

IN THE SUPREME COURT OF THE STATE OF NEVADA

DESERT VALLEY CONTRACTING,
INC. a Nevada corporation,

Appellant,

vs.

IN-LO PROPERTIES, a Nevada limited
liability company; EUGENE INOSE, an
individual; JEFFREY LOUIE, an
individual; DOES 1 through 10; and ROE
ENTITIES 1 through 10,

Respondents,

CASE NO. 83338

JOINT INDEX TO
DATE ORDER

VOLUME 6

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Attorneys for Appellants:

CARRIE E. HURTIK, ESQ.

Nevada Bar No. 7028

JONATHON R. PATTERSON

Nevada Bar No. 9644

HURTIK LAW AND ASSOCIATES

6767 West Tropicana Ave., Suite #200

Las Vegas, NV 89103

(702) 966-5200

Email: churtik@hurtiklaw.com

jpatterson@hurtiklaw.com

Attorneys for Respondent:

Brian W. Boschee, Esq.

Nevada Bar No. 7612

HOLLEY DRIGGS, WALCH, FINE, WRAY,

PUZEY & THOMPSON

Third Floor, 400 S 4th St,

Las Vegas, NV 89101

(702) 791-0308

Email: bboschee@nevadafirm.com

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12.	Exhibit 560-Contract Between In-Lo and Desert Valley Contracting 8.14.2021	N/A	JNT001137- JNT001138
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1 RTRAN

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4
5 DISTRICT COURT
6 CLARK COUNTY, NEVADA

7
8 DESERT VALLEY CONTRACTING,
9 INC.,

10 Plaintiff,

11 vs.

12 IN-LO PROPERTIES, LLC,

13 Defendant.

) CASE#: A-16-734351-C

) DEPT. XV

14 BEFORE THE HONORABLE JOSEPH HARDY
15 DISTRICT COURT JUDGE
16 THURSDAY, APRIL 11, 2019

17 **RECORDER'S TRANSCRIPT OF BENCH TRIAL - DAY 4**

18 APPEARANCES:

19 For the Plaintiff:

CARRIE E. HURTIK, ESQ.
JONATHAN PATTERSON, ESQ.

20 For the Defendant:

BRIAN W. BOSCHEE, ESQ.
SEAN E. STORY, ESQ.

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25 RECORDED BY: MATTHEW YARBROUGH, COURT RECORDER

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1 Las Vegas, Nevada, Thursday, April 11, 2019

2

3 [Case called at 10:31 a.m.]

4 THE CLERK: Desert Valley Contracting, Inc. versus IN-LO
5 Properties, LLC.

6 THE COURT: Good morning.

7 GROUP RESPONSE: Good morning, Your Honor.

8 THE COURT: So are we going tomorrow or no?

9 MR. BOSCHÉE: Well, we're going to talk about that. I don't
10 think we are. And we've got a handful of issues. We'll finish Mr. Inose
11 today, obviously, probably pretty early this morning, I think.

12 We have informed Mr. Ramirez that he needs to be here at
13 1:00, he is under subpoena. We have not heard back since we got the
14 picture of the IV in his arm yesterday and he said he couldn't move or
15 whatever.

16 So we honestly --

17 THE COURT: He's the one with the --

18 MS. HURTIK: No, we've got somebody else..

19 MR. BOSCHÉE: No, no. This is Rob Ramirez, the supervisor
20 that everybody's been talking about.

21 THE COURT: I know the name. I just remember somebody
22 else said a nasal --

23 MR. BOSCHÉE: No, that was Dennis. That's the owner of --

24 THE COURT: Okay.

25 MR. BOSCHÉE: -- their company.

1 So we honestly, sitting here right now, don't know if Rob's
2 going to comply with the subpoena and show up this afternoon or not.
3 We also have Dennis is still, I understand, on the shelf. Danny Merritt, I
4 think, could be available tomorrow, but he's more than -- he's going to
5 take more than a day and I'm not really excited about breaking my cross-
6 examination and coming back in three weeks and reconvening it. So I
7 would prefer not to do that, if possible, especially since we have to come
8 back anyway.

9 The huckleberry is going to be now instead of needing to find
10 one calendar day on Your Honor's calendar, we're going to probably
11 need three. And that's I don't know how logistically feasible that is.
12 Obviously neither of us is available next week, or at least I'm not, your
13 not, so it's silly school district. And then the following week I've got
14 some -- so we'll just have to -- it's really kind of with Your Honor. I don't
15 know what your trial stack and what your calendar looks like. So --

16 THE COURT: Okay. Well, what's -- so I'll say, well, Ms.
17 Hurtik, I've heard a lot from Mr. Boschee --

18 MR. BOSCHEE: Sorry.

19 THE COURT: -- so far. Do you have anything?

20 MS. HURTIK: Well, actually, Your Honor, Mr. Boschee and I
21 spoke last night and again this morning. So we're in agreement.

22 THE COURT: Okay. Okay. So let's plan on not going
23 tomorrow, which is fine; and we'll see about this afternoon, I guess,
24 which is fine, too. And then later today let's see if we can figure out
25 when we'll keep going.

1 MR. BOSCHÉE: Yeah, I think that's -- Mr. Ramirez won't go
2 deep into the afternoon, even if he comes. I think we'll be done with
3 him, if he shows up at 1:00, we'll probably be done with him by 3:00. So
4 we'll have time to kind of map out beyond that. And if he doesn't show
5 up, we'll have lots of time to map out what we're going to do. So --

6 THE COURT: Sounds good.

7 MS. HURTIK: We're hoping he shows up.

8 MR. BOSCHÉE: We're hoping he shows up as well, but, you
9 know. Anyway --

10 THE COURT: Okay. With that --

11 MR. BOSCHÉE: Once more into the breach. Back on the
12 stand.

13 EUGENE INOSE, PLAINTIFF'S WITNESS, PREVIOUSLY SWORN

14 REDIRECT EXAMINATION

15 BY MS. HURTIK:

16 Q Mr. Inose, if you can pull up binder Number. 4. And good
17 morning.

18 A Good morning. You said 4, correct?

19 Q 4, uh-huh.

20 A Okay. I got it.

21 Q Okay. So if you can turn to 371. And before I start asking
22 questions about this: So yesterday we kind of ended, you said you did
23 meet with Dennis Zachary, as well as Danny Merritt on the job and
24 Rachelle Elliston [phonetic], correct, all from DVC?

25 A You're talking about all three of them together or at different

1 times or --

2 Q Together. You've met with all of them at some point
3 throughout the process of the reconstruction of your home?

4 A Yes, I have.

5 Q Okay. So did you -- how often did you speak to Rachelle
6 Elliston throughout the -- and it's nothing to do with this exhibit. So I'm
7 going to -- I'm just getting you here because that's -- so how often did
8 you speak to Rachelle Elliston throughout the reconstruction of the
9 property?

10 A In the beginning very rarely. Towards the middle -- I'm
11 speaking about when DVC was on the job, I'm referencing that. In the
12 beginning very rarely. In the middle, more frequently. And towards the
13 end, more frequently than the middle. I don't know if that makes sense,
14 but --

15 Q Okay.

16 A I progressively got more.

17 Q Okay. And did Ms. Elliston ever meet you out at your house?

18 A Yes, she did.

19 Q Okay. And how often did she meet you at your house?

20 A I mean I can't recall the exact number. I don't know that
21 number.

22 Q More than once?

23 A Oh, yes, more than once, yes.

24 Q Okay. I mean do you know whether it was once a month, or
25 whether it was more than that?

1 A it was nothing scheduled, so I can't -- I don't know how to
2 answer that question.

3 Q Okay. And did Ms. Elliston -- so what were the meetings with
4 Ms. Elliston mainly about? Were they different, or were they always
5 about the same thing?

6 A You know, I can't recall exactly what the meetings were
7 about right now. She was more of a support for Daniel. Daniel was
8 there -- she like took notes for Daniel.

9 Q Okay. But did she have conversations with you regarding
10 any of the subcontractors' scheduling?

11 A About their scheduling? I mean I'm sure that's come up, of
12 course. I don't know one hundred percent when or yeah.

13 Q Okay. Did she have conversations with you regarding any
14 changes that you were making to the house?

15 A You know, I cannot recall exactly what we spoke about
16 every -- I cannot tell you that. I cannot tell you yes or no.

17 Q Okay. And did you have any conversations with her
18 regarding you had testified, when Mr. Boschee asked you some
19 questions, that a lot of items were missing from the house. Did you have
20 conversations with Ms. Elliston with regards to that?

21 A I don't know if it was with her or Daniel or both. I cannot
22 recall who I spoke t, but I definitely spoke to somebody at DVC and it was
23 either and/or Rachelle and/or Dennis. I mean Daniel, I'm sorry, not
24 Dennis. Daniel.

25 Q Okay. And so when stuff went missing, at what stage -- you

1 kind of said -- and you can correct me if this is not what you believe you
2 said -- but you said stuff didn't go missing until probably about seven,
3 nine months in; is that correct?

4 A That could be a decent approximation, yes.

5 Q Okay. And when -- so I want to go back to when the flood
6 first occurred, you said your friend Rommel --

7 A Rommel.

8 Q Rommel. How do you say it?

9 A Rommel.

10 Q Rommel was the one that was at the house and called you.
11 He discovered basically, or he called you.

12 A Yes. He is the first one there that saw what, you know, all the
13 water damage, the water running, all that stuff. Yeah, he's the one that
14 saw it.

15 Q Okay. So then you testified that someone called SERVPRO
16 Henderson to get them out there. And were they out there before you
17 actually got here to Las Vegas from California? Or were they there after
18 you got here?

19 A No. So I can't remember exactly what time Rommel called
20 me, but it was in the afternoon, I remember that. It was like -- I don't
21 know what time in the afternoon it was, but by the time I flew in the very
22 next morning, SERVPRO was already there. Because I remember that,
23 you know, the crew was already out there. They were already trying to
24 get rid of the water and all that stuff.

25 Q Okay. So before they started -- when they were starting to

1 get rid of the water and everything, did electronics have to be checked or
2 certain wiring and stuff? Were they having to disconnect items?

3 A You know, ma'am, I don't know what was being done when I
4 wasn't there yet, because I was there the very next morning. So I don't
5 know what happened. I don't know if they worked throughout the night
6 or what it was.

7 Oh, there's someone there at the door. Oh, never mind.

8 Q Okay. So you don't know when they actually -- okay, so
9 strike that. So when did you call Mr. Ramirez?

10 A I don't know if I did call Rob or not. I don't know if Rommel
11 called Rob or if I called Rob. At that moment, once I found out, once
12 Rommel called me about this water damage and that everything was like
13 crazy over at the house, my mind just got scattered. I don't recall who
14 called SERVPRO -- yeah, I have no -- I cannot recollect any of that stuff,
15 what happened at that moment.

16 Like I said, I was trying to figure out how I'm going to get to
17 Vegas in the most expeditious manner. I was trying to call my insurance
18 company -- it was a weekend. I believe it was a weekend, so I was trying
19 to look on the internet, trying to figure out how I'm going to call
20 Fireman's Fund.

21 Q Okay. And doesn't Fireman's Fund have an 800 claims
22 number.

23 A Yes, and that's what I called.

24 Q Okay. So you called the insurance company on the day that
25 you were informed of the leak or the flood?

1 A Yes, I believe so. I was -- I remember trying to find their
2 number. Because I don't have the policy in front of me. I'm not sitting in
3 my, you know, my bedroom and their policy happens to be right next to
4 me. It's not like that. I had to look through the internet, try to find out
5 who I could call.

6 Q Okay. So when was Rob Ramirez first at the property after
7 the flood occurred?

8 A I can't remember if it was that very next morning, or the next
9 day after that, or the -- I cannot recall exactly when he was there.

10 Q Okay. But you do know -- but he was called by either
11 yourself or Rommel?

12 A Or Daniel. I remember Daniel was asking me about him, too.
13 So I don't know who called him at that moment. I don't know.

14 Q Well, wasn't he on site prior to Desert Valley even being
15 retained?

16 A I cannot recall that right now.

17 Q Well, who directed SERVPRO of Henderson?

18 A Rommel. Rommel was there.

19 Q So Rob Ramirez was not there during the initial flood
20 cleanup?

21 A I'm so sorry. Can you repeat that one time?

22 Q So Rob Ramirez was not there in the first two days of the
23 flood cleanup?

24 A Ma'am, like I said, I cannot one hundred percent say under
25 oath what day he was there, what time he was there or anything like

1 that. I cannot tell you that.

2 Q Okay.

3 A I know he was there early, but I cannot tell you if he was
4 there that -- the time that you're saying. I don't know.

5 Q Well, I'm asking because you said he knew the house, you
6 wanted him at the house to help let them know how everything was put
7 together to help get things taken care of.

8 So you did call him, correct?

9 A No, ma'am. I just told you. I don't recall who called him. I
10 don't know if it was myself, or Rommel, or Daniel.

11 Q Okay. And you don't recall if he was there prior to DVC being
12 hired.

13 A Prior to DVC being hired

14 Q Uh-huh.

15 A I cannot recall that at all right now, no.

16 Q Okay. So before DVC came on board and you came out, you
17 said that you came out how, long did you stay here in Los Vegas during
18 the initial stage of the cleanup?

19 A During the initial stage of the cleanup, I would have to
20 guess -- and this is just a guess -- I would probably say I stayed at least
21 five days.

22 Q Okay. And during that time -- and I'm just trying to jog your
23 memory here -- I mean was Mr. Ramirez on the property during those
24 five days?

25 A I really cannot remember. I just know that when Daniel came

1 out and what the contract stated was he had a date on August the 4th,
2 which is right around the time of that. I'm the one that recommended
3 Rob and Rob wasn't there because Rob was -- or else I would have said
4 hey, this is Rob, you know, you guys talk. I believe Daniel had to call
5 him.

6 Q Okay. So let's go to Exhibit 371. This is an email from you to
7 Daniel Merritt. I'm going to let you look at it a minute and then, do you
8 recall this email.

9 A I don't recall it right now. But, I mean, yeah, if it says it's
10 from me, I mean -- okay.

11 Q So this is in March, it says at the top it's March 27th, 2015.
12 And it's regarding the driveway. And so, if you go down to the middle
13 part Danny is saying Eugene -- he's actually the one who initiated the
14 conversation here, it appears -- because it says 10:54 a.m. and your
15 response is at 11:15 a.m.

16 A Okay. Oh, okay. So he wrote it first and then I responded to
17 him.

18 Q Uh-huh.

19 A Okay, got it.

20 Q And he's saying, Eugene we have the proposal and bid for
21 the driveway, tear out two of the chipped inserts, and to attempt to color
22 match. We're proposing to try this first and then, if that does not work,
23 reseal all the driveway, both the solid colored pieces and the pebble
24 coat. They are proposing to use the top of the line product and are
25 currently generating the two bids from that for this, and should have

1 them over by the weekend. Okay?

2 So then it goes on to say cost will still be high if the entire
3 driveway is to receive the coat. So we forwarded this all to Brian Lynch,
4 and he's in touch with the subrogation insurance for the forklift operator.

5 So you said that you never tried to go after SERVPRO to pay
6 for the driveway earlier; is that true? Did you turn it over to SERVPRO's
7 insurance?

8 A I personally don't recall that, no.

9 Q Okay. Do you know what subrogation is?

10 A No, I do not.

11 Q So they're talking about turning it over to someone's
12 insurance. And if you look at the top of this, when you -- in your
13 response, it says in the subject matter it says re driveway work to go to
14 the other insurance company.

15 So were there discussions with Daniel Merritt? Does that jog
16 your memory that there were maybe discussions with Daniel Merritt that
17 another insurance company was going to pay for this because SERVPRO
18 had caused the crack in your driveway?

19 A That could be possibility. But like I said, he's the one that
20 wrote it, I did not use the work subrogation, nor did I write the subject
21 matter. So that might be something that he knew about that I was not
22 really privy to as conversations.

23 Q So you were not aware that there was a claim made on
24 SERVPRO's insurance to try to pay for that?

25 A I one hundred percent cannot say I knew about it, no. I

1 probably was not involved in that.

2 Q Okay.

3 A Not that I could recollect.

4 Q Well, and I'm asking you because this email went to you and
5 it says, if you go on in this paragraph, that first paragraph, the part
6 where Danny is talking -- and we'll go down to, let's go to the eighth line.

7 A The eighth?

8 Q Yeah. Let me just put it up there and make it easier. Is it on?

9 THE COURT: Yes. You don't have the big screen on, but the
10 table screen's on.

11 MS. HURTIK: Oh, then I can't -- can we turn it on so I can see
12 or -- sorry.

13 THE COURT: That's all right.

14 MS. HURTIK: I just want to make sure he's directed to the
15 right area.

16 THE MARSHAL: Turn this one on?

17 MS. HURTIK: Yes, just so I can see what I'm doing. Thank
18 you. Does it take a minute or did I do --

19 THE MARSHAL: Yeah, it's coming on.

20 MS. HURTIK: Okay. All right.

21 BY MS. HURTIK:

22 Q So let's try to get this focused a little better. Okay.

23 So if you go down and it says -- I'm going to point to it -- it
24 says: We have to get the response from that company as to what to do
25 to move forward as this would be, could be near \$30,000 to repair. They

1 do not believe the entire driveway needs to be removed and will make
2 sure that the product they use is sent over to you first before application.
3 We just want to make sure that you know there will be minimal
4 demolition with hand tools and care not to damage other components of
5 the driveway. So this will not affect the work on the inside. However,
6 we have to get the other insurance company on the line for this and
7 make sure they know the cost.

8 So you don't recall any conversations about this?

9 A I do not. I mean it's about the driveway. I know that. And all
10 I wanted was for it to be fixed.

11 Q Okay. And were you not concerned that it may not match up
12 with the existing if they were trying to replace just the two slab areas
13 where they said it was cracked?

14 A Yes. I wanted to make sure that it matched. I wanted my
15 driveway back to the way it was.

16 Q Okay. So you don't know anything about the insurance from
17 SERVPRO and would anybody else, would Rob Ramirez know anything
18 about it, besides Danny Merritt?

19 A I cannot answer for Rob, ma'am. I don't know what he
20 knows. As far as what I know, I never spoke to anybody about saying,
21 hey, we're going to go after your insurance company for this.

22 Daniel was my point guy. He was the one basically
23 navigating how to do all this. My whole thing was, as a home owner, I
24 just said, hey, my driveway is damaged, I need it to be repaired or
25 replaced or whatever. I just wanted to be back to how it was, pristine

1 condition how it was, prior to this happening.

2 Q Okay. So let's go back to the, you know, you said the items
3 that were missing --

4 A Okay.

5 Q -- I'm coming to jump you back. The items that were
6 missing you said the time period about. Did you lock up certain things in
7 an area that it was locked up and you were the only one that had the key
8 to items that had been taken down, the items that were missing?

9 A There was --

10 Q The Lutron?

11 A No, no. The Lutron stuff was all over the place. Daniel had
12 thought that we were going to get brand new Lutron switches in. This
13 whole time he thought that, until like he figured out that wasn't. That's
14 when I had to figure out, oh, I got to go look for all these Lutron switches
15 that we have to reuse again.

16 And I remember that because Daniel had asked Roy from
17 Eagle Sentry, isn't this in the original bid? Aren't we supposed to get
18 new switches, new Lutron switches?

19 Q So Daniel asked, you knew Daniel had asked Eagle Sentry
20 about the --

21 A I saw an email.

22 Q -- Lutron?

23 A I saw an email.

24 Q And it wasn't -- okay. And it wasn't in the contract?

25 A He thought it was in the contract, Daniel did.

1 Q And Eagle Sentry you just kind of testified or I want to --

2 A I don't know --

3 Q -- be sure and got this right. You just said that it wasn't in
4 the contract?

5 A I don't know what the reply was. It was -- maybe he replied
6 directly to him after that. I don't know.

7 Q Okay. But the question was you locked up certain items that
8 you claimed were missing. You locked them up and you were the only
9 one with the key to that room, wasn't that true?

10 A No, that is not what I said, ma'am. There was a lot of things
11 all over the house that were out in the open. They were just in the
12 garages; they were around the house. There was one room that was
13 locked up, I think that we had -- I don't remember exactly was in that
14 room -- but -- yeah, I don't recall exactly what was in that room.

15 Q Okay. So items from the house were locked up in a room,
16 what room was it?

17 A It was downstairs. I call it the atrium bedroom. I think we
18 had a set of plans in there, like the blueprint. I didn't want one of the
19 subs or anybody to walk off with. That's the only copy I had. I
20 remember that was in there.

21 Q So you didn't think that maybe those plans, did you give him
22 a copy of those plans to look at when they were doing the rebuild to help
23 them know where some of the locations of certain items, how things had
24 been done?

25 A Yeah, I did give Daniel those plans, yes.

1 Q Okay. So you had another set made and locked up the
2 original?

3 A No. I gave Daniel those plans, and then once he was done
4 with it, he gave them back to me. And then I put it on the bed in that
5 bedroom and locked up that bedroom.

6 Q Okay. And you don't know what else was locked up in that
7 bedroom?

8 A I cannot recall exactly what was in that bedroom, but it
9 wasn't very much stuff. It was probably things that came on to the job
10 site that, you know, we're going to be using within the next week or two.

11 Q Okay. So you stated and testified that certain items were
12 missing and you had to go out and purchase new items, that's part of
13 your damages, and that it was all due to lack of supervision by DVC,
14 correct?

15 A Lack of someone being there to oversee the job, yes.

16 Q Okay. So why didn't you do a police report or -- first of all,
17 why didn't you do a police report when things were missing?

18 A I don't know. I just did not.

19 Q Why didn't you contact the insurance company and make a
20 claim on the items that were missing as part of the contest?

21 A Because from what Daniel had told me this was a -- when he
22 negotiated the price, that this was the final price, and there was no
23 supplemental, so there's no going back to them. Once he got to the
24 price where he felt it was good, that was it. I didn't even think that that
25 was an option.

1 Q So you're saying all of the items disappeared after June of
2 2015?

3 A I'm not saying exactly June. It could be May. I don't recall
4 exactly, but things were starting missing, yes.

5 Q Well, the reason I'm asking you is because there was a final
6 issue to the insurance company and we can go back to that release and
7 look at the date --

8 A That's fine.

9 Q -- but that was in June of 2015. So were the items missing
10 after June of 2015?

11 A Yes, more than likely. Well, you have to understand. I did
12 not get my hands around this job until after DVC was fired. And once
13 they were gone, and a little bit even prior to that, like, let's say, a month
14 or two prior to that I noticed a lot of items missing.

15 Q Okay. So let's go to Exhibit 372. So you weren't that
16 involved, you didn't really know a lot of stuff that was going on until
17 after DVC left, that's your testimony?

18 A No, what I'm saying is that I got way more hands on after
19 they left.

20 Q Well --

21 A I'm not going to say I didn't know anything that was going, I
22 was not oblivious to everything that was going on.

23 Q Okay. So Danny Merritt didn't send you the breakdown of
24 the scopes of work ever?

25 A The scope of work is -- can you show it to me so I know

1 exactly what the scope of work is?

2 Q We'll pull this one and we'll go to scope of work. Give me a
3 second.

4 A You could just pull it up there. I just need to see what you
5 mean, where you're referencing.

6 Q So to your knowledge, the scope of work changed several
7 times throughout the process of the build, correct?

8 A The scope of work -- okay. So is that the bid that he put into
9 the insurance company?

10 Q Well, okay, let's go back because, you know, I know that
11 you've had testimony over several days and maybe you've forgotten,
12 but --

13 A I am quite tired, yes.

14 Q -- so--

15 A I'm getting confused right now. So I'm sorry.

16 Q Okay. So in the beginning you have DVC come out -- I'm
17 sorry, SERVPRO, then it's DVC. Okay? And then you have the subs all
18 out there giving their bids, correct?

19 A So you meaning?

20 Q You meaning Eugene.

21 A Okay. I'm not getting any bids from any contractors. This is
22 DVC at this point. I'm not getting ahold of the subcontractors and saying
23 I need bids. They could bid -- I wouldn't even know how to make heads
24 or tails out of a bid. If they're pricing things right or giving me the right
25 item. So no, it would not be me that's saying hey, I need these bids.

1 Q Okay. And you never went through the scope with Daniel
2 Merritt or Dennis Zachary or Rachelle --

3 THE COURT: So he's asked you to show him --

4 MS. HURTIK: I'm going to.

5 THE COURT: So hold on.

6 MS. HURTIK: Sorry.

7 THE COURT: That's okay. But you originally asked a
8 question about the scope and he said can you show it to me so I make
9 sure I'm understanding --

10 MS. HURTIK: Sure.

11 THE COURT: -- what you're asking me. And now you're
12 asking another question about the scope. So I think it would probably
13 help us all move faster if you show him what you're referencing that way
14 he can know exactly what to answer to.

15 MS. HURTIK: Sure, Your Honor. I'm sorry.

16 BY MS. HURTIK:

17 Q Go to Volume 8, Mr. Inose.

18 A Okay.

19 Q And it's 571. So --

20 A Hold on one second here.

21 Q Right.

22 A Okay, yes. Go ahead.

23 Q Okay. So if you go to IN-LO0075. And Mr. Boschee asked
24 you about this and went through it with you yesterday. And this actually
25 goes all the way to IN-LO -- hold on -- 144.

1 A Okay. I see that.

2 Q Okay. Have you ever seen this before? This is what you
3 were questioned about yesterday.

4 A Yes. I have seen it, and I think I referenced it saying I didn't
5 understand it whatsoever.

6 Q All right. So let's go -- and let's go back and ask the question
7 that I was previously asking.

8 A Okay. So we're going to --

9 Q This is -- okay.

10 A Go to the other book then?

11 Q No, no. We're staying right here.

12 A Okay, I'm sorry. Okay.

13 Q Okay. This is the scope of work -- okay? -- it's quite large --
14 okay? -- and it lays out, let's say you just go and I'm going to a place that
15 was specifically discussed yesterday. If you go to IN-LO92. And I've
16 highlighted. There's an area that says lounge.

17 A Hold on one second, please.

18 Q Sure.

19 A Okay. I see that.

20 Q Okay. And you were asked about stuff that wasn't done that
21 was in the bid and this is one of the areas regarding the dome ceiling.
22 Do you recall that?

23 A I remember talking about the dome ceiling, but I don't see it
24 on there. But I --

25 Q Okay. And so -- what I'm just trying to show you is, let's go

1 do IN-LO94. And this isn't a specific question about these areas, it's just
2 showing you how this area, it says total sauna bath. That this scope of
3 work is broken up, if you go through each page, by different areas in the
4 house.

5 A Correct. I see that.

6 Q Okay. And so it is saying how much certain things cost, what
7 is happening, what they are doing. And if you actually go to IN-LO83,
8 there's a description column, and one of the first things it says, Number
9 97, each thing is line itemed, and it says net and blow inflation, and it
10 says quantity, 356.67 square feet, and then it doesn't say remove, but it
11 says replace, and then it has a total, \$463.67. So my question is: have
12 you ever seen this scope and were there different versions of this
13 throughout the time period that DVC was on the project.

14 A I know I have seen this. I cannot testify to saying that I know
15 every single version of that. I did try to make heads or tails out of this,
16 but like I think I said before, some parts of it in square footage, some
17 parts of it is quantity, I don't know what replace 1.3, 1.1, .2 -- I don't
18 understand it.

19 Q That's fair.

20 A I don't understand any of that stuff.

21 Q That's fair, but the question is it's broken down by areas in
22 the house and you did see, you said, there're several versions during the
23 process, correct?

24 THE COURT: He didn't --

25 MS. HURTIK: I'm asking. Okay, I'll phrase it different.

1 THE COURT: So you have this tendency to -- and your
2 response is always I'm asking -- but you ultimately characterize his
3 testimony inaccurately.

4 MS. HURTIK: Okay.

5 THE COURT: Because he didn't say there were several
6 versions. But your question was and you said there were several
7 versions. That's where I have an issue that -- so if you could rephrase --

8 MS. HURTIK: Sure.

9 THE COURT: -- that would be great.

10 BY MS. HURTIK:

11 Q So have you seen other versions other than this version?

12 A I could not tell you because they all look the same to me. It's
13 like I could not tell you one from the other, really.

14 Q So when DVC gave you the initial bid to do the work, did they
15 ever show you a scope like this?

16 A I've seen this. I don't know at what point in time I saw this,
17 but I do remember seeing this and I do remember -- I don't know if it was
18 asking Daniel, if I asked Rachelle, I think it was Daniel. And I said I can't
19 make heads or tails out of this thing. And it's like Swahili to me, I don't
20 get it. And he goes, you don't need to get it. This is for the insurance
21 company.

22 Q Okay. And right on the first page IN-LO's 75 --

23 A On the first page?

24 Q IN-LO75 is the Bates stamp number.

25 A Okay, got it, got it. Sorry.

1 Q I'm giving you the number so you can turn to it.

2 A I'm a little slow today.

3 Q That's fine.

4 A Okay.

5 Q So we're going to kind of start from the top and go down,
6 and I'm going to try to go down so that you can see, I'll put my finger
7 there. It says type of estimate, water damage. Date entered 8/7/2014.
8 So it appears that this report was dated or generated sometime August --

9 A Okay.

10 Q -- of 2014. Then date estimate original -- there's another
11 date -- well, date entered 8/7/2014. So that's actually the date that your
12 water damage occurred, correct?

13 A No, I don't think so.

14 Q In August sometime of 2014?

15 A Well, it happened in August, but not on August the 7th,
16 because from what I recall, the contract that I signed with Daniel that you
17 showed, was on August the 4th. So I don't think it was on August 7th.

18 Q Okay. And that's fair. The flood actually was sometime in
19 August, early August of 2014?

20 A Super early August, yes, I believe so.

21 Q So then date estimate completed for this estimate it appears
22 is 4/27/2015, do you see that?

23 A I do see that, yes. Yes, ma'am.

24 Q All right. So then there's also some paragraphs down here
25 and it does say an estimate full bid for restoration service remodel, but it

1 says it's a preliminary repair estimate, scope of work for the damages at
2 above mentioned property, due to Building Department mandates and
3 recommendations, additional items may be dictated via on-site
4 inspections and/or per the process of plan review. If supplemental items
5 are mandated, such as code upgrades in any trade category, additional
6 funding may be necessary and will be supplement to the attached scope.
7 Building Department mandates are normal and can sometimes delay the
8 rebuild process.

9 Were you aware of this before?

10 A I did not read this very carefully. From what I understood,
11 this is something that the contractor gives to the insurance company,
12 and they just basically go back and forth. I mean --

13 Q Okay. And I'm going to ask you a question about that.
14 Because you're an experienced businessman, right?

15 A I am an experienced businessman, yes.

16 Q You own restaurants, correct?

17 A I'm a restaurant investor. So I don't -- that's different.

18 Q Okay. So you're a restaurant investor. You also own real
19 estate both -- and we talked about it yesterday -- and you also have auto
20 parts --

21 A Distribution company. That's my main business, yes.

22 Q So you read contracts, correct?

23 A I do, but not on a very regular basis, but I do.

24 Q Okay.

25 A If it's something complex I do give it to my attorney -- let me

1 finish -- and I have the person of expertise look at it. Like if it's a dealing
2 between myself and a supplier in the automotive industry yes, one
3 hundred percent, I look at it and I read it.

4 Q Okay.

5 A If it's something to do in another industry, like the restaurant
6 industry, where I don't understand the lingo or in construction, I have my
7 attorneys look at it.

8 Q So did -- and I'm asking you because this isn't a \$300,000
9 house, this is, you've testified a \$9 million house or -- correct me if I'm
10 wrong. Is it a \$9 million house approximately?

11 A No, not anymore. It's much less, unfortunately.

12 Q Okay. Well, that's not -- okay. But it's millions, it's worth
13 millions, correct?

14 A Yes.

15 Q Okay. So you have this property that's worth millions, but
16 you don't have anybody look at this?

17 A Okay. In this particular case I felt that the insurance company
18 was the expert in this. Like they're the ones that can look at this and say,
19 hey, this estimate looks legitimate. Like I said, I cannot make heads or
20 tails out of that, that whole estimate at all.

21 Q Okay. And Rob Ramirez, did you ever have him review the
22 scope?

23 A I do not believe so.

24 Q Didn't you recommend Rob Ramirez as the superintendent of
25 the job?

1 A I did recommend Rob Ramirez as the super at the house, yes.

2 Q And what did you think that Mr. Ramirez' role would be as
3 the superintendent, a construction superintendent?

4 A As not being in the construction industry, I felt that a
5 superintendent is supposed to make sure that the trades work cohesively
6 together, they get scheduled out correctly, lined up correctly, because I
7 heard him use that terminology. We got to line up the subs, we got to
8 line up the subs and so I'm picking up on certain lingo. And that's a
9 lingo that I remember him saying. Stuff like that. So and I remember
10 when we first built the house, sometimes certain subs would be like
11 squawking at each other and Rob would have to go in there as a referee
12 and be like hey, let this guy finish first, let this guy -- and, you know, he
13 kind of just dictated the order of how things went.

14 Q Okay. So do you believe that Mr. Ramirez, because you
15 requested he be supervising, would have had to have known the scope
16 of work that was being done? Because -- do you believe that?

17 A At this point when he was on this job site he was working
18 under DVC. I did not dictate to DVC what they should and should not
19 give to Rob. I did not say Rob better get this scope of work, he needs to
20 see it, I did not say that at all.

21 Q Okay. So but the question was different, a little bit different.

22 A Okay. I'm sorry.

23 Q Okay. So what did you think Mr. Ramirez' -- let's strike that.
24 Let's go back.

25 Rob Ramirez was your original super, advisor, or

1 superintendent, when you first built the house, right?

2 THE COURT: So we -- I've been fairly patient, but that
3 question, I mean, I've heard that question and answer at least five times.
4 So that's asked and answered several times. So --

5 MS. HURTIK: Well, I'm just, Your Honor, I'm trying to get
6 him there because he's --

7 THE COURT: I mean it's like I'm not paying attention you
8 think or something. I don't know. But that question has been asked and
9 answered at least five time.

10 MS. HURTIK: Okay.

11 THE COURT: From him.

12 MS. HURTIK: That's fine. I'm just trying to get him to --
13 because he's not being -- I don't believe he's being responsive to the
14 question I'm asking. But okay. I understand.

15 MR. BOSCHEE: Which question?

16 MS. HURTIK: The question was what was Mr. Ramirez' role
17 in supervising. Because --

18 THE COURT: So he said his understanding, he's not a
19 construction guy, but his understanding of what a superintendent does
20 on a job site is to ensure trades work together coherently, line up the
21 subs is a term he's heard them use, referee. He did not dictate to DVC
22 what Rob Ramirez was or was not supposed to do.

23 So he's answered that question.

24 MS. HURTIK: But the question was would he have been --
25 had to know the scope to be able to supervise/

1 THE WITNESS: Ma'am, I'm -- I don't know what is, I don't
2 know.
3 MS. HURTIK: Okay.
4 THE WITNESS: I know that Daniel is supposed to know. He's
5 the general. That I know.
6 MS. HURTIK: I'll move on.
7 MR. BOSCHEE: And I can represent that Mr. Ramirez will be
8 here this afternoon to answer that question.
9 THE COURT: Oh, okay.
10 THE WITNESS: Oh, wow.
11 MR. BOSCHEE: We just found out.
12 MS. HURTIK: Okay, that's fine.
13 MR. BOSCHEE: There you go. That's just good news, I
14 thought.
15 THE WITNESS: Wow. Really. That's fantastic.
16 BY MS. HURTIK:
17 Q Okay. I want you to turn to 373. I had you turn to another
18 one, but we're going to take you instead to 373.
19 A 373?
20 Q In Binder Number 4.
21 A Oh, hold on.
22 Q I think you have out there.
23 A Hold on a second. I'm sorry, you said 373 now?
24 Q 373.
25 A Okay. 373.

1 Q Are you there?

2 A Yes, I am.

3 Q Okay. So this is, if you go down to the bottom, the top of it is
4 a response from you to -- an answer from Ms. Elliston. The bottom part
5 is actually the original email. And this one is cc'd to Danny Merritt and
6 Jeff Louie, subject reimbursement.

7 And it says, can you reimburse me for the door lock I
8 purchased for the front door. And then it's also asking during the course
9 of construction I think this happened when Rob was on vacation, the
10 alarm for the door leading into the house from the garage stopped
11 functioning.

12 Okay. So how did you know about these items? This is in
13 May of -- May 4th of 2015. How did you know about these items if you
14 were not on site?

15 A Well, what do you mean by that? Like I would always go to
16 the house, ma'am. Like I wasn't absent from the house from -- like for
17 months at a time. I was there.

18 Q Okay. So this is real specific that something happened, so
19 were you at the house and discovered this -- the door didn't work
20 correctly, the front door lock, the fingerprint reader type; and that the
21 garage stopped functioning. Did you discover that?

22 A I don't know if I discovered it or if Rob discovered it, or
23 somebody -- somebody discovered that the -- no longer was the alarm
24 working and no longer was the front, the door lock working so people
25 could get in through the door.

1 Q Okay. And I'm just saying, you said maybe Rob discovered
2 it, but --

3 A I said I don't know. I said maybe.

4 Q Okay. All right. Did anybody else have the codes to the
5 security system to get into the house or to lock it up, other than Rob
6 Ramirez?

7 A After Rob left -- and this is, I was really upset about this --
8 they it to all the trades. They gave my alarm code to the trades. And
9 that just left me open for so much exposure that my alarm code was
10 given out to all the subcontractors because they needed to get in the
11 house because nobody was there to open up the house.

12 And so they gave them my alarm code.

13 Q Who gave your alarm code?

14 A DVC.

15 Q How do you know that?

16 A I know that, they told me that. That they had to give out my
17 alarm code because or else the trades couldn't get in to do work.

18 Q So Daniel Merritt didn't go and wasn't locking the house at
19 the end of the night? He didn't personally say that he would do that?

20 A I believe that after -- Okay. So do you remember the story I
21 told yesterday about the Fleetwood doors, they lead into my back yard --

22 Q Absolutely.

23 A -- and there was a rain with a lot of wind and it flooded my
24 great room. After that I got upset at Daniel. I said you have to have
25 somebody lock up the house. And he said, okay, either myself or

1 Rachelle will do it. That lasted, at best, ten days. Maybe about a week,
2 at best ten days. Rachelle was letting me know that I'm locking up the
3 house, stuff like that, for about a week, and then it just tailed off where
4 nobody was doing it again.

5 Q So Desert Valley was given the alarm codes so that they
6 could let people in and lock up?

7 A Because there was no one there at the house, the trades
8 needed to get inside the house. Even though the door was unlocked, if
9 the alarm was on, then the alarm would be blaring and, you know,
10 sometimes the alarm company would call me and say, hey, your alarm is
11 on. And I find out later on, oh, yeah, I was just working while the alarm
12 was blaring because nobody was here, but I wanted to get my work
13 done. And I was asking just -- like let's just take for example I would ask
14 the cabinet guy that was working there one day when I came back like,
15 let's say, a week later. I go -- he goes oh, I was the one working there
16 while the alarm was blaring.

17 MS. HURTIK: Okay. I pass the witness.

18 MR. BOSCHEE: Okay.

19 THE WITNESS: Excuse me guys. There's someone right
20 there. I can't see if it's Rob -- oh, no. Never mind. Never mind.

21 MR. BOSCHEE: It appeared to be a random person --

22 THE WITNESS: Yeah, sorry.

23 MR. BOSCHEE: -- that was just so interested in what we
24 were doing that he couldn't help himself.

25 All right.

1 RECROSS-EXAMINATION

2 BY MR. BOSCHEE:

3 Q I'm going to get back to that estimate, because there is a
4 reason I wasn't objecting. But we'll get to that in a second. I'm going to
5 start with the last part first.

6 Danny told you he would lock the doors to your house after
7 Rob Ramirez left?

8 A Daniel and Rachelle.

9 Q Okay. Somebody was going to lock the doors?

10 A Someone from DVC was going to definitely lock up the
11 doors.

12 Q Other than DVC and yourself, who had the codes to get into
13 your house?

14 A At what point in time?

15 Q That point. When Rob Ramirez left the project.

16 A In the beginning I thought it was just DVC and then, like I
17 said, the subs started getting it.

18 Q I'm getting to that. You didn't give the code to your house to
19 any of the subs or trades, did you?

20 A No, not to my recollection.

21 Q So if you didn't give it to them, and DVC was the only other
22 or the folks at DVC were the only people that had them, how else could
23 the trades have gotten them?

24 A Exactly.

25 Q Fair enough. Set up 571 in front of you.

1 A 571? Sorry.

2 Q Yeah, Exhibit 571.

3 A Is that in Book H?

4 Q That's in Book A.

5 A Hold on one second. I did not have it open. 571, 571. Okay,

6 I'm there. Oh, okay, I know what this is, yeah.

7 Q Well, I haven't completely forgotten rules of evidence for

8 objections, but this, if you go back to the very beginning, the very

9 beginning of Exhibit 571 --

10 A Yes.

11 Q -- this is the -- it says on here, and you don't have any reason

12 to dispute this, there's an email between yourself and Brian Lynch. See

13 No. 2 at the bottom of the page, a copy of the final estimate presented by

14 your contractor, totaling \$1,324,028.28, final DVC estimate, right?

15 A I do see that.

16 Q Okay. And that's what we were looking at. And Ms. Hurtik

17 asked you questions about it and you said you really didn't understand

18 it, but that's the attachment, that's the exhibit that we're looking at right

19 here, the final estimate that was provided to your insurance company,

20 right?

21 A Understood, yes.

22 Q Okay. That's sent to them in June of 2015, isn't it?

23 According to the email.

24 A Yes, June 19, 2015, yes.

25 Q Well, it was presumably sent to them even before that --

1 A Oh, yes.

2 Q -- because you got an email, but --

3 A Oh, yes. That was -- yes.

4 Q But that's the final estimate sent in June; Ms. Hurtik went

5 through it with you. It's still got the sauna in there, doesn't it?

6 A Yes, it does.

7 Q It's still got the full Angelis [phonetic] assortment in there,

8 doesn't it?

9 A Yes, it does.

10 Q So regardless of how many --

11 THE COURT: I missed that.

12 MR. BOSCHEE: Oh, sorry. The lounge.

13 THE WITNESS: The lounge and sauna's in there twice, at

14 two different spots.

15 BY MR. BOSCHEE:

16 Q Right. The lounge and sauna are still in three. In June 2015,

17 the decision had already been made not to complete the sauna, hadn't

18 it?

19 A Correct.

20 Q And the dome roof in the lounge had already been removed,

21 hadn't it?

22 A Correct.

23 Q Okay. So in the final estimates that DVC sends to your

24 insurance company, these two extras, changes, whatever you want to

25 refer to them, aren't articulated in the estimate, are they?

1 A That's correct.

2 Q Okay. But things that weren't done, things that
3 unequivocally weren't done -- the sauna, the dome roof -- they're still in
4 here, aren't they?

5 A That is correct.

6 Q Remember all those change orders we looked at, that Eagle
7 Sentry talked about, and Summit Tile talked about, and HyBar talked
8 about a little bit they're not in here either, are they?

9 A No, they are not.

10 Q They're not reflected in this estimate, are they?

11 A No, they are not.

12 Q So regardless of how many versions of the scope, as Counsel
13 articulated, that there were, the final estimate, the final scope that was
14 sent to your insurance company in June of 2015, is this, isn't it?

15 A Yes.

16 Q Okay. I want to close the loop on something else, too,
17 because we were a little hazy on the math yesterday. And so I went back
18 to the office and did it. If you take \$1,320,429.28 and subtract
19 \$1,123,734.89, you get \$196,694.39. And someone can double-check that
20 math if --

21 MS. HURTIK: That's correct.

22 MR. BOSCHEE: Okay.

23 THE COURT: One -- so say the numbers again so I can write
24 them down.

25 MR. BOSCHEE: Sure.

1 THE COURT: \$1,320,429.28?

2 MR. BOSCHÉE: We've seen that number a few times.

3 THE COURT: Yes. \$1,123 -- and then I lost.

4 MR. BOSCHÉE: 4734.89.

5 BY MR. BOSCHÉE:

6 Q And that's what Counsel asked you about the money that
7 was paid to Desert Valley. You might have remembered that from three
8 to four days ago.

9 A I do recall that, yes.

10 Q Okay. And we both -- we all did the math and came up to
11 \$196,694.39. Right?

12 A I recall a number similar to that, yes.

13 Q Okay.

14 A In that range.

15 Q And if you go through -- and we've gone over them ad
16 nauseam at this point -- but the checks and credit card statements that
17 we've produced that are in evidence that you did, they total, to be fair,
18 \$246,481.46, right?

19 A That sounds about right, yes.

20 Q And then if you add the \$10,000 that you paid Rob Ramirez in
21 cash to supervise the end of the project, that's where you come up with
22 \$256,481.46, the number that we've been jawing about.

23 A That does sound -- that sounds definitely in the ballpark, yes.

24 Q The difference between \$256,481.46 and \$196,694.39 I will
25 represent -- unless my math is even worse than I think it is -- is

1 \$59,787.07.

2 Does that sound about right?

3 A Yes. The \$60,000 figure sounds like that was always in my
4 head.

5 Q And those are the damages you're seeking in this case, per
6 your counterclaim; is that right?

7 A That is correct.

8 Q Need to close the loop on that for the record for evidentiary
9 purposes.

10 You testified just a second ago about -- or a few minutes ago
11 with Ms. Hurtik -- about the items that were locked in the room, right?

12 A Yes, I remember that.

13 Q Among the items you had to replace were a bunch, I think
14 you testified yesterday, were a bunch of televisions, right?

15 A Yes.

16 Q They weren't locked in the room, were they?

17 A No, they were not.

18 Q Other things that you had to replace were all throughout the
19 house, right?

20 A Oh, yes.

21 Q Okay. And from a time perspective, do you know -- I'm not
22 sure you answered this question, so if you did and if it was asked and
23 answered, then I apologize -- but do you know if there were any items
24 that you specifically remember having to go and replace that occurred,
25 that went missing before June of 2015? Do you have a specific

1 recollection of anything?

2 A No, I cannot.

3 Q Okay. The other question I had was three was a lot of
4 question about whether Rob Ramirez understood the scope of work, or
5 understood the estimate and I'm sure we're going to ask Rob about that
6 this afternoon, but do you know for a fact if Rob Ramirez was even still
7 employed by Desert Valley on June 19th of 2015?

8 A On June 19th? Actually, I don't --

9 Q Was he even still there?

10 A I don't think he was there, actually, in June.

11 Q Okay.

12 A I think he was gone in May, but, you know, I can't one
13 hundred percent testify to that. But I think it was around May.

14 Q So if he was let go in May, and he wasn't there in June of
15 2015, probably wouldn't have reviewed the estimate, the final estimate
16 that was sent to your insurance company, right?

17 A That would make sense, yes, correct.

18 Q Sitting here right now, do you have any idea whether
19 SERVPRO's insurance ended up picking up any portion of your driveway
20 repair?

21 A I have no idea. I just wanted it to be fixed.

22 Q Right. When we looked yesterday that it was still in June of
23 2015, it was still on your insurance estimate that was sent to Brian
24 Lynch, right?

25 A That is correct.

1 Q And so the email aside, you don't know, sitting here right
2 now, whether, you know, SERVPRO's insurance or worked out some kind
3 of subrogation or not, do you?

4 A I don't -- until right now --

5 THE COURT: I don't think he even knows what subrogation
6 is.

7 THE WITNESS: Thank you. Yeah, I didn't even know what
8 subrogation is. That's not my -- it's not in my lingo.

9 MR. BOSCHKE: Fair enough.

10 BY MR. BOSCHKE:

11 Q But you do know that you paid \$10,000 to West Coast
12 Concrete, don't you?

13 A I definitely do know that, yes.

14 Q And that was for your driveway repair, right?

15 A Yes, it was.

16 Q And that wasn't reimbursed by SERVPRO, was it?

17 A No.

18 Q Or their insurance?

19 A No.

20 Q Okay. I think you were also looking at Exhibit 371, and we're
21 going to get --

22 A Another book?

23 Q It is. We're going to go through a couple of exhibits in this
24 book.

25 A Okay. Is it Book 8 by any chance?

1 Q No, it's Book 4, I think.

2 A Oh, okay. Okay. I'm sorry, you said 374?

3 Q I think I said 371.

4 A Okay, 371, sorry.

5 Q Okay. Since we're on the subject of the driveway.

6 A Okay.

7 Q Okay. Did you have any other correspondence,

8 communication, dialogue with Danny Merritt or anybody at DVC about

9 the repair of your driveway after this email?

10 A Not that I could recall, no. I can't recall that.

11 Q Okay. Did you have any correspondence, or communication,

12 or dialogue with anybody at SERVPRO after this email?

13 A No, I cannot recall that either.

14 Q Okay.

15 A The only thing I can tell you is that when the driveway wasn't

16 done, I did ask Daniel when is my driveway going to be done.

17 Q How many times did you meet with Dennis Zachary?

18 A Very few.

19 Q In person.

20 A In person, two, maybe three times.

21 Q Okay. And where were those meetings, where did they take

22 place?

23 A At the house.

24 Q Okay. Did you ever meet with them at their office?

25 A I don't think so. I don't think I've ever been to their office.

1 Q Do you ever recall talking to him on the telephone?

2 A Possibly once, maybe twice at the most.

3 Q Okay. Now, I'm kind of going back, going back to some

4 questions that were a little bit from this morning, a little bit from

5 yesterday, so if my memory is hazy, I apologize. I don't mean to ask you

6 an answer -- ask you to answer anything you already have.

7 You were on property a decent amount, but you weren't

8 there all the time, right?

9 A No, I was not there all the time.

10 Q So from a given time period you wouldn't -- if things went

11 missing in a week, you would have no idea when they were stolen,

12 whether day, night, what day of the week it was, they just weren't there

13 anymore, right?

14 A Correct. By the time I got back they were not there. Correct.

15 Q You have to alarm your -- you have to arm your alarm

16 system for it to work, don't you?

17 A Yes.

18 Q If you don't arm it and doors are left open it doesn't do

19 anything, does it?

20 A That's correct.

21 Q Okay. I also vaguely recall that your house abuts

22 DragonRidge golf course, doesn't it?

23 A Yes, it's right on the golf course.

24 Q Right, I mean there's a hole literally right outside your

25 window, isn't there?

1 A Pretty much.

2 Q Okay. And there's a fence, but there's nothing else between
3 the golf course and your house, right?

4 A Yeah, there's a fence that's about, maybe, five feet tall,
5 maybe.

6 Q Right. It's about seven feet tall, but it was a little taller than I
7 could reach up. But anyway -- when I played there.

8 My question is, though, if someone's playing DragonRidge
9 golf course and they're coming around that hole, I mean that's not
10 something they would need to necessarily get through the guard gate to
11 get to your house, is there?

12 A Oh, no, not at all.

13 Q Do you have any firsthand knowledge, do you have any
14 understanding as to whether there have been other incidents in that
15 community, in that MacDonald Highlands guard gated community of
16 other thefts and damage to other houses around you?

17 A Oh, yeah. Definitely.

18 Q Neighbors have had similar problems with people coming on
19 and doing damage to their properties?

20 A I know that other houses were getting things stolen also, yes.

21 Q Okay. Counsel asked you about kind of the debits and credits
22 in the estimate yesterday. And you're doing something to the wine
23 room, you're taking something out of it, remember that?

24 A Yes, yes, yes.

25 Q Did you have any understanding at all, from anybody at DVC

1 or otherwise as to how much you were saving by not doing the sauna
2 and how much you were adding by doing something different to the
3 wine room?

4 A Not at all.

5 Q Okay. Did you actually hire, prior to DVC leaving the project,
6 did you hire any of the subcontractors personally?

7 A For this job or to --

8 Q Yes.

9 A Not for this job, no; not at all.

10 Q Okay. So all of the subcontractors that were referenced,
11 whether you helped choose them or not, were hired by DVC, weren't
12 they?

13 A That is correct.

14 Q Okay. We talked a little bit yesterday about all this tile in the
15 garage, right?

16 A Oh, yes.

17 Q And Counsel asked you if maybe you could use it in your
18 office or somewhere else, you remember that?

19 A Yes, I do remember that.

20 Q If you could reuse the tile, the pallets and pallets of tile that
21 are in your house, would you? If you had the ability to reuse that tile
22 would you?

23 A If I had the ability? Yeah, I would, if I had the ability
24 somewhere, I guess, but --

25 Q Would it be better than it just sitting in your garage?

1 A Oh, yeah, definitely.

2 Q If you could resell it, would you?

3 A Yes, I would. I want to.

4 Q Okay. But you haven't been able to?

5 A No, I have not been able to.

6 Q Okay. Sitting here right now, you have no idea whether the

7 flooring sub or DVC actually measured and ordered the tile for your

8 house, right?

9 A That is -- I don't know exactly who measured the flooring for

10 the house.

11 Q But DVC was the general contractor, right?

12 A Oh, definitely

13 THE COURT: Well, that one's been asked and answered

14 about five or six times, too.

15 MR. BOSCHEE: That's fair.

16 BY MR. BOSCHEE:

17 Q So go to Exhibit -- since we talked about it -- 401.

18 A 401.

19 Q This is the email that has the attachments that --

20 A Oh, yes; I remember this from yesterday. Yes. Okay, yes.

21 Q Put that aside for a second. Let's take a look at these

22 because I had some questions. If you look at the first one, the

23 attachments, I'm just looking at the attachments now.

24 A Oh, okay, sorry.

25 Q DVC1280 and keep your finger on that one.

1 A Okay.

2 Q And then go to DVC -- I just cut my finger, so hold on --

3 DVC1288.

4 A 1288. Okay.

5 Q This appears to be, and it says at the top there, purchase

6 order request. Do you see that?

7 A Yes, I do.

8 Q 51227?

9 A Yes, I do.

10 Q Okay. This is the same document, isn't it?

11 A Yeah, it looks exactly the same, actually.

12 Q Well, I'll represent to you it looks exactly the same to me as

13 well. And it's a purchase order request, right?

14 A Yes.

15 Q From Desert Home Electric?

16 A Yes.

17 Q Take a look at what's denoted on -- you can look at the first

18 one.

19 A Okay, it doesn't -- yeah, they look identical, yes.

20 Q Well, take a look at the first one, and this is one of the

21 documents that was sent to you as a reported change order by Mr.

22 Merritt, right?

23 A Correct.

24 Q Okay. Did all this work get done? Do you know?

25 A I could not tell you.

1 Q Okay. Then the next three, I will represent, are change
2 orders.
3 A The next -- okay.
4 Q Right?
5 A Yes.
6 Q From Eagle Sentry?
7 A Yes.
8 Q Who is here testifying that -- you were here when he came
9 and testified that they were paid in full, right?
10 A Yes.
11 Q Okay. And that he was -- that he had a little bit of concern
12 about coming back because he had been paid for --
13 THE COURT: So rephrase that question.
14 MR. BOSCHEE: Okay.
15 BY MR. BOSCHEE:
16 Q Do you recall the witness testifying about his concern about
17 coming back to the property, because he hadn't been paid for an
18 unsigned change order?
19 A You're speaking about Tommy Thomsen?
20 Q Yeah.
21 A Yes.
22 Q Good. These three documents from Eagle Sentry, are any of
23 the signed?
24 A I do not see a signature, no.
25 Q Not by Desert Valley or you, are they?

1 A Correct.

2 Q Okay. Then you go to, we go to the next one, DVC1284,
3 which is a proposal. What Summit Tile's calling it, a proposal for some
4 work. Do you see that?

5 A Yes, I do.

6 Q Take a second and go through that.

7 A Okay.

8 Q Go to DVC1287.

9 A Okay.

10 Q Is this signed?

11 A No, it is not signed.

12 Q Okay. Do you know, sitting here right now, whether all of
13 this work that Summit Tile proposed on July 21st, 2015 was done or not?

14 A I can tell you for sure a lot of this stuff was not done.

15 Q Okay. DVC1288 is the duplicate, so we can skip that. And
16 then DVC1289 is a proposal from Sunrise Services, do you see that?

17 A Yes, I do.

18 Q And it's called a change order for \$1900; is that right?

19 A That is correct.

20 Q It looks like this one was accepted by --

21 A That looks like it's Rachelle's signature to me.

22 Q Well, per Danny, I think, is what it says there at the bottom.

23 A Oh, yeah, yeah.

24 Q You see that? Okay. And that's 5/19/2015, right?

25 A That is correct.

1 Q Now, this one's actually a change order and it's signed by
2 DVC in May of 2015, right?

3 A Yes, that is correct.

4 Q And unless something has changed, I think May 2015
5 occurred before June of 2015, right?

6 A That is correct.

7 Q Okay. So this is something that could have been included in
8 the updated estimate that was sent to the insurance company by Mr.
9 Merritt, but wasn't, right?

10 A Most definitely, yes.

11 Q Why did you terminate -- this answer was a little hazy to me,
12 both from the first time it was asked and then the second time it was
13 asked which is why I didn't object the second time. Why did you
14 terminate the first contractor, the first general contractor that worked on
15 your house, the first when you initially built it?

16 A The original?

17 Q Yes.

18 A Oh, so I gave money to the general --

19 THE COURT: Oh, I know the answer to this one. This was,
20 yeah, he gave money to original general contractor and the subs, when
21 he talked to the subs, they said we haven't been paid --

22 MR. BOSCHEE: Okay.

23 THE COURT: -- and the general has told us you've given the
24 general no money.

25 MR. BOSCHEE: Okay. That was --

1 THE WITNESS: Yeah, that the general had given the subs
2 zero money at that point.

3 MR. BOSCHEE: Okay.

4 THE COURT: I know that one.

5 MR. BOSCHEE: I didn't have that one. I didn't have that
6 answer exactly right. So Your Honor was ahead of me with your note-
7 taking.

8 My question following up on that is:

9 BY MR. BOSCHEE:

10 Q Do you know what happened to the money that was
11 supposed to have been paid to the subs? Did you ever find out?

12 THE COURT: That's a good --

13 THE WITNESS: From what my attorney told me, or from --

14 BY MR. BOSCHEE:

15 Q Well, don't tell me what your attorney told you.

16 A Okay, okay.

17 THE COURT: Do you have an understanding?

18 BY MR. BOSCHEE:

19 Q Do you have an understanding as to what happened to the
20 money?

21 A From what I understand it went to other jobs.

22 Q Okay.

23 A There were like -- like paying -- and I hear it's quite common
24 with contractors that they use money from one job to pay for other jobs
25 and they just kind of go around. But, you know, that's what I hear. I

1 don't know.

2 Q But it didn't get paid to the subs on your job and that's why
3 you fired him?

4 A Yes, that is correct.

5 Q Okay. You talked yesterday, Counsel asked you, and I didn't
6 object to the relevance of this, but about your website and the 40 percent
7 residential whatever components is on the promotion website. Do you
8 remember that?

9 A Yes, I do.

10 Q The 40 percent residential, a big chunk of that, is this house,
11 isn't it?

12 A Probably about 35 percent of it, yes.

13 Q Okay. And I know you own and have purchased a number of
14 residential and commercial properties, how many other houses, other
15 than this one, have you built?

16 A Oh, zero, none.

17 Q How many other of your properties have you had to do a
18 substantial remediation or remodel like this?

19 A Nothing. None of them.

20 Q So this is it? This is the extent of your experience building a
21 custom home, right?

22 A Yes.

23 MR. BOSCHEE: Nothing further, Judge. Thank you.

24 THE COURT: You want to follow?

25 MS. HURTIK: No, I --

1 THE COURT: Okay.

2 MR. BOSCHKEE: Mr. Ramirez is going to be here at 1:00, so --

3 THE COURT: That will be nice. Is he?

4 MR. STORY: That's what he said.

5 THE COURT: Okay.

6 MR. BOSCHKEE: Keep our fingers crossed.

7 THE COURT: See you at 1:00.

8 MR. BOSCHKEE: Sounds good, thank you, Judge.

9 THE COURT: Thank you.

10 MS. HURTIK: Thank you, Your Honor.

11 [Recess at 11:43 a.m., recommencing at 1:02 p.m.]

12 ROBERT RAMIREZ, DEFENDANT'S WITNESS, SWORN

13 THE CLERK: For the record, please state and spell your first

14 and last name.

15 THE WITNESS: Robert, R-O-B-E-R-T, Ramirez, R-A-M-I-R-E-Z.

16 THE CLERK: Thank you.

17 DIRECT EXAMINATION

18 BY MR. BOSCHKEE:

19 Q Good morning, Mr. Ramirez.

20 A Good morning -- afternoon.

21 Q We've met, Brian Boschee, represent Eugene Inose and IN-

22 LO. Let me ask you right out of the gate, are you okay to testify today?

23 A Yeah.

24 Q You feel all right?

25 A I feel okay.

1 Q Okay. If you need to take a break or anything, just let us
2 know if you need to run out, go to the restroom, whatever; just let us
3 know.

4 A No, I appreciate that. I think that the thing to do is just
5 expedite.

6 Q Well, that's what I'm going to try to do. First the background.
7 How long have you been in construction?

8 A I grew up with it. My dad's in construction since I was a kid.
9 I went to work with him, I think the first when I was 12.

10 Q Okay. Well, I don't want to guess at your age, so how long
11 has that been?

12 A A long time. I'm 54 years old, so I've been doing it for a
13 while.

14 Q Okay.

15 A I got off for a while, to become a paramedic. Did that for
16 about seven years and came right back.

17 Q Okay. How much experience do you have with custom
18 homes?

19 A A lot. Most of my experience is with custom homes.

20 Q And when you say most of your experience, I mean, give
21 me -- how many custom homes have you been involved in?

22 A We're involved with about, I'm going to say remodeling
23 lately, ten a year; full construction, one or two a year.

24 Q Okay. And how long has that kind of process been going on?

25 A I got out of medicine -- God, '11, '11 or '12, 2011.

1 Q Okay.

2 A I came back.

3 Q Okay. Now, you were -- kind of getting back to before you
4 got out of medicine -- you were involved in the original construction of --
5 and when I'm talking about this house, you know which house we're
6 talking about --

7 A Yes.

8 Q -- Mr. Inose's.

9 A Yes, at 587 Saint Croix.

10 Q Okay. You were involved in the original construction, right?

11 A Yes.

12 Q What as your role?

13 A I was superintendent. And I was brought on as secondary
14 superintendent for that house.

15 Q Okay. And what were your job responsibilities as
16 superintendent?

17 A Job management, scheduling, just call in inspections,
18 making sure he had what he needed, make sure all the information -- I
19 was kind of the liaison between the home owner and the builder.

20 Q Okay. And were you involved in the original construction of
21 the house from the beginning or from framing forward?

22 A They called me in at first floor framing had been stagnant for
23 like three months or something, nobody could get it going. And that's
24 when I took over and we finished the remaining framing, second floor
25 framing, and construction in about 17 months.

1 Q Okay. And jumped at my next question. It took about 17
2 months to complete the house from that point?

3 A Yeah.

4 Q Okay. And can you explain just generally with your
5 experience, if you worked on -- I assume you've worked on regular tract
6 homes, too, right?

7 A Yeah.

8 Q What are the primary differences between remodeling a
9 custom home and remodeling a tract home?

10 A Besides the square footage?

11 Q Yeah, aside from that.

12 Q You're talking about a different animal. You've Plan A has to
13 be way in place before you get to F, G, and everything else down the
14 line. Because if you don't have your pre-stuffs in, nothing's going to line
15 up, you're going to be cutting holes in walls later. It's just a different
16 animal in the finishing materials, too are completely different.. You're
17 not going to see granite grade or tract grade granite in a custom home.
18 We dealt with slabs that were \$4- \$7,000 range. So it's a whole different
19 animal.

20 I'm not sure if that answers your question, though,

21 Q To some extent. Is there -- is the schedule harder?

22 A Yeah, yeah.

23 Q Is it more important?

24 A It's more important. That's what makes it harder. It's not so
25 much -- it's like everybody has to do what they say they're going to do in

1 order for the trade to come in behind them. And custom home trades
2 are kind of prima donnas, they can be. If you're not ready when you told
3 them you were going to be ready, they'll put you on the back burner.

4 And so we -- you have to stay on top of it, that's all.

5 Q And when you say you have to stay on top of it, that's the
6 owner, general contractor?

7 A Well, not the owner, but the general contractor. Whoever's
8 in charge.

9 Q Okay. So you were -- when the house gets built, you were
10 familiar with it. When was the first time you were contacted about
11 coming back to the house?

12 A I got a call Thursday night from Mr. Inose's assistant and I
13 was just about to sit down movie with my kids, and he called and said
14 there was a leak. And I said, okay, well, turn the water off, I'll see you in
15 the morning. And I hear that -- I don't know if this matters -- my phone
16 just kept buzzing the whole movie, the first twenty minutes. When I
17 picked -- pulled it out, looked at a couple of the pictures, we went and
18 that's the first time I went was that Thursday night. I don't know the
19 date, tough.

20 Q Okay.

21 A It was a while ago.

22 Q But it was that night. You went and got out there
23 immediately?

24 A Uh-huh.

25 Q Okay. And do you remember who called you, it was Mr.

1 Inose's assistant, do you remember the name?

2 A Rommel.

3 Q Rommel? Okay. And when you got out there, what did you
4 do next?

5 A Well, he had already got the water shut off so there wasn't a
6 whole lot to do at that point. But it was such chaos that, believe me, the
7 eight hours I was going to go home and get to sleep wasn't going to
8 make a difference.

9 Q Okay. Did you go back the next day?

10 A Yes.

11 Q Okay. And what did you do the next day?

12 A Well, they had, I take that back. Somebody, I think it was
13 Ramone [phonetic] or Eugene called their insurance company, I think
14 and they informed them to call SERVPRO who came out with the first
15 coming down. They kind of were running the show in the beginning.

16 Q Okay. And at some point Desert Valley Contracting came on
17 the site, do you remember that?

18 A Uh-huh. Yeah.

19 Q Do you remember when that was?

20 A I don't.

21 Q A couple of days later, a couple of weeks later?

22 A I honestly couldn't remember because it was, it wasn't my
23 primary job, so I wasn't out there the whole time there.

24 Q What was your, I guess, primary job when you first got out
25 there?

1 A I was working as superintendent for another company.

2 Q When did you first meet Daniel Merritt?

3 A I don't know the date. It was about the beginning,
4 somewhere in that first month.

5 Q Okay. And what were -- what was the nature of your
6 discussions with Daniel Merritt, I guess, for lack of a better --

7 A I was in -- you know, we were just, like, hey, this is Rob, he
8 knows the house, if you have any questions feel free to call. And I
9 introduced myself. I told them a little bit of what I knew at the house.
10 We still had plans, I think, for the house at that time.

11 Q Okay.

12 A So we shared those.

13 Q Just kind of general conversations --

14 A Just kind of, yeah.

15 Q -- about the house?

16 A Yeah.

17 Q Okay. And I probably should have mentioned this, because
18 you speak quickly and I speak quickly. If you could just wait for me to
19 finish my question, I will do my best to wait for you to finish an answer,
20 because it's hard --

21 A I hear that a lot.

22 Q -- for the Judge -- well, there you just did it again. It's hard
23 for the Judge to hear us both talking.

24 A Understood.

25 Q Okay. But ultimately this turned into the -- you were hired by

1 Desert Valley Contracting, weren't you?

2 A Yes.

3 Q You see those big binders behind you?

4 A Yes.

5 Q Can you grab Volume 2. Yeah, we'll start with Volume 2.

6 Flip to Exhibit 244.

7 A You said Volume 2?

8 Q Binder No. 2.

9 A I just got volumes on here.

10 Q Okay. Volume 2.

11 MR. BOSCHEE: May I approach?

12 THE COURT: Yes, please.

13 THE WITNESS: This is Volume 2.

14 BY MR. BOSCHEE:

15 Q And exhibit -- you see the tabs on the side?

16 A Yeah.

17 Q Is there at 244 in there?

18 A Oh, wait, down at the bottom.

19 Q There you go. All right. Now, I was going to show you your

20 application, but I'm going to skip that unless I need to. How did you --

21 who did you interview with at Desert Valley, if you remember?

22 A I think it was -- it anybody, it was Danny at the job site.

23 Q Okay. Did you have a formal job interview with anybody

24 else, Dennis Zachary or anybody else at DVC?

25 A No, I don't think so.

1 Q Okay. And so how were you hired?

2 A Just by that. They told me that they had to put me on the

3 payroll for insurance reasons and whatever, they told me to be on site.

4 Q Okay. And when they say put you on the payroll, if you take

5 a look at Exhibit 244, these are, I'll represent to you, employment records

6 and time sheets and all kinds of things.

7 You were a W-2 employee of Desert Valley, right?

8 A Yeah.

9 Q They took out taxes?

10 A Yeah. They cleaned up.

11 Q What job position were you hired for --

12 A That's the thing.

13 Q -- with Desert Valley?

14 A That's the thing. I was -- I never got a title. Always had a

15 superintendent brought on site, I think we went through about three or

16 four of them that they would bring out.

17 Q Okay.

18 A Which was --

19 Q What -- I'm sorry, go ahead.

20 A No, go ahead.

21 Q What was your salary?

22 A It's hard to figure out, I don't even remember.

23 Q Compensation?

24 A Twenty-five, \$2500 a week.

25 Q Okay. Well, that's what it says, if you look at the first page.

1 That's why I'm asking, it says \$2500. Was that a weekly --
2 A I don't know if it was weekly, bi-weekly. I don't know, I don't
3 remember.
4 Q Okay. And it was a salary, you weren't paid hourly?
5 A No, salary. I had to meet the hours, I think, I'm looking at my
6 timesheets here. Everything's here, so -- 37, 38, yeah.
7 Q Okay. I will represent, if you look at 528, you see the number
8 at the bottom of the page there?
9 A U.
10 Q Sir, it says DVC000 and then you go to 528.
11 A Okay.
12 Q And you look at that's kind of got, take a second to get to it.
13 A Okay.
14 Q Okay. Does this refresh your recollection as to whether you
15 were paid weekly or biweekly?
16 A Yeah, this is weekly.
17 Q Okay. And these are true and correct copies, this is what you
18 were actually paid --
19 A Yeah, I --
20 Q -- to the best of your recollection?
21 A Yes.
22 Q Okay. Did you get benefits, too?
23 A No.
24 Q Okay. So you were just salaried employee, but no benefits?
25 Okay. And you didn't --

1 THE COURT: So did he verbally answer that?

2 THE WITNESS: Yes.

3 THE COURT: Okay.

4 MR. BOSCHÉE: He did, he -- it was kind of a quiet yes as he
5 nodded.

6 THE COURT: Okay.

7 MR. BOSCHÉE: Sorry.

8 BY MR. BOSCHÉE:

9 Q So you didn't have a job title.

10 A No.

11 Q Did you work on any other projects other than this house?

12 A No.

13 Q Okay. So you were hired by DVC as a W-2 employee for the
14 sole purpose of working at this house in an untitled job position?

15 A Yeah.

16 Q Okay. And you said, kind of in passing, there were other
17 superintendents on the job?

18 A Uh-huh.

19 Q How many while you were there?

20 A At least three, possibly four. There was an exchange every
21 couple of months, someone would leave. And there were -- it doesn't
22 matter, but one of the guys they brought out say he'd never been on a
23 custom home before. They would come and just drop these guys off
24 and just have them there to be a sign-in guy.

25 Q Okay. None of the superintendents were Daniel Merritt,

1 though, were they?

2 A No.

3 Q Okay. So it was just three or four other people that were kind
4 of running the job for DVC?

5 A Like I said, they were there just as a gatekeeper. They didn't
6 do anything.

7 Q Okay.

8 A You couldn't -- the crew guy couldn't ask them about
9 electrical and the electrical guy couldn't ask them about plumbing, they
10 didn't have a clue.

11 Q So presumably then they went to you?

12 A Yes.

13 Q Okay. But you weren't the superintendent or supervisor on
14 the job, were you?

15 A No. I don't think it even says it on the paycheck what my title
16 is.

17 Q Okay. Did you report to anybody at Desert Valley while you
18 were in whatever position you were in?

19 A You know what, Danny would show up, maybe once a week,
20 and we'd talk; but it wasn't like reporting to anybody.

21 Q Okay. Did the supervisors -- you mentioned the one person,
22 but the other superintendents that were there while you were there, did
23 they have a lot of experience with custom homes?

24 A They had construction experience, which is not the same as a
25 custom home. They had a lot commercial experience.

1 Q Okay.

2 A Some residential, some tract grade stuff, but nothing like
3 that.

4 Q Okay. What issues or problems, if any, did that create on this
5 project?

6 A Unfamiliarity with a product. That when it was Lutron
7 switches, there's -- you can buy a switch at Home Depot that \$2, you can
8 buy Lutron switch for \$300. Eugene had LED trimmed Lutron switches.
9 We would ask them for Lutron switches, they brought Lutron switches
10 out, but they were the lowest quality Lutron you could get. The
11 amperage on these wouldn't even handle the light load that we were
12 putting on them.

13 Q Okay.

14 A So there was a lot of things like that that they would know.
15 Assume the whole faucet would go here, not set it here. You know,
16 there's just little picadills [sic] you call them, I think that you -- if you
17 don't have the training for it, you're not going to know it.

18 Q How about the finishes, the stone finishes? Were there
19 issues with that?

20 A There's a lot of issues with name -- and I know that different
21 manufacturers call the same stone different names. But tolerances like
22 marble, you would never put in the kitchen, they wouldn't have known
23 anything like that. They wouldn't know what some floorings were, they
24 wouldn't know how to calculate stone. The flooring was another one
25 because I think they had two or three different companies came out and

1 measured for flooring.

2 Danny had created a sketch -- I think it was Danny that drew
3 a sketch of the floors -- and told the stone floors, the wood floors, carpet.
4 Everything was laid out for them, even tiles. And somehow they ordered
5 almost double the stone that we needed for that house. I don't know if
6 it's still there.

7 Q Who is they?

8 A Desert Valley, whoever they --

9 Q And you know that for a fact? Sitting here today you know
10 that Desert Valley --

11 A We went over the point with them several times. Yeah, when
12 Danny drafted the drawing, I thought, okay, we're completely on top of
13 it.

14 Q And this is, the extra stone is the stone that was that I think --
15 you haven't been here -- but I think was in the garage at one point?

16 A Yeah.

17 Q Okay. Were there any issues that came up with the edging
18 and the finishes on the stone and how to kind of piece it together?

19 A I think the second treatment they brought in -- the first guy,
20 we want to do a mitered edge, so you don't see the edge of the stone.
21 And the first guy didn't know what we were doing, how to do it, I had to
22 draw little samples for him and then they brought someone else -- I don't
23 know who it was -- but that guy was on it. He knew what to do, it's
24 pretty much turnkey with him.

25 Q Okay.

1 A But that was towards the end of the job and I think, I want to
2 say that the owner paid for that or hired -- I don't remember.

3 Q Fair enough. Do you recall an issue with a wall that was over
4 by the patio that became an issue?

5 A Yeah.

6 Q What happened there?

7 A Okay. So when these guys came out to do the demolition,
8 there was a lot of people there. I'm going to say probably ten to fifteen.
9 And I was concerned, because they were just like with hammers taking
10 stuff out. And I asked Danny if they were all trained people and I think it
11 was George, George was the guy from SERVPRO. And George assured
12 me that, no, these are skilled guys, these are all certified guys to do this.

13 Meanwhile, they're taking a sledge hammer to an OSB wall,
14 which is a sheer wall, it's a structural part of the house, and it blew my
15 mind that they were doing that with not any support walls being -- no
16 more anchors were being put in place. Everything was just getting
17 demoed out.

18 And at one point I saw one of the guys that works for the --
19 the Desert guys signing off the time sheets that said labor force on them.
20 Now, labor force guys are the guys that you can pick up -- they're maybe
21 a little bit higher than the guys at Home Depot, because they got a green
22 card, but they don't know anything. So you put a sledge hammer in their
23 hands, and put them in a house like that, they're going to cause some
24 damage.

25 Q Did they cause damage here?

1 A Yeah. They took out that wall. And I remember a few --
2 didn't notice it until at least two weeks later -- the patio had risen three
3 inches upstairs. The floor shifted from that wall being gone.

4 Q Wow. How did Desert Valley correct that?

5 A We had to hire an engineer. They came up with -- there was
6 no way to pull the house back down, but they were going to just
7 basically redo the sheer wall. And I think they put two layers of 3/8s or to
8 be honest with you, I don't remember exactly, but they found a solution
9 for it. We had to get an engineer involved.

10 Q Did while you were there -- and we'll get to that in a second,
11 when you weren't there any more -- while you were there did these
12 issues cause delays in the construction in the remodeling?

13 A Yeah, absolutely.

14 Q Why?

15 A Because you're going to put a house back together that's
16 going to fall apart later and we had to secure that. We had to do the
17 house back in structural integrity. And we weren't going to do it if we
18 didn't take the time to, you know, pour new concrete, double -- make
19 sure everything was doublechecked and built back right so that we could
20 cover it back up. That's 'just one part of it. There was delays all over the
21 place.

22 Q Like what?

23 A Certain -- okay, so here's one. The appliances. The guy built
24 this house 19 years ago. That subzero if it existed, we couldn't find it.
25 So it had to be replaced. Outlets are in different places now. So if they

1 didn't know that, they wouldn't give you the cut sheets, and I didn't know
2 the model number of the appliances, so we couldn't verify anything.

3 So we had to go back in later on, I know it sounds simple, but
4 to move outlets in a sheer wall, it's a pain in the butt. You have to
5 remove drywall, you have to remove plywood, you have to remove
6 electrical, put the boxes in, you know. That stupid little delay, two or
7 three days.

8 And I know another three days doesn't sound a lot, but when
9 you're talking about three days with hey, you told me you were going to
10 be ready for them, you're not ready yet. I can't see you in three days.

11 Now that sub gets pushed back another week or two or three
12 and it's just the way that it goes.

13 Q Did that happen a lot on this project while you were there?

14 A On this one it did, yeah.

15 Q Okay.

16 A But it happens on every job, just not this much.

17 Q Okay. When you say this much, I mean how much delay are
18 we talking about?

19 A Electrical, APC, windows, the outlets, switches, they were
20 fighting about who was going to pay for that, according to them, they
21 brought Lutron's and we showed them pictures, these are not the
22 switches that we had. And so it was just a we'll get back to you. And so
23 it would be a day would turn into a week, would turn into two weeks,
24 would turn into whatever, and so on and on.

25 Q Was there a lot of work that had to be redone at the house?

1 A Not a lot, but there was substantial.

2 Q Like what?

3 A Tiling had to be pulled down and redone. Elevations in
4 master bedroom floor, they had talked about demoing what was there
5 before. They decided, somebody decided it wasn't a good idea to demo.
6 Then we had to go back in, pulling that out, putting stuff in. It was just
7 an ongoing thing, ongoing situation where we had to keep going back to
8 stuff.

9 Q Okay. Were any of those issues, where you had to go back
10 and redo stuff, was that because of things that Mr. Inose asked for or
11 because of things that Desert Valley just changed?

12 A You know, that's tricky because a lot -- like subzero
13 appliances, he didn't ask for new appliances, they needed to be replaced.
14 They didn't make the ones that he had anymore. So that was -- there
15 was stuff like that.

16 So a lot of the materials, the stone finishes that were viable
17 at that time -- when was it, whatever, '97 -- they just weren't around or
18 they had different names or just different products out. So they just get
19 pushed out. Like anything else. Like clothes.

20 Q Okay. Do you recall that there was an issue with the
21 driveway getting cracked?

22 A Oh, God, yeah. There was a big deal with the equipment. I
23 think it was either the equipment they were using to offload equipment
24 or the equipment itself. But something cracked the driveway in the front
25 porte cochere.

1 Q Okay. Did Desert Valley fix it?

2 A They had people come out -- that was another one that took
3 forever. They had, I don't know, probably four different companies come
4 out and give them bids to do it. And they fixed parts of it, but the
5 forklifts and stuff that were going up that driveway, it's a kind of a steep
6 driveway, there was gouges, there was scratches, there was cracks in the
7 porte cochere, cracks around the I-block, we call it Romell's rocks
8 [phonetic] on the right-hand side. And then they -- how did they do it?
9 They couldn't match it, they stained -- I know they came out and did
10 repairs. I don't know if it was ever finished.

11 Q Okay. Do you know how those repairs were -- do you have
12 an understanding sitting here today as to how those repairs were paid
13 for?

14 A I have no idea, honestly.

15 Q Okay. It was West Coast Concrete, I think, that did the job.
16 Do you recall that?

17 A Yeah. That sounds familiar, but I don't know for sure.

18 Q Okay. Now you said that, I think you testified that while you
19 were there in whatever this position was, that Danny Merritt was on site
20 once a week?

21 A Yeah.

22 Q Did you talk to him more often than that?

23 A Whenever he was there, yeah. He was fun to talk to. So,
24 yeah, whenever I saw Danny, it was a good thing, it was a good day.

25 Q Okay. Did you talk to --

1 THE COURT: I'm not sure he understood your question.

2 MR. BOSCHÉE: I don't think so, either.

3 THE WITNESS: Sorry.

4 THE COURT: That's okay.

5 BY MR. BOSCHÉE:

6 Q Did you, aside from the once a week that he was on site, did
7 you talk to him otherwise? Did you --

8 A No.

9 Q -- talk to him on the phone?

10 A No, we hardly ever got -- I recall leaving messages, but --

11 Q Okay. So the only time you ever dealt with Mr. Merritt was
12 when the once a week or so that he was on site?

13 A Yes.

14 Q Okay. And what did you guys discuss when you were there,
15 other than just being friendly and jovial?

16 A Sometimes it was orders and sometimes it was mostly
17 getting handled, let me think. Oh, stone flooring. I know that went on
18 and on for a while. We would ask him about certain things that were
19 being -- how can I explain this one? -- so we had a wine room thing
20 where we were going to delete a closet, we put up a framing wall. And
21 we were worried about it, because I hadn't seen any changes to anything
22 other than verbal that was there. And so I kept telling him, we're still
23 doing this, we're okay to do this? And he said, yeah. So then I would
24 call the subs and get it done, you know, continue forward.

25 We would talk about stuff like that. We talked about finishes,

1 wallpaper, it's been so long I really can't, like, pinpoint okay this day we
2 talked about this. I don't know.

3 Q Well, I'm going to jump ahead. I'm going to skip around on
4 my outline because you're kind of skipping around in what you're telling
5 me. Let's talk about the wine room. Now, the wine room was one thing
6 that was different in the remodel than it was in the original house, right?

7 A Yes.

8 Q Did you ever see any kind of a signed --

9 A No.

10 Q -- change order for any of that work?

11 A No.

12 Q Okay. Why not?

13 A I don't know. We -- I kept asking him for it. Because I wanted
14 to make sure, because I didn't want to pay for anything. And so he just
15 said yeah, keep doing it we're all -- basically calls it a wash, that's what
16 he called it. Between what they were -- had submitted and in a proposal
17 for the original estimate as to what we were doing. He said it was -- we
18 took out this, we can do this.

19 Q Did you ever review the original estimate --

20 A No.

21 Q -- that was submitted to the insurance company?

22 A No, they would never show it to me.

23 Q So you never saw it?

24 A No.

25 Q Did you ask for it?

1 A All the time.

2 Q And they never gave it to you?

3 A No.

4 Q Did you ever see the contract that Eugene signed with Desert
5 Valley?

6 A No.

7 Q How were you able to answer questions or deal with the
8 subcontractors without seeing the estimate?

9 A Verbal. Plus, I knew the house. I knew what was there and
10 what we were doing. So --

11 Q Okay. You said verbal a couple of times. I mean it seems
12 like a lot of things that were going on were done verbally; is that fair?

13 A Uh-huh.

14 Q Okay.

15 THE COURT: Is that a yes?

16 THE WITNESS: Yes.

17 BY MR. BOSCHEE:

18 Q Were the -- what other revisions were done to the house that
19 you recall from the -- that were different than the original?

20 A Other than stones that weren't available anymore, I don't
21 think we changed a whole lot. A lot of the TVs weren't available, they
22 didn't have plasmas anymore.

23 Q Okay.

24 A Electronics that Crestron stocks, a lot of that stuff had been
25 outdated. Lutron switches were another issue.

1 Q How about the sauna, is the sauna there?

2 A No, it's not. It wasn't available and after making so many
3 phone calls trying to get them to find one for me and figure out what we
4 were going to do, they just -- I don't know if it ever got finished.

5 Q Okay. And so when this work was getting done and you're
6 talking to the subcontractors, did any of the subcontractors ever ask you
7 if the general had a signed change order for any of this work?

8 A Yeah. That's their job, they want to get paid, so they were all
9 concerned.

10 Q Okay. Did -- I think of the right way to say this. Did any of
11 the subs or trades, while you were there -- and again, this is, I'm kind of
12 parsing this out, you're there, at this point, a Desert Valley employee.

13 A Uh-huh

14 Q Did any of the subs or trades cause damage to the house that
15 had to be fixed?

16 A There's always some - yeah, hammers, nicks, on the walls,
17 stuff like that. Somebody cut an electrical line, I think. I don't remember.
18 I really, I'm trying to think. I know there was issues, but nothing that
19 stands out.

20 Q Okay. Now, when were you let go? When did Desert Valley
21 terminate your employment?

22 A I don't remember the exact date, but I remember that they,
23 they were, like, oh, by the way, you're not getting paid anymore. And
24 that was you're not getting paid for the last, I think, two or three weeks,
25 maybe four weeks, I don't remember what it was, but --

1 Q Okay.

2 Q -- they kind of let me know that, you know, that way then.

3 Q Do you recall if it was before or after June of 2015?

4 A I don't, I'm sorry.

5 Q But you weren't paid for all of the time that you worked?

6 A I was paid for most of the time, just the last, like I said, three

7 -- two to four months, I don't remember exactly.

8 Q Okay. Two to four months or two to four weeks?

9 A Weeks, I'm sorry, weeks. Sorry.

10 Q Fairly sizable difference. How much money was that?

11 A Enough to pay rent.

12 Q Okay.

13 A Enough to stress me out.

14 Q Okay. Did you ask them for to pay what was owed to you for

15 the time you worked?

16 A Yeah, he said they had to settle up with the insurance

17 company and they would see what they could do.

18 Q Okay. Did they ever pay it back?

19 A Could I get a water?

20 Q Oh, sure.

21 A Thanks.

22 Q We've got water right next to you.

23 A No, they never did, no.

24 MR. BOSCHEE: May I approach?

25 THE COURT: Sure.

1 BY MR. BOSCHEE:

2 Q I'll pour it.

3 A Okay, cool. Oh, shit.

4 Q That's why I was going to pour it for you.

5 A So, no, they never did pay me for it.

6 Q Okay. At some point you ended up coming back to the
7 project, right?

8 A Yeah.

9 Q Okay. Do you recall when that was?

10 A When I would come back, after I left, because I felt a
11 connection to the house. I know that sounds retarded, but that's my
12 house. I built it. This was the first big house I did of that size. So I
13 would go back to check on stuff. Once or twice a week, that's about it.

14 Q Okay. And when you would go back to the house, did you
15 notice anything when you would go back?

16 A It was hit or miss. First of all, if anybody would be there, it
17 was hardly ever a hit that it would be locked, because it was always
18 open. And I mean open like back doors open, the garage is open. The
19 back door being Fleetwood doors, you know, 30 feet of doors wide open.
20 Sometimes there'd be one or two guys stumbling around doing
21 something.

22 Q Okay.

23 A I think I even called Eugene at one point to let him know what
24 was going on.

25 Q That the house was open?

1 A Yes, it was vacant, basically.

2 Q Did you talk to anybody, and I mean, obviously you weren't
3 employed with them anymore, but did you talk to anybody on the
4 property about why the --

5 A I tried calling Danny, but everybody was pretty much like
6 don't call us anymore. It wasn't -- nobody ever said that, said don't, I
7 just -- it seemed that way.

8 Q Okay. You didn't have a key or a code or anything to lock up
9 the house, did you?

10 A No, I rely on them.

11 Q So you had no ability to lock it up?

12 A No.

13 Q Okay.

14 A I closed doors and stuff like that, but if you don't have the
15 combos.

16 Q When did you, if you recall, at some point Eugene actually
17 brought you back to try to get the house done, do you recall that?

18 A Yeah. I don't remember the dates or anything, though. I
19 remember he approached me about it, and I was in the middle, you
20 know, I had already started other projects.

21 Q Okay. I mean do you recall approximately when it was?

22 A I think it had been an issue for -- and I don't remember for
23 sure, like five, six weeks at some point.

24 Q I'm going to help you with this.

25 A Okay.

1 Q Get Volume 5. You can put that one away, I think I'm done
2 with that one. Counsel might ask you some questions about it, but I'm
3 done.

4 A Okay.

5 Q Why don't you flip to Exhibit 441, let's start there.

6 A Okay.

7 Q Take a second, do you recognize this email? And I'm asking
8 because it appears to be from you.

9 A Yeah, that was -- that's quite a list.

10 Q Well, that's why I'm asking. Do you remember it around the
11 beginning of October of 2015 being out at the house looking at what was
12 or wasn't done?

13 A I remember there's a turning point when I thought -- because
14 I liked the owner. I'd known him for years. I helped him build his first
15 house and we became very, you know, friends, I guess. At some point
16 this became personal and this is like, really guys, this house is like this,
17 wide open. I was trying to get to a point where like, okay, I'll help you
18 finish the house, but we're going to have to do something different.

19 Q Okay. If you take a second and look, I mean, do you recall, I
20 mean, go through the list, as of the beginning of October 2015, did all
21 this stuff still need to get done?

22 A Yeah.

23 Q Okay. Now, do you recall that the original estimated
24 completion date for this house was April of 2015?

25 A It was way before what month we were in, I know that. I

1 know it took them longer to put it together than it took me to build the
2 first time.

3 Q Okay. That was going to be my next question.

4 In October of 2015, was the house close to being done?

5 A We couldn't get our C of O.

6 Q Okay. Let me ask you another question. That we kind of
7 bandied about earlier in the week. When you were let go -- and I'll
8 represent to you, I think it was May of 2015 -- how far along was the
9 house? How much was left to be completed?

10 A We had probably 20 to 30 percent left to do.

11 Q Okay.

12 A It was a lot. And there was -- and I'm talking about the entire
13 house. This is 20 and 30 percent of their portion of it, they didn't rebuild
14 the whole house.

15 Q Okay. Right. And then you get to October and all of this still
16 needs to be done, right?

17 A Yes.

18 Q Okay. So at what point did you kind of take the reins and
19 start actually working with Eugene and the subs to --

20 A It was soon after this. And again, I don't know the dates, it's
21 been a while. But it was soon after this and we were just kind of like, we
22 didn't know if any of this stuff had been ordered, was on schedule, we
23 didn't know what was scheduled. We didn't know -- and I was making
24 phone calls to some trades who hadn't been paid, so they weren't going
25 to put us on schedule at all.

1 Q Okay. Well, that was my next question. I mean when you
2 started dealing with subcontractors, you weren't getting any pushback?

3 A Cabinet, electrical, stone guys, painter, yeah.

4 Q Didn't want to come back?

5 A No.

6 Q Because they hadn't 'been paid?

7 A Yeah.

8 Q Okay.

9 A And that's the way Vegas works. And he's not from here, so
10 he doesn't know. If you don't pay them for this job, they're hardly going
11 to start more projects for you. It's still a small town here and that's the
12 way things work.

13 Q Okay. Well, how did you convince them to come back and
14 start work on the house to get it done?

15 A Some of the stuff I would pay, because I had confidence in
16 him and he always paid me back, ever since -- for years, that's the way.
17 If they were small enough checks that I could handle, I would pay them.

18 Q Okay. So as of this time, October of 2015, you didn't have a
19 C of O?

20 A No.

21 Q Okay. At some point do you have a recollection that Desert
22 Valley left the project completely?

23 A It seemed like it, yeah.

24 Q Okay.

25 A They would not come back.

1 Q Okay.

2 A And which is fine with me, actually. Fine, go away.

3 Q Okay. But then you had to deal directly with the
4 subcontractors to get them out there to finish the job, right?

5 A Uh-huh.

6 Q Do you have an understanding or recollection that Desert
7 Valley sent a letter out to the subcontractors not to come back?

8 A They threatened to sue anybody who gave us any
9 information, showed us any proposals. I remember that made me really
10 angry. I was like how dare you you're going to hold this house hostage.
11 Like I was really upset with that.

12 Q Okay. So what did you do next?

13 A I -- well, I think we all, like, made some phone calls to Mr.
14 Inose, and I tried calling the subs. And we approached some of them,
15 because we've known them, I know them from other projects and I said
16 on a personal level can you help me out. And so HyBar was one of those
17 people, the concrete people, painters, we called in my own painters at
18 one point to finish the job.

19 Q Okay. And from that point forward, from when you started
20 dealing with them directly and getting them back out there, how did they
21 get paid?

22 A I would pay them or Mr. Inose would pay them direct. And
23 we would always -- he would write them a two-party check, to you and I
24 think it was Valley, I think it was. It was a two-party check that they
25 would have to cash through them.

1 Q Okay. Do you recall if you got the C of O in 2015, or was it in
2 later in 2016?

3 A I don't remember, sorry.

4 Q Okay. Were you -- let me ask you this way: In
5 October/November of 2015, were you close to getting the C of O?

6 A Yeah.

7 Q Okay. You just needed -- what needed to be done?

8 A Fire caps that were missing from the demo, I don't
9 remember. I know those, we had to finish those out. They're not cheap.

10 Q Okay. And was there -- so when you went back -- and now
11 I'm going back the second time, I guess -- but when you were working
12 directly for Mr. Inose and working on the project, was there damage at
13 that point that had been caused earlier in the project that needed to be
14 repaired and fixed by the subs in the trades that you were working with?

15 A Yeah, there was stuff. And I can tell you one was -- nothing
16 to do with C of O, but they -- we had an issue with debris on the stained
17 concrete, front and back. And so Desert Valley was going to hire
18 somebody to pressure wash. So what they did is they came out and put
19 somebody behind a 4300 pound pressure washer with a needle point,
20 and that put little cuts, little lines all over the -- and I'm out there told the
21 guy, you're cutting the concrete. He kept saying, no, I'm not. I said yeah,
22 you are. And so we showed him and he said, he looks up and he just
23 kept going around the back side of the house. And so that -- stuff like
24 that would happen.

25 Q A lot of stuff like that?

1 A Yeah.

2 Q Okay.

3 A It was always -- if they would have just told me they didn't
4 have somebody that knew how to do this, then I would bring somebody
5 that knew how to do it.

6 Q Okay. Was there -- and I'll call it -- you understand what I
7 mean when I refer to warranty work?

8 A Yeah.

9 Q Was there a lot of warranty work that needed to be done?

10 A As far as for the first build or the second build?

11 Q The second build.

12 A The second build.

13 Q After DVC left.

14 A I can't think of anything.

15 Q Okay. Did DVC come back to the project after, say,
16 November of 2015 to finish up any work?

17 A I don't remember, no.

18 Q Do you remember them, do you have a specific recollection
19 of them being there after November of 2015?

20 A Nothing substantial, I think. I don't know.

21 Q Did DVC do anything to help you guys get C of O?

22 A No.

23 Q Okay. In fact, did you have to hire another general to go and
24 take care of that?

25 A Yes, we did. We had to hire somebody else, we had to pay

1 another general to come in and kind of take over. But they don't want to
2 put their license on something they didn't start. So that was a -- we had
3 to pay a fee.

4 Q Okay. Were there any other logistical issues that came up
5 after you kind of went back out there to finish up the house? That you
6 can think of?

7 A Not that I know anything about. Like there was talk about the
8 pay, I don't know, the guys weren't getting paid. Materials that were
9 there but weren't paid for so we couldn't pick them out, we had to pay
10 for all that. Stuff like that. I don't know anything as far as --

11 Q And then how did that stuff get paid for?

12 A Again, if he was in town, great, he would handle it right
13 away. He was like that from the first bill. He was the only owner who I
14 would see walk around, talk to the guy that was pushing the broom and
15 make sure he was getting paid. This was way back.

16 So yeah, he was the guy, if he was in town he paid for it, if I
17 was -- if he was out of town, he'd ask me to do it, if I could; if not, he
18 would mail me a check.

19 Q Okay. When was the work, I guess, for lack of a better word,
20 done at the house?

21 A I don't think it's done. I really don't. I kind of quit. I was at --
22 we were still waiting for towel bars and stuff like that and I'm a single
23 fulltime; I've got my own stuff to do and I love Mr. Inose, but he's got -- I
24 can't do it all.

25 Q Okay.

1 A I don't know if anything ever got finished.

2 Q Eugene Inose, this is the one thing that's not in evidence,
3 Eugene Inose paid you \$10,000 cash to come back and --

4 A Yeah.

5 Q -- finish the project, right?

6 A Yeah, uh-huh.

7 Q Okay. So sitting here right now do you -- when is the last
8 time you were at the house?

9 A Months ago, a couple of months ago.

10 Q Okay. Do you think the house is even completely finished
11 now?

12 A On the outside it looks like, and that's where I was, I mean he
13 called me because the association called him about the palm trees. And
14 so I walked the house and had the guy trim the palms and just kind of
15 looked in. I don't think the pool guys ever got done. That's the ones I
16 noticed.

17 Q Okay. How about the vents in the wine room?

18 A No, those are still out.

19 Q Okay. Anything else?

20 A I'm sure there is, there's all kinds of stuff that's not done.

21 Q Before you finally left and went, I think you just said, kind of
22 went back to doing your own thing or whatever, were all the subs paid,
23 to the best of your knowledge?

24 A Yeah.

25 Q Any of them lien the house that you can recall?

1 the whole house. Like, no, you're not, you're doing this part of it. So --

2 Q Okay, let's go back.

3 A Okay.

4 Q Okay. So you're saying Desert Valley Contracting did 20 to

5 30 percent of the house --

6 A No, no.

7 Q Okay. Explain that.

8 A So Desert Valley remodeled part of a house. So let's say this

9 is Eugene's house right here.

10 Q Uh-huh.

11 A So they took on the stuff that was damaged, which was

12 maybe 70 percent of that house.

13 Q 70 percent of the --

14 A Of that. So that's theirs, that's their hundred percent. They

15 didn't finish 20 to 30 percent of that.

16 Q Okay. So there was other things going on --

17 A There was nothing else going on. I'm talking only about their

18 build. Everything else was untouched, other than from dust and stuff so

19 we sealed it off.

20 Q Okay. So you're saying that the whole house wasn't redone.

21 A No.

22 Q Okay. Because I was confused by what you were --

23 A Okay. Yeah, yeah, I'm glad you pointed that out because,

24 no --

25 Q I just wanted to make sure. Okay. So why don't you go to

1 Binder Number 2. And before you open it up, you were asked some
2 questions about your background. And you know, you sound
3 knowledgeable because you've been in construction a long time. Do you
4 have any contractor's licenses?

5 A No. Doesn't matter.

6 Q I'm just asking do you have any --

7 A No.

8 Q -- contractor's license? Okay. So you don't do any specialty
9 trades or anything?

10 A No.

11 Q Okay. So for the majority of your career in construction what
12 have you done?

13 A I've worked for companies building homes, custom homes.

14 Q I know, but what is your role?

15 A Superintendent.

16 Q I'm sorry?

17 A Superintendent, project manager.

18 Q Okay. So you've always been a superintendent or project
19 manager throughout your --

20 A Yes, ma'am.

21 Q Okay. So the Judge -- you can't -- let's kind of -- you like to
22 talk quick, you have to let me finish my question.

23 A Go ahead.

24 Q Okay? So that the Judge can hear everything and we're not
25 talking over each other. So I know you want to go quick, but we're going

1 to slow it a little, and it will be a lot quicker if you do that. Okay.

2 So for the majority of your career you've been a
3 superintendent. You don't hold any licenses, so the trades -- how do you
4 know the specifics of each trade that you're supervising? Do you need
5 to?

6 A Of course, yeah.

7 Q You need to?

8 A You have to know the subs if you're the supervisor. If you
9 were even a novice you should know the stuff. If you're putting that
10 much of your money into a build, yeah, you should know what you're
11 doing.

12 Q That much of your money into the build?

13 A No, I said of any money. Like if you're putting up money,
14 you should know what you're building. You should know how things go
15 together.

16 Q Okay. So are you a superintendent right now on any -- do
17 you work for a construction company ?

18 A No, I'm recently medically not able to work for a while.

19 Q Okay. And at the time -- you also said at the time you came
20 in to help with this project, Mr. Inose's house, that you had another job.

21 A Uh-huh.

22 Q Who did you work for?

23 A I worked for different companies, like real estate
24 management companies. I just do property management for them.
25 That's how I pay the bills.

1 Q Oh, so you were doing property --
2 A So I had just been -- yeah.
3 Q Oh, okay, okay.
4 A I had just gotten released.
5 Q Okay. Just let me kind of -- you're talking over, so just --
6 A Well, you let me finish answering the question, ma'am.
7 Q Fine. I'll --
8 A If you ask me a question, let me finish it and then go to the
9 next one.
10 Q Okay.
11 A Go ahead.
12 Q We'll do that. Okay. So you were working for property
13 managers at the same time you were doing the Inose project, correct?
14 THE COURT: So which --
15 THE WITNESS: No.
16 THE COURT: Hold on. Let me interrupt here because there's
17 the original project, there's the time when he was doing the rehab with
18 was it DVC employing, and then there's the time when he was brought
19 back.
20 So when you say doing the project, if you could specify --
21 MS. HURTIK: Sure.
22 THE COURT: -- then that would be helpful.
23 BY MS. HURTIK:
24 Q So why don't we go through it chronologically. Okay.
25 So when the house, Mr. Inose first built this house, you made

1 some comment about everything was from 1990s, 1997. Do you know
2 when this house was actually originally built?

3 A Yes, I was there.

4 Q What year, do you know?

5 A In like '97. It's been a long time, I don't know the exact date
6 we got our C of O, but I remember that timeline, that time frame.

7 Q Okay. So you believe it was built in 1997, and then you were
8 called back by, you testified that you were called back by Mr. Inose when
9 this flood occurred, and you ran right over to help, correct?

10 A Uh-huh.

11 Q Okay. And you know what year --

12 THE COURT: Say yes.

13 THE WITNESS: Yes.

14 MS. HURTIK: I'm sorry, Your Honor.

15 THE COURT: He said uh-huh. I wanted to clarify that it was a
16 yes.

17 BY MS. HURTIK:

18 Q Do you know what year that was?

19 A No.

20 Q Okay. So let's go to the Binder 5, and I'm going to have you
21 turn to Exhibit 244 --

22 THE COURT: Binder 2?

23 MR. BOSCHIE: No, Binder 5.

24 MS. HURTIK: No, Binder 5, Exhibit 244. Did I -- no, I'm sorry.
25 Maybe I've got the wrong binder. I'm sorry, Your Honor.

1 THE COURT: That's 2 of 245?
2 MS. HURTIK: It's Binder 2, 244. Okay.
3 THE WITNESS: Okay.
4 BY MS. HURTIK:
5 Q Okay. So Mr. Boschee kind of went through a few of these
6 with you. It's a series of checks that were paid to you in timesheets,
7 correct?
8 A Uh-huh.
9 Q Okay.
10 THE COURT: Is that a yes?
11 THE WITNESS: Yes, sorry.
12 THE COURT: It's okay.
13 MS. HURTIK: Okay.
14 THE WITNESS: It could be a drinking game.
15 THE COURT: Does anybody else hear that buzz?
16 MS. HURTIK: Yeah.
17 THE CLERK: They're working on the door.
18 MS. HURTIK: Oh, okay.
19 THE WITNESS: It's my pacer.
20 MS. HURTIK: I just thought it was the mic.
21 THE COURT: Yeah. I thought it was my ears.
22 BY MS. HURTIK:
23 Q Okay. So if you go back through to the very last page and to
24 DVC572.
25 A 572?

1 Q Uh-huh. And those numbers are on the bottom corner.
2 A Okay.
3 Q And actually -- okay. So this is a timesheet, do you see that?
4 A Uh-huh.
5 Q And it has dates from September 8th, 2014 to -- September
6 8th, 2014 to September 12th, 2014; and then it has total hours for the
7 week 82, then it says incorrect hours should be 28. Do you know why
8 this was -- do you know what happened here? Is this something that you
9 filled out, the timesheet?
10 A Yeah, these I do fill out, the math's wrong, I guess. I don't
11 know.
12 Q Okay.
13 A I have no idea what that is. I don't have any idea what this
14 means exactly anymore.
15 Q Okay. Then it says work done SUP-sub; and then it also on
16 the line, first line does that mean supervise sub?
17 A I don't know, that's not my writing, I wouldn't --
18 Q You didn't fill out the time sheet?
19 A Not that very last -- the circle and the correction to the right,
20 that's not mine.
21 Q No, I'm not asking about that. Let me show you.
22 A Oh, up in the work done?
23 Q Okay.
24 A Go ahead.
25 Q So I want to just -- so you filled out this timesheet with the

1 dates, the job names, work done, and the amount of time that you
2 worked on the job --

3 A Yeah.

4 Q -- is that correct?

5 A Yeah.

6 Q Okay. So 9/8/2014 it says, Inose sup -subs.

7 A Okay.

8 Q Does that mean you were supervising the subcontractors?

9 A Yeah.

10 Q Okay. And then 9 --

11 A And I want to guess because, again, this is so long ago I
12 wouldn't know what.

13 Q Well, okay, you have a lot of experience, so you've --

14 A Yeah.

15 Q -- been a supervisor --

16 A But I don't have a lot of memory.

17 Q Okay. Let me finish. Okay? And I'll let you finish. Please.
18 Okay. So 9/9/2014 Inose sup dash meeting. Is this when you --

19 THE COURT: Well, read it -- if you're going to read it, read
20 correctly. It says --

21 THE WITNESS: sup meet.

22 THE COURT: -- sup dash meet.

23 MS. HURTIK: Sup dash meet.

24 BY MS. HURTIK:

25 Q So what does this mean? Did you supervise a meeting with

1 subcontractors?

2 A I would guess. And again, it's not my experience, it's my
3 memory.

4 Q Okay. So then I would like you to go to DVC -- it's in the
5 same exhibit -- 566. So you'll have to move forward a little bit, unless
6 you closed it.

7 THE COURT: No, no. Same thing.

8 MS. HURTIK: No, you're keeping the --

9 THE COURT: Just flip --

10 THE WITNESS: Oh, I see. I'm sorry. 556. Okay.

11 BY MS. HURTIK:

12 Q Okay. Now, this is another one, another timesheet, and this
13 is dated 9/8/2014. This has 28 hours and it says the same, same; except
14 it doesn't say anything's in correct.

15 Do you think this is a correction of that original timesheet?

16 A I would guess so.

17 Q Okay. So then if you would go to DVC565, and these are
18 actually dates -- I'll wait until you get there.

19 A Sorry.

20 Q It's okay, take your time.

21 A All right, go ahead.

22 Q Okay. So these are dates, it says 8/25/2014 Inose coordinate
23 work done coordinate. So what would that -- were you doing that day?

24 A I have no idea. Every day varied. Coordinating something.

25 Q So you were -- were you supervising?

1 A Yeah.

2 Q Okay. And were you coordinating subcontractors?

3 A Yes, I would imagine.

4 Q Okay. And then 8/26, and 8/28, 8/29, and 9/2 and then it
5 continues all the way to 9/5 it says sup in some of them, and then it has
6 parenthesis to mean repeat.

7 So were you supervising that entire -- all those dates?

8 A I don't remember exactly. If that's what I put, then I would
9 guess that's what I did.

10 Q Okay. All right. So this is DVC 563.

11 A Okay.

12 Q And this is dated 8/11 through 8/21 and if you look at the
13 work done, it says super to home owner. And then it repeats that for
14 four of the dates, and then it has the parenthesis.

15 So were you the supervisor for Mr. Inose?

16 A That doesn't -- that's my signature.

17 Q That's what you put. Were you the supervisor?

18 A Doesn't look like any of my handwriting, though. If you look
19 at any of my sheets, it doesn't look anything like mine.

20 Q Were you the supervisor to Mr. Inose?

21 THE COURT: Whoa, whoa. So you tied it to what -- you tied
22 it originally to what was on the page and he pointed out it was not his
23 handwriting. So are you going off -- say inside the page you're asking a
24 separate question now?

25 MS. HURTIK: I'm asking him was he the supervisor?

1 THE WITNESS: No. I was working Mr. Inose, yes.

2 BY MS. HURTIK:

3 Q Okay.

4 THE WITNESS: Brian, did you see this?

5 THE COURT: You have to wait for Ms. Hurtik --

6 THE WITNESS: Oh, sorry.

7 THE COURT: -- to ask you. That's how -- that's okay.

8 BY MS. HURTIK:

9 Q Just give me a minute, Mr. Ramirez.

10 A Fine.

11 Q It will give you time to breathe.

12 A Yes.

13 Q So you testified that you didn't have a job title, that's what
14 you told Mr. Boschee.

15 A Uh-huh.

16 Q From these time sheets, the ones that I showed you, were in
17 your handwriting, correct?

18 A Yes.

19 Q And it said sup. So were you -- did you have a supervising
20 title on the job?

21 A You can cook a meal; it doesn't make me a chef. I was
22 helping build the house. So everybody address myself that way, if I
23 wrote sup because I was supervising something.

24 Q Okay. All right. So let's go to Binder No. 4. If you would
25 turn to Exhibit 33.

1 A Okay.

2 Q Okay. There's two pages of this exhibit, DVC -- and if you
3 look at the bottom -- 1036 and 1037.

4 A Okay.

5 Q And up at the top this says that it's an email from you in
6 February of 2015, billing from wine room, and you're sending it to
7 Rachelle Elliston and Daniel Merritt. And then attached to this -- and I'm
8 not sure if it actually goes with this -- there's a Central Valley Insulation
9 statement or invoice, and it's addressed to you, Robert Ramirez, at 587
10 Saint Croix, Henderson, Nevada.

11 Do you recall why this would have been addressed to you?

12 A Because they weren't paying the bills and we needed to get
13 stuff done. So this was probably one of the ones that I paid.

14 Q In 2015, February of 2015, Desert Valley was not on the
15 project any longer?

16 A They weren't --

17 THE COURT: No, that's not what he said.

18 BY MS. HURTIK:

19 Q Okay, I'm asking --

20 A Not that I remember.

21 MS. HURTIK: I know it's not what he said, I'm asking him a
22 question, Your Honor.

23 THE WITNESS: Not that I remember, no.

24 BY MS. HURTIK:

25 Q So in February of 2015, you forwarded this bill to Rachelle

1 and Danny to tell them to pay this bill?

2 A Yeah, it was always -- I tried to get something out of them,
3 absolutely.

4 Q Okay. And at this time you believe that you were supervising
5 the project and they were off the project?

6 A That's just the way it was. I didn't believe anything, it's just
7 the way it was happening.

8 Q Okay. You also said that you only talked to Danny Merritt
9 once a week, is that a true statement?

10 A Yeah, I don't lie.

11 Q No, I'm asking you if I have it correct, sir.

12 A Yes.

13 Q Okay. So you didn't have any email correspondence with
14 him on the job regarding back and forth what was happening?

15 A I don't think I --

16 MR. BOSCHEE: Objection. Misstates his testimony.

17 THE COURT: That's a fair objection, especially given that 333
18 is an email and we looked at another email and he did not ever say that
19 he had no email correspondence.

20 MS. HURTIK: I'm asking him. I'll rephrase that.

21 THE COURT: Well, bear with me.

22 MS. HURTIK: Sure.

23 THE COURT: Because we've gone over this a few times.

24 Your response to me is always, well, I'm asking. That is -- yes, you are
25 asking a question, I will acknowledge that. But you have to ask proper

1 questions.

2 MS. HURTIK: Sure.

3 THE COURT: And this has happened more than once, so
4 please try not to respond to me by continuing to say, well, I'm asking a
5 question. Well, we know you're asking a question. The question has to
6 be properly asked. So the response, well, I'm asking a question does not
7 resolve the issue. So you could rephrase or ask a different question.

8 MS. HURTIK: I will rephrase, Your Honor.

9 BY MS. HURTIK:

10 Q So Mr. Ramirez, did you have email communications with
11 Danny Merritt or anybody with --

12 A You know, I honestly don't remember. If you have them,
13 then I probably did.

14 Q I'm going to have you turn in the same binder to 388, Exhibit
15 388, please.

16 A Okay.

17 Q This is a two page document -- well, there's three pages in
18 the exhibit, DVC1256 to 1258. Do you recall this email?

19 A Not really. I can read it and probably refresh my memory.

20 Q Okay. If you would do that, please. Then I will ask you some
21 questions. Just let me know when you're ready.

22 A Yeah, I remember. I've read it, but again, it's so long ago I
23 couldn't -- I'll probably answer what I can.

24 Q Okay. So this email says it's from Danny Merritt and there's
25 several people that are -- that it's being sent to. And you are one of the

1 individuals, correct?

2 A Yes.

3 Q Okay. And it's dated February -- I'm sorry. Friday, December
4 12th, 2014, and it says it's a weekly job site visit update. Were there
5 weekly job site meetings on the job?

6 A In the beginning, when Danny would come out once a week,
7 yeah.

8 Q Okay. And was it with the subs or was it with just you?

9 A No, mostly anybody who was there. Like that -- it wasn't -- it
10 was like a meeting, they called it a meeting, but just like exchange of
11 information. It wasn't like hey, today we're going to do this this week,
12 we're going to set our goals for this week. It wasn't that kind of a
13 meeting. It was something that they just kind of threw in the calendar. I
14 remember now that and this title cracked me up because this was a
15 weekly meeting that was something like this or a phone call or a text.

16 Q All right. So on the bottom below it, it begins the forwarded
17 message. And it's to Mr. Inose and its regarding several issues
18 regarding the house and some of the subs.

19 Do you recall did you keep Mr. Inose informed or did Daniel
20 Merritt keep Mr. Inose --

21 A I would hope we both did. I definitely kept him informed.

22 Q Okay. And were you, after the -- Okay. So you don't recall
23 this email, but it was sent to you, so you do believe that you were part of
24 the overseeing of this house or no?

25 A Sure. I think we all are.

1 Q Okay. So if you can go to Exhibit 390.

2 A Okay.

3 Q Okay. This is an email that I'm going to ask you first have
4 you ever seen this email? It's from Daniel Merritt to Brian Lynch, you are
5 not listed on this, but you are the subject of the email.

6 Have you ever seen this before?

7 A If I have, I don't remember for sure.

8 Q So it's talking about Rob's supplemental time as submitted
9 for three more months. So and if you go down to it -- and I'm -- if you
10 haven't seen it, but I'm going to ask you some questions.

11 In the second paragraph it says also we have agreed that
12 three more months of Rob was going to be allowed as the supervisor on
13 this project. So could you please respond to this email that this was
14 approved as our office accounting needs confirmation.

15 Now, I know that you can't testify as to this email. But were
16 you -- did they tell you that they were getting you approved as
17 supervisor through the insurance company?

18 A At one point that's how they were going to pay me. That's
19 how this all came to be.

20 Q Okay. So you did have a job title then on the job?

21 A No, I know that how they were going to pay me. They said
22 they had to say that in order to pay me. That's what they said.

23 Q Okay. You also testified that you have never had the codes
24 or any keys to Mr. Inose's house; is that --

25 A No, they had temporary things set up, I think, for Desert

1 Valley for that period. I didn't care to write them, memorize them.

2 Q I don't know. I'm asking you the question. You testified that
3 you did not have --

4 A I did not, no.

5 Q Okay. So you never had codes --

6 A I had some codes, but I didn't have the ones that were issued
7 during the time of constructions. And I don't ever --

8 Q Okay. So okay. So let's kind of flesh that out.

9 A Uh-huh.

10 Q So you did have codes to open up the house and set the
11 alarms and turn them on and off?

12 A The old codes that weren't active anymore, yeah.

13 Q You're saying they weren't active, accurate?

14 A No, they told me everything is shut down. Everything was
15 cleared out. They had them reboot like -- I don't know if you ever been
16 to a smart home like his. Everything runs off this electrical room. It's
17 like a waterfall of wire. So if they have to reboot that, all the codes they
18 have to wash -- this is what I was told. They had to wash everything out
19 and get temporary codes for the construction -- which always
20 unavailable by the time I got there, so I wasn't too worried -- and they
21 were going to have to issue all new stuff, all user free codes.

22 A lot of it was --

23 Q Okay. So you keep on saying they. So who is they?

24 A Construction people. Eagle Sentry, whoever they had
25 brought on to do the programming.

1 Q So did you, as a supervisor or a superintendent, go and open
2 up the house for any of the subcontractors when you were being paid by
3 DVC?

4 A As Harvey -- no, no.. There was always somebody -- I live on
5 the other side of town, so there was always somebody there when I got
6 there, typically in the mornings. Unless somebody left the house
7 unlocked the night before.

8 Q So you did not open the house for any trades in the
9 morning?

10 A No, the superintendent was supposed to do that.

11 Q Okay. And you did not lock the house?

12 A There was sometimes when, yeah, I can close up doors and
13 stuff like that.

14 Q Well, how did you do that if you didn't if you didn't have
15 codes?

16 A You just hit the enter button and you jump the little sensor.
17 Garage door, you know, you hit the button, you run across the garage,
18 jump over the sensor, garage closes.

19 Q What about the house? That's the garage.

20 A Right. Well, that's part of the house. If you have to get to the
21 house, you have to go through the garage. So I figure that if nobody can
22 open the garage -- I mean, if I didn't have the keys to secure the home,
23 then I couldn't secure it.

24 Q Well, I'm not asking about keys.

25 A Okay.

1 Q I'm asking you about the security system there was a code.
2 A Right.
3 Q So if you were walking out of the house --
4 A Right.
5 Q -- you have to arm it.
6 A Right.
7 Q So did you have the code?
8 A I don't remember. At some point they did give me a code at
9 some point. I don't remember when it was, though.
10 Q Okay.
11 A Yeah, I remember exactly. I don't remember the time, but I
12 know that I did get the codes because of the pattern.
13 Q Okay. So I think you have to go to Binder 5.
14 Okay. So I'm going to have you go to Exhibit 435.
15 A Okay.
16 Q Okay. So this is date stamped 1397 and it's an email from
17 you to Tina Dyba and Rachelle Elliston. Who is Tina Dyba?
18 A She was the designer.
19 Q Okay. So were you coordinating with Tina regarding color
20 selections in the master and kitchen?
21 A Apparently, yes.
22 Q Okay. And this is in May of -- May 5th, 2015?
23 A Yes.
24 Q Okay. So you were responsible for getting those items?
25 A I wasn't responsible, I was clarifying.

1 Q Well, were you reporting to -- this is only cc'd to Rachelle
2 Elliston. So who were you reporting the information to?

3 A It was distributing information between the three as to figure
4 out what colors were going to go where.

5 Q Was Rachelle Elliston having any input into the colors?

6 A Rachelle, actually, yes. She took on -- she was very helpful.
7 She tried to be as helpful as she could. So she would, you know, she
8 wanted to come out and take part in the decorating. Because I don't
9 know, you'd have to ask her.

10 I don't think it's her responsibility. It was something she was
11 putting her two cents in.

12 Q Okay. And then Exhibit 436, it's another email from you and
13 it's being sent to Daniel Merritt and Rachelle Elliston, and it's a
14 forwarded message regarding flooring. So flooring and counters. It's
15 two pages and the actual second page, DVC1399, it's addressed to you.
16 Flooring and counters addressed it to you.

17 So were you coordinating with the flooring contractor?

18 A Yeah.

19 Q And you said earlier that this was just to get paid, but if you
20 look at the email, it says it's an estimate. Is it an estimate or is it a final
21 bill?

22 A This is an estimate.

23 Q Okay. Just one moment.

24 So Mr. Ramirez, if you can go to Exhibit 420. So it starts out
25 DVC1339 and Mr. Boschee had kind of referenced that maybe he'd talk

1 about your employment application later, if he had to.

2 A Uh-huh.

3 Q Well, we're going to look at your employment application
4 right now. So if you go to DVC1341.

5 A Uh-huh

6 Q So the application information, so when you get down to you
7 say -- let's see what line is it, one, two, three, four, five -- position you're
8 applying for you say head of. What did you mean? Just asking you.

9 A What was the question?

10 Q Okay, look at the employment application.

11 A Head of.

12 Q Head of, what did you mean?

13 A Look at the rest of this ting. Look at the rest of the
14 application.

15 Q I am looking.

16 A It's a joke. These guys sent me this here, fill this out quick,
17 do it for us really quick. I just did it for them how I felt I wanted to do it
18 that day. So this has --

19 Q Would you be entitled --

20 A -- I don't know if you're trying to tie this into some relevance
21 here -- go ahead, please. This is after them -- I think they were in a panic
22 about getting paid by the insurance company or something or why they
23 were --

24 Q Okay. This is they're doing a job, they're a general contractor
25 and they asked you to fill out an application. And so this is how you

1 filled out that application?

2 A This is how I filled out theirs, yes.

3 THE COURT: I'm sorry. I'm just reading this.

4 BY MS. HURTIK:

5 Q So the second page, DVC1342, so you thought it was a joke?

6 A For me, yes.

7 Q Is that how you treated the job, as a joke?

8 A No, ma'am. I treated them that way, because that's how they
9 treated the job.

10 Q This was dated, if you look at it, 10/2 but you don't put the
11 year. But attached to it is a W-4 and it's in 2014. So this was at the very
12 beginning of the job, 10/20/2014.

13 A Okay.

14 Q So why were you working for somebody that you had such
15 disdain for?

16 A At the beginning it wasn't disdain for them. If I wanted to get
17 paid, I wasn't going to be there for free.

18 Q Well, you said it was a joke is why you filled it out like this?

19 A I said they were a joke.

20 Q Yeah, but you didn't, you said --

21 THE COURT: Well, let's --

22 MS. HURTIK: Okay.

23 THE COURT: -- let's --

24 THE WITNESS: This is -- I didn't fill out that application
25 before I got the job.

1 THE COURT: Hold on. Hold on.
2 MS. HURTIK: Let the judge.
3 THE COURT: You're now starting to argue back and forth.
4 Let's just ask a question, you do your best to answer.
5 THE WITNESS: Well, let me put this into --
6 THE COURT: Sir, she hasn't -- let her ask a question first.
7 There's no question pending, so let her ask it.
8 THE WITNESS: Yes, there is.
9 THE COURT: No, no.
10 MS. HURTIK: No.
11 THE COURT: Stop talking.
12 THE WITNESS: Okay.
13 THE COURT: Let her ask a question then you can do your
14 best to answer it.
15 THE WITNESS: Okay.
16 BY MS. HURTIK:
17 Q Okay. So at this point when you're filling out the application
18 for Desert Valley, have you -- the job was just starting in
19 October/September, correct?
20 A No. Let me correct something really quick.
21 They had kept asking for this. I never did it because I never
22 went to their office. They kept hounding me. This wasn't at the
23 beginning of the job. This turned into them, like, later. I mean I couldn't
24 tell you when, I just know that it wasn't at the beginning.
25 I didn't do this to get my first paycheck is what I'm saying.

1 Q Okay. We'll move on.
2 Just give me a minute because I just want to make sure I
3 haven't asked you about some of these emails before I go forward.
4 So if you go to Exhibit 352.
5 THE COURT: Which binder?
6 MS. HURTIK: Oh, I'm sorry, Your Honor, I'm sorry.
7 THE COURT: That's okay.
8 MS. HURTIK: The Bugga Bugga got me. Volume 4.
9 THE WITNESS: Sorry, what's that number again?
10 BY MS. HURTIK:
11 Q It is Binder Number 4, and it's Exhibit 352.
12 THE COURT: Okay.
13 MS. HURTIK: Isn't that what I said?
14 MR. BOSCHEE: No, you said 344.
15 THE WITNESS: What are we on? I'm sorry, guys.
16 BY MS. HURTIK:
17 Q You're on 352. Okay. So --
18 MR. BOSCHEE: In Binder 4.
19 MS. HURTIK: Binder 4.
20 THE WITNESS: 4? Now, I'm getting started in this.
21 BY MS. HURTIK:
22 Q If you want to put the other one back, that's fine.
23 A Three-fifty -- yeah, I'm going to have to put it. Got it.
24 Q Okay. So Numbers 352. Okay. So this is an email from Will
25 Robert [phonetic] and it's sent to you. And it's regarding electric -- go

1 ahead and read it.

2 A Okay.

3 Q Okay. And it's dated December 11th, 2014, and it's regarding
4 rough-in electrical and it's talking about other scopes, scopes of work of
5 things that need to be done, like follow up with some, like, Tina on the
6 fixtures, Eagle Sentry and Danny Merritt working to get approval.

7 So they're asking you the status on the wall tile and in a
8 couple of different places so they can account for removal and
9 replacement of drywall in those areas.

10 So were you coordinate -- you were coordinating with the
11 subs and then telling DVC the feedback as to what the answers were on
12 these questions, were you doing that?

13 A It doesn't sound like something -- what's the date? I don't
14 remember.

15 Q Well, the reason I'm asking is because you said you weren't
16 -- I think it's kind of clear you were supervising -- but so --

17 MR. BOSCHEE: Objection.

18 THE WITNESS: You know, guys --

19 MS. HURTIK: Okay. All right.

20 THE COURT: Let's just ask him a question.

21 MS. HURTIK: Okay.

22 BY MS. HURTIK:

23 Q So this says Rob, just left you a message. It appears there
24 was no rough-in in electrical and then it goes on to say a whole bunch of
25 things. Okay?

1 A Okay.

2 Q So let me finish my question, please, Mr. Ramirez, because I
3 am asking a question.

4 A Yes, ma'am.

5 Q And that's part of the problem. Okay?

6 So when you get to the bottom of this he's telling you also
7 let me know the status on the wall tile in the master bath beyond shower
8 and in the master bedroom, it's being replaced, so we can account for
9 removal and replacement of drywall at these areas let me know.

10 So, the question is were you coordinating and asking these
11 questions to Eagle Sentry, any of the subs, the designer, Tina, regarding
12 any of these items so DVC would know how to estimate in this area?

13 A DVC would not estimate anything. We -- we - you keep -- I
14 was brought on as an advisor, so yeah, I was helping out as much as I
15 could. Was I the final work, absolutely not.

16 Q That wasn't the question.

17 A So, no, I probably was giving him information. Again, I was
18 advising him. If there was something they needed and I could help, I
19 was there. I want to give them the accurate information so that we can
20 move forward.

21 Q Okay. So, based on what you just answered, I'm going to ask
22 you a follow-up question. Please let me get the question out before
23 answering. So, you said they weren't estimating, what did you mean by
24 that?

25 A Desert Valley, they're not going to -- the electric -- electricity

1 would come out to give the estimate, okay?

2 Q Yeah.

3 A So they would have to call them to come out and do it.

4 Q Okay. And the same with the tile measurements and the
5 fixtures being applied?

6 A Sure. A trade -- a company, if I call the tile guy, he's going to
7 come out and measure the job to give me an estimate. I guess, I'm
8 not -- the entry --

9 Q Right. So, the --

10 THE COURT: Whoa, whoa.

11 MS. HURTIK: Sorry.

12 THE WITNESS: I'm trying to --

13 THE COURT: Yeah. So you're taking a lot of time to direct
14 him to wait for you to ask a question.

15 MS. HURTIK: Sure.

16 THE COURT: But on more than one occasion, he's literally
17 mid-sentence and you're cutting him off.

18 MS. HURTIK: Okay.

19 THE COURT: So it goes, as you told him, both ways. So
20 when he's in the middle of a sentence, wait for him to finish.

21 MS. HURTIK: Okay.

22 THE COURT: Now, see, he probably doesn't know --

23 Well, if you do remember what you're saying, go ahead. If
24 you don't, that's okay.

25 THE WITNESS: I want to help you, I really do. I wasn't this

1 surprised that we were all helping in. It takes a village to build a house
2 like this. So one person can spearhead anything.

3 THE COURT: Do you know who Will Robert is?

4 THE WITNESS: He was one of the three or four
5 superintendents that were brought on.

6 BY MS. HURTIK:

7 Q Okay. So let's go back to the question. The question was,
8 and I think you may be answered it, but I want to be clear, the
9 subcontractors were providing the estimates to the general so that any
10 materials could be ordered or that they could prepare the final bid, the
11 final total bid?

12 A Yeah, they would give us the estimates and we would verify
13 everything and make sure that it was good before we moved forward to
14 the process order, I guess.

15 Q Okay. And if you go to Exhibit 353. Are you there?

16 A No, what volume is that?

17 MR. BOSCHEE: It was in the same one.

18 BY MS. HURTIK:

19 Q You're still -- you're still on the same binder, it's Binder 4.

20 A 350?

21 Q 353.

22 A I got 453.

23 THE COURT: You can come help him, sure.

24 MS. HURTIK: May I approach?

25 THE COURT: Please. Thank you.

1 BY MS. HURTIK:

2 Q Okay. So let's get rid of the one that it isn't. So, is this 4?

3 A Yeah.

4 Q No, this is 3. So go ahead and get rid of that. Go ahead and
5 get rid of this. You've got the wrong binder, sorry. Let's put them in
6 order. Give me 4. Okay. Now they're in order from 1 through -- from
7 the right to the left.

8 A Yeah, that's where I started. Okay, go ahead.

9 Q Okay. So turn to 353. Okay. So this is another one where
10 Will Roberts, from DVC, his December 30th, 2014, and he's cc'ing you,
11 and it's again about electrical divine seller, and so it's saying,

12 Please contact Rob, attached is the specs for the unit. Please
13 contact Rob this morning to coordinate.

14 So they were coordinating, they were having you coordinate
15 this, correct?

16 A He was having him contact, because Will didn't have a clue
17 what the system was, so he asked me, if you have any questions, just
18 talk to Rob about it so I could help him out. So, again, Will is one of the
19 superintendents that didn't know anything about a custom home.

20 Q And what were you -- and you weren't being paid to help tell
21 them -- were you being paid to help tell them what to do?

22 A Yes.

23 Q Okay. So, if you go to Exhibit 367. And this consists of --

24 THE COURT: Which number are you now? Sorry.

25 THE WITNESS: 367.

1 MS. HURTIK: 367.

2 BY MS. HURTIK:

3 Q And this is -- consists of a chain of emails, and then there's
4 an invoice at the very end, or an estimate for service for the easy lift
5 elevator. I'll wait until you get there.

6 A Okay.

7 Q Okay. So on Page 2, which is DVC 1205, and that's where the
8 email apparently first starts, and it -- and it -- and if you look on the
9 bottom, it says October 1,

10 Hi, Robert. We were able to adjust three speed doors.

11 And it goes on and says what they're doing. Okay? So was
12 this addressed to you? Are you the Robert that it's addressed to?

13 A Yes.

14 Q Okay. So you were involved with all of the subs throughout
15 the project while you were on the project?

16 A Sure.

17 Q And then after DVC was no longer on the project, and you
18 had -- okay, strike that.

19 Okay. So at some point, you are told by DVC there's no
20 money to support you anymore; is that correct?

21 A Uh-huh.

22 Q Okay.

23 THE COURT: Is that a yes?

24 THE WITNESS: Yes, sorry.

25 THE COURT: That's okay.

1 BY MS. HURTIK:

2 Q So how long are you off the project, do you remember
3 before you -- Mr. Inose calls you to bring you up?

4 A I don't think that anything ever was bled out, so I would
5 phone calls every day, so.

6 Q So during the time period that DVC said they couldn't pay
7 you anymore, you still continued to go check on the house?

8 A No, I still continued to get phone calls.

9 Q Okay. Phone calls from who?

10 A Oh, just a sub, where did we leave my tool drill, where's my
11 drill at. Is anybody going to be at the house today?

12 Q Okay. And then after Desert Valley was gone, then you
13 proceeded to finish things and coordinate subcontractors for Mr. Inose,
14 correct?

15 A Yes.

16 Q Okay. Now you were asked about Exhibit 441, which is in
17 Binder Number 5. I'll just let you get rid of binder, the one you have in
18 front of you, because I'm not going to ask you anything more on that
19 right now.

20 A Okay. What was the number I'm finding?

21 Q So it is Binder Number 5, and it is Exhibit Number 441.

22 A Okay.

23 Q Okay. So Mr. Inose asked you, here's -- whether this was the
24 items that were not complete, and I think he said when you came back to
25 take over. I'm not sure if that's the exact wording, but -- so can you look

1 at this and see if this is the list that needed to be done to complete?

2 A Uh-huh. It looks like it, yeah.

3 Q Okay. And you have -- so you weren't involved -- I have a
4 question because you said DVC never showed you any scope of work
5 while you were working on the project?

6 MR. BOSCHEE: Objection, that's not -- that wasn't my
7 question or his testimony.

8 MS. HURTIK: I'm asking -- okay, I'll ask it a different way.

9 THE COURT: Sure, rephrase.

10 MS. HURTIK: Okay.

11 BY MS. HURTIK:

12 Q So were you ever shown a scope of work by Desert Valley
13 Contracting while you were employed by them?

14 A I know I never was shown the proposals, which is what I
15 asked for because that's how he does a scope of work, because anybody
16 can say yeah, you're going to do this, but if it's not on paper, it doesn't
17 matter. So, I never saw full contracts from the subs.

18 Q Okay. So you never saw the full contracts from the subs?

19 A Right.

20 Q So, based on that, I just have one question, and I want to
21 show you something and I just want to know if you've seen it before, and
22 it -- okay, can you go to Volume 8, and you can leave the one you've got
23 up there, because Volume 8 is just one thing.

24 A It's the biggest one of them.

25 Q Yeah, and it's Exhibit 571.

1 A Okay.

2 Q Are you there?

3 A Yeah.

4 Q Okay. So if you go to their IN-LO 75, and then this is several

5 pages, and they go -- let's take you back to like Page IN-LO 144. And if

6 you would just kind of flip through it.

7 A Okay.

8 Q Just tell me, have you ever -- were you ever shown this

9 scope of work? Did you ever see this kind of a document while you

10 worked on the job?

11 A No, I would never see anything with numbers like that on it.

12 Q Okay. And are you -- okay, and have you ever done

13 insurance jobs, construction jobs before?

14 A Not like that, no.

15 Q Okay. So would you be familiar with -- you've never

16 done -- have you ever done any estimating before?

17 A No, I can changing a toilet or something like that, a small

18 thing, but nothing big like this, no.

19 Q Okay. And so you're not familiar with the program -- are you

20 familiar with the program --

21 A The softwares that are out?

22 Q Yeah.

23 A No, no, ma'am.

24 Q Okay. Okay, you can put that one away, that's all I wanted to

25 know.

1 So if you go to Volume 4, and you leave the other one you
2 have up there, and -- okay, go to Exhibit 376. Just tell me when you get
3 there.

4 A Okay.

5 Q Okay. So this is an email from Eugene on Saturday, May 9th,
6 2015 to you, and then there -- Danny Merritt, cc'd, several people are
7 cc'd. And it says hit list for St. Croix. And this is Mr. Inose saying, you
8 know, he wants -- he wants to put in writing what he thinks has to be
9 done. Do you remember seeing this?

10 A Uh-huh.

11 THE COURT: Is that a yes?

12 THE WITNESS: Yes, I'm sorry.

13 THE COURT: That's okay.

14 BY MS. HURTIK:

15 Q Okay. So when you received this, did you take this to
16 say -- did you believe this was to say that you needed to coordinate
17 these items or try to make sure these items were done because he was
18 going to come into town. He says I'll be back out in ten to 14 days?

19 A Yeah, I would take it as a hey, let's look into these things and
20 get these started and see where we're at kind of --

21 Q Did you do that? Did you start working on this list?

22 A I'm sure I did.

23 Q Okay. And to do that, you would have had to call the
24 subcontractors that would have been -- that would have been at issue for
25 each of the line items?

1 A Sure.

2 Q Okay.

3 THE COURT: Do you know who Jeff Louie (phonetic
4 throughout) is?

5 THE WITNESS: Jeff Louie, yeah, I do, sorry.

6 THE COURT: Who is that?

7 THE WITNESS: That is one of Eugene's partners.

8 THE COURT: Of whose partner?

9 THE WITNESS: Eugene.

10 THE COURT: Oh, okay.

11 BY MS. HURTIK:

12 Q Okay. So I would like you, you're still in Binder 4, right?

13 A Uh-huh.

14 Q So go to Exhibit 396?

15 A Okay.

16 Q So this some is an email, it's from Danny Merritt. It's
17 Tuesday, May 12, 2015, and it's to you and Eugene, and then it's cc'd to
18 Danny and Rachelle, and the subject is Rob Ramirez time. Do you have --
19 do you remember seeing this?

20 A Not particularly, no.

21 Q So let me kind of -- I'm going to bring it up here. Okay.
22 So -- sorry, I have an eye problem.

23 Okay. Did you have any discussions with Danny Merritt
24 regarding that Fireman's Fund was not going to pay you anymore. They
25 weren't going to allow any money after the end of June?

1 A That's what it says.

2 Q Okay. So were you on the job through the end of June?

3 A I can't remember specifically when I -- when they told me to
4 leave or they weren't going to pay me. I do remember him saying that
5 can you do this for the -- and we've already given you like --

6 Q Okay. So it says that -- this does say, though, they're not
7 going to pay him out until the end of June or whenever the project
8 terminates, and then it says,

9 So what we need to know is Rob, are you okay with
10 continuing for another month off of the funds that were given. We
11 already paid you 75,800-some-odd dollars. And then the insurance
12 company is looking at this like that's a high allowance for a supervisor
13 for nine months to work and not justify any more funds.

14 So this is in May, May 12th. So they're saying they want to
15 talk to you in this email. Did you discuss this with Danny Merritt or
16 Desert Valley?

17 A No.

18 Q What happened then?

19 A Nothing happening. I never heard back -- or never -- they never
20 followed up with me, I guess, on it. I didn't follow up with them.

21 Q So this says, in the 1, 2, 3, the 4th paragraph,

22 Not available by phone the rest of this afternoon, so please
23 save your questions until tomorrow. We can all discuss all of this,
24 insurance needs to know if there are any other charges coming through.
25 We have to get any change orders or anything else through now,

1 otherwise it's going to be near impossible to get payment. So let's get
2 with Tina, see whatever else we got, because right now the buck stops
3 with my estimate that I'm sending you on Friday.

4 So, you were sent an estimate? Were you sent an estimate?

5 A From who?

6 Q From Danny Merritt.

7 A No, he never gave me an estimate.

8 Q And he never followed up with you the next day?

9 A No. This is like something -- at this point, I think Danny had
10 everything he had called to wash at that point. He was coming to realize
11 his numbers were off, or he was off. What he said was a wash was not a
12 wash, and so he's trying to find a stopping point for this.

13 Q Okay. So this email is in May. If you go to Exhibit 402 in the
14 same binder, there's an email in October, October 5th, 2015, and it's to
15 you from Danny Merritt. And it says I will be there on time as well. See
16 you guys there.

17 But if you go down, that's the top one, October 5th at 2:03,
18 it's at the bottom of the page, and it also says on October 5th, 2015, in
19 the middle, Dennis will be there, Rachelle Allison (phonetic throughout)
20 is going to be there. That's what the email says.

21 And then it says, from Rob Ramirez, Monday, October 5th at
22 12:41, to Danny Merritt, Rachelle Elliston, Eugene Inose, Roy Heaton,
23 forward Creston boxes,

24 Okay, this is a serious matter. We need to come to some
25 resolution on Wednesday's meeting at 8:00 a.m. Please, if everybody

1 could be on time, that would be most helpful.

2 That email is from you, correct?

3 A Uh-huh.

4 Q Okay. So --

5 A Yes.

6 Q -- this is October, and that email back in May was saying

7 there wasn't money to keep you through June. So you were still there in

8 October, or did you leave and come back?

9 A Like I said, I would go and come back. It was a constant

10 thing until Eugene -- even when Eugene gave me the \$10,000 to come

11 back and finish, if a trade wasn't going to be there for a week, I'm not

12 going to be there for a week. It wasn't an hourly job. He was paying me

13 to help him put together the job to finish it. Does that make sense some?

14 Q That's your answer. All right. So, as we sit here today now,

15 my final thing is, so you were on the project and you were -- and I'm

16 saying it because you -- I want to make sure because you said a few

17 different things. You were Superintendent/Supervisor on the project. Is

18 that correct?

19 MR. BOSCHEE: Objection, asked and answered.

20 THE COURT: Sustained.

21 MS. HURTIK: I just want to make sure --

22 THE COURT: Sustained.

23 THE WITNESS: Again, I was an advisor.

24 THE COURT: I sustained the objection, so you don't have to

25 answer.

1 THE WITNESS: Okay.

2 THE COURT: But if you have another question?

3 MS. HURTIK: No, I don't.

4 THE COURT: Okay.

5 MS. HURTIK: Thank you, Mr. Ramirez.

6 THE WITNESS: Thank you.

7 REDIRECT EXAMINATION

8 BY MR. BOSCHEE:

9 Q A couple minor things.

10 A Yes, sir.

11 Q Since I feel like we have to go back to the job application at
12 some point, because that was a moment of levity and comedy for the
13 whole room.

14 A That's some of my best work.

15 Q If you go back to, and I'm sorry to make you grab another
16 binder, Volume II, and Exhibit 244.

17 A Okay.

18 Q You started talking, and go to DVC 565, let's start there.

19 A Okay.

20 Q I guess what I'm trying to figure out is, with these
21 timesheets, if you go through the timesheets, the handwriting in the
22 work done seems to be different depending on the timesheet.

23 A I had just noticed that today.

24 Q Okay.

25 A Because I never saw these, I guess.

1 Q Did you always fill out the timesheet yourself or did someone
2 else fill it out and then you sign it after the fact?

3 A I would send it to them. I would fill out the times, but I
4 wouldn't fill out every line item.

5 Q Okay. And then there was a lot of questions about, and, you
6 know, supervisors Sup/whatever, and then there was one that said
7 Sup/Homeowner, but that was all under the work done --

8 A Uh-huh.

9 Q -- category, right? That wasn't your job title, that was a
10 description of what you were doing --

11 A Right. That's what I was trying --

12 Q Okay. I just want to clarify that. And regardless of what it
13 said on these timesheets, these Desert Valley Contracting timesheets,
14 that's who paid you, right?

15 A Right.

16 Q At that time, it was them, not Eugene Inose or IN-LO
17 Properties, right?

18 A Correct.

19 Q Okay. Ms. Hurtik asked you a bunch of questions about
20 whether you had a contractor's license or not. Do you remember that?

21 A Yeah.

22 Q Okay. For what you do for a living and what you did with
23 respect to these properties, did you need one?

24 A No.

25 Q Okay. Have you ever been in any trouble at all with the

1 Contractor's Board for not having a license?

2 A No.

3 Q Has anybody filed a complaint with the Contractor's Board
4 about work that you had done?

5 A Not that I'm aware of, no.

6 Q Okay. Let me finish my question before you -- same
7 problem. I'm still a little hazy on the codes that you had to get into the
8 house.

9 A Okay.

10 Q I understand if I -- if my notes are correct, it sounds like you
11 had the old codes from when you first built the house --

12 A Sure.

13 Q -- or when you first supervised the house, right?

14 A Uh-huh.

15 Q Then the codes changed after the flood damage?

16 A Yeah.

17 Q Okay. Did you have those codes to come in and enter and
18 lock the house?

19 A No, they were -- they tried to give me the ones for that, and I
20 want to remember it correctly, he set up codes for the construction
21 crews.

22 Q Okay.

23 A And then after that, I got a code when -- because at some
24 point, we're like hey, they're not allowed back in the house, and so I got
25 those codes. Does that make sense?

1 Q Kind of.
2 A Sorry.
3 Q Were you able -- did you have a security code available to
4 you to lock -- to set the security and lock the house?
5 A Yeah, yeah.
6 Q Okay. Did you have a security code that allowed you to enter
7 the house if you needed to?
8 A Uh-huh, the same one, yeah.
9 Q Okay. The same code?
10 A Uh-huh.
11 Q Okay. And you had that while you were working for Desert
12 Valley or after?
13 A After.
14 Q Okay. So when you came back, you got the codes?
15 A I think they gave them to me, but I never wrote them down,
16 because, like I said, they were always there.
17 Q Okay. I'm not going to pull it out again because I won't be
18 able to keep a straight face, but you -- the job application you filled out
19 for Desert Valley was in October of 2014. Do you remember seeing that
20 on there?
21 A Uh-huh.
22 THE COURT: Yes?
23 THE WITNESS: Yes. I'm sorry.
24 BY MR. BOSCHEE:
25 Q Yes, okay. Those timesheets you were looking at?

1 A Uh-huh.

2 Q That we still have open?

3 A Yes.

4 Q Those are all -- a lot of those predate the job application you
5 filled out, right?

6 A That's right. That's why that made that funny for me.

7 Q Okay. So you were actually working on the job and getting
8 paid by Desert Valley before you filled out the job application, right?

9 A That's right.

10 Q And despite whatever was on the job application, they still
11 hired you, didn't they?

12 A Yes.

13 MR. BOSCHEE: I don't think I have anything further, Judge.
14 Thank you.

15 Thank you, Mr. Ramirez.

16 THE WITNESS: You're welcome.

17 THE COURT: Any on your side?

18 MS. HURTIK: I think not.

19 [Counsel confer]

20 THE COURT: Okay. So we're done for the day, right?

21 MR. BOSCHEE: And for the week, I think.

22 THE COURT: So we need to -- bear with me one moment
23 and I'll my JEA to come in.

24 [Counsel confer]

25 THE COURT: Okay. So, in any event, we have -- we'll have

1 to put you back into one of the trial stacks.

2 MR. BOSCHÉE: Right.

3 THE COURT: And the next one -- and the good thing about
4 the adventure, we can plug you in. So the May 20th runs five weeks, so
5 it ends --

6 THE CLERK: June 21st.

7 THE COURT: -- June 21st. And how many days are we
8 probably thinking?

9 MS. HURTIK: Three max.

10 THE COURT: Three more?

11 MR. BOSCHÉE: Probably. I'll say we haven't -- we haven't
12 heard from any of the Plaintiff's witnesses yet, so. I think Danny is
13 probably going to be a day and a half, and then Dennis is the owner, he'll
14 be a bit, and then Rachelle should be short.

15 MS. HURTIK: She'll be short.

16 MR. BOSCHÉE: But, so -- but, I mean I think based on how
17 this has gone --

18 THE COURT: Yeah.

19 MS. HURTIK: Hybar.

20 MR. BOSCHÉE: Oh, we've got to finish Hybar, too. Based on
21 how this has gone, we should probably plan for three days.

22 THE COURT: Okay. So June 19, 20, 21, will be the last three
23 days on the stack that are open.

24 MS. HURTIK: Okay.

25 MR. BOSCHÉE: I've got a couple of logistical things to

1 coordinate, but I think I can make that work. The only -- the only issue
2 there being, I think, I mean there may be a day or two that we need to
3 adjourn a little early because I'm going to have to go get my son from
4 camp potentially, but we should be -- well, I'll make those work. And I
5 say adjourn early, that's like 4:30 instead of 5:00 or whatever, but.

6 THE COURT: Sure.

7 Do those work good for you?

8 MS. HURTIK: I'm -- they gave me all my May schedule and
9 they didn't give me June.

10 THE COURT: Oh.

11 MS. HURTIK: I just texted them.

12 THE COURT: Okay.

13 MR. BOSCHEE: It's on your phone?

14 MS. HURTIK: I don't have it in my --

15 MR. BOSCHEE: It's 2019.

16 MS. HURTIK: It won't -- I've got a sync problem. I'm not
17 techy like you, okay?

18 MR. BOSCHEE: Oh, yeah. That's the first time I've been
19 described that way, ever.

20 MS. HURTIK: I think so, Your Honor. I'll work it out.

21 THE COURT: Okay.

22 MR. BOSCHEE: Yeah.

23 THE COURT: So we'll put you in June 19, 20, 21. Come in
24 through the back. Do you want to come back at all before then?

25 MR. BOSCHEE: I don't think there's any need to --

1 MS. HURTIK: No.
2 MR. BOSCHEE: -- unless Your Honor needs something from
3 us.

4 THE COURT: No.

5 MS. HURTIK: Go away, stay far away.

6 THE COURT: No.

7 MR. BOSCHEE: Leave me alone.

8 [Court and Clerk confer]

9 THE COURT: Go ahead and do what's being done now and
10 take the witness copies and we'll plan on seeing you back on June 19th
11 at 10:30.

12 MS. HURTIK: Thank you, Your Honor.

13 THE COURT: Okay. Thank you.

14 [Proceedings adjourned at 2:55 p.m.]

15 * * * * *

16
17 ATTEST: I do hereby certify that I have truly and correctly
18 transcribed the audio/video proceedings in the above-entitled case to the
19 best of my ability.

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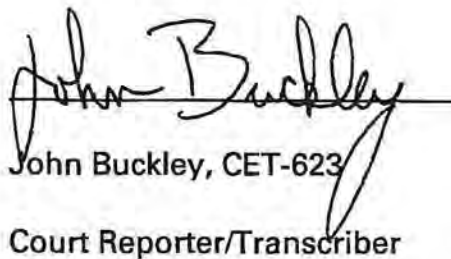
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John Buckley, CET-623
Court Reporter/Transcriber

Date: February 4, 2020