

IN THE CIRCUIT COURT OF THE TWENTIETH JUDICIAL CIRCUIT
IN AND FOR COLLIER COUNTY, FLORIDA CIVIL ACTION

JACQUELINE R. VASBINDER,
Trustee of the Jacqueline
R. Vasbinder Trust Agreement
dated June 5, 2006,

Plaintiff,

vs.

CASE NO. 21-CA-2089

400 LA PENINSULA CONDOMINIUM
ASSOCIATION, INC., a Florida
not-for-profit corporation,

Defendant.

_____ /

DEPOSITION OF EDDIE MORALES
Corporate Representative of Praxis Construction, Inc.

DATE: December 19, 2022
TIME: 8:31 a.m. to 11:18 a.m.
LOCATION: Zoom Videoconference
TAKEN BY: Counsel for the Plaintiff
REPORTER: Angela L. Klein, RPR, FPR
Notary Public
State of Florida at Large

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A P P E A R A N C E S

ON BEHALF OF THE PLAINTIFF:

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By: Henry Johnson Law, Esquire (By Zoom)

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By: Julie Talbot, Esquire (By Zoom)

ALSO PRESENT: Mike Vasbinder (By Zoom)

I N D E X

	PAGE
Direct Examination by Mr. Johnson	3

E X H I B I T S

NUMBER	DESCRIPTION	PAGE
Exhibit 1	Notice of Taking Deposition	5
Exhibit 2	Unit 443 Proposal	18
Exhibit 3	Unit 411 Proposal	46
Exhibit 4	Traffic Coatings	49
Exhibit 5	Permit	52
Exhibit 6	Notice of Commencement	56
Exhibit 7	August 12, 2022 Letter	58
Exhibit 8	Curb, Jamb & Waterproofing Detail	59
Exhibit 9	September 19, 2022 Letter	65
Exhibit 10	Invoices and Checks	67
Exhibit 11	Emails	71
Exhibit 12	Emails	73
Exhibit 13	Certificate of Completion	82
Exhibit 14	**Photographs (Can't attach exhibit)	85

1 Thereupon,

2 EDDIE MORALES,

3 Deponent, having first been duly sworn, upon his oath,
4 testified as follows:

5 THE WITNESS: Yes.

6 DIRECT EXAMINATION

7 BY MR. JOHNSON:

8 Q. Good morning, sir. I'm Henry Johnson. I,
9 along with Jeffrey Sam, have the pleasure of
10 representing Jacqueline R. Vasbinder, Trustee of the
11 Jacqueline R. Vasbinder Trust in a pending civil
12 litigation matter in Collier County, where the Vasbinder
13 Trust is the Plaintiff, and 400 La Peninsula Condominium
14 Association is the Defendant. Have you ever had your
15 deposition taken before?

16 A. Not for my company, but for, you know, other
17 companies, yes.

18 Q. Okay. Just please state your full name, for
19 the record.

20 A. Eddie Roberto Morales.

21 Q. And as I understand it, Mr. Morales, you are
22 being deposed today under a subpoena for a corporate
23 representative of an entity called Praxis Construction,
24 Incorporated; is that correct?

25 A. That is correct.

1 Q. Okay. When was the last time you were
2 deposed?

3 A. Well, you know, I was deposed for Praxis,
4 subpoenaed, like right after Irma, so it was, what, four
5 years ago, last time.

6 Q. All right. My only reason in asking you, sir,
7 is that there are some ground rules that I will refresh
8 your recollection of if you were not advised at the time
9 of the prior deposition.

10 First ground rule -- as I say, I'm Henry
11 Johnson, and we have the pleasure of representing the
12 Plaintiff in this case -- if at any time you don't
13 understand a question that I have asked you, I will
14 respectfully ask that you have me repeat the question;
15 otherwise, I shall assume that you understand what I
16 have asked you. Is that clear?

17 A. Clear.

18 Q. Number two, Ms. Klein, who's our court
19 reporter, can only take down one verbal comment at a
20 time. So I would ask you, respectfully, to wait for me
21 to complete my question until you answer a question. Is
22 that clear?

23 A. Clear.

24 Q. Next thing is that all of your answers have to
25 be verbal. There can't be any head nods or inflections

1 of voice, because the court reporter cannot take down
2 your sounds, only verbal responses. Is that clear?

3 A. Clear.

4 Q. Also, sir, this isn't a marathon. If at any
5 time you feel as though you need to take a break, feel
6 free to request same, and I shall certainly honor that.
7 Is that fair enough?

8 A. Clear.

9 Q. Okay. You were provided today -- I'd like you
10 to take a look at what I'm going to mark as Exhibit 1
11 for identification, which is the Plaintiff's Notice of
12 Taking Deposition Duces Tecum of the Corporate
13 Representative of Praxis Construction, Incorporated. If
14 you could pull that up, I would appreciate it, sir. For
15 the record, it's a -- I think it's a total of five pages
16 including the subpoena, which is attached to that
17 notice. Do you have that, Mr. Morales?

18 (Exhibit 1 was marked for identification.)

19 Q. Okay. I think I can see that. You have it?

20 A. Yeah, I have it.

21 Q. Okay. Thank you.

22 I'd like to -- I'd like to direct your
23 attention to the first page of it. It says that this is
24 a Notice of Taking Deposition Duces Tecum of the
25 Corporate Representative. Have you been designated as

1 the corporate representative of Praxis Construction,
2 Incorporated for the purposes of this deposition?

3 A. Yes.

4 Q. Okay. And are you the representative of
5 Praxis Construction, Incorporated who has the most
6 knowledge relating to the issues which are the subject
7 of this litigation?

8 A. Yes.

9 Q. Okay. If you would be kind enough to turn to
10 Page 3 of this exhibit, which is actually Exhibit A,
11 Exhibit A to the notice. Do you see that?

12 A. Got it. Yes.

13 Q. Okay. I'd like to go over some of the
14 individual items on that page with you.

15 First of all, it asks you about the corporate
16 structure of Praxis Construction, Incorporated,
17 including license holders, qualifiers, directors,
18 officers, shareholders, employees, and agents.

19 First question is, is Praxis Construction,
20 Incorporated a licensed contractor?

21 A. Yes.

22 Q. Okay. And what kind of license does Praxis
23 Construction hold?

24 A. Certified general contractor for the state of
25 Florida.

1 Q. And who is the qualifier or license holder for
2 the company?

3 A. Eddie Morales, myself.

4 Q. That's you?

5 A. That's me.

6 Q. That's you?

7 A. Yes.

8 Q. And have you been the sole qualifier/license
9 holder for the company since the company was created?

10 A. Yes.

11 Q. And when was Praxis Construction, Incorporated
12 created?

13 A. 2017.

14 Q. And since 2017, who are the officers of the
15 company?

16 A. It's myself, owner, president, and qualifier.
17 Officers; treasurer, we have Ada Hernandez, and then we
18 have, you know, field employees. The two officers, it's
19 Eddie Morales and Ada Hernandez.

20 Q. Okay. And who are the directors of Praxis
21 Construction, Incorporated?

22 A. Myself.

23 Q. Okay. Relative to the license which Praxis
24 Construction, Incorporated has, can you describe for me
25 what that license entitles Praxis Construction,

1 Incorporated to do as a matter of contracting here in
2 Florida?

3 A. Can you repeat the question?

4 Q. Yeah. It was a little bit verbose, but let me
5 try it again.

6 By virtue of the kind of license that Praxis
7 Construction, Incorporated has within the state, what
8 kind of work can Praxis do?

9 A. What we do, it's restoration of building
10 envelopes.

11 Q. Okay. Has Praxis Construction, Incorporated
12 exclusively performed restoration of building envelopes
13 since its creation?

14 A. Yes.

15 Q. Okay. And can you describe for the record
16 what you claim is the restoration of building envelopes?
17 What does it entail?

18 A. It entails that, you know, a building suffers,
19 you know, damages throughout, you know, years, wear and
20 tear. You know, climate changes, affect, you know,
21 building structure, and they have to be restored in a
22 cycle or as, you know, problems appear.

23 Q. Okay. And then what, as a general matter, is
24 the kind of work your company does?

25 A. Building envelope restoration.

1 Q. Okay. And what -- would it be fair for me to
2 say that what your company does is you're involved in
3 work that stops water from penetrating into the interior
4 of a building or condominium or home?

5 A. No. That -- I mean, it's not always related
6 with water intrusion. It's restoring, you know,
7 structural of the buildings, and it's not necessarily
8 just related with water intrusion.

9 Q. Okay. Sometimes it's water intrusion, and
10 sometimes it's other issues; is that correct?

11 A. Correct. Concrete restoration, you know, and
12 other items that buildings suffer damage. So it's not
13 always tied to water intrusions.

14 Q. Okay. And talk to me a little bit about your
15 specific background and experience as a contractor
16 within the state of Florida. You indicated you've been
17 the qualifier for Praxis since its creation, correct?

18 A. Correct.

19 Q. Okay. How about prior to Praxis?

20 A. I have over 20 years of experience doing, you
21 know, building envelope restoration. I've worked for
22 another company in Naples that dedicated to the same
23 work industry in construction, same restoration part.
24 So over 20 years of experience.

25 Q. Okay. Did you hold any licenses prior to

1 2017, the creation of Praxis?

2 A. No.

3 Q. Okay. And what company or companies did you
4 work for during those 20 years?

5 A. Spectrum Contracting, Aerial Companies, and
6 Structural Preservation Systems in Baltimore, Maryland.

7 Q. Okay. And how many years did you work for
8 Mr. Kobza at Aerial?

9 A. Six years.

10 Q. Okay. And what was your job at Aerial?

11 A. Field supervisor.

12 Q. And when you worked for Spectrum, what was
13 your job title there?

14 A. Project manager.

15 Q. Okay. Describe generally what projects you
16 have been involved in on behalf of Praxis since 2017.
17 And I think it would be helpful for you to tell me how
18 many condominium projects you've been involved with and
19 how many other type projects you've been involved with.

20 A. 90 percent of my projects, it's condominium
21 work. And since 2017, I don't have the exact number,
22 but we have successfully completed about 125 projects in
23 Collier County. And they'll -- you know, commercial
24 buildings and condominiums, two-story, four stories, and
25 highrises.

1 Q. Describe to me the range of work that you've
2 done working with condominiums.

3 A. Range on --

4 Q. Yeah. Let me --

5 A. Volume?

6 Q. Because you mentioned earlier that sometimes
7 you deal with issues that stop water intrusion, and
8 other times you deal with other issues. That's what I'm
9 trying to understand, Eddie.

10 A. Okay. Yeah. So, you know, most of the time,
11 you know, we restore buildings. They go to bid, you
12 know, and it's, you know, it's in the scope of work
13 that -- and it's going to require repaint, resealing,
14 concrete restoration, stucco restoration, waterproofing
15 restoration on the entire building. So it's one full
16 restoration of building.

17 Q. Okay. Are there other times when you are
18 involved strictly with issues in condominiums relating
19 to the prevention of water intrusion into condominium
20 units?

21 A. When a building is restored, that's the
22 intent, so yes.

23 Q. Okay. All righty. If you look at my exhibit
24 list that I -- that is part of Exhibit A --

25 A. Um-hum.

1 Q. -- I just wanted to go over each of the items
2 with you, because I think you've been good enough to
3 give me some of the items. Others, I don't recall
4 seeing.

5 Let's take a look at Item No. 3 on the list.
6 It says, The number and general nature of the
7 construction projects performed by Praxis Construction
8 in Collier County, Florida or Lee County, Florida.

9 Have you ever amalgamated or put together a
10 list of all of the projects that you've done in Collier
11 and Lee County, Florida?

12 A. No.

13 Q. Okay. So you don't have a list, correct?

14 A. Correct. No list.

15 Q. All right. You just know the -- that you've
16 been involved with, as you've described it, about 125
17 projects, as I understand it, correct me if I'm wrong.
18 About 90 percent of them are condominium, correct?

19 A. Correct.

20 Q. Okay. And that's since the creation of Praxis
21 in 2017, correct?

22 A. Correct, for this -- for Collier County.

23 Q. For Collier County. Very good.

24 Okay. And the next thing that it asks in my
25 list is for all construction projects performed by

1 Praxis at 400 La Peninsula Boulevard. And I noted with
2 interest that you sent to me two different proposal
3 contracts. Let's start off by talking about how many
4 projects has Praxis been involved with at 400
5 La Peninsula?

6 A. Well, you know in Exhibit A, 4, you know, the
7 question is performed, that means completed. So it's
8 only one that I have completed, which is 443 unit.

9 Q. Are you presently under contract to perform
10 any other projects at 400 La Peninsula?

11 A. Yes.

12 Q. And what unit is that for -- or what unit or
13 units is that for?

14 A. Currently, we're working at 409, 411 --

15 Q. Okay.

16 A. -- and 441.

17 Q. Okay. When did you commence work -- you've
18 already commenced work on these four different unit
19 projects, correct?

20 A. Three units.

21 Q. Right. These three unit projects, correct?

22 A. Correct.

23 Q. And has -- relative to 409, has a building
24 permit been issued for that project?

25 A. All three units have a permit.

1 Q. All three units have a notice of commencement?

2 A. Yes.

3 Q. Okay. And all three units have ongoing

4 projects? As we sit here today, work has begun,

5 correct?

6 A. Correct.

7 Q. All right. Okay. Has Praxis entered into

8 agreements for these three projects with 400

9 La Peninsula Condominium Association?

10 A. Yes.

11 Q. Okay. I noted that you provided to me a

12 contract for 411, but I didn't see that you had provided

13 to me any contracts for 409 or 441. Following today's

14 deposition, would you be able to provide to me, if I

15 asked you, copies for 409 and 441?

16 A. I don't see why not. I mean, it's not part of

17 these subpoenas, but I have no problem, you know,

18 submitting those. It's the same, it's just, you know, a

19 different unit number.

20 Q. Okay. Fair enough.

21 The next item that we asked you to produce

22 were all contracts, whether executed or unexecuted,

23 between Praxis and 400 La Peninsula Condominium

24 Association.

25 Just so that it's clear for the record, those

1 contracts would be for 443, 409, 411 and 441, correct,
2 Mr. Morales?

3 A. No. 443.

4 Q. 443, I said. 443, 409, 411, and 441.

5 A. Yeah. But isn't this subpoena for 443?

6 Q. Yes. But we had asked you more broadly about
7 other units as well. That's why I've asked you these
8 questions. The subject matter of this is primarily 443,
9 correct. But my question is, but there are other
10 contracts, and you've listed them today as 409, 411, and
11 441, correct?

12 A. Correct.

13 Q. Okay. That's all I'm asking.

14 You were asked to send -- to provide today all
15 emails, letters, text messages, or other communications
16 between Praxis Construction and 400 La Peninsula. Have
17 you provided those to me?

18 A. Yes.

19 Q. Okay. The next thing you were asked to
20 produce is all internal communications or discussions,
21 including emails, text messages, correspondence, or
22 other contact between license holders, qualifiers,
23 officers, directors, shareholders, or agents of Praxis
24 Construction relating to all construction projects
25 performed by Praxis at 400 La Peninsula. Do you see

1 that?

2 A. Yes.

3 Q. Have you provided all that you have in your
4 records to me as far as those are concerned?

5 A. Yes.

6 Q. Okay. The eighth item said, All permits
7 pulled by Praxis relating to any work at 400
8 La Peninsula.

9 You provided to me the permit, I believe we'll
10 be looking at it later today, for 443. You have not yet
11 provided to me the permits for 409, 411, and 441,
12 correct?

13 A. Correct.

14 Q. Okay. The next one is all notices of
15 commencement prepared or filed by Praxis relating to any
16 work at 400 La Peninsula. There would be, again, for
17 the record, the only notice of commencement I think that
18 you provided to our office was for 443, but is it your
19 testimony that there are also notices of commencement
20 for 409, 411, and 441?

21 A. Correct.

22 Q. Okay. You provided to me, I think, a -- it
23 says, All photographs of 400 La Peninsula Boulevard,
24 Unit 443. We may look at those later on in your
25 deposition. Have you provided all of those photographs

1 to our office?

2 A. Yes.

3 Q. Next we had asked you to produce any -- all
4 summaries, field notes, field reports, or other writings
5 containing any written observations of the condition of
6 the subject property prior to Praxis performing any work
7 at the subject property.

8 Have you provided any of those documents to
9 me?

10 A. Yes.

11 Q. And what have you provided to me that would be
12 responsive to Item 11?

13 A. JMC Engineering plans, structural plans --

14 Q. Okay.

15 A. -- and specifications and waterproofing
16 specifications.

17 Q. Okay. We'll examine those later on in the
18 deposition. Anything else that you provided to me that
19 would be responsive to 11, Mr. Morales?

20 A. No. Those two specs are the only reports.

21 Q. Number 12 asked for you to provide all reports
22 or other documents reviewed by Praxis Construction prior
23 to performing any work at the subject property. Okay.
24 Other than the JMC items that you've described and the
25 waterproofing specifications, anything else?

1 A. No.

2 Q. Okay. I also asked for your entire file
3 relating to the property and any work performed by
4 Praxis. Have you provided that to our office?

5 A. Yes.

6 Q. Okay. All right. Mr. Morales, let's take a
7 look at what I'm going to mark as Exhibit No. 2 for
8 identification, which is a document titled Proposal. Do
9 you see that?

10 A. Hold on a second.

11 (Exhibit 2 was marked for identification.)

12 Q. It's a document entitled Proposal. It relates
13 to project name units -- it says, Units 443//Sliding
14 glass door opening remediation and related work.

15 A. Correct.

16 Q. Do you see that?

17 A. Yes.

18 Q. Let's take a look at it as we go along here.
19 Who contacted you -- were you -- let me ask you this:
20 Were you contacted to provide any labor, services, or
21 materials at 400 La Peninsula relating to Unit 443?

22 A. Yes.

23 Q. Okay. And who contacted you?

24 A. Management, you know, 400 management company,
25 Volhr management company.

1 Q. Did you speak with anyone specifically from
2 Volhr about performing any work for the Unit 443?

3 A. Yes. Mr --

4 Q. And who did you -- go ahead.

5 A. Mr. John Nolan.

6 Q. Okay. And how did Mr. Nolan contact you?

7 A. Via phone.

8 Q. Okay. And do you recall what he said to you?

9 A. That he had a project, and, you know, we're
10 working -- you know, he heard about us working for
11 another condominium, and if we were interested in
12 bidding the project for him.

13 Q. What did he tell you about the project,
14 meaning Unit 443?

15 A. That a unit was experiencing water intrusion
16 and had -- and needed to be restored, you know, sliding
17 glass door openings needed to be restored.

18 Q. Okay. And what specifically did he say about
19 the water intrusion into Unit 443?

20 A. Nothing specific. He told me that it was a
21 water intrusion problem with some stucco and concrete
22 repair, and he had -- and I asked him if he had an
23 engineer involved, and he told me yes. So that's when,
24 you know, he told me that he was going to send the
25 specs. So I didn't get into any details on that.

1 Q. Okay. Following your discussion with
2 Mr. Nolan, what did you do next relating to this
3 project?

4 A. I requested the specs, and then we scheduled
5 an appointment to look at the unit.

6 Q. Okay. And approximately -- let's put a
7 timeline on it. When did Mr. Nolan first contact you
8 telephonically?

9 A. I think July. I don't have the specific date,
10 but July.

11 Q. Of 2022?

12 A. Of 2022.

13 Q. Okay. So he contacts you telephonically, and
14 then you request the opportunity to go on site, correct?

15 You okay there? I'm losing you.

16 A. Yes.

17 Q. Okay. Good.

18 Okay. Then you went on site. And describe to
19 me who was with you when you went on site.

20 A. Mr. Nolan and myself.

21 Q. And when you went on site, describe to me what
22 you looked at and how you gained access to what you
23 looked at.

24 A. We gained access from inside the unit.
25 Mr. Nolan, you know, provided the access, and I looked

1 at, you know, the sliding glass doors opening, and I
2 measured, you know, the openings and the walls, and I
3 did, you know, my takeoff.

4 Q. Okay. So Mr. Nolan opens up the front door,
5 as I understand it, to Unit 443, correct?

6 A. Correct.

7 Q. You walked through the unit, and then you go
8 on to the common elements balcony, correct?

9 A. Correct.

10 Q. Okay. And you're then standing on the
11 balcony, and you're looking at the sliding glass doors,
12 correct?

13 A. Correct.

14 Q. Okay. And you're looking at -- are you also
15 looking at the surface of the -- of that common elements
16 patio?

17 A. Correct.

18 Q. Okay. And what else are you looking at or
19 observing?

20 A. The knee wall, you know, there's a balcony
21 knee wall, patio, and walls, because that's, you know,
22 what was related to the scope of work.

23 Q. Okay. And what did you and Mr. Nolan discuss
24 when you went on site?

25 A. I mean, he opened the door, and we didn't

1 discuss anything in detail, you know, he told me that
2 there were water intrusion and just measure, you know,
3 the areas that I needed to measure for estimating
4 purposes.

5 Q. Did Mr. Nolan give you any indication for how
6 long the unit had suffered from water intrusion?

7 A. No.

8 Q. Okay. All righty. Following your -- at the
9 time you went on site with Mr. Nolan, did you take any
10 photographs, the first time?

11 A. Yes.

12 Q. And are any photographs that you took when you
13 first went out there, have they been provided to me?

14 A. Yes.

15 Q. Okay. All right. We can look at those later.

16 All righty. So you go on site, you look at
17 the unit, you take photographs, and how long do you
18 spend with Mr. Nolan on site?

19 A. About 20 minutes.

20 Q. Okay. And then what happens after you and
21 Mr. Nolan are on site? You then at some point in time
22 exit the unit?

23 A. I exit the unit.

24 Q. Okay. And then --

25 A. And he locked --

1 Q. What's that? I'm sorry to interrupt.

2 A. Yeah. And then I exit the unit, he exit the
3 unit, and he locked the door.

4 Q. Okay. Following that on-site meeting with
5 Mr. Nolan, when's the next time you had any contact with
6 anyone from either 400 La Peninsula Condominium
7 Association or its management company including John
8 Nolan?

9 A. After -- you know, it took me a couple of
10 weeks, you know, to develop, you know, the proposal, and
11 then, you know, I forwarded it to Mr. Nolan. We
12 reviewed the proposal, and it was via email.

13 Q. You mentioned the proposal. I'm going to show
14 you, I think, what we've marked as Exhibit No. 2 for
15 this deposition, which is a document entitled Proposal
16 from Praxis Construction, Incorporated. And then it
17 says, John Nolan. It says, 600 La Peninsula. You mean
18 really 400 La Peninsula, correct?

19 A. Correct. 400 La Peninsula.

20 Q. That's a typographical error there, right?

21 A. Correct. It's a typo.

22 Q. Okay. So this proposal -- tell me what this
23 proposal is that we're looking at right now.

24 A. The proposal is based on, you know, JMC
25 Engineering plans that were provided to me and from

1 similar, you know, units on 200 La Peninsula that we
2 recently completed for the other association.

3 Q. Well, let's go sort of step by step. So we
4 understand that the -- it indicates in the scope of
5 work: We, Praxis, propose to furnish all labor,
6 materials, equipment, and supervision required to
7 complete the following scope of work. And it says,
8 Waterproofing remediation and related work based on JMC
9 Engineering, Incorporated plans 117VCM.01-02 dated
10 4/6/2022.

11 Let me stop there. What plans are those?

12 A. The plans that I submitted, you know, on the
13 subpoenas on the Exhibit B, JMC plans.

14 Q. Okay. So the plans that we're talking about
15 are the specific plans prepared by Joseph Clark with
16 those numbers and -- with that number on it and that
17 date on it, correct?

18 A. Correct.

19 Q. All right.

20 A. Yes.

21 Q. Okay. And then -- okay. So it says your
22 waterproofing remediation related work is based upon
23 those plans. And then it says, And from recent
24 completed units at 200 Peninsula by Praxis with same or
25 similar waterproofing failures. Describe what you meant

1 by that.

2 A. Working for another association that have the
3 same building structure that we completed, you know,
4 similar, you know, unit problems for them.

5 Q. Okay. And what were the same or similar
6 waterproofing failures to which you were referring to
7 relating to the completed units at the 200 Peninsula
8 project?

9 A. Lanai deck waterproofing, you know, failures.
10 And wall -- you know, and wall transitions -- floor/wall
11 transition failures.

12 Q. What do you mean by deck failures?

13 A. Waterproofing system on the lanai concrete
14 slab.

15 Q. And what was the failure?

16 A. The waterproofing was shot and no longer
17 useful.

18 Q. Did you experience at the 443 unit that same
19 problem relating to the deck that you had experienced
20 relating to the 200 building?

21 A. Yes.

22 Q. Okay. Then you also said that there were wall
23 transition failures in the 200 building. What are the
24 wall transition failures that you observed in the 200
25 building?

1 A. Framing conditions that, you know, I just sent
2 them to the concrete slab that were, you know, had some
3 delamination because of the waterproofing failures on
4 the deck bringing, you know, water to the wall
5 intersection all tied to the same problem.

6 Q. Those are problems that you first observed at
7 the 200 building, correct, at La Peninsula?

8 A. Correct. Yes.

9 Q. And you saw those same failures or problems at
10 the Vasbinder unit, the 443 unit at this building,
11 correct?

12 A. I didn't saw the problems. I, you know, just
13 stated as a part of my experience and proposal that it
14 was going to be based on a completed unit that I had in
15 200.

16 Q. Okay. And based upon what you had done at
17 200, you did the same thing at 443 relating to the wall
18 transitions, correct?

19 A. Correct.

20 Q. All right. Very good.

21 Okay. Let's take a look at your proposal a
22 little further, and let's make sure we understand
23 everything. If we look at the top, it says, Project
24 name: Unit 443. This is the unit which is the subject
25 of this dispute today, correct?

1 A. Correct.

2 Q. Okay. And then it says -- it's got two slash
3 marks next to it, and it says, Sliding glass door
4 opening remediation and related work.

5 First of all, tell me what you meant by
6 sliding glass door -- I think it's one sentence --
7 opening remediation, correct?

8 A. Correct.

9 Q. Okay. And what do you mean by that?

10 A. The remediation is based on JMC Engineering
11 plans, and it's spelled out on the plans.

12 Q. Okay. So if we look at the JMC Engineering
13 plans, that would describe what is the sliding glass
14 door opening remediation, correct?

15 A. Correct.

16 Q. Okay. And then it says, And related work.
17 What work would then relate to dealing with the sliding
18 glass door opening remediation problem identified in the
19 JMC Engineering plan?

20 A. The slab, you know, the waterproofing -- the
21 lack of waterproofing on the slab. And that's on the
22 scope of work, you know, that's on a different document,
23 not in the JMC plans. That's in the specification from
24 JMC Engineering, waterproofing specification.

25 Q. That's in the traffic coating specification

1 we're going to be looking at, correct?

2 A. Correct. Yes.

3 Q. All righty. Understand.

4 Now, let's take a look further at your
5 proposal, if you would be so kind. First of all, it's
6 got a topic here, General Conditions. Describe to me
7 what this element of your contract is. What are the
8 general conditions?

9 A. It's spelled out, you know, in parentheses.
10 Survey, temporary protection, scaffolding, ladders,
11 porta potty, dumpster, inspection time, mockups,
12 testing, mobilization, and demobilization.

13 Q. I didn't see any mockups. Were there any
14 mockups on this project?

15 A. Yes. We did a field mockup for JMC
16 Engineering to review and approve prior to the
17 waterproofing installation which was approved.

18 Q. Okay. And describe to me or describe for the
19 record what is a mockup, and then you can tell me where
20 it was performed and how it was performed.

21 A. A mockup, it's a, you know, sample of the
22 system, of the waterproofing system, and it was applied
23 on a small section on the concrete deck.

24 Q. On a small section of the concrete deck?

25 A. Correct.

1 Q. Okay. All righty. And what -- describe to me
2 in further detail what the mockup is. Is it -- were you
3 applying some coating to it? Were you taking some
4 coating off and putting something on it? What were you
5 doing with the mockup?

6 A. The mockup, it's on bare concrete that was
7 previously prepared for specs, and it's a fluid-applied
8 system applied directly to the concrete, which includes
9 all of the layers of the waterproofing membrane.

10 Q. And once the mockup work is done, then what
11 happens? Is there a test that's performed on the
12 mockup?

13 A. Yes. JMC, you know, did a test on the mockup.

14 Q. And what -- were you there for the test?

15 A. No, I was not there for the test.

16 Q. So you don't know what the test -- what the
17 test -- you don't know what the test was, I guess. Is
18 that what your testimony is, or do you know?

19 A. Well, typically, it's an industry standard
20 that an engineer, you know, does a test on the mockup
21 for, you know, adhesion, for strength, pull test, and
22 finish.

23 Q. Was there a pull test done on this?

24 A. Yes.

25 Q. Okay. And do you have those results of the

1 pull test?

2 A. No.

3 Q. And do you have any of the results of any of
4 the other testing that you believe was performed by JMC?

5 A. No.

6 Q. Okay. All right. Did you ever discuss with
7 anyone from JMC the results of the mockup and the
8 testing that followed that mockup?

9 A. Yes. I asked for the results, and, you know,
10 we were told that, you know, it was good, and we were
11 granted to proceed with the waterproofing application.

12 (Connection malfunction.)

13 THE COURT REPORTER: Henry, she fell off.

14 MR. JOHNSON: Okay. Hold on. We lost a
15 lawyer.

16 (Discussion held off the record.)

17 BY MR. JOHNSON:

18 Q. Okay. We're back on the record. Mr. Morales,
19 just so it's clear for the record, the mockup was done
20 only on the slab, correct?

21 A. Correct.

22 Q. All right. And, to your knowledge, based upon
23 the mockup that was done, you received the go-ahead from
24 the engineer to do the traffic coating waterproofing on
25 the slab itself, correct?

1 A. Correct.

2 Q. All right. Okay. Also, in the general
3 conditions of this proposal, there's a listing of
4 mobilization and demobilization. What is that?

5 A. Mobilization and demobilization, it's, you
6 know, set up the job and demobilize the job. You know,
7 bring in tools, equipment to the site and removing those
8 back to our warehouse.

9 Q. All righty. And when did the job -- when
10 did -- when did you begin the providing of labor,
11 services, and materials for this job, meaning when did
12 Praxis do that?

13 A. After we obtained a permit. So we started in
14 July. And I'm going to need to back up when I met, you
15 know, John Nolan, because it was June. I was confused
16 on the dates.

17 Q. Okay.

18 A. So we applied for a permit, and, you know, a
19 permit was issued, and then we started, you know, like
20 second week -- I mean, July, beginning of July.

21 Q. Okay. We could rely upon the issuance of the
22 permit and the notice of commencement as the date for
23 when your work began, correct, on site?

24 A. It's not the exact date that's in the permit,
25 you know. It was -- I have to go back to the labor

1 reports and all of that to provide you with the exact
2 date, but it was early July.

3 Q. Okay. Just so it's clear for the record, the
4 permit for this project of the 443 La Peninsula sliding
5 glass door opening waterproofing remediation and
6 exterior building envelope, the permit was issued on
7 August 11th of 2022, just for your recollection, based
8 on the records you provided to me. Does that help you
9 to determine your start time?

10 A. I know we started, you know, time prior of
11 obtaining the permit, like setting up protection and,
12 you know, doing the general condition, mobilization, and
13 stuff like that. But I have to look at, you know, the
14 labor reports and see when exactly, you know, we
15 started. But we started, you know, now that I remember,
16 we started a little early setting up the protection for
17 the job.

18 Q. Okay. So if we said that maybe a week ahead
19 of August 11th, 2022 is when you started, would that
20 make sense?

21 A. That sounds reasonable.

22 Q. Okay. All righty. The next item on your
23 proposal, scope of work, is Permitting Allowance.
24 What's that? That's an allowance to the contracting
25 party for the cost of a permit, correct?

1 A. Correct.

2 Q. Okay. The next item, it says, Installation of
3 a temporary plywood barrier wall 3 feet back from
4 sliding glass doors, additional tarps as needed to
5 outside exposed openings overnight and weekends.
6 Describe to me what this means.

7 A. The scope of work, you know, it's remove and
8 reinstall the existing sliding glass door. So while the
9 openings are exposed, we are providing a temporary
10 barrier wall inside the unit to protect that interior of
11 the unit from the elements, and, also, tarps on the
12 outside for over the weekends and overnight for any
13 summer rains.

14 Q. Okay.

15 A. And that's the purposes of the protecting the
16 interior of the unit.

17 Q. Okay. Got it.

18 The next item, it says, Removal and
19 reinstallation of existing sliding glass doors (As-is,
20 this work does not represent an improvement of the
21 mechanism of the door, repairs, or guaranties weather
22 tightness of the door itself). Describe to me what this
23 element of the Praxis scope of work is.

24 A. It's an old door that we are proposing to
25 remove and reinstall as an old door. And it's not my

1 job to, you know, provide an improvement of the door.
2 If the structural sealants of the door itself are, you
3 know, failing, or if there's bumpers or rollers in the
4 track or tracks, that it's old and it's not working
5 properly, we're not providing that service on this
6 proposal.

7 Q. Describe to me how the, what you've just said,
8 the old door is removed. Describe to me the process of
9 the removal of the old door.

10 A. We take the panels off and then continue with
11 the vertical jambs and tracks, and they get stored
12 inside the unit.

13 Q. The panels for the purpose of the record are
14 what?

15 A. The sliding glass door panels, the glass
16 panels.

17 Q. Okay.

18 A. The retractable panels of the door.

19 Q. Okay. So step one, take off the panels.
20 Okay. Then step two, take off the vertical jambs. Is
21 that what your testimony is?

22 A. Yes.

23 Q. Okay. And how are the panels taken off?

24 A. You pop them, you know, on the side. You
25 know, you move the doors up to the track, to the

1 overhead track, and then you -- at an angle, you take it
2 off the track, and then they're off.

3 Q. Okay. That's how you take the -- that's how
4 you take the panels off.

5 Okay. Now how do you -- then you're left with
6 an opening with jambs on the top, side, and bottom; is
7 that correct?

8 A. Correct.

9 Q. Okay. Then what do you do with those jambs?

10 A. You unscrew the fasteners that are connecting
11 to the jambs, and you store the jambs and tracks, you
12 know, inside. Take every fastener, you know, that's in
13 place on the existing jambs and tracks.

14 Q. So at this point in time, we have now the
15 panels are off, the jambs -- all of the jambs have been
16 removed, they've been unscrewed, correct?

17 A. Correct.

18 Q. Okay. And they're placed inside Unit 443,
19 correct?

20 A. Correct.

21 Q. Then at that point in time you have
22 essentially a fairly wide opening where the panels were
23 off and the jambs have been removed that's exposed to
24 the outside, correct?

25 A. Correct.

1 Q. And that's where you then -- following that,
2 is that where you install the temporary plywood barrier
3 wall?

4 A. Yeah. It's installed prior of the removal of
5 the door.

6 Q. Oh, I see.

7 A. It's a protection.

8 Q. Okay. Thank you.

9 And the barrier wall is removed -- and the
10 barrier wall is placed on the inside of the unit or on
11 the common elements exterior?

12 A. Inside of the unit.

13 Q. Perfect. Understand well. Thank you,
14 Mr. Morales.

15 Okay. So then the next element of your scope
16 of work says you're going to remove and replacement
17 of -- Removal and replacement of stucco wall, slab to
18 slab. New stucco includes new CDX plywood sheathing,
19 BITUTHENE -- and I maybe said that incorrectly,
20 B-I-T-U-T-H-E-N-E -- waterproofing membrane, lathe, PVC
21 accessories, and stucco (texture to match existing).

22 Tell me what this is.

23 A. That is removal of the stucco around, you
24 know, the door openings and wall transition.

25 Q. What do you mean by remove stucco around the

1 door openings?

2 A. Per the specs, you know, we got -- you know,
3 there's a reinforcing, you know, spelled out on the
4 specs, so you've got to get to that reinforcing. In
5 order to get to certain locations, you've got to remove
6 the stucco that's in your way.

7 Q. Okay. And how was the stucco removed?

8 A. Mechanically.

9 Q. What kind of machine?

10 A. 5-inch grinders with chipping hammers.

11 Q. Okay. And how much stucco -- help me out a
12 little bit with the visual. How much stucco is removed,
13 first of all, on the bottom of the -- where the slider
14 was and above where the top of the slider was?

15 A. I mean, it's from the top of the sliders --
16 you know, there's not a lot of stucco, you know, in
17 between the sliders, so part of the reinforcing is in
18 the waterproofing of the rough opening is to come up
19 over the door. So it's from over the door all the way
20 down to the floor. So it's basically the entire wall on
21 that -- where, you know, the slider glass doors are in
22 place that the stucco has been removed. Part of the
23 waterproofing and remediation of the slab and part of
24 the waterproofing and reinforcing for remediation of the
25 door opening.

1 Q. Okay. And relative to the stucco that's on
2 either side of the sliding glass doors, not top and
3 bottom but on the two sides, how much stucco as part of
4 your removal and replacement process do you remove?

5 A. You're talking about the adjacent walls on the
6 reverse of the door?

7 Q. Yeah, the adjacent.

8 A. Yeah. So about 12 inches.

9 Q. Okay. So if we looked at the opening where
10 the vertical jambs existed, when the stucco is removed,
11 you remove 12 inches to either side of that jamb; is
12 that correct?

13 A. I'm not picturing, you know, what you're
14 describing. You're talking about the walls on the
15 return on the -- on the privacy wall and the bathroom
16 wall, or where are you describing that return?

17 Q. I'm trying to figure out how many inches from
18 the edge of the -- of the vertical jamb you removed
19 stucco in order to complete your process.

20 A. All the way to the inside corner.

21 Q. Okay.

22 A. Where the -- you know, there's a return wall,
23 you know, on one side of the wall -- I mean, if you're
24 picturing, you have your eyes in front of the door
25 opening, there's only like 6, 10 inches on either side

1 of the return on the left, and then there's a wall, the
2 bathroom wall. So it's corner to corner.

3 Q. Okay. Got it.

4 All right. It says you're going to remove and
5 replace the stucco slab to slab, and you've told me that
6 it's done mechanically. And then you're going to put in
7 new stucco, including new CDX plywood sheathing and some
8 other items. Describe to me what those elements are
9 under Item 5 of your scope of work.

10 A. So you remove the stucco, and then we're going
11 to reinstall the stucco with a new sheathing and a new
12 waterproofing membrane on that sheathing.

13 Q. And why is that necessary?

14 A. Otherwise it will, you know, create a water
15 intrusion in the future. That's an industry standard
16 for restocking frame walls. It's part of the Florida
17 Building Code.

18 Q. All right. And that's what you had to do in
19 this case because you had removed the sliders, correct?

20 A. Correct.

21 Q. All right. Okay. And it says, Texture to
22 match existing. What does that mean?

23 A. Stucco finish texture.

24 Q. So it has to be the same as what's on the
25 building, correct?

1 A. The same as what's on the building.

2 Q. Okay. Now the next item as part of the scope
3 of work is, Lanai deck and concrete curb waterproofing
4 remediation, 5-year membrane, BASF1500 pedestrian
5 finish. Please review that and tell me what Item No. 6
6 means in your own words.

7 A. Okay. So remove and dispose existing floor
8 finishes. Mechanically, we remove that floor finish.
9 We take it down to the bare concrete and create the
10 proper first profile.

11 Q. We're talking about the deck floor on the
12 common area lanai?

13 A. The deck floor on the common area. Yes, the
14 deck floor on the common area lanai.

15 Q. Okay. Very good.

16 A. Part of the spec is that that membrane on the
17 horizontal surface will be -- we're going to be bringing
18 that membrane up, you know, up the walls on all four
19 sides. On one side of the, you know, square, you have
20 the concrete curb, the new concrete curb that it's --
21 the sliding glass doors are going to be sitting on.
22 That's going to be -- the membrane will be over that
23 concrete curb and up the walls on the other three sides.

24 Q. And how do you know what protocol you're to
25 utilize for the lanai deck and concrete curb

1 waterproofing remediation?

2 A. Based on the manufacturer application
3 guidelines and also JMC Engineering waterproofing
4 specifications.

5 Q. And Praxis, as I understand it, knew that it
6 had to do this lanai deck concrete curb waterproofing
7 remediation because that's what was recommended by JMC,
8 correct, and spec'd?

9 A. Correct.

10 Q. All right. Okay. Then the next item says,
11 Re-stucco treated areas. Do you see that?

12 A. Yes.

13 Q. Okay. And what's that?

14 A. Anywhere that I had to remove stucco as part
15 of my scope for either access of waterproofing will get,
16 you know, re-stucco. On Item No. 5, where, you know,
17 we're spelling out that it's the wall, but every area
18 that I had to remove stucco for either waterproofing
19 application or access would be re-stuccoed to match
20 existing finishes.

21 Q. Before you did work on the lanai deck and
22 concrete curb, did you observe the existing condition of
23 the lanai deck and concrete curb?

24 A. Yes.

25 Q. Okay. And what condition did you observe?

1 A. It had a concrete stain, waterproofing, or
2 some kind of floor finish. That's what I observed. I
3 did not inspect it. I observed it only.

4 Q. Okay. And did you -- before you removed any
5 of the exterior walls and re-stuccoed them, did you
6 observe the existing condition of those exterior walls?

7 A. I did.

8 Q. Okay. And what did you observe?

9 A. I observed the stucco finishes.

10 Q. Meaning what?

11 A. Meaning that, you know, it was -- I mean, the
12 stucco didn't told me anything about the problems,
13 because, you know, you can't X-ray through stucco,
14 right? And stucco is not a waterproofing, so I observed
15 the walls, looked at it and measured it, and that's it.

16 Q. During the course -- during the period of time
17 that Praxis provided work, which is the subject of this
18 proposal, Exhibit No. 2, did you have the opportunity to
19 be on site?

20 A. Correct.

21 Q. Did you observe, as the work was being
22 completed, any conditions that existed that evidenced
23 the likely source of the entry of water into Unit 443?

24 A. After removing the stucco, we noticed, you
25 know, that some of the frame had evidence of water

1 stain, and, also, the steel column had some evidence of
2 water intrusion.

3 Q. Okay. Anything else that you observed which
4 would have been a likely source of the entry of water
5 into the Vasbinder unit?

6 A. The floor, on the floor it had some water
7 staining, and the curb, the existing curb had some water
8 staining.

9 Q. Curb along the -- next to the bottom of the
10 track, correct?

11 A. Correct. Yes.

12 Q. Any other sources of water intrusion that you
13 observed during the course of performing any of the work
14 with Praxis?

15 A. That I observed, no.

16 Q. Okay. All right. The next thing it indicates
17 here on the proposal is the next item, Re-stucco treated
18 areas. What does that mean?

19 A. I already answered that. It was any stucco
20 that we had to remove for waterproofing and reinforcing
21 purposes or for access, we are covering on our estimate
22 to re-stucco those areas.

23 Q. Very good.

24 And what's the next item here, Prime and paint
25 treated areas? What does that mean?

1 A. All new stucco, and it's going to get -- we're
2 going to prime and paint the new stucco.

3 Q. Okay. Then it says, 9, Remove and replace
4 damaged drywall at door openings. Finish drywall is to
5 be paint ready and does not include carpentry or any
6 trim. What does the remove and replace the damaged
7 drywall to door openings mean? Have you already covered
8 that?

9 A. That's on the interior of the opening, you
10 know, while you're removing doors, or you're doing the
11 curb, you know, drywall can be damaged. And, also, I
12 noted that there was some drywall removed prior of us
13 doing the work by others. So the association asked to
14 re-drywall those areas.

15 Q. Okay.

16 A. Estimate, you know, the cost of that.

17 Q. Then it says you're going to remove
18 protection. What does that mean?

19 A. Remove the barrier wall that we installed
20 inside the unit. Any plastic covering, you know,
21 floors, any plastic-type thing, you know, finishes, all
22 of that protection will be removed.

23 Q. Okay. And, to your knowledge, did the work
24 that you performed resolve the water intrusion problem
25 at Unit 443?

1 A. Not me personally, but, you know, from a
2 comment from the board president 400 was expressed that,
3 you know, after the storm Ian, he went and inspected
4 this unit, and what he expressed was that no water came
5 in to, you know, that unit.

6 Q. So, to your knowledge, you spoke with the
7 board president, Mr. -- was his name Mr. Ramer?

8 A. Yes.

9 Q. Okay. So you spoke to Mr. Ramer. Mr. Ramer
10 said that he had entered the unit following Hurricane
11 Ian, and that the labor, service, and materials that had
12 been provided by Praxis, he said, stopped -- he didn't
13 observe any water intrusion following that hurricane,
14 correct?

15 A. No. He made a comment that, you know, what we
16 did, you know, it didn't leak or anything. I don't know
17 how he determined that, because it wasn't part of the
18 discussion. He made a comment that, you know, the work
19 that Praxis performed on Unit 443, after Ian, no water
20 was observed.

21 Q. Okay.

22 A. I didn't talk to him about it specifically how
23 he determined that, you know, conclusion.

24 Q. Okay. Fair enough. Thank you.

25 Let's take a look at Exhibit No. 3 for

1 identification as part of your deposition.

2 (Exhibit 3 was marked for identification.)

3 Q. Exhibit No. 3 purports to be another proposal
4 for Unit 411. You provided it to me -- you were kind
5 enough to provide this to me as part of your documents
6 for today's deposition. Let the record reflect I'm
7 showing you Exhibit 3. It's a proposal to a John
8 Nolan/600 La Peninsula Association. I'm assuming that's
9 400 La Peninsula, correct, Mr. Morales?

10 A. Yes. Correct.

11 Q. And this is for Unit 411. Unit 411//Sliding
12 glass door opening remediation and related work.

13 Now as I understand it, 400 La Peninsula has
14 entered into this proposal agreement now with you,
15 correct?

16 A. Yes.

17 Q. Okay. And this is one of the units that
18 you're presently doing work at; is that correct?

19 A. Correct.

20 Q. How does -- I noted with interest, and correct
21 me if I'm wrong, but I noted with interest that the 11
22 scope-of-work items, which are the subject of this
23 proposal, talking about 411, are the same 11 items which
24 are the subject of the Unit 443 proposal. Am I correct
25 in understanding that?

1 A. Yes.

2 Q. And how does -- and in terms of -- at the top
3 of the proposal, which is Exhibit 3 for this deposition,
4 it refers, again, to waterproofing remediation and
5 related work based on JMC Engineering plans 117VCM.01-02
6 dated 4/6/2022 and from recent completed units at 200
7 Peninsula by Praxis Construction with the same or
8 similar waterproofing failures. Do you see that,
9 Mr. Morales?

10 A. Um-hum. I'm looking at it.

11 Q. Okay. Good. I didn't know if you saw it.

12 A. Yeah. That's in an old proposal, what you
13 have in your hand.

14 Q. Okay. Is there a more recent proposal?

15 A. I'm looking at it. Yes. The one that we have
16 on file, it's not dated, you know, 4/6/2022. What we
17 executed, it's not dated -- the plans were not dated
18 4/6/22. There's a recent proposal not dated, you
19 know --

20 Q. Are you generally familiar with the work
21 that's being done at Unit 411?

22 A. Yes.

23 Q. How does the work which is presently being
24 done at 411 compare to the work that was done at
25 Unit 443?

1 A. Similar.

2 Q. Any differences at all?

3 A. Nope.

4 Q. Okay. Did -- is it -- did you observe that
5 411 had similar water intrusion problems as 443 had?

6 A. Yes.

7 Q. Okay. Would you say that the conditions for
8 the -- that you observed the water intrusion at 443 were
9 the same at 411?

10 A. What I observed was water stains, but, you
11 know, I didn't inspect it or did -- I'm not the design
12 professional, I'm just, you know, following a design
13 professional scope of work.

14 Q. Okay. You observed that there had been water
15 intrusion in 411 that was similar to water intrusion
16 that had existed, based on your observation, into Unit
17 443, correct?

18 A. Correct.

19 Q. Okay. All right. I note with interest that
20 the proposal I'm looking at -- and I understand you may
21 have modified this proposal. The proposal I'm looking
22 at for Unit 411 has a different lump sum price than the
23 lump sum price for Unit 443. Do you know why?

24 A. Yes. There's less door openings on 411. It's
25 less square footage.

1 Q. So it's just based upon the square footage of
2 door opening, correct?

3 A. Correct. The square footage on door openings
4 and square footage on deck. Square footage -- it's a
5 smaller square footage overall.

6 Q. I understand.

7 Let's take a look at Exhibit 4, which is a --
8 I'll tell you how many pages it is for the record. It's
9 one, two, three, four, five, six, seven, eight -- it's a
10 nine-page document. It's dated June of 2022. And I --
11 once you see it -- I'd like you to take a look at it,
12 Mr. Morales.

13 (Exhibit 4 was marked for identification.)

14 A. What exhibit are we looking at?

15 Q. I marked it as Exhibit 4. It's the Traffic
16 Coatings. Yeah, it's a multiple-page document. I just
17 identified the number of pages. It called Traffic
18 Coatings.

19 A. Oh, yeah. You mean the JMC Engineering spec?

20 Q. I think that's what you're going to identify
21 for me, but, yeah, I think that's what it is. Why don't
22 you take a look at it, and once you have it, tell me if
23 you recognize this.

24 A. And you're looking at Page 4?

25 Q. Um-hum.

1 A. Okay.

2 Q. Do you see that?

3 A. Yes.

4 Q. Okay. It says, Section 07 18 00 Traffic
5 Coatings. Identify for the record what is this?

6 A. This is the waterproofing specifications for
7 JMC Engineering.

8 Q. Okay. This was the one that was provided by
9 Joe Clark of JMC, correct?

10 A. Correct.

11 Q. And what was the purpose of this
12 specification?

13 A. Installation of a new waterproofing membrane.

14 Q. Okay. And walk me through this. Tell me how
15 I understand what this specification is in order to
16 determine what your company did.

17 A. I mean, you have to go through the specs and,
18 you know, and read it. This is a, you know,
19 waterproofing specification, installation for a membrane
20 by an engineer -- by a design professional. So I think
21 I'm not following your question, sir.

22 Q. Let me try it a little differently. Had you
23 ever been involved in utilizing a waterproofing
24 specification such as this before maybe in the 200
25 Peninsula building?

1 A. Yeah. It's the same system.

2 Q. Okay. And --

3 A. This system, it's a standard, you know,
4 industry waterproofing membrane that is being used on
5 condominiums quite a bit.

6 Q. What was the -- what is the existing condition
7 that you -- that Praxis confronted before doing your
8 deck work and utilizing this traffic coating
9 specification?

10 A. You know, like I said before, the existing
11 condition had a coating system and a flooring texture,
12 but I didn't inspect that, because it was not my job to
13 inspect it.

14 Q. You just know that had to be removed, the
15 existing condition, correct?

16 A. No. It was requested to price a new
17 waterproofing membrane on my bid.

18 Q. Okay. And the waterproofing membrane that you
19 priced on your bid is consistent with the traffic
20 coating specification that we're looking at here in
21 Exhibit 4, correct?

22 A. Correct. That is what I tried to price out.

23 Q. Are you presently utilizing a similar traffic
24 coating specification for any other work that you're
25 doing at 400 La Peninsula?

1 A. We quoted the same system on these other three
2 units that I'm currently working for 400 La Peninsula
3 Association.

4 Q. Okay. So it's clear for the record that the
5 coating system that you utilized at 443 is now also
6 being utilized at the other three units that we talked
7 about earlier in today's deposition, correct?

8 A. Correct.

9 Q. All right. Fair enough. Let's take a look at
10 Exhibit 5, which purports to be a permit.

11 (Exhibit 5 was marked for identification.)

12 Q. It is a one, two, three -- it's actually a
13 four-page document, Exhibit 5, entitled Permit. Do you
14 see that?

15 A. Um-hum.

16 Q. Is that a yes?

17 A. Yes.

18 Q. Okay. The permit lists as an owner
19 400 La Peninsula, a condominium. Do you see that?

20 A. Yes.

21 Q. Was that the owner of this permit?

22 A. Yes.

23 Q. And can you describe to me why
24 400 La Peninsula is the owner of this permit?

25 A. Because it's work being performed in common

1 areas.

2 Q. Okay. All right. And what do you mean by
3 common areas?

4 A. Building envelope and lanai decks are common
5 areas.

6 Q. Okay. And what do you understand is the
7 meaning of common area, based upon your years of
8 experience working for condominiums?

9 A. It's the association's responsibility to
10 maintain it and restore it. Every association carries
11 different, you know, laws, but, you know, part of the
12 building code, that's the jurisdiction of the
13 association.

14 Q. Is all of the work that your company performed
15 at 443 La Peninsula, was that done by and on behalf of
16 the condominium association?

17 A. Yes.

18 Q. Okay. And was all of the work that you've
19 done related to the common elements of the condominium
20 association?

21 A. Yes.

22 Q. All righty. Let's take a look at this -- this
23 permit a little further. Let's take a look at Page 3.
24 Okay. And on Page 3, it says, Commercial Permits. Do
25 you see that?

1 A. Yes.

2 Q. And I would ask you to take a look at Permit
3 Description. It says, Existing sliding glass door
4 opening waterproofing remediation. And then it says,
5 Exterior building envelope on behalf of the HOA. Do you
6 see that?

7 A. Yes.

8 Q. The HOA means the 400 La Peninsula Condominium
9 Association, Incorporated; is that correct?

10 A. Yes.

11 Q. Is it the 400 La Peninsula Condominium
12 Association, Incorporated that hired Praxis to do the
13 work which is the subject of what we've talked about
14 this morning?

15 A. Yes.

16 Q. And is -- and I understand that it's also the
17 400 La Peninsula Condominium Association that has paid
18 for the work of Praxis, correct?

19 A. Can you repeat that?

20 Q. Yeah.

21 As I understand it, the condominium
22 association has paid Praxis for the work which we're
23 talking about this morning, correct?

24 A. Yes.

25 Q. The permit bears a -- if you look at

1 Exhibit 5, the permit bears a date of August 11th, 2022.
2 Do you see that?
3 A. Um-hum.
4 Q. Is that a yes?
5 A. Yes.
6 Q. Remember, I need the verbal responses.
7 A. Yeah. That's fine. Yeah.
8 Q. Okay. August 11th of 2022. And what does it
9 mean, date issued?
10 A. The date it's issued, I mean, the permit is
11 issued.
12 Q. I'll help you. This is the county, Collier
13 County issuing a building permit to the owner and the
14 contractor so as to permit Praxis to do the work which
15 we've talked about this morning relating to Unit 443?
16 A. That is correct. That's the county --
17 Q. Okay.
18 A. -- issues permits.
19 Q. And from the county's position, this would
20 represent the official county start date for this
21 project, correct?
22 A. That is correct.
23 Q. All right. In order to -- describe to me in
24 order to get a building permit, what -- first of all,
25 who submits for the permit in Collier County? Is it the

1 owner, or is it the contractor?

2 A. I can only speak as a contractor. It's the
3 contractor, you know, that applies for a permit.

4 Q. Okay. And sort of practically speaking, is
5 the permit application done online, or do you physically
6 go down to, you know, 2800 Horseshoe Boulevard here in
7 Naples to get your permit?

8 A. Online.

9 Q. Okay. And then the permit is then ultimately
10 issued online, correct?

11 A. Correct.

12 Q. All right. And in order for you to apply for
13 a permit, it would have been necessary for you to have
14 engineered plans, correct?

15 A. Correct.

16 Q. And the engineer plans which we have talked
17 about generally today so far are the plans that were
18 prepared by JMC through Mr. Clark; is that correct?

19 A. Correct.

20 Q. All right. Let's take a look at Exhibit No. 6
21 for identification, which is a document entitled Notice
22 of Commencement.

23 (Exhibit 6 was marked for identification.)

24 A. Um-hum. Yes.

25 Q. Do you see that document? It says, Notice of

1 commencement.

2 A. I do.

3 Q. Do you happen to recognize the signature of
4 the owner on the bottom of that Notice of Commencement?

5 A. The bottom of the Notice of Commencement is
6 the public notary.

7 Q. All the way down is the public notary, yeah.
8 How about above the public notary, which says,
9 Officer/Director/Partner/Manager? Do you see that?

10 A. Yes.

11 Q. Do you recognize that signature?

12 A. Yes.

13 Q. And whose signature is that?

14 A. That is Barbara Nolan.

15 Q. Have you ever spoken to Barbara Nolan about
16 the 443 work?

17 A. Yes.

18 Q. Okay. And do you understand that Barbara
19 Nolan is a representative of the owner, 400 La Peninsula
20 Condominium Association?

21 A. Yes.

22 Q. And who is the owner on this Notice of
23 Commencement?

24 A. The association, 400 association.

25 Q. 400 La Peninsula Condominium, correct?

1 A. Um-hum. Yes.

2 Q. What's the purpose of, based upon your years
3 of experience as a contractor, of a notice of
4 commencement?

5 A. I mean, we're talking about permit, so...

6 Q. Well, actually, we've segued from permit to
7 notice of commencement, but if you want to tie them
8 together, you can explain, sure.

9 A. The notice of commencement, it's putting on
10 public that there's work being performed in that
11 location.

12 Q. Is it -- does the notice of commencement have
13 to be recorded before and simultaneously with the
14 issuance of a building permit in Collier County?

15 A. Before the first inspection.

16 Q. Okay. Very good.

17 Let's take a look at Exhibit 7, which is a
18 document entitled Master Builders Solutions, dated
19 August 12th, 2022.

20 (Exhibit 7 was marked for identification.)

21 Q. It's part of the records that you were good
22 enough to provide to me. It's a single-page document,
23 Mr. Morales. Do you see that?

24 A. Yes.

25 Q. Do you recognize this document?

1 A. Yes.

2 Q. What is it?

3 A. Part of the waterproofing specifications from
4 JMC Engineering required to have a letter from the
5 manufacturer stating the experience of the contractor.

6 Q. Okay. This relates to the work that was
7 performed by your company at Unit 443 relating to the
8 deck; is that correct?

9 A. That is correct.

10 Q. And it indicates in that that -- in Paragraph
11 2, With that said, Praxis has demonstrated themselves to
12 be a competent applicator of MasterSeal Traffic 1500
13 manufactured by Master Builders Solutions. Do you see
14 that?

15 A. Yes.

16 Q. Okay. And is that the same -- the
17 specification -- the traffic specification, is that the
18 specification we looked at earlier today in Exhibit 4?

19 A. Yes.

20 Q. Okay. Got it. Thank you.

21 Let's take a look at Exhibit 8 for
22 identification.

23 (Exhibit 8 was marked for identification.)

24 A. Um-hum. Yes.

25 Q. It purports to be a two-page document. The

1 first page is titled, Curb, Jamb & Waterproofing Detail.
2 And there's a second page, too. It's got an S-1 and
3 S-2. Do you recognize this?

4 A. Yes.

5 Q. What is this?

6 A. Structural plans.

7 Q. Prepared by?

8 A. That I include in my proposal.

9 Q. Okay. So these are the structural plans we
10 talked about earlier on which you based your proposal,
11 right, which we looked at as Exhibit 2, right?

12 A. Correct.

13 Q. And these were prepared by Joseph Clark; is
14 that correct?

15 A. Correct.

16 Q. And these plans were provided to you by
17 Mr. Clark in order for Praxis to do its proposal,
18 correct?

19 A. Correct.

20 Q. Okay. And it's based upon this particular
21 plan, these two pages, that Praxis made its proposal to
22 400 La Peninsula; is that correct?

23 A. Correct.

24 Q. Okay. And does this scope of work fairly and
25 accurately represent the entirety of your scope of work

1 that you were to perform in order to stop the water
2 intrusion into the Vasbinder unit?

3 A. Correct.

4 Q. Okay. Let's take a look -- because I think
5 some of these items you did mirror in your proposal,
6 Exhibit No. 2, but let's go through these, if you can,
7 where you looked on the end where it says, Scope of Work
8 on Page 2. Do you see that?

9 A. Page 2?

10 Q. Excuse me. Page 1. I apologize.

11 A. Okay.

12 Q. You got it?

13 A. Yes.

14 Q. Okay. Scope of work, remove existing sliding
15 glass doors. Is that what we talked about earlier in
16 the deposition?

17 A. Yes.

18 Q. Okay. Next it says, Install new structural
19 curb and jambs strengthening per detail S-1 and S-2.
20 Did Praxis provide that scope of work?

21 A. Yes.

22 Q. Okay. And describe to me how that was
23 performed.

24 A. How was that performed? By, you know,
25 following the specs that are on the second page, the

1 details, the drawing details.

2 Q. Fair enough.

3 Okay. And then it says, No. 3, waterproof
4 curb, jambs, and header in accordance with details S-2.
5 If we look at S-2 on Page 2, what drawings should we
6 look at in order to determine what the waterproofing
7 curb, jamb, and header detail is?

8 A. It's 4/S-2 Waterproofing Threshold Detail.

9 Q. Very good.

10 Then it says, reinstall existing sliding glass
11 doors. How are the doors reinstalled? Is there
12 anything you want to add to what you testified to
13 earlier?

14 A. No. There's no change.

15 Q. Okay. It says, The details for the
16 waterproofing curb and jambs strengthening meet the
17 requirements of the 2020 Florida Building Code existing
18 and ASCE 7-16. First of all, do you know what the ASCE
19 7-16 is?

20 A. It's in the standard.

21 Q. From whom?

22 A. From ASCE.

23 Q. And what's ASCE?

24 A. I don't have it on the top of my head, but
25 it's -- you know, it's in a standard. It's an industry

1 standard, American standard for construction. I have
2 to, you know, look at it.

3 Q. Okay. Generally speaking, if we look at Page
4 S-1 in the schematic side of this, which says, Partial
5 Floor Plan, do you see that?

6 A. You're looking at Page 4?

7 Q. No. S-1.

8 A. S-1, yes, I'm looking at partial floor plan.

9 Q. What is that section there that talks about
10 partial floor plan? What is that?

11 A. That is the layout of the sliding glass doors
12 and -- the layout of the sliding glass doors.

13 Q. Okay. And then below that, it has Door 1
14 Elevation, Door 2 Elevation, and Door 3 Elevation. What
15 are those -- first of all, what's the difference between
16 Door 1, Door 2, and Door 3?

17 A. It's just a numeric number to identify each
18 door.

19 Q. Because there were three doors, correct?

20 A. Because there were three doors, correct.

21 Q. Okay. Very good.

22 Let's look at Page 2. Okay. The first
23 schematic talks about 1/S-2 Jamb Detail. What is that?

24 A. That is the new aluminum jamb detail.

25 Q. Okay. And that is the new -- that's the

1 detail for the new work that your company performed,
2 correct?

3 A. Correct.

4 Q. Okay. And then it has, 2/S-2 Waterproofing
5 Header Detail. What's that?

6 A. That's about the sliding glass door. That is
7 the part that I was describing at the beginning, that,
8 you know, we removed the stucco to locate that area and
9 follow that spec. That's the header waterproofing
10 detail.

11 Q. Very good.

12 And what's the 3/S-2 Waterproofing Jamb
13 Detail?

14 A. That is the membrane and waterproofing that we
15 had to use in order to waterproof the new aluminum
16 jambs.

17 Q. Very good.

18 And if we move to the next schematic A-A
19 Section NTS. What's that?

20 A. That is the reinforcing detail and new curb
21 detail.

22 Q. Why was there the necessity for a new curb?

23 A. Well, I mean, that's the engineer, you know,
24 professional design.

25 Q. What do you understand was the purpose of the

1 new curb?

2 A. To waterproof the, you know, window/door
3 opening entirely, four sides.

4 Q. Okay. And then 4/S-2 Waterproofing Threshold
5 Detail. What's that?

6 A. That is the waterproofing protection for the
7 new curb.

8 Q. And that was also part of the work that was
9 performed by Praxis, correct?

10 A. That is correct.

11 Q. All right. Next I'm going to mark as Exhibit
12 9 a document that has JMC Engineering, September 19th,
13 2022 on it.

14 (Exhibit 9 was marked for identification.)

15 Q. It's part of the documents that you provided
16 to me for your deposition. Let me know when you have it
17 in front of you, and I'll ask you some questions. Do
18 you see that?

19 A. Yeah, I have it.

20 Q. Okay. Have you ever seen that before?

21 A. Yes.

22 Q. What is it?

23 A. That is JMC Engineering letter closeout
24 stating that they reviewed the work, and they're signing
25 off on our work based on the structural plans that were

1 provided.

2 Q. Okay. And is it your understanding that as a
3 consequence of JMC, as you described it, signing off on
4 the work, that a certificate of completion from Collier
5 County could then be issued for the work at 443?

6 A. Correct.

7 Q. Okay. And in this letter, it says, Based on
8 our observations, to the best of my knowledge, belief,
9 and professional judgment, the repairs were completed in
10 general accordance with the permitted plans.

11 Do you see that?

12 A. Yes.

13 Q. Okay. And the permitted plans that we're
14 talking about are the plans that we looked at in
15 Exhibit 8, the S-1 and S-2; is that correct?

16 A. Correct. The S-1 and S-2, yes.

17 Q. Okay. Very good.

18 Does the work which is examined in Exhibit 8,
19 S-1 and S-2, represent the totality of all of the work
20 that Praxis did relating to the common elements adjacent
21 to Unit 443?

22 A. It's not all, because we're not including the
23 waterproofing membrane.

24 Q. Okay.

25 A. But it's the bulk of it.

1 Q. It's the jamb waterproofing plus the
2 waterproofing membrane, correct?

3 A. Correct.

4 Q. So if we look took what's the subject of
5 Exhibit 8, added the waterproofing membrane discussion
6 that we've had from earlier today, that represents the
7 sum total of all of the labor, services, and materials
8 that were provided by Praxis relating to the water
9 intrusion issue into Unit 443, correct?

10 A. Relating with the, you know, waterproofing
11 remediation of 443, yes.

12 Q. Okay. We talked a little earlier about Praxis
13 being paid for its services. Do you recall that?

14 A. Yes.

15 Q. Okay. Let's take a look at what I've marked
16 as Composite Exhibit 10 for identification.

17 (Exhibit 10 was marked for identification.)

18 Q. It purports to be a four-page document,
19 including two invoices and two checks. Do you see that?

20 A. I'm looking for those. Bear with me.

21 Q. Okay. Take your time.

22 A. Okay.

23 Q. Do you recognize, first of all, the first page
24 of this document?

25 A. Yes.

1 Q. Okay. It indicates on 3 -- on one of the
2 entries, 9/16/2022, Waterproof, Unit 443, Door opening
3 straightening, waterproofing remediation. Was the door
4 opening not straight before Praxis began its work?

5 A. I don't know. I don't have that answer, you
6 know. I just priced it out according to the specs, so I
7 cannot --

8 Q. How did you come up -- oh, I'm sorry. Go
9 ahead, Mr. Morales.

10 A. Yeah. I can't come up with that
11 determination, because I was not told to do that, and
12 I'm not an engineer to determine that fact.

13 Q. I'm just curious how the words, door opening
14 straightening got on this invoice.

15 A. Because of the new jambs, the aluminum jambs.
16 I mean, it was just wording that I used, that my office
17 used to describe the work.

18 Q. Okay. And when your office utilized the
19 words, waterproofing remediation, what did that mean?

20 A. That means everything that we have discussed
21 before, you know, based on the proposal that we have,
22 the contract that we have.

23 Q. There's an addition on this scope of work on
24 this invoice to electrical. What's that?

25 A. The electrical conduits that were coming from

1 the floor up to the wall were rusted, and I believe the
2 junction box was rusted and required replacement before
3 installing the new one.

4 Q. Where were the conduits located?

5 A. They were coming off the floor --

6 Q. Okay.

7 A. -- up to the wall.

8 Q. With -- and where was the junction box
9 located?

10 A. Up the wall.

11 Q. Where the sliders were?

12 A. No. Walls. I mean, yeah, on the wall
13 opening, on the sliding glass door opening.

14 Q. Okay. And when did you observe the need for
15 the electrical conduit work and junction box work to be
16 done?

17 A. After the removal of the stucco, of the
18 existing stucco, we noticed that the conduits have
19 visible signs of rust.

20 Q. Okay. Will your photographs show where those
21 locations are?

22 A. I don't know. I'd have to look.

23 Q. Any determination of how the conduits got
24 rusted? Did you make any determination?

25 A. No.

1 Q. What did it appear to you? Why did the
2 conduits get rusted?

3 A. Water. Water got into it.

4 Q. From where?

5 A. I don't know.

6 Q. Okay.

7 A. It can be multiple -- multiple facts. It can
8 be the light -- it can be, you know, the light fixture,
9 it can be the waterproofing on the deck, or it can be
10 all of the above.

11 Q. Um-hum. Or none of the -- or one of the
12 above, right? You don't know?

13 A. Or all of the above, yeah. I mean, I don't
14 know.

15 Q. You don't know. Okay.

16 A. I mean the specific, no.

17 Q. Okay. You're not able to opine how the
18 conduit got rusted, correct?

19 A. It's related with water intrusion, but the
20 source of the water --

21 Q. Okay. Other than that?

22 A. Yeah. The source of the water intrusion can
23 be because of the curb, because of the wall, because of
24 a light fixture. It can be all of that.

25 Q. Okay. And how about the rusting on the

1 junction box?

2 A. Same.

3 Q. Okay. You don't know how the junction box got
4 rusted, correct?

5 A. I don't know.

6 Q. Let's take a look at Exhibit No. 11 for
7 identification, which purports to be a series of emails.

8 (Exhibit 11 was marked for identification.)

9 Q. Do you see those? It's -- on the first page,
10 the first email actually is July 5th of 2022. The last
11 page begins -- well, the first email from the last page
12 is from June of 2023 (sic). Do you see that?

13 A. Yes.

14 Q. Okay. There's reference here, I just want to
15 make sure we have clarity for the record, that there's a
16 June 24th, 2022 email, Attention: Eddie Morales from
17 Barbara Nolan. Do you see that?

18 A. No, I can't find it. What is it about? I
19 mean --

20 Q. It just says -- I'll read it to you. It
21 says -- on June 24th of 2022, it says, Attention: Eddie
22 Morales. Please review the forwarded waterproofing
23 specs from Joseph Clark, the 400 La Peninsula engineer,
24 for the Unit 443 lanai deck to confirm that you do not
25 need to revise your scope of work for the unit.

1 Do you see that?

2 A. Yes.

3 Q. Okay. Were the waterproofing specifications
4 from Joseph Clark that were provided to you, are those
5 the ones that we looked at earlier in today's
6 deposition, the Traffic Coating Document, Exhibit 4, and
7 Exhibit 8, the Curb, Jamb and Waterproofing Detail?

8 A. It's the Section 07 18 00 Traffic Coating
9 Specification.

10 Q. Okay. That's what's being referred to here,
11 correct?

12 A. Yes. That is the document, correct.

13 Q. Just so it's clear for the record, you were
14 not required to revise your scope of work for this
15 project, other than what was on your proposal, Exhibit
16 2, to this deposition; am I correct?

17 A. Correct.

18 Q. All righty. We talked earlier about the
19 mockups. Do you have in your records any writings
20 relating to those mockups?

21 A. No.

22 Q. All right. Let's take a look at Exhibit 12,
23 which is another series of emails, and specifically I'm
24 looking at an email from you to Barbara Nolan. It's
25 dated September 7th of 2022. Do you see that?

1 (Exhibit 12 was marked for identification.)

2 A. No. I'm having a hard time, you know, looking
3 at those emails, but if you can read it to me, I'll be
4 able to, you know, answer to the best of my ability.

5 Q. Okay. I'll read it to you. There is an
6 email -- first of all, I'll start with an email that's
7 from you on September 7th of 2022. It says, Good
8 morning, Barbara. Hope this email finds you well. See
9 below for scheduling purposes. I need answers for the
10 below items. If you have any questions, please let me
11 know.

12 Then it says, 443 electrical work: Planning
13 to do the drywall next week if the electrical repair
14 quote was accepted or not before we close the holes. We
15 are projecting to complete this protect by middle of
16 next week.

17 What electrical work are you referring to?

18 A. What we described just a few minutes ago, the
19 electrical conduits that had to be replaced.

20 Q. Okay. And was the electrical repair -- was
21 there an electrical repair quote that you provided to
22 400 La Peninsula?

23 A. It's in an email. In that email, it states
24 the dollar value for the repair.

25 Q. Okay. But there isn't a separate quotation,

1 is there, Mr. Morales?

2 A. No. It was a quote from an email. It wasn't
3 a separate proposal for that.

4 Q. Okay. It says, The electrical work by your
5 electrician in Unit 443 in the amount of \$4,370 is
6 approved. This is from Barbara Nolan to you. Is that
7 the amount we're talking about?

8 A. Yes. Correct.

9 Q. And who was the electrical contractor that did
10 that work? Did you do that in-house or did you sub that
11 out?

12 A. No. We subbed that out to an electrician.

13 Q. Okay. And who was the subcontractor?

14 A. The subcontractor was Nga Electric, Inc.

15 Q. Okay. It also refers here to work, again,
16 relating to those other units. Do you see that? It
17 says, Also, the association wants you to move ahead with
18 a permit for 411 as it has been approved by the board.
19 The board still needs to approve moving forward with
20 Units 409 and 441. Do you see that?

21 A. Yes.

22 Q. Okay. And that's the three units that you're
23 presently doing work on, correct?

24 A. That is correct.

25 Q. Okay. And was there any electrical work to be

1 done in Unit 411?

2 A. It's in progress, so I don't have that answer
3 now. It might be. It might not be electrical repair.

4 Q. Okay. And how about Unit 409?

5 A. Same.

6 Q. How about 411?

7 A. Same.

8 Q. Okay. In the same email chain there is an
9 email from you to Barbara Nolan, and it says, 443,
10 electrical, I'll approve sub work and get it on
11 schedule. Please hand new light fixture by Wednesday
12 next week. What did that mean?

13 A. I was requested to install a different light
14 fixture, but it's the light fixture that the association
15 wanted to use in their common areas.

16 Q. Okay. And do you know why you were requested
17 to install a new light fixture?

18 A. Because it's a common area, and they all have
19 to have the same light.

20 Q. Okay. Have you observed the light fixtures at
21 Unit 411, 409, and 441?

22 A. Nope.

23 Q. Do you know how those light fixtures compare
24 to the light fixture that is or was at Unit 443?

25 A. I haven't compared those, but it appeared to

1 be the same light fixture that was provided to 443.

2 Q. Meaning what?

3 A. The same aesthetic configuration.

4 Q. Okay. The same aesthetic configuration.

5 A. I mean, I have observed the lights. They
6 appeared to be the same. I haven't inspected the
7 lights, because it -- I was not told to inspect lights.

8 Q. Okay. Did you remove the light fixture that
9 was on the lanai of 443 incident to the work that you
10 did in Unit 443?

11 A. We removed the light fixture.

12 Q. Did you observe the condition of the stucco
13 around that light fixture before you removed it?

14 A. I did not observe the stucco.

15 Q. Did you observe whether there was any evidence
16 of water intrusion from that electrical light fixture
17 that you removed into Unit 443?

18 A. I did not observe and inspect any of that.

19 Q. Okay.

20 A. Because it's not on the permit -- on the
21 structural engineering plans.

22 Q. Okay. In other words, it's not something that
23 was necessary to be done consistent with the plan that
24 had been provided to you by Joseph Clark, correct, by
25 JMC?

1 A. No. It's a finish that you have to remove in
2 order to do the rest of the work.

3 Q. What does that mean?

4 A. Yeah. In order to access, you know, the
5 jambs, the stucco, re-waterproofing of the walls, you
6 got to remove light fixtures that are on the surface,
7 you know, on top of the surface for access.

8 Q. Okay. So a removal of a light fixture is
9 incident to doing all of the other work that you had to
10 do, correct?

11 A. Correct.

12 Q. And there was nothing that you observed
13 relative to that light fixture that would have led you
14 to believe that water intruded from that light fixture
15 into Unit 443, correct, that you observed?

16 A. That I observed, I observed that the
17 electrical conduits were rusted.

18 Q. Yeah. But those are at the bottom?

19 A. But, again, I stated that the source of the
20 water can be from the bottom, from the top, and, you
21 know, water runs down. So it could be. I mean, I can't
22 say no or yes, but it could be a problem. The conduits
23 were rusted and had to be replaced. The water comes --
24 you know, runs down. It doesn't run up, you know, so...

25 Q. Okay. Were you at any time asked to give an

1 opinion as to the source of the water intrusion as part
2 of your scope of work?

3 A. No.

4 Q. Okay. Has Praxis drawn any conclusions with
5 regard to any source of water intrusion into the
6 Vasbinder unit?

7 A. No.

8 Q. Were you asked to draw any conclusions with
9 regard to any source of water intrusion into the
10 Vasbinder unit before you started your work?

11 A. No.

12 Q. Are you able to quantify what areas of the
13 common elements allowed in the most water during any
14 specific storm event?

15 A. No.

16 Q. Did you remove -- are you familiar with a
17 metal sculpture or a metal art piece on the wall?

18 A. Let me look at the pictures.

19 Q. We can look at the pictures in a little while,
20 but if you have independent recollection, let me know.

21 A. No. It's the same pictures. Oh, it was on
22 the floor.

23 Q. Okay. So you observed a little metal art
24 piece on the floor; is that correct?

25 A. Correct.

1 Q. Okay. You didn't remove any metal sculpture
2 from the wall, correct?

3 A. I did not.

4 Q. Okay. Do you know if that metal sculpture was
5 at all affixed to the wall?

6 A. I don't know.

7 Q. Did you make any determination as to whether
8 any water could ever enter into from an area where the
9 sculpture had been hanging, if it was hanging at all?

10 A. Well, it's typically that any penetration to a
11 wall that's not properly sealed can, you know, create a
12 water intrusion problem.

13 Q. But you're guessing as to whether any
14 sculpture piece caused any issue, correct?

15 A. From my experience, any penetration not
16 properly sealed to a building envelope can create a
17 problem.

18 Q. Did you observe any specifics relating to how
19 the metal sculpture was installed?

20 A. No.

21 Q. Did you observe whether any of the metal
22 sculpture that was on the wall in any way compromised
23 the wall at all in terms of water intrusion or the like?

24 A. No.

25 Q. You indicated that water that -- that water

1 can flow downhill. Do you know what kind of light
2 fixture existed on the common elements of Unit 443?

3 THE WITNESS: Can you give me a minute? Hold
4 on. I've got somebody here that wants to talk to
5 me. Just give me a minute.

6 MR. JOHNSON: Let's do this: It's now 10:24.
7 Let's stay on break until -- let's take a 10-minute
8 break. We'll come back here at 10:35. Okay?

9 THE WITNESS: Okay.

10 (Recess taken from 10:24 a.m. to 10:36 a.m.)

11 BY MR. JOHNSON:

12 Q. Okay. Mr. Morales, are we all set?

13 A. Yeah. We're ready.

14 Q. Okay. Thank you. Okay. I appreciate it.

15 Mr. Morales, we were talking a little bit
16 about that light fixture on the wall. Did Praxis remove
17 the light fixture from the wall?

18 A. Yes.

19 Q. Okay. And how did it remove the light
20 fixture?

21 A. We unscrew the fasteners to the wall, pull out
22 the wires, and placed the light fixture inside the unit.

23 Q. Okay. And did you make any observations about
24 whether that light fixture had or had not been caulked
25 prior to removal of that light fixture?

1 A. We didn't observe that. We didn't inspect
2 that.

3 Q. Okay. Did you remove the surrounding area --
4 the stucco that surrounded the light fixture?

5 A. Yes.

6 Q. And did you view at all what existed
7 underneath that light fixture?

8 A. We did not inspect that.

9 Q. Okay. All righty. The light -- there's a
10 light fixture and then there's a -- it's the fixture
11 itself, and then there's a portion of the fixture
12 that -- there's a portion of the apparatus that's
13 actually attached to the wall, correct?

14 A. Correct.

15 Q. Okay. And that portion of the fixture that's
16 attached to the wall, that remained, correct?

17 A. Correct.

18 Q. Okay. We'll look at it through some pictures
19 that I think will help to examine a few of those items.

20 After the light fixture was removed, what did
21 you change about that exterior wall surrounding the
22 light fixture?

23 A. What did I change?

24 Q. Yeah.

25 A. We didn't change anything, other than bringing

1 that wall up to code with new sheathing and new
2 waterproofing membrane.

3 Q. Okay. So you put a new waterproofing membrane
4 there, correct?

5 A. Correct.

6 Q. And new stucco?

7 A. New stucco.

8 Q. All right. We'll take a look at pictures that
9 will look at that. Okay.

10 Let's take a look at Exhibit 13, which is a
11 Collier County Board of Commissioners Certificate of
12 Completion. Do you see that?

13 (Exhibit 13 was marked for identification.)

14 A. Yes.

15 Q. Okay. It bears an issuance date of September
16 22nd, 2022. Do you see that?

17 A. Okay. I see it.

18 Q. Okay. It says an issuance date of
19 September 22nd, 2022. Do you see that?

20 A. Yes.

21 Q. What does that mean?

22 A. That is the date that the County issued the
23 Certificate of Completion.

24 Q. Okay. When you removed the lanai track, how
25 was the track attached?

1 A. By fasteners.

2 Q. Screws?

3 A. Screws.

4 Q. Yeah. Did you make any observation of the
5 condition of the screws at the time that you removed
6 the, as you describe it, the track?

7 A. No. No.

8 Q. Okay. All righty. You've given to me many,
9 many photographs. Okay. Do you have access to those
10 photographs? Because I'm going to go over many of them
11 by number, so if you could pull them up on your screen.

12 A. Okay.

13 Q. The first one -- and I think it's in the
14 sequence that you provided them to me, so I want to take
15 a look through them, okay, and you tell me if I'm
16 incorrect. The first one I'm looking at is 4328. Do
17 you see that? The last four numbers on the photo.

18 A. Okay.

19 Q. Do you see it?

20 A. Yes.

21 Q. What is that? First of all, did you take
22 these pictures?

23 A. Most of them I did.

24 Q. Okay. What's this picture supposed to show?

25 A. You know, I'm not seeing that picture, but

1 just -- can you describe it to me.

2 Q. I think we need to look at the exact picture.
3 Do you have your list of pictures that you provided to
4 me?

5 A. I didn't bring a copy, because I was, you
6 know, on a flight when you sent me that, you know,
7 exhibit. I have the records on my computer right now,
8 but I don't have it.

9 Q. Could you pull them up on your computer as we
10 look through them?

11 A. Yeah. I have it right now.

12 Q. Okay. Well, let's take a look at it. You'll
13 see -- the photographs you gave to me all have numbers
14 on them. And what I'm asking you to look at is the
15 photograph that has the last number of 4328. It should
16 be one of the first ones.

17 A. Okay.

18 Q. Do you see that?

19 A. Yeah.

20 Q. What is that supposed to show?

21 A. I'm just documenting the existing conditions.

22 Q. Okay. This is an existing condition before
23 you removed the sliders, correct?

24 A. Correct.

25 Q. Okay. The next one I have is 0360, and I

1 think that's in sequence. And tell me, what's that
2 supposed to represent?

3 A. Same.

4 Q. Existing condition taken from the interior of
5 the unit before you did any work, correct?

6 A. Correct.

7 MR. JOHNSON: Okay. For the record, the
8 numbered photographs in the exhibit will all be
9 part of Exhibit 14, Ms. Klein, for purposes of the
10 deposition.

11 (Exhibit 14 was marked for identification.)

12 BY MR. JOHNSON:

13 Q. The next one is 4359. What's that supposed to
14 show?

15 A. The bottom of the door.

16 Q. Before or after work is performed?

17 A. Before the work was performed.

18 Q. I note with interest in the picture there's
19 some rust to the lower left-hand side of the picture.
20 Do you see that on the floor?

21 A. By the blue tape?

22 Q. Yeah. Do you see that?

23 A. I see like dots, yeah, of discoloration.

24 Q. Okay. Do you know what that is?

25 A. No.

1 Q. All right. Do you see Photograph 6000?

2 A. Can you show me the photo that you're looking
3 at?

4 Okay.

5 Q. Do you know what that's supposed to show?

6 A. I think I'm pointing out scratches on the
7 track for my survey purposes.

8 Q. Okay. This is before you do any work,
9 correct?

10 A. Before I do any work, correct. Yes.

11 Q. All right. And when I say "you," I'm talking
12 about Praxis, correct?

13 A. Yes.

14 Q. I'd like you to find, if you can, it may take
15 you a moment, Picture 7182. Take your time and help me
16 find --

17 A. Can you show me that picture on your camera?

18 Q. Yes. Can you see that?

19 A. I'm going to try to find it.

20 Q. Okay. I'm showing you what has been marked as
21 7182. You took this photograph.

22 A. Yes.

23 Q. And what's this photograph -- why was this
24 taken?

25 A. To document that the walls were painted and

1 the lanai floor.

2 Q. Is this picture before or after Praxis did its
3 work?

4 A. That was after.

5 Q. Okay. And if we look at this photograph and
6 we look at the sort of the rounder circle at the top
7 here, what is that?

8 A. That is the box for the light fixture.

9 Q. Okay. Is it the -- this is the same box that
10 existed for the light fixture before Praxis did its
11 work, correct?

12 A. Yes.

13 Q. Okay. And this particular box, tell me what
14 exists around the perimeter of the box. Is there any
15 sealant on the box?

16 A. It's sealed by the membrane that we installed
17 underneath the stucco.

18 Q. Okay. So the sealant that you installed is
19 underneath the stucco. It wouldn't be on the perimeter
20 of this feature, correct?

21 A. The sealant on the surface, it's installed
22 after the light fixture is connected. But in this
23 photo, it's still a work in progress.

24 Q. Okay. This is still a work in progress,
25 correct?

1 A. Correct.

2 Q. And this is how the association requested that
3 you leave your work, correct?

4 A. No. I was asked to reinstall the light
5 fixture, but a different light fixture was provided to
6 us that we reconnected.

7 Q. The act of reinstalling the light fixture
8 would involve what?

9 A. Placing the light fixture back to the
10 anchoring point and providing a sealing bead on the
11 structural joint between the walls and the light
12 fixture.

13 Q. So at this point in time, if you were going to
14 install a light fixture that the association wanted you
15 to install, you would utilize the technique that you've
16 just described, correct?

17 A. Correct.

18 Q. Okay. How does that compare to the -- to how
19 the light was installed at the time that you removed
20 this wall?

21 A. I didn't inspect the previous installation, so
22 I can't -- I can't compare.

23 Q. So you don't know if it's the same -- it would
24 be the same installation that you're describing that the
25 association would want you to utilize for the

1 installation of a different light, correct?

2 A. I didn't inspect it.

3 Q. So you don't know, correct?

4 A. I can't confirm that, you know, I don't know.

5 Q. Is the critical feature so that water doesn't
6 get behind this opening here, the light fixture opening
7 here, that there be that waterproof membrane underneath
8 the stucco?

9 A. It's an entire system. Everything has to
10 work, you know, in conjunction, you know, it's old. If
11 the subgrade waterproofing system, if the proper stucco,
12 it's the paint, it's the sealant beads around the light
13 fixture. It's the entire, you know, system, the entire
14 envelope system. It's not just one.

15 Q. Yeah. It's not just the light fixture itself;
16 it's the entirety of the way the wall functions,
17 correct?

18 A. The wall functions. And how, you know,
19 protrudents are anchoring to those walls, like how the
20 penetrations are anchoring to the walls.

21 Q. Um-hum. It's the penetrations that you're
22 describing that you made no interpretation of or
23 observation of prior to dismantling the entirety of this
24 wall that we're looking at in Exhibit 7182, correct?

25 A. Correct.

1 Q. Okay. All right. You see down below
2 there's -- there appears to be some electrical boxes,
3 outlets. Do you see the outlets?

4 A. Yes.

5 Q. Okay. Were those -- did those outlets
6 exist -- were they existing in the wall at the time that
7 you provided -- that Praxis provided its labor and
8 services?

9 A. Yes.

10 Q. Okay. And how does this picture compare to
11 the way the outlet boxes looked at the time when Praxis
12 commenced its work?

13 A. I didn't inspect the outlet boxes prior to us
14 doing the work. I only can speak up that this light box
15 it's reinstalled with a new sealant bead on three sides.

16 Q. Okay. The new sealant bead on three sides is
17 what three sides? The top, correct?

18 A. There's a sealant bead. I don't know if
19 there's a bottom sealant bead. But, typically, as a
20 minimal, you need three sides, which is verticals and
21 overhead and top.

22 Q. Okay. Verticals and on top, correct?

23 A. Um-hum.

24 Q. Is that a yes?

25 A. Correct. Yes.

1 Q. And when you did the reinstall of this
2 electrical box, the electrical outlet box, as part of
3 your scope of work, you put a caulk bead on the top and
4 caulk on either side, correct? The verticals and across
5 the top, right?

6 A. Yes.

7 Q. Okay. And relative to the electrical box for
8 the light fixture on the top here, the association, did
9 they instruct you one way or the other to put any
10 caulking along the perimeter of this?

11 A. No. We were not instructed specifically, but
12 it's an industry standard to, you know, seal three
13 sides.

14 Q. Do you know if what we're looking at this --
15 I'm going to call it a circular section on the top of
16 this photograph. Do you know if that -- if what we're
17 looking at in this picture existed at the time that the
18 Vasbinders purchased their unit?

19 A. I don't know.

20 Q. Do you know -- okay. Do you know if it's
21 possible to install a light fixture, the fixture itself,
22 any light fixture on this particular circled area?

23 A. It's possible, yeah.

24 Q. Okay. Do you know what efforts 400
25 La Peninsula made before they contacted you to caulk the

1 electrical boxes?

2 A. I don't have that answer. I don't know.

3 Q. Do you know what efforts 400 La Peninsula made
4 before they contacted you to caulk around light fixtures
5 at 400 La Peninsula?

6 A. I don't know.

7 Q. In your work that you're doing on the next
8 units, 409 or 411, do you know what is the condition of
9 the caulking around any of the light fixtures or
10 electrical boxes?

11 A. I don't know.

12 Q. Okay. All right. Next I'm going to show
13 you -- I'm going to have you look at what I am marking
14 as part of this exhibit No. 7290. It purports to be a
15 picture with some metal piece looking like it's on the
16 lanai. Do you see that?

17 A. Yes.

18 Q. Have you ever seen that before?

19 A. Yeah, in my file.

20 Q. Okay. Did you take this picture?

21 A. I took that picture.

22 Q. Okay. Do you know what this is a picture of?

23 A. An ornamental metal piece that was laying on
24 the floor.

25 Q. The ornamental piece was laying there when you

1 arrived?

2 A. Yes.

3 Q. Did you ever make any determination that this
4 ornamental object that you looked at had any
5 relationship to any water intrusion into the Vasbinder
6 unit?

7 A. Not me personally.

8 Q. Okay. All right. I'd like you to take a look
9 at Photograph 2237 -- actually not 2237. Hold on.
10 That's not the one I'm looking for. It's 8578. There
11 are multiple photographs. It's 8578 are the last four
12 digits.

13 A. Can you show me the picture?

14 Q. Yes, I am pleased to.

15 A. Okay.

16 Q. You took this picture?

17 A. I did.

18 Q. What's this supposed to show?

19 A. The new aluminum jambs.

20 Q. Okay. There appears to be some -- is this
21 rust that I'm looking at on these two pieces here to the
22 base of this and on the upper vertical piece?

23 A. Let me --

24 Q. Again, this is 8578.

25 A. No, that is not rust.

1 Q. Okay. That's a new install?

2 A. That is a new install.

3 Q. Okay. Let's take a look at Photograph 9326.

4 A. Okay.

5 Q. You took this picture?

6 A. Yes.

7 Q. And what's that supposed to represent?

8 A. The wall/deck waterproofing detail.

9 Q. It looks as though the deck is pretty much
10 stripped at this point in time?

11 A. Correct.

12 Q. Okay. And is that -- this shows the deck
13 after you've stripped the deck and before you put on the
14 new coating and membrane, correct?

15 A. Yeah, the bare concrete that's stripped, and
16 the flashing, waterproofing detail up to the concrete
17 knee wall.

18 Q. Okay. Very good.

19 A. And that's work in progress, so...

20 Q. Yes. Um-hum.

21 Next I'm going to show you Picture 3075.

22 A. Okay.

23 Q. Have you ever seen that picture before?

24 A. Yes.

25 Q. You took that picture?

1 A. Yes.

2 Q. What's that showing?

3 A. That is the new membrane. And it's showing
4 the existing door jambs and tracks reinstalled
5 threshold.

6 Q. Okay. It says something called
7 Perm-A-Barrier. What's that?

8 A. That is the membrane.

9 Q. Oh, okay.

10 And what's the purpose of the Perm-A-Barrier?

11 A. To protect the wall from water intrusion.

12 Q. Okay. And in this picture, 3075, I think I
13 see a couple of openings here, correct me if I'm wrong,
14 at the top. At the top, it looks like there's an
15 opening, and at the bottom, there's certainly an
16 electrical outlet opening. Do you see that?

17 A. Yes.

18 Q. Okay. Is the electrical outlet opening the
19 same electrical outlet opening that -- an electrical
20 outlet that existed when you got on site and you were
21 doing this work?

22 A. Yes.

23 Q. Okay. And how about the opening at the top
24 there, which I think the light fixture is a part of, do
25 you see that?

1 A. Yes.

2 Q. Is that the same portion of the lighting
3 apparatus that existed when you removed this wall?

4 A. Yes.

5 Q. Okay. So that never -- so what I'm getting at
6 is these never changed, correct? The outlet and what
7 you're showing me at the top, correct?

8 A. Correct.

9 Q. Okay. And if you were going to --

10 A. Wait. Wait. Wait. Wait.

11 Q. Yeah. Check it out.

12 A. There were boxes replaced on the lanai, so
13 those in the picture most likely were replaced.

14 Q. Okay. So these are new electrical outlets --
15 a new electric outlet?

16 A. Boxes.

17 Q. New boxes.

18 Okay. So you've got a new electrical outlet
19 box and a new box for the light?

20 A. Yes.

21 Q. Okay. And who instructed you to put in new
22 boxes?

23 A. Nobody instructed me. I informed to
24 400 La Peninsula that after the removal of the stucco,
25 we noticed that those boxes had corrosion, severe

1 corrosion, and if they wanted to replace it or leave it,
2 and they, you know, instructed us to replace the boxes
3 and the conduits that had, you know, the rust, severity
4 of rust.

5 Q. To your knowledge, the box that was the
6 electrical box, the original box, you don't know when
7 that was installed, correct?

8 A. I don't know, but most likely it was installed
9 during the building construction.

10 Q. Okay. And, to your knowledge, do you know
11 when the box for the lighting fixture was installed?

12 A. The new one or the old one?

13 Q. The original one that you said you removed.

14 A. No, I don't know.

15 Q. Okay. Did it appear that that was also
16 installed at the time that the original condominium work
17 had been done?

18 A. I mean, it was existing, so I don't know.
19 Most likely. It was existing. When we got there, they
20 were installed.

21 Q. Did you ever make any determination as to
22 whether there was any relationship between the light
23 fixture that was installed and the light -- and the box
24 on which the light fixture sat?

25 A. I didn't make any determination on that.

1 Q. Okay. All right. You just know that you
2 changed up the light fixture box and the electrical
3 outlet box, correct?

4 A. Correct.

5 Q. All right. Fair enough.

6 A. The box.

7 Q. Correct.

8 Did you have -- were there persons employed by
9 your company who assisted you relating to the labor and
10 services that were provided for 443 unit?

11 A. I managed the job, and the workers are just
12 the workers.

13 Q. Okay.

14 A. And they do -- they're doing, you know, what
15 they're being instructed to do by me.

16 Q. Okay. When do you anticipate completing your
17 work in Units 409 and 411?

18 A. Three to four weeks out.

19 Q. Okay. Have you -- are you taking photographs
20 of the work that you're doing in those units?

21 A. I am taking some photos.

22 Q. Have you -- on which stage of work are you
23 right now on Unit 409?

24 A. We're in the stage of installing the new
25 aluminum jambs and the new curb, you know, putting all

1 of the reinforcing back, you know, in place.

2 Q. Have you dismantled the stucco around the
3 jambs?

4 A. Yes.

5 Q. Okay. And have you observed any corrosion
6 relating to either the electrical outlet or the light
7 fixture?

8 A. I haven't observed any of that.

9 Q. You haven't observed one way or the other?

10 A. One way or the other, yeah, I haven't
11 inspected or observed anything of that.

12 Q. Have you taken photographs of all of the work
13 that you're doing in Units 409 and 411?

14 A. Yes.

15 Q. Okay. And you retain those photographs at
16 your place of business; is that correct?

17 A. Correct. It's in my file.

18 Q. Okay. Has anyone from 400 La Peninsula asked
19 you to examine specifically either the electrical outlet
20 or the light fixtures at either 411 or 409?

21 A. Nope.

22 Q. Okay. I understand that someone from
23 400 La Peninsula is not permitting you to install a
24 light fixture at the Vasbinder unit; is that correct?

25 A. Can you repeat the question?

1 Q. Yeah.

2 I think you testified earlier that the light
3 fixture that's outside, you haven't been able to
4 reinstall, correct?

5 A. No. What I was asked to do was to reinstall a
6 different light fixture on 443, not the light fixture
7 that was in place when we started the work. Apparently,
8 it was a different light fixture, and the association
9 provided me with a different light fixture to reinstall,
10 which we did.

11 Q. And the explanation, again, for why they
12 wanted you to install a different light fixture?

13 A. They didn't explain it. They didn't explain
14 it. They just, you know, requested us to install the
15 light fixture that was provided.

16 Q. Where's the old light fixture?

17 A. We left it in the unit.

18 Q. Okay. Very good. Very good.

19 So you left the old fixture in the unit. You
20 took out the box to which the light fixture was
21 attached, and presently you've installed a new light
22 fixture box, correct?

23 A. It's not a -- it wasn't a new -- a different
24 light fixture. It wasn't a new light fixture. It's a
25 different light fixture that was before. I mean, it's

1 not a new light fixture. It's the light fixture that
2 the rest of the building had.

3 Q. Okay. All righty.

4 A. It wasn't new. It was an old light fixture.

5 Q. I understand.

6 The box, though, is a new box for the light
7 fixture?

8 A. It's a new box.

9 Q. Okay. All right.

10 A. Replaced due to corrosion. The old one was
11 replaced due to corrosion.

12 Q. All right. Do you anticipate that you're
13 going to have to replace some boxes due to corrosion at
14 Units 411 and 409?

15 A. We're not there yet, so I don't know. I don't
16 have the answer for that.

17 Q. Okay. You'll need to see the photographs,
18 correct?

19 A. I need to inspect, you know, the work and
20 determine that.

21 MR. JOHNSON: Okay. All right. Let's --

22 Mr. Vasbinder, I think, needs a couple of moments.

23 Am I correct, Mike?

24 MR. VASBINDER: Yes, Henry.

25 MR. JOHNSON: Let's -- with consent of Julie,

1 let's take -- Mike, if we take a 10-minute break
2 now, is that good?

3 MR. VASBINDER: That would be fine.

4 MR. JOHNSON: Okay. We're going to take a
5 10-minute break. I'm going to try to wrap up.
6 Julie, if you have any questions, feel free to then
7 pop in afterwards. Okay?

8 THE WITNESS: Can we keep on going with this?

9 MR. JOHNSON: Only because -- Eddie, I don't
10 think I'm going to have very much longer, but
11 Mr. Vasbinder has a matter that he must handle
12 right now.

13 MR. VASBINDER: Henry, go ahead. Take another
14 15, 20 minutes.

15 MR. JOHNSON: Okay. I'm just about wrapped
16 up. I'm good.

17 MR. VASBINDER: Go ahead and take another 15
18 to 20. I'll work it out. Don't worry.

19 MR. JOHNSON: Okay. Very good.

20 BY MR. JOHNSON:

21 Q. Eddie, which of the photographs that you have
22 provided to me fairly and accurately represent the
23 completion of all of the labor and services that you've
24 performed?

25 A. Let me pull my file.

1 Q. Okay.

2 A. The last seven pictures.

3 Q. Okay. Let's take a look specifically at
4 Picture 5348. Do you see that one? It's got the last
5 four digits of 5348.

6 A. Um-hum.

7 Q. Do you see that picture?

8 A. Yeah. Show it to me, so I'm --

9 Q. Yeah. Let's make sure we have the same one.

10 A. -- we're looking at the same picture. Yes.

11 Q. Okay. You see that picture?

12 A. Um-hum.

13 Q. You took that photograph, correct?

14 A. Correct.

15 Q. And what does this photograph depict?

16 A. The new -- the walls are reinstalled -- I
17 mean, the doors are reinstalled. The lanai deck is
18 completed. The walls are painted.

19 Q. Okay. And we've made several references in
20 other photographs to this black circle in the upper sort
21 of mid to upper left-hand corner of this photo. Do you
22 see that?

23 A. Um-hum.

24 Q. Is that a yes?

25 A. Yes.

1 Q. Okay. And what's that?

2 A. The same light box that we were talking about
3 from the light fixture.

4 Q. That's the new box, correct?

5 A. Correct. Yeah, that's the spot where the
6 light fixture is going to be installed.

7 Q. When your work was completed, did the -- were
8 you there for any testing that the engineer might have
9 done to determine if the water intrusion problem into
10 the Vasbinders' unit from common elements had been
11 corrected?

12 A. Can you repeat the question?

13 Q. After Praxis finished its work, were you
14 present for any testing that the engineer for 400
15 La Peninsula performed relating to the Vasbinder unit?

16 A. We conducted a final inspection related with
17 the specs that were submitted, signing off on the specs.

18 Q. And who was present for the final inspection?

19 A. Praxis and JMC Engineering.

20 Q. Okay. You were on site?

21 A. I don't remember. I mean, I don't know. I
22 can't remember that.

23 Q. Okay. All righty. Since performing work at
24 the Vasbinder unit, have you been requested to provide
25 any further work?

1 A. For 443? No.

2 Q. Okay. Final question, when we started today's
3 deposition, we talked about the 200 building. You may
4 remember our discussion briefly about the 200 building
5 was part of your proposal. Do you remember that?

6 A. Yes.

7 Q. Okay. Did you observe any issues relating to
8 any corrosion behind any of the either electrical
9 outlets or light fixtures at the 200 building when you
10 did your work?

11 A. Yeah. There were a few, you know, areas that
12 had some, you know, same problems.

13 Q. Same problem, right, corrosion?

14 A. Correct.

15 Q. And was it a function of the -- when you
16 observed it, was it a function of the light fixture, or
17 was it simply a function of the -- of the box, if you
18 will, the box to which the fixture attached?

19 A. I can't determine that. It's -- you know,
20 it's -- the cause can be different areas. You know, it
21 can be the stucco, the paint. It can be, you know, the
22 roof. It can be multiple areas. I don't determine the
23 source of the problem.

24 Q. You've been in the waterproofing business now
25 for quite a while. I think it's six or seven years, I

1 think, by my calculation. At least five, correct?

2 A. I have a --

3 Q. With your own company?

4 A. Yes. My own company, yes.

5 Q. And you have many years of experience of
6 dealing with water intrusion issues, correct?

7 A. Yes.

8 Q. Okay. Have you ever dealt with water
9 intrusion issues in your many years of experience that
10 relate to water intrusion around electrical -- exterior
11 electrical outlets into condominium units?

12 A. Yes.

13 Q. And what have you -- what are techniques that
14 you've utilized to stop water intrusion when that's a
15 singular cause of water intrusion into condominium
16 units, like from an electrical outlet?

17 A. You properly seal the outlet cap on the
18 outside to the stucco.

19 Q. Is that something, typically, that you've
20 observed that condominium associations do as part of
21 their routine maintenance?

22 A. In every restoration project, yes.

23 Q. Um-hum. Okay.

24 A. It's not done in new construction, but in a
25 restoration project, it's a technique implemented. It's

1 a technique in the new systems for building restoration
2 projects.

3 Q. Is that similar technique utilized along
4 the -- incident to the boxes in which electrical
5 fixtures are placed?

6 A. Correct.

7 Q. Okay. So there's actual techniques that
8 associations who want to maintain their common elements
9 can utilize in order to prevent water from intruding
10 either around an electrical box or a lighting fixture,
11 correct?

12 A. Correct. On a project, on a major project,
13 for restoration of the building, yeah.

14 Q. Um-hum. And that's something you've been
15 involved with, right?

16 A. Yes. When it's engineer inspected. I don't
17 get -- you know, I don't get hired by associations to
18 just go caulk, you know, light fixtures, you know.

19 Q. Who -- sorry. Go ahead.

20 A. Yeah. I mean, my work is through an engineer.
21 You know, an engineer services a building, you know, and
22 comes up with a design plan to, you know, restore it. I
23 bid a project, and, you know, I get a project throughout
24 that process. It's a bid process. I don't offer
25 service, you know, for association to just go caulk, you

1 know, light fixtures.

2 Q. I understand your professionalism and respect
3 it.

4 My question is, who typically has it been your
5 experience would be the person or persons who would be
6 responsible for caulking around electrical outlets and
7 fixtures when a condominium association is maintaining
8 common elements? Is that typically a manager's
9 assistant? Who is that?

10 A. I don't know. Every building is different,
11 but, you know, it's maintenance. But if there's not a
12 problem, they can't fix it if they don't know the
13 problem. But every building is different. Every
14 building operates, you know, different. Some buildings
15 have in-house maintenance, some buildings don't, and
16 every building is different.

17 Q. My point is, that's not the kind of work that
18 would necessarily require the skill and expertise of a
19 waterproofing specialty company such as Praxis, correct?

20 A. I wasn't going to say that. I mean, to
21 properly seal a penetration, you've got to hire a
22 skilled, competent, you know, contractor.

23 MR. JOHNSON: Perfect. Okay. Thank you. I
24 have no further questions.

25 Julie, do you have any?

1 MS. TALBOT: I don't have any. You were very
2 thorough and very precise. I appreciate that.

3 MR. JOHNSON: Okay. Mr. Morales, this
4 deposition may or likely be typed up, so I want to
5 explain to you something, just to refresh your
6 recollection on depositions. You'll have the
7 opportunity to read this deposition or to waive
8 reading of the deposition. Neither Ms. Talbot or I
9 are your counsel, so we can't advise you. I can
10 tell you that it is typical for people not to waive
11 their right to read, but I'm not your counsel. But
12 you need to tell Ms. Klein what your preference is
13 in the likelihood that this deposition is ordered.

14 THE WITNESS: Any written document, I would
15 like to read it.

16 - - -

17 (Thereupon, at 11:18 a.m., the deposition was
18 concluded.)

19 - - -

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CERTIFICATE OF OATH

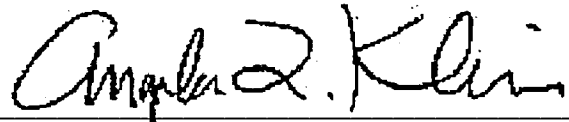
STATE OF FLORIDA)

COUNTY OF LEE)

I, Angela L. Klein, RPR, FPR, Notary Public, State of Florida at Large, certify that the Witness, EDDIE MORALES, appeared before me via Zoom videoconference on the 19th day of December, 2022, and was duly sworn.

WITNESS my hand and official seal this 10th day of January, 2023.

(This transcript has been digitally signed.)



Angela L. Klein, RPR, FPR
Notary Public, State of Florida
My Commission Expires 3/19/2023
Commission Number GG280171

* * * * *
STATE OF FLORIDA)
COUNTY OF LEE)

I, _____, (production manager) do hereby certify that Eddie Morales was notified via U.S. mail, email, and/or telephone that the transcript of the deposition was available for reading and signing; that as of this date the deponent has not read and signed the transcript for the following reason:

Dated this _____ day of _____, 2023.

CERTIFICATE OF REPORTER

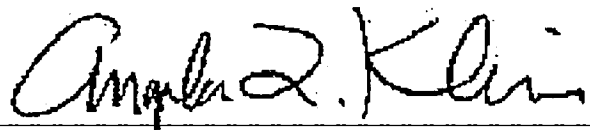
STATE OF FLORIDA)
COUNTY OF LEE)

I, Angela L. Klein, RPR, FPR, and Notary Public in and for the State of Florida at Large, do hereby certify that I was authorized to and did stenographically report the deposition of EDDIE MORALES; that a review of the transcript was requested; and that the foregoing transcript, pages 1 through 109, is a true record of my stenographic notes.

I further certify that I am not a relative, employee, attorney, or counsel of any of the parties, nor am I a relative or employee of any of the parties' attorneys or counsel connected with the action, nor am I financially interested in the action.

DATED this 10th day of January, 2023,
at Fort Myers, Lee County, Florida.

(This transcript has been digitally signed.)



Angela L. Klein, RPR, FPR

Exhibits	5:10,18 61:10 63:13,16	2/S-2 64:4	4/6/22 47:18	105:1
Morales-1 2:17 5:10,18	1/S-2 63:23	20 9:20,24 10:4 22:19 102:14,18	4/S-2 62:8 65:4	443//sliding 18:13
Morales-2 2:17 18:7,11 23:14 42:18 60:11 61:6 72:15,16	10 38:25 67:16,17	200 24:1,24 25:7,20, 23,24 26:7,15,17 47:6 50:24 105:3, 4,9	400 3:13 13:1,4,10 14:8,23 15:16,25 16:7,16,23 18:21, 24 23:6,18,19 45:2 46:9,13 51:25 52:2,19,24 54:8, 11,17 57:19,24,25 60:22 71:23 73:22 91:24 92:3,5 96:24 99:18,23 104:14	5
Morales-3 2:18 45:25 46:2,3, 7 47:3	10:24 80:6,10	2017 7:13,14 10:1,16,21 12:21	409 13:14,23 14:13,15 15:1,4,10 16:11,20 74:20 75:4,21 92:8 98:17,23 99:13,20 101:14	5 39:9 41:16 52:10, 11,13 55:1
Morales-4 2:18 49:7,13,15 51:21 59:18 72:6	10:35 80:8	2020 62:17	411 13:14 14:12 15:1, 4,10 16:11,20 46:4,11,23 47:21, 24 48:5,9,15,22,24 74:18 75:1,6,21 92:8 98:17 99:13, 20 101:14	5-inch 37:10
Morales-5 2:19 52:10,11,13 55:1	10:36 80:10	2022 20:11,12 32:7,19 49:10 55:1,8 58:19 65:13 71:10,16,21 72:25 73:7 82:16, 19	411//sliding 46:11	5-year 40:4
Morales-6 2:19 56:20,23	11 17:12,19 46:21,23 71:6,8	2023 71:12	4328 83:16 84:15	5348 103:4,5
Morales-7 2:20 58:17,20	117VCM.01-02 24:9 47:5	2237 93:9	4359 85:13	5th 71:10
Morales-8 2:20 59:21,23 66:15,18 67:5 72:7	11:18 109:17	22nd 82:16,19	441 13:16 14:13,15 15:1,4,11 16:11,20 74:20 75:21	6
Morales-9 2:21 65:11,12,14	11th 32:7,19 55:1,8	24th 71:16,21	443 13:8 15:1,3,4,5,8 16:10,18,24 18:21 19:2,14,19 21:5 25:18 26:10,17,24 32:4 35:18 42:23 44:25 45:19 46:24 47:25 48:5,8,17,23 52:5 53:15 55:15 57:16 59:7 66:5,21 67:9,11 68:2 71:24 73:12 74:5 75:9,24 76:1,9,10,17 77:15 80:2 98:10 100:6	6000 86:1
Morales-10 2:21 67:16,17	12 17:21 38:8,11 72:22 73:1	2800 56:6	3	7
Morales-11 2:22 71:6,8	125 10:22 12:16	3 6:10 12:5 33:3 45:25 46:2,3,7 47:3 53:23,24 62:3 63:14,16 68:1	4 13:6 49:7,13,15,24 51:21 59:18 63:6 72:6	6 38:25 40:5 56:20, 23
Morales-12 2:22 72:22 73:1	12th 58:19	3/S-2 64:12	4359 85:13	600 23:17
Morales-13 2:23 82:10,13	13 82:10,13	3075 94:21 95:12	441 13:16 14:13,15 15:1,4,11 16:11,20 74:20 75:21	7000 86:1
\$	14 85:9,11	3	411//sliding 46:11	7
\$4,370 74:5	15 102:14,17	4 13:6 49:7,13,15,24 51:21 59:18 63:6 72:6	4328 83:16 84:15	7 58:17,20
0	1500 59:12	4/6/2022 24:10 47:6,16	4359 85:13	7-16 62:18,19
00 50:4 72:8	18 50:4 72:8		441 13:16 14:13,15 15:1,4,11 16:11,20 74:20 75:21	7182 86:15,21 89:24
0360 84:25	19th 65:12		443 13:8 15:1,3,4,5,8 16:10,18,24 18:21 19:2,14,19 21:5 25:18 26:10,17,24 32:4 35:18 42:23 44:25 45:19 46:24 47:25 48:5,8,17,23 52:5 53:15 55:15 57:16 59:7 66:5,21 67:9,11 68:2 71:24 73:12 74:5 75:9,24 76:1,9,10,17 77:15 80:2 98:10 100:6	7290 92:14
07 50:4 72:8	2		441 13:16 14:13,15 15:1,4,11 16:11,20 74:20 75:21	7th 72:25 73:7
1	2 18:7,11 23:14 42:18 59:11 60:11 61:6,8,9 62:5 63:14,16,22 72:16		443 13:8 15:1,3,4,5,8 16:10,18,24 18:21 19:2,14,19 21:5 25:18 26:10,17,24 32:4 35:18 42:23 44:25 45:19 46:24 47:25 48:5,8,17,23 52:5 53:15 55:15 57:16 59:7 66:5,21 67:9,11 68:2 71:24 73:12 74:5 75:9,24 76:1,9,10,17 77:15 80:2 98:10 100:6	8
1			443 13:8 15:1,3,4,5,8 16:10,18,24 18:21 19:2,14,19 21:5 25:18 26:10,17,24 32:4 35:18 42:23 44:25 45:19 46:24 47:25 48:5,8,17,23 52:5 53:15 55:15 57:16 59:7 66:5,21 67:9,11 68:2 71:24 73:12 74:5 75:9,24 76:1,9,10,17 77:15 80:2 98:10 100:6	8 59:21,23 66:15,18 67:5 72:7
			443 13:8 15:1,3,4,5,8 16:10,18,24 18:21 19:2,14,19 21:5 25:18 26:10,17,24 32:4 35:18 42:23 44:25 45:19 46:24 47:25 48:5,8,17,23 52:5 53:15 55:15 57:16 59:7 66:5,21 67:9,11 68:2 71:24 73:12 74:5 75:9,24 76:1,9,10,17 77:15 80:2 98:10 100:6	8578 93:10,11,24
			443 13:8 15:1,3,4,5,8 16:10,18,24 18:21 19:2,14,19 21:5 25:18 26:10,17,24 32:4 35:18 42:23 44:25 45:19 46:24 47:25 48:5,8,17,23 52:5 53:15 55:15 57:16 59:7 66:5,21 67:9,11 68:2 71:24 73:12 74:5 75:9,24 76:1,9,10,17 77:15 80:2 98:10 100:6	9
			443 13:8 15:1,3,4,5,8 16:10,18,24 18:21 19:2,14,19 21:5 25:18 26:10,17,24 32:4 35:18 42:23 44:25 45:19 46:24 47:25 48:5,8,17,23 52:5 53:15 55:15 57:16 59:7 66:5,21 67:9,11 68:2 71:24 73:12 74:5 75:9,24 76:1,9,10,17 77:15 80:2 98:10 100:6	9 44:3 65:12,14

<p>9/16/2022 68:2</p> <p>90 10:20 12:18</p> <p>9326 94:3</p> <hr/> <p style="text-align: center;">A</p> <hr/> <p>A-A 64:18</p> <p>a.m. 80:10 109:17</p> <p>ability 73:4</p> <p>accepted 73:14</p> <p>access 20:22,24,25 41:15, 19 43:21 77:4,7 83:9</p> <p>accessories 36:21</p> <p>accordance 62:4 66:10</p> <p>accurately 60:25 102:22</p> <p>act 88:7</p> <p>actual 107:7</p> <p>Ada 7:17,19</p> <p>add 62:12</p> <p>added 67:5</p> <p>addition 68:23</p> <p>additional 33:4</p> <p>adhesion 29:21</p> <p>adjacent 38:5,7 66:20</p> <p>advise 109:9</p> <p>advised 4:8</p> <p>Aerial 10:5,8,10</p>	<p>aesthetic 76:3,4</p> <p>affect 8:20</p> <p>affixed 79:5</p> <p>agents 6:18 15:23</p> <p>agreement 46:14</p> <p>agreements 14:8</p> <p>ahead 19:4 32:18 68:9 74:17 102:13,17 107:19</p> <p>allowance 32:23,24</p> <p>allowed 78:13</p> <p>aluminum 63:24 64:15 68:15 93:19 98:25</p> <p>amalgamated 12:9</p> <p>American 63:1</p> <p>amount 74:5,7</p> <p>anchoring 88:10 89:19,20</p> <p>angle 35:1</p> <p>answers 4:24 73:9</p> <p>anticipate 98:16 101:12</p> <p>apologize 61:10</p> <p>apparatus 81:12 96:3</p> <p>Apparently 100:7</p> <p>appeared 75:25 76:6</p> <p>appears 90:2 93:20</p> <p>application 30:11 41:2,19 56:5</p>	<p>applicator 59:12</p> <p>applied 28:22 29:8 31:18</p> <p>applies 56:3</p> <p>apply 56:12</p> <p>applying 29:3</p> <p>appointment 20:5</p> <p>approve 28:16 74:19 75:10</p> <p>approved 28:17 74:6,18</p> <p>approximately 20:6</p> <p>area 40:12,13,14 41:17 53:7 64:8 75:18 79:8 81:3 91:22</p> <p>areas 22:3 41:11 43:18, 22,25 44:14 53:1, 3,5 75:15 78:12 105:11,20,22</p> <p>arrived 93:1</p> <p>art 78:17,23</p> <p>as-is 33:19</p> <p>ASCE 62:18,22,23</p> <p>asks 6:15 12:24</p> <p>assistant 108:9</p> <p>assisted 98:9</p> <p>association 3:14 14:9,24 23:7 24:2 25:2 44:13 46:8 52:3 53:10, 13,16,20 54:9,12, 17,22 57:20,24 74:17 75:14 88:2, 14,25 91:8 100:8 107:25 108:7</p>	<p>association's 53:9</p> <p>associations 106:20 107:8,17</p> <p>assume 4:15</p> <p>assuming 46:8</p> <p>attached 5:16 81:13,16 82:25 100:21 105:18</p> <p>attention 5:23 71:16,21</p> <p>August 32:7,19 55:1,8 58:19</p> <hr/> <p style="text-align: center;">B</p> <hr/> <p>B-I-T-U-T-H-E-N-E 36:20</p> <p>back 30:18 31:8,14,25 33:3 80:8 88:9 99:1</p> <p>background 9:15</p> <p>balcony 21:8,11,20</p> <p>Baltimore 10:6</p> <p>Barbara 57:14,15,18 71:17 72:24 73:8 74:6 75:9</p> <p>bare 29:6 40:9 94:15</p> <p>barrier 33:3,10 36:2,9,10 44:19</p> <p>base 93:22</p> <p>based 23:24 24:8,22 26:14,16 27:10 30:22 32:7 41:2 47:5 48:16 49:1 53:7 58:2 60:10,20 65:25 66:7 68:21</p> <p>BASF1500 40:4</p>	<p>basically 37:20</p> <p>bathroom 38:15 39:2</p> <p>bead 88:10 90:15,16,18, 19 91:3</p> <p>beads 89:12</p> <p>Bear 67:20</p> <p>bears 54:25 55:1 82:15</p> <p>began 31:23 68:4</p> <p>begin 31:10</p> <p>beginning 31:20 64:7</p> <p>begins 71:11</p> <p>begun 14:4</p> <p>behalf 10:16 53:15 54:5</p> <p>belief 66:8</p> <p>bid 11:11 51:17,19 107:23,24</p> <p>bidding 19:12</p> <p>bit 8:4 9:14 37:12 51:5 80:15</p> <p>BITUTHENE 36:19</p> <p>black 103:20</p> <p>blue 85:21</p> <p>board 45:2,7 74:18,19 82:11</p> <p>bottom 35:6 37:13 38:3 43:9 57:4,5 77:18, 20 85:15 90:19 95:15</p> <p>Boulevard</p>
---	---	--	--	---

<p>13:1 16:23 56:6</p> <p>box 69:2,8,15 71:1,3 87:8,9,13,14,15 90:14 91:2,7 96:19 97:5,6,11,23 98:2, 3,6 100:20,22 101:6,8 104:2,4 105:17,18 107:10</p> <p>boxes 90:2,11,13 92:1,10 96:12,16,17,22,25 97:2 101:13 107:4</p> <p>break 5:5 80:7,8 102:1,5</p> <p>briefly 105:4</p> <p>bring 31:7 84:5</p> <p>bringing 26:4 40:17 81:25</p> <p>broadly 15:6</p> <p>Builders 58:18 59:13</p> <p>building 8:9,12,16,18,21,25 9:4,21 11:15,16,21 13:23 25:3,20,23, 25 26:7,10 32:6 39:17,25 40:1 50:25 53:4,12 54:5 55:13,24 58:14 62:17 79:16 97:9 101:2 105:3,4,9 107:1,13,21 108:10,13,14,16</p> <p>buildings 9:7,12 10:24 11:11 108:14,15</p> <p>bulk 66:25</p> <p>bumpers 34:3</p> <p>business 99:16 105:24</p> <hr/> <p style="text-align: center;">C</p> <hr/> <p>calculation 106:1</p>	<p>call 91:15</p> <p>called 3:23 49:17 95:6</p> <p>camera 86:17</p> <p>cap 106:17</p> <p>carpentry 44:5</p> <p>carries 53:10</p> <p>case 4:12 39:19</p> <p>caulk 91:3,4,25 92:4 107:18,25</p> <p>caulked 80:24</p> <p>caulking 91:10 92:9 108:6</p> <p>caused 79:14</p> <p>CDX 36:18 39:7</p> <p>certificate 66:4 82:11,23</p> <p>Certified 6:24</p> <p>chain 75:8</p> <p>change 62:14 81:21,23,25</p> <p>changed 96:6 98:2</p> <p>Check 96:11</p> <p>checks 67:19</p> <p>chipping 37:10</p> <p>circle 87:6 103:20</p> <p>circled 91:22</p> <p>circular 91:15</p> <p>civil 3:11</p>	<p>claim 8:16</p> <p>clarity 71:15</p> <p>Clark 24:15 50:9 56:18 60:13,17 71:23 72:4 76:24</p> <p>clear 4:16,17,22,23 5:2, 3,8 14:25 30:19 32:3 52:4 72:13</p> <p>climate 8:20</p> <p>close 73:14</p> <p>closeout 65:23</p> <p>coating 27:25 29:3,4 30:24 51:8,11,20,24 52:5 72:6,8 94:14</p> <p>Coatings 49:16,18 50:5</p> <p>code 39:17 53:12 62:17 82:1</p> <p>Collier 3:12 10:23 12:8, 10,22,23 55:12,25 58:14 66:4 82:11</p> <p>column 43:1</p> <p>commence 13:17</p> <p>commenced 13:18 90:12</p> <p>commencement 14:1 16:15,17,19 31:22 56:22 57:1, 4,5,23 58:4,7,9,12</p> <p>comment 4:19 45:2,15,18</p> <p>commercial 10:23 53:24</p> <p>Commissioners 82:11</p> <p>common 21:8,15 36:11 40:12,13,14 52:25 53:3,4,7,19 66:20</p>	<p>75:15,18 78:13 80:2 104:10 107:8 108:8</p> <p>communications 15:15,20</p> <p>companies 3:17 10:3,5</p> <p>company 3:16 7:2,9,15 8:24 9:2,22 10:3 18:24, 25 23:7 50:16 53:14 59:7 64:1 98:9 106:3,4 108:19</p> <p>compare 47:24 75:23 88:18, 22 90:10</p> <p>compared 75:25</p> <p>competent 59:12 108:22</p> <p>complete 4:21 24:7 38:19 73:15</p> <p>completed 10:22 13:7,8 24:2, 24 25:3,7 26:14 42:22 47:6 66:9 103:18 104:7</p> <p>completing 98:16</p> <p>completion 66:4 82:12,23 102:23</p> <p>Composite 67:16</p> <p>compromised 79:22</p> <p>computer 84:7,9</p> <p>concerned 16:4</p> <p>concluded 109:18</p> <p>conclusion 45:23</p> <p>conclusions 78:4,8</p> <p>concrete 9:11 11:14 19:21 25:13 26:2 28:23,</p>	<p>24 29:6,8 40:3,9, 20,23,25 41:6,22, 23 42:1 94:15,16</p> <p>condition 17:5 32:12 41:22, 25 42:6 51:6,11,15 76:12 83:5 84:22 85:4 92:8</p> <p>conditions 26:1 28:6,8 31:3 42:22 48:7 84:21</p> <p>condominium 3:13 9:4 10:18,20 11:19 12:18 14:9, 23 19:11 23:6 52:19 53:16,19 54:8,11,17,21 57:20,25 97:16 106:11,15,20 108:7</p> <p>condominiums 10:24 11:2,18 51:5 53:8</p> <p>conducted 104:16</p> <p>conduit 69:15 70:18</p> <p>conduits 68:25 69:4,18,23 70:2 73:19 77:17, 22 97:3</p> <p>configuration 76:3,4</p> <p>confirm 71:24 89:4</p> <p>confronted 51:7</p> <p>confused 31:15</p> <p>conjunction 89:10</p> <p>connected 87:22</p> <p>connecting 35:10</p> <p>connection 30:12</p> <p>consent 101:25</p> <p>consequence 66:3</p>
---	---	--	---	--

<p>consistent 51:19 76:23</p> <p>construction 3:23 5:13 6:1,5,16, 19,23 7:11,21,24, 25 8:7,11 9:23 12:7,25 15:16,24 17:22 23:16 47:7 63:1 97:9 106:24</p> <p>contact 15:22 19:6 20:7 23:5</p> <p>contacted 18:19,20,23 91:25 92:4</p> <p>contacts 20:13</p> <p>continue 34:10</p> <p>contract 13:9 14:12 28:7 68:22</p> <p>contracting 8:1 10:5 32:24</p> <p>contractor 6:20,24 9:15 55:14 56:1,2,3 58:3 59:5 74:9 108:22</p> <p>contracts 13:3 14:13,22 15:1,10</p> <p>copies 14:15</p> <p>copy 84:5</p> <p>corner 38:20 39:2 103:21</p> <p>corporate 3:22 5:12,25 6:1, 15</p> <p>correct 3:24,25 9:10,11, 17,18 12:13,14,17, 18,19,21,22 13:19, 21,22 14:5,6 15:1, 9,11,12 16:12,13, 21 18:15 20:14 21:5,6,8,9,12,13, 17 23:18,19,21 24:17,18 26:7,8, 11,18,19,25 27:1, 7,8,14,15 28:1,2,</p>	<p>25 30:20,21,25 31:1,23 32:25 33:1 35:7,8,16,17,19, 20,24,25 38:12 39:19,20,25 41:8,9 42:20 43:10,11 45:14 46:9,10,15, 18,19,20,24 48:17, 18 49:2,3 50:9,10 51:15,21,22 52:7,8 54:9,18,23 55:16, 21,22 56:10,11,14, 15,18,19 57:25 59:8,9 60:12,14, 15,18,19,22,23 61:3 63:19,20 64:2,3 65:9,10 66:6,15,16 67:2,3, 9 70:18 71:4 72:11,12,16,17 74:8,23,24 76:24 77:10,11,15 78:24, 25 79:2,14 81:13, 14,16,17 82:4,5 84:23,24 85:5,6 86:9,10,12 87:11, 20,25 88:1,3,16,17 89:1,3,17,24,25 90:17,22,25 91:4 94:11,14 95:13 96:6,7,8 97:7 98:3, 4,7 99:16,17,24 100:4,22 101:18, 23 103:13,14 104:4,5 105:14 106:1,6 107:6,11, 12 108:19</p> <p>corrected 104:11</p> <p>correspondence 15:21</p> <p>corrosion 96:25 97:1 99:5 101:10,11,13 105:8,13</p> <p>cost 32:25 44:16</p> <p>counsel 109:9,11</p> <p>county 3:12 10:23 12:8, 11,22,23 55:12,13, 16,20,25 58:14</p>	<p>66:5 82:11,22</p> <p>county's 55:19</p> <p>couple 23:9 95:13 101:22</p> <p>court 4:18 5:1 30:13</p> <p>covered 44:7</p> <p>covering 43:21 44:20</p> <p>create 39:14 40:9 79:11, 16</p> <p>created 7:9,12</p> <p>creation 8:13 9:17 10:1 12:20</p> <p>critical 89:5</p> <p>curb 40:3,20,23,25 41:6,22,23 43:7,9 44:11 60:1 61:19 62:4,7,16 64:20,22 65:1,7 70:23 72:7 98:25</p> <p>curious 68:13</p> <p>cycle 8:22</p> <hr/> <p style="text-align: center;">D</p> <hr/> <p>damage 9:12</p> <p>damaged 44:4,6,11</p> <p>damages 8:19</p> <p>date 20:9 24:17 31:22, 24 32:2 55:1,9,10, 20 82:15,18,22</p> <p>dated 24:9 47:6,16,17,18 49:10 58:18 72:25</p> <p>dates 31:16</p> <p>deal</p>	<p>11:7,8</p> <p>dealing 27:17 106:6</p> <p>dealt 106:8</p> <p>deck 25:9,12,19 26:4 28:23,24 40:3,11, 13,14,25 41:6,21, 23 49:4 51:8 59:8 70:9 71:24 94:9, 12,13 103:17</p> <p>decks 53:4</p> <p>dedicated 9:22</p> <p>Defendant 3:14</p> <p>delamination 26:3</p> <p>demobilization 28:12 31:4,5</p> <p>demobilize 31:6</p> <p>demonstrated 59:11</p> <p>depict 103:15</p> <p>Deponent 3:3</p> <p>deposed 3:22 4:2,3</p> <p>deposition 3:15 4:9 5:12,24 6:2 14:14 16:25 17:18 23:15 46:1,6 47:3 52:7 61:16 65:16 72:6,16 85:10 105:3 109:4, 7,8,13,17</p> <p>depositions 109:6</p> <p>describe 7:24 8:15 10:15 11:1 20:18,21 24:25 27:13 28:6, 18 29:1 33:6,22 34:7,8 39:8 52:23 55:23 61:22 68:17 83:6 84:1</p> <p>describing</p>	<p>38:14,16 64:7 88:24 89:22</p> <p>Description 54:3</p> <p>design 48:11,12 50:20 64:24 107:22</p> <p>designated 5:25</p> <p>detail 22:1 29:2 60:1 61:19 62:7,8 63:23,24 64:1,5, 10,13,20,21 65:5 72:7 94:8,16</p> <p>details 19:25 62:1,4,15</p> <p>determination 68:11 69:23,24 79:7 93:3 97:21,25</p> <p>determine 32:9 50:16 62:6 68:12 101:20 104:9 105:19,22</p> <p>determined 45:17,23</p> <p>develop 23:10</p> <p>difference 63:15</p> <p>differences 48:2</p> <p>differently 50:22</p> <p>digits 93:12 103:5</p> <p>direct 3:6 5:22</p> <p>directly 29:8</p> <p>directors 6:17 7:20 15:23</p> <p>discoloration 85:23</p> <p>discuss 21:23 22:1 30:6</p> <p>discussed 68:20</p> <p>discussion 20:1 30:16 45:18 67:5 105:4</p>
--	--	--	--	---

discussions 15:20	drawn 78:4	104:10 107:8 108:8	entries 68:2	61:6 65:11,14 66:15,18 67:5,16, 17 71:6,8 72:6,7, 15,22 73:1 82:10, 13 84:7 85:8,9,11 89:24 92:14
dismantled 99:2	drywall 44:4,7,11,12 73:13	Elevation 63:14	entry 42:23 43:4	exist 90:6
dismantling 89:23	Duces 5:12,24	email 23:12 71:10,11,16 72:24 73:6,8,23 74:2 75:8,9	envelope 8:25 9:21 32:6 53:4 54:5 79:16 89:14	existed 38:10 42:22 48:16 80:2 81:6 87:10 91:17 95:20 96:3
dispose 40:7	due 101:10,11,13	emails 15:15,21 71:7 72:23 73:3	envelopes 8:10,12,16	existing 33:8,19 35:13 36:21 39:22 40:7 41:20,22 42:6 43:7 51:6,10,15 54:3 61:14 62:10,17 69:18 84:21,22 85:4 90:6 95:4 97:18,19
dispute 26:25	duly 3:3	employed 98:8	equipment 24:6 31:7	exists 87:14
document 18:8,12 23:15 27:22 49:10,16 52:13 56:21,25 58:18,22,25 59:25 65:12 67:18,24 72:6,12 86:25 109:14	dumpster 28:11	employees 6:18 7:18	error 23:20	exit 22:22,23 23:2
documenting 84:21	<hr/> E <hr/>			experience 9:15,20,24 25:18 26:13 53:8 58:3 59:5 79:15 106:5,9 108:5
documents 17:8,22 46:5 65:15	earlier 11:6 52:7 59:18 60:10 61:15 62:13 67:6,12 72:5,18 100:2	end 61:7	essentially 35:22	experienced 25:19
dollar 73:24	early 32:2,16	engineer 19:23 29:20 30:24 50:20 56:16 64:23 68:12 71:23 104:8, 14 107:16,20,21	estimate 43:21 44:16	experiencing 19:15
door 18:14 19:17 21:4, 25 23:3 27:3,6,14, 18 32:5 33:8,21, 22,24,25 34:1,2,8, 9,15,18 36:5,24 37:1,19,25 38:6,24 44:4,7 46:12 48:24 49:2,3 54:3 63:13, 14,16,18 64:6 68:2,3,13 69:13 85:15 95:4	Eddie 3:2,20 7:3,19 11:9 71:16,21 102:9,21	engineered 56:14	estimating 22:3	expertise 108:18
doors 21:1,11 33:4,19 34:25 37:21 38:2 40:21 44:10 61:15 62:11 63:11,12,19, 20 103:17	edge 38:18	engineering 17:13 23:25 24:9 27:10,12,19,24 28:16 41:3 47:5 49:19 50:7 59:4 65:12,23 76:21 104:19	event 78:14	explain 58:8 100:13 109:5
dots 85:23	efforts 91:24 92:3	entail 8:17	evidence 42:25 43:1 76:15	explanation 100:11
downhill 80:1	electric 74:14 96:15	entails 8:18	evidenced 42:22	exposed 33:5,9 35:23
draw 78:8	electrical 68:24,25 69:15 73:12,13,17,19,20, 21 74:4,9,25 75:3, 10 76:16 77:17 90:2 91:2,7 92:1, 10 95:16,18,19 96:14,18 97:6 98:2 99:6,19 105:8 106:10,11,16 107:4,10 108:6	enter 79:8	exact 10:21 31:24 32:1 84:2	expressed 45:2,4
drawing 62:1	electrician 74:5,12	entered 14:7 45:10 46:14	EXAMINATION 3:6	exterior 32:6 36:11 42:5,6 54:5 81:21 106:10
drawings 62:5	element 28:7 33:23 36:15	entire 11:15 18:2 37:20 89:9,13	examine 17:17 81:19 99:19	eyes 38:24
	elements 21:8,15 33:11 36:11 39:8 53:19 66:20 78:13 80:2	entirety 60:25 89:16,23	examined 66:18	
		entitled 18:12 23:15 52:13 56:21 58:18	exclusively 8:12	
		entitles 7:25	Excuse 61:10	
		entity 3:23	executed 14:22 47:17	
			exhibit 5:10,18 6:10,11 11:23,24 13:6 18:7,11 23:14 24:13 42:18 45:25 46:2,3,7 47:3 49:7, 13,14,15 51:21 52:10,11,13 55:1 56:20,23 58:17,20 59:18,21,23 60:11	

F	<p>fact 68:12</p> <p>facts 70:7</p> <p>failing 34:3</p> <p>failure 25:15</p> <p>failures 24:25 25:6,9,11, 12,23,24 26:3,9 47:8</p> <p>fair 5:7 9:1 14:20 45:24 52:9 62:2 98:5</p> <p>fairly 35:22 60:24 102:22</p> <p>familiar 47:20 78:16</p> <p>fastener 35:12</p> <p>fasteners 35:10 80:21 83:1</p> <p>feature 87:20 89:5</p> <p>feel 5:5 102:6</p> <p>feet 33:3</p> <p>fell 30:13</p> <p>field 7:18 10:11 17:4 28:15</p> <p>figure 38:17</p> <p>file 18:2 47:16 92:19 99:17 102:25</p> <p>filed 16:15</p> <p>final 104:16,18 105:2</p> <p>find 71:18 86:14,16,19</p> <p>finds 73:8</p> <p>fine 55:7 102:3</p> <p>finish 29:22 39:23 40:5,8 42:2 44:4 77:1</p> <p>finished 104:13</p> <p>finishes 40:8 41:20 42:9 44:21</p> <p>fix 108:12</p> <p>fixture 70:8,24 75:11,14, 17,24 76:1,8,11, 13,16 77:8,13,14 80:2,16,17,20,22, 24,25 81:4,7,10, 11,15,20,22 87:8, 10,22 88:5,7,9,12, 14 89:6,13,15 91:8,21,22 95:24 97:11,23,24 98:2 99:7,24 100:3,6,8, 9,12,15,16,19,20, 22,24,25 101:1,4,7 104:3,6 105:16,18 107:10</p> <p>fixtures 75:20,23 77:6 92:4,9 99:20 105:9 107:5,18 108:1,7</p> <p>flashing 94:16</p> <p>flight 84:6</p> <p>floor 37:20 40:7,8,11, 13,14 42:2 43:6 63:5,8,10 69:1,5 78:22,24 85:20 87:1 92:24</p> <p>floor/wall 25:10</p> <p>flooring 51:11</p> <p>floors 44:21</p> <p>Florida 6:25 8:2 9:16 12:8,</p>	<p>11 39:16 62:17</p> <p>flow 80:1</p> <p>fluid-applied 29:7</p> <p>follow 64:9</p> <p>footage 48:25 49:1,3,4,5</p> <p>forward 74:19</p> <p>forwarded 23:11 71:22</p> <p>four-page 52:13 67:18</p> <p>frame 39:16 42:25</p> <p>Framing 26:1</p> <p>free 5:6 102:6</p> <p>front 21:4 38:24 65:17</p> <p>full 3:18 11:15</p> <p>function 105:15,16,17</p> <p>functions 89:16,18</p> <p>furnish 24:5</p> <p>future 39:15</p>	G	<p>gained 20:22,24</p> <p>gave 84:13</p> <p>general 6:24 8:23 12:6 28:6,8 31:2 32:12 66:10</p> <p>generally 10:15 47:20 56:17 63:3</p> <p>give 12:3 22:5 77:25 80:3,5</p> <p>glass 18:14 19:17 21:1, 11 27:3,6,13,18 32:5 33:4,8,19 34:15 37:21 38:2 40:21 46:12 54:3 61:15 62:10 63:11, 12 64:6 69:13</p> <p>go-ahead 30:23</p> <p>good 3:8 12:2,23 20:17 26:20 30:10 40:15 43:23 47:11 58:16, 21 62:9 63:21 64:11,17 66:17 73:7 94:18 100:18 102:2,16,19</p> <p>granted 30:11</p> <p>grinders 37:10</p> <p>ground 4:7,10</p> <p>guaranties 33:21</p> <p>guess 29:17</p> <p>guessing 79:13</p> <p>guidelines 41:3</p>	H	<p>hammers 37:10</p> <p>hand 47:13 75:11</p> <p>handle 102:11</p> <p>hanging 79:9</p> <p>happen 57:3</p> <p>hard 73:2</p> <p>head 4:25 62:24</p> <p>header 62:4,7 64:5,9</p> <p>heard 19:10</p> <p>held 30:16</p> <p>helpful 10:17</p> <p>Henry 3:8 4:10 30:13 101:24 102:13</p> <p>Hernandez 7:17,19</p> <p>highrises 10:25</p> <p>hire 108:21</p> <p>hired 54:12 107:17</p> <p>HOA 54:5,8</p> <p>hold 6:23 9:25 18:10 30:14 80:3 93:9</p> <p>holder 7:1,9</p> <p>holders 6:17 15:22</p> <p>holes 73:14</p> <p>home 9:4</p> <p>honor 5:6</p> <p>Hope 73:8</p> <p>horizontal 40:17</p> <p>Horseshoe 56:6</p> <p>hurricane 45:10,13</p>	I	<p>lan 45:3,11,19</p> <p>identification 5:11,18 18:8,11 46:1,2 49:13 52:11 56:21,23 58:20 59:22,23 65:14 67:16,17 71:7,8</p>
----------	--	---	----------	---	----------	---	----------	--

<p>73:1 82:13 85:11 identified 27:18 49:17 identify 49:20 50:5 63:17 implemented 106:25 improvement 33:20 34:1 in-house 74:10 108:15 inches 38:8,11,17,25 incident 76:9 77:9 107:4 include 44:5 60:8 includes 29:8 36:18 including 5:16 6:17 15:21 23:7 39:7 66:22 67:19 Incorporated 3:24 5:13 6:2,5,16, 20 7:11,21,24 8:1, 7,11 23:16 24:9 54:9,12 incorrect 83:16 incorrectly 36:19 independent 78:20 indication 22:5 individual 6:14 industry 9:23 29:19 39:15 51:4 62:25 91:12 inflections 4:25 informed 96:23 inside 20:24 33:10 34:12 35:12,18 36:10,12 38:20 44:20 80:22 inspect</p>	<p>42:3 48:11 51:12, 13 76:7,18 81:1,8 88:21 89:2 90:13 101:19 inspected 45:3 76:6 99:11 107:16 inspection 28:11 58:15 104:16,18 install 36:2 61:18 75:13, 17 88:14,15 91:21 94:1,2 99:23 100:12,14 installation 28:17 33:2 50:13, 19 88:21,24 89:1 installed 36:4 44:19 79:19 87:16,18,21 88:19 97:7,8,11,16,20,23 100:21 104:6 installing 69:3 98:24 instruct 91:9 instructed 91:11 96:21,23 97:2 98:15 intent 11:22 interest 13:2 46:20,21 48:19 85:18 interested 19:11 interior 9:3 33:10,16 44:9 85:4 internal 15:20 interpretation 89:22 interrupt 23:1 intersection 26:5 intruded 77:14</p>	<p>intruding 107:9 intrusion 9:6,8,9 11:7,19 19:15,19,21 22:2,6 39:15 43:2,12 44:24 45:13 48:5, 8,15 61:2 67:9 70:19,22 76:16 78:1,5,9 79:12,23 93:5 95:11 104:9 106:6,9,10,14,15 intrusions 9:13 invoice 68:14,24 invoices 67:19 involve 88:8 involved 9:2 10:16,18,19 11:18 12:16 13:4 19:23 50:23 107:15 Irma 4:4 issuance 31:21 58:14 82:15, 18 issue 67:9 79:14 issued 13:24 31:19 32:6 55:9,10,11 56:10 66:5 82:22 issues 6:6 9:10 11:7,8,18 55:18 105:7 106:6, 9 issuing 55:13 item 12:5 14:21 16:6 17:12 32:22 33:2, 18 39:9 40:2,5 41:10,16 43:17,24 items 6:14 9:12 12:1,3 17:24 39:8 46:22, 23 61:5 73:10 81:19</p>	<p style="text-align: center;">J</p> <hr/> <p>Jacqueline 3:10,11 jamb 38:11,18 60:1 62:7 63:23,24 64:12 67:1 72:7 jamb 34:11,20 35:6,9, 11,13,15,23 38:10 61:19 62:4,16 64:16 68:15 77:5 93:19 95:4 98:25 99:3 Jeffrey 3:9 JMC 17:13,24 23:24 24:8,13 27:10,12, 19,23,24 28:15 29:13 30:4,7 41:3, 7 47:5 49:19 50:7, 9 56:18 59:4 65:12,23 66:3 76:25 104:19 job 10:10,13 31:6,9,11 32:17 34:1 51:12 98:11 Joe 50:9 John 19:5 23:7,17 31:15 46:7 Johnson 3:7,8 4:11 30:14, 17 80:6,11 85:7,12 101:21,25 102:4,9, 15,19,20 108:23 109:3 joint 88:11 Joseph 24:15 60:13 71:23 72:4 76:24 judgment 66:9 Julie 101:25 102:6 108:25</p>	<p>July 20:9,10 31:14,20 32:2 71:10 junction 69:2,8,15 71:1,3 June 31:15 49:10 71:12, 16,21 jurisdiction 53:12</p> <hr/> <p style="text-align: center;">K</p> <hr/> <p>kind 6:9,22 8:6,8,24 28:5 37:9 42:2 46:4 80:1 108:17 Klein 4:18 85:9 109:12 knee 21:20,21 94:17 knew 41:5 knowledge 6:6 30:22 44:23 45:6 66:8 97:5,10 Kobza 10:8</p> <hr/> <p style="text-align: center;">L</p> <hr/> <p>La 3:13 13:1,5,10 14:9,23 15:16,25 16:8,16,23 18:21 23:6,17,18,19 24:1 26:7 32:4 46:8,9, 13 51:25 52:2,19, 24 53:15 54:8,11, 17 57:19,25 60:22 71:23 73:22 91:25 92:3,5 96:24 99:18,23 104:15 labor 18:20 24:5 31:10, 25 32:14 45:11 67:7 90:7 98:9 102:23 lack 27:21 ladders 28:10</p>
--	--	--	--	--

<p>lanai 25:9,13 40:3,12, 14,25 41:6,21,23 53:4 71:24 76:9 82:24 87:1 92:16 96:12 103:17</p> <p>lathe 36:20</p> <p>laws 53:11</p> <p>lawyer 30:15</p> <p>layers 29:9</p> <p>laying 92:23,25</p> <p>layout 63:11,12</p> <p>leak 45:16</p> <p>leave 88:3 97:1</p> <p>led 77:13</p> <p>Lee 12:8,11</p> <p>left 35:5 39:1 100:17, 19</p> <p>left-hand 85:19 103:21</p> <p>letter 59:4 65:23 66:7</p> <p>letters 15:15</p> <p>license 6:17,22 7:1,23,25 8:6 15:22</p> <p>licensed 6:20</p> <p>licenses 9:25</p> <p>light 70:8,24 75:11,13, 14,17,19,20,23,24 76:1,8,11,13,16 77:6,8,13,14 80:1, 16,17,19,22,24,25 81:4,7,9,10,20,22 87:8,10,22 88:4,5, 7,9,11,14,19 89:1,</p>	<p>6,12,15 90:14 91:8,21,22 92:4,9 95:24 96:19 97:22, 23,24 98:2 99:6, 20,24 100:2,6,8,9, 12,15,16,20,21,24, 25 101:1,4,6 104:2,3,6 105:9,16 107:18 108:1</p> <p>lighting 96:2 97:11 107:10</p> <p>lights 76:5,7</p> <p>likelihood 109:13</p> <p>list 11:24 12:5,10,13, 14,25 84:3</p> <p>listed 15:10</p> <p>listing 31:3</p> <p>lists 52:18</p> <p>litigation 3:12 6:7</p> <p>locate 64:8</p> <p>located 69:4,9</p> <p>location 58:11</p> <p>locations 37:5 69:21</p> <p>locked 22:25 23:3</p> <p>long 22:6,17</p> <p>longer 25:16 102:10</p> <p>looked 20:22,23,25 38:9 42:15 59:18 60:11 61:7 66:14 72:5 90:11 93:4</p> <p>losing 20:15</p> <p>lost 30:14</p> <p>lot 37:16</p>	<p>lower 85:19</p> <p>lump 48:22,23</p> <hr/> <p style="text-align: center;">M</p> <hr/> <p>machine 37:9</p> <p>made 45:15,18 60:21 89:22 91:25 92:3 103:19</p> <p>maintain 53:10 107:8</p> <p>maintaining 108:7</p> <p>maintenance 106:21 108:11,15</p> <p>major 107:12</p> <p>make 26:22 32:20 69:24 71:15 79:7 80:23 83:4 93:3 97:21,25 103:9</p> <p>malfunction 30:12</p> <p>managed 98:11</p> <p>management 18:24,25 23:7</p> <p>manager 10:14</p> <p>manager's 108:8</p> <p>manufactured 59:13</p> <p>manufacturer 41:2 59:5</p> <p>marathon 5:4</p> <p>mark 5:10 18:7 65:11</p> <p>marked 5:18 18:11 23:14 46:2 49:13,15 52:11 56:23 58:20 59:23 65:14 67:15, 17 71:8 73:1 82:13 85:11 86:20</p>	<p>marking 92:13</p> <p>marks 27:3</p> <p>Maryland 10:6</p> <p>Master 58:18 59:13</p> <p>Masterseal 59:12</p> <p>match 36:21 39:22 41:19</p> <p>materials 18:21 24:6 31:11 45:11 67:7</p> <p>matter 3:12 8:1,23 15:8 102:11</p> <p>meaning 19:14 31:11 42:10, 11 53:7 76:2</p> <p>means 13:7 33:6 40:6 54:8 68:20</p> <p>meant 24:25 27:5</p> <p>measure 22:2,3</p> <p>measured 21:2 42:15</p> <p>mechanically 37:8 39:6 40:8</p> <p>mechanism 33:21</p> <p>meet 62:16</p> <p>meeting 23:4</p> <p>membrane 29:9 36:20 39:12 40:4,16,18,22 50:13,19 51:4,17, 18 64:14 66:23 67:2,5 82:2,3 87:16 89:7 94:14 95:3,8</p> <p>mentioned 11:6 23:13</p> <p>messages 15:15,21</p>	<p>met 31:14</p> <p>metal 78:17,23 79:1,4, 19,21 92:15,23</p> <p>mid 103:21</p> <p>middle 73:15</p> <p>Mike 101:23 102:1</p> <p>minimal 90:20</p> <p>minute 80:3,5</p> <p>minutes 22:19 73:18 102:14</p> <p>mirror 61:5</p> <p>mobilization 28:12 31:4,5 32:12</p> <p>mockup 28:15,19,21 29:2, 5,6,10,12,13,20 30:7,8,19,23</p> <p>mockups 28:11,13,14 72:19, 20</p> <p>modified 48:21</p> <p>moment 86:15</p> <p>moments 101:22</p> <p>Morales 3:2,20,21 5:17 7:3, 19 15:2 17:19 18:6 30:18 36:14 46:9 47:9 49:12 58:23 68:9 71:16,22 74:1 80:12,15 109:3</p> <p>morning 3:8 54:14,23 55:15 73:8</p> <p>move 34:25 64:18 74:17</p> <p>moving 74:19</p> <p>multiple 70:7 93:11 105:22</p>
---	---	---	---	---

<p>multiple-page 49:16</p> <hr/> <p style="text-align: center;">N</p> <hr/> <p>Naples 9:22 56:7</p> <p>nature 12:6</p> <p>necessarily 9:7 108:18</p> <p>necessity 64:22</p> <p>needed 19:16,17 22:3 33:4</p> <p>Nga 74:14</p> <p>nine-page 49:10</p> <p>nods 4:25</p> <p>Nolan 19:5,6 20:2,7,20, 25 21:4,23 22:5,9, 18,21 23:5,8,11,17 31:15 57:14,15,19 71:17 72:24 74:6 75:9</p> <p>Nolan/600 46:8</p> <p>notary 57:6,7,8</p> <p>note 48:19 85:18</p> <p>noted 13:1 14:11 44:12 46:20,21</p> <p>notes 17:4</p> <p>notice 5:11,17,24 6:11 14:1 16:17 31:22 56:21,25 57:4,5,22 58:3,7,9,12</p> <p>noticed 42:24 69:18 96:25</p> <p>notices 16:14,19</p> <p>NTS 64:19</p> <p>number</p>	<p>4:18 10:21 12:6 14:19 17:21 24:16 49:17 63:17 83:11 84:15</p> <p>numbered 85:8</p> <p>numbers 24:16 83:17 84:13</p> <p>numeric 63:17</p> <hr/> <p style="text-align: center;">O</p> <hr/> <p>oath 3:3</p> <p>object 93:4</p> <p>observation 48:16 83:4 89:23</p> <p>observations 17:5 66:8 80:23</p> <p>observe 41:22,25 42:6,8,21 45:13 48:4 69:14 76:12,14,15,18 79:18,21 81:1 105:7</p> <p>observed 25:24 26:6 42:2,3, 9,14 43:3,13,15 45:20 48:8,10,14 75:20 76:5 77:12, 15,16 78:23 99:5, 8,9,11 105:16 106:20</p> <p>observing 21:19</p> <p>obtained 31:13</p> <p>obtaining 32:11</p> <p>offer 107:24</p> <p>office 16:18 17:1 18:4 68:16,18</p> <p>Officer/director/ partner/manager 57:9</p> <p>officers 6:18 7:14,17,18 15:23</p>	<p>official 55:20</p> <p>on-site 23:4</p> <p>ongoing 14:3</p> <p>online 56:5,8,10</p> <p>opened 21:25</p> <p>opening 18:14 21:1 27:4,7, 14,18 32:5 35:6,22 37:18,25 38:9,25 44:9 46:12 49:2 54:4 65:3 68:2,4, 13 69:13 89:6 95:15,16,18,19,23</p> <p>openings 19:17 21:2 33:5,9 36:24 37:1 44:4,7 48:24 49:3 95:13</p> <p>opens 21:4</p> <p>operates 108:14</p> <p>opine 70:17</p> <p>opinion 78:1</p> <p>opportunity 20:14 42:18 109:7</p> <p>order 37:5 38:19 50:15 55:23,24 56:12 60:17 61:1 62:6 64:15 77:2,4 107:9</p> <p>ordered 109:13</p> <p>original 97:6,13,16</p> <p>ornamental 92:23,25 93:4</p> <p>outlet 90:11,13 91:2 95:16,18,19,20 96:6,15,18 98:3 99:6,19 106:16,17</p> <p>outlets 90:3,5 96:14 105:9 106:11 108:6</p>	<p>overhead 35:1 90:21</p> <p>overnight 33:5,12</p> <p>owner 7:16 52:18,21,24 55:13 56:1 57:4, 19,22</p> <hr/> <p style="text-align: center;">P</p> <hr/> <p>pages 5:15 49:8,17 60:21</p> <p>paid 54:17,22 67:13</p> <p>paint 43:24 44:2,5 89:12 105:21</p> <p>painted 86:25 103:18</p> <p>panels 34:10,13,15,16,18, 19,23 35:4,15,22</p> <p>Paragraph 59:10</p> <p>parentheses 28:9</p> <p>part 9:23 11:24 14:16 26:13 37:17,22,23 38:3 39:16 40:2,16 41:14 45:17 46:1,5 53:11 58:21 59:3 64:7 65:8,15 78:1 85:9 91:2 92:14 95:24 105:5 106:20</p> <p>partial 63:4,8,10</p> <p>party 32:25</p> <p>patio 21:16,21</p> <p>pedestrian 40:4</p> <p>pending 3:11</p> <p>penetrating 9:3</p> <p>penetration 79:10,15 108:21</p>	<p>penetrations 89:20,21</p> <p>Peninsula 3:13 13:1,5,10 14:9,23 15:16,25 16:8,16,23 18:21 23:6,17,18,19 24:1,24 25:7 26:7 32:4 46:8,9,13 47:7 50:25 51:25 52:2,19,24 53:15 54:8,11,17 57:19, 25 60:22 71:23 73:22 91:25 92:3,5 96:24 99:18,23 104:15</p> <p>people 109:10</p> <p>percent 10:20 12:18</p> <p>Perfect 36:13 108:23</p> <p>perform 13:9 61:1</p> <p>performed 8:12 12:7,25 13:7 15:25 18:3 28:20 29:11 30:4 44:24 45:19 52:25 53:14 58:10 59:7 61:23, 24 64:1 65:9 85:16,17 102:24 104:15</p> <p>performing 17:6,23 19:2 43:13 104:23</p> <p>perimeter 87:14,19 91:10</p> <p>period 42:16</p> <p>Perm-a-barrier 95:7,10</p> <p>permit 13:24,25 16:9 31:13,18,19,22,24 32:4,6,11,25 52:10,13,18,21,24 53:23 54:2,25 55:1,10,13,14,24, 25 56:3,5,7,9,13 58:5,6,14 74:18 76:20</p>
---	--	--	---	---

permits 16:6,11 53:24 55:18	93:21	Praxis 3:23 4:3 5:13 6:1, 5,16,19,22 7:11, 20,23,25 8:6,8,11 9:17,19 10:1,16 12:7,20 13:1,4 14:7,23 15:16,23, 25 16:7,15 17:6,22 18:4 23:16 24:5,24 31:12 33:23 41:5 42:17 43:14 45:12, 19 47:7 51:7 54:12,18,22 55:14 59:11 60:17,21 61:20 65:9 66:20 67:8,12 68:4 78:4 80:16 86:12 87:2, 10 90:7,11 104:13, 19 108:19	prime 43:24 44:2	properly 34:5 79:11,16 106:17 108:21
permitted 66:10,13	place 35:13 37:22 99:1, 16 100:7	prior 4:9 9:19,25 17:6, 22 28:16 32:10 36:4 44:12 80:25 89:23 90:13	prior 4:9 9:19,25 17:6, 22 28:16 32:10 36:4 44:12 80:25 89:23 90:13	property 17:6,7,23 18:3
permitting 32:23 99:23	Placing 88:9	privacy 38:15	privacy 38:15	proposal 13:2 18:8,12 23:10,12,13,15,22, 23,24 26:13,21 28:5 31:3 32:23 34:6 42:18 43:17 46:3,7,14,23,24 47:3,12,14,18 48:20,21 60:8,10, 17,21 61:5 68:21 72:15 74:3 105:5
person 108:5	Plaintiff 3:13 4:12	problem 14:17 19:21 25:19 26:5 27:18 44:24 77:22 79:12,17 104:9 105:13,23 108:12,13	problem 14:17 19:21 25:19 26:5 27:18 44:24 77:22 79:12,17 104:9 105:13,23 108:12,13	propose 24:5
personally 45:1 93:7	Plaintiff's 5:11	problems 8:22 25:4 26:6,9, 12 42:12 48:5 105:12	problems 8:22 25:4 26:6,9, 12 42:12 48:5 105:12	proposing 33:24
persons 98:8 108:5	plan 27:19 60:21 63:5, 8,10 76:23 107:22	proceed 30:11	proceed 30:11	protect 33:10 73:15 95:11
phone 19:7	Planning 73:12	process 34:8 38:4,19 107:24	process 34:8 38:4,19 107:24	protecting 33:15
photo 83:17 86:2 87:23 103:21	plans 17:13 23:25 24:9, 11,12,13,14,15,23 27:11,13,23 47:5, 17 56:14,16,17 60:6,9,16 65:25 66:10,13,14 76:21	produce 14:21 15:20 17:3	produce 14:21 15:20 17:3	protection 28:10 32:11,16 36:7 44:18,22 65:6
photograph 84:15 86:1,21,23 87:5 91:16 93:9 94:3 103:13,15	plastic 44:20	professional 48:12,13 50:20 64:24 66:9	professional 48:12,13 50:20 64:24 66:9	protocol 40:24
photographs 16:23,25 22:10,12, 17 69:20 83:9,10 84:13 85:8 93:11 98:19 99:12,15 101:17 102:21 103:20	plastic-type 44:21	professionalism 108:2	professionalism 108:2	protrudents 89:19
photos 98:21	pleased 93:14	profile 40:10	profile 40:10	provide 14:14 15:14 17:21 18:20 32:1 34:1 46:5 58:22 61:20 104:24
physically 56:5	pleasure 3:9 4:11	progress 75:2 87:23,24 94:19	progress 75:2 87:23,24 94:19	provided 5:9 14:11,12 15:17 16:3,9,11,18,22,25 17:8,11,18 18:4 20:25 22:13 23:25 32:8 42:17 45:12 46:4 50:8 60:16 65:15 66:1 67:8 72:4 73:21 76:1,24 83:14 84:3 88:5 90:7 98:10 100:9, 15 102:22
pictures 78:18,19,21 81:18 82:8 83:22 84:3 103:2	plywood 33:3 36:2,18 39:7	project 10:14 13:24 18:13 19:9,12,13 20:3 25:8 26:23 28:14 32:4 55:21 72:15 106:22,25 107:12, 23	project 10:14 13:24 18:13 19:9,12,13 20:3 25:8 26:23 28:14 32:4 55:21 72:15 106:22,25 107:12, 23	providing 31:10 33:9 34:5 88:10
picturing 38:13,24	point 22:21 35:14,21 88:10,13 94:10 108:17	projecting 73:15	projecting 73:15	
piece 78:17,24 79:14 92:15,23,25 93:22	pointing 86:6	projects 10:15,18,19,20,22 12:7,10,17,25 13:4,10,19,21 14:4,8 15:24 107:2	projects 10:15,18,19,20,22 12:7,10,17,25 13:4,10,19,21 14:4,8 15:24 107:2	
pieces	pop 34:24 102:7	proper 40:10 89:11	proper 40:10 89:11	
	porta 28:11			
	portion 81:11,12,15 96:2			
	position 55:19			
	potty 28:11			
	practically 56:4			
		prepared 16:15 24:15 29:7 56:18 60:7,13		
		present 104:14,18		
		presently 13:9 46:18 47:23 51:23 74:23 100:21		
		Preservation 10:6		
		president 7:16 45:2,7		
		pretty 94:9		
		prevent 107:9		
		prevention 11:19		
		previous 88:21		
		previously 29:7		
		price 48:22,23 51:16,22		
		priced 51:19 68:6		
		primarily 15:8		

<p>public 57:6,7,8 58:10</p> <p>pull 5:14 29:21,23 30:1 80:21 83:11 84:9 102:25</p> <p>pulled 16:7</p> <p>purchased 91:18</p> <p>purports 46:3 52:10 59:25 67:18 71:7 92:14</p> <p>purpose 34:13 50:11 58:2 64:25 95:10</p> <p>purposes 6:2 22:4 33:15 43:21 73:9 85:9 86:7</p> <p>put 12:9 20:6 39:6 82:3 91:3,9 94:13 96:21</p> <p>putting 29:4 58:9 98:25</p> <p>PVC 36:20</p> <hr/> <p style="text-align: center;">Q</p> <hr/> <p>qualifier 7:1,16 9:17</p> <p>qualifier/license 7:8</p> <p>qualifiers 6:17 15:22</p> <p>quantify 78:12</p> <p>question 4:13,14,21 6:19 8:3 13:7 15:9 50:21 99:25 104:12 105:2 108:4</p> <p>questions 15:8 65:17 73:10 102:6 108:24</p> <p>quotation 73:25</p> <p>quote 73:14,21 74:2</p>	<p>quoted 52:1</p> <hr/> <p style="text-align: center;">R</p> <hr/> <p>rains 33:13</p> <p>Ramer 45:7,9</p> <p>range 11:1,3</p> <p>re-drywall 44:14</p> <p>re-stucco 41:11,16 43:17,22</p> <p>re-stuccoed 41:19 42:5</p> <p>re-waterproofing 77:5</p> <p>read 50:18 71:20 73:3,5 109:7,11,15</p> <p>reading 109:8</p> <p>ready 44:5 80:13</p> <p>reason 4:6</p> <p>reasonable 32:21</p> <p>recall 12:3 19:8 67:13</p> <p>received 30:23</p> <p>recent 24:23 47:6,14,18</p> <p>recently 24:2</p> <p>recess 80:10</p> <p>recognize 49:23 57:3,11 58:25 60:3 67:23</p> <p>recollection 4:8 32:7 78:20 109:6</p> <p>recommended 41:7</p> <p>reconnected 88:6</p>	<p>record 3:19 5:15 8:15 14:25 16:17 28:19 30:16,18,19 32:3 34:13 46:6 49:8 50:5 52:4 71:15 72:13 85:7</p> <p>recorded 58:13</p> <p>records 16:4 32:8 58:21 72:19 84:7</p> <p>reference 71:14</p> <p>references 103:19</p> <p>referred 72:10</p> <p>referring 25:6 73:17</p> <p>refers 47:4 74:15</p> <p>reflect 46:6</p> <p>refresh 4:7 109:5</p> <p>regard 78:5,9</p> <p>reinforcing 37:3,4,17,24 43:20 64:20 99:1</p> <p>reinstall 33:8,25 39:11 62:10 88:4 91:1 100:4,5,9</p> <p>reinstallation 33:19</p> <p>reinstalled 62:11 90:15 95:4 103:16,17</p> <p>reinstalling 88:7</p> <p>relate 27:17 106:10</p> <p>related 9:5,8 18:14 21:22 24:8,22 27:4,16 46:12 47:5 53:19 70:19 104:16</p> <p>relates 18:12 59:6</p>	<p>relating 6:6 11:18 15:24 16:7,15 18:3,21 20:2 25:7,19,20 26:17 55:15 59:7 66:20 67:8,10 72:20 74:16 79:18 98:9 99:6 104:15 105:7</p> <p>relationship 93:5 97:22</p> <p>relative 7:23 13:23 38:1 77:13 91:7</p> <p>rely 31:21</p> <p>remained 81:16</p> <p>remediation 18:14 24:8,22 27:4,7,10,14,18 32:5 37:23,24 40:4 41:1,7 46:12 47:4 54:4 67:11 68:3,19</p> <p>remember 32:15 55:6 104:21, 22 105:4,5</p> <p>removal 33:18 34:9 36:4, 17,23 38:4 69:17 77:8 80:25 96:24</p> <p>remove 33:7,25 36:16,25 37:5 38:4,11 39:4, 10 40:7,8 41:14,18 43:20 44:3,6,17,19 61:14 76:8 77:1,6 78:16 79:1 80:16, 19 81:3</p> <p>removed 34:8 35:16,23 36:9 37:7,12,22 38:10, 18 39:19 42:4 44:12,22 51:14 64:8 76:11,13,17 81:20 82:24 83:5 84:23 88:19 96:3 97:13</p> <p>removing 31:7 42:24 44:10</p> <p>repaint 11:13</p>	<p>repair 19:22 73:13,20,21, 24 75:3</p> <p>repairs 33:21 66:9</p> <p>repeat 4:14 8:3 54:19 99:25 104:12</p> <p>replace 39:5 44:3,6 97:1,2 101:13</p> <p>replaced 73:19 77:23 96:12, 13 101:10,11</p> <p>replacement 36:16,17 38:4 69:2</p> <p>reporter 4:19 5:1 30:13</p> <p>reports 17:4,20,21 32:1,14</p> <p>represent 33:20 55:20 60:25 66:19 85:2 94:7 102:22</p> <p>representative 3:23 5:13,25 6:1,4 57:19</p> <p>representing 3:10 4:11</p> <p>represents 67:6</p> <p>request 5:6 20:14</p> <p>requested 20:4 51:16 75:13, 16 88:2 100:14 104:24</p> <p>require 11:13 108:18</p> <p>required 24:6 59:4 69:2 72:14</p> <p>requirements 62:17</p> <p>resealing 11:13</p> <p>resolve 44:24</p> <p>respect 108:2</p>
--	--	---	--	--

respectfully 4:14,20	rollers 34:3	scope 11:12 21:22 24:4,7 27:22 32:23 33:7, 23 36:15 39:9 40:2 41:15 48:13 60:24, 25 61:7,14,20 68:23 71:25 72:14 78:2 91:3	service 34:5 45:11 107:25	simply 105:17
responses 5:2 55:6	roof 105:22	scope-of-work 46:22	services 18:20 31:11 67:7, 13 90:8 98:10 102:23 107:21	simultaneously 58:13
responsibility 53:9	rough 37:18	scratches 86:6	set 31:6 80:12	single-page 58:22
responsible 108:6	rounder 87:6	screen 83:11	setting 32:11,16	singular 106:15
responsive 17:12,19	routine 106:21	screws 83:2,3,5	severe 96:25	sir 3:8 4:6 5:4,14 50:21
rest 77:2 101:2	rule 4:10	sculpture 78:17 79:1,4,9,14, 19,22	severity 97:3	sit 14:4
restocking 39:16	rules 4:7	seal 91:12 106:17 108:21	shareholders 6:18 15:23	site 20:14,18,19,21 21:24 22:9,16,18, 21 31:7,23 42:19 95:20 104:20
restoration 8:9,12,16,25 9:11, 21,23 11:14,15,16 106:22,25 107:1, 13	run 77:24	sealant 87:15,18,21 89:12 90:15,16,18,19	sheathing 36:18 39:7,11,12 82:1	sitting 40:21
restore 11:11 53:10 107:22	runs 77:21,24	sealants 34:2	shot 25:16	skill 108:18
restored 8:21 11:21 19:16, 17	rust 69:19 85:19 93:21, 25 97:3,4	sealed 79:11,16 87:16	show 23:13 69:20 83:24 84:20 85:14 86:2, 5,17 92:12 93:13, 18 94:21 103:8	skilled 108:22
restoring 9:6	rusted 69:1,2,24 70:2,18 71:4 77:17,23	sealing 88:10	showing 46:7 86:20 95:2,3 96:7	slab 25:14 26:2 27:20, 21 30:20,25 36:17, 18 37:23 39:5
results 29:25 30:3,7,9	rusting 70:25	section 28:23,24 50:4 63:9 64:19 72:8 91:15	shows 94:12	slash 27:2
retain 99:15	S	segued 58:6	sic 71:12	slider 37:13,14,21
retractable 34:18	S-1 60:2 61:19 63:4,7, 8 66:15,16,19	send 15:14 19:24	side 34:24 35:6 38:2, 11,23,25 40:19 63:4 85:19 91:4	sliders 37:15,17 39:19 69:11 84:23
return 38:15,16,22 39:1	S-2 60:3 61:19 62:4,5 66:15,16,19	sense 32:20	sides 38:3 40:19,23 65:3 90:15,16,17,20 91:13	sliding 19:16 21:1,11 27:3,6,13,17 32:4 33:4,8,19 34:15 38:2 40:21 54:3 61:14 62:10 63:11, 12 64:6 69:13
reverse 38:6	Sam 3:9	sentence 27:6	signature 57:3,11,13	small 28:23,24
review 28:16 40:5 71:22	sample 28:21	separate 73:25 74:3	signing 65:24 66:3 104:17	smaller 49:5
reviewed 17:22 23:12 65:24	sat 97:24	September 65:12 72:25 73:7 82:15,19	signs 69:19	sole 7:8
revise 71:25 72:14	scaffolding 28:10	sequence 83:14 85:1	similar 24:1,25 25:4,5 47:8 48:1,5,15 51:23 107:3	Solutions 58:18 59:13
righty 11:23 22:8,16 28:3 29:1 31:9 32:22 53:22 72:18 81:9 83:8 101:3 104:23	schedule 75:11	series 71:7 72:23		
Roberto 3:20	scheduled 20:4			
	scheduling 73:9			
	schematic 63:4,23 64:18			

sort 24:3 56:4 87:6 103:20	spoke 45:6,9	9:3	24 54:13 67:4	systems 10:6 107:1
sounds 5:2 32:21	spoken 57:15	store 35:11	submits 55:25	<hr/> T <hr/>
source 42:23 43:4 70:20, 22 77:19 78:1,5,9 105:23	spot 104:5	stored 34:11	submitted 24:12 104:17	takeoff 21:3
sources 43:12	square 40:19 48:25 49:1, 3,4,5	stories 10:24	submitting 14:18	taking 5:12,24 29:3 98:19,21
speak 19:1 56:2 90:14	stage 98:22,24	storm 45:3 78:14	subpoena 3:22 5:16 15:5	Talbot 109:1,8
speaking 56:4 63:3	stain 42:1 43:1	straight 68:4	subpoenaed 4:4	talk 9:14 45:22 80:4
spec 40:16 49:19 64:9	staining 43:7,8	straightening 68:3,14	subpoenas 14:17 24:13	talked 52:6 54:13 55:15 56:16 60:10 61:15 67:12 72:18 105:3
spec'd 41:8	stains 48:10	strengthening 61:19 62:16	successfully 10:22	talking 13:3 24:14 38:5,14 40:11 46:23 54:23 58:5 66:14 74:7 80:15 86:11 104:2
specialty 108:19	standard 29:19 39:15 51:3 62:20,25 63:1 91:12	strictly 11:18	suffer 9:12	talks 63:9,23
specific 9:15 19:20 20:9 24:15 70:16 78:14	standing 21:10	stripped 94:10,13,15	suffered 22:6	tape 85:21
specifically 19:1,18 45:22 72:23 91:11 99:19 103:3	start 13:3 32:9 55:20 73:6	structural 9:7 10:6 17:13 34:2 60:6,9 61:18 65:25 76:21 88:11	sum 48:22,23 67:7	tarps 33:4,11
specification 27:23,24,25 50:12, 15,19,24 51:9,20, 24 59:17,18 72:9	started 31:13,19 32:10,15, 16,19 78:10 100:7 105:2	structure 6:16 8:21 25:3	summaries 17:4	tear 8:20
specifications 17:15,16,25 41:4 50:6 59:3 72:3	state 3:18 6:24 8:7 9:16	stucco 11:14 19:21 36:17, 18,21,23,25 37:6, 7,11,12,16,22 38:1,3,10,19 39:5, 7,10,11,23 41:14, 18 42:9,12,13,14, 24 43:19 44:1,2 64:8 69:17,18 76:12,14 77:5 81:4 82:6,7 87:17,19 89:8,11 96:24 99:2 105:21 106:18	summer 33:13	technique 88:15 106:25 107:1,3
specifics 79:18	stated 26:13 77:19	structure 6:16 8:21 25:3	supervision 24:6	techniques 106:13 107:7
specs 17:20 19:25 20:4 29:7 37:2,4 50:17 61:25 68:6 71:23 104:17	states 73:23	stuffed 74:12	supervisor 10:11	Tecum 5:12,24
Spectrum 10:5,12	stating 59:5 65:24	subbed 74:12	supposed 83:24 84:20 85:2, 13 86:5 93:18 94:7	telephonically 20:8,13
spelled 27:11 28:9 37:3	stay 80:7	subcontractor 74:13,14	surface 21:15 40:17 77:6,7 87:21	temporary 28:10 33:3,9 36:2
spelling 41:17	steel 43:1	subgrade 89:11	surrounded 81:4	terms 47:2 79:23
spend 22:18	step 24:3 34:19,20	subject 6:6 15:8 17:6,7,23 26:24 42:17 46:22,	survey 28:10 86:7	test 29:11,13,14,15,16, 17,20,21,23 30:1
	stopped 45:12		sworn 3:3	testified 3:4 62:12 100:2
	stops		system 25:13 28:22 29:8 51:1,3,11 52:1,5 89:9,11,13,14	testimony 16:19 29:18 34:21

<p>testing 28:12 30:4,8 104:8,14</p> <p>text 15:15,21</p> <p>texture 36:21 39:21,23 51:11</p> <p>thing 4:24 12:24 15:19 26:17 43:16 44:21</p> <p>threshold 62:8 65:4 95:5</p> <p>tie 58:7</p> <p>tied 9:13 26:5</p> <p>tightness 33:22</p> <p>time 4:1,5,8,12,20 5:5 11:10 22:9,10,21 23:5 28:11 32:9,10 35:14,21 42:16 67:21 73:2 77:25 83:5 86:15 88:13, 19 90:6,11 91:17 94:10 97:16</p> <p>timeline 20:7</p> <p>times 11:8,17</p> <p>title 10:13</p> <p>titled 18:8 60:1</p> <p>today 3:22 5:9 14:4 15:10,14 16:10 26:25 56:17 59:18 67:6</p> <p>today's 14:13 46:6 52:7 72:5 105:2</p> <p>told 19:20,23,24 22:1 30:10 39:5 42:12 68:11 76:7</p> <p>tools 31:7</p> <p>top</p>	<p>26:23 35:6 37:14, 15 38:2 47:2 62:24 77:7,20 87:6 90:17,21,22 91:3, 5,8,15 95:14,23 96:7</p> <p>topic 28:6</p> <p>total 5:15 67:7</p> <p>totality 66:19</p> <p>track 34:4,25 35:1,2 43:10 82:24,25 83:6 86:7</p> <p>tracks 34:4,11 35:11,13 95:4</p> <p>traffic 27:25 30:24 49:15, 17 50:4 51:8,19,23 59:12,17 72:6,8</p> <p>transition 25:11,23,24 36:24</p> <p>transitions 25:10 26:18</p> <p>treasurer 7:17</p> <p>treated 41:11 43:17,25</p> <p>trim 44:6</p> <p>Trust 3:11,13</p> <p>Trustee 3:10</p> <p>turn 6:9</p> <p>two-page 59:25</p> <p>two-story 10:24</p> <p>type 10:19</p> <p>typed 109:4</p> <p>typical 109:10</p> <p>typically 29:19 79:10 90:19</p>	<p>106:19 108:4,8</p> <p>typo 23:21</p> <p>typographical 23:20</p> <hr/> <p style="text-align: center;">U</p> <hr/> <p>ultimately 56:9</p> <p>Um-hum 11:25 47:10 49:25 52:15 55:3 56:24 58:1 59:24 70:11 89:21 90:23 94:20 103:6,12,23 106:23 107:14</p> <p>underneath 81:7 87:17,19 89:7</p> <p>understand 3:21 4:13,15 11:9 12:17 21:5 24:4 26:22 28:3 36:13 41:5 46:13 48:20 49:6 50:15 53:6 54:16,21 57:18 64:25 99:22 101:5 108:2</p> <p>understanding 46:25 66:2</p> <p>unexecuted 14:22</p> <p>unit 13:8,12,18,21 14:19 16:24 18:21 19:2,14,15,19 20:5,24 21:5,7 22:6,17,22,23 23:2,3 25:4,18 26:10,14,24 33:10, 11,16 34:12 35:18 36:10,12 42:23 43:5 44:20,25 45:4,5,10,19 46:4, 11,24 47:21,25 48:16,22,23 55:15 59:7 61:2 66:21 67:9 68:2 71:24,25 74:5 75:1,4,21,24 76:10,17 77:15 78:6,10 80:2,22 85:5 91:18 93:6 98:10,23 99:24</p>	<p>100:17,19 104:10, 15,24</p> <p>units 11:20 13:13,20,25 14:1,3 15:7 18:13 24:1,24 25:7 46:17 47:6 52:2,6 74:16, 20,22 92:8 98:17, 20 99:13 101:14 106:11,16</p> <p>unscrew 35:10 80:21</p> <p>unscrewed 35:16</p> <p>upper 93:22 103:20,21</p> <p>utilize 40:25 88:15,25 107:9</p> <p>utilized 52:5,6 68:18 106:14 107:3</p> <p>utilizing 50:23 51:8,23</p> <hr/> <p style="text-align: center;">V</p> <hr/> <p>Vasbinder 3:10,11,12 26:10 43:5 61:2 78:6,10 93:5 99:24 101:22, 24 102:3,11,13,17 104:15,24</p> <p>Vasbinders 91:18</p> <p>Vasbinders' 104:10</p> <p>verbal 4:19,25 5:2 55:6</p> <p>verbose 8:4</p> <p>vertical 34:11,20 38:10,18 93:22</p> <p>verticals 90:20,22 91:4</p> <p>view 81:6</p> <p>virtue 8:6</p> <p>visible 69:19</p>	<p>visual 37:12</p> <p>voice 5:1</p> <p>Volhr 18:25 19:2</p> <p>Volume 11:5</p> <hr/> <p style="text-align: center;">W</p> <hr/> <p>wait 4:20 96:10</p> <p>waive 109:7,10</p> <p>walk 50:14</p> <p>walked 21:7</p> <p>wall 21:20,21 25:10,22, 24 26:4,17 33:3,10 36:3,9,10,17,24 37:20 38:15,16,22, 23 39:1,2 41:17 44:19 69:1,7,10,12 70:23 78:17 79:2, 5,11,22,23 80:16, 17,21 81:13,16,21 82:1 88:20 89:16, 18,24 90:6 94:17 95:11 96:3</p> <p>wall/deck 94:8</p> <p>walls 21:2,21 38:5,14 39:16 40:18,23 42:5,6,15 69:12 77:5 86:25 88:11 89:19,20 103:16, 18</p> <p>wanted 12:1 75:15 88:14 97:1 100:12</p> <p>warehouse 31:8</p> <p>water 9:3,6,8,9,13 11:7, 19 19:15,19,21 22:2,6 26:4 39:14 42:23,25 43:2,4,6, 7,12 44:24 45:4,</p>
---	--	---	--	--

<p>13,19 48:5,8,10, 14,15 61:1 67:8 70:3,19,20,22 76:16 77:14,20,21, 23 78:1,5,9,13 79:8,12,23,25 89:5 93:5 95:11 104:9 106:6,8,10,14,15 107:9</p> <p>waterproof 62:3 64:15 65:2 68:2 89:7</p> <p>waterproofing 11:14 17:15,25 24:8,22,25 25:6,9, 13,16 26:3 27:20, 21,24 28:17,22 29:9 30:11,24 32:5 36:20 37:18,23,24 39:12 40:3 41:1,3, 6,15,18 42:1,14 43:20 47:4,8 50:6, 13,19,23 51:4,17, 18 54:4 59:3 60:1 62:6,8,16 64:4,9, 12,14 65:4,6 66:23 67:1,2,5,10 68:3, 19 70:9 71:22 72:3,7 82:2,3 89:11 94:8,16 105:24 108:19</p> <p>wear 8:19</p> <p>weather 33:21</p> <p>Wednesday 75:11</p> <p>week 31:20 32:18 73:13, 16 75:12</p> <p>weekends 33:5,12</p> <p>weeks 23:10 98:18</p> <p>when's 23:5</p> <p>wide 35:22</p> <p>window/door 65:2</p> <p>wires 80:22</p>	<p>wording 68:16</p> <p>words 40:6 68:13,19 76:22</p> <p>work 8:8,24 9:3,23 10:4, 7,21 11:1,12 13:17,18 14:4 16:7,16 17:6,23 18:3,14 19:2 21:22 24:5,7,8,22 27:4, 16,17,22 29:10 31:23 32:23 33:7, 20,23 36:16 39:9 40:3 41:21 42:17, 21 43:13 44:13,23 45:18 46:12,18 47:5,20,23,24 48:13 51:8,24 52:25 53:14,18 54:13,18,22 55:14 57:16 58:10 59:6 60:24,25 61:7,14, 20 64:1 65:8,24,25 66:4,5,18,19 68:4, 17,23 69:15 71:25 72:14 73:12,17 74:4,10,15,23,25 75:10 76:9 77:2,9 78:2,10 85:5,16,17 86:8,10 87:3,11, 23,24 88:3 89:10 90:12,14 91:3 92:7 94:19 95:21 97:16 98:17,20,22 99:12 100:7 101:19 102:18 104:7,13, 23,25 105:10 107:20 108:17</p> <p>worked 9:21 10:12</p> <p>workers 98:11,12</p> <p>working 11:2 13:14 19:10 25:2 34:4 52:2 53:8</p> <p>worry 102:18</p> <p>wrap 102:5</p>	<p>wrapped 102:15</p> <p>writings 17:4 72:19</p> <p>written 17:5 109:14</p> <p>wrong 12:17 46:21 95:13</p> <hr/> <p style="text-align: center;">X</p> <hr/> <p>X-RAY 42:13</p> <hr/> <p style="text-align: center;">Y</p> <hr/> <p>years 4:5 8:19 9:20,24 10:4,7,9 53:7 58:2 105:25 106:5,9</p>
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