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IN THE COURT OF COMMON PLEAS

SUMMIT COUNTY, OHIO

CHRISTINE B. DRESSER, D.V.M.,

Plaintiff,

-vs-

JUDGE SPICER  
CASE NO. 2002 03 1644

COMPUTER GENERATED IMAGING, INC.,  
et al.,

Defendants.

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Deposition of DON PLUNKETT, taken as if upon  
cross-examination before Kristin L. Wegryn, a Notary Public  
within and for the State of Ohio, at the offices of  
Gallagher, Sharp, Fulton & Norman, Seventh Floor Bulkley  
Building, Cleveland, Ohio, at 12:25 p.m. on Friday, January  
17, 2003, pursuant to notice and/or stipulations of counsel,  
on behalf of the Plaintiff in this cause.

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1 APPEARANCES:

2 Mark W. Ruf, Esq.  
3 The Hoyt Block, Suite 300  
4 700 West St. Clair  
5 Cleveland, Ohio 44113  
6 (216) 687-1999,

7 On behalf of the Plaintiff;

8 Ernest W. Auciello Jr., Esq.  
9 Gallagher, Sharp, Fulton & Norman  
10 Seventh Floor Bulkley Building  
11 1501 Euclid Avenue  
12 Cleveland, Ohio 44115  
13 (216) 241-5310,

14 On behalf of the Defendants,  
15 Don Plunkett; Plunkett & Associates;  
16 Studio One;

17 Robert B. Daane, Esq.  
18 Howes, Daane, Milligan & Erwin, L.L.P.  
19 200 Charter One Bank Building  
20 400 Tuscarawas Street West  
21 Canton, Ohio 44701-0870  
22 (330) 456-3483,

23 On behalf of the Defendants,  
24 Computer Generated Imaging, Inc.;  
25 Michael Furlong.

ALSO PRESENT:

Michael Furlong  
Christine B. Dresser, D.V.M.

1 DON PLUNKETT, of lawful age, called by the  
2 Plaintiff for the purpose of cross-examination, as provided  
3 by the Rules of Civil Procedure, being by me first duly  
4 sworn, as hereinafter certified, deposed and said as follows:

5 CROSS-EXAMINATION OF DON PLUNKETT

6 BY MR. RUF:

7 Q. Could you please state your name and spell your  
8 name.

9 A. Yes. It's Donald F. Plunkett Jr. Plunkett's  
10 P-l-u-n-k-e-t-t.

11 Q. What is your address, Mr. Plunkett?

12 A. Business address?

13 Q. Sure.

14 A. It's 2208 East Enterprise Parkway. And that is  
15 Twinsburg, Ohio 44087.

16 Q. And how long has that been your business address?

17 A. September 15th, 2001.

18 Q. Where were you before then?

19 A. Before then I was at 12429 Cedar Road, Studio 10.  
20 And that's in Cleveland Heights. It's actually in Cleveland,  
21 Ohio 44118.

22 Q. And what caused you to move to the new location?

23 A. I was looking to expand my business, and I talked  
24 with Mike Furlong, along with Robert Sharon, about starting a  
25 new business venture.

1 Q. And what kind of business venture did you want to  
2 start?

3 A. Well, what I was trying to do is get myself free to  
4 do more project management and more design work as -- and get  
5 away from the business end of the business, because that's  
6 not my strong suit. Or it's not my -- I don't particularly  
7 enjoy that end of it, so I was trying to find a way to grow  
8 the company and start something a little bigger and a little  
9 better, and that was Studio One Design Group, Inc.

10 Q. And originally you anticipated that Mr. Furlong  
11 would be part of that group?

12 A. That is correct. I actually talked to Mike first  
13 before I talked to Robert Sharon, who was my partner.

14 Q. Was a decision made not to include Mr. Furlong in  
15 that group?

16 A. Correct, the decision was made. He had -- he had a  
17 divorce that was not final, and, upon recommendation of our  
18 attorney, he suggested that, you know, we consider that maybe  
19 after the fact, after the divorce was settled.

20 Q. Did the decision not to include him in the group  
21 have anything to do with his lack of qualifications or what  
22 happened with the Architecture Board?

23 A. No. Mike has -- he has pretty good design skills,  
24 and they're especially strong in the residential area. He  
25 does a lot of residential homes. He also is very strong in

1 computer drafting and renderings, and that's a valuable  
2 talent. He would have added a lot to our company. So  
3 that -- there's -- as a professional architecture firm, more  
4 than 50 percent of your officers need to be registered  
5 architects. So with two registered architects, the third  
6 does not need to be. A lot of times that happens. Someone  
7 has business experience, you know, whatever it is. So that  
8 was not -- that wasn't the reason.

9 Q. Okay. My name's Mark Ruf.

10 A. Yeah.

11 Q. We were introduced before. We wound up getting  
12 into a discussion. I didn't want to cut it off.

13 If at any time I ask you a question during this  
14 deposition and you do not understand, please tell me. If you  
15 give me an answer to a question, I'll assume you understood  
16 the question. Okay?

17 A. Okay.

18 Q. Also, again, if you give me direct responses to  
19 questions, this will go faster. If I get no response, or an  
20 evasive response, I'm going to ask the question again. Okay?

21 A. Okay.

22 Q. Do you hold any licenses?

23 A. Yes. I'm registered in the State of Ohio.

24 Q. Any other states?

25 A. No. NCARB. I'm a member of NCARB, which is a

1 professional organization, which it's just a matter of  
2 sending in the fees to become registered, except for  
3 California and Florida, which have some additional  
4 requirements. But I am not -- I don't hold any -- I practice  
5 only in the State of Ohio.

6 Q. And what are you licensed in, architecture?

7 A. I'm a registered architect.

8 Q. Had your license ever been subject to disciplinary  
9 action?

10 A. No.

11 Q. Could you define for me what the practice of  
12 architecture means to you?

13 A. Boy. I guess it's for me it's problem-solving in  
14 regards to usually a structure of some sort, and bringing in  
15 whatever the requirements are to get yourself a building.  
16 You know, building structure. And, again, I think it's a  
17 reflection of the architect and owner and everybody involved.  
18 So it's a process. I don't know, you know, how else to  
19 describe that.

20 Q. What specific aspects of preparing plans for and  
21 designing a building would be the practice of architecture?

22 A. I'm not sure I follow that. Maybe if you repeat  
23 it.

24 Q. Sure.

25 MR. RUF: Would you read it back.

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(Thereupon, the requested portion of  
the record was read by the Notary.)

A. Well, it starts as early as programing, schematic  
design. Again, every project's different. There's -- I  
mean, there's numerous phases. If you want to go through the  
preliminary, schematic design, design development,  
construction document phase, contract administration phase.  
There's all those items. And, again, it's going to vary from  
project to project.

Q. All right. Let me be more specific in my question  
then.

A. Okay.

Q. For the project for Dr. Dresser, what aspects of  
preparing plans and designing a building would constitute the  
practice of architecture?

MR. AUCIELLO: He means in the term of art sense.  
The legal sense, right? The practice of architecture?  
Something that could only be done by an architect.

Q. I'm asking your understanding as somebody who is  
licensed to practice architecture in this state.

MR. DAANE: Are we talking about all types of  
construction?

A. You're talking about this particular project?

1 Q. Right.

2 A. I believe, I mean, everything from the city  
3 reviews, which, you know, going through the different boards,  
4 architecture review, the zoning, the preliminary design,  
5 schematic designs. And, again, I mean, we did everything  
6 that was in our proposal. And those were the items that we  
7 included for our contract. And, again, they would vary from  
8 project to project.

9 Q. Is it your understanding that nonarchitects can  
10 work on an architectural project?

11 A. Absolutely. In every office, you have people who  
12 are not architects who are working on projects. You have  
13 draftsmen; you have intern architects; you have graduate  
14 architects; you have interior designers. They all work on  
15 projects.

16 Q. And what kind of supervision has to be given to the  
17 unlicensed architects who are working on a project?

18 A. I mean, that's going to vary. I mean, I know in  
19 this particular project I spent a lot of time down in that  
20 office. Again, that's probably where -- I'm probably  
21 drifting, but that's where we probably looked at maybe  
22 starting something. I spent a lot of time down there. We  
23 spent a lot of time working alongside draftsmen, marking up  
24 prints for them to change, working up the topos. And, again,  
25 I'm sure it varies from architect to architect, but I was



1 very involved in that.

2 Q. Do you agree that you had ultimate responsibility  
3 for Dr. Dresser's project?

4 A. From an architectural standpoint, yes.

5 Q. Did you agree to supervise the work of Mr. Furlong  
6 on the project?

7 A. I -- that's I guess what I was asked to do, was --

8 MR. DAANE: Are we talking before -- you're not  
9 talking about the work of Mr. Furlong before he was involved.  
10 You're talking about after he was?

11 MR. RUF: No.

12 Q. Once you became involved in the project, did you  
13 agree to supervise the work of Mr. Furlong?

14 A. That's the way I brought Mike in. I wasn't  
15 agreeing to supervise his work. He was going to work as a  
16 consultant for me and, as a consultant for me, I definitely  
17 am going to be supervising his work.

18 Q. What was your understanding as to what his role was  
19 going to be in Dr. Dresser's project after you came onboard?

20 A. He was going to be doing drafting. A lot -- most  
21 of the traveling services for me he was going to do. He was  
22 going to be involved in city approvals. He had started the  
23 process. The people there knew him. And, again, this was  
24 something I asked Christine and I said, you know, "Are you  
25 happy with the design? Are we going to stay with it here?"

1 Are we going to keep Mr. Furlong involved?" If they had any  
2 problems with that, let me know because that was the  
3 assumption I made at the time I started the project, that  
4 they were happy with the design. And, again, I shouldn't  
5 drift or dwell, but that's -- well, I don't know if I  
6 answered your question or if I --

7 Q. Yeah. Let me ask another question.

8 Other than telling Dr. Dresser and Mr. Marco that  
9 Mr. Furlong was going to be involved in the project, did you  
10 have any discussions in the beginning as to exactly what  
11 Mr. Furlong was going to be doing?

12 A. I don't think we specifically laid out his  
13 responsibilities, no.

14 Q. Were you aware that there were proceedings that had  
15 been started with the Architecture Board?

16 A. Yes. Yes.

17 Q. Were you aware there was a Settlement Agreement  
18 between Mr. Furlong and Architecture Board?

19 A. Yes. I helped implement that because when Mike  
20 asked if I was interested in the -- in getting involved in  
21 this, he informed me that they had contact from the State  
22 Board Examiner's office.

23 I said, "Well, the only way I'm going to get  
24 involved in this, is if we contact him and make sure  
25 everything's resolved." That's when we talked to

1 Mr. Holland, I think, Chad Holland.

2 And he said, "Well, the way you resolve this is you  
3 terminate Mike's contract. You get your contract. The  
4 Board's going to reprimand Mike." And that's what we did.

5 So, yes, I was aware of it. I wasn't going to  
6 proceed with it until we had that resolved.

7 Q. Did either Mr. Marco or Dr. Dresser express any  
8 dissatisfaction with Mr. Furlong or his work when you started  
9 to become involved in this process?

10 A. I was not made aware of any dissatisfaction.

11 Q. Okay. I'm handing you what has been marked as  
12 Plaintiff's Exhibit 2. Are you familiar with that document?

13 A. Yes. I've seen this.

14 Q. Did you receive a copy of that document before you  
15 had a signed proposal with Dr. Dresser?

16 A. I don't believe I saw this before. I think our  
17 proposal -- I know our final proposal after the revisions was  
18 made forth. That's what it was dated. Again, I couldn't  
19 tell you if I saw that before.

20 Q. Were you aware that Mr. Furlong was going to  
21 provide a licensed architect to supply the services set forth  
22 in his contract of December 17th, 2001?

23 A. I had no knowledge of that.

24 Q. Did you ever see a copy of the Agreement between  
25 Mr. Furlong and Dr. Dresser before she signed your proposal

1 on May 4th, 2001?

2 A. Yes. Yes, I did.

3 Q. When did you receive a copy of Plaintiff's Exhibit  
4 3?

5 A. In the time frame when we were preparing our  
6 proposal for Christine I saw that. The fee that I gave, we  
7 basically kept it the same. Typically, I wouldn't have been  
8 at that price. But, again, I was trying to keep the project  
9 going and not -- again, at that point, we had talked a little  
10 bit about possibly doing something together. It was very  
11 preliminary. But, yes, I did see that.

12 Q. Were you aware that initially the Agreement was  
13 Mr. Furlong for building four to 5,000 square feet at an  
14 estimated cost of 55 to \$75 per square foot?

15 A. I did see that, yes. I saw that.

16 Q. In your initial meeting with Dr. Dresser and  
17 Mr. Marco, did you have any discussions about those terms?

18 A. Not about those dollar amounts. The conversation  
19 was, you know, what is this building going to cost. And,  
20 again, we're not retained to do an estimate. Glen Smith,  
21 especially if it's meant to be a competitive bid, it was  
22 going to be a general contractor was selected. The general  
23 contractor had certain ideas about how buildings should be  
24 built. He wouldn't use trusses. He wanted to use stick  
25 frame, which adds cost. The basement, there were a lot of

1 factors that were unknowns. Again, putting in a basement,  
2 first an empty basement versus building the walls down there  
3 anyway because of the sloping site, you would build the same  
4 amount whether you had a basement or not just about. Yeah,  
5 there would be some additional cost, but it was minimal, and  
6 for the benefit of the additional space. So, yes, we knew it  
7 wasn't the \$350,000 because the square footage had increased.  
8 What was it, we didn't know.

9 Q. Do you agree that from the very beginning, cost was  
10 a concern of Dr. Dresser?

11 A. Absolutely. Every time we met, they said "Do we  
12 have an estimate yet?"

13 Then we'd go, "Well, it's Glen Smith who is  
14 preparing this estimate." So, yes, it was brought up.

15 Q. Were you aware of what Dr. Dresser's budget was?

16 A. The \$750,000 is the number I knew we were dealing  
17 with because we were no longer dealing with the 4,000 square  
18 foot building.

19 And as far as the 55 to 75, that was a different  
20 type of building. The original plans that had been -- I had  
21 seen that were brought in all had dollar amounts, which were  
22 on a flat site, slab on grade. Much different building than  
23 we were doing.

24 Q. I assume that, in your business, you prepare plans?  
25 You see buildings built? And you're made aware of costs; is

1 that correct?

2 A. Absolutely.

3 Q. So I would expect that you have some knowledge  
4 about what it costs to put up a commercial building; is that  
5 correct?

6 A. Yes, I do.

7 Q. Based upon your experience, can you put up a  
8 commercial building for 55 to \$75 per square foot?

9 MR. AUCIELLO: Not this commercial building? Any  
10 commercial building?

11 MR. RUF: Right.

12 A. Oh, yeah. Yes.

13 Q. For Dr. Dresser's building, would it have been  
14 possible to erect a building for 55 to \$75 per square foot?

15 A. Probably not that. But, again, it depends on what  
16 you're including.

17 Q. In the beginning of the project, did you have any  
18 expectations as to what it would cost, approximately, per  
19 square foot to build this veterinarian hospital?

20 A. Again, I've got to know what you're including in  
21 the cost.

22 Q. Well, in the initial meeting, or the initial few  
23 meetings with Dr. Dresser and Mr. Marco, did you ever give  
24 him any indication as to what the cost of the building would  
25 be?

1           A.    I couldn't do that when you're dealing with the  
2 contractor who doesn't competitively bid a project. He may  
3 solicit prices from different contractors, but he's not --  
4 he's ultimately got the contract. Whether they go ahead or  
5 not is another item, but.

6           Q.    Did you understand that Dr. Dresser's budget of  
7 750,000 was a total cost including land, building and  
8 equipment?

9           A.    No. Again, I had never heard a dollar amount on  
10 the land. And I didn't know that was included in the price.

11          Q.    Did you have any discussions with Mr. Furlong about  
12 that?

13          A.    Mostly in how we get Glen to get a number to us.

14          Q.    Were you aware of whether or not Mr. Furlong had  
15 represented that the design for the second building could be  
16 built for 350,000?

17               MR. AUCIELLO:   Objection.

18               MR. DAANE:    Objection.

19          A.    I -- I know once I got involved, we didn't talk  
20 about the 350,000 anymore. And if he did, it would be prior  
21 to that. I was not aware of that.

22          Q.    Do you know if he was still making representations  
23 about building a building for 350,000 after you took over the  
24 project?

25               MR. AUCIELLO:   Objection.

1 MR. DAANE: Objection.

2 A. I do not believe he ever did that. I was not aware  
3 of it. Because I made sure I didn't mention a dollar amount  
4 because I didn't know what that was going to be.

5 Q. Did you ever have a discussion with Mr. Furlong  
6 about the figure 350,000?

7 A. I don't think so. I don't think we ever did.

8 Q. Well, are you saying there never was a discussion  
9 about 350,000, or are you just not recollecting?

10 A. Not with me, he never had that conversation.

11 - - - -

12 (Thereupon, Plaintiff's Exhibit 10 was marked for  
13 purposes of identification.)

14 - - - -

15 Q. Okay. I'm handing you what has been marked as  
16 Plaintiff's Exhibit 10. Do you agree that that's a facsimile  
17 that you sent to Mr. Marco on May 3, 2001?

18 MR. DAANE: What did you mark this as?

19 MR. RUF: 10.

20 MR. DAANE: We're just going to keep going, right?

21 MR. AUCIELLO: I think it's easier that way.

22 A. Yes, this is.

23 Q. Do you agree that Dr. Dresser made it clear from  
24 the beginning of your involvement with her, until the end of  
25 the project, that the plans would have to be for a building



1 that could be built within her budget?

2 MR. AUCIELLO: Objection, just because there's  
3 more than one question.

4 A. Please repeat the question.

5 Q. Sure.

6 Do you agree that she made it clear throughout your  
7 involvement with the project that the plans would have to be  
8 for a building within her budget?

9 A. I'm very sure she probably said that was important  
10 to her.

11 Q. Did you accept her project and continue to work on  
12 her project knowing that a building had to be built within  
13 her budget?

14 A. We did proceed not knowing. You never know what  
15 the final number's going to be on the project. But, yes, we  
16 proceeded. We also talked to, you know, Glen Smith about  
17 getting numbers. And he was very hesitant in giving us  
18 numbers on where we were at. I don't know if it's because he  
19 hadn't done a lot of commercial buildings and was  
20 uncomfortable and tried to get numbers from residential  
21 subcontractors, but we could not get a number from him.

22 Q. Do you agree that Plaintiff's Exhibit 10 contains  
23 representations about you and your architecture firm?

24 A. Uh-huh.

25 Q. You need to give a verbal answer.

1 A. Yes. I'm sorry.

2 Q. And did you make those representations prior to  
3 giving a proposal to Dr. Dresser for the project?

4 MR. AUCIELLO: In other words, did he send this to  
5 her before?

6 A. I believe -- I believe Dick Marco had -- our  
7 meeting we had around the -- between the 26th, when the  
8 previous one was sent, and the 4th, the 26th of April and the  
9 4th of May, that, yes, I was requested to send this, so I  
10 sent these to Dick.

11 Q. And did you send Dr. Dresser Plaintiff's Exhibit 10  
12 in order to try and get her business for this project?

13 A. Yes.

14 Q. Do you agree that in Exhibit 10 there's a statement  
15 that you're going to oversee every project to insure each  
16 client, for each client, their project is aesthetically and  
17 functionally successful as well as on time and on budget?

18 A. Correct.

19 Q. Take a look at the last page. I can't read the  
20 number at the bottom. I think it's 68.

21 A. It starts off at Number 7 on the top?

22 Q. Correct.

23 A. Okay. Yes.

24 Q. In the second paragraph, do you agree that you're  
25 representing that you're going to try to meet the client's

1 specific needs?

2 A. Yes, I do.

3 Q. And you agree that in the third paragraph, you  
4 state that you want to insure the project's timely completion  
5 within budget?

6 A. Yes.

7 Q. Do you again refer to budget in the last portion of  
8 Section 7, the last paragraph?

9 A. Yes.

10 Q. And that paragraph states you want to meet the  
11 client's needs and objectives while maintaining the client's  
12 budget, correct?

13 A. Yes.

14 Q. To your knowledge, were final plans ever prepared  
15 for a building that could be built within Dr. Dresser's  
16 budget?

17 A. The final drawings that were prepared never had a  
18 budget number prepared, so we do not know.

19 Q. Do you know why a budget number was never prepared?

20 A. That I don't know. I have never gotten any answer  
21 from Glen Smith.

22 Q. Did you ever ask Dr. Dresser if you could send the  
23 plans out for a bid from, for somebody other than Glen Smith?

24 A. Yes. We sat down with Richard Marco and asked if  
25 we could do that, and he said that we could not. And we also

1 told him if it came in above budget, we would redesign it at  
2 no cost. And he said that it didn't matter. That our  
3 services were terminated and that was the end of it. And I  
4 wouldn't send them out to contractors who don't have an  
5 opportunity to bid it. I don't think that would be very  
6 ethical or fair.

7 Q. Did Dr. Dresser ever tell you that you could send  
8 it out to whoever you wanted to, but you wanted Glen Smith to  
9 build the building?

10 A. Why would I do that to a contractor and waste his  
11 time?

12 Q. I don't know. I'm asking you.

13 A. She did. And I said, you know, I couldn't do that.

14 Q. So you would agree that she did tell you that?

15 A. She asked if we would do that.

16 And but also she told us that they wouldn't have  
17 the opportunity to build it. So I'm not going to -- I  
18 wouldn't ask somebody to do that. That's pretty dishonest to  
19 ask somebody to bid something when they have no opportunity  
20 to win the bid.

21 Q. Do you agree that plans for a building which she  
22 cannot build are not worth anything to her?

23 A. I don't know that she can't build.

24 Q. Didn't she make clear that she couldn't afford to  
25 build a building that would cost more than 750,000?

1           A.    Is she a contractor? Does she have -- I've never  
2    seen a number. I've never seen an estimate for what that  
3    building cost, so I don't know that she can't build it.

4           Q.    So you were never aware of the number Glen Smith  
5    ultimately came up with?

6           A.    No. We've never seen any number. We've asked for  
7    it.

8           Q.    Were you aware that ultimately this number was an  
9    amount of 900,000 or more to build the building?

10          A.    Which is it, 900,000 or 900,000 or more?

11          Q.    Were you aware that it would cost at least 900,000,  
12    maybe more, to build this building?

13               MR. AUCIELLO: Objection. By that contract?

14               MR. DAANE: Or somebody else.

15               MR. AUCIELLO: If he said two million dollars.

16          A.    What's that include, the land cost? Is this in  
17    that? I have no idea what -- I can't answer that. I don't  
18    know what that includes. Does that include the cost of  
19    permits, fees, architects fees? What is that?

20          Q.    Okay. Well, let me ask a more specific question.

21               Were you aware that, for your final set of plans,  
22    Glen Smith estimated that it would cost at least 900,000,  
23    maybe more, to put up the building?

24          A.    And I'm not -- I'm not aware of that. And I guess  
25    I might add to that, too, does that include finishing off the

1 basement which was asked by the city for us to show on the  
2 plans? It doesn't have to be done now. It's a phase. This  
3 is interior buildout, which probably at rough estimate is  
4 probably about 30, \$40 a square foot times the basement. The  
5 city asked to show it because they wanted to make sure if  
6 someone wanted to put a bar in or something else, they wanted  
7 to know how it was going to be used, so that was asked. And  
8 that I guess was included in the price, which was never part  
9 of ours, but we did those additional services and showed it.  
10 And that number keeps being included even though we didn't  
11 include it in our work. But the city requested to see how  
12 that was going to happen. So is that included in the 900,000  
13 I guess is my question.

14 Q. Would you agree that cost is always a factor in  
15 preparing architectural plans for a client?

16 A. Absolutely.

17 Q. And that's something you need to take into  
18 consideration in preparing plans for a client, correct?

19 A. Correct. But it also -- that's a service, and we  
20 were not retained to do estimates. So the person who is  
21 responsible for that, and keep giving us information. But we  
22 asked constantly for numbers, where we're at so we know what  
23 we're doing, where we are. Never gave us those numbers. We  
24 couldn't get those. And part -- in fairness, part of it was  
25 due to we don't do mechanical, electrical drawings until we

1 get architectural approval from the city of -- the Village of  
2 Richfield. You'd be foolish to because they'd say no, it's  
3 not approved, so we can't start those until we have our  
4 approval. That's all part of the process. They can't give  
5 us a number on it, so. And, again --

6 Q. Do you agree that Glen Smith said he couldn't come  
7 up with a number until you had the engineering and mechanical  
8 drawings?

9 A. Absolutely.

10 Q. And I'm showing you what's been marked as  
11 Plaintiff's Exhibit 4. Are you familiar with that document?

12 A. Yes.

13 Q. Would you agree that that document is entitled  
14 Proposal?

15 A. Yes.

16 MR. AUCIELLO: Until the back page where it's  
17 signed.

18 Q. Okay. Could you take a look at Section C, please.

19 Do you agree in the first paragraph it states that  
20 a set of construction documents will be suitable for bidding  
21 and for obtaining a building permit?

22 A. That's correct.

23 Q. Were a set of construction documents ever prepared  
24 that were approved by Summit County Building Department?

25 A. No. We withdrew them on the day we got the letter

1 terminating our services.

2 Q. Okay. Let me show you what's been marked as  
3 Plaintiff's Exhibit 5. Are you familiar with that document?

4 A. I'm very familiar with that document.

5 Q. Do you agree it's a letter from the Building  
6 Department of July 10th, 2001?

7 A. I do agree with that.

8 Q. Do you agree that, in that letter, the Building  
9 Department indicated that the drawings that were submitted  
10 were inadequate for review?

11 A. That is correct. The reason they were inadequate  
12 was, in order to get on the shelf, you submit your drawings  
13 and you wait your turn. We submitted our architectural while  
14 the mechanical and electrical drawings were being completed  
15 so we wouldn't waste time. They sent this letter out as a  
16 formality saying that they were incomplete while we were  
17 completing our mechanical and electrical drawings so we  
18 wouldn't lose six weeks of time. So that's why on July 10th  
19 our architectural approval was about two weeks before that.  
20 There's no way mechanical, electrical drawings could be done  
21 in two weeks. That's why we submitted those.

22 Q. Well, to your knowledge, was there a set of  
23 construction plans that was prepared that were suitable for  
24 bidding?

25 A. Yes.



1 Q. When were the plans prepared that were suitable for  
2 bidding?

3 A. It was after the July 10th date. I'd have to look  
4 at -- probably was around the end of July that the mechanical  
5 and electrical engineering drawings were completed.

6 Q. Did you ever submit any set of plans to the  
7 Building Department that were suitable for review by the --

8 A. Yes.

9 Q. When was that?

10 A. That was around the end of July. And they had them  
11 in their office and were ready to be reviewed.

12 Q. So those plans were pending at the time you were  
13 terminated?

14 A. Yes. We picked them up.

15 Q. To your knowledge, were there any problems with  
16 approval by the City of Richfield?

17 A. I'm not aware of any.

18 Q. Were you aware of any issues with respect to  
19 landscaping or --

20 A. Yes.

21 Q. -- lighting?

22 A. Yes. We had that. We had to resolve that.

23 Q. Was that resolved?

24 A. No.

25 Q. Before you were terminated?

1 A. No.

2 Q. Were there any other issues that had to be  
3 addressed based upon the meetings with the City of Richfield?

4 A. I don't believe there were any other issues.

5 Q. Do you recall that, based upon meetings with the  
6 City of Richfield, the issue of signage had to be addressed?

7 A. Yes. That was something that would have to be  
8 resolved. And, typically, in construction, that's one of the  
9 last things that goes before review boards, is the signage.

10 Q. Was that issue addressed before you were  
11 terminated?

12 A. No. And landscaping and signage, if you look in  
13 the contract, is nowhere in our contract. But, again, we did  
14 a lot of additional services that we never invoiced for:  
15 Renderings, preliminary landscape plans. Those were never  
16 invoiced.

17 Q. What was the total square footage for the last set  
18 of plans that were prepared?

19 A. I couldn't tell you what the total square footage  
20 was.

21 Q. Was there ever a determination by you that the  
22 square footage was too large due to the budget restrictions  
23 on the project?

24 A. I guess I had some reservations, but until we had a  
25 number to do value engineering, it would have been kind of

1 useless.

2 Q. Were there ever any discussions about eliminating  
3 the seconded story or the upper level of the building?

4 A. No. No.

5 Q. Were you ever informed that Dr. Dresser did not  
6 want the second story or the upper level of the building?

7 A. I was not aware she did not want the second floor.

8 Q. Did you have any discussions with Dr. Dresser about  
9 the second floor of the building?

10 A. Again, when we sat down to design the contract, I  
11 asked if there was anything that they wanted changed or  
12 anything that was not acceptable, and I was not made aware of  
13 that. Again, they did ask "What's this going to cost?"

14 I said, you know, "I would like to know, too." And  
15 that's something we have to work towards.

16 Q. When you first sat down with Dr. Dresser and  
17 Mr. Marco and they asked about the cost, were you aware of  
18 the square footage of the building for the plans that were in  
19 existence at that time?

20 A. The plans that were in existence that we were  
21 working with are very similar to what the final ones were.  
22 Whether there's -- there might be a difference, but it  
23 wouldn't be a noticeable difference.

24 Q. Well, in the initial meeting, did you look at what  
25 the total square footage was for the building?

1           A.    Yeah.  Yes, I'm sure we -- we were aware of what  
2   the square footage was.

3           Q.    Did you raise any concern with Dr. Dresser and  
4   Mr. Marco about trying to build a building of that size  
5   within her budget?

6           A.    I -- I still think -- and, again, it depends what  
7   you consider the budget number.  If it's the \$750,000, I  
8   would still say yes, that building of that size -- and,  
9   again, you can't finish off the basement.  It can be there.  
10   But that building could be built with the stick frame and  
11   roof instead of trusses, which the engineer and contractor  
12   liked to do stick frame.  It's the purest thing from a  
13   contractor's or a carpenter's standpoint.  There's a lot of  
14   things we could have done to take money out of that project  
15   and still build that project.  We were never given the  
16   opportunity to do that.  And I still feel -- and, again, the  
17   \$750,000 appears to be an issue, whether -- and I know, knew  
18   this could never be built for 350,000, and we never made any  
19   claims that it could be.

20          Q.    Was it unrealistic to build this building for  
21   350,000?

22          A.    This building, yes.

23               MR. AUCIELLO:  Referring to the final design?

24          A.    Final design.

25          Q.    Let me go back.

1           A.    I mean, if I go back, I'm going back to Exhibit 3  
2 where it was one story and the site hadn't been factored into  
3 it yet and a number of things that aren't included in that,  
4 so -- I guess I'm going on. I shouldn't do that.

5           Q.    Let me go back because we got off on a tangent and  
6 I don't think you answered my specific question.

7                   During the initial meeting, or the initial few  
8 meetings you had with Dr. Dresser and Mr. Marco, did you ever  
9 tell them that you had a concern about building a building  
10 based upon the existing plans within her budget because of  
11 the size of the building?

12          A.    I never -- no, I never told her.

13          Q.    Did you ever tell her that, based upon my  
14 experience and what I've seen buildings built for, we're not  
15 going to be able to build a building with the square footage  
16 that we've got within your budget?

17          A.    If you're saying she -- they told us the budget was  
18 350. That never happened. If we talked about 750, yes, I --

19          Q.    I'm referring to the 750,000 figure.

20               MR. AUCIELLO: Tell him what you told her.

21          Q.    We've had some confusion here. Let me go back and  
22 reask the question.

23                   Did you ever tell her that, based upon the plans as  
24 they existed when you first got involved in the project,  
25 based upon the square footage in those plans and your

1 experience as an architect, that you would not be able to  
2 build that building within her budget of 750,000?

3 A. I never told her that because I still think it  
4 could be. And, again, you've got -- the final plan showed  
5 the basement being built out, which was requested by the  
6 city. We couldn't do that. We'd have to do value  
7 engineering and pull things out and work. But I still think  
8 that number could be achieved.

9 Q. To your knowledge, was a bid ever obtained for the  
10 final set of plans?

11 A. I never -- I'm not aware of one.

12 Q. Based upon your experience, would you agree that,  
13 in general, it would cost between 100, \$150 per square foot  
14 to build a commercial building?

15 A. Finished? You're probably pretty close.

16 Q. Okay. If I'm pretty close, approximately what is  
17 the range?

18 A. Again, it depends on, you know, how you're  
19 finishing off the inside. I mean, interior finish can range  
20 from 25 to \$40 a square foot buildout. Again, those --

21 Q. I understand.

22 A. In this type of building, it is a medical, yes, but  
23 it's also -- it's not a doctor's office. And the materials  
24 that can be used -- I mean, again, if you build out the 5,000  
25 square foot of it at \$100 a square foot and the basement is

1 considerably less, again, not being built out, everybody  
2 always says, well, you've got this basement built out. No,  
3 we were building a basement that was purely -- it's basically  
4 going to be there. With the slope of the land, you're adding  
5 a couple courses of block. And, instead of a mud slide,  
6 you're putting in a four-inch slab and maybe a door and  
7 window or two. The cost is already there. So, again, you  
8 know, and then the finishing out was added. Which, again, if  
9 you're going to add that in as part of the project,  
10 obviously, it's not going to come in within budget. But,  
11 again, I'm --

12 Q. Do you agree that the upper story or the second  
13 floor of the building added cost to building this building?

14 A. Sure. That was a large cost.

15 Q. Do you know whose idea it was to put a second floor  
16 up, or floor in this building?

17 A. I really don't. By the time I was involved, the  
18 second floor was there. I never heard any discussion of  
19 taking it out; that it wasn't wanted.

20 Q. Would you agree that there is no requirement in  
21 Richfield for there to be a second story or upper floor on a  
22 building?

23 A. I'm not aware of any requirement that would be  
24 required.

25 Q. So, based upon your experience, would you agree

1 that a single-story building could have been approved by the  
2 City of Richfield?

3 A. Possibly. Again, it was a new Board. Again --

4 Q. Did you ever --

5 A. I couldn't answer that.

6 Q. Did you ever investigate that issue as to whether  
7 or not the City of Richfield would approve a one-story  
8 building with a basement?

9 A. I -- I didn't pursue that. I didn't know there was  
10 a need to. Again, we offered with Mr. Marco to redesign if  
11 we had to do. That offer was out there, and there wasn't --  
12 and I guess that would have been the point. I would have  
13 explored it, but I never did.

14 Q. Do you know what the square footage was for the  
15 upper or second story of the building?

16 A. Other than hearing Mr. Furlong earlier say it was  
17 1,200 square feet, I would have guessed it was about 1,000  
18 square feet. I didn't know exactly what it was offhand. I'd  
19 have to go back.

20 Q. Were you aware of that figure before today?

21 A. At some point I was. Again, when I sit down and do  
22 a code evaluation and exiting distances and things like that,  
23 and then as far as dollar amounts, I never really looked at  
24 it as far as if we could make it smaller or if it wasn't  
25 there. Because, again, I didn't know what our budget number



1 was. I knew what -- I'm sorry. I knew what the budget  
2 number was. I didn't know what our actual cost was.

3 Q. Did you know what the second story of the building  
4 was going to be used for?

5 A. Yes.

6 Q. What?

7 A. They were going to use it in case they had to stay  
8 overnight. And that's kind of a tricky issue. And we  
9 debated how we were going to present that to the city. And  
10 so, you know, at first it was going to be an office, and then  
11 we just explained to them at the meeting, we tend to use  
12 it -- someone's not going to live there year-round, but  
13 people would stay there overnight, and that's how it would be  
14 used. Because they were concerned about it being a  
15 residence, which changes the classifications and the zoning.  
16 It impacts a number of things. So we were trying to get it  
17 to --

18 Q. Why was that a tricky issue?

19 A. Because it's a different -- it's a different use  
20 group.

21 Q. What if it was being as a residence? Could that  
22 cause problems with the approval?

23 A. Because what the property's zoned for. What it's  
24 zoned for; how you're classifying the building; separating  
25 the use groups. There's a whole slew of issues.

1 Q. So that would cause problems with approval?

2 A. Yes. Yes. The difficult thing is there's nothing  
3 in the code that specifically addresses those issues per our  
4 case. So what we were trying to do is present it in a  
5 fashion that would get approved, but we also weren't trying  
6 to hide anything major from them. And I think we did that.

7 Q. Well, to your knowledge, did either you or  
8 Mr. Furlong tell Dr. Dresser that she should state in this  
9 meeting with the City of Richfield that she was going to use  
10 the second floor for an apartment?

11 A. We were going to -- originally, we were just going  
12 to say it was going to be office space. Then, rather than  
13 try to get ourselves caught in a lie, we explained that we  
14 were going to use that -- the people would stay there if they  
15 had to stay with a sick animal maybe a day, maybe two days,  
16 something like that.

17 Q. So did either you or Mr. Furlong instruct  
18 Dr. Dresser to tell the City of Richfield that it was going  
19 to be used for an apartment?

20 A. I don't think so.

21 MR. AUCIELLO: What he said --

22 A. I don't think we were using the term "apartment".

23 Q. Did Dr. Dresser ever request a second floor to have  
24 a space where people could stay overnight with their pets?

25 A. It was part of the design once I was involved.

1 And, again, I asked if -- we went through the whole plan --

2 Q. But --

3 A. -- room by room, talked about each space, how they  
4 worked, what, you know, what the functions were. And never  
5 did I hear anything about that not being necessary or wanting  
6 that second floor.

7 Q. But you don't know whether or not she raised  
8 objections to a second floor before that?

9 A. I do not know.

10 Q. Did Mr. Furlong ever indicate to you that  
11 Dr. Dresser did not want a second floor in the building?

12 A. No. Again, the first I heard of not wanting the  
13 second floor was not until after our services were  
14 terminated.

15 Q. Did you basically work from the plans Mr. Furlong  
16 prepared at the time you got involved with the project?

17 A. We started with his base drawings, yes. We started  
18 with his base drawings. We worked on -- I worked on some at  
19 the office. Some were redlined. I worked up -- some I was  
20 working alongside people down in Mike's office.

21 Q. Do you know how much time you actually spent  
22 modifying the drawings for Dr. Dresser's building?

23 A. I couldn't tell you how many hours.

24 Q. Could you give me an estimate?

25 A. I don't know. 120 hours.

1 Q. Do you know how much time Mr. Furlong spent  
2 modifying the plans after you got involved?

3 A. I couldn't tell you what his hours were.

4 Q. Did he do most of the work revising the plans after  
5 you got involved?

6 A. They did a lot of them. Some things were easier  
7 for me to do and some of them were electronic file. Others  
8 were easier to red-mark or sit down with one of them. Again,  
9 they're probably a little faster on Auto CAT than I am.

10 Q. Would you say you spent more time revising the  
11 plans, or did Mr. Furlong spend more time?

12 A. They probably had more hours in on changing the  
13 drawings.

14 Q. How many meetings did you have with Dr. Dresser  
15 after May 4, 2001 at which you were present?

16 A. Besides the city meetings, we probably had about  
17 three, maybe four meetings.

18 Q. And do you know how many times she met with  
19 Mr. Furlong after you got involved with the project?

20 A. I know there were a couple meetings that she  
21 attended where I was not there. But I'd say it was probably  
22 about two.

23 Q. Do you agree that, to practice architecture in the  
24 State of Ohio, you need a license to do that?

25 A. Yes.

1 Q. What is your understanding as to the reason for  
2 that?

3 A. Because they need a professional design, or a  
4 design professional to be in charge of the project, to  
5 oversee it.

6 Q. Would you agree that one of the purposes is to  
7 prevent unqualified people from rendering architectural  
8 services?

9 MR. DAANE: Excuse me. Objection.

10 A. I'm sure.

11 Q. What is your understanding as to what services an  
12 unlicensed person can provide under the supervision of a  
13 licensed architect?

14 A. I would think they could provide any and all  
15 services as long as it's under the supervision of a  
16 registered design professional.

17 Q. To your knowledge, did you make any suggestions in  
18 front of Dr. Dresser as to what should be done on this  
19 building other than the color of the brick for the building?

20 A. I know from the very beginning in situating the  
21 building and moving it forward and working on how it was  
22 going to be laid out, we talked about things. As far as the  
23 general layout and design of the building, the floor plan, it  
24 was rather minimal, the changes we made. Again, I mean, if  
25 we pull out a set of plans, I'm sure we could sit down and go

1 through a lot of things. We'd make changes. I'm not going  
2 to be able to tell you what those -- I mean, it was a whole  
3 lot more than the color of the brick.

4 Q. Do you remember having any discussion about the  
5 color of the brick and you recommended a certain color for  
6 the building?

7 A. I'm sure we presented a couple of color schemes.

8 Q. Do you have a recollection of any other specific  
9 recommendations that you made?

10 A. We were selecting materials. It was to the brick,  
11 the siding, the color of windows. I mean, if we're talking  
12 about colors, we brought in several samples of that. I  
13 stopped and got brick samples to talk about that.

14 Q. Did you make any suggested changes to the layout or  
15 floor plan for the building?

16 A. I think we did, as far as the size of the  
17 vestibule. And there were issues with the stairs and the  
18 locations to where those were at. They had to be adjusted.  
19 And doors and swings and things like that had to be modified.  
20 So, yeah, there were plan changes.

21 Q. Did you ever sit down with Dr. Dresser and ask her  
22 what her specific needs were for this veterinarian hospital?

23 A. We went through the plan room by room. We sat down  
24 and we went through all the rooms and talked about each room.

25 Q. When did you do that?

1           A.    It would have been after we signed the contract.  I  
2   couldn't tell you the date.  I'm sure it was fairly soon  
3   after that because we had -- we were trying to keep up with  
4   the schedule of the city, so we wouldn't miss the next review  
5   process.  I started -- I went to my first meeting before I  
6   had a signed contract, so not to miss the meeting.

7           Q.    Do you agree that Dr. Dresser had the right to  
8   choose the builder for the building?

9           A.    Absolutely.

10          Q.    Do you know Glen Smith?

11          A.    I do not know Glen Smith.

12          Q.    Have you ever worked on any projects with him?

13          A.    I've never worked with Glen Smith.

14          Q.    Are you aware of his reputation as a builder?

15          A.    Just through Christine and through Mike.

16          Q.    Did you have any problems with him being the  
17   builder on this project?

18          A.    I had no specific problems with him.  Again, when  
19   you're working, when budget's such a key issue, I do have a  
20   problem with not opening it up for competitive bidding.

21          Q.    Although, do you think that a building could be  
22   designed to meet Dr. Dresser's needs that could be built by  
23   Glen Smith within her budget?

24               MR. AUCIELLO:  Objection.  That's an impossible  
25   answer.

1 A. I couldn't -- I couldn't tell you.

2 Q. You have no idea?

3 A. I have no -- I don't know Glen Smith well enough to  
4 do that.

5 Q. Did you ever ask him what his experience was and  
6 cost per square foot of building a building?

7 A. I didn't.

8 Q. Well, don't you think there would have been an  
9 easier way to get an estimate for what this project was going  
10 to cost?

11 A. I would have loved to have gotten an estimate from  
12 him. But it was also made clear to me that he was going to  
13 build it one way or the other.

14 So, again, believe me, we tried to get a number  
15 from him. We tried, just as Christine tried to get us to  
16 tell her what the number was, which was kind of -- it's a  
17 tough thing because we're waiting on him to give us the  
18 number.

19 Q. Well, do you agree Dr. Dresser had no experience in  
20 building commercial buildings?

21 A. I would agree with that.

22 Q. Do you agree she had no experience in what it would  
23 cost per square foot to build a commercial building?

24 A. I agree.

25 Q. And do you agree that was something that she had a



1 right to rely on the experts for?

2 A. Absolutely. And as soon as we can't do what we do  
3 as experts, that option's not there anymore. And by  
4 selecting the contractor, you're at their mercy.

5 Q. Well, did you ever recommended to Dr. Dresser that  
6 she might want to get some outside bids just for a  
7 comparison?

8 A. Yes. Yes. We brought up whether -- we didn't say  
9 just for comparison. We asked if they would open it up to  
10 outside bidding, and we were told no. And I'm not going to  
11 go ask a contractor to spend 40 hours of his time doing an  
12 estimate that he has no chance to do. Now, if they want to  
13 pay for that, and we did, we said we could get -- we would  
14 pay someone do that, but you'd have to pay for that. We  
15 offered to do that. They didn't want to do that.

16 Q. Well, did you ever tell her that that's something  
17 we should probably do to try to stay within your budget?

18 A. We suggested that would be a very good thing to do.

19 Q. Did she agree that you could go ahead and get some  
20 estimates from other people?

21 A. They didn't want to pay for any additional  
22 estimates.

23 Q. When did you suggest that she get bids from other  
24 people?

25 A. Probably would have been -- probably would have

1 been about the end of July. Middle to end of July.

2 Q. You used the word "probably".

3 A. I can't remember. I'm trying to remember the  
4 conversation, where it took place. But I remember we talked  
5 about it. It was down in Mike's office. And I don't  
6 remember of it was after we'd gotten approval from the  
7 Village of Richfield.

8 Q. Where was Mike's office?

9 A. Mike's office was in Hudson. Let's see. I don't  
10 know the address. But the little entrance underneath the  
11 railroad tracks, whatever that --

12 Q. Do you remember the date of the discussion about  
13 getting other bids?

14 A. I don't remember the date.

15 Q. Do you remember who was present?

16 A. I believe Mike was there, and I believe Dick was  
17 there.

18 Q. Can you tell me exactly what was discussed?

19 A. We -- they wanted a number.

20 And we said "The only way we can get it is either  
21 from Glen or if we hire someone else to give us an estimate."  
22 Because, again, I wouldn't send it out to, again, a  
23 contractor that has no opportunity to get the bid.

24 Q. Was Mr. Furlong ever an employee of Plunkett &  
25 Associates, Inc.?

1 A. No.

2 Q. Was he ever an officer of that corporation?

3 A. No.

4 Q. What was his relationship with Plunkett &  
5 Associates, Inc.?

6 A. He was the consultant.

7 Q. Did you hire him as a consultant on Dr. Dresser's  
8 project?

9 A. Yes.

10 Q. How much was he to be paid for his role as  
11 consultant on the project?

12 A. We never had a written contract on exactly what it  
13 was going to be. We were going to try to do the best we  
14 could on this with the amount left in the fee that we agreed  
15 to, or that I agreed to.

16 Q. Did Dr. Dresser pay your firm \$10,000?

17 A. Yes, she did.

18 Q. Did Mr. Furlong ever deposit \$5,000 with Plunkett &  
19 Associates, Inc.?

20 A. No, he did not.

21 Q. Did you give Dr. Dresser a credit for the 5,000  
22 that was paid by -- paid to Mr. Furlong?

23 A. Yes.

24 Q. How have you come up with the number that's the  
25 subject of your counterclaim?

1           A.    I think it's about \$12,000, our total contract  
2 amount I believe was. And, again, this is rough. If you  
3 take the five and the ten, that's 15. That leaves about  
4 13,000 on the 28.

5           Q.    Why don't you take look at Plaintiff's Exhibit 4,  
6 if that will help you. You already have a copy. It's right  
7 there.

8           A.    Then there's print cost and submittal fees that are  
9 not part of our contract.

10          Q.    So how did you come up with the total amount due?  
11 Can you tell me how you figured that?

12          A.    Well, I don't -- I don't see the total amount due.

13               MR. AUCIELLO:   You can look at the invoice you  
14 sent her.

15          A.    You want to enter that as on -- that's the total  
16 contract amount there. And from that, the 5,000 and 10,000,  
17 which were the 5,000 that went to CGI. And the ten, the ten  
18 is part of the 15. It's 26 five, so that's 1,150 left. Plus  
19 we had some print costs, which are reimbursable items. And  
20 the Summit County submission, which was \$260.

21          Q.    Do you think you're entitled to your entire fee of  
22 26,500 when a final set of plans was never prepared that were  
23 approved by the Building Department for a building to be  
24 built within her budget?

25               MR. AUCIELLO:   Objection. Don't even answer that.

1 That is a completely misleading question. He testified  
2 already a final set of plans was prepared. He testified  
3 already that it could have been built for \$750,000 and that  
4 it was pending approval. I mean, you're just changing the  
5 facts and --

6 MR. RUF: No, I'm not.

7 Q. Please answer the question.

8 MR. AUCIELLO: Don't answer. He's not -- it's an  
9 inherently deceptive question. You can break it down in  
10 parts and he can answer it. You can ask it in a fair way and  
11 he'll answer it, but you can't answer that question the way  
12 it's phrased.

13 MR. RUF: Why not?

14 MR. AUCIELLO: Because it's deceptive.

15 MR. RUF: No, it's not deceptive.

16 MR. AUCIELLO: His answer would be no to all of  
17 the subparts because, just as I said, he produced a complete  
18 set of drawings. He produced a set of drawings that was  
19 pending approval before he was terminated. And it is his  
20 professional opinion that it could have been built for  
21 \$750,000.

22 Q. What proof do you have that the final plans could  
23 result in a building being built for 750,000?

24 A. Again, I don't have any proof.

25 Q. So given that's a fact, why do you think you're

1 entitled to the total fee of 26,500?

2 A. Because Miss Dresser decided to terminate our  
3 contract before a final number was prepared.

4 Q. What was left to be done on the project from an  
5 architectural point of view at the time you were terminated?

6 A. Absolutely nothing. We had the drawings finished,  
7 completed, sitting there at the Building Department's office  
8 and --

9 Q. Although, you don't know whether the Building  
10 Department would ultimately approve the plans or not; is that  
11 correct?

12 A. I can't say that. I don't know. I have no reason  
13 to believe they wouldn't.

14 Q. Do you agree that there's nothing in Plaintiff's  
15 Exhibit 4, your proposal, about Mr. Furlong working on the  
16 project?

17 A. There is nothing in here that states that;  
18 although, I believe I have a letter that I sent to the state  
19 architect's office where I explained to them that the CGI's  
20 contract had been terminated. I had a contract and that CGI  
21 was still going to be involved in the project under my  
22 supervision.

23 Q. Other than stating that Mr. Furlong was still going  
24 to be involved in the project, it didn't give any details,  
25 correct?

1 A. It didn't give any details of his involvement.

2 Q. Here's a letter from Dr. Dresser.

3 MR. DAANE: 0070 if you want to consult that.

4 A. That's right.

5 Q. Was there any written agreement prepared stating  
6 what Mr. Furlong's role was to be in the project after you  
7 took over?

8 A. No.

9 Q. Would you agree that you can't build a building  
10 based upon a survey that's off by 30 feet?

11 A. I would imagine you'd have to fix it before it  
12 could be built, or you'd put the building in the wrong  
13 location.

14 Q. Do you know whether or not there was any error in  
15 the survey that was done by Campbell & Associates?

16 A. This was the first I heard of it this morning.

17 MR. DAANE: Wait. Do we have some documentation  
18 to that? Because I haven't seen anything, any paperwork that  
19 has been exchanged by the parties with response to discovery.  
20 Is there some basis for that? I mean --

21 MR. RUF: You can ask Dr. Dresser about that.

22 MR. DAANE: I'm just asking, is there any written  
23 documentation that I should have been provided before today,  
24 before I ask Dr. Dresser questions about that?

25 MR. RUF: To my knowledge, you've got the entire

1 file.

2 MR. DAANE: We just got it. Is that where it's  
3 at?

4 MR. RUF: I'm not going to represent that it's in  
5 there. I'm not sure.

6 BY MR. RUF:

7 Q. Did you ever have any experience with preparing  
8 plans for a veterinarian hospital before. Dr. Dresser's  
9 project?

10 A. I worked on two projects before and I do a fair  
11 amount of medical office work.

12 Q. Were those buildings actually completed?

13 A. Yes.

14 Q. Do you know what the cost per square foot was of  
15 those veterinarian hospitals?

16 A. When I worked on those, I was not -- I was -- my  
17 role was not as the project manager. I was a draftsman on  
18 that, so I really don't know on those.

19 Q. So the only project for a veterinarian hospital for  
20 which --

21 A. I was a principal architect.

22 Q. When you supervised -- let me finish my question.

23 A. Okay.

24 Q. For which you were going to supervise the entire  
25 project was Dr. Dresser's?



1           A.    First veterinarian clinic.  I've done medical  
2 buildings that are much larger.

3           Q.    Have you submitted a claim to insurance for this  
4 case?

5           MR. AUCIELLO:  Objection.  He submitted the  
6 defense of your claim to his insurance carriers, CNA.  I  
7 don't know if that's called a claim or not.

8           Q.    Do you have an insurance company that's different  
9 than Mr. Furlong's?

10          A.    No.  Oh, yes.  Yes.

11          Q.    Did you have any difficulty in working with  
12 Dr. Dresser on the project for her veterinarian hospital?

13          A.    I was not aware of any.

14          MR. RUF:  Could I have a moment to confer with my  
15 client?

16                   - - - -

17                   (Off the record.)

18                   - - - -

19 BY MR. RUF:

20          Q.    What qualifications and training did Mr. Furlong  
21 have, to your knowledge?

22          A.    When I first met Mike, I found out he was.  I might  
23 not be using the right term, but a certified Auto CAT  
24 trainer.  And he teaches Auto CAT and is well beyond anything  
25 I know how to do in Auto CAT.  And, again, I don't depend on

1 Auto CAT to be my strength, but he did. And his documents  
2 that he showed me were very good Auto CAT drawings. He does  
3 3D rendering and modeling, things that I don't even pretend  
4 to know how to sit down and do. That was just one of the  
5 intriguing things about Mr. Furlong and why I considered  
6 going into some sort of partnership with him.

7 So, and then I know he's got extensive experience  
8 in doing homes. I had worked with him a little bit through a  
9 developer. We both work with Davis Development where he did  
10 some 3D renderings on projects that I had worked on  
11 architectural projects.

12 Q. Was your experience with him primarily working on  
13 residential homes?

14 A. No. Davis Development is a commercial builder, and  
15 most of the work we did there was commercial. The other  
16 projects we had worked on were also commercial in nature.

17 MR. RUF: Okay. Thank you. That's all I have. I  
18 don't know if Mr. Daane has any questions for you.

19 MR. DAANE: I have no questions at this time.

20 MR. AUCIELLO: We'll read it.

21  
22  
23 

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DON PLUNKETT

C E R T I F I C A T E

The State of Ohio, ) SS:  
County of Cuyahoga.)

I, Kristin L. Wegryn, a Notary Public within and for the State of Ohio, authorized to administer oaths and to take and certify depositions, do hereby certify that the above-named DON PLUNKETT, was by me, before the giving of his deposition, first duly sworn to testify the truth, the whole truth, and nothing but the truth; that the deposition as above-set forth was reduced to writing by me by means of stenotypy, and was later transcribed into typewriting under my direction; that this is a true record of the testimony given by the witness, and was subscribed by said witness in my presence; that said deposition was taken at the aforementioned time, date and place, pursuant to notice or stipulations of counsel; that I am not a relative or employee or attorney of any of the parties, or a relative or employee of such attorney or financially interested in this action. I am not, nor is the court reporting firm with which I am affiliated, under a contract as defined in Civil Rule 28(D).

IN WITNESS WHEREOF, I have hereunto set my hand and seal of office, at Cleveland, Ohio, this 30th day of January, A.D. 2003.

  
\_\_\_\_\_  
Kristin L. Wegryn, Notary Public, State of Ohio  
11860 Nottingham Parkway, N. Royalton, Ohio 44133  
My commission expires June 30, 2003



PLUNKETT & ASSOCIATES, INC.

12429 CEDAR ROAD  
STUDIO 10  
CLEVELAND, OHIO 44106-3172  
PHONE (216) 421-0081  
FAX (216) 421-5915

PLAINTIFF'S  
EXHIBIT

10

ARCHITECTS

PLANNERS

DESIGNERS

FAXED TO:

ATTENTION:

DICK MARCO

REGARDING:

REFERENCES

FROM:

DAN PLUNKETT

DATE:

5-3-01

NUMBER OF PAGES BEING TRANSMITTED INCLUDING COVER PAGE:

1

ATTACHMENTS:

DKK

CHUCK ARBEY UNIV. SUBURBAN HIGH-CTR

- 216 382-8920

RICHARD WONG CITY OF CLEVELAND/PLANNING

216-291-4868

Dan

FAX NUMBER DIALED:

1. 330-723 0259

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Thank You  
Plunkett & Associates, Inc.

67

**DONALD F. PLUNKETT, JR A.I.A.**  
President

**PLUNKETT & ASSOCIATES, INC.**

### **PROFESSIONAL PROFILE**

As the firm's principal in charge, Mr. Plunkett brings his 18 years of experience in planning, design, construction documents and project management together to oversee every project, to ensure each client their project is aesthetically and functionally successful as well as on time and on budget. Additionally, Mr. Plunkett ensures building code requirements are properly analyzed, and he coordinates any and all consulting firms that may be needed for a specific project.

Mr. Plunkett's background includes a broad range of projects for corporate, commercial, and institutional clients. Having served as project architect on numerous projects in multi-million dollar construction value range as well as smaller projects, he brings a thorough understanding of the total design process.

### **PROFESSIONAL BACKGROUND**

1991- present	President/Principal in charge Plunkett & Associates, Inc. Cleveland, Ohio
1989-1991	Project Manager RBI Design Group Breckville, Ohio
1987-1989	Partner Zannoni/Heckaman/Gates Partnership Beachwood, Ohio
1983-1987	Project Manager Sanders Van Petten Architects Cleveland, Ohio
1972-1978	Carpenters International Union of North America Chicago, Illinois
Education	Bachelor of Architecture (1983) Kent State University, Kent, Ohio Bachelor of Science (1982) Kent State University, Kent, Ohio
Registration	Registered Architect, State of Ohio
Memberships	American Institute of Architects Architect Society of Ohio National Council of Architectural Registration Board

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## Architect's Qualification Statement

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DATE: August 4, 2000

### 1. BASIC INFORMATION

*1.1 Architect:*

Donald F. Plunkett Jr.

*Firm Name:*

Plunkett & Associates, Inc.

*1.2 Business Address:*

12429 Cedar Road Studio 10  
Cleveland, OH 44106

*1.3 Telephone Number:*

(216) 421-0081

*1.4 Person to Contact:*

Donald F. Plunkett Jr.

*1.5 Type of Organization:*

Professional Corporation

### 2. STATEMENT OF INTEREST

Plunkett & Associates Inc. (PA) is interested in becoming an instrumental member of the development team for designing a new two-story office building in Beachwood, Ohio. Plunkett & Associates Inc. brings it's planning, design and contract administration expertise to the project. We are also very excited to have an opportunity to work with the Davis Development Group, Inc. The term "Design Team" is often used loosely. In the case of Plunkett & Associates, Inc. and Davis Development Group Inc., there have already been many successful ventures.

### 3. GENERAL INFORMATION

- 3.1 *Names of Principals:* Donald F. Plunkett Jr., President
- 3.2 *Professional History:* See attached Resume
- 3.3 *Registration Status:* Ohio (#8299)
- 3.4 *Professional Affiliations:* AIA, NCARB, Kiwanis
- 3.5 *Professional and Civic Involvement:* Broadview Hts. Chamber of  
Commerce  
Cleveland Hts. Kiwanis

### 4. RELATED PROFESSIONAL SERVICES

- 4.1 *Structural:* Isaac A. Lewin & Associates  
5010 Mayfield Road, # 310  
Cleveland, OH 44124
- 4.2 *Civil:* Western Reserve Consultants  
3345 Bainbridge Road  
Solon, OH 44139
- 4.3 *Electrical/Mechanical:* Bacik Karpinski  
3531 Euclid Ave.  
Cleveland, OH
- 4.4 *Interior Design:* Beth Fitzgibbons  
2043 Random Road  
Cleveland, OH 44106
-

6. REFERENCES

Charles Abbey

University Suburban Health Center  
1611 South Green Road  
South Euclid, Ohio 44121

Alfred P. Wangenheim, Jr.

Davis Development Group, Inc.  
32000 Solon Road  
Solon, Ohio 44139

Richard Wong

Planning Department  
City Of Cleveland Heights  
40 Severance Circle  
Cleveland Hts., Ohio 44118



## 7. ADDITIONAL INFORMATION

**PLUNKETT & ASSOCIATES, INC. [PA]** is a full service architectural firm, recognized for its excellence in design and its ability to provide single-source accountability for projects.

The firm's principal has over 18 years experience and established his practice as Plunkett & Associates in June of 1991. The blending of talent and experience has helped build a devoted practice motivated by the pursuit of quality in design and construction to meet our client's specific needs.

PA brings a solid understanding of communication skills and leadership as well as the use of imaginative and effective management. Through the personal attention of its principals, we ensure a project's timely completion within its budget.

We tailor our services for every project, and provide only the services the owner and architect feel necessary. We have established a quality group of consultants that we use for engineering and interior design. They are used only when required to assist in keeping the overall project cost down.

PA's workload is typically 85% commercial and 15% residential. They have established a brief but a strong track record with 70% of repeat customers in 1999.

The firm of Plunkett & Associates, Inc. strives to achieve excellence in every project they undertake as well as to meet the client's needs and objectives while maintaining the client's budget.

## 8. FEE STRUCTURE

Our fee structure is based on required hours to complete work for a specific project including the consultants the project requires. Once a final scope is determined we will develop our fee structure.

### Key Personnel hourly rates

Principal Architect	\$ 95.00
Principal Engineer	<del>\$ 95.00</del>
Project Architect	\$ 75.00
Civil Engineer	\$ 80.00
Project Engineers	\$ 75.00
Cad Operator/Designer	\$ 58.00
Clerical	\$ 35.00