

**FILED**  
Office of the  
Circuit Clerk  
JUL 22 2024

Fulton County  
Arkansas  
2:00pm

**IN THE CIRCUIT COURT OF FULTON COUNTY, ARKANSAS  
CIVIL DIVISION**

**EDWIN ROEDER and  
KRISTIN ROEDER**

**PLAINTIFF**

**VS.**

**CASE NO:28CV-24-75**

**CITY OF MAMMOTH SPRINGS**

**DEFENDANT**

**COMPLAINT**

COME NOW the Plaintiffs, Edwin Roeder and Kristin Roeder, by and through their attorney, R. Scott Troutt, Troutt Law Firm, and for their *Complaint* do hereby state and allege as follows:

**I. PARTIES**

1. The Plaintiffs, Edwin Roeder and Kristin Roeder, are residents of Greene County, Missouri.

2. The City of Mammoth Springs is a municipality located in Fulton County, Arkansas.

**II. THE PROPERTY**

3. All previous paragraphs are incorporated herein as though stated word-for-word.

4. The Plaintiffs are the owners of real property located at 168 Riverview Dr., Mammoth Springs, Arkansas 72554. More particularly described as:

PART OF BLOCK "A" OF THE TOWN OF MAMMOTH SPRINGS, ARKANSAS, AND PART OF THE "RESERVE," MORE PARTICULARLY DESCRIBED AS FOLLOWS: Part of the Southeast Quarter of the Northwest Quarter (SE1/4 NW1/4) of Section 8, Township 21 North, Range 5 West, commencing at the Southeast (SE) corner of said Southeast Quarter of the Northwest Quarter (SE1/4 NW1/4); thence North 89 degrees 50 minutes West 248.20 feet; thence North 40 degrees 18 minutes West 100.00 feet; thence North 37 degrees 10 minutes West 108.00 feet; thence North 31 degrees 55 minutes West 311.50 feet; thence North 27 degrees 06 minutes West 141.50 feet to the point of beginning; thence North 27 degrees 06 minutes West 79.00 feet along the East side of Old Hwy #63; thence North 69 degrees 09 minutes East 253.78 feet to Spring River; thence South 57 degrees 11 minutes East 87.81 feet along said river; thence South 67 degrees 39 minutes West 297.30 feet to the point of beginning, containing .047 acres, more or less.

A copy of the deed to the Plaintiffs' property ("the Property" hereinafter) is attached hereto as Exhibit "A."

### III. JURISDICTION AND VENUE

5. All previous paragraphs are incorporated herein as though stated word-for-word.

6. Subject matter jurisdiction is appropriate in the Court per Ark. Const. amend. LXXX, § 6.

7. Personal Jurisdiction is appropriate per *Milliken v Meyer*, 311 U.S. 457, 61 S. Ct. 339, 342, 85 L. Ed. 278 (1940) and Ark. Code Ann. § 16-4-101.

8. Venue is appropriate per Ark. Code Ann. § 16-60-102(1).

### IV. FACTS

9. All previous paragraphs are incorporated herein as though stated word-for-word.

10. On or around March 13<sup>th</sup>, 2024, the Plaintiffs returned home after a two-day absence and discovered that there was sewer water standing throughout much of the house. The Plaintiffs took photographs of the damage to send to their insurance company and the city, copies of which are attached hereto as Exhibit "B."

11. On or around March 14<sup>th</sup>, 2024, the Plaintiffs contacted Mammoth Springs City Hall to notify the city about the issue. The Defendant sent workers that day to determine the cause of the damage. The workers determined that there was a sewer pressure surge in the Mammoth Springs sewage system. This pressure surge resulted in an overflow of sewage water inside the residence owned by the Plaintiffs.

12. The city replaced the damaged sewer lines and determined that the source of the pressure surge originated outside of the Plaintiffs' property.

13. The Plaintiffs' property was substantially damaged by the sewer overflow. The standing water damaged the air conditioning and heating system, as well as the floors and walls throughout the entire residence.

14. The Plaintiffs filed a claim with their insurance company, State Farm, for the damage to his house caused by the overflow.

15. On or around March 15<sup>th</sup>, 2024, the Plaintiffs received a letter from State Farm, a copy of which is attached hereto as Exhibit "C." The letter stated that based upon the facts of the loss "it has been determined that your damage was caused by a problem with the city sewer system which allowed sewage to back into the home through the plumbing system." The letter informed the Plaintiffs that the damage resulting from this cause of loss is not covered by their insurance policy.

16. The Plaintiffs contacted the City of Mammoth Springs about the damage to his property. They were informed by Danny Busch, the Mayor of the City of Mammoth Springs, that the city would not be paying for the damage done to their property.

## V. COUNT I – IMPROPER TAKING

17. All previous paragraphs are incorporated herein as though stated word-for-word.

18. Article 2 §22 of the Arkansas Constitution holds that “the right of property is before and higher than any constitutional sanction; and private property shall not be take, appropriated or damaged for public use, without just compensation thereof.”

19. The sewer system of the City of Mammoth Springs is a public system used for the disposal of sewer water and waste. Due to the inadequacy of the system installed by the city, the Plaintiffs’ property was severely damaged.

20. It has been held that the reduction of value of property is the taking thereof and an owner whose property has been damaged but not physically taken has the same right to compensation as the owner whose property has been actually occupied. *Ark. State Highway Com. v. Kincannon*, 193 Ark. 450, 100 S.W.2d 969 (1937).

21. Although the Plaintiffs property has not been occupied by the City of Mammoth Springs, it is evident that the damage to the Plaintiffs property should be considered a taking under Article 2 §22 of the Arkansas Constitution. The reduction

in value of the Plaintiffs property is substantial and the Plaintiffs are entitled to just compensation as if their property has actually been occupied.

22. Thus, the Plaintiffs should be provided “just compensation” for the damage done to their property resulting from the public use sewer system of the City of Mammoth Springs, Arkansas as laid out in Article 2 §22 of the Arkansas Constitution.

## VI. DAMAGAES

23. All previous paragraphs are incorporated herein as though stated word-for-word.

24. The Plaintiffs have suffered a considerable amount of damages resulting from the overflow of the sewer system.

25. The Plaintiffs paid Service Master of West Plains \$26,521.66 to remove the waste and any remove any material that had been damaged by the sewer water. A copy of which is attached hereto as Exhibit “D”.

26. During the process of repairing the damage to the Property, the Plaintiffs were forced to rent an apartment because their residence was inhabitable. The Plaintiffs rented an apartment from The Dels Corporation on April 5<sup>th</sup>, 2024, at a rate of \$900.00 per month. A copy of the Lease Agreement is hereto attached as Exhibit “E.”

27. The Plaintiffs obtained a bid from Clint Christopherson for the labor costs to make the required repairs to the property, with a total cost being \$11,600.00. This would include work such as: (1) prepping the walls and floors for new materials;

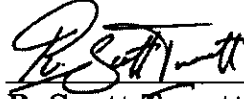
(2) installation of drywall and flooring; (2) spackle and painting the walls; (3) installation of new doors; and (4) installation of trim throughout the house. A copy of the bid received by Mr. Christopherson is attached hereto as Exhibit "F." The Plaintiffs are purchasing the materials for the repairs themselves.

28. The Plaintiffs have been forced to pay a multitude of expenses in the period since the damage was done to the property. These include materials for the repairs, air duct cleaning, installation of a new heat and air conditioning unit, and the electric bills for the months associated with the repairs. The total value of these expenses, at this point, is \$26,521.66. These costs will continue to increase until the repairs are completed, and the Plaintiffs are allowed to return to their home. A copy of the spreadsheet of expenses is attached hereto as Exhibit "G."

WHEREFORE, the Plaintiffs, Edwin Roeder and Kristin Roeder, pray the Court find that the damage to there is considered a taking under Article 2 §22 of the Arkansas Constitution and award them just compensation for the damage; for their costs, including a reasonable attorney's fees; and for all other just and proper relief to which they may be entitled.

[SIGNATURE BLOCK ON NEXT PAGE]

RESPECTFULLY SUBMITTED,



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R. Scott Troutt, ABN 2010062

[Scott@trouttlawfirm.com](mailto:Scott@trouttlawfirm.com)

*Attorney for Plaintiff*

**Troutt**  
**LAW FIRM**

247 S. Main St | Jonesboro, AR  
P.O. Box 1409 | 72403-1409  
P:870-933-7100 | F:870-933-7112  
[www.TrouttLawFirm.com](http://www.TrouttLawFirm.com)

VERIFICATION

STATE OF ARKANSAS )

COUNTY OF Baxter )

Kristin Roeder, state upon oath she has read the statements contained in the foregoing pleading and they are true and correct to the best of her knowledge and belief.

Kristin Roeder

Kristin Roeder, Plaintiff

Subscribed and sworn to before me this 15, day of May 2024.

Heather Watson

Notary Public

My Commission Expires:

HEATHER WATSON  
Notary Public - Arkansas  
Baxter County  
My Commission Expires August 01, 2024  
Commission # 12400194




VERIFICATION

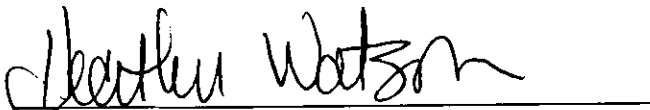
STATE OF ARKANSAS )

COUNTY OF Baxter )

Edwin Roeder, state upon oath he has read the statements contained in the foregoing pleading and they are true and correct to the best of his knowledge and belief.

  
Edwin Roeder, Plaintiff

Subscribed and sworn to before me this 15, day of May 2024.

  
Notary Public

My Commission Expires:

HEATHER WATSON  
Notary Public - Arkansas  
Baxter County  
My Commission Expires August 01, 2024  
Commission # 12400194

FILED Doc ID:  
2018-3727  
08/27/2018  
03:02 PM  
VICKIE BISHOP  
Circuit Clerk  
FULTON County, AR  
1 of 3

*Vickie Bishop*

**WARRANTY DEED  
(INDIVIDUAL)**

KNOW ALL MEN BY THESE PRESENTS.

That **ANN M. WARD**, a single person, surviving spouse of Jack L. Ward, deceased, hereinafter called GRANTOR for and in consideration of the sum of Ten and No/100 Dollars (\$10.00) and other good and valuable consideration in hand paid by **EDWIN M. ROEDER and KRISTIN WARGO ROEDER**, husband and wife, hereafter called the GRANTEES the receipt of which is hereby acknowledged, does hereby grant, bargain, sell and convey unto said GRANTEES, and unto their heirs and assigns forever, the following described property situated in the County of Fulton, State of Arkansas, to-wit:

Part of Block "A" of the Town of Mammoth Spring, Arkansas, AND part of the "Reserve", more particularly described as follows: Part of the Southeast Quarter of the Northwest Quarter (SE1/4 NW1/4) of Section 8, Township 21 North, Range 5 West, commencing at the Southeast (SE) corner of said Southeast Quarter of the Northwest Quarter (SE1/4 NW1/4); thence North 89 degrees 50 minutes West 248.20 feet; thence North 40 degrees 18 minutes West 100.00 feet; thence North 37 degrees 10 minutes West 108.00 feet; thence North 31 degrees 55 minutes West 311.50 feet; thence North 27 degrees 06 minutes West 141.50 feet to the point of beginning; thence North 27 degrees 06 minutes West 79.00 feet along the East side of Old Hwy #63; thence North 69 degrees 09 minutes East 253.78 feet to Spring River; thence South 57 degrees 11 minutes East 87.81 feet along said river; thence South 67 degrees 39 minutes West 297.30 feet to the point of beginning, containing 0.47 acres, more or less.

"SUBJECT TO RIGHT OF WAY/EASEMENTS AND RESTRICTIONS, IF ANY."

*This conveyance revokes Beneficiary Deed recorded August 15, 2007 as Document No. 2007-4466.*

TO HAVE AND TO HOLD the same unto the GRANTEES and unto their heirs and assigns forever, with all appurtenances thereunto belonging. And I hereby covenant with GRANTEES that I will forever warrant and defend the title to the property against all lawful claims whatsoever.

WITNESS my hands this 27 day of August, 2018

*Ann M. Ward*  
ANN M. WARD



# ACKNOWLEDGMENT

State of Arkansas  
County of Fulton

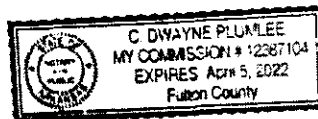
On this 27 day of August, 2018, before me, a Notary Public, (or before any officer within this State or without the State now qualified under existing law to take acknowledgments), appeared the within named ANN M. WARD, a single person, to me personally well known (or satisfactorily proven to be such person), who stated and acknowledged that she had so signed, executed and delivered said foregoing instrument for the consideration, uses and purposes therein mentioned and set forth

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal this 27 day of August, 2018

  
Notary Public

My Commission Expires April 05, 2022

This instrument was prepared by C. Dwayne Plumlee, Attorney  
PO Box 747, Salem, AR 72576 and  
certain information was completed by Fulton Title Company  
based upon information provided by others.



File No. 18-286

I certify under penalty of false swearing that documentary  
Stamps or a documentary symbol in the legally  
correct amount has been placed on this instrument

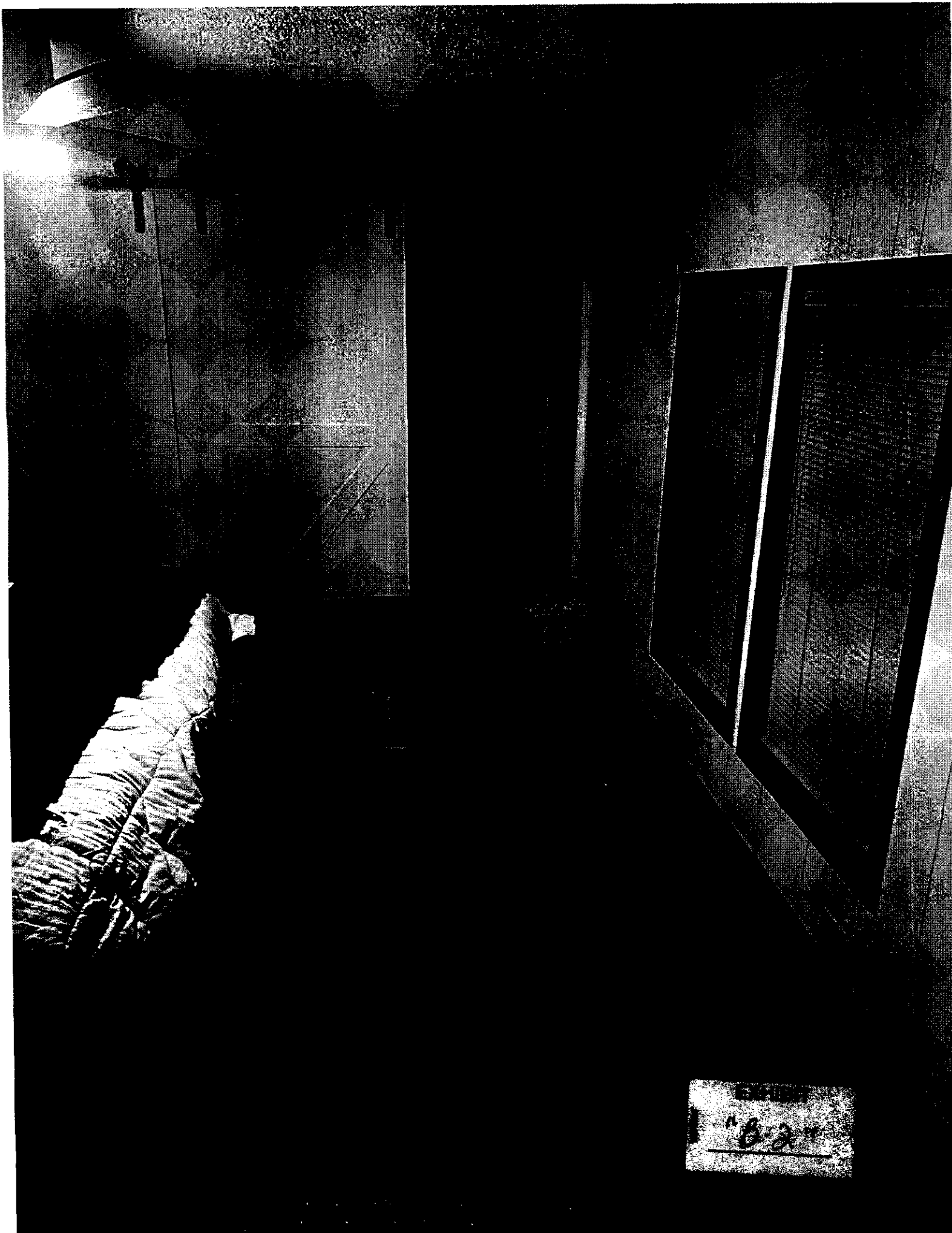
Grantee or Grantee's Agent \_\_\_\_\_

Grantee's Address \_\_\_\_\_

\_\_\_\_\_



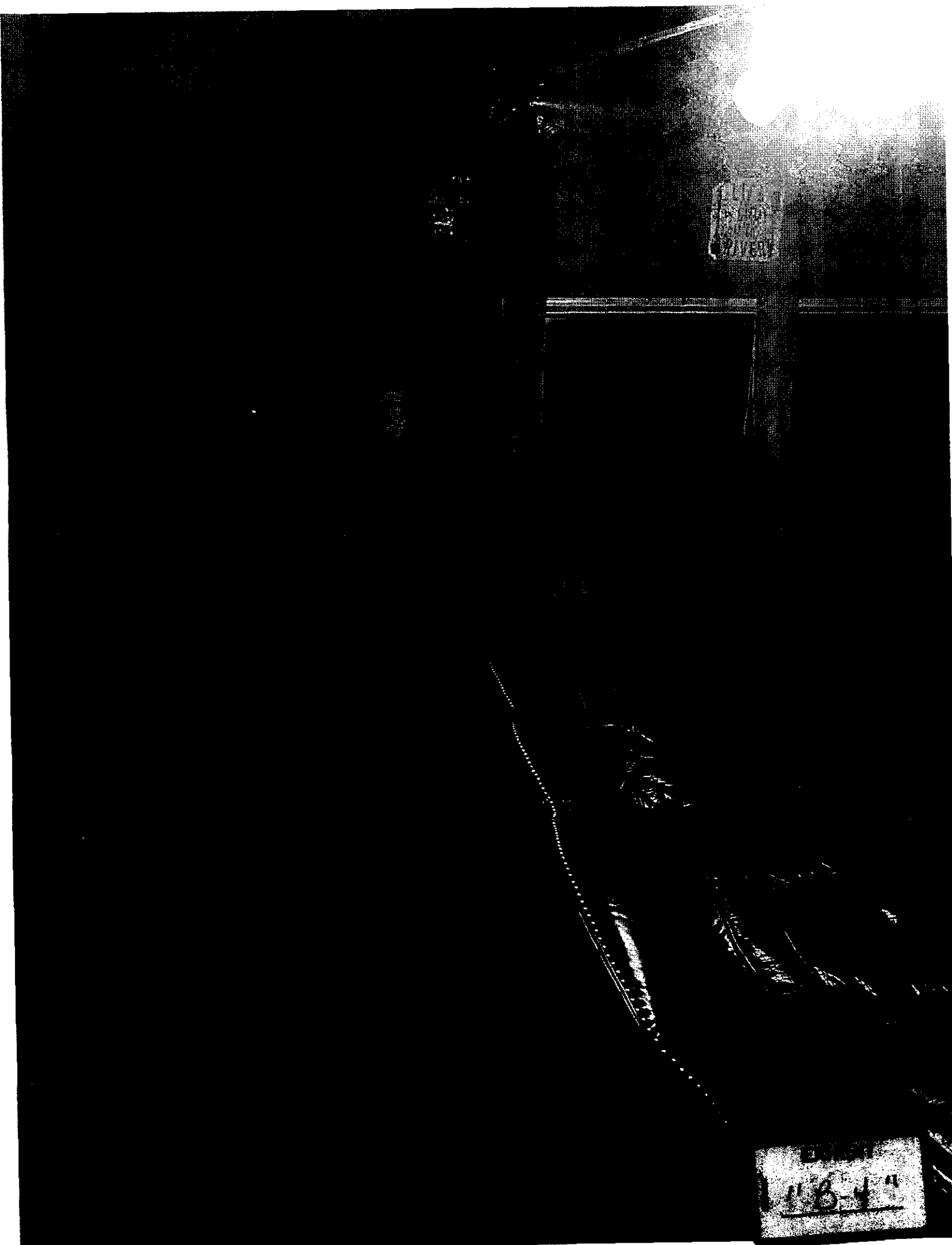
EXHIBIT  
"B-1"



E-101  
"B-2"

J PELL T

B-3



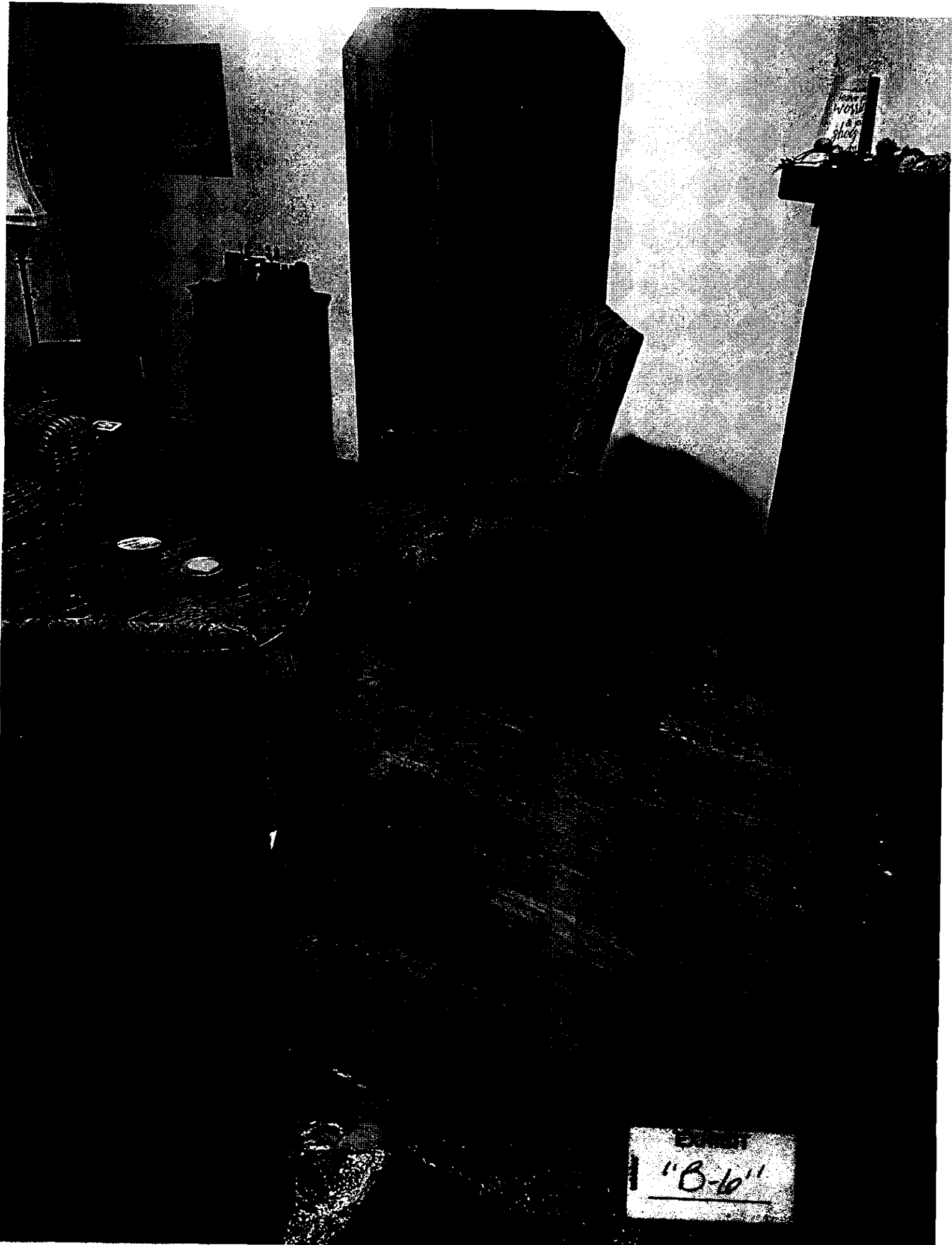
EXIT

116-4



1 "0.5"





Worse  
shady

EXHIBIT  
1 "B-6"



EXHIBIT  
1-B-7

March 15, 2024

EDWIN M ROEDER  
5686 N WILD WIND LN  
STRAFFORD, MO 65757

State Farm Insurance Companies  
Fire Claims  
PO BOX 106169  
Atlanta, GA 30348-6169  
Fax 844 236 3646

RE: Claim Number: 04-64N3-05F  
Policy Number: 04-B0-Q504-9  
Location of  
Insured Property: 168 RIVERVIEW DR, MAMMOTH SPGS, AR 72554  
Type of Policy: Homeowners  
Date of Loss: March 13, 2024

Dear Dr. Roeder:

Thank you for speaking with me on March 14, 2024, when we discussed the damage to your property.

Based upon the facts of the loss it has been determined that your damage was caused by a problem with the city sewer system which allowed sewage to back into the home through the plumbing system. .

Damage resulting from this cause of loss is not covered by your policy. Please refer to the following policy provisions:

#### SECTION I – LOSSES INSURED

##### COVERAGE A – DWELLING

*We will pay for accidental direct physical loss to the property described in Coverage A, unless the loss is excluded or limited in SECTION I – LOSSES NOT INSURED or otherwise excluded or limited in this policy. However, loss does not include and we will not pay for, any *diminution in value*.*

#### SECTION I – LOSSES NOT INSURED

- We will not pay for, under any part of this policy, any loss that would not have occurred in the absence of one or more of the following excluded events. We will not pay for such loss regardless of: (a) the cause of the excluded event; or (b) other causes of the loss; or (c)*



whether other causes acted concurrently or in any sequence with the excluded event to produce the loss; or (d) whether the event occurs abruptly or gradually, involves isolated or widespread damage, occurs on or off the *residence premises*, arises from any natural or external forces, or occurs as a result of any combination of these:

c. **Water**, meaning:

- (7) water or sewage from outside the *residence premises* plumbing system that enters through sewers or drains, or water or sewage that enters into and overflows from within a sump pump, sump pump well, or any other system designed to remove subsurface water that is drained from the foundation area;
- (8) water or sewage below the surface of the ground, including water or sewage that exerts pressure on, or seeps or leaks through a *building structure*, sidewalk, driveway, swimming pool, or other structure; or
- (9) material carried or otherwise moved by any of the water or sewage, as described in items c.(1) through c.(8) above.

However, **we** will pay for any accidental direct physical loss by fire, explosion, or theft resulting from water, provided the resulting loss is itself a *loss insured*.

g. **Fungus**, including:

- (1) any loss of use or delay in rebuilding, repairing, or replacing covered property, including any associated cost or expense, due to interference at the *residence premises* or location of the rebuilding, repair, or replacement, by *fungus*;
- (2) any remediation of *fungus*, including the cost to:
  - (a) remove the *fungus* from covered property or to repair, restore, or replace that property; or
  - (b) tear out and replace any part of the *building structure* or other property as needed to gain access to the *fungus*; or
- (3) the cost of any testing or monitoring of air or property to confirm the type, absence, presence, or level of *fungus*, whether performed prior to, during, or after removal, repair, restoration, or replacement of covered property.

However, **we** will not deny a covered claim due to the presence of *fungus* on any property damaged by an otherwise covered loss.

3. **We** will not pay for, under any part of this policy, any loss consisting of one or more of the items below. Further, **we** will not pay for any loss described in paragraphs 1. and 2. immediately above regardless of whether one or more of the following: (a) directly or indirectly cause, contribute to, or aggravate the loss; or (b) occur before, at the same time, or after the loss or any other cause of the loss:

- a. conduct, act, failure to act, or decision of any person, group, organization, or governmental body whether intentional, wrongful, negligent, or without fault;

However, **we** will pay for any resulting loss from items 3.a., 3.b., and 3.c. unless the resulting loss is itself a Loss Not Insured as described in this Section.

#### SECTION I – CONDITIONS

6. **Suit Against Us.** No action will be brought against **us** unless there has been full compliance with all of the policy provisions. Any action by any party must be started within the period of time allowed by law.

EDWIN M ROEDER  
04-64N3-05F  
Page 3  
March 15, 2024

Please note, the time period allowed by law in the state of Arkansas is five years from the date of loss.

This Company does not intend, by this letter, to waive any policy defenses in addition to those stated above, and reserves its right to assert such additional policy defenses at any time.

If you have any additional information regarding your claim which has not been previously considered, or if you desire any additional explanation regarding this matter, please contact me at the number below.

Sincerely,

Amy Wilcox, Claim Specialist  
State Farm Insurance Companies  
(844)458-4300 ext. 309-994-5840

cc: Scott Cecil, agent



**ServiceMaster of West Plains**

706 Porter Wagoner Blvd.  
West Plains, MO 65775

Phone # 417-256-8773  
Fax # 417-257-6997

**Invoice**

**Invoice #:** 7228  
**Invoice Date:** 04/01/2024  
**Due Date:** 04/01/2024

**Crew** JAP

**Bill To:**

Edwyn Roeder  
168 Riverview Dr  
Mammoth Spring, AR 72554  
USA

**PAID**  
04/04/2024

Description	Hours Qts	Rate	Amount
Cleaning of structure due to sewage loss		335.13	335.13T
Content manipulation		490.39	490.39T
Waste Removal		1,514.86	1,514.86T
Demo of structure due to sewage loss		10,735.70	10,735.70T
Detaching cabinets and shelves		155.11	155.11T
Dehumidifier No-Monitoring		1,997.25	1,997.25T
Air Mover		4,143.52	4,143.52T
Equipment setup, takedown, and monitoring		550.52	550.52T
Decontaminate equipment		1,532.70	1,532.70T
Service Call		156.56	156.56T
Water extraction		1,382.92	1,382.92T
Apply Anti-Microbial Agent		490.13	490.13T
PPE for employees		417.80	417.80T
Mammoth Spring City 10.5% 2501		10.50%	2,509.78

**Total** \$26,412.37

**Payments/Credits** -\$26,412.37

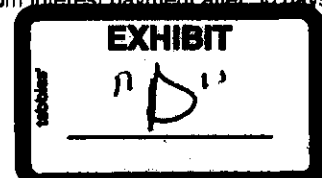
**Balance Due** \$0.00

18% annum interest payment after 30 days

Consent of Owner: Consent is hereby given for filing of mechanic's liens by any person who supplies materials or services for the work described in this contract on the property on which it is located if he is not paid.

servicemasterwp@live.com

www.servicemasterwp.com





16666 RIVERVIEW DRIVE, MOUNTAIN HOME, AR 72653

### LEASE AGREEMENT

**PROPERTY:** THE DELS ADDITION

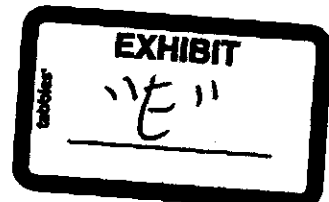
**ADDRESS:** 147 SOUTH MAIN STREET, MOUNTAIN HOME, AR 72653

This Residential Lease Agreement is entered into by and between the Owner (executed by Manager of The Dels Corporation hereinafter "OWNER" includes any authorized representatives) and Tenant(s) Lessee, EDWIN ROEDER, referred to as "RESIDENT". As consideration for this agreement, OWNER has agreed to lease to RESIDENT and RESIDENT agrees to pay to OWNER 53 from OWNER for use of the premises for residential purposes, with business or child care services may be operated from the apartment community, the premises located at ADDITION in the city of MOUNTAIN HOME, AR

\* TERMS: RESIDENT agrees to pay \$900 per month on the 3RD day of each month. Deposit and 1st month's rent is due at the time of signing the lease agreement. Deposit, first month's rent and any future rent must be paid with cash, a money order or cashier's check. Personal checks are only accepted if RESIDENT occupied the unit before September 25th, 2022 and has previously been approved by management to pay with a personal check.

\* This agreement shall commence on 04/01/2024 and continue until 10/01/2024 as a leasehold. Thereafter RESIDENT must renew their lease to stay on the property. If RESIDENT should move from the premises prior to the expiration of this time period, he or she may be liable for all rent due for the remainder of the lease agreement, as well as not receiving any amount of the prepaid deposit. Resident agrees that a 30 day written notice to vacate is required and must be given directly to the OWNER/manager. RESIDENT must use the Owner's written Notice to Vacate which is provided in your move-in packet. **VORBAL MOVE OUT NOTICE IS NOT SUFFICIENT UNDER ANY CIRCUMSTANCES**

\* PAYMENTS: Rent and/or other charges are to be paid at the office. All payments are to be made by cash unless otherwise approved. OWNER acknowledges receipt of the First Month's rent of 900 and a Security Deposit of \$ N/A and additional charges fees for N/A for a total first payment of 900



and Lessee

\*          **ENTIRE AGREEMENT:** This Agreement constitutes the entire Agreement between OWNER and RESIDENT. No oral agreements have been entered, and all modifications or notices shall be in writing to be valid.

\*          **RECEIPT OF AGREEMENT:** The undersigned RESIDENTS have read and understand this Agreement and hereby acknowledge receipt of a copy of this Rental Agreement.

RESIDENT Signature: \_\_\_\_\_



Date: 04 / 05 / 2024

SECONDARY RESIDENT Signature: ( If Applicable)

Date: \_\_\_\_\_

OWNER/ Agent Signature: HANNAH THAXTON

Date: 04 / 05 / 2024

### ADDITIONAL INFORMATION

WIFI PASSWORD: Delscorp5266

LAUNDRY ROOM CODE: N/A

PROPERTY MANAGER: HANNAH THAXTON

CONTACT NUMBER: 870-706-4536



Edwin Roeder  
168 Riverview Drive  
Mammoth Spring, AR

Prep walls and flooring (Pull all nails and staples. Cut out remaining flooring and trim) for new drywall  
And trim.  
\$1,250.00

Install drywall, tape, mud, and texture. Master bedroom, partial master closet, 2<sup>nd</sup> bedroom, ¼ kitchen  
¼ utility room, and partial 2<sup>nd</sup> bath.  
\$4,750.00

Install 192 sq. Ft. Subflooring, 2 bags of floor lever, and install 1500 sq ft Luxury Vinyl Plank.  
\$3,100.00

Install 3 interior, 1 exterior, and hang 2 barn doors.  
\$400,00

Install all floor trim, door trim, and 7 window trims. Miscellaneous entry trim and lower car siding.  
\$1,600.00

Electrician  
\$500.00

Total project \$11,600.00

Thank you,  
Clint Christopherson



DATE	EXPENSE	DESCRIPTION	COST
3/18/2024	Entergy	Electric Bill	\$ 291.42
4/4/2024	Lowe's	Drywall	\$ 282.66
4/6/2024	LL Flooring	Laminate floor 2.50x1500	\$ 4,054.00
4/6/2024	Home Depot	Drywall materials	\$ 103.11
4/6/2024	Lowe's	Drywall materials	\$ 40.60
4/13/2024	Sherwin Williams	Paint	\$ 219.38
4/18/2024	Entergy	Electric bill	\$ 106.96
4/20/2024	Menards	Carport board	\$ 53.37
4/25/2024	Synchrony	flooring loan payment	\$ 142.00
4/29/2024	Mountain Milling	Trim carpentry	\$ 837.85
4/30/2024	Home Depot	Doors- 2 interior, 1 exterior	\$ 715.29
4/30/2024	Home Depot	Jam Extension Kit	\$ 79.84
5/1/2024	Menards	Carport board	\$ 193.77
5/1/2024	Lowe's	Floor register	\$ 132.44
5/2/2024	Sherwin Williams	Paint	\$ 45.39
5/18/2024	Entergy	Electric bill	\$ 323.58
5/11/2024		Air Duct Inspection	\$ 100.00
	Cover lumber	Miscellaneous	\$ 500.00
	Duct Cleaning		\$ 400.00
	Heating and air		\$ 18,000.00
		<b>TOTAL:</b>	<b>\$ 26,521.66</b>

