

1
2 IN THE CIRCUIT COURT
3 FOR BALTIMORE COUNTY, MARYLAND

4 COLLINS

5 VERSUS

CASE NO.
03-C-04-10227

6 SENEZ

7
8 _____ / December 11, 2006

9
10 REPORTER'S OFFICIAL TRANSCRIPT OF PROCEEDINGS

11 BEFORE THE HONORABLE SUSAN SOUDER, ASSOCIATE JUDGE

12
13 APPEARANCES ON BEHALF OF THE PLAINTIFF:

14 ROB THOMPSON, ESQUIRE
J. CALVIN JENKINS, ESQUIRE

15 ON BEHALF OF THE DEFENDANT:

16 BRADFORD CARNEY, ESQUIRE
17
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19
20
21

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BALTIMORE COUNTY CIRCUIT COURT

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1 PROCEEDINGS
2 * * * *

3 THE COURT: All right. Good morning, please
4 be seated.

5 MR. CARNEY: Good morning, your Honor.
6 MR. THOMPSON: Good morning, your Honor.
7 THE COURT: All right.
8 MR. THOMPSON: I will recall Steven Collins.
9 STEVEN EDWARD COLLINS,
10 a witness produced on call of the Plaintiff, having
11 first been duly sworn, was examined and testified as
12 follows:
13 THE WITNESS: I do.
14 THE CLERK: Thank you, you may be seated. For
15 the record, please state your full name and spell your
16 last name, again.
17 THE WITNESS: My full name is Steven Edward
18 Collins, address is 339 Worton Road, Baltimore 21221.
19
20 DIRECT EXAMINATION (Continued)
21 BY MR. THOMPSON:
22 Q. Mr. Collins, at 341 Worton Lane the property
23 owned by Linda Senez or Ms. Senez, I'm sorry, are there
24 security cameras?
25 A. Yes, sir, there are. There are several of

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4

1 them.
2 Q. When you say several, how many?
3 A. Five that I'm aware of.
4 Q. Now, Mr. Collins, do you know if those -- if
5 there is a tape being made from what the security
6 cameras are observing?
7 A. Well, there are signs that indicate they are
8 being recorded continuously, there are multiple
9 signs --
10 Q. Okay.
11 A. -- on the house, Senez house that is.
12 Q. Sir, have you ever seen any tape which has
13 been represented to be the security tape?
14 A. No, sir, I have not, but I presume --
15 MR. CARNEY: Objection.
16 THE COURT: All right. The objection is
17 sustained. You have to wait for another question.
18 THE WITNESS: The --
19 THE COURT: Just wait for a question from Mr.
20 Thompson.
21 MR. CARNEY: Objection.
22 BY MR. THOMPSON:
23 Q. Mr. Collins, do you believe your activities at
24 your yard at 339 Worton are being taped?
25 MR. CARNEY: Objection.

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1 THE COURT: Do you believe -- all right. The
2 objection is sustained.
3 BY MR. THOMPSON:
4 Q. Mr. Collins, have you been around to the
5 opposite side of 341 Worton Road?
6 A. I have.
7 Q. Have you observed security cameras on that
8 side of the house?
9 A. No, sir. There is none that I've seen on the
10 other side of her house. The ones that are out there
11 are basically on the front and the back, and two of
12 them or on our side of her property.
13 Q. You mentioned signage about the security
14 cameras, is there signage about the security cameras on
15 the opposite side of 331?
16 A. None that I have seen, but we have several of
17 them on our side of the house. The Senez house, one of
18 them is a very large sign that indicates that we need
19 to smile because we are on camera.
20 MR. CARNEY: Objection.
21 THE COURT: The objection is to him telling us
22 what the sign says?
23 MR. CARNEY: Not responsive to the question.
24 THE COURT: Not responsive. All right. The
25 objection is sustained.

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1 BY MR. THOMPSON:
2 Q. Mr. Collins, you've heard earlier in this
3 proceeding about flood lights and other types of lights
4 on the Senez property; is that correct?
5 A. Yes, sir.
6 Q. And if you can tell Judge Souder about how
7 many of these lights are there the Senez property?
8 A. Well, there is -- there is several combination
9 of lights, some flood lights, some of them are coach
10 lamp lights which emit a lot of light, if you will,
11 very bright.
12 Um, there are approximately 14 of them,
13 considering the garage, the back porch, and those that
14 run the driveway, side of the house, the boathouse.
15 Q. What, if any, impact do those lights have on
16 you, sir?
17 A. Well, it's like looking into the sunshine in
18 the middle of the night. It's, um, presumed to be for
19 security purposes but, um, that much light is like a
20 parking lot, if you will. Maybe to find your way home.
21 MR. THOMPSON: Your Honor, may I approach?
22 THE COURT: Yes.
23 BY MR. THOMPSON:
24 Q. Mr. Collins, I'm going show you what's been
25 previously offered into evidence as Plaintiff's

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1 Exhibit 7, is there an additional light indicated in
2 that photograph?

3 A. The, um, excuse me just a second, your Honor,
4 put my glasses on. Okay. I'm sorry. This -- this
5 particular picture indicates that there is a light
6 stuck inside of the drapery material in the window or
7 outside of it. Excuse me, that, um, helps to highlight
8 that window for the only purpose of certainly not
9 utilized internally.

10 MR. CARNEY: Objection. Objection.

11 THE COURT: All right. The objection is
12 sustained as to what the purpose is.

13 THE WITNESS: It is all external.

14 BY MR. THOMPSON:

15 Q. Now, Mr. Collins, also on Exhibit Number 7, I
16 believe you can see a part of the fence between the two
17 properties; is that correct, sir?

18 A. That is correct.

19 Q. Describe for Judge Souder what you see there
20 with regard to the fence?

21 A. Well, we know that, as we believe it to be, a
22 spite fence. Those -- those two by two materials have
23 point or edge, cut on them, and it's -- they are
24 screwed on the existing fence 48 inch high fence which,
25 you know, again raises it to a 60 inch high fence or

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1 better. We have to look at that from our property.

2 Q. Now, Mr. Collins, did you say spite or spike?

3 A. Combination of both words.

4 MR. CARNEY: Objection, move the strike.

5 THE COURT: All right. The objection is
6 overruled.

7 BY MR. THOMPSON:

8 Q. You may answer.

9 A. Those are spikes set on top of a fence to
10 generate spite.

11 Q. Okay. What, if any, impact does the fence
12 have?

13 A. What? Embarrassment. When any of our friends
14 or other neighbors show up and discuss that thing is
15 something they, obviously, look at and with amazement.

16 Q. Now, Mr. --

17 MR. CARNEY: Objection, move to strike the
18 characterization.

19 THE COURT: All right. The objection is
20 sustained.

21 MR. THOMPSON: Your Honor, the question was
22 what was the impact, and he said embarrassment?

23 THE COURT: He talked about other people.

24 MR. THOMPSON: Okay. So what part are we
25 striking, the whole response or just --

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1 THE COURT: What the reaction of other people
2 who had seen it.

3 MR. THOMPSON: Okay. Thank you.

4 THE COURT: His reaction may come into
5 evidence.

6 BY MR. THOMPSON:

7 Q. Mr. Collins, have you been around -- strike
8 that.

9 Mr. Collins, do these spikes appear on the
10 opposite side of Senez property, that is on the fence
11 between Ms. Senez and the neighbor opposite you?

12 A. No, sir, they don't.

13 Q. Mr. Collins, you've heard testimony, in fact,
14 I think you may have testified yourself that there was
15 once a friendly relationship between the Collins and
16 Ms. Senez, that is true, right?

17 A. That is true. Um, we had her key, she had our
18 key. We took care of their animals, she took care of
19 our animals. Um, we had several parties a year, each
20 of us.

21 Q. Did you invite her to your parties vice versa?

22 A. Yes, sir. Yes, sir. Yes, sir.

23 Q. Now, when you had a more friendly relationship
24 with Ms. Senez did you talk to her frequently?

25 A. Frequently enough, yes. Good morning, that

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1 kind of thing every day. If we were out in the yard,
2 she was going to work, coming home from work.

3 Q. Okay.

4 A. Yes, um --

5 Q. Now, is it true that at some point that
6 relationship changed?

7 A. Yes, sir, it did.

8 Q. How did it change?

9 A. Well, we felt that the relationship was based
10 on a trust knowing that each of us had keys to each
11 other's place and we did socialize, communicated.

12 And when she began to, this was after
13 Isabelle, understand that, um, she was in need of
14 repairing the tide wall that surrounded her terrace,
15 elevated terrace in her front yard. And she discussed
16 with us what that impact, we kind of discussed it with
17 her. We were kind of concerned what it might -- the
18 end result may look like relative to specifics of our
19 view of the expanded water over her land, if you will.
20 And she led us to believe that that would not be any
21 greater impact than what was existing.

22 Um, as construction continued it became
23 apparent to us that, again, this -- this structure was
24 taking on a shape much different than what was there
25 before. Um, we inquired about it and were told at one

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1 point she was only going to put 18 inch high fencing,
2 or railing around it. It would be an open railing.
3 You would be able to see through it. The impact,
4 again, is going to be negligible, not have any effect
5 on us.

6 Well, we made inquiry with the Department of
7 Environmental Protection, nothing that what was
8 happening was happening within the buffer zone of the
9 Chesapeake Bay Critical Areas.

10 Q. Mr. Collins?

11 A. Yes, sir.

12 Q. I think you are giving more of answer than I
13 want right now.

14 A. Okay.

15 Q. Let me ask another question or two.

16 A. At that point is when our relationship was
17 severed.

18 Q. All right. The relationship changed then
19 because of the wall she built or because of the calls
20 you made?

21 A. Because of the wall that they built and the
22 lack of ability to resolve the problem, or wish to
23 resolve the problem.

24 Q. Just so that I'm clear, was this -- the point
25 in time where the relationship changed, was that before

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1 or after the fence was built along the retaining wall?

2 A. That was after.

3 Q. Now, you indicate that you called DEPRM?

4 A. Department of Environmental Protection.

5 Q. Why did you call?

6 A. Well, we called because we felt that this
7 construction was taking place in the Chesapeake Bay
8 Critical Area. And we were looking for, did they, in
9 fact, bless what was taking place, meaning, did they
10 have permits. Did all the agencies put their
11 signatures and best wishes to it. If so, I believe
12 then at that point in time I really have no case
13 whatsoever.

14 But it turned out they had nothing. They were
15 building without a permit and without the blessings of
16 the environmental people. The impact of that structure
17 and dirt, mud, everything else that was accumulating at
18 the time, and Zoning had no idea what was happening
19 there.

20 MR. CARNEY: Objection as to what Zoning had
21 an idea of.

22 THE COURT: Objection is sustained.

23 BY MR. THOMPSON:

24 Q. Based on what your learned from inquiries with
25 DEPRM, did you make other telephone calls?

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1 A. I was advised by DEPRM to contact Code
2 Enforcement.

3 MR. CARNEY: Objection.

4 BY MR. THOMPSON:

5 Q. Mr. Collins, you can't tell me what they told
6 you, do just tell me what they you did based on what
7 they told you?

8 A. I'm sorry. I'm sorry. I called Code
9 Enforcement. They sent an individual out to verify,
10 they also knew at that time there was no permits --

11 MR. CARNEY: Objection.

12 THE COURT: All right. The objection is
13 sustained as to what this department knew.

14 BY MR. THOMPSON:

15 Q. Mr. Collins, you've heard that perhaps dozens
16 of phone calls were made to Zoning or Code Enforcement
17 or DEPRM, did you make dozens of calls?

18 A. Not to my knowledge, sir.

19 Q. Did you make more than one call?

20 A. Absolutely, yes.

21 Q. More than ten calls?

22 A. Doubtful.

23 Q. Mr. Collins -- strike that.

24 Your Honor, if I may approach the witness, I
25 would like to show him a survey, which I believe we've

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1 stipulated to. Brad?

2 THE COURT: All right.

3 MR. THOMPSON: This is your -- let me.

4 BY MR. THOMPSON:

5 Q. Let me show you a document Mr. Collins, ask
6 you to identify it for the Court?

7 A. It is a survey, drawing by Brian Dietz, Ms.
8 Senez's surveyor. It indicates the location of her
9 house, her property, our property, um, concrete boat
10 ramp and a boathouse, wood deck and patio wall.

11 Q. Okay.

12 A. That was constructed --

13 Q. Mr. Collins, there is a line on this survey
14 that's darker than the others; is that right?

15 A. Yes, sir.

16 Q. What does it appear to indicate?

17 A. That indicates an, I believe, the location of
18 the properties.

19 Q. Okay. And this is the Senez property
20 (indicating)?

21 A. That's correct.

22 Q. And so the -- the dark line indicates the
23 Senez property, property lines or boundary, correct?

24 A. Yes, sir. Yes, sir, it does.

25 Q. I'm going to show you another survey, sir --

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1 another survey, sir, which has been stipulated to --
 2 housekeeping, your Honor, I think this would be -- the
 3 first survey would be, I've shown Mr. Collins this
 4 morning would be Joint 2, if we are stipulating to
 5 that?

6 MR. CARNEY: That will be fine.
 7 (Joint Exhibit No. 2 was marked for
 8 identification.)

9 MR. THOMPSON: This survey will be marked as
 10 Joint Exhibit 3 and --
 11 (Joint Exhibit No. 3 was marked for
 12 identification.)

13 BY MR. THOMPSON:

14 Q. What does it appear to show?

15 A. That was the survey formed for us by Mr.
 16 Matis.

17 Q. When this was survey made?

18 A. 6/25/04. That was at the time frame of our
 19 relationship demise with Ms. Senez.

20 Q. All right. Now, Mr. Collins, now, you are not
 21 a surveyor, right?

22 A. No, sir.

23 Q. Okay. Not being surveyor can you tell whether
 24 these surveys agree on the location of the shared
 25 property line between the Collins and Senez?

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1 A. I believe they do, sir.

2 Q. Okay.

3 MR. THOMPSON: Thank you, sir.

4 THE COURT: All right. Joint Exhibit 2 and 3
 5 are admitted into evidence.

6 (Joint Exhibit Nos. 2 and 3,
 7 previously marked for identification,
 8 were received in evidence.)

9 MR. THOMPSON: Thank you, your Honor. Now,
 10 Mr. Collins -- may I approach again, your Honor?

11 THE COURT: Yes.

12 BY MR. THOMPSON:

13 Q. I'm going to show you an exhibit provided by
 14 Mr. Carney --

15 MR. THOMPSON: We'll use it as a Joint Exhibit
 16 if it is acceptable to Her Honor.

17 THE COURT: This will be Joint Exhibit 4.

18 MR. THOMPSON: Yes, ma'am.

19 THE COURT: All right.

20 (Joint Exhibit No. 4 was marked for
 21 identification.)

22 THE COURT: All right. So we have -- we have
 23 Joint Exhibit 2, Joint Exhibit 3. Joint Exhibit 2 is
 24 Dietz, D I E T Z, survey; Matis, M A T I S, survey.
 25 Joint Exhibit 3, one dated June 24, Joint 2, and Joint

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1 3 is June 25th. Show the same shared property line
 2 according to testimony just commissioned by the
 3 parties.

4 MR. THOMPSON: Right.

5 THE COURT: One was commissioned by the
 6 plaintiff and defendant.

7 MR. THOMPSON: Yes. The smaller of the two
 8 Matis, is the Collins, the larger of the two is Senez
 9 survey.

10 THE COURT: All right.

11 BY MR. THOMPSON:

12 Q. Now, Mr. Collins, this -- this document is a
 13 typographical map; is that correct?

14 A. Yes, sir.

15 Q. And on it are indicated the Senez property and
 16 the Collins property; is that right?

17 A. That's correct.

18 Q. Okay. And from this document can you tell
 19 whether there is an elevation difference at the water
 20 side of the house or front side of the house between
 21 the Senez property and Collins property?

22 A. Yes, sir, there is.

23 MR. THOMPSON: Um, I guess we'll have this one
 24 marked. Your Honor, I would like to put this one in
 25 the easel, if I could, but would you like to review it

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1 before I do that?

2 THE COURT: No, that's fine.

3 MR. THOMPSON: The reason I would like to put
 4 that in the easel, your Honor, is that I would like to
 5 ask Mr. Collins to indicate with colored pencil on
 6 additional copy of number two, Joint 2, where the areas
 7 of dispute are for the Court.

8 THE COURT: All right.

9 MR. THOMPSON: Unless the Court thinks that is
 10 superfluous.

11 THE COURT: No, that's fine.

12 BY MR. THOMPSON:

13 Q. Mr. Collins, will you accompany me over to the
 14 easel. Mr. Carney may join us over here if he wants
 15 to, that will be up to him.

16 This is an additional copy of Joint Exhibit 2,
 17 and we took a moment this morning and made some pencil
 18 marks on this document, did we not, sir.

19 A. Yes, we did.

20 Q. Now, the area that we've colored in in blue,
 21 we've made a key here said this is the disputed area
 22 claimed by Mrs. Senez, would that be your testimony?

23 A. That is what she is claiming.

24 Q. If you were marking it with a pencil this very
 25 moment, the area that is in purple we have indicated

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1 that is the disputed area claimed by you and your wife,
2 is that true?
3 A. That's correct.
4 Q. Now, are there any other areas of dispute to
5 your knowledge between you and Ms. Senez that would be
6 depicted on, indicated on this survey?

7 A. Well, there is a segment of the boat ramp
8 which we have had that colored in as well.

9 Q. Did we mark that in light blue?

10 A. Other than, I'm not aware of any.

11 MR. THOMPSON: Okay. Your Honor, I think I'm
12 prepared to yield this witness to Mr. Carney.

13 THE COURT: What has been colored in
14 Plaintiff's Exhibit 28, which is a copy of a Joint
15 Exhibit 2, is that correct?

16 MR. THOMPSON: Yes, ma'am.

17 THE COURT: So this will be 27?

18 THE CLERK: He had 27 photos, there were only
19 26.

20 THE COURT: Okay. I didn't have anything
21 admitted, just identified. All right. So this will be
22 Exhibit 27.

23 MR. THOMPSON: Plaintiff's Exhibit 27.

24 THE COURT: Topographical, this is --

25 MR. THOMPSON: Copy of the Senez survey.

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1 THE COURT: Copy of Joint Exhibit 2, I think
2 showing the disputed area. All right. Plaintiff's
3 Exhibit 27 will be admitted.

4 (Plaintiff's Exhibit No. 27,
5 previously marked for identification,
6 was received in evidence.)

7 THE COURT: Let me see that. All right. Mr.
8 Carney.

9 MR. CARNEY: Thank you, your Honor.

11 CROSS EXAMINATION

12 BY MR. CARNEY:

13 Q. Mr. Collins are you retired, sir?

14 A. Yes, sir.

15 Q. From where?

16 A. From Oles Envelope Corporation.

17 THE COURT: O L E S Envelope Corporation. I'm
18 sorry, what was that?

19 BY MR. CARNEY:

20 Q. And you have no background in mechanical
21 engineering or surveying?

22 A. Which question am I answering?

23 Q. Mechanical engineering. What is your
24 background?

25 A. Bachelor of science from College Park.

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1 Q. BS, College Park. Did you utilize that in
2 your career?

3 A. Yes, sir.

4 Q. You were a mechanical engineer for the Oles
5 Corporation?

6 A. Yes, sir.

7 Q. Did you retire from there?

8 A. Yes, sir.

9 Q. What year was that?

10 A. 2000.

11 Q. You are not working now?

12 A. No, sir.

13 Q. Now, when you bought this house you bought it
14 in 2000 with your wife, correct?

15 A. That is correct.

16 Q. Was this to be a second home or your primary
17 residence?

18 A. Primary residence.

19 Q. And did you actually move in before you
20 decided to raise the building?

21 A. No, sir.

22 Q. You did not. So that decision was made before
23 you took possession.

24 The decision to raise the building was made by
25 you and your wife before you took possession, before

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1 you moved in?

2 A. We took possession of the property in
3 August 2000.

4 Q. Talking about the dwelling, you didn't move
5 furnishings in and move into the house?

6 A. That's correct.

7 Q. That's what I'm asking you?

8 A. Yes.

9 Q. When did you buy the house in 2000, what
10 month?

11 A. August.

12 Q. When did you have it demolished?

13 A. Two months -- October.

14 Q. Two months or thereabouts?

15 A. That's correct.

16 Q. Did you have an architect assist you in
17 drafting plans for your new home?

18 A. We had a draft plan. I did some of the design
19 work, the fit of the house, if you will, to our
20 desires. He drafted it, we had a design built
21 contractor.

22 Q. And you had survey work done at that time?

23 A. We had survey work done prior to construction,
24 yes, sir.

25 Q. In the year 2000?

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1 A. In the year 2000.
 2 Q. Boundary survey or location, do you know the
 3 difference?
 4 A. No, sir, I don't.
 5 Q. As a mechanical engineer you don't know the
 6 deference?
 7 A. Correct.
 8 Q. The location -- locate the particular
 9 improvement in the lot lines, is that what you had
 10 done?
 11 A. Yes, sir.
 12 Q. He didn't mark the corners?
 13 A. Yes, sir, he did. The corners were marked.
 14 Q. That survey, he didn't review the lot lines
 15 with you?
 16 A. Not as I viewed them -- not as I viewed the
 17 lot lines. On the other side of the concrete wall,
 18 yes, sir.
 19 Q. No steps were taken in 2001 to voice any
 20 objection, to voice any improvements Ms. Senez may have
 21 made prior to the time you took possession of the
 22 property that Ms. Senez made, correct?
 23 A. No, sir.
 24 Q. You and your wife, when you moved on the
 25 property you indicated you became very friendly with

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1 Ms. Senez, had keys to one another's homes, correct?
 2 A. That's correct.
 3 Q. She used to walk your dog every now and then,
 4 correct?
 5 A. Correct.
 6 Q. Enjoyed drinks, cocktails with each other on
 7 your deck, maybe her home?
 8 A. That's correct.
 9 Q. Your home, when you purchased it, included a
 10 pier, did it not?
 11 A. Did you we have a pier?
 12 Q. Pier?
 13 A. Yes.
 14 Q. And that pier is still there?
 15 A. Yes, sir.
 16 Q. And that pier your wife testified is accessed
 17 only by walking out it, out onto it?
 18 A. That's correct, sir.
 19 Q. You have a boat you maintain there?
 20 A. Yes, sir.
 21 Q. Where do you launch that boat?
 22 A. Maryland Marina.
 23 Q. Is it a public launching facility?
 24 A. Private.
 25 Q. Private. Are you a member of Maryland Marina?

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1 A. By that do you mean that you pay to have it
 2 launched?
 3 Q. Pay as you go?
 4 A. Yes.
 5 Q. Not a private yacht club?
 6 A. No.
 7 Q. Where do you keep your boat?
 8 A. Keep my boat?
 9 Q. When in the water where do you keep it?
 10 A. At that pier, at my pier.
 11 Q. Okay.
 12 MR. CARNEY: May I approach, your Honor?
 13 THE COURT: Yes.
 14 BY MR. CARNEY:
 15 Q. Let me show you a picture, Mr. Collins, ask
 16 you to tell the Court, please, what is represented?
 17 A. A small homemade ramp.
 18 Q. That ramp goes down into the water?
 19 A. That's correct.
 20 Q. Sort of runs parallel to your pier itself?
 21 A. That's correct.
 22 Q. And is that ramp something that you
 23 constructed or had constructed for you?
 24 A. That's correct.
 25 Q. When was that done for you?

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1 A. When was that done? I believe that was done
 2 after we had the limitation put on us for our property
 3 on the other side of that concrete wall and access to
 4 that boat ramp.
 5 Q. Limitation put on you, so you were blocked
 6 from going to, I'm trying to understand what you are
 7 saying, what limitation are you referring to?
 8 A. Um, peace order.
 9 Q. This picture fairly and accurately depicts the
 10 condition of your property and the ramp that was on the
 11 bulkhead, does it not?
 12 A. Yes, sir it does.
 13 MR. CARNEY: All right. I will move this into
 14 evidence.
 15 THE COURT: Defense Exhibit 10.
 16 (Defendant's Exhibit No. 10 was marked for
 17 identification.)
 18 THE COURT: All right. It will be admitted.
 19 (Defendant's Exhibit No. 10,
 20 previously marked for identification,
 21 was received in evidence.)
 22 MR. CARNEY: Thank you, your Honor.
 23 BY MR. CARNEY:
 24 Q. So when Mrs. Collins testified under oath the
 25 only way to get to the pier was to walk out on the pier

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1 she was incorrect?

2 A. No, sir.

3 Q. You can also get on the pier by walking out
4 the ramp?

5 A. No, sir.

6 Q. You cannot. Where does the ramp go?

7 A. Into the water.

8 Q. Into the water. What is it used for?

9 A. Our dogs go up and down, in and out of the
10 water, run after toys. We used to do that as neighbors
11 together on the concrete ramp, on the boat ramp on the
12 other side.

13 Q. I see.

14 A. Okay. When that was eliminated, the problems
15 with us going over there without the peace order, we
16 put the ramp in, our dog continued to go in and out of
17 the water or use that. At that point the slides, the
18 canoes down or kayaks and get into the canoes or canoe
19 out of the homemade ramp.

20 Q. This peace order --

21 A. You cannot get to the water off the pier
22 without jumping.

23 Q. You cannot get to the water without jumping?

24 A. Yes, sir. You don't do that in Middle River.

25 Q. You consented to the entry of that peace

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1 order?

2 A. I'm sorry?

3 Q. You consented to the entry of this peace
4 order, did you not?

5 A. Consented to entry?

6 THE COURT: Well, it indicates by consent.

7 BY MR. CARNEY:

8 Q. Okay. Now, Mr. Collins, it is a long way from
9 having drinks on somebody's porch to filing a seven
10 count complaint in the Circuit Court for Baltimore
11 County, wouldn't you agree?

12 A. Agree.

13 Q. You don't like Miss Senez one little bit, do
14 you, sir?

15 A. Do I trust her?

16 Q. No, like her?

17 A. Well, you have to begin with trust in order to
18 get to the point of liking somebody.

19 Q. You don't trust her and you don't like her,
20 correct?

21 A. It's been proven.

22 Q. You have pursued this lawsuit doggedly as
23 result of those feelings for her, correct?

24 A. Doggedly meaning what, sir.

25 Q. I think you know what the word doggedly means,

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1 sir?

2 THE COURT: Mr. Carney, that is unacceptable.
3 He asked what word meant. I won't tolerate you making
4 comments. You may ask questions.

5 MR. CARNEY: Very well, your Honor.

6 BY MR. CARNEY:

7 Q. Mr. Collins, when Isabelle struck in the
8 spring of 2004 -- 3, pardon me, 2003?

9 THE COURT: It wasn't in the spring.

10 BY MR. CARNEY:

11 Q. I mean the fall, it was the fall, pardon me,
12 your house suffered minor damage; isn't that a fair
13 statement?

14 A. We are very fortunate.

15 Q. You were indeed?

16 A. Very fortunate relative to a lot of other
17 folks out there.

18 Q. Mrs. Senez's house didn't fair quite as well,
19 isn't that true?

20 A. No hers did not.

21 Q. Suffered pretty significant damage,
22 necessitated her having to do a lot of work, would you
23 agree with that?

24 A. Yes, sir.

25 Q. Part of that work was replacement of what we
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1 all referred to as the railroad tie wall that existed
2 at the time the storm hit?

3 A. That's correct, sir.

4 Q. You testified that there was some discussions
5 between the two of you regarding your view as it was
6 impacted by the erection of the new replacement wall;
7 do you recall that testimony?

8 A. Yes, sir.

9 Q. And you want this court to believe that you in
10 some way or Ms. Senez asked for your permission to
11 build a wall in a certain fashion, you had some sort of
12 input how it was to be designed and constructed?

13 A. We were neighbors.

14 Q. You were neighbors?

15 A. Yeah. What happens in my front yard is
16 discussed with all my neighbors.

17 Q. Did she seek your permission to build the wall
18 in a particular fashion?

19 A. No, no.

20 Q. She built the wall as she pleased, correct?

21 A. Obviously.

22 Q. You were unhappy with and continued to be
23 unhappy with how she built that wall?

24 A. The wall is considerably higher than what was
25 there before. We were led to believe that the wall was

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1 going to be a replacement in the same, it was not.
2 Q. Sir, does she have a right to build that wall
3 as high or low as she pleases on her own property?

4 A. Not if it impacts the buffer zone of the
5 Chesapeake Bay.

6 Q. The buffer zone --

7 MR. THOMPSON: Objection, your Honor.

8 THE COURT: All right. Let me Mr. Collins
9 finish his answer.

10 THE WITNESS: Repeat your question, sir.

11 BY MR. CARNEY:

12 Q. Was the buffer zone of the Chesapeake Bay in
13 your opinion violated in some fashion by the erection
14 of this wall?

15 A. My opinion was after the conversation with the
16 people in the Environmental Protection Department they
17 led me to believe that that was.

18 Q. You -- I'm sorry, I thought you were finished.

19 A. And no permits were issued for the reason
20 that, obviously, the permits wouldn't have been issued
21 if she went before she built the wall.

22 Q. You said the permits were not issued, were not
23 issued at the time you made initial contact with Zoning
24 and Building Code Enforcement and DEPRM?

25 A. That's correct.

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1 Q. You are aware that the necessary permits were
2 all issued by the various regulatory agency charged
3 with issuing and regulating the construction of
4 properties in waterfront areas, you are aware that
5 that's the case?

6 A. Could you ask that question again, sir, I -- I
7 was in another thought progression.

8 MR. CARNEY: Could I ask the court reporter to
9 read it back.

10 (WHEREUPON, the court reporter read
11 back the question.)

12 THE WITNESS: Some form of permits.

13 BY MR. CARNEY:

14 Q. You indicated earlier a response --

15 A. After the fact permits.

16 Q. After the fact permits, but the fact of the
17 matter is the permits were issued, correct?

18 A. All built first, asked later, yes.

19 Q. You weren't happy about that, were you?

20 A. No, sir.

21 Q. You are not happy now, you were not happy then
22 when you found out about it?

23 A. No, sir.

24 Q. You call DEPRM, had them come out to the
25 property, did you meet with any representative with the

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1 Department of Environment?

2 A. Over here in this building?

3 Q. Did they come inspect the property as far as
4 you know?

5 A. I'm told they did.

6 Q. You were advised there was no violation, is
7 that correct?

8 A. That is incorrect, only so many square feet,
9 it is not a big deal.

10 Q. No building code violation, no environment
11 violation, no wetlands violation, isn't that true?

12 A. The signatures were on the paperwork.

13 Q. I see. You questioned the county authority in
14 some fashion, you think the signatures were erroneous?

15 A. I'm not certain of that.

16 Q. So in addition to calling various regulatory
17 agencies, you called the zone people, hired a zone
18 lawyer, filed a protest about the deck Ms. Senez put on
19 the front of her house, correct?

20 A. Correct.

21 Q. And that matter is still pending?

22 A. Yes, sir.

23 Q. Ms. Senez also --

24 THE COURT: What matter is still pending?

25 MR. CARNEY: Yes, ma'am, the zoning matter.

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1 THE COURT: Zoning matter regarding which --
2 what issue?

3 MR. CARNEY: There is a deck on the front of
4 Ms. Senez's house it is alleged violative of the zoning
5 matter in some fashion. I do not represent her in that
6 matter.

7 THE COURT: All right. Okay.

8 BY MR. CARNEY:

9 Q. Ms. Senez put up the new wall, so we are all
10 clear about what we're talking about.

11 MR. CARNEY: If I may put this up on the
12 easel.

13 THE COURT: All right.

14 MR. CARNEY: Is there another one up here
15 behind the bench already in evidence, may I have that,
16 please?

17 For the record, I'm referring to Defendant's
18 Exhibit Number 2. May I approach, your Honor.

19 THE COURT: Yes.

20 BY MR. CARNEY:

21 Q. Mr. Collins, we keep talking about a wall
22 here, for the record so that we're all clear about what
23 we're talking about, we're talking about this wall
24 here, are we not (indicating)?

25 A. That's correct, sir.

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1 Q. Talking about from here to here (indicating)?
 2 A. That's correct.
 3 Q. From where the stone works end to the east?
 4 A. The stone working under the structure.
 5 Q. Right.
 6 A. Of the porch.
 7 Q. Right.
 8 A. If you will and what is happening with the
 9 Zoning Commission right now.
 10 Q. I didn't -- I didn't --
 11 A. The structure --
 12 Q. That's not -- I didn't ask about the Zoning
 13 Commission, that is not before this court. I want to
 14 make sure --
 15 A. I was mentioning what you were arguing over,
 16 that's one of the points I'm trying to make.
 17 Q. This wall replaced the railroad tie wall?
 18 A. Yes, sir.
 19 Q. Underneath?
 20 A. Yes, sir.
 21 Q. The railroad tie wall ran to the base of this
 22 structure, of this patch (indicating)?
 23 A. No, sir.
 24 Q. What supported the porch?
 25 A. Dirt. Dirt held back by the railroad tie

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1 wall.
 2 Q. This porch, however, the elevation of the
 3 porch off the ground is the same?
 4 A. That's correct.
 5 Q. As it was prior to the storm?
 6 A. Yes, sir.
 7 Q. The house in that regard has not changed at
 8 all in terms of elevation?
 9 A. That's correct.
 10 Q. All right. So the wall beneath it prior to
 11 the storm, it's your testimony was partially dirt and
 12 partially, I think, creosote railroad ties?
 13 A. The dirt was being held in place by railroad
 14 ties, that's correct.
 15 Q. So this wall is no higher than the dirt and
 16 railroad ties, correct, just different?
 17 A. The wall is higher.
 18 Q. Well, sir, if the elevation of the porch --
 19 A. I didn't agree with that.
 20 Q. How could the wall be higher?
 21 A. Because the wall that was there before did not
 22 extend under the porch, as you have depicted here
 23 with to the step work up here (indicating).
 24 Q. What supports the porch? What supports the
 25 porch?

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1 A. I'm sure --
 2 Q. We have picture.
 3 A. Certainly some form of pilings on the porch
 4 that support it on the dirt. In fact, as I recall,
 5 lattice screening of some sort around it.
 6 Q. I'm going to show you this picture, if I may,
 7 does that picture represent what the house looked like?
 8 THE COURT: May I see it? Mr. Collins, will
 9 you turn around so I may see what you have in your
 10 hand? Okay. That is what we have in black and white,
 11 Plaintiff's Exhibit 23.
 12 MR. CARNEY: May I substitute this color
 13 photograph for 23 to make things a little easier, I
 14 think. Is that all right with you?
 15 MR. THOMPSON: Your Honor, I don't think
 16 that's the same as 23, this is shot is from the front,
 17 and 23 is --
 18 THE COURT: I thought this is what Mr.
 19 Collins --
 20 MR. THOMPSON: I see you have a different one
 21 than what you gave me.
 22 MR. CARNEY: I'm sorry.
 23 MR. THOMPSON: I'm sorry, that is Plaintiff's
 24 Exhibit 23.
 25 THE COURT: All right. Plaintiff's

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1 Exhibit 23. We now have in black and white. Are you
 2 going to introduce -- the black and white photo is very
 3 difficult to see anything.
 4 MR. CARNEY: May I pass this up?
 5 BY MR. CARNEY:
 6 Q. Looking at Plaintiff's 23, Mr. Collins, do you
 7 see the porch that we're talking about here?
 8 A. Yes.
 9 Q. On the front?
 10 A. Um-hum.
 11 Q. Underneath the porch is supported by a
 12 railroad tie wall, I suspect dirt, as you have
 13 indicated, and some other form of construction
 14 material, I can't tell you what it is?
 15 A. Um-hum.
 16 Q. Probably some sort of framing?
 17 A. Obviously, framing of some nature supporting
 18 the porch.
 19 Q. Now, in the storm was that washed out?
 20 A. How much --
 21 Q. Some of that was washing out underneath the
 22 porch that gave it support?
 23 A. I'm not aware of anything washing out under
 24 the porch. I'm aware the door here goes into the
 25 basement, there was water well over that entry and much

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1 of the damage that she suffered was into her basement,
2 not into this wall area at all (indicating).

3 Q. Now, was the railroad tie wall compromised by
4 the water, as far as you know?

5 A. No, sir, no, sir. I would say that the wall
6 was pretty much the same as it was before the storm,
7 sir.

8 Q. She made the decision as the owner of the
9 property --

10 A. That's correct.

11 Q. -- to replace the wall that you see in Exhibit
12 28?

13 A. Its condition was of a bad nature,
14 questionable nature.

15 Q. With the wall that you see in 22 as the home
16 owner she made that decision?

17 A. Yes, sir.

18 Q. You would agree with me, would you not?

19 A. Yes, sir.

20 Q. Now, on top of -- on top of the wall as
21 depicted in Exhibit Number 2, that is a railing,
22 correct?

23 A. Yes, sir.

24 Q. You had some discussions with Mrs. Senez about
25 the railing, did you not?

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1 A. That's correct.

2 Q. Did you voice objection to that railing?

3 A. Yes, sir, we did.

4 Q. What was the basis of that objection?

5 A. The diminishing of the water view that we felt
6 we had enjoyed up until that time.

7 Q. Now, this tree is on your property is it not
8 (indicating)?

9 A. Yes, sir, it is.

10 Q. And I believe, correct me if I'm wrong, you
11 have had this tree trimmed, the branches trimmed to a
12 pretty high height in order to facilitate your view to
13 the northeast? Is that correct?

14 A. That would be correct, yes, sir.

15 Q. Okay. Did you have any agreement with Ms.
16 Senez's predecessor in title regarding the view? Did
17 you have any kind of view easement or written document?

18 A. No, sir.

19 Q. Well, tell me, please tell the Court what the
20 basis of your belief is that you have a right to any
21 particular kind of view?

22 A. The situation with that decking material
23 that's there, it is a structure that is put into the
24 front yard of that water front property, sir, and by
25 county code that is inadmissible.

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1 Q. Well, the county code, you called the
2 enforcement people as one of the phone calls you made,
3 you would agree?

4 A. Yes, paperwork that says she has a permit now,
5 after it was built.

6 Q. Everything she has done from a construction
7 perspective has met Baltimore County Code requirements?

8 A. That had no inspection capacity prior to the
9 construction of it --

10 Q. Sir, I need to finish question.

11 A. Sorry, sir.

12 Q. All the construction Ms. Senez has done on her
13 property has been done with permits, some, all be it,
14 after the fact; secondly, they have passed inspection,
15 isn't that true?

16 A. No, sir.

17 Q. To the best of your knowledge?

18 A. No, sir.

19 Q. Tell me what she has done that hasn't passed
20 inspection?

21 A. Um, first of all, let's go through what she
22 has over there, never applied for permit until after
23 the fact.

24 THE COURT: All right. You can't change the
25 question, Mr. Collins, you have to answer the question

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1 Mr. Carney asked. What do you contend has not passed
2 inspection, anything that has been inspected which did
3 not pass, I think that is Mr. Carney's question.

4 BY MR. CARNEY:

5 Q. It is.

6 A. I'm not aware of inspections taking place.

7 Q. You're not aware of any violation, are you?

8 A. Yes, sir, I am.

9 Q. Building code violations, building code
10 violations, sir?

11 A. Building code violations, yes, sir.

12 Q. Okay.

13 A. Zoning code violations, sir.

14 Q. You object to Ms. Senez's floodlight system
15 that she has at her house, correct? That's a yes or no
16 answer, sir. Do you object to her floodlighting she
17 has at her house?

18 A. Absolutely.

19 Q. You object to it because you think it is too
20 bright?

21 A. I think she is harassing us.

22 Q. Harassing you?

23 A. Yes, sir.

24 Q. By putting up too many floodlights?

25 A. When she found out we had a dislike for them

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1 they multiplied.
 2 Q. I see.
 3 A. Absolutely.
 4 Q. She lives in her home with her elderly dad?
 5 A. Yes, sir, and boyfriends.
 6 Q. Boyfriends. She lives in her home with
 7 father; isn't that true?
 8 A. Today you are correct.
 9 Q. For many, many months?
 10 A. You are correct.
 11 Q. And you say she has floodlights and coach
 12 lights, when you say coach lights, I think we all know
 13 what a floodlight is, I'm not sure I know what a coach
 14 light is, what do you mean by that?
 15 A. Porch light ornamental.
 16 Q. A light?
 17 A. Bulb.
 18 Q. Fixture?
 19 A. Yes, sir.
 20 Q. Fixture attached to the building itself?
 21 A. Yes, sir.
 22 Q. Hardwired in?
 23 A. Um-hum.
 24 Q. Well, how many coach lights does she have
 25 hardwired to the exterior of her dwelling?

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1 A. Six.
 2 Q. And you using Exhibit 2 as a reference point,
 3 if I may again approach, your Honor, are any of them
 4 located here on what I'll call, this is the north side
 5 of her building, is it not?
 6 A. That's correct.
 7 Q. Your house here (indicating), this picture was
 8 taken from your porch?
 9 A. Yes, sir.
 10 Q. Where are any of the lights on this side of
 11 the house, north side of the house?
 12 A. Specifically which one?
 13 Q. Let's start with coach lights.
 14 A. Right, here's one (indicating).
 15 Q. That would be beside the doorway?
 16 A. Beside the doorway going to the basement.
 17 Q. Do you find anything unusual about a -- a
 18 person who has a coach light or light fixture leading
 19 to a basement?
 20 A. If utilized as needed basis, 24 hours is not
 21 as needed basis.
 22 Q. Sir, my question to you, anything unusual --
 23 A. I answered.
 24 Q. -- unusual about a person having a light
 25 besides a door leading to a basement?

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1 A. No.
 2 Q. Okay. Where else do we have a light?
 3 A. Unfortunately, your picture here is not the
 4 entire structure, sir.
 5 Q. Not -- it is not?
 6 A. There is two on the back porch, three on the
 7 garage, two more up on driveway and a floodlight on
 8 both sides of the garage.
 9 Q. Are these activated?
 10 A. I may also add, nothing to be seen -- seen
 11 from the other side, if you will, the south side of
 12 property for any purposes of security. I believe you
 13 would want the entire house surrounded by these 24-hour
 14 lights. I stand corrected, not 24 in all cases, some
 15 are, some are not, many dawn to dusk lit.
 16 Q. Are these lights activated by photocells --
 17 A. Some are.
 18 Q. -- if you know. Some are.
 19 When it gets dusky out the light goes on and
 20 goes off by dawn, is the fair statement the ones
 21 activated by photocells?
 22 A. Yes, sir.
 23 Q. That is traditional security type of light?
 24 A. Wait a minute, activated with photocell, when
 25 it gets dark they come on.

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1 Q. Correct.
 2 A. Stays on until the sun comes up in the
 3 morning.
 4 Q. Right.
 5 A. We understand.
 6 Q. Traditional security type of lights, dusk to
 7 dawn?
 8 A. No, traditional would be as I drive in my
 9 driveway my light comes on by motion, motion sensor,
 10 and they turn off 15 minutes later.
 11 Q. That's how you chose to live your life on your
 12 property, which you have a right to, do you not?
 13 A. That's because I don't consider mine to be a
 14 parking lot that needs to be lit 24 hours a day.
 15 Q. Ms. Senez is free to utilize lights on the
 16 exterior portions she deems appropriate for security
 17 purposes, does she not?
 18 A. I presume so, if it is only for security, not
 19 for harassment, I believe you are correct.
 20 Q. Now, the boathouse only has one light on it,
 21 isn't that true?
 22 A. No, sir.
 23 Q. How many lights does the boathouse have on it?
 24 A. One primary on all the time.
 25 Q. Which has been moved to inside of the

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1 boathouse, has it not?
 2 A. Yes, sir, it has.
 3 Q. None on the exterior portion of the boathouse
 4 so you can't see that light standing on your deck?
 5 A. We can't see the light bulb.
 6 Q. May see the illumination on the interior?
 7 A. Correct.
 8 Q. You see the fixture?
 9 A. Um-hum.
 10 Q. That was moved --
 11 A. That's correct.
 12 Q. -- by her to accommodate any problem or
 13 objection that you may have had to the boathouse light
 14 on the exterior of the building was it not?
 15 A. I don't know that for a fact, sir.
 16 Q. But it was moved during the course of this
 17 litigation?
 18 A. Had construction work down on the boathouse.
 19 She also added additional, if you will, motion detector
 20 flood lamps on the boathouse that do activate as she
 21 approaches them and eventually turn themselves off,
 22 that is security light in my opinion.
 23 Q. Let's talk about security cameras that you
 24 discussed earlier. The security cameras were installed
 25 by Ms. Senez after she took possession of the property;

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1 is that correct?
 2 A. Long time after that, sir, they were after.
 3 Q. She has four, five there?
 4 A. Probably in last year and a half five that I'm
 5 aware of.
 6 Q. Actually four?
 7 A. Five, excuse me. One that was put on there
 8 earlier.
 9 Q. And you have indicated you never seen any
 10 tapes generated by the security cameras?
 11 A. No, sir.
 12 Q. You never subpoenaed any of these tapes in
 13 this litigation?
 14 A. No, sir.
 15 Q. And is it your testimony that you find it
 16 unusual that a woman living with her 70-year-old father
 17 would have security cameras going on the outside of
 18 house for personal security reasons?
 19 A. If that was true then that would have been one
 20 of the first things she would have installed on that
 21 house. She chose not to do that, sir, until after,
 22 well, I'm going to tell you only a year and a half,
 23 again, four were placed. Single one was placed
 24 probably back in after the conflict of began.
 25 Q. Mr. Collins, you are aware, are you not, that

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1 Ms. Senez installed the security cameras after she had
 2 two criminal acts perpetrated against her property, are
 3 you not?
 4 A. No, sir, I'm not.
 5 Q. Are you aware her dog was poisoned?
 6 A. No, sir, I'm not.
 7 Q. Or drugged?
 8 A. No, sir.
 9 Q. Never been aware of that?
 10 A. Only by her words.
 11 Q. You were made aware that that was the case by
 12 her words?
 13 A. By her words.
 14 Q. Correct. And that her brother's boat wires
 15 were cut, you are aware of that, weren't you, because
 16 she told you so?
 17 A. She never told me so.
 18 Q. Someone else told you?
 19 A. The police.
 20 Q. The police did. Baltimore County Police were
 21 called because she had experienced, she or a family
 22 member had experienced two crimes, then the security
 23 cameras went up, didn't they?
 24 A. I will agree to that.
 25 Q. You think it is unreasonable for the person

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1 who has been the victim of two crimes to then install
 2 security cameras on their property?
 3 A. I'm not so sure crimes were committed.
 4 Q. I see. You are -- just don't believe the dog
 5 was drugged and the boat was --
 6 A. She called the police, the police spoke to me,
 7 asked if I had any knowledge of the person around the
 8 boathouse. The only person I know around the boathouse
 9 were her father and brother.
 10 Q. Thank you.
 11 A. Sir --
 12 Q. Thing --
 13 THE COURT: Mr. Carney, let him finish his
 14 answer. Go ahead, Mr. Collins.
 15 THE WITNESS: You made the -- the accusation
 16 that I may have been the person who vandalized the
 17 boat.
 18 MR. CARNEY: I never made such an accusation.
 19 THE COURT: Mr. Carney, you may not interrupt
 20 the witness. You may object after he is done speaking.
 21 Let's get the answer finished.
 22 THE WITNESS: Your brother's boat was towed in
 23 the weekend prior to that, when the 4th of July
 24 fireworks were in Middle River. The boat was
 25 overloaded and they swamped the boat. Now, because of

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1 that the engine -- engine was screwed up, the boat was
2 worthless.

3 MR. CARNEY: Your Honor, I would object. I
4 would object.

5 THE WITNESS: This is no different than what
6 you are trying to convince this court of, sir.

7 THE COURT: All right. This is -- the basis,
8 I guess, this is what he is saying with respect as to
9 the crimes. Go ahead, let's get on to another subject.

10 BY MR. CARNEY:

11 Q. Ms. Senez was never charged with making a
12 false report to the police department was she?

13 A. No, sir.

14 Q. Let's talk about the survey, if we could,
15 please. Let's start with topographical exhibit. You
16 were present in South Carolina when Mr. Myers's
17 deposition was taken, were you not?

18 A. Yes, sir.

19 Q. And at that time he testified that his
20 property which is now Ms. Senez's property --

21 A. Correct.

22 Q. -- 341 --

23 A. Um-hum.

24 Q. -- is lower in certain parts than 343 on the
25 north and 339, your property, on the south, did he not?

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1 A. Reverse it.

2 Q. I may have gotten it reversed. Both adjoining
3 neighbors, your house on the north and the house on the
4 south?

5 A. Um-hum.

6 Q. That's what his testimony was?

7 A. That's correct.

8 Q. He testified the water would drain from the
9 house on the south, the other side from you and your
10 property naturally runoff, come -- converge, run down
11 beside his house toward the water, that was his
12 testimony, you were there for that, you would agree?

13 A. Agree.

14 Q. Okay. That mingle would be characterized as
15 natural runoff?

16 A. Agreed.

17 Q. And we would also agree when it storms really
18 hard, heavy thunderstorms in the summertime, that flow
19 of water increases just as a consequence of those
20 storms, Mother Nature being what she is?

21 A. Well, Mother Nature has to deal with
22 impervious material.

23 Q. I understand that. The flow of water would
24 increase in times of heavy storms, fair statement?

25 A. Yes, sir.

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1 Q. This topographical map clearly indicates that,
2 as we come out and look at the properties that your --

3 A. Do you mind if I approach you, sir.

4 THE COURT: Let's wait see and see if there is
5 going to be a question.

6 THE WITNESS: Okay.

7 BY MR. CARNEY:

8 Q. That Ms. Senez's property is higher than your
9 property down, as you get higher, closer to the water
10 your, her elevation is higher than your elevation as
11 you get closer to the water?

12 A. How far from the bulkheads are we speaking?

13 Q. I'm not trying to be exact. Her elevation
14 increases, yours decreased?

15 A. She has a terrace there.

16 Q. In the area of the houses, your house is
17 higher than hers and the grass, lawn slopes down toward
18 her property, does it not?

19 A. Towards the water front?

20 Q. Towards the water front.

21 A. Her property at that point is higher than
22 ours.

23 Q. I understand.

24 A. The grass, the slope is higher.

25 Q. Your house sits on a hill?

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1 A. Yes.

2 Q. And the water flows from your house, drains
3 down toward the water?

4 A. Okay.

5 Q. Correct, would you agree?

6 A. Agree.

7 Q. It also drains down a little bit toward the
8 right, toward the wall and out toward the water?

9 A. It drains to the lowest point, sir, yes,
10 happens to be on my property.

11 Q. That wall, as we have all heard testimony
12 about was constructed by Mr. Cook?

13 A. No, sir.

14 Q. You would agree?

15 A. Absolutely. He did not, but -- by Mr. Cook,
16 I'm sorry. I'm sorry.

17 Q. Okay. And you never maintained the property
18 the wall -- excuse me?

19 A. Concrete block wall where you maintain them,
20 how do you do that?

21 MR. CARNEY: Your Honor, if the Court --

22 THE COURT: All right. You may not ask him
23 questions, Mr. Collins. Did you ever maintain this
24 wall?

25 THE WITNESS: We planted flowers beside it,
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1 ma'am.

2 MR. CARNEY: Okay.

3 THE COURT: All right.

4 BY MR. CARNEY:

5 Q. It wasn't until you decided to plug the weep
6 holes up with cement that the wall fell down, true?

7 A. I think in the testimony of Mr. Myers, you
8 will find out, there was several times, occasions that
9 wall fell over, was reconstructed by Mr. Cook. The
10 fact is, I did close off those weep holes, as you
11 characterized them, in reality was a piping system from
12 that side to my front yard, yes, sir.

13 Q. Mr. Myers testimony was that the wall fell
14 down and it was rebuilt one time during his 20 year
15 period of ownership; does that refresh your memory?

16 A. That's correct.

17 Q. We all agree on that wall was rebuilt one time
18 in his whole 20-year period of time, no problems?

19 A. We don't know when this -- in that 20 years
20 that wall fell, that was never part of the testimony.

21 Q. You bought in 2000 and in 2006, only after the
22 weep holes were shut down by you did the wall fall
23 down, correct?

24 A. The weep holes were closed and sometime from
25 2004 to 2006 the wall was still standing, and it

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1 eventually was eroded to the point from massive amount
2 of water flowing down the culvert, if you will, and the
3 wall fell, was weakened by the water flow.

4 Q. Mr. Collins, when, sir, did you fill the weep
5 holes with cement?

6 A. After 2004 or during 2004 hen the conflict
7 with the neighbor began.

8 Q. Only after the conflict with Ms. Senez did you
9 make the decision to fill the weep holes with cement,
10 fair?

11 A. That's correct, sir.

12 Q. And the decision was made independent of your
13 controversy with Ms. Senez, by-product of the
14 controversy?

15 A. Sir, prior to that time I wasn't aware of the
16 flow characteristics, in terms of the sump pump, I
17 never paid attention to that. But after we lost the
18 trust with our neighbor, yes, sir, we began the pay
19 attention to a lot of things happening there.

20 One of this things cited by Code Enforcement
21 was the fact that sump pumps were ejecting their water
22 and downspouts also ejecting that water against the
23 back side of that wall, directed into that wall.

24 MR. CARNEY: I would object as to what the
25 reports of the agency, not in evidence, would reflect

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1 or reveal, and move to strike.

2 THE COURT: All right. The objection is
3 sustained.

4 BY MR. CARNEY:

5 Q. Sometime after you lost trust with Ms. Senez
6 and your dispute started is when you filled the weep
7 holes, in 2004 and sometimes between then and June 2006
8 when the wall came tumbling down?

9 A. Correct.

10 Q. Are you blaming this litigation in some
11 fashion, do you have a theory you want to set forth to
12 this court, she is responsible in some fashion for that
13 walled falling down?

14 A. Being the nuisance the water presents, yes,
15 sir.

16 Q. The nuisance from the runoff in her property
17 onto yours?

18 A. That's correct.

19 Q. Your testimony the proximate cause of the wall
20 falling down, is not your conduct in filing the weep
21 holes?

22 A. That's correct.

23 Q. Prior to the wall falling down in 2006 you and
24 your wife were able to maintain shrubbery and planting
25 and your lawn in the ordinary course of events, you

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1 have a lawn on your house, we have a lovely picture of
2 it, right, that's your lawn, isn't it?

3 A. Yes, sir.

4 Q. These are your plants all along the wall?

5 A. Yes, sir.

6 Q. Your wife indicated that as a gardener she
7 likes do these types of things, does a very nice job of
8 it, obviously?

9 A. Thank you. Thank you.

10 Q. All along the side of the fence, all along the
11 area where you have say, runoff problems,
12 notwithstanding the fact you were always able to
13 maintain the lawn and shrubbery and plantings, and the
14 water problem that you would like this court to believe
15 exists really never interfered with your ability to
16 landscape the property?

17 A. I never made that statement. It is not true.

18 Q. I see. So this picture which is already in
19 evidence doesn't fairly and accurately represent the
20 condition of your lawn and shrubbery after 2004, after
21 the storm and after the Senez property was rebuilt or
22 improved?

23 A. Sir, the condition of that lower front
24 property became worse after that construction. When I
25 chose to mow the lawn many times, I had to wait several

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1 days before, for it do dry out, before I could put the
2 lawn tractor into that area. That was very apparent,
3 sir, after that construction.

4 That also drove us to, if you will take a look
5 where all the water, we knew all of the -- lot of the
6 driveway material, roofing that all was dumped into
7 that area from the Senez property, I wasn't aware until
8 afterward the sump pumps, there is two of them --

9 MR. CARNEY: Your Honor, if the Court please,
10 I don't want to run the risk of speaking misspeaking,
11 Exhibit 2 is in evidence exhibit.

12 THE COURT: Defendant's Exhibit 2.

13 MR. CARNEY: Defendant's Exhibit 2 is in
14 evidence. I was referring to a blow up not in
15 evidence, I would like to introduce it by stipulation
16 without objection from counsel as to the Defendant's
17 next exhibit.

18 THE COURT: This will be Defendant's Exhibit
19 11.

20 (Defendant's Exhibit No. 11 was marked for
21 identification.)

22 THE COURT: All right. Defendant's Exhibit 11
23 will be admitted.

24 (Defendant's Exhibit No. 11,
25 previously marked for identification,

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1 was received in evidence.)

2 BY MR. CARNEY:

3 Q. You would agree, Mr. Collins, this picture had
4 to be taken somewhere between Isabelle --

5 A. Could I see it?

6 Q. Sure.

7 A. Okay. Your question.

8 Q. You would agree this picture had to be taken
9 after Isabelle, after the construction was completed?

10 A. Okay.

11 Q. Do you recall when the construction was
12 completed? Approximately?

13 A. I'm going to tell you before Memorial Day '04.

14 Q. Before Memorial Day?

15 A. 4th of July, whatever, she was having a party,
16 urgent crush to get it all completed by that time.

17 Q. Did you attend that party?

18 A. No, sir.

19 Q. That is when your relationship deteriorated,
20 at that point?

21 A. That is correct, sir.

22 Q. Let's talk about the Dietz survey, as Joint
23 Exhibit Number 2. I believe your Honor has a copy.

24 THE COURT: Yes.

25 BY MR. CARNEY:

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1 Q. In response to Mr. Thompson's questions as to
2 whether or not anything else was in dispute other than
3 that which has been colored in, you said no?

4 A. That's correct.

5 Q. Let me show you the survey. Let me point out
6 to you your shed; that is your shed on the property, is
7 it not?

8 A. That's correct sir.

9 Q. And it was indicated earlier, your reading of
10 this document is that the solid black line is the
11 property line, correct? And that runs directly through
12 a portion of your shed?

13 A. Okay.

14 Q. You would agree with that?

15 A. Okay.

16 Q. So, it would appear from the Dietz survey your
17 shed traverses the property line in part?

18 A. Okay.

19 Q. Is that a yes?

20 A. Yes, sir.

21 Q. Now, when did you put that shed there?

22 A. I did not.

23 Q. When was it put there, if you know?

24 A. I do not know.

25 Q. Part of the property that you purchased?

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1 A. Part of the property that we purchased. And
2 it was submitted to all of the powers of the county
3 when we constructed our house as being where it is as
4 is.

5 Q. This --

6 A. Never any objection by them as to its
7 existence.

8 Q. This shed, by your admission, encroaches on
9 the property line, not part of the property that you
10 were seeking to acquire title to and to acquire by
11 adverse possession, should Judge Souder agree to allow
12 your amended complaint into evidence, not into evidence
13 to allow -- allow the amended complaint to be before
14 the Court and not strike it?

15 A. The question was all about the shed, right?

16 Q. Yes.

17 A. Yes.

18 Q. Okay. So we are all clear --

19 A. Um-hum.

20 Q. -- what you are asking for is a parcel of
21 property you have outlined in blue or purple on my copy
22 of Joint Exhibit 2, would you be kind enough to, again,
23 outline the area in dispute in the -- on the south side
24 of the property?

25 A. South side down here (indicating).

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1 Q. Well, this is the south over here
 2 (indicating)?
 3 A. The west end.
 4 Q. West end?
 5 A. Okay.
 6 Q. As you did with the other exhibit. Okay.
 7 Okay. Would you please outline the area on the east
 8 end that is in dispute with the same color of pencil
 9 Mr. Thompson had you color in Joint Exhibit 2 that is
 10 in evidence?
 11 A. (Witness complying.)
 12 MR. CARNEY: Thank you. For the record, that
 13 is in light blue pencil on the eastern aspect of Joint
 14 Exhibit 2, and it's in purple pencil on the western
 15 aspect of Exhibit Number 2?
 16 THE COURT: Right. That's what we have on
 17 Plaintiff's Exhibit 27.
 18 MR. CARNEY: Correct.
 19 BY MR. CARNEY:
 20 Q. All right. Now, Mr. Collins, pursuant to this
 21 survey the property line on the western aspect of the
 22 property, as you are reaching the corner which has been
 23 staked here by iron pipes, you would agree?
 24 A. Correct.
 25 Q. Three-quarter iron pipe found which is,

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1 correct, four corners, you would agree with that?
 2 A. Yes, I agree what you stated here, I haven't
 3 witnessed that stake.
 4 Q. You will agree with what's on this survey?
 5 A. Correct.
 6 Q. We agree the plat is accurate. We all
 7 agree --
 8 A. Okay.
 9 Q. -- the property line is the dark further most
 10 line to the north, is it not?
 11 A. That's correct, sir.
 12 Q. The line that is marked with hash marks inside
 13 that is the fence?
 14 A. Fence and edge of the driveway material,
 15 macadam material.
 16 Q. Right. So by reading this, looking at this
 17 survey is it not fair to say, at least, this aspect of
 18 the fence on the western most portion of the property
 19 is inside Ms. Senez's property line?
 20 A. That's correct.
 21 Q. Okay. So, you are not telling the Court that,
 22 but you are telling the Court that you believe the
 23 property between the fence and property line should
 24 belong to you and not her, is that what you are saying?
 25 I'm trying to understand.

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1 A. Yes, sir.
 2 Q. But if we agree this is the property line, the
 3 furthest most line out here, the next line inside it is
 4 the fence and the fence is on her property, how can
 5 that property be yours, I'm trying to understand the
 6 theory?
 7 A. Just seems logical that -- no. I agree the
 8 property line is the property line.
 9 Q. The fence is on the Senez side of the property
 10 line?
 11 A. Yes, sir. She chose to put the fence where it
 12 is.
 13 Q. Let's talk about the fence for a second. You
 14 indicated earlier that the fence was put up prior to
 15 her taking possession of the property?
 16 A. I believe that's true, yes, sir.
 17 Q. And you indicated that there was a discussion
 18 that you had with her regarding the fence, correct?
 19 A. I did not have, my wife did.
 20 Q. Your wife did?
 21 A. That's correct.
 22 Q. You never had a discussion with her about the
 23 fence?
 24 A. Oh, yes, we have had discussions about the
 25 fence, it was well after its installation.

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1 Q. In fact, Ms. Senez's came to you and ask
 2 whether or not it would be appropriate to put the fence
 3 on top of the wall, this was before it was built?
 4 A. I'm not aware of that.
 5 Q. You never responded to her?
 6 A. Never responded to her, at least, in the
 7 timely fashion that presumably she felt was essential.
 8 Q. She went ahead and had the fence erected prior
 9 to the time she actually settled and moved into the
 10 property?
 11 A. That's correct.
 12 Q. It is true is it not, throughout all the year
 13 2000 you never objected to the location of the fence to
 14 Ms. Senez?
 15 A. To Ms. Senez, no.
 16 Q. Never objected through the entire year 2001,
 17 2002, 2003, all that four-year period you never voiced
 18 an objection to that fence ever, did you?
 19 A. We kind of -- we, we being my wife and myself.
 20 Q. I'm asking about you?
 21 A. Neighbor accommodation in my opinion at that
 22 particular time, both new neighbors and I certainly
 23 didn't want to throw anything bad into that
 24 relationship at the very beginning of it.
 25 Q. Sir, four years old?

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1 A. We are talking about the day it happened. We
2 felt it was incorrect. We did not take action.

3 Q. For four years you didn't take action?

4 A. For that reason for that neighborly
5 accommodations existed at that time.

6 Q. 2001, 2, 3, never a word was said, wanted to
7 be good neighbors?

8 A. Isn't that how you would approach that, sir.

9 Q. 2004 the improvements made by Ms. Senez that
10 you spent so much time talking about, didn't like this,
11 don't like the rail on top of the fence, don't like it
12 now, then and only then did you voice an objection to
13 the fence?

14 A. Correct.

15 Q. Correct. The area on the eastern aspect of
16 Joint Exhibit 2?

17 A. Excuse me, I objected to the location.

18 Q. I understand.

19 A. Not the fence.

20 Q. The location of the fence?

21 A. Correct.

22 Q. I'm interested in -- I'm interested --

23 THE COURT: This is all about the purple area,
24 not the blue area?

25 MR. CARNEY: That's correct, your Honor.

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1 BY MR. CARNEY:

2 Q. This blue area on the eastern most aspect of
3 the plat has been shaded by you and the shaded area
4 runs between the property line and the fence; is that
5 correct?

6 A. The property line and the block wall.

7 Q. Property line?

8 A. And if fence and the fence is against the
9 block wall.

10 Q. Really three items fence, property line, block
11 wall?

12 A. Property line, a fence and a block wall.

13 Q. Right. Okay. So you had the property line
14 between the fence and block wall? I'm sorry, I
15 misspoke?

16 A. Don't want to make that mistake.

17 Q. I'm sorry. I misspoke. Ms. Senez has been
18 maintaining the property on her side of the fence since
19 she bought the place, fair?

20 A. Cutting grass, yes.

21 Q. That's what I'm saying, cutting grass, general
22 maintenance?

23 A. Um-hum.

24 Q. You attended the deposition of Mr. Myers in
25 South Carolina, we established that. And he told you

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1 and me and Mr. Lancey that he maintained the property
2 up to the wall for the whole period of time because the
3 fence was not there when he owned it?

4 A. That's correct.

5 Q. Your understanding, just the wall separating
6 the two properties during the time of the Cook, Myer
7 common ownership. Mr. Cook, your predecessor in title
8 and Mr. Myers, Ms. Senez's predecessor in title, just
9 the wall between the property never fencing?

10 A. That's correct. That's correct.

11 Q. Okay.

12 A. That was not to depict the property line at
13 any time.

14 Q. I understand that, but Mr. Myers's testimony
15 for the entire period of time he owned the property
16 from 1981 or '80 until 2000 when he sold it to Ms.
17 Senez, he maintained the property all the way up to the
18 wall?

19 A. Okay.

20 Q. Because the fence was not there?

21 A. Okay.

22 Q. And that was a period of approximately
23 20 years, correct? We don't know the exact date they
24 went the settlement, but it is, you know, close?

25 A. Okay.

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1 Q. And we well also agree that this property line
2 comes down and bifurcates slightly the ramp leading
3 into the water, the property line runs across that
4 ramp, you would agree?

5 A. Yes, sir, I do.

6 Q. Mr. Myers testimony was such, and correct me
7 if I'm wrong, if I characterize this incorrectly, he
8 said he built that ramp, right?

9 A. Yes, sir.

10 Q. All right. And he built the ramp and he used
11 it to launch boats. He add a pontoon boat, I think he
12 said?

13 A. Yes, sir, I think he did.

14 Q. He has launch his boat from there?

15 A. Um-hum. Um-hum.

16 Q. He did the bulkhead as well pursuant to his
17 testimony?

18 A. That's correct.

19 Q. And his testimony was such that he came around
20 tied the bulkhead on to what is now your property in
21 order to help your predecessor in title, Mr. Cook, deal
22 with the erosion problem he was experiencing. So isn't
23 that true, that is your memory of what he said at
24 deposition?

25 THE COURT: All right. Well, what Mr. Myers
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1 said at deposition is what he said, the witness doesn't
2 have to verify it.

3 THE WITNESS: Thank you, your Honor.

4 BY MR. CARNEY:

5 Q. Now, this concrete boat ramp, you never
6 launched a boat from there?

7 A. No, sir. Excuse me, I take that back, a
8 canoe.

9 Q. You have launched a canoe from there?

10 A. Yes, sir.

11 Q. Still when you were on good terms with Ms.
12 Senez, somewhere between 2000 and 2004?

13 A. Well, it was up until the time we believed
14 that property to be ours, we made use of it.

15 Q. You believed the entire boat ramp --

16 A. Until she blocked it off by additional fencing
17 being put on there, we could not get to it. We used it
18 for the dogs.

19 Q. I see.

20 A. The dogs used it. We used it.

21 Q. You didn't build it or maintain it, correct?

22 A. No, sir.

23 Q. To the extent you used it, used it permissibly
24 with Mrs. Senez's permission?

25 A. Never asked her.

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1 Q. Never asked her?

2 A. No, sir.

3 THE COURT: All right. We will take a recess.

4 During this time, during this recess, Mr. Collins,
5 please don't discuss your testimony with anybody.

6 We'll have a 15 minute recess.

7 (WHEREUPON, a recess was held at 11 a.m.)

8 (WHEREUPON, proceedings resumed at 11:20 a.m.)

9 THE COURT: All right. Please be seated. Mr.

10 Collins, if you will take the witness stand again.

11 All right. Mr. Carney?

12 BY MR. CARNEY:

13 Q. Thank you, your Honor.

14 Mr. Collins, in your multi-count complaint you
15 have alleged that you have been damaged as a result of
16 my client's trespass on your land, nuisance and
17 continuing trespass. Tell me, sir, have you had your
18 property appraised to ascertain whether the -- there
19 has been any diminution of value as result of the
20 alleged nuisance and trespass before this court?

21 A. No, sir.

22 Q. Did you have an appraisal of the value of the
23 property prior to the alleged nuisance and trespass?

24 A. We did on a mortgage scenario, yes, sir.

25 Q. I see.

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1 MR. CARNEY: May I approach, your Honor?

2 THE COURT: Yes.

3 BY MR. CARNEY:

4 Q. Mr. Collins, let me show you this picture and
5 ask you to please tell the Court what is shown there?

6 A. I'm looking at the block wall, our bulkhead,
7 the fence, two kayaks, a wheelbarrow.

8 Q. This is your house on the right hand side of
9 each picture?

10 A. Yes, sir.

11 Q. Right along the fence is the shed we talked
12 about before a little bit on the property line or over
13 the property line?

14 A. Yes, sir.

15 MR. CARNEY: All right. Let's have this
16 marked and introduced as Defendant's Exhibit Number --

17 THE COURT: 12.

18 MR. CARNEY: 12. Thank you. Excuse me, if
19 you will pass that back to, Her Honor.

20 (Defendant's Exhibit No. 12 was marked for
21 identification.)

22 THE COURT: All right. Exhibit 12 will be
23 admitted.

24 (Defendant's Exhibit No. 12,
25 previously marked for identification,

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1 was received in evidence.)

2 BY MR. CARNEY:

3 Q. Thank you, your Honor.

4 Mr. Collins, let me ask you a couple of
5 questions about this picture, two pictures. Your house
6 is on the right, we have established that, you would
7 agree that your house is at the top of the photograph,
8 your land slopes down toward the water?

9 A. Yes, sir.

10 Q. Okay.

11 A. Nearly all the waterfront properties slope
12 towards the water.

13 Q. Fair enough. Also appears sort of sloping
14 down toward the fence and wall as well, sort of in that
15 direction heading down toward the wall and down toward
16 the water?

17 A. Okay.

18 Q. You will agree?

19 A. Yes, sir.

20 Q. Okay. The bulk heading that we talked about
21 earlier that was done by Mr. Myers, is this the bulk
22 heading we are referring to here (indicating)?

23 A. No, sir.

24 Q. Where is it in relation to that picture, is it
25 out further?

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1 A. I presume what he was speaking about, I don't
2 recall any pictures at the time that, you know, related
3 to it, but I understood it to be this one (indicating),
4 what he installed. He also installed what he claims is
5 the one that goes across the front of the property, the
6 Senez property exists there today.

7 Q. That border is the eastern aspect of her
8 property?

9 A. That's correct.

10 Q. And turns and comes in toward your property,
11 and that, you believe, is what is depicted here in the
12 lower right picture?

13 A. Um-hum.

14 Q. Of Exhibit 12?

15 A. Yes, sir.

16 Q. Okay. That was, we believe, based on Mr.
17 Myers testimony he did that. Have you done anything to
18 maintain that bulkhead since you have owned the
19 property?

20 A. It hasn't appeared as if it needed
21 maintenance.

22 Q. Okay. Didn't require any maintenance?

23 A. Hum-um.

24 Q. Okay. Fine. Is it your testimony, you take a
25 look at the picture on the top where the canoes are on

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1 the fence, that you used to be able to go from your
2 property across the Senez property but you have been
3 precluded from doing that now because the fence comes
4 all the way down the bulkhead?

5 A. That's correct.

6 Q. Could do it, sort of have to shimmy around the
7 piling to get there?

8 A. Today it is impossible.

9 Q. Impossible all together?

10 A. Yeah.

11 Q. But it has been like that since 2000, correct?

12 A. Excuse me, this picture -- this picture --

13 Q. The fence?

14 A. -- is of 2000.

15 Q. Right. Okay.

16 A. Today's picture, of course, is much different
17 than this since the situation.

18 Q. But you haven't been able to get from your
19 property to, um, to Ms. Senez's property since what
20 year she closed it off, the fence didn't do it, there
21 was something else that was done?

22 A. '04 -- '04.

23 Q. 04?

24 A. Yes, sir.

25 Q. Mr. Collins, is your property served by

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1 propane liquified gas?

2 A. Yes, sir.

3 Q. You have a propane tank on your property?

4 A. Yes, sir.

5 Q. Tell the Judge, if you would, please, where it
6 is located? Let me if, I may approach, your Honor, I
7 will let you use --

8 THE COURT: All right.

9 BY MR. CARNEY:

10 Q. -- joint Exhibit 2 to help us located that
11 propane tank?

12 A. Um, this particular survey drawing by Mr.
13 Dietz indicates there is an underground propane tank
14 11 feet off the line, approximately, the center of the
15 drawing.

16 Q. You would agree that's where the propane tank
17 is?

18 A. I agree it is in that area, yes.

19 Q. Okay. And are you familiar with the Baltimore
20 County Regulation regarding the location of propane
21 tanks?

22 A. No, sir, I'm not.

23 Q. Did you have this propane tank installed when
24 you built the new house or was it already there?

25 A. We had it installed.

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1 Q. And do you have and understanding as to how
2 far back your propane tank has got to be from a
3 bordering property?

4 A. Previously stated, I'm not aware of the
5 regulations. The people that installed the tanks
6 install the tanks every day of the week, Suburban
7 Propane installed it. And I don't believe it was
8 installed minus any requirement of Baltimore County
9 permit.

10 MR. CARNEY: Let me move into evidence, your
11 Honor, if I could by stipulation, another copy of the
12 Dietz survey, and this is dated June 8, 2004, this
13 would be Joint Exhibit Number 5.

14 (Joint Exhibit No. 5 was marked for
15 identification.)

16 THE COURT: All right. Number 5 will be
17 admitted.

18 (Joint Exhibit No. 5,
19 previously marked for identification,
20 was received in evidence.)

21 THE COURT: Another Dietz survey dated
22 June 8th.

23 MR. THOMPSON: Just for the record, your
24 Honor, since it is a Joint Exhibit, I would like to
25 point out in the bottom comments section.

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1 THE COURT: In the notes?
 2 MR. THOMPSON: There are additions made as
 3 late as 5/24/06.
 4 THE COURT: Okay.
 5 MR. THOMPSON: Down there where the revisions
 6 are, that would be, I think, the revisions are the sum
 7 and substance of that and Joint 2.
 8 MR. CARNEY: I think that is a correct
 9 statement. The only addition I think to this document
 10 is there is an underground propane tank located on this
 11 version.
 12 Mr. Collins, thank you, sir, I have nothing
 13 further.
 14 THE WITNESS: Your Honor --
 15 THE COURT: Mr. Thompson, just a moment. He
 16 may have more questions.
 17 MR. THOMPSON: I will try to be brief, your
 18 Honor.
 19
 20 REDIRECT EXAMINATION
 21 BY MR. THOMPSON:
 22 Q. Mr. Carney asked you, Mr. Collins, if you made
 23 any objections to improvements that Ms. Senez made
 24 before she moved in?
 25 A. Yes.

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1 Q. Other than the fence did she make any
 2 improvements before she moved in?
 3 A. Not that I'm aware of.
 4 Q. You told Mr. Carney, did you not, you objected
 5 to the location of the fence but not to the presence of
 6 a fence; is that fair?
 7 A. That's fair, yes, sir.
 8 Q. Mr. Carney asked if you filed a zoning
 9 protest, isn't it true, actually, Ms. Senez asked for a
 10 variance?
 11 A. That's correct the variance was for X, a
 12 structure to the front of the property.
 13 Q. And your interest in that case, you are a
 14 protestant, isn't that right?
 15 A. That's correct.
 16 Q. And, um, Mr. Carney pointed out that, I think
 17 you answered that you don't really care for Ms. Senez
 18 that this point; is that still true?
 19 A. I would have to believe that to be true --
 20 Q. Do you have any idea how he feels about you?
 21 MR. CARNEY: Objection.
 22 MR. THOMPSON: Yes or no.
 23 THE COURT: Mr. Collins was still speaking
 24 when you began to ask that question.
 25 BY MR. THOMPSON:

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1 Q. I beg your pardon, I didn't hear it. Do you
 2 want to finish your response, Mr. Collins.
 3 A. Well, again, I'll mention that we had a good
 4 relationship. It was a reason to trust at one point in
 5 time, that trust has been broken, and since that point
 6 the neighborliness has been omitted.
 7 Q. Now, does Ms. Senez communicate with you when
 8 she sees you in the yard, Mr. Collins?
 9 A. There has been occasions when she has.
 10 Q. I'm sorry.
 11 A. She's made an attempt to on several instances,
 12 I know two of them. Brings her camera out and proceeds
 13 to do a little name calling. One of her statements
 14 was, why haven't you moved yet.
 15 MR. CARNEY: Objection. Objection.
 16 THE COURT: The objection is overruled. This
 17 is a statement by Ms. Senez.
 18 BY MR. THOMPSON:
 19 Q. Go ahead, Mr. Collins.
 20 A. She is prompting, I believe, for purposes of
 21 the camera in her hand and taking pictures, the verbal
 22 abuses for some form of action by me.
 23 Q. Well, what is an example of something she said
 24 to you, Mr. Collins?
 25 A. Well, there is -- there has been words like,

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1 asshole, why don't you move. When are you going to
 2 move.
 3 Q. Mr. Carney asked you about the shed traversing
 4 the property line, now that is something that you
 5 became aware of in the course of this litigation; isn't
 6 that right?
 7 A. That's correct, sir.
 8 Q. When you amended your complaint recently, were
 9 you asking for the Court the find everything on your
 10 side of the wall was yours, after we deal with the jog.
 11 So above the shed toward the street, everything inside
 12 the wall was yours, weren't you asking the Court to
 13 find that?
 14 A. That's correct.
 15 Q. Okay.
 16 MR. THOMPSON: Now, if I may approach your
 17 Honor?
 18 THE COURT: Yes.
 19 MR. THOMPSON: The stipulated photographs that
 20 we submitted earlier, there are four that I never asked
 21 either witness to identify, so if I can briefly, I'll
 22 ask Mr. Collins to identify Plaintiffs 21, 22, 24 and
 23 25, so that they can come in?
 24 THE COURT: They have already been admitted.
 25 MR. THOMPSON: So, I don't need to go through

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1 this step?

2 THE COURT: Well, if you have something you
3 want to point out, they are already in evidence.

4 MR. THOMPSON: I don't. Then I will omit
5 that.

6 BY MR. THOMPSON:

7 Q. Mr. Collins, while I'm up here I'll show you
8 what were marked as exhibits to the deposition of
9 Arthur Myers, where you were present, and the first,
10 which was called on that day Exhibit A, the deed
11 between Myers and Senez, have you seen that previously?

12 A. Yes, I have, sir.

13 Q. Okay. The second on that date was marked as
14 Exhibit B, the deed between the personal representative
15 of Cook and you and your wife; isn't that correct?

16 A. That's correct.

17 MR. THOMPSON: At this point, your Honor, I
18 would move for the admission of those two deeds as
19 Plaintiffs, I think e are up to 28 and 29.

20 (Plaintiff's Exhibit Nos. 28 and 29 were
21 marked for identification.)

22 MR. THOMPSON: 28 would be the Senez deed, Mr.
23 Carney, and 29 would be the Collins deed.

24 THE COURT: All right. They will be admitted.

25 MR. CARNEY: Photocopies taken off the record,
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1 A. Yes, sir.

2 Q. The property on the south side of Ms. Senez's
3 property where the deck is being built, they haven't
4 protested anything, have they?

5 A. Not to my knowledge, sir.

6 Q. In fact, from your deck or from your house
7 there is no part of your house that you can sit in or
8 look out of where you can see the deck, the aspect of
9 the deck that you allege is in violation of the zoning
10 laws, isn't that true?

11 A. No, sir, not true.

12 Q. You have filed this protest simply as a way to
13 harass and cause Ms. Senez to expend significant sums
14 of money and legal fees, have you not sir?

15 A. That's not correct, sir.

16 Q. This communication between you and Ms. Senez
17 that Mr. Thompson talked to you about, it is true, is
18 it not, she caught you vandalizing her fence and became
19 upset and cursed at you, isn't it?

20 A. No, sir.

21 Q. You never attempted to vandalize the fence or
22 vandalized the fence?

23 A. I never vandalized the fence. I had my hands
24 on the fence, is that vandalizing? I need that
25 interpreted.

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1 I certainly have no objection to them.

2 MR. THOMPSON: They were the deposition
3 exhibits, Mr. Carney.

4 (Plaintiff's Exhibit Nos. 28 and 29,
5 previously marked for identification,
6 were received in evidence.)

7 MR. THOMPSON: Thank you, your Honor. That's
8 all the questions of this witness.

9 THE COURT: All right. Anything further, Mr.
10 Carney?

11 MR. CARNEY: Just a few questions in response
12 to Mr. Thompson's questions, if I may.

13

14 RECROSS EXAMINATION

15 BY MR. CARNEY:

16 Q. The variance that Mrs. Senez requested be
17 granted by Baltimore County Zoning authorities, you
18 have protested that, correct?

19 A. Yes.

20 Q. You are the only protestant, are you not?

21 A. Yes, sir.

22 Q. A hearing that took place, two and a half day
23 hearing, one full day but over two days that took place
24 before the Zoning Board, you are now awaiting the
25 decision; is that correct?

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1 Q. You indicated earlier Ms. Senez has taken
2 pictures of you periodically, you and/or your wife; is
3 that correct?

4 A. That's correct.

5 Q. It is true, is it not, you and, you and/or
6 your wife ave taken pictures of Ms. Senez, true?

7 A. That's true.

8 Q. You have taken pictures of her on multiple
9 occasions, haven't you?

10 A. I know of one that my wife was taking a
11 picture of a sign that was put up on the boathouse and
12 Ms. Senez was there. I'm not sure she was in the
13 picture. I don't have -- in addition with her in the
14 picture, if it is, it is a side of the picture not the
15 purpose of the picture.

16 Q. How many pictures have you taken of Ms.
17 Senez's property, sir?

18 A. I can't recall, numerous.

19 MR. CARNEY: Numerous. That's all I have.
20 Thank you.

21 THE COURT: All right. Anything further, Mr.
22 Thompson.

23 MR. THOMPSON: No.

24 THE COURT: All right. Mr. Collins, you may
25 step down.

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1 THE WITNESS: Thank you, your Honor.
2 MR. THOMPSON: Your Honor, given that the
3 Myers deposition is in evidence, that would be the
4 Plaintiff's case.

5 THE COURT: All right. Well, it is already
6 marked as Joint Exhibit 1. All right.

7 MR. CARNEY: If I may, your Honor?

8 THE COURT: Yes.

9 MR. CARNEY: I would move at this time for A
10 motion, I would make a motion for judgment as to all
11 counts of the initial complaint and/or the amended
12 complaint, if the Court were to rule the amended
13 complaint is properly before the Court. This is, as I
14 have indicated before, a seven count complaint.

15 THE COURT: Yes, Count 1 is trespass, what
16 would be the basis of your moving for judgment of
17 acquittal on that, seems all the elements of trespass
18 have been proven?

19 MR. CARNEY: Well, I think without -- with the
20 exception of one, no proven damage to the premises.
21 Mr. Collins has asserted in the complaint he suffered
22 damages. Damages, if you look --

23 THE COURT: All right. The elements of
24 trespass, there is not an element that requires that
25 they prove damage.

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1 MR. CARNEY: Well, if you allege there is
2 damages then I believe you have to prove that you have
3 suffered some damages. They are clearly alleged in
4 their complaint, they have suffered damages. The
5 Maryland law is quite clear as to damages, for trespass
6 on land that the damages for harm to the land --

7 THE COURT: Do you have a case that says that
8 damage is an element of trespass?

9 MR. CARNEY: No. No.

10 THE COURT: What I have before me, damage is
11 not an element.

12 MR. CARNEY: No, I agree damage is not element
13 of trespass.

14 THE COURT: All right.

15 MR. CARNEY: What we have here is a complete
16 failure of prove as pled the aspect of two counts,
17 continuing trespass and trespass.

18 THE COURT: Right. They seek as relief an
19 appraisal being ordered to quantify these damages.

20 MR. CARNEY: Right.

21 THE COURT: It is not an element, so it not
22 being an element, the motion is denied with respect to
23 trespass and continuing trespass. The third count is
24 private nuisance.

25 MR. CARNEY: Nuisance, obviously, is the

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1 interference with use and enjoyment of ones land.

2 THE COURT: There does appear to be an
3 element. It -- you must show that alleged nuisance
4 diminishes materially the value of the property, and
5 there certainly is no evidence that the value of the
6 property has been diminished in any material way.

7 MR. CARNEY: That is precisely the point I was
8 going to make, your Honor, no diminution of value,
9 that's why I asked the question that I did about
10 appraisal or loss or diminution of value because there
11 was no evidence I was aware of coming in.

12 THE COURT: All right. I understand the
13 argument on Count 3.

14 Count 4 they are requesting possession, and
15 Count 5 they are requesting that title be quite. Seems
16 to have proved all the elements in connection for those
17 counts. Counts 6 invasion of privacy.

18 MR. CARNEY: Again, invasion of privacy, you
19 would have to infer. What they are saying here is the
20 security cameras, they have no, by Mr. Collins
21 testimony, no evidence that the tapes in there could be
22 nothing more than props, that there their privacy has
23 been violated somehow by floodlights being on the house
24 and security cameras.

25 They said in Paragraph 37 of the original
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1 complaint that the security cameras, floodlights
2 directed at the Collins residence have caused and will
3 continue to constitute unlawful intrusion to the life
4 of the plaintiffs, and it is substantially unreasonable
5 they suffered diminution of use and value of their
6 property.

7 Again, no evidence of diminution of use and
8 value. One certainly has a lawful right to have one's
9 properties monitored by security cameras, unless there
10 is law I'm not aware of. I think there has been a
11 complete failure of proof showing that security cameras
12 on one's property would constitute invasion of
13 adjoining property owner.

14 THE COURT: The allegation is here, not just,
15 at least, at this point in the case, not just directed,
16 from Ms. Senez's property to, instead they are directed
17 toward the Plaintiff Collins. And the test is whether
18 or not those actions are considered offensive to a
19 person of ordinary sensibility.

20 I think there is sufficient proof at this time
21 to survive a motion on invasion of privacy.

22 I will hear from you, Mr. Thompson, with
23 respect to Count 3 and the private action for nuisance,
24 which does appear to require that there be some proof
25 regarding diminution of the value of the property.

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1 MR. THOMPSON: Thank you, your Honor.
 2 MR. CARNEY: I'm sorry, go ahead.
 3 MR. THOMPSON: Each and everyone of those
 4 signs taken by itself is a, so what. For instance, so
 5 what happening, look at one sign, so what, look at
 6 another sign, so what, taken in aggregate the signage,
 7 really, that is the essence of the nuisance and
 8 eyesore.

9 And, your Honor, Mr. Carney correctly pointed
 10 out, we don't have an expert here to tell us what the
 11 how the damage is diminished. I say with all due
 12 respect to Mr. Carney and the Court, almost res ipsa
 13 loquitor argument.

14 You look at it, ask yourself, would an
 15 ordinary person pay full price for an eyesore. Look at
 16 another window or deck and see all the nasty signs
 17 pointed that direct.

18 THE COURT: A number of the signs were removed
 19 even for the time that they were up.

20 MR. THOMPSON: Ma'am.

21 THE COURT: Yes, ma'am.

22 MR. THOMPSON: Yes, ma'am, I'm sorry. I don't
 23 mean to -- they were removed Thanksgiving weekend, the
 24 weekend before Thanksgiving. I think the testimony was
 25 some of them were up as long as two years. The nosey

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1 neighbor sign that's out in the front that can be seen
 2 not only from the Collins property, all up and down
 3 Worton Road, at least, the last I heard it was still
 4 there. It may be gone now, I hope it is. I hope it
 5 stays down. With all due respect, my argument is no
 6 reasonable person would pay full price if that sign
 7 were up.

8 THE COURT: Right. Nosey neighbor zone sign,
 9 just that one sign?

10 MR. THOMPSON: No, I mean all the signs taken
 11 together, now, nosey neighbor sign alone.

12 THE COURT: You mean the warning, I don't dial
 13 911.

14 MR. THOMPSON: I think that is clearly
 15 offensive that one is still up, I believe. The light
 16 in the window that is between the curtain and the
 17 window. The tongue on the boathouse if you are a
 18 Rolling Stone fan, that is great.

19 I mean, it was put there only -- only, I
 20 think, to interfere with the Collins use and enjoyment,
 21 and I don't see how it could not effect the value of
 22 their land.

23 THE COURT: You mean the notice, 24-hour
 24 recorded surveillance shown on Plaintiff's Exhibit 24
 25 that is one of the signs?

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1 MR. THOMPSON: That is one, your Honor, I
 2 think all by itself that is not offensive, that merely
 3 conveys a message that area is under surveillance, as
 4 Mr. Carney appropriately points out, that is okay, but
 5 sign after --

6 THE COURT: Your grammatical mistake may be
 7 that offends them, is that the suggestion?

8 MR. THOMPSON: It doesn't help.

9 THE COURT: All right. Same grammatical
 10 mistake in Plaintiff's Exhibit 9, 7, "Save the
 11 Boathouse Legal Fund" is one of them.

12 MR. THOMPSON: Yes, I understand that sign was
 13 up only briefly. No trespassing.

14 THE COURT: I mean, lots of people, if you
 15 have dogs put no trespassing or be aware of dogs sign.

16 MR. THOMPSON: I don't have a problem with
 17 that per se, except I find it a little bit ironic to
 18 put a trespass sign on the property that is not clearly
 19 yours. She may believes it is.

20 A judge told me one time, nobody owns anything
 21 by adverse possession until some judge somewhere tells
 22 them that they do. We will follow that logic on this
 23 side of the aisle. For that reason wouldn't put up a
 24 no trespassing sign on property that is in dispute.

25 THE COURT: Maybe two no trespassing signs,
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1 keep out sign, save the boat legal fund, two smiles,
 2 you are on camera, notice about the camera, the tongue,
 3 warning, I don't dial 911, the nosey neighbor zone,
 4 about ten signs and the argument is that --

5 MR. CARNEY: May I respond, your Honor?

6 THE COURT: These would materially diminish
 7 the value of the property. The only information I have
 8 regarding the value of the property was just admitted,
 9 the deed showing that August, 2000, the Collins may
 10 have paid \$235,000 for the property and it may be worth
 11 more now, that's all I have on the value of the
 12 property. Any other evidence?

13 MR. THOMPSON: No, ma'am.

14 THE COURT: Yes, Mr. Carney?

15 MR. CARNEY: Thank you. Clearly not
 16 materially diminished in value 235 with the
 17 improvements that have been made, signs or -- signs can
 18 be taken down quickly as they are put up. Mr. Thompson
 19 subjected beliefs, with all due respect to Mr.
 20 Thompson, what may or may not offend a member of the
 21 real estate buying public does not have any value from
 22 an evidentiary perspective.

23 The Court has got to weigh the evidence, not
 24 Mr. Thompson's beliefs, Mr. Brad Carney or Mr. Jenkins
 25 beliefs, but the evidence. There is nothing before

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1 your Honor to show diminution of property, to show --
2 result of private nuisance. All say they don't like
3 certain signs, maybe they wouldn't enjoy having a
4 neighbor having signs like that, maybe.

5 I drive home on Kenilworth Drive there is a
6 house there that every holiday changes, if I lived
7 beside that house, I don't know what I do. You can't
8 account for people's taste. Just because I don't like
9 a sign doesn't mean it created some kind of private
10 nuisance, as the Court points out, an element of the
11 cause of action in the State of Maryland, complete
12 failure of proof as to that element.

13 Lastly, with respect to the seventh count,
14 permanent injunction. If you look at the -- at this,
15 the complaint itself, all it says is that Plaintiffs do
16 not have adequate remedy of law, should have been,
17 maybe we should file a Motion to Dismiss. Doesn't
18 state a cause of action to -- just states that, and
19 then they are seeking no particular relief to that
20 count. We don't know, seeking to enjoin.

21 THE COURT: Set forth in prayer for relief
22 says suffered irreparable injury or, at least, that
23 they have alleged that there is some irreparable
24 injury. Here, inaccurate remedy of law.

25 The Court has to weigh the balance of hardship

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1 in enjoining the wall to be taken down or the fence and
2 the Court would have to find that public interest would
3 not be disserved by issuing an injunction as Plaintiffs
4 seek. I agree by itself not really a cause of action
5 more --

6 MR. CARNEY: A prayer for relief.

7 THE COURT: -- prayer for relief.

8 MR. CARNEY: With that in mind, I would ask
9 the Court to grant the motion as to that count,
10 prayer -- prayer for relief.

11 THE COURT: Well, I will -- I will deny the
12 Motion for Judgment of Acquittal. Although, I think at
13 the end of the case it will be impossible to find that
14 there has been any material diminution in value of
15 property.

16 MR. CARNEY: Very well.

17 THE COURT: All right. Ready, Mr. Carney.

18 MR. CARNEY: Thank you very much. We will
19 call Linda Senez.

20 MR. JENKINS: Your Honor, I will be crossing
21 Ms. Senez, if there is any.

22 THE COURT: All right.

23 LINDA SENEZ,
24 a witness produced on call of the Defense, having first
25 been duly sworn, was examined and testified as

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1 follows:

2 THE WITNESS: I do.

3 THE CLERK: Thank you, you may be seated. For
4 the record, please state your full name, spell your
5 last name.

6 THE WITNESS: Linda Ann Senez, S E N E Z.

7 THE CLERK: Give your current address
8 including Zip Code.

9 THE WITNESS: 341 Worton Road, Baltimore,
10 Maryland 21221.

DIRECT EXAMINATION

13 BY MR. CARNEY:

14 Q. Ms. Senez, you are the owner of 341 Worton
15 Road, Baltimore County, Maryland?

16 A. Yes.

17 Q. You purchased that property when?

18 A. November of 2000.

19 Q. And did you purchase it as an individual or
20 together with another person?

21 A. As an individual.

22 Q. Did you move in in 2000?

23 A. Yes.

24 Q. And did you move in alone or anybody else join
25 you?

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1 A. Moved in alone.

2 Q. Did there come a point in time where your dad
3 joined you as a resident of the property?

4 A. My father moved in with me the summer of '01
5 just for the summer. Um, the original intention was he
6 was going to be there in the summer and go back to
7 Florida in the winter. He has since lived with me the
8 last three years.

9 Q. Why has he not gone back to Florida?

10 A. He is in very poor health.

11 Q. You take care of your dad?

12 A. Yes.

13 Q. Do you work on a full-time basis?

14 A. Yes, I do.

15 Q. Where do you work?

16 A. Diversified Insurance.

17 Q. In what capacity?

18 A. Vice president sales and production.

19 Q. You are a licensed insurance agent or broker
20 in the State of Maryland?

21 A. Yes, I am.

22 Q. Have been for many years?

23 A. Yes.

24 Q. When you moved into the property or prior to
25 moving into the property did you commission a fence to

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1 be erected?

2 A. Yes, prior to purchasing the property going to
3 settlement I hired a contractor that Mr. Myers
4 recommended to install a fence, because I had two labs
5 I felt I needed to contain them in the yard. And so, I
6 had a fence erected prior to actually settling.

7 Q. So the labs wouldn't bother the neighbors?

8 A. Correct.

9 Q. Had you met your neighbors at the time you
10 made that decision?

11 A. At that time, no.

12 Q. Did there come a point in time where you had a
13 discussion with either Mr. or Mrs. Collins regarding
14 the erection of your fence before it was put up?

15 A. Yes, after I hired the contractor, the
16 contractor talked about possibly putting a fence in the
17 lower portion of the house up on top the wall.

18 Q. The front portion, the eastern side of the
19 property toward the water?

20 A. The eastern side.

21 Q. Closest toward the water?

22 A. Yes.

23 Q. Okay.

24 A. To eliminate that small space between the
25 fence and the wall. I mentioned that to Mr. and Mrs.

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1 Collins, no further conversation after that, just
2 decided to put the fence up on, right next to the wall.

3 Q. Did they get back to you and voice an opinion
4 one way or the other as to where the fence ought to be
5 located?

6 A. No.

7 Q. Now, that fence was put up in 2000 prior to
8 you taking possession?

9 A. Yes, earlier in 2000. I settled on the house
10 sometime around, I think, the 22nd or 28th of November.

11 Q. After you went to settlement you then had
12 occasion to meet the Collins' obviously?

13 A. Briefly.

14 Q. Describe your initial relationship with Mr.
15 and Mrs. Collins for the Court if you will?

16 A. It was the fall of 2000, so, basically by the
17 time I got home from work it was already dark. I would
18 occasionally just see them on weekends just to say hi,
19 how are you doing. We really didn't talk a whole lot
20 at that point.

21 Q. Did there come a time -- point in time where
22 your relationship evolved into more of a friendship?

23 A. Yes.

24 Q. Over what period of time did that take place?

25 A. Probably took place after the Collins moved

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1 into their house, either July or August of '01.

2 Q. So did you have an understanding that they
3 were going to be taking the house to the ground and
4 putting up new property?

5 A. I didn't know that right away but I did know
6 they were going the tear the house down, eventually,
7 after I settled on my house.

8 Q. Did there come a point in time they moved into
9 their house before it was raised?

10 A. No.

11 Q. So they never moved in?

12 A. No.

13 Q. How long a period of time did it take to erect
14 the new houses?

15 A. I'm going to guess the construction started
16 sometime after the first of the year, I'm really not
17 sure they didn't move in until July or August.

18 Q. During that six, seven month period of time
19 did you have occasion to see the Collins?

20 A. Occasionally.

21 Q. And were those occasions cordial?

22 A. Yes.

23 Q. And they moved in July of 2001?

24 A. Correct.

25 Q. What was your relationship with the Collins

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1 that time?

2 A. Fine. It was very infrequent passing in the
3 yard. Hi, how are you, nothing more than that at that
4 time.

5 Q. Your job responsibilities are such you leave
6 home when in the morning?

7 A. I can leave any time between 8, 9, 9:30.
8 Since I'm in sales, I'm on the road, I don't have a
9 specific time to be there.

10 Q. And are there times you get home after dark,
11 sometimes before dark?

12 A. I usually get home after dark.

13 Q. So after you moved in, after the Collins moved
14 into their property did the relationship continue to
15 evolve?

16 A. Yes, it did.

17 Q. Okay. Tell the Court into what it evolved?

18 A. We became friends. They invited me over to
19 dinner, I don't cook so I didn't. I invited them to my
20 house to have drinks, occasionally, out on the deck.
21 Watched fireworks together down on the lower level of
22 the property. Exchanged keys to the house so in the
23 event I got home late they could let my dog out. If
24 they weren't going to be home and they needed me to let
25 their dog out or feed their dog I could do that for

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1 them.

2 Q. Did they ever voice any objection regarding
3 how the house was configured, what it was built out,
4 anything along those things?

5 A. My house?

6 Q. Your house I'm talking about?

7 A. The only objection that was voiced, a dislike
8 I guess for the boathouse.

9 Q. And who expressed that dislike?

10 A. Steve Collins.

11 Q. Do you recall what he said, basically, in
12 summary fashion?

13 A. Basically that he thought it was an eyesore.

14 Q. Were there any requests by Mr. Collins of you
15 to do anything about the boathouse?

16 A. Not really requests, no.

17 Q. Now, we all notice your property has a, know
18 your property has a boat ramp?

19 A. Yes.

20 Q. That boat ramp was there when you moved in?

21 A. Correct.

22 Q. Do you utilize that for any particular reason?

23 A. Yes, I do. The dogs go in out of there, the
24 paddle boat, the canoe.

25 Q. Do you have jet skis?

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1 A. Yes, I have jet skis.

2 Q. Do they go in out of there?

3 A. Yes.

4 Q. You have heard Mrs. Collins testify there are
5 times when she would use the boat ramp with your
6 permission, is that true?

7 MR. JENKINS: Objection, your Honor.

8 THE COURT: Objection sustained.

9 BY MR. CARNEY:

10 Q. Since you have owned the property in 2000 has
11 anyone else used the boat ramp?

12 A. With, without permission?

13 Q. Just answer the question?

14 A. Friends and family use the boat ramp.

15 Q. Has Mrs. Collins used the boat ramp?

16 A. Mrs. Collins occasionally asked for permission
17 to come to the boat ramp to feed the ducks or geese
18 with her granddaughter.

19 Q. Have you granted the permission or denied it?

20 A. Granted the permission.

21 Q. Has anyone ever requested -- strike that.

22 Have the Collins ever requested be able to
23 launch a boat from the boat ramp?

24 A. No, they haven't.

25 Q. Mr. Collins testified he has a boat, where did

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1 he keep it, if you know?

2 A. Mr. Collins keeps his boat at his pier.

3 Q. Now, when you bought the property did you make
4 any improvement or changes to the boat ramp?

5 A. I had the boat ramp repaired in June '02, the
6 tidal water was undermining the ground beneath so I had
7 the boat ramp extended to stop that. I also had that
8 side of the boat ramp which was rip rap, just stones,
9 but they're covered so that, again, the water wouldn't
10 erode the side of the bulkhead.

11 Q. When you did that did Mr. or Mrs. Collins
12 voice any objection?

13 A. No, they did not.

14 Q. Other than that, did you do any maintenance or
15 make any improvement to the bulkhead?

16 A. To the bulkhead?

17 Q. Excuse me, the ramp?

18 A. To the ramp, no, other than protecting it from
19 eroding no.

20 Q. How did you protect it from eroding?

21 A. Just by extending it out and filling in the
22 side stones.

23 Q. You extended it out further in Norman Creek?

24 A. Yes.

25 Q. Did you ever widen the boat ramp?

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1 A. No.

2 Q. Now, let's back up a little bit. The Collins
3 finished construction of their home sometime in the
4 summer of 2001. You testified that you became friendly
5 and cordial at that point in time. Did there come a
6 time -- point in time when the friendly and cordial
7 relationship began to deteriorate?

8 A. Yes.

9 Q. Can you give the Court a time frame?

10 A. I can give you an exact date, April 28, '04.

11 First time I became aware there might be a problem.

12 Um, I had actually worked late that night, when I got
13 home there was a message on my answering machine which
14 I didn't pick up because Ann was outside, Ann Collins
15 was outside. She was calling me over to the fence.
16 She said she wanted to discuss with me the pump and
17 accident she had at the time, I wrote their car
18 insurance.

19 Q. You were their agent?

20 A. Yes. And so, she wanted me to come to her
21 yard, which I did. I followed her up to the house, up
22 to the deck and Steve Collins was already up on the
23 deck, and she asked me to sit down in a chair, which I
24 did. And she said, look at the view, and I said the
25 view, what do you mean.

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1 She said you are putting a railing up and we
2 don't have a view anymore. You are taking away our
3 view, blocking our view. I was really kind of stunned
4 because it didn't look significant to me at all from
5 that perspective.

6 Q. So their complaint was you were taking away
7 their view?

8 A. Yes.

9 Q. And that was being accomplished how?

10 A. By actually, at that time, the railing was
11 being put up on top of the wall.

12 Q. Let's back up. Prior to April 28, we all know
13 about Isabelle, did you suffer damages as a result of
14 that?

15 A. Yes.

16 Q. Tell the Court what damages you suffered?

17 A. I had about two feet of water in my basement.
18 I also had the front retaining wall, creosote railroad
19 ties water couple to the top of the railroad ties,
20 washed a lot of the dirt out behind them, they were
21 old. I believe the water came that high dislodged some
22 of the ties, the dirt came out behind it, it became
23 very unstable.

24 Q. As a result of this storm did you make certain
25 improvements to the house?

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1 A. Yes, I had to take down the creosote railroad
2 tie wall and put up a concrete block wall.

3 Q. Did you get permits to do the -- the -- this
4 work from Baltimore County?

5 A. I did not get permits immediately, as we
6 called Baltimore County to obtain permits, we were
7 told --

8 MR. JENKINS: Objection.

9 THE COURT: All right. The objection is
10 sustained.

11 BY MR. CARNEY:

12 Q. You can't tell us what you were told by
13 Baltimore County, tell us what you -- did you apply for
14 permits?

15 A. Applied for permits.

16 Q. Did you get permits?

17 A. No, we did not at that time.

18 Q. How long a period of time elapsed before you
19 did get a permit, if you ever did?

20 A. I believe the permits were actually issued in
21 May for the retaining wall, retaining wall, steps and
22 landing.

23 Q. Were there separate permits for each one of
24 the jobs or just one big permit?

25 A. One big permit.

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1 Q. Did you have to get permit to do anything
2 else?

3 A. For that front area, no.

4 Q. Once you obtained a permit and the work was
5 done, did the work have to be inspected by Baltimore
6 County?

7 A. Yes, they did have to inspect it. Yes, they
8 did inspect it. Came out to the property several
9 times.

10 Q. And did your -- the construction pass
11 inspections?

12 A. Yes, it did.

13 Q. You indicated to the Court that you were
14 invited over to the Collins' deck, if I may approach
15 your Honor?

16 THE COURT: Yes.

17 MR. CARNEY: April 28.

18 THE WITNESS: These pictures --

19 BY MR. CARNEY:

20 Q. No, the date you were invited to the property?

21 A. Yes.

22 Q. Okay. And their house was complete at that
23 time?

24 A. Yes.

25 Q. What year, was this 2004?

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1 A. 2004.

2 Q. You are looking for the record at, exhibit
3 Defendant's Exhibit 2, and where on this deck were you
4 invited to go by Mr. and Mrs. Collins, originally?

5 A. The chairs sitting right on, as you walk up
6 the steps, three, four feet back from where the steps
7 are they have chairs set up.

8 Q. So in this particular picture would the chairs
9 be back here some place (indicating)?

10 A. I was actually sitting on the chairs when I
11 took that picture, yes.

12 Q. You took this picture yourself?

13 A. Yes.

14 Q. You were seated on the chairs, same chairs or
15 chair you were seated on April 28?

16 A. Probably similar chairs, yes.

17 Q. This stairway, obviously, faces your house.
18 This deck does it come all the way around the front or
19 end somewhere?

20 A. No, the deck goes all the way around the
21 front.

22 Q. Any other opening in the deck other than the
23 one facing your house?

24 A. No that is the only opening.

25 Q. So, on April 28 when they invited you to come

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1 to deck was the work done on the house, the wall shown
2 in Exhibit 2 was that finished?

3 A. The wall was finished.

4 Q. Was the railing up as shown in this exhibit?

5 A. Most of the railing was up, not all of it.

6 Q. And tell the Court, please, what your response
7 was to the Collins contention?

8 A. I was just a little stunned that they were
9 complaining about the railing blocking their view,
10 because from the perspective of sitting in the chair,
11 the railing seems insignificant to the overall view.

12 Q. This tree, this is their tree?

13 A. Yes, it is.

14 Q. That's directly in the path of their view as
15 well?

16 A. Yes, it is.

17 Q. Did they make any -- did they do anything to
18 that tree since you have been there?

19 A. They had a number of lower limbs of that tree
20 cut off so they would have a better view.

21 Q. Do you know who took this picture?

22 A. I also took that picture the same day.

23 MR. CARNEY: For the record, that is
24 Defendant's Exhibit Number 4.

25 BY MR. CARNEY:

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1 Q. You took that picture the same day?

2 A. Yes.

3 Q. And where were you standing when you took that
4 picture?

5 A. I was standing on the Collins' deck
6 overlooking the railing.

7 Q. Does that look straight down the property
8 toward Norman Creek?

9 A. Yes.

10 Q. So there is the view they enjoy from the
11 middle of the deck --

12 A. Yes, it is.

13 Q. -- as opposed to the side. I say your side,
14 the side facing your house?

15 A. Yes.

16 Q. Now, after the 28th of what -- strike that.
17 Were you requested to do anything by the
18 Collins at that point, at that meeting?

19 A. On April 28, no, I wasn't.

20 Q. Did you have further discussions about their
21 contention that their view was being impaired in some
22 fashion by erection of the railing that day or the next
23 day?

24 A. I believe a couple of days later, the
25 beginning of May, when I went over to the Collins to

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1 talk to the Collins, and we had some discussions about
2 that blocking their view. And I, basically, disagreed.
3 I didn't see how it blocked their view. The
4 conversation wasn't pleasant, it wasn't unpleasant
5 either. We just really disagreed on what was their
6 view and how that impacted their view.

7 We had --

8 Q. That was just restricted to the railing?

9 A. Basically, at that time just the railing.

10 Q. Okay. And that was the only topic during the
11 course of that meeting that was brought up?

12 A. Pretty much, as I can recall.

13 Q. Did there come a time when you met with them
14 again?

15 A. I met with them on May 9. I remember that
16 because it is my father's birthday.

17 Q. What happened May 9, 2004?

18 A. 2004 I went to the Collins, both of them were
19 sitting out on deck. I went to the Collins to discuss
20 this, to see why we were having such a problem.

21 At that time Mr. Collins had explained to me
22 that was their retirement home, I was blocking their
23 view, and he asked me to go into their bedroom and see
24 how it was blocking their view. So I had gone into the
25 Collins' bedroom, Mr. and Mrs. Collins went with me.

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1 I knelt, you know, next to the bed so I would
2 be at their height in bed, I couldn't see anything
3 because of the railing on their deck and trees.

4 The conversation -- we went back out on the
5 deck, the conversation continued, um, and that's when
6 Mr. Collins told me that half of the boat ramp was his.
7 And, again, I was a little surprised because I had
8 assumed my property line had gone to the wall, so we
9 talked about that a few minutes.

10 Q. Did you ask him the basis of that belief?

11 A. I didn't ask him. The basis of what he had
12 said to me was to the effect did I ever measure the
13 width of my property; did I know how much property I
14 had there, and I had nothing at that point in time to
15 reference it. I told him that if that was the case, I
16 would be more than happy to purchase that pie sliver,
17 but we would have to get surveys.

18 Q. What was his response to that?

19 A. Basically, if -- he told me if I take the
20 boathouse down, if I give him permission to take the
21 boathouse down and pay for it, he would gift me the
22 piece of property.

23 Q. You obviously didn't take him up on that
24 property?

25 A. No.

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