC/5403 | Y 1/1/ 14001-/01-630- | 0 | | 0.00 | 2 | 97.50000 | 8.50 |
| | | | | | | | Timecard Totals for 12/09/16 : | | | | | | |
| | | | | | | | | Employee Totals | | 0.00 | | | 44.50 |

**PR End Date: 12/18/16**
**Employee: 1015 Dagg Heather**

| | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 1 | 12/12/16 | 1015 | SC/SC | 10/00 | 3/ 30 | SC/5403 | Y 1/1/ 14001-/01-630- | 0 | | 0.00 | 1 | 65.00000 | 9.00 |
| 1 | 12/13/16 | 1015 | SC/SC | 10/00 | 3/ 30 | SC/5403 | Timecard Totals for 12/12/16 : Y 1/1/ 14001-/01-630- | 0 | | 0.00 | 1 | 65.00000 | 6.50 |
| 1 | 12/14/16 | 1015 | SC/SC | 10/00 | 3/ 30 | SC/5403 | Timecard Totals for 12/13/16 : Y 1/1/ 14001-/01-630- | 0 | | 0.00 | 1 | 65.00000 | 5.50 |
| 1 | 12/14/16 | 1015 | SC/SC | 10/00 | 3/ 30 | SC/5606 | Y 1/1/ 14001-/01-110- | 0 | | 0.00 | 1 | 65.00000 | 2.00 |
| 1 | 12/15/16 | 1015 | SC/SC | 10/00 | 3/ 30 | SC/5403 | Timecard Totals for 12/14/16 : Y 1/1/ 14001-/01-630- | 0 | | 0.00 | 1 | 65.00000 | 3.00 |
| 1 | 12/16/16 | 1015 | SC/SC | 10/00 | 3/ 30 | SC/5403 | Timecard Totals for 12/15/16 : Y 1/1/ 14001-/01-630- | 0 | | 0.00 | 1 | 65.00000 | 2.50 |
| | | | | | | | Timecard Totals for 12/16/16 : | | | | | | |
| | | | | | | | | Employee Totals | | 0.00 | | | 28.50 |

**PR End Date: 01/01/17**
**Employee: 1015 Dagg Heather**

| | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 1 | 12/26/16 | 1015 | SC/SC | 10/00 | 3/ 30 | SC/5606 | Y 1/1/ 14001-/01-702- | 0 | | 0.00 | 17 | 65.00000 | 8.00 |
| 1 | 12/27/16 | 1015 | SC/SC | 10/00 | 3/ 30 | SC/5606 | Timecard Totals for 12/26/16 : Y 1/1/ 14001-/01-702- | 0 | | 0.00 | 1 | 65.00000 | 8.00 |
| 1 | 12/28/16 | 1015 | SC/SC | 10/00 | 3/ 30 | SC/5606 | Timecard Totals for 12/27/16 : Y 1/1/ 14001-/01-702- | 0 | | 0.00 | 1 | 65.00000 | 8.00 |
| 1 | 12/29/16 | 1015 | SC/SC | 10/00 | 3/ 30 | SC/5606 | Timecard Totals for 12/28/16 : Y 1/1/ 14001-/01-702- | 0 | | 0.00 | 1 | 65.00000 | 8.00 |
| | | | | | | | Timecard Totals for 12/29/16 : | | | | | | |

002205

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Earnings Code Recap

| | | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | | | | | | | | | Employee Totals | | 0.00 | | 32.00 |
| Employee: 1015 Dagg Heather | | | | | | | | | | | | | | | |
| 1 | 01/23/17 | 1015 | SC/SC | 10/00 | 3/ 30 | SC/5403 | Y | 1/1/ | 14001-f97-000- | 0 | | 0.00 | 2 | 97.50000 | 1.50 |
| | | | | | | | | | | | Timecard Totals for 01/23/17 : | | | | 1.50 |
| | | | | | | | | | | | Employee Totals | | 0.00 | | 1.50 |

Earnings Code Recap

## Grand Total Recap

| | | Earnings Code | Hours |
|---|---|---|---|
| 1 | Employee(s) | 1 | 88.50 |
| | | 2 | 10.00 |
| | | Grand Totals | 106.50 |

106.50 x $65 = 6,922.50

002206

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| | | |
|---|---|---|
| STATE OF SOUTH CAROLINA<br>COUNTY OF CHARLESTON | ) | IN THE COURT OF COMMON PLEAS<br>FOR THE NINTH JUDICIAL CIRCUIT<br>CASE NO. 2016-CP-10-2955 |
| TCC OF CHARLESTON, INC.<br><br>Plaintiff,<br>vs.<br><br>CONCORD AND CUMERLAND, LLC., CONCORD & CUMBERLAND HPR, LEO HALL, DIANE HALL, BEA H. SMITH, MARGARET C. POPE, WILLIAM D. FOSTER, JR., GENE G. FOSTER, MATTISON J. MACGILLIVRAY, TERESA MACGILLIVRAY, PAMELA L. VAUGHN, NELIA A. PATRICIO, Trustee of the Nelia A. Patricio Revocable Trust Agreement, STUART D. REEVES, EDWARD T. STROM, BARBARA K. HENDERSON, JAMES R. CLARKE, PAUL A. BRIM, ROBERT K. SEIDL, JENNIFER M. SEIDL, ROBERT KENNETH SEIDL, II, M. BERT STOREY, THOMAS R. MATHER, EDWARD T. STROM, 304 CONCORD & CUMBERLAND, LLC, MARION M. SIMPSON F/K/A MARION MOORE MCDONALD SIMPSON, KATHY GARDNER, GREGORY J. GARDNER, FREEMAN WATERFRONT PROPERTIES, LLC, JO-ANN COOPER, BETTY Y. SEGAL, ROBERT M. LEVIN AND BONITA K. LEVIN, DONALD D. LEONARD, BETTY L. BEATTY, MATTELLEN, LLC, AND THOMAS R. DEBNAM, Trustee of the Trust Agreement of Thomas R. Debnam,<br><br>Defendants. | ) | **MOTION TO STRIKE** |

The Defendant Concord & Cumberland HPR ("HPR") hereby moves this Court for an Order striking TCC of Charleston, Inc.'s ("TCC") recent filing, *TCC Omnibus Response and Objections to Filings and Submittals of Concord and Cumberland HPR*, from the record.

At the November 5, 2020, hearing, Judge Scarborough made very specific rulings, not subject to interpretation or additional briefing, regarding the foreclosure action against the HPR. Specifically, Judge Scarborough ruled as follows:

> Mr. Ford: So my question is for dismissal of that cause of action against the HPR.
> The Court: As to the foreclosure?
> Mr. Ford: Yes.
> The Court: Granted. Granted."
>
> (Attached partial Hr'g Tr. p. 13, l. 25; p. 14, ll. 1-4).

Notwithstanding this ruling, TCC has submitted a brief asserting arguments as to the HPR's entitlement to dismissal/summary judgment on the foreclosure action. In fact, TCC dedicates a large portion of its brief to this argument and clearly states that "the conclusion that no foreclosure action will lie as to the HPR is not the same as a ruling that the HPR is entitled to summary judgment, dismissal, or its fees as a prevailing party." Yet, that is precisely what the Court has ruled.

This briefing is further improper as it is replete with false assertions. One example, of many, is TCC's assertion that counsel for the HPR accepted service of the lien on June 15, 2016, which is a **blatantly false**, supported by exactly zero facts and stated in TCC's brief for the very first time. TCC attempts to provide some color of merit to the statement by inserting a footnote, which provides no actual authority or evidence.

Further, TCC makes a number of arguments against issues already ruled on by the Court, all of which are improper. For example, TCC argues for the first time that it never intended to pursue the foreclosure action against the HPR and that it recognized early on that a foreclosure

action was impossible. The reality is that TCC pursued the foreclosure action against the HPR in an effort to obtain its attorneys' fees, and it continued to do so as recently as the Second Amended Complaint. Asserting otherwise, now that it has lost the argument, is disingenuous and, obviously, an effort to shorten the time period for which the HPR might be awarded its fees.

TCC should be able to respond to the HPR's affidavits for attorneys' fees and submit objections to the Proposed Order; however, TCC should not be able to file another memorandum of law, with new exhibits and arguments, after the Court has ruled. The HPR does not believe the Court's leeway was a carte blanche invitation to reargue the entire case.

WOMBLE BOND DICKINSON (US) LLP

*/s/ R. Andrew Walden*

F. Cordes Ford IV (S.C. Bar No. 71644)
R. Andrew Walden (S.C. Bar No. 101004)
Henry E. Grimball (S.C. Bar No. 2313)
5 Exchange Street (29401)
P.O. Box 999
Charleston, SC 29402
(843) 722-3400
Cordes.Ford@wbd-us.com
Andrew.Walden@wbd-us.com
Henry.Grimball@wbd-us.com

*Attorneys for Defendant*
*Concord & Cumberland HPR*

December 4, 2020
Charleston, SC

STATE OF SOUTH CAROLINA
COURT OF COMMON PLEAS
COUNTY OF CHARLESTON

TCC of Charleston, Inc.,

Plaintiff,

vs. CASE NO. 2016-CP-10-2955

Concord and Cumberland, LLC, et, al.,

Defendants.

_____

Hearing before the Honorable Mikell R. Scarborough, reported by Christine A. Smith, Court Reporter and Notary Public, at 11:41 a.m. on November 5, 2020 at 100 Broad Street, Courtroom 2A, Charleston, South Carolina.

Christine A. Smith, Court Reporter
Master-in-Equity
P.O. Box 30276
Charleston, South Carolina, 29417
(843) 958-5071
casmith@charlestoncounty.org

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APPEARANCES OF COUNSEL:

ATTORNEYS FOR THE PLAINTIFF:

Andrew K. Epting, Jr., Esq.
Jaan Rannik, Esq.
Epting & Rannik, LLC
46A State Street
Charleston, SC 29401
(843) 377-1871
Ake@epting-law.com

ATTORNEYS FOR THE DEFENDANT:

F. Cordes Ford, IV, Esq.
R. Andrew Walden, Esq.
Henry E. Grimball, Esq.
Womble Bond Dickinson
5 Exchange Street
Charleston, SC 29401
(843) 722-3400
Cordes.ford@wbd-us.com

Edward D. Buckley, Jr.
Young Clement Rivers, LLP
25 Calhoun Street
Suite 400
Charleston, SC 29401
(843) 577-4000
Ebuckley@crlaw.com

P R O C E E D I N G S

* * * * *

THE COURT: This case presents an interesting dilemma for the Court, and that is -- you've got in order for the mechanic's lien action to survive, the requirement is that you have to satisfy the statutory procedure for the perfection of the lien. The lien arises in choate from the provision of either the materials or the work that's done, and then the statutes require that -- to perfect the lien, the notice of lien has to be filed and then it deals with the owner -- it is served on the owner within a timely period and the action commenced within six months of that.

This case has had, like you say, has its own tortured procedural history. It appears to me that the -- based upon the filing of the verified statement of account, which was apparently consented to in the answer, and how this case has since then been tried, it appears that that date, the Plaintiff is going to be held to that date.

The Plaintiff's argument is a good one, and that is that we've provided additional materials and

labor post that date and seek to amend its pleadings and lien to assert that. That is the issue that this court saw raised in the Kitchen Planners versus Friedman case. Again, it's relatively new. I don't have a cite on it. It was filed July 1 of 2020. It's Appellate Case No. 2017-001522. The case was argued in December of '19, about the same time all of this was going on and was filed in July. It was an $8,000 case as opposed to this $2 million case.

I do think that the statutory criteria is the same, and I think the purpose of the statutory criteria is to allow for the perfection of the lien such that it entitled the prevailing party to foreclose on the lien.

It appears to the Court, based upon the argument of Counsel for the Defendants that the lien was set as of March 17 of '16. The action was commenced and amended in June of '16, which I find to be within the 90-day timeframe, however service of the lien on the owner was not perfected timely as it relates to Betty Beatty. There may have been some others, but I don't know that that ends the inquiry because you have got an order of the arbitration panel that seeks to be collected on.

I'm happy to hear further arguments, but I'm

going to rule that the lien was not perfected according to the statute, and I'm going to deny the Motion to Amend the Notice of Lien from that standpoint. I find it's not pursuant to the statute. Mr. Epting?

MR. EPTING: And Judge, is that a ruling that we can't prove to you that the actual last day of work was something other than that, and therefore the lien is timely?

THE COURT: That's going to be my ruling, yes, sir. I'm looking strictly at the language of the statute and what has, in fact, been done, relying heavily on the verified complaint, frankly, that's been admitted to, and the parties have to live and die by their complaint, so that's the other part of Kitchen Planners, which I think is significant to the Court's inquiry.

MR. EPTING: Perhaps details, Judge. Beatty did not admit today, number one. Number two, I think, Judge, this ruling is likely going to bar all of the dates because nobody was served, and then it presents the other problems of was there an attempt to avoid being served? Is service on the HPR sufficient? And is the ruling of the panel timely on the date of last worked, and is it something that

this Court has --

THE COURT: Well, you-all tried a Breach of Contract case, and you have a substantial verdict arising from that; do you not?

MR. EPTING: I did, Judge.

THE COURT: And as you touched on the bylaws, it seems to me that somewhere along the way you-all have a right to get paid.

MR. EPTING: Well, I don't think the issue, Judge, is getting paid. The issue is the entitlement fees.

THE COURT: Right. And unless it's in the contract or granted by statute, they don't come, right?

MR. EPTING: That's right.

THE COURT: Frankly, that was the language of the arbitration award as well. If we don't see that we're not getting there.

MR. EPTING: So shall we -- Judge, I have heard your ruling. Shall we reconvene on the question of this service on the HPR sufficient to have told the time for the lien to have been served?

THE COURT: Mr. Ford, do you want to be heard that one?

MR. FORD: There is no provision in the law of

South Carolina for a blanket lien. There was no service on the HPR, but the fundamental issue is, the lien can't arise as to the HPR. The lien can only be asserted against the owners, and the statutory process must be effectuated against the owners. There's no provision for it to be effectuated against the HPR.

THE COURT: It's specifically excluded if I remember right; was it not?

MR. FORD: Yes.

THE COURT: As to the lien. In order to foreclose on the lien, you have to follow through on the statutory procedure.

MR. FORD: Against the unit owners of the condominiums.

MR. EPTING: I don't think there's any question about it has to be as to the owners, Judge. The question is as to having an HPR under the bylaws who's designated to handle all of these matters on behalf of the issues. Is that sufficient? If they're served the owners are served since they're delegated with that responsibility in the bylaws.

MR. BUCKLEY: That's not been raised.

MR. EPTING: It absolutely was raised in the brief, Ed.

THE COURT: As to whether or not service on the HPR is sufficient to serve the individual owners?

MR. EPTING: Yes, sir.

MR. BUCKLEY: Against Betty Beatty, that's never been raised, number one; and number two, there's only two ways you can serve somebody: Personally or by verified/certified mail. The only evidence in this case, Your Honor, is the affidavit taken from Angela Gross, who I think works for Mr. Epting, where she says that she delivered these documents to Johnnie Gamble on the 22nd of June to be served.

There was no effort to serve anybody other than by personal service, so even looking at that in the light most favorable to the Plaintiffs, every single owner was served after June 22nd, on or after June 22nd.

THE COURT: Outside of the 90 days.

MR. BUCKLEY: Correct.

THE COURT: Okay. Thank you. I think that's what the statute provides for, Mr. Epting. I think there's an opportunity here for an argument to be made, and I'm entertaining it. I just don't think it it was done in compliance with the statutory procedure for perfection of the mechanic's lien as it

relates to the owners.

I think clearly the Horizontal Property Regime is required to pay the judgment, at least the way I read it. There's other issues going on there. I understand that. The question of whether or not the lien was perfected -- it's an in choate lien. Whether that was perfected, I don't believe that's been done. That is my ruling in that regard.

MR. EPTING: Thank you, Judge.

THE COURT: Anything further?

MR. BUCKLEY: May I prepare an order, Your Honor?

THE COURT: Yes, sir, if you would. What else have we got?

MR. FORD: We have other pending motions, Your Honor.

THE COURT: Okay.

MR. FORD: The first is: HPR's Motion for Summary Judgment as to the foreclosure cause of action that arose -- that was filed against the first amended complaint. There was the second amended complaint filed for which we responded with a Motion to Dismiss. The issues are overlapping, but the issues are a matter of law to be determined, and it's already been discussed.

THE COURT: Okay.

MR. FORD: So may it please the Court?

THE COURT: I'm looking at your brief. That's Argument No. 1, Memorandum of Law?

MR. FORD: Yes, Your Honor. We'll address all of the pending motions as to the HPR some of which were brought by TCC. I move then substantively first on this issue of whether or not the lien claimant can serve a lien against the Horizontal Property Regime. We cited statute -- well, first we defer to the panel's finding on that issue where they address both prongs of the ability of a named claimant or any party when you sue to claim attorney's fees.

One, they reviewed the arbitration agreement and found that there was no agreement for the prevailing party's attorney's fees. They made that finding.

Then they state in the award that the lien can't be filed against the regime. It must be filed against the owners which was just dealt with. They made that finding. And then they did that in the context of TCC's motion for attorney's fees. Frankly, also, our Motion for Attorney's Fees because to the extent that TCC asserted for the panel that they were entitled to foreclosure and to the extent

they would have declined that, we would be entitled to fees.

They left those issues for the Court, having made those findings. So one way the Court can proceed is to simply take the next step and give effect to what the panel ruled and found as to the law of the case. Those issues, those findings of the panel weren't subject to a Motion to Vacate or Correct by TCC.

Setting that aside, the Court can look to the law, and read the statute itself and make its own determination that a lien cannot be asserted against the regime. We want a conclusion also. We want a conclusion as to the case against HPR which has largely been tried and resolved and the panel subject, of course, to appeal. The hanging issue is this asserted mechanic's lien foreclosure cause of action against the HPR -- asserted against the HPR and the owners.

That has to be resolved and dismissed because there's no basis for the agreement or statute to assert that claim so we're asking the Court to dismiss that cause of action. To the extent that TCC has through its second amended claim, we asserted a breach of contract cause of action for an equitable

claim. Those claims were dealt with by the panel and resolved, and so all of the claims against the HPR should be dismissed, but and primarily our focus initially was in filing a Motion for Summary Judgement on that foreclosure cause of action because that was all that was left to be resolved by the panel.

THE COURT: Okay. Mr. Epting?

MR. EPTING: Judge, there was never any effort to try any foreclosure suit in the arbitration. How the panel got off on this discussion of the foreclosure had to do with his discussion of fees. The reason that we named the individuals was because we know that's who we have to foreclose against.

THE COURT: Right.

MR. EPTING: So there's never been any issue about the foreclosure is against the individuals and not the HPR, which is why the breach of contract action went to the panel and that alone. So that's not the issue.

The amended pleading, however, attempts to make certain that the HPR is not dismissed because the HPR may have some other involvement in this lawsuit because of their rights under the bylaws and the operating agreement, and it may be some way to

short circuit us getting paid.

So I think they're a proper party, but we're not seeking to foreclose on the HPR on any kind of condominium real estate rights at all.

THE COURT: Okay. So as to the foreclosure claim, based on the Court's Ruling, you're not claiming that, but you still would address that they be a party to the action in order to bring fulfillment?

MR. EPTING: We never have, Judge, because that was the reason the pleadings amended to add the individuals to start with.

THE COURT: Okay. That I could grant. I don't have a problem with that.

MR. FORD: Both motions are addressing asserted causes of action in both complaints, which are for foreclosure against the HPR.

MR. BUCKLEY: He just granted your motion, I think.

THE COURT: I think so. But the breach of contraction action is going to get -- where I'm going to go is I'm going to affirm that award pretty soon here. That question is before me, and that's what I'm going to do.

MR. FORD: So my question is for dismissal of

that cause of action against the HPR.

THE COURT: As to the foreclosure?

MR. FORD: Yes.

THE COURT: Granted. Granted.

MR. FORD: Your Honor --

THE COURT: Do you want to confirm the award?

MR. FORD: Well, the next motion will flow from the dismissal of the mechanic's lien foreclosure action which would be the HBR's entitlement to its fees for successfully litigating that cause of action.

THE COURT: Okay. Do you have an affidavit to that effect? Or is that something you want to submit?

MR. FORD: I'd like to submit that.

THE COURT: I'm assuming we did that today in preparation for this; did we not?

MR. FORD: We asked for the right to do it. We didn't present it. They did the same thing. They filed a motion for fees and asked for the right to, if granted, present proof of the fees.

THE COURT: All right.

MR. FORD: We would ask that they do that.

THE COURT: All right. I'll grant you that. Do you need 15 days? What do you need?

MR. FORD: Ten days is fine.

THE COURT: Ten days? I'll give you-all an additional ten days to response. Okay?

MR. EPTING: Okay, sir.

MR. FORD: My next issue, Your Honor, is with that, the award we believe before should have been confirmed because there was no pending Motion to Vacate or Correct at the time Judge Jefferson finalized and issued her ruling. We believe the statute required that she do that.

Nevertheless, it would be proper for the Court to confirm the award together with these rulings which would then allow for review of the final confirmed award and your ruling today. So we're seeking confirmation of the award that we believe should have occurred on the denial of our Motion to Vacate the Record.

THE COURT: That was back in January or something? When was that?

MR. FORD: It's been some time, Your Honor.

THE COURT: Okay. Do you want to be heard on that one? We've touched on that earlier.

MR. EPTING: Judge, I see no reason not to confirm the award, but I would say it's different than they're paying money into Court because the

question is: The interest accrues because of the contract not because of the statute, and there needs to be some discussion, if they're going to pay money into the Court what needs to be paid in order that it not trigger the higher statutory judgment rate, and so I think the award should be confirmed and we can leave for later the question of paying monies into the Court. I don't know how to address that here.

I just know that the amount that they want to pay into the Court is not the amount of the judgment because the judgment has continued to accrue interest and it was, I think, for $2,060,000, and it's now in the order of $2,150,000, and it will continue to accrue interest into the future.

Q. So we would want to make some arrangement about what needed to be paid into the Court if their attempt is to suspend the statutory interest rate.

THE COURT: I'm with you. I'm with you. No objection to confirming the award, but jumping ahead as to the deposit of the funds, we need to determine what the amount of the judgment is at this point in time; is that correct?

MR. EPTING: That can easily be done.

MR. FORD: That can be done except for this issue -- the rule that allows us to pay, Rule 67, and

there's case law that discusses why that's done. The case was cited to you in the brief. There's no reason to pay money into Court unless we can stop the accrual of interest. That gives mutual benefit to both parties in the event the appeal is taken and successful then the money's to be paid into the Court, but the benefit to us, of course, is that it would stop the interest from running. If the interest doesn't stop, there would be no reason for HPR to pay money into Court. It would just take its appeal.

THE COURT: All right. I'm going to ask that you-all brief that issue. I need to know what the finite figure is. You-all can do that in the next ten or 15 days as well. Okay?

MR. EPTING: Judge --

THE COURT: Let me figure out what it is. I'm gong to confirm the award. I want to hear from you-all on what the amount of that award is and where we stand today, and the same thing back from you-all.

MR. EPTING: Judge, we don't object to them paying a sufficient sum of money in to stop the statutory -- coming to some agreement about what that would be. The point that I'm making is that that statutory rate or paying money into the Court is in

no way going to stop the interest awarded by the panel because of the contract providing for the interest in the amount of this judgment.

THE COURT: On the arbitration award, right?

MR. EPTING: Right. The panel essentially said, you have judgment in this amount, and interest continuing until such time as paid.

THE COURT: Right.

MR. EPTING: And so we don't want that interest -- we --

THE COURT: You're not waiving your right to that interest?

MR. EPTING: Right. We can deal with that later. I just wanted to make sure the Court understood that there are two sets of interest here.

THE COURT: I think I follow that. I'm going to see if you-all can come to an agreement as to what that is. If you can't, then I'm going to have to cut the baby.

MR. FORD: Perhaps there will be an opportunity to do that, and if we can't agree then we'll have a brief and --

THE COURT: Come see me. Okay?

MR. BUCKLEY: And on behalf of Ms. Beatty, Your Honor, I think the Court should allow the

payment of the money into the Court, whatever that amount is, and whatever the law requires as to accruing interest under the contract or under the statute, under the statutory post judgment rate, will be determined when all of this is ultimately determined.

MR. EPTING: I'm not sure, Ed, that I understood that.

THE COURT: He doesn't want to get individual checks from the homeowners. He's going to be pursuing a claim against the HPR. The HPR is going to go collect from the homeowners.

MR. BUCKLEY: The money is in the bank. The money is ready to be paid into the Court today. Obviously, we don't know exactly what that amount is, Drew, but we are prepared to pay money into the Court. I think that what you want to be sure of is that the amount that is paid into court includes the amount of interest that accrued pursuant to the arbitration and the contract.

MR. EPTING: That's right. And it would be continued.

THE COURT: I think you-all are going to be able to come to an agreement on that. That's what I think.

MR. BUCKLEY: From Ms. Beatty's point of view, I just don't want a situation where we pay the money into the Court or we're not allowed to pay the money into the Court, and then from their point of view they change their tune and say, Well, now there's judgment and we confirmed the award, and so we're entitled to interest at the rate of 9.5 percent.

MR. EPTING: And we will do that, Judge, unless they pay -- I mean, if they pay the correct amount into the Court, they certainly will have, under the rule, suspended the higher interest rate.

THE COURT: Right.

MR. EPTING: There's no issue about that. But you can't pay half the money into the Court and think that you're suspending the statutory rate.

THE COURT: That's why I think you-all are going to be able to work towards an agreed upon amount. I'm fairly confident of that.

And I think we had one other one?

MR. FORD: The last one was the Motion to Dismiss the Second Amended Complaint which again, we've sort of already addressed.

THE COURT: Yes.

MR. FORD: The second amended complaint states three causes of action against the HPR. It states

the mechanic's lien foreclosure cause of action, a breach of contract action, and an equity cause of action. So our position is quite simply -- you've already ruled on the foreclosure cause of action expressly.

There can be no other causes of action pending against the HPR because they've already been litigated before the panel. The equity cause of action that they've written, we don't believe, states a claim because it's another attempt to collect attorney's fees. That issue has resolved effectively by the prior rulings, and there's no cause of action for that. Fees can only arise from an agreement or statute.

We would ask that all causes of action against the HPR be dismissed, and again, that would complete the rulings applicable to the HPR that would allow for consideration.

THE COURT: All right. Want to be heard on that?

MR. EPTING: Judge, I think practically that's in the right direction. I would say, Could you reserve ruling on that until we see that all this other is accomplished? There is no reason for you to have to issue any ruling with regard to the HPR in

the light then it won't make any difference.

THE COURT: Okay. I'll take it under advisement. I'll give you a ruling on that when you-all get the other stuff. Just for our purposes, the foreclosure is gone. The Breach of Contract, I think, is moot once I confirm the award, and then the issue of equity, it recently was brought as quantum meruit. There was a discussion about that. Now it's just a claim for equity.

MR. EPTING: It has largely to do, Judge, with us going to be able to use bylaws in the event that there's some mechanism that you could reach over and influence the payment of money because the HPR is in the suit and has all of these rights with regard to the homeowners.

THE COURT: Okay. I think you-all are going to be able to work that out once you've come to a dollar amount on the amount of the judgment, I think that's going to resolve itself it sounds like to me. It sounds like they are ready, willing, and able to pay.

MR. EPTING: Thank you for coming down here face-to-face braving the Covid crisis and spending a few moments with us.

THE COURT: Well, I know I hurt you a little

bit, but anyway, that's just the way it goes sometimes.

MR. EPTING: Sometimes it does, Judge.

THE COURT: I'm an equal opportunity punisher. They know that.

MR. BUCKLEY: I know that, Judge.

(The proceedings were concluded at 12:07 p.m.)

State of South Carolina)
)
County of Charleston ) C E R T I F I C A T E

I, Christine A. Smith, Court Reporter and Notary Public for the State of South Carolina at Large, do hereby certify that the foregoing transcript is a true, accurate, and complete record.

I further certify that I am neither related to nor counsel for any party to the cause pending or interested in the events thereof.

Witness my hand, I have hereunto affixed my official seal this 13th day of November, 2020 at Charleston, Charleston County, South Carolina.

_____
Christine A. Smith
Notary Public
My Commission Expires
May 12, 2021

ELECTRONICALLY FILED - 2021 Jan 17 8:23 PM - CHARLESTON - COMMON PLEAS - CASE#2016CP1002955

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| STATE OF SOUTH CAROLINA | ) | IN THE COURT OF COMMON PLEAS |
| | ) | FOR THE NINTH JUDICIAL CIRCUIT |
| COUNTY OF CHARLESTON | ) | CASE NO. 2016-CP-10-2955 |
| TCC OF CHARLESTON, INC. | ) | |
| | ) | |
| Plaintiff, | ) | |
| vs. | ) | |
| | ) | |
| CONCORD & CUMBERLAND HPR, LEO HALL, DIANE HALL, BEA H. SMITH, MARGARET C. POPE, WILLIAM D. FOSTER, JR., GENE G. FOSTER, MATTISON J. MACGILLIVRAY, TERESA MACGILLIVRAY, PAMELA L. VAUGHN, NELIA A. PATRICIO, Trustee of the Nelia A. Patricio Revocable Trust Agreement, STUART D. REEVES, EDWARD T. STROM, BARBARA K. HENDERSON, JAMES R. CLARKE, PAUL A. BRIM, ROBERT K. SEIDL, JENNIFER M. SEIDL, ROBERT KENNETH SEIDL, II, M. BERT STOREY, THOMAS R. MATHER, EDWARD T. STROM, 304 CONCORD & CUMBERLAND, LLC, MARION M. SIMPSON F/K/A MARION MOORE MCDONALD SIMPSON, KATHY GARDNER, GREGORY J. GARDNER, FREEMAN WATERFRONT PROPERTIES, LLC, JOHN FREEMAN, JO-ANN COOPER, BETTY Y. SEGAL, by and through her Assignee, DONALD D. LEONARD, ROBERT M. LEVIN AND BONITA K. LEVIN, DONALD D. LEONARD, BETTY L. BEATTY, MATTELLEN, LLC, AND THOMAS R. DEBNAM, Trustee of the Trust Agreement of Thomas R. Debnam, | ) | **MOTION FOR SUMMARY JUDGMENT** |
| | ) | |
| Defendants. | ) | |

TO: TCC OF CHARLESTON, INC. AND ITS ATTORNEYS:

ELECTRONICALLY FILED - 2021 Jan 17 8:23 PM - CHARLESTON - COMMON PLEAS - CASE#2016CP1002955

YOU WILL PLEASE TAKE NOTICE that Defendants[1] Leo Hall, Diane Hall, Bea H. Smith, Margaret C. Pope, William D. Foster, Jr., Gene G. Foster, Mattison J. MacGillivray, Teresa MacGillivray, Pamela L. Vaughn, Nelia A. Patricio, Trustee of the Nelia A. Patricio Revocable Trust Agreement, Stuart D. Reeves, Edward T. Strom, Barbara K. Henderson, James R. Clarke, Paul A. Brim, Robert K. Seidl, Jennifer M. Seidl, Robert Kenneth Seidl, II, M. Bert Storey, Thomas R. Mather, Edward T. Strom, 304 Concord & Cumberland, LLC, Marion K. Simpson f/k/a Marion Moore McDonald Simpson, Kathy Gardner, Gregory J. Gardner, Freeman Waterfront Properties, LLC, John Freeman, Jo-Ann Cooper, Betty Y. Segal, by and through her Assignee, Donald D. Leonard, Robert M. Levin, Bonita K. Levin, Donald D. Leonard, Mattellen, LLC, and Thomas R. Debnam, Trustee of the Trust Agreement of Thomas R. Debnam (collectively, "Defendants"), by and through the undersigned counsel, will move before the Master in Equity for Charleston County, South Carolina, on the tenth (10th) day after e-filing and service hereof, or as soon thereafter as counsel may be heard, for an Order pursuant to Rule 56 of the South Carolina Rules of Civil Procedure granting Defendants summary judgment as to all causes of action. Summary judgment is appropriate because there is no genuine issue of material fact, and Defendants are entitled to judgment as a matter of law. This motion is based upon the following:

1. On August 24, 2020, TCC filed a Second Amended Complaint and asserted claims against the Defendants for (1) foreclosure of mechanic's lien; (2) breach of contract; and (3) equity. The Second Amended Complaint controls. See Young v. City of Mount Ranier, 238 F.3d 567, 572 (4th Cir. 2001) ("As a general rule, an amended pleading ordinarily supersedes the original and renders it of no legal effect.") (citation and internal quotation marks omitted).

[1] This Motion is brought on behalf of all remaining Defendants other than the HPR and Betty Beatty.

ELECTRONICALLY FILED - 2021 Jan 17 8:23 PM - CHARLESTON - COMMON PLEAS - CASE#2016CP1002955

2. Regarding the foreclosure of mechanic's lien cause of action, TCC failed to serve any of the Defendants in a timely manner. This Court has already received evidence and heard arguments regarding TCC's filing of two Verified Statements of Account and two Complaints, all of which stated that the last date of furnishing labor and materials on the project was March 17, 2016. Defendants admitted the same in their Answer, thereby locking in that date. See Johnson v. Alexander, 413 S.C. 196, 202, 775 S.E.2d 697, 700 (2015) ("Parties are generally bound by their pleadings and are precluded from advancing arguments or submitting evidence contrary to those assertions."); see also Lucas v. Burnley, 879 F.2d 1240, 1242 (4th Cir. 1989) (stating that "a party is bound by the admissions of his pleadings."). As this Court stated in the hearing on November 5, 2020, "Plaintiff is going to be held to that date." See Nov. 5, 2020, Hr'g Tr., p. 45, ll. 6-7.

3. Further, this Court previously decided that the mechanic's lien was not perfected timely against Defendant Betty Beatty. This Court stated:

24 It appears to the Court, based upon the
25 argument of Counsel for the Defendants that the lien

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46
1 was set as of March 17 of '16. The action was
2 commenced and amended in June of '16, which I find to
3 be within the 90-day timeframe, however service of
4 the lien on the owner was not perfected timely as it
5 relates to Betty Beatty. There may have been some

Nov. 5, 2020, Hr'g Tr., p. 45, ll. 24-25; p. 46; 1-5.

Defendant Betty Beatty was served on June 22, 2016. All other Defendants were either served on or after June 22, 2016. See Affidavit of Angela Gross, filed November 3, 2020. Therefore, TCC failed to timely perfect the lien against all Defendants and this Court should dismiss the foreclosure action.

4. Regarding the breach of contract claim, TCC failed to plead any of the elements necessary to assert a claim as to the Defendants. TCC simply dedicates the breach of contract section of the Second Amended Complaint to stating that the cause of action has already been decided by the Arbitration Panel and that the Defendants should be estopped from denying TCC that relief. Because no claim is actually asserted against the Defendants for breach of contract in the Second Amended Complaint, this Court should dismiss the same against the Defendants under Rule 12(b)(6) and/or Rule 56 of the South Carolina Rules of Civil Procedure.

5. Additionally, like the HPR, Defendants assert that "Equity" is not a viable cause of action. However, to the extent that this Court allows "Equity" to proceed, the plain language of the Second Amended Complaint fails to even mention, much less asset a claim against, Defendants for "Equity." TCC acknowledges the same when counsel for TCC admits in the hearing on November 5, 2020, that "Equity" is included against the HPR as a mechanism to force the HPR to comply with its bylaws. Specifically, TCC stated the following:



ELECTRONICALLY FILED - 2021 Jan 17 8:23 PM - CHARLESTON - COMMON PLEAS - CASE#2016CP1002955

THE COURT: Okay. I'll take it under advisement. I'll give you a ruling on that when you-all get the other stuff. Just for our purposes, the foreclosure is gone. The Breach of Contract, I think, is moot once I confirm the award, and then the issue of equity, it recently was brought as quantum meruit. There was a discussion about that. Now it's just a claim for equity.

MR. EPTING: It has largely to do, Judge, with us going to be able to use bylaws in the event that there's some mechanism that you could reach over and influence the payment of money because the HPR is in the suit and has all of these rights with regard to the homeowners.

Nov. 5, 2020, Hr'g Tr., p. 63, ll. 11-24.

Thus, TCC has failed to allege a cause of action against Defendants for "Equity" and this Court should dismiss the same under Rule 12(b)(6) and/or Rule 56 of the South Carolina Rules of Civil Procedure.

6. For the reasons stated above, this Court should grant Defendants' motion to dismiss.

[Signature on following page]



ELECTRONICALLY FILED - 2021 Jan 17 8:23 PM - CHARLESTON - COMMON PLEAS - CASE#2016CP1002955

Respectfully submitted,

WOMBLE BOND DICKINSON (US) LLP

*s/ R. Andrew Walden*

F. Cordes Ford IV (S.C. Bar No. 71644)
R. Andrew Walden (S.C. Bar No. 101004)
5 Exchange Street (29401)
P.O. Box 999
Charleston, SC 29402
(843) 722-3400
Cordes.Ford@wbd-us.com
Andrew.Walden@wbd-us.com

*Attorneys for Defendants*

January 17, 2021

Charleston, SC

ELECTRONICALLY FILED - 2021 Jan 17 8:23 PM - CHARLESTON - COMMON PLEAS - CASE#2016CP1002955

ELECTRONICALLY FILED - 2021 Mar 12 4:45 PM - CHARLESTON - COMMON PLEAS - CASE#2016CP1002955

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| **STATE OF SOUTH CAROLINA**<br><br>**COUNTY OF CHARLESTON** | ) | **IN THE COURT OF COMMON PLEAS FOR THE NINTH JUDICIAL CIRCUIT** |
| TCC OF CHARLESTON, INC.<br><br>Plaintiff,<br><br>v.<br><br>CONCORD AND CUMERLAND, LLC., CONCORD & CUMBERLAND HPR, LEO HALL, DIANE HALL, BEA H. SMITH, MARGARET C. POPE, WILLIAM D. FOSTER, JR., GENE G. FOSTER, MATTISON J. MACGILLIVRAY, TERESA MACGILLIVRAY, PAMELA L. VAUGHN, NELIA A. PATRICIO, Trustee of the Nelia A. Patricio Revocable Trust Agreement, STUART D. REEVES, EDWARD T. STROM, BARBARA K. HENDERSON, JAMES R. CLARKE, PAUL A. BRIM, ROBERT K. SEIDL, JENNIFER M. SEIDL, ROBERT KENNETH SEIDL, II, M. BERT STOREY, THOMAS R. MATHER, EDWARD T. STROM, 304 CONCORD & CUMBERLAND, LLC, MARION M. SIMPSON F/K/A MARION MOORE MCDONALD SIMPSON, KATHY GARDNER, GREGORY J. GARDNER, FREEMAN WATERFRONT PROPERTIES, LLC, JO-ANN COOPER, BETTY Y. SEGAL, ROBERT M. LEVIN AND BONITA K. LEVIN, DONALD D. LEONARD, BETTY L. BEATTY, MATTELLEN, LLC, AND THOMAS R. DEBNAM, Trustee of the Trust Agreement of Thomas R. Debnam,<br><br>Defendants. | ) | Case No.: 2016-CP-10-2955<br><br>**TCC OF CHARLESTON, INC.'S MOTION FOR RECONSIDERATION AND/OR CLARIFICATION** |

ELECTRONICALLY FILED - 2021 Mar 12 4:45 PM - CHARLESTON - COMMON PLEAS - CASE#2016CP1002955

TCC of Charleston, Inc. ("TCC") moves this Court pursuant to Rules 59(e), 60(a), and 60(b), S.C.R.C.P.[1] to revisit and clarify this Court's orders of February 16 and March 3 and the award of attorneys' fees to Defendants. The orders as proposed by counsel and filed by the Court note that the amount of fees is discretionary and that the Court reviewed *in camera* "each time entry and the itemized costs to determine the reasonableness of the time entered and the costs incurred." TCC of course has had no opportunity to review these time entries.

So that the appellate court may have a clear record before it, TCC requests this Court set forth how it exercised its discretion to award fees, namely:

- How fees relating to the foreclosure action were awardable to Concord and Cumberland HPR ("the HPR") prior to May 1, 2020. Only fees relating to the foreclosure cause of action are awardable. *Utilities Constr. C. v. Wilson*,321 S.C. 244, 250 (Ct. App. 1996). There can be no contention the stay of the foreclosure action was not lifted before May 1, 2020, evidenced by communications from HPR's counsel that:

  > The HPR's position is that the Arbitration Panel retains jurisdiction at this point, and thus we have not consented to lift the stay.

  **Exh. A** (August 28, 2019); and:

  > We do object to lifting the stay, as we think the Motion to Lift [the stay] is subject to the Motion to Vacate or Correct [the arbitration award].

  **Exh. B** (December 12, 2019). The stay was only lifted upon denial of the HPR's motion to reconsider the denial of the motion to vacate, which was entered May 1,

[1] This Court has jurisdiction to consider a timely post-trial motion filed after the notice of appeal. *Hudson v. Hudson*, 290 S.C. 215, 216 (1986) ("We now hold that the service and filing of a Notice of Appeal before the filing of timely post-trial motions under Rule 59 by any party does not deprive the lower court of jurisdiction to consider the motions."). To the extent a motion is timely as to one order and untimely as to another, errors in orders or judgments "arising from any oversight or omission may be corrected by the Court at any time of its own initiative or on the motion of any party . . . ." Rule 60(a), S.C.R.C.P.

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2020. Approximately half of the hours for which the HPR seeks an award of fees occurred prior to the lifting of the stay.

Leaving aside that the panel ruled Trident was the prevailing party in the arbitration and that the HPR's efforts prior to May 1, 2020 could only relate to attempting to vacate the award in favor of Trident[2]; and leaving aside that the HPR is estopped to now benefit from an inconsistent position, Trident cannot examine the entries provided to the Court *in camera*, and accordingly, due process requires this Court to set forth how the entries before May 1, 2020 relate to foreclosure.

- How the Court determined that the fees sought by the HPR related to the foreclosure action rather than relating to:
    - The three motions (and extensive briefing) to reconsider, vacate, or correct the arbitration award filed before the arbitration panel on May 17, 2019, July 16, 2019, and September 7, 2019;
    - The motion to vacate the arbitration award filed in circuit court November 18, 2019;
    - The motion to reconsider denial of the motion to vacate the arbitration award filed in circuit court February 10, 2020;
    - Appeal of denial of the motion to vacate the arbitration award filed June 1, 2020; and
    - The motion to deposit fees filed in circuit court filed May 11, 2020.
- How fees awarded to Ms. Beatty prior to May 11, 2020 related to the foreclosure action. Mr. Buckley's affidavit states that Mr. Michael Molony "began representing Beatty [*sic*] L. Beatty in defense of this mechanic's lien foreclosure action filed by TCC" beginning in "late June 2016." However, the foreclosure action was stayed as to all individual Defendants until May 1, 2020 and no pleading was filed until January 17, 2020. Indeed, Ms. Beatty did not move for

[2] The HPR acknowledges that the foreclosure cause of action was not before the arbitration panel and that the stay of the foreclosure action pending arbitration remained in place until denial of the HPR's motion for reconsideration on May 1, 2020.

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summary judgment until May 11, 2020. Further, while TCC's counsel is aware that Mr. Molony and Mr. Siau Barr were involved in defending a separate defendant, Betty Segal, TCC or its counsel were never advised of any involvement on behalf of Ms. Beatty by Mr. Barr prior to January 17, 2020 or by Mr. Molony at any time.

Because TCC has no opportunity to review and challenge the entries or the relatedness of the entries to the lien foreclosure cause of action, due process entitles it to more than the summary set forth in the orders provided to and adopted by this Court that the Court exercised its discretion and reviewed *in camera* "each time entry and the itemized costs to determine the reasonableness of the time entered and the costs incurred." This is especially so as the undersigned counsel has spent a reciprocal amount of time responding to the various motions and represents to this Court that the effort expended in defending the motions seeking to vacate, reconsider, and deposit funds and in seeking and obtaining dismissing of the HPR's premature appeal was significantly greater than the efforts relating to the foreclosure action,[3] as shown by nearly half of the HPR's fee request predating May 1, 2020.

**Respectfully submitted,**

**EPTING & RANNIK, LLC**

This 12th day of March, 2021
Charleston, SC

*/s/ Jaan Rannik*
Jaan G. Rannik
46A State Street
Charleston, South Carolina 29401
843-377-1871
843-377-1310 (fax)
jgr@epting-law.com
*ATTORNEY FOR TCC OF CHARLESTON, INC.*

[3] Especially so as there was no argument that foreclosure would not lie against the HPR, which is why the individual homeowners were added to the suit to begin with.

# EXHIBIT A

**To:** Caroline Crisler. Leonard <ccleonard@charlestoncounty.org>; Andrew K. Epting <ake@epting-law.com>; Laura Dukes Beck <LBeck@charlestoncounty.org>
**Cc:** Martha S. Dennis <MDennis@charlestoncounty.org>; Jaan Rannik <jgr@epting-law.com>; Walden, Andrew <Andrew.Walden@wbd-us.com>
**Subject:** RE: TCC v. Concord and Cumberland, 2016-CP-10-2955

All -

The HPR's position is that the Arbitration Panel retains jurisdiction at this point, and thus we have not consented to lift the stay. In short, the Panel has recently modified its prior Orders and made new findings, which we are reviewing.

I am not opposed to setting the Motion to Lift the Stay for hearing, but if it is set too soon, it may well be premature. I agree it would not be prudent to add the Motion to Vacate for hearing at this time.

Kind regards - Cordes

**Cordes Ford**
Partner
Womble Bond Dickinson (US) LLP

**d:** 843-720-4631
**m:** 843-425-7270
**e:** Cordes.Ford@wbd-us.com

5 Exchange Street
PO Box 999 (29402)
Charleston, SC 29401

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---

**From:** Caroline Crisler. Leonard <ccleonard@charlestoncounty.org>
**Sent:** Wednesday, August 28, 2019 12:01 PM
**To:** Andrew K. Epting <ake@epting-law.com>; Laura Dukes Beck <LBeck@charlestoncounty.org>
**Cc:** Ford, Cordes <Cordes.Ford@wbd-us.com>; Martha S. Dennis <MDennis@charlestoncounty.org>; Jaan Rannik <jgr@epting-law.com>
**Subject:** RE: TCC v. Concord and Cumberland, 2016-CP-10-2955

I can put the Motion to List Stay on a roster. Unless all of you agree, I think it would not be prudent to add the Motion to Vacate that has been filed until the Motion to Lift Stay has been heard and ruled on. Let me know how you would like to proceed. THANKS

# EXHIBIT B

## Jaan Rannik

**From:** Andrew K. Epting
**Sent:** Thursday, December 12, 2019 16:17
**To:** Ford, Cordes
**Cc:** Jaan Rannik; Walden, Andrew
**Subject:** RE: hearing next week

Ok, we will argue the stay and then you can argue the substituted vacation motion. We will not go forward with the SJ motion

*Drew*

Andrew K. Epting, Jr., LLC
46A State Street
Charleston SC 29401
843-377-1871

---

**From:** Ford, Cordes [mailto:Cordes.Ford@wbd-us.com]
**Sent:** Wednesday, December 11, 2019 5:00 PM
**To:** Andrew K. Epting <ake@epting-law.com>; Walden, Andrew <Andrew.Walden@wbd-us.com>
**Cc:** Jaan Rannik <jgr@epting-law.com>
**Subject:** RE: hearing next week

Drew –

We do object to lifting the stay, as we think the Motion to Lift is subject to the Motion to Vacate or Correct. When the court resolves the latter, perhaps Monday, or perhaps sometime thereafter, and perhaps after remand, the stay might then be lifted, and the most recent motion would become ripe.

We are prepared to have the prior motion to vacate subsumed into (or substituted by) the most recent one and heard Monday if the Court allows. In the event the stay is lifted, do you object to going forward with our most recent motion?

Thanks and best – Cordes

**Cordes Ford**
Partner
Womble Bond Dickinson (US) LLP

**d:** 843-720-4631
**m:** 843-425-7270
**e:** Cordes.Ford@wbd-us.com

5 Exchange Street
PO Box 999 (29402)
Charleston, SC 29401

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| | | |
|---|---|---|
| STATE OF SOUTH CAROLINA | ) | IN THE COURT OF COMMON PLEAS |
| | ) | FOR THE NINTH JUDICIAL CIRCUIT |
| COUNTY OF CHARLESTON | ) | CASE NO. 2016-CP-10-2955 |
| TCC OF CHARLESTON, INC. | ) | |
| | ) | |
| Plaintiff, | ) | |
| vs. | ) | |
| | ) | |
| CONCORD & CUMBERLAND HPR, LEO HALL, DIANE HALL, BEA H. SMITH, MARGARET C. POPE, WILLIAM D. FOSTER, JR., GENE G. FOSTER, MATTISON J. MACGILLIVRAY, TERESA MACGILLIVRAY, PAMELA L. VAUGHN, NELIA A. PATRICIO, Trustee of the Nelia A. Patricio Revocable Trust Agreement, STUART D. REEVES, EDWARD T. STROM, BARBARA K. HENDERSON, JAMES R. CLARKE, PAUL A. BRIM, ROBERT K. SEIDL, JENNIFER M. SEIDL, ROBERT KENNETH SEIDL, II, M. BERT STOREY, THOMAS R. MATHER, EDWARD T. STROM, 304 CONCORD & CUMBERLAND, LLC, MARION M. SIMPSON F/K/A MARION MOORE MCDONALD SIMPSON, KATHY GARDNER, GREGORY J. GARDNER, FREEMAN WATERFRONT PROPERTIES, LLC, JOHN FREEMAN, JO-ANN COOPER, BETTY Y. SEGAL, by and through her Assignee, DONALD D. LEONARD, ROBERT M. LEVIN AND BONITA K. LEVIN, DONALD D. LEONARD, BETTY L. BEATTY, MATTELLEN, LLC, AND THOMAS R. DEBNAM, Trustee of the Trust Agreement of Thomas R. Debnam, | ) | **MEMORANDUM IN OPPOSITION TO TCC OF CHARLESTON, INC.'S MOTION FOR RECONSIDERATION AND/OR CLARIFCA** |
| Defendants. | ) | |

Defendants Leo Hall, Diane Hall, Bea H. Smith, Margaret C. Pope, William D. Foster, Jr., Gene G. Foster, Mattison J. MacGillivray, Teresa MacGillivray, Pamela L. Vaughn, Nelia A.

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Patricio, Trustee of the Nelia A. Patricio Revocable Trust Agreement, Stuart D. Reeves, Edward T. Strom, Barbara K. Henderson, James R. Clarke, Paul A. Brim, Robert K. Seidl, Jennifer M. Seidl, Robert Kenneth Seidl, II, M. Bert Storey, Thomas R. Mather, Edward T. Strom, 304 Concord & Cumberland, LLC, Marion K. Simpson f/k/a Marion Moore McDonald Simpson, Kathy Gardner, Gregory J. Gardner, Freeman Waterfront Properties, LLC, John Freeman, Jo-Ann Cooper, Betty Y. Segal, by and through her Assignee, Donald D. Leonard, Robert M. Levin, Bonita K. Levin, Donald D. Leonard, Mattellen, LLC, and Thomas R. Debnam, Trustee of the Trust Agreement of Thomas R. Debnam (collectively, "Defendants"), by and through the undersigned counsel, respectfully submits this memorandum of law in opposition to TCC of Charleston, Inc.'s ("TCC") Motion for Reconsideration and/or Clarification as follows:

1. TCC's motion was filed on March 12, 2021, and seeks reconsideration of this Court's orders dated February 16, 2021, and March 3, 2021.
2. First, Defendants object to TCC's Rule 59(e) motion regarding the February 16, 2021, Order as untimely. Rule 59(e) of the South Carolina Rules of Civil Procedure states: "A motion to alter or amend the judgment shall be served not later than 10 days after receipt of written notice of the entry of the order." TCC received notice of the February 16th Order the same day and its present motion, filed on March 12, 2021, is 14 days too late.
3. Second, TCC has waived its right to request reconsideration of the March 3, 2021, Order awarding attorneys' fees.
4. Specifically, as indicated in **Exhibit A** to this memorandum, TCC's counsel expressly "refrain[ed]" from any additional argument or desire for a hearing on the "quantum of fees." Therefore, TCC has waived its rights and is now estopped to raise new issues

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and arguments via this motion for reconsideration. A party cannot use a Rule 59(e) motion to present an issue to the court that could have been raised prior to judgment but was not so raised. Fields v. Reg'l Med. Ctr. Orangeburg, 363 S.C. 19, 27, 609 S.E.2d 506, 510 (2005) (citing generally C.A.H. v. L.H., 315 S.C. 389, 392, 434 S.E.2d 268, 270 (1993)); Patterson v. Reid, 318 S.C. 183, 185, 456 S.E.2d 436, 437 (Ct. App. 1995); Hickman v. Hickman, 301 S.C. 455, 456, 392 S.E.2d 48, 482 (Ct. App. 1990). "[A] party cannot use a motion to reconsider, alter or amend a judgment to present an issue that could have been raised prior to the judgment but was not." RRR, Inc. v. Toggas, 378 S.C. 174, 185, 662 S.E.2d 438, 443 (Ct.App.2008) (citing Dixon v. Dixon, 362 S.C. 388, 399, 608 S.E.2d 849, 854 (2005)).

5. Third, TCC's references to Rules 60(a) and (b) in this motion are also improper. TCC has failed to point out any specific clerical mistakes that would merit reconsideration, but has simply taken this opportunity, for the first time, to set forth arguments regarding the HPR's request for attorney's fees. Furthermore, TCC has not asserted any of the grounds mentioned in Rule 60(b) in its motion - mistakes, inadvertence, excusable neglect, newly discovered evidence, or fraud. Rather, it appears that TCC has cited to Rule 60(b) in an effort to circumvent the 10-day deadline of Rule 59(e). Either way, TCC has failed to set forth grounds for its Rule 60 motion and this court should deny the same.

[***Signature on following page***]

Respectfully submitted,

WOMBLE BOND DICKINSON (US) LLP

*s/ R. Andrew Walden*

F. Cordes Ford IV (S.C. Bar No. 71644)
R. Andrew Walden (S.C. Bar No. 101004)
Henry E. Grimball (S.C. Bar No. 002313)
5 Exchange Street (29401)
P.O. Box 999
Charleston, SC 29402
(843) 722-3400
Cordes.Ford@wbd-us.com
Andrew.Walden@wbd-us.com

*Attorneys for Defendants*

March 17, 2021

Charleston, SC

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# EXHIBIT A

**From:** Andrew K. Epting
**To:** Mikell Scarborough; MIELawClerk@charlestoncounty.org
**Cc:** Herron, Robin; Ford, Cordes; Walden, Andrew; Grimball, Henry; Buckley, Edward D. (Ed; Barr, Jr., W. Siau; ADemato@ycrlaw.com; Mixson, Kathryn; Jaan Rannik; Andrew K. Epting
**Subject:** RE: TCC OF CHARLESTON, INC. V. BEATTY, ET AL.; Letter to Judge Scarborough w/o enclosures
**Date:** Friday, February 26, 2021 1:59:38 PM
**Attachments:** image001.png
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EXTERNAL EMAIL: Open Attachments and Links With Caution.

Judge, Cordes mentioned a hearing on quantum of fees at one time and do not know your thinking in light of the path we are on. I write only to out-scoup "Scoup Jackson" who late one night on the Senate floor said — "everything that can be said on this subject has been said, but not by me." We refrain, If you need us to say more, then let us know. Have a good weekend.

*Drew*

Epting & Rannik, LLC
46A State Street
Charleston, SC 29401
843-377-1871

---

**From:** Herron, Robin <Robin.Herron@wbd-us.com>
**Sent:** Monday, February 22, 2021 15:18
**To:** Andrew K. Epting <ake@epting-law.com>; Ford, Cordes <Cordes.Ford@wbd-us.com>; Walden, Andrew <Andrew.Walden@wbd-us.com>; Grimball, Henry <Henry.Grimball@wbd-us.com>; Jaan Rannik <jgr@epting-law.com>; Buckley, Edward D. (Ed <ebuckley@ycrlaw.com>; Barr, Jr., W. Siau <SBarr@ycrlaw.com>; ADemato@ycrlaw.com; MIELawClerk@charlestoncounty.org; Mixson, Kathryn <kmixson@ycrlaw.com>
**Subject:** TCC OF CHARLESTON, INC. V. BEATTY, ET AL.; Letter to Judge Scarborough w/o enclosures

Mimecast Attachment Protection has deemed this file to be safe, but always exercise caution when opening files.

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Please find attached a copy of a letter( without enclosures) sent to Judge Scarborough today.

Best regards,

**Robin R. Herron**
Legal Practice Assistant
Womble Bond Dickinson (US) LLP

**d:** 843-576-5526
**e:** Robin.Herron@wbd-us.com

5 Exchange Street
PO Box 999 (29402)
Charleston, SC 29401

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| COUNTY OF CHARLESTON | ) | FOR THE NINTH JUDICIAL CIRCUIT |
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| | ) | |
| Plaintiff, | ) | |
| | ) | |
| vs. | ) | |
| | ) | |
| CONCORD AND CUMERLAND, LLC., CONCORD & CUMBERLAND HPR, LEO HALL, DIANE HALL, BEA H. SMITH, MARGARET C. POPE, WILLIAM D. FOSTER, JR., GENE G. FOSTER, MATTISO J.MACGILLNRAY, TERESA MACGILLIVRAY, PAMELA L.VAUGHN, NELIA A. PATRICIO, Trustee of the Nelia A. Patricio Revocable Trust Agreement, STUART D. REEVES, EDWARD T. STROM, BARBARA K.HENDERSON, JAMES R. CLARICE, PAUL A. BRIM, ROBERT K. SEIDL, JENNIFER M. SEIDL, ROBERT KENNETH SEIDL,II, M. BERT STOREY, THOMAS R. MATHER, EDWARD T. STROM, 304 CONCORD & CUMBERLAND, LLC, MARION M. SIMSPON F/KA MARION MOORE MCDONALD SIMPSON, KATHY GARDNER, GREGORY J. GARDNER, FREEMAN WATERFRONT PROPERTIES, LLC, JO-ANN COOPER, BETTY Y. SEGAL, ROBERT M. LEVIN AND BONITA K. LEVIN, DONALD D. LEONARD, BETTY L. BEATTY, MATTELLEN, LLC, AND THOMAS R. DEBNAM, Trustee of the Trust Agreement of Thomas R. Debnam, | ) | **BETTY L. BEATTY'S MEMORANDUM IN OPPOSITION TO TCC OF CHARLESTON, INC.'S MOTION FOR RECONSIDERATION** |
| | ) | |
| Defendants. | ) | |
| | ) | |

Defendant, Betty L. Beatty ("Beatty") opposes TCC of Charleston, Inc.'s ("TCC") motion to reconsider this court's order dated February 16, 2021, upon the following grounds:

1. TCC's motion under Rule 59(e) is untimely and must be denied or dismissed. The February 16, 2021, order was electronically filed on that day, providing written notice to all parties that it had been entered. TCC's motion, filed March 12, 2021, is untimely.

2. TCC has appealed the February 16 order by Notice of Appeal filed March 11, 2021. This court would have jurisdiction under certain circumstances to hear TCC's Rule 59(e) motion filed after its notice of appeal if and only if the motion was timely. Here, the Rule 59(e) motion is untimely, so TCC does not enjoy the benefit of the Supreme Court's holding in *Hudson v. Hudson*, 290 S.C.215, S.E.2s 341 (1986). The February 16, 2021, order is being appealed, and this court lacks jurisdiction to hear a post-appeal 59(e) motion which was filed on the 24th day after TCC received written notice that the order had been filed.

3. TCC's motion fails to state any basis for relief under Rule 60(a). That rule authorizes the court to correct "Clerical mistakes in judgments … and errors therein arising from oversight or omission…". TCC has not asserted a single clerical mistake or error in this court's February 16 judgment. TCC also overlooks the express requirement within Rule 60(a) which reads as follows: "During the pendency of an appeal, leave to correct the mistake must be obtained from the appellate court." TCC has not sought leave from the Court of Appeals, nor has it asserted any basis for relief under Rule 60(a).

4. TCC has asserted nothing to establish a basis for relief under Rule 60(b). Procedurally, the motion is barred, because TCC has not sought leave to make the motion from the appellate court. Substantively, the motion does not seek relief on the basis of any of the grounds

enumerated in Rule 60(b)(1)-(5). Not one word within TCC's motion either alleges or tends to prove any of the grounds for relief set forth in subparagraphs (1)-(5).:

(1) mistake, inadvertence, surprise, or excusable neglect;

(2) newly discovered evidence;

(3) fraud, misrepresentation, or other misconduct of an adverse party;

(4) the judgment is void;

(5) the judgment has been satisfied, released, or discharged or otherwise should not be prospectively applied.

5. TCC is attempting to argue matters which could have been presented to and heard by this Court prior to entry of judgment. Rather than requesting a hearing on the "quantum of fees," TCC instead advised the Court, "We refrain, if you need us to say more, then let us know…." *See* email dated February 22, 2016 from Andrew K. Epting, attached hereto as Exhibit "A". Even if TCC's email had requested a hearing on the quantum of fees, that hearing request would have been untimely in regard to Beatty's fees, as the Court had entered its order awarding those fees six days earlier.

6. If the court should decide to address the substance of TCC's motion regarding Beatty's fees, despite the procedural impediments prohibiting consideration of the motion, the substance of the motion is a transparent effort to argue for the first time in a post-judgment motion matters which TCC could have raised prior to judgment but failed to raise. TCC cannot contend that the court erred in failing to consider matters which it did not argue to the court prior to entry of judgment. It did not request to be heard on those matters.

A party cannot use Rule 59(e) to present an issue to the court that could have been raised prior to judgment but was not. *Fields v. Regional Medical Center Orangeburg*, 363 S.C. 19, 27,

S.E.2d 506, 510 (2005); *RRR, Inc. v. Toggas*, 378 S.C. 174,185, 662 S.E.2d 438, 443 (Ct. App. 2008).

Having failed to request to be heard on these issues prior to entry of judgment, TCC is prohibited from raising them now.

7. Finally, TCC seems peculiarly preoccupied with its erroneous representation to this court that TCC's counsel was unaware that Mr. Molony and Mr. Siau Barr were involved in defending Beatty in the early days of this litigation. TCC's motion states the following: "TCC or its counsel were never advised of any involvement on behalf of Ms. Beatty by Mr. Barr prior to January 17, 2020 or by Mr. Molony at any time." TCC Motion to Reconsider, p. 4.

We are not aware of any requirement to advise TCC's counsel which timekeepers within our firm will be working on our client's behalf. However, TCC's statement is patently false. By letter dated July 11, 2016, nineteen days after Beatty was served, Mr. Molony advised TCC's counsel that he would be representing both Ms. Segal and Ms. Beatty. Mr. Barr is copied on that letter. Later, by letter dated November 21, 2016, Mr. Molony forwarded to TCC's counsel the Consent Order Staying Proceedings, which he had executed "on behalf of the Defendants Betty Segal and Betty Beatty." The consent order itself is executed by Mr. Molony as attorney for Betty L. Beatty and Betty Y. Segal." The July 11, 2016 letter is attached hereto as Exhibit "B"; the November 21, 2016, letter is attached as Exhibit "C"; and the Consent Order is attached as Exhibit "D".

## CONCLUSION

TCC's Rule 59(e) motion as it pertains to this court's February 16, 2021 order awarding fees to Beatty is untimely and cannot be considered. If it was timely, it seeks to address matters which TCC clearly declined to present to the court through a hearing. There is no stated basis for a

Rule 60(a) or 60(b) motion, nor has TCC sought leave from the appellate court to present that motion. TCC's motion must be denied.

Respectfully submitted,

CLEMENT RIVERS, LLP

By: s/Edward D. Buckley, Jr.
Edward D. Buckley, Jr. SC Bar No. 994
W. Siau Barr, Jr. SC Bar No. 76353
P.O. Box 993, Charleston, SC 29402
(843) 720-5436
ebuckley@ycrlaw.com
sbarr@ycrlaw.com

Attorneys for Defendant Betty L. Beatty

Date: March 19, 2021
Charleston, South Carolina

# EXHIBIT A

ELECTRONICALLY FILED - 2021 Mar 17 8:44 AM - CHARLESTON - COMMON PLEAS - CASE#2016CP1002955

**From:** Andrew K. Epting
**To:** Mikell Scarborough; MIELawClerk@charlestoncounty.org
**Cc:** Herron, Robin; Ford, Cordes; Walden, Andrew; Grimball, Henry; Buckley, Edward D. (Ed; Barr, Jr., W. Siau; ADemato@ycrlaw.com; Mixson, Kathryn; Jaan Rannik; Andrew K. Epting
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*Drew*

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**Sent:** Monday, February 22, 2021 15:18
**To:** Andrew K. Epting <ake@epting-law.com>; Ford, Cordes <Cordes.Ford@wbd-us.com>; Walden, Andrew <Andrew.Walden@wbd-us.com>; Grimball, Henry <Henry.Grimball@wbd-us.com>; Jaan Rannik <jgr@epting-law.com>; Buckley, Edward D. (Ed <ebuckley@ycrlaw.com>; Barr, Jr., W. Siau <SBarr@ycrlaw.com>; ADemato@ycrlaw.com; MIELawClerk@charlestoncounty.org; Mixson, Kathryn <kmixson@ycrlaw.com>
**Subject:** TCC OF CHARLESTON, INC. V. BEATTY, ET AL.; Letter to Judge Scarborough w/o enclosures

Mimecast Attachment Protection has deemed this file to be safe, but always exercise caution when opening files.

---

Please find attached a copy of a letter( without enclosures) sent to Judge Scarborough today.

Best regards,

**Robin R. Herron**
Legal Practice Assistant
Womble Bond Dickinson (US) LLP

**d:** 843-576-5526
**e:** Robin.Herron@wbd-us.com

5 Exchange Street
PO Box 999 (29402)
Charleston, SC 29401



womblebonddickinson.com



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YCR LAW
Young Clement Rivers, LLP
CELEBRATING 50 YEARS OF LEGAL SERVICE
50 YEARS

Michael A. Molony

Direct Dial: (843) 724-6631
Direct Fax: (843) 579-1356
E-mail: mmolony@ycrlaw.com

July 11, 2016

Andrew K. Epting, Jr., Esquire
Andrew K. Epting, Jr., LLC
46A State Street
Charleston, SC 29401

Re: Betty Segal/ Betty Beatty
YCR File: 5321-20160538

Dear Drew:

Thank you for your voicemail today regarding an extension of time within which to file a responsive pleading to the complaint served on the above referenced individuals. I will be representing both of them personally, along with Cordes Ford's representation of the HPR.

We will probably defer filing a responsive pleading until after the mediation, which I understand is scheduled to take place two weeks from this Friday.

I appreciate your agreeing to the extension of time to file a responsive pleading.

With kindest regards, I am

Sincerely,

Young Clement Rivers, LLP

Michael A. Molony

MAM/kme
Enclosure(s)
cc: Betty Beatty
Betty Segal
Siau Barr
Cordes Ford (FYI only)

YCRLAW
Young Clement Rivers, LLP

Michael A. Molony

Direct Dial: (843) 724-6631
Direct Fax: (843) 579-1356
E-mail: mmolony@ycrlaw.com




November 21, 2016

F. Cordes Ford, IV, Esquire
Womble Carlyle Sandridge & Rice, LLP
P. O. Box 999
Charleston, SC 29402-0999

Ex. "C"

Andrew K. Epting, Jr., Esquire
Andrew K. Epting, Jr., LLC
46A State Street
Charleston, SC 29401

Re: TCC of Charleston, Inc. v. Concord and Cumberland, LLC, et al.
Case No.: 2016-CP-10-2955
YCR File: 5321-20160538

Dear Cordes/Drew:

I am enclosing the Consent Order regarding Stay of Proceedings pending the arbitration in the above referenced matter. I have executed this on behalf of the Defendants, Betty Segal and Betty Beatty.

Please keep me apprised of any further developments in the matter.

With kindest regards, I am

Sincerely,

YOUNG CLEMENT RIVERS, LLP

Michael

Michael A. Molony

MAM/kmh

Enclosure(s)
Cc: Betty Segal
Betty Beatty
Siau Barr, Esq.




| | | |
|---|---|---|
| STATE OF SOUTH CAROLINA | ) | IN THE COURT OF COMMON PLEAS |
| | ) | FOR THE NINTH JUDICIAL CIRCUIT |
| COUNTY OF CHARLESTON | ) | Case No.: 2016-CP-10-2955 |

TCC OF CHARLESTON, INC.,

Plaintiff,

v.

CONCORD AND CUMERLAND, LLC., CONCORD & CUMBERLAND HPR, LEO HALL, DIANE HALL, BEA H. SMITH, MARGARET C. POPE, WILLIAM D. FOSTER, JR., GENE G. FOSTER, MATTISON J. MACGILLIVRAY, TERESA MACGILLIVRAY, PAMELA L. VAUGHN, NELIA A. PATRICIO, Trustee of the Nelia A. Patricio Revocable Trust Agreement, STUART D. REEVES, EDWARD T. STROM, BARBARA K. HENDERSON, JAMES R. CLARKE, PAUL A. BRIM, ROBERT K. SEIDL, JENNIFER M. SEIDL, ROBERT KENNETH SEIDL, II, M. BERT STOREY, THOMAS R. MATHER, EDWARD T. STROM, 304 CONCORD & CUMBERLAND, LLC, MARION M. SIMPSON F/K/A MARION MOORE MCDONALD SIMPSON, KATHY GARDNER, GREGORY J. GARDNER, FREEMAN WATERFRONT PROPERTIES, LLC, JO-ANN COOPER, BETTY Y. SEGAL, ROBERT M. LEVIN AND BONITA K. LEVIN, DONALD D. LEONARD, BETTY L. BEATTY, MATTELLEN, LLC, AND THOMAS R. DEBNAM, Trustee of the Trust Agreement of Thomas R. Debnam,

Defendants.

FILED
2017 JAN -3 PM 3:27
JULIE J. ARMSTRONG
CLERK OF COURT

**ORDER**

WHEREAS, the Plaintiff filed a motion to stay and compel arbitration in the above-styled

action, and whereas the parties have consented to an arbitration of the dispute between Plaintiffs and Defendant CONCORD & CUMBERLAND HPR ("Regime"), and stay of Plaintiffs foreclosure request as to the remaining Defendants, Leo Hall, Diane Hall, Bea H. Smith, Margaret C. Pope, William D. Foster, Jr., Gene G. Foster, Mattison J. Macgillivray, Teresa Macgillivray, Pamela L. Vaughn, Nelia A. Patricio, Truste of the Nelia A. Patricio Revocable Trust Agreement, Stuart D. Reeves, Edward T. Strom, Barbara K. Henderson, James R. Clarke, Paul A. Brim, Robert K. Seidl, Jennifer M. Seidl, Robert Kenneth Seidl, II, M. Bert Storey, Thomas R. Mather, Edward T. Strom, 304 Concord & Cumberland, LLC, Marion M. Simpson f/k/a Marion McDonald Simpson, Kathy Gardner, Gregory J. Gardner, Freeman Waterfront Properties, LLC, Jo-Ann Cooper, Betty Y. Segal, Robert M. Levin, Bonita K. Levin, Donald D. Leonard, Betty L. Beatty, Mattellen, LLC and Thomas R. Debnam, Trustee of the Trust Agreement of Thomas R. Debnam, therefore this matter is stayed as to all Defendants to allow the arbitration to proceed between Regime and Plaintiffs.

IT IS SO ORDERED.

The Honorable Roger M. Young Sr.

Charleston, South Carolina
12/30, 2016

WE SO CONSENT:

ANDREW K. EPTING, JR., LLC

Andrew K. Epting, Jr.
Michelle N. Endemann
46A State Street
Charleston, SC 29401
Telephone: 843.377.1871
Facsimile: 843.377.1310
ake@epting-law.com
mne@epting-law.com

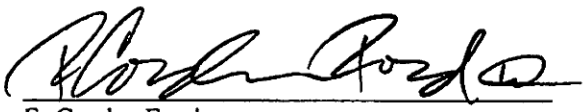
ATTORNEYS FOR PLAINTIFFS

Michael A. Molony
Young Clement Rivers, LLP
25 Calhoun Street, #400
Charleston, SC 29401
Telephone: 843.724.6631
Facsimilie: 843.579.1356
mmolony@ycrlaw.com

ATTORNEYS FOR DEFENDANTS BETTY L. BEATTY AND BETTY Y. SEGAL

F. Cordes Ford
Womble Carlyle Sandridge & Rice
5 Exchange Street
Charleston, SC 29401
Telephone: 843.720.4631
Facsimile: 843.723.7398
cford@wcsr.com

ATTORNEYS FOR DEFENDANT CONCORD & CUMBERLAND HPR ("Regime")



F. Cordes Ford
Womble Carlyle Sandridge & Rice
5 Exchange Street
Charleston, SC 29401
Telephone: 843.720.4631
Facsimile: 843.723.7398
cford@wcsr.com

For Purposes of This Motion, ATTORNEYS
FOR REMAINING DEFENDANTS

| | | |
|---|---|---|
| **'STATE OF SOUTH CAROLINA** | ) | **IN THE COURT OF COMMON PLEAS** |
| | ) | **FOR THE NINTH JUDICIAL CIRCUIT** |
| **COUNTY OF CHARLESTON** | ) | |
| TCC OF CHARLESTON, INC. | ) | |
| | ) | Case No.: 2016-CP-10-2955 |
| Plaintiff, | ) | |
| v. | ) | |
| | ) | |
| CONCORD AND CUMERLAND, LLC., CONCORD & CUMBERLAND HPR, LEO HALL, DIANE HALL, BEA H. SMITH, MARGARET C. POPE, WILLIAM D. FOSTER, JR., GENE G. FOSTER, MATTISON J. MACGILLIVRAY, TERESA MACGILLIVRAY, PAMELA L. VAUGHN, NELIA A. PATRICIO, Trustee of the Nelia A. Patricio Revocable Trust Agreement, STUART D. REEVES, EDWARD T. STROM, BARBARA K. HENDERSON, JAMES R. CLARKE, PAUL A. BRIM, ROBERT K. SEIDL, JENNIFER M. SEIDL, ROBERT KENNETH SEIDL, II, M. BERT STOREY, THOMAS R. MATHER, EDWARD T. STROM, 304 CONCORD & CUMBERLAND, LLC, MARION M. SIMPSON F/K/A MARION MOORE MCDONALD SIMPSON, KATHY GARDNER, GREGORY J. GARDNER, FREEMAN WATERFRONT PROPERTIES, LLC, JO-ANN COOPER, BETTY Y. SEGAL, ROBERT M. LEVIN AND BONITA K. LEVIN, DONALD D. LEONARD, BETTY L. BEATTY, MATTELLEN, LLC, AND THOMAS R. DEBNAM, Trustee of the Trust Agreement of Thomas R. Debnam, | ) | **TCC OF CHARLESTON, INC.'S REPLY IN SUPPORT OF MOTION FOR RECONSIDERATION AND/OR CLARIFICATION** |
| Defendants. | ) | |

TCC of Charleston, Inc. ("TCC") replies in support of its motion to reconsider to say that all arguments regarding the quantum of fees presented in TCC's motion to reconsider had previously been raised in TCC's November 30, 2020 submissions to this Court.

As TCC has not been able to review the time entries to probe their relation to the foreclosure cause of action, TCC asks that the Court require certification that the invoices provided for *in camera* review are the invoices as recorded contemporaneously and that they have not been altered in any way for purposes of these applications for fees.

**Respectfully submitted,**

**EPTING & RANNIK, LLC**

This 19th day of March, 2021
Charleston, SC

*/s/ Jaan Rannik*
Jaan G. Rannik
46A State Street
Charleston, South Carolina 29401
843-377-1871
843-377-1310 (fax)
jgr@epting-law.com
*ATTORNEY FOR TCC OF CHARLESTON, INC.*

**IN THE MATTER OF THE ARBITRATION BETWEEN:**

| | |
|---|---|
| TCC OF CHARLESTON, INC. | ) |
| | ) |
| Plaintiff, | ) |
| | ) |
| v. | ) |
| | ) |
| CONCORD & CUMBERLAND HPR, | ) |
| | ) |
| Defendant. | ) |
| _____ | ) |

# TRIAL BRIEF OF TCC OF CHARLESTON, INC.


**ANDREW K. EPTING, JR., LLC**

Andrew K. Epting, Jr., Esquire
Jaan G. Rannik, Esquire
46A State Street
Charleston, South Carolina 29401
Phone: 843-377-1871
Fax: 843-377-1310
E-Mail: ake@epting-law.com
jgr@epting-law.com

## TABLE OF CONTENTS

**SUMMARY OF ARGUMENT** ..... **1**
I. $968,181.76 ..... 1
II. $1,417,321.72 ..... 1
**INTRODUCTION** ..... **2**
I. What Is *Not* in Dispute ..... 2
II. What *Is* in Dispute ..... 3
A. The Amount Conceded as Owing ..... 3
**HISTORY OF THE JOB** ..... **4**
I. The Bid (Late 2013 – Early 2014) ..... 4
II. The Contract (March 2014) and Notice to Proceed (July 2014) ..... 5
III. Conditions on the Job and Unforeseen Issues (2014) ..... 6
IV. Increasing Cost (Late 2014 – Early 2015) ..... 8
V. Salem's Solvency (December 2014) ..... 10
VI. HPR Funding Issues and Near Shutdown of the Job (May 2015) ..... 10
VII. Agreement to Avoid Shutdown (May-June 2015) ..... 11
A. Trident Provides Estimate of $7.1m (July 2015) ..... 13
VIII. September 2015 Through the End of the Job, March 2016 ..... 14
A. HPR hires construction manager and construction attorney ..... 14
*i. Mr. McCraw's Role* ..... 15
B. The HPR's Conduct ..... 15
*i. Who's is Speaking for the Owner?* ..... 16
*ii. Failure to Approve PCOs, Cos, and Pay Applications* ..... 17
C. HPR's Audit of Trident's books ..... 18
*i. Timing of the Audit* ..... 18
*ii. The Audit and Results* ..... 18
D. TCC Completes Project ..... 19
IX. Trident Submits Final Cost of Job (March 2016) ..... 20
A. Inclusion of Some Costs Not Previously Submitted in a Change Order ..... 20
*i. PCO 83 ($497k)* ..... 21
B. HPR's Position ..... 22

**ARGUMENT** ..... **23**
I. HPR's Reasoning for Not Paying Trident's Costs ..... 23
II. Trident Performed the Job in Accordance with the Agreements Between the Parties and Is Entitled to Be Paid as Agreed. ..... 24
A. Benefits and Risks of the Time and Material Approach ..... 25
III. Trident's Damages ..... 26
A. Lien Amount ..... 26
i. $968,181.76 ..... 26
ii. Balance of $1,417,321.72 ..... 26
iii. Additional $29,000 ..... 27
iv. Interest, Insurance Premiums, Costs, and Fees ..... 27
**CONCLUSION** ..... **27**

## SUMMARY OF ARGUMENT

This case breaks down into two pieces: $968,181.76 that the architect approved for payment, that the HPR's 30(b)(6) witness said was owed, and which the HPR itself has long recognized is owed. The second piece is the remaining $1,417,321.72.

### I. $968,181.76

Because of the numbers of delays and problems on this job, the architect did not want to process general conditions with each out-of-scope problem. He asked, and Trident agreed, that it be handled at the completion of the job. He asked that Trident submit PCOs 143-147, and he approved $662,616.00. He authorized the release of retainage, totaling $305,565.76. The HPR's 30(b)(6) witness testified it was owed, which is of note. The HPR itself said this undisputed amount should have been paid. It has not been paid.

### II. $1,417,321.72

The out-of-scope work was performed on a time and material basis. The owner's representative said it was this way. He later confirmed this way. A board member said it was this way and the PCOs for the work were presented and processed this way and most paid.

Additionally, because of the complexity of what was in and out of scope, the HPR wanted only to pay the "black and white." The HPR recognized that much would have to be negotiated at the end. As stated by a board member, "We are definitely at the end so did negotiation take place?"

Trident submitted Pay Application 17, which was not a final pay application. The HPR had not signed any pay application after number 12, nor had it approved OCOs 6-9 ($1,413.829).

The HPR signed all of these documents (spanning a period of August 2015 to February 2016) in March 2016 and then issued a letter containing this sentence: "All prior PCOs are closed and resolved by agreement of the Owner and TCC."

This letter is verifiably false. It says Trident agreed. As of that time, Trident had reserved substantial amounts cut from PCOs. The architect reviewed, processed, and agreed to PCOs totaling $662,616.00 after this letter.

Trident billed for those matters that the HPR had refused to process.

## INTRODUCTION

### I. What Is *Not* in Dispute

The HPR concede that (i) Trident completed the work timely; that (ii) there is no claim that the work is defective; (iii) of the $2,385,503 claimed by Trident, the HPR owes $968,181; and (iv) they have not paid for years what they admit is owed. To flesh out more fully what is not in dispute:

- This is not a construction defect case. The quality of Trident's work is questioned by no one. **Exh. 1,** Mellin Dep. 5:6–11 ("Q. Did Glick-Boehm and Trident do good work on this job? A. Yes. Q. Is the building fixed today? A. As far as I know, there's no issues with the building. Yes.").
- The job was intended to take 10 months and cost $3.9 million, including contingency and Trident's 8% overhead and profit. **Exh. 2,** Contract; **Exh. 3**, Notice to Proceed.
- Unforeseen and significant defects were uncovered on the job, resulting in a doubling of the scope and duration of the project. **Exh. 4**, Mellin Dep. at 39:20–23 ("Q. [D]o you feel that the extension of the job through March 2016 was reasonable given the issues that were discovered on the job? A. Yes.").
- The job took more than twice as long (24 months), the scope doubled, and the final cost incurred by Trident in completing the work plus Trident's 8% for overhead and profit also doubled to nearly $8m. **Exh. 5**, Pay Application 18 (Aug. 2017).

- Over the course of the project, there were 124 Requests for Information ("RFIs"), 148 Proposed Change Orders ("PCOs"), and 10 Owner Change Orders ("OCOs") were submitted.
- The Cost of the Work within the original scope was determined on a time and material basis plus a fixed percentage fee, with a Guaranteed Maximum Price ("GMP").
- Any work *beyond* the original contract scope was to be performed on a time and material basis with a fixed percentage fee.
- The GMP was changed as a result of the out-of-scope work necessitated by the unforeseen issues, and the HPR actually assessed the homeowners based on a *forecasted* new contract sum of nearly $7.2m provided by Trident in July 2015, eight months prior to substantial completion.
- The work Trident performed on the project was deemed by the architect, Shawn Mellin, to be necessary to ensure the fix sought by the owner. **Exh. 6**, Mellin Dep. at 6:10–14.
- TCC provided contingency logs, drop progress schedules, RFI logs, and change order logs to the attendees of the OAC meetings over the course of the entire project, the attendees of which included representatives of the HPR.
- Trident repeatedly invited an audit of their books, beginning in May 2015.
- The HPR contracted an auditor to perform a *limited* review of Trident's costs and payments to subcontractors in January 2016, and the auditor found the costs and payments to be actual and justified. Trident invited a full audit, but the HPR refused.
- Trident invited an additional audit after the job was complete, but no further audit was performed by the HPR.
- Trident's actual costs to do the in and out of scope work are not challenged in this case.

## II. What *Is* in Dispute

- Why the HPR has not paid the nearly $1m it concedes is owed.
- Why the HPR has not paid Trident a further $1.427m for work it authorized, agreed must be performed, and watched being performed.

### A. The Amount Conceded as Owing

After substantial completion, Trident continued to work with the architect on payment issues. Trident was asked to revise its final pay application and present it along with five separate PCOs (PCOs 143, 144, 145, 146, and 147). PCOs 143–147 were included in a new Owner Change Order, OCO 10.

Because the PCOs 143–147 were not signed by the owner despite the architect's recommendation,[1,2] the architect was unable to approve Change Order 10 or the revised Pay Application 18. **Exh. 7**, 01/15/18 Email from Mellin to Griffith. ("I did not receive owner signed PCOs allowing me to sign/approve Change Order 10.").

An April 4, 2017 email between HPR board members shows that the HPR understood the amount was owed and planned to pay it. **Exh. 9**, ("[W]here are we with . . . the billing request from Trident so we can pay them the amount not in dispute?"). A subsequent email from June 2017 shows another attempt to have it paid. **Exh. 10**, ("I had a brief discussion with Trey yesterday about nudging Cordes in regard to what is needed to get the Trident payment going."). The $968,181.76 remains unpaid and is owed.

## HISTORY OF THE JOB

In late 2013, Trident was approached by the Horizontal Property Regime at Concord & Cumberland ("the HPR") to repair construction defects at 175 Concord Street. The HPR had recently settled a lawsuit relating to those defects against the original contractors and subcontractors for $4,707,500.00.[3]

### I. The Bid (Late 2013 – Early 2014)

The bidding of the reconstruction work was a competitive process, with scope of work for the project provided by the architect, Glick-Boehm. Glick-Boehm had also performed the

[1] The non-approval of change orders by the owner, even after approval by the architect, was a theme throughout this project.

[2] The HPR's 30(b)(6) witness also agreed it is owed. **Exh. 8**, 30(b)(6) Dep. 91:11–14.

[3] Certain individual homeowners were part of the settlement and received $1,680,745.21 of the $4.707m. Dr. Mather was one such homeowner.

investigation of the defects in the underlying suit and served as an expert in that case.[4] **Exh. 11,** (HPR Aug. 21, 2013 update.)

Trident bid the job based on this scope of work,[5] which involved removing portions of the building's cladding (masonry and stucco), applying air/water barrier (vertical waterproofing), replacing all windows, and recladding the building.

The bids submitted to Trident from the various subcontractors were all very close to one another. Salem was the only subcontractor to bid each element of the project. The bids were shared with the HPR and they elected not to use the low bidder on each aspect of the work but rather to allow Salem to perform all of the subcontracted work. It is believed the HPR preferred Salem as it had used Salem to prepare its damages estimate in the underlying suit. Trident had extensive dealings with Salem and believed they were the best fit for the job.

Trident was awarded the project.

## II. The Contract (March 2014) and Notice to Proceed (July 2014)

The contract documents were finalized in February and March 2014 and consisted of the AIA's A102 and A201 documents as modified by the parties. The contract was cost plus a fee, with a guaranteed maximum price ("GMP") of $3.923m. **Exh. 1**, Contract. The HPR designated Tom Mather as its owner's representative. *Id.*

---

[4] The investigation authorized by the HPR was too limited according to the architect. **Exh. 12,** 01/26/16 Email from Griffith to Mellin. ("Mr. Miles (*sic*) told me that he suggested to the board that he do a thorough investigation (or more thorough) and they told him not to."). This was evidently because it was too costly.

[5] As acknowledged by Dr. Tom Mather, Trident bid the project, unaware of the severity of the defects to be discovered over its course. **Exh. 13**, 03/08/14 Email from Mather to Debnam. He later noted, "I wouldn't touch the job for what we are paying." **Exh. 14**, 07/23/14 Email from Mather to Debnam.

The Notice to Proceed was issued by the architect, Glick-Boehm, on July 28, 2014 and set forth a 10-month job duration. **Exh. 2**, Notice to Proceed. Trident's bid was predicated upon working three drops—or sections of the exterior[6]—at a time, with the cladding crew working one drop behind the vertical waterproofing crew, who were working one drop behind the demolition crew. **Exh. 15**, Griffith Dep. 59:2–24.

However, as discussed *infra*, significant unforeseen issues made that impossible. These unforeseen issues compounded difficulties inherent in working on an occupied residential building on a busy street in downtown Charleston:

- need for temporary waterproofing to protect residences;
- impossibility of installing a crane to lift windows, and resulting need to hoist 300-pound windows up the scaffolding outside the building;
- need to coordinate with owners when Trident would work at their unit;[7]
- hours limited by the homeowners – no mornings, evenings, weekends; other restrictions.[8]

## III. Conditions on the Job and Unforeseen Issues (2014)

*"This project is . . . well, a bitch."*

*– Tom Mather* ***Exh. 16****, 09/30/14 Email from Mather to Patricio.*

*"To give you a brief update on the building, construction has been slow and tedious. We knew the building was poorly constructed, but what was not appreciated was how inconsistent the poor construction was."*

*–* ***Exh. 17,*** *11/03/14 Email from Gawrych, Board Update to Homeowners*

---

[6] *See* the illustration in Appendix 1 hereto.

[7] Trident's proposal was based on the building not being occupied.

[8] Quickly, the HPR, in order to move the job in the face of all of the out-of-scope work required, pushed for longer days and weekends, adding overtime to the cost which was not part of the original bid. The overtime alone was $365,086.00.

Early on in the project, significant unforeseen issues were discovered, including:

- Walls out of plumb;
- "Third-world" columns – severely rusted, improperly attached, cut and dangerously re-welded, and filled with random objects;
- Incorrect drawings, showing windows where doors were installed and vice versa;
- Windows and openings that were supposed to be a uniform size but were found to be a multitude of different sizes;
- Window openings out of alignment with one another;
- Relieving angles anchored not to the slab, but rather to metal studs and not consistent with brick coursing;
- Cut-off structural members;
- Floating stacks of blocks, four-stories high, tied into nothing and held in place by stucco.

The breadth of issues discovered is vividly shown on **Exh. 18**, (GBA A201 Elevation), which locates each RFI on the relevant portion of the building façade. As the prior deficient construction and its severity—described at times as so woefully defective it was criminal—is not in dispute, Trident does not dwell upon it here. However, in order to explain why there was a February 2014 contract and a July 2014 Notice to Proceed, with work starting in earnest in September, Trident continues briefly.

Take the windows. The first sign that something was wrong with the project came during preplanning, when Salem workers were sent to confirm measurements of the windows relative to the drawings provided by Glick Boehm. **Exh. 19**, Moore Dep. 12:23-13:22. The workers found enormous variation in the sizes of windows in the building, and that doors were often installed where windows were shown on the drawings and vice versa. *Id*. The framing of the openings was even more disquieting, many openings being trapezoidal rather than rectangular. **Exh. 20**, Moore Dep. 31:6–24.

## IV. Increasing Cost (Late 2014 – Early 2015)

> *"Our Team is working and doing the best we can to keep things moving forward and to complete the project as fast as we can. Those that are intimately involved with the day to day can attest to the fact that the existing building is in much worse shape than any of us ever anticipated."*
>
> *- **Exh. 21**, 02/26/2015 Email from Burrell to Gawrych.*

Despite the ever-increasing scope due to the seemingly endless unforeseen problems being discovered, the owners sought to have Trident adhere to the original schedule. It became impossible to continue three-drops-at-a-time as bid because there was no work that could proceed without the architect's review and input. Trident was forced to install scaffolding at the other end of the building and ultimately scaffold the entire building, which was done by the end of November 2014.

In addition to the out-of-scope costs, the time spent correcting the out-of-scope issues caused delays to the in-scope work, often resulting in workers having to wait around at the site while an issue was addressed.[9] This is not in dispute either. **Exh. 22**, 07/23/14 Email from Segal to Debnam. ("There are guys we are paying for, who have been hanging around half the week, appearing to do nothing much. They keep straightening the barricade."); **Exh. 23**, 10/14/15 Email from Mather to McCraw. ("Should we send him photos of workers sitting around?"); **Exh. 24**, 10/10/15 Email from Lavelle to Gawrych. ("… I suspect the project would move much faster if they did less hanging around chatting with girls, blocking the garage exits and lounging on my balcony seven days.").

[9] And, because labor was hard to come by, Trident could not send the workers away to other jobs, because doing so would make it near impossible to get them back when the building was ready for them to work.

Per the parties' agreement, Trident tracked its costs for out-of-scope work on a time and material basis. As the cost to resolve a particular issue was not ascertainable until after the issue had been completed, and because the architect did not know how to bill general conditions given the concurrency of so many problems causing delay, forecasting the cost and duration profile was difficult.

Where multiple out-of-scope issues were discovered on a single drop, there were concurrent sources of delay to the in-scope work, and the cost-impact had to be apportioned between the sources of delay once the work was complete on each. The financial status of the job thus began to deteriorate because Trident was working all over the building (with 55 men and four superintendents, rather than 25 and one respectively).

In January 2015, Trident believed the overages remained within the contingency and allowance amount (about $312,000). By Trident's March 2015 report to homeowners, however, it was clear the contingency and allowance was no longer sufficient to cover the overages, and the project was an estimated $456,000 over budget. **Exh. 25**, TCC Project Status Update/ March 2015 at 09 and 24. Trident had spent more than it had been paid, resulting in a negative cash position of over $1m. **Exh. 26**, TCC Project Status Update/April 2015. Because there was no resolution in March 2015 of how to bill for concurrent delay (i.e., 20 unforeseens each causing 3-days' delay did not total 60 days of delay) and time and materials work was not completed for out-of-scope items, Trident's Mr. Burrell wrote to Mr. Mellin that this could not continue: "We need yours and the Board's assistance in releasing the funds associated with OCO #003 and helping us to get caught up on outstanding costs for extras." **Exh. 27**, 04/28/15 Email from Burrell to Mellin.

## V. Salem's Solvency (December 2014)

Trident's solvency meant it could withstand being in a significant negative cash position. Salem, despite operating for over 20 years, could not. Because Trident and Salem were not being paid for the out-of-scope work, and because the general conditions were hostage to the concurrency issue, Salem's solvency deteriorated. **Exh. 28**, Moore Dep. 112:14–17.

Trident, having confidence in Salem and its workers, understood it would be a mistake to start over with a new subcontractor and made the decision to finance Salem's workers and costs itself in order to keep the project moving.

## VI. HPR Funding Issues and Near Shutdown of the Job (May 2015)

> *"We understand that the value of the additional costs are in excess of the Board's available funds and we request that the Architect and Owner provide immediate direction as to whether we should continue to proceed with the Work or stand down until the Board reconciles available funds with the funds necessary to complete the Work."*
>
> *- John David Griffith, **Exh. 29**, 05/15/15 Letter from Griffith to HPR*

By early May 2015, Trident alerted Tom Mather that the contract shortfall had increased to between $500,000 and $700,000. **Exh. 30**, 05/06/15 Email from Mather to Ogiba. At the same time, the owner was not processing change orders. *See, e.g.*, **Exh. 27**, 04/28/15 Email from Burrell to Mellin. ("We need yours and the Board's assistance in releasing the funds associated with OCO #003 and helping us to get caught up on outstanding costs for extras."). As a result, by June 2015, Trident was carrying $1.7m in unpaid costs.[10]

[10] The Board had not assessed the homeowners for the full amount of the construction costs at the beginning of the job, in the hopes that the cost of future installments could be lessened. **Exh. 31**, 10/09/14 Email from Mather to Debnam.

Given the costs owing and to be owed to Trident, the HPR board realized there was not enough money in the construction account to pay the costs and began contemplating an assessment to raise the capital. **Exh. 30**, 05/06/15 Email from Mather to Ogiba.

When the HPR advised Trident of the need of an additional assessment, Trident advised it could not proceed without adequate assurances of funding. ***Exh. 29**, 05/15/15 Letter from Griffith to HPR.*

## VII. Agreement to Avoid Shutdown (May-June 2015)

> *"The HOA, Trident, and GBA will work to diligently assess and process ongoing payment applications and change order requests, with an understanding that some portions of some of the PCOs may require additional negotiation or compromise at or near the end of the project."*
>
> *- **Exh. 32**, 06/26/15 Email from Ogiba to Epting*

At a May 27th meeting, in exchange for (i) the guarantee of an additional $400,000 of funding, (ii) prompt approval of Pay Application 10 and Owner Change Order 4, and (iii) a firm commitment that Trident would be compensated for its costs for the additional work, Trident agreed to proceed with the project, working with a scaled-back crew until funding of the balance of the work was secured. Further, the HPR agreed that Trident could bill for changes and the HPR would promptly process payments, and that Trident could invoice for the contingency as it saw fit, with a full accounting of the contingency before final payment is due. This understanding was preserved in a writing executed by the Parties. **Exh. 33**, 05/27/15 Letter Agreement.

At a June 20, 2015 special meeting, it was noted that Trident had "been working on a time and material basis," and that there had been "approximately $2.7m in out of scope repairs" to date. **Exh. 34**, 06/20/15 Special Meeting.

A subsequent meeting occurred June 25, 2015, at which it was agreed that, in order to keep the job moving, cost would continue to be tracked on a time and material basis with some PCOs being held for resolution during the final accounting at the end of the job. This understanding was preserved in an email from the HPR's attorney, Chris Ogiba, to Trident's attorney, Drew Epting. **Exh. 32**, 06/26/15 Email from Ogiba to Epting. ("some portions of some of the PCOs may require additional negotiation or compromise at or near the end of the project"); *see also* **Exh. 35,** 09/22/15 Board Meeting ("only the black and white" was being paid); **Exh. 36**, 12/01/15 Email from Griffith to All "[t]hree of the exact same items of scope. . . installed completely differently. Mr. Trey, I believe a good example of why we did not just stop work until we had a new design, price, approved change order, and new schedule for every new situation."; **Exh. 37**, 02/07/17 Email from Griffith to McCraw ("The deal was, according to the contract, if they could not verify funding (and they could not), we could stop work until they did (verify funding). They requested that we not stop work (so that they could better ensure the vote) with the understanding that we would be paid for all the work. With a final accounting at the end. They got what they requested (we did not stop) and now they want to say there was no deal.").

That costs had been and would continue to be tracked on a time and material basis was well understood by the HPR. *See, e.g.*, **Exh. 38**, RFI 24 (direction from architect to "[p]roceed on a time and material basis for the repairs"); **Exh. 39,** (minutes of an HPR meeting that note "[t]hey have been working on a time and material basis."); **Exh. 40**, 09/23/15 Email from Mather to McCraw (noting Trey McCraw "mentioned last night that because our contract with trident is 'cost plus' it makes no monetary difference in the overall cost whether a repaid is determined to be 'in scope' or 'out of scope'"); **Exh. 41**, 10/14/15 Email from Debnam to Gawrych ("Is a

reconciliation going to be made between the contract billing period and the time and materials billing?")*;* **Exh. 42**, 10/16/15 Letter from Mather to Griffith ("[S]hould any portion of the amounts claimed as *additional costs* by Trident be determined as *costs incurred to perform the original scope of work* . . . then the Owner will seek recovery of same."); **Exh. 43**, 10/26/15 Letter from Griffith to McCraw ("great example of why we have been working on this project without finalizing every event before moving forward" and noting that the parties should continue to do "what we have been doing. Move on as quickly as possible and only charge what it *costs*.") (emphasis added).

Moreover, as agreed to by the architect, there was no other way to perform this job without adding greatly to duration and cost. **Exh. 44**, Mellin Dep. 37:11–38:1 ("Q. Now, given the nature of the concealed issues that were being uncovered on this job, do you think it would have been expeditious to design a fix, price it, get approval, and then release Trident to fix it for every single issue that came up? A. No. Q. Can you elaborate as to why not? A. Because the time involved in that process can be relatively lengthy and it would slow down the project. Q. The slowing down of the project would also drive up the costs, correct? A. Yes."); *see also* ***Exh. 45***, 06/07/16 Letter from Griffith to Board.

**A. Trident Provides Estimate of $7.1m (July 2015)**

Once it was agreed that the HPR would assess the owners, the HPR asked Trident to forecast the total cost to finish the job, understandably wishing to request an assessment from the homeowners only once. TCC agreed to try but "stated that a firm number would be difficult due to continued findings of unforeseen conditions." **Exh. 33**, 05/27/15 Letter Agreement.

Nevertheless, in July 2015, Trident provided a good faith estimate of $7.2m to complete the job, with an anticipated completion date of November 30, 2015.[11] **Exh. 46**. The estimate included a $585,535 contingency, about 18%, "for *anticipated* unforeseens," even though the job had been on-going for nine months. *Id.* Even so, Trident advised this was a forecast and depended on no new issues being discovered. *Id.* at 9149, 9150. After the date of this estimate, though, Trident issued a further 25 RFIs and 45 PCOs.

## VIII. September 2015 Through the End of the Job, March 2016

### A. HPR hires construction manager and construction attorney

Following the threat of litigation against the HPR by other homeowners, a construction manager (Trey McCraw) and construction attorney (Cordes Ford) were hired by the HPR in September 2015. As noted in the handwritten notes of current board president Leo Hall, this was necessary in part because the HPR mistrusted Shawn Mellin and Trey was "needed to get architect back on [the] owners' side."[12] *See also* ***Exh. 48****, Handwritten note of Hall;* ***Exh. 49****,* 05/05/15 Email from Freeman ("I wonder whose side Glick is on here. They may value their relationship with Trident more than would be beneficial for us.").

[11] As noted in one board member's notes, the board knew at this time that the original Guaranteed Maximum Price (which again, relates *only* to the in-scope work) was no longer valid **Exh. 47** Handwritten notes of Hall, ("Owner's knew $7.1m possible at assessment meeting."). This is in sharp contrast to the HPR's subsequent insistence that the GMP remained at $5.8m even after March 2016, **Exh. 50**, 06/0816 Email from Ford to Griffith. As the HPR has made no additional payments, even of amounts it concedes are owed, presumably it contends the GMP remains at $5.8m to this day.

[12] This is a theme throughout; the HPR could not grasp that the problem was not with their architect or with Trident, but rather with their building.

### *i. Mr. McCraw's Role*

Much uncertainty surrounds the role Mr. McCraw filled as construction manager. He was designated as the owner's representative via a letter of October 16, 2015, **Exh. 42**; however, whereas an owner's rep has authority under the contract[13] to bind the HPR, Mr. McCraw's contract with the HPR made clear he had no such authority. **Exh. 51**, McCraw contract with HPR; *see also* **Exh. 52**, ("McAlister Management Company will not act as the official owners' representative …"). Rather, he seemed to function as a second architect. Whether as Owner's Representative or architect, though, the HPR's attorney thought he could fill neither role. **Exh. 53**, 09/0/15 Email from Ogiba to McCraw.

In reality, Mr. McCraw's role became to tell the HPR what it wanted to hear and reduce the amounts to be paid to Trident. Dr. Mather stated to his fellow board members that, if McCraw were only able to reduce the amount owing to Trident by $700,000, that would be "an absolute failure." **Exh. 54**, 09/23/15 Email from Mather. Another time, Dr. Mather, responding to Mr. McCraw's statement that this was a cost plus contract, instructed him to seek to categorize as much of the cost as possible as in-scope work in order to reduce the amount Trident would be paid cost plus for out of scope work. **Exh. 40**.

## B. The HPR's Conduct

*"I would like to be fair to Trident, but there is no way we are going to pay everything they ask for."*

*- John Freeman, **Exh. 55**, 05/05/15 Email to Board Members*

[13] **Exh. 2**, *A201 – 2007 §2.1.1.*

### *i. Who's is Speaking for the Owner?*

Under the contract, the HPR was required to designate an owner's representative, who could bind the HPR. **Exh. 2**, A201 § 2.1.1. Any changes to the selection of the owner's representative were to be made in writing. *Id.* The purpose of this provision is to ensure that the contractor knows who has authority to speak on behalf of the HPR. The HPR's 30(b)(6) designee acknowledged the importance of this knowledge in his deposition. **Exh. 56**, 30(b)(6) Dep. 32:7–16.

As previously noted, the initial owner's representative under the contract was Dr. Tom Mather. **Exh. 1***, A-102 § 15.3.* On October 30, 2014, the owner's representative was changed to Candace Debnam. **Exh. 57**, OCO 2. The HPR's 30(b)(6) designee testified that he did not know whether Mrs. Debnam or Dr. Mather was the official owner's representative under the contract after the signing of Change Order 2.

The minutes of the April 17, 2015 Board meeting indicate that Shawn Mellin, the architect, was the official owner's representative. **Exh. 58**, 04/17/15 HPR Board Minutes.

McCraw as the 30(b)(6) representative referred to his role as an "owners representative," but not *the* owner's representative under the contract. **Exh. 59**, 30(b)(6) Dep. 16:9–17:4 & 18:17–22.

Equally confusing was who was president of the board. On May 26 2015, Ms. Schultz (then-president) agreed with Trident that the scaffolding should be taken during the slowdown. **Exh. 60**, 04/03/16 Email from Schultz to McCraw. She was removed as President by Dr. Mather, who then seems to have become president. **Exh. 61**, 05/27/15 Email Gawrych to Board. Trident was, within days, counter-instructed to leave the scaffolding up. **Exh. 60**.

### *ii. Failure to Approve PCOs, Cos, and Pay Applications*

The absence of clear lines of authority and mistrust among the owners and the HPR[14] compounded injury to the relationship when, from August of 2015 until March of 2016, the HPR refused to sign approved PCOs, OCOs (6–9), and Pay Applications (13–17). As acknowledged by the HPR's own auditor during his deposition:

> Q. [W]ith each party signing a change order, then everyone knows what work has been done, what work has been accepted, and what work remains in dispute or is not part of that pay application?
>
> A: Generally, yes.
>
> Q. Yes?
>
> A. Yes.
>
> Q. Very important?
>
> A. Very important.
>
> Q. Because the contractor would want to know that if his work has been accepted and I've been paid then that issue is dead?
>
> A. Correct.
>
> Q. You wouldn't want something hanging?
>
> A. Correct.
>
> Q. Because it will tangle up the billing going forward if nobody knows what's going on, correct?
>
> A. Correct.

[14] Dr. Mather was the subject of much suspicion. *See* **Exh. 62**, ("Tom said a few times that he didn't want to seem like he was defending Trident, but that's exactly the impression that I have from his spinning. If I didn't know better, I'd think he works for Trident."); **Exh. 63**, (suggesting Dr. Mather "has a back room deal with John David"); **Exh. 64**, ("I think Tom (like some other politicians) is best friends with whomever is useful at any given time. [. . .] I am not surprised by any stunt Tom pulls."); *Freeman0661* (one board member notes "my mistrust of Tom is a huge factor"). Dr. Mather describes his approach in a different light: "From time to time I may say things at a meeting that are at odds with what we know. It is to work toward a goal." **Exh. 65**.

**Exh. 66**, Powers depo, 20:10–21:14. Trident, while being paid some sums as the owner unilaterally determined, was kept in the dark as a result of non-approval of Change Orders and Pay Applications during the last eight months of the job.

### C. HPR's Audit of Trident's books

#### *i. Timing of the Audit*

Trident repeatedly invited an audit of their books, even before an audit was first proposed by the HPR. **Exh. 67** ("We invite the Architect and your Accountant to review all of our financial records to confirm the validity of the expenditures at your earliest convenience."); **Exh. 68** ("Trident had been inviting us to inspect and audit their books and so it seemed logical that it should be the priority."); **Exh. 69** (John David Griffith writes, "Any information on audit? . . . I believe you indicated I would hear something last week?"). Several homeowners and/or board members also encouraged a timely audit of Trident's books, as early as July 2015. **Exh. 70.** Nevertheless, no audit took place until January 2016, and then only a limited audit. **Exh 71**, Streetman, Jones & Powers Audit.

#### *ii. The Audit and Results*

Streetman, Jones and Powers ("Streetman") was hired by the HPR's attorney to conduct the audit of Trident's books. The scope of the audit was limited to a review of the supporting documentation for OCO 6. Streetman interviewed Trident personnel and reviewed the contract, subcontracts, job cost detail reports, contractor invoices, subcontractor payments, and applications for payment.

The results of the audit were provided to the HPR's attorney on February 8, 2016 in a report noting that, as of January 2016, over $5.1m had been paid by Trident to or on behalf of

Salem and Tidewater[15] *alone*. Streetman took no issue with the accuracy of those amounts.[16] As of this date, because the HPR would not process PCOs, OCOs, and Pay Applications, Trident had been paid $4.5 million. *See* **Exh. 72**, Pay Application 16.

### D. TCC Completes Project

In an attempt to maintain some cash-flow, Trident accepted partial payments of the amounts the HPR agrees were owed but noted that it was not waiving its entitlement to the remainder of its costs. Trident also noted that some billings would have to wait until the project's completion. Accordingly, it began including language in its PCOs that Trident "disagrees that this is the total amount of this PCO." *See* **Exh. 73**, PCO 130. Other PCOs were noted as being "partial settlements" of prior PCOs. *E.g.*, **Exh. 74**, PCO 125. Change Order 8 notes these issues remain in play.

Despite the issues found on the job and the uneven payment and processing of pay applications, Trident finished the job, advancing over $2.3 million for the cost of the work. In response, the homeowners nevertheless characterized Trident this way:

> It seems to me that [Trident] . . . are just brazenly ripping us off while using unjustified threats. I for one am willing to go through the time and expense to sue for serious damages and let a jury determine the outcome rather than let them extort one more cent."

**Exh. 75,** 04/01/16 Email from Debnam to McCraw.

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[15] Tidewater was engaged cost plus to replace the stud walls which were not plumb or aligned; the HPR paid these PCOs in full.

[16] Streetman assigned error to Trident for not having Salem certify its manpower and dailies, not knowing that Trident performed this work on site with its project superintendent as Trident had stepped into its financial support role.

## IX. Trident Submits Final Cost of Job (March 2016)

In keeping with the understanding that Trident would be paid for its costs and that certain items would be submitted and resolved at the end of the job, Trident submitted Pay Application 18 in March 2016 reflecting at first a job cost of $7,514,921.99, and then in October 2016, after including all costs and a final accounting of all sums after completion, $7,957,021.81. **Exh. 76**, Pay Application 18 10/17/16. Along with the submission of the October Pay Application, Trident submitted PCO 139 in amount of $2.385m, representing what Trident was owed.

As stated in the beginning of this brief, Trident worked with the architect for another year, breaking out scaffolding and general conditions from PCO 139 and submitting them in different formats. Ultimately, Trident submitted:

- PCOs 143 (scaffolding May 2015 through March 2016),
- PCO 144 (general conditions May 2015 through March 2016),
- PCO 146 (scaffolding prior to May 2015),
- PCO 147 (general conditions prior to May 2015), and
- 148 (Salem's general conditions from November 2014 through March 2016).

### A. Inclusion of Some Costs Not Previously Submitted in a Change Order

Of the costs submitted in the final pay application and change order, some were costs claimed by Trident in a PCO that had been rejected (in whole or part) by the owner and reserved by Trident to be resolved at the end of the job. Other costs did not fir Dr. Mather's "pay only the 'black and white'" formula and were billed in the final pay application.

Because of the multitude of problems, items were held to the end as agreed. **Exh. 32** ("[S]ome portions of some of the PCOs may require additional negotiation or compromise at or near the end of the project."); *see supra* Part VII.

Further, the cost of the work could not be determined until the final accounting, as concurrent time impacts from out-of-scope work on the in-scope work had to be apportioned between trades, so they would not be double- or triple-billed. **Exh. 77**, Griffith Dep. 88:21–89:19; **Exh. 78,** Burrell Dep. 95:12–19. For example, when the stucco crew was forced to idly wait for multiple out-of-scope issues to be resolved before they could perform their work on a drop, they nonetheless had to be paid. This cost then had to be apportioned between the various sources of delay, which could only happen once the in-scope work—and the out-of-scope work delaying the in-scope work—had been completed.

Glick-Boehm's project manual states that, "[f]or time and material work, [the contractor must] submit itemized account and supporting data *after* completion of change, within time limits indicated in the Conditions of the Contract." **Exh. 79**, at § 105(F)(3) (emphasis added).

***i. PCO 83 ($497k)***

Submitted to the architect in May 2015, PCO 83 accounted for the time impact of the myriad out-of-scope issues on various in-scope trades; namely demolition, windows, vertical waterproofing, masonry, stucco, and horizontal waterproofing.

The architect, Mr. Mellin, suggested splitting PCO 83 into a separate PCO for each trade, and to begin with the trades performed earliest. This seemed sensible, and Trident did so, submitting PCO 24 (demolition), PCO 25 (waterproofing), and PCO 79 (windows). Of these, PCO 24 was paid in August 2015 after $44,887 was cut from it. Trident reserved all rights, and in the end, the HPR paid all demolition *cost*. There is no dispute as to the excessive and prolonged demolition.

PCO 25 was revised, re-revised, and re-re-revised at the insistence of the architect and emerged as PCO 130, consisting only of the amount that had been approved, with $19,814 being

cut by the architect. Trident reserved its rights to this amount. **Exh. 73.** Likewise, after numerous revisions, PCO 79 became PCO 131, with $102,632 being cut, Trident reserving its rights to this amount. **Exh. 80**. There are additional funds in dispute involving vertical waterproofing and windows.

The approval and payment of PCOs 25/130 and 79/131 did not occur until the signing of OCOs 9 in March 2016. **Exh. 81**. The original PCO 83 itself was still being discussed between Trident and the architect as of January 26, 2016. **Exh. 12** at 17277. The architect never got around to processing Trident's claim for out-of-scope work as to masonry, stucco, and terraces/balconies (29 of them) and this was billed as part of Pay Application 18.

**B. HPR's Position**

On March 16, 2016, Trey McCraw[17] wrote a letter to John David Griffith in which he stated, "[a]ll prior PCOs are closed and resolved by agreement of the Owner and TCC." **Exh. 82**. The Panel may wish to read that again. Despite the months of discussions of holding items to the end; despite the express disclaimers on PCOs and OCOs and emails that "TCC disagrees this is the total amount of this PCO"; despite PCOs being approved that are labelled on their face "partial settlement"; despite the HPR's own attorney's acknowledgement that some amounts would be held to the end; despite Dr. Mather saying pay only "the black and white"; despite all of this, the letter states, "[a]ll prior PCOs are closed and resolved by agreement of the Owner and TCC."

The Board recognized this was not the case. As noted by Joanne Schultz in an email to Trey McCraw, "Tom Mather suggested negotiation at the end. Up until this point, *only the black*

[17] Mr. McCraw signed the letter; the records indicate it was authored by Mr. Ford. **Exh. 83**.

*and white has been paid*. We are definitely at the end, so did the negotiation take place?" **Exh. 60**. Obviously, all prior PCOs were *not* closed; items were held until the end and many were not, in the HPR's words, "black and white."

Mr. McCraw responded that the GMP remained under $6m and that "until this final bill, everything that [Trident] has billed for has been paid." **Exh. 84** at 335, 337.

## ARGUMENT

> *I do not understand how the owners can complain about no formal CO to the contract. Because the deal was, according to the contract, if they could not verify funding (and they could not), we could stop work until they did (verify funding). They requested that we not stop work (so that they could better ensure the vote) with the understanding that we would be paid for all the work. With a final accounting at the end. They got what they requested (we did not stop) and now they want to say there was no deal.*
>
> - *John David Griffith, February 2017* **Exh. 37.**

> *I would like to be fair to Trident, but there is no way we are going to pay everything they ask for.*
>
> - *John Freeman, May 5, 2015* **Exh. 55.**

### I. HPR's Reasoning for Not Paying Trident's Costs

According to the HPR's 30(b)(6) witness, there is a single, simple reason why Trident has not been paid its costs: "We don't have a pay application from Trident that's approvable by the architect in form or it would have been paid. It's simple." **Exh. 85,** 30(b)(6) Dep., 89:16–18. This is simply untrue.

As discussed above the architect *did* approve payment of an additional $1m; the owners just have not paid it. Perhaps the owner's reason for not paying the $1m is that there is no approved Pay Application; but the architect's inability to approve the revised Pay Application 18 is because of the owner's failure to approve OCO 10 and its constituent PCOs.

At every stage of this job, Trident went to great pains to comply with the instructions of Messrs. McCraw and Mellin. *See, e.g.*, *supra* Part IX.A.i (regarding PCOs 83, 24, 25/130, and 79/131). Trident complied with every instruction it received regarding revision of PCOs and Pay Applications. Trident remains unpaid.

However, the 30(b)(6) witness was correct that there is a single, simple reason why Trident has not been paid its costs, but it is not the reason the witness stated; rather, Trident has not been paid because the homeowners misled Trident as to their intentions to get to completion and then reneged. **Exh. 55**. ("[T]here is no way we are going to pay everything they ask for.").

## II. Trident Performed the Job in Accordance with the Agreements Between the Parties and Is Entitled to Be Paid as Agreed.

This was a project without precedent. The scope and severity of the unforeseen issues made the project challenging. As explained by Mr. Griffith and agreed to by the architect, that would have meant a 9-step process adding at least 6 months and $500,000 to the project. **Exh. 44**, Mellin Dep. 37:11–38:1.

Accordingly, the parties addressed additional scope as follows:

- Trident discovers an issue;
- Trident alerts the architect of the issue, either via a formal RFI or an initial phone call, and proposes a fix;
- The architect responds with an authorized fix;
- Trident performs the work, tracks its costs on a time and material basis, and submits a PCO to the architect;
- The architect reviews the PCO and supporting materials showing the time and material incurred and either approves or rejects it.

This is how the project was performed for two years. *See* **Exh. 43** (October 26, 2015 email noting a "great example of why we have been working on this project without finalizing every

event before moving forward"). Trident performed the fix and submitted a PCO supported by documentation showing the time and materials used in the fix.

The HPR's argument that there was no such agreement rings hollow and is belied by their own internal communications. On October 13, 2015, for example, Thomas Debnam (a former board member) emailed April Gawrych (the property manager) and asked "[i]s a reconciliation going to be made between the contract billing period and the time and materials billing?" **Exh. 41**. In September 2015, Dr. Mather wrote to Mr. McCraw and acknowledged that job was by that time a cost-plus job. **Exh. 40**. Most all of the out-of-scope PCOs, approved and unapproved, are cost plus.

### A. Benefits and Risks of the Time and Material Approach

Trident received no benefit from performing the work in this way. Unwittingly, Trident was induced into bearing financial risk, advancing *millions* of dollars to keep the project moving toward a faster completion date. The money was advanced due to the need to pay materialmen and subcontractors in a timely fashion and the delay between the contractor incurring an expense and receiving payment for it from the owner. It was Trident's integrity and determination to finish the job, and finish it right, that kept them working.

The owners, on the other hand, received substantial benefits from this approach. The project was completed more quickly, resulting in reduced costs. So far, the homeowners have received interest free loans from Trident to finance the additional scope.

## III. Trident's Damages

### A. Lien Amount

#### *i. $968,181.76*

Nothing more need be said about this.

#### *ii. Balance of $1,417,321.72*

Trident kept meticulous labor, material, and equipment costs and billed exactly as is set out in the contract. Attached as Exhibits 86 – 93 is a sampling of (i) Trident's dailies, **Exh. 86**, (ii) schedules by drop, **Exh. 87**, (iii) Change Order logs, **Exh. 88**, (iv) Submittal logs, **Exh. 89**, (v) contingency logs, **Exh. 90**, (vi) RFI logs, **Exh. 91**, (vii) OAC meeting minutes, **Exh. 92**, and (vii) monthly reports to the homeowners, **Exh. 93**.[18]

Because the scope of the work was altered radically, Trident and its subcontractors added supervision at the job site. The rates charged were as provided in the contract at A-102 § 7.2. **Exh. 2**.

While Trident had many cost & subcontractor cost codes, Trident can and will prove that what has not been paid is almost entirely accounted for in the following trades:

- General Conditions and Scaffolding
- Air & Water Barrier
- Masonry
- Stucco
- Windows
- Terrace and Balcony demolition
- Permits and Profit (a percentage of the final contract sum).

[18] In May 2015, Trident was told by Dr. Mather to end the monthly reports to the homeowners and dial back the amount of information given to them at the OAC meetings.

### *iii. Additional $29,000*

Lastly, Trident asks an additional $29,000 because Trident was asked to assist with the leaking in the stone tower after the project was complete. Trey McCraw asked Trident to set it up on a time and material basis, which it did. Trey McCraw was in charge of the work, ABS was the testing service, First Plastering repaired the problem (in the tower façade and not related to Trident). It went on for four months. Trident sent two PCOs to Trey McCraw as owner's representative; he paid neither (and Mr. Mellin said this was not part of this contract). The actual cost of the work is $32,540.10. It has not been paid, as Trey McCraw realized that would require admitting that he had hired Trident on a time and material basis.

### *iv. Interest, Insurance Premiums, Costs, and Fees*

These will be part of a post-trial brief submitted based on the Panel's ruling.

## CONCLUSION

*"Mr. Trey, TCC proceed[ed] under the agreement that TCC would be compensated for the work that TCC did to repair the deficiencies to this building."*

- *John David Griffith,* **Exh. 94.**

Trident did what was required of it and agreed-to in order to fix the building. The owner agreed to compensate Trident for its costs but reneged on that agreement, retaining the money and the benefit of a fixed building. As a matter of contract, equity, and good conscience, this Panel cannot allow that to stand. Trident is owed its costs and must be paid.

**[signature on following page]**

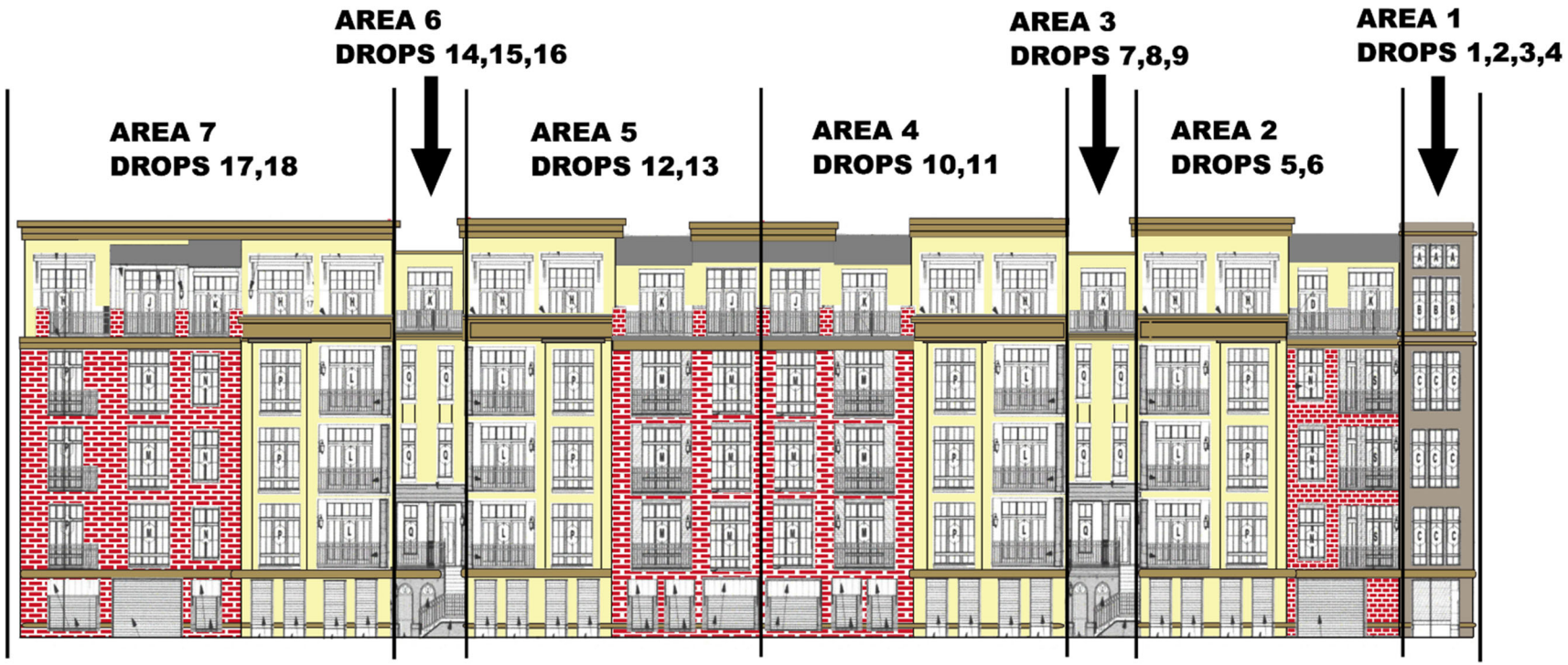
Respectfully submitted,

**ANDREW K. EPTING, JR., LLC**

This 17th day of January, 2019
Charleston, SC

Andrew K. Epting, Jr., Esquire
Jaan G. Rannik, Esquire
46A State Street
Charleston, South Carolina 29401
Phone: 843-377-1871
Fax: 843-377-1310
E-Mail: ake@epting-law.com
jgr@epting-law.com

**APPENDIX 1**




# East Elevation - Concord Street

002301

| | | |
|---|---|---|
| STATE OF SOUTH CAROLINA<br>COUNTY OF CHARLESTON | ) | IN THE COURT OF COMMON PLEAS<br>FOR THE NINTH JUDICIAL CIRCUIT<br>CASE NO. 2016-CP-10-2955 |
| TCC OF CHARLESTON, INC.<br><br>Plaintiff,<br><br>vs.<br><br>CONCORD AND CUMERLAND, LLC., CONCORD & CUMBERLAND HPR, LEO HALL, DIANE HALL, BEA H. SMITH, MARGARET C. POPE, WILLIAM D. FOSTER, JR., GENE G. FOSTER, MATTISON J. MACGILLIVRAY, TERESA MACGILLIVRAY, PAMELA L. VAUGHN, NELIA A. PATRICIO, Trustee of the Nelia A. Patricio Revocable Trust Agreement, STUART D. REEVES, EDWARD T. STROM, BARBARA K. HENDERSON, JAMES R. CLARKE, PAUL A. BRIM, ROBERT K. SEIDL, JENNIFER M. SEIDL, ROBERT KENNETH SEIDL, II, M. BERT STOREY, THOMAS R. MATHER, EDWARD T. STROM, 304 CONCORD & CUMBERLAND, LLC, MARION M. SIMPSON F/K/A MARION MOORE MCDONALD SIMPSON, KATHY GARDNER, GREGORY J. GARDNER, FREEMAN WATERFRONT PROPERTIES, LLC, JO-ANN COOPER, BETTY Y. SEGAL, ROBERT M. LEVIN AND BONITA K. LEVIN, DONALD D. LEONARD, BETTY L. BEATTY, MATTELLEN, LLC, AND THOMAS R. DEBNAM, Trustee of the Trust Agreement of Thomas R. Debnam,<br><br>Defendants. | ) | **AFFIDAVIT OF ATTORNEY'S FEES**<br>**F. CORDES FORD IV** |

PERSONALLY appeared before me F. Cordes Ford IV stating as follows:

1. I am a Partner in the law firm of Womble Bond Dickinson (US) LLP in Charleston, South Carolina, and I, along with R. Andrew Walden and Henry E. Grimball, am the attorney for Defendant Concord & Cumberland HPR in the above-captioned matter.

2. I am a member in good standing of the South Carolina bar. I am admitted before the Supreme Court of South Carolina and the U.S. District Court for the District of South Carolina. My practice includes civil litigation in State and Federal courts.

3. I have been a practicing attorney for over 17 years under SC Bar No. 71644.

4. From October 4, 2015 to November 15, 2020, I incurred 915.00 hours on this matter and, after reductions, billed 877.40 hours at a blended rate of $347.18 per hour for a total of $329,400.00. These figures are further supported by an excel timesheet of all of my time spent on this matter. Because time entry narratives implicate the attorney-client privilege, and in order not to waive said privilege, enclosed herewith as **Exhibit A** for filing is my redacted timesheet. The un-redacted timesheet is being provided contemporaneously herewith to the Court for an *in-camera* review.

5. My time on this matter can be divided into four stages: (1) Pre-litigation (10/4/2015 to 7/26/2016); (2) Litigation from 7/27/2016[1] to 1/03/2017[2]; (3) Arbitration up to TCC's request for attorney's fees (1/04/2017 to 4/26/2019); and (3) Arbitration/litigation after TCC's request for attorney's fees (4/27/2019 to November 15, 2020). My fees during each stage are as follows:

| | |
|---|---|
| Pre-Litigation (10/4/2015 to 7/26/2016): | $58,644.00 |
| Litigation (7/27/2016 to 1/03/2017): | $19,044.00 |
| Arbitration (1/04/2017 to 4/26/2019): | $127,008.00 |
| Arbitration/Litigation (4/27/2019 to 11/15/2020): | $124,704.00 |

6. As the managing partner on this matter, I directed the defense utilizing the following attorneys from my firm, which resulted in total case fees of $668,264.00:

i. R. Andrew Walden billed 670.80 hours for a total of $186,224 at a rate of $245.61, of which $80,827.00 is associated with work after TCC filed its first Motion for Attorney's Fees;

ii. Henry Grimball billed 107.40 hours on this matter for total fees of $45,645.00; all of which were incurred after TCC filed its first Motion for Attorney's Fees.

iii. Ryan Ellard billed 68 hours for a total of $18,608.52 at a rate of $273.65, all of which were incurred before TCC filed its first Motion for Attorneys' Fees and for which we do not seek recovery; and

[1] This date entailed the first communications we could find whereby TCC and the HPR discussed a time extension to answer the pleadings.
[2] On January 3, 2017, the Court entered an order staying the foreclosure case as to all defendants to allow the arbitration to proceed.

iv. Other document review attorneys billed 392.8 hours for a total of $65,867.47 at a combined rate of $167.69, all of which were incurred before TCC filed its first Motion for Attorneys' Fees and for which we do not seek recovery.

7. Womble Bond Dickinson (US) LLP has incurred costs of $26,384.09 since July 27, 2016, including but not limited to the expenses associated with mediation and taking depositions in this case. Most of the expenses are associated with the arbitration and the Panel's fees, which were awarded to TCC in the Corrected Arbitration Award based on the Arbitration Agreement; therefore, the HPR is only seeking the $703.40 incurred since the Panel issued its final Order in the arbitration on 10/23/2019.

8. The parties in this case litigated multiple issues and the trial involved 4 days of testimony and hundreds of exhibits. Discovery included the exchange of tens of thousands of documents and numerous depositions. All claims against the HPR were referred to arbitration, which included the foreclosure of mechanic's lien cause of action.

9. The arbitration resulted in an award to TCC, and, since the initial award, the HPR has been willing and able to meaningfully discuss resolution of the case, notwithstanding its position that the Panel manifestly disregarded the law. However, TCC's contention that it is entitled to attorney's fees under the mechanic's lien statute has stymied any settlement discussions and has precluded a meaningful discussion of a resolution to this matter. TCC's insistence on fees, without statutory or contractual support, has resulted in effectively all litigation since April 26, 2019, when TCC filed its first motion for fees and requested no less than $899,563. See **Exhibit B**. In the same time period, the HPR only incurred fees of $316,992.34. See **Exhibit C**.

10. Based on the nature, extent, and difficulty of the legal services rendered, the time and labor necessarily devoted to this case, the fees customarily charged for similar cases and legal services, the beneficial result obtained in the dismissal of the mechanic's lien, the attendant responsibilities, the size of the claim between the parties, the legal fees and expenses still to be incurred, and the other factors relevant to an award of attorney's fees, I believe that the HPR is entitled to an award of attorneys' fees and costs in the amount of **$270,923.07**, consisting of the following amounts:

| | |
|---|---|
| F. Cordes Ford IV fees: | $143,748.00 |
| Henry Grimball fees: | $45,645.00 |
| R. Andrew Walden fees: | $80,827.00 |
| Expenses: | $703.07 |

11. Henry E. Grimball and R. Andrew Walden have provided supporting affidavits, which are being filed contemporaneously herewith. I am requesting fees for the legal services provided in the Litigation stage (7/27/2016 to 1/03/2017) and the Arbitration/Litigation stage (4/26/2019 to 11/15/2020), described more fully above. Each of these time periods is associated with litigation directly involving the foreclosure of mechanic's lien cause of action and/or TCC's requested attorneys' fees associated therewith.

12. I swear under oath that I have reviewed my invoices and the expense report associated with this matter and that the figures contained are a true and accurate accounting of the attorneys' fees and expenses in this case associated with or integrally connected directly or indirectly to the foreclosure of mechanic's lien cause of action.

FURTHER AFFIANT SAYETH NOT.

F. Cordes Ford IV

Sworn to and subscribed before me this

the 17th day of November, 2020.

Notary:

My commission expires: 6-27-2028

DAVID H. CRAWFORD
Notary Public, South Carolina
My Commission Expires
June 27, 2028

Exhibit A

| ID | Date | Tkpr | TKPR Name | Client | Matter | Action | Print on Bill? | Std Amt | Base Amt | To Bill Amt | Bill Num | Bill Date | Billed Amt | Status | Bs Hrs | To Bill Hrs | Bl Hrs | Narrative |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 22784845 | 10/4/2015 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $360.00 | $360.00 | $360.00 | 2524376 | 11/17/2015 | $360.00 | B | 1 | 1 | 1 | [redacted] |
| 22792183 | 10/5/2015 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $180.00 | $180.00 | $180.00 | 2524376 | 11/17/2015 | $180.00 | B | 0.5 | 0.5 | 0.5 | |
| 22792580 | 10/6/2015 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $360.00 | $360.00 | $360.00 | 2524376 | 11/17/2015 | $0.00 | B | 1 | 1 | 0 | |
| 22792658 | 10/7/2015 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $252.00 | $252.00 | $252.00 | 2524376 | 11/17/2015 | $252.00 | B | 0.7 | 0.7 | 0.7 | |
| 22792685 | 10/8/2015 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $432.00 | $432.00 | $432.00 | 2524376 | 11/17/2015 | $432.00 | B | 1.2 | 1.2 | 1.2 | |
| 22792854 | 10/13/2015 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $540.00 | $540.00 | $540.00 | 2524376 | 11/17/2015 | $540.00 | B | 1.5 | 1.5 | 1.5 | |
| 22792952 | 10/14/2015 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $468.00 | $468.00 | $468.00 | 2524376 | 11/17/2015 | $468.00 | B | 1.3 | 1.3 | 1.3 | |
| 22792954 | 10/15/2015 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $2,268.00 | $2,268.00 | $2,268.00 | 2524376 | 11/17/2015 | $2,268.00 | B | 6.3 | 6.3 | 6.3 | |
| 22793065 | 10/16/2015 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $2,160.00 | $2,160.00 | $2,160.00 | 2524376 | 11/17/2015 | $2,160.00 | B | 6 | 6 | 6 | |
| 22802432 | 10/19/2015 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $504.00 | $504.00 | $504.00 | 2524376 | 11/17/2015 | $504.00 | B | 1.4 | 1.4 | 1.4 | |
| 22802548 | 10/20/2015 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $576.00 | $576.00 | $576.00 | 2524376 | 11/17/2015 | $576.00 | B | 1.6 | 1.6 | 1.6 | |
| 22840157 | 10/21/2015 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $900.00 | $900.00 | $900.00 | 2524376 | 11/17/2015 | $900.00 | B | 2.5 | 2.5 | 2.5 | |
| 22842626 | 10/25/2015 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $36.00 | $36.00 | $36.00 | 2524376 | 11/17/2015 | $36.00 | B | 0.1 | 0.1 | 0.1 | |
| 22842920 | 10/29/2015 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $144.00 | $144.00 | $144.00 | 2524376 | 11/17/2015 | $144.00 | B | 0.4 | 0.4 | 0.4 | |
| 22843310 | 10/29/2015 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $72.00 | $72.00 | $72.00 | 2524376 | 11/17/2015 | $72.00 | B | 0.2 | 0.2 | 0.2 | |
| 22855140 | 10/22/2015 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $828.00 | $828.00 | $828.00 | 2524376 | 11/17/2015 | $828.00 | B | 2.3 | 2.3 | 2.3 | |
| 22857440 | 10/26/2015 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $756.00 | $756.00 | $756.00 | 2524376 | 11/17/2015 | $756.00 | B | 2.1 | 2.1 | 2.1 | |
| 22883237 | 11/2/2015 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $72.00 | $72.00 | $72.00 | 2529307 | 12/11/2015 | $72.00 | B | 0.2 | 0.2 | 0.2 | |
| 22883299 | 11/3/2015 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $648.00 | $648.00 | $648.00 | 2529307 | 12/11/2015 | $648.00 | B | 1.8 | 1.8 | 1.8 | |

Exhibit A

| | | | | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 22883327 | 11/4/2015 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $900.00 | $900.00 | $900.00 | 2529307 | 12/11/2015 | $900.00 | B | 2.5 | 2.5 | 2.5 |
| 22892640 | 11/5/2015 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $864.00 | $864.00 | $864.00 | 2529307 | 12/11/2015 | $864.00 | B | 2.4 | 2.4 | 2.4 |
| 22892641 | 11/6/2015 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $180.00 | $180.00 | $180.00 | 2529307 | 12/11/2015 | $180.00 | B | 0.5 | 0.5 | 0.5 |
| 22910700 | 11/9/2015 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $216.00 | $216.00 | $216.00 | 2529307 | 12/11/2015 | $216.00 | B | 0.6 | 0.6 | 0.6 |
| 22910718 | 11/10/2015 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $1,620.00 | $1,620.00 | $1,620.00 | 2529307 | 12/11/2015 | $1,620.00 | B | 4.5 | 4.5 | 4.5 |
| 22916378 | 11/11/2015 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $396.00 | $396.00 | $396.00 | 2529307 | 12/11/2015 | $396.00 | B | 1.1 | 1.1 | 1.1 |
| 22916804 | 11/13/2015 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $468.00 | $468.00 | $468.00 | 2529307 | 12/11/2015 | $468.00 | B | 1.3 | 1.3 | 1.3 |
| 22916989 | 11/12/2015 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $252.00 | $252.00 | $252.00 | 2529307 | 12/11/2015 | $252.00 | B | 0.7 | 0.7 | 0.7 |
| 22932109 | 11/19/2015 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $108.00 | $108.00 | $108.00 | 2529307 | 12/11/2015 | $108.00 | B | 0.3 | 0.3 | 0.3 |
| 22932229 | 11/23/2015 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $72.00 | $72.00 | $72.00 | 2529307 | 12/11/2015 | $72.00 | B | 0.2 | 0.2 | 0.2 |
| 22932284 | 11/17/2015 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $180.00 | $180.00 | $180.00 | 2529307 | 12/11/2015 | $180.00 | B | 0.5 | 0.5 | 0.5 |
| 22932313 | 11/24/2015 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $72.00 | $72.00 | $72.00 | 2529307 | 12/11/2015 | $72.00 | B | 0.2 | 0.2 | 0.2 |
| 22934106 | 11/25/2015 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $72.00 | $72.00 | $72.00 | 2529307 | 12/11/2015 | $72.00 | B | 0.2 | 0.2 | 0.2 |
| 22946884 | 11/30/2015 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $108.00 | $108.00 | $108.00 | 2529307 | 12/11/2015 | $108.00 | B | 0.3 | 0.3 | 0.3 |
| 22951109 | 11/27/2015 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $180.00 | $180.00 | $180.00 | 2529307 | 12/11/2015 | $180.00 | B | 0.5 | 0.5 | 0.5 |
| 22954629 | 12/1/2015 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $180.00 | $180.00 | $180.00 | 2534505 | 1/7/2016 | $180.00 | B | 0.5 | 0.5 | 0.5 |
| 22984287 | 12/3/2015 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $540.00 | $540.00 | $540.00 | 2534505 | 1/7/2016 | $540.00 | B | 1.5 | 1.5 | 1.5 |
| 22998809 | 12/7/2015 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $324.00 | $324.00 | $324.00 | 2534505 | 1/7/2016 | $324.00 | B | 0.9 | 0.9 | 0.9 |
| 23002862 | 12/9/2015 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $288.00 | $288.00 | $288.00 | 2534505 | 1/7/2016 | $288.00 | B | 0.8 | 0.8 | 0.8 |
| 23002869 | 12/10/2015 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $864.00 | $864.00 | $864.00 | 2534505 | 1/7/2016 | $864.00 | B | 2.4 | 2.4 | 2.4 |
| 23002992 | 12/14/2015 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $612.00 | $612.00 | $612.00 | 2534505 | 1/7/2016 | $612.00 | B | 1.7 | 1.7 | 1.7 |

[redacted]

002307

Exhibit A

| | | | | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 23003071 | 12/15/2015 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $216.00 | $216.00 | $216.00 | 2534505 | 1/7/2016 | $216.00 | B | 0.6 | 0.6 | 0.6 |
| 23038112 | 12/30/2015 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $252.00 | $252.00 | $252.00 | 2534505 | 1/7/2016 | $252.00 | B | 0.7 | 0.7 | 0.7 |
| 23038151 | 12/31/2015 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $144.00 | $144.00 | $144.00 | 2534505 | 1/7/2016 | $144.00 | B | 0.4 | 0.4 | 0.4 |
| 23052824 | 1/7/2016 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $360.00 | $360.00 | $360.00 | 2543585 | 2/16/2016 | $360.00 | B | 1 | 1 | 1 |
| 23052926 | 1/4/2016 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $540.00 | $540.00 | $540.00 | 2543585 | 2/16/2016 | $540.00 | B | 1.5 | 1.5 | 1.5 |
| 23055915 | 1/8/2016 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $36.00 | $36.00 | $36.00 | 2543585 | 2/16/2016 | $36.00 | B | 0.1 | 0.1 | 0.1 |
| 23056141 | 1/5/2016 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $432.00 | $432.00 | $432.00 | 2543585 | 2/16/2016 | $432.00 | B | 1.2 | 1.2 | 1.2 |
| 23056247 | 1/6/2016 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $1,116.00 | $1,116.00 | $1,116.00 | 2543585 | 2/16/2016 | $1,116.00 | B | 3.1 | 3.1 | 3.1 |
| 23060418 | 1/11/2016 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $612.00 | $612.00 | $612.00 | 2543585 | 2/16/2016 | $612.00 | B | 1.7 | 1.7 | 1.7 |
| 23097355 | 1/13/2016 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $1,548.00 | $1,548.00 | $1,548.00 | 2543585 | 2/16/2016 | $1,548.00 | B | 4.3 | 4.3 | 4.3 |
| 23097456 | 1/14/2016 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $36.00 | $36.00 | $36.00 | 2543585 | 2/16/2016 | $36.00 | B | 0.1 | 0.1 | 0.1 |
| 23112278 | 1/19/2016 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $720.00 | $720.00 | $720.00 | 2543585 | 2/16/2016 | $720.00 | B | 2 | 2 | 2 |
| 23112284 | 1/25/2016 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $324.00 | $324.00 | $324.00 | 2543585 | 2/16/2016 | $324.00 | B | 0.9 | 0.9 | 0.9 |
| 23112291 | 1/26/2016 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $144.00 | $144.00 | $144.00 | 2543585 | 2/16/2016 | $144.00 | B | 0.4 | 0.4 | 0.4 |
| 23112292 | 1/20/2016 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $216.00 | $216.00 | $216.00 | 2543585 | 2/16/2016 | $216.00 | B | 0.6 | 0.6 | 0.6 |
| 23112328 | 1/21/2016 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $972.00 | $972.00 | $972.00 | 2543585 | 2/16/2016 | $972.00 | B | 2.7 | 2.7 | 2.7 |
| 23112418 | 1/22/2016 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $1,800.00 | $1,800.00 | $1,800.00 | 2543585 | 2/16/2016 | $1,800.00 | B | 5 | 5 | 5 |
| 23120544 | 1/28/2016 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $144.00 | $144.00 | $144.00 | 2543585 | 2/16/2016 | $144.00 | B | 0.4 | 0.4 | 0.4 |
| 23120977 | 1/29/2016 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $72.00 | $72.00 | $72.00 | 2543585 | 2/16/2016 | $72.00 | B | 0.2 | 0.2 | 0.2 |
| 23139296 | 2/1/2016 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $108.00 | $108.00 | $108.00 | 2546117 | 3/3/2016 | $108.00 | B | 0.3 | 0.3 | 0.3 |

[redacted]

Exhibit A

| | | | | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 23169639 | 2/2/2016 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $36.00 | $36.00 | $36.00 | 2546117 | 3/3/2016 | $36.00 | B | 0.1 | 0.1 | 0.1 |
| 23172977 | 2/4/2016 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $360.00 | $360.00 | $360.00 | 2546117 | 3/3/2016 | $360.00 | B | 1 | 1 | 1 |
| 23190087 | 2/10/2016 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $288.00 | $288.00 | $288.00 | 2546117 | 3/3/2016 | $288.00 | B | 0.8 | 0.8 | 0.8 |
| 23190141 | 2/11/2016 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $108.00 | $108.00 | $108.00 | 2546117 | 3/3/2016 | $108.00 | B | 0.3 | 0.3 | 0.3 |
| 23192209 | 2/12/2016 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $72.00 | $72.00 | $72.00 | 2546117 | 3/3/2016 | $72.00 | B | 0.2 | 0.2 | 0.2 |
| 23214513 | 2/25/2016 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $216.00 | $216.00 | $216.00 | 2546117 | 3/3/2016 | $216.00 | B | 0.6 | 0.6 | 0.6 |
| 23241170 | 3/3/2016 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $828.00 | $828.00 | $828.00 | 2555162 | 4/14/2016 | $828.00 | B | 2.3 | 2.3 | 2.3 |
| 23250224 | 3/7/2016 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $360.00 | $360.00 | $360.00 | 2555162 | 4/14/2016 | $360.00 | B | 1 | 1 | 1 |
| 23257912 | 3/10/2016 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $684.00 | $684.00 | $684.00 | 2555162 | 4/14/2016 | $684.00 | B | 1.9 | 1.9 | 1.9 |
| 23279566 | 3/17/2016 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $432.00 | $432.00 | $432.00 | 2555162 | 4/14/2016 | $432.00 | B | 1.2 | 1.2 | 1.2 |
| 23279592 | 3/16/2016 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $144.00 | $144.00 | $144.00 | 2555162 | 4/14/2016 | $144.00 | B | 0.4 | 0.4 | 0.4 |
| 23284428 | 3/18/2016 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $576.00 | $576.00 | $576.00 | 2555162 | 4/14/2016 | $576.00 | B | 1.6 | 1.6 | 1.6 |
| 23298997 | 3/19/2016 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $576.00 | $576.00 | $576.00 | 2555162 | 4/14/2016 | $576.00 | B | 1.6 | 1.6 | 1.6 |
| 23307850 | 3/25/2016 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $1,404.00 | $1,404.00 | $1,404.00 | 2555162 | 4/14/2016 | $1,404.00 | B | 3.9 | 3.9 | 3.9 |
| 23308178 | 3/26/2016 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $72.00 | $72.00 | $72.00 | 2555162 | 4/14/2016 | $72.00 | B | 0.2 | 0.2 | 0.2 |
| 23316083 | 3/29/2016 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $1,296.00 | $1,296.00 | $1,296.00 | 2555162 | 4/14/2016 | $1,296.00 | B | 3.6 | 3.6 | 3.6 |
| 23340934 | 4/1/2016 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $180.00 | $180.00 | $180.00 | 2567401 | 6/2/2016 | $180.00 | B | 0.5 | 0.5 | 0.5 |
| 23373252 | 4/4/2016 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $756.00 | $756.00 | $756.00 | 2567401 | 6/2/2016 | $756.00 | B | 2.1 | 2.1 | 2.1 |
| 23373294 | 4/5/2016 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $144.00 | $144.00 | $144.00 | 2567401 | 6/2/2016 | $144.00 | B | 0.4 | 0.4 | 0.4 |

[redacted]

Exhibit A

| | | | | | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 23392812 | 4/11/2016 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $36.00 | $36.00 | $36.00 | 2567401 | 6/2/2016 | $36.00 | B | 0.1 | 0.1 | 0.1 | [redacted] |
| 23395405 | 4/13/2016 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $180.00 | $180.00 | $180.00 | 2567401 | 6/2/2016 | $180.00 | B | 0.5 | 0.5 | 0.5 | |
| 23395672 | 4/15/2016 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $576.00 | $576.00 | $576.00 | 2567401 | 6/2/2016 | $576.00 | B | 1.6 | 1.6 | 1.6 | |
| 23395673 | 4/14/2016 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $144.00 | $144.00 | $144.00 | 2567401 | 6/2/2016 | $144.00 | B | 0.4 | 0.4 | 0.4 | |
| 23395828 | 4/18/2016 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $180.00 | $180.00 | $180.00 | 2567401 | 6/2/2016 | $180.00 | B | 0.5 | 0.5 | 0.5 | |
| 23396188 | 4/21/2016 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $36.00 | $36.00 | $36.00 | 2567401 | 6/2/2016 | $36.00 | B | 0.1 | 0.1 | 0.1 | |
| 23396815 | 4/22/2016 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $72.00 | $72.00 | $72.00 | 2567401 | 6/2/2016 | $72.00 | B | 0.2 | 0.2 | 0.2 | |
| 23418834 | 4/26/2016 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $36.00 | $36.00 | $36.00 | 2567401 | 6/2/2016 | $36.00 | B | 0.1 | 0.1 | 0.1 | |
| 23462869 | 5/3/2016 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $72.00 | $72.00 | $72.00 | 2576564 | 7/19/2016 | $72.00 | B | 0.2 | 0.2 | 0.2 | |
| 23522737 | 5/23/2016 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $360.00 | $360.00 | $360.00 | 2576564 | 7/19/2016 | $360.00 | B | 1 | 1 | 1 | |
| 23523857 | 5/24/2016 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $108.00 | $108.00 | $108.00 | 2576564 | 7/19/2016 | $108.00 | B | 0.3 | 0.3 | 0.3 | |
| 23523870 | 5/25/2016 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $144.00 | $144.00 | $144.00 | 2576564 | 7/19/2016 | $144.00 | B | 0.4 | 0.4 | 0.4 | |
| 23523883 | 5/30/2016 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $72.00 | $72.00 | $72.00 | 2576564 | 7/19/2016 | $72.00 | B | 0.2 | 0.2 | 0.2 | |
| 23571737 | 6/6/2016 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $252.00 | $252.00 | $252.00 | 2576564 | 7/19/2016 | $252.00 | B | 0.7 | 0.7 | 0.7 | |
| 23571745 | 6/6/2016 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $756.00 | $756.00 | $756.00 | 2576564 | 7/19/2016 | $756.00 | B | 2.1 | 2.1 | 2.1 | |
| 23571761 | 6/7/2016 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $576.00 | $576.00 | $576.00 | 2576564 | 7/19/2016 | $576.00 | B | 1.6 | 1.6 | 1.6 | |
| 23574220 | 6/8/2016 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $1,440.00 | $1,440.00 | $1,440.00 | 2576564 | 7/19/2016 | $1,188.00 | B | 4 | 4 | 3.3 | |
| 23578932 | 6/9/2016 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $108.00 | $108.00 | $108.00 | 2576564 | 7/19/2016 | $108.00 | B | 0.3 | 0.3 | 0.3 | |
| 23583022 | 6/10/2016 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $360.00 | $360.00 | $360.00 | 2576564 | 7/19/2016 | $360.00 | B | 1 | 1 | 1 | |

Exhibit A

| | | | | | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 23595217 | 6/25/2016 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $108.00 | $108.00 | $108.00 | 2576564 | 7/19/2016 | $108.00 | B | 0.3 | 0.3 | 0.3 | [redacted] |
| 23595548 | 6/15/2016 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $1,224.00 | $1,224.00 | $1,224.00 | 2576564 | 7/19/2016 | $1,008.00 | B | 3.4 | 3.4 | 2.8 | |
| 23595558 | 6/16/2016 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $72.00 | $72.00 | $72.00 | 2576564 | 7/19/2016 | $72.00 | B | 0.2 | 0.2 | 0.2 | |
| 23597381 | 6/26/2016 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $72.00 | $72.00 | $72.00 | 2576564 | 7/19/2016 | $72.00 | B | 0.2 | 0.2 | 0.2 | |
| 23619777 | 6/22/2016 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $936.00 | $936.00 | $936.00 | 2576564 | 7/19/2016 | $792.00 | B | 2.6 | 2.6 | 2.2 | |
| 23619993 | 6/20/2016 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $108.00 | $108.00 | $108.00 | 2576564 | 7/19/2016 | $360.00 | B | 0.3 | 0.3 | 1 | |
| 23620406 | 6/29/2016 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $180.00 | $180.00 | $180.00 | 2576564 | 7/19/2016 | $180.00 | B | 0.5 | 0.5 | 0.5 | |
| 23620639 | 6/23/2016 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $1,944.00 | $1,944.00 | $1,944.00 | 2576564 | 7/19/2016 | $1,584.00 | B | 5.4 | 5.4 | 4.4 | |
| 23620660 | 6/30/2016 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $36.00 | $36.00 | $36.00 | 2576564 | 7/19/2016 | $36.00 | B | 0.1 | 0.1 | 0.1 | |
| 23620680 | 6/28/2016 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $576.00 | $576.00 | $576.00 | 2576564 | 7/19/2016 | $576.00 | B | 1.6 | 1.6 | 1.6 | |
| 23620733 | 6/27/2016 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $216.00 | $216.00 | $216.00 | 2576564 | 7/19/2016 | $216.00 | B | 0.6 | 0.6 | 0.6 | |
| 23620772 | 6/24/2016 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $1,548.00 | $1,548.00 | $1,548.00 | 2576564 | 7/19/2016 | $1,368.00 | B | 4.3 | 4.3 | 3.8 | |
| 23643296 | 7/1/2016 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $72.00 | $72.00 | $72.00 | 2579698 | 8/9/2016 | $72.00 | B | 0.2 | 0.2 | 0.2 | |
| 23643309 | 7/3/2016 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $324.00 | $324.00 | $324.00 | 2579698 | 8/9/2016 | $324.00 | B | 0.9 | 0.9 | 0.9 | |
| 23654591 | 7/4/2016 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $540.00 | $540.00 | $540.00 | 2579698 | 8/9/2016 | $540.00 | B | 1.5 | 1.5 | 1.5 | |
| 23663922 | 7/8/2016 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $1,764.00 | $1,764.00 | $1,764.00 | 2579698 | 8/9/2016 | $1,764.00 | B | 4.9 | 4.9 | 4.9 | |
| 23680237 | 7/22/2016 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $3,456.00 | $3,456.00 | $3,456.00 | 2579698 | 8/9/2016 | $3,456.00 | B | 9.6 | 9.6 | 9.6 | |
| 23696679 | 7/18/2016 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $432.00 | $432.00 | $432.00 | 2579698 | 8/9/2016 | $432.00 | B | 1.2 | 1.2 | 1.2 | |
| 23705187 | 7/20/2016 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $324.00 | $324.00 | $324.00 | 2579698 | 8/9/2016 | $324.00 | B | 0.9 | 0.9 | 0.9 | |
| 23706151 | 7/25/2016 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $360.00 | $360.00 | $360.00 | 2579698 | 8/9/2016 | $360.00 | B | 1 | 1 | 1 | |
| 23706335 | 7/27/2016 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $72.00 | $72.00 | $72.00 | 2579698 | 8/9/2016 | $72.00 | B | 0.2 | 0.2 | 0.2 | |
| 23718022 | 7/21/2016 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $468.00 | $468.00 | $468.00 | 2579698 | 8/9/2016 | $468.00 | B | 1.3 | 1.3 | 1.3 | |

Exhibit A

| | | | | | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 23728730 | 8/2/2016 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $72.00 | $72.00 | $72.00 | 2584387 | 9/7/2016 | $72.00 | B | 0.2 | 0.2 | 0.2 | [redacted] |
| 23748307 | 8/8/2016 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $36.00 | $36.00 | $36.00 | 2584387 | 9/7/2016 | $36.00 | B | 0.1 | 0.1 | 0.1 | |
| 23773903 | 8/19/2016 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $216.00 | $216.00 | $216.00 | 2584387 | 9/7/2016 | $216.00 | B | 0.6 | 0.6 | 0.6 | |
| 23777595 | 8/23/2016 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $180.00 | $180.00 | $180.00 | 2584387 | 9/7/2016 | $180.00 | B | 0.5 | 0.5 | 0.5 | |
| 23785236 | 8/24/2016 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $252.00 | $252.00 | $252.00 | 2584387 | 9/7/2016 | $252.00 | B | 0.7 | 0.7 | 0.7 | |
| 23794486 | 8/29/2016 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $72.00 | $72.00 | $72.00 | 2584387 | 9/7/2016 | $72.00 | B | 0.2 | 0.2 | 0.2 | |
| 23799037 | 8/30/2016 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $72.00 | $72.00 | $72.00 | 2584387 | 9/7/2016 | $72.00 | B | 0.2 | 0.2 | 0.2 | |
| 23823723 | 9/6/2016 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $180.00 | $180.00 | $180.00 | 2591833 | 10/11/2016 | $180.00 | B | 0.5 | 0.5 | 0.5 | |
| 23855281 | 9/7/2016 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $144.00 | $144.00 | $144.00 | 2591833 | 10/11/2016 | $144.00 | B | 0.4 | 0.4 | 0.4 | |
| 23858650 | 9/9/2016 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $36.00 | $36.00 | $36.00 | 2591833 | 10/11/2016 | $36.00 | B | 0.1 | 0.1 | 0.1 | |
| 23859066 | 9/9/2016 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $828.00 | $828.00 | $828.00 | 2591833 | 10/11/2016 | $828.00 | B | 2.3 | 2.3 | 2.3 | |
| 23871375 | 9/21/2016 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $36.00 | $36.00 | $36.00 | 2591833 | 10/11/2016 | $36.00 | B | 0.1 | 0.1 | 0.1 | |
| 23871522 | 9/20/2016 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $108.00 | $108.00 | $108.00 | 2591833 | 10/11/2016 | $108.00 | B | 0.3 | 0.3 | 0.3 | |
| 23871608 | 9/19/2016 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $504.00 | $504.00 | $504.00 | 2591833 | 10/11/2016 | $504.00 | B | 1.4 | 1.4 | 1.4 | |
| 23871626 | 9/12/2016 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $1,044.00 | $1,044.00 | $1,044.00 | 2591833 | 10/11/2016 | $1,044.00 | B | 2.9 | 2.9 | 2.9 | |
| 23871944 | 9/13/2016 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $576.00 | $576.00 | $576.00 | 2591833 | 10/11/2016 | $576.00 | B | 1.6 | 1.6 | 1.6 | |
| 23872114 | 9/15/2016 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $36.00 | $36.00 | $36.00 | 2591833 | 10/11/2016 | $36.00 | B | 0.1 | 0.1 | 0.1 | |
| 23901175 | 9/28/2016 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $108.00 | $108.00 | $108.00 | 2591833 | 10/11/2016 | $108.00 | B | 0.3 | 0.3 | 0.3 | |
| 23901313 | 9/29/2016 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $72.00 | $72.00 | $72.00 | 2591833 | 10/11/2016 | $72.00 | B | 0.2 | 0.2 | 0.2 | |

Exhibit A

| | | | | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 23953200 | 10/18/2016 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $532.00 | $504.00 | $504.00 | 2602383 | 11/22/2016 | $504.00 | B | 1.4 | 1.4 | 1.4 |
| 23963882 | 10/11/2016 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $38.00 | $36.00 | $36.00 | 2602383 | 11/22/2016 | $36.00 | B | 0.1 | 0.1 | 0.1 |
| 23968842 | 10/12/2016 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $1,178.00 | $1,116.00 | $1,116.00 | 2602383 | 11/22/2016 | $1,116.00 | B | 3.1 | 3.1 | 3.1 |
| 23971344 | 10/14/2016 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $38.00 | $36.00 | $36.00 | 2602383 | 11/22/2016 | $36.00 | B | 0.1 | 0.1 | 0.1 |
| 23993876 | 10/20/2016 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $950.00 | $900.00 | $900.00 | 2602383 | 11/22/2016 | $900.00 | B | 2.5 | 2.5 | 2.5 |
| 24006219 | 10/21/2016 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $266.00 | $252.00 | $252.00 | 2602383 | 11/22/2016 | $252.00 | B | 0.7 | 0.7 | 0.7 |
| 24006351 | 10/31/2016 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $1,710.00 | $1,620.00 | $1,620.00 | 2602383 | 11/22/2016 | $1,620.00 | B | 4.5 | 4.5 | 4.5 |
| 24006391 | 10/28/2016 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $494.00 | $468.00 | $468.00 | 2602383 | 11/22/2016 | $468.00 | B | 1.3 | 1.3 | 1.3 |
| 24006420 | 10/27/2016 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $1,064.00 | $1,008.00 | $1,008.00 | 2602383 | 11/22/2016 | $1,008.00 | B | 2.8 | 2.8 | 2.8 |
| 24018473 | 11/2/2016 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $342.00 | $324.00 | $324.00 | 2605946 | 12/13/2016 | $324.00 | B | 0.9 | 0.9 | 0.9 |
| 24091190 | 11/16/2016 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $608.00 | $576.00 | $576.00 | 2605946 | 12/13/2016 | $576.00 | B | 1.6 | 1.6 | 1.6 |
| 24091273 | 11/17/2016 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $76.00 | $72.00 | $72.00 | 2605946 | 12/13/2016 | $72.00 | B | 0.2 | 0.2 | 0.2 |
| 24091309 | 11/17/2016 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $418.00 | $396.00 | $396.00 | 2605946 | 12/13/2016 | $396.00 | B | 1.1 | 1.1 | 1.1 |
| 24091353 | 11/18/2016 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $494.00 | $468.00 | $468.00 | 2605946 | 12/13/2016 | $468.00 | B | 1.3 | 1.3 | 1.3 |

[redacted]

002313

Exhibit A

| | | | | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 24092371 | 11/27/2016 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $76.00 | $72.00 | $72.00 | 2605946 | 12/13/2016 | $72.00 | B | 0.2 | 0.2 | 0.2 |
| 24097586 | 11/28/2016 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $2,204.00 | $2,088.00 | $2,088.00 | 2605946 | 12/13/2016 | $2,088.00 | B | 5.8 | 5.8 | 5.8 |
| 24101709 | 11/29/2016 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $532.00 | $504.00 | $504.00 | 2605946 | 12/13/2016 | $504.00 | B | 1.4 | 1.4 | 1.4 |
| 24107943 | 11/30/2016 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $152.00 | $144.00 | $144.00 | 2605946 | 12/13/2016 | $144.00 | B | 0.4 | 0.4 | 0.4 |
| 24135679 | 12/3/2016 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $76.00 | $72.00 | $72.00 | 2609330 | 1/5/2017 | $72.00 | B | 0.2 | 0.2 | 0.2 |
| 24135875 | 12/1/2016 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $456.00 | $432.00 | $432.00 | 2609330 | 1/5/2017 | $432.00 | B | 1.2 | 1.2 | 1.2 |
| 24155338 | 12/5/2016 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $494.00 | $468.00 | $468.00 | 2609330 | 1/5/2017 | $468.00 | B | 1.3 | 1.3 | 1.3 |
| 24155478 | 12/6/2016 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $228.00 | $216.00 | $216.00 | 2609330 | 1/5/2017 | $216.00 | B | 0.6 | 0.6 | 0.6 |
| 24157718 | 12/15/2016 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $152.00 | $144.00 | $144.00 | 2609330 | 1/5/2017 | $144.00 | B | 0.4 | 0.4 | 0.4 |
| 24157744 | 12/7/2016 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $38.00 | $36.00 | $36.00 | 2609330 | 1/5/2017 | $36.00 | B | 0.1 | 0.1 | 0.1 |
| 24157816 | 12/13/2016 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $380.00 | $360.00 | $360.00 | 2609330 | 1/5/2017 | $360.00 | B | 1 | 1 | 1 |
| 24158059 | 12/16/2016 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $152.00 | $144.00 | $144.00 | 2609330 | 1/5/2017 | $144.00 | B | 0.4 | 0.4 | 0.4 |
| 24162784 | 12/19/2016 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $1,406.00 | $1,332.00 | $1,332.00 | 2609330 | 1/5/2017 | $1,332.00 | B | 3.7 | 3.7 | 3.7 |
| 24195287 | 12/28/2016 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $38.00 | $36.00 | $36.00 | 2609330 | 1/5/2017 | $36.00 | B | 0.1 | 0.1 | 0.1 |

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Exhibit A

| | | | | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 24196594 | 12/30/2016 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $342.00 | $324.00 | $324.00 | 2609330 | 1/5/2017 | $324.00 | B | 0.9 | 0.9 | 0.9 |
| 24205307 | 1/3/2017 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $228.00 | $216.00 | $216.00 | 2619527 | 2/16/2017 | $216.00 | B | 0.6 | 0.6 | 0.6 |
| 24205520 | 1/2/2017 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $38.00 | $36.00 | $36.00 | 2619527 | 2/16/2017 | $36.00 | B | 0.1 | 0.1 | 0.1 |
| 24210698 | 1/5/2017 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $76.00 | $72.00 | $72.00 | 2619527 | 2/16/2017 | $72.00 | B | 0.2 | 0.2 | 0.2 |
| 24210911 | 1/6/2017 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $304.00 | $288.00 | $288.00 | 2619527 | 2/16/2017 | $288.00 | B | 0.8 | 0.8 | 0.8 |
| 24210958 | 1/4/2017 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $38.00 | $36.00 | $36.00 | 2619527 | 2/16/2017 | $36.00 | B | 0.1 | 0.1 | 0.1 |
| 24224862 | 1/11/2017 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $342.00 | $324.00 | $324.00 | 2619527 | 2/16/2017 | $324.00 | B | 0.9 | 0.9 | 0.9 |
| 24224910 | 1/10/2017 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $266.00 | $252.00 | $252.00 | 2619527 | 2/16/2017 | $252.00 | B | 0.7 | 0.7 | 0.7 |
| 24224973 | 1/12/2017 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $912.00 | $864.00 | $864.00 | 2619527 | 2/16/2017 | $864.00 | B | 2.4 | 2.4 | 2.4 |
| 24230156 | 1/13/2017 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $1,368.00 | $1,296.00 | $1,296.00 | 2619527 | 2/16/2017 | $1,296.00 | B | 3.6 | 3.6 | 3.6 |
| 24244440 | 1/16/2017 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $76.00 | $72.00 | $72.00 | 2619527 | 2/16/2017 | $72.00 | B | 0.2 | 0.2 | 0.2 |
| 24268559 | 1/17/2017 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $38.00 | $36.00 | $36.00 | 2619527 | 2/16/2017 | $36.00 | B | 0.1 | 0.1 | 0.1 |
| 24268615 | 1/18/2017 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $76.00 | $72.00 | $72.00 | 2619527 | 2/16/2017 | $72.00 | B | 0.2 | 0.2 | 0.2 |
| 24290778 | 1/23/2017 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $266.00 | $252.00 | $252.00 | 2619527 | 2/16/2017 | $252.00 | B | 0.7 | 0.7 | 0.7 |
| 24290912 | 1/25/2017 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $76.00 | $72.00 | $72.00 | 2619527 | 2/16/2017 | $72.00 | B | 0.2 | 0.2 | 0.2 |
| 24295947 | 1/31/2017 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $228.00 | $216.00 | $216.00 | 2619527 | 2/16/2017 | $216.00 | B | 0.6 | 0.6 | 0.6 |

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Exhibit A

| | | | | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 24296001 | 1/27/2017 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $684.00 | $648.00 | $648.00 | 2619527 | 2/16/2017 | $648.00 | B | 1.8 | 1.8 | 1.8 |
| 24296041 | 1/30/2017 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $266.00 | $252.00 | $252.00 | 2619527 | 2/16/2017 | $252.00 | B | 0.7 | 0.7 | 0.7 |
| 24314782 | 2/1/2017 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $532.00 | $504.00 | $504.00 | 2623878 | 3/10/2017 | $72.00 | B | 1.4 | 1.4 | 0.2 |
| 24315021 | 2/5/2017 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $38.00 | $36.00 | $36.00 | 2623878 | 3/10/2017 | $36.00 | B | 0.1 | 0.1 | 0.1 |
| 24337661 | 2/8/2017 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $570.00 | $540.00 | $540.00 | 2623878 | 3/10/2017 | $540.00 | B | 1.5 | 1.5 | 1.5 |
| 24337773 | 2/7/2017 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $418.00 | $396.00 | $396.00 | 2623878 | 3/10/2017 | $432.00 | B | 1.1 | 1.1 | 1.2 |
| 24346862 | 2/10/2017 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $798.00 | $756.00 | $756.00 | 2623878 | 3/10/2017 | $756.00 | B | 2.1 | 2.1 | 2.1 |
| 24346884 | 2/11/2017 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $76.00 | $72.00 | $72.00 | 2623878 | 3/10/2017 | $72.00 | B | 0.2 | 0.2 | 0.2 |
| 24357330 | 2/13/2017 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $836.00 | $792.00 | $792.00 | 2623878 | 3/10/2017 | $864.00 | B | 2.2 | 2.2 | 2.4 |
| 24357401 | 2/14/2017 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $114.00 | $108.00 | $108.00 | 2623878 | 3/10/2017 | $144.00 | B | 0.3 | 0.3 | 0.4 |
| 24363896 | 2/16/2017 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $190.00 | $180.00 | $180.00 | 2623878 | 3/10/2017 | $180.00 | B | 0.5 | 0.5 | 0.5 |
| 24384263 | 2/27/2017 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $76.00 | $72.00 | $72.00 | 2623878 | 3/10/2017 | $72.00 | B | 0.2 | 0.2 | 0.2 |
| 24384388 | 2/28/2017 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $190.00 | $180.00 | $180.00 | 2623878 | 3/10/2017 | $180.00 | B | 0.5 | 0.5 | 0.5 |
| 24384562 | 2/24/2017 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $1,026.00 | $972.00 | $972.00 | 2623878 | 3/10/2017 | $1,044.00 | B | 2.7 | 2.7 | 2.9 |

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002316

Exhibit A

| | | | | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 24385060 | 3/1/2017 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $1,102.00 | $1,044.00 | $1,044.00 | 2630064 | 4/12/2017 | $1,044.00 | B | 2.9 | 2.9 | 2.9 |
| 24386313 | 3/2/2017 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $722.00 | $684.00 | $684.00 | 2630064 | 4/12/2017 | $684.00 | B | 1.9 | 1.9 | 1.9 |
| 24412133 | 3/3/2017 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $646.00 | $612.00 | $612.00 | 2630064 | 4/12/2017 | $612.00 | B | 1.7 | 1.7 | 1.7 |
| 24425753 | 3/7/2017 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $190.00 | $180.00 | $180.00 | 2630064 | 4/12/2017 | $36.00 | B | 0.5 | 0.5 | 0.1 |
| 24430742 | 3/9/2017 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $950.00 | $900.00 | $900.00 | 2630064 | 4/12/2017 | $900.00 | B | 2.5 | 2.5 | 2.5 |
| 24445796 | 3/13/2017 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $1,026.00 | $972.00 | $972.00 | 2630064 | 4/12/2017 | $972.00 | B | 2.7 | 2.7 | 2.7 |
| 24445856 | 3/14/2017 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $152.00 | $144.00 | $144.00 | 2630064 | 4/12/2017 | $144.00 | B | 0.4 | 0.4 | 0.4 |
| 24448061 | 3/15/2017 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $1,102.00 | $1,044.00 | $1,044.00 | 2630064 | 4/12/2017 | $1,044.00 | B | 2.9 | 2.9 | 2.9 |
| 24452498 | 3/16/2017 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $570.00 | $540.00 | $540.00 | 2630064 | 4/12/2017 | $540.00 | B | 1.5 | 1.5 | 1.5 |
| 24452586 | 3/18/2017 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $1,596.00 | $1,512.00 | $1,512.00 | 2630064 | 4/12/2017 | $1,512.00 | B | 4.2 | 4.2 | 4.2 |
| 24452596 | 3/17/2017 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $494.00 | $468.00 | $468.00 | 2630064 | 4/12/2017 | $468.00 | B | 1.3 | 1.3 | 1.3 |
| 24452729 | 3/21/2017 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $836.00 | $792.00 | $792.00 | 2630064 | 4/12/2017 | $792.00 | B | 2.2 | 2.2 | 2.2 |

[redacted]

Exhibit A

| | | | | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 24452864 | 3/22/2017 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $646.00 | $612.00 | $612.00 | 2630064 | 4/12/2017 | $612.00 | B | 1.7 | 1.7 | 1.7 |
| 24452945 | 3/20/2017 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $342.00 | $324.00 | $324.00 | 2630064 | 4/12/2017 | $324.00 | B | 0.9 | 0.9 | 0.9 |
| 24473147 | 3/23/2017 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $228.00 | $216.00 | $216.00 | 2630064 | 4/12/2017 | $216.00 | B | 0.6 | 0.6 | 0.6 |
| 24473207 | 3/24/2017 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $38.00 | $36.00 | $36.00 | 2630064 | 4/12/2017 | $36.00 | B | 0.1 | 0.1 | 0.1 |
| 24487137 | 4/3/2017 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $456.00 | $432.00 | $432.00 | 2645663 | 6/19/2017 | $432.00 | B | 1.2 | 1.2 | 1.2 |
| 24492940 | 4/5/2017 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $38.00 | $36.00 | $36.00 | 2645663 | 6/19/2017 | $36.00 | B | 0.1 | 0.1 | 0.1 |
| 24497594 | 4/6/2017 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $114.00 | $108.00 | $108.00 | 2645663 | 6/19/2017 | $108.00 | B | 0.3 | 0.3 | 0.3 |
| 24515990 | 4/12/2017 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $114.00 | $108.00 | $108.00 | 2645663 | 6/19/2017 | $108.00 | B | 0.3 | 0.3 | 0.3 |
| 24517126 | 4/13/2017 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $76.00 | $72.00 | $72.00 | 2645663 | 6/19/2017 | $72.00 | B | 0.2 | 0.2 | 0.2 |
| 24517128 | 4/15/2017 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $152.00 | $144.00 | $144.00 | 2645663 | 6/19/2017 | $144.00 | B | 0.4 | 0.4 | 0.4 |
| 24517927 | 4/16/2017 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $38.00 | $36.00 | $36.00 | 2645663 | 6/19/2017 | $36.00 | B | 0.1 | 0.1 | 0.1 |
| 24521928 | 4/17/2017 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $114.00 | $108.00 | $108.00 | 2645663 | 6/19/2017 | $108.00 | B | 0.3 | 0.3 | 0.3 |
| 24525325 | 4/18/2017 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $950.00 | $900.00 | $900.00 | 2645663 | 6/19/2017 | $900.00 | B | 2.5 | 2.5 | 2.5 |
| 24537400 | 4/19/2017 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $114.00 | $108.00 | $108.00 | 2645663 | 6/19/2017 | $108.00 | B | 0.3 | 0.3 | 0.3 |
| 24537493 | 4/20/2017 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $38.00 | $36.00 | $36.00 | 2645663 | 6/19/2017 | $36.00 | B | 0.1 | 0.1 | 0.1 |
| 24574843 | 4/24/2017 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $38.00 | $36.00 | $36.00 | 2645663 | 6/19/2017 | $36.00 | B | 0.1 | 0.1 | 0.1 |
| 24574971 | 4/27/2017 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $76.00 | $72.00 | $72.00 | 2645663 | 6/19/2017 | $72.00 | B | 0.2 | 0.2 | 0.2 |
| 24636075 | 5/12/2017 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $76.00 | $72.00 | $72.00 | 2645663 | 6/19/2017 | $72.00 | B | 0.2 | 0.2 | 0.2 |
| 24650880 | 5/23/2017 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $38.00 | $36.00 | $36.00 | 2645663 | 6/19/2017 | $36.00 | B | 0.1 | 0.1 | 0.1 |

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Exhibit A

| | | | | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 24719362 | 6/8/2017 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $76.00 | $72.00 | $72.00 | 2648173 | 7/10/2017 | $72.00 | B | 0.2 | 0.2 | 0.2 |
| 24734607 | 6/14/2017 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $38.00 | $36.00 | $36.00 | 2648173 | 7/10/2017 | $36.00 | B | 0.1 | 0.1 | 0.1 |
| 24770127 | 6/23/2017 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $76.00 | $72.00 | $72.00 | 2648173 | 7/10/2017 | $72.00 | B | 0.2 | 0.2 | 0.2 |
| 24771537 | 6/26/2017 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $494.00 | $468.00 | $468.00 | 2648173 | 7/10/2017 | $468.00 | B | 1.3 | 1.3 | 1.3 |
| 24773071 | 6/28/2017 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $76.00 | $72.00 | $72.00 | 2648173 | 7/10/2017 | $72.00 | B | 0.2 | 0.2 | 0.2 |
| 24773088 | 6/27/2017 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $76.00 | $72.00 | $72.00 | 2648173 | 7/10/2017 | $72.00 | B | 0.2 | 0.2 | 0.2 |
| 24796145 | 7/10/2017 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $38.00 | $36.00 | $36.00 | 2656309 | 8/8/2017 | $36.00 | B | 0.1 | 0.1 | 0.1 |
| 24796251 | 7/11/2017 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $152.00 | $144.00 | $144.00 | 2656309 | 8/8/2017 | $144.00 | B | 0.4 | 0.4 | 0.4 |
| 24796569 | 7/14/2017 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $190.00 | $180.00 | $180.00 | 2656309 | 8/8/2017 | $180.00 | B | 0.5 | 0.5 | 0.5 |
| 24802521 | 7/17/2017 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $570.00 | $540.00 | $540.00 | 2656309 | 8/8/2017 | $540.00 | B | 1.5 | 1.5 | 1.5 |
| 24810066 | 7/18/2017 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $1,254.00 | $1,188.00 | $1,188.00 | 2656309 | 8/8/2017 | $1,188.00 | B | 3.3 | 3.3 | 3.3 |
| 24838392 | 7/19/2017 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $114.00 | $108.00 | $108.00 | 2656309 | 8/8/2017 | $108.00 | B | 0.3 | 0.3 | 0.3 |
| 24838502 | 7/21/2017 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $760.00 | $720.00 | $720.00 | 2656309 | 8/8/2017 | $720.00 | B | 2 | 2 | 2 |
| 24840426 | 7/27/2017 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $380.00 | $360.00 | $360.00 | 2656309 | 8/8/2017 | $360.00 | B | 1 | 1 | 1 |
| 24847193 | 7/31/2017 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $608.00 | $576.00 | $576.00 | 2656309 | 8/8/2017 | $576.00 | B | 1.6 | 1.6 | 1.6 |

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Exhibit A

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|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 24860370 | 8/1/2017 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $874.00 | $828.00 | $828.00 | 2662287 | 9/6/2017 | $828.00 | B | 2.3 | 2.3 | 2.3 |
| 24903731 | 8/7/2017 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $190.00 | $180.00 | $180.00 | 2662287 | 9/6/2017 | $180.00 | B | 0.5 | 0.5 | 0.5 |
| 24903836 | 8/8/2017 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $266.00 | $252.00 | $252.00 | 2662287 | 9/6/2017 | $252.00 | B | 0.7 | 0.7 | 0.7 |
| 24924747 | 8/15/2017 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $38.00 | $36.00 | $36.00 | 2662287 | 9/6/2017 | $36.00 | B | 0.1 | 0.1 | 0.1 |
| 24952013 | 8/28/2017 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $190.00 | $180.00 | $180.00 | 2662287 | 9/6/2017 | $180.00 | B | 0.5 | 0.5 | 0.5 |
| 24952097 | 8/29/2017 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $38.00 | $36.00 | $36.00 | 2662287 | 9/6/2017 | $36.00 | B | 0.1 | 0.1 | 0.1 |
| 24953407 | 8/30/2017 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $38.00 | $36.00 | $36.00 | 2662287 | 9/6/2017 | $36.00 | B | 0.1 | 0.1 | 0.1 |
| 25035880 | 9/18/2017 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $38.00 | $36.00 | $36.00 | 2675055 | 11/6/2017 | $36.00 | B | 0.1 | 0.1 | 0.1 |
| 25038149 | 9/19/2017 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $38.00 | $36.00 | $36.00 | 2675055 | 11/6/2017 | $36.00 | B | 0.1 | 0.1 | 0.1 |
| 25047256 | 9/21/2017 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $38.00 | $36.00 | $36.00 | 2675055 | 11/6/2017 | $36.00 | B | 0.1 | 0.1 | 0.1 |
| 25048797 | 9/25/2017 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $38.00 | $36.00 | $36.00 | 2675055 | 11/6/2017 | $36.00 | B | 0.1 | 0.1 | 0.1 |
| 25100843 | 10/10/2017 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $40.00 | $36.00 | $36.00 | 2675055 | 11/6/2017 | $36.00 | B | 0.1 | 0.1 | 0.1 |
| 25100989 | 10/11/2017 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $200.00 | $180.00 | $180.00 | 2675055 | 11/6/2017 | $180.00 | B | 0.5 | 0.5 | 0.5 |
| 25107202 | 10/12/2017 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $680.00 | $612.00 | $612.00 | 2675055 | 11/6/2017 | $612.00 | B | 1.7 | 1.7 | 1.7 |
| 25125350 | 10/18/2017 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $1,320.00 | $1,188.00 | $1,188.00 | 2675055 | 11/6/2017 | $1,188.00 | B | 3.3 | 3.3 | 3.3 |
| 25125412 | 10/19/2017 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $520.00 | $468.00 | $468.00 | 2675055 | 11/6/2017 | $468.00 | B | 1.3 | 1.3 | 1.3 |
| 25148785 | 10/23/2017 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $760.00 | $684.00 | $684.00 | 2675055 | 11/6/2017 | $684.00 | B | 1.9 | 1.9 | 1.9 |
| 25148814 | 10/27/2017 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $200.00 | $180.00 | $180.00 | 2675055 | 11/6/2017 | $180.00 | B | 0.5 | 0.5 | 0.5 |
| 25148843 | 10/31/2017 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $40.00 | $36.00 | $36.00 | 2675055 | 11/6/2017 | $36.00 | B | 0.1 | 0.1 | 0.1 |
| 25191302 | 11/8/2017 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $320.00 | $288.00 | $288.00 | 2687208 | 12/21/2017 | $288.00 | B | 0.8 | 0.8 | 0.8 |
| 25191543 | 11/10/2017 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $480.00 | $432.00 | $432.00 | 2687208 | 12/21/2017 | $432.00 | B | 1.2 | 1.2 | 1.2 |

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Exhibit A

| | | | | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 25191657 | 11/13/2017 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $120.00 | $108.00 | $108.00 | 2687208 | 12/21/2017 | $108.00 | B | 0.3 | 0.3 | 0.3 |
| 25241703 | 11/27/2017 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $1,280.00 | $1,152.00 | $1,152.00 | 2687208 | 12/21/2017 | $1,152.00 | B | 3.2 | 3.2 | 3.2 |
| 25241755 | 11/29/2017 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $600.00 | $540.00 | $540.00 | 2687208 | 12/21/2017 | $540.00 | B | 1.5 | 1.5 | 1.5 |
| 25241764 | 11/30/2017 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $400.00 | $360.00 | $360.00 | 2687208 | 12/21/2017 | $360.00 | B | 1 | 1 | 1 |
| 25262072 | 12/1/2017 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $200.00 | $180.00 | $180.00 | 4101527 | 1/9/2018 | $180.00 | B | 0.5 | 0.5 | 0.5 |
| 25276608 | 12/6/2017 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $1,240.00 | $1,116.00 | $1,116.00 | 4101527 | 1/9/2018 | $1,116.00 | B | 3.1 | 3.1 | 3.1 |
| 25280878 | 12/8/2017 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $680.00 | $612.00 | $612.00 | 4101527 | 1/9/2018 | $612.00 | B | 1.7 | 1.7 | 1.7 |
| 25299368 | 12/12/2017 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $440.00 | $396.00 | $396.00 | 4101527 | 1/9/2018 | $396.00 | B | 1.1 | 1.1 | 1.1 |
| 28105850 | 12/18/2017 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $720.00 | $648.00 | $648.00 | 4101527 | 1/9/2018 | $648.00 | B | 1.8 | 1.8 | 1.8 |
| 28106093 | 12/21/2017 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $120.00 | $108.00 | $108.00 | 4101527 | 1/9/2018 | $108.00 | B | 0.3 | 0.3 | 0.3 |
| 28106195 | 12/22/2017 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $120.00 | $108.00 | $108.00 | 4101527 | 1/9/2018 | $108.00 | B | 0.3 | 0.3 | 0.3 |
| 28110559 | 12/27/2017 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $40.00 | $36.00 | $36.00 | 4101527 | 1/9/2018 | $36.00 | B | 0.1 | 0.1 | 0.1 |
| 28169599 | 1/12/2018 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $360.00 | $324.00 | $324.00 | 4127653 | 4/18/2018 | $324.00 | B | 0.9 | 0.9 | 0.9 |
| 28181246 | 1/16/2018 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $80.00 | $72.00 | $72.00 | 4127653 | 4/18/2018 | $72.00 | B | 0.2 | 0.2 | 0.2 |
| 28184208 | 1/17/2018 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $320.00 | $288.00 | $288.00 | 4127653 | 4/18/2018 | $288.00 | B | 0.8 | 0.8 | 0.8 |
| 28185007 | 1/9/2018 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $200.00 | $180.00 | $180.00 | 4127653 | 4/18/2018 | $180.00 | B | 0.5 | 0.5 | 0.5 |
| 28216180 | 1/26/2018 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $720.00 | $648.00 | $648.00 | 4127653 | 4/18/2018 | $648.00 | B | 1.8 | 1.8 | 1.8 |
| 28216181 | 1/30/2018 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $200.00 | $180.00 | $180.00 | 4127653 | 4/18/2018 | $180.00 | B | 0.5 | 0.5 | 0.5 |
| 28255138 | 2/6/2018 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $280.00 | $252.00 | $252.00 | 4127653 | 4/18/2018 | $252.00 | B | 0.7 | 0.7 | 0.7 |
| 28256095 | 2/14/2018 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $40.00 | $36.00 | $36.00 | 4127653 | 4/18/2018 | $36.00 | B | 0.1 | 0.1 | 0.1 |
| 28289623 | 2/26/2018 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $240.00 | $216.00 | $216.00 | 4127653 | 4/18/2018 | $216.00 | B | 0.6 | 0.6 | 0.6 |
| 28297649 | 2/27/2018 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $280.00 | $252.00 | $252.00 | 4127653 | 4/18/2018 | $252.00 | B | 0.7 | 0.7 | 0.7 |

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Exhibit A

| | | | | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 28298100 | 2/28/2018 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $40.00 | $36.00 | $36.00 | 4127653 | 4/18/2018 | $36.00 | B | 0.1 | 0.1 | 0.1 |
| 28337034 | 3/8/2018 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $640.00 | $576.00 | $576.00 | 4127653 | 4/18/2018 | $576.00 | B | 1.6 | 1.6 | 1.6 |
| 28377092 | 3/12/2018 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $120.00 | $108.00 | $108.00 | 4127653 | 4/18/2018 | $108.00 | B | 0.3 | 0.3 | 0.3 |
| 28403399 | 3/19/2018 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $40.00 | $36.00 | $36.00 | 4127653 | 4/18/2018 | $36.00 | B | 0.1 | 0.1 | 0.1 |
| 28403512 | 3/20/2018 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $320.00 | $288.00 | $288.00 | 4127653 | 4/18/2018 | $288.00 | B | 0.8 | 0.8 | 0.8 |
| 28403693 | 3/22/2018 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $480.00 | $432.00 | $432.00 | 4127653 | 4/18/2018 | $432.00 | B | 1.2 | 1.2 | 1.2 |
| 28403747 | 3/23/2018 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $1,600.00 | $1,440.00 | $1,440.00 | 4127653 | 4/18/2018 | $1,440.00 | B | 4 | 4 | 4 |
| 28403827 | 3/24/2018 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $840.00 | $756.00 | $756.00 | 4127653 | 4/18/2018 | $756.00 | B | 2.1 | 2.1 | 2.1 |
| 28404187 | 3/28/2018 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $320.00 | $288.00 | $288.00 | 4127653 | 4/18/2018 | $288.00 | B | 0.8 | 0.8 | 0.8 |
| 28454831 | 4/5/2018 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $80.00 | $72.00 | $72.00 | 4146837 | 6/29/2018 | $72.00 | B | 0.2 | 0.2 | 0.2 |
| 28458487 | 4/6/2018 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $40.00 | $36.00 | $36.00 | 4146837 | 6/29/2018 | $36.00 | B | 0.1 | 0.1 | 0.1 |
| 28471414 | 4/9/2018 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $120.00 | $108.00 | $108.00 | 4146837 | 6/29/2018 | $108.00 | B | 0.3 | 0.3 | 0.3 |
| 28471558 | 4/10/2018 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $1,840.00 | $1,656.00 | $1,656.00 | 4146837 | 6/29/2018 | $1,656.00 | B | 4.6 | 4.6 | 4.6 |
| 28471742 | 4/11/2018 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $360.00 | $324.00 | $324.00 | 4146837 | 6/29/2018 | $324.00 | B | 0.9 | 0.9 | 0.9 |
| 28478046 | 4/12/2018 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $360.00 | $324.00 | $324.00 | 4146837 | 6/29/2018 | $324.00 | B | 0.9 | 0.9 | 0.9 |
| 28499162 | 4/18/2018 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | N | $80.00 | $72.00 | $72.00 | 4146837 | 6/29/2018 | $0.00 | B | 0.2 | 0.2 | 0 |
| 28505474 | 4/19/2018 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $40.00 | $36.00 | $36.00 | 4146837 | 6/29/2018 | $108.00 | B | 0.1 | 0.1 | 0.3 |
| 28522404 | 4/23/2018 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $200.00 | $180.00 | $180.00 | 4146837 | 6/29/2018 | $180.00 | B | 0.5 | 0.5 | 0.5 |
| 28522413 | 4/25/2018 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $80.00 | $72.00 | $72.00 | 4146837 | 6/29/2018 | $72.00 | B | 0.2 | 0.2 | 0.2 |
| 28522414 | 4/24/2018 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $1,080.00 | $972.00 | $972.00 | 4146837 | 6/29/2018 | $972.00 | B | 2.7 | 2.7 | 2.7 |
| 28522434 | 4/26/2018 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $120.00 | $108.00 | $108.00 | 4146837 | 6/29/2018 | $108.00 | B | 0.3 | 0.3 | 0.3 |

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Exhibit A

| | | | | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 28522435 | 4/30/2018 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $200.00 | $180.00 | $180.00 | 4146837 | 6/29/2018 | $180.00 | B | 0.5 | 0.5 | 0.5 |
| 28522758 | 4/27/2018 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $360.00 | $324.00 | $324.00 | 4146837 | 6/29/2018 | $324.00 | B | 0.9 | 0.9 | 0.9 |
| 28548848 | 5/1/2018 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $960.00 | $864.00 | $864.00 | 4146837 | 6/29/2018 | $864.00 | B | 2.4 | 2.4 | 2.4 |
| 28548852 | 5/2/2018 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $440.00 | $396.00 | $396.00 | 4146837 | 6/29/2018 | $396.00 | B | 1.1 | 1.1 | 1.1 |
| 28553945 | 5/3/2018 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $120.00 | $108.00 | $108.00 | 4146837 | 6/29/2018 | $108.00 | B | 0.3 | 0.3 | 0.3 |
| 28556316 | 5/4/2018 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $1,040.00 | $936.00 | $936.00 | 4146837 | 6/29/2018 | $936.00 | B | 2.6 | 2.6 | 2.6 |
| 28569369 | 5/7/2018 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $760.00 | $684.00 | $684.00 | 4146837 | 6/29/2018 | $684.00 | B | 1.9 | 1.9 | 1.9 |
| 28569443 | 5/8/2018 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $320.00 | $288.00 | $288.00 | 4146837 | 6/29/2018 | $288.00 | B | 0.8 | 0.8 | 0.8 |
| 28571431 | 5/9/2018 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $760.00 | $684.00 | $684.00 | 4146837 | 6/29/2018 | $684.00 | B | 1.9 | 1.9 | 1.9 |
| 28576330 | 5/10/2018 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $80.00 | $72.00 | $72.00 | 4146837 | 6/29/2018 | $72.00 | B | 0.2 | 0.2 | 0.2 |
| 28580060 | 5/11/2018 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $760.00 | $684.00 | $684.00 | 4146837 | 6/29/2018 | $684.00 | B | 1.9 | 1.9 | 1.9 |
| 28594406 | 5/14/2018 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $40.00 | $36.00 | $36.00 | 4146837 | 6/29/2018 | $36.00 | B | 0.1 | 0.1 | 0.1 |
| 28596445 | 5/16/2018 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $240.00 | $216.00 | $216.00 | 4146837 | 6/29/2018 | $216.00 | B | 0.6 | 0.6 | 0.6 |
| 28597677 | 5/17/2018 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $840.00 | $756.00 | $756.00 | 4146837 | 6/29/2018 | $756.00 | B | 2.1 | 2.1 | 2.1 |
| 28597779 | 5/18/2018 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $200.00 | $180.00 | $180.00 | 4146837 | 6/29/2018 | $180.00 | B | 0.5 | 0.5 | 0.5 |
| 28624336 | 5/21/2018 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $80.00 | $72.00 | $72.00 | 4146837 | 6/29/2018 | $72.00 | B | 0.2 | 0.2 | 0.2 |
| 28624354 | 5/22/2018 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $680.00 | $612.00 | $612.00 | 4146837 | 6/29/2018 | $612.00 | B | 1.7 | 1.7 | 1.7 |
| 28624674 | 5/29/2018 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $320.00 | $288.00 | $288.00 | 4146837 | 6/29/2018 | $288.00 | B | 0.8 | 0.8 | 0.8 |

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Exhibit A

| | | | | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 28624739 | 5/30/2018 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $200.00 | $180.00 | $180.00 | 4146837 | 6/29/2018 | $180.00 | B | 0.5 | 0.5 | 0.5 |
| 28627469 | 5/24/2018 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $40.00 | $36.00 | $36.00 | 4146837 | 6/29/2018 | $36.00 | B | 0.1 | 0.1 | 0.1 |
| 28627527 | 5/25/2018 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $200.00 | $180.00 | $180.00 | 4146837 | 6/29/2018 | $180.00 | B | 0.5 | 0.5 | 0.5 |
| 28715309 | 6/19/2018 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $240.00 | $216.00 | $216.00 | 4152635 | 7/18/2018 | $216.00 | B | 0.6 | 0.6 | 0.6 |
| 28727809 | 6/21/2018 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $80.00 | $72.00 | $72.00 | 4152635 | 7/18/2018 | $72.00 | B | 0.2 | 0.2 | 0.2 |
| 28729412 | 6/25/2018 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $240.00 | $216.00 | $216.00 | 4152635 | 7/18/2018 | $216.00 | B | 0.6 | 0.6 | 0.6 |
| 28729934 | 6/29/2018 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $40.00 | $36.00 | $36.00 | 4152635 | 7/18/2018 | $36.00 | B | 0.1 | 0.1 | 0.1 |
| 28733589 | 7/2/2018 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $240.00 | $216.00 | $216.00 | 4159122 | 8/14/2018 | $216.00 | B | 0.6 | 0.6 | 0.6 |
| 28735822 | 7/3/2018 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $200.00 | $180.00 | $180.00 | 4159122 | 8/14/2018 | $180.00 | B | 0.5 | 0.5 | 0.5 |
| 28767436 | 7/5/2018 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $840.00 | $756.00 | $756.00 | 4159122 | 8/14/2018 | $756.00 | B | 2.1 | 2.1 | 2.1 |
| 28780921 | 7/12/2018 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $80.00 | $72.00 | $72.00 | 4159122 | 8/14/2018 | $72.00 | B | 0.2 | 0.2 | 0.2 |
| 28833202 | 7/25/2018 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $40.00 | $36.00 | $36.00 | 4159122 | 8/14/2018 | $36.00 | B | 0.1 | 0.1 | 0.1 |
| 28833213 | 7/26/2018 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $80.00 | $72.00 | $72.00 | 4159122 | 8/14/2018 | $72.00 | B | 0.2 | 0.2 | 0.2 |
| 28833417 | 7/29/2018 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $200.00 | $180.00 | $180.00 | 4159122 | 8/14/2018 | $180.00 | B | 0.5 | 0.5 | 0.5 |
| 28833419 | 7/28/2018 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $40.00 | $36.00 | $36.00 | 4159122 | 8/14/2018 | $0.00 | B | 0.1 | 0.1 | 0 |
| 28882615 | 8/8/2018 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $560.00 | $504.00 | $504.00 | 4177386 | 10/24/2018 | $456.12 | B | 1.4 | 1.4 | 1.4 |
| 28887407 | 8/9/2018 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $200.00 | $180.00 | $180.00 | 4177386 | 10/24/2018 | $162.90 | B | 0.5 | 0.5 | 0.5 |
| 28940562 | 8/28/2018 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $320.00 | $288.00 | $288.00 | 4177386 | 10/24/2018 | $260.64 | B | 0.8 | 0.8 | 0.8 |
| 28940563 | 8/29/2018 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $160.00 | $144.00 | $144.00 | 4177386 | 10/24/2018 | $130.32 | B | 0.4 | 0.4 | 0.4 |

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Exhibit A

| | | | | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 29077502 | 10/2/2018 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $588.00 | $504.00 | $504.00 | 4185772 | 11/19/2018 | $504.00 | B | 1.4 | 1.4 | 1.4 |
| 29085380 | 10/4/2018 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $840.00 | $720.00 | $720.00 | 4185772 | 11/19/2018 | $720.00 | B | 2 | 2 | 2 |
| 29101051 | 10/8/2018 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $84.00 | $72.00 | $72.00 | 4185772 | 11/19/2018 | $72.00 | B | 0.2 | 0.2 | 0.2 |
| 29108910 | 10/11/2018 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $714.00 | $612.00 | $612.00 | 4185772 | 11/19/2018 | $612.00 | B | 1.7 | 1.7 | 1.7 |
| 29153661 | 10/16/2018 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $42.00 | $36.00 | $36.00 | 4185772 | 11/19/2018 | $36.00 | B | 0.1 | 0.1 | 0.1 |
| 29153679 | 10/18/2018 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $210.00 | $180.00 | $180.00 | 4185772 | 11/19/2018 | $180.00 | B | 0.5 | 0.5 | 0.5 |
| 29161070 | 10/22/2018 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $252.00 | $216.00 | $216.00 | 4185772 | 11/19/2018 | $216.00 | B | 0.6 | 0.6 | 0.6 |
| 29161076 | 10/23/2018 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $126.00 | $108.00 | $108.00 | 4185772 | 11/19/2018 | $108.00 | B | 0.3 | 0.3 | 0.3 |
| 29161080 | 10/24/2018 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $672.00 | $576.00 | $576.00 | 4185772 | 11/19/2018 | $576.00 | B | 1.6 | 1.6 | 1.6 |
| 29161160 | 10/31/2018 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $504.00 | $432.00 | $432.00 | 4185772 | 11/19/2018 | $432.00 | B | 1.2 | 1.2 | 1.2 |
| 29183195 | 11/1/2018 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $630.00 | $540.00 | $540.00 | 4209171 | 2/20/2019 | $496.80 | B | 1.5 | 1.5 | 1.5 |
| 29183267 | 11/2/2018 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $168.00 | $144.00 | $144.00 | 4209171 | 2/20/2019 | $132.48 | B | 0.4 | 0.4 | 0.4 |
| 29219545 | 11/14/2018 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $5,460.00 | $4,680.00 | $4,680.00 | 4209171 | 2/20/2019 | $4,305.60 | B | 13 | 13 | 13 |
| 29225668 | 11/15/2018 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $924.00 | $792.00 | $792.00 | 4209171 | 2/20/2019 | $728.64 | B | 2.2 | 2.2 | 2.2 |
| 29225738 | 11/16/2018 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $336.00 | $288.00 | $288.00 | 4209171 | 2/20/2019 | $264.96 | B | 0.8 | 0.8 | 0.8 |
| 29261206 | 11/19/2018 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $126.00 | $108.00 | $108.00 | 4209171 | 2/20/2019 | $99.36 | B | 0.3 | 0.3 | 0.3 |
| 29261229 | 11/20/2018 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $1,260.00 | $1,080.00 | $1,080.00 | 4209171 | 2/20/2019 | $993.60 | B | 3 | 3 | 3 |
| 29261230 | 11/21/2018 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $252.00 | $216.00 | $216.00 | 4209171 | 2/20/2019 | $198.72 | B | 0.6 | 0.6 | 0.6 |
| 29261271 | 11/27/2018 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $210.00 | $180.00 | $180.00 | 4209171 | 2/20/2019 | $165.60 | B | 0.5 | 0.5 | 0.5 |
| 29261272 | 11/28/2018 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $630.00 | $540.00 | $540.00 | 4209171 | 2/20/2019 | $496.80 | B | 1.5 | 1.5 | 1.5 |
| 29261273 | 11/26/2018 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $714.00 | $612.00 | $612.00 | 4209171 | 2/20/2019 | $563.04 | B | 1.7 | 1.7 | 1.7 |

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Exhibit A

| | | | | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 29261357 | 11/29/2018 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $168.00 | $144.00 | $144.00 | 4209171 | 2/20/2019 | $132.48 | B | 0.4 | 0.4 | 0.4 |
| 29261358 | 11/30/2018 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $126.00 | $108.00 | $108.00 | 4209171 | 2/20/2019 | $99.36 | B | 0.3 | 0.3 | 0.3 |
| 29293345 | 12/4/2018 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $420.00 | $360.00 | $360.00 | 4209196 | 2/25/2019 | $331.20 | B | 1 | 1 | 1 |
| 29295525 | 12/5/2018 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $630.00 | $540.00 | $540.00 | 4209196 | 2/25/2019 | $496.80 | B | 1.5 | 1.5 | 1.5 |
| 29320167 | 12/6/2018 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $378.00 | $324.00 | $324.00 | 4209196 | 2/25/2019 | $298.08 | B | 0.9 | 0.9 | 0.9 |
| 29320221 | 12/10/2018 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $126.00 | $108.00 | $108.00 | 4209196 | 2/25/2019 | $99.36 | B | 0.3 | 0.3 | 0.3 |
| 29358497 | 12/13/2018 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $126.00 | $108.00 | $108.00 | 4209196 | 2/25/2019 | $99.36 | B | 0.3 | 0.3 | 0.3 |
| 29358531 | 12/26/2018 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $126.00 | $108.00 | $108.00 | 4209196 | 2/25/2019 | $99.36 | B | 0.3 | 0.3 | 0.3 |
| 29358533 | 12/27/2018 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $210.00 | $180.00 | $180.00 | 4209196 | 2/25/2019 | $165.60 | B | 0.5 | 0.5 | 0.5 |
| 29358537 | 12/28/2018 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $126.00 | $108.00 | $108.00 | 4209196 | 2/25/2019 | $99.36 | B | 0.3 | 0.3 | 0.3 |
| 29358550 | 12/20/2018 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $210.00 | $180.00 | $180.00 | 4209196 | 2/25/2019 | $165.60 | B | 0.5 | 0.5 | 0.5 |
| 29375111 | 1/4/2019 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $42.00 | $36.00 | $36.00 | 4209231 | 2/25/2019 | $33.12 | B | 0.1 | 0.1 | 0.1 |
| 29376149 | 1/2/2019 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $84.00 | $72.00 | $72.00 | 4209231 | 2/25/2019 | $66.24 | B | 0.2 | 0.2 | 0.2 |
| 29376154 | 1/3/2019 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $42.00 | $36.00 | $36.00 | 4209231 | 2/25/2019 | $33.12 | B | 0.1 | 0.1 | 0.1 |
| 29398808 | 1/7/2019 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $1,260.00 | $1,080.00 | $1,080.00 | 4209231 | 2/25/2019 | $993.60 | B | 3 | 3 | 3 |
| 29398906 | 1/8/2019 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $3,654.00 | $3,132.00 | $3,132.00 | 4209231 | 2/25/2019 | $2,881.44 | B | 8.7 | 8.7 | 8.7 |
| 29402817 | 1/9/2019 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $840.00 | $720.00 | $720.00 | 4209231 | 2/25/2019 | $662.40 | B | 2 | 2 | 2 |
| 29402852 | 1/10/2019 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $1,428.00 | $1,224.00 | $1,224.00 | 4209231 | 2/25/2019 | $1,126.08 | B | 3.4 | 3.4 | 3.4 |
| 29421764 | 1/14/2019 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $420.00 | $360.00 | $360.00 | 4209231 | 2/25/2019 | $331.20 | B | 1 | 1 | 1 |

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Exhibit A

| | | | | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 29421872 | 1/15/2019 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $966.00 | $828.00 | $828.00 | 4209231 | 2/25/2019 | $761.76 | B | 2.3 | 2.3 | 2.3 |
| 29421995 | 1/16/2019 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $3,444.00 | $2,952.00 | $2,952.00 | 4209231 | 2/25/2019 | $2,715.84 | B | 8.2 | 8.2 | 8.2 |
| 29428866 | 1/18/2019 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $2,982.00 | $2,556.00 | $2,556.00 | 4209231 | 2/25/2019 | $2,351.52 | B | 7.1 | 7.1 | 7.1 |
| 29429615 | 1/17/2019 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $2,100.00 | $1,800.00 | $1,800.00 | 4209231 | 2/25/2019 | $1,656.00 | B | 5 | 5 | 5 |
| 29462782 | 1/25/2019 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $504.00 | $432.00 | $432.00 | 4209231 | 2/25/2019 | $397.44 | B | 1.2 | 1.2 | 1.2 |
| 29462822 | 1/24/2019 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $4,200.00 | $3,600.00 | $3,600.00 | 4209231 | 2/25/2019 | $3,312.00 | B | 10 | 10 | 10 |
| 29462823 | 1/23/2019 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $6,300.00 | $5,400.00 | $5,400.00 | 4209231 | 2/25/2019 | $4,968.00 | B | 15 | 15 | 15 |
| 29462829 | 1/22/2019 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $7,140.00 | $6,120.00 | $6,120.00 | 4209231 | 2/25/2019 | $5,630.40 | B | 17 | 17 | 17 |
| 29462855 | 1/28/2019 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $252.00 | $216.00 | $216.00 | 4209231 | 2/25/2019 | $198.72 | B | 0.6 | 0.6 | 0.6 |
| 29462876 | 1/21/2019 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $6,720.00 | $5,760.00 | $5,760.00 | 4209231 | 2/25/2019 | $5,299.20 | B | 16 | 16 | 16 |
| 29462961 | 1/30/2019 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $420.00 | $360.00 | $360.00 | 4209231 | 2/25/2019 | $331.20 | B | 1 | 1 | 1 |
| 29463654 | 1/19/2019 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $2,100.00 | $1,800.00 | $1,800.00 | 4209231 | 2/25/2019 | $1,656.00 | B | 5 | 5 | 5 |
| 29463655 | 1/20/2019 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $2,940.00 | $2,520.00 | $2,520.00 | 4209231 | 2/25/2019 | $2,318.40 | B | 7 | 7 | 7 |
| 29496914 | 2/6/2019 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $252.00 | $216.00 | $216.00 | 4226513 | 4/1/2019 | $216.00 | B | 0.6 | 0.6 | 0.6 |
| 29496953 | 2/8/2019 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $42.00 | $36.00 | $36.00 | 4226513 | 4/1/2019 | $36.00 | B | 0.1 | 0.1 | 0.1 |
| 29561350 | 2/26/2019 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $252.00 | $216.00 | $216.00 | 4226513 | 4/1/2019 | $216.00 | B | 0.6 | 0.6 | 0.6 |
| 29628876 | 3/5/2019 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $84.00 | $72.00 | $72.00 | 4226513 | 4/1/2019 | $72.00 | B | 0.2 | 0.2 | 0.2 |
| 29628928 | 3/11/2019 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $1,176.00 | $1,008.00 | $1,008.00 | 4226513 | 4/1/2019 | $1,008.00 | B | 2.8 | 2.8 | 2.8 |
| 29640123 | 3/15/2019 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $756.00 | $648.00 | $648.00 | 4226513 | 4/1/2019 | $648.00 | B | 1.8 | 1.8 | 1.8 |
| 29647043 | 3/28/2019 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $294.00 | $252.00 | $252.00 | 4226513 | 4/1/2019 | $252.00 | B | 0.7 | 0.7 | 0.7 |
| 29655657 | 3/18/2019 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $2,142.00 | $1,836.00 | $1,836.00 | 4226513 | 4/1/2019 | $1,836.00 | B | 5.1 | 5.1 | 5.1 |
| 29685813 | 3/22/2019 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $210.00 | $180.00 | $180.00 | 4226513 | 4/1/2019 | $180.00 | B | 0.5 | 0.5 | 0.5 |

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Exhibit A

| | | | | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 29685814 | 3/21/2019 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $2,100.00 | $1,800.00 | $1,800.00 | 4226513 | 4/1/2019 | $1,800.00 | B | 5 | 5 | 5 |
| 29685830 | 3/31/2019 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $84.00 | $72.00 | $72.00 | 4226513 | 4/1/2019 | $72.00 | B | 0.2 | 0.2 | 0.2 |
| 29685831 | 3/29/2019 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $126.00 | $108.00 | $108.00 | 4226513 | 4/1/2019 | $108.00 | B | 0.3 | 0.3 | 0.3 |
| 29735347 | 4/10/2019 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $42.00 | $36.00 | $36.00 | 4231897 | 5/13/2019 | $36.00 | B | 0.1 | 0.1 | 0.1 |
| 29766432 | 4/17/2019 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $210.00 | $180.00 | $180.00 | 4231897 | 5/13/2019 | $180.00 | B | 0.5 | 0.5 | 0.5 |
| 29766439 | 4/18/2019 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $4,074.00 | $3,492.00 | $3,492.00 | 4231897 | 5/13/2019 | $3,492.00 | B | 9.7 | 9.7 | 9.7 |
| 29788590 | 4/22/2019 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $168.00 | $144.00 | $144.00 | 4231897 | 5/13/2019 | $144.00 | B | 0.4 | 0.4 | 0.4 |
| 29788627 | 4/23/2019 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $336.00 | $288.00 | $288.00 | 4231897 | 5/13/2019 | $288.00 | B | 0.8 | 0.8 | 0.8 |
| 29788664 | 4/26/2019 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $1,050.00 | $900.00 | $900.00 | 4231897 | 5/13/2019 | $900.00 | B | 2.5 | 2.5 | 2.5 |
| 29788733 | 4/30/2019 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $1,050.00 | $900.00 | $900.00 | 4231897 | 5/13/2019 | $900.00 | B | 2.5 | 2.5 | 2.5 |
| 29789058 | 4/20/2019 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $840.00 | $720.00 | $720.00 | 4231897 | 5/13/2019 | $720.00 | B | 2 | 2 | 2 |
| 29789068 | 4/29/2019 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $1,974.00 | $1,692.00 | $1,692.00 | 4231897 | 5/13/2019 | $1,692.00 | B | 4.7 | 4.7 | 4.7 |
| 29811045 | 5/1/2019 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $1,974.00 | $1,692.00 | $1,692.00 | 4240682 | 6/17/2019 | $1,556.64 | B | 4.7 | 4.7 | 4.7 |
| 29813388 | 5/2/2019 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $756.00 | $648.00 | $648.00 | 4240682 | 6/17/2019 | $596.16 | B | 1.8 | 1.8 | 1.8 |
| 29835689 | 5/6/2019 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $1,176.00 | $1,008.00 | $1,008.00 | 4240682 | 6/17/2019 | $927.36 | B | 2.8 | 2.8 | 2.8 |
| 29837905 | 5/7/2019 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $504.00 | $432.00 | $432.00 | 4240682 | 6/17/2019 | $397.44 | B | 1.2 | 1.2 | 1.2 |
| 29843216 | 5/9/2019 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $3,192.00 | $2,736.00 | $2,736.00 | 4240682 | 6/17/2019 | $2,517.12 | B | 7.6 | 7.6 | 7.6 |
| 29847490 | 5/12/2019 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $42.00 | $36.00 | $36.00 | 4240682 | 6/17/2019 | $33.12 | B | 0.1 | 0.1 | 0.1 |
| 29847491 | 5/11/2019 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $42.00 | $36.00 | $36.00 | 4240682 | 6/17/2019 | $33.12 | B | 0.1 | 0.1 | 0.1 |
| 29847492 | 5/10/2019 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $3,360.00 | $2,880.00 | $2,880.00 | 4240682 | 6/17/2019 | $2,649.60 | B | 8 | 8 | 8 |
| 29861392 | 5/13/2019 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $1,554.00 | $1,332.00 | $1,332.00 | 4240682 | 6/17/2019 | $1,225.44 | B | 3.7 | 3.7 | 3.7 |
| 29862435 | 5/14/2019 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $210.00 | $180.00 | $180.00 | 4240682 | 6/17/2019 | $165.60 | B | 0.5 | 0.5 | 0.5 |
| 29865047 | 5/15/2019 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $2,604.00 | $2,232.00 | $2,232.00 | 4240682 | 6/17/2019 | $2,053.44 | B | 6.2 | 6.2 | 6.2 |

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Exhibit A

| | | | | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 29868913 | 5/17/2019 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $3,276.00 | $2,808.00 | $2,808.00 | 4240682 | 6/17/2019 | $2,583.36 | B | 7.8 | 7.8 | 7.8 |
| 29888763 | 5/22/2019 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $42.00 | $36.00 | $36.00 | 4240682 | 6/17/2019 | $33.12 | B | 0.1 | 0.1 | 0.1 |
| 29921635 | 6/4/2019 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $252.00 | $216.00 | $216.00 | 4283364 | 11/7/2019 | $205.20 | B | 0.6 | 0.6 | 0.6 |
| 29930715 | 6/5/2019 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $1,344.00 | $1,152.00 | $1,152.00 | 4283364 | 11/7/2019 | $1,094.40 | B | 3.2 | 3.2 | 3.2 |
| 29961520 | 6/11/2019 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $126.00 | $108.00 | $108.00 | 4283364 | 11/7/2019 | $102.60 | B | 0.3 | 0.3 | 0.3 |
| 29964069 | 6/12/2019 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $42.00 | $36.00 | $36.00 | 4283364 | 11/7/2019 | $34.20 | B | 0.1 | 0.1 | 0.1 |
| 29968944 | 6/14/2019 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $294.00 | $252.00 | $252.00 | 4283364 | 11/7/2019 | $239.40 | B | 0.7 | 0.7 | 0.7 |
| 29968945 | 6/13/2019 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $168.00 | $144.00 | $144.00 | 4283364 | 11/7/2019 | $136.80 | B | 0.4 | 0.4 | 0.4 |
| 29988030 | 6/17/2019 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $336.00 | $288.00 | $288.00 | 4283364 | 11/7/2019 | $273.60 | B | 0.8 | 0.8 | 0.8 |
| 29988279 | 6/18/2019 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $126.00 | $108.00 | $108.00 | 4283364 | 11/7/2019 | $102.60 | B | 0.3 | 0.3 | 0.3 |
| 29992153 | 6/19/2019 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $252.00 | $216.00 | $216.00 | 4283364 | 11/7/2019 | $205.20 | B | 0.6 | 0.6 | 0.6 |
| 30007909 | 6/28/2019 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $42.00 | $36.00 | $36.00 | 4283364 | 11/7/2019 | $34.20 | B | 0.1 | 0.1 | 0.1 |
| 30068609 | 7/12/2019 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $1,302.00 | $1,116.00 | $1,116.00 | 4283364 | 11/7/2019 | $1,060.20 | B | 3.1 | 3.1 | 3.1 |
| 30082026 | 7/16/2019 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $1,680.00 | $1,440.00 | $1,440.00 | 4283364 | 11/7/2019 | $1,368.00 | B | 4 | 4 | 4 |
| 30085187 | 7/17/2019 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $420.00 | $360.00 | $360.00 | 4283364 | 11/7/2019 | $342.00 | B | 1 | 1 | 1 |
| 30096455 | 7/20/2019 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $42.00 | $36.00 | $36.00 | 4283364 | 11/7/2019 | $34.20 | B | 0.1 | 0.1 | 0.1 |
| 30096459 | 7/19/2019 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $840.00 | $720.00 | $720.00 | 4283364 | 11/7/2019 | $684.00 | B | 2 | 2 | 2 |
| 30109064 | 7/21/2019 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $3,066.00 | $2,628.00 | $2,628.00 | 4283364 | 11/7/2019 | $2,496.60 | B | 7.3 | 7.3 | 7.3 |
| 30116638 | 7/22/2019 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $2,478.00 | $2,124.00 | $2,124.00 | 4283364 | 11/7/2019 | $2,017.80 | B | 5.9 | 5.9 | 5.9 |
| 30182660 | 8/12/2019 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $84.00 | $72.00 | $72.00 | 4283364 | 11/7/2019 | $68.40 | B | 0.2 | 0.2 | 0.2 |
| 30185583 | 8/24/2019 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | N | $42.00 | $36.00 | $36.00 | 4283364 | 11/7/2019 | $0.00 | B | 0.1 | 0.1 | 0 |
| 30190748 | 8/15/2019 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $42.00 | $36.00 | $36.00 | 4283364 | 11/7/2019 | $34.20 | B | 0.1 | 0.1 | 0.1 |

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Exhibit A

| | | | | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 30206898 | 8/19/2019 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $588.00 | $504.00 | $504.00 | 4283364 | 11/7/2019 | $478.80 | B | 1.4 | 1.4 | 1.4 |
| 30206907 | 8/20/2019 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $924.00 | $792.00 | $792.00 | 4283364 | 11/7/2019 | $752.40 | B | 2.2 | 2.2 | 2.2 |
| 30206971 | 8/21/2019 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $336.00 | $288.00 | $288.00 | 4283364 | 11/7/2019 | $273.60 | B | 0.8 | 0.8 | 0.8 |
| 30220493 | 8/26/2019 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $672.00 | $576.00 | $576.00 | 4283364 | 11/7/2019 | $547.20 | B | 1.6 | 1.6 | 1.6 |
| 30220614 | 8/28/2019 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $1,386.00 | $1,188.00 | $1,188.00 | 4283364 | 11/7/2019 | $1,128.60 | B | 3.3 | 3.3 | 3.3 |
| 30220685 | 8/29/2019 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $714.00 | $612.00 | $612.00 | 4283364 | 11/7/2019 | $581.40 | B | 1.7 | 1.7 | 1.7 |
| 30258914 | 9/4/2019 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $294.00 | $252.00 | $252.00 | 4283364 | 11/7/2019 | $239.40 | B | 0.7 | 0.7 | 0.7 |
| 30266565 | 9/6/2019 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $840.00 | $720.00 | $720.00 | 4283364 | 11/7/2019 | $684.00 | B | 2 | 2 | 2 |
| 30266566 | 9/7/2019 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $1,764.00 | $1,512.00 | $1,512.00 | 4283364 | 11/7/2019 | $1,436.40 | B | 4.2 | 4.2 | 4.2 |
| 30289723 | 9/12/2019 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $420.00 | $360.00 | $360.00 | 4283364 | 11/7/2019 | $342.00 | B | 1 | 1 | 1 |
| 30292229 | 9/13/2019 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $84.00 | $72.00 | $72.00 | 4283364 | 11/7/2019 | $68.40 | B | 0.2 | 0.2 | 0.2 |
| 30310416 | 9/18/2019 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $1,134.00 | $972.00 | $972.00 | 4283364 | 11/7/2019 | $923.40 | B | 2.7 | 2.7 | 2.7 |
| 30316841 | 9/19/2019 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $672.00 | $576.00 | $576.00 | 4283364 | 11/7/2019 | $547.20 | B | 1.6 | 1.6 | 1.6 |
| 30331135 | 9/20/2019 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | N | $210.00 | $180.00 | $180.00 | 4283364 | 11/7/2019 | $0.00 | B | 0.5 | 0.5 | 0 |
| 30331145 | 9/21/2019 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | N | $84.00 | $72.00 | $72.00 | 4283364 | 11/7/2019 | $0.00 | B | 0.2 | 0.2 | 0 |
| 30359858 | 10/4/2019 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $44.50 | $36.00 | $36.00 | 4283364 | 11/7/2019 | $34.20 | B | 0.1 | 0.1 | 0.1 |
| 30380304 | 10/8/2019 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $44.50 | $36.00 | $36.00 | 4283364 | 11/7/2019 | $34.20 | B | 0.1 | 0.1 | 0.1 |
| 30380590 | 10/11/2019 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $44.50 | $36.00 | $36.00 | 4283364 | 11/7/2019 | $34.20 | B | 0.1 | 0.1 | 0.1 |
| 30380679 | 10/9/2019 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $44.50 | $36.00 | $36.00 | 4283364 | 11/7/2019 | $34.20 | B | 0.1 | 0.1 | 0.1 |
| 30381808 | 10/10/2019 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $44.50 | $36.00 | $36.00 | 4283364 | 11/7/2019 | $34.20 | B | 0.1 | 0.1 | 0.1 |
| 30384805 | 10/14/2019 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $89.00 | $72.00 | $72.00 | 4283364 | 11/7/2019 | $68.40 | B | 0.2 | 0.2 | 0.2 |

[redacted]

Exhibit A

| | | | | | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 30386854 | 10/21/2019 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $44.50 | $36.00 | $36.00 | 4283364 | 11/7/2019 | $34.20 | B | 0.1 | 0.1 | 0.1 | [redacted] |
| 30391856 | 10/22/2019 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $445.00 | $360.00 | $360.00 | 4283364 | 11/7/2019 | $342.00 | B | 1 | 1 | 1 | |
| 30404325 | 10/23/2019 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $89.00 | $72.00 | $72.00 | 4283364 | 11/7/2019 | $68.40 | B | 0.2 | 0.2 | 0.2 | |
| 30404430 | 10/24/2019 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $712.00 | $576.00 | $576.00 | 4283364 | 11/7/2019 | $547.20 | B | 1.6 | 1.6 | 1.6 | |
| 30405198 | 10/25/2019 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $44.50 | $36.00 | $36.00 | 4283364 | 11/7/2019 | $34.20 | B | 0.1 | 0.1 | 0.1 | |
| 30407216 | 10/27/2019 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $89.00 | $72.00 | $72.00 | 4283364 | 11/7/2019 | $68.40 | B | 0.2 | 0.2 | 0.2 | |
| 30415149 | 10/28/2019 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $1,780.00 | $1,440.00 | $1,440.00 | 4283364 | 11/7/2019 | $1,368.00 | B | 4 | 4 | 4 | |
| 30415201 | 10/29/2019 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $44.50 | $36.00 | $36.00 | 4283364 | 11/7/2019 | $34.20 | B | 0.1 | 0.1 | 0.1 | |
| 30420474 | 10/30/2019 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $89.00 | $72.00 | $72.00 | 4283364 | 11/7/2019 | $68.40 | B | 0.2 | 0.2 | 0.2 | |
| 30442326 | 10/31/2019 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $44.50 | $36.00 | $36.00 | 4283364 | 11/7/2019 | $34.20 | B | 0.1 | 0.1 | 0.1 | |
| 30460968 | 11/1/2019 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $133.50 | $108.00 | $108.00 | 4296227 | 12/16/2019 | $96.93 | B | 0.3 | 0.3 | 0.3 | |
| 30477616 | 11/5/2019 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $445.00 | $360.00 | $360.00 | 4296227 | 12/16/2019 | $323.11 | B | 1 | 1 | 1 | |
| 30480463 | 11/6/2019 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $133.50 | $108.00 | $108.00 | 4296227 | 12/16/2019 | $96.93 | B | 0.3 | 0.3 | 0.3 | |
| 30484845 | 11/7/2019 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $222.50 | $180.00 | $180.00 | 4296227 | 12/16/2019 | $161.56 | B | 0.5 | 0.5 | 0.5 | |
| 30484906 | 11/8/2019 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $311.50 | $252.00 | $252.00 | 4296227 | 12/16/2019 | $226.18 | B | 0.7 | 0.7 | 0.7 | |
| 30484989 | 11/11/2019 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $534.00 | $432.00 | $432.00 | 4296227 | 12/16/2019 | $387.73 | B | 1.2 | 1.2 | 1.2 | |
| 30486975 | 11/12/2019 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $445.00 | $360.00 | $360.00 | 4296227 | 12/16/2019 | $323.11 | B | 1 | 1 | 1 | |
| 30487227 | 11/14/2019 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $89.00 | $72.00 | $72.00 | 4296227 | 12/16/2019 | $64.62 | B | 0.2 | 0.2 | 0.2 | |
| 30487807 | 11/18/2019 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $801.00 | $648.00 | $648.00 | 4296227 | 12/16/2019 | $581.60 | B | 1.8 | 1.8 | 1.8 | |
| 30487813 | 11/15/2019 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $267.00 | $216.00 | $216.00 | 4296227 | 12/16/2019 | $193.87 | B | 0.6 | 0.6 | 0.6 | |
| 30525452 | 11/19/2019 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | N | $0.00 | $0.00 | $0.00 | 4296227 | 12/16/2019 | $0.00 | B | 0 | 0 | 0 | |

Exhibit A

| | | | | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 30527154 | 11/20/2019 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $44.50 | $36.00 | $36.00 | 4296227 | 12/16/2019 | $32.31 | B | 0.1 | 0.1 | 0.1 |
| 30529685 | 11/22/2019 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $133.50 | $108.00 | $108.00 | 4296227 | 12/16/2019 | $96.93 | B | 0.3 | 0.3 | 0.3 |
| 30538418 | 11/26/2019 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $667.50 | $540.00 | $540.00 | 4296227 | 12/16/2019 | $484.67 | B | 1.5 | 1.5 | 1.5 |
| 30538498 | 11/27/2019 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $489.50 | $396.00 | $396.00 | 4296227 | 12/16/2019 | $355.42 | B | 1.1 | 1.1 | 1.1 |
| 30562949 | 12/2/2019 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $801.00 | $648.00 | $648.00 | 4303811 | 1/15/2020 | $597.89 | B | 1.8 | 1.8 | 1.8 |
| 30572776 | 11/19/2019 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $178.00 | $144.00 | $144.00 | 4296227 | 12/16/2019 | $129.25 | B | 0.4 | 0.4 | 0.4 |
| 30572777 | 11/19/2019 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | N | $89.00 | $72.00 | $72.00 | 4296227 | 12/16/2019 | $0.00 | B | 0.2 | 0.2 | 0 |
| 30572957 | 12/3/2019 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $89.00 | $72.00 | $72.00 | 4303811 | 1/15/2020 | $66.43 | B | 0.2 | 0.2 | 0.2 |
| 30575213 | 12/5/2019 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $1,691.00 | $1,368.00 | $1,368.00 | 4303811 | 1/15/2020 | $1,262.22 | B | 3.8 | 3.8 | 3.8 |
| 30584304 | 12/6/2019 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $1,068.00 | $864.00 | $864.00 | 4303811 | 1/15/2020 | $797.19 | B | 2.4 | 2.4 | 2.4 |
| 30600515 | 12/10/2019 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $2,981.50 | $2,412.00 | $2,412.00 | 4303811 | 1/15/2020 | $2,225.49 | B | 6.7 | 6.7 | 6.7 |
| 30603731 | 12/11/2019 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $2,937.00 | $2,376.00 | $2,376.00 | 4303811 | 1/15/2020 | $2,192.28 | B | 6.6 | 6.6 | 6.6 |
| 30609486 | 12/12/2019 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $801.00 | $648.00 | $648.00 | 4303811 | 1/15/2020 | $597.89 | B | 1.8 | 1.8 | 1.8 |
| 30609557 | 12/14/2019 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $1,780.00 | $1,440.00 | $1,440.00 | 4303811 | 1/15/2020 | $1,328.65 | B | 4 | 4 | 4 |
| 30612347 | 12/15/2019 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $667.50 | $540.00 | $540.00 | 4303811 | 1/15/2020 | $498.27 | B | 1.5 | 1.5 | 1.5 |
| 30613533 | 12/15/2019 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $89.00 | $72.00 | $72.00 | 4303811 | 1/15/2020 | $66.43 | B | 0.2 | 0.2 | 0.2 |
| 30613625 | 12/16/2019 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $2,002.50 | $1,620.00 | $1,620.00 | 4303811 | 1/15/2020 | $1,494.73 | B | 4.5 | 4.5 | 4.5 |
| 30613826 | 12/17/2019 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $1,246.00 | $1,008.00 | $1,008.00 | 4303811 | 1/15/2020 | $930.06 | B | 2.8 | 2.8 | 2.8 |
| 30614154 | 12/18/2019 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $934.50 | $756.00 | $756.00 | 4303811 | 1/15/2020 | $697.54 | B | 2.1 | 2.1 | 2.1 |
| 30614165 | 12/19/2019 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $267.00 | $216.00 | $216.00 | 4303811 | 1/15/2020 | $199.30 | B | 0.6 | 0.6 | 0.6 |

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Exhibit A

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|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 30614183 | 12/20/2019 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $267.00 | $216.00 | $216.00 | 4303811 | 1/15/2020 | $199.30 | B | 0.6 | 0.6 | 0.6 |
| 30614558 | 12/21/2019 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $133.50 | $108.00 | $108.00 | 4303811 | 1/15/2020 | $99.65 | B | 0.3 | 0.3 | 0.3 |
| 30614577 | 12/22/2019 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $756.50 | $612.00 | $612.00 | 4303811 | 1/15/2020 | $564.68 | B | 1.7 | 1.7 | 1.7 |
| 30634532 | 12/23/2019 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $2,358.50 | $1,908.00 | $1,908.00 | 4303811 | 1/15/2020 | $1,760.47 | B | 5.3 | 5.3 | 5.3 |
| 30658941 | 1/3/2020 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $89.00 | $72.00 | $72.00 | 4308252 | 2/5/2020 | $72.00 | B | 0.2 | 0.2 | 0.2 |
| 30661913 | 1/6/2020 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | N | $0.00 | $0.00 | $0.00 | 4308252 | 2/5/2020 | $0.00 | B | 0 | 0 | 0 |
| 30661931 | 1/7/2020 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $89.00 | $72.00 | $72.00 | 4308252 | 2/5/2020 | $72.00 | B | 0.2 | 0.2 | 0.2 |
| 30662881 | 1/9/2020 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $89.00 | $72.00 | $72.00 | 4308252 | 2/5/2020 | $36.00 | B | 0.2 | 0.2 | 0.1 |
| 30704208 | 1/14/2020 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $133.50 | $108.00 | $108.00 | 4308252 | 2/5/2020 | $72.00 | B | 0.3 | 0.3 | 0.2 |
| 30713152 | 1/16/2020 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $133.50 | $108.00 | $108.00 | 4308252 | 2/5/2020 | $108.00 | B | 0.3 | 0.3 | 0.3 |
| 30716901 | 1/17/2020 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $89.00 | $72.00 | $72.00 | 4308252 | 2/5/2020 | $72.00 | B | 0.2 | 0.2 | 0.2 |
| 30747299 | 1/30/2020 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $489.50 | $396.00 | $396.00 | 4308252 | 2/5/2020 | $396.00 | B | 1.1 | 1.1 | 1.1 |
| 30748029 | 1/31/2020 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $44.50 | $36.00 | $36.00 | 4308252 | 2/5/2020 | $0.00 | B | 0.1 | 0.1 | 0.1 |
| 30748858 | 1/29/2020 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $44.50 | $36.00 | $36.00 | 4308252 | 2/5/2020 | $36.00 | B | 0.1 | 0.1 | 0.1 |
| 30753163 | 2/3/2020 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $89.00 | $72.00 | $72.00 | 4324089 | 3/26/2020 | $62.31 | B | 0.2 | 0.2 | 0.2 |
| 30753375 | 2/4/2020 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $1,557.50 | $1,260.00 | $1,260.00 | 4324089 | 3/26/2020 | $1,090.49 | B | 3.5 | 3.5 | 3.5 |
| 30755078 | 1/6/2020 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $89.00 | $72.00 | $72.00 | 4308252 | 2/5/2020 | $72.00 | B | 0.2 | 0.2 | 0.2 |
| 30755079 | 1/6/2020 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | N | $133.50 | $108.00 | $108.00 | 4308252 | 2/5/2020 | $0.00 | B | 0.3 | 0.3 | 0 |
| 30786288 | 2/5/2020 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $44.50 | $36.00 | $36.00 | 4324089 | 3/26/2020 | $31.16 | B | 0.1 | 0.1 | 0.1 |
| 30786291 | 2/5/2020 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $133.50 | $108.00 | $108.00 | 4324089 | 3/26/2020 | $93.47 | B | 0.3 | 0.3 | 0.3 |
| 30791295 | 2/6/2020 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $1,735.50 | $1,404.00 | $1,404.00 | 4324089 | 3/26/2020 | $467.35 | B | 3.9 | 3.9 | 1.5 |
| 30791336 | 2/6/2020 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $534.00 | $432.00 | $432.00 | 4324089 | 3/26/2020 | $373.88 | B | 1.2 | 1.2 | 1.2 |

[redacted]

Exhibit A

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|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 30808868 | 2/10/2020 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $4,272.00 | $3,456.00 | $3,456.00 | 4324089 | 3/26/2020 | $2,461.40 | B | 9.6 | 9.6 | 7. |
| 30809079 | 2/11/2020 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $534.00 | $432.00 | $432.00 | 4324089 | 3/26/2020 | $373.88 | B | 1.2 | 1.2 | 1. |
| 30812187 | 2/12/2020 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $1,824.50 | $1,476.00 | $1,476.00 | 4324089 | 3/26/2020 | $810.08 | B | 4.1 | 4.1 | 2. |
| 30817081 | 2/13/2020 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $489.50 | $396.00 | $396.00 | 4324089 | 3/26/2020 | $342.73 | B | 1.1 | 1.1 | 1. |
| 30821067 | 2/14/2020 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $44.50 | $36.00 | $36.00 | 4324089 | 3/26/2020 | $31.16 | B | 0.1 | 0.1 | 0. |
| 30854206 | 2/20/2020 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $1,424.00 | $1,152.00 | $1,152.00 | 4324089 | 3/26/2020 | $997.02 | B | 3.2 | 3.2 | 3. |
| 30855464 | 2/28/2020 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $534.00 | $432.00 | $432.00 | 4324089 | 3/26/2020 | $373.88 | B | 1.2 | 1.2 | 1. |
| 30857164 | 2/28/2020 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $222.50 | $180.00 | $180.00 | 4324089 | 3/26/2020 | $155.78 | B | 0.5 | 0.5 | 0. |
| 30857170 | 2/27/2020 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $133.50 | $108.00 | $108.00 | 4324089 | 3/26/2020 | $93.47 | B | 0.3 | 0.3 | 0. |
| 30857176 | 2/26/2020 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $44.50 | $36.00 | $36.00 | 4324089 | 3/26/2020 | $31.16 | B | 0.1 | 0.1 | 0. |
| 30857196 | 2/25/2020 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $133.50 | $108.00 | $108.00 | 4324089 | 3/26/2020 | $93.47 | B | 0.3 | 0.3 | 0. |
| 30857211 | 2/21/2020 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $44.50 | $36.00 | $36.00 | 4324089 | 3/26/2020 | $31.17 | B | 0.1 | 0.1 | 0. |
| 30885093 | 3/2/2020 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $44.50 | $36.00 | $36.00 | 4334077 | 4/29/2020 | $36.00 | B | 0.1 | 0.1 | 0. |
| 30905378 | 3/12/2020 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $222.50 | $180.00 | $180.00 | 4334077 | 4/29/2020 | $180.00 | B | 0.5 | 0.5 | 0. |
| 30906004 | 3/14/2020 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $890.00 | $720.00 | $720.00 | 4334077 | 4/29/2020 | $720.00 | B | 2 | 2 | |
| 30927016 | 3/18/2020 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $178.00 | $144.00 | $144.00 | 4334077 | 4/29/2020 | $144.00 | B | 0.4 | 0.4 | 0. |
| 30954447 | 3/26/2020 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $400.50 | $324.00 | $324.00 | 4334077 | 4/29/2020 | $324.00 | B | 0.9 | 0.9 | 0. |
| 30961481 | 3/27/2020 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $356.00 | $288.00 | $288.00 | 4334077 | 4/29/2020 | $288.00 | B | 0.8 | 0.8 | 0. |
| 31001498 | 4/7/2020 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $133.50 | $108.00 | $108.00 | 4341483 | 5/22/2020 | $72.00 | B | 0.3 | 0.3 | 0. |
| 31007785 | 4/9/2020 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $44.50 | $36.00 | $36.00 | 4341483 | 5/22/2020 | $36.00 | B | 0.1 | 0.1 | 0. |
| 31008361 | 4/10/2020 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $667.50 | $540.00 | $540.00 | 4341483 | 5/22/2020 | $540.00 | B | 1.5 | 1.5 | 1. |
| 31015703 | 4/13/2020 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $1,379.50 | $1,116.00 | $1,116.00 | 4341483 | 5/22/2020 | $1,116.00 | B | 3.1 | 3.1 | 3. |
| 31035934 | 4/15/2020 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $712.00 | $576.00 | $576.00 | 4341483 | 5/22/2020 | $576.00 | B | 1.6 | 1.6 | 1. |

[redacted]

Exhibit A

| | | | | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 31036437 | 4/16/2020 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $2,136.00 | $1,728.00 | $1,728.00 | 4341483 | 5/22/2020 | $1,512.00 | B | 4.8 | 4.8 | 4.2 |
| 31036555 | 4/17/2020 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $2,002.50 | $1,620.00 | $1,620.00 | 4341483 | 5/22/2020 | $1,620.00 | B | 4.5 | 4.5 | 4.5 |
| 31048092 | 4/20/2020 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $2,091.50 | $1,692.00 | $1,692.00 | 4341483 | 5/22/2020 | $1,692.00 | B | 4.7 | 4.7 | 4.7 |
| 31058793 | 4/21/2020 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $1,958.00 | $1,584.00 | $1,584.00 | 4341483 | 5/22/2020 | $1,224.00 | B | 4.4 | 4.4 | 3.4 |
| 31059027 | 4/22/2020 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $756.50 | $612.00 | $612.00 | 4341483 | 5/22/2020 | $432.00 | B | 1.7 | 1.7 | 1.2 |
| 31077394 | 4/28/2020 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $44.50 | $36.00 | $36.00 | 4341483 | 5/22/2020 | $36.00 | B | 0.1 | 0.1 | 0.1 |
| 31077439 | 4/29/2020 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $267.00 | $216.00 | $216.00 | 4341483 | 5/22/2020 | $216.00 | B | 0.6 | 0.6 | 0.6 |
| 31081415 | 4/30/2020 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $44.50 | $36.00 | $36.00 | 4341483 | 5/22/2020 | $36.00 | B | 0.1 | 0.1 | 0.1 |
| 31092993 | 5/1/2020 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $400.50 | $324.00 | $324.00 | 4350454 | 6/29/2020 | $298.08 | B | 0.9 | 0.9 | 0.9 |
| 31104667 | 5/4/2020 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $133.50 | $108.00 | $108.00 | 4350454 | 6/29/2020 | $99.36 | B | 0.3 | 0.3 | 0.3 |
| 31111060 | 5/5/2020 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $1,646.50 | $1,332.00 | $1,332.00 | 4350454 | 6/29/2020 | $1,225.44 | B | 3.7 | 3.7 | 3.7 |
| 31111369 | 5/6/2020 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $445.00 | $360.00 | $360.00 | 4350454 | 6/29/2020 | $331.20 | B | 1 | 1 | 1 |
| 31114457 | 5/7/2020 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $89.00 | $72.00 | $72.00 | 4350454 | 6/29/2020 | $66.24 | B | 0.2 | 0.2 | 0.2 |
| 31118239 | 5/8/2020 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $667.50 | $540.00 | $540.00 | 4350454 | 6/29/2020 | $496.80 | B | 1.5 | 1.5 | 1.5 |
| 31129999 | 5/11/2020 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $667.50 | $540.00 | $540.00 | 4350454 | 6/29/2020 | $496.80 | B | 1.5 | 1.5 | 1.5 |

[redacted]

Exhibit A

| | | | | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 31135647 | 5/12/2020 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $489.50 | $396.00 | $396.00 | 4350454 | 6/29/2020 | $364.32 | B | 1.1 | 1.1 | 1.1 |
| 31136020 | 5/13/2020 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | N | $0.00 | $0.00 | $0.00 | 4350454 | 6/29/2020 | $0.00 | B | 0 | 0 | 0 |
| 31155332 | 5/18/2020 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $578.50 | $468.00 | $468.00 | 4350454 | 6/29/2020 | $264.96 | B | 1.3 | 1.3 | 0.8 |
| 31155459 | 5/19/2020 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $667.50 | $540.00 | $540.00 | 4350454 | 6/29/2020 | $496.80 | B | 1.5 | 1.5 | 1.5 |
| 31155723 | 5/20/2020 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $534.00 | $432.00 | $432.00 | 4350454 | 6/29/2020 | $298.08 | B | 1.2 | 1.2 | 0.9 |
| 31182438 | 5/26/2020 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $1,379.50 | $1,116.00 | $1,116.00 | 4350454 | 6/29/2020 | $1,026.72 | B | 3.1 | 3.1 | 3.1 |
| 31182658 | 5/27/2020 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $1,913.50 | $1,548.00 | $1,548.00 | 4350454 | 6/29/2020 | $1,424.16 | B | 4.3 | 4.3 | 4.3 |
| 31183069 | 5/28/2020 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $1,958.00 | $1,584.00 | $1,584.00 | 4350454 | 6/29/2020 | $1,126.08 | B | 4.4 | 4.4 | 3.4 |
| 31183602 | 5/29/2020 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $44.50 | $36.00 | $36.00 | 4350454 | 6/29/2020 | $33.12 | B | 0.1 | 0.1 | 0.1 |
| 31184026 | 5/29/2020 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $445.00 | $360.00 | $360.00 | 4350454 | 6/29/2020 | $331.20 | B | 1 | 1 | 1 |
| 31201807 | 6/1/2020 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $178.00 | $144.00 | $144.00 | 4366722 | 8/31/2020 | $144.00 | B | 0.4 | 0.4 | 0.4 |
| 31260057 | 6/19/2020 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $44.50 | $36.00 | $36.00 | 4366722 | 8/31/2020 | $36.00 | B | 0.1 | 0.1 | 0.1 |
| 31279526 | 5/13/2020 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $578.50 | $468.00 | $468.00 | 4350454 | 6/29/2020 | $529.92 | B | 1.3 | 1.3 | 1.6 |
| 31279527 | 5/13/2020 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $712.00 | $576.00 | $576.00 | 4350454 | 6/29/2020 | $0.00 | B | 1.6 | 1.6 | 1.3 |
| 31280572 | 6/23/2020 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $133.50 | $108.00 | $108.00 | 4366722 | 8/31/2020 | $108.00 | B | 0.3 | 0.3 | 0.3 |
| 31284375 | 6/25/2020 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $89.00 | $72.00 | $72.00 | 4366722 | 8/31/2020 | $72.00 | B | 0.2 | 0.2 | 0.2 |
| 31297303 | 6/29/2020 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $445.00 | $360.00 | $360.00 | 4366722 | 8/31/2020 | $360.00 | B | 1 | 1 | 1 |
| 31297357 | 6/30/2020 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $89.00 | $72.00 | $72.00 | 4366722 | 8/31/2020 | $72.00 | B | 0.2 | 0.2 | 0.2 |
| 31304795 | 7/1/2020 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $2,848.00 | $2,304.00 | $2,304.00 | 4366722 | 8/31/2020 | $2,304.00 | B | 6.4 | 6.4 | 6.4 |

[redacted]

Exhibit A

| | | | | | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 31305290 | 7/2/2020 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $44.50 | $36.00 | $36.00 | 4366722 | 8/31/2020 | $36.00 | B | 0.1 | 0.1 | 0.1 | [redacted] |
| 31328729 | 7/8/2020 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $890.00 | $720.00 | $720.00 | 4366722 | 8/31/2020 | $720.00 | B | 2 | 2 | 2 | |
| 31329249 | 7/9/2020 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $267.00 | $216.00 | $216.00 | 4366722 | 8/31/2020 | $216.00 | B | 0.6 | 0.6 | 0.6 | |
| 31354579 | 7/17/2020 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $44.50 | $36.00 | $36.00 | 4366722 | 8/31/2020 | $36.00 | B | 0.1 | 0.1 | 0.1 | |
| 31399754 | 7/30/2020 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $89.00 | $72.00 | $72.00 | 4366722 | 8/31/2020 | $72.00 | B | 0.2 | 0.2 | 0.2 | |
| 31399814 | 7/31/2020 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $1,112.50 | $900.00 | $900.00 | 4366722 | 8/31/2020 | $900.00 | B | 2.5 | 2.5 | 2.5 | |
| 31408865 | 8/3/2020 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $178.00 | $144.00 | $144.00 | 4373240 | 9/21/2020 | $144.00 | B | 0.4 | 0.4 | 0.4 | |
| 31409105 | 8/4/2020 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $1,513.00 | $1,224.00 | $1,224.00 | 4373240 | 9/21/2020 | $1,224.00 | B | 3.4 | 3.4 | 3.4 | |
| 31422381 | 8/5/2020 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $133.50 | $108.00 | $108.00 | 4373240 | 9/21/2020 | $108.00 | B | 0.3 | 0.3 | 0.3 | |
| 31426015 | 8/6/2020 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $534.00 | $432.00 | $432.00 | 4373240 | 9/21/2020 | $432.00 | B | 1.2 | 1.2 | 1.2 | |
| 31427069 | 8/7/2020 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $89.00 | $72.00 | $72.00 | 4373240 | 9/21/2020 | $72.00 | B | 0.2 | 0.2 | 0.2 | |
| 31430648 | 8/10/2020 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $44.50 | $36.00 | $36.00 | 4373240 | 9/21/2020 | $36.00 | B | 0.1 | 0.1 | 0.1 | |
| 31446102 | 8/11/2020 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $356.00 | $288.00 | $288.00 | 4373240 | 9/21/2020 | $288.00 | B | 0.8 | 0.8 | 0.8 | |
| 31450405 | 8/13/2020 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $1,379.50 | $1,116.00 | $1,116.00 | 4373240 | 9/21/2020 | $1,116.00 | B | 3.1 | 3.1 | 3.1 | |
| 31453659 | 8/14/2020 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $1,913.50 | $1,548.00 | $1,548.00 | 4373240 | 9/21/2020 | $1,548.00 | B | 4.3 | 4.3 | 4.3 | |
| 31464461 | 8/17/2020 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $356.00 | $288.00 | $288.00 | 4373240 | 9/21/2020 | $288.00 | B | 0.8 | 0.8 | 0.8 | |
| 31468071 | 8/18/2020 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $623.00 | $504.00 | $504.00 | 4373240 | 9/21/2020 | $504.00 | B | 1.4 | 1.4 | 1.4 | |
| 31470336 | 8/19/2020 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $178.00 | $144.00 | $144.00 | 4373240 | 9/21/2020 | $144.00 | B | 0.4 | 0.4 | 0.4 | |
| 31477678 | 8/21/2020 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $979.00 | $792.00 | $792.00 | 4373240 | 9/21/2020 | $792.00 | B | 2.2 | 2.2 | 2.2 | |
| 31488734 | 8/24/2020 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $89.00 | $72.00 | $72.00 | 4373240 | 9/21/2020 | $72.00 | B | 0.2 | 0.2 | 0.2 | |
| 31494430 | 8/25/2020 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $400.50 | $324.00 | $324.00 | 4373240 | 9/21/2020 | $324.00 | B | 0.9 | 0.9 | 0.9 | |

Exhibit A

| | | | | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 31498163 | 8/26/2020 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $178.00 | $144.00 | $144.00 | 4373240 | 9/21/2020 | $144.00 | B | 0.4 | 0.4 | 0.4 |
| 31498799 | 8/27/2020 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $934.50 | $756.00 | $756.00 | 4373240 | 9/21/2020 | $756.00 | B | 2.1 | 2.1 | 2.1 |
| 31502522 | 8/28/2020 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $133.50 | $108.00 | $108.00 | 4373240 | 9/21/2020 | $108.00 | B | 0.3 | 0.3 | 0.3 |
| 31508300 | 8/31/2020 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $356.00 | $288.00 | $288.00 | 4373240 | 9/21/2020 | $288.00 | B | 0.8 | 0.8 | 0.8 |
| 31519932 | 9/1/2020 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $534.00 | $432.00 | $432.00 | 4381357 | 10/22/2020 | $410.30 | B | 1.2 | 1.2 | 1.2 |
| 31520119 | 9/1/2020 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $133.50 | $108.00 | $108.00 | 4381357 | 10/22/2020 | $102.60 | B | 0.3 | 0.3 | 0.3 |
| 31526179 | 9/4/2020 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $267.00 | $216.00 | $216.00 | 4381357 | 10/22/2020 | $205.10 | B | 0.6 | 0.6 | 0.6 |
| 31526236 | 9/3/2020 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $89.00 | $72.00 | $72.00 | 4381357 | 10/22/2020 | $68.40 | B | 0.2 | 0.2 | 0.2 |
| 31526704 | 9/6/2020 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $44.50 | $36.00 | $36.00 | 4381357 | 10/22/2020 | $34.20 | B | 0.1 | 0.1 | 0.1 |
| 31541827 | 9/8/2020 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $44.50 | $36.00 | $36.00 | 4381357 | 10/22/2020 | $34.20 | B | 0.1 | 0.1 | 0.1 |
| 31549095 | 9/11/2020 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $44.50 | $36.00 | $36.00 | 4381357 | 10/22/2020 | $34.20 | B | 0.1 | 0.1 | 0.1 |
| 31549424 | 9/14/2020 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $3,738.00 | $3,024.00 | $3,024.00 | 4381357 | 10/22/2020 | $2,871.90 | B | 8.4 | 8.4 | 8.4 |
| 31569429 | 9/15/2020 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $89.00 | $72.00 | $72.00 | 4381357 | 10/22/2020 | $68.40 | B | 0.2 | 0.2 | 0.2 |
| 31570855 | 9/18/2020 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $1,557.50 | $1,260.00 | $1,260.00 | 4381357 | 10/22/2020 | $1,196.60 | B | 3.5 | 3.5 | 3.5 |
| 31575946 | 9/21/2020 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $534.00 | $432.00 | $432.00 | 4381357 | 10/22/2020 | $410.30 | B | 1.2 | 1.2 | 1.2 |
| 31594687 | 9/22/2020 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $44.50 | $36.00 | $36.00 | 4381357 | 10/22/2020 | $34.20 | B | 0.1 | 0.1 | 0.1 |
| 31596087 | 9/24/2020 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $178.00 | $144.00 | $144.00 | 4381357 | 10/22/2020 | $136.80 | B | 0.4 | 0.4 | 0.4 |
| 31596186 | 9/25/2020 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $44.50 | $36.00 | $36.00 | 4381357 | 10/22/2020 | $34.20 | B | 0.1 | 0.1 | 0.1 |
| 31609644 | 9/30/2020 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $445.00 | $360.00 | $360.00 | 4381357 | 10/22/2020 | $341.90 | B | 1 | 1 | 1 |
| 31645993 | 10/8/2020 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $95.00 | $72.00 | $72.00 | 0 | 11/2/2020 | $0.00 | P | 0.2 | 0.2 | 0 |
| 31667215 | 10/14/2020 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $285.00 | $216.00 | $216.00 | 0 | 11/2/2020 | $0.00 | P | 0.6 | 0.6 | 0 |

[redacted]

Exhibit A

| | | | | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 31670517 | 10/16/2020 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $95.00 | $72.00 | $72.00 | 0 | 11/2/2020 | $0.00 | P | 0.2 | 0.2 | 0 |
| 31670599 | 10/17/2020 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $47.50 | $36.00 | $36.00 | 0 | 11/2/2020 | $0.00 | P | 0.1 | 0.1 | 0 |
| 31683560 | 10/19/2020 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $142.50 | $108.00 | $108.00 | 0 | 11/2/2020 | $0.00 | P | 0.3 | 0.3 | |
| 31690787 | 10/20/2020 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $190.00 | $144.00 | $144.00 | 0 | 11/2/2020 | $0.00 | P | 0.4 | 0.4 | |
| 31709207 | 10/27/2020 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $2,280.00 | $1,728.00 | $1,728.00 | 0 | 11/2/2020 | $0.00 | P | 4.8 | 4.8 | 0 |
| 31715464 | 10/28/2020 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $142.50 | $108.00 | $108.00 | 0 | 11/2/2020 | $0.00 | P | 0.3 | 0.3 | |
| 31734420 | 11/2/2020 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $1,045.00 | $792.00 | $792.00 | 0 | | $0.00 | W | 2.2 | 2.2 | 0 |
| 31740791 | 11/4/2020 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $997.50 | $756.00 | $756.00 | 0 | | $0.00 | W | 2.1 | 2.1 | 0 |
| 31744030 | 11/5/2020 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $3,087.50 | $2,340.00 | $2,340.00 | 0 | | $0.00 | W | 6.5 | 6.5 | 0 |
| 31763974 | 11/10/2020 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $712.50 | $540.00 | $540.00 | 0 | | $0.00 | W | 1.5 | 1.5 | 0 |
| 31764327 | 11/11/2020 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $427.50 | $324.00 | $324.00 | 0 | | $0.00 | W | 0.9 | 0.9 | 0 |
| 31767856 | 11/12/2020 | 2927 | Ford, Francis Cordes | 88786 | 1.1 | PC | Y | $855.00 | $648.00 | $648.00 | 0 | | $0.00 | W | 1.8 | 1.8 | 0 |
| | | | | | | | Total | $373,967.00 | $329,400.00 | $329,400.00 | | | $304,615.47 | | 915 | | |

[redacted]

| | | |
|---|---|---|
| 10/4/2015 to 7/26/2016) | | $58,644.00 |
| 7/27/2016 to 1/03/2017 | | $19,044.00 |
| 1/04/2017 to 4/26/2019) | | $127,008.00 |
| 4/27/2019 to 11/14/2020) | | $124,704.00 |

**IN THE MATTER OF THE ARBITRATION BETWEEN:**

| | | |
|---|---|---|
| TCC OF CHARLESTON, INC.<br><br>Plaintiff,<br><br>v.<br><br>CONCORD & CUMBERLAND HPR,<br><br>Defendant. | ) | **TCC OF CHARLESTON'S MOTION FOR PREJUDGMENT INTEREST, COSTS OF ARBITRATION, AND ATTORNEYS' FEES AND COSTS**<br><br>**(TCC'S MOTION TO PROVIDE FEES AND COSTS BILLING *IN CAMERA*)** |

This matter came before the Panel for a hearing beginning on January 21, 2019 and concluding on January 24. After consideration of the evidence, the Panel awarded TCC of Charleston, Inc. ("TCC") $2,023,074.45 for all claims asserted in this proceeding and retained jurisdiction, consistent with the Parties' arbitration agreement, to hear motions for prejudgment interest, the cost of the arbitration, and attorneys' fees and costs.

## I. PREJUDGMENT INTEREST

The Parties' agreement specified that "[p]ayments due and unpaid under the Contract shall bear interest from the date payment is due at the rate stated below," and that the specified rate would be "[p]rime as published in the Wall Street Journal." Contract § 15.2 (AIA 102-2007). Pursuant to SC law, interest is compounded annually. This yields a total of $287,647.79 in prejudgment interest through April 23, 2019.[1] *See* **Exh. 1** (affidavit of Morgan McKnight).

The Panel found due $2,023,074.25.[2] TCC is due $287,674.79 in prejudgment interest.

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[1] Interest is accruing at $345.80 per day based on the current rate of 5.5% and a compounded balance of $2,294,842.32. *See* **Exh. 1** (affidavit of Morgan McKnight).

[2] For ease, TCC has used the date of substantial completion, recognizing that between substantial completion on March 8 and the October billing an additional $442,099.82 was added. This said, PCO 83 (in the amount of $434,620.00) was due in June 2015. To request interest on this PCO

## II. COSTS OF THE ARBITRATION

The Parties' arbitration agreement provides for an award of the costs of the arbitration and attorneys' fees pursuant to the mechanics' lien laws. **Exh. 2** (arbitration agreement). TCC's arbitration costs total $84,493.85 and fall into two categories — those paid directly by TCC, and those paid by TCC's counsel and reimbursed by TCC.

Costs paid directly by TCC totaled $57,176.34 and included payments to the AAA, fees to the Panel, mediation fees, and payments directly to ProLegal for several document productions and Cloud storage fees. *See* **Exh. 1** (affidavit of Morgan McKnight).

The costs reimbursed by TCC totaled $27,317.51 and fit into four categories – electronic discovery ($11,069.51), deposition transcripts ($5,941.95), service of process ($2,807.50), and miscellaneous (filing fees, copies, etc.) ($7,765.55). *See* **Exh. 3** (affidavit of Jaan G. Rannik).

For the reasons stated in the affidavits of John David Griffith and Jaan G. Rannik, **Exhs. 3 & 4**, TCC requests the Panel award its costs of $84,493.85.

## III. ATTORNEYS' FEES AND COSTS

Pursuant to the Parties' arbitration agreement (**Exh. 2**), "the Arbitrators shall assess, in whole or in part, their fees and expenses incurred in connection with Arbitration as part of their award in accordance with S.C. Code § 15-48-110 *and the fee provision contained in the Mechanic's Lien Laws*." Indeed, among TCC's claims was the foreclosure of the amended mechanics' lien filed June 10, 2016 (first filed June 6, 2018) pursuant to the mechanics' lien law, S.C. Code Ann. § 29-5-10 *et seq*. Section 29-5-10(b) specifies the mechanism for the award of attorneys' fees relating to this cause of action.

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and other PCOs from their due dates more than accommodate the additional $400,000 billed in October 2016.

Under that section, attorneys' fees go to the prevailing party, which is specified to mean the party whose offer of settlement is closer to the ultimate verdict. When no offer of settlement is made under the statute,[3] the defendant's offer is considered to be zero and the plaintiff's offer is considered to be the amount prayed for in the pleadings. Here, no offer was made under the statute by either party. Accordingly, the HPR's offer is considered to be $0.00 and TCC's offer is considered to be the $2,385,503.57 requested in TCC's amended mechanic's lien.

Because TCC's offer is closer to the verdict of $2,023,074.45 awarded by the Panel, it is the prevailing party under the mechanics' lien statute and should be awarded its attorneys' fees as set forth in section 5 of the parties' agreement to arbitrate.

As background on the arbitration agreement, the Parties agreed that arbitration should occur only with the HPR (rather than with all of the individual unit owners as well) to reduce the number of lawyers, the time, and the expense. This was done, however, with the proviso that attorneys' fees would be nonetheless available pursuant to the mechanics' lien laws, which is why that language was included in the agreement.

### A. The Amount of the Fees and Request for *in Camera* Review

TCC incurred attorneys' fees of $899,563 between the date the lien was filed and the date TCC submitted its proposed order; of that amount, TCC has paid $697,257 to date. *See* **Exh. 5** (affidavit of Andrew K. Epting, Jr.). If the Panel will approve an *in camera* review, TCC will submit its invoices to the Panel.

In order to cogently present its case to the Panel, TCC's attorneys were required to reconstruct what occurred on the job; as agreed by the Parties and the witnesses, this job was

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[3] Any such offer must explicitly "state that it is made under this section." S.C. Code Ann § 29-5-10(b).

convoluted to an unrivaled degree, and the fees reflect the amount of work required. Myriad discovery issues also contributed to the fees. *See* **Exh. 3** (affidavit of Jaan G. Rannik).

Pursuant to the mechanics' lien laws and the Parties' arbitration agreement incorporating the same, TCC requests the Panel award it $899,563 in attorneys' fees. For reference, a 40% contingency on this recovery would total approximately $810,000.

## IV. PROJECT INSURANCE

TCC obtained insurance for the project, benefitting TCC and the owner. The premiums for that insurance were $25 per $1,000 of the contract value. The project insurance was originally part of the contract; but, in order to save on license and permit expenses, which are calculated on the basis of the costs of a project, the HPR requested to take the project insurance out of the contract and pay it directly. This was accomplished by a change order.

In October 2015, the premiums increased based upon an increase in the anticipated contract value ($6,501,813) and an extension of the completion date; this increase was paid by the HPR.

Now, pursuant to the Panel's award, the final contract value is $7,594,592.69, a difference of $1,092,779.69. This increase in the contract amount requires payment of additional premiums, the amount of which was not possible to calculate prior to the Panel's ruling. Based on the Panel's award and the increase in the contract amount by $1,092,779.69 over the October 2015 estimate, the resulting increase in the premium would be $24,575. The undersigned have asked the insurance company for confirmation and hope to have this next week.

## V. CONCLUSION

TCC requests the Panel award it $899,563 in attorneys' fees, $84,493.85 in arbitration costs, $287,674.79 in prejudgment interest through April 23, 2019 (plus $345.80 per day going forward), and $24,575 in increased premiums (subject to confirmation).

In addition, anticipating that the HPR may appeal the Panel's ruling and award, including any award of TCC's attorneys' fees and that additional fees will be incurred in the course of any appeal of the Panel's ruling, TCC requests the Panel retain jurisdiction to award further fees and costs as necessary in the future.

Finally, TCC notes that upon confirmation the interest rate will be the post-judgment rate.

Respectfully submitted,

**ANDREW K. EPTING, JR., LLC**

This 26th day of April, 2019
Charleston, SC

Andrew K. Epting, Jr., Esquire
Jaan G. Rannik, Esquire
46A State Street
Charleston, South Carolina 29401
843-377-1871
843-377-1310 (fax)
ake@epting-law.com
jgr@epting-law.com

*ATTORNEYS FOR TCC OF CHARLESTON, INC.*

**IN THE MATTER OF THE ARBITRATION BETWEEN:**

| | | |
|---|---|---|
| TCC OF CHARLESTON, INC. | ) | |
| | ) | |
| Plaintiff, | ) | |
| | ) | |
| v. | ) | **AFFIDAVIT OF MORGAN MCKNIGHT** |
| | ) | |
| CONCORD & CUMBERLAND HPR, | ) | |
| | ) | |
| Defendant. | ) | |
| | ) | |

PERSONALLY appeared before me, MORGAN MCKNIGHT, who states as follows:

1. My name is Morgan McKnight, and I am the Accounting and Office Manager of TCC of Charleston, Inc.

2. The Wall Street Journal prime rate from March 8, 2016, to present is as follows:

| | |
|---|---|
| March 8, 2016 | 3.50% |
| December 15, 2016 | 3.75% |
| March 16, 2017 | 4.00 % |
| June 15, 2017 | 4.25% |
| December 14, 2017 | 4.50% |
| March 22, 2018 | 4.75% |
| June 14, 2018 | 5.00% |
| September 27, 2018 | 5.25% |
| December 20, 2018 | 5.50% |

3. Beginning with the sum awarded by the Panel as due of $2,023,074.25 and using the rates as they changed over time and compounding on a yearly basis:



Blumberg No. 5118 EXHIBIT 1

| CONCORD & CUMBERLAND INTEREST CALCULATION | | | | | |
|---|---|---|---|---|---|
| | | | | | |
| **Date of Published Rate** | **WSJ Prime Rate** | **Daily Periodic Rate** | **Days in Billing Period** | **Interest** | **Compounding Balance** |
| 3/8/2016 | 3.50% | | | | $2,023,074.25 |
| 12/15/2016 | 3.50% | 0.0096% | 282 | $54,706.14 | |
| 3/8/2017 | 3.75% | 0.0103% | 83 | $17,251.56 | $2,095,031.95 |
| 3/16/2017 | 3.75% | 0.0103% | 8 | $1,721.94 | |
| 6/15/2017 | 4.00% | 0.0110% | 91 | $20,892.92 | |
| 12/14/2017 | 4.25% | 0.0116% | 182 | $44,397.46 | |
| 3/8/2018 | 4.50% | 0.0123% | 84 | $21,696.50 | $2,183,740.77 |
| 3/22/2018 | 4.50% | 0.0123% | 14 | $3,769.20 | |
| 6/14/2018 | 4.75% | 0.0130% | 84 | $23,871.58 | |
| 9/27/2018 | 5.00% | 0.0137% | 105 | $31,409.97 | |
| 12/20/2018 | 5.25% | 0.0144% | 84 | $26,384.37 | |
| 3/8/2019 | 5.50% | 0.0151% | 78 | $25,666.43 | $2,294,842.32 |
| 4/23/2019 | 5.50% | 0.0151% | 46 | $15,906.72 | |
| | | | **Total:** | **$287,674.79** | |

4. Interest through April 23, 2019, totals $287,674.79.

5. TCC has directly paid $57,176.34 in costs of the arbitration; an additional $27,317.51 was paid by counsel and reimbursed by TCC. TCC's total costs were $84,493.85.

SONIA MEISENBACH NOTARY PUBLIC MY COMMISSION EXPIRES 6/16/2027 SOUTH CAROLINA

Morgan McKnight
MORGAN MCKNIGHT

SWORN to before me this
25th day of April, 2019.

Sonia Meisenbach (L.S.)
NOTARY PUBLIC FOR SOUTH CAROLINA
My Commission Expires: 6/16/27

| | |
|---|---|
| TCC OF CHARLESTON, INC.<br>Plaintiff.<br>v.<br>CONCORD & CUMBERLAND HPR.<br>Defendant. | **ARBITRATION AGREEMENT** |

This Arbitration Agreement ("Agreement") is entered into by and between TCC of Charleston, Inc. ("Trident") and Concord & Cumberland HPR ("HPR") who agree as follows:

**WHEREAS**, Trident is a South Carolina corporation with its principal place of business in Charleston, South Carolina;

**WHEREAS**, the HPR is a horizontal property regime organized and existing under the laws of the State of South Carolina, with its principal place of business in Charleston, South Carolina;

**WHEREAS**, Trident entered into a contract with the HPR dated 27 February 2014 (the "Contract") to perform exterior repairs to Concord & Cumberland located at 175 Concord Street, Charleston, South Carolina (the "Project");

**WHEREAS**, certain disputes have arisen regarding performance and payment on the Project;

**WHEREAS**, on or about June 10, 2016, Trident filed an Amended Mechanic's Lien on the Project for $2,385,503.57 in the RMC Office of Charleston County recorded in Plat Book 0560 at Page 116 ("Trident Lien");



Blumberg No. 5118 EXHIBIT 2

**WHEREAS**, Mediation took place on July 22, 2016 with Dawes Cooke;

**WHEREAS**, this dispute is to be decided by final and binding arbitration pursuant to S.C. Code § 15-48-10 et seq., and the parties to this document agree further as follows:

1. Selection of Arbitrators – The Parties shall select arbitrators in accordance with S.C. Code § 15-48-30. Trident has selected Frank Elmore and the HPR has selected John McCants who shall proceed to choose a third arbitrator.

2. Location of Arbitration – The Arbitration will be conducted in Charleston, South Carolina, at a location determined by the Arbitrators.

3. Dates of Arbitration – The date(s) of the Arbitration will be set by mutual agreement of the Parties and the Arbitrators.

4. Discovery – Discovery shall be limited to the following:

- The parties will exchange all documents related to this dispute that are not privileged. The HPR will undertake reasonable efforts to obtain relevant, non-privileged, non-confidential project documentation from unit owners, but cannot guarantee a complete production of same. A log shall be prepared for documents withheld by the parties. Privileged documents that are inadvertently produced may be "clawed backed" and will not be subject to an argument of waiver.
- Each party shall be allowed to take up to five (5) depositions.
- Each party may serve up to fifteen (15) Interrogatories.

5. Fees and Expenses of Arbitrators – All fees and expenses incurred and charged by the Arbitrators prior to the hearing shall be borne equally between the Parties, with Trident bearing one-half and the HPR bearing one-half. However, the Arbitrators shall assess, in whole or in part, their fees and expenses incurred in connection with the Arbitration as a part of their award in

accordance with S.C. Code § 15-48-110 and the fee provision contained in the Mechanic's Lien Laws.

6. Claims / Issues – The Parties agree that the scope of arbitration will be governed by § 15.4.1 of the AIA Document A201-2007, General Conditions of the Contract entered into between the parties and S.C. Code § 15-48-110.

7. Issuance of Award – The Arbitrators shall, if at all possible, issue their award in this case within thirty (30) calendar days of the conclusion of the hearing. The form of the award shall be reserved until 30 days before the hearing.

8. Entire Agreement – This Agreement, along with the prior Contract between the parties and S.C. Code § 15-48-10 et seq., sets forth all of the agreements between the Parties relating to this arbitration, and all other agreements, understandings, representations and statements, oral or written, are merged herein.

9. Severability – In the event any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision hereof and this Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

10. Successors and Assigns – This Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective successors and assigns.

Witness

Witness

TCC OF CHARLESTON, INC.

By: Andrew K Epting Jr

ANDREW K. EPTING, JR., LLC
Andrew K. Epting, Jr., Esquire
Michelle N. Endemann, Esquire
46A State Street
Charleston, SC 29401
Phone: (843) 377-1871
Fax: (843) 377-1310
akepting-law.com; mnepting-law.com

Dated: _____

Witness

Witness

CONCORD & CUMBERLAND HPR

By: _____

F. Cordes Ford
Womble Carlyle Sandridge & Rice
5 Exchange Street
Charleston, SC 29401
Telephone: 843.720.4631
Facsimile: 843.723.7398
cford@wcsr.com

Dated: 1/18/17

**IN THE MATTER OF THE ARBITRATION BETWEEN:**

| | | |
|---|---|---|
| TCC OF CHARLESTON, INC.<br><br>Plaintiff,<br><br>v.<br><br>CONCORD & CUMBERLAND HPR,<br><br>Defendant. | ) | **AFFIDAVIT OF JAAN G. RANNIK** |

PERSONALLY appeared before me Jaan G. Rannik, stating as follows:

1. With Drew Epting, I represented TCC of Charleston, Inc. ("TCC") in the arbitration with the Concord and Cumberland HPR. I joined Mr. Epting's firm in September 2016 and have been involved in this matter since.

2. Through the date TCC submitted its proposed order to the Panel, I billed 905.70 hours to TCC relating to the Concord & Cumberland matter.

3. Conservatively, 141 of my hours (15%) were spent on account of discovery issues brought about by the HPR:

    a. Preparing for and taking depositions on the limited subject of documents in the possession of Trey McCraw, Shawn Mellin, and Streetman Jones & Powers (the auditor) as a result of incomplete productions by the HPR.

    b. At least 41 separate emails to counsel regarding discovery issues, including:

        i. the HPR's inadequate responses to TCC's document requests (on at least 24 separate occasions);



ii. whether HPR's counsel would accept service of subpoenas to the HPR's board members (on at least 9 separate occasions)

iii. issues relating to the deposition of Dr. Tom Mather and service of the subpoena for the same (at least 8 separate occasions);

c. At least 19 letters or emails to the Panel seeking assistance with the above issues.

d. Time spent coordinating service of subpoenas on board members[1], who were themselves clients of the HPR's counsel but for which counsel did not accept service.

e. This does not include the amount of time Mr. Epting spent on these issues.

4. Attorney's fees and costs were incurred by TCC in the service of the complaint on each individual homeowner, as HPR's counsel would not accept service. This entailed weeks of coordination with process servers, obtaining skip traces for multiple homeowners to determine where to personally serve them, collection of affidavits of service, and administrative time track the status of service on each.

5. As a result of the HPR's contention that the architect's documents were not within the HPR's care, custody, or control, TCC incurred an additional $1,500.00 for the production of those documents, paid to the architect.

6. TCC produced over 42,000 pages of documents in discovery. Per the original scheduling order, TCC's documents were made available for review by the HPR in December 2017.

[1] Notably, Marion Simpson and Dr. Mather, both of whom appeared to avoid service for months and neither of whom ultimately produced any documents.

The HPR requested TCC produce all of the above documents which TCC did by March 2018.

7. The HPR's document production was uneven. Documents were produced in batches and supplemented to be more complete only at TCC's frequent urging.[2] Documents significant to TCC's claims were still being produced as late as December of 2018, a month before the trial. *See* **Exhibit A** (*summary of HPR document production*).

    a. Because of the late hour at which critical documents were produced—and thus the limited amount of time available for their review—Mr. Epting performed the initial review of certain documents, namely McAlister's, Trey McCraw's, and Leo Hall's. This is not something he would usually do given his hourly rate. It was necessitated in order to review all of the documents at the eleventh hour and take depositions.

    b. I spent approximately 112.5 hours performing initial review of the documents, a total of $30,937.50. From my review, extra cost on account of Mr. Epting serving in a "gatekeeper" capacity added another $30,187.50.

[2] It likely seems a purely mechanical thing to request additional materials be produced; but take Joanne Cooper's documents. After a number of requests, we understood all of her documents had been produced as of November 6, 2018; approximately 2,500 pages. On November 16, another 2,500 pages appeared; on November 27, an additional 1,500 pages appeared. The latter productions were largely duplicative of the initial production; but, as the documents were produced as PDF files with no character recognition applied, it took hours of review to simply understand what had been produced, let alone perform a substantive review. HPR's counsel naturally produced the documents as provided by the client; but it increased Trident's costs, especially as the review was conducted at Mr. Epting's and my hourly rates rather than at our paralegals' or law clerks' rates.

c. In addition, it was necessary to hire two law clerks to assist with the last-minute review of late-produced documents. This totaled $8,595.00.

8. Our firm advanced $27,317.51 in arbitration costs on TCC's behalf and have been reimbursed by TCC for the same. *See* **Exh. B** (Expense Detail)

9. The above is an absolute minimum of additional fees and cost incurred.

JAAN G. RANNIK

SWORN to before me this
20th day of April, 2019.

(L.S.)
NOTARY PUBLIC FOR SOUTH CAROLINA
My Commission Expires: 4-26-2028

C&C HOA DOCUMENT PRODUCTION

| Date Produced | Bates Range | Gen'l Description | # of pages |
|---|---|---|---|
| 8/30/2017 | 00001 - 1871 | McAlister File | 1871 |
| 11/30/2017 | C&CHOA001782–002170 | Emails | 388 |
| 12/4/2017 | C&CHOA002171–2517 | | 346 |
| 12/21/2017 | C&CHOA002518–3254 | | 736 |
| 12/28/2017 | C&CHOA003255–004622 | | 1367 |
| 3/7/2018 | C&CHOA004623 - 004678 | All documents by which a claim of coverage was made by the Board. | 55 |
| 3/7/2018 | C&CHOA004623- 004634 | Insurance Loss Runs | 11 |
| 3/7/2018 | C&CHOA004635 - 004674 | Board Meeting Minutes | 39 |
| 3/7/2018 | C&CHOA004675 - 004678 | Insurance Dec Pages | 3 |
| 3/9/2018 | C&CHOA004679–004685 | Construction Audit Report by Streeman | 6 |
| 5/7/2018 | Streetman Production SJP_00001 to SJP_000404 | Streetman's file re audit | 404 |
| 5/9/2018 | POSTON0000000001_0001 — 870_0001 | Poston's documents (management co during original construction) | 1912 |
| 5/23/2018 | Affidavit of Myles Glick | | |
| 6/18/2018 | Affidavit of Thomas R. Mather | | |
| 7/20/2018 | C&CHOA006398 – 16619 | McCraw Files from Dropbox (McAlister) | 10221 |
| 8/30/2018 | C&CHOA016620 - C&CHOA022161 (bates in Cloud9) | remainder of the McAlister file (minus priv docs) (VIA LINK) | 5541 |
| 8/31/2018 | C&CHOA022162 - C&CHOA022220 | FIRST EXTERIORS_CARL ULM (VIA LINK) | 58 |
| 9/24/2018 | Glick Boehm docs (flashdrive & cloud9) | | passim |
| 10/18/2018 | SEGAL 0001-1699 | | 1699 |
| 10/29/2018 | HALL000001-HALL000168 | LEO HALL DOCS | 168 |
| 10/24/2018 | COOPER000001-COOPER000068 | Joann Cooper docs - 2 sets of docs from Cordes office. Wtg on emails | 68 |
| 11/6/2018 | Cooper Prod 01 – COOPER0001-COOPER02432 | Joann Cooper emails | 2342 |
| 11/6/2018 | Patricio Prod 01 – 1279 | Nelia Patricio docs | 1279 |
| 11/16/2018 | Cooper Prod 02 - COOPER02433-COOPER02964 | Joann Cooper emails | 531 |
| 11/21/2018 | C&CHOA022162-C&CHOA022844 | McCraw files (via link) | 682 |
| 11/21/2018 | C&CHOA016620-C&CHOA021739 (DOWNGRADED) | McCraw files (via link) | 246 |
| 11/27/2018 | Cooper0004963 to Cooper0006531 | Joann Cooper production 3 (via link) | 1568 |
| 11/27/2018 | Patricio0002021 to Patricio0007782 | Nelia Patricio production 2 (via link) | 5761 |
| 12/11/2018 | Freeman0001-1498 | John Freeman production (via link from WBD) | 1498 |
| 12/20/2018 | CDebnam 0001-0066 | Candace Debnam docs (via email from Andrew Walden) | 66 |
| 1/16/2019 | Affidavit of Marion Simpson | | |



Exhibit B

EXHIBIT A

**Andrew K Epting Jr LLC**
46A State Street,
Charleston, SC 29401
Tel: 843-377-1871 Fax: 843-377-1310

Expense Detail by Matter with Approval Status

Printed on: 4/18/2019


Filters Used:
- Matter ID: Selected Items (1)

**Matter ID-Name: 0535-060: -** *Concord and Cumberland* **(Andrew Epting)**

**Client ID: TCC -** *Trident Construction Company*

** = Invoiced (mouse over for #), = Marked as Billed*

| Date | Employee ID | Description | Units | Cost | MU % | Amount | Status | * |
|---|---|---|---|---|---|---|---|---|
| 4/4/2016 | McCraw Services LLC | #3984 McCraw Services - Paralegal Services 03/02/16-03/31/16 Inv. #163 | 1.00 | $85.00 | 0.00 | $85.00 | Approved | × |
| 5/1/2016 | AKE | #4015 McCraw Services Inv. #164 - Paralegal Services 04/01/16-04/29/16 | 1.00 | $17.00 | 0.00 | $17.00 | Approved | × |
| 5/16/2016 | MNE | #4024 Clerk of Court - Filing Fee Summons and Complaint and Motion to Arbitrate | 1.00 | $175.00 | 0.00 | $175.00 | Approved | × |
| 5/16/2016 | MNE | #4025 Charleston RMC Filing Fee for Lien | 1.00 | $11.50 | 0.00 | $11.50 | Approved | × |
| 6/10/2016 | MNE | #4046 Clerk of Court - Amended Mechanics Lien | 1.00 | $26.00 | 0.00 | $26.00 | Approved | × |
| 6/19/2016 | MNE | #4070 A. Gross (Clerk of Court) Reimbursement Filing Fee Lis Pendens | 1.00 | $11.17 | 0.00 | $11.17 | Approved | × |
| 7/5/2016 | AKE | #4088 McCraw Services - Paralegal Services 06/02/16-06/30/16 Inv. #166 | 1.00 | $459.00 | 0.00 | $459.00 | Approved | × |
| 7/6/2016 | MNE | #4097 ProLegal - Copies of Summons, Compaint, Lis Pendens, Mechanics Lien for | 1.00 | $363.24 | 0.00 | $363.24 | Approved | × |
| 7/16/2016 | MNE | #4096 Process Service Inc - Service Summons, Complaint, Lis Pendens, Mechanics Lien on Multiple Defs | 1.00 | $410.00 | 0.00 | $410.00 | Approved | × |
| 7/19/2016 | MNE | #4108 Brownyard Law Firm Inv. 1080 - Title Searches & Legal Services | 1.00 | $2,140.00 | 0.00 | $2,140.00 | Approved | × |
| 8/7/2016 | MNE | #4133 Rosen Litigation Technologies - Litigation Support JDG Emails Inv. 2621 | 1.00 | $500.00 | 0.00 | $500.00 | Approved | × |
| 8/7/2016 | MNE | #4132 Process Service Inc. - Service Summons, Complaint, Lis Pendens, Mechanics Lien | 1.00 | $70.00 | 0.00 | $70.00 | Approved | × |
| 8/18/2016 | MNE | #4137 Alliant Legal Services Service Summons, Complaint, Lis Pendens, Mechanics Lien on Wm. and | 1.00 | $95.00 | 0.00 | $95.00 | Approved | × |
| 8/18/2016 | MNE | #4144 LaSalle Process Service - Service Summons, Complaint, Mechanics Lien, Lis Pendens on Bonita | 1.00 | $144.00 | 0.00 | $144.00 | Approved | × |
| 8/25/2016 | RHM | Alliant Legal - Skip Trace on William Foster | 1.00 | $45.00 | 0.00 | $45.00 | Approved | × |
| 8/26/2016 | MNE | #4150 Serve One LLC Service Summons, Complaint, Mechanics Lien, Lis Pendens on Marion Simpson | 1.00 | $158.50 | 0.00 | $158.50 | Approved | × |
| 8/26/2016 | MNE | #4148 Process Services Inc. Service Summons, Complaint, Mechanics Lien, Lis Pendens on Simpson | 1.00 | $70.00 | 0.00 | $70.00 | Approved | × |
| 9/9/2016 | AKE | #4160 Barnwell Whaley (Dawes Cooke) Mediation Inv. #103664 | 1.00 | $1,426.75 | 0.00 | $1,426.75 | Approved | × |
| 9/22/2016 | AKE | #4176 Rosen Litigation Technology Inv. 2658 | 1.00 | $918.75 | 0.00 | $918.75 | Approved | × |
| 9/27/2016 | AKE | #4180 GSL Process Service Summons, Complaint, Lis Pendens, Mechanics Lien on Sparks/Vaughn | 1.00 | $95.00 | 0.00 | $95.00 | Approved | × |
| 10/2/2016 | AGG | #4185 Serve One Summons, Complaint, Lis Pendens, Mechanics Lien on Marion Simpson | 1.00 | $175.00 | 0.00 | $175.00 | Approved | × |
| 10/2/2016 | AGG | #4186 Process Service Inc Service Summons, Complaint, Lis Pendens,Mechanics Lien on Thomas Debnam | 1.00 | $70.00 | 0.00 | $70.00 | Approved | × |

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*⊘ = Non-Billable, × = Xtra*





**Andrew K Epting Jr LLC**
46A State Street,
Charleston, SC 29401
Tel: 843-377-1871 Fax: 843-377-1310

Expense Detail by Matter with Approval Status



Filters Used:
- Matter ID: Selected Items (1)

**Matter ID-Name: 0535-060: -** *Concord and Cumberland* **(Andrew Epting)**

**Client ID: TCC -** *Trident Construction Company*

* = *Invoiced (mouse over for #),* = *Marked as Billed*

| Date | Employee ID | Description | Units | Cost | MU % | Amount | Status | * |
|---|---|---|---|---|---|---|---|---|
| 10/17/2016 | AKE | Seagate Backup Portable USB 3.0 Hard Drive | 1.00 | $59.99 | 0.00 | $59.99 | Approved | × |
| 10/20/2016 | AGG | #4266 Process Service, Inc. Service Summons, Complaint, Mechanics Lien, Lis Pendens Marion Simpson | 1.00 | $70.00 | 0.00 | $70.00 | Approved | × |
| 10/28/2016 | KA | #4220 Rosen Litigation Technology Inv. 2678 E-Discovery | 1.00 | $525.00 | 0.00 | $525.00 | Approved | × |
| 11/1/2016 | AGG | #4225 Process Service Inc Service Summons, Complaint, Mechanics Lien, Lis Pendens | 1.00 | $170.00 | 0.00 | $170.00 | Approved | × |
| 12/16/2016 | KA | #4267 ProLegal Scanning and Upload of TCC Meeting Minutes and Account Billing | 1.00 | $1,100.69 | 0.00 | $1,100.69 | Approved | × |
| 12/20/2016 | AKE | #4266 Process Service, Inc.-Service on Marion Simpson (Inv. LEX-2016002367) | 1.00 | $70.00 | 0.00 | $70.00 | Approved | × |
| 12/20/2016 | AKE | #4267 ProLegal Scan Litigation Files and Upload to Web (Inv. CHS145754) | 1.00 | $1,100.69 | 0.00 | $1,100.69 | Approved | × |
| 12/22/2016 | AKE | #4282 Clerk of Court - Consent Order for Arbitration | 1.00 | $25.00 | 0.00 | $25.00 | Approved | × |
| 1/20/2017 | AKE | #4302 Marston Agency Inv. 436243 - Service Summons, Complaint, Lis Pendens, Mechanics Lien (Patrici | 1.00 | $65.00 | 0.00 | $65.00 | Approved | × |
| 10/12/2017 | AKE | AKE lunch meeting with C. Ford | 1.00 | $50.76 | 0.00 | $50.76 | Approved | × |
| 1/2/2018 | AKE | Prorated Proofinder Program for Electronic Production search | 1.00 | $50.00 | 0.00 | $50.00 | Approved | × |
| 1/12/2018 | AKE | #4655 ProLegal CHS149086 - HPR 12/29/17 Production | 1.00 | $149.11 | 0.00 | $149.11 | Approved | × |
| 1/18/2018 | AKE | #4666 Elmore Goldsmith Inv. 55764 - Arbitration Services of Frank Elmore | 1.00 | $240.00 | 0.00 | $240.00 | Approved | × |
| 4/24/2018 | AKE | #4763 Elmore Goldsmith Mediation Activity Inv. 56071 | 1.00 | $140.00 | 0.00 | $140.00 | Approved | × |
| 5/8/2018 | AKE | Lunch meeting with JDG, Burrell, AKE, JGR (05/08/18) | 1.00 | $137.67 | 0.00 | $137.67 | Approved | × |
| 6/7/2018 | JGR | #4782 Transcripts 30b6 depositions of Gawrych, Powers, McCraw | 1.00 | $336.50 | 0.00 | $336.50 | Approved | × |
| 7/20/2018 | JGR | #4821 Thurmond Kirchner & Timbes response to records Subpoena regarding underlying case (Inv. 6687) | 1.00 | $1,051.50 | 0.00 | $1,051.50 | Approved | × |
| 7/30/2018 | JGR | #4824 Glick Boehm Architects compliance with Arbitration Subpoena Request (1/2 invoice) | 1.00 | $750.00 | 0.00 | $750.00 | Approved | × |
| 7/30/2018 | AKE | #4823 ProLegal - Copy of JGR OAC Meeting Minutes Notebook for AKE | 1.00 | $263.99 | 0.00 | $263.99 | Approved | × |
| 9/5/2018 | AKE | #4853 Elmore Goldsmith Inv. 56393 July Arbitration Services | 1.00 | $280.00 | 0.00 | $280.00 | Approved | × |
| 9/12/2018 | AKE | Lunch Meeting at Office: AKE, JGR, RHM, JDG, R. Tomberlin, C. Burrell | 1.00 | $77.26 | 0.00 | $77.26 | Approved | × |
| 9/25/2018 | AKE | #4871 Rutherford County Sheriff - Service Subpoena Marion Simpson | 1.00 | $30.00 | 0.00 | $30.00 | Approved | × |
| 10/1/2018 | AKE | #4872 Burke County Sheriff - Service Subpoena Freeman Waterfront | 1.00 | $30.00 | 0.00 | $30.00 | Approved | × |
| 10/2/2018 | AKE | #4868 Elmore Goldsmith INv. #56454 Aug Arbitration Services | 1.00 | $160.00 | 0.00 | $160.00 | Approved | × |
| 10/2/2018 | AKE | #4876 ProLegal - Printing Building Elevations (CHS 1510179 and 151068) | 1.00 | $27.41 | 0.00 | $27.41 | Approved | × |
| 10/2/2018 | AKE | #4875 Process Service Inc. Subpoena for Board Documents on Joann Schultz (#LEX2018002548) | 1.00 | $120.00 | 0.00 | $120.00 | Approved | × |

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**Andrew K Epting Jr LLC**
46A State Street,
Charleston, SC 29401
Tel: 843-377-1871 Fax: 843-377-1310

Expense Detail by Matter with Approval Status

Printed on: 4/18/2019



Filters Used:
- Matter ID: Selected Items (1)

**Matter ID-Name: 0535-060: -** *Concord and Cumberland* **(Andrew Epting)**

**Client ID: TCC -** *Trident Construction Company*

** = Invoiced (mouse over for #), = Marked as Billed*

| Date | Employee ID | Description | Units | Cost | MU % | Amount | Status | * |
|---|---|---|---|---|---|---|---|---|
| 10/15/2018 | AKE | #4883 Prolegal - Master Binder Documents AKE | 1.00 | $26.19 | 0.00 | $26.19 | Approved | × |
| 10/18/2018 | AKE | #4890 Prolegal - Betty Segal Subpoenaed Documents (CHS151204) | 1.00 | $568.89 | 0.00 | $568.89 | Approved | × |
| 10/18/2018 | AKE | #4891 Prolegal - Elevations Poster (CHS151225) | 1.00 | $188.03 | 0.00 | $188.03 | Approved | × |
| 11/4/2018 | JGR | #4897 Process Services, Inc - Service Records Subpoenas to Joann Cooper, Thomas Bednam, | 1.00 | $310.00 | 0.00 | $310.00 | Approved | × |
| 11/13/2018 | AKE | Lunch Deposition Preparation JDG 11/13/2018 | 1.00 | $61.88 | 0.00 | $61.88 | Approved | × |
| 11/14/2018 | JGR | Lunch Meeting at Office: AKE, JGR, RHM, JDG, R. Tomberlin, C. Burrell | 1.00 | $50.05 | 0.00 | $50.05 | Approved | × |
| 11/19/2018 | JGR | #4915 Process Services, Inc. - Service Records Subpoena Marion Simpson | 1.00 | $95.00 | 0.00 | $95.00 | Approved | × |
| 11/20/2018 | AKE | Lunch Meeting 11/20/18 | 1.00 | $32.73 | 0.00 | $32.73 | Approved | × |
| 11/20/2018 | JGR | Lunch Meeting at Office: AKE, JGR, JDG, G. Moore - Depo Prep | 1.00 | $25.49 | 0.00 | $25.49 | Approved | × |
| 11/30/2018 | JGR | Lunch Deposition of Gary Moore 11/30/2018 | 1.00 | $14.38 | 0.00 | $14.38 | Approved | × |
| 11/30/2018 | JGR | #4930 Deposition Transcript John David Griffith 11/14/18 Inv. 17350 | 1.00 | $1,211.86 | 0.00 | $1,211.86 | Approved | × |
| 12/16/2018 | JGR | #4947 JGR reimbursement lunch 11/14/18 and 11/15/18 (depos Powers & Burrell) | 1.00 | $194.57 | 0.00 | $194.57 | Approved | × |
| 12/16/2018 | AKE | #4946 A Wm Roberts Transcript Shawn Mellin Deposition (11/28/18) Invoice #17972 | 1.00 | $414.02 | 0.00 | $414.02 | Approved | × |
| 12/16/2018 | AKE | #4950 A Wm Roberts Transcript Chris Burrell Deposition (11/15/18) Invoice #17536 | 1.00 | $850.98 | 0.00 | $850.98 | Approved | × |
| 12/16/2018 | AKE | #4949 A Wm Roberts Transcript Brian Powers Deposition (11/16/18) Invoice #17533 | 1.00 | $351.04 | 0.00 | $351.04 | Approved | × |
| 12/26/2018 | AKE | #4965 A Wm Roberts Transcript Gary Moore Deposition (11/30/18) Invoice #18072 | 1.00 | $515.10 | 0.00 | $515.10 | Approved | × |
| 12/26/2018 | AKE | #4966 A Wm Roberts Transcript Trey McCraw Deposition (12/06/18) #18405 | 1.00 | $959.45 | 0.00 | $959.45 | Approved | × |
| 1/5/2019 | JGR | #4975 Process Service - Attempted Service of Subpoena on T. Mather (Inv. 2018003267 & 2018003388) | 1.00 | $515.00 | 0.00 | $515.00 | Approved | × |
| 1/16/2019 | AKE | #4990 ProLegal - Hosting Cloud Based Documents (December 29018 & January 2019) (Inv. CHS151785) | 1.00 | $1,199.00 | 0.00 | $1,199.00 | Approved | × |
| 1/16/2019 | AKE | #4990 ProLegal - Trial Boards and Enlarged Exhibits (Inv. CHS151794) | 1.00 | $350.98 | 0.00 | $350.98 | Approved | × |
| 1/18/2019 | AKE | #4490 ProLegal - Preparation of Arbitration Notebooks for Panel, Counsel, Witnesses (Inv. CHS151808) | 1.00 | $1,292.63 | 0.00 | $1,292.63 | Approved | × |
| 1/18/2019 | AKE | Lunch 01/18/2019 during Arbitration | 1.00 | $92.41 | 0.00 | $92.41 | Approved | × |
| 1/21/2019 | AKE | Lunch 01/23/2019 during Arbitration | 1.00 | $139.78 | 0.00 | $139.78 | Approved | × |
| 1/22/2019 | AKE | Lunch 01/22/2019 during Arbitration | 1.00 | $129.89 | 0.00 | $129.89 | Approved | × |
| 1/22/2019 | AKE | #4490 ProLegal - Six copies of additional tabs for Arbitration Notebooks (Inv. CHS151824) | 1.00 | $158.92 | 0.00 | $158.92 | Approved | × |
| 1/22/2019 | AKE | #4490 ProLegal - Printing of HPR exhibits 1-40 (CHS151833) | 1.00 | $787.74 | 0.00 | $787.74 | Approved | × |

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Expense Detail by Matter with Approval Status

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Filters Used:
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**Matter ID-Name: 0535-060: -** *Concord and Cumberland* **(Andrew Epting)**

**Client ID: TCC -** *Trident Construction Company*

*☐ = *Invoiced (mouse over for #),* ✓* = *Marked as Billed*

| Date | Employee ID | Description | Units | Cost | MU % | Amount | Status | * |
|---|---|---|---|---|---|---|---|---|
| 1/22/2019 | AKE | #4491 AWR - Deposition Transcript Trey McCraw 01/08/2019 (Inv. 19260) | 1.00 | $1,303.00 | 0.00 | $1,303.00 | Approved | × |
| 1/24/2019 | AKE | Lunch 01/24/2019 during Arbitration | 1.00 | $102.03 | 0.00 | $102.03 | Approved | × |
| 1/28/2019 | AKE | #4988 Joni Hanckel (Inv. 12819) - Assistance with arbitration preparation: JDG Testimony; | 1.00 | $1,005.50 | 0.00 | $1,005.50 | Approved | × |
| 1/28/2019 | AKE | #4989 Staples 6 Exhibit Binders (rhm reimbursement) | 1.00 | $91.49 | 0.00 | $91.49 | Approved | × |
| | | **Billable Total:** | **78.00** | **$27,584.51** | | **$27,584.51** | | |
| | | **0535-060: Total:** | **78.00** | **$27,584.51** | | **$27,584.51** | | |
| | | **Grand Billable Total:** | **78.00** | **$27,584.51** | | **$27,584.51** | | |

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**IN THE MATTER OF THE ARBITRATION BETWEEN:**

| | | |
|---|---|---|
| TCC OF CHARLESTON, INC. | ) | |
| | ) | |
| Plaintiff, | ) | |
| | ) | |
| v. | ) | **AFFIDAVIT OF JOHN DAVID GRIFFITH** |
| | ) | |
| CONCORD & CUMBERLAND HPR, | ) | |
| | ) | |
| Defendant. | ) | |
| | ) | |

PERSONALLY appeared before me, JOHN DAVID GRIFFITH, who states as follows:

1. My name is John David Griffith, during the construction of this project and events leading up to and through the arbitration, I was President and Treasurer of TCC of Charleston, Inc., and Trident Construction Co.
2. I have been involved with the Concord and Cumberland project from its beginning.
3. Short of shutting down the entire Concord and Cumberland job, the out-of-scope work could only be done on a time and material basis. In doing so cost and delay would be minimized which would also lessen the inconvenience to the homeowners. I extended the financial strength of TCC to do this.
4. We worked hard on this case. While we were diligent throughout this case's inception, beginning in March 2018 my team: Ryan Tomberlin, Chris Burrell, and Matthew Kennedy met each week, and often multiple times per week. We made assignments of what needed to be accomplished in order to present the facts as they occurred. We reviewed the documents the owners produced. We scrutinized our costs in order to verify the accuracy. Every deposition of the owners was reviewed



Blumberg No. 5118 EXHIBIT 4

by us. Counsel was present at most of our meetings and directed many of the meetings which would last from two to eight hours. I estimate that I have spent 174 hours, Ryan Tomberlin 176, Chris Burrell 84, and Matthew Kennedy 202 hours. We have not asked to be compensated for this time at the rate provided in our contract at Section 7.2 of the A102.

5. The documentation of what occurred on this project, and the volume of records were themselves a function of the uniqueness of this job. The duration and cost doubled, but given the complexity, the records, tasks, and events, and the irregularity, our preparation efforts were more than doubled. Reconstructing and documenting the events for this Panel required focus, great effort, and continuity.

6. The agreement was cost plus and the HPR reneged. I learned when I read the email from Joanne Cooper that the owners acknowledged monies were owed but were not paid for tactical reasons. Even on the morning of trial Mr. Cordes said everything was contested, even though the HPR acknowledged the debt to the extent the architect recommended, a further $968,181.76. By not paying the AAA fees the HPR forced me to guarantee the fee to ensure the trial would go forward; I reported this to my partners together with witnesses and files having to be subpoenaed time and again and files that had been destroyed by Dr. Mather, as well as Mr. Glick. When I learned in discovery (through Tom Mather's email saying it would be a "total failure" if their construction manager did not save them at least $700,000) that the HPR was intentionally and tactically making decisions on how much they intended to dispute in order to save money, and to not honor our agreement, we worked harder to show this Panel the HPR's true colors and intent.

7. Trident has paid directly costs of $57,176.34. (See Exhibit A). Trident has reimbursed Mr. Epting costs of $27,307.51. Total costs paid are $84,483.85.
8. Trident has paid legal fees since the filing of this lien in June of 2016 to January 4, 2019 of $697,257. I have personally been involved on a day-to-day basis with this effort and reviewed each attorney bill. I understood the effort that my attorney made.
9. At each step with this owner I went the "extra mile," including making sure that this case was understood by my counsel at a construction and at a granular level. That whatever effort we needed to make, we made it.
10. We worked with the owner to the best of our ability. Just as we spared no effort in attempting to solve the owners' problems with their building, going so far as to fund it, we spared no effort in telling our story to this Panel. I ask that this Panel not penalize TCC for fielding an A-Team and showing up for trial prepared and award us all of our costs, fees, and interest.

JOHN DAVID GRIFFITH

SWORN to before me this
26 day of April, 2019.

(L.S.)
NOTARY PUBLIC FOR SOUTH CAROLINA
My Commission Expires: 3-1-20

Concord and Cumberland

| Jrnl | Trans | Date | Job Number | Details | Source | GLRef | Debit | Credit |
|---|---|---|---|---|---|---|---|---|
| AP | 2879 | 04/25/17 | 14001 | CONCORD/CUMBERLAND/10448/ELMORE GOLDSMIT/55037/Apr 25, 2017 | AP Entry | 484 | 3,200.00 | 0.00 |
| AP | 2975 | 01/31/18 | 14001 | TCC/CONCORD CUMBERLAND/10448/ELMORE GOLDSMIT/55840/Jan 31, | AP Entry | 565 | 120.00 | 0.00 |
| AP | 3270 | 10/31/18 | 14001 | CONCORD AND CUMBERLAND/10448/ELMORE GOLDSMIT/56649/Oct 31, | AP Entry | 540 | 1,000.00 | 0.00 |
| AP | 1822 | 11/16/18 | 14001 | 1/2 CONCORD/ CUMBERLAND ARBITR/12097/ROGERS LEWIS JA/75265/ | AP Entry | 318 | 1,642.50 | 0.00 |
| AP | 2601 | 11/16/18 | 14001 | CONCORD/CUMBERLAND/12101/PRO LEGAL/CHS151090/Nov 16, 2018/5 | AP Entry | 377 | 621.30 | 0.00 |
| AP | 2602 | 11/16/18 | 14001 | CONCORD/CUMBERLAND/12101/PRO LEGAL/CHS15168/Nov 16, 2018/55 | AP Entry | 377 | 3,815.00 | 0.00 |
| AP | 2603 | 11/16/18 | 14001 | CONCORD/CUMBERLAND/12101/PRO LEGAL/CHS151245/Nov 16, 2018/5 | AP Entry | 377 | 3,419.88 | 0.00 |
| AP | 89 | 12/04/18 | 14001 | CONCORD & CUMBERLAND LEGAL/10448/ELMORE GOLDSMIT/12042018/D | AP Entry | 51 | 41,250.00 | 0.00 |
| AP | 1106 | 01/19/19 | 14001 | CONCORD & CUMBERLAND/10448/ELMORE GOLDSMITH/56851/JAN 16, 2019 | AP Entry | 165 | 2,107.66 | 0.00 |
| | | | | | | | 57,176.34 | |

002363

Exhibit B

Blumberg No. 9208

EXHIBIT A

**IN THE MATTER OF THE ARBITRATION BETWEEN:**

| | | |
|---|---|---|
| TCC OF CHARLESTON, INC. | ) | |
| | ) | |
| Plaintiff, | ) | |
| | ) | |
| v. | ) | **AFFIDAVIT OF ANDREW K. EPTING, JR.** |
| | ) | |
| CONCORD & CUMBERLAND HPR, | ) | |
| | ) | |
| Defendant. | ) | |
| | ) | |

PERSONALLY appeared before me, ANDREW K. EPTING, JR., who states as follows:

1. My name is Andrew K. "Drew" Epting, Jr. I was involved in every aspect of the Concord and Cumberland litigation from the date of filing of the lien to the present. At all times my primary contact at TCC has been John David Griffith.

2. The preparation for this arbitration was unique. There was little flow in the work at the project site, and this translated into every time event or sequence having little rhythm when preparing for trial. The project took longer to build with the number of events and records far greater and the legal effort to collect, organize, and reconstruct events far greater as well. Many of the benefits of arbitration were not realized as evidenced by the numerous involvements of the Panel. The expenses paid by this firm and reimbursed by TCC are as stated in Mr. Griffith's affidavit.

3. Fees paid through March 19, 2019, from the time of the lien filing to the filing of TCC's proposed Order are $697,257.





Blumberg No. 5118 EXHIBIT 5

4. As will be established by the actual bills from June 1, 2016 through March 15, 2019, the total fees are not $697,257 but $899,563. While my partner, Mr. Rannik, provided a more detailed explanation of cost incurred as a result of the HPR's actions, my estimate is $202,306 which I asked Mr. Griffith to not pay without the benefit of this Panel's further ruling.

ANDREW K. EPTING, JR.

SWORN to before me this 26
day of April, 2019.

Notary Public for South Carolina
My Commission Expires: 4.26.2028

**IN THE MATTER OF THE ARBITRATION BETWEEN:**

| | | |
|---|---|---|
| TCC OF CHARLESTON, INC.<br><br>Plaintiff,<br><br>v.<br><br>CONCORD & CUMBERLAND HPR,<br><br>Defendant. | ) | **CONCORD & CUMBERLAND HPR'S MOTION FOR ATTORNEYS' FEES AND COSTS** |

COMES NOW Concord & Cumberland HPR ("C&C" or "HPR"), pursuant to leave of the Panel, and files this Motion for Attorneys' Fees and Costs. Grounds and support for this motion are as follows:

## ARGUMENT

### I. C&C SHOULD BE GRANTED ATTORNEYS' FEES AND COSTS OF $336,366.82 AS A MATTER OF LAW

Attorneys' fees and costs are only appropriate and can only be awarded if authorized by contract or statute. See Baron Data Sys., Inc. v. Loter, 297 S.C. 382, 383, 377 S.E.2d 296, 297 (1989) (providing the rule that attorney's fees are not recoverable unless authorized by contract or statute). Here, the AIA, A102-2007, Guaranteed Maximum Price Contract does not provide for attorneys' fees or costs.

Regarding statutory authority, TCC takes the position that the mechanic's lien against the HPR was properly before the Panel and, as such, they are entitled to attorneys' fees and costs. If the Panel agrees with TCC's initial position, then the Panel must actually award the HPR its attorneys' fees and costs as a matter of law. See C&C's Response to TCC of Charleston's Motion for Prejudgment Interest, Costs of Arbitration, and Attorneys' Fees and Costs, Argument

Section C (citing inter alia S.C. Code § 27-31-230) (providing the legal analysis regarding TCC's inability to lien the HPR) and C&C's Motion for Reconsideration, Paragraph 8(b-d).[1]

Review of our invoices reflects communication on July 27, 2016 with opposing counsel regarding the lawsuit and issues of service and timing of response. Using July 27, 2016 as the start date for defense of the lawsuit, and ending March 21, 2019, when the arbitration hearing closed, the HPR has spent 1,245.9 attorney hours on this case[2], which extrapolates to $316,992.34 in fees at a combined hourly rate of $258.71 per hour as follows:

i. Andrew Walden billed 397.1 hours for a total of $97,534.53 at a rate of $245.61;

ii. Cordes Ford billed 388.0 hours for a total of $134,981.82 at a rate of $347.89[3];

iii. Ryan Ellard billed 68 hours for a total of $18,608.52 at a rate of $273.65; and

iv. Other document review attorneys billed 392.8 hours for a total of $65,867.47 at a combined rate of $167.69[4].

Further, the HPR has incurred costs of $19,374.48 to litigate this case since July 27, 2016, including, for example, costs associated with mediation, arbitration, deposition transcripts, and court reporter fees.

C&C provides the attached Affidavits in support and will supplement with invoices at the Panel's request.

---

[1] This motion adopts by reference the arguments outlined in C&C's Response to TCC of Charleston's Motion for Prejudgment Interest, Costs of Arbitration, and Attorneys' Fees and Costs and Motion for Reconsideration pursuant to Rule 10(c), SCRCP.

[2] C&C notes that TCC failed to distinguish in its motion whether the fees and expenses they are requesting are related only to the litigation/arbitration or if they are also trying to recoup fees from the project management portion of the project prior to suit, in which Mr. Epting's law firm was also involved. C&C is only requesting fees and expenses related directly to the litigation as defined by all fees incurred on or after July 27, 2016.

[3] Hourly rates were reduced during document review due to the excessive amount of documents being generated by TCC's request for the same documents from each board member.

[4] C&C had to bring in additional attorneys specifically to assist with the privilege review and document production based on the amount of documents generated from TCC's subpoenas to various board members. C&C believes it is industry standard to use a document review attorney at a much reduced rate to perform basic tasks such as privilege review than to bill at a normal rate for the same work.

## CONCLUSION

Based on the above, the HPR requests that this Panel award it $336,366.82 for its attorneys' fees and costs.

Respectfully submitted,

WOMBLE BOND DICKINSON (US) LLP

*s/ F. Cordes Ford IV*

F. Cordes Ford IV (S.C. Bar No. 71644)
R. Andrew Walden (S.C. Bar No. 101004)
5 Exchange Street (29401)
P.O. Box 999
Charleston, SC 29402
(843) 722-3400
Cordes.Ford@wbd-us.com
Andrew.Walden@wbd-us.com

May 17, 2019

Charleston, SC

*Attorneys for Defendant*

| | | |
|---|---|---|
| STATE OF SOUTH CAROLINA<br>COUNTY OF CHARLESTON | ) | IN THE COURT OF COMMON PLEAS<br>FOR THE NINTH JUDICIAL CIRCUIT<br>CASE NO. 2016-CP-10-2955 |
| TCC OF CHARLESTON, INC.<br><br>Plaintiff,<br>vs.<br><br>CONCORD AND CUMERLAND, LLC., CONCORD & CUMBERLAND HPR, LEO HALL, DIANE HALL, BEA H. SMITH, MARGARET C. POPE, WILLIAM D. FOSTER, JR., GENE G. FOSTER, MATTISON J. MACGILLIVRAY, TERESA MACGILLIVRAY, PAMELA L. VAUGHN, NELIA A. PATRICIO, Trustee of the Nelia A. Patricio Revocable Trust Agreement, STUART D. REEVES, EDWARD T. STROM, BARBARA K. HENDERSON, JAMES R. CLARKE, PAUL A. BRIM, ROBERT K. SEIDL, JENNIFER M. SEIDL, ROBERT KENNETH SEIDL, II, M. BERT STOREY, THOMAS R. MATHER, EDWARD T. STROM, 304 CONCORD & CUMBERLAND, LLC, MARION M. SIMPSON F/K/A MARION MOORE MCDONALD SIMPSON, KATHY GARDNER, GREGORY J. GARDNER, FREEMAN WATERFRONT PROPERTIES, LLC, JO-ANN COOPER, BETTY Y. SEGAL, ROBERT M. LEVIN AND BONITA K. LEVIN, DONALD D. LEONARD, BETTY L. BEATTY, MATTELLEN, LLC, AND THOMAS R. DEBNAM, Trustee of the Trust Agreement of Thomas R. Debnam,<br><br>Defendants. | ) | **AFFIDAVIT OF ATTORNEY'S FEES HENRY E. GRIMBALL** |

PERSONALLY appeared before me Henry E. Grimball stating as follows:

1. I am a Partner in the law firm of Womble Bond Dickinson (US) LLP in Charleston, South Carolina, and I, along with F. Cordes Ford IV and R. Andrew Walden, am the attorney for Defendant Concord & Cumberland HPR ("HPR") in the above-captioned matter.

2. I am a member in good standing of the South Carolina bar. I am admitted before the Supreme Court of South Carolina, the United States District Court for the District of South Carolina, and the United States Court of Appeals for the Fourth Circuit. My practice includes civil litigation in State and Federal courts, where I have tried more than 250 cases over the last 46 years.

3. I have been a practicing attorney for over 46 years under SC Bar No. 2313.

4. From April 12, 2020 to November 15, 2020, I incurred 107.40 hours on this matter for total fees of $45,645.00. I significantly discounted my fees over $15,519.00, as my standard fees for 107.40 hours is $61,164.00. These figures are further supported by an excel timesheet of all of my time spent on this matter. Because time entry narratives implicate the attorney-client privilege, and in order not to waive said privilege, enclosed herewith as **Exhibit A** for filing is my redacted timesheet. The un-redacted timesheet is being provided contemporaneously herewith to the Court for an *in-camera* review.

5. The arbitration resulted in an award to TCC. I was asked to assist in finalizing the case, which was precluded by TCC's contention that it was entitled to attorneys' fees under the mechanic's lien statute, even though TCC had no statutory or contractual support for its position. I believe that, but for TCC's position regarding attorneys' fees, the case would have resolved and my legal services would not have been needed.

6. Based on the nature, extent, and difficulty of the legal services rendered, the time and labor necessarily devoted to this case, the fees customarily charged for similar cases and legal services, the beneficial result obtained in the dismissal of the mechanic's lien, the attendant responsibilities, the size of the claim between the parties, the legal fees and expenses still to be incurred, and the other factors relevant to an award of attorneys' fees, I believe that the HPR is entitled to an award of my attorney's fees in the amount of $45,645.00.

7. I swear under oath that I have reviewed my invoices associated with this matter and that the figures contained are a true and accurate accounting of the attorney's fees in this case associated with or integrally connected directly or indirectly to the foreclosure of mechanic's lien cause of action.

FURTHER AFFIANT SAYETH NOT.

Henry E. Grimball

Sworn to and subscribed before me this
the 18th day of November, 2020.
Notary: Elizabeth W. Settle
My commission expires: _____

ELIZABETH W. SETTLE
Notary Public, South Carolina
My Commission Expires
November 18, 2024

#2

Exhibit A

| ID | Date | Tkpr | TKPR Name | Client | Matter | Action | Print on Bil | Std Amt | Base Amt | To Bill Amt | Bill Num | Bill Date | Billed Amt | Status | Bs Hrs | To Bill Hrs | Bl Hrs | Narrative |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 31013401 | 4/12/2020 | 2936 | Grimball, H | 88786 | 1.1 | PC | Y | $2,632.00 | $1,997.50 | $1,997.50 | 4341483 | 5/22/2020 | $1,997.50 | B | 4.7 | 4.7 | 4.7 | [redacted] |
| 31013416 | 4/10/2020 | 2936 | Grimball, H | 88786 | 1.1 | PC | Y | $1,848.00 | $1,402.50 | $1,402.50 | 4341483 | 5/22/2020 | $1,402.50 | B | 3.3 | 3.3 | 3.3 | |
| 31017542 | 4/13/2020 | 2936 | Grimball, H | 88786 | 1.1 | PC | Y | $1,736.00 | $1,317.50 | $1,317.50 | 4341483 | 5/22/2020 | $1,317.50 | B | 3.1 | 3.1 | 3.1 | |
| 31024986 | 4/14/2020 | 2936 | Grimball, H | 88786 | 1.1 | PC | Y | $3,360.00 | $2,550.00 | $2,550.00 | 4341483 | 5/22/2020 | $2,550.00 | B | 6 | 6 | | |
| 31025156 | 4/15/2020 | 2936 | Grimball, H | 88786 | 1.1 | PC | Y | $840.00 | $637.50 | $637.50 | 4341483 | 5/22/2020 | $637.50 | B | 1.5 | 1.5 | 1.5 | |
| 31025819 | 4/15/2020 | 2936 | Grimball, H | 88786 | 1.1 | PC | Y | $840.00 | $637.50 | $637.50 | 4341483 | 5/22/2020 | $637.50 | B | 1.5 | 1.5 | 1.5 | |
| 31030902 | 4/16/2020 | 2936 | Grimball, H | 88786 | 1.1 | PC | Y | $1,960.00 | $1,487.50 | $1,487.50 | 4341483 | 5/22/2020 | $1,487.50 | B | 3.5 | 3.5 | 3.5 | |
| 31030910 | 4/16/2020 | 2936 | Grimball, H | 88786 | 1.1 | PC | Y | $168.00 | $127.50 | $127.50 | 4341483 | 5/22/2020 | $127.50 | B | 0.3 | 0.3 | 0.3 | |
| 31042892 | 4/20/2020 | 2936 | Grimball, H | 88786 | 1.1 | PC | Y | $168.00 | $127.50 | $127.50 | 4341483 | 5/22/2020 | $127.50 | B | 0.3 | 0.3 | 0.3 | |
| 31050523 | 4/21/2020 | 2936 | Grimball, H | 88786 | 1.1 | PC | Y | $896.00 | $680.00 | $680.00 | 4341483 | 5/22/2020 | $680.00 | B | 1.6 | 1.6 | 1.6 | |
| 31051150 | 4/22/2020 | 2936 | Grimball, H | 88786 | 1.1 | PC | Y | $560.00 | $425.00 | $425.00 | 4341483 | 5/22/2020 | $425.00 | B | 1 | 1 | 1 | |
| 31052171 | 4/22/2020 | 2936 | Grimball, H | 88786 | 1.1 | PC | Y | $392.00 | $297.50 | $297.50 | 4341483 | 5/22/2020 | $170.00 | B | 0.7 | 0.7 | 0.4 | |
| 31073599 | 4/28/2020 | 2936 | Grimball, H | 88786 | 1.1 | PC | Y | $224.00 | $170.00 | $170.00 | 4341483 | 5/22/2020 | $85.00 | B | 0.4 | 0.4 | 0.2 | |
| 31079015 | 4/29/2020 | 2936 | Grimball, H | 88786 | 1.1 | PC | Y | $168.00 | $127.50 | $127.50 | 4341483 | 5/22/2020 | $85.00 | B | 0.3 | 0.3 | 0.2 | |
| 31091696 | 5/1/2020 | 2936 | Grimball, H | 88786 | 1.1 | PC | Y | $672.00 | $510.00 | $510.00 | 4350454 | 6/29/2020 | $469.20 | B | 1.2 | 1.2 | 1.2 | |
| 31095646 | 5/4/2020 | 2936 | Grimball, H | 88786 | 1.1 | PC | Y | $504.00 | $382.50 | $382.50 | 4350454 | 6/29/2020 | $351.90 | B | 0.9 | 0.9 | 0.9 | |
| 31100356 | 5/5/2020 | 2936 | Grimball, H | 88786 | 1.1 | PC | Y | $1,232.00 | $935.00 | $935.00 | 4350454 | 6/29/2020 | $860.20 | B | 2.2 | 2.2 | 2.2 | |
| 31104527 | 5/6/2020 | 2936 | Grimball, H | 88786 | 1.1 | PC | Y | $504.00 | $382.50 | $382.50 | 4350454 | 6/29/2020 | $351.90 | B | 0.9 | 0.9 | 0.9 | |
| 31117535 | 5/8/2020 | 2936 | Grimball, H | 88786 | 1.1 | PC | Y | $112.00 | $85.00 | $85.00 | 4350454 | 6/29/2020 | $78.20 | B | 0.2 | 0.2 | 0.2 | |

Exhibit A

| | | | | | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 31117968 | 5/7/2020 | 2936 | Grimball, H | 88786 | 1.1 | PC | Y | $336.00 | $255.00 | $255.00 | 4350454 | 6/29/2020 | $234.60 | B | 0.6 | 0.6 | 0.6 | [redacted] |
| 31123946 | 5/11/2020 | 2936 | Grimball, H | 88786 | 1.1 | PC | Y | $616.00 | $467.50 | $467.50 | 4350454 | 6/29/2020 | $430.10 | B | 1.1 | 1.1 | 1.1 | |
| 31123949 | 5/11/2020 | 2936 | Grimball, H | 88786 | 1.1 | PC | Y | $672.00 | $510.00 | $510.00 | 4350454 | 6/29/2020 | $469.20 | B | 1.2 | 1.2 | 1.2 | |
| 31128655 | 5/13/2020 | 2936 | Grimball, H | 88786 | 1.1 | PC | Y | $2,240.00 | $1,700.00 | $1,700.00 | 4350454 | 6/29/2020 | $1,564.00 | B | 4 | 4 | | |
| 31137985 | 5/14/2020 | 2936 | Grimball, H | 88786 | 1.1 | PC | Y | $1,176.00 | $892.50 | $892.50 | 4350454 | 6/29/2020 | $821.10 | B | 2.1 | 2.1 | 2.1 | |
| 31145111 | 5/18/2020 | 2936 | Grimball, H | 88786 | 1.1 | PC | Y | $504.00 | $382.50 | $382.50 | 4350454 | 6/29/2020 | $351.90 | B | 0.9 | 0.9 | 0.9 | |
| 31145121 | 5/18/2020 | 2936 | Grimball, H | 88786 | 1.1 | PC | Y | $112.00 | $85.00 | $85.00 | 4350454 | 6/29/2020 | $78.20 | B | 0.2 | 0.2 | 0.2 | |
| 31150365 | 5/19/2020 | 2936 | Grimball, H | 88786 | 1.1 | PC | Y | $224.00 | $170.00 | $170.00 | 4350454 | 6/29/2020 | $156.40 | B | 0.4 | 0.4 | 0.4 | |
| 31154217 | 5/20/2020 | 2936 | Grimball, H | 88786 | 1.1 | PC | Y | $728.00 | $552.50 | $552.50 | 4350454 | 6/29/2020 | $508.30 | B | 1.3 | 1.3 | 1.3 | |
| 31166147 | 5/21/2020 | 2936 | Grimball, H | 88786 | 1.1 | PC | Y | $224.00 | $170.00 | $170.00 | 4350454 | 6/29/2020 | $156.40 | B | 0.4 | 0.4 | 0.4 | |
| 31169637 | 5/22/2020 | 2936 | Grimball, H | 88786 | 1.1 | PC | Y | $336.00 | $255.00 | $255.00 | 4350454 | 6/29/2020 | $234.60 | B | 0.6 | 0.6 | 0.6 | |
| 31171704 | 5/25/2020 | 2936 | Grimball, H | 88786 | 1.1 | PC | Y | $560.00 | $425.00 | $425.00 | 4350454 | 6/29/2020 | $391.00 | B | 1 | 1 | 1 | |
| 31177886 | 5/27/2020 | 2936 | Grimball, H | 88786 | 1.1 | PC | Y | $1,008.00 | $765.00 | $765.00 | 4350454 | 6/29/2020 | $703.80 | B | 1.8 | 1.8 | 1.8 | |
| 31177888 | 5/27/2020 | 2936 | Grimball, H | 88786 | 1.1 | PC | Y | $168.00 | $127.50 | $127.50 | 4350454 | 6/29/2020 | $117.30 | B | 0.3 | 0.3 | 0.3 | |
| 31179696 | 5/28/2020 | 2936 | Grimball, H | 88786 | 1.1 | PC | N | $0.00 | $0.00 | $0.00 | 4350454 | 6/29/2020 | $0.00 | B | 0 | 0 | 0 | |

Exhibit A

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|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 31187957 | 5/29/2020 | 2936 | Grimball, H | 88786 | 1.1 | PC | Y | $504.00 | $382.50 | $382.50 | 4350454 | 6/29/2020 | $351.90 | B | 0.9 | 0.9 | 0.9 |
| 31196527 | 6/2/2020 | 2936 | Grimball, H | 88786 | 1.1 | PC | Y | $280.00 | $212.50 | $212.50 | 4366722 | 8/31/2020 | $212.50 | B | 0.5 | 0.5 | 0.5 |
| 31201114 | 6/3/2020 | 2936 | Grimball, H | 88786 | 1.1 | PC | Y | $112.00 | $85.00 | $85.00 | 4366722 | 8/31/2020 | $85.00 | B | 0.2 | 0.2 | 0.2 |
| 31216574 | 6/8/2020 | 2936 | Grimball, H | 88786 | 1.1 | PC | Y | $112.00 | $85.00 | $85.00 | 4366722 | 8/31/2020 | $85.00 | B | 0.2 | 0.2 | 0.2 |
| 31238699 | 6/11/2020 | 2936 | Grimball, H | 88786 | 1.1 | PC | Y | $336.00 | $255.00 | $255.00 | 4366722 | 8/31/2020 | $255.00 | B | 0.6 | 0.6 | 0.6 |
| 31266311 | 6/22/2020 | 2936 | Grimball, H | 88786 | 1.1 | PC | Y | $224.00 | $170.00 | $170.00 | 4366722 | 8/31/2020 | $170.00 | B | 0.4 | 0.4 | 0.4 |
| 31279524 | 5/28/2020 | 2936 | Grimball, H | 88786 | 1.1 | PC | Y | $952.00 | $722.50 | $722.50 | 4350454 | 6/29/2020 | $664.70 | B | 1.7 | 1.7 | 1.7 |
| 31279525 | 5/28/2020 | 2936 | Grimball, H | 88786 | 1.1 | PC | Y | $56.00 | $42.50 | $42.50 | 4350454 | 6/29/2020 | $0.00 | B | 0.1 | 0.1 | 1 |
| 31297684 | 6/30/2020 | 2936 | Grimball, H | 88786 | 1.1 | PC | Y | $2,128.00 | $1,615.00 | $1,615.00 | 4366722 | 8/31/2020 | $1,615.00 | B | 3.8 | 3.8 | 3.8 |
| 31297689 | 6/30/2020 | 2936 | Grimball, H | 88786 | 1.1 | PC | Y | $280.00 | $212.50 | $212.50 | 4366722 | 8/31/2020 | $212.50 | B | 0.5 | 0.5 | 0.5 |
| 31301893 | 7/1/2020 | 2936 | Grimball, H | 88786 | 1.1 | PC | Y | $280.00 | $212.50 | $212.50 | 4366722 | 8/31/2020 | $212.50 | B | 0.5 | 0.5 | 0.5 |
| 31331867 | 7/12/2020 | 2936 | Grimball, H | 88786 | 1.1 | PC | Y | $560.00 | $425.00 | $425.00 | 4366722 | 8/31/2020 | $425.00 | B | 1 | 1 | 1 |
| 31401664 | 7/30/2020 | 2936 | Grimball, H | 88786 | 1.1 | PC | Y | $224.00 | $170.00 | $170.00 | 4366722 | 8/31/2020 | $170.00 | B | 0.4 | 0.4 | 0.4 |
| 31401689 | 7/31/2020 | 2936 | Grimball, H | 88786 | 1.1 | PC | Y | $224.00 | $170.00 | $170.00 | 4366722 | 8/31/2020 | $170.00 | B | 0.4 | 0.4 | 0.4 |
| 31425528 | 8/7/2020 | 2936 | Grimball, H | 88786 | 1.1 | PC | Y | $1,008.00 | $765.00 | $765.00 | 4373240 | 9/21/2020 | $765.00 | B | 1.8 | 1.8 | 1.8 |
| 31431434 | 8/10/2020 | 2936 | Grimball, H | 88786 | 1.1 | PC | Y | $224.00 | $170.00 | $170.00 | 4373240 | 9/21/2020 | $170.00 | B | 0.4 | 0.4 | 0.4 |
| 31435511 | 8/11/2020 | 2936 | Grimball, H | 88786 | 1.1 | PC | Y | $840.00 | $637.50 | $637.50 | 4373240 | 9/21/2020 | $637.50 | B | 1.5 | 1.5 | 1.5 |
| 31438621 | 8/12/2020 | 2936 | Grimball, H | 88786 | 1.1 | PC | Y | $280.00 | $212.50 | $212.50 | 4373240 | 9/21/2020 | $212.50 | B | 0.5 | 0.5 | 0.5 |
| 31449043 | 8/13/2020 | 2936 | Grimball, H | 88786 | 1.1 | PC | Y | $56.00 | $42.50 | $42.50 | 4373240 | 9/21/2020 | $42.50 | B | 0.1 | 0.1 | 0.1 |
| 31451269 | 8/17/2020 | 2936 | Grimball, H | 88786 | 1.1 | PC | Y | $168.00 | $127.50 | $127.50 | 4373240 | 9/21/2020 | $127.50 | B | 0.3 | 0.3 | 0.3 |
| 31455598 | 8/18/2020 | 2936 | Grimball, H | 88786 | 1.1 | PC | Y | $56.00 | $42.50 | $42.50 | 4373240 | 9/21/2020 | $42.50 | B | 0.1 | 0.1 | 0.1 |
| 31486257 | 8/25/2020 | 2936 | Grimball, H | 88786 | 1.1 | PC | Y | $448.00 | $340.00 | $340.00 | 4373240 | 9/21/2020 | $340.00 | B | 0.8 | 0.8 | 0.8 |
| 31486351 | 8/26/2020 | 2936 | Grimball, H | 88786 | 1.1 | PC | Y | $56.00 | $42.50 | $42.50 | 4373240 | 9/21/2020 | $42.50 | B | 0.1 | 0.1 | 0.1 |

Exhibit A

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|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 31488449 | 8/27/2020 | 2936 | Grimball, H | 88786 | 1.1 | PC | Y | $560.00 | $425.00 | $425.00 | 4373240 | 9/21/2020 | $425.00 | B | 1 | 1 | 1 | [redacted] |
| 31519665 | 9/4/2020 | 2936 | Grimball, H | 88786 | 1.1 | PC | Y | $224.00 | $170.00 | $170.00 | 4381357 | 10/22/2020 | $161.40 | B | 0.4 | 0.4 | 0.4 | |
| 31531094 | 9/8/2020 | 2936 | Grimball, H | 88786 | 1.1 | PC | Y | $56.00 | $42.50 | $42.50 | 4381357 | 10/22/2020 | $40.40 | B | 0.1 | 0.1 | 0.1 | |
| 31539307 | 9/10/2020 | 2936 | Grimball, H | 88786 | 1.1 | PC | Y | $1,008.00 | $765.00 | $765.00 | 4381357 | 10/22/2020 | $726.50 | B | 1.8 | 1.8 | 1.8 | |
| 31548074 | 9/11/2020 | 2936 | Grimball, H | 88786 | 1.1 | PC | Y | $1,008.00 | $765.00 | $765.00 | 4381357 | 10/22/2020 | $726.50 | B | 1.8 | 1.8 | 1.8 | |
| 31548077 | 9/11/2020 | 2936 | Grimball, H | 88786 | 1.1 | PC | Y | $336.00 | $255.00 | $255.00 | 4381357 | 10/22/2020 | $242.20 | B | 0.6 | 0.6 | 0.6 | |
| 31548078 | 9/11/2020 | 2936 | Grimball, H | 88786 | 1.1 | PC | Y | $1,288.00 | $977.50 | $977.50 | 4381357 | 10/22/2020 | $928.30 | B | 2.3 | 2.3 | 2.3 | |
| 31552001 | 9/14/2020 | 2936 | Grimball, H | 88786 | 1.1 | PC | Y | $1,848.00 | $1,402.50 | $1,402.50 | 4381357 | 10/22/2020 | $1,331.90 | B | 3.3 | 3.3 | 3.3 | |
| 31555548 | 9/15/2020 | 2936 | Grimball, H | 88786 | 1.1 | PC | Y | $280.00 | $212.50 | $212.50 | 4381357 | 10/22/2020 | $201.80 | B | 0.5 | 0.5 | 0.5 | |
| 31559034 | 9/16/2020 | 2936 | Grimball, H | 88786 | 1.1 | PC | Y | $168.00 | $127.50 | $127.50 | 4381357 | 10/22/2020 | $121.10 | B | 0.3 | 0.3 | 0.3 | |
| 31572752 | 9/18/2020 | 2936 | Grimball, H | 88786 | 1.1 | PC | Y | $1,064.00 | $807.50 | $807.50 | 4381357 | 10/22/2020 | $766.90 | B | 1.9 | 1.9 | 1.9 | |
| 31576559 | 9/21/2020 | 2936 | Grimball, H | 88786 | 1.1 | PC | Y | $168.00 | $127.50 | $127.50 | 4381357 | 10/22/2020 | $121.10 | B | 0.3 | 0.3 | 0.3 | |
| 31579450 | 9/22/2020 | 2936 | Grimball, H | 88786 | 1.1 | PC | Y | $112.00 | $85.00 | $85.00 | 4381357 | 10/22/2020 | $80.70 | B | 0.2 | 0.2 | 0.2 | |
| 31584480 | 9/23/2020 | 2936 | Grimball, H | 88786 | 1.1 | PC | Y | $224.00 | $170.00 | $170.00 | 4381357 | 10/22/2020 | $161.40 | B | 0.4 | 0.4 | 0.4 | |
| 31589838 | 9/24/2020 | 2936 | Grimball, H | 88786 | 1.1 | PC | Y | $336.00 | $255.00 | $255.00 | 4381357 | 10/22/2020 | $242.20 | B | 0.6 | 0.6 | 0.6 | |
| 31612096 | 9/30/2020 | 2936 | Grimball, H | 88786 | 1.1 | PC | Y | $56.00 | $42.50 | $42.50 | 4381357 | 10/22/2020 | $40.20 | B | 0.1 | 0.1 | 0.1 | |
| 31623762 | 10/2/2020 | 2936 | Grimball, H | 88786 | 1.1 | PC | Y | $240.00 | $170.00 | $170.00 | 0 | 11/2/2020 | $0.00 | P | 0.4 | 0.4 | 0 | |
| 31648608 | 10/9/2020 | 2936 | Grimball, H | 88786 | 1.1 | PC | Y | $120.00 | $85.00 | $85.00 | 0 | 11/2/2020 | $0.00 | P | 0.2 | 0.2 | 0 | |
| 31701959 | 10/26/2020 | 2936 | Grimball, H | 88786 | 1.1 | PC | Y | $780.00 | $552.50 | $552.50 | 0 | 11/2/2020 | $0.00 | P | 1.3 | 1.3 | 0 | |
| 31704335 | 10/27/2020 | 2936 | Grimball, H | 88786 | 1.1 | PC | Y | $900.00 | $637.50 | $637.50 | 0 | 11/2/2020 | $0.00 | P | 1.5 | 1.5 | 0 | |
| 31712180 | 10/28/2020 | 2936 | Grimball, H | 88786 | 1.1 | PC | Y | $1,620.00 | $1,147.50 | $1,147.50 | 0 | 11/2/2020 | $0.00 | P | 2.7 | 2.7 | 0 | |
| 31728967 | 11/3/2020 | 2936 | Grimball, H | 88786 | 1.1 | PC | Y | $3,480.00 | $2,465.00 | $2,465.00 | 0 | | $0.00 | W | 5.8 | 5.8 | 0 | |

Exhibit A

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|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 31729031 | 11/2/2020 | 2936 | Grimball, H | 88786 | 1.1 | PC | Y | $1,380.00 | $977.50 | $977.50 | 0 | | $0.00 | W | 2.3 | 2.3 | 0 | [redacted] |
| 31733651 | 11/4/2020 | 2936 | Grimball, H | 88786 | 1.1 | PC | Y | $2,640.00 | $1,870.00 | $1,870.00 | 0 | | $0.00 | W | 4.4 | 4.4 | 0 | |
| 31738772 | 11/5/2020 | 2936 | Grimball, H | 88786 | 1.1 | PC | Y | $2,640.00 | $1,870.00 | $1,870.00 | 0 | | $0.00 | W | 4.4 | 4.4 | 0 | |
| 31750744 | 11/9/2020 | 2936 | Grimball, H | 88786 | 1.1 | PC | Y | $720.00 | $510.00 | $510.00 | 0 | | $0.00 | W | 1.2 | 1.2 | 0 | |
| 31751164 | 11/7/2020 | 2936 | Grimball, H | 88786 | 1.1 | PC | Y | $600.00 | $425.00 | $425.00 | 0 | | $0.00 | W | 1 | 1 | 0 | |
| 31757942 | 11/11/2020 | 2936 | Grimball, H | 88786 | 1.1 | PC | Y | $180.00 | $127.50 | $127.50 | 0 | | $0.00 | W | 0.3 | 0.3 | 0 | |
| | | | | | | | Total | $61,164.00 | $45,645.00 | $45,645.00 | | | $33,385.00 | | 107.4 | | | |

| | | |
|---|---|---|
| STATE OF SOUTH CAROLINA<br>COUNTY OF CHARLESTON | ) | IN THE COURT OF COMMON PLEAS<br>FOR THE NINTH JUDICIAL CIRCUIT<br>CASE NO. 2016-CP-10-2955 |
| TCC OF CHARLESTON, INC.<br><br>Plaintiff,<br>vs.<br><br>CONCORD AND CUMERLAND, LLC., CONCORD & CUMBERLAND HPR, LEO HALL, DIANE HALL, BEA H. SMITH, MARGARET C. POPE, WILLIAM D. FOSTER, JR., GENE G. FOSTER, MATTISON J. MACGILLIVRAY, TERESA MACGILLIVRAY, PAMELA L. VAUGHN, NELIA A. PATRICIO, Trustee of the Nelia A. Patricio Revocable Trust Agreement, STUART D. REEVES, EDWARD T. STROM, BARBARA K. HENDERSON, JAMES R. CLARKE, PAUL A. BRIM, ROBERT K. SEIDL, JENNIFER M. SEIDL, ROBERT KENNETH SEIDL, II, M. BERT STOREY, THOMAS R. MATHER, EDWARD T. STROM, 304 CONCORD & CUMBERLAND, LLC, MARION M. SIMPSON F/K/A MARION MOORE MCDONALD SIMPSON, KATHY GARDNER, GREGORY J. GARDNER, FREEMAN WATERFRONT PROPERTIES, LLC, JO-ANN COOPER, BETTY Y. SEGAL, ROBERT M. LEVIN AND BONITA K. LEVIN, DONALD D. LEONARD, BETTY L. BEATTY, MATTELLEN, LLC, AND THOMAS R. DEBNAM, Trustee of the Trust Agreement of Thomas R. Debnam,<br><br>Defendants. | ) | **AFFIDAVIT OF ATTORNEY'S FEES**<br>**R. ANDREW WALDEN** |

PERSONALLY appeared before me R. Andrew Walden stating as follows:

1. I am an Associate Attorney in the law firm of Womble Bond Dickinson (US) LLP in Charleston, South Carolina, and I, along with F. Cordes Ford IV and Henry E. Grimball, am the attorney for Defendant Concord & Cumberland HPR in the above-captioned matter.

2. I am a member in good standing of the South Carolina bar. I am admitted before the Supreme Court of South Carolina and the U.S. District Court for the District of South Carolina. My practice includes civil litigation in State and Federal courts.

3. I have been a practicing attorney for over 7 years under SC Bar No. 101004.

4. As of November 16, 2020, I have incurred 670.80 hours and $186,224.00 in fees on this matter. I have reduced my time and fees and only billed for a total of $164,356.86. These figures are further supported by an excel timesheet of all of my time spent on this matter. Because time entry narratives implicate the attorney-client privilege, and in order not to waive said privilege, enclosed herewith as **Exhibit A** for filing is my redacted timesheet. The un-redacted timesheet is being provided contemporaneously herewith to the Court for an *in-camera* review.

5. The parties in this case litigated multiple issues, and the trial involved 4 days of testimony and hundreds of exhibits. Discovery included the exchange of tens of thousands of documents and numerous depositions. All claims against the HPR were referred to arbitration, which included the foreclosure of mechanic's lien cause of action.

6. The arbitration resulted in an award to TCC, and, since the initial award, the HPR has been willing and able to meaningfully discuss resolution of the case, notwithstanding its position that the Panel manifestly disregarded the law. However, TCC's contention that it be awarded attorney's fees under the mechanic's lien statute has stymied any settlement discussions and has precluded a meaningful discussion of a resolution to this matter. TCC's insistence on fees, without statutory or contractual support, has resulted in effectively all litigation since April 26, 2019, when TCC filed its first motion for fees and requested no less than $899,563. In the same time period, the HPR only incurred fees of $316,992.34.

7. My time and fees in this matter can be generally divided into 2 stages: (1) Arbitration up to TCC's request for attorneys' fees[1] (7/14/2017 to 4/26/2019); and (2) Arbitration/litigation after TCC's request for attorneys' fees (4/27/2019 to 11/15/2020). My fees during each stage are as follows:

Arbitration up to TCC's Request for Attorneys' Fees: $105,397.00
Arbitration after TCC's Request for Attorneys' Fees: $80,827.00

8. Since April 26, 2019, I have incurred fees integrally associated either directly or indirectly with defending against TCC's foreclosure of mechanic's lien cause of action and/or a request for attorneys' fees associated therewith at a total cost of my time of $80,827.00.

9. Based on the nature, extent, and difficulty of the legal services rendered, the time and labor necessarily devoted to this case, the fees customarily charged for similar cases and legal

[1] TCC filed for attorney's fees on April 26, 2019.

services, the beneficial result obtained in the dismissal of the mechanic's lien, the attendant responsibilities, the size of the claim between the parties, the legal fees and expenses still to be incurred, and the other factors relevant to an award of attorney's fees, I believe that the HPR is entitled to an award of my attorney's fees in the amount of $80,827.00.

10. I swear under oath that I have reviewed my invoices associated with this matter and that the figures contained herein are a true and accurate accounting of the fees in this case associated with or integrally connected directly or indirectly to the foreclosure of mechanic's lien cause of action.

FURTHER AFFIANT SAYETH NOT.

R. Andrew Walden

Sworn to and subscribed before me this

the 17th day of November, 2020.

Notary: _____

My commission expires: 6-27-2028

DAVID H. CRAWFORD
Notary Public, South Carolina
My Commission Expires
June 27, 2028

Exhibit A

| ID | Date | Tkpr | TKPR Name | Client | Matter | Phase Code | Task Code | Activity | Action | Print on Bi | Std Amt | Base Amt | To Bill Amt | Bill Num | Bill Date | Billed Amt | Status | Bs Hrs | To Bill Hrs | Bl Hrs | Narrative |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 24796520 | 7/14/2017 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $725.00 | $725.00 | $725.00 | 2656309 | 8/8/2017 | $725.00 | B | 2.9 | 2.9 | 2.9 | [redacted] |
| 24819389 | 7/17/2017 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $300.00 | $300.00 | $300.00 | 2656309 | 8/8/2017 | $300.00 | B | 1.2 | 1.2 | 1.2 | |
| 24912897 | 8/15/2017 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $750.00 | $750.00 | $750.00 | 2662287 | 9/6/2017 | $750.00 | B | 3 | 3 | 3 | |
| 24941432 | 8/29/2017 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $75.00 | $75.00 | $75.00 | 2662287 | 9/6/2017 | $75.00 | B | 0.3 | 0.3 | 0.3 | |
| 24941458 | 8/30/2017 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $75.00 | $75.00 | $75.00 | 2662287 | 9/6/2017 | $75.00 | B | 0.3 | 0.3 | 0.3 | |
| 25107995 | 10/23/2017 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $600.00 | $600.00 | $600.00 | 2675055 | 11/6/2017 | $600.00 | B | 2.4 | 2.4 | 2.4 | |
| 25218636 | 11/28/2017 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $250.00 | $250.00 | $250.00 | 2687208 | 12/21/2017 | $250.00 | B | 1 | 1 | 1 | |
| 25221424 | 11/29/2017 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $675.00 | $675.00 | $675.00 | 2687208 | 12/21/2017 | $675.00 | B | 2.7 | 2.7 | 2.7 | |
| 25227801 | 11/30/2017 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $500.00 | $500.00 | $500.00 | 2687208 | 12/21/2017 | $500.00 | B | 2 | 2 | 2 | |
| 25249296 | 12/1/2017 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $850.00 | $850.00 | $850.00 | 4101527 | 1/9/2018 | $850.00 | B | 3.4 | 3.4 | 3.4 | |
| 25249345 | 12/4/2017 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $725.00 | $725.00 | $725.00 | 4101527 | 1/9/2018 | $725.00 | B | 2.9 | 2.9 | 2.9 | |
| 25281564 | 12/18/2017 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $500.00 | $500.00 | $500.00 | 4101527 | 1/9/2018 | $500.00 | B | 2 | 2 | 2 | |
| 25285952 | 12/19/2017 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $750.00 | $750.00 | $750.00 | 4101527 | 1/9/2018 | $750.00 | B | 3 | 3 | 3 | |
| 25298044 | 12/22/2017 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $375.00 | $375.00 | $375.00 | 4101527 | 1/9/2018 | $375.00 | B | 1.5 | 1.5 | 1.5 | |
| 25307546 | 12/27/2017 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $575.00 | $575.00 | $575.00 | 4101527 | 1/9/2018 | $575.00 | B | 2.3 | 2.3 | 2.3 | |
| 25311509 | 12/28/2017 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $300.00 | $300.00 | $300.00 | 4101527 | 1/9/2018 | $300.00 | B | 1.2 | 1.2 | 1.2 | |
| 28121899 | 1/4/2018 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $25.00 | $25.00 | $25.00 | 4127653 | 4/18/2018 | $25.00 | B | 0.1 | 0.1 | 0.1 | |
| 28144669 | 1/12/2018 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $300.00 | $300.00 | $300.00 | 4127653 | 4/18/2018 | $300.00 | B | 1.2 | 1.2 | 1.2 | |
| 28170458 | 1/23/2018 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $250.00 | $250.00 | $250.00 | 4127653 | 4/18/2018 | $250.00 | B | 1 | 1 | 1 | |
| 28224279 | 2/6/2018 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $200.00 | $200.00 | $200.00 | 4127653 | 4/18/2018 | $200.00 | B | 0.8 | 0.8 | 0.8 | |
| 28226690 | 2/7/2018 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $575.00 | $575.00 | $575.00 | 4127653 | 4/18/2018 | $575.00 | B | 2.3 | 2.3 | 2.3 | |
| 28232851 | 2/8/2018 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $150.00 | $150.00 | $150.00 | 4127653 | 4/18/2018 | $150.00 | B | 0.6 | 0.6 | 0.6 | |
| 28251054 | 2/15/2018 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $375.00 | $375.00 | $375.00 | 4127653 | 4/18/2018 | $375.00 | B | 1.5 | 1.5 | 1.5 | |
| 28251055 | 2/15/2018 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $425.00 | $425.00 | $425.00 | 4127653 | 4/18/2018 | $425.00 | B | 1.7 | 1.7 | 1.7 | |
| 28271859 | 2/21/2018 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $475.00 | $475.00 | $475.00 | 4127653 | 4/18/2018 | $475.00 | B | 1.9 | 1.9 | 1.9 | |
| 28273869 | 2/22/2018 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $1,325.00 | $1,325.00 | $1,325.00 | 4127653 | 4/18/2018 | $1,325.00 | B | 5.3 | 5.3 | 5.3 | |
| 28287557 | 2/26/2018 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $75.00 | $75.00 | $75.00 | 4127653 | 4/18/2018 | $75.00 | B | 0.3 | 0.3 | 0.3 | |
| 28319388 | 3/2/2018 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $25.00 | $25.00 | $25.00 | 4127653 | 4/18/2018 | $25.00 | B | 0.1 | 0.1 | 0.1 | |
| 28323077 | 3/6/2018 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $100.00 | $100.00 | $100.00 | 4127653 | 4/18/2018 | $100.00 | B | 0.4 | 0.4 | 0.4 | |
| 28326078 | 3/7/2018 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $325.00 | $325.00 | $325.00 | 4127653 | 4/18/2018 | $325.00 | B | 1.3 | 1.3 | 1.3 | |
| 28330198 | 3/8/2018 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $325.00 | $325.00 | $325.00 | 4127653 | 4/18/2018 | $325.00 | B | 1.3 | 1.3 | 1.3 | |
| 28331536 | 3/9/2018 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $425.00 | $425.00 | $425.00 | 4127653 | 4/18/2018 | $425.00 | B | 1.7 | 1.7 | 1.7 | |
| 28342657 | 3/13/2018 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $50.00 | $50.00 | $50.00 | 4127653 | 4/18/2018 | $50.00 | B | 0.2 | 0.2 | 0.2 | |
| 28365189 | 3/20/2018 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $50.00 | $50.00 | $50.00 | 4127653 | 4/18/2018 | $50.00 | B | 0.2 | 0.2 | 0.2 | |
| 28373289 | 3/22/2018 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $450.00 | $450.00 | $450.00 | 4127653 | 4/18/2018 | $450.00 | B | 1.8 | 1.8 | 1.8 | |
| 28378191 | 3/23/2018 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $75.00 | $75.00 | $75.00 | 4127653 | 4/18/2018 | $75.00 | B | 0.3 | 0.3 | 0.3 | |
| 28398763 | 3/29/2018 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $50.00 | $50.00 | $50.00 | 4127653 | 4/18/2018 | $50.00 | B | 0.2 | 0.2 | 0.2 | |
| 28433722 | 4/9/2018 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $325.00 | $325.00 | $325.00 | 4146837 | 6/29/2018 | $325.00 | B | 1.3 | 1.3 | 1.3 | |
| 28445163 | 4/10/2018 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $100.00 | $100.00 | $100.00 | 4146837 | 6/29/2018 | $100.00 | B | 0.4 | 0.4 | 0.4 | |
| 28475602 | 4/20/2018 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $500.00 | $500.00 | $500.00 | 4146837 | 6/29/2018 | $500.00 | B | 2 | 2 | 2 | |
| 28483781 | 4/23/2018 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $1,525.00 | $1,525.00 | $1,525.00 | 4146837 | 6/29/2018 | $1,525.00 | B | 6.1 | 6.1 | 6.1 | |
| 28484209 | 4/24/2018 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $750.00 | $750.00 | $750.00 | 4146837 | 6/29/2018 | $750.00 | B | 3 | 3 | 3 | |
| 28491066 | 4/25/2018 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $125.00 | $125.00 | $125.00 | 4146837 | 6/29/2018 | $125.00 | B | 0.5 | 0.5 | 0.5 | |
| 28492883 | 4/26/2018 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $1,050.00 | $1,050.00 | $1,050.00 | 4146837 | 6/29/2018 | $1,050.00 | B | 4.2 | 4.2 | 4.2 | |

Exhibit A

| | | | | | | | | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 28495570 | 4/27/2018 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $1,325.00 | $1,325.00 | $1,325.00 | 4146837 | 6/29/2018 | $1,325.00 | B | 5.3 | 5.3 | 5.3 | |
| 28509064 | 4/30/2018 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $775.00 | $775.00 | $775.00 | 4146837 | 6/29/2018 | $775.00 | B | 3.1 | 3.1 | 3.1 | |
| 28524756 | 5/1/2018 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $1,125.00 | $1,125.00 | $1,125.00 | 4146837 | 6/29/2018 | $1,125.00 | B | 4.5 | 4.5 | 4.5 | |
| 28528445 | 5/2/2018 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $1,225.00 | $1,225.00 | $1,225.00 | 4146837 | 6/29/2018 | $1,225.00 | B | 4.9 | 4.9 | 4.9 | |
| 28528473 | 5/3/2018 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $200.00 | $200.00 | $200.00 | 4146837 | 6/29/2018 | $200.00 | B | 0.8 | 0.8 | 0.8 | |
| 28528628 | 5/4/2018 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $375.00 | $375.00 | $375.00 | 4146837 | 6/29/2018 | $375.00 | B | 1.5 | 1.5 | 1.5 | |
| 28994586 | 9/19/2018 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $50.00 | $50.00 | $50.00 | 4177386 | 10/24/2018 | $45.25 | B | 0.2 | 0.2 | 0.2 | |
| 29029989 | 9/28/2018 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $50.00 | $50.00 | $50.00 | 4177386 | 10/24/2018 | $45.32 | B | 0.2 | 0.2 | 0.2 | |
| 29050771 | 10/2/2018 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $1,040.00 | $1,040.00 | $1,040.00 | 4185772 | 11/19/2018 | $1,040.00 | B | 4 | 4 | 4 | |
| 29053446 | 10/3/2018 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $130.00 | $130.00 | $130.00 | 4185772 | 11/19/2018 | $130.00 | B | 0.5 | 0.5 | 0.5 | |
| 29058822 | 10/4/2018 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $520.00 | $520.00 | $520.00 | 4185772 | 11/19/2018 | $520.00 | B | 2 | 2 | 2 | |
| 29063148 | 10/8/2018 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $156.00 | $156.00 | $156.00 | 4185772 | 11/19/2018 | $156.00 | B | 0.6 | 0.6 | 0.6 | |
| 29065237 | 10/9/2018 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $26.00 | $26.00 | $26.00 | 4185772 | 11/19/2018 | $26.00 | B | 0.1 | 0.1 | 0.1 | |
| 29072595 | 10/11/2018 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $1,066.00 | $1,066.00 | $1,066.00 | 4185772 | 11/19/2018 | $1,066.00 | B | 4.1 | 4.1 | 4.1 | |
| 29078211 | 10/12/2018 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $884.00 | $884.00 | $884.00 | 4185772 | 11/19/2018 | $884.00 | B | 3.4 | 3.4 | 3.4 | |
| 29085516 | 10/15/2018 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $806.00 | $806.00 | $806.00 | 4185772 | 11/19/2018 | $806.00 | B | 3.1 | 3.1 | 3.1 | |
| 29088530 | 10/16/2018 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $858.00 | $858.00 | $858.00 | 4185772 | 11/19/2018 | $858.00 | B | 3.3 | 3.3 | 3.3 | |
| 29093149 | 10/17/2018 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $1,664.00 | $1,664.00 | $1,664.00 | 4185772 | 11/19/2018 | $1,664.00 | B | 6.4 | 6.4 | 6.4 | |
| 29098364 | 10/18/2018 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $468.00 | $468.00 | $468.00 | 4185772 | 11/19/2018 | $468.00 | B | 1.8 | 1.8 | 1.8 | |
| 29102247 | 10/19/2018 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $182.00 | $182.00 | $182.00 | 4185772 | 11/19/2018 | $182.00 | B | 0.7 | 0.7 | 0.7 | |
| 29108249 | 10/22/2018 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $832.00 | $832.00 | $832.00 | 4185772 | 11/19/2018 | $832.00 | B | 3.2 | 3.2 | 3.2 | |
| 29112523 | 10/23/2018 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $832.00 | $832.00 | $832.00 | 4185772 | 11/19/2018 | $832.00 | B | 3.2 | 3.2 | 3.2 | |
| 29120824 | 10/25/2018 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $1,170.00 | $1,170.00 | $1,170.00 | 4185772 | 11/19/2018 | $1,170.00 | B | 4.5 | 4.5 | 4.5 | |
| 29128242 | 10/26/2018 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $104.00 | $104.00 | $104.00 | 4185772 | 11/19/2018 | $104.00 | B | 0.4 | 0.4 | 0.4 | |
| 29132551 | 10/29/2018 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $1,300.00 | $1,300.00 | $1,300.00 | 4185772 | 11/19/2018 | $1,300.00 | B | 5 | 5 | 5 | |
| 29137096 | 10/30/2018 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $312.00 | $312.00 | $312.00 | 4185772 | 11/19/2018 | $312.00 | B | 1.2 | 1.2 | 1.2 | |
| 29143639 | 10/31/2018 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $1,274.00 | $1,274.00 | $1,274.00 | 4185772 | 11/19/2018 | $1,274.00 | B | 4.9 | 4.9 | 4.9 | |
| 29160342 | 11/1/2018 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $728.00 | $728.00 | $728.00 | 4209171 | 2/20/2019 | $669.76 | B | 2.8 | 2.8 | 2.8 | |
| 29163531 | 11/2/2018 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $546.00 | $546.00 | $546.00 | 4209171 | 2/20/2019 | $502.32 | B | 2.1 | 2.1 | 2.1 | |
| 29166677 | 11/5/2018 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $104.00 | $104.00 | $104.00 | 4209171 | 2/20/2019 | $95.68 | B | 0.4 | 0.4 | 0.4 | |
| 29168740 | 11/6/2018 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $780.00 | $780.00 | $780.00 | 4209171 | 2/20/2019 | $717.60 | B | 3 | 3 | 3 | |
| 29171049 | 11/7/2018 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $312.00 | $312.00 | $312.00 | 4209171 | 2/20/2019 | $287.04 | B | 1.2 | 1.2 | 1.2 | |
| 29180163 | 11/9/2018 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $1,144.00 | $1,144.00 | $1,144.00 | 4209171 | 2/20/2019 | $1,052.48 | B | 4.4 | 4.4 | 4.4 | |
| 29184163 | 11/12/2018 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $1,846.00 | $1,846.00 | $1,846.00 | 4209171 | 2/20/2019 | $1,698.32 | B | 7.1 | 7.1 | 7.1 | |
| 29187131 | 11/13/2018 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $2,574.00 | $2,574.00 | $2,574.00 | 4209171 | 2/20/2019 | $2,368.08 | B | 9.9 | 9.9 | 9.9 | |

[redacted]

Exhibit A

| | | | | | | | | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 29191572 | 11/14/2018 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $364.00 | $364.00 | $364.00 | 4209171 | 2/20/2019 | $334.88 | B | 1.4 | 1.4 | 1.4 | [redacted] |
| 29191747 | 11/14/2018 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $1,352.00 | $1,352.00 | $1,352.00 | 4209171 | 2/20/2019 | $1,243.84 | B | 5.2 | 5.2 | 5.2 | |
| 29196392 | 11/15/2018 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $1,612.00 | $1,612.00 | $1,612.00 | 4209171 | 2/20/2019 | $1,483.04 | B | 6.2 | 6.2 | 6.2 | |
| 29196393 | 11/15/2018 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $1,092.00 | $1,092.00 | $1,092.00 | 4209171 | 2/20/2019 | $1,004.64 | B | 4.2 | 4.2 | 4.2 | |
| 29199711 | 11/16/2018 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $390.00 | $390.00 | $390.00 | 4209171 | 2/20/2019 | $358.80 | B | 1.5 | 1.5 | 1.5 | |
| 29213032 | 11/20/2018 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $754.00 | $754.00 | $754.00 | 4209171 | 2/20/2019 | $693.68 | B | 2.9 | 2.9 | 2.9 | |
| 29213033 | 11/19/2018 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $1,040.00 | $1,040.00 | $1,040.00 | 4209171 | 2/20/2019 | $956.80 | B | 4 | 4 | 4 | |
| 29222559 | 11/21/2018 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $520.00 | $520.00 | $520.00 | 4209171 | 2/20/2019 | $478.40 | B | 2 | 2 | 2 | |
| 29227808 | 11/26/2018 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $1,482.00 | $1,482.00 | $1,482.00 | 4209171 | 2/20/2019 | $1,363.44 | B | 5.7 | 5.7 | 5.7 | |
| 29230775 | 11/27/2018 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $1,118.00 | $1,118.00 | $1,118.00 | 4209171 | 2/20/2019 | $1,028.56 | B | 4.3 | 4.3 | 4.3 | |
| 29235204 | 11/28/2018 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $1,222.00 | $1,222.00 | $1,222.00 | 4209171 | 2/20/2019 | $1,124.24 | B | 4.7 | 4.7 | 4.7 | |
| 29239362 | 11/29/2018 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $2,080.00 | $2,080.00 | $2,080.00 | 4209171 | 2/20/2019 | $1,913.60 | B | 8 | 8 | 8 | |
| 29249086 | 11/30/2018 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $1,430.00 | $1,430.00 | $1,430.00 | 4209171 | 2/20/2019 | $1,315.60 | B | 5.5 | 5.5 | 5.5 | |
| 29263046 | 12/3/2018 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $156.00 | $156.00 | $156.00 | 4209196 | 2/25/2019 | $143.52 | B | 0.6 | 0.6 | 0.6 | |
| 29264612 | 12/4/2018 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $52.00 | $52.00 | $52.00 | 4209196 | 2/25/2019 | $47.84 | B | 0.2 | 0.2 | 0.2 | |
| 29266314 | 12/5/2018 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $390.00 | $390.00 | $390.00 | 4209196 | 2/25/2019 | $358.80 | B | 1.5 | 1.5 | 1.5 | |
| 29268862 | 12/6/2018 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $2,314.00 | $2,314.00 | $2,314.00 | 4209196 | 2/25/2019 | $2,128.88 | B | 8.9 | 8.9 | 8.9 | |
| 29277217 | 12/10/2018 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $1,222.00 | $1,222.00 | $1,222.00 | 4209196 | 2/25/2019 | $1,124.24 | B | 4.7 | 4.7 | 4.7 | |
| 29280157 | 12/11/2018 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $104.00 | $104.00 | $104.00 | 4209196 | 2/25/2019 | $95.68 | B | 0.4 | 0.4 | 0.4 | |
| 29289046 | 12/13/2018 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $52.00 | $52.00 | $52.00 | 4209196 | 2/25/2019 | $47.84 | B | 0.2 | 0.2 | 0.2 | |
| 29294815 | 12/14/2018 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $130.00 | $130.00 | $130.00 | 4209196 | 2/25/2019 | $119.60 | B | 0.5 | 0.5 | 0.5 | |
| 29300733 | 12/17/2018 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $260.00 | $260.00 | $260.00 | 4209196 | 2/25/2019 | $239.20 | B | 1 | 1 | 1 | |
| 29304459 | 12/18/2018 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $182.00 | $182.00 | $182.00 | 4209196 | 2/25/2019 | $167.44 | B | 0.7 | 0.7 | 0.7 | |
| 29314266 | 12/20/2018 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $468.00 | $468.00 | $468.00 | 4209196 | 2/25/2019 | $430.56 | B | 1.8 | 1.8 | 1.8 | |
| 29325329 | 12/21/2018 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $286.00 | $286.00 | $286.00 | 4209196 | 2/25/2019 | $263.12 | B | 1.1 | 1.1 | 1.1 | |
| 29330081 | 12/26/2018 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $182.00 | $182.00 | $182.00 | 4209196 | 2/25/2019 | $167.44 | B | 0.7 | 0.7 | 0.7 | |
| 29334031 | 12/27/2018 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $52.00 | $52.00 | $52.00 | 4209196 | 2/25/2019 | $47.84 | B | 0.2 | 0.2 | 0.2 | |
| 29353844 | 1/2/2019 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $52.00 | $52.00 | $52.00 | 4209231 | 2/25/2019 | $47.84 | B | 0.2 | 0.2 | 0.2 | |
| 29355749 | 1/3/2019 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $26.00 | $26.00 | $26.00 | 4209231 | 2/25/2019 | $23.92 | B | 0.1 | 0.1 | 0.1 | |
| 29364368 | 1/7/2019 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $130.00 | $130.00 | $130.00 | 4209231 | 2/25/2019 | $119.60 | B | 0.5 | 0.5 | 0.5 | |
| 29364468 | 1/8/2019 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $624.00 | $624.00 | $624.00 | 4209231 | 2/25/2019 | $574.08 | B | 2.4 | 2.4 | 2.4 | |
| 29367585 | 1/9/2019 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $910.00 | $910.00 | $910.00 | 4209231 | 2/25/2019 | $837.20 | B | 3.5 | 3.5 | 3.5 | |
| 29371395 | 1/10/2019 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $780.00 | $780.00 | $780.00 | 4209231 | 2/25/2019 | $717.60 | B | 3 | 3 | 3 | |
| 29375732 | 1/11/2019 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $1,014.00 | $1,014.00 | $1,014.00 | 4209231 | 2/25/2019 | $932.88 | B | 3.9 | 3.9 | 3.9 | |
| 29376422 | 1/12/2019 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $598.00 | $598.00 | $598.00 | 4209231 | 2/25/2019 | $550.16 | B | 2.3 | 2.3 | 2.3 | |
| 29382315 | 1/14/2019 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $2,132.00 | $2,132.00 | $2,132.00 | 4209231 | 2/25/2019 | $1,961.44 | B | 8.2 | 8.2 | 8.2 | |
| 29385374 | 1/15/2019 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $2,080.00 | $2,080.00 | $2,080.00 | 4209231 | 2/25/2019 | $1,913.60 | B | 8 | 8 | 8 | |
| 29391015 | 1/16/2019 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $416.00 | $416.00 | $416.00 | 4209231 | 2/25/2019 | $382.72 | B | 1.6 | 1.6 | 1.6 | |

Exhibit A

| | | | | | | | | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 29394202 | 1/17/2019 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $3,406.00 | $3,406.00 | $3,406.00 | 4209231 | 2/25/2019 | $3,133.52 | B | 13.1 | 13.1 | 13.1 |
| 29399965 | 1/18/2019 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $1,560.00 | $1,560.00 | $1,560.00 | 4209231 | 2/25/2019 | $1,435.20 | B | 6 | 6 | 6 |
| 29400722 | 1/19/2019 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $520.00 | $520.00 | $520.00 | 4209231 | 2/25/2019 | $478.40 | B | 2 | 2 | 2 |
| 29401537 | 1/20/2019 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $1,794.00 | $1,794.00 | $1,794.00 | 4209231 | 2/25/2019 | $1,650.48 | B | 6.9 | 6.9 | 6.9 |
| 29403198 | 1/21/2019 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $3,640.00 | $3,640.00 | $3,640.00 | 4209231 | 2/25/2019 | $3,348.80 | B | 14 | 14 | 14 |
| 29408542 | 1/22/2019 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $4,030.00 | $4,030.00 | $4,030.00 | 4209231 | 2/25/2019 | $3,707.60 | B | 15.5 | 15.5 | 15.5 |
| 29413655 | 1/23/2019 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $4,368.00 | $4,368.00 | $4,368.00 | 4209231 | 2/25/2019 | $4,018.56 | B | 16.8 | 16.8 | 16.8 |
| 29417503 | 1/24/2019 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $2,340.00 | $2,340.00 | $2,340.00 | 4209231 | 2/25/2019 | $2,152.80 | B | 9 | 9 | 9 |
| 29423532 | 1/25/2019 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $416.00 | $416.00 | $416.00 | 4209231 | 2/25/2019 | $382.72 | B | 1.6 | 1.6 | 1.6 |
| 29429272 | 1/28/2019 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $234.00 | $234.00 | $234.00 | 4209231 | 2/25/2019 | $215.28 | B | 0.9 | 0.9 | 0.9 |
| 29433602 | 1/29/2019 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $52.00 | $52.00 | $52.00 | 4209231 | 2/25/2019 | $47.84 | B | 0.2 | 0.2 | 0.2 |
| 29444657 | 1/31/2019 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $26.00 | $26.00 | $26.00 | 4209231 | 2/25/2019 | $23.92 | B | 0.1 | 0.1 | 0.1 |
| 29466691 | 2/4/2019 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $52.00 | $52.00 | $52.00 | 4226513 | 4/1/2019 | $52.00 | B | 0.2 | 0.2 | 0.2 |
| 29469815 | 2/5/2019 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $104.00 | $104.00 | $104.00 | 4226513 | 4/1/2019 | $104.00 | B | 0.4 | 0.4 | 0.4 |
| 29471709 | 2/6/2019 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $104.00 | $104.00 | $104.00 | 4226513 | 4/1/2019 | $104.00 | B | 0.4 | 0.4 | 0.4 |
| 29538564 | 2/26/2019 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $52.00 | $52.00 | $52.00 | 4226513 | 4/1/2019 | $52.00 | B | 0.2 | 0.2 | 0.2 |
| 29550034 | 2/28/2019 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $260.00 | $260.00 | $260.00 | 4226513 | 4/1/2019 | $260.00 | B | 1 | 1 | 1 |
| 29572185 | 3/4/2019 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $520.00 | $520.00 | $520.00 | 4226513 | 4/1/2019 | $520.00 | B | 2 | 2 | 2 |
| 29572351 | 3/1/2019 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $780.00 | $780.00 | $780.00 | 4226513 | 4/1/2019 | $780.00 | B | 3 | 3 | 3 |
| 29574569 | 3/5/2019 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $1,404.00 | $1,404.00 | $1,404.00 | 4226513 | 4/1/2019 | $1,404.00 | B | 5.4 | 5.4 | 5.4 |
| 29576764 | 3/6/2019 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $156.00 | $156.00 | $156.00 | 4226513 | 4/1/2019 | $156.00 | B | 0.6 | 0.6 | 0.6 |
| 29597149 | 3/13/2019 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $1,014.00 | $1,014.00 | $1,014.00 | 4226513 | 4/1/2019 | $1,014.00 | B | 3.9 | 3.9 | 3.9 |
| 29606079 | 3/15/2019 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $650.00 | $650.00 | $650.00 | 4226513 | 4/1/2019 | $650.00 | B | 2.5 | 2.5 | 2.5 |
| 29626933 | 3/21/2019 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $520.00 | $520.00 | $520.00 | 4226513 | 4/1/2019 | $520.00 | B | 2 | 2 | 2 |
| 29630234 | 3/22/2019 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $78.00 | $78.00 | $78.00 | 4226513 | 4/1/2019 | $78.00 | B | 0.3 | 0.3 | 0.3 |
| 29641286 | 3/26/2019 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $52.00 | $52.00 | $52.00 | 4226513 | 4/1/2019 | $52.00 | B | 0.2 | 0.2 | 0.2 |
| 29646959 | 3/27/2019 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $26.00 | $26.00 | $26.00 | 4226513 | 4/1/2019 | $26.00 | B | 0.1 | 0.1 | 0.1 |
| 29649996 | 3/28/2019 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $182.00 | $182.00 | $182.00 | 4226513 | 4/1/2019 | $182.00 | B | 0.7 | 0.7 | 0.7 |
| 29657401 | 3/29/2019 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $650.00 | $650.00 | $650.00 | 4226513 | 4/1/2019 | $650.00 | B | 2.5 | 2.5 | 2.5 |
| 29658636 | 3/30/2019 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $520.00 | $520.00 | $520.00 | 4226513 | 4/1/2019 | $520.00 | B | 2 | 2 | 2 |
| 29725556 | 4/17/2019 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $104.00 | $104.00 | $104.00 | 4231897 | 5/13/2019 | $104.00 | B | 0.4 | 0.4 | 0.4 |
| 29729158 | 4/18/2019 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $1,482.00 | $1,482.00 | $1,482.00 | 4231897 | 5/13/2019 | $1,482.00 | B | 5.7 | 5.7 | 5.7 |
| 29757710 | 4/26/2019 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $26.00 | $26.00 | $26.00 | 4231897 | 5/13/2019 | $26.00 | B | 0.1 | 0.1 | 0.1 |
| 29803438 | 5/8/2019 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $624.00 | $624.00 | $624.00 | 4240682 | 6/17/2019 | $574.08 | B | 2.4 | 2.4 | 2.4 |
| 29807716 | 5/9/2019 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $2,158.00 | $2,158.00 | $2,158.00 | 4240682 | 6/17/2019 | $1,985.36 | B | 8.3 | 8.3 | 8.3 |
| 29814584 | 5/10/2019 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $806.00 | $806.00 | $806.00 | 4240682 | 6/17/2019 | $741.52 | B | 3.1 | 3.1 | 3.1 |
| 29818498 | 5/13/2019 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $910.00 | $910.00 | $910.00 | 4240682 | 6/17/2019 | $837.20 | B | 3.5 | 3.5 | 3.5 |
| 29822339 | 5/14/2019 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $1,170.00 | $1,170.00 | $1,170.00 | 4240682 | 6/17/2019 | $1,076.40 | B | 4.5 | 4.5 | 4.5 |
| 29827547 | 5/15/2019 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $650.00 | $650.00 | $650.00 | 4240682 | 6/17/2019 | $598.00 | B | 2.5 | 2.5 | 2.5 |
| 29834416 | 5/16/2019 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $130.00 | $130.00 | $130.00 | 4240682 | 6/17/2019 | $119.60 | B | 0.5 | 0.5 | 0.5 |
| 29838568 | 5/17/2019 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $312.00 | $312.00 | $312.00 | 4240682 | 6/17/2019 | $287.04 | B | 1.2 | 1.2 | 1.2 |
| 29883222 | 5/30/2019 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $182.00 | $182.00 | $182.00 | 4240682 | 6/17/2019 | $167.44 | B | 0.7 | 0.7 | 0.7 |
| 29894339 | 5/31/2019 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $338.00 | $338.00 | $338.00 | 4240682 | 6/17/2019 | $310.96 | B | 1.3 | 1.3 | 1.3 |
| 29898776 | 6/2/2019 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $156.00 | $156.00 | $156.00 | 4283364 | 11/7/2019 | $148.20 | B | 0.6 | 0.6 | 0.6 |
| 29904892 | 6/3/2019 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $702.00 | $702.00 | $702.00 | 4283364 | 11/7/2019 | $666.90 | B | 2.7 | 2.7 | 2.7 |
| 29906150 | 6/4/2019 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $702.00 | $702.00 | $702.00 | 4283364 | 11/7/2019 | $666.90 | B | 2.7 | 2.7 | 2.7 |
| 29907643 | 6/5/2019 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $598.00 | $598.00 | $598.00 | 4283364 | 11/7/2019 | $568.10 | B | 2.3 | 2.3 | 2.3 |
| 29910385 | 6/6/2019 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | N | $104.00 | $104.00 | $0.00 | 4283364 | 11/7/2019 | $0.00 | B | 0.4 | 0 | 0 |
| 29931890 | 6/13/2019 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | N | $52.00 | $52.00 | $0.00 | 4283364 | 11/7/2019 | $0.00 | B | 0.2 | 0 | 0 |
| 29943993 | 6/17/2019 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $26.00 | $26.00 | $26.00 | 4283364 | 11/7/2019 | $0.00 | B | 0.1 | 0.1 | 0.1 |
| 29957231 | 6/19/2019 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $26.00 | $26.00 | $26.00 | 4283364 | 11/7/2019 | $0.00 | B | 0.1 | 0.1 | 0.1 |
| 30028990 | 7/11/2019 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $78.00 | $78.00 | $78.00 | 4283364 | 11/7/2019 | $74.10 | B | 0.3 | 0.3 | 0.3 |
| 30033668 | 7/12/2019 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $390.00 | $390.00 | $390.00 | 4283364 | 11/7/2019 | $370.50 | B | 1.5 | 1.5 | 1.5 |
| 30037411 | 7/14/2019 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $936.00 | $936.00 | $936.00 | 4283364 | 11/7/2019 | $889.20 | B | 3.6 | 3.6 | 3.6 |
| 30040195 | 7/15/2019 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $1,040.00 | $1,040.00 | $1,040.00 | 4283364 | 11/7/2019 | $988.00 | B | 4 | 4 | 4 |
| 30043141 | 7/16/2019 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $1,794.00 | $1,794.00 | $1,794.00 | 4283364 | 11/7/2019 | $1,704.30 | B | 6.9 | 6.9 | 6.9 |
| 30048920 | 7/17/2019 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $338.00 | $338.00 | $338.00 | 4283364 | 11/7/2019 | $321.10 | B | 1.3 | 1.3 | 1.3 |

Exhibit A

| | | | | | | | | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 30053342 | 7/18/2019 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $156.00 | $156.00 | $156.00 | 4283364 | 11/7/2019 | $148.20 | B | 0.6 | 0.6 | 0.6 | |
| 30065086 | 7/19/2019 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $104.00 | $104.00 | $104.00 | 4283364 | 11/7/2019 | $98.80 | B | 0.4 | 0.4 | 0.4 | |
| 30140866 | 8/12/2019 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $52.00 | $52.00 | $52.00 | 4283364 | 11/7/2019 | $49.40 | B | 0.2 | 0.2 | 0.2 | |
| 30166568 | 8/19/2019 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $364.00 | $364.00 | $364.00 | 4283364 | 11/7/2019 | $345.80 | B | 1.4 | 1.4 | 1.4 | |
| 30184069 | 8/22/2019 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $26.00 | $26.00 | $26.00 | 4283364 | 11/7/2019 | $0.00 | B | 0.1 | 0.1 | 0.1 | |
| 30190202 | 8/26/2019 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $130.00 | $130.00 | $130.00 | 4283364 | 11/7/2019 | $123.50 | B | 0.5 | 0.5 | 0.5 | |
| 30194406 | 8/27/2019 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $78.00 | $78.00 | $78.00 | 4283364 | 11/7/2019 | $74.10 | B | 0.3 | 0.3 | 0.3 | |
| 30201880 | 8/28/2019 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $156.00 | $156.00 | $156.00 | 4283364 | 11/7/2019 | $148.20 | B | 0.6 | 0.6 | 0.6 | |
| 30230120 | 9/3/2019 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $624.00 | $624.00 | $624.00 | 4283364 | 11/7/2019 | $592.80 | B | 2.4 | 2.4 | 2.4 | |
| 30230232 | 9/4/2019 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $910.00 | $910.00 | $910.00 | 4283364 | 11/7/2019 | $864.50 | B | 3.5 | 3.5 | 3.5 | |
| 30235427 | 9/5/2019 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $650.00 | $650.00 | $650.00 | 4283364 | 11/7/2019 | $617.50 | B | 2.5 | 2.5 | 2.5 | |
| 30266448 | 9/17/2019 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $26.00 | $26.00 | $26.00 | 4283364 | 11/7/2019 | $24.70 | B | 0.1 | 0.1 | 0.1 | |
| 30277659 | 9/19/2019 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $156.00 | $156.00 | $156.00 | 4283364 | 11/7/2019 | $148.20 | B | 0.6 | 0.6 | 0.6 | |
| 30331339 | 10/1/2019 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $32.00 | $26.00 | $26.00 | 4283364 | 11/7/2019 | $24.70 | B | 0.1 | 0.1 | 0.1 | |
| 30336722 | 10/4/2019 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $32.00 | $26.00 | $26.00 | 4283364 | 11/7/2019 | $0.00 | B | 0.1 | 0.1 | 0.1 | |
| 30396151 | 10/23/2019 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $128.00 | $104.00 | $104.00 | 4283364 | 11/7/2019 | $98.80 | B | 0.4 | 0.4 | 0.4 | |
| 30407570 | 10/27/2019 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $416.00 | $338.00 | $338.00 | 4283364 | 11/7/2019 | $321.10 | B | 1.3 | 1.3 | 1.3 | |
| 30414448 | 10/28/2019 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $288.00 | $234.00 | $234.00 | 4283364 | 11/7/2019 | $222.30 | B | 0.9 | 0.9 | 0.9 | |
| 30459198 | 11/8/2019 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $2,016.00 | $1,638.00 | $1,638.00 | 4296227 | 12/16/2019 | $1,470.16 | B | 6.3 | 6.3 | 6.3 | |
| 30464677 | 11/11/2019 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $768.00 | $624.00 | $624.00 | 4296227 | 12/16/2019 | $560.06 | B | 2.4 | 2.4 | 2.4 | |
| 30474860 | 11/13/2019 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $256.00 | $208.00 | $208.00 | 4296227 | 12/16/2019 | $186.69 | B | 0.8 | 0.8 | 0.8 | |
| 30474951 | 11/14/2019 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $416.00 | $338.00 | $338.00 | 4296227 | 12/16/2019 | $303.37 | B | 1.3 | 1.3 | 1.3 | |
| 30481563 | 11/15/2019 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $992.00 | $806.00 | $806.00 | 4296227 | 12/16/2019 | $723.41 | B | 3.1 | 3.1 | 3.1 | |
| 30493011 | 11/18/2019 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $128.00 | $104.00 | $104.00 | 4296227 | 12/16/2019 | $93.34 | B | 0.4 | 0.4 | 0.4 | |
| 30530453 | 11/27/2019 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $96.00 | $78.00 | $78.00 | 4296227 | 12/16/2019 | $70.01 | B | 0.3 | 0.3 | 0.3 | |
| 30549823 | 12/5/2019 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $512.00 | $416.00 | $416.00 | 4303811 | 1/15/2020 | $383.83 | B | 1.6 | 1.6 | 1.6 | |
| 30550061 | 12/6/2019 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $512.00 | $416.00 | $416.00 | 4303811 | 1/15/2020 | $383.83 | B | 1.6 | 1.6 | 1.6 | |
| 30564080 | 12/11/2019 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $1,920.00 | $1,560.00 | $1,560.00 | 4303811 | 1/15/2020 | $1,439.37 | B | 6 | 6 | 6 | |
| 30585648 | 12/15/2019 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $576.00 | $468.00 | $468.00 | 4303811 | 1/15/2020 | $431.81 | B | 1.8 | 1.8 | 1.8 | |
| 30586627 | 12/16/2019 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $1,280.00 | $1,040.00 | $1,040.00 | 4303811 | 1/15/2020 | $959.58 | B | 4 | 4 | 4 | |
| 30586719 | 12/17/2019 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $224.00 | $182.00 | $182.00 | 4303811 | 1/15/2020 | $167.93 | B | 0.7 | 0.7 | 0.7 | |
| 30601385 | 12/18/2019 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $1,120.00 | $910.00 | $910.00 | 4303811 | 1/15/2020 | $839.63 | B | 3.5 | 3.5 | 3.5 | |
| 30601791 | 12/20/2019 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $544.00 | $442.00 | $442.00 | 4303811 | 1/15/2020 | $407.82 | B | 1.7 | 1.7 | 1.7 | |
| 30604958 | 12/22/2019 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $1,088.00 | $884.00 | $884.00 | 4303811 | 1/15/2020 | $815.65 | B | 3.4 | 3.4 | 3.4 | |
| 30622547 | 12/23/2019 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $640.00 | $520.00 | $520.00 | 4303811 | 1/15/2020 | $479.79 | B | 2 | 2 | 2 | |
| 30647893 | 1/6/2020 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $32.00 | $26.00 | $26.00 | 4308252 | 2/5/2020 | $0.00 | B | 0.1 | 0.1 | 0.1 | |
| 30755122 | 2/4/2020 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $352.00 | $286.00 | $286.00 | 4324089 | 3/26/2020 | $247.52 | B | 1.1 | 1.1 | 1.1 | |
| 30761318 | 2/7/2020 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $672.00 | $546.00 | $546.00 | 4324089 | 3/26/2020 | $472.55 | B | 2.1 | 2.1 | 2.1 | |
| 30761777 | 2/8/2020 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $800.00 | $650.00 | $650.00 | 4324089 | 3/26/2020 | $562.56 | B | 2.5 | 2.5 | 2.5 | |
| 30779027 | 2/10/2020 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $352.00 | $286.00 | $286.00 | 4324089 | 3/26/2020 | $247.52 | B | 1.1 | 1.1 | 1.1 | |
| 30779095 | 2/12/2020 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $608.00 | $494.00 | $494.00 | 4324089 | 3/26/2020 | $427.54 | B | 1.9 | 1.9 | 1.9 | |
| 30804201 | 2/20/2020 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $64.00 | $52.00 | $52.00 | 4324089 | 3/26/2020 | $45.00 | B | 0.2 | 0.2 | 0.2 | |
| 30822463 | 2/25/2020 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $96.00 | $78.00 | $78.00 | 4324089 | 3/26/2020 | $67.51 | B | 0.3 | 0.3 | 0.3 | |
| 30843174 | 2/26/2020 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $192.00 | $156.00 | $156.00 | 4324089 | 3/26/2020 | $135.01 | B | 0.6 | 0.6 | 0.6 | |
| 30843424 | 2/27/2020 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $288.00 | $234.00 | $234.00 | 4324089 | 3/26/2020 | $202.52 | B | 0.9 | 0.9 | 0.9 | |
| 30859388 | 3/2/2020 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | N | $64.00 | $52.00 | $0.00 | 4334077 | 4/29/2020 | $0.00 | B | 0.2 | 0 | 0 | |
| 30878133 | 3/10/2020 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $32.00 | $26.00 | $26.00 | 4334077 | 4/29/2020 | $26.00 | B | 0.1 | 0.1 | 0.1 | |
| 30878955 | 3/11/2020 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $64.00 | $52.00 | $52.00 | 4334077 | 4/29/2020 | $0.00 | B | 0.2 | 0.2 | 0.2 | |
| 30892337 | 3/12/2020 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $96.00 | $78.00 | $78.00 | 4334077 | 4/29/2020 | $78.00 | B | 0.3 | 0.3 | 0.3 | |
| 30923588 | 3/18/2020 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | N | $32.00 | $26.00 | $0.00 | 4334077 | 4/29/2020 | $0.00 | B | 0.1 | 0 | 0 | |
| 30982726 | 4/3/2020 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $832.00 | $676.00 | $676.00 | 4341483 | 5/22/2020 | $676.00 | B | 2.6 | 2.6 | 2.6 | |
| 31028156 | 4/16/2020 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $448.00 | $364.00 | $364.00 | 4341483 | 5/22/2020 | $364.00 | B | 1.4 | 1.4 | 1.4 | |
| 31034070 | 4/17/2020 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $256.00 | $208.00 | $208.00 | 4341483 | 5/22/2020 | $208.00 | B | 0.8 | 0.8 | 0.8 | |
| 31049432 | 4/21/2020 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $1,440.00 | $1,170.00 | $1,170.00 | 4341483 | 5/22/2020 | $650.00 | B | 4.5 | 4.5 | 2.5 | |

[redacted]

Exhibit A

| | | | | | | | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 31089118 | 5/1/2020 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $128.00 | $104.00 | $104.00 | 4350454 | 6/29/2020 | $95.68 | B | 0.4 | 0.4 | 0.4 |
| 31097901 | 5/5/2020 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $1,408.00 | $1,144.00 | $1,144.00 | 4350454 | 6/29/2020 | $1,052.48 | B | 4.4 | 4.4 | 4.4 |
| 31107372 | 5/6/2020 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $352.00 | $286.00 | $286.00 | 4350454 | 6/29/2020 | $263.12 | B | 1.1 | 1.1 | 1.1 |
| 31107466 | 5/7/2020 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $64.00 | $52.00 | $52.00 | 4350454 | 6/29/2020 | $0.00 | B | 0.2 | 0.2 | 0.2 |
| 31115444 | 5/8/2020 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $32.00 | $26.00 | $26.00 | 4350454 | 6/29/2020 | $23.92 | B | 0.1 | 0.1 | 0.1 |
| 31119700 | 5/11/2020 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $96.00 | $78.00 | $78.00 | 4350454 | 6/29/2020 | $71.76 | B | 0.3 | 0.3 | 0.3 |
| 31126959 | 5/13/2020 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $32.00 | $26.00 | $26.00 | 4350454 | 6/29/2020 | $23.92 | B | 0.1 | 0.1 | 0.1 |
| 31135136 | 5/15/2020 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $384.00 | $312.00 | $312.00 | 4350454 | 6/29/2020 | $287.04 | B | 1.2 | 1.2 | 1.2 |
| 31147794 | 5/19/2020 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $480.00 | $390.00 | $390.00 | 4350454 | 6/29/2020 | $358.80 | B | 1.5 | 1.5 | 1.5 |
| 31150046 | 5/20/2020 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $96.00 | $78.00 | $78.00 | 4350454 | 6/29/2020 | $71.76 | B | 0.3 | 0.3 | 0.3 |
| 31157468 | 5/21/2020 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $128.00 | $104.00 | $104.00 | 4350454 | 6/29/2020 | $95.68 | B | 0.4 | 0.4 | 0.4 |
| 31168404 | 5/22/2020 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $160.00 | $130.00 | $130.00 | 4350454 | 6/29/2020 | $119.60 | B | 0.5 | 0.5 | 0.5 |
| 31171625 | 5/26/2020 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $1,408.00 | $1,144.00 | $1,144.00 | 4350454 | 6/29/2020 | $1,052.48 | B | 4.4 | 4.4 | 4.4 |
| 31174540 | 5/27/2020 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $1,536.00 | $1,248.00 | $1,248.00 | 4350454 | 6/29/2020 | $1,148.16 | B | 4.8 | 4.8 | 4.8 |
| 31177454 | 5/28/2020 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $896.00 | $728.00 | $728.00 | 4350454 | 6/29/2020 | $669.76 | B | 2.8 | 2.8 | 2.8 |
| 31186385 | 5/29/2020 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $640.00 | $520.00 | $520.00 | 4350454 | 6/29/2020 | $478.40 | B | 2 | 2 | 2 |
| 31186598 | 5/31/2020 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $96.00 | $78.00 | $78.00 | 4350454 | 6/29/2020 | $71.76 | B | 0.3 | 0.3 | 0.3 |
| 31191945 | 6/1/2020 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $192.00 | $156.00 | $156.00 | 4366722 | 8/31/2020 | $156.00 | B | 0.6 | 0.6 | 0.6 |
| 31194384 | 6/2/2020 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | N | $160.00 | $130.00 | $0.00 | 4366722 | 8/31/2020 | $0.00 | B | 0.5 | 0 | 0 |
| 31210019 | 6/6/2020 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | N | $160.00 | $130.00 | $0.00 | 4366722 | 8/31/2020 | $0.00 | B | 0.5 | 0 | 0 |
| 31215981 | 6/8/2020 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $160.00 | $130.00 | $130.00 | 4366722 | 8/31/2020 | $130.00 | B | 0.5 | 0.5 | 0.5 |
| 31218852 | 6/9/2020 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $32.00 | $26.00 | $26.00 | 4366722 | 8/31/2020 | $26.00 | B | 0.1 | 0.1 | 0.1 |
| 31224434 | 6/10/2020 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $32.00 | $26.00 | $26.00 | 4366722 | 8/31/2020 | $26.00 | B | 0.1 | 0.1 | 0.1 |
| 31227897 | 6/11/2020 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $128.00 | $104.00 | $104.00 | 4366722 | 8/31/2020 | $104.00 | B | 0.4 | 0.4 | 0.4 |
| 31250841 | 6/17/2020 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $96.00 | $78.00 | $78.00 | 4366722 | 8/31/2020 | $78.00 | B | 0.3 | 0.3 | 0.3 |
| 31268413 | 6/22/2020 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $1,088.00 | $884.00 | $884.00 | 4366722 | 8/31/2020 | $884.00 | B | 3.4 | 3.4 | 3.4 |
| 31268672 | 6/23/2020 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $2,240.00 | $1,820.00 | $1,820.00 | 4366722 | 8/31/2020 | $1,820.00 | B | 7 | 7 | 7 |
| 31276656 | 6/25/2020 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $416.00 | $338.00 | $338.00 | 4366722 | 8/31/2020 | $338.00 | B | 1.3 | 1.3 | 1.3 |
| 31283218 | 6/27/2020 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $2,112.00 | $1,716.00 | $1,716.00 | 4366722 | 8/31/2020 | $1,716.00 | B | 6.6 | 6.6 | 6.6 |
| 31284502 | 6/28/2020 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $2,784.00 | $2,262.00 | $2,262.00 | 4366722 | 8/31/2020 | $2,262.00 | B | 8.7 | 8.7 | 8.7 |
| 31294204 | 6/30/2020 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $1,504.00 | $1,222.00 | $1,222.00 | 4366722 | 8/31/2020 | $1,222.00 | B | 4.7 | 4.7 | 4.7 |
| 31307186 | 7/1/2020 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $1,216.00 | $988.00 | $988.00 | 4366722 | 8/31/2020 | $988.00 | B | 3.8 | 3.8 | 3.8 |
| 31320039 | 7/8/2020 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $64.00 | $52.00 | $52.00 | 4366722 | 8/31/2020 | $52.00 | B | 0.2 | 0.2 | 0.2 |
| 31396593 | 7/31/2020 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $64.00 | $52.00 | $52.00 | 4366722 | 8/31/2020 | $52.00 | B | 0.2 | 0.2 | 0.2 |
| 31409845 | 8/4/2020 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $96.00 | $78.00 | $78.00 | 4373240 | 9/21/2020 | $78.00 | B | 0.3 | 0.3 | 0.3 |
| 31413546 | 8/5/2020 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $1,632.00 | $1,326.00 | $1,326.00 | 4373240 | 9/21/2020 | $1,326.00 | B | 5.1 | 5.1 | 5.1 |
| 31426128 | 8/7/2020 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $480.00 | $390.00 | $390.00 | 4373240 | 9/21/2020 | $390.00 | B | 1.5 | 1.5 | 1.5 |
| 31432787 | 8/11/2020 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $288.00 | $234.00 | $234.00 | 4373240 | 9/21/2020 | $234.00 | B | 0.9 | 0.9 | 0.9 |
| 31439114 | 8/12/2020 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $32.00 | $26.00 | $26.00 | 4373240 | 9/21/2020 | $26.00 | B | 0.1 | 0.1 | 0.1 |
| 31442500 | 8/13/2020 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $64.00 | $52.00 | $52.00 | 4373240 | 9/21/2020 | $52.00 | B | 0.2 | 0.2 | 0.2 |
| 31450148 | 8/14/2020 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $96.00 | $78.00 | $78.00 | 4373240 | 9/21/2020 | $78.00 | B | 0.3 | 0.3 | 0.3 |
| 31455095 | 8/17/2020 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $384.00 | $312.00 | $312.00 | 4373240 | 9/21/2020 | $312.00 | B | 1.2 | 1.2 | 1.2 |
| 31457705 | 8/18/2020 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $288.00 | $234.00 | $234.00 | 4373240 | 9/21/2020 | $234.00 | B | 0.9 | 0.9 | 0.9 |
| 31488918 | 8/26/2020 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $256.00 | $208.00 | $208.00 | 4373240 | 9/21/2020 | $208.00 | B | 0.8 | 0.8 | 0.8 |
| 31489325 | 8/27/2020 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $128.00 | $104.00 | $104.00 | 4373240 | 9/21/2020 | $104.00 | B | 0.4 | 0.4 | 0.4 |
| 31493729 | 8/28/2020 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $640.00 | $520.00 | $520.00 | 4373240 | 9/21/2020 | $520.00 | B | 2 | 2 | 2 |
| 31498950 | 8/29/2020 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $128.00 | $104.00 | $104.00 | 4373240 | 9/21/2020 | $104.00 | B | 0.4 | 0.4 | 0.4 |

Exhibit A

| | | | | | | | | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 31509091 | 8/31/2020 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $352.00 | $286.00 | $286.00 | 4373240 | 9/21/2020 | $286.00 | B | 1.1 | 1.1 | 1.1 |
| 31525335 | 9/4/2020 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $32.00 | $26.00 | $26.00 | 4381357 | 10/22/2020 | $24.70 | B | 0.1 | 0.1 | 0.1 |
| 31532638 | 9/9/2020 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $128.00 | $104.00 | $104.00 | 4381357 | 10/22/2020 | $98.80 | B | 0.4 | 0.4 | 0.4 |
| 31542679 | 9/10/2020 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $800.00 | $650.00 | $650.00 | 4381357 | 10/22/2020 | $617.30 | B | 2.5 | 2.5 | 2.5 |
| 31543332 | 9/11/2020 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $1,536.00 | $1,248.00 | $1,248.00 | 4381357 | 10/22/2020 | $1,185.20 | B | 4.8 | 4.8 | 4.8 |
| 31552538 | 9/14/2020 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $1,504.00 | $1,222.00 | $1,222.00 | 4381357 | 10/22/2020 | $1,160.50 | B | 4.7 | 4.7 | 4.7 |
| 31622136 | 10/2/2020 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $70.00 | $52.00 | $52.00 | 0 | 11/2/2020 | $0.00 | P | 0.2 | 0.2 | 0 |
| 31633915 | 10/7/2020 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $70.00 | $52.00 | $52.00 | 0 | 11/2/2020 | $0.00 | P | 0.2 | 0.2 | 0 |
| 31639114 | 10/8/2020 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $840.00 | $624.00 | $624.00 | 0 | 11/2/2020 | $0.00 | P | 2.4 | 2.4 | 0 |
| 31647413 | 10/9/2020 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $1,435.00 | $1,066.00 | $1,066.00 | 0 | 11/2/2020 | $0.00 | P | 4.1 | 4.1 | 0 |
| 31656767 | 10/14/2020 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $280.00 | $208.00 | $208.00 | 0 | 11/2/2020 | $0.00 | P | 0.8 | 0.8 | 0 |
| 31692003 | 10/23/2020 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $105.00 | $78.00 | $78.00 | 0 | 11/2/2020 | $0.00 | P | 0.3 | 0.3 | 0 |
| 31702939 | 10/26/2020 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $630.00 | $468.00 | $468.00 | 0 | 11/2/2020 | $0.00 | P | 1.8 | 1.8 | 0 |
| 31707355 | 10/27/2020 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $875.00 | $650.00 | $650.00 | 0 | 11/2/2020 | $0.00 | P | 2.5 | 2.5 | 0 |
| 31711223 | 10/28/2020 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $1,155.00 | $858.00 | $858.00 | 0 | 11/2/2020 | $0.00 | P | 3.3 | 3.3 | 0 |
| 31728813 | 11/2/2020 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $665.00 | $494.00 | $494.00 | 0 | | $0.00 | W | 1.9 | 1.9 | 0 |
| 31728855 | 11/3/2020 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $525.00 | $390.00 | $390.00 | 0 | | $0.00 | W | 1.5 | 1.5 | 0 |
| 31736223 | 11/4/2020 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $455.00 | $338.00 | $338.00 | 0 | | $0.00 | W | 1.3 | 1.3 | 0 |
| 31740965 | 11/5/2020 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $1,435.00 | $1,066.00 | $1,066.00 | 0 | | $0.00 | W | 4.1 | 4.1 | 0 |
| 31742023 | 11/6/2020 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $175.00 | $130.00 | $130.00 | 0 | | $0.00 | W | 0.5 | 0.5 | 0 |
| 31754431 | 11/10/2020 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $700.00 | $520.00 | $520.00 | 0 | | $0.00 | W | 2 | 2 | 0 |
| 31754758 | 11/11/2020 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $350.00 | $260.00 | $260.00 | 0 | | $0.00 | W | 1 | 1 | 0 |
| 31768032 | 11/13/2020 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $1,680.00 | $1,248.00 | $1,248.00 | 0 | | $0.00 | W | 4.8 | 4.8 | 0 |
| 31768418 | 11/12/2020 | 2540 | Walden, Andrew | 88786 | 1.1 | | | | PC | Y | $1,750.00 | $1,300.00 | $1,300.00 | 0 | | $0.00 | W | 5 | 5 | 0 |
| | | | | | | | | | | Total | $186,224.00 | $173,465.00 | $172,971.00 | | | $164,356.86 | | 670.8 | | |

| | |
|---|---|
| Arbitration Prior to Motion for Fees (up to 4/26/2019 | $105,397.00 |
| Arbitration/Litigation Post Motion for Fees (after 4/26/2019) | $80,827.00 |

[redacted]

ELECTRONICALLY FILED - 2021 Feb 22 10:57 AM - CHARLESTON - COMMON PLEAS - CASE#2016CP1002955

| | | |
|---|---|---|
| STATE OF SOUTH CAROLINA<br>COUNTY OF CHARLESTON | ) | IN THE COURT OF COMMON PLEAS<br>FOR THE NINTH JUDICIAL CIRCUIT<br>CASE NO. 2016-CP-10-2955 |
| TCC OF CHARLESTON, INC.<br><br>Plaintiff,<br><br>vs.<br><br>CONCORD & CUMBERLAND HPR, LEO HALL, DIANE HALL, BEA H. SMITH, MARGARET C. POPE, WILLIAM D. FOSTER, JR., GENE G. FOSTER, MATTISON J. MACGILLIVRAY, TERESA MACGILLIVRAY, PAMELA L. VAUGHN, NELIA A. PATRICIO, Trustee of the Nelia A. Patricio Revocable Trust Agreement, STUART D. REEVES, EDWARD T. STROM, BARBARA K. HENDERSON, JAMES R. CLARKE, PAUL A. BRIM, ROBERT K. SEIDL, JENNIFER M. SEIDL, ROBERT KENNETH SEIDL, II, M. BERT STOREY, THOMAS R. MATHER, EDWARD T. STROM, 304 CONCORD & CUMBERLAND, LLC, MARION M. SIMPSON F/K/A MARION MOORE MCDONALD SIMPSON, KATHY GARDNER, GREGORY J. GARDNER, FREEMAN WATERFRONT PROPERTIES, LLC, JOHN FREEMAN, JO-ANN COOPER, BETTY Y. SEGAL, by and through her Assignee, DONALD D. LEONARD, ROBERT M. LEVIN AND BONITA K. LEVIN, DONALD D. LEONARD, BETTY L. BEATTY, MATTELLEN, LLC, AND THOMAS R. DEBNAM, Trustee of the Trust Agreement of Thomas R. Debnam,<br><br>Defendants. | ) | **AFFIDAVIT OF ATTORNEY'S FEES**<br>**F. CORDES FORD IV** |

PERSONALLY appeared before me F. Cordes Ford IV stating as follows:

ELECTRONICALLY FILED - 2021 Feb 22 10:57 AM - CHARLESTON - COMMON PLEAS - CASE#2016CP1002955

1. I am a Partner in the law firm of Womble Bond Dickinson (US) LLP in Charleston, South Carolina, and I, along with R. Andrew Walden and Henry E. Grimball, am the attorney for all Defendants, with the exception of Betty Beatty, in the above-captioned matter.

2. I am a member in good standing of the South Carolina bar. I am admitted before the Supreme Court of South Carolina and the U.S. District Court for the District of South Carolina. My practice includes civil litigation in State and Federal courts.

3. I have been a practicing attorney for over 17 years under SC Bar No. 71644.

4. As the managing partner on this matter, I directed the defense utilizing the following attorneys and staff from my firm, which resulted in total fees of $720,282.50, of which $324,816.50 is related to the defense of the foreclosure of mechanic's lien cause of action. We discounted our rates to benefit our client and only billed for **$262,080.00** out of the $324,816.50 in fees. On behalf of the Defendants, I am seeking reimbursement for the following fees that have been reviewed in detail and are only associated with my firm's defense of the foreclosure of mechanic's lien cause of action:

i. I, F. Cordes Ford, billed 377.10 hours at a rate of $360 per hour for total fees of $135,756.00;

ii. R. Andrew Walden billed 214.70 hours at a rate of $260 per hour for total fees of $55,822.00;

iii. Henry Grimball billed 147.70 hours at a rate of $425 per hour for total fees of $62,772.50;

iv. Carol Casey billed 15.20 hours at a rate of $190 per hour for total fees of $2,888.00;

v. Catherine Anderson billed 7.60 hours at a rate of $195 per hour for total fees of $1,480;

vi. Jade Alderman billed 5.5 hours at a rate of $190 per hour for total fees of $1,045.00;

vii. Heather Chiovaro billed 5.2 hour at a rate of $251.44 for total fees of $1,307.50;

viii. Harriet Ward billed 1.7 hours at a rate of $260 per hour for total fees of $442.00;

ix. Kathryn Mansfield billed 1.3 hours at a rate of $260 per hour for total fees of $338.00;

x. Amy Clayton billed 0.6 hours at a rate of $350 per hour for total fees of $210.00;

xi. Carla Cerchione billed 0.1 hours at a rate of $190 per hour for a total of $19.00.

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I have taken great effort to review all time entries and seek reimbursement for only those fees associated with my firm's defense of the foreclosure of mechanic's lien cause of action. Because time entry narratives implicate the attorney-client privilege, and in order not to waive said privilege, enclosed herewith as **Exhibit A** for filing is the redacted timesheet. The un-redacted timesheet is being provided contemporaneously herewith to the Court for an *in-camera* review.

5. Womble Bond Dickinson (US) LLP has incurred total costs in this matter of $26,684.53, of which **$553.70** is related to the defense of Plaintiff's foreclosure of mechanic's lien cause of action. As evidenced in **Exhibit B**, most of the expenses are associated with filing fees and hearing transcripts.

6. This case was initially referred to arbitration by Judge Young for all claims against the HPR, which included a cause of action for foreclosure of mechanic's lien. The foreclosure of mechanic's lien cause of action was stayed as to all unit owner Defendants. The arbitration resulted in an award to TCC, and, since the initial award, the HPR has been willing and able to meaningfully discuss resolution of the case, notwithstanding its position that the Panel manifestly disregarded the law. However, TCC's contention that it is entitled to attorney's fees under the mechanic's lien statute has stymied any settlement discussions and has precluded a meaningful discussion of a resolution to this matter. TCC's insistence on fees, without statutory or contractual support, has resulted in most of the litigation since April 26, 2019, when TCC filed its first motion for fees and requested no less than $899,563.

7. Based on the nature, extent, and difficulty of the legal services rendered, the time and labor necessarily devoted to this case, the fees customarily charged for similar cases and legal services, the beneficial result obtained in the dismissal of the mechanic's lien, the attendant responsibilities, the size of the claim between the parties, the legal fees and expenses still to be incurred, and the other factors relevant to an award of attorney's fees, I believe that the Defendants are entitled to an award of attorneys' fees and costs in the amount of **$262,633.70**.

8. Henry E. Grimball and R. Andrew Walden have provided supporting affidavits, which are being filed contemporaneously herewith.

9. I swear under oath that I have reviewed the time entries in **Exhibit A** and the expense report in **Exhibit B** and that the figures contained therein are a true and accurate accounting of the attorneys' fees and expenses in this case associated with or integrally connected directly or indirectly to the foreclosure of mechanic's lien cause of action.

FURTHER AFFIANT SAYETH NOT.

F. Cordes Ford IV

Sworn to and subscribed before me this
the 22 day of February, 2021.
Notary: Cynthia W. Brewer

My commission expires: 9-25-2030

CYNTHIA W. BREWER
Notary Public, South Carolina
My Commission Expires
September 25, 2030

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| Date | TKPR Name | Std Amt | To Bill Amt | To Bill Hrs | Narrative |
|---|---|---|---|---|---|
| 6/23/2016 | Clayton, Amy H. | $210.00 | $210.00 | 0.6 | [redacted] |
| 6/25/2016 | Ford, Francis Cordes | $108.00 | $108.00 | 0.3 | |
| 6/26/2016 | Ford, Francis Cordes | $72.00 | $72.00 | 0.2 | |
| 6/22/2016 | Ford, Francis Cordes | $936.00 | $936.00 | 2.6 | |
| 6/29/2016 | Ford, Francis Cordes | $180.00 | $180.00 | 0.5 | |
| 6/23/2016 | Ford, Francis Cordes | $1,944.00 | $1,944.00 | 5.4 | |
| 6/30/2016 | Ford, Francis Cordes | $36.00 | $36.00 | 0.1 | |
| 6/28/2016 | Ford, Francis Cordes | $ 576.00 | $ 576.00 | 1.6 | |
| 6/27/2016 | Ford, Francis Cordes | $ 216.00 | $ 216.00 | 0.6 | |
| 6/24/2016 | Ford, Francis Cordes | $ 1,548.00 | $ 1,548.00 | 4.3 | |
| 7/1/2016 | Ford, Francis Cordes | $ 72.00 | $ 72.00 | 0.2 | |
| 7/3/2016 | Ford, Francis Cordes | $ 324.00 | $ 324.00 | 0.9 | |
| 7/4/2016 | Ford, Francis Cordes | $ 540.00 | $ 540.00 | 1.5 | |
| 7/8/2016 | Ford, Francis Cordes | $ 1,764.00 | $ 1,764.00 | 4.9 | |

[redacted]

| | | | | | |
|---|---|---|---|---|---|
| 7/8/2016 | Anderson, Catherine S. | $ 682.50 | $ 682.50 | | 3.5 |
| 7/22/2016 | Ford, Francis Cordes | $ 3,456.00 | $ 3,456.00 | | 9.6 |
| 7/13/2016 | Anderson, Catherine S. | $ 156.00 | $ 156.00 | | 0.8 |
| 7/15/2016 | Anderson, Catherine S. | $ 273.00 | $ 273.00 | | 1.4 |
| 7/21/2016 | Chiovaro, Heather A. | $ 875.00 | $ 875.00 | | 3.5 |
| 7/22/2016 | Chiovaro, Heather A. | $ 300.00 | $ 300.00 | | 1.2 |
| 7/18/2016 | Ford, Francis Cordes | $ 432.00 | $ 432.00 | | 1.2 |
| 7/20/2016 | Ford, Francis Cordes | $ 324.00 | $ 324.00 | | 0.9 |
| 7/25/2016 | Ford, Francis Cordes | $ 360.00 | $ 360.00 | | 1 |
| 7/27/2016 | Ford, Francis Cordes | $ 72.00 | $ 72.00 | | 0.2 |
| 7/21/2016 | Ford, Francis Cordes | $ 468.00 | $ 468.00 | | 1.3 |
| 8/2/2016 | Ford, Francis Cordes | $ 72.00 | $ 72.00 | | 0.2 |
| 8/1/2016 | Anderson, Catherine S. | $ 58.50 | $ 58.50 | | 0.3 |
| 8/2/2016 | Anderson, Catherine S. | $ 117.00 | $ 117.00 | | 0.6 |
| 8/8/2016 | Ford, Francis Cordes | $ 36.00 | $ 36.00 | | 0.1 |
| 8/19/2016 | Ford, Francis Cordes | $ 216.00 | $ 216.00 | | 0.6 |
| 8/23/2016 | Ford, Francis Cordes | $ 180.00 | $ 180.00 | | 0.5 |
| 8/24/2016 | Ford, Francis Cordes | $ 252.00 | $ 252.00 | | 0.7 |
| 8/29/2016 | Ford, Francis Cordes | $ 72.00 | $ 72.00 | | 0.2 |

| | | | | | |
|---|---|---|---|---|---|
| 8/30/2016 | Ford, Francis Cordes | $ 72.00 | $ 72.00 | | 0.2 |
| 9/6/2016 | Ford, Francis Cordes | $ 180.00 | $ 180.00 | | 0.5 |
| 9/7/2016 | Ford, Francis Cordes | $ 144.00 | $ 144.00 | | 0.4 |
| 9/9/2016 | Ford, Francis Cordes | $ 36.00 | $ 36.00 | | 0.1 |
| 9/9/2016 | Ford, Francis Cordes | $ 828.00 | $ 828.00 | | 2.3 |
| 9/21/2016 | Ford, Francis Cordes | $ 36.00 | $ 36.00 | | 0.1 |
| 9/20/2016 | Ford, Francis Cordes | $ 108.00 | $ 108.00 | | 0.3 |
| 9/19/2016 | Ford, Francis Cordes | $ 504.00 | $ 504.00 | | 1.4 |
| 9/12/2016 | Ford, Francis Cordes | $ 1,044.00 | $ 1,044.00 | | 2.9 |
| 9/13/2016 | Ford, Francis Cordes | $ 576.00 | $ 576.00 | | 1.6 |
| 9/15/2016 | Ford, Francis Cordes | $ 36.00 | $ 36.00 | | 0.1 |
| 9/28/2016 | Ford, Francis Cordes | $ 108.00 | $ 108.00 | | 0.3 |

| | | | | | | |
|---|---|---|---|---|---|---|
| 10/18/2016 | Ford, Francis Cordes | $ 532.00 | $ 504.00 | | 1.4 | |
| 10/11/2016 | Ford, Francis Cordes | $ 38.00 | $ 36.00 | | 0.1 | |
| 10/12/2016 | Ford, Francis Cordes | $ 1,178.00 | $ 1,116.00 | | 3.1 | |
| 10/14/2016 | Ford, Francis Cordes | $ 38.00 | $ 36.00 | | 0.1 | |
| 10/20/2016 | Ford, Francis Cordes | $ 950.00 | $ 900.00 | | 2.5 | |
| 10/21/2016 | Ford, Francis Cordes | $ 266.00 | $ 252.00 | | 0.7 | |
| 10/31/2016 | Ford, Francis Cordes | $ 1,710.00 | $ 1,620.00 | | 4.5 | |
| 10/28/2016 | Ford, Francis Cordes | $ 494.00 | $ 468.00 | | 1.3 | |

| | | | | | | |
|---|---|---|---|---|---|---|
| [redacted] | | | | | | |
| 11/2/2016 | Ford, Francis Cordes | $ 342.00 | $ 324.00 | | 0.9 | |
| 11/2/2016 | Anderson, Catherine S. | $ 41.00 | $ 41.00 | | 0.2 | |
| 11/2/2016 | Chiovaro, Heather A. | $ 132.50 | $ 132.50 | | 0.5 | |
| 11/16/2016 | Ford, Francis Cordes | $ 608.00 | $ 576.00 | | 1.6 | |
| 11/17/2016 | Ford, Francis Cordes | $ 76.00 | $ 72.00 | | 0.2 | |
| 11/17/2016 | Ford, Francis Cordes | $ 418.00 | $ 396.00 | | 1.1 | |
| 11/18/2016 | Ford, Francis Cordes | $ 494.00 | $ 468.00 | | 1.3 | |
| 11/27/2016 | Ford, Francis Cordes | $ 76.00 | $ 72.00 | | 0.2 | |

[redacted]

| | | | | | |
|---|---|---|---|---|---|
| 11/28/2016 | Ford, Francis Cordes | $ 2,204.00 | $ 2,088.00 | | 5.8 |
| 11/29/2016 | Ford, Francis Cordes | $ 532.00 | $ 504.00 | 1.4 | |
| 11/30/2016 | Ford, Francis Cordes | $ 152.00 | $ 144.00 | 0.4 | |
| 12/3/2016 | Ford, Francis Cordes | $ 76.00 | $ 72.00 | 0.2 | |
| 12/1/2016 | Ford, Francis Cordes | $ 456.00 | $ 432.00 | 1.2 | |
| 12/5/2016 | Ford, Francis Cordes | $ 494.00 | $ 468.00 | 1.3 | |
| 12/6/2016 | Ford, Francis Cordes | $ 228.00 | $ 216.00 | 0.6 | |
| 12/15/2016 | Ford, Francis Cordes | $ 152.00 | $ 144.00 | 0.4 | |
| 12/7/2016 | Ford, Francis Cordes | $ 38.00 | $ 36.00 | 0.1 | |
| 12/13/2016 | Ford, Francis Cordes | $ 380.00 | $ 360.00 | 1 | |

| | | | | | | |
|---|---|---|---|---|---|---|
| 12/16/2016 | Ford, Francis Cordes | $ 152.00 | $ 144.00 | | | 0.4 |
| 12/19/2016 | Ford, Francis Cordes | $ 1,406.00 | $ 1,332.00 | | | 3.7 |
| 12/28/2016 | Ford, Francis Cordes | $ 38.00 | $ 36.00 | | | 0.1 |
| 12/30/2016 | Ford, Francis Cordes | $ 342.00 | $ 324.00 | | | 0.9 |
| 1/3/2017 | Ford, Francis Cordes | $ 228.00 | $ 216.00 | | | 0.6 |
| 1/2/2017 | Ford, Francis Cordes | $ 38.00 | $ 36.00 | | | 0.1 |
| 1/5/2017 | Ford, Francis Cordes | $ 76.00 | $ 72.00 | | | 0.2 |
| 1/6/2017 | Ford, Francis Cordes | $ 304.00 | $ 288.00 | | | 0.8 |
| 1/4/2017 | Ford, Francis Cordes | $ 38.00 | $ 36.00 | | | 0.1 |
| 1/11/2017 | Ford, Francis Cordes | $ 342.00 | $ 324.00 | | | 0.9 |
| 1/10/2017 | Ford, Francis Cordes | $ 266.00 | $ 252.00 | | | 0.7 |

[redacted]

| | | | | | |
|---|---|---|---|---|---|
| 1/12/2017 | Ford, Francis Cordes | $ 912.00 | $ 864.00 | | 2.4 |
| 1/13/2017 | Ford, Francis Cordes | $ 1,368.00 | $ 1,296.00 | | 3.6 |
| 1/16/2017 | Ford, Francis Cordes | $ 76.00 | $ 72.00 | | 0.2 |
| 1/17/2017 | Ford, Francis Cordes | $ 38.00 | $ 36.00 | | 0.1 |
| 3/14/2017 | Ford, Francis Cordes | $ 152.00 | $ 144.00 | | 0.4 |
| 3/15/2017 | Ford, Francis Cordes | $ 1,102.00 | $ 1,044.00 | | 2.9 |
| 3/16/2017 | Ford, Francis Cordes | $ 570.00 | $ 540.00 | | 1.5 |
| 3/18/2017 | Ford, Francis Cordes | $ 1,596.00 | $ 1,512.00 | | 4.2 |
| 3/17/2017 | Ford, Francis Cordes | $ 494.00 | $ 468.00 | | 1.3 |
| 4/5/2017 | Ford, Francis Cordes | $ 38.00 | $ 36.00 | | 0.1 |
| 1/12/2019 | Walden, Andrew | $ 598.00 | $ 598.00 | | 2.3 |

| | | | | | |
|---|---|---|---|---|---|
| 1/14/2019 | Walden, Andrew | $ 2,132.00 | $ 2,132.00 | | 8.2 |
| 4/26/2019 | Walden, Andrew | $ 26.00 | $ 26.00 | | 0.1 |
| 4/17/2019 | Ford, Francis Cordes | $ 210.00 | $ 180.00 | | 0.5 |
| 4/26/2019 | Ford, Francis Cordes | $ 1,050.00 | $ 900.00 | | 2.5 |
| 4/20/2019 | Ford, Francis Cordes | $ 840.00 | $ 720.00 | | 2 |
| 5/8/2019 | Walden, Andrew | $ 624.00 | $ 624.00 | | 2.4 |
| 5/9/2019 | Walden, Andrew | $ 2,158.00 | $ 2,158.00 | | 8.3 |
| 5/1/2019 | Ford, Francis Cordes | $ 1,974.00 | $ 1,692.00 | | 4.7 |
| 5/10/2019 | Walden, Andrew | $ 806.00 | $ 806.00 | | 3.1 |
| 5/14/2019 | Walden, Andrew | $ 1,170.00 | $ 1,170.00 | | 4.5 |
| 5/16/2019 | Walden, Andrew | $ 130.00 | $ 130.00 | | 0.5 |
| 5/6/2019 | Ford, Francis Cordes | $ 1,176.00 | $ 1,008.00 | | 2.8 |
| 5/17/2019 | Walden, Andrew | $ 312.00 | $ 312.00 | | 1.2 |
| 5/9/2019 | Ford, Francis Cordes | $ 3,192.00 | $ 2,736.00 | | 7.6 |
| 5/12/2019 | Ford, Francis Cordes | $ 42.00 | $ 36.00 | | 0.1 |
| 5/11/2019 | Ford, Francis Cordes | $ 42.00 | $ 36.00 | | 0.1 |
| 5/10/2019 | Ford, Francis Cordes | $ 3,360.00 | $ 2,880.00 | | 8 |
| 5/13/2019 | Ford, Francis Cordes | $ 1,554.00 | $ 1,332.00 | | 3.7 |
| 5/14/2019 | Ford, Francis Cordes | $ 210.00 | $ 180.00 | | 0.5 |
| 5/15/2019 | Ford, Francis Cordes | $ 2,604.00 | $ 2,232.00 | | 6.2 |
| 5/17/2019 | Ford, Francis Cordes | $ 3,276.00 | $ 2,808.00 | | 7.8 |

ELECTRONICALLY FILED - 2021 Feb 22 10:57 AM - CHARLESTON - COMMON PLEAS - CASE#2016CP1002955

| | | | | |
|---|---|---|---|---|
| 5/30/2019 | Walden, Andrew | $ 182.00 | $ 182.00 | 0.7 |
| 5/22/2019 | Ford, Francis Cordes | $ 42.00 | $ 36.00 | 0.1 |
| 5/31/2019 | Walden, Andrew | $ 338.00 | $ 338.00 | 1.3 |
| 6/2/2019 | Walden, Andrew | $ 156.00 | $ 156.00 | 0.6 |
| 6/3/2019 | Walden, Andrew | $ 702.00 | $ 702.00 | 2.7 |
| 6/4/2019 | Walden, Andrew | $ 702.00 | $ 702.00 | 2.7 |
| 6/5/2019 | Walden, Andrew | $ 598.00 | $ 598.00 | 2.3 |
| 6/4/2019 | Ford, Francis Cordes | $ 252.00 | $ 216.00 | 0.6 |
| 6/5/2019 | Ford, Francis Cordes | $ 1,344.00 | $ 1,152.00 | 3.2 |
| 6/11/2019 | Ford, Francis Cordes | $ 126.00 | $ 108.00 | 0.3 |
| 6/12/2019 | Ford, Francis Cordes | $ 42.00 | $ 36.00 | 0.1 |
| 6/14/2019 | Ford, Francis Cordes | $ 294.00 | $ 252.00 | 0.7 |
| 6/13/2019 | Ford, Francis Cordes | $ 168.00 | $ 144.00 | 0.4 |
| 6/17/2019 | Ford, Francis Cordes | $ 336.00 | $ 288.00 | 0.8 |
| 6/19/2019 | Ford, Francis Cordes | $ 252.00 | $ 216.00 | 0.6 |
| 6/28/2019 | Ford, Francis Cordes | $ 42.00 | $ 36.00 | 0.1 |
| 8/26/2019 | Walden, Andrew | $ 130.00 | $ 130.00 | 0.5 |
| 9/13/2019 | Ford, Francis Cordes | $ 84.00 | $ 72.00 | 0.2 |
| 10/9/2019 | Ford, Francis Cordes | $ 44.50 | $ 36.00 | 0.1 |

| | | | | | |
|---|---|---|---|---|---|
| 10/14/2019 | Ford, Francis Cordes | $ 89.00 | $ 72.00 | | 0.2 |
| 10/21/2019 | Ford, Francis Cordes | $ 44.50 | $ 36.00 | | 0.1 |
| 10/22/2019 | Ford, Francis Cordes | $ 445.00 | $ 360.00 | | 1 |
| 10/25/2019 | Ford, Francis Cordes | $ 44.50 | $ 36.00 | | 0.1 |
| 10/27/2019 | Ford, Francis Cordes | $ 89.00 | $ 72.00 | | 0.2 |
| 10/27/2019 | Walden, Andrew | $ 416.00 | $ 338.00 | | 1.3 |
| 10/28/2019 | Walden, Andrew | $ 288.00 | $ 234.00 | | 0.9 |
| 10/28/2019 | Ford, Francis Cordes | $ 1,780.00 | $ 1,440.00 | | 4 |
| 10/29/2019 | Ford, Francis Cordes | $ 44.50 | $ 36.00 | | 0.1 |
| 10/30/2019 | Ford, Francis Cordes | $ 89.00 | $ 72.00 | | 0.2 |
| 11/1/2019 | Ford, Francis Cordes | $ 133.50 | $ 108.00 | | 0.3 |
| 11/7/2019 | Ford, Francis Cordes | $ 222.50 | $ 180.00 | | 0.5 |
| 11/14/2019 | Ford, Francis Cordes | $ 89.00 | $ 72.00 | | 0.2 |
| 11/18/2019 | Ford, Francis Cordes | $ 801.00 | $ 648.00 | | 1.8 |
| 11/19/2019 | Ford, Francis Cordes | $ - | $ - | | 0 |
| 11/20/2019 | Ford, Francis Cordes | $ 44.50 | $ 36.00 | | 0.1 |

| | | | | | | |
|---|---|---|---|---|---|---|
| 11/22/2019 | Ford, Francis Cordes | $ 133.50 | $ 108.00 | | 0.3 | |
| 11/27/2019 | Walden, Andrew | $ 96.00 | $ 78.00 | | 0.3 | |
| 11/26/2019 | Ford, Francis Cordes | $ 667.50 | $ 540.00 | | 1.5 | |
| 11/27/2019 | Ford, Francis Cordes | $ 489.50 | $ 396.00 | | 1.1 | |
| 12/5/2019 | Walden, Andrew | $ 512.00 | $ 416.00 | | 1.6 | |
| 12/6/2019 | Walden, Andrew | $ 512.00 | $ 416.00 | | 1.6 | |
| 12/9/2019 | Casey, Carol B. | $ 79.50 | $ 57.00 | | 0.3 | |
| 12/2/2019 | Ford, Francis Cordes | $ 801.00 | $ 648.00 | | 1.8 | |
| 12/11/2019 | Walden, Andrew | $ 1,920.00 | $ 1,560.00 | | 6 | |
| 12/6/2019 | Anderson, Catherine S. | $ 204.00 | $ 152.00 | | 0.8 | |
| 11/19/2019 | Ford, Francis Cordes | $ 178.00 | $ 144.00 | | 0.4 | |
| 11/19/2019 | Ford, Francis Cordes | $ 89.00 | $ 72.00 | | 0.2 | |
| 12/3/2019 | Ford, Francis Cordes | $ 89.00 | $ 72.00 | | 0.2 | |
| 12/5/2019 | Ford, Francis Cordes | $ 1,691.00 | $ 1,368.00 | | 3.8 | |

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|---|---|---|---|---|---|
| 12/6/2019 | Ford, Francis Cordes | $ 1,068.00 | $ 864.00 | | 2.4 |
| 12/12/2019 | Casey, Carol B. | $ 212.00 | $ 152.00 | | 0.8 |
| 12/15/2019 | Walden, Andrew | $ 576.00 | $ 468.00 | | 1.8 |
| 12/16/2019 | Walden, Andrew | $ 1,280.00 | $ 1,040.00 | | 4 |
| 12/10/2019 | Ford, Francis Cordes | $ 2,981.50 | $ 2,412.00 | | 6.7 |
| 12/18/2019 | Walden, Andrew | $ 1,120.00 | $ 910.00 | | 3.5 |
| 12/20/2019 | Walden, Andrew | $ 544.00 | $ 442.00 | | 1.7 |
| 12/22/2019 | Walden, Andrew | $ 1,088.00 | $ 884.00 | | 3.4 |
| 12/11/2019 | Alderman, Jade V. | $ 637.50 | $ 475.00 | | 2.5 |
| 12/12/2019 | Ford, Francis Cordes | $ 801.00 | $ 648.00 | | 1.8 |
| 12/14/2019 | Ford, Francis Cordes | $ 1,780.00 | $ 1,440.00 | | 4 |
| 12/12/2019 | Alderman, Jade V. | $ 306.00 | $ 228.00 | | 1.2 |
| 12/23/2019 | Ward, Harriet C. | $ 569.50 | $ 442.00 | | 1.7 |
| 12/15/2019 | Ford, Francis Cordes | $ 667.50 | $ 540.00 | | 1.5 |
| 12/16/2019 | Ford, Francis Cordes | $ 2,002.50 | $ 1,620.00 | | 4.5 |
| 12/17/2019 | Ford, Francis Cordes | $ 1,246.00 | $ 1,008.00 | | 2.8 |
| 12/18/2019 | Ford, Francis Cordes | $ 934.50 | $ 756.00 | | 2.1 |

[redacted]

| | | | | | |
|---|---|---|---|---|---|
| 12/19/2019 | Ford, Francis Cordes | $ 267.00 | $ 216.00 | | 0.6 |
| 12/20/2019 | Ford, Francis Cordes | $ 267.00 | $ 216.00 | | 0.6 |
| 12/21/2019 | Ford, Francis Cordes | $ 133.50 | $ 108.00 | | 0.3 |
| 12/22/2019 | Ford, Francis Cordes | $ 756.50 | $ 612.00 | | 1.7 |
| 12/23/2019 | Walden, Andrew | $ 640.00 | $ 520.00 | | 2 |
| 12/13/2019 | Alderman, Jade V. | $ 280.50 | $ 209.00 | | 1.1 |
| 12/23/2019 | Ford, Francis Cordes | $ 2,358.50 | $ 1,908.00 | | 5.3 |
| 1/6/2020 | Walden, Andrew | $ 32.00 | $ 26.00 | | 0.1 |
| 1/3/2020 | Ford, Francis Cordes | $ 89.00 | $ 72.00 | | 0.2 |
| 1/6/2020 | Ford, Francis Cordes | $ - | $ - | | 0 |
| 1/7/2020 | Ford, Francis Cordes | $ 89.00 | $ 72.00 | | 0.2 |
| 1/16/2020 | Ford, Francis Cordes | $ 133.50 | $ 108.00 | | 0.3 |
| 1/17/2020 | Casey, Carol B. | $ 79.50 | $ 57.00 | | 0.3 |
| 1/17/2020 | Ford, Francis Cordes | $ 89.00 | $ 72.00 | | 0.2 |

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| | | | | | |
|---|---|---|---|---|---|
| 1/30/2020 | Ford, Francis Cordes | $ 489.50 | $ 396.00 | | 1.1 |
| 1/31/2020 | Ford, Francis Cordes | $ 44.50 | $ 36.00 | | 0.1 |
| 1/29/2020 | Ford, Francis Cordes | $ 44.50 | $ 36.00 | | 0.1 |
| 2/3/2020 | Ford, Francis Cordes | $ 89.00 | $ 72.00 | | 0.2 |
| 1/6/2020 | Ford, Francis Cordes | $ 89.00 | $ 72.00 | | 0.2 |
| 1/6/2020 | Ford, Francis Cordes | $ 133.50 | $ 108.00 | | 0.3 |
| 2/4/2020 | Walden, Andrew | $ 352.00 | $ 286.00 | | 1.1 |
| 2/12/2020 | Casey, Carol B. | $ 106.00 | $ 76.00 | | 0.4 |
| 2/13/2020 | Ford, Francis Cordes | $ 489.50 | $ 396.00 | | 1.1 |
| 2/14/2020 | Ford, Francis Cordes | $ 44.50 | $ 36.00 | | 0.1 |
| 2/20/2020 | Casey, Carol B. | $ 477.00 | $ 342.00 | | 1.8 |
| 2/21/2020 | Casey, Carol B. | $ 26.50 | $ 19.00 | | 0.1 |
| 2/27/2020 | Walden, Andrew | $ 288.00 | $ 234.00 | | 0.9 |
| 2/20/2020 | Ford, Francis Cordes | $ 1,424.00 | $ 1,152.00 | | 3.2 |
| 2/28/2020 | Ford, Francis Cordes | $ 534.00 | $ 432.00 | | 1.2 |
| 2/28/2020 | Alderman, Jade V. | $ 102.00 | $ 76.00 | | 0.4 |
| 2/28/2020 | Ford, Francis Cordes | $ 222.50 | $ 180.00 | | 0.5 |
| 2/27/2020 | Ford, Francis Cordes | $ 133.50 | $ 108.00 | | 0.3 |
| 2/26/2020 | Ford, Francis Cordes | $ 44.50 | $ 36.00 | | 0.1 |
| 2/21/2020 | Ford, Francis Cordes | $ 44.50 | $ 36.00 | | 0.1 |
| 3/2/2020 | Walden, Andrew | $ 64.00 | $ - | | 0 |

ELECTRONICALLY FILED - 2021 Feb 22 10:57 AM - CHARLESTON - COMMON PLEAS - CASE#2016CP1002955

| | | | | |
|---|---|---|---|---|
| 3/3/2020 | Casey, Carol B. | $ 53.00 | $ 38.00 | 0.2 |
| 3/10/2020 | Walden, Andrew | $ 32.00 | $ 26.00 | 0.1 |
| 3/11/2020 | Walden, Andrew | $ 64.00 | $ 52.00 | 0.2 |
| 3/2/2020 | Ford, Francis Cordes | $ 44.50 | $ 36.00 | 0.1 |
| 3/2/2020 | Alderman, Jade V. | $ 76.50 | $ 57.00 | 0.3 |
| 3/12/2020 | Walden, Andrew | $ 96.00 | $ 78.00 | 0.3 |
| 3/12/2020 | Ford, Francis Cordes | $ 222.50 | $ 180.00 | 0.5 |
| 3/14/2020 | Ford, Francis Cordes | $ 890.00 | $ 720.00 | 2 |
| 3/18/2020 | Walden, Andrew | $ 32.00 | $ - | 0 |
| 3/18/2020 | Ford, Francis Cordes | $ 178.00 | $ 144.00 | 0.4 |
| 3/26/2020 | Ford, Francis Cordes | $ 400.50 | $ 324.00 | 0.9 |
| 3/27/2020 | Ford, Francis Cordes | $ 356.00 | $ 288.00 | 0.8 |
| 4/2/2020 | Casey, Carol B. | $ 53.00 | $ 38.00 | 0.2 |
| 4/3/2020 | Walden, Andrew | $ 832.00 | $ 676.00 | 2.6 |
| 4/7/2020 | Ford, Francis Cordes | $ 133.50 | $ 108.00 | 0.3 |
| 4/9/2020 | Ford, Francis Cordes | $ 44.50 | $ 36.00 | 0.1 |
| 4/10/2020 | Ford, Francis Cordes | $ 667.50 | $ 540.00 | 1.5 |
| 4/12/2020 | Grimball, Henry E. | $ 2,632.00 | $ 1,997.50 | 4.7 |
| 4/10/2020 | Grimball, Henry E. | $ 1,848.00 | $ 1,402.50 | 3.3 |

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| | | | | | |
|---|---|---|---|---|---|
| 4/13/2020 | Ford, Francis Cordes | $ 1,379.50 | $ 1,116.00 | | 3.1 |
| 4/13/2020 | Grimball, Henry E. | $ 1,736.00 | $ 1,317.50 | | 3.1 |
| 4/14/2020 | Grimball, Henry E. | $ 3,360.00 | $ 2,550.00 | | 6 |
| 4/15/2020 | Grimball, Henry E. | $ 840.00 | $ 637.50 | | 1.5 |
| 4/15/2020 | Grimball, Henry E. | $ 840.00 | $ 637.50 | | 1.5 |
| 4/16/2020 | Grimball, Henry E. | $ 1,960.00 | $ 1,487.50 | | 3.5 |
| 4/17/2020 | Walden, Andrew | $ 256.00 | $ 208.00 | | 0.8 |
| 4/15/2020 | Ford, Francis Cordes | $ 712.00 | $ 576.00 | | 1.6 |
| 4/16/2020 | Ford, Francis Cordes | $ 2,136.00 | $ 1,728.00 | | 4.8 |
| 4/17/2020 | Ford, Francis Cordes | $ 2,002.50 | $ 1,620.00 | | 4.5 |
| 4/20/2020 | Grimball, Henry E. | $ 168.00 | $ 127.50 | | 0.3 |

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| | | | | | |
|---|---|---|---|---|---|
| 4/20/2020 | Ford, Francis Cordes | $ 2,091.50 | $ 1,692.00 | | 4.7 |
| 4/21/2020 | Walden, Andrew | $ 1,440.00 | $ 1,170.00 | | 4.5 |
| 4/21/2020 | Grimball, Henry E. | $ 896.00 | $ 680.00 | | 1.6 |
| 4/22/2020 | Grimball, Henry E. | $ 560.00 | $ 425.00 | | 1 |
| 4/22/2020 | Grimball, Henry E. | $ 392.00 | $ 297.50 | | 0.7 |
| 4/21/2020 | Ford, Francis Cordes | $ 1,958.00 | $ 1,584.00 | | 4.4 |
| 4/21/2020 | Casey, Carol B. | $ 212.00 | $ 152.00 | | 0.8 |
| 4/22/2020 | Ford, Francis Cordes | $ 756.50 | $ 612.00 | | 1.7 |
| 4/28/2020 | Grimball, Henry E. | $ 224.00 | $ 170.00 | | 0.4 |
| 4/28/2020 | Ford, Francis Cordes | $ 44.50 | $ 36.00 | | 0.1 |
| 4/29/2020 | Ford, Francis Cordes | $ 267.00 | $ 216.00 | | 0.6 |
| 4/29/2020 | Grimball, Henry E. | $ 168.00 | $ 127.50 | | 0.3 |
| 4/28/2020 | Casey, Carol B. | $ 53.00 | $ 38.00 | | 0.2 |

[redacted]

| | | | | | |
|---|---|---|---|---|---|
| 4/30/2020 | Ford, Francis Cordes | $ 44.50 | $ 36.00 | 0.1 | |
| 5/4/2020 | Grimball, Henry E. | $ 504.00 | $ 382.50 | 0.9 | |
| 5/5/2020 | Walden, Andrew | $ 1,408.00 | $ 1,144.00 | 4.4 | |
| 5/5/2020 | Grimball, Henry E. | $ 1,232.00 | $ 935.00 | 2.2 | |
| 5/6/2020 | Grimball, Henry E. | $ 504.00 | $ 382.50 | 0.9 | |
| 5/4/2020 | Ford, Francis Cordes | $ 133.50 | $ 108.00 | 0.3 | |
| 5/6/2020 | Walden, Andrew | $ 352.00 | $ 286.00 | 1.1 | |
| 5/7/2020 | Walden, Andrew | $ 64.00 | $ 52.00 | 0.2 | |
| 5/5/2020 | Ford, Francis Cordes | $ 1,646.50 | $ 1,332.00 | 3.7 | |
| 5/6/2020 | Ford, Francis Cordes | $ 445.00 | $ 360.00 | 1 | |
| 5/7/2020 | Ford, Francis Cordes | $ 89.00 | $ 72.00 | 0.2 | |

| | | | | | |
|---|---|---|---|---|---|
| 5/8/2020 | Walden, Andrew | $ 32.00 | $ 26.00 | | 0.1 |
| 5/8/2020 | Casey, Carol B. | $ 79.50 | $ 57.00 | | 0.3 |
| 5/8/2020 | Grimball, Henry E. | $ 112.00 | $ 85.00 | | 0.2 |
| 5/7/2020 | Grimball, Henry E. | $ 336.00 | $ 255.00 | | 0.6 |
| 5/8/2020 | Ford, Francis Cordes | $ 667.50 | $ 540.00 | | 1.5 |
| 5/11/2020 | Walden, Andrew | $ 96.00 | $ 78.00 | | 0.3 |
| 5/11/2020 | Casey, Carol B. | $ 106.00 | $ 76.00 | | 0.4 |
| 5/11/2020 | Grimball, Henry E. | $ 616.00 | $ 467.50 | | 1.1 |
| 5/11/2020 | Grimball, Henry E. | $ 672.00 | $ 510.00 | | 1.2 |
| 5/13/2020 | Walden, Andrew | $ 32.00 | $ 26.00 | | 0.1 |

| | | | | | | |
|---|---|---|---|---|---|---|
| 5/13/2020 | Grimball, Henry E. | $ 2,240.00 | $ 1,700.00 | | | 4 |
| 5/11/2020 | Ford, Francis Cordes | $ 667.50 | $ 540.00 | | | 1.5 |
| 5/15/2020 | Walden, Andrew | $ 384.00 | $ 312.00 | | | 1.2 |
| 5/12/2020 | Ford, Francis Cordes | $ 489.50 | $ 396.00 | | | 1.1 |
| 5/13/2020 | Ford, Francis Cordes | $ - | $ - | | | 0 |
| 5/14/2020 | Grimball, Henry E. | $ 1,176.00 | $ 892.50 | | | 2.1 |
| 5/18/2020 | Grimball, Henry E. | $ 504.00 | $ 382.50 | | | 0.9 |

[redacted]

| | | | | | | |
|---|---|---|---|---|---|---|
| 5/18/2020 | Grimball, Henry E. | $ 112.00 | $ 85.00 | | 0.2 | |
| 5/18/2020 | Casey, Carol B. | $ 26.50 | $ 19.00 | | 0.1 | |
| 5/19/2020 | Walden, Andrew | $ 480.00 | $ 390.00 | | 1.5 | |
| 5/19/2020 | Casey, Carol B. | $ 79.50 | $ 57.00 | | 0.3 | |
| 5/20/2020 | Walden, Andrew | $ 96.00 | $ 78.00 | | 0.3 | |
| 5/19/2020 | Grimball, Henry E. | $ 224.00 | $ 170.00 | | 0.4 | |
| 5/20/2020 | Grimball, Henry E. | $ 728.00 | $ 552.50 | | 1.3 | |
| 5/18/2020 | Ford, Francis Cordes | $ 578.50 | $ 468.00 | | 1.3 | |
| 5/19/2020 | Ford, Francis Cordes | $ 667.50 | $ 540.00 | | 1.5 | |
| 5/20/2020 | Ford, Francis Cordes | $ 534.00 | $ 432.00 | | 1.2 | |
| 5/21/2020 | Walden, Andrew | $ 128.00 | $ 104.00 | | 0.4 | |
| 5/21/2020 | Grimball, Henry E. | $ 224.00 | $ 170.00 | | 0.4 | |

[redacted]

| | | | | | |
|---|---|---|---|---|---|
| 5/22/2020 | Walden, Andrew | $ 160.00 | $ 130.00 | | 0.5 |
| 5/22/2020 | Grimball, Henry E. | $ 336.00 | $ 255.00 | | 0.6 |
| 5/26/2020 | Walden, Andrew | $ 1,408.00 | $ 1,144.00 | | 4.4 |
| 5/25/2020 | Grimball, Henry E. | $ 560.00 | $ 425.00 | | 1 |
| 5/27/2020 | Walden, Andrew | $ 1,536.00 | $ 1,248.00 | | 4.8 |
| 5/28/2020 | Walden, Andrew | $ 896.00 | $ 728.00 | | 2.8 |
| 5/27/2020 | Grimball, Henry E. | $ 1,008.00 | $ 765.00 | | 1.8 |
| 5/27/2020 | Grimball, Henry E. | $ 168.00 | $ 127.50 | | 0.3 |
| 5/28/2020 | Grimball, Henry E. | $ - | $ - | | 0 |
| 5/26/2020 | Ford, Francis Cordes | $ 1,379.50 | $ 1,116.00 | | 3.1 |
| 5/27/2020 | Casey, Carol B. | $ 159.00 | $ 114.00 | | 0.6 |
| 5/27/2020 | Ford, Francis Cordes | $ 1,913.50 | $ 1,548.00 | | 4.3 |
| 5/28/2020 | Ford, Francis Cordes | $ 1,958.00 | $ 1,584.00 | | 4.4 |
| 5/29/2020 | Ford, Francis Cordes | $ 44.50 | $ 36.00 | | 0.1 |

| | | | | | |
|---|---|---|---|---|---|
| 5/28/2020 | Casey, Carol B. | $ 79.50 | $ 57.00 | | 0.3 |
| 5/29/2020 | Grimball, Henry E. | $ 504.00 | $ 382.50 | | 0.9 |
| 6/3/2020 | Grimball, Henry E. | $ 112.00 | $ 85.00 | | 0.2 |
| 6/8/2020 | Walden, Andrew | $ 160.00 | $ 130.00 | | 0.5 |
| 6/8/2020 | Grimball, Henry E. | $ 112.00 | $ 85.00 | | 0.2 |
| 6/19/2020 | Ford, Francis Cordes | $ 44.50 | $ 36.00 | | 0.1 |
| 5/28/2020 | Grimball, Henry E. | $ 56.00 | $ 42.50 | | 0.1 |
| 5/13/2020 | Ford, Francis Cordes | $ 578.50 | $ 468.00 | | 1.3 |
| 5/13/2020 | Ford, Francis Cordes | $ 712.00 | $ 576.00 | | 1.6 |
| 6/25/2020 | Ford, Francis Cordes | $ 89.00 | $ 72.00 | | 0.2 |
| 7/2/2020 | Ford, Francis Cordes | $ 44.50 | $ 36.00 | | 0.1 |
| 7/8/2020 | Ford, Francis Cordes | $ 890.00 | $ 720.00 | | 2 |
| 7/9/2020 | Ford, Francis Cordes | $ 267.00 | $ 216.00 | | 0.6 |
| 7/12/2020 | Grimball, Henry E. | $ 560.00 | $ 425.00 | | 1 |
| 7/17/2020 | Ford, Francis Cordes | $ 44.50 | $ 36.00 | | 0.1 |
| 7/31/2020 | Grimball, Henry E. | $ 224.00 | $ 170.00 | | 0.4 |
| 8/11/2020 | Grimball, Henry E. | $ 840.00 | $ 637.50 | | 1.5 |

| | | | | | |
|---|---|---|---|---|---|
| 8/10/2020 | Casey, Carol B. | $ 185.50 | $ 133.00 | | 0.7 |
| 8/12/2020 | Grimball, Henry E. | $ 280.00 | $ 212.50 | | 0.5 |
| 8/12/2020 | Walden, Andrew | $ 32.00 | $ 26.00 | | 0.1 |
| 8/11/2020 | Casey, Carol B. | $ 53.00 | $ 38.00 | | 0.2 |
| 8/13/2020 | Walden, Andrew | $ 64.00 | $ 52.00 | | 0.2 |
| 8/11/2020 | Ford, Francis Cordes | $ 356.00 | $ 288.00 | | 0.8 |
| 8/13/2020 | Grimball, Henry E. | $ 56.00 | $ 42.50 | | 0.1 |
| 8/14/2020 | Walden, Andrew | $ 96.00 | $ 78.00 | | 0.3 |
| 8/13/2020 | Ford, Francis Cordes | $ 1,379.50 | $ 1,116.00 | | 3.1 |
| 8/14/2020 | Ford, Francis Cordes | $ 1,913.50 | $ 1,548.00 | | 4.3 |
| 8/19/2020 | Ford, Francis Cordes | $ 178.00 | $ 144.00 | | 0.4 |
| 8/21/2020 | Ford, Francis Cordes | $ 979.00 | $ 792.00 | | 2.2 |
| 8/25/2020 | Grimball, Henry E. | $ 448.00 | $ 340.00 | | 0.8 |
| 8/26/2020 | Grimball, Henry E. | $ 56.00 | $ 42.50 | | 0.1 |
| 8/24/2020 | Casey, Carol B. | $ 106.00 | $ 76.00 | | 0.4 |

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| | | | | | |
|---|---|---|---|---|---|
| 8/27/2020 | Grimball, Henry E. | $ 560.00 | $ 425.00 | | 1 |
| 8/24/2020 | Ford, Francis Cordes | $ 89.00 | $ 72.00 | | 0.2 |
| 8/26/2020 | Walden, Andrew | $ 256.00 | $ 208.00 | | 0.8 |
| 8/27/2020 | Walden, Andrew | $ 128.00 | $ 104.00 | | 0.4 |
| 8/28/2020 | Walden, Andrew | $ 640.00 | $ 520.00 | | 2 |
| 8/25/2020 | Casey, Carol B. | $ 344.50 | $ 247.00 | | 1.3 |
| 8/25/2020 | Ford, Francis Cordes | $ 400.50 | $ 324.00 | | 0.9 |
| 8/26/2020 | Ford, Francis Cordes | $ 178.00 | $ 144.00 | | 0.4 |
| 8/27/2020 | Ford, Francis Cordes | $ 934.50 | $ 756.00 | | 2.1 |
| 8/29/2020 | Walden, Andrew | $ 128.00 | $ 104.00 | | 0.4 |
| 8/28/2020 | Ford, Francis Cordes | $ 133.50 | $ 108.00 | | 0.3 |
| 8/31/2020 | Ford, Francis Cordes | $ 356.00 | $ 288.00 | | 0.8 |
| 8/31/2020 | Walden, Andrew | $ 352.00 | $ 286.00 | | 1.1 |
| 9/4/2020 | Grimball, Henry E. | $ 224.00 | $ 170.00 | | 0.4 |
| 9/1/2020 | Ford, Francis Cordes | $ 534.00 | $ 432.00 | | 1.2 |
| 9/1/2020 | Ford, Francis Cordes | $ 133.50 | $ 108.00 | | 0.3 |

[redacted]

| | | | | | |
|---|---|---|---|---|---|
| 9/3/2020 | Casey, Carol B. | $ 53.00 | $ 38.00 | | 0.2 |
| 9/4/2020 | Walden, Andrew | $ 32.00 | $ 26.00 | | 0.1 |
| 9/4/2020 | Ford, Francis Cordes | $ 267.00 | $ 216.00 | | 0.6 |
| 9/3/2020 | Ford, Francis Cordes | $ 89.00 | $ 72.00 | | 0.2 |
| 9/6/2020 | Ford, Francis Cordes | $ 44.50 | $ 36.00 | | 0.1 |
| 9/8/2020 | Grimball, Henry E. | $ 56.00 | $ 42.50 | | 0.1 |
| 9/9/2020 | Walden, Andrew | $ 128.00 | $ 104.00 | | 0.4 |
| 9/10/2020 | Grimball, Henry E. | $ 1,008.00 | $ 765.00 | | 1.8 |
| 9/8/2020 | Ford, Francis Cordes | $ 44.50 | $ 36.00 | | 0.1 |
| 9/10/2020 | Walden, Andrew | $ 800.00 | $ 650.00 | | 2.5 |
| 9/11/2020 | Walden, Andrew | $ 1,536.00 | $ 1,248.00 | | 4.8 |
| 9/11/2020 | Grimball, Henry E. | $ 1,008.00 | $ 765.00 | | 1.8 |
| 9/11/2020 | Grimball, Henry E. | $ 336.00 | $ 255.00 | | 0.6 |
| 9/11/2020 | Grimball, Henry E. | $ 1,288.00 | $ 977.50 | | 2.3 |
| 9/11/2020 | Ford, Francis Cordes | $ 44.50 | $ 36.00 | | 0.1 |
| 9/14/2020 | Ford, Francis Cordes | $ 3,738.00 | $ 3,024.00 | | 8.4 |

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|---|---|---|---|---|---|
| 9/14/2020 | Grimball, Henry E. | $ 1,848.00 | $ 1,402.50 | | 3.3 |
| 9/14/2020 | Walden, Andrew | $ 1,504.00 | $ 1,222.00 | | 4.7 |
| 9/15/2020 | Grimball, Henry E. | $ 280.00 | $ 212.50 | | 0.5 |
| 9/14/2020 | Mansfield, Kathryn S. | $ 448.50 | $ 338.00 | | 1.3 |
| 9/16/2020 | Grimball, Henry E. | $ 168.00 | $ 127.50 | | 0.3 |
| 9/14/2020 | Casey, Carol B. | $ 477.00 | $ 342.00 | | 1.8 |
| 9/15/2020 | Ford, Francis Cordes | $ 89.00 | $ 72.00 | | 0.2 |
| 9/18/2020 | Ford, Francis Cordes | $ 1,557.50 | $ 1,260.00 | | 3.5 |
| 9/18/2020 | Grimball, Henry E. | $ 1,064.00 | $ 807.50 | | 1.9 |
| 9/21/2020 | Ford, Francis Cordes | $ 534.00 | $ 432.00 | | 1.2 |
| 9/21/2020 | Grimball, Henry E. | $ 168.00 | $ 127.50 | | 0.3 |
| 9/22/2020 | Grimball, Henry E. | $ 112.00 | $ 85.00 | | 0.2 |
| 9/8/2020 | Casey, Carol B. | $ 106.00 | $ 76.00 | | 0.4 |
| 9/23/2020 | Grimball, Henry E. | $ 224.00 | $ 170.00 | | 0.4 |
| 9/15/2020 | Casey, Carol B. | $ 159.00 | $ 114.00 | | 0.6 |
| 9/24/2020 | Grimball, Henry E. | $ 336.00 | $ 255.00 | | 0.6 |

[redacted]

| | | | | | |
|---|---|---|---|---|---|
| 9/22/2020 | Ford, Francis Cordes | $ 44.50 | $ 36.00 | | 0.1 |
| 9/24/2020 | Ford, Francis Cordes | $ 178.00 | $ 144.00 | | 0.4 |
| 9/25/2020 | Ford, Francis Cordes | $ 44.50 | $ 36.00 | | 0.1 |
| 9/30/2020 | Ford, Francis Cordes | $ 445.00 | $ 360.00 | | 1 |
| 9/30/2020 | Grimball, Henry E. | $ 56.00 | $ 42.50 | | 0.1 |
| 10/2/2020 | Walden, Andrew | $ 70.00 | $ 52.00 | | 0.2 |
| 10/2/2020 | Grimball, Henry E. | $ 240.00 | $ 170.00 | | 0.4 |
| 10/1/2020 | Casey, Carol B. | $ 79.50 | $ 57.00 | | 0.3 |
| 10/7/2020 | Walden, Andrew | $ 70.00 | $ 52.00 | | 0.2 |
| 10/8/2020 | Walden, Andrew | $ 840.00 | $ 624.00 | | 2.4 |
| 10/8/2020 | Ford, Francis Cordes | $ 95.00 | $ 72.00 | | 0.2 |
| 10/9/2020 | Walden, Andrew | $ 1,435.00 | $ 1,066.00 | | 4.1 |
| 10/9/2020 | Grimball, Henry E. | $ 120.00 | $ 85.00 | | 0.2 |
| 10/14/2020 | Walden, Andrew | $ 280.00 | $ 208.00 | | 0.8 |
| 10/14/2020 | Ford, Francis Cordes | $ 285.00 | $ 216.00 | | 0.6 |
| 10/16/2020 | Ford, Francis Cordes | $ 95.00 | $ 72.00 | | 0.2 |
| 10/17/2020 | Ford, Francis Cordes | $ 47.50 | $ 36.00 | | 0.1 |
| 10/19/2020 | Ford, Francis Cordes | $ 142.50 | $ 108.00 | | 0.3 |
| 10/20/2020 | Ford, Francis Cordes | $ 190.00 | $ 144.00 | | 0.4 |
| 10/23/2020 | Walden, Andrew | $ 105.00 | $ 78.00 | | 0.3 |

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|---|---|---|---|---|---|
| 10/26/2020 | Grimball, Henry E. | $ 780.00 | $ 552.50 | 1.3 | [redacted] |
| 10/26/2020 | Walden, Andrew | $ 630.00 | $ 468.00 | 1.8 | |
| 10/27/2020 | Grimball, Henry E. | $ 900.00 | $ 637.50 | 1.5 | |
| 10/27/2020 | Walden, Andrew | $ 875.00 | $ 650.00 | 2.5 | |
| 10/27/2020 | Ford, Francis Cordes | $ 2,280.00 | $ 1,728.00 | 4.8 | |
| 10/28/2020 | Walden, Andrew | $ 1,155.00 | $ 858.00 | 3.3 | |
| 10/27/2020 | Casey, Carol B. | $ 106.00 | $ 76.00 | 0.4 | |
| 10/28/2020 | Grimball, Henry E. | $ 1,620.00 | $ 1,147.50 | 2.7 | |
| 10/28/2020 | Casey, Carol B. | $ 185.50 | $ 133.00 | 0.7 | |
| 10/28/2020 | Ford, Francis Cordes | $ 142.50 | $ 108.00 | 0.3 | |
| 11/2/2020 | Walden, Andrew | $ 665.00 | $ 494.00 | 1.9 | |
| 11/3/2020 | Walden, Andrew | $ 525.00 | $ 390.00 | 1.5 | |
| 11/3/2020 | Grimball, Henry E. | $ 3,480.00 | $ 2,465.00 | 5.8 | |

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|---|---|---|---|---|---|
| 11/2/2020 | Grimball, Henry E. | $ 1,380.00 | $ 977.50 | | 2.3 |
| 11/4/2020 | Grimball, Henry E. | $ 2,640.00 | $ 1,870.00 | | 4.4 |
| 11/2/2020 | Ford, Francis Cordes | $ 1,045.00 | $ 792.00 | | 2.2 |
| 11/4/2020 | Walden, Andrew | $ 455.00 | $ 338.00 | | 1.3 |
| 11/5/2020 | Grimball, Henry E. | $ 2,640.00 | $ 1,870.00 | | 4.4 |
| 11/3/2020 | Casey, Carol B. | $ 106.00 | $ 76.00 | | 0.4 |
| 11/4/2020 | Ford, Francis Cordes | $ 997.50 | $ 756.00 | | 2.1 |
| 11/5/2020 | Walden, Andrew | $ 1,435.00 | $ 1,066.00 | | 4.1 |
| 11/6/2020 | Walden, Andrew | $ 175.00 | $ 130.00 | | 0.5 |
| 11/5/2020 | Ford, Francis Cordes | $ 3,087.50 | $ 2,340.00 | | 6.5 |
| 11/9/2020 | Grimball, Henry E. | $ 720.00 | $ 510.00 | | 1.2 |
| 11/6/2020 | Grimball, Henry E. | $ 600.00 | $ 425.00 | | 1 |
| 11/10/2020 | Walden, Andrew | $ 700.00 | $ 520.00 | | 2 |
| 11/11/2020 | Walden, Andrew | $ 350.00 | $ 260.00 | | 1 |
| 11/11/2020 | Grimball, Henry E. | $ 180.00 | $ 127.50 | | 0.3 |
| 11/10/2020 | Ford, Francis Cordes | $ 712.50 | $ 540.00 | | 1.5 |
| 11/11/2020 | Ford, Francis Cordes | $ 427.50 | $ 324.00 | | 0.9 |
| 11/12/2020 | Ford, Francis Cordes | $ 855.00 | $ 648.00 | | 1.8 |
| 11/13/2020 | Walden, Andrew | $ 1,680.00 | $ 1,248.00 | | 4.8 |

[redacted]

| | | | | | |
|---|---|---|---|---|---|
| 11/12/2020 | Walden, Andrew | $ 1,750.00 | $ 1,300.00 | 5 | |
| 11/13/2020 | Ford, Francis Cordes | $ 380.00 | $ 288.00 | 0.8 | |
| 11/16/2020 | Walden, Andrew | $ 3,500.00 | $ 2,600.00 | 10 | |
| 11/16/2020 | Grimball, Henry E. | $ 3,600.00 | $ 2,550.00 | 6 | |
| 11/17/2020 | Grimball, Henry E. | $ 300.00 | $ 212.50 | 0.5 | |
| 11/17/2020 | Walden, Andrew | $ 420.00 | $ 312.00 | 1.2 | |
| 11/18/2020 | Grimball, Henry E. | $ 1,140.00 | $ 807.50 | 1.9 | |
| 11/16/2020 | Ford, Francis Cordes | $ 1,140.00 | $ 864.00 | 2.4 | |
| 11/18/2020 | Walden, Andrew | $ 630.00 | $ 468.00 | 1.8 | |
| 11/19/2020 | Grimball, Henry E. | $ 780.00 | $ 552.50 | 1.3 | |
| 11/17/2020 | Ford, Francis Cordes | $ 142.50 | $ 108.00 | 0.3 | |
| 11/19/2020 | Ford, Francis Cordes | $ 47.50 | $ 36.00 | 0.1 | |
| 11/30/2020 | Walden, Andrew | $ 140.00 | $ 104.00 | 0.4 | |
| 11/30/2020 | Grimball, Henry E. | $ 840.00 | $ 595.00 | 1.4 | |

| | | | | | | |
|---|---|---|---|---|---|---|
| 12/1/2020 | Grimball, Henry E. | $ 180.00 | $ 127.50 | 0.3 | | |
| 12/2/2020 | Walden, Andrew | $ 140.00 | $ 104.00 | 0.4 | | |
| 12/1/2020 | Casey, Carol B. | $ 106.00 | $ 76.00 | 0.4 | | |
| 12/3/2020 | Walden, Andrew | $ 1,645.00 | $ 1,222.00 | 4.7 | | |
| 12/1/2020 | Ford, Francis Cordes | $ 665.00 | $ 504.00 | 1.4 | | |
| 12/3/2020 | Grimball, Henry E. | $ 3,120.00 | $ 2,210.00 | 5.2 | | |
| 12/3/2020 | Ford, Francis Cordes | $ 427.50 | $ 324.00 | 0.9 | | |
| 12/4/2020 | Walden, Andrew | $ 70.00 | $ 52.00 | 0.2 | | |
| 12/2/2020 | Grimball, Henry E. | $ 900.00 | $ 637.50 | 1.5 | | |
| 12/4/2020 | Grimball, Henry E. | $ 720.00 | $ 510.00 | 1.2 | | |
| 12/4/2020 | Casey, Carol B. | $ 26.50 | $ 19.00 | 0.1 | | |
| 12/4/2020 | Ford, Francis Cordes | $ 1,852.50 | $ 1,404.00 | 3.9 | | |

| | | | | | |
|---|---|---|---|---|---|
| 12/7/2020 | Walden, Andrew | $ 315.00 | $ 234.00 | 0.9 | |
| 12/7/2020 | Casey, Carol B. | $ 53.00 | $ 38.00 | 0.2 | |
| 12/7/2020 | Grimball, Henry E. | $ 780.00 | $ 552.50 | 1.3 | |
| 12/7/2020 | Grimball, Henry E. | $ 660.00 | $ 467.50 | 1.1 | |
| 12/8/2020 | Walden, Andrew | $ 105.00 | $ 78.00 | 0.3 | |
| 12/9/2020 | Cerchione, Carla | $ 14.00 | $ 19.00 | 0.1 | |
| 12/8/2020 | Grimball, Henry E. | $ 2,280.00 | $ 1,615.00 | 3.8 | |
| 12/9/2020 | Grimball, Henry E. | $ 1,200.00 | $ 850.00 | 2 | |
| 12/7/2020 | Ford, Francis Cordes | $ 950.00 | $ 720.00 | 2 | |
| 12/8/2020 | Ford, Francis Cordes | $ 2,185.00 | $ 1,656.00 | 4.6 | |

[redacted]

| | | | | | |
|---|---|---|---|---|---|
| 12/9/2020 | Ford, Francis Cordes | $ 950.00 | $ 720.00 | | 2 |
| 12/11/2020 | Walden, Andrew | $ 840.00 | $ 624.00 | | 2.4 |
| 12/10/2020 | Grimball, Henry E. | $ 480.00 | $ 340.00 | | 0.8 |
| 12/10/2020 | Ford, Francis Cordes | $ 190.00 | $ 144.00 | | 0.4 |
| 12/11/2020 | Grimball, Henry E. | $ 360.00 | $ 255.00 | | 0.6 |
| 12/11/2020 | Ford, Francis Cordes | $ 712.50 | $ 540.00 | | 1.5 |
| 12/14/2020 | Grimball, Henry E. | $ 180.00 | $ 127.50 | | 0.3 |
| 12/15/2020 | Walden, Andrew | $ 70.00 | $ 52.00 | | 0.2 |
| 12/16/2020 | Walden, Andrew | $ 665.00 | $ 494.00 | | 1.9 |
| 12/16/2020 | Grimball, Henry E. | $ 1,320.00 | $ 935.00 | | 2.2 |
| 12/17/2020 | Grimball, Henry E. | $ 600.00 | $ 425.00 | | 1 |
| 12/15/2020 | Ford, Francis Cordes | $ 47.50 | $ 36.00 | | 0.1 |
| 12/16/2020 | Ford, Francis Cordes | $ 142.50 | $ 108.00 | | 0.3 |
| 12/17/2020 | Walden, Andrew | $ 140.00 | $ 104.00 | | 0.4 |

[redacted]

| | | | | | |
|---|---|---|---|---|---|
| 12/17/2020 | Ford, Francis Cordes | $ 142.50 | $ 108.00 | | 0.3 |
| 12/21/2020 | Grimball, Henry E. | $ 360.00 | $ 255.00 | | 0.6 |
| 12/21/2020 | Walden, Andrew | $ 70.00 | $ 52.00 | | 0.2 |
| 12/21/2020 | Ford, Francis Cordes | $ 47.50 | $ 36.00 | | 0.1 |
| 1/16/2021 | Walden, Andrew | $ 1,295.00 | $ 962.00 | | 3.7 |
| 1/15/2021 | Walden, Andrew | $ 665.00 | $ 494.00 | | 1.9 |
| 1/15/2021 | Ford, Francis Cordes | $ 902.50 | $ 684.00 | | 1.9 |
| 1/15/2021 | Grimball, Henry E. | $ 1,620.00 | $ 1,147.50 | | 2.7 |
| 1/18/2021 | Grimball, Henry E. | $ 480.00 | $ 340.00 | | 0.8 |
| 1/17/2021 | Ford, Francis Cordes | $ 237.50 | $ 180.00 | | 0.5 |
| 1/19/2021 | Grimball, Henry E. | $ 1,500.00 | $ 1,062.50 | | 2.5 |
| 1/19/2021 | Ford, Francis Cordes | $ 475.00 | $ 360.00 | | 1 |

[redacted]

| | | | | | |
|---|---|---|---|---|---|
| 1/20/2021 | Ford, Francis Cordes | $ 237.50 | $ 180.00 | | 0.5 |
| 1/26/2021 | Grimball, Henry E. | $ 300.00 | $ 212.50 | | 0.5 |
| 1/26/2021 | Walden, Andrew | $ 70.00 | $ 52.00 | | 0.2 |
| 1/27/2021 | Grimball, Henry E. | $ 1,500.00 | $ 1,062.50 | | 2.5 |
| 1/27/2021 | Walden, Andrew | $ 1,610.00 | $ 1,196.00 | | 4.6 |
| 1/28/2021 | Walden, Andrew | $ 1,295.00 | $ 962.00 | | 3.7 |
| 1/27/2021 | Ford, Francis Cordes | $ 2,042.50 | $ 1,548.00 | | 4.3 |
| 1/29/2021 | Walden, Andrew | $ 2,310.00 | $ 1,716.00 | | 6.6 |
| 1/30/2021 | Walden, Andrew | $ 385.00 | $ 286.00 | | 1.1 |
| 1/29/2021 | Grimball, Henry E. | $ 1,740.00 | $ 1,232.50 | | 2.9 |
| 1/29/2021 | Ford, Francis Cordes | $ 1,662.50 | $ 1,260.00 | | 3.5 |
| 2/1/2021 | Ford, Francis Cordes | $ 237.50 | $ 180.00 | | 0.5 |
| 2/1/2021 | Grimball, Henry E. | $ 1,080.00 | $ 765.00 | | 1.8 |
| 2/1/2021 | Walden, Andrew | $ 105.00 | $ 78.00 | | 0.3 |

ELECTRONICALLY FILED - 2021 Feb 22 10:57 AM - CHARLESTON - COMMON PLEAS - CASE#2016CP1002955

| | | | | |
|---|---|---|---|---|
| 2/2/2021 | Ford, Francis Cordes | $ 47.50 | $ 36.00 | 0.1 |
| 2/4/2021 | Ford, Francis Cordes | $ 237.50 | $ 180.00 | 0.5 |
| 2/5/2021 | Walden, Andrew | $ 525.00 | $ 390.00 | 1.5 |
| 2/5/2021 | Ford, Francis Cordes | $ 760.00 | $ 576.00 | 1.6 |
| 2/9/2021 | Walden, Andrew | $ 420.00 | $ 312.00 | 1.2 |
| 2/10/2021 | Ford, Francis Cordes | $380.00 | $288.00 | 0.8 |
| 2/11/2021 | Ford, Francis Cordes | $237.50 | $180.00 | 0.5 |
| 2/10/2021 | Walden, Andrew | $1,400.00 | $1,040.00 | 4 |
| 2/11/2021 | Grimball, Henry E. | $540.00 | $382.50 | 0.9 |
| 2/12/2021 | Walden, Andrew | $70.00 | $52.00 | 0.2 |
| 2/12/2021 | Grimball, Henry E. | $1,080.00 | $765.00 | 1.8 |
| 2/16/2021 | Grimball, Henry E. | $1,260.00 | $892.50 | 2.1 |
| 2/16/2021 | Grimball, Henry E. | $780.00 | $552.50 | 1.3 |
| 2/16/2021 | Walden, Andrew | $455.00 | $338.00 | 1.3 |
| 2/17/2021 | Walden, Andrew | $420.00 | $312.00 | 1.2 |
| | **Total** | **$324,816.50** | **$262,080.00** | **776.7** |

ELECTRONICALLY FILED - 2021 Feb 22 10:57 AM - CHARLESTON - COMMON PLEAS - CASE#2016CP1002955

| Breakdown per Timekeeper | | | |
|---|---|---|---|
| Timekeeper | Std Amt | To Bill Amt | Hours |
| Cordes Ford | $ 160,318.50 | $ 135,756.00 | 377.10 |
| Andrew Walden | $ 69,142.00 | $ 55,822.00 | 214.70 |
| Henry Grimball | $ 85,844.00 | $ 62,772.50 | 147.70 |
| Carol Casey | $ 4,028.00 | $ 2,888.00 | 15.20 |
| Catherine Anderson | $ 1,532.00 | $ 1,480.00 | 7.60 |
| Jade Alderman | $ 1,402.50 | $ 1,045.00 | 5.50 |
| Heather Chiovaro | $ 1,307.50 | $ 1,307.50 | 5.20 |
| Harriet Ward | $ 569.50 | $ 442.00 | 1.70 |
| Kathryn Mansfield | $ 448.50 | $ 338.00 | 1.30 |
| Amy Clayton | $ 210.00 | $ 210.00 | 0.60 |
| Carla Cerchione | $ 14.00 | $ 19.00 | 0.10 |
| **Total** | $ 324,816.50 | $ 262,080.00 | 776.70 |

| Date | Tobill Amt | Narrative |
|---|---|---|
| 6/4/2020 | $201.50 | Joyce C. Rueger, CVR - Fee for Transcriipt of Hearing |
| 2/11/2020 | $31.74 | SC.Gov Scjd Efile - Charleston County Common Pleas - E-Filing |
| 3/2/2020 | $31.74 | Sc.Gov Scjd Efile - Charleston County Common Pleas - E-Filing |
| 12/6/2019 | $31.74 | Sc.Gov Scjd Efile - Charleston County Common Pleas - E-Filing |
| 5/14/2020 | $31.74 | Sc.Gov Scjd Efile - Charleston County Common Pleas - E-Filing |
| 11/13/2020 | $126.00 | Sandlapper Reporting LLC - Court Transcript |
| 12/10/2020 | $67.50 | Sandlapper Reporting LLC - Hearing Transcript |
| 12/4/2020 | $31.74 | CHARLESTONCOCOMMONPLEAS - Charleston County - Common Pleas - E-Filings - |
| Total | **$553.70** | |



ELECTRONICALLY FILED - 2021 Feb 22 10:57 AM - CHARLESTON - COMMON PLEAS - CASE#2016CP1002955

ELECTRONICALLY FILED - 2021 Feb 22 10:57 AM - CHARLESTON - COMMON PLEAS - CASE#2016CP1002955

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|---|---|---|
| STATE OF SOUTH CAROLINA<br>COUNTY OF CHARLESTON | ) | IN THE COURT OF COMMON PLEAS<br>FOR THE NINTH JUDICIAL CIRCUIT<br>CASE NO. 2016-CP-10-2955 |
| TCC OF CHARLESTON, INC.<br><br>Plaintiff,<br>vs.<br><br>CONCORD AND CUMERLAND, LLC., CONCORD & CUMBERLAND HPR, LEO HALL, DIANE HALL, BEA H. SMITH, MARGARET C. POPE, WILLIAM D. FOSTER, JR., GENE G. FOSTER, MATTISON J. MACGILLIVRAY, TERESA MACGILLIVRAY, PAMELA L. VAUGHN, NELIA A. PATRICIO, Trustee of the Nelia A. Patricio Revocable Trust Agreement, STUART D. REEVES, EDWARD T. STROM, BARBARA K. HENDERSON, JAMES R. CLARKE, PAUL A. BRIM, ROBERT K. SEIDL, JENNIFER M. SEIDL, ROBERT KENNETH SEIDL, II, M. BERT STOREY, THOMAS R. MATHER, EDWARD T. STROM, 304 CONCORD & CUMBERLAND, LLC, MARION M. SIMPSON F/K/A MARION MOORE MCDONALD SIMPSON, KATHY GARDNER, GREGORY J. GARDNER, FREEMAN WATERFRONT PROPERTIES, LLC, JO-ANN COOPER, BETTY Y. SEGAL, ROBERT M. LEVIN AND BONITA K. LEVIN, DONALD D. LEONARD, BETTY L. BEATTY, MATTELLEN, LLC, AND THOMAS R. DEBNAM, Trustee of the Trust Agreement of Thomas R. Debnam,<br><br>Defendants. | ) | **AFFIDAVIT OF ATTORNEY'S FEES**<br>**HENRY E. GRIMBALL** |

PERSONALLY appeared before me Henry E. Grimball stating as follows:

ELECTRONICALLY FILED - 2021 Feb 22 10:57 AM - CHARLESTON - COMMON PLEAS - CASE#2016CP1002955

1. I am a Partner in the law firm of Womble Bond Dickinson (US) LLP in Charleston, South Carolina, and I, along with F. Cordes Ford IV and R. Andrew Walden, am the attorney for all Defendants in this matter, with the exception of Betty Beatty ("Defendants").

2. I am a member in good standing of the South Carolina bar. I am admitted before the Supreme Court of South Carolina, the United States District Court for the District of South Carolina, and the United States Court of Appeals for the Fourth Circuit. My practice includes civil litigation in State and Federal courts, where I have tried more than 250 cases over the last 46 years.

3. I have been a practicing attorney for over 46 years under SC Bar No. 2313.

4. From April 12, 2020 to February 18, 2021, I incurred 147.70 hours on this matter for total fees of $85,844.00. I significantly discounted my fees and have only charged the Defendants $62,772.50. These figures are further supported by an excel timesheet attached to F. Cordes Ford's Affidavit, filed contemporaneously herewith.

5. The arbitration resulted in an award to TCC. I was asked to assist in finalizing the case, which was precluded by TCC's contention that it was entitled to attorneys' fees under the mechanic's lien statute, even though TCC had no statutory or contractual support for its position. I believe that, but for TCC's position regarding attorneys' fees, the case would have resolved and my legal services would not have been needed.

6. Based on the nature, extent, and difficulty of the legal services rendered, the time and labor necessarily devoted to this case, the fees customarily charged for similar cases and legal services, the beneficial result obtained in the dismissal of the mechanic's lien, the attendant responsibilities, the size of the claim between the parties, the legal fees and expenses still to be incurred, and the other factors relevant to an award of attorneys' fees, I believe that the Defendants are entitled to an award of my attorney's fees in the amount of $62,772.50.

7. I swear under oath that I have reviewed my time entries associated with this matter and that the figures contained are a true and accurate accounting of the attorney's fees in this case associated with or integrally connected directly or indirectly to the foreclosure of mechanic's lien cause of action.

FURTHER AFFIANT SAYETH NOT.

Henry E. Grimball

Sworn to and subscribed before me this
the 11th day of February, 2021.
Notary: Elizabeth W. Settle
My commission expires: _____

ELIZABETH W. SETTLE
Notary Public, South Carolina
My Commission Expires
November 18, 2024

| | | |
|---|---|---|
| STATE OF SOUTH CAROLINA<br>COUNTY OF CHARLESTON | ) | IN THE COURT OF COMMON PLEAS<br>FOR THE NINTH JUDICIAL CIRCUIT<br>CASE NO. 2016-CP-10-2955 |
| TCC OF CHARLESTON, INC.<br><br>Plaintiff,<br>vs.<br><br>CONCORD & CUMBERLAND HPR, LEO HALL, DIANE HALL, BEA H. SMITH, MARGARET C. POPE, WILLIAM D. FOSTER, JR., GENE G. FOSTER, MATTISON J. MACGILLIVRAY, TERESA MACGILLIVRAY, PAMELA L. VAUGHN, NELIA A. PATRICIO, Trustee of the Nelia A. Patricio Revocable Trust Agreement, STUART D. REEVES, EDWARD T. STROM, BARBARA K. HENDERSON, JAMES R. CLARKE, PAUL A. BRIM, ROBERT K. SEIDL, JENNIFER M. SEIDL, ROBERT KENNETH SEIDL, II, M. BERT STOREY, THOMAS R. MATHER, EDWARD T. STROM, 304 CONCORD & CUMBERLAND, LLC, MARION M. SIMPSON F/K/A MARION MOORE MCDONALD SIMPSON, KATHY GARDNER, GREGORY J. GARDNER, FREEMAN WATERFRONT PROPERTIES, LLC, JOHN FREEMAN, JO-ANN COOPER, BETTY Y. SEGAL, by and through her Assignee, DONALD D. LEONARD, ROBERT M. LEVIN AND BONITA K. LEVIN, DONALD D. LEONARD, BETTY L. BEATTY, MATTELLEN, LLC, AND THOMAS R. DEBNAM, Trustee of the Trust Agreement of Thomas R. Debnam,<br><br>Defendants. | ) | **AFFIDAVIT OF ATTORNEY'S FEES**<br>**R. ANDREW WALDEN** |

PERSONALLY appeared before me R. Andrew Walden stating as follows:



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1. I am an Associate Attorney in the law firm of Womble Bond Dickinson (US) LLP in Charleston, South Carolina, and I, along with F. Cordes Ford IV and Henry E. Grimball, am the attorney for all Defendants, with the exception of Betty Beatty, in the above-captioned matter.

2. I am a member in good standing of the South Carolina bar. I am admitted before the Supreme Court of South Carolina and the U.S. District Court for the District of South Carolina. My practice includes civil litigation in State and Federal courts.

3. I have been a practicing attorney for over 7 years under SC Bar No. 101004.

4. As of February 18, 2021, I have incurred 727.30 hours and $188,155.00 in fees on this matter. I have reviewed my time entries in detail and reduced my fee request to those fees reasonably associated with the foreclosure of mechanic's lien cause of action, which equals a total of 214.70 hours, or **$55,822.00**. These figures are further supported by the redacted excel timesheet filed as **Exhibit A** to Cordes Ford's Affidavit and provided for *in-camera* review to the Court.

5. All claims against the HPR were referred to arbitration, which included the foreclosure of mechanic's lien cause of action. The foreclosure of mechanic's lien cause of action against the unit owner Defendants was stayed pending outcome of the arbitration. The arbitration resulted in an award to TCC, and, since the initial award, the Defendants have been willing and able to meaningfully discuss resolution of the case, notwithstanding its position that the Panel manifestly disregarded the law. However, TCC's contention that it be awarded attorney's fees under the mechanic's lien statute has stymied any settlement discussions and has precluded a meaningful discussion of a resolution to this matter. TCC's insistence on fees, without statutory or contractual support, has resulted in most of the litigation since April 26, 2019, when TCC filed its first motion for fees against the HPR, based on the mechanic's lien statute, and requested no less than $899,563.

6. Based on the nature, extent, and difficulty of the legal services rendered, the time and labor necessarily devoted to this case, the fees customarily charged for similar cases and legal services, the beneficial result obtained in the dismissal of the mechanic's lien, the attendant responsibilities, the size of the claim between the parties, the legal fees and expenses still to be incurred, and the other factors relevant to an award of attorney's fees, I believe that the Defendants are entitled to an award of my attorney's fees in the amount of **$55,822.00**. Please note that I have gone through my time entries in detail and have removed all entries not reasonably associated with Defendants' defense of the foreclosure of mechanic's lien cause of action.

7. I swear under oath that I have reviewed my time entries associated with this matter and that the figures contained herein are a true and accurate accounting of the fees in this case associated with or integrally connected directly or indirectly to the foreclosure of mechanic's lien cause of action.

[Signature on following page]

FURTHER AFFIANT SAYETH NOT.

R. Andrew Walden

Sworn to and subscribed before me this

the 16 day of February, 2021.

Notary: _____

My commission expires: 11-29-21

LORI M. GOSSETT
Notary Public, South Carolina
My Commission Expires
November 29, 2021

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ELECTRONICALLY FILED - 2020 Nov 03 4:22 PM - CHARLESTON - COMMON PLEAS - CASE#2016CP1002955

| | |
|---|---|
| **STATE OF SOUTH CAROLINA** | **IN THE COURT OF COMMON PLEAS** |
| | **FOR THE NINTH JUDICIAL CIRCUIT** |
| **COUNTY OF CHARLESTON** | |

| | |
|---|---|
| TCC OF CHARLESTON, INC.<br><br>Plaintiff,<br><br>v.<br><br>LEO HALL, DIANE HALL, BEA H. SMITH, MARGARET C. POPE, WILLIAM D. FOSTER, JR., GENE G. FOSTER, MATTISON J. MACGILLIVRAY, TERESA MACGILLIVRAY, PAMELA L. VAUGHN, NELIA A. PATRICIO, Trustee of the Nelia A. Patricio Revocable Trust Agreement, STUART D. REEVES, EDWARD T. STROM, BARBARA K. HENDERSON, JAMES R. CLARKE, PAUL A. BRIM, ROBERT K. SEIDL, JENNIFER M. SEIDL, ROBERT KENNETH SEIDL, II, M. BERT STOREY, THOMAS R. MATHER, EDWARD T. STROM, 304 CONCORD & CUMBERLAND, LLC, MARION M. SIMPSON F/K/A MARION MOORE MCDONALD SIMPSON, KATHY GARDNER, GREGORY J. GARDNER, FREEMAN WATERFRONT PROPERTIES, LLC, JOHN FREEMAN, JO-ANN COOPER, BETTY Y. SEGAL, by and through her Assignee, DONALD D. LEONARD, ROBERT M. LEVIN AND BONITA K. LEVIN, DONALD D. LEONARD, BETTY L. BEATTY, MATTELLEN, LLC, AND THOMAS R. DEBNAM, Trustee of the Trust Agreement of Thomas R. Debnam, | Case No.: 2016-CP-10-2955<br><br>**AFFIDAVIT OF ANGELA GROSS** |

PERSONALLY appeared before me, ANGELA GROSS, who states as follows:

ELECTRONICALLY FILED - 2020 Nov 03 4:22 PM - CHARLESTON - COMMON PLEAS - CASE#2016CP1002955

1. My name is Angela Gross, and I am a paralegal with Epting & Rannik, LLC.
2. From my memory and my records, if required, the following would be established:
    a. The amended mechanic's lien was filed on June 10, 2016.
    b. On June 10 or 11, 2016, I provided filed copies of the Amended Summons, Amended Complaint, Lis Pendens, Amended Mechanic's Lien, and Motion to Stay and Compel Arbitration, to a process service, John Gamble, for service on the individual unit owners at 175 Concord Street, Charleston, South Carolina, 29401.
    c. On or about June 11 or 12, 2016, Mr. Gamble contacted me to let me know he was unable to enter the building to serve the unit owners because the entry gate required a security code. This caused delays in affecting service of the unit owners.
    d. A further complication in affecting service of the unit owners was that we learned some of the unit owners did not live in their units. For some unit owners, the condo was their second home, for others it was a rental property.
    e. In addition to attempting to have the unit owners personally served by Mr. Gamble, I attempted service of the unit owners via United States Mail, Certified Mail, Return Receipt, Restricted Delivery. However, there were homeowners that refused to claim the mailing, e.g., Marion Simpson.
    f. Service of the lien and the suit to foreclose was obtained on the following individuals on the following dates:
        i. Dr. Tom Mather – June 22, 2016
        ii. Joanne Cooper – June 22, 2016

iii. Betty Beatty – June 22, 2016

iv. Betty Segal – June 22, 2016

v. Freeman Waterfront Properties, LLC – June 23, 2016

vi. Mattellen, LLC – June 23, 2016

vii. Concord & Cumberland, LLC – June 23, 2016

viii. 304 Concord & Cumberland, LLC (Margaret Schultz) – June 25, 2016

ix. Donald Leonard – June 30, 2016

x. Paul Brim – July 1, 2016

xi. Edward Strom – July 1, 2016

xii. Barbara Henderson – July 5, 2016

xiii. Bert Storey – July 5, 2016

xiv. Stuart Reeves – July 7, 2016

xv. Leo & Diane Hall – July 7, 2016

xvi. Bea H. Smith – July 20, 2016

xvii. Margaret Pope – August 19, 2016

xviii. Teresa & Mattison McGillivray – August 19, 2016

xix. William Foster – August 30, 2016

xx. Bonita Levin – August 29, 2016

xxi. Thomas Debnam – September 23, 2016

xxii. Alan Sparks (personal representative for Pamela Vaughn) – October 10, 2016

xxiii. Neila Patricio – October 24, 2016

xxiv. Gregory Gardner – October 24, 2016



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3. The records supporting these dates of service are attached hereto as "Exhibit A."

4. Further affiant sayeth naught.

ANGELA GROSS

SWORN to before me this 3rd
day of November, 2020.

Notary Public for South Carolina
My Commission Expires: 3/16/30

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# EXHIBIT A

# AFFIDAVIT OF SERVICE

State of South Carolina | County of Charleston | Common Pleas Court

Case Number: 2016-CP-10-2955

Plaintiff:
TCC OF CHARLESTON

vs.

Defendant:
CONCORD AND CUMBERLAND, LLC; CONCORD AND CUMBERLAND HPR ET AL

FILED
2016 AUG -8 PM 4:56
JULIE J. ARMSTRONG
CLERK OF COURT

For:
Andrew K. Epting, Jr., Esq.
Andrew K. Epting, Jr., LLC
46-A State Street
Charleston, SC 29401

Received by PROCESS SERVICE, INC. to be served on **BEA H. SMITH, 62 SATURDAY RD, MT PLEASANT, SC 29464.**

I, John R. Gamble, being duly sworn, depose and say that on the **20th day of July, 2016** at 8:40 am, I:

**SUBSTITUTE** served BEA H. SMITH by delivering a true copy of the **AMENDED LIS PENDENS ( TMS #'S 458-00-09-02-068 M AND 45-09-02-219 THROUGH 234); AMENDED SUMMONS; AMENDED COMPLAINT; AMENDED NOTICE AND CERTIFICATIOE OF MECHANIC'S LIEN; MOTION TO STAY AND COMPEL ARBITRATION; EXHBIT A** with the date and hour of service endorsed hereon by me, to: **JOE MELECKI** as **HUSBAND** at the address of: **62 SATURDAY RD, MT PLEASANT, SC 29464,** the within named person's usual place of **Abode,** who resides therein, who is fifteen (15) years of age or older and informed said person of the contents therein, in compliance with state statutes.

I am over eighteen and have no interest in the above action.

John R. Gamble
PROCESS SERVER

PROCESS SERVICE, INC.
P.O. Box 20097
Charleston, SC 29413
(843) 577-2355

Our Job Serial Number: LEX-2016001656

Subscribed and Sworn to before me on the 21st day of July, 2016 by the affiant who is personally known to me.

Cindy Williamson
NOTARY PUBLIC
Commission Expires: 5-6-19

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# AFFIDAVIT OF SERVICE

**State of South Carolina** **County of Charleston** **Common Pleas Court**

Case Number: 2016-CP-10-2955

Plaintiff:
**TCC OF CHARLESTON**

vs.

Defendant:
**CONCORD AND CUMBERLAND, LLC; CONCORD AND CUMBERLAND HPR ET AL**

For:
Andrew K. Epting, Jr., Esq.
Andrew K. Epting, Jr., LLC
46-A State Street
Charleston, SC 29401

RECEIVED
OCT 28 2016
By

Received by PROCESS SERVICE, INC. to be served on **NEILA A PATRICIO, 175 CONCORD ST. #201, CHARELSTON, SC 29401**.

I, John R. Gamble, being duly sworn, depose and say that on the **24th day of October, 2016** at 9:27 am, I:

**PERSONALLY** served by delivering a true copy of the **AMENDED LIS PENDENS; AMENDED SUMMONS; AMENDED COMPLAINT; VERIFICATION; AMENDED NOTICE AND CERTIFICATE OF MECHANIC'S LIEN; EXHIBIT A; EXHIBIT B; MOTION TO STAY AND COMPEL ARBITRATION; EXHIBIT A** to: **NEILA A PATRICIO** at the address of: **175 CONCORD ST. #201, CHARELSTON, SC 29401**.

I am over eighteen and have no interest in the above action.

**John R. Gamble**
PROCESS SERVER

**PROCESS SERVICE, INC.**
**P.O. Box 20097**
**Charleston, SC 29413**
**(843) 577-2355**

Our Job Serial Number: LEX-2016002578

Subscribed and Sworn to before me on the 24th day of October, 2016 by the affiant who is personally known to me.

Cindy Williamson
NOTARY PUBLIC
Commission Expires: 5-6-19

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# AFFIDAVIT OF SERVICE

**State of South Carolina** **County of Charleston** **Common Pleas Court**

Case Number: 2016-CP-10-2955

Plaintiff:
**TCC OF CHARLESTON**

vs.

Defendant:
**CONCORD AND CUMBERLAND, LLC; CONCORD AND CUMBERLAND HPR ET AL**

For:
Andrew K. Epting, Jr., Esq.
Andrew K. Epting, Jr., LLC
46-A State Street
Charleston, SC 29401

RECEIVED
OCT 28 2016
By

Received by PROCESS SERVICE, INC. to be served on **GREGORY J GARDNER, 175 CONCORD ST. #306, CHARELSTON, SC 29401**.

I, John R. Gamble, being duly sworn, depose and say that on the **24th day of October, 2016** at 9:22 am, I:

**PERSONALLY** served by delivering a true copy of the **LETTER; AMENDED LIS PENDENS; AMENDED SUMMONS; AMENDED COMPLAINT; VERIFICATION; AMENDED NOTICE AND CERTIFICATE OF MECHANIC'S LIEN; EXHIBIT A; EXHIBIT B; MOTION TO STAY AND COMPEL ARBITRATION; EXHIBIT A** to: **GREGORY J GARDNER** at the address of: **175 CONCORD ST. #306, CHARELSTON, SC 29401**.

I am over eighteen and have no interest in the above action.

**John R. Gamble**
PROCESS SERVER

**PROCESS SERVICE, INC.**
**P.O. Box 20097**
**Charleston, SC 29413**
**(843) 577-2355**

Our Job Serial Number: LEX-2016002577

Subscribed and Sworn to before me on the 24th day of October, 2016 by the affiant who is personally known to me.

NOTARY PUBLIC
Commission Expires: 5-619

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# AFFIDAVIT OF SERVICE

**State of South Carolina** **County of Charleston** **Common Pleas Court**

Case Number: 2016-CP-10-2955

Plaintiff:
**TCC OF CHARLESTON**

vs.

Defendant:
**CONCORD AND CUMBERLAND, LLC; CONCORD AND CUMBERLAND HPR ET AL**

For:
Andrew K. Epting, Jr., Esq.
Andrew K. Epting, Jr., LLC
46-A State Street
Charleston, SC 29401

RECEIVED
OCT 28 2016
By

Received by PROCESS SERVICE, INC. to be served on **KATHY GARDNER, 175 CONCORD ST. #306, CHARELSTON, SC 29401**.

I, John R. Gamble, being duly sworn, depose and say that on the **24th day of October, 2016** at 9:22 am, I:

**SUBSTITUTE** served KATHY GARDNER by delivering a true copy of the **LETTER; AMENDED LIS PENDENS; AMENDED SUMMONS; AMENDED COMPLAINT; VERIFICATION; AMENDED NOTICE AND CERTIFICATE OF MECHANIC'S LIEN; EXHIBIT A; EXHIBIT B; MOTION TO STAY AND COMPEL ARBITRATION; EXHIBIT A** with the date and hour of service endorsed hereon by me, to: **Gregory GARDNER** as **HUSBAND** at the address of: **175 CONCORD ST. #306, CHARELSTON, SC 29401**, the within named person's usual place of **Abode**, who resides therein, who is fifteen (15) years of age or older and informed said person of the contents therein, in compliance with state statutes.

I am over eighteen and have no interest in the above action.

**John R. Gamble**
PROCESS SERVER

**PROCESS SERVICE, INC.**
**P.O. Box 20097**
**Charleston, SC 29413**
**(843) 577-2355**

Our Job Serial Number: LEX-2016002576

Subscribed and Sworn to before me on the 24th day of October, 2016 by the affiant who is personally known to me.

NOTARY PUBLIC
Commission Expires: 5-6-19

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# AFFIDAVIT OF SERVICE

| Case: 2016-CP-10-2955 | Court: COMMON PLEAS | County: CHARLESTON, SC | Job: 1062891 |
|---|---|---|---|
| Plaintiff / Petitioner: TCC of CHARLESTON, LLC | | Defendant / Respondent: CONCORD and CUMBERLAND, LLC et al. | |
| Received by: SHARON LEWIS | | For: ANDREW K. EPTING, JR. | |
| To be served upon: ALAN VINCENT SPARKS | | | |

I, Gene Lewis, being duly sworn, depose and say: I am over the age of 18 years and not a party to this action, and that within the boundaries of the state where service was effected, I was authorized by law to make service of the documents and informed said person of the contents herein

**Recipient Name / Address:** ALAN VINCENT SPARKS, Home: 111 EVERGREEN LN., FORT OGLETHORPE , GA 39742

**Manner of Service:** Personal/Individual, Oct 10, 2016, 5:07 pm EDT

**Documents:** SUMMONS; AMENDED COMPLAINT; AMENDED LIS PENDENS; AMENDED MECHANIC'S LIEN; MOTION TO STAY and COMPEL ARBITRATION

**Additional Comments:**
1) Successful Attempt: Oct 10, 2016, 5:07 pm EDT at Home: 111 EVERGREEN LN., FORT OGLETHORPE, GA 39742 received by ALAN VINCENT SPARKS. Age: 60; Ethnicity: Caucasian; Gender: Male; Weight: 290; Height: 5'7"; Hair: Black;
PERSONALLY SERVED ALAN VINCENT SPARKS

RECEIVED
OCT 21 2019
By

Gene Lewis 10-11-16
Gene Lewis — Date

SHARON LEWIS
P.O. Box 121
Evensville, TN. 37332
423-598-9201

*Subscribed and sworn to before me by the affiant who is personally known to me.*

Sharon Lewis
Notary Public

10-11-16 — 4-27-2019
Date — Commission Expires

SHARON LEWIS
STATE OF TENNESSEE
NOTARY PUBLIC
RHEA COUNTY

# Affidavit of Process Server

TCC of Charleston, Inc. vs Concord and Cumberland, et al 2016CP1002955
Plaintiff/Petitioner — Defendant/Respondent — Case#

Being duly sworn, on my oath, I Barry A Savage Sr
declare that I am a citizen of the United States, over the age of eighteen and not a party to this action.

**Service:** I served Bonita K Levin
NAME OF PERSON/ENTITY BEING SERVED

with the (documents) ☐ Subpoena with $ _____ witness fee and mileage
☒ Summons, Complaint, Amended Lis Pendens, Amended Mechanic's Lien and Motion to Stay and Compel Arbitration

by serving (NAME) Bonita K Levin
at ☐ Home 24 W Erie Apt 2 Chgo IL
☐ Business
☐ on (DATE) 8-24-2016 at (TIME) 1:34p

Thereafter copies of the documents were mailed by prepaid, first class mail on (DATE) _____
From (CITY) _____ (STATE) _____

**Manner of Service:**

☒ By Personal Service
☐ By delivering, during office hours, copies at the office of the person/entity being served, leaving same with the person apparently in charge thereof, namely,

☐ By leaving a copy at the defendant's usual place of abode, with some person of the family or a person residing there, of the age of 13 years or upwards, and informing that person of the general nature of the papers

☐ By posting copies in a conspicuous manner to the address of the person/entity being served.

**Non-Service:** After due search, careful inquiry and diligent attempts at the address(es) listed above, I have been unable to effect process upon the person/entity being served because of the following reason(s):

☐ Unknown at Address ☐ Evading ☐ Other: _____
☐ Address does not exist ☐ Service cancelled by litigant
☐ Moved, Left no forwarding ☐ Unable to serve in a timely fashion

**Service Attempts:** Service was attempted on:

| ( ) DATE | TIME | ,( ) DATE | TIME | ,( ) DATE | TIME |
|---|---|---|---|---|---|
| ( ) DATE | TIME | ,( ) DATE | TIME | ,( ) DATE | TIME |

**Description:**

| | | | | | | |
|---|---|---|---|---|---|---|
| ☐ Male | ☒ White Skin | ☐ Black Hair | ☐ White Hair | ☐ 14-20 Yrs. | ☐ Under 5' | ☐ Under 100 Lbs. |
| ☒ Female | ☐ Black Skin | ☐ Brown Hair | ☐ Balding | ☐ 21-35 Yrs. | ☒ 5'-5'3" | ☐ 100-130 Lbs. |
| | ☐ Brown Skin | ☐ Blond Hair | | ☐ 36-50 Yrs. | ☐ 5'4"-5'8" | ☒ 131-160 Lbs. |
| ☒ Glasses | ☐ Yellow Skin | ☐ Gray Hair | ☐ Mustache | ☐ 51-65 Yrs. | ☐ 5'9"-6' | ☐ 161-200 Lbs. |
| | ☐ Red Skin | ☒ Red Hair | ☐ Beard | ☒ Over 65 Yrs. | ☐ Over 6' | ☐ Over 200 Lbs. |

OTHER IDENTIFYING FEATURES: _____

State of Illinois County of Cook

B A Savage Sr
SERVED BY

Subscribed and sworn to before me
A notary public, this 31 day of August 2016

OFFICIAL SEAL
ANDREW RAPHAEL
NOTARY PUBLIC - STATE OF ILLINOIS
MY COMMISSION EXPIRES:10/01/19

Notary Public

LEGAL PROCESS SERVERS
ILLINOIS PRIVATE DETECTIVE LICENSE# 117-001432

CHARTER MEMBER NATIONAL ASSOCIATION OF PROFESSIONAL PROCESS SERVERS



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# Affidavit of Process Server

TCC of Charleston, Inc. vs Concord and Cumberland, et al. 2016CP1002955
Plaintiff/Petitioner Defendant/Respondent Case#

Being duly sworn, on my oath, I Barry A Savage Sr
declare that I am a citizen of the United States, over the age of eighteen and not a party to this action.

**Service:** I served Robert M. Revyn
NAME OF PERSON/ENTITY BEING SERVED

with the (documents) ☐ Subpoena with $ _____ witness fee and mileage

☒ Summons, Complaint, Amended Lis Pendens, Amended Mechanic's Lien and Motion to Stay and Compel Arbitration

by serving (NAME) Bonita K Levin Wife
at ☐ Home 24 Weiss Apt 2 Chgo IL
☐ Business
☐ on (DATE) 8-29-2016 at (TIME) 1345

Thereafter copies of the documents were mailed by prepaid, first class mail on (DATE) _____
From (CITY) _____ (STATE) _____

**Manner of Service:**

☐ By Personal Service
☐ By delivering, during office hours, copies at the office of the person/entity being served, leaving same with the person apparently in charge thereof, namely,

☒ By leaving a copy at the defendant's usual place of abode, with some person of the family or a person residing there, of the age of 13 years or upwards, and informing that person of the general nature of the papers
Bonita K Levin
☐ By posting copies in a conspicuous manner to the address of the person/entity being served.

**Non-Service:** After due search, careful inquiry and diligent attempts at the address(es) listed above, I have been unable to effect process upon the person/entity being served because of the following reason(s):

☐ Unknown at Address ☐ Evading ☐ Other: _____
☐ Address does not exist ☐ Service cancelled by litigant
☐ Moved, Left no forwarding ☐ Unable to serve in a timely fashion

**Service Attempts:** Service was attempted on: ( ) DATE TIME ,( ) DATE TIME ,( ) DATE TIME
( ) DATE TIME ,( ) DATE TIME ,( ) DATE TIME ,( ) DATE TIME

**Description:**

| | | | | | | |
|---|---|---|---|---|---|---|
| ☐ Male | ☒ White Skin | ☐ Black Hair | ☐ White Hair | ☐ 14-20 Yrs. | ☐ Under 5' | ☐ Under 100 Lbs. |
| ☒ Female | ☐ Black Skin | ☐ Brown Hair | ☐ Balding | ☐ 21-35 Yrs. | ☒ 5'-5'3" | ☐ 100-130 Lbs. |
| | ☐ Brown Skin | ☐ Blond Hair | | ☐ 36-50 Yrs. | ☐ 5'4"-5'8" | ☒ 131-160 Lbs. |
| ☒ Glasses | ☐ Yellow Skin | ☐ Gray Hair | ☐ Mustache | ☐ 51-65 Yrs. | ☐ 5'9"-6' | ☐ 161-200 Lbs. |
| | ☐ Red Skin | ☒ Red Hair | ☐ Beard | ☒ Over 65 Yrs. | ☐ Over 6' | ☐ Over 200 Lbs. |

OTHER IDENTIFYING FEATURES: _____

State of Illinois County of Cook

Subscribed and sworn to before me
A notary public, this 31 day of August 2016

Notary Public

OFFICIAL SEAL
ANDREW RAPHAEL
NOTARY PUBLIC - STATE OF ILLINOIS
MY COMMISSION EXPIRES: 04/18

SERVED BY
LASALLE PROCESS SERVERS
ILLINOIS PRIVATE DETECTIVE LICENSE# 117-001432

CHARTER MEMBER NATIONAL ASSOCIATION OF PROFESSIONAL PROCESS SERVERS



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STATE OF SOUTH CAROLINA

COURT OF COMMON PLEAS

CHARLESTON COUNTY

FILE #2016-CP-10-2955

TCC OF CHARLESTON, LLC
Plaintiff,

v.

**CONCORD AND CUMBERLAND LLC, et al.**
Defendants.

**AFFIDAVIT OF SERVICE**

Now comes Barret Ferrell, being duly sworn, and alleges and says that:

1. I am over the age of eighteen (18) years.

2. I am not a party to the action herein.

3. I reside in Mecklenburg County, North Carolina.

4. On the 30th day of August, 2016, at 9:36 am., I served the SUMMONS, COMPLAINT, AMENDED LIS PENDENS, AMENDED MECHANIC'S LEIN, and MOTION TO STAY AND COMPEL ARBITRATION in the above-entitled action upon WILLIAM FOSTER, defendant's spouse, by manner of substitute service for defendant Gene G. Foster. Service completed at address:6923 Shannon Willow Rd. Suite #400, Charlotte, NC.

Barret Ferrell
Alliant Legal Services, LLC
Charlotte, NC 28216
**Phone:** (704) 201-1052

Sworn to and subscribed before me
this 12 day of Sept, 2016.

Notary Public

Sachanna Joseph
Notary Public
Mecklenburg County
North Carolina
My Commission Expires 11-07-2017

My commission expires: 11-07-2017

ELECTRONICALLY FILED - 2020 Nov 03 4:22 PM - CHARLESTON - COMMON PLEAS - CASE#2016CP1002955

STATE OF SOUTH CAROLINA

COURT OF COMMON PLEAS

CHARLESTON COUNTY

FILE #2016-CP-10-2955

TCC OF CHARLESTON, LLC
Plaintiff,

v.

**CONCORD AND CUMBERLAND LLC, et al.**
Defendants.

**AFFIDAVIT OF SERVICE**

Now comes Barret Ferrell, being duly sworn, and alleges and says that:

1. I am over the age of eighteen (18) years.

2. I am not a party to the action herein.

3. I reside in Mecklenburg County, North Carolina.

4. On the 30th day of August, 2016, at 9:36 am., I served the SUMMONS, COMPLAINT, AMENDED LIS PENDENS, AMENDED MECHANIC'S LEIN, and MOTION TO STAY AND COMPEL ARBITRATION in the above-entitled action upon WILLIAM FOSTER, defendant's spouse, by manner of personal service. Service completed at address:6923 Shannon Willow Rd. Suite #400, Charlotte, NC.

Barret Ferrell
Alliant Legal Services, LLC
Charlotte, NC 28216
**Phone:** (704) 201-1052

Sworn to and subscribed before me
this 12 day of Sept, 2016.

Notary Public

Sachanna Joseph
Notary Public
Mecklenburg County
North Carolina
My Commission Expires 11-07-2017

My commission expires: 11-07-2017

# AFFIDAVIT OF SERVICE

**State of South Carolina** **County of Charleston** **Common Pleas Court**

Case Number: 2016-CP-10-2955

Plaintiff:
**TCC OF CHARLESTON**

vs.

Defendant:
**CONCORD AND CUMBERLAND, LLC; CONCORD AND CUMBERLAND HPR ET AL**

For:
Andrew K. Epting, Jr., Esq.
Andrew K. Epting, Jr., LLC
46-A State Street
Charleston, SC 29401

Received by PROCESS SERVICE, INC. to be served on **THOMAS DEBNAM, 175 CONCORD ST. #101, CHARELSTON, SC 29401**.

I, John R. Gamble, being duly sworn, depose and say that on the **23rd day of September, 2016** at 9:18 am, I:

**SUBSTITUTE** served THOMAS DEBNAM by delivering a true copy of the **LETTER; AMENDED LIS PENDENS; AMENDED SUMMONS; AMENDED COMPLAINT; VERIFICATION; AMENDED NOTICE AND CERTIFICATE OF MECHANIC'S LIEN; EXHIBIT A; EXHIBIT B; MOTION TO STAY AND COMPEL ARBITRATION; EXHIBIT A** with the date and hour of service endorsed hereon by me, to: **MRS THOMAS DEBNAM** as **WIFE** at the address of: **175 CONCORD ST. #101, CHARELSTON, SC 29401**, the within named person's usual place of **Abode**, who resides therein, who is fifteen (15) years of age or older and informed said person of the contents therein, in compliance with state statutes.

**Additional Information pertaining to this Service:**
AT TIME OF SERVICE MRS. DEBNAM IDENTIFIED HERSELF AND THEN REFUSED TO TAKE PAPERS . I PLACED PAPERS AT HER FEET AND ADVISED HER SHE WAS SERVED.

I am over eighteen and have no interest in the above action.

**John R. Gamble**
PROCESS SERVER

**PROCESS SERVICE, INC.**
**P.O. Box 20097**
**Charleston, SC 29413**
**(843) 577-2355**

Our Job Serial Number: LEX-2016002368

Subscribed and Sworn to before me on the 23rd day of September, 2016 by the affiant who is personally known to me.

NOTARY PUBLIC
Commission Expires: 5-6-19

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ELECTRONICALLY FILED - 2020 Nov 03 4:22 PM - CHARLESTON - COMMON PLEAS - CASE#2016CP1002955

# AFFIDAVIT OF SERVICE

**State of South Carolina** **County of Charleston** **Common Pleas Court**

Case Number: 2016-CP-10-2955

Plaintiff:
**TCC of Charleston, LLC**

vs.

Defendant:
**Concord and Cumberland, LLC, et al.**

For:
Andrew Epting
46A State Street
Charleston, SC 29401

Received by Serve-One of SC, LLC to be served on **Margaret C. Pope, 855 Kilbourne Rd, Columbia, SC 29205**.

I, Greg Jones, being duly sworn, depose and say that on the **19th day of August, 2016** at **9:45 am, I:**

**SUBSTITUTE** served by delivering a true copy of the **Summons, Complaint, Amended Lis Pendens, Amended Mechanic's Lien, and Motion to Stay and Compel Arbitration** to: **Gary Pope** as **Husband** at the address of: **855 Kilbourne Rd, Columbia, SC 29205**, the within named person's usual place of **Abode**, who resides therein, who is of suitable age and discretion, in compliance with state statutes.

**Description** of Person Served: Age: 60, Sex: M, Race/Skin Color: White, Height: 5'10", Weight: 190, Hair: Gray, Glasses: N

I certify that I have no interest in the above action, am of legal age and have proper authority in the jurisdiction in which this service was made.

**Greg Jones**
Process Server

**Serve-One of SC, LLC**
**P.O. Box 2584**
**Greenville, SC 29602**
**(864) 235-7766**

Our Job Serial Number: SJB-2016001472

Subscribed and Sworn to before me on the 19th day of August, 2016 by the affiant who is personally known to me.

Michelle L Noakes
NOTARY PUBLIC
My Comission Expires: 4-25-17

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# AFFIDAVIT OF SERVICE

**State of South Carolina** **County of Charleston** **Common Pleas Court**

Case Number: 2016-CP-10-2955

Plaintiff:
**TCC of Charleston, LLC**

vs.

Defendant:
**Concord and Cumberland, LLC, et al.**

For:
Andrew Epting
46A State Street
Charleston, SC 29401

Received by Serve-One of SC, LLC to be served on **Teresa MacGillivray, 6838 N. Trenholm Rd, Columbia, SC 29206**.

I, Greg Jones, being duly sworn, depose and say that on the **19th day of August, 2016** at **7:36 am, I:**

**SUBSTITUTE** served by delivering a true copy of the **Summons, Complaint, Amended Lis Pendens, Amended Mechanic's Lien, and Motion to Stay and Compel Arbitration** to: **Mattison MacGillivray** as **Husband** at the address of: **6838 N. Trenholm Rd, Columbia, SC 29206**, the within named person's usual place of **Abode**, who resides therein, who is of suitable age and discretion, in compliance with state statutes.

**Description** of Person Served: Age: 55, Sex: M, Race/Skin Color: White, Height: 5'10", Weight: 200, Hair: Brown, Glasses: N

I certify that I have no interest in the above action, am of legal age and have proper authority in the jurisdiction in which this service was made.

**Greg Jones**
Process Server

**Serve-One of SC, LLC**
**P.O. Box 2584**
**Greenville, SC 29602**
**(864) 235-7766**

Our Job Serial Number: SJB-2016001474

Subscribed and Sworn to before me on the 19th day of August, 2016 by the affiant who is personally known to me.

NOTARY PUBLIC
My Comission Expires: 4-25-17

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# AFFIDAVIT OF SERVICE

**State of South Carolina** **County of Charleston** **Common Pleas Court**

Case Number: 2016-CP-10-2955

Plaintiff:
**TCC of Charleston, LLC**

vs.

Defendant:
**Concord and Cumberland, LLC, et al.**

For:
Andrew Epting
46A State Street
Charleston, SC 29401

Received by Serve-One of SC, LLC to be served on **Mattison J. MacGillivray, 6838 N. Trenholm Rd, Columbia, SC 29206**.

I, Greg Jones, being duly sworn, depose and say that on the **19th day of August, 2016** at **7:36 am, I:**

**INDIVIDUALLY/PERSONALLY** served by delivering a true copy of the **Summons, Complaint, Amended Lis Pendens, Amended Mechanic's Lien, and Motion to Stay and Compel Arbitration** to: **Mattison J. MacGillivray** at the address of: **6838 N. Trenholm Rd, Columbia, SC 29206**, and informed said person of the contents therein, in compliance with state statutes.

**Description** of Person Served: Age: 55, Sex: M, Race/Skin Color: White, Height: 5'10", Weight: 200, Hair: Brown, Glasses: N

I certify that I have no interest in the above action, am of legal age and have proper authority in the jurisdiction in which this service was made.

**Greg Jones**
Process Server

**Serve-One of SC, LLC**
**P.O. Box 2584**
**Greenville, SC 29602**
**(864) 235-7766**

Our Job Serial Number: SJB-2016001473

Subscribed and Sworn to before me on the 19th day of August, 2016 by the affiant who is personally known to me.

NOTARY PUBLIC
My Comission Expires: 4-25-17

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# AFFIDAVIT OF SERVICE

**State of South Carolina** **County of Charleston** **Common Pleas Court**

Case Number: 2016-CP-10-2955

Plaintiff:
**TCC OF CHARLESTON**

vs.

Defendant:
**CONCORD AND CUMBERLAND, LLC; CONCORD AND CUMBERLAND HPR ET AL**

For:
Andrew K. Epting, Jr., Esq.
Andrew K. Epting, Jr., LLC
46-A State Street
Charleston, SC 29401

Received by PROCESS SERVICE, INC. to be served on **THOMAS MATHER, 175 CONCORD ST. #301, CHARELSTON, SC 29401**.

I, John R. Gamble, being duly sworn, depose and say that on the **22nd day of June, 2016** at 3:55 pm, I:

**SUBSTITUTE** served THOMAS MATHER by delivering a true copy of the **LETTER; AMENDED LIS PENDENS; AMENDED SUMMONS; AMENDED COMPLAINT; VERIFICATION; AMENDED NOTICE AND CERTIFICATE OF MECHANIC'S LIEN; EXHIBIT A; EXHIBIT B; MOTION TO STAY AND COMPEL ARBITRATION; EXHIBIT A** with the date and hour of service endorsed hereon by me, to: **LAYNE MATHER** as **SON** at the address of: **175 CONCORD ST. #301, CHARELSTON, SC 29401**, the within named person's usual place of **Abode**, who resides therein, who is fifteen (15) years of age or older and informed said person of the contents therein, in compliance with state statutes.

I am over eighteen and have no interest in the above action.

**John R. Gamble**
PROCESS SERVER

**PROCESS SERVICE, INC.**
**P.O. Box 20097**
**Charleston, SC 29413**
**(843) 577-2355**

Our Job Serial Number: LEX-2016001471

Subscribed and Sworn to before me on the 23rd day of June, 2016 by the affiant who is personally known to me.

NOTARY PUBLIC
Commission Expires: 5-6-19

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# AFFIDAVIT OF SERVICE

**State of South Carolina** **County of Charleston** **Common Pleas Court**

Case Number: 2016-CP-10-2955

Plaintiff:
**TCC OF CHARLESTON**

vs.

Defendant:
**CONCORD AND CUMBERLAND, LLC; CONCORD AND CUMBERLAND HPR ET AL**

For:
Andrew K. Epting, Jr., Esq.
Andrew K. Epting, Jr., LLC
46-A State Street
Charleston, SC 29401

Received by PROCESS SERVICE, INC. to be served on **JO-ANN COOPER, 175 CONCORD ST. #308, CHARELSTON, SC 29401**.

I, John R. Gamble, being duly sworn, depose and say that on the **22nd day of June, 2016** at 4:00 pm, I:

**PERSONALLY** served by delivering a true copy of the **LETTER; AMENDED LIS PENDENS; AMENDED SUMMONS; AMENDED COMPLAINT; VERIFICATION; AMENDED NOTICE AND CERTIFICATE OF MECHANIC'S LIEN; EXHIBIT A; EXHIBIT B; MOTION TO STAY AND COMPEL ARBITRATION; EXHIBIT A** to: **JO-ANN COOPER** at the address of: **175 CONCORD ST. #308, CHARELSTON, SC 29401**.

I am over eighteen and have no interest in the above action.

**John R. Gamble**
PROCESS SERVER

**PROCESS SERVICE, INC.**
**P.O. Box 20097**
**Charleston, SC 29413**
**(843) 577-2355**

Our Job Serial Number: LEX-2016001469

Subscribed and Sworn to before me on the 23rd day of June, 2016 by the affiant who is personally known to me.

NOTARY PUBLIC
Commission Expires: 5-6-19

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# AFFIDAVIT OF SERVICE

**State of South Carolina** **County of Charleston** **Common Pleas Court**

Case Number: 2016-CP-10-2955

Plaintiff:
**TCC OF CHARLESTON**

vs.

Defendant:
**CONCORD AND CUMBERLAND, LLC; CONCORD AND CUMBERLAND HPR ET AL**

For:
Andrew K. Epting, Jr., Esq.
Andrew K. Epting, Jr., LLC
46-A State Street
Charleston, SC 29401

Received by PROCESS SERVICE, INC. to be served on **BETTY BEATTY, 175 CONCORD ST. # 4, CHARELSTON, SC 29401**.

I, John R. Gamble, being duly sworn, depose and say that on the **22nd day of June, 2016** at 3:47 pm, I:

**PERSONALLY** served by delivering a true copy of the **LETTER; AMENDED LIS PENDENS; AMENDED SUMMONS; AMENDED COMPLAINT; VERIFICATION; AMENDED NOTICE AND CERTIFICATE OF MECHANIC'S LIEN; EXHIBIT A; EXHIBIT B; MOTION TO STAY AND COMPEL ARBITRATION; EXHIBIT A** to: **BETTY BEATTY** at the address of: **175 CONCORD ST. # 4, CHARELSTON, SC 29401**.

I am over eighteen and have no interest in the above action.

**John R. Gamble**
PROCESS SERVER

**PROCESS SERVICE, INC.**
**P.O. Box 20097**
**Charleston, SC 29413**
**(843) 577-2355**

Our Job Serial Number: LEX-2016001475

Subscribed and Sworn to before me on the 23rd day of June, 2016 by the affiant who is personally known to me.

NOTARY PUBLIC
Commission Expires: 5-6-19

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# AFFIDAVIT OF SERVICE

**State of South Carolina** **County of Charleston** **Common Pleas Court**

Case Number: 2016-CP-10-2955

Plaintiff:
**TCC OF CHARLESTON**

vs.

Defendant:
**CONCORD AND CUMBERLAND, LLC; CONCORD AND CUMBERLAND HPR ET AL**

For:
Andrew K. Epting, Jr., Esq.
Andrew K. Epting, Jr., LLC
46-A State Street
Charleston, SC 29401

Received by PROCESS SERVICE, INC. to be served on **BETTY Y SEGAL, 175 CONCORD ST. PH #1, CHARELSTON, SC 29401**.

I, John R. Gamble, being duly sworn, depose and say that on the **22nd day of June, 2016** at 3:51 pm, I:

**PERSONALLY** served by delivering a true copy of the **LETTER; AMENDED LIS PENDENS; AMENDED SUMMONS; AMENDED COMPLAINT; VERIFICATION; AMENDED NOTICE AND CERTIFICATE OF MECHANIC'S LIEN; EXHIBIT A; EXHIBIT B; MOTION TO STAY AND COMPEL ARBITRATION; EXHIBIT A** to: **BETTY Y SEGAL** at the address of: **175 CONCORD ST. PH #1, CHARELSTON, SC 29401**.

I am over eighteen and have no interest in the above action.

**John R. Gamble**
PROCESS SERVER

**PROCESS SERVICE, INC.**
**P.O. Box 20097**
**Charleston, SC 29413**
**(843) 577-2355**

Our Job Serial Number: LEX-2016001468

Subscribed and Sworn to before me on the 23rd day of June, 2016 by the affiant who is personally known to me.

NOTARY PUBLIC
Commission Expires: 5-6-19

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| | | |
|---|---|---|
| STATE OF SOUTH CAROLINA | ) | IN THE COURT OF COMMON PLEAS |
| | ) | FOR THE NINTH JUDICIAL CIRCUIT |
| COUNTY OF CHARLESTON | ) | Case No.: 2016-CP-10-2955 |

| | | |
|---|---|---|
| TCC OF CHARLESTON, INC. | ) | |
| | ) | |
| Plaintiff, | ) | |
| | ) | |
| v. | ) | |
| | ) | |
| CONCORD AND CUMBERLAND, LLC., CONCORD & CUMBERLAND HPR, LEO HALL, DIANE HALL, BEA H. SMITH, MARGARET C. POPE, WILLIAM D. FOSTER, JR., GENE G. FOSTER, MATTISON J. MACGILLIVRAY, TERESA MACGILLIVRAY, PAMELA L. VAUGHN, NELIA A. PATRICIO, Trustee of the Nelia A. Patricio Revocable Trust Agreement, STUART D. REEVES, EDWARD T. STROM, BARBARA K. HENDERSON, JAMES R. CLARKE, PAUL A. BRIM, ROBERT K. SEIDL, JENNIFER M. SEIDL, ROBERT KENNETH SEIDL, II, M. BERT STOREY, THOMAS R. MATHER, EDWARD T. STROM, 304 CONCORD & CUMBERLAND, LLC, MARION M. SIMPSON F/K/A MARION MOORE MCDONALD SIMPSON, KATHY GARDNER, GREGORY J. GARDNER, FREEMAN WATERFRONT PROPERTIES, LLC, JO-ANN COOPER, BETTY Y. SEGAL, ROBERT M. LEVIN AND BONITA K. LEVIN, DONALD D. LEONARD, BETTY L. BEATTY, MATTELLEN, LLC, AND THOMAS R. DEBNAM, Trustee of the Trust Agreement of Thomas R. Debnam, | ) | AFFIDAVIT OF SERVICE OF BARBARA K. HENERSON |
| | ) | |
| Defendants. | ) | |

I, Angela Gross, being duly sworn, depose and say that on June 17, 2016, I sent the Amended *Lis Pendens*, Amended Mechanic's Lien, Motion for Arbitration, and Amended Summons and Amended Complaint for the above referenced matter via US Mail, Certified-Return Receipt Requested, Restricted Delivery addressed to:

BARBARA K. HENDERSON, 1009 Hineburd Road, Battleboro, VT 05301, which was received and signed for on July 1, 2016 as reflected on the PS Form 3811 Return Receipt (7014-1200-0001-6241-0119)(**EXHIBIT A).**

Angela Gross, Legal Assistant to
Andrew K. Epting, Jr., Esquire
Michelle N. Endemann, Esquire
Andrew K. Epting, Jr., LLC
46A State Street
Charleston, SC 29401
Phone: 843-377-1871
Facsimile: 843-377-1310

Sworn to and subscribed before me
On this 4 day of Nov, 2016

Notary Public for South Carolina
My Commission Expires: 3/1/20

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# EXHIBIT "A"

**SENDER: COMPLETE THIS SECTION**

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Barbara K. Henderson
1009 Hinesburd Road
Brattleboro, VT 05301

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature
X [signature] ☐ Agent ☐ Addressee

B. Received by (Printed Name) Kelly Tyler C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

RECEIVED
JUL 05 2016
By

3. Service Type
☑ Certified Mail® ☐ Priority Mail Express™
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ Collect on Delivery

4. Restricted Delivery? (Extra Fee) ☑ Yes

2. Article Number (Transfer from service label) 7014 1200 0001 6241 0119

PS Form 3811, July 2013 Domestic Return Receipt

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| | | |
|---|---|---|
| STATE OF SOUTH CAROLINA<br><br>COUNTY OF CHARLESTON | )<br>)<br>) | IN THE COURT OF COMMON PLEAS<br>FOR THE NINTH JUDICIAL CIRCUIT<br>Case No.: 2016-CP-10-2955 |

| | | |
|---|---|---|
| TCC OF CHARLESTON, INC.<br><br>Plaintiff,<br><br>v.<br><br>CONCORD AND CUMBERLAND, LLC., CONCORD & CUMBERLAND HPR, LEO HALL, DIANE HALL, BEA H. SMITH, MARGARET C. POPE, WILLIAM D. FOSTER, JR., GENE G. FOSTER, MATTISON J. MACGILLIVRAY, TERESA MACGILLIVRAY, PAMELA L. VAUGHN, NELIA A. PATRICIO, Trustee of the Nelia A. Patricio Revocable Trust Agreement, STUART D. REEVES, EDWARD T. STROM, BARBARA K. HENDERSON, JAMES R. CLARKE, PAUL A. BRIM, ROBERT K. SEIDL, JENNIFER M. SEIDL, ROBERT KENNETH SEIDL, II, M. BERT STOREY, THOMAS R. MATHER, EDWARD T. STROM, 304 CONCORD & CUMBERLAND, LLC, MARION M. SIMPSON F/K/A MARION MOORE MCDONALD SIMPSON, KATHY GARDNER, GREGORY J. GARDNER, FREEMAN WATERFRONT PROPERTIES, LLC, JO-ANN COOPER, BETTY Y. SEGAL, ROBERT M. LEVIN AND BONITA K. LEVIN, DONALD D. LEONARD, BETTY L. BEATTY, MATTELLEN, LLC, AND THOMAS R. DEBNAM, Trustee of the Trust Agreement of Thomas R. Debnam,<br><br>Defendants. | )<br>)<br>)<br>)

I, Angela Gross, being duly sworn, depose and say that on June 17, 2016, I sent the Amended *Lis Pendens*, Amended Mechanic's Lien, Motion for Arbitration, and Amended Summons and Amended Complaint for the above referenced matter via US Mail, Certified-Return Receipt Requested, Restricted Delivery addressed to:

PAUL A. BRIM, 212 Estate Drive, Hendersonville, NC 28739, P.O. Box 6965, Columbia, SC 29260, which was received and signed for on July 1, 2016 as reflected on the PS Form 3811 Return Receipt (7014-1200-0001-6241-0126)(**EXHIBIT A).**

Angela Gross, Legal Assistant to
Andrew K. Epting, Jr., Esquire
Michelle N. Endemann, Esquire
Andrew K. Epting, Jr., LLC
46A State Street
Charleston, SC 29401
Phone: 843-377-1871
Facsimile: 843-377-1310

Sworn to and subscribed before me
On this 4 day of Nov, 2016

Notary Public for South Carolina
My Commission Expires: 3.1.20

ELECTRONICALLY FILED - 2020 Nov 03 4:22 PM - CHARLESTON - COMMON PLEAS - CASE#2016CP1002955

ELECTRONICALLY FILED - 2020 Nov 03 4:22 PM - CHARLESTON - COMMON PLEAS - CASE#2016CP1002955

# EXHIBIT "A"

**SENDER: *COMPLETE THIS SECTION***

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Paul A. Brim
212 Estate Drive
Hendersonville, NC 28739

***COMPLETE THIS SECTION ON DELIVERY***

A. Signature
X Paul Brim ☐ Agent ☑ Addressee

B. Received by *(Printed Name)* Paul Brim
C. Date of Delivery 7/1/16

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☑ No

3. Service Type
☑ Certified Mail® ☐ Priority Mail Express™
☐ Registered ☑ Return Receipt for Merchandise
☐ Insured Mail ☐ Collect on Delivery

4. Restricted Delivery? *(Extra Fee)* ☑ Yes

2. Article Number *(Transfer from service label)* 7014 1200 0001 6241 0136

PS Form 3811, July 2013 Domestic Return Receipt

ELECTRONICALLY FILED - 2020 Nov 03 4:22 PM - CHARLESTON - COMMON PLEAS - CASE#2016CP1002955

| | | |
|---|---|---|
| STATE OF SOUTH CAROLINA<br><br>COUNTY OF CHARLESTON | )<br>)<br>) | IN THE COURT OF COMMON PLEAS<br>FOR THE NINTH JUDICIAL CIRCUIT<br>Case No.: 2016-CP-10-2955 |

| | | |
|---|---|---|
| TCC OF CHARLESTON, INC.<br><br>Plaintiff,<br><br>v.<br><br>CONCORD AND CUMBERLAND, LLC., CONCORD & CUMBERLAND HPR, LEO HALL, DIANE HALL, BEA H. SMITH, MARGARET C. POPE, WILLIAM D. FOSTER, JR., GENE G. FOSTER, MATTISON J. MACGILLIVRAY, TERESA MACGILLIVRAY, PAMELA L. VAUGHN, NELIA A. PATRICIO, Trustee of the Nelia A. Patricio Revocable Trust Agreement, STUART D. REEVES, EDWARD T. STROM, BARBARA K. HENDERSON, JAMES R. CLARKE, PAUL A. BRIM, ROBERT K. SEIDL, JENNIFER M. SEIDL, ROBERT KENNETH SEIDL, II, M. BERT STOREY, THOMAS R. MATHER, EDWARD T. STROM, 304 CONCORD & CUMBERLAND, LLC, MARION M. SIMPSON F/K/A MARION MOORE MCDONALD SIMPSON, KATHY GARDNER, GREGORY J. GARDNER, FREEMAN WATERFRONT PROPERTIES, LLC, JO-ANN COOPER, BETTY Y. SEGAL, ROBERT M. LEVIN AND BONITA K. LEVIN, DONALD D. LEONARD, BETTY L. BEATTY, MATTELLEN, LLC, AND THOMAS R. DEBNAM, Trustee of the Trust Agreement of Thomas R. Debnam,<br><br>Defendants. | )<br>)<br>)<br>)

I, Angela Gross, being duly sworn, depose and say that on June 17, 2016, I sent the Amended *Lis Pendens*, Amended Mechanic's Lien, Motion for Arbitration, and Amended Summons and Amended Complaint for the above referenced matter via US Mail, Certified-Return Receipt Requested, Restricted Delivery addressed to:

EDWARD T. STROM, P.O. Box 6965, Columbia, SC 29260, which was received and signed for on July 1, 2016 as reflected on the PS Form 3811 Return Receipt (7014-1200-0001-6241-0102)(**EXHIBIT A).**

Angela Gross, Legal Assistant to
Andrew K. Epting, Jr., Esquire
Michelle N. Endemann, Esquire
Andrew K. Epting, Jr., LLC
46A State Street
Charleston, SC 29401
Phone: 843-377-1871
Facsimile: 843-377-1310

Sworn to and subscribed before me
On this 4 day of Nov, 2016

Notary Public for South Carolina
My Commission Expires: 3/1/20

ELECTRONICALLY FILED - 2020 Nov 03 4:22 PM - CHARLESTON - COMMON PLEAS - CASE#2016CP1002955

ELECTRONICALLY FILED - 2020 Nov 03 4:22 PM - CHARLESTON - COMMON PLEAS - CASE#2016CP1002955

# EXHIBIT "A"

**SENDER: *COMPLETE THIS SECTION***

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Edward T. Strom
P.O. Box 6965
Columbia, SC 29260

***COMPLETE THIS SECTION ON DELIVERY***

A. Signature
X Sandra Cain ☐ Agent ☐ Addressee

B. Received by *(Printed Name)* Sandra Cain C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type
☑ Certified Mail® ☐ Priority Mail Express™
☐ Registered ☑ Return Receipt for Merchandise
☐ Insured Mail ☐ Collect on Delivery

4. Restricted Delivery? *(Extra Fee)* ☐ Yes

2. Article Number *(Transfer from service label)* 7014 1200 0001 6241 0102

PS Form 3811, July 2013 Domestic Return Receipt

ELECTRONICALLY FILED - 2020 Nov 03 4:22 PM - CHARLESTON - COMMON PLEAS - CASE#2016CP1002955

| | | |
|---|---|---|
| STATE OF SOUTH CAROLINA<br><br>COUNTY OF CHARLESTON | )<br>)<br>) | IN THE COURT OF COMMON PLEAS<br>FOR THE NINTH JUDICIAL CIRCUIT<br>Case No.: 2016-CP-10-2955 |
| TCC OF CHARLESTON, INC.<br><br>Plaintiff,<br><br>v.<br><br>CONCORD AND CUMBERLAND, LLC., CONCORD & CUMBERLAND HPR, LEO HALL, DIANE HALL, BEA H. SMITH, MARGARET C. POPE, WILLIAM D. FOSTER, JR., GENE G. FOSTER, MATTISON J. MACGILLIVRAY, TERESA MACGILLIVRAY, PAMELA L. VAUGHN, NELIA A. PATRICIO, Trustee of the Nelia A. Patricio Revocable Trust Agreement, STUART D. REEVES, EDWARD T. STROM, BARBARA K. HENDERSON, JAMES R. CLARKE, PAUL A. BRIM, ROBERT K. SEIDL, JENNIFER M. SEIDL, ROBERT KENNETH SEIDL, II, M. BERT STOREY, THOMAS R. MATHER, EDWARD T. STROM, 304 CONCORD & CUMBERLAND, LLC, MARION M. SIMPSON F/K/A MARION MOORE MCDONALD SIMPSON, KATHY GARDNER, GREGORY J. GARDNER, FREEMAN WATERFRONT PROPERTIES, LLC, JO-ANN COOPER, BETTY Y. SEGAL, ROBERT M. LEVIN AND BONITA K. LEVIN, DONALD D. LEONARD, BETTY L. BEATTY, MATTELLEN, LLC, AND THOMAS R. DEBNAM, Trustee of the Trust Agreement of Thomas R. Debnam,<br><br>Defendants. | )<br>)<br>)<br>)

I, Angela Gross, being duly sworn, depose and say that on June 17, 2016, I sent the Amended *Lis Pendens*, Amended Mechanic's Lien, Motion for Arbitration, and Amended Summons and Amended Complaint for the above referenced matter via US Mail, Certified-Return Receipt Requested, Restricted Delivery addressed to:

Pamela R. Queen, as Registered Agent for FREEMAN WATERFRONT PROPERTIES, LLC, 125B Wamsutta Mill Road, Morganton, NC 28655 which was received and signed for on June 23, 2016 as reflected on the PS Form 3811 Return Receipt (7014-1200-0001-6241-3486)(**EXHIBIT A).**

Angela Gross, Legal Assistant to
Andrew K. Epting, Jr., Esquire
Michelle N. Endemann, Esquire
Andrew K. Epting, Jr., LLC
46A State Street
Charleston, SC 29401
Phone: 843-377-1871
Facsimile: 843-377-1310

Sworn to and subscribed before me
On this 2 day of Nov, 2016

Notary Public for South Carolina
My Commission Expires: 3.1.20

ELECTRONICALLY FILED - 2020 Nov 03 4:22 PM - CHARLESTON - COMMON PLEAS - CASE#2016CP1002955

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# EXHIBIT "A"

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- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Freeman Waterfront Properties, LLC
c/o Pamela R Queen, Registered Agent
125 B Wamsutta Mill Rd
Morganton NC 28655

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature
X [signature] ☑ Agent ☐ Addressee

B. Received by (Printed Name) Kelli Hemmins
C. Date of Delivery 6-22

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type
☐ Certified Mail ☐ Express Mail
☐ Registered ☑ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee) ☑ Yes

2. Article Number (Transfer from service label) 7014 1200 0001 6241 3486

PS Form 3811, February 2004 Domestic Return Receipt 102595-02-M-1540

ELECTRONICALLY FILED - 2020 Nov 03 4:22 PM - CHARLESTON - COMMON PLEAS - CASE#2016CP1002955

| | | |
|---|---|---|
| STATE OF SOUTH CAROLINA<br><br>COUNTY OF CHARLESTON | )<br>)<br>) | IN THE COURT OF COMMON PLEAS<br>FOR THE NINTH JUDICIAL CIRCUIT<br>Case No.: 2016-CP-10-2955 |
| TCC OF CHARLESTON, INC.<br><br>Plaintiff,<br><br>v.<br><br>CONCORD AND CUMBERLAND, LLC., CONCORD & CUMBERLAND HPR, LEO HALL, DIANE HALL, BEA H. SMITH, MARGARET C. POPE, WILLIAM D. FOSTER, JR., GENE G. FOSTER, MATTISON J. MACGILLIVRAY, TERESA MACGILLIVRAY, PAMELA L. VAUGHN, NELIA A. PATRICIO, Trustee of the Nelia A. Patricio Revocable Trust Agreement, STUART D. REEVES, EDWARD T. STROM, BARBARA K. HENDERSON, JAMES R. CLARKE, PAUL A. BRIM, ROBERT K. SEIDL, JENNIFER M. SEIDL, ROBERT KENNETH SEIDL, II, M. BERT STOREY, THOMAS R. MATHER, EDWARD T. STROM, 304 CONCORD & CUMBERLAND, LLC, MARION M. SIMPSON F/K/A MARION MOORE MCDONALD SIMPSON, KATHY GARDNER, GREGORY J. GARDNER, FREEMAN WATERFRONT PROPERTIES, LLC, JO-ANN COOPER, BETTY Y. SEGAL, ROBERT M. LEVIN AND BONITA K. LEVIN, DONALD D. LEONARD, BETTY L. BEATTY, MATTELLEN, LLC, AND THOMAS R. DEBNAM, Trustee of the Trust Agreement of Thomas R. Debnam,<br><br>Defendants. | )<br>)<br>)<br>)

I, Angela Gross, being duly sworn, depose and say that on June 17, 2016, I sent the Amended *Lis Pendens*, Amended Mechanic's Lien, Motion for Arbitration, and Amended Summons and Amended Complaint for the above referenced matter via US Mail, Certified-Return Receipt Requested, Restricted Delivery addressed to:

> Margaret J. Schultz, as Registered Agent for 304 CONCORD & CUMBERLAND, LLC, 111 North Plaza Ct., Mt. Pleasant, SC 29464 which was received and signed for on June 25, 2016 as reflected on the PS Form 3811 Return Receipt (7014-1200-0001-6241-3516)(**EXHIBIT A).**

Angela Gross, Legal Assistant to
Andrew K. Epting, Jr., Esquire
Michelle N. Endemann, Esquire
Andrew K. Epting, Jr., LLC
46A State Street
Charleston, SC 29401
Phone: 843-377-1871
Facsimile: 843-377-1310

Sworn to and subscribed before me
On this 4 day of Nov, 2016

Notary Public for South Carolina
My Commission Expires: 3.1.20

ELECTRONICALLY FILED - 2020 Nov 03 4:22 PM - CHARLESTON - COMMON PLEAS - CASE#2016CP1002955

ELECTRONICALLY FILED - 2020 Nov 03 4:22 PM - CHARLESTON - COMMON PLEAS - CASE#2016CP1002955

# EXHIBIT "A"

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- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

304 Concord & Cumberland, LLC
c/o Margaret J. Schultz, Register Agent
111 North Plaza Ct.
Mt. Pleasant, SC 29464

***COMPLETE THIS SECTION ON DELIVERY***

A. Signature
X M Schultz ☐ Agent ☑ Addressee

B. Received by *(Printed Name)* MSchultz C. Date of Delivery 6/25/16

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type
☑ Certified Mail® ☐ Priority Mail Express™
☐ Registered ☑ Return Receipt for Merchandise
☐ Insured Mail ☐ Collect on Delivery

4. Restricted Delivery? *(Extra Fee)* ☑ Yes

2. Article Number *(Transfer from service label)* 7014 2000 0001 6241 3516

PS Form 3811, July 2013 Domestic Return Receipt

ELECTRONICALLY FILED - 2020 Nov 03 4:22 PM - CHARLESTON - COMMON PLEAS - CASE#2016CP1002955

| | | |
|---|---|---|
| STATE OF SOUTH CAROLINA<br><br>COUNTY OF CHARLESTON | )<br>)<br>) | IN THE COURT OF COMMON PLEAS<br>FOR THE NINTH JUDICIAL CIRCUIT<br>Case No.: 2016-CP-10-2955 |
| TCC OF CHARLESTON, INC.<br><br>Plaintiff,<br><br>v.<br><br>CONCORD AND CUMBERLAND, LLC., CONCORD & CUMBERLAND HPR, LEO HALL, DIANE HALL, BEA H. SMITH, MARGARET C. POPE, WILLIAM D. FOSTER, JR., GENE G. FOSTER, MATTISON J. MACGILLIVRAY, TERESA MACGILLIVRAY, PAMELA L. VAUGHN, NELIA A. PATRICIO, Trustee of the Nelia A. Patricio Revocable Trust Agreement, STUART D. REEVES, EDWARD T. STROM, BARBARA K. HENDERSON, JAMES R. CLARKE, PAUL A. BRIM, ROBERT K. SEIDL, JENNIFER M. SEIDL, ROBERT KENNETH SEIDL, II, M. BERT STOREY, THOMAS R. MATHER, EDWARD T. STROM, 304 CONCORD & CUMBERLAND, LLC, MARION M. SIMPSON F/K/A MARION MOORE MCDONALD SIMPSON, KATHY GARDNER, GREGORY J. GARDNER, FREEMAN WATERFRONT PROPERTIES, LLC, JO-ANN COOPER, BETTY Y. SEGAL, ROBERT M. LEVIN AND BONITA K. LEVIN, DONALD D. LEONARD, BETTY L. BEATTY, MATTELLEN, LLC, AND THOMAS R. DEBNAM, Trustee of the Trust Agreement of Thomas R. Debnam,<br><br>Defendants. | )<br>)<br>)<br>)

I, Angela Gross, being duly sworn, depose and say that on June 17, 2016, I sent the Amended *Lis Pendens*, Amended Mechanic's Lien, Motion for Arbitration, and Amended Summons and Amended Complaint for the above referenced matter via US Mail, Certified-Return Receipt Requested, Restricted Delivery addressed to:

NP Corpsesrve SC, LLC, as Registered Agent for MATTELLEN, LLC, 1230 Main Street, Suite 700, Columbia, SC 29401 which was received and signed for on June 23, 2016 as reflected on the PS Form 3811 Return Receipt (7014-1200-0001-6241-3493)(**EXHIBIT A).**

Angela Gross, Legal Assistant to
Andrew K. Epting, Jr., Esquire
Michelle N. Endemann, Esquire
Andrew K. Epting, Jr., LLC
46A State Street
Charleston, SC 29401
Phone: 843-377-1871
Facsimile: 843-377-1310

Sworn to and subscribed before me
On this 4 day of Nov, 2016

Notary Public for South Carolina
My Commission Expires: 3.1.20

ELECTRONICALLY FILED - 2020 Nov 03 4:22 PM - CHARLESTON - COMMON PLEAS - CASE#2016CP1002955

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# EXHIBIT "A"

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- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Mattellen, LLC
c/o NP CORPSERV SC, LLC
1230 MAIN ST., Suite 700
COLUMBIA , SC 29201

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature
X Brenda Scott ☐ Agent ☐ Addressee

B. Received by (Printed Name) Brenda Scott C. Date of Delivery 6/23/16

D. Is delivery address different from Item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

DEL: 6/23/16

3. Service Type
☑ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee) ☑ Yes

2. Article Number (Transfer from service label) 7014 1200 0001 6241 3479

PS Form 3811, February 2004 Domestic Return Receipt 102595-02-M-1540

ELECTRONICALLY FILED - 2020 Nov 03 4:22 PM - CHARLESTON - COMMON PLEAS - CASE#2016CP1002955

| | | |
|---|---|---|
| STATE OF SOUTH CAROLINA<br><br>COUNTY OF CHARLESTON | )<br>)<br>) | IN THE COURT OF COMMON PLEAS<br>FOR THE NINTH JUDICIAL CIRCUIT<br>Case No.: 2016-CP-10-2955 |

| | | |
|---|---|---|
| TCC OF CHARLESTON, INC.<br><br>Plaintiff,<br><br>v.<br><br>CONCORD AND CUMBERLAND, LLC., CONCORD & CUMBERLAND HPR, LEO HALL, DIANE HALL, BEA H. SMITH, MARGARET C. POPE, WILLIAM D. FOSTER, JR., GENE G. FOSTER, MATTISON J. MACGILLIVRAY, TERESA MACGILLIVRAY, PAMELA L. VAUGHN, NELIA A. PATRICIO, Trustee of the Nelia A. Patricio Revocable Trust Agreement, STUART D. REEVES, EDWARD T. STROM, BARBARA K. HENDERSON, JAMES R. CLARKE, PAUL A. BRIM, ROBERT K. SEIDL, JENNIFER M. SEIDL, ROBERT KENNETH SEIDL, II, M. BERT STOREY, THOMAS R. MATHER, EDWARD T. STROM, 304 CONCORD & CUMBERLAND, LLC, MARION M. SIMPSON F/K/A MARION MOORE MCDONALD SIMPSON, KATHY GARDNER, GREGORY J. GARDNER, FREEMAN WATERFRONT PROPERTIES, LLC, JO-ANN COOPER, BETTY Y. SEGAL, ROBERT M. LEVIN AND BONITA K. LEVIN, DONALD D. LEONARD, BETTY L. BEATTY, MATTELLEN, LLC, AND THOMAS R. DEBNAM, Trustee of the Trust Agreement of Thomas R. Debnam,<br><br>Defendants. | )<br>)<br>)<br>)

I, Angela Gross, being duly sworn, depose and say that on June 17, 2016, I sent the Amended *Lis Pendens*, Amended Mechanic's Lien, Motion for Arbitration, and Amended Summons and Amended Complaint for the above referenced matter via US Mail, Certified-Return Receipt Requested, Restricted Delivery addressed to:

NP Corpserve SC, LLC, as Registered Agent for CONCORD AND CUMBERLAND, LLC, 1230 Main Street, Suite 700, Columbia, SC 29401 which was received and signed for on June 23, 2016 as reflected on the PS Form 3811 Return Receipt (7014-1200-0001-6241-3493)(**EXHIBIT A).**

Angela Gross, Legal Assistant to
Andrew K. Epting, Jr., Esquire
Michelle N. Endemann, Esquire
Andrew K. Epting, Jr., LLC
46A State Street
Charleston, SC 29401
Phone: 843-377-1871
Facsimile: 843-377-1310

Sworn to and subscribed before me
On this 21 day of Nov, 2016

Notary Public for South Carolina
My Commission Expires: 3.1.20

ELECTRONICALLY FILED - 2020 Nov 03 4:22 PM - CHARLESTON - COMMON PLEAS - CASE#2016CP1002955

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- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Concord and Cumberland, LLC
c/o NP Corpserv SC, LLC
1230 Main Street, Suite 700
Columbia, SC 29401

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature
X Brenda Scott ☐ Agent ☐ Addressee

B. Received by (Printed Name) Brenda Scott C. Date of Delivery 6/23/16

D. Is delivery address different from item 1? ☐ Yes ☐ No
If YES, enter delivery address below:

DEL.
10/23/16

3. Service Type
☑ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee) ☑ Yes

2. Article Number (Transfer from service label) 7014 1200 0001 6241 3493

PS Form 3811, February 2004 Domestic Return Receipt 102595-02-M-1540

ELECTRONICALLY FILED - 2020 Nov 03 4:22 PM - CHARLESTON - COMMON PLEAS - CASE#2016CP1002955

| | | |
|---|---|---|
| STATE OF SOUTH CAROLINA<br><br>COUNTY OF CHARLESTON | )<br>)<br>) | IN THE COURT OF COMMON PLEAS<br>FOR THE NINTH JUDICIAL CIRCUIT<br>Case No.: 2016-CP-10-2955 |

| | | |
|---|---|---|
| TCC OF CHARLESTON, INC.<br><br>Plaintiff,<br><br>v.<br><br>CONCORD AND CUMBERLAND, LLC., CONCORD & CUMBERLAND HPR, LEO HALL, DIANE HALL, BEA H. SMITH, MARGARET C. POPE, WILLIAM D. FOSTER, JR., GENE G. FOSTER, MATTISON J. MACGILLIVRAY, TERESA MACGILLIVRAY, PAMELA L. VAUGHN, NELIA A. PATRICIO, Trustee of the Nelia A. Patricio Revocable Trust Agreement, STUART D. REEVES, EDWARD T. STROM, BARBARA K. HENDERSON, JAMES R. CLARKE, PAUL A. BRIM, ROBERT K. SEIDL, JENNIFER M. SEIDL, ROBERT KENNETH SEIDL, II, M. BERT STOREY, THOMAS R. MATHER, EDWARD T. STROM, 304 CONCORD & CUMBERLAND, LLC, MARION M. SIMPSON F/K/A MARION MOORE MCDONALD SIMPSON, KATHY GARDNER, GREGORY J. GARDNER, FREEMAN WATERFRONT PROPERTIES, LLC, JO-ANN COOPER, BETTY Y. SEGAL, ROBERT M. LEVIN AND BONITA K. LEVIN, DONALD D. LEONARD, BETTY L. BEATTY, MATTELLEN, LLC, AND THOMAS R. DEBNAM, Trustee of the Trust Agreement of Thomas R. Debnam,<br><br>Defendants. | )<br>)<br>)<br>)

I, Angela Gross, being duly sworn, depose and say that on June 17, 2016, I sent the Amended *Lis Pendens*, Amended Mechanic's Lien, Motion for Arbitration, and Amended Summons and Amended Complaint for the above referenced matter via US Mail, Certified-Return Receipt Requested, Restricted Delivery addressed to:

DONALD D. LEONARD, 3501 N. Kings Highway, Myrtle Beach, SC 29577, which was received and signed for on July 1, 2016 as reflected on the PS Form 3811 Return Receipt (7014-1200-0001-6241-0164)(**EXHIBIT A).**

Angela Gross, Legal Assistant to
Andrew K. Epting, Jr., Esquire
Michelle N. Endemann, Esquire
Andrew K. Epting, Jr., LLC
46A State Street
Charleston, SC 29401
Phone: 843-377-1871
Facsimile: 843-377-1310

Sworn to and subscribed before me
On this 4 day of Nov, 2016

Notary Public for South Carolina
My Commission Expires: 3.1.20

ELECTRONICALLY FILED - 2020 Nov 03 4:22 PM - CHARLESTON - COMMON PLEAS - CASE#2016CP1002955

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- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Donald D. Leonard
3501 N. Kings Highway
Myrtle Beach, SC 29577

***COMPLETE THIS SECTION ON DELIVERY***

A. Signature
X [signature] ☑ Agent ☐ Addressee

B. Received by *(Printed Name)*

C. Date of Delivery 6/30

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type
☑ Certified Mail® ☐ Priority Mail Express™
☐ Registered ☑ Return Receipt for Merchandise
☐ Insured Mail ☐ Collect on Delivery

4. Restricted Delivery? *(Extra Fee)* ☑ Yes

2. Article Number *(Transfer from service label)* 7014 1200 0001 6241 0164

PS Form 3811, July 2013 Domestic Return Receipt

ELECTRONICALLY FILED - 2020 Nov 03 4:22 PM - CHARLESTON - COMMON PLEAS - CASE#2016CP1002955

| | | |
|---|---|---|
| STATE OF SOUTH CAROLINA<br><br>COUNTY OF CHARLESTON | )<br>)<br>) | IN THE COURT OF COMMON PLEAS<br>FOR THE NINTH JUDICIAL CIRCUIT<br>Case No.: 2016-CP-10-2955 |

| | | |
|---|---|---|
| TCC OF CHARLESTON, INC.<br><br>Plaintiff,<br><br>v.<br><br>CONCORD AND CUMBERLAND, LLC., CONCORD & CUMBERLAND HPR, LEO HALL, DIANE HALL, BEA H. SMITH, MARGARET C. POPE, WILLIAM D. FOSTER, JR., GENE G. FOSTER, MATTISON J. MACGILLIVRAY, TERESA MACGILLIVRAY, PAMELA L. VAUGHN, NELIA A. PATRICIO, Trustee of the Nelia A. Patricio Revocable Trust Agreement, STUART D. REEVES, EDWARD T. STROM, BARBARA K. HENDERSON, JAMES R. CLARKE, PAUL A. BRIM, ROBERT K. SEIDL, JENNIFER M. SEIDL, ROBERT KENNETH SEIDL, II, M. BERT STOREY, THOMAS R. MATHER, EDWARD T. STROM, 304 CONCORD & CUMBERLAND, LLC, MARION M. SIMPSON F/K/A MARION MOORE MCDONALD SIMPSON, KATHY GARDNER, GREGORY J. GARDNER, FREEMAN WATERFRONT PROPERTIES, LLC, JO-ANN COOPER, BETTY Y. SEGAL, ROBERT M. LEVIN AND BONITA K. LEVIN, DONALD D. LEONARD, BETTY L. BEATTY, MATTELLEN, LLC, AND THOMAS R. DEBNAM, Trustee of the Trust Agreement of Thomas R. Debnam,<br><br>Defendants. | ) | AFFIDAVIT OF SERVICE OF<br>M. BERT STOREY |

I, Angela Gross, being duly sworn, depose and say that on June 17, 2016, I sent the Amended *Lis Pendens*, Amended Mechanic's Lien, Motion for Arbitration, and Amended Summons and Amended Complaint for the above referenced matter via US Mail, Certified-Return Receipt Requested, Restricted Delivery addressed to:

M. BERT STOREY, 3531 Walton Way Ext., August, GA 30909, which was received and signed for on July 5, 2016 as reflected on the PS Form 3811 Return Receipt (7014-1200-0001-6241-0133)(**EXHIBIT A).**

Angela Gross, Legal Assistant to
Andrew K. Epting, Jr., Esquire
Michelle N. Endemann, Esquire
Andrew K. Epting, Jr., LLC
46A State Street
Charleston, SC 29401
Phone: 843-377-1871
Facsimile: 843-377-1310

Sworn to and subscribed before me
On this 4 day of Nov, 2016

Notary Public for South Carolina
My Commission Expires: 3.1.20

ELECTRONICALLY FILED - 2020 Nov 03 4:22 PM - CHARLESTON - COMMON PLEAS - CASE#2016CP1002955

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# EXHIBIT "A"

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- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

M. Bert Storey
3531 Walton Way Ext.
Augusta, GA 30909

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature
x [signature] ☐ Agent ☐ Addressee

B. Received by *(Printed Name)* C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type
☑ Certified Mail® ☐ Priority Mail Express™
☐ Registered ☑ Return Receipt for Merchandise
☐ Insured Mail ☐ Collect on Delivery

4. Restricted Delivery? *(Extra Fee)* ☐ Yes

2. Article Number
*(Transfer from service label)* 7014 2000 0001 6241 0133

PS Form 3811, July 2013 Domestic Return Receipt

ELECTRONICALLY FILED - 2020 Nov 03 4:22 PM - CHARLESTON - COMMON PLEAS - CASE#2016CP1002955



# USPS Tracking®

Customer Service ›
Have questions? We're here to help.

Get Easy Tracking Updates ›
Sign up for My USPS.

Tracking Number: **70141200000162410133**

Updated Delivery Day: **Saturday, July 2, 2016**

## Product & Tracking Information

**Postal Product:**

**Features:**
Certified Mail™

| DATE & TIME | STATUS OF ITEM | LOCATION |
|---|---|---|
| **July 5, 2016 , 10:42 am** | Delivered, Front Desk/Reception | **AUGUSTA, GA 30909** |
| Your item was delivered to the front desk or reception area at 10:42 am on July 5, 2016 in AUGUSTA, GA 30909. | | |
| July 2, 2016 , 9:36 am | Business Closed | AUGUSTA, GA 30909 |
| July 1, 2016 , 9:47 am | Arrived at Unit | AUGUSTA, GA 30909 |
| June 30, 2016 , 7:26 pm | Departed USPS Facility | AUGUSTA, GA 30901 |
| June 30, 2016 , 5:25 pm | Arrived at USPS Facility | AUGUSTA, GA 30901 |
| June 30, 2016 , 12:00 pm | Departed USPS Facility | CHARLESTON, SC 29423 |
| June 29, 2016 , 8:57 pm | Arrived at USPS Facility | CHARLESTON, SC 29423 |

## Available Actions

Text Updates

Email Updates

## Track Another Package

**Tracking (or receipt) number**

Track It

## Manage Incoming Packages

Track all your packages from a dashboard.
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| | | |
|---|---|---|
| STATE OF SOUTH CAROLINA<br><br>COUNTY OF CHARLESTON | )<br>)<br>) | IN THE COURT OF COMMON PLEAS<br>FOR THE NINTH JUDICIAL CIRCUIT<br>Case No.: 2016-CP-10-2955 |
| TCC OF CHARLESTON, INC.<br><br>Plaintiff,<br><br>v.<br><br>CONCORD AND CUMBERLAND, LLC., CONCORD & CUMBERLAND HPR, LEO HALL, DIANE HALL, BEA H. SMITH, MARGARET C. POPE, WILLIAM D. FOSTER, JR., GENE G. FOSTER, MATTISON J. MACGILLIVRAY, TERESA MACGILLIVRAY, PAMELA L. VAUGHN, NELIA A. PATRICIO, Trustee of the Nelia A. Patricio Revocable Trust Agreement, STUART D. REEVES, EDWARD T. STROM, BARBARA K. HENDERSON, JAMES R. CLARKE, PAUL A. BRIM, ROBERT K. SEIDL, JENNIFER M. SEIDL, ROBERT KENNETH SEIDL, II, M. BERT STOREY, THOMAS R. MATHER, EDWARD T. STROM, 304 CONCORD & CUMBERLAND, LLC, MARION M. SIMPSON F/K/A MARION MOORE MCDONALD SIMPSON, KATHY GARDNER, GREGORY J. GARDNER, FREEMAN WATERFRONT PROPERTIES, LLC, JO-ANN COOPER, BETTY Y. SEGAL, ROBERT M. LEVIN AND BONITA K. LEVIN, DONALD D. LEONARD, BETTY L. BEATTY, MATTELLEN, LLC, AND THOMAS R. DEBNAM, Trustee of the Trust Agreement of Thomas R. Debnam,<br><br>Defendants. | )<br>)<br>)<br>)

I, Angela Gross, being duly sworn, depose and say that on June 17, 2016, I sent the Amended *Lis Pendens*, Amended Mechanic's Lien, Motion for Arbitration, and Amended Summons and Amended Complaint for the above referenced matter via US Mail, Certified-Return Receipt Requested, Restricted Delivery addressed to:

STUART D. REEVES, 940 McIver Street, Mt. Pleasant, SC 29464, which was received and signed for on July 5, 2016 as reflected on the PS Form 3811 Return Receipt (7014-1200-0001-6241-0096)(**EXHIBIT A).**

Angela Gross, Legal Assistant to
Andrew K. Epting, Jr., Esquire
Michelle N. Endemann, Esquire
Andrew K. Epting, Jr., LLC
46A State Street
Charleston, SC 29401
Phone: 843-377-1871
Facsimile: 843-377-1310

Sworn to and subscribed before me
On this 4 day of Nov, 2016

Notary Public for South Carolina
My Commission Expires: 3.1.20

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# EXHIBIT "A"

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1. Article Addressed to:

Stuart D. Reeves
940 Mciver Street
Mt. Pleasant, SC 29464

***COMPLETE THIS SECTION ON DELIVERY***

A. Signature
X [signature] ☐ Agent ☑ Addressee

B. Received by *(Printed Name)* STUART REEVES C. Date of Delivery 7/5/16

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

RECEIVED
JUL 07 2016
By

3. Service Type
☑ Certified Mail® ☐ Priority Mail Express™
☐ Registered ☑ Return Receipt for Merchandise
☐ Insured Mail ☐ Collect on Delivery

4. Restricted Delivery? *(Extra Fee)* ☑ Yes

2. Article Number *(Transfer from service label)* 7014 1200 0001 6241 0096

PS Form 3811, July 2013 Domestic Return Receipt

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| STATE OF SOUTH CAROLINA<br><br>COUNTY OF CHARLESTON | )<br>)<br>) | IN THE COURT OF COMMON PLEAS<br>FOR THE NINTH JUDICIAL CIRCUIT<br>Case No.: 2016-CP-10-2955 |

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| TCC OF CHARLESTON, INC.<br><br>Plaintiff,<br><br>v.<br><br>CONCORD AND CUMBERLAND, LLC., CONCORD & CUMBERLAND HPR, LEO HALL, DIANE HALL, BEA H. SMITH, MARGARET C. POPE, WILLIAM D. FOSTER, JR., GENE G. FOSTER, MATTISON J. MACGILLIVRAY, TERESA MACGILLIVRAY, PAMELA L. VAUGHN, NELIA A. PATRICIO, Trustee of the Nelia A. Patricio Revocable Trust Agreement, STUART D. REEVES, EDWARD T. STROM, BARBARA K. HENDERSON, JAMES R. CLARKE, PAUL A. BRIM, ROBERT K. SEIDL, JENNIFER M. SEIDL, ROBERT KENNETH SEIDL, II, M. BERT STOREY, THOMAS R. MATHER, EDWARD T. STROM, 304 CONCORD & CUMBERLAND, LLC, MARION M. SIMPSON F/K/A MARION MOORE MCDONALD SIMPSON, KATHY GARDNER, GREGORY J. GARDNER, FREEMAN WATERFRONT PROPERTIES, LLC, JO-ANN COOPER, BETTY Y. SEGAL, ROBERT M. LEVIN AND BONITA K. LEVIN, DONALD D. LEONARD, BETTY L. BEATTY, MATTELLEN, LLC, AND THOMAS R. DEBNAM, Trustee of the Trust Agreement of Thomas R. Debnam,<br><br>Defendants. | )<br>)<br>)<br>)

I, Angela Gross, being duly sworn, depose and say that on June 17, 2016, I sent the Amended *Lis Pendens*, Amended Mechanic's Lien, Motion for Arbitration, and Amended Summons and Amended Complaint for the above referenced matter via US Mail, Certified-Return Receipt Requested, Restricted Delivery addressed to:

LEO HALL, 4881 Sunset Blvd., Lexington, SC 29072-9152, which was received and signed for on July 5, 2016 as reflected on the PS Form 3811 Return Receipt (7014-1200-0001-6236-6683)(**EXHIBIT A).**

Angela Gross, Legal Assistant to
Andrew K. Epting, Jr., Esquire
Michelle N. Endemann, Esquire
Andrew K. Epting, Jr., LLC
46A State Street
Charleston, SC 29401
Phone: 843-377-1871
Facsimile: 843-377-1310

Sworn to and subscribed before me
On this 4th day of Nov, 2016

Notary Public for South Carolina
My Commission Expires: 3.1.20

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- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Leo Hall

4881 Sunset Blvd.

Lexington, SC 29072-9152

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature

X

☐ Agent
☐ Addressee

B. Received by *(Printed Name)* Leo

C. Date of Delivery 7/7/16

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

[redacted]

JUL 07 2016

[redacted]

3. Service Type
☑ Certified Mail® ☐ Priority Mail Express™
☐ Registered ☑ Return Receipt for Merchandise
☐ Insured Mail ☐ Collect on Delivery

4. Restricted Delivery? *(Extra Fee)* ☐ Yes

2. Article Number *(Transfer from service label)* 7014 1200 0001 6236 6683

PS Form 3811, July 2013 Domestic Return Receipt

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| | | |
|---|---|---|
| STATE OF SOUTH CAROLINA<br><br>COUNTY OF CHARLESTON | )<br>)<br>) | IN THE COURT OF COMMON PLEAS<br>FOR THE NINTH JUDICIAL CIRCUIT<br>Case No.: 2016-CP-10-2955 |

| | | |
|---|---|---|
| TCC OF CHARLESTON, INC.<br><br>Plaintiff,<br><br>v.<br><br>CONCORD AND CUMBERLAND, LLC., CONCORD & CUMBERLAND HPR, LEO HALL, DIANE HALL, BEA H. SMITH, MARGARET C. POPE, WILLIAM D. FOSTER, JR., GENE G. FOSTER, MATTISON J. MACGILLIVRAY, TERESA MACGILLIVRAY, PAMELA L. VAUGHN, NELIA A. PATRICIO, Trustee of the Nelia A. Patricio Revocable Trust Agreement, STUART D. REEVES, EDWARD T. STROM, BARBARA K. HENDERSON, JAMES R. CLARKE, PAUL A. BRIM, ROBERT K. SEIDL, JENNIFER M. SEIDL, ROBERT KENNETH SEIDL, II, M. BERT STOREY, THOMAS R. MATHER, EDWARD T. STROM, 304 CONCORD & CUMBERLAND, LLC, MARION M. SIMPSON F/K/A MARION MOORE MCDONALD SIMPSON, KATHY GARDNER, GREGORY J. GARDNER, FREEMAN WATERFRONT PROPERTIES, LLC, JO-ANN COOPER, BETTY Y. SEGAL, ROBERT M. LEVIN AND BONITA K. LEVIN, DONALD D. LEONARD, BETTY L. BEATTY, MATTELLEN, LLC, AND THOMAS R. DEBNAM, Trustee of the Trust Agreement of Thomas R. Debnam,<br><br>Defendants. | )<br>)<br>)<br>)

I, Angela Gross, being duly sworn, depose and say that on June 17, 2016, I sent the Amended *Lis Pendens*, Amended Mechanic's Lien, Motion for Arbitration, and Amended Summons and Amended Complaint for the above referenced matter via US Mail, Certified-Return Receipt Requested, Restricted Delivery addressed to:

DIANE HALL, 4881 Sunset Blvd., Lexington, SC 29072-9152, which was received and signed for on July 5, 2016 as reflected on the PS Form 3811 Return Receipt (7014-1200-0001-6236-6676)(**EXHIBIT A).**

Angela Gross, Legal Assistant to
Andrew K. Epting, Jr., Esquire
Michelle N. Endemann, Esquire
Andrew K. Epting, Jr., LLC
46A State Street
Charleston, SC 29401
Phone: 843-377-1871
Facsimile: 843-377-1310

Sworn to and subscribed before me
On this 4 day of Nov, 2016

Notary Public for South Carolina
My Commission Expires: 5/1/20

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# EXHIBIT "A"

**SENDER: COMPLETE THIS SECTION**

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- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Diane Hall

4881 Sunset Blvd.

Lexington, SC 29072-9152

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature

X

☐ Agent
☐ Addressee

B. Received by (Printed Name) Lee

C. Date of Delivery 7/7

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

JUL 07 2016

3. Service Type
☐ Certified Mail® ☐ Priority Mail Express™
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ Collect on Delivery

4. Restricted Delivery? *(Extra Fee)* ☐ Yes

2. Article Number *(Transfer from service label)* 7014 1200 0001 6236 6676

PS Form 3811, July 2013 Domestic Return Receipt

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| | | |
|---|---|---|
| **STATE OF SOUTH CAROLINA** | ) | **IN THE COURT OF COMMON PLEAS** |
| | ) | **FOR THE NINTH JUDICIAL CIRCUIT** |
| **COUNTY OF CHARLESTON** | ) | |
| TCC OF CHARLESTON, INC.<br><br>Plaintiff,<br><br>v.<br><br>CONCORD AND CUMERLAND, LLC., CONCORD & CUMBERLAND HPR, LEO HALL, DIANE HALL, BEA H. SMITH, MARGARET C. POPE, WILLIAM D. FOSTER, JR., GENE G. FOSTER, MATTISON J. MACGILLIVRAY, TERESA MACGILLIVRAY, PAMELA L. VAUGHN, NELIA A. PATRICIO, Trustee of the Nelia A. Patricio Revocable Trust Agreement, STUART D. REEVES, EDWARD T. STROM, BARBARA K. HENDERSON, JAMES R. CLARKE, PAUL A. BRIM, ROBERT K. SEIDL, JENNIFER M. SEIDL, ROBERT KENNETH SEIDL, II, M. BERT STOREY, THOMAS R. MATHER, EDWARD T. STROM, 304 CONCORD & CUMBERLAND, LLC, MARION M. SIMPSON F/K/A MARION MOORE MCDONALD SIMPSON, KATHY GARDNER, GREGORY J. GARDNER, FREEMAN WATERFRONT PROPERTIES, LLC, JO-ANN COOPER, BETTY Y. SEGAL, ROBERT M. LEVIN AND BONITA K. LEVIN, DONALD D. LEONARD, BETTY L. BEATTY, MATTELLEN, LLC, AND THOMAS R. DEBNAM, Trustee of the Trust Agreement of Thomas R. Debnam,<br><br>Defendants. | ) | Case No.: 2016-CP-10-2955<br><br>**AFFIDAVIT OF ANDREW K. EPTING, JR.** |

Personally appearing before me is ANDREW K. EPTING, JR., Esq., who states as follows:

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1. My name is Andrew K. Epting, Jr., and I, along with my firm of Epting & Rannik, LLC, have represented Plaintiff TCC of Charleston, Inc. ("TCC") in this matter since before it was filed.
2. On May 26, 2016, prior to filing suit, I sent a courtesy copy of the mechanic's lien, summons, and complaint to Cordes Ford, Esq., who has represented the Concord & Cumberland HPR ("the HPR") in this matter since before it was filed.
3. Mr. Ford and I had several phone calls in and around this period, and he requested and was granted an extension to file a responsive pleading.
4. TCC's lien and lawsuit were filed on June 6, 2016, and an amended lien and suit were filed June 10, 2016, naming all the individual homeowners as parties.
5. A courtesy copy of the amended lien and lawsuit were emailed to Mr. Ford on June 15, 2016, along with a request that he accept service on behalf of the homeowners or advise them of forthcoming service.
6. On June 27, 2016, I emailed Mr. Ford to grant him an extension and asked whether he would represent the individual homeowners, granting them an extension too.
7. Further affiant sayeth naught.

ANDREW K. EPTING, JR.

SWORN to before me this 3
day of November, 2020.

Notary Public for South Carolina
My Commission Expires: 4.26.2028

# AFFIDAVIT OF SERVICE

**State of South Carolina** **County of Charleston** **Common Pleas Court**

Case Number: 2016-CP-10-2955

Plaintiff:
**TCC OF CHARLESTON**

vs.

Defendant:
**CONCORD AND CUMBERLAND, LLC; CONCORD AND CUMBERLAND HPR ET AL**

For:
Andrew K. Epting, Jr., Esq.
Andrew K. Epting, Jr., LLC
46-A State Street
Charleston, SC 29401

Received by PROCESS SERVICE, INC. to be served on **BETTY BEATTY, 175 CONCORD ST. # 4, CHARELSTON, SC 29401**.

I, John R. Gamble, being duly sworn, depose and say that on the **22nd day of June, 2016** at 3:47 pm, I:

**PERSONALLY** served by delivering a true copy of the **LETTER; AMENDED LIS PENDENS; AMENDED SUMMONS; AMENDED COMPLAINT; VERIFICATION; AMENDED NOTICE AND CERTIFICATE OF MECHANIC'S LIEN; EXHIBIT A; EXHIBIT B; MOTION TO STAY AND COMPEL ARBITRATION; EXHIBIT A** to: **BETTY BEATTY** at the address of: **175 CONCORD ST. # 4, CHARELSTON, SC 29401**.

I am over eighteen and have no interest in the above action.

**John R. Gamble**
PROCESS SERVER

**PROCESS SERVICE, INC.**
**P.O. Box 20097**
**Charleston, SC 29413**
**(843) 577-2355**

Our Job Serial Number: LEX-2016001475

Subscribed and Sworn to before me on the 23rd day of June, 2016 by the affiant who is personally known to me.

NOTARY PUBLIC
Commission Expires: 5-6-19

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STATE OF SOUTH CAROLINA
COURT OF COMMON PLEAS
COUNTY OF CHARLESTON

TCC of Charleston, Inc.,

Plaintiff,

vs. CASE NO. 2016-CP-10-2955

Concord and Cumberland, LLC, et, al.,

Defendants.

_____

Hearing (via WebEx) before the Honorable Mikell R. Scarborough, reported by Christine A. Smith, Court Reporter and Notary Public, at 3:04 p.m. on January 27, 2021 at 100 Broad Street, Courtroom 2A, Charleston, South Carolina.

Christine A. Smith, Court Reporter
Master-in-Equity
P.O. Box 30276
Charleston, South Carolina, 29417
(843) 958-5071
casmith@charlestoncounty.org

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APPEARANCES OF COUNSEL:

ATTORNEYS FOR THE PLAINTIFF:

Andrew K. Epting, Jr., Esq.
Jaan Rannik, Esq.
Epting & Rannik, LLC
46A State Street
Charleston, SC 29401
(843) 377-1871
Ake@epting-law.com

ATTORNEYS FOR THE DEFENDANT:

F. Cordes Ford, IV, Esq.
R. Andrew Walden, Esq.
Henry E. Grimball, Esq.
Womble Bond Dickinson
5 Exchange Street
Charleston, SC 29401
(843) 722-3400
Cordes.ford@wbd-us.com

Edward D. Buckley, Jr.
Young Clement Rivers, LLP
25 Calhoun Street
Suite 400
Charleston, SC 29401
(843) 577-4000
Ebuckley@crlaw.com

P R O C E E D I N G S

THE COURT: This is the TCC of Charleston, Inc. versus Concord Cumberland Beatty case. It's Case No. 2016-CP-10-2955. Let me run down who's here before we get into it.

Basically this is a continuation of a hearing we had back in early November, November 5th. I haven't yet ruled on it. I told you-all I would by the end of the year. I lied to both of you-all and me. I thought I could, and I decided I needed some more information.

I see Mr. Rannik for the Plaintiff.

MR. RANNIK: Good after, Judge. I have Drew Epting appearing in my office via speakerphone as well.

THE COURT: I can see and hear you both good.

Next I see Cordes Ford is present. Mr. Ford, is that you over there?

MR. FORD: Good afternoon, Your Honor. I'm here for Concord and Cumberland HPR and also the owner/Defendants other than Ms. Beatty. With me is Andrew Walden. I think you can see him?

THE COURT: I did a second ago.

MR. FORD: And then Henry Grimball is also on

the phone. I think I have a few board members/owners from the condominium: Mr. Gardner, Mr. Levin, and Mr. McMaster, I think.

THE COURT: I can see Mr. Gardner now. I see Mr. Levin's name. They're board members? I see a telephone number, which I assume then would be Mr. Grimball. It ends in 15. I see Mr. Buckley. Mr. Buckley represents Ms. Betty Beatty. We had that issue. Now I've got a blank box, but I think that was Andrew Walden before. Is there anybody else whose name I've not called or can or cannot hear?

Reed McMaster is present?

MR. McMASTER: Yes, sir.

THE COURT: Reed, refresh my memory. Who are you with?

MR. McMASTER: With the condominium.

THE COURT: Are you on the board there as well?

MR. McMASTER: I am not on the board.

THE COURT: Just a condo owner?

MR. McMASTER: Yes, sir.

THE COURT: Very good. All I could see is -- I guess that's a ceiling. I'm not sure what that is. Anyway, I didn't have anything there for a second. Let's kind of get back into it a little bit.

I had given you-all some rulings last time I was here. I took it under advisement. I got proposed orders from Mr. Walden on behalf of the HPR, from Mr. Buckley on behalf of Ms. Beatty, and I also got one from Mr. Epting, Mr. Rannik, and I think I got one more.

As I went through, what I really wanted to do was to review what we had done and then kind of go forward and just to let you-all know -- I had issued a ruling that I did not believe that the Mechanic's Lien had been properly perfected. I found that basically it's dissolved by operation of law. The Mechanic's Lien case, the best I can tell, was not tried before arbitrators. They didn't expand on it or rule on it would be, I guess, the proper answer there.

Based upon the information that was provided to me at the hearing and upon my review of the record, it would appear that the owners of the property were served with notice of the proceeding after the 90 days to run for the filing and service of the Mechanic's Lien which then, in my review of the reading, would appear to me that the Mechanic's Lien is dissolved is the term that I think the Courts use as to that by operation of law. Okay?