

No. _____

In the Supreme Court of the United States

KEVIN YEUNG,

Petitioner,

v.

SHANNON HUMPHREY,

Respondent.

ON PETITION FOR WRIT OF CERTIORARI
TO THE COURT OF APPEALS OF GEORGIA

APPENDIX, VOLUME II

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AUGUST MMXXVI

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Appendix H

[Filed: Jun. 15, 2024]

IN THE SUPERIOR COURT OF JACKSON
COUNTY

STATE OF GEORGIA

Kevin Yeung	)	
	)	
Plaintiff	)	
	)	Civil Action
Vs.	)	
	)	File No.
Shannon Humphrey	)	<u>22CV0988</u>
	)	
Defendant,	)	
	)	

**PLAINTIFF'S OPPOSITION TO DEFENDANT'S
STATEMENT OF MATERIAL FACTS TO
WHICH THERE EXISTS NO GENUINE ISSUE
AND STATEMENT OF THEORY OF
RECOVERY AND MOTION FOR SUMMARY
JUDGMENT**

COMES NOW, Plaintiff, Kevin Yeung files this Opposition in response to Defendant's Statement of Materials Facts and Motion for Summary Judgment. Plaintiff states as follow:

1.

Defendant's Motion for Summary Judgment is accompanied by the Tricked Answers of Plaintiff's Deposition completed on Feb 22, 2024, led by how Questions were Asked, Directed, and Worded.

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2.

That Deposition was more of an Oppressive, Abusive, Wording Maze Intended to harass Plaintiff and Plaintiff's wife.

3.

Defendant's Statement of Material Facts and Claims are Words Only with No Support of Codes, Laws, Rules, Regulations.

4.

The Ultimate Goal of Defendant is to Escape Codes Compliance thereby she is relieved of the liability stemmed from Unpermitted Activities.

5.

Nuisance and Trespass are Ongoing and Continuing. Photos Reveal the Truth. See Exhibit "B"

A nuisance is defined as "*performing a continuous or regularly repetitious act, or creating a continuous or regularly repetitious condition, which causes the hurt, inconvenience, or injury.*" *Mayor C. of Savannah v. Palmerio*, 242 Ga. 419, 249 S. E. 2d 224 (Ga. 1978).

6.

Trespass is a criminal Offense. O. C. G. A. 16-7-21

(a) "*A person commits the offense of criminal trespass when he or she intentionally damages any property of another without consent of that other person*"

(b) "*A person commits the offense of criminal trespass when he or she knowingly and without authority.*"

(d) A person who commits the offense of criminal trespass shall be guilty of a misdemeanor.

7.

Defendant has entered Plaintiff's land to cut Defendant's grass during the warm season since 2021 to present.

8.

There is NO need to enter Plaintiff's yard to cut grass on Defendant's Site. They DO NOT need to Stand on Plaintiff's Wall to cut grass.

9.

No Permission Obtained. Defendant and her family Know it is illegal to enter someone's property without permission. But They DO NOT Care.

10.

Defendant Pays no attention to Unlawful Entry and will do what she desires with NO Consequence.

11.

Weeds and other Vegetation have grown taller than 5 foot in Defendant's yard. This area is Unsanitary and could become harboring grounds for Pests and Rodents affecting Plaintiff's Residence. See Exhibit "B"

"Allowing grass or other vegetation to reach a height of more than 16 inches; such areas can become harboring grounds for pests and rodents." City of Jefferson Ordinance

12.

Defendant's Metal Gate is Blocking Own Access thus it was inconvenience to them.

13.

For **Convenience**, Defendant **Trespasses** Plaintiff's Property. Due to **Inconvenience**, Defendant Creates **Nuisances** to Plaintiff's Property. These are **Evidenced** by Photos, not Assumptions.

14.

Jackson County Code Ordinance Chapter 19 Article 1
Sec 1805 Nuisance

*"All Provisions of this division shall be applied to private property where an accumulation of weeds, trash, junk, filth and other unsanitary or unsafe conditions shall create a public health hazard or **a general nuisance of the persons residing in the vicinity.** A finding by any governmental health department, health officer or building inspector that such property is a health or safety hazard **shall constitute prima facie evidence that such property is in violation of this division and O. C. G. A. 41-2-8 – 41-2-17.**"*
(Ord. No 17-003, §1, 10-2-2017)

15.

O. C. G. A. 41-2-9

"it is the duty of the owner of every dwelling, building, structure, or property within the jurisdiction to construct and maintain such dwelling, building, structure, or property in conformance with applicable codes in force within the jurisdiction, or such ordinances which regulate and prohibit activities on property and which declare it to be a public nuisance to construct or

maintain any dwelling, building, structure, or property in violation of such codes or ordinances.”

16.

Defendant's Statement of Material Facts are Untruthful. Since the filing of Plaintiff's Complaint of 11/28//2022, More **Damages** were found and Caused by Defendant's Site and their Actions.

17.

She has a lack of Concern about Any of Plaintiff's Damages or Plaintiff's Complaints or the Judicial System.

18.

Defendant Only to Deny All issues and Blamed Plaintiff for wrongfully accusing her.

19.

Defendant will continue to Trespass and Create Nuisance to Plaintiff's Land if Defendant's Motion for Summary Judgement is Granted.

20.

Plaintiff Prays this Honorable Court to enjoin Defendant's Interference of the continuing **Nuisance** and **Trespass** to Plaintiff's Property.

21.

Defendant once told a landscaper employed by Plaintiff she had experienced Erosion coming from Lot 91P, an adjacent lot. Erosion was going into Defendant's Swimming Pool in 2023.

22.

Defendant had to drain pool at some point. Draining 18,000 gallons of water to a location with no place for Water to Exit will result in a flood.

23.

When it rains, roads become wet. This is within the basic knowledge of an individual.

24.

When Defendant releases 18,000 Gallons of Pool water to the Current Pop Up Location, Plaintiff's property would have a flood or water pooling in back yard. Water then goes down to outside of basement area.

25.

Defendant's Current Pop Up Emitter Location is Not Permitted Under Law. Below are Legal Reasons.

26.

Jackson County's Stormwater Management Program

"Jackson County's Stormwater Management Program was created in 2015 to comply with Phase II of the National Pollutant Discharge Elimination System, part of the Federal Clean Water Act, that requires local governmental agencies to obtain a permit and monitor the storm water runoff in their jurisdictions." Jackson County Stormwater Management.

"Stopping pollution at its source is the most effective way to prevent harmful pollutants from being washed by storm water runoff into our storm drains, and ultimately, our rivers and creeks." Jackson County Stormwater Management.

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This program is intended to reduce water pollution that is caused by stormwater runoff.

27.

The Clean Water Act (CWA)

*“The Clean Water Act (CWA) establishes the basic structure for regulating U. S. water quality standards and the discharge of pollutants into surface water.
”Clean Water Act (CWA)*

28.

It is clear and understood from Affidavit of Steven A. Howard that Defendant had tied drains and downspouts together into one central place and water get disbursed to a Pop Up Emitter located 3–5 foot (Approximate) by the Property Line of Plaintiff and Defendant. Steven Affidavit No. 14

29.

Steven’s statement is consistent with the photos captured by Plaintiff in related to the location of all plumbing fixtures and Pop Up Location.

30.

Now, Pool Chlorine Water CANNOT be drained to the street or City storm drains by Law.

31.

Defendant’s **Pool water** is NOT Supposed to Flow onto Street Per Georgia Clean Water Act.

“All waters shall be free from toxic, corrosive, acidic and caustic substances discharged from municipalities, industries, or other sources, such as nonpoint sources, in amounts, concentrations, or combinations

which are harmful to humans, animals or aquatic life.”

32.

Next, Defendant’s **Roof** or **Storm water** Need to be Directed to Street per the Building Plan Requirement. *”Grade 12 inch High Berm & Swale to Direct Water Away from lot 089P & Toward Street ; Tie Downspouts into Drainage Pipe & Direct Toward Street. ”*

33.

It becomes illogical but to Ask one simple Question: “What is the Purpose of Routing Pool Water and Storm Water together when

- 1) Pool Water cannot be flowed onto Street,
Not Allowed → Street
- 2) Storm water needs to be directed to street?
Must Direct → Street

34.

The Routing of Pool and Stormwater together is Producing Conflicting Result. All Water released from Pop-Up Emitter is Not Directional and has no place to go but circling around. This is neither complying with Local nor State Requirement.

35.

The Motive is Clear.

36.

Steven, former Code Officer and the inspector seemed to have Overlooked this.

37.

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“Pool Water is Not flowing onto the street.” Defendant’s answer to Plaintiff’s Interrogatory No. 18 under Oath.

“.....Collects runoff from the back and side yards and conveys this runoff to the street.” per Defendant’s Engineer’s Guy Abernathy’s Opinion.

38.

Here Critical Questions follow, “ When Pool and Storm Water are tied together, should Water be **Flowed** or **Not Flowed** onto the Street once released from Defendant’s Pop Up Emitter ?”“Plaintiff’s Residence is a corner lot connecting to Defendant’s Back and Side yards. How do water Escape or Bypass Plaintiff’s land and convey to the street?”



39.

The Answer is Obvious. Water is Intentionally Directed onto Plaintiff’s Land.

40.

The Augusta Storm Water Management Ordinance, section (§) 5-1-8 states: “It is unlawful for any person to throw, drain, run, or otherwise discharge to any component of the municipal separate stormwater system...all matter of any nature excepting only such

storm or surface water as herein authorized.” See Exhibit “G”

In addition, “*codes §5-3-4 and §7-2-1 prohibit citizens from engaging in activities that constitute a nuisance, inconvenience, or annoyance to the public.*” Augusta Storm Water Management Ordinance.

41.

The City of Marietta’s Swimming Pool Construction and Permitting Guidelines states

“Chemically treated pool water cannot discharge into any street, storm sewer, drainage area, creek, lake or other waterway, or adjoining property, by authority of the City and State EPD regulations.” See Exhibit “G”

42.

The City of Auburn mandates All swimming pools, spas, and associated improvements must adhere to International Swimming Pool and Spa Code w/ Georgia Amendments and the International Residential Code. See Exhibit “G”

43.

Other Counties in State of Georgia are to follow **International Swimming Pool and Spa Code** as a Guide when Governing Swimming Pool.

44.

The International Swimming Pool and Spa Code **Not** adopted by Jackson County in administrative Procedures (For Swimming Pool) Does Not Bar Defendant’s Obligation to Comply with GA State or Federal Regulations.

45.

International Swimming Pool and Spa Code is Mandatory Code per Georgia Law **O. C. G. A. 8-2-20 (9) (B)** <https://www.dca.ga.gov/local-government-assistance/construction-codes-industrialized-buildings/construction-codes>

46.

International Swimming Pool and Spa Code 2018 Edition with Georgia State Amendment 2020. 302.4 Concealed Piping Inspection states, “Piping, including process piping, that is installed in trenches, shall be **inspected** prior to backfilling.” See Exhibit “G”

47.

Governor Brian Kemp Issued Executive Order per O. C. G. A. 8-2-20 (9) (B) as follow:

*“ The Uniform Codes Act is codified at chapter 2 of title 8 of The Official Code of Georgia Annotated. O. C. G. A. Section 8-2-20(9)(B). Below is a list of the current mandatory and permissive state codes. Each of these separate codes typically consist of a base code (e. g. The International Building Code as published by the International Code Council) and a set of Georgia amendments to the base code. **The mandatory codes are applicable to all construction whether or not they are locally enforced** These codes are as follows:”*

Mandatory Codes:

International Building Code

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International Residential Code for One- and Two-Family Dwellings

International Fire Code International Plumbing Code

International Mechanical Code

International Fuel Gas Code National Electrical Code

International Energy Conservation Code

International Swimming Pool and Spa Code

O. C. G. A. Section 8-2-20 (2022)

48.

Defendant shall not be relieved of her obligation to comply with O. C. G. A. 8-2-20 (9) (B) International Swimming Pool and Spa Code even when Jackson County did not enforce compliance. See Exhibit “E”

49.

Defendant is Further responsible for the liability by creating a large Concentration of Pool and Storm Water to a central area which in turn, Water flows onto Plaintiff's Land.

50.

A Search Record instead of Actual Blue Card ID was included in Defendant's Inground Swimming Pool Application in order to receive a Swimming Pool Permit. This is misleading and fraud, a material fact intended to deceive others to acquire something in exchange.

O. C. G. A. §23-2-52. *”Misrepresentation of a material fact, made willfully to deceive or recklessly without knowledge and acted on by the opposite party or made*

innocently and mistakenly and acted on by the opposite party, constitutes legal fraud.”

51.

Plumbing Inspection is Aimed for Protection and to Ensure the Safety of all Pipes and the Construction as a whole. All in the benefits of the Homeowner self.

52.

Why would a homeowner Reject such Important Aspect 1) Pressure Test or 2) Inspection? No Document shows **Pressure Text** or **Inspection** was performed after Underground Pipes Installation of 08/13/22 (Sat) - 08/14/22 (Sun). Weekend is outside of the Government's Operation hours. Any Dates presented to show Inspection after these dates are deemed inaccurate because Underground pipes was already concealed Under Concrete.

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53.

Defendant together with her family members have very little concern about the Nuisance and Trespass they created.

54.

She is aware that Plaintiff and Defendant share two adjacent lots within a parcel of land. Yet Defendant has no sense of her Rights, Duties, Obligations and Responsibilities as a Homeowner or Neighbor.

55.

Defendant presented no New Evidence or Laws to support her Claims in Defendant's Motion for Summary Judgement Other than a chase of words led by misleading questions.

56.

During Deposition, Plaintiff answered "Yes" to Defendant's Question "Did you see water flowing onto your property?" This Straight forward answer is not reflected in Defendant's Motion for Summary Judgement, only other tricked answers were used.

57.

All the Questions Asked during Deposition were carefully planned to calculate how answers are Pointed and Directed to a Conclusion.

58.

The very short to no notice of Deposition (1 day) was Conducted in Bad Faith with Intend for Intimidation and Harassment. Set Stages for Plaintiff.

"Are you a Pool Contractor?"

"Are you an inspector?"

"Are you a scientist?"

"Are you a Code Officer?"

"Have you ever Built a Pool?"

"Why did you take this photo?"

"Sue the County."

"We know You're Home."

"You did not answer the door."

59.

These are example of questions asked at Disposition. They aimed to Annoy, Confuse and Undermine Plaintiff and Plaintiff's Wife.

60.

Plaintiff has Rights to install Cameras on own property for Crime Prevention and Protection.

61.

It is a Common and Legal Practice in today's modern society to install cameras. All Commercial and Residential Buildings have installed surveillance camera including Court houses and Governmental Buildings.

62.

Defendant is Vindictive to see Plaintiff's Cameras in place that are Intended for Plaintiff Own Protection and Rights.

63.

In Surface Water, USGS Published information made available online to Public viewers.

*"When water "runs off" the land surface, that's runoff! Due to gravity, the water you wash your car with runs down the driveway as you work, **and rain runs downhill.** "*

*"When it rains, some **water is absorbed into the sponge** (infiltration) while some runs off the surface of the sponge and into the stream (runoff)."*

*"When rain hits saturated or **impervious ground**, it begins to flow overland downhill. It is easy to see if it flows down your driveway to the curb and into a storm*

sewer, but it is harder to notice it flowing overland in a natural setting.”

<https://www.usgs.gov/special-topics/water-science-school/science/surface-runoff-and-water-cycle>

64.

This is Not Assumption but “The Law of Gravity”

65.

Defendant’s property is Few Feet Higher than Plaintiff’s property. Water flows Downhill is a Known Fact and Concrete Foundation.

66.

Any water not retained on Defendant’s site flows downhill. This is not Plaintiff’s Assumption but a Factual Statement and Reality.

67.

Defendant’s Plumbing alternation that took place on 08/19/2022 and 09/03/2022 further caused an increase of water flow. She has no Rights of doing.

68.

Georgia Stormwater Law made it very clear that Uphill Owner CANNOT do anything to Alter the Natural Flow or Increase Flow onto Downhill Property.

69.

Plaintiff experienced No Prior flooding until Defendant had altered and made changes to Natural flow of water on her site on 08/12-08/14, 08/19/2022 and 09/03/2022.

70.

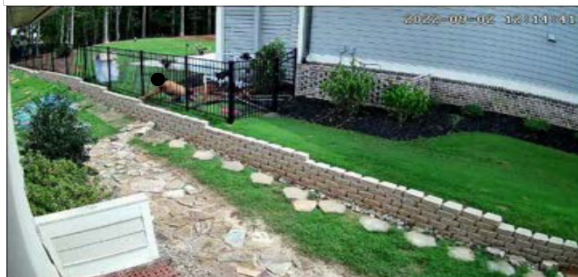
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Defendant attempted to Direct Excess Water is NOT Theory or Assumption. It is a FACT. Defendant attempted to Direct Pool Water is NOT Theory or Assumption. It is a FACT.



Per O. C. G. A. 51-9-7

“The diverting of the stream in whole or in part from its natural and usual flow, or the obstructing thereof so as to impede its course or cause it to overflow or inquire the land through which it flows or any right appurtenant thereto, or the polluting thereof so as to lessen its value to the owner of such land shall constitute a trespass upon the property.”



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71.

These are Real People Performing Prohibited Activities that are not Permitted by Law. As much as Defendant would Argue but it does not change the Fact that All of the above Activities are Unlawful.

72.

“The landowner has no right to divert the water from its usual channel.” Per **O. C. G. A. 44-8-1.**

The owner of the higher tract *“has no right to concentrate and collect water and thus cause it to discharge upon the land of a lower property in greater quantities at a particular locality or in a manner different from that in which the water would be received by the lower property if it simply ran down upon it from the upper property by the law of gravitation.”* *Sumitomo Corp. of America v. Deal*, 256 Ga. App. 703, 704 (2002).

73.

The Above Captured Activities ultimately have caused more runoff onto Plaintiff's land and damaged Plaintiff's Property.

74.

If Defendant had not Altered or made these changes, Plaintiff would have NO Flooding. Plaintiff Had Zero Flooding from 2014 to 2021. Defendant is responsible and liable for their Actions.

75.

Georgia nuisance law provides a remedy to homeowner whose property is damaged by the activities of a neighboring landowner, developer or municipality.

76.

There're words that lie in the Realms of Truth. This for instance, * Earth moves at a steady rate but one cannot see or feel the earth is moving. *Air contains oxygen.

77.

These Factual statements are Concrete Foundation, Common Knowledge and Undeniable.

78.

Defendant's Argument is against Scientific facts and without Merits. It further contradicts with the information published by U.S. government. Defendant Argued, "Water does not flow Downhill onto Plaintiff's Land."

79.

Defendant's Polluted Water (Pool and Lawn Chemical) landed onto Plaintiff's yard is Degrading Plaintiff's Land and Harm the environment in a way. See Exhibit "C"

O. C. G. A. §51-9-7 (2020)

"....., or the polluting thereof so as to lessen its value to the owner of such land shall constitute a trespass upon the property."

80.

The Georgia Hazardous Site Response Act (HSRA) O. C. G. A. 12-8-96.1 (2010)

O. C. G. A. 12-8-96.1 (2010) Liability for cleanup costs; punitive damages; action for recovery of costs and damages; claims for contribution

“(a) Each and every person who have contributed to a release of hazardous waste, a hazardous constituent, or a hazardous substance” are jointly and severally liable for cleanup costs associated with a corrective action.

81.

Plaintiff's Photos and Videos are Proof and Evidence of Illegal Actions committed by Defendant.

82.

Plaintiff's Own Dirt (well protected by Tarp) was completely removed prior to November 2022 with no dirt remaining as of Nov 6, 2022. See Exhibit “A”

83.

Plaintiff's walkway showed no Discoloration or severe contamination as of 03/06/23. See Exhibit “A”

84.

Substantial Damage identified and recorded in June 2023. This is after Defendant's Landscape modification of 03/06/2023 that was completed by **By The Yard LLC**, a Landscape and Pool Company. Plaintiff's stone walkway was completely destroyed by contamination and Soil.

85.

This is the result of Defendant's Pool Runoff and the recent landscape activity. Rain contained no chlorine therefore could not combine with other elements

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to become Chloride. Rain is impossible to produce this type of damages.

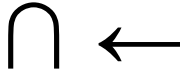
86.

'By The Yard LLC' should be Refrained from having any future involvement or making improvement on Defendant's site relating to this case. Their Actions had caused more damages.



87.

Defendant's Swale is also creating an increase of water flow in part. A lay person is able to see the Swale and make determination without special skills. Half of the Swale retains water in Defendant's yard but the other half of Swale represents "Down Side of the Slope." The down slope measures approximately a little less than 2 feet in height all across the property line as long as there is Berm existed. Here is an example:

Defendant's Site  Plaintiff's Site

88.

The downslope always carry water down onto Plaintiff's land Consistently. This is also an increase of water flow in addition to all other alternations made on site by Defendant.

89.

It is a **FACT** that Defendant has committed activities to **Alter** Water Flow on her site **Deliberately**.

90.

It is a **FACT** that Defendant has Conducted Multiple Construction Activities and **Self Grading** to **Increase** Water Flow **Intentionally**.

91.

The Various Actions of Defendant are contributing to an increase of **250 percent** (Peak Flow Rate)of Water that flows onto Plaintiff's Land. See Exhibit "D"

92.

All the above mentioned are Unnatural Flow of Water and are Artificially Created.

93.

The Law does not Allow Any of these Conducts.

"In the case of a nuisance involving the runoff of surface water, the actual damages are evidenced by a showing the property owners are deprived of the full

use and enjoyment of their property by the increased flow of surface waters or sediments.” Baumann et al. v. Snider et al. 243 Ga. App. 526 (2000).

“The law allows permanent Injunction and damages.” Baumann et al. v. Snider et al. 243 Ga. App. 526 (2000).

94.

The above Activities of Defendant are not Assumptions but Undeniable Facts. They are Proofs to Support Plaintiff’s Motion for Summary Judgement.

95.

The lack of Swale in Defendant’s Back Yard is obvious as shown on photos. See Exhibit “F”

96.

Defendant later concealed the non-compliance by putting mesh to block view from Public. Bushes were planted on 03/06/2023 in hopes to make up the lack of 12 inch of swale that was supposed to be there.

97.

This action is concealment, evidenced by Photos. Not theory of Plaintiff but a “Recapture of what really happened in History.”

98.

Throughout the Entire Litigation, Defendant has been making False Claims, Distortions, Untruthful Statements.

99.

Defendant has **Planned, Engaged, Allowed, and Acknowledged** All of the Prohibited Activities in her Full Capacity.

100.

Plaintiff's alleged complaints are Proven by Facts, Sciences, Photos, Videos, Professional Opinions, etc.

101.

It shall be noted that All affidavits of Jackson County Code Officer and Inspector were based upon inspections prior to Defendant's Second Landscape Modification of 03/06/2023.

102.

When Grass is replaced by Rock around the Pop Up Emitter area, it creates a change in effect on Topography which is causing more run off. As Rock cannot absorb water into the ground, it overflows. In addition, Light Rain, Moderate to Heavy Thunderstorm also make a big difference.

103.

A report from Jah Environmental and Safety LLC is shown as Exhibit "C" to Rebut Defendant's Statements of Facts and Motion for Summary Judgment.

104.

A Report from AMT Engineering is also included here as Exhibit "D" to Rebut Defendant's Statements of Facts and Motion for Summary Judgment.

105.

Mr. Cordle, Building Inspector from Echota Home Inspections Inc, a Certified Building Official was

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retained to Rebut Defendant's Statement of Material Facts and Motion for Summary Judgement.

106.

Mr. Cordle is willing to testify in Court. The Report is forthcoming and will be submitted to Court upon receipt.

107.

The Opinions of these Experts are based upon Sufficient Facts and Data. Reliable Principles and methods are Followed per **O. C. G. A. §24-7-702.**

108.

Defendant is expanding the litigation cost on Plaintiff and Wasting the Court's time.

109.

**SUMMARY OF UNPERMITTED ACTIVITIES
CONDUCTED BY DEFENDANT**

Defendant has committed a series of Unlawful Activities below, Undeniable:

- 1) Unlawful Diversion of Flow on 08/19/2022 per Photo.
- 2) Self Grading in Own back Yard.
- 3) Creation of Pool and Storm Water Concentration on 09/03/2022 per Photo.
- 4) Misrepresentation of document submitted to obtain a swimming pool permit in June 2022; No Plumbing Permit or Full Plumbing Inspection on Swimming Pool.
- 5) Increase Water Flow and Releasing Concentrated Water to Pop Up Emitter 3-5 feet from Property Line.

- 6) Apply Substantial amount of Chemical in lawn and caused pollution to Plaintiff's land.
- 7) Direct Pool Chlorinated water onto Plaintiff's property and to the street.
- 8) Failure to maintain Yard across the Property Line and allowed Weed to grow taller than 3 feet.

LAW AND AUTHORITY

110.

- I) Jackson County Code Ordinance Sec. 1806 – Weeds and Grass.**

“NO grass, underbrush or Weeds shall be permitted or allowed to grow to a height greater than 12 inches above ground level.....” (Ord. No 17-003, §1, 10-2-2017)

“All provisions of this division shall be applied to private property where an accumulation of weeds, trash, junk, filth and other unsanitary or unsafe conditions shall create a public health hazard or a general nuisance of the persons residing in the vicinity

111.

- II) O. C. G. A. §41-2-7 (b), O. C. G. A. 41-2-8–41-2-17**

(b) “All the provisions of this Code section and Code Sections 41-2-8 through 41-2-17 including method and procedure may also be applied to private property where there exists an endangerment to the public health or safety as a result of unsanitary or unsafe conditions to those persons residing or working in the vicinity. ”

O. C. G. A. 41-2-8-41-2-17

“A finding by any governmental health department, health officer or building inspector that such property is a health or safety hazard shall constitute prima facie evidence that such property is in violation of this division and O. C. G. A. 41-2-8-41-2-17.”

112.

III) O. C. G. A. §44-8-1

“Running water belongs to the owner of the land on which it runs. A landowner does not have rights to divert water from its usual channel nor may he so use or adulterate it as to interfere with the enjoyment of it by the next owner.”

113.

IV) O. C. G. A. 51-9-7

“The diverting of the stream in whole or in part from its natural and usual flow, or the obstructing thereof so as to impede its course or cause it to overflow or inquire the land through which it flows or any right appurtenant thereto, or the polluting thereof so as to lessen its value to the owner of such land shall constitute a trespass upon the property.”

114.

V) O. C. G. A. 8-2-20 (9) (B)

“ The mandatory codes are applicable to all construction whether or not they are locally enforced.”

115.

VI) Georgia Stormwater Law

“The owner of the higher tract has no right to concentrate and collect water and thus cause it to discharge upon the land of a lower property in greater quantities at a particular locality or in a manner different from that in which the water would be received by the lower property if it simply ran down upon it from the upper property by the law of gravitation.” Sumitomo Corp. of America v. Deal, 256 Ga. App. 703, 704 (2002).

116.

VII) Misrepresentation of Document in Obtaining a Swimming Pool Permit

“In an action sounding in tort for damages resulting from fraudulent misrepresentation, the gist of the action is the deceit intended.” Central Chevrolet, Inc. v. Campbell, 129 Ga. App. 30, 198 S. E. 2d 362 (1973).

“A material misrepresentation, constituting actual fraud, may give rise to an independent action in tort for deceit, to recover for damage thus occasioned.” O. C. G. A. §51-6-2.

117.

VIII) Violation of Georgia Erosion and Sedimentation Act of 1975

“Adequate provisions must be provided to minimize damage from surface water to the cut face of excavations or the sloping surfaces of fills”

“Cuts and fills may not endanger adjoining property”

“Upon a showing by the director that such person has engaged in or is about to engage in any such violative act or practice, a permanent or temporary injunction, restraining order, or other order shall be granted without the necessity of showing the lack of an adequate remedy at law.”

118.

IX) Jackson County Code Ordinance Unified Development Article 8, Sec 827. – Regulation Responsibilities of permittees.

(b) “ For each site on which land-disturbing activity occurs, each entity or person acting as either a primary, secondary, or tertiary permittee, as defined in the state general permit, shall have as at least one person who is in responsible charge of erosion and sedimentation control activities on behalf of said entity or person and who meets the applicable education or training certification requirements developed by the state soil and water conservation commission present on site whenever land-disturbing activities are conducted on that site.”

119.

X) O. C. G. A. 12-7-7 (a) states *“No land-disturbing activities shall be conducted in this state, except those land-disturbing activities provided for in Code Section 12-7-17, without the operator first securing a permit from a local issuing authority.”*

XI) O. C. G. A. 12-7-6 (b) *“The rules and regulations, ordinances, or resolutions adopted pursuant to this chapter for the purpose of governing land-disturbing activities shall require, as a minimum, protections at*

least as stringent as the state general permit; and best management practices, including sound conservation and engineering practices to prevent and minimize erosion and resultant sedimentation, which are consistent with, no less stringent than, those practices contained in the Manual for Erosion and Sediment Control in Georgia published by the State Soil and Water Conservation Commission.....”

120.

XII) Georgia Constitution, Art. III, sec. VI, para. IV

(a) “Laws of a general nature shall have uniform operation throughout this state and no local or special law shall be enacted in any case for which provision has been made by an existing general law, except that the General Assembly may by general law authorize local governments by local ordinance or resolution to exercise police powers which do not conflict with general laws.”

121.

Georgia State Minimum Standard Swimming Pool and Spa Code. Adopted with Amendments (ISPSC 2012) Section 102 Applicability. 102.1 General

“Where there is a conflict between a general requirement and a specific requirement, the specific requirement shall govern. Where, in any specific case, different sections of this code specify different materials, methods of construction or other requirements, the most restrictive shall govern.”

122.

**Georgia State Minimum Standard Swimming
Pool and Spa Code with Georgia State Amend-
ments 2020**

(A) 300. 1. Scope *“The provisions of this code shall apply to the construction, alteration, movement, renovation, replacement, repair and maintenance of aquatic recreation facilities, pools and spas. The pools and spas covered by this code are either permanent or temporary and shall be only those that are designed and manufactured to be connected to a circulation system and that are intended for swimming, bathing or wading.”*

ARGUMENT

123.

Defendant’s husband is not a Qualified Individual to complete grading in his own back yard. There was Inadequate best management practices (BMP), **No** Proper and Sound Engineering practices to prevent or minimize erosion and resultant sedimentation. This is a **Fact**, not Assumption.

124.

GESA requires a Certified individual to be on site while land disturbing activity is taking place. This is the **Guideline**.

125.

Plaintiff’s land has Ongoing Erosion. This is a **Fact**.

126.

If the Court Grant Defendant’s Motion for Summary Judgement, the following Issues will remain **Open** and Non- Compliance still in effect.

- 1) Defendant's Swale lacking 12 inch of Height as required by Site Plan all across the property line. Without the required Height, Water (Unnatural) Flows onto Plaintiff's Land Continuously causing Flooding and Erosion Issues.
- 2) Defendant's Swimming Pool does not meet the Minimum Standard Requirement set forth by International Swimming Pool and Spa Code as required by **O. C. G. A. 8-2-20 (9) (B)**.

<https://www.dca.ga.gov/local-government-assistance/construction-codes-industrialized-buildings/construction-codes>

The Code was designed to establish the Rights and Privileges of the Design Professional, Contractors and Property Owner.

- 3) Unlawful Diversion of Flows on 08/19/2022. This Activity is Prohibited.
- 4) Unpermitted Concentration of Pool and Storm water into a Central Location on 09/03/2023. This is allowing Water to Overflow onto Plaintiff's Yard during Rain Events.
- 5) Continuing Trespass and Nuisances when Defendant has No permission to Enter Plaintiff's Land.
- 6) Defendant's Site has No Record of **Notice of Termination**, a State and Federal Requirement.
- 7) Pool Chlorinated Water entering State Water is a Violation of Georgia Clean Water Act and Contaminating Plaintiff's Land Constitutes to Trespassing Plaintiff's Property.

All of the Above are Creating Erosion, Pollution, Run-off and Sentiments to Plaintiff's Lot and Property. These are Not Assumptions but all happening in Real Life. If Not Stopped, **Irreparable Damages** Continues.

128.

Certificate of Occupancy issued by Jackson County does not mean the listed above are not Causing Problems into Plaintiff's Lot.

129.

Local Governments are required to incorporate environmental planning criteria into their comprehensive land use plan per **O. C. G. A. §12-2-8** and Ga. Comp. R. & Regs. r. 110-12-1-.07

130.

O. C. G. A. §12-16-2 (2022) "The General Assembly finds that:

1. *The protection and preservation of Georgia's diverse environment is necessary for the maintenance of the public health and welfare and the continued viability of the economy of the state and is a matter of the highest public priority."*

131.

Georgia Constitution Article IX. Section II. Paragraph III

(c) *"Nothing contained within this Paragraph shall operate to prohibit the General Assembly from enacting general laws relative to the subject matters listed in subparagraph (a) of this Paragraph or to prohibit the General Assembly by general law from regulating,*

restricting, or limiting the exercise of the powers listed therein.”

132.

Georgia Constitution Article IX. Section II. Paragraph IV.

Planning and zoning. *”The governing authority of each county and of each municipality may adopt plans and may exercise the power of zoning. This authorization shall not prohibit the General Assembly from enacting general laws establishing procedures for the exercise of such power.”*

133.

Purpose of **Notice of Termination NOT** is: **1)** To ensure All Construction Activities at a site have been completed according to the Approved plans **2)** Meet Environmental Regulations. **3)** Inform the authorities the site is ready for Occupancy.

134.

Both Georgia Soil Water Conservation Commission GSWCC and Environmental Protection Division require the filing of NOT for construction activities that involves Land Disturbance Activities including Stormwater Runoff Controls.

135.

Environmental Protection Division (EPD) is responsible for enforcing State Environmental Laws which includes Land Disturbing Activities.

136.

O. C. G. A. 12-7-7 clearly requires a Land Disturbing Permit. This Statute thereby Preempting Jackson County Local Ordinance that does not require such a permit.

- a. *“No land-disturbing activities shall be conducted in this state, except those land-disturbing activities provided for in Code Section 12-7-17, without the operator first securing a permit from a local issuing authority or providing notice of intent to the division as required by this Code section.”*

137.

- a. Constitutional Rule of Uniformity

“Laws of a general nature shall have uniform operation throughout this state and no local or special law shall be enacted in any case for which provision has been made by an existing general law except that the General Assembly may by general law authorize local governments by local ordinance or resolution to exercise police powers which do not conflict with general laws.” Georgia Constitution. of 1983, art. III, sec. VI, para. IV(a)

138.

State Legislatures has Passed Preemption Laws intend to curb the autonomy of local Municipal. Uniformity clause follows Preemption Rule to preclude local government ordinance when a general law exists.

139.

Georgia State Environmental Laws

i) Article 2 of Chapter 5 of this title, the “Georgia Water Quality Control Act”

ii) Chapter 7 of this title “Erosion and Sedimentation Act of 1975”

iii) International Swimming Pool and Spa Code

These are Existing General Laws

140.

Jackson County Local Ordinance is Overruled by the Uniformity Clause since there is a general Law on the subject matter.

141.

The Higher Authority displaces the lower authority of Law when there is a Conflict between Local Ordinance and Existing General Law Under **Article III, Section VI, Paragraph IV(a)**.

142.

State Preemption of Local Laws

“ The doctrine of state preemption is based on the concept that statutes of the state legislature control over county ordinances. Generally preemption is based on legislative intent Under federal law, for example, Congress may express an intent to preempt state law by expressly defining the area of preemption, extensively regulating an area so that preemption may be inferred, or enacting a law that directly conflicts with state law. Similarly, state law may preempt local law expressly, by implication, or by conflict.”

Franklin County v. Fieldale Farms Corp., 270 Ga. 272, 273-74 (Ga. 1998)

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143.

In Essence, Plaintiff's Primary Complaints and Concerns are Intended for Safety Measures, Prevention, Control, Protection, Promote Awareness.

144.

Non-compliance results in Injuries, Degradation of Habitat, Catastrophic Damages and a Loss of Sense. It is extremely important to Enhance the Culture of safety to reduce the risk of accidents and Injuries; Prevent any Further Damages and Correct the Current Deficiency.

CONCLUSION

145.

Plaintiff's Complaints are not Assumptions. Photos and Videos Reveal the **Truth** and tells the Past History, "A Recapture of What Really Happened."

146.

Defendant has No Intention to follow Codes, Rules, Regulations; No Intention to Take Corrective Action; No Remorse or showed no signs of Sympathy to Plaintiff's Property damages. Threat or Intimidation made to Plaintiff so to Dismiss case. No Regret for Wrong Doing.

147.

'No Trespass' 'No Nuisance' but Evidence showed Trespass and Nuisance **Existed**, still Continuing. Convenience is more of Importance to them, not **Safety and Compliance**.

148.

Defendant's Activities and Manner exhibit Harmful, Belligerent and Averse to others.

149.

Defendant had Acted " Conscious Indifference to Consequences."

150.

She and her family will continue to Create More Harms to Plaintiff's property if Defendant's Motion for Summary Judgment is Granted.

151.

Lack of Caring or Concerns about the Trespass and Nuisance brought to Plaintiff's Land. Defendant takes this matter lightly and pay no **Respect** to Plaintiff's Property, the Environment and Laws.

152.

Defendant's Pollution Related Actions are vitally Impacting the Earth, Undermining Ecosystems, and Destroying Natural Resources.

153.

These Misconducts and Activities should be Prohibited and Disallowed.

154.

Plaintiff Prays this Honorable Court to **Enjoin** Defendant's Interference of the Continuing **Nuisance** and **Trespass** upon the Land of Plaintiff.

155.

Plaintiff's Complaints are well supported by Codes, Rules, Regulations, Applicable Laws, Data, Public

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Records, Professional Engineers/Opinions, Inspection, Photos, Videos, Witness.

156.

For the Forgoing Reasons, Plaintiff **Prays** this Court to **Deny** Defendant's Motion for Summary Judgement and **Grant Plaintiff's Motion for Summary Judgement.**

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IN THE SUPERIOR COURT OF JACKSON
COUNTY
STATE OF GEORGIA

Kevin Yeung	)	
	)	
Plaintiff	)	
	)	Civil Action
vs.	)	
	)	File No.
Shannon Humphrey	)	<u>22CV0988</u>
	)	
Defendant,	)	

**UNIFORM RULE 5.2 CERTIFICATE OF
SERVICE**

I Certify that on this day I serve a copy of the foregoing

***Plaintiff's Opposition to Defendant's Statement
of Material Facts to Which There Exists No Genuine
Issues and Statement of Theory Of Discovery
and Motion for Summary Judgement***

Upon party of record via Statutory Electronic Service
thru PeachCourt System to:

MAHAFFEY PICKENS TUCKER, LLP

Brian T. Easley

1550 North Brown Road

Suite 125

Lawrenceville, Georgia 30043

beasley@mptlawfirm.com

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WEINSTEIN & BLACK, LLC
Dave McDonald
167 Lee Street
Jefferson, GA 30549
Dave@WBlegal.net

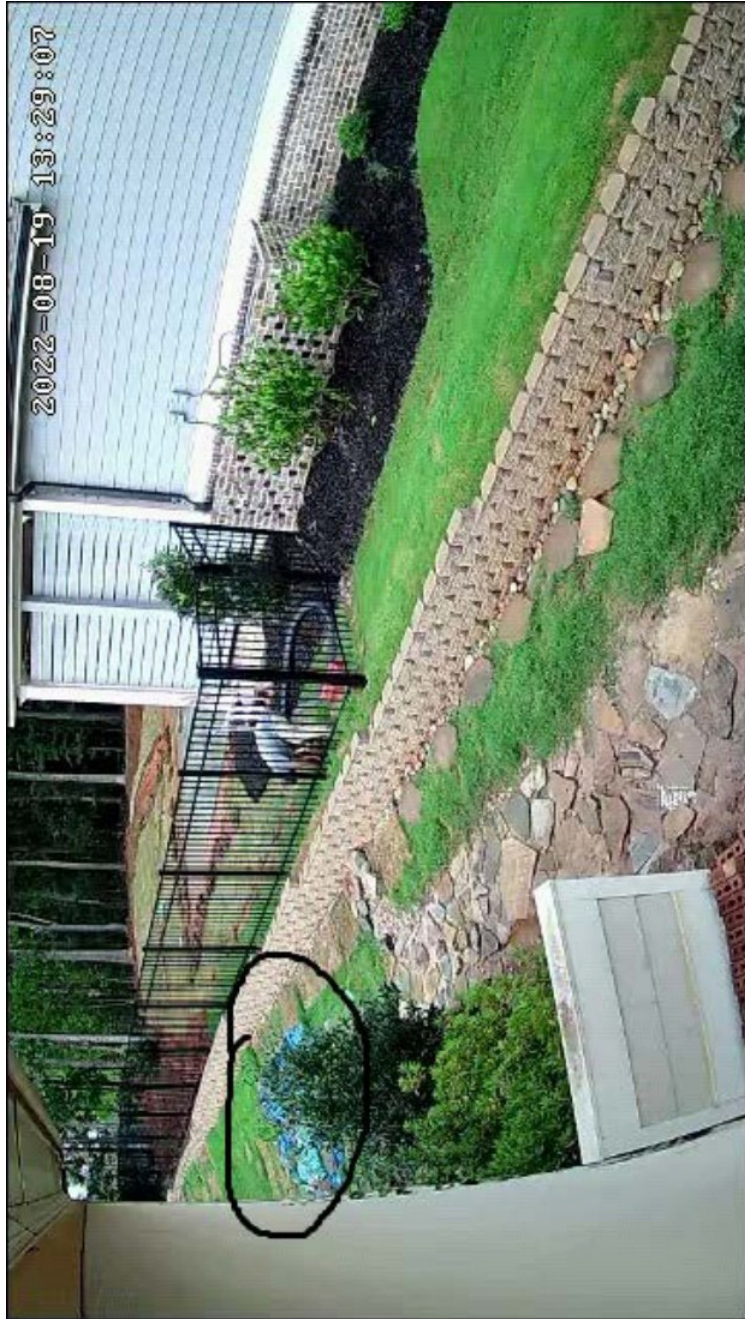
This __15th__ day of __June, 2024

/s/ Kevin Yeung
Kevin Yeung
P O BOX 911
BRASELTON,GA 30517

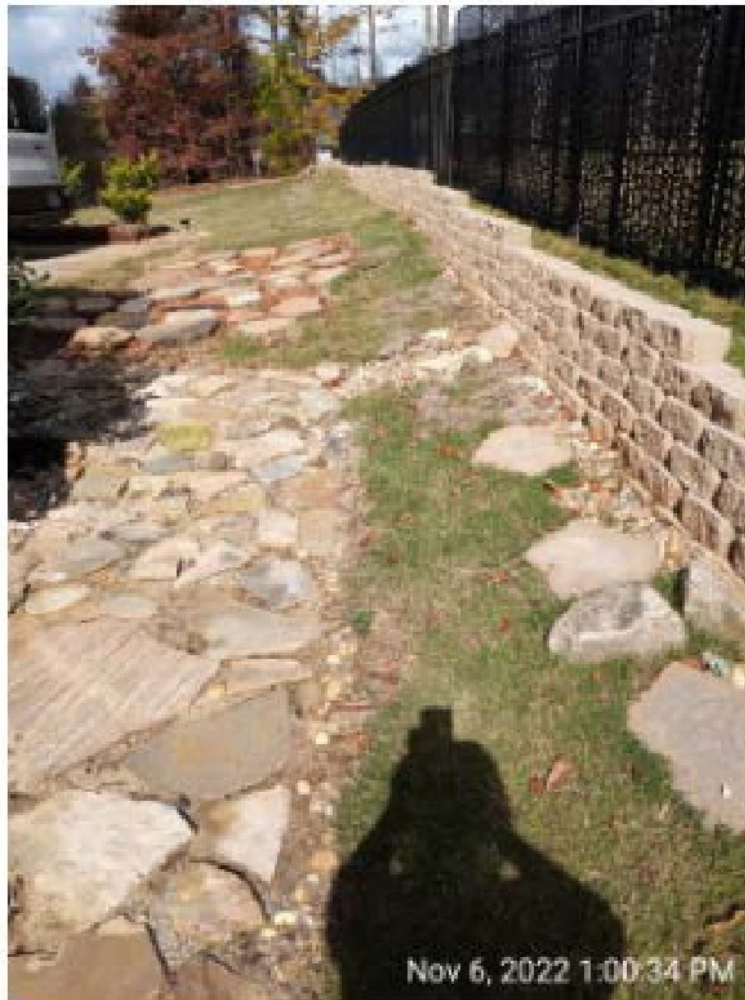
App-415

Exhibit “A”
Plaintiff’s Dirt

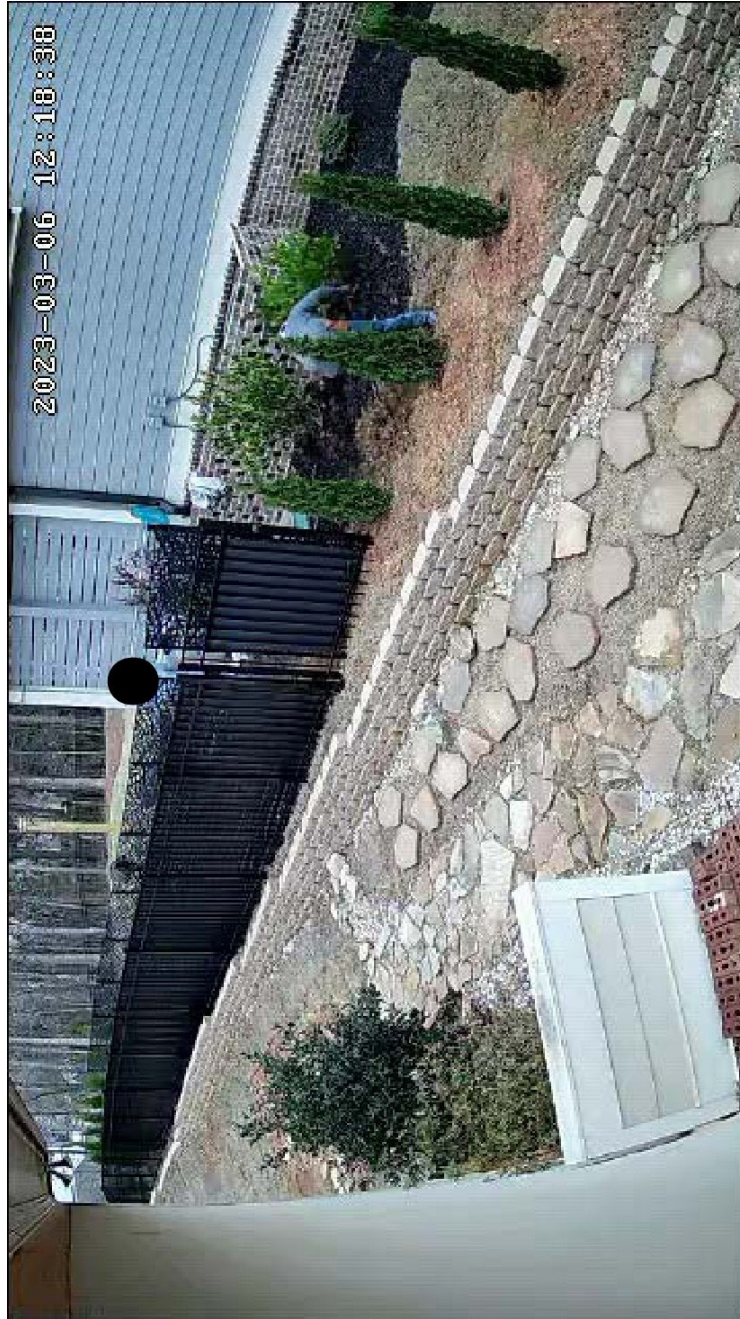
App-416



App-417



App-418



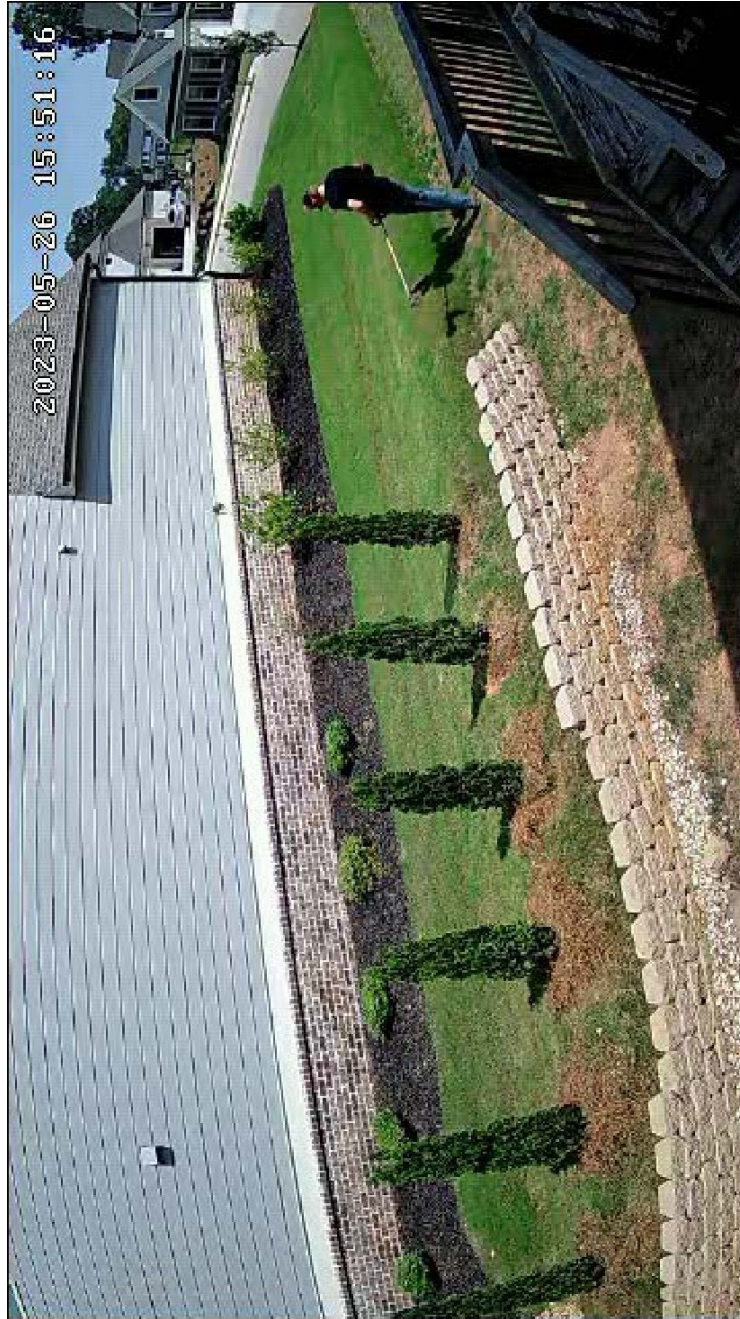
App-419

Exhibit “B”

Continuous Trespass and Violation



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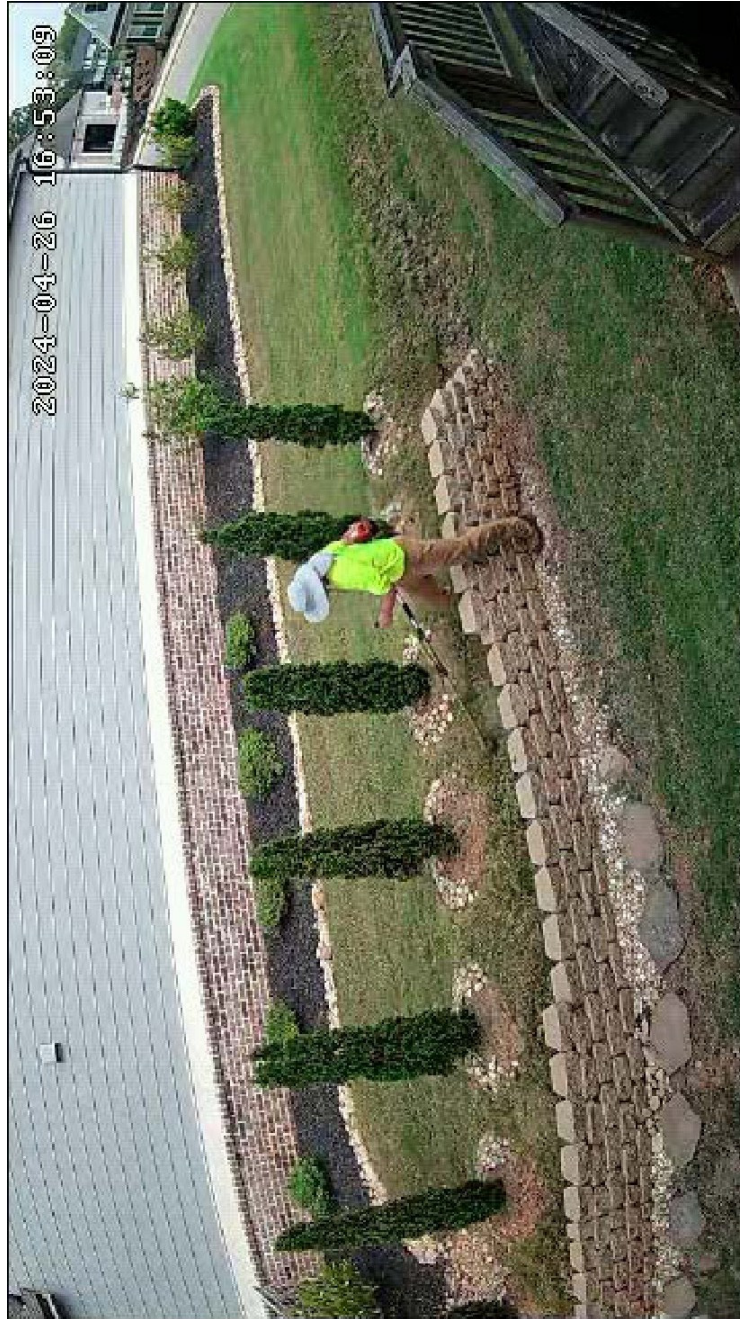
App-422



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App-424



App-425



App-426



App-427

Exhibit “C”
Environmental Report

App-428



Jah Environmental Safety & Health, LLC

Date: March 15, 2024

Mr. and Mrs. Yeung
2904 Muscadine Way
Jefferson, GA 30549
Phone: [REDACTED]

Re: Environmental Assessment 2904 Muscadine Way,
Jefferson, GA 30549

Hello Mr. & Mrs. Yeung,

On Wednesday, February 28, 2024, per your request, a representative from Jah Environmental Safety & Health, LLC (JESH) visited the residence located at 2904 Muscadine Way Jefferson, GA 30549 to conduct a Visual Environmental Assessment.

**Environmental Report: Impact of High pH
Runoff Water on Vegetation**

Introduction:

This report addresses concerns regarding the runoff water from a neighboring property, which has been observed to have a high pH level, likely due to chloride contamination. This runoff is causing damage (erosion) to the vegetation on the lower-level property located at 2904 Muscadine Way. The purpose of this

report is to assess the environmental impact of the high pH runoff water and propose mitigation measures to alleviate its effects on vegetation.

Matrix	Results (Extractable Chloride)	Date
Soil	40.48 lbs/acre	07/17/23
Soil	<4.15 lbs/acre	07/17/23
Soil	5.747 lbs/acre	08/04/23
Soil	10.56 lbs/acre	11/30/23
Soil	8.631 lbs/acre	03/13/24

Laboratory Results

Observations:

High pH Levels: Visual observation showed extensive damage to the vegetation and greenery throughout the property located at 2904 Muscadine Way. The erosion demonstrates a distinct pattern that originates from the high point of the property (property line between the two properties). Previous laboratory analysis confirmed the presence of chloride contamination in the soil and revealed elevated pH levels.

Vegetation Damage: Vegetation on the lower level of the two neighboring properties (2904 Muscadine Way) has shown signs of stress and damage (erosion), likely attributed to the high pH runoff water.

Environmental Impact Assessment:

1. **Vegetation Damage:** The high pH levels of the runoff water are detrimental to plant life, causing stress, discoloration, and potential long-term damage to vegetation. Vegetation Damage: Vegetation on the lower level of the neighboring property has shown signs of stress and damage, likely attributed to the high pH runoff water. The high pH levels of the runoff water are detrimental to plant life, causing stress, discoloration, and potential long-term damage to vegetation.

2. **Soil Health:** Continuous exposure to high-pH water can alter the soil pH, affecting nutrient availability and soil structure, and further impacting plant health and ecosystem stability.

3. **Water Quality:** Runoff containing chloride can negatively impact local water bodies, affecting aquatic life and overall water quality.

Mitigation Measures:

1. **Diversion Systems:** Implementing diversion channels or swales can redirect runoff water away from vulnerable areas, preventing direct contact with vegetation.

2. **Buffer Zones:** Establishing vegetated buffer zones along the boundary of properties can help absorb and filter runoff water, reducing its harmful effects.

3. **pH Neutralization:** Installing pH adjustment systems, such as limestone beds or chemical dosing,

can neutralize the high pH of the runoff water before it reaches sensitive areas.

4. Source Control: Identifying and addressing the source of chloride contamination, such as improper storage or disposal of chemicals, is essential to prevent further runoff pollution.

5. Education and Communication: Promoting awareness among neighbors about the importance of proper runoff management and the potential consequences of chemical contamination can encourage responsible practices.

Conclusion:

The runoff water containing high pH levels, likely due to chloride contamination, poses a significant threat to vegetation and ecosystem health. An average chloride concentration in soil typically ranges from 0 to 200 parts per million (ppm), or approximately 0 to 0.04 lbs./acre depending on location, soil type, and land use. Therefore, several readings are significantly higher than typical background levels. Effects of such elevated levels in soil may include:

1. **Impact on Plant Health:** Excessive chloride can disrupt the osmotic balance in plant cells, leading to wilting, leaf burn, and overall decreased plant health. Some plants may exhibit chlorosis (yellowing) or necrosis (death of plant tissue).
2. **Soil Structure Degradation:** High chloride levels can contribute to soil compaction and reduced soil porosity, impeding water infiltration and root growth. This degradation in soil

structure can affect the overall productivity and sustainability of the land. 3. Toxicity to Soil Microorganisms: Soil microorganisms crucial for nutrient cycling and soil health can be negatively affected by high chloride concentrations, leading to a decline in soil fertility and microbial activity. 4. Impact on Water Quality: Chloride can leach into groundwater and surface water bodies, affecting aquatic ecosystems and drinking water quality. High chloride levels in water bodies can be toxic to aquatic organisms and can also contribute to the corrosion of infrastructure. 5. Impact on Human Health: In areas where groundwater is used for drinking water supply, high chloride levels can pose health risks to humans, particularly those with pre-existing health conditions such as hypertension or cardiovascular disease. Given these potential impacts, it's essential to address the source of chloride contamination and implement remediation measures to restore soil and water quality to safe levels. This may involve identifying and controlling the sources of chloride, implementing best management practices for runoff and irrigation, and possibly remediation techniques such as soil flushing or phytoremediation. Implementing appropriate mitigation measures is crucial to minimize environmental damage and maintain the integrity of the local ecosystem. Collaboration among neighbors and stakeholders is essential to address this issue effectively and sustainably.

Recommendation:

We recommend immediate action to implement mitigation measures and establish communication channels among neighbors to address the issue collectively

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and prevent further environmental degradation. Consulting with environmental experts and regulatory agencies can provide guidance on appropriate actions to mitigate the effects of high chloride levels. For further inquiries or assistance in implementing mitigation measures, please feel free to contact our environmental experts.

JESH Review Link

Jah Environmental Safety & Health, LLC would love your feedback. Please post a review to our profile using the link below:
<https://g.page/r/CVbeUeJwI7CnEBE/review>

Thank you,

Brent E. Wadlington, BS, CIEC, IH



Jah Environmental Safety & Health, LLC

300 Peachtree St. NE, Suite CS2, PMB 1148

Atlanta, GA 30303

Phone: 470-615-MOLD (6653)

Mail: brentw@jesh.llc Web: www.jesh.llc

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Exhibit “D”

AMT Engineering Report

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May 21, 2024

Ms. May Auyeung
2904 Muscadine Way
Jefferson, GA 30549

Email: [REDACTED]

RE: Stormwater Run-off Inspection – 2904 Muscadine Way, Jefferson, Georgia
Armentrout Matheny Thurmond, P.C.,
Project No. 24048

Dear Ms. Auyeung,

On February 20, 2024, a representative from Armentrout Matheny Thurmond, P.C. (AMT) visited your property at the above address to review the current conditions. The property is a corner lot and receives stormwater from an adjacent lot, 2478 Traditions Way, Jefferson Georgia. After purchasing the house in July 2021, the owner, Shannon Humphrey (based upon public tax records), constructed a pool and graded the rear yard. This resulted in a change of direction of stormwater such that water flows onto your property. The pool pump system discharges to a swale on the 2478 Traditions Way property which runs parallel to the common property line. The pump discharges through a pop-up valve that appears to be positioned such that water flow is not directional. These pop-up valves discharge water radially so that the water is thrown in a circle. The area does not

appear low enough to contain that spray discharge. Furthermore, the ditch “runs out” at the front of the house and it appears stormwater will flow onto your yard on Traditions Way.

I reviewed the segmental block wall on your side of the property line. You placed the wall to direct flow parallel to the property line that comes from 2478 Traditions Way. This is partially successful, but water from 2478 Traditions Way continues through the segmental block and runs across your property towards Muscadine Way.

As you told me, all these issues with run-off commenced when the pool was constructed sometime in 2023. The run-off increased across the property line and continues to erode the slope at your property line. Your effort to redirect storm flow was only partially successful and the block wall creates a shady area behind it such that grass will not grow on the slope.

My analysis shows that the peak flow rate onto your property increased over 250 percent after the pool was constructed. My analysis is attached. I also analyzed a triangular ditch similar to that observed at 2478 Traditions Way. The existing ditch may have a parabolic cross-section. The assumptions regarding ditch size and slope should be considered an example rather than the existing condition. If the selected ditch cross-section is accurate, then the ditch may be adequate. I did not enter the neighboring property to verify ditch geometry. I would need permission to measure the current ditch on 2478 Traditions Way to correctly model the storm flow in the ditch.

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Should you have any questions, please do not hesitate to contact this office.

Sincerely,

Armentrout Matheny Thurmond, P.C.

/s/ Michael B. Thurmond

Michael B. Thurmond, P.E.

President



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2478 Traditions Way

Roof Area Draining to Rear 1,275 sqft
Pool Area Draining Offsite 1,236 sqft
Area of Grass 507 sqft
Total = 3,018 sqft

Peak Flow Analysis

25 Yr/50 Yr/100 Yr NOAA Maysville Station 09-5633
(Rainfall Station)

Tc = 5 Min LAT 34.2647 / LONG -83.5581

For 5 Min Tc

RETURN PERIOD	RAINFALL INTENSITY (INCHES/HOUR)
25 Yr	9.17
50 Yr	10.2
100 Yr	11.2

C-VALUES

0.25 Wooded Lot

0.95 Residential Lot

SITE AREA

A = 3.018/43560 = 0.0692 AC

Q = CiA

For Conditions Existing Now

25 Yr 0.95 (9.17)(.069) = 0.60 cfs

50 Yr 0.95 (10.2)(.069) = 0.67 cfs

100 Yr 0.95 (11.2)(.069) = 0.73 cfs

App-439

For Conditions Prior to Construction

25 Yr $0.25 (9.17)(.069) = 0.16 \text{ cfs}$
 50 Yr $0.25 (10.2)(.069) = 0.18 \text{ cfs}$
 100 Yr $0.25 (11.2)(.069) = 0.19 \text{ cfs}$

RETURN PERIOD	POST - PRE (cfs)	% INCREASE
25 Yr	0.44	231
50 Yr	0.49	272
100 Yr	0.54	284

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Example

Example
Ditch
At 1% Slope

$$Z = \frac{2}{1} = 2$$

$$\text{X-Section } Zd^2 = 2(1)^2 = 2 \text{ sf}$$

$$\text{Wetted Perimeter } 2d\sqrt{Z^2 + 1} = 2(1)\sqrt{2^2 + 1} = 2\sqrt{5} = 4.47 \text{ ft}$$

Cut Bermuda
2-1/2" Tall

Retardance Class D

$n = 0.04$

From Figure 9.4 Soil and Water Conservation Engineering (Page 235)

For $n = 0.04$, then $vR = 3.5$

$$v = 1.49/n R^{2/3} S^{-1/2}$$

Assumes Ditch Slope is 1 Percent = 0.01 ft/ft

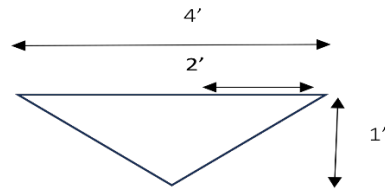
$$R = a/p = 2 \text{ sf}/4.47 \text{ ft} = 0.447 \text{ ft}$$

$$V = (1.49/.04) (.447)^{-2/3} (0.01)^{-1/2} = 2.17 \text{ ft/sec}$$

$$Q = VA \quad 0.54 \text{ cfs} = 2.17 \text{ ft/sec (A)}$$

$$A = 0.54/2.17 = 0.248 \text{ ft}^2$$

Water remains in ditch since the triangular section is 4 ft²



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Exhibit “E”

Mr. Cordle Report

*Report is forthcoming (No Report)

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Exhibit “F”

No Swale

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Exhibit “G”

Other Counties Swimming Pool Guidelines &
Pool Discharge Published by EPA

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City of Marietta

**Swimming Pool
Construction and
Permitting Guidelines**

06.01.2022

INTRODUCTION

- The intent of this document is to reasonably inform our citizens, designers, developers, and contractors of the codes and laws related to both inground and above ground pool construction in effect within the City and to communicate the rules, regulations, policies, and procedures for safe and code compliant pool construction.

CURRENT DESIGN AND CONSTRUCTION CODES

Residential

- International Residential Code, 2018 Edition, with Georgia Amendments (2020)
- International Plumbing Code, 2018 Edition, with Georgia Amendments (2020), (2022)
- International Mechanical Code, 2018 Edition, with Georgia Amendments (2020)
- International Fuel Gas Code, 2018 Edition, with Georgia Amendments (2020), (2022)
- National Electrical Code, 2020 Edition, with Georgia Amendments (2021)
- International Energy Conservation Code, 2015 Edition, with Georgia Amendments (2020), (2022)
- International Swimming Pool and Spa Code, 2018 Edition, with Georgia Amendments (2020)
- Rules of the Department of Public Health for On-site Sewage Management Systems (511-3-1)

Commercial

- International Building Code, 2018 Edition, with Georgia Amendments (2020), (2022)
- International Plumbing Code, 2018 Edition, with Georgia Amendments (2020), (2022)
- International Mechanical Code, 2018 Edition, with Georgia Amendments (2020)
- International Fuel Gas Code, 2018 Edition, with Georgia Amendments (2020), (2022)
- National Electrical Code, 2020 Edition, with Georgia Amendments (2021)
- International Energy Conservation Code, 2015 Edition, with Georgia Amendments (2020), (2022)
- International Swimming Pool and Spa Code, 2018 Edition, with Georgia Amendments (2020)
- Cobb County Board of Health Rules and Regulations for Swimming Pools (2018)

GENERAL GUIDELINES

- Most all City residential districts allow swimming pools, however private pools located in subdivisions are normally subject to restrictions imposed by covenants or subdivision regulatory committees.
- Approval by an HOA or Cobb County Environmental Health (CCEH) does not authorize proceeding with pool construction without first having a City of Marietta issued swimming pool building permit on site.
- All pools governed by HOAs will require CCEH approval prior to submittal for permit.

- Pools and other accessory structures, such as cabanas, bath houses, equipment shelters, etc., must maintain a ten-foot (10') setback from side or rear property lines. In cases of corner lots, the accessory structure may not be closer to any right-of-way than the principal building.

GENERAL GUIDELINES (cont.)

- All accessory structures such as cabanas, bath houses, etc. must be permitted separately.
- Chemically treated pool water cannot discharge into any street, storm sewer, drainage area, creek, lake or other waterway, or adjoining property, by authority of the City and State EPD regulations.
- If associated dwelling is on a septic system, approval of plans from CCEH is required before submitting for City of Marietta permit.
- CCEH must inspect concealed pool plumbing prior to covering and approve the finished construction of the pool and bathhouse before a swimming pool operational permit can be issued by the health department.
- No pool or associated structure shall be located upon any easement, such as a drainage easement or sewer easement.
- All retaining walls not attached to pool foundation walls will require separate permits. Any wall over 4 feet, as measured from the base of the footing, will require engineered plans.
- Any pool directly connected to a potable water supply will require backflow protection per International Plumbing Code Section 608.

PERMIT SUBMITTAL REQUIREMENTS

- Copy of Contractor driver's license
- Copy of Contractor business license
- Copy of Pool Construction details
- Site plan:
 1. All commercial applications will require a site plan from a Design Professional (Professional Engineer, Registered Land Surveyor, or Landscape Architect)
 2. Residential applications may require a Design Professional at the discretion of the Building Official or his designee.
- All site plans must include, at a minimum, the following:
 1. North arrow
 2. Scale (between 1"=50' to 1"=10' based on lot size)
 3. Address of property
 4. Name of current owner
 5. Property Lines
 6. Building setback lines
 7. Easements
 8. Existing structures and proposed pool and appurtenances
 9. FIRM panel and in/out floodplain statement
 10. Location of any streams and associated buffers and/or zoning setbacks
 11. Limits of disturbance
 12. Erosion and sediment control BMPs.
 13. Spot elevations

14. Water line and sanitary sewer locations
(If pool is connected to sanitary sewer, location must be noted on plans)

NOTE: Electrical permit associated with pool permit required to be issued prior to issuance of pool permit.

CONSTRUCTION GUIDELINES

- Contractor is responsible for installing and maintaining safety barriers to pool excavation per OSHA Standard 1926.652
- Copies of all permits and stamped, approved plans are required onsite.
- A Pool Steel inspection is required for all in-ground pools using reinforcing steel construction.
- Pools utilizing liners may require both Footing and Foundation Wall inspections.
- Concealed piping is required to be inspected prior to covering. (ISPSC 302.4)
- Tests on water piping systems shall use water (25psi) and not compressed air. (ISPSC 302.7)
- The *Plumbing Underslab* inspection is used for scheduling *piping* inspection.
- The Pool Bonding inspection is required to verify pool perimeter, reinforcement steel (where applicable), lighting, ladders, and all other metal equipment are connected together with approved pressure connectors into a common bonding grid with a minimum #8 solid copper conductor. (NFPA 70 Article 680.26).
- Contractor may schedule Pool Steel, Pool Underslab and Pool Bonding on same day.

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- All gas line installations will require permitting by licensed professional and require inspections for pressure (15 psi) and depth (18" min.) before covering.
- All buried electrical conductors to be inspected prior to covering. (NEC T300.5)
- Permanent Pool Fence and associated barriers must be installed, inspected, and approved prior to filling pool. (ISPSC Section 305)
- Pool Barrier requirements (ISPSC Section 305) can be found using the following link:
<https://up.codes/viewer/georgia/ispsc-2018/chapter/3/general-compliance#305>
- Heated pools are required to have vapor retardant cover unless heated by solar or heat pump.
- Pool Final inspection requires pool to be completely full of water, all associated equipment operational, all appurtenances such as steps and ladders, etc. installed, and all grading, landscaping, and other associated sitework completed. *Grading, Zoning, Plumbing, and Electrical Final inspections must be approved prior to Pool Final approval.*

INSPECTION SEQUENCING

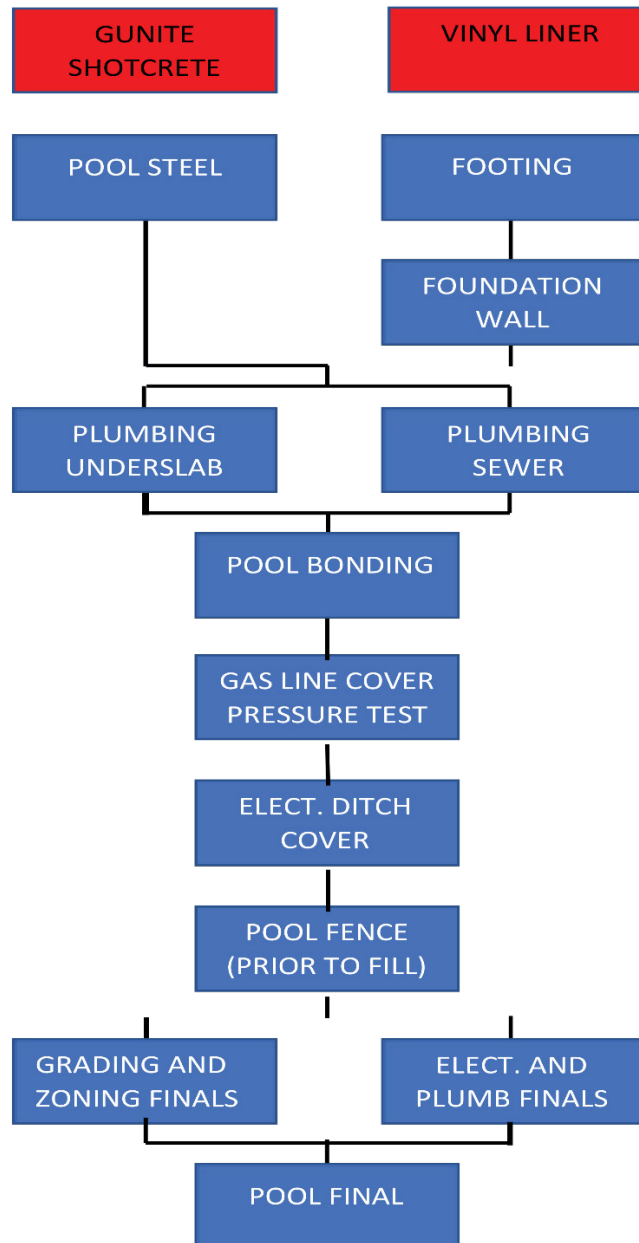
- For gunite/shotcrete pools, pool steel will be first inspection followed by Plumbing Underslab, and Pool Bonding. Contractor may schedule all three for same day if ready.
- Vinyl liner pools may require both Footing and Foundation Wall inspections (where applicable) followed by Plumbing Underslab and Pool Bonding. If pool is connected to

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either sanitary sewer or septic system, schedule Plumb Sewer inspection before covering.

- Gas lines must be permitted by either a licensed plumbing or mechanical contractor and be inspected under test pressure (15psi) using Gas Test inspection before covering.
- All underground electrical conductors shall be inspected using Electric Ditch cover inspection.
- Pool Fence inspection shall be scheduled prior to filling pool when all required barriers and alarms are in place.
- Grading, Zoning, Plumbing, and Electric Final inspections can be scheduled on same day if desired.
- Pool Final inspection can be scheduled when all previous inspections have been approved, and vapor barrier (if applicable) for heated pools is in place.

INSPECTION SEQUENCING



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SWIMMING POOL PERMIT APPLICATION

**Required Inspections and Zoning Setback
Information on Page 2**

**TOWN OF BRASELTON - PLANNING AND
DEVELOPMENT DEPARTMENT**

4986 Highway 53, Braselton, Georgia. 30517

(706) 654-3915 phone (706) 654-9237 fax

kdkeller@braselton.net e-mail

Date: _____
Owner: _____ Gen. Contractor: _____
City/Zip: _____ Address: _____
Address: _____ City/Zip: _____
Phone: _____ Phone: _____
E-Mail: _____

County (Please Circle County):

Jackson Barrow Gwinnett Hall

Site Address: _____

Lot # (if applicable): _____

Subdivision Name (if applicable): _____

Electrician (Sub-Contractor Certification Required) _____

**Pool Bonding, Electrical Wiring and Components,
Service Upgrades*

Plumber (if applicable) (Sub-Contractor Certification
Required) _____

**Plumbing permit required only for connection to
plumbing system or **if drains will be installed.***

Mechanical (*Heating/Gas Line Installation) (Sub-
Contractor Certification Required) _____

Swimming Pools, Spas, and associated improvements must adhere to the standards set forth in the 2018 International Swimming Pool and Spa Code w/Georgia Amendments and the 2018 International Residential Code w/ Georgia Amendments

All swimming pools, associated decking and fencing shall have a setback of 5 feet from any property line or shall be no closer to any side property line than the residential structure, whichever is greater.

Additional Documents Required:

- 1. Site Plan** – Site Plan must show property boundaries, pool and pool decking location, pool fence/barrier location, access gate location, proposed accessory pool structures or other improvements, existing house footprint, distance of pool decking and fencing from all property boundaries, existing easements on property (if applicable), stream buffer areas (if applicable)
- 2. Homeowners Association Approval** (if property is in a Planned Unit Development Zoning District)
- 3. Environmental Health Department Approval** (if property is served by Septic Tank)
- 4. Sub-Contractor Certification Forms**
**Swimming Pool Permit Fee is \$150 + add on fees for any electrical, plumbing, or mechanical work. All add on fees and permits for trades will be combined with the Pool Permit Fee and collected at the time of permit issuance.*

I hereby make application for permit as above, and if it is granted, I agree to conform to all applicable Building Codes, Town of Braselton Ordinances and Resolutions, Subdivision Regulations and plans and/or specifications submitted. Any person, firm or corporation violating any of the applicable codes, ordinances, resolutions, or regulations shall be deemed guilty of a separate offense for each and every day or portion thereof during which any violation is committed, continued, or permitted, and upon conviction of any such violation such person shall be punishable by a fine, or by imprisonment, or by both. Any variation from the submitted information may violate existing Town of Braselton regulations which will cause this permit to become null and void. This permit is valid for a period of six months and shall expire by limitation and become null and void if the building or work authorized by this permit is not commenced within six months from the issue date, or if the building or work authorized by such permit is suspended or abandoned for a period of six months or more after the work has commenced.

I certify the above is correct with my signature:

(If the signature is not from the General Contractor or Property Owner, then an Authorized Agent Form must be submitted.)

SWIMMING POOL PERMIT APPLICATION

REQUIRED INSPECTIONS FOR PRIVATE RESIDENTIAL SWIMMING POOLS

Site/Setbacks/Safety Fence
Basket (in-ground pools)
Circulation/Drain Piping
Pressure Test
Electrical Bonding
Backflow
Gas Piping
Pressure Test
Deck Bonding
Pool Final
Permanent Fence
Electrical System
Door Chimes
Energy (Heated Pools)

BRASELTON ZONING SETBACK REQUIREMENTS:

All swimming pools, associated decking and fencing shall have a setback of 5 feet from and property line or shall be no closer to any side property line than the residential structure, whichever is greater.

Call the Building Inspector at 706-654-3915 ext. 1007 for inspection requests. Please leave the permit number, type of inspection requested, and contract number.

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FEES:

General Pool Permit - \$150

Electrical - \$50

Gas line/heat - \$50

Plumbing - \$50

A Guide to Swimming Pool Discharges

Why is Discharging Pool Water a Problem?

Discharges of chlorinated or otherwise chemically treated swimming pool water directly to the ground, to the storm sewer system, and ultimately to local streams are not authorized by local ordinance, and are hence prohibited by law. The underlying reason is that chlorine and other pool-related chemicals have the potential to significantly alter water chemistry and lower oxygen concentration in streams, both of which are detrimental to fish and other wildlife. It is also unlawful to create a nuisance by permitting large quantities of water to flow onto adjoining properties or roadways.

The Augusta Storm water Management Ordinance, section (§) 5-1-8 states:

"It is unlawful for any person to throw, drain, run, or otherwise discharge to any component of the municipal separate stormwater system...all matter of any nature excepting only such storm or surface water as herein authorized."

In addition, codes §5-3-4 and §7-2-1 prohibit citizens from engaging in activities that constitute a nuisance, inconvenience, or annoyance to the public.

What is the Correct Way to Drain Your Pool?

You have two options when it comes to properly draining your pool, including:

App-461

1. Swimming pool water may be directly disposed of in the municipal sanitary sewer system without treatment using a sewer clean out located on your property . Do not dispose of pool water directly into a city sanitary sewer manhole, and never discharge chlorinated or chemically treated pool water to the storm sewer system. Residents utilizing the sewer clean-out option to drain a swimming pool must understand that the property owner is liable for any backup or other damage caused by draining a swimming pool into the City sewer.
2. Alternatively, pool water may be discharged to the storm sewer system, provided it is first dechlorinated to a concentration of less than 0.1 milligrams per liter using dechlorination tablets or solutions available at your pool supply store. Inexpensive and easy to use chlorine test kits are also available there.

To Prevent Back-ups

1. The safest flow rates are 12 to 15 gallons per minute (gpm) or less.
2. Watch your hose. The force of the water can cause it to dislodge. Also, make sure the hose is securely inside the drain, but not obstructing the main wastewater flow.
3. Monitor the lowest-lying drains in your home. Any back-up will likely appear there first.

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4. If back-up occurs, stop draining your pool and contact a plumber or a licensed pool service company.

[Pictures omitted]

***If you have any questions, contact the
Augusta Engineering Department
522 Greene Street
Augusta, Georgia 30901
706-821-1706***

A Guide to Swimming Pool Discharges

Why is Discharging Pool Water a Problem?

Discharges of chlorinated or otherwise chemically treated swimming pool water directly to the ground, to the storm sewer system, and to local streams are not authorized by local ordinance and are hence prohibited by law (Ord. No. 2014-12-07, §1(24-502), 12-16-2014). The underlying reason is that chlorine and other pool-related chemicals have the potential to significantly alter water chemistry and lower oxygen concentration in streams, both of which are detrimental to fish and other wildlife. It is also unlawful to create a nuisance by permitting large quantities of water to flow onto adjoining properties or roadways

The Brookhaven Storm Sewer Illicit Discharge and Illegal Connection Ordinance, Section (§) 25-648 states:

“It is unlawful for any person to discharge or to cause, permit, or suffer to be discharged any pollutants or any water or stormwater containing any pollutants to any component of the city MS4. Such discharge shall be deemed an illicit discharge and constitutes a violation of the provisions of this article.”

The Dekalb County Ordinance, Section (§) 13-183 Permit Required, states:

“Direct discharge of polluted waters, such as drainage from overflow facilities, filter backwash waters or contaminated pool drainage from any public or residential pool shall not be made to any outlet or to any

portion of the public storm drain system, or to any natural stream or to any body of water or ground surface within the jurisdiction of the board, unless otherwise approved by the director.”

What is the Correct Way to Drain Your Pool?

Swimming pool water may be directly disposed of in the municipal sanitary sewer system without treatment using a sewer clean out located on your property. Do not dispose of pool water directly into a city sanitary sewer manhole, and never discharge chlorinated or chemically treated pool water to the storm sewer system. Residents utilizing the sewer clean-out option to drain a swimming pool must understand that the property owner is liable for any backup or other damage caused by draining a swimming pool into the City sewer.

To Prevent Back-ups

- The safest flow rates are 12 to 15 gallons per minute (gpm) or less.
- Watch your hose. The force of the water can cause it to dislodge. Also, make sure the hose is securely inside the drain, but not obstructing the main wastewater flow.
- Monitor the lowest-lying drains in your home. Any back-up will likely appear there first.
- If back-up occurs, stop draining your pool and contact a plumber or a licensed pool service company.

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If you have any questions, contact the Public Works Department.

[Pictures omitted]

City of Brookhaven

4362 Peachtree Road, Brookhaven, GA 30319

Phone: 404-637-0500 • Fax: 404-637-0501

www.brookhavenga.gov

App-466

LAGRANGE

GEORGIA

Swimming
Pool
Inspection
Process

City of Lagrange
200 Ridley Ave.
Lagrange GA 30240
706-883-2060

Dear Customer,

Swimming pools, spas and hot tubs within the City of Lagrange require a permit and inspections. Please provide proof of ownership, a signed lease or notarized authorization from the owner when applying for a permit. Also, please provide a copy of your electrician's State issued license as well. Once you have the permit on site, you may schedule an inspection via the inspections@lagrangega.org email. Please include any special instructions (call ahead, lock box codes, etc.) and a contact number. Inspections received by 4:00pm will be conducted the next regular day of business, excluding holidays or inclement weather. The contractor will need to make sure we have access to all work done for inspection. Inspection approvals will be signed on the permit card and a correction report will be left on site if needed.

Inspections Required:

Rough Plumbing- All plumbing piping must be inspected prior to covering with a pressure test on.

Rough Electric- All underground conduits, wires, light shells and feeders to pump panel must be inspected prior to being covered.

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Pool Bonding- All bonding elements must be inspected prior to concrete placement. Pools with metal walls, braces, or other metallic parts must be bonded as well in accordance with Article 680 of the 2020 NEC.

Footings or Pool Rebar Basket- Prior to concrete placement once all rebar is in place. Some vinyl liner pool kits require a footing to brace walls. This footing must be inspected as well.

Underground Gas piping if applicable.

Final- Pool, fencing and alarms (if applicable) are all complete. All site work must be complete as well.

Note: when scheduling roughs, please make sure bonding, pool basket and rough plumbing are scheduled together.

Sincerely,

William Hart
Building Official

[Pictures omitted]

App-468

SWIMMING POOL (RESIDENTIAL) BUILDING PERMIT REQUIREMENTS

City of Auburn
1369 4th Ave.
Auburn, GA 30011

The purpose of this document is to provide guidance in obtaining a building permit for a Residential Swimming Pool. A residential swimming pool is defined as “any structure intended for noncommercial swimming or recreational bathing that contains water over 24 inches deep, including in-ground, above-ground, and on-ground swimming pools, hot tubs, and spas.

All swimming pools, spas, and associated improvements must adhere to the standards set forth in the 2012 International Swimming Pool and Spa Code w/ Georgia Amendments and the 2012 International Residential Code.

Step 1: Obtain approval from Barrow County Environmental Health.

If home is served by a private septic tank system, you must receive approval from the Barrow Environmental Health Services office before a permit can be issued.

Step 2: Submit swimming pool site plan and Auburn building permit application.

Site plan must show property boundaries and distances from proposed structures, pool and pool decking location, fence/barrier

location, access gate location, accessory pool structures, house footprint, easements (if applicable), and stream buffers (if applicable). Pools must be in the rear yard and set back from property lines according to city ordinances.

- **Fence/Barrier Requirement:** Swimming pools must be enclosed within a 4-foot high fence or barrier. Openings in any barrier shall not allow passage of a 4-inch diameter sphere. All access gates to the pool shall be self-closing and self-latching. Walls of a dwelling may serve as part of the barrier if one of the following is met: 1) the pool is equipped with a powered safety cover; 2) All

Building Inspections Forms & Applications

To start the application for a building permit you must begin at Planning and Development unless you are attaching to an existing permit.

-For more information about how to obtain a building permit [click here](#).

Please use the permit portal, [Accela](#), to either apply for permits or upload supporting documents for your permit. This will ensure that Hall County will receive documents sent and applied to the correct permit file. We will need the following documents:

- A completed sub-contractor affidavit
- Copies of your business and state licenses
- The appropriate permit fee page filled out with what the job entails.

Information Forms Only

- [Inspection Request Line Brochure](#)
- [Current Codes \(PDF\)](#)
- [General Information - English \(PDF\)](#)
- [Información General - En Español \(PDF\)](#)

Single Family Residential Only

- [Building Permit Requirements and Application](#)
- [New Construction Inspection Checklist \(PDF\)](#)
- [Sub-Contractor Affidavit \(PDF\)](#)
- [Residential Grading Requirements](#)
- [Authorized Agent Form](#)

Affidavit Requirements

These forms must be turned in before final inspection:

- [30-Day Gas Affidavit \(PDF\)](#)
- [30-Day Power Affidavit \(PDF\)](#)
- [Energy Affidavit \(PDF\)](#)
- [Insulation Affidavit \(PDF\)](#)
- [New Construction Homeowner Affidavit](#)
- [Existing Structure Homeowner Affidavit](#)
- [CMB \(Electrical/Plumbing/Mechanical\) Affidavit](#)

Electrical, Mechanical & Plumbing Permits

These permits and permit fees are not to be used for new single family residences:

- [Electrical Permit Fees \(PDF\)](#)
- [Mechanical Permit Fees \(PDF\)](#)
- [Plumbing Permit Fees \(PDF\)](#)

Swimming Pool Permits

Electrical, Mechanical and **Plumbing Permits** to be acquired separately under the master permit.

- [Swimming Pool Contractor Form](#)

Commercial Permits

- [Commercial Permit Information \(PDF\)](#)
- [Plan Review Application \(PDF\)](#)
- [Special Inspections and Testing Agreement \(PDF\)](#)

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- Statement of Special Inspections (PDF)

Manufactured Homes

- Manufactured Home Requirements

doors with direct access to pool are equipped with an alarm; 3) other means such as self-closing doors and self-latching devices.

- If the walls of an above-ground pool are used as a barrier or where the barrier is mounted on top of the pool structure and means of access is a ladder or steps, then: 1) the ladder or steps shall be capable of being locked, secured, or removed to prevent access, or: 2) the ladder or steps shall be surrounded by a barrier.

Step 3: Site plan and application review

Swimming pool site plan and application will be reviewed and permit will be issued upon payment of permit fee.

- **Swimming Pool fee:** \$6.50 per \$1000 of estimated construction cost (minimum fee of \$120)
- **Additional Documents: Sub-Contractor certifications** (plumbing, electrical, mechanical) required.

Step 4: Inspections:

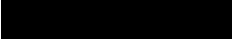
Inspections will typically include electrical, plumbing, and mechanical(heating/gas line) if required. Inspections must be successfully passed and with required barriers in place prior to filling the pool with water and occupancy. Inspections are requested by calling (770) 963-4002 ext. 229.

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- Swimming pools under construction and filled with water must have a temporary fence until permanent fence is installed.

Barrow Environmental Health Services
10 W. Williams St., Winder, Ga. 30680
(770) 307-3502

City of Auburn
1369 4th Avenue
Auburn, Ga. 30011
(770) 963-4002

 Building Department | Franklin County, GA

FRANKLIN County
Georgia

[Home » Departments](#)

[Building Department](#)

[Our Responsibilities](#)

The Franklin County Building Department is responsible for issuing, maintaining, and tracking permits for all new construction, alterations, and additions, along with reviewing plans, and inspecting residential and commercial construction for compliance with current Georgia Building Codes and any other applicable construction requirements.

Franklin County Building Inspections enforces the International Building Codes as prescribed by the International Code Council, mandated by and amended by the State of Georgia.

The following Building Codes have been adopted by Franklin County.

- International Building Code, Latest Adopted Edition with Georgia Amendments
- International Residential Code, Latest Adopted Edition, with Georgia Amendments

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- International Fire Code, Latest Adopted Edition (No Georgia Amendments)
- International Plumbing Code, Latest Adopted Edition, with Georgia Amendments
- International Mechanical Code, Latest Adopted Edition, with Georgia Amendments
- International Fuel Gas Code, Latest Adopted Edition, with Georgia Amendments
- National Electrical Code, Latest Adopted Edition (No Georgia Amendments)
- International Energy Conservation Code, Latest Adopted Edition, with Georgia Supplements and Amendments
- International Swimming Pool and Spa Code, Latest Adopted Edition, with Georgia Amendments
- International Property Maintenance Code, Latest Adopted Edition, with Georgia Amendments

Franklin County Building Inspections also enforce Erosion and Sediment Controls for new developments within the County.

To apply for a building permit please click on the Building Permit Application in the upper left hand of the page, and click on the link that will take you to the permit portal.

[Building Permit Applications](#)

[County Ordinances](#)

[Environmental Health](#)

[Planning & Zoning](#)

[Schedule an Inspection](#)

Frequently Asked Questions

What is the best way to schedule an inspection?

How long does it take to get a building permit?

Can I live in an RV as a permanent residence?

Do I need a permit for my driveway?

What structures can I build without a building permit?

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Franklin County Planning and Zoning
141 Athens St. / P.O. Box 159
Carnesville, GA 30521

Residential Swimming Pool Permit Application Checklist

Building permits are required for all structures 150 sq ft or more.

The following list of documentation are required submittals for a Residential Building Permit

- _____ 1. Recorded Plat AND Deed of property
- _____ 2. Septic permit (if applicable)
- _____ 3. 911 Address application (if applicable)
- _____ 4. Completed water/sewer application (if applicable)
- _____ 5. Contractor licensing documentation (state license card) if General Contractor used. General Contractor's are required for rental/lease/and commercial properties.
- _____ 6. Completed trade permit application Electric
- _____ 7. Subcontractor licensing documentation (state license card) for **Electrical / Plumbing / Mechanical** Contractors used. If homeowner is completing trade work himself, a Homeowner affidavit must be submitted documenting what work the homeowner is completing.

- _____ 8. 1 set of scaled construction drawings with dimensions
- _____ 9. House location plan: scaled lot drawing with a scaled footprint of house and any other structure located on property, show building limitations, setback requirements, and erosion sediment control.
- _____ 10. Number of Acres Disturbed (Graded):

*If over 1 acre, a Notice of Intent (NOI) must be obtained from GA EPD and included with application. NOI's can be obtained via GA EPD GEOS at:
<https://geos.epd.georgia.gov/GA/GEOS/Public/GovEnt/Shared/Pages/Main/Login.aspx>
- _____ 11. GSWCC Level 1A certification (Blue Card) (if applicable). If a grader is hired, they must possess a blue card and a copy of the blue card submitted. If a property owner is completing the grading, then this must be notated on a Homeowner's affidavit and Homeowner's affidavit submitted.
- _____ 12. One (1) copy set of GSWCC approved ESC plans (if applicable) for initial, intermediate and final phases (applicable for grading over 1 acre as well as secondary and tertiary permit holders).
- _____ 13. Homeowner's Affidavit (if applicable). May be submitted by homeowner completing work on his own property for his own personal

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use. This cannot be used for rental/lease/com-
mercial properties.

_____ 14. Letter / Documentation of Approval from
Franklin County Environmental Health



Stormwater Best Management Practice Educating Residents on Safely Discharging Chemically Treated Water

Minimum Measure: Public Education and Outreach
on Stormwater Impacts

Subcategory: Education for Residents

Description

When it enters surface waters, water treated with chemicals such as chlorine, bromine and salt harms local water quality and is toxic to wildlife and fish. Pools, hot tubs and fountains often use chemically treated water; however, most of the chemically treated water discharged into storm sewer systems—and ultimately water bodies—is from residential swimming pools. Many pool owners who live in cooler climates drain their swimming pools before winter to reduce maintenance and potential damage from freezing. A municipality with a municipal separate storm sewer system (MS4) can protect nearby surface waters from illicit discharges by educating residents about appropriate discharge practices. Instead of discharging chemically treated water to the storm sewer system or directly into local waterways, individuals should follow alternative discharge options, such as:

- ☐ Draining to a sanitary sewer

- Dechlorinating water and then discharging to storm sewers

- Dechlorinating water and using it for irrigation

Understand Community Knowledge Gaps and Current Practices

To launch an effective water discharge education program, a municipality can first determine the community's current behaviors and baseline of knowledge on the topic. With this understanding, it can formulate the most effective messages and educational programs; it can also compare behaviors and knowledge before and after the education program to gauge effectiveness. Some pool and hot tub owners may not realize that water treated with chemicals pollutes waterways and harms wildlife when discharged incorrectly. Some community members may not know that their municipality regulates the discharge of water from pools, hot tubs and fountains. Municipalities can gather information about residents' knowledge gaps and current practices via surveys, focus groups or community meetings. See the [Soliciting Public Opinion](#) fact sheet for more information on how to effectively gather this information from community members.

Determine a Program Approach

After identifying residents' knowledge gaps and current practices, a municipality can craft its water discharge management program. The program should aim to educate residents on the different options for

eliminating chemically treated water in storm drains. Because chlorinated pools contribute the most chemically treated water, municipalities may choose to focus on discharge from pools—but they should also make information available on discharging from other fixtures such as hot tubs, spas and fountains. An education program may have many elements such as implementing laws and ordinances, distributing educational materials, or creating digital content. It will be important to remember that local codes and ordinances can vary by location and to make sure their messaging aligns with these requirements.

Implement Laws and Ordinances

Enacting or updating an ordinance or law may incentivize residents to change their chemically treated water disposal practices. Many communities have laws or ordinances that either directly prohibit certain discharges, including chlorinated pool and hot tub water discharge, or outline the types of water that are and are not permissible in sewer systems. For example, Oklahoma City, Oklahoma, directly bans the discharge of chlorinated water into the MS4 and local and state waterways in its Code of Ordinances. Virginia Beach, Virginia, implemented an ordinance prohibiting the discharge of private swimming pool water into the public sewer system. Some of these laws also include fines that may increase for each reoccurring offense, such as in the District of Columbia.

For more examples of laws and ordinances addressing chlorinated water discharge, see the following:

- City of Bothell, Washington
- City of Los Angeles, California
- City of Phoenix, Arizona

Post and Distribute Educational Materials

Municipalities can address knowledge gaps and encourage behavior changes by posting and distributing educational materials. They can post information on municipal websites, hang signs throughout the community, hand out flyers and brochures, or mail flyers along with other important information (like water bills) that people are likely to open and read. The Kirkland (Washington) Public Works Department developed a [flyer](#) that explains treated pool water discharge methods and provides tips for properly disposing of pool and hot tub water. The Clark County Clean Water Division in Washington created a [two-page flyer](#) that outlines how “clean water begins at home.” Brochures, such as Glendale, Arizona’s “[How to Drain or Backwash Your Pool, Spa, or Fountain](#),” are also useful; municipalities can publish them online, post them to social media accounts, or print and hand or mail them out. Some municipalities or states may require a permit for the installation of a swimming pool and can distribute materials on the proper disposal of treated water when a permit for a new pool is issued. These examples illustrate ways to convey information in simple terms while emphasizing the need to discharge water treated with chemicals according to a municipality’s guidelines.

If municipalities cannot create their own educational materials or are not sure where to start, they can see if surrounding cities or state agencies have materials they can use or adapt. For example, the Pennsylvania Department of Environmental Protection drafted a [swimming pool discharge and disposal fact sheet](#) that explains how chlorinated water or water treated with other chemicals pollutes the environment and how residents can correctly discharge pool, hot tub or spa water. The department also released [an article](#) with reminders and tips for proper pool and hot tub water disposal. Because these materials contain universal advice on chemically treated water discharge in Pennsylvania, municipalities in the state can share them with their residents or use them as a guide in generating new materials.

Municipalities can also look for partnerships with hardware stores or pool suppliers to help distribute their educational materials. Municipalities can leave flyers or brochures at local hardware stores for customers to read and take home. Many pool suppliers have online blogs that could share a municipality's educational materials so customers can learn how to properly manage chlorinated water discharge as they shop for a pool or spa.

Use Social Media or Digital Content

If educational materials like flyers and brochures are not making an impact, social media and digital content can be a useful way to help reach residents more personally and casually. Many municipalities use their websites to educate residents on proper

chemically treated water discharge methods. For example, the City of Sierra Vista in Arizona has an [easy-to-read website](#) explaining the legal ways to dispose of pool water. For more examples of how municipalities include proper discharge information on their websites, see below.

- Fairfax County, Virginia
- City of Mesa, Arizona
- Palmer Township, Pennsylvania

Some municipalities are using videos, podcasts and social media to reach a wide audience with simple, concise messaging. Cobb County, Georgia, promoted safe ways to discharge pool water during an [episode of Cobb County Water System's monthly podcast](#). Municipalities are beginning to use social media platforms to post short tips or infographics on how to properly discharge pool and hot tub water. Some even

[link to their complaint forms](#) so residents can submit instances of improper discharge.

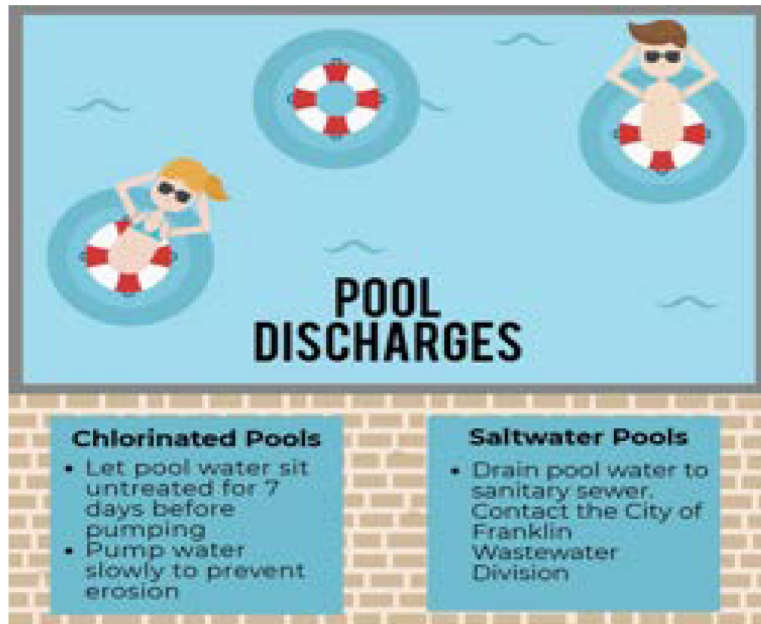
For examples of social media posts, see the following:

- City of Franklin, Tennessee, [tweet summarizing how to drain chlorinated and saltwater pools](#)
- West Maui Kumuwai, Hawaii, [tweet with a link to Maui's stormwater violation complaint form](#)
- Upper Uwchlan, Pennsylvania, [tweet with a link to the Pennsylvania Department of Environmental Protection's swimming pool discharge fact sheet](#)

- Town of Collierville, Tennessee, tweet informing citizens that pool water pollutes waterways

Evaluate Program Effectiveness

Municipalities should continuously evaluate chemically treated water discharge education programs for effectiveness and redesign them if necessary. A municipality can evaluate its program's effectiveness in several ways. A "before and after" community survey can evaluate how the community's baseline of knowledge has or has not shifted. Municipalities can use focus groups and evaluate the number and nature of complaint calls about chemically treated water discharge to understand public opinion on the topic. Furthermore, a municipality can complete a "before and after" analysis of the amount of chemicals such as chlorine and bromine found in local waterways to see if levels have decreased after the education program. If the results of these evaluations do not show improvement, municipalities should reassess their communities' knowledge and adjust their educational programs.



The City of Franklin, Tennessee, posted this graphic on Twitter to educate residents on what to do before discharging pool water.

Photo Credit: Ellen Moore, City of Franklin, Tennessee

Additional Information
Additional information on related practices and the Phase II MS4 program can be found at EPA's National Menu of Best Management Practices (BMPs) for Stormwater website

Disclaimer
<i>This fact sheet is intended to be used for informational purposes only. These examples and references are not intended to be comprehensive and do not preclude the use of other technically sound practices. State or local requirements may apply.</i>



**Georgia State Amendments
to the
International Swimming
Pool and Spa Code
(2018 Edition)**

[Logo of DCA]

Georgia Department of Community Affairs
Community Development Division
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Revised January 1, 2020

**GEORGIA STATE MINIMUM STANDARD
SWIMMING POOL AND SPA CODE
(INTERNATIONAL SWIMMING POOL AND
SPA CODE WITH GEORGIA STATE
AMENDMENTS)**

The INTERNATIONAL SWIMMING POOL AND SPA CODE, 2018 Edition, published by the International Code Council, when used in conjunction with these and any other Georgia State Amendments to the INTERNATIONAL SWIMMING POOL AND SPA CODE, 2018 EDITION, shall constitute the official *Georgia State Minimum Standard Swimming Pool and Spa Code*.

**GEORGIA STATE MINIMUM
REQUIREMENTS FOR PUBLIC SWIMMING
POOLS**

The State's minimum requirements for public swimming pools shall be in accordance with O. C. G. A. 31-45-13 and the Rules and Regulations of the Georgia Department of Public Health and this code. Contact the County Health Department for any local rules and regulations governing public swimming pools in effect on or after December 31, 2000.

GEORGIA STATE AMENDMENTS

CODE REFERENCE:

(a) Replace all references to the ICC *Electrical Code* with references to the *Georgia State Minimum Standard Electrical Code (National Electrical Code with Georgia State Amendments)*.

****Revise the International Swimming Pool and Spa Code, 2018 Edition, as follows:***

**CHAPTER 1
SCOPE AND ADMINISTRATION**

*Delete Chapter 1 ‘Scope and Administration’ entirely without substitution. Chapter 1 to remain in the Code as a reference and guide for local governments to use in the development of their own *Administrative Procedures*. (Effective January 1, 2020)

**CHAPTER 3
GENERAL COMPLIANCE**

*Revise Chapter 3 ‘General Compliance’ to add a new Section 300 ‘Scope’ to read as follows:

**SECTION 300
SCOPE**

[A] 300.1 Scope. The provisions of this code shall apply to the construction, alteration, movement, renovation, replacement, repair and maintenance of aquatic recreation facilities, pools and spas. The pools and spas covered by this code are either permanent or temporary and shall be only those that are designed and manufactured to be connected to a circulation system and that are intended for swimming, bathing or wading.

300.1.1 Flotation tanks. Flotation tank systems intended for sensory deprivation therapy shall not be included in the scope of this code.

[A] 300.2 General. Where there is a conflict between a general requirement and a specific

requirement, the specific requirement shall govern. Where, in any specific case, different sections of this code specify different materials, methods of construction or other requirements, the most restrictive shall govern.

[A] 300.3 Existing installations. Any pool or spa and related mechanical, electrical and plumbing systems lawfully in existence at the time of the adoption of this code shall be permitted to have their use and maintenance continued if the use, maintenance or repair is in accordance with the original design and no hazard to life, health or property is created.

[A] 300.4 Maintenance. Pools and spas and related mechanical, electrical and plumbing systems, both existing and new, and parts thereof, shall be maintained in proper operating condition in accordance with the original design in a safe and sanitary condition. Devices or safeguards that are required by this code shall be maintained in compliance with the edition of the code under which they were installed.

The owner or the owner's authorized agent shall be responsible for maintenance of systems. To determine compliance with this provision, the code official shall have the authority to require any system to be reinspected.

[A] 300.5 Additions, alterations or repairs. Additions, *alterations*, renovations or *repairs* to any pools, spas or related system shall conform to that required for a new system without requiring the existing system to comply with all the requirements of this

code. Additions, alterations or repairs shall not cause an existing system to become unsafe, insanitary or overloaded.

Minor additions, alterations, renovations and repairs to existing systems shall meet the provisions for new construction, unless such work is done in the same manner and arrangement as was in the existing system, is not hazardous and is *approved*.

[A] 300.6 Historic buildings. The provisions of this code relating to the construction, alteration, repair, enlargement, restoration, relocation or moving of pools, spas or systems shall not be mandatory for existing pools, spas or systems identified and classified by the state or local jurisdiction as part of a historic structure where such pools, spas or systems are judged by the code official to be safe and in the public interest of health, safety and welfare regarding any proposed construction, alteration, repair, enlargement, restoration, relocation or moving of such pool or spa.

[A] 300.7 Moved pools and spas. Except as determined by Section [A] 300.3, systems that are a part of a pool, spa or system moved into or within the jurisdiction shall comply with the provisions of this code for new installations.

[A] 300.8 Referenced codes and standards. The codes and standards referenced in this code shall be those that are listed in Chapter 11 and such codes and standards shall be considered as to be part of the requirements of this code to the prescribed extent of

each such reference. Where differences occur between provisions of this code and the referenced standards, the provisions of this code shall be the minimum requirements.

[A] 300.8.1 Application of the International Codes. Where the *International Residential Code* is referenced in this code, the provisions of the *International Residential Code* shall apply to related systems in detached one- and two-family dwellings and townhouses not more than three stories in height. Other related systems shall comply with the applicable International Code or referenced standard.

[A] 300.9 Requirements not covered by code. Any requirements necessary for the strength, stability or proper operation of an existing or proposed system, or for the public safety, health and general welfare, not specifically covered by this code shall be determined by the code official.

[A] 300.10 Other laws. The provisions of this code shall not be deemed to nullify any provisions of local, state or federal law.

[A] 300.11 Application of references. Reference to chapter section numbers, or to provisions not specifically identified by number, shall be construed to refer to such chapter, section or provision of this code.
(Effective January 1, 2020)

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CHAPTER 7
ONGROUND STORABLE RESIDENTIAL
SWIMMING POOLS

SECTION 702
LADDERS AND STAIRS

*Delete Figure 702.2 'TYPICAL A-FRAME LADDER, TYPES A AND B' and last sentence of Section 702.2 'Type A and Type B ladders' without substitution.
(Effective January 1, 2020)

End of Amendments.
Authority: O. C. G. A. §8-2-20 et seq.

**Chapter 3 General Compliance: General Compliance,
Georgia State Minimum Standard Swimming Pool
and Spa Code | UpCodes**

**Georgia State Minimum Standard Swimming
Pool and Spa Code**

302.4 Concealed Piping Inspection

Piping, including process piping, that is installed in trenches, shall be inspected prior to backfilling.

Exported by <https://up.codes>

<https://up.codes/viewer-export/georgia/ispsc-2018/chapter/3/general-compliance#302.4>

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Construction Codes

Basic Info	Resources	Newsroom
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building professionals and citizens alike. The following is a general overview of Georgia's Construction Code Program, including enforcement, local amendments, current codes, and whom to call if you have questions regarding construction codes and related issues in Georgia.

In General

The Uniform Codes Act is codified at chapter 2 of title 8 of The Official Code of Georgia Annotated. O.C.G.A. Section 8-2-20(9)(B). Below is a list of the current mandatory and permissive state codes. Each of these separate codes typically consist of a base code (e.g. The International Building Code as published by the International Code Council) and a set of Georgia amendments to the base code. The mandatory codes are applicable to all construction whether or not they are locally enforced and the permissive codes are only applicable if a local government chooses to adopt and enforce one or more of these codes. These codes are as follows:

Mandatory Codes:

- International Building Code
- International Residential Code for One- and Two-Family Dwellings
- International Fire Code
- International Plumbing Code
- International Mechanical Code
- International Fuel Gas Code

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- National Electrical Code
- International Energy Conservation Code
- International Swimming Pool and Spa Code
- For information and questions regarding the Life Safety Code (NFPA 101), IFC Georgia Amendments or the Georgia Accessibility Code please contact the State

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Exhibit “H”

Affidavit of Ching Auyeung

IN THE SUPERIOR COURT OF JACKSON
COUNTY

STATE OF GEORGIA

Kevin Yeung	)	
	)	
Plaintiff	)	
	)	Civil Action
vs.	)	
	)	File No.
Shannon Humphrey	)	<u>22CV0988</u>
	)	
Defendant,	)	
	)	

AFFIDAVIT OF CHING AUYEUNG

I, Ching Auyeung being duly sworn, swears and states the following under penalty of perjury:

My name is CHING AUYEUNG. I am suffering from no legal disabilities and I am not under the influence of any drug or alcohol at the time of making this statement. It is my Observation and Understanding of the matter regarding 2478 Traditions Way Jefferson 30549.

On or around 05/03/2021, I made a complaint to Jackson County Building Department concerning the erosion occurred on my property. Hillgrove at the time was building Defendant's residence and doing Construction without adequate BMP Control in place.

I received a response back some days later and it was revealed that an inspector had gone out to check on HillGrove's Site, returned with the following comment.

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“The builder had installed the correct BMPs per his plans and there was no turbid water leaving this lot.”

“The BMPs were holding up.”

“There was a cleared area on your lot where there is a Fire Pit that might contributed to Muddy Water.”

Photo No. 1



No. 2



No. 3



The message received was very confusing. My backyard has never had a ‘Fire Pit’ (No. 3) and this volume of Erosion as shown in No. 2 Photo cannot be Self Caused.

No. 1 shows HillGrove’s Construction Site in May 2021. This was taken two to three weeks after my initial complaint. Clearly **No** Slit Fence presented. The Slit fence installed previously was no longer there

and it should have stayed in place throughout the entire construction. What appeared to be in compliance is NOT and Short Term Only. This sort of activity is often seen on Defendant's site from 2021 to present. My Objective is to clarify what really happened.

On 03/06/2023, a Second Landscape Modification was made at Defendant's Site after the pool installation. **Grass** was replaced by **Rock** around all Pool Plumbing/Equipment area and the Pop-Up Emitter. Several months later in July, my yard had experienced a flood.

On 07/07/2023, I witnessed tremendous amount of water channeling down (in Back Yard) to basement which I've never seen before. Shocked and I immediately ran down to basement just to identify a flood outside the basement area. It was a rainy day. Took me and husband more than one or two hours to clean up the area.

Another Personal Observation is after Defendant's Underground Pipes Installation, unsure the exact date but it occurred between 09/2022 – 11/2022. I noticed an Unusual Area measuring (approximate only) 5 foot x 3 foot Brown/Black and Damp Spot in my rear yard. That area had turned Darker, Soggier and lasted for weeks. On one weekend, I observed a man standing in front of Defendant's Plumbing Pipes and he was attempting to fix some leaks. There appeared to be a leak as I Recalled and saw lots of water coming out from the pool pipes constantly and non-stop.

Since then, our yard needs to be checked Carefully and Periodically for signs of wet spots. Based on past history, Defendant tended to comply with regulation only after report is made to Building Department. In

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Particular, One Citation for Patio Extension and Second one for Back Yard Grading Absence Any Best Management Practice BMP control.

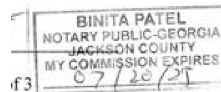
I only made Complaints when there are Concerns and persisted Issues. It is Not my best interest to file a report that has No genuine elements. And I do not make false complaints.

STATE OF GEORGIA
COUNTY OF ~~WINNETT~~ Jackson

Subscribed and sworn before me on ~~8th~~ 1st day, June,
2024

/s/ Ching Auyeung
Ching Auyeung

/s/ Binita Patel
Notary Public Official Signature
My commission expires: 07/20/25



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Appendix I

[Filed: Aug. 22, 2024]

**IN THE SUPERIOR COURT OF JACKSON
COUNTY**

STATE OF GEORGIA

Kevin Yeung	)	
	)	
Plaintiff	)	
	)	Civil Action
Vs.	)	
	)	File No.
Shannon Humphrey	)	<u>22CV0988</u>
	)	
Defendant,	)	
	)	

**PLAINTIFF OPPOSITION TO DEFENDANT'S
MOTION TO STRIKE**

I. Kevin Yeung, Plaintiff hereby files this **Opposition** in response to Defendant's Motion to Strike. Plaintiff's Supplemental Brief in Support contained (3) Three documents in support of Plaintiff's Opposition to Defendant's Statement of Material Facts to Which There Exists No Genuine Issue and Statement of Theory of Recovery and Motion for Summary Judgment. **1)** Expert Mr. Cordle Rebuttal Report dated June 24, 2024. **2)** Jackson County Ordinance No. 17-012 passed and adopted on December 18, 2017 by Jackson County Board of Commissioners. **3)** Defendant's Petition for Stalking Temporary Protective Order dated 06/18/2024.

Plaintiff's Supplemental Brief provides Support to Plaintiff's Argument in response to Defendant's

Motion for Summary Judgment and Statements of Material Facts filed on 05/17/2024. There was **No** Theory but All Genuine Facts. These documents and records are Relevant to the case. Plaintiff's Expert Report, Jackson County Code of Ordinance and Defendant Protective Order Petition are All Material Factors. They're necessary components to have a complete understanding of the whole picture and for the Court to reach a formal decision. A finding that could significantly impact the outcome. **O. C. G. A. §24-4-401** "Any evidence is relevant which logically tends to prove or disprove a material fact which is at issue in the case, and every act or circumstance serving to elucidate or to throw light upon a material issue or issues is relevant." "Every fact or circumstance serving to elucidate or throw light upon the issue being tried constitutes proper evidence in the case." **O. C. G. A. §24-4-401** "Admissibility of evidence is a matter which rests largely within the sound discretion of the trial court, and if an item of evidence has a tendency to help establish a fact in issue, that is sufficient to make the evidence relevant and admissible." *Lewis v. State*, 158 Ga. App. 586, 281 S. E. 2d 331 (1981) (decided under former Code 1933, §38-201).

The Supreme Court of Georgia Former Rule 24 allows Supplemental briefs be filed at any time before decision. **Former Rule 24. SUPPLEMENTAL BRIEFS.** "Supplemental briefs may be filed at any time before decision." **Ga. R. Sup. Ct.24. SUPPLEMENTAL BRIEFS.** (1) "During oral argument the Chief Justice or, in the absence of the Chief Justice, the Justice who is presiding over the argument, may order or give leave to file supplemental briefs from counsel on designated matters that require

discussion, development, or clarification and may provide for the time in which the briefs are to be filed. An application for leave to file the supplemental brief is not required under such circumstances.”

In Plaintiff’s Opposition to Defendant’s Motion for Summary Judgement, Plaintiff made very clear that Mr. Mark Cordle, a Certified Building Official was hired to rebut Defendant’s Statement of Facts. Report is yet to come, the timeline to generate a report is beyond Plaintiff’s control. Mr. Cordle was properly introduced in Plaintiff’s Opposition to Defendant’s Motion for Summary Judgement on June 15, 2024, a timely response to Defendant’s Summary Judgement filed on May 17, 2024. Rule 6.2. “Reply (Motions in Civil Actions) Unless otherwise ordered by the judge or as provided by law, each party opposing a motion shall serve and file a response, reply memorandum, affidavits, or other responsive material not later than 30 days after service of the motion.” This document, Plaintiff’s Expert Report is relevant and material in fact to the case. **O. C. G. A §24-4-402. Relevant evidence generally admissible.** “All relevant evidence shall be admissible, except as limited by constitutional requirements or as otherwise provided by law or by other rules..... applicable in the court in which the matter is pending.” (Code 1981, §24-4-402 , enacted by Ga. L. 2011, p. 99, §2/HB 24.)

The supporting documents in Plaintiff’s Supplemental Brief are discussion of the issues at Hand and had already brought up in Plaintiff’s Opposition to Defendant’s Motion for Summary Judgement. There was no new issue for discussion in Supplemental Brief. Plaintiff’s Expert Mr. Cordle is not Known and did not Exist until Defendant has filed Motion for

Summary Judgement on May 17, 2024. Plaintiff shall have right to seek new witness. Pursuant to Ga. Comp. R & regs. 120-2-2-31(2) "A party is entitled to present her/his case or defense by any evidence to submit rebuttal evidence...." Mr. Cordle is a Testifying Expert and Rebuttal Witness to counter and disprove Defendant's witnesses testimonies. His testimony greatly influences the outcome of this matter. Mark processes extensive Knowledge and Expertise as a Former Senior Building Inspector and Investigator for Fulton County (Georgia) from 2001 to 2006. His report is based upon sufficient facts or data and is the product of reliable principles and methods. Mr. Cordle has applied Sound principles and methods reliably to the facts of the case. Disclosure of Plaintiff's Experts was properly made to Defendant in Feb 2024 (within the Court's Extended Discovery Period) and June 2024 respectively. Plaintiff has also made clear that the list was subject to periodic change based on the availability of Experts and Ongoing Litigation. See Exhibit "C"

O. C. G. A. §24-7-703 permits the admission of All Plaintiff's Expert opinions since the opinions formed are based on sufficient facts and data. "If of a type reasonably relied upon by experts in the particular field in forming opinions or inferences upon the subject, such facts or data need not be admissible in evidence in order for the opinion or inference to be admitted." **O. C. G. A. §24-7-702 (2020)**, **O. C. G. A. §24-9-67.1 (b)** " If scientific, technical, or other specialized knowledge will assist the trier of fact in any cause of action to understand the evidence or to determine a fact in issue, a witness qualified as an expert by knowledge, skill, experience, training, or education

may testify thereto in the form of an opinion or otherwise, if: (1) The testimony is based upon sufficient facts or data which are or will be admitted into evidence at the hearing or trial; (2) The testimony is the product of reliable principles and methods; and (3) The witness has applied the principles and methods reliably to the facts of the case.”

Plaintiff’s other Expert Reports are **Not** hearsay statements. Mr. Brent and Mr. Michael’s Reports with State Seals are offered for impeachment in Plaintiff’s Response to Defendant’s Motion for Summary Judgment. It further Refutes Defendant’s statement of Facts by outlining Plaintiff’s site overview, qualified as **801 (d) Not Hearsay Defined**. Federal Rule 801 (d) (2) **An Opposing Party’s Statement**. “The statement is offered against an opposing party and A) was made by the party in an individual or representative capacity.” These statements can be used as evidence against the party who made the statement. “Witness can be impeached as to matters relevant to the witness’s testimony and to the case, and by disproving facts testified to by the witness.” *Morris v. State Farm Mut. Auto. Ins. Co.*, 203 Ga. App. 839, 418 S. E. 2d 119 (1992) (decided under former O. C. G. A. §24-9-83 **O. C. G. A. §24-6-607** “The credibility of a witness may be attacked by any party.”

Moreover, Mr. Cordle’s Rebuttal Report and Mr. Elvin’s Reports are kept as Business Records of the company under **Rule 803** Hearsay exceptions. **O. C. G. A §24-8-803 Rule 803 (6) , 803 (8)** Exception include Business Records, a Record of Regular Conducted Activity and Public Record. (C) kept in the course of a regularly conducted business activity; and (D) it was the regular practice of that business

activity to make the memorandum, report, record, or data compilation..” See Exhibit “B” Further, both Mr. Michael and Brent’s reports bear a signature along with State or America Council Licensing Seals. See Exhibits “A” These are “Self Authenticating Documents” under Georgia Law **O. C. G. A. §24-9-902 (1)**, serving as attestation and not Hearsay. ”A document bearing a seal purporting to be that of the United States or of any state, district, commonwealth, territory, or insular possession thereof or the Panama Canal Zone or the Trust Territory of the Pacific Islands or of a political subdivision, department, officer, or agency thereof or of a municipal corporation of this state and bearing a signature purporting to be an attestation or execution.” **O. C. G. A. §24-9-902**

Lastly, per **Rules of Evidence**, Mr. Brent’s (Jah Environmental LLC) Report contains machine-generated data which is Plaintiff’s Soil Chloride Ratio and such data is not Hearsay Statement. Data generated by a computer is not declarant and is therefore not Testimonial. In criminal proceedings, **O. C. G. A. §24-7-707 (2014)** provides that “... the opinions of experts on any question of science, skill, trade, or like questions shall always be admissible; and such opinions may be given on the facts as proved by other witnesses.” To conclude, All of Plaintiff Experts’ Reports 1) Mr. Elvin Aycock, a Georgia Licensed Professional Engineer (**Atlanta Engineering Services, Inc.**); 2) Mr. Michael Bret Thurmond, a Georgia Licensed Professional Engineer (AMT Engineers); 3) Mr. Brent Wadlington, BS, IH, America Council Certified Consultant (**Jah Environmental Safety & Health, LLC**) and 4) Mr. Mike Cordle, Council Certified Building Official (**Echota Home Inspection, Inc.**)

are Non-Hearsay Statements, NOT Hearsay Defined and Exceptions to Hearsay Rules. These Reports are Relevant, Substantial Material Facts and Crucial to the case as admissible Evidence.

ARGUMENT

In *Lee v. Smith*, 307 Ga. 815, 832 SE 2d 870 (2020), the Supreme Court of Georgia made new finding that excluding an expert witness solely because of a late disclosure or failure to identify the witness by deadline is not proper. The Georgia Supreme Court ruled that Trial court cannot exclude an expert witness solely because the witness was identified after the deadline set in a scheduling order, by the discovery rules, or case management order. "We also concluded the trial court's decision to exclude Lee's rebuttal expert from testifying at trial was harmful to Lee. See, e. g., *Carder* , supra, 261 Ga. at 142 (1), 401 S. E. 2d 688 " *Lee v. Smith*, 307 Ga. 815, 822 (Ga. 2020)

Plaintiff's Expert Reports are of Importance as each report shows clear and complete details to reflect the whole picture. This Matter involves Pollution, Erosion, Runoff, Sedimentation, Nuisance and Trespass. It is insufficient to collect evidence that just shows one perspective of the incident. Plaintiff carries the weight of Submission and these Expert Reports are not "redundant, immaterial, impertinent, or scandalous matter. The preclusion of these Reports would impose a substantial risk of prejudice to plaintiff. The ability to establish elements and proving Plaintiff's claims in this case is severely compromised without the opinions of Expert Reports. Plaintiff's Supplemental Brief has not affected Defendant's

capability for responses. There is no Prejudice to Defendant's ability to respond.

Defendant's Motion to Strike should NOT be granted as it clearly shows Plaintiff's Complaint is legitimate, not frivolous. The removal of any records from Plaintiff's Supplemental Brief in the case would only waste unnecessary time and resources in litigating Defendant's invalid defense. The function of a motion to strike is "to avoid the expenditure of time and money that must arise from litigating spurious issues ..." and has defined "immaterial" as that which has no essential or important relationship to the claim for relief or the defenses being pleaded." Fantasy, Inc. v. Fogerty, 984 F.2d 1524 (9th Cir. 1993) (overruled on other grounds in Fogerty v. Fantasy, Inc. 510 U. S. 517 (1994)). Despite the outcome, Jackson County Code of Ordinance is still **Present, Legal and Enforceable**.

In Defendant's Protective Order dated June 18, 2024, Defendant claimed: "Respondents (Plaintiff) have admitted in a Deposition that they have placed us under surveillance." and "Cameras follow outdoor activity." Plaintiff did not place Defendant under surveillance. Plaintiff's mounted camera in own property is solely for Protection purpose. Plaintiff has not approached Defendant with threats or spoken inappropriate language or acted improperly to defendant. Defendant's desire to seek a protective order against Plaintiff and Plaintiff's wife is not justified. She was not stalked by Plaintiff or wife. Her statements are untruthful. This record illustrates and exhibits her character.

O. C. G. A §24-6-608 (a) (1) "The evidence may refer only to character for truthfulness or

untruthfulness.” **O. C. G. A. §24-4-404 (b)** Other Crimes, Wrongs, Acts “admissible for other purposes, including but not limited to, proof of motive, opportunity, intent, preparation, plan, knowledge, identity, absence of mistake or accident.” **Rule 406.** Habit; Routine Practice, “Evidence of a person’s habit or an organization’s routine practice may be admitted to prove that on a particular occasion the person or organization acted in accordance with the habit or routine practice. The court may admit this evidence regardless of whether it is corroborated or whether there was an eyewitness.”

Plaintiff has rights to install Cameras in Own Property for Protection, and to prevent any Malicious Harm. There is no reasonable expectation of privacy in Open areas where Plaintiff’s cameras are pointing. Defendant again attempted to Violate Plaintiff’s Rights. This record shows Defendant had acted in dishonest fashion. When Defendant relies on elements and protection sought stemmed from the reasons and existence of this pending case, Defendant’s Petition for Stalking Temporary Protective Order becomes intercorrelated with Civil Case # 22CV0988. ”“In all proceedings where extraordinary equitable relief is sought, the court should open wide the door to pertinent evidence, to the end that the truth concerning the transaction under investigation may fully appear, and that the court may act advisedly and wisely in the premises.”

(Ferrell v. Wight, 187 Ga. 360 , 200 S. E. 271 , 1938)

STATEMENT OF FACTS

Although a party may move to strike or the court may strike redundant, immaterial, impertinent, or

scandalous matter from any pleading. However, Mr. Cordle's Opinion, Jackson County Code Ordinance, nor is Defendant's Stalking Temporary Protective Order constituted as "Redundant" "Immaterial" "Imper-tinent" or "Scandalous Matter." In particular, Jackson County Code of Ordinance is the Law. Defendant's Motion to Strike should not be granted because the court "....should strike vague and ambiguous defenses which do not respond to any particular count, allegation or legal basis of a complaint." Tsavaris v. Pfizer, Inc., 310 F. R. D. 678, 682 (S.D. Fla. 2015).

Plaintiff Expert's Opinions and Supplemental Brief are True to the Facts. They're Substantial Evidences to Describe and Summarize Plaintiff's Imminent and Ongoing Damages. All Materials are Reliable, Authentic, and Relevant. **O. C. G. A. §24-1-1** Admission of doubtful evidence. "State policy was to admit evidence, even if the admissibility of the evidence was doubtful, because **it was more dangerous to suppress the truth than to allow a loophole for falsehood.**" *Gibbons v. Maryland Cas. Co.*, 114 Ga. App. 788, 152 S. E. 2d 815 (1966) (decided under former Code 1933, §38-101).

Defendant contends that there were no genuine issues and seemingly asks the Court to dismiss Plaintiff's Complaints. If Granted, Defendant's Unlawful and Prohibited Activities (already conducted) will be deemed Permitted. As a consequence, these **Pre-mediated** Activities are **Actively** and **Adversely** affecting Plaintiff's Land. Such Actions should NOT be Expunged while Malicious and Continuous Damages were created to **Harm** Plaintiff's Property and the Surrounding. They shall not be Disregarded, Over-shadowed, and Shifted away from the Court's

Attention. Without a doubt, Defendant has not followed Codes, Rules and Regulations. While Defendant's Objectives and Defenses are Aimed to avoid Compliance, Plaintiff is entitled to the Grant of Injunctive Relief as a Matter of Law. **Title 23 Equity.** "A judge could not refuse to grant an injunction to which a party was entitled under the law, unless that party would agree to waive the incompetency declared by statute of a witness as to the particular testimony sought to be delivered by the witness as equity is not antagonistic to the law, but follows the law." Ferrell v. Wight, 187 Ga. 360 , 200 S. E. 271 , 1938 Ga. LEXIS 778 (1938).

Law and Authority

- (I) **O. C. G. A. §23-2-57 (2022)** "Fraud may not be presumed but, being in itself subtle, slight circumstances may be sufficient to carry conviction of its existence."
- (II) **O. C. G. A. §16-7-23 Criminal Damage to Property in the Second Degree** "A person commits the offense of criminal damage to property in the second degree when he: 1) Intentionally damages any property of another person without his consent and the damage thereto exceeds \$500.00."
- (III) **O. C. G. A. §24-4-401** "Any evidence is relevant which logically tends to prove or disprove a material fact which is at issue in the case, and every act or circumstance serving to elucidate or to throw light upon a material issue or issues is relevant." "Every fact or circumstance serving to elucidate or throw light upon the issue

being tried constitutes proper evidence in the case.”

(IV) **O. C. G. A. §24-6-607** ”The credibility of a witness may be attacked by any party.”

(V) **O. C. G. A §24-4-402. Relevant evidence generally admissible**

“All relevant evidence shall be admissible, except as limited by constitutional requirements or as otherwise provided by law or by other rules, as prescribed pursuant to constitutional or statutory authority, applicable in the court in which the matter is pending. ”

(Code 1981, §24-4-402 , enacted by Ga. L. 2011, p. 99, §2/HB 24.)

(VI) **O. C. G. A. §24-7-702 (2020), O. C. G. A. §24-9-67.1 (b)** “ If scientific, technical, or other specialized knowledge will assist the trier of fact in any cause of action to understand the evidence or to determine a fact in issue, a witness qualified as an expertif: (1) The testimony is based upon sufficient facts or data which are or will be admitted into evidence at the hearing or trial; (2) The testimony is the product of reliable principles and methods; and (3) The witness has applied the principles and methods reliably to the facts of the case.”

(VII) **Title 23 Equity. Judicial Decision.** ”A judge could not refuse to grant an injunction to which a party was entitled under the law, unless that party would agree to waive the incompetency declared by statute of a witness as to the particular testimony sought to be delivered by the witness as equity is not antagonistic to the law, but it follows the law . Code, §37-103.”

(Ferrell v. Wight, 187 Ga. 360 , 200 S. E. 271 , 1938)

- VIII) Federal Rule 801 (d) (2) An Opposing Party's Statement**, "The statement is offered against an opposing party which is: a) was made by the party in an individual or representative capacity."
- (IX) O. C. G. A. 24-8-803 (6) Records of regularly conducted activity.** (A) "made at or near the time of the described acts, events, conditions, opinions, or diagnoses; (B) made by, or from information transmitted by, a person with personal knowledge and a business duty to report; (C) kept in the course of a regularly conducted business activity; and (D) it was the regular practice of that business activity to make the memorandum, report, record, or data compilation.."
- (X) O. C. G. A. §24-1-1 Admission of doubtful evidence.** "State policy was to admit evidence, even if the admissibility of the evidence was doubtful, because **it was more dangerous to suppress the truth than to allow a loophole for falsehood.**" Gibbons v. Maryland Cas. Co., 114 Ga. App. 788, 152 S. E. 2d 815 (1966) (decided under former Code 1933, §38-101).
- (XI) O. C. G. A §24-7-707 (2014)** "In criminal proceedings, the opinions of experts on any question of science, skill, trade, or like questions shall always be admissible; and such opinions may be given on the facts as proved by other witnesses."

- (XII) **O. C. G. A. §24-1-1** “The object of all legal investigation is the discovery of truth. Rules of Evidence shall be construed to secure fairness in administration, eliminate unjustifiable expense and delay, and promote the growth and development of the law of evidence to the end that the truth may be ascertained and proceedings justly determined.”

CASE REFERENCES

Court Accepted Supplemental Expert Report

1. Byer v. Bell Helicopter Textron, Inc., 12-CV-676W(Sr) (W.D.N.Y. May. 28, 2015)
2. Dimmick v. Pullen, 120 Ga. App. 743, 172 S. E. 2d 196 (Ga. Ct. App. 1969)
3. Lee v. Smith, 307 Ga. 815, 832 SE 2d 870 (2020)

CONCLUSION

Plaintiff's Supplemental Brief is Wholly Relevant to the issue at hand. All the records have bearing on the equities and make significant influence on the decision. Therefore, Defendant's Motion to Strike Plaintiff's Supplemental Brief in Support as Redundant, Immaterial, Impertinent, Scandalous should be **DENIED**. Plaintiff's Supplemental Brief in Support is necessary component for the Court to make a fully Informed Decision. Plaintiff and his family have suffered a lot in terms of Financial, Mental and Property damages by dealing with this ordeal. Plaintiff is entitled to Injunctive Relief and deserve Justice to be served.

For the forgoing reasons, Plaintiff Respectfully Prays this Honorable Court to **Deny** Defendant's Motion to Strike.

App-519

IN THE SUPERIOR COURT OF JACKSON
COUNTY
STATE OF GEORGIA

Kevin Yeung	)	
	)	
Plaintiff	)	
	)	Civil Action
Vs.	)	
	)	File No.
Shannon Humphrey	)	<u>22CV0988</u>
	)	
Defendant,	)	
	)	

**UNIFORM RULE 5.2 CERTIFICATE OF
SERVICE**

I Certify that on this day I serve a copy of the foregoing ***Plaintiff's Opposition to Defendant's Motion to Strike*** Upon party of record via Statutory Electronic Service thru PeachCourt System to:

MAHAFFEY PICKENS TUCKER, LLP

Brian T. Easley

1550 North Brown Road

Suite 125

Lawrenceville, Georgia 30043

beasley@mptlawfirm.com

WEINSTEIN & BLACK, LLC

Dave McDonald

167 Lee Street

Jefferson, GA 30549

Dave@WBlegal.net

This 22 th day of August, 2024

App-520

/s/ Kevin Yeung
Kevin Yeung
P O BOX 911
BRASELTON,GA 30517

App-521

EXHIBIT “ A”

AMT and Jah Environmental Reports
Bearing State Seal

App-522



**Jah Environmental Safety & Health,
LLC**

Date: March 15, 2024

Mr. and Mrs. Yeung
2904 Muscadine Way
Jefferson, GA 30549
Phone: 929-206-8315

Re: Environmental Assessment 2904 Muscadine Way,
Jefferson, GA 30549

Hello Mr. & Mrs. Yeung,

On Wednesday, February 28, 2024, per your request, a representative from Jah Environmental Safety & Health, LLC (JESH) visited the residence located at 2904 Muscadine Way Jefferson, GA 30549 to conduct a Visual Environmental Assessment.

**Environmental Report: Impact of High pH
Runoff Water on Vegetation**

Introduction:

This report addresses concerns regarding the runoff water from a neighboring property, which has been observed to have a high pH level, likely due to chloride contamination. This runoff is causing damage (erosion) to the vegetation on the lower-level property located at 2904 Muscadine Way. The purpose of this report is to assess the environmental impact of the high pH runoff water and propose mitigation measures to alleviate its effects on vegetation.

App-523

Matrix	Results (Extractable Chloride)	Date
Soil	40.48 lbs/acre	07/17/23
Soil	<4.15 lbs/acre	07/17/23
Soil	5.747 lbs/acre	08/04/23
Soil	10.56 lbs/acre	11/30/23
Soil	8.631 lbs/acre	03/13/24

Laboratory Results

Observations:

High pH Levels: Visual observation showed extensive damage to the vegetation and greenery throughout the property located at 2904 Muscadine Way. The erosion demonstrates a distinct pattern that originates from the high point of the property (property line between the two properties). Previous laboratory analysis confirmed the presence of chloride contamination in the soil and revealed elevated pH levels.

Vegetation Damage: Vegetation on the lower level of the two neighboring properties (2904 Muscadine Way) has shown signs of stress and damage (erosion), likely attributed to the high pH runoff water.

Environmental Impact Assessment:

1. Vegetation Damage: The high pH levels of the runoff water are detrimental to plant life, causing stress, discoloration, and potential long-term damage to vegetation. Vegetation Damage: Vegetation on the lower level of the neighboring property has shown

signs of stress and damage, likely attributed to the high pH runoff water. The high pH levels of the runoff water are detrimental to plant life, causing stress, discoloration, and potential long-term damage to vegetation.

2. Soil Health: Continuous exposure to high-pH water can alter the soil pH, affecting nutrient availability and soil structure, and further impacting plant health and ecosystem stability.

3. Water Quality: Runoff containing chloride can negatively impact local water bodies, affecting aquatic life and overall water quality.

Mitigation Measures:

1. **Diversion Systems:** Implementing diversion channels or swales can redirect runoff water away from vulnerable areas, preventing direct contact with vegetation.

2. **Buffer Zones:** Establishing vegetated buffer zones along the boundary of properties can help absorb and filter runoff water, reducing its harmful effects.

3. **pH Neutralization:** Installing pH adjustment systems, such as limestone beds or chemical dosing, can neutralize the high pH of the runoff water before it reaches sensitive areas.

4. **Source Control:** Identifying and addressing the source of chloride contamination, such as improper

storage or disposal of chemicals, is essential to prevent further runoff pollution.

5. Education and Communication: Promoting awareness among neighbors about the importance of proper runoff management and the potential consequences of chemical contamination can encourage responsible practices.

Conclusion:

The runoff water containing high pH levels, likely due to chloride contamination, poses a significant threat to vegetation and ecosystem health. An average chloride concentration in soil typically ranges from 0 to 200 parts per million (ppm), or approximately 0 to 0.04 lbs./acre depending on location, soil type, and land use. Therefore, several readings are significantly higher than typical background levels. Effects of such elevated levels in soil may include:

1. **Impact on Plant Health:** Excessive chloride can disrupt the osmotic balance in plant cells, leading to wilting, leaf burn, and overall decreased plant health. Some plants may exhibit chlorosis (yellowing) or necrosis (death of plant tissue).
2. **Soil Structure Degradation:** High chloride levels can contribute to soil compaction and reduced soil porosity, impeding water infiltration and root growth. This degradation in soil structure can affect the overall productivity and sustainability of the land.
3. **Toxicity to Soil Microorganisms:** Soil microorganisms crucial for nutrient cycling and soil health can be negatively affected by high chloride concentrations, leading to a decline in soil fertility and microbial activity.
4. **Impact on Water Quality:** Chloride can leach into groundwater and

surface water bodies, affecting aquatic ecosystems and drinking water quality. High chloride levels in water bodies can be toxic to aquatic organisms and can also contribute to the corrosion of infrastructure.

5. **Impact on Human Health:** In areas where groundwater is used for drinking water supply, high chloride levels can pose health risks to humans, particularly those with pre-existing health conditions such as hypertension or cardiovascular disease. Given these potential impacts, it's essential to address the source of chloride contamination and implement remediation measures to restore soil and water quality to safe levels. This may involve identifying and controlling the sources of chloride, implementing best management practices for runoff and irrigation, and possibly remediation techniques such as soil flushing or phytoremediation. Implementing appropriate mitigation measures is crucial to minimize environmental damage and maintain the integrity of the local ecosystem. Collaboration among neighbors and stakeholders is essential to address this issue effectively and sustainably.

Recommendation:

We recommend immediate action to implement mitigation measures and establish communication channels among neighbors to address the issue collectively and prevent further environmental degradation. Consulting with environmental experts and regulatory agencies can provide guidance on appropriate actions to mitigate the effects of high chloride levels.

App-527

For further inquiries or assistance in implementing mitigation measures, please feel free to contact our environmental experts.

JESH Review Link

Jah Environmental Safety & Health, LLC would love your feedback. Please post a review to our profile using the link below:

<https://g.page/r/CVbeUeJwI7CnEBE/review>

Thank you,

Brent E. Wadlington, BS, CIEC, IH



Jah Environmental Safety & Health, LLC
300 Peachtree St. NE, Suite CS2, PMB 1148
Atlanta, GA 30303
Phone: 470-615-MOLD (6653)
Mail: brentw@jesh.llc Web: www.jesh.llc

App-528



May 21, 2024

Ms. May Auyeung
2904 Muscadine Way
Jefferson, GA 30549

Email: [REDACTED]

RE: Stormwater Run-off Inspection – 2904 Muscadine Way, Jefferson, Georgia
Armentrout Matheny Thurmond, P.C.,
Project No. 24048

Dear Ms. Auyeung,

On February 20, 2024, a representative from Armentrout Matheny Thurmond, P.C. (AMT) visited your property at the above address to review the current conditions. The property is a corner lot and receives stormwater from an adjacent lot, 2478 Traditions Way, Jefferson Georgia. After purchasing the house in July 2021, the owner, Shannon Humphrey (based upon public tax records), constructed a pool and graded the rear yard. This resulted in a change of direction of stormwater such that water flows onto your property. The pool pump system discharges to a swale on the 2478 Traditions Way property which runs parallel to the common property line. The pump discharges through a pop-up valve that appears to be positioned such that water flow is not directional. These pop-up valves discharge water radially so that

the water is thrown in a circle. The area does not appear low enough to contain that spray discharge. Furthermore, the ditch “runs out” at the front of the house and it appears stormwater will flow onto your yard on Traditions Way.

I reviewed the segmental block wall on your side of the property line. You placed the wall to direct flow parallel to the property line that comes from 2478 Traditions Way. This is partially successful, but water from 2478 Traditions Way continues through the segmental block and runs across your property towards Muscadine Way.

As you told me, all these issues with run-off commenced when the pool was constructed sometime in 2023. The run-off increased across the property line and continues to erode the slope at your property line. Your effort to redirect storm flow was only partially successful and the block wall creates a shady area behind it such that grass will not grow on the slope.

My analysis shows that the peak flow rate onto your property increased over 250 percent after the pool was constructed. My analysis is attached. I also analyzed a triangular ditch similar to that observed at 2478 Traditions Way. The existing ditch may have a parabolic cross-section. The assumptions regarding ditch size and slope should be considered an example rather than the existing condition. If the selected ditch cross-section is accurate, then the ditch may be adequate. I did not enter the neighboring property to verify ditch geometry. I would need permission to

App-530

measure the current ditch on 2478 Traditions Way to correctly model the storm flow in the ditch.

Should you have any questions, please do not hesitate to contact this office.

Sincerely,

Armentrout Matheny Thurmond, P.C.

/s/ Michael B. Thurmond

Michael B. Thurmond, P.E.

President



App-531

2478 Tradiθons Way

Roof Area Draining to Rear 1,275 sqft
Pool Area Draining Offsite 1,236 sqft
Area of Grass 507 sqft
Total = 3,018 sqft

Peak Flow Analysis

25 Yr/50 Yr/100 Yr NOAA Maysville Station 09-5633
(Rainfall Station)

Tc = 5 Min LAT 34.2647 / LONG -83.5581

For 5 Min Tc

RETURN PERIOD	RAINFALL INTENSITY (INCHES/HOUR)
25 Yr	9.17
50 Yr	10.2
100 Yr	11.2

C-VALUES

0.25 Wooded Lot

0.95 Residenθal Lot

SITE AREA

A = 3.018/43560 = 0.0692 AC

Q = CiA

For Condiθons Existing Now

25 Yr 0.95 (9.17)(.069) = 0.60 cfs

50 Yr 0.95 (10.2)(.069) = 0.67 cfs

100 Yr 0.95 (11.2)(.069) = 0.73 cfs

App-532

For Conditions Prior to Construction

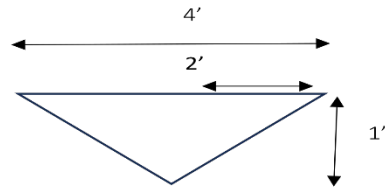
25 Yr $0.25 (9.17)(.069) = 0.16 \text{ cfs}$
 50 Yr $0.25 (10.2)(.069) = 0.18 \text{ cfs}$
 100 Yr $0.25 (11.2)(.069) = 0.19 \text{ cfs}$

RETURN PERIOD	POST - PRE (cfs)	% INCREASE
25 Yr	0.44	231
50 Yr	0.49	272
100 Yr	0.54	284

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Example

Example
Ditch
At 1% Slope



$$Z = \frac{2}{1} = 2$$

$$\text{X-Section } Zd^2 = 2(1)^2 = 2 \text{ sf}$$

$$\text{Wetted Perimeter } 2d\sqrt{Z^2 + 1} = 2(1)\sqrt{2^2 + 1} = 2\sqrt{5} = 4.47 \text{ ft}$$

Cut Bermuda
2-1/2" Tall

Retardance Class D

$n = 0.04$

From Figure 9.4 Soil and Water Conservation Engineering (Page 235)

For $n = 0.04$, then $vR = 3.5$

$$v = 1.49/n R^{2/3} S^{-1/2}$$

Assumes Ditch Slope is 1 Percent = 0.01 ft/ft

$$R = a/p = 2 \text{ sf}/4.47 \text{ ft} = 0.447 \text{ ft}$$

$$V = (1.49/.04) (.447)^{.67} (0.01)^{-.5} = 2.17 \text{ ft/sec}$$

$$Q = VA \quad 0.54 \text{ cfs} = 2.17 \text{ ft/sec (A)}$$

$$A = 0.54/2.17 = 0.248 \text{ ft}^2$$

Water remains in ditch since the triangular section is 4 ft²

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EXHIBIT “ B”

(ECHOTA Home Inspections Inc.)
Mr. Mark Cordle Affidavit of Business Record

App-535

ECHOTA HOME INSPECTIONS, INC
P.O. Box 17771
Atlanta, Ga. 30316
678-232-5501

24 June 2024

Mr. Kevin Yeung & Mrs. May Yeung
2904 Muscadine Way
Jefferson, Georgia 30549

RE: Jackson County Georgia Civil Action
22CV0988
Kevin Yeung (Plaintiff) vs. Shannon Humphrey
(Defendant)

Mr. and Mrs. Yeung,

Per your request, we visited your home located at 2904 Muscadine Way on Sunday 26 May 2024 at 1300hrs for the purpose of reviewing the reported grading/drainage and pool discharge issues, originating at the adjacent elevated property located at 2478 Traditions Way, located at the rear elevation of your home. The weather was clear, 85F. All directions are provided as if facing your home from the front street.

It is our understanding that after the swimming pool and pool deck were installed at 2478 Traditions Way, alteration of the surface water run-off from that address onto your property was created. The water flow from that lot discharges onto your lot, damaging the rear stone walkway, and causing flooding at the right elevation of your home. These issues had not previously occurred prior to the pool/pool deck

installation. Also, the pool drainage water discharges onto your property, thereby contributing to the flooding and causing chlorine contaminated water runoff issues.

Documents/references reviewed in the preparation of this report included:

- Plaintiff's motion for summary Judgment dated 17 March 2024
- Multiple photographs and videos of drainage issues provided by you.
- Dave McDonald, Esq. letter (Weinstein & Black) dated 11 January 2024
- Elvin Aycock, PE/PH report (Atlanta Engineering Services) dated 26 September 2023
- Brent Wadlington, BS/CIEC/IH report (Jah Environmental) dated 15 March 2024
- Michael B. Thurmond, PE report (AMT Engineers) dated 21 May 2024
- https://www.dca.ga.gov/sites/default/files/2022_current_codes_green_sheet_0.pdf
- https://www.dca.ga.gov/sites/default/files/ispssc_2020_amendments.pdf
- https://library.municode.com/ga/jackson_county/codes/code_of_ordinances?nodeId=PTIICOOR_APXAUNDECO_ART20BURE
- <https://www.jacksoncountygov.com/161/Permit-Process>
- <https://www.jacksoncountygov.com/DocumentCenter/View/3053/Inspection-Order-According-to-Structure-Type>
- <https://law.justia.com/codes/georgia/2022/title-41/chapter-1/section-41-1-1/>
- <https://codes.iccsafe.org/content/ISPSC2018P4>

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- International Plumbing Code, 2018 Edition, with Georgia Amendments ([2020](#))
- International Swimming Pool & Spa Code, 2018 Edition, with Georgia Amendments ([2020](#))

Description:

Per the documents provided, it appears the Defendant contracted with Sandal Luxury Pool in 2022 to install an inground swimming pool at the rear elevation of her home located at 2478 Traditions Way. The sub-grade pipes were reportedly not inspected by the Municipality, nor pressure tested with water by the contractor prior to concealment, as required by the 2018 International Swimming Pool & Spa Code (SP&SC). Both items are mandatory SP&SC Code requirements, per SP&SC sections 302.4 and 302.7, respectively. After the pool plumbing modifications were made, the pool drainage water now reportedly discharges on to your property, through a pop-up emitter located close to your property line. This location for the discharge is not, in our opinion, compliant with the SP&SC requirements, per section 302.20. The water discharge has reportedly caused damage, and chemical contamination on your property. Multiple grading/drainage issues have been defined in the engineering documents which you have provided. A Certified Soil Erosion plan was reportedly not provided by the contractor, as required for pool permitting in Jackson County. You have made modifications to your property to mitigate the water discharge issues from the adjacent property. Unfortunately, the drainage issues created by the adjacent property modifications have overwhelmed your efforts.

Code references:

In our opinion, the 2018 International Swimming Pool and Spa Code (SPSC Code), was adopted by The State of Georgia and Jackson County Georgia for mandatory compliance. We believe, per the 2018 International Swimming pool and Spa Code, including a review of the State of Georgia Amendments, that the following Code sections are relevant in this matter:

302.4 Concealed Piping Inspection

Piping, including process piping, that is installed in trenches, shall be inspected prior to backfilling.

302.7 Test

Tests on water piping systems constructed of plastic piping shall not use compressed air for the test.

320.1 Backwash Water or Draining Water

Backwash water and draining water shall be discharged to the sanitary or storm sewer, or into an approved disposal system on the premise, or shall be disposed of by other means approved by the state or local authority. Direct connections shall not be made between the end of the backwash line and the disposal system. Drains shall discharge through an air gap.

Georgia & Jackson County References

Jackson County Georgia Ordinance:

ARTICLE 18. - NUISANCES AND PROPERTY

MAINTENANCE

DIVISION I. – NUISANCES

Sec. 1801. - Definitions.

Nuisance: Anything which causes hurt, inconvenience or damage to another, provided that the hurt, inconvenience or damage complained of shall not be fanciful, or such as would affect only one of fastidious taste,

but rather such as would affect an ordinary, reasonable man, and the fact that the act done may otherwise be lawful shall not keep such act from being a nuisance.

Sec. 1815. - Responsibility.

(a) It is the duty of the owner of every dwelling, building, structure, or property within the unincorporated portion of Jackson County to construct and maintain such dwelling, building, structure, or property in conformance with applicable codes in force within the jurisdiction including this article, or such ordinances which regulate and prohibit activities on property including this UDC, and which declare it to be a public nuisance to construct or maintain any dwelling, building, structure, or property in violation of such codes or ordinances.

State of Georgia Code

Title 41 - Nuisances

Chapter 1 - General Provisions

§41-1-1. Nuisance Defined Generally

A nuisance is anything that causes hurt, inconvenience, or damage to another and the fact that the act done may otherwise be lawful shall not keep it from being a nuisance. The inconvenience complained of shall not be fanciful, or such as would affect only one of fastidious taste, but it shall be such as would affect an ordinary, reasonable man.

§41-1-4. Right of Action for Private Nuisance Generally

A private nuisance may injure either a person or property, or both, and for that injury a right of action accrues to the person who is injured or whose property is damaged.

Summary and Conclusion:

In our opinion, based on the visible evidence, and the evidence reported and provided by the Plaintiff, and other experts, we believe that the swimming pool installation was not compliant with the mandatory **2018 International Swimming Pool and Spa Code Sections 302.4, 302.7, and 320.1** requirements, as required in Jackson County and by the State of Georgia. Furthermore, the pool installation has apparently created a nuisance, as defined by **Jackson County Ordinance Article 18.- Definitions**, and further defined by **Section 1815.-Responsibility for of Duty**. The State of Georgia also provides definitions of nuisance in **OCGA 41-1-1 and 41-1-4**. As installed, the run-off and pool drainage discharge issues originating from 2478 Traditions Way are actively and adversely affecting your property located at 2904 Muscadine Way.

Best Regards,
/s/ T. Mark Cordle
T. Mark Cordle
IRC# 5187128 R-5

AFFIDAVIT OF CUSTODIAN OF RECORDS

Before me, the undersigned authority, personally appeared the person known to me as Mark Cordle who being duly sworn, states as follows:

My name is Mark Cordle. I am over twenty-one (21) years of age. I am of sound mind and capable of making this Affidavit. All of the facts contained in this Affidavit are true and correct.

1. I am a Custodian of Records for Echota Home Inspections, INC.
2. This affidavit concerns the record of Report dated June 24, 2024 for May Yeung and Kevin Yeung at 2904 Muscadine Way Jefferson GA 30549.
3. The attached record was 1) made at or near the time of the event recorded, 2) by, or from information transmitted by a person with knowledge, 3) kept in the court of a regularly conducted business activity, and 4) is the regular practice of this business to make such a record.
4. I acknowledge that providing false certification or declaration subjects me to criminal perjury under the laws of the state where this is signed.

/s/ Mark Cordle

Mark Cordle

Sworn and Subscribed before me on the 31 day of July, 2024.

App-542

/s/ Sydney Titelman
Notary Public

Commission expires: March 15, 2026

[Seal of Sydney Titelman, DeKalb County, Georgia,
Notary Public, Commission Expires March 15, 2026]

AFFIDAVIT OF CUSTODIAN OF RECORDS

Before me, the undersigned authority, personally appeared the person known to me as Elvin Aycock who being duly sworn, states as follows:

My name is Elvin Aycock. I am over twenty-one (21) years of age. I am of sound mind and capable of making this Affidavit. All of the facts contained in this Affidavit are true and correct.

1. I am a Custodian of Records for Atlanta Engineering Services, INC.
2. This affidavit concerns the record of Report dated September 26, 2023 for May and Kevin AuYeung at 2904 Muscadine Way Jefferson GA 30549.
3. The attached record was 1) made at or near the time of the event recorded, 2) by, or from information transmitted by a person with knowledge, 3) kept in the court of a regularly conducted business activity, and 4) is the regular practice of this business to make such a record.
4. I acknowledge that providing false certification or declaration subjects me to criminal perjury under the laws of the state where this is signed.

/s/ Elvin Aycock
Elvin Aycock

Sworn and Subscribed before me on the 13th day of August, 2024.

/s/ Calum Osullivan
Notary Public
Commission expires: Jun 22, 2029

App-544

[Seal of Calum Sullivan, Fulton County, Georgia,
Com. Exp. Jun 22, 2028, Notary Public]

App-545



September 26, 2023

Kevin and May Auyeung
2904 Muscadine Way
Jefferson, GA 30549

Re: Drainage Report
Kevin and May Auyeung
2904 Muscadine Way
Jefferson, GA 30549

Dear Kevin and May,

On September 21, 2023, I made a site inspection of your property at 2904 Muscadine Way. Before arriving on the site, I reviewed USGS and GIS maps from public records. I also reviewed the documents furnished by you. I took photographs of your property and the property at 2478 Traditions Way, owned by Shannon Humphrey, according to county records.

My scope of work was to evaluate the drainage runoff from the neighbor's property and to recommend methods to handle the runoff from 2478 Traditions Way. Photos are attached to document this report further.

In this report, I will refer to your property at 2904 Muscadine Way as the Auyeung property and 2478 Traditions Way as the Humphrey property.

Site Inspection and Recommendations:

- Records show that the Auyeung house was constructed in 2014, and the Humphrey house was built in 2021. The Humphreys added a pool in 2022.
- The Humphrey property is several feet higher in elevation than the Auyeung property. Any water that is not contained or channeled away flows to the Auyeung Property. The area on the Auyeung property most affected is opposite the pool plumbing. The river rock placed in the swale reduces the capacity of the swale. Stormwater overflows the swale and flows onto the Auyeung property.
- The Site and Grading Plan—obtained from public records—shows flow arrows for the direction of stormwater flow across the Humphrey property. Stormwater from the Humphrey property flows from the right-rear corner of the house, across the rear yard of the Humphrey property, and toward the Auyeung property. The plan shows a swale to intercept the stormwater, directing the stormwater to the street. A note with an arrow to the swale says, “Grade 12” high berm & swale to direct water away from Lot P89 & toward street; Tie downspouts into drainage pipe & direct toward street.”
- A pool in the backyard of the Humphrey property was being constructed August 12, 2022, per dated photos.

- Before the pool was constructed, the swale was grassed, and no rock was in the grassed swale, as seen in photographs. Rock was added to the grass swale adjacent to the pool plumbing. The addition of the rock occurred after the completion of the pool and the landscaping.
- The Site and Grading Plan specified the swale to intercept stormwater and direct the water to the street. A properly constructed and maintained swale would prevent stormwater from flowing to the Auyeung property and damaging the Auyeung property. A grassed and rock swale was constructed along the Humphrey property to direct stormwater flow. The grassed and rock swale starts in the rear yard of the Humphrey property. The swale does not meet the 12-inch depth requirement.
- Photos show a pop-up valve located in the swale near the pool plumbing. A pop-up valve allows stormwater to exit the end of an underground pipe. As per the Site and Grading Plan, the downspouts were to be connected to an underground pipe and carry stormwater to Traditions Way.
- Due to the lack of depth of the swale and the addition of the rock to the grassed swale, the swale's function has decreased efficiency and no longer functions as per the Site and Grading Plan direction.

- Because the swale does not function properly, stormwater flows to the Auyeung property and saturates the stone walkway. The water has caused discoloration of the stone, killed the grass, and made this area less desirable and usable. The water from the Humphrey property has devalued the property.
- Also, note that a retaining has been constructed on the Auyeung's property in an attempt to control the water from the Humphrey property. The wall did not solve the stormwater problem.
- An interim solution would be to add drop inlets to the area to collect the stormwater from the Humphrey property. The stormwater collected by the drop inlets should be piped down the slope toward Traditions Way. I recommend adding two 18-inch drop inlets with steel grates. The openings in the drop-inlets should be a minimum of 1-inch spacing. The top of the drop inlets should be a minimum of 6 inches below the ground surface. Connect the drop inlets with a 6-inch pipe, either PVC or HDPE. The interior of the 6-inch pipe should be smooth. A pop-up valve can be connected to the end of the pipe to discharge the stormwater.

Should you need additional information, don't hesitate to get in touch with me to discuss.

Material References:

The following publicly available data was referenced in the analysis in this report:

App-549

- Jackson County Public Records
<https://www.jacksoncountygov.com/256/GIS-Addressing>
- NOAA's National Weather Service Precipitation Frequency Data Server
<https://hdsc.nws.noaa.gov/hdsc/pfds/>
- Georgia Stormwater Management Manual, Volume 2
- Manual for Erosion and Sediment Control in Georgia

Accepted Engineering Practices:

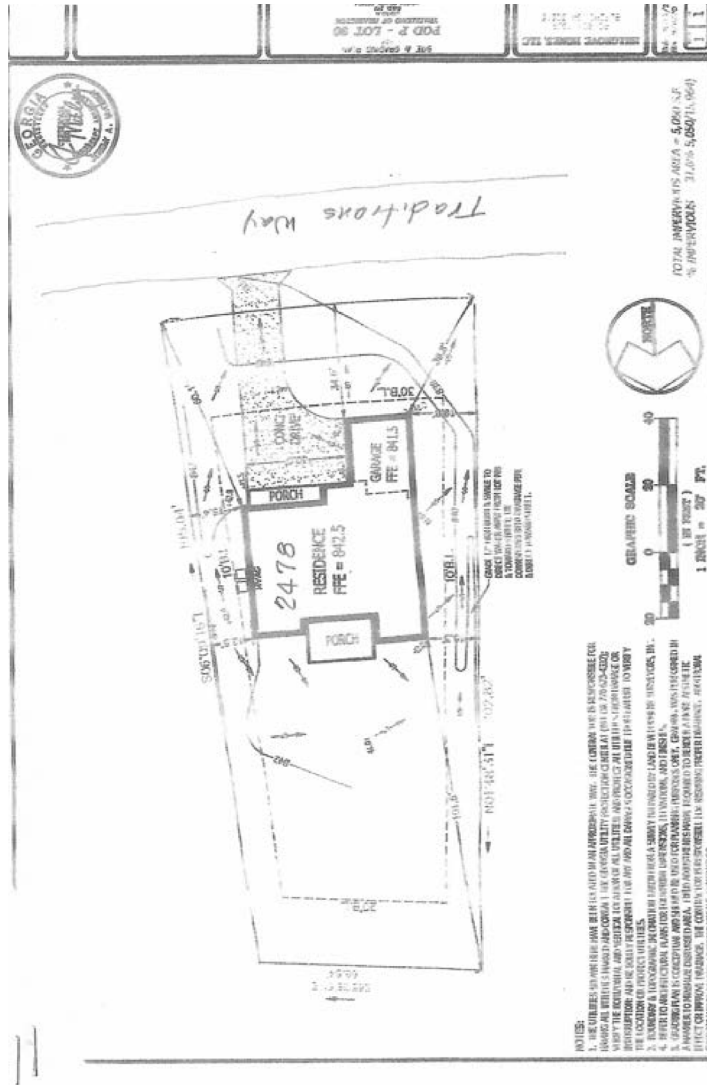
I believe this report is consistent with the facts described above and with accepted engineering practice. I reserve the right to amend this report if additional facts become available, which are not now known.

I trust this report will be of help to you. If you have questions or desire to discuss this with me, please contact me at your convenience.

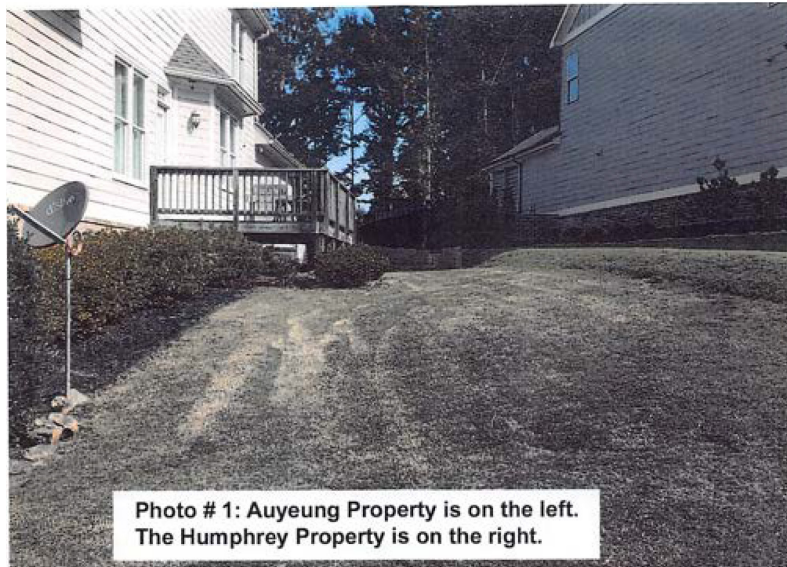
Sincerely,

/s/ Elvin Aycock

Elvin Aycock, PE, PH
Professional Engineer
Attachments



App-551



App-552





Photo # 5: Photo shows the retaining wall looking to the rear of the property.



Photo # 6: Auyeung's retaining wall viewed looking toward Traditions Way.



App-555



Photo # 9: Photo shows the stone walkway. Note the area and the discoloration.

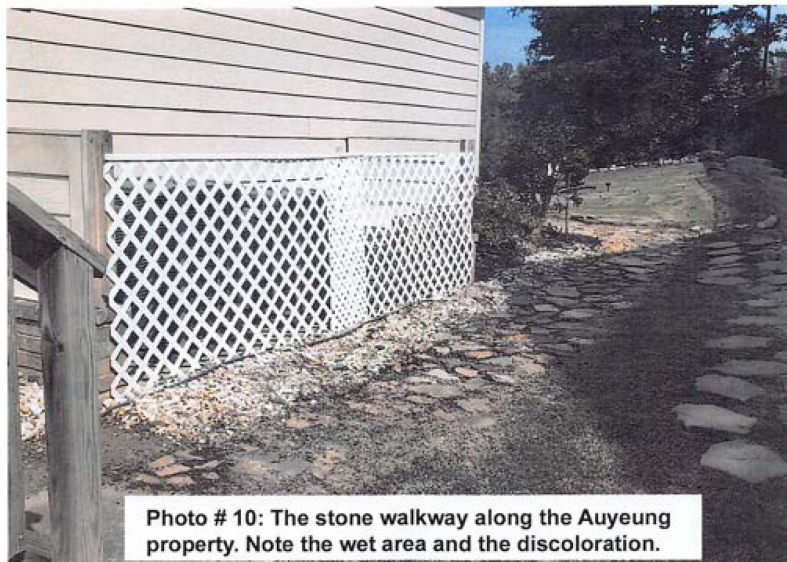


Photo # 10: The stone walkway along the Auyeung property. Note the wet area and the discoloration.

App-556

EXHIBIT “ C”

Disclosure of Plaintiff's Experts

App-557

***Statutory Electronic Service* Potential Expert**

KEVIN YEUNG <kau88888@hotmail.com>

Thu 2/29/2024 8:42 PM

To: Dave McDonald <dave@wblegal.net>

Cc: Annika Waters <annika@wblegal.net>

1 attachments (48 KB)

Potential Expert 02_28_24.pdf;

Please see attached, thank you.

App-558

“Statutory Electronic Service” Revised Potential Expert List

KEVIN YEUNG <kau88888@hotmail.com>

Tue 2/20/2024 8:08 PM

To: Dave McDonald <dave@wblegal.net>

Cc: Annika Waters <annika@wblegal.net>

1 attachments (62 KB)

Revised Amended Potential Expert 02_20_2024.pdf;

Dave,

See attached Amended Potential Expert List.

Below is contact information for my wife:

Ching Auyeung
2904 Muscadine Way
Jefferson GA 30549
[Redacted]

Kevin

Mr Dave,

02/28/2024

The following are NON-Testifying Experts in this case.

This is not Witness List. This is Non- Testifying Experts List in support of the Court's Request of "Defendant may depose Plaintiff, his wife, any Experts identified.....any potential witnesses identified by the Plaintiff."

Identified Non Testifying Expert List (Work Product)

1. Mr. Elvin Aycock, PE

770-316-1720

Atlanta Engineering Services
918 Holcomb Bridge Road, Suite 201
Roswell, GA 30076

2. Bret Thurmond, PE

AMT Engineer
330 Research Drive
Athens, GA 30605
706-548-8211

3. **Brent Wadlington, BS, CIEC, IH**
Jah Environmental Safety & Health, LLC
300 Peachtree St. NE
Suite CS2 PMB 1148
Atlanta, GA 30308-3565
Phone: 470-615-6653
<http://www.jesh.llc>

App-560

**NO Potential Expert Witness List as of
02/28/2024**

Expert in _____ to be determined

Expert in _____ to be determined

Expert in _____ to be determined

Expert in _____ to be determined

This list is subject to periodic change based on the availability of Experts and ongoing litigation, will supplement updated list when any New Expert is identified.

Thank You,

Kevin

App-561

Mr Dave,

02/20/2024

The following are NON-Testifying Experts in this case.

This is not Witness List. This is Non- Testifying Experts List in support of the Court's Request of "Defendant may depose Plaintiff, his wife, any Experts identified.....any potential witnesses identified by the Plaintiff."

Identified Non Testifying Expert List (Work Product)

1. Mr. Elvin Aycock, PE

770-316-1720

Atlanta Engineering Services
918 Holcomb Bridge Road, Suite 201
Roswell, GA 30076

2. Bret Thurmond, PE

AMT Engineer
330 Research Drive
Athens, GA 30605
706-548-8211

NO Potential Expert Witness As of 02/20/2024

Expert in _____ to be determined

Expert in _____ to be determined

Expert in _____ to be determined

Expert in _____ to be determined

App-562

This list is subject to periodic change based on the availability of Experts and ongoing litigation. I anticipate to look for any potential Expert Witness and will update list when New Expert is identified.

Thank You,

Kevin

App-563

Expert

KEVIN YEUNG <kau88888@hotmail.com>

Sun 6/16/2024 9:13 PM

To: Dave McDonald <dave@wblegal.net>

Cc: Annika Waters <annika@wblegal.net>

Hi Dave,

Below is an Expert Identified.

Mark Cordle

Echota Home Inspections

Phone: 678-232-5501

Email: help@echotainspections.com

Kevin

App-564

Appendix J

IN THE SUPERIOR COURT OF JACKSON
COUNTY
STATE OF GEORGIA

KEVIN YEUNG,	)	
	)	
PLAINTIFF,	)	
	)	CIVIL ACTION FILE
vs.	)	NUMBER: 22CV0988
	)	
SHANNON HUMPHREY,	)	
	)	
DEFENDANT.	)	

The following deposition of KEVIN YEUNG was taken pursuant to stipulations contained herein, the reading and signing of the deposition reserved, before Lisa F. Samples, Certified Court Reporter in the State of Georgia, on the 22nd day of February, 2024, at the Jackson County Courthouse, Meeting Room #4, located at 5000 Jackson Parkway, Jefferson, Georgia 30549, commencing at 12:00 p.m.

LISA F. SAMPLES, CCR
BENTLEY-ROBINSON REPORTING, INC.
CERTIFIED COURT REPORTERS
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POST OFFICE BOX 826
WINDER, GEORGIA 30680
(770) 867-7882
www.BRcourtReporting.com

App-565

A P P E A R A N C E S

ON BEHALF OF THE PLAINTIFF:
P R O S E

ON BEHALF OF THE DEFENDANT:
MR. DAVE MCDONALD
WEINSTEIN & BLACK, LLC
167 LEE STREET
JEFFERSON, GEORGIA 30549
(404) 228-2629
Dave@wblegal.net

T R A N S C R I P T L E G E N D

— Cross-talk/interruption/change of thought
... Trailing off or incomplete thought
(phonetic) Phonetically spelled
(sic) Written as spoken
(unintelligible) Not capable of being understood

App-566

I N D E X

EXAMINATION	PAGE
MR. KEVIN YEUNG	
CROSS BY MR. MCDONALD	[App-569]

E X H I B I T S

IDENTIFIED	DESCRIPTION	MARKED
D-EXHIBIT 1	IMAGE FROM SECURITY CAMERA	[]
D-EXHIBIT 2	NO PIPING WORK	[]
D-EXHIBIT 3	BLACK TRUCK	[]
D-EXHIBIT 4	NO PLUMBING WORK ONLY	[]
	LAND DISTURBANCE	
D-EXHIBIT 5	CONCRETE POURED NO INSPECTION	[]
D-EXHIBIT 6	POP-UP EMITTER WITH NO SWALE	[]
D-EXHIBIT 7	GRADING	[]
D-EXHIBIT 8	PLUMBING WORK	[]
D-EXHIBIT 9	DOWNSPOUTS NOT CONNECTED TO DRAIN PIPES	[]
D-EXHIBIT 10	PIPE EXTENSION BEHIND BLACK MULCH	[]
D-EXHIBIT 11	JUDGMENT	[]
D-EXHIBIT 11(a)*	VIDEO RAIN EVENT	[]
D-EXHIBIT 12	AMENDED INTERROGATORY NO. 28	[]

App-567

D-EXHIBIT 13	STONE PATHWAY	[]
D-EXHIBIT 14	STONE WALKWAY	[]
D-EXHIBIT 15	INSTALLATION OF COUPLING	[]
D-EXHIBIT 16	EROSION TO WALKWAY 2022	[]
D-EXHIBIT 17	POP-UP EMITTER 3/4 FEET FROM PROPERTY LINE	[]

**D-Exhibit 11 was marked twice in the deposition.
The court reporter has changed the second Exhibit 11
to Exhibit 11(a) to avoid confusion.

D I S C L O S U R E

STATE OF GEORGIA
COUNTY OF WALTON

DEPOSITION OF
KEVIN YEUNG

Pursuant to Article 10.B. of the Rules and Regulations of the Board of Court Reporting of the Judicial Council of Georgia, I make the following disclosure:

I am a Georgia Certified Court Reporter. I am here as a representative of Bentley-Robinson Reporting, Inc. Bentley-Robinson Reporting, Inc., was contacted by the law offices of Mr. Dave McDonald to provide court reporting services for this deposition. The firm will not be taking this deposition under any contract that is prohibited by O. C. G. A. §§15-14-37(a) and (b).

Bentley-Robinson Reporting, Inc., has no contract or agreement to provide court reporting services with any party to the case, any counsel in the case, or any reporter or reporting agency from whom a referral might have been made to cover this deposition.

Bentley-Robinson Reporting, Inc., will charge its usual and customary rates to all parties in the case, and a financial discount will not be given to any party in this litigation.

This 22nd Day of February, 2024.

Lisa F. Samples
LISA F. SAMPLES
Certified Court Reporter
Certificate No. 4922-6690-3882-9568

S T I P U L A T I O N S

MR. MCDONALD: Well, good afternoon. Today is February 22nd, 2024. My name is Dave McDonald and I'm an attorney with the law firm, Weinstein and Black, LLC. I represent the Defendant, Shannon Humphrey, in the matter of Yeung v. Humphrey in the Superior court of Jackson County, and that would be file number 22CV0988.

It is now 12:00 p.m. on February 22nd, 2024, and this will be the deposition of the Plaintiff, Kevin Yeung, to be taken here in person at the Jackson County courthouse here in Jefferson, Georgia. In this deposition today, in this room, we are joined by the Plaintiff, Kevin Yeung, our court reporter, Lisa, and myself, Dave McDonald.

Mr. Yeung, do you waive any and all objections but to form and responsiveness of the answer?

THE DEPONENT: I don't understand what that means.

MR. MCDONALD: So you can make speaking objections if you object to a question that I've asked.

THE DEPONENT: Uh-huh (affirmative).

MR. MCDONALD: Or you can waive those objections until we use this at trial if we have to. You just object to the form of the question.

THE DEPONENT: I don't waive to ask (sic). I would like to object.

MR. MCDONALD: Okay. And are you going to reserve the right to read and sign the transcript?

THE DEPONENT: Yes, I would like a copy — I would like a copy and to review the transcript.

MR. MCDONALD: Okay. All right. And so with that, I will ask the reporter to please swear-in the

witness.

(...Witness sworn...)

MR. MCDONALD: Well, good afternoon, Mr. Yeung. As I said earlier, my name is Dave McDonald. As you know I'm an attorney with the law firm Weinstein and Black.

THE DEPONENT: Uh-huh (affirmative).

MR. MCDONALD: And you are well aware of the fact that I represent the Defendant in this case, Ms. Shannon Humphrey.

THE DEPONENT: Yes.

MR. MCDONALD: You're the Plaintiff in this matter, correct?

THE DEPONENT: Correct.

MR. MCDONALD: Okay.

Whereupon,

KEVIN YEUNG,

After having been first duly sworn, testified as follows:

CROSS-EXAMINATION

BY MR. MCDONALD:

Q. Could you please state your full legal name for the record?

A. Kevin Auyeung.

Q. Can you spell that?

A. K-E-V-I-N A-U-Y-E-U-N-G.

Q. Thank you. Have you ever used any other names or aliases?

A. Kevin Yeung.

Q. Okay. Any nicknames?

A. No.

Q. What's your date of birth?

MR. YEUNG: I object to that for personal information.

MR. MCDONALD: Okay.

BY MR. MCDONALD:

Q. What's your date of birth?

MR. YEUNG: Like I say, I object.

MR. MCDONALD: Okay. You understand if you don't answer the question I'll file a motion to compel and we'll be back where we are. You have to answer the question. You can object to it, but you have to answer the question.

MR. YEUNG: Okay. October 24, '74.

MR. MCDONALD: Okay. Thank you.

BY MR. MCDONALD:

Q. And what's your current home address?

A. 2904 Muscadine Drive, Jefferson, Georgia.

Q. Okay. And where were you born?

A. New York, City.

Q. Okay. And is there anyone else over the age of 18 who lives in that home address with you?

A. My wife.

Q. Your wife, okay. And, let me see. What about in the last five years, Mr. Yeung. In the last five years, has anyone else over the age of 18 lived with you in your home?

A. Just my wife.

Q. Just your wife. So from today's date, moving backward in time, for the last five years only you and your wife lived in that home?

A. Oh, wait a second. Did you say for the past five years?

Q. Yes.

A. I do not remember exactly who else lived there.

Q. You don't remember who else lived in your

house?

A. For the past five years, it's just me and my wife — me and my wife. Oh, and my daughter. I'm sorry.

Q. Your daughter?

A. Yes.

Q. Okay. Anyone else?

A. No.

Q. Okay. And how long did your daughter live in the home with you?

A. One year.

Q. And how old is she now?

A. Twenty-six.

Q. Would she have any knowledge of the facts or circumstances in this case?

A. No.

Q. So she never observed any erosion?

A. No.

Q. No water runoff?

A. No.

Q. Okay. Are you telling me then that she left the home before they built the Humphreys' home?

A. I don't exactly remember when the Humphreys' home got built. I don't remember.

Q. Do you remember if the Humphreys' home was there when your daughter was living there?

A. I think that's when they were starting to build it.

Q. They were starting to build it when your daughter was living there?

A. Uh-huh (affirmative).

Q. Was it completed before she moved out?

A. Not that I remember.

Q. Okay. If I send you supplemental discovery

questions with her name and contact information, do you agree to answer that and provide that so I can speak with her?

A. I do not agree. She has nothing to do with that.

Q. Okay. But she lived in the home when they were constructing the Humphreys' home, correct?

A. Uh-huh (affirmative).

Q. And a lot of these issues, you've alleged, have come from the construction activity that has occurred on the Humphreys' property, correct?

A. No. While construction was stopped I sued the builder to stop them from build (unintelligible) because of the renovations that they did after the house was built.

Q. Right, however, you did sue the builder in Magistrate Court in Hall County, correct?

A. Yes.

Q. And you sued them for water runoff and erosion issues, correct?

A. Yes, erosion issues and water run. Yeah.

Q. Okay. And your daughter lived in the home when they were building — when HillGrove was building that home?

A. Yes.

Q. She maybe was there; we're not certain because you don't remember. She maybe was there when they completed the home, correct?

A. She might. I don't remember exactly when she moved out.

Q. Okay. You can provide the information to me now or I can file a motion to compel and the judge will force you to give me the information. I would like to speak with her. She may have observed some

erosion issues. The issues you've claimed against HillGrove Homes and the issues in this case are very similar. I have a right to speak with her and decide which ones are pertinent to the case that we are dealing with here and which ones are pertinent to the matter against HillGrove Homes. You've mentioned both in your lawsuit.

A. But, HillGrove is totally different lawsuit than one I'm bringing against your client.

Q. And I'm not going to litigate this issue with you.

A. Uh-huh (affirmative).

Q. You don't understand the legal concept of this and it's not for you to decide. I've asked you a question. If you don't want to provide the answer I'll file a motion to compel and we'll have the judge have you give that information.

A. Okay. You can file a motion to compel.

Q. Okay. You said she would have lived there within the last five years though, correct?

A. Like I said, I don't remember.

Q. Do you have any other family members that live in Jackson County?

A. No.

Q. Okay. And are you taking any medications that you believe might prevent you from understanding the questions I'm asking today?

A. No.

Q. Are you taking any medications that you believe might prevent you from answering any of my questions?

A. No.

Q. Are you under the influence of any alcohol or illicit drugs?

A. No.

Q. Is there anything that is preventing you from providing me with your full attention today?

A. No.

Q. Do you know what the purpose of today's deposition is?

A. To question about the case.

Q. Okay. Have you done anything to prepare for today's deposition?

A. I went to the interrogatories.

Q. Okay. Did you speak with any attorneys?

A. No.

Q. Did you speak with anyone else?

A. Just my wife.

Q. Did you review any photos?

A. Yes.

Q. Which photos did you review?

A. I don't remember which ones, just folders that I have.

Q. Were they the photos that you provided me in discovery?

A. Yes.

Q. Okay. Any photos you reviewed that you did not provide to me in discovery?

A. I didn't see any.

Q. Okay. Did you look at any videos?

A. No.

Q. Okay.

A. Oh, yeah, I'm sorry. I did look at the Humphreys videos.

Q. The video that the Humphreys sent to you?

A. Yes.

Q. Okay. That was the video sent to you of the rain event?

A. Yes.

Q. Okay. And that was sent to you later in discovery, correct? As supplemental?

A. Yeah, I don't remember exact date.

Q. But later in the discovery process?

A. Yeah.

Q. Okay. Have you consulted with any attorneys, at all, at any point in this case, Mr Yeung?

A. I called around and asked questions.

Q. You called around and asked questions?

A. Yes.

Q. Which law firms did you call?

A. I don't remember.

Q. How many did you call?

A. I don't remember.

Q. Why didn't you hire any of them?

A. Because they say cases so far along they would not accept the case.

Q. Do you remember what they meant by so far along?

A. No, that's just the only thing they told me.

Q. So this is after you filed the lawsuit you talked to attorneys?

A. Yes.

Q. Okay.

A. No. After and before.

Q. Before and after?

A. Yes.

Q. Okay. Well, before the case — before you filed the lawsuit what did they say?

A. Before the lawsuit they didn't really say anything. They just say — I could take your case and that's basically it.

Q. They said they would or they wouldn't?

A. They said they would need to talk to us.

Q. Did you talk to them?

A. We decided not to go with them and decide to

—
Q. To handle yourself.

A. Yes.

Q. Okay. All right. Is there a particular reason why you decided to do it yourself?

A. No specific reason.

Q. Was cost a concern?

A. A little bit.

Q. Did any of the attorneys you consulted tell you there were things that you need to be concerned about with your case?

A. They did not give us any legal advice.

Q. No legal advice?

A. No legal advice.

Q. So you didn't have a consultation with them?

A. No.

Q. You reached out to them trying to get a consultation?

A. Yes.

Q. And it didn't go beyond that?

A. Yes.

Q. With any attorneys?

A. No.

Q. Okay. That was before you filed the lawsuit, right?

A. Before and after.

Q. And after, so the same thing every time.

A. Yes.

Q. You reached out to get a consultation?

A. Uh-huh (affirmative).

Q. You never had a consultation?

A. No.

Q. And it never went any further than that?

A. No.

Q. And you don't recall which attorneys you spoke with?

A. I do not, because I called a few of them.

Q. Were they all local?

A. Local to Jackson or Atlanta.

Q. Jefferson or Jackson County?

A. I do not remember exactly.

Q. Well, did you speak to any lawyers in Atlanta?

A. Yes.

Q. Okay. But you don't remember who?

A. No.

Q. How did you find them?

A. Online.

Q. Online. And are you aware that you are providing testimony under oath and that you're expected to give truthful answers to my questions?

A. Yes.

Q. Okay. And this is probably a good time to let you know we'll lay some of the ground rules here, okay? So in answering my question you need to answer yes, no, or some other audible answer, okay?

A. Okay.

Q. No uh-huh, uh-uh, or head shaking or head nodding or any of that. We have a court reporter here today who needs to hear an audible answer.

A. Okay.

Q. Also, I would ask that you allow me to finish asking my question before you provide an answer so we don't talk over one another. We want a nice clean record, okay?

A. Okay.

Q. All right. And at any time you need to take a

break or you need anything just let us know. The only thing I would ask is you let me finish asking my question and you provide me with a full answer so we have a nice clean stopping point, okay?

A. Okay.

Q. All right. Are you aware that your answers here today will have the same force and effect as they would in a courtroom before a judge or a jury?

A. Yes.

Q. And are you aware that your deposition testimony can be used against you at trial for the purpose of contradicting or impeaching your testimony?

A. Yes.

Q. And just so that we're clear about what everybody's role and relationship is, Mr. Yeung, do you and I have any sort of personal relationship?

A. No.

Q. Do you and I have any sort of relationship at all outside of this case?

A. No.

Q. Have you ever given a deposition before?

A. No.

Q. Okay. Are you a lawyer, Mr. Yeung?

A. No.

Q. Have you attended any years of law school?

A. No.

Q. Have you received any kind of academic, professional, or legal training?

A. No.

Q. Okay. Have you ever worked in a law firm?

A. No.

Q. What specific academic degrees do you hold?

A. I finished with a mechanic, certified fire alarm, test and fire alarm, inspection and testing, and a

college degree. (Unintelligible)

Q. What was the college degree in?

A. Philosophy.

Q. Is that a four-year?

A. Two-years.

Q. I'm sorry. Two-year degree?

A. Two-years.

Q. And where was that from?

A. Brooklyn College.

Q. Brooklyn College?

A. Yes.

Q. Why philosophy?

A. Well, I'm sorry philosophy is incorrect, it's general science.

Q. General science?

A. Not general science — general-- it's so long ago — it's just, like, I forgot the name of the degree. It's just a general two-year degree.

Q. Okay. I believe they call that an associate degree, right?

A. Yes.

Q. And is that the highest level of educate — formal academic education?

A. What do you mean by formal — like?

Q. Degree?

A. No. I still have my license, my fire alarm.

Q. Oh, so — but the highest college education — the highest college degree you've received is the two-year degree from Brooklyn?

A. Yes.

Q. Okay. And let me see here. All right. So very briefly, Mr. Yeung, I want to — and this is something that's already on the record so I don't need to enter it as an exhibit unless you would prefer. But I

do want to refresh your memory. You're familiar with the court order on my motion to compel, correct?

A. Yes.

Q. Okay. Would you like a copy to refresh your memory?

A. I don't think I need it.

Q. Okay. So then if you're familiar with it and you don't need a copy to refresh your memory then it's — you would agree with me you are familiar with the part of the court's order that requires you to pay \$3,500.00 in attorney's fees to the defendant, correct?

A. Yes.

Q. Okay. Do you intend to abide by that order, Mr. Yeung?

A. Yes.

Q. When?

A. After we get decision on the motion to reconsider from the judge.

Q. Okay. What if the judge doesn't rule on your motion to consider before we have a trial?

A. Like I said, I'm waiting for the judge's decision.

Q. Okay. What if the judge doesn't make a decision on your motion to reconsider?

A. I will pay.

Q. When?

A. I don't know.

Q. You don't know?

A. I don't know.

Q. Do you intend to comply?

A. Yes.

Q. So are we talking about a month from now?

A. Like I said, when the judge makes the decision.

Q. Okay. What if the judge doesn't make a decision though?

A. But that's not my choice. The judge makes the decision, not me.

Q. Right, so if he chooses not to take up your motion and make a ruling on that motion, are you then — is your testimony then that you're not going to pay that money to the defendant?

A. No.

Q. What is your testimony now?

A. My testimony is once the judge makes decision I will pay the money.

Q. On the case?

A. No. On the reconsider — on the motion to reconsider.

Q. Okay. You see what we're doing here?

A. Uh-huh (affirmative).

Q. What if the judge does not make a decision on your motion for reconsideration?

MR. YEUNG: I object to that, because that is speculation. You don't know what the judge rule or not just make it.

MR. MCDONALD: Okay.

MR. YEUNG: A decision on the case.

BY MR. MCDONALD:

Q. Do you know that the judge is going to make a ruling on it?

A. I do not know.

Q. Okay. So then work with me here. How do you intend to comply with the court's order if you have a motion that you're not going to abide by that order until you get a ruling on that motion that he may or not take up?

A. That is not my decision to make.

Q. Okay. So help me understand that.

A. Uh-huh (affirmative).

Q. You filed your motion for reconsideration?

A. Uh-huh (affirmative).

Q. You would agree with me it's possible he may not rule on that motion, correct?

A. I do not agree with you on that, because I'm expecting the judge to rule on that motion.

Q. Okay. Per your previous testimony was that you don't know whether he's going to or not?

A. Yeah, because that is the judge's decision, not my decision to make.

Q. Right, so if he makes a decision to not consider the motion?

A. But if he makes his decision not to consider a motion then I will pay the cost. I will pay the \$3,500.

Q. Okay. When?

A. That's up to the judge whenever he decides to either make a decision — make — make.

Q. So if he doesn't rule on the motion and we have a trial?

A. Okay.

Q. And there's a ruling in that — at the end of that trial, there's a judgment that's going to be rendered?

A. Okay.

Q. If the judgment is in favor of the Plaintiff (sic) are you still going to pay that \$3,500?

A. If the judge order me to pay that \$3,500, yes I will.

Q. But you would agree with me the judge has already ordered to pay that?

A. Yeah, but we also filed motion — a motion to reconsider.

Q. Okay. If he doesn't take up the motion to reconsider and he makes no ruling on that you're still going to pay that \$3,500?

- A. Yes.
- Q. Okay. What's your wife's full legal name?
- A. Ching Auyeung.
- Q. Can you spell that please?
- A. C-H-I-N-G A-U-Y-E-U-N-G.
- Q. Okay. And does she go by the nickname May?
- A. Yes.
- Q. How do you spell that?
- A. M-A-Y.
- Q. M-A-Y. And what is her address?
- A. Same as my home address, 2904 Muscadine Way.
- Q. Is she employed?
- A. No.
- Q. What's her phone number?
- A. 929 — I don't remember the phone number. It's in my phone.
- Q. Do you have your phone with you?
- A. No.
- Q. Okay. And I've made you aware of the fact that we're not able to e-mail her, correct?
- A. Yes.
- Q. Okay. And so you provided an e-mail address to me and I notified you that we have made an attempt to contact her through that e-mail, correct?
- A. Uh-huh (affirmative).
- Q. And I've notified you that it is bouncing back, correct?
- A. Yes.
- Q. Does she have another e-mail address that we can use to contact her?
- A. No.
- Q. She has one e-mail address?
- A. That is the e-mail I guess she asked me to

provide to you so.

Q. Okay. Are you aware of another e-mail address that she has?

A. Yes.

Q. Okay. Can you provide that to me, please?

A. My e-mail address, Kau —

Q. I'm not asking for your e-mail address, I'm asking for another — the other e-mail address you identified for your wife?

A. That I do not know. I have to look through my list.

Q. Okay. If I send you a supplemental discovery request for that will you please provide that?

A. Okay. Yes.

Q. Thank you. Other than the licenses and certifications or the degrees that you've mentioned earlier, Mr. Yeung, do have any other licenses or certifications you think are relevant to the facts or circumstances of this case?

A. Just the ones I told you about.

Q. Okay. Have you been employed in any capacity by Jackson County, Georgia Government?

A. No.

Q. Specifically have you ever been employed by Jackson County, Georgia for stormwater?

A. No.

Q. Okay. Have you been employed in any capacity by any other local or state government in the United States?

A. No.

Q. Have been employed anywhere as a code enforcement officer?

A. Yes.

Q. You have. Tell me about that.

A. I'm doing fire inspections that's enforcement for fire alarm codes.

Q. And was that here in the state of Georgia?

A. Yes.

Q. Where?

A. All of Georgia.

Q. All of Georgia?

A. Yes.

Q. Okay. How long ago was that?

A. Seven years, six/seven years. I don't exactly remember the exact time.

Q. Six or seven years ago would have been when you left that job?

A. Oh, no. I'm still currently.

Q. You're still currently doing that job?

A. Yes.

Q. So six or seven years ago is when you started doing it?

A. Yes.

Q. And what's the name of the company?

A. ADT Commercial I work for.

Q. ADT?

A. ADT, yes.

Q. Is that the security company?

A. Yes.

Q. Have you ever been involved in any way in drafting the code of ordinances for Jackson County, Georgia?

A. No.

Q. Do you have any experience in grading or paving?

A. Experience in grading and paving?

Q. Grading and paving?

A. Yes.

Q. You do? Tell me about that.

A. I used to do construction and I used to do grading work and paving work.

Q. How? Tell me about that.

A. Helping paving work. Helping, like, with guys, pave for concrete, and help level the ground to really start pavements.

Q. Okay. Would you install those pavers yourself?

A. I have installed them myself, yes.

Q. Professionally for the — in the construction work that you did?

A. Yes. Can you — by myself — or can you repeat that question?

Q. So you had mentioned that you did grading and paving work.

A. Yes.

Q. Because you worked in construction and that included leveling the ground to prepare it for concrete and help level the ground for the installation of pavers?

A. Yes.

Q. Did you ever in that capacity install the pavers yourself?

A. No. I had help.

Q. Okay. You had help, but you did install those pavers?

A. Yes.

Q. Okay. And what was the name of that company?

A. That was long time ago. I don't remember.

Q. Well, what's a long time ago?

A. More than ten years.

Q. Did they put you through any kind of education

or training to do that work?

A. No. It was learned on the job.

Q. Okay. So you did not come to that job with a formal education in construction?

A. No.

Q. And you didn't come to that job with formal training in construction?

A. No.

Q. They just kind of showed you what they wanted you to do?

A. Yes.

Q. Okay. And was that also here in the state of Georgia?

A. No.

Q. Where was that?

A. That was in New York.

Q. Okay. Have you ever done that work here in the State of Georgia?

A. No.

Q. So would this construction work include excavation or earth moving?

A. Yes.

Q. Okay. Was that by shovel, by hand?

A. No. By machinery.

Q. By machinery.

A. Yes.

Q. Okay. What kind of machinery?

A. Excavators, backhoes, heavy machinery.

Q. Okay. And they didn't have you go get certified or licensed to do that?

A. You just need to be certified to drive the machines.

Q. And so you received some certification to operate those machines?

A. I didn't operate the machine. I was just the person helping them.

Q. Oh, I thought your testimony was that you operated those machines?

A. No. I thought you asked me did I work with somebody that did that.

Q. So you were on the jobsite when somebody else was operating heavy machinery?

A. Yeah. I've never had a license to operate the machinery.

Q. So you're not using a backhoe?

A. No. I not use backhoe.

Q. You are not using a bulldozer?

A. No.

Q. Steam shovel, none of that?

A. Yes.

Q. Okay. So when I asked you about excavation and earth moving, you're just telling me that you were on jobsites when that happened?

A. Yeah. I was helping the guy that was operating the machines. I was just helping.

Q. But you weren't doing the excavation?

A. Yeah, I wasn't using the machines to do excavation.

Q. Right, what about a shovel?

A. Yes.

Q. So you would maybe dig some holes, right?

A. Uh-huh (affirmative).

Q. Okay. And I'll represent to you, Mr. Yeung, I don't ordinarily do this, but I'm keeping my cell phone on me because as you know, at any minute, I could go out on paternity leave. I don't anticipate and hopefully we won't have to do that. But if I have to stop and interrupt and answer my phone or look at my

phone that's all that's about.

A. Okay.

Q. All right. Back to my questions. So as far as excavation earth moving goes, your experience was that you were on jobsites when that would occur?

A. Yes.

Q. And once in awhile you may use a shovel?

A. Yes.

(... a short break was taken ...)

MR. MCDONALD: Okay. I appreciate that, Mr. Yeung. My wife has AT&T. I guess AT&T users are experiencing an issue today. I have instructed her that if she needs me to get a hold of the neighbor and have them call me, and that person that called me was my neighbor.

MR. YEUNG: Yes, AT&T got a lot.

MR. MCDONALD: Yeah. Okay. So with that said back to the deposition.

BY MR. MCDONALD:

Q. Do you have any experience with building in residential development?

A. Yes.

Q. Okay. Would this be the same construction job that you were talking about before?

A. Yes.

Q. Okay. So did they give you any training in residential building?

A. Yes.

Q. What kind of training?

A. Carpentry, some plumbing, some electrical, a little of everything.

Q. And as it pertains to this case, in that construction job that you did, did you receive any training or education on typography?

A. Yes.

Q. So doing typography?

A. Yes, helping the person who measure. No, I'm not sure on typography, but I know it's site survey.

Q. Site survey?

A. Yes.

Q. Okay. So tell me a little bit about that. What did you do to assist with the site survey?

A. How to measure with the stick. I don't know what they call the stick, but the stick. And he show me a little bit of how to measure with the equipment.

Q. But — so you were holding the measuring stick and there was another person that would look through it.

A. Yes.

Q. Would you ever write the reports?

A. No.

Q. Okay. Would you ever write down the measurements?

A. Yes, he show me how to do that.

Q. Okay. And how often would you say you did that?

A. That was long time ago too. I want to say — I don't remember.

Q. A couple of times?

A. Yeah, a couple times.

Q. But it wasn't a daily activity?

A. No.

Q. Was it a part of your job description?

A. You could say that. My job description back then was just help whoever needed help. Helping out.

Q. So you were a helper?

A. Yeah, pretty much.

Q. Okay. Did you have a specific job title?

A. Laborer.

Q. Laborer?

A. Yes.

Q. Okay. With this laborer title did you have specific responsibilities?

A. Basically, making sure everything run smoothly on the jobsite. Help out whoever need help.

Q. Gotcha. Okay. So you weren't specifically responsible for one aspect of construction, right?

A. No.

Q. Do you have any training or experience in plumbing?

A. Yes.

Q. You do? Tell me about that.

A. Like I said, back then I had to help any way out that includes plumbers.

Q. As a laborer?

A. Yes.

Q. Okay. But you're not installing the plumbing?

A. Helping to install.

Q. Okay. Handing the plumber tools and equipment?

A. Helping and then — helping connect the pipes also.

Q. But, were you involved in the design and the plumbing?

A. No.

Q. Did you — were you asked to provide your guidance or insight to the plumber about where a pipe would go?

A. No.

Q. Did you provide any kind of guidance or insight to the plumber on what kind of pipe to use?

A. No.

Q. Okay. What about pool building, Mr. Yeung, as it pertains to this case? Do you have any professional training, education, or experience in pool building?

A. No.

Q. Okay. All right. I have a copy of your complaint, the lawsuit, if you'd like to take a look at it to refresh your memory or have it in front of you.

A. Okay.

Q. For the deposition I'd like to ask some questions about that.

A. Okay.

Q. So I am showing the Plaintiff a copy of what's already been filed into the record. This is a copy of his lawsuit that was filed in November of 2022. Is this the lawsuit that you filed against Ms. Humphrey, Mr. Yeung?

A. Yes.

Q. Okay. So you've seen this document before?

A. Yes.

Q. And you're familiar with this document?

A. Yes.

Q. Did you draft this document?

A. Yes.

Q. Did anyone help you draft this document?

A. Yes.

Q. Who?

A. My wife.

Q. So your wife helped you write this lawsuit?

A. Yes.

Q. What about an attorney? Did an attorney help you write this lawsuit?

A. No.

Q. Did anyone else besides your wife help you write this lawsuit?

A. No.

Q. Is your wife a lawyer?

A. No.

Q. Does she have any professional legal training?

A. No.

Q. Does she have any legal education?

A. No.

Q. Has your wife worked in a law office?

A. No.

Q. Has she ever worked for Jackson County?

A. No.

Q. Has she ever worked for code enforcement?

A. No.

Q. Did you have anyone else review this document before you filed it?

A. No.

Q. Okay. So it would have just been you and your wife that drafted it and reviewed it, correct?

A. Yes.

Q. Okay. All right. I'd like to flip to the last two pages of the document if we could please. Mr. Yeung, why was this document not verified?

A. I don't understand what you mean by not verified.

Q. Why was it not signed?

A. I don't know.

Q. Okay. Can you tell me about the exhibit to this document, Mr. Yeung, this letter from Deming, Parker, Hoffman, Campbell, and Daly and all the other attorneys that are listed on here. You filed this as an exhibit to your lawsuit, correct?

A. I don't remember filing this as exhibit to my

lawsuit.

Q. Okay. Would you agree with me that this was filed with your lawsuit, it's on the record?

A. I guess so, but I don't exactly remember if I did file this. I could have.

Q. Okay. I mean, do you dispute the fact that this was filed with your lawsuit?

A. Like I said, I don't remember, but I don't dispute it.

Q. Okay. Did you actually file the lawsuit, Mr. Yeung?

A. Yes.

Q. Your wife didn't file the lawsuit?

A. Me and my wife both filed together.

Q. Together?

A. Yeah, well, I file the lawsuit with the help of my wife.

Q. Right, and I'm actually asking about the physical act of filing it?

A. Oh, yes, I filed it.

Q. You filed it?

A. Yes.

Q. But you don't recall if you included this letter, this November 4, 2022, exhibit?

A. I do not remember filing this with this lawsuit, but I know what this is about.

Q. Right, you would agree with me that it appears to be a letter on your wife's behalf to my client, Shannon Humphrey, correct?

A. Yes.

Q. Okay. Because it — the first sentence says, please be advised I'm writing on behalf of Ms. May Chui.

A. Uh-huh (affirmative).

Q. Okay. I'd like to give you a minute to review the letter, Mr. Yeung, so take your time and look at it if you would.

A. Uh-huh (affirmative).

Q. Okay. So you're familiar with this letter?

A. Yes.

Q. Did you hire this law firm to draft this letter?

A. My wife did.

Q. Your wife did so you did not hire them to do that?

A. No, my wife did.

Q. So why include an exhibit that your wife had an attorney draft the — the letter on a lawsuit that has nothing to do with security cameras?

A. That's why I say I don't remember why I put this in the — in the suit, because I know what the letter — I know who the suit was about.

Q. Okay.

A. I might have this filed it by accident or I didn't mean to.

Q. Okay. Is this still an issue to you now? I mean, I guess I could ask your wife in her deposition.

A. That you would have to ask my wife.

Q. Okay. So your testimony is you don't — you're familiar with the letter but you don't — you don't have familiarity with this issue?

A. Yes.

Q. Okay. And that you didn't intend to make this security camera issue for your wife a part of your lawsuit against the Humphreys?

A. Yes.

Q. Okay. Because there's nothing in this letter you would agree with me about runoff from my clients property, correct?

A. Yes, in this letter.

Q. And there's nothing in this letter about erosion, correct?

A. Yes.

Q. And there's nothing in this letter about damage to your property caused by my client, correct?

A. Yes, in this letter, yes.

Q. All right. And the letter's just about the allegation that there's a security camera pointed at my — at your home?

A. Yes.

Q. Okay. And you're not mentioned in this letter at all?

A. No.

Q. Okay. And can you give me an idea about why you're not mentioned in this letter?

A. Because this was an issue that my wife part of.

Q. But you both live together at that 2904 Muscadine Way address, right?

A. Yes.

Q. Okay. Did — is this one of the law firms that you consulted about your runoff and erosion issues with the Humphreys?

A. Not that I remember. I think the only thing I talked to them was last — I can't (unintelligible).

Q. Okay?

A. But my wife talked to them about the cameras.

Q. You have security cameras on your home, correct?

A. Yes.

Q. Okay. And there are security cameras, on the side of your home, that face the Humphreys' property, correct?

A. Yes.

Q. Okay. And at least one of these cameras is capable of rotating pretty freely, correct?

A. Yes.

Q. Okay. So you can view through that camera and track whatever you'd like to, you can move that — the direction of that camera?

A. Yes.

Q. Okay. Watch what you would like to watch from that camera?

A. Yes.

Q. Okay. And it's pointed at the Humphreys' house, correct?

A. No.

MR. MCDONALD: Okay. So Madam Reporter — Madam Reporter, I'll do my best to keep these organized.

(Defendant's Exhibit Number 1 was marked for identification purposes.)

BY MR. MCDONALD:

Q. I'm going to show you, Mr. Yeung, some photos that you had provided to me in discovery, okay? This first photo that I've labeled as Exhibit 1 appears to have been taken March 6th or June 3rd — you'll have to clarify for me — 2023. And in discovery you had indicated that this is a demonstration that there is no 12-inch of swale. Is this image taken from your security camera?

A. Yes.

Q. So the image you're looking at, that I have labeled as Defendant's Exhibit 1, is an image from your security camera?

A. Yes.

Q. And that is looking at the Humphreys' home, correct?

A. Yes.

Q. And that's looking into their backyard, correct?

A. Yes.

Q. Okay. So do you still maintain that your cameras are not pointed at the Humphreys' home?

A. The only reason why is pointed at the Humphreys' home now is because they have work done and I'm taking pictures of some of the work.

Q. So some of those cameras are capable of being directed at the Humphreys' home?

A. Yes.

Q. And you do direct them at her home?

A. Not intentionally.

Q. So this photo was an accident?

A. No, this is photo that I took because of work done there and I was taking pictures of them doing work as part of the evidence.

Q. You were surveilling them?

A. I am not surveilling them. How is that surveilling them?

Q. You're pointing your camera at their yard, correct?

A. Well, the reason —

Q. Answer the question. Answer, yes, or no.

A. Yes.

Q. And you did that on purpose, correct?

A. Yes.

Q. Okay. To gather evidence, correct? That was your testimony?

A. Yes.

Q. But your testimony now is that you're not placing them under surveillance?

A. No.

(Defendant's Exhibit Number 2 was marked for

identification purposes.)

Q. Okay. All right. I'm going to show you what I've marked as Plaintiff's (sic) Exhibit 2. Is the image that we're looking at in this photo, was it taken from your security camera?

A. Yes.

Q. Okay. And are we looking at the Humphreys' yard?

A. Yes.

Q. Are we looking at the outside of the Humphreys' home?

A. Yes.

Q. Are we looking into the Humphreys' backyard?

A. Yes.

Q. Okay. So you would agree with me then that your security cameras are directed toward the Humphreys' home?

A. Yes.

Q. Okay. How often do you observe the Humphreys' property from the security cameras?

A. How often? Not very often.

Q. Only when you need to gather evidence?

A. Just when they're doing work on the backyard.

Q. Can you observe their pool from these security cameras?

A. No.

Q. Okay. And the caption you had provided on this image that I've labeled as Defendant's Exhibit 2 says no piping work. Do you care to elaborate on that?

A. No underground piping work for the pool.

Q. How do you know that?

A. Because there's no water pipe or any pipes for pool.

Q. Well, your testimony a moment ago was that you can't see the pool from the security camera?

A. Yes, I can't see the pool.

Q. So what are we talking about here when you say there's no piping from the pool or no pipework with the pool?

A. That's what I'm saying, there's no pipework run to the pool because this is ready for equipment.

Q. Oh, so you're talking about from the equipment?

A. Uh-huh (affirmative).

Q. Okay. Help me understand. Were you regularly watching this area of their house to see when things were done on the project?

A. No, just the way my camera is facing.

Q. So it's possible then that piping could have been installed without you knowing?

A. Possible.

Q. Okay. But your allegation in the complaint is that none was — was performed, correct? Well, let me rephrase that. At least this exhibit, this image number 2, you're saying there's no piping work, but you don't know that for certain, correct?

A. I do because I got the photo showing no piping.

Q. So are you saying just as far as this one frame, in this one still image, Defendant's Exhibit 2, that we're looking at just this image there's no piping work?

A. Yes.

Q. But you acknowledge that there could be piping work with the pool because you can't see it?

A. Yes.

Q. And there could be piping work when you weren't looking at this camera?

A. Yes.

(Defendant's Exhibit Number 3 was marked for identification purposes.)

Q. Okay. All right. And I'm going to show you what I'm labeling as Plaintiff's (sic) Exhibit 3. Is this image we're looking at in Plaintiff's (sic) Exhibit 3, from your security cameras on your home?

A. Yes.

Q. Okay. Whose black truck is that?

A. That is my truck.

Q. And the van, is that your van?

A. No.

Q. Whose van?

A. Well, company van.

Q. Okay. But you drive that?

A. Yes.

Q. Okay. And you would agree with me that the direction this camera is pointed at the Humphreys' house, correct?

A. Now it is, yes, at this image, yes.

Q. What you mean now?

A. For this image it is. Typically it is pointed the other way.

Q. Typically it is pointed the other way?

A. Yes.

Q. Okay. Why are we looking at the Humphreys' house now?

A. This I don't know because it is my wife that took this picture. You will have to ask her.

Q. Does your wife take a lot of pictures of the Humphreys' house?

A. Just when she sees work going on.

Q. When she is doing what. I'm sorry?

A. Just when she sees work being done.

Q. Sees work being done so whenever there is activity on the Humphreys' property she turns the camera to their property?

A. Some time; not always.

Q. Why?

A. I don't know. You have to ask her.

Q. Do the Humphreys not have a right to live in peace?

A. They do.

Q. But they should be subject to your surveillance?

A. We not surveillance them.

Q. Okay. I think that we disagree on the definition of surveillance, because you're telling me you're deliberately pointing your cameras at their house to watch activity on their property. That was your testimony?

A. That is not consistent.

Q. You tell me what surveillance is.

A. It's monitoring them all the time and we are not monitoring all the time.

Q. So you're saying that because it's not constant that you're not surveilling them?

A. Yes.

Q. But periodically you're monitoring them?

A. Just when they do work on the property.

Q. Are they not entitled to do work on their property without you watching them?

A. They are.

Q. Why should they have to have you watch them do work on their property?

A. They don't need to have us watch them do work on the property.

Q. Why do you watch them do work on their property?

A. Because part of my thing is they are not properly doing work on their property.

Q. Is this photo before or after the pool was installed?

A. Well, this would be after because they have black stuff up.

Q. Which black stuff?

A. The black stuff on the gate.

Q. On the fence?

A. On the fence.

(Defendant's Exhibit Number 4 was marked for identification purposes.)

Q. Okay. All right. And I'm going to show you what I've marked as Plaintiff's (sic) Exhibit 4 and this is two pages. The caption you've written under this photo in discovery was, no plumbing work identified only land disturbing, and say that this is from July 25, 2022. Is this photo from your security camera?

A. Yes.

Q. Okay. And that you would agree with me that it is pointed at the Humphreys' home, correct?

A. Yes.

Q. And we're looking into the Humphreys' backyard, correct?

A. Yes.

Q. Why are we looking at the Humphreys' home from your security camera?

A. Because this is when they were was doing the excavation for the pool.

Q. Why are you concerned about the excavation they're doing?

A. Because this is causing issues with water running on to our property.

Q. So right here in this photo we're looking as you

say, at a moment in time where the issues with the Defendant's property, Ms. Humphrey, that you're already experiencing issues from this — this work that we're looking at?

A. Not exactly from the work — from this work.

Q. Then why are we concerned about surveilling them and taking pictures of it?

A. So we can have a record that they doing — doing the work they are doing.

Q. Doesn't the county have a record that they're doing work?

A. That is the county's.

Q. Wouldn't the pool builder have a record of them doing work?

A. That's the pool builder's.

Q. I'm trying to figure out why you feel that you have the right to monitor their construction activity on their property?

A. Because their — a lot of construction work they do on their property is affecting my property.

Q. But you told me that it's this work right here that we're looking at isn't necessarily affecting your property?

A. It possibly will affect my property.

Q. So if — just based on your concern that it could, you're documenting it?

A. Yes.

Q. Okay. So it's not necessarily that it's actually causing a problem, you're concerned that it might?

A. That it will.

Q. That it will and you're keeping a record?

A. Yes.

Q. Okay. So you turn your security camera toward the back of their house, correct?

A. Uh-huh (affirmative).

Q. And their backyard, correct?

A. Yes.

Q. To observe construction activity, correct?

A. Yes.

Q. That is not causing a problem at the moment, correct?

A. Yes.

Q. But might?

A. Yes.

(Defendant's Exhibit Number 5 was marked for identification purposes.)

Q. All right. And I'm going to show you what I'm marking as Plaintiff's (sic) Exhibit 5, and the caption for this that you gave me in discovery was concrete already poured no inspection. Is this image we're looking at, what I've labeled as Defendant's Exhibit 5, is this from your security camera?

A. Yes.

Q. Okay. And were looking at the Humphreys' yard, correct?

A. Yes.

Q. We're looking at the Humphreys' home, correct?

A. Yes.

Q. And you can see into the Humphreys' backyard, correct?

A. Yes.

Q. Can you see the entire pool from where this camera is pointed?

A. No.

Q. Okay. So again at this point in time, is that construction activity causing an issue on your property?

A. Not at that time.

Q. Not at this time, okay. And that would have been on or about August 14, 2023?

A. No, '22.

Q. Okay. Well, the caption you gave me said '23.

A. Okay. Well, it says '22 on the picture.

Q. And I'm not trying to dispute it, but I want to make sure I have the right date, that's all. I'm only concerned in having the right dates.

A. Yeah, that's what I'm going by.

Q. All right. So Defendant's Exhibit 5, the image we're looking at is from your security camera at the Humphreys' home, at their side yard, and their backyard, and we're observing construction activity in their backyard, correct?

A. Uh-huh (affirmative).

Q. We can't see all that construction activity, correct?

A. Yes.

Q. And at this point in time your testimony is that on August 14, 2022, when this picture was taken it was not creating an issue on your property yet?

A. Yes.

(Defendant's Exhibit Number 6 was marked for identification purposes.)

Q. Okay. All right. And I'm going to show you what's been marked as Exhibit 6, Defendant's Exhibit 6. The caption here says, Defendant pop-up drain emitter with no swale. Is the image that we're looking at that I've labeled as Defendant's Exhibit 6 from your security camera?

A. I'm sorry. Did you ask a question?

Q. I did. The photo that we're looking at is Defendant's Exhibit 6 from your security camera?

A. Yes.

Q. Okay. And is pointed at the Humphreys' home?

A. Yes.

Q. And we can see the Humphreys' side yard?

A. Yes.

Q. And we can see into the Humphreys' backyard?

A. No, because they have the black stuff to block it so I can't really see into the backyard.

Q. Okay. So the grass that's back there, your contention is that's not the Humphreys' backyard?

A. What grass you talking about?

Q. Right here.

A. Yeah, okay.

Q. What about this? It looks like a wooden structure of some kind that's sticking up right here. Is that in the Humphreys' backyard?

A. Yes.

Q. Okay. And this mulch area back here, is that in the Humphreys' backyard?

A. I think so.

Q. And this blue stuff here that looks like something to do with the pool, is that in the Humphreys' backyard?

A. Yes.

Q. Okay. So you would agree with me we can see into the Humphreys' backyard then, right?

A. Okay. Yes.

Q. Okay. And you've circled — I can't identify what it is in the photo, but there's a black bold circle here. I believe your caption indicates that this is the pop-up drain emitter, right?

A. Yes.

Q. And did you take this photo?

A. No. My wife did.

Q. Your wife did. Did you take any of the photos that we've looked at so far?

A. If it's from the security cameras, no, I did not.

Q. So if it's on the security camera you did not take those photos?

A. No.

Q. Okay. Your wife would have taken every one of those photos?

A. Yes.

Q. Okay. So we're looking at a photo taken by your wife on your security cameras and then you're making this caption or is this your wife's writing?

A. My wife's writing.

Q. So you didn't write these captions?

A. No. My wife did.

Q. Okay. So then you couldn't tell me that there's no swale here?

A. I could tell you because I see it myself. But if are you asking me if I wrote these captions, I did not write the captions.

Q. Okay. Tell me about what you see.

A. I see that they have a pop-up drain here. That's the pool with stones around and there's no swale for the pop-up drain is at.

Q. And how do you know that?

A. Because I can see it every day when I come home.

Q. That there's no swale?

A. Yes.

Q. Okay. Did you ever measure it?

A. There's no need to measure because the code requires measurement.

Q. Say that again.

A. There's no need to measure it because you can clearly see there's no pipe to it.

Q. Okay. We'll get to that in a moment. But your testimony is that you know that there's no swale just because by observation. You can just tell by looking at it there's no swale?

A. Yes.

Q. But it's not — you're not making that assertion because you've measured it?

A. Yes.

Q. You're not making that assertion because you've tested it?

A. Yes.

Q. You're not making that assertion because you've spoken with the person who built that?

A. Built what?

Q. This side yard. This structure here. You're looking at the pop-up emitter and the stonework. You've not spoken with anyone who has performed that activity there to create that pop-up emitter or the stonework or shrubs or anything?

A. Yes.

Q. You have spoken with them?

A. I haven't spoken with them.

Q. Okay. So your testimony is that you have not spoken with any person who puts the rocks there?

A. Yes.

Q. You've not spoken with the person who put the pop-up emitter there?

A. Yes.

Q. You've not spoken with the person that put these shrubs that we're looking at there, right?

A. Yes.

Q. Okay. You've not spoken with the person that

created this area here next to the side of the house is all I'll say. Your contention is that there's no swale; our contention is that there is?

A. Yes.

Q. Okay. And you did not perform any of that construction activity there yourself, correct?

A. Where?

Q. On the Defendant's side of that boundary line?

A. Yes.

Q. Okay. All right. And so I am — and I guess because we've done this on some of the others I think it's a good practice. At some point in time that this photo was taken is there construction activity on the Humphreys' property that is creating an issue on your side of the property line?

A. At that time, no.

Q. Okay. Is the condition on the Humphreys' property that's creating a problem on your side of the property line?

A. Yes.

Q. There is?

A. Yes.

(Defendant's Exhibit Number 7 was marked for identification purposes.)

Q. Okay. And so that would be it look like May 11th, 2023, so that gives us some idea about when you say the problems are existing. It looks like we're moving a little bit further backward in time here. This would be August 4th, 2022, and I'm labeling this photo that we're about to look at as Defendant's Exhibit 7. And the caption here just says grading. Is this photo that we're looking at, as Defendant's Exhibit 7, from your security camera?

A. Yes.

Q. Okay. And we're looking at the Humphreys' side yard?

A. Yes.

Q. We're looking at the side of the Humphreys' home?

A. Yes.

Q. We can see into the back of the Humphreys' property?

A. Yes.

Q. So we can see their backyard?

A. Yes.

Q. Okay. Why were we taking this photo?

A. I'm looking at this photo. In this photo basically they're the same. Basically you have this one except there's a person and this one doesn't.

Q. You provided these photos to me.

A. Yes.

Q. So I have to presume that there's a reason why and they are separate?

A. Yes, because of the digging.

Q. Of the digging?

A. Yes.

Q. At this point in time, was that digging causing an issue on your side of the property line?

A. No, not at that time.

Q. And your wife would have taken this photo as well?

A. Yes.

Q. So if it's not creating an issue why are we taking pictures of it?

A. Just so we could document what they do.

Q. But they don't have a right to do that without you watching them?

A. They do, but we also have a right to protect

what happens to our property.

Q. On their property?

A. Well, they live right next to us so what happens on their property will affect our property.

Q. What about this activity made you assume it was going to create in an issue?

A. Because the builder's dirt that's up there. And they have no fence or anything to hold it back.

Q. And — but your testimony was at the time this photo was taken, it was not creating an issue on your property, correct?

A. At the time this picture was taken, yes.

Q. Okay. And that would have been August of 2022, while they were doing excavation work?

A. Yes.

(Defendant's Exhibit Number 8 was marked for identification purposes.)

Q. Okay. All right. And I am going to show you a photo you provided to me in discovery that I'm going to label as Defendant's Exhibit 8. And the caption that was provided with this photo, when you provided it to me in discovery, just says plumbing work. Is this a photo from your security camera?

A. Yes.

Q. So that — this is the photo from a security camera mounted on your home, correct?

A. Yes.

Q. And is pointed at the Humphreys' property, correct?

A. Yes.

Q. And that's your black truck in the frame of this picture, correct?

A. Yes.

Q. Who took this picture?

A. I would say my wife probably.

Q. Okay. Be honest with me, Mr. Yeung. Can you see whether or not any plumbing work is occurring in this photo?

A. Not really.

Q. Not clearly?

A. Yes.

Q. So why provide it to me in discovery?

A. Because you asked for all photos so I just provided you with all photos.

Q. Listen, I'm just asking for an honest answer. If that's the answer that's fine. Do you have any idea when this photo was taken?

A. I do not.

Q. It looks to me — would you agree with me that we could probably agree it was at least taken in July or August of 2022, because of the construction activity occurring?

A. Yeah, could agree to that.

Q. Because the other photos show effectively the same thing, right, and they were in August?

A. Yeah, we can agree to that.

Q. Okay. At the time this photo was taken if we agree it was in July or August of this — of 2022, was that activity creating an issue on your side of the property line?

A. No.

Q. So if it wasn't creating an issue on your side of the property line, at this time, why are we taking pictures of it?

A. Like I say, we document — document what they do because of the possibility it will affect my property also.

Q. Okay. So it was just based out of concern that

it could but not because it was actually happening?

A. Yes.

Q. And it looks like to me on the left-hand side around their fence, would you agree with me that that is silt fencing there?

A. You talking about over here?

Q. Yes, sir.

A. Yes.

Q. Okay. So there is silt fencing and we agree that this was taking place in July or August of 2022, correct?

A. Yes.

Q. While they're doing the digging and construction activity?

A. Yes.

Q. Because it would appear that there's some mound of dirt there. We can't really get a frame of reference about how high?

A. Yes. And that's a lot closer to my property line. A lot closer to my side — closer to the property line and than the other photos.

Q. Okay. But the silt fencing looks like it's right on the property line, right?

A. Yes.

Q. Okay. And might even be on their fence, would you agree with me?

A. Possibly.

Q. Okay. And I'm going to show you — I'm going to show you what I have marked as — did you label that as eight?

A. You labeled that as eight.

(Defendant's Exhibit Number 9 was marked for identification purposes.)

Q. I did, okay. I'm sorry, about that. It is eight.

All right. I'm going to show you what I've labeled as Defendant's Exhibit 9. This is a photo you provided to me in discovery as well. The caption you wrote or I suppose your wife may have written on this photo that you provided to me in discovery says, downspout not connected to drainage pipes upon completion of the house. Is that a photo from your security camera?

A. That I do not think so.

Q. Okay. So would that have — who took this photo?

A. I don't know — exactly remember — either it will be me or my wife.

Q. Is it a window there you think that you would have been able to take that from?

A. No. I think we took it from the outside.

Q. You took it from the outside?

A. Yes.

Q. Because I think you have a porch right there, right?

A. Yeah, we do have a porch right there.

Q. Okay. So maybe you were standing on that porch taking this photo?

A. Yeah, either that or we — or by the poplar.

Q. Do you have an idea about when this was taken?

A. I have no idea.

Q. Okay. So the cap — the caption says July 2021. Can we agree that that's when this photo was taken?

A. We could.

Q. And this would have been at the beginning or during the Humphreys' pool construction project, correct?

A. I don't think so. This is — this looks more like the property was just completed — when the house was just completed.

Q. Okay.

A. I could be wrong.

Q. Yeah. Look, I mean, would you agree with me that it looks like the green part of the yard that we're looking at is the Humphreys' side of the property line, correct?

A. Yes.

Q. And the red dirt part is your side of the property line?

A. Yes.

Q. And in this photo it looks to me like somebody's just laid sod recently, correct?

A. Yes.

Q. Okay. Can you clearly and definitively tell that this — from this photo that this downspout is not connected into a drainage pipe?

A. From this photo, no.

Q. Okay. And you would agree with me that in looking at this photo this is the same side of the Humphreys' home where if we were to go right in this photo you'd go to the street. So looking at Defendant's Exhibit 9, right if you were to turn right and go straight you would go to the street, correct?

A. Yes.

Q. Okay. And if you were to turn left and go straight back you would go between you and the Humphreys' home back toward their backyard, correct?

A. Yes.

Q. Okay. And you would agree with me that what is visible in this photo, among the things that we had discussed, is there is a very clear indentation in

that side of the yard, correct?

A. What do you mean — what do you mean by indentation?

Q. It's not flat.

A. Yes.

Q. So from the beginning of where we see the sod being laid to the Humphreys' home, you and I can agree that there is an indentation in the ground before you get to the Humphreys' property?

A. Yes.

Q. And we could describe it as a channel. Do you think that's fair?

A. No.

Q. Okay. A valley?

A. I don't consider that a valley either.

Q. Okay. How would you describe it?

A. It should just say pathway.

Q. A pathway for water?

A. That I do not know.

Q. Okay. Well, why would there be a — basically a dip there all along the property line if not for water?

A. I don't know.

Q. Okay. All right. So I have to ask you, Mr. Yeung, if your wife you've demonstrated is having separate issues with the Humphreys, why not make her a co-plaintiff and address those issues in this lawsuit?

A. I didn't think of that.

Q. You're both on the deed, right?

A. Yes.

Q. And I guess it appears to me you're both having problems with the Humphreys, right?

A. Yes.

Q. Okay. It's just you didn't include her because you didn't think about it?

A. Yeah, I didn't think about it.

Q. So your prior testimony was that you and your wife together created the complaint?

A. Yes.

Q. Did she instruct you what to put into the complaint?

A. We decide together.

Q. You decided together?

A. Yes.

Q. Okay. So together you both decided what contents would go into the complaint?

A. Yes.

Q. And together you both worked on drafting the complaint?

A. Yes.

Q. Are there certain parts of the complaint that she drafted on her own?

A. No. We do this together.

Q. So every paragraph was together?

A. Yes, every paragraph was talked about together.

Q. Talked about together?

A. Yes.

Q. Was she there when you were typing it?

A. Yes.

Q. Okay. So maybe she didn't instruct you how to draft the complaint, but she was a part of drafting it?

A. Yes.

Q. Okay. And your testimony is that, of course, she would — she helped you with the complaint?

A. Yes.

Q. Okay. Did you do new research into Jackson County, Georgia law, particularly the code of

ordinances, before drafting and filing the complaint, Mr. Yeung?

A. Yes.

Q. Okay. Tell me about what kind of research you did.

A. Water trespassing.

Q. Water trespassing?

A. Trespassing.

Q. Oh, trespassing?

A. Trespassing.

Q. Okay. Sure. Tell me about it.

A. Laws — what is considered water trespassing. Laws about you not supposed to direct water to other people's property. Mostly laws about water trespassing onto other people's properties.

Q. Okay. Were those cases?

A. Cases and laws — laws that was written.

Q. Sure and — and I'm just trying to figure out how we got here. That's all. That's my job. So if I ask a question and it seems silly it's just because I don't understand. When you're reading these cases were — how were you accessing these cases?

A. Online.

Q. Online?

A. Yes.

Q. So Google?

A. Yes.

Q. Did you use any other search tools?

A. Mostly Google.

Q. Mostly Google. Did you use Lexis?

A. No.

Q. Westlaw?

A. Not that I remember.

Q. Bloomberg?

A. No.

Q. Okay. So not a legal search engine, right?

A. I don't know what is considered a legal search engine.

Q. Sure. That's fair. So we have ones that we use every day for whatever kind of information we're looking for, right? And you would agree with me those are Google, Yahoo, things like that?

A. Yes.

Q. Okay. And you're aware of the existence of search engines or search tools that are more scholarly and academic, right?

A. Not really. I don't know.

Q. LexisNexis is one of them. Have you heard of them before?

A. No.

Q. Okay. Westlaw is one of them. Have you heard of them?

A. I think I seen them — Lexis.

Q. Bloomberg is one of them. Have you heard of them before do you think?

A. I've heard of Bloomberg before.

Q. Yeah, they're a media outlet, but they do have a legal research tool. Did you use that, their legal research tool?

A. No. The Bloomberg I'm thinking about is just a news search.

Q. Sure. That's fair. So then would it be fair to say that the research you did was Google and Yahoo?

A. Mostly Google.

Q. Mostly Google, okay. And you would type in clary (unintelligible) and click on the links that came up?

A. Yes.

Q. Okay. Did you have anybody besides your wife help you figure out what to search for?

A. No.

Q. Okay. Did you seek out help from anybody about what to search for?

A. No.

Q. Okay. So any of the attorneys that you talked to didn't tell you what to look for?

A. No.

Q. And no other legal professionals?

A. No, because they said that they couldn't do it.

Q. What about the — anyone from the county, did they tell you what to search for?

A. No.

Q. Did they tell you how to construct the complaint?

A. No.

Q. What to put in it?

A. No.

Q. Okay. So the contents of the complaint would be from doing some research by googling?

A. Yes.

Q. Okay. And did you know about the trespass before you started doing your research online?

A. I don't understand you mean by that.

Q. That's fair. I should — let me rephrase. Your testimony was that you had researched water trespasses, what we'll call it?

A. Okay.

Q. That was your terminology?

A. Okay.

Q. Okay. Did you know about water trespass before you started doing your research?

A. Yes.

Q. Okay. How did you know about that?

A. The gentleman from HOA told me about that.

Q. And who is that?

A. I think his name is Brian.

Q. Okay. And you guys have filed a number of complaints about the Humphreys with the HOA, correct?

A. I have not personally. I don't know about my wife. So maybe my wife did. I don't know.

Q. Did your wife?

A. Check with my wife. I don't know.

Q. You don't know?

A. I don't know.

Q. Okay. So if I ask her later she's going to tell me you had nothing to do with filing the complaints against the Humphreys with the HOA?

A. Yes, because I do not know nothing about.

Q. Okay. So you didn't —

A. Wait a second. Let me put it this way. I know nothing about she filed, but when Brian showed up and stuff I did talk to him about it.

Q. Brian, you said?

A. Yes, HOA. I think he's the agent, the — the architect — the head of the architect department over in our HOA.

Q. Okay. He's the head of — oh, of the architectural review?

A. Yeah.

Q. Did you talk to him about what's going on between the two properties?

A. Yes.

Q. Tell me about that.

A. Well, when he came to talk to us about things and he say he would not be involved with the

litigation, so we didn't really talk about this case to him.

Q. But talking about the case and talking about the problem are two different things, right?

A. He say that because this in litigation he wasn't going to talk to us about anything that has to do with the case.

Q. Sure, but — but there was a period in time obviously, that caused you to file the litigation, right? So let me rephrase. Things happened before you filed the lawsuit that made you file the lawsuit, right?

A. Yes.

Q. Okay. Did you talk about those things with the HOA before you filed the lawsuit?

A. No.

Q. Okay. Why not?

A. Because we didn't think it had anything to do with the HOA.

Q. But it's a problem created on one property as you say that's affecting your property, right?

A. Yes.

Q. So why wouldn't you involve the HOA?

A. I didn't involve the HOA. I don't know if my wife did.

Q. Okay. Because you would agree with me in your complaint you talk about permitting, right?

A. Yes.

Q. Following the law, right?

A. Yes.

Q. Making sure that you're abiding by the regulatory authorities, correct?

A. Yes.

Q. Your HOA is a regulatory body over your neighborhood, right?

A. Yes.

Q. Okay. So is it — would you agree with me then that the problem wasn't so severe that you would contact your HOA about it?

A. Like I said, my wife might have contacted the HOA, but I didn't — I don't know about.

Q. Well, so are you — help me understand. Your wife you've identified as a witness in this case, right?

A. Yes.

Q. And we know now that most if not all of the security camera photos we've reviewed — those would be Defendant's Exhibits 1 through 8. We don't know if 9 was or not. Your wife took those photos?

A. Yes.

Q. And your wife is observing the construction activity?

A. Yes.

Q. Why is she not a co-plaintiff in this case?

A. Like I said, I didn't — I didn't think about that when I filed the case.

Q. Because it would appear to me that most of the evidence that you sent to me or at least that we reviewed so far in this deposition, your wife has generated and not you, right?

A. Yes, my wife has a lot of information.

Q. Okay. Did you do any research on International Residential Codes before drafting and filing your complaint?

A. Yes.

Q. Okay. Tell me about that.

A. We just looked up codes under the international residential — international codebooks.

Q. Right, okay. And those would have been online?

A. Yes.

Q. Okay. What steps did you take to make sure you were looking at the proper code?

A. We went to — what's that website — International Residential Code website. I forgot the name of it off the top of my head.

Q. Okay. You went to a website and looked at the code?

A. Yes.

Q. Did you take any steps to make sure that that code was applicable to the Humphreys?

A. Yes.

Q. What were those steps?

A. We read the codes and charted if it was correct or not.

Q. Are you qualified to make a determination about if it's correct or not?

A. No.

Q. But you made a determination for your lawsuit that they were applicable, correct?

Yes.

Q. Okay. Would you agree that the county — Jackson County Code Enforcement officers are qualified to make a determination if the code applies?

A. I would think so.

Q. You would hope so, right?

A. Yeah.

Q. You would hope so I mean, they're code enforcement. Did you speak with the county about whether the code was applicable to the Humphreys before you filed your lawsuit?

A. I did not.

Q. You say you did not. Did somebody else?

A. I don't know if my wife did.

Q. Maybe she did, maybe she didn't?

A. Yeah, I don't know.

Q. Okay. But as far as you're concerned, as the plaintiff, you did not communicate with officials or representatives from the county about the International Residential Codes before constructing your complaint?

A. Yes.

Q. And before filing your complaint?

A. Yes.

Q. So you did not call them to check and make sure that the information you had on those codes was accurate?

A. Yes.

Q. Do you know if your wife did?

A. I don't know.

Q. And you say yes, you mean, yes, as in I am correct in my line of questioning?

A. That I did not call them, yes.

Q. Okay. So the assurance that you got about the International Plumbing Codes and International Residential Codes and those things were from your internet research?

A. Yes.

Q. What about experts before you filed the complaint? I know we can talk a little bit about an expert here in a moment, but did you consult with any expert about the problems you say you are experiencing on your property before you filed the complaint?

A. Before I filed the complaint, no.

Q. Okay. No engineers?

A. No.

Q. No site surveyors?

A. No.

Q. Nobody from, like, a planner or developer or anything like that?

A. I do not remember. I don't think I did.

Q. Okay. But definitely not a licensed engineer?

A. Yes.

Q. Okay. That was only after the complaint, right?

A. Yes.

Q. Okay. So I think it's important then we talk about Mr. Aycock and Atlanta Engineering Services, okay?

A. Okay.

Q. And so you would agree with me that you provided Mr. Aycock's name and contact information and his report in the discovery process?

A. Yes.

Q. Okay. Albeit I thought that. We can disagree on that, but nonetheless you did disclose Mr. Aycock, Atlanta Engineering Services to me?

A. Yes.

Q. And he — the report he drafted, right?

A. Yes.

Q. After he had visited your property to do a site inspection, correct?

A. Yes.

Q. And he did that because you asked him to do that, right?

A. Yes.

Q. And you would agree with me that that was in September of 2023, correct?

A. I don't remember exact time it was. I say, yes.

Q. But it was last year?

A. It was last year.

Q. Okay. And you filed the lawsuit in November

of 2022, correct?

A. Yes.

Q. So why did you wait a year to have an expert come out and look at the property?

A. Because I originally didn't think we needed an expert. The reason why that expert was hired in the first place is your defendant — the defendant say they had two experts that could say that no water ever came onto property. That's the only reason why we hired the expert in the first place.

Q. But we didn't tell you about whether or not we needed experts, because we didn't have any experts until after you disclosed yours?

A. That is not true. The defendants —

Q. Are you telling me my client disclosed to you?

A. Yes.

Q. So not me?

A. Not you; your clients.

Q. When did that happen?

A. When they — I don't remember the exact date, but that was before — before we had experts. That was pretty much at the beginning of the lawsuit.

Q. So why were you guys talking to each other?

A. They called me over. I wouldn't talk to them.

Q. Where?

A. One day when I drove back — came back from my work they say — oh, this is after they find out that the lawsuit dismissal case.

Q. Okay.

A. They say that — they called me over and said we will be suing you for attorney fees and some other stuff. That's when — and they say they got experts tell me. That's the reason why we hired the expert in the first place, because your clients start the

experts issue first.

Q. Okay. So I'm going to represent to you and I hope you would agree with me that we would have, of course, disclosed if we had an expert and intended to use them?

A. Okay. Yes.

Q. We did not do that until after you disclosed your expert, correct?

A. Yes.

Q. Okay. But your testimony is that you hired Mr. Aycock to come do a site inspection because of an argument that you had with my clients after the dismissal case?

A. Yes.

Q. Okay. And you had mentioned in there that something about attorney's fees, correct?

A. Yes.

Q. So you would agree with me that you had been notified since at least the time of the dismissal case that we intend to pursue those attorney fees, correct?

A. Yes.

Q. And you have been notified since at least the time of the dismissal case that we believe it's because your claims are frivolous, correct?

A. Yes.

Q. Okay. So you do understand at least as far back as the dismissal case that our position on this case is that your claims have no merit, correct?

A. Yes.

Q. That they are frivolous, correct?

A. Yes.

Q. And that we intend to pursue fees against you and your wife if you proceed with it, correct?

A. Yes.

Q. Okay. And we had not changed our position on that as of the date and time of this deposition, correct?

A. Yes.

Q. Okay. So back to Mr. Aycock and Atlanta Engineering Services, just so we're clear we can get this on the record, you do not intend to have him come testify at trial, correct?

A. Yes.

Q. All right. Yes, as in, he is not going to come?

A. He is untestified (sic) witness. Untestified.

Q. Tell me about that. What does that mean?

A. That he will not testify in court.

Q. Okay. But he generated a report for you, correct?

A. Yes.

Q. What are you going to do with that report?

A. That's just for our own reference.

Q. Okay. You're not going to introduce it at trial?

A. We wasn't planning to.

Q. Okay. Listen, I've asked a lot of questions like that before, right? You want to know those things. None of this should be done by surprise. So your testimony is you're not going to introduce the report at trial and you're not going to have Mr. Aycock testify, correct?

A. Yes.

Q. All right. And you did not communicate with Mr. Aycock prior to filing your lawsuit, correct?

A. Yes.

Q. In fact, it was a year after filing your lawsuit that he came and did the site inspection?

A. I don't know the exact time.

Q. About? Close to a year?

A. Yes.

Q. Okay. Were you with him when he did his site inspection?

A. No.

Q. Okay. Who was?

A. My wife.

Q. So you didn't personally observe Mr. Aycock do his inspection?

A. No.

Q. You didn't accompany him?

A. No.

Q. Did you provide him with any documents or information to review?

A. No.

Q. Did you hire him?

A. Yes.

Q. Your wife did not hire him?

A. We both hired him.

Q. You both did?

A. Yes.

Q. Okay. How much did you pay Mr. Aycock to come out to your property and perform his inspection and write the report for you?

A. I don't remember the exact amount.

Q. Guess for me.

A. 1,000 something.

Q. So a little over \$1,000?

A. Yes.

Q. Are you happy with that report?

A. Yes.

Q. And you're satisfied with those services?

A. Yes.

Q. Did you instruct him on what to put in the report?

A. No.

Q. Did your wife?

A. You need to talk to my wife about that.

Q. You guys live together and you're married. Maybe you talk. I talk to my wife. You can tell me what you guys talked about. I'll ask her. Trust me.

A. But I would rather you ask my wife.

Q. That's fine. That's why she's here today?

A. Yes.

Q. So you paid him about a thousand bucks, maybe a little bit more to come out in September 2023, or at least we agree it was fall of last year, 2023?

A. Yes.

Q. Okay. And your testimony is that you didn't instruct him what to put in his report?

A. Yes.

Q. Do you recall that — him asking you what to put in the report?

A. No.

Q. Do you recall talking to him about why he was there?

A. No. Wait a second. Did I recall talking to him? I e-mailed him and told him why he was there so, yes, to look at my property and see if there's any issues between the two properties.

Q. Was he aware of the litigation?

A. I don't remember if I told him about the litigation or not.

Q. Okay. And you're aware that in discovery we had asked you after that to disclose communication with folks that would have knowledge of the facts and circumstances of the case, correct?

A. I think you just asked for a witness?

Q. Expert witness.

A. Yes, expert witness. Like I said, the reason why I didn't mention in the first place was because I wasn't expecting to use him as an expert witness.

Q. But you agree with me it would be somebody that has knowledge of the facts and circumstances of the case?

A. Yes.

Q. And you e-mailed him?

A. Yes.

Q. Did you give me a copy of that e-mail?

A. No.

Q. Why not?

A. I didn't think it was important.

Q. Okay. What you decide is relevant does not apply to me. If I ask you for something in discovery unless there's a bona fide objection you have to provide that to me. I have a right to put a defense together on behalf of my client, okay?

A. I understand.

Q. Okay. So if I send you a supplemental discovery request for this e-mail you'll provide that to me, correct?

A. Yes.

Q. Okay. And, of course, you'll provide the communications he sent back to you, correct?

A. Yes. Also he's a not testify (sic) witness and he isn't possibly discoverable.

Q. He's a person that has facts — knowledge of the facts and the circumstances of this case and, in fact, probably more than most folks because he came out and did a site inspection. Would you agree with me?

A. Yes.

Q. Okay. And you were asked to provide communications between you and people who have

knowledge of the facts and circumstances of the case, correct?

A. Yes.

Q. Okay. So your outgoing e-mail to him and his e-mail responses to you are discoverable by me. It does not matter whether you think they're relevant or not.

A. Okay.

Q. Do you understand?

A. Yes.

Q. Okay. So you provide me with this communication, correct?

A. Yes.

Q. Okay. And you understand I intend to use those as evidence against you at trial, correct?

A. Yes.

Q. Okay. So if you're not going to use the report at trial and he's not testifying, what were you — what were you going to do with the report?

A. It was just for our reference.

Q. Reference for what?

A. Reference to confirm that they were sure.

Q. Okay. A thousand bucks is a lot of money for something you're not going to use though, right?

A. Well, that's how much they charge and we was confirming our — that we — that is true was likely.

Q. But he's not going to testify and you're not using the report so, I mean, you just wanted that for your own peace of mind?

A. Yes, we just wanted to be sure.

Q. Okay. Did you specifically tell Mr. Aycock not to come testify for you at trial?

A. No.

Q. Did you guys ever talk about him coming and

testifying?

A. I don't remember. I don't bring up that issue.

Q. When I had asked you to provide dates and times for me to take his deposition did you ever contact him?

A. Yes.

Q. And told him I was trying to depose him?

A. No. We was no — we was — no way to contact him. We couldn't get in touch with him either.

Q. Oh, he wasn't responding to you?

A. No.

Q. But you were asking him to make himself available?

A. Yes.

Q. You were asking him for dates and times for me to depose him?

A. Yes.

Q. And he just was not responding to you?

A. Yes.

Q. Okay. Let me ask you, Mr. Yeung, did you ever make any attempts to resolve these issues with the Humphreys before filing a lawsuit against them?

A. We talk about the issues, but they denied everything.

Q. So you say you told them about the issues and you say they denied everything?

A. Yes.

Q. Was this in writing?

A. No.

Q. Just conversation between neighbor to neighbor?

A. Yes.

Q. So you'd be in the backyard and they were in their backyard and you would talk?

A. Yes.

Q. Did you, like, go over and knock on their door?

A. No.

Q. Okay. You didn't arrange any kind of formal discussion, it was just in passing?

A. Yes.

Q. Okay. But your testimony is these conversations you would have with them neighbor to neighbor in passing about the issues, that was you putting them on notice of the issues?

A. Yes, I was told them the issues.

Q. And because they denied it, correct?

A. Yes.

Q. You decide to file a lawsuit?

A. Yes.

Q. Okay. Did you ever send any kind of formal demand to them asking them to fix the issues?

A. No.

Q. In fact, it looks like the only formal demand that was sent to them was about their security camera, right?

A. Yes.

Q. Okay. Why file a lawsuit against Ms. Humphrey individually?

A. Because that's the only name on the deed.

Q. Okay. I'm just asking. You drafted the complaint. I'm trying to figure out why we're here. So you filed a lawsuit against Ms. Humphrey individually and not her and her husband, correct?

A. Yes.

Q. Because she's the only name on the deed?

A. Yes.

Q. And by the way you have more than one piece of real estate property in Traditions of Braselton,

correct?

MR. YEUNG: Object. Irrelevant. I don't know why that —

BY MR. MCDONALD:

Q. You have more than one piece of property, correct?

A. Yes.

Q. And that's deeded in your name?

A. Yes.

Q. And what is the address of that?

A. It's a lot so I don't know the address.

Q. It's a lot?

A. Yes.

Q. Okay. You don't remember the address?

A. No.

Q. And you still own that lot?

A. Yes.

Q. Do you happen to know the acreage?

A. Less than half but exact I don't know.

Q. Do you know what street it's on?

A. I do not remember.

Q. Okay. What were you intending to do with that lot?

A. Build another house.

Q. What is your — are you paid hourly?

A. Yes.

Q. What is your hourly rate?

A. 25/26. I don't remember exact.

Q. Is that your only source of income?

A. Yes.

Q. What would you say your net income is every year?

A. 60/70.

Q. And I know your testimony earlier was that

your wife was not employed, but does she bring in income?

A. No.

Q. Is anyone else bringing in income into the house?

A. No.

Q. What is your monthly mortgage obligation?

MR. YEUNG: I object to this because it's personal information.

MR. MCDONALD: Okay. That's fine.

BY MR. MCDONALD:

Q. What is your monthly mortgage obligation?

A. Zero.

Q. So the home is paid off?

A. Yes.

Q. Did you pay it off?

MR. YEUNG: Same. Object. Personal information.

A. But, yes.

BY MR. MCDONALD:

Q. What was the name of your mortgage company or who was your mortgage company?

MR. YEUNG: Same. Object for personal information.

A. But, I do not.

BY MR. MCDONALD:

Q. You didn't have a mortgage company?

A. No.

Q. Did you pay cash for your house?

A. We built our house.

Q. How did you pay to build the house?

A. We paid off in cash.

Q. Did you have to buy the lot separately?

A. Yes.

Q. And you bought that in cash?

MR. YEUNG: Same thing. Object for personal information.

A. But, yes.

BY MR. MCDONALD:

Q. Okay. And did you buy the lot from the builder?

A. I don't remember when I bought the lot.

Q. Who was your builder?

A. Sandlot or Sand something. I forgot the exact name.

Q. Okay. How many times do you think you would say you talked to the Humphreys about this issue before filing a lawsuit?

A. A few times. I don't remember how many.

Q. But always just in person?

A. Yes.

Q. Okay. Are you aware that this is costing the Humphreys a lot of money to defend against your lawsuit?

A. I do not.

Q. You didn't know that before right now?

A. I don't know how much they spent.

Q. Okay. Surely you know it's not free though, right?

A. Yeah, I know that.

Q. Okay. Would you agree with me then that you at least know that it can be expensive?

A. Yeah, a lawsuit, yes.

Q. Would you at least agree with me and then — and is it a fair statement I suppose, I should say, that, you know, it is costing them money to deal with this lawsuit?

A. I would think so.

Q. Okay. All right. So let's turn back to your complaint, Mr. Yeung, and you have a copy of that still in front of you. In your opening paragraph in the complaint, Mr. Yeung, you say that the defendant is not complying with Jackson County, Georgia law, correct?

A. Yes.

Q. Which Jackson County, Georgia law are you referring to here?

A. The international Plumbing Code and International Swim and Spa Code.

Q. And that is — you made that determination from your internet research, correct?

A. Yes.

Q. And that was the internet research that you — we had previously discussed in this deposition, correct?

A. Yes.

Q. I'm just going to ask you how do you know that they were not complying with the Jackson County, Georgia law that you reference?

A. Because of the water coming on to my property.

Q. And no other reason?

A. Yes, yes.

Q. Okay. So you allege that there's water coming on to your property, correct?

A. Yes.

Q. From the Humphreys' property.

A. Yes.

Q. And it's because they caused it to come over to your property.

A. Yes.

Q. And therefore because it's coming on to your property they're not complying with the law?

A. Yes.

Q. And you arrived at that decision because of your internet research?

A. And because of the damage we see on my property.

Q. Okay. And we had briefly touched on this before, but just to be clear, how do you know that that — that is a law that is intended to apply to Ms. Humphrey or her property?

A. Because that is a law government water trespassing.

Q. Okay. Do you happen to know the acreage for Ms. Humphrey's property, Mr. Yeung?

A. I do not.

Q. Do you recall if you researched Ms. Humphrey's property before filing your complaint?

A. I do not remember.

Q. You don't remember. Do you think it's possible that maybe you did?

A. Yes.

Q. Okay. Did you know that Ms. Humphrey's property is less than an acre?

A. I'm not a hundred percent sure.

Q. Okay. I mean, does that sound like an accurate statement?

A. Yes.

Q. Is your property more than an acre?

A. I don't think so.

Q. Okay. I don't think there's a lot of properties in Traditions that are more than an acre, right?

A. Probably not. I don't think so.

Q. Well, I'm going to represent to you that the Jackson County Tax Assessor says the Humphrey's property is .37 acres.

A. Okay.

Q. Would you agree with that statement?

A. If that's what the tax assessor say, yeah. Yes.

Q. And you've represented to me before that, hey, this is public record. I would encourage you that if you have any concerns about that to look that up, but the Jackson County Tax Assessor indicates that Ms. Humphrey's property is .37 acres.

A. Yes.

Q. Okay. And you don't recall whether you looked that up before filing the complaint, correct?

A. I don't know.

Q. Okay. Concerning the accusations you make in your complaint, did you ever physically go on to the Defendant's property to see and inspect the property for yourself?

A. No.

Q. Okay. And that would've included before you filed the complaint?

A. Yes.

Q. And after you filed the complaint?

A. To go to the property and asked him about, yes.

Q. And I'm asking if you physically went on to the property to see and inspect the property for yourself?

A. I never been on the property.

Q. Okay. All right. Did you personally, Mr. Yeung, take any measurements of heights, widths, or depths of the soil or grasses on the Humphreys' property?

A. No.

Q. Did you ever hire anybody to do that?

A. No.

Q. So your engineer did not do that, Mr. Aycock?

A. I was not present when he was doing

inspection, so I'm not sure.

Q. You don't know whether he did or not?

A. Yes.

Q. Your wife wouldn't know?

A. Yes.

Q. Okay. So you never took any measurements or performed any testing for water flows or depths on the Defendant's property, correct?

A. No.

Q. Okay. Let's move to paragraph 2 of your complaint. This would be regarding the tertiary permit accusations, Mr. Yeung. I'll give you a moment to review it if you need.

A. Okay.

Q. So I have to ask you, do you have any education, training, or experience with tertiary permitting?

A. No.

Q. All right. In the final two sentences there in paragraph 2, Mr. Yeung, you say that, quote, A hold was placed to ensure no further work can be conducted from the construction site until the permit is extended. The hold is still active per Jackson County Public Development record, correct?

A. Yes.

Q. So that's an accurate representation of what that sentences say?

A. Yes.

Q. Which Jackson County Public Development record are you referring to?

A. GS — CW — GSWCC. Tertiary permit.

Q. The Georgia Storm —

THE COURT REPORTER: Can you repeat that, again?

THE DEPONENT: GSWCC.

BY MR. MCDONALD:

Q. Is that online?

A. You can find them online. What do you mean by online?

Q. I'm trying to figure out what record you were referring to. Is that a record online? A paper record?

A. It's both.

Q. Did you look at both?

A. I just looked at one online.

Q. Just the one online?

A. Yes.

Q. And how did you access that.

A. Through the GSWCC website.

Q. Through the website?

A. Yes.

Q. So you went to the GSWCC website and looked for the tertiary permit?

A. Conditions.

Q. Conditions?

A. Yes.

Q. Okay. Did you see the tertiary permit itself?

A. Which tertiary you talking about, the tertiary on the Defendant's lot?

Q. I don't know about another one we would be talking about. You're talking about the tertiary permit as it applies to the Defendant's lot?

A. Yes.

Q. So you reviewed the permit itself?

A. Yes.

Q. Did you call anybody at Jackson County to talk about that?

A. We talk to somebody from GSWCC.

Q. Okay. All right. And what did you guys talk about?

A. About the hold and the expired — expired permit.

Q. Okay. So somebody did look at that and tell you that there was a hold?

A. Yes.

Q. And they told you that it was expired?

A. Yes.

Q. Okay. Do you know who that person would be?

A. I don't remember exactly the name.

Q. But it is somebody from Georgia Stormwater?

A. Yes.

Q. Okay. What about anyone with Jackson County? Did you talk to anybody with Jackson County about the tertiary permit before filing your complaint?

A. I believe my wife did.

Q. Your wife, but not you?

A. Not me.

Q. Okay. Are you familiar with Steven Howard with Jackson County Code Enforcement, Steven Alex Howard?

A. Sounds familiar. My wife mentioned him.

Q. Your wife mentioned him?

A. Yes.

Q. So maybe she spoke with him?

A. Yes.

Q. Okay. Would you agree with me that he is a code enforcement officer for Jackson County?

A. Yes.

Q. Okay. Can you tell me what you know about him?

A. Nothing.

Q. Okay. Do you know what his duties and responsibilities with the county are?

A. Code enforcer — code enforcement — code enforcement.

Q. Have you ever met him before?

A. No.

Q. Have you ever spoken directly with him before?

A. No.

Q. But, prior to filing your complaint you'd agree with me that you did have Jackson County Code Enforcement out to your property, correct?

A. Yes, my wife did.

Q. Several times?

A. Yes, my wife did.

Q. So including during the construction of the Humphreys' pool, correct?

A. Yes.

Q. And after the construction was completed on the Humphreys' pool, correct?

A. Like I said, it was my wife that was doing it.

Q. So, okay. Would it surprise you to know that we also had spoken with Mr. Steven Howard?

A. No.

Q. Would it surprise you to learn that he has told us that there's never been any tertiary permitting issues over the Humphreys' property and that there's never been a hold?

A. Yes.

Q. So that would conflict with what you were told by the State?

A. Yes.

Q. But you don't recall who told you that from the State?

A. I do not recall myself, but my wife probably would recall.

Q. Okay. And are you aware that you could have

learned that yourself buy having a discussion with Mr. Howard or looking into that issue further?

A. I did not. Like I said, I never met Mr. Howard before.

Q. Sure, okay. Even though he's been out to your property?

A. Yes. I still have not never met him.

Q. Well, then since you've spoken with folks from stormwater and they — your testimony was they confirmed for you that there was a hold and that the permit was expired. Do you have an idea why Mr. Howard would tell us something different?

A. I do not.

Q. Do you believe Mr. Howard's telling us the truth about that?

A. From what I see, no.

Q. You don't believe he's telling the truth?

A. Yes.

Q. Okay. Would you agree that Mr. Howard would be qualified to tell us something like that?

A. Yes, yes.

Q. Code enforcement.

A. Yes.

Q. Okay. Looking at paragraph 5, in your complaint. In paragraph 5, Mr. Yeung, you state that, quote, As of today — and this is meaning presumably the date you drafted your complaint — notice of termination has not been submitted to authority. It must be filed to EPD to cease liability on the site. Can you tell me a little bit about what you're talking about there?

A. That is also from GS, the Georgia soil, that notice of termination need to be filed for them for the lot to be correct.

Q. So you would agree with me, you have a decent amount of familiarity with the guidelines for the tertiary permitting?

A. Yes.

Q. And you had a decent amount of familiarity with those guidelines before you filed your complaint?

A. Yes.

Q. You reviewed those guidelines before you filed your complaint?

A. Yes.

Q. Did you contact Georgia Environmental Protection Division, or EPD as you say in your complaint, before filing your complaint to verify that those statements were accurate? The statements you make in your paragraph 5?

A. I did not contact EPD personally.

Q. But your wife did?

A. Yes.

Q. Have you made any effort since the filing of your complaint to verify that the statements in paragraph 5 of your complaint are accurate?

A. Have I verified?

Q. Yes?

A. No.

Q. Okay. So let's move on to the next paragraph, Mr. Yeung, paragraph 6. In paragraph 6, you say, quote, The downspouts of the Defendant's residence are not connected into drainage pipe upon completion of the construction by builder, correct?

A. Yes.

Q. How do you know this?

A. Because we can see in the pictures.

Q. So from the security camera?

A. Not only from security camera. I mean, we

walk out we can see it.

Q. But you didn't enter upon the Plaintiff's (sic) property and inspect it, right?

A. No.

Q. You just observed it from your own property?

A. Yes.

Q. Okay. And you go on to say that water is not directing towards the street per the approved site plan. The plan requires downspouts be connected to the drainage pipe so water is not flowing on to Plaintiff's property, correct?

A. Yes.

(Defendant's Exhibit Number 10 was marked for identification purposes.)

Q. Okay. I'm going to show you what I'm marking as Plaintiff's (sic) Exhibit 10. This is a photo you provided to me in discovery with a caption and that caption says, a pipe to hide downspout extension behind — located in black mulch. Take a look at that. What can you tell me about that?

A. This is the new pipe that the Defendant's installed. Now you can see that the downspout is now connected to a black pipe that go to the mulch.

Q. In your complaint though you allege that the Plaintiff — I mean, I'm sorry, the Defendant's downspouts are not connected to any drainage pipes, correct?

A. Yes. That was before they did all the renovations.

Q. Okay. So wouldn't that have been the builder?

A. The builder didn't do it, but if it still not connected to the drainage pipe — that was supposed to have been done on the site.

Q. Okay. So the testimony then is the builder

had an obligation to do it per the site plan, right?

A. Yes.

Q. The builder didn't do it, right?

A. Yes.

Q. The builder left it undone?

A. Yes.

Q. So the Humphreys have to do it?

A. Yes. The Humphreys is responsible for it.

Q. Where — where does it — where are you getting your authority for that?

A. Because in Georgia the law say that the homeowner is responsible for the house.

Q. Okay. You sued Ms. Humphrey's builder in Hall County Magistrate Court before, haven't you, Mr. Yeung?

A. Yes.

Q. Okay. And your allegations against the builder in your complaint, against the builder in the magistrate court at that time were, quote, They started a new construction adjacent to my residence in January 2021?

A. Yes.

Q. And that the builder had no effective erosion control or BMP in place, correct?

A. Yes.

Q. You said that, quote, During rain events, tremendous amount of runoff from this construction site had poured into my yard. My side yard was filled with construction debris, rocks, and mud throughout the area. I have a mulch flower bed, all mulches were pushed away from its place leading to one big mess. My side yard was severely damaged. Builder has not taken the necessary steps and maintenance control to stabilize soil on the lot required by Georgia

law. This is a reoccurring event. Does that sound familiar to you?

A. Yes.

Q. Do you remember writing that?

A. Yes.

Q. Okay. Do you remember putting that in your complaint against the builder?

A. Yes.

Q. Okay. So the complaint was for runoff, flooding, erosion, those kinds of things due to the builder's activity?

A. Yes.

Q. Okay. And you would agree with me that if the site plan as you say requires them to tie the downspouts into drainage pipes and direct that to the street and the builder did not do that, it would have been dealt with in this case, correct?

A. No, because it was totally something different.

Q. Tell me about that then.

A. That case is just for when they have to work erosion control. That's only reason — cause — cause water and mud to flow onto my property, and erosion onto my property.

Q. So then what will be the point of tying all the downspouts into a drainage pipe and directing it to the street?

A. To minimize water flow from onto my property.

Q. Okay. So that would be a part of effective erosion control, right?

A. I would assume then no. They didn't have — the reason I sue them is because they had the build site not after the site was built. All this happened before the site was completed.

Q. Right, okay. So your testimony then is the

builder didn't do it during construction and didn't do it after, correct? Tie in the downspout to the drainage pipe?

A. Yes.

Q. So the Humphreys should have to do it?

A. It's their house, yes.

Q. Okay. You don't mention any of the Defendant's downspouts in that Hall County complaint though, Mr. Yeung, do you?

A. No.

Q. Okay. But the downspouts you were referencing were installed by the builder?

A. Yes.

Q. Okay.

A. No. Let me correct that. Well, all the downspouts and the front where they put the extension that's — they — they put — the Humphreys put that.

Q. Put what?

A. The downspouts.

Q. All the downspouts on the back of the home?

A. I think just extension. They put the new extension.

Q. Okay. But the builder does have an obligation to follow the site plan, correct?

A. Yes.

(Defendant's Exhibit Number 11 was marked for identification purposes.)

Q. I have a copy of the judgment that was rendered in that case if you'd like to take a look at it to refresh your memory. Do you want to see a copy of that?

A. Yes.

Q. And I will mark that as Defendant's Exhibit 10 (sic). So you've had time to go back and refresh your

memory by reading a copy of that judgment that I have labeled as Defendant's Exhibit 10, correct?

A. Yes.

Q. So you had mentioned in your complaint that the site plan called for a 12-inch swale, correct?

A. Yes.

Q. And your testimony was that the builder had an obligation to follow the site plan, correct?

A. Yes.

Q. The same as the Humphreys?

A. Yes.

Q. All right. And you agree with me that the swale is supposed to deter water from running off on to your property, correct?

A. Yes.

Q. All right. And you say there is no swale just because you can see it with your own eyes that there is not one, correct?

A. Well, there's some swale in the front, but towards the back there's no swale.

Q. Where?

A. From the fence to the back of the lot.

Q. Well, tell me about that. Would it help to look at one of these photos and you can tell me where the swale does not exist? Let's look at Defendant's Exhibit 7. This photo.

A. Yes.

Q. All right. So when you say that no swale exists you're saying — you had mentioned something about the fence. Are we talking about where the fence cuts in to the Humphreys' home?

A. Yeah. You go from this corner, like, this corner back.

Q. The Plaintiff is pointing to the front corner of

the fence where it cuts into the Humphreys' home closest to the security camera taking the photo, correct?

A. Yes.

Q. All right. And backward you're saying there's no swale, right?

A. Yes.

Q. So your contention is that there has to be a 12-foot swale all along the entire property line?

A. That's what the site say — the site plan say.

Q. So are we agreeing then that there is a swale from that front post you described forward to this tree?

A. I'm sorry, and from —

Q. That's Defendant's Exhibit 7. Take your time.

A. And from where they put the fence forward there's no swale there either.

Q. So there's — so you're looking at Defendant's Exhibit 6 and you have indicated to me that from the front of where the stones are, where the pop-up emitter is there is also no swale?

A. Yes.

Q. But that shrub that's closest to the fence appears to be much higher than those stones. Mr. Yeung, wouldn't you agree?

A. No, because that's just dirt or pine straw plie. That's what it seems that way.

Q. Okay. So and just to be clear, for a clear record, on Defendant's Exhibit 7 and Defendant's Exhibit 6, where you have pointed out to me that there is no swale that is by your own observation with your own eyes, correct?

A. Yes.

Q. Not because you have measured that, correct?

A. Yes.

Q. Not because you were involved with constructing that, correct?

A. Yes.

Q. Okay. Now, Mr. Yeung, here's the part that I found interesting. The next sentence in the judgment, okay, or actually let's go back. Starting at the second sentence in the second paragraph on the first page the judgment reads, quote, This court finds that Defendant so at that time the Defendant would have been the builder, HillGrove Homes, correct? Is that correct Mr. Yeung?

A. Yes.

Q. Okay. Quote, This court finds that Defendant so, HillGrove Homes in that case, made efforts to minimize these issues and during the final construction stage took significant steps to prevent any further damage and/or issues to Plaintiff's residence. Correct?

A. Yes.

Q. All right. And so this is the part I was telling you about I just find interesting. In the next sentence the judgment says, quote, Plaintiff acknowledged that efforts made by Defendant, have resulted in no further issues on the property, correct?

A. Yes.

Q. And you're the Plaintiff the courts talking about here, correct?

A. Yes.

Q. And the property the courts talking about there is your property, correct?

A. Yes.

Q. Okay. So the Hall County Magistrate Court goes on to say later in the judgment it is this courts

experience — I believe it's the next sentence actually — it is this courts experience that the effort by Defendant, which are not always undertaken by builders, has minimized the possible damages to Plaintiff's property, both during construction and obviously in the future. That's what that says, correct?

A. Yes.

Q. Do you agree with that?

A. No.

Q. Okay. Did you agree with it at the time of the judgment?

A. Well, when I got this judgment I didn't think I had a choice not to agree — not to agree with it.

Q. So you didn't think about filing any motions for reconsideration?

A. No.

Q. No motions to set it aside?

A. No.

Q. No appeals?

A. No.

Q. But you didn't agree with it?

A. No.

Q. Okay. So is it your testimony then that the builder left the home in a condition that caused runoff on to your property?

A. Yes.

Q. So with — the court in that case then says that you acknowledge that the efforts made by the defendant have resulted in no further issues on your property?

A. Because when I answered that that was premature and I answered it incorrectly.

Q. So you lied?

A. I didn't lie, because at that time that's what I

thought, it did not cause any more further damage, but now that I look at it, it still is causing damage to my property.

Q. Okay. So what you're saying then is that at the time of the judgment you did agree with this statement, but as time has progressed the home has been sold to the Humphreys and that kind of thing. The builder's condition of the property was still creating an issue on your property?

A. Yes. And with the Humphreys doing work, all this construction on the property is adding to the issue.

Q. Oh, okay. Why not file again against the builder?

A. I didn't think I could refile against the builder.

Q. Well, you're saying there's new and continuing issues created by the builder, correct?

A. Yes.

Q. And that it's the Humphreys who are just exacerbating that problem, right?

A. Yes.

Q. Okay. But you chose not to file suit against the builder again?

A. Because the home is the Humphreys' now.

Q. Yeah, but your testimony was that the condition existed before the Humphreys built their pool?

A. Yes, the condition.

Q. That's causing the runoff on to your property?

A. And with the pool construction everything including, making it worse.

Q. The pool construction is making it worse, but the testimony is that the condition that the builder left the home in is still causing runoff on to your property?

A. Yes.

Q. Before the Humphreys built their pool?

A. Yes.

Q. Okay. It's just made worse by the Humphreys building their pool?

A. Yes.

Q. And so you did not file again against the builder?

A. No, because I'm thinking the Humphreys own the home now so they are responsible for what happen.

Q. Okay. In your paragraph 6 of your complaint — going back to your complaint — the complaint against Ms. Humphrey, you state that the, quote, The plan and I'm assuming that means the site plan?

A. Which number are you talking about?

Q. Paragraph 6.

A. Okay.

Q. Right, so when you say plan in that paragraph you mean site plan?

A. Yes.

Q. Okay. In that paragraph 6 you state, the plan requires the downspouts be connected to a drainage pipe so that water is not flowing on to your property, correct?

A. Yes.

Q. But a Certificate of Occupancy was issued for the Humphreys' home wasn't it?

A. Yes.

Q. Okay. And so the builder was able to close on that lot and sell the home to the Humphreys, weren't they?

A. Yes.

Q. Okay. And presumably if something did not

comply with the site plan they would not be able to get a Certificate of Occupancy, right?

A. Yes.

Q. They wouldn't have been able to close on the home and sell it?

A. That I don't know how they got CO.

Q. Did you call anybody with the county and ask that question before you filed your complaint?

A. I think my wife brought up this issue with Alex that gentleman.

Q. Did you talk about that with your wife?

A. My wife — like I said, my wife brought up that issue. I think she brought that issue with that guy, so you going to have to ask my wife.

Q. Okay. You guys didn't talk about it?

A. No.

Q. With your wife?

A. No, we didn't specifically mention.

Q. You and Mr. Howard?

A. Howard?

Q. Alex Howard, code enforcement officer?

A. Yes, yes, she did tell me it was Alex. I didn't know his name was Howard.

Q. His last name is Howard.

A. Okay.

Q. The home would have had to pass a final inspection, right?

A. I'm assuming, yes.

Q. And that probably would have included whether something was deviating from the site plan, right?

A. Then that — you have to ask the code officer why they didn't check all this.

Q. Are you saying that you know better than the

code enforcement officer?

A. From what I saw it looked like it. From what I'm seeing.

Q. So if the site plan mandated that the downspouts be connected into a drainage pipe that went out to the street, right.

A. Yes.

Q. And the builder didn't do that?

A. Yes.

Q. But we know the builder did get a Certificate of Occupancy, right?

A. Yes.

Q. And did sell the home to the Humphreys, right?

A. Yes.

Q. Do you have any theories on how the builder would be able to sell the home to the Humphreys, then?

A. I do not.

Q. Okay. Let me see. And when you were reviewing the copy of the judgment from the Hall County magistrate case that you filed against the builder, Mr. Yeung, do you recall if it said anything at all about the builder's failure to connect downspouts on the Defendant's home according to the site plan?

A. No.

Q. Can you point out for me in the document where it says anything about the builder's failure to follow the site plan?

A. If you have a copy of the site plan.

Q. I'm talking about the judgment.

A. Oh, the judgment. No.

Q. Okay. And you will agree with me, Mr. Yeung, that the court says in the opening paragraph in that judgment from the Hall County Magistrate Court that

you and the Defendants of HillGrove appeared for a mediation/trial in the Magistrate court of Hall County on September 6, 2022, correct?

A. Yes.

Q. Okay. And then a hearing was held with both parties having the opportunity to present evidence, correct?

A. Yes.

Q. And that both parties had the opportunity to present evidence, like, documents, photographs, and testimony, right?

A. Yes.

Q. Okay. I want to focus your attention on that second paragraph. Well, actually, let me go back. Having read and refreshed your memory on that second paragraph, Mr. Yeung, you would agree with me that the court began by saying that the court is making a finding there based on that evidence that was presented. So that would have been the testimony, the photos, and everything else that we just talked about, right?

A. Where do you see this at?

Q. So there would — the second paragraph and again, we're on Defendant's Exhibit 10. This was the judgment for Plaintiff by verdict. This is the Hall County Magistrate case you filed against the builder. You would agree with me the first paragraph — the first sentence of the second paragraph says that this court finds that Plaintiff is entitled to some compensation for damages to their property during the construction project initiated by Defendant in the property immediately adjacent to Plaintiff, correct?

A. Yes.

Q. Okay. And did you receive any of that

compensation?

A. Yes.

Q. How much?

A. I think it was for the full price.

Q. Okay. So your testimony is that you received the full amount considered under the judgment?

A. Yes.

Q. Okay. That was the \$1,669?

A. Yes.

Q. What did you spend that on?

A. I don't remember.

Q. Did you use it to fix things on your property?

A. We probably used it to fix things. Probably mostly fix the landscaping on the property.

Q. Do you consider the walkway that is between your home and Ms. Humphrey's home to be part of the landscaping?

A. Yes.

Q. Was that walkway damaged by the builder?

A. No. We did not have that walkway.

Q. You didn't have the walkway?

A. Yes.

Q. When did you install the walkway?

A. I do not remember.

Q. So it would have been after this happened?

A. After this.

Q. Okay. So at that point in time, you wouldn't have presented photos or documents or anything about the walkway being damaged?

A. Yes.

Q. But you don't remember when it was built?

A. I don't remember exactly when it was built.

Q. Guess. A month and a year's fine.

A. Last year sometime. I don't know.

Q. Oh, in 2023?

A. 2023 or 2022. I really don't remember exactly.

Q. Okay. Do you feel like it's more 2023 or 2022?

A. Like I said, I don't remember. If you want exact date my wife probably would remember.

Q. Okay. I did want to point your attention to just before the end of the first page in that Hall County Magistrate court's judgment, the Defendant's Exhibit 10. You will see in the third paragraph, do you see down there where it says, this court does not necessarily find the Defendant negligent. Do you see that?

A. Yes.

Q. Okay. Why would they say that?

A. I don't know.

Q. Are you familiar with negligence?

A. You give me definition real quick.

Q. Sure. So I can give you the legal definition if you're willing to rely on that.

A. Well, then I'm not too familiar with negligence.

Q. Okay. So you're not obligated to accept this explanation, but I'll represent to you that the legal claim of negligence means that a person has a duty to another person, okay? They breach that duty by doing something or failing to do something, and because of doing that thing or failing to do that thing they cause damage to somebody else.

A. Okay.

Q. All right. So I owe you a duty. I either do something that violates that duty or I don't do something that is required to fulfill that duty.

A. Okay.

Q. And because I do or don't do that thing and I breach that duty I hurt you.

A. Okay.

Q. And that could be money and that kind of thing. It doesn't necessarily mean physical injury, okay? So, like I said, you're not inclined to accept that definition or I mean, you're not obligated to, but that's the legal definition of simple negligence.

A. Okay.

Q. So knowing that now, you would agree with me that when the court says here that they don't necessarily find the Defendant, meaning Ms. Humphrey's builder, negligent, you'd agree with me then that the court is saying that the homebuilder didn't necessarily breach a duty owed to you, correct?

A. If this is what the court is saying, yes.

Q. Okay. So if the builder was able to sell the home to the Humphreys and the court didn't necessarily find the builder negligent, why mention the downspouts now in your complaint against Ms. Humphrey?

A. Because that's what we saw and that's also creating extra water to come over to our lot.

Q. Does one of the downspouts empty on to your lot?

A. Not directly.

Q. Okay. Where do they go?

A. They go on to the lawn and flow out.

Q. Flow out where?

A. They just flow out to where the water flows to.

Q. Well, look, it's an essential issue in this case. You're telling me — your saying this is on to your property?

A. Yeah.

Q. And we're saying it's not.

A. Yeah.

Q. Okay. So where do the downspouts — where are they connected to?

A. That you would have to ask the Humphreys. They the one that connected the downspouts.

Q. Well, in your complaint you say they're connected to a pop-up emitter?

A. Yes.

Q. So are they connected to a pop-up emitter or no?

A. That's what we said. They connected to the pop-up emitter and the pop-up emitter right by our lot like you can see in the exhibits.

Q. You think it is, but you don't know?

A. We think it is, yes.

Q. Okay. But you don't know?

A. No.

Q. Okay. So in paragraph 12 of your complaint, you say on September 2nd, Defendant installed a coupling to connect to: 1) pool drain water and 2) downspout extension into a drainage pipe?

A. Yes.

Q. You just said you don't know where the downspouts go?

A. We just.

Q. You're assuming?

A. Yeah, we're assuming because we look at the pictures, that's what — that's what — I saw them do that.

Q. And listen, I'm not trying to back you into a corner, but I have to know what you actually know and what you're assuming. So for paragraph number 12 of your complaint, you're assuming that this is the case?

A. Yes.

Q. You don't know that that's the case?

A. Yes.

Q. And you say this pipe collects both discharge and redirects them to a pop-up emitter that is 3 feet from the property line and going on to the Plaintiff's backyard, correct?

A. Yes.

Q. Okay. Have you measured the distance from your property line to that pop-up emitter?

A. No.

Q. Then how do you know it's 3 feet?

A. Because I eyed it and it looks 3 feet.

Q. So you don't know that it's actually 3 feet?

A. I haven't measured it.

Q. Has anybody?

A. No.

Q. Obviously, it wouldn't surprise you to know that the Humphreys have, right?

A. Yeah, I not surprised.

Q. And would you be surprised to know that it's well beyond 3 feet from your property line?

A. Yes, I will be surprised.

Q. And the reason you're surprised is simply because you looked at it and made a determination that it's 3 feet from your property line?

A. Yes.

Q. But, didn't measure it?

A. No.

Q. Didn't have anybody else measure it?

A. No.

Q. Okay. I'm a little confused about the remainder of the paragraph. You say that it's going on to Plaintiff's backyard. The pop-up emitter is or the discharge from the pop-up emitter?

A. The discharge water.

Q. Okay. So just to be clear, for a clear record, paragraph 12, where you say on September 2nd — that's a pretty specific date — the Defendant installed a coupling to connect 1) the pool drain water and 2) the downspout extension together into a drainage pipe, you're assuming that. You don't know that, correct?

A. Yes.

Q. All right. This pipe collects both discharge and redirects them to a pop-up emitter. You're assuming that; you don't know that, correct?

A. Yes.

Q. And you're saying that that pop-up emitter is 3 feet from the property line and going on to the Plaintiff's backyard, correct?

A. Yes.

Q. You're assuming that; you don't know that, correct?

A. Well, I'm assuming the 3 feet, but I'm not assuming the water going to my backyard though.

Q. Right, okay. So the part of paragraph 12 that you know definitively, from your perspective, is that water is going on to your backyard?

A. Yes.

Q. The rest of it is just assumption?

A. Yes.

Q. All right. In your following paragraph — I think that's paragraph 7. I will confirm here. Yes, in paragraph 7 of your complaint you talk about the fact that because the downspouts aren't connected to drainage — which we just determine is your assumption. You don't know that for sure, correct?

A. Yes.

Q. That this is causing a surge of increased water

flow on to the Plaintiff's yard for an entire year, correct?

A. Yes.

Q. All right. Tell me about that.

A. Because the downspout was not connected to it, water was flowing freely and on to my property.

Q. But you don't know what it's connected to, what it's not connected to. You just know that from your perspective, it looks like water's flowing on to your property, right?

A. Can you repeat that?

Q. Sure. That's fair. Your prior testimony was that you don't actually know what the downspouts are connected to and what they're not connected to, correct?

A. Yes.

Q. But, in that paragraph 7 of your complaint, you say that because of they're not connected it's causing a surge of increased water flow into your yard for a year.

A. Yes.

Q. Okay. So the only thing that you feel certain about is that there's water flowing on to your property?

A. Yes.

Q. And you don't know that it's because of the downspouts being connected to something or not connected to something, right? That was your prior testimony.

A. Yes.

Q. Okay. You say that this is causing a surge of increase water flow, correct?

A. Yes.

Q. Tell me about this surge.

A. It is because whenever it rains hard the water pushes the water down the downspouts and it spreads and redirects also sending water over to our property.

Q. Well, you say a surge, right?

A. Yes.

Q. And you would agree with me that means that there are times when there's a little bit of water and times when there's a lot of water?

A. Yes.

Q. So is it always occurring?

A. No. This is when big thunderstorms.

Q. Big heavy rain?

A. Yes.

Q. Okay. Where along the property line are these surges occurring?

A. Across the property line and where the pop-up — where the pop-up drain is.

Q. Okay. So if we're looking again, let's look at Plaintiff's Exhibit 6 or Defendant's Exhibit 6. I'm sorry. Because you've circled where you believe the pop-up drain to be. Okay. Defendant's Exhibit 6, where you have or someone has made a bold black circle around what you described as the location of the pop-up emitter, that is where the surge is occurring?

A. Yes. Know that they have all the drainage pipes connected.

Q. How do you know that?

A. I'm assuming that.

Q. Okay. But you don't know that?

A. No.

Q. Okay. So I'm not talking about that anymore. I'm talking about this surge you described. The surge of increased water flow.

A. Okay.

Q. Where is that happening in this picture on Defendant's Exhibit 6?

A. Where the pop-up drain is at and where the water comes out from the pop-up drain that creates it. And water comes from the property, from the swale comes water.

Q. So the entire property line?

A. Yes.

Q. Every inch of it?

A. Yes.

Q. All of it?

A. Well, not every inch, but mostly from the pop-up drain and stuff is.

Q. Listen to me. You were accusing my client of creating a condition that is causing a surge of increased water flow on to your property.

A. Yes.

Q. It is very important that we identify exactly where that is happening.

A. Okay.

Q. Because you are saying you are being damaged by that, correct?

A. Yes.

Q. Okay. Specifically as we are looking at Defendant's Exhibit 6, you would agree with me that this shows a significant part of the property line that you and the Defendant share, correct?

A. Yes.

Q. And the pop-up emitter you say is circled in this picture, correct?

A. Yes.

Q. Where along this property line is the surge of increased water occurring?

A. Where the pop-up drain is.

Q. Only?

A. No, not only that because now that they change it we having surge of water on the back of our property too.

Q. Now that who changed what?

A. The client's changed.

Q. What did they change?

A. They said that changed — they change and have more water come in from the back of the property. In the top area. In the question that we asked them they say that the direct — the overflow from the pool is coming out from the back. Now, we are seeing more — more damage from the back also. And from the grading is also causing water to flow on to our backyard and where the pop-up drain is. So from the pop-up drain to the back of the yard.

Q. So if I'm looking at the Defendant's Exhibit 6, from where you've circled the pop-up drain moving left all along that entire property line is where you say surges of water are occurring and coming on to your property?

A. Yes.

Q. As far as this paragraph is concerned that we're talking about where you say that the surge is because of the downspouts, there are no downspouts for most of that property line?

A. Yes, it is. There's one that you see here and there's one in the front where you can see at —

Q. Right. But we're not looking at the front of the property, we're looking at the back of the property, okay? So moving left you would agree with me I think we see at least one downspout here that's next to the gentleman in red on Defendant's Exhibit 6.

A. Yes.

Q. But you're saying surges of increased water flow are occurring all — along that entire back property line that we can see in this photo?

A. Yes.

Q. So how would a downspout on the home toward the front of this photo create a surge of water at the back part of the property line?

A. Because they — they now have the downspouts all connected together.

Q. But you don't know that?

A. I don't know that, but that's why I'm assuming is creating the water to come onto my property.

Q. Okay. So in reality then what you're saying is, water is coming on to your property but you don't know that is because of the downspouts, correct?

A. Yeah.

Q. And we disclosed our rebuttal engineers to you, correct?

A. No.

Q. That's not an accurate statement?

A. Well, I'm sorry, you disclosed them but I do not get reports or anything.

Q. Okay?

A. Okay.

Q. You didn't receive the report we sent you?

A. I did not receive a report.

Q. Okay. Will make sure we get that report to you, because it's something that I want you to take a look at?

A. You did mail them? I did not get them.

Q. Did you reach out to them?

A. I did not.

Q. You didn't make any effort to contact them?

A. I did not.

Q. Okay. You'd agree with me, Mr. Yeung, that since the time you filed your complaint against the Humphreys in November 2022 until now we've had a number of significant rain events, correct?

A. Yes.

Q. And your prior testimony was that the surges occurred during the significant rain events, correct?

A. Yes.

Q. Okay. And the Humphreys have had a pool in the backyard since the fall of 2022, correct?

A. Yes.

Q. Why is it then that you've never provided any photos or videos of the surges occurring?

A. We did provide photos.

Q. I don't have photos showing any water crossing the property line. Do you have photos that demonstrate water crossing from the Humphreys' property on to your property?

A. I need to look through my folders again, because if I remember I provided you all these photos.

Q. Okay. I will represent to you and I have brought I think every photo you sent to me. There are no photos you've ever given to me which are — which shows water crossing over from the Humphreys' property on to your property; is that accurate?

A. I would need to see the photos.

Q. Okay. And we'll look at them. Would you agree with me you never sent any video of water crossing over on to your property, correct?

A. Yes.

Q. And you've reviewed a video that the Humphreys sent to you, correct?

A. Yes.

Q. And that was during a significant rain event,

correct?

A. I would not agree it a significant rain event.

Q. What's a significant rain event?

A. The significant rain event I'm talking about is, like, is a major rain event.

Q. Okay. Okay.

MR. MCDONALD: And I'd like to show him a video, Madam reporter, a video that he acknowledges he had already received as supplemental discovery from my client. I'll have to get you a copy of that as an exhibit, but will make this Defendant's Exhibit 11 (sic). Just give me moment, okay?

(Defendant's Exhibit Number 11(a) was marked for identification purposes.)

MR. MCDONALD: And so this Defendant's Exhibit 11, I'm showing you a video that you've acknowledged receiving as supplemental discovery from my client either during or shortly after a rain event, correct? Does that look familiar to you?

A. It does not.

Q. This video does not look familiar to you?

A. Nope.

Q. Okay. So I'm going to show you this video and make sure if it's not for some reason, because we have sent it to you. What is happening in this swale during the rain event. Okay. So what we're looking at here is Defendant's Exhibit 11, the video. You can see an individual standing up here, correct?

A. Yes.

Q. And would you agree with me that the home that's on the right side of this video is the Humphreys' home?

A. Yes.

Q. Okay. And back here you would agree with

me that you can see the front of their gate?

A. Yes.

Q. And you would agree with me that on the right — on the left side of the photo it looks — it slopes downward and then back up again as you get toward the Humphreys' home, correct?

A. Yes.

Q. Okay. So I'm going to press play here for a moment. And, okay. And you can see water running down the middle of this part of the side yard, correct?

A. Yes.

Q. Okay. And you can see water running through the rocks from the pop-up emitter, correct?

A. I see the water pooling there.

Q. Yep, okay. And there is your retaining wall, correct?

A. Yes.

Q. Okay. And the side of the Defendant's fence all the way down the property line, correct?

A. Yes.

Q. And is any water crossing over on to your property at this point in time?

A. I do not see any.

Q. Okay. And we're zooming in and showing you along the retaining wall on the property line, correct?

A. Yes.

Q. And you do not see any water crossing over on to your property, correct?

A. Yes.

Q. Okay. But you do see the water flowing out from the pop-up emitter in this video, correct?

A. I see water pooling on the pop-up emitter.

Q. Would you like for me to go back to the point where we've looked at the pop-up emitter?

A. Yeah, we can.

Q. Okay. So I am reversing the video back to approximately, it would be — so you see the water flowing down the middle of that channel down the side yard from the pop-up emitter. There's the green pop-up emitter, correct?

A. Yes.

Q. Okay. And is water flowing from the pop-up emitter on to your property?

A. No, not on to the property from this video.

Q. Okay. And I would encourage you — this was January 9th?

A. I'm sorry, I do have it.

Q. You did receive this?

A. I didn't recognize it at the beginning, but when you said the date I recognize it.

Q. Yes. So this has been sent to you particularly, right?

A. Yes.

Q. Okay. And you would agree with me that, just prior to the taking of this video, there was a significant rain event, correct?

A. No.

Q. Okay. I would encourage you to go back and look at the weather data.

A. Okay.

Q. Okay. I'll represent to you that there was a significant long-term downfall of rain, at that location, prior to the taking of that video.

A. Okay.

Q. All right. So what we are witnessing in this video you would agree with me is the property draining water away from it, correct?

A. No.

Q. Then what are we looking at?

A. From that video that water is being pooled around the pop-up drain and that in that video you don't see no water come on to my property.

Q. Okay. Why haven't you taken any videos of water coming on to your property?

A. I do you have videos of water coming on to my property.

Q. From the Defendant's property?

A. Yes.

Q. Why don't I have those? I've asked for those.

A. I believe I submit and I give it to you — I gave it to you.

Q. I have the entire file in front of me and have no videos. I have some photos. I have no videos of any water flowing on to your property from my client's property. So you acknowledge that there are videos that due exist of water actively flowing from my client's property on to your property.

A. I have videos — I would need to go home and look through my videos — look through my files.

Q. You're welcome do that, but are you telling me that videos exist of water coming off my client's property on to your property?

A. I believe so.

Q. You believe so or you know so?

A. I believe so because I need to go look through my files again.

Q. Do you remember ever taking a video like that?

A. I remember taking videos, yes.

Q. Okay. Of water coming off of my client's property on to yours?

A. I'm not exactly sure if it show that, but I took videos.

Q. Well, that's what I'm asking you, is if you have videos that show that?

A. Like, I tell — I need to look through my videos and confirm.

Q. Because you would agree with me a video to that effect would be a really good way to see what's going on, right?

A. Yes.

Q. Okay. So you're going to go home after this deposition, look through your files, correct?

A. Yes.

Q. And see if you have those videos, correct?

A. Yes.

Q. Because you recall taking those videos? And provide them to me.

A. Yes.

Q. Okay. And I'm going to represent to you that if you have sent them, we never received them.

A. Okay.

Q. I do not have any videos. If I had a video from you, I would not be only showing you a video that I sent to you earlier in discovery that Defendant's Exhibit 11.

A. Okay.

(Defendant's Exhibit Number 12 was marked for identification purposes.)

Q. Okay. I do want to take a moment and try to wrap up here fairly soon, but I want to take a moment and go over your recent supplemental responses to the Defendant's Amended Interrogatory No. 28. And I will label this as Defendant's Exhibit 12. This photo, Exhibit 12, Mr. Yeung, would be your response you recently provided to the Defendant subject to the Court's Order on our Motion to Compel, correct?

A. Yes.

Q. This Defendant's Amended Interrogatory No. 28 asked you to identify and state with particularity exactly which areas or part of 2904 Muscadine Way, Jefferson, Georgia, that you have been deprived of the full use and enjoyment of, being sure to provide in your answer a full and complete, detailed explanation as to exactly how you had been deprived of the full use and enjoyment of the specific areas of the property you described herein, being careful to include a description of when and how the deprivation of your full use and enjoyment occurs and how you believe it is connected to any runoff, or erosion drainage, or standing water issues you alleged to be caused by the Defendants, correct?

A. Yes.

Q. All right. And in your response you state, quote, My walkway has been damaged and contaminated. In addition, the soil in our land including side, back, and all across the property line are also contaminated. Erosion too. The time involved dealing with various issues are two years and plus. We have had 3 flooding by basement from 2222 to 2023. We cannot enjoy living in our property peacefully but have to fix various issues since 2021 to present. Is that accurate?

A. Yes.

Q. So I'd like to talk about that first part of your answer, okay?

A. Okay.

Q. The walkway?

A. Yes.

Q. You say that your walkway's been damaged and contaminated?

A. Yes.

Q. All right. I want to share some photos with you, just to make sure that we're both going to be talking about the same stone walkway, okay?

A. Okay.

(Defendant's Exhibit Number 13 was marked for identification purposes.)

Q. And I think for ease I will package them altogether as — well, strike that. I will keep them individually depending on which ones we enter, but I'm going to show you what I'm marking as Plaintiff's, I mean, I'm sorry, Defendant's Exhibit 13. That's a photo you provided to me in discovery, correct, Mr. Yeung?

A. Yes.

Q. And to the left of this photo, is that the walkway you're describing in your answer to Interrogatory No. 28?

A. Are you referring to this?

Q. I don't know. You tell me.

A. Yes, this is the walkway right here.

Q. Okay. When you say this, describe. We're on a transcript so describe for somebody reading what we're looking at?

A. To the far left.

Q. The far left?

A. Yeah.

Q. You have what looks like a stone pathway?

A. Yes.

Q. All right. On Defendant's Exhibit 13, did you take this photo?

A. Yes.

Q. Okay. So that is the stone pathway that your referencing in your response to Interrogatory No. 28?

A. Yes.

(Defendant's Exhibit Number 14 was marked for identification purposes.)

Q. Okay. I'm going to show you what I'm marking as Defendant's Exhibit 14. Is this the same stone walkway you're talking about in your response to Interrogatory No. 28?

A. Yes.

Q. All right. So the image we're looking at as Defendant's Exhibit 14, this is the stone walkway. Did you take this photo?

A. I think I did.

Q. You think you did?

A. Yeah. Yeah, I think this is one of the photos I took.

Q. Okay. When was this photo taken? Do you know?

A. I do not remember.

Q. You don't remember?

A. No.

Q. I guess we could probably figure it out based on when the home in the foreground was about halfway done, correct?

A. That's less than halfway done.

Q. But it's under construction; we could agree?

A. Yes.

Q. And you would agree with me, as of the date and time of this deposition, that home is completed?

A. Yes.

Q. And somebody lives in there?

A. Yes.

Q. It looks like the home to the left of that, across the street, is also under construction, correct?

A. Yes.

Q. And that home is completed as of the date and time of this deposition?

A. Yes.

Q. And someone lives there?

A. Yes.

Q. So based on that information can you venture a guess about when you took this photo?

A. Not really.

Q. Okay. What about the little green circles that we see on the right of the pathway here, there's one in front of your HVAC unit and one just before it?

A. Are you referring to these things.

Q. Yes.

A. Oh, those are termites.

Q. Okay. What is the little black thing that we see just before there? It's right — it would just be right in front of the first green termite thing you had just identified. It's in front of the bush to the right of the walkway.

A. Sprinkler heads.

Q. So there's a sprinkler head directly next to this pathway, correct?

A. Yes.

Q. Is it operational?

A. Yes.

Q. And what is this red snakelike, it looks like a hose that looks half buried and half exposed, running along the right of the pathway?

A. Oh, that's the sprinkler hose.

Q. That's the hose that supplies this sprinkler head?

A. Yes.

Q. Okay. And if we're looking, it's almost in the bottom right corner of the Defendant's Exhibit 14 in

this image. There is a black, it looks like, pipe end of a pipe. What is that? Is that what I'm looking at, is the end of the pipe?

A. Yes.

Q. Okay. And the end of that pipe, what is it connected to?

A. Oh, that used to be connected to the downspout.

Q. It used to be connected — your downspout?

A. Yes.

Q. And you would agree with me that the end of that pipe is pointed directly at your walkway, right?

A. Yes.

Q. So you have a sprinkler head and a pipe connected to your downspout right next to this pathway?

A. Yes.

Q. And it would look to me like that some of the dirt covering and siltation we'll call it, is right along where this sprinkler head is and this pipe connected to your downspout, correct?

A. Yes.

Q. Okay. How do you know that what we're looking at here in this photo — because — and let me backtrack. You provided this photo to me to show me how my client has damaged your walkway?

A. Yes.

Q. How do you know that what we're looking at here is not caused by your sprinkler or this pipe connected to the downspout?

A. Because we don't ever open — open up our sprinklers. In the back is active but we never — we haven't — we have it closed.

Q. You've never run that sprinkler?

A. It's not that we never run it, but we haven't run it for the past year or two.

Q. Well, that's why it's important to figure out when this photo was taken.

A. Yes, and this is — can be moved away so this is no longer there.

Q. What are we talking about?

A. That black pipe.

Q. Okay.

A. It's removed and is no longer there.

Q. Okay. That's fine. So you've mitigated part of the damages, right?

A. Well, when we did have to remove the pipe we still have the issue on the walkway, with — with these erosion issues.

Q. Okay. I mean, you would agree with me though on the left-hand side of the pathway on your property and the Humphreys' property is a lot of green grass, correct?

A. A lot of green grass? There's also dead grass when you look at the picture.

Q. And your allegation, of course, is that that's because of the Humphreys?

A. Yes.

Q. How do you know that?

A. Because I don't know why we have dead grass all of a sudden, when everything else is pretty much green, like, dead grass over there.

Q. So you don't know why the grass is dead?

A. No.

Q. Well, if you don't know why it's dead, how do you know it's because of the Humphreys.

A. Because every place else is green. Why would this be, like, dead grass all of a sudden?

Q. Because you don't know, right? And if you don't know why, you don't know that it's because of the

Humphreys, correct?

A. I'm assuming it's because of them.

Q. Okay. You're assuming it's because of the Humphreys but you don't actually know, correct?

A. Yes.

Q. So the dead grass we're looking at here could be for a number of reasons, correct?

A. Possibly.

Q. What steps have you taken to determine that what we're looking at, that you've identified as damage to the pathway, is directly caused by the Humphreys' property?

A. I'm sorry. Can you repeat that question?

Q. Sure. What steps or measures have you taken — what have you done to make sure that what I'm looking at here that you've represented to me as the damage caused by the Humphreys, what have you done to make sure that that is actually caused by the Humphreys?

A. Oh, like I said, we remove the pipe and you see in the picture.

Q. Yeah.

A. We remove that. We put more of these rock stones across the pathway.

Q. Right.

A. And as you can see and we also put more stone to try to reroute water on to our property.

Q. Right, but you sent me a picture that does have the pipe and that doesn't have the things you just told me about. And you're telling me this is because of the Humphreys' property?

A. When you look at the picture, you can see what we done to try to fix it.

Q. Sure, and you would agree with me that in the

Exhibit 13, you don't see all the dirt and siltation on top of the pathway, correct?

A. That's because we fix a bunch of stuff because yeah, we fix, this is not, like, the day after picture I'm taking.

Q. Right.

A. Because you can see we also put a lot of stone to cover across on the AC side.

Q. Right.

A. We put stone and we put more pavers to try to fix this issue.

Q. Okay. So your testimony is that you made improvements to your own property, correct?

A. Yes.

Q. And that was what were looking at and you say Exhibit 13?

A. Yes.

Q. The rock and all of that?

A. Yes.

Q. And then there's no more damage?

A. I didn't say there's no more damage, we just minimize some of the damage.

Q. You minimized the damage?

A. We try to minimize the damages.

Q. And that was done by improvements to your own property?

A. Yes.

Q. And your prior testimony was the Humphreys denied any issue coming from their own property, so they haven't made any of those changes, right?

A. I don't know what if they made changes or they have not made changes.

Q. Right, but what you do know is that you made changes and it minimized the issue?

A. We attempted to minimize issue, yes.

(Defendant's Exhibit Number 15 was marked for identification purposes.)

Q. Okay. And I am marking the next exhibit as Defendant's Exhibit 15, and there is a caption here that says installation of coupling that goes along with this photo. Did you take this photo and did you write that caption for Defendant's Exhibit 15.

A. I took the photo, but I think my wife wrote the caption.

Q. When did you take the photo?

A. This was when they were still finalizing the installation of the pool.

Q. We could agree that this was taken just after the pool was completed probably, right?

A. Yes.

Q. And I've noticed in a lot of the photos you sent to me in discovery, at the end of the pathway there's this greenish blue tarp, correct?

A. Yes.

Q. What is that?

A. Oh, that is where we lay down a tarp where we — where we were doing our walkway.

Q. You have to tell me more about that. What do you mean, you laid down a tarp?

A. We laid a tarp to put the dirt and gravel on top of it.

Q. On top of it?

A. On top of it, yes.

Q. What dirt?

A. Dirt when we was doing the walkway — the stone walkway.

Q. So the dirt you have excavated from the walkway?

A. Yes, that we took out to put the walkway in.

Q. Not the dirt you brought in to do the work?

A. No.

Q. Okay. And in Defendant's Exhibit 15, the image, what am I looking at in front of the retaining wall where the stones are?

A. Oh, that's — that's the stone path for water to flow.

Q. Okay.

A. Yeah.

Q. Is there, like, a sprinkler head or something there?

A. No.

Q. Why — I don't understand why the placement of it there?

A. My wife did that so you would need to ask her.

Q. Okay. Nonetheless in Exhibit 15, the stone walkway that we see, that's the same stone walkway that you're referring to in your response to Interrogatory No. 28?

A. Yes.

Q. Okay. Do you have any other stone walkways around your property?

A. No.

Q. Okay. So is it safe then to assume that when we reference the stone walkway we're only referencing one stone walkway on your property?

A. Yes.

Q. And that would be the stone walkway between your home and the Humphreys' home?

A. Yes.

Q. It's entirely on your property, but it is between your home and the Humphreys' home?

A. Yes.

Q. And the way the properties are situated the Humphreys' home faces the street, so the back of your home faces the side of the Humphreys' home?

A. Yes.

Q. So what is a side yard for the Humphreys' is a backyard for you?

A. Yes.

(Defendant's Exhibit Number 16 was marked for identification purposes.)

Q. Okay. And I'm going to label this next one as Plaintiff's (sic) Exhibit 16. And this is a photo of what looks like the same stone walkway and a caption written by someone that just says erosion to walkway 2022. Did you take this photo and write that caption?

A. I think my wife took this photo.

Q. You think?

A. Yeah, I'm not sure — too sure about this photo.

Q. Okay. Well, it says erosion to walkway.

A. Yes.

Q. Tell me what I'm looking at here.

A. You see all this other dirt that's been red (unintelligible) discoloring of all of this — discolor you see here.

Q. Oh, okay. So you're referring to the dark strip through the middle of the stone walkway?

A. Yes.

Q. That's the erosion you're describing?

A. Yes.

Q. Okay. I gotta be honest with you, Mr. Yeung, I don't really see where — how I would define erosion? The stones were still intact.

A. The stone intact, but it's still pushing the sand and soil away.

Q. What is?

A. The erosion.

Q. From where?

A. From the — here leading to the —

Q. So the Plaintiff is pointing to the tail end of what looks like the retaining wall across the dark brownish red strip of the walkway in the Defendant's Exhibit 16, correct?

A. Yes.

Q. Okay. That's the erosion?

A. Yes.

Q. Is that what you're seeking damages for in this case?

A. No, we're seeking damage for the whole walkway.

Q. The whole walkway?

A. Yes.

Q. Okay. But I see walkway there, correct?

A. Yes.

Q. I see stones. So what am I — what's been damaged.

A. Well, the whole walkway has been damaged.

Q. By erosion?

A. Yeah, because we fixed it already and remove all the dirt and put rocks and stuff and move all the sand and put rocks in.

Q. But you provided this photo of the walkway to me with the caption that specifically says erosion to walkway. Am I not looking at a picture of the damaged walkway?

A. Yeah. Part of the damage is this erosion that I pointed to.

Q. Okay. A part of it, but what you're claiming is damages for the entire walkway.

A. Yeah, because also damaged my whole walkway, but this specific picture does not show my whole walkway damaged.

Q. All right. So the only thing I'm looking at here in this photo that you claim is damaged to the walkway is the dark brownish reddish strip that runs across almost where it curves toward the — the top of the picture?

A. Yes.

Q. And nothing else?

A. Yes.

Q. Have you lost any of the stones because of runoff?

A. A lot of stones became loose.

Q. Loose?

A. Yes.

Q. Okay. And just to clarify for the record, Mr. Yeung, Defendant's Exhibit 16, where we were just talking about the damage to the walkway, that was a photo you supplied to me in discovery, correct?

A. Yes.

Q. And just to clarify for the record, Defendant's Exhibit 15, where the caption says installation of coupling, you said that your wife took that photo. We were talking about this is a photo of the walkway. That is a photo you provided to me in discovery, correct?

A. Yes.

Q. All right. And Exhibit 14, just to clarify for the record, where we were discussing the walkway, that was a photo you provided to me in discovery, correct?

A. Yes.

Q. And Exhibit 13, where we were talking about you had referenced the improvements that you had

made to your property and we're looking at the stone walkway all the way to the left, this is Exhibit 13, one you provided me in discovery, correct?

A. Yes.

Q. Okay. So the damage is — and I want to be very clear about this, the damage is to the — you're saying the damage is to the entire stone walkway?

A. Yes.

Q. And damages to siltation?

A. Yes.

Q. And some of the stones came loose?

A. Yes.

Q. What else?

A. That's basically it with the siltation and the stone loose and we have to take out all the sand and replace it with pebbles — stone pebbles.

Q. How much has that cost you?

A. We did all ourselves. I don't remember the exact amount, but just the price of the stone pebbles. I don't remember what the cost was.

Q. Thirty bucks?

A. More than that, 50/60.

Q. So you filed a lawsuit in Superior court against the Humphreys' for 50 or 60 bucks' worth of improvements?

A. Well, that's not the only damage we're claiming.

Q. What other damage?

A. Like, we say claiming erosion and contamination.

Q. Okay. Let's talk about that, all right. First of all, I just want to know because I'm still confused. The damage to the walkway, let's talk about that first. How do you know that the damage is caused by the

Humphreys' property?

A. Because — because of the pop-up, because of the water that drain away, and because of the water coming on to our lot from their property.

Q. Did you do any measurements?

A. We did not do any physical measurements.

Q. Any calculations?

A. We did not do any calculations.

Q. Any timelines or anything of the sort that show the property — that damage occurring as a result of the Humphreys' property?

A. Well, I know before the property was built, we never had any of these issues.

Q. Well, you also didn't have the walkway?

A. Yeah, but we still had grass and stuff there to, but we never had any issues like that before.

Q. What issues? I mean, you didn't have the walkway so how would you know if you had the issues to the walkway if you didn't even have the walkway before. You're saying it's because of when the property was built. This has just been an issue since the time it was built, correct?

A. Yes.

Q. Okay. And your prior testimony earlier, you can't remember the exact year but only within the last year or two you had the walkway.

A. The walkway, yes. But before we had the walkway we still had grass and stuff, yeah. And we never had any erosion or anything show up on our property.

Q. But, the erosion you're pointing out to me has to do with your walkway, correct?

A. Yes.

Q. And you didn't have the walkway?

A. We didn't have the walkway, but we still had grass and stuff and we didn't have extra water or erosion come on to our property.

Q. Well, I mean, just go with me here though. But if you didn't have those issues when you didn't have the walkway, it's at least possible that the issue is because the walkway's there.

A. No, because if we didn't have the issue — we didn't have — we didn't need to build this walkway because we try to use a walkway to contain some of this water.

Q. You're trying to use a walkway to contain water?

A. Well, not to contain water, but just to help out with the — with the water issues.

Q. But you just said you didn't have issues before the pathway was there?

A. Yeah, we didn't — well, I didn't say we didn't have issue with that pathway. I say we haven't had any issue before with any in my backyard before the next doors got built. Next door property got built.

Q. Okay. So there were no issues before the next door property was built, you have a magistrate case that identifies some of those issues, right?

A. Uh-huh (affirmative).

Q. Because of the builder's behavior?

A. Yes.

Q. And they entered a judgment in your favor?

A. Yes.

Q. So they acknowledged that the builder was doing some stuff that caused some damage.

A. Yes.

Q. They paid you a little bit of money, right?

A. Yes.

Q. You acknowledged at that time that whatever the builder did in response fixed the issue. I mean, that's what the judgment says.

A. That what the judgment say, yes.

Q. Okay. And you don't dispute that you made that statement at that time, right?

A. Yes.

Q. So theoretically there's this period of time that there's no more issue until the Humphreys' build their pool, right?

A. No, we still have issues.

Q. Okay. So your testimony then is that even though you represented to the court at the time that there were no more issues, there were still issues because of the builder and then the Humphreys' built a pool which made it worse?

A. Yes.

Q. Okay. I'm trying to figure out then how you're measuring the damage to the walkway if you didn't have the walkway when you weren't having problems. And you put this walkway in when you say you were having problems. You don't remember when you put the walkway in. But you're confident that it's because of something on my client's property. Is that an accurate assessment of your testimony?

A. Yes.

Q. Am I missing something?

A. Maybe I'm missing something.

Q. I think you are.

A. Can you repeat — repeat that again?

Q. It's your testimony. I'll run back through the timeline. Okay. So you're saying that you went through this magistrate issue with the builder?

A. Yes.

Q. And at the time the magistrate issue was resolved you represented to the court that there wouldn't be — or there were no more issues, but that what the builder had done it resolved your concerns, okay?

A. Okay.

Q. That's what you said?

A. Yes.

Q. Moving on forward in time your testimony is that well, that you realized that there were still issues?

A. Yes.

Q. And those issues were caused by the builder?

A. Yes.

Q. And then at some point in time the Humphreys build a pool?

A. Yes.

Q. And that makes the existing issues worse?

A. Yes.

Q. Okay. And at some unknown time you build this pathway?

A. Yes.

Q. And you're saying that because of what the Humphreys have done on their property it is damaging your pathway?

A. Yes. Well, not only what the Humphreys does, but the builder also.

Q. But you're not suing the builder again. You're suing the Humphreys?

A. Yeah, I'm suing the Humphreys.

Q. Okay. So you're telling me that you're suing the Humphreys for something that the builder did?

A. Well, I'm suing the Humphreys because this is now become the Humphreys' house. They own the

property.

Q. Yeah, but you acknowledged that the condition was not created by them. You're just saying because they bought the house now, it's their problem?

A. Yes, because it's their property.

Q. And the Certificate of Occupancy was issued and the home was sold to them?

A. Well, it's still their problem because they the homeowners.

Q. Okay. And so you understand that my concern is you're saying that the Humphreys have done something and inherited a problem that's damaging your walkway. But you didn't have the walkway there when you were not having problems, you put the walkway in when you were already having problems, correct?

A. Yes.

Q. So how do you know that the issues that you say are causing damage to your walkway are because of the Humphreys and not because of how the walkway is constructed?

A. Because — if I don't understand why my walkway be an issue if my walkway was constructed properly. How else — how else would this erosion that I see on my walkway be happening?

Q. But you don't have a reference point?

A. You could — yes.

Q. So you don't have a frame of reference. Your testimony is you have no frame of reference to compare it to when there wasn't a problem with the walkway?

A. Yes.

Q. Because when it was put in there's always been a problem with the walkway, correct?

A. No, there hasn't always been a problem with the walkway. When we first started putting in there was no issue, but then eventually.

Q. How quickly did it — after you put the walkway in did a problem arise?

A. That I don't remember.

Q. Who built the walkway?

A. We did. Me and my wife.

Q. You and your wife?

A. Yes.

Q. And do you put in pathways, like, this professionally?

A. Not professionally.

Q. How is it constructed?

A. It's constructed with a base — with a base — base gravel and then the stone on top and then filled in with sand on top.

Q. So you dug into the ground?

A. Yes.

Q. In an area where you are already having issues from the Humphreys' property?

A. Uh-huh (affirmative).

Q. So you dug into the ground below the ground's surface in an area where you say you were already having water runoff, erosion, flooding issues, correct?

A. Yes.

Q. And that those are created by the Humphreys?

A. Yes.

Q. You poured some gravel in there?

A. Yes.

Q. You put the stone — what are they called? Pavers?

A. Stone rock.

Q. Stone rock. Can we just refer to them as

pavers?

A. Yes, we can.

Q. Okay. So you put the stone pavers on top of the rock, correct?

A. Yes.

Q. And then you filled in the gaps with sand?

A. Yes.

Q. Did you have anybody come out and inspect it?

A. We did not need an inspection on this.

Q. Okay. Did any professional who installs walkways for a living come out and look at it?

A. That I do not — that I do not think so.

Q. What do you mean, you don't think so? You built it.

A. Yeah, I built it, but my wife may have got somebody to take a look at it.

Q. But there wasn't a professional there telling you how to do it?

A. Yeah, there was no professional telling us.

Q. What did you guys look at to decide how to do it?

A. From my work experience from doing it.

Q. Ten years ago?

A. Yes.

Q. In another state?

A. Yes.

Q. As a laborer?

A. But, I have done pavement like this before.

Q. Okay. Are the stones — the stones if I understand correctly are kind of secured by sand filler, correct?

A. Used to. Now it's filled with pebble stones.

Q. Now, pebble stones for the gaps, how recently have you done that?

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A. Couple of months ago.

Q. Are the stones set into any kind of concrete?

A. No.

Q. Were the stones set flush with the top of the grass?

A. No. It was a little higher.

Q. The stones were a little higher?

A. Yes.

Q. What about the filler in between them? Was that — that was flush with the grass?

A. That was flush.

Q. So you at least built it so that way the stones would hopefully sit a little bit higher than the ground?

A. Yes.

Q. And the filler would be even with the ground?

A. Yes.

Q. And the filler in the stones were on top of gravel?

A. Yes.

Q. What's underneath the gravel?

A. Just dirt.

Q. Just dirt?

A. Yes.

Q. Where you had dug in for the pathway?

A. Yes.

Q. How did you dig it, with a shovel?

A. With a shovel.

Q. Okay. And you put all that dirt that you dug out on top of that tarp at the end or you — I think you moved it and then put the tarp over the top of it, right?

A. No. There's a tarp underneath it and a tarp on top of it.

Q. Okay. Gotcha. And it's all that green color?

A. Green blue.

Q. With the bricks on it? Okay. Your property slopes towards the street from back to front, correct?

A. Yes.

Q. So presumably if water is landing on your back property, it's going to go forward down toward the street, correct?

A. No, because from the driveway all the way up it flows toward the driveway.

Q. Okay. But around where the driveway is because the driveway is behind where the stone pathway is, correct?

A. Yes.

Q. Back and to the left?

A. Yes.

Q. Right. If I'm standing on the stone pathway and looking toward the back of your property where those woods are, the driveway is kind of back and to the left and the street would be behind me?

A. Yes.

Q. Water flows down that slope down your side yard toward the front of the street, right?

A. Yes.

Q. So at least for some period of time it would be flowing through that tarp with the dirt on it, right?

A. No, because where I put the tarp up that has a hill that flows to the driveway.

Q. Okay. But it's right behind the pathway. You can see it in a lot of the photos you provided me in discovery.

A. That's not the —

Q. Right, at that time?

A. No. It's, like, maybe a foot or so from the tarp, but from the start everything flows out of it — from — it doesn't flow back this way, it flows this way.

Q. So right at the end of that pathway it goes to the street and beyond the pathway it goes to your driveway?

A. Yeah, it all goes to my driveway.

Q. Well, if it — so you're looking at — the Plaintiff just motioned to Exhibit 16 and indicated that at the back part of the pathway water slopes and flows toward your driveway, correct?

A. Yes.

Q. Okay. But the damage that you're showing me in Exhibit 16 is on the part you described as flowing toward the street?

A. That's because this has a little turn here and — let me see if I can describe it. Yes, because if you look at this picture pretty much that's the cut off everything flows to my yard.

Q. What picture are we looking at? Exhibit 6?

A. Exhibit 6, yes.

Q. And you're describing the stone that go up to the retaining wall?

A. Yes.

Q. The stone. It looks like part of the stone pathway actually?

A. Yeah. Everything goes to my driveway.

Q. Beyond that it goes to the driveway and in front of that it goes down your pathway to the street?

A. Yes.

Q. What did you do in designing the pathway to make sure that it could deal with water?

A. Like make sure it sloped away.

Q. Away from where?

A. Sloped away from my house and towards the street.

Q. Okay. But there's no french drain or drainage

or any of that built into the pathway?

A. Into the pathway, no.

Q. What did you do to make sure that the gravel and the stones wouldn't settle beneath the level of the ground?

A. I check on it all the time.

Q. And just trusted that it wouldn't settle any further?

A. Yeah, because everything was checked regularly.

Q. There's no sheeting or tarps or concrete or anything under the stone?

A. No.

Q. It's just dirt, stone, and rock — rock pavers?

A. Yes, the stone and then the stone on top.

Q. Okay. Would it surprise you to know, Mr. Yeung, that we've been told by representatives of Jackson County that you been advised before, either you or your wife, that the discoloration and siltation on your walkway is because the stones are not flush with the ground?

A. Above the ground? Not that I know of. Well, maybe my wife — they tell my wife.

Q. And don't you think she would have told you that?

A. No, she did not.

Q. Do you think that would have been a helpful thing to know before you file a lawsuit against somebody for messing up your pathway?

A. Like I said, my wife did not tell me that part.

Q. Would it surprise you to know that we've also been told by representatives of Jackson County that the condition of your walkway is caused by your failure to grow grass back there?

A. That I'm not surprised about.

Q. You're not surprised by that?

A. Yes, because I — because I've been —

Q. You've been told that before, right?

A. Yes, the first — the first case.

Q. So when the county came out they told you during the first case?

A. Yes, that was brought up in the first case.

Q. With HillGrove Home?

A. Yes.

Q. But, your testimony was that the walkway wasn't there in the first case with the HillGrove Homes.

A. I'm not talking about the walk. I'm talking about the grass. I'm talking about the grass.

Q. Oh, you been told before by the county that these issues have to do with not going grass on your property?

A. Not by the county.

Q. By who?

A. By HillGrove Home. That's what they brought up in the first suit.

Q. Okay. Then — I see what you're saying. So then it's not a surprise to you if the county then also said that the problems could be caused by not growing grass back there?

A. Yes.

Q. And that would affect the siltation and discoloration of your walkway?

A. Yes.

Q. Okay. And I believe your prior testimony was that you cannot actually be sure that it's the Humphreys that specifically caused the damage. You're just assuming?

A. Yes.

Q. Does your property receive water from anywhere else but the Humphreys' property?

A. No.

Q. It doesn't get rain?

A. Well, except for rain and that's it. Because I'm the last property lot on the street.

Q. Sure, okay. But the Humphreys' property is not the only place where water comes on to your property, right?

A. No, they are the only ones — because —

Q. So you don't get any rainwater on your property?

A. No, except for rainwater I get.

Q. Well, and I'm only asking this question because whether the Humphreys were creating an issue or not you would still have an obligation to make sure your property appropriately handles the stormwater, the rainwater, correct?

A. Correct.

Q. And you were — you just described that you're the lowest property in a series of properties, right?

A. Yes. I'm sorry. I'm not the lowest property on that block — I am —

Q. Well, sure, as far as you're concerned, because you're on the corner?

A. Yes.

Q. You're the lowest property in the series of the properties, right?

A. Yes.

Q. Okay. In your internet research before you filed your complaint, do you recall seeing anything about your obligation as the lowest property owner?

A. Yes.

Q. Tell me about that.

A. We are responsible to get water from the highest property as long as there's no artificial disturbance, artificial means.

Q. Would you agree with me that you probably see it as a servitude to the higher properties?

A. Yes.

Q. Does that sound familiar?

A. Yes.

Q. So you saw that before filing your complaint?

A. Yes.

Q. Okay. So then you do agree that you have to accept some water from other properties, correct?

A. Yes.

Q. Okay. And it's just that they can't unnaturally alter the flow on to your property?

A. Yes.

Q. Okay. Moving on. You had further answered in your answer to Interrogatory No. 28 that, quote, In addition, the soil in our land including the side, back, and all across the property line are also contaminated. Correct?

A. Yes.

Q. Tell me about that.

A. We took soil from across our property line and took a test and there's high concentrate of chloride in our soil.

Q. These a high concentrate of what?

A. Chloride.

Q. Chloride?

A. Yes.

Q. Did anybody tell you where that came from?

A. The only thing — they didn't exactly tell us where.

Q. Who's they?

A. We took to UGA Extension.

Q. UGA Extension to do a soil test?

A. Yes.

Q. Where did they get the samples from on your property?

A. We brought them the samples.

Q. Where did you take the samples from your property?

A. The back of the property. All across the property line between my property line and Humphreys' property line.

Q. Okay. So just random spots from your lot?

A. Yes.

Q. And that would have been the side yard that is between you and the Humphreys' property, the property line between you and the property?

A. Yeah, be my back property.

Q. And your side yard which kind of looks like a backyard?

A. Yes.

Q. Did you do any from your front yard?

A. No.

Q. Okay. Did you do any from the other side of your house that faces the street?

A. No.

Q. Why?

A. Because we didn't think that was necessary to get soil samples from those areas.

Q. So you don't know what the soil composition is for the rest of your yard, just where you got the samples from?

A. Yes, from all the places we got the sample from.

Q. Did you get soil samples from the Humphreys'

property?

A. No.

Q. So how do you know what to compare it to?

A. Because we come compare — we took multiple samples and all of them came out differently.

Q. But, you're comparing them to just different spots in your yard, right? You're not comparing them to even the front of your yard?

A. No.

Q. You're not comparing them to part of your whole side yard which would be where the Humphreys' front yard is, right?

A. No. We took some samples from there.

Q. Okay. But you didn't get samples from the entire yard?

A. Not the whole yard.

Q. And you didn't get samples from neighboring properties?

A. No.

Q. Okay. So you can only be told what's in the soil sample, correct?

A. Yes.

Q. You can't be told how it compares to the neighboring properties?

A. No.

Q. And you can't be told how it compares to your entire property?

A. Yes.

Q. Yes, as in I'm correct, that it's not a representation of your whole property?

A. Yes, is not a representation.

Q. It's only representative of the areas you had tested?

A. Yes.

Q. Did anybody doing the testing tell you where that would have come from?

A. They did not specify where it came from.

Q. And they said it's chloride?

A. Yes.

Q. Okay. Did they posit any theories about where that would have come from?

A. They say they did not want to specify so they didn't say.

Q. They didn't tell you whether it was naturally occurring or not?

A. No.

Q. Are you aware of whether chloride can begin to exist naturally in soil?

A. I looked up online and what I find is it's not created naturally.

Q. Is not created naturally?

A. Yep.

Q. Is it possible that it could have been there when your builder built your home for some reason?

A. I don't know.

Q. So then how is it the Humphreys' problem that there's chloride in your soil?

A. The logical answer is because they have a pool in the back. That's where it's coming from.

Q. Well, that's chlorine, is what you're assuming about their pool, right?

A. Yes.

Q. Do you know that they use chlorine in their water?

A. I'm assuming they use chlorine.

Q. Why?

A. That's how typically a pool is cleaned.

Q. Well, there's saltwater pools, right?

A. Yeah. There is saltwater pools, but I don't think they have a saltwater pool.

Q. How do you know?

A. Like I said, I'm assuming.

Q. Have you been over there?

A. No.

Q. Take a swim?

A. No.

Q. Take water sample?

A. No.

Q. So you see where I'm going with this, right? You don't know. But you're alleging that they caused chloride in your soil?

A. Yes.

Q. But you don't know that they did?

A. Like I said, I'm assuming that's the only logical — I could come up with.

Q. So you just kind of — for you, two plus two equals four. They have a pool that you assume is chlorine, correct?

A. Yes.

Q. But you've never been in it?

A. Nope.

Q. You've never done a water test?

A. No.

Q. Have you asked the Humphreys if it's chlorine?

A. No.

Q. Did you even ask the people that did the testing whether or not if chloride — if a chlorine pool would cause chloride in your soil?

A. Yes.

Q. You did?

A. Yes.

Q. What did they say?

A. They say it's possible.

Q. Possible?

A. Yes.

Q. So they're also assuming.

A. Yeah. Because they say they can't — they don't want to give me a definite answer so ...

Q. Do you have an idea about — so if you're just assuming that because they have a pool that might use chlorine in the water to treat the water and because that pool exists on the neighboring property, what is your theory then about how the water from the pool got on to your property?

A. From the runoff from the pool.

Q. From the runoff from the pool?

A. Yes.

Q. Have you observed the pool overflowing on to your property?

A. I have not.

Q. So you never observed the pool flowing over on to your property. You didn't get any soil samples from the Humphreys. You don't even know if their pool uses chlorine, but you're suing them in Superior Court for purported contamination to your soil for chloride.

A. Yes.

Q. And you don't understand why that's a problem?

A. I do not.

Q. Do you expect to prevail on that claim? Honestly? Man-to-man.

A. I'll leave it up to the judge if he thinks everything is false.

Q. So you don't care whether or not there is merit to the claim, you're just going to leave it up to the

judge. Is that your testimony?

A. No. I believe everything I've testified and talking to you about.

Q. But how can you believe it if it's just an assumption?

A. Because I'm thinking my assumption is correct.

Q. So you're still going to leave this deposition today after having experienced this and think you're still correct?

A. Yes.

Q. Without any evidence?

A. I don't have any evidence.

Q. You don't think that you don't have any evidence?

A. Yes.

Q. Would you characterize your evidence as direct evidence in these issues or anecdotal? And I can clarify for you if you don't understand. Would you like a clarification?

A. Yes.

Q. And I'll represent to you that you're not required to accept these definitions, okay.

A. Okay.

Q. Direct evidence is something that just shows us and it's indisputable, isn't defensible. It's, like, a video, right? You look at it and you just know what's happening. Anecdotal evidence is, well, I saw it, well, I think it, or I heard it, or I personally experienced it, therefore I'm saying it must be true.

A. Okay.

Q. What would you say is the more reliable form of evidence?

A. Probably the first one.

Q. Direct evidence.

A. Yes.

Q. And your testimony is you don't have any direct evidence that the Humphreys have caused chloride to be in your soil, right?

A. I do not.

Q. And you're going to leave it up to the judge to decide if he thinks that's the case?

A. Well, like I said, I personally haven't seen it, but from what I've heard from my wife — my wife saw it.

Q. Your wife saw pool water leaving the pool and coming on to your property?

A. I think my wife mentioned that the pool water directly pump — she saw somebody come in, because I think she says it was a leak or something and somebody came and fixed the leak in the pool, that was leaking water on to our property.

Q. So you have pursued this claim against my client on hearsay?

A. I wouldn't consider that hearsay, because I trust my wife.

Q. Yeah, but they didn't — the person purportedly fixing the Humphreys' pool didn't tell you why they were fixing it, did they?

A. No.

Q. Did you see them fix the Humphreys' pool?

A. Not directly, no.

Q. Well, how would you have you indirectly seen it?

A. Yeah, I would see it — I haven't seen it.

Q. Okay. So your wife is telling you she observed something, right?

A. Yes.

Q. That's hearsay. That's fine if you trust your

wife. I'm not trying to get in the middle of your relationship with your wife. I'm just saying you never doubted that maybe things aren't as they seem?

A. I never doubted my wife.

Q. But she's not a plaintiff in this case. You're the Plaintiff for this case, right?

A. Yes, but I — if — I asked for her to become a witness.

Q. Okay. You also said that erosion too was occurring. I think I need establish the erosion you're referring to is the walkway, correct?

A. Yes.

Q. Nowhere else?

A. Just the walkway.

Q. Just the walkway. Moving on to your supplemental response to Defendant's Amended Interrogatory No. 29, you were asked in Defendant's Interrogatory 29, identify and state with particularity how you have measured the amount of any alleged increased water flow on to your property from the Defendant's property, being careful to describe when, where, and how you have measured what you described as increased water flow, both in terms of volume and occurrence between the date and time you have received these interrogatories going back in time to June 1, 2018, correct?

A. Yes.

Q. All right. And you answered, I did not measure using cup. I never had any flooding in my property before. Correct?

A. Yes.

Q. Okay. You did have flooding on your property because of the builder though, correct?

A. Yes, when they build, yes.

Q. Okay. So is this answer all inclusive of the builder and my client or just my client?

A. I'm not sure what you mean by that.

Q. So you're saying I never had any flooding in my property before. Your — this answer is intended to communicate that you never had any flooding in your property before they built the home or before my clients built their pool?

A. Before they built the home.

Q. So this answer doesn't reflect whether or not you had flooding before my clients built the pool, it just says you never had any flooding before they built the house?

A. Yes.

Q. So this also doesn't tell us anything about the increase in flow because of my clients building the pool, correct?

A. Yes.

Q. And you say you didn't measure using a cup. I'm assuming you were just being flippant and dismissive there, correct?

A. What I mean is I didn't use — I didn't use a cup or anything to measure with.

Q. Certainly — so your testimony is you didn't use anything to measure?

A. Yeah.

Q. You never measured?

A. Yeah.

Q. The flow?

A. Yes.

Q. So then how do you know it's an increase?

A. Like I said, because I had never had a flooding issue before the property was built next door.

Q. Right, but you made the implication when you

say increase in water flow and you've used terms in your complaint, like, surge. That would imply that you were paying attention to and had some understanding of a baseline, right for either volume, or number of occurrences, or both from water coming on to your property. But you're telling me you never measured, so I guess what I'm asking you then is this allegation, like the others, just based on your personal observation?

A. Not only personal observation, because we had heavy thunderstorms here before property next door to and we never had any further issues.

Q. Sure. What was the property like next door before the house was built?

A. It was just a lot.

Q. Right. But, I mean, what was it, like, was it trees, grasses?

A. Trees and — it was mostly trees.

Q. Mostly trees?

A. Yes.

Q. Okay. As far as this complaint goes though — because you didn't sue the builder again or add them as a party, you sued my client, — what have you done to measure what you say is an increase in flow from my client's property on to your property as a result of the construction activity that the Defendant has done in this case, the Humphreys?

A. I did not make any measurements. I did not take any measurements.

Q. So you don't actually know to what extent my client's pool building increased the flow of water on to your property, do you?

A. I do not.

Q. But you're suing them over it?

A. Because like I said, I never had that issue before.

Q. Before their builder?

A. Yeah, before the builder.

Q. Not them?

A. Because —

Q. Because they inherited the builder's problem, right?

A. Yes.

Q. And then you say though — your prior testimony was that it made worse by them building the pool. Where — if you never measured anything how do you know to what extent they made it worse? You don't, right?

A. Because I'm going with what previous happened and I never had this issue happen before the next door was built.

Q. I don't care when the house was built. I'm talking about the pool building, because your prior testimony also was the building of the home and the building of the pool are two separate things, right?

A. Yes.

Q. And you're saying that the building of the pool made the issue worse, correct?

A. Yes.

Q. So how do you know that it made it worse?

A. Because it's directing all the water along the property and a couple of feet from my property.

Q. But you didn't measure anything. So there's steps here, right? You've identified a period in time where you say that you didn't have any problems then they build my client's home and the problems begin. Than there's a period of time after the judgment where the problems continue to occur before my

clients build the pool. My clients build a pool and you say that made it worse?

A. Yes.

Q. But you just keep telling me that problem started when they built the house. So what I'm asking you then is to tell me — because this is what your lawsuit against my client is based on — is how do you know that the pool building activity was made worse or the pool building activity made whatever you're experiencing, as far as runoff and erosion goes, worse than what you'd experienced before if you never measured anything?

A. Because before — before your client made the pool had no pop-up or anything next to our property that would have water drain out, so that creates more water flow on to our property.

Q. Well, the pop-up emitter is on their property in the middle of a swale though, on the side of their house?

A. Well, but — but this — but the swale isn't draining because the stormwater come to pop-up — the pop-up emitter is causing water flow on top property.

Q. But you don't actually know that to be the case, you're just assuming, correct?

A. You can say I'm assuming.

Q. So tell me about how bad it was before they built the pool and installed the pop-up, because you said there were issues then but you haven't told me about what it was like then so I can compare it to why you say it's worse now.

A. Well, before that we never had that property issue with that extra water being on that side.

Q. But you said there were problems?

A. Yeah, there was still water coming up to side, but now that they have the pop-up drain we see all those puddles of water that's being puddled by them.

Q. Okay. But what was the damage that you were experiencing because of the condition of my client's property before they built the pool? You keep saying the water was coming on to the property even before my clients built their pool so tell me about that. What did it not look like? What were your experiences?

A. It was — our experience was that we start to have more — we start to have water coming on to our lot. And when the builder was building they didn't have enough control that was causing water to flow on to our lot and started to flow on to our lot.

Q. So the simple answer is, you don't actually know how my client's activity on their property has made anything worse, right?

A. Yes.

Q. But you're still suing them?

A. Yes.

Q. And you have no intention to not continue with the suit, even though you've admitted you don't know how their activity on that property has made the issue worse?

A. Yes.

Q. A lawsuit that your prior testimony you said you understand it's expensive for them?

A. I understand.

Q. And you don't care?

A. It's not that I don't care.

Q. So you can't tell me what you've done to determine the increase in the flow, right, other than observation.

A. Yes.

Q. And you weren't taking any steps to actually document the increase in flow or measure the increase in flow, correct?

A. Correct.

Q. Then honestly speaking, you can't be sure that there is an increase in flow can you, Mr. Yeung?

A. The only thing that I see is what I assume.

Q. Just what you see with your eyes?

A. Yes.

Q. I understand you looking at this with your eyes, but if you're not taking steps to actually document or measure what you say is an increase in flow created by my client's activity of building the pool and installing the pop-up, how can you be sure then that the problems you're experiencing are not coming from somewhere else?

A. Because, like I said, we never had this issue before — before the house was built.

Q. But you also didn't have a pathway before that house was built, right, Mr. Yeung?

A. No, I did not.

Q. I do have a question for you and you maybe know the answer to this or you don't, but you've mentioned a couple of times that also my client's installation of the pool and the pop-up emitter is killing your grass, correct?

A. Yes.

Q. Okay. And even made an allegation that the water — because you're assuming that it's coming from the pool, which you assumed contains chlorine, correct?

A. Yes.

Q. Logic, we talked about logic. Logically

speaking why would it only be killing your grass and not the Humphreys' grass?

A. That's not true because if you see between the borderline where they have the fence, yes, beautiful.

Q. Yeah, it's beautiful.

A. No, the other grass over there is dead.

Q. Where — where are you talking about?

A. On the other side of the fence.

Q. On the other side of the fence?

A. Between the fence — where they have the fence and we have my block wall is in between there. The grass is all dead there.

Q. Because you built a four-foot-high block wall, right?

A. Two-foot high.

Q. Two-foot?

A. Yeah, document say two-foot. We amended it. We say four-foot in the beginning, but it's only two-foot.

Q. Okay. So you're saying that — your contention that the Humphreys' runoff is killing your grass is supported by the fact that the grass on the hill between your retaining wall and their fence is also dead?

A. Yes.

Q. Okay. But you built a retaining wall there that, at least, partially shades out that area, right?

A. Yes.

Q. Okay. I want to wrap up here pretty soon, but I want to address a couple of other parts of your complaint. Paragraph 8.

(... a short break was taken ...)

BY MR. MCDONALD:

Q. So we were talking about paragraph 8 of your complaint, Mr. Yeung. In paragraph 8 of your

complaint, you state that because there is no plumbing drawing, there was no plumbing inspection ever performed, correct?

A. Yes.

Q. How do you know that there was no plumbing inspection ever performed?

A. I looked into Jackson County permits.

Q. Online?

A. Yes.

Q. Did you call and talk to anybody at Jackson County about whether an inspection was ever performed?

A. I believe my wife did.

Q. You believe? Do you know that she did or you're not sure?

A. I'm not sure.

Q. But you never called to confirm on your own before filing the complaint, correct?

A. No.

Q. What about after you called in the complaint, did you ever call to make sure that was still true?

A. No.

Q. So you never spoke with the inspector who actually performed the inspection of the Humphreys' pool prior to filing the complaint?

A. I personally did not.

Q. You say personally, do you think your wife did?

A. Possibly.

Q. Possibly, but you don't know?

A. Yeah.

Q. Did you make any attempt at all to speak with the inspector who inspected the Humphreys' pool prior to filing the complaint?

A. My wife did.

Q. You know that she made an attempt to talk to the inspector?

A. She talked to — I don't know the specific inspector, but she talked to a few people there. Well, I think it was mostly Alex that she talked to.

Q. Oh, okay. So would you agree with me that Alex is not the one that is actually performing the inspection on the pool? Did you know that?

A. I did not know that.

Q. Okay. So I'll represent to you and you're welcome to take it or leave it, but Jackson County uses an entity called Bureau Veritas to do their inspections. Did you know that?

A. I did not.

Q. Why didn't you look to see if that was the case before you filed your complaint?

A. Because I did not know they did that — use that system.

Q. Okay. But you didn't call anybody and try to determine how they did their inspections, right?

A. I think my wife — I would assume my wife did.

Q. Why do you assume your wife did?

A. Because she was the one that talked to the code.

Q. To code.

A. To code and then I think they would tell her that.

Q. Would you be surprised to know that we had spoken with the inspector who inspected the Humphreys' pool?

A. No.

Q. Okay. Her name and contact information was disclosed to you on our witness list and in discovery as a person that we have spoken to with Bureau Veritas?

A. Bureau Veritas, I don't know witness.

Q. In the pretrial that I had sent to you back in January I believe. That contained who we were going to call and who we may call. Do you recall receiving that?

A. I would need to go home and look.

Q. I would encourage you to do that. If for whatever reason you can't find it let me know and I'll resend it to you, but you were sent a pretrial disclosure prior to my filing my motion for continuance and motion to compel that disclosed her name and information?

A. Okay.

Q. She was the inspector that inspected the Humphreys' pool.

A. Okay.

Q. We did speak with her.

A. Okay.

Q. Okay. Would it surprise you to know that she confirmed that a plumbing inspection was, in fact, performed by her?

A. Yes, it would surprise me.

Q. That would surprise you?

A. Yes.

Q. Why?

A. Because I didn't know — I didn't know about them.

Q. Okay. But you never checked to make sure that one was actually performed before you put it in your complaint, you think your wife did, right?

A. Yes.

Q. Okay. So in paragraph 9 of your complaint you alleged that, quote, The plumbing work has not been inspected or passed safety measure, correct?

A. Yes.

Q. But I just represented to you that we had spoken with the inspector and that is, in fact, not true, correct?

A. Yes.

Q. Okay. Do you have an opinion on that?

A. I have not spoken to inspector so I do not.

Q. So you're not accepting that as a true statement?

A. Not until I speak to the inspectors.

Q. Okay. Did you know that the Humphreys' pool would not have passed final inspection if the plumbing did not pass inspection?

A. I would think so, yes.

Q. All right. And you haven't disputed that the Humphreys' pool passed the final inspection, right?

A. Yes. They got that — I agree they passed the final inspection.

Q. Okay. So your prior testimony a moment ago was you would think that for them to pass the final inspection it would pass plumbing inspection, correct?

A. Yes.

Q. But you've alleged in here, without even checking, that no inspection was performed?

A. Yes. I don't know how they passed final inspection.

Q. Okay. Do you work for Bureau Veritas?

A. I do not.

Q. Did you inspect the Humphreys' property?

A. I did not.

Q. Did you inspect their pool?

A. I did not.

Q. And you never called to check and see if this statement was accurate before filing a complaint?

A. I did not personally call.

Q. And you still have not called them personally to see if it is accurate?

A. I have not.

Q. But you think your wife might have?

A. Yes.

Q. And I suspect I know what the answer to this is going to be, but I'm going to ask you anyway. If you made no effort to confirm that no plumbing inspection was performed why if you are the Plaintiff alone even if your wife helped you, why would you allege that in your complaint if you weren't sure yourself whether it was true?

A. Because I didn't see that in the county report that I was looking at.

Q. Are you open to the idea that what you're looking at online may not be completely representative of the issue?

A. Yes.

Q. Were you aware that that could be the case before you filed your complaint?

A. No. I thought everything I was looking at was correct. That's from the city side.

Q. Having been involved in this case now for some time and sitting here in this deposition, you would agree with me that now at least that everything you're looking at online may not be completely representative of everything that was done on the Humphreys' pool, correct?

A. Correct.

Q. And you still intend to maintain this suit?

A. I would just have to discuss it with my wife and see what we plan to do.

Q. And you intend to leave that allegation in this complaint now knowing that it's possible it's false?

A. Once I verify that it's false then I will eventually have to take it out.

Q. Okay. Did you ever check with Jackson County Government to confirm that the Humphreys did in fact, need a plumbing permit in constructing their pool?

A. Yes.

Q. You did?

A. Yes.

Q. Who did you speak with?

A. Somebody in the office. I don't remember exactly who.

Q. And this was before you filed your complaint?

A. Yes.

Q. So you called over there and your testimony is you spoke with somebody in code and they confirmed that the Humphreys would need a plumbing permit in constructing their pool, correct?

A. Yes.

Q. Okay. And that's why you put that allegation in the complaint that they did it without a plumbing permit?

A. Yes.

Q. Did you ever call their pool builder and ask any of these questions?

A. Not the pool builder, but after we interrogate them we did ask them the questions.

Q. Okay. What do you mean interrogate them?

A. When we send them interrogatory questions.

Q. Okay. And they responded to the interrogatory questions, right?

A. Yes.

Q. Okay. And did you have any issue with the way they responded to those questions?

A. I had some follow-up questions, but they didn't answer my follow-up questions.

Q. Okay. Now, you know after the hearing we just had that you're not permitted to send interrogatories to a third party, correct?

A. Yes.

Q. And do you recall that your second interrogatory to Sandals Luxury Pools, your second interrogatory, quote, Did your firm apply for permit number Builder 22-2503, question mark. And then you said any plumbing permit, question mark. Do you remember that question?

A. Not specifically but —

Q. But you'd agree with me and I'll show you if you'd like to just so we can represent for the record. I'm actually looking at — does that look like the third-party discovery you sent to Sandals Luxury Pools?

A. Yes.

Q. Okay. And that does look like the second interrogatory you sent to them?

A. I'm not sure if that's the first one or the second one in the letter.

Q. Number 2 is what I should say?

A. Okay.

Q. Number 2 of your first set?

A. Yes.

Q. Yes, okay. So number 2 of your first set, you would agree with me that this an accurate representation of the question you asked and you asked them, Did your firm apply for permit number BLDR, Builder 22-2503, question mark. So you're indicating to me, of course, and anybody else that you actually looked at that permit, right?

A. Yes.

Q. And you're giving the permit number?

A. Yes.

Q. And then you're asking any plumbing permit, question mark.

A. Yes.

Q. And they responded, yes. Permit BLDR 22-2503 was applied and we received a Certificate of Completion. Certificate of Occupancy/Certificate of Completion, same thing, okay?

A. Yes.

Q. We received a Certificate of Completion?

A. Yes.

Q. Then they say plumbing permit is not required for a swimming pool?

A. Okay.

Q. So if they have applied and been issued the permit and they received a Certificate of Completion, which would have — you would agree with me require them to go through an inspection, right?

A. Yes.

Q. And pass that inspection?

A. Yes.

Q. Meaning there wasn't anything about the pool that was out of compliance with the code to get that Certificate of Completion?

A. Yes.

Q. Right, and they're telling you a plumbing permit is not required for a swimming pool, but you called the county and asked them and you're telling me now that somebody with the county told you a building permit is required?

A. Yes.

Q. Okay. So what is — how does this apply to my client? What did my client do wrong here?

A. I didn't say your client did anything wrong, it's just that they — from what I understand is that they didn't apply — apply for a plumbing permit so that is in code, so their pool builder did not apply and that's not to code.

Q. Okay. So your testimony, if I understand it, is that the pool builder is incorrect that a building — I'm sorry, a plumbing permit is required for a swimming pool?

A. Yes.

Q. And that the county was correct when you first checked with them to ask about that, right.

A. Yes.

Q. But then the county was also incorrect when they issued them a Certificate of Completion?

A. Yes.

Q. That's what you think is the case here?

A. Yes.

Q. Okay. And would you agree with me that you received these responses from Sandals Luxury Pools on the 6th of October 2023?

A. If that's in — that's in the evidence.

Q. For the record I'm showing the Plaintiff the verification.

A. Okay, yes.

Q. Sixth of October 2023, from these and I can scroll if you're comfortable if you'd like?

A. That we received it, or ...

Q. So, I, Kevin Yeung, hereby swear and affirm that Sandals Luxury Pools' response to Plaintiff's first interrogatories to Sandals Luxury Pools is true and correct.

A. Okay, yes.

Q. Which presents a bit of an issue because you

can't verify for them that their responses are correct. But I think what you're trying to do is verify that you received them, correct?

A. Yes.

Q. And you would agree with me that you would have received those responses on the 6th of October 2022?

A. Yes.

Q. Okay. And you're going to maintain that the pool builder who applied and received the permit, they were issued a Certificate of Completion for that job, meaning the permit's closed out, was not correct and did not apply for a permit for the swimming — a plumbing permit for the swimming pool when they were supposed to?

A. Yes.

Q. Are you somehow uniquely qualified to say that the pool builder was wrong?

A. That's just from the information I received.

Q. By calling and speaking with someone at the county?

A. Yes.

Q. And you don't remember who that was?

A. I do not.

Q. Do you remember when that was?

A. I do know that was so long ago.

Q. Was it before you filed the lawsuit?

A. I do not remember.

Q. And really quickly before we finish out here I wanted to touch base on your prior testimony, was that you would say you're very familiar with the guidelines for the tertiary permitting, correct?

A. I didn't say very familiar.

Q. But you reviewed them before you filed the

lawsuit?

A. Yes.

Q. What about the allegations in your complaint about the land disturbance permit?

A. Yes.

Q. And your allegation, of course, is that they disturbed this land without the appropriate land disturbance permit, correct?

A. Yes.

Q. Did you do anything prior to filing the complaint to verify that was necessary?

A. Yes, I spoke to people from GSWCC.

Q. And they told you that the Humphreys would need a land disturbance permit?

A. They didn't specifically say Humphreys need. They told me these are what the guidelines say.

Q. And you're aware that the guidelines say that there's an exemption for properties under an acre, correct?

A. Yes.

Q. And your prior testimony was you would agree with me that the Jackson County Tax Assessor says the Humphreys' property is .37 acres, correct?

A. Yes.

Q. So logically speaking then your allegation in that complaint is inaccurate, isn't it?

A. No, because there's also a section in there that say they are not exempt inside subdivision.

Q. Okay. Tell me about that.

A. I don't know the exact words. I know that if the lot is under one acre you're exempt, but there's also a sentence that say if you inside a subdivision, you are not exempt from that rule.

Q. Is it your contention that the pool builder

disturbed over an acre of ground?

A. No.

Q. Is your contention that the pool builder disturbed over .37 acres of ground?

A. No.

Q. Do you have an idea about how much ground they disturbed?

A. I don't have any idea.

Q. Would it surprise you that in conversations with the county they told us that the Humphreys' property did not require a land disturbance permit for the pool building project?

A. I would not be surprised.

Q. Why?

A. Because from my understanding Jackson County got everything else not correct. So I'm thinking this might be incorrect also.

Q. So why not sue the county?

A. I don't know. I never thought about suing the county.

Q. But you're telling me here that they got a bunch of stuff wrong that has created damage to your property?

A. Because I've never — because the property belongs to your client.

Q. So it's not, like, you wouldn't sue the county or the city, right? You just didn't know that you could?

A. Basically, yes.

Q. Why didn't you do any homework to find out, if your — if your contention is the county did not do things appropriately why, didn't you look into the possibility of suing them?

A. Because that never crossed my mind to sue the county. They are the city, so I can't sue them.

Q. Well, your prior testimony too as far as the pool builder is concerned was that the pool builder also was incorrect and didn't do what they're supposed to do, right?

A. Yes. It wasn't permitted properly.

Q. Why didn't you sue the pool builder?

A. Because the pool builder is working for your client.

Q. Is it your testimony that my client's out there telling them how to do the job?

A. I don't know what your client is telling them to do.

Q. Well, then how can you make accusations against them for things they supposedly did wrong when you don't know what they're telling the pool builder to do or not to do?

A. Well, we asked to interrogate the pool builder about the pop-up and admit that they did not install that pop-up drain.

Q. Okay.

A. So that would be to my conclusion that your client is telling them — is doing stuff that — the pop-up that they didn't mention. They didn't do that.

Q. Sorry. Go ahead.

A. The pool builder would know about.

Q. Okay. How do you know that the pop-up emitter was supposed to be part of the pool project?

A. Because you're the one that told me during trial that it was all one project.

Q. What do you mean?

A. At the first trial we went to I brought up the issue of the pool pop-up emitter. You're the one that mentioned that this is all part of the pool project.

Q. You're talking about at the hearing?

A. Yeah, at first hearing.

Q. Right. Is it — does it have to be that every — everybody does the entire project for it to be considered part of the project?

A. But the pool builder also does the scope of work on his contract and nothing mentioned about that.

Q. What? The pop-up emitter?

A. The pop-up emitter, yes.

Q. Sure, because maybe they weren't the one doing the job, right? Like, say for instance, if you're building a house is the framer's scope of work going to include the electricians diagrams?

A. No.

Q. What about is the framer's scope of work going to include what the plumber cares about?

A. No.

Q. Is the framer's scope of work going to care about what the roofer says?

A. Well, not in the frame of work, but everybody has to work together to get it done.

Q. Yeah, because they're building a house, right?

A. Yeah.

Q. It's a house building project.

A. Yes.

Q. Okay. So the pool building project, which included the building of the pool you would agree, right?

A. Yes.

Q. And that digging a hole and all of those kinds of things, right?

A. Yes.

Q. Pouring concrete decking.

A. Yes.

Q. Doing the mechanical, like, maybe the pumps and all of that?

A. Yes.

Q. The grading and all of that.

A. Yes.

Q. And plumbing?

A. Yes.

Q. This is all part of that project, right?

A. Yes.

Q. So I don't understand then why you're fixated on whether the pool builder did that pop-up emitter or not because it was again, right, all part of the pool project?

A. But it was, yeah, the whole project so he should know everything that goes on the project.

Q. Okay. Well, so you're saying then that because — let me clarify. Is it your testimony that my client themselves individually installed that pop-up emitter?

A. Yes.

Q. Okay. They didn't hire somebody else to do that?

A. Yes, they hire somebody earlier to do that.

Q. During the construction of the pool?

A. After the construction of the pool.

Q. How long after?

A. Maybe a month.

Q. When was it completed?

A. Fall of last year.

Q. And the pop-up emitter was also fall of last year?

A. No. It was around Memorial Day or Labor Day of last year, if I remember.

Q. Before the pool was completed?

A. It was after it was completed.

Q. Okay. Well, you said the pool wasn't

completed until fall of last year?

A. Well, then I'm mistaken. Well, the pool was completed and then the pumps and everything was put in, and then after that they had somebody come in and put in the pop-up drain.

Q. Okay. All right.

A. But I don't remember exact time.

Q. I did want to — and I think this would probably be Defendant's Exhibit 17. I did want to show this to you really quickly.

(Defendant's Exhibit Number 17 was marked for identification purposes.)

Q. Mr. Yeung, this is a photo that you provided to me in discovery that says pop-up drain emitter three or four feet from property line. So now it's four feet instead of the three feet in your complaint. Did you take this photo and write that caption?

A. Yes.

Q. You did, okay.

A. Yes, well, I took the photo.

Q. You took the photo. We were talking earlier about the dead grass.

A. Yes.

Q. Okay. Between your retaining wall and their fence we can see all the way down that property line, correct?

A. Yes.

Q. From our vantage point in this photo we can see down that property line.

A. Yes.

Q. You would agree with me that there's a bunch of grass between the retaining wall and the fence, correct?

A. Yes. I'm not sure when this picture was taken.

Q. Okay. Well, so is it your testimony then that the grass is only recently dying or dying before this photo was taken?

A. I would say after this photo was taken, because they don't have that fence up. This is a real old photo.

Q. You don't see the pool parts in it, right?

A. You don't see the fencing that they have over the pool. That was maybe a year ago. I do not have a year ago so I don't remember.

Q. I'm trying to figure out because you're saying that you had issues with your grass dying since my client built their pool, correct?

A. Yes.

Q. Well, here you have a photo that was taken obviously after completion of the pool project, correct?

A. I don't know how long before this was completed — when the pool project was completed.

Q. And there's grass between the fence and your retaining wall, correct?

A. Yes.

Q. Okay. Where is the property line, by the way, as I look at this Defendant's Exhibit 17?

A. It should be between the wall and the land.

Q. Wall and the bottom of the hill?

A. Yes.

Q. So the Humphreys' black fence is sitting at the top of the crest of that hill. There's a downward slope of that hill to the bottom of your retaining wall?

A. Yes.

Q. And the bottom of your retaining wall is on your property line?

A. Yes.

Q. It looks like your retaining wall's leaning over

toward the Humphreys' fence a little bit, doesn't it?

A. No. I think it's the shadow. Well, no. No.

Q. Okay. I think that's all I have.

MR. MCDONALD: Other than I did want to make sure we got these interrogatories on the record. We can label them as Exhibit 18 just to make sure.

THE DEPONENT: I think it's 12.

MR. MCDONALD: Is it 12? Did I already get them down as 12?

THE DEPONENT: Uh-huh (affirmative).

MR. MCDONALD: I did, okay. Then we can scratch that, okay. Great. All right. I will do my best to squeeze in what I need with May. I do reserve the right to do a subsequent deposition if I have to if we run out of time because we had to do this last minute. I don't think that will be necessary, but I'm just telling you now and if you want to make an issue out of that you can but, you know, I will caution you as to your understanding of how the discovery windows operate. So just let me know, okay.

THE DEPONENT: Okay.

MR. MCDONALD: All right. Thank you.

THE DEPONENT: Thank you.

(Whereupon, the deposition was concluded at 4:13 p.m.)

DEPOSITION — KEVIN YEUNG

E R R A T A S H E E T (S)

I hereby certify that the following is a complete and correct transcript of my testimony given on February 22nd, 2024, except as noted below.

Pursuant to Rule 30(7)(e) of the Federal Rules of Civil Procedure and/or Georgia Code Annotated 81A-130(B)(6)(e), both of which read, in part: "Any changes

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in form or substance which you desire to make shall be entered upon the deposition...with a statement of the reasons given, for making them.” To assist you in making corrections, please use the following format:

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And the reason for the change is:_____

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And the reason for the change is:_____

Signed:_____

KEVIN YEUNG, Deponent

Sworn and subscribed before me
this ____ day of _____, 2024.

Notary Public

My commission expires:

Taken before court Reporter: Lisa F. Samples

Certificate No. 4922-6690-3882-9568

App-743

C E R T I F I C A T E

STATE OF GEORGIA:

COUNTY OF WALTON:

The foregoing proceedings were taken down by me as a Certified Court Reporter in the State of Georgia, and the questions and answers were reduced to type-writing by me, personally. I hereby certify that Pages [App-569-740], inclusive, comprise a true, complete, and a correct transcription of said proceedings. I further certify that I am neither kin nor counsel to any party, am not in the regular employ of counsel for any party and am in nowise interested in the outcome of said case.

This the 22nd day of February, 2024.

Lisa F. Samples

Lisa F. Samples

Certified Court Reporter

Certificate No. 4922-6690-3882-9568

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Appendix K

IN THE SUPERIOR COURT OF
JACKSON COUNTY
STATE OF GEORGIA

KEVIN YEUNG,	)	
PLAINTIFF,	)	CIVIL ACTION
vs.	)	FILE NUMBER:
SHANNON HUMPHREY,	)	22CV0988
DEFENDANT.	)	

The following deposition of CHING AUYEUNG was taken pursuant to stipulations contained herein, the reading and signing of the deposition waived, before Lisa F. Samples, Certified Court Reporter in the State of Georgia, on the 22nd day of February, 2024, at the Jackson County Courthouse, Meeting Room #4, located at 5000 Jackson Parkway, Jefferson, Georgia 30549, commencing at 4:25 p.m.

LISA F. SAMPLES, CCR
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A P P E A R A N C E S

ON BEHALF OF THE PLAINTIFF:
P R O S E

ON BEHALF OF THE DEFENDANT:

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T R A N S C R I P T L E G E N D

-- Cross-talk/interruption/change of thought
... Trailing off or incomplete thought
(phonetic) Phonetically spelled
(sic) Written as spoken
(unintelligible) Not capable of being understood

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I N D E X

<u>CROSS-EXAMINATION</u>	PAGE
MS. CHING AUYEUNG	[App-747]
CROSS BY MR. MCDONALD	

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D I S C L O S U R E

STATE OF GEORGIA
COUNTY OF WALTON

DEPOSITION OF
CHING AUYEUNG

Pursuant to Article 10.B. of the Rules and Regulations of the Board of Court Reporting of the Judicial Council of Georgia, I make the following disclosure:

I am a Georgia Certified Court Reporter. I am here as a representative of Bentley-Robinson Reporting, Inc. Bentley-Robinson Reporting, Inc., was contacted by the law offices of Mr. Dave McDonald to provide court reporting services for this deposition. The firm will not be taking this deposition under any contract that is prohibited by O. C. G. A. §§15-14-37(a) and (b).

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This 22nd day of February, 2024.

/s/ Lisa F. Samples

Lisa F. Samples

Certified Court Reporter

Certificate No. 4922-6690-3882-9568

S T I P U L A T I O N S

MS. AUYEUNG: Before we get begin may I say one thing, first of all, I'm allowed to object to the lack of service of this deposition, however, I am willing to answer your question, sir.

MR. MCDONALD: All right.

MS. AUYEUNG: Just to make sure that I'm following the Court's order.

MR. MCDONALD: Okay. Good afternoon. Today is February 22, 2024. My name is Dave McDonald and I'm an attorney with the law firm Weinstein and Black, LLC. I represent the Defendant, Shannon Humphrey, in the matter of Yeung v Humphrey in The Superior Court of Jackson County, Georgia, that would be file number 22CV00988. It is now 4:25 p.m. on February 22, 2024, and this will be the deposition of a witness identified by Plaintiff as May Yeung, to be taken here in person at the Jackson County Courthouse in Jefferson, Georgia. In this deposition as we speak, we have the Madam Reporter Lisa, myself Dave McDonald, and the witness May Yeung.

BY MR. MCDONALD:

Q. Ms. Yeung, would you state your full name for the record, please?

A. Ching Auyeung.

Q. Can you spell that, please?

A. C-H -

THE COURT REPORTER: We need to swear her in.

MR. MCDONALD: Oh, I'm sorry about that. Will you go ahead and swear her in.

(...Witness sworn...)

Whereupon,

CHING AUYEUNG,

After having been first duly sworn, testified as follows:

CROSS-EXAMINATION

BY MR. MCDONALD:

Q. Ms. Yeung, you're married to the Plaintiff, correct?

A. Correct.

Q. How long have you guys been married?

A. I can't remember the exact date.

Q. Just give me the years.

A. Many years.

Q. Many years.

A. Yes.

Q. And have you always lived together in the house that's the subject of this lawsuit over on Muscadine Way? I believe it's 2904 Muscadine Way.

A. I don't quite understand the question.

Q. For that time that you have owned the home on 2904 Muscadine Way, have you lived there?

A. Yes.

Q. Okay. And Mr. Yeung, your husband the Plaintiff, he's lived there with you?

A. Yes.

Q. And at some point your daughter lived there with you to, correct?

A. Yes, correct. Yes.

Q. What is her name?

A. At some point -- let me think, it will be -- may I ask how long -- how long ago?

Q. I just want to know what her name is.

A. Her name is Sylvia.

Q. Can you spell that?

A. Yes, S-Y-L-V-I-A.

Q. Sylvia, okay.

A. Yes.

Q. Yeung?

A. Yes. Not yet --

MR. MCDONALD: Listen, I understand. This is my deposition. I ask the questions. You don't ask the questions. And that's not me trying to be rude or disrespectful because I respect you. I'm just saying that we have a very limited time and it's not traditional for you to ask questions. It's my deposition. I'll ask the questions, okay?

THE DEPONENT: Okay.

BY MR. MCDONALD:

Q. How old is she now, your daughter?

A. Irrelevant.

Q. How old is your daughter?

A. Irrelevant.

MR. MCDONALD: Okay. You understand if you don't answer my questions I'm going to file a motion to compel against you and you'll have to answer the question?

THE DEPONENT: Irrelevant.

BY MR. MCDONALD:

Q. You've represented to me that she's lived at that home with you?

A. No. That's why I'm trying to -- I would like to -- my answer no. She does not live with us.

Q. But she did at some point, right?

A. That's why I'm trying to remember.

Q. Okay.

A. This is why I'm trying to -- not to argue with you, but I want to make sure.

MR. MCDONALD: No. We're not going to argue. I'm just going to file a motion and a judge can have you tell me, okay. Because your husband wouldn't give me her contact information either. But I'm telling you right now, you have filed a lawsuit against my clients for water runoff and erosion issues that have to do with a whole bunch of stuff happening on the neighboring property and your daughter lived in that home with you at some time, your husband already confirmed it. I would like to speak with her and I will do that. We'll move on to the next question, okay?

THE DEPONENT: Okay.

BY MR. MCDONALD:

Q. I will show you what I have marked as Plaintiff's Exhibit 2. This is a photo your husband provided to me in the discovery process. I've shown this to him. Did you take this photo? And actually, I would ask that you -- you can hang on to that one, but these are the same exhibits that your husband looked at so there should be an Exhibit 2 in there that should be that photo. Did you take that photo?

A. Yes.

Q. Okay. And that is a photo from your home's security camera, correct?

A. Correct.

Q. Okay. And why did you take that photo?

A. Because -- why did I take that photo -- because I want to capture all the activities that I think is -- that is suspicious to me.

Q. Suspicious? Tell me about that.

A. Not suspicious. Not really suspicious, but because -- not really suspicious -- some of the cameras, they're motion detector so I did not take it, but this specific, yes, I took it.

Q. Okay.

A. Because I'm not sure why they do not have silt fence.

Q. Why is that your business?

A. Because -- it's not my business at all.

Q. But you're taking photos of it?

A. No, I'm not. It is not my business, but they are causing damage because they suppose -- when those heavy rains -- erosion is going come and I'm trying to protect myself.

Q. Okay.

A. From being -- from seeing damages.

Q. Okay. But your husband's testimony in looking at that same photo was that, at the time that photo was taken, that it wasn't creating damage on your property.

A. Wasn't creating damage -- no, that. No, I don't -- I don't think he will agree with that, no. I don't think that he will agree with that because our property -- in fact, heavy damage on our property are caused by our next-door neighbor.

Q. How do you know that?

A. Evidence.

Q. What evidence?

A. What do you mean, evidence?

Q. You said evidence. You tell me?

A. Evidence by erosion.

Q. Where?

A. Erosion coming from the side on to our property.

Q. What's the erosion?

A. What -- what do you mean, what is the erosion?

Q. I'm asking you. You're saying there's evidence of erosion?

A. Yes.

Q. Where is it in that photo?

A. Oh, well, let's see. Let me try to remember. Let me try to remember -- erosion coming right here.

Q. What are you pointing at?

A. Right here. This area right here.

Q. There's some rock work there at the retaining wall.

A. Yes. That's why I made a rock garden. I made a rock garden. Put some -- yeah, I made a rock garden. And then also let me try to think where erosion in recent years. Remember last year I noticed erosion all across.

Q. When you say all across what do you mean?

A. All across the property line -- slowly all the dirt -- all the dirt there coming out to our property. And then also, because we have been having a runoff so -- so everywhere it started to erode.

Q. Okay. Your husband had testified that you assisted him in putting together this complaint and request for injunction, correct?

A. Correct.

Q. The lawsuit?

A. Yes.

Q. So you worked on it together?

A. Yes.

Q. Okay. Because we're limited on time there's a few things I want to address and we can get back to looking at some photos, okay?

A. Okay.

Q. All right. Your husband's testimony, not too long ago, was that you had called in and spoken with someone at Jackson County, who confirmed that a plumbing inspection was never performed; is that correct?

THE DEPONENT: Privileged, yes. That is privileged information. What I told my husband is privileged.

MR. MCDONALD: I mean, he's identified you as a witness in the case and said that you might have called.

THE DEPONENT: Privilege.

MR. MCDONALD: All right. I mean, what about what you did, did you call them?

THE DEPONENT: Privilege. Did I call, okay? Yes, I did.

BY MR. MCDONALD:

Q. You called them?

A. Wait. Wait. Wait. What was your question again?

Q. Prior to filing the lawsuit.

A. Okay.

Q. Did you call Jackson County and ask them if a pool plumbing inspection was ever performed?

A. Did I call Jackson County?

Q. Yes.

A. Plumbing, okay. Wait, no. I never called and asked for plumbing, no.

Q. Did you ever call and speak with anybody at Jackson County, Georgia Stormwater, about the tertiary permit that would apply to the Humphreys' property?

A. Can you repeat the question?

Q. So in the complaint that you and your husband testified.

A. Okay.

Q. You worked on together?

A. Uh-huh (affirmative).

Q. One of the allegations of the complaint.

A. Uh-huh (affirmative).

Q. Is that the tertiary permit that applied to the Humphreys' property.

A. Uh-huh (affirmative).

Q. A hold was placed on that and that the permit was not extended. The hold is still active per Jackson County Public Development record. I'm reading from paragraph 2 of your complaint.

A. Uh-huh (affirmative).

Q. Did you ever call anybody to ask them if that was a true statement?

A. Call Georgia Stormwater commission, right? Georgia Stormwater.

Q. You tell me. Did you call anybody to make sure this is a true statement?

A. Yes.

Q. Who?

A. Ben.

Q. Ben who?

A. We actually e-mailed. I call -- I believe I e-mailed. Maybe I make calls. But I don't remember many years ago. I might have called.

Q. Was that at the County or the Georgia Stormwater?

A. No, Georgia storm -- the full name is Georgia Soil and Water Conservation Commission.

Q. All right. And you spoke with him and your testimony is that he told you a hold was placed on that permit?

A. No, that is not -- he did not tell me that a hold was on -- no, because there is so many (unintelligible) permits. Tertiary permit is not the same as a construction permit. No, there are many types of permits, no.

Q. I understand that. I'm asking -- I am only asking you if you called and spoke to anybody who told you that there was a hold of the tertiary permit?

A. There is a hold -- if I have ever call -- called -- call anybody -- yes, I believe I called, but I can't remember all the details. I called Georgia Soil and Water Commission, yes.

Q. Did you ever call and speak with anyone at Jackson County about a plumbing permit for the pool?

A. I can't remember. I don't think -- most likely, no.

Q. Did you call and confirm before filing this complaint whether or not a plumbing inspection was performed on the Humphreys' pool?

A. I call -- me and my husband, we call after -- other counties and ask. And we were informed that plumbing is a requirement.

Q. For those counties?

A. Yes, for those counties.

Q. Not for Jackson County?

A. No. We were told that because all counties follow Georgia -- the state of Georgia law. That's why they -- they all say the same thing. Plumbing is required.

Q. Okay. But your testimony is that you did not call someone with Jackson County to make sure that a plumbing permit was required, correct?

A. I can't remember if I have called. I can't remember if I have called. Because this has happened -- we have make so many -- because I can't remember. I can't remember. -- can't remember.

Q. Why are you not the Plaintiff on this lawsuit?

A. I don't know.

Q. Because it would seem to me your husband's testimony indicated you have a lot of interaction with the Humphreys, a lot of interaction with the county, a lot of interaction with the Georgia Soil and Water, and you too have grievances against the Humphreys. Why are you not a Plaintiff in this?

A. I can't answer that question, because I don't know.

Q. Did you tell your husband what to put in this complaint?

A. No.

Q. But you worked with him on it?

A. Yes, correct.

Q. And his testimony was every paragraph you both worked on it together and decided what the paragraph would be for your complaint.

A. I don't get the question.

Q. Every paragraph of the complaint --

A. Yes.

Q. Your husband said you worked together on it and decided that's what the paragraph and the complaint would be. So paragraph 1, you worked together on that and decided this is what paragraph 1 would be. Paragraph 2, paragraph 3 and on. Is that fair?

A. We worked together.

Q. Okay. I want to ask you about this exhibit, this demand letter that was included with the complaint from Deming, Parker, Hoffman, Campbell, and Daly.

A. Uh-huh (affirmative).

Q. Are you familiar with this letter, the demand letter?

A. Yes.

Q. And you would agree with me it's about security cameras, right?

A. Yes.

Q. Okay. But you have security cameras on your home as well, right?

A. Correct.

Q. And those security cameras are pointed at the Defendant's house, correct?

A. Not to their house; to their backyard. Not to their house.

Q. Okay. Why do you have a right to point your cameras at their backyard?

A. Because it is an open area. We are not pointing to their windows, but they are pointing to our window.

Q. Okay. How do you know that?

A. Because their camera lens is pointing right at our window.

Q. Okay. But have you seen what that camera lens has seen?

A. No.

Q. So then you don't know what it's actually looking at?

A. We are just -- I contacted the attorney for our rights. That's all.

Q. This is Deming, Parker and all of that?

A. Yeah.

Q. And they wrote that letter for you?

A. Yes.

Q. Did you talk to them about this water runoff and erosion issue?

A. No.

Q. Did you talk to any other lawyers about the water runoff and erosion issue?

A. Do you mean now, you know, another lawyer? Yes, because I -- I call and try and get some legal advice so I -- yes, I do call.

Q. Before you filed the lawsuit?

A. Yes, probably, yes.

Q. Probably or you did?

A. Before I filed the lawsuit? Do you mean -- when exactly.

Q. Before you filed the lawsuit.

A. Oh. Oh, right. Before I filed the lawsuit against HillGrove.

Q. Against the Plaintiff.

A. Oh. Oh. Oh.

Q. And this is what concerns me as well. You and your husband are both intermingling issues with HillGrove and the Plaintiff and I cannot for the life of me figure out why you did not sue the builder again.

A. Because the builder is not causing the problem to us right now, it's the Defendant's action. It's Defendant's house.

Q. Tell me about that.

A. About?

Q. What is the Defendant doing to cause an issue to your house?

A. They completed a swimming pool without a plumbing.

Q. How do you know that?

A. How -- because I look up their record and there's no plumbing and they're supposed to do a plumbing. And I called and I even called the -- most of the -- actually all of the swimming pool contractors, they say that plumbing is required.

Q. So when you say plumbing, just so we're clear, you mean a plumbing permit?

A. A plumbing -- when you do plumbing -- oh, too loud. When you have underground plumbing or any kind or any type of plumbing you have to have it inspected.

Q. How do you know that?

A. Code. By code. I looked up the code.

Q. Okay. Are you a code enforcement officer?

A. No, I'm not.

Q. Have you drafted code before?

A. No, I have not.

Q. Are you lawyer?

A. No, I'm not.

Q. Do you have any professional legal training?

A. No, I'm not.

Q. Have you ever worked in a law firm?

A. No.

Q. Have you ever worked for Jackson County Code Enforcement?

A. No.

Q. Did you inspect the Humphreys' pool?

A. Oh, no, I did not.

Q. Did you call the inspector who did inspect the pool?

A. Did I? I don't remember.

Q. Bureau Veritas.

A. Uh-huh (affirmative)?

Q. Bureau Veritas. Does that sound familiar to you?

A. Bureau -- what's that?

Q. It's the entity that the county uses to do the building inspections.

A. Oh, okay, yes.

Q. So you spoke with them?

A. No.

Q. Okay.

A. Wait. Wait --

Q. How do you know a home inspection was ever performed? You don't, right?

A. No. Actually I do. No plumbing because --

Q. You keep saying no plumbing, but I want to make sure we're clear. Are you talking about a plumbing inspection or a plumbing permit?

A. Plumbing permit and as far as plumbing --

Q. Who told you a plumbing permit was needed?

A. State of Georgia.

Q. The state of Georgia?

A. State -- by the construction -- by the Governor's order -- executive Governor's order. I look up executive Governor's order.

Q. And it said -- from the state of Georgia needed a plumbing permit?

A. Not specifically -- not worded like that, but -- but the swimming pool or the construction in the state of Georgia will have to comply. It's mandatory code -- you have to comply -- a certain code in the swimming and spa code and international swimming code.

Q. Sure, and when you were looking all of this up you obviously saw that they received a Certificate of Completion for the pool, correct?

A. Correct. Not after we filed the lawsuit.

Q. Well, you didn't file the lawsuit until after the pool was already built.

A. No. No. No, specifically -- I meant to say my husband filed the lawsuit in November.

Q. Yeah.

A. In late November.

Q. Okay.

A. And then after the lawsuit that's when Mr. -- Mr. Humphrey did the Certificate of Occypancy and we see.

Q. Mr. Humphrey didn't have anything to do with that. He can't issue a Certificate of Occupancy. The county does and you would know this because you've been calling around and checking all of that, correct?

A. What -- what was your question again?

Q. How do you know that a plumbing inspection was never performed?

A. Oh, by checking the county record.

Q. Okay.

A. Jackson County record.

Q. Did you ever speak with the person that performed the inspection?

A. Yes, I believe so. I can remember. Yes, I believe so.

Q. Before you filed the lawsuit?

A. I can't remember the date. I might, yeah, I believe so.

Q. Well, either you did or you didn't. I mean, you put an allegation in a complaint that you worked on

together saying that this is a fact and now you don't know if it's a fact?

A. It is a fact.

Q. How do you know?

A. Always a fact -- because there's no plumbing -- because they -- I remember I recall -- what do they call code enforcement and they reported that no plumbing was ever performed. I recall that details.

Q. Yeah, so you know that that's not accurate?

A. Well, it's not accurate?

Q. Will it surprise you to know that I have spoken with the person that actually performed the inspection and they confirmed that they not only inspected it, but it passed?

A. Well, that is -- well, I directly -- I agree with the fact that they receive a Certificate of Occupancy.

Q. Yeah, and so it passed inspection, right?

A. It is not my decision or my -- my judgment to make because --

Q. You are asserting that none was ever performed and you're adamant about that and now you're saying that you don't know. Which one is it?

A. I don't know about what -- I'm still a hundred percent sure that there's no plumbing permit and no plumbing.

Q. So what is your intention for this lawsuit when you confirm that a plumbing inspection was performed? Are you going to maintain this lawsuit?

A. Can you ask again.

Q. If you confirm and you find out that a plumbing inspection was performed by Bureau Veritas on behalf of Jackson County, are you still going to continue forward with this lawsuit?

A. Yes.

Q. Why?

A. Why? Because.

Q. Even though you've made an untrue statement in your complaint.

A. No, I make true statement all along. No lies. And I will pursue this. I will pursue this no matter what.

Q. Why?

A. Because why -- because these clients causing tremendous amount of problem into my lot. Erosion runoff is a fact because the builder is eyewitness.

Q. You were on site when they were building?

A. I next door so I ask when I see construction.

Q. Did you watch it 24 hours a day?

A. No, not 24-hour.

Q. You didn't watch it consistently?

A. I watched.

Q. So how do you know something wasn't done when you weren't looking?

A. I look at my camera.

Q. So you're sitting there surveilling them through your --

A. No, not 24 -- I'm saying -- what I'm saying if something looks suspicious to me I can always look up to the camera.

Q. Here's a problem especially for the Humphreys, Ms. Yeung. Why is any of this suspicious?

A. Because they don't comply with code and regulations.

Q. How do you know?

A. By looking up record.

Q. Okay. Are you willing to admit that everything you're looking at online may not be the full picture of what's happening on the job site, or on the

Humphreys' property, or what's going on with the building of the pool?

A. Yeah, of course. Well, let me say this even though on online even -- may not be accurate, however, I called and my husband called and we confirmed and then -- because we called.

Q. Okay. You are saying that now. And you just told me you don't even remember if you spoke with the inspector who inspected the pool. So did you or did you not do that?

A. The actual inspector?

Q. Yes.

A. Yes.

Q. You did?

A. Yes. Together with -- together with -- with code enforcement.

Q. What was that name?

A. Code officer at the time, his name is Alex.

Q. Okay. He's a code enforcement officer. What was the inspector's name?

A. I don't remember.

Q. Was it a man?

A. No, a lady.

Q. It was a lady, okay. And you talked to her?

A. Together with Alex.

Q. And she told you, I didn't do a plumbing inspection?

A. Word to word not exactly -- not exactly. That's not exactly word to word.

Q. Did she not tell you that she didn't do one?

A. Well, if I could remember. She mentioned yes, she did not do a -- it's not word to word, but it means that -- it means to me that no plumbing inspection was ever performed by her.

Q. Are you going to be able to remember on the trial date?

A. I won't remember that date, but I will remember that event that I have -- I have spoken with -- with her.

Q. So you can't remember what you talked about now, but you will both remember at trial?

A. No, no, that's not what I'm saying. I'm saying some of the details, like, word to word what we talked about, you know, the details I may not remember later.

Q. I want to tell you right now the details are very important. So you sitting here telling me you can't remember details is not good.

A. No, no, that -- because they -- these two people, inspector and the code officer came to my property and then they were there maybe 30 minutes. I cannot remember the whole 30-minute conversation.

Q. They have been out there multiple times, correct?

A. Not the inspector, but the code officer might be. Not multiple, maybe two or three -- maybe.

Q. How do you define multiple?

A. Oh, okay.

Q. Two or three?

A. Well, then two or three, okay, multiple.

Q. Yeah.

A. Okay.

Q. About the Humphreys' pool, right?

A. No, not all about her pool.

Q. Once was about your retaining wall, right?

A. Yes.

Q. Asking them if you needed a permit for your retaining wall?

A. Correct.

Q. And you built it so that way you didn't have to get a permit, right?

A. No. What -- what is your question?

Q. They told you that if it exceeded four feet you would need a permit, correct?

A. Correct.

Q. And so you decided not to build it over four feet, right?

A. We actually applied for a permit.

Q. For the wall?

A. Yes.

Q. And did you get a permit for the wall?

A. They have a rule in Jackson County -- we check. Our application say no permit is needed, yes.

Q. Okay. So then you didn't need a permit, right?

A. I do not need a permit.

Q. Okay. And you and your husband built that wall, right?

A. No.

Q. Who built it?

A. We hire -- let me think -- we have somebody to build a wall. We did not build a wall, but I did, like, at the end I put more -- okay, wait a minute. Let me think. Because of the -- the ongoing issues the ongoing erosion that we have been getting -- so at the end -- initially we asked the landscaper to do a 60-foot-long wall, however, because of the ongoing issue erosion I have to put extra by extending that wall.

Q. You keep telling me over and over and over again that there's ongoing erosion?

A. Yes, it is.

Q. Where is that happening?

A. Right there and then also --

Q. Stop.

A. Okay.

Q. This is Defendant's Exhibit 16 that you're pointing to, correct?

A. Okay.

Q. Okay. This is a picture of your walkway.

A. Yes.

Q. Correct?

A. Correct.

Q. And did you take this photo?

A. I can't remember. My husband can remember.

Q. There's a caption here that says, erosion to walkway 2022. Is that your handwriting?

A. Yes, correct.

Q. Okay. So you may not have taken the photo, but you wrote the caption?

A. Yes.

Q. And so it's your contention through your husband I guess, right? Because are you -- would you consider yourselves teammates in this effort?

A. Teammate?

Q. Yeah, you're giving him the evidence he needs for his case, right?

A. He's my husband and when I -- I -- I am helping my husband.

Q. Who decided to sue the Humphreys?

A. I can't remember. I can't remember.

Q. Would it be you?

A. No. I can't remember who did.

Q. Well, the record says it's your husband, right?

A. We both decided to sue the Defendant.

Q. Okay. Gotcha. So in Defendant's Exhibit 16, this is -- you're saying -- you're showing me the

evidence of the erosion. Where on this photo for Defendant's Exhibit 16 am I looking at the erosion?

A. Yes, you are looking at the erosion.

Q. Okay.

A. Right here.

Q. We're identifying the dark brown, the dark red strip through the middle, right?

A. Yes.

Q. How do you know this is caused by what's happening on the Humphreys' property?

A. What is your question, again?

Q. How do you know that's caused by what's happening on the --

A. Because it come from their side on to my side.

Q. How do you know that?

A. How -- what you mean how -- because I --

Q. Do you know that's the case or you're assuming?

A. No, I'm not assuming.

Q. So, if you know, tell me how you know.

A. Because I saw it. It come from --

Q. You saw it?

A. Yes.

Q. Is there a video of it?

A. I have a lot of photos.

Q. But do you have the video?

A. I have to look cause I have a lot of photos and then I have videos too, I believe, but I have to look.

Q. I'm looking at a photo right now, that respectfully, ma'am, doesn't show me much of anything. Maybe our definitions of erosion are different.

A. No, to me that's erosion -- because that is erosion.

Q. Okay. So what is -- what on the Humphreys' property is causing this that you know is causing this? Again, we're looking at Defendant's Exhibit 16.

A. What is your question again?

Q. How do you know that the Humphreys are causing this?

A. Because the erosion is coming from their side. There's no way it come from our side when the walkway -- because if it comes from our side the whole walkway will be -- will look -- will have areas like this.

Q. Isn't that an assumption?

A. No. It's not assumption -- because -- because you can also tell from this area.

Q. Which area? What are we looking at?

A. Right here.

Q. Okay.

A. Well, we so close together -- the reason why --

Q. Who? You and --

A. No, no, no, no, no, no, no. Sorry, that's not what I meant. I mean, our property line -- our property we are so close together. When we made the garden me and my husband -- when we made the garden we both saw the dirt in the area is different from the rest. So it's not an assumption because it -- it -- it -- erosion made from their side.

Q. And you're sure of that?

A. Yes.

Q. Because dirt looks different?

A. Part of it is because the dirt will look different. Also, because --

Q. But your properties are adjacent to one another, right? So you presume you have the same soil makeup as between your house and theirs?

A. No.

Q. It is your testimony that the soil on your property is entirely different than the soil on the Humphreys property?

A. I will say, yes, and no, because I will tell you why. Ours -- our soil is more compact -- more compact.

Q. How do you know that?

A. Because by living on this property -- because last -- it was last disturbed in 2014.

Q. What test did you run to measure soil density?

A. Soil -- many, okay, many times.

Q. Many tests?

A. '21, '22, '23 and then '19. I can't remember the exact years.

Q. You did soil compaction test?

A. We did -- I have to go back to my record and remember.

Q. Are you referring to the soil samples that you sent over to the extension, to UGA Extension?

A. Soil sample, okay, I think -- give me a minute, because I need to think. I've been out since 12:00 o'clock today without a break so I have to think. So what was your question again?

Q. So you were saying that when we look at Defendant's Exhibit 16 the evidence of the erosion is the discoloration we see in this photo, correct?

A. Correct.

Q. Because your contention is the soil is both different and not different on the Humphreys' side than it is on yours, correct?

A. Yes.

Q. Okay. I'm not going to sit here and tell you I think that makes a lot of sense, but we'll go with that.

Then you were telling me about how the soil on your side is more compact?

A. Yes, correct.

Q. And I was asking you how you know that.

A. How I know it?

Q. And I asked you if you did tests to measure how dense your soil was versus the Humphreys' soil?

A. I did not measure the soil, but I did measure my soil.

Q. Have you ever received soil samples from the Humphreys' property?

A. No.

Q. Have you ever taken soil samples from the Humphreys' property?

A. No.

Q. Have you ever entered on to the Humphreys' property to perform any kind of inspection?

A. No.

Q. Have you ever entered on to the Humphreys' property to do any measurements?

A. No.

Q. Any test?

A. No.

Q. Have you ever tested their pool water to see if it has chlorine in it?

A. No.

Q. Have you ever been in their pool?

A. No.

Q. Do you know if it has chlorine in it?

A. I don't know.

Q. Do you know if it's a saltwater pool?

A. I don't know.

Q. Do you know where the drainage comes out from their pool?

A. That I do know.

Q. Where does it come out? Now, let's start with the overflow. Where does the overflow from their pool come out?

A. Right here.

Q. Where are you talking about?

A. From the -- come out to the pop-up right here.

Q. To the pop-up emitter?

A. Yes.

Q. The overflow of the pool?

A. The overflow.

Q. How do you know that?

A. I witness it.

Q. You witnessed it?

A. I witness, yes.

Q. Let me ask you this, May. Have you built pools before?

A. No.

Q. Have you designed pools before?

A. No.

Q. Did you build the Humphreys' pool?

A. No.

Q. Did you design the Humphreys' pool?

A. No.

Q. So would you know what you're looking at when you are saying to me that the overflow comes to a certain point?

A. Yes. Because I see water and then I see water comes out from the pop-up and then also from the prior conversation with Mr. Humphrey, okay, -- and husband and wife. Husband admitted the overflow - the washout comes out here.

Q. Yeah, the backwash for the pump.

A. The backwash.

Q. Are you familiar with what that is? Do you know what that means to backwash the pool?

A. Not quite.

Q. Okay. But you're assuming though without knowing what that is, that that means the overflow from their pool comes out through that pop-up emitter, correct?

A. What's that?

Q. So you don't know what it means to backwash a pool?

A. I don't specifically, no. I assume.

Q. But because that's where the backwash comes out you're assuming that's where the overflow goes, correct?

A. No, I'm not assuming.

Q. Okay. Then tell me.

A. I'm not assuming. Tell you about where their pool goes -- their pool water.

Q. Are you aware of the fact that the overflow for the pool and backwashing the pump are two different things?

A. What's that again?

Q. The overflow for the pool and backwashing the pool are two different things.

A. Okay.

Q. Are you aware of that?

A. No.

Q. Okay. Would you accept -- would you agree with me that that's a true statement?

A. I don't know; have to look up. I have to search for the truth -- look up.

Q. But you represented in your lawsuit that you know the truth and you've sued the clients because

you say the water comes out from the overflow to the pop-up emitter?

A. Yes.

Q. Okay. So your testimony actually is you don't know that's true?

A. I don't know the difference between washout and overflow.

Q. But earlier you said that the overflow comes out of that pipe?

A. Because that's where all the plumbings are.

Q. For the whole pool?

A. For the whole pool.

Q. And you know this?

A. Not that -- well, if you asked me if I know this, yes. The pool's plumbing there located right here, and then we witness all the pool plumbing pipes and installation and all of that.

Q. But you've never built a pool before?

A. No.

Q. Have you ever had a pool before?

A. No. But I asked.

Q. Have you designed any pools?

A. No. But I have --

Q. Had you designed the Humphreys' pool?

A. No?

Q. Did you build the Humphreys' pool?

A. No.

Q. And your testimony earlier was that you've not consistently monitored the construction activity on the site, correct?

A. What's that again?

Q. You testified earlier that you did not constantly watch the construction activity.

A. Not 24/7.

Q. Okay.

A. Not 24/7.

Q. Correct, so you don't know where all the plumbing goes, do you?

A. That's not true because I do not watch 24/7. However, when they actually perform it I watched it.

Q. So how would you feel, May, if everything you guys did on your property the Humphreys watched you and recorded you on their security cameras?

A. What's that?

Q. How would you feel if every activity you did on your property the Humphreys monitored you and recorded you with their security cameras? Would that make you feel good?

A. If it's in an open area I don't mind because I do not do anything wrong.

Q. What if they mind?

A. If it is illegal then I -- they would -- then I would -- they would have to tell me and then I will stop the illegal action. That's all.

Q. Your husband has provided, through you, many different exhibits that are still frame captures from the security camera on the side of your home looking directly at the Humphreys' home and into their backyard. I'm trying to count how many. I lost track of how many, but five/eight. We think as many as eight of the photos we discussed in his disposition, Exhibits 2 through 8 or 1 through 8, are taken from your security cameras looking at their house?

A. Uh-huh (affirmative).

Q. So you are telling me then just because it's not illegal then you have a right to just place them under surveillance?

A. I'm not putting anyone under surveillance.

Q. Then you tell me what it means to be under surveillance.

A. I do not know. I don't have an explanation.

Q. Because you know that you're just tracking their activity and monitoring them and recording them, right?

A. No. That's not my intention.

Q. Well, then what's your intention, because you must be taking these on purpose. You've submitted them as evidence.

A. No. I need to make this clear. This my -- our cameras -- we installed multiple cameras on our property. They are motion detecting. A lot of those they are motion detecting is saved in the memory so it doesn't --

Q. And that motion is sensitive enough to pick up motion on the Humphreys' property?

A. When there's suspicious activity then I will.

Q. What is suspicious? You keep saying suspicious activity what is suspicious about somebody building a pool?

A. If they follow the code, yes.

Q. How do you know they did not follow the code?

A. Because there's no plumbing.

Q. And you've been told by Alex Howard, by the way because I've spoken with him, that they did not violate the code, haven't you?

A. Huh?

Q. You've been told multiple times the Humphreys did not violate the code in building their pool. You've been told that by Jackson County Code Enforcement. I know that's the case because we talked to them.

A. No, no.

Q. So you will go on the witness stand and say -- and I will have Alex there.

A. Yes, okay, please.

Q. And if he -- so how do you propose to resolve this then if you -- if he says I never told her that they were violating the code?

A. I will explain what Alex told me. He specifically told me that when CO has been issued he cannot issue violation.

Q. Did he tell you that the CO would be issued because it passed inspections?

A. What's that?

Q. Did he tell you that the CO was issued because it passed inspections?

A. He did not need to tell me because I know CO has been issued.

Q. Okay. So then you're telling me you know that it was issued because it passed the inspections or is it your testimony the county did something wrong and issued a CO when they shouldn't have issued a CO?

A. Yes.

Q. That's your allegation?

A. Yes.

Q. So then why didn't you sue the city -- the county? Sorry.

A. Because the county has immunity (unintelligible).

Q. I'm sorry?

A. The county -- well, because the county -- well, I -- because the county did not cause the problem.

Q. You just told me that they didn't do what they were supposed to do though, they issued a CO when they weren't supposed to issue a CO. Wouldn't you agree with me that's wrong? And you and your

husband are saying that because there was no plumbing and somehow that's causing erosion on your property.

A. Because -- well, I do not know how to answer your question, but -- well, maybe we will consider suing the county one day.

Q. Okay. I'm asking you why you didn't do it now?

A. Because too busy. We are too busy.

Q. You're not too busy to sue my clients.

A. We have a lot going on so this is something --

Q. Why are you too busy to sue the city or the county but not too busy to sue your neighbors?

A. Because they're causing a lot of various problems.

Q. You keep saying that but --

A. They're causing a lot of problems.

Q. Like, what?

A. Erosion, pollution.

Q. Let's talk about the pollution by the way. How do you know they're causing pollution?

A. We find chloride in our walkway.

Q. Okay.

A. And then -- and then all across the property line here and there, yeah.

Q. And that was from the soil samples that you sent to UGA, right?

A. Yes, correct.

Q. Okay. And did UGA tell you that it's because of the Humphreys' pool?

A. Yes.

Q. They did?

A. Yes.

Q. Would you be surprised to know that your husband's testimony is that they never told him that and, in fact, they declined to tell him what the cause was?

A. My husband never -- never -- we have multiple samples from different -- different UGA extension. I called my husband -- called and maybe they -- he will tell you something different, but when I called to a specific -- to the one in Lawrenceville, UGA extension I talked to this lady.

Q. What's her name?

A. Her name is Lisa.

Q. What's her last name?

A. I don't know. I don't remember.

Q. And now she is at the Lawrenceville extension?

A. Yes.

Q. And she told you that the chloride in your soil is because of the Humphreys' pool?

A. No, that's not exactly word to word, no.

Q. Okay.

A. That's not exactly word to word.

Q. That was your prior testimony?

A. That's what it means.

Q. How do you know that?

A. Because we have chlorine in our walkway.

Q. Okay. You have chloride in your walkway. Did they say it was chlorine?

A. Chloride is chlorine.

Q. How do you know that?

A. By science.

Q. Are you a scientist?

A. No.

Q. Okay. Did you research it?

A. Yes.

Q. Okay. And so your own research online, I'm assuming, right?

A. No. Not research because I asked the UGA lab doctor.

Q. What did you ask him?

A. About what is -- what is --

COURT OFFICIAL: The courthouse is closed.

MR. MCDONALD: Okay. I'm reserving the right to subpoena a subsequent deposition so we can continue this and finish this because the Plaintiff has identified that you are a key witness and potentially one of the only witnesses in this case. So I hope we can work together and identify a date and a time. I'm set to go on paternity leave which, of course, you and your husband know this because of the various pleadings and the discussions we've had on that. I would like to work together and do this at a time that's convenient for everyone. If not, I will send the subpoena. I do want to make sure I've got good contact information for you and I expect, by the way, when my private investigator comes by the house to serve you when you're there you're going to answer the door. Do you understand?

THE DEPONENT: David, I'm not home sometimes. I'm not home 24/7.

MR. MCDONALD: We've tried to serve you three times over two different days and we haven't been able to. We have testimony that says you were there at the time, you won't answer the door.

THE DEPONENT: No. That is not true.

MR. MCDONALD: Okay. When can we serve you with a subpoena then for your follow-up deposition? When is a good day and time during the week?

THE DEPONENT: I object to that question.

MR. MCDONALD: Why, I'm asking you when you would be able to be served?

THE DEPONENT: I object to that question.

MR. MCDONALD: Okay. All right. So you do you understand if you're deliberately --

THE DEPONENT: I do understand and I have my rights.

MR. MCDONALD: Okay. What is a good phone number for you?

THE DEPONENT: 929-206-8315.

MR. MCDONALD: 8315?

THE DEPONENT: Yes, correct.

MR. MCDONALD: What is your e-mail address, one that works?

THE DEPONENT: Huh?

MR. MCDONALD: One that works.

THE DEPONENT: may380038@gmail.com.

MR. MCDONALD: And this is not the same e-mail that you gave your husband previous to give to me, right?

THE DEPONENT: Yes.

MR. MCDONALD: This is a different e-mail.

THE DEPONENT: Yes.

MR. MCDONALD: Okay. Why did you give him the other e-mail that doesn't work?

THE DEPONENT: I didn't know it doesn't work. You are telling me that it doesn't work.

MR. MCDONALD: Did he tell you that we told him that it doesn't work?

THE DEPONENT: Yes.

MR. MCDONALD: Okay. All right. That's all I have for now. If we have to we'll finish in a subsequent deposition. Thank you, May.

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THE DEPONENT: Okay. Thank you. (Whereupon, the deposition was concluded at 5:20 p.m.)

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C E R T I F I C A T E

STATE OF GEORGIA:

COUNTY OF WALTON:

The foregoing proceedings were taken down by me as a Certified Court Reporter in the State of Georgia, and the questions and answers were reduced to type-writing by me, personally. I hereby certify that Pages [App-748-783], inclusive, comprise a true, complete, and a correct transcription of said proceedings. I further certify that I am neither kin nor counsel to any party, am not in the regular employ of counsel for any party and am in nowise interested in the outcome of said case.

This the 22nd day of March, 2024.

/s/ Lisa F. Samples

Lisa F. Samples

Certified Court Reporter

Certificate No. 4922-6690-3882-9568