

**IN THE CIRCUIT COURT OF POCAHONTAS COUNTY, WEST VIRGINIA  
BUSINESS COURT DIVISION**

**BLACK BEAR CROSSING TOWN HOUSE  
ASSOCIATION, LLC, a West Virginia limited  
liability company and on behalf of two (2)  
or more unit owners,  
Plaintiff,**

**v.**

**CIVIL ACTION NO. 14-C-32  
Presiding: Judge James J. Rowe**

**BLACK BEAR CROSSING, LLC,  
GKS DEVELOPMENT, LLC,  
THOMAS C. SELLS, III, BRIAN KREIDER,  
MATTHEW GLOD, JAMISON DESIGN, LLC,  
TYGARTS VALLEY CONSTRUCTION, INC.,  
SLOPESIDE CONSTRUCTION, INC.,  
TINK'S COTTAGE CARE AT SNOWSHOE, LLC  
and TREVE PAINTER,  
Defendants,**

**and**

**BLACK BEAR CROSSING, LLC,  
GKS DEVELOPMENT, LLC,  
THOMAS C. SELLS, III;  
BRIAN KRIEDER, MATTHEW GLOD and  
TYGARTS VALLEY CONSTRUCTION, INC.,  
Third-Party Plaintiffs,**

**v.**

**FIRST TRACTS REAL ESTATE, LLC,  
DAVID M. SIMMONS and PETER A. MONICO,  
individually and as members of  
FIRST TRACTS REAL ESTATE, LLC,  
CAS STRUCTURAL ENGINEERING, INC.,  
CHAPMAN TECHNICAL GROUP, LTD,  
LEON G. MALLOW SURVEYING, INC.,  
DOUGLAS J. GRIMES d/b/a MILL RUN FARM,  
and JD & JT GENERAL CONTRACTORS, LLC,  
Third-Party Defendants.**

**AGREED PARTIAL DISMISSAL ORDER**

POCAHONTAS COUNTY  
CIRCUIT/FAMILY COURT  
RECEIVED 2/24/16  
By: CMC/CDB

This day came the parties, by their respective counsel, and announced to the Court that all matters and differences among them have been fully resolved except Count I of the **Cross-Claim of Tygarts Valley Construction Against Black Bear Crossing, LLC, GKS Development, LLC, Thomas C. Sells, III, Brian Kreider, and Matthew Glod**. Therefore, the parties move this Court to dismiss, with prejudice, all claims and controversies raised by the Plaintiff in the **Amended Complaint** against Defendants Black Bear Crossing, LLC, GKS Development, LLC, Thomas C. Sells, III, Brian Kreider, Matthew Glod, Jamison Design, LLC, Tygarts Valley Construction, Inc., Slopeside Construction, Inc., Tink's Cottage Care at Snowshoe, LLC, and Treve Painter. The parties also jointly move this Court to dismiss, with prejudice, all claims raised in the **Amended Third-Party Complaint** by Third-Party Plaintiffs Black Bear Crossing, LLC, GKS Development, LLC, Thomas C. Sells, III, Brian Kreider, Matthew Glod, and Tygarts Valley Construction against Third-Party Defendants First Tracts Real Estate, LLC, David M. Simmons, Peter A. Monico, CAS Structural Engineering, Inc., Chapman Technical Group, LTD, Leon G. Mallow Surveying, Inc., Douglas J. Grimes d/b/a Mill Run Farm, JD & JT General Contractors, and TCC Contracting Services, LLC. The parties also jointly move this Court to dismiss all cross-claims and/or counterclaims filed by any party EXCEPT Count I of the **Cross-Claim of Tygarts Valley Construction Against Black Bear Crossing, LLC, GKS Development, LLC, Thomas C. Sells, III, Brian Kreider, and Matthew Glod** for Breach of Contract, which is the only claim that remains in this litigation.

**WHEREFORE**, upon consideration of the foregoing and for good cause shown the Court hereby **ORDERS** that:

1. All of the Plaintiffs' claims against all of the Defendants as set forth in the **Amended Complaint** are **DISMISSED WITH PREJUDICE** from this Court's docket.

2. All of the Third-Party Plaintiffs' claims against the Third-Party Defendants as set forth in the **Amended Third-Party Complaint** are **DISMISSED WITH PREJUDICE** from this Court's docket.

3. All cross-claims and/or counterclaims filed by any party against any other party EXCEPT Count I of the **Cross-Claim of Tygarts Valley Construction Against Black Bear Crossing, LLC, GKS Development, LLC, Thomas C. Sells, III, Brian Kreider, and Matthew Glod** for Breach of Contract are **DISMISSED WITH PREJUDICE** from this Court's docket.

4. Count I of the **Cross-Claim of Tygarts Valley Construction Against Black Bear Crossing, LLC, GKS Development, LLC, Thomas C. Sells, III, Brian Kreider, and Matthew Glod** for Breach of Contract has not been dismissed and shall remain as the only claim left on the Court's docket for this case.

5. The style of the case shall reflect the deletion of all parties except Tygarts Valley Construction, Black Bear Crossing, LLC, GKS Development, LLC, Thomas C. Sells, III, Brian Kreider, and Matthew Glod.

6. The style of the case shall be re-organized to reflect Tygarts Valley Construction as the Cross-Claim Plaintiff versus Black Bear Crossing, LLC, GKS Development, LLC, Thomas C. Sells, III, Brian Kreider, and Matthew Glod as the Cross-Claim Defendants.

The Clerk of this Court is directed to send a certified copy of this Agreed Partial Dismissal Order to all counsel of record.

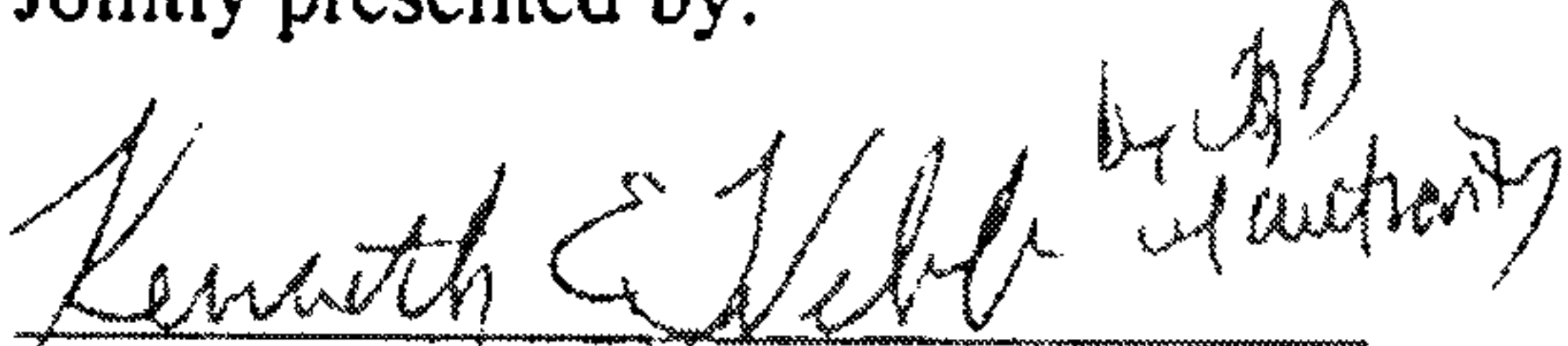


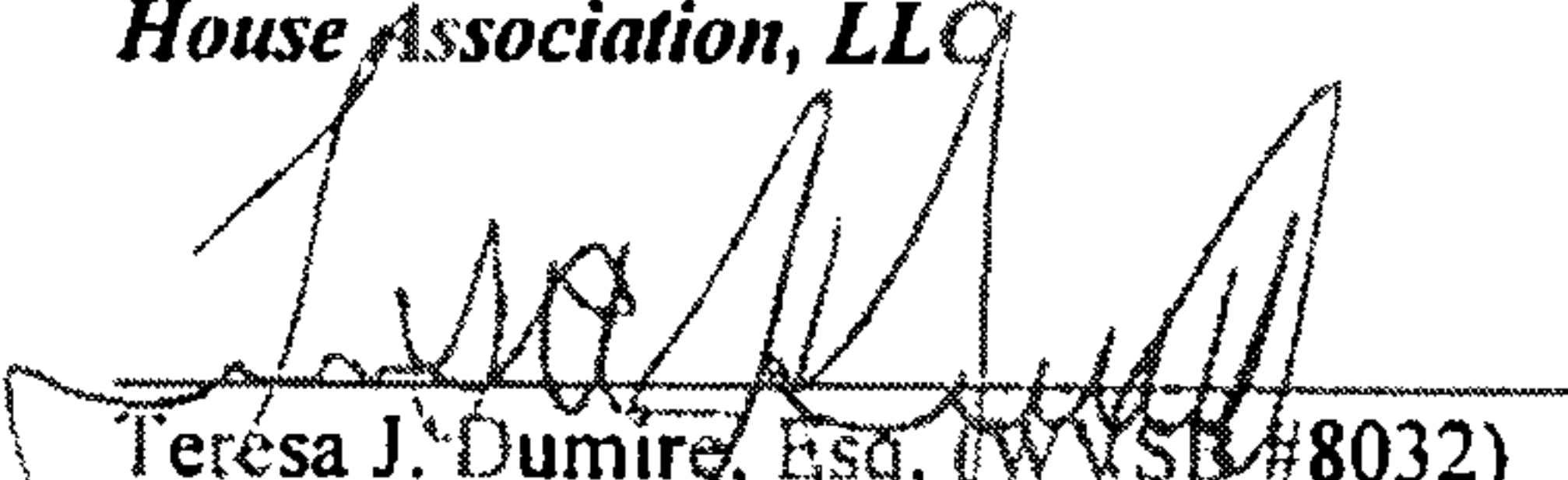
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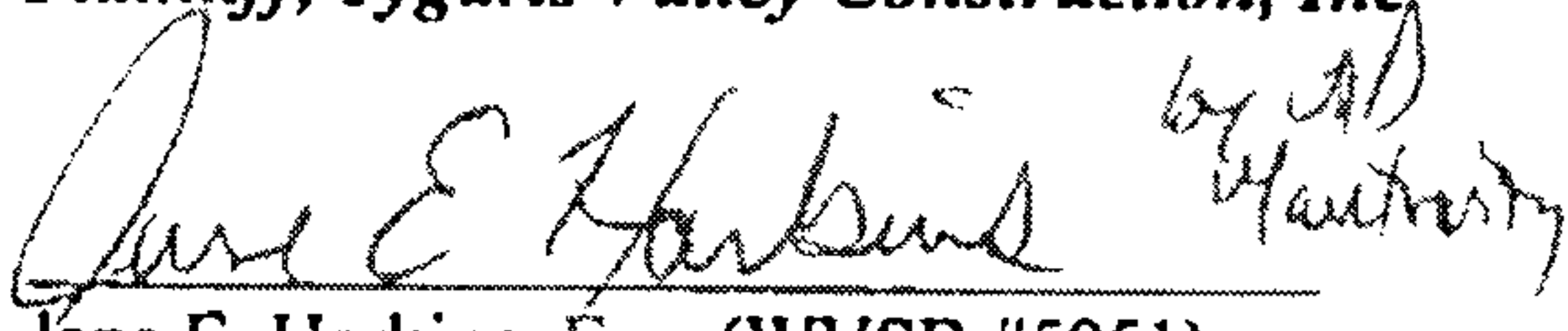
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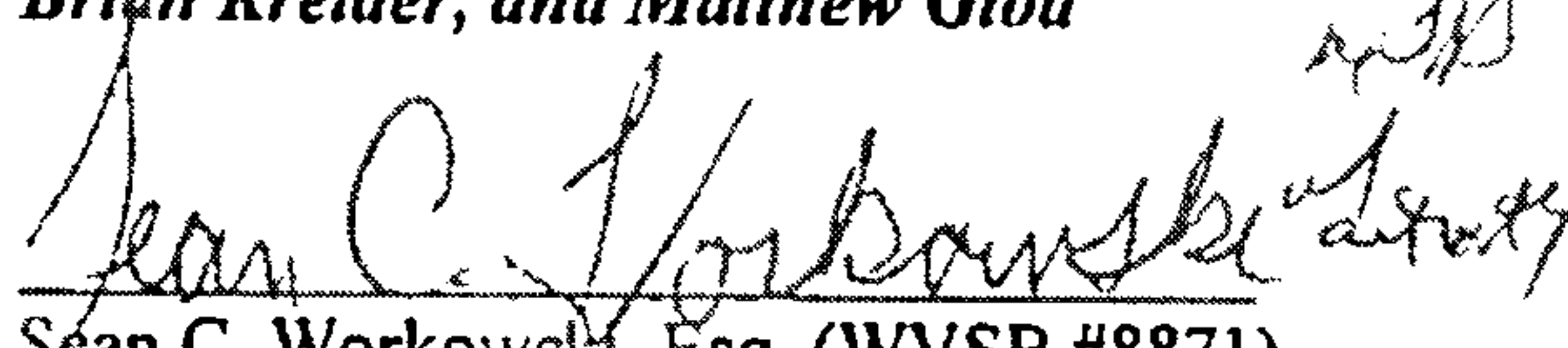
  
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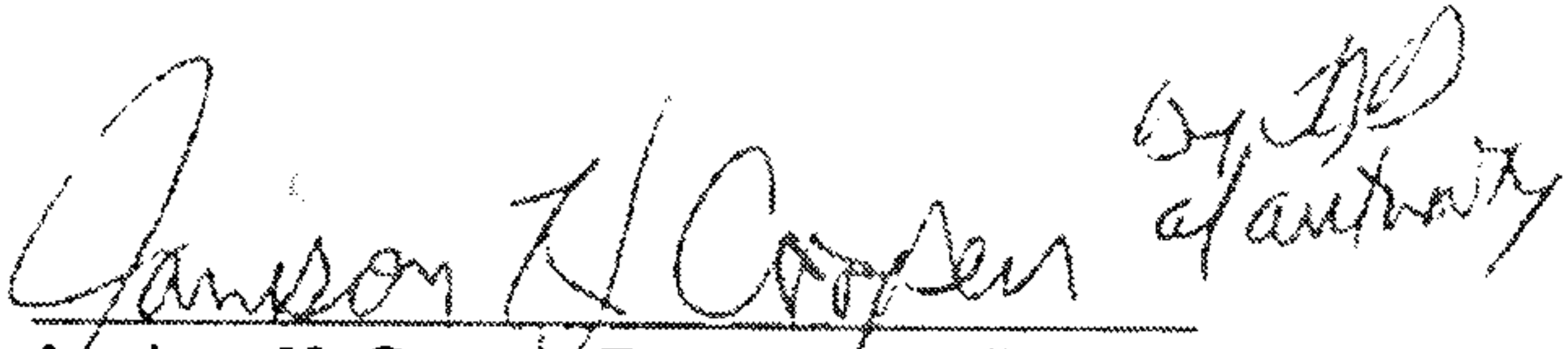
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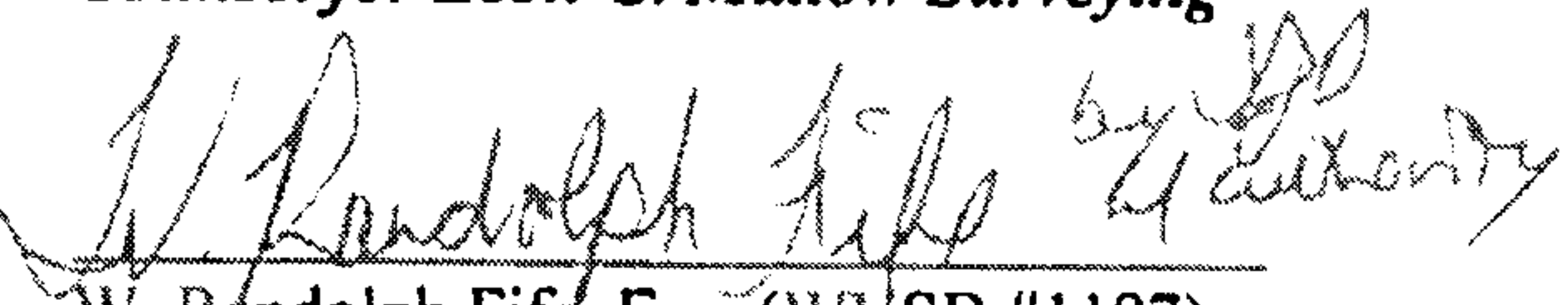
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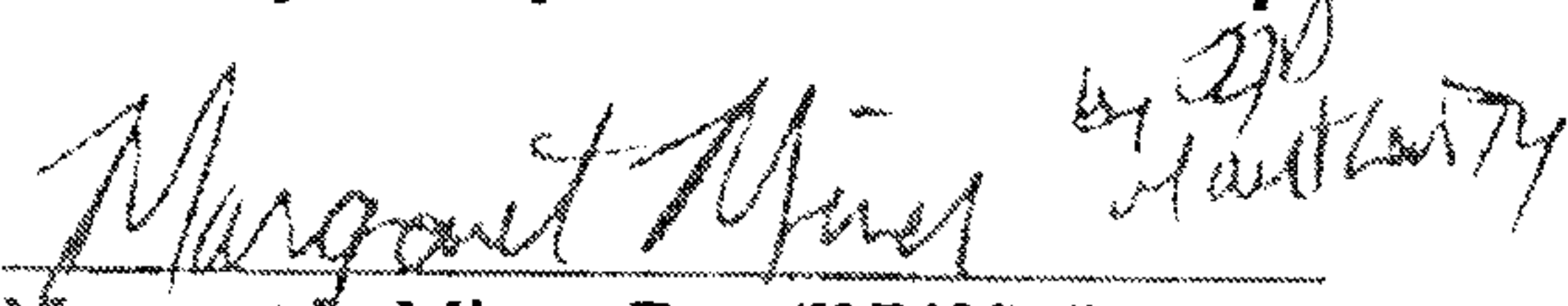
  
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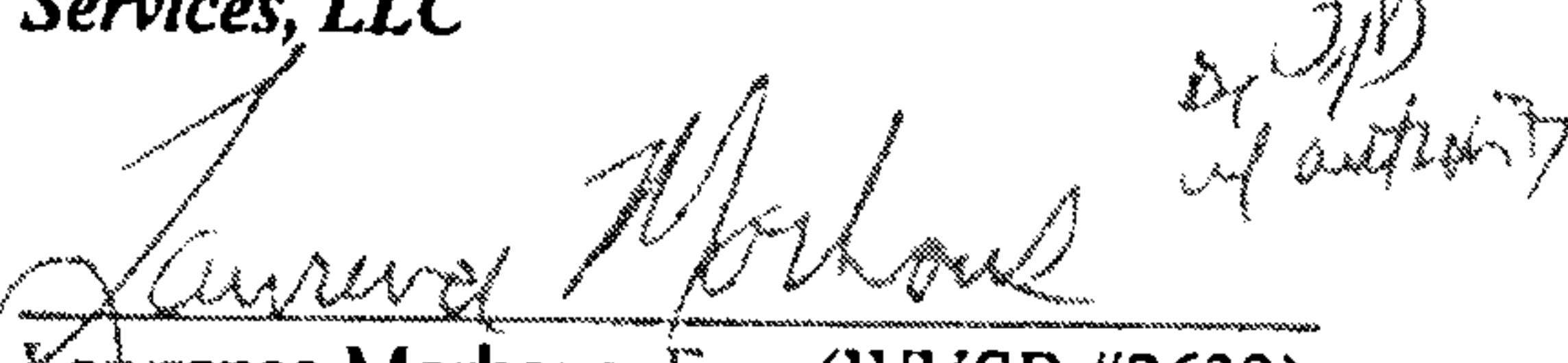
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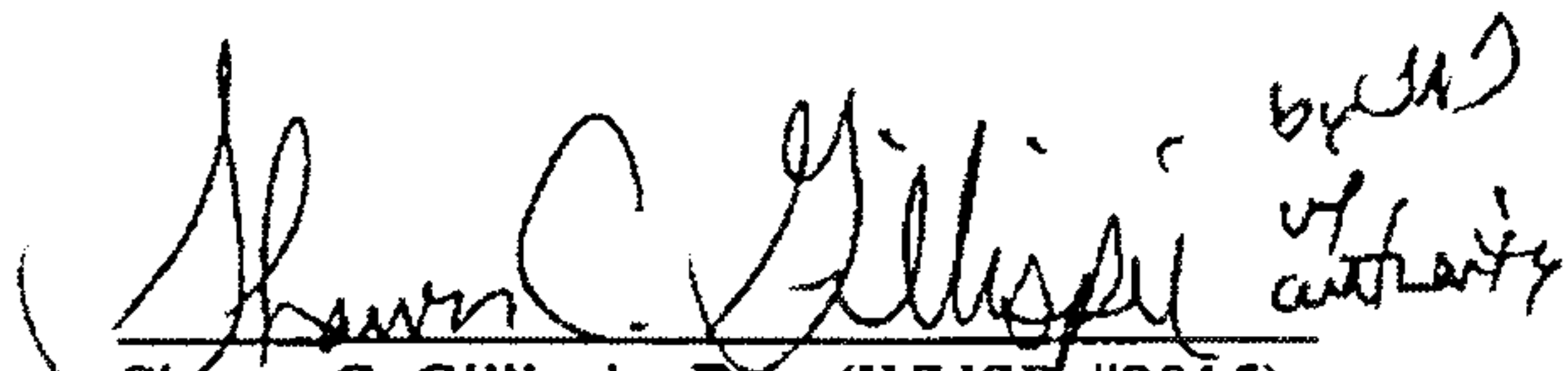
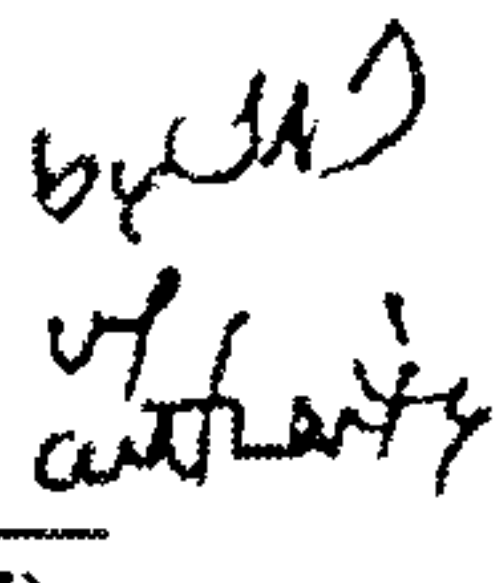
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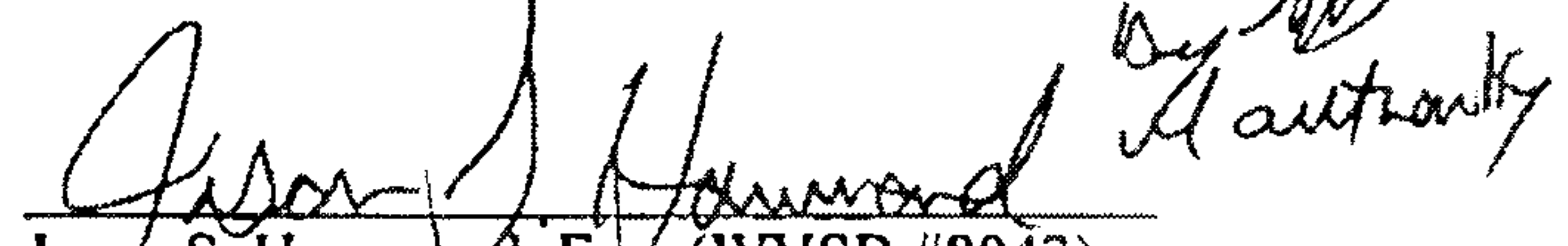
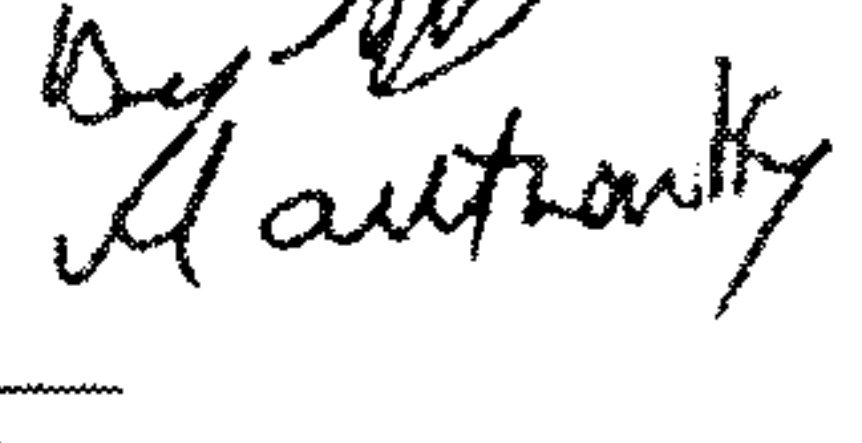
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