

NO. 47749-1-II

COURT OF APPEALS, DIVISION II
OF THE STATE OF WASHINGTON

IRON GATE PARTNERS 5, L.L.C.,

Appellant

v.

TAPIO CONSTRUCTION, INC. and R.T. WHARTON ASSOCIATES,
INC.,

Respondents

SURREPLY OF RESPONDENT TAPIO TO
STATEMENT OF FACTS IN IRON GATE'S REPLY BRIEF

Mary R. DeYoung, WSBA #16264
Paul Rosner, WSBA #37146
Attorneys for Respondent
Tapio Construction, Inc.

SOHA & LANG, P.S.
1325 Fourth Avenue, Suite 2000
Seattle, WA 98101
Telephone: (206) 624-1800
Facsimile No.: (206) 624-3585

FILED
COURT OF APPEALS
DIVISION II
2016 JUL 29 AM 10:38
STATE OF WASHINGTON
BY
DEYOUNG

1. Assertion that Tapio “contracted to perform all components of the building envelope beginning at grade” - Reply Brief, p. 4. Iron Gate cites only to testimony by Lloyd Bauer stating that “below grade” means below the ground. (RP, Vol 4A, 4/17/14, 789:16-19) The parties’ contract plainly shows that Tapio was not hired to construct all components of the building envelope. (CP 48-60 at 57-58; Trial Ex. 91)

2. Assertion that Tapio’s work on the retaining walls was the “nucleus of the project” - Reply Brief, p. 4. Iron Gate cites no support for this assertion. Rather, its citation is to testimony that Tapio constructed the retaining wall and verified its length. *See Reply at Fn. 9.*

3. Assertion that “7,600 square feet of retaining wall had to be ‘waterproofed’” - Reply Brief, p. 4. Iron Gate’s record citation does not support this assertion. It is to testimony quoting from its expert’s repair estimate. Indeed, before allowing the expert’s repair proposal to be read into the record, the trial court cautioned the jury that the expert’s statements were “not offered to prove what was actually happening. Just what she knew and understood for purposes of preparing her bid and estimate for work.” (RP, Vol. 6B, 1561:4-9)

4. Assertion that “units would fill with water” - Reply Brief, p. 5. The cited testimony states only that repair work will be expensive. Iron Gate cites no testimony to support its assertion that the

units would “fill with water and be rendered unusable.”

5. Assertions that Tapio “admits” it had to waterproof – Reply Brief, p. 6. Iron Gate’s assertions take Tapio’s use of the terms “waterproof” and “damp-proof” out of context, and ignore the record that waterproofing was applied according to the product manufacturer’s guidelines. Brief of Respondent at 7-8, 22-24. It also ignores the testimony of David Polk of Epro, the manufacturer of the waterproofing product, that a 40 mil application (which is what Tapio’s subcontractor applied) is a waterproofing application, and that a “damp-proofing” application is “anything less than 10 mils.” (VP, Vol. 8B, 4/24/14, 2308:9-2309:16)

6. Assertion that “A&A was worried that Tapio only wanted damp-proofing” – Reply Brief, p. 7. The testimony cited establishes only that A&A “clarified” the scope of the work with Tapio. (RP, Vol. 3B, 4/16/14, 730:4-25) Iron Gate does not support its assertions that A&A was concerned, that A&A thought that the products it installed would allow for water intrusion, or that it was “obvious” that different products or a different application would be “necessary.”

7. Iron Gate’s expert’s testimony re hydrostatic pressure – Reply Brief, pp. 7-8. Iron Gate’s expert, Mr. Richardson testified about hydrostatic pressure at a hypothetical house built into a hill; Iron Gate implies that the example shows waterproofing was required at the

5 1

retaining walls and under the drive aisle because of the existence of hydrostatic pressure. Mr. Richardson never testified that he found any evidence of hydrostatic pressure at the project. Iron Gate's other expert testified that he was not asked to determine actual hydrostatic pressure at the project. (RP, Vol. 5B, 4/21/14, 1199:11-15) The record does not support Iron Gate's assertion that hydrostatic pressure was an issue.

8. Iron Gate misconstrues the testimony of Mr. Milakovich – Reply Brief, p. 8. Iron Gate's assertions that "Mr. Milakovich, Tapio's own expert, admitted that Tapio failed to terminate the drain mat as recommended by Tremco, the drain mat manufacturer" and that "Mr. Milakovich's proposed corrective action included putting in a termination bar to cover the cold joint and slab below grade" take Mr. Milakovich's testimony out of context. The portions of the testimony cited do not involve the manufacturer's guidelines, but a demonstrative animation created by Iron Gate for trial purposes. (RP, Vol. III, 4/29/14, 819:25-822:11) When read in its entirety, Mr. Milakovich's testimony that Tapio's installation was in line with the manufacturer's guidelines and specifications is clear. Iron Gate's out of context selections (Reply Brief, fns. 31-33), must be read with the entire surrounding context (RP, Vol. III, 4/29/14, 815:24-823:14) to be accurately understood.

9. Tapio accurately represented the testimony of Bob

Pinder – Reply Brief, p. 10. Iron Gate asserts that “Tapio misstates the trial testimony by Bob Pinder, Iron Gate’s consultant, regarding additional waterproofing of the facility” and that Mr. Pinder testified the joint between the top of the wall and base of the slab “should definitely be waterproof[ed] – that would be the major intrusion of water into the project.” The record does not support these assertions, but instead confirms Tapio’s representation that Mr. Pinder conceded that certain items that Iron Gate now argues should have been waterproofed were not called out for waterproofing on the plans and specifications. (RP, Vol. 8A, 4/24/14, 2093) Mr. Pinder confirmed this testimony elsewhere in the record. (RP, Vol. 8A, 4/24/14, 2042:16-19)

10. Iron Gate misstates the contract – Reply Brief, p. 10.

Iron Gate argues that Tapio was bound to anticipate and correct any issues with the design and work called out in the plans because “the Contract expressly stated Tapio’s Work included all work reasonably implied by the Contract Documents.” This ignores the contract’s express requirement that any changes to the Work described in the contract be directed by the Owner in writing. (CP 50, Master Contract, Section 6) For example, one waterproofing suggestion by Mr. Richardson that was not called out in the plans was to put a “traffic coating” of polyurethane material over the drive aisle. (RP, Vol. IV, 4/29/14, 306:22-307:17) This would have cost an

additional \$100,000. (RP, Vol. IV, 4/29/14, 308:16-17) The record does not establish that Tapio contracted to anticipate and implement additional work on its own, at its own expense and without any additional payment.

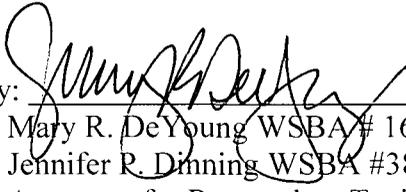
11. Iron Gate cites to deposition testimony not before the jury – Reply Brief, p. 12, fns. 52-53. Iron Gate’s Reply Brief cites to a deposition transcript of Mr. Milakovich that was published at trial, but not actually presented to the jury.¹ The jury heard only a short exchange beginning at page 37, line 5, of Mr. Milakovich’s deposition. (RP, Vol. VIII, 5/1/14, 904:14-905:13) This testimony is not cited by Iron Gate in its Reply Brief. Further, Mr. Milakovich’s trial testimony clarified that his deposition was taken before testimony from Epro’s representative and from Jeremy Richardson were available, and that this changed his opinions. (RP, Vol. VIII, 5/1/14, 906:22-907:12).

12. Iron Gate’s assertions re notice – Reply Brief, pp. 11-12. Iron Gate asserts that it had no obligation to provide notice of alleged water intrusion, but the parties’ contract expressly required notice and an opportunity to cure. (CP 51-52, Master Contract, Section 11) The evidence of water intrusion was conflicting. Respondent’s Brief, pp. 13-15.

¹ CP _____, Exhibit List, identifies Exhibit 323, Milakovich deposition, as “Not for Jury.” Tapio has filed a supplemental designation of Clerk’s Papers to add this document to the record. In the meantime, a copy of this document is Attachment A hereto.

DATED this 25th day of July, 2016.

SOHA & LANG, P.S.

By: 
Mary R. DeYoung WSBA # 16264
Jennifer R. Dinning WSBA #38236
Attorneys for Respondent Tapio
Construction, Inc.

DECLARATION OF SERVICE

I am employed in the County of King, State of Washington. I am over the age of 18 and not a party to the within action; my business address is SOHA & LANG, PS, 1325 Fourth Avenue, Suite 2000, Seattle, WA 98101.

On July 25, 2016, I served a true and correct copy of SURREPLY OF RESPONDENT TAPIO TO STATEMENT OF FACTS IN IRON GATE'S REPLY BRIEF (with attached **Declaration of Service**) on parties in this action via email:

Phillip J. Haberthur
George J. Souris
Richard G. Matson
Landerholm, P.S.
805 Broadway Street, Suite 1000
P.O. Box 1086
Vancouver, WA 98666-1086
Tel: 360.696.3312
Email: philh@landerholm.com
 george.souris@landerholm.com
 dick.matson@landerholm.com
Counsel for Appellant Iron Gate

FILED
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DIVISION II
2016 JUL 29 AM 10:38
STATE OF WASHINGTON
CLERK

Executed on this 25th day of July, 2016, at Seattle, Washington.

I declare under penalty of perjury under the laws of the State of Washington that the above is true and correct.

s/ M. Katy Kuchno
M. Katy Kuchno
Legal Secretary

ATTACHMENT "A"

27

FILED

MAY 05 2014

Scott G. Weber, Clerk, Clark Co.

SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF CLARK

IN COURT RECORD

In re: Iron Gate Partners 5 LLC vs. Tapio Construction

Attorney: Richard Matson	Attorney: W. Scott Noel
Cause Number: 11-2-01709-9	Clerk: Lori Moore/Kim Wong
Judge: David E. Gregerson	Reporter: CD Judicial Assistant: Rhonda Stockman
Date: April 14, 2014	Hearing: Jury Trial

WITNESSES

PLAINTIFF					DEFENDANT				
Glenn Aronson	15	16		1	Tim Yamot		29		
David Ross		16			Michael Showalter		29	30	
Marilyn Sue Ross		16			Heidi Bowen			30	
Brian Spears		16			Mark Milakovich			30	1
Jeremy Richardson		16			John Tapio				1
Lloyd Bauer			17						
Justin Franklin			17	21					
Paul Holmes				21					
Larry K. Cross	21	22							
Melissa Winter		22							
Kyle Tapio		22							
Dwayne Nelson			23						
Harry Shook			23						
Harry Nipper			23						
Diane L. Nipper			23						
Robert Pinder				24					
Tiffany Couch				24	1				
David Polk				24					

217
WM

PLAINTIFF					DEFENDANT				
Patrick Lennon	28	29							

PROCEEDINGS & DECISION

Parties Present:

- Richard Matson is present representing the Plaintiff, Iron Gate Partners 5 LLC
- W. Scott Noel is present representing the Defendant, Tapio Construction

At Issue:

- Jury Trial

The case is called for hearing at 8:55 a.m., Parties were present as listed above and ready to proceed.

- Court and counsel discuss Defense counsel's Motion to exclude witness; Court reserves
- Motion to strike delayed opposition is withdrawn by defense counsel
- Defense counsel makes a Motion to exclude Ms. Winter; Court will hear foundation then make ruling; reserved
- Court informs counsel that juror #8 has been excused due to being an expert witness in Multnomah County
- Court signs Order on Defendant's Motions in Limine and Order Regarding Plaintiff's Motions in Limine
- Court excuses juror #27 for cause
- Defense counsel requests to strike #4 for cause – granted
- Defense counsel requests to strike #6 for cause – denied
- Court strikes #36 for cause
- Court strikes #23 & #17 for cause
- **JURY DULY IMPANELED AND SWORN BY DEPUTY CLERK**

*****APRIL 15, 2014*****

- Court reads instruction to the Jury regarding the viewing of the site; Court will allow jurors to bring notepads to the site
- Court will allow Kyle Tapio (partial owner of Tapio Construction) to be present in the Courtroom
- Court orders exclusion of witnesses unless previously cleared through previous order of Court

*****APRIL 16, 2014*****

Clerk change to Kim Wong

- Parties agree that all exhibits presented for ER904 are stipulated and agreed to admittance.

Iron Gate Partners 5 LLC vs. Tapio Construction

Case #11-2-01709-9

Page | 2

ATTACHMENT "A"

- Parties to present listing of exhibits included in ER904 to clerk by tomorrow per Court

*****APRIL 17, 2014*****

- Parties state they are in agreement that neither will be entering expert witness reports as an exhibit.
- Parties address evidentiary issues – Court states that it is reserving on these issues until experts testify.
- Court is unprepared to rule on any other evidentiary issues until foundation has been laid.
- Court reserves on Defense request stating a foundation needs to be made in order to determine causation.

APRIL 21, 2014

(Clerk Change: Lori Moore)

- Court and counsel discuss and review exhibits which are admitted under ER904 Stipulation. On 04-16-2014, Parties had agreed that all exhibits presented for ER904 are stipulated and agreed to admittance
- Outside the presence of the jury; court and counsel discuss if there are opinions beyond what has been disclosed in discovery; expert will not testify beyond that which was disclosed in discovery regarding vapor barrier

APRIL 22, 2014

- Court indicates all objections on the depositions were overruled or cured – Court indicates the cleanest way would be to present video deposition
- Outside the presence of the Jury; court and counsel discuss the witness was not disclosed as an expert; the Court indicates witness is here to testify as to repair estimate and not to get into opinions as to defects; defense requests a curative instruction; no objection by Petitioner's counsel; Court will instruct jurors

APRIL 23, 2014

- Court and counsel discuss there should be no reference to insurance in this particular case
- Court and counsel discuss motion in limine; defense counsel makes a motion to exclude mechanisms of water intrusion with this witness; Court does not find unreasonable duplication of testimony – limited room for background
- Defense counsel requests that witness not use Legal conclusions; to not use terms like "breach in contact" – Court warns witness
- **Court and counsel discuss exhibits that have annotated versions (#56, #57, #58, #59 and #211) will be Withdrawn; new versions that are "unannotated" will be provided to clerk and will be marked (when received) with new exhibit numbers**
- Outside the presence of the jury; Court and counsel discuss plaintiff's objection; Court will allow a limited amount of inquiry on one provision of contract because door was open on direct
- Parties have stipulated that language on the two contracts are identical

- Court and counsel pay video deposition of Michael Kohler

*****APRIL 24, 2014*****

- Court and Counsel discuss jury instructions and agreed to provide electronic copy by tomorrow at noon.
- Argument shall be heard on record during a break next week.
- Court and counsel discuss duration of trial; Court states due to time constraints, all efforts are to be made to finish by the end of next week.

*****APRIL 28, 2014*****

- **Clerk Change: Loa Ma'o**
- **PLAINTIFF'S CASE IN CHIEF continues**
- **Court's Decision regarding P-Exhibit #265 and 266: Court will allow the Jury to decide the issues of whether it is a damage or a cost component**
- Court adjourned for the evening

*****APRIL 29, 2014*****

- Clerk: Lori Moore
- Plaintiff rests
- **DEFENSE CASE-IN-CHIEF**
- Court hears Mr. Matson's Motion for a "directive liability" instruction
- Court hears response from Mr. Noel regarding Mr. Matson's Motion
- **Court finds it is premature to bring this Motion at this time; Court Denied the Motion without prejudice**
- Plaintiff's counsel Moves to publish deposition of Tim Yarnot – Granted

*****APRIL 30, 2014*****

- Clerk: Kim Wong
- Outside the presence of the Jury, Court orders that the witness not testify or give opinion on water intrusion causation, specifically with reference to anchor bolt penetrations which was referenced in his written report.
- Court inquires if Friday is a viable option; several Jurors indicate that they have a conflict.
- Court reminds Jury that any interested party in the case cannot have communication with the Jury.
- Plaintiff Counsel moves to publish deposition of Michael Showalter –Granted by Court.
- Court grants Plaintiff Counsel's motion to publish deposition of Heidi Bowen.

- Court grants Plaintiff's motion to call Larry Cross as rebuttal witness tomorrow due to medical issues.
- Court inquires with jurors as to any objection with trial concluding at 5:30 tonight. Juror #3 states daycare issue that will induce after hour's fees. Court states it will submit bill to Court Administration, or pay for it personally.
- Court states that testimony is irrelevant. Defense Counsel agrees to move on, withdrawn.
- Court rules that presentation of concrete block would be a Discovery violation and shall not be accepted or included as part of the trial.
- Court and Counsel agree that exhibit may be presented to display the thickness of concrete, but for no other purpose.
- Court reserves on Plaintiff's objection, as it is reasonable to hear the witnesses' testimony and Plaintiff will be allowed to address concern on cross examination.

*****MAY 1, 2014*****

- Court grants Plaintiff's motion to publish Michael Milakovich's deposition.
- Court advises Jury that trial will be continuing tomorrow,
- Court grants Plaintiff's motion to publish John Tapio's deposition.
- Defense Rests
- Plaintiff Rests (rebuttal)
- Court and Counsel review Proposed Jury instructions and make a record of exceptions and objections.

*****MAY 2, 2014*****

- Court reads Jury instructions to Jury
- Plaintiff presents closing arguments
- Defense presents closing arguments
- Court excuses alternate jurors from service however reminds them that they are not released from the court's previous instructions until such time as deliberations are complete.
- Jury retires to deliberate with their notepads, The Court's Instructions to the Jury, Verdict Forms and admitted exhibits
- Court reads and reviews juror question (6:03) with counsels – juror #11 to be replaced by alternate Ms. Lauer (#14) as the next listed alternate (#13) also has factors complicating his ability to participate in deliberations next week
- Court and counsels review instructions to be given jurors re re-starting deliberations with a replacement juror
- Court reads jury question (6:03) and reviews the response of the court to replace juror seat #11 with alternate #14
- Court engages in colloquy with jury panel re time to begin deliberations on Monday – to begin at 8:30am

****May 5, 2014****

- Clerk: Lori Moore
- Court indicates that a written instruction will be provided to the jury; jury to begin deliberations a new with replacement juror
- Court indicates the Jury has a question for the Court - Clarification on question 2 on special verdict form A
- Presiding Juror is present in the Courtroom; Court and counsel discuss juror question
- Outside the presence of the juror, Both Counsel take no exception or objection to the juror question
- Presiding juror indicates the jury has reached a verdict
- Court reads verdict:
 - Special Verdict Form A: \$0
 - Verdict Form B: Find for the Defendant
- Court polls jury 12/12
- Court adjourned

EXHIBIT LIST

CASE NO. 11-2-01709-9

Plaintiff: Iron Gate Partners 5, LLC

Defendant: Tapio Construction

Attorney: Richard Matson	Ident	Exhibit Admitted	Photo Substitute	Attorney: William Noel
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Photograph of Water Intrusion C2DG 000501	1	1*		
Photograph of Water Intrusion. C2DG 000507	2	2*		
Photograph of Water Intrusion in Unit B29 taken by Harry Nipper 3/29/14	3	3		
Photograph of Water Intrusion in Unit A27 taken by Harry Nipper 3/29/14	4	4		
Photograph of Water Intrusion in Unit B39 taken by Harry Nipper 3/29/14	5	5		
Satellite Picture taken of Site through Google	6	6		
Photograph of Entrance to Site C2DG 346	7	7*		
Photograph of Entrance to Site C2DG 345	8	8*		
Photograph of Entrance to Site C2DG 347	9	9*		
Aerial Video of Site (produced on jump drive)	10	N/O		
Building Plan, Sheet A9 IGP5 001555	11	11*		
Master Contract, page 10 Richardson Dep. Ex. 12	12	12*		
Photograph taken during Construction IGP5 001826	13	13*		
Photograph taken during Construction IGP5 000005	14	14*		
Photograph taken during Construction	15	15*		

* = On 04-16-2014, parties stipulate to the admittance of these ER904 exhibits

W = Withdrawn

N/O = Not Offered

EXHIBIT LIST

CASE NO. 11-2-01709-9

Plaintiff: Iron Gate Partners 5, LLC

Defendant: Tapio Construction

Attorney: Richard Matson	Ident	Exhibit Admitted	Photo Substitute	Attorney: William Noel
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IGP5 000008				
Photograph taken during Construction IGP5 000001	16	16*		
Photograph taken during Construction IGP5 001813	17	17*		
Photograph taken during Construction IGP5 007952	18	18*		
Photograph taken during Construction IGP5 007955	19	19*		
Photograph taken during Construction IGP5 000022	20	20*		
Photograph taken during Construction IGP5 000021	21	21*		
Photograph taken during Construction IGP5 000026	22	22*		
Not used	23	# Not Used		
Cross 2 Design Group Demonstrative aid	24	24*		
Drain Mats	25	25*		
Pan Deck	26	26		
Master Contract, page 1 Richardson Dep. Ex. 12	27	27*		
Master Contract, page 9 Richardson Dep. Ex. 12	28	28*		
Master Contract, page 8 Richardson Dep. Ex. 12	29	29*		
Lloyd Bauer Investigative Photograph 2 of 26	30	30*		
Lloyd Bauer Investigative Photograph 3 of 26	31	31*		
Lloyd Bauer Investigative Photograph 4 of 26	32	32*		
Lloyd Bauer Investigative Photograph 5 of 26	33	33*		
Lloyd Bauer Investigative Photograph 6 of	34	34*		

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CASE NO. 11-2-01709-9

Plaintiff: Iron Gate Partners 5, LLC

Defendant: Tapio Construction

Attorney: Richard Matson	Ident	Exhibit Admitted	Photo Substitute	Attorney: William Noel
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26				
Lloyd Bauer Investigative Photograph 7 of 26	35	35*		
Lloyd Bauer Investigative Photograph 8 of 26	36	36*		
Lloyd Bauer Investigative Photograph 10 of 26	37	37*		
Lloyd Bauer Investigative Photograph 19 of 26	38	38*		
Cross 2 Design Group's Investigative Photograph of Cracked Cement C2DG 000373	39	39*		
Cross 2 Design Group's Investigative Photograph of Cracked Cement at Apron C2DG 000374	40	40*		
Cross 2 Design Group's Investigative Photograph of Cement C2DG 000376	41	41*		
Cross 2 Design Group's Investigative Photograph of B238 Door C2DG 000375	42	42*		
Cross 2 Design Group's Investigative Photograph of exposed drain mat with material C2DG 000456	43	43*		
Cross 2 Design Group's Investigative Photograph of exposed drain mat C2DG 000461	44	44*		
Cross 2 Design Group's Investigative Photograph of exposed drain mat C2DG 000466	45	45*		
Cross 2 Design Group's Investigative Photograph of exposed drain mat C2DG 000471	46	46*		
Cross 2 Design Group's Investigative Photograph of exposed drain mat	47	47*		

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EXHIBIT LIST

CASE NO. 11-2-01709-9

Plaintiff: Iron Gate Partners 5, LLC

Defendant: Tapio Construction

Attorney: Richard Matson	Ident	Exhibit Admitted	Photo Substitute	Attorney: William Noel
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C2DG_000486				
Lloyd Bauer Investigative Photograph 11 of 26	48	48*		
Lloyd Bauer Investigative Photograph 15 of 26 showing spawl	49	49*		
Cross 2 Design Group's Investigative Photograph of a Void C2DG_000184	50	50*		
Cross 2 Design Group's Investigative Photograph of a Void C2DG_000185	51	51*		
Cross 2 Design Group's Investigative Photograph of a Void C2DG_000186	52	52*		
Cross 2 Design Group's Investigative Photograph of a Void C2DG_000188	53	53*		
Lloyd Bauer Investigative Photograph 16 of 26 showing spawl	54	54*		
Cross 2 Design Group's Investigative Photograph of spawl C2DG_000481	55	55*		
Lloyd Bauer Investigative Photograph 13 of 26 showing spawl	56	W		NOT FOR JURY
Lloyd Bauer Investigative Photograph 14 of 26 showing spawl	57	W		NOT FOR JURY
Lloyd Bauer Investigative Photograph 16 of 26 showing spawl	58	W		NOT FOR JURY
Lloyd Bauer Investigative Photograph 18 of 26 showing spawl	59	W		NOT FOR JURY
Cross 2 Design Group's Investigative Photograph of exposed drain mat and spawl C2DG_000479	60	60*		
Cross 2 Design Group's Investigative Photograph of exposed drain mat and spawl C2DG_000478	61	61*		

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CASE NO. 11-2-01709-9

Plaintiff: Iron Gate Partners 5, LLC

Defendant: Tapio Construction

Attorney: Richard Matson	Ident	Exhibit Admitted	Photo Substitute	Attorney: William Noel
Lloyd Bauer Investigative Photograph 12 of 26 showing spawl	62	62*		
Cross 2 Design Group's Investigative Photograph of crack mapping C2DG 000306	63	63*		
Cross 2 Design Group's Investigative Photograph of Anchor Bolt C2DG 000366	64	64*		
February 26, 2014 Report by Tiffany Couch of Acuity Forensics to Richard G. Matson	65	N/O		
April 15, 2013 Report by Justin Franklin of Cross 2 Design Group to Patrick O. Lennon	66	N/O		
December 11, 2013 Report by Justin Franklin of Cross 2 Design Group to Patrick O. Lennon	67	N/O		
November 12, 2013 Report by Justin Franklin of Cross 2 Design Group to Patrick O. Lennon	68	N/O		
November 12, 2013 Report by Larry K. Cross of Cross 2 Design Group to Richard G. Matson	69	N/O		
December 16, 2013 Report by Larry K. Cross of Cross 2 Design Group to Richard G. Matson	70	N/O		
March 1, 2013 Report by Larry K. Cross of Cross 2 Design Group to Richard G. Matson	71	N/O		
February 27, 2013 Report by Harry A. Shook of Partners, Inc. to Richard G. Matson	72	N/O		
November 3, 2011 Report by Lloyd Bauer of Cross 2 Design Group to Patrick O. Lennon	73	N/O		
April 12, 2013 Report by Lloyd Bauer of Cross 2 Design Group to Patrick O. Lennon	74	N/O		
April 11, 2013 Report by Lloyd Bauer of Cross 2 Design Group to Patrick O. Lennon	75	N/O		
Units Included in Berm Report	76	N/O		
Animation Program on CD prepared by	77	77		

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CASE NO. 11-2-01709-9

Plaintiff: Iron Gate Partners 5, LLC

Defendant: Tapio Construction

Attorney: Richard Matson

Attorney: William Noel

	Ident	Exhibit Admitted	Photo Substitute	
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Cross 2 Design Group				
Building Plans Sheet D1, Sheet Detail No. 15	78	78*		
Building Plans Sheet D3, Sheet Detail No. 16	79	79*		
Cross 2 Design Group Composite Concrete Deck and Retaining Wall C2-SD-1	80	80		
CivilWorks NW, Inc. Revised Bid dated February 28, 2014 IGP5008128-IGP5008138	81	81		
Rose City Concrete Repair Proposal and Contract dated March 1, 2014 IGP5008139	82	N/O		
Below-Grade Waterproofing of Back-filled Walls TREMCO Brochure IGP5008140-IGP5008141	83	N/O		
TREMproof 250gc, TREMDrain 1000 IGP5008142-IGP5008154	84	N/O		
Iron Gate / Mill Plain-Berm Report and Photographs IGP5008164-IGP5008222	85	N/O		
A&A Contracting, Inc. Invoice No. 00302 dated 9/12/2006 to Tapio Construction TAPIO 000092	86	86		
A&A Contracting, Inc. Invoice No. 00302 dated 10/10/2006 to Tapio Construction TAPIO 000093	87	87		
Econoline-R Fact Sheet and Product Specifications from Manufacturer (05-07-04) TAPIO 000080	88	88*		
Photograph During Construction Richardson Dep. Ex. 5/IGP5 00027	89	89*		
Photograph During Construction Richardson Dep. Ex. 6/IGP5 000028	90	90*		
Master Contract Richardson Dep. Ex. 8	91	91		

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Defendant: Tapio Construction

Attorney: Richard Matson	Ident	Exhibit Admitted	Photo Substitute	Attorney: William Noel
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MSR Services, Inc. Invoice dated 10/18/2006 Richardson Dep. Ex. 12	92	92*		
MSR Services, Inc. Resale Certificate dated 4/2005 Richardson Dep. Ex. 14	93	N/O		
TREMCO Commercial Sealants & Waterproofing (Screen shots from website) Richardson Dep. Ex. 15	94	N/O		
Exhibit B Site Plan Overview Richardson Dep. Ex. 16/IGP5 000151	95	N/O		
Tapio Construction, Inc. Construction Proposal dated 6/16/2006 Rich Dep. Ex. 19/IGP5 000314-00315	96	N/O		
EPRO System III CW Concrete & CM U Walls—Epro CW Waterproofing System Testing Rich Dep. Ex. 22	97	N/O		
Tapio Construction, Inc. Invoice No. 319124 dated 11/28/2006 to Iron Gate Partners 5, LLC Yarnot Dep. Ex. 27/TAPIO 350	98	N/O		
Iron Gate Storage—Diagram of Units in Buildings A and B Lennon Dep. Ex. 35	99	N/O		
Request for Information from Tim Yarnot to RT Wharton & Associates Tapio Dep. Ex. 42/TAPIO 000610-11, TAPIO 000666	100	100		
Typical Grade Line Termination for Backfilled Walls Tapio Dep. Ex. 43	101	N/O		
ECOLINE-R Liquid Applied Membrane (03- 22-02) Pinder Dep. Ex. 46	102	N/O		
Ecoline-R Liquid Applied Membrane (07-09- 09)	103	N/O		

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EXHIBIT LIST

CASE NO. 11-2-01709-9

Plaintiff: Iron Gate Partners 5, LLC

Defendant: Tapio Construction

Attorney: Richard Matson	Ident	Exhibit Admitted	Photo Substitute	Attorney: William Noel
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TAPIO 000078-79				
Iron Gate Storage Facility Building Plans Johansson Dep. Ex. 50	104	104*		
Epro System III Waterproofing Termination at Grade Concrete Slab Johansson Dep. Ex. 57	105	N/O		
Photographs taken by Harry Shook entitled "My Pics 2-20-2013" Shook Dep. Ex. 93	106	106*		
RWC's Preliminary Report of Findings dated 4/2/13 to Rima Ghandour Milakovich Dep. Ex. 113	107	N/O		
Specification Concrete and CMU Walls— Cold Fluid-Applied Waterproofing System III Plus Milakovich Dep. Ex. 114	108	N/O		
Epro Waterproofing Termination at Grade / Concrete – CMU Milakovich Dep. Ex. 117	109	N/O		
Photographs taken during construction IGP5 000001-IGP5 0000030	110	110		
Photographs taken after completion of construction, including some showing water penetration IGP5 0000031-IGP5 0000053	111	111		
Tapio Construction, Inc. Invoice Nos. 319097 dated 9/27/2006; 319109 dated 11/7/2006; 319124 dated 11/28/2006; 319134 dated 12/28/2006; 319151 dated 2/5/2007; 319164 dated 3/5/2007; 319176 dated 4/3/2007; 319190 dated 5/1/2007; and 319296 dated 10/15/2007 IGP5 000317-IGP5 000325	112	112*		
Tapio Construction, Inc. Invoice Nos.	113	113*		

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<p>319090 dated 8/25/2006; 319097 dated 9/27/2006; 319103 dated 10/2/2006; 319109 dated 11/7/2006; 319114 dated 11/14/2006; 319127 dated 11/30/2006; 319124 dated 11/28/2006; 319134 dated 12/28/2006; Change Order #1 dated 12/14/2006; 319140 dated 1/2/2007; 319150 dated 2/5/2007; 319151 dated 2/5/2007; Retention dated 2/6/2007; 319166 dated 3/5/2007; Change Order #1 dated 2/28/2007; 319164 dated 3/5/2007; 319176 dated 4/3/2007; 319190 dated 5/1/2007; 319199 dated 5/24/2007; Change Order #4 dated 5/23/2007; 319220 dated 7/2/2007; Change Order dated 6/29/2007; 319175 dated 4/2/2007; Change Order #3 dated 4/3/2007; Change Order #2 dated 4/3/2007; 319172 dated 4/2/2007; 319200 dated 5/24/2007; 319261 dated 8/17/2007 IGP5 000328, 333, 338-343, 353, 356-359, 364, 372, 377-379, 385-387, 388, 390, 395, 400-402, 407, 409, 410, 415-417, 419-421, 430-433, 435- 437, 438-439, 441, 445, 447-449, 451-452, 453, 454, 456, 458-459, 462</p>				
<p>Apollo Drain and Rooter Service, Inc. Invoice No. 185127, Check No. 2269 showing payment IGP5 0000584-586</p>	114	114*		
<p>Pioneer Waterproofing Company Invoice No. 19151, Check No. 2334 showing payment and Fax Cover Sheet</p>	115	115		

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IGP5 0000587-590				
Photos (from CD #3-Iron Gate Storage/ Mill Plain/Construction) "Pictures" and subfolder "Picture031" and "Picture 01-23-07(3)" IGP5 001803-1884	116	116*		
White Cap Construction Supply documents including invoice # 3833290 (2 pages), invoice # 4371906 and product data sheet including TREMDrain drain mat	117	117*		
Additional photographs taken during construction IGP5 007947 - 56	118	118*		
E-mail exchange between David Polk and Glen Aronson (12/21/12-1/11/13) IGP5 008055-IGP5 008057	119	N/O		
Letter and Enclosure from Shawn McGraw from TREMCO Incorporated to Richard Matson enclosing Product Data Sheet for TREMDrain 1000 in effect October-December 2006 IGP5 008059-IGP5 008061	120	N/O		
Custom Unit Report regarding 48 Unrentable Units IGP5 002651	121	121*		
Letter from Pioneer Waterproofing Company, Inc. to Tapio Construction dated 3/24/11 regarding quote for epoxy injection and caulking for Iron Gate Facility TAPIO 000016	122	122*		
Contract Proposal from Contech Services, Inc. to Tapio Construction dated 1/2/11 regarding Project to fix Iron Gate leaks TAPIO 000018-TAPIO 000020	123	123*		
Not used	124	# Not Used		

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CASE NO. 11-2-01709-9

Plaintiff: Iron Gate Partners 5, LLC

Defendant: Tapio Construction

Attorney: Richard Matson

Attorney: William Noel

Attorney: Richard Matson	Ident	Exhibit Admitted	Photo Substitute	Attorney: William Noel
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Cross 2 Design Group Photographs C2DG 000140-C2DG 000512	125	125*		
	126	126		Call Sheets for Mill Plain Units
	127	127		Master Call Sheets for Mill Plain Units
	128	128		Missing Call Sheets for Mill Plain Units
	129	N/O		E-mails regarding Trade Accounts and Tradeya
	130	N/O		Self-Storage Real Estate in the Western States: Sales, Cap-Rate Trends and Development Opportunities
	131	N/O		Area Economic and Unit Occupancy graphs for Iron Gate Storage – Mill Plain
	132	N/O		Article in Self Storage Association's Globe, Vol. 10, No. 6 Entitled <i>How has the Self-Storage Industry Changed in Two Years?</i>
	133	N/O		AICPA Practice Aid 06-4- Calculating Lost Profits
	134	N/O		MasterSpec Concrete and CMU Walls – System II (ECONLINE-S)
	135	N/O		Article in Interface entitled <i>Roofing/Waterproofing Details and the Architect's Standard of Care</i>
	136	N/O		Custom Unit Report for Iron Gate Storage – Mill Plain (Berm Units)
	137	N/O		Custom Unit Report for Iron Gate Storage - Mill Plain (Damaged Units)
	138	N/O		Data Depot – Occupancy Trends in Self Storage Association's Globe, Vol. 8, No. 12
	139	N/O		Data Depot – Occupancy Trends in Self Storage Association's Globe, Vol. 11, No. 4

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Attorney: Richard Matson	Ident	Exhibit Admitted	Photo Substitute	Attorney: William Noel
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	140	N/O		Extracted Key Inquiries – Mill Plain
	141	N/O		Facility Map of Iron Gate Storage – Mill Plain
	142	N/O		Email from Diane Nipper to Rick Lennon regarding Custom Units Report and Total revenue on second floor units A & B
	143	N/O		Promotions for Iron Gate Storage – Mill Plain; water reports for Iron Gate Storage – Mill Plain; Emails to/from Rick Lennon
	144	N/O		Daily Treasury Real Yield Curve Rates (03/01/13 – 03/07/13)
	145	N/O		Ledger History for Unit B33 – Iron Gate Storage – Mill Plain
	146	N/O		Rent Income, Occupancy and Delinquency – Iron Gate Storage – Mill Plain; Unit History (2007 – 2012) – Iron Gate Storage – Mill Plain; Custom Unit Report – Iron Gate Storage – Mill Plain; Rent Income, Occupancy and Delinquency – Iron Gate Storage – Cascade Park
	147	N/O		Section 2502 Definitions of Weather-Exposed Surfaces from Chapter 25 of the 2003 International Building Code – Gypsum Board and Plaster
	148	N/O		ECOLINE-S Spray Applied Membrane; ECOLINE-S Specifications
	149	149*		Color photographs of the site investigation
	150	N/O		Product Description for ECOLINE-R
	151	N/O		Glacier Northwest Resale Certificate
	152	N/O		MSR Services, Inc. Resale Certificate

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CASE NO. 11-2-01709-9

Plaintiff: Iron Gate Partners 5, LLC

Defendant: Tapio Construction

Attorney: Richard Matson

Attorney: William Noel

	Ident	Exhibit Admitted	Photo Substitute	
	153	N/O		Spreadsheet dated 2007-2011
	154	N/O		Spreadsheet
	155	N/O		E-mails from Robert Pinder
	156	N/O		Custom Units Report
	157	157*		Diagram of Units
	158	158		Page of Plans with Enlargement
	159	159		JLM Invoice
	160	160		JLM Daily Inspection Reports
	161	161*		Plan Pages IGP5 1547, 1564, 1588 (Original Plans Retained by Counsel)
	162	N/O		ECOLINE Submittal
	163	N/O		TREMDrain 1000 Series Description
	164	N/O		TREMDRAIN 1000 Product Description
	165	N/O		Technical Bulletin
	166	N/O		Water Absorption Tube Test
	167	N/O		ECOLINE-R Liquid-Applied
	168	N/O		Iron Gate Promotions, Future Lost Profits, Total Damages Summary, and Historical Lost Profits for 5x10 Units
	169	169*		Estimate for Cost of Repair
	170	170*		Proposal for Cost of Repair
	171	171*		Budget Pricing for Cost of Repair
	172	N/O		Article for Nation's Building News, The Official Online Weekly Newspaper of NAHB entitled <i>Diversifying? Some Basics About Light Construction</i>
	173	N/O		Prospect Inquiries for Units dated Oct. 22-28, 2012, Jan. 20-26, 2013, Mar. 25-31, 2013, May 20-26, 2013, Sep. 23-29, 2013, Sep. 30-Oct. 6, 2013, Oct. 14-20, 2013, Oct. 28-Nov. 3, 2013 and Nov. 11-17, 2013
	174	N/O		Emails from Iron Gate to and from Rick

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EXHIBIT LIST

CASE NO. 11-2-01709-9

Plaintiff: Iron Gate Partners 5, LLC

Defendant: Tapio Construction

Attorney: Richard Matson	Ident	Exhibit Admitted	Photo Substitute	Attorney: William Noel
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				Lennon regarding berm units and berm reports
	175	N/O		Spreadsheet of berm units dated January 2010 to April 2011
	176	N/O		Spreadsheet of berm units dated January 2010 to January 2012
	177	N/O		Custom Unit Report dated January 27, 2012
	178	N/O		Spreadsheet of berm units with comments
	179	179		Berm unit history reports
	180	N/O		Master Contract signed and dated November 3, 2006
	181	N/O		Standard Test Method for Hydrostatic Pressure Resistance of a Liquid-Applied Waterproofing Membrane
	182	N/O		Standard Test Method for Field Determination of Water Penetration of masonry Wall Surfaces
	183	W		Standard Guide for Evaluating Water Leakage of Building Walls
	184	N/O		ECOSHIELD-E Sheet Membrane is Tough to Beat for Protection
	185	N/O		ECOSHIELD-EB Does A Lot More Than Provide Protection
	186	N/O		ECOLINE-R liquid Applied Membrane Stretches The Limit For Below Grade Waterproofing
	187	N/O		ECOSHIELD Material Safety Data Sheet
	188	# Not Used		Not used
	189	N/O		Misc. Photos of Construction Elements by Milakovich

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Plaintiff: Iron Gate Partners 5, LLC

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	190	N/O		EPRO DVD Production
Photo – IGP5001819 Photo of Entrance	191	191*		
Photo of water intrusion C2DG 00	192	192*		
Photo of water intrusion C2DG 00404	193	193*		
Photo of water intrusion C2GG 000423	194	194*		
Photo of water intrusion C2DG 000508	195	195*		
Photo of water intrusion C2DG 000509	196	196*		
Photo during construction IGP5007951	197	197*		
Photo during construction IGP5001880	198	198*		
Photo during construction IGP5001841	199	199*		
Photo during construction IGP5001879	200	200*		
Photo during construction IGP5001846	201	201*		
Letter from David Ross to Curtis Wilson 04-07-09 Re: water damage to property	202	202		
Letter from David Ross to Curtis Wilson 04-11-09 Re: water damage to property	203	203		
Letter from David Ross to Curtis Wilson 05-20-09 Re: water damage to property	204	204		
Copy of check stubs for Jordan Turner	205	205		
Copy of check stubs for Connie Pec -	206	206		
Receipt by Josh North 06-06-09	207	207		
Ecoline-S Spray Applied Membrane Specifications	208	208		
Ecoline-R Liquid Applied Membrane Specifications	209	209		
Photo during construction	210	210*		
Lloyd Bauer's Investigative Photos dated 11/3/11 – 1 through 26	211	W		NOT FOR JURY
Photo of Joint Showing Cracked Pavement – C2DG 000411	212	212*		
Photo of Hose Test – B29 C2DG 000504	213	213*		
Photo of Hose Test C2DG 000505	214	214*		
Photo of Hose Test C2DG 000506	215	215*		
Photo of Efflorescence on CMU C2DG	216	216*		

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000378				
Photo of Spalling – Unannotated C2DG 000492	217	217*		
Photo of Spalling – Unannotated C2DG 000477	218	218*		
Photo of Sawcuts C2DG 000332	219	219*		
Building Plans, Sheet A4.2 Detail	220	N/O		
Lloyd Bauer’s List of Defects with Spalling – 9 points	221	N/O		
Larry Cross’ List of Defects without Spalling – 10 points	222	N/O		
Larry Cross’ List of Defects with Spalling – 11 points	223	N/O		
Animation Screen Shots of As-Built	224	N/O		
Animation Screen Shots of As It Should Be	225	N/O		
Building Plan Sheet S1	226	N/O		
	227	227		Full size Building Plans
Photo of rebar in foam C2DG 000431 (part of plaintiff’s original ER904, exhibit 46)	228	228*		
Photo of drip marks on concrete – C2DG 000418 (Part of Plaintiff’s original er904, exhibit 46)	229	229*		
Photo of Anchor Bolt - C2DG 000366 (part of Plaintiff’s original er904, exhibit 46)	230	230*		
Photo of Drain Pipe - IGP5 001857 (Part of Plaintiff’s original ER 904, exhibit 37 submission)	231	231*		
	232	232		Master Contract signed and dated November 3, 2006
Proposal – Rose City Concrete Repair	233	233		
Report Cross 2 Design Group	234	N/O		
	235	N/O		Photos (2) of Soff cut saw
	236	N/O		Picture of soff cut saw
	237	237		Letter to Rick Lennon dated 01-27-2014

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CASE NO. 11-2-01709-9

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Defendant: Tapio Construction

Attorney: Richard Matson	Ident	Exhibit Admitted	Photo Substitute	Attorney: William Noel
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				from Civil works NW
Photos taken by Harry Nipper of units	238	238		
Spreadsheets – Berm worksheets/reports	239	239		
Large Spreadsheet Berm report	240	240		
TremDrain 1000 Product Data Sheet	241	241		
Diagram - Backfield Walls TREMCO	242	242		
Deposition DVD – Michael Kohler	243	243		****NOT FOR JURY****
Billing Statements from Bob Pinder – IGP5 001213-1222; 1225-1227; 1229-1232	244	244		
	245	N/O		Jolly-Foster Building Plans
	246	N/O		Ecoline-R Liquid Applied Membrane
	247	247		Daily Inspection Report
Tiffany Couch's Summary of Lost Rent Pre-Construction August 2007 – October 2012	248	248		
Tiffany Couch's Calculation of Losses – Preconstruction – November, 2012 – April, 2014	249	249		
Tiffany Couch's Units Affected by 6 month repair	250	250		
Tiffany Couch's Post Construction Losses – With Discount	251	251		
Tiffany Couch's Calculation of Loss	252	252		
****NOT FOR JURY****	253	253		Published Deposition of Robert Pinder
David Polk Deposition Exhibit 5 re Ecoline-R Liquid Applied Membrane – IGP5 001759	254	254		
David Polk Deposition Exhibit 6 re Ecoline R Specification	255	255		
David Polk Deposition Exhibit 19 regarding Specification Concrete and CMU Walls Reinforced—EPRO 000648-655	256	256		
David Polk Deposition Exhibit 20 regarding Mater Concrete & CMU Walls EPRO 000767-772	257	257		
David Polk Deposition Exhibit 9 re Ecoline-S Spray Applied Memo—A&A 000003-4	258	258		

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David Polk Deposition Exhibit 11 re System III Waterproofing – WP-2-EPRO 000521	259	259		
David Polk Deposition Exhibit 12 regarding System III Waterproofing WP-15	260	260		
David Polk Deposition Exhibit 13 regarding Waterproofing Membrane Installation (Vertical Wall Reinforced)—EPRO_000047-49	261	261		
DVD Deposition of David M. Polk dated 4/2/2014	262	262		***NOT FOR JURY***
Diagram of Berm Units Taken off market	263	263		
Diagram of Berm Units showing evidence of water intrusion	264	264		
Civil Work NW in Invoice No. 111102 dated 11-03-11	265	265		
Cross 2 Design Group Invoice Nos. 25, 27-30	266	266		
Letter dated 10-12-09 from Patrick Lennon to Tim Yarnot regarding Water penetration of retaining walls	267	267		
E-mail dated 11-23-09 from Rick Lennon to Tim Yarnot re Mill Plain construction waterproofing failure	268	268		
E-mail dated 12-22-09 from David Ross to Rick Lennon re Mill Plain, Dye Test Results	269	269		
Letter dated 2-19-10 from Patrick Lennon to Tim Yarnot re Water Penetration of Retaining Wall	270	270		
OE-Mail thread dated 8-12-10 between Rick Lennon and Tim Yarnot re Ecoline-S application	271	271		
E-mail Thread dated 9-24-10 between Tim Yarnot and Rick Lennon re Curtis' contact information	272	272		
E-mail Thread dated 10-14-10 between Tim Yarnot and Rick Lennon re application of	273	273		

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Ecoline-R product				
E-mail dated 11-22-10 from Rick Lennon to Tim Yarnot attaching Wall Leak Reports	274	274		
E-mail thread dated 3-8-11 from Tim Yarnot to Rick Lennon re quotes for fixing leaks	275	275		
Iron Gate's Statement of Claimed Damages	276	276		*ILLUSTRATIVE/NOT FOR JURY*
	277	277		Feasibility Study for Iron Gate Storage
	278	278		Appraisal of Iron Gate Storage
Lloyd Bauer's Investigative Photos dated 11/3/11 – 1 through 26 (unannotated)	279	279		
	280	280		Initial Bid for Tapio
	281	281		Letter to Patrick Lennon from Tapio Construction
	282	282		Email from Diane Nipper
	283	283		Contech Proposal and Contract
	284	284		March 24, 2011 letter from Gary Vonada to Tapio Construction
	285	N/O		Emails between Tim Yarnout and Rick Lennon
	286	286		Email 10-25-12 Rick Lennon /Dana Stevison
	287	287		Email
	288	N/O		Cost Estimate – CivilWorks NW
	289	N/O		Invoice CivilWorks NW
	290	290		Estimate Summary
Master Contract	291	291		
Email message 07/07/2006	292	292		
Deposition of Tim Yarnot	293	293		*****NOT FOR JURY*****
	294	294		Invoice from Glen L. Aronson to Iron Gate Partners dated October 5, 2006, for Construction Supervision for September 2006
	295	295		Invoice from Glen L. Aronson to Iron

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				Gate Partners dated November 2, 2006, for Construction Supervision for October 2006
	296	296		Invoice from Glen L. Aronson to Iron Gate Partners dated December 4, 2006, for Construction Supervision for November 2006
	297	297		Krazan & Associates, Inc. Report
	298	298		Krazan & Associated, Inc. letter regarding reinforced concrete placement inspection of building B's composite deck section
Deposition of Michael Showalter	299	299		***NOT FOR JURY***
	300	300		Iron Gate Move In Specials Relevant Unit Size Summary
	301	301		Past Lost Profit Damages
	302	302		Lost Profit During Repairs
	303	303		Lost Profit During Lease Up
	304	304		Total Iron Gate Lost Profit Summary
	305	305		Iron Gate Total Damages Summary
Deposition of Heidi Bowen	306	306		***NOT FOR JURY***
ILLUSTATIVE/NOT FOR JURY	307	307		Photos of Vertical Rilem tubes; Vertical Rilem tube #1 – contaminated; Vertical Rilem tube #2 at the end of testing; Vertical Rilem tube #3 at the end of testing; Vertical Rilem tube #4 at the end of testing; Horizontal Rilem tube #5; Horizontal Rilem tube #6; Close-up of liquid applied membrane; Void in concrete.
ILLUSTATIVE/NOT FOR JURY	308	308		Photograph of Moisture exiting the pan deck in Unit A 33; Moisture running down the interior metal wall in Unit A

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				35; Spray/stream test; Example of deficient pan deck and exposed rebar in Unit B 29; Moisture Rilem tube #6 in Unit B29
	309	309		Photograph of Construction
	310	310		Photograph of Construction
	311	311		Westcoast forensic investigation photos
	312	312		Westcoast forensic investigation photos
	313	313		Westcoast forensic investigation photos
	314	N/O		Westcoast forensic investigation photos
	315	N/O		Westcoast forensic investigation photos
	316	316		Westcoast forensic investigation photos
Michael Milakovich Draft Scope of Repairs dated 11/15/13	317	317		
Berm Units # of Months to Initial Lease	318	318		
Non-Affected Units (Similar Options)- Initial Lease Detail	319	319		
Units of Same Size But Different Options	320	320		
Berm Unit Rental Income-Actual	321	321		
	322	322		Unannotated Versions of Exhibits #307 & 308
Deposition of Mark Milakovich	323	323		***NOT FOR JURY***
Deposition of John Tapio	324	324		***NOT FOR JURY***
	325	325		JLM Invoice dated 12/15/2006

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