

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
(Pages 1-121)

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

Defendant.

_____ /

DEPOSITION OF MARK RAMER

DATE: March 9, 2022
TIME: 9:59 a.m. to 5:27 p.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: Agnieszka N. Chiapperini, Esquire (By Zoom)

ALSO PRESENT: Mike Vasbinder (By Zoom)

1	I N D E X		
			PAGE
2	Direct Examination by Mr. Johnson		4
	Cross-Examination by Ms. Chiapperini		231
3	Redirect Examination by Mr. Johnson		244
4	E X H I B I T S		
	NUMBER	DESCRIPTION	PAGE
5	Exhibit 1	Warranty Deed	55
6	Exhibit 2	Certificate of Adoption of Amendment to the Declaration of Condominium	58
7	Exhibit 3	GFMaronPE June 27, 2017 Letter	68
	Exhibit 4	September 13, 2017 Emails	87
8	Exhibit 5	September 14, 2017 Emails	88
	Exhibit 6	Restoration Contract and Work Authorization	89
9	Exhibit 7	Moisture Map	90
10	Exhibit 8	Documents	90
	Exhibit 9	October 20, 2017 Report	92
11	Exhibit 10	Capstone Contract For Services	92
	Exhibit 11	E-Z General Roofing Invoice and Check	93
12	Exhibit 12	ProNet Group Report of Findings	93
	Exhibit 13	Documents	122
13	Exhibit 14	Engle Martin & Associates Adjuster Report	123
14	Exhibit 15	Checks	124
	Exhibit 16	November 21, 2018 Letter	126
15	Exhibit 17	Documents	134
	Exhibit 18	Construction Management and Design Build Agreement	151
16	Exhibit 19	Amendment	154
17	Exhibit 20	Emails	183
	Exhibit 21	January 3, 2018 Emails	183
18	Exhibit 22	June 21, 2021 Email	184
	Exhibit 23	June 23, 2021 Emails	185
19	Exhibit 24	August 10, 2021 Letter	187
	Exhibit 25	August 4, 2021 Letter	188
20	Exhibit 26	December 8, 2021 Letter	194
	Exhibit 27	November 1, 2021 Letter	196
21	Exhibit 28	January 27, 2022 Email	207
	Exhibit 29	January 31, 2022 Letter	211
22	Exhibit 30	Photograph	215
	Exhibit 31	12/15/2021 Preliminary Water Test	219
23	Exhibit 32	Defendant's Answer and Affirmative Defenses	216
24	Exhibit 33	Interrogatories	218
25			

1 Thereupon,

2 MARK RAMER,

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

5 THE WITNESS: I do.

6 MR. JOHNSON: Before we begin the deposition
7 today, just a practical consideration, yesterday, I
8 know we sent, Agnieszka, to you a series of
9 potential exhibits for today's deposition. You
10 have received those, and have you provided those to
11 the deponent?

12 MS. CHIAPPERINI: Yes, I have. And like I
13 mentioned to you in our email, this is not a
14 corporate representative deposition. So I just
15 want to make that clear, for the record.

16 MR. JOHNSON: I understand. And thank you,
17 thank you for that. Okay. As long as you have
18 them, the deponent has them. We provided copies to
19 Mike. We've also provided copies to Fort Myers
20 Court Reporting.

21 DIRECT EXAMINATION

22 BY MR. JOHNSON:

23 Q. Okay. Sir, will you please state your full
24 name, for the record.

25 A. Mark Ramer.

1 Q. Okay. And, Mr. Ramer, have you ever been
2 deposed before?

3 A. Yes.

4 Q. Okay. And can you describe to me when and the
5 circumstances under which you were previously deposed?

6 A. I worked for a company called DBI Beverage,
7 and it was sold the end of '19 with some litigation --
8 contract litigation issues regarding that that I was
9 deposed for, and I was deposed for one small claims
10 loss, too.

11 Q. And where was that?

12 A. Here in -- I'm here in Collier County.

13 Q. Okay. All righty. I asked you that question
14 not necessarily to find out cases, but I wanted to go
15 over with you some sort of basic instructions regarding
16 today's deposition, so I apologize if I'm being
17 repetitive for any of the prior instructions that might
18 have ever been given to you in other depositions. But I
19 want to go over a few things with you.

20 This isn't a memory test. You're going to
21 answer questions under oath, to the best of your
22 knowledge. If you don't understand a question that I
23 have asked you, please ask me to repeat that question,
24 and I'll be pleased to do so so that you can understand
25 that question. Is that clear?

1 A. Yes.

2 Q. Okay. Number two, there's a possibility
3 because of this being a Zoom deposition that there might
4 be auditory issues. If there are, please indicate to
5 me, because otherwise, if you don't indicate to me, I'll
6 assume you've understood what I have asked you. Is that
7 clear as well?

8 A. Yes.

9 Q. Okay. Are you presently today under the
10 influence of any medications, alcohol, or any other
11 substance that might impair your ability to answer
12 questions truthfully?

13 A. No.

14 Q. Okay. If at any time you don't hear me, you
15 don't -- for some reason I'm inaudible, please indicate,
16 otherwise, I'll assume you heard me. Is that clear?

17 A. Yes.

18 Q. One thing I will also tell you that because
19 this is a Zoom deposition, I will try my best to make
20 sure that only one person speaks at a time. In other
21 words, we can't speak over each other. So I would
22 request, respectfully, for yourself, for the benefit of
23 the court reporter, for the benefit of myself, to make
24 certain that you wait for my question until you complete
25 your answer. Is that fair enough?

1 A. Yes.

2 Q. I will be asking you questions today about the
3 subject matter of a certain piece of litigation that has
4 been filed in the Circuit Court of Collier County,
5 Florida. And as you may know, we have the pleasure of
6 serving as counsel to Jacqueline R. Vasbinder, Trustee
7 of the Jacqueline R. Vasbinder Trust Agreement dated
8 June 5th, 2006.

9 We understand today, based upon agreement of
10 counsel, that you are not the designated corporate
11 representative for 400 La Peninsula Condominium
12 Association, Inc., and that we will be taking the
13 corporate representative's deposition at a future date.
14 You're here today to answer questions that you have
15 knowledge about and can indicate any factual answers
16 related to. Is that clear?

17 A. Yes.

18 Q. Okay. And during the course of the
19 deposition, you might hear objections from your counsel
20 as to form of a question. Please understand that that's
21 something that your counsel is doing to preserve
22 objections for the record, but that will not prevent you
23 from answering a question. The only time you will not
24 answer a question is if your attorney specifically
25 instructs you not to answer that question. Is that also

1 clear?

2 A. Yes.

3 Q. Okay. Let's find out a little bit about you.
4 As I understand it, you are the owner of a condominium
5 unit at the La Peninsula Condominium, which is the
6 subject of this litigation. Is that correct?

7 A. Yes.

8 Q. Okay. And what unit do you own?

9 A. 401 La Peninsula.

10 Q. Okay. And how long have you -- well, I should
11 ask you this: When did you purchase that unit?

12 A. In May of 2016.

13 Q. Okay. Since the purchase of your unit, have
14 you resided in that unit?

15 A. Only as a seasonal residence.

16 Q. Okay. And can you describe to me what
17 season -- what you mean by seasonal residence?

18 A. Well, I continued to work -- I was working
19 from 2016 to almost the middle of 2020.

20 Q. Oh.

21 A. And so in the process of buying the unit,
22 there were periods of time where my wife might occupy
23 it, or I may come in from -- I did a lot of work in
24 California -- fly in for days at a time. But now that
25 I'm retired, I'm spending more time here.

1 Q. Okay. Give me some indication of how many
2 months out of those years you would have resided in your
3 unit starting when you purchased your unit in 2016, I
4 think you indicated.

5 A. '16, I think we ended up -- '16, we rented a
6 unit, I think, for three months while our unit was being
7 remodeled; permitting, remodeling, things like that. I
8 don't think we got into the other unit officially until
9 '17. I think we rented another unit for two to three
10 months in '17 while some of the remodeling was going on.
11 Then we probably occupied the unit sometime after the
12 construction completed in '17-ish.

13 I was, again, still working then, so probably
14 more seasonal with maybe my wife down here in the winter
15 months. She's a lot smarter than I am, getting out of
16 winters, and I would come in as I could on business or,
17 you know, on weekends. But then as I finally -- so I
18 would say, you know, three months maybe mainly in the
19 winter months. But now it's grown as I'm retired from,
20 you know, maybe three to four to five, and now it will
21 be like six months, maybe seven. With COVID, it was
22 almost seven. That would be the start of COVID.

23 Q. Okay. And your unit, as I understand, is Unit
24 401, correct?

25 A. 401, yeah.

1 Q. Okay. So you -- there was a period of time
2 subsequent to your purchase of Unit 401 that you
3 renovated your unit and you did not occupy it and you
4 leased other units at the 400 La Peninsula building; is
5 that correct?

6 A. Correct. Right.

7 Q. And then following that period of time, which
8 ended, I guess, based upon your testimony, around 2018;
9 is that right?

10 A. I mean, the -- yeah, in terms of the rentals,
11 yeah.

12 Q. Rentals --

13 A. Like 2017 or early '18, yeah.

14 Q. Okay. Rentals ended around early 2018, and
15 then when did you begin to reside, you or your wife,
16 begin to reside in Unit 401 on what you would describe,
17 I guess, not a part-time basis but on something less
18 than a full year?

19 A. I would say '18 would have been probably the
20 first time to really get into it and spend time in the
21 unit. And it didn't have to be a winter season, it
22 could have been sometime in the summer as well, coming
23 off the completion of construction.

24 Q. What would you have estimated the total number
25 of months that you or your wife would have resided in

1 Unit 401 beginning in 2018?

2 A. I'm still working, so --

3 Q. Yeah.

4 A. -- my wife would have been there longer than
5 me. And, again, I'm commuting out of a residence in
6 Nashville to California. So her time there may have
7 been longer than my time there.

8 Q. Yeah. I was just looking for sort of an
9 estimate of what you think was the amount of time for
10 either you or your wife in 2018.

11 A. She probably was there a good solid three
12 months. I may have been there a month and a half,
13 because at that point in time, we started to get into
14 discussions to sell my business, the business I was in.
15 That consummated with a close in 2019. So being the CEO
16 of the business, I was kind of all hands on trying to
17 get a transaction done to sell a wholesale distribution
18 business. So I was more intermittent traveling either
19 out of our residence in Nashville or from California,
20 where our distribution network was, into Collier County
21 or into Fort Myers for a time at the condo.

22 Q. Between 2018 and 2021, would it be fair for me
23 to say that you and/or your wife were occupants of Unit
24 401 for somewhere between three and six months out of
25 the course of a year?

1 A. Yeah.

2 Q. Okay. Fair enough.

3 And are you a member of the board of -- or I
4 should ask you this. Have you been a member of the
5 board of directors of 400 La Peninsula Condominium
6 Association?

7 A. Yes.

8 Q. Okay. And when did you commence being a
9 member of the board of directors?

10 A. I was asked to become a board member in the
11 fall, fourth quarter of 2019.

12 Q. Okay. And were you appointed to the board of
13 directors, or did you -- were you -- was there an
14 election that caused you to commence your service on the
15 board?

16 A. I was appointed with the departure of a board
17 member.

18 Q. Okay. And who was the board member that
19 departed?

20 A. Craig Pillatsch.

21 Q. Okay. And who from the board or which board
22 member or members requested that you fill the vacancy?

23 A. Well, I discussed it with the other two
24 remaining board members at the time, which were Pam
25 Hattaway, the president was Fred Havers, and actually

1 with Pillatsch. I mean, we knew Pillatsch. He had to
2 leave the board for health reasons.

3 Q. All right. How many board members are there
4 at 400 La Peninsula?

5 A. There are three.

6 Q. Okay. And when you came onto the board in
7 2019, in addition to being on the board of directors,
8 did you also -- were you also appointed or were you
9 elected to an office at the association?

10 A. I took over the board position for Pillatsch,
11 and then I came up for election as per the process the
12 following spring.

13 Q. That would have been to be on the board of
14 directors itself, correct?

15 A. Correct.

16 Q. Okay. My question --

17 A. I wasn't appointed to a specific position,
18 though.

19 Q. No. I'm sensitive to that. My question is,
20 after you became a member of the board of directors,
21 were you elected to any officerships?

22 A. Not other than my vice president position,
23 which was Pillatsch's role.

24 Q. Okay. So when you came onto the board, you
25 also became the vice president of 400 La Peninsula; is

1 that correct?

2 A. I believe that is true.

3 Q. Okay. And as of -- and then following that,
4 how long did you hold the office of vice president?

5 A. Well, I held it through my term, and then it
6 goes through an election process.

7 Q. Okay.

8 A. Each of the officers is appointed for a year.

9 Q. Okay. So then are you -- have you continued
10 in the role as vice president of the association?

11 A. I did until March -- around March of 2021 --

12 Q. Okay.

13 A. -- when the officer, president stepped down
14 from that role, and I was elected president at the
15 annual meeting.

16 Q. Okay. The person who stepped down was whom?
17 Mr. Havers?

18 A. Yes, Fred Havers.

19 Q. Is Fred Havers still -- did Fred Havers, do
20 you know, did he sell his unit?

21 A. He did.

22 Q. Okay. So he is no longer a resident at 400
23 La Peninsula; is that correct?

24 A. That's correct.

25 Q. Okay. Do you know where he -- do you have any

1 knowledge as to where he moved to?

2 A. When he left, he went back to Canada where his
3 residence is. And then I think he's been trying to rent
4 down in this market in Collier County.

5 Q. Okay. Do you know if Mr. Havers has made any
6 applications to rent any units at 400 La Peninsula?

7 A. No.

8 Q. Are you aware of any procedures that exist
9 perhaps that you had to utilize at 400 La Peninsula in
10 order to rent your unit?

11 A. Yes. There's a sales application process that
12 comes through either the real estate agents, but
13 eventually to Volhr, who is the condominium association
14 manager, and that's usually reviewed by the board.

15 Q. Okay. And so there's a written application;
16 is that correct?

17 A. There's an application process that's
18 triggered with the real estate agent and then flows
19 through Volhr.

20 Q. Right. What I'm getting at is it's a written
21 application process?

22 A. Yes.

23 Q. And then it's brought to your management
24 company, correct?

25 A. Correct.

1 Q. And then the management company in turn
2 presents it to the then board; is that correct?

3 A. Correct.

4 Q. Okay. Did you have to go through that process
5 when you leased at your association?

6 A. I believe we did. I was traveling at the
7 time, but I think we did.

8 Q. Okay. And what's the present makeup of your
9 board of directors? Who's on the present board of
10 directors, beside yourself? You're now the president, I
11 guess; is that correct?

12 A. Right.

13 Q. Okay. So who --

14 A. Two other officers, Pam Hattaway and Jan
15 Porzucek.

16 Q. How about spelling that one for us, if you
17 can.

18 A. I think it's P-O-R-Z-U-C-E-K.

19 Q. Thanks. Okay. That's good.

20 All right. And I will tell you that prior to
21 this litigation, I did review many minutes of meetings.
22 I'm not here today to talk about the details of those
23 that I reviewed, but my question is, since August of
24 2021, have you participated in board of directors
25 meetings?

1 A. Again, I was -- since August of -- can you
2 repeat the question?

3 Q. Yeah. Since August of 2021, that's why I'm
4 asking. Because the last time I actually reviewed your
5 association records was prior to that date. So my
6 question is, since August of 2021, have there been board
7 of directors meetings?

8 A. I don't know based on that date.

9 Q. Okay. Were there board of directors meetings
10 in 2021?

11 A. Yes.

12 Q. Okay. All right. And minutes were kept of
13 those meetings, correct?

14 A. Yes.

15 Q. Okay. And those continue, to your knowledge,
16 to be housed with Volhr Corporation, is that correct,
17 the management corporation?

18 A. Yes. They do the record keeping, yes, for
19 those documents.

20 Q. Has there been an annual meeting of 400
21 La Peninsula yet for the year 2022?

22 A. Not yet.

23 Q. Okay. When's that scheduled?

24 A. March 30th.

25 Q. Of what year?

1 A. 2022.

2 Q. All right. Tell me about your educational
3 background. Sounds like you've had an interesting
4 career. You've talked to me about some business that
5 you were involved in. Tell me about your educational
6 background.

7 A. I got my undergraduate degree at Purdue
8 University. And I have a master's degree from Purdue,
9 also.

10 Q. And the degree is in what subject matter --
11 the degrees are in what subject matter? I apologize.

12 A. The undergraduate degree is building,
13 construction and contracting, and the master's degree is
14 in business, business administration. Master of science
15 and management with a concentration in business
16 administration.

17 Q. Have you ever held any licenses related to
18 building or construction?

19 A. No.

20 Q. Have you had any specific experiences -- work
21 experiences relating to building and construction?

22 A. Yes.

23 Q. Okay. And describe to me your experiences --
24 work experiences.

25 A. After leaving college, I spent some time with

1 a company called Del Webb Corporation in Chicago, who
2 worked on many commercial building projects as an
3 estimator.

4 Q. Okay.

5 A. And then I moved from them to a company called
6 William O'Neil Construction out of Chicago, who did a
7 lot of commercial building work in downtown Chicago. I
8 worked there as a field engineer.

9 Q. Okay. What next? Anything else relating to
10 building and construction in your work experience?

11 A. I think that's it.

12 Q. All right. What were your tasks that -- well,
13 first of all, how long were you an estimator for the
14 Del Webb company?

15 A. I think it was about a year and a half.

16 Q. And what were your duties as an estimator for
17 Del Webb?

18 A. They would get projects that they wanted to
19 bid on as a company, and I was one of a team of
20 estimators that would look at certain elements of the
21 business. It could be doors, it could be accessories,
22 it could be elements of foundation work, concrete, earth
23 removal. I'd have to go coordinate with subcontractors
24 to get bids to complete a bid package as a general
25 contractor.

1 Q. And so you were with Del Webb during what
2 years?

3 A. I don't remember.

4 Q. Okay. When did you graduate from Purdue
5 undergrad?

6 A. Well, I got my undergrad in '72 -- I graduated
7 from high school in '72. Got out in four years, which
8 was '76. Spent about a year and a half with the
9 master's, so that would take me maybe into '78.

10 Q. Yeah. Okay.

11 A. And then actually did some time as a professor
12 at Purdue University in their school of technology for
13 about two years.

14 Q. Okay.

15 A. And then joined Del Webb.

16 Q. Okay. All right. And your duties as
17 estimator were primarily -- I don't want to put words in
18 your mouth. Describe to me what your duties were
19 relative specifically to estimating.

20 A. Well, it would be a set of plans and
21 specifications for a project that would be delivered to
22 the general contractor, who was Del Webb. That work
23 would be pieced out to different specialty trades, based
24 on what the work was. It could be general conditions,
25 earth removal, plumbing, electrical. And then as an

1 estimator, you try to work on elements of that project
2 that you could control. You could get an estimate of
3 the work volume and then deliver it to a subcontractor,
4 or you would get bids back from a subcontractor, and
5 you'd have to somewhat validate their work.

6 Q. Okay. All righty. Before we get to the
7 William O'Neil company, describe to me, again, your
8 master's degree from Purdue is in what field?

9 A. It's a master of science and management.

10 Q. Okay. And the science -- excuse me. Did the
11 management title relate to any specific field of study,
12 such as construction management or systems analysis?
13 Tell me a little bit about it.

14 A. The degree is a master of science and
15 management. For my electives, I did take course work in
16 construction management out of the engineering school.

17 Q. Okay. After Del Webb, you indicated you
18 worked for William O'Neil, correct?

19 A. Correct.

20 Q. And what did you do for William O'Neil?

21 A. Started as a field engineer, which basically
22 put me on site on a highrise construction project in the
23 downtown of Chicago. Tried to help direct and supervise
24 work for subcontractors, which usually ended up being a
25 lot of surveying work and layout work to keep this

1 highrise building going from floor to floor to floor.
2 The engineers usually went out and either through
3 stake-out or through getting into the building to lay
4 down lines of -- the dimensional lines for masonry block
5 or things that needed to be put down to form the
6 building, that was my work as a field engineer. Plus,
7 whatever need my supervisor would task me with based on
8 the work that was going on that day.

9 Q. And how long did you serve in the capacity as
10 field engineer for William O'Neil?

11 A. I think it was about a little over a year,
12 maybe a year and a half.

13 Q. Okay. Where did you go to work after William
14 O'Neil?

15 A. I was recruited by a company called Arthur
16 Andersen.

17 Q. They're an accounting firm, is that correct,
18 or am I missing something?

19 A. You're missing something.

20 Q. So tell me what I'm missing.

21 A. Well, what you're missing is Arthur Andersen
22 had an information systems division that built systems.
23 So there was -- there were -- they obviously had their
24 accounting clientele and auditing clientele, but at that
25 point in time, the world of systems, building systems or

1 information technology was growing at a fast rate, and
2 so they developed a management information systems
3 division. And so they thought if I had spent enough
4 time working with contractors on the issues and
5 processes needed to build a building, manage the
6 process, look at the cost perspective, that they would
7 teach me how to build systems. So they took my
8 functional knowledge of construction, engineering, if
9 you will, and then added a systems component to it.

10 The construction industry was very volatile at
11 that time. They didn't really manage themselves well,
12 and systems was a perfect thing that a lot of
13 contractors needed to better run their businesses. And
14 so that was the attraction for them to pull me in off of
15 a functional knowledge in construction or construction
16 processes, scheduling work, and bring me in.

17 Q. Did the building systems work that you did for
18 Arthur Andersen relate to construction, building
19 construction?

20 A. Not so much directly building construction,
21 but maybe scheduling systems around construction, cost
22 control systems around construction projects, things
23 like that.

24 Q. How long were you at Arthur Andersen?

25 A. I think about five years, six years.

1 Q. Then what happened? Then what was your next
2 job?

3 A. I got hired by a client who I was working for,
4 and they were called Commtron Corporation,
5 C-O-M-M-T-R-O-N. They were a wholesale distributor of
6 packaged entertainment, like video cassettes. At that
7 time, they could have been beta or early stage VHS or
8 movies that you rent, kind of like the Blockbuster days.
9 They just went public, and they needed help with their
10 systems to grow around a newly -- fledgling publicly
11 held company, and so they -- I joined them.

12 Q. All righty. How long were you employed by
13 them?

14 A. I was employed by them, I think, about three
15 years, maybe three and a half years, until they were
16 sold to another larger wholesale distributor called
17 Ingram Entertainment. Ingram Entertainment bought a
18 larger competitor in Commtron and put together two very
19 large wholesale distributors through acquisition.

20 Q. Interesting.

21 Okay. And then what was your next job
22 experience, work experience?

23 A. I worked as the head of information systems
24 for both Commtron and Ingram Entertainment after the
25 acquisition as the VP and CIO. And then we got to a

1 point with the video distribution system that we were
2 concerned about the delivery of movies electronically,
3 downloading, streaming, things like that.

4 Q. Let me ask you this: Other than your work for
5 Del Webb and William O'Neil, have you had any other work
6 experiences that directly relate to building and/or
7 construction?

8 A. That would be it.

9 Q. Okay. And would it be your -- I think you
10 indicated earlier that when you went on to -- when you
11 went to work for Arthur Andersen that your experiences
12 with issues and processes of building and managing a
13 building project were going to be applied to your new
14 systems work at Arthur Andersen; is that correct?

15 A. That's correct.

16 Q. Okay. When you worked for William O'Neil or
17 Del Webb, were you ever involved in any issues relating
18 to protecting a multi-story building from water
19 intrusion?

20 A. The buildings we built were precast paneled
21 buildings and then window inserts, and so I was more on
22 the new construction side of those buildings, and those
23 were the exteriors that I dealt with, precast concrete
24 panels set in place and welded with window inserts. So
25 that's the extent of what we provided a client or a

1 customer in terms of new construction, but not beyond
2 that.

3 Q. Okay. So other than the general analysis of
4 precast building concrete panels and maybe the windows
5 that applied to those, you were not involved at all in
6 what I would call building envelope water protection
7 issues; is that correct?

8 A. Yes.

9 Q. And would it be fair for me to say that to
10 date, you have never been employed in the field of what
11 I would call building envelope water intrusion
12 protection issues, correct?

13 A. Correct.

14 Q. Okay. Back to the association, since you've
15 been on the board of directors, has the association had
16 any kind of a committee that would be equivalent to a
17 grounds committee, a building and grounds committee?

18 A. There's a landscape committee.

19 Q. Okay. What are -- by the way, since you've
20 been on the board of directors, can you tell me what
21 have been the committees that exist at 400 La Peninsula?
22 You just mentioned you've got the landscape committee.
23 Okay. What else you got?

24 A. That's primarily the one I'm familiar with.

25 Q. Okay. Any other committees?

1 A. Not at this time.

2 Q. And what's the charge of the landscape
3 committee? What's their responsibility?

4 A. Well, they have a budget that's annually
5 granted to work on repairs, replacements, or adds to the
6 grounds landscaping. It could be things like mulching,
7 could be replacement of dead hedges, bushes, could be
8 trees that need to be replanted. That's about it.

9 Q. Is the landscape committee at all charged with
10 any duty or responsibility relating to maintenance of
11 the building itself?

12 A. No.

13 Q. Is there a committee that's responsible for
14 the maintenance of the building, the common elements and
15 exterior of the building itself?

16 A. Not a committee, no.

17 Q. Who -- based upon your experiences, since
18 you've been on the board of directors, who are the
19 people that are responsible for the maintenance of the
20 common elements of the building of 400 La Peninsula?

21 A. Well, the board of the association, which
22 includes Volhr in a third-party capacity as our
23 condominium association manager, actually comes to our
24 site multiple times a week, which includes some
25 inspections of the grounds and the property. And

1 anything in those findings that they see are forwarded
2 to their officers and then shared with the board members
3 of concerns. There's also stuff that is reported by
4 owners. There's also stuff that the officers see that
5 is a consideration that they need to investigate
6 themselves.

7 And sometimes if there was -- for example, if
8 there was a heavy storm in the summer, which is very,
9 very much a common occurrence here in Collier County,
10 there's probably all of three or four people that live
11 year-round in Building 400. And so it might be based on
12 the directive that some of those owners leave with
13 management. If I was down during that time or during a
14 storm and they wanted me to check in on their unit, I
15 would do that.

16 Q. Does --

17 A. Or they may have other arrangements with
18 people who do visit their unit or care for their unit on
19 a weekly basis -- daily, weekly, whatever, basis that
20 report to the owner, and then the owner would report
21 issues to Volhr, the condominium association manager on
22 site, who then would share any issues of concern with
23 the officers.

24 Q. Relative to the, I think what you described
25 are the on-site visits by Volhr, does Volhr document in

1 writing what it sees during those visits?

2 A. I don't know how -- I don't know if they
3 document their reports, but if there's something that
4 they report, I usually hear of it through an email
5 through Volhr. So I don't know what their process is.

6 Q. Okay. So you don't know one way or the other
7 when Volhr comes out to the property to do these
8 inspections, you said multiple times per week, you don't
9 know if there's anything in writing that summarizes
10 those observations; is that correct?

11 A. Yeah. Let me kind of maybe break it down a
12 little bit better for you. They have somebody who comes
13 out probably multiple times a week to deal with putting
14 the waste containers out and pulling them back in, you
15 know, the next day. They will walk the perimeter of the
16 building. If they see something like a sprinkler head
17 or something like that that's broken off or misfiring in
18 the process of doing the building, they would let their
19 management know. I'm trying to think of what -- if
20 there were lights out on the walkways or up the
21 stairways, they would make us aware of that, make us
22 aware that they would come out and replace those.

23 I'm trying to think of what else. They also
24 walk the grounds and pick up stuff, trash and stuff that
25 could be left behind by owners, renters, guests, or

1 there's a lot of construction going on by us right now.
2 It could even be from contractors. And then I think
3 it's more like on a monthly basis, they do a property
4 walk-through to see if there's anything else that they
5 find or they see from the exterior of the building.

6 Q. Do you know one way or the other, whether it's
7 weekly or monthly or daily, inspections are ever
8 converted to writing by Volhr?

9 A. No, I don't. Not to me.

10 Q. Have you ever seen anything in writing from
11 Volhr relating to --

12 A. I usually see an email from Barbara Nolan at
13 Volhr if there's an issue that they need to tend to or
14 we need to tend to.

15 Q. Okay. So your understanding is that if there
16 is an issue, there would be, since you've been on the
17 board of directors, an email from someone from Volhr
18 Corporation to the board of directors that says we need
19 to address a particular issue; is that correct?

20 A. It isn't -- no. It isn't always an email. It
21 may be a call. If I'm here for six months and there's
22 something that they find, she may pick up the phone and
23 call.

24 Q. Have you received calls from Volhr regarding
25 maintenance issues of common elements since you've been

1 on the board of directors?

2 A. Yes.

3 Q. Do you recall any specific times they called
4 you?

5 A. One might be a code compliance issue with a
6 step that may be -- a front step going into a unit
7 that's oversized. It could be a 10-inch step going into
8 a unit, a ground-level unit that needs to be changed.
9 It could be a concern that somebody has with, after a
10 heavy rain, some flooding that takes place in the
11 garage. It could be issues or concerns with, you know,
12 water that comes off of a water feature that we have at
13 our unit or collects, because the water feature unit
14 isn't working. Those kinds of things.

15 Q. When you receive -- when you have a telephone
16 call with someone from Volhr and there is an indication
17 that there are concerns such as what you've described
18 here, flooding in the garage, what do you do?

19 A. Well, if I'm here, I look at the situation, or
20 if I'm not here, I think Volhr would come out and look
21 at the situation. There are -- we live on a peninsula
22 with a very low water table, and some of the reasons
23 for -- the issues with our garage could be because of
24 new drainage ponds that were put in place in response to
25 Collier County requirements, instead of pumping that

1 used to be done out of a garage or out of a septic. And
2 when that happens, it usually could be something that's
3 plugged up in the line. If the drainage ponds get
4 collection of debris and wood and things for the
5 overflows, that's where they put their attention to what
6 things can relieve the problem.

7 Q. Okay. So, in general, what you've indicated
8 to me is that when you receive a call from Volhr, you or
9 Volhr then look at the situation, and then is there any
10 other protocols that the board of directors does when
11 they receive a concern regarding a maintenance issue of
12 the common elements?

13 A. Some of them resolve themselves quickly. And,
14 obviously, if it's a significant issue, it probably
15 would escalate with the board or with the board of
16 administration.

17 Q. Okay.

18 A. I mean, things like code enforcement issues
19 would come as an email, not a call, because, obviously,
20 it's an issue or a potential complaint to Collier
21 County. And that wouldn't have the formality of a call.
22 It probably would be an email from Volhr saying, We need
23 to be aware of this.

24 Q. When something becomes a significant issue,
25 does the board of directors have a protocol in place of

1 how to deal with a significant issue?

2 A. Well, we're a small board. The board tries to
3 communicate one on one, because with Sunshine Laws, we
4 just can't call an immediate meeting, and we've got
5 people that are located in different locations. So it's
6 usually some one-on-one conversations to update
7 individual board members on the situation, either maybe
8 from Volhr or from me to other board members.

9 Q. All right. So as I understand it, then, let
10 me recap. The only committee that you know of at the
11 400 La Peninsula is the landscape committee, that the
12 building and grounds issues are typically initially
13 dealt with by observation of either a board member or a
14 representative of Volhr Corporation or are a reported
15 issue from an owner to either Volhr or the board; is
16 that correct?

17 A. Can you repeat that, please.

18 Q. Yeah, I'm trying to recap.

19 MR. JOHNSON: Angie, can you read that back?

20 THE COURT REPORTER: "All right. So as I
21 understand it, then, let me recap. The only
22 committee that you know of at the 400 La Peninsula
23 is the landscape committee, that the building and
24 grounds issues are typically initially dealt with
25 by observation of either a board member or a

1 representative of Volhr Corporation or are a
2 reported issue from an owner to either Volhr or the
3 board; is that correct?"

4 A. Yes. Thank you.

5 MR. JOHNSON: Thank you, Angie, as well.

6 BY MR. JOHNSON:

7 Q. Let's see. Are you personally aware of any
8 water intrusion issues emanating from the common
9 elements into Unit 443, which is owned by my client,
10 Jacqueline R. Vasbinder, Trustee of the Jacqueline R.
11 Vasbinder Trust Agreement dated June 5th, 2006?

12 A. Yes.

13 Q. Okay. When did you first become aware of
14 the -- of what I just indicated to you water intrusion
15 issues from common elements into the Vasbinder unit?

16 MS. CHIAPPERINI: Form.

17 A. I would say that would have happened probably
18 late 2021.

19 BY MR. JOHNSON:

20 Q. Okay.

21 A. Again, I was a board member non-retired,
22 working through '20. I became the president in 2021,
23 and then I had seen Mr. Vasbinder on site during that
24 time with his family, and there was never any mention of
25 it to me at that time. I saw him on multiple occasions,

1 and then I think it kind of manifested itself in this
2 lawsuit and the notifications that came as a result of
3 it as my notification process.

4 Q. You indicated late 2021. Was that late 2020?

5 A. I would say it was early 2021 that I became
6 aware of this.

7 Q. Okay. Yeah.

8 A. It would be kind of the late summer of 2020.

9 Q. Okay. Thank you.

10 A. And I don't -- I didn't have firsthand
11 knowledge of it, but I was made aware of it, actually,
12 from his real estate agent company that manages his
13 unit.

14 Q. And do you recall who that was?

15 A. It's Capri Realty and Jeri Neuhaus.

16 Q. Okay. And what did you become aware of in
17 what you indicated to be the late summer of 2020?

18 A. Yeah. In the summer of 2020, as a board
19 member, I was tasked to get -- to represent the owners
20 and try to get a more beneficial insurance proceed
21 outcome for the building. And we had gotten previously
22 one prior proceed settlement of \$600,000, which was used
23 to put a new roof on the condominium before me, worked
24 on an elevator repair, work on the grounds that were
25 taken down by the hurricane, and then also some remedial

1 repairs that, again, that was before my time.

2 But as we moved into 2020, there was an
3 opportunity for us to try to work more on issues with
4 the exterior of the building, and so we worked through
5 looking at viable options to do that. And in 2020, we
6 started discussions with LJB Construction & Restoration
7 Services and their background, due diligence calls.
8 Actually, I can remember board calls at that time, where
9 Mr. Vasbinder was on the calls, and he had a comment to
10 make sure we checked their financials, which was a great
11 add, which we did.

12 And, also, in completing our due diligence,
13 they put forth a proposal in front of our insurance
14 carrier, when we were able to secure an additional
15 \$500,000 in proceeds to use on the exterior of the
16 building. And, again, to your question, during that
17 time in the summer that I was down there, we had a
18 resident in a unit, 444, which is immediately next to
19 Mr. Vasbinder's unit, 443, and the name is -- I think it
20 was John Michele, and I was asked while I was down there
21 to observe a testing and repair process that the
22 president of our board, Fred Havers, and I guess the
23 board of association had arranged with the owner,
24 because they were interested in selling their unit, they
25 wanted to accelerate the repair process, and so they

1 brought in a third-party contractor to do some water
2 spray intrusion testing.

3 And I observed that. I observed that with
4 Jeri Neuhaus with Capri Realty, both as they did testing
5 above in 444, I was also in -- we checked for water in
6 the unit below 434. And in some of their findings, the
7 learnings were that if you have, you know, a light
8 fixture, an outlet, or things like that that aren't
9 caulked, maybe, or the caulk is broken down or the
10 waterproofing is broken down, it can put water into the
11 exterior of the building. And I could sit there and
12 watch it come in the slider, underneath the slider,
13 windows, doors that was in Unit 444.

14 Q. All right.

15 A. So that learning, although I've never done any
16 water intrusion testing myself, but as an observer and
17 to make sure that the owner realized that the board was
18 very much interested in what they were doing for their
19 unit. They had that work done for about -- I think it
20 was about \$2,700. Because after it was done, I
21 requested contact information for the company that did
22 it so I could learn more about what they did and how
23 they did it. But the learning was things around on the
24 exterior of the building can cause penetrations, if not
25 caulked properly, or if there's holes or things that can

1 lead to water intrusion into a unit under the sliders.

2 Q. Okay.

3 A. So it was my -- if I could just finish,
4 because it's kind of a long learning, but, also, it was
5 my belief that that process was shared with
6 Mr. Vasbinder, you know, he was aware of what was done
7 there to try to resolve their problem prior to them
8 selling their unit, which they did immediately after
9 that restoration work was completed. And I don't know
10 any more details of the discussion or whether he opted
11 for it or rejected it or whatever.

12 Q. Okay. It was a long answer, and I have to
13 sort of go over some items that I think that you
14 asserted. The first thing I think you indicated is that
15 you learned that there was water intrusion issues into
16 the Vasbinder unit in late summer of 2020. That's
17 correct, right?

18 A. Yeah. That was about the time they were doing
19 testing, and Jeri Neuhaus mentioned that there were
20 similar issues in the unit next door. So I don't have
21 the date that the testing work was done. It may have
22 been October, but I don't have the invoice in front of
23 me from the work that was done.

24 Q. The testing that you're describing was the
25 testing of Unit 444, correct?

1 A. Correct, the adjoining unit on the fourth
2 floor.

3 Q. So as I understand it, you learned in the
4 summer of 2020 that there is water intrusion into the
5 Vasbinder unit. Do you inform other members of the
6 board that there is water intrusion issues into the
7 Vasbinder unit when you learned of that?

8 A. I mentioned it to the president, Fred Havers,
9 who had had previous discussions on that with
10 Mr. Vasbinder.

11 Q. After speaking with Mr. Havers, what happened
12 next relating to the issue that had been raised by
13 Mr. Neuhaus that there had been water intrusion into the
14 Vasbinder unit?

15 A. I don't know what he did.

16 Q. Okay. Did you do anything?

17 A. I felt by sharing the information with the
18 person that had all of the -- appeared to me all of the
19 contact on that situation, and I had other things to
20 deal with trying to get a claim done for the building, I
21 spent no other time with it.

22 Q. Do you know if any other member of the board
23 of directors, I think the third member, was notified of
24 the water intrusion issue into the Vasbinder unit?

25 A. Not by me. I don't know if Fred did notify

1 her.

2 Q. Okay. So as I understand it, other than
3 reporting it to Mr. Havers, you don't know if Mr. Havers
4 took any specific action relating to the water intrusion
5 that you learned about and told him about in the summer
6 of 2020, correct?

7 A. Again, I don't know if it's the summer or fall
8 of 2020, but I don't know. Yeah.

9 Q. All right. And did you instruct that any
10 action be taken relative to the water intrusion issue
11 emanating from the common elements into the Vasbinder
12 unit to Volhr Corporation?

13 A. I did share the communication I had with Jeri
14 Neuhaus with Barbara Nolan, the testing, learning, and
15 experience I had with Barbara Nolan.

16 Q. The testing and learning experience you
17 shared --

18 A. 444.

19 Q. -- for 444 you shared with Barbara Nolan,
20 correct?

21 A. Correct.

22 Q. And the testing experience that you shared
23 with Barbara Nolan specifically was that there had been
24 a water test at the common elements intersection of Unit
25 444; is that correct?

1 A. On the exterior walls of 444 around the
2 sliders.

3 Q. Right. Okay. And there had been a water test
4 that had been done on 444. Is that what you're saying?

5 A. Correct.

6 Q. And do you know what kind of test that was?

7 A. It was a pressurized spray test. And, again,
8 I'm sure there's the invoice for the work that they did
9 that describes -- I don't know the exact testing process
10 they did, but...

11 Q. Okay. Do you know if you or anyone from the
12 board of directors indicated to anyone from Volhr
13 Corporation that perhaps some kind of a pressurized test
14 should be utilized relative to the Vasbinder unit and
15 the common elements on the exterior of the Vasbinder
16 unit?

17 A. Can you repeat that question, please.

18 Q. Yeah, it probably wasn't that great. Let me
19 try it again.

20 Did you instruct anyone from Volhr Corporation
21 to investigate the utilization of any kind of a water
22 pressure test at the Vasbinder unit?

23 A. No.

24 Q. Okay. And as I understand it today, even as
25 we sit here together, you don't know what kind of water

1 spray test, I'll call it that, was utilized in Unit 444,
2 correct?

3 A. Correct.

4 Q. Okay. And was the ultimate resolution of 444
5 undertaken by 400 La Peninsula?

6 A. Can you repeat that question again?

7 Q. Yeah. Who -- was the issue relating to 444
8 resolved by 400 La Peninsula Association?

9 A. I don't know.

10 Q. Okay. Do you know what specifically the
11 resolution was for 444?

12 A. I don't have firsthand knowledge, other than
13 the fact that after the work was completed at 444, the
14 unit was sold.

15 Q. Do you know who did the work at 444?

16 A. I have the invoice, but I don't have it with
17 me right now. I can provide it. Or I'm sure Capri
18 Realty or Jeri Neuhaus can provide it.

19 Q. And do you know who paid for the testing at
20 444?

21 A. No, I don't.

22 Q. And do you know what work was performed at 444
23 as a consequence of the test that was performed at 444?

24 A. I only observed the water spray testing and
25 the water intrusion that resulted from it, so no.

1 Q. The water intrusion that resulted from the
2 spray testing of 444, I think you said you personally
3 observed that water intrusion?

4 A. Yes, I did.

5 Q. And where did the water intrude into in 444?

6 A. Into the living room of 444.

7 Q. And did you observe all entry points of that
8 water?

9 A. It came through in the middle of where the
10 sliders adjoined in the living room.

11 Q. What do you mean by where the sliders adjoined
12 in the living room? Help me out.

13 A. Well, the spray test could have been done away
14 from the sliders, but there was water in a couple of
15 their testing trials that came out underneath the
16 sliders.

17 Q. Did you -- and I'll ask you, because I'm not
18 sure you know one way or the other, but do you know
19 ultimately what caused the water intrusion through the
20 location that you observed or locations you observed?

21 A. It seemed to -- from the work that was done
22 and the areas they tested, which was a light fixture, a
23 wall outlet, and another light fixture on the opposite
24 side of the sliders, that seemed to be a cause and
25 effect relationship when they tested it with water, and

1 then the water came in under the sliders. So I observed
2 that. That's all -- that's all I know.

3 Q. That's not based upon any specific analysis;
4 that's based on your guesswork; is that correct?

5 A. That's what they said they were testing. You
6 can hear -- sometimes they had the slider open, so you
7 could hear the workers on the lanai patio.

8 Q. Who's the "they"?

9 A. Again, it's the third-party contractor that
10 did the work, and it's the one that I don't have the
11 invoice for.

12 Q. Okay. All right. Let's get back --

13 A. I think they're a restoration company that's
14 out of Marco.

15 Q. Okay. Let's talk about -- let's get back to
16 the Vasbinder unit in the summer of 2020. Okay?

17 A. Okay.

18 Q. The complaint comes in. Do you know if anyone
19 from the board of directors in the summer of 2020
20 authorized any kind of a water test to determine the
21 source of water intrusion into the Vasbinder unit?

22 A. No, I don't.

23 Q. Did you suggest, as a member of the board,
24 that there should be a water test to determine the
25 source of the water intrusion problem into the Vasbinder

1 unit when you learned about the water intrusion problem
2 in the Vasbinder unit?

3 A. At that time, we were working through a
4 contract agreement with LJB to do some work which
5 included water testing, but I did not direct anybody to
6 specifically test their unit. They were under contract
7 to do some water testing based on what they had to do to
8 present a claim or areas that they were directed to
9 test, and I did not direct them in what units they
10 should be testing.

11 Q. Did you notify anyone from LJB that in the
12 late summer of 2020 that a complaint had been raised
13 that there was water intrusion into the Vasbinder unit?

14 A. No.

15 Q. Okay. Did anything prevent you from doing it?

16 A. I wasn't in charge of conducting the test or
17 providing information to LJB on a battery of units that
18 they should consider testing as they didn't do the whole
19 building, so no.

20 Q. Who was in charge?

21 A. I would say Fred Havers was probably more in
22 charge with that.

23 Q. Okay. It would be, though, a member of the
24 board of directors of the association that would have
25 been in charge of that, correct?

1 A. Correct.

2 Q. Do you have any knowledge of what may have
3 prevented -- and I apologize for the form of this
4 question, but I think you'll understand it. Do you know
5 of anything that prevented Mr. Havers from making the
6 suggestion to LJB that they should do the testing at the
7 Vasbinder unit, water test?

8 MS. CHIAPPERINI: Form.

9 A. Can you repeat the question, please.

10 BY MR. JOHNSON:

11 Q. Yeah.

12 Do you know if anything prevented Mr. Havers
13 from making the suggestion to LJB that a water test
14 should be performed at the Vasbinder unit?

15 MS. CHIAPPERINI: Form.

16 A. No.

17 BY MR. JOHNSON:

18 Q. As you sit here today, do you have any
19 firsthand knowledge of what a -- you've testified to the
20 word water test. Do you know what a water test is?

21 A. Well, other than observation, I saw a type of
22 water test with 444. But when the water testing that I
23 experienced and saw with LJB, there was a battery of
24 testing people from LJB, and then there was also people
25 from the insurance carrier that very carefully monitored

1 the testing that they did, which was a different type of
2 water testing than the one I saw in 444.

3 So other than the observation of two different
4 types of approaches to water testing or water intrusion
5 testing, as you said, that's what I've observed.

6 Q. We've talked a little bit today, Mr. Ramer,
7 about LJB Restoration Services, correct?

8 A. Yes.

9 Q. You referred to them. And are they -- do you
10 have any knowledge if they have any background in the
11 field of engineering?

12 A. I believe they have in-house -- I think they
13 have some in-house engineering services or a group that
14 they rely on.

15 Q. Okay. All right. How did LJB Restoration
16 Services -- no. Let me rephrase that.

17 Do you have knowledge as to how LJB came to
18 perform any labor, service, or material for 400
19 La Peninsula?

20 A. I think it came out of the experience that
21 Volhr had, and, of course, they have multiple
22 properties, and realizing that these types of services
23 exist, I think she directed the president at that time
24 to look at their skill set, services to see if it would
25 be appropriate for our situation.

1 Q. All right. So it's your understanding that
2 Volhr Corporation is the entity on behalf of the board
3 of directors who initially made contact with LJB,
4 correct?

5 A. No. I would say they had -- they may have --
6 I don't know if they made the contact, first contact
7 with them.

8 Q. Okay.

9 A. It could have been our president. I don't
10 know.

11 Q. We'll talk a little bit more about LJB in a
12 little while.

13 So there's water intrusion into the Vasbinder
14 unit in the late summer of 2020. Tell me every action
15 that's been taken that you have knowledge of by the
16 board of directors to remedy the water intrusion problem
17 at the Vasbinder unit since you became aware of that
18 problem.

19 A. I'm not aware of what steps the prior
20 president took, who had what I really -- who had more of
21 a one-on-one contact with Mr. Vasbinder on his unit.

22 Q. Okay. So how about -- and when did -- that's
23 Mr. Havers we're talking about, correct?

24 A. Correct.

25 Q. And when did Mr. Havers cease being the

1 president?

2 A. Around March of 2021.

3 Q. Okay. So you don't know what would have
4 happened since you had a discussion with Mr. Havers
5 between the summer of 2020 and when Mr. Havers no longer
6 was the president and was a member of the board,
7 correct?

8 A. Correct.

9 Q. Okay. You just know that you took no action
10 as the vice president, correct?

11 A. Correct.

12 Q. And you also know that you have no firsthand
13 knowledge that Volhr Corporation on behalf of the board
14 took any action, correct?

15 A. Correct.

16 Q. Okay. And then, now, so Mr. Havers leaves the
17 board of directors. So tell me --

18 A. Wait a minute. Can you repeat the last two
19 questions? Can you repeat the last two questions,
20 please.

21 MR. JOHNSON: Sure.

22 Madam Court Reporter, go ahead.

23 THE COURT REPORTER: "Question. Okay. You
24 just know that you took no action as the vice
25 president, correct?"

1 Answer. Correct.

2 Question. And you also know that you have no
3 firsthand knowledge that Volhr Corporation on
4 behalf of the board took any action, correct?

5 Answer. Correct."

6 MS. CHIAPPERINI: Angela, I'm just making sure
7 you're getting my form objections.

8 THE WITNESS: I have to go back to -- I'm
9 sorry.

10 MS. CHIAPPERINI: Angela, I'm just making sure
11 you're getting my form objections in there.

12 MR. JOHNSON: Yeah. Form objections are
13 noted.

14 BY MR. JOHNSON:

15 Q. Okay. Mr. Ramer, did you want to say
16 something?

17 A. I didn't hear her objections.

18 THE COURT REPORTER: I didn't hear her
19 objections either.

20 MS. CHIAPPERINI: So you're not hearing me,
21 Angela?

22 THE COURT REPORTER: I did not hear your form
23 objections. I think I've heard like two or three,
24 maybe.

25 MS. CHIAPPERINI: Okay.

1 THE COURT REPORTER: And if I'm not looking at
2 the screen, because sometimes I look at my other
3 computer screen, I won't see you mouthing
4 objection.

5 MS. CHIAPPERINI: Henry, are you hearing me?

6 MR. JOHNSON: Yes.

7 THE COURT REPORTER: I am now. But have you
8 been hearing the form objections?

9 MR. JOHNSON: I heard the one, and then I
10 heard Agnieszka's last objection.

11 THE COURT REPORTER: Yeah, I heard that, but
12 if she's been objecting through, I have not heard
13 them. That's what I'm saying.

14 MS. CHIAPPERINI: We're going to have to go
15 through the transcript at the end, but that's fine.
16 I'll increase my volume or something.

17 MR. JOHNSON: Okay. Very good.

18 BY MR. JOHNSON:

19 Q. Mr. Ramer --

20 A. If I can go back a couple of questions,
21 because you asked about actions that were done since the
22 summer of 2020 --

23 Q. Right.

24 A. -- in relation to the water intrusion with
25 Mr. Vasbinder's unit.

1 Q. Yes.

2 A. And part of the actions were worked through
3 the contract and the engagement of LJB to bring their
4 restoration services to bear for the building, all
5 owners of the building, including Mr. Vasbinder. And to
6 me, we got that contract in place, which later led to
7 the -- later led to the insurance proceeds of a half
8 million dollars to aggressively attack the painting,
9 waterproofing, caulking, and window alignment
10 requirements of the building.

11 So I think your question, the way it was
12 phrased, implied that I did nothing regarding the needs
13 of the Vasbinder condition of their unit, when my work
14 was more directed towards trying to get a contract in
15 place, make sure, I'm doing due diligence, that these
16 are qualified restoration representatives, and then
17 working to try to get funding to pay for it all. And
18 your question kind of sounds like I dead-ended, and that
19 was not the case.

20 Q. So tell me everything that LJB did to remedy
21 the water intrusion problem at the Vasbinder unit.

22 MS. CHIAPPERINI: Form.

23 BY MR. JOHNSON:

24 Q. Go ahead, Mr. Ramer.

25 A. I couldn't hear her objection. She's muffled

1 over.

2 MS. CHIAPPERINI: You can answer. Unless I
3 tell you not to answer, you can answer.

4 THE WITNESS: I really can't hear you.

5 MS. CHIAPPERINI: I said, unless I tell you
6 not to answer, you can answer.

7 A. Okay. After the communication to me and, I
8 guess, the association to inspect the Vasbinder unit,
9 which we did, we have worked through the other elements
10 of the building with the Vasbinder unit being the last
11 unit to work on really because of concerns out of
12 getting access to the unit, and, also, it just seemed as
13 though what LJB had as their scope of work was not
14 sufficient for what Mr. Vasbinder or his counsel wanted.

15 So that delayed some of our work to where they
16 were the last unit that we did any prepping, priming,
17 painting, waterproofing, and just remedial caulking. We
18 did not touch the sliders, because that would require us
19 to go inside his unit, and there was issues with trying
20 to always align appointments and stuff to work on his
21 unit, and it just seemed like the work that LJB was
22 tasked with based on their scope wasn't satisfactory.

23 MR. JOHNSON: All right. We've been going at
24 this for about an hour and 15 minutes or so. I
25 think I -- I think it would be appropriate now to

1 take a -- let's take a 10-minute break, and then
2 we'll continue. All right. Thank you very much.
3 I appreciate it.

4 (Recess taken from 11:13 a.m. to 11:24 a.m.)

5 BY MR. JOHNSON:

6 Q. Okay. Mr. Ramer, you asked for a
7 clarification, and I'm pleased to allow you to state
8 your thoughts.

9 A. There was a line of questioning about my
10 awareness for the Vasbinder water intrusion issue, and
11 Counsel Johnson has always used summer of 2020. And,
12 actually, I became aware of it when the testing was
13 conducted on October 1st of 2020. So it's not the
14 summer, it's October 1st of 2020. And it was conducted
15 by a company called South Florida Waterproofing out of
16 Naples, Florida.

17 Q. Okay. Thank you.

18 A. So just for accuracy in terms of time frame,
19 that's when I became first aware of that issue.

20 Q. Do you know -- just to follow up now since you
21 followed up, I have a follow-up, do you know if South
22 Florida -- is it South Florida Water --

23 A. South Florida Painting and Waterproofing.

24 Q. Do you know if South Florida Painting and
25 Waterproofing was ever contacted by you or anyone from

1 the association to do any investigative work at the
2 Vasbinder unit relating to their water intrusion
3 problem?

4 A. Not by me, but I don't know if anybody else.

5 Q. Did you think that South Florida Painting and
6 Waterproofing did a satisfactory job relating to Unit
7 444?

8 A. I don't know, other than they sold the unit
9 after that.

10 Q. Okay. Fair enough.

11 I want to go into a few exhibits. I'm
12 sensitive to Agnieszka's thoughts that you're not a
13 corporate representative, but I can ask you if you have
14 knowledge or ever seen any documents. I have numbered
15 the documents, or I put them in order, there's 33
16 individual items. And I'd like you to take a look at a
17 document which is going to be marked as Exhibit 1 for
18 this deposition called Warranty Deed.

19 (Exhibit 1 was marked for identification.)

20 Q. It purports to be -- I'll try to be clear on
21 the record, so we know what we're looking at, because
22 we're by Zoom. It's a two-page document, it says,
23 Warranty Deed, dated May 16th, 2016. Mr. Ramer, do you
24 see that?

25 A. Not on the screen, no.

1 Q. No, it's not on the screen. We provided them
2 to you previously.

3 A. Okay. I'm using my laptop to conduct this
4 Zoom session, so how am I supposed to multi-task then?

5 MS. CHIAPPERINI: I'll put it on the screen
6 for you, Mark.

7 MR. JOHNSON: Okay. Thank you very much,
8 Agnieszka. Thank you very much.

9 THE WITNESS: I'm sorry? I can't hear
10 Agnieszka.

11 MS. CHIAPPERINI: I'll put them on the screen
12 for you, Mark.

13 THE WITNESS: I appreciate that.

14 MS. CHIAPPERINI: Do you see the deed?

15 THE WITNESS: I do.

16 BY MR. JOHNSON:

17 Q. Okay. You're looking at what is going to be
18 marked for this deposition as Exhibit 1. Do you
19 recognize that document?

20 A. I do.

21 Q. And what is that?

22 A. It's the deed for the sale of my condo to me.

23 Q. And does that document fairly and accurately
24 reflect that you are the owner of Unit 401 of 400
25 La Peninsula?

1 A. Yes.

2 Q. Okay. And that's the document by which Mark
3 D. Ramer and Patricia B. Ramer, as Trustees, took title
4 to Unit No. 401 of 400 La Peninsula, correct?

5 A. Yes.

6 Q. And you understood when you took title to your
7 unit that you were going to take title in accordance
8 with all of the terms and conditions of the Declaration
9 of Condominium which was then in effect of 400
10 La Peninsula, correct?

11 A. Yes.

12 Q. Okay. Following you taking title, your
13 association documents were amended and restated; is that
14 correct?

15 A. Yes.

16 Q. Okay. And did you -- did the association hire
17 a lawyer to do a complete amendment and restatement of
18 your condominium documents?

19 A. Yes.

20 Q. I'd like you to take a look now, and I'll
21 describe it, because this is a lengthy document, it's
22 the Certificate of Adoption of Amendment to the
23 Declaration of Condominium of 400 La Peninsula. My
24 colleague has been kind enough to put that up on the
25 screen. And then it's got a series of papers and

1 documents behind it. I'm going to mark this as Exhibit
2 No. 2 for this deposition, and I'm going to ask you to
3 take a look at the first page and ask if you recognize
4 the signature on that first page, where it says, Its
5 vice president. Do you see that?

6 A. I do.

7 (Exhibit 2 was marked for identification.)

8 Q. Okay. And whose signature is that?

9 A. That's mine.

10 Q. And can you describe to me the events that led
11 up to a -- the amendment of you executing this
12 Certificate of Adoption?

13 A. Well, there was -- with a condominium
14 association in Florida, there was a 30-year window where
15 we had to go through and revise our amendments. I don't
16 know what exactly that's called under condominium
17 governance or law, but ours were -- original documents
18 were 1996. So there was a project -- when I got brought
19 onto the board, they were already in a drafting process
20 of the amendments. That would have been in the fall of
21 '19. And then we went through a process of review with
22 the ownership, the association. We then went through a
23 proxy vote process with the membership. It was carried
24 by about an 80 percent approval of these amendments.
25 And I think the vote was earlier in March or something

1 like that of 2020. I happened to be down here in Isle
2 of Capri or Naples in the spring or April. So in terms
3 of registering the documents and being an officer, given
4 that it had went through the appropriate processes of
5 our association, I formally signed off on the
6 Certificate of Adoption for recording at Collier County.

7 Q. There is attached to the Certificate of
8 Adoption initially an index, if you can scroll down,
9 there's an Index to the Amended and Restated Declaration
10 of Condominium. And then if you were to look at the
11 entirety of the document, there's also an entire
12 Amendment and Restatement of the Declaration of
13 Condominium Articles of Incorporation and Bylaws.

14 I guess my first question, is it your
15 understanding that by virtue of you executing this
16 Certificate of Amendment that all of the papers that are
17 attached to the Certificate of Amendment became recorded
18 of record in Collier County?

19 A. Yes.

20 Q. And that when the documents were recorded in
21 Collier County, that they became documents by which the
22 400 La Peninsula Condominium were and are presently
23 governed; is that your understanding?

24 A. Yes.

25 Q. Okay. Thank you.

1 And did an attorney draft these documents?

2 A. Yes.

3 Q. And who was the attorney?

4 A. I think there were actually two attorneys, one
5 that started the drafting. There was actually multiple
6 buildings at La Peninsula. There's, depending upon how
7 you count them, six low-rise condominium complexes that
8 all operate under their own declarations. Many of them
9 realize the 30-year issue with trying to update theirs.
10 And some of the buildings got together and had an
11 attorney, and I don't know the name of the attorney,
12 start that drafting process. But then it appeared to
13 our president as he started going through the drafts
14 that he had an issue with the attorney, the work, I
15 don't know, the turnaround, I don't know exactly what,
16 but we then took the drafting that was done, and it was
17 completed by William Morris in Marco.

18 Q. Okay. The document itself has various
19 definitions within the Declaration of Condominium. Is
20 it your understanding that all of the definitions that
21 are set forth in this document are still in force and
22 effect?

23 A. Yes.

24 Q. I'd like you -- Agnieszka, if you would be so
25 kind, would you move to Page 2 of the actual text, not

1 the index, but the text. There we go. That's Page 2 of
2 the text.

3 You see that section 5.5, Common Elements?

4 A. Yes.

5 Q. Okay. Is that your understanding of what the
6 definitions are of common elements at 400 La Peninsula?

7 A. Yes.

8 Q. Okay. I'm not asking you for any legal
9 conclusion, but from your perspective, what do you
10 understand the common elements to be at La Peninsula?

11 A. Well, I'd accept the definitions as listed in
12 the declaration summary.

13 Q. That's fair enough. Okay. Thank you.

14 All righty. Let's scroll further through this
15 document, which has been marked as Exhibit 2, to Page
16 14.

17 Thank you, Agnieszka.

18 There we go. There's Page 14. Do you see
19 that one? At the top, it has 11.1.2, Condominium
20 Association. Do you see that?

21 A. Yes, I do.

22 Q. It says there, The association shall purchase
23 and maintain such insurance as will protect it from
24 claims as set forth below.

25 Does presently the association have insurance

1 to protect it from the claims that are listed in Items 1
2 through 7?

3 A. I don't know specifically, but I would assume
4 we do.

5 Q. Do you have any anything to do with the
6 securing of insurance for 400 La Peninsula?

7 A. In the board of administration, the
8 condominium association manager works with brokers and
9 that to secure our annual insurance coverages on all
10 levels for the association. Then that is then discussed
11 and presented to the board based on their review of
12 multiple carriers, status of whether they would cover us
13 or not for specific policy coverages, and then they make
14 a recommendation on who we should go with for our
15 insurance coverages in toto.

16 So other than looking at the work that's been
17 done by the secretary/treasurer or our CAM manager,
18 which is Volhr, for our insurance coverages and the
19 comparisons and analysis that she gets either through
20 other brokerages or the agents that she works with,
21 that's the extent of my knowledge of the specifics of
22 our insurance coverages.

23 Q. Are the claims which are the subject of this
24 lawsuit -- let me rephrase that. I'll strike that
25 question.

1 Have the claims which are the subject of this
2 lawsuit been tendered to any insurance carrier for 400
3 La Peninsula?

4 A. I don't know.

5 Q. Do you know if 400 La Peninsula has different
6 insurance carriers for any officers or directors, errors
7 or omissions or liability insurance, as opposed to
8 insurance for property damage to common elements?

9 A. There's a requirement, I think, in the
10 declarations for us to have liability insurance for
11 officers and directors, and I believe we have whatever
12 is required.

13 Q. All right. Okay. And it would be your
14 understanding that Volhr Corporation would have more
15 knowledge than yourself in that regard; is that correct?

16 A. Correct.

17 Q. All right. Fair enough.

18 Let's turn in the declaration to Page 18,
19 Section 12. There it is. Thank you.

20 Section 12, and it says there, The operation
21 of the condominium association shall be by 400 La
22 Peninsula Condominium Association, Inc. as follows. And
23 if you look at Section 12.1, it says, The governance and
24 operation of the condominium association shall be by 400
25 La Peninsula Condominium Association adhering to Florida

1 Statutes and 400 La Peninsula Condominium documents in
2 the following order. Do you see that?

3 A. Yes.

4 Q. Okay. Has that -- since this provision of
5 this document was recorded, has that section in any way
6 been amended, altered, or changed?

7 A. Not that I'm aware of, no.

8 Q. Okay. Thank you.

9 Let's turn to Page 23. There it is. It says,
10 Maintenance: Limitations Upon Alterations and
11 Improvements. And here it says, In addition to those
12 responsibilities set forth herein, responsibility for
13 the protection, maintenance, repair, and replacement of
14 property shall be as follows.

15 And I'd like to draw your attention
16 specifically to 15.1 broadly. It says, The condominium
17 association is responsible for the protection,
18 maintenance, repair, and replacement of all common
19 elements and condominium association property (other
20 than the limited common elements that are required
21 elsewhere herein to be maintained by the unit owner).
22 The cost is a common expense.

23 The first question is, what is your
24 understanding of what are the common elements as
25 referenced in this section of this amended declaration?

1 MS. CHIAPPERINI: Form.

2 BY MR. JOHNSON:

3 Q. You can go ahead and answer.

4 A. Can you rephrase the question? I don't think
5 I understand what you're saying.

6 Q. I'll make it more simple. This section talks
7 about common elements. What's your understanding of
8 what are the common elements that are being discussed in
9 this section of the document?

10 A. It would be the common elements that are
11 mentioned in the previous section of the declarations.

12 Q. Okay. So you would rely on the prior
13 definitions in this amended declaration to define what's
14 in this Section 15, correct, Mr. Ramer?

15 A. I believe so, yeah.

16 Q. Okay. Fair enough.

17 All right. Let's take a look at Page 27.
18 Excuse me. I have a little frog in my throat. Page 27,
19 Section 15.5. The first sentence of Section 15.5 says,
20 after the title of Alterations or Additions to Common
21 Elements and Association Property, says, The protection,
22 maintenance, repair, insurance, and replacement of the
23 common elements and association property is the
24 responsibility of the condominium association, and the
25 cost is a common expense.

1 What is your understanding of what this means?

2 MS. CHIAPPERINI: Form.

3 BY MR. JOHNSON:

4 Q. You can go ahead and answer.

5 A. Like as it reads, if there is some alteration

6 or addition to the common elements on the property done

7 by the association, then it's -- the cost to do that is

8 a common expense.

9 Q. Has this section of the amended and restated

10 declaration since its recording been amended or altered?

11 A. No.

12 MR. JOHNSON: We're going to have to scroll

13 fairly far down, Agnieszka. We're going to have to

14 go to bylaws -- it's the bylaws -- it's Page 15 of

15 the bylaws, so we're looking to go past the end of

16 the declaration all the way through to Page 15 of

17 the bylaws.

18 MS. CHIAPPERINI: What's the book and page?

19 MR. JOHNSON: Book 5757, Page 700.

20 BY MR. JOHNSON:

21 Q. Do you see the section there, it says,

22 Officers?

23 A. Yes.

24 Q. There's a section that talks about the

25 president. Do you see that? It says, The president

1 shall be the chief executive officer of the condominium
2 association. Do you see that?

3 A. Yes.

4 Q. Has that section ever been modified or altered
5 since this document was recorded?

6 A. No.

7 Q. And there's a section here that talks about
8 vice president. Has this section ever been amended or
9 altered since you became either the vice president or
10 president of this association?

11 A. Well, I became a vice president in 2019, and
12 then the amended documents were approved in 2020. So
13 the answer would be -- for me as the vice president, the
14 answer is yes. In terms of a document, the answer would
15 be no.

16 Q. How about in terms of president?

17 A. No.

18 Q. Not altered, correct?

19 A. Right.

20 Q. And you see that in 5.2 it grants the
21 president the power to appoint committees from among the
22 members to assist in the conduct of the affairs of the
23 condominium. Do you see that?

24 A. Yes.

25 Q. And just for clarity of the record, have you,

1 since you've been president, ever appointed any persons
2 to -- excuse me. Have you ever appointed any
3 committees?

4 A. Other than I -- other than I work with the
5 previously appointed committee, which was the
6 landscaping committee. No new committees, no.

7 Q. Okay. Good.

8 Let's take a look at what I am going to mark
9 as Exhibit No. 3.

10 (Exhibit 3 was marked for identification.)

11 MR. JOHNSON: Agnieszka, if you can put it up
12 on the screen, it's a GFMaron Structural
13 Engineering Building Envelope document.

14 BY MR. JOHNSON:

15 Q. I'm showing you, Mr. Ramer, what has been
16 marked -- what shall be marked for the purposes of this
17 deposition as Exhibit 3. It purports to be
18 correspondence from a structural engineering company
19 called GFMaronPE, Inc., dated June 27th, 2017.
20 Question, have you ever seen this document before?

21 A. Yes.

22 Q. Okay. When's the first time you saw this
23 document?

24 A. I think it was either late '20 or '21 when I
25 became president.

1 Q. And can you describe to me the circumstances
2 that resulted in you viewing this document?

3 A. Actually, I became president in '21. So it
4 would have been sometime after I became president, just
5 from trying to transition information from the old
6 president to the new president.

7 Q. In the work -- in that transition work, did
8 you ever --

9 A. This is a '17 document. There was another
10 document from '19 I got early on in my transition. I
11 really didn't see this document until late '21, I think.

12 Q. Fair enough.

13 In other words, after this lawsuit was filed?

14 A. No.

15 Q. I will note to you that the lawsuit, I
16 believe, would have been filed with the clerk of courts
17 in August of 2021.

18 A. I did see this document as part of the
19 discovery to Volhr then.

20 Q. What do you mean by that?

21 A. I think you -- I think they asked for all
22 discovery, for documents, and I think this document was
23 included in it.

24 Q. The document from whom to whom?

25 A. I think from Volhr to you.

1 Q. Okay. That's what I wanted to get
2 clarification. Thank you.

3 Okay. That was the first time you saw this
4 document?

5 A. That I remember, yeah.

6 Q. Okay. After viewing this document, did you
7 take any actions or make any inquiries relative to the
8 contents of this document?

9 A. I probably talked to the president about a few
10 of the items that were in it.

11 Q. What items did --

12 A. This was kind of something I was inheriting.

13 Q. And what did you -- and which items did you
14 talk to the president about?

15 A. I can't see the entire document. Can you
16 scroll down a little bit?

17 MR. JOHNSON: Sure.

18 Yeah, Agnieszka, would you be kind enough to
19 take a look through it? Please take a look through
20 it.

21 BY MR. JOHNSON:

22 Q. First of all, let's do this for the record,
23 we're on Zoom. Okay. We're looking at the first page
24 now. Is there anything on the first page that you
25 talked to the president about?

1 A. I don't remember.

2 Q. Okay. Fair enough.

3 Let's scroll to the second page.

4 MS. CHIAPPERINI: I don't think I can show the
5 full page at a time with him being able to see it.
6 So we should probably do maybe either a section at
7 a time or --

8 MR. JOHNSON: Sure.

9 MS. CHIAPPERINI: If I zoom out, it's going to
10 be too small to read on the screen.

11 MR. JOHNSON: Thank you.

12 A. I can't read that.

13 BY MR. JOHNSON:

14 Q. What did you say, Mr. Ramer?

15 A. It was too small. I can't read it.

16 Q. Can you read what's up there now?

17 A. Yes.

18 Q. Okay. So you're looking at a section of Page
19 2 from the top of the page to above the word Findings.
20 You can see that, right?

21 A. Correct.

22 Q. Did you discuss with the president any of the
23 items that are on that section of that Page 2?

24 A. I don't believe so.

25 Q. Okay. We're going to scroll now to the bottom

1 of Page 2. Okay. Same question, did you discuss with
2 the president any of the items that are the subject of
3 Page 2?

4 A. I know I talked with him about the -- where's
5 the berm? I don't know if it's on that page. I don't
6 think I talked with him about any specifics on that
7 page. Again, some of the things mentioned on that
8 report were all elements of work that could or would be
9 addressed with the work that we were trying to put in
10 place with LJB. Things like caulking around windows,
11 doors, and building joints. Paint fading and caulking.
12 Some of those bigger ticket expense items were going to
13 be handled by the work through LJB. So it may be from a
14 perspective of what things could or would be handled
15 through LJB, that was the nature of the discussion on
16 that page.

17 Q. Speaking generally about this correspondence,
18 did you have any discussions with anyone from LJB
19 regarding the specifics of this correspondence?

20 A. I did not, no.

21 Q. All right. Okay. Let's go to, I guess, a
22 portion of Page 3 because it's tough to -- scroll to
23 Page 3, and we're going to stop at the words exterior of
24 the building. Do you see that, Mr. Ramer?

25 A. I do. I see it.

1 Q. Did you have any specific discussions with the
2 prior president regarding any of the specifics of those
3 words, exterior of the building?

4 A. I don't believe so, no.

5 Q. If we can skip down to the bottom of that
6 page, any specific discussions with the president of the
7 association regarding the balance of what's on that
8 page.

9 A. No.

10 Q. All right. Let's go to Page 4. Page 4 is
11 interesting. Page 4, let's go to the very top. There
12 it is. It says, The services of a restoration general
13 contractor should be obtained to paint the property
14 within the next 18 months. Included in the scope of
15 work should be, and there's a series of items there.

16 Did you discuss specifically with the
17 president whether any actions had been taken within 18
18 months of this letter, this letter had been dated
19 June 27th of 2017, to address any or all of the bullet
20 point issues which are at the top of this page?

21 A. I don't remember.

22 Q. All right. You don't remember having a
23 discussion, or you don't remember having any specific
24 discussion?

25 A. I don't remember having any specific

1 discussion.

2 Q. About any of the content of the --

3 A. I think any discussion would have been in the
4 fact after seeing the document that a lot of the issues
5 that came up could or would be handled through the work
6 we were trying to put in place with LJB helping us
7 secure insurance proceeds to restore those elements of
8 the building.

9 Q. We've mentioned LJB a bit today. We'll be
10 mentioning them more during the course of your
11 deposition, but did LJB, for any of the work that it was
12 ultimately engaged to do at 400 La Peninsula, provide
13 any plan or specifications to the association for the
14 scope of its work?

15 A. They provided their contract.

16 Q. We'll talk about that. Other than their
17 contract, did they ever provide to the association plans
18 or specifications, meaning an attachment that gave a
19 more descriptive analysis of what they were going to do?

20 A. I don't know.

21 Q. Did you ever ask anyone from LJB if they did?

22 A. No.

23 Q. Whose dog is that?

24 A. They're mine.

25 Q. Okay. Are they all right? Do you need to

1 take them out?

2 A. Hold on a second.

3 Q. Okay. No problem, Mr. Ramer. I'm sensitive.

4 (Recess taken from 11:58 a.m. to 11:59 a.m.)

5 BY MR. JOHNSON:

6 Q. Okay. Mr. Ramer, are your dogs all squared
7 away?

8 A. We'll see. Another untimely delivery, we'll
9 never know.

10 Q. Fair enough.

11 Okay, Mr. Ramer. All righty. We were talking
12 a bit about LJB, and I forget if you answered the
13 question of whether you knew that LJB, whether they had
14 provided any specific plan or specification. I think
15 you told me they had only provided a contract?

16 A. Well, and I believe in the contract it cited
17 the work they would do to what specification. And I
18 can't remember, it's been a while, with construction
19 with an AJC or what sections of work they would abide by
20 in terms of the conduct of their work.

21 Q. Okay. All righty. There is a -- getting back
22 to this letter, after you took a look at it, there is a
23 section of this letter that says on Page 4, and it's on
24 the screen right now, it says, The rusting hollow metal
25 doors should not be repainted. Since they are corroding

1 from the interior, a fresh coat of paint will only add
2 approximately six months to the life of the door.

3 Did you have any discussion with the president
4 regarding that issue specifically?

5 A. That was an issue that would come up from time
6 to time, and they're now replaced.

7 Q. Okay. And when were they replaced?

8 A. Oh, in the last six months.

9 Q. And who replaced them?

10 A. We had a contractor replace them.

11 Q. Okay. And who paid for their replacement?
12 The condominium association?

13 A. Yes.

14 Q. And why was the decision made to replace them?

15 A. It was time and funding. We're a nonprofit,
16 so funding to be able to do these things becomes a big
17 issue.

18 Q. And what was the cost, do you recall, of
19 replacing all of these doors?

20 A. I think it was about 1,800 to \$2,200.

21 Q. Total for the doors or per door?

22 A. I'm not sure.

23 Q. How many doors?

24 A. Two. And I think there's locksets to go with
25 them, too.

1 Q. All righty. And who ultimately made the
2 decision to replace those doors? Was it a board
3 decision?

4 A. Yes. Well, it was a maintenance decision by
5 me that had -- and the board was aware of it.

6 Q. Would that be consistent with the maintenance
7 obligation of the association to maintain and repair
8 common elements?

9 A. Yes.

10 MR. JOHNSON: All righty. Let's scroll down
11 further. I think, Agnieszka, if we can -- okay.
12 We're going to the bottom of the -- starting with
13 the drains for the planters.

14 BY MR. JOHNSON:

15 Q. Again, my question is whether you had any
16 specific discussion with the president regarding these
17 issues, any of these issues?

18 A. No.

19 Q. Okay. Fair enough.

20 Let's go to the fifth page. And I guess it
21 starts with the settling of fill and ends with the words
22 combination of the two, because we can only see a
23 portion of the screen, so it's not too small. Did you
24 have any specific discussions with the president of the
25 association regarding anything on this page?

1 A. In conversation, we talked about the need
2 to -- it's kind of in the fourth paragraph. It's the
3 berm on the western side of the building, and we've
4 taken action to hire both a landscaper and a landscape
5 engineer to look at those areas. We talked about the
6 fact that we're under a moratorium to do anything in
7 those areas while the master board association completed
8 their drainage pond construction, which has taken quite
9 a bit of time, literally over a year or possibly two.
10 So it kind of created a moratorium to do any work back
11 there until the size, the shape, and the volume of those
12 natural drainage ponds behind our building, and there's
13 two of them, were completed. Now that that work has
14 been completed and approved by Collier County, we have
15 engaged people to take a look at us doing what's
16 required for the maintenance of those berms.

17 Q. As I understand it, that issue is that there
18 is some necessity to replace the fabric on the berm that
19 washed out from Hurricane Irma; is that correct?

20 A. Correct.

21 Q. Okay.

22 A. Well, it's faded. It hasn't washed out.
23 There's fabric underneath rip rack rock that holds the
24 fabric down. I'm not aware of any fabric that has
25 washed out. I'm just aware of berms that have fallen

1 down, and there has been erosion, and the fabric layer
2 underneath it has faded, like it says.

3 Q. Okay. And this is a condition that's existed
4 since Hurricane Irma, since September 10th of 2017; is
5 that correct?

6 A. Yes.

7 Q. And in order to address this issue, the board
8 of directors believed that there was -- and these are my
9 words now, sir, correct me if I'm wrong, sort of a
10 two-step process, that you first need a landscape
11 engineer to be able to determine what needs to be done,
12 and then you would need a landscaper -- a landscape
13 subcontractor to come in and actually do the work that
14 would be outlined by the engineer; is that correct?

15 A. Not really.

16 Q. Okay.

17 A. We were trying to get a couple of different
18 proposals or bids on trying to do the work, which we
19 have to do from time to time is get more than just one
20 bidder. And I think we briefly discussed the fact that
21 there were some monies in the insurance proceeds that we
22 got as a result of the work and the association with LJB
23 for dealing with the downspouts and guttering, which is
24 mentioned in the next paragraph.

25 Q. Okay.

1 A. And we've taken a step beyond that to improve
2 on the guttering beyond the insurance proceeds.

3 Q. Let's go, first, one step at a time. In order
4 to do the work relating to the berm, was there the
5 necessity for any site engineering to take place first?

6 A. We're trying to make sure there isn't,
7 because, again, the ponds that were done were under a
8 significant review and permitting process from Collier
9 County, and the ponds butt up against the base of the
10 berm, and we want to make sure before we engage anybody
11 to do any work of any kind to restructure, repair,
12 replace the berm that we're not falling into some issue
13 in terms of permitting with Collier County or
14 environmental permitting or encroaching on the
15 permitting that they just recently completed the
16 approval of for all of these drainage ponds.

17 Q. So you're having to first make a determination
18 if it's necessary to have some site engineer do some
19 analysis as a precondition to doing the landscape
20 subcontract work, correct?

21 A. Yes. The landscaper -- as the landscaper,
22 they kind of do their thing, but the landscaping
23 engineer will give us a read on what are the boundaries
24 that we can go forward on that piece of work without --
25 or what permitting or what will be required.

1 Q. What --

2 A. Those two inputs, we'll decide a direction.

3 Q. What work that has been done by -- done since
4 Hurricane Irma at 400 La Peninsula has required the
5 utilization of the services of an engineer as a
6 precondition to any general contracting or
7 subcontracting work?

8 MS. CHIAPPERINI: Form.

9 A. Since Irma, there was -- I don't know.

10 BY MR. JOHNSON:

11 Q. Have any -- I'll speak more generically. Has
12 the association engaged any engineer to opine about any
13 work to be performed at 400 La Peninsula following
14 Hurricane Irma, to your knowledge?

15 A. We engaged -- again, I came on in the end of
16 '19, joined the board, reelected in '20, as president of
17 the board in '21. We did engage an engineer, Joe Clark
18 Engineering, before we started the restoration work on
19 the building. Again, in '20, we got under contract with
20 LJB and a third party to make our secondary claim to the
21 insurance carriers for work on the building from
22 Hurricane Irma. We were awarded monies to move forward
23 in, I don't know, early -- maybe it was late '21. And
24 so we needed to engage an engineer to look at the knee
25 walls on -- test the knee walls on the building, inspect

1 the knee walls, and also look for slabs that had spalled
2 or rusted to where we would have to do some remediation
3 work.

4 Q. So you said a lot. Thank you. So what is
5 the -- who are the engineers that you engaged, meaning
6 the association engaged? You mentioned Joe Clark?

7 A. Yeah, JCE. I think it's Joe Clark
8 Engineering. He took over some of the business -- the
9 book of business from -- you mentioned Gerard Maron.

10 Q. We're in the midst of the Gerard Maron letter,
11 yeah.

12 A. I think he basically came in behind Maron and
13 did -- because he retired or left the market or, you
14 know, he wasn't working anymore in Marco or in Naples.

15 Q. Okay. Is Joe Clark the sole engineer that 400
16 La Peninsula has engaged to provide any engineering
17 services on behalf of the association since
18 Hurricane Irma?

19 A. Joe Clark is the sole engineer that I've
20 engaged. I don't know what past president or
21 condominium association manager may have engaged prior
22 to my time.

23 Q. Okay. And do you know -- has, to your
24 knowledge, LJB engaged any engineers as a part of any of
25 the work which it's performing?

1 A. I don't know.

2 Q. Do you have any knowledge if LJB has engaged
3 any specific consultants incident to the work that it's
4 doing?

5 A. I don't know.

6 Q. Has the association engaged any consultants in
7 any form incident to the work that LJB is performing?

8 A. Not that I'm aware of.

9 Q. Since Hurricane Irma, to your knowledge, has
10 the association engaged any person or company relating
11 to the building envelope of 400 La Peninsula?

12 A. Just regarding the building envelope?

13 Q. Yeah. In other words --

14 A. That would be LJB.

15 Q. So it's the position of the association that
16 the only party that it has engaged --

17 A. Excuse me. There is one other party.

18 Q. What's that?

19 A. There was LJB, and then there was also a
20 forensic appraiser --

21 Q. Who is that?

22 A. -- that we engaged. That was before me. That
23 might be a question for Volhr.

24 Q. Okay. So you claim there was a forensic
25 appraiser, and you claim that there was LJB.

1 A. And LJB.

2 Q. Is it your understanding that LJB was a
3 company that both has and is performing work relating to
4 the building envelope at 400 La Peninsula and is making
5 the determination from an engineering standpoint as to
6 what work should be performed?

7 MS. CHIAPPERINI: Form.

8 You can answer, if you know.

9 A. Repeat the question, please.

10 BY MR. JOHNSON:

11 Q. I'll rephrase it.

12 Is LJB -- and it's a different question, but
13 I'll state it this way. Is LJB both performing work and
14 determining what the scope of its work should be?

15 A. I don't know.

16 Q. What do you mean you don't know?

17 A. I know it's performing work. I think
18 they've -- they defined a scope of work via contract
19 that they acted on. Your question makes it sound like
20 it's an in-process question.

21 Q. All right.

22 A. As they're doing work, are they defining more
23 work, or -- they defined a scope of work based on their
24 review of the exterior of the building, their analysis,
25 along with a forensic appraiser, and that work

1 consummated in the scope of work and contract that they
2 presented to us.

3 Q. Makes sense. I understand your answer.

4 A. I don't know if there's other issues that the
5 forensic appraiser brought to their attention, or did he
6 use an engineer. So I can only speak to the fact that
7 those two parties were tasked with defining the scope of
8 work for the insurance companies for the needs of the
9 building in terms of restoration or claim, and I don't
10 know what all parties they used.

11 Q. Prior to LJB entering into an agreement with
12 the association, was a determination made as to where
13 there was water intrusion into interior units at
14 La Peninsula?

15 A. Well, again, I was an owner in '19. I had no
16 significant issues in my unit. I was still working at
17 that time, so anybody that was working on an assessment
18 of unit-for-unit basis on the building was not me at
19 that time. It would have been others in the board of
20 administration.

21 Q. By the way, just so it's clear for the record,
22 you and your unit have not had any issues relating to
23 water intrusion from common element sources into your
24 unit, correct?

25 A. Correct.

1 Q. Okay.

2 A. I had damages outside on my patio lanai that
3 the railing -- the aluminum railing system or enclosure
4 system, part of it got pulled away and was replaced.

5 Q. Has that issue been resolved at your unit?

6 A. Yes.

7 Q. And who resolved that issue?

8 A. It was a minor expense. I wanted to get it
9 done, so I paid for it myself.

10 Q. Okay. Very good.

11 Let's take a look at the balance of this page.
12 I think we stopped at the words excessive. Did you have
13 any specific discussions with the president of the
14 association relating to the balance of this page?

15 A. No.

16 Q. There are a series of photographs, if we can
17 just glance through these.

18 MS. CHIAPPERINI: And you can scroll through
19 all of the photographs, Agnieszka. Thank you.

20 BY MR. JOHNSON:

21 Q. Are there any issues which are examined in
22 these photographs that you discussed with the president
23 of the association?

24 A. I don't believe so, no.

25 Q. All righty. Let's take a look at what I'm

1 going to mark as Exhibit No. 4, which purports to be an
2 email. I don't know if you've seen this or not, you'll
3 just have to let me know.

4 (Exhibit 4 was marked for identification.)

5 Q. It's dated September 13th, 2017. It has Fred
6 Havers on it, fhavers@golden.net. It has To:
7 La Peninsula Owners Building 400. It says, To all
8 owners of 400 La Peninsula.

9 First question is, have you ever seen this
10 note before?

11 A. I'd have to check. I would have been a new
12 owner in the summer of '16. And it probably would have
13 come to my work email at the time, because I was still
14 employed, and that has since passed, so I don't
15 remember.

16 Q. You never -- is it fair for me to say, you
17 never had any discussions with Fred Havers regarding the
18 remediation team that's listed on the third line of this
19 email?

20 A. No. Again, I was a new owner, and I would
21 have been still working and traveling in '17.

22 Q. Okay. Do you recognize the cc email address?
23 It says a bnolan.

24 A. Barbara Nolan is our condominium -- she owns
25 with John Nolan Volhr Corporation, and she is one of the

1 two owners of our condominium association management
2 company.

3 Q. And do you recognize the
4 2maintenance@volhrcorporation.com? Do you recognize
5 that email address?

6 A. I recognize it now. At that time, I think it
7 was used as a broadcast email address to owners.

8 Q. Oh, okay.

9 A. And if owners -- if I could just finish. If
10 owners would provide their emails to Volhr, some of them
11 don't want to provide their emails or enjoy their
12 privacy, that would be their broadcast email with
13 updates. We have an issue with that today where our
14 building's turned over 33 percent, and trying to get
15 people to put their email address in the hands of our
16 management company so that we can keep them informed of
17 everything is not easy.

18 Q. Okay. All right. Thank you.

19 Let's turn to Exhibit 5, which is our next
20 email dated September 14th, 2017.

21 (Exhibit 5 was marked for identification.)

22 Q. I don't know if you have any knowledge of
23 this, but I'd like to go over a couple of things.
24 Question, have you ever seen this email before?

25 A. Not before you sent it.

1 Q. Okay. And I can assume you've never discussed
2 this email with anyone before; is that correct?

3 A. No.

4 Q. Thank you.

5 Okay. Let's take a look at what I'm going to
6 mark as Exhibit 6, which purports to be a Restoration
7 Contract and Work Authorization for a company called All
8 Clear.

9 (Exhibit 6 was marked for identification.)

10 Q. It's a -- just for the record, I know we have
11 to look at it one page at a time, maybe, if we can see
12 it. One, two, three, four, five, six, seven, eight,
13 nine -- it's actually 10 total pages, according to my
14 count. Thank you.

15 First question, have you ever seen this
16 before?

17 A. Not until yesterday when you sent it, no.

18 Q. Okay. The one thing I do want to ask you is,
19 have you ever heard of All Clear Restoration before?

20 A. No.

21 Q. Okay. Next question, on Page 2 of this
22 document, there purports to be a signature. Have you
23 ever seen that signature before?

24 MS. CHIAPPERINI: Form.

25 A. It looks like it says Barbara Nolan, which is

1 our condominium association manager, but I have no
2 first-hand knowledge that she signed it.

3 BY MR. JOHNSON:

4 Q. Okay. Fair enough.

5 Let's take a look at what I'm going to mark as
6 Exhibit 7 for identification, which purports to be a
7 document entitled -- well, it's not entitled. It says
8 on the front of it, Moisture Map, and it's one, two,
9 three, four, five, six -- it's six pages, I think.

10 (Exhibit 7 was marked for identification.)

11 Q. Have you ever seen this before?

12 A. No.

13 Q. Okay. All right. I'm going to show you what
14 has been marked -- will be marked as Composite 8 for
15 identification. It's a check and several -- and an
16 invoice and another invoice and another invoice and
17 maybe a check.

18 (Exhibit 8 was marked for identification.)

19 Q. I guess I'd ask you -- let's go sort of page
20 by page through these and just identify for me whether
21 you've ever seen these before. The first page, the
22 check?

23 A. No.

24 Q. Okay. I'm trying to go by when you claim
25 you're on the board. Second page? No.

1 A. No.

2 Q. Third page?

3 A. No.

4 Q. That's the invoice page. The fourth page
5 which has Invoice 2000, ever see that before?

6 A. No.

7 Q. How about this check? I can tell you we got
8 this through discovery. Your counsel was kind enough to
9 provide this to us. Have you ever seen that check
10 before?

11 A. It's pretty tiny, Counsel.

12 Q. It sure is. Yeah. There it is, it's getting
13 bigger. It looks like a pretty big check to All Clear
14 Restoration & Remediation. This check would have been
15 written to All Clear Restoration and, I guess,
16 Remediation. It looks like January 9th of 2019. You
17 would have been on the board; is that correct?

18 A. I would have -- I joined at the end of '19,
19 Counselor.

20 Q. Oh, okay. All right. Have you ever --

21 A. I joined the fall of '19, and then I was
22 elected for another term in the spring of 2020.

23 Q. All right. Okay. Do you recognize the
24 signature on that check?

25 A. Actually, I don't. It's too small.

1 Q. Okay. All righty. Fair enough. Thank you.

2 Let's take a look -- let's go to the next
3 document we're going to mark as Exhibit No. 9, which
4 purports to be an engineering group report from a Karins
5 Engineering Group, Inc. to a Mr. Harvey Cohen. That's
6 going to be marked as Exhibit 9.

7 (Exhibit 9 was marked for identification.)

8 Q. Have you ever seen this before?

9 A. No.

10 Q. Okay. I assume the first time you saw this
11 would have been when I sent documents to you yesterday;
12 is that correct?

13 A. That's correct.

14 Q. All right. Are you aware that this document
15 was received through discovery sent to 400 La Peninsula?

16 A. I did not respond to a discovery request, so
17 I'm assuming that's where you got it from, through our
18 condominium association manager.

19 Q. Okay. Fair enough.

20 Okay. Let's take a look at what I'm going to
21 mark as -- thank you very much, Agnieszka. That's good.
22 I'm going to show you what I'm marking as Exhibit 10,
23 which purports to be a document from a Capstone
24 Environmental.

25 (Exhibit 10 was marked for identification.)

1 Q. It says, Capstone Environmental, a subsidiary
2 of Capstone Construction of NWFL, Inc. Have you ever
3 seen this before?

4 A. No.

5 Q. Okay. Let's take a look at Exhibit 11, which
6 is a document entitled E-Z Roofing Contractors, Inc.
7 It's an invoice, and the second page is a check.

8 (Exhibit 11 was marked for identification.)

9 Q. Have you ever seen either of these pages
10 before?

11 A. No.

12 Q. Are you familiar with a company named E-Z
13 General Roofing Contractors, Inc.?

14 A. No.

15 Q. Okay. And I assume you've never had any
16 discussion with anyone from the association about E-Z
17 General Roofing Contractors, Inc.; is that correct?

18 A. Correct.

19 Q. All right. Let's take a look at -- it's a
20 larger document. It's going to be marked as Exhibit 12,
21 which is a -- purports to be a report of findings by a
22 ProNet Group, Inc. Again, I'm marking the Report of
23 Findings and all attachments as Exhibit 12 for the
24 purposes of your deposition.

25 (Exhibit 12 was marked for identification.)

1 Q. Have you ever seen this report before?

2 A. No.

3 Q. Are you familiar with a person named Ronny
4 Lindsay?

5 A. No.

6 Q. Do you have any knowledge one way or the other
7 as to whether the association received this report from
8 Ronny Lindsay, meaning the association, meaning 400
9 La Peninsula received this report from Ronny Lindsay on
10 the dates described in this report?

11 A. No.

12 MS. CHIAPPERINI: Form.

13 BY MR. JOHNSON:

14 Q. What's that?

15 A. No, I don't.

16 Q. There's information within this report that at
17 least in part relates to the Vasbinder unit, Unit 443.
18 Has anyone ever attempted, prior to my presenting this
19 document to you, attempted to share the information
20 contained within this document to you?

21 A. No.

22 Q. Within this document, there are -- as I say,
23 there are references to, among other units, Unit 443.
24 And I'd like you to take a look at Page 7 of this
25 document. Let's take a look at it together. There are

1 some facts I want to go over with you if you know about
2 them.

3 Okay. If you look at the top of Page 7, and
4 this is from -- I understand you never saw the report
5 before, but I'm wondering if you have any knowledge
6 about any of the facts that are contained within this
7 report. It says: The typical cracked/failed sealant at
8 window sills and/or jambs, corroded window jamb corner
9 bead, peeled paint at drywall areas, bubbled paint at
10 window sills, stained ceiling/wall areas adjacent to
11 windows and/or sliding glass doors in unit numbers, and
12 they list a series of numbers including 443, which is
13 the Vasbinder unit, are consistent with a lack of proper
14 maintenance over a long period of time, and not a
15 weather created opening around the windows/sliding glass
16 doors.

17 Have you ever had any discussion with anyone
18 relating to what would be cracked/failed sealant at
19 window sills and/or jambs, corroded window jamb corner
20 bead, peeled paint at drywall areas, and the other items
21 that are set forth in this paragraph?

22 A. No.

23 Q. When -- since you've been on the board of
24 directors, has the association developed a protocol for
25 the maintenance of the sliding glass doors of the units

1 at La Peninsula and the drywall and related areas
2 surrounding the sliding doors at the units?

3 A. Can you repeat the question, please.

4 Q. Is there presently a maintenance program that
5 the association has established for the maintenance of
6 sliding glass doors and the common elements properties
7 surrounding the sliding glass doors at the units of
8 La Peninsula?

9 MS. CHIAPPERINI: Form.

10 A. No.

11 BY MR. JOHNSON:

12 Q. Since you've been on the board of directors,
13 have you developed an opinion as to what would be the
14 proper maintenance of sliding glass doors at 400
15 La Peninsula and the surrounding common elements,
16 stucco, involved next to those sliding glass doors?

17 MS. CHIAPPERINI: Form.

18 You can answer, if you know.

19 A. Since I've been on the board specifically
20 working with LJB as a contractor focused on the
21 restoration services for our building, I've been in
22 every unit multiple times and especially on the south
23 side that faces the water, which is a southern exposure.
24 The southern exposure of units due to the south Florida
25 sun, change in temperature, wind, rain, saltwater can

1 impact the exterior of the building, in my opinion.

2 It's also in my opinion that as I go from unit
3 to unit at a floor level, for example, the fourth floor,
4 and I go from a unit that is screened in as it
5 originally was built with an aluminum caged enclosure
6 facing south, having a screened roof on it versus units
7 further down on that floor line next door or neighboring
8 that have no -- or removed their screened-in enclosure,
9 and, again, don't know when exactly that happened or who
10 did it or when it happened or was it a material change
11 when they did it, but there was a process that they
12 should have went through. But nonetheless, in my
13 opinion you asked, when I stepped out on a unit that has
14 no caged screened-in enclosure facing south in the
15 middle of summer, it's ungodly hot because of the
16 reflection off of the sliders, the reflection off the
17 tile floors, the reflection off the paint. And you can
18 go a unit down that has a screened-in enclosure, and
19 I've done this this summer, and I've done this working
20 with LJB, and the temperature under that screened-in
21 enclosure can be -- to me, much cooler. Feels like 10
22 to 15 degrees cooler.

23 My opinion is that screened-in enclosure
24 provides shelter and is the first line of defense for
25 that south exposure, which is the most extreme exposure

1 that our condominium building gets to control change in
2 temperature from low to high, wind, water, rain, storm
3 waters, and the impact that it has on the exterior of
4 the building. And so now that I've been in place and
5 worked and seen these common areas, these balconies,
6 especially the ones where the unit owners took their
7 enclosures off on the fourth floor and left themselves
8 totally exposed to the elements, removed their screened
9 enclosure -- again, I don't know if that material change
10 was put through the board of the association, the master
11 board of the community, but all that said, the intensity
12 of the elements incurred on the exterior of the building
13 is causing, in my opinion, some of the issues that you
14 talk about with sealants cracking, jambs and that, at a
15 much more intensive rate than it does on other units
16 that are on the same floor with the same perspective
17 facing the river.

18 Q. When did you draw your thermal analysis
19 conclusions about screened enclosures?

20 A. I have been here --

21 MS. CHIAPPERINI: Form.

22 A. -- since retiring for a good two months, three
23 months off and on in the summer of last year when they
24 were -- LJB was doing some of their testing, and I have
25 been here almost continually for the last four months

1 since LJB started the restoration work on November the
2 18th. And I am the person who's got master key security
3 to get people into buildings to do work, restoration
4 work, or access to their unit to do the things that are
5 needed with painting, caulking, waterproofing, painting
6 of lanai elements, rescreening of screened-in lanai
7 enclosures, if needed, repair of cracks, holes in the
8 stucco. And I've gotten a real heavy, deep exposure of
9 what it's like to be on those common element balconies
10 day in and day out.

11 BY MR. JOHNSON:

12 Q. I appreciate that. Just so it's clear for the
13 record, you're not a licensed engineer or architect in
14 Florida, are you?

15 A. I am not.

16 Q. Okay. And you're not a licensed expert in
17 thermal knowledge or heat capacity, are you?

18 A. I am not.

19 Q. Okay. And you're not a licensed contractor or
20 subcontractor in Florida; is that correct?

21 A. I am not.

22 Q. Okay.

23 A. LJB is.

24 Q. I understand. And it is your opinion that you
25 think that screened enclosures should be mandated for

1 all south-facing units at the 400 La Peninsula building;
2 is that correct?

3 MS. CHIAPPERINI: Form.

4 A. I'm still formulating that opinion. I don't
5 know.

6 BY MR. JOHNSON:

7 Q. So this is a thermal opinion in progress; is
8 that correct?

9 MS. CHIAPPERINI: Form.

10 A. The work isn't done yet, completed yet. All
11 of the work -- all of the work with our restoration
12 project is not completed yet.

13 BY MR. JOHNSON:

14 Q. Okay. So you're going to have an opinion on
15 mandating that unit owners put up a screen enclosure for
16 south-facing lanai owners following that work; is that
17 what you're saying to me?

18 A. I've talked to new owners about it. The unit
19 owner next to Mr. Vasbinder in 444 is looking at storm
20 shutters, plus the addition of a small screened
21 enclosure. As a matter of fact, I have a unit
22 modification request to do that work that we're
23 processing right now. So I have not mandated it, no.
24 As I talk to new owners, especially as you get to the
25 fourth floor units, because all of the units aren't the

1 same. The upper units, the roofline that covers the
2 balcony of each of the units stair steps back from the
3 ground level floor to the fourth floor. So if you went
4 from the second floor, you may have a -- just a ballpark
5 guesstimate, an 8 to 10-foot roofline that's above the
6 balcony on the unit, whereas, if you get up to the third
7 or fourth floor where Unit 434 is, it could be all of a
8 3-foot eyebrow or overhang roofline for that unit. So
9 in essence, it's totally exposed to the elements.

10 Q. Is it your position that the conditions that
11 exist relative to the sliding glass doors and
12 surrounding common elements for Unit 443, the Vasbinder
13 unit, are different than other fourth-floor units?

14 A. I think the conditions -- the exterior
15 conditions that they have to operate under, which
16 includes the sliders, the stucco walls, the caulking and
17 that, the extremes in temperature that they have to
18 endure because they're not in a screened or enclosed
19 area, plus the resistance to the wind, it's deflected
20 more by the screened-in area. And I think it's
21 different, I think, in the conditions. Plus, there are
22 other conditions contributing to maybe water intrusion
23 specific to Unit 443.

24 Q. Would you agree --

25 A. Do you want me to answer that -- answer my

1 thought or not?

2 Q. Please continue, if you'd like, sure. Yeah.

3 A. There are -- in the case of the exterior wall
4 with Mr. Vasbinder's unit, there are two attachments
5 that have been made or modified or altered on the
6 exterior of his unit that are not -- one is not standard
7 with what we have with a light fixture for other units.
8 It's a more architectural light fixture. The second is
9 a wall hanging or netting that attaches to the stucco
10 wall that penetrates the stucco, and also there's been
11 holes in that stucco that penetrate into the wall, that
12 through minimal spray testing has shown that the water
13 intrusion comes in right in some of the areas in his
14 living room where he was having his problems.

15 So I don't know whether those attachments to
16 the exterior of the building that he chose to make, the
17 light fixture is not very -- it's a pineapple-type light
18 fixture. It's very ornamental, very architectural, but
19 it has a huge gap at the top of it that wasn't caulked,
20 and so with an easy five-minute spray test, you can get
21 water to come into between his sliders, which was an
22 area of damage and concern that he raised in this
23 lawsuit.

24 Q. Okay. What -- you refer to the word spray
25 test. What's the spray test that was utilized to make

1 that determination, Mr. Ramer?

2 A. An engineer, certified engineer in Florida,
3 Joe Clark, and I think we did the test and sent his
4 observations. There was also a witness there from
5 Walker, who was the construction company that
6 Mr. Vasbinder sent, you know, his estimate of costs to
7 repair his situation. So --

8 Q. Would you -- go ahead.

9 A. -- the engineer and myself and the witness
10 from Walker was there to see the spray test in its
11 entirety and also to see the water intrusion that came
12 in from that minimal spray test on those two areas,
13 which was the light fixture, which was not a standard
14 light fixture for the development, and also a hanging
15 that had drilled penetrations into the exterior stucco,
16 plus there were holes left behind from prior drilling or
17 something.

18 Q. Has an ASTM standard spray test ever been
19 authorized by 400 La Peninsula relative to the 443 unit?

20 MS. CHIAPPERINI: Form.

21 A. There's been discussions of it, and in trying
22 to find a -- trying to find a contractor with the
23 equipment to do that.

24 BY MR. JOHNSON:

25 Q. Who's had discussions with a contractor with

1 equipment to do that?

2 A. LJB can do those types of tests.

3 Q. So it's your testimony that you have had
4 discussions with LJB about performing an appropriate
5 ASTM water test? Is that your testimony?

6 A. No. We've had discussions with -- through our
7 counsel to you and Mr. Vasbinder about doing additional
8 testing.

9 Q. Are you -- let me just say this to you,
10 respectfully. When you gave your testimony just now,
11 were you relying upon the correspondences that have
12 existed between counsels relative to the issue of water
13 testing?

14 A. I believe so, yeah.

15 Q. Okay.

16 A. I believe those discussions have been had.

17 Q. Okay. Very good.

18 All righty. In the water -- you said that
19 Mr. Clark was engaged to perform some analysis, correct?

20 A. Correct.

21 Q. And who engaged Mr. Clark?

22 A. The association.

23 Q. We'll get to Mr. Clark's analysis in a little
24 bit. Let's take a look at this next paragraph. It
25 says: The typical previously removed and damaged

1 baseboards, drywall and/or ceiling areas in units -- and
2 it lists several units including 443 -- were consistent
3 with damage caused by wind-driven rain associated with
4 the passing of Hurricane Irma, which migrated through
5 failed sealant around windows and sliding glass doors
6 due to lack of maintenance and preexisting
7 breaches/holes in the envelope of the building.

8 Mr. Clark you've spoken about earlier. Did
9 you ever have any discussion with Mr. Clark about water
10 that migrated through failed sealant around windows and
11 sliding glass doors of the Vasbinder unit due to lack of
12 maintenance?

13 MS. CHIAPPERINI: Form.

14 A. The discussion was based on our earlier tests,
15 and his observation was to conduct more testing.

16 BY MR. JOHNSON:

17 Q. Okay. All righty. Fair enough.

18 And the more testing hasn't existed presently,
19 correct, Mr. Ramer?

20 A. I don't think both legal sides have been able
21 to work that out, but there have been discussions of
22 doing more testing, yes.

23 Q. My question to you wasn't whether legal has
24 been able to work it out. My question to you is, you
25 would agree that there hasn't been that more testing,

1 correct?

2 MS. CHIAPPERINI: Form.

3 A. There has not been any more testing since Joe
4 Clark's original testing, correct.

5 BY MR. JOHNSON:

6 Q. And you would agree with me that you believe
7 that more testing would be needed in order to make a
8 determination as to the complete source of water
9 intrusion into the Vasbinder unit, correct?

10 A. Yes.

11 Q. Fair enough.

12 All righty. There's also -- let's scroll down
13 to the next bullet point, if we can. This one is -- let
14 me see. The typical corroded living room sliding glass
15 door steel column mullions, stained sills and/or peeled
16 paint in units, and it includes 443, are consistent with
17 long-term damage from exposure to variable weather
18 conditions, corrosive saltwater environment, lack of
19 typical required maintenance, and not caused by the
20 passing of Hurricane Irma or any other one-time storm
21 event.

22 Have you ever had any discussion with
23 Mr. Clark regarding the relationship or lack of
24 relationship between the sliding glass door steel column
25 mullions and the intrusion of water into the Vasbinder

1 unit?

2 MS. CHIAPPERINI: Form.

3 A. No. The only observation he had of that, I
4 think, was surface rust.

5 BY MR. JOHNSON:

6 Q. Okay. You discussed this with him or not?

7 A. I observed the mullion, and I observed the
8 surface rust.

9 Q. Okay. In the Vasbinder unit today, is there
10 still corroded living room sliding glass door steel
11 column mullions?

12 MS. CHIAPPERINI: Form.

13 A. Say it again, please. Repeat the question.

14 BY MR. JOHNSON:

15 Q. Have you observed in the Vasbinder unit
16 corroded living room sliding glass door steel column
17 mullions?

18 A. I don't know. At this time, I don't know.

19 Q. Have you ever observed --

20 A. There's been work done to the unit. I don't
21 know.

22 Q. Here's my question to you: Since you've been
23 a member of the board of directors, did you ever observe
24 corroded living room sliding glass door steel column
25 mullions?

1 MS. CHIAPPERINI: Form.

2 A. I think if the mullion is the post between the
3 doors and that was corroded, that's what I saw.

4 BY MR. JOHNSON:

5 Q. You saw it corroded, correct?

6 A. Pardon me? I saw surface rust.

7 Q. Okay. And when did you see the surface rust?

8 A. When I had the engineer do the inspection.

9 Q. And when was that?

10 A. Within the last 90 days.

11 Q. Okay. And do you know how long that surface
12 rust that you observed existed on the sliding glass door
13 steel column mullions?

14 A. No.

15 Q. Do you know if the rust that you observed on
16 the sliding glass door steel column mullions is the same
17 corrosion that is examined in this report from
18 February 21st of 2018?

19 A. No.

20 MS. CHIAPPERINI: Form.

21 BY MR. JOHNSON:

22 Q. You don't know that, correct?

23 A. I don't know that.

24 Q. Okay. Fair enough. All righty.

25 The next bullet point says, The typical

1 corroded wall metal studs in units, and it lists 443,
2 are also consistent with long-term damage from exposure
3 to variable weather conditions, corrosive saltwater
4 environment, lack of required maintenance at typical
5 south living room sliding glass doors, and not caused by
6 the passing of Hurricane Irma or other one-time storm
7 event.

8 Question: Have you observed in the Vasbinder
9 unit corroded wall metal studs?

10 A. I don't believe so.

11 Q. Okay. All righty. Since the commencement of
12 this -- no. I better ask that differently.

13 How many times since January 1st of 2021 have
14 you been in the Vasbinder unit personally?

15 A. January of '21?

16 Q. Yeah.

17 A. Maybe less than a handful.

18 Q. How much is a handful?

19 A. Five or six.

20 Q. Okay. Five or six times.

21 And the times that you've entered the unit --
22 let's go through each of them. What's the first time?

23 A. I don't know exactly what would be the very
24 first time.

25 Q. What was the purpose -- well, you said it was

1 a handful of times, so --

2 A. I mean, there's different -- there's been
3 different -- I know I've entered it to -- when you put
4 out the notice of inspection, I was one of the
5 participants in the inspection.

6 Q. Correct. So that's one time.

7 A. I think when I learned of the water intrusion
8 condition with the Vasbinders, and I could -- I mean,
9 that would have been -- when did you -- when did we do
10 the inspection?

11 Q. Following August of 2021.

12 A. Okay. So summer of 2020, '21. And then I
13 think when I came off of the knowledge in the fall of
14 '20 that he was having issues, and I think it was like
15 after -- I think there was a condition in place where
16 they had peeled back the carpeting, and I don't remember
17 exactly what that time or moment was. I think there
18 were times when I was there when they would get a very,
19 very heavy rain, I would enter the unit to see if there
20 was rain. And that maybe was once so that I could
21 determine for myself if it was getting water. Because
22 there were times when it seemed like, based on whose
23 opinion and talking with the past president and that, it
24 was dry or it was not dry. The only way you can find
25 where water is happening in south Florida is to follow

1 the water. So there were times when -- a time where I
2 probably went in and tried to check it in a very strong
3 rain to see if there was water. And that condition, I
4 don't think -- at that time, I did not find water
5 intrusion.

6 I think there was one time I was trying to let
7 the painters into 442, which is Bob Gerard's unit, and I
8 may have went to 443. Because as I'm down here, I would
9 try to stage the work for the day after talking to the
10 owners usually about painters entering their unit or
11 working out on their balcony, and I would try to get the
12 units open so they could get in there and start working
13 and be productive.

14 Q. Other than --

15 A. Let me finish, please.

16 I think I went in with Joe Clark to do his
17 testing, and so maybe one other time.

18 Q. In the times that you entered the unit, how
19 many of those times did you provide notification -- I'm
20 going to ask it a little differently.

21 How many times when you entered the Vasbinder
22 unit did you not provide notification either to your
23 counsel or directly to the Vasbinders that you were
24 going to enter their unit for any purpose whatsoever?

25 MS. CHIAPPERINI: Form.

1 A. After being served by you, we always tried to
2 work through counsel for advanced notification on
3 entering his unit. But having known that he had a
4 problem, that as a board member, I'm as concerned as he
5 is about that problem. The best way for me to
6 understand it is if there's a driving rain, which you
7 get more in the summer than you do in the fall, is to
8 take a look at it and see if he's indeed getting it and
9 where he's getting it, or try to figure out how it's
10 getting in there, trying to follow the water.

11 So there was maybe one occasion where I
12 exercised my right during a storm to look at his unit
13 for water intrusion, so that, again, I could learn if
14 it -- is it every time it rains? Is it just a
15 torrential storm? So I tried to look at those where all
16 of a sudden you would get a really heavy storm that
17 really blasts the side of his -- the exterior of his
18 building and his lanai or his patio to see where the
19 water was coming in -- was it coming in the main living
20 area? Was it coming in the bathroom -- to better
21 diagnose where the problem was and where we needed to
22 spend our resources to fix it.

23 Q. That's interesting. So how many times --
24 let's unwrap your answer a little bit.

25 How many times did you enter the unit without

1 telling anybody you were going to enter the unit?

2 A. I think probably at least once. I think once.

3 Q. Okay.

4 A. And I actually had one other unit that had
5 issues, so it wasn't as if I was using that condition of
6 a heavy rain just to be responsive to Mr. Vasbinder's
7 issues.

8 Q. So when you entered the unit, you think at
9 least one time without anybody's knowledge, it was for
10 the purpose of diagnosing the problem in the Vasbinder
11 unit based upon a rain event; is that correct?

12 A. A heavy rain event.

13 Q. A heavy rain event. And what did you do -- go
14 through the steps to describe to me what you did to
15 diagnose the issues in the Vasbinders' unit. Take me
16 step by step through your diagnostics.

17 MS. CHIAPPERINI: Form.

18 A. Well, the first thing was everything I had
19 been told, there were intermittent issues where there
20 was water that would come in his unit. And some
21 inspections by Volhr did not, you know, did not find
22 water intrusion. So the big thing to me -- and some of
23 these were like at night, where you're getting a heavy
24 rain, and you go in, and I was really looking to see
25 what was coming in through the two areas of his concern,

1 which was the living room -- main living room area by
2 the fireplace and the bedroom area. And the time that I
3 looked at it, there wasn't any water intrusion.

4 BY MR. JOHNSON:

5 Q. How long were you in the unit?

6 A. Just a couple of minutes.

7 Q. And what time of day were you in the unit?

8 A. I think that one was after dinner. It was
9 dark. It was night like after 6:00 or something like
10 that.

11 Q. At the time that you went into the unit after
12 6:00 at night, had any drywall been removed on the
13 interior of the --

14 A. I don't think so.

15 Q. Hold on. You've got to let me finish. You've
16 got to let me finish, because I need to make a record.
17 Was any drywall removed from the interior of the unit
18 around the sliders?

19 A. I don't believe so.

20 Q. Okay. So at the time you entered the unit --
21 hold on.

22 So the time you entered the unit, at least on
23 that one occasion, you were not able to determine what
24 existed between the then existing drywall and the face
25 of the slider; is that correct?

1 MS. CHIAPPERINI: Form.

2 A. Correct.

3 BY MR. JOHNSON:

4 Q. All right. And you were unable --

5 A. Mine was a basic assessment of was water
6 coming in under the sliders either in the living room or
7 the bedroom, which is where I had been told prior that
8 was the concern. That is what I had also seen in 444.
9 Remember that learning and testing that we talked about?
10 Even though the light fixture may be 4 to 6 feet away
11 from the middle of the sliders, the water test that they
12 did on the light fixture, 444, and their outlet caused
13 water to come in 6 or 7 feet away under the sliders.

14 So I was trying to understand if there was any
15 correlation to that. And, also, was a heavy rain -- was
16 there water in the unit? I didn't want to see his unit
17 damaged any further than it is.

18 Q. Okay. Well, I certainly appreciate that. At
19 the time you entered the unit, did you enter the unit
20 alone, or did you bring your engineer?

21 A. No. Again, I was here in the summer, I think,
22 working with LJB. And, again, it was a time when I was
23 here. Sometimes I come down and golf, too. I'm a
24 member of the golf club here in Collier County, and so I
25 come down sometimes a week or two weeks at a time and

1 enjoy the sweltering heat and golf.

2 Q. I understand.

3 Is it your continued position that you can
4 enter the Vasbinder unit any time you want to do what
5 you believe is diagnostic analysis of the water
6 intrusion problems at the Vasbinder unit?

7 MS. CHIAPPERINI: Form.

8 A. No.

9 BY MR. JOHNSON:

10 Q. Okay. So what are your limitations on the
11 entry of the Vasbinder unit, so that we're clear on
12 that?

13 A. My one entry into the Vasbinder unit during a
14 heavy rainstorm was to see firsthand if there is water
15 that comes in under -- at that time and on that day was
16 an extremely heavy rainstorm. I don't remember how many
17 inches of rain they got, but it was an extremely heavy
18 rainstorm coming out of the south.

19 Q. Okay. All righty. Let's move on. I want to
20 finish up this report and then take a little lunch
21 break. Let's go to Page 28 of this report. There are
22 some notations -- actually 27. 27.

23 On Page 27, there are findings from this
24 report. I think they may be repetitive from the prior
25 section of the report, but I want to go over at least

1 one of these, to make sure we're on the same page.

2 It says, It has been our experience that
3 window openings must be maintained to prevent water
4 migration into structures. Typical maintenance requires
5 sealant around the perimeter of window frames to be
6 changed or reapplied, prior to the sealant drying out
7 and failing to prevent any damage. It is apparent that
8 the observed typical cracked/failed sealant at window
9 sills and/or jambs, corroded window jamb corner bead,
10 peeled paint at drywall areas, bubbled paint at window
11 sills, stained ceiling/wall areas adjacent to windows
12 and/or sliding glass doors -- and they list several
13 units including 443 -- were consistent with failed
14 sealant due to lack of maintenance.

15 Do you see that?

16 A. Yes, I do.

17 Q. In your multiple times that you have entered
18 the Vasbinder unit, including your unilateral entry into
19 the Vasbinder unit that you just described, did you ever
20 perform any review or analysis of any sealant either
21 around the windows or the sliding glass doors?

22 MS. CHIAPPERINI: Form.

23 A. I did not.

24 BY MR. JOHNSON:

25 Q. All right. Did you ever instruct anyone,

1 since you've been on the board of directors, to do an
2 analysis of the sealant around the sliders or windows at
3 the Vasbinder unit?

4 A. I have not.

5 Q. Okay. All righty. Let's look at the -- let's
6 turn to the next page, to 28, and I'd just like to go
7 over one final paragraph. It says, Additionally -- and
8 it's the third full paragraph -- additionally, it is our
9 finding that the typical corroded wall metal studs in
10 units numbers -- and one is 443 -- are also consistent
11 with long-term damage from exposure to variable weather
12 conditions, corrosive saltwater environment, lack of
13 required maintenance at typical south living room
14 sliding glass doors, and not caused by the passing of
15 Hurricane Irma or any other one-time storm event.

16 At any of the times that you entered the
17 Vasbinder unit, did you ever observe the corroded metal
18 studs that exist within that unit?

19 A. I don't believe so, no.

20 Q. Okay. As I understand it, all times that you
21 entered the unit, no drywall had yet been removed from
22 the interior of the unit; is that correct?

23 A. No.

24 Q. Is that correct or incorrect?

25 A. No. When I entered with the engineer --

1 Q. Yeah.

2 A. -- the drywall had been removed.

3 Q. And did you see the corroded wall -- did you
4 see then the corroded wall metal studs?

5 A. I was outside for the testing for most of the
6 time. I didn't assist him, because I wasn't inside for
7 the testing, other than to go inside and look if there
8 was any water that came in from the spray test.

9 Q. Isn't it true that in order to -- the way the
10 units are --

11 A. I didn't see any in my travels, no.

12 Q. In your travels. But in order to travel -- in
13 order to travel, you did have to travel -- you had to
14 open the front door of the Vasbinder unit, travel
15 through the unit, open up the slider in order to get out
16 to the balcony. Because you can't enter the balcony
17 from the outside, because it's a fourth-floor balcony,
18 correct?

19 A. Correct.

20 Q. All right. Okay. Have you ever seen any
21 photographs of the result of water intrusion into the
22 Vasbinder unit?

23 MS. CHIAPPERINI: Form.

24 A. No.

25 BY MR. JOHNSON:

1 Q. Are you aware that the Vasbinder family has
2 been unable to lease their unit because of the
3 conditions that exist at their unit because of water
4 intrusion?

5 MS. CHIAPPERINI: Form.

6 A. No.

7 BY MR. JOHNSON:

8 Q. Are you aware of any air quality issues and
9 environmental issues that the Vasbinder unit suffers as
10 a consequence of water intrusion into their unit?

11 MS. CHIAPPERINI: Form.

12 A. I don't know.

13 BY MR. JOHNSON:

14 Q. At any time following the Vasbinders notifying
15 the association of water intrusion, did the association
16 take any actions to address the consequences of water
17 intrusion in their unit, such as engage an environmental
18 specialist to determine the environmental impact of the
19 water intrusion?

20 A. Can you repeat the question, please.

21 MS. CHIAPPERINI: Form.

22 BY MR. JOHNSON:

23 Q. Yeah. Since becoming aware that there was
24 water intrusion into the Vasbinder unit, did the
25 association engage anyone to determine the impact of the

1 water intrusion to the interior of the Vasbinders' unit?

2 MS. CHIAPPERINI: Form.

3 A. I don't know.

4 BY MR. JOHNSON:

5 Q. Did you, on behalf of the board, take any
6 action in that regard?

7 A. No.

8 MR. JOHNSON: All righty. Let's see. We have
9 been going a while, and what I'd like to do with
10 the consent of counsel is that I'd like to take a
11 45 -- I'd like to take a break until 2:00, because
12 I've still got a little more time. A lot will
13 depend how long I go to what our deponent knows and
14 doesn't know. I can see some documents he has no
15 knowledge of, and we moved quickly through those.

16 So I'd like to reconvene at 2:00. Agnieszka,
17 do you have a hard stop time today?

18 MS. CHIAPPERINI: 5:00.

19 MR. JOHNSON: Okay. And, Mr. Ramer, do you
20 have a hard stop time prior to 5:00?

21 THE WITNESS: No.

22 MR. JOHNSON: All right. Well, thank you very
23 much, then. We're going to be on break until 2:00.
24 Thank you, Madam Reporter, and we'll be back.

25 (Recess taken from 1:13 p.m. to 2:00 p.m.)

<u>Exhibits</u>	Ramer-25 3:19	61:19	<u>2</u>	27th 68:19 73:19
Ramer-1 3:5 55:17,19 56:18	Ramer-26 3:20	11:13 54:4	2 58:2,7 60:25 61:1, 15 71:19,23 72:1,3 89:21	28 116:21 118:6
Ramer-2 3:6 58:1,2,7 61:15	Ramer-27 3:20	11:24 54:4	20 34:22 68:24 81:16, 19 110:14	2:00 121:11,16,23,25
Ramer-3 3:7 68:9,10,17	Ramer-28 3:21	11:58 75:4	2000 91:5	2maintenance@ volhrcorporation. com 88:4
Ramer-4 3:7 87:1,4	Ramer-29 3:21	11:59 75:4	2006 7:8 34:11	<u>3</u>
Ramer-5 3:8 88:19,21	Ramer-30 3:22	12 63:19,20 93:20,23, 25	2016 8:12,19 9:3 55:23	3 68:9,10,17 72:22, 23
Ramer-6 3:8 89:6,9	Ramer-31 3:22	12.1 63:23	2017 10:13 68:19 73:19 79:4 87:5 88:20	3-foot 101:8
Ramer-7 3:9 90:6,10	Ramer-32 3:23	13th 87:5	2018 10:8,14 11:1,10,22 108:18	30-year 58:14 60:9
Ramer-8 3:10 90:18	Ramer-33 3:24	14 61:16,18	2019 11:15 12:11 13:7 67:11 91:16	30th 17:24
Ramer-9 3:10 92:3,6,7	<u>\$</u>	14th 88:20	2020 8:19 35:4,8,17,18 36:2,5 38:16 39:4 40:6,8 44:16,19 45:12 48:14 49:5 51:22 54:11,13,14 59:1 67:12 91:22 110:12	33 55:15 88:14
Ramer-10 3:11 92:22,25	\$2,200 76:20	15 53:24 65:14 66:14, 16 97:22	2021 11:22 14:11 16:24 17:3,6,10 34:18,22 35:4,5 49:2 69:17 109:13 110:11	<u>4</u>
Ramer-11 3:11 93:5,8	\$2,700 37:20	15.1 64:16	2022 17:21 18:1	4 73:10,11 75:23 87:1,4 115:10
Ramer-12 3:12 93:20,23,25	\$500,000 36:15	15.5 65:19	21 68:24 69:3,11 81:17,23 109:15 110:12	400 7:11 10:4 12:5 13:4,25 14:22 15:6,9 17:20 26:21 27:20 28:11 33:11, 22 42:5,8 47:18 56:24 57:4,9,23 59:22 61:6 62:6 63:2,5,21,24 64:1 74:12 81:4,13 82:15 83:11 84:4 87:7,8 92:15 94:8 96:14 100:1 103:19
Ramer-13 3:12	\$600,000 35:22	16 9:5 87:12	21st 108:18	401 8:9 9:24,25 10:2, 16 11:1,24 56:24 57:4
Ramer-14 3:13	<u>1</u>	16th 55:23	23 64:9	434 37:6 101:7
Ramer-15 3:14	1 55:17,19 56:18	17 9:9,10 69:9 87:21	27 65:17,18 116:22, 23	442 111:7
Ramer-16 3:14	62:1	17-ish 9:12		
Ramer-17 3:15	1,800 76:20	18 10:13,19 63:18 73:14,17		
Ramer-18 3:15	10 89:13 92:22,25 97:21	18th 99:2		
Ramer-19 3:16	10-foot 101:5	19 5:7 58:21 69:10 81:16 85:15 91:18, 21		
Ramer-20 3:17	10-inch 31:7	1996 58:18		
Ramer-21 3:17	10-minute 54:1	1:13 121:25		
Ramer-22 3:18	10th 79:4	1st 54:13,14 109:13		
Ramer-23 3:18	11 93:5,8			
Ramer-24 3:19	11.1.2			

<p>443 34:9 36:19 94:17, 23 95:12 101:12, 23 103:19 105:2 106:16 109:1 111:8 117:13 118:10</p> <p>444 36:18 37:5,13 38:25 40:18,19,25 41:1,4 42:1,4,7,11, 13,15,20,22,23 43:2,5,6 46:22 47:2 55:7 100:19 115:8,12</p> <p>45 121:11</p> <hr/> <p style="text-align: center;">5</p> <hr/> <p>5 88:19,21</p> <p>5.2 67:20</p> <p>5.5 61:3</p> <p>5757 66:19</p> <p>5:00 121:18,20</p> <p>5th 7:8 34:11</p> <hr/> <p style="text-align: center;">6</p> <hr/> <p>6 89:6,9 115:10,13</p> <p>6:00 114:9,12</p> <hr/> <p style="text-align: center;">7</p> <hr/> <p>7 62:2 90:6,10 94:24 95:3 115:13</p> <p>700 66:19</p> <p>72 20:6,7</p> <p>76 20:8</p> <p>78 20:9</p>	<hr/> <p style="text-align: center;">8</p> <hr/> <p>8 90:14,18 101:5</p> <p>80 58:24</p> <hr/> <p style="text-align: center;">9</p> <hr/> <p>9 92:3,6,7</p> <p>90 108:10</p> <p>9th 91:16</p> <hr/> <p style="text-align: center;">A</p> <hr/> <p>a.m. 54:4 75:4</p> <p>abide 75:19</p> <p>ability 6:11</p> <p>accelerate 36:25</p> <p>accept 61:11</p> <p>access 53:12 99:4</p> <p>accessories 19:21</p> <p>accordance 57:7</p> <p>accounting 22:17,24</p> <p>accuracy 54:18</p> <p>accurately 56:23</p> <p>acquisition 24:19,25</p> <p>acted 84:19</p> <p>action 40:4,10 48:14 49:9,14,24 50:4 78:4 121:6</p> <p>actions 51:21 52:2 70:7 73:17 120:16</p>	<p>actual 60:25</p> <p>add 36:11 76:1</p> <p>added 23:9</p> <p>addition 13:7 64:11 66:6 100:20</p> <p>additional 36:14 104:7</p> <p>additionally 118:7,8</p> <p>Additions 65:20</p> <p>address 30:19 73:19 79:7 87:22 88:5,7,15 120:16</p> <p>addressed 72:9</p> <p>adds 27:5</p> <p>adhering 63:25</p> <p>adjacent 95:10 117:11</p> <p>adjoined 43:10,11</p> <p>adjoining 39:1</p> <p>administration 18:14,16 32:16 62:7 85:20</p> <p>Adoption 57:22 58:12 59:6,8</p> <p>advanced 112:2</p> <p>affairs 67:22</p> <p>agent 15:18 35:12</p> <p>agents 15:12 62:20</p> <p>aggressively 52:8</p> <p>Agnieszka 4:8 56:8,10 60:24 61:17 66:13 68:11 70:18 77:11 86:19</p>	<p>92:21 121:16</p> <p>Agnieszka's 51:10 55:12</p> <p>agree 101:24 105:25 106:6</p> <p>agreement 7:7,9 34:11 45:4 85:11</p> <p>ahead 49:22 52:24 65:3 66:4 103:8</p> <p>air 120:8</p> <p>AJC 75:19</p> <p>alcohol 6:10</p> <p>align 53:20</p> <p>alignment 52:9</p> <p>alteration 66:5</p> <p>Alterations 64:10 65:20</p> <p>altered 64:6 66:10 67:4,9, 18 102:5</p> <p>aluminum 86:3 97:5</p> <p>amended 57:13 59:9 64:6,25 65:13 66:9,10 67:8,12</p> <p>amendment 57:17,22 58:11 59:12,16,17</p> <p>amendments 58:15,20,24</p> <p>amount 11:9</p> <p>analysis 21:12 26:3 44:3 62:19 74:19 80:19 84:24 98:18 104:19,23 116:5 117:20 118:2</p> <p>and/or 11:23 25:6 95:8, 11,19 105:1</p>	<p>106:15 117:9,12</p> <p>Andersen 22:16,21 23:18,24 25:11,14</p> <p>Angela 50:6,10,21</p> <p>Angie 33:19 34:5</p> <p>annual 14:15 17:20 62:9</p> <p>annually 27:4</p> <p>answering 7:23</p> <p>answers 7:15</p> <p>anybody's 113:9</p> <p>anymore 82:14</p> <p>apologize 5:16 18:11 46:3</p> <p>apparent 117:7</p> <p>appeared 39:18 60:12</p> <p>application 15:11,15,17,21</p> <p>applications 15:6</p> <p>applied 25:13 26:5</p> <p>appoint 67:21</p> <p>appointed 12:12,16 13:8,17 14:8 68:1,2,5</p> <p>appointments 53:20</p> <p>appraiser 83:20,25 84:25 85:5</p> <p>approaches 47:4</p> <p>approval 58:24 80:16</p> <p>approved 67:12 78:14</p> <p>approximately 76:2</p>
---	--	--	--	--

<p>April 59:2</p> <p>architect 99:13</p> <p>architectural 102:8,18</p> <p>area 101:19,20 102:22 112:20 114:1,2</p> <p>areas 43:22 45:8 78:5,7 95:9,10,20 96:1 98:5 102:13 103:12 105:1 113:25 117:10,11</p> <p>arranged 36:23</p> <p>arrangements 28:17</p> <p>Arthur 22:15,21 23:18,24 25:11,14</p> <p>Articles 59:13</p> <p>asserted 38:14</p> <p>assessment 85:17 115:5</p> <p>assist 67:22 119:6</p> <p>association 7:12 12:6 13:9 14:10 15:13 16:5 17:5 26:14,15 27:21,23 28:21 36:23 42:8 45:24 53:8 55:1 57:13,16 58:14,22 59:5 61:20,22,25 62:8, 10 63:21,22,24,25 64:17,19 65:21,23, 24 66:7 67:2,10 73:7 74:13,17 76:12 77:7,25 78:7 79:22 81:12 82:6, 17,21 83:6,10,15 85:12 86:14,23 88:1 90:1 92:18 93:16 94:7,8 95:24 96:5 98:10 104:22 120:15,25</p>	<p>assume 6:6,16 62:3 89:1 92:10 93:15</p> <p>assuming 92:17</p> <p>ASTM 103:18 104:5</p> <p>attached 59:7,17</p> <p>attaches 102:9</p> <p>attachment 74:18</p> <p>attachments 93:23 102:4,15</p> <p>attack 52:8</p> <p>attempted 94:18,19</p> <p>attention 32:5 64:15 85:5</p> <p>attorney 7:24 60:1,3,11,14</p> <p>attorneys 60:4</p> <p>attraction 23:14</p> <p>auditing 22:24</p> <p>auditory 6:4</p> <p>August 16:23 17:1,3,6 69:17 110:11</p> <p>Authorization 89:7</p> <p>authorized 44:20 103:19</p> <p>awarded 81:22</p> <p>aware 15:8 29:21,22 32:23 34:7,13 35:6,11,16 38:6 48:17,19 54:12,19 64:7 77:5 78:24,25 83:8 92:14 120:1, 8,23</p> <p>awareness 54:10</p>	<hr/> <p>B</p> <hr/> <p>back 15:2 21:4 26:14 29:14 33:19 44:12, 15 50:8 51:20 75:21 78:10 101:2 110:16 121:24</p> <p>background 18:3,6 36:7 47:10</p> <p>balance 73:7 86:11,14</p> <p>balconies 98:5 99:9</p> <p>balcony 101:2,6 111:11 119:16,17</p> <p>ballpark 101:4</p> <p>Barbara 30:12 40:14,15,19, 23 87:24 89:25</p> <p>base 80:9</p> <p>baseboards 105:1</p> <p>based 7:9 10:8 17:8 20:23 22:7 27:17 28:11 44:3,4 45:7 53:22 62:11 84:23 105:14 110:22 113:11</p> <p>basic 5:15 115:5</p> <p>basically 21:21 82:12</p> <p>basis 10:17 28:19 30:3 85:18</p> <p>bathroom 112:20</p> <p>battery 45:17 46:23</p> <p>bead 95:9,20 117:9</p> <p>bear 52:4</p> <p>bedroom 114:2 115:7</p>	<p>begin 4:6 10:15,16</p> <p>beginning 11:1</p> <p>behalf 48:2 49:13 50:4 82:17 121:5</p> <p>belief 38:5</p> <p>believed 79:8</p> <p>beneficial 35:20</p> <p>benefit 6:22,23</p> <p>berm 72:5 78:3,18 80:4, 10,12</p> <p>berms 78:16,25</p> <p>beta 24:7</p> <p>Beverage 5:6</p> <p>bid 19:19,24</p> <p>bidder 79:20</p> <p>bids 19:24 21:4 79:18</p> <p>big 76:16 91:13 113:22</p> <p>bigger 72:12 91:13</p> <p>bit 8:3 21:13 29:12 47:6 48:11 70:16 74:9 75:12 78:9 104:24 112:24</p> <p>blasts 112:17</p> <p>block 22:4</p> <p>Blockbuster 24:8</p> <p>bnolan 87:23</p> <p>board 12:3,5,9,10,12,15,</p>	<p>16,18,21,24 13:2, 3,6,7,10,13,20,24 15:14 16:2,9,24 17:6,9 26:15,20 27:18,21 28:2 30:17,18 31:1 32:10,15,25 33:2, 7,8,13,15,25 34:3, 21 35:18 36:8,22, 23 37:17 39:6,22 41:12 44:19,23 45:24 48:2,16 49:6,13,17 50:4 58:19 62:7,11 77:2,5 78:7 79:7 81:16,17 85:19 90:25 91:17 95:23 96:12,19 98:10,11 107:23 112:4 118:1 121:5</p> <p>Bob 111:7</p> <p>book 66:18,19 82:9</p> <p>bottom 71:25 73:5 77:12</p> <p>bought 24:17</p> <p>boundaries 80:23</p> <p>breaches/holes 105:7</p> <p>break 29:11 54:1 116:21 121:11,23</p> <p>briefly 79:20</p> <p>bring 23:16 52:3 115:20</p> <p>broadcast 88:7,12</p> <p>broadly 64:16</p> <p>broken 29:17 37:9,10</p> <p>brokerages 62:20</p> <p>brokers 62:8</p> <p>brought 15:23 37:1 58:18 85:5</p>
--	--	--	--	---

<p>bubbled 95:9 117:10</p> <p>budget 27:4</p> <p>build 23:5,7</p> <p>building 10:4 18:12,18,21 19:2,7,10 22:1,3,6, 25 23:5,17,18,20 25:6,12,13,18 26:4,6,11,17 27:11,14,15,20 28:11 29:16,18 30:5 33:12,23 35:21 36:4,16 37:11,24 39:20 45:19 52:4,5,10 53:10 68:13 72:11, 24 73:3 74:8 78:3, 12 81:19,21,25 83:11,12 84:4,24 85:9,18 87:7 96:21 97:1 98:1,4,12 100:1 102:16 105:7 112:18</p> <p>building's 88:14</p> <p>buildings 25:20,21,22 60:6, 10 99:3</p> <p>built 22:22 25:20 97:5</p> <p>bullet 73:19 106:13 108:25</p> <p>bushes 27:7</p> <p>business 9:16 11:14,16,18 18:4,14,15 19:21 82:8,9</p> <p>businesses 23:13</p> <p>butt 80:9</p> <p>buying 8:21</p> <p>bylaws 59:13 66:14,15,17</p>	<p>C</p> <hr/> <p>C-O-M-M-T-R-O-N 24:5</p> <p>caged 97:5,14</p> <p>California 8:24 11:6,19</p> <p>call 26:6,11 30:21,23 31:16 32:8,19,21 33:4 42:1</p> <p>called 5:6 19:1,5 22:15 24:4,16 31:3 54:15 55:18 58:16 68:19 89:7</p> <p>calls 30:24 36:7,8,9</p> <p>CAM 62:17</p> <p>Canada 15:2</p> <p>capacity 22:9 27:22 99:17</p> <p>Capri 35:15 37:4 42:17 59:2</p> <p>Capstone 92:23 93:1,2</p> <p>care 28:18</p> <p>career 18:4</p> <p>carefully 46:25</p> <p>carpeting 110:16</p> <p>carried 58:23</p> <p>carrier 36:14 46:25 63:2</p> <p>carriers 62:12 63:6 81:21</p> <p>case 52:19 102:3</p> <p>cases 5:14</p> <p>cassettes 24:6</p>	<p>caulk 37:9</p> <p>caulked 37:9,25 102:19</p> <p>caulking 52:9 53:17 72:10, 11 99:5 101:16</p> <p>caused 12:14 43:19 105:3 106:19 109:5 115:12 118:14</p> <p>causing 98:13</p> <p>cease 48:25</p> <p>ceiling 105:1</p> <p>ceiling/wall 95:10 117:11</p> <p>CEO 11:15</p> <p>Certificate 57:22 58:12 59:6, 7,16,17</p> <p>certified 103:2</p> <p>change 96:25 97:10 98:1,9</p> <p>changed 31:8 64:6 117:6</p> <p>charge 27:2 45:16,20,22, 25</p> <p>charged 27:9</p> <p>check 28:14 87:11 90:15, 17,22 91:7,9,13, 14,24 93:7 111:2</p> <p>checked 36:10 37:5</p> <p>CHIAPPERINI 4:12 34:16 46:8,15 50:6,10,20,25 51:5,14 52:22 53:2,5 56:5,11,14 65:1 66:2,18 71:4, 9 81:8 84:7 86:18 89:24 94:12 96:9, 17 98:21 100:3,9 103:20 105:13</p>	<p>106:2 107:2,12 108:1,20 111:25 113:17 115:1 116:7 117:22 119:23 120:5,11, 21 121:2,18</p> <p>Chicago 19:1,6,7 21:23</p> <p>chief 67:1</p> <p>chose 102:16</p> <p>CIO 24:25</p> <p>Circuit 7:4</p> <p>circumstances 5:5 69:1</p> <p>cited 75:16</p> <p>claim 39:20 45:8 81:20 83:24,25 85:9 90:24</p> <p>claims 5:9 61:24 62:1,23 63:1</p> <p>clarification 54:7 70:2</p> <p>clarity 67:25</p> <p>Clark 81:17 82:6,7,15,19 103:3 104:19,21 105:8,9 106:23 111:16</p> <p>Clark's 104:23 106:4</p> <p>clear 4:15 5:25 6:7,16 7:16 8:1 55:20 85:21 89:8,19 91:13,15 99:12 116:11</p> <p>clerk 69:16</p> <p>client 24:3 25:25 34:9</p> <p>clientele 22:24</p>	<p>close 11:15</p> <p>club 115:24</p> <p>coat 76:1</p> <p>code 31:5 32:18</p> <p>Cohen 92:5</p> <p>colleague 57:24</p> <p>collection 32:4</p> <p>collects 31:13</p> <p>college 18:25</p> <p>Collier 5:12 7:4 11:20 15:4 28:9 31:25 32:20 59:6,18,21 78:14 80:8,13 115:24</p> <p>column 106:15,24 107:11, 16,24 108:13,16</p> <p>combination 77:22</p> <p>commence 12:8,14</p> <p>commencement 109:11</p> <p>comment 36:9</p> <p>commercial 19:2,7</p> <p>committee 26:16,17,18,22 27:3,9,13,16 33:10,11,22,23 68:5,6</p> <p>committees 26:21,25 67:21 68:3,6</p> <p>common 27:14,20 28:9 30:25 32:12 34:8, 15 40:11,24 41:15 61:3,6,10 63:8 64:18,20,22,24</p>
--	--	---	--	---

65:7,8,10,20,23,25 66:6,8 77:8 85:23 96:6,15 98:5 99:9 101:12 Commtron 24:4,18,24 communicate 33:3 communication 40:13 53:7 community 98:11 commuting 11:5 companies 85:8 company 5:6 15:24 16:1 19:1,5,14,19 21:7 22:15 24:11 35:12 37:21 44:13 54:15 68:18 83:10 84:3 88:2,16 89:7 93:12 103:5 comparisons 62:19 competitor 24:18 complaint 32:20 44:18 45:12 complete 6:24 19:24 57:17 106:8 completed 9:12 38:9 42:13 60:17 78:7,13,14 80:15 100:10,12 completing 36:12 completion 10:23 complexes 60:7 compliance 31:5 component 23:9 Composite 90:14 computer 51:3	concentration 18:15 concern 28:22 31:9 32:11 102:22 113:25 115:8 concerned 25:2 112:4 concerns 28:3 31:11,17 53:11 conclusion 61:9 conclusions 98:19 concrete 19:22 25:23 26:4 condition 52:13 79:3 110:8, 15 111:3 113:5 conditions 20:24 57:8 101:10, 14,15,21,22 106:18 109:3 118:12 120:3 condo 11:21 56:22 condominium 7:11 8:4,5 12:5 15:13 27:23 28:21 35:23 57:9,18,23 58:13,16 59:10,13, 22 60:7,19 61:19 62:8 63:21,22,24, 25 64:1,16,19 65:24 67:1,23 76:12 82:21 87:24 88:1 90:1 92:18 98:1 conduct 56:3 67:22 75:20 105:15 conducted 54:13,14 conducting 45:16 consent 121:10 consequence 42:23 120:10 consequences	120:16 consideration 4:7 28:5 consistent 77:6 95:13 105:2 106:16 109:2 117:13 118:10 construction 9:12 10:23 18:13, 18,21 19:6,10 21:12,16,22 23:8, 10,15,18,19,20,21, 22 25:7,22 26:1 30:1 36:6 75:18 78:8 93:2 103:5 consultants 83:3,6 consummated 11:15 85:1 contact 37:21 39:19 48:3, 6,21 contacted 54:25 contained 94:20 95:6 containers 29:14 content 74:2 contents 70:8 continually 98:25 continue 17:15 54:2 102:2 continued 8:18 14:9 116:3 contract 5:8 45:4,6 52:3,6, 14 74:15,17 75:15, 16 81:19 84:18 85:1 89:7 contracting 18:13 81:6 contractor 19:25 20:22 37:1 44:9 73:13 76:10 96:20 99:19 103:22,25	contractors 23:4,13 30:2 93:6, 13,17 contributing 101:22 control 21:2 23:22 98:1 conversation 78:1 conversations 33:6 converted 30:8 cooler 97:21,22 coordinate 19:23 copies 4:18,19 corner 95:8,19 117:9 corporate 4:14 7:10,13 55:13 corporation 17:16,17 19:1 24:4 30:18 33:14 34:1 40:12 41:13,20 48:2 49:13 50:3 63:14 87:25 correct 8:6 9:24 10:5,6 13:14,15 14:1,23, 24 15:16,24,25 16:2,3,11 17:13,16 21:18,19 22:17 25:14,15 26:7,12, 13 29:10 30:19 33:16 34:3 38:17, 25 39:1 40:6,20, 21,25 41:5 42:2,3 44:4 45:25 46:1 47:7 48:4,23,24 49:7,8,10,11,14, 15,25 50:1,4,5 57:4,10,14 63:15, 16 65:14 67:18 71:21 78:19,20 79:5,9,14 80:20 85:24,25 89:2 91:17 92:12,13 93:17,18 99:20 100:2,8 104:19,20	105:19 106:1,4,9 108:5,22 110:6 113:11 114:25 115:2 118:22,24 119:18,19 correlation 115:15 correspondence 68:18 72:17,19 correspondences 104:11 corroded 95:8,19 106:14 107:10,16,24 108:3,5 109:1,9 117:9 118:9,17 119:3,4 corroding 75:25 corrosion 108:17 corrosive 106:18 109:3 118:12 cost 23:6,21 64:22 65:25 66:7 76:18 costs 103:6 counsel 7:6,10,19,21 53:14 54:11 91:8,11 104:7 111:23 112:2 121:10 Counselor 91:19 counsels 104:12 count 60:7 89:14 County 5:12 7:4 11:20 15:4 28:9 31:25 32:21 59:6,18,21 78:14 80:9,13 115:24 couple 43:14 51:20 79:17 88:23 114:6 court 4:20 6:23 7:4
---	---	--	--	---

33:20 49:22,23 50:18,22 51:1,7,11	116:15	Del	110:21 114:23 120:18,25	discussed
courts	days	19:1,14,17 20:1, 15,22 21:17 25:5, 17	determining	12:23 62:10 65:8 79:20 86:22 89:1 107:6
69:16	8:24 24:8 108:10	delayed	84:14	discussion
cover	DBI	53:15	developed	38:10 49:4 72:15 73:23,24 74:1,3 76:3 77:16 93:16 95:17 105:9,14 106:22
62:12	5:6	deliver	23:2 95:24 96:13	discussions
coverages	dead	21:3	development	11:14 36:6 39:9 72:18 73:1,6 77:24 86:13 87:17 103:21,25 104:4,6, 16 105:21
62:9,13,15,18,22	27:7	delivered	103:14	distribution
covers	dead-ended	20:21	diagnose	11:17,20 25:1
101:1	52:18	delivery	112:21 113:15	distributor
COVID	deal	25:2 75:8	diagnosing	24:5,16
9:21,22	29:13 33:1 39:20	departed	113:10	distributors
cracked/failed	dealing	12:19	diagnostic	24:19
95:7,18 117:8	79:23	departure	116:5	division
cracking	dealt	12:16	diagnostics	22:22 23:3
98:14	25:23 33:13,24	depend	113:16	document
cracks	debris	121:13	differently	28:25 29:3 55:17, 22 56:19,23 57:2, 21 59:11 60:18,21 61:15 64:5 65:9 67:5,14 68:13,20, 23 69:2,9,10,11, 18,22,24 70:4,6,8, 15 74:4 89:22 90:7 92:3,14,23 93:6,20 94:19,20,22,25
99:7	32:4	depending	109:12 111:20	documents
Craig	decide	60:6	diligence	17:19 55:14,15 57:13,18 58:1,17 59:3,20,21 60:1 64:1 67:12 69:22 92:11 121:14
12:20	81:2	deponent	36:7,12 52:15	dog
created	decision	4:3,11,18 121:13	dimensional	74:23
78:10 95:15	76:14 77:2,3,4	deposed	22:4	dogs
customer	declaration	5:2,5,9	dinner	75:6
26:1	57:8,23 59:9,12 60:19 61:12 63:18 64:25 65:13 66:10, 16	deposition	114:8	dollars
	declarations	4:6,9,14 5:16 6:3, 19 7:13,19 55:18 56:18 58:2 68:17 74:11 93:24	direct	52:8
D	60:8 63:10 65:11	depositions	4:21 21:23 45:5,9	door
daily	deed	5:18	directed	38:20 76:2,21 97:7 106:15,24 107:10, 16,24 108:12,16 119:14
28:19 30:7	55:18,23 56:14,22	describe	45:8 47:23 52:14	
damage	deep	5:4 8:16 10:16 18:23 20:18 21:7 57:21 58:10 69:1 113:14	direction	
63:8 102:22 105:3 106:17 109:2 117:7 118:11	99:8	describes	81:2	
damaged	defense	41:9	directive	
104:25 115:17	97:24	describing	28:12	
damages	define	38:24	directly	
86:2	65:13	descriptive	23:20 25:6 111:23	
dark	defined	74:19	directors	
114:9	84:18,23	designated	12:5,9,13 13:7,14, 20 16:9,10,24 17:7,9 26:15,20 27:18 30:17,18 31:1 32:10,25 39:23 41:12 44:19 45:24 48:3,16 49:17 63:6,11 79:8 95:24 96:12 107:23 118:1	
date	defining	7:10	discovery	
7:13 17:5,8 26:10 38:21	84:22 85:7	details	69:19,22 91:8 92:15,16	
dated	definitions	16:22 38:10	discuss	
7:7 34:11 55:23 68:19 73:18 87:5 88:20	60:19,20 61:6,11 65:13	determination	71:22 72:1 73:16	
dates	deflected	80:17 84:5 85:12 103:1 106:8		
94:10	101:19	determine		
day	degree	44:20,24 79:11		
22:8 29:15 99:10 111:9 114:7	18:7,8,10,12,13 21:8,14			
	degrees			
	18:11 97:22			

<p>doors 19:21 37:13 72:11 75:25 76:19,21,23 77:2 95:11,16,25 96:2,6,7,14,16 101:11 105:5,11 108:3 109:5 117:12,21 118:14</p> <p>downloading 25:3</p> <p>downspouts 79:23</p> <p>downtown 19:7 21:23</p> <p>draft 60:1</p> <p>drafting 58:19 60:5,12,16</p> <p>drafts 60:13</p> <p>drainage 31:24 32:3 78:8,12 80:16</p> <p>drains 77:13</p> <p>draw 64:15 98:18</p> <p>drilled 103:15</p> <p>drilling 103:16</p> <p>driving 112:6</p> <p>dry 110:24</p> <p>drying 117:6</p> <p>drywall 95:9,20 96:1 105:1 114:12,17,24 117:10 118:21 119:2</p> <p>due 36:7,12 52:15 96:24 105:6,11 117:14</p> <p>duly 4:3</p> <p>duties 19:16 20:16,18</p>	<p>duty 27:10</p> <hr/> <p style="text-align: center;">E</p> <hr/> <p>E-Z 93:6,12,16</p> <p>earlier 25:10 58:25 105:8, 14</p> <p>early 10:13,14 24:7 35:5 69:10 81:23</p> <p>earth 19:22 20:25</p> <p>easy 88:17 102:20</p> <p>educational 18:2,5</p> <p>effect 43:25 57:9 60:22</p> <p>elected 13:9,21 14:14 91:22</p> <p>election 12:14 13:11 14:6</p> <p>electives 21:15</p> <p>electrical 20:25</p> <p>electronically 25:2</p> <p>element 85:23 99:9</p> <p>elements 19:20,22 21:1 27:14,20 30:25 32:12 34:9,15 40:11,24 41:15 53:9 61:3,6,10 63:8 64:19,20,24 65:7,8,10,21,23 66:6 72:8 74:7 77:8 96:6,15 98:8, 12 99:6 101:9,12</p> <p>elevator 35:24</p> <p>email 4:13 29:4 30:12, 17,20 32:19,22 87:2,13,19,22 88:5,7,12,15,20,24</p>	<p>89:2</p> <p>emails 88:10,11</p> <p>emanating 34:8 40:11</p> <p>employed 24:12,14 26:10 87:14</p> <p>enclosed 101:18</p> <p>enclosure 86:3 97:5,8,14,18, 21,23 98:9 100:15, 21</p> <p>enclosures 98:7,19 99:7,25</p> <p>encroaching 80:14</p> <p>end 5:7 51:15 66:15 81:15 91:18</p> <p>ended 9:5 10:8,14 21:24</p> <p>ends 77:21</p> <p>endure 101:18</p> <p>enforcement 32:18</p> <p>engage 80:10 81:17,24 120:17,25</p> <p>engaged 74:12 78:15 81:12, 15 82:5,6,16,20, 21,24 83:2,6,10, 16,22 104:19,21</p> <p>engagement 52:3</p> <p>engineer 19:8 21:21 22:6,10 78:5 79:11,14 80:18,23 81:5,12, 17,24 82:15,19 85:6 99:13 103:2,9 108:8 115:20 118:25</p> <p>engineering 21:16 23:8 47:11, 13 68:13,18 80:5 81:18 82:8,16 84:5</p>	<p>92:4,5</p> <p>engineers 22:2 82:5,24</p> <p>enjoy 88:11 116:1</p> <p>enter 110:19 111:24 112:25 113:1 115:19 116:4 119:16</p> <p>entered 109:21 110:3 111:18,21 113:8 114:20,22 115:19 117:17 118:16,21, 25</p> <p>entering 85:11 111:10 112:3</p> <p>entertainment 24:6,17,24</p> <p>entire 59:11 70:15</p> <p>entirety 59:11 103:11</p> <p>entitled 90:7 93:6</p> <p>entity 48:2</p> <p>entry 43:7 116:11,13 117:18</p> <p>envelope 26:6,11 68:13 83:11,12 84:4 105:7</p> <p>environment 106:18 109:4 118:12</p> <p>environmental 80:14 92:24 93:1 120:9,17,18</p> <p>equipment 103:23 104:1</p> <p>equivalent 26:16</p> <p>erosion 79:1</p> <p>errors 63:6</p>	<p>escalate 32:15</p> <p>essence 101:9</p> <p>established 96:5</p> <p>estate 15:12,18 35:12</p> <p>estimate 11:9 21:2 103:6</p> <p>estimated 10:24</p> <p>estimating 20:19</p> <p>estimator 19:3,13,16 20:17 21:1</p> <p>estimators 19:20</p> <p>event 106:21 109:7 113:11,12,13 118:15</p> <p>events 58:10</p> <p>eventually 15:13</p> <p>exact 41:9</p> <p>EXAMINATION 4:21</p> <p>examined 86:21 108:17</p> <p>excessive 86:12</p> <p>excuse 21:10 65:18 68:2 83:17</p> <p>executing 58:11 59:15</p> <p>executive 67:1</p> <p>exercised 112:12</p> <p>exhibit 55:17,19 56:18 58:1,7 61:15 68:9, 10,17 87:1,4 88:19,21 89:6,9 90:6,10,18 92:3,6, 7,22,25 93:5,8,20,</p>
--	---	--	--	--

<p>23,25 exhibits 4:9 55:11 exist 15:8 26:21 47:23 101:11 118:18 120:3 existed 79:3 104:12 105:18 108:12 114:24 existing 114:24 expense 64:22 65:25 66:8 72:12 86:8 experience 19:10 24:22 40:15, 16,22 47:20 117:2 experienced 46:23 experiences 18:20,21,23,24 25:6,11 27:17 expert 99:16 exposed 98:8 101:9 exposure 96:23,24 97:25 99:8 106:17 109:2 118:11 extent 25:25 62:21 exterior 27:15 30:5 36:4,15 37:11,24 41:1,15 72:23 73:3 84:24 97:1 98:3,12 101:14 102:3,6,16 103:15 112:17 exteriors 25:23 extreme 97:25 extremely 116:16,17 extremes 101:17 eyebrow 101:8</p>	<p style="text-align: center;">F</p> <p>fabric 78:18,23,24 79:1 face 114:24 faces 96:23 facing 97:6,14 98:17 fact 42:13 74:4 78:6 79:20 85:6 100:21 facts 95:1,6 factual 7:15 faded 78:22 79:2 fading 72:11 failed 105:5,10 117:13 failing 117:7 fair 6:25 11:22 12:2 26:9 55:10 61:13 63:17 65:16 69:12 71:2 75:10 77:19 87:16 90:4 92:1,19 105:17 106:11 108:24 fairly 56:23 66:13 fall 12:11 40:7 58:20 91:21 110:13 112:7 fallen 78:25 falling 80:12 familiar 26:24 93:12 94:3 family 34:24 120:1 fast 23:1 feature</p>	<p>31:12,13 February 108:18 Feels 97:21 feet 115:10,13 felt 39:17 fhavers@golden.net. 87:6 field 19:8 21:8,11,21 22:6,10 26:10 47:11 figure 112:9 filed 7:4 69:13,16 fill 12:22 77:21 final 118:7 finally 9:17 financials 36:10 find 5:14 8:3 30:5,22 103:22 110:24 111:4 113:21 finding 118:9 findings 28:1 37:6 71:19 93:21,23 116:23 fine 51:15 finish 38:3 88:9 111:15 114:15,16 116:20 fireplace 114:2 firm 22:17 first-hand 90:2 firsthand 35:10 42:12 46:19</p>	<p>49:12 50:3 116:14 five-minute 102:20 fix 112:22 fixture 37:8 43:22,23 102:7,8,17,18 103:13,14 115:10, 12 fledgling 24:10 flooding 31:10,18 floor 22:1 39:2 97:3,7 98:7,16 100:25 101:3,4,7 floors 97:17 Florida 7:5 54:15,16,22, 23,24 55:5 58:14 63:25 96:24 99:14, 20 103:2 110:25 flows 15:18 fly 8:24 focused 96:20 follow 54:20 110:25 112:10 follow-up 54:21 force 60:21 forensic 83:20,24 84:25 85:5 forget 75:12 form 7:20 22:5 34:16 46:3,8,15 50:7,11, 12,22 51:8 52:22 65:1 66:2 81:8 83:7 84:7 89:24 94:12 96:9,17 98:21 100:3,9</p>	<p>103:20 105:13 106:2 107:2,12 108:1,20 111:25 113:17 115:1 116:7 117:22 119:23 120:5,11, 21 121:2 formality 32:21 formally 59:5 formulating 100:4 Fort 4:19 11:21 forward 80:24 81:22 forwarded 28:1 foundation 19:22 fourth 12:11 39:1 78:2 91:4 97:3 98:7 100:25 101:3,7 fourth-floor 101:13 119:17 frame 54:18 frames 117:5 Fred 12:25 14:18,19 36:22 39:8,25 45:21 87:5,17 fresh 76:1 frog 65:18 front 31:6 36:13 38:22 90:8 119:14 full 4:23 10:18 71:5 118:8 functional 23:8,15 funding 52:17 76:15,16 future 7:13</p>
---	---	---	--	---

G	<p>27:5</p> <p>grants 67:20</p> <p>great 36:10 41:18</p> <p>ground 101:3</p> <p>ground-level 31:8</p> <p>grounds 26:17 27:6,25 29:24 33:12,24 35:24</p> <p>group 47:13 92:4,5 93:22</p> <p>grow 24:10</p> <p>growing 23:1</p> <p>grown 9:19</p> <p>guess 10:8,17 16:11 36:22 53:8 59:14 72:21 77:20 90:19 91:15</p> <p>guesstimate 101:5</p> <p>guesswork 44:4</p> <p>guests 29:25</p> <p>guttering 79:23 80:2</p> <hr/> <p style="text-align: center;">H</p> <hr/> <p>half 11:12 19:15 20:8 22:12 24:15 52:7</p> <p>handful 109:17,18 110:1</p> <p>handled 72:13,14 74:5</p> <p>hands 11:16 88:15</p> <p>hanging 102:9 103:14</p> <p>happened 24:1 34:17 39:11 49:4 59:1 97:9,10</p>	<p>happening 110:25</p> <p>hard 121:17,20</p> <p>Harvey 92:5</p> <p>Hattaway 12:25 16:14</p> <p>Havers 12:25 14:17,18,19 15:5 36:22 39:8,11 40:3 45:21 46:5,12 48:23,25 49:4,5,16 87:6,17</p> <p>head 24:23 29:16</p> <p>health 13:2</p> <p>hear 6:14 7:19 29:4 44:6,7 50:17,18,22 52:25 53:4 56:9</p> <p>heard 6:16 50:23 51:9, 10,11,12 89:19</p> <p>hearing 50:20 51:5,8</p> <p>heat 99:17 116:1</p> <p>heavy 28:8 31:10 99:8 110:19 112:16 113:6,12,13,23 115:15 116:14,16, 17</p> <p>hedges 27:7</p> <p>held 14:5 18:17 24:11</p> <p>helping 74:6</p> <p>Henry 51:5</p> <p>high 20:7 98:2</p> <p>highrise 21:22 22:1</p> <p>hire 57:16 78:4</p> <p>hired 24:3</p>	<p>hold 14:4 75:2 114:15, 21</p> <p>holds 78:23</p> <p>holes 37:25 99:7 102:11 103:16</p> <p>hollow 75:24</p> <p>hot 97:15</p> <p>hour 53:24</p> <p>housed 17:16</p> <p>huge 102:19</p> <p>hurricane 35:25 78:19 79:4 81:4,14,22 82:18 83:9 105:4 106:20 109:6 118:15</p> <hr/> <p style="text-align: center;">I</p> <hr/> <p>identification 55:19 58:7 68:10 87:4 88:21 89:9 90:6,10,15,18 92:7,25 93:8,25</p> <p>identify 90:20</p> <p>immediately 36:18 38:8</p> <p>impact 97:1 98:3 120:18, 25</p> <p>impair 6:11</p> <p>implied 52:12</p> <p>improve 80:1</p> <p>Improvements 64:11</p> <p>in-house 47:12,13</p> <p>in-process 84:20</p> <p>inaudible</p>	<p>6:15</p> <p>inches 116:17</p> <p>incident 83:3,7</p> <p>included 45:5 69:23 73:14</p> <p>includes 27:22,24 101:16 106:16</p> <p>including 52:5 95:12 105:2 117:13,18</p> <p>Incorporation 59:13</p> <p>incorrect 118:24</p> <p>increase 51:16</p> <p>incurred 98:12</p> <p>index 59:8,9 61:1</p> <p>indication 9:1 31:16</p> <p>individual 33:7 55:16</p> <p>industry 23:10</p> <p>influence 6:10</p> <p>inform 39:5</p> <p>information 22:22 23:1,2 24:23 37:21 39:17 45:17 69:5 94:16,19</p> <p>informed 88:16</p> <p>Ingram 24:17,24</p> <p>inheriting 70:12</p> <p>initially 33:12,24 48:3 59:8</p> <p>inputs 81:2</p> <p>inquiries 70:7</p>
----------	--	--	---	---

<p>inserts 25:21,24</p> <p>inside 53:19 119:6,7</p> <p>inspect 53:8 81:25</p> <p>inspection 108:8 110:4,5,10</p> <p>inspections 27:25 29:8 30:7 113:21</p> <p>instruct 40:9 41:20 117:25</p> <p>instructions 5:15,17</p> <p>instructs 7:25</p> <p>insurance 35:20 36:13 46:25 52:7 61:23,25 62:6,9,15,18,22 63:2,6,7,8,10 65:22 74:7 79:21 80:2 81:21 85:8</p> <p>intensity 98:11</p> <p>intensive 98:15</p> <p>interested 36:24 37:18</p> <p>interesting 18:3 24:20 73:11 112:23</p> <p>interior 76:1 85:13 114:13, 17 118:22 121:1</p> <p>intermittent 11:18 113:19</p> <p>intersection 40:24</p> <p>intrude 43:5</p> <p>intrusion 25:19 26:11 34:8, 14 37:2,16 38:1,15 39:4,6,13,24 40:4, 10 42:25 43:1,3,19 44:21,25 45:1,13 47:4 48:13,16 51:24 52:21 54:10 55:2 85:13,23</p>	<p>101:22 102:13 103:11 106:9,25 110:7 111:5 112:13 113:22 114:3 116:6 119:21 120:4,10, 15,17,19,24 121:1</p> <p>investigate 28:5 41:21</p> <p>investigative 55:1</p> <p>invoice 38:22 41:8 42:16 44:11 90:16 91:4,5 93:7</p> <p>involved 18:5 25:17 26:5 96:16</p> <p>Irma 78:19 79:4 81:4,9, 14,22 82:18 83:9 105:4 106:20 109:6 118:15</p> <p>Isle 59:1</p> <p>issue 30:13,16,19 31:5 32:11,14,20,24 33:1,15 34:2 39:12,24 40:10 42:7 54:10,19 60:9,14 76:4,5,17 78:17 79:7 80:12 86:5,7 88:13 104:12</p> <p>issues 5:8 6:4 23:4 25:12, 17 26:7,12 28:21, 22 30:25 31:11,23 32:18 33:12,24 34:8,15 36:3 38:15,20 39:6 53:19 73:20 74:4 77:17 85:4,16,22 86:21 98:13 110:14 113:5,7,15, 19 120:8,9</p> <p>items 38:13 55:16 62:1 70:10,11,13 71:23 72:2,12 73:15 95:20</p>	<hr/> <p style="text-align: center;">J</p> <hr/> <p>Jacqueline 7:6,7 34:10</p> <p>jamb 95:8,19 117:9</p> <p>jambes 95:8,19 98:14 117:9</p> <p>Jan 16:14</p> <p>January 91:16 109:13,15</p> <p>JCE 82:7</p> <p>Jeri 35:15 37:4 38:19 40:13 42:18</p> <p>job 24:2,21 55:6</p> <p>Joe 81:17 82:6,7,15,19 103:3 106:3 111:16</p> <p>John 36:20 87:25</p> <p>Johnson 4:6,16,22 33:19 34:5,6,19 46:10,17 49:21 50:12,14 51:6,9,17,18 52:23 53:23 54:5,11 56:7,16 65:2 66:3, 12,19,20 68:11,14 70:17,21 71:8,11, 13 75:5 77:10,14 81:10 84:10 86:20 90:3 94:13 96:11 99:11 100:6,13 103:24 105:16 106:5 107:5,14 108:4,21 114:4 115:3 116:9 117:24 119:25 120:7,13,22 121:4, 8,19,22</p> <p>joined 20:15 24:11 81:16 91:18,21</p> <p>joints 72:11</p>	<p>June 7:8 34:11 68:19 73:19</p> <hr/> <p style="text-align: center;">K</p> <hr/> <p>Karins 92:4</p> <p>keeping 17:18</p> <p>key 99:2</p> <p>kind 11:16 24:8 26:16 29:11 35:1,8 38:4 41:6,13,21,25 44:20 52:18 57:24 60:25 70:12,18 78:2,10 80:11,22 91:8</p> <p>kinds 31:14</p> <p>knee 81:24,25 82:1</p> <p>knew 13:1 75:13</p> <p>knowledge 5:22 7:15 15:1 17:15 23:8,15 35:11 42:12 46:2, 19 47:10,17 48:15 49:13 50:3 55:14 62:21 63:15 81:14 82:24 83:2,9 88:22 90:2 94:6 95:5 99:17 110:13 113:9 121:15</p> <hr/> <p style="text-align: center;">L</p> <hr/> <p>La 7:11 8:5,9 10:4 12:5 13:4,25 14:23 15:6,9 17:21 26:21 27:20 33:11,22 42:5,8 47:19 56:25 57:4,10,23 59:22 60:6 61:6,10 62:6 63:3,5,21,25 64:1 74:12 81:4,13 82:16 83:11 84:4 85:14 87:7,8 92:15 94:9 96:1,8,15 100:1 103:19</p>	<p>labor 47:18</p> <p>lack 95:13 105:6,11 106:18,23 109:4 117:14 118:12</p> <p>lanai 44:7 86:2 99:6 100:16 112:18</p> <p>landscape 26:18,22 27:2,9 33:11,23 78:4 79:10,12 80:19</p> <p>landscaper 78:4 79:12 80:21</p> <p>landscaping 27:6 68:6 80:22</p> <p>laptop 56:3</p> <p>large 24:19</p> <p>larger 24:16,18 93:20</p> <p>late 34:18 35:4,8,17 38:16 45:12 48:14 68:24 69:11 81:23</p> <p>law 58:17</p> <p>Laws 33:3</p> <p>lawsuit 35:2 62:24 63:2 69:13,15 102:23</p> <p>lawyer 57:17</p> <p>lay 22:3</p> <p>layer 79:1</p> <p>layout 21:25</p> <p>lead 38:1</p> <p>learn 37:22 112:13</p> <p>learned 38:15 39:3,7 40:5 45:1 110:7</p> <p>learning 37:15,23 38:4</p>
--	---	--	---	---

<p>40:14,16 115:9</p> <p>learnings 37:7</p> <p>lease 120:2</p> <p>leased 10:4 16:5</p> <p>leave 13:2 28:12</p> <p>leaves 49:16</p> <p>leaving 18:25</p> <p>led 52:6,7 58:10</p> <p>left 15:2 29:25 82:13 98:7 103:16</p> <p>legal 61:8 105:20,23</p> <p>lengthy 57:21</p> <p>letter 73:18 75:22,23 82:10</p> <p>level 97:3 101:3</p> <p>levels 62:10</p> <p>liability 63:7,10</p> <p>licensed 99:13,16,19</p> <p>licenses 18:17</p> <p>life 76:2</p> <p>light 37:7 43:22,23 102:7,8,17 103:13, 14 115:10,12</p> <p>lights 29:20</p> <p>limitations 64:10 116:10</p> <p>limited 64:20</p> <p>Lindsay 94:4,8,9</p>	<p>lines 22:4</p> <p>list 95:12 117:12</p> <p>listed 61:11 62:1 87:18</p> <p>lists 105:2 109:1</p> <p>literally 78:9</p> <p>litigation 5:7,8 7:3 8:6 16:21</p> <p>live 28:10 31:21</p> <p>living 43:6,10,12 102:14 106:14 107:10,16, 24 109:5 112:19 114:1 115:6 118:13</p> <p>LJB 36:6 45:4,11,17 46:6,13,23,24 47:7,15,17 48:3,11 52:3,20 53:13,21 72:10,13,15,18 74:6,9,11,21 75:12,13 79:22 81:20 82:24 83:2, 7,14,19,25 84:1,2, 12,13 85:11 96:20 97:20 98:24 99:1, 23 104:2,4 115:22</p> <p>located 33:5</p> <p>location 43:20</p> <p>locations 33:5 43:20</p> <p>locksets 76:24</p> <p>long 4:17 8:10 14:4 19:13 22:9 23:24 24:12 38:4,12 95:14 108:11 114:5 121:13</p> <p>long-term 106:17 109:2 118:11</p> <p>longer 11:4,7 14:22 49:5</p>	<p>looked 114:3</p> <p>loss 5:10</p> <p>lot 8:23 9:15 19:7 21:25 23:12 30:1 74:4 82:4 121:12</p> <p>low 31:22 98:2</p> <p>low-rise 60:7</p> <p>lunch 116:20</p> <hr/> <p style="text-align: center;">M</p> <hr/> <p>Madam 49:22 121:24</p> <p>made 15:5 35:11 48:3,6 76:14 77:1 85:12 102:5</p> <p>main 112:19 114:1</p> <p>maintain 61:23 77:7</p> <p>maintained 64:21 117:3</p> <p>maintenance 27:10,14,19 30:25 32:11 64:10,13,18 65:22 77:4,6 78:16 95:14,25 96:4,5,14 105:6,12 106:19 109:4 117:4,14 118:13</p> <p>make 4:15 6:19,23 29:21 36:10 37:17 52:15 62:13 65:6 70:7 80:6,10,17 81:20 102:16,25 106:7 114:16 117:1</p> <p>makes 84:19 85:3</p> <p>makeup 16:8</p> <p>making 46:5,13 50:6,10 84:4</p>	<p>manage 23:5,11</p> <p>management 15:23 16:1 17:17 18:15 21:9,11,12, 15,16 23:2 28:13 29:19 88:1,16</p> <p>manager 15:14 27:23 28:21 62:8,17 82:21 90:1 92:18</p> <p>manages 35:12</p> <p>managing 25:12</p> <p>mandated 99:25 100:23</p> <p>mandating 100:15</p> <p>manifested 35:1</p> <p>Map 90:8</p> <p>March 14:11 17:24 49:2 58:25</p> <p>Marco 44:14 60:17 82:14</p> <p>mark 4:2,25 56:6,12 57:2 58:1 68:8 87:1 89:6 90:5 92:3,21</p> <p>marked 55:17,19 56:18 58:7 61:15 68:10, 16 87:4 88:21 89:9 90:10,14,18 92:6, 7,25 93:8,20,25</p> <p>market 15:4 82:13</p> <p>marking 92:22 93:22</p> <p>Maron 82:9,10,12</p> <p>masonry 22:4</p> <p>master 18:14 21:9,14 78:7 98:10 99:2</p>	<p>master's 18:8,13 20:9 21:8</p> <p>material 47:18 97:10 98:9</p> <p>matter 7:3 18:10,11 100:21</p> <p>meaning 74:18 82:5 94:8</p> <p>means 66:1</p> <p>medications 6:10</p> <p>meeting 14:15 17:20 33:4</p> <p>meetings 16:21,25 17:7,9,13</p> <p>member 12:3,4,9,10,17,18, 22 13:20 33:13,25 34:21 35:19 39:22, 23 44:23 45:23 49:6 107:23 112:4 115:24</p> <p>members 12:22,24 13:3 28:2 33:7,8 39:5 67:22</p> <p>membership 58:23</p> <p>memory 5:20</p> <p>mention 34:24</p> <p>mentioned 4:13 26:22 38:19 39:8 65:11 72:7 74:9 79:24 82:6,9</p> <p>mentioning 74:10</p> <p>metal 75:24 109:1,9 118:9,17 119:4</p> <p>Michele 36:20</p> <p>middle 8:19 43:9 97:15 115:11</p> <p>midst 82:10</p> <p>migrated 105:4,10</p>
--	---	--	--	--

<p>migration 117:4</p> <p>Mike 4:19</p> <p>million 52:8</p> <p>mine 58:9 74:24 115:5</p> <p>minimal 102:12 103:12</p> <p>minor 86:8</p> <p>minute 49:18</p> <p>minutes 16:21 17:12 53:24 114:6</p> <p>misfiring 29:17</p> <p>missing 22:18,19,20,21</p> <p>modification 100:22</p> <p>modified 67:4 102:5</p> <p>Moisture 90:8</p> <p>moment 110:17</p> <p>monies 79:21 81:22</p> <p>monitored 46:25</p> <p>month 11:12</p> <p>monthly 30:3,7</p> <p>months 9:2,6,10,15,18,19, 21 10:25 11:12,24 30:21 73:14,18 76:2,8 98:22,23,25</p> <p>moratorium 78:6,10</p> <p>Morris 60:17</p> <p>mouth 20:18</p> <p>mouthng 51:3</p>	<p>move 60:25 81:22 116:19</p> <p>moved 15:1 19:5 36:2 121:15</p> <p>movies 24:8 25:2</p> <p>muffled 52:25</p> <p>mulching 27:6</p> <p>mullion 107:7 108:2</p> <p>mullions 106:15,25 107:11, 17,25 108:13,16</p> <p>multi-story 25:18</p> <p>multi-task 56:4</p> <p>multiple 27:24 29:8,13 34:25 47:21 60:5 62:12 96:22 117:17</p> <p>Myers 4:19 11:21</p> <hr/> <p style="text-align: center;">N</p> <hr/> <p>named 93:12 94:3</p> <p>Naples 54:16 59:2 82:14</p> <p>Nashville 11:6,19</p> <p>natural 78:12</p> <p>nature 72:15</p> <p>necessarily 5:14</p> <p>necessity 78:18 80:5</p> <p>needed 22:5 23:5,13 24:9 81:24 99:5,7 106:7 112:21</p> <p>neighboring 97:7</p>	<p>netting 102:9</p> <p>network 11:20</p> <p>Neuhaus 35:15 37:4 38:19 39:13 40:14 42:18</p> <p>newly 24:10</p> <p>night 113:23 114:9,12</p> <p>Nolan 30:12 40:14,15,19, 23 87:24,25 89:25</p> <p>non-retired 34:21</p> <p>nonetheless 97:12</p> <p>nonprofit 76:15</p> <p>notations 116:22</p> <p>note 69:15 87:10</p> <p>noted 50:13</p> <p>notice 110:4</p> <p>notification 35:3 111:19,22 112:2</p> <p>notifications 35:2</p> <p>notified 39:23</p> <p>notify 39:25 45:11</p> <p>notifying 120:14</p> <p>November 99:1</p> <p>number 6:2 10:24</p> <p>numbered 55:14</p> <p>numbers 95:11,12 118:10</p> <p>NWFL 93:2</p>	<hr/> <p style="text-align: center;">O</p> <hr/> <p>O'NEIL 19:6 21:7,18,20 22:10,14 25:5,16</p> <p>oath 4:3 5:21</p> <p>objecting 51:12</p> <p>objection 51:4,10 52:25</p> <p>objections 7:19,22 50:7,11, 12,17,19,23 51:8</p> <p>obligation 77:7</p> <p>observation 33:13,25 46:21 47:3 105:15 107:3</p> <p>observations 29:10 103:4</p> <p>observe 36:21 43:7 107:23 118:17</p> <p>observed 37:3 42:24 43:3,20 44:1 47:5 107:7, 15,19 108:12,15 109:8 117:8</p> <p>observer 37:16</p> <p>obtained 73:13</p> <p>occasion 112:11 114:23</p> <p>occasions 34:25</p> <p>occupants 11:23</p> <p>occupied 9:11</p> <p>occupy 8:22 10:3</p> <p>occurrence 28:9</p> <p>October 38:22 54:13,14</p> <p>office 13:9 14:4</p>	<p>officer 14:13 59:3 67:1</p> <p>officers 14:8 16:14 28:2,4, 23 63:6,11 66:22</p> <p>officerships 13:21</p> <p>officially 9:8</p> <p>omissions 63:7</p> <p>on-site 28:25</p> <p>one-on-one 33:6 48:21</p> <p>one-time 106:20 109:6 118:15</p> <p>open 44:6 111:12 119:14,15</p> <p>opening 95:15</p> <p>openings 117:3</p> <p>operate 60:8 101:15</p> <p>operation 63:20,24</p> <p>opine 81:12</p> <p>opinion 96:13 97:1,2,13,23 98:13 99:24 100:4, 7,14 110:23</p> <p>opportunity 36:3</p> <p>opposed 63:7</p> <p>opposite 43:23</p> <p>opted 38:10</p> <p>options 36:5</p> <p>order 15:10 55:15 64:2 79:7 80:3 106:7 119:9,12,13,15</p> <p>original</p>
--	---	--	--	--

<p>58:17 106:4 originally 97:5 ornamental 102:18 outcome 35:21 outlet 37:8 43:23 115:12 outlined 79:14 overflows 32:5 overhang 101:8 oversized 31:7 owned 34:9 owner 8:4 28:20 33:15 34:2 36:23 37:17 56:24 64:21 85:15 87:12,20 100:19 owners 28:4,12 29:25 35:19 52:5 87:7,8 88:1,7,9,10 98:6 100:15,16,18,24 111:10 ownership 58:22 owns 87:24</p> <hr/> <p style="text-align: center;">P</p> <hr/> <p>P-O-R-Z-U-C-E-K 16:18 p.m. 121:25 package 19:24 packaged 24:6 pages 89:13 90:9 93:9 paid 42:19 76:11 86:9 paint 72:11 73:13 76:1</p>	<p>95:9,20 97:17 106:16 117:10 painters 111:7,10 painting 52:8 53:17 54:23, 24 55:5 99:5 Pam 12:24 16:14 paneled 25:20 panels 25:24 26:4 papers 57:25 59:16 paragraph 78:2 79:24 95:21 104:24 118:7,8 Pardon 108:6 part 52:2 69:18 82:24 86:4 94:17 part-time 10:17 participants 110:5 participated 16:24 parties 85:7,10 party 81:20 83:16,17 passed 87:14 passing 105:4 106:20 109:6 118:14 past 66:15 82:20 110:23 patio 44:7 86:2 112:18 Patricia 57:3 pay 52:17 peeled 95:9,20 106:15 110:16 117:10</p>	<p>penetrate 102:11 penetrates 102:10 penetrations 37:24 103:15 peninsula 7:11 8:5,9 10:4 12:5 13:4,25 14:23 15:6,9 17:21 26:21 27:20 31:21 33:11, 22 42:5,8 47:19 56:25 57:4,10,23 59:22 60:6 61:6,10 62:6 63:3,5,22,25 64:1 74:12 81:4,13 82:16 83:11 84:4 85:14 87:7,8 92:15 94:9 96:1,8,15 100:1 103:19 people 27:19 28:10,18 33:5 46:24 78:15 88:15 99:3 percent 58:24 88:14 perfect 23:12 perform 47:18 104:19 117:20 performed 42:22,23 46:14 81:13 84:6 performing 82:25 83:7 84:3, 13,17 104:4 perimeter 29:15 117:5 period 10:1,7 95:14 periods 8:22 permitting 9:7 80:8,13,14,15, 25 person 6:20 14:16 39:18 83:10 94:3 99:2 personally 34:7 43:2 109:14</p>	<p>persons 68:1 perspective 23:6 61:9 72:14 98:16 phone 30:22 photographs 86:16,19,22 119:21 phrased 52:12 pick 29:24 30:22 piece 7:3 80:24 pieced 20:23 Pillatsch 12:20 13:1,10 Pillatsch's 13:23 pineapple-type 102:17 place 25:24 31:10,24 32:25 52:6,15 72:10 74:6 80:5 98:4 110:15 plan 74:13 75:14 plans 20:20 74:17 planters 77:13 pleased 5:24 54:7 pleasure 7:5 plugged 32:3 plumbing 20:25 point 11:13 22:25 25:1 73:20 106:13 108:25 points 43:7 policy</p>	<p>62:13 pond 78:8 ponds 31:24 32:3 78:12 80:7,9,16 portion 72:22 77:23 Porzucek 16:15 position 13:10,17,22 83:15 101:10 116:3 possibility 6:2 possibly 78:9 post 108:2 potential 4:9 32:20 power 67:21 practical 4:7 precast 25:20,23 26:4 precondition 80:19 81:6 preexisting 105:6 prepping 53:16 present 16:8,9 45:8 presented 62:11 85:2 presenting 94:18 presently 6:9 59:22 61:25 96:4 105:18 presents 16:2 preserve 7:21 president 12:25 13:22,25 14:4,10,13,14 16:10 34:22 36:22</p>
---	--	---	---	--

<p>39:8 47:23 48:9,20 49:1,6,10,25 58:5 60:13 66:25 67:8, 9,10,11,13,16,21 68:1,25 69:3,4,6 70:9,14,25 71:22 72:2 73:2,6,17 76:3 77:16,24 81:16 82:20 86:13, 22 110:23</p> <p>pressure 41:22</p> <p>pressurized 41:7,13</p> <p>pretty 91:11,13</p> <p>prevent 7:22 45:15 117:3,7</p> <p>prevented 46:3,5,12</p> <p>previous 39:9 65:11</p> <p>previously 5:5 35:21 56:2 68:5 104:25</p> <p>primarily 20:17 26:24</p> <p>priming 53:16</p> <p>prior 5:17 16:20 17:5 35:22 38:7 48:19 65:12 73:2 82:21 85:11 94:18 103:16 115:7 116:24 117:6 121:20</p> <p>privacy 88:12</p> <p>problem 32:6 38:7 44:25 45:1 48:16,18 52:21 55:3 75:3 112:4,5,21 113:10</p> <p>problems 102:14 116:6</p> <p>procedures 15:8</p> <p>proceed 35:20,22</p> <p>proceeds</p>	<p>36:15 52:7 74:7 79:21 80:2</p> <p>process 8:21 13:11 14:6 15:11,17,21 16:4 23:6 29:5,18 35:3 36:21,25 38:5 41:9 58:19,21,23 60:12 79:10 80:8 97:11</p> <p>processes 23:5,16 25:12 59:4</p> <p>processing 100:23</p> <p>productive 111:13</p> <p>professor 20:11</p> <p>program 96:4</p> <p>progress 100:7</p> <p>project 20:21 21:1,22 25:13 58:18 100:12</p> <p>projects 19:2,18 23:22</p> <p>Pronet 93:22</p> <p>proper 95:13 96:14</p> <p>properly 37:25</p> <p>properties 47:22 96:6</p> <p>property 27:25 29:7 30:3 63:8 64:14,19 65:21,23 66:6 73:13</p> <p>proposal 36:13</p> <p>proposals 79:18</p> <p>protect 61:23 62:1</p> <p>protecting 25:18</p> <p>protection 26:6,12 64:13,17 65:21</p>	<p>protocol 32:25 95:24</p> <p>protocols 32:10</p> <p>provide 42:17,18 74:12,17 82:16 88:10,11 91:9 111:19,22</p> <p>provided 4:10,18,19 25:25 56:1 74:15 75:14, 15</p> <p>providing 45:17</p> <p>provision 64:4</p> <p>proxy 58:23</p> <p>public 24:9</p> <p>publicly 24:10</p> <p>pull 23:14</p> <p>pulled 86:4</p> <p>pulling 29:14</p> <p>pumping 31:25</p> <p>purchase 8:11,13 10:2 61:22</p> <p>purchased 9:3</p> <p>Purdue 18:7,8 20:4,12 21:8</p> <p>purports 55:20 68:17 87:1 89:6,22 90:6 92:4, 23 93:21</p> <p>purpose 109:25 111:24 113:10</p> <p>purposes 68:16 93:24</p> <p>put 20:17 21:22 22:5 24:18 31:24 32:5 35:23 36:13 37:10 55:15 56:5,11</p>	<p>57:24 68:11 72:9 74:6 88:15 98:10 100:15 110:3</p> <p>putting 29:13</p> <hr/> <p style="text-align: center;">Q</p> <hr/> <p>qualified 52:16</p> <p>quality 120:8</p> <p>quarter 12:11</p> <p>question 5:13,22,23,25 6:24 7:20,23,24,25 13:16,19 16:23 17:2,6 36:16 41:17 42:6 46:4,9 49:23 50:2 52:11,18 59:14 62:25 64:23 65:4 68:20 72:1 75:13 77:15 83:23 84:9,12,19,20 87:9 88:24 89:15,21 96:3 105:23,24 107:13,22 109:8 120:20</p> <p>questioning 54:9</p> <p>questions 5:21 6:12 7:2,14 49:19 51:20</p> <p>quickly 32:13 121:15</p> <hr/> <p style="text-align: center;">R</p> <hr/> <p>rack 78:23</p> <p>railing 86:3</p> <p>rain 31:10 96:25 98:2 105:3 110:19,20 111:3 112:6 113:6, 11,12,13,24 115:15 116:17</p> <p>rains 112:14</p> <p>rainstorm 116:14,16,18</p>	<p>raised 39:12 45:12 102:22</p> <p>Ramer 4:2,25 5:1 47:6 50:15 51:19 52:24 54:6 55:23 57:3 65:14 68:15 71:14 72:24 75:3,6,11 103:1 105:19 121:19</p> <p>rate 23:1 98:15</p> <p>read 33:19 71:10,12,15, 16 80:23</p> <p>reads 66:5</p> <p>real 15:12,18 35:12 99:8</p> <p>realize 60:9</p> <p>realized 37:17</p> <p>realizing 47:22</p> <p>Realty 35:15 37:4 42:18</p> <p>reapplied 117:6</p> <p>reason 6:15</p> <p>reasons 13:2 31:22</p> <p>recall 31:3 35:14 76:18</p> <p>recap 33:10,18,21</p> <p>receive 31:15 32:8,11</p> <p>received 4:10 30:24 92:15 94:7,9</p> <p>recently 80:15</p> <p>recess 54:4 75:4 121:25</p> <p>recognize 56:19 58:3 87:22 88:3,4,6 91:23</p>
---	--	---	---	---

recommendation 62:14	51:24	repair 35:24 36:21,25 64:13,18 65:22 77:7 80:11 99:7 103:7	34:1 55:13	responsibility 27:3,10 64:12 65:24
reconvene 121:16	relationship 43:25 106:23,24	repairs 27:5 36:1	representative's 7:13	responsible 27:13,19 64:17
record 4:15,24 7:22 17:18 55:21 59:18 67:25 70:22 85:21 89:10 99:13 114:16	relative 20:19 28:24 40:10 41:14 70:7 101:11 103:19 104:12	repeat 5:23 17:2 33:17 41:17 42:6 46:9 49:18,19 84:9 96:3 107:13 120:20	representatives 52:16	responsive 113:6
recorded 59:17,20 64:5 67:5	relieve 32:6	rephrase 47:16 62:24 65:4 84:11	request 6:22 92:16 100:22	restated 57:13 59:9 66:9
recording 59:6 66:10	rely 47:14 65:12	repetitive 5:17 116:24	requested 12:22 37:21	restatement 57:17 59:12
records 17:5	relying 104:11	rephrase 47:16 62:24 65:4 84:11	require 53:18	restoration 36:6 38:9 44:13 47:7,15 52:4,16 73:12 81:18 85:9 89:6,19 91:14,15 96:21 99:1,3 100:11
recruited 22:15	remedial 35:25 53:17	replace 29:22 76:10,14 77:2 78:18 80:12	required 63:12 64:20 78:16 80:25 81:4 106:19 109:4 118:13	restore 74:7
reelected 81:16	remediation 82:2 87:18 91:14, 16	replaced 76:6,7,9 86:4	requirements 31:25 52:10	restructure 80:11
refer 102:24	remedy 48:16 52:20	replacement 27:7 64:13,18 65:22 76:11	requires 117:4	result 35:2 79:22 119:21
referenced 64:25	remember 20:3 36:8 70:5 71:1 73:21,22,23, 25 75:18 87:15 110:16 115:9 116:16	replacements 27:5	rescreening 99:6	resulted 42:25 43:1 69:2
references 94:23	remodeled 9:7	replacing 76:19	reside 10:15,16	retired 8:25 9:19 82:13
referred 47:9	remodeling 9:7,10	replanted 27:8	resided 8:14 9:2 10:25	retiring 98:22
reflect 56:24	removal 19:23 20:25	report 28:20 29:4 72:8 92:4 93:21,22 94:1,7,9,10,16 95:4,7 108:17 116:20,21,24,25	residence 8:15,17 11:5,19 15:3	review 16:21 58:21 62:11 80:8 84:24 117:20
reflection 97:16,17	removed 97:8 98:8 104:25 114:12,17 118:21 119:2	reported 28:3 33:14 34:2	resistance 101:19	reviewed 15:14 16:23 17:4
regard 63:15 121:6	renovated 10:3	reporter 6:23 33:20 49:22, 23 50:18,22 51:1, 7,11 121:24	resolution 42:4,11	revise 58:15
registering 59:3	rent 15:3,6,10 24:8	reporting 4:20 40:3	resolve 32:13 38:7	rightly 5:13 21:6 24:12 61:14 75:11,21 77:1,10 86:25 92:1 104:18 105:17 106:12 108:24 109:11 116:19 118:5 121:8
rejected 38:11	rentals 10:10,12,14	reports 29:3	resolved 42:8 86:5,7	rip 78:23
relate 21:11 23:18 25:6	rented 9:5,9	represent 35:19	resources 112:22	river 98:17
related 7:16 18:17 96:1	renters 29:25	representative 4:14 7:11 33:14	respectfully 6:22 104:10	rock 78:23
relates 94:17	repainted 75:25		respond 92:16	
relating 18:21 19:9 25:17 27:10 30:11 39:12 40:4 42:7 55:2,6 80:4 83:10 84:3 85:22 86:14 95:18			response 31:24	
relation			responsibilities 64:12	

<p>role 13:23 14:10,14</p> <p>Ronny 94:3,8,9</p> <p>roof 35:23 97:6</p> <p>Roofing 93:6,13,17</p> <p>roofline 101:1,5,8</p> <p>room 43:6,10,12 102:14 106:14 107:10,16, 24 109:5 114:1 115:6 118:13</p> <p>run 23:13</p> <p>rust 107:4,8 108:6,7, 12,15</p> <p>rusted 82:2</p> <p>rusting 75:24</p> <hr/> <p style="text-align: center;">S</p> <hr/> <p>sale 56:22</p> <p>sales 15:11</p> <p>saltwater 96:25 106:18 109:3 118:12</p> <p>satisfactory 53:22 55:6</p> <p>scheduled 17:23</p> <p>scheduling 23:16,21</p> <p>school 20:7,12 21:16</p> <p>science 18:14 21:9,10,14</p> <p>scope 53:13,22 73:14 74:14 84:14,18,23 85:1,7</p> <p>screen 51:2,3 55:25 56:1, 5,11 57:25 68:12</p>	<p>71:10 75:24 77:23 100:15</p> <p>screened 97:4,6 98:8,19 99:25 100:20 101:18</p> <p>screened-in 97:8,14,18,20,23 99:6 101:20</p> <p>scroll 59:8 61:14 66:12 70:16 71:3,25 72:22 77:10 86:18 106:12</p> <p>sealant 95:7,18 105:5,10 117:5,6,8,14,20 118:2</p> <p>sealants 98:14</p> <p>season 8:17 10:21</p> <p>seasonal 8:15,17 9:14</p> <p>secondary 81:20</p> <p>secretary/ treasurer 62:17</p> <p>section 61:3 63:19,20,23 64:5,25 65:6,9,11, 14,19 66:9,21,24 67:4,7,8 71:6,18, 23 75:23 116:25</p> <p>sections 75:19</p> <p>secure 36:14 62:9 74:7</p> <p>securing 62:6</p> <p>security 99:2</p> <p>sees 29:1</p> <p>sell 11:14,17 14:20</p> <p>selling 36:24 38:8</p> <p>sense 85:3</p>	<p>sensitive 13:19 55:12 75:3</p> <p>sentence 65:19</p> <p>September 79:4 87:5 88:20</p> <p>septic 32:1</p> <p>series 4:8 57:25 73:15 86:16 95:12</p> <p>serve 22:9</p> <p>served 112:1</p> <p>service 12:14 47:18</p> <p>services 36:7 47:7,13,16, 22,24 52:4 73:12 81:5 82:17 96:21</p> <p>serving 7:6</p> <p>session 56:4</p> <p>set 20:20 25:24 47:24 60:21 61:24 64:12 95:21</p> <p>settlement 35:22</p> <p>settling 77:21</p> <p>shape 78:11</p> <p>share 28:22 40:13 94:19</p> <p>shared 28:2 38:5 40:17, 19,22</p> <p>sharing 39:17</p> <p>shelter 97:24</p> <p>show 71:4 90:13 92:22</p> <p>showing 68:15</p> <p>shown 102:12</p>	<p>shutters 100:20</p> <p>side 25:22 43:24 78:3 96:23 112:17</p> <p>sides 105:20</p> <p>signature 58:4,8 89:22,23 91:24</p> <p>signed 59:5 90:2</p> <p>significant 32:14,24 33:1 80:8 85:16</p> <p>sills 95:8,10,19 106:15 117:9,11</p> <p>similar 38:20</p> <p>simple 65:6</p> <p>sir 4:23 79:9</p> <p>sit 37:11 41:25 46:18</p> <p>site 21:22 27:24 28:22 34:23 80:5,18</p> <p>situation 31:19,21 32:9 33:7 39:19 47:25 103:7</p> <p>size 78:11</p> <p>skill 47:24</p> <p>skip 73:5</p> <p>slabs 82:1</p> <p>slider 37:12 44:6 114:25 119:15</p> <p>sliders 38:1 41:2 43:10, 11,14,16,24 44:1 53:18 97:16 101:16 102:21 114:18 115:6,11, 13 118:2</p>	<p>sliding 95:11,25 96:2,6,7, 14,16 101:11 105:5,11 106:14, 24 107:10,16,24 108:12,16 109:5 117:12,21 118:14</p> <p>small 5:9 33:2 71:10,15 77:23 91:25 100:20</p> <p>smarter 9:15</p> <p>sold 5:7 24:16 42:14 55:8</p> <p>sole 82:15,19</p> <p>solid 11:11</p> <p>sort 5:15 11:8 38:13 79:9 90:19</p> <p>sound 84:19</p> <p>sounds 18:3 52:18</p> <p>source 44:21,25 106:8</p> <p>sources 85:23</p> <p>south 54:15,21,22,23,24 55:5 96:22,24 97:6,14,25 109:5 110:25 116:18 118:13</p> <p>south-facing 100:1,16</p> <p>southern 96:23,24</p> <p>spalled 82:1</p> <p>speak 6:21 81:11 85:6</p> <p>speaking 39:11 72:17</p> <p>speaks 6:20</p> <p>specialist 120:18</p>
---	---	--	--	---

<p>specialty 20:23</p> <p>specific 13:17 18:20 21:11 31:3 40:4 44:3 62:13 73:1,6,23,25 75:14 77:16,24 83:3 86:13 101:23</p> <p>specifically 7:24 20:19 40:23 42:10 45:6 62:3 64:16 73:16 76:4 96:19</p> <p>specification 75:14,17</p> <p>specifications 20:21 74:13,18</p> <p>specifics 62:21 72:6,19 73:2</p> <p>spelling 16:16</p> <p>spend 10:20 112:22</p> <p>spending 8:25</p> <p>spent 18:25 20:8 23:3 39:21</p> <p>spoken 105:8</p> <p>spray 37:2 41:7 42:1,24 43:2,13 102:12,20, 24,25 103:10,12, 18 119:8</p> <p>spring 13:12 59:2 91:22</p> <p>sprinkler 29:16</p> <p>squared 75:6</p> <p>stage 24:7 111:9</p> <p>stained 95:10 106:15 117:11</p> <p>stair 101:2</p> <p>stairways 29:21</p>	<p>stake-out 22:3</p> <p>standard 102:6 103:13,18</p> <p>standpoint 84:5</p> <p>start 9:22 60:12 111:12</p> <p>started 11:13 21:21 36:6 60:5,13 81:18 99:1</p> <p>starting 9:3 77:12</p> <p>starts 77:21</p> <p>state 4:23 54:7 84:13</p> <p>status 62:12</p> <p>Statutes 64:1</p> <p>steel 106:15,24 107:10, 16,24 108:13,16</p> <p>step 31:6,7 80:1,3 113:16</p> <p>stepped 14:13,16 97:13</p> <p>steps 48:19 101:2 113:14</p> <p>stop 72:23 121:17,20</p> <p>stopped 86:12</p> <p>storm 28:8,14 98:2 100:19 106:20 109:6 112:12,15, 16 118:15</p> <p>streaming 25:3</p> <p>strike 62:24</p> <p>strong 111:2</p> <p>structural 68:12,18</p> <p>structures</p>	<p>117:4</p> <p>stucco 96:16 99:8 101:16 102:9,10,11 103:15</p> <p>studs 109:1,9 118:9,18 119:4</p> <p>study 21:11</p> <p>stuff 28:3,4 29:24 53:20</p> <p>subcontract 80:20</p> <p>subcontracting 81:7</p> <p>subcontractor 21:3,4 79:13 99:20</p> <p>subcontractors 19:23 21:24</p> <p>subject 7:3 8:6 18:10,11 62:23 63:1 72:2</p> <p>subsequent 10:2</p> <p>subsidiary 93:1</p> <p>substance 6:11</p> <p>sudden 112:16</p> <p>suffers 120:9</p> <p>sufficient 53:14</p> <p>suggest 44:23</p> <p>suggestion 46:6,13</p> <p>summarizes 29:9</p> <p>summary 61:12</p> <p>summer 10:22 28:8 35:8, 17,18 36:17 38:16 39:4 40:5,7 44:16, 19 45:12 48:14 49:5 51:22 54:11, 14 87:12 97:15,19 98:23 110:12</p>	<p>112:7 115:21</p> <p>sun 96:25</p> <p>Sunshine 33:3</p> <p>supervise 21:23</p> <p>supervisor 22:7</p> <p>supposed 56:4</p> <p>surface 107:4,8 108:6,7,11</p> <p>surrounding 96:2,7,15 101:12</p> <p>surveying 21:25</p> <p>sweltering 116:1</p> <p>sworn 4:3</p> <p>system 25:1 86:3,4</p> <p>systems 21:12 22:22,25 23:2,7,9,12,17,21, 22 24:10,23 25:14</p> <hr/> <p style="text-align: center;">T</p> <hr/> <p>table 31:22</p> <p>takes 31:10</p> <p>taking 7:12 57:12</p> <p>talk 16:22 44:15 48:11 70:14 74:16 98:14 100:24</p> <p>talked 18:4 47:6 70:9,25 72:4,6 78:1,5 100:18 115:9</p> <p>talking 48:23 75:11 110:23 111:9</p> <p>talks 65:6 66:24 67:7</p> <p>task 22:7</p>	<p>tasked 35:19 53:22 85:7</p> <p>tasks 19:12</p> <p>teach 23:7</p> <p>team 19:19 87:18</p> <p>technology 20:12 23:1</p> <p>telephone 31:15</p> <p>telling 113:1</p> <p>temperature 96:25 97:20 98:2 101:17</p> <p>tend 30:13,14</p> <p>tendered 63:2</p> <p>term 14:5 91:22</p> <p>terms 10:10 26:1 54:18 57:8 59:2 67:14,16 75:20 80:13 85:9</p> <p>test 5:20 40:24 41:3,6, 7,13,22 42:1,23 43:13 44:20,24 45:6,9,16 46:7,13, 20,22 81:25 102:20,25 103:3, 10,12,18 104:5 115:11 119:8</p> <p>tested 43:22,25</p> <p>testified 4:4 46:19</p> <p>testimony 10:8 104:3,5,10</p> <p>testing 36:21 37:2,4,16 38:19,21,24,25 40:14,16,22 41:9 42:19,24 43:2,15 44:5 45:5,7,10,18 46:6,22,24 47:1,2, 4,5 54:12 98:24 102:12 104:8,13</p>
--	---	---	--	---

<p>105:15,18,22,25 106:3,4,7 111:17 115:9 119:5,7</p> <p>tests 104:2 105:14</p> <p>text 60:25 61:1,2</p> <p>thermal 98:18 99:17 100:7</p> <p>thing 6:18 23:12 38:14 80:22 89:18 113:18,22</p> <p>things 5:19 9:7 22:5 23:22 25:3 27:6 31:14 32:4,6,18 37:8,23,25 39:19 72:7,10,14 76:16 88:23 99:4</p> <p>third-party 27:22 37:1 44:9</p> <p>thought 23:3 102:1</p> <p>thoughts 54:8 55:12</p> <p>throat 65:18</p> <p>ticket 72:12</p> <p>tile 97:17</p> <p>time 6:14,20 7:23 8:22, 24,25 10:1,7,20 11:6,7,9,13,21 12:24 16:7 17:4 18:25 20:11 22:25 23:4,11 24:7 27:1 28:13 34:24,25 36:1,8,17 38:18 39:21 45:3 47:23 54:18 68:22 70:3 71:5,7 76:5,6,15 78:9 79:19 80:3 82:22 85:17,19 87:13 88:6 89:11 92:10 95:14 107:18 109:22,24 110:6,17 111:1,4, 6,17 112:14 113:9 114:2,7,11,20,22</p>	<p>115:19,22,25 116:4,15 119:6 120:14 121:12,17, 20</p> <p>times 27:24 29:8,13 31:3 96:22 109:13,20, 21 110:1,18,22 111:1,18,19,21 112:23,25 117:17 118:16,20</p> <p>tiny 91:11</p> <p>title 21:11 57:3,6,7,12 65:20</p> <p>today 4:7 6:9 7:2,9,14 16:22 41:24 46:18 47:6 74:9 88:13 107:9 121:17</p> <p>today's 4:9 5:16</p> <p>told 40:5 75:15 113:19 115:7</p> <p>top 61:19 71:19 73:11, 20 95:3 102:19</p> <p>torrential 112:15</p> <p>total 10:24 76:21 89:13</p> <p>totally 98:8 101:9</p> <p>toto 62:15</p> <p>touch 53:18</p> <p>tough 72:22</p> <p>trades 20:23</p> <p>transaction 11:17</p> <p>transcript 51:15</p> <p>transition 69:5,7,10</p> <p>trash 29:24</p>	<p>travel 119:12,13,14</p> <p>traveling 11:18 16:6 87:21</p> <p>travels 119:11,12</p> <p>trees 27:8</p> <p>trials 43:15</p> <p>triggered 15:18</p> <p>true 14:2 119:9</p> <p>Trust 7:7 34:11</p> <p>Trustee 7:6 34:10</p> <p>Trustees 57:3</p> <p>truthfully 6:12</p> <p>turn 16:1 63:18 64:9 88:19 118:6</p> <p>turnaround 60:15</p> <p>turned 88:14</p> <p>two-page 55:22</p> <p>two-step 79:10</p> <p>type 46:21 47:1</p> <p>types 47:4,22 104:2</p> <p>typical 95:7 104:25 106:14,19 108:25 109:4 117:4,8 118:9,13</p> <p>typically 33:12,24</p> <hr/> <p style="text-align: center;">U</p> <hr/> <p>ultimate 42:4</p> <p>ultimately 43:19 74:12 77:1</p>	<p>unable 115:4 120:2</p> <p>undergrad 20:5,6</p> <p>undergraduate 18:7,12</p> <p>underneath 37:12 43:15 78:23 79:2</p> <p>understand 4:16 5:22,24 7:9, 20 8:4 9:23 33:9, 21 39:3 40:2 41:24 46:4 61:10 65:5 78:17 85:3 95:4 99:24 112:6 115:14 116:2 118:20</p> <p>understanding 30:15 48:1 59:15, 23 60:20 61:5 63:14 64:24 65:7 66:1 84:2</p> <p>understood 6:6 57:6</p> <p>undertaken 42:5</p> <p>ungodly 97:15</p> <p>unilateral 117:18</p> <p>unit 8:5,8,11,13,14,21 9:3,6,8,9,11,23 10:2,3,16,21 11:1, 23 14:20 15:10 28:14,18 31:6,8,13 34:9,15 35:13 36:18,19,24 37:6, 13,19 38:1,8,16, 20,25 39:1,5,7,14, 24 40:12,24 41:14, 16,22 42:1,14 44:16,21 45:1,2,6, 13 46:7,14 48:14, 17,21 51:25 52:13, 21 53:8,10,11,12, 16,19,21 55:2,6,8 56:24 57:4,7 64:21 85:16,22,24 86:5 94:17,23 95:11,13 96:22 97:2,3,4,13, 18 98:6 99:4</p>	<p>100:15,18,21 101:6,7,8,12,13,23 102:4,6 103:19 105:11 106:9 107:1,9,15,20 109:9,14,21 110:19 111:7,10, 18,22,24 112:3,12, 25 113:1,4,8,11, 15,20 114:5,7,11, 17,20,22 115:16, 19 116:4,6,11,13 117:18,19 118:3, 17,18,21,22 119:14,15,22 120:2,3,9,10,17,24 121:1</p> <p>unit-for-unit 85:18</p> <p>units 10:4 15:6 45:9,17 85:13 94:23 95:25 96:2,7,24 97:6 98:15 100:1,25 101:1,2,13 102:7 105:1,2 106:16 109:1 111:12 117:13 118:10 119:10</p> <p>University 18:8 20:12</p> <p>untimely 75:8</p> <p>unwrap 112:24</p> <p>update 33:6 60:9</p> <p>updates 88:13</p> <p>upper 101:1</p> <p>utilization 41:21 81:5</p> <p>utilize 15:9</p> <p>utilized 41:14 42:1 102:25</p> <hr/> <p style="text-align: center;">V</p> <hr/> <p>vacancy 12:22</p>
--	--	--	---	--

<p>validate 21:5</p> <p>variable 106:17 109:3 118:11</p> <p>Vasbinder 7:6,7 34:10,11,15, 23 36:9 38:6,16 39:5,7,10,14,24 40:11 41:14,15,22 44:16,21,25 45:2, 13 46:7,14 48:13, 17,21 52:5,13,21 53:8,10,14 54:10 55:2 94:17 95:13 100:19 101:12 103:6 104:7 105:11 106:9,25 107:9,15 109:8,14 111:21 113:10 116:4,6,11,13 117:18,19 118:3, 17 119:14,22 120:1,9,24</p> <p>Vasbinder's 36:19 51:25 102:4 113:6</p> <p>Vasbinders 110:8 111:23 120:14</p> <p>Vasbinders' 113:15 121:1</p> <p>versus 97:6</p> <p>VHS 24:7</p> <p>viable 36:5</p> <p>vice 13:22,25 14:4,10 49:10,24 58:5 67:8,9,11,13</p> <p>video 24:6 25:1</p> <p>viewing 69:2 70:6</p> <p>virtue 59:15</p> <p>visit 28:18</p> <p>visits 28:25 29:1</p>	<p>volatile 23:10</p> <p>Volhr 15:13,19 17:16 27:22 28:21,25 29:5,7 30:8,11,13, 17,24 31:16,20 32:8,9,22 33:8,14, 15 34:1,2 40:12 41:12,20 47:21 48:2 49:13 50:3 62:18 63:14 69:19, 25 83:23 87:25 88:10 113:21</p> <p>volume 21:3 51:16 78:11</p> <p>vote 58:23,25</p> <p>VP 24:25</p> <hr/> <p style="text-align: center;">W</p> <hr/> <p>wait 6:24 49:18</p> <p>walk 29:15,24</p> <p>walk-through 30:4</p> <p>Walker 103:5,10</p> <p>walkways 29:20</p> <p>wall 43:23 102:3,9,10, 11 109:1,9 118:9 119:3,4</p> <p>walls 41:1 81:25 82:1 101:16</p> <p>wanted 5:14 19:18 28:14 36:25 53:14 70:1 86:8</p> <p>Warranty 55:18,23</p> <p>washed 78:19,22,25</p> <p>waste 29:14</p> <p>watch 37:12</p>	<p>water 25:18 26:6,11 31:12,13,22 34:8, 14 37:1,5,10,16 38:1,15 39:4,6,13, 24 40:4,10,24 41:3,21,25 42:24, 25 43:1,3,5,8,14, 19,25 44:1,20,21, 24,25 45:1,5,7,13 46:7,13,20,22 47:2,4 48:13,16 51:24 52:21 54:10, 22 55:2 85:13,23 96:23 98:2 101:22 102:12,21 103:11 104:5,12,18 105:9 106:8,25 110:7,21, 25 111:1,3,4 112:10,13,19 113:20,22 114:3 115:5,11,13,16 116:5,14 117:3 119:8,21 120:3,10, 15,16,19,24 121:1</p> <p>waterproofing 37:10 52:9 53:17 54:15,23,25 55:6 99:5</p> <p>waters 98:3</p> <p>weather 95:15 106:17 109:3 118:11</p> <p>Webb 19:1,14,17 20:1, 15,22 21:17 25:5, 17</p> <p>week 27:24 29:8,13 115:25</p> <p>weekends 9:17</p> <p>weekly 28:19 30:7</p> <p>weeks 115:25</p> <p>welded 25:24</p> <p>western 78:3</p> <p>whatsoever</p>	<p>111:24</p> <p>When's 17:23 68:22</p> <p>wholesale 11:17 24:5,16,19</p> <p>wife 8:22 9:14 10:15,25 11:4,10,23</p> <p>William 19:6 21:7,18,20 22:10,13 25:5,16 60:17</p> <p>wind 96:25 98:2 101:19</p> <p>wind-driven 105:3</p> <p>window 25:21,24 52:9 58:14 95:8,10,19 117:3,5,8,9,10</p> <p>windows 26:4 37:13 72:10 95:11 105:5,10 117:11,21 118:2</p> <p>windows/sliding 95:15</p> <p>winter 9:14,19 10:21</p> <p>winters 9:16</p> <p>wondering 95:5</p> <p>wood 32:4</p> <p>word 46:20 71:19 102:24</p> <p>words 6:21 20:17 69:13 72:23 73:3 77:21 79:9 83:13 86:12</p> <p>work 8:18,23 18:20,24 19:7,10,22 20:22, 24 21:1,3,5,15,24, 25 22:6,8,13 23:16,17 24:22 25:4,5,11,14 27:5 35:24 36:3 37:19 38:9,21,23 41:8 42:13,15,22 43:21</p>	<p>44:10 45:4 52:13 53:11,13,15,20,21 55:1 60:14 62:16 68:4 69:7 72:8,9, 13 73:15 74:5,11, 14 75:17,19,20 78:10,13 79:13,18, 22 80:4,11,20,24 81:3,7,13,18,21 82:3,25 83:3,7 84:3,6,13,14,17, 18,22,23,25 85:1,8 87:13 89:7 99:1,3, 4 100:10,11,16,22 105:21,24 107:20 111:9 112:2</p> <p>worked 5:6 19:2,8 21:18 24:23 25:16 35:23 36:4 52:2 53:9 98:5</p> <p>workers 44:7</p> <p>working 8:18 9:13 11:2 23:4 24:3 31:14 34:22 45:3 52:17 82:14 85:16,17 87:21 96:20 97:19 111:11,12 115:22</p> <p>works 62:8,20</p> <p>world 22:25</p> <p>writing 29:1,9 30:8,10</p> <p>written 15:15,20 91:15</p> <p>wrong 79:9</p> <hr/> <p style="text-align: center;">Y</p> <hr/> <p>year 10:18 11:25 14:8 17:21,25 19:15 20:8 22:11,12 78:9 98:23</p> <p>year-round 28:11</p> <p>years 9:2 20:2,7,13 23:25 24:15</p>
--	---	---	---	---

yesterday

4:7 89:17 92:11

Z

zoom

6:3,19 55:22 56:4

70:23 71:9