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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM HORRY COUNTY
Cynthia Graham-Howe, Master-in-Equity

Civil Action No.: 2016-CP-26-007190
Appellate Case No.: 2022-00721

In the Matter of Edith Cox Soles, Deceased,

Marcia Soles Anderson and Michael W. Soles,
Individually and as interested Parties, ... Appellants,

Jimmy R. Soles, ... Respondent.

RECORD ON APPEAL, VOLUME II

Brown W. Johnson, Esquire
Clark, Johnson, Peterson & McLean, PA
P.O. Box 1865
Florence, South Carolina 29503
843-669-2401
Attorney for Appellants

Luther O. McCutchen, III, Esquire
McCutchen Vaught Geddie & Hucks, P.A.
4610 Oleander Drive, Suite 203
Myrtle Beach, South Carolina 29577
(843) 449-3411
Attorney for Respondent

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ANGELA RENEE FOWLER

being first duly sworn, testified as follows:

EXAMINATION

BY MR. JOHNSON:

Q. Miss Fowler, you worked as a caregiver for both Euclid and Miss Soles, Edith Soles; is that correct?

A. Yes, sir.

Q. Before going into that let me ask you just generally your educational background. Where are you from?

A. I'm from Aynor, South Carolina.

Q. Where did you go to high school?

A. At Aynor High School.

Q. And after high school I believe you went to Tech and got a CNA. Is that what it is?

A. Yes, sir.

Q. What is --

A. It's a certified nursing assistant. To be able to work in most facilities you have to be certified.

Q. And did you go to work for a nursing home thereafter?

A. I did. I went to work for Conway Nursing Home and I worked in Alzheimer's -- there

was a unit that was the Alzheimer's dementia unit.

Q. How long did you work in the dementia unit?

A. Two years.

Q. So you've had some experience with dementia patients?

A. Yes, sir.

Q. And there was one nursing home. Then I think you went to another one.

A. I did. I went to Loris. It was called Extended Center. I worked on the floor at the long-term care for a couple of years. About five years. Then I started doing rehab hall.

Q. In 2008 who hired you?

A. Miss Marcia.

Q. And what did she hire you to do?

A. To help with daily activities with Mr. Euclid and Miss Edith.

Q. So Mr. Euclid was alive at that point?

A. Yes, sir.

Q. Did you go to work -- was it a full-time job?

A. Yes, sir.

Q. Tell us about your duties. What were your duties?

A. When I got there in the mornings I would cook breakfast, make sure they had their medicines. I would clean, wash clothes, vacuum, mop. I did all the housework. And cook.

Q. Let me ask you about not Mr. Soles' condition, but Edith's condition. What was her condition at that time? 2008.

A. In 2008 she was in her mind pretty well. She knew who she was and who you were, but as time went on she slowly diminished.

Q. Did she prepare meals?

A. From the time I started she never cooked to my knowledge.

Q. Did she do any housework?

A. No, sir.

Q. Was she able to go to the doctor by herself?

A. Not by herself. No, sir.

Q. Was she able to dress herself?

A. When I first started she was able to dress herself, yes, sir.

Q. And was she fairly mobile?

A. In 2008, yes, sir. And even when Mr. Euclid passed away she got around pretty good in 2012.

Q. Let's go to 2012. You had been there for almost four years by then.

A. Yes, sir.

Q. Had you noticed any difference in Edith's condition from 2008 to 2012?

A. She was slowly declining. She would say she was missing things, like a pair of pants, and I found the pants under the kitchen sink where she had hid them back. So that was -- she was slowly declining.

THE COURT: You found her pants under the sink?

THE WITNESS: She had told me one day -- she told me that she was missing a pair of pants. And I did all the laundry. So I knew I had washed them and put them up. And I was under the kitchen sink for something. I was getting something and I seen them. They were stuffed in the basket in the back. And that's one of the signs of dementia. And I just pulled them out and I was like: Here, Miss Edith. I found your pants.

BY MR. JOHNSON:

Q. During that period of time did you see Marcia and Michael on a regular basis?

A. Yes, sir. They were in and out every

day.

Q. And they arranged your schedule and --

A. Yes, sir.

Q. They were the ones who had hired you and arranged your schedule?

A. Yes, sir.

Q. Now, did you know Charlie?

A. I did.

Q. And he would visit often?

A. Yes, sir.

Q. He was in the area. Now, I think Mr. Soles died in 2012.

A. Yes, sir.

Q. What, if any, effect did that have on Miss Edith?

A. I'm sure she was sad. When he passed away I went -- I got me another job for a little while up until I come back in July of 2014.

Q. You had a baby?

A. I had a baby in 2011.

Q. During the time that you were -- 2011 during the time that you were away or you were not working would you visit and see her?

A. Yes, sir. Me and my little girl would stop and see her, and at times she didn't know who

I was and she thought my little girl was Marcia's daughter. She would call her Angie, which was Marcia's daughter, and I had to remind her: No. This is Emma.

Q. Was that before Charlie died?

A. Yes, sir.

Q. Charlie died in 2014, I believe.

A. Yes, sir.

Q. By that time had Miss Edith's condition changed any?

A. Yes, sir. I could tell when I went to visit that she wasn't as keen as she was when Mr. Euclid had passed away.

Q. Now, after Charlie's death in 2014 what were the housing arrangements? I know that Marcia and Michael lived right across the road from them and they were there on a regular basis. And Charlie was, too.

A. Yes, sir.

Q. Do you know as far as spending the night together -- by that time after 2014 was she able to spend the night by herself?

A. No, sir. When I came back in July of 2014 she was able to get in a vehicle or I would take her in the wheelchair in the afternoons and

roll her to Marcia. She would stay with Marcia a few nights and then Mike would come and stay with her a few nights, but that didn't last long after I came back. She got to where she wasn't able to go to Marcia. So then Marcia and Mike started coming together and spending the night until somebody got there the next day.

Q. To your knowledge after 2014 after Charlie's death did Miss Soles ever spend the night alone?

A. Not to my knowledge.

Q. By the way, going back to the beginning, did she need help with her medicine?

A. Yes, sir. I did hers and Mr. Euclid's medicine from the day I started.

Q. You were trained to do that as a CNA?

A. Yes, sir.

Q. Was she ever able to go to the doctor by herself?

A. Not after I started. Either Charlie took her or Marcia or I took her. She never went by herself.

Q. Dr. Barrett was her primary treating physician?

A. Yes, sir.

Q. And she saw him on a regular basis?

A. Yes, sir.

Q. Let's move on to 2015. By 2015 you had been there for a good while.

A. Yes, sir.

Q. What was her mental state? Describe her mental condition.

A. In my opinion she was in full-blown dementia by that time because she couldn't remember things. She would love to look out the front window, and if Mike was over there cutting grass she thought it was Euclid cutting grass.

You couldn't tell her it weren't him. You would have to take her out and take her over there and show her that it wasn't Euclid. And then she would call Marcia Retha, which was her sister that had passed away years ago.

Q. Did she sometimes confuse Marcia and you? Did she know who you were?

A. At times she did not know who I was and at times she didn't know who Marcia was. There would be times people would come and she couldn't remember them, and they would have to remind her who they were.

Q. In 2015 did she have problems with

anger and striking out?

A. Yes, sir. She sure did.

Q. Was there an incident when she actually cut one of her caregivers?

A. Yes, sir. I came in -- at that time I was working in the afternoons from like 3:00 to 5:00, and I came in and Lovanda had had a cut across her face. And I asked her what happened.

We had had to put all the silverware away before all this occurred. All the knives. Everything had to be put up because she had gotten where she would use them as weapons. And Lovanda said that she left a knife laying on the counter and that she went to the bathroom and when she came out Miss Edith had took the knife and cut her across the face.

Q. Do you recall an incident when Miss Soles locked one of her caregivers out of the house?

A. Yes, sir.

Q. Who was that?

A. Lovanda.

Q. What happened there?

A. Well, I came up and Lovanda was outside, and I asked her what was going on and she

said that she went out to take the trash out and Miss Edith had locked her out.

So I had a key. So we opened the door and went in and, of course, I asked Miss Edith -- I said: Why did you lock her out?

She said: I didn't lock her out.

Q. In July of 2015 would Miss Soles have sufficient mental capacity to understand the consequences or effect of signing a deed?

A. In my opinion, no, because she couldn't even sign my checks. She didn't sign any of our checks.

Q. Who did?

A. Mike would give us the money. She never from the time Euclid died -- when I came back she never wrote a check to me.

Q. Who managed her business affairs? Who paid her bills?

A. As far as I know it was Mr. Mike. Now, that -- I don't get into all that, honestly. I don't know.

Q. In July 2015 was Edith Soles of a sound mind?

A. No, sir.

Q. Did she know what was going on?

A. Not -- at times, no, sir. Now, sometimes she did and sometimes she didn't.

Q. In July 2015 was she mentally incompetent based on your experience?

A. I think so, yes, sir.

Q. She was mentally incompetent?

A. Yes, sir.

MR. JOHNSON: Thank you. Answer any questions counsel may have.

THE COURT: Mr. McCutchen?

EXAMINATION

BY MR. McCUTCHEN:

Q. Good morning, Mrs. Fowler. My name is Luther McCutchen. I think we met before.

I want to reaffirm something. You said that you started back in July of 2014?

A. Yes, sir.

Q. What were your hours when you started back?

A. When I started back I was in the afternoons from like 3:00 to 5:00 or 6:00. Because Lovanda worked during the day and then Faye did the weekend.

Q. And is it your testimony that during that period of time she was in full-blown dementia?

A. Yes, sir.

Q. What does that mean?

A. There is three stages of dementia. There is mild, moderate, and then there is advanced. And she was -- when I came back in 2014 she was in the advanced stages of dementia because she didn't know who people were. She might know you today; she might not know you five minutes from now.

Q. So were there times when she knew who you were?

A. At times, yes, sir.

Q. And tell me about your experience -- so how long did you work from 3:00 to 5:00 or 3:00 to 6:00?

A. Approximately -- now, I don't know for sure, but it was approximately three or four months. Maybe four months.

Q. Would it be from July to October? Is that correct?

A. I want to say it was around January that I started doing more time. I started -- I started in the afternoons. And then somehow Faye wasn't there anymore, so I did the weekends.

Q. So I'm trying to follow this. So from

-- you started back in July of 2014.

A. Yes, sir.

Q. And you continued part time on the weekends from 3:00 to 5:00?

A. No. I did weekdays 3:00 to 5:00.

Q. 3:00 to 5:00 until January?

A. Approximately.

Q. And then what was your -- when did you work from January on?

A. Then I took Faye's place and worked Saturdays and Sundays, which would have been the weekend, and Lovanda worked during the week.

Q. So let me ask you about this: Do you understand dementia?

A. Yes, sir. I worked in the dementia and Alzheimer's unit.

Q. Do you understand the definition of dementia?

A. I do.

Q. Are you very knowledgeable about dementia?

A. I mean, I'm not no doctor, if that's what you're asking.

Q. No, ma'am, I'm not. But isn't the afternoon -- aren't the afternoons from 3:00 to

4:00 to 6:00 or 7:00 the worst times for dementia patients?

A. It is.

Q. They call it the sundown?

A. Dementia and sundowners is not the same thing, but they do get worse as the day goes on.

Q. So what you're doing is you're seeing her for a period of six months from 3:00 until 6:00 where she's probably getting worse during the day. Is that a fair statement?

A. Well, yes, because she was wound up.

Q. Did you see her -- from July until January did you see her in the mornings from 8:00 until 2:00?

A. My daughter -- like I said before, my daughter and I would come and visit her, yes, sir.

Q. Did you visit her every day?

A. Not every day, no, sir.

Q. Did you visit her once a week?

A. Probably about once every two or three weeks.

Q. You would come to see her sometime between 8:00 and 2:00?

A. Uh-huh.

Q. But the rest of the time you worked

3:00 to 5:00 -- 3:00 to 5:00, 3:00 to 6:00 every day --

A. Yes, sir.

Q. -- until January, and then you worked only on the weekends?

A. Yes, sir.

Q. And so that would be -- what were your hours on the weekends at that time?

A. From 8:00 to -- sometimes I would -- you didn't really have a set hour to get off. I would just stay until Marcia or Mike -- one of them -- could come relieve me.

Q. Who took care of her during the week from 8:00 to 3:00 or 4:00?

A. Lovanda.

Q. So at this point Lovanda had 8:00 to 3:00 five days a week?

A. Yes, sir. But now, when I started weekends -- I didn't work the weekends but like two or three weeks. And then Lovanda wanted to change because she wasn't able to take Miss Edith to the doctor and she had to get her sons and things like that. So they wanted me to work during the week and she worked the weekends.

Q. When did you start working during the

week?

A. Approximately about February of 2015.

Q. What were your hours from there through the summer?

A. The summer I worked 8:00 to 4:00 or 5:00. Because I had my little girl get -- the bus came right by where I was at, so she would get dropped off during school. And during the summer most of the time I would take her with me.

Q. Was there another caregiver there during the period of time from July, of which I think is where you started, through January -- July of 2014 through January of 2015? Was there another caregiver?

A. There was Lovanda and Faye.

Q. And when you went to work on the weekends was Faye still working there?

A. No, sir.

Q. I need to understand. You went back in July of 2014; correct?

A. Yes, sir.

Q. And what you have said is that she was in full-blown dementia, but you were seeing her in the afternoon only; correct?

A. Yes, sir.

Q. And when you say that -- you obviously have a feel for what full-blown dementia means to you.

A. Yes, sir.

Q. What is that, please?

A. When you're confused. There is a difference in old age and dementia. Confusion, fighting, hitting -- I mean, just stuff like that.

Q. And was that occurring in the afternoon?

A. That was occurring during the day when Lovanda was there.

Q. How do you know that?

A. Because I told you I come in and she had her face cut one day. She had locked her out one day. That's how I know.

Q. So there is two days you're talking about right now; correct?

A. Well, it weren't only two. It was several days I come in Lovanda would be frustrated with it because it was just -- she had dementia.

Q. I understand that she had dementia. I also understand that you worked during a period of time when dementia may be worse, according to what your own testimony is; correct?

A. Exactly. But when I came in the things that had occurred during the day were signs of dementia and Alzheimer's. And that was when I wasn't even there. That was during the day.

Q. So are you getting daily reports of matters that are occurring each day?

A. Yes, sir.

Q. So each day you're getting a report although you're only working from 3:00 to 5:00?

A. When I come in I would always ask Lovanda what happened today.

If you've ever worked in health care, you're supposed to give reports of what happened during the day.

Q. So you would be asking -- would you be asking Lovanda?

A. I would ask her: What occurred today? Have y'all had a good day? Have you had a bad day? What do I need to expect today? Because, I mean, some days were good and some days were bad.

Q. And beginning in February you were there five days a week?

A. Yes, sir.

Q. Through the summer of -- at least through the summer of 2015?

A. Until she passed away, yes, sir.

Q. So you were the caregiver during the week beginning in February?

A. Approximately.

Q. Until her death in, I think, November; is that correct?

A. Yes, sir.

Q. How long did you work in the dementia ward, please, ma'am?

A. A little over two years.

Q. Now, I discussed this with you before, but other caregivers are indicating you came back to work in 2016.

A. Uh-huh. Like I told you before, I'm not here to argue -- I know when I came back, and that's all I can tell you on that subject.

Q. Thank you, ma'am.

Now, when you worked with her from February, that's when you went full time --

A. Uh-huh.

Q. -- through, say, the end of the summer.

Is it your testimony that she didn't have periods -- good lucid times when you were sitting there with her?

A. Some days she would be fine and then

you might go back 30 minutes later and she not know who you are. I could go out to put a load of laundry in the dryer and come back and she wouldn't know who I was; wouldn't remember I had been there all morning.

Q. So there were times when she did understand what was going on pretty thoroughly and there were times when she didn't?

A. Exactly.

Q. Did it ebb and flow?

A. Well, I mean, it's just -- with dementia you don't never know. You might come in and then five minutes later she don't know who you are. "What are you doing? Who are you? Why are you in my house?"

Q. I'm trying to understand. Is there a rapid transition? I mean, can you be lucid for two or three hours and then not for two or three hours? How does that go?

A. Well, with dementia and Alzheimer's that's the way it goes. You kind of take what you're given. You don't never know what -- we don't know what is going to happen throughout the day. She might know your name. She might not know you've been there all day long and I've been right

there. That's just part of the disease.

Q. Acknowledge. But is it your testimony that she certainly had periods of time in which she was lucid and could interact with you, but it came and went?

A. Yes, sir. I think I've explained that three or four times now.

Q. Thank you for three or four times. Was she that way in the summer of 2015?

A. Yes, sir.

Q. So the periods of lucidity extended -- did they extend into the fall of 2015?

A. Up until she passed away -- about a month before she passed away she really didn't say much. I mean, because she got -- when she went down, she went down quick.

Q. Did she begin to go down in the beginning of 2016? Or do you recollect?

A. Approximately, yeah. She was already going down when I started back in 2014, but it just progressively got worse throughout the time.

Q. Would it be your recollection that it progressively, significantly got worse in 2016 rather than 2015?

A. No. In 2015 she was worse, because in

2015 is when the cutting incidents and the violence and the climbing out the windows trying to go somewhere. I mean, we would have to lock the doors. Because if you were doing something and you turned your back for one second she would be gone.

Q. You had to keep your eye on her all the time?

A. All the time.

Q. Is it your testimony that you were with her all the way through her death?

A. Yes, sir.

Q. And was she worse the last six months of her life than she was --

A. She was worse the last year of her life than I had seen her when I was working with her and Mr. Euclid in 2012.

MR. McCUTCHEN: No further questions. Thank you, ma'am.

EXAMINATION

BY THE COURT:

Q. I'm confused. How was she able to climb out a window if she could barely walk to a car?

A. Oh, she would open the window -- she never climbed out of it, but she would open it

trying to get out of it.

And that happened with Lovanda. That didn't happen with me. Because when I came in one day Lovanda said that she had to lock all the windows because she was in the bedroom and she had opened the window and was going to try to climb out of it. That was in the early part of 2014 -- '15. '15.

Q. Like in January or February of 2015?

A. When Lovanda was working with her during the day.

Q. So is Lovanda in the courtroom today?

A. Yes, ma'am.

Q. So we need to ask Lovanda about that. You never saw her trying to climb out a window?

A. No, ma'am. Because when I got there I would take her places. When I came in in the afternoons we would go riding. I would take her and put her in a wheelchair and pivot her to the car and we would go riding.

Q. Because it's pretty tough to get to the point where you can unlock a window and try to climb out. Get up and walk to a window.

A. She was walking when I first started back in 2014.

Q. You're talking -- this is January, February of 2015?

A. Yeah.

Q. So she was walking then?

A. Yeah. She was walking then.

Q. And able to unlock a window?

A. Yes, ma'am.

Q. In 2015?

A. '15.

Q. So she wasn't really frail?

A. In 2015 -- she started getting frail probably the end of 2015.

As far as walking and getting up, she would get up and she would fall. So they would have to keep very close eyes on her.

Q. So really up until a month before she died she wasn't that frail?

A. No. I would say at least six months before she died you would have to keep your eye on her and pivot her, like if she got in the wheelchair. She liked the couch. She liked to sit in her recliner. So you would have to physically pivot her in the recliner and then pivot her back to the wheelchair.

Now, she would try to get up. She

would. And she would fall most of the time.

Q. Do you know about how tall she was?

A. She was shorter than me.

Q. How tall are you?

A. 5' 2".

Q. But she was tall enough to reach a window to unlock it?

A. Yeah. Her windows were low. I wouldn't say it was even locked. I don't know that it was locked. I just know what I was told. I don't know if it was locked or not, honestly.

I do know she went out the front door one day with Lovanda and was trying to go across the road. So Lovanda said she caught her going out the front door. And I had noted all that in my notes. I don't know where they got to, but all that was written down. I wrote down everything that happened when I was there.

Q. And when Miss Soles had these times of lucidity, did you try to take advantage of those times and carry on conversations with her?

A. When she got aggravated --

Q. No. When she had these times of lucidity so that she could carry on a conversation.

A. Yeah. She would talk. And then she

would want to talk about old times and things like that. We would talk and then we would go outside and sit. And even when she couldn't walk I would take her and put her in the chair and we would roll outside and sit on -- she had a cement driveway. We would sit out there and watch the cars go by. She liked to get out of the house.

Q. What did she talk about during those times?

A. Anything. Now, that's been years ago. I couldn't honestly tell you exactly.

Q. Not that long ago. 2015.

A. Well, I can't recall exactly what our conversations were now.

Q. General conversations.

A. She would talk about things like her momma and her sister and different things; her husband and back -- she would talk about back when she was traveling and her husband traveled.

Q. She made sense?

A. Yes. Sometimes she did. And when she did I would talk to her about it. I would ask her questions about when y'all -- she loved Germany. That was her favorite place that they stayed. So when she was able and when she had her -- when she

was in those lucid times we would talk about things like that.

THE COURT: Very good. Does anybody want any follow-up questions to what I just asked?

MR. JOHNSON: No, ma'am.

THE COURT: You may step down. Thank you so much.

Next witness?

MR. JOHNSON: That's the plaintiff's case, your Honor.

THE COURT: Thank you very much.

MR. McCUTCHEN: Your Honor, we would like to call Jimmy Soles to the stand, please.

THE COURT: If you'll state your full name for the record.

THE WITNESS: Jimmy Ray Soles.

THE COURT: R-A-Y?

THE WITNESS: Yes, ma'am.

THE COURT: Mr. Soles, there should be some fresh water and some cups if you need them.

THE WITNESS: Thank you.

THE COURT: Mr. McCutchen?

MR. McCUTCHEN: Thank you, ma'am.

JIMMY R. SOLES

being first duly sworn, testified as follows:

EXAMINATION

BY MR. McCUTCHEN:

Q. Mr. Soles, where do you reside?

A. I primarily reside at this time in North Myrtle Beach, South Carolina. I also have a house in High Point, North Carolina, and I travel back and forth. And I'm undergoing treatment at Wake Forest Hospital for cancer. So I'm back and forth, but I try to spend as much time down here as I can.

Q. When did you start spending time down here?

A. Well, I've spent time down here all my life, but the house that I built was finished in 2016, I believe it was.

Q. So where did you grow up?

A. Oh, different places. My father was in the service, so we moved around.

Q. Where did you graduate from high school?

A. Graduated from Tabor City, North Carolina.

Q. And when?

A. 1969.
Q. Who are your siblings?
A. Do I have to answer that?
Q. Yes.
A. They're sitting right there. Mike and Marcia.
Q. And one sibling is deceased?
A. Charlie.
Q. When did he die?
A. Charlie died in 2014.
Q. Are you currently retired?
A. I am.
Q. How long have you been retired?
A. I'm going to say 12 years.
Q. How long did you live in High Point continuously?
A. I lived in High Point from about 2007, but I was up there quite a bit -- about 2007.
Q. As your primary residence in 2016; is that correct?
A. Yes, sir.
Q. How far is High Point from Tabor City, North Carolina?
A. Approximately, I would say, between 150, 175 miles. It's about a little over a

three-hour drive.

Q. Did you have the opportunity to visit with your mother somewhat frequently?

A. Every chance I got. And I also was in contact with her, calling and talking to her and so forth, and she could carry on a conversation.

Q. Let me walk through -- do you recollect seeing your mother in the year 2013?

A. Yes, sir.

Q. Were you involved in any way with the execution of a Will that has been presented into evidence today?

A. I was not involved in a Will. That was my mother's decision. I got a call from my little brother, Charlie, that mother wanted me, Mike and Marcia to come to Mr. Phipps' office. I knew nothing about the Will or anything else.

So me and Marcia was up there. Mike was angry about not getting what he wanted, so he didn't show up.

Q. Did you visit with your mother through the year 2013?

A. I did.

Q. Did you have occasion to take her back to High Point, North Carolina?

A. I did. We went -- she stayed with me in High Point. We traveled to Biloxi, Mississippi. We traveled to Cherokee.

THE COURT: She liked to go to the casinos in Cherokee?

THE WITNESS: Yes, ma'am.

BY MR. McCUTCHEN:

Q. Did you take her to Buloxi, Mississippi?

A. Sometimes Marcia -- we would all go. Marcia, her husband, me and my wife, momma. I can't recall how many times we went or whatever. But my mother liked to go. She was a real fireball and she was a very strong-willed and proud woman.

Q. So is it your testimony in the year 2013 parts of your family went to casinos as a group?

A. Yes.

Q. And did you drive to Buloxi, Mississippi?

A. Yes.

Q. Did you ever drive with your mother?

A. Every time, yes.

Q. And did you have conversations with her on the way to Mississippi?

A. Absolutely.

Q. Could she carry on conversations with you?

A. Absolutely.

Q. Did she know what was going on?

A. Absolutely.

Q. Did she look forward to going to the casino?

A. She sure did.

Q. When she went to the casino what did she play?

A. She played the slot machines.

Q. And did she understand what she was doing when she played the slot machines?

A. She knew how to put the money in there and push a button like everybody else, and if the thing dinged she knew she won.

Q. Were there several trips that year? To the best of your recollection.

A. We had trips that year, the next year, up until late 2015.

And as far as her condition -- my mother spent Christmas of 2015 at my house. I have no bedrooms downstairs. She went up the stairs by herself and she came down the stairs by herself.

So this garbage of her being just a zombie, no.

Q. So during the year 2014 did you visit with your mother?

A. Yes.

Q. How often were you able to visit with her?

A. I visited as often as I could back and forth. She would come stay with me some.

Q. Did you take her back to High Point in 2014?

A. I'm sure I did.

Q. Did she stay with you at your house?

A. Yes, sir.

Q. Did you have conversations with her during that period of time?

A. I had conversations with her. My neighbors had conversations with her. Visited friends for dinner and outside around the pool, and she was involved in the conversations. They thought she was a wonderful lady, which she was.

Q. Was there a pool at your house?

A. There was a pool at my house. And a good friend of mine had a pool at his house, and we went over there on several occasions for cookouts and stuff with my mother.

Q. So she went with you?
A. Yes, she did.
Q. Did she interact with other people?
A. She certainly did.
Q. Did she carry on conversations with them?
A. She certainly did.
Q. And this was during the year 2014?
A. '14 and '15.
Q. So continuing into 2015 did you visit with your mother?
A. I did.
Q. Did you bring her back to High Point?
A. I did.
Q. Did she stay with you?
A. She did.
Q. Was there ever an incident that occurred sometime in the 2013 - '15 time frame where she may have been injured at your home?
A. Absolutely.
Q. What happened?
A. My mother and I were drinking coffee on the deck; and I went inside to get another cup of coffee for her, and when I came out she was laying on the pool deck. And so I went over there, and,

of course, she was hurt. And she had tripped accidentally. And I called an ambulance, and they took her to the hospital. She had a broken hip.

Q. What year was that, please? If you recollect.

A. I'm thinking it was 2013, but I'm not sure. I don't rehearse dates like some others.

Q. Did she stay with you while she recovered?

A. Well, I had to put her in a rehab facility for three months. My brother Charlie and myself spent the nights with her at that nursing home and cared for her and kept her company, and the other two siblings, Mike and Marcia, spent not one night up there. Marcia came one time. Mike came twice because he was trying to finagle a car out of her. And they did not even visit their mother in almost three months.

Q. Continuing into 2015, did you take any trips with your mother in the first half of that year?

A. I certainly did. Like I said, up and through the fall -- well, actually, like I said, she spent Christmas with me 2015, and I'm sure we went to Cherokee sometime during that.

Q. During Christmas of 2015 is it your recollection she went up and down the steps in your house?

A. Absolutely she did. And this wheelchair garbage -- I never saw her in a wheelchair until 2016 except when she was in rehab, of course, until her hip healed.

Q. Is it your recollection that she could walk around your house?

A. She absolutely could walk. She could talk. Chew gum also.

Q. Thank you, sir. Could she carry on conversations with you in 2015 concerning her affairs?

A. Absolutely.

Q. And could she carry on conversations with you and understand what she was doing in the summer of 2015?

A. Absolutely.

Q. Now, Mr. Soles, this action is one brought to set aside a deed that has been executed, and there are various allegations in the Complaint concerning that matter.

Now, I need for you to explain to me what occurred with regards to the execution of this

deed that has been -- all the discussion and what is at issue in this case. Can you explain what occurred.

A. I can explain what occurred between me and my mother.

Q. If you will, please -- we have a deed that was executed July of 2015.

Did you take your momma to Conway?

A. I certainly did.

Q. Please explain what occurred with regards to the deed and the execution of it.

A. My mother and I went to Conway to -- I met my son and his wife for lunch. My mother asked me to find an attorney that could execute a deed that she wanted to do. I didn't know anybody in Conway, and that's what I told her. And she said -- I can't say what she said. Anyway, she said: Well, find one.

MR. JOHNSON: I object.

THE COURT: Well, I don't know if that's for the truth of the matter, but I think he's already got it out there.

MR. McCUTCHEN: Yes, ma'am. I think he does.

THE COURT: He knows he's not supposed

to say "find one," so --

THE WITNESS: I'm sorry, your Honor. I was not supposed to say what?

THE COURT: What your mom said.

THE WITNESS: Thank you.

BY MR. McCUTCHEN:

Q. Was it your decision?

A. It was not my decision to go do a deed. As a matter of fact, sometime much before that my mother wanted to go see Mr. Phipps; however, nothing transpired there because when we got in the door and Mr. Phipps asked us back at the door my mother -- excuse me. Scratch that because that doesn't matter. I'm not supposed to say what she did or what she said.

Anyway, she attempted to do that deed prior to July of 2015. I told her that since Charlie had recently passed away I didn't think that we really needed to do that now. We would do what she wanted to do at a later date. And Mr. Phipps made a comment to me that --

MR. JOHNSON: Objection.

THE COURT: Hearsay?

MR. JOHNSON: Hearsay.

THE WITNESS: I'll withdraw that

comment.

BY MR. McCUTCHEN:

Q. Did you see your son and his wife for lunch that day?

A. I certainly did.

Q. Was your mother with you at that time?

A. She certainly was.

Q. Was there any instruction given to you concerning finding an attorney to prepare a deed?

A. At my mother's request I did.

Q. Did you find --

A. I inquired in an attorney's office for a firm that did real estate transactions, and he referred me to Thompson Law Firm.

Q. And did you drive to the Thompson Law Firm?

A. I certainly did.

Q. And did you accompany your mother to the law firm?

A. I certainly did.

Q. What happened then? What happened then when you took her --

A. We went upstairs and she made an appointment to see an attorney to execute a deed. I didn't know -- did not know anybody in the

Thompson Law Firm. Never seen them before in my life and neither had my mother. It's something she wanted done, and I did what she wished for me to do.

Q. So were you introduced to an attorney at that law firm?

A. When we came back for her appointment that's when I met Miss Dingle.

Q. Was she the attorney that assisted your mother in this transaction?

A. Yes, she was.

Q. Then when you came back were you in the room when Miss Dingle met with your mother?

A. No; I was not in the room. And the comment made by Marcia Anderson that somebody had to yell in her ear is an absolute lie.

Q. Did your mother hear somewhat at that time?

A. Yes, she did.

Q. Was she somewhat deaf?

A. She was -- had a hearing problem. I'm not saying she didn't have a hearing problem, but you certainly didn't have to yell into her ear.

Q. Did you ask your mother for the transfer of this piece of property to you?

A. Absolutely not. I never asked my mother or my father for one spoonful.

Q. Is it your testimony that it was your mother's wish?

MR. JOHNSON: Objection, your Honor. He's leading the witness.

MR. McCUTCHEN: You led all day.

THE COURT: Well, we have both been leading quite a bit, but don't lead quite so much.

Q. (Continued) Did you introduce your mother to Mrs. Dingle?

A. I can't remember -- in fact, I think it was Miss Dingle came out, introduced herself. My mother -- we were introduced. I can't say exactly how it transpired, but we were introduced.

Q. At that time did Miss Dingle leave with your mother and take her somewhere else in the office?

A. She did.

Q. And were you in the lobby?

A. Yes; I would say so. There was a door that went down the hall and back somewhere, and I stood by that door. And my mother also walked in that office. She walked down that hall and she walked out.

Q. So is it your testimony throughout this period of time in the months prior to that your mother could walk?

A. Yes, she could.

Q. Did she have some physical infirmities --

A. My mother --

Q. -- as older people may have?

A. Yes, sir; she certainly did. She had recovered from a major heart attack, a broken hip, various falls, and in my opinion some abuse, but that's for a later date.

Q. Did she take medicine?

A. She did take medicine.

Q. Did she take a variety of medicine?

A. She did.

Q. But was she still able to maneuver around in the summer of 2015?

A. My mother maneuvered around -- like I said, when she stayed with me Christmas of 2015 -- I have no bedrooms downstairs. She went up the stairs by herself, down the stairs by herself.

I would ask her to let me know so I could watch her going up the steps, but she did what she wanted to do. And one of her favorite

sayings was she did what she wanted and nobody was going to tell her what to do.

Q. Then did your mother come back out after meeting with Ms. Dingle?

A. She did.

Q. What did you do then?

A. My mother came out and I had to kind of pry her away from Miss Dingle because she was talking her ear off. I said: We need to go. And that was it. I never asked my mother to do anything, but I would then and always would do what she asked me to do, as anybody should.

Q. And is what you're saying when you went to Thompson & Henry it was pursuant to her request and not of your own --

A. It was at her request.

First of all, that was not my property. As any property that we received, it was not our property until she gave it to us. The difference in me, Charlie, and those two back there is they wanted to control her.

Q. They wanted to what?

A. Control her, my mother.

Q. I'm going to show you a copy of what has been marked as Plaintiff's Exhibit 4 and ask

you if this is the deed transferring the property to you.

A. Yes, sir.

Q. Now, did you direct anyone to prepare that deed?

A. Absolutely not.

Q. Did you see her -- see anybody sign this deed?

A. I did not.

Q. Whose name is on the back of this deed?

A. Edith Soles.

Q. Do you recognize her signature?

A. That's her signature.

Q. You're confirming that that would be to the best of your knowledge her signature?

A. Yes, sir.

Q. And who are the witnesses there? Can you tell?

A. Destiny King and Catherine Dingle.

Q. Then after she came back out from meeting with Miss Dingle what did you do then?

A. After she came back out -- we had already eaten with my son and daughter. We just went back to Tabor City.

Q. Did you receive anything from Thompson

& Henry later? Any document?

A. I did.

Q. And what did you receive?

A. It was a deed, a copy of a deed.

Q. Was that the original deed that I just showed you?

A. Yes.

Q. And again, thereafter during the year of 2015 she spent the night -- did she spend the night with you at Christmas of that year?

A. Yes, she did.

Q. Is this when she went up and down the steps with you?

A. Yes.

Q. Did she visit with you any in the fall of 2015?

A. Yes. I'm certainly sure she did. She came to me as much as she could and I went to see her as much as I could. She loved her house and she loved living in her house, but she was miserable in her house most of the time with certain people around.

Q. So throughout the year 2015 you had frequent visits with your mother?

A. Yes, sir. Yes, I did.

Q. Did you take her -- I can't remember this. Did you take her to a casino or on any trip during the year 2015?

A. Absolutely. More than one time.

Q. Was it in the spring or summer?

A. I'm sure we went in the spring and we went in the fall. We went two or three times that year, I'm sure.

Q. For the year 2015?

A. Yes, sir.

Q. Was she still able to go and enjoy herself?

A. Absolutely.

Q. Did she play the slot machines?

A. She certainly did.

Q. And did she know what was going on at that time in your opinion?

A. My mother knew exactly what was going on for most of the time. And Marcia, her daughter, said to me on many occasions that momma knows exactly what she's doing.

Q. And this would be --

A. And I also mentioned that to Mike -- well, I can't say what they said.

Yeah. My mother knew exactly what she

was doing. Did my mother have some problems? Yes, she did. Was my mother an invalid? No. Was she incoherent? No. Was she incompetent? No. And it's a shame that her son and daughter would even bring her name through this thing.

I don't want to say nothing else.

Q. So after her visit in Christmas when she went up and down the stairs and visited with you did you see any decline during 2016?

A. She went way down the hill in 2016.

I've not got to this information yet, but I'm hoping that Dr. Barrett can verify that she was to be taken off her blood pressure medicines, et cetera, et cetera. We'll see.

Q. So is it your recollection that she went down sometime during the year 2016?

A. I would say early 2016. You know, I can't put an exact date on it because, like I said, I haven't rehearsed any dates to read the script.

Q. And approximately how many times would you be able to see your mother in a given year? Let's say 2014. Do you have a recollection?

A. I don't know. I'm just going to say -- I can't say exactly. But like I said, when I was back and forth to the beach and she would come up

there -- I don't know. Eight, ten times. Whatever.

Q. So you did see her with some frequency --

A. I certainly did.

Q. -- for the year 2014.

Did you also see her with some frequency for the year 2015?

A. I certainly did.

MR. McCUTCHEN: No further questions, your Honor.

THE COURT: Thank you. Mr. Johnson?

MR. JOHNSON: Yes, ma'am.

EXAMINATION

BY MR. JOHNSON:

Q. Mr. Soles, I think you've stated that you moved to High Point, North Carolina and was there from 2007 up until you moved back into this area.

A. Yes.

Q. And so during the last ten years of your mother's life you lived -- you stayed at High Point? That was your home?

A. The last ten years of my mother's life, yes. As a matter of fact, I have never lived

around there and never would.

Q. Now, High Point, I think you said, is about three hours?

A. About three hours, three and a half hours.

Q. Three and a half hours. And you were living in High Point in 2012 when your father died? When Euclid died.

A. I was.

Q. Now, Marcia and Michael, your brother and sister, lived right across the road from your mother.

A. That's right.

Q. And they were there for 30 or 40 years?

A. So be it. Yes. That's right.

Q. And during the last five years, six years of her life they probably saw your mother every day.

A. Not according to some testimony, no. I'm not going to say they saw her every day. Mike would run in and out when I was around there. What I observed, he would run in and out for a minute here and a minute there. He would bring her food. Spent no time with her.

Q. Did your mother -- I think the

testimony has been that your mother started having memory problems in around 2008. Does that sound about right?

A. No, sir. It's not going to sound about right because I think everybody has short-term memory problems. I have a prescription for memory. So I'm not going to sit here and play doctor.

Q. Would you agree that she stopped driving a car around --

A. Of course she stopped driving a car.

Q. Around 2010?

A. I don't know what year she stopped driving and I don't care.

Q. Let me finish my question.

A. Well, you finish your question and I will answer.

Q. My question was: Did your mother stop driving a car around 2010 or 2011?

A. Like I said, I don't rehearse dates. And I would tell you that my mother did not drive for several years.

Q. And she was unable to go to the doctor by herself?

A. Well, unless she walked across I would -- somebody would have to take her.

Q. And Charlie did that often. Charlie was very involved in her care?

A. Charlie was my mother's favorite. He loved my mother and he protected my mother.

Q. Now, let me ask you about your father. I believe he died in 2012.

A. Yes.

Q. And he had had a long battle with Parkinson's disease, I believe.

A. He did have Parkinson's.

Q. And for the last couple of years of his life he was pretty much confined to a bed? Bedridden?

A. Not to my remembrance, no.

Q. Did your father in about 2008 -- excuse me.

Did the family in 2008 hire caregivers to take care of both your father and help with your mother?

A. My father hired Angela to care for him. She was not hired to take care of my mother. My mother was there, and as any decent individual would do if you were cooking for one person of course you would offer my mother a meal. But she was not hired to take care of my mother, and my

father told her when to come and when to go.

Q. The last years of his life he was --

A. Yes. Absolutely.

Q. Do you deny that the caregiver that was hired helped with your mother?

A. I said I didn't deny that. I said anybody with any common courtesy would, of course, feed my mother since they were feeding my father. She was not hired to take care of my mother.

Q. Isn't it true that by 2008 your mother had stopped preparing meals and stopped driving a car and stopped going to the doctor by herself and had stopped doing her housework?

A. Well, I have seen my mother prepare small meals for herself. She was at my house and she would make toast. She would pour her own coffee. So I'm not going to tell you that my mother stopped completely doing everything, because she didn't.

Did the caregivers cook for her? Yes, they did. That's what they were paid for.

Q. When your father died in 2012, what effect did that have on your mother?

A. Well, I think if you're any person that would have a spouse die it would have an effect on

them, would have an emotional -- whatever you call it. It would affect them emotionally for a period of time.

Q. Dr. Barrett described that that created -- it was a setback for her.

A. I said it would be an emotional effect on anybody.

Q. Yes, sir.

A. And that includes my mother.

Q. After your father's death -- when your father died it increased her confusion, her anxiety and her memory problems. Would you agree with that?

A. No, sir. I would not agree with you.

Q. You are familiar with Dr. Barrett?

A. I could care less about Dr. Barrett. I'm not going to sit here and argue against Dr. Barrett. He's a doctor. He's an M.D.

And did my mother have confusion? Sometimes, yes. I do, too, and I'm sure other people in this courtroom do. You're not going to sit here and degrade my mother.

Q. I'm not degrading your mother.

A. Yes, you are. And you're trying to do a good job of it.

Q. Your mother saw Dr. Barrett --

A. I could care less. She saw Dr. Barrett for some 20 years.

Q. Yes, sir. That was her primary physician?

A. Then why didn't you ask me like that?

Q. On September 10, 2012 in his report -- September 10, 2012. This is three years before the deed -- Dr. Barrett described your mother as a reluctant historian due to her anxiety and recent demise of her spouse and secondary to Alzheimer's dementia.

She was diagnosed with Alzheimer's dementia prior to that. In 2008 she was seeing a neurologist that Dr. Barrett had referred her to for Alzheimer's dementia.

A. Uh-huh.

Q. Is that correct? Do you agree with that?

A. I'm not going to agree with that because I don't know, but I would tell you this: In 2014 I went to Dr. Huggins, a neurologist, along with Marcia.

Q. Are you --

A. Why can't I say what I want to?

Q. You can't say what Dr. Huggins said.

A. Go on about your business.

Q. Now, on September 10, 2012 in that same report Dr. Barrett makes reference: She is with her son, who is a continuous caretaker.

That would be Charlie, would it not?

A. Charlie spent a lot of time with her and took care of her. Yes, he did.

Q. And Charlie often took your mother to see Dr. Barrett?

A. I've taken my mother to see Dr. Barrett. I've taken my mother to see other doctors, so ...

Q. Charlie died, I believe, in 2014.

A. That's right.

Q. And after that time would you agree that your mother's primary health givers were Marcia and Michael?

A. No, I would not.

Q. Did they hire and see that your mother had caretakers around the clock?

A. They hired somebody to care for my mother, yes.

Q. And did they spend the night with her? Did they see that your mother never spent the night

alone again?

A. My mother didn't spend the night alone because she had caretakers. And she would either spend the night at Marcia's house, which she hated, and she would -- also Mike would go in and spend the night with her and leave during the night and go back to his own house. So would you call that -- she didn't have to have 24/7 somebody holding on to her. That's --

Q. I say to you Michael --

A. I heard what you said and I answered your question. Yes.

Q. Your mother never spent the night alone after Charlie's death in 2014?

A. To my knowledge, no.

Q. And it was Marcia or Michael --

A. Well, they were across the street. I would hope they would spend the night with her.

Q. Also Marcia and Michael made sure that she had meals. They helped her with her medicine. They took her to the doctor.

A. Yes, as did other people.

Q. Well, you would certainly agree that they spent an awful lot of time taking care of your mother?

A. I would certainly agree that they spent a lot of time. They lived there, straight across the street from her. So why would they not? Any decent person would do that for their mother.

Q. Yes, sir. And you would agree that had it not been for their care your mother would have had to have gone to a nursing home?

A. No. I do not agree. That's an absolute lie.

Q. You were here yesterday when Dr. Barrett testified.

A. I could care less. I was here.

Q. No. I'm asking you did you hear his testimony?

A. I heard his testimony.

Q. And did you hear that about 2012 your mother had -- not only was she up in years -- she was well into her 80s -- but she had numerous health problems.

A. I know exactly what he said. And yes; I would agree that she had numerous health problems, but your statement that my mother would have went in a nursing home -- not on your life. Not on your life.

Q. Because of what Marcia and Michael --

A. Because of what I would have done if the situation merited it.

Q. But you were three hours away.

A. Let me tell you something. I offered to come down there and stay a week at a time, and her lying testimony was she said I never did it.

The fact of the matter is she said: No. Me and Mike live right here and we'll take care of it. We'll call you if we need you.

So let me tell you something. Don't you ever insinuate that I didn't care for my mother.

Q. No. I know you do. I didn't insinuate that.

A. Yes, you did.

Q. No, sir.

A. My mother would not have went in a nursing home. I don't give a damn --

THE COURT: Sir, we don't use that language.

THE WITNESS: I apologize.

THE COURT: You would have taken care of your mother if these two hadn't? Is that what you're saying?

THE WITNESS: Yes, ma'am. I apologize.

THE COURT: But you're saying she wouldn't have gone in a nursing home because you would have taken care of her if these two hadn't?

THE WITNESS: No. Absolutely not.

BY MR. JOHNSON:

Q. Don't you want to give them credit for the care and the time and the effort day to day providing meals, scheduling and hiring caregivers, taking your mother to the doctor, helping her with her medicine? You didn't -- did you ever thank them for what they did?

A. I don't think you should be thanked for doing something that you should do to start with. You honor your mother. Thank you. Thank you very much. Does that suit you?

Q. Yes, sir.

Going back to the report of September 10, 2012. On the left there he lists her medical problems.

A. I'm familiar with her medical problems.

Q. Coronary artery disease, infarction, hypertension, hypolipidemia, dementia, asthma, emphysema, reflux, degenerative joint disease. It goes on and on and on. I think there are a total of 18 different medical problems.

THE COURT: What date is that report?

MR. JOHNSON: September 10, 2012.

THE COURT: Thank you.

Q. (Continued) And that is when he also says that: Patient is a reluctant historian due to her anxiety and recent demise of her spouse and secondary to Alzheimer's dementia.

So she had Alzheimer's in addition to 18 medical problems.

A. And I've got cancer in addition to about 14 or 15 medical problems.

Q. All right, sir. And did you hear --

A. I heard Dr. Barrett's testimony. I was here. The answer to your question is yes. For everything you said the answer is yes. You don't have to continue on and browbeat my mother.

Q. I'm not browbeating your mother.

A. Yes, you are, and I don't care -- I just answered your question. Yes. Yes. Anything that you say Dr. Barrett said I heard. That's all you need to know.

Q. He said, did he not, that it was very unusual for someone this age with all these problems to live as long as she did. Your mother died at the age of 90 --

A. I know how old she was.

Q. -- in spite of all these health problems.

How and why was she able to live so long with all these problems? You heard Dr. Barrett say it was very unusual.

A. My mother was strong-willed. My mother had a strong disposition. She recovered from a major heart attack. She recovered from a broken hip. And yes; she had plenty of medical problems. It does not make her a zombie.

Q. Why, according to Dr. Barrett, was she able to live so long?

A. I have no idea.

Q. You didn't hear his testimony?

A. As far as why my mother -- he said it was unusual. That's what I heard. But, you know, Kurt Douglas was 102. So that's probably unusual, too.

Q. He said but for the care and concern --

A. I've already told you that they cared for my mother. Give them a Brownie button.

Q. Had it not been for their care your mother would not have lived as long as she did.

A. You can't say that.

Q. No. I didn't say that; Dr. Barrett did.

A. He didn't say that either. That's what he was insinuating or what he was saying. If she didn't have care she wouldn't have lived so long.

She would have had care. So don't sit there and say because of them two my mother lived to be 90 years old.

Q. Well, that's what Dr. Barrett said.

A. No. That's not what he said. I'm not agreeing with you and I don't really want you to keep on about my mother. They're bad enough. They ought to hang their head in shame.

Q. Don't you want to thank them and give --

THE COURT: Mr. Johnson, he did thank them.

MR. JOHNSON: We'll move on.

Q. (Continued) You mentioned 2013 and taking your mother to Cherokee.

During this period of time you would agree that your mother's confusion and her hostility increased?

A. No, I would not. My mother was never hostile to me. And Marcia again sit up here and

lied about seeing my mother slap my face. She is a liar. She wouldn't know the truth if it hit her in the face.

Q. In 2013, January the 2nd, 2013, your brother Charlie was alive then. Still alive then.

A. That's correct.

Q. "Family is concerned with patient has increased difficulty with confusion, Alzheimer's disease." And Dr. Barrett made reference that she had been seeing a neurologist for Alzheimer's dementia since 2008.

A. Well, you know, I'm not denying that. Like I said, my mother had problems. To my knowledge she was not hindered by that. She could do what she wanted to do. She could certainly carry on a conversation with you. She knew where the front and the back was. She knew how to maneuver. I'm not going to sit here -- again, I've answered your question.

Let's just put it like this: Do I agree with all Dr. Barrett said? Absolutely not. Do I agree that my mother would not have lived as long as she did if it hadn't been for two people? No, I do not.

Q. All right, sir. In February 20, 2013

her son -- that would have been Charlie -- said she had been very poor with her memory, progressively worse.

You would agree -- and you know and we all know that Alzheimer's dementia is progressive. It gets worse. It doesn't get better. Would you agree with that?

A. I agree with that, yes.

Q. On that same visit Dr. Barrett reports: Patient has been followed for five years by a neurologist. And he also makes reference to her profound deafness.

Going on into 2014. This is about the time she must have had -- there is reference to her broken hip. Was that June --

A. I couldn't tell you. I don't rehearse dates. I don't have a script I can follow.

Q. You would agree that your mother's condition got worse over the years?

A. Everybody's condition gets worse over the years. So yeah; I agree that it got worse over the years.

Q. She also had -- you're not denying that she would lose her temper and get angry at her family members and her caregivers?

A. My mother would lose her temper. My mother lost her temper for a long, long time. I've seen her at her little 5 foot something stature standing up to my daddy at 6' 1" to stick her fist right in his face.

So her temper was nothing new. My mother was spoiled by her daddy, she was spoiled by my daddy, and some of us spoiled her even more. She was used to doing what she wanted when she wanted, and she could afford to do it. And the caretakers were there as a convenience to watch over her and help her. But no; she was not an idiot and you're not going to sit here and continue to act like she was.

Q. I've never used that term.

A. You're insinuating it.

Q. In 2015, then, it's your position that your mother was in good health mentally?

A. My mother could function and she could carry on a conversation. She knew what she was doing. She knew where she wanted to go, where she didn't want to go, when she wanted to go, et cetera, et cetera, et cetera.

Q. Let's talk about the deed of July 21, 2015.

THE COURT: Are you all going to introduce her file without Miss Dingle?

MR. McCUTCHEN: I'm not sure exactly where this is going.

(Side bar conference.)

THE COURT: The deed is in, isn't it?

MR. McCUTCHEN: The deed is in. There are other deeds in the background, but anything else is simply her notes.

BY MR. JOHNSON:

Q. Mr. Soles, we talked about -- I think you scheduled an appointment in July of 2015 to have a deed done; is that correct?

A. I did what my mother requested me to. I did not have anything done. Let me repeat. I did not have anything done. Anything done related to that was at my mother's request to go -- for me to drive her somewhere. And also, she executed her own deed. I didn't do it. I had nothing to do with it.

I certainly didn't whisper in her ear and I certainly didn't influence her in any way. I certainly didn't commit any fraud or whatever other garbage you have up there.

Q. You did make arrangements and you did

pick her up and take her to Miss Dingle's office?

A. I did take her to that office at her request, yes.

Q. And do you remember talking to Destiny King?

A. I remember --

Q. Miss Dingle's assistant.

A. I remember the name, yes.

Q. On the notes on the intake sheet there is your name here in High Point. It's got your telephone number.

MR. McCUTCHEN: Objection, your Honor. We've already talked about the nonintroduction of this until Miss Dingle testifies.

THE COURT: Yes, sir.

MR. JOHNSON: I would like to ask him because he was the one that --

THE COURT: The best evidence would be those notes, and you can't get the notes in until you have Miss Dingle.

MR. McCUTCHEN: Thank you, ma'am.

Q. (Continued) Let me ask you this: Did you tell Miss Dingle that it was time for you to get property like your siblings, like Marcia and Michael?

A. Absolutely not.

Q. How did she get that idea? How did your mother get that idea?

A. I guess my mother had her own brain. I certainly didn't give her that idea.

Like I told you, what my mother did was my mother's business. It was not mine; it was not his or hers. I answered your question. I won't answer it again.

Q. You were appointed -- by this time, July 2015, you were acting Power of Attorney for your mother, were you not?

A. When my brother passed away I certainly was. And did I use the Power of Attorney for anything? No.

Q. She appointed you. You were the alternate. And when Charlie died in April of 2014 you became her Power of Attorney?

A. I think Mr. Phipps gave you that information yesterday. Did you listen to what he said?

Q. Yes, sir. But you were her Power of Attorney?

A. Yes, I was.

Q. You also acted as her Health Care Power

of Attorney.

A. I certainly did.

Q. And you were named as executor of your mother's estate.

A. Yes; by my mother. I was also named executor of my father's estate by my father.

Q. She had confidence in you, your mother did?

A. I would hope so.

Q. And she trusted you?

A. I would hope so.

Q. And she loved you as a mother would love her son?

A. Yes.

Q. So you had what, a close, confidential relationship?

A. No more confidential than anybody else. I don't understand this "confidential." My mother, as any other mother, had different relationships with her children. Whether mine was better or worse or the same, I don't know and I don't care. And I had no confidential nothing.

Q. And you paid for the property -- it was a gift. You didn't pay for it. You didn't buy the property from her, did you? You didn't pay

anything for it. It was a gift.

A. I did what my mother wanted to do. And she executed the deed, and whatever it says I paid that's what I paid.

Q. But the lawyer said it was a gift deed and you didn't pay anything. You didn't pay anything for it, did you?

A. Let me tell you something. You ask the lawyer that. I'm not going to answer questions that you're trying to badger, mislead, twist, whatever, and I'm not going to play your games.

Q. Finish.

A. I'm finished.

Q. You didn't pay for the property. It was a gift to you? That's all I'm asking.

THE COURT: We all know it was a gift.

MR. JOHNSON: Thank you.

A. If you know, why do you keep asking me?

Q. In 2013 when Mr. Phipps did a Will for your mother you and Charlie got together with him.

A. That's an absolute lie. Absolute lie.

Q. I thought there was a meeting when you got together --

THE COURT: This was the Will.

THE WITNESS: Yes, ma'am. I'm talking

about the Will. The only time I had anything -- that I knew anything about a Will is the day my brother Charlie called me and told me to tell Mike and Marcia that momma wanted us at Mr. Phipps' office. I never met with Charlie about anything.

They had a problem, those two, with Charlie, just like they have with me. Because they didn't control my mother. They didn't like it. But I met with Charlie at no time for any reason to discuss anything about a Will, period.

BY MR. JOHNSON:

Q. You didn't go --

A. I just answered your question.

Q. You didn't meet with Mr. Phipps and Charlie?

A. I just -- Mr. Phipps, Charlie and Marcia. So don't leave her out.

Q. Were you there? They said you were there.

A. I just told you I was there along with Marcia, and it was not a -- when my mother executed her Will. But don't insinuate that me and Charlie did anything. I could care less what my mother did with her property. It was hers.

THE COURT: Was your mother there, too,

Mr. Soles?

THE WITNESS: Yes.

THE COURT: Okay.

THE WITNESS: Yes, ma'am. I'm sorry. I'm getting a little aggravated.

THE COURT: Do you want to take like a two-minute break?

THE WITNESS: No, ma'am. I would like to get rid of him.

THE COURT: We can take a little break. We are going to be here all afternoon. We are not going to be here with you on the stand all afternoon.

THE WITNESS: I'm fine.

BY MR. JOHNSON:

Q. After that gathering or whatever it was property was deeded out to --

A. That was when my mother --

Q. 2013.

A. -- discussed with Mr. Phipps what she wanted to do at that time.

Q. Property was deeded out. You got a piece of property, Michael, Marcia and Charlie. There were deeds out, were there not?

A. To my knowledge, yes.

Q. And I think you made arrangements shortly after receiving that property to sell your property to Mike.

A. He wanted it. I didn't. As a matter of fact, I told my mother in that meeting to give it to him.

Q. But he paid for it after you got it?

A. Yes. She wouldn't give it to him and he wanted it, so yes.

Now, do you want to put a valuation on it?

Q. I think he asked you, did he not, what you wanted for it, and you gave him a price and he paid for it.

A. That's exactly right.

Q. Was it $15,000?

A. $15,000.

Q. And then in addition to that back in 2007 your father, Euclid, had deeded to you the river house.

A. That has absolutely nothing to do with my mother's property. But he gave me that house. Yes, he did.

Q. And you're living there today?

A. That's exactly right.

Q. That property is in what I think is the Little River Neck.

A. That property is up Little River Neck Road, yes.

Q. And it's a nice -- that's a nice area, a valuable piece of property?

A. I like it. No; it's not a valuable piece of property. A man just bought a house up the street for less than $30,000. There is two lots up the street that you can buy for $49,000.

Right across the front of my house is an old trailer. Right beside it is an old camper. Right down the street there is some other dilapidated homes. I love it and I'm certainly not complaining about it, but don't compare it to the Grand Dunes or something like that.

Q. My point is that from your family you received the river house?

A. From my father, yes.

Q. And then from your mother you got this other tract of land.

A. My father. I got no tract of land. I got a dilapidated store with some low land behind it, which Mr. Phipps said that yesterday. I didn't want it to start with. I wasn't living down there.

I wouldn't live around either one of them, so period.

Q. If in July of 2015 your mother was of the impression that you had never received any property --

A. No. She was not of that impression. That's your story and maybe theirs, but that is an absolute lie. My mother knew exactly what she did.

Q. Now, when it was time to do a deed Bill Phipps -- or when you wanted to do a deed -- Bill Phipps would have been your attorney for a long time. I think he said since the late 1970s.

A. For my parents. I didn't know -- I hadn't really met Bill personally.

THE COURT: I don't know that he -- Bill Phipps testified he never represented Jimmy Soles.

MR. JOHNSON: Your Honor, he handled the closing of Mr. Soles' property --

THE WITNESS: He did the deed for that store.

THE COURT: Okay.

BY MR. JOHNSON:

Q. The reason it was brought out in Mr. Rochford's affidavit was you were concerned

that Bill Phipps -- concerned about a confidentiality from the employees in Bill Phipps' office.

A. That's not true. I was not concerned about anything. My mother did not want to go there. And why, I don't know. Maybe because Marcia came to me and said anything that happened in that office to do with any member of our family she knew word for word, verbatim what was said and what was done.

If you would check with Mr. Phipps, I went to his office and told Melissa, his secretary, and a couple of days later told him what she had said. She sat up in her testimony and blatantly lied again talking about I said there was a leak in Mr. Phipps' office. That's an absolute lie. She said that.

To make a further point, she also complained to me about Mike stealing money from momma. She went and got the bank records for my mother's checking account, which she was not supposed to have. She said Mike was taking money and using it for his own personal benefit -- well, me and my brother knew that anyway -- for gas and so forth like that.

THE COURT: What brother?

THE WITNESS: Charlie.

THE COURT: You and Charlie?

THE WITNESS: Yes.

A. (Continued) So the thing about it, Mr. Brown -- you let me finish. Your client, Marcia Anderson, is the one that said that. And she also came to me complaining about Mike. They're not friends. This is a cahoots thing for them two to try to get something that evidently my mother did not want them to have.

Q. Mr. Soles, let me suggest to you that the reason you didn't go to Bill Phipps -- and you heard his testimony -- is that he would not do a deed.

A. That is an absolute lie.

Q. That's what he said.

A. No. He did not say that.

Q. You also --

A. He did not say that, Mr. Johnson.

Q. He said he wouldn't do it.

A. He wouldn't do it for what reason? For what reason?

Q. Because he knew that it was well understood that that 54-acre tract on Highway 9 was

deeded to you to be sold and divided among four children.

A. In that original Will, that's correct, and my mother changed her mind for whatever reason. I wasn't in her brain.

Let me tell you this: My mother had her own mind, and if she is the only person in this country to decide to change her Will then they can have the whole daggone thing. I just answered your question.

Q. At the time of that deed she was able --

A. I said I agree with you -- I don't care how old she was.

Q. No. She was eight years into Alzheimer's dementia.

A. That's what you say.

Q. Did you hear --

A. Let me tell you something. You got Alzheimer's. You got dementia. People have it. I don't disagree with that. But my mother was competent. My mother knew what she was doing. I said that my mother had 24-hour days where she was just in great mind control or health. Whatever.

No. But you're not going to sit here

and tell me that my mother had no brain and did not know what she was doing. So I answered your question. What you said is absolutely not true and I won't answer it again.

Q. Did you hear --

A. And I just told you I heard everything Dr. Barrett said. Don't ask me anymore. Everything he said I heard. I just answered your question.

Q. He said that your mother in 2015 had acute -- not minor, not moderate, but acute Alzheimer's dementia.

A. And that's his opinion and he's welcome to it. And I don't say that she didn't have some problems; but no, she was not incompetent. She was not stupid. She was not a zombie, and I do not appreciate your approach.

Q. Nobody has accused --

A. I've just told you what I've got to say and I don't want to have a conversation with you. If you want to ask me a question, you ask it.

Q. Well, I am trying to.

You waited -- you couldn't have done this when your brother Charlie was alive? You had to wait until after his death to coerce your mother

to convince her that she ought to give that property to you?

A. And you are an absolute liar.

THE COURT: Let's don't be calling anybody a liar.

THE WITNESS: He told me that I was -- whatever his words are.

THE COURT: That's his position.

THE WITNESS: My position is certainly opposite to you. I apologize. I am not going to sit up here and be badgered by him.

THE COURT: I understand.

BY MR. JOHNSON:

Q. Charlie, he wouldn't have let you do this?

A. Let me tell you something. Me and Charlie were very close. And you're sitting there saying something that you have absolutely no idea what you're talking about. I've answered your question.

THE COURT: Let's move on.

BY MR. JOHNSON:

Q. When you took your mother to visit up in High Point you always took her wheelchair, didn't you?

A. Absolutely not. Let me tell you something. My mother was not in a wheelchair. When she broke her hip, yes; I certainly did take her wheelchair. But after that when she healed, no. And like I told you, I didn't push a daggone wheelchair up my steps in my house and my mother was not carried up those steps at my house. My mother walked up those steps and she walked down.

Q. One visit to the casino I think your wife, Jill, was there.

A. She was there most all the time, yes.

Q. Didn't your mother have an incident, a problem with hygiene that required your wife's attention?

A. She may have, but not to my knowledge.

Q. She had personal hygiene problems in the last several years of her life, did she not?

A. Well, that just depends on what you want to call personal hygiene problems.

Q. She had accidents?

A. I have accidents.

Q. She had to wear --

A. Of course she wore pull-ups. Is that a crime? A lot of elderly people wear pull-ups. Does that make her some go-go head? Not at all.

Q. But she did have that and that's a symptom of Alzheimer's dementia?

A. I know people that wear pull-ups that don't have Alzheimer's. Don't relate wearing pull-ups to Alzheimer's.

MR. JOHNSON: Thank you, Mr. Soles.

THE WITNESS: You're welcome.

THE COURT: Mr. McCutchen?

MR. McCUTCHEN: No further questions, your Honor.

EXAMINATION

BY THE COURT:

Q. I have just one. I think Mr. McCutchen may have touched on this.

Were you able when you were still in High Point to talk to your mom on the phone?

A. Yes.

Q. Did she have a land line or a cell phone?

A. She had a land line, but I also talked to her on other people's cell phones.

Q. I'm sorry?

A. I also talked to my mother when she had a cell phone to use. In other words, she did not own a cell phone. But I found this out later after

my mother passed that Mike and Marcia removed my phone number from the wall where it was taped so my mother wouldn't have to call me. And I was also told -- and I'm sure it will come out -- that anything that went on down there was none of my damn business. I'm sorry. That's what was said.

Q. Did you call your mom? Were you able to call your mother?

A. I called my mother. I called my mother on many occasions.

Q. So you could call her on the land line?

A. Yes, ma'am. Yes, ma'am.

Q. And would she answer the phone?

A. Yes, ma'am, she would. Sometimes she would and sometimes one of the caretakers would answer it and then she would put her on the phone.

Q. When you called her, was she normally lucid?

A. Yes, ma'am.

Q. And did those phone calls occur regularly through 2015?

A. Yes, ma'am. Absolutely. I tried to talk to my mother on a daily basis. Of course, sometimes I didn't. I would call sometimes and she was asleep or something like that.

And then late 2015 and on -- of course, in 2016 she didn't really talk that much anyway. But I was informed by caretakers that they were told not to allow my mother to call me and when I called to say that she was asleep. So they purposely tried to deny my mother contact with me, and they're very lucky I didn't know this until after my mother passed.

And also, your Honor, if I may, they were able to stand up there and run their mouth. My mother -- as the executor of the estate one of my duties was to close my mother's bank account and have the money sent to Mr. Phipps for the estate.

Q. Yes, sir.

A. But when I went to close the accounts -- because my mother had almost $30,000 in an account. Lo and behold, there was $73 in that account. That was her savings account. She got enough money every month to pay her bills, but Mike told me that they had to use it for her care.

MR. JOHNSON: Your Honor --

THE WITNESS: I don't care if you object or not.

A. (Continued) Anyway, the point being as the executor my duty was to close my mother's

accounts and have the funds sent to Mr. Phipps.

Q. Well, that takes place in North Carolina, over which I have no jurisdiction.

A. Yes, ma'am. I'm talking about character. They're trying to malalign my mother's character and my character, and I don't appreciate it. And if the Lord was right here I would ask that he strike whichever one is telling the truth down, and I guarantee it wouldn't be me.

THE COURT: Yes, sir. I understand. Anyone want to follow up with anything? All right. Thank you, sir. You may step down.

MR. McCUTCHEN: May we have a brief break, please, ma'am?

THE COURT: Let's take a short break.

(Short recess taken.)

THE COURT: Mr. McCutchen, you're the one calling the caregiver?

MR. McCUTCHEN: I am, your Honor. I would like to call to the stand Judy Faye Platt.

THE COURT: Miss Platt, if you will state your full name for the record, please.

THE WITNESS: Judy Faye Stackhouse Platt.

THE COURT: Very good.

JUDY FAYE STACKHOUSE PLATT

being first duly sworn, testified as follows:

EXAMINATION

BY MR. McCUTCHEN:

Q. What is your address, Miss Platt?

A. 7151 Spring Branch Road, Nichols, South Carolina.

Q. Thank you, ma'am.

MR. McCUTCHEN: I would like to offer this into evidence as Defendant's Exhibit 3. It's an affidavit prepared by Miss Platt, your Honor.

MR. JOHNSON: No objection.

MR. McCUTCHEN: Here is a copy of it.

THE COURT: Thank you.

BY MR. McCUTCHEN:

Q. Miss Platt, what do you currently do for a living?

A. I don't do nothing now.

Q. Are you retired?

A. If you want to call it that.

Q. What have you done over the course of your career? What has been your --

A. Just took care of people.

Q. How long did you take care of people?

A. When I was like about 22, 23.

Q. When you first started?
A. Yes, sir.
Q. And so how long did you take care of people for a continuous period of time?
A. Well, I took care of my brother-in-law until he died. I took care of -- I can't remember, but then I took care of another lady, Miss Buffkin, until she died. I took care of Miss Edith. I took care of my mom. She died last year.
Q. That's what you've done all your life?
A. Yes, sir.
Q. And do you have any educational background in it?
A. No, sir.
Q. Thank you, ma'am.
Now, were you a former caregiver of Miss Soles?
A. Yes, sir.
Q. I'm going to give you a copy of this affidavit that has been prepared previously and ask you some questions related and following that format, please, ma'am.
Now, it indicates in there that you were a former caregiver for Miss Soles. Can you give me the time frames that you were a caregiver

for Miss Soles.

A. I know I went there about two weeks after Charlie died. Because I never met Charlie. '14 maybe. April. Somewhere along in there.

Q. In your affidavit you indicate that you were employed as a caregiver for approximately two years; is that correct?

A. Yes, sir.

Q. And your employment ended in March of 2016; is that correct? Approximately.

A. Yes.

Q. So would it be your testimony that you began somewhere around March of 2014?

A. When I began?

Q. Yes, ma'am.

A. It was in April, I think.

Q. Would that be 2014?

A. Yeah.

Q. Then your affidavit under No. 4 indicates -- would you just read that and explain what your shifts were, please, ma'am, during the period of time that you were helping with Miss Edith.

A. It would have been 8:00 to 5:00.

Q. So you're pointing out that what it

should say in the affidavit is from 8:00 to 5:00 p.m.; is that correct?

A. Yes, sir. And there was a couple of times I had to work until 11:00 at night.

Q. How long did you continue on the 8:00 to 5:00 daily routine? All this is the best of your recollection, ma'am.

A. I was working 8:00 to 5:00 all the time until Marcia told us that Jimmy was cutting hours.

Q. Did you work from 8:00 to 5:00 throughout 2014?

A. Yeah; when I started.

Q. And did you work from 8:00 to 5:00 throughout the day for the year 2015?

A. Yeah.

Q. And then were your hours cut sometime in the beginning of 2016?

A. Yes, sir.

Q. Then continuing on, explain No. 5, please, ma'am. What is going on here with regards to Miss Edith?

A. Yes, sir.

Q. Is No. 5 -- explain what is going on here, please, ma'am.

A. Could you --

Q. Did you carry Miss Edith to stay with her daughter?
A. Oh, yes, sir, I did.
Q. Somebody was staying with Miss Edith at night?
A. Now, that I don't know.
Q. You indicate here that Marcia would come to her mother's house to pick up Miss Edith to take her on to her house.
A. Yes, sir.
Q. Was Marcia involved with staying with Miss Edith at night?
A. Yes, sir.
Q. Did you stay at night with Miss Edith?
A. No, sir.
Q. So your times of employment would be during the day?
A. Yes, sir.
Q. Was that five days a week?
A. No.
Q. How many days a week did you work?
A. I was working on Saturday and Sundays from 8:00 to 5:00, and then when the hours changed it was when they had to go somewhere. Then Lovanda had gave me one of her days, and that was on a

Thursday. I had her Thursdays, but then that got taken away.

Q. When you worked from 8:00 to 5:00, what days of the week would that normally be, please, ma'am?

A. During the week.

Q. Was it during the week?

A. It was just one day during the week.

Q. Would you work from 8:00 to 5:00 on the weekends?

A. Saturday and Sunday.

Q. And the next paragraph -- I would ask you to review it. It says: I knew her to have a sound mind.

Is that an accurate statement today?

A. Yes, sir.

Q. What kind of things did you talk with her about with the rest of that affidavit? The line says that you talked with her about a variety of things.

A. Miss Edith would tell me all sorts of stuff. We would -- she had this big old container in her room, in the room where the front doors was, and I would go in there and get it for her. We would go through pictures and she would say: Well,

this is such and such.

I mean like: Oh, okay. You know, Miss Edith -- I don't know why they saying stuff about her, but if Miss Edith was a zombie, she had to have been when I left.

Q. Thank you, ma'am. And the rest of that sentence says: We spent a lot of time talking about many things and she would always know what I was talking about. Is that accurate?

A. Yes, sir.

Q. Could she carry on conversations with you?

A. Oh, yeah.

Q. Did y'all discuss different matters?

A. She would discuss stuff like Germany and she had -- I think she said she was a teacher over there or something. I can't remember. She just told me a lot of stuff, but mostly it was about Germany.

Q. And then the next paragraph you stated: She was mentally sharp and was aware of what was going on around her.

Is that an accurate statement?

A. Yes, sir, it is.

Q. And then the next statement: She would

tell me things that were happening, and those things would be things I knew to be happening and I knew to be true.

Is that an accurate statement?

A. Yes, sir.

Q. So this supports your position that you could discuss and talk to Miss Edith about various matters?

A. Yeah.

Q. Could she carry on a conversation with you about various matters?

A. Yes, sir. Even when people came and see her she would carry on.

Q. So when people came to see her, did she have a conversation with those people?

A. Oh, yeah.

Q. The next paragraph is: Miss Edith was capable of taking care of herself to a certain degree.

Is the rest of this kind of -- what does that mean to a certain degree?

A. Okay. Well, like Miss Edith -- when I used to go pick her up from Miss Marcia's house she would be wet. I mean, she would just be wet and I would take her home.

THE COURT: She would be what?

THE WITNESS: Wet.

MR. McCUTCHEN: Wet?

THE WITNESS: Wet.

THE COURT: Wet. Okay. Wet. I got you.

BY MR. McCUTCHEN:

Q. Please continue.

A. And I would take her home and I would take her in the bathroom and I would get her clothes off where I could wash her, and then she would tell me: I can wash myself. I ain't handicapped.

I said: Okay, Miss Edith. I got you. But I would stand there until she washed to make sure she would clean herself. But Miss Edith had a mind just as sharp as mine.

Q. Thank you, ma'am.

A. Now, when I left I don't know what happened.

Q. Because that was in 2016, April of 2016; is that correct?

A. Yes, sir.

Q. Yes, ma'am. And continuing on, Paragraph 9: After she bathed she would go into

her room and put her makeup on and get herself dressed.

Is that something she did fairly frequently?

A. Oh, yes. She could put on her own makeup. You wouldn't pick her out nothing to put on.

Q. Was this in the year 2015, Miss Platt?

A. '16? Oh, God, I'm not good at dates either.

Q. Was the majority of the time that you were there with Miss Edith -- was she able to do this, put on her makeup?

A. Yeah.

Q. And was she able to get herself dressed the majority of the time?

A. Yes. She just couldn't put her socks on.

Q. You say "dress nicely."

Would she pick out her clothes or would somebody help pick out the clothes for her?

A. Huh-uh. Miss Edith pick out her own clothes.

Q. And this is throughout the time in which you were employed there?

A. Yes, sir.

Q. And continuing on you say: Miss Edith knew what she wanted to eat for meals and would tell me what she wanted.

So would she tell you like: I want fried chicken and green beans? How would that work?

A. No, she didn't -- most of the time Mike would bring her food over there, and that was on the weekend. I don't know about the weekdays.

Q. But would she tell you what she might want to eat?

A. Yeah. Whenever you fixed something she didn't want, she ain't going to eat it.

Q. Continuing on. Paragraph 11 you indicate: Miss Edith did not have any difficulty understanding what was being told to her or what was going on around her.

Is that an accurate statement?

A. Yes, sir.

Q. So continuing, you did not have to repeat questions, instructions or statements; is that correct?

A. Correct.

Q. So you would give her instructions or

ask her questions and she would understand what you were asking her or telling her to do?

A. Yes, sir.

Q. Is that correct?

A. Yes, sir.

Q. And this is continuing through your employment?

A. Yes, sir.

Q. Is that correct?

A. Yes, sir.

Q. Thank you. You talk about she knew everything she gave her children and grandchild.

So she could identify -- in addition to having conversations and speaking to you she could identify what property she had?

A. Yes, sir.

Q. So what we've got here is that she can take instructions. She listens to questions. She can carry on a conversation. She understands what is going on around her. She understands what property she's conveyed.

This was in your affidavit. Is that all correct?

A. Yes, sir.

Q. And this was throughout the time that

you were employed by Miss Edith?

A. Yes, sir.

Q. No. 13 you indicate that: Miss Edith told me this information on more than one occasion.

So she remembered these matters about what she had discussed with you? Is that a fair or correct statement?

A. That's a correct statement.

Q. And did this continue through the time that you were employed -- almost the entire duration of the time you were employed by Miss Edith?

A. Yes, sir.

Q. And then 14 you indicate you worked with people that did not have the mental capacity, and then you say Miss Edith was not like that.

A. No, sir, she wasn't.

Q. Please --

A. I said no. She wasn't like that. She was just joyful, free spirit.

Q. And you indicate here that she was very aware of what was going on and not confused about things; is that correct?

A. Yes, sir.

Q. So except for the date on the front and

the time this affidavit is accurate with regards to your employment with Miss Edith; is that correct?

A. Yes, sir.

Q. So throughout the time that you were employed or virtually the whole time, all of these matters we've discussed -- she could talk to you. She could discuss matters with you.

Did she have some physical issues because of her age?

A. No. The only thing I saw was wrong with -- Marcia would come up there and get her riled up, and we couldn't let her outside. I had to stick a rag up above the door so she couldn't get out. She threw a cup at me, but I don't think she aimed to hit me with it because after that she said: Let's go for a ride.

She had me to everybody's house. I don't know none of them people.

Q. And to make sure I know, you ended your employment or your employment was ended in April of 2016; is that correct? To the best of your knowledge.

A. Yeah, to the best of my knowledge. Sure.

MR. McCUTCHEN: No further questions,

your Honor. Please answer any questions that Mr. Johnson has for you. Thank you, ma'am.

THE COURT: Mr. Johnson?

EXAMINATION

BY MR. JOHNSON:

Q. Mrs. Platt, I believe you worked for Miss Soles, Edith Soles, for approximately two years. I believe you said beginning in 2014 up until -- this says: Employment ended in March of 2016. Those two years.

A. Yes, sir.

Q. And you would agree that at that time Edith Soles needed help. She could not take care of herself, could she?

A. Now, what do you mean by that? Because you're not going to make me lie. What do you mean?

Q. She needed help to take care of herself.

A. Like --

Q. Well, like bathing.

A. No. She didn't need no help doing her bathing. I just told -- I just said that Miss Edith would not let you wash her. She wanted to wash herself, and that's what she did.

Q. Was she reluctant or did she at times

refuse to bathe? Take a shower or a bath?

A. No.

Q. She would always --

A. When I go get her every morning from her daughter's house she was ready to wash.

Q. You seem to be suggesting that Marcia didn't take good care of her.

A. No; I'm not saying that. No. I would never say that word. I'm just telling you what I thought.

Q. Isn't it true, Miss Platt, that either Marcia spent the night with her or Michael spent the night with her?

A. I know Mike did.

Q. And did Marcia also?

A. I have no idea.

Q. Well, you took her to her house.

A. No, not all the time.

Q. Not all the time. But she spent the night either with Marcia or with Michael?

A. Well, when she spent the night with Mike, Mike stayed with her.

Q. He would walk across the street and stay with her?

A. Yes, sir.

Q. But they never let her -- or they always were with her at night?
A. Yeah.
Q. Somebody.
A. Yeah. I don't know, because I live in Nichols. I don't live in Tabor City. I don't know who was there with her after I left.
Q. But my point is she needed to be watched? She needed --
A. Probably, yeah.
Q. She couldn't be left alone?
A. Yeah.
Q. Sometimes she would try to get out of the house and you would have to prevent that?
A. One time, and that was the time I had to put the cloth in the door.
Q. What is to keep her from opening the door? I don't --
A. When you put something up in the top of the door it's hard to open.
Q. I see. Okay. And she was at times -- you would agree that she was at times difficult to handle?
A. Not all the time, but sometimes.
Q. Sometimes?

A. Yeah. And that was very seldom.
Q. She would lose her temper sometimes suddenly?
A. Yeah; when people try to tell her what to do.
Q. And she would at times become hostile?
A. What you mean "hostile?"
Q. Well, violent. She would strike out at somebody?
A. Well, she might -- she threw a cup at me.
Q. She threw a cup at you?
A. Yes, sir.
Q. That's an example of it.
You knew that the other assistant, the other sitter -- she had incidents with her when Edith was hostile, mean.
A. Edith was hostile when somebody make her hostile.
Q. She threw a cup at you. What did you do to make her hostile?
A. Stuff that cloth in that door.
Q. Were you instructed not to leave her alone?
A. No, but I knew I couldn't leave her

alone. I had that much sense.

Q. Yes, ma'am. You were hired and your schedule was determined by Marcia when she set that schedule?

A. Marcia -- I guess Marcia set the schedule.

Q. And either Marcia or Michael paid you?

A. Well, first it was Miss Edith. She was signing the checks.

Q. And she did have -- you would agree that she did have hygiene, personal hygiene issues?

A. Oh, yes. When I pick her up every morning, sure, and sometimes during the day.

Q. While you were with her you would have to watch her in the bathroom?

A. I just stand there. I didn't want her to fall and get hurt.

Q. But she did at times -- I'm looking at Paragraph 8 in your affidavit: I would need to -- on occasion I would need to help her if she soiled herself.

So she did need attention. She did have accidents?

A. That's what I just said, isn't it?

Q. Well, in the next paragraph, Paragraph

9 at the end there, you say: She could dress herself and did not have issues with general hygiene.

A. And that was paragraph what?

Q. Paragraph 9, the last line. "Did not have issues with" -- well, if someone soils themselves they've got issues with hygiene, do they not?

A. I wouldn't say that, but yeah. I wouldn't exactly say that. You're trying to make me say something bad about Miss Edith.

Q. No. I'm trying to find out about her condition.

A. Okay. Because you're really getting me upset right now.

Q. She did get confused at times?

A. Yes; sometimes. Sometimes.

Q. Sometimes she would get confused and sometimes she would misidentify her visitors and even members of her family?

A. I never heard of that. She knowed everybody. Miss Edith know whoever came to her house, and she would sit down with them and have a good conversation with them.

Q. And your testimony is that from 2014 --

the spring of 2014 until you left in late March or April of 2016 she was sharp mentally and had a sound mind?

A. Well, when I quit -- when I stopped working there I wasn't part of anything. When I quit working there Miss Edith wouldn't -- she was still up, but you could tell, you know, something wasn't right. But Miss Edith --

Q. Something wasn't right mentally?

A. No. That ain't what I said. You must be mentally --

Q. Something wasn't right?

A. Okay.

Q. She had Alzheimer's dementia.

A. I don't know nothing about that. Well, she had all these problems. What was the medicine I had to give her?

Q. Well, she took a lot of medicine.

A. Well, I ain't never saw it.

Q. You weren't involved -- you didn't help with her medicine?

A. Huh-uh. The only thing they gave every morning was a half a Xanax.

Q. Was that for you or --

A. No. It was for Miss Edith.

MR. JOHNSON: Thank you, Miss Platt.

MR. McCUTCHEN: Nothing further, your Honor.

EXAMINATION

BY THE COURT:

Q. I have one question. Did you say she put on makeup every morning?

A. Yeah. That's what she would do when she get ready.

Q. She was 88 years old.

A. That woman would put on her makeup. And if I had my phone in here I would show you the picture I took of her, but I didn't bring my phone. I took a picture of her putting that makeup -- as she got her makeup put on. She would do her own stuff.

Q. And she put it on herself?

A. She would get in front of that big mirror and do her own stuff; brush her hair.

Q. She brushed her hair and put on her own makeup?

A. Yeah, your Honor, she did. And I don't know what happened to her after I left.

Q. You left right before she passed away, didn't you?

MR. McCUTCHEN: No, ma'am. She passed away in November of 2016. She left in April.

THE COURT: Well, just a few months. All right. Thank you very much.

MR. JOHNSON: I have one follow-up.

EXAMINATION

BY MR. JOHNSON:

Q. Her medicine -- Miss Soles' medicine was put in containers and you would give her a container of medicine with her breakfast every morning?

A. Sir, the only thing I gave Miss Edith, as God is my witness, was a Xanax, and that was one pill I saw each day, and sometimes it was a half of one.

Q. You're not saying that's the only medicine she took?

A. That's the only one I saw.

MR. JOHNSON: Okay.

THE COURT: Nothing further for Miss Platt?

MR. McCUTCHEN: No, your Honor.

THE COURT: Miss Platt, you may step down.

Mr. McCutchen, you may call your next

witness.

MR. McCUTCHEN: I'm going to call Lovanda Hyatt to the stand.

THE COURT: Come around and be sworn. If you will be seated and state your full name for the record.

THE WITNESS: My name is Lovanda Sue Hyatt.

LOVANDA SUE HYATT

being first duly sworn, testified as follows:

EXAMINATION

BY MR. McCUTCHEN:

Q. Would you give us the benefit of your address, please, ma'am.

A. 1721 Sandy Planes Church Road, Tabor City.

MR. McCUTCHEN: I'm submitting this as Defendant's Exhibit 2, her affidavit.

BY MR. McCUTCHEN:

Q. Can you tell me some about your work history, please, ma'am. A little bit about your work history.

A. When?

Q. From 2000 on what was your work history?

A. I worked with patients since 1990 until now.

Q. Until now?

A. Yes. There was a break when I worked at the beach for a while.

Q. When you worked with patients, what does that mean?

A. I went to college in 1989, and it was at Rutledge College. And I went for a CNA position, and whenever I finished I went to work at Richter Nursing Home. I worked there for a year or so, and then from there I went to the Babcock Center and worked with mentally challenged.

Q. Did you work for Mr. Euclid Soles or Miss Edith Soles?

A. I was hired to work for Mr. Soles only.

Q. And when were you hired to work for Mr. Soles?

A. In 2011.

Q. And how long did you work for him until he passed?

A. He passed away.

Q. So you were hired to help with Mr. Soles?

A. Only.

Q. Only. And then what occurred thereafter with regard to any employment you may have had with Miss Edith Soles?

A. She broke her hip in 2013, I believe, and her son Charlie flagged me down on the road one day and asked me would I come and work for Miss Edith. And I told him that I had just started a cleaning business, and he said: Well, she is requesting you be the one to take care of her. And I said okay.

I did let some of my clients go and I kept a few, and I went there to work with Miss Edith.

Q. Now, Miss Hyatt, I'm going to submit to you an affidavit right here that has been submitted as evidence in this case and ask you if you can -- is this an affidavit you signed previously in this matter?

A. Yes. Now, there is -- the date is -- on No. 2 where it says I was employed working for Miss Edith from 2011 until November 2016, I did not work for Miss Edith until 2013.

Q. So as we look at this affidavit -- first, you were a former caregiver for Miss Edith Soles at a point; correct?

A. That's correct.

Q. And so what you're doing is correcting Paragraph 2?

A. Yes.

Q. Would you please give me the date again when you began to work for Miss Edith.

A. 2013.

Q. Do you have any idea during the year when you might have been employed?

A. I don't remember the month.

Q. But you would have been sometime in the middle of the year probably? Is that fair?

A. Well, Charlie said that she was coming home from rehab and she needed someone to take care of her and she requested me.

Q. Thank you, ma'am. And then we'll continue on through. I note under Paragraph 3 -- should the employment begin in 2013 in that sentence right there?

A. Yes. She was fine.

Q. But it says 2011. Is that a typographical error? Should it be 2013 there also?

A. No. Well, 2013 is when I took care of her. But when I took care of Mr. Euclid I did nothing for Edith. She did everything herself.

Q. So I'm asking you about the date from the beginning of your employment. Should it say 2013 for Miss Edith?

A. She was fine up until about -- when I started noticing a difference in Miss Edith it was around September 2015.

Q. So were you employed through the year 2014 sitting with Miss Edith?

A. Yes.

Q. And then were you employed through the year 2015 with Miss Edith?

A. Yes.

Q. And were you employed until her death?

A. Yes.

Q. So you indicate in No. 3 that she had a good sharp mind. Would that be -- is that an accurate statement for the year 2015?

A. Miss Edith was fine. Sometimes she would get depressed about her husband and her son, and there were times I didn't have anything to give her. She suffered from anxiety. She did not have medicine there all the time to give her.

I would have to ask Marcia -- she said: Well, we only have so much medicine, but since me and Edith take the same medicine I'll give you

three or four of my Xanax.

Q. So would it be your testimony that she had a good sharp mind and knew what she was doing through the year 2015?

A. Absolutely. And Angela did not work in 2014. She had her baby. She was working with Mr. Euclid in 2011. She never stepped foot up there after she had her baby to work until 2016. So she lied.

Q. Was it the beginning of 2016 when Miss Angela returned?

A. Angela come up there the end of March or April. Faye was still employed there. Faye worked on the weekends. I worked Monday through Friday. Angela come in 2016 and started working. I had to leave at 2:00 or 3:30, and she would come in at that time and work.

I don't know how long she worked. She never worked on the weekends, because whenever Faye quit -- because Marcia cut her hours down to four on Saturday and Sunday. And Faye told her: I cannot work those hours, you know, where I stay at in Nichols. So Marcia say: I will try and help you find another job.

No. Angela didn't work -- because I

went to Marcia and told her -- I said: Look, Angela works Monday through Friday. Then I'll work Friday to Monday. I worked the weekends. I would work during the day. She would work and -- she would work Monday through Thursday or Friday, but I worked the day Friday, Saturday, Sunday and Monday. She never worked a weekend.

Q. But your testimony is that Angela began work approximately March of 2016?

A. It was either March or April, and she was not employed there at any time except 2011 and 2016.

Q. Thank you. Paragraph 4 you have stated that she did not have any problems with simple concepts and she knew how to get places and give directions, back roads.

So is all that an accurate statement of what she knew about her surroundings and the area?

A. That's absolutely correct. We would go riding. She could tell me every house and point and tell you who got divorced, who was cheating on you, who died. She knew everything.

And we would go down the back roads and I told her: Edith, I don't know where I'm at.

She said: Honey, I know where I'm at.

We would go shopping. I would take her to Michael's. We would go to Green Sea, Loris. Everywhere. She wanted to go somewhere every single day.

She walked. She took care of herself. I had to do nothing for Edith. I did cook for her. And she loved to be pampered. I gave her foot massages. I put cream on her legs and arms. She washed herself every single day. In 2014 she was sick. She had diarrhea bad, and she went in there to clean up.

I told Marcia -- I said: I think your momma needs to shower. Mike and Marcia come over and took Miss Edith in the back room and talked to her, and she started crying. I guess she was embarrassed about it. I never had to wash Miss Edith. She washed herself. She put on her clothes. She wore makeup, but it was rouge and lipstick. She dressed herself.

Now, when she broke her hip -- there were days that she had bad days, and I would have to help her put on her pants. That's it. When she had company she would talk to company, visit, laugh, socialize. She was just like you or I.

Q. Thank you. So that would be Paragraph

5.

In 6 you would go shopping and she knew all about what was going on.

A. Yes. We went grocery shopping and she shopped with me.

Q. And she knew the people she had seen a long time --

A. Yes.

Q. -- from childhood?

A. Yes.

Q. It also says she knew who everyone was; is that correct?

A. Yes, she did.

Q. And you've already stated in Paragraph 7 that she could get herself dressed and put on her clothes.

A. Yes, sir.

Q. As you were employed there towards -- later in time, later in 2015, was she physically not as active as when you first started? I mean physically.

A. Her hip would give her trouble and some days she didn't want to walk. Some days she didn't want to do anything because she was in pain.

We didn't even have Tylenol to give

her. None. And I called Marcia and I told her we need something for Edith for pain. And they were giving her a pain pill. I don't remember the name of it. Tramadol, I think. But it didn't help her. But whenever they ran out we had nothing. There was nothing to give her.

Q. I think you've already addressed No. 8, conversations with people. That's accurate?

A. Yes.

Q. You've also stated in No. 9: For most of the time I worked for her Miss Edith had her checkbook and she knew about it.

Would that be through the year 2015? Would that be an accurate statement?

A. Edith always had her checkbook from 2011. I don't know -- I would have to say 2012. I wasn't working there and I would go visit Edith. She would be sitting there by herself watching TV. Once in awhile she might have company, but I didn't know who they were. But she did have her checkbook in 2015.

Q. And she knew --

A. She was over it. She knew exactly how much was in her account. Because she sat down and she showed me her bank statement. She had three

accounts and could tell you exactly the money that was in each account.

Q. All three accounts?

A. She had 500,000 in one, she had 38,000 in one, and she had $110,000 in one. And Charlie went and closed that one and she gave that to Charlie. And Charlie told me to get the bank statement and give it to him, and that's exactly what I did.

And Edith knew exactly what she did. She wanted Charlie to have it. Just like Jimmy. She told us several times that she had given Marcia all she had. She had given Mike everything he had. She sure wasn't going to give Marcia her daddy's house.

MR. JOHNSON: We are repeating statements by Miss Soles. It is not relevant. That's not how we initiated the case. Never heard this before.

THE COURT: Well, I think you had the opportunity to depose her. And we've been talking about what all has been given to the parties before. Whether it's true or not, I don't know.

This is offered for the truth of the matter, Mr. McCutchen?

MR. McCUTCHEN: It's offered to show that Miss Edith throughout the period of time in which Lovanda was employed by her was cognizant of things and understood matters and could carry on conversations, all of which we have gone over in the affidavit today. That's the purpose of what we're doing so far, your Honor.

THE COURT: Whether she gave this money to Charlie or not makes no difference.

MR. McCUTCHEN: No. The purpose was simply to help the Court understand.

THE COURT: She knew what she was doing?

MR. McCUTCHEN: Yes, ma'am.

THE COURT: Then I guess I will overrule the objection. We don't care if she really gave $500,000 to Charlie or not. She just knew what she was doing.

MR. McCUTCHEN: Yes, ma'am.

BY MR. McCUTCHEN:

Q. And then continuing on, is everything accurate so far in your affidavit?

A. Yes.

Q. No. 11: If she wanted to go somewhere she could tell you. She would say: I want to go

to John's house?

A. Yes. She showed me how to go to people's homes. I didn't even know who they were. She decided what she wanted to eat, and if she didn't want to eat it she wouldn't.

Q. Continuing, you said she was independent and knew the consequences of her actions.

And when she was independent, is that just kind of a strong-willed lady?

A. Miss Edith could do everything for herself. I cooked for her because she loved it. She loved to be pampered.

She always talked about having a housekeeper in Germany and she would help me -- I would do laundry. She would fold it and put it away. I would wash the dishes. She would dry them and put them on the counter. She would sweep out back. There was a sidewalk. She would sweep. We would go outside and pull the grass and weeds out of her flowers.

She did a lot herself. This woman was very independent, and she was a proud woman. And she told me that she gave Jimmy some land --

MR. JOHNSON: Objection.

A. -- because --

THE COURT: Wait just a moment.

MR. McCUTCHEN: Hearsay what Miss Soles may have said. So understood. Noted. Thank you, ma'am.

THE WITNESS: All right.

THE COURT: It's just a legal issue.

THE WITNESS: Okay.

BY MR. McCUTCHEN:

Q. Under Paragraph 13 is that a correct statement: I was aware that Mr. Euclid left her son Jimmy as the person in charge? Is that a correct statement?

A. Had left the person --

Q. As the person in charge over Mr. Euclid's affairs. Is that correct?

A. I found that out whenever I had called Marcia one day and I asked her would she pick up a loaf of bread. She said: I'm not over anything. She said: If you want a loaf of bread, you go to Mike or Jimmy. And I said okay.

That's when I knew for sure that he was over her -- with her affairs. I kind of figured he was, but I didn't know for sure.

Q. Continuing on, I've got Paragraph 15.

Is that a correct statement?

A. Yes.

Q. 16: Miss Edith told Faye, her caretaker -- is this an accurate statement of -- she's telling you what various properties went to who?

A. Yes.

Q. And the next paragraph, Paragraph 17. She's again talking about what goes to who.

A. She said -- she told me that she had gave Marcia what she had, she gave Mike what he had, and she was giving Jimmy the land because he didn't get as much as the rest of them did and she wanted him to have something. She didn't have a house to give him, so she gave him property. And she said that more than one time.

Q. As we go through this would you read the remaining portion of your affidavit and just tell us if they are accurate statements of what was occurring in those particular paragraphs.

A. (Witness complies.)

MR. JOHNSON: What paragraphs are we on?

MR. McCUTCHEN: 18 through 21. I was just asking her -- it is in evidence and your Honor

can read it.

A. (Continued) No. 21 --

Q. Yes, ma'am.

A. -- where it says that Edith's mental health had declined from May of 2016 -- I barely noticed the difference in her after Marcia came there in September and told Edith that she was taking over because she was no longer in charge. And Edith said: The H you are.

And she said: Woman, you are no longer in charge.

Because she was mad about Miss Edith going to the casinos spending her money. She said her and Mike wasn't going to have any "D" money left if she kept going up over there.

She stopped us from taking her to the bank. She said she was going to make changes. She is the one who changed Miss Edith's bath schedule.

THE COURT: Were you there when this was going on?

THE WITNESS: Yes. She had us to put Edith in that shower knowing she was terrified of that shower because she had fallen. I had to get in there, in the back of the shower, take my shoes and socks off, roll my pant sleeves up and get in

there with her. And whenever I went to help her out of the shower I had to hug her and let her very slowly take steps out.

Marcia is the reason that Miss Edith couldn't go out. And she knew Miss Edith loved going outside. She couldn't even go -- this woman had thousands of dollars and couldn't even buy a dollar ice cream cone. Me and Faye had to buy her food and drinks whenever we went out because she was not allowed to get her money.

THE COURT: Why couldn't she buy an ice cream cone?

THE WITNESS: Because she stopped her from getting her money. Because we -- Marcia told us: Do not go and take her to the bank to get any money out. I have been to the bank and talked to the ladies up there, and if you go up there I'll know about it. I've already told them that she was crazy.

That's what Marcia told me. She come up there to take over. And she got mad about the land when Miss Edith had given it to Jimmy, and that was, I think, July or August.

In September Marcia came in the back door to Edith's house and me and Edith were sitting

there watching TV. She threw her hands up: Well, I'm taking over.

And Edith looked and said: The H you are.

And Marcia said: Old woman, you ain't in charge no more.

And you started abusing Miss Edith. You put your hand over that woman's mouth. I walked up to your house one day to get her. Your back door was open and I looked you right in the face. You fried her on the butt and told her to get her ass home one morning.

I went to pick her up, and when I helped her in my vehicle the pee come out of her diapers where it squished up. I had to go back in your home and wash my hands and get a paper towel.

I have seen you twice put your hand over your momma's face, her mouth and her nose, and you had a paper towel in between it. You have done nothing but -- you have tormented your momma. All you wanted to do was raise hell with her about anything and everything that you could. And that woman went down fast. You took everything away from that woman and you tormented her. You were so rotten and mean to your momma. And I would sit

here and look you in the face. Yes, you did.

THE COURT: Well, don't be talking to her. Talk to the --

THE WITNESS: All she did was -- she come up there. She would be mad with her own husband and come up there. If you spoke -- if she spoke to Miss Edith, it had to be in a harsh, hateful, nasty way about any and everything. But what she didn't know when she left that Miss Edith cried. I'm the one who helped Miss Edith.

You took everything from Edith. You wanted control. You wanted it. No. You wouldn't let that money of hers go anywhere and you got it. You destroyed Miss Edith. You did. The reason that she went down --

THE COURT: Miss Hyatt --

THE WITNESS: No. You hell-hacked Miss Edith --

THE COURT: Speak to Mr. McCutchen.

THE WITNESS: Marcia in September of 2015 until she died hell-hacked her mother. Even on her death bed she did not even go to her mother. Because she stood beside the wall at the door frame. I listened to that woman's last heartbeat. And what did Marcia do? She went and sit in the

rocking chair while I done my part. I sit there with a towel and held that woman's mouth closed until it wouldn't open. I covered her up.

Before Miss Edith died Marcia is in the kitchen eating pie, laughing, carrying on. What am I doing? I'm in there telling Miss Edith: If you've ever done anything wrong, just ask God to forgive you. Ask him to come in your heart and be your savoir, and you'll be saved.

That's what I did. I stayed with that woman. You took her medicine away from her.

THE COURT: Take a deep breath, Miss Hyatt, and speak to Mr. McCutchen.

THE WITNESS: Marcia Anderson took Miss Edith's medicine away from her. She didn't give it to her. And I asked her -- I said: Where is her medicine?

She said: She doesn't need it anymore.

She had a Do Not Resuscitate order on Miss Edith. When I went up there the day Miss Edith died -- she died that evening. Marcia told me -- she says: I have a Do Not Resuscitate order on Miss Edith.

I said: Why?

She said: Well, you're just to follow

that.

I said: So you don't want me to save your momma?

She said no.

I said: You want me to stand there and watch your momma die?

She said yes.

You were glad when she died. Even at the funeral what were you doing there? Laughing and carrying on like: Look at momma. The only thing is when you laid her funeral dress out. That's it.

THE COURT: Miss Hyatt, did Miss Soles die at her home or did she die in the hospital?

THE WITNESS: She died at her home. Her daughter that week never went about her. When the hospice nurse came out there, the only thing Marcia was concerned about: How much longer do you think she's going to live?

That's the first thing she asked her every single time. Marcia wasn't even going to tell Jimmy about it, but I did. I texted him. I told him that the hospice nurse said she had hours to days to live. And I'm the one who told Jimmy. I'm the one who told Jimmy when Miss Edith passed

away. And she said she done her part? Yeah. You done your part to drive your momma crazy.

THE COURT: Don't talk to any of the parties. Talk to Mr. McCutchen.

THE WITNESS: Marcia is an evil, selfish person and she would take the pennies off a dead person's eyes if she knew she had two more cents than you did.

THE COURT: All right, Mr. McCutchen.

BY MR. McCUTCHEN:

Q. The remaining portion of your affidavit that you read over, is all of that accurate, Miss Hyatt? That would be 18, 19, 20 and 21.

A. Miss Edith never said anything about seeing any dead people in 2016. She was worth nothing in 2016. She had a little red wheelchair that she sit in. And I told Marcia -- I said: Your mother is having mini strokes. She is leaning to the side.

And Marcia said: Well, Dr. Barrett ain't going to do anything about it.

Marcia didn't care anything about Dr. Barrett either. She said he wasn't nothing but a nut. He wasn't worth a S-H-I-T. He didn't believe in pain medication or nothing to help her go to

sleep.

Q. In Paragraph 21 you indicate that you state that her health declined from May.

Would May have been the approximate date where Miss Edith began to go down pretty much?

A. She started to go down after Marcia -- I'm talking physically.

Q. But you have indicated in here that the significant mental health went down in May 2016.

A. Yes.

Q. Is that accurate?

A. That is accurate.

Q. To sum up your testimony, is that throughout the year 2015 Miss Edith knew what she was doing?

A. Miss Edith was a kind person. I've seen her kind with little children. She was kind to me. She was kind to anybody that would let her be kind to them.

When I was sick and I would go to work, she treated me like one of her children. When Faye went to work -- she looked after us. When I took care of Miss Edith it was like I wasn't working for her; it was like I was going to visit her. We had fun. We went places and we did things. And she

could tell me and talk to me, and mostly what she talked about was Marcia.

Q. She knew what was going on?

A. Yeah. She knew what was going on. And she could walk and weave and dance in the kitchen.

I had headphones that I used to wear. And when Marcia would come over there and get her riled up where she couldn't do -- like going outside and I had to make her take a shower, she would cuss me out. I put on them headphones so I didn't have to hear it. But I didn't only use those headphones for that. I would sit there and get music on our phone and I would put one thing in her ear and one in mine, and she would sit there and laugh at the music.

And if she wanted to watch something on TV and I didn't want to watch it, I put my earphones on and I watched what I had on my phone and she watched what she wanted to.

MR. McCUTCHEN: Thank you, ma'am. I appreciate it.

THE COURT: All right. Mr. Johnson?

EXAMINATION

BY MR. JOHNSON:

Q. I just have a few questions. Were you

subpoenaed to be here today?
A. Yes.
Q. Can I see it?
A. I don't have it. I have this.
Q. You don't have a subpoena?
A. I had one; but no, I don't have it here.
Q. Were you subpoenaed to be here today?
A. Yes. I was subpoenaed to be to court.
Q. But you didn't bring the subpoena?
A. No. I didn't know I had to.
Q. Were you given a check with the subpoena?
A. I was given a check. Yes; I was given a check.
Q. When?
A. I was given a check the last time that I was at Mr. McCutchen's office.
Q. But no subpoena or check here today?
A. No. Nothing today.
Q. That's because you're here to help your friend Jimmy?
A. I'm here to speak for Miss Edith. Yes. I'm here to help Jimmy, yes.
Q. Let me ask you about -- I think you

were there from 2011 to 2016. You worked for Miss Edith or you helped her?

A. In 2011 I worked for Euclid Soles only. In 2013 to 2016 I worked for Edith Soles only.

Q. Now, she was at times -- Miss Soles was at times hard to handle?

A. She was only hard to handle after Marcia came up there and stuck her nose in everything.

Q. On one occasion she actually -- she would lose her temper, get hostile?

A. Not until after that. Miss Edith was like anybody else. She would get disappointed we couldn't go out. She would get disappointed we wouldn't talk to Jimmy. She would get disappointed about anything. But you could talk to her. She was reasonable.

Q. She cut you with a knife?

A. That was afterwards.

Q. She cut you with a knife?

A. That was after Marcia took over and started all her changes.

Q. She locked you out of the house?

A. Let me tell you what she did.

Q. Would you answer that question?

A. If you will shut up I will tell you.

THE COURT: You need to say yes or no.

BY MR. JOHNSON:

Q. She locked --

A. She locked me out of the house because she wanted to go to Deborah's and I wouldn't let her. So she locked the door and she went out the front door to go to Deborah's. I said: Miss Edith, you have to wait. When Mike comes home you can go.

She did not want to go to Marcia's house.

Q. Tell us about being cut with the knife.

A. You say I was cut. I've told you this three times and I am telling you one time, and don't you ask me again because I won't answer it.

THE COURT: I have never heard it, so I need to hear this more.

A. (Continued) I was in the kitchen with Miss Edith. And we had to stop her from going outside per Marcia, so I put a rug in the corner of the door. She gets a chair and a knife to get the wash rag out.

I said: Edith, you can't do that.

I helped her down. I took the chair.

I pushed it back up, and when I turned around that corner of that knife nicked me on the face. That's it. This makes the fourth time I have told you that.

Q. I didn't hear about it that way before.

A. Yes, you did.

Q. It was accidental? Is that what you're saying?

A. I was nicked here. Whether it was on purpose by her or when I turned, I was nicked on the face. I told you I wasn't cut. Because I wasn't bleeding. And it nicked me on the face, yes.

Q. She occasionally struck out at people? Hit people?

A. She didn't do this until after Marcia come up there and messing everything up and Edith was -- she come up there trying to tell -- Marcia came up there trying to tell Edith what to do, and Edith wasn't going to have it. Edith didn't become violent until Marcia started abusing Edith.

THE COURT: That was in September?

THE WITNESS: When Marcia come up there in September and she said -- she told Edith that she was not in charge of things anymore. This is

when the abuse happened to Miss Edith. This is when I went to Marcia's house to pick her up, and Edith showed me where Marcia had hit her on the hands with a wooden spoon. Also Edith had bruises on her legs and arms all during that time until she got down to where she just couldn't do anything anymore.

I went and picked Edith up at Marcia's house one morning. She had a bruise from here all the way down. I called Marcia. I said: What happened to Miss Edith?

She said: I don't know.

I told her about the bruise. She said: Well, maybe she got it when she was up there with you.

I said: No, she didn't.

Marcia didn't know that I had changed Edith's shirt before I took her up there that day. So no. That happened at Marcia's house. Plus a lot of other things happened at Marcia's house with the bruises. Edith was telling us about that.

Edith didn't change and get abusive toward me until Marcia got abusive with her mother. Edith never struck me. Edith never hit me. Edith never done anything. Edith was always loving and

kind to me. She would tell people that we were like sisters. I was hers. Yes. None of that abuse happened until Marcia came into the picture because she was PO'd because Miss Edith gave Jimmy some property. That's when everything happened in 2015.

BY MR. JOHNSON:

Q. 2015? When did Edith give Jimmy property? What property are you talking about?

A. Edith told me that she had given Jimmy some property because she hadn't given him where she give the rest of them. And he got the least, so she gave him property. And I said: Miss Edith, that's good.

Q. So that was after the deed --

A. I don't know anything about no deed. All I know is this is before Marcia come down there and decided she's going to take over. Everything was fine. Everything was working good until she got her nose in it. And I told her she didn't know how to run nothing.

Q. You were aware that Edith Soles had been diagnosed with Alzheimer's dementia years before?

A. I don't know anything about Edith and

her health thing. All I know is when I started taking her to the doctor.

Q. And that was in 20 --

A. '14, after Charlie died.

Q. And you would also agree that from that time on Miss Soles either spent the night at Marcia's house or Michael spent the night at her house? She never spent the night alone?

A. The reason that her children started staying with her at night is because they didn't want her to be alone. Her husband died. They loved their mother. Yes. And they switched off and they stayed with her at night. During the day she had a health care worker there to be with her. Yes.

But there were plenty of times that I would leave and Marcia -- I would call her and say: Look, do you want me to bring your mom down to your house?

She said yes.

Edith said: I'm not going up there. I'll go to Deborah's.

And I said: You can't go to Deborah's.

And she wanted to know why. I said: Because Marcia said you couldn't go.

And I called her and she said: Leave her D-A-S-S there. I'm tired of the S-H-I-T anyway.

That's exactly what Marcia said. Miss Edith was left by herself plenty of times.

Q. After 2014 after Charlie's death?

A. Yes. Yes. In the afternoon if she did not want to go to Marcia's house, yes.

Q. But it's your testimony, then, up until May of 2016 Edith Soles had a good sharp mind? That is your testimony?

A. This woman knew what she did. She knew why she did it. Yes. There were times when she would get depressed because her son was dead. There was times she would get depressed because she didn't know why Marcia done her the way she did, and she would sit there and cry. And that's like anybody else in this world would do.

This woman was not crazy like Marcia always called her, a crazy old woman. But Miss Edith always called Marcia a whore.

Q. So she knew in spite of the fact that she had advanced Alzheimer's disease --

A. I don't know if she knew at all. I don't know what Miss Edith knew about her health.

Q. You said she was always clear of mind in spite of the fact.

A. You want me to tell what was in her mind? I can't tell you what is in Mr. McCutchen's mind right now.

Q. She needed caretakers. They had to watch her constantly?

A. No.

Q. She could not be left alone?

A. Miss Edith was left alone. Yes. She had caretakers there to be with her, to help her, yes.

Q. Because she could not provide for herself?

A. Miss Edith did fine by herself. Did she cook? No. No. Did she drive? No.

Q. She had hygiene issues?

A. Miss Edith washed herself every morning. She went to her bedroom. She got her clothes and she went in there and bathed herself the way she wanted to bathe, and Marcia didn't like it. Marcia decided that Edith -- that wasn't good enough. She changed and wanted her to get in the shower, knowing that Edith was terrified of getting in the shower because she broke her hip.

Q. So you're accusing Marcia of abuse?

A. I have seen her take her hand and put it over her momma's mouth and nose where that woman could not talk. I had seen her fry her on her behind and tell her to get her A-S-S home.

Edith didn't want to stay with Marcia. Because she was trying to get out of the front door to go home. Marcia even let her momma walk home.

Q. On June 9, 2014 she went to the doctor. She was taken to the doctor because Miss Soles was erratic, combative behavior. She was hostile. She hit people. She was out of her mind, Miss Hyatt.

A. She wasn't out of her mind. I wrote down on a piece of paper what Marcia told me to write. Because Miss Edith wasn't always getting her medication.

She always said: Well, she only has so much. I don't know how much she was supposed to get a day. But yes; I wrote down hitting, cussing, uncooperative because Marcia wanted me to get more Xanax from doctor -- whatever his name was.

Q. Barrett?

A. Barrett, yes.

Q. Are you saying they deprived her of medicine?

A. Miss Edith did not get her medicine like she was supposed to. Yes; she had anxiety, and I could see where she would get upset. She was not getting her medicine. No. Absolutely no. No. No. No. No. There were times we had one half a pill. One half a pill. That's it.

Marcia decided whether Miss Edith got her medicine or not. If Miss Edith acted up she had a right to. Yes. And I want to say that the stress she was under -- yes. Maybe that's the reason the woman acted out more like she did. That woman couldn't do nothing. She was not allowed to do anything that she enjoyed because Marcia took that from her.

I will not change what I'm saying. You can switch this around all you want. The truth is being told today, and whether you believe it or not I really don't care. I will not back down from one thing I'm saying. That lady knew exactly what she was doing. She knew why she did it. She loved her sons dearly, but she hated the ground that Marcia Anderson walked on. She didn't even want her in her house.

Q. There was an incident in Rockingham.

A. Yes. I'm glad you brought that up.

Yes, sir. I was blackmailed by Marcia.

THE COURT: Let him ask the question first.

BY MR. JOHNSON:

Q. There was an incident -- I think you stopped at a convenience store on the way to High Point and Miss Edith went in the convenience store trying to buy some cigarettes, and I think the two of you, you and Miss Edith, got in an argument and the police had to be called. Tell us about that.

A. Yes, sir. I will be more than happy to tell you about that incident.

Miss Edith was supposed to meet Jimmy on a Saturday, and it was up to Mike or Marcia to take her.

THE COURT: Do you know about when this was?

THE WITNESS: Yes, I do. I know it all.

BY MR. JOHNSON:

Q. Tell us when.

A. When?

Q. What year? What month?

A. 2015. I was to take Miss Edith --

THE COURT: Where were you going to

take her?

THE WITNESS: To Rockingham. We always took -- whenever I took her to Rockingham I met Jimmy at the Waffle House. He took his mother. We had lunch. I went home. Everything was fine.

One Friday, the Friday before that happened, I was asked to take Miss Edith to Rockingham, and I said: No. I don't want to go.

Well, that left Mike and Marcia to take Miss Edith to Rockingham. Mike said he could not take Miss Edith to Rockingham because he had things to do that day. So he told Marcia it was up to her.

I went home. Not long Marcia came down. She said: Lovanda, you have to take momma to Rockingham or Mike said he's going to take eight hours of your pay.

I said: Oh, so you're going to blackmail me to take your mom?

She said: Well, I can't help it.

No. That was her lie. If Mike wanted me to take Miss Edith Mike would have told me himself. He is man enough to come down there and tell me if he wanted me to. No. It was evidently left up to Marcia.

I didn't want to go. I was upset because I had to go or lose eight hours pay. Miss Edith was tired from the ride. She was ill. And yes; I stopped at the store. Neither one of us handled that situation very well.

She didn't want no cigarettes. She wanted to buy coffee, a bag of coffee, and I told her: They don't have coffee. You can't buy a bag of coffee.

I had to nudge her out the door. I dropped my purse. I'm holding on to her and all my money spilled out on the ground. And I couldn't let her go. There was a step that high down.

BY MR. JOHNSON:

Q. Were you acting like this?

A. No. I'm acting like this because you're an idiot.

THE COURT: We don't talk like that.

BY MR. JOHNSON:

Q. Were you acting like that and the police were called to calm you down?

A. No, they didn't.

Q. With an 89-year-old woman and you were screaming at her?

A. No. I wasn't screaming at her. I was

screaming at you because you need it.

THE COURT: Ma'am, calm down. Do you need to take a break?

THE WITNESS: No. I don't need a break.

THE COURT: Calm down.

THE WITNESS: No. I was not mean to Miss Edith. No.

BY MR. JOHNSON:

Q. Why did they call the police?

A. Because there was an incident. I am trying to get this old woman out. They didn't know what was going on. I am holding her. She wants to pull away from me. And I dropped my purse. All my money fell out. And this lady come along and was trying to help me get my money up.

Now, if I would have let Miss Edith go -- there was a step that far down from that pavement. She would not have stepped down from there.

I put her in the car. I drove to the Waffle House. Jimmy came up. The patrolman came around, circled the parking lot. I put up my hand. He threw up his and left. That's it. That's it.

Q. You and Miss Soles got into it quite

often like you and I are?

A. No. The only time that me and Miss Edith got into it is after Marcia came up there and changed everything. She cut the hours. She was taking money out of the bank to pay us, and she wasn't paying us -- she cut me down to four hours a day. Why was she taking two and three thousand dollars out of the bank?

Q. Is that why you are so mad at her? This is your normal personality?

A. No. Don't try to put this on me. I am here defending Edith Soles.

Q. You are here defending Jimmy.

A. I am here talking for Jimmy.

Q. A friend --

A. Jimmy was Miss Edith's son. That's it. I had respect for Marcia and Mike and Jimmy and Charlie, but when Marcia started doing her mother the way she did I just didn't care for her anymore.

There was no use in Marcia treating her mother the way she did. Marcia did that out of meanness. She was mad. She did that out of spite.

Marcia always referred to Jimmy as "Jimmy." After that she referred to him as an S-O-B to everybody.

Q. After what?

A. After she went down there and took over at Miss Edith's house. She was running things. She always referred to Jimmy --

Q. Can you give me a date?

A. I already told you it was from September 2015. 2015 in September is when she come down there and told Edith Soles that she was no longer in charge. Because Marcia was mad.

Q. Edith Soles hadn't been in charge for years.

A. Edith Soles was always in charge of her stuff. She had the right -- Edith Soles is the one that hired me. Marcia did not hire me. No.

Q. She had advanced dementia.

A. I don't care if she had advanced whatever. She had the say-so of where she went; she had the say-so of what she did; she had the say-so to tell you to get out when she had company.

She did what she wanted to do and she had her say-so until Marcia came up there and took over and changed everything. And she abused her momma verbally and physically. And I would not change my -- I will not change what I'm saying, no. And there is nothing that you can do. You can

switch your words all you want to.

MR. McCUTCHEN: He's through.

THE COURT: Calm down.

MR. JOHNSON: I've had enough.

THE WITNESS: Because I've got more if you want it.

THE COURT: I have a couple of questions. Do you have anything on redirect?

MR. McCUTCHEN: No, ma'am.

EXAMINATION

BY THE COURT:

Q. Do you have a scar at all on your face?

A. No; I don't have no scar. No, ma'am.

Q. Did you bleed that day?

A. No. It just touched me. It was a nick. That's it.

Q. And who was Deborah? You said that Miss Soles wanted to go see Deborah the day that she locked you -- or locked the door.

A. Okay. Deborah was Mike's wife. Miss Edith loved Deborah.

Q. She wanted to go see --

A. She wanted to go --

Q. She wanted to go see her daughter-in-law?

A. She loved her. Yes. She adored Deborah. And Deborah would fix Miss Edith supper every single night.

Now, if Deborah and Mike would have gone somewhere or she was sick, she would always contact me and ask me would I fix Edith supper. I said yes. Because I would work overtime. Yes, ma'am.

Q. Okay.

A. Deborah was wonderful to Miss Edith.

Q. When you said that she wanted to go see Deborah and got upset when she couldn't see Deborah, I just didn't know who Deborah was. So she just lives across the street?

A. Yes. Deborah was wonderful to Miss Edith and Miss Edith loved Deborah.

THE COURT: Okay. I've got it. All right. That was all. I wanted to fill in the blanks there.

EXAMINATION

BY MR. JOHNSON:

Q. Deborah provided meals and Michael would bring it across at night?

A. At night. She did it at night. She would bring him a plate and bring Miss Edith, and

he was good enough to bring me a plate. Yes.

Q. Now, this change --

MR. McCUTCHEN: Objection; your Honor. He's already closed out. You had a question.

MR. JOHNSON: I'm responding to the question --

MR. McCUTCHEN: She didn't ask you a question.

MR. JOHNSON: She asked her a question.

THE COURT: He is following up with who Deborah was.

MR. McCUTCHEN: That's all she asked her.

MR. JOHNSON: That's true.

THE COURT: All right. You may step down, ma'am. Thank you very much. Why don't we take a lunch break until about 2:30.

(Lunch recess taken.)

CATHERINE H. DINGLE

being first duly sworn, testified as follows:

EXAMINATION

BY MR. McCUTCHEN:

Q. Would you give us your address, please, ma'am.

A. My home address is 716 12th Avenue in

Conway.

Q. Thank you, ma'am.

MR. McCUTCHEN: This is a copy of her file. Brown, we agreed to this.

MR. JOHNSON: Yes.

MR. McCUTCHEN: This is the exhibit I'm submitting, Defendant's Exhibit 1. This is probably -- this should be an exact copy of what is in your file.

Q. (Continued) Miss Dingle, how long have you been practicing law?

A. August will be 22 years.

Q. And where do you practice law?

A. Thompson & Henry.

Q. How long have you practiced law at Thompson & Henry?

A. August will be 22 years.

Q. And what is the nature of your practice, please, ma'am?

A. I am transactional. I'm primarily real estate. When real estate is closed then I may do some probate and some corporate work, but primarily real estate.

Q. And in so doing have you done a lot of deeds over your life?

A. Countless.

Q. Are you aware of what is going on in this particular lawsuit?

A. Yes, sir.

Q. Have you read the Complaint?

A. Yes, sir.

Q. Now, when was the first time that you recollect meeting, if you did, Mr. Soles, Mr. Jimmy Soles?

A. We had one meeting in my office.

Q. Did you meet with him?

A. I really can't remember. I know I met with Mrs. Soles, and Mr. Soles was there.

Q. What is your recollection about the circumstances around the execution of the deed which is at issue in this case, which is for the property that Mrs. Soles signed?

A. They came into my office to execute the deed. I was in the conference room with Mrs. Soles. We went through -- again, this was four years ago, so I don't recall a lot of specifics.

I know -- I can tell you my protocol, what we would have done. I met with her. We would have gone through the contents of the deed. We

would have looked at the consideration. We would have looked at the legal description. We would have discussed that by signing it she would have been conveying her right to title and interest in the property to the grantee.

That's my typical protocol. There is some notes in the file.

Q. Would you give me the benefit of what notes you have in the file, please.

A. Yes. I had a conversation with her -- according to my notes I asked her if she was aware she was giving the property to her son. Because when we have $5 deeds I like to point out to people that they may need to talk to a CPA about a gift tax return or if they're going to mess up the basis in the property. So we go through that.

I asked her if she had other children. She told me she did. She said that other children had been given other property. She made the comment that she wanted Jimmy to have the Highway 9 property.

And then I apparently quoted her because in my note I have in quotations that she said she wanted to make it even before she checked out.

Q. What do your notes say? Are the notes in front of you?

A. They are.

Q. Would you read those into the record. Were these written down that day?

A. Yes, sir. I dated them July 21st.

Q. Were they written down through the course of the day when you had met with Mrs. Soles?

A. I probably did it either during the meeting as we were talking or when I got back to my desk.

Q. And what do those notes say?

A. I dated it July 21st, 2015 and I wrote: I asked Mrs. Soles if she understood she was giving property to her son, and she said she wanted him to have the Highway 9 property.

I asked her if she had other kids and she said she did, but they had already gotten property and it was time for Jimmy to get his. She said she wanted it to, quote, be even before I check out, end quote.

Q. And there is a document attached to that. It's entitled a General Warranty Deed.

Have you turned over in your file what is entitled a General Warranty Deed?

A. Yes, sir.

Q. I would submit this has been submitted as Plaintiff's Exhibit 4. Is that a copy of the deed that you had prepared that day?

A. Yes, sir.

Q. I would ask you to -- is that Mrs. Soles' signature on the deed?

A. Yes, sir.

Q. So did she sign that in front of you?

A. She did.

Q. Did you notarize that deed?

A. I did.

Q. Who witnessed that deed with you that day?

A. My paralegal, Destiny King.

Q. And what is your normal protocol that you talked about inquiring about somebody conveying property to another? What do you ask them?

A. We talk -- again, we talk about the consideration. We talk about everybody's name to make sure they appear correctly. Again, I bring up the consideration just because I don't give tax advice on purpose. So I want people to know if you've got a tax issue you're going to need to see a CPA.

We look at the legal description. I go through really the final paragraph of the deed that says you're granting your right title and interest to this person with the warranties we talked about. What that means, you're going to convey property to this person. You are giving up your right title and interest in the property to this grantee, whomever that is.

Q. Now, it's been asserted that she was hard of hearing. Did she hear you?

A. I don't have any recollection of her not being able to hear me. I mean, we obviously had a conversation because I wrote it down.

Q. And when you asked her to sign the document, did she sign the document after you told her where to sign it?

A. Yes, sir. That's her signature.

Q. Would it be your belief that she heard your instructions and your conversation that day?

A. Absolutely.

Q. Did she have any questions about the execution of the deed after you explained it to her?

A. Not that I recall.

Q. Do you believe she had the capacity,

the mental capacity, to execute and make an informed decision on the execution of the deed that day in your office?

A. Absolutely.

Q. Is there any question in your mind that she had the mental capacity to execute that day and understand what she was doing when she was in your office?

A. No, sir. If I thought she didn't understand what we were doing we wouldn't have done it.

Q. And there is no doubt in your mind that she had an understanding of what property she was conveying?

A. She called it the Highway 9 property.

Q. And was there any doubt in your mind that she knew to whom she was giving the property?

A. Absolutely. She called Mr. Soles by "Jimmy."

Q. Did she understand that this was a deed that she was conveying property to Jimmy Soles on the Highway 9 property?

A. Yes, sir.

Q. And would it be your belief here today that all of your normal protocols were followed

with regards to questioning her about the execution and the execution of the deed?

A. Yes, sir. I use the same procedure every time. Because you do this long enough and you don't remember every single transaction, but I know my process.

Q. Had you ever represented Miss Soles before that?

A. No, sir.

Q. Did you ever represent Miss Soles after that?

A. No, sir.

Q. Did you ever represent Mr. Jimmy Soles before or after that?

A. No. Neither before nor after.

Q. Is it your absolute testimony that she had the mental capacity to execute that deed in your office that day before you?

A. Yes, sir. Absolutely.

Q. The rest of your file has various other documents. Are these just documents that you acquired when you were preparing the deed?

A. Can I look through?

Q. Please, ma'am.

A. I have the actual file. It looks like

I have a copy of the deed. We kept a recorded copy. We always send the original to the grantee.

There was a deed of distribution -- it appears when the file was first opened that maybe there was an estate being handled and the deed of distribution that was being done, which we needed for the derivation for a new deed. So it appears to be that was sent to us.

There was some correspondence with another attorney's office about obtaining that deed of distribution, and I have a copy of it.

Q. And finally, is there any doubt in your mind that Miss Soles heard your instructions about what to do to sign the deed?

A. Yes, sir.

Q. There was no doubt that she understood or she signed the deed after you discussed it with her?

A. Exactly. Yes, sir.

MR. McCUTCHEN: Thank you, ma'am. Please answer any questions Mr. Johnson has.

EXAMINATION

BY MR. JOHNSON:

Q. I think you said -- I'm very familiar with your firm. And you've done this for 22 years.

That's a lot of transactions. But I would like to just ask you a few questions.

You do a lot -- you referred to the deed as a $5 deed or a gift deed.

A. Yes, sir.

Q. So it's not unusual for a parent to transfer property to a child?

A. Correct. We do it all the time.

Q. Do it all the time. So very routine.

And this was almost four years ago, and you don't have any personal recollection, do you, of these people? Do you remember them?

A. No, sir, not specifically.

Q. And you have testified that you have followed your protocol as you have done for 22 years.

A. Yes, sir.

Q. Now, let me direct your attention to the -- you were kind enough to give us your file. That page of --

A. Yes, sir.

Q. I would call that -- some firms would call that an intake sheet.

A. Correct.

Q. And up at the top is the name of

Destiny King.

A. Yes, sir. That's her form that she produces in our office.

Q. She's your assistant?

A. Yes, sir.

Q. I think you referred to her as your real estate assistant.

A. Yes, sir.

Q. Would she have prepared this form? Would she have filled this out?

A. Yes, sir. When we open a file, that's the sheet we put in the file with information, contact information for the file.

Q. Do you recognize her writing?

A. That's her handwriting.

Q. So she would have prepared that part of the file herself; is that right?

A. Yes, sir.

Q. And to the left the second or third item says: Billing name. Who was that?

A. Mr. Soles -- his name is written there, Jimmy R. Soles.

Q. So would you refer to Jimmy Soles as your client for this transaction?

A. Not necessarily. He was a grantee of a

piece of property. So he may have been the one that was paying for it. The grantor sometimes pays for it. That could just be the person that talked to Destiny first.

I think they were a referral, if I remember correctly, from another law firm.

Q. There is a reference on the right, if I could direct your attention to that. There is the Rochford Law Firm. Could that be the referral?

A. Possibly.

Q. There up in High Point. And then above that is an email address: J. Harris Soles. Do you know who that is?

A. Not off the top of my head.

Q. That is Jimmy Soles' wife, Jill, who works at the Rochford Law Firm up in High Point.

A. Okay.

Q. Are you aware of that? Could she have been the one to call your office or make arrangements through Destiny King?

A. I honestly have no idea. We get a lot of referrals from North Carolina attorneys to do Horry County deeds.

Q. Sure. That's because you're right here on the line, so to speak. But it could be that J.

Harris from High Point contacted your office and said: I need a deed. Can you help us? Can you do a transaction for us?

A. I don't know.

Q. Okay. But you did not take any of this information. There is a phone number of Jimmy Soles, High Point, and then there is a wife's office, another number, and the Rochford Law Firm.

A. That's not my handwriting.

Q. So it was probably Destiny King?

A. Which would be commonplace. She fields a lot of phone calls and emails so that I don't have to.

Q. Exactly. And I think I understand that the first time -- or any contact you had with Jimmy Soles and Edith Soles was at the closing.

A. When they came in to sign -- Mrs. Soles came in to sign.

Q. By the way, I do not see Edith Soles' name on this intake sheet, do you? Is that correct, her name does not appear?

A. In my notes I have a reference to Mrs. Soles, but in the basic form her name is not in there.

Q. I was going to ask you about that.

So her name does not appear. Jimmy Soles was -- would you call him the one who contacted you and asked for a deed or asked for some help?

A. I didn't take the initial phone call, so it's hard for me to answer that. We put whatever information we can get on that form so we have contact information. Just like that email address.

A lot of people don't have email. If I'm dealing with three or four parties in one situation and only one has an email, that's what I'm going to write down.

Q. But it's clear that Edith Soles -- or is it clear that Edith Soles did not call your firm and arrange this transaction?

A. I didn't take the call, so I'm not sure the answer to that question.

Q. Let's go on down to the notes at the lower part of the form.

Under 7/21/15 -- that's the date the deed was signed, I believe.

A. I think it was. Yes, sir. Yes, it is.

Q. And do you recognize your writing? Is that your writing?

A. That is my handwriting.

Q. "I asked Miss Soles if she understood she was giving property to her son, and she said she wanted him to have the Highway 9 property. I asked her if she had other kids, and she said she did, but they had already gotten property and it was time for Jimmy to have his. She said she wanted it to be even before I check out."

Do you get the impression that she had already -- or it says she had already deeded property to her other children.

A. She said they had already gotten property.

Q. You don't know how they got it. And now she wanted to give something to Jimmy?

A. That was -- that's what I take from those notes, yes, sir.

Q. You could interpret that as saying the other children got some property but Jimmy didn't, and now I want to transfer -- deed some property to him.

A. She just said that she wanted it to be even.

Q. And you don't investigate that? You don't send somebody to check a title or look and

see who got what?

A. No, sir. And, you know, we get parents all the time deeding property to children and I don't ask: How many pieces does this child have? That's not my business. If she comes in to deed a piece of property to her son, that's what I'm there to help her do.

Q. We understand that. Jimmy was the individual who was sent the bill and the deed?

A. I think so. I know he would have received the deed because we always send the original title to the property -- yes, sir.

Q. So he was sent the recorded deed after you got it back from the clerk's office along with the preparation fee?

A. Yes, sir. He would have received the original deed. Yes, sir. And it looks like he was billed for it as well.

Q. So it would be safe to say that he was the instigator, the producer, director and the big star of this transaction?

MR. McCUTCHEN: Objection. Objection; your Honor. Four or five different things going on here. Just ask her a question.

Q. (Continued) He instigated this. It

would appear from these documents that Jimmy Soles was the one who scheduled the appointment, made arrangements to have the deed, got the information that you needed to prepare the deed.

A. You know, I see his name in here. I see the Rochford Law Firm. I don't know if an attorney from Rochford called, if somebody that worked at Rochford called, if Mr. Soles called. You're asking me questions that I don't have the knowledge to answer.

Q. I don't expect you to know the answer, but either Jimmy Soles or the High Point -- or the Rochford Law Firm or Jill Soles -- someone other than Edith Soles made the appointment and contacted you about preparing a deed.

A. Possibly, yes, sir. But again, we're not talking about a situation where I would even find that unusual or would have questioned that. Because there are two parties to a deed, grantor and grantee. So I'm not sure that it's significant, and it's not significant in my mind which one initiates the preparation of the deed.

Q. Exactly. I don't disagree. I'm not arguing with that at all. It's done every day. But I just want to clarify: There is no indication

that Edith Soles was involved so far in this transaction?

A. It does not appear from looking at this sheet that she made the initial call.

Q. And the first time you met Jimmy Soles and Edith Soles was in your conference room?

A. Correct.

Q. And again, you don't have any -- four years ago. You do hundreds of these. You don't have any recollection of meeting them?

A. No, sir, not specifically. No, sir.

Q. They would have been -- you would have walked in. Maybe Miss Destiny King would have given you the deed in advance and you would have walked in and there they are.

Does that sound --

A. Oh, yes, sir.

Q. You were asked this question on the deposition: Was anybody else in the room with you?

A. I can't remember that specifically. I know Mrs. Soles was in the room.

Q. That's where she signed the deed?

A. Correct. In the conference room.

Q. And your protocol would not require someone like Jimmy to leave the room? You wouldn't

have asked him to leave? You would remember that. That would be part of your protocol?

A. With the grantees, they may or may not be in the room. If they are more comfortable in the lobby then they can stay in the lobby. If I need them for any reason I might call them in there, so ...

Q. Certainly you wouldn't know how Edith Soles got to your office?

A. No, sir. I would not know that.

Q. And you didn't know whether or not she drove a car?

A. No, sir.

Q. And you wouldn't know anything about her health, her prior health?

A. I would have no reason to know anything about her prior health.

Q. You wouldn't ask questions about medical records or anything like that?

A. No, sir. She talked to me. We had a conversation. I explained the deed. She signed it.

Q. She appeared to be an elderly woman. You may not remember that.

A. You showed me a picture of her in my

deposition, so I can say from seeing that picture she was. Yes, sir.

Q. She was, I think, five weeks away from her 89th birthday.

A. I would not have known.

Q. And so she signed the deed. That was it. It was a $5 gift deed, and you recorded it and sent the deed and the bill to Jimmy Soles?

A. Correct. Because he would have received his title to the property, the original deed. That's what we do.

Q. I didn't quite understand -- and you never did work for them before or after?

A. Correct.

Q. And you said there was a deed of distribution. You thought it was a referral. What is that?

A. When we prepare a deed we put the derivation as part of the deed. So anybody searching title can look at that derivation and see where the prior deed and the chain of title came from.

So when we were working in the file it became apparent that there was -- we needed a copy of the prior deed. We needed the legal

description. We would need a copy for the derivation, and it looks like that was being done. That deed of distribution, which would have been a link in the chain of title, was being prepared by another law firm.

Q. Who would that be, do you know?

A. I don't remember. I don't remember. Whoever was doing the estate. I can look at the --

Q. Well, Mr. Phipps testified yesterday that he didn't know anything about the deed.

A. Well, the deed of distribution was from the estate of Euclid Soles.

Q. Your clerk could have found that in the courthouse, couldn't he?

A. Well, if it had been recorded, but I don't think it had been recorded. I think it was done a little bit prior to the deed that we did, so -- everybody has a copy of the file. I think there was a note in there about obtaining the deed of distribution.

Q. I see affidavits for exempt transfers and --

A. The deed of distribution was recorded July 9th, 2015. So it was being done around -- that estate was being done around the time that

deed was being handled. Right around the same time. So that needed to be recorded before another deed could be processed.

Q. Do your notes reflect who did the deed of distribution?

A. No, sir. I have no idea.

Q. What would the deed of distribution say?

A. It's a release of property from the estate, and in this case the deed of distribution is from the estate of Euclid Soles.

Q. That would be fairly old. He died in 2012.

A. I have no idea. All I needed was the deed and the chain that was going to be prior to the deed we were preparing so I would have a correct derivation.

Q. Yes, ma'am.

THE COURT: Didn't you say something was filed like the first of -- somewhere around the first week of July?

THE WITNESS: The deed of distribution?

THE COURT: Yeah. So it wasn't several years before.

MR. JOHNSON: Well, he died several

years before.

THE COURT: But the deed of distribution wasn't filed until the first week of July of 2015.

THE WITNESS: July 9th, 2015.

BY MR. JOHNSON:

Q. Would that have been signed -- who would sign a deed of distribution?

A. The personnel representative of the estate.

Q. You don't have any indication of who that was?

A. It's on the deed. Mr. Soles, Jimmy R. Soles, was the personal representative, and if Euclid Soles had a Will -- well, obviously Mr. Soles was appointed by the probate court as the personnel representative of that estate, which again, I just needed the prior deed and the chain so my deed would be correct.

MR. JOHNSON: Bear with me just a second. Thank you, Miss Dingle.

MR. McCUTCHEN: Nothing further.

THE COURT: Miss Dingle, I know you do real estate. And we've been talking about real estate. But just because your notes say that Miss

Edith Soles said that the other children had received property doesn't necessarily mean they had received real estate, does it?

THE WITNESS: Not necessarily.

THE COURT: That's what I thought.

We're taking the sealed DVD -- and the court reporter has sealed it. It was sealed by a court reporter in High Point, North Carolina on March the 19th of 2019. We're going to unseal it so we can see it.

MR. McCUTCHEN: 4 without objection.

(Videotape deposition of Kevin Rochford played.)

THE COURT: Mr. McCutchen, we are going to make both of these, the DVD and the transcript, part of the record?

MR. McCUTCHEN: Yes, ma'am.

(COURT EXH. 1, DVD and transcript of Kevin L. Rochford, marked for identification.)

THE COURT: Very good. Does that conclude -- are you going to recall anybody? Does that conclude the defense case? Are you going to call any other witnesses?

MR. McCUTCHEN: No. That's it.

THE COURT: That's it. I would like

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THE VIDEOGRAPHER: We are now on the record. Today's date is March 19, 2019. The time on the video monitor is 10:05. This is the video deposition of Kevin L. Rochford.

THE WITNESS: Correct.

THE VIDEOGRAPHER: Taken by the Counsel for the Defendant. The location is 1008 Hutton Lane in High Point, North Carolina. My name is Rob Hahn, legal videographer, representing A. William Roberts, Junior and Associates. I'm familiar with the provisions of Rule 30 H pertaining to videotaped depositions.

This deposition is taken in the matter of Edith Cox Soles versus Jimmy R. Soles in the Court of Common Pleas, 15th Judicial Circuit. Civil action number is 2016-CP-26-7190.

Counsel, please introduce yourselves for the record and state whom you represent.

MR. McCUTCHEN: I'm Luther McCutchen. I'm the Counsel for the Defendant who has set this deposition. The Defendant is Jimmy R. Soles.

MR. JOHNSON: I'm Brown Johnson. I represent the Petitioner-Plaintiff in this case Miss Anderson, Marcia Anderson.

THE VIDEOGRAPHER: In accordance with Rule

30 H3, the witness has the right to be shown the videotaped deposition unless waived by the witness and the parties. Would the court reporter please swear in the witness?

KEVIN L. ROCHFORD,

having first been duly sworn, was examined and testified as follows:

THE VIDEOGRAPHER: Please begin.

EXAMINATION

BY MR. McCUTCHEN:

Q Would you please state your full name for the record?

A First name is Kevin, K-E-V-I-N. Middle initial L. Last name Rochford, R-O-C-H-F-O-R-D.

Q Mr. Rochford, may I call you Kevin?

A Please.

Q My name is Luther McCutchen. I just introduced myself. I waved to the videographer. I represent Jimmy R. Soles in the matter that has already been referenced today and I'm here to take your video deposition de bene esse. I sent to, I think, you and the videographer what was going to be Exhibit A and Exhibit B. Are those on the table, sir?

A Is, is A the affidavit? They weren't marked A and B. Is A my affidavit?

Q Exhibit A is the notice of video deposition de bene esse.

A Yes, I have that.

Q All right. And are you here to give your deposition testimony pursuant to the notice that was sent to your office which is labeled as Exhibit A?

A Yes, I am.

Q And would -- thank you. Would you give me the benefit of your office and home address please, sir?

A My office address is 1008 Hutton, H-U-T-T-O-N, Lane, suite 102, High Point, North Carolina, 27262. My residence is 5326 Lair, L-A-I-R, Drive, Greensboro, North Carolina, 27407.

Q Thank you, sir. Just a few formalities here. This deposition should not take very long. If you do not understand a question such that I garble it, please ask me to repeat it. I'll be glad to do so at that time. It is not going to be an endurance contest. Again, it should be short. But if you need to take a break, please let me know. I'll be glad to do so at any point. And again, we shouldn't be going on too long here. And would you give me the benefit of your education beginning with high school, please?

A I'm a resident or grew up in northwestern Pennsylvania. A little town called Titusville,

Pennsylvania. It's up in the northwest corner, north of Pittsburgh, south of Erie. My undergraduate degree is from the University of Notre Dame. I graduated in 1977. My law degree is also from the University of Notre Dame. I graduated in 1980.

Q And have you been practicing law since 1980?

A Yes. With a brief interlude when I worked for Wachovia Bank. I was in -- a resident of St. Louis, Missouri and I was hired by Wachovia to come to North Carolina to help run their trust department. And then Wachovia asked me to relocate to another state which I declined. And then I was a partner in a large law firm here in High Point called Wyatt, Early, Harris and Wheeler and left that to become a solo practitioner in late 1998 about 20 years ago.

Q So, and can you tell me what the principal nature of your practice is please, sir?

A My practice is limited exclusively to estate planning and estate administration.

Q And has it been that way since you've been in private practice by yourself?

A Yes. It's all I do.

Q Okay. And do you practice just in North Carolina or do you have other state licenses?

A No. I'm only licensed in North Carolina.

Q All right. I'm going to refer you to please, sir, what would be referred, shown as Exhibit B which should be the contents of your file that you submitted previously to us. And what I'm going to ask you to do, I'm asking you about a set of circumstances where you executed, I mean, you had executed before you a codicil. Do you remember meeting with Miss Edith Soles?

A I do. I met with, I met with her. Originally spoke with her on the phone. And then met with her on July the 8th, 2015 to review a short codicil and then to have that codicil executed.

Q Okay. Can you tell me the protocol you followed while you were questioning her about the execution of this codicil?

A I knew Miss Soles a little bit through -- I had been asked several years before to prepare a healthcare power of attorney for her husband, Euclid. I knew Miss Soles. She is the mother-in-law of a part-time employee of mine by the name of Jill Harris. Jill was married to the Defendant, Jimmy Soles, and I was asked to prepare a codicil to her will.

Q All right, sir. And Miss Harris, what role does she have in your office?

A Jill works, for the last 7 or 8 years, she

works 10 to 11 hours a week part-time. She answers the phone, does filings, does copying, secretarial, receptionist type work. She right now, she works 6 hours on Thursdays and 5 hours on Fridays since one of my primary assistants has gone part-time.

Q All right. Now do you know how Miss Soles got to your office for the consultation on the execution of the codicil?

A Yes. She was, was driven here by her son, Jimmy Soles. And who I had stay in the waiting room while we discussed her legal matters.

Q All right. And did you get a request from Miss Soles about the possible execution of a codicil?

A Yes, I did.

Q Okay. That, that call came from or that contact came from the decedent, Miss Soles, to your office; is that correct?

A Yes, it was initially on the telephone. It was a little bit difficult because she was a bit hard of hearing. So I had to speak very, very loudly. And she requested the, she wanted to give some land in South Carolina to her son, Jimmy, through a codicil.

Q And then did you meet with her in your office?

A I did. Just she and --

Q Did you --

A She and I, yes.

Q Okay. And would you describe what, what questions or protocol you followed with regards to ensuring she knew what she was doing to execute the codicil?

A Yeah, it's really twofold. One is she was somewhat advanced age. So originally, I just wanted to make sure of her competency. I asked her her date of birth. She gave me that as 8/26/26. She said she was just shy of her 89th birthday. And again, I had to speak very loudly because she was hard of hearing. She was born in Taber City. Her husband, Euclid, had passed away approximately a couple years before in August of 2012. She had four children, three sons and a daughter. One of her sons had died the year before, Charles. And that she was up here visiting her son, Jimmy, from Tabor City and that Jimmy was her power of attorney. So I wanted to make sure that she under -- knew who she was, that she knew who her family was. And then I asked her why she was wanting to make a change to her will.

Q Was there any doubt in your mind as you met with her prior to the execution of the codicil that she had the capacity to execute a codicil and know what she was doing?

A Not at all. She walked, she came in by herself. As I said, she was a bit hard of hearing. She answered my questions without any prompting. She knew who her family, she knew that she had lost a son. And when I asked her -- what, what particularly made me realize her competency is I asked her why her, her regular attorney down in Tabor City was not the one doing the codicil. And her response, according to my notes, was that she had, there was someone who worked in that attorney's office who was a friend of one of her kids and she was concerned about the confidentiality of what she wanted to do. So that's, she told me why she was here asking me rather than doing it with her regular attorney down in Columbus County which told me she was --

Q Do you --

A She was alert as to why she was here in front of me.

Q Do you know who her regular attorney was down in Columbus County?

A Yes, Mr. Phipps. I think his name is Bill Phipps.

Q And I note in your affidavit that you reference under paragraph 7 that there were multiple other deeds to her children on different, on other

days; is that correct?

A Yes. She said that she and her husband had made over the years quite a few gifts of land to, to their children at different times. She had also made some gifts of land after her husband died to children and I think all those deeds had been prepared by Mr. Phipps.

Q And did she give you the reason why she wanted to execute this codicil to provide additional property to Mr. Jimmy Soles?

A Yeah. She, she indicated that she felt that she had been, there had not been an equal amount of property, that there was, that Jimmy had been left out to a degree and that she wanted to be more fair to the kids as far as the, the disposition of the land.

MR. JOHNSON: Excuse me for the interruption. I will object to what the decedent told Mr. Rochford on the basis of hearsay. Go ahead, sir, you can continue.

MR. McCUTCHEN: And thank you, Brown. All, all objections except to the form of the question are reserved for trial. I did not say that at the beginning but all of our deposition testimony has been taken subject to that. And so objection, Brown, duly noted and also preserved for trial

when this is presented. Understood.

Q So now Kevin, I see you looking to your left. Do you, are you reviewing your notes from the meeting with Miss Soles?

A I am. I keep, I keep notes during all my meetings.

Q Okay. So you specifically wrote down information about your consultation with Miss Soles and the execution of the codicil; is that correct?

A That's correct.

Q Okay. Then so did you, did you explain the effect of the codicil to her after questioning her about, you know, her competency?

A Yes, I sure did. She also indicated that she was considering going ahead and deeding the property during her lifetime to Jimmy and not having it to go to her -- to him at her death under the codicil. My notes reflect that we talked about the, the tax implications of doing a lifetime deed as comparing to getting an inheritance and the step up in basis. I briefly discussed that with her as much for my own protection as I do with every client who's considering making a lifetime gift of property. There's a substantial tax implication to the beneficiary when they inherit it as compared to getting it during a

lifetime gift.

Q Thank you, sir. I also note in your affidavit that there, the codicil was executed in the presence of two other witnesses. Was there a protocol followed with regards to these witnesses coming in and witnessing the execution of the codicil?

A Yeah. We have a standard operating procedure in that all, all wills are signed under oath. An oath is given. We then have the witnesses sign in the presence of the testator. An oath is given to them that they believe that the testator is over the age of 18, of sound mind and under no undue influence or duress. That is done for every will execution.

In this case, also because of the indication from the client that the kids did not get along, I asked her specifically, the testator, Miss Soles, to to tell the witnesses directly why she was doing a codicil. And I had those two witnesses make a memo to the file again which is standard operating procedure when I hear the kids don't get along.

Q Thank you, sir. I note in -- was that, were the other two witnesses Linda R. White and Beth Ann Michael?

A That's correct.

Q Now I note paragraph 10 of your affidavit, is

this a statement that you made when you, when you believe and understand the person to be competent to execute a testamentary document?

A Yes. North Carolina requires that the -- to be self-proving, that both the testator and the witnesses take this oath.

Q So can you explain to me, please, sir, self-proving?

A Self-proving is just that -- well, let me back up. Historically, in the old days, wills would be signed in a lawyer's office and there would be witnesses but those witnesses were not notarized. Their signatures were not notarized. When that person died, we had to go find those witnesses and those witnesses had to go to the courthouse. And then they had to swear that was yes, that was their signature and to the best of their recollection they remember that person signing. Well, as you can imagine, a lot of witnesses leave their job. They get married. They die. And for lawyers that do a lot of wills, they get tired of going down to the courthouse.

So years ago, North Carolina law was allowed to become part what are called self-proving wills. So the oath that's given to the witnesses is the same oath that used to be given when those witnesses went

down to the courthouse. It just made the probate of a will a lot faster and a lot easier. Sorry for the, sorry for the long-winded explanation but that's --

Q I appreciate it. Thank you.

A That's the history of why that's done.

Q Under number 10, the language there, would that be language that you would normally put in your, in your affidavit or supporting document for an execution of a will or a codicil?

A Yeah. That's the language that actually tracks the oath in the document and that, that is the oath that is, that is read to the witnesses before they make their affirmation.

Q Paragraph 10?

A Yes. Over the age of 18, of sound mind and under no undue influence or duress.

Q Okay. And paragraph 11, is that normally a sentence that you use to support the execution, the will's execution?

A Absolutely, yes.

Q Okay. So this also, is this part of the self-proving concept?

A Yes, yes. As again, both the witnesses and the testator are under oath. The witness that they're of the age of 18, of sound mind and under no undue

influence or duress and then also the witness is. So they're both affirmed to those, to those statements.

Q Thank you. I'm going to continue through Exhibit B. If you could move over to, please, I have a document about underneath the healthcare power of attorney for Miss Soles that is a statement by Miss Linda White dated July 8, 2015.

A That's -- hold on. Let me -- that's her statement that's in the file, yes.

Q Yes, sir. Do you have that?

A I do.

Q Okay. And did Miss White, to the best of your knowledge, make this statement freely and voluntarily after meeting with Miss Soles?

A Yes. I asked each of the ladies to in their own words make a statement as to what I asked Miss Soles and what she replied.

Q Okay. And was that done the day that you met with Miss Soles?

A Yes, it was.

Q Okay. And is there also a document from Miss Michael that she also made her statement the same day?

A That's correct.

Q And now can you tell me how many wills you may have done over the course of your career? Have you

got any idea?

A Thousands. It's the only thing I do. I do, I have one to two new clients per day and I have one to two will signings per day.

Q And does that include codicils too?

A Codicils, powers of attorney, all the, all the related estate planning documents.

Q All right, sir. And so --

A I probably do as much if not more than any attorney in this area quite frankly.

Q Thank you, sir. And do you have a -- the standard protocol you've referenced before about inquiring of the testator, et cetera, is that what you normally follow in each of these several thousands of wills and codicils?

A Yeah. Obviously, I put a little more emphasis on older people. There is, back in 1980, the North Carolina Supreme Court in the Andrews case actually set out factors for, to make sure that an older person was not being subject to undue influence. And so we pay particular attention when we're dealing with older people who are making a will change who are brought to the office by one of the children to make sure that there's no undue influence. So we pay particular -- and again, if the kids are, I'm being told the kids

don't get along, we pay particular attention to those to make sure that that person is freely signing that will or codicil or power of attorney.

Q And the questions that you ask are in keeping with whatever factors may be included in the Anders case; is that correct?

A Yes. And it's actually the Andrews is the name of that case. It's a 1980 North Carolina Supreme Court case and again, we --

MR. JOHNSON: Excuse me for interrupting. While we're there, would you -- just to save time, would you give us the cite of the Andrews case?

THE WITNESS: I don't really have it. It's pretty well known to estate attorneys that the Supreme Court listed the basically factors. Again, it's a 1980 case. It's well known for us estate attorneys. Who procured the will, who drove the person, the age and infirmity. There's about 8 or 9 factors that are listed in that Supreme Court case. So I don't, I don't have the cite to it. It's just a 1980 --

MR. JOHNSON: We can find it. Thank you.

THE WITNESS: Yeah, you're welcome.

BY MR. McCUTCHEN:

Q So those factors are incorporated in your

protocol for questioning elderly clients; is that correct?

A It's correct. You know, as an estate attorney or an estate planning attorney, you always have to be cognizant and aware so I can make my own determination is one, is someone competent. Two, if they're competent, are they possibly subject to undue influence. And until I get satisfaction that yes, they're competent and two, they're not being subject to undue influence, then I'm not going to proceed with having any documents signed in my presence.

Q Okay. Was there any doubt in your mind that Miss Soles was competent and not subject to undue influence in the execution of this codicil?

A No, she's very --

MR. JOHNSON: Let me object to, to the, excuse me, on the basis of leading. Go ahead, I'm sorry.

A No. I would, would not have had her sign that document. I notarized the document. I would not have had her sign if I felt either that she was not competent or if I felt that she was being unduly influenced by her son, Jimmy.

Q Thank you. Also, in this, in your file package information right before the statements by

Miss White and Miss Michael is the document actually entitled First Codicil to the Will of Edith Soles. Do you have that, sir?

A I'm getting it. Yes, I have it, yes.

Q Okay. Now this is a document that is dated or notarized July 8, 2015. Is this the first codicil to will that was executed in your office?

A Yes, it is.

Q Is it the document that was executed after you reviewed with her her intents for property and her competency?

A It is.

Q Okay. And did you, are you a witness or a notary on that document?

A I'm the notary.

Q And this codicil, would you please explain what this codicil does, sir?

A It was a codicil to her January 29, 2013 will where she provided that two parcels of land down in Horry County were specifically devised to her son, Jimmy R. Soles. And other than that change, there was no other changes made to her, her will.

Q Did you review the original will?

A I did.

MR. McCUTCHEN: Okay. Kevin, I'm going to

let Brown ask questions now. I may have a few follow-up, but I would ask Brown to go ahead and ask any questions he has at this time and thank you for your time here today.

THE WITNESS: You're welcome.

MR. JOHNSON: Thank you.

EXAMINATION

BY MR. JOHNSON:

Q Mr. Rochford, I'm Brown Johnson. I represent the Plaintiff in this civil action. I note from your affidavit that you have been practicing there in High Point since 1989; is that correct?

A Yes, sir. That's correct.

Q And you specialize in estate planning and probate work?

A Well, I don't specialize. I special --

Q I see.

A Yeah.

Q There's an emphasis on it. I'm not sure the term that you use.

A Yeah. Specialty is, can only be used if you're a board certified specialist. So I don't put myself as a specialist but my practice is entirely limited to estate planning and estate administration.

Q I see. You use the term solely in the

practice here; is that --

A Yes.

Q Okay, good. Now when did you first meet or when did Jill Harris, she goes by Harris I think, go to work for you?

A She's been working for me 8 or 9 years. I don't know exactly when. She would come in when I was shorthanded and just do -- I'm a solo practitioner. So if I had somebody on vacation or somebody out sick, she would come in and watch the phones for a couple of hours or do some copying. Probably 7, 8, 9 years ago, she started working a couple days a week. She's limited by the amount of hours she can work, I think, to 11, 11 hours a week.

Q Is that for Social Security? Why is that?

A Yes, that's for Social Security. So she has limited hours.

Q I see. But she is married to Jimmy Soles; is that correct?

A That's correct.

Q Okay. I was a little confused. She is, they are still husband and wife, are they not?

A Yes, they are.

Q Okay, good. What was, what does Mr. Soles do? Do you know?

A I believe he's retired.

Q Okay. When did you first meet Jimmy Soles?

A I met Mr. Soles back, right about when they were getting married. They actually came and talked to me about whether or not they might need a pre-marital agreement.

Q I see. Do you remember what year that was?

A I do not. I think they've been married for 10 or 12 years.

Q Okay. And when did you first meet Mrs. Soles? By the way, did you do any other legal work for Jimmy Soles?

A I did their wills.

Q I see. And when was that?

A I don't have their file. I mean, it was -- I'm just -- it's not a file in front of me. I'm guessing 6, 7 years ago, but I don't know that. I don't have that in front of me.

Q By the way, did you charge for the codicil that you did?

A I did. My notes reflect she paid $150. In fact, my notes reflect that she mentioned that it was part of her Cherokee money. Apparently, she liked to go to Cherokee and gamble and that was part of her cash according to my notes.

Q Okay. How did she paid, when you say she paid it, are you referring to Miss Soles?

A Yeah. In fact, that, that's one of the things that we always make sure is when you go back to those, those Andrews factors, one of those --

Q Yes. That's one of the factors whether or not they pay?

A Correct. And we wanted to make -- we don't ever or I don't ever allow a child to pay for the estate planning for a client. That's --

Q Okay. Did you tell Jimmy Soles that or did you mention that to Jimmy Soles?

A I don't know. My notes don't reflect if I did or not.

Q Did you go over the Andrews factors with Jimmy Soles and perhaps Jill Soles?

A No. I had no conversations with either Jimmy or Jill.

Q Okay. Jimmy didn't give you any recommendations or say what he wanted done or Jill did not?

MR. McCUTCHEN: Object to form.

Q Did Jimmy Soles mention to you what Mrs., what his mother wanted to do with the codicil?

A No, sir. He, he, as I said, he was not in the

room when we discussed it. He was in the waiting room and Jill was not in the office that day to my knowledge.

Q Okay. Let me direct your attention to paragraph 4 of your affidavit.

A Yes, sir. I have it.

Q Okay. In the second line, you say, I mean, you first say you are familiar with the decedent and her family for several years prior to him being requested by Edith Soles to prepare. And you do recall Edith Soles called you in advance?

A Yes. Because she again, my notes were that she was hard of hearing.

Q I see. But it was she that called you and not Jimmy or Jill?

A Yeah. I spoke with her on the phone. I don't know where she was at when she called. I don't -- I, I believe she was up here visiting. I don't know if she was here or down in Tabor City, but I believe she was up here.

Q I see.

A But my notes don't say where she -- I don't think I asked her where she was calling from.

Q And you don't know whether or not she actually dialed the phone or someone did it for her?

A No, I have no idea.

Q Okay. I believe you did say that Jimmy brought her to your office?

A That's correct.

Q Okay. Do you know whether or not she was still driving a car?

A I do not know if she was driving or had a license. I'm hoping that she wasn't, but I don't know.

Q Okay. And certainly you would agree that she appeared to be her age, almost 89 at the time of this execution of the codicil?

A Yes, she was, she was 89. Yes.

Q And she also appeared, well, she appeared old and frail. Would you agree with that?

MR. McCUTCHEN: Object to form.

A I don't really, I didn't make any notations that she was frail, only that I needed to speak up. She was hard of hearing.

Q I see.

A But she was 89, yes. So that's why I asked all those specific questions to independently determine if, if, if I felt, make sure she was competent.

Q Okay. Do you know if she paid by check or by

cash?

A No. She gave me her, she gave me cash. She gave me, as I said, she, she said it came out of her Cherokee money.

Q Cherokee, not charity, right?

A Yeah. Cherokee as in she liked to use the slot machines, apparently.

Q Right, okay. Did you ask her, and I don't know if this is part of the Andrews, did you ask her about her health or was that left up for your own observation or your own determination?

A The health was mainly the -- it's more of a fact of her competency. It's really not an Andrews factor other than a factor that she's old and somewhat infirm. I think that, that she had had some, we talked. She had some, I guess, age-related memory issues that we all kind of have and my clients as they get older. That's why I wanted to again, ask her where she grew up, the names of her children, you know, when, when, you know, who was surviving. She mentioned her son, Charles, had died a year or so earlier. So again, I felt that she, she met the standards that as far as competency.

Q I see. Did you, as far as medical records, you didn't review any medical records, did you?

A I did not.

Q Okay. Were you aware that she had had memory problems as early as in 2008?

A My notes don't reflect any of that, no.

Q Did you, were you aware that she was -- stopped driving in 2008?

A I was not aware of that, no.

Q Okay. And by 2012, 2012 which would be about three years before the execution of the codicil, were you aware that she was no longer managing her affairs, no longer paying her bills and that sort of thing?

MR. McCUTCHEN: Objection to form.

A My notes reflect that her son, Jimmy, was acting as her power of attorney.

Q Okay. But as far as her day -- of course, she lived down in Tabor City and Jimmy lived in High Point. As far as day-to-day affairs, were you, did you have any information about that?

A No, I did not.

Q Okay. There is a medical record, a medical report. She was seeing a specialist, a board certified internal medicine guy by the name of Barrett. You didn't ask her about that sort of thing?

A No, I did not, not after I asked her my own questions.

Q Right. And one of Dr. Barrett's reports in September of 2012 states, Patient is reluctant historian due to her anxiety and recent demise of her spouse and secondary to her Alzheimer's/dementia. Were you aware that she was diagnosed with Alzheimer's/dementia years before the execution of the codicil?

A No. As I said, I did not have any medical records. But in all fairness, that's not that unusual for somebody that's 89 to come in and have, have something like that. That's not, that does not mean that they're not competent. My own --

Q I understand that.

A My own mother is that age and she can't remember like she used to, but she can still remember a whole lot of things better than I do sometimes. So again, I, I see where you're going, but that's why I made my own independent determination that she knew who she was, she knew the natural objects of her bounty. She knew that she wanted, she had given property. She knew the effect of the codicil and that meets the statutory or not the statutory, the case law as far as competency to make a will.

Q Yes, sir. And that's, we have a similar test, I think, in South Carolina. Also, in 2012, she was

under continuous caretaker surveillance of her family. She could not be left alone and, and she did not prepare her meals or do any housekeeping and she had other serious health issues. I think the term that the reports refer to or make are totally dependent on assistance. Were you aware of that?

A I had not seen any reports like that. No, sir.

Q Okay. Going onto 2013, Dr. Barrett states that he listed her condition as dementia confusion. He referred her back to a neurologist for Alzheimer's dementia. And she also had difficulty with confusion. You weren't aware of any of this, were you?

A No, sir, I was not.

Q Okay. One of the terms Dr. Barrett used in 2013 was labile, L-A-B-I-L-E, or labile, I guess, meaning mood swings. She was irritable and she struck out at members of the family. Actually, cut one of her caregivers. And you would agree based on your extensive and impressive history in this area that that is a sign of dementia or Alzheimer's?

MR. McCUTCHEN: Objection. Calls for a medical conclusion.

MR. JOHNSON: Well, I was asking his conclusion based on his experience.

MR. McCUTCHEN: Dementia is a medical term. I mean, you've got to form medical conclusions on dementia. I object.

MR. JOHNSON: Okay. Your objection is noted, Luther.

Q There's also, going onto 2014, Dr. Barrett reports after her son, Charlie, died in 2014, it resulted in a deterioration of her mental condition. Were you aware that Charlie's death who was regarded as the favorite by all the family, when he died in 2014, it affected her? You would agree that that's not unusual?

A As a person who has buried a child, it's not at all unusual.

Q In 2014, Dr. Barrett also reports that she was brought to him because her behavior became erratic. She was combative, aggressive behavior. That she hit other caregivers, threw food and could not be left alone. Were you aware of any of that?

A No, sir. I don't have any of those records.

Q Okay. Were you aware that Mr. Phipps in his recent deposition, deposition said that if he had been, if Jimmy had come to him, he would not have done it, a codicil?

A I don't believe I've ever spoken to Mr.

Phipps.

Q And did Miss, did Miss Soles actually tell you that, something about Mr. Phipps' office that she was concerned about confidentiality?

A Yes, sir, he did or she did.

Q Okay. And I guess, you're aware that the children are not on or the siblings, her children, Miss Soles' children are not on good terms?

A Absolutely. And that's, that's one of the reasons I made sure that I wanted to dot my I's and cross my T's and make sure that I independently felt that she was competent and not under any undue influence because of the children not getting along.

Q That fact, that is, that the children were not getting along, the fact that Jimmy brought you to, brought her to your office, all those and she was very, she was old, she was almost 89 years old, those are certainly factors that, that are, that put you on alert or, or certainly those are factors in the Andrews case, factors to consider?

A Yes, sir. I would, I would do that for any older person who is making a change to the will. Again, she was not cutting anybody out of the will. She was just adding that particular land to go to, to Jimmy. But, yeah. You're -- that's standard

operating procedure for somebody of that age.

MR. JOHNSON: Yes, sir. I think that's all I have now Dr. or, excuse me, Mr. Rochford. I might have a question or two after Luther.

THE WITNESS: Okay.

MR. McCUTCHEN: A few more, please.

EXAMINATION

BY MR. McCUTCHEN:

Q After the line of questioning that we just had, is there any doubt in your mind that Miss Soles heard you when you reviewed the various factors and the information with her in your office the day she executed the codicil?

A If there was any doubt, I would not have had her sign the codicil so, no. There was no doubt in my mind that she was, understood what she was doing and that she was not being unduly influenced to do it.

Q And that she heard the information you conveyed to her that day in your office; is that correct?

A That's correct.

Q And in your practice, would you say a fairly significant portion are elderly people?

A Yeah. I mean, anybody that's been in the business as long as I have and been doing this for,

been out of law school for 40 years, I have new clients, I have repeat clients. I have, as I said, I don't do any advertising so there's a lot of just mainly word of mouth that this is the only law that I do. And so I do get a fairly good percentage of clients who are in their 80s and sometimes older.

MR. McCUTCHEN: Thank you, sir. I appreciate your time today in answering the questions.

MR. JOHNSON: Could I ask just a couple more short questions?

EXAMINATION

BY MR. JOHNSON:

Q In regards to and I could direct, if I could direct your attention to paragraph 5, the healthcare power of attorney. Do you know who first asked you to do that?

A I don't. The -- we -- the note said that we got a phone call from Euclid Soles. And that we, we actually faxed this healthcare to his daughter, Marcia.

Q Yes, sir. But you don't have any recollection as speaking to Mr. Soles?

A No. Just again, I would not have prepared anything unless someone requested it of me personally

or either in person or on the phone.

Q Your name does not appear, I mean, the power of attorney was never signed or recorded. Were you aware of that?

A Well, yeah. Healthcare powers of attorney are not recorded in North Carolina. They may be in South Carolina, but my understanding is that it was not signed.

Q Okay. Do you know why it wasn't signed?

A I do not.

Q Okay. Were you, did you bill them for it?

A There is nothing in my file about billing so I don't know. Again, it was a very quick North Carolina statutory healthcare power of attorney which takes, I don't know, 90 seconds for my staff to prepare one. It's a, it's a standardized form.

Q Yeah. It's like ours. It's a standardized form and you just substitute names and that sort of thing?

A Pretty much. Yes, sir.

MR. JOHNSON: Okay. Okay. I think that's all I have. Thank you very much, Mr. Rochford.

THE WITNESS: You're welcome.

MR. McCUTCHEN: Thank you, sir. Thank you for your time today.

MR. JOHNSON: Luther, can we ask Mr. Rochford a procedural question off the record because it doesn't pertain to the facts of this deposition?

MR. McCUTCHEN: I don't understand what you're doing.

MR. JOHNSON: Okay. Well, let's just close the deposition and then let me ask you a question, Luther. Let me ask you --

THE VIDEOGRAPHER: This concludes the deposition of Kevin L. Rockford. The number of media used were one. Going off the record. The time is 10:55.

(DISCUSSION OFF THE RECORD)

(EXHIBITS A AND B WERE MARKED FOR IDENTIFICATION)

THE COURT REPORTER: This is the court reporter, Jana Collins. Mr. McCutchen and Mr. Johnson, I wanted to ask, do you both want a copy of the transcript?

MR. McCUTCHEN: I can't hear her.

MR. JOHNSON: I can't either. We want a, I want a written copy and just the transcript.

THE COURT REPORTER: Yes. So you want a hard copy of the transcript, Mr. Johnson?

MR. JOHNSON: I just want a copy. I don't know what you mean by hard copy.

THE COURT REPORTER: Okay. Do you want an electronic copy, like, through the e-mail?

MR. JOHNSON: No. Just a written transcript, paper transcript.

THE COURT REPORTER: Okay, all right. And Mr. McCutchen, do you want an electronic form of the transcript or a hard copy or a printed copy?

MR. McCUTCHEN: A hard copy, please and then, of course, the sealed videotape, whatever it is for court.

THE VIDEOGRAPHER: Yes, sir.

THE COURT REPORTER: Also, Mr. McCutchen, the Exhibits A and B, do you want that attached to the original transcript?

MR. McCUTCHEN: Yes, ma'am, please.

(DEPOSITION CONCLUDED AT 10:55 A.M.)

(SIGNATURE RESERVED)

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