

1 **IN THE SUPREME COURT OF THE STATE OF NEVADA**

2
3 ROBERT DARBY VANNAH, ESQ.; JOHN
4 BUCHANAN GREENE, ESQ.; and
5 ROBERT D. VANNAH, CHTD. d/b/a
6 VANNAH & VANNAH; EDGEWORTH
7 FAMILY TRUST; AMERICAN GRATING,
8 LLC; BRIAN EDGEWORTH AND
9 ANGELA EDGEWORTH,
10 INDIVIDUALLY, AS HUSBAND AND
11 WIFE ,

12 Appellants,
13 vs.

14 THE LAW OFFICE OF DANIEL S. SIMON,
15 A PROFESSIONAL CORPORATION; AND
16 DANIEL S. SIMON,

17 Respondents.

SUPREME COURT

CASE No. 82058 Filed
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18 **SIMON RESPONDENTS' APPENDIX IN SUPPORT OF ALL**
19 **RESPONDENTS' ANSWERING BRIEFS**

20 **VOLUME I**

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1 DISTRICT COURT
2 CLARK COUNTY, NEVADA
3
4 EDGEWORTH FAMILY TRUST, and)
5 AMERICAN GRATING, LLC,)
6 Plaintiffs,)
7 vs.) Case No. A738444
8 LANGE PLUMBING, L.L.C.; THE)
9 VIKING CORPORATION, a)
10 Michigan corporation; SUPPLY)
11 NETWORK, INC., dba VIKING)
12 SUPPLYNET, a Michigan)
13 corporation; and DOES I)
14 through V and ROE CORPORATIONS)
15 VI through X, inclusive,)
16 Defendants.)
17
18 AND ALL RELATED CLAIMS.)
19
20
21
22
23
24
25

16 DEPOSITION OF BRIAN J. EDGEWORTH
17 INDIVIDUALLY AND AS NRCP 30(b)(6) DESIGNEE OF
18 EDGEWORTH FAMILY TRUST AND AMERICAN GRATING LLC

19 Taken on Friday, September 29, 2017

20 By a Certified Court Reporter

21 At 9:35 a.m.

22 At 1160 North Town Center Drive, Suite 130

23 Las Vegas, Nevada

24 Reported by: William C. LaBorde, CCR 673, RPR, CRR
25 Job No. 23999

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1 P R O C E E D I N G S

2 (Counsel stipulated to waive

3 the reporter requirements

4 under Rule 30(b)(4).)

5 (Witness sworn.)

6 BRIAN J. EDGEWORTH,

7 having been first duly sworn, was

8 examined and testified as follows:

9 EXAMINATION

10 BY MS. PANCOAST:

11 Q. Please state your full name for the
12 record.

13 A. Brian Edgeworth.

14 Q. Do you have a middle name?

15 A. James.

16 Q. Mr. Edgeworth, as you know, my name's
17 Janet Pancoast. I represent Viking as the
18 plaintiff. This is my chance to sit down and talk
19 to you about this claim.

20 Have you ever had your deposition taken
21 before?

22 A. No.

23 Q. Okay. For the record, could you give me
24 your address, residential address.

25 A. My mailing address or where I live at

1 night?

2 Q. Well, let's do both.

3 A. 1191 Center Point Drive, Henderson,
4 Nevada 89074.

5 Q. That's your mailing address?

6 A. Correct.

7 Q. And that's your business address as well;
8 correct?

9 A. Correct.

10 Q. Okay. And --

11 A. That's what's on my driver's license.

12 Q. Okay. And where are you living right
13 now?

14 A. 645 St. Croix, Henderson, Nevada 89012.

15 Q. And how long have you lived there?

16 A. Ballpark?

17 Q. Yeah.

18 A. Just to clarify, if I don't know the
19 exact answer, can I just answer ballpark?

20 Q. Yeah.

21 A. Or do you want me to say, "I don't know"?

22 Q. Yeah. No, we'll -- ballpark's fine.

23 A. Six months maybe. I don't know exactly.

24 Q. Okay. Let me explain the whole
25 deposition process, and I think your "Can I ballpark

1 it?" is a good example.

2 A. Yeah.

3 Q. An estimate is fine. We don't want you
4 to guess. Okay?

5 A. Yeah.

6 Q. So if you have no idea about something,
7 if I ask you, you know, "How big is my dining room
8 table?" you'd have no idea. Don't guess. But if
9 you have some information and you can give a
10 ballpark, also known as an estimate, you know, let's
11 do that. We just need time frames. Okay?

12 A. Okay.

13 Q. And that goes for the entire process.
14 All right?

15 A. Uh-huh.

16 Q. Do you understand that you're under oath
17 under penalty of perjury today?

18 A. Yes, I do.

19 Q. Okay. The court reporter will take this
20 all down. You've sat through a couple of
21 depositions, and so you're aware of the process.
22 Sometimes we get overexcited in depositions and talk
23 over each other. We need to avoid that, and I think
24 he'll let us know if we violate that directive, the
25 court reporter.

1 Do you understand that, sir?

2 A. Yes.

3 Q. All right. Also, it's very important to
4 get a clean record. Often when we're just chatting,
5 you can say "uh-huh," "uh-uh," and in the context of
6 that discussion, that makes sense, but on a court
7 reporter record, it's horrible, and so we'll need
8 audible answers, "yes," "no," something of that
9 nature.

10 Do you understand that, sir?

11 A. Yes.

12 Q. All right. And also, sometimes I will
13 ask you -- there's a lot of paper in this case, and
14 so on the bottom right of these various documents,
15 there's letters and numbers.

16 If I ask you for a Bates number that I
17 haven't already put in the record, I might ask you,
18 and that's what I'm referring to; so I'd ask you to
19 just help us out with that so we can track the
20 documents so everybody knows what piece of paper
21 we're looking at in two months when we're all
22 reading this transcript.

23 Do you understand that, sir?

24 A. Yes. But some of the Bates stamps that
25 you guys have put on are illegible, just letting you

1 know.

2 Q. And that happens. Sometimes they're
3 covered up --

4 A. Yeah.

5 Q. -- and then we sort of will go from
6 there.

7 A. Correct.

8 Q. If I ask you a question you don't
9 understand, feel free to ask me to rephrase it just
10 in case I haven't spoken artfully. Do you
11 understand that, sir?

12 A. Yes, I do.

13 Q. Is there any reason we can't get your
14 best testimony today?

15 A. Not that I know of.

16 Q. All right. What's your date of birth?

17 A. March 9th, 1969.

18 Q. And where were you born?

19 A. London.

20 Q. At some point, did you move to Canada?

21 A. London is in Canada. It's London,
22 Ontario, Canada. It's about an hour from Detroit.

23 Q. Did your parents work?

24 A. Yes.

25 Q. What did they do?

1 A. My dad was an auto worker, then he
2 started some businesses, then he went back to the
3 auto industry. My mother was a quality control
4 manager.

5 Q. Quality control manager in a
6 manufacturing facility?

7 A. Correct.

8 Q. Do you have any siblings?

9 A. Two.

10 Q. At some point, did you leave Canada and
11 come to the U.S.?

12 A. Yes.

13 Q. When was that?

14 A. 1994.

15 Q. And when did you -- why did you move to
16 the U.S.?

17 A. Because I think the United States is the
18 greatest country in the world, has the most
19 opportunity of anywhere in the world, and I had the
20 opportunity to come here.

21 Q. Okay. And what was that opportunity that
22 you had to come here?

23 A. Employment. I worked, gee, right out of
24 college in commodities. I moved to Houston.

25 Q. Okay. Have you ever been convicted of a

1 felony?

2 A. No.

3 Q. How did you prepare for your deposition
4 today?

5 A. I didn't really.

6 Q. And we will come back to this commodities
7 in your employment history. I just want to get some
8 more basic information.

9 You're married?

10 A. Yes, I am.

11 Q. And how long have you been married?

12 A. 14 years, I believe.

13 Q. And your wife's name?

14 A. Angela.

15 Q. And you have children?

16 A. Yes.

17 Q. What are their ages and genders?

18 A. 14 and 12, both girls.

19 Q. All right. Where did you go to college?

20 A. Undergrad or graduate school?

21 Q. Undergrad.

22 A. University of Western Ontario.

23 Q. What was your -- did you finish?

24 A. Yes.

25 Q. What was your degree in?

1 A. Honors business administration.

2 Q. And what year did you graduate?

3 A. 1994.

4 Q. Okay. You said "graduate." What
5 graduate school did you go to?

6 A. Went to the Harvard Business School.

7 Q. And what year did you graduate that?

8 A. 1998.

9 Q. Okay. All right.

10 So you moved to Houston?

11 A. Correct.

12 Q. And worked in commodities. Who did you
13 work for?

14 A. Enron Gas Services.

15 Q. All right. And how long did you work for
16 Enron?

17 A. Right around two years, perhaps just
18 under two years.

19 Q. And where was that in -- that time frame
20 in relation to what later happened to Enron with all
21 sorts of problems?

22 A. Skilling was still working for McKinsey.
23 I worked directly for Skilling's group, but Skilling
24 wasn't yet an Enron employee.

25 Enron Gas Services became Enron Capital &

1 Trading. It was the commodity derivatives arm of
2 Enron.

3 Q. Okay. All right. So you worked for them
4 for two years.

5 What else did you do before you went to
6 Harvard?

7 A. Nothing.

8 Q. Nothing? You worked for the commodities,
9 so '94 to '96, and then two years at Harvard?

10 A. Yes. An MBA program's two years long.

11 Q. Okay. So you graduate in 1998. Then
12 what did you do?

13 A. I worked for Goldman Sachs.

14 Q. How long did you work for them?

15 A. Three or four years.

16 Q. All right. And where did you work next?

17 A. Well, First Boston merged with DLJ. Me
18 and a couple guys went from Goldman to that, which
19 became -- I don't know what they called it. It's
20 Credit Suisse now. I don't know what the iterations
21 of the name became as they merged.

22 Q. Okay. And was that part of your Goldman
23 Sachs time frame? You said you worked for Goldman
24 Sachs for three or four years; then you said they
25 sort of merged into Credit Suisse.

1 A. No, no. You misunderstood.

2 Goldman Sachs went public while I was
3 there.

4 Q. Okay.

5 A. They didn't merge with Credit Suisse.
6 Credit Suisse -- companies change their names. But
7 DLJ, which was another investment bank on Wall
8 Street, merged with First Boston, which was another
9 investment bank on Wall Street.

10 The merged company, I forget what they
11 called themselves. I think they may have called
12 themselves Credit Suisse First Boston at the time.
13 I believe they call themselves just Credit Suisse
14 now. I went from Goldman Sachs to that company,
15 which, you know, for simplicity we could call it
16 First Boston if you want, just to avoid confusion.

17 Q. Okay. And how long did you work there?

18 A. Three years probably.

19 Q. Okay. So that takes us up to
20 approximately --

21 A. '04.

22 Q. '04. Then what did you do in '04?

23 A. 2003. It's complicated because my wife's
24 father got terminal cancer, and because she's an
25 only child, she wanted to leave New York and live in

1 L.A. So I couldn't do what I did in L.A., but I was
2 under contract. I had a three-year contract or a
3 four-year. I can't remember. And I had to serve my
4 contract out.

5 So for the first while, I worked in their
6 office there until my contract was done, and then I
7 helped at her father's business.

8 Q. Okay. And her father's business was?

9 A. American Grating, but not the American
10 Grating that I now own --

11 Q. Okay.

12 A. -- because it's a different entity, but
13 in essence, the same company.

14 Q. So when you said you worked out the
15 contract there, are you meaning you worked out the
16 contract in L.A.?

17 A. Yeah. Credit Suisse had a satellite
18 office in Pasadena with two institutional brokers
19 covering hedge funds and some of the institutions on
20 the West Coast. I worked out of their office until
21 my contract was complete.

22 Q. Okay. Explain to me your statement that
23 you worked for her father's company, American
24 Grating, but that's not the company I own.

25 A. I bought American Grating's assets and

1 trademarks in 2000 and -- I don't know -- 7, say,
2 maybe 6, and it's an LLC, Nevada LLC, right now.

3 Q. Okay.

4 A. It was not a Nevada LLC then.

5 Q. All right.

6 A. It was a different company.

7 Q. Does your company also own the factory in
8 China?

9 A. No.

10 Q. Okay. So your company, American Grating
11 LLC from Nevada, what do they do?

12 A. They sell fiberglass.

13 Q. Okay. And the fiberglass is manufactured
14 in China; correct?

15 A. Suzhou American Grating is the
16 manufacturer of the fiberglass, correct.

17 Q. And how do you spell Suzhou?

18 A. S-u-z-h-o-u, Suzhou.

19 Q. And who owns Suzhou American Grating?

20 A. Angela and Brian Edgeworth.

21 Q. Okay. All right. So you both own both
22 companies, but they're two different corporations?

23 A. Correct.

24 Q. Okay.

25 A. Legally probably Edgeworth Family Trust

1 likely owns it. I would have to check.

2 Q. And so since approximately, what, 2000
3 and -- approximately what year did you then start
4 managing American Grating for your father-in-law?

5 A. Well, probably as soon as I got to L.A.
6 I worked from 2:30 a.m. until 1:00 p.m., and then
7 I'd drive to City of Industry to watch over his
8 business for the rest of the day.

9 Q. So and when was that that you moved to --
10 in 2003?

11 A. Yeah. I'd have to check on the exact
12 date, but it was '03.

13 Q. Okay.

14 A. Yeah.

15 Q. I just need a ballpark.

16 A. Yeah.

17 Q. I'm just trying to get some general
18 background information. All right.

19 So you own American Grating LLC and
20 Suzhou --

21 A. Suzhou.

22 Q. -- American Grating. Do you own any
23 other companies relating to the American Grating and
24 the manufacture of whatever they manufacture there?

25 A. Relating to the manufacture of

1 fiberglass?

2 Q. Yeah.

3 A. No, I do not.

4 Q. Okay. Those are the two entities. Okay.
5 All right.

6 Now, I have that American Grating LLC was
7 established on 2/24/2006. Does that sound about
8 right to you?

9 A. Sounds about right, yeah.

10 Q. Here in Nevada. So when did you move to
11 Nevada?

12 A. I thought May of 2006.

13 Q. And was there any particular reason you
14 chose to move to Nevada as opposed to staying in
15 California?

16 A. Yeah, because we owned a house in Santa
17 Monica and we owned a house in Rowland Heights. The
18 warehouse was in City of Industry, and I never saw
19 my Santa Monica house; so why would I live in
20 California? There's no reason to.

21 Pediped was also growing rapidly at the
22 time. We needed people and we needed more
23 warehouse. I spent about 12 months on the west side
24 trying to buy warehouse against a bunch of studios,
25 and it just wasn't possible.

1 Q. Okay. So you located to Nevada?

2 A. Correct.

3 Q. Okay. Have you ever had any other
4 lawsuits?

5 A. Have I filed other lawsuits?

6 Q. Filed other lawsuits.

7 A. Yes.

8 Q. Okay. What sorts of other lawsuits have
9 you filed?

10 A. We filed -- well, maybe the answer is no.
11 Pediped filed a lawsuit.

12 Q. Okay.

13 A. So would you consider that me or not?

14 Q. I would -- let me ask the question have
15 you or any of your companies filed lawsuits?

16 A. Yes.

17 MR. SIMON: I'll just object to the
18 extent that that's not reasonably calculated to lead
19 to the discovery of admissible evidence. I'll
20 instruct him not to answer unless it relates to the
21 plaintiffs that are named in this case.

22 MS. PANCOAST: Okay.

23 BY MS. PANCOAST:

24 Q. And the plaintiffs named in this case is
25 Edgeworth Family Trust, and Pediped's owned by the

1 two trustees of Edgeworth Family Trust?

2 A. I think Pediped's likely owned by
3 Edgeworth Family Trust.

4 Q. Okay. Is the Pediped lawsuit in Nevada?

5 A. No.

6 MR. SIMON: Same objection. If the
7 Edgeworth Family Trust has sued anybody, you can
8 tell her. If American Grating has sued anybody in a
9 civil matter, you can tell her.

10 BY MS. PANCOAST:

11 Q. You said --

12 MR. SIMON: Go ahead.

13 BY MS. PANCOAST:

14 Q. -- you thought that the Edgeworth Family
15 Trust owned Pedipeds; correct?

16 A. I'm really confused where we're at.

17 Q. Okay.

18 A. Can you maybe ask me a clear question.

19 Q. Well, it was a very simple question. I'm
20 trying to see what other lawsuits --

21 A. I'm just telling you I don't remember it.

22 MR. SIMON: Well, I guess here's the
23 problem, Janet: I get that you want to dive into
24 all of his financial business affairs, but this is a
25 very narrow scope of a lawsuit, and there's entities

1 that have brought claims, and if you want to dive
2 into those entities, you can.

3 But as far as individuals associated with
4 those entities, I'll object and stand by those
5 objections and tell him not to answer.

6 MS. PANCOAST: So you're instructing him
7 not to answer the questions that would be public
8 record; correct?

9 MR. SIMON: Go find the public record
10 then because that makes it pretty easy.

11 MS. PANCOAST: I'm just trying to verify.

12 MR. SIMON: I don't know that it's public
13 record or not, but if it's a question that has to do
14 with the people that are suing you, which is
15 American Grating and Edgeworth Family Trust, feel
16 free to ask him. If it's not, then I'm going to
17 instruct him not to answer.

18 BY MS. PANCOAST:

19 Q. Who are the principals of American
20 Grating?

21 A. I don't understand your question.

22 Q. American Grating's an LLC; correct?

23 A. Correct.

24 Q. Okay. And the LLC has managers; correct?

25 A. Correct.

1 Q. Who are the managers for American Grating
2 LLC?

3 A. Brian and Angela Edgeworth.

4 Q. Okay. Who are the trustees for the
5 Edgeworth Family Trust?

6 A. The same.

7 Q. Brian and Angela Edgeworth?

8 A. Correct.

9 Q. Okay. And who are the principals of
10 Pediped?

11 A. During what dates?

12 Q. 2006 to 2018.

13 MR. SIMON: I'm just going to instruct
14 him not to answer. Pediped is not a part of this
15 case at all, and you don't have any right to ask him
16 any information about a party that's not involved in
17 this case.

18 MS. PANCOAST: Well, Counsel, it's public
19 record.

20 MR. SIMON: That's fine.

21 BY MS. PANCOAST:

22 Q. We have Pediped Infant Footwear LLC with
23 officers Angela and Brian Edgeworth. Would you
24 agree with that, sir?

25 A. During what period?

1 Q. Well, it has it from 2006 to 3/31/18.

2 A. No, I would not.

3 Q. Do you have any -- there's a Rudolph
4 Glocker?

5 A. Correct.

6 Q. Okay.

7 MR. SIMON: Hold on. I'm instructing you
8 not to answer any questions that relate to any
9 entity other than American Grating and Edgeworth
10 Family Trust. Okay?

11 THE WITNESS: Understood.

12 BY MS. PANCOAST:

13 Q. What we'll do is we'll just create a list
14 of the questions that your counsel instructs you not
15 to answer, and then we'll file appropriate motions.
16 I don't want to get distracted today in calling the
17 discovery commissioner every five minutes; so we'll
18 just get a list and then we'll go back. So I might
19 be seeing you again; so if that happens, that
20 happens.

21 A. Whatever the judge thinks correct.

22 Q. Is American Grating registered as a
23 construction company with the State Contractors
24 Board?

25 A. No.

1 Q. Okay. What is your relationship with
2 American Grating and Giberti Construction?

3 A. Can you clarify your question, please.

4 Q. Well, we have paperwork. For instance,
5 there's this -- a NARS letter. NARS is the
6 insurance company, and it's EDGEWORTH121 it starts.
7 And you see it says Giberti Construction LLC. It's
8 addressed to -- look at the address -- to Giberti
9 Construction DBA American Grating, I believe is what
10 it says.

11 Is Giberti -- is American Grating a DBA
12 of Giberti Construction?

13 A. There is a DBA that's expired now on both
14 of them, American Grating DBA Giberti and vice
15 versa.

16 Q. Oh, okay. All right. But those have
17 been expired now?

18 A. I believe they expired in '15.

19 Q. And they were registered with the
20 Secretary of State?

21 A. Correct.

22 Q. Okay. Was American Grating using Giberti
23 Construction's contractor's license to do
24 construction?

25 A. No. Giberti was doing construction as

1 our in-house GC.

2 Q. Okay. And you were paying him as an
3 employee; is that correct?

4 A. Correct.

5 Q. Okay.

6 A. Plus a bonus structure.

7 Q. Plus a bonus structure. And what was
8 that bonus? Did you ever pay him any bonuses?

9 A. Yes.

10 Q. And when was he paid bonuses?

11 A. When we made money.

12 Q. Okay. Was he paid a bonus in 2015?

13 A. I highly doubt it, but I can't be sure.

14 Q. Was he paid a bonus in 2016?

15 A. Definitely not.

16 Q. Okay. Was he paid --

17 A. Well, let me correct that. Possibly.

18 Q. Okay.

19 A. Not a substantial one.

20 Q. Was he paid a bonus in 2017?

21 A. This is 2017.

22 Q. Okay. Thus far?

23 A. We haven't ended the year.

24 Q. Okay. Do you remember what years he was
25 paid a bonus?

1 A. I do not.

2 Q. Okay. Do you remember the amount of any
3 bonus he was paid?

4 A. I do not.

5 Q. Okay. What is the bonus structure?

6 A. Basically we had agreed that, you know,
7 we would do a bunch of projects, try to make some
8 money, get through the recession, and as we came out
9 of the recession, we'd hopefully be positioned to
10 take advantage of the super-cyclical nature of the
11 Las Vegas market. And if we made money off these
12 investments, we would share in them.

13 Q. Okay. Is that in writing, any of that?

14 A. No.

15 Q. It's just sort of a word-of-mouth
16 agreement?

17 A. Correct.

18 Q. Okay. And so was there any actual
19 percentage discussed?

20 A. No.

21 Q. It was just, "If we make money, we'll
22 share it"?

23 A. Correct.

24 Q. Okay. Who was in charge of getting your
25 insurance coverage for American Grating for these

1 construction projects?

2 A. Mark Giberti.

3 Q. Did you realize at the time that the
4 insurance you guys were getting would exclude any
5 work that was considered to be owned by you?

6 A. Definitely --

7 MR. NUÑEZ: Form, speculation, calls for
8 a legal opinion.

9 BY MS. PANCOAST:

10 Q. Okay. It's okay. It's just for the
11 record. Just go ahead.

12 A. Now I'm confused. Can you just read the
13 question again. Sorry.

14 Q. Yes, please.

15 (The following record was
16 read by the court reporter:
17 "Question: Did you realize
18 at the time that the
19 insurance you guys were
20 getting would exclude any
21 work that was considered to
22 be owned by you?")

23 A. No.

24 BY MS. PANCOAST:

25 Q. Okay. At what point in time did you

1 purchase the property at 645 St. Croix?

2 A. I don't know, but I've disclosed it to
3 you. So there's a document in there. You could
4 read the date.

5 Q. We have a document here. It's demand for
6 payment of billing invoice that has been disclosed.

7 Do you recognize that document? Bates
8 number EDGEWORTH1263, is this a document you're
9 referring to?

10 A. It's not the document I was referring to,
11 no. I know the document, though, if that was the
12 question.

13 Q. Okay. On the -- if you keep going down
14 through that, on EDGEWORTH1255 there's a signature
15 line and it says, dated 25th of May 2011. It
16 identifies the owners as, it looks like, your
17 signature and Angela's signature.

18 Does that identify when this property was
19 purchased?

20 A. I wouldn't testify to that. I would just
21 take it off the County. It's public record when
22 that --

23 Q. Okay.

24 A. -- property was purchased. This is an
25 attachment to the property deed. I don't know if

1 they're the same date or not.

2 Q. Well, keep going. 1257, grant, bargain
3 and sale deed.

4 A. So this is probably the date here.

5 Q. Okay. Which would be March 26, 2011?

6 A. Sounds right.

7 Q. Okay.

8 A. I don't know, though.

9 Q. All right.

10 A. I would trust whenever it's recorded at
11 the County.

12 Q. Okay.

13 A. This is part of what they attached to the
14 land deed.

15 Q. Okay. Could --

16 MR. NUÑEZ: Can I see that?

17 MS. PANCOAST: And we will have that
18 marked as the next exhibit in line.

19 (Exhibit 98 was marked for
20 identification.)

21 BY MS. PANCOAST:

22 Q. I'd like you to look at what has been
23 marked as Exhibit 98, which is EDGEWORTH1263 and
24 then 1251 through 1261 [sic].

25 Could you explain to me what this demand

1 for payment is for. It's on the first page of this
2 document.

3 A. That's how much whoever I bought this
4 property from owed the property developer in fines.

5 Q. Okay. Now, it's my understanding that
6 you have a claim for fines. Is this the basis? Is
7 it your claim that you have comparable fines on this
8 project?

9 A. No. Whatever he owes in fines has
10 nothing to do with what I owe in fines.

11 Q. Okay. Have you received a demand for
12 payment from Foothill Partners?

13 A. No. I won't until the property goes into
14 escrow like he did and until his property went into
15 escrow.

16 Q. Have you any correspondence from Foothill
17 Partners --

18 A. No.

19 Q. -- that they would -- are going to assess
20 fines?

21 A. No. I have the contract, though --

22 Q. Okay.

23 A. -- that states it pretty clearly.

24 Q. Okay. Have you had any communications
25 with Foothill Partners relating to the delay in the

1 construction and sort of saying, "Hey, we're working
2 on the house"?

3 A. Rich MacDonald has asked me several times
4 about the delay in the construction.

5 Q. Okay. And what have --

6 A. He is the principal in Foothill Partners.

7 Q. So it's your testimony that you don't get
8 any -- you haven't received any notice to date
9 saying of an intent to pursue these fines; correct?

10 A. You don't consider the contract a notice?
11 I don't understand your question, I guess.

12 Q. Well, in Mr. Giberti's deposition, he
13 stated that sometimes they don't pursue them if they
14 know that you're working to get the house done; so
15 that's why I'm curious about that.

16 A. I have no knowledge that they're not
17 going to pursue and enforce the contract I signed.

18 Q. Okay. Now, there's a deadline in here.
19 What is the deadline that it's your understanding
20 the construction has to be completed?

21 A. There's three deadlines.

22 Q. Okay. And what are those deadlines?

23 A. The first deadline -- and I'd have to
24 read the contract again. There's a deadline for
25 when you get your plans submitted, reviewed and

1 accepted.

2 Q. Okay.

3 A. It's going to take me five to ten minutes
4 to read this. Do you want my understanding or do
5 you want me to read it?

6 Q. Let's go to page 1252.

7 A. Okay.

8 Q. So you had to agree to submit
9 architectural plans.

10 A. Where are you reading?

11 Q. Paragraph -- section 2, paragraph A.

12 A. "Completion of Residence."

13 Q. Yes.

14 A. Okay.

15 Q. And you had to cause the construction of
16 a residence to commence on or before March 1st,
17 2012, and be completed by June 1st, 2013. Was that
18 your understanding?

19 A. Yes.

20 Q. Okay. So it was your understanding at
21 the time you entered into -- that the house had to
22 be completed by June 1st, 2013?

23 A. Correct, or else you'd pay fines.

24 Q. Okay. The house even when it was
25 proceeding wasn't completed. It had already missed

1 this deadline; correct?

2 A. Correct.

3 Q. Do you have any understanding of why they
4 would have a short time frame when, as you and your
5 counsel have argued, that high-end houses take
6 longer to build?

7 A. You'd have to ask Rich MacDonald.

8 Q. Okay.

9 A. I didn't write the contract.

10 Q. Okay. And so when you are asserting this
11 claim for the 24,500, you are going from April 11th
12 to December 12th?

13 A. Correct.

14 Q. April 11th, 2016, to December 12th?

15 A. Correct.

16 Q. Okay. At the time your house was
17 damaged, how close were you to being done?

18 A. It was supposed to be on the market in
19 May.

20 Q. Okay. So that was your -- that was your
21 target. Did you have any understanding of how close
22 it was to being on track to that?

23 A. It was four to eight weeks from being
24 done.

25 Q. Okay.

1 A. They had a massive flooring crew in the
2 house right when your client's product destroyed it.

3 Q. So do you anticipate that you are going
4 to have to pay Foothill Partners \$100 a day from
5 June 1, 2013, to December 12th, 2016?

6 A. Highly likely.

7 Q. Okay. And would you agree that that
8 would cut into your anticipated investment return?

9 A. Obviously.

10 Q. Has that been calculated into your
11 claimed investment return?

12 A. I don't understand your question.

13 Q. Well, you projected a 6.5 percent per
14 year return on your investment.

15 A. I most certainly did not.

16 Q. I am going to show you what was produced
17 yesterday. I'd like you to look at the second line.
18 We'll go ahead and have this marked as the next
19 exhibit.

20 And for the reference, that was "Bills
21 and Payments From Water Damage" produced yesterday.

22 (Exhibit 99 was marked for
23 identification.)

24 BY MS. PANCOAST:

25 Q. I draw your attention, sir, to the

1 second-to-the-top line, 6.5 percent. Do you agree,
2 disagree with that estimate?

3 A. I agree I'm asking you to return my
4 stranded funds by your company during that period at
5 a rate of 6 and a half percent. I most certainly do
6 not agree that I invest money to try and return it
7 at 6 and a half percent, which was your question.

8 I would never invest money in a high-end
9 house to get 6 and a half percent return.

10 Q. Okay. And what was your anticipated
11 return?

12 A. Generally on a custom house, you should
13 expect to make around 50 percent.

14 Q. Okay.

15 A. Because it's a huge risk and it's a
16 higher reward than normal houses, not annualized.

17 Q. I see. So your statement is it's the
18 trapped capital that you should be --

19 A. Yeah. Your client -- I had \$3.6 million.
20 I'm only charging you for around 3.2 million of it,
21 which I gave you detailed invoices for, trapped in
22 this house because your client destroyed it and
23 didn't allow me to get the capital back out.

24 The next time I'll be able to get the
25 capital back out was on the 6/21/17. And if I start

1 repairing it again, the clock will start ticking
2 again because if I have to remove the house from the
3 market, I won't be able to get my capital back out,
4 and you should pay for that. And my understanding
5 is the maximum a court will allow me to charge you
6 is the 6 and a half.

7 If I'm incorrect and I can get what I'm
8 really losing on this money, I would love to get it.

9 Q. Good enough.

10 So that 6 and a half percent is based on
11 a 2.3 [sic] million cost to construct your house; is
12 that correct?

13 A. Approximately.

14 MR. NUÑEZ: I'm sorry. I didn't hear
15 your earlier testimony. The expected return was 15
16 or 50?

17 THE WITNESS: Half a hundred.

18 BY MS. PANCOAST:

19 Q. Have you an itemization of the expenses,
20 the total expenses, for building that house?

21 A. They have Bates numbers on them.

22 Q. Well, you have provided invoices, yes.
23 I'm wondering do you have -- have you yourself
24 tracked the costs of the construction?

25 A. I don't understand your question.

1 Q. Have you added all the invoices up?

2 A. There is a sheet with a Bates number on
3 it that does that for you.

4 Q. Okay. Well, I have -- are you talking
5 about the original construction?

6 A. Correct.

7 Q. Okay.

8 A. And there's about 650 pages of Bates
9 stamps behind it.

10 Q. I'm showing you two documents, VIKSUB 487
11 and 488. Can you tell me what those documents are.

12 A. This looks like something Mark throws
13 together to give you a ballpark on how much money to
14 budget when you start a project.

15 Q. Okay. So it's your testimony that that
16 is the initial budget, but that is not what was
17 actually spent?

18 A. It's never correct.

19 Q. Okay. So it's your testimony that you
20 spent about 3.3 million?

21 A. In excess of. Substantially in excess
22 of.

23 It's my testimony I gave you detailed
24 invoices totaling approximately 3.3 million with a
25 summary sheet probably around four months ago.

1 Q. Okay. I'm going to show you -- I'm going
2 to show you plaintiffs' 11th supplemental to early
3 case conference disclosures that has a summary of
4 all -- is it the loss-basis summary and supporting
5 documents?

6 A. That would be a typo. It would be cost
7 basis. When you build something, you have a cost
8 basis in it.

9 MR. SIMON: Let's see which one.

10 BY MS. PANCOAST:

11 Q. Is that the document you're talking
12 about?

13 A. Correct.

14 Q. Okay.

15 A. Bates EDGEWORTH001308.

16 MS. PANCOAST: Okay. Let me make a copy
17 of this.

18 (Discussion off the record.)

19 MS. PANCOAST: Mark that as the next
20 exhibit, please.

21 (Exhibit 100 was marked for
22 identification.)

23 BY MS. PANCOAST:

24 Q. This is the document you were discussing
25 about the cost of construction; correct?

1 A. Correct.

2 Q. All right. Does this also include the
3 cost of the repairs and --

4 A. No.

5 Q. -- the -- okay.

6 So those are on top of this amount?

7 A. Correct.

8 Q. Okay. I'd like to discuss the incident
9 that we're here about today.

10 When was the last -- prior to the --
11 yeah, just give it to him and he'll keep track of
12 them.

13 Prior to the failure of the sprinkler
14 head, when was the last time you were in the house?

15 A. Thursday or Friday before. I don't know
16 which day.

17 Q. At that time, what was the work that was
18 remaining to be done on the house?

19 A. The flooring was the major. Finishes of
20 the cabinets needed to be finished putting in.
21 Land- -- landscape and hardscape and the pool.

22 Those are the major ones. Electrical
23 still had some to put up, which is fortunate.

24 Q. You said the finishing the cabinets.
25 What cabinets were actually installed at this time

1 period?

2 A. I think they installed all the bases --
3 no. I think they installed the uppers first. I'd
4 have to go back and review. They'd installed more
5 than half the cabinets.

6 Q. Okay.

7 A. And they were all loaded in the house.
8 They probably had three to four more days.

9 Q. When you say they were loaded in the
10 house --

11 A. I mean they were on site.

12 Q. Where were they being stored?

13 A. Basement. Safest place for cabinets,
14 lowest traffic.

15 Q. Were they still in boxes; do you know?

16 A. Some were and some weren't.

17 Q. Okay. So you're saying that it was the
18 upper cabinets that were already installed?

19 A. I think -- I'd have to go back and
20 review, but I think they installed the uppers first
21 and the bases. There was a lot of bases installed.
22 The islands, of course you'd have to install the
23 bases first because there are no uppers.

24 Q. Okay. What would you look at to evaluate
25 what had been installed and what had not been

1 installed?

2 A. I'd have to go back and just see if I can
3 find anything.

4 Q. Okay.

5 A. Any photograph that might jar my memory,
6 anything.

7 Q. Okay.

8 A. There's a lot of photographs of the
9 damage. We can all look at them and see what was
10 installed.

11 Q. All right. Was the -- are you alleging
12 any damage to the cabinetry that was not installed
13 but that was stored downstairs?

14 A. It was destroyed. The water flowed from
15 the master bedroom and filled the theater full of
16 water. The cabinets were mostly in the theater.

17 Q. I'm showing you -- these are taken
18 from -- these are diagrams of the house, a floor
19 plan, and they're taken from the United Restoration
20 bid.

21 Can you tell me -- and I'm looking at
22 Bates numbers EDGEWORTH341 to 345. So that's -- the
23 one at the bottom is the -- we're going to have this
24 as the next exhibit in line, please.

25 (Exhibit 101 was marked for

1 identification.)

2 BY MS. PANCOAST:

3 Q. And we've got the upper floor, the main
4 floor and the basement. Could you mark 1, 2 and 3
5 on those so we can -- just 1, 2 and 3 so we can keep
6 them in the proper order.

7 A. They won't be in Bates order if I write
8 1, 2, 3.

9 Q. That's fine. That's fine.

10 A. So if we're going from highest to
11 lowest --

12 Q. Yes, uh-huh.

13 A. -- 1 being the highest, second being the
14 main floor, 3 -- this says "Main Level" too. Well,
15 this is wrong. Can I scratch it out, or no? 3 is
16 the lower floor.

17 Q. Okay. And could you identify for me
18 where the sprinkler head was that failed.

19 A. It was right here, 2 and a half feet
20 below the attic.

21 Q. Okay. And let's make an arrow out here
22 and then --

23 A. (Complying.)

24 Q. Okay.

25 A. Oops, sorry. This is just all marked

1 wrong. Whoever did this diagram, this is not a
2 walk-in closet. This is a bathroom.

3 Q. Okay.

4 A. I don't know if we should be marking
5 something that's wrong.

6 Q. It gives me a general idea. That's fine.

7 A. This is a bathroom. This is a closet.
8 It's not a safe.

9 Q. Okay.

10 A. There's actually another room off of
11 here.

12 Q. All right. So it fails up here?

13 A. Correct.

14 Q. And tell me the --

15 A. Sorry. I marked it wrong. It's right
16 here.

17 Q. Okay.

18 A. My mistake. This is wrong. That's not a
19 walk-in -- oh, maybe it says "Shower," not "Walk-in
20 Shoe."

21 Q. Okay. Just put an "A" by this little --

22 A. "A."

23 Q. -- thing.

24 A. (Complying.)

25 Q. All right. So what we have on Exhibit

1 101 is a circle where the sprinkler head was with an
2 arrow and an "A" next to the arrow?

3 A. Correct.

4 Q. Correct?

5 A. Correct.

6 Q. Okay. Now, sir, I'd like you to give me
7 an idea of the flow of the water.

8 Where are the stairs in relation to this?

9 A. Can I draw on this?

10 Q. Yeah, yeah. I want you to draw on it.

11 A. There's a staircase here.

12 Q. Okay. Put a circle around it and say
13 "stairs."

14 A. "Stairs."

15 Q. Okay.

16 A. And there's a staircase there. It's
17 already marked as "stairs."

18 Q. Okay.

19 A. But the water didn't take the stairs.

20 Q. How did it go?

21 A. It took its quickest route.

22 Q. And what was that?

23 A. Well, it flowed -- we could look at the
24 pictures, see where it was damp. It flew --
25 flowed -- flew, flowed?

1 Q. Flowed.

2 A. Flowed downhill; so some of it went down
3 there. Most of it went through walls here, went
4 through here, went through here. This is a wall; so
5 it went through down the wall, went out this door.
6 A ton of it went right down here, which would have
7 taken it into here.

8 Q. Let's put a "B" where you say a ton of it
9 went right down here.

10 A. (Complying.)

11 Q. Okay.

12 A. And a ton of it went through this wall
13 right here.

14 Q. And let's put a "C" and circle that area
15 that you're talking about.

16 A. (Complying.)

17 Q. All right. Okay. Now, does this -- so
18 this stair that's over -- let's put a "D" by this
19 stair.

20 A. "D."

21 Q. Yeah. So is it -- this stair that's
22 marked as "D" on page 1, is that the circular stair
23 on the --

24 A. This continues to the basement. This
25 stair would take you from the upper floor to the

1 main floor.

2 Q. Right.

3 A. And then it would -- yeah. You're seeing
4 where it ends here, and then it would start again
5 here going down.

6 Do you understand?

7 Q. I think so.

8 A. So you'd have -- you would have the
9 stairs. The elevator's -- God, this is wrong.
10 Yeah, this is -- there's a whole further part of the
11 house over here; right? Because it went down the
12 elevator shaft, too, which is right here. So now
13 I'm wrecking your drawing.

14 Q. No, sir. I --

15 A. "E" for elevator shaft.

16 Q. Okay. That's fine. And I have no
17 problem with you.

18 A. Yeah.

19 Q. I'm trying to understand, sir; so that's
20 why I'm asking you to draw on this, to give me an
21 idea. All right?

22 A. There's -- it also flowed down here.
23 There's a --

24 Q. "Here" being between "D" and "E" on
25 Exhibit --

1 A. Past "D" and "E." There's a whole nother
2 section of the house over here that's not marked on
3 this plan.

4 Q. Okay.

5 A. If we looked at the blueprints, they
6 would be accurate. I'm not -- I'm not sure how --
7 this is the restoration person that drew this?

8 Q. Yeah.

9 A. Yeah.

10 Q. Okay. So let's go to page 2 on Exhibit
11 101.

12 A. Okay.

13 Q. You've got -- we've got the bottom of the
14 stairway. Could you mark the location of the bottom
15 of the stairway on exhibit page 2 with an "A."

16 A. The bottom of the stairway to the main
17 floor?

18 Q. Yes.

19 A. The stairway continues lower just so you
20 know.

21 Q. Right. That's "A." Okay.

22 And then where it continues to the lower
23 floor as "B."

24 A. I probably shouldn't be the one to be
25 asked where the water went because I was in Los

1 Angeles.

2 Q. Okay.

3 A. I can tell you where it was still wet
4 when I got home.

5 Q. And that's fine.

6 A. So it continues, it just goes right over
7 this edge and falls down. This is like a piano
8 area.

9 Q. Okay. Put a "C" where you're saying.

10 A. (Complying.)

11 So gravity takes it down here. But
12 because the house was so well built, it was level,
13 unfortunately, and it filled this floor. It went
14 all the way down these hallways.

15 Q. "These hallways" being back by the guest
16 suite and --

17 A. Yeah. There was wet drywall all the way
18 down through the guest suite, through the maid or
19 nurse room, through the downstairs office, through
20 the exercise room and all the way over here.

21 This wine cellar, for example, which
22 should have gotten no water, was also full. It's
23 subterranean and it's concrete; so water can't
24 escape. It was full of water.

25 Q. Okay. All right. And then it came down,

1 and so it continued down the stairs, which is page 3
2 of Exhibit 101?

3 A. Well, yeah. You're oversimplifying it.
4 Or I'm oversimplifying it.

5 This entire main floor, even the part
6 that overhangs the basement, is steel beams and
7 poured concrete instead of a normal house where
8 you'd just frame in wood.

9 Q. Right.

10 A. This was steel beamed and then we poured
11 5 inches of concrete over the steel so that the pad
12 was one pad.

13 Now, when you do that, you still have to
14 get plumbing, electrical. You drill holes in the
15 concrete. So as the water filled up the main floor,
16 it would have found every one of those holes and
17 went between the concrete here and the steel beams
18 until it filled up those spaces and forced them to
19 collapse in on themselves.

20 Q. Okay.

21 A. Yeah.

22 Q. All right. So that's why, for instance,
23 we see -- I'm looking for some photos that have
24 already been marked. Just bear with me for a
25 minute.

1 I'm looking at what's been marked as
2 Exhibit 77. Is this what you're talking about with
3 the steel beams?

4 A. Yeah. This is not a great -- if -- if we
5 had the original photograph --

6 Q. Uh-huh.

7 A. -- you would see, now that the drywall
8 and the insulation has been ripped away, there's
9 steel beams this way. Then on top of the steel
10 beams you weld a metal plate. It's like this. Then
11 you pour concrete into that metal plate. So that
12 would be the main level right above that garage
13 there.

14 So this is why all the water went through
15 here and out through the overhang where there's no
16 access above or below and then ruined all the stucco
17 on the outside of the house.

18 Q. Okay. Because it was -- because it was a
19 concrete floor and so it pushed it to the edge?

20 A. Well, the -- because there's holes
21 drilled in the concrete --

22 Q. Right.

23 A. -- for the plumbing and everything to get
24 through, which if this was a better photo, we'd also
25 see some of the plumbing piping that's hidden by

1 this drywall. But until the drywall -- and also, in
2 a custom house you insulate everything. You
3 insulate all your interior walls, all your interior
4 floors so there's no sound echoing through the rooms
5 like in a typical house.

6 So the -- the insulation soaks up a
7 certain amount of water. Water runs, you know, with
8 gravity until the ceiling collapses and gives it a
9 direction to go.

10 Q. Okay. And for the reference, we were
11 looking at photo B on Exhibit 77.

12 Continuing on with these photos, we're
13 looking at page C of Exhibit 77. What does this
14 show?

15 A. This is a view from approximately the
16 front door. The kitchen is about halfway up the
17 page to the left. You're looking through -- about
18 halfway of the page, directly in front of the
19 picture in the center, that's the bar area. This is
20 the fireplace. This would be the chase. That's
21 concrete-board chase all the way up the fireplace
22 wall, and the fireplace borders onto the master
23 bedroom.

24 Behind this wall here, this is the master
25 bedroom foyer and behind this wall is the master

1 bedroom.

2 Q. So this wall that we're talking about
3 that says "MAIN FLOOR MASTER BEDROOM"?

4 A. Yeah, right behind the wall.

5 Q. Okay.

6 A. The whole wall -- the master bedroom has
7 an upstairs office. It has a master bedroom. It
8 has a master bath. It has a his-and-her closet.

9 So you're talking about a large space
10 behind the wall, but then there would be doors,
11 double doors, about here. To the left would be the
12 upstairs office. To the right would be the sleeping
13 area.

14 Q. Okay.

15 A. This -- this photo you can see exactly
16 where the steel beams are.

17 Q. Yeah. We're looking at photo C on
18 Exhibit 77.

19 A. So what likely happened here is this
20 entire void -- we've got to get better photos.

21 The garage doors -- this overhangs the
22 garage doors to provide shade on the garage. A lot
23 of the house is designed to keep it cool and keep
24 the energy cost down; so there's shading over
25 everywhere that heat can get in.

1 This overhangs over the garage doors,
2 which is an eight-car garage with six bays, six
3 oversize bays. They do it by square footage. It's
4 an eight-car garage by square footage, six bays if
5 you count the bays.

6 This overhangs them. This area -- above
7 here there would be -- right about here there would
8 be concrete, concrete poured, and this would be the
9 floor of the main level right here, which I think
10 what we're looking at there would be the guest --
11 the main level has a guest bathroom. You'd be
12 looking at that area there and the end of the
13 hallway that enters to the nurse's and in-law suite,
14 guest suite, whatever people wanted to call it. So
15 this probably filled up with water.

16 The entire house is clad with plywood.
17 Okay? On a custom house, too, this is -- you know,
18 many of your witnesses implied that these things are
19 open to the elements. Custom houses that are well
20 built are clad with plywood. They're weathertight
21 during framing.

22 So this entire thing is clad with plywood
23 underneath the stucco. So after this filled up, the
24 plywood probably would have soaked the water up, and
25 you can see where the plywood, as our environment,

1 which is really dry, started drying out and all the
2 plywood warped and ruined the stucco on this wall.

3 Q. When you're talking about plywood, is it
4 actually plywood or is it like USB [sic] board,
5 which is the --

6 A. I'd have to --

7 Q. -- you know, compressed --

8 A. Sorry. I didn't mean to talk over.

9 I would have to check if it's OSB or
10 plywood. I think we roofed with -- I'd have to ask
11 Mark.

12 Q. Okay.

13 A. I could look at a picture, too, if I have
14 pictures back then. It could be OSB, but it might
15 be plywood.

16 Q. I'm just trying to --

17 A. Yeah. OSB -- to your point, OSB would
18 soak up more water and burst out harder, but plywood
19 will also.

20 Q. Yeah. Well, in looking at Exhibit C
21 of -- page C of Exhibit 77, it looks like there's a
22 change along the bottom --

23 A. Yeah.

24 Q. -- maybe foot or two, and you believe
25 that there's a floor right there?

1 A. Yeah. You can see as an x-ray here
2 exactly how the house is built.

3 Q. Okay.

4 A. Because if we drew in down this level,
5 you know, for perspective it would go like this.

6 Q. Well, that's my exhibit. Go ahead and
7 draw a line on where you think the floor level is.

8 A. Do you got a ruler? The floor level
9 would be -- as it fades away here would be right
10 down here.

11 Q. Okay.

12 A. Like that.

13 Q. All right.

14 A. See, that doesn't work.

15 Q. Okay.

16 A. I'll just freehand. Oh, my pen died.
17 It would be right down here. And of
18 course it sort of fades as the picture has
19 perspective.

20 Q. Sure. Okay. All right.

21 A. I didn't mean to draw on that exhibit.

22 MR. SIMON: It's all right. You're good.

23 A. That's just another -- that's a better --

24 BY MS. PANCOAST:

25 Q. Yeah.

1 A. -- perspective of it because you can see
2 the whole thing. You can sort of see exactly where
3 the concrete floor is.

4 Q. And you were just looking at Exhibit E
5 on -- page E on Exhibit 77?

6 A. Right.

7 Q. And this page F on Exhibit 77, that's
8 where the sprinkler head --

9 A. Yeah.

10 Q. -- was installed?

11 A. This is a sprinkler head --

12 MR. SIMON: Let her finish her question.
13 Okay? I know you're anticipating what she's asking,
14 but let her finish it so we can get that correct,
15 and then listen to what she's asking and then answer
16 what she's asking.

17 THE WITNESS: Understood. I apologize.

18 BY MS. PANCOAST:

19 Q. So that's where the sprinkler head
20 failed?

21 A. Correct. This is the door between the
22 master bathroom and the sleeping area of the master
23 bedroom.

24 Q. And what is the -- what is the finishes
25 on the floors in that area now, in the master

1 bedroom area?

2 A. Currently?

3 Q. Currently.

4 A. Yeah, this has -- wow. This has hardwood
5 and this has tile.

6 Q. Okay. This is --

7 MR. SIMON: Just for the record, hard- --

8 THE WITNESS: Hardwood in the sleeping
9 quarters and tile in the master bathroom.

10 BY MS. PANCOAST:

11 Q. And so what we're saying is on the -- in
12 the gray area on the far side of the door would be
13 tile, and you're saying hardwood in the front
14 portion of this area where like the bucket with the
15 red lid would be hardwood; correct?

16 A. Correct. This is waterproofing they put
17 down just before they laid the tile.

18 Q. Okay.

19 A. So this a week earlier would have looked
20 exactly the same as the master sleeping area, but
21 they've already put the waterproofing down over the
22 plywood because they're preparing the floor.

23 Q. Okay. So at the time of the failure, it
24 was just plywood up in that area; correct?

25 A. Right.

1 Q. Okay. All right.

2 Also, the other thing we didn't discuss
3 is this is not an endurance contest; so if you want
4 to take a break, just let me know.

5 A. Thank you.

6 Q. All right. You say you were in L.A. at
7 the time of the failure?

8 A. Correct.

9 Q. Okay. And how soon did you get -- did
10 you -- when was it that you finally got to the
11 house?

12 A. I'd have to check. I -- it was either
13 Tuesday morning or Wednesday morning. I'm not sure
14 when I came back from L.A.

15 Q. Okay. All right. So by the time you got
16 back, what was the -- what was happening at the
17 house?

18 A. Well, there was a remediation company in
19 there. They were cleaning up, and -- and I can't
20 remember if they'd started to cut drywall or not.
21 But they were -- they were remediating the water.

22 Q. Okay.

23 A. The floor was not dry yet, but it was
24 getting there.

25 Q. Okay. Who sort of took over? I mean, I

1 guess Mark was doing -- got the first of -- the
2 remediation company there first. Who afterwards
3 sort of spearheaded the dealing with the insurance
4 companies and whatnot? Was that you?

5 A. More or less I think we both did.

6 Q. Okay.

7 A. Mark and I answered whatever questions we
8 could for whoever asked them.

9 Q. Okay. All right.

10 And at some point, you guys -- someone
11 contacted Viking. Is that your understanding?

12 A. I contacted Viking almost immediately
13 after this happened.

14 Q. Okay. And how did you contact them?

15 A. Through Bernie Lange.

16 Q. All right. Do you know what he -- if he
17 then contacted them?

18 A. Yes. The email is in -- it's Bates
19 numbered.

20 Q. All right.

21 A. Sherry Simmons replied.

22 Q. Okay.

23 A. She didn't answer any of my questions.

24 Q. All right. Now, is this -- I'm looking
25 at EDGEWORTH144. Is this the email you say you sent

1 that she didn't answer?

2 A. Correct. Bernie Lange forwarded this to
3 Viking. Sherry Simmons replied to it. Bernie Lange
4 sent it back to me. All she wanted was the head.
5 She acted like this had never happened before. And
6 she refused to answer any of those questions, which
7 might have resolved this incident very quickly.

8 Q. And you are referring to -- I'm looking
9 at EDGEWORTH147. Is that the reply email that --

10 A. I'm not sure that this has her reply.
11 Oh, there it is. "I am more than happy
12 to send you a form to have the sprinkler returned to
13 Viking for inspection. . . . we will do a complete
14 investigation and . . . send you a summary letter of
15 our findings."

16 That's correct. None of my questions are
17 answered.

18 Q. Okay. And that is EDGEWORTH147.

19 At some point, on -- well, let's see.

20 On April 14th you say, "I really do not
21 like the insinuations in the email in the string
22 that Bernie forwarded from the manufacturer."
23 Unfortunately, there's all these emails and there's
24 numerous copies.

25 Do you know what the insinuation was?

1 A. No. I don't remember that, but let me
2 look at it and I'll try to remember.

3 Where am I looking on this?

4 Q. I've taken these sort of excerpts from
5 these emails.

6 A. I don't think this has the insinuations
7 on this --

8 Q. Yeah.

9 A. -- email I think. "I would like to
10 understand the process because I certainly do not
11 appreciate the tone of the manufacturer's email
12 considering his product has just screwed me
13 financially."

14 I think that summarizes my feelings three
15 days after this happened. And I think that was
16 referring to Ms. Simmons' reply, but I'm not
17 positive.

18 Q. Okay.

19 A. I think we'd need to search the string
20 more.

21 Q. And the reply -- all right.

22 Did you ever speak with Sherry Simmons?

23 A. No. She never bothered to call.

24 Q. Did you ever attempt to call her?

25 A. I believe I called Viking's main line,

1 and I never got through. They really should fix
2 their Web site on how to contact them. I'm not the
3 first plaintiff to complain about that.

4 Q. Okay. So these communications, these
5 emails back and forth, they would be the full record
6 of your interaction with Viking; is that correct?

7 A. Correct. Viking didn't bother to respond
8 to anything. They were invited to the property. I
9 never received a response. I actually invited them
10 back several times after, and they refused to come
11 before the two counsels at this table were on the
12 case. There was a different lawyer representing
13 Viking.

14 Q. Yeah. Well, unfortunately we weren't
15 allowed to see your house when I asked, but that is
16 what it is.

17 A. Since you bring that up, can we talk
18 about people coming into my neighborhood? On
19 April --

20 MR. SIMON: No. That's all right. We'll
21 address that later.

22 So, I mean, if you're going to make
23 little insinuations that the discovery commissioner
24 was wrong in denying you access after you had a year
25 plus to come see the house, if that's going to be

1 the tone of your questions and rhetoric in this
2 deposition, we can shut it down now and leave if
3 that's the way you're going to deal with it, Janet.

4 MS. PANCOAST: You know, Danny, no,
5 that's not, and --

6 MR. SIMON: Okay.

7 MS. PANCOAST: -- that hasn't. I just --

8 MR. SIMON: I mean, this is a very
9 difficult deposition, as you know, for
10 Mr. Edgeworth.

11 MS. PANCOAST: I understand.

12 MR. SIMON: You're prying into his
13 personal life. He's gone through a lot. His life
14 has virtually been upside down, and, you know, we
15 don't need to go into the conduct of your client.

16 So I'm here to try and get through this
17 in a professional way. If that can be done that
18 way, great. If not, we can discontinue it.

19 MS. PANCOAST: I think we're doing fine.

20 MR. SIMON: Okay.

21 THE WITNESS: I think we are too. It's a
22 pretty upsetting process because I've lost millions
23 of dollars.

24 BY MS. PANCOAST:

25 Q. And, Mr. Edgeworth --

1 MR. SIMON: You know what? Let's just
2 take a break.

3 MS. PANCOAST: Okay.

4 (Recess taken from 10:51
5 a.m. to 10:58 a.m.)

6 MS. PANCOAST: I'm going to have these
7 marked as the next exhibit in line.

8 (Exhibit 102 was marked for
9 identification.)

10 BY MS. PANCOAST:

11 Q. I would like to get -- if I may, I'd like
12 you to go through these photos and just help me
13 identify the damaged areas on the photo.

14 Now, the first one, I believe, is the
15 fireplace. Is that supposed to -- is that depicting
16 the clouding on the inside of the fireplace?

17 A. Yeah. There's gas that's not exhausting
18 out of the fireplace, which is likely why it just
19 shuts off. It's a safety feature.

20 Q. Uh-huh.

21 A. So obviously it's doing something that's
22 not safe.

23 Q. Okay. Now, it's my understanding that
24 the components within the fireplace have been
25 replaced; is that correct?

1 A. No. Some.

2 Q. Some. Okay.

3 A. Not all of them.

4 Q. Not all of them?

5 A. No.

6 Q. But that one of your claims is you need
7 to remove and replace this fireplace; is that
8 correct?

9 A. Correct.

10 Q. Okay. What I would like to do -- here,
11 we're going to -- actually, most of the rest of
12 these we can see the Bates numbers on them; so I may
13 not need to identify them.

14 What I would like you to do is go through
15 and take this Sharpie and circle the areas of the
16 damage, and then advise me of whether this has been
17 repaired or is it still outstanding.

18 For example, right now you're looking at
19 photo B.

20 A. Should I just --

21 Q. Could you describe what that is.

22 A. It's a garage door open with the garage
23 door opener in the background.

24 Q. Okay. And what is the damaged area in
25 this?

1 A. Should I circle --

2 Q. Yes.

3 A. -- the entire door?

4 Q. Circle the areas of the damage.

5 A. (Complying.)

6 Q. Now, what we can see, it appears like
7 these panels are -- is that --

8 A. Those are windows.

9 Q. The windows. Okay. Are those windows --
10 were they in a wood frame?

11 A. This part of the door -- this part of the
12 door would be insulated and then some kind of
13 extruded material, like aluminum.

14 Q. Okay.

15 A. This part --

16 Q. Put an "A" where you're saying "this part
17 of the door" so we know what you're talking about.

18 A. (Complying.)

19 Q. Okay. Thank you.

20 A. This part of the door is obviously solid
21 wood.

22 Q. Okay. Put "B" there.

23 A. (Complying.)

24 Q. All right.

25 A. So when the solid wood soaked up the

1 water, wood soaks up water and it re-humidifies the
2 wood. And then we have no humidity in Nevada; so
3 when it dries back out, the wood will warp and
4 expand, which is likely why all these windows popped
5 out.

6 Q. Do you know where the -- did the water
7 coming down, did it come straight down through the
8 walls that would have gotten these upper windows?
9 I'm trying to figure out where the water came from.

10 A. The doors were closed; so after -- the
11 water -- when the water got to the basement, it has
12 no way of getting out.

13 Q. Uh-huh.

14 A. It could get out below the garage door,
15 the little, you know, millimeter gap or whatever's
16 there, which obviously with the amount of flooding,
17 it couldn't all get out there. So it would start
18 filling the entire basement after it filled the
19 theater.

20 And so, according to Mark -- I was not
21 there -- there was 2 to 3 inches of standing water
22 over the entire garage. So that water there would
23 soak through the wood because that door is closed.
24 The wood faces the entire thing, and wood sucks
25 water up like cardboard does, like plywood, OSB. So

1 I don't know how high it would suck it up.

2 Q. Okay.

3 A. Does that answer your question?

4 Q. Yeah.

5 A. Okay.

6 Q. You talk about the theater filling up.

7 Was the theater -- was it like a sunken or --

8 A. The theater is underground. It's -- I'd
9 have to check to be exact -- ballpark, 3 to 4 feet
10 underground, under the basement level. You know how
11 you sort of walk down the different rows of theater
12 seating?

13 Q. Right.

14 A. But it's concrete all the way around.

15 Q. Okay.

16 A. So I guess you could think of it as a
17 swimming pool.

18 Q. So that the theater is about 3 feet lower
19 than the basement level?

20 A. Correct. You would walk in and then the
21 first row of seating would be down two steps, two
22 steps or 14 inches. Next would be down two steps,
23 14 inches.

24 Q. I understand.

25 A. Next would be down.

1 Q. Okay.

2 A. So I'm guessing 3 feet.

3 Q. All right. So ultimately when you get
4 down to the base level --

5 A. Yeah.

6 Q. -- it's -- okay. That makes sense. All
7 right.

8 C, what is C?

9 A. This is how they repaired the windows.

10 Q. Okay.

11 A. Instead of -- because we weren't in the
12 position to replace all three of the doors, they put
13 screws through them.

14 Q. And where are the screws that are
15 problematic?

16 A. (Writing on document.)

17 Q. Where were the -- were there any screws
18 originally?

19 A. No. It was a custom garage door.

20 MR. SIMON: And just for the record, he
21 circled all of the screws that are on the picture
22 that are considered problematic.

23 MS. PANCOAST: Okay. All right.

24 BY MS. PANCOAST:

25 Q. Exhibit page D we've already talked

1 about. Page E, could you identify for me what that
2 is.

3 A. This isn't the greatest reproduction of
4 the photograph, but you've got tongue-and-groove --
5 this is inch-and-a-half tongue-and-groove solid wood
6 over the entire ceiling of the great room; so each
7 board goes in like this.

8 Q. Uh-huh.

9 A. It was picked to be inch and a half so
10 that it would be perfectly flat and never warp
11 instead of using your typical, you know,
12 five-eighths, and you can see a bunch of the boards
13 are warping. Unfortunately, because it's tongue and
14 groove, whoever's going to fix this is going to have
15 to take them all out to get to the boards that are
16 warped.

17 Q. Okay. Could you circle for me -- because
18 you're more intimately aware of it --

19 A. Yeah.

20 Q. -- circle for me the locations that
21 document the condition.

22 A. You can see a clear warp in here.

23 Q. Okay.

24 A. This photograph's not a great
25 reproduction, but you can see this is warped. If

1 you look at this photograph in its better form, you
2 will see where instead of the light shining evenly,
3 you'll see where every one is off kilter. So these
4 boards are starting to warp this way. Even though
5 they're inch and a half thick, there's warping.

6 Q. Now, you said the boards were warping
7 this way. What you were describing is that the
8 boards are sort of --

9 A. They're warping along the plane of the
10 board.

11 Q. Okay.

12 A. Yeah.

13 Q. Okay. Thank you. All right.

14 A. This just shows it better. You can see
15 how the light's not reflecting equally off it.
16 This -- the photograph in the raw form is better
17 than the --

18 Q. And that's why --

19 A. -- printing.

20 Q. -- I need your guidance, because, you
21 know, that's what I'm seeing; so --

22 A. I think you can probably see with the
23 shadows here.

24 Q. Okay.

25 A. If you run your eyes along the edges,

1 it's easier to see warped wood whenever you look for
2 warps.

3 Q. How about you circle on that the areas
4 that demonstrate the warpage.

5 A. I'm guessing because, like I said, the
6 photo's not super, but it would be around here. You
7 can see where they're starting to curl.

8 Q. Okay. Exhibit G, and I just grabbed as
9 many --

10 A. Okay.

11 Q. -- photos as I could find; so could you
12 tell me what this is.

13 A. This would be the master bedroom, the
14 sleeping area, the fireplace. What you're looking
15 at here is what the remediators cut out, which, you
16 know, now you're seeing a drywall patch. This is
17 one of the areas where the designer said that the
18 patch job wasn't suitable for the house, and they've
19 now covered this entire wall with something to hide
20 this. So it's -- this is some stage of the repair.

21 Q. Okay. And you're looking at page G on
22 that exhibit.

23 The designer said -- who was the
24 designer?

25 A. Paddiwacks is their company's name.

1 Q. Okay. And so she said that it wasn't for
2 this type of a house. Okay.

3 Are there any other locations where they
4 did something to hide the transition with the --
5 with where the drywall had to be replaced?

6 A. Yeah. They brought in wallpapers and
7 covered a bunch of walls with paper. A lot of them
8 are around -- this is -- this area we're looking at
9 now is right beside where the sprinkler activated.

10 Q. Uh-huh.

11 A. So this wall they covered with glass. In
12 the bathroom they wallpapered, the bathroom being
13 within 10 feet of this, and this wall on the -- the
14 opposite -- opposite's not exactly right because
15 this is an angled wall. Opposite this wall,
16 opposite the glass door here, they papered over
17 also.

18 Q. Okay. Are there locations where they
19 were not able to do wallpaper or something where
20 that transition is noticeable?

21 A. All over the house.

22 Q. Okay.

23 A. The wallpaper's really expensive. You
24 can't wallpaper an entire house. It's just not
25 economical.

1 Q. I'm showing you page H. Can you tell me
2 what that is.

3 A. I'm not a hundred percent sure, but I
4 could guess.

5 Q. Okay.

6 A. "Okay," I should guess, or --

7 Q. Yeah.

8 A. I think it's the underside of the
9 overhang of the garage. So this would be positioned
10 like this, and the garage doors would be here.

11 Q. Well --

12 A. I think.

13 Q. -- that was my guess as well; so okay. I
14 just --

15 A. And it looks -- it looks like it's that
16 because, like I said, I can't tell if it's your
17 photocopier or the photo. This appears to be a
18 crack to me.

19 Q. Circle that.

20 A. (Complying.)

21 Q. Okay.

22 A. And this part of the stucco had to be
23 repaired because water was leaking through it.

24 Q. Okay. Was that repaired; do you know?

25 A. Yes.

1 Q. Okay.

2 A. Yes.

3 Q. Okay.

4 A. Well, it was refinished. It should have
5 been -- to repair it correctly, you need to
6 jackhammer the stucco off. Stucco on a custom house
7 isn't like stucco on a normal house. A normal
8 house, you might only have a quarter inch of stucco
9 and you can push your finger and feel the Styrofoam
10 underneath it.

11 Q. Yeah.

12 A. On a custom home, you have an inch, and
13 it's an inch of concrete. So when you get into a
14 stucco repair, you need to jackhammer off concrete
15 basically, rip off all the boards and coverings
16 underneath it, and then redo it. They skimmed this.

17 Q. So are you telling me that the stucco
18 coat on that house is an inch thick?

19 A. Correct. That's why it never got hot in
20 the house.

21 Q. Okay. I'm looking at photo I. This is
22 EDGEWORTH1202. Is there any -- could you circle any
23 areas of damage on that photo, please.

24 A. I can't see it on the photo you're giving
25 me. I know there's cracks on these doors.

1 Q. Okay. Circle the areas --

2 A. I would -- I am guessing where it's wiped
3 away, like you can see where somebody's wiped stuff
4 away.

5 Q. Uh-huh.

6 A. I am guessing in here is where you'd see
7 the cracks on the wood.

8 Q. Okay. And that's why I need you to --

9 A. Yeah. Because you can see the door is
10 dirty.

11 Q. Okay.

12 A. That's a definite stucco crack.

13 Q. Yeah. But that appears to be --

14 A. Yeah, and you can see water's bulging
15 here, I believe.

16 Q. This is EDGEWORTH --

17 A. Unless there's a pencil line.

18 Q. -- 1203.

19 A. I have to assume it's not a pencil line.
20 That looks like a stucco crack.

21 Q. But you said that this is the area the
22 stucco had been at least sort of troweled over?

23 A. Well, this fully has to be disclosed
24 because he skimmed it.

25 Q. Okay.

1 A. Because to properly fix it, he should
2 have jackhammered it off.

3 Q. And who is "he"?

4 A. Who-Dun-It.

5 Q. Who-Dun-It was doing the plastering?

6 A. Yes. They're the best stucco company in
7 Las Vegas.

8 Q. Okay.

9 A. Yeah, this you can see cracks on the
10 doors.

11 Q. I'm looking at photo K. All right.

12 And L, just circle the areas --

13 A. Just from the resolution of the photo,
14 I'm not sure, but I imagine -- I don't -- maybe it's
15 this crack here they're showing. I'd have to see
16 the original photo.

17 Q. Sir, you're critical of the copies of the
18 photos. Do you have digital copies of these or has
19 your counsel received digital copies of all these
20 photos?

21 A. I don't know if we have digital copies of
22 these. I don't know if these are photos I have
23 taken or the remediation. I'm not sure if I have
24 the remediation's photos or not.

25 Q. Okay.

1 A. I could check, though.

2 Q. But to the extent you have photos that
3 you've taken, would you -- would you produce them as
4 the digital format so we can get some closeup of
5 these because what you're -- I mean, I'm printing
6 out on a pretty good printer and but you're saying
7 they're poor photos, and so that's one of the
8 challenges that we're dealing with.

9 Are you willing to produce, well, to the
10 extent you have, digital photos?

11 A. To the extent that we have them --

12 Q. Okay.

13 A. -- unless my counsel thinks I shouldn't.

14 MR. SIMON: We'll produce whatever we
15 have.

16 MS. PANCOAST: Okay.

17 MR. SIMON: If we have them in digital,
18 we'll give them to you in digital. I mean, I can't
19 speak to the quality of your printer and as to the
20 quality of these photos. I'll look and see what I
21 have, though.

22 MS. PANCOAST: Yeah. I mean, I just --

23 THE WITNESS: Some of this stuff is still
24 there. We could hire a professional photographer if
25 somebody's willing to pay for it.

1 MS. PANCOAST: Let's see.

2 MR. SIMON: Just answer her questions.

3 BY MS. PANCOAST:

4 Q. M, circle the areas that are a problem on
5 M.

6 A. (Complying.)

7 Q. Okay. I'm looking at EDGEWORTH1207,
8 which is N in this exhibit. Do you know what that
9 area is? It shows apparently a concrete floor and
10 some walls, but I can't identify the room.

11 A. Concrete means it's either the main level
12 or the basement.

13 Q. Okay. But you don't know which room it
14 is?

15 A. I'd be guessing.

16 Q. Okay. Now, I'm showing you
17 EDGEWORTH1208, which is photo O. Can you tell me at
18 what time this photo was taken. Was it after the
19 remediation or before? Was it during the
20 construction?

21 A. It doesn't have a date on it.

22 Q. Right. So I'm just trying to figure out
23 if you know.

24 A. Well, it's after the remediation because
25 if you look here, you can see where they've cut

1 drywall away. The entire house was painted; so
2 anytime that you see areas that have drywall patched
3 and aren't painted, it's after the remediation.

4 Q. Okay. Thank you. That gives us an idea.
5 All right. I see what you're talking about.

6 So you've circled that area on this.

7 A. You can also see the concrete board is
8 still wet and stained; so it appears to still have
9 the water stain on it.

10 Q. What area do you believe is water
11 stained? Could you just circle it.

12 A. This is concrete board here.

13 (Complying.)

14 Q. All right. And so did the water run down
15 from the master through the wall or this chase?

16 A. Correct.

17 Q. Is this -- is this fireplace located
18 below the fireplace in your master bedroom?

19 A. No. The master bedroom fireplace would
20 be over here --

21 Q. Okay. All right.

22 A. -- to the south of this fireplace.

23 Q. But the wall -- let me explain what my
24 understanding is what you've been telling me so I
25 make sure I'm correct.

1 You've got -- you've got that
2 second-story floor that was actually concrete, and
3 so the only place for the water to go was through
4 the various holes drilled for like the plumbing,
5 electrical, et cetera, or that would go to the edge
6 of the slab and run down the walls. Is that
7 correct?

8 A. No. I think you've misunderstood.

9 Q. Okay.

10 A. This floor here is all concrete.

11 Q. Okay.

12 A. This part of the floor is concrete
13 because underneath it is dirt.

14 When you get over near this fireplace,
15 the one with the stone on it --

16 Q. Right.

17 A. -- somewhere around there, which you
18 could tell by where the patio changes --

19 Q. Okay.

20 A. -- stone on the patio, is over top of the
21 basement. That section of the main floor that
22 overhangs the basement is all poured concrete. The
23 upper level is framed with trusses and then plywood.
24 The -- we could call them third story, second story,
25 first story.

1 Q. Okay. So that -- okay. So there's no
2 concrete between -- over the -- between the second
3 and third story; right?

4 A. No, no.

5 Q. Okay. Thank you for clarifying that.
6 Okay.

7 All right. We've looked at this one.
8 We're looking at EDGEWORTH1210, Q on this group of
9 exhibits. What is this?

10 A. This shows -- these are solid custom
11 cabinets, solid wood. If you look right down here,
12 you will see that this face is stained and you'll
13 see a line right down here. This -- this piece in
14 here on the cabinet floats. It's a -- it's a
15 different piece of wood than the outer piece of wood
16 on the cabinet and it's a different piece of wood
17 than this trim piece on the cabinet.

18 So this shows that the cabinet soaked up
19 a ton of water and then they shrunk as the water
20 dried up because you can see that it shrunk to a
21 level where the unstained portion is now showing on
22 the cabinet. That might be more of it there.

23 This shows it more clearly.

24 Q. Okay.

25 A. On your R --

1 Q. R.

2 A. -- exhibit right there.

3 Q. EDGEWORTH1210 [sic].

4 A. Yeah.

5 Q. So the problem is it shrunk and sort of
6 it exposed the unstained portion?

7 A. Correct.

8 Q. Okay. Now, it's my understanding that
9 Old World Cabinetry has come in and worked on these
10 cabinets.

11 A. Correct.

12 Q. But there's still some work that needs to
13 be done. Can you tell me how many cabinets still
14 need repaired, replaced or --

15 A. I think the only way you were going to
16 rectify this problem was if you would have removed
17 and replaced every single cabinet in this house.
18 They're all custom made. They're all solid wood.
19 They were all exposed to the water. They all soaked
20 water up. They all shrunk.

21 There's so many that are warped and --
22 and have this problem here. Repairing them is not a
23 solution and it never was, and I told them that.

24 Q. Told "him." Who's "him"?

25 A. Jim Kreason.

1 Q. Okay. Okay.

2 What was the work that Old Country
3 Cabinetry did?

4 A. I believe their name's Old World.

5 Q. Old World. Sorry. Thank you.

6 A. I could be wrong, though.

7 Q. I've got it somewhere.

8 It's Old World, yeah. Old World
9 Cabinetry, LLC.

10 A. They came in. They removed and replaced
11 everything that -- that they felt was clearly
12 visible. They did a patch job, what would happen if
13 a homeowner called in a ten-year-old house and had a
14 flood like this and was fixing it. They did the
15 best they could to patch it up, and it took a long
16 time to do it, but I think for his scope of work, he
17 did a fairly good job.

18 Q. Okay, okay. Is there -- the photos that
19 we're looking at here, do you know if these are
20 before or after Old World Cabinetry worked on these
21 two cabinets?

22 A. I don't know that Old World Cabinetry
23 ever worked on these two cabinets. I don't think
24 they did.

25 Q. All right. Is there any -- is there any

1 way to identify what cabinets were repaired by Old
2 World and what ones weren't?

3 A. Sure. They don't match.

4 Q. Okay.

5 A. If you just went through all the cabinets
6 and found the ones that don't match the other
7 cabinets, that's the ones they replaced.

8 Q. And you say -- how is it they don't
9 match?

10 A. The easiest way to see would be to look
11 at this joint here because it's custom cabinetry --

12 Q. Okay. Circle that with an "A" and then
13 put an "A" there.

14 A. (Complying.)

15 Q. And we're looking on document Q. All
16 right.

17 A. So this is a custom cabinetmaker who's
18 making these trim pieces and he's pushing these
19 pieces of wood through some kind of a router bit.
20 It's probably his own. The ones -- the wood ones --
21 there's two different types of cabinets, and we need
22 to clarify that too.

23 The wood cabinets, you can figure out
24 which ones Old World replaced because this pattern
25 here does not match the pattern that they replaced

1 them with. They couldn't duplicate it. That would
2 be your easiest way to figure it out.

3 Q. Okay.

4 A. Or -- I don't know how else. That would
5 be the best way.

6 Q. Okay. It's my understanding that Artesia
7 cabinetry -- and they're the ones that did the
8 original install; is that correct?

9 A. No. Artesia sold us the cabinets.
10 Artesia has another company that installs the
11 cabinets under a different name, and I don't know
12 what that name is. But correct, Artesia is the one
13 that made the cabinets.

14 Q. Okay. It's my understanding that they
15 are coming out to give you an estimate?

16 A. Yes.

17 Q. Okay.

18 A. They already did.

19 Q. Do you have that? What is that estimate?

20 A. It's probably going to take them two to
21 three weeks to make the estimate based on prior
22 experience with Artesia. I believe they came out --
23 last Wednesday they were at the house.

24 MS. PANCOAST: Okay. Hang on. Just
25 something's going on here.

1 (Recess taken from 11:24
2 a.m. to 11:25 a.m.)

3 BY MS. PANCOAST:

4 Q. All right. So you anticipate that in a
5 couple of weeks. Did they --

6 A. We asked them to rush, but --

7 Q. Okay. Do you have -- did they give you
8 any rough estimate as to what they were looking at?

9 A. I didn't speak with him.

10 Q. Okay. Was the estimate to totally redo
11 all the cabinetry or the estimate was to work on the
12 cabinets that the millwork didn't match?

13 A. There's more problems than millwork --

14 Q. Okay.

15 A. -- not matching. My understanding, what
16 I asked for, which doesn't mean it's what I'm going
17 to get, what I asked for was him to walk through,
18 look at all the cabinets and tell me which ones are
19 still damaged and not to the condition that he
20 supplied them to. That's what I'm expecting.

21 Q. Okay.

22 A. If we go back to Q, you can see that the
23 door is likely warped, either the door or the
24 drawer, also.

25 Q. Okay. Put a "C" by that one.

1 A. (Complying.)

2 So you've got a gap here, and it's very
3 different than the gap there. You can see it here
4 on this side also. The gap here is very different
5 than the gap up here.

6 You can sometimes adjust that and
7 sometimes the wood's just warped too far.

8 Q. Identify that with a "D."

9 A. (Complying.)

10 Q. Going back through, we just need to be
11 able to track what you're talking about.

12 A. I understand.

13 Q. Okay.

14 MR. SIMON: You might need a new pen.
15 You're running out of juice.

16 MS. PANCOAST: Yeah. Well, we can get
17 that.

18 BY MS. PANCOAST:

19 Q. Now, these two photos, they're showing
20 different-colored cabinetry. Is that the -- are
21 these in different locations or is that just the
22 function of the color of the printer or the
23 exposure? Are they supposed to be the same color?

24 A. I think it's the printer.

25 Q. Okay. All right.

1 A. They are the same color.

2 Q. Looking -- okay. And that's what I need
3 to know.

4 Looking on page R, if you look, this gap
5 here, is that -- is that the way it is with those
6 cabinets now installed? Do you remember seeing
7 something like that?

8 A. In some places it's like that.

9 Q. Okay.

10 A. But they tried to adjust as much as they
11 could. That's a lot of what Old World did, was
12 adjustments to hide issues.

13 Q. Okay. Based on this decoration in this
14 corner, can you identify the location of where this
15 cabinet is.

16 A. That would be a copper sink.

17 Q. Okay.

18 A. So that would be in the kitchen, and that
19 looks like the face of a farm sink; so that would be
20 the second island in the kitchen.

21 Q. Okay. We're looking at page S,
22 EDGEWORTH1212. Can you tell me what I'm looking at
23 there.

24 A. This is a different type of cabinet.
25 There's three types of cabinets in the house. One

1 is a very expensive custom designed. I believe the
2 designers were paid 25- or 30,000 dollars to design
3 the cabinets. That would be these, the first ones
4 you asked me to look at.

5 Q. Those are on pages R and Q; correct?

6 A. Correct.

7 Q. Okay.

8 A. The second type of cabinets is the same
9 quality but they're not wood colored. They have
10 been painted, or I think the word they use is
11 "stained," but for all intents and purposes,
12 painted.

13 The third type of cabinet is in some of
14 the bathrooms, and it's still a custom high-quality
15 cabinet, but it's not the same level as the kitchen.

16 Q. Okay.

17 A. This is the second set. It's the
18 painted.

19 Q. And that's on page S. Where are these
20 cabinets located?

21 A. I couldn't tell from the picture. This
22 could be -- these cabinets are in the master
23 bathroom and in the uppers of the kitchen.

24 Q. Okay.

25 A. And that might be the only places they

1 are.

2 Q. In the master bathroom, was there damage
3 to the cabinets?

4 A. Yes, humongous damage. That's where the
5 head was.

6 Q. Okay.

7 A. It was in the entryway between the master
8 bathroom and the master sleeping area.

9 Q. Was the -- was the spray such that it
10 landed on the cabinets?

11 A. I don't know. I wasn't there when the --
12 the head was not leaking when I arrived.

13 Q. Okay. All right.

14 Let's look at T, EDGEWORTH1213. Where is
15 that; do you know?

16 A. This appears to be a -- I'm guessing that
17 this is a dishwasher because it doesn't have the
18 vent to be a fridge. So this would be a dishwasher
19 cabinet, and this would be a lower cabinet. It's
20 likely in the bar area.

21 Q. So that on photo T, the two with a handle
22 on them would be cabinetry, but the one that has
23 like a blue tape on it, that would be the
24 dishwasher --

25 A. Face.

1 Q. -- face?

2 A. Correct.

3 Q. Okay. Are you aware of any problems
4 still existing with the -- in this location?

5 A. This would be a great example for how you
6 can tell which doors were replaced.

7 Q. Okay.

8 A. The wood species is different and the
9 color doesn't match the original, and remember I
10 told you on the first one if you looked at the trim
11 piece?

12 Q. Yeah.

13 A. It doesn't match.

14 Q. Okay. But --

15 A. So you can tell a different custom
16 cabinet guy used a different trim router to produce
17 this door than this door.

18 Q. Okay. And I'd like you -- you circled
19 those two trims. Do an arrow and say "A" so I
20 can -- so we can identify this comparison.

21 A. (Complying.)

22 Q. Thank you. All right.

23 So based on this and those comparisons,
24 you would -- you believe that custom -- Old World
25 Cabinetry would have done the face of the

1 dishwasher; correct?

2 A. I'm 99.9 percent sure.

3 Q. Okay.

4 A. Do you see the difference in the trim?

5 Q. Yes.

6 A. Yeah.

7 Q. Well, I see the difference in the wood
8 too.

9 A. Yeah. Artesia wouldn't have had those
10 differences.

11 Q. I'm thinking back to my father's
12 woodworking, and that's why I'm intrigued by the
13 trim, because there's this great gadget you can do
14 to match trim.

15 Okay. Let's talk about the fireplace on
16 U. It's EDGEWORTH1 -- it's EDGEWORTH592. Now, I'd
17 like you to take that Sharpie, and if we need to get
18 another one, I can. It's my understanding that you
19 believe you need to replace the fireplace. My
20 question is: How much of that fireplace needs to be
21 taken out to replace the actual fireplace? Because
22 there's that huge stack.

23 Do you see what I'm --

24 A. I understand.

25 Q. Okay.

1 A. The fireplace weighs 2,000 pounds. We
2 should start there because I don't think you
3 clarified that with Mark. The fireplace is this
4 piece right here. It probably goes up about here,
5 and it's off the ground.

6 Q. Okay.

7 A. So to remove this piece here, which is
8 the main fireplace, it's a custom fireplace. It's
9 meant for a hotel. Okay? This weighs 2,000 pounds.
10 This here is solid copper. This here is stone
11 wrapped around a bench on the fireplace.

12 Q. Put an arrow and a "C" to where the
13 copper is.

14 A. The entire fireplace is clad in solid
15 copper.

16 Q. Oh, that's what that is, is the copper.
17 Okay.

18 A. Solid copper, yeah.

19 Q. Okay. All right.

20 A. All the way up to here is copper.

21 Q. All right. And that's delineated by the
22 "C" and the arrows?

23 A. That's right.

24 This is framed to get it off the ground
25 with two-by-fours.

1 Q. Okay.

2 A. And there's a wood frame underneath, so
3 wood frame.

4 Q. Okay.

5 A. This is the section that you would
6 consider the firebox. To get this out, he's likely
7 going to have to take all of this off. And don't
8 forget, this is a different angle; so there's copper
9 down here.

10 So you would take all of the copper off,
11 copper trim. You'd remove this stone, this U-bench
12 stone, take the copper off the skirt, and then
13 somehow you will move a 2,000-pound piece of steel
14 across a finished house, out a front door that was
15 not there when this thing was delivered.

16 I don't know how they're going to do it.

17 Q. Okay.

18 A. My company wouldn't bid on that job.

19 Q. And this window next to it is a solid
20 window; right?

21 A. No. That's a sliding door.

22 Q. Okay.

23 A. But you cannot get a forklift around the
24 side of the house. We had to make the pool before
25 we finished our retaining walls on the side of the

1 house.

2 Q. So this, looking out this window, that's
3 in the backyard; correct? That's --

4 A. That's a hot tub.

5 Q. Okay.

6 A. Correct.

7 Q. But that's in the backyard?

8 A. It's under -- under an air-conditioned
9 cabana. So --

10 MR. SIMON: Your answer is yes?

11 THE WITNESS: Yes. Sorry.

12 MR. SIMON: She'll ask you another
13 question if she wants to learn more about your
14 cabana.

15 BY MS. PANCOAST:

16 Q. All right. So when we're looking at it,
17 we are looking out this window into the backyard?

18 A. Correct.

19 Q. I'm just trying to get a visual picture
20 of the house and the setup and understand. Okay.

21 We're looking at EDGEWORTH693, I think,
22 and that's U -- V actually. In the background there
23 are the stairways. This is the -- this is the stair
24 coming down, and is the next stair just right in
25 that same area?

1 A. Correct. If you look through here, you
2 see the handrail going down.

3 Q. Okay. Circle that handrail.

4 A. (Complying.)

5 Q. That's the handrail going down to the
6 basement; right?

7 A. Correct.

8 Q. Okay. I'm showing you EDGEWORTH597. I
9 think that's -- I can't read my own handwriting. I
10 think that's a Z. What is that a photo of?

11 A. That's the master bedroom sleeping area.
12 We looked at this photograph earlier where you had
13 it just with patched drywall.

14 Q. Okay.

15 A. This is the finished. That's pretty much
16 how it looks right now.

17 Q. And one of your future repairs, it's my
18 understanding, is a need to replace that fireplace?

19 A. It doesn't work.

20 Q. What is it? Can you describe to me what
21 the malfunctions are.

22 A. It won't light.

23 Q. It won't light at all?

24 A. Well, they've been out seven -- six or
25 seven times. They can get it to light, and then

1 after it sits for a few hours, it won't light again.

2 Q. Okay. Do you know how much that facing
3 ceramic tile was?

4 A. I just remember being shocked. It was
5 expensive. I don't know how much it was.

6 Q. Now, your cost of repair to replace that
7 is 2,500, I believe. 2,905. Does that include to
8 replace the tile as well?

9 A. I didn't quote that.

10 Q. Okay. All right.

11 A. I would be shocked if 2,900 could replace
12 the glass tile.

13 Q. Okay. Also, in -- and we'll make the
14 next exhibit in line, please.

15 (Exhibit 103 was marked for
16 identification.)

17 BY MS. PANCOAST:

18 Q. These are photos, Exhibit 103, taken from
19 your appraisal expert's report. What I'd like you
20 to do is go through these and circle for me any
21 locations where there -- where we can see damage
22 related to the water.

23 A. (Complying.)

24 Q. I'm going to get you another Sharpie.
25 Hang tight.

1 (Discussion off the record.)

2 BY MS. PANCOAST:

3 Q. All right. So we've got them A through
4 I. So just circle -- so on the first page, A, you
5 have circled the area of the stucco over the garage;
6 correct?

7 A. Correct. To clarify, am I circling where
8 I can see the damage in this particular photograph
9 or where I know there's damage?

10 Q. I'd like you to identify the locations
11 where you know there's -- where you believe there's
12 damage so we can get a full picture.

13 A. (Complying.)

14 Q. Okay. So we have the -- you've circled
15 the stucco and the garage door?

16 A. Right.

17 Q. Okay.

18 A. There's three garage doors.

19 Q. Okay.

20 A. Can I ask for clarification again?

21 Q. Sure.

22 A. On this side of the house is a bunch of
23 electrical panels. I know there's electrical
24 damage. Should I be circling that?

25 Q. Just write "electrical" on that in that

1 area.

2 A. Okay.

3 Q. My goal is to document the areas of
4 problems. So however way we do that, I want to make
5 sure we have a complete record so we can understand
6 the problems.

7 So let --

8 MR. SIMON: So based on that, circle
9 everything that you think could be related to the
10 water damage.

11 THE WITNESS: Well, that --

12 MR. SIMON: Okay? Period, the end.
13 She'll ask you questions about it later.

14 BY MS. PANCOAST:

15 Q. We're going to work through these. All
16 right.

17 We've already talked about the stucco
18 over the garage doors and the garage doors. Talk to
19 me about the electrical panels, and that appears to
20 be -- that's on which side of the house?

21 A. South. That's the south side.

22 Q. The south side of the house, and what is
23 it that you are circling at this location?

24 A. I'm giving you the approximate location
25 of the electrical panels. You can't see them.

1 There's a main panel there and then around the
2 corner there's two more panels.

3 Q. Okay. And what are the issues with the
4 electricity?

5 A. I don't know. ASE's been out -- I don't
6 even know how many times. They're coming out again
7 today because another light shorted out in the
8 kitchen. All of the problems they've come out for
9 are right under the master bedroom, and the main
10 electrical into the house runs right below where
11 your sprinkler blew up.

12 Q. Okay. All right. Let's go to B. In any
13 of these locations?

14 A. No.

15 Q. All right. In C? These are all
16 exteriors.

17 A. No.

18 Q. Okay.

19 A. Not that I know of.

20 Q. All right. D?

21 A. (Writing on document.)

22 I think that's good enough.

23 Q. On D, on the upper left-hand picture, you
24 have two circles. Please explain to me what those
25 are documenting.

1 A. This is right under the master bedroom,
2 and the low voltage, this TV will just turn on and
3 off randomly. They've been out probably every day
4 since -- I don't think there's a week these guys
5 aren't in the house trying to figure out what is
6 wrong with the low-voltage wiring.

7 These lights are some of the lights that
8 failed on the electrical.

9 Q. Uh-huh.

10 A. I don't know if they fixed them or not.
11 Every time they're fixed, a week later they start
12 blowing again.

13 Q. When's the last time you had troubles
14 with those lights?

15 A. Last night. I just -- oh, these
16 particular ones?

17 Q. Yes.

18 A. A week or two ago.

19 Q. Okay.

20 A. And actually, we should go back to this
21 page because you might have had patio lights
22 visible. Patio lights -- yeah, you did. I missed
23 this on B.

24 Patio lights, same electrical run. They
25 just flicker.

1 Q. So you've shown us on B these two patio
2 lights. They flicker, and are those -- are these
3 lights on the top left photo, are they the same
4 lights under here? So is it close to the master
5 bedroom?

6 A. Master bedroom is right here off -- like
7 beside -- it's back there.

8 Q. Okay. Does it open up into that balcony
9 area?

10 A. Those lights are these lights here.

11 Q. Okay.

12 A. They're right here.

13 Q. So does the master bedroom open up into
14 this patio area --

15 A. Correct.

16 Q. -- upper patio area?

17 Okay. So these lights that we're looking
18 at are underneath the patio adjacent to the master
19 bedroom?

20 A. Yes.

21 Q. Okay.

22 A. They run off the circuit from the panels
23 that I circled.

24 Q. Okay. How many electrical panels are
25 there?

1 A. I don't know. I'll give you a ballpark
2 and say four.

3 Q. Okay.

4 A. There's one in the garage.

5 Q. All right. So is it -- the electricity
6 that's running off that panel that you circled on
7 the first page, that's the one that there seems to
8 be the common issue of the electricity?

9 A. There's two panels on that side of the
10 house. Every circuit that we've had a problem with
11 are on one of those two panels. Every electrical
12 problem we've had in the house for ASE to come back
13 is off those panels.

14 Q. Okay, okay. All right. Let's look at E.

15 A. Well, it's hard to circle.

16 Q. All right. So E, the top left is the
17 ceiling wood. What type of wood is on the ceiling?

18 A. I don't know.

19 Q. Okay.

20 A. You mean the species?

21 Q. Species, yeah.

22 A. I don't know.

23 (Writing on document.)

24 Q. Okay. The bottom left you've got three
25 circles. What are those documenting?

1 A. This drywall's just horrendous going
2 down. The paint just looks terrible.

3 Q. Okay. The drywall in the -- on the
4 stairs going down, was all that drywall removed or
5 just a section of the drywall?

6 A. No. They cut out these little patches.

7 Q. Like a 2-foot stretch going down there?

8 A. Here they did worse than that. They cut
9 out these little rectangles.

10 Q. Okay. Main subject's service staircase,
11 what is it that you're circling in that one?

12 A. I would call this the master back stair.

13 Q. Okay.

14 A. All the way down there, you can see bad
15 drywall finish. You can see the tape joints pretty
16 clearly down there. This -- this area and then all
17 the way down around the corner, we're getting this
18 weird fogging, which it almost looks like there's
19 drywall dust on the other side of the paint, but you
20 can't wipe it off. You get it repainted and it
21 comes out again. We don't know what it is, and, I
22 mean, just --

23 Q. So put an "A" in that location so we
24 can --

25 A. (Complying.)

1 Q. So it's in the area around "A" you're
2 saying there's some sort of refogging?

3 A. It's right down around this corner.

4 Q. Okay.

5 A. It's on this wall, on this stair going
6 down.

7 Q. On the other side of that stairwell?

8 A. Correct.

9 Q. And you've had it repaired, but it comes
10 back?

11 A. We've painted over it, and it comes back.

12 Q. What kind of -- what thickness of drywall
13 are they using; do you know?

14 A. I would assume five-eighths. It's a
15 custom home. But I'm not positive.

16 Q. Okay. Let's look at F.

17 A. Earlier you asked where the wallpaper
18 was. That's just for information. There's
19 nothing --

20 Q. Just put an arrow and say "wallpaper."

21 A. (Complying.)

22 It's just 'cause you asked earlier for
23 wallpaper.

24 Q. So you've identified that by "W.P." with
25 those circles on the upper left hand.

1 A. These lights have started to flicker in
2 the last three days.

3 Q. And then --

4 A. This is the upstairs office right off the
5 master.

6 Q. And the lights are the lights in the
7 ceiling?

8 A. Yes.

9 Q. Okay. All right. Anything else in these
10 two?

11 A. This floor creaks right here, right in
12 the area I circled. If you step on it, you can hear
13 a creaking.

14 Q. Okay. Put a creak. Just write "creak."

15 A. (Complying.)

16 Q. All right. Anything else?

17 A. I'm going to circle this just because I'm
18 assuming that there's issues with these cabinets.

19 Q. Are those -- and where are those
20 cabinets?

21 A. That's in the very basement. This is the
22 theater right here.

23 Q. Uh-huh.

24 A. And this is a game room. The garage
25 would be this way.

1 Q. Coming towards you from your --

2 A. Yeah.

3 Q. Okay. All right. So that is your
4 basement, and you believe that there's problems with
5 those cabinets?

6 A. I'm just circling them because you asked
7 me to circle to be complete.

8 Q. Okay.

9 A. And I don't remember seeing an area in
10 the house where there's not issues with cabinets.

11 Q. Okay. But do you know if there was any
12 work done on those cabinets after the failure by Old
13 World Carpentry?

14 A. This is where all the water was.

15 Q. Okay.

16 A. This is the basement. This theater was
17 full of water and this was all -- this entire
18 ceiling had fallen down.

19 Q. Okay. Do you know if those --

20 A. So if they hadn't hung it --

21 MR. SIMON: She wants to know if these
22 cabinets were repaired.

23 THE WITNESS: I just don't know.

24 MR. SIMON: Okay.

25 \\\

1 BY MS. PANCOAST:

2 Q. And that's fine. I'm just trying to --
3 do you know if those cabinets were already installed
4 when the --

5 A. I believe so.

6 Q. Okay.

7 A. I believe so.

8 Q. You're just not sure of what's been done
9 with them. That's fine. I'm just -- again, I'm
10 just trying to document.

11 A. I don't use this room; so I can't really
12 testify about the drywall down here because I
13 haven't looked at it.

14 Q. It says underneath it, "Subject's office
15 area." Where is that room located?

16 A. It's the downstairs office. If you come
17 in through the front door and you turn right, you'll
18 go past a staircase. You'll go past the elevator,
19 and that's the office.

20 Q. Okay.

21 A. That's the street right there, the front.

22 Q. All right. Let's look at G. Any
23 problems identified in these locations?

24 A. No. That's -- you were asking about the
25 wallpaper wall the other day -- or the other --

1 Q. Yeah.

2 A. -- the other hour.

3 Q. Just put "wallpaper" or "W.P."

4 A. That's the opposite wall you were asking
5 about.

6 Q. Oh, okay.

7 A. Not that I know of.

8 There's problems with these -- a lot of
9 these cabinets, because there was little cracks and
10 separations, they tried to paint them. That's not
11 the proper term. They had a different term, but it
12 was like a paint. Glaze, they call it a glazing.

13 Q. Okay.

14 A. If you put a glazing over, it would hide
15 some of it. It has -- you can see the difference in
16 color in some of these.

17 Q. So when they did the glazing, did they do
18 the entire cabinet or just a few locations?

19 A. No. They did all of them.

20 Q. Okay.

21 A. Just I don't know if it's because the
22 stuff that they replaced just doesn't glaze the same
23 or what.

24 Q. Okay.

25 A. It just doesn't match.

1 Q. Okay. Let's go to H.

2 A. Patched.

3 You can't really see in the picture, but
4 I know.

5 What is this?

6 This whole wall.

7 Q. Okay. So we have the upper left is the
8 stucco that we've talked about. What about the
9 lower left, can you tell me what that documents.

10 A. You can just see a bad drywall.

11 Q. Where is that located at?

12 A. That would be -- that's a sconce; so it
13 would be in one of the stairwells.

14 Q. Okay. What about the upper right, what
15 room is that in?

16 A. This would be the master back stair.

17 Q. Okay. Do you know what this -- what --

18 A. It's a handrail to go down the stairs.

19 Q. Oh, okay. All right.

20 A. This is also in the master back stair.

21 This is the first walk-down. This is the second
22 walk-down.

23 Q. Okay. You've circled this in the upper
24 right. That's the handrail. What is it that you're
25 critical of it?

1 A. The drywall. You can see where it's been
2 patched and repainted. You can see like --

3 Q. The drywall finish?

4 A. -- all the patches, yeah.

5 Q. Okay. And is that the same in the bottom
6 right, is the drywall finish is what's --

7 A. This is another weird area where it was
8 painted, it was painted again, and there's something
9 coming -- there's just something there. Like it
10 looks like I can clean it off and I can't, and we
11 don't know what it is and I don't know what to do
12 about it.

13 Q. Okay. All right.

14 Let's go to I. I think we've already
15 talked about the door. Yeah. What is that, upper
16 left? What's that?

17 A. You can see the finish doesn't match the
18 rest of the drywall.

19 Q. And where is this on the upper left?

20 A. This would be a night-light for
21 stairwells.

22 Q. Okay.

23 A. So this would be a stairwell somewhere.

24 Q. Do you think it's in that back stairwell
25 up to your master?

1 A. No, because you can see wood here on the
2 stairs.

3 Q. Okay.

4 A. The only place there's wood on stairs is
5 those two circulars; so it's either from main to
6 upper or from main to lower.

7 Q. Okay. So it's on that main staircase?

8 A. Correct.

9 Q. All right. Thank you.
10 How about on the left side below, is
11 there any --

12 A. The blue tape. There's --

13 Q. Oh, we got the blue tape.

14 A. -- blue tape on it, yeah. So this is --

15 Q. The infamous blue tape.

16 A. -- usually a hint; right?

17 Q. All right.

18 A. This we went over before on the upper
19 right, and this we went over before.

20 Q. Okay. All right. Okay.

21 MS. PANCOAST: We've been going for three
22 and -- two and a half hours. Do you guys want to
23 take a short break and then we'll come back at like
24 12:30 and keep going through?

25 MS. DALACAS: That's fine.

1 MR. SIMON: Sure. Whatever you want to
2 do.

3 MS. PANCOAST: Okay.

4 (Luncheon recess taken at
5 11:57 a.m.)

6 AFTERNOON SESSION

7 (Deposition reconvened at
8 12:37 p.m.)

9 MS. PANCOAST: Back on the record.

10 BY MS. PANCOAST:

11 Q. Can you tell me what experience you have
12 in construction prior to sort of moving into it I
13 think with American Grating. Had you done any
14 construction prior to --

15 A. Just as a laborer.

16 Q. A laborer?

17 A. (Nodding head.)

18 Q. And what experience was that?

19 A. I did framing, roofing, decks, home
20 improvements.

21 Q. And what --

22 A. Drywall.

23 Q. And how old were you when you did this?

24 A. 18 to 22.

25 Q. Okay. And was that full time or sort of

1 working part time as you went through college?

2 A. I didn't go to college out of high
3 school.

4 Q. Okay. Were you working full time?

5 A. Correct.

6 Q. Okay. At what point did you go to
7 college? How old were you?

8 A. I don't know. Three years after high
9 school.

10 Q. All right.

11 A. 20.

12 Q. Okay.

13 A. 21.

14 Q. All right. So did you get any sort of
15 like a -- was it general labor or were you getting
16 more specialized into carpentry, framing, anything
17 like that?

18 A. When I graduated from high school, we
19 were in a huge recession. I took whatever job I
20 could do. So it was just whatever was available I
21 would do it.

22 Q. All right. And that was in the 1990 --

23 A. '87.

24 Q. '87. That's the recession that put my
25 father out of business; so I understand that one.

1 A. Sure.

2 Q. All right. What types of buildings did
3 you work on?

4 A. Houses.

5 Q. Houses. Okay. And it was in -- at this
6 point you were in Canada; correct?

7 A. Correct.

8 Q. Okay. Were you ever involved in any
9 installation of sprinklers in Canada while you were
10 doing -- as a laborer?

11 A. No. In the -- no.

12 Q. Okay. Do they even require sprinklers in
13 residences up there?

14 A. I hope not.

15 Q. Okay. All right.

16 Did you have -- I realize that after this
17 you have a significant knowledge base, but prior to
18 this, when you were building your house and prior to
19 the failure of the sprinkler head, did you have any
20 experience or understanding of sprinkler
21 installation?

22 A. No.

23 Q. Okay. Did you have any understanding
24 about that the sprinkler heads could be heat
25 sensitive?

1 A. No.

2 Q. All right. Other than your -- this
3 experience as a laborer, how did you get into
4 working with Mark Giberti and come up with the idea
5 to do some developing?

6 A. I'm not sure I completely understand what
7 you want me to --

8 Q. That was an inartfully -- what caused you
9 to get into -- decide that, "Hey, I want to develop
10 this house"? What was it?

11 A. During the housing crisis, I wanted to
12 put an addition on my house. Mark bid on it. I
13 said I felt his bid was high. He said so did he,
14 but he -- it was his first job after Rich MacDonald
15 let him -- laid him off; so he had to make sure that
16 he made money.

17 I said, "How about I pay all the subs and
18 I pay you per month?" He came back and said, "I
19 looked at one of your companies. I think I can be
20 helpful. How about you hire me?"

21 That's what I did.

22 Q. Okay. Now, we went through some of this
23 with your wife. How many projects has American
24 Grating -- construction projects has American
25 Grating done?

1 A. How many investments or -- I'm not sure I
2 completely understand.

3 Q. Well, it's like you've got -- it's my
4 understanding you've done some tenant improvements?

5 A. Yes.

6 Q. Okay. And are all those present tenant
7 improvements on 1191, wherever your big warehouse
8 is?

9 A. No.

10 Q. No?

11 A. No.

12 Q. Where are they?

13 A. We ripped out a Dairy Queen in Town --
14 Town Square, Town -- I forget the mall's name on the
15 Strip -- and put in a shoe store. That's a TI, a
16 tenant improvement.

17 The rest would be at 1191.

18 Q. Okay. Now, that tenant improvement, that
19 was for Pediped; is that correct?

20 A. Pediped, correct.

21 Q. Pediped. I'm sorry.

22 And so the tenant improvements have all
23 been for companies that you own or are involved in;
24 is that correct?

25 A. Correct. He works just on my

1 investments.

2 Q. I understand. I'm just trying to figure
3 out.

4 Did you buy any other homes as
5 investments?

6 A. Yes.

7 Q. Okay. And where were those?

8 A. Bought two in MacDonald Highlands.

9 Q. Now, are those -- what street are they
10 on?

11 A. Foothills Village Drive.

12 Q. Okay. Do you know the numbers of those
13 homes?

14 A. I believe 1409 and 1417.

15 Q. Okay. All right. And did you pay cash
16 for those?

17 A. I'm not sure I understand the term
18 "cash."

19 Q. Did you have to get a loan or a mortgage
20 on either of those houses?

21 A. Okay. The first one I paid cash. The
22 second one I took out a conforming and paid the rest
23 in cash.

24 Q. You took out a conform?

25 A. Conforming mortgage is a mortgage that's

1 under a certain amount of money that can be resold
2 to Fannie and Freddie and you get a lower interest
3 rate.

4 Q. Okay. Which one was it that you got the
5 conforming mortgage? Is it the one you still own?

6 A. Yes.

7 Q. Okay.

8 A. Whichever one I still own, it's that one.

9 Q. I believe you still own 1417. Is that --

10 A. That sounds correct.

11 Q. Okay. So is there a mortgage on the
12 1417 --

13 A. Correct.

14 Q. -- property now? Okay.

15 And do you know the balance of that
16 mortgage?

17 A. No. I could ballpark.

18 Q. Could you ballpark it, please.

19 A. 300.

20 Q. All right. Now, on the residence at 645
21 St. Croix, it's my understanding there's no mortgage
22 on that. Is that correct?

23 A. Correct.

24 Q. Okay. And there is a mortgage on the
25 633 -- 637 St. Croix?

1 A. Correct.

2 Q. Okay. Can you tell me the approximate
3 equity you have on 637 St. Croix.

4 A. Amount of equity, I don't know. The
5 amount of mortgage?

6 Q. Yeah, let's --

7 A. Ballpark, 2 mill.

8 Q. Okay. And the 637 St. Croix is presently
9 listed for sale; is that correct?

10 A. Correct.

11 Q. All right. And what is the listing
12 price?

13 A. I believe it's 3.9, maybe 3.99. I'm not
14 sure.

15 Q. Okay. And the 637, you have improved it
16 since you purchased it; is that correct?

17 A. Correct.

18 Q. Okay. And that's how you got acquainted
19 with Mark --

20 A. Correct.

21 Q. -- Giberti? All right.

22 And apparently you had some sort of --
23 you did some tenant improvements relating to
24 volleyball courts?

25 A. Correct.

1 Q. And then you also built some sort of a
2 volleyball center?

3 A. Correct.

4 Q. Can you tell me about that volleyball
5 center. What is that? How big was it?

6 A. It's, I believe, 19,000, but it depends
7 how you count the square feet 'cause there's a
8 mezzanine. It might be 17,000.

9 Q. Okay. All right. Is that -- is there
10 any mortgage on that property?

11 A. No.

12 Q. Okay. When did you buy that property?

13 A. I built the property.

14 Q. When did you -- when did you buy the land
15 that you built the property on?

16 A. I don't know. I bought it out of
17 bankruptcy, a bank sale. I'm not entirely sure of
18 the year.

19 Q. Okay. During what period of time were
20 you working on this volleyball center?

21 A. Working?

22 Q. Well, building it. You know, you
23 purchase land and then you build it. What time
24 period is that?

25 A. I need you to clarify 'cause when you

1 build something there's different phases. If you
2 mean there's actual men and women on the site doing
3 labor or --

4 Q. No, I understand that. From sort of the
5 concept through to the end of construction, that
6 time frame is what I'm looking for.

7 A. Well, to permit it, it probably took 12
8 to 18 months. The building's probably six to seven
9 months. Those are ballpark guesses --

10 Q. That's fine.

11 A. -- but it gets you approximate.

12 Q. All right. When was it ultimately
13 finished?

14 A. Certificate of occupancy was June or
15 July -- I'm not sure which -- of this year.

16 Q. So if we look at the permit of 12 to 18
17 and then construction, so that was sort of over a
18 2-year period of time; would that be about right?

19 A. Probably two, two and a half years --

20 Q. Okay.

21 A. -- from ground to finish, yeah.

22 Q. Okay. All right. And you were able to
23 pay for all that in cash; is that correct?

24 A. Correct.

25 Q. Okay. All right.

1 Let's talk a little bit about the repairs
2 that you started to have. Your counsel has
3 produced -- and I think we've marked it as an
4 exhibit -- this updated invoices and interest
5 through September 25th. Could you pull that out,
6 please.

7 Okay. Now, is this a matrix that you
8 prepared and provided to your counsel or that you
9 gave to your counsel information and it was prepared
10 by someone else?

11 A. I typed these numbers in.

12 Q. Okay. So this is your analysis?

13 A. Correct.

14 Q. Okay. And when did you generate this
15 document?

16 A. The original, the first revision one, or
17 this one?

18 Q. This one that we're looking at.

19 A. Over the last couple weeks.

20 Q. Okay. All right.

21 Now, let's talk about the investment, the
22 \$262,013 investment. What did you base your 6.5
23 percent per year return on?

24 A. I picked a number that I found somewhere
25 that was for judgments, that you were allowed to

1 return a stranded, or whatever, in a judgment.

2 Q. Is that based on the Nevada judgment
3 statutes or some other?

4 A. I just don't know.

5 Q. Okay. Do you know where -- you say you
6 found it. Do you know where you found that number?

7 A. No, I do not.

8 Q. Okay. All right.

9 Now, the HOA monthly dues, you moved into
10 that house in approximately February; correct? When
11 was it that you moved into that house, the 645
12 St. Croix?

13 A. I don't know. Probably around April or
14 so.

15 Q. Okay. All right.

16 But so -- and when you say -- how did you
17 choose this flood delay period?

18 A. Well, the first day, I think we all know
19 or recognize that date. That's the day that the
20 Viking sprinkler failed.

21 And the June 21 I picked because I need
22 to pick an end date so that we all can have a
23 constructive conversation about what the damage
24 period is. You know, there's some period where
25 because of the actions of your client I lost use of

1 my investment, and because the investment's never
2 been repaired to the condition it was in before the
3 accident, the date could be endless.

4 But to be constructive, we need to pick a
5 date that I stopped doing repairs on the house, and
6 June 21st is when we told Old World, "Let's just
7 give up."

8 Q. Okay. And the -- and the same for the
9 property taxes; correct?

10 A. It's the same period, correct.

11 Q. Okay. All right.

12 Now, you have legal fees. Have you paid
13 Mr. Simon all the bills that have been submitted to
14 you?

15 A. I don't know if Mr. Simon gets it
16 personally, but I've paid his law firm every one of
17 those bills, correct.

18 Q. Okay. That's fine.

19 Now, I see in the latest disclosures that
20 there was another loan taken out from Margaret Ho.
21 Actually, was it this 200,000 -- I'm showing you --
22 let's for the record identify the Bates numbers on
23 that. EDGEWORTH1782 and 1781.

24 So is that -- was there another
25 Promissory Note executed for that amount of 200,000?

1 A. Yes, there is.

2 Q. Okay. And is it with the same parameters
3 as the prior --

4 A. Yes.

5 Q. -- note?

6 Have you provided a copy of that second
7 note to your counsel for disclosure?

8 A. Not as of yet.

9 Q. Okay. And what was the date that that
10 second note to Mrs. Ho was entered into?

11 A. 6th of September.

12 Q. Okay. Now, you've gotten three loans:
13 the first one from Mrs. Ho for 300,000, the next one
14 for 300,000 from Mr. Kendrick, and then this one for
15 200,000. What has the -- what expenses have those
16 loans paid for?

17 A. The expenses listed on this sheet.

18 Q. Okay. Now, in -- all right. I'll get to
19 that.

20 Have you -- in this one, in this summary
21 that you created, all the different types of
22 expenses are all run together. Have you done an
23 analysis of simply the actual direct expenses
24 incurred associated with the repairs, you know,
25 the -- like, for instance, everything from like the

1 American Grating -- well, the Lighting Design
2 Center, all of those expenses and the expenses for
3 reimbursement of actual work on the American Grating
4 invoices, have you done a separate summary of those
5 expenses?

6 A. Yeah. I wrote the word "Repair" all the
7 way down the spreadsheet.

8 Q. All right.

9 A. So you can easily identify those.

10 Q. Okay.

11 A. And there's the date the checks were
12 issued --

13 Q. Right.

14 A. -- for those also.

15 Q. Okay. I'll represent to you, sir, that
16 if I take the numbers for the various contractors or
17 expenses they have incurred paid by American
18 Grating, not the -- not the invoices from American,
19 but the actual expenses, I get \$227,228. Have you
20 done a comparable summary of the direct labor costs
21 of the various subcontractors?

22 A. I've done what's on this sheet.

23 Q. Okay. All right. But you haven't done
24 something that you pull out the actual expenses for
25 the repairs?

1 A. These are the actual expenses for the
2 repairs.

3 Q. Okay.

4 A. I'm not sure of your question.

5 Q. Well, because these also include various
6 American Grating invoices that include additional
7 supervisory expenses; so I'm just trying to figure
8 out the actual hard costs of the repairs, is what
9 I'm --

10 A. That is the hard cost of the repair.

11 Q. Okay. All right. Let's look at Exhibit
12 96.

13 MS. PANCOAST: Oh, and this, do you
14 already have --

15 THE REPORTER: I haven't marked this yet.

16 MS. PANCOAST: Okay. Go ahead and mark
17 it.

18 MS. DALACAS: Did you say that was 106?

19 MS. PANCOAST: Yeah, that --

20 THE REPORTER: So 104 are the two checks
21 [sic].

22 MS. PANCOAST: Right.

23 (Exhibit 104 was marked for
24 identification.)

25 MS. PANCOAST: And I'm looking at Exhibit

1 96, is some American Grating invoices.

2 MS. DALACAS: Okay. Sorry.

3 BY MS. PANCOAST:

4 Q. I'd like you to look at the first page of
5 Exhibit 96, and then I'd like you to look at the
6 second page of Exhibit 96. Do you recognize the
7 handwriting on that first page?

8 A. This is me.

9 Q. Okay. Can you --

10 A. Not this. I'm not sure who wrote
11 "309.20."

12 Q. Okay. But the "209"?

13 A. Correct.

14 Q. Okay. And how is it that you established
15 the reimbursement for Mark Giberti's professional
16 hours at 165 an hour?

17 A. I counted the hours in his journal, and I
18 guess they summed to 209.

19 Q. I understand. I understand the 209. I'm
20 asking the unit price. How did you set that unit
21 price?

22 A. I took 2015 American Grating expenses, I
23 divided them over the production employees that we
24 have that produce income, and I came up with over
25 \$300 an hour. I tried to give you guys a reasonable

1 amount.

2 Q. So --

3 A. And I picked 165.

4 Q. Okay. So you looked at a year's worth of
5 American Grating invoices or income?

6 A. No. I looked at a year's worth of
7 American Grating's expenses.

8 Q. Okay.

9 A. And I looked at the production employees,
10 employees that produce money for us, and I divided
11 them by the number of working hours those production
12 employees would have had to see if I was an hourly
13 billing firm, and it gives me a range of around \$300
14 an hour.

15 American Grating doesn't bill by the
16 hour.

17 Q. Right.

18 A. So I had to figure out a way of what we
19 would charge if we actually billed by the hour. I
20 came up with a number that was extraordinarily
21 higher than this, and I used this number in your
22 favor --

23 Q. Okay.

24 A. -- because I felt being reasonable would
25 make you guys pay your obligation.

1 Q. Have you memorialized anywhere the
2 documents you're relying upon and the numbers you're
3 relying upon to come up with this number?

4 A. 2015 income tax return had these numbers,
5 and I gave my lawyer the way I calculated the
6 number, yes.

7 Q. Okay.

8 A. But 165 an hour is not on that document.
9 It's more like \$300 an hour.

10 Q. Okay. And let's do the same for you.
11 How did you come up with 150 an hour?

12 A. Tried to be reasonable.

13 Q. Okay. And it's on the same basis that
14 you just said that you did with Mark Giberti?

15 A. There is no reasonable amount of money
16 you could pay me by hour to clean up your client's
17 mess.

18 Did you -- my other options were to take
19 my hourly wage based on how much income I have, and
20 you would see a number multiples of this, which
21 isn't that reasonable for the job that I did. It's
22 reasonable for my time, but it's not -- I tried to
23 be fair to you guys.

24 Q. Okay. Now, the reimbursements, those
25 were actually the documents that you provided with

1 those?

2 A. Correct.

3 Q. Okay. Now, this is -- this was American
4 Grating invoice that billed to Edgeworth Family
5 Trust. Did Edgeworth Family Trust pay American
6 Grating \$55,322?

7 A. Edgeworth Family Trust has paid American
8 Grating over a million dollars in 2017 for
9 reimbursement of invoices like this. So if you're
10 asking did I pay them \$55,000? No. Highly likely I
11 paid them \$300,000 with which they paid several of
12 these invoices. Then I probably paid them \$200,000
13 with which they paid several of these invoices.

14 Q. So you are -- so what you're telling me
15 is that American -- no, is that Edgeworth Family
16 Trust would make payments to American Grating to
17 basically sort of fund the construction; is that
18 correct?

19 I mean, you're saying you paid them over
20 a million, and I'm just trying to figure out if they
21 correspond to these invoices or what they correspond
22 to, if it's just, you know, giving them money for
23 the construction.

24 A. These invoices were all paid. Every one
25 that you have has been paid. Other invoices -- any

1 invoice that I do that's construction as an
2 investment I have to pay my company for. I can't
3 expense that.

4 I can either pay it cash, which is the
5 easier way to do it because there's a nice easy
6 trail, or I could take distributions that are owed
7 to me and empty my distribution account. One way or
8 the other, you must pay your company for
9 construction projects. You can't expense it.

10 Q. I see what you're saying. All right.

11 Did you -- did American Grating give Mark
12 Giberti mileage reimbursement?

13 A. I don't know. I don't think so.

14 Q. Okay. If you look on the -- what's
15 EDGEWORTH1269, it's about the fourth or fifth page
16 in. It's this one.

17 A. I'm sorry. What was the number? I'm at
18 2071.

19 Q. Well, I'm taking these invoices from two
20 different locations --

21 A. Oh.

22 Q. -- in your disclosure. It's not that far
23 in. It's like -- yeah, that document. Okay.

24 Whose handwriting is this, "CORRECTED
25 THESE ERRORS"?

1 A. That's mine.

2 Q. Okay. What was the error in this?

3 A. There's no hours entered.

4 Q. Okay. And --

5 A. So QuickBooks -- American Grating uses
6 QuickBooks. QuickBooks defaults to one if you don't
7 enter something under the quantity.

8 Q. Okay. Did you identify the number of
9 hours for this 5/31 invoice?

10 A. Correct.

11 Q. Okay. And so the correct invoice for
12 this 5/31/16 would be the next invoice, which is
13 38,575; correct?

14 A. Is that the one with ten hours beside my
15 name?

16 Q. Yeah.

17 A. Correct.

18 Q. Yeah. Now, it says there's a
19 payment/credit of 14,000. Do you know where that
20 credit came from? Is that an actual payment?

21 A. Yeah. It would have been an overpayment.

22 Q. Okay. Now, let's go to -- keep going
23 through there, and let's look at this page. This is
24 EDGEWORTH2040.

25 A. I'm on 2040.

1 Q. Okay. And these are the various invoices
2 that you or -- that were run through American
3 Grating; is that correct?

4 A. Correct.

5 Q. Okay.

6 A. To clarify, these are monies I owe
7 American Grating, but they're not monies that
8 necessarily you were billed for or your client was
9 billed for.

10 Q. Okay.

11 A. So if you sum this --

12 Q. Uh-huh.

13 A. -- it doesn't match the invoice because
14 some of these things are probably for other projects
15 or not related to damage.

16 Q. Let's go to the next page. It's a
17 transaction detail by account. There's a couple of
18 line item interlineations. Is that what you're
19 talking about?

20 A. Correct, where I've written "NOT WATER
21 DAMAGE," "NOT WATER." Those have been subtracted
22 away.

23 Q. Okay. All right.

24 As we go through these, there's invoices
25 generated and they didn't have time for you, and

1 then there's invoices that were changed. Do you --
2 but there's no new date.

3 At what point in time did you go back
4 through the invoices and add time for your time?

5 A. I don't know. Probably whenever I found
6 a mistake, then I started looking to see if there
7 was any other entry mistakes. But I don't know what
8 the date would have been. Probably the same time I
9 crossed out this "NOT WATER DAMAGE," "NOT WATER
10 DAMAGE."

11 Q. Okay. Now, you also -- we have your --
12 I'm looking at Exhibit 84, which has been identified
13 by Mr. Giberti as your handwritten notes. So if we
14 go through your invoices, your notes on Exhibit 4
15 [sic] for, let's say, May of 2016, it's your belief
16 that those dates and time would add up to the --
17 well, the ten hours that you have estimated there;
18 is that correct?

19 A. Maybe not. I didn't bill you for all my
20 hours. I only billed you -- billed you for hours
21 where I had to be there to do something with the
22 water damage.

23 Q. Okay. All right.

24 A. You can see at the top of each page I've
25 summed them. If you want to go through and see if

1 I've made an error, the top of each journal page
2 you've got a 21, a 41 on the first page that you
3 showed me. On the next one, you have a 34 and a 16.

4 Q. Okay. And we'll come back to these, sir,
5 because I can't read your handwriting; so we'll look
6 at those.

7 All right. So these claims for the time
8 for Mark Giberti and Brian Edgeworth are based upon
9 your overall production, and so if we take the
10 American Grating's tax return for 2015, what numbers
11 did you take? I just want to memorialize how you
12 came up with those numbers so that we can evaluate
13 it.

14 So you took the 2015 tax return, and --

15 A. No.

16 Q. -- you took the baseline number?

17 MR. SIMON: Hold on. If your answer's
18 going to include a total tax return income/revenue,
19 then we need that subject to some type of
20 confidentiality. I don't know if it was.

21 So don't tell her -- she wants to know
22 the methodology right now. But as far as actual
23 numbers, we'll have to handle that in a different
24 way.

25 A. I didn't take it off the tax return. I

1 misspoke. It's the numbers that are filed on our
2 tax return. I took it from QuickBooks.

3 BY MS. PANCOAST:

4 Q. Okay.

5 A. American Grating does not bill by the
6 hour. We're not a professional services firm.

7 Q. Uh-huh.

8 A. We make money through our gross margin.
9 We make money on construction in a chunkier way.

10 When an investment matures, we sell it
11 and we recognize whatever profit we made off the
12 investment. So where your client forced me into
13 working on an hourly basis on something that I had
14 zero desire to do, I had to figure out a fair way to
15 bill.

16 I looked back at 2015. I said, "What if
17 American Grating was a professional services firm?"
18 You know, we employ a bunch of engineers that do
19 jobs. They design a job, everything else, and then
20 we sell a product to the customer, and we make a
21 spread between our cost of the product and what we
22 sell the product for called a gross margin.

23 An hourly billing firm just bills by the
24 hour like you guys all do, or lawyers, I assume you
25 all do. So to figure out what I would have had to

1 do, what I would have had to bill at to make 2015,
2 the exact same year, I ignore all revenue, I ignore
3 all costs, take all my fixed expenses, and I take
4 the profit for the year. That becomes the number of
5 income that I'd have to do.

6 Then I take each of my professional
7 employees. I figure out how many hours they work
8 per year. I make assumptions on how much, you know,
9 time they spend in continuing education, vacation,
10 stuff like that, and divide the two numbers. I come
11 up to around \$300 an hour.

12 Q. Okay.

13 A. But that's not how I make money.

14 Q. Okay. And when you were coming up with
15 that methodology of calculating it, is that
16 something that you created yourself or is that
17 something that you in doing research came up and
18 someone else had done it the same way? Is that
19 something you just developed yourself?

20 A. I really don't understand the question,
21 I'm afraid.

22 Q. Did -- have you ever seen --

23 A. Did I invent the math?

24 Q. No, not invent math. But have you seen
25 anyone else run similar calculations to address a

1 similar problem?

2 A. I've never seen anyone in a problem like
3 this until I've been involved with this case.

4 Q. Okay. Let's look at Exhibit 84 that's in
5 front of you, please.

6 A. I have --

7 Q. This one.

8 A. Oh. Okay.

9 Q. Now, first of all, this is your --
10 appears to be sort of a notebook from April 2016
11 through October 2016. Does this contain all the
12 records you have of your time spent that you are
13 making a claim for on this matter?

14 A. That I'm making a claim for.

15 Q. Okay. On this one, there's notations on
16 a Tuesday. Could you explain to me what these
17 notations were and what the --

18 A. I'd like to see the -- the original
19 journal to read it better. But, you know, my
20 handwriting's messy because I'm on a job site that
21 has water damage trying to cat scratch this all up.

22 It says "survey damage" and something,
23 "cleanup," "met with neighbors to explain." Oh, my
24 God. I had to explain why I had transport trucks in
25 front of their house for two weeks.

1 That's what it says.

2 Q. Okay. Wednesday, what is that?

3 A. "Cleanup supervision."

4 Q. Okay. 15th?

5 A. I don't know what the first part says.

6 "Sort thru damage parts." A lot of this was in the
7 early days. These remediation companies use like
8 Manpower labor, you know, like temporary labor,
9 which I was freaking out about because I was about
10 to put this house on the market, and you have people
11 who I would never use as laborers inside my house
12 tearing it apart and there's a few hundred thousand
13 dollars' worth of plumbing fixtures and lighting
14 fixtures just sitting around on the floor.

15 So a lot of this is just we had to have
16 Mark on one end of the house, me on the other end of
17 the house to make sure that they weren't doing
18 damage to all the goods.

19 Q. Okay. Understand, this helps me
20 understand what --

21 A. No, I understand. This is emotional.
22 This was the end of my life.

23 Q. Can you tell me what the -- what the
24 18th -- just sort of give me a summary of what that
25 is.

1 A. "Meeting home service to determine extent
2 of damage to" -- oh, it's a meeting with the
3 low-voltage people to see what's destroyed.

4 Q. Okay.

5 A. And what we could salvage.

6 Q. And there's this use of the term "low
7 voltage."

8 A. Yeah.

9 Q. And I think of low voltage -- but you're
10 referring to the TV was low voltage. Are you --

11 A. Yeah.

12 Q. -- talking about 220 as opposed to --

13 A. No.

14 Q. Or 110 as opposed to 220?

15 A. No.

16 Q. Can you --

17 A. In a custom house and more and more in
18 tract homes, you will get an electrician and a
19 low-voltage person. They're different licenses.

20 The electrician is putting in your
21 lights, your stove, your dryer, stuff like that.
22 Low voltage is more of the home automation that you
23 see in a house now, you know, the theaters, the fact
24 that those little computers control all the lights
25 throughout the house, you know, those computer

1 keypads by Crestron, or I think in this house we had
2 Control4.

3 The TVs are all -- they all go back to a
4 server cabinet, and, you know, you're going to be
5 surprised where the server cabinet for this house
6 is. It's right off the master bedroom.

7 Q. Off the master bedroom upstairs?

8 A. In the upstairs office, yeah.

9 Q. Okay. All right. Okay.

10 Can you tell me what the 21st was.

11 A. "Site work cleanup." A lot of this is
12 be -- keeping the site safe.

13 Basically when they're demoing, we're
14 liable for all the people on the site. While we're
15 not liable for the actions of the subcontractors and
16 what they do, we're responsible for keeping a safe
17 working environment for their employees.

18 Q. Uh-huh.

19 A. So a lot of stuff that we were doing was
20 just herding cats to make sure that people weren't
21 making it dangerous.

22 Underneath it says -- I'd like to look at
23 the actual book. Save last -- oh, "gave me last
24 records" for something. "Homeowner" -- oh, I had to
25 go to the homeowner association for something,

1 probably because of -- you're not allowed to park
2 stuff in my neighborhood, and we -- we had this
3 humongous amount of stuff in places you're not
4 allowed to park.

5 Q. Okay. All right.

6 So it looks like that you got the
7 remediation people in there fairly quickly, and then
8 at what point after you get the denial did you just
9 go ahead and decide, "Well, we're just going to
10 start repairing it as we can"?

11 A. I started repairing the house before I
12 got the denial.

13 Q. Okay. I would like you to take some time
14 going through that, and if there's anything, given
15 the problems reading the handwriting, if there's
16 anything that you think it's important that you
17 would like to point out to me, and that way we
18 can -- we can go page by page, if you want, or you
19 can catch me the highlights.

20 A. A lot of it's just telling me why I'm on
21 the site.

22 Q. Okay.

23 A. You know, 22nd, "All day on site/
24 schedule of repairs." "Kinsale that adjuster said
25 we cannot start repair delays until Kinsale says."

1 Q. Okay.

2 A. I emailed it -- I've turned the emails
3 over to you. I've asked Kinsale multiple times
4 during this, "Can I start fixing it?" And they went
5 back and forth. You can read their reply. I don't
6 need to paraphrase for them.

7 Q. Okay. All right.

8 Is your -- do you know how your credit
9 would be scored? Is it, you know, poor, good, fair,
10 excellent? I don't want to ask you your score,
11 but --

12 A. I don't know what my credit score is.

13 Q. Okay. But you were able to borrow money
14 for that short-sale home; correct?

15 A. Yes.

16 Q. Okay.

17 A. Yes.

18 Q. Did you -- when you had to start looking
19 around for some money, what hard-money lenders did
20 you go to?

21 A. I called a bunch of lawsuit lenders that
22 I found on the Internet.

23 Q. Okay. Is there a reason that you didn't
24 go through a hard-money lender to get like a second
25 on one of your properties?

1 A. Lawsuit lenders are hard money. I guess
2 perhaps we're using a different definition of "hard
3 money."

4 Q. I'm talking a bank or something like
5 that.

6 A. A bank wouldn't lend on that house.

7 Q. Well, not on a lawsuit, but on other
8 sorts of collateral.

9 Did you ever attempt to go to like Wells
10 Fargo?

11 A. I talked to Wells Fargo, yes.

12 Q. Okay. And when you were talking to Wells
13 Fargo, were you approaching it as, "I need to pull
14 some money out of my property," or were you saying,
15 "I need to fund a lawsuit"?

16 A. I told them the truth.

17 Q. Okay. So you were approaching them as,
18 "I need to fund a lawsuit"?

19 A. No. I told them my entire situation,
20 like you should when you apply for a loan.

21 Q. Right.

22 A. I told them what collateral I had. I
23 told them approximate incomes that I could expect --

24 Q. Sure.

25 A. -- because it's the same lender who I'd

1 done a bunch of other loans with, and he told me
2 what he thought underwriting would do.

3 Q. What did he say?

4 A. "No way."

5 Q. And what was his name?

6 A. Doug Henriksen.

7 Q. Of? At?

8 A. Wells Fargo.

9 Q. At Wells Fargo?

10 A. Correct.

11 Q. Okay. Did he explain to you why they
12 would say, "No way"?

13 A. The house doesn't have a certificate of
14 occupancy. It's not my primary residence. If I
15 want to borrow it as -- as an investment property,
16 my ratios probably wouldn't even allow it unless I
17 sold another house and declared that as my primary.

18 Q. Okay.

19 A. Which obviously I can't do because it was
20 flooded.

21 Q. Okay.

22 A. He also informed me that disclosing the
23 flood to Wells Fargo would kick out my underwriting.

24 Q. All right. So the issue that you weren't
25 living in the house also complicated borrowing the

1 money?

2 A. I wouldn't say that. There was enough
3 other things that he said, "There's no way Wells
4 would lend on that."

5 Q. Okay.

6 A. Wells had left the construction loan
7 business, and I forget when he said. This is a long
8 time ago we had this conversation.

9 Q. Uh-huh.

10 A. But they were out of the construction
11 loan business; so I would not qualify on that house
12 any which way with Wells Fargo.

13 Q. Okay. Did you try any other banks?

14 A. No, I did not.

15 Q. Okay.

16 A. I have no other banking relationships.

17 Q. Okay. At what point did you decide
18 that -- when did you talk to Margaret Ho about
19 lending money?

20 A. After Bernie Lange refused to pay for it.

21 Q. Okay. And about what time is that?

22 A. I don't know. Late May, early June.

23 Q. Okay. All right.

24 And how did you come -- how was the
25 interest rate established? And we're going to look

1 at Exhibit 75.

2 A. I searched the market and found out what
3 market rates were and what was fair for a loan of
4 this type, and that's a fair rate.

5 Q. Okay. Can you identify for me your
6 sources that you relied on in setting this rate.

7 A. I searched for "nonrecourse promissory
8 notes."

9 Q. Okay. Did Ms. Ho -- what was her
10 response to that interest rate?

11 A. She trusted me that it was fair. I think
12 her daughter argued it should be higher.

13 Q. So when you were searching for a rate,
14 you were searching for "nonrecourse promissory
15 notes"?

16 A. Correct. There are no loans that
17 correspond with this problem.

18 Q. Okay.

19 A. There is no market for them, and it's
20 impossible to get. The nonrecourse market, the
21 highest I could find was one lender that was willing
22 to go to half a million dollars.

23 Q. Okay.

24 A. I had no idea how much money I was going
25 to need because I had no idea when Kinsale was

1 actually going to pay me.

2 Q. Okay. At about this same time, were you
3 also talking to Mr. Hendrick?

4 A. Henriksen? No, I think I called --

5 Q. Colin Hendrick.

6 A. Colin Kendrick?

7 Q. Colin Kendrick. I'm sorry. Yeah.

8 A. Yeah. Right around the same time I asked
9 him if he'd be able to help me.

10 Q. Okay. All right. And how did it come
11 down with him, because it appears that the
12 discussions with both parties were begun at the same
13 time but his comes later? Can you walk me
14 through --

15 A. I didn't need --

16 Q. -- what happened.

17 A. I didn't need his cash till later.

18 Q. Okay.

19 A. We agreed upon it earlier on, and I
20 forget when we signed the note. I didn't know what
21 bills were going to come. You know, I knew I owed
22 the Simon Law firm a substantial amount of money,
23 but they hadn't billed me. I knew it was due when
24 it was delivered; so Colin just needed to be
25 prepared, and he was willing to do that.

1 Q. Okay, okay. Is it accurate to say that
2 sort of the first part, Ms. Ho's loan sort of
3 covered the construction costs and then the second
4 note covered the litigation costs?

5 A. That would be inaccurate.

6 Q. Okay. Explain to me.

7 A. Money's fungible. It covers both of it.

8 Q. Okay. Because you were paying -- let's
9 see.

10 As of June 10th, you'd already had some
11 bills coming in from Simon Law; correct?

12 A. I spoke to other lawyers before Simon.

13 Q. Okay.

14 A. And I had a good idea how much money I
15 needed.

16 Q. Okay.

17 MR. SIMON: Probably another good value;
18 right?

19 THE WITNESS: I don't have to answer
20 that.

21 MR. SIMON: No.

22 BY MS. PANCOAST:

23 Q. Have you ever had any bankruptcies?

24 A. No.

25 Q. Any repossessions?

1 A. No.

2 Q. Okay. You said that you borrowed money
3 on this 1417 residence for the mortgage. Is that
4 the last time you were borrowing money before this
5 incident?

6 A. I don't know. I might have refinanced my
7 main house. I don't know.

8 Q. Okay.

9 A. It's very infrequent we borrow money.

10 Q. Did you have -- do you remember having a
11 discussion with Mrs. Ho about the amount and whether
12 she wanted more or she wanted less for the interest
13 rate?

14 A. No.

15 Q. Okay. Have you been making any payments
16 on the notes to either Ms. Ho or Mr. Hendrick [sic]?

17 A. No. They're both going to be balloon
18 payments.

19 Q. All right. Let's talk about the repairs
20 that still need to be done.

21 Exhibit 81 in that binder, do you
22 recognize this document?

23 A. No.

24 Q. This is an estimate prepared by
25 Mr. Giberti. You don't remember seeing this before?

1 A. No.

2 Q. All right. Well, it came from your
3 production.

4 A. Mr. Giberti works for me.

5 Q. Okay. I'd like to go through these items
6 and confirm which work was completed and which
7 wasn't. All right?

8 A. You'd have to ask Mr. Giberti. I -- I
9 have nothing to do with this document. I have no
10 idea what he was using it for.

11 Q. All right. Well --

12 A. It's dated 5/12/2016.

13 Q. Right. Okay. Have you ever seen this
14 document?

15 A. Yes.

16 Q. And what is that document?

17 A. It's an estimate that Mark gave if he was
18 working for himself to fix what still needs to be
19 fixed --

20 Q. Okay.

21 A. -- at this point in time.

22 Q. All right. Now, it's my understanding
23 you're still working on getting an estimate for
24 cabinetry. Has there been -- since that document,
25 has there been any other estimates provided for

1 these issues that -- have you gotten --

2 A. I'm sorry.

3 Q. -- any additional estimates since
4 2/27/17?

5 A. No.

6 Q. Okay. I'd like to compare Mr. Giberti's
7 document that we will -- I don't know if it's been
8 marked; so let's mark it as the next exhibit.

9 (Exhibit 105 was marked for
10 identification.)

11 BY MS. PANCOAST:

12 Q. If we look at Exhibit -- what is this
13 exhibit? -- Exhibit 99, you have a bid to remove and
14 replace the great room fireplace and the copper of
15 83,125. Can you tell me where you got that number.

16 A. I believe I got it from this page marked
17 Exhibit 105.

18 Q. Okay. Now, his number was 69,271. How
19 did we get from 69,271 to 83,125?

20 A. His number to remove and replace great
21 room Montigo fireplace due to water damage is not
22 69,271. If you look at the bottom of the sheet,
23 number 6 is not classified under those five. I
24 think -- I'm not a hundred percent positive, but I
25 think if you take --

1 Q. You added 20 percent --

2 A. -- 20 percent of this one, I think we get
3 there.

4 Q. Okay. Let me --

5 A. We could just calculate it quickly and
6 know.

7 Q. I'll go ahead and do that. I just want
8 to know where these come from. That's fine.

9 A. Yeah. I would assume that's what I did.
10 Yeah. If you look at number 4, it's 20
11 percent; so I just reallocated --

12 Q. Okay.

13 A. -- his line item that he didn't allocate
14 to each of the pieces.

15 Q. All right. Then that helps
16 significantly. All right.

17 So you took his estimates on Exhibit 105
18 and added 20 percent per line item?

19 A. Yeah. I added his estimate line 6 --

20 Q. Okay.

21 A. -- to get to the full amount.

22 Q. All right.

23 A. Yeah.

24 Q. Okay. Other than the line items on this,
25 on Mr. Giberti's estimate, are there any additional

1 issues that you anticipate need to be fixed?

2 A. As I've talked about earlier, you know,
3 the electricians have been out several times --

4 Q. Okay.

5 A. -- more than ten, on various electrical.

6 Q. Now, is that -- is it all low voltage or
7 is it normal --

8 A. No, that's -- electrician's high voltage.

9 Q. So it's electricians; so you've got
10 issues with high voltage and low voltage?

11 A. Correct.

12 Q. Okay. And the boxes controlling the
13 areas where you're experiencing those issues are in
14 close proximity to the master bedroom; is that
15 correct?

16 A. They are part of the master bedroom.

17 Q. Okay. All right. So we've got
18 electrical.

19 A. We know we're going to get a bill from
20 HomeTronic because the cameras fried out, but like I
21 said, they may have been there -- I don't know --
22 three, four times a week every single week. If --
23 if they come to the conclusion that all the problems
24 in that area are because of water damage, they will
25 bill.

1 Right now they're doing it more or less
2 as goodwill. People are kind of getting tired of
3 it, though.

4 Q. Where is the camera you say that was
5 fried?

6 A. Well, there's a server in the server
7 cabinet. There's the unit that powers all the
8 cameras. So cameras -- low-voltage cameras still
9 need power. It's power over Ethernet. It goes
10 through those Cat 6 cables.

11 Q. Right.

12 A. When I asked -- I wanted to see camera
13 footage of a certain day, and when I asked for it,
14 they came out and they noticed the DVR -- because
15 we'd never looked at the cameras, the camera was
16 fried and then two of the cameras were fried, and it
17 looks like electrical shorts. They've sent it in
18 for warranty. The two cameras were on the south
19 side of the house.

20 Q. And the south side is the --

21 A. The south side's the side that you walked
22 down. When -- when you visited the property, you
23 walked down --

24 Q. Okay.

25 A. -- that sidewalk.

1 Q. The ornamental gate?

2 A. Correct.

3 Q. So we've got the electrical and the
4 garage doors. Plaster finish on the cantilever
5 popout, we've got that.

6 T&G wood -- T&G is tongue and groove;
7 correct?

8 A. Correct.

9 Q. Wood ceiling. Okay. And the damage to
10 the master fireplace. So in addition to these,
11 you've got the electrical issues.

12 You've talked about cabinetry issues, and
13 you're still waiting for an estimate on there;
14 correct?

15 A. Correct.

16 Q. You have Custom Specialties for invoices
17 for repair attempt and work on burners. Is that the
18 burners in the fireplaces you're talking about?

19 A. Correct.

20 Q. Okay. C&M Doors did some repair work to
21 the doors and opener. Is this the man doors or
22 garage doors? What doors are these?

23 A. These are the garage doors. That's the
24 garage door vendor.

25 Q. Okay.

1 A. He didn't bill for it. He did it under
2 goodwill.

3 Q. Okay. And cabinets, the cabinets that
4 we've talked about. Paint and drywall.

5 It's my understanding that some of the
6 walls were totally torn out or that some of the
7 walls had drywall totally torn out and then some it
8 was just cut out a couple feet up. Is that
9 incorrect or was it a couple feet all over the
10 house?

11 A. That's not completely correct.

12 Q. Okay. Explain, describe to me the
13 extent --

14 A. Even -- even where the walls were
15 completely cut out, sometimes they didn't cut the
16 ceilings out. So there's no economic way to repair
17 the damage that you did with -- with the drywall.
18 There's just none. The proper way to fix it at that
19 point in time with painted walls would have been to
20 tear every board of drywall out of that house,
21 ceiling and wall, and redo it again.

22 Drywalling doesn't take that long. You
23 can see that on our inspections. Level 5 finish
24 takes four months because everything has to be
25 perfectly flat, perfectly square. It takes months

1 to do this.

2 Whenever you didn't remove a ceiling, if
3 you removed the whole wall, now I have a joint at
4 the ceiling, which is painted, against raw drywall.
5 You can see all those marks too. There -- there's
6 no economic way to fix the drywall in this house.

7 Q. Okay.

8 A. The proper way to fix it would be to cut
9 it all out.

10 Q. Okay. I'm trying to see if a -- I'm
11 going to show you what is page 41 of your
12 appraiser's report. There is a -- there is a chart
13 there. Do you know where those numbers came from on
14 that chart?

15 A. This is from the report that guy toured
16 around the house.

17 MR. SIMON: That's from the A-Core;
18 right? That's the expert, A-Core, report.

19 THE WITNESS: Okay.

20 MR. SIMON: And so that's a chart from
21 his report at page 41 of his report. She wants to
22 know whether you know where he got the numbers that
23 went into that chart.

24 THE WITNESS: I don't.

25 \\\

1 BY MS. PANCOAST:

2 Q. Okay. Did you ever talk with him about
3 the repairs you felt needed to happen?

4 A. I spent between one and two hours touring
5 him around the house. I would have told him what
6 was wrong with the house.

7 Q. Okay.

8 A. But I don't remember having any, you
9 know -- I don't know. Does that answer it or --

10 MR. SIMON: I think the answer's yes.

11 MS. PANCOAST: Okay.

12 BY MS. PANCOAST:

13 Q. Now, it's also my understanding that you
14 still owe United Restoration 49,000. Is that
15 correct?

16 A. No.

17 Q. You've paid him?

18 A. I've paid him \$49,000.

19 Q. Okay.

20 A. I owe him --

21 Q. 24,000?

22 A. Sounds right.

23 Q. Yeah. \$24,117.50?

24 A. (Nodding head.)

25 Q. Okay. Just bear with me. I'm trying to

1 make sure I've covered everything.

2 MS. PANCOAST: Let's take a short break.

3 (Recess taken from 1:45 p.m.

4 to 2:02 p.m.)

5 BY MS. PANCOAST:

6 Q. We have covered many topics today, and
7 I've tried to explore all the areas where I had
8 questions, but is there any repairs that you believe
9 still need to be made that we haven't discussed
10 today?

11 A. I can't remember everything we've
12 discussed today. I think I've listed on that sheet
13 the stuff I'm uncertain about.

14 Q. So if we look on that sheet, that gives
15 us a good -- so that the stuff that you've listed on
16 this sheet is what you believe is the stuff that
17 still needs to be repaired; correct?

18 A. Correct, unless something else comes up.
19 You know, water's the worst.

20 Q. Okay. All right. Is there anything else
21 you would like to tell me for me to fully understand
22 the basis and the nature of your claim that we
23 haven't covered yet today?

24 MR. SIMON: I'll just object as to vague,
25 seeks a narrative and is not -- cannot in any way

1 limit the questioning I will do at trial to present
2 all of his damages in this case.

3 Go ahead if you can answer.

4 A. I think you guys should have been there.
5 You know, I gave you notice two days after. You had
6 over 125 of these happen before my house. You knew
7 this was your product. You should have been there.
8 You should have been cleaning it up, not trying to
9 bankrupt my family cleaning up your mess. That's
10 what I think.

11 MS. PANCOAST: Okay. Pass the witness.

12 EXAMINATION

13 BY MS. DALACAS:

14 Q. Good afternoon, Mr. Edgeworth. Sia
15 Dalacas. As you know, I represent Lange Plumbing in
16 this matter. Just a couple of housekeeping items.

17 First off, have you reviewed the notice
18 or the -- or excuse me.

19 Have you reviewed the amended notice for
20 your deposition today?

21 A. I don't know.

22 Q. Okay. The amended notice --

23 MS. DALACAS: And maybe we'll get one at
24 the break because I don't have a copy, Janet -- my
25 apologies -- unless you have one handy.

1 MS. PANCOAST: I'll look for that.

2 BY MS. DALACAS:

3 Q. -- identifies today's deposition of you
4 personally and then as well as the NRCP 30(b)(6)
5 representative for the Edgeworth Family Trust. Is
6 that you as well?

7 A. I don't know what "NRC" [sic] means.

8 Q. Sure. And then also just so that I
9 finish the question, for American Grating LLC.
10 Obviously it's the person who is here today to bind
11 the Edgeworth Family Trust with respect to -- and
12 American Grating LLC, both plaintiffs in the case,
13 with respect to the testimony in this case.

14 MR. SIMON: Well, I'll just object as to
15 vague, and we'd need to see the actual notice.

16 MS. DALACAS: Okay.

17 MR. SIMON: And if it doesn't designate
18 any topics specifically, then it is an improper
19 30(b)(6) notice.

20 MS. DALACAS: Understood. Let's just
21 take a second. Janet's printing it. It does have
22 some topics on it, and we'll go through it.

23 MR. SIMON: Oh, that's right.

24 MS. DALACAS: I should have gotten that
25 sooner. My apologies.

1 If you could just give it to him. Thank
2 you.

3 BY MS. DALACAS:

4 Q. Sir, you've been handed what we'll mark
5 next in order, which I think is 106.

6 (Exhibit 106 was marked for
7 identification.)

8 BY MS. DALACAS:

9 Q. And it's an amended notice of taking the
10 deposition of Brian Edgeworth and NRCP 30(b)(6)
11 person most knowledgeable for Edgeworth Family Trust
12 and American Grating LLC, and it's dated 9/22/2017,
13 is the date it was served on the very first page at
14 the top.

15 MR. SIMON: Just for the record, she's
16 handed him the one that was served yesterday.

17 MS. DALACAS: Oh, for the time change?

18 MS. PANCOAST: Uh-huh.

19 MS. DALACAS: Okay. That's fine. The
20 only difference is the time change. We were
21 originally supposed to start at 10:00 a.m. today and
22 we started at 9:30. So with respect to the
23 categories, there's been no change?

24 MS. PANCOAST: No.

25 MR. SIMON: Okay.

1 BY MS. DALACAS:

2 Q. Okay. Have you seen this document
3 before?

4 A. No, but I'm seeing it now.

5 Q. Okay. So if you could just take a look,
6 obviously the very first paragraph that starts on
7 page 2 identifies you, Brian Edgeworth, in your
8 individual capacity as a deponent, and you're here
9 today in that capacity; correct?

10 A. Correct.

11 Q. Okay. If you look, the first set of
12 numbers is number 1 through 6 right under the
13 heading "NRCP 30(b)(6) SUBJECT MATTER" FOR
14 "EDGEWORTH FAMILY TRUST," and there's six categories
15 there. Do you see those?

16 A. No.

17 There's five categories.

18 Q. Okay. Is category --

19 A. Just because there's a number 6 there
20 doesn't mean there's six.

21 Q. I just mean numbers 1 through --

22 MR. SIMON: That's true.

23 BY MS. DALACAS:

24 Q. Correct. And it looks like we may be --

25 A. There's five.

1 Q. -- missing a number 3. So items number
2 1, number 2, number 4, number 5 and number 6, do you
3 see those?

4 A. Yes, I do.

5 Q. That's how it's labeled on your version?

6 A. Yes, it is.

7 Q. Okay. Take a minute and look at those
8 five specific categories, and tell me if you are the
9 legal representative for Edgeworth Family Trust to
10 discuss those issues today.

11 A. Yes.

12 Q. As for all five categories?

13 A. Yes.

14 Q. Okay. Take a look at the next set of
15 categories, and it looks as if we are missing a
16 number 4 on that listing. So it's items 1, items 2,
17 items 3, items 5, item 6 and item 7. Do you see
18 those?

19 A. Yes.

20 Q. Okay. And those are identified under the
21 categories 30(b)(6) subject matter for American
22 Grating LLC; is that right?

23 A. Correct.

24 Q. Okay. Are you the person here today to
25 appropriately speak to those six categories on

1 behalf of American Grating LLC?

2 A. Yes.

3 Q. Okay. Thank you.

4 Have you seen this notice before today,
5 before just now?

6 A. I've seen notices like that. I have not
7 seen that notice.

8 Q. Notices like that for other deponents or
9 notices like that for yourself?

10 A. For both.

11 Q. Okay. What documents did you review, if
12 any, in preparation for today's deposition?

13 A. I've reviewed probably 80,000 documents,
14 but if you show me a document, I can tell you if
15 I've seen it or not.

16 Q. Okay. Did you review any of those 80,000
17 documents specifically in the last two weeks for
18 purposes of this deposition?

19 A. I would -- sure.

20 Q. Do you remember any specific documents
21 that you reviewed?

22 A. I've been reading all your disclosures
23 that interest me.

24 Q. And by "all your," do you mean Lange
25 Plumbing's disclosures?

1 A. I don't know what I've read from Lange
2 Plumbing. I meant Viking. I meant the broad case
3 more than the --

4 Q. Okay.

5 A. -- isolated --

6 Q. So you --

7 A. -- defendant.

8 Q. Excuse me. I didn't mean to interrupt
9 you.

10 So you've reviewed all of the disclosures
11 for the parties in this case?

12 A. Not all of them. I don't think anyone
13 could.

14 Q. Okay. I'm going to be jumping around a
15 little bit because some of my questions are varied;
16 so please bear with me.

17 We talked a little bit about the claim
18 that you're making for developer noncompletion
19 fines, and is it -- it is identified in what's been
20 marked as Exhibit -- the most up-to-date damages
21 listing that you prepared.

22 A. Exhibit 99?

23 Q. Yeah.

24 MS. PANCOAST: Yes.

25 \\\

1 BY MS. DALACAS:

2 Q. The two-page document. Okay. Thank you.
3 So the very first item on that sheet
4 says, "Developer non Completion fines," \$24,500. Do
5 you see that?

6 A. Yes, I do.

7 Q. So who is that fine actually assessed to?

8 A. The homeowner.

9 Q. Okay. So in this case, who is the
10 homeowner?

11 A. Edgeworth Family Trust.

12 Q. Okay. So any damages in this respect
13 would be assessed to Edgeworth Family Trust; is that
14 correct?

15 A. I expect so.

16 Q. Okay. Is there any reason why American
17 Grating would be assessed any of those damages, the
18 \$24,500?

19 MR. SIMON: Objection, calls for a legal
20 conclusion.

21 A. Edgeworth Family Trust owns American
22 Grating.

23 BY MS. DALACAS:

24 Q. Okay. So but let me -- and we'll get to
25 that.

1 But so my question is, is that the fines
2 are assessed to the -- is it fair that the fines are
3 assessed to the owner of record of the property?

4 A. I don't understand your question.

5 Q. Sure. Who is the owner of record of 645
6 St. Croix?

7 A. What does "owner of record" mean?

8 Q. Who holds title to 645 St. Croix?

9 A. Edgeworth Family Trust.

10 Q. Edgeworth Family Trust.

11 Okay. And you and your wife, Angela, are
12 the trustees of the Edgeworth Family Trust?

13 A. That is correct.

14 Q. When you and your wife, Angela, purchased
15 the property, did you purchase it in the name of the
16 Edgeworth Family Trust?

17 A. I don't know.

18 Q. Do you know when your trust was formed?

19 A. No, I do not.

20 Q. Okay. I'll show you what I'll go ahead
21 and mark as next in order. I think it's 107. It's
22 three individual pages printed on September 25,
23 2017. The first two pages are the -- they're all
24 from the Clark County Web site assessor's page. The
25 first two pages are actually the assessor's printout

1 of your home currently, and then the third page is a
2 snapshot of the ownership history for the same
3 parcel.

4 Do you see that?

5 A. Yes, I do.

6 Q. Okay. Have you seen those documents
7 before?

8 A. Not these ones, no, but I've seen the Web
9 site before.

10 Q. Okay. So you understand that the Web
11 site tracks purchase dates and real property records
12 for homeowners in Clark County?

13 A. Yes, I do.

14 Q. Okay. So if we look on the third page of
15 the exhibit, which identifies the specific parcel
16 number that matches the 645 address, and then it has
17 a history of owners and then it says Brian and
18 Angela Edgeworth under prior owners and it says
19 record date, 3/25/11. Do you see that?

20 A. Yes, I do.

21 Q. Okay. So do you know what that date is?

22 A. Which date?

23 Q. The 3/25/11 date, what that --

24 A. It's probably the date it was recorded,
25 it says.

1 Q. That you purchased the property from the
2 bank?

3 A. I don't know if it's the purchase date,
4 but I expect it would be close to the purchase date.

5 Q. Okay. Fair enough.

6 So the property was purchased, let's say,
7 within 30 days of that recorded date, which is
8 3/25/11. Are you comfortable with that?

9 A. Sure.

10 Q. Okay. And then the next entry up says
11 the current owner is the Edgeworth Family Trust and
12 it identifies Brian and Angela Edgeworth as
13 trustees. Do you see that?

14 A. Yes, I do.

15 Q. Okay. And under the recorded date for
16 that entry it says 10/18 of 2013. Do you see that?

17 A. Yes, I do.

18 Q. So are you comfortable with the same
19 caveat that we had before, that with plus or minus
20 30 days of that recording date is probably when you
21 transferred title from you and your wife personally
22 into the name of the Edgeworth Family Trust?

23 A. I would think so --

24 Q. Okay.

25 A. -- unless they made a mistake.

1 Q. Okay. Perfect. You're going to hold on
2 to those. We're going to give them to Mr. Bill at
3 the end.

4 (Exhibit 107 was marked for
5 identification.)

6 MR. NUÑEZ: What number is that now?

7 THE REPORTER: 107.

8 BY MS. DALACAS:

9 Q. So when I use the word or the phrase
10 "property owner of record," I'm referencing the
11 Edgeworth Family Trust as the owner of record.
12 Would you agree with that for 645?

13 A. If you say that's what you're
14 referencing, yes.

15 Q. Okay. Do you have some reason to
16 disagree with that?

17 A. Your question's confusing.

18 Q. Sure.

19 A. Please restate it.

20 Q. I'm referencing the property owner of
21 record as Edgeworth Family Trust. Do you understand
22 that to be the case?

23 A. Yes.

24 Q. Okay. You made a comment earlier --
25 well, strike that.

1 So when I asked you the question about
2 the assessment of the developer noncompletion fines,
3 is it true that that fine gets assessed to the
4 property record of owner -- property owner of
5 record? Excuse me.

6 A. I don't know. You'd have to ask a
7 lawyer. Read the contract.

8 Q. Okay. Have you gotten -- well, which
9 contract are you referring to?

10 A. The contract that's attached to the deed,
11 which details out the fines.

12 Q. Who is that contract between?

13 A. It's between the developer and me and
14 Angela.

15 Q. Okay. And was that contract entered into
16 at the time that you purchased the lot in the 2011
17 time frame?

18 A. I would think so. We reviewed it earlier
19 today.

20 Q. We did. Okay.

21 Is there any reason why American Grating
22 LLC would be assessed that developer noncompletion
23 fine?

24 MR. SIMON: Objection, calls for a legal
25 conclusion.

1 BY MS. DALACAS:

2 Q. You can go ahead and answer.

3 A. I don't know who Rich will put the fine
4 on. He'll probably just send it in to escrow.

5 Q. When the house sells?

6 A. When the house goes into escrow is
7 generally when the developer sends those fines in.

8 Q. Okay. Have you reviewed any specific
9 procedures from the developer, Foothill Partners, as
10 it relates to collection of those developer
11 noncompletion fines?

12 A. I don't understand your question.

13 Q. Sure. Have you seen any documents which
14 outline the procedure for Foothill Partners to
15 collect on the developer noncompletion fines?

16 A. I don't work for Foothills Partners.

17 Q. So "no" is the answer?

18 A. No, I've never seen any.

19 Q. Okay. And so your conversation -- excuse
20 me.

21 The basis of your answer so far has been
22 based on your conversations with Rich MacDonald?

23 A. No. The basis of my answers is based on
24 the knowledge I have of what they've done in the
25 past.

1 Q. Okay. Did you -- or excuse me.

2 The house at 637 St. Croix that you own,
3 did you actually buy that as a completed home?

4 A. It was a shell. Yes.

5 Q. So it was completed inside? You had a
6 notice of completion on that house when it was
7 purchased?

8 A. It had a certificate of occupancy. It
9 was not completed. Those are two different terms.

10 Q. So what construction did you do on that
11 637 address when you purchased it?

12 A. The day I purchased it or since I've
13 owned it?

14 Q. Since you've owned it. Or no, strike
15 that actually. I want to ask you when you purchased
16 it.

17 What was incomplete inside that needed
18 completion?

19 A. Custom homes are generally -- if they're
20 a spec home, they're generally a shell; so they
21 probably just have routine paint inside, like one
22 color through the whole house, one flooring through
23 the whole house. They may or may not have the
24 exteriors and the hardscapes done.

25 So it was a shell that we bought. It

1 needed completion.

2 The day we purchased it, we didn't do
3 anything on it.

4 Q. Okay. So it's fair to say that you
5 didn't have any noncompletion fines assessed on your
6 other house; is that fair? 637.

7 A. That's not a fair question. I didn't
8 build 637. I could not have noncompletion fines.

9 Q. And that's what I'm getting at. When you
10 purchased it, there were no noncompletion fines that
11 were assessed to you as the owner for that house; is
12 that right?

13 A. The owner of the house doesn't get
14 assessed the noncompletion fines.

15 I think what you're trying to ask is did
16 the seller have to pay noncompletion fines when I
17 purchased that house.

18 Q. I guess I'm asking if there's a house in
19 MacDonald Highlands that is delayed in construction
20 and is potentially liable for these noncompletion
21 fines and the owners of the house finish the house,
22 move in and never sell it, when would Rich MacDonald
23 recover his noncompletion fine from those folks?

24 MR. SIMON: Objection, calls for
25 speculation as to what Rich MacDonald might do under

1 the contract in enforcing fines on any other person
2 in MacDonald Highlands.

3 If you know what you might do -- what he
4 might do with 637 or with your 645 house, you can
5 tell her.

6 A. You completely misunderstand his
7 developer contract. I -- it's the purchaser of the
8 raw land. There is no possible scenario for 637
9 that I would ever be responsible for noncompletion
10 fines. I never purchased the raw land.

11 BY MS. DALACAS:

12 Q. Understood. I understand that.

13 Let's move on to this: I'm actually
14 looking at the developer noncompletion agreement
15 that we -- that you looked at earlier. I don't know
16 if you want to follow along. I don't remember what
17 exhibit number it was, but it's EDGEWORTH1251
18 through 1255, is the main agreement. There's some
19 exhibits, but I'm looking specifically at
20 EDGEWORTH1252.

21 A. 52?

22 Q. Correct, 1252. It's paragraph C under
23 item number 2.

24 A. Okay.

25 Q. And it says "Construction Penalties," and

1 it says, "If Owner" -- and I think that if you look
2 on the very first page of the agreement, "Owner"
3 would be identified as you and your wife. "If Owner
4 fails to comply with any of the aforementioned
5 timelines, Developer, at its sole discretion, may
6 impose a delay of construction penalty for any of
7 the dates not adhered to" And then it goes
8 on to reference the \$100-a-day amount.

9 Do you see that?

10 A. I see that.

11 Q. Okay. Have you had any discussions with
12 anybody at Foothill Partners with respect to whether
13 or not they're going to exercise their sole
14 discretion to assess you for your noncompletion
15 fines?

16 MR. SIMON: Objection, asked and
17 answered. She wants to hear your answer again that
18 you already testified "no" to Ms. Pancoast's exact
19 same question verbatim.

20 BY MS. DALACAS:

21 Q. You can go ahead and answer.

22 A. I need to answer it again?

23 Q. You do.

24 A. No, I haven't.

25 Q. Okay. Item number 3 on your updated

1 listing of damages says "HOA Monthly Dues," and it's
2 dated June 21st. And I understood from your
3 testimony that you inserted that June 21st, 2017,
4 date as the date that you sort of stopped making
5 repairs. Is that a correct understanding?

6 A. That's fair.

7 Q. Okay. And let me ask you this: Who is
8 the HOA monthly dues assessed to every month for
9 645?

10 A. I don't know. The bill comes to us. I
11 don't know whose name is on the bill.

12 Q. Okay.

13 A. We pay it every month automatically.

14 Q. How do you pay that? Is it direct
15 payment from your checking account?

16 A. Yeah. We just pay it every month, yeah.

17 Q. Do you mean you write a check every
18 month?

19 A. No. It just comes right out of our bank
20 account every month.

21 Q. Understood.

22 Which bank account does that come out of?
23 Who is the owner of that bank account?

24 A. Edgeworth Family Trust.

25 Q. Okay. That amount is not paid by

1 American Grating LLC, is it?

2 A. No.

3 Q. Okay. Let's go to the same question for
4 the property taxes. It has an item identified as
5 June 21st, 2017, and description is "Property Taxes"
6 and the amount is \$26,163.11. Who pays that amount
7 every time that is due? Not that amount, excuse me,
8 but the property tax assessment quarterly statement
9 every time it is due?

10 A. Edgeworth Family Trust.

11 Q. Okay. Does American Grating LLC pay any
12 of those property taxes?

13 A. Not that I'm aware of.

14 Q. Let's talk about American Grating LLC.
15 You -- I don't know. There's been so much
16 testimony. I think it was today where you said that
17 you are the manager. Was that today that you said
18 that?

19 A. I've only testified today.

20 Q. Okay. Someone else may have said it.
21 Are you the manager -- one of the managers of
22 American Grating LLC?

23 A. I'm a managing member, correct.

24 Q. Managing member. Are there any other
25 managing members of American Grating LLC?

1 A. My wife.

2 Q. Other than yourself and your wife, are
3 there any other managing members of American Grating
4 LLC?

5 A. No.

6 Q. And do you and your wife act as managing
7 members of American Grating LLC in your personal
8 capacity -- in your individual capacity? Excuse me.

9 A. I don't understand your question.

10 Q. Sure. It's you, Brian Edgeworth,
11 personally as a managing member of American Grating
12 LLC; is that right?

13 A. I am the person, yeah.

14 Q. Okay.

15 A. I -- your question is confusing to me.

16 Q. Okay. I guess I'm saying, is there any
17 other entity or any other legal entity that's the
18 managing member of American Grating LLC?

19 A. Do you mean that Edgeworth Family Trust
20 owns American Grating? Is that what you're asking?
21 I don't understand.

22 Q. I don't know. What do you mean when you
23 say that?

24 A. Edgeworth Family Trust is the holder of
25 all of our assets, including American Grating,

1 including everything.

2 Q. "Edgeworth Family Trust is the holder of
3 all of our assets." Do you mean you and your wife
4 personally?

5 A. Correct.

6 Q. Is there a specific document that lays
7 out that relationship?

8 A. There's a binder.

9 Q. What binder is that?

10 A. The Edgeworth Family Trust documents.

11 Q. Okay. And as part of that binder, is
12 there a specific document that identifies the
13 Edgeworth Family -- or excuse me, that identifies
14 Edgeworth Family Trust as the holder of the American
15 Grating LLC assets?

16 A. Yeah. I think there's exhibits where
17 every time we buy something we have to add to it.
18 It's attachment, exhibit, something like that.

19 Q. Okay.

20 A. Every time we buy a share in a company or
21 an asset, it goes into the trust.

22 Q. Okay. Is there a specific reason why the
23 Edgeworth Family Trust would not be identified as
24 one of the managing members on the -- strike that --
25 with the Secretary of State?

1 MR. SIMON: Objection, calls for a legal
2 conclusion.

3 A. Not that I know of. Can you put
4 something that's not a person? I know why I
5 couldn't put them on the ownership of my car,
6 because the DMV didn't allow me. They said I had to
7 put my name on my car even though Edgeworth Family
8 Trust owns my car.

9 BY MS. DALACAS:

10 Q. Okay. So have you had any -- well,
11 strike that.

12 Did you have an attorney prepare your
13 trust document?

14 A. Yes, I did.

15 Q. Which attorney was that?

16 A. Mark Katz.

17 Q. Did you have a discussion with Mr. Katz
18 about whether or not you needed to identify the
19 family trust as a member of your -- as one of the
20 members of your LLC?

21 MR. SIMON: Objection, calls for
22 attorney-client privilege. Don't answer that.

23 BY MS. DALACAS:

24 Q. I'm going to ask that you go ahead -- or
25 strike that.

1 I'm going to make a formal request, but
2 just so that you know it's going to be coming, I'm
3 going to ask that you produce your trust documents
4 because there's an issue about ownership of the
5 house, and that's certainly the first time I'm
6 hearing of this. So a formal request will be
7 coming, but any other --

8 MR. SIMON: We'll decide whether to
9 respond to that or object to that, but feel free to
10 send your request.

11 MS. DALACAS: Fair enough.

12 MR. SIMON: You don't need to direct that
13 request to my client right now.

14 MS. DALACAS: I'm just trying to be
15 courteous so that he can prepare the documents that
16 we'll be requesting.

17 BY MS. DALACAS:

18 Q. Is there any other assets that the
19 Edgeworth Family Trust owns other than the house?

20 A. It owns every asset my wife and I own.
21 It's an estate planning document.

22 Q. Was there an original time line for
23 construction when you began 645 St. Croix?

24 A. No.

25 Q. Did you have an understanding as to how

1 long it was going to take to complete construction?

2 A. I understood how long it would take to
3 complete construction, yes.

4 Q. And what was your understanding at the
5 time?

6 A. Between two years and two and a half
7 years.

8 Q. And did you have that understanding when
9 you -- or strike that, when the permit was
10 originally pulled, two and a half years from the
11 date the permit was pulled, or from before that?
12 I'm just trying to understand your answer.

13 A. You're asking construction time?

14 Q. Yep.

15 A. Yeah, two to two and a half years is
16 pretty typical in the custom house construction
17 time.

18 Q. From the date the construction permit is
19 pulled, is that what you mean?

20 A. You don't necessarily start construction
21 on the date the construction permit is pulled, no.

22 Q. Okay. Because you can actually --
23 there's a lot of different permits that are pulled,
24 and you can have a permit for some of the off-site
25 work before the actual dwelling permit is pulled; is

1 that right?

2 A. Correct.

3 Q. Okay. So when -- so when you say two to
4 two and a half years, can you clarify for me what
5 the start date of that two to two and a half years
6 would be.

7 A. It would depend on when you wanted to
8 start and complete it, and it also depends on the
9 com- -- or the finishes.

10 Like I told you a little bit earlier, a
11 lot of the spec homes that are built in the
12 neighborhood are built as shells. We actually built
13 it -- built this with completion. Okay? So
14 completed finishes inside.

15 If I wanted to end it as a shell, it
16 would have ended -- I don't know -- four, five weeks
17 after rough-ins.

18 Q. Okay.

19 A. There's a very, very big variability
20 here.

21 Q. Let's turn back to the two-page summary.
22 We're going to be looking at this a lot; so if you
23 want to hold it in front of you, I'm looking at the
24 category that you've identified as "Legal" for
25 lawyers, is the next description, and it has nine

1 entries on there ranging from December 1st of 2016
2 through September 22nd, 2017.

3 Can you tell me what the significance of
4 the date is.

5 A. It's likely the date I wrote the check.

6 Q. Okay. Do you know how often you are
7 actually invoiced for the legal work?

8 A. No, I don't.

9 Q. So based on looking at this document,
10 there's four entries that say September 22nd, 2017.
11 Is there any way that I would know the dates of
12 legal services that are the subject of those four
13 payments made by you?

14 A. I suppose you could look at the legal
15 bills I submitted.

16 Q. Have the legal bills actually been
17 produced? Did you produce those as well?

18 A. I don't know.

19 MR. SIMON: Yes, they were produced.

20 MS. DALACAS: Okay. I know that I've
21 seen them for the early ones. I haven't seen them
22 for the late ones; so that was my question.

23 BY MS. DALACAS:

24 Q. And so when I calculate all this up, it's
25 \$518,396.99. Is it your testimony that you've

1 actually paid that full amount, \$518,396.99, to
2 Mr. Simon's law office?

3 A. If your math is correct, I have paid that
4 amount. If your math is wrong, then I haven't.
5 I've paid every bill under "Legal" on this sheet.

6 Q. I want to direct you to what's been
7 previously marked as Exhibit 11, and it's -- and
8 that was several months ago; so I will get you the
9 notebook that has that in it. It's here. It's
10 under tab number 11.

11 Have you seen that document before?

12 A. I believe so.

13 Q. Okay. It's the construction agreement
14 between American Grating LLC and Lange Plumbing, and
15 on the very first page it's dated 3/28/14. Do you
16 see that?

17 A. Yes.

18 Q. And by "dated," that's the date that's
19 typed in; so it's not handwritten. Because the
20 dates that it was actually signed on the last page
21 are not that date. Do you see that?

22 A. Yes.

23 Q. Okay. One of the dates it looks like --
24 well, is that your signature under "OWNER"?

25 A. Yes, it is.

1 Q. And it looks like that was signed 12/10
2 of '14, and then there's a signature under the --
3 under the typewritten name of Shelli Lange, and
4 that's not signed until 4/24 of '14. Do you see
5 that?

6 A. I believe it says 4/2 of '14.

7 Q. Oh, you're right, 4/2 of '14.

8 A. But I do see it.

9 Q. Okay. Did you actually speak with
10 anybody at Lange Plumbing regarding -- and by "you,"
11 I mean you personally -- speak with anybody at Lange
12 Plumbing regarding the work under this construction
13 agreement?

14 A. I don't remember if I did or not.

15 Q. But you knew Shelli and Bernie Lange --
16 well, you knew of Lange Plumbing prior to their work
17 at 645; is that right?

18 A. I've never met Shelli Lange.

19 Q. Okay.

20 A. Bernie Lange I met at the house after the
21 sprinkler went off, and I may have met him once
22 during construction of the same house.

23 Q. Was he there for fire-sprinkler-related
24 work?

25 A. No. I believe I was asking him why his

1 plumbers used hatchets to drill holes in the master
2 bathroom.

3 Q. Okay. Because Lange was actually doing
4 the plumbing work on the house as well?

5 A. That is correct.

6 Q. Okay. And Lange had done some plumbing
7 work on your 637 address; is that right?

8 A. I think so.

9 Q. Uh-huh, right. And then Lange had done
10 some TI work for you at the Pediped store; yes?

11 A. Probably. It's possible.

12 Q. Okay. And I think they'd done some TI
13 work for you at 1191. Do you recall that?

14 A. I think HTA -- maybe. There's so many
15 TIs; so it's possible.

16 Q. Okay.

17 A. It's possible.

18 Q. But you hadn't actually spoken, it sounds
19 like, to Shelli ever?

20 A. Ever.

21 Q. Ever. And to Bernie only on one occasion
22 as it related to some plumbing work at 645?

23 A. I think that's -- oh, no. I actually
24 talked to Bernie one time about 637.

25 Q. Okay.

1 A. So probably twice, yeah.

2 Q. Okay. So who negotiated the terms and
3 conditions in this construction agreement between
4 American Grating and Lange Plumbing?

5 A. Looks like Shelli Lange did. For Mark,
6 this is a standard contract.

7 Q. This is a standard contract for who?

8 A. For Mark. It's a standard contract he
9 uses for construction.

10 Q. Okay. Are you referring to Mark Giberti?

11 A. Correct.

12 Q. Or is it Giberti or Giberti?

13 A. Giberti.

14 Q. I've been saying it both ways for months;
15 so --

16 A. I'm the wrong person to ask about
17 pronunciation of anything.

18 Q. Okay. So is it your testimony that this
19 construction agreement is the standard agreement
20 that Mark Giberti uses with his subcontractors?

21 A. Yes.

22 Q. And by that, do you mean in his capacity
23 as Giberti Construction?

24 A. No. Since he's been my in-house
25 construction guy, this is the same contract he's

1 used.

2 Q. Do you understand what the terms and
3 conditions are of this or have you ever really even
4 read through it?

5 A. I'm not a lawyer. I -- I've scanned it,
6 but you could tell me one thing and I might be
7 shocked.

8 Q. Fair enough. Let's talk about Mark
9 Giberti.

10 He's a full-time employee of American
11 Grating; is that right?

12 A. Correct.

13 Q. And he has a construction license under
14 his own entity of Giberti Construction?

15 A. Correct.

16 Q. And do you have an agreement with him to
17 use his construction license for projects for
18 American Grating?

19 A. For me personally, for me and Angela's
20 personal benefit, yes.

21 Q. Do you have a written agreement with him
22 for that?

23 A. No.

24 Q. What is the agreement that you have with
25 him?

1 A. That he will allow me to use and he will
2 be the general contractor on any investment
3 properties that the two of us engage in.

4 Q. Okay. And by "general contractor," you
5 mean he pulls the permit?

6 A. Correct.

7 Q. And he does what else on site as the
8 general contractor?

9 A. You have to look at the legal definition
10 of a general contractor. There's a whole host of
11 things.

12 Q. Well, I just mean what is your agreement
13 with him as it relates to what his job duties are
14 while he's working on your projects?

15 A. To me, I have an understanding what a
16 general contractor does on a project.

17 Q. And what is that?

18 A. They supervise the project and make sure
19 it's built properly.

20 Q. Okay. And interact with all the
21 subcontractors?

22 A. Correct.

23 Q. Deal with all issues related to the
24 subcontractors' work?

25 A. Somewhat.

1 Q. Make it really so that you don't have to
2 deal with everybody on site; he's sort of the main
3 guy?

4 A. You could say that. It wouldn't be the
5 way I'd put it, but yes.

6 Q. Well, did you ever have any contact with
7 any of the subs during original construction of the
8 house?

9 A. Yes.

10 Q. Okay. Which ones were those?

11 A. I don't know. I talk to everyone. I'm
12 there every day. I talk to whoever's there.

13 Q. Okay. Is it -- are your discussions of
14 the specific purpose of directing what they're
15 doing, or what is the nature of your discussions
16 with the subs?

17 A. No. I'm a nice guy. I talk to them, ask
18 them what they're doing. If I don't like something,
19 I tell Mark.

20 Q. And then he deals with them?

21 A. He does not deal with them either. He
22 would deal with the owner of the subcontractor.

23 Q. Right. And I don't mean specifically the
24 laborers that are there on site. I mean the
25 companies that have contracted with American

1 Grating. I mean, the specific laborers on site may
2 or may not --

3 A. Yeah.

4 Q. Don't know what's going on?

5 A. He would talk to the person, either the
6 supervisor or the manager.

7 Q. Okay.

8 A. He would communicate. Some of them I'd
9 communicate with. We've done a lot of business with
10 some of these people. I know some of them
11 personally.

12 Q. Some of what people?

13 A. The subcontractors on this job --

14 Q. The subcontractors.

15 A. -- that you were asking about.

16 Q. Okay. But it sounds like you didn't
17 really have any of those conversations with the
18 Lange folks.

19 A. No.

20 MR. SIMON: Which conversations are we
21 talking about?

22 MS. DALACAS: On-site conversations.

23 BY MS. DALACAS:

24 Q. You said you've never talked to Shelli,
25 and Bernie, your conversations were limited to

1 something related to 637 and then a plumbing
2 question on 645; is that right?

3 A. No. I asked why his guy was hacking
4 holes in the floor of my house. It's not a plumbing
5 question; it's a quality-of-work question.

6 Q. Okay.

7 A. My 637 discussion with him was very
8 similar. But Bernie isn't that active in his
9 company. It's mostly his supervisors.

10 Q. Do you know who his supervisor was for
11 the fire sprinklers at 645?

12 A. I don't know.

13 Q. Did you ever have any conversations with
14 the supervisor for the fire sprinklers at 645?

15 A. I've had a conversation with a person who
16 alleged he was, but I found out in his deposition he
17 was not.

18 Q. And who was that?

19 A. Vince Diorio.

20 Q. And that was after the discharge had
21 occurred; is that right?

22 A. That's correct.

23 Q. During construction, did you ever have
24 any conversations with any of the superintendents or
25 folks working for Lange on the fire sprinkler

1 project at 645?

2 A. Not that I'm aware of.

3 Q. So is there a specific reason that
4 American Grating LLC doesn't have a contractor's
5 license?

6 A. Why would it?

7 Q. I don't know. Why would it?

8 Since you do some construction projects
9 on the side, is there a reason why you don't get a
10 contractor's license for American Grating LLC since
11 Mark Giberti actually works for you?

12 MR. SIMON: I'll just object to the
13 extent the answer suggests that legally American
14 Grating is required to have a contractor's license.

15 So if you know or don't know why American
16 Grating doesn't have one --

17 I guess that's what you want to know,
18 right, why don't they have one?

19 MS. DALACAS: I'm not making any
20 suggestion either way by my question.

21 BY MS. DALACAS:

22 Q. So for purposes of Mr. Simon's objection,
23 I'm just wondering why you don't have one if you do
24 projects that are for your own investment, personal
25 investments.

1 A. I have no interest in becoming a general
2 contractor.

3 Q. Okay. Why is that?

4 A. I have other interests in life. Why
5 would I want to be a general contractor?

6 Q. Okay. And so you've created this
7 arrangement or you have this arrangement with
8 Mr. Giberti where you use his license to address
9 that issue, that is, that you need a contractor's
10 license to do the work but you don't have one?

11 A. Correct.

12 Q. Is that understood -- is that fair?

13 A. Correct.

14 Q. Okay. So why doesn't Giberti
15 Construction enter into the subcontracts with all of
16 the subs for work at any of these projects?

17 A. Because it probably wouldn't give the
18 subcontractor a lot of security in getting paid.
19 They have much better credit when they enter into a
20 contract with the person who's going to pay them.

21 Q. Okay. So American Grating actually is
22 the one that pays all the subcontractors directly.
23 Is that what you're saying?

24 A. Sometimes.

25 Q. Is there certain instances where that's

1 not the case?

2 A. Yeah, all the time, constantly.

3 Q. Okay. Give me an example of a
4 subcontractor who would do work at one of your
5 projects but wouldn't get paid by you. Who would
6 they be paid by?

7 A. Define "you." You sort of compounded the
8 question now. You -- you about five minutes ago
9 were saying, "This is you," "This is you." So I
10 think you need to define it.

11 Q. Sure. Because it's important to keep the
12 entities separate; right?

13 MR. SIMON: Okay. Just rephrase your
14 question, please.

15 MS. DALACAS: No.

16 BY MS. DALACAS:

17 Q. I'm just wondering because it sounds like
18 it's important to keep the entities separate.

19 A. To you, it seems to be.

20 Q. Well, to everybody. You said it a little
21 bit earlier, I thought, yourself.

22 MR. SIMON: I'd just object. It's
23 argumentative.

24 Don't answer her. She can rephrase her
25 question.

1 MS. DALACAS: I'm just trying to clarify.

2 BY MS. DALACAS:

3 Q. Do you think that it's important to keep
4 the entities separate for purposes of understanding
5 who is doing what with whom?

6 MR. SIMON: Objection, vague and
7 ambiguous.

8 If you understand --

9 A. I don't understand your question.

10 BY MS. DALACAS:

11 Q. Fair enough.

12 Is it important to you to keep American
13 Grating separate from Giberti Construction?

14 MR. SIMON: Objection, vague as to what
15 purpose.

16 A. In what instance?

17 BY MS. DALACAS:

18 Q. In every instance. It seems like you --
19 for purposes of construction agreements for 645,
20 Giberti Construction was the general contractor
21 we've established; is that right?

22 A. That's correct.

23 Q. Okay. But the con- -- but the contracts
24 were entered into by American Grating LLC?

25 A. That's correct.

1 Q. And so tell me why that was.

2 A. American Grating LLC has better credit
3 than Mark Giberti. These people want to get paid.

4 Q. Okay. Is there a reason why Giberti
5 Construction wouldn't have paid them if you were
6 going to be paying -- is there a reason why Giberti
7 Construction wouldn't have paid Lange Plumbing for
8 their work?

9 A. You'd have to ask every subcontractor
10 what they feel Giberti's credit is. I don't know
11 what they think.

12 Q. Did you have a separate -- and by "you,"
13 I mean does Edgeworth Family Trust have a written
14 agreement with American Grating LLC for construction
15 of the house at 645?

16 A. No.

17 Q. Does American Grating LLC have a written
18 agreement with Giberti Construction for construction
19 of the residence at 645?

20 A. No.

21 Q. Did you have an understanding with
22 Mr. Giberti that you would be paying all the
23 subcontractors directly through American Grating?

24 A. No.

25 Q. What was your understanding with

1 Mr. Giberti as it relates to payment for
2 subcontractors' work at 645?

3 A. I would make sure they all get paid in a
4 timely manner.

5 Q. What does that mean, you would make sure?

6 A. I, Brian Edgeworth, would make sure they
7 get paid in a timely manner.

8 Q. So you personally, Brian Edgeworth, would
9 make sure that they were paid, that each sub was
10 paid for its work at 645?

11 A. Correct.

12 Q. Okay. So who would actually pay the
13 subs? Was that Brian Edgeworth and Angela Edgeworth
14 or Edgeworth Family Trust or American Grating?

15 A. It would be someone who Edgeworth Family
16 Trust owns. Either my personal bank account,
17 American Grating's bank account, or if everybody was
18 out of the office and these people desperately
19 needed money, I would get them the money.

20 That's what we were known for, paying
21 people, and in this town, that was a very big part
22 of our reputation.

23 Q. And by you, you mean American Grating's
24 reputation?

25 A. I mean all the entities'.

1 Q. Okay. Does American Grating have a legal
2 relationship with Giberti Construction?

3 MR. SIMON: Objection, calls for a legal
4 conclusion, vague and ambiguous.

5 MR. NUÑEZ: Join.

6 A. I don't know. I'm not a lawyer.

7 BY MS. DALACAS:

8 Q. It sounds like you only have an oral
9 agreement with Mr. Giberti. Is that correct?

10 A. Yes. We're both honest people.

11 MR. SIMON: For what purpose?

12 MS. DALACAS: For construction of all of
13 the projects of American Grating LLC.

14 BY MS. DALACAS:

15 Q. Is that correct?

16 A. Correct.

17 Q. Let's turn to Exhibit 11, the
18 construction agreement, and page 2 at the bottom.
19 The very first two lines say, "THIS CONSTRUCTION
20 AGREEMENT . . . is made as of the 28th day of March,
21 2014 by and between Lange Plumbing ('Contractor'),
22 and American Grating LLC ('Owner')."

23 Do you see that?

24 A. Yes.

25 Q. Okay. Can you tell me what is the

1 reference to American Grating as the owner?

2 A. I don't know. I didn't write the
3 contract.

4 Q. Well, what are they the owner of; do you
5 know?

6 A. I don't know. Is it defined in this
7 document?

8 Q. They don't own the house; right?

9 A. I don't see that it's referencing a
10 house.

11 Q. Okay. So I'm just wondering what the
12 reference to the word "Owner" means.

13 A. I'm not sure.

14 Q. Okay. Because American Grating doesn't
15 actually own the house, right, at 645?

16 A. Not that I know of.

17 Q. Okay. And they weren't the general
18 contractor of record, is that right, for 645?

19 A. Their employee was.

20 Q. Their employee, Mark Giberti, through his
21 company, Giberti Construction, was the general
22 contractor of record?

23 A. Correct.

24 Q. Not Mark Giberti personally, is that
25 right, as an employee of American Grating?

1 A. I don't know.

2 Q. Okay. Because American Grating doesn't
3 have a contractor's license, so you couldn't
4 actually be the contractor of record; is that right?

5 A. I have no idea.

6 Q. Okay. Is there a reason that you, Brian
7 Edgeworth, personally didn't pull the permit for 645
8 as an owner/builder?

9 A. Because I didn't intend to live in the
10 house.

11 Q. Okay. So you couldn't have pulled the
12 permit individually?

13 A. Yes, I could have.

14 Q. How could you have pulled it
15 individually?

16 A. You go down to the -- the same way Mark
17 pulls it. You file documents.

18 Q. Right. But you can only pull the permit,
19 it sounds like from your testimony, as the
20 owner/builder if you intend to occupy the house; is
21 that right?

22 A. Correct.

23 Q. And you didn't intend to occupy the
24 house?

25 A. No.

1 Q. So that's why you needed someone with a
2 general contractor's license to pull the permit; is
3 that right?

4 A. Yes.

5 Q. Okay. And that's why Giberti
6 Construction pulled the permit; is that right?

7 A. I completely don't understand what
8 you're --

9 Q. I'm just trying to clarify that the
10 general contractor in this case -- or excuse me,
11 that the general contractor who pulled the permit
12 was Giberti Construction. I think we've established
13 that. Yes?

14 A. If that's what's on the records, then
15 yes.

16 Q. Because you personally, Brian Edgeworth,
17 didn't do it?

18 A. I did not.

19 MR. SIMON: Objection, asked and
20 answered.

21 BY MS. DALACAS:

22 Q. And American Grating didn't do it?

23 A. No.

24 Q. Okay.

25 A. Not that I know of.

1 Q. Okay. So going back to my original
2 question, do you know why American Grating is
3 identified as the owner in this contract when they
4 don't actually own the house?

5 MR. SIMON: Objection, asked and
6 answered. The document speaks for itself. And he
7 didn't prepare the contract. And he already said he
8 doesn't know.

9 So unless your answer's different than "I
10 don't know," which you already told her, then you
11 can tell her a different answer. Do you have a
12 different answer other than "I don't know"?

13 THE WITNESS: No, I do not.

14 MR. SIMON: Okay. The record speaks for
15 itself.

16 MS. DALACAS: Okay. Thank you for that
17 clarification.

18 BY MS. DALACAS:

19 Q. So let's turn to the very back page where
20 you've signed, and it says, "Name: Brian
21 Edgeworth," and then it says "Title" and there's a
22 blank. Do you see that?

23 A. Yes, I do.

24 Q. Is there any reason why you didn't fill
25 in that title?

1 A. No.

2 Q. Do you remember specifically skipping
3 that?

4 A. No.

5 Q. So you don't know either way why you
6 didn't fill that in?

7 A. No.

8 Q. And there's that word "OWNER" again right
9 above your signature. Do you see that?

10 A. Yes, I do.

11 Q. Okay. So in what capacity are you
12 signing this contract under that label of "OWNER"?

13 A. I believe I've answered that a couple
14 times.

15 Q. Well, no. This is the first time I've
16 asked it as it relates to the signature block; so I
17 don't believe you have.

18 A. I don't know.

19 Q. Okay. Thank you.

20 Do you have an understanding that Lange
21 is still owed money on some of its plumbing work at
22 645?

23 A. Not from me.

24 Q. Not from you, Brian Edgeworth, or not
25 from you, American Grating?

1 A. They're not owed any money on 645.

2 Q. Are they owed money on 637?

3 A. No.

4 Q. Who was responsible for approving all
5 invoices for payment as it relates to the subs
6 during construction at 645?

7 A. Mark and me.

8 Q. Who actually drafted the invoices? Or
9 strike that.

10 What was the process for approving
11 invoices for payment as between you and Mark during
12 original construction?

13 A. I assume the subcontractor would send the
14 bill in. It would go to Mark to make sure they
15 actually did the work. He would approve it. It
16 would come back to me, and I'd see if we already
17 paid them for the work already, and if not, I would
18 either cut a check or send it to accounting for
19 processing.

20 Q. Does American Grating LLC file a separate
21 tax return from you and your wife personally?

22 A. All LLCs file tax returns; so yes,
23 American Grating files a tax return.

24 Q. Okay. I know that single-member LLCs can
25 sometimes not. That's why I'm asking the question

1 just for clarity.

2 A. Not to my knowledge, they can't.

3 Q. Okay. So American Grating files a
4 separate tax return than you and your wife
5 personally?

6 A. Yes, it does.

7 Q. Are you an employee of American Grating?

8 A. No.

9 Q. Is your wife an employee?

10 A. No.

11 Q. Has American Grating ever performed
12 construction work for an entity other than one that
13 you and your wife own?

14 A. No.

15 Q. When did American Grating LLC actually
16 start performing construction work?

17 A. I don't know.

18 Q. Well, do you remember when the first
19 project was for --

20 A. I gave you a list of projects. Do you
21 have it?

22 Q. I think I -- we probably have created a
23 list somewhere along the way.

24 One of them includes 1911 Center Point;
25 right? The TI work in there?

1 A. 1191.

2 Q. I'm sorry.

3 A. Yeah.

4 Q. 1191 Center Point and the TI work in that
5 building; is that right?

6 A. I submitted a list of projects to -- you
7 asked some questions in those interrogatories.

8 Q. Interrogatories?

9 A. Yeah.

10 Q. Right. But do you remember -- I'm asking
11 you for your testimony today. Do you have any
12 reference point for the date that American Grating
13 started performing construction work for your own
14 projects?

15 A. I'd have to go look. I would think that
16 I put it on the sheet, but I'm not sure.

17 MR. SIMON: If you don't remember, just
18 tell her you don't remember. If she wants to
19 refresh your recollection with a document, she can
20 do so. Or if she has a different question, she can
21 ask you a different question.

22 BY MS. DALACAS:

23 Q. Is "I don't remember" your answer?

24 A. Correct.

25 Q. We've talked a lot about the specific

1 repairs that were completed after the fire sprinkler
2 discharge, and I've looked through all the documents
3 you've produced and it looks to me that all of the
4 checks to subcontractors for their work as it
5 relates to the repairs were checks from you and your
6 wife personally.

7 Do you understand that to be the case?

8 A. I just don't know.

9 Q. Okay. Well, let me ask you this: Do you
10 know whether any checks were issued by American
11 Grating LLC for specific repairs to the house? And
12 I don't mean their supervisory work. I mean the
13 actual repairs performed by third parties.

14 A. Yeah, I would assume that's detailed on
15 those invoices.

16 Q. Right. Let's look at one of the
17 invoices.

18 A. Sure.

19 Q. And I think it's been marked as 96, the
20 packet of invoices.

21 A. Okay. Got it.

22 Q. Okay. So there's a category -- well,
23 which Bates number are you looking at specifically
24 and I'll try to get to the same one?

25 A. 1270.

1 If you look at 2027, you can see there's
2 a check cut.

3 Q. Just bear with me for one second.
4 I'm almost there.

5 Okay. I'm looking at 2027, and it looks
6 like it says April 16th at the top and it identifies
7 four vendors: ARC Document Solutions, Tiberti Fence
8 Company, Portable Restrooms and City of Henderson?

9 A. Correct.

10 Q. Looking at the same thing? Okay.
11 And then it has varying amounts and then
12 it says -- there's a column that says "Paid By"?

13 A. Correct.

14 Q. And it says "Visa," and then there's the
15 word "Mark" next to it?

16 A. Correct.

17 Q. So does that mean it was Mark Giberti's
18 Visa?

19 A. It would mean that it's Mark Giberti's
20 American Grating Visa, correct.

21 Q. Okay. And so on the second line where it
22 says "Visa, Angela," is that -- does Angela
23 Edgeworth have an American Grating Visa?

24 A. Yes, she does.

25 Q. And then "Check," is that an American

1 Grating check?

2 A. It appears to be a check number for
3 American Grating, 31557.

4 Q. Okay. And then the last one says, "Visa,
5 Angela." Again, that's your wife's American Grating
6 LLC credit card?

7 A. Correct.

8 Q. Okay. So let's look at 2025, which is
9 just a couple pages before that, and I think it's
10 the -- probably goes with that invoice. And there's
11 really like four categories that are on most of
12 these invoices.

13 The first one is "St. Croix
14 Reimbursement," and it looks like it's documents
15 related to the repairs themselves. Do you see that?

16 A. I see the line, yes.

17 Q. Okay. The next category says, "Mark
18 Giberti G.C.," and that's where we talked about the
19 hourly rate with Ms. Pancoast?

20 A. Correct.

21 Q. The next category is "Brian Edgeworth,"
22 and that's where we've talked about the hourly rate
23 with your hour calculation?

24 A. Correct.

25 Q. And then the last one is usually "Mark

1 Giberti Mileage Reimbursement." Do you see that?

2 A. Yes, I do.

3 Q. Okay. Let me ask. There's a "PAID"
4 stamp on that invoice. Who would have put that
5 there?

6 A. The computer.

7 Q. And so when is it that the computer makes
8 that notation?

9 A. Well, it depends when this document was
10 printed, but all that means is this was paid before
11 the document was printed.

12 Q. Okay. And I think you said earlier that
13 you and your wife write a check to American Grating
14 for payment of these invoices. Is that --

15 A. I said I paid them.

16 Q. Okay.

17 A. I don't necessarily write a check.

18 Q. Because how could they be paid? What are
19 some other ways that you pay the invoices?

20 A. You can just transfer the money from your
21 personal account to your business account, or you
22 could take it out of your distribution account.

23 Q. Okay. So do you remember specifically
24 how these American Grating invoices were paid by you
25 and your wife?

1 A. Cash.

2 Q. Did you actually deposit cash from your
3 own personal bank account into the American Grating
4 bank account?

5 A. Correct, and I provided those transfers
6 to you in the same set of interrogatories. I can't
7 say that word.

8 Q. Interrogatories.

9 A. I still --

10 Q. It's okay. I know what you mean.

11 Okay. So you made the transfer for the
12 entire amount, the 55,322 --

13 A. No.

14 Q. -- on this invoice?

15 A. No.

16 Q. What amount did you make a transfer?

17 A. I'd have to look at what -- inside the
18 computer what payment is attached to this invoice.

19 Q. Is there some --

20 A. Usually I pay 200-, 300,000 dollars at a
21 time.

22 Q. Okay. So is there some document that
23 would help me determine or figure out what payments
24 you and your wife made as it relates to each
25 specific invoice?

1 A. Yeah. I think we have disclosed that
2 from way back when you asked.

3 Q. And you think that's some kind of
4 transfer information from your bank -- from your
5 personal bank account into the American Grating bank
6 account?

7 A. Your -- your question was referencing how
8 would we know which payment from my account to
9 American Grating applied to which invoice, and now
10 your question is, "Is that a document showing a
11 transfer from your bank account?" The two questions
12 are different.

13 Q. Sure. So just to be -- so that I
14 understand what you're saying, it sounds like you
15 and your wife make some kind of transfer from your
16 own personal bank account or pay cash or do a
17 reconciliation on your distribution to American
18 Grating to cover the cost of these invoices?

19 A. Yes. Generally reconciliation on a
20 distribution would only happen when you file your
21 income tax return; so most of these would have been
22 checks --

23 Q. Okay.

24 A. -- or bank transfers as we call them now.

25 Q. Okay. And is it your testimony that

1 you've produced documents which show either a check
2 being written from you and your wife to American
3 Grating or some kind of bank transfer from your own
4 personal bank account to American Grating's bank
5 account?

6 A. Yes.

7 Q. Okay. But you don't know how much of
8 that specific transfer was used to cover each
9 specific invoice?

10 A. No, I do know.

11 Q. Okay.

12 A. I can look it up in the computer.

13 Q. Have those documents been produced?

14 A. I think so.

15 Q. Okay. Did you make a transfer from your
16 own personal account or pay cash to American Grating
17 to cover the entirety of the American invoices that
18 are -- the entirety of the amounts in the American
19 invoice -- American Grating invoices?

20 A. I don't understand your question.

21 Q. Sure.

22 Part of these invoices is the cost that
23 you've identified as Mark Giberti's time, and that
24 amount is -- after I've added it all up, it is
25 \$180,674.50, and then the time for your -- the

1 amount for your time is \$33,450. So it's about 210
2 or 11 thousand dollars total.

3 Is it your testimony that you've actually
4 transferred that \$210,000 that would cover
5 Mr. Giberti's hourly rate plus your hourly rate into
6 the American Grating bank account?

7 A. That is correct.

8 Q. Okay. Have those amounts actually been
9 paid by American Grating to Mr. Giberti?

10 A. What amounts?

11 Q. The \$180,674, which is the running total
12 of his time spent using the hourly rate you
13 described earlier.

14 A. No. When a company bills by hour, they
15 don't pay the employee the hourly rate.

16 Q. Okay. So what was the purpose of keeping
17 that total if Mr. Giberti's not actually going to be
18 paid that amount?

19 A. It's very similar to your business. You
20 guys all bill at a certain hourly rate. I highly
21 doubt your paycheck is that hourly rate that you
22 billed for the two weeks previously. It's the exact
23 same concept.

24 Q. So you billed that amount -- strike that.
25 You invoiced that amount even though

1 you're not paying Mr. Giberti that amount of money
2 because that would be part of the American Grating
3 profit?

4 A. No. As I testified earlier, if American
5 Grating wanted to make profit, I would have needed
6 to bill at over \$300 an hour, but it would cover
7 some of American Grating's overhead. They're two
8 different concepts.

9 Q. Understood. I was trying to -- I was
10 trying to correlate it with your comments about how
11 we, as lawyers, get paid, and I guess I didn't
12 understand that.

13 So this \$180,674 that represents the
14 amount American Grating has invoiced for
15 Mr. Giberti's work, is it your testimony that he's
16 not going to get paid that amount?

17 A. No, he will not get paid that amount.

18 Q. Okay. And that the purpose of why you've
19 invoiced that is to -- is what then?

20 A. Is to give you a very fair hourly rate
21 that you owe me money for. The economic rate is
22 more like \$320 an hour. It was with the hopes that
23 you would pay your damages.

24 Q. When I calculate the amounts that you've
25 invoiced for your own time, it's \$33,450. Has

1 American Grating actually written a check to you in
2 those amounts?

3 A. No.

4 Q. With respect to the mileage claim by
5 Mr. Giberti, has American Grating written a check to
6 him to cover those calculated amounts, which add up
7 to 33,008?

8 A. Not that I know of.

9 Q. Are you planning on doing that?

10 A. Yes.

11 Q. Is there a reason that you haven't done
12 it already?

13 A. I think there was some agreement that he
14 would just wait until the claim settles.

15 Q. Does he normally get paid mileage?

16 A. No.

17 Q. And so is it the same rationale for
18 purposes of his invoicing that you're calculating
19 the mileage then?

20 A. He incurred costs because of your
21 damages. He was on another job site and he had to
22 commute back and forth and back and forth and back
23 and forth. It's fair that you pay him for those
24 costs.

25 Q. Okay. I have a bunch of invoices and

1 documents and checks together that are not in
2 Bates-stamp order but they're all EDGEWORTH and they
3 range from 1983 through 2007, and I'll go ahead and
4 hand those to you and we can mark them collectively
5 as the next in order. They're not in complete
6 Bates-stamp order. There's some missing, just so
7 you know.

8 (Exhibit 108 was marked for
9 identification.)

10 BY MS. DALACAS:

11 Q. Just take a few minutes to flip through
12 them, if you would. I'm sure you've seen them at
13 some point, but --

14 A. Okay.

15 Q. Okay. So it's a small sampling of the
16 invoices for some of the repairs that were made at
17 645. Would you agree with that?

18 A. It appears to be.

19 Q. Yeah. They're certainly not complete; so
20 it's just a few pages. But they all have a check
21 that's photocopied with the invoice or immediately
22 thereafter. Do you see that?

23 A. Yes, I do.

24 Q. And all of the checks appear to be paying
25 those different invoices in whatever amount the

1 invoice is. Would you agree?

2 A. They appear to be.

3 Q. Okay. All of the checks are Brian
4 Edgeworth and Angela Edgeworth's bank account. Do
5 you see that?

6 A. Yes, I do.

7 Q. So if these amounts were being billed to
8 American Grating, is there a reason specifically why
9 American Grating would not have written a check for
10 those amounts?

11 A. After your client destroyed my house,
12 American Grating didn't have the working capital to
13 pay those bills; so I paid them.

14 Q. Okay. So did you loan the money to
15 American Grating?

16 A. I paid these bills.

17 Q. You personally paid the bills?

18 A. Yes, I did.

19 Q. So is there any bills of a similar
20 nature -- and I mean with respect to the repairs
21 themselves -- that have been actually paid by
22 American Grating and not you personally?

23 A. I don't know. Probably.

24 Q. Okay.

25 A. We just looked at some.

1 Q. Well, we looked at a vendor list and it
2 had some like -- something referencing Angela's
3 credit card and Mark's credit card, the American
4 Grating credit cards. Is that what you're referring
5 to?

6 A. Correct.

7 Q. Okay. Does American -- and American
8 Grating writes checks for those amounts that have
9 been identified?

10 A. Yes.

11 Q. Right. But if there's no check for
12 American Grating, can I assume that they were paid
13 by you personally if there's not a transaction
14 history like that, the one that we looked at?

15 A. I think on most of the invoices I've
16 given you the check so that you don't have to guess;
17 you'll know.

18 Q. Right. So if the check is from you, I
19 would know, and then if it's listed on the
20 transaction history on one of those recurring
21 amounts, American Grating probably paid it?

22 A. Or if there's an American Grating check,
23 yeah --

24 Q. Okay.

25 A. -- you would see that.

1 Q. Let's talk about those loans, the three
2 specific loans that you took out at varying dates.

3 Do you remember what amount in June of
4 2016 that you thought you were going to need for the
5 first loan?

6 A. It was very hard to predict how much I
7 would need.

8 Q. So how is it that you came to the
9 \$300,000 figure from your mother-in-law?

10 A. Because I thought that would get me
11 through the next two months.

12 Q. Did you have an understanding that that
13 would cover the next two months of the repairs that
14 needed to be done or something else?

15 A. It depends what repairs I was going to
16 do.

17 Q. Okay. Prior to you getting that loan
18 from her, had you actually started any of the
19 repairs?

20 A. Some.

21 Q. Do you remember what those were?

22 A. No.

23 Q. Had you paid Mr. Simon out of pocket with
24 your own -- strike that.

25 Had you paid Mr. Simon any legal bills at

1 that -- legal bills at that point?

2 A. I've disclosed all my payments to
3 Mr. Simon.

4 Q. No, I've seen them. But have you -- as
5 of June of 2016, was any of that -- before you got
6 the loan from your mother-in-law, had you paid any
7 bills?

8 A. I don't know. We could look on the list.
9 Do you want me to get it?

10 MR. SIMON: The answer's "I don't know."
11 Let her ask another question.

12 BY MS. DALACAS:

13 Q. Did you understand when you got the
14 \$300,000 loan that there would be some kind of
15 specific percentage used towards repairs and some
16 specific percentage used towards legal fees?

17 A. No. That really depended on what Bernie
18 Lange was going to do about paying his debt.

19 Q. Did you have any equity in any of the
20 other properties that you owned at the time that you
21 took out the \$300,000 loan from your mother-in-law?

22 A. Of course.

23 Q. Equity in other properties?

24 A. Yes.

25 Q. And which properties were those?

1 A. 637 would have equity. 1417 would likely
2 have equity. I don't know I've marketed it, but it
3 seems safe to say that. The raw land of the
4 volleyball would have had equity.

5 Q. Okay. Is there any specific reason that
6 you didn't try to use your equity in either 637,
7 1417 Foothills Drive or the volleyball facility in
8 order to obtain a loan for use at 645?

9 A. That would be very foolish to do.

10 Q. Why is that?

11 A. Because that's how people go bankrupt.
12 Taking out debt for something that doesn't suit the
13 purpose of the debt and securing assets that have
14 nothing to do with the debt is how people go
15 bankrupt.

16 Q. Had you tried to secure a loan using your
17 equity in either 637 or 1417 Foothills or the
18 volleyball facility through a traditional bank, do
19 you know what kind of interest rate you would have
20 received?

21 MR. SIMON: Objection, calls for
22 speculation.

23 A. To borrow money for Bernie Lange, I have
24 no idea.

25 \\

1 BY MS. DALACAS:

2 Q. That actually wasn't my question. My
3 question was: Had you tried to use a bank to borrow
4 money using the equity in those three properties
5 we've identified, do you know what kind of interest
6 rate you would have received?

7 A. A loan for what? When you go to get a
8 loan, you need to tell the bank the purpose of the
9 loan.

10 Q. I understand.

11 Had you tried to obtain like a home
12 equity line or some kind of line of credit for those
13 three properties that you had equity in, do you know
14 what kind of interest rate you would have received?

15 MR. SIMON: I'll just object to the
16 extent if you can clarify the purpose of the loan
17 that you're referring to.

18 BY MS. DALACAS:

19 Q. I'm just referring to a home equity line
20 on -- home equity line, 637 St. Croix. You have
21 equity. You can pull some money out.

22 A. That would be bank fraud.

23 Q. And why is that?

24 A. You must tell them what the purpose of
25 the loan is for when you take out a loan. It says

1 that right on the loan documents. If you tell them
2 that you're borrowing for some other purpose, it's
3 called bank fraud. People go to jail for that.

4 Q. Okay. Did you -- so is it your answer
5 that you didn't try to get a home equity line or
6 some kind of loan based on the equity in any of your
7 other properties for use at 645?

8 A. I already told you I did.

9 Q. You did?

10 A. I had preliminary conversations with our
11 banker about whether I would qualify. The answer
12 was no.

13 Q. I heard that testimony earlier, and I
14 understood it to be as it related to getting a loan
15 on 645. Did I misunderstand that?

16 A. What else would the loan be for?

17 Q. No, no, no. I mean on using 645 as the
18 collateral for the loan.

19 A. Using any property as the collateral.

20 Q. Did you have that specific discussion
21 with him to use any property that you --

22 A. Yes. I gave him --

23 Q. Let me just finish for the record. I'm
24 so sorry.

25 MR. SIMON: Hold on.

1 BY MS. DALACAS:

2 Q. I don't mean to -- I'm not trying to be
3 rude. I just want to finish for the record.

4 Did you --

5 MR. SIMON: You know what? Let's take a
6 break real quick. There's not a pending question.

7 MS. DALACAS: Well, there is actually a
8 pending --

9 MR. SIMON: No, there is not actually.

10 MS. DALACAS: Yeah. No, because he cut
11 me off before --

12 MR. SIMON: No, there's not actually.

13 MS. DALACAS: He did cut me off before I
14 finished my question. There is a -- can you read
15 back the last question.

16 (The following record was
17 read by the court reporter:

18 "Question: Did you have
19 that specific discussion
20 with him to use any property
21 that you --")

22 THE WITNESS: "That use dashes"?

23 THE REPORTER: No, "that you," and then
24 there's dashes because you spoke.

25 THE WITNESS: Oh.

1 MS. DALACAS: One more time. I'm sorry.

2 (The following record was

3 read by the court reporter:

4 "Question: Did you have

5 that specific discussion

6 with him to use any property

7 that you --

8 "Answer: Yes. I gave

9 him --

10 "Question: Let me just

11 finish for the record.")

12 BY MS. DALACAS:

13 Q. Okay. Did you have --

14 MR. SIMON: That was -- he answered. You
15 asked questions.

16 MS. DALACAS: He answered --

17 MR. SIMON: He answered, then you said
18 something else, then he answered.

19 MS. DALACAS: He answered before I was
20 done, and I -- and the court reporter specifically
21 got that I was trying to finish the question.

22 BY MS. DALACAS:

23 Q. So my question is: Did you have a
24 discussion with your banker at Wells Fargo, I
25 believe, about using your equity in any of the

1 properties that you had equity in to obtain a loan
2 for use at 645 to cover the repairs?

3 A. Yes. I fully disclosed every single
4 asset I had and every single income I had to him in
5 order for him to tell me whether he thought it would
6 get through underwriting. And I answered this
7 earlier. His answer was no.

8 MS. DALACAS: We can take a break now.

9 (Recess taken from 3:22 p.m.
10 to 3:32 p.m.)

11 MS. DALACAS: Back on.

12 BY MS. DALACAS:

13 Q. Mr. Edgeworth, does Edgeworth Family
14 Trust have a separate bank account?

15 A. No.

16 Q. So the loans that were made, two checks
17 and the one wire transfer, those were all into the
18 bank account of you and your wife personally?

19 A. Correct.

20 Q. Let's go back to this two-page summary
21 sheet. The second item on there is identified as
22 "Investment Return Lost on Trapped Capital," and
23 it's --

24 MR. SIMON: Which one?

25 MS. DALACAS: I don't know the exhibit

1 number. I've been -- it's --

2 THE WITNESS: 99.

3 MR. SIMON: Oh, okay.

4 BY MS. DALACAS:

5 Q. I'm going to write that on mine so I
6 don't have to say that again.

7 It's the two-page document, and I think
8 you said you prepared this; right?

9 A. Correct.

10 Q. Okay. Did you have any assistance from
11 anybody else in preparing it?

12 A. No.

13 Q. Did you prepare the two prior -- two or
14 three prior versions of this as well?

15 A. Yeah. I typed them all into Excel.

16 Q. Okay. So how is it that you track all of
17 these numbers?

18 A. With invoices.

19 Q. Okay. So that explains the invoices
20 that's identified under "Repair." You track them
21 all with what you've actually paid; is that fair?

22 A. Yes.

23 Q. With the category "Repair," and the same
24 thing with "Legal" because you've paid the bill --

25 A. Right.

1 Q. -- so you can track what you've paid?

2 For these items identified as "Delay
3 Costs" at the top, there's five of them. We've
4 already talked about the noncompletion fines. Let's
5 talk about the second one, investment return.

6 So the number on the most recent version,
7 Exhibit 99, is \$262,013.10?

8 A. Yes.

9 Q. And it says, "Amount invested in project
10 6.5% per year return for delay," and then it says in
11 capitals "LOW," and then I presume that's "EST." is
12 for estimate. Is that right?

13 A. That is correct.

14 Q. Okay. Did I understand your testimony
15 correctly that you researched some kind of Nevada
16 Statute to try to determine that 6.5 percent?

17 A. No.

18 Q. How did you get to that 6.5 percent?

19 A. I looked on the Internet.

20 Q. You looked on the Internet?

21 A. Correct.

22 Q. For -- what were you looking for on the
23 Internet?

24 A. Loss -- return loss in judgments,
25 something like that. I don't remember what I

1 searched for. I found this.

2 Q. Okay. Do you have any printouts or
3 snapshots, screen shots of the Web pages that you
4 looked at to come up with that 6 and a half percent
5 number?

6 A. No. I figured the judge would know what
7 it is.

8 Q. Because it's a -- why would you figure
9 that?

10 A. Well, there's some allowable amount that
11 you're returned on your -- allowed to charge on your
12 stranded asset. I'm not a lawyer.

13 Q. But you think it's some kind of Nevada
14 Statute that allows for that?

15 A. I didn't say that.

16 Q. Okay. So what -- why would a judge know
17 that if it's not a Nevada Statute?

18 A. Judges know stuff like that. They're the
19 ones who make judgments.

20 Q. Okay. One of the earlier versions of
21 this includes that same line item, but it has a 4.5
22 percent return on it.

23 A. Right.

24 Q. And you don't have that sheet in front of
25 you, but do you recall that the earlier version has

1 that lower percentage number on there?

2 A. Yes.

3 Q. You do. Okay. So tell me why you
4 increased that number because you increased that
5 number, right, from 4 and a half --

6 A. Correct.

7 Q. -- to 6 and a half? So why did you do
8 that? What was the reason for that increase?

9 A. Likely the basis changed.

10 Q. What number do you mean by "the basis"?

11 A. On all of these things, they give you
12 some underlying rate basis and then an adder.
13 Say -- and I don't remember what this is, but let's
14 say it's prime plus 2. Prime moves every day. It
15 probably moved.

16 Q. Okay. So but do you have any
17 documentation that evidences why this specific
18 increase was made from 4 and a half to 6 and a half?

19 A. No.

20 Q. And you don't remember what specific Web
21 sites you looked at?

22 A. No.

23 Q. Do you remember when you looked at it for
24 purposes of the increase?

25 A. No.

1 Q. You used that period there from 4/10 of
2 '16, and I understand that's the date of the
3 discharge, give or take; is that right?

4 A. Yes, it is.

5 Q. And then the 6/21/17 date is the date
6 that you stopped repairs on the house; right?

7 A. That's the date the last brand-new
8 cabinet was put in the house.

9 Q. Okay. So but on 4/10 of '16, the house
10 wasn't actually ready to be sold, was it?

11 A. No.

12 Q. When would the house have been ready to
13 be sold had the discharge not happened?

14 A. Mid-May.

15 Q. So maybe like, I think you said earlier,
16 four to eight weeks from completion?

17 A. Yeah. I think other people have used six
18 weeks. Four to -- four to eight's a good ballpark.

19 Q. Okay. So four to eight weeks. So is
20 there a reason why you wouldn't have used four to
21 eight weeks from that April 10 date for your start
22 date?

23 A. There would be no reason to use that
24 date.

25 Q. To use a later date?

1 A. My capital started being stranded 4/10.
2 Until you return my house to the condition it was
3 in, on 4/10 I am charging you interest on the
4 stranded capital. It has nothing to do with eight
5 weeks later, six weeks later. The date is the date.

6 Q. Right. But your capital that had been
7 invested into the house couldn't have been recouped
8 by you until the house was actually done; right?

9 A. I don't know that.

10 Q. Could you have sold it without it
11 actually being completed?

12 A. This is America. You could sell property
13 at any time.

14 Q. Did you have an intent to list it for
15 sale before you --

16 A. No, I did not.

17 Q. -- completed the house?

18 A. No, I did not.

19 Q. Okay. So as far as you're concerned, you
20 weren't actually going to try to recoup that
21 investment until the house was completed; is that
22 right?

23 A. That is correct.

24 Q. Okay. And that would have been anywhere
25 from four to eight weeks after the April 10 of '16

1 date?

2 A. Correct. Except I was in negotiations
3 with Rich MacDonald on four lots and I was pledging
4 this house on those four lots; so that would be a
5 tough argument to say, the argument you're putting
6 forth.

7 Q. Well, tell me what you mean by
8 "negotiations with Rich MacDonald." What were you
9 negotiating for?

10 A. The week before this happened or ten days
11 before this happened, I was in negotiations with
12 Rich MacDonald to buy four lots, two and two, in
13 MacDonald Highlands to build spec houses on them.
14 Angela had secured an investor with 1031 money; so
15 we had a limited time window. And we were sealing
16 the deal, so to speak.

17 Q. To buy those four lots to build spec
18 houses?

19 A. Correct.

20 Q. Okay. And that fell through?

21 A. Obviously.

22 Q. Would that have been the first time that
23 you were going to be doing a project with American
24 Grating with a partner? Was Rich MacDonald --
25 strike that.

1 Was Rich MacDonald going to be your
2 partner?

3 A. No.

4 Q. This was going to be work that American
5 Grating LLC was doing on its own?

6 A. Rich MacDonald owns Foothills Partners,
7 who owns the lots in the neighborhood. I would be
8 purchasing the lots from him.

9 Q. Is there a reason why you couldn't
10 purchase the lots from him anyways?

11 A. Yes.

12 Q. What was that?

13 A. There's \$3.6 million of stranded cash
14 after this sprinkler destroyed the house. There's
15 no way to get \$3.6 million out of the house to buy
16 stuff.

17 Q. Is that situation that you're referencing
18 now at all part of the calculation that's identified
19 in Exhibit 99 under line number 2 for investment
20 return?

21 A. No.

22 Q. Okay.

23 A. That would be millions of dollars.

24 Q. We talked a little bit about or you
25 mentioned Jim Kreason earlier. Can you tell me what

1 your contact with him was.

2 A. I don't understand --

3 Q. Sure.

4 A. -- the context of the question.

5 Q. Sure. You mentioned his name earlier as
6 having some discussions with him. Do you recall
7 that testimony?

8 A. Yes.

9 Q. Okay. Tell me the nature of your
10 interaction with Mr. Kreason as it relates to 645.

11 A. I met with him on site once or twice, and
12 I had telephone conversations with him once or
13 twice.

14 Q. And what was the purpose of your meetings
15 with him on site?

16 A. I was doing as I was asked to do by
17 Kinsale Insurance.

18 Q. Okay. So did Mr. Kreason relay to you
19 any specific findings -- or excuse me, any specific
20 decision by Kinsale to not pay the damages amount?

21 A. No. I think Jenny Brooks relayed the
22 decision not to pay to me.

23 Q. Okay. Did you -- strike that.

24 Had you actually commenced any of the
25 repairs at the time that you and Mr. Kreason met?

1 A. I don't know. I asked -- I asked through
2 him when I could commence them several times; so
3 when we first met, obviously not. During other
4 meetings, I don't know.

5 Q. And at some point after Kinsale had
6 denied the claim, you made the decision to go ahead
7 with the repairs; is that right?

8 A. That's correct.

9 Q. Who was involved in making the
10 determination as to what specific repairs were going
11 to be made?

12 A. Me.

13 Q. And what was the basis for your
14 determination of what repairs to make versus what
15 repairs to hold off on?

16 A. It was a balancing act. I had to balance
17 how much money I had with what was going to be the
18 impact on the house price. I could only do what I
19 could afford to do; so I had to figure out what was
20 going to have the biggest impact.

21 Q. Okay. And so did you base that off of
22 the amount of the loan that you had gotten from your
23 mother-in-law at the time?

24 A. I based it on how much I thought I was
25 going to need and how much I thought I could get and

1 then on the upper hand -- upper hand on how much is
2 even economically viable.

3 Q. What does that mean?

4 A. The simplest would be to think of a car.
5 A car might be worth 250,000 if it's a Ferrari. If
6 it gets damaged, are you going to fix it at 150,000?
7 Maybe, maybe not.

8 I had to do that balancing act with this
9 house because you're getting into numbers where it
10 wouldn't be economically viable to do it.

11 Q. Okay. I think some of the early
12 estimates I saw were that the repairs were going to
13 be somewhere between 2- and 300,000 dollars. They
14 kind of varied depending on who drafted the repair
15 document.

16 A. I never saw a repair document that low.

17 Q. Okay. What was the repair documents that
18 you had seen for total repairs necessary?

19 A. The lowest one I saw was \$500,000.

20 Q. Who drafted that?

21 A. Whoever that remediation guy was.

22 Q. United Restoration?

23 A. Yeah.

24 Q. And did that include their fees for
25 actually remediating?

1 A. Yes.

2 Q. Plus the repairs?

3 A. Yes.

4 Q. And you think it was \$500,000 or so?

5 A. Yeah, I think it was, say, 430 plus 75
6 for the remediation.

7 Q. Okay. So is that the number, the
8 ballpark number that you were working off of, when
9 you were making the determination as to what the
10 repair costs were going to be, that \$500,000 number?

11 A. No.

12 Q. What number were you working off of at
13 least in your own head --

14 A. 800 --

15 Q. -- about what the repairs were going to
16 cost?

17 A. \$800,000, best estimate at the time.

18 Q. And what was that \$800,000 based off?

19 A. If we repaired it to new condition, that
20 was a good ballpark.

21 Q. Did you have an understanding that the
22 United Restoration bid would not repair it to new
23 condition?

24 A. That they basically do tract homes. They
25 actually brought in a J&J Contracting that repairs

1 water damage in tract homes. I believe the guy
2 didn't even know what level 5 drywall is.

3 So no, I would assume they were not going
4 to repair it to like-new condition.

5 Q. Did you ever get a written estimate from
6 Giberti Construction for repairing it to the level
7 that it was new?

8 A. Mark gave an estimate that was comparable
9 to the estimate that they were providing, yes.

10 Q. In the \$500,000 range?

11 A. I don't know what Mark's was.

12 Q. Is there a reason why you didn't use that
13 estimate and actually -- well, no, strike that.

14 Was Mark's estimate to bring the house to
15 new condition?

16 A. No. It was matching theirs.

17 Q. It was matching theirs. Did you ever get
18 an estimate to bring the house to new condition?

19 A. No. I didn't have enough money to do it.
20 It would be pointless.

21 Q. Because you thought that number was
22 something in the \$800,000 range?

23 A. Likely higher, but that's a good
24 ballpark.

25 Q. And so at some point you made the

1 decision to just make whatever repairs you thought
2 might be -- economically made sense based on that
3 balancing act?

4 A. Correct.

5 Q. Okay. So did you confer with Mr. Giberti
6 about what the repairs should be?

7 A. Yeah. We talked about what we could,
8 what we thought would have an impact, what we
9 thought we would just disclose in escrow and take a
10 deductor on and what we just couldn't.

11 Q. Okay. What were some of the items that
12 you thought you can just -- or no, strike that.

13 What were the specific repairs that you
14 thought were the most important to complete to bring
15 it to new condition?

16 A. We didn't bring it to new condition.

17 Q. Understood. But is it your testimony
18 that you never intended on bringing any of the house
19 to new condition or just portions of it?

20 A. We had no ability to bring the house to
21 new condition.

22 Q. Well, if you had bought all new cabinets
23 from the beginning, would that have brought it to
24 new condition for the cabinet issue alone?

25 A. No. We would first have to cut every

1 square foot of drywall out of that house, which
2 would have cost several hundred thousand dollars,
3 and haul it away and then reboard the entire house,
4 every water-damaged square foot.

5 It's just -- it's not -- the scenario
6 you're presenting isn't even credible. It's
7 literally if we go back to the Ferrari, you're
8 asking me, "Why didn't you spend \$400,000 to fix
9 your \$250,000 Ferrari, Mr. Edgeworth?" That's a
10 very similar question to what you're asking.

11 Q. My question is: For some specific items
12 that were -- that you felt were important to bring
13 to new condition, is there some reason that you
14 didn't do that? And let me ask it by way of
15 example.

16 The fireplace, for example, is there some
17 reason that you didn't pull out the entire fireplace
18 box at the time instead of trying to repair the
19 components?

20 A. Kinsale's adjuster said they would never
21 pay for that, never.

22 Q. They would never pay for a new fireplace?

23 A. Yes.

24 Q. Okay. Is that the only reason that
25 you -- that you made the decision to try to repair