

STATE OF SOUTH CAROLINA
COURT OF COMMON PLEAS

COUNTY OF HORRY
TIDEWATER PLANTATION COMMUNITY ASSOCIATION,
INC.,

Plaintiff,

vs. CASE NO. 2021-CP-26-04599

SUZANNE N. NORTON, INDIVIDUALLY; KENNETH R.
NORTON, INDIVIDUALLY; SUZANNE N. NORTON, AS
TRUSTEE OF THE SUZANNE N. NORTON LIVING TRUST
DATED MAY 8, 2012; AND KENNETH R. NORTON AS
TRUSTEE OF THE KENNETH R. NORTON LIVING TRUST
DATED MAY 8, 2014,

Defendants.

DEPOSITION OF: JAMES MAHURIN
(Appearing via VTC)

DATE: June 10, 2025

TIME: 10:34 a.m.

LOCATION: 207 3rd Avenue North
Franklin, Tennessee

TAKEN BY: Counsel for the Counterclaim
Defendants

REPORTED BY: KAREN M. BECKMAN, CSR
Court Reporter
(Appearing via VTC)

1 APPEARANCES OF COUNSEL:

2 ATTORNEY FOR COUNTERCLAIM DEFENDANT
3 TIDEWATER PLANTATION COMMUNITY
4 ASSOCIATION, INC.:
5 COPELAND STAIR VALZ & LOVELL, LLP
6 BY: TAYLOR CARY
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12 ATTORNEYS FOR COUNTERCLAIM PLAINTIFFS
13 SUZANNE N. NORTON, INDIVIDUALLY;
14 KENNETH R. NORTON, INDIVIDUALLY;
15 SUZANNE N. NORTON, AS TRUSTEE OF THE
16 SUZANNE N. NORTON LIVING TRUST
17 DATED MAY 8, 2012; AND KENNETH R.
18 NORTON AS TRUSTEE OF THE KENNETH R.
19 NORTON LIVING TRUST DATED MAY 8, 2014:
20 BELLAMY LAW FIRM
21 BY: HOWELL BELLAMY, III
22 (Appearing via VTC)
23 1000 29th Avenue North
24 Myrtle Beach, South Carolina 29577
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ALSO PRESENT:
CATHERINE WEIS
(Appearing via VTC)

(INDEX AT REAR OF TRANSCRIPT)

1 JAMES MAHURIN

2 being first duly sworn, testified as follows:

3 EXAMINATION

4 BY MS. CARY:

5 Q. Good morning. My name is Taylor Cary
6 and I am counsel for Plaintiff and the Counterclaim
7 Defendant, Tidewater Plantation Community
8 Association.

9 Have you been deposed before?

10 A. Yes.

11 Q. I'm just going to run through some
12 quick rules just to refresh yourself. Verbal
13 responses are preferred. No shakes of the head or
14 nods, especially with us being on Zoom.

15 It's important that we don't try and
16 talk over each other. You allow me to finish my
17 question and then take a minute and then, you know,
18 give your answer.

19 If you do not understand my question,
20 please ask me to rephrase or repeat my question.
21 If you do not do so, I will assume that you
22 understood my question; is that fair?

23 A. Yes, ma'am.

24 Q. Okay. And if you want to take a break
25 at any time, please feel free to let me know. I

1 just ask that you answer any pending question that
2 I have asked.

3 And you may hear some objections to the
4 form, but please still answer unless directed not
5 to do so.

6 And I ask this of everyone. Are you
7 under the influence of any medications which would
8 prohibit you from answering my questions truthfully
9 and/or inhibit your ability to do so?

10 A. No.

11 Q. And please state your full name for the
12 record.

13 A. James Richard Mahurin.

14 MS. CARY: And I'm going to mark the
15 first exhibit.

16 (EXHIBIT 1, Subpoena for James Mahurin,
17 was marked for identification.)

18 BY MS. CARY:

19 Q. Can you see? I can scroll through the
20 document for you as well.

21 A. I can see it, yes.

22 Q. Okay. And this is the document
23 subpoena that we sent you through Mr. Bellamy's
24 office.

25 Do you recognize this document?

1 A. Yes.

2 Q. And what did you do to search for the
3 documents requested in the subpoena?

4 A. I had a very small file here, you know,
5 just a few pages of things, loose items. And then
6 I received a lot of documents from the law firm
7 within the last few days. And you have copies of
8 everything that I've received.

9 Q. Okay. And did you do a search for any
10 emails related to --

11 A. I did.

12 Q. Okay. And are those, the emails that
13 you produced, those two emails that you produced
14 were the only ones?

15 A. To my knowledge, that's all I had.

16 Q. Okay. And what did you do to prep for
17 today's deposition?

18 A. I looked back through my very brief
19 notes, and then I reviewed the materials that I
20 received from Tracy Ales and that was it.

21 Q. And did you speak with anyone in
22 prepping for today?

23 A. No.

24 Q. And were the documents that you
25 reviewed all those documents that you sent me?

1 A. Yes, ma'am.

2 Q. Did you graduate undergrad?

3 A. Yes, ma'am.

4 Q. Where from?

5 A. Western Kentucky.

6 Q. What was your degree in?

7 A. I had a double major in government and
8 sociology.

9 Q. Did you go to graduate school?

10 A. No, ma'am.

11 Q. Do you have any other degrees,
12 certifications, or formal training?

13 A. I completed the Chartered Property
14 Casualty Underwriter curriculum, and then I
15 completed the Associate in Risk Management
16 curriculum.

17 Q. And what programs were those through,
18 or who were those through?

19 A. They're through the -- the name of the
20 entity escapes me at the moment.

21 Q. Okay.

22 A. These are upper division undergraduate
23 and graduate-level courses. The CPCU curriculum
24 involved ten courses, and the ARM curriculum was
25 three. And all three of those were graduate-level

1 courses.

2 Q. When did you complete those courses or
3 curriculum?

4 A. I completed them in the early '80s.

5 Q. Did you do any continuing education to
6 keep those -- did you receive, like, a license
7 after you completed the curriculum or certificate?

8 A. No. In the insurance business, you are
9 licensed by the State, which doesn't require
10 anything.

11 Q. Okay.

12 A. So the only licenses I've ever had were
13 state licenses.

14 Q. And what states were those through?

15 A. Louisiana, Kentucky, West Virginia, and
16 Tennessee.

17 Q. Okay. And that's the CPCU and the
18 AR --

19 A. No. The licensing was as an agent in
20 those states.

21 Q. Okay. Got it. Insurance agent?

22 A. Yeah. The CPCU and ARM curriculum, I
23 would compare that to CPA curriculum. I've
24 actually taken a lot of accounting classes. I
25 didn't finish a degree in that, but it's

1 comparable.

2 Q. And you don't have to do any continuing
3 education to keep those, I guess, a curriculum
4 card?

5 A. It's not mandated, but I do a lot of
6 seminars. I also teach a lot of classes.

7 Q. What do you teach?

8 A. You name it and I've taught it. A lot
9 of risk assessment programs. I've spoken to
10 national conferences and state conferences on flood
11 risk, for example. But my CV has a list of my
12 seminars and publications.

13 Q. Okay.

14 A. And you can see the names and the
15 locations there.

16 Q. I'll have to double-check my email. I
17 don't think I saw your CV. I did see the
18 litigation support and expert witness disclosure,
19 but I did not -- I'll double-check.

20 A. Okay.

21 Q. Where do you teach your seminars? Is
22 it at one particular university or college or
23 symposiums or conferences?

24 A. Typically industry conferences. I've
25 spoken at the Florida annual independent agent's

1 conference a couple times. I've spoken at CPCU
2 national conferences once. I've spoken at
3 independent agent conferences several times.

4 Q. Are your insurance agent licenses all
5 current in the states that you testified about?

6 A. No. When I left those states, I no
7 longer needed a license. And having a license in
8 Tennessee is not required of someone who is doing
9 consulting-only work.

10 And then the others, I rarely, rarely
11 ever have revenue from Tennessee. I live here, but
12 I do very little work here.

13 Q. Do you have any insurance agent
14 licenses that are current?

15 A. No.

16 Q. That you currently --

17 And have you ever received any
18 complaints against any of those licenses that you
19 had?

20 A. No.

21 Q. And what was your first job after
22 graduating from undergrad?

23 A. US Coast Guard.

24 Q. And what did you do there?

25 A. I was in shipboard communication, so I

1 went through a very intense communications
2 shipboard training. I was aboard two different
3 cutters, notably in the North Atlantic.

4 And then I was picked by the commandant
5 to become a substance abuse educator, and they sent
6 me to San Diego where the Navy had a contract with
7 the University of California to teach educators how
8 to educate personnel on substance abuse. And I say
9 that it was one of the greatest programs I've ever
10 been through in my lifetime. It was phenomenal.

11 But at any rate, I then had to develop
12 my own program. But I traveled five states. I was
13 at the district headquarters in New Orleans. And I
14 traveled from Western Florida to the Texas border
15 going to units and talking about substance abuse.

16 Q. When did you get into the insurance
17 business?

18 A. At the time I was leaving the service,
19 a senior officer in the Reserves heard me do a
20 seminar and invited me to interview with the Aetna
21 Casualty & Surety Company, and they hired me into a
22 training program.

23 Q. And what was your position there?

24 A. Well, you start out as a trainee,
25 but -- and then I traveled South Louisiana for a

1 couple of years. Aetna has agents all over
2 South Louisiana, and my job was to be a liaison
3 between the New Orleans underwriting office and
4 engineering office and the agents who sold Aetna
5 products.

6 Q. And how long did you work there for?

7 A. Stayed there two years after the
8 training program ended.

9 Q. Where did you go next?

10 A. I went to J. Everett Eaves. It was a
11 large insurance agency in New Orleans.

12 Q. And what was your business title there?

13 A. I was an agent.

14 Q. And what type of insurance did you deal
15 in?

16 A. Property casualty.

17 Q. How long were you there for?

18 A. Four years.

19 Q. Why did you leave?

20 A. New Orleans housing is outrageously
21 expensive. And we had a little girl who was ready
22 to start school, and private school tuition was
23 outrageously expensive. And we moved back to
24 native Kentucky and -- where housing was half as
25 much and the good school was public.

1 Q. Where did you go next?

2 A. That was the Hopewell company in Paris,
3 Kentucky.

4 Q. And what was your position there?

5 A. As an agent.

6 Q. Was that in property casualty as well?

7 A. Yes.

8 Q. How long did you work there for?

9 A. Two years.

10 Q. Why did you leave?

11 A. I was offered a job to run a very
12 successful agency in West Virginia, and it was much
13 larger, much bigger challenge and I took it.

14 Q. And you were still an agent at that
15 time?

16 A. Yes.

17 Q. And where do you currently work?

18 A. Today I have an office in Franklin,
19 Tennessee. I've been here for 29 years, and I work
20 all over the United States.

21 Q. And what do you consider your title to
22 be?

23 A. I do fee-only risk management and
24 insurance consulting. And I think there are 300 of
25 us in the U.S. and Canada.

1 And then separately, after Daubert's
2 decision, I had attorneys coming to my office
3 telling me that I was the only person they knew who
4 would qualify and that I ought to reconsider doing
5 expert witness work, because I had always refused
6 it in the past. And I agreed to work with some
7 attorneys that I knew very, very well.

8 But at any rate, the expert witness
9 part of my work started after Daubert, and then
10 that has continued here in Tennessee. And now it's
11 the preponderance of what I do.

12 Q. Okay. So before when it was
13 consulting, what type of consulting would you do?
14 Explain.

15 A. Risk assessment is an audit process.
16 What do you do? Who are your customers? What do
17 you buy? What do you sell? What did you sell
18 30 years ago that could still be a problem? And it
19 should be the first step that a person undertakes
20 when they go to buy insurance, but sadly it's not.

21 And then you go through this audit
22 process of finding out what it is people do and
23 what their risks are, and then you structure an
24 insurance program that has several parts. One is
25 to identify risk and address it properly through

1 insurance where you need it. And the other is to
2 develop a retention program to keep deductibles to
3 where they offset premium over time.

4 One of the things I do that you will
5 find a little unusual is I try to get people to
6 think of insurance premiums in ten-year increments.
7 You know, if your premium is 2 million a year,
8 that's 20 million over ten years. And if we raise
9 the deductible, you know, what's the savings and
10 what's the potential there?

11 But on the other side, we want to have
12 all of the property identified. Are you sure that
13 everything you own is on this list?

14 And separately I did a lot of work with
15 financial institutions. And for them I said, you
16 know, I need to be looking at the insurance
17 programs for your largest borrowers and making sure
18 that they have a decent program, so if they take
19 the big hit, your loan isn't jeopardized.

20 Simple thing, like does your largest
21 customer's CPA have a large employee fidelity bond?
22 That's the kind of things that I'm asking people.

23 Q. So who was your -- like, the majority
24 of your clients? Were they homeowners or were they
25 entities?

1 A. Entities. I've done a lot of work with
2 high-net-worth individuals.

3 Q. Could you give, like, a percentage of,
4 like, how, like -- you know, high-net-worth
5 individuals versus entities that you've consulted
6 with?

7 A. Will you repeat your question, please?

8 Q. Yeah. Do you have, like, a percentage
9 or a range of how many, you know, high-net-worth
10 individuals you've consulted with versus entities?

11 A. Well, a lot of my corporate clients ask
12 me to look at their personal programs.

13 Q. Okay.

14 A. In part. And then out of that comes
15 people who will get in touch with me and say, Would
16 you look at mine. Individual accounts is not
17 something I deal with all of the time. You know,
18 I'm a --

19 Q. Did you -- I'm sorry.

20 A. The last few years, you know, the
21 preponderance of my work has been litigation
22 support.

23 Q. And when you consult on, you know, for
24 an entity versus an individual, are the
25 considerations different?

1 A. It depends on how many airplanes they
2 own.

3 Q. Yeah. Okay.

4 A. And how many coastal houses they own
5 and where they are.

6 Q. So it depends on the assets that they
7 own?

8 A. Yeah. In the early '80s, I developed a
9 risk survey protocol for individuals, and the
10 International Risk Management Institute published
11 that. Initially it was published under jointly,
12 and then they bought it from me, and they still
13 publish that program.

14 So, you know, the surveys are available
15 and used by a lot of people today, where it didn't
16 exist until I actually developed it a long time
17 ago.

18 But a personal insurance for a
19 high-net-worth individual, or actually your
20 next-door neighbor, can be as complicated as a big
21 business.

22 Q. Okay. What does it depend on? Myriad
23 of factors or specific ones?

24 A. Who is involved is a big issue.

25 Q. Okay.

1 A. You know, you have people that are
2 driving corporate-owned and corporate-insured cars,
3 and you've got live-in people who are not -- to
4 whom they're not married or who are using these
5 vehicles. And the terms of a commercial insurance
6 policy for their use of these business insured
7 vehicles becomes a very sticky wicket. It's really
8 complicated stuff. It really is.

9 Q. Have you ever worked with a community
10 association?

11 A. Yes. A lot. Private communities,
12 condominiums, HOAs, yeah.

13 Q. And where? In, like, which states?

14 A. Louisiana, West Virginia, Tennessee,
15 Illinois, mostly in the states where I lived.

16 Q. Louisiana, West Virginia, Tennessee,
17 Illinois?

18 A. Yeah. I didn't do any private
19 community HOAs in Kentucky.

20 Q. Did you do any in South Carolina?

21 A. No. I had customers who owned property
22 in South Carolina.

23 Q. Okay. How many, you know, community
24 associations would you say that you've worked with
25 roughly?

1 A. I'll guess a dozen.

2 Q. And when you worked with those
3 community associations, do you review their
4 operating documents at all?

5 A. Not particularly, no.

6 Q. Okay. And you understand that you've
7 been identified as an expert in this case to
8 testify regarding your opinions on the Nortons'
9 design plan, home design plan?

10 A. I'm testifying on flood insurance.

11 Q. Flood insurance.

12 And roughly how many times have you
13 served as an expert witness?

14 A. Just about 200, a little under 200.

15 Q. And are the typical cases that you're
16 serving as an expert witness, is that for coverage
17 opinions? Is it opinions related to coverage
18 denials or something else?

19 A. A lot of it is coverage. I've done
20 quite a bit of agent duty work. I spent five years
21 in New Orleans after Katrina on flood matters.

22 Q. And when you say on flood matters, what
23 specifically were you consulted for in Louisiana?

24 A. Will you repeat your question, please?

25 Q. And when you were consulting or, I

1 guess, in Katrina after Hurricane Katrina on flood
2 matters, what were you asked to give your opinion
3 on generally?

4 A. Quite a bit of it was agent duties.

5 Q. Okay.

6 A. New Orleans has a very, very
7 sophisticated insurance community, and they had
8 actually done flood exceedingly well. I think
9 about 57 percent of property owners in New Orleans
10 had flood insurance. And they had spent about a
11 decade trying to get people to buy it.

12 Now, the 57 percent is an anomaly. If
13 you go to the rest of the country, it might be
14 18 percent or 22 percent or something like that of
15 people in zones who actually had it at that time.

16 And I started out doing agent defense,
17 and then I wound up in Trip Land Property Release
18 Disputes related to flood insurance and
19 availability. And I got into availability of
20 excess flood and the terms of excess flood, and it
21 was a real adventure.

22 Q. And I see on the litigation support and
23 expert witness disclosure that you sent over that
24 you have testified at trial, a few trials in the
25 cases you've been an expert on.

1 Were you qualified by the Court in
2 those cases?

3 A. Yes.

4 Q. And in what capacity were you
5 qualified?

6 A. In the flood cases, as an expert on
7 flood insurance.

8 Q. And have you ever worked with the
9 Bellamy Law Firm in the past?

10 A. No.

11 Q. And what facts or data was provided to
12 you to form your opinion in this case?

13 A. We started a conversation -- I received
14 a call from Sheri McAllister out of the blue asking
15 if I could help her with some questions on flood
16 insurance, and I tried to answer them the best that
17 I could.

18 Q. Okay.

19 A. And then we had a number of conference
20 calls. Mr. Norton was involved in some of them.
21 And then recently I received a lot more
22 information. You know, I did the affidavit
23 whenever I did that.

24 Q. Okay.

25 A. And at that time I received more

1 documents related to the property covenants.

2 Q. Okay. Do you recall what documents you
3 reviewed in preparing your affidavit?

4 A. I sent them all to you. I can't sit
5 here and name them.

6 Q. Okay. So it was all those documents
7 that you received at that time before you prepared
8 your affidavit?

9 A. No.

10 Q. Okay.

11 A. At the time I received my affidavit, I
12 had very, very few documents present.

13 Q. Okay. Okay.

14 A. Maybe one or two.

15 Q. Okay.

16 A. And, you know, my premise was real
17 simple. Don't build a low house in a flood zone.

18 Q. Right.

19 A. You know, it's something you'll regret
20 forever.

21 Q. And what is your understanding of this
22 case?

23 A. My understanding of the case is that
24 the plaintiff wants to build a house in a flood
25 zone, and the proposed height is higher than the

1 HOA wants to allow.

2 Q. Okay. And how many hours would you say
3 it took you to review this case and form your
4 opinion?

5 A. I don't know. Not a lot. You know, my
6 focus is on the flood zone and the height of the
7 lowest floor.

8 Q. Okay. And did you ask for any
9 additional documents or information in preparing
10 your affidavit?

11 A. I didn't request anything.

12 MS. CARY: I'm going to mark our next
13 exhibit.

14 (EXHIBIT 2, Affidavit of James R.
15 Mahurin, was marked for identification.)

16 BY MS. CARY:

17 Q. I just marked the affidavit of James R.
18 Mahurin, and it is dated December 21st, 2022.

19 Is that your signature?

20 A. Yes, ma'am.

21 Q. And do you recognize this document? I
22 can scroll back up.

23 A. Yes, ma'am.

24 Q. Okay. And did you prepare this
25 affidavit?

1 A. I did.

2 Q. Go to paragraph 10 of your affidavit,
3 and it says here, the last two sentences,
4 Throughout my 40-year career, I've seen many
5 changes in NFIP maps. No NFIP map change in my
6 experience has lowered the BFE levels.

7 I recently checked the flood map for
8 the Nortons' home, which is -- now it says it's at
9 an AE11, in an AE11 zone. Previously it was noted
10 that it was AE12.

11 Is it common that the map changes and
12 goes to a lower base flood elevation?

13 A. Where were you reading?

14 Q. The last two sentences of paragraph 10.

15 A. Okay. All right. Now -- and repeat
16 your question.

17 Q. So I recently checked the FEMA flood
18 map for, you know, the Nortons' address that's
19 located in Tidewater Plantation, specifically in
20 the South Island subdivision, and the Nortons' home
21 was denoted as being an AE11. It was previously, I
22 think, since I've been on this case, noted as being
23 AE12.

24 Is it common that the base flood
25 elevation would change to be lower?

1 A. In my experience, no. What I see is
2 areas that used to be B, C, and X become in part or
3 part of A. And I've seen a tremendous expansion of
4 A zones, and I've seen elevations -- the lowest
5 floor elevations increase. Personally, I'm not
6 seeing any decreases.

7 Q. Okay.

8 A. But I've seen lots of increases.

9 Q. And how often does a home increase or a
10 certain area increase?

11 A. I don't know.

12 Q. Okay.

13 A. In a particular locale, I don't know
14 how they increase it. You know, these are
15 probability measures developed by an actuarial firm
16 based on actual data that's developed from this
17 mountain of statistical information that NFIP
18 produces.

19 Q. And how often, if at all, do you see
20 the base flood elevation increase in a certain
21 location, or does that vary based on the location?

22 A. It varies based on where you are.

23 Q. Okay.

24 A. You know, here's an issue that I deal
25 with that scares me to death.

1 Q. Uh-huh.

2 A. I have customers who have a lot of
3 property, you know, as in hundreds of millions, and
4 sadly too much of it is outside the flood zone, and
5 it may be 100 feet outside the flood zone, but the
6 elevation differential is nominal.

7 And I tell people, I said, When the
8 tidal surgery is 23 feet, how much water is going
9 to be in your building? Okay.

10 Now, in that process, what I've seen is
11 some of these properties that were in B zones or
12 X zones or C zones were changed, and now they're in
13 A zones. So, you know, the changes that I see have
14 been to reflect an increase in risk, not a decrease
15 in risk.

16 Q. And in those increases, how often does
17 the change occur? Is it over a period of years,
18 20 years, 10 years?

19 A. I would say probably ten years at a
20 time. You know, they've done massive changes to
21 the flood mapping program in the last 25 years, you
22 know. There's been a huge effort on the part of
23 NFIP to make the program solve, and that was really
24 driven by the extent of damage caused by Hurricane
25 Katrina in Mississippi and Louisiana. And, of

1 course, Congress got tired of subsidizing it too.

2 And today the federal flood program is
3 viewed very differently from what it was 25 years
4 ago, and it now has reinsurance provided by a major
5 national consortium or international consortium.
6 So there's been a tremendous effort to improve the
7 integrity of the program.

8 What I see going on has been an
9 increase in the areas that have been considered at
10 risk for flood, whether it's B zones that are now
11 A zones or C zones that are now B zones, or it's
12 A zone where they've raised the base flood
13 elevation.

14 But, you know, I have these very
15 painful conversations with people that have major
16 investment properties saying, We have to buy a lot
17 of flood insurance here.

18 Q. Do you know how often a base flood
19 elevation increases in the City of North Myrtle
20 Beach?

21 A. No, I don't. And it may not increase.
22 It may renew at the same level. But what I see are
23 increases. What concerns me are the increases.

24 Q. And what is the FEMA recommendation on
25 where a homeowner should build their first finished

1 floor?

2 A. Well, the flood insurance program wants
3 you to be at least 1 foot above base flood
4 elevation.

5 Q. Okay.

6 A. And that's where it starts. If you're
7 at 2 feet, the premium is much lower. 3 feet is
8 lower still. 4 feet is decidedly lower.

9 And then, of course, you know, we're
10 talking about National Flood Insurance Program, the
11 NFIP. But I tell my customers they're the nominal
12 player. You know, your house on the beach is worth
13 more than \$250,000, or damage to it's going to be a
14 lot more than \$250,000. And you want to have a lot
15 of excess flood insurance on these very nice homes.

16 Q. And are you aware that homes within a
17 floodplain in Tidewater Plantation are built to
18 have their first floor built at 1 foot above the
19 base flood elevation?

20 A. Well, that's the norm everywhere. You
21 have people that don't follow that, but that's
22 the -- those are the federal rules that it be at
23 least 1 foot above base flood elevation.

24 Q. I'll scroll down to paragraph 16 of
25 your affidavit.

1 A. Okay.

2 Q. Which states, The Nortons' refusal to
3 accept the DRB's methods of measurement are valid
4 and supported in order to achieve improved
5 protection of their future home from a flood risk.

6 Can you explain your statement there?

7 A. I think that the Nortons should build
8 their house considerably higher than the 1 foot
9 above base flood elevation.

10 Q. Okay.

11 A. That's the conversation I have with
12 many, many people.

13 Q. Okay. And are you aware that the DRB
14 denied the Nortons' home design plan based on the
15 overall height and not regarding where their first
16 finished floor began?

17 A. Yes.

18 MR. BELLAMY: Object to form.

19 BY MS. CARY:

20 Q. And are you aware that the Nortons'
21 home design plans do not meet the height
22 measurement or height maximum under either the
23 City of North Myrtle Beach ordinance or the
24 Tidewater's planning unit development agreement?

25 MR. BELLAMY: Object to form.

1 You can answer.

2 THE WITNESS: I'm not sure about -- I
3 thought the HOA limitation was what was the dispute
4 here.

5 BY MS. CARY:

6 Q. Okay.

7 A. Can we take a minute? My mouth is
8 really dry. I need to get some water.

9 Q. Of course.

10 A. I'll just take a minute, 30 seconds.

11 (A recess transpired.)

12 THE WITNESS: I am back.

13 BY MS. CARY:

14 Q. In paragraph 16 of your affidavit, you
15 see that you cite the language of the City of North
16 Myrtle Beach Ordinance Section 23-106?

17 A. Yes.

18 Q. And it says, three lines down, Except
19 that single family and duplex building in
20 designated flood hazard areas as established by the
21 City's flood damage control ordinance shall be
22 measured from the established certified floor
23 elevation to the midpoint between the eave and the
24 highest point of the roof.

25 So that discusses the maximum height of

1 the overall structure. Is it my understanding that
2 you're not opining on the overall height of the
3 structure but where the first finished floor is to
4 be built at or above the base flood elevation?

5 A. Well, the first finished floor is the
6 height of the first finished floor. There's not a
7 mandate that it be 1 foot above base flood
8 elevation. It has to be a minimum of a 1 foot
9 above base flood elevation.

10 Q. Okay. But you're not opining on the
11 maximum height elevation on the overall residential
12 structure; is that correct?

13 A. I understand that to be the dispute
14 here.

15 Q. Right.

16 A. Okay.

17 Q. In paragraph 17, you write, Ordinances,
18 such as Section 23-106, are directed to reduce
19 flood damage associated with structures built in
20 flood hazard areas.

21 Can you explain that statement there
22 and your reasoning?

23 A. There's been a decades-long initiative
24 between federal and state authorities to reduce the
25 extent of damage in flood zones. And it's actually

1 been quite successful having traveled to
2 South Louisiana before it all started.

3 Please ask that question again.

4 Q. Sure. I just wanted you to explain,
5 you know, your statement here that ordinances, such
6 as Section 23-106, are drafted to reduce flood
7 damage associated with structures.

8 So Ordinance 23-106 deals with the
9 maximum height of the overall structure, and so my
10 question is can you explain your reasoning for why,
11 you know, the maximum overall height of a structure
12 reduces the flood damage risk?

13 A. Wait a minute. Let me take a second
14 and look at this again, please.

15 Q. Okay.

16 A. Thank you.

17 Okay. The certified floor elevation is
18 the elevation of the lowest floor on the house.

19 Q. Okay.

20 A. And --

21 Q. So you're -- I'm sorry. Excuse me.

22 A. And the ordinance's mandate that they
23 be above base flood elevation are structured to
24 protect the public.

25 Q. Right. But does the maximum height of

1 an overall building have any correlation or impact
2 on a homeowner's ability to obtain flood insurance?

3 MR. BELLAMY: Object to form.

4 Jim, you can answer.

5 THE WITNESS: I think the measure of
6 the height, I think, is what's created the problem
7 here because it's the midpoint -- hang on a
8 minute -- the midpoint between the eave and the
9 highest point of the roof.

10 And it's my understanding that that
11 prohibition is with the peak of the roof not with
12 the midpoint.

13 BY MS. CARY:

14 Q. Right. Did that have any impact on the
15 homeowner's ability to obtain flood insurance
16 coverage?

17 A. Well, if they -- there's a difference
18 between buying it and affording it. And of course
19 this is a wealthy client. You know, I tell people
20 to not build at 1 foot above base flood elevation.
21 Do not do that.

22 Q. Okay.

23 A. And if you're going to build in a flood
24 zone, build it up to where you're looking at a
25 long-term expense. You know, flood insurance isn't

1 cheap. And notably the excess flood insurance is
2 not cheap. And if you have this house built at
3 1 foot above base flood, you're at the highest
4 level of premium.

5 Q. So would you say it's more important as
6 to where the first finished floor is built from the
7 base flood elevation comparatively to the overall
8 height of the structure?

9 A. My issue is with the lowest floor
10 elevation.

11 Q. Okay.

12 A. And the fact that they need to build
13 this house above the normal 1 foot above base
14 flood.

15 Q. Are you aware that the DRB did not deny
16 the Nortons' home plans based on where the first
17 finished floor was being built?

18 MR. BELLAMY: Object to form.

19 THE WITNESS: Am I aware that they did
20 not deny what?

21 BY MS. CARY:

22 Q. The DRB, Tidewater's Design Review
23 Board, did not deny the Nortons' home design plans
24 because of where the first finished floor was from
25 the base flood elevation but because of the overall

1 height of the structure?

2 A. Yes.

3 Q. In paragraph 18, you state, The City of
4 North Myrtle Beach is charged with strict adherence
5 and enforcement of this ordinance. Deference to
6 the superior authority of this ordinance is
7 necessary to maintain eligibility for coverage
8 under the National Flood Insurance Program over
9 time.

10 What do you mean by that last
11 statement?

12 A. There are communities who allow things
13 to happen that aren't in compliance with the
14 national federal rules, and those communities can
15 get in deep trouble. And the people who own
16 property in those communities can wind up with real
17 problems, terrible problems.

18 Q. Have you worked with the City of
19 North Myrtle Beach before?

20 A. No.

21 Q. Have you worked with planned
22 development districts or planned unit development
23 districts before?

24 A. Yes.

25 Q. Okay. And are you aware that, you

1 know, those PDD, you know, planned development
2 district agreements or planned unit development
3 agreements within the municipality is a zoning
4 ordinance for that community?

5 A. Yes.

6 Q. And would you agree that when a
7 homeowner buys a home in a community association,
8 they're agreeing to comply with the community
9 association's standards?

10 A. Yes.

11 Q. Paragraph 19, you say, Entities such as
12 Tidewater Plantation and its Design Review Board
13 have fiduciary duty to adhere to this ordinance to
14 prevent disqualification from NFIP coverage.

15 What authority do you have to support
16 that they owe a fiduciary duty?

17 A. Having been on an HOA board, you sit as
18 a fiduciary. You know, you have an obligation to
19 comply with the terms and conditions of the
20 ordinances. And particularly with flood because,
21 you know, a community can run into a lot of problem
22 with the NFIP if they don't adhere to the building
23 standards.

24 Q. Okay. And were you provided any
25 authority or told to assume that it's a fiduciary

1 duty in South Carolina?

2 A. It's just that's how I look at it.

3 Q. All right. Understood.

4 A. Okay? You know, I sit on an HOA board.

5 You know, we have property worth about
6 three-quarters of a billion dollars, and the things
7 that we do affect the value of that property. And
8 we need to maintain the facilities as opposed to
9 neglect. It's not an easy job. It's a hard job.

10 Q. And if I told you that the Tidewater
11 Association adheres to the FEMA regulations and
12 requires its owners to build at or 1 foot above
13 base flood elevation, would that change your
14 opinion at all?

15 MR. BELLAMY: Object to form.

16 THE WITNESS: That's a federal rule.
17 In fact, they've incorporated it into their own.
18 BY MS. CARY:

19 Q. And what do you mean they've adopted it
20 into their own? What do you mean?

21 A. The eligibility for federal flood
22 insurance requires the lowest floor to be built
23 1 foot above base flood elevation.

24 Q. Okay.

25 A. You know, I see HOA condominium

1 documents reflecting that as a minimum standard for
2 the height. I often tell them that could be a bad
3 decision.

4 Q. What would be a bad decision?

5 A. For your mandate to be 1 foot and --
6 particularly if your maps get changed.

7 Q. But wouldn't a homeowner be free to
8 build above that floodplain elevation?

9 A. The homeowners are free to build above
10 that.

11 Q. Right.

12 And do FEMA, you know, code and
13 regulations dictate NFIP standards or programs on
14 flood insurance coverage?

15 A. I don't know the exact relationship
16 between FEMA and NFIP.

17 Q. Okay.

18 A. They are --

19 Q. You know --

20 A. One may be a source of authority. The
21 NFIP is an insurance program.

22 Q. Okay. And do you have experience in
23 interpreting FEMA federal regulations?

24 A. Yes. No, not interpreting FEMA
25 regulations. I have a lot of experience with NFIP.

1 Q. Okay. And do you have experience
2 interpreting how, you know, a municipality, zoning
3 ordinance, PDD agreements, and those NFIP programs
4 interact?

5 A. I've seen a lot of them.

6 You know, the questions I get is from
7 people that are -- particularly people that are
8 going to build is, you know, They tell us we have
9 to build 1 foot above.

10 And I say, Do you want to do that? And
11 here are the reasons that you need to reconsider
12 that decision.

13 You know, I have a client that's got a
14 house built in 1927 on Virginia Beach, and all of a
15 sudden it's in a flood zone. You know, that's the
16 kind of thing that I see.

17 Q. Okay. And then so you just recommend
18 that they build further above the base flood
19 elevation?

20 A. Well, that house is existing since
21 1927, okay?

22 Q. Uh-huh.

23 A. But now it's in a flood zone.

24 Q. Okay.

25 A. They weren't before but now they are.

1 But when I'm talking to them about what the risk
2 is, you know, I'd say, Well, what is the elevation
3 of your lowest floor in proximity to the newly
4 established flood zone? And theirs fortunately was
5 fairly high.

6 But, you know, those are the kind of
7 situations that people come to me about.

8 Q. So let me pull up... I've got your
9 affidavit, paragraph 16, which cites the City of
10 North Myrtle Beach Ordinance. So it says under
11 this ordinance, When a home is in a flood zone, it
12 says, it shall be measured from the established
13 certified floor elevation.

14 Do you take that to mean the base flood
15 elevation?

16 A. No. The certified floor, as I read
17 that, is the floor that's supposed to be at least
18 1 foot above base flood elevation.

19 Q. Okay. So at least 1 foot above. And
20 so when you recommend that a homeowner go above
21 that, so, you know, they go to 4 foot above the
22 base flood elevation, is a certified floor
23 elevation still that 1 foot above base floor
24 elevation?

25 A. Well, the certified floor elevation, as

1 I understand that, that is the actual certified
2 floor of the structure.

3 Q. Okay.

4 A. You know, you have to have a
5 professional engineer certify that the -- what the
6 lowest floor is.

7 Q. Okay. So that would be the elevation
8 certificate?

9 A. Yes.

10 Q. Okay. So even if you recommend that a
11 homeowner build above that, it would still be
12 measured from that certified calculation?

13 A. No. The certified floor elevation is
14 the elevation that a surveyor certifies.

15 Q. Right. Right.

16 But if you recommend that, you know, a
17 homeowner goes above that and builds their first
18 finished floor above that certification that's
19 certified, under this height measurement standard,
20 would you still measure from the certified floor
21 elevation?

22 A. I think the measure of the floor
23 elevation on the house is what's being referred to
24 here as the certified floor elevation.

25 You know, my house is however many feet

1 above the base flood elevation by 3 feet. I'm
2 close to floodwaters. But that would be the
3 certified floor elevation for that house.

4 Q. Okay. Do you know of any FEMA
5 regulation or NFIP program regulation that deals
6 with how a residential structure's height is
7 measured, the overall structure?

8 A. The floor elevation is to be determined
9 by an architect or professional engineer or a
10 surveyor. And the people who become eligible to
11 perform these surveys have to go through a
12 three-day program of instruction. And I don't know
13 what that instruction entails.

14 I know what the result is, and I know
15 that the NFIP and FEMA have gone to great lengths
16 to separate the elevation measure from the
17 insurance side of things.

18 Q. What do you mean by that?

19 A. Well, they're looking for the science
20 and integrity of flood damage over time. And they
21 have the requirement that the surveys be performed
22 by an architect, an engineer, or a professional
23 surveyor who has completed three days of
24 instruction. And the body of information they
25 develop over 50 years is what's being used to

1 develop the solvency of the National Flood
2 Insurance Program.

3 Q. So does the height of a residential
4 structure impact an owner's ability to obtain NFIP
5 flood insurance coverage?

6 A. The roof height you mean?

7 Q. Yes.

8 A. No.

9 Q. If I told you that the Nortons' home
10 design plans exceed the height maximum under the
11 City of North Myrtle Beach Zoning Ordinance 23-106,
12 would you agree that the Tidewater DRB properly
13 denied the Nortons' home design plans?

14 MR. BELLAMY: Object to form.

15 You can answer, Jim.

16 THE WITNESS: Okay. Will you repeat
17 that, please?

18 BY MS. CARY:

19 Q. Of course. If I told you that the
20 Nortons' home design plans exceed the height
21 measurement under the City of North Myrtle Beach
22 Ordinance 23-106, which is the section cited at
23 paragraph 16 of your affidavit, would you agree
24 that the Tidewater Design Review Board properly
25 denied the Nortons' home design?

1 MR. BELLAMY: Again, same objection.

2 THE WITNESS: Okay. My understanding
3 is that property in a flood zone, building height
4 is treated differently than property that's not in
5 a flood zone.

6 BY MS. CARY:

7 Q. Are there any instances where it's not
8 treated differently?

9 A. Well, we're coming back to the measure
10 in a flood zone, and it's the midpoint between the
11 eave and the highest point of the roof. And what
12 DRB is doing is measuring from the peak of the
13 roof.

14 Q. And if I told you that the City of
15 North Myrtle Beach zoning department said that it
16 is to be measured from the peak, would that change
17 anything for you? Would that change your opinion?

18 MR. BELLAMY: Object to form.

19 THE WITNESS: Well, my concern is the
20 height of the lowest floor.

21 BY MS. CARY:

22 Q. Okay.

23 I think those are all the questions I
24 have for you. Thank you for your time today.

25 MR. BELLAMY: I have no further

1 questions.

2 (The witness, after having been advised
3 of his right to read and sign this transcript, does
4 not waive that right.)

5 (The deposition was concluded at
6 11:41 a.m.)

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CERTIFICATE OF REPORTER

I, Karen M. Beckman, Court Reporter and
Notary Public for the State of South Carolina at
Large, do hereby certify that the foregoing
transcript is a true, accurate, and complete
record.

I further certify that I am neither
related to nor counsel for any party to the cause
pending or interested in the events thereof.

Witness my hand, I have hereunto
affixed my official seal this 19th day of June,
2025, at Myrtle Beach, Horry County,
South Carolina.



Karen M. Beckman
Court Reporter
My Commission expires
September 2, 2025

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1 James Mahurin - Witness

2 jimmahurin@aol.com

3 June 24, 2025

4 RE: Tidewater Plantation Community Association, Inc. v. Norton,
Suzanne N., Et Al

5 6/10/2025, James Mahurin (#7351979)

6 The above-referenced transcript is available for
7 review.

8 Within the applicable timeframe, the witness should
9 read the testimony to verify its accuracy. If there are
10 any changes, the witness should note those with the
11 reason, on the attached Errata Sheet.

12 The witness should sign the Acknowledgment of
13 Deponent and Errata and return to the deposing attorney.
14 Copies should be sent to all counsel, and to Veritext at
15 cs-southeast@veritext.com.

16 Return completed errata within 30 days from
17 receipt of testimony.

18 If the witness fails to do so within the time
19 allotted, the transcript may be used as if signed.

20
21
22 Yours,

23 Veritext Legal Solutions
24
25

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Tidewater Plantation Community Association, Inc. v. Norton,
Suzanne N., Et Al

James Mahurin (#7351979)

E R R A T A S H E E T

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James Mahurin Date

1 Tidewater Plantation Community Association, Inc. v. Norton,
Suzanne N., Et Al

2 James Mahurin (#7351979)

3 ACKNOWLEDGEMENT OF DEPONENT

4 I, James Mahurin, do hereby declare that I
5 have read the foregoing transcript, I have made any
6 corrections, additions, or changes I deemed necessary as
7 noted above to be appended hereto, and that the same is
8 a true, correct and complete transcript of the testimony
9 given by me.

10
11 _____
12 James Mahurin

Date

13 *If notary is required

14 SUBSCRIBED AND SWORN TO BEFORE ME THIS
15 _____ DAY OF _____, 20____.

16
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18 _____
19 NOTARY PUBLIC
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[& - adventure]

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South Carolina Rules of Civil Procedure

Part V. Depositions and Discovery

Court Rule 30

(e) Submission to Witness; Changes; Signing.

When the testimony is fully transcribed the deposition shall be submitted to the witness for examination and shall be read to or by him unless such examination and reading are waived by the witness and by the parties. Any changes in form or substance which the witness desires to make shall be entered upon the deposition by the officer with a statement of the reasons given by the witness for making them. The deposition shall then be signed by the witness, unless the parties by stipulation waive the signing or the witness is ill or cannot be found or refuses to sign. If the deposition is not signed by the witness within 30 days of its submission to him, the officer shall sign it and state on the record the fact of the waiver or of the illness or absence of the witness or the fact of the refusal to sign together with the reason, if any, given therefor; and the deposition may then be used as fully as though signed unless on a motion to suppress under Rule 32(d)(4) the court holds

that the reasons given for the refusal to sign
require rejection of the deposition in whole or in
part.

DISCLAIMER: THE FOREGOING CIVIL PROCEDURE RULES
ARE PROVIDED FOR INFORMATIONAL PURPOSES ONLY.
THE ABOVE RULES ARE CURRENT AS OF APRIL 1,
2019. PLEASE REFER TO THE APPLICABLE STATE RULES
OF CIVIL PROCEDURE FOR UP-TO-DATE INFORMATION.

VERITEXT LEGAL SOLUTIONS

COMPANY CERTIFICATE AND DISCLOSURE STATEMENT

Veritext Legal Solutions represents that the foregoing transcript is a true, correct and complete transcript of the colloquies, questions and answers as submitted by the court reporter. Veritext Legal Solutions further represents that the attached exhibits, if any, are true, correct and complete documents as submitted by the court reporter and/or attorneys in relation to this deposition and that the documents were processed in accordance with our litigation support and production standards.

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