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| STATE OF SOUTH CAROLINA ) | IN THE COURT OF COMMON PLEAS |
| ) | FOR THE NINTH JUDICIAL CIRCUIT |
| COUNTY OF CHARLESTON ) | CASE NO: 2017-CP-10- 5427 |
| ) | APP. CASE NO: 2021-000793 |
| Family Services, Inc., as Conservator ) | |
| For Muriel W. Clarkin, ) | **AFFIDAVIT OF D CONOR KEYS** |
| ) | |
| Plaintiff, ) | |
| ) | |
| vs. ) | |
| ) | |
| Patricia Clarkin Smith ) | |
| ) | |
| Defendant. ) | |
| ) | |

RECEIVED
Feb 02 2023
SC Court of Appeals

PERSONALLY APPEARED before me, D. Conor Keys, who being duly sworn, deposes and says as follows:

1. I am twenty-one years of age or older, legally competent to testify as to the matters contained within this Affidavit and have personal knowledge of the facts set forth within this Affidavit.

2. I represent Respondent, Family Services, Inc., as Conservator for Muriel W. Clarkin (hereinafter "Respondent") in this matter.

3. Patricia Clarkin Smith (hereinafter "Appellant") is Mrs. Clarkin's daughter.

4. Muriel W. Clarkin was declared an incapacitated person by ex parte order of the Honorable Tamara C. Curry on December 22, 2014. Thereafter Ms. Clarkin's incapacity was confirmed by orders of the Honorable Tamara C. Curry dated January 16, 2015, and March 27, 2015, in the Probate Conservatorship Case which remains pending today (hereinafter "Probate Case") (Exhibit "1" attached hereto and incorporated herein by reference.)

5. Respondent filed a Summons and Complaint in this matter on October 17, 2017, and an amended Complaint on December 4, 2017 (Exhibit "2" attached hereto and incorporated herein by reference; see also Case Index: Exhibit "3" attached hereto and incorporated herein by reference.)

6. Respondent filed a Moton for Summary Judgment with exhibits on October 10, 2020 (Exhibit "4" attached hereto and incorporated herein by reference).

7. Appellant never filed a reply, affidavit, memorandum, or any other document in opposition to Respondent's Motion (See Case Index Exhibit "3").

8. On May 10, 2021, the day prior to the hearing on the Motion for Summary Judgment, Respondent emailed the Court and Appellant (hereinafter "Appellant") excerpts from the records of the Probate Case, which Respondent had previously referenced in its motion but refrained from

filing in this matter for privacy concerns. Respondent also provided a hard copy of the excerpts to the Court at the hearing. These excerpts are the only records from the Probate Case which were filed and/or presented to the lower court in this matter (Exhibit "1").

9. The hearing on Respondent's Motion for Summary Judgment was heard on May 11, 2021, before the Honorable Mikell R. Scarborough. Appellant, despite having actual notice of the hearing, did not timely appear. Judge Scarborough granted Respondent's Motion and filed an order on June 21, 2021. (Transcript, Exhibit "5" attached hereto and incorporated herein by reference).

10. Appellant did not file a Motion to Reconsider the Order (See Case Index, Exhibit "3").

11. Thereafter Appellant filed this appeal.

AND FURTHER THE AFFIANT SAYETH NOT.

D. Conor Keys

SWORN TO before me February 2 2023.

Sarah Credle Walls

Notary Public for South Carolina
My Commission Expires: 1.16.2029

**From:** David Conor keys
**Sent:** Monday, May 10, 2021 5:20 PM
**To:** MIELawClerk; patricia@nbct2001.com
**Subject:** RE: P smith 2017 CP 100 5427 - MEDIATION OF CIVIL CASE IN PROBATE COURT -please letter to Judge Scarborough- recovering from sepsis effects - loss speech and mobility

Lillian

Attached please find the probate records referenced in Plaintiff's motion for Summary Judgement schedule for tomorrow at noon. The records were not originally filed with motion to keep them out of the public records for the sake of privacy.

D. Conor Keys
The Law Office of
David Conor Keys, LLC
PO Box 14225
Charleston, SC 29422
843-906-3998
conor@dconorkeyslaw.com

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**From:** MIELawClerk
**Sent:** Monday, May 10, 2021 12:09 PM
**To:** patricia@nbct2001.com
**Cc:** David Conor keys
**Subject:** RE: P smith 2017 CP 100 5427 - MEDIATION OF CIVIL CASE IN PROBATE COURT -please letter to Judge Scarborough- recovering from sepsis effects - loss speech and mobility

Ms. Smith,
I have communicated your concerns with Judge Scarborough regarding the hearing on the Plaintiff's Motion for Summary Judgment that is scheduled for tomorrow. However, this matter has been continued multiple times previously and will go forward tomorrow. You are welcome to appear by WebEx or in-person. There is no requirement that you have to appear. Thank you.

Lillian P. Wilkerson, Esq.

STATE OF SOUTH CAROLINA
IN THE PROBATE COURT

EXEMPLIFICATION

IN THE MATTER OF: MURIEL CLARKIN
CASE NUMBER: 2014GC10-0209

U.S. CODE TITLE 28-1739 CHARLESTON COUNTY

As Clerk of the Probate Court, Charleston County, State of South Carolina, I certify that the attached copies of the documents described below are true and accurate reproduction of the documents now on file in this office.

Number and description of attached documents:

1. Documents from the Guardianship/Conservatorship File for MURIEL CLARKIN.

Date: August 15, 2019

Clerk of Probate Court

As a Judge of the Probate Court of Charleston County, State of South Carolina, I certify that the signature appearing above is that of the Deputy Clerk of Probate for Charleston County, who is duly sworn. I further certify that the seal affixed to the certificate appearing above is the seal of this Court and that it has been used in good form by the proper officer.

Date: August 15, 2019

Associate Judge of Probate Court

As Deputy Clerk of Probate Court for Charleston County, State of South Carolina, I certify that the signature appearing above is that of a duly sworn Judge of the Probate Court of Charleston County, State of South Carolina.

Date: August 15, 2019

Clerk of Probate Court

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| STATE OF SOUTH CAROLINA )<br>)<br>COUNTY OF CHARLESTON )<br>) | IN THE PROBATE COURT<br><br>CASE NO.: 2014-GC-10-0209 |
| Muriel Clarkin Kennedy, )<br>Petitioner, )<br>) | ORDER APPOINTING<br>TEMPORARY CONSERVATOR |
| -versus- )<br>) | |
| Muriel W. Clarkin, an allegedly )<br>incapacitated person, and Patricia )<br>Clarkin Smith, Charles )<br>Clarkin, Jr., and Michael Clarkin, )<br>by and through his Guardian, )<br>Muriel Clarkin Kennedy, next of )<br>kin, )<br>Respondents. ) | |

This matter came before the Court upon the Emergency Petition for Appointment of Temporary Conservator, filed December 22, 2014, by the Petitioner, Muriel Clarkin Kennedy.

Upon review of the Petition, attachments and testimony, I make the following emergency preliminary findings of law and fact:

1. Muriel W. Clarkin is alleged to be an incapacitated person, as defined by South Carolina law.

2. Muriel W. Clarkin's physician has certified in writing that Muriel W. Clarkin, is incapacitated and unable to make decisions for herself and in her best interest.

3. Muriel W. Clarkin's physician has also stated that she is stable with decision making ability but that ability will decline due to a diagnosis of Alzheimer's disease.

4. No conservator has been appointed for Muriel W. Clarkin. It is essential to the welfare of Muriel W. Clarkin that a temporary conservator be appointed to care for her, until a full hearing can be held on the matter of a permanent conservatorship.

5. It appears that Family Services Inc. is suitable to be appointed as temporary conservator.

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Based on the above findings, it is hereby ORDERED as follows:

1. Muriel W. Clarkin is adjudged to be an incapacitated person, as defined by South Carolina Probate Code δ62-5-101(1), whose immediate welfare requires the appointment of a temporary conservator.

2. Family Services Inc. is hereby appointed as temporary conservator for Muriel W. Clarkin, with the right to care and custody of Muriel W. Clarkin's assets and monthly income, and all the authority of a permanent conservator, as set out in South Carolina Probate Code δ62-5-424 and δ62-5-425.

3. Family Services, Inc., as Temporary Conservator, shall not sell or dispose of any real or personal property without prior Court approval.

4. Family Services, Inc., as Temporary Conservator, shall be authorized to pay all normal day to day expenditures for the care of Muriel W. Clarkin; however, any extra-ordinary expenditure shall require prior Court approval.

5. There shall be no Estate planning in effect, to include the making of a Will or Power of Attorneys, until she has been examined by a Court Appointed Designated Examiner.

6. A hearing to review this appointment shall be held within six months of this date. A Notice of Hearing will be issued. All interested persons shall be notified of this appointment of temporary conservator, and of the upcoming review hearing.

AND IT IS SO ORDERED.

JUDGE OF PROBATE
CHARLESTON COUNTY

Charleston, South Carolina

Date: January 16, 2015

STATE OF SOUTH CAROLINA )
)
COUNTY OF CHARLESTON )

PROBATE COURT

IN THE MATTER OF **MURIEL W. CLARKIN**

CASE NUMBER **2014GC10-0209**

## CERTIFICATE OF APPOINTMENT

This is to certify that

**FAMILY SERVICES, INC.**

is the duly qualified

_ PERSONAL REPRESENTATIVE
_ GUARDIAN
X TEMPORARY CONSERVATOR
_ TRUSTEE

in the above matter and that this appointment, having been executed on the 16th day of January, 2015 is now in full force and effect; including authorization to receive all monies, income, principal, interest and dividends of and belong to said estate.

**RESTRICTIONS:**

**Family Services, Inc. is allowed to close any and all accounts held by any financial institution; to also include removing any holds on the account and allowing Family Services to receive the funds as Conservator.**

Executed this 16th day of January, 2015.

Tamara C. Curry

TAMARA C. CURRY, Associate Judge of Probate

Do not accept a copy of this certificate without the raised seal of the Probate Court.
Form #141PC (7/87)
SCPC 1-305, 3-103, 5-304, 5-421, 7-2

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| STATE OF SOUTH CAROLINA )<br>)<br>COUNTY OF CHARLESTON )<br>)<br>)<br>Muriel Clarkin Kennedy, )<br>Petitioner, )<br>)<br>-versus- )<br>)<br>Muriel W. Clarkin, an allegedly )<br>incapacitated adult, Patricia )<br>Clarkin Smith, Charles Clarkin, )<br>Jr., and Michael Clarkin, by and )<br>through his Guardian, Muriel )<br>Clarkin Kennedy, next of kin, )<br>)<br>Respondents. ) | IN THE PROBATE COURT<br><br>CASE NO.: 2014-GC-10-0209<br><br>ORDER APPOINTING CONSERVATOR |

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**PROCEDURAL HISTORY**

The Petitioner, Muriel Clarkin Kennedy, on December 22, 2014, filed Emergency Petitions for the appointment of a temporary guardian and temporary conservator for Muriel W. Clarkin, the allegedly incapacitated respondent. This Court appointed Petitioner as temporary guardian. Respondent, Patricia Clarkin Smith, filed a Petition to Dismiss the Ex Parte Order Appointing Temporary Guardian. The Court held a hearing on the Petition to Dismiss, the affirmation of the Temporary Guardian and appointment of Temporary Conservator on January 9, 2014. At that hearing the Petition to Dismiss was denied and the court appointed Carol Seltzer as Temporary Guardian and Family Services, Inc., as Temporary Conservator.

This Court held a full hearing on the issue of the permanent appointment of a guardian and conservator, with notice being given to all interested persons, on March 19,

2015. Muriel W. Clarkin was present at the hearing and represented by her court appointed attorney and Guardian ad Litem, Ellen H. Babb, Esquire. Petitioner was present and represented by Renee C. Newman, Esquire; Respondent, Patricia Clarkin Smith was present and represented by Alan Toporek, Esquire; Respondent, Charles Clarkin, Jr., was present and not represented by counsel; Respondent, Michael Clarkin was not present, but was represented by his guardian, Muriel Clarkin Kennedy.

Based on the testimony, pleadings, reports, agreement and consents from all parties the Court makes the following findings of fact concerning the nature and degree of Muriel W. Clarkin's alleged incapacity:

**FINDINGS OF FACT**

1. Muriel W. Clarkin is an 82-year-old woman who currently resides at 911 S. Shem Drive, Mt. Pleasant, South Carolina, her long time residence. Mrs. Clarkin is very active socially and spends quite a bit of time with her children. Muriel W. Clarkin wishes to maintain this active lifestyle.

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2. Mrs. Clarkin was evaluated pursuant to Court Order by designated examiners Leonard W. Mulbry, Jr., MD, and Debra A. Dinolfo, M.A., LPC.

3. Dr. Mulbry testified he diagnosed Mrs. Clarkin with Major Depressive Disorder and Neurocognitive Disorder, Mild.

4. Dr. Mulbry also testified these diagnoses render Mrs. Clarkin susceptible to undue influence.

5. Dr. Mulbry further testified that Mrs. Clarkin had a very difficult time providing information about her assets and liabilities. He testified that she had

basically lost touch with her finances, with who was paying her bills and where her money was going.

6. Ms. Dinolfo testified that based on the evidence at the hearing she was of the opinion Mrs. Clarkin was unable to manage her finances.

7. Both examiners opined that Mrs. Clarkin lacked sufficient understanding or capacity to make responsible decisions concerning her finances and assets. The examiners recommended that a permanent Conservator be appointed for Mrs. Clarkin.

8. Ellen H. Babb, Esq., attorney and GAL for Mrs. Muriel W. Clarkin, relayed to the Court that she believed a Conservator was necessary and in the best interest of Mrs. Clarkin.

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9. Attorney Babb also relayed to the Court that Mrs. Clarkin wished to retain as much freedom as possible and requested to retain as many of her rights as possible.

Based on the above findings of fact, the Court makes the following

## CONCLUSIONS OF LAW

1. The Court finds that there is clear and convincing evidence that Muriel W. Clarkin is incapacitated to such an extent that she lacks sufficient understanding or capacity to make or communicate responsible decisions regarding her property, finances and her person.

2. The Court finds that Muriel W. Clarkin has assets which will be wasted or dissipated unless proper management is provided.

3. The Court finds that Muriel W. Clarkin is a person for whom the appointment of a conservator is proper, necessary and desirable as a means of managing her assets, property and person for her welfare, safety and benefit and that there is no other viable alternative for the protection of her estate.

4. The Court finds that the interest of Muriel W. Clarkin will be served at this time by the appointment of Family Services, Inc. as her permanent conservator. Family Services, Inc. is a proper, suitable entity to be appointed and to serve as conservator for Muriel W. Clarkin, and has consented to act in such capacity

It is therefore ORDERED as follows:

1. That Muriel W. Clarkin is incapacitated to such an extent that she cannot exercise the following rights as recorded in Section 44-22-80 of the Code of Laws for South Carolina, 1976 as amended: To dispose of real property; to execute instruments; to hold a driver's license unless the Court receives a report from her physician opining she has the ability to operate a vehicle; to ship, transport, possess or receive a firearm or ammunition; or to marry or divorce.

2. Muriel W. Clarkin retains the right to be a qualified elector or voter, make purchases up to a value of $250.00, dispose of personal property if it does not jeopardize her financial security; and to enter into small day to day contracts, such as a utility bills.

3. That all estate planning documents, including but not limited to a Last Will and Testament and any Codicils, executed by Muriel W. Clarkin

shall be provided to the Court and cannot be changed, amended or modified without Court approval.

4. That the Durable Power of Attorney executed by Muriel W. Clarkin on December 8, 2014, be renounced as null and void and the renunciation filed with the Charleston County RMC office.

5. That Family Services, Inc. shall consult with Muriel W. Clarkin and her family prior to making any significant changes or expenditures from the assets of Muriel W. Clarkin, but the final decision shall be that of the Conservator.

6. That Family Services, Inc. is appointed and constituted as conservator for the assets, affairs and estate of Muriel W. Clarkin. Family Services, Inc. as conservator shall make all financial decisions regarding Muriel W. Clarkin. Letters of Conservatorship shall be issued to the Conservator by this Court. Family Services, Inc. is covered by its corporate bond for this appointment.

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7. That the Conservator shall pay all normal day to day expenses of Muriel W. Clarkin without further Order of this Court; however, any unusual or extraordinary expense in excess of $500.00 shall require prior Court approval before payment.

8. The Conservator shall obtain prior Court approval before selling any real or personal property of Muriel W. Clarkin.

9. Family Services, Inc., as conservator, shall pay out of the funds of Muriel W. Clarkin, the costs of this action, including but not limited to, a fee for the court appointed designated examiners; and for any and all other costs normally and usually arising therefrom.

10. The court appointed attorney and Guardian ad Litem, Ellen H. Babb, Esquire, shall provide the Court with her Affidavit of Attorney's Fees, itemized bill and proposed Order for approval.

11. That the Conservator shall keep Muriel W. Clarkin informed at all times of the financial condition of her estate.

12. That a report on this matter shall be filed by the Conservator with the Court six (6) months from the date of this Order.

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In compliance with S.C. Code Section Ann. 23-21-1040(D), all parties are hereby notified that it is unlawful and a felony under state and federal law for Muriel W. Clarkin to ship, transport, possess, or receive a firearm or ammunition.

This order is subject to such further orders of the Probate Court of Charleston County as may be or shall become necessary for the custody and care of Muriel W. Clarkin and her estate.

AND IT IS SO ORDERED.

TAMARA C. CURRY
ASSOCIATE JUDGE OF PROBATE
Charleston County

Charleston, South Carolina

Date: March 27, 2015

Attest : A True Copy

Clerk Probate Court
Charleston County, South Carolina

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| STATE OF SOUTH CAROLINA ) | IN THE PROBATE COURT |
| ) | |
| COUNTY OF CHARLESTON ) | CASE NO.: 2014-GC-10-0209 |
| ) | |
| ) | |
| Muriel Clarkin Kennedy, ) | |
| Petitioner, ) | ORDER APPOINTING |
| ) | LIMITED GUARDIAN |
| -versus- ) | |
| ) | |
| Muriel W. Clarkin, an allegedly ) | |
| incapacitated adult, Patricia ) | |
| Clarkin Smith, Charles Clarkin, ) | |
| Jr., and Michael Clarkin, by and ) | |
| through his Guardian, Muriel ) | |
| Clarkin Kennedy, next of kin, ) | |
| ) | |
| Respondents. ) | |
| ) | |

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**PROCEDURAL HISTORY**

The Petitioner, Muriel Clarkin Kennedy, on December 22, 2014, filed Emergency Petitions for the appointment of a temporary guardian and temporary conservator for Muriel W. Clarkin, the allegedly incapacitated respondent. This Court appointed Petitioner as temporary guardian. Respondent, Patricia Clarkin Smith, filed a Petition to Dismiss the Ex Parte Order Appointing Temporary Guardian. The Court held a hearing on the Petition to Dismiss, the affirmation of the Temporary Guardian and appointment of Temporary Conservator on January 9, 2014. At that hearing the Petition to Dismiss was denied and the Court appointed Carol Seltzer as Temporary Guardian and Family Services, Inc., as Temporary Conservator.

This Court held a full hearing on the issue of the need for a permanent appointment of a Guardian and Conservator, with notice being given to all interested

persons, on March 19, 2015. Muriel W. Clarkin was present at the hearing and represented by her court appointed attorney and Guardian ad Litem, Ellen H. Babb, Esquire. Petitioner was present and represented by Renee C. Newman, Esquire; Respondent, Patricia Clarkin Smith was present and represented by Alan Toporek, Esquire; Respondent, Charles Clarkin, Jr., was present and not represented by counsel; Respondent, Michael Clarkin was not present, but was represented by his guardian, Muriel Clarkin Kennedy.

Based on the testimony, pleadings, reports, agreement and consents from all parties the Court makes the following findings of fact concerning the nature and degree of Muriel W. Clarkin's alleged incapacity:

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**FINDINGS OF FACT**

1. Muriel W. Clarkin is an 82 year-old woman who currently resides at 911 S. Shem Drive in Mt. Pleasant, South Carolina. While residing at S. Shem, Mrs. Clarkin also spends significant time at, her son, Michael Clarkin's home and her daughter, Patricia Clarkin Smith's home and is desirous of continuing to do so.

2. Muriel W. Clarkin is quite active with her church and social groups and wishes to continue to maintain that active lifestyle.

3. Muriel W. Clarkin was evaluated pursuant to Court Order by designated examiners Debra A. Dinolfo, M.A., LPC, and Leonard W. Mulbry, Jr., MD.

4. Ms. Dinolfo testified that Mrs. Clarkin appeared to be physicially frail and exposed to family strife. Ms. Dinolfo further testified that based on evidence

presented at the hearing she believed the family strife was detrimental to Mrs. Clarkin.

5. Finally, Ms. Dinolfo opined Mrs. Clarkin was unable to care for herself or make reasonable decisions concerning her finances and personal care.

6. Dr. Mulbry testified Mrs. Clarkin had a diagnosis of Nuerocognitive Disorder, Mild and a diagnosis of Major Depressive Disorder.

7. Dr. Mulbry testified that Mrs. Clarkin's diagnoses render her easily influenced.

8. Dr. Mulbry further testified that Mrs. Clarkin expressed her desire to see and visit with all of her children. Dr. Mulbry testified that Mrs. Clarkin understood that the fighting between her daughters was most likely to continue and was detrimental to/and diminished her quality of life, but continued to verbalize her desire to visit with and spend significant time with all of her children.

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9. The examiners opined that Muriel W. Clarkin lacked sufficient understanding or capacity to make responsible decisions concerning her person and her care. The examiners recommended a limited permanent guardian be appointed for her.

10. Ellen H. Babb, attorney and GAL for Muriel W. Clarkin, reported to the Court her agreement for the appointment of a permanent guardian and conservator. Attorney Babb further reported that Muriel W. Clarkin very much wanted to retain as many of her rights and freedoms as possible.

Based on the above findings of fact, the Court makes the following

## CONCLUSIONS OF LAW

1. The Court finds that there is clear and convincing evidence that Muriel W. Clarkin is incapacitated to such an extent that she lacks sufficient understanding or capacity to make or communicate responsible decisions regarding her person.

2. The Court finds that Muriel W. Clarkin is a person for whom the appointment of a limited guardian is proper, necessary and desirable as a means of providing her with continuing care and supervision.

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3. The Court finds that based on the testimony, evaluations and diagnoses, there is no other alternative in this matter and that Muriel W. Clarkin is in need of a limited permanent guardian.

4. The Court finds that the interest of Muriel W. Clarkin will be served at this time by the appointment of Cathy Mason as her limited permanent guardian. Cathy Mason is a proper, suitable and responsible person to be appointed and to serve as limited guardian for Muriel W. Clarkin.

It is therefore **ORDERED** as follows:

1. That Muriel W. Clarkin is an incapacitated person as defined in South Carolina Probate Code Section 62-5-101. She is in need of a limited guardian to safeguard her person and to make medical decisions for her.

2. That Cathy Mason, is appointed and constituted limited guardian for the person of Muriel W. Clarkin.

3. Cathy Mason is expressly empowered to consent to medical treatment of any kind, including but not limited to diagnostic evaluations as to Muriel W. Clarkin's medical and/or psychiatric condition; to the administration of antipsychotic or any psychiatric or other medications.

4. Cathy Mason must file with this Court a Guardianship Care Plan within sixty (60) days.

5. Cathy Mason as limited guardian, shall consult with Muriel W. Clarkin and her family prior to making any major health care or placement decisions; however, the ultimate and final decision shall be that of the guardian alone.

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6. Muriel W. Clarkin shall be allowed to set her own schedule with regard to her social activities, visitation and where she lives. Muriel W. Clarkin shall be able to visit with her children as she wishes. Cathy Mason as limited guardian shall assist Muriel W. Clarkin with carrying out the visitation/scheduling arrangements.

7. Cathy Mason as limited guardian shall apply to this Court for an Order prior to restricting or placing limitations on Mrs. Clarkin's schedule, visitations or residence.

8. Cathy Mason as limited guardian shall immediately apply to this Court for an Order to restrict visitation or make placement decisions for Mrs. Clarkin if there is a danger to the emotional or physical health of Mrs. Muriel W. Clarkin.

9. Cathy Mason as limited guardian shall provide a status report to the Court three (3) months from the date of this Order.

In compliance with S.C. Code Section Ann. 23-21-1040(D), all parties are hereby notified that it is unlawful and a felony under state and federal law for Muriel W. Clarkin to ship, transport, possess, or receive a firearm or ammunition.

This order is subject to such further orders of the Probate Court of Charleston County as may be or shall become necessary for the custody and care of Muriel W. Clarkin and her estate.

AND IT IS SO ORDERED.

TAMARA C. CURRY
ASSOCIATE JUDGE OF PROBATE
Charleston County

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Charleston, South Carolina
Date: March 27, 2015

Attest : A True Copy

Clerk Probate Court
Charleston County, South Carolina

AFF EX. 1

EXHIBIT A MTN DISMISS

STATE OF SOUTH CAROLINA )
)
COUNTY OF: CHARLESTON )
)
IN THE MATTER OF: Muriel W. Clarkin )
(Alleged Incapacitated Person) )

IN THE PROBATE COURT

CASE NUMBER: 2014-GC-10-

FILED
PROBATE COURT
14 DEC 22 PM 2:37

Muriel Clarkin Kennedy

Petitioner

vs.

Muriel W. Clarkin, an allegedly incapacitated person, Patricia Clarkin Smith, Charles Clarkin, Jr., and Michael Clarkin, by and through his guardian, Muriel Clarkin Kennedy,

Respondent

**PETITION FOR:**

☒ **FINDING INCAPACITY**
☒ **APPOINTMENT OF:**

☒ **GUARDIAN**
☐ **SUCCESSOR GUARDIAN**

I. **ALL PETITIONERS MUST COMPLETE THIS SECTION.**

1. Give your relationship to the alleged incapacitated person, if any, and your interest in this proceeding.

Adult daughter

2. Information -- Alleged Incapacitated Person

Name: Muriel W. Clarkin Age: 82
Date of Birth: September 19, 1932
Address: 911 S. Shem Drive
City/State/Zip: Mt. Pleasant, SC 29464
Telephone:

To my knowledge, above named ☐ *DOES* ☒ *DOES NOT* have a Health Care Power of Attorney.
To my knowledge, above named ☐ *DOES* ☒ *DOES NOT* have a Living Will (Declaration of a Desire for a Natural Death.)

3. Jurisdiction and Venue

South Carolina has jurisdiction over the allegedly incapacitated adult because:

A. ☒ South Carolina is the "Home State" because the allegedly incapacitated person has been physically present in South Carolina for the six month period immediately preceding the filing of this petition or for at least six consecutive months ending within the six month period immediately preceding the filing of this petition; or

☐ If the allegedly incapacitated person has not been physically present in South Carolina for that period, set forth on an additional sheet sufficient information on which the court may make a determination that it has initial jurisdiction pursuant to Section 62-5-707.

☐ Special jurisdiction is appropriate, if South Carolina does not have jurisdiction pursuant to Sections 62-5-707(1) through (3), to:





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(1) appoint a guardian in an emergency pursuant to this article ... a term not exceeding ninety days for a respondent who is physically present in this State;

(2) issue a protective order with respect to real or tangible personal property located in this State; or

(3) appoint a guardian or conservator for an incapacitated or protected person for whom a provisional order to transfer the proceeding from another state has been issued pursuant to procedures similar to Section 62-5-714.

B. Venue for this proceeding is in this county because the alleged incapacitated person:

☒ resides in this county.
☐ is present in this county.
☐ is admitted to an institution pursuant to an order of a court of competent jurisdiction in this county.

4. Information—Family of alleged incapacitated person, including dates of birth of minors. If there are no minors, so state.

| Name | Date of Birth | Address | Relationship to Alleged Incapacitated Person |
|---|---|---|---|
| Muriel Clarkin Kennedy | over 18 | 911 S. Shem Dr., Mt. Pleasant, SC | daughter |
| Patricia Clarkin Smith | over 18 | 602 Atlantic Street, Mt. Pleasant, SC | daughter |
| Charles Clarkin, Jr. | over 18 | 1053 Rifle Range Rd., Apt 28, Mt. Pleasant, SC | son |
| Michael Clarkin | over 18 | 8 4th Ave., Isle of Palms, SC | son |
| | | | |
| | | | |

(use additional sheet if necessary)

5. The nature and degree of incapacity is as follows:

Mrs. Clarkin has been diagnosed with Alzheimers dementia. Mrs. Clarkin also suffers from depression, high cholesteral, arthritis in addition to other physical ailments. Mrs. Clarkin is unable to prepare her own food, she does not drive, her short term memory is very poor, she is unable to manage her medications and forgets to take the medications unless prompted. Mrs. Clarkin is a fall risk and has suffered numerous falls in the past resulting in concussions. Mrs. Clarkin needs a safe and peaceful environment and she is unable to take the necessary steps to ensure her physicial safety.

## II. COMPLETE THIS SECTION IF APPOINTMENT IS SOUGHT.

1. Is it your belief that the alleged incapacitated person is in need of a guardian/successor guardian as a means of providing continuing care and supervision of the person of said incapacitated person?
☒ YES ☐ NO If no, please explain.

2. The extent to which the guardian should be permitted to give consents or approvals that may be necessary to enable the alleged incapacitated person to receive medical or other professional care, counsel, treatment, or services is as follows:

unlimited

3. The nature and extent of the care, assistance, protection, or supervision which is necessary or desirable for the alleged incapacitated person under the circumstances is as follows:

full

4. Has a guardian appointed by a Will accepted such appointment?
☐ NO ☐ YES If yes, please explain.

N/A

5. I request the appointment of:

Name: Muriel Clarkin Kennedy
Address: 911 S. Shem Drive
Mt. Pleasant, SC
Telephone (O):
(H): 843-729-9043
E-mail:

whose priority for appointment as guardian for the alleged incapacitated person is as follows:

☐ a person nominated to serve as guardian by the alleged incapacitated person
☐ an attorney-in-fact appointed by the alleged incapacitated person pursuant to Section 62-5-501
☐ spouse of the alleged incapacitated person
☒ adult child of the alleged incapacitated person
☐ parent of the alleged incapacitated person
☐ other relative of the alleged incapacitated person (specify): _____
☐ nominated by the person who is caring for the alleged incapacitated person or paying benefits to him/her
☐ Other (specify): _____

6. Is it necessary to appoint a temporary guardian for the alleged incapacitated person until a hearing can be held on this Petition?
☐ NO ☒ YES If yes, please state the emergency reasons.

In addition to the previously listed reason for a temporary guardian to address Mrs. Clarkin's physician needs, she is being continually upset by the behavior of her daughter Patricia Clarkin Smith. The police have been called to diffuse Patricia Smith's behavior two times in the past week. Patricia Smith is adamant that she cannot be left alone due to severe health issues and is insistent that her mother be with her to provide care. Petitioner believes Patricia Smith wants to have access to her mother so that Patricia Smith can take Mrs. Clarkin to sign legal papers and/or make additional bank withdrawals.

III. **ALL PETITIONERS MUST COMPLETE THIS SECTION.**

1. ☒ I request that the Court set a time and place of hearing on this Petition and that the Court determine that the above person is incapacitated.

2. ☒ I request that the Court determine that the need for the appointment of a guardian is proper; and that the Court appoint Murial Clarkin Kennedy as the Guardian for the above person; and, that Letters of Guardianship be issued to the guardian.

3. The following persons are required by statute to be given notice of the time and place of hearing on this Petition: (SCPC 5-309)

| Name | Address | Relationship |
|---|---|---|
| see Item I, number 4 | | |
| | | |
| | | |
| | | |
| | | |

## VERIFICATION

The undersigned, being sworn states: That the facts set forth in the foregoing statement are true to the best of the undersigned's knowledge, information and belief.

SWORN to before me this 22nd day of December, 20 14

Notary Public for South Carolina
My Commission Expires: Feb. 25, 2019

Signature: [signature]
Name: Murial Clarkin Kennedy
Address: 911 S. Shem Drive
Mt. Pleasant, SC 29464
E-mail:
Telephone (O):
(H): 843-729-9043

Signature:
Name:
Address:
E-mail:
Telephone (O):
(H):

## QUALIFICATION AND STATEMENT OF ACCEPTANCE

I accept this appointment and agree to perform the duties and discharge the trust of the office of Guardian of the incapacitated person of Muriel W. Clarkin.

SWORN to before me this _____ day of _____, 20 _____

Notary Public for South Carolina

Signature:
Name: Muriel Clarkin Kennedy
Address: 911 S. Shem Drive
Mt. Pleasant, SC 29464
E-mail:

AFF EX. 1

EXHIBIT A MTN DISMISS

My Commission Expires: _____

Telephone (O): _____

(H): 843-729-9043

Signature: _____

Name: _____

Address: _____

_____

E-mail: _____

Telephone (O): _____

(H): _____

AFF EX. 1

EXHIBIT A MTN DISMISS

STATE OF SOUTH CAROLINA )
)
COUNTY OF: CHARLESTON )
)

IN THE PROBATE COURT

IN THE MATTER OF: MURIEL W. CLARKIN

CASE NUMBER: 2014-GC-10-

MURIEL CLARKIN KENNEDY
Petitioner

**PETITION FOR:**

☐ **MINOR**
☒ **ADULT**

vs.

☒ **PROTECTIVE ORDER**
☒ **APPOINTMENT OF CONSERVATOR**

MURIEL W. CLARKIN, AN ALLEGEDLY INCAPACITATED ADULT, PATRICIA CLARKIN SMITH, CHARLES CLARKIN, AND MICHAEL CLARKIN, BY AND THROUGH HIS GUARDIAN MURIEL CLARKIN KENNEDY,
Respondent(s)

FILED
PROBATE COURT
14 DEC 22 PM 2:37
TDD

Petitioner: MURIEL CLARKIN KENNEDY

1. Give your relationship to the alleged incapacitated person, if any, and your interest in this proceeding.

ADULT DAUGHTER

2. Information – Minor/Allegedly Incapacitated Person

| | | | |
|---|---|---|---|
| Name: | MURIEL W. CLARKIN | Age: | 82 |
| Date of Birth: | SEPTEMBER 19, 1932 | | |
| Last Four Digits of Social Security Number: | XXX-XX- | | |
| Address: | 911 S. SHEM DRIVE | | |
| City/State/Zip: | MT. PLEASANT, SC 29464 | | |
| Telephone (Home): | | (Office/other): | |

To my knowledge, the above-named ☒ DOES ☐ DOES NOT have a Will

To my knowledge, the above-named ☒ DOES ☐ DOES NOT have a Power of Attorney

3. Jurisdiction and Venue

South Carolina has jurisdiction over the allegedly incapacitated adult because:

A. ☒ South Carolina is the "Home State" because the allegedly incapacitated person has been physically present in South Carolina for the six month period immediately preceding the filing of this petition or for at least six consecutive months ending within the six month period immediately preceding the filing of this petition; or

☐ If the allegedly incapacitated person has not been physically present in South Carolina for that period, set forth on an additional sheet sufficient information on which the court may make a determination that it has initial jurisdiction pursuant to Section 62-5-707.

☐ Special jurisdiction is appropriate, if South Carolina does not have jurisdiction pursuant to Sections 62-5-707(1) through (3), to:

(1) appoint a guardian in an emergency pursuant to this article for a term not exceeding ninety days for a respondent who is physically present in this State;

(2) issue a protective order with respect to real or tangible personal property located in this State; or

(3) appoint a guardian or conservator for an incapacitated or protected person for whom a provisional order to transfer the proceeding from another state has been issued pursuant to procedures similar to Section 62-5-714.

B. Venue for this proceeding is proper in this county because the above minor/alleged incapacitated person:

☒ resides in this county

☐ does not reside in this county but has property in this county

4. The name and address of the above person's guardian, if any, is:
N/A

5. Information -- Family (list nearest relative first) of minor/alleged incapacitated person, including dates of birth of minors:

| Name | Date of Birth | Address | Relationship |
|---|---|---|---|
| MURIEL CLARKIN KENNEDY | OVER 18 | 911 S. SHEM DR., MT. PLEASANT, SC | DAUGHTER |
| PATRICIA CLARKIN SMITH | OVER 18 | 602 ATLANTIC STREET | DAUGHTER |
| CHARLES CLARKIN, JR. | OVER 18 | 1053 RIFLE RANGE RD., APT 28, MT. PLEASANT, SC | SON |
| MICHAEL CLARKIN | OVER 18 | 8 4TH AVE., ISLE OF PALMS, SC | SON |
| | | | |

(use additional sheet if necessary)

6. The following is a general statement of the property, assets, and income of the above person, together with an estimate of the value thereof: (A full inventory, Form #550PC, shall be completed and filed with the Court within thirty days of appointment.)

| Description | Value |
|---|---|
| 911 S. SHEM DRIVE, MT. PLEASANT, 602 ATLANTIC STREET, MT. PLEASANT | (1/2 INTEREST IN BOTH) |
| SOCIAL SECURITY AND RETIREMENT INCOME (MONTHLY) | 2411.00 |
| INVESTMENT INCOME (MONTHLY) | 150.00 APX |
| CETERA (300,000) AND EDWARD JONES (68,000) | 368,000.00 APX |

7. The appointment of a conservator for the above person is necessary because (state reasons justifying appointment):

MRS. CLARKIN HAS BEEN DIAGNOSED WITH ALZHEIMERS DEMENTIA AND IS CURRENTLY PARTICIPATING IN AN ALZHEIMER'S RESEARCH STUDY AT ROPER HOSPITAL. MRS. CLARKIN SUFFERS FROM DEPRESSION AND SEVERAL PHYSICIAL HEALTH CONDITIONS. WHILE MRS. CLARKIN HAS THROUGHOUT HER LIFE BEEN GENEROUS FINANCIALLY WITH HER CHILDREN, SHE IS NOW VULNERABLE AND EASILY MANIPULATED. MRS. CLARKIN'S DAUGHTER PATRICIA C. SMITH HAS TAKEN MRS. CLARKIN TO THE BANK IN AN EFFORT TO OBTAIN FUNDS, SHE HAS REQUESTED AN EQUITY LOAN ON HER HOME BE PAID OFF WITH MRS. CLARKIN'S FUNDS AND HAS BEEN THE RECEPIENT OF MONIES TO MAKE REPAIRS ON HER HOME (JOINTLY TITLED WITH MRS. CLARKIN) AND THE REPAIRS HAVE NOT BEEN MADE. PETITIONER HAS BEEN MANAGING MRS. CLARKIN'S FINANCES FOR APPROXIMATELY ONE YEAR. DAUGHTER PATRICIA SMITH WAS SUPPOSED TO PAY RENT TO MRS. CLARKIN IN THE AMOUNT OF $600.00 PER MONTH. PETITIONER HAS NOT RECEIVED THE MONEY AND CANNOT FIND IT BEING DEPOSITED IN ANY ACCOUNT AND MRS. CLARKIN DOES NOT KNOW WHERE THE RENTAL MONEY GOES. IN NOVEMBER 2014, PATRICIA SMITH WITHDREW OR HAD MRS. CLARKIN WITHDRAW $6,000.00 FROM MRS. CLARKIN'S SAVING ACCOUNT FOR THE USE OF PATRICIA SMITH. WHILE MRS. CLARKIN HAS SUFFICIENT FUNDS TO SUPPORT HERSELF AT THIS POINT, SHE HAS A FAMILY HISTORY OF LONGEVITY AND IF NURSING HOME CARE OR ASSISTED LIVING CARE IS REQUIRED, SHE WILL NEED HER MONIES.

8. I request the appointment of:

Name: MURIEL CLARKIN KENNEDY
Address: 911 S. SHEM DRIVE
MT. PLEASANT, SC 29464
Telephone (O):
Telephone (H): 843-729-9043
Email:

whose priority for appointment as conservator for the above person is as follows:

- ☐ fiduciary appointed or recognized by the appropriate court of any other jurisdiction in which the minor/alleged incapacitated person resides
- ☐ individual or corporation nominated by the minor/alleged incapacitated person (if fourteen or more years of age and deemed mentally capable of making such a choice)
- ☐ attorney-in-fact appointed by protected person (Pursuant to S.C. Code Ann. Section 62-5-501)
- ☐ spouse of protected person
- ☒ adult child of protected person
- ☐ parent of protected person or person nominated by will of deceased parent
- ☐ other relative of protected person (specify): _____
- ☐ person nominated by the person who is caring for protected person or paying benefits to him/her
- ☐ nominated by one with priority to serve in his/her stead (specify): _____
- ☐ other (specify) _____

9. The following persons are required by statute to be given notice of the time and place of hearing on this Petition:

| Name | Address | Relationship |
|---|---|---|
| SEE NUMBER 5 ABOVE | | |
| | | |
| | | |
| | | |

10. I request that the Court set a time and place of hearing on this Petition; that the Court determine that the above person is a person for whom appointment of a conservator is proper; that the Court appoint Muriel Clarkin Kennedy as the conservator for the above minor/incapacitated person; and, that Letters of Conservatorship be issued to the conservator.

Executed this 22 day of DECEMBER 14, 20 .

Signature: Muriel C Kennedy

## VERIFICATION

The undersigned, being sworn, states: That the facts set forth in the foregoing statement are true to the best of the undersigned's knowledge, information and belief.

SWORN to before me this 22 day of December, 20 14

Lewis C. Allen

Notary Public for South Carolina

My Commission Expires: Feb. 25, 2019

Signature: Muriel C Kennedy
Name: Muriel Clarkin Kennedy
Address: 911 S. Shem Drive
Mt. Pleasant, SC 29464
E-mail:
Telephone (O):
(H): 843-729-9043

Signature:
Name:
Address:
E-mail:
Telephone (O):
(H):

## QUALIFICATION AND STATEMENT OF ACCEPTANCE

I accept this appointment and agree to perform the duties and discharge the trust of the office of Conservator of the conservatorship of Muriel W. Clarkin.

Executed this _____ day of _____, 2015.

SWORN to before me this _____ day of _____, 20 _____

Notary Public for South Carolina

My Commission Expires: _____

Signature:
Name: Muriel Clarkin Kennedy
Address: 911 S. Shem Drive
Mt. Pleasant, SC 29464
E-mail:
Telephone (O):
(H): 843-729-9043

Signature: _____
Name: _____
Address: _____
_____
E-mail: _____
Telephone (O): _____
(H): _____

STATE OF SOUTH CAROLINA )
)
COUNTY OF CHARLESTON )
)
)
Muriel Clarkin Kennedy, )
Petitioner, )
)
-versus- )
)
Muriel W. Clarkin, an allegedly )
incapacitated person, and Patricia )
Clarkin Smith, Charles )
Clarkin, Jr., and Michael Clarkin, )
by and through his Guardian, )
Muriel Clarkin Kennedy, next of )
kin, )
Respondents. )
)

IN THE PROBATE COURT

CASE NO.: 2014-GC-10-209

FILED
14 DEC 22 PM 1:33
CHARLESTON COUNTY

VERIFICATION

PERSONALLY APPEARED BEFORE ME the Petitioner in this action, Muriel Clarkin Kennedy, and swear that all of the allegations contained in the attached Petition are true to the best of her personal knowledge and belief.

Muriel Clarkin Kennedy
MURIEL CLARKIN KENNEDY

SWORN TO before me this 22 day of Dec, 2014.

Denise C. Lum
Notary Public for South Carolina
My Commission Expires: Feb. 25, 2015

STATE OF SOUTH CAROLINA )
)
COUNTY OF CHARLESTON )
)
)
Muriel Clarkin Kennedy, )
Petitioner, )
)
-versus- )
)
Muriel W. Clarkin, an allegedly )
incapacitated person, and Patricia )
Clarkin Smith, Charles )
Smith, Jr., and Michael Clarkin, )
by and through his Guardian, )
Muriel Clarkin Kennedy, next of )
kin, )
Respondents. )
)

IN THE PROBATE COURT

CASE NO.: 2014-GC-10-209

FILED
14 DEC 22 PM 1:33
CHARLESTON COUNTY

NOTICE NISI

TO THE ABOVE NAMED RESPONDENTS:

PLEASE TAKE NOTICE that unless application is made for the appointment of a Guardian ad Litem for the allegedly incapacitated Respondent, MURIEL W. CLARKIN by the Respondent or anyone on her behalf, within the next thirty (30) days from the service of this Notice, the Petitioner will apply to the Charleston County Probate Court for the appointment of a Guardian ad Litem for the said MURIEL W. CLARKIN to represent her and protect her interest in the above captioned proceedings.

ATTORNEY FOR THE PETITIONER

Renee C. Newman
764 St. Andrews Blvd.
Charleston, SC 29407
(843) 571-5000
SC Bar # 9906

Charleston, South Carolina
Date: Dec. 22, 2014

AFF EX. 1 EXHIBIT A MTN DISMISS

STATE OF SOUTH CAROLINA, )
) IN THE PROBATE COURT
COUNTY OF CHARLESTON )

FILED
14 DEC 22 PM 1:33
CHARLESTON COUNTY

Muriel Clarkin Kennedy )
Petitioner, ) SUMMONS
)
vs. ) CASE NO. 2014-GC-10-209
)
Muriel W. Clarkin, an allegedly )
incapacitated adult, Patricia Clarkin Smith
Charles Clarkin and Michael Clarkin, by and
through his Guardian, Muriel Clarkin
Kennedy,
Respondent(s). )

TO THE RESPONDENT(S) ABOVE-NAMED:

YOU ARE HEREBY SUMMONED and required to answer the Petition herein, a copy of which is herewith served upon you, and to serve a copy of your Answer to this Petition upon the subscriber, at the address shown below, within thirty (30) days after service hereof, exclusive of the day of such service, and if you fail to answer the Petition, judgment by default will be rendered against you for the relief demanded in the Petition.

Charlesotn, South Carolina

Dated: December 22, 2014

Petitioner/Attorney for Petitioner

Address: PO Box 30111, Charleston, SC 29417

SCCA 401PC (9/11)

Roper St. Francis Healthcare

CONSENT TO BE A RESEARCH SUBJECT

## STATEMENT OF DECISION CAPACITY

To Whom It May Concern:

I, Jacobo Mintzer (investigator's name printed) do hereby attest that Muriel W. Clarkin (subject's name printed) has the decision capacity to understand the information contained in the informed consent for **"Standard Clinical Assessment"** conducted at Roper St. Francis Healthcare.

YES ✓ NO

Investigator's Signature

11/12/14
Date

ROPER ST. FRANCIS
IRB Approved: 2/5/14
Expires: 2/4/15

**Roper Saint Francis Healthcare (RSFH)**
**Health Insurance Portability and Accountability Act (HIPAA)**
**Authorization to Use or Disclose**
**Protected Health Information (PHI) for Research Purposes**

Study Title: Standard Clinical Assessment

Study Protocol: SCA

Study Sponsor: Roper Saint Francis Healthcare

Principal Investigator: Jacobo Mintzer, MD
Roper Saint Francis Healthcare
Alzheimer's Research Center
316 Calhoun Street, 5th Floor CBRI
Charleston, South Carolina 29401
Telephone: (843) 724-2302

Subject Name: Muriel W Clarkin

**HIPAA is a federal law that requires the protection of information that can identify you. Protected Health Information includes information that pertains to your past, present or future physical and mental health conditions, or the provision of health care. You are being asked to sign this Authorization because you are in the research study listed above.**

**The researchers agree to protect your protected health information by using and disclosing it only as permitted by you in the Authorization and as directed by state and federal law.**

**A. What is the purpose of the use and/or disclosure of your protected health information?**
Your protected health information will need to be used and or disclosed to carry out this research study and to review and report study information.

**B. What protected health information will be used or disclosed?**
Your medical records will be obtained and used as source documents to confirm medical history and diagnosis of normal healthy, MCI or AD. Medical tests include physical/neurological exams. Other study assessments include memory and thinking tests. Medical records, study assessments, and medical evaluations will be used specifically for research purposes.

You understand this information may include reference to drug abuse, alcoholism or alcohol, testing for or infection with Human Immunodeficiency Virus (HIV), or sickle cell anemia.

**C. Who will disclose your protected health information?**
Your protected health information will be used by Dr. Mintzer, Roper Hospital, its parent company Roper St. Francis Health Care, and their employees and agents for purposes of conducting this study and they will disclose your medical/health information for this study.

**D. Who will receive your protected health information?**
Your protected health information may be used or shared with others outside of RSFH for purposes directly related to the conduct of the research. Once this information leaves RSFH, we cannot guarantee that it will be protected by this authorization.

Your protected health information may be shared with the following:

- Sponsor of the research study, or its agents such as data repositories or contract research organization;
- Other medical centers / institutions/ investigators outside of RSFH participating in the research study;
- Federal and state agencies and RSFH committees that have authority over the research, such as:
    - The Institutional Review Board (IRB) that oversees human research at the RSFH
    - Committees with oversight or quality improvement responsibilities
    - Food and Drug Administration (FDA)(If drug/device study)
    - National Institutes of Health (NIH)
    - Department of Health and Human Services (DHHS)
    - Department of Social Services (DSS)
    - Other governmental offices as required by law
- Joint Commission or other accrediting agencies
- Clinical staff not involved in the study who may become involved in your care if it is potentially relevant to treatment

**E. Do you have to sign this authorization?**
You do not have to sign this authorization. If you choose not to sign the authorization, it will not affect your treatment, payment or enrollment in any health plan or affect your eligibility for benefits. You will not be allowed to participate in the research study.

**F. How long will this consent last?**
This consent does not have an expiration date and your protected health information may be used indefinitely for the purposes of conducting the study.

**G. If you sign the Authorization, can you change your mind?**
You have the right to withdraw your authorization to allow RSFH to use or share your protected health information collected for this research study. Protected health information that has already been used or disclosed cannot be withdrawn. Your protected health information may still be used and disclosed if you have an adverse event. Once authorization is withdrawn and you are no longer participating in the study, no more protected health information will be collected. If you want to withdraw your permission, you must do so in writing to the investigator. The investigator's address is:

**Jacobo E. Mintzer, MD**
**Alzheimer's Research Center**
**316 Calhoun Street, 5th Floor CBRI**
**Charleston, South Carolina 29401**
**Telephone: 843-724-2302**

If you withdraw your authorization, you will not be allowed to participate in the research study.

**H. Right to See or Copy Information**
You will not be allowed to see or copy the information described on this form as long as the research is in progress. When the study is over, you will have the right to see and copy the information described on this authorization form.

**I. Authorization:**
You authorize Dr. Jacobo Mintzer and his staff, your doctors and other health care providers to use and disclose your protected health information for the purposes described above.

**J. Privacy Notice:**
You have been given a copy of the Privacy Notice that describes the practices of RSFH regarding your protected health information. Please initial here: MWC / mck

If you have any questions or concerns about your privacy rights, you should contact RSFH Privacy Officer at (843) 789-1778.

You will be given a signed copy of this form.

There is no expiration date for this authorization.

3 pried

Merrill W Clarkin Nov. 12 2014 ~~1994~~ mwc
Signature of Research Subject ages 16 & above[1] Date

Muril C Kennedy 11/12/14
Research Subject's Personal Representative[2] Date
(if applicable)

Muril C Kennedy
Printed Name of Research Subject
or Research Subject's Personal Representative (if applicable)

Daughter
*Representative's Relationship to Research Subject*

The researchers would also like permission to forward relevant information collected in the study (for example copies of assessments) to your treating doctor(s). Agreement to this provision will not affect your participation in the Study. If you would like the researcher to forward this information, please initial the box below and list your doctor(s) name(s).

wcl Yes, I agree to allow the researchers to forward information to my treating doctors at their discretion.

____ No, I do not want my treating physician to obtain any of my study records other than for emergency care or treatment purposes

Name(s) of physicians: Dr. Michael Mikola – Roper

[1] If research subjects are ages 16 up to 18 years of age, signatures of both the research subject and the personal representative are required.
[2] Personal Representative: A person authorized under state or other law to act on behalf of the individual in making health-related decisions. Examples: Court-appointed guardian with medical authority, a health care agent under a health care proxy, and a parent acting on behalf of an unemancipated minor.

AFF EX. 1
EXHIBIT A MTN DISMISS

ROPER ST. FRANCIS
PHYSICIAN PARTNERS

PROBATE COURT
14 DEC 22 PM 2:32

CLARKIN, MURIEL W
82 Y old Female, DOB: [redacted]
Account Number: [redacted]
911 SOUTH SHEM[illegible]R, MOUNT PLEASANT, SC-29464
Home: [redacted]
Guarantor: CLARKIN, MURIEL W Insurance: [redacted]
Payer ID: PAPER
Appointment Facility: East Cooper Internal Medicine

11/26/2014

Progress Notes: Michael G. Mikola MD

**Current Medications**
Taking
[redacted]

**Reason for Appointment**
1. 4-6 WKS
2. NO LABS SINCE 2-2014

**History of Present Illness**
Symptom(s):
[redacted]

**Vital Signs**
[redacted]

**Past Medical History**
[redacted]

**Examination**
General Examination:
[redacted]

**Assessments**
[redacted]

**Surgical History**
[redacted]

AFF EX. 1
EXHIBIT A MTN DISMISS

[redacted]

Family History

[redacted]

Social History

[redacted]

Allergies

[redacted]

Hospitalization/Major Diagnostic Procedure
See surgical history

Review of Systems
Other 10 point review of systems at baseline.

[redacted]

Treatment

[redacted]

Follow Up
feb

AFF EX. 1
EXHIBIT A MTN DISMISS

Electronically signed by MICHAEL MIKOLA MD on 11/26/2014 at 09:25 AM EST

Sign off status: Pending

East Cooper Internal Medicine
180 WINGO WAY SUITE 306
MT PLEASANT, SC 29464-1812
Tel: 843-884-1777
Fax: 843-606-8000

Patient: CLARKIN, MURIEL W DOB: [redacted] Progress Note: Michael G. Mikola MD 11/26/2014

*Note generated by eClinicalWorks EMR/PM Software (www.eClinicalWorks.com)*

AFF EX. 1

EXHIBIT A MTN DISMISS

East Cooper
Internal Medicine
ROPER ST. FRANCIS PHYSICIANS

180 Wingo Way
Suite 360
Mount Pleasant, SC 29464

IDD
PROBATE COURT
15 JAN -9 AM 10:39

January 7, 2015

To Whom It May Concern:

RE: MURIEL CLARKIN
DOB: [redacted]

I am writing in regard to my patient, Mrs. Muriel Clarkin. Mrs. Clarkin has been diagnosed with Alzheimer's disease which, unfortunately, will become a progressive and debilitating disease. The rate of progression is difficult to predict, however it is very likely that in the near future she will become less and less able to make sound and rational decisions for herself.

Based on my experiences with the patient and her family members, her daughter Muriel Kennedy has not only shown the most commitment and dedication to her mother's well being, but I believe she is the best suited to become Mrs. Clarkin's guardian and conservator for her safety. Mrs. Clarkin's son, unfortunately, has suffered a significant brain injury and is incapacitated himself.

Please do not hesiate to contact me with any concerns or questions.

Sincerely,

Dr. Michael Mikola

c: pt. file

| | |
|---|---|
| STATE OF SOUTH CAROLINA )<br>)<br>COUNTY OF CHARLESTON )<br>)<br>)<br>Muriel Clarkin Kennedy, )<br>Petitioner, )<br>)<br>-versus- )<br>)<br>Muriel W. Clarkin, an allegedly )<br>incapacitated person, and Patricia )<br>Clarkin Smith, Charles )<br>Clarkin, Jr., and Michael Clarkin, )<br>by and through his Guardian, )<br>Muriel Clarkin Kennedy, next of )<br>kin, )<br>Respondents. )<br>) | IN THE PROBATE COURT<br><br>CASE NO.: 2014-GC-10-_____<br><br>EMERGENCY<br>PETITION FOR APPOINTMENT<br>OF TEMPORARY CONSERVATOR |

FILED
14 DEC 22 PM 1:37
CHARLESTON COUNTY
PROBATE COURT

THE PETITIONER, MURIEL CLARKIN KENNEDY, STATES AS FOLLOWS:

1. Petitioner is adult daughter of Muriel W. Clarkin. Petitioner began living with her mother on or about October 2013 and has become much more aware of the Respondent, **Muriel W. Clarkin's**, situation.

2. The Respondent, **Muriel W. Clarkin**, is 82 years of age. Mrs. Clarkin suffers from Alzheimer's dementia, depression and a host of other physical ailments. She is an incapacitated person under the meaning of δ62-5-101(1) of the South Carolina Probate Code. See attached documentation from Dr. Michael G. Mikola and Dr. Jacobo Mintzer.

3. The Respondent, **Muriel W. Clarkin** has not managed her financial affairs in several years. Petitioner has been the Power of Attorney for her mother since 2007. On December 8, 2014, Patricia Clarkin Smith, daughter of **Muriel W.**

**Clarkin**, arranged for Respondent, **Muriel W. Clarkin,** to meet with an attorney wherein **Muriel W. Clarkin** executed a general durable power of attorney naming Petitioner and Patricia Clarkin Smith as her co-attorneys in fact.

4. On December 16, 2014, Patricia Clarkin Smith had the Mt. Pleasant Police Department issue a Trespass Notice against the Petitioner for 602 Atlantic Street, Mt. Pleasant, SC, Ms. Smith's residence barring Petitioner from being on the premises "never to return". (See attached trespass notice).

5. On April 25, 2014, Patricia Clarkin Smith received $15,000.00 from an equity line on 602 Atlantic Street, Mt. Pleasant, SC, which at the time she co-owned with **Muriel W. Clarkin,** said property having been inherited by **Muriel W. Clarkin** from her parents. This $15,000.00 was to be used to make repairs on 602 Atlantic Street. As of the date of this filing no repairs have been made to the residence.

6. Patricia Clarkin Smith made the May and June payments in the amount of $207.00 on the loan and has not made any further payments.

7. On November 17, 2014, **Muriel W. Clarkin** deeded her one-half interest in 602 Atlantic Street, Mt. Pleasant, SC to Patricia Clarkin Smith, resulting in Patricia Clarkin Smith being the sole owner of said property.

8. On November 16, 2014 an additional $6,000.00 was withdrawn from **Muriel W. Clarkin's** saving account and given to Patricia Clarkin Smith.

9. Beginning in December 2014, Ms. Smith has begun a campaign to convince her mother, **Muriel W. Clarkin** to pay off the equity loan on 602 Atlantic Street. The total amount of the loan is approximately $150,000.00 with the bulk of the loan

having been used to help a grandchild (Petitioner's daughter) purchase a home. Those loan payments have been made in a timely manner.

10. In December 2014, Wells Fargo Bank alerted Petitioner that her mother was in the bank with Patricia Clarkin Smith and bank personnel were concerned about the requests being made by Ms. Smith for information about **Muriel W. Clarkin's** accounts. Due to the controversy, both Ms. Smith and **Muriel W. Clarkin** were asked to leave the bank and the accounts were flagged.

11. Petitioner has received numerous threatening texts and telephone messages from Patricia Clarkin Smith regarding the payoff of the equity line on 602 Atlantic Street and **Muriel W. Clarkin's** finances.

12. Petitioner is unable to act under the Power of Attorney executed by her mother naming she and her sister, Patricia Clarkin Smith as co-attorneys in fact and **Muriel W. Clarkin** cannot handle her financial affairs. She is easily coerced regarding her finances and assets.

13. **Muriel W. Clarkin** is a person who requires a conservator to take care of her finances. No conservator has been legally appointed for **Muriel W. Clarkin**. **Muriel W. Clarkin** has numerous bank accounts, investment accounts, annuities and owns real property.

14. The Petitioner believes that the emergency appointment of a temporary conservator is necessary to safeguard the best interests of **Muriel W. Clarkin**.

15. Petitioner further believes that the appointment of a permanent conservator is necessary to safeguard the best interests of **Muriel W. Clarkin**. Petitioner further

believes that the appointment of a permanent conservator is necessary, with full responsibility to make decisions about **Muriel W. Clarkin's** financial arrangements.

16. The Petitioner seeks to appoint **herself** as temporary and permanent conservator for **Muriel W. Clarkin**.

WHEREFORE, the Petitioner prays as follows:

1. That **Muriel Clarkin Kennedy** be appointed as temporary conservator for **Muriel W. Clarkin**, on an emergency basis.

2. That **Muriel Clarkin Kennedy** be appointed as permanent conservator for **Muriel W. Clarkin**, with full powers to make all decisions regarding her financial arrangements.

3. For any other relief deemed just and equitable by this court.

ATTORNEY FOR THE PETITIONER

Renee C. Newman
764 St. Andrews Blvd.
Charleston, SC 29407
(843) 571-5000
SC Bar # 9906

Charleston, South Carolina
Date: Dec. 22, 2014

STATE OF SOUTH CAROLINA )
)
COUNTY OF CHARLESTON )
)
)
Muriel Clarkin Kennedy, )
Petitioner, )
)
-versus- )
)
Muriel W. Clarkin, an allegedly )
incapacitated person, and Patricia )
Clarkin Smith, Charles )
Clarkin, Jr., and Michael Clarkin, )
by and through his Guardian )
Muriel Clarkin Kennedy, next of )
kin, )
Respondents. )
)

IN THE PROBATE COURT

CASE NO.: 2014-GC-10-209

FILED
14 DEC 22 PM 1:33
CHARLESTON COUNTY

EMERGENCY EX PARTE
PETITION FOR APPOINTMENT
OF TEMPORARY GUARDIAN

THE PETITIONER, MURIEL CLARKIN KENNEDY, STATES AS FOLLOWS:

1. Petitioner is the adult daughter of Muriel W. Clarkin. Petitioner began living with her mother in October 2013 and became much more aware of the Respondent, **Muriel W. Clarkin's**, situation.

2. The Respondent, **Muriel W. Clarkin**, is 82 years of age. Mrs. Clarkin suffers from Alzheimers dementia, depression, high cholesterol, arthritis and numerous other physical ailments She is an incapacitated person under the meaning of δ62-5-101(1) of the South Carolina Probate Code. See Attached documentation from Dr. Michael G. Mikola and Dr. Jacobo Mintzer.

3. The Respondent, **Muriel W. Clarkin,** is a widow and lived alone in her home at 911 S. Shem Drive, Mt. Pleasant, SC until October 2013 when her daughter, Petitioner, Muriel Clarkin Kennedy, moved into 911 S. Shem Drive.



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4. **Muriel W. Clarkin** is unable to prepare her own food, she is unable to drive and Petitioner has taken steps to prevent her from driving. **Muriel W. Clarkin** takes many prescription medications on a daily basis. She cannot manage her medications and does not take the medications unless prompted. **Mrs. Clarkin's** short term memory is extremely poor and continues to deteriorate.

5. **Muriel W. Clarkin** is currently participating in an Alzheimer's research program at Roper Hospital. **Muriel W. Clarkin** did not wish for this information to be known in the general public.

6. On December 16, 2014, **Muriel W. Clarkin** was with her daughter Patricia Clarkin Smith. **Muriel W. Clarkin** had an appointment at the Alzheimer's Research Center and was to be transported to that appointment by Petitioner. Patricia Clarkin Smith insisted on attending the appointment and was so loud and obnoxious that the physician's office called security. This was extremely upsetting for **Muriel W. Clarkin**. Another scene erupted in the parking area as Petitioner was trying to leave with **Muriel W. Clarkin**, further upsetting her.

7. Shortly after the incidents at the physician's office, **Muriel W. Clarkin** was staying with her son on Isle of Palms for some rest and peace and quiet. Once again Patricia Clarkin Smith found out where **Muriel W. Clarkin** was staying and came to the Isle of Palms. The police were called due to the behavior of Patricia Clarkin Smith and **Muriel W. Clarkin** left Isle of Palms so that Patricia Clarkin Smith would not be arrested. Patricia Clarkin Smith agreed to return **Muriel W. Clarkin** the next day, but did not do so.

8. Patricia Clarkin Smith claims to have medical conditions that prohibit her from driving and have caused "systems" in her body to stop working, necessitating that she not stay alone. Ms. Smith uses this as a tool to coerce **Muriel W. Clarkin** into staying with her or leaving a safe environment. Petitioner is aware that Patricia Clarkin Smith suffers from PTSD and anxiety, but was unaware of the other conditions now being claimed by Patricia Clarkin Smith especially the inability to drive as Ms. Smith continues to drive when she wants to drive.

9. **Muriel W. Clarkin** is unable to care for herself and certainly should not be tasked with caring for a daughter with such severe and significant medical conditions.

10. **Muriel W. Clarkin** is a person who requires a guardian to make decisions about her health, well-being and living arrangements. No guardian has been legally appointed for **Muriel W. Clarkin.**

11. The Petitioner believes that the emergency appointment of a temporary guardian is necessary to safeguard the best interests of **Muriel W. Clarkin**. Petitioner further believes that the appointment of a permanent guardian is necessary, with full responsibility to make decisions about living arrangements, medical care, and related matters.

12. The Petitioner seeks to appoint **herself** as temporary and permanent guardian for **Muriel W. Clarkin.**

WHEREFORE, the Petitioner prays as follows:

1. That **Petitioner** be appointed as temporary guardian for **Muriel W. Clarkin,** on an emergency basis.

2. That **Muriel Clarkin Kennedy** be appointed as permanent guardian for **Muriel W. Clarkin**, with full powers to make all decisions regarding medical care and living arrangements.

3. For any other relief deemed just and equitable by this court.

ATTORNEY FOR THE PETITIONER

Renee C. Newman
764 St. Andrews Blvd.
Charleston, SC 29407
(843) 571-5000
SC Bar # 9906

Charleston, South Carolina
Date: Dec 22, 2014

| | |
|---|---|
| STATE OF SOUTH CAROLINA )<br>)<br>COUNTY OF CHARLESTON )<br>)<br>)<br>Muriel Clarkin Kennedy, )<br>Petitioner, )<br>)<br>-versus- )<br>)<br>Muriel W. Clarkin, an allegedly )<br>incapacitated person, and Patricia )<br>Clarkin Smith, Charles )<br>Clarkin, Jr., and Michael Clarkin, )<br>by and through his Guardian, )<br>Muriel Clarkin Kennedy, next of )<br>kin, )<br>Respondents. ) | IN THE PROBATE COURT<br><br>CASE NO.: 2014-GC-10-209<br><br>EX PARTE ORDER APPOINTING TEMPORARY GUARDIAN |

This matter came before the Court upon the Emergency Ex Parte Petition for Appointment of Temporary Guardian, filed 12/22/2014, by the Petitioner, Muriel Clarkin Kennedy.

Upon review of the Petition and attachments, I make the following emergency preliminary findings of law and fact:

1. Muriel W. Clarkin is alleged to be an incapacitated person, as defined by South Carolina law.

2. Muriel W. Clarkin's physician has certified in writing that Muriel W. Clarkin is incapacitated and unable to make decisions for herself and in her best interest.

3. No guardian has been appointed for Muriel W. Clarkin.

4. It is essential to the welfare of Muriel W. Clarkin that a temporary guardian be appointed to care for her, until a full hearing can be held on the matter of a permanent guardianship.

5. It appears that Muriel Clarkin Kennedy is suitable to be appointed as temporary guardian.

Based on the above findings, it is hereby ORDERED as follows:

1. Muriel W. Clarkin is adjudged to be an incapacitated person, as defined by South Carolina Probate Code δ62-5-101(1), whose immediate welfare requires the appointment of a temporary guardian.

2. Muriel Clarkin Kennedy is hereby appointed as temporary guardian for Muriel W. Clarkin with the right to care and custody of Muriel W. Clarkin, and all the authority of a permanent guardian, as set out in South Carolina Probate Code δ62-5-310(E).

3. A hearing to review this appointment shall be held within six (6) months of this date. A Notice of Hearing will be issued. All interested persons shall be notified of this appointment of temporary guardian, and of the upcoming review hearing.

AND IT IS SO ORDERED.

JUDGE OF PROBATE
CHARLESTON COUNTY

Charleston, South Carolina

Date: December 22, 2014

Attest : A True Copy

Clerk Probate Court
Charleston County, South Carolina

STATE OF SOUTH CAROLINA )
)
COUNTY OF CHARLESTON )

PROBATE COURT

IN THE MATTER OF **MURIEL W. CLARKIN**

CASE NUMBER **2014GC10-0209**

## CERTIFICATE OF APPOINTMENT

This is to certify that

**MURIEL CLARKIN KENNEDY**

is the duly qualified

__ PERSONAL REPRESENTATIVE
X TEMPORARY GUARDIAN
__ CONSERVATOR
__ TRUSTEE

in the above matter and that this appointment, having been executed on the 22nd day of December, 2014 is now in full force and effect; and that **MURIEL CLARKIN KENNEDY** is expressly empowered to consent to medical treatment of any kind, including, but not limited to diagnostic evaluations as to **MURIEL W. CLARKIN'S** medical and/or psychiatric condition; to the administration of antipsychotic or any other psychiatric medications; and shall have the general powers and duties of a Guardian under S. C. Code 62-5-312.

**RESTRICTIONS:**

Executed this 22nd day of December, 2014.

Tamara C. Curry

TAMARA C. CURRY, Associate Judge of Probate

Do not accept a copy of this certificate without the raised seal of the Probate Court.
Form #141PC (7/87)
SCPC 1-305, 3-103, 5-304, 5-421, 7-201

| | |
|---|---|
| STATE OF SOUTH CAROLINA<br><br>COUNTY OF CHARLESTON<br><br>Family Services, Inc., as Conservator For Muriel W. Clarkin,<br><br>Plaintiff,<br><br>vs.<br><br>Patricia Clarkin Smith and Wells Fargo Bank, NA.<br><br>Defendant. | IN THE COURT OF COMMON PLEAS<br>FOR THE NINTH JUDICIAL CIRCUIT<br>CASE NO: ~~2016~~-CP-10-5427<br>2017<br><br>**AMENDED COMPLAINT** |

FILED
2017 DEC -4 PM 2:49
JULIE J. ARMSTRONG
CLERK OF COURT
BY

Plaintiff complains of the above-named Defendant as follows:

1. Plaintiff, Family Services Inc., as Conservator for Muriel W. Clarkin (hereinafter "Plaintiff") is a resident of Charleston County.

2. Plaintiff was appointed conservator for the assets, affairs and estate of Muriel W. Clarkin by and order dated March 27, 2015, in case number 2014-GC-10-0209, by the Honorable Tamara C. Curry, Charleston Count Probate Judge.

3. Muriel W. Clarkin (hereinafter "Clarkin") is an eighty-five year old widow who has four living children, and Clarkin requires finances and funds to provide for Clarkin's necessary assisted living care.

4. Defendant Patricia Clarkin Smith (hereinafter "Defendant" is a daughter of Clarkin and resides in Charleston County.

5. The real property which is a subject of this action is located at 602 Atlantic Street, Mt. Pleasant, SC 29464, bearing TMS # 532-06-00-129 (hereinafter "Subject Property"), in Charleston County. The Subject Property is legally described as follows:

ALL that certain lot, piece, or parcel of land, together with all buildings and improvements thereon, situate lying and being in Mt. Pleasant, Heights, Christ Church Parish Number 5, Charleston County, State of South Carolina, and known on the Plat or plan of re-subdivision of Mt. Pleasant Heights made by J. O'Hear Sanders, Jr. dated January, 1950, recorded in the RMC Office for Charleston County, SC in Plat Book G, Page 99-A as LOT NO. 63.

MEASURING AND CONTAINING in front on Atlantic Street sixty (60) feet; the same on the back line and one hundred and eighty (180) feet in depth.

BUTTING AND BOUNDING Southeast on Atlantic Street, Northwest on a ten (10) foot roadway; Northeast on Lot No. 64 on said Plats; and Southwest on Boundary Street; all as is more fully shown on the Plat hereinabove referred to and on the Plat of J. O'Hear Sanders, Jr. dated January 25, 1952, which said Plat is made a part and parcel of this conveyance.

This being the same property devised to Muriel Walsh Clarkin from the Estate of Muriel Monica Dean Walsh, Estate File No. 1997-ES-10-00254, pursuant to a Deed of Distribution dated January 5, 1998, and recorded on January 5, 1998, in the RMC Office for Charleston County, SC in Book J-295, Page 592; and by Deed of Muriel Walsh Clarkin to Muriel Walsh Clarkin and Patricia Clarkin Smith, as joint tenants with rights of survivorship, and not as tenants in common, dated July 30, 2013, recorded in the RMC Office for Charleston County, SC on August 7, 2013 in Deed Book 0351, Page 348.

6. At all times of the allegations made hereinafter Clarkin imposed a special confidence in Defendant.

7. In or around the second half of 2012 and further during 2013, Clarkin with the assistance of her attorney C Mac Gibson Jr. (hereinafter "Attorney Gibson") undertook some estate planning including but not limited to the drafting a will, codicils, a power of attorney, and deeds devising interests in real property owned by Clarkin to her daughters.

8. On or about August 15, 2012, Attorney Gibson on behalf of Clarkin recorded a deed in the Charleston RMC Office in book 0271, page 285, devising to Muriel Clarkin Kennedy (hereinafter "Kennedy"), Clarkin's interest in real property she owned on Goat Island, bearing TMS # 571-14-00-007.

9. On or about March 27, 2013, Attorney Gibson on behalf of Clarkin recorded a general durable power of attorney in the Charleston RMC Office in book 0319, page 644, naming Kennedy as attorney in fact for Clarkin.

10. On or about August 7, 2013, Attorney Gibson on behalf of Clarkin recorded a deed in the Charleston RMC Office in book 0351, page 348, devising to Defendant a half interest in the Subject Property *as joint tenants in common with right of survivorship* with Clarkin.

11. On or about August 21, 2013, Defendant obtained $1,500.00 from Clarkin.

12. Defendant has acknowledged that she has an obligation to pay back Clarkin for the $1,500.00.

13. On or about December 27, 2013, Attorney Gibson on behalf of Clarkin recorded a deed in the Charleston RMC Office in book 0380, page 802, devising to Defendant, Kennedy, and Clarkin herself a third of an interest a piece in Clarkin's residence, bearing TMS number 535-15-00-043, as joint tenants in common with right of survivorship.

14. In or around November of 2014, Clarkin was evaluated for an Alzheimer and dementia research protocol.

15. In November of 2014, multiple doctors made statements in writing regarding Clarkin's mental capacity, including but not limited to, that due to Clarkin suffering from depression, alzheimer's and/or dementia; that Clarkin should not be making financial decisions for herself; and that she lacked the capacity to make informed decisions.

16. On November 18, 2014, Defendant recorded a deed in the RMC office for Charleston County in Book 0441, Page 484 (hereinafter "November 18th Deed"), which is alleged to have been executed by Clarkin and which conveyed to Defendant, Clarkin's remaining half interest in the subject property.

17. The November 18th Deed was not drafted by Clarkin's Attorney Gibson in contrast to the previous deeds referenced above.

18. Further on November 18, 2014, Defendant obtained $6,000.00 from Clarkin.

19. Upon information and belief Defendant used her undue influence upon Clarkin to have Clarkin to execute the November 18th Deed.

20. Upon information and belief Defendant used her undue influence upon Clarkin to obtain $6,000.00 from Clarkin.

21. Upon information and belief absent Defendant's undue influence upon Clarkin, Clarkin would not have executed the November 18th Deed and Defendant would not have obtained from Clarkin $6,000.00.

22. Defendant has acknowledged that she has an obligation to pay back Clarkin for the $6,000.00.

23. Upon information and belief at or around November of 2014, and as a result of Clarkin's medical conditions, she was vulnerable to exploitation and undue influence by Defendant.

24. Plaintiff asserts that Clarkin lacked the mental capacity to execute the November 18th Deed.

25. Plaintiff asserts that at the time Defendant obtained $6,000.00 from Clarkin, Clarkin lacked the mental capacity to handle her financial affairs.

26. On or about December 8, 2014, Defendant took Clarkin to an attorney who is not Clarkin's Attorney Gibson, to have the attorney draft a second durable power of attorney for Clarkin to execute. This power of attorney in contrast to the power of attorney referenced above appointed both Kennedy and Defendant as co-attorney's in fact for Clarkin (hereinafter "December

8th POA"). Defendant then took the December 8th POA and had it record in the Charleston RMC Office in Book 0445 at Pate 144.

27. Clarkin allegedly granting Defendant power of attorney contradicted statements Clarkin has made that she and her husband had previously determined that Kennedy, not Defendant, should have power of attorney for Clarkin.

28. By Order dated March 27, 2015, in case number 2014-GC-10-0209, the Honorable Tamara C. Curry, Charleston Count Probate Judge, declared the December 8th POA "renounced as null and void."

29. On December 22, 2014, Kennedy filed an emergency petition for appointment of temporary conservator, alleging things including but not limited to that Defendant had caused to be drafted, executed and recorded the November 18th Deed and the December 8th POA; that Defendant using her undue influence upon Clarkin obtained $6,000.00 from Clarkin; and that in December of 2014 Defendant took Clarkin to Wells Fargo Bank and began inquiring about Clarkin's bank accounts, which resulted in Wells Fargo flagging the accounts for suspicious activity.

30. On December 22, 2014, Kennedy also filed a Petition for Order of Protection and Appointment of Conservator making allegations including but not limited to those referenced above and that Defendant had agreed to pay Clarkin $600 a month in rent for use of the Subject Property and has failed to do so.

31. By Ex Parte Order Appointing Temporary Guardian dated December 22, 2014, in case number 2014-GC-10-0209, the Honorable Tamara C. Curry, Charleston Count Probate Judge, ordered "Muriel W. Clarkin is adjudged to be an incapacitated person, as defined by South

Carolina Probate Code §62-5-101(1), whose immediate welfare requires the appointment of a temporary guardian."

32. On December 23, 2014, Defendant as an alleged authorized user of a Wells Fargo Credit Card account owned by Clarkin, signed for and received a $10,000 cash advance upon Clarkin's account.

33. Clarkin was the sole owner of the credit card account.

34. On December 23, 2014, Clarkin lacked the capacity to authorize Defendant to make a $10,000.00 cash advance upon the credit card.

35. On December 23, 2014, Defendant lacked the authority to sign for a $10,000.00 advance upon the credit card.

36. Plaintiff at present continues to incur damages in the form of interest upon the December 23, 2014, $10,000 advance executed and taken by Defendant.

37. In or around January of 2015, Defendant retained an attorney to contest the appointment of a guardian for Clarkin. On January 5, 2015, Defendant's attorney filed an Petition to Dismiss the Exparte Order Appointing a Temporary Guardian, wherein Defendant asserted Clarkin was not incapacitated and could care for herself.

38. Defendant obtained $7,500 of Clarkin's money and used it to retain Defendant's Attorney.

39. After Plaintiff was appointed Plaintiff demanded Defendant reimburse Plaintiff the $7,500.00 Defendant used to retain her attorney.

40. Defendant subsequently caused Plaintiff to be reimbursed the $7,500.00 Defendant had used to retain her attorney.

41. By Order dated January 16, 2015, the Probate Court again adjudicated Clarkin to be incapacitated and appointed Plaintiff as her temporary conservator.

42. By Order dated March 27, 2015, the Probate Court appointed Plaintiff as the Conservator for Clarkin.

**FOR AND AS A FIRST CAUSE OF ACTION AGAINST DEFENDANT**
**(Declaratory Injunctive Relief)**

43. Plaintiff incorporates all preceding paragraphs as though fully set forth herein.

44. Plaintiffs seek declaratory relief pursuant to S.C. Code Ann. § 15-53-10, et seq., on the grounds that Plaintiff is an interested party and seeks a declaration as to Clarkin's rights and the rights of Defendant with regard to the following:

a) Whether the November 18th Deed is void because Clarkin lacked the mental capacity to execute the deed at time of execution;

b) Whether Clarkin lacked the capacity to handled her financial affair in November of 14 at the time Defendant obtained $6,000.00 from Clarkin;

c) Whether on December 23, 2014, Clarkin lacked the capacity to authorize Defendant to withdraw a $10,000.00 cash advance from Clarkin's credit card account; and

d) Whether on December 23, 2014, Defendant lacked the authority to execute a $10,000 cash advance upon Clarkin's credit card account.

45. Plaintiff is entitled to a declaratory judgment as to the rights and obligations of the parties as address above.

**FOR AND AS A SECOND CAUSE OF ACTION AGAINST DEFENDANT**
**(Fraudulent Conveyance)**

46. Plaintiff incorporates all preceding paragraphs as though fully set forth herein.

47. Without the intent, consent and understanding of Clarkin, Defendant deceitfully caused the November 18th Deed to be drafted and allegedly executed by Clarkin, thereafter Defendant recorded said deed in the register of deeds for Charleston County.

48. Defendant knew that Clarkin did not understand the significance of the executing the November 18th Deed.

49. Upon information and belief Defendant caused the November 18th Deed to be executed and recorded for the purpose of defrauding Clarkin of Clarkin's half interest in the subject property.

50. Accordingly, Plaintiff should be entitled to have November 18th Deed declared null and void, and/or to receive damages as a result of the fraudulent transfer, including damages for emotional distress

51. Plaintiff is also informed and believes that Plaintiff is entitled to recover punitive damages from Defendant based upon Defendant's intentional and deceptive conduct.

**FOR AND AS A THIRD CAUSE OF ACTION AGAINST DEFENDANT AND WELLS FARGO BANK, NA**
**(Quiet Title)**

52. Plaintiff incorporates all preceding paragraphs as though fully set forth herein.

53. This is an action to quiet title to the Subject Property.

54. Plaintiff acquired ownership of the Subject Property January of 1998.

55. On or about July 17, 2006, Clarkin executed a $100,000 note and mortgage secured by the Subject Property to Wachovia Bank, NA (hereinafter "Mortgage"). The Mortgage was recorded in the RMC Office for Charleston County in Book L591, Page 244.

56. On or about July 7, 2008, said note and Mortgage were modified to increase the maximum balance of indebtedness to $150,000 (hereinafter "Modification"), the Modification was recorded in the RMC Office for Charleston County in Book E664, Page 769.

57. On or about August 7, 2013, Attorney Gibson on behalf of Clarkin recorded a deed in the Charleston RMC Office in book 0351, page 348, devising to Defendant a half interest in the Subject Property *as joint tenants in common with right of survivorship* with Clarkin.

58. Attorney Gibson drafted and recorded two other deeds for Clarkin within a year of August 7, 2013, as well as drafting a will, codicils, and a power of attorney for Clarkin around the same time.

59. On or about November 17, 2014, Defendant caused the November 18th Deed to be drafted and allegedly executed by Clarkin.

60. On November 18, 2014, Defendant recorded the November 18th Deed in the RMC Office of Charleston County.

61. Transfer of Clarkin's interest in the Subject Property put Clarkin in breach of the terms of the Mortgage.

62. Plaintiff is of the opinion and belief that the November 18th Deed should be declared null and void based upon a lack of capacity and intent on the part of Clarkin to transfer her remaining half interest in the subject property to Defendant through the November 18th Deed.

63. Clarkin remains obligated pursuant to the terms of the Note and Mortgage upon the Subject Property.

64. The Defendants in this case are named as parties hereto by virtue of their alleged rights, title or interest in the Subject Property as follows:

a) Defendant by virtue of the August 7, 2013, deed recorded in the Charleston RMC Office in Book 0351, Page 348, and the November 18th Deed.

b) Wells Fargo Bank, NA, as successor in interest, to Wachovia Bank, NA pursuant to the Mortgage.

65. Plaintiff is entitled to and requests that this Court declare the November 18th Deed null and void and further declare that Clarkin owns a one-half interest in the Subject Property as a tenant in common with Defendant with rights of survivorship.

**FOR AND AS A FOURTH CAUSE OF ACTION AGAINST DEFENDANT (CONVERSION)**

66. Plaintiff incorporates all preceding paragraphs as though fully set forth herein.

67. Plaintiff as conservator for Clarkin has an interest in the following:

a) $1,500.00 of Clarkin's money obtained by Defendant from Clarkin on or about August 21,2013.

b) $6,000.00 of Clarkin's money obtained by Defendant from Clarkin on or about November 18, 2014;

c) $10,000.00 taken by Defendant on December 23, 2014, as a cash advance from Clarkin's Wells Fargo credit card account, bearing an account number with the last for digits 5793.

68. Clarkin owned and had an interest in the funds described above.

69. Defendant converted the funds to her own use and benefit.

70. Defendant did not have permission and/or authority to obtain and/or retain said funds.

71. Defendant has acknowledged an obligation to repay some and/or all of said funds of Clarkin.

72. In November and December of 2014, Clarkin did not have the capacity to give Defendant the permission and/or authority to obtain those particular funds.

73. With regard to the $10,000.00 cash advance Plaintiff has been damaged by the continued accrual of interest upon the cash advance.

74. Plaintiff is entitled to and requests an award of the $17,500.00, the cost of the interest incurred for the $10,000 cash advance, and legal interest upon the $17,500.00 from the times which Defendant converted the funds to her own use and benefit.

**FOR AND AS A FIFTH CAUSE OF ACTION AGAINST DEFENDANT**
**(Unjust Enrichment)**

75. Plaintiff incorporates all preceding paragraphs as though fully set forth herein.

76. Defendant has been unjustly enriched at the expense of and to the detriment of Clarkin in the amount of $17,500.00.

77. Defendant has been unjustly enriched at the expense of and to the determinant of Clarkin by Defendant enjoying the benefit of living in the Subject Property while failing to pay Clarkin monthly rent for the Subject Property as Defendant had agreed to do.

78. Plaintiff is informed and believes that it is entitled to recover from Defendant all monies, and any improper benefit received by Defendant as a result or consequence, and/or incidentally related to Defendant's actions as alleged above.

**FOR AND AS A SIXTH CAUSE OF ACTION AGAINST DEFENDANT**
**(Money Had and Received)**

79. Plaintiff incorporates all preceding paragraphs as though fully set forth herein.

80. Defendant presently holds $17,500.00 in her possession or control that was received from Clarkin.

81. Defendant does not have a right to retain said money of Clarkin.

82. The money in question belongs, in equity and good conscience to Plaintiff and should not in equity and good conscience be retained by Defendant.

83. Plaintiff is informed and believes that it is entitled to recover from Defendant all money had and received by Defendant as a result, consequence, and/or incidentally related to Defendant's actions as alleged above.

**FOR AND AS A SEVENTH CAUSE OF ACTION AGAINST DEFENDANT**
**(Promissory Estoppel)**

84. Plaintiff incorporates all preceding paragraphs as though fully set forth herein.

85. Defendant promised to pay Clarkin rent in exchange for Defendant residing in the subject property.

86. Defendant has failed to pay Clarkin said rent as promised.

87. Clarkin relied upon Defendant's promise to pay Clarkin rent.

88. Clarkin's reliance upon Defendant's promise was expected and foreseeable by Defendant.

89. Plaintiff has suffered damages as a result of Defendant's failure to pay Clarkin rent as promised.

90. Plaintiff is informed and believes that it is entitled to recover from Defendant all rent not paid to Clarkin by Defendant as a result, consequence, and/or incidentally related to Defendant's actions as alleged above.

**FOR AND AS A SEVENTH CAUSE OF ACTION AGAINST DEFENDANT**
**(Quantum Meruit)**

91. Plaintiff incorporates all preceding paragraphs as though fully set forth herein.

92. Clarkin conferred upon Defendant a benefit of $17,500, as well as the use and benefit of the Subject Property.

93. Defendant realized the benefits as described above.

94. Retention of these benefits by Defendant under the conditions described above make it unjust for Defendant to retain said benefits without paying the value of said benefits.

95. Plaintiff is informed and believes that it is entitled to recover from Defendant all benefits retained by Defendant as a result, consequence, and/or incidentally related to Defendant's actions as alleged above.

**JURY TRIAL DEMANDED**

WHEREFORE, Plaintiffs pray that this Court enter judgment against each of the named Defendants as to each of Plaintiff's above named causes of action awarding Plaintiffs actual, statutory, and punitive damages, declaratory and injunctive relief, prejudgment interest, attorneys' fees and costs and such other relief, fees and costs as may be appropriate.

RESPECTUFLLY SUBMITTED,

THE LAW OFFICE OF
DAVID CONOR KEYS, LLC

D. Conor Keys
P.O. Box 14225
Charleston, SC 29422
Phone: 843-906-3998
conor@dconorkeyslaw.com
*Attorney for Plaintiff*

November 29, 2017
Charleston, SC

2017-CP-10-5427

**CERTIFICATE OF SERVICE**

I certify that on this 29th day of November 2017, a copy of the within Amended Complaint was mailed United States mail, addressed to parties and opposing counsel as follows:

Alan David Toporek
Uricchio Howe Krell Jacobson
Torporek Theos & Keith, PA
PO Box 399
Charleston, SC 29402
alan@uricchio.com
*Attorney for*
*Patricia Clarkin Smith*

FILED
2017 DEC -4 PM 2:49
JULIE J. ARMSTRONG
CLERK OF COURT
BY

THE LAW OFFICE OF
DAVID CONOR KEYS, LLC

D. Conor Keys

THE LAW OFFICE OF
DAVID CONOR KEYS LLC
PO BOX 14225 CHARLESTON, SC 29422
CONOR@DCONORKEYSLAW.COM
843-906-3998

November 29, 2017

Julie J. Armstrong
Clerk of Court, Charleston County
100 Broad St, Suite 106
Charleston, SC 29401

**RE: Family Services, Inc., Conservator for Muriel W. Clarkin v. Patricia Clarkin Smith, et al**
**Case No. 2017-CP-10-5427**

Madam Clerk:

Enclosed please find with regard to the above referenced matter, Plaintiff's amended complaint and an accompanying certificate of service. I kindly request that you file the same.

With kind regards,

THE LAW OFFICE OF
DAVID CONOR KEYS, LLC

D. Conor Keys

Enclosures:
(as stated)
CC:
Alan Toporek

AFF EX 3

EXHIBIT A MTN DISMISS



Julie J. Armstrong
Charleston County Clerk of Court

**Charleston County**
**Circuit Court Case Details**
**Public Index**



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## Family Services Inc , plaintiff, et al VS Patricia Clarkin Smith , defendant, et al

| | | | | | |
|---|---|---|---|---|---|
| **Case Number:** | 2017CP1005427 | **Court Agency:** | Common Pleas | **Filed Date:** | 10/20/2017 |
| **Case Type:** | Common Pleas | **Case Sub Type:** | Real Prop/Other 499 | **File Type:** | Non-Jury |
| **Status:** | Judgment | **Assigned Judge:** | Scarborough, Mikell R. | | |
| **Disposition:** | Default Uncontested | **Disposition Date:** | 06/21/2021 | **Disposition Judge:** | Scarborough, Mikell R. |
| **Original Source Doc:** | | **Original Case #:** | | | |
| **Judgment Number:** | 2017CP1005427 | **Court Roster:** | | | |

## Case Parties

Click the icon to show associated parties.

| Name | Address | Race | Sex | Year Of Birth | Party Type | Party Status | Last Updated |
|---|---|---|---|---|---|---|---|
| Blair, Laurel R.S.(Inactive) | 5 Exchange Street PO Box 999 Charleston SC 29402 | | | | Alternate Mediator | | 04/09/2019 |
| Clarkin, Muriel W | | | | | Plaintiff | | 10/23/2017 |
| DeJong, Karen Marie(Inactive) | 222 West Coleman Boulevard Suite 110 Mt. Pleasant SC 29464 | | | | Defendant Attorney | | 10/16/2019 |
| Family Services Inc | | | | | Plaintiff | | 06/21/2021 |
| Family Services Inc as conservator | | | | | Plaintiff | | 10/23/2017 |
| Hawk, John C. IV(Inactive) | 1225 17Th St. Suite 2200 Denver CO 80220 | | | | Defendant Attorney | | 05/28/2019 |
| Howell, Ladson Fishburne Jr.(Inactive) | 819 Creekside Drive Howell Law Group, LLC Mt. Pleasant SC 29464 | | | | Mediator | | 10/16/2019 |
| Hyman, Melvin Richardson Jr.(Inactive) | PO Box 127 Charleston SC 29402 | | | | Defendant Attorney | | 07/08/2020 |
| Kelley, Ashley Kutz(Inactive) | PO Box 999 Charleston SC 29402 | | | | Defendant Attorney | | 05/28/2019 |
| Keys, David Conor | PO Box 14225 Charleston SC 29422 | | | | Plaintiff Attorney | | 10/20/2017 |
| Laney, Shelton Sterling III(Inactive) | PO Box 10208 Greenville SC 296030208 | | | | Defendant Attorney | | 05/28/2019 |
| Smith, Patricia Clarkin | | | | | Defendant | | 06/21/2021 |
| Smith, Patricia Clarkin | 602 Atlantic Street Mount Pleasant SC 29464 | | | | Defendant Pro Se | | 02/26/2020 |
| Toporek, Alan David(Inactive) | ALAN TOPOREK PO Box 399 Charleston SC 294020399 | | | | Defendant Attorney | | 05/28/2019 |
| Wells Fargo Bank N A(Inactive) | | | | | Defendant | | 05/28/2019 |

AFF EX 3

EXHIBIT A MTN DISMISS

## Judgments

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| **For:** | Family Services Inc | **Against:** | Smith, Patricia Clarkin | **Judg. Amount:** | $81,149.13 | **Judgment Date:** | 06/21/2021 |
| **Description:** | Judgment/Summary Judgment | **Disposition:** | | **Disp. Date:** | | **Date Entered/Last Changed** | 06/21/2021 -- |
| **Notes:** | None | | | | | | |

**Judgment Details**

| Claims Code | Detail Desc. | Detail Amount | Detail Date |
|---|---|---|---|
| None | | | |

## Tax Map Information

| Agency name | Tax Map Number | Tax Map Description |
|---|---|---|
| Common Pleas | 5320600129 | |

## Associated Cases

| Agency | Case # | External | Relationship | Description | Case Filed Date | Disposition Date | Case Status | Disposition |
|---|---|---|---|---|---|---|---|---|
| Master In Equity | 2017CP1005427 | N | MIETR | Master in Equity Case Transfer to agency 10003: Master In Equity | 02/12/2020 | 06/22/2021 | Disposed | Ended by Non Jury |
| Common Pleas | 2017LP1001138 | N | LP | Associated by Case Transfer To | 10/20/2017 | | Pending | |

## Actions

| Name | Description | Type | Motion Roster | Begin Date | Completion Date | Documents |
|---|---|---|---|---|---|---|
| Smith, Patricia Clarkin | Notice of Appeal, Proof of Service | Filing | | 07/21/2021-10:40 | | |
| Family Services Inc | NEF(06-21-2021 02:01:01 PM) Master/Order/Form 4 | Filing | | 06/21/2021-14:01 | | |
| Family Services Inc | Master/Order/Summary Judgment Form 4 | Order | | 06/21/2021-14:01 | | |
| Family Services Inc | Judgment/Summary Judgment | Judgment | | 06/21/2021-14:00 | | |
| Smith, Patricia Clarkin | Judgment/Summary Judgment | Judgment | | 06/21/2021-14:00 | | |
| Family Services Inc | NEF(06-21-2021 01:59:23 PM) Master/Order/Other | Filing | | 06/21/2021-13:59 | 06/21/2021-13:59 | |
| Family Services Inc | Master/Order Granting Motion for Summary Judgment | Order | | 06/21/2021-13:59 | 06/21/2021-13:59 | |
| Family Services Inc | NEF(06-21-2021 11:12:49 AM) Proposed Master/Order/Form 4 | Filing | | 06/21/2021-11:57 | 06/21/2021-11:57 | |
| Family Services Inc | Order/Order Cover Sheet $25.00 | Filing | | 06/21/2021-11:12 | 06/21/2021-11:12 | |
| Family Services Inc | NEF(06-10-2021 11:13:12 AM) Service/Certificate Of Servi... | Filing | | 06/10/2021-13:26 | 06/21/2021-13:26 | |
| Family Services Inc | Certificate Of Service | Filing | | 06/10/2021-11:13 | 06/21/2021-11:13 | |
| Family Services Inc | NEF(06-10-2021 08:10:15 AM) Affidavit/Affidavit of | Filing | | 06/10/2021-09:02 | 06/21/2021-09:02 | |

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|---|---|---|---|---|---|---|
| Family Services Inc | Affidavit of Kelley Evans | Filing | | 06/10/2021-08:10 | 06/21/2021-08:10 | |
| Family Services Inc | NEF(04-16-2021 10:32:46 AM) Notice/Notice of Hearing and... | Filing | | 04/16/2021-10:38 | 06/21/2021-10:38 | |
| Family Services Inc | Notice/Notice of Hearing and Service | Filing | | 04/16/2021-10:32 | 06/21/2021-10:32 | |
| Family Services Inc | NEF(12-24-2020 12:40:16 PM) Service/Certificate Of Servi... | Filing | | 12/30/2020-09:33 | 06/21/2021-09:33 | |
| Family Services Inc | Notice of Hearing and Service | Filing | | 12/24/2020-12:40 | 06/21/2021-12:40 | |
| Family Services Inc | Service/Certificate Of Service | Filing | | 12/24/2020-12:40 | 06/21/2021-12:40 | |
| Family Services Inc | NEF(10-06-2020 08:17:38 PM) Motion/Summary Judgment | Filing | | 10/07/2020-10:48 | 06/21/2021-10:48 | |
| Family Services Inc | Motion for Summary Judgment, Crt/Svc | Motion | | 10/06/2020-20:17 | 06/21/2021-20:17 | |
| Family Services Inc | NEF(07-20-2020 08:31:19 PM) Motion/Reconsider | Filing | | 07/21/2020-08:58 | 06/21/2021-08:58 | |
| Family Services Inc | Motion/Reconsider (FILED IN ERROR, WRONG CASE) | Motion | | 07/20/2020-20:31 | 06/21/2021-20:31 | |
| Family Services Inc | NEF(07-08-2020 11:36:37 AM) Order/Electronic Form 4 | Filing | | 07/08/2020-11:36 | 06/21/2021-11:36 | |
| Family Services Inc | Order/Motion to Enforce Denied, Atty Hyman relieved | Order | | 07/08/2020-11:36 | 06/21/2021-11:36 | |
| Smith, Patricia Clarkin | NEF(06-30-2020 03:50:53 PM) Memo/Memo in Opposition | Filing | | 06/30/2020-16:03 | 06/21/2021-16:03 | |
| Smith, Patricia Clarkin | Patricia Clarkin Smith's Memo in Opp to Enforce Settlement | Filing | | 06/30/2020-15:50 | 06/21/2021-15:50 | |
| Smith, Patricia Clarkin | NEF(06-30-2020 03:19:02 PM) Notice/Other | Filing | | 06/30/2020-15:37 | 06/21/2021-15:37 | |
| Smith, Patricia Clarkin | Notice of Limited Appearance for Settlement Agreement | Filing | | 06/30/2020-15:19 | 06/21/2021-15:19 | |
| Smith, Patricia Clarkin | NEF(06-30-2020 03:16:59 PM) Notice/Notice of Appearance | Filing | | 06/30/2020-15:17 | 06/21/2021-15:17 | |
| Smith, Patricia Clarkin | Notice/Notice of Appearance | Filing | | 06/30/2020-15:16 | 06/21/2021-15:16 | |
| Family Services Inc | NEF(06-25-2020 02:28:25 PM) Order/Electronic Form 4 | Filing | | 06/25/2020-14:28 | 06/21/2021-14:28 | |
| Family Services Inc | Order/Motion to Enforce Settlement taken under Advisement | Order | | 06/25/2020-14:28 | 06/21/2021-14:28 | |
| Family Services Inc | NEF(06-23-2020 11:00:37 AM) Memo/Memo in Support | Filing | | 06/23/2020-11:11 | 06/21/2021-11:11 | |
| Family Services Inc | Family Services Inc's Memo in Supp to Enforce Settlment | Filing | | 06/23/2020-11:00 | 06/21/2021-11:00 | |
| Smith, Patricia Clarkin | Defnt Motion/Continuance | Motion | | 02/18/2020-10:20 | 06/21/2021-10:20 | |
| Smith, Patricia Clarkin | Motion/Motion Filing Fee | Filing | | 02/18/2020-09:53 | 06/21/2021-09:53 | |
| Family Services Inc | NEF(02-12-2020 02:51:21 PM) Order/Referred to Master or ... | Filing | | 02/12/2020-14:51 | 06/21/2021-14:51 | |
| Family Services Inc | Order/Referred to Master or Special Referee | Order | | 02/12/2020-14:51 | 06/21/2021-14:51 | |
| Family Services Inc | NEF(02-11-2020 12:59:05 PM) Proposed Order/Referred to M... | Filing | | 02/11/2020-13:40 | 06/21/2021-13:40 | |

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|---|---|---|---|---|---|---|
| Family Services Inc | Motion F/Order of Reference & Crt/Srv | Motion | | 02/11/2020-12:59 | 02/12/2020-12:59 | |
| Keys, David Conor | 2/24/2020_MOTION_Roster/Notice of Motions Roster Publication | Action | | 01/28/2020-10:38 | 06/21/2021-10:38 | |
| Smith, Patricia Clarkin | 2/24/2020_MOTION_Roster/Notice of Motions Roster Publication | Action | | 01/28/2020-10:38 | 06/21/2021-10:38 | |
| Smith, Patricia Clarkin | Motion/Motion Filing Fee | Filing | | 01/27/2020-16:24 | 06/21/2021-16:24 | |
| Smith, Patricia Clarkin | Motion/Continuance | Motion | | 01/27/2020-10:23 | 06/21/2021-10:23 | |
| Smith, Patricia Clarkin | 1/27/2020_MOTION_Roster/Notice of Motions Roster Publication | Action | | 01/16/2020-08:48 | 06/21/2021-08:48 | |
| Keys, David Conor | 1/27/2020_MOTION_Roster/Notice of Motions Roster Publication | Action | | 01/16/2020-08:48 | 06/21/2021-08:48 | |
| | Certificate Of Service | Filing | | 12/05/2019-10:39 | 06/21/2021-10:39 | |
| Keys, David Conor | 12/16/2019_MOTION_Roster/Notice of Motions Roster Publicatio | Action | | 12/05/2019-10:13 | 06/21/2021-10:13 | |
| Smith, Patricia Clarkin | 12/16/2019_MOTION_Roster/Notice of Motions Roster Publicatio | Action | | 12/05/2019-10:13 | 06/21/2021-10:13 | |
| Smith, Patricia Clarkin | Defnt Motion/Continuance | Motion | | 11/27/2019-09:24 | 12/11/2019-09:24 | |
| Smith, Patricia Clarkin | 11/18/2019_JRY_Roster/Notice of Case Roster Publication Sent | Action | | 11/12/2019-08:47 | 06/21/2021-08:47 | |
| Keys, David Conor | 11/18/2019_JRY_Roster/Notice of Case Roster Publication Sent | Action | | 11/12/2019-08:47 | 06/21/2021-08:47 | |
| Keys, David Conor | 12/16/2019_MOTION_Roster/Notice of Motions Roster Publicatio | Action | | 11/08/2019-08:08 | 06/21/2021-08:08 | |
| Smith, Patricia Clarkin | 12/16/2019_MOTION_Roster/Notice of Motions Roster Publicatio | Action | | 11/08/2019-08:08 | 06/21/2021-08:08 | |
| Smith, Patricia Clarkin | Letter to Judge Young in re; Proceeding Pro Se | Filing | | 11/01/2019-10:55 | 06/21/2021-10:55 | |
| | Order Disqualifying Counsel & Continuing Motion/Enforce Sett | Order | | 10/10/2019-14:18 | 06/21/2021-14:18 | |
| | Affidavit of Kelley Evans | Filing | | 08/13/2019-11:48 | 06/21/2021-11:48 | |
| Keys, David Conor | 8/19/2019_JRY_Roster/Notice of Case Roster Publication Sent | Action | | 08/13/2019-08:44 | 06/21/2021-08:44 | |
| DeJong, Karen Marie | 8/19/2019_JRY_Roster/Notice of Case Roster Publication Sent | Action | | 08/13/2019-08:44 | 06/21/2021-08:44 | |
| DeJong, Karen Marie | 8/26/2019_MOTION_Roster/Notice of Motions Roster Publication | Action | | 07/29/2019-12:06 | 06/21/2021-12:06 | |
| Keys, David Conor | 8/26/2019_MOTION_Roster/Notice of Motions Roster Publication | Action | | 07/29/2019-12:06 | 06/21/2021-12:06 | |
| Keys, David Conor | 8/26/2019_MOTION_Roster/Notice of Motions Roster Publication | Action | | 07/29/2019-12:06 | 06/21/2021-12:06 | |
| DeJong, Karen Marie | 8/26/2019_MOTION_Roster/Notice of Motions Roster Publication | Action | | 07/29/2019-12:06 | 06/21/2021-12:06 | |
| Keys, David Conor | Pltff Motion/Enforce Settlement & Crt/Srv | Motion | | 07/10/2019-12:52 | 06/25/2020-12:52 | |
| Keys, David Conor | Pltff Motion/Disqualify & Crt/Srv | Motion | | 07/10/2019-12:51 | 08/30/2019-12:51 | |
| Family Services Inc | Motion/Motion Filing Fee | Filing | | 07/10/2019-11:11 | 02/12/2020-11:11 | |

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|---|---|---|---|---|---|---|
| Family Services Inc | Motion/Motion Filing Fee | Filing | | 07/10/2019-11:09 | 02/12/2020-11:09 | |
| Keys, David Conor | 7/29/2019_MOTION_Roster/Notice of Motions Roster Publication | Action | | 06/21/2019-08:11 | 06/21/2021-08:11 | |
| DeJong, Karen Marie | 7/29/2019_MOTION_Roster/Notice of Motions Roster Publication | Action | | 06/21/2019-08:11 | 06/21/2021-08:11 | |
| | Consent Order Substuting Atty, Scheduling & Dismissing Def | Order | | 05/23/2019-16:10 | 06/21/2021-16:10 |  |
| Wells Fargo Bank N A | Order/Order Filing Fee | Filing | | 05/23/2019-10:27 | 06/21/2021-10:27 | |
| Toporek, Alan David | 4/15/2019_JRY_Roster/Notice of Case Roster Publication Sent | Action | | 04/09/2019-08:32 | 06/21/2021-08:32 | |
| Kelley, Ashley Kutz | 4/15/2019_JRY_Roster/Notice of Case Roster Publication Sent | Action | | 04/09/2019-08:32 | 06/21/2021-08:32 | |
| Laney, Shelton Sterling III | 4/15/2019_JRY_Roster/Notice of Case Roster Publication Sent | Action | | 04/09/2019-08:32 | 06/21/2021-08:32 | |
| Hawk, John C. IV | 4/15/2019_JRY_Roster/Notice of Case Roster Publication Sent | Action | | 04/09/2019-08:32 | 06/21/2021-08:32 | |
| Keys, David Conor | 4/15/2019_JRY_Roster/Notice of Case Roster Publication Sent | Action | | 04/09/2019-08:32 | 06/21/2021-08:32 | |
| Smith, Patricia Clarkin | Order/Order Filing Fee | Filing | | 04/04/2019-16:59 | 06/21/2021-16:59 | |
| Toporek, Alan David | Defendant Motion to Relieve Counsel | Motion | | 04/04/2019-14:21 | 07/22/2019-14:21 |  |
| Wells Fargo Bank N A | Notice of Appearance of Atty Laney & Atty Hawk, crt/srv | Filing | | 03/20/2019-14:40 | 06/21/2021-14:40 |  |
| Kelley, Ashley Kutz | 3/25/2019_JRY_Roster/Notice of Case Roster Publication Sent | Action | | 03/19/2019-08:35 | 06/21/2021-08:35 | |
| Toporek, Alan David | 3/25/2019_JRY_Roster/Notice of Case Roster Publication Sent | Action | | 03/19/2019-08:35 | 06/21/2021-08:35 | |
| Keys, David Conor | 3/25/2019_JRY_Roster/Notice of Case Roster Publication Sent | Action | | 03/19/2019-08:35 | 06/21/2021-08:35 | |
| Family Services Inc | ADR/Notice of ADR | Action | | 08/16/2018-08:29 | 06/21/2021-08:29 | |
| Wells Fargo Bank N A | Answer to Amended Complaint, crt/srv | Filing | | 08/15/2018-09:48 | 06/21/2021-09:48 |  |
| | Plaintiff's Memo in Support of Motion to Compel, crt/srv | Filing | | 07/11/2018-10:49 | 06/21/2021-10:49 |  |
| Keys, David Conor | 7/16/2018_MOTION_Roster/Notice of Motions Roster Publication | Action | | 06/26/2018-09:11 | 06/21/2021-09:11 | |
| Toporek, Alan David | 7/16/2018_MOTION_Roster/Notice of Motions Roster Publication | Action | | 06/26/2018-09:11 | 06/21/2021-09:11 | |
| Family Services Inc | ADR/Alternative Dispute Resolution (Workflow) | Action | | 05/18/2018-14:24 | 08/16/2018-14:24 | |
| Family Services Inc | Archived Document | Filing | | 05/18/2018-00:00 | 06/21/2021-00:00 | |
| Family Services Inc as conservator | Archived Document | Filing | | 05/18/2018-00:00 | 06/21/2021-00:00 | |
| Clarkin, Muriel W | Archived Document | Filing | | 05/18/2018-00:00 | 06/21/2021-00:00 | |
| Family Services Inc | Motion/Motion Filing Fee | Filing | | 05/01/2018-13:23 | 02/12/2020-13:23 | |
| Keys, David Conor | Motion/Compel by Plaintiff, crt/srv | Motion | | 05/01/2018-11:15 | 07/19/2018-11:15 |  |
| | Pltffs Amended Complaint & cert/srv | Filing | | 12/04/2017-12:49 | 06/21/2021-12:49 |  |
| Smith, Patricia Clarkin | Answer | Filing | | 11/28/2017-15:53 | 06/21/2021-15:53 |  |

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|---|---|---|---|---|---|---|
| Family Services Inc | Lis Pendens Filed | Filing | | 10/26/2017-08:44 | 06/21/2021-08:44 |  |
| Family Services Inc | Summons & Complaint | Filing | | 10/20/2017-14:20 | 06/21/2021-14:20 |  |

## Financials

| Summary | | | | | |
|---|---|---|---|---|---|
| Fine/Costs: | $425.00 | Total Paid for fine/costs: | $425.00 | Balance Due: | $0.00 |

**Costs**

| Description | Cost Code | Amount | Charge Action | Disbursed Amount |
|---|---|---|---|---|
| Motion/Order Filing Fee $25 | MOTION | $25.00 | | $25.00 |
| Motion/Order Filing Fee $25 | MOTION | $25.00 | | $25.00 |
| Motion/Order Filing Fee $25 | MOTION | $25.00 | | $25.00 |
| Motion/Order Filing Fee $25 | MOTION | $25.00 | | $25.00 |
| Civil Filing Fee State 56% | CVFFST | $56.00 | | $56.00 |
| Motion/Order Filing Fee $25 | MOTION | $25.00 | | $25.00 |
| Civil Filing Fee County 44%/100% | CVFFCN | $44.00 | | $44.00 |
| Motion/Order Filing Fee $25 | MOTION | $25.00 | | $25.00 |
| Motion/Order Filing Fee $25 | MOTION | $25.00 | | $25.00 |
| Motion/Order Filing Fee $25 | MOTION | $25.00 | | $25.00 |
| Motion/Order Filing Fee $25 | MOTION | $25.00 | | $25.00 |
| Motion/Order Filing Fee $25 | MOTION | $25.00 | | $25.00 |
| SCJD Filing Fee Proviso $50 / $25 | SCJDPV | $50.00 | | $50.00 |
| Motion/Order Filing Fee $25 | MOTION | $25.00 | | $25.00 |

**Payments**

| Payment Date | Receipt Number | Entered By | Transaction Type Code | Payment Amount |
|---|---|---|---|---|
| 06/21/2021 | 634956 | COCMRR | WV | $25.00 |
| 10/07/2020 | 624625 | COCAXB | PY | $25.00 |
| 02/18/2020 | 615210 | coceba | PY | $25.00 |
| 02/11/2020 | 614946 | COCMRR | PY | $25.00 |
| 01/27/2020 | 614113 | COCAXB | PY | $25.00 |
| 11/27/2019 | 611327 | COCAXB | PY | $25.00 |
| 07/10/2019 | 605313 | coceba | PY | $25.00 |
| 07/10/2019 | 605314 | coceba | PY | $25.00 |
| 05/23/2019 | 603370 | coceba | PY | $25.00 |
| 04/04/2019 | 601354 | coceba | PY | $25.00 |
| 05/01/2018 | 588211 | COCJSJ | PY | $25.00 |
| 10/20/2017 | 580402 | coceba | PY | $150.00 |

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| | |
|---|---|
| STATE OF SOUTH CAROLINA ) | IN THE COURT OF COMMON PLEAS |
| ) | FOR THE NINTH JUDICIAL CIRCUIT |
| COUNTY OF CHARLESTON ) | CASE NO: 2017-CP-10-5427 |
| ) | |
| Family Services, Inc., as Conservator ) | |
| For Muriel W. Clarkin, ) | |
| ) | **MOTION FOR** |
| Plaintiff, ) | **SUMMARY JUDGMENT** |
| ) | |
| vs. ) | |
| ) | |
| Patricia Clarkin Smith and Wells Fargo ) | |
| Bank, NA. ) | |
| ) | |
| Defendant. ) | |
| ) | |

TO: THE ABOVE NAMED PARTIES:

PLEASE TAKE NOTICE that the Plaintiff, Family Services, Inc. as Conservator for Muriel W. Clarkin (hereinafter "Plaintiff"), by and through it undersigned counsel, will move before this Court on the 10th day after service, or at such other time and place as is convenient to the Court, for an order granting Plaintiff's Motion for Summary Judgement as to Plaintiff's causes of action for Conversion, Unjust Enrichment, Money Had and Received, Promissory Estoppel, Quantum Meruit, Declaratory Judgment, Fraudulent Conveyance, and Quiet Title pursuant to Rules 56 SCRCP.

This motion will be based on the pleadings of record, the recorded records of Charleston County, applicable statutory and common law, and any memorandum or exhibits Plaintiffs may seek to submit to the Court prior to a hearing on this matter. The grounds for the motion are as follows:

**BACKGROUND**

Plaintiff was appointed conservator for the assets, affairs and estate of Muriel W. Clarkin by a temporary order dated January 16, 2015, and a permanent order dated March 27, 2015, in case

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number 2014-GC-10-0209, by the Honorable Tamara C. Curry, Charleston Count Probate Judge (hereinafter "Probate Matter"). Muriel W. Clarkin (hereinafter "Clarkin") is an eighty-seven year old widow who has four living children, and Clarkin requires finances and funds to provide for Clarkin's necessary assisted living care. Defendant, Patricia Clarkin Smith (hereinafter "Defendant") is a daughter of Clarkin. On December 22, 2014, in the Probate Matter the Honorable Tamara C. Curry by Ex Parte Order made a preliminary finding of fact that Clarkin's physician had certified in writing that Clarkin is incapacitated and unable to make decisions for herself and in her best interest and thereafter as a matter of law Judge Curry ordered Clarkin is adjudged to be an incapacitated person, as defined by South Carolina Probate Code §62-5-101(1). (A copy of the Probate Orders and Petition will be provided by the Court at the time of hearing but are not being filed for purposes of confidentiality). The Temporary Order was subsequently reconfirmed by orders dated 1/16/15 and 3/27/15. Defendant contested the Petition.

It is important to note that many of the pertinent facts and events in this case took place in November and December of 2014. Defendant stated in her Deposition that in October or November of 2014, her sister Muriel Kennedy (hereinafter "Kennedy") called Defendant and said

> A. "You know Mama's memory is getting bad. And [Defendant] said: Yeah. Well she's in her 80's. Muriel Said: I want you to come –I'm paraphrasing. I'm definitely paraphrasing. Muriel called me wanting me to sign paperwork.
> Q. For what?
> A. Saying that Mama could not take care of herself.
> Q When was this?
> A. It was – it was October, November. Because that's when my warning lights went off. And I said. No, hell no" (Depo Excerpts pg. 81 ln 20 – pg 82 ln 10; Attached hereto as Exhibit "**A**" and incorporated herein by reference)

On or about November 1, 2012, Defendant received $6,000.00 (hereinafter "11/1/12 $6,000") from Clarkin which Defendant has acknowledged she has an obligation to repay but has not repaid said funds. (Exhibit **"A"** pg. 105, ln. 22 – pg. 108, ln. 12; Exhibit "**B"**; Exhibit "**C"**)

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On July 7, 2013 a deed was recorded in the RMC office of Charleston County in Book 0351 at Page 348 (Exhibit "**D**", hereinafter "First Deed") wherein Clarkin conveyed a half interest in real property she owned at 602 Atlantic St., Mt. Pleasant, SC 29464 (hereinafter "the Property") to Defendant as Joint Tenant with rights of survivorship.[1][2] On or about August 21, 2013, Defendant obtained $1,500.00 (hereinafter "8/21/13 $1,500") from Clarkin which she agreed to repay Clarkin and has acknowledged that she had an obligation to repay Clarkin for said funds but has not done so. [3] In or around August of 2013 Defendant began residing in the Property and began paying Clarkin monthly rent in the amount of $450 to $500 dollars (hereinafter "Rent"). (see Exhibit "**A"** pg. 27, lns. 1-7, pg. 28, lns. 17-25, pg. 29, ln 18 – pg. 31, ln. 3, pg. 89 lns. 15 – 19, pg. 143, ln. 11 – pg.151, ln. 9, pg. 176, lns 11-16, pg. 178 ln 21 – pg. ln 9, pg. 185, ln. 21 – pg. 186, ln. 12,; Exhibit "**B**" pgs. 6, 12, 16, 39, 40; Exhibit "**E"** ).

On November 18, 2014, Defendant recorded a deed in the RMC office for Charleston County in Book 0441, Page 484 (hereinafter "November 18th Deed") (Exhibit "**F**"), which is alleged to have been executed by Clarkin and which conveyed to Defendant, Clarkin's remaining half interest in the in the Property originally owned wholly by Clarkin. Defendant has stated that the reason she caused the November 18th Deed to be drafted, executed and recorded was that she was concerned that Clarkin may be declared incapacitated and in which case Clarkin would not be able to sign a mortgage for the Property and therefore Defendant would not be able to get a loan

[1] Defendant stated the reason that Clarkin conveyed her a half interest in the Property was to reduce the taxes owed to primary residence taxes and/or from 6% to 4 %. (Exhibit "A" pg. 100, ln 3 – 13.)

[2] The Property is, was at that time, and is currently subject to a mortgage lien to Wells Fargo which was originally taken out by Clarkin for the benefit of her granddaughter Bridget Inman (Kennedy's daughter) to purchase a house on the condition that Inman make the monthly payments upon the mortgage and repay Clarkin the money she loaned Inman which Inman has ceased doing (see 2017-CP-10-5426, currently on Appeal prior to finding on the merits) causing further family strife and financial concern for Plaintiff as conservator of Clarkin.

[3] Defendant admitted she owed this $1,500.00 in Paragraph 1 of her answer in response to the allegations of Paragraphs 11 and 12 of the Complaint. See also Exhibit "B" pg 21 where Defendant acknowledge to her sister on 4/1/14, that she owes Clarkin the $1,500.00

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in her own name secured by the Property. However, if Defendant owned the Property in whole she would not require her mother's signature to undertake such a transaction. Defendant testified in her deposition to the following:

Q. The deed to 602 Atlantic, drafted by Mac Gibson, record on August 7, 2013. It gives you joint tenancy with right of survivorship and not as tenancy in common. So if your mother passed away, you would take complete title to the home, correct?
A. We talked about that. I thought I was supposed to bring it today. I have a copy for your today.
Q. So you understand that?
A. Yes.
Q. That you would have been the sole owner of the property without the second deed once your mother passed away?
A. Yes.
Q. Okay.
A. *But I wouldn't have been able to get a loan in my name without my mother's signature. She can't do that when she is ward of the state.*
Q. Was your mother a ward of the state on November 18, 2014?
A. *No. But Muriel had called me and asked me to sign papers about Mama's not being able to take care of herself. I didn't know in regards to what. It didn't sound good. . .* (Exhibit "**A**" pg. 141 ln. 12 – pg. 142 ln. 11)

Defendant did not pay Clarkin any consideration for the November 18th Deed. The November 18th Deed was not drafted by Clarkin's Attorney Gibson in contrast to the previous deeds, wills and powers of attorney of record in Charleston County which Clarkin had Gibson draft in past recent years. Defendant, herself recorded the November 18th Deed.

Further on November 18, 2014, Defendant also obtained $6,000.00 (hereinafter "11/18/14 $6,000") from Clarkin. Defendant has acknowledged that she has an obligation to pay back Clarkin for the $6,000.00 (Exhibit **"A"** pg. 105, ln. 22 – pg. 108, ln. 12, pg. 126, lns. 11-16; Exhibit "**C"**) (Exhibit "**G**" Response to Interrogatory #9).

On or about December 8, 2014, Defendant took Clarkin to attorney Bolin who had done work for Defendant but was not Clarkin's Attorney Gibson and Defendant paid Bolin to draft a second durable power of attorney giving Defendant power of attorney over Clarkin. This second

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power of attorney was separate from Clarkin's existing power of attorney drafted by Gibson.[4] (Exhibit "**A**", pg. 35, ln 19 -pg. 37, ln 6) Defendant then took the December 8th POA and had it recorded in the Charleston RMC Office in Book 0445 at Pate 144.[5]

On December 22, 2014, the Honorable Tamara C. Curry by order adjudged Clarkin to be an incapacitated person based upon the written certification of Clarkin's physician and a diagnosis of Alzheimer's (Probate Order which will be provided to the Court at the time of hearing, but which are not being filed for reasons of confidentiality). At a temporary hearing of January 9, 2015, the Court again adjudged the finding. Thereafter the Court held a full hearing on the issue of the permanent appointment of a guardian and conservator for Clarkin on March 19, 2015, wherein Defendant was present and represented by counsel. With the consent of Defendant and all other parties the Court made findings of facts stating that based on testimony of designated medical examiners Clarkin was diagnosed with Major Depressive Disorder and Neuro Cognitive Disorder, Mild, which rendered Clarkin susceptible to undue influence. The Medical examiners testified that Clarkin lacked sufficient understanding or capacity to make responsible decisions concerning her finances and assets. (Probate Orders).

On December 23, 2014, the police came to Defendant's residence to see Clarkin who was there at the time and informed Clarkin and Defendant that Clarkin had been declared incompetent by the Court. Thereafter on December 23, 2014, Defendant as an alleged authorized user of a Wells Fargo Credit Card account owned by Clarkin, signed for and received a $10,000 (hereinafter "12/23/14 10,000") cash advance upon Clarkin's account. (See Exhibit "**A**" pg 37, ln 2-25, pg. 55,

[4] Gibson recorded a POA in the Register of Deeds in Book 0319 Pg 644 on March 27, 2013. The POA name Defendants sister Kennedy as the attorney in fact and Defendant as successor in the event Kennedy was deceased or unable to serve.

[5] By Order dated March 27, 2015, in case number 2014-GC-10-0209, the Honorable Tamara C. Curry, Charleston Count Probate Judge, declared the December 8th POA "renounced as null and void."

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ln 19 – pg. 57, ln. 12). Clarkin was the sole owner of the credit card account. Plaintiff has incurred significant damages in the form of interest upon the December 23, 2014, $10,000 advance (Exhibit "**A**" pg. 136, ln 18 - pg. 138, ln. 20). Thereafter Defendant retained her counsel Alan Toporek to represent Defendant in the Probate Matter and paid Mr. Toporek a retainer fee using the $10,000.00 Defendant had obtain from Clarkin's account. Mr. Toporek made clear to Defendant that he was representing Defendant and did not represent Clarkin the matter (Exhibit "**G**", Response to Interrogatory #10, Exhibit "**A"** pg. 65, ln 25 – pg. 66, ln. 2, pg. 69, ln. 23 – pg. 69, ln. 23). Defendant testified in her deposition that she is not responsible for paying the $10,000.00 stating: "I maintain that the funds are –came out of the family fund. And whether I maintain it or not, it' s not my debt, according to the user agreement. I'm not paying back that $10,000.00 . . .Q. So your mother should be responsible for your actions? A. No. My mother should - - no." (Exhibit "**A"** pg. 120, ln. 21 – pg. 121 ln. 6). However, Defendant in January and February of 2015 did make two interest and principle payments upon the debt of her own volition. ( Exhibit "**A"** pg. 93, ln. 1 – pg. 94, ln. 23). On January 9, 2015, Defendant attended a formal hearing in the Probate Matter, wherein the Court reconfirmed Ms. Clarkin's incapacitation and appointed Plaintiff as conservator by temporary order. Then on January 27, 2015, Defendant again charged Ms. Clarkin's visa credit card to pay her counsel Alan Toporek an additional $7,500.00 retainer fee (Exhibit "**A"** pg. 116, ln. 116 – pg. 118, ln. 20).[6] On February 25, 2015, Defendant left a voice message with Plaintiff stating: "

> Hi. Patricia again. The credit card, seventeen five. On the 23rd when Muriel sent the police here and Mama found out, Mama knew that I was going to get a $10, 000 cash advance. I had not told her about 7,500 because obviously 10,000 was an upsetting amount of money. And if she only knew what it really was going to cost,

[6] In March or April of 2015, Plaintiff after being permanently appointed conservator was reviewing Ms. Clarkin's credit card records and notice the 1/27/2015, charge directly to Mr. Toporek's firm and contacted Mr. Toporek to notify him that the charge was not authorized resulting in Mr. Toporek returning the $7,500.00 to Plaintiff. (Exhibit "**A"** pg. 116, ln. 116 – pg. 118, ln. 20)

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> it's just not worth telling her. *I'll take care of it. I have made I think it's like, and 841 payment in January, a $800 payment in February, and I will continue to do so.* I had them amortize seventeen five at the percentage rate, *and I've just been getting it bigger. But, again, that my responsibility. I'm paying the legal fees to Mr. Toporek* to get my mother her legal rights back. My name is on the card. I have a card. I'll make you a copy of it. I'm an authorized user. Well Thank you very much. Bye.
> A. Yes. That's true. (Exhibit "**A**" pg. 105, ln. 22 – pg. 118, ln. 20)

Plaintiff has sent Defendant multiple communications requesting that Defendant repay the funds, referenced herein, which she received from Clarkin but Defendant has refused (Exhibit "**H**").

On March 31, 2016, after the December 22, 2014, probate petition filed by Kennedy alleging as one of the basis for the appointment of a conservator for Ms. Clarkin that Defendant has caused the November 18th Deed to be executed and record and further after Plaintiff was formally appointed as conservator and began inquiring to Defendant about her wrongful acts in regard to Ms. Clarkin, Defendant sought to further remove from Plaintiff's reach Ms. Clarkin's half interest in the Property by transferring title to the Property from Defendant to Patricia Clarkin Smith, Trustee of the Patricia Clarkin Trust dated March 31, 2016, and recording the deed in the RMC Office for Charleston County on April 6, 2016, in BK 0545 at PG 374 (hereinafter "Trust Deed") (Exhibit "**I**").

**STANDARD**

"Under Rule 56(c), SCRCP, the party seeking summary judgment has the initial burden of demonstrating the absence of a genuine issue of material fact. Once the party moving for summary judgment meets the initial burden of showing an absence of evidentiary support for the opponent's case, the opponent cannot simply rest on mere allegations or denials contained in the pleadings. Rather, the nonmoving party must come forward with specific facts showing there is a genuine issue for trial." *Regions Bank v. Schmauch*, 354 S.C. 648, 660, 582 S.E. 2d 432 (2003).

**ANALYSIS**

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**Conversion**

"Conversion is defined as the unauthorized assumption and exercise of the right of ownership over goods or personal chattels belonging to another to the exclusion of the owner's rights. Money may be the subject of conversion when it is capable of being identified and there may be conversion of determinate sums even though the specific coins and bills are not identified." *Moore v. Weinberg*, 383 S.C. 583, 589, 681 S.E.2d 875 (2009). "To establish the tort of conversion, it is essential that the plaintiff establish either title to or right to the possession of the personal property. Conversion may arise by some illegal use or misuse, or by illegal detention of another's personal property. Conversion is a wrongful act which emanates by either a wrongful taking or wrongful detention." *Regions Bank v. Schmauch*, 354 S.C. 648, 667, 528 S.E.2d 432 (Ct. App. 2003) (citations omitted). Ordinarily the plaintiff bears the burden of proof in a conversion action, however the burden may shift when a case involves a confidential relationship. *See. Gordon v. Busbee*, 397 S.C. 119, 723 S.E.2d 822 (Ct. App. 2011). "A presumption of undue influence arises if the alleged wrongdoer was in a confidential relationship with the donor and there were suspicious circumstances surrounding the preparation, formulation, or execution of the donative transfer, whether the transfer was by gift, trust, will, will substitute, or a donative transfer of any other type. The effect of the presumption is to shift to the proponent the burden of going forward with the evidence, not the burden of persuasion. The presumption justifies a judgment for the contestant as a matter of law only if the proponent does not come forward with evidence to rebut the presumption." *Id.* at 140. "In South Carolina pre-judgment interest may also be awarded in equity cases, conversion cases, and property cases." *Vaugh Dev. v. Westvaco Development, Inc.*, 372 S.C. 576, 579, 642, S.E. 2d 757 (Ct. App. 2007)

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In this case Defendant has conceded that a confidential relationship exists between her and her mother Clarkin, admitting in response to Paragraph 6 of Plaintiff's complaint that Clarkin imposed a special confidence in Defendant (Defendant's Ans., Para 1). It is an undisputed fact that Defendant received the following funds from Clarkin: 11/1/12 $6,000, 8/21/13 $1,500, 11/18/14 $6,000, and the 12/23/14 $10,000. It is an undisputed fact that with regard to each of these allotment of funds Defendant has made statement's that she has an obligation to repay each amount. It is also an undisputed fact that Defendant has not repaid Clarkin or Plaintiff any of the said funds despite Plaintiff demanding payment. Defendant has wrongfully detained identifiable funds of Clarkin, and this Court should, absent coming forward with evidence to rebut the presumption undue influence, order as a matter of law that Defendant is liable to Plaintiff for the $23,500.00 along with an award of prejudgment interest on the amount from January 7, 2015 when Plaintiff was initially appointed as conservator. [7]

**Unjust Enrichment**

"A party may be unjustly enriched when it has and retains benefits or money which in justice and equity belong to another. Unjust enrichment is an equitable doctrine which permits the recovery of that amount the defendant has been unjustly enriched at the expense of the plaintiff." *Dema v. Tenet Physician Services-Hilton,* 383 S.C. 115, 123, 678 S.E.2d 430 (2009). "In South Carolina pre-judgment interest may also be awarded in equity cases, conversion cases, and

[7] Plaintiff has presented evidence to establish Defendants obligation as to each allotment of funds dating back to their date of receipt and if there Court were to find that Plaintiff should be awarded those additional amounts of prejudgment interest dating back to receipt of each allotment by Defendant then Plaintiff would request such an award. Further Defendant stated and acknowledged to Plaintiff in February of 2015 that she was obligated to repay all but the 8/21/13 $1,500, and Plaintiff began submitting demands for payment of these funds to Defendant in 2015 Therefore Plaintiff believes it is both reasonable and beneficial to Defendant to request that the interest on the lump some only begin to accrue from Plaintiff's date of appointment which is after Defendant received the last allotment of said funds.

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property cases." Vaugh Dev. v. Westvaco Development, Inc., 372 S.C. 576, 579, 642, S.E. 2d 757 (Ct. App. 2007)

In this case it is an undisputed fact that Defendant received the following funds from Clarkin: 11/1/12 $6,000, 8/21/13 $1,500, 11/18/14 $6,000, and the 12/23/14 $10,000. It is an undisputed fact that with regard to each of these allotment of funds Defendant has made statement's that she has an obligation to repay each amount. It is also an undisputed fact that Defendant has not repaid Clarkin or Plaintiff any of the said funds despite Plaintiff demanding payment.

Additionally evidence exists to find that Defendant promised to pay Clarkin $450 to $500 a month in Rent for the benefit of residing in the Property. Defendant never paid any consideration for receiving any alleged title to the Property.[8] There is undisputed evidence that Defendant regularly made monthly Rent payments to Clarkin in 2013 and 2014 prior to Plaintiff being appointed Conservator in January of 2015, and it is undisputed that Defendant has not paid Plaintiff Rent since Plaintiff was appointed conservator in January of 2015.

Defendant has wrongfully retained the money which in justice and equity should have been paid to Clarkin, and this court should order as a matter of equity that Defendant is liable to Plaintiff for the $23,500.00. Plaintiff further requests an award of damages for rent from January of 2015 when Plaintiff began acting as conservator to the date of an order of this Court awarding said damages at an amount of $450.00 a month which at present amounts to $31,500. Finally, Plaintiff requests that this Court award prejudgment interest on both amounts from January 7, 2015 when Plaintiff was initially appointed as conservator.

**Money had and Received**

[8] This monthly amount is substantially below the market value of what it would cost to rent any single-family home in Old Town Mt. Pleasant.

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"An action for money had and received exists where a defendant has money belonging to the plaintiff which in equity should be repaid to the plaintiff. In order to recover on a count for money had and received, ... the plaintiff must show he has equity and conscience on his side, and that he could recover in a court of equity. . . Once the requirements of an action for money had and received are proven, the equitable principles of unjust enrichment and restitution provide a remedy. An action for money had and received is based upon a quasi-contract or a contract implied in law. . . In addition, the court adopted the "Scudder May test as the sole test for a quantum meruit/quasi-contract/implied by law claim." Id. at 9, 532 S.E.2d at 872. This test mandates: (1) a benefit conferred by plaintiff upon the defendant; (2) realization of that benefit by the defendant; and (3) retention of the benefit by the defendant under circumstances that make it inequitable for him to retain it without paying its value." *Okatie River v. Southeastern Site Prep,* 353, S.C. 327, 334-35, 577 S.E.2d 468 (2003). "Because the applicable statute and case law do not exclude the award of prejudgment interest for a claim under the theory of quantum meruit, it appears that our appellate courts have implicitly recognized that such an award is permissible." *QHG of Lake City, Inc. v. McCutcheon,* 360 S.C. 196, 206, 600 S.E.2d 105 (2004).

In this case it is an undisputed fact that Defendant received the following funds from Clarkin: 11/1/12 $6,000, 8/21/13 $1,500, 11/18/14 $6,000, and the 12/23/14 $10,000. It is an undisputed fact that with regard to each of these allotment of funds Defendant has made statement's that she has an obligation to repay each amount. It is also an undisputed fact that Defendant has not repaid Clarkin or Plaintiff any of the said funds despite Plaintiff demanding payment. Defendant has wrongfully retained the money which in justice and equity should have been repaid to Clarkin, and this court should order as a matter of equity that Defendant is liable to

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Plaintiff for the $23,500.00 along with an award of prejudgment interest on the amount from January 7, 2015 when Plaintiff was initially appointed as conservator.

**Promissory Estoppel**

"A contract and promissory estoppel are two separate and distinct legal theories. They are two different creatures of the law; they are not legally synonymous; the birth of one does not spawn the other. Our courts recognize a remedy in equity if the claimant can prove: (1) the presence of a promise unambiguous in its terms; (2) reasonable reliance upon the promise by the party to whom the promise is made; (3) the reliance is expected and foreseeable by the party who makes the promise; and (4) the party to whom the promise is made must sustain injury in reliance on the promise. The applicability of the doctrine depends on whether the refusal to apply it would be virtually to sanction the perpetration of a fraud or would result in other injustice. Unlike a contract which requires a meeting of the minds and consideration, promissory estoppel looks at a promise, its subsequent effect on the promisee . . ." *Satcher v. Satcher*, 351 S.C. 477, 483-84, 570 S.E.2d 535 (Ct. App. 2002). "In South Carolina pre-judgment interest may also be awarded in equity cases, conversion cases, and property cases." Vaugh Dev. v. Westvaco Development, Inc., 372 S.C. 576, 579, 642, S.E. 2d 757 (Ct. App. 2007)

In this case evidence exists to find that Defendant promised to pay Clarkin $450 to $500 a month in Rent for the benefit of residing in the Property which Defendant never paid any consideration for receiving any alleged title to. There is undisputed evidence that Defendant regularly made monthly Rent payments to Clarkin in 2013 and 2014 prior to Plaintiff being appointed Conservator in January of 2015, and it is undisputed that Defendant has not paid Plaintiff Rent since Plaintiff was appointed conservator in January of 2015. The promise to pay Rent to Clarkin is unambiguous, Clarkin's reliance upon the promise by her daughter the Defendant was

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to be expected and foreseeable by Defendant. The Defendant's failure to maintain that promise upon Plaintiff taking over as Conservator for Clarkin, caused Clarkin to caused Clarkin to suffer a sustained injury and failing to apply the equitable doctrine in this matter would result in an injustice to Plaintiff. Plaintiff requests an award of damages for rent from January of 2015 when Plaintiff began acting as conservator to the date of an order of this Court awarding said damages at an amount of $450.00 a month which at present amounts to $31,500. Finally, Plaintiff requests that this Court award prejudgment interest said amount from January 7, 2015 when Plaintiff was initially appointed as conservator.

**Quantum Meruit**

"The court adopted the "Scudder May test as the sole test for a quantum meruit/quasi-contract/implied by law claim." Id. at 9, 532 S.E.2d at 872. This test mandates: (1) a benefit conferred by plaintiff upon the defendant; (2) realization of that benefit by the defendant; and (3) retention of the benefit by the defendant under circumstances that make it inequitable for him to retain it without paying its value." *Okatie River v. Southeastern Site Prep,* 353, S.C. 327, 334-35, 577 S.E.2d 468 (2003). "Because the applicable statute and case law do not exclude the award of prejudgment interest for a claim under the theory of quantum meruit, it appears that our appellate courts have implicitly recognized that such an award is permissible." *QHG of Lake City, Inc. v. McCutcheon,* 360 S.C. 196, 206, 600 S.E.2d 105 (2004).

In this case it is an undisputed fact that Defendant received the following funds from Clarkin: 11/1/12 $6,000, 8/21/13 $1,500, 11/18/14 $6,000, and the 12/23/14 $10,000. It is an undisputed fact that with regard to each of these allotment of funds Defendant has made statement's that she has an obligation to repay each amount. It is also an undisputed fact that

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Defendant has not repaid Clarkin or Plaintiff any of the said funds despite Plaintiff demanding payment.

Additionally evidence exists to find that Defendant promised to pay Clarkin $450 to $500 a month in Rent for the benefit of residing in the Property which Defendant never paid any consideration for receiving any alleged title too.[9] There is undisputed evidence that Defendant regularly made monthly Rent payments to Clarkin in 2013 and 2014 prior to Plaintiff being appointed Conservator in January of 2015, and it is undisputed that Defendant has not paid Plaintiff Rent since Plaintiff was appointed conservator in January of 2015.

Clarkin conferred benefits upon Defendant in the form of Defendant receiving 11/1/12 $6,000, 8/21/13 $1,500, 11/18/14 $6,000, and the 12/23/14 $10,000. Clarkin further conferred upon Defendant the benefit of residing in the Property. Defendant has realized these benefits such that Defendant's retention of the benefits under circumstances make it inequitable for Defendant to retain the benefits without paying their value. This court should order as a matter of equity that Defendant is liable to Plaintiff for the $23,500.00. Plaintiff further request an award of damages for rent from January of 2015 when Plaintiff began acting as conservator to the date of an order of this Court awarding said damages at an amount of $450.00 a month which at present amounts to $31,500. Finally, Plaintiff requests that this Court award prejudgment interest on both amounts from January 7, 2015 when Plaintiff was initially appointed as conservator.

**Declaratory Injunctive Relief**

"A suit for declaratory judgment is neither legal nor equitable, but is determined by the nature of the underlying issue."*Felts v. Richland County*, 303 S.C. 354, 356, 400 S.E.2d 781 (1991). "An action to set aside a deed on the basis of undue influence is an action in equity."

[9] This monthly amount is substantially below the market value of what it would cost to rent any single-family home in Old Town Mt. Pleasant.

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*Skipper v. Perrone*, 382 S.C. 53, 57, 674 S.E.2d 510 (Ct. App. 2009). "Generally, the party attacking a deed has the burden of proof. However, the supreme court held an inference of undue influence will arise upon a showing of great mental weakness of the grantor and gross inadequacy of consideration. The court explained: It is not necessary, in order to secure the aid of equity, to prove that the deceased (grantor) was at the time insane, or in such a state of mental imbecility as to render her entirely incapable of executing a valid deed. It is sufficient to show that from her sickness and infirmities she was at the time in a condition of great mental weakness, and that there was gross inadequacy of consideration for the conveyance. From these circumstances imposition of undue influence will be inferred. The court recognized this inference applies even absent a confidential relationship." *Id.* at 57-58 (citations omitted). "Even absent a confidential relationship, this court has several times approved the principle that imposition or undue influence upon the grantor will be inferred from proof of great mental weakness, not amounting to incapacity to execute a valid deed, accompanied by gross inadequacy of consideration." *Brooks v. Kay*, 339 S.C. 479, 490, 530 S.E.2d 120 (2000) (citations omitted). "A confidential relationship arises when the grantor has placed his trust and confidence in the grantee, and the grantee has exerted dominion over the grantor. The essence of the relationship is the trust and confidence. Id. Mere friendship between the parties is not sufficient. The relationship must be one implying confidence. Some evidence is required that the grantor actually reposed trust in the grantee in the handling of her affairs." *Id.* at 488. (citations omitted). "Once a contestant has proven a confidential relationship existed at the time of conveyance, the burden shifts to the grantee to prove that the contestant's conveyance was not the product of undue influence." *Dixon v. Dixon*, 362 S.C. 388, 398, 608, S.E.2d 849 (2005). In *Brooks* the court voided a deed on the ground of undue influence stating:

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"Even if Brooks was mentally competent enough to execute a deed there is no doubt that she was rapidly approaching senility, if not already suffering from the Alzheimer's disease responsible for her commitment to the State Hospital only one year after the transaction in question." at 490.

In this case on November 18, 2014, Defendant caused the November 18th Deed to be executed and recorded granting Defendant Clarkin's remaining half interest in the Property. Defendant paid no consideration for the November 18th Deed.

Here, the Probate Court established contemporaneous with the execution of the November 18th Deed that Clarkin was an incapacitated person. Further it is a matter of fact there was a gross inadequacy of consideration paid to Clarkin by Defendant for the November 18th Deed because Defendant paid no consideration, instead rather Defendant on the same day also coerced Clarkin to give Defendant and additional $6,000.00.

Moreover, Defendant conceded in her Complaint that Clarkin imposed a special confidence in Defendant. Defendant testified that her mother places great trust and confidence in her (Exhibit "A" pg. 83, ln 24 – pg. 84, ln 4). Clarkin also imparted fiduciary responsibilities onto Defendant. On March 18, 2013, Clarkin executed a durable power of attorney which was record on March 27, 2013 in the RMC Office for Charleston County in BK 0319 at PG 644 (hereinafter "First POA"). The First POA named Defendant as the alternate successor attorney in fact. On December 8, 2014, Clarkin executed a second durable power of attorney, which conflicted with the still then operative First POA, in that it named Defendant as a dual attorney in fact with her sister Muriel Kennedy instead of as a successor to Kennedy (hereinafter "Second POA"). Defendant recorded the Second POA in the RMC Office of Charleston County in BK 0445 at PG 144.[10] Therefore there is sufficient evidence to establish the existence of a confidential relationship between Defendant and

[10] The Honorable Tamara C. Curry Ordered the Second POA renounced as null and void by Order dated March 27, 2015.

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Clarkin such that the burden shifts to Defendant to prove that the conveyance of the November 18th Deed was not the product of undue influence.

However, even absent the finding of the existence of a confidential relationship between Defendant and Clarkin at the time of execution and even absent a finding that Clarkin was an not an incapacitated person at the time of execution, both of which Plaintiff affirmatively asserts this court should find existed on November 18, 2014, there is still ample evidence for this Court to infer that like in *Brooks* Clarkin at the time of execution suffered great mental weakness, not amounting to incapacity to execute a valid deed, accompanied by gross inadequacy of consideration, such that this Court should order the November 18th Deed void ab initio based on undue influence. Further because the Defendant as trustee of the Patricia Clarkin Trust dated March 31, 2016, was not a bona fide purchaser, Plaintiff further requests that this Court order that the Trust Deed void ab initio as well.

**Fraudulent Conveyance**

"The Statute of Elizabeth provides: Every gift, grant, alienation, bargain, transfer, and conveyance of lands ... for any intent or purpose to delay, hinder, or defraud creditors and others of their just and lawful actions, suits, debts, accounts, damages, penalties and forfeitures must be deemed and taken ... to be clearly and utterly void. In interpreting this statute, this Court has held conveyances shall be set aside under two conditions: First, where there was valuable consideration and the transfer is made by the grantor with the actual intent to defraud; and, second, where a transfer is made without actual intent to defraud but without valuable consideration." *Oskin v. Johnson*, 400 S.C. 390, 735 S.E.2d 459 (2012). "Where transfers to members of the family are attacked either upon the ground of actual fraud or on account of their voluntary character, the law imposes the burden on the transferee to establish both a valuable consideration and the bona fides of the

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transaction by clear and convincing testimony. . . Fraudulent intent in such instances can usually be shown only by a consideration of the attendant facts and circumstances, a resort to which must usually be had in order to distinguish between transactions which are bona fide, and those which are not. The Courts frequently must resort to evidence or circumstances which are not properly explained, when such circumstances lead to the belief that a fraudulent intent was present. . . Certain circumstances so frequently attend conveyances to defraud creditors that they are recognized and referred to as "badges of fraud". The badges tend to excite suspicions as to the bona fides of a challenged conveyance. Unexplained, they may warrant an inference of fraud. Whether the inference is warranted depends in large measure on whether a satisfactory explanation is presented. The facts which are recognized indicia of fraud are numerous, and no court could pretend to anticipate or catalog them all. Among the generally recognized badges of fraud are the insolvency or indebtedness of the transferor, lack of consideration for the conveyance, relationship between the transferor and the transferee, the pendency or threat of litigation, secrecy or concealment, departure from the usual method of business, the transfer of the debtor's entire estate, the reservation of benefit to the transferor, and the retention by the debtor of possession of the property. Although it has been said that a single badge of fraud may stamp a transaction as fraudulent, it is more generally held that while one circumstance recognized as a badge of fraud may not alone prove fraud, where there is a concurrence of several such badges of fraud an inference of fraud may be warranted." *Coleman v. Daniel*, 261 S.C. 198, 208-210, 199 S.E.2d 74 (1973).

In this case the November 18th Deed and the Trust Deed constitute conveyance of lands for the purpose hindering others of their just and lawful actions. Both conveyances were without consideration, and the circumstances of the conveyances evidence multiple badges of fraud

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including lack of consideration for the conveyance, relationship between the transferor and the transferee, the pendency or threat of litigation, secrecy or concealment, departure from the usual method of business, and the transfer of the Clarkin's entire interest in the Property when Defendant already possessed a half interest with rights of survivorship in the Property. The circumstances in case place the burden on Defendant to establish both a valuable consideration for the transfers and the bona fides of the transactions by clear and convincing evidence.

Here, Defendant already possessed a fifty percent interest in the Property with rights of survivorship. Defendant testified that that her sister Kennedy came to her a month or two prior to the execution of the November 18th Deed and asked her to sign papers declaring Clarkin incompetent. Defendant testified that she didn't Know what Kennedy was up too, but she didn't think it was good. Defendant testified that the reason she caused the November 18th Deed to be executed and recorded was because if her mother Clarkin was declared incompetent then Clarkin would not be able to sign a mortgage on the property securing a loan for the benefit of Defendant, but if Defendant was the sole titleholder to the property she would not need her mother's signature. Defendant testified that she knew at the time that if full and complete title to the Property was transferred to her name it could cause Wells Fargo to call the note secured by the mortgage on the property immediately due and owing (Exhibit "A" pg. 139, ln. 5 – 142, ln. 12). The November 18th Deed was not drafted or recorded by Attorney Mac Gibson who had historically and only a year prior been Clarkin's usual attorney for drafting deeds, wills, and powers of attorney. Thereafter on December 8, 2014, Defendant caused the Second POA to be executed and recorded giving her power of attorney over her mother Clarkin and again not utilizing the services of Mac Gibson. These actions were undertaken in secrecy and concealment and without the knowledge of her sister Kennedy who had durable power of attorney over Clarkin at the time. These actions were taken a

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month or less before Kennedy filed her petition with the probate court to declare Clarkin incompetent and to appoint a conservator, and in her petition Kennedy referenced both the November 18th Deed and the Second POA as a basis for her petition. Thereafter, Clarkin was declared incompetent, Plaintiff was appointed conservator and began communicating with Defendant about repaying Clarkin for various improper transaction (See Exhibit "E"). Defendant contested the Probate Matter and as the very litigious and contested Probate Matter continued Defendant learned through filings, hearing, and mediations that Plaintiff did not believe the November 18th conveyance was a proper and valid conveyance. Thereafter on March 31, 2016, and only a year before this action Defendant again conveyed the Property without consideration to a trust bearing her name and for which she is trustee with full knowledge that Plaintiff claimed she owed Clarkin both funds which Defendant did not have as well as a half interest in the Property.

Plaintiff would assert that the record is clear for this Court to find that under the Statute of Elizabeth that both the November 18th Deed and the Trust Deed are void ab initio absent Defendant establishing both a valuable consideration for the transfers and the bona fides of the transactions by clear and convincing evidence.

**Quiet Title**

"An action to remove a cloud on and quiet title to land is one in equity." *Bryan v. Freeman*, 253 S.C. 50, 52, 168 S.E.2d 793 (1969) "In an action to quiet title, the plaintiff must recover on the strength of his own title, not on the alleged weakness of the defendant's title." *Hoogenboom v. City of Beaufort*, 433 S.E.2d 875, 880 (Ct. App. 1992)

In this case Clarkin held clear title to the Property prior to November 18th Deed as evidence by the First Deed. As set forth herein above there is a strong basis for this Court to declare the November 18th Deed and the Trust Deed void ab initio. Plaintiff requests this Court find clear

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unclouded title to the Property is vested in Muriel W. Clarkin and Patricia Clarkin Smith as joint tenants with rights of survivorship as title the Property evidenced upon the execution of the First Deed.

**Conclusion**

Based upon the allegations and evidence presented to this Court as set forth herein above, Plaintiff requests that this Court grant is Motion for Summary Judgment and award Plaintiff all of the relief it requested herein above.

RESPECTUFLLY SUBMITTED,

THE LAW OFFICE OF
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**CERTIFICATE OF SERVICE**

I Certify that on this 6th day of October 2020 a copy of Plaintiff's Motion for Order of Reference was emailed and placed in the United States Mail postage pre-paid, addressed as follows:

Patricia Clarkin Smith
602 Atlantic Street
Mount Pleasant, SC 29464
patricia@nbct2001.com

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STATE OF SOUTH CAROLINA
COURT OF COMMON PLEAS
COUNTY OF CHARLESTON

FAMILY SERVICES, INC., AS CONSERVATOR FOR MURIEL W. CLARKIN,

Plaintiff,

vs. CASE NO. 2017-CP-10-5427

PATRICIA CLARKIN SMITH and WELLS FARGO BANK, N.A.,

Defendants.

DEPOSITION OF: PATRICIA CLARKIN SMITH

DATE: July 24, 2018

TIME: 10:25 a.m.

LOCATION: Uricchio, Howe, Krell, Jacobson, Toporek, Theos & Keith, P.A.
17 1/2 Broad Street
Charleston, SC

TAKEN BY: Counsel for the Plaintiff

REPORTED BY: KAREN NELLIUS, RPR

---

A. WILLIAM ROBERTS, JR., & ASSOCIATES

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PATRICIA CLARKIN SMITH,

being first duly sworn, testified as follows:

EXAMINATION

BY MR. KEYS:

Q. This is the deposition of Patricia Clarkin Smith taken pursuant to due and proper notice given to all parties. Any defect as to notice, time, and location of this deposition, if any, are waived.

During the course of this deposition, we are going to examine a bunch of un-redacted records that contain personal information, such as account numbers. All parties to this deposition are on notice that any appropriate redactions should be made prior to entering any of the transcripts or evidence from this deposition into the public record.

(PLF. EXH. 23, NOTICE OF DEPOSITION, was marked for identification.)

BY MR. KEYS:

Q. And I have Plaintiff's Exhibit 23, the notice of deposition, dated July 12th, served on July 12th by courier, on Alan Toporek for Patricia Clarkin Smith. The deposition is to take place at 10:00 today. It also contains a subpoena,

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requesting that she bring some documents.

Did you bring anything with you today, Ms. Smith?

A. Would you like to ask me specific documents?

MR. TOPOREK: Just answer the question, Patricia.

THE WITNESS: No. Well, I have documents. Which one are you talking about?

BY MR. KEYS:

Q. It was stuff involving the deed of November 18. Anything involving that, bank statements from February 2012 through February 2015 that show you receiving -- go ahead.

A. One at a time.

Q. Okay.

A. The bank statements, they were e-mailed, and so you should have them.

Q. Okay.

A. And then what was missing, May, June, and July, off of Wells Fargo, and that came in, so you should have April 25th, 2014 until February 2015, Wells Fargo, and you should have all 2012, '13, '14, until February 2015, Heritage Trust Federal Credit Union.

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Q. I do not have anything from '13 from the Federal Union.

A. I have the e-mails. It's a pdf file. Each year was sent separately.

Q. We can work on that as we go along.

A. Okay. And then the other bank closed.

Q. What's the other one?

A. Sacred Heart Credit Union, Carolina Federal, they closed in 2012 sometime.

Q. Okay.

A. And then the other question you asked? You named another document.

Q. Any text messages relating --

A. No. Before that. You asked me about deeds. We'll go right on to RNC. I printed them off.

Q. Do you have any retainer agreements, or anything, that you brought?

A. I brought the first deed and the second deed and the deed of Muriel -- Mom and I on Shemwood, Muriel's deed, Bridget's deed, a deed from --

Q. Just the November 18, 2014.

A. That's the second deed.

Q. You just have the deed today?

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MR. TOPOREK: He is asking about do you have a retainer -- did you have --

If I might interrupt. If I'm out of line, tell me, and I'll shut up.

He wants to know if, I think, you had a retainer agreement with Mr. O'Neil. And --

THE WITNESS: A retainer agreement with Mr. O'Neil? No. My mother asked me to call Mr. O'Neil. She was sitting right there.

BY MR. KEYS:

Q. Okay. We can get more into that. That is P-23. Let me mark it.

A. And text messages, you should have gotten an e-mail.

Q. I received --

A. They are time and date stamped sequence.

Q. Right. I received some between you --

A. 2012 -- it's not some. It's all that I have. 2012 until -- well, until when you asked, January 2015.

Q. All right. So let's go through kind of our foundational steps for us going through this deposition.

A. Okay.

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Q. It will be very important for you to verbalize your answers. Don't make gestures. Use proper English terms, instead of slang terms, like uh-huh or nods. Refrain from using those, please.

A. Okay.

Q. If you need any clarification on any questions, please ask me. Now that the deposition has begun, you are not to ask your counsel for clarification on these questions.

Whenever you need to take a break, just let me know.

A. Thank you.

Q. I would request that we finish the question we're on at that time. After that it's fine.

You are now under oath. You understand what that means?

A. Yes, I do.

Q. You understand that if a statement you made was untrue you could be found subject to criminal perjury charges, possibly?

A. Yes, I do.

Q. Okay. If you will, go ahead and state your full legal name for the record.

A. Patricia Clarkin Smith. Smith is my

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legal last name. S-M-I-T-H.

Q. How old are you?

A. 56.

Q. What's your birth date?

A. January 9, 1962.

Q. Are you on any drugs or medication today which would affect your ability to comprehend the questions and answer them fully and truthfully?

A. No.

Q. Are you suffering from any mental or emotional condition which would affect your ability to comprehend any questions and answer them fully and truthfully today?

A. Am I suffering? No.

Q. Okay. Have you ever taken a deposition before?

A. No.

Q. Do you have any connections to any judges in South Carolina?

A. Well, yes.

Q. Okay.

A. Not relationship-wise, in terms of love relations.

Q. What are your connections to judges?

A. Lord. Let's see. I grew up in

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Shemwood, Mt. Pleasant, a subdivision off of Coleman Boulevard in Mt. Pleasant, South Carolina. The Michelle (phonetic) family grew up around the corner, and one of the Michelle boys is a judge. And then down the street on Shemwood Circle was the Dodds family, and Johnny Dodds is a judge. And then there is Judge Dennis O'Neil --

He is more from Old Village.

-- was a magistrate. Not a magistrate. I forget what kind of judge he was. But he was a judge in Mt. Pleasant. He is presently, I believe, with Seabrook. He is also an expert witness with real estate, closing attorney. And then there is Judge Sudalia (phonetic). He is deceased.

MR. TOPOREK: He passed away.

BY MR. KEYS:

Q. Okay.

A. There may be one or two judges that aren't coming to mind right away.

Q. Okay. So you were born in Mt. Pleasant?

A. No. I was born in Charleston. I was raised in Mt. Pleasant.

Q. Okay. Where did you attend high school?

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A. Bishop England High School, except for about a semester I switched over to Wando, and then I switched back.

Q. Okay. Where did you graduate from?

A. Bishop England High School.

Q. What year did you graduate?

A. 1980.

Q. Okay. Did you attend college?

A. Yes.

Q. Where?

A. College of Charleston. I graduated December 1983.

Q. Okay. What degrees do you possess?

A. Well, my undergraduate is elementary and special education, mentally disabled. My graduate is a double master's in special education, emotional handicap, and learning disabilities.

THE WITNESS: I apologize.

(Off-the-record conference.)

THE WITNESS: So that's College of Charleston, undergraduate; graduate school, University of Florida; and then I obtained a master's plus 30 between the College of Charleston and the Citadel, additional credits; and since then I've taken way more than that. And so that's

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formal graduate credits.
BY MR. KEYS:
Q. Okay.
A. I have other certificates, but they are not college.
Q. All within the education realm?
A. No. It's not college credit. You only want college credit information?
Q. I'm just asking what your certifications are.
A. Well, I'm a national certified guardian from the Center For Guardianship, certification. And it's not a certification. It's -- you get a certificate of training, successful training, guardian ad litem volunteer. It's a bit different.
Q. Are you currently employed?
A. Yes. For myself.
Q. What are you doing for yourself?
A. Special Needs Services, LLC.
Q. When did you incorporate that LLC?
A. Fall 2015. I can't recall the month.
Q. Okay. And tell me about that. What do you do for that?
A. Well, it started with home school teaching. I enjoyed that.

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Q. Okay. What is it now?

A. And then it progressed. I added a client for life skills training. A special needs child.

Q. Okay.

A. And then it progressed on to doing consulting work with students -- high school students who were home-schooled, helping them develop their time management skills and their agenda to keep up with their studies.

And then that moved into being -- I ran into someone I knew, and she needed a caregiver, slash, homemaker. That's the terminology used by her long-term care company, homemaker. And so I have done that job for about -- since February 2017, but that's been very, very, very part time since February of this year, 2018. Only two hours a week. And I'm considering returning to the teaching profession.

Q. Okay. What was -- prior to fall of 2015, what were you doing?

A. Regretfully I was still teaching because I couldn't -- I had to keep teaching to wait to get a loan for my home. But I was retired already. I was in the South Carolina TERI program.

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I did not intend to be, but I had to keep teaching so that I would have the salary verification form required by the bank when the lien got lifted from the property, from the loan my mother made to my niece, Muriel's daughter, that wasn't paid back on time.

Q. Where did you teach at and how long?

A. Charleston County School District, January 1984 until June 1984. Then I taught in Ocala, Florida, 1984 to 1985. Then I did an internship fall -- it was a regular school, but it was a federally funded grant program at the University of Florida, the Ross-Mercer Clinic. And I did a graduate internship there, and that was fall 1985. And then I started teaching again for Charleston County School District December 17, 1985 at Stiles Point Elementary, and, except for a brief break around Hurricane Hugo, I retired November 1st, 2012.

Q. Okay.

A. And then joined the TERI program.

Q. So what is the TERI program?

A. South Carolina T-E-R-I program. It's closed down. It's when you are retired, you can continue to work on a -- you lose a lot of your due

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process rights, but as long as you are able to get a job, you are allowed to continue to work. And then your retirement goes into a fund, and then when you are 59 and a half, you can take it out without as much penalty, depending on what fund you put it in.

Q. So it's substituting?

A. Substituting? No. No. You are a regular certified teacher.

Q. Okay. What grades did you principally teach?

A. I swapped around. I had one career with three separate areas: special education, computer -- the first was special education. That was about half the career. Then in 1997, I switched to alternative ed. I'm the first teacher in the nation, nationally certified, in a secured setting, and that led to doing some lobby work for State Farm on behalf of the national board. I did that for about eight, 10 years.

And then I concluded, switching gears again, I taught technology. I was a computer technology teacher at Buist Academy, grades K to eight. And I was the first teacher in South Carolina to teach animation programming. Alice is

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the nickname of it. Randy Pausch designed it. It's taught at the College of Charleston as a pre-Java course.

Q. Okay.

A. And so I was part of the Carnegie Mellon grant, and I taught animation programming at the middle school level. It would probably be the equivalent of the first two and a half to three weeks of a college course.

Q. Okay.

A. Following that agenda.

Q. Do you receive any government benefits or subsidies?

A. Government benefits. You mean, like my South Carolina state retirement check?

Q. Welfare, food stamps, stuff like that.

A. No.

Q. Okay. Let's move on to why we are here. If you would like to -- so this is a bunch of exhibits. You want to go to Plaintiff's Exhibit 8.

MR. TOPOREK: Are you looking at this?

MR. KEYS: Yes.

MR. TOPOREK: He wants you to go to number 8.

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THE WITNESS: Okay.

(PLF. EXH. 8, PLEADINGS EXCERPTS, was marked for identification.)

BY MR. KEYS:

Q. So these are excerpts of the pleadings in the probate matter.

A. And which one are you referring to? We have had several here.

Q. Well, just that action.

MR. TOPOREK: He is looking at this document right here.

I assume you are looking at this document and the documents behind it that comprise his number 8.

THE WITNESS: Okay.

BY MR. KEYS:

Q. If you flip to page 3 --

A. Are you starting with the emergency hearing or are you starting with the dismissal hearing?

Q. We'll go through a number of them.

A. Okay. Thank you.

MR. TOPOREK: Patricia.

Excuse me.

This is not your opportunity to ask

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questions. This is his opportunity to ask questions.

THE WITNESS: I'm sorry. I thought I was supposed to clarify. Okay.

BY MR. KEYS:

Q. Flip it back one, if you would, please, Patricia.

So this is the Petition For Protective Order and Appointment of a Conservator filed in 2014, GC-10, case number 209, I believe, and it was filed on December 22nd, 2014 in the Charleston County Probate Court by your sister, Muriel Clarkin Kennedy.

We go to page 3, under number 7, your sister has written some different stuff here. She says: While Mrs. Clarkin has throughout her life been generous financially with her children, she is now vulnerable and easily manipulated. Mrs. Clarkin's daughter, Patricia C. Smith, has taken Mrs. Clarkin to the bank in an effort to obtain funds. She has requested an equity loan on her home be paid off with Mrs. Clarkin's funds and has been the recipient of monies to make repairs for her home from Ms. Clarkin, though no repairs have been made.

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As to the beginning here, can you tell me what she is talking about when she says that you've taken your mother to the bank to get funds from her?

MR. TOPOREK: Object to the form of the question.

Patricia, we don't have any judge here that can rule on objections. His latitude today is very, very broad into what he can ask you.

THE WITNESS: All right.

MR. TOPOREK: All I can do is object.

THE WITNESS: Okay. Can you repeat the question?

MR. TOPOREK: When I object to the form of a question, it doesn't mean you don't answer. You do answer. We don't have a judge here to tell us whether it's appropriate.

So subject to my objection, either you can repeat it or ask the court reporter to repeat it.

BY MR. KEYS:

Q. I'll repeat the question for you, Patricia. What would you like me to call you, by the way?

A. My name is Patricia.

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Q. Okay. So your sister alleged that you took your mother to the bank to obtain funds. Do you have anything you want to say about that? Do you recall that ever happening?

A. More than once.

Q. Okay. Why is she making this allegation, saying that you are taking advantage of your mother?

MR. TOPOREK: Object to the form of the question.

THE WITNESS: I can't speak for what my sister was thinking. I disagree with this terminology.

BY MR. KEYS:

Q. Okay. How would you phrase it?

A. Which sentence would you like me to start with?

Q. That you had taken your mother to the bank to obtain funds from her.

A. Yes. I can't remember the year, but somewhere in the late 2000s -- no. It was somewhere in the late -- somewhere around -- I'm not sure of the year. But my mother loaned me money to buy her favorite car. It could have been right around when Daddy died. We were watching a

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movie, and my mother told me that her favorite car was a Cadillac Eldorado drop top, knew all about it. So my mother loaned me $8,800, which I paid back in full with interest, and then I surprised my mother. I sent the car off, the year 2013/14 school year, and the car was gone for eight months, and I had it completely restored.

Q. Okay.

A. And even though my mother personally couldn't drive it, it was designated as her Driving Ms. Daisy car. And we got it back Mother's Day, May 2014. And my son used it for prom, and then my mother and my son and I, upon his graduation from high school, we went on a vacation in it down to Key Largo and then on a Bahama cruise and then back home. That was one loan.

Q. Is there another loan that you recall?

A. Oh, sure. In November 2014, I was put on medical leave for an undetermined amount of time, expected to be a substantial amount of time, two or three months or more. It was actually five months, five and a half months. Went on leave November 19th -- officially my first day of official leave was November 19th, 2014, and my last day of official leave was March 30th, 2015.

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So my mother loaned me some money. It was a gift. I told her: Mama -- because it was out of the emergency fund. And in our family, that's what the emergency fund is for. And I told her, I said: You know, Mama -- she never knew about the State Farm denial of the bathroom claim. Daddy was dying back in 2010, around Christmas at 2010. It turned into 2011, right about the time we got the letter. But y'all have the letter.

Anyway, I never burdened her with that, with that news, so she never knew that State Farm denied the bathroom claim and that I had gutted it and been rebuilding it out of my own funds --

Q. Okay.

A. -- with the help of friends and then with the help of professionals. So I've got those receipts, if you need them. Most of them.

And so when Mama said this is from the emergency fund, it reminded me how Daddy and she felt about that: It was a gift. I said: Well, Mama. It really doesn't need to be a gift. I said: Now I can tell you about the State Farm claim that was denied. And I did. And I showed her a couple of things, the Excel spreadsheet which I sent in to Kelley to get credited toward my

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6,000.

And then the plumber --

Q. The loan was 6,000?

A. Well, no. That's just buying materials.

Then the plumber, the electrician, the Patten Construction. The whole thing, I've got it. It's a little over twelve, $13,000. So I've more than paid Mama back on that $6,000. We just laugh about it. She said: You never told me. I said: It just wasn't the time. It was Daddy dying.

Q. So for clarification, your mother gave you 6,000 in November of '14?

A. My mother gave it to me. I called it a loan. And then we called it even -- we called it over even, is what she called it, because -- I mean, you add up the spreadsheet I gave Kelley and materials and equipment, and you add up the plumber and the electrician and the carpenter, that -- and it's still not complete. The interior is still not finished. I had to demolish not just the five-by-eight bathroom, but into about three, four feet of the adjoining room.

Q. This is 602 Atlantic you are speaking of?

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A. Yes.

Q. When did these repairs begin?

A. Oh, they didn't begin -- see, Daddy -- I would have to look at the spreadsheet to see when we really started buying a lot of stuff. But I would say easily -- I would have to look at the spreadsheet to give you a firm answer. But Daddy died December 21st, 2011. I stayed with Mama week nights for 18 months, all weeknights for 18 months, except five. So a lot of repairs were seriously done during 2012 and '13. Because I was doing this out of pocket. There wasn't a loan. I never even told Mama the claim was denied.

Q. Okay.

A. And so it was -- the bathroom was built in. The interior needs to be done, but the guts of it, it was rebuilt. We are talking completely demolished.

And so by June, on the weekends, I didn't necessarily stay there. Sometimes, but not necessarily. It was more like camping. And so by June it was ready. Well, it was ready about April. Mama started coming over. She started making the transition of not just going to Michael's on the weekend, but coming to spend time with me, dinner,

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watch TV, and then we converted my son's room into her room, and she started spending the night. She always spent the night on Thursday nights. Mostly on Wednesday and then, depending on whether she and Muriel got in a fight, which was usually every week, every other week, then she would come more.

Q. Let's dial back into this a little bit.

A. Okay.

Q. You said your mother gave you $6,000 in November of 2014 from medical leave; is that correct?

A. She -- no. I was on medical leave. She gave it to me out of the family emergency savings account. I have an emergency fund for the family. I can't speak for the other children. They treated us separate but equal. But I've always had one since graduate school that's built up over the years. I've only used it once, and it was in this situation.

Q. And it was a loan for you while you were out with your sick leave?

A. Well, Mama said it was a gift, but then once I showed her all I spent on the bathroom, I told her -- I said: We can call this a loan and call it even. And she said: Well, you spent more

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on the bathroom than $6,000. We just laughed it off.

Q. Okay. Going back to this page 3, your sister alleges that you were supposed to pay your mother rent in the amount of $600 per month.

A. Starting when?

Q. Did you ever pay your mother rent?

A. No. Did I give my mother money all the time? Absolutely.

Q. Okay. How much?

A. She was my mother.

Q. How much did you give your mother money all the time? Was it a regular amount?

A. The same amount every month? No. Just the opposite. When things were going well raising Little John, from the time -- now, we are talking from the time I didn't have a mortgage payment. I sold -- okay. So --

Q. When are we talking about?

A. We're talking -- I brought it for you. I have that deed, the closing deed.

Q. A year?

A. No. No. No. I was married. I am married.

Q. When about are we speaking of?

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A. We are speaking of when I finished the -- when I sold John the townhouse and I didn't have a mortgage payment --

Q. I don't know what year that is, Patricia.

A. It's -- I've got it for you. It's July 2012.

Q. Okay.

A. And the reason we did it is because the HELOC was supposed to be paid off, and in good faith I did it with John, not even checking to see if the HELOC had been paid off. And then turn around, Mama calls Mac to get two deeds --

And Mac can verify that. You don't have to believe me.

-- and we find out -- Mama finds out that the HELOC has not been paid off as agreed upon.

See, I'm retiring November 1st, 2012. So I needed three months minimum to get my own loan in my own name to fix up a 1952 house.

Q. Did you ever pay your mother any money for living in the 602 Atlantic Street house?

A. Was the reason because I lived in the 602 Atlantic Street house? No. The reason was

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because I love my mother. If I had extra money after all she had done helping me raise Little John? That word rent, that word was used by Muriel, and it caused a little stir, and it just wasn't worth it. I don't call what you call it. Call it rent. Call it love. Call it gift. Call it debt repayment. I don't care what you call it. Because depending -- there were times like -- let's see. When I got -- John -- here is a good example. When John broke his ankle in eighth grade, he was out --

Q. This is your son, John?

A. My son, John. He was out of school well over a semester. That was extremely expensive.

Q. In the early 2000s?

A. No. John graduated high school -- this was, like, 2010, '11, when he broke his ankle. Somewhere in there. Late eighth grade.

And so of course Mama and Daddy helped me out. I mean, I had to keep going to work. I had to teach. Big John stayed home. He was a stay-at-home dad. It was a serious injury.

Q. Did you give your mother money on a monthly basis?

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A. No. Because sometimes she loaned me money to help me out.

Q. Okay.

A. Example, 2000 -- let's see, spring 2014, I went out on FMLA leave for 12 weeks. And that was a terrible time to go out because it was right during contract time -- because it was right during teacher contract time.

Q. Okay.

A. And so Deena McCracken (phonetic) helped me make sure -- she was behind the scenes, making sure that my due process rights were honored, and I received a contract. FMLA was put in place, and everything was fine.

Q. Okay. So your mother loaned you money for that?

A. No. I used to give her money every month, like whatever I could. Usually at least -- now, not just money. Sometimes I gave it in the form of items, tangible items, and sometimes it was in the form of pleasure, like the vacation in 2014. Okay? Sometimes it was going out to movies, going out to restaurants, but if I could spoil my Mama back, absolutely. But I would say the majority of it was cash.

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Because Daddy died, see, and her income got cut. Now, Muriel had me thinking it was cut way worse than it really was. I discovered later that it wasn't near what Muriel had me thinking. Muriel had me thinking Mama was next to a pauper when it came to disposable income on a monthly basis. Now, that's separate from investments and funds that you don't want to touch. This is just net income versus what's going out. Muriel had me thinking Mama was in the negative or close to the negative.

But regardless, even if Mama had -- was a millionaire, I still would have done little things for her. Always have. My very first job I was 19, first thing I did waiting tables was I bought her a pair of 20-inch $700 pearls from LeRoy's on King Street.

Q. So when you regularly gave her cash, about how much would you --

A. I didn't start it until probably August or September. I don't recall exactly which month, but it would have been after I sold the townhouse.

Q. August or September of what year?

A. 2012.

Q. Okay.

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A. And, I mean, because in the beginning, Muriel and I got along just fine with it. You got the text. You saw it.

Q. About how much would you give her when you gave her that?

A. Well, it depended. All right? So if we went -- I would say starting off, between social and tangible goods and money, it would have all equalled about 450. And then I recertified, national board certified teacher, the second time, so I got my state -- I was grandfathered in, so I got my state stipend from the legislative, state stipend, and that net was about 5,000.

Q. When was that?

A. When I recertified?

Q. When you received your stipend.

A. I received it since 2001.

Q. Okay.

A. I'm not working now, so I'm not receiving it, but I'm still certified through 2021.

Now, the purpose of giving Mama money had multiple meanings. It wasn't just an I love you. It was to make sure before -- it was to make sure -- I always gave Mama a little bit here and there, but it was to make sure we got the insurance

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and the -- what do you call it -- homeowners insurance and the property taxes paid. It definitely -- she got that every year --

Q. Okay.

A. -- except for when I had the mortgage. But she got -- that's when we had Little John raising up. So no. She didn't get that much then. Just little tiny things. That was usually more in the form of presents.

Q. But sometimes there were vacations?

A. Yes. Well, but then -- from the time Daddy died, six months later, when the HELOC was supposed to be settled -- it was all planned for years, since 2008. This is not a secret anywhere. So Big John and I got a legal separation. I gave him the townhouse for what I owed on it. And it was worth way over 100,000 more. But that was our deal. I have no problem with that. He is a good father, and we raised Johnny good together. So that's it.

Q. Were you reimbursed for those vacation expenses in 2014?

A. That was the whole purpose, was to spoil her. No.

Q. You were not --

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A. I don't think she spent a dollar of her own money. Maybe a little bit when she played poker on the boat.

Q. Did Family Services reimburse you for any vacations? This is 2014 you are talking about, or later?

A. I'm talking about June. My son's high school graduation when we took -- when we took the restored Cadillac Eldorado convertible to Key Largo, we stayed at the Hilton a couple of nights and we went on a Bahama cruise. I've got a picture of Mama parasailing, went snorkeling, playing with the dolphins, and something else.

Q. So that was 2015?

A. No. My son graduated June -- the first week of June 2014.

Q. Okay.

A. Let's see. Well, last year I took her to Father's Day and Mother's Day and paid for that. But that was food. She didn't have the funds. Then March 2015, my son graduated from boot camp, and Mama did pay -- Kelley gave me her cost for the airline ticket, hotel room, all but one night. One night I did. Just because I miscommunicated the expenses to Kelley. And it was -- because we did

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one night at the Marriott. I don't remember what Kelley gave me straight off. But Kelley gave me Marriott, a little bit toward the rental car, and the airline ticket. Kelley didn't give Mama much spending allowance. I bought Mama a watch at the mall.

Q. Okay.

A. And I paid for most of the meals, if not all. I don't recall. But we made it special because it was my son's boot camp graduation.

Q. All right. So if we flip --

A. I can't ask Kelley. Never mind.

But, anyway, there is a breakdown of the expenses on a sheet. I don't have it with me. You may have it. It lists exactly -- it is what she had to turn in to the judge, with the attachments of my reservation or Visa receipts, or whatever I gave Kelley that she asked for. There were e-mails that went back and forth and back and forth and back and forth with attachments. But what she submitted to the judge to approve because it was over $500, that was exactly what Mama paid for.

Q. Okay.

A. And I can't say how much spending money

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she went with because I didn't care about that anyway, but it wasn't much.

Q. If you flip to the next pleading, it's titled the Emergency Petition For Appointment of Temporary Conservator, filed on December 22nd, 2014 in the probate court.

MR. TOPOREK: Is that number 9?

MR. KEYS: It says nine on the bottom of the page.

THE WITNESS: Right. Are we finished --

MR. KEYS: No. We are still in the Exhibit 8.

MR. TOPOREK: Still in Exhibit 8. I'm sorry.

THE WITNESS: I told -- which part did you want me to disagree with? There is plenty to disagree with still.

BY MR. KEYS:

Q. Well, let's move on from that one and go to the next one.

A. Okay.

Q. You got the Emergency Petition For Appointment of Temporary Conservator?

A. Is this it?

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Q. This one.

MR. TOPOREK: Which page is that? No. That's not it. This is page --

THE WITNESS: Still between eight and nine tabs?

MR. TOPOREK: You are getting there. I think this is it. Right?

MR. KEYS: It should be the next pleading after that first one.

MR. TOPOREK: It says Emergency Petition For Appointment.

THE WITNESS: This is what Muriel filed behind everybody's back?

MR. TOPOREK: Just answer the question. He asked you to find the document.

THE WITNESS: I found the document. I hadn't seen it in a long time.

BY MR. KEYS:

Q. Paragraph 3 talks about a power of attorney, dated December 8th, 2014, giving you and Muriel power of attorney over your mother. Can you tell me about that power of attorney?

A. This was dual power of attorney. The one in 2013 was Muriel primary and me secondary. And then the one -- the first one that Muriel

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became power of attorney was right around 2007 or '08.

Q. I'm just asking about this one right now.

A. Okay.

Q. December 8th, 2014.

A. That was dual power of attorney.

Q. Okay. Who drafted that power of attorney?

A. Jocelyn Bolin.

Q. Okay. Who contacted Ms. Bolin?

A. I didn't -- I did.

Q. Okay.

A. Because she was already doing work for me at the time.

Q. What was she doing for you?

A. She did estate planning work for me. She did a living trust and a few others, health power of attorney, blah, blah, blah.

Q. Did she meet with your mother?

A. She did. Not alone. Well, I don't remember. She might have been alone for a while with us in the other room or me in the other room. I really don't recall whether she was alone.

Q. Who drove to meet with Ms. Bolin?

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A. Mama and I.

Q. Okay. Who paid Ms. Bolin to draft the power of attorney?

A. Well, I loaned Mama the money on that one. I had submitted a receipt to Kelley, more than once. $825 that was due me.

Ms. Bolin also represented Mama when the police surrounded my house on December 23rd to tell her she was a temporary ward of the state. Ms. Bolin came within 18 minutes and stayed three to five hours, easily.

Q. Okay.

A. And I have never been reimbursed. But Ms. Bolin represented Mama. Not Mama and me. Not me. Mama. I paid it, but I didn't pay it right away. She invoiced it. But Kelley never would give me the form to reimburse it.

Q. So Ms. Bolin did not represent you with regard to this power of attorney?

A. Well, what do you mean represent me? It was Mama's dual power of attorney.

Q. But you did pay for it?

A. No. I loaned my mother the money to pay for it because she was mentally incapacitated by the time the invoice came in.

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Q. When was that?
A. I gave it to Kelley. I've got a copy of it, I think.
Q. What do you mean --
A. $825 --
Q. What do you mean --
A. -- was outstanding. And I paid on it --
Q. Okay.
A. -- on behalf of my mother. Kelley never would answer me on it. She didn't answer me. She didn't send a reimbursement form. She ignored it. You want a copy of it? I've got it.
Q. We can get to that later.
What do you mean when you say your mother was mentally incapacitated when the invoice came in?
A. Did I say my mother was mentally incapacitated when the invoice came in?
Q. You did.
A. Okay. Mama wasn't ruled mentally incapacitated until Dr. Mulbury -- and it wasn't -- I've never understood mentally incapacitated and mild neurocognitive impairment meant the same thing. I know -- so I misspoke. I scratch that.

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So I totally misspoke.

Q. Okay.

A. When Mama became a temporary ward of the state through the emergency hearing, Ms. Bolin had done a dual power of attorney I think December 8th. But I'm going off the top of my head. It's on the form Ms. Evans has. And then also on December 23rd when the police surrounded my house to tell Mama she was a temporary ward of the state, Ms. Bolin came and represented Mama, my mother. And so, of course, my mother is now a temporary ward of the state. So when Ms. Bolin sent her invoice, I paid it. You don't owe people. I paid it. But then I sent it on to Kelley once she was appointed.

Because there was this window where -- the police surrounded the house on December 23rd, and we didn't hear who the conservator was because it was going to be an attorney and then if not the attorney then Family Services. So I wasn't sure which one Judge Curry -- she had put him in priority. It was an attorney was her first choice, and then it was Family -- we got a letter saying Family Services, introducing themselves.

Q. Okay. Let's flip to page 2, paragraph

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5.

A. Okay.

Q. So herein your sister alleges on April 25th, 2014, Patricia Clarkin received 15,000 from the equity line on 602 Atlantic. This is the HELOC, correct?

A. I had to. We weren't keeping the homeowners insurance. And Bridget still had not settled the HELOC, and Muriel is guarantor of the HELOC, and Muriel refused to honor her word to our mother and settle the loan on behalf of her daughter. That was the entire point of her getting Goat Island, was to be able to mortgage it so she could pay the HELOC.

Q. What was the purpose of your $15,000 fund you received from the HELOC?

A. Home repairs, so that we could keep homeowners insurance because hazard insurance was required by the HELOC terms.

Q. Okay.

A. You'll see that there is a point there that we didn't have hazard insurance. It's in Mama's notes from her meeting with the bank.

Q. Okay. So what needed to be done?

A. Mostly -- the biggest thing -- several

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things needed to be done, but the most costly was a complete re-roof.

Q. Okay.

A. Complete new roof. It's a 1952 house so they had to do some structural work, too.

Q. Did a new roof go on?

A. Sure.

Q. When did the new roof go on?

A. It was going on -- I'm not sure what date they finished, I can't off the top of my head, but it was going on when my loan was supposed to close to pay off the HELOC, to pay off all the debt. And that was April 8th, and they were wrapping it up at my house, but my loan didn't close because Family Services never sent the payoff statement.

Q. What year are we talking about?

A. We are talking spring 2015. I got the money in 2014, spring, and then Patten Contracting, I have his letter where he wrote me saying he was having surgery and asked if we could delay. So we delayed. And then I got sick in November. Mama gave me the other half --

Q. 2015 or 2014?

A. I got sick -- November 19th was my

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first day on leave 2014. Patten -- I got the money on April 25th. Because I opened a checking account at Wells Fargo.

Q. Okay.

A. All right. I got the 15,000 to do home repairs, which was very frustrating that I still wasn't able to get my home loan. And then Patten had hand surgery, and then I went on medical leave November 19th, 2014, and then they started the repairs after Christmas. Sometime in winter.

Q. Okay.

A. And the exact start date I'm not sure of. They -- I had approval for my loan. I have the document for you. When Mama gave me the second half of Atlantic Street, and Mama called in the loan from Wells Fargo, and said call it in, I want the payoff statement, which -- I think you have a copy of the payoff statement. If you don't, I have a copy right here. Right here.

Q. Okay.

A. So the day Mama gave me the second part of 602 Atlantic Street is the same day I went and started the home loan application. And I was first approved for 160,000. And I waited until after Christmas, chewed on it a little bit to see what

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was going on -- because this happened December 22nd -- and I upped it to 200,000. Because the judge said sisterly strife is a big source that -- Renee Newman reported in the dismissal hearing, if you go read the transcript, was sisterly strife, the HELOC, and it was a huge source of contention.

My son was a senior in high school. He was already taking college courses. And then here I am with a 1952 house. I'm teaching two years after I retired. Still teaching. I'm supposed to be home with my mom. That is the plan I made with my father and Muriel and Charlie. We all were on the same page.

Q. Let's get back -- it was completed, it sounds like, the spring of 2015?

A. It was completed -- I remember it was completed a few days after April 8 because I came home crying that I had gone to the bank to the closing and they didn't have a payoff statement. Which only takes a week or two to get, but it took us a couple of months to get, and we didn't even get it in time. The loan application period closed on June 25th. I have this. I have the statement from Heritage Trust Federal Credit Union saying the only reason they couldn't close the loan and hold

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off anymore was lack of payoff statement.

Q. Okay. How much did the roof cost?

A. Well, I spent the whole 15. I spent way more than 15. To itemize it out off the top of my head, I can't do that. I can look up the Patten Contracting invoices for you and give them to you.

Q. Okay.

A. But I don't have them off the top of my head. I don't have them, like, at my fingertips. They are probably dead-filed in the attic with the files.

Q. You repaid the 15,000 you owed on the HELOC, correct?

A. You wouldn't know that from the August 8th letter, but yes, I did. August 8, 2018. 2017, when Kelley said both Patricia and Bridget have received funds, that made it sound like I -- first you made it sound like I had a lot of funds. Second, it made it sound like it was outstanding, when, in fact, I paid mine off in March 2017, which means I paid it off in under three years, with interest.

Q. Okay.

A. And if you do the calculations, I paid a lot of extra interest, but they didn't count it

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in the payments I made prior to Family Services taking over. I made two $207 payments, and then another big payment. That wasn't ever factored in. Ms. Evans would testify that I had not started making my payments, when, in fact, I had made two big payments and then made a third. So I paid it off March 2017.

Q. Okay.

A. In full. With extra interest.

Q. Okay.

A. Which you wouldn't know if you read the August 8, 2017 letter to all about the delinquency, which nobody knew about, even though it was five months delinquent.

Q. Let's go to page 3, the next page, if you flip over.

A. Page 3?

Q. Paragraph 10.

A. Okay.

Q. It says: In December 2014, Wells Fargo Bank alerted the Petitioner that her mother was in the bank with Patricia Clarkin Smith and bank personnel were concerned about the requests being made by Ms. Smith for information about Muriel Clarkin's account.

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A. This is an allegation by Muriel, correct, or do you have facts from Wells Fargo?

Q. This is an allegation by your sister.

A. Okay. Well, then, you need to check Wells Fargo's facts.

MR. TOPOREK: Just read the thing and answer.

THE WITNESS: I answered it. It's not -- I mean, it's silly. That's when Mama called -- you got the paperwork. That's when Mama and I went to the bank. I drove Mama, and she called in her loan. That was -- and she went back to the bank more than once. Mama went to the bank a few times in November and December because -- the amount of money that was sitting in her savings and checking was ridiculous compared to what it was in 2012.

BY MR. KEYS:

Q. Okay.

A. And then you've got her handwritten note. She wanted to know what would happen with the HELOC not being settled if she died. And I had 30 days. And then she wanted to know what would happen if -- would my retirement salary cover it, and my present credit score, which was good, but no, it would not cover it. And so Mama -- that's

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when Mama decided to force the issue. So she called in the HELOC. She closed it, and she asked for the payoff statement, and that's why we were at the bank.

Now, as for Muriel's allegations, I can't tell you whether the bank really reported that or not. But the bank can tell you. They keep meticulous notes. I love that bank. But I can tell you that I never --

Q. Did they ask you to leave?

A. No. Ask me to leave? That's my bank, too. No. They are wonderful.

Again, always refer back to their records. They keep meticulous records.

Q. If you flip to the next petition, it's entitled the Emergency Ex Parte Petition For Appointment of Temporary Guardian, dated December 22nd, 2014, filed in probate court. We have --

A. You asked me did I seek clarification from you. You have got to go back to that third page, that big paragraph.

Q. You should seek clarification from me if you don't understand a question.

A. Okay. Because you had told me that we were going to cover all of that paragraph, but we

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only covered two things in that paragraph. There is, like, three more that are false.

Q. Okay. Well --

A. Okay. So we're on the Emergency Ex Parte Petition, page 1.

Q. Yes. If you flip to page 2 of the Emergency Ex Parte Petition For Temporary Guardian, it talks about December 16th. We're in this November/December 2014 time period.

Muriel Clarkin was with her daughter Patricia Clarkin Smith. Muriel W. Clarkin had an appointment at the Alzheimer's Research Center and was to be transported to that appointment by your sister. Patricia Clarkin insisted on attending the appointment and was so loud and obnoxious that the physician's office called security.

A. Do you have evidence of that?

Q. I'm asking for your opinion on the matter.

A. My opinion of the matter is that either there is -- either -- the hospital will be able to show that security was called. But as I remember it, I walked in, they were already -- as I remember starting in the beginning, Mama did not want to go to that appointment. She wanted to reschedule

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until after Christmas. We were having fun at my house. It was the holiday season. We were wrapping presents. We were baking. We were having a good time. She did not want to go, and Muriel had the police call me and say that she had to go.

Q. Okay.

A. All right? And I thought that was weird. But then Mama agreed to go. So she goes, and she is huffing and puffing, and it's not a comfortable situation, and she asked me to go with her. But Muriel wouldn't tell me where exactly it's located out of all of Roper. So no problem. Let them go on their way. It's easy enough to call information and find out where Dr. Menser's memory loss study is.

And so I had the dual power of attorney anyway, which I tried to give to Muriel before she and Mama pulled off. Muriel is all huffy and puffy. So when I walked in, I gave Muriel her copy, showed her what it was, and then I went to the window, and they told me that they needed to check -- to wait.

And it seemed like forever to wait. But I didn't know where Mama was and I didn't know where Muriel was. But wherever I was, they came in

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a couple of times to see if I wanted anything to drink. But they told me that ultimately this was a dual power of attorney. Muriel was still health power of attorney. But they were going to cancel the appointment for that day due to my mother's upset. I told you she didn't even want to go to the appointment, much less have the police call saying she had to go. And then she didn't even want to go anymore. She did it voluntarily for fun. And she didn't want to go for a long time. That was a big fight she and Muriel had ongoing. Mama is a little scared of Muriel. We know that. That's in the record. So no, I was never aware that security was called. Never.

Q. Okay.

A. Never. All I know is when we left, Muriel wanted Mama to ride home with her. I was heading to Dr. DeHaven. I had a standard appointment on the book.

Q. Okay.

A. And Mama told Muriel she wanted to go with me to Dr. DeHaven, which made sense. Mama went with me to Dr. DeHaven in November.

Q. Okay.

A. Mama has been with me to Dr. DeHaven

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before. So I can see where Mama wanted to go. Because that's -- that's the reason Mama went.

And so no, I was not aware security had been called. I was aware that the appointment had been canceled.

Q. Okay. Let's skip --

A. And that Muriel was health power of attorney, which trumps dual power of attorney.

Q. So the next pleading after this one is your Amended Petition to Dismiss. So flip over to that. It's two pages.

A. Okay. So I can't ask you a question. That's right. Okay.

So this is what Muriel alleged that I just got finished talking about. Whether or not you have --

Q. It's your sister's allegation.

A. Whether or not you have Roper's report, I don't know. Okay.

Q. Flip over to your Petition to Dismiss.

MR. TOPOREK: You have it?

THE WITNESS: Are we on nine or keep going?

BY MR. KEYS:

Q. We're still on 8.

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A. Okay.

Q. These are all the probate pleadings. Flip over that. We are trying to get to the Ex Parte Order Appointing a Temporary Guardian, dated 12/22/14.

MR. TOPOREK: Do you want to go --

MR. KEYS: You've gone past her petition, and then there is an Order Appointing Temporary --

MR. TOPOREK: Let me find it for you.

THE WITNESS: Yes. Thank you.

BY MR. KEYS:

Q. We are still on 8. The fifth pleading, basically.

A. That's the one she signed after the March 19th hearing, right?

Q. Ex parte order.

MR. TOPOREK: Order Appointing Limited Guardian. That's not it?

MR. KEYS: Temporary guardian, 12/22?

THE WITNESS: You are back to when Muriel was appointed? We didn't know about that until the police surrounded the house.

MR. TOPOREK: Patricia, answer the questions as they come up.

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THE WITNESS: Okay.
MR. KEYS: You have gone a little farther. On the side it's got 12/22.
MR. TOPOREK: Order Appointing Temporary Conservator. There is January. That's mine.
MR. KEYS: All right. Now you have gone too far. The other way.
MR. TOPOREK: This way?
MR. KEYS: Right past yours is the temporary conservator. Past that one is the ex parte order appointing the temporary guardian.
THE WITNESS: March? Are you talking about that one?
MR. KEYS: 12/22.
MR. TOPOREK: 12/22. So this must not be in order.
MR. KEYS: Do you want me to look at it?
MR. TOPOREK: Please.
THE WITNESS: Thank you.
MR. TOPOREK: Sorry about that.
MR. KEYS: No problem.
MR. TOPOREK: Ex Parte Order Appointing a Temporary Guardian. All right.

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THE WITNESS: You are right. I don't know if I raise my hand, or what. But do we go to a point where you ask me if I have anything I want to add to any of these questions?

BY MR. KEYS:

Q. I might ask you if you want to correct anything.

A. Okay. If I want to correct anything. I've definitely got something I want to correct.

Q. What did you say that you want to correct?

A. Rent.

Q. Okay.

A. Look at Mama's tax returns. There is no income stated on her tax returns, 2012, '13, '14, '15, and there is no loss of rent stated on her tax returns.

Q. Okay.

A. So there is no rent.

Q. Okay.

A. Per legal rent, tenant/landlord relationship.

Q. Is there a distinction between legal rent and rent --

A. There is a distinction between

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tenant/landlord relationship where you are charged rent and you have either a verbal or a nonverbal binding lease, and I didn't have that. And there was no rent because Mama didn't declare income from rent, and Mama didn't declare loss of income from rent. Therefore, there is no rent. That solves that.

Q. Let's go back to this ex parte order appointing the temporary guardian.

A. Okay.

Q. If you go to the second page where it says: Based on the above findings, it is hereby ordered as follows.

A. Okay.

Q. First paragraph says: Muriel Clarkin is adjudged to be an incapacitated person, as defined by South Carolina Probate Code 62-5-101, Section 1.

The order is dated December 22nd, 2014. When were you aware that, as you said, your mother had been declared a ward of the state?

A. I was not aware of the term incapacitated at all.

Q. Okay.

A. When the police surrounded my house on

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December 23rd, they did not show me that two-page document. I didn't even know --

Q. This document?

A. Well, no. This isn't the order they showed Mama, is it? It's a two-page document.

Q. It's an order dated December 22nd --

A. Two pages. It was a two-page document.

No. I sat right there. I was quiet. I didn't say a word. And only a couple of policemen came in. And he sat down on the sofa and just talked quietly to Mama. But as he came in and stood and explained, my Mama looked up and said: You mean I've lost my freedom? And then he explained it. But he told Mama she was a temporary ward of the state, and it wasn't until they had been talking quite a while that he mentioned that Muriel was the guardian, temporary.

And here is my living room. There is the front door. Here is the sofa along this wall, chair, chair. Here is the front door, sofa, policeman, Mama. So if you open the front door, you can see out this way. And here is my chair.

Q. When you were gesturing, she can't -- you have to use words.

A. Okay. I'm sorry.

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Q. That's okay.
A. Okay.
Q. What time did the police come on December 23rd?
A. Somewhere between one and 1:30. I'm not exactly sure of the time.
Q. It was the afternoon?
A. Early afternoon.
Q. Okay.
A. Because they stayed close to three hours, and I barely made it to the bank to get the $10,000 because I had to activate my card. All these years of having money and blank checks signed and deposit slips and then the credit card, I have never activated the credit card.
Q. Okay. So your mother -- the police came and showed your mother this temporary order, dated 12/22/2014, which says that your mother was declared incapacitated.
A. I believe you, but I didn't know it that day.
Q. Okay. But they told her she was a ward of the state.
A. Temporary. Temporary.
Q. And you were present.

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A. And Jocelyn Bolin was her attorney --
Q. Okay.
A. -- on record that day.
Q. And then you went to the bank?
A. Not until everybody cleared out. I didn't even know the street had been blocked off until he -- the policeman made his decision and explained to Mama that it was his decision that -- he was talking to Mama so I really didn't hear it all. Because my sofa is on the adjacent wall to the door, and Ms. Bolin had pulled up a dining room chair next to Mama. So they were together on the same plane. But I didn't quite hear it. But I did understand enough that he was leaving Mama where she was because Mama said -- he said: Ms. Clarkin, it's clear you want to stay with your daughter, Patricia.

And so then him making his decision and explaining to Mama and then making the details between the two of them, which I didn't catch all of them, but Jocelyn Bolin did, he opened the door to call whoever to the door. And when he opened the door, I didn't see it right away, Mama saw it, and she said: That's my daughter Muriel standing on the sidewalk by the stop sign. And got up, and

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he said: Ms. Clarkin, I need you to stay in the house. And she said: I'm going outside. I'll stand on the porch, but I'm going outside to face my daughter Muriel. And she went out on the porch, and just looked at her, as calm as can be, Mama was so strong, and said in a very strong voice, no tears: Muriel, how could you? How could you? And then turned around and walked back in.

Q. Okay.

A. And that's when we saw fire trucks, EMS. That's when I found out the street was blocked off. I was mortified. I am a teacher three blocks away, four blocks away. That didn't last long, obviously.

Q. So did your mother stay at 602 Atlantic after the police left?

A. Yes. With Jocelyn Bolin, her attorney. And I left to go to the bank.

Well, first I had to get the card, and then I went to the bank.

Q. So you went to the bank alone?

A. Yes.

Q. Okay.

A. No. Well, I went inside the bank alone. Barbara Deal (phonetic), my dear friend,

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met me at the bank.

Q. Okay. Did you tell your mother you were taking $10,000 out of the credit card account?

A. Did I say specifically, Mama, I'm going to get $10,000 out of the credit card account? There was no need. I was already -- I understood my instructions of what to do for an emergency -- during an emergency. I understood all the assets that had been entrusted to me and under which conditions to do what. I mean, I've had an emergency fund given -- entrusted to me, a family emergency fund, not a Patricia emergency fund for John and Patricia, for anybody in the family. I've had that entrusted to me since I graduated college and started teaching. It's built up over the years.

Q. But that is not the credit card account we are referring to?

A. Absolutely. That is exactly where the credit card came. I've never activated it until that day. So I told Mama -- I told my mother I was going to the bank. I said: Mama, I've got to go. I've got things to attend to. I said: I'm going straight to the bank and talking to Jim, the bank manager. I've been banking there for decades.

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Q. This is Wells Fargo?

A. No. Heritage Trust Federal Credit Union. It was a Wells Fargo Visa that I had to activate, but it was in a safe at my friend's house. I never had had to use any of my emergency funds over the years.

So first, I looked at the clock, and I ran -- I live on Coleman. Here is -- Coleman is, like, less than five minutes, six minutes with parking. And I called Jim, heading to him, okay, and when I walked in he was waiting at the door. I told him what little bit I knew. And he told me, he said: I'll call over there. I said $20,000 card. It's got a $10,000 cash advance. While I was at Jim's -- I took out what I had in my account, a couple thousand dollars. Pretty sure. Yeah. I'm pretty sure I did. Because I didn't take it out of Heritage Trust. That's not on the receipt. I had all the paperwork from the $10,000.

Q. How much did you take out of your account?

A. I got -- I'm pretty sure I made a withdrawal. If I didn't make a withdrawal that day, then I made it the next day. Because I went to see Dr. Roberts. But I took -- if you go check

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my statement, whatever was in there December 23rd was not in there by the time I -- by December 29th. Because when I wrote -- I had to -- I either checked the balance or I made a withdrawal. I don't know if I checked the balance or made a withdrawal.

But when I wrote through the Uricchio, Howe, Krell, Toporek website, I said on my memo line: I have $12,000 plus deed to 602 Atlantic Street. Please help my mother. I don't understand what's going on.

Q. Okay.

A. But she is a temporary ward of the state. And Barry Krell called me at 5:18 Christmas Day and I e-mailed him on Christmas Eve. I was amazed.

Q. So you did not tell your mother you were taking the $10,000 out?

A. I told her when I got back in front of Jocelyn Bolin. She can verify that. Mama, I got the $10,000. I told her I was going to the bank, as I recall it. I don't recall saying I'm going to go get $10,000. Let me tell you, everybody's head is spinning. All I'm sitting here thinking is do I even have a teaching career anymore? Muriel

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surrounded -- they blocked off the block. They didn't just come to the house. That's my community school, Moultrie Middle. I was teaching. It was a nightmare.

Q. Did your mother tell you you could go to the bank and get money to hire an attorney or get money to do what?

A. I honestly don't remember who said what, but my mother knew I was going to the bank. And my mother and I knew we needed an attorney. We had Jocelyn, but we knew we needed a high power attorney. We didn't know what was going on. In my family, you go to the -- Jocelyn is a wonderful estate attorney. But in my family, if you've got a broken foot, you go to the orthopedic specialist. If you have a serious legal matter, you go to the best, and downtown Broad Street is considered, in my Mama's eyes, who grew up downtown, downtown Charleston, downtown Broad Street, those are the best law firms.

Q. So the $10,000 you took out of the credit card on 12/23 was used to retain Mr. Toporek here?

A. I didn't know who I was going to be retaining at that point. All I knew was that I

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didn't know what was going on. My Mama was a temporary ward of the state. I didn't even know you could do that to your own mother, much less do it behind the other siblings' back. I didn't know what was going on. I knew we needed legal counsel. My mother needed legal counsel. She was a temporary ward of the state. She had lost her freedom.

Q. How was the money spent, the $10,000 you took out on 12/23.

A. I got certified checks. Once I talked -- I came home, and Mama told me -- I said -- this time I came back from the bank. I don't know if Jocelyn was there or if this is throughout the evening. But it was December 23rd, and Mama said: You get me -- I want a downtown Broad Street firm. And call John Clarkin and Teri, and seen who John uses because I know -- I can't remember the name of the firm, but John is very, very happy, and he has been with them for decades, since -- my cousin John -- he is a very successful businessman.

And so I sent John a text, and he wrote back: What the hell can I do? I said: All I need to know is who is your attorney, if you don't mind sharing? What firm do you use? That's who Mama

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wants to use. Who you use, she wants to use. End of discussion. And he told me. So I pulled it up on the website.

Now, I know I didn't mail it -- e-mail it until Christmas -- I don't know if I -- I would have to look at my e-mail. I either e-mailed it the 23rd that evening or the 24th. I honestly don't recall when I e-mailed it. I have a copy of the e-mail. 23rd or 24th. And I addressed it to Pam, because reading the website that's what it looked like. But I remember that memo line: I have $12,000 plus deed to house at 602 Atlantic Street. Please help my mother.

Q. Okay. So when did you retain Mr. Toporek?

A. I talked to Barry Krell at 5:18 on Christmas Day. He told me to go to the courthouse, told me where, at 8:30. I did. He called me at 8:32, 8:33. He told me what to get from Elizabeth. I did. I didn't know she was Elizabeth then. I've met her since then plenty. And then he said walk on to our firm, and one of the partners will be waiting for you. That's how I met Mr. Toporek, Attorney Toporek.

Q. Did all of the $10,000 of funds taken

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out on 12/23 go to Mr. Toporek to be retained?

A. Yes. I double-checked, but I'm pretty sure it was in two checks.

Q. Okay.

A. Two $5,000 checks. Not one $10,000 check. But I'm going off the top of my head, now. I'm pretty sure. I've got that somewhere at home. But I kept -- I've kept a lot of things filed. Karen would know downstairs.

Q. The retainer agreement between you and Mr. Toporek, who does it say the client is?

A. Honestly, I was in such a blur, I didn't understand this whole thing. I honestly thought he was Mama's attorney. It wasn't until he clarified what a respondent was. I was responding to my sister. My sister was telling the court my Mama needs to be a ward of the state, and I need to be her guardian. And I was responding no. Our mother needs to have the life that she and Daddy planned and sacrificed and saved for. Give her her freedom. We will take care of her in Shemwood. You can help or not help, according to the plan. She has long-term care to supplement her care. Not 24/7 care. That was never the intent. It was the daughters or daughter, depending on who wanted to

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jump on the boat. But I was on the boat. I had been on the boat since the night Daddy died. I was still on the boat when Muriel did this.

Q. Mr. Toporek made it clear to you that you would be his client and not your mother?

A. Not that --

MR. TOPOREK: Object to the form of the question. I mean, you can't ask her about conversations she had with me, I don't think.

MR. KEYS: This is just retainer agreement stuff.

THE WITNESS: I honesty don't remember signing a retainer agreement that morning at 8:30 in the morning. If I did I don't recall it. I was just so overwhelmed. That was the 29th.

First of all, I spent the whole time -- because Muriel had parked in the neighbor's yard screaming: I need that hearing on the 29th. You had that hearing on the 29th. And I didn't hear it. Terry and Stevie Roberts heard it because they went out to the car and told Muriel cool it. She was losing it in the car. And so they told me: Hey, Muriel is trying to get a hearing scheduled for the morning of the 29th. So if you read my e-mail, I'm talking to Pam, I'm saying I am going

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to --

BY MR. KEYS:

Q. What e-mail are you speaking of?

A. The e-mail where I went to the -- I talked to my cousin John by text. He told me he used Uricchio, Howe, Krell, Toporek, Theos. And then I went to the website, and I e-mailed them through their own website. I addressed a woman named Pam in my e-mail, and I asked -- I told her I was going to be at the courthouse when it opened Monday morning and to please call me because if there was a hearing I didn't know what to do. I didn't even understand what was going on, and I would need to be walked through it, if somebody couldn't join me.

And then Mr. Krell called -- he called on Christmas Day, 5:18. Because once he called, what a party. I mean, Christmas just became a party. Up until then, everybody was struggling to smile and be social, but there was an undercurrent. But once he called, I mean, I had people at my house until midnight. My house was full.

Q. When did you learn that Mr. Toporek did not represent your mother?

A. I honestly don't recall if it was in

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the hallway here. It was -- I honestly don't recall. But I remember him -- we were walking, and he just looked at me --

Q. Is this the first time you retained him?

A. Well, yes. I mean -- no. I thought I retained -- I thought Mr. Krell told me our firm will take care of your mother. When he -- when he called me on Christmas Day, those were his words: We will take care of your mother.

Q. When did you learn that you had retained him on your own behalf?

A. I honest to God can't tell you if that was the 29th, the first morning I met him after I went to the court and picked up the papers, or if it was the next day or later on on the 29th.

Q. 12/29 or 12/30/2014?

A. That's guessing. The truthful answer is, I remember we were walking, and I said something, and he said: No, I'm not your mother's attorney. I'm your attorney. And that's when he clarified to make sure I understood what is a respondent. Because I went home and called my brother Charlie, and I said: Hey, respond with me. Jump on the ship, you know. I said: We'll both be

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respondents. And Charlie said: I don't have any money. And just he said: Well, you start it, and then I'll see where I fit in. I just dropped it with Charlie. I moved on.

Q. Once you learned that you were retaining him to be your attorney and not your mother's attorney, did you think it was appropriate to use your mother's funds for that?

A. Absolutely. This is -- my mother was a temporary ward of the state. This was a family emergency. That is the purpose of the family emergency fund. And I was all already -- that's why I was an authorized user, because I had a family emergency fund credit card with a $20,000 limit and a $10,000 cash advance. And I can't think of any bigger emergency than your mother being made a temporary ward of the state behind your siblings' backs.

And so also I was an authorized user. It's right on the website. I mean, you know, yeah, yes, absolutely. This was for the benefit of my mother.

Q. Okay.

A. Okay. Somebody had to respond, apparently, or if you didn't respond, boom, she was

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a ward of the state. Muriel won. So of course I had to respond. Michael can't. He has a traumatic brain injury.

Q. Let's go to Exhibit 19.

A. I'm sorry. I didn't finish my sentence. On the Wells Fargo website is the Wells Fargo Visa platinum user agreement statement, and it's, like, Section 4, number 5 or Section 5, number 4: The account owner is responsible for all transactions made by the authorized user.

Q. Your mother did not tell you to go to the bank and take out money, correct?

A. My mother did not tell me? My mother knew I was going to the bank. I mean, that was a given: Get to the bank.

Q. I thought you said she didn't know. You told her you were going to the bank.

A. Yes, of course.

Q. Did she know why you were going to the bank?

A. Of course she knew why I was going to the bank. She gave me her pocketbook so I could get out her credit card. I had never done this before. And so I carried her credit card and then got my credit card, and I showed both of them to

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them, just to make sure there wasn't a problem. We didn't have time for a problem. It was Christmas.

Mama knew I was going to the bank, and she knew I had her credit card. She handed me her pocketbook. And I fished it out and went running out the door. I mean, running.

Q. When you came back, you told your mother you had gotten $10,000?

A. I told her I took the max out, plus the max -- I either had found out the balance of my max or I actually took a withdrawal at the Mt. Pleasant branch. The Mt. Pleasant branch that the $10,000 is the Sam Rittenberg Branch. Because I had to go get the credit card from -- Barbara met me with it, activated it, and then used it. This was my first time.

Q. Was your mother upset when she found out you took $10,000 out?

A. No. She was, like, I want a Broad Street attorney. What is going on? What is Muriel doing? I said -- and then Ms. Bolin -- I was gone a couple of hours, so Ms. Bolin really settled her down by the time I got back.

Q. Okay.

A. By the time I got back, we had some hot

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cocoa.

(PLF. EXH. 19, TEXT MESSAGES, was marked for identification.)

BY MR. KEYS:

Q. Let's go to Exhibit 19. This is text messages between you and your sister that -- the orange tab on the side.

A. Right. Okay.

Q. Is this your phone number?

A. The first one? The very first one is Muriel's cell. Are we on the same page?

Q. Yes. Is that your sister's number?

A. That's Muriel's number.

Q. Okay. Did you provide these messages in discovery?

A. Yes. I printed -- actually, I had to go dig them off an old computer, huh-hu.

Q. Okay. If you go to page 47 of 50, are these text messages between you and your sister?

A. This is kind of hard. Are they between Muriel and I? All of my text messages, page 1 through 50, are sequenced, date and time stamped. So they are all between my sister and I. My sister is on the left. She is gray. Whether she is the sender or receiver, she is on the left. She's

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gray. And I'm on the right. I'm green, whether I'm the sender or receiver. We each have a bubble box. Gray -- she is gray bubble box. I'm green bubble box.

Q. So I'm looking at 12/17/2014 through 12/19/2014. It is pages 47 and 48. On 12/17/14 you speak about having chest pains?

A. I did.

Q. And then on 12/18 we're talking about meeting a police officer with your mother.

A. Slow down. Which one are you at? Because there is more than one.

Q. Take a moment and go through --

A. Okay. The second one?

Q. -- everything on 47 and 48.

A. All right. It was Michael's birthday. 12/17 is Michael's birthday.

I can't really read the first one in orange. Sorry. But yes, I was at the doctor's with chest pain. And I did want to talk to Mama. And I did go to the hospital that night, I believe, but I was released. Anxiety. Yeah, it was anxiety. There was a lot going on.

Q. A police officer was eventually called?

A. I honestly don't recall all that. Was

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Mama at my house when I got the chest -- no. I have been at the hospital more than once with chest pain. I am getting ready to go back through the cardiology, all that nonsense. It's not nonsense. It's wonderful. But I'm getting ready to go back through that regimen of tests. I have been referred again.

So there has been more than one time. One time Mama -- I can't remember if Mama was present, and I wanted to go to Nason. And Mama rode -- I didn't drive. Lane, a good friend and neighbor, picked us up. Or Lane got Mama from Shemwood right next door, and then they came and picked me up, and we went to Nason. Now, that wasn't an anxiety attack. That was a failed EKG you are in the EMS in two minutes attack.

Q. We are trying to focus on 12/17/2014 through 12/19/2014.

A. Okay.

Q. In reviewing these messages between you and your sister, it appears that you went to the doctor, a police officer was called for a welfare check, and you and your sister seemed to get into a dispute over giving care to your mother and your brother. It seems like a whole lot's going on

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right there. What was happening in this time period?

A. Okay. 12/18, Muriel is being a smart butt, saying that she was going to come for a welfare check. And that's because I literally did do a welfare check on Mama and Michael at the Isle of Palms a few weeks prior, and the police found Mama and Michael alone without a cell phone, without a landline in the house.

Q. Okay.

A. So that's where the term welfare check -- she is being a smart aleck.

Q. So your mother is at your house at this time?

A. She's at my house -- she has to be at my house if Muriel is saying that she is going to come. They didn't come. That was just Muriel.

Q. All right. So it sounds like you were under a lot of stress from going to the doctor, and everything else?

A. No. You've got to understand. I was under a lot of stress because Muriel was up to something that made no sense. And I didn't know what it was, and Charlie didn't know what it was, poor little Michael couldn't comprehend what it

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was. Mama was always in a tizzy. That's number 1.

There were three points. Number 1 is the conflict with an unknown reason was a huge source of stress. Muriel, what is going on? Why are you being so ugly? The second point was I was on medical leave. So I was sick. There was a reason you are out of work five and a half months. You are not well.

Q. So you weren't well at this time?

A. No, of course not. I was on medical leave.

Q. Okay.

A. Okay. Number 3, you have your sister not cooperating with you, who is guarantor of the loan and pretending now she is not. You have your niece not cooperating with you in settling the debt. You can pull up the RNC records, which I did at that time, and see that there was plenty of property to go around, plenty of equity. They could have easily settled that debt so I could get the lien off the house and get a loan while I had a salary. You don't have a salary once you run out of the sick leave. I needed to get that home improvement loan, and I was out of work for two to three months or more. It turned into five and a

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half.

Q. Okay.

A. And so it was a lot of stress.

Q. What was the home improvement loan for?

A. 1952 bungalow in complete need of everything major.

Q. Okay. But you had by that time replaced the roof?

A. No. The roof was replaced spring 2015. This is Christmas. I had made arrangements.

Q. You received $15,000 for that?

A. And I had done a lot of the plumbing and I had done some electrical upgrades. Like I turned the electrical box because it was facing in the kitchen. It was out of code. About -- I have got a spreadsheet for you, a printout, and all the invoices.

Q. So if you look at 12/19/14 on page 48, you talk about your mother coming to stay with you and take care of you while you are on sick leave.

A. I've got to see. Where did I say take care of me? I'm on page 48. Are you on the first one or the second one? The print is really small.

Q. Mama is going to stay here and take care of me. It's the second one.

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A. Second one. Muriel, Mama is going to stay here and take care of me or I'll come live with you, as Muriel told Billy I could just come stay at Shemwood.

I don't like strife. I don't like arguing with Muriel. You have all the texts. 2012, lovey-dovey. 2013, lovey-dovey, sisters. Half of -- and it starts up March 31st, 2014, boom, Muriel and Mama have a big blowout. Muriel is moving out and getting her own apartment, acting like she doesn't have a place to go because she is renting her house to her son, acting like she couldn't go back to that big house.

Q. All right. So December 12, 2019 -- December 19, 2014, you thought it would be appropriate for your mother to take care of you while you were out on sick leave?

A. Mama?

Q. Yes.

A. To stay with me? Well, I wasn't incapacitated. I wasn't unable to walk, talk, or breathe. Yeah. For Mama to stay at my house instead of me being alone? Absolutely. Go to Shemwood and be with Mom and Muriel? Even better. Muriel is a nurse.

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Q. Okay. This was a stressful time, though, and you didn't know why, and you just thought your sister was up to something?

A. No. I knew why.

Q. Okay.

A. Muriel was up to something. There is no secret.

Q. What did you know?

A. I went to Muriel confidentially, and I said sister to sister -- this is a few months prior. I said sister to sister, I said: Muriel? I said: Mama and Daddy had a way of structuring their money and structuring their investments. I said: Now, I do believe we both know you have changed those investments. You have restructured some of the funds. You have moved money around. You are using investment firms they have never ever used. Your 2013, Muriel, doesn't look a thing like Mama and Daddy's decades prior. Move it back. I won't tell anyone. Move it back. And if you've got your hand in the till, take it out. Sister to sister: If you've got your hand in the till, take it out.

And Muriel did move it all back. Look at the filings when she went to the emergency

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hearing. If she put it all -- she didn't use that big international firm that was headquartered in Germany. She didn't report that to Judge Curry. She moved it out of there and moved it back to wherever it was supposed to be, I suppose.

Q. Did you do anything at this time to try and alleviate your concerns about what your sister was doing?

A. Yeah. Muriel called me, and she said: Patricia -- I can't tell you when. It was around the time that I started looking around, and Muriel left a piece of mail out, and that's how I found out about the investment firm. Plus, Mama came over with some numbers, you know, that she had found, talking to -- I don't know. Mama had numbers. They were different -- different firms than Mama and Daddy had used in the past. And so one of them, Muriel -- and repeat that question again.

Q. What actions did you undertake in November of 2014 as a result of being concerned with your sister's actions?

A. Muriel called -- whatever it was, Muriel called and said: You know Mama's memory is getting bad. And I said: Yeah. Well, she's in

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her 80s. Muriel said: I want you to come -- I'm paraphrasing. I'm definitely paraphrasing. Muriel called me wanting me to sign paperwork.

Q. For what?

A. Saying that Mama could not take care of herself.

Q. When was this?

A. It was -- it was October, November. Because that's when my warning lights went off. And I said: No, hell no. And hung up. That is not Mama and Daddy's plan that we promised to abide by, and I hung up.

Well, now I know that it probably was the long-term -- John Hancock long-term care plan, except that -- Mama got assessed September 11th for that. Muriel called me way after September 11th. But the payments started -- October 25th I think is when they got their first payment. But they back-paid it to September 11th, the way I understand it.

Q. What payments are you talking about?

A. The long-term care. I've got to talk to Kelley about that because I never got paid. It's $75 a day, and I never got my 1099. And Mama was with me September 11th to December 23rd, until

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December 24th, several nights, several 24-hour periods, at $75 a day. Then Mama was with me the first few weeks of January at $75 a day. And she was definitely with me two to three months in the springtime at $75 a day. So I've got to settle up with Family Services and get my 1099 and redo my taxes. That's what my accountant said.

Q. Okay.

A. I didn't know about long-term care. I found out by accident. They called me.

Q. Let's go to Plaintiff's Exhibit 1, which is the complaint.

A. The complaint.

MR. TOPOREK: Back this way. The first thing.

THE WITNESS: Okay.

MR. TOPOREK: Can we take a little break?

(A recess transpired.)

(PLF. EXH. 1, COMPLAINT, was marked for identification.)

BY MR. KEYS:

Q. So we're in Plaintiff's Exhibit 1, which is the complaint. Let's talk about your relationship with your mother. Your mother trusts

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you very much?

A. Yes.

Q. She imparts great confidence in you?

A. Yes.

Q. She would take your advice and do what you tell her should be done?

A. No.

Q. No?

A. My mother thinks for herself.

Q. If you ask for something, she would always give it to you?

A. No.

Q. Okay.

A. Not at all. I've been flipping tomatoes since I was 14. So you earn it, unless it's a special occasion. She provided well, now. We had a wonderful life. But if you wanted that special jean skirt, you go flip tomatoes at the Pack and Ship. Earn it.

Q. Let's go to page 2, paragraph 7. It says in or around the second half of 2012 and further during 2013, your mother with assistance of attorney Mac Gibson undertook some estate planning, including drafting wills, codicils, powers of attorneys, and deeds.

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Paragraph 8. On or about August 15, 2012, your mother deeded the Goat Island property to your sister.

Is that correct?

MR. TOPOREK: Just yes or no.

THE WITNESS: Yes, that's correct.

MR. TOPOREK: Okay. Thanks.

BY MR. KEYS:

Q. Mac Gibson was the attorney who did that work?

A. Yes.

Q. Okay. March 27, 2013, Mac Gibson drafted a power of attorney for your mother, correct?

MR. TOPOREK: What paragraph are you on?

MR. KEYS: 9.

MR. TOPOREK: That's the next page.

THE WITNESS: Yes. That kept Muriel first and made me second.

BY MR. KEYS:

Q. Okay. So what is your understanding of the power of attorney powers under that?

A. Well, that one was extremely comprehensive.

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Q. Okay. Tell me about that. Who were the -- who was given power of attorney?

A. Muriel is power of attorney and I am successor power of attorney, in the event she is unable to fulfill her duties and obligations as POA.

Q. Okay. And that was what your mother wanted?

A. That day.

Q. Okay.

A. That was what she wanted, and that's what she wanted back in 2007 or '08.

Q. August 7, 2013, Attorney Gibson deeds the 602 Atlantic to you and your mother as joint tenants with right of survivorship, correct?

A. That was an uncomfortable day. That was one year after -- that was one year to the month after Muriel -- so yes, correct. But it was supposed to be 100 percent. But once again, the lien wasn't satisfied.

Q. Okay. So tell me more about that.

A. Okay. Muriel and Bridget, the first time around in 2012 had just begged for more time. The market was soft, upsidedown. They had paid a hundred thirty-five for the house. It wasn't worth

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a hundred and thirty-five. Only around a hundred, or so, give or take.

And then it was -- the story was, okay, the tenants are going to buy it. Because the clock is ticking. I'm getting more and more anxious. Teacher contracts come out March 15th. I didn't want to sign one. I'm getting more and more anxious come March 2013. I wanted my loan with Wells Fargo done. And the tenants were going to buy it. Okay. So I had to sign my teacher contract. And now here comes summer, and --

Q. By the tenants are going to buy, you mean buy Bridget's house?

A. Bridget only lived there a couple of years, and then she turned it into an income-producing rental and did not -- and only made interest-only payments, except for maybe a couple of thousand at the most.

Q. Okay. Let's get back to the deed. It was supposed to be a hundred?

A. It was supposed to be 100 percent. But once again, the tenants did not buy the house, and Bridget couldn't sell it, she was too upsidedown, and now it's really starting to hit the fan. So I only took 50 percent so that we could get --

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remember, I had my own house, the Smith family home, and I sold it to John July 2012 when I did the legal separation, thinking it was a clear lien, the lien was gone, without checking. Just assuming --

Q. The lien on 602 Atlantic?

A. Right.

And so I don't take it. Mac prepared two deeds. You can ask him. Or he was told to. That's how we found out there was a lien.

Q. Okay. Why did you not do the 100 percent?

A. Because, once again, it would have triggered -- as we understood it, it would have triggered Wells Fargo saying, okay, there is a new owner of this property. Pay up in 30 days.

Q. Okay.

A. Okay. As we understood it.

So this is August 2013. I'm already in for the contract.

Q. What contract?

A. Teaching contract. I mean, I signed it March 15. So I'm stuck for the year. And so Bridget is begging for more time, saying -- and so I took 50 percent so that we could get the primary

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resident four-percent tax assessment. So 2013 got corrected to four percent. Muriel's numbers are wrong in one of her texts. And it's been four percent since then. 2013.

Q. Did you pay the taxes on the property in 2013?

A. 2013? Muriel paid -- I'm guessing -- I don't know who wrote the check, but I would assume Muriel wrote the check. Because there is a text where Muriel asked me if I'm going to be making deposits. She needs to pay the taxes. And she was referring, I believe, to 2013. It could have been '14. I'm going off the top of my head. It's in that stack of texts.

Q. Did you provide the money that led to being paid the taxes --

A. That's what -- every month giving Mama something, I always made sure that what I gave her added up to taxes plus insurance --

Q. Okay.

A. -- once August 2012 hit. Prior to that, I can't say that I gave Mama much money. It was more the other way. I had a child. No child support. I had a child that wore braces, things like that.

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Q. How much are the taxes and insurance annually on the property?

A. Now? Oh, this is a wonderful year. Now State Farm took me back because of the wind pool insurance --

MR. TOPOREK: Just answer the question. The question was how much. It isn't an explanation.

THE WITNESS: Okay. Thanks.

Somewhere around twenty-five to 2,800 a year, between the two.

BY MR. KEYS:

Q. Okay.

A. It's great.

Q. Was it about that in 2013?

A. I don't know what 2013 -- I would have to go back and look. The property tax, we had it to four percent, but then it was, like, around nine hundred, a thousand, a thousand and ten, something like that. What hurt was when State Farm let us go. When I became 100-percent owner November 2014, that's what hurt. We had to go through a third-party insurance, through C.T. Lowndes, Occidental, and the yearly amount was horrible. It was over twenty-four or $2,700 a year. It was

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almost 40 percent more than State Farm.

Q. And that's 2015?

A. 2014, 2015, 2016, 2017. And I got back with State Farm this year --

Q. Okay.

A. -- 2018. So it was long years.

Q. Do you understand what joint tenants in common with right of survivorship means?

A. Yes.

Q. What does it mean?

A. If I die it goes -- all of it goes to Mama. If Mama dies all of it goes to me.

Q. So paragraph 11. On or about August 21st, 2013, you obtained $1,500 from your mother.

A. No.

Q. No, you did not?

A. No. From Muriel. I called. Muriel answered the phone. And I had a bunch of electrical work done. I've got the receipt. I paid $2,500 interior electrical work, the box turned around and stuff, making it -- bringing it up to code. And when Affordable Electric was walking -- just walking by the property, he came back in. He said: Tricia, your ground wire, you don't have one. And so we all walked out there,

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neighbors, you know. From the attic, there it is, and you can see it was just disintegrated. So I said how much, and then he said 1,500. I didn't have it. I had just given him the last of what I had. I called, and Muriel answered. And I said: Muriel -- I don't know if Muriel talked to him or not, but I know -- I don't know who signed the check, but it was -- I don't know how -- if I paid him that day or later, but I've got the thing saying paid in full.

Q. But did the money, that $1,500, come from your mother?

A. Absolutely. Yeah. I just paid him 2,500, plus the plumber, plus the carpenter, plus the materials.

Q. So you received $1,500 in August of 2013 from your mother?

A. I received it from my mother's account. Did I get it from Mama or Muriel's hand? I don't remember.

Q. Was that a loan for the electrical that you were supposed to pay back to your mother?

A. After all I put in the bathroom? No. Mama considered that a gift. We can call it a wash. Because you can just look at the Visa.

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Since then, I made two payments on the Visa not knowing about this temporary guardianship, how it worked and what it meant. Until Family Services -- they called and said we are appointed; we have got court orders. Mama had bills coming here. Here she is a temporary ward of the state, but that Visa that I had taken that money out of, I paid it.

Q. What are the two payments that you are talking about you made on the Visa?

A. I made -- off the top of my head -- I've got the receipts.

-- like, January, $836, and then February, $800. Now, I later learned that Mama was set up on auto pay. So, say, in January -- I think it was, like, January or February, there was an auto pay of 818. But not wanting to take a chance with her credit or messing up with Wells Fargo --

Q. You are saying you paid --

A. -- I made payments.

Q. -- interest in January and February --

A. No. It was more than interest.

Q. Okay.

A. I paid -- I've got the figures written down.

Q. So in January and February of 2015, you



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paid --

A. I called Wells Fargo and made a payment from my Heritage Trust Federal Credit Union. If you look at the statement on Heritage Trust Federal Credit Union, it says transferred to Wells Fargo, blah, blah, blah.

Q. This is on the $10,000 cash advance from the credit card you took on December 23rd?

A. Right. Because we had the hearing January 9th --

Q. Okay.

A. -- and where she said she was going to appoint a temporary conservator. And she said this attorney is who she has in mind, and if she is not available, it will be Family Services. Well, in the meantime, I knew you pay your credit card every month.

Q. So you wanted to make sure to pay the interest on that $10,000?

A. Well, it was way more than interest.

Q. But you wanted to make sure to pay it?

A. I wanted to make sure that Mama's good standing with Wells Fargo wasn't messed up.

Q. So August 23rd, 2013, that money came out. When did you do the work on the bathroom, you

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said?

A. I'd have to look at that spreadsheet. I mean, we demolished it pretty quickly, but rebuilding it was over time. I mean, I was doing it out of pocket.

Q. Just, like, 2014?

A. No. Way before then. I've got to look at the State Farm --

Q. 2012?

A. No. It happened on Christmas Eve. So it happened on Christmas Eve 2010. The adjuster didn't come for two weeks. And then it was bad news. Then we gutted it. We gutted it -- it took two and a half years. Two years. Two years before it was a bathroom.

Q. Okay. But you admit that you owed your mother the 1,500 from the electrical?

A. Mama didn't think so.

Q. Well, what did you think?

A. I think that I had the money to give it back to her. And at the time I didn't have the money, but now we're down the road, what, three years? Two years?

And so now, I've spent several -- tens of thousands of dollars on Mama. Now, if we were

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to sit down and compute this, which is why I wish I had been interviewed to start with to save all this trouble, I think we are upsidedown. I think it's more Mama would owe me.

Q. What have you spent on your mother?

A. Oh, my gosh. I've got to use my five dots.

What have I spent on my mother. I spent the two Visa payments.

Q. On the 10,000 you took out to retain Mr. Toporek?

A. On the 10,000 I took out as a member of the Clarkin family from the Clarkin family emergency fund entrusted to me to help a member of the family.

Q. Okay.

A. Okay? There is a big difference in that word.

Q. What else?

A. Okay. So that's not my debt. That's my Mama's debt.

Okay. So the two payments. And then Mama became a ward of the state. We had Christmas 2015. Whether or not she did get an allowance from Family Services for Christmas, if she did, it was

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within a week of Christmas. But Christmas season starts with Black Friday. So I gave my mom a Walmart card and Belk card and $500 for the Christmas season. And so I went shopping with them, with the caregivers. We were all at Black Friday. And then let's see. The judge told Mama that she would get a seasonal --

Q. Your mom should pay you back for that?

A. No.

Q. Okay.

A. I'm joking when I say we are upsidedown. I don't want a thing from my Mama. No. I'd give her more if I had it. No. I'm saying this whole thing is silly.

So then the judge told us in the March 19th hearing that Mama would get a clothing allowance, a seasonal clothing allowance, of approximately $800, give or take. To my knowledge, I would love to see the accounting on what type of seasonal clothing allowance she has been given. I bought everything. I have bought 90 percent of everything. When I say everything, we're talking linens, towels, the bed, all the clothes, the shoes.

Q. Did Family Services ever tell you that

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you should not make those purchases, and they are responsible --

A. Family Services? I quit even bringing it up. I've got it here --

MR. TOPOREK: The question was, did Family Services ask you not to do that. It's a yes or no.

THE WITNESS: Well, it's a trick question. Because the only time I ever got a don't-do-that was a reprimand after my mother fell -- and I've got it here. And my mother fell, and I got a nasty letter about don't -- that she and the guardian had made arrangements, and then I go buying stuff for Mama on the day she falls, safety railings and safety slippers, and turn in receipts, and I've got it. I never turned in those receipts. I never cashed that check. I've got the check. I didn't know --

Q. What check are you talking about?

A. The one and only check I have gotten from Family Services for reimbursement.

Q. What was it reimbursing?

A. I'm not even sure because I don't have the receipts, and I didn't make a copy.

But I bought -- my mom fell out the

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bed, and I got safety railings, safety slippers. And if my mom falls today, she needs items today. And when Cathy Mason told me that she had gotten -- she was getting or had gotten money from Kelley to get those items, I'm, like, well, that's real nice, but you got them five days later, and I've already got them. Then Cathy asked me for the receipts, and put them in her parents' door knob, mail slot. So I never knew I was getting reimbursed. When I did get reimbursed, I didn't cash it. That was for my mom. That was, like, a medical thing.

Now, I have asked for the Family Services form to get reimbursed on big stuff. The legal fees, $825, the Naturalizers --

Q. The $825 for the power of attorney drafted December 2014?

A. No. No. No. Well, it's not just the power of attorney. That's not $825.

Q. And the time Ms. Bolin spent with your mother on December 23rd, 2014.

A. Yeah. That was the big one. That was the big expense. And she was solely representing Mama.

Q. Also the power of attorney?

A. That's a small part of it. I can break

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-- I can get her to break it down for me if you need me to.

Q. All right. Let's talk about the November 18th, 2014 deed, the second deed. Why did you do that?

A. I thought we already covered that. We didn't cover that?

Q. We talked about the first deed.

A. Well, the first 50 percent, when we lowered from six percent to four percent in August, 2013?

Q. Right.

A. We are finished with that. Okay.

The second one -- now we have reached what would be, if you were an airline pilot, a critical point.

Q. What was the critical point?

A. I was teaching. My salary was seventy-two five. I had a dilapidated house that I had been here and there fixing up out of my pocket, except for that $15,000, which I have been paying back. I was at a critical point.

And so I'm out on medical leave. I know it could be two to three months. Maybe more. It's over five. In the Charleston County School

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District, no sick leave equals no pay. We didn't have the sick leave bank then. And no pay means you don't get a salary verification form to give to the Wells Fargo loan officer with your home mortgage application. They are only going to get your retirement check salary verification. There is a big difference between bringing in 100,000 and bringing in thirty-four and a half. No. It was time to get that loan.

Q. Okay. Why could you not get the loan if you already owned a half interest --

A. Because the lien was still on. The lien was still on it. So at this point it's just like saying to hell with it.

Q. The lien was still on it anyway?

A. Exactly. So at this point, I just said to hell with it, Mama. I've got to take that lien and -- because I've got to. Because you have got Mama's handwritten notes from the meeting with the banker. I wouldn't qualify for 137,000 on a 34,000 salary. I wouldn't.

Q. So you knew the lien wasn't going to go away.

A. No. I was going to deal with Bridget in a separate manner. Right now, I was sick. I

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had a house that needed a lot of repairs. And I had a salary. I needed to get that loan. And so Mama --

Q. Why couldn't you get a lien with the half interest?

A. You can't get a loan with a lien on it. You have to pay off the loan. You have to pay off the lien. That's why I was so mad that Family Services never sent the payoff statement to Heritage Trust. Because you have to pay off the HELOC. There is a banker right there. But you have to pay off your lien before you can get your secondary money.

Q. Did you try and do a loan before? Did you apply for a loan before doing the second deed?

A. Yeah. Before doing the second deed? Yeah. They told me I had to pay off the HELOC. That's how I learned it.

Q. So you told your mother to deed the property to you?

A. No. I didn't tell her to deed the property to me. That was a given. I mean, we are sitting there. She goes with me to the doctor, and it's, like -- Mama is, like: Call Mac. We call Mac. Mac is working for Michael. So then Mama

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says: Call the judge. And so we called -- I called Mr. O'Neil. We are all sitting together. Time was of the essence. The day that --

Q. Why was time of the essence?

A. I just told you. Because you need your salary verification form. I wasn't going to qualify for a home improvement loan on a 1952 raggy house with some upgrades.

Q. When you said --

A. Plus, plus, Bridget's HELOC. So I first put it in the very day that we -- that Mama -- Judge O'Neil told me how to do it, file it through -- go to the courthouse and file it. I did it.

Q. Did you draft it or did he?

A. No. This is just going to the courthouse, paying the $10, and filing it. And so I did that.

And then I went to the bank and started the loan application process. I've got that with me. I got pre-qualified for $160,000. So that would have given -- paid Bridget's HELOC off -- Bridget and Muriel, because Muriel is guarantor, and then given me some more for doing home repairs. We're talking major structural stuff. We're not

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talking blowing out the kitchen and remodeling.

So instead -- that's what I'm looking at doing. I got the prequalification letter here with me. And then the next thing you know, Mama is a temporary ward of the state. Next thing you know, it's January. We're in court. And so when I heard that judge say this is a source of sisterly strife and this is blah, blah, blah, keeping us from having Mama --

Q. This is Judge Curry, January 15th --

A. Right.

-- and she is saying she is going to keep Mama a temporary ward of the state, and it boils down to problems between the daughters? Well, make that problem go away. So I run back to Heritage Trust, and they upped the amount to $200,000. So now I'm able to pay Bridget's debt, anything anybody considered my debt, plus get my house fixed, and problem solved. No more sisterly strife. But the problem wasn't solved because I couldn't get a payoff statement for two and a half months.

Q. So the same day that you recorded the second deed, November 18, 2014, you also got $6,000 from your mother for medical --

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A. We went over that. That's all in the same day. It's leaving Dr. DeHaven, coming on down the bridge, stopping at the bank. It's all on the same day. 6,000, because we don't know how long I was going to be out. I didn't have sick leave to cover me. That was for sure.

Q. You went to the doctor for chest pains the same day?

A. That night? I don't know. I have to go back and look at the dates. I mean, we already talked about -- the 17th?

Q. 17th.

A. I thought that was December. Michael's birthday.

Q. No. This was November.

A. I didn't go -- I don't have an ER visit November 17, Michael's birthday, December 17, 18. No.

Q. You are correct.

A. Yeah. Because I went and did everything -- I did all that legwork with the loan.

Q. Okay. I want to play a couple of voicemails for you. There are two voicemails that you left with Family Services.

A. They probably aren't nice because I'm

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pretty mad that I didn't get a payoff statement. I'm pretty mad that I can't get --

MR. TOPOREK: There is no question on the table, ma'am. He said he is going to play some voicemails for you.

THE WITNESS: Okay.

MR. TOPOREK: He didn't ask you a question.

THE WITNESS: I'm sorry. Thank you.

BY MR. KEYS:

Q. Their records indicate that they are dated February 25th, 2015.

A. February 25th? I would have just been finding out I was getting the 200,000 increase. I'm putting it in perspective.

Q. All right. I apologize if this is loud. I just wanted to make it clear.

Hi, Ms. Evans. It's Patricia Clarkin Smith. I'm the daughter of Muriel W. Clarkin. And I need to speak to you about -- I am refinancing the house so that I can pay off Mama's equity line loan. That will take care of my 15,000, plus interest. I need to please work with you to get Bridget to sign some type of agreement that she owes Mama that -- she borrowed 135,000

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July 8, 2008, still owes a hundred thirty-four something, made interest-only payments. I need something legal so that I can close on this loan.

I will also be able to pay, it looks like -- my bank meeting is today at 4:30, and in addition to the 12,000 that I owe Mama, 6,000 on November 1st, 2012 for my TERI program buyout to retire as a teacher and 6,000 from November 2014 when we found out I was sick and not going to be able to get a paycheck after December 5th. So that's 12,000 cash that I can get back, and I can pay off my portion of the equity line loan, which didn't go -- Mama has the equity line loan.

But I'm working hard to clear my debt. Clear it. I also -- so if Bridget will sign that agreement, I have told Ellen Babb (phonetic) and Carol Seltzer that I will use my money to return me through Bridget or Mama, however it works out. Bottom line is, I will use that money and gift it to Mama so that they can have around-the-clock help to supplement Mama's insurance policy at 27,000 a year, and that way Mama can stay out of the facility. A facility would just kill her. So that's it in a nutshell. My number is 843-345-0158. 843-345-0158. Thank you.

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A. That's true.

MR. TOPOREK: No.

THE WITNESS: I'm sorry. Wait for the question.

BY MR. KEYS:

Q. That's your voice on there. That's you speaking, correct?

A. Yes.

Q. Okay. So you said you owe your mom 6,000 from 2012 and you have got the TERI program loan from her?

A. Well, I consider it a loan. She doesn't. She considers it a gift. Daddy definitely considered it a gift. He did the planning. But I've been in the position -- I would tell them I was going to pay them back once I get my TERI money at age 59 and a half. So as long as I was getting this big old loan, 200,000, and knock it all out.

Q. And you said that --

A. And I wrote that to Ms. Evans, too, in an e-mail prior. This is late. She has known about it.

Q. And you said you owed the 6,000 you received in November of 2014 for medical leave,

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that you owed that to your mother?

A. This is February?

Q. We were just talking about the $6,000 you received on November 18th, 2014 for your medical leave. In that message you said you owed it to your mother.

A. Well, Mama and I settled it. But Mama is now a ward of the state, and Kelley rejected it. You got to go back and see her reason for not taking it before the court. Her reason was it was too far back. But yet here we are in civil suit going back just as far. So if we are able to go back this far in a civil suit, then we are able to go back that far for settling my debt, which was Mama's house in her name and I paid to have it rebuilt.

Q. So --

A. But the reason I was looking at it that way on the phone is because Mama -- it doesn't matter what me and Mama decided. Now Mama is a temporary ward of the state. And as I understand it, I've got to deal with a conservator. Mama doesn't have any decisionmaking authority. Well, she has limited decisionmaking authority. The only way I -- listening to that, where I misspoke is

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Bridget -- getting that paperwork from Bridget was important, but it was not contingent upon the loan closing. It had nothing to do with the loan. It had to do with me being able to get back my money in a separate lawsuit against Bridget if necessary. Because you have to go back again, now. Ms. Evans -- they contacted both of us wanting us to sign repayment agreements.

Q. Hold on one second. What money did you lose from Bridget?

A. Did I what?

Q. What money did you lose from Bridget?

A. I didn't lose anything because I didn't get the payoff statement. I didn't get to close on the $200,000 loan so I couldn't pay off the HELOC.

Q. Do you believe that Bridget owes you the HELOC money?

A. She would have had I closed the loan.

Q. Okay.

A. Because Mama's HELOC would have gotten paid first. And if I'm wrong, there is Wells Fargo right here. Mama's HELOC would have gotten paid first.

Q. Okay.

A. Then Family Services would have gotten

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paid, and the leftover would have fixed my house, because we upped it from one sixty to two hundred.

Q. In this voice message on February 25th, 2015, you said you owed $12,000 to your mother, correct?

A. I'm telling Kelley based on the fact that she is conservator and rejected -- rejected. I don't believe so, but she is saying I do.

Q. Okay.

A. Okay. I've got all those letters, and I've got my e-mails to her. So if I misspoke, I misspoke. So let me clarify it now.

The first 6,000 -- Daddy set my retirement when they changed the state law and capped it at 10 percent, state income for state employees could make only 10,000, Daddy set it all up. It was a gift. Mama intended it to be a gift. He was alive when they did it. And I told him when I turn 65 --

Q. When did your father pass away?

A. December 21st, 2011.

Q. Okay.

A. And I told him when I turn 59 and a half, I would give you back that 6,000. If I got it, I'm going to give it back, gift or not. I

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mean, that's just -- okay? That's that 6,000. And I wrote Kelley that in an e-mail straight up when I first met her.

And then don't forget. On April 1st -- half these records we are going over today or more? I gave Kelley a stack of records, a stack of documents, on the porch in front of Michael's front door. She took them from me. I started to ask her when we could have a meeting, told her I'm willing to meet, and she said: We're done. We're done. And walked in.

And I have never been interviewed. Due diligence. Never been interviewed, three and a half years. All these questions you are asking me, I have been dying to get asked.

Q. You said in there you acknowledged that if you paid back the equity line, that money would not go to your mother, right? It would go to the bank.

A. Well, that doesn't make sense. Now, what?

Q. Do you want me --

A. If you get a home loan -- if I misspoke, I misspoke. Let's get that clear. I'm not a very eloquent speaker.

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Q. Would you like me to play it for you again?

A. I can just tell you, if you get $200,000 from the bank, the first thing that gets paid is the Wells Fargo lien.

Q. I'm speaking of the $15,000 you took out of the HELOC. You were discussing paying that back with loan funds.

A. With my 200,000 loan funds. I told Kelley all debt would get settled. I wanted that judge to give me my Mama back, and I wanted no more sisterly strife. If that was the reason, erase the reason. Get a loan. Money is -- Mama is priceless. Get a loan.

Q. I'm just saying in there you said you acknowledge that if you paid back that money, it wouldn't go to your mother; it would go to the bank, correct?

A. The 15,000 was part of the HELOC. It had to go to the bank. You understand?

Q. Okay. That's all I'm asking.

A. Okay. Are we on the same page? It's a $150,000 HELOC, and it was, like, a hundred and forty-seven balance. Of that, less than 15 was mine, but close to 15.

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Q. Okay.

A. I mean, we had only been paying on it a little bit.

Q. All right. Here is the second message, which sounds like it was probably shortly after the first.

Hi. Patricia again. The credit card, seventeen five. On the 23rd when Muriel sent the police here and Mama found out, Mama knew that I was going to get a $10,000 cash advance. I had not told her about 7,500 because obviously 10,000 was an upsetting amount of money. And if she only knew what it really was going to cost, it's just not worth telling her. I'll take care of it. I have made I think it's, like, an 841 payment in January, a $800 payment in February, and I will continue to do so. I had them amortize seventeen five at the percentage rate, and I've just been getting it bigger. But, again, that's my responsibility. I'm paying the legal fees to Mr. Toporek to get my mother her legal rights back. My name is on the card. I have a card. I'll make you a copy of it. I'm an authorized user. Well, thank you very much. Bye.

A. Yes. That's true.

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MR. TOPOREK: Wait.

THE WITNESS: Sorry.

BY MR. KEYS:

Q. Okay.

A. That's what I said is true. But that is not -- I mean, there is more to it. I'll wait for a question.

Q. The 7,500, are we referring to a payment made to Mr. Toporek on or about January 27, 2015?

A. Which according to Wells Fargo user agreement policy was perfectly legal at the time, whether Mama was a temporary ward of the state or not. Wells Fargo states in their agreement that if the account owner, i.e., Family Services, overseeing Mama's account, if they wanted the authorized user to no longer have access, they have two options. A, close the account; B, get the physical card back. At that date, they had done neither.

Q. So you think your mother should be responsible for paying attorney's fee for you to retain an attorney?

A. I didn't know at the time I was retaining the attorney. Go back to that, now. I

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thought it was Mama's attorney.

Q. When you retained on 12/23?

A. Not 12/23.

MR. TOPOREK: That money was returned, wasn't it?

THE WITNESS: That money was returned.

BY MR. KEYS:

Q. Well, let's listen to this one more time, again.

A. It was returned.

MR. TOPOREK: That 7,500 was returned.

THE WITNESS: I didn't know that when I made this tape, probably, but it was returned.

MR. TOPOREK: You need to just answer the question. You didn't even answer the question.

THE WITNESS: Okay. I'm sorry.

Go ahead and repeat the question.

BY MR. KEYS:

Q. There are two separate amounts.

A. Okay.

Q. There is 10,000 on 12/23.

A. Right. The family emergency fund card. Okay.

Q. There is 7,500 on or about 1/27/15.

A. Which was returned a few weeks later.

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Q. Okay.

A. It hadn't been returned the date of that call.

Q. When was the probate hearing on the temporary order appointment of conservator and guardian?

A. All that stuff confuses me. There was a hearing January 9th and there was a hearing March 19th.

Q. Okay.

A. And I didn't hear from Kelley until the third week of March.

Q. Okay.

A. And she can -- I'm not sure. I've got to go back and see if I heard from her January or February, but I know I talked to her because we were talking about the first big meeting. And I got an e-mail from her saying that they were going to reschedule it because she and the guardian were waiting on their court orders to come through, and they hadn't come through. Apparently -- this was all Greek news to me. But apparently you have to have a court order before you can have that meeting. So the meeting was April 1st.

Q. Okay. Well, you were at the hearing

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where they said that your mother was incapacitated on January 9th, correct?

A. That's all a blur to me. I was there.

Q. And then you used the authorized credit card -- or the credit card which you were an authorized user to pay Mr. Toporek?

A. I've got the minutes right here, now.

MR. TOPOREK: Just answer the question.

BY MR. KEYS:

Q. $7,500 on or about January 27, 2015, correct?

A. Yeah. But that was legal.

Q. And then Mr. Toporek returned the funds to Family Services --

A. Yes.

Q. -- correct?

Okay. In this you said that the $17,500 was your debt; you were responsible for it, correct, in this voice message?

A. Yeah. I think -- I don't agree with what I said. I think I was misspeaking there. I was just making sure that -- my goal was get me the payoff because I want to settle it all. I want to get back to court. I wanted everything fine. We had a March 19th hearing, and I had a loan that

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they said if Family Services got the payoff date, payoff statement, they might close as early as March 25th. But then it got moved to April 8th, and then from April 8th it got moved, and then it got moved, and then it got moved. And it got moved four times.

Q. In this voice message, you said your mother was upset when she learned that you took $10,000 out of the bank.

A. No. She is upset to hear an attorney cost $10,000. She's in her 80s.

Q. Okay.

A. Okay? I don't tell Mama nothing -- if Mama knew that she was paying Family Services five to $700 a month to write checks and manage her accounts, she would roll over. That's an accountant. That's not an attorney. Can you imagine if she knew what she was paying Ellen Babb and this attorney and that attorney? Whew. She would die if she knew. That's why we are not allowed to tell her. We are on a gag order.

Q. And you did not tell her that you were going to do the second credit card withdrawal for $7,500.

A. God, no. First of all, we are on a gag

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order.

Q. Let's go to --

MR. TOPOREK: I need to interrupt you real quick. I got an e-mail earlier asking if I can participate in a conference call I'm going to get from Judge Cate in a matter of an emergency hearing that's scheduled for tomorrow. So I'm going to get a call sometime between one and 1:45. I'll just have to excuse myself.

MR. KEYS: Do you want to take a quick lunch break at that time?

MR. TOPOREK: No. I mean, I don't think it's going to take very long. If you want to take a break, whenever you want to, that's fine with me. I just wanted to let you know.

MR. KEYS: Whatever you want to do.

MR. TOPOREK: I'm giving you the heads-up that when I get this call I need to take it.

MR. KEYS: Okay.

THE WITNESS: Okay. I maintain that the funds are -- came out of the family fund. And whether I maintain it or not, it's not my debt, according to the user agreement. I'm not paying back that $10,000. If I was rattling off all

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excited that I got my 200,000 up from the one sixty, then I said it. I withdraw it. I misspoke.

BY MR. KEYS:

Q. So your mother should be responsible for your actions?

A. No. My mother should -- no. Muriel should be responsible for all this nonsense, not following our parents' plan. It's terrible.

Q. Let's go to --

A. And I'll go ahead and tell you. I've got enough receipts right here that we are looking at more like twenty, $30,000. So nobody is going -- Mama won't be being responsible. Because when you take what you say I owe her and you subtract from all this crap I've bought and paid for --

Q. So your mother owes you twenty or $30,000?

A. She doesn't owe me a thing. I told you that earlier. I would never take it from her. But we are now flip-flopping. I've spent so much on Mama --

Q. Okay.

A. -- since Muriel did this. I don't want it back. She is my Mama. But you are telling me I owe Mama money, and I'm telling you I've got three

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inches of receipts.

Q. Okay. So just to clarify, August 2013, there was $1,500 for electrical you received from your mother.

A. Yes. Paid those two Visa bills, yes.

Q. August 2012, you received $6,000 for the TERI program?

A. No.

Q. From your mother.

A. No.

Q. That's what you just said on the previous voicemail.

A. You said August?

Q. In 2012.

A. Okay. November 1st, 2012.

Q. Okay. November 2012 you received $6,000 from your mother?

A. No. From Daddy.

Q. Your dad.

A. God, no. From Mama. But from Mama and Daddy. It was planned by Daddy a long -- when they first made that change in the law.

Q. But your father has passed away?

A. He passed away --

Q. Before that.

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A. -- about eight months prior. Ten months prior, yeah.

Q. In November 2013, you received $6,000 from your mother?

A. That's the day I went out on medical leave, yes. And I showed Mama my spreadsheet, and all my other invoices that's over $12,000, and we called it a wash.

Q. On November 18th, 2014, you received a second half-interest so that you entirely owned 602 Atlantic, correct?

A. So that I could immediately, and I did that day, apply for a home loan and got pre-approved for $160,000 real soon. And I got that letter. Which I upped to 200,000 so I can just wash this whole thing away.

Q. On December 23rd, 2014, you took $10,000 from your mother's account, correct?

A. I didn't take it. Well, I took it -- no. I was an authorized user. I'm on that account.

Q. You signed the slip that caused the $10,000 to leave your mother's credit card?

A. I have all those transaction papers if you need them. Yes, I did. I signed the slip.

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Q. On January 27th, 2015, you again used that credit card to pay Mr. Toporek $7,500 more?

A. Yes. Family emergency. Mama is a temporary ward of the state.

Q. Okay.

A. I think it's nice that the firm gave it back. But it wasn't illegal. The judge didn't address it. And they didn't take the credit card and they didn't close the account. Had the judge addressed it, now, in her order, that would have been different.

Q. Okay. Let's look at Plaintiff's Exhibit 9.

(PLF. EXH. 9, COPY OF CHECK, was marked for identification.)

THE WITNESS: That's a $500 check. There is only one that I could find.

BY MR. KEYS:

Q. What is this?

A. That's a $1,500 check. I don't know. What's it say?

Q. I read that it is Muriel W. Clarkin and Muriel C. Kenney's account, and it is made to Patricia Smith for $1,500.

A. You are talking about the check?

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MR. TOPOREK: Just let him finish the question.

THE WITNESS: I'm sorry.

BY MR. KEYS:

Q. On 8/21/2013. It says for electrical and something. It appears to be signed by your sister. You received this money, right?

A. We have already covered that. I told you I called --

MR. TOPOREK: Just answer the question. Did you receive the money?

THE WITNESS: Yes, I received the money.

MR. TOPOREK: Okay. That's the answer to the question.

THE WITNESS: And I have the invoices.

BY MR. KEYS:

Q. And you deposited it into your Heritage Trust bank account?

A. I don't know if it was Wells Fargo or Heritage Trust. I honestly don't. I'd have to look at the statements.

Q. The back of it where you signed it, can you read that? Does that say Heritage Trust?

MR. TOPOREK: Right here is the back.

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THE WITNESS: I can tell you that's Heritage Trust. 25112 is my member number.

(PLF. EXH. 10, WELLS FARGO BANK STATEMENT, ENDING IN 0642, was marked for identification.)

BY MR. KEYS:

Q. Let's go to Plaintiff's Exhibit 10. It's a Wells Fargo bank statement, last four digits of the account are 0642. The account is in the name of Muriel W. Clarkin.

And if we flip to the next page of this statement, page 2 of 3 of this statement, it says on 11/18 a withdrawal was made in a branch store for $6,000. This is the $6,000 you received on 11/18/2014, correct?

A. Yes.

And then watch my statement. It went into my Wells Fargo account, I think.

Q. It went into your Wells Fargo account?

A. I think. I've got to look at the statement. But I'm pretty sure right then and there at the bank we did it.

Q. The account that you had with your mother as well?

A. No. This is November.

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Q. Which account are you referring to?
A. April 25th. You've got the statements. April 25th, 2014, I opened -- when I got the 15,000 to do the roof, I opened an account with Wells Fargo. And at first they told me -- I've got two pieces of paper where they told me -- when I just -- John was the only one who has ever been on the account. But when they sent the statements to me, they were real super nice. April 25th, May, June, July, August, September, October, Mama's name is on it.
Q. Right.
A. John, Jr.'s name goes on it in November and stays on it.
Q. Why was that?
A. Until -- because he was out of high school, and Mama didn't -- turned out Mama didn't need to be on it.
Q. Why did you start with your mother and then switch to John?
A. I started with my mother because if you check on that very same day, we set up an automatic payment from my personal checking to her HELOC, 207, and two payments were made. And then another a little bit later. We started with an automatic

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draft, and then didn't need it. My son, he was -- didn't need it. He was 19, out of high school. He was getting ready to go to boot camp.

(PLF. EXH. 11, E-MAIL FROM PATRICIA CLARKIN SMITH TO KELLEY EVANS, DATED 4/10/15, was marked for identification.)

BY MR. KEYS:

Q. Let's go to Plaintiff's Exhibit 11. This is an e-mail from you to Kelley Evans, dated April 10th, 2015. The last sentence at the bottom of the page before you say thank you, can you please read that, starting with Wells Fargo.

A. 6,000 -- I wrote October. It's November 1st, 2012. So October is wrong.

Q. Okay.

A. Okay. I retired November 1st. Mama went with me to Columbia. Maybe she gave me the check a couple days earlier. I don't know. So maybe the check is in October. To help me retire from the state and join the TERI program, that's true. I talked about that. Daddy and Mama made the plan before he died. The other 6,000 in November, was to help, we talked about that. Those two are true.

Q. Those are debts you owe?

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A. No.

Q. Okay. Because?

A. Because I already paid them. I didn't owe to start with. They were gifts. But now we are so upsidedown on money, I don't owe a thing.

And then the pontoon she has never answered the question.

Q. Did you pay your mother $12,000 in funds?

A. No. Because Ellen Babb crossed it off in the mediation. Muriel didn't have to pay her 20,000 and I didn't have to pay nothing. It's all in the mediation record.

Q. Okay.

A. Ask Ellen Babb. And if not -- if that's not true, if that wasn't what came out of mediation, then Muriel sat right there and said: My pontoon -- I paid the storage fees on the pontoon. That canceled out the loan for my new pontoon. And so I have several e-mails asking Kelley: Hey, did you apply Muriel's pontoon payments to her $20,000 loan? You are sitting here squabbling about seventeen five with me. What about her 20,000, plus her electric on Goat Island, plus her State Farm insurance -- boat insurance

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coming out of Mama's funds? I can't get an answer. Because if you applied Muriel's pontoon -- family pontoon rental to Muriel's 20,000 --

Hooray, I got that with me, too.

-- I was renting -- I was paying it, too. Apply it to my debt --

Q. Just for clarification --

A. -- if you say I got it.

Q. You are saying the 6,000 from November of 2012 and the 6,000 from November of 2014, you owed it until it was written off in mediation?

A. No. I'm saying my parents said it was a gift. I'm saying I said I wanted to pay it back. I said I want -- I said my Daddy -- and especially my Daddy, when he set up my retirement plan, when they changed state law, it was a gift from my parents, but I said when my TERI money comes in when I turn 59 and a half, I'm giving it back.

Q. Okay.

A. Okay. The 6,000 emergency fund money, my mom would say that was a gift, but Patricia will pay it back, which I already explained that story to you. I told her about the State Farm thing. I sent a letter to Kelley asking for a copy of the State Farm denial letter. Because that day on the

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1st, on the porch --

Q. Okay.

A. -- I gave her that stack of papers, I gave her the only copy I had. I didn't make a copy. And she never did give it to me. But, anyway, State Farm gave me a copy recently. So I've got that with me, too, in case you need proof that I had to rebuild the bathroom out of my own pocket while Mama was 100-percent owner years ago.

Q. Okay. Did you ever give your mother any money for that home?

A. Which home?

Q. 602 Atlantic.

A. Did I give her money for that home? No. I gave my mother -- I gave money to my mother for my mother and to pay the tax -- property taxes and homeowners insurance on that home, but not until I sold my own home.

Q. So once you lived in the home, you gave your mother insurance and property taxes to pay for the house?

A. No. That's a broad statement. I'm not getting into John -- Big John and our relationship, unless you make me. I own 707 Vision Road. It was the Smith family home.

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Q. We're just talking about 602 Atlantic.
A. Okay. But the way -- you are going to have to rephrase that because I'm not going to agree to something that broad.
Q. I'm just talking about 602 Atlantic.
A. Okay. I'm listening.
(PLF. EXH. 12, E-MAIL BETWEEN PATRICIA CLARKIN SMITH AND KELLEY EVANS, DATED 8/4/15, was marked for identification.)
BY MR. KEYS:
Q. Let's go to Plaintiff's Exhibit 12, talking about -- this is an e-mail between you and Kelley Evans, dated August 4, 2015. You were asking to be reimbursed for things. You talk about the $6,000 as being a debt.
A. Because she said it was a debt. I just wanted the whole damn thing cleared. The money is what the judge is using as the reason for the strife. I wanted the money cleared up. I think I have proven that by getting a $160,000 home loan the very day I got the 100-percent deed. I think I have proven that by getting it raised to 200,000 and leaving that message for Kelley. Whether I misspoke and said it clearly or not, it doesn't matter to me. I wanted all debt, perceived debt,

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real debt, I didn't care, I wanted it gone. I wanted my mother free. If it costs 200,000, so be it. Get my mother free.

(PLF. EXH. 13, WELLS FARGO STATEMENT, ACCOUNT ENDING 5793, was marked for identification.)

BY MR. KEYS:

Q. Okay. Let's go to Plaintiff's Exhibit 13. It says this is a Wells Fargo statement for account ending in 5793. This is Muriel Clarkin's account. It says on 12/23, a Heritage Trust Federal, Charleston, $10,000 charge, cash advance.

A. Yes. I have the statement to it.

Q. Okay. That is the $10,000 you received on 12/23?

A. This is one of your exhibits, uh-huh.

Q. And if you flip the page, we have a credit union receipt.

A. Right. And I told you earlier I have all the originals.

Q. And you signed that receipt, correct?

A. Correct.

Q. Giving $10,000 and putting it in your Heritage Trust Federal Credit Union account, correct?

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A. I'm not sure if I put it in there or not. I don't remember. I doubt I ran out with cash, but I don't remember if I ran out with cash or if I transferred it to 251 -- 1121, account ending in 1121. I honestly don't remember. That day is a blur.

Q. Okay.

A. It was horrible.

(PLF. EXH. 14, WELLS FARGO STATEMENT, ACCOUNT ENDING 5793, BILLING PERIOD 1/17/15 TO 2/13/2015, was marked for identification.)

BY MR. KEYS:

Q. Let's go to Plaintiff's Exhibit 14. This is a Wells Fargo statement for Muriel Clarkin. The last four on the account number 5793. It is for the billing period of 1/17/2015 to 2/13/2015.

On 1/27, it has a charge for $7,500 to Uricchio, Howe, and Krell. That is when you used the credit card and paid Mr. Toporek $7,500, correct?

A. Correct. This is the first time I see a statement. Yes. We already talked about that. And that was within the guidelines.

Q. Okay.

A. But they returned it, so...

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And I made a payment on the statement, too. This is the 836 statement I made a payment on.

(PLF. EXH. 15, WELLS FARGO ACCOUNT, ACCOUNT ENDING IS 8506, was marked for identification.)

BY MR. KEYS:

Q. Can you go to Plaintiff's Exhibit 15.

A. 15?

Q. Yes.

This is another Wells Fargo account by Muriel Clarkin. Last four of the account number is 8506.

You go to the second page on 2/11, it has a withdrawal of -- 2/11/15, a withdrawal of $10,729.55. Can you tell me about that?

A. Auto pay?

Q. It says Wells Fargo consumer auto pay.

A. Oh, yeah. Because Mama -- the banker's here to correct me if I'm wrong, but Mama --

MR. TOPOREK: She is a lawyer. She is not with the bank.

THE WITNESS: I apologize, Attorney. I apologize, Ms. Wells Fargo.

All right. So Mama is on automatic

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draft. So go back to your first statement you just showed me. It was auto drafted --

BY MR. KEYS:

Q. What was auto drafted?

A. The first -- Mama had a payment auto drafted out of the statement you just went over.

Q. The payment for the $10,000, is that what you are saying?

A. No. No. No. No. You've got to look at -- this is my first time to see the statement. I just called on the phone --

Q. Okay.

A. -- and made an 836 payment, not knowing whether Mama had auto draft or not. Muriel is not talking to me, and I wasn't about to let Mama's Visa be 30 days late. So I --

Q. You are saying --

A. -- made a payment in January and I made a payment in February, 836 and 800.

Q. You are saying on 2/11 auto draft was set up?

A. No. No. No. No. Auto draft had been set up. It turns out it had been set up for years. It pays off that Visa. Boom.

Q. So the credit card upon which you were

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an authorized user had an account balance, you were saying, of 10,792.55.

A. Well, I didn't say that. I just read it.

Q. And you believe this was an auto draft of that because auto draft was previously set up?

A. I assume. Because I sure didn't have $10,000 to pay it. Because it got put back.

Q. It did?

A. It got put back by Family Services. And worse yet, Family Services has made interest-only payments on that thing. $10,000, it cost my Mama, gosh, what, over 5,000 now, three and a half years. It's crazy.

Q. The $10,000 you took out on 10/23/14 --

A. Yes. I took out -- yes.

Q. -- cost $5,000 in interest?

A. I don't know how much the total interest is. But who makes interest-only payments on it? It's crazy. Especially when the Wells Fargo user agreement says the responsibility of the accountholder.

Q. So your mother is responsible for that $10,000?

A. According to the user agreement that

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she had with Wells Fargo. According to me, according to the family fund reason, this is an emergency. It was to get her freedom. Yeah.

Q. But you acknowledge that it is calculating a lot of interest on that $10,000?

A. I acknowledge that Family Services is not being prudent with her money by making interest-only payments. That's what I acknowledge.

Q. Okay.

A. That's a crazy amount of interest on $10,000 over three and a half years. You know it could have been paid off? If you look at their little box, and they tell you if you pay this much in three years the amount will be? It would be paid off by now.

Q. You signed the form to do that $10,000 cash advance.

A. As an authorized user, and Mama signed the user agreement, which means the accountholder, i.e., Family Services, is responsible.

Q. All right.

A. He told me to flip those words. It's pretty simple. It's on their website. It's in the agreement. Section 4, number 5 or Section 5, number 4.

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(PLF. EXH. 16, LETTER FROM WELLS FARGO TO FAMILY SERVICES, DATED 6/17/15, was marked for identification.)

BY MR. KEYS:

Q. Let's go to Plaintiff 16. This is a Wells Fargo letter, dated June 17th, 2015, to Family Services, specifically, Kelley Evans, regarding Muriel Clarkin's HELOC loan. Can you read me what it says under status of account.

A. As we discussed, the account is showing current at this time. Since the customer did deed the property to her daughter, her account is considered in default. This does give us the right to accelerate the terms of the account. This issue can be reviewed at any time for a determination to be made on how we will proceed.

Shoot. I'm the one --

MR. TOPOREK: He just asked you to read it. He didn't ask you to comment. He asked you to read it.

THE WITNESS: Okay, yes. I read it.

BY MR. KEYS:

Q. You knew that provision of the loan existed before you drafted the deed on November 18, 2014?

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A. I not only knew it, I wrote a letter to Wells Fargo myself before Mama went to the bank acknowledging that I was now the owner and asking them to do a property-sold case.

Q. Okay.

A. So I was proactive.

Q. So you knew this would risk defaulting the loan, but you still deeded the property over?

A. I went and applied for a home loan that same day and got pre-approved for one sixty and then upped it to two hundred. You are missing the point. I've been trying to settle all this debt from day one.

Q. Okay.

A. The only reason we're sitting here and this debt is not settled across the board and my Mama is not free is I didn't get a payoff statement.

Q. Okay.

A. Okay? And we have got lots of communication between Pam Morris and Amy Cates, Heritage Trust, and Kelley. We have got telephone communication. We have got e-mail communication. What we don't have is a closed loan so that everything was settled and Judge Curry would no

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longer needed to say sisterly strife. That's what we don't have, a solution to the sisterly strife. Pay the debt. Mama is priceless.

(PLF. EXH. 17, DEED TO 602 ATLANTIC STREET, was marked for identification.)

BY MR. KEYS:

Q. Okay. Let's go to Plaintiff's Exhibit 17.

That's it. It's the first deed.

MR. TOPOREK: It's the deed.

BY MR. KEYS:

Q. The deed to 602 Atlantic, drafted by Mac Gibson, recorded on August 7, 2013. It gives you joint tenancy with right of survivorship and not as tenancy in common. So if your mother passed away, you would take complete title to the home, correct?

A. We talked about that. I thought I was supposed to bring it today. I have a copy for you today.

Q. So you understand that?

A. Yes.

Q. That you would have been a sole owner of the property without the second deed once your mother passed away?

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A. Yes.
Q. Okay.
A. But I wouldn't have been able to get a loan in my name without my mother's signature. She can't do that when she is a ward of the state.
Q. Was your mother a ward of the state on November 18, 2014?
A. No. But Muriel had called me and asked me to sign papers about Mama's not being able to take care of herself. I didn't know in regards to what. It didn't sound good. Because that was not Mama and Daddy's plan.
Q. That was part of your reasoning for doing the second deed on November 18, 2014?
A. No. I explained that about 10 times. The reason for doing the deed on November 17th, okay, had three parts. One, I was on medical leave, and my leave was going to run out; two, when your leave runs out, you now have no salary verification form to give to the bank to get your -- to have a higher salary to get a bigger loan; and, three, I wanted -- the house needs repair.
Q. Okay. You just said that your mother could not sign a loan because she was a ward of the state, but she was not a ward of the state --

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A. Mama didn't become a ward of the state until the -- well, technically the 22nd. We didn't find out until the 23rd. So I misspoke. I apologize. November and December, I interchanged them.

No. The loan has strictly, strictly, strictly, strictly, strictly let's get this HELOC paid while we can. Because we have in Mama's notes I would not qualify on my retirement salary alone. I needed that seventy-two five.

Q. Okay. Let's go to Plaintiff's Exhibit 19, which are text messages. Let's go to page 6. These are excerpts. Not all 50 pages are included in here.

A. You took them out of sequence?

Q. No. They are in sequence.

MR. TOPOREK: Go to the sixth page.

THE WITNESS: Well, they are numbered at the bottom. What number do you want?

BY MR. KEYS:

Q. Six.

A. That's 12. This is 6. We are out of sequence.

MR. TOPOREK: You said 6?

MR. KEYS: Yes.

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BY MR. KEYS:

Q. I know it's difficult to read. Can you read what is the sentence said by you on 5/27/13 at 5:32?

A. Right here?

Q. The second green one.

A. This is the first --

MR. TOPOREK: He asked you if you can read it.

THE WITNESS: Yes. I can read it, yes.

BY MR. KEYS:

Q. What does it say?

A. Mama has 450 rent in her wallet. Good luck in getting a deposit slip. I tried.

That's when Muriel wanted everything put in -- she tried to get Mama to switch banks. That didn't work.

Q. Okay.

A. Yeah. That was the first time that I have ever texted about money, rent, anything, out of that period of time that you blocked out. That's the first one.

Q. Did you do it before that?

A. Text before that? I don't know. I mean, that's before 2012. I don't have those

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texts. I don't know. That's when the hold was out. I don't know.

Q. Can you flip to number 12. That top blurb is your sister speaking. Can you read that?

A. Muriel said: Okay, I'll look. I need to deposit Mama's money. When will --

You are out of sequence.

MR. TOPOREK: He asked you to read that.

THE WITNESS: Yeah. I mean -- okay.

MR. TOPOREK: Read it. Just read it.

THE WITNESS: Okay. I'll look. I need to deposit Mama money. When will you have January. I have to pay taxes. Don't forget Ben's birthday is Saturday, 5 to 8. I'll have Chinet. Take Mama and Michael and you, and all go together.

We already discussed this. Yes, I gave Muriel money, and she wrote -- and she paid the taxes, and then -- no. This is the 14th.

Q. I'm guessing in or around 1/4/2014.

A. I'm not so sure Muriel -- I would have to go back and look at our records. I think I paid those taxes, but I could be wrong. I know I paid '15, '16, '17, and '18. Well, I will pay '18. But if Mama wrote '14, it's because I give her enough

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money to cover it during 2013. Plenty enough money. I know Mama wrote the check for the insurance up until I was able to get it insured by C.T. Lowndes. Up until then, Mama wrote -- well, Mama and Muriel. Mama's checking account. I don't know who wrote it.

Q. So page 11 of the text message transcript --

MR. TOPOREK: 11 is not in this.

MR. KEYS: There you go. Top of it says that that is dated 1/2 --

MR. TOPOREK: Here. It's not in your book. This is 11. E-mail at the top?

MR. KEYS: I'm just showing the date of the subsequent message, dated 1/2/14.

MR. TOPOREK: 1/2/14.

MR. KEYS: It appears on 12. They just cut off.

THE WITNESS: Thank you. I was looking at that, and it didn't look like a regular text.

BY MR. KEYS:

Q. Okay. So your sister says when will you have January in the text message you just read. What does that mean?

A. Wait a minute. I think you are wrong.

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That is green and that's gray.

Q. Yes. She is speaking. On the bottom, it says --

MR. TOPOREK: What does it say? I can't read that.

THE WITNESS: I'm green.

BY MR. KEYS:

Q. This is your sister saying what we just read on number 12. It's kind of cut off. The date of it is cut off, so it's showing you the date from page 11.

A. Oh, the date. Okay, I agree with you. The date is on page 11.

Q. Okay.

A. It's 1/2/2004 -- 2014, January 2nd. Okay.

Q. Okay. So, flipping to page 12.

A. Okay. So, I'm telling you off the top of my head without having the bank stuff and without having y'all's bank stuff, I honestly don't know if Muriel -- Mama -- cut it out of Mama's account for two fourteen or if I did.

Q. You are talking about the taxes?

A. The taxes. They definitely did the insurance up until we switched to C.T. Lowndes.

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There was a lapse there. That's when Mama was at the bank. Because in her notes she wrote not presently insured.

Q. What does your sister mean when she said: I need to deposit Mama money. When will you have January?

A. She means she had to pay the taxes. The tax bill was out, and she wanted to do it.

Q. What does: When will you have January mean?

MR. TOPOREK: Object to the form of the question.

You can answer if you know the answer.

THE WITNESS: What, now? Say it again.

MR. TOPOREK: What does she mean when she says when will you have January.

THE WITNESS: January 2nd. So she is asking me for money for January.

BY MR. KEYS:

Q. Okay. What's money for January?

A. This is the 14th.

Wait a minute. Are we on 2014?

MR. TOPOREK: Yes.

THE WITNESS: Okay. I don't pay then. I'm already 100-percent owner. I took over with

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C.T. Lowndes. So that's what I was telling you.
BY MR. KEYS:
Q. That's before you were 100-percent owner. This is January 2nd, 2014.
A. No. I became -- okay. I gotcha. It's 10 months before.
Q. She's asking you when will you have January.
A. Did I answer?
Q. I'm asking what does that mean?
A. I probably called her. I hate texting. That just means that she told me she wanted to pay taxes.
Q. Okay.
A. And so she told me January 2nd, when are you going to be putting it -- giving it to me or going in and depositing it. That's all that means, January money that I gave every month. I don't know how much it would have been because that's right after Christmas. Mama probably paid all her own fees, but I usually do the dinner and stuff. So subtract out of that a little bit. I doubt it was 450 or 500. It was probably less.
Q. Okay. Let's flip to the next page, which is 16 of 50.

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A. I take that back. I don't know where dinner was that year. But if it was at my house, I would have subtracted out the cost.

MR. TOPOREK: You are looking at 16 at the bottom.

MR. KEYS: Which would just be the next page.

MR. TOPOREK: Do you have 16?

THE WITNESS: Uh-huh.

BY MR. KEYS:

Q. Bottom bubble, dated 3/31/2014, at 10:05, you say to your sister.

A. Yeah. I paid Mama the balance of February, 300 cash, and it is in her drawer.

Muriel knew what I meant by in her drawer. Okay?

200 is in her drawer that she doesn't want you to know about.

So 300 Muriel can put her hands on. 200 is hidden away from Muriel.

Q. Okay.

A. Okay. I owe for March and April and will pay during April. I'm using March and April money -- rent money for the employment lawyer. I always pay Mama every cent I borrow. Shoot. I pay

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Mama every cent I borrow, plus some.

And I use that word rent because it just satisfies Muriel. It makes it easy on everybody. I didn't care.

Q. So what did you mean when you said paid Mama the balance of February?

A. It meant that if I paid her 300 -- by now, remember, I told you we started -- it was around 450 I would shoot for? And I was very clear with you that doesn't mean 100 percent cash. It might be in the form of social, it might be in the form of a tangible object, and it might be cash, but it was predominantly cash, unless of course you went on a Bahama and Key Largo vacation. Now we have wiped out a couple of months with vacations.

Q. What did you mean when you say owe for March and April. Will pay it during April?

A. It meant I was letting Muriel know for her budget that she wasn't going to be seeing any presents from me, any vacations or social from me, and no cash from me during March. Every penny I had went to my employment lawyer. Because you got to remember, I'm just getting back to work. I got put back to work on the 30th. I reported back to work after five -- over five months out on the

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31st. I had an employment lawyer because it was contract time. I already told you about that.

Q. Okay. Did you sue Charleston County?

A. No.

Q. Okay. Why did you hire an employment lawyer?

A. Because it's contract time. You don't want to be reactive with Charleston County when you are in the TERI program. The TERI program is subject year to year, so you lose some of those due process rights.

Q. So you hired an employment lawyer to review your TERI contract with Charleston County?

A. No. You hire an employment lawyer so that nobody does anything behind a back door in Charleston County. You make sure -- you want a contract and you have exceeded FMLA's 12-week requirement and you didn't even have FMLA because you had already used it up and it's a 12-month roll-back program? Shoot, you get an employment lawyer.

Q. What was the result of you hiring the employment lawyer? Did you receive any funds?

A. No. I just got a contract. That was the end goal. I got my -- I accomplished my goal.

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Q. Okay. Let's go to page 21, which is maybe two pages over.

A. Okay.

Q. Okay. Bottom green blurb from you on 4/1/2014.

A. That's out of context you start there, now. You've got to go up to where Muriel is all upset and she is moving out, and then she goes on about how she doesn't have anything and how unhappy she is. And I tell her: I can help out now. I'm not working. Go on. Go to Goat Island and play with your friends and take a rest. Go get your Mule --

A Mule is a cool kind of golf cart-type tractor thing.

-- and go get your stuff and just go. Go. You are completely stressed out. You are blowing up. Go. I'm not working. I will be with Mama. Go.

Q. Okay.

A. All right.

Q. So then what do you say on 4/1/2014 at 9:07?

A. Well, first, Muriel said it would be a cold day it hell before she would take one penny

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from her, but now she has already taken the 20,000 a couple months prior for the pontoon. So that ain't quite true. But, like I said, Muriel is blowing up.

Q. When you say her, who do you mean her?

A. Muriel. She is the one writing this. This is April 1st, 2014.

Q. She is speaking about your mother when she says it would be a cold day it hell before she would take a penny from her? Is that what we're talking about?

A. Her? She is referencing -- her? Her is referencing our mother.

Q. Okay.

A. Muriel and Mama are having a major meltdown all March 31st. If you read the text, all April 1st, Muriel is moving out. Period. Muriel is moving out. Patricia is moving in. Period.

Q. Okay. What do you say on --

A. Before Mama was moving in with me. We didn't get that far.

Q. What do you say on 4/01/2014 at 9:07?

A. The green? Okay. I have an easier plan. Plan relating to her going to Goat Island and getting her toys and being with her friends and

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resting.

Q. Okay.

A. Okay. I have an easier plan. My short-term disability is about -- is 9,000 over the next three months. I owe mom 6,000 for retirement.

Remember, I told you --

Q. That's the medical and --

A. No. No. Retirement is November 1st, 2012. Daddy arranged it. It was a gift in my parents' eyes, but I told them I would pay it back when my TERI money -- when I turned 59 and a half and I could touch -- I could withdraw from where you roll your TERI money into a 401 or 403, or something, okay, age 59 and a half. But I was getting all this money from my short-term disability, right? Mama had given me --

Q. How much did you get from your short-term disability?

A. I ended up not getting it because they put me out for PTSD, and I don't know if I got -- something about they didn't cover psychiatric.

Q. Okay. What was the psychiatric reason that it fell through?

A. PTSD.

Q. Okay.

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A. That was the diagnosis.
Q. What was that from?
A. You are going to make me answer that, really?
Q. No. We don't need to answer that.
A. I will answer that if you need me to answer that.
MR. TOPOREK: He said you didn't need to answer it.
THE WITNESS: All right. Thank you.
BY MR. KEYS:
Q. Go on. What does it say after that?
A. All right. 6,000. And 1,500 for electrical.
Now we have fast forwarded three years. It's way more than was done.
Q. So that's the 8/12/2013? Is that what we are talking about?
A. No.
Q. Or 8/21?
A. We are talking about when the electrician was there doing the wiring, turning the box from the kitchen. I paid him 2,500. And as he walked outside, he saw the ground wire disintegrated. I called Muriel. She answered the

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phone. Got a $1,500 check that you got, and then I paid --

Q. Is that Exhibit 9? Is that the check we're talking about?

A. If it says 1,500, yes. And then I've got the invoice saying paid here.

Q. Okay.

A. You know, from Affordable Electric. Okay?

I will give it to you for Goat Island. Please don't say no. Just think about it for a while.

Because Muriel has got me thinking she doesn't have any money to buy a Mule and all these things, all her toys with her friends on Goat Island. She has got me thinking she is extremely stressed out, and it's bad for her, and doctors are telling her this and that. I mean, you know, I love her. You read 2012, 2013. You read January, February, middle of March 2014. Now things have taken a big fat turn. She and Mama are blowing up at each other like there is no tomorrow. They don't enjoy living together. It doesn't mean they don't love each other. They just can't live together.

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Q. Okay. Let's go to the next page, 22. Can you read your first blurb there, sent 4/1/2014 at 9:31.

A. Yeah. That's everything I've been saying to you about 20 times. Please remember -- are you talking about that one, the big long one?

Q. Yes.

A. Please remember that I did not sign the paper for Atlantic Street to be in my name 100 percent because it would have triggered a recall of Bridget's loan. I qualified for an FHA loan recently.

Q. You don't have to read it all. That's what I was getting at.

A. Okay. Yes. They wanted me to roll in Bridget's loan, yes.

Q. So in April 1st, 2014, you knew that that could trigger Bridget's loan, if you deeded the whole property over?

A. That's why I didn't do it. I told you that.

Q. But you did it on November 18th --

A. Because I was willing to take all the risk because I was losing possibly the ability to even get a loan. I'm on medical leave. You need

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the salary verification form. I only made thirty-four five back then. I wouldn't have qualified to pay off the HELOC. I needed seventy-two five plus thirty-four five to get my big loan.

Q. All right. Go down to your sister's second blurb on 4/1/2014 at 9:39. What is she talking about, the 35,000 that John owes your mother?

A. Oh, I don't have a clue. I'll tell you what pissed me off. This is when I took a turn. Right here. Today. Reading that on this day, at that very moment, when I read this, I said, oh my. My son is supposed to be going to Clemson. None of that means shit. My plan is going into effect now. Bridget has to pay taxes and insurance, termite bond. Should you. I've been doing that, Muriel. So that's real misleading. I've been doing that all along since I got rid of my townhouse.

Q. You were doing that in April of 2014?

A. I was doing that since August 2012.

Q. Okay.

A. Okay. Bridget doesn't owe Mama a penny. Bridget doesn't owe Mama a penny. I got so scared. Oh, my God. They are going to stick me

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with this big loan and not pay me back. I'm going to end up having to take her to court. I've got Little John accepted to Clemson. Yes, that was not a good day. At all.

Q. Okay.

A. My son is getting ready to graduate from high school. But that whole stuff about other people that she's running her mouth on, I don't know anything about that.

Q. What is she talking about, though?

A. I don't know.

Q. 35,000?

A. That's crazy money. What's she talking about? I was married to him then. We had -- he is living at 707 Vision. What is she talking about? Something she made up.

Q. She is talking about your ex-husband?

A. I don't know.

Q. Okay.

A. Are you asking me to clarify the name?

Q. Who is she talking about in this?

A. What did she call him?

Q. It says: On the other hand, John owes her 35,000, starting now.

A. I'm not going to speculate on that.

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Q. Okay.

A. Okay? He is -- my husband's name is John. Everyone calls him Big John.

Q. Big John. Okay.

A. My son's name is John. Everyone used to call him John, Jr., but now he is John, and Big John is Big John, unless we are out formally. They are both John.

Q. Let's flip to the next page, 25.

A. I can tell you on the record Big John doesn't owe Muriel no $35,000. And Big John doesn't owe Mama no $35,000. We were married, for God's sake, up until -- we are still married, but we are legally separated.

Q. 25. They are all pretty short. Will you just read through them and say who it's speaking about.

A. Okay. It's a green bubble, so that's me. I agree. Let's just have fun. You are going -- you are taking it out of context. Earlier I think Muriel was talking about lunch, going out to lunch. Okay. And then she writes: Do you know Big John -- that's my legal husband. Do you know if Big John is working today?

All right. Let's see. This is 2014.

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So he is working 10-hour days. Please don't talk to him until after John graduates and has his birthday party or let me talk to him. I promise you now is not the right time in terms of John, Jr.'s health. Yes. Hell, yeah. I was telling her shut up. We are not even discussing this. It's not on the table.

Q. What are you talking about?

A. I'm talking about her little allegation. Now she is calling him Big John.

Q. What is the allegation?

A. I'm going back -- I'm not lying. I'm going back to what you just told me. John --

Q. I'm asking you what is the allegation. You haven't told me.

MR. TOPOREK: I've gotten the call from the court.

THE WITNESS: Well, now you are confusing me. Because here is John, and I won't say who that John is because we call him Big John. You turn the page, and it's Big John, and it's still on the same day. So one and one adds up to two. The very first time she was talking about Big John, I would assume -- it's an assumption. It's not fact --

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BY MR. KEYS:

Q. She's talking about somebody owing your mother $35,000.

A. Yes. He don't owe her crap. But I wasn't going to have Muriel starting this crap with my son graduating high school and having a birthday party. No. I wasn't going to get Big John all upset with his health issues. No. She wasn't going to talk to him. And if anybody was going to talk to him about her allegation -- how the hell do I know that Big John didn't borrow $35,000 from Daddy in Timbuktu in 1995 when we first got married? I don't know.

Q. Okay.

A. Daddy treated all of us --

Q. Is that what we're talking about?

A. Yes. Daddy treated all of us as individuals. I don't know what Muriel got from Mom and Daddy, and I don't care, until she makes Mama a ward of the state, and I want an answer to the question: Is my sister accountable for the $20,000-plus pontoon boat? Is my sister's debt forgiven by her dry stack story, or is all of it wiped out by Ellen Babb's action during mediation? All I get is a blank stare and a we're done and a

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we're finished. I have never gotten an answer in three and a half years, and I've never been interviewed. And look at how much of my Mama's money we are wasting over you asking me questions that I've been begging Kelley to ask me for three and a half years.

Q. Okay. I will look into the Ellen Babb thing.

A. It's during mediation, so it should be in the mediation record. So she restated it after Ellen Babb.

Q. Okay. Let's go to the next page, 38. Last blurb by you on 4/23/14.

A. All right. Are we clear? I wasn't saying that Big John something about that he owed 35,000. I was talking Big John and the fact that Muriel was making allegations. Because Muriel was on a roll, and it was a nasty roll. And she was doing it at a time when it was Big John's birthday, my son going to prom, my son having a birthday party, and my son graduating high school and going off to Clemson. So her timing sucked. Her two children were out of high school, and it was my only child's turn.

Q. I understand what you are saying.

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A. Okay. All right. So where are we?
Q. Page 38, bottom green blurb, 4/23/14. What are you guys talking about there?
A. Well, you have to go one up: Per Mama's advice. Okay. No. I don't need to go up. Okay. Oh. 4/23/14, I took Mama to the bank, just like Muriel did. Well, Muriel wanted her to -- Muriel opened her an account. I don't remember when. First Federal. That didn't work out at all. That's that first rent text that I referred to, the good luck. I tried to do the deposit. Good luck. Okay. Mama would have nothing to do with that bank. She banked at Wells Fargo. She had been a teller there before she got married. And I never understood why Muriel expected Mama to switch to her bank. That was Muriel's bank. Good for you. Wells Fargo is Mama's bank.
Q. This is your statement on 4/23. Please read it.
A. Okay. Mama only has 18,000 in the bank. I have -- Oh. Yeah. This is a good one.
Q. Okay.
A. Okay. You have to -- you missed -- you are out of context here. So you look at the date, okay? I'm back at work.

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All right. No. I'm out of work because I was out for 12 weeks. I was out the last 12 weeks of school. I did not go back for the last day of school. So I'm out of work 12 weeks, okay? So I'm on FMLA. So I'm protected. So, again, it's contract time. But contracts probably were out -- if it's the 23rd, they probably came out on the 15th. Now they've moved it up to March sometime.

Okay. Mama only has 18,000 in the bank, and I've already paid the closing costs. The Heritage Trust loan is at 4 percent. We only need to sign the title document. Mama signs all the loan papers. I cannot touch the money.

Right. Okay. What it means is, I'm 50-percent owner of the Atlantic Street. Mama is 50-first owner of Atlantic Street. And I'm madder than hell that I'm still 50-percent owner of Atlantic Street and not a 100-percent. Muriel and her daughter promised to pay off the HELOC summer of 2012.

Now, I had substantial work that had to get done on Atlantic Street, including roof repairs, to keep the insurance going or they weren't going to renew it. Jackie told me. State Farm, you know?

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Q. Subsequently thereafter you took the $15,000 out on the HELOC, right?

A. And so before doing that, we got -- so that we could just give it -- you think that's all that needs to be done on a 1952 house? I got it right here, the estimate just for getting the electrical upgraded to where you would want it, okay, is seven more thousand dollars. That's in addition to me getting it up to code, the obvious so far.

Q. Okay.

A. Okay? So Mama went -- the only reason it was -- and that was nothing more than -- actually, Heritage Trust was running a better deal than Wells Fargo or First Federal. And so she got $40,000, and it was to fix up Atlantic Street. Muriel and Bridget weren't here -- I mean, they can come over and see. I mean, 1952 is 1952. When you are using original 1952 windows, you are flushing SCE&G payments down the toilet every month. And so enough was enough.

And now I've got Jackie telling me: Hey, Irish, you've got to do some more improvements to that house if we are going to keep this homeowners going. And then I've got Wells Fargo

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telling me -- well, when Mom goes to the bank, I'm hearing them telling us this loan requires hazard insurance. If you fail to have hazard insurance, we will take it out for you. It's more costly, blah, blah, blah. So Muriel knew -- Mama just didn't willy-nilly go do this. We talked about it.

Q. What was the agreement?

A. Muriel never said she wasn't going to sign. Would you have gone and spent -- I paid for the closing, you know. Would you have spent closing if you knew that the other owner wasn't going to sign? You are not going to sign? Okay. Discussion over.

Q. So your mother agreed to sign this April loan?

A. Yeah. I mean, you've got to hear me.

Q. So why didn't it go through?

A. Because Muriel didn't sign.

Q. When Muriel -- when you say Muriel, do you mean your sister?

A. My sister. Muriel, my sister, did not sign as one-third owner after --

Q. Okay. So you are talking about a loan on not 602. You are talking about on the Shem Creek --

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A. I can't get a loan. That's my whole problem. I can't -- I'm still not able to get a loan on 602 Atlantic Street.

Q. You are talking about writing a loan on --

A. Shemwood, where three of us were owners.

Q. Okay.

A. Bridget still hasn't paid. Muriel is still saying I'm not paying. Y'all are just going to have to wait until the market gets better.

Q. So you wanted to write this loan to pay off Bridget's loan?

A. No.

Q. What was this loan for?

A. 1952 house on 602 Atlantic Street.

Q. So you wanted to get a loan on Shemwood to fix up 602 Atlantic Street?

A. 602 Atlantic Street is in a dilapidated state. It's 1952. And Jackie Tankersley is saying: I'm definitely going to be wanting a new roof before I renew.

Q. Okay.

A. Okay. We know this upfront.

Q. Okay.

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A. Okay? So now when Muriel -- now, Muriel -- you don't get an equity line loan overnight. So Muriel doesn't say, no, she is not going to sign. She sits there and lets us go through -- lets Mama go through the process, lets me flush the money down the toilet, and the day of closing sends a text: I'm not signing.

Q. Okay.

A. She didn't lose a penny, but Mama went through emotional hell. And all Muriel had to do was say upfront: I don't agree as one-third owner of taking a $40,000 HELOC on this property to fix up Patricia's house. Which, we are almost two years behind in paying, by the way. But so what? So what?

Q. What do you mean by that?

A. I mean Muriel and Bridget are sitting there knowing that they are almost two years behind in their agreement to pay the loan.

Q. To pay your mother the HELOC loan?

A. The HELOC money. The 137,000. It's probably down to, like, a hundred and thirty-four right here.

Q. What was their original agreement?

A. Summer 2012 giving me at least three

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months to get my own loan in my own name before I retired.

Q. I'm asking what was the agreement between your mother and Bridget regarding the HELOC?

A. Pay it back by summer 2012. You want to know whose idea it was to use Atlantic Street?

Q. Whose?

A. Mine.

Q. Okay.

A. Mine. When Mama came to me, and Bridget had already -- either Bridget -- they talked on the phone or Bridget had been over, I don't know. We are always in and out of Mama's house. So for Muriel to be there, for Mama to be there, for Bridget to be in and out, grandchildren in and out, no big deal.

But I come in -- I can't remember -- I know I talked to Bridget on the phone before she closed the house because I asked her what it looked like.

And when Mama -- they were going to do it off of Shemwood. But Daddy is in bed dying, and I said: You know, Mama, you got that loan -- you've got that HELOC that you got from Wells

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Fargo. It's a small one, I said, but that way -- it's in your name only, and that way we don't have to bother Daddy, and Bridget can have her little house, the newly married couple. But by God they have got to pay it back in time for my son to go to Clemson and in time for this house to get fixed up. It's already -- enough is enough. Four years. That's a long time, four years. You can build your credit and refinance in four years.

Q. Okay.

A. Plus, when you've got a mother who is going -- telling my mother and her mother, our mother, Muriel Clarkin, Muriel Walsh Clarkin: Mama, thank you for helping Bridget. Right now is just not a good time for me to be changing my money around. I appreciate you helping Bridget. What do you mean you are not going to give it to her because you don't have a guarantee? She's my daughter. I'm the guarantee. If something happens to Bridget, Mama, I will pay the loan back to you. And yes, I understand it has to be by summer 2012.

Q. Okay. Your sister didn't actually sign a guarantee?

A. None of us sign anything. Our whole lives, your word is your bond. You hear me? In

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our family, our word is our bond. So when we promise Mama and Daddy that I will retire November 1st, and I will --

Because he's dying. He knows he is dying.

-- and I can retire, I will retire. I will predominantly be home with Mama. Muriel can be in as she can, but she is already helping Michael out, our disabled brother. I mean, she's already got a plateful. And then we have long-term care to supplement as necessary when the time comes, which is not when you're playing cards four days a week. When the time comes is when you need 24-hour assisted care and your daughters need a break. That's all that meant.

And next thing I know, I found out through a phone call that Mama's been getting $75 a day -- Muriel activated it. It's easy to do, John Hancock. I mean, you can't do two life skill things. And I find out the caregivers, when they activated that policy -- you are going to die -- the caregivers are Muriel's daughter-in-law --

Q. Okay.

A. -- married to Dean. Christian, she is real sweet, she is a certified nursing assistant.

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But I've never seen her with Mama. Another caregiver certified by John Hancock, approved, the word is approved, approved by John Hancock is Chinet Cattle, who took care of my father. That's how we got to know her, got close to her, and then went to help with Michael, and then -- so she is drawing $75 a day. Well, Mama gets paid $75 a day. And then use that money to pay your whoever. So it's approved. But there is really little oversight from John Hancock.

And then I find out Theodore Howard, Michael's primary live-in caregiver, who is not a licensed caregiver, is also approved. They didn't approve them at first, but there was an appeal, and they did, based on his training and experience, agree to approve him.

What got me is the only way I know about all this is I got a phone call, telling me that it was time for them to redo Mama's assessment. It had been a few years. And I said, what are you talking about? Kelley Evans never told me Mama had long-term care $75 a day going back to September 11, 2014 when my mother was with me, over, what, 60, 70, 80 days from that period before you came on. I didn't get a 1099 payment.

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I didn't get a payment. You want to talk about I owe money? There, now, I'll take that long-term care money and you can apply it to anything you want.

Q. Let's dial this back. In looking at page 39, May 8th, 2014.

A. You clear? I'll take that long-term care money that's due me. But I don't want it personally. You can apply it to anything you are running your mouth about in this lawsuit, which is so silly.

That we should have had a sit-down like I asked for, and you should have been asking me these questions, and I should have been handing you these papers and explaining my side. If you can interview one sibling, you can interview two. And your boss is a national certified guardian, and I bet she doesn't know that you haven't interviewed many of us. Due diligence.

Q. Patricia, let's focus on let's get this done.

A. Well, let's get this done. Because if you are saying I owe money, then let's just mark the number of days and come to an agreement times 75 and problem solved.

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Q. Can you look at page 40 for me of the text messages. The message starts on 39, so it's 5/8/2014, and then it goes to --

A. Bridget, it's none of your damn business. That's an arrangement between Bridget and Mama? I'm sorry. I was in that kitchen when Muriel said: Mama, Bridget is my daughter. Of course I guarantee the loan. If anything happens to my daughter, I'll pay it back.

Q. Read the blurb above that, please.

A. Okay. Another rent word. I know you get me to read all these rent words. I don't have a problem with it. I don't care what you call it. I told you. I give my Mama money every month, and it's not always cash. It's in the form of social, tangible items, or money.

Q. Usually 400 to 500, correct?

A. Shoot. When she first got made a ward of the state, it about broke the bank. I do without. Not my mother. You read the Visa statement from just December. Now, you just factor out the restaurants and the movies, Tuesdays and Sundays and movies. Just add that up, okay?

Q. Okay.

A. And you are at over $500. Because my

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mother is paying for caregivers. Still is paying for caregivers to eat and go to the movies. Do you know what her allowance was when she first started? Something piddly. And she went out four times a week, between her clubs and her cards and her social engagements. She got a lousy 275, 300. I think one day they got it up to 350.

I kept $100 hidden in the drawer, the drawer that Mama referred to that Muriel is not supposed to know about. And Terry Clarkin can vouch for it. Kathy Mason can vouch for it. I kept cash in my mother's wallet. She used a Wells Fargo Visa her entire life. All they had to do was lower the amount. She didn't know what a debit card was. And then they gave her this white, green, and black thing, cash-back card, where you have to enter a number. And then when I finally get her to try it at Petco -- then when I tried to get her to try it at Petco, it gets rejected. She was so humiliated.

Q. Read me the rent words.

A. Okay. Already -- all right. We're on May.

Q. Yes.

A. Okay. Already paid the rent. You have

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got to go back before. This is Muriel getting all nasty. The one before --

Q. Read that.

A. Okay. Muriel is saying: I handle Mama's finances for the millionth time. Pay me. I don't do bookkeeping half-ass like you.

Well, now you have got to see where we're at. We are at May 2014. When did I lose it? A couple weeks earlier when Bridget -- when Muriel said Bridget doesn't owe Mama a dime.

Q. Right.

A. So at that point, it's war. My son is going to Clemson.

Q. Okay. So then you say?

A. So I say -- there is no way I'm giving Muriel anything. Now, I've been playing along this whole time. I didn't care what she called it. I didn't care what account she wanted it in. I didn't care. But now it's different because she said Bridget doesn't owe Mama a dime.

I already paid my rent. My cars are none of your business. My ability to get a loan on my house is your business. Bridget needs to move her loan now. Her parents have plenty of equity. She can owe her parents instead of her grandmother.

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This is very upsetting for Mama. Per Dr. Hope, psychiatrist, working when my psychiatrist was in the hospital. Per Dr. Hope my financial arrangement with Mama is none of your business. I always pay my rent.

I didn't care about that word. That's Muriel's favorite word, and it shuts her up.

I will pay it in June to Mama. Deal with it.

Okay. So no. That's how it goes. And then it just goes on, lands itself in making your mother a temporary ward of the state behind everybody's back.

Q. Okay. Let's go to page 44.

A. I'm glad we're using mine instead of yours. Yours we would have been finished. You didn't have that many.

MR. TOPOREK: What's that mean?

THE WITNESS: The texts, we are going through all the texts.

MR. TOPOREK: I hear you.

THE WITNESS: I mean, it's a lot of texts.

MR. TOPOREK: It sure is.

THE WITNESS: It's a lot of them, but

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he only had a few.

Okay. I'm ready.

BY MR. KEYS:

Q. You are saying because I didn't include them all?

A. No. In your evidence, those are the only ones I paid attention to when I was reviewing for today.

Q. Okay. You are talking about the requests.

MR. TOPOREK: Right.

THE WITNESS: Yeah. But mine, are, like, 50 pages.

BY MR. KEYS:

Q. Read your 5/21/14.

A. Okay. Correction. It is time for Bridget to owe her parents $134,000 and not her grandmother. You know that Mama intended to give us both properties.

I've already explained that to you.

You accepted ownership of Goat Island. I was not able to accept ownership of 602 Atlantic Street because of Bridget's loan.

And the fact I was being a loving aunt at the time.

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Fact. Mac Gibson has original paperwork.

I told you that already. Mac Gibson can verify the two loans that he was asked to prepare paperwork on. Two deeds, I mean.

Okay. Mac Gibson has original paperwork. Mama is mostly upset about Bridget potentially being Michael's guardian.

Everybody about flipped out when we found that.

She does not approve of Bridget being his guardian and fears Bridget will put him in a home and forget about him. This is a reasonable fear, given Bridget does not invite him to holiday dinners, call him, or visit him. Fact. I had a PTSD crisis due to being threatened by Julie --

I don't want to say the name out loud.

-- on February 15th, 2014. I did not have a bipolar crisis. No. PTSD. My FMLA says PTSD.

My bipolar treatment has been successfully treated since 2008 and is presently successful. It will not prevent me from seeking guardianship of Michael legally instead of Bridget, if necessary. Meaning, if you are unable to

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fulfill your duties as guardian.

Bridget doesn't call Michael, see Michael, and Michael has been -- she has been in his company -- doesn't even give him a Christmas present. Gosh, and to think about her being guardian? Put her own Daddy in a home. And she was living with him, and he gave her 50 percent of the house in return for taking care of him. And when he got a little too much, she took her 50 percent of the house, all right, and stuck her daddy right away. Uh-huh. You bet I would challenge Bridget if something happened to Muriel today.

(PLF. EXH. 20, WELLS FARGO ACCOUNT LIST, was marked for identification.)

BY MR. KEYS:

Q. All right. Let's go to Plaintiff's Exhibit 20.

A. I don't know what that one has to do with anything, but...

MR. TOPOREK: Look at 20.

THE WITNESS: 20. Okay. Good. We're finished with the texts.

BY MR. KEYS:

Q. All right. So is one of these Wells

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Fargo accounts you have listed here on this first page the one that you deposited the $15,000 of the HELOC in?

A. I don't know.

Q. Okay.

A. I don't. I don't have the statements in front of me. I don't have Heritage Trust statements in front of me.

MR. TOPOREK: I don't know is a sufficient answer.

THE WITNESS: Okay. I don't know.

BY MR. KEYS:

Q. Let's go to -- so these have Bates numbers on the bottom of them. I'm looking at Smith02-15, about three pages over. It's a check.

A. Yeah.

Q. What is this?

A. It's a check that looks a whole lot like -- it is my signature, I would say. That's the way I sign my name.

Q. Is it on your Heritage Trust account?

A. It is.

Do you know what concerned me about this?

Q. What?

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A. Look at that capital M. Doesn't it look like somebody started to make another capital letter and then they had, like, a P, had a rounded top? And then, look, there is nothing filled in the box.

Q. What's the date on it?

A. August 2nd, 2013.

Q. Okay.

A. This is the only check, right?

No. There is another check for 500 somewhere.

Q. I have not received that check. If you have it, please provide it to me.

A. No. I'm thinking there is. I'm not sure, but I'm thinking -- maybe this is one -- no. This is the one, 500. Right here.

Q. Okay.

A. 500, August 2, 2013. This is the only check that I found between the two bank accounts.

Q. Okay.

A. I hardly write checks. I'm a cash-and-carry person.

Q. What does it say on the note for this check?

A. August rent.

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Q. Okay. So this is you paying your mother rent?

A. No. I say that's my signature. I'm not 100 percent.

Q. Coming from your bank account, correct?

A. Correct. It's coming from my bank account, but look at who signed the back of that check.

Q. Well --

A. Okay. And then it went into the First Federal account. So you want to tell me after that joke I texted Muriel about Mama's got 450 in her wallet, good luck getting her to sign a deposit slip -- good luck getting her to sign a deposit slip, you want to tell me that Mama turned around and signed a deposit slip?

Q. That's the back of the check.

A. Okay. The back of the check. Okay. Then she didn't know it was going in there. That's funny. But anyway. Okay.

Q. But the intent of this check is for you to pay your mother August rent in 2013?

A. Now, I'm not going to say the intent was to pay August rent. The intent -- Muriel liked that word. That word is a word that has no meaning

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to me. The intent was to provide my mother money, as I did every month. Whether it was a little bit or a lot, whether it was vacation, social, or tangible items, the intent was to provide my mother money. The word rent shut Muriel up, and, trust me, it's worth using the word rent to shut Muriel up sometimes.

Q. In this instance, it was $500, correct?

A. Yep. And I think in the earlier text I said 450. I put 450 in Mama's wallet. And I think I told you earlier that I started with, like, 450 and then moved it up when I got my TERI money. Not TERI. I misspoke. When I got my national board certified teacher second stipend. And then I was, like, Mama can have all of it. 500 was a combination of ways.

Q. Okay. So these bank statements that you produced, beginning with the next page, we have your Heritage Trust bank statement, dated 1/1/2012. How did you get these to produce them? Did you go to the bank or you had them, or...

A. No. No. No. I went -- all these statements that y'all wanted, I went to Wells Fargo and -- or maybe I went to Wells Fargo and called. I don't know. I was real worried about it

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and processing how to do it. I know Heritage Trust I went in person and met with whoever. It's not a teller. It's somebody at a desk. And it's not the branch manager. I may have talked to the branch manager, but I ended up working with somebody at a desk.

Q. Okay. I have not received any statements for the 2013 year for the Heritage Trust.

A. Well, I told you they were all e-mailed by year, Heritage Trust, 2012, 2013, 2014. I think the two months in 2015 might have been put on '14. That isn't a biggy. I can go home and e-mail it to you.

Q. You can provide those to me?

A. Yeah.

Q. Okay.

THE WITNESS: You might have them. If I didn't give them to him, then you might not have 2013 either.

BY MR. KEYS:

Q. All right. 117 on this first page, you marked a little notation beside Chase Finance for $805.09. What is that?

A. That's my mortgage.

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Q. Your mortgage on what?

A. 707 Vision Road. The Smith family home.

Q. Okay.

A. But it went up. I should go through this statement.

Q. Bates number 18, two pages over, on the top you've written: No, 600; yes, 805.09.

A. Yeah. Because I'm looking for anything -- I'm not looking for anything above 600. I'm not looking for anything below 400. But I'm going through each of these things. And I'm a cash-and-carry person. This was very frustrating to do these checks and all this stuff and to go look at withdrawals. So I set a perimeter for myself.

But what would have made sense was -- what does make sense is to have my bank account statements, savings and checking and everything, and to have Mama's at least the deposits so that you can go, okay, I took out $300. Because, remember, that one text where I said I put $300 in the drawer where you can find, Muriel, and I put $200 in the secret drawer that you are not supposed to know about?

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Q. Yes.

A. Okay. So then if I had Mama's, then -- Muriel is pretty good about getting to the bank in a timely manner. I could say, okay, I withdrew it out on --

What's that, 6/13?

-- 6/13, and then I could go to Mama's, if I knew -- and say Mama's got a $300 deposit. So that cash I took out --

Q. Which one are you on?

A. Okay. So that cash I took out -- that same amount got deposited in a timely manner into one of Mama's accounts.

Q. Okay.

A. But doing it without Mama's account? It's a shot in the dark.

Q. So I understand you, you are saying your belief is that on 6/21 you pulled $300 from your account and gave it to your mother?

A. No. I'm saying if I had had Mama's account statements, I could have verified it in her deposits. Maybe not that particular day. Maybe Muriel would have gone to the bank the next day or the next day. But Muriel is pretty timely.

Q. Why did you check this one?

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A. Because I told you. I went through looking for even numbers and going up 300, no more than six. 450, five was my goal. But sometimes less.

Q. So this could have been money you gave to your mother? That's why you marked it?

A. I marked it because it was in the range.

Q. Okay.

A. Yeah. If I had known -- had a way to see if Mama got a deposit with that same figure, then I would have known it was something I gave Mama. But that 300, that don't mean squat. You know? When was this?

Q. 6/21/2012.

A. Okay. Oh. 6/21/2012? That isn't Mama's. That's just a waste of time on paper. I'm still paying mortgage. I'm not giving Mama big money then.

Q. Okay.

A. That's just a waste of paper.

Q. You started August of 2012, you said?

A. I would have started, yeah, August. We closed the loan somewhere in July. I've got the paper for you dated.

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Q. Look at Bates number 46, dated 1/3/14. You marked a withdrawal of $1,200. What's that about?

A. I don't know. I'm going to be honest with you. My neighbor was helping me -- I mean, we are talking that many inches of paper. And so she -- we sat at her kitchen table, and we went through and just tried to figure out. First we went through looking for checks.

MR. TOPOREK: Do you know the answer to the question? Do you even know what page he is talking about?

THE WITNESS: Yes. He is talking this page, $1,200 right there.

MR. TOPOREK: Okay.

THE WITNESS: I took out $1,200 from Heritage Trust.

Well, wait a minute. Now you are talking 1/14.

BY MR. KEYS:

Q. Yes.

A. I mean, that could have been a ton of things. $1,200, that's about when John had to pay his $800 class ring. That's about when we had to make -- he was taking two college courses in the

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spring. You know? I mean, that could have been a ton of things, to take out $1,200, with John taking college courses as a senior and the senior ring. I don't know.

Q. So if you move to Bates number 55, 3/14/14, you've marked $400.

A. Where am I at?

Q. Bates 55, statement 3/1 to 3/31/14, you marked a $400 on March 14th. Is that because that could be money that you gave to your mother?

MR. TOPOREK: 47. 55.

THE WITNESS: If it's a cash withdrawal, the answer is I don't know.

BY MR. KEYS:

Q. Okay.

A. If it's a check I can tell you, if it's an auto draft I can tell you, and if it's mortgage I can tell you.

Q. So all of these withdrawals that you've marked are just in that range and that's why you marked them?

A. Yeah. Because I was kind of thinking that if you got my bank statement, then I was going to get Mama's, and I would be able to cross-reference and figure it out.

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Q. Okay. Moving to Bates number 60, 4/25/14.

A. There is the 15,000 we were talking about earlier.

Q. So that was deposited into your Heritage Trust account?

A. Yeah. Remember I told you I couldn't tell you without looking at the statement? Here it is right here. It's Heritage Trust.

Q. Okay.

A. It says for the HELOC -- I mean, for the required hazard insurance and the roof. Because now this is what I'm paying. So if this required hazard insurance where Muriel wrote that text earlier about insurance for 2014 when she was telling me this is my plan, you are going to pay? Well, I did pay 2014 myself. I didn't hand her X number of dollars a month.

Q. Okay.

A. You can see that. There is the note. Okay.

Q. Let's go to Bates number 89.

A. Okay.

Q. Okay. So on November 18, 2014, you withdrew $6,000 in cash from your mother's account,

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correct?

A. We have already talked about this. Yes. Correct.

Q. So on November 18th, you have deposited $5,000 into your Heritage Trust account. Is that that money?

A. Is this the same day?

Q. Yes, it is.

A. Then that's that money. I probably left a thousand in the Wells Fargo, if I had that statement to cross-reference, I'm guessing. I'm assuming. That would make sense.

Q. Let's go to Bates 93. On 12/3 you withdraw $6,000.

A. From where?

Q. From your Heritage Trust.

A. I don't have it. I've got a 92. Okay. All right.

Q. What was that about?

A. Where does it say?

Q. On 12/3 at the top of the page.

A. It's a transfer to somewhere.

Q. It says check.

A. Oh, it's a check?

Q. Yes.

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A. I'll have to pull that one out, then.
Q. Okay. Well, please provide me any checks you have regarding that.
A. No. Wait a minute. It's a check? Withdrawal by check.
Q. Yes.
A. Withdrawal by check. I wrote a check for $6,000.
No. That's a cash withdrawal.
Q. Okay. What was that for?
A. No. You scared me. I thought I was going to be able to tell you where 6,000 went, like --
Q. So you don't know where it went?
A. Off the top of my head do I know where I moved $6,000 on 12/1/14 when I'm sick? That's that $6,000 of Mama's that she gave me just about 12 days earlier.
Q. Uh-huh.
A. Okay.
Q. And you deposited most of it, and now you are pulling it out. Where did it go?
A. I have no idea. Because I don't have my -- do you have the --
Q. The Wells Fargo?

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A. Wells Fargo. See if I put some money in there around that time.

Q. We will get there quickly.

A. Okay. I mean, I don't know. I don't have anything to cross-reference it to.

Q. Okay. On 12/15 you are withdrawing another $1,000. Do you know what that was about?

A. Wait a minute. Are you sure that 6,000 didn't go to pay the personal line of credit at Heritage Trust Federal Credit Union? Because look at the date. It's the first.

Q. No. It says --

A. Okay. Just throwing it out there.

Q. It says -- 12/3, it says a withdrawal by check, for $6,000.

A. I don't know. No. It's Christmas season. I don't know. I mean, for that big amount.

Q. You don't know the thousand for 12/15?

A. I mean, it could be -- I don't know. I mean, it could be anything. It could be the car. I told you I was getting Mama's car redone during that period. It was gone for eight months.

Q. You were doing this the same period when you are deeding the property over and --

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A. No. Before I got sick. I told you the car was -- we got the car back right before Mother's Day weekend. The week before Mother's Day weekend.

Q. Okay.

A. And the car had been gone eight months. The car was way gone before I got sick.

Q. Well, this is December of '14 we're talking about.

A. Okay. The car has been gone.

Q. Okay.

A. It doesn't mean I didn't make a payment. Okay.

Q. Go to Bates number 95, 12/23. Is that the $10,000 coming into your account?

A. 12/23? No. You asked me earlier what I did with that $10,000. I told you I didn't know without the statement. Here it is. It went into here.

Q. It looks like you withdrew it immediately in the form of $5,000 in cash and maybe $5,000 in a check?

A. No. I have two -- I got them at home. I don't know if I've got them with me. But I told you earlier that I paid the firm in 5,000 segments.

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Q. And all of that money went to the firm?
A. Well, I can't say that because I don't see it. I mean, I told you I've got it -- I don't think I brought it with me, but I have that -- all -- that transaction because it was a certified check.
Q. Please provide me with those because that's the stuff I've been asking for in discovery.
A. Well, I only found it last night. But okay.
THE WITNESS: Will you write me that?
I got that -- what was the other thing? You wanted me to provide you with something else.
BY MR. KEYS:
Q. 2013 bank statements for Heritage Trust.
A. 2013 bank statements. I'll just e-mail you that. I can attach it.
Wait a minute. Yeah. I had that stuff with Mr. Toporek. Let me correct that. I think I have the original from when Mama -- when I first met Mr. Toporek for the dismissal hearing. I know I have the $10,000 original transaction receipts.
Q. Okay. Let's go to Bates number 99. The date is January 26, 2015.

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A. Okay.
Q. It says withdrawal of $836.90.
A. That's my mortgage, isn't it? Chase?
Q. In 2015? When did you finish your Chase mortgage?
A. Where are you at?
Q. Bottom, the left-hand side, January 26, $836.90 withdrawal. My question is, is this the interest amount you paid on the $10,000 cash --
A. Thank you. Yes. That makes sense. Thank you. Thank you. Thank you. Then the next month is $800 even.
Q. Next page --
A. I didn't say I paid interest. I said I made a payment.
Q. Okay. Page 102, Bates 102, dated 2/17, Wells Fargo, card withdrawal, $800.
A. That's when I made the payment.
Q. Okay. You felt obligated to pay those amounts?
A. Remember I told you, the judge on January 9th, and Mama was getting a temporary conservator, but I hadn't heard from nobody, and so I didn't want my Mama's Wells Fargo Visa to be 30 days late. And Muriel wouldn't tell me anything

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about anything, so to be safe, I paid it, but it turned out Mama had auto draft for the whole thing.

That's when you are talking about $1,500. We'll just call that a wash. I've got so much receipts, I don't care how you do it.

Q. So your mother should owe you the $1,600 you paid in January and February of 2015?

A. What now?

Q. You are saying your mother should owe you --

A. No. No. I paid those two payments. Remember you were saying about the $1,500 for the electrical? I paid $2,500, and he found the outdoor wire. I called Muriel. She answered the phone. We have gone over that check.

Q. Let's move on to Bates 106. This is your Wells Fargo preferred checking.

A. Okay.

Q. April 25th, 2014. This is when you opened the account, right?

A. Right. Well, that's the day I got the $15,000, so...

Q. You didn't put it into this account. You put that into the Heritage Trust account. We just saw that.

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A. Right. This account, if you look at it, it's minimal activity.

Q. So what's the purpose of this account?

A. This account -- the purpose of this account was to pay -- two purposes. Main purpose, primary purpose, was pay Mama back on the HELOC.

Small little purpose was to have enough money in there that --

My son has a Wells Fargo checking account.

-- that if he was off at boot camp or off at reserve training or something, same bank.

Q. Okay. So right now, on April 25th, 2014, your mother's name is on the account, not your son's, correct?

A. Correct. Up until October her name is on the account. November it switches to my son.

Q. And the initial deposit on 4/25 was $450. Is that just the monthly amount you pay your mother every month?

A. No. That's just -- I don't know why I did that amount, to be honest.

Q. Okay.

A. I don't even know what the rules were to open an account. Like, maybe it had to have so

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much in it for you not to get a fee. I don't know.

Q. Okay. And why did you take your mother off this account?

A. I really don't know why she was on it. I'm assuming that because I did an auto payment from this account to the HELOC. I'm assuming.

You don't see my hand.

I'm assuming since I moved money from my personal checking to my mother's HELOC that whoever set it up recommended it be on the account or we asked if it was okay. I can't remember. I'm flat out guessing. But I know for a fact that the reason I put my son on in November is he was out of high school and heading off to boot camp, and I wanted him on my account because he also had a Wells Fargo account.

Q. Okay.

A. And that was just safety.

Q. Sure.

Bates 126, on 11/14/14, you withdraw $900.

A. Bates 126?

Q. Yes.

A. This is coming out of Wells Fargo. We're finished with Heritage Trust. Okay. Except

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for 2013. I gotcha.

Okay. Where am I?

Q. It says that on 11/14/14, so this is kind of when everything was going on, you withdrew $900. Do you know what that's about?

A. Well, I was getting sick. I was going -- but I hadn't been put out of work yet.

Q. How much did you pay Judge O'Neil for drafting the deeds?

A. I didn't pay Judge O'Neil.

Q. Who paid Judge O'Neil?

A. I don't know if Mama did or if he just did it out of friendship. I called Judge O'Neil and spoke with his office, and they have no record of any invoice. And it's very possible Judge O'Neil --

Q. Did your mother ever go to his office?

A. She had to. That's how I got 50 percent -- the second 50 percent of the deed. November. Remember? Mom was the one who said call Judge O'Neil. Well, she called him Dennis. Call Dennis. I call him Judge O'Neil.

Q. Did you drive her to the office?

A. Oh, sure. I was getting the deed. Then from there I went to the bank and took out a

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home mortgage loan application.

Q. Let's look at Bates number 129. Okay. On 12/3 you asked earlier -- I asked you, you were withdrawing $6,000 from your Heritage Trust account. Here we see 6,000 going into your Wells Fargo account.

A. There you go.

Q. Okay. Do you know why you transferred it here?

A. Back in 2014, now I'm already sick? No.

Q. So on 12/8 --

A. I know that now I had moved everything to Wells Fargo. I love Wells Fargo. Not that I don't like the people at Heritage Trust. I just like Wells Fargo better. 24-hour banking.

All right. What's next?

Q. So on 12/8 you remove $5,900. Do you know where that went?

A. Whoa. No. Did it go to a savings account?

Q. I'm asking you.

A. Right here. Online transfer to Way2Save, right?

Q. That's zero dollars. It's not the

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$5,900. It says withdrawal made in branch store, 12/8.

A. That doesn't make any sense. Are you sure that didn't get moved to savings?

Q. It does not -- I do not see it on this statement being moved to savings. I see a withdrawal.

A. Wait a minute. It's an electronic deposit.

Q. It says the ending balance on 12/31 was $54 in this account.

A. Yeah, but the 6,000 -- you said I deposited it. It's an e-deposit.

Q. Okay.

A. Maybe the bank --

Q. Do you know why you took 5,900 out on 12/8?

A. No. I mean, 2014, without my records? No, I don't know nothing about that kind of stuff. Moving cash? Uh-huh.

Q. What records are you talking about that you don't have?

A. The ones that are -- that were up in the attic that wasn't properly vented through the shower. And so when they did the roof in 2015,

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they discovered that my -- when I demolished the bathroom, gutted it completely and rebuilt it, they discovered that the person hadn't vented the shower through the roof. So all of that was just going into the attic that whole time. A couple of years.

Q. Okay.

A. And it was just nothing but guck. So I had to get one of those big containers, and the contractor team -- crew just tossed everything away. So a whole -- I don't have records of -- that's why this is so hard.

Q. Okay.

A. So much is gone. Not just in this stuff. My life, the paper.

Q. Let's look at Bates number 150.

A. Okay.

Q. Then the e-mail from you to Kelley Evans, dated August 14, 2015, you said: Please apply these expenses to my $6,000 debt.

A. Right. Because she is telling me I have debt, and I am telling you -- how many times have I got to tell you? I want all this stuff washed away. I want my mother's freedom. She is still a temporary ward. None of this is worth it. None of it. I want her freedom. I got a loan. I

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got a $200,000 loan. Then -- I mean, I've tried, I've tried, I've tried. We wouldn't even be sitting here today if I had gotten a payoff statement. We wouldn't even be sitting here. She would be free, and everybody's debt would be gone. Whether it was their debt, my debt, God's debt, her debt, I don't care. I wanted my mother's freedom.

Q. So you call it a debt, correct? Your debt.

A. If I -- yes. Because she's already turned down -- and this is before this lawsuit, now. She's already turned down my home repair expenses, okay, which are way over $12,000.

Q. Okay. 10/2012 --

A. No. I've got them right here. We are right in the range. They can go from 2010, but most of them are sitting at '12, '13, '14, and they are over $12,000.

And, see, I'm getting a check. I get a check with an amount. No explanation. No accompanying letter. Nothing. A check with an amount. And I'm supposed to know that some of that is the agency that I hired when Mama fell and broke her tailbone, and I'm supposed to know that some of that is something else. And I'm supposed to know

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that none of it is legal. You get a check. You don't get any accompanying information from Family Services, Kelley Evans.

Q. That is a reimbursement check from Family Services that you said you did not cash?

A. No. I didn't know -- I didn't cash the little one for some slippers and -- it was a little one, under $100.

Q. Okay.

A. That's the one where she wrote me that biting e-mail about how -- you know, blah, blah, blah, you submit receipts. I didn't submit the receipts.

Q. Here you are asking for reimbursement for $825 for --

A. I've been asking for it.

Q. -- legal expenses?

A. I've been asking for it since I found out who the conservator was. That is not my debt. Now, that legitimately is my mother's debt. She did two -- she did a power of attorney, and she had representation when my sister made her a temporary ward of the state, and she was being served.

Q. This was the December 8th, 2014 power of attorney?

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A. No. That's a small piece of it. That is mostly --

Q. But that is the power of attorney you are speaking of?

A. I can't go off the top of my head. But I know since it's 8/25, it -- I don't think -- three times 275. Wait a minute. Three times 275 would be 825. I don't know.

Q. It's the power of attorney that gave you joint power of attorney with your sister?

A. Yeah. But you are asking me to break down the 825 --

Q. I'm not asking you to break it down. I'm asking you to tell me what the expenses went to.

A. The 825?

Q. Was part of it the power of attorney?

A. I don't know without looking at -- now, Jocelyn Bolin, she breaks down her invoices, you know, and it says how much for how many hours and for what service.

Q. But that power of attorney is the one that Judge Curry declared null and void by the --

A. She declared everything null and void, including Muriel's guardianship.

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Q. Okay.

A. See, here is the invoice right here. Y'all got it. Why are you asking me? Look right here. I attached it.

Q. We'll get there. We're almost done.

A. 825, which I've yet to be reimbursed for, and that was my mother's attorney on the day she got served.

Q. Let's go to Bates 162 so you can look at the invoice.

A. Okay. 162? I've yet to get a reimbursement form. Let's get that on the record. Yet to get a reimbursement form.

It says send and receive.

MR. TOPOREK: Look at 162.

THE WITNESS: I can't find 162. Hold on.

Okay. Ready. Well, there it is.

BY MR. KEYS:

Q. Okay. So these are the services you believe your mother is responsible for?

A. Well, I've got to read it. I know she is responsible for the three hours, meet with Ms. Clarkin by herself.

Q. This the power of attorney that gave

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you power of attorney?

A. They are all saying meet with Ms. Clarkin. They are not saying meet with Patricia and Ms. Clarkin.

Q. Did you drive her to this?

A. I don't remember if she came to the house or if I drove her to her, or whatever. But this is in Mama's name. This is an invoice directed to Mama. My mother, Muriel.

Q. Did you drive your mother to Ms. Bolin's law office --

A. I don't know if Ms. Bolin came to our home. I know she came to our home -- my home on the 23rd.

Q. Okay.

A. On the 20th and the 8th, I do not know if it was at my home or if it was at Ms. Bolin. I was sick. Remember, I'm out on medical leave? So to tell you factually that I left my home that day and she didn't come to me instead? She is only a few miles apart. She's super nice. But this is my mother's debt. And I want to know why I'm not getting reimbursed for it. This is $825.

Q. Is that the POA the judge declared null and void?

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A. When --

MR. TOPOREK: When you answer, yes.

THE WITNESS: Yes. Because --

BY MR. KEYS:

Q. On 12/23 did Ms. Bolin show up after your mother had been informed she was a ward of the state?

A. I don't think so, because she was there in under 18 minutes.

Q. Okay.

A. And Steve Roberts next door called and said the police are getting ready to swarm your house. They were set up in a checkpoint.

Q. Okay.

A. And I didn't know what was going on. Mama is sitting on the sofa. It was so sweet. We -- John, Jr. just left. We spent all morning together doing the tree and wrapping presents. Mama's got her list, checking off her little piles of presents. Christmas music is playing. It was just a lovely day. And Steve Roberts, the neighbor, called and said the police are getting ready to swarm your house. And so I punched Bolin's number, because I knew she was an attorney, and I knew she was within a mile or two from the

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house. She answers, thank goodness.

Q. You called her?

A. Sure, I called her.

And I said I don't know what's going on. I don't know why they are swarming the house. Just -- you are an attorney. Just get here. And she -- I don't care what you charge to anybody about this. I just don't care. I don't know what's going on. I need help. And she said: Tricia, I'm just an estate attorney. I said: Jocelyn, I don't know what's going on. I'm scared. The neighbor said the police are swarming the house. And she was there in way under 18 minutes. So whether she -- now, she -- the policemen didn't come in right away, now. They swarmed the house first and set up.

Q. You have explained that.

A. Yeah. So whether she heard the policemen tell Mama, I don't know.

MR. TOPOREK: You answered 18 times.

THE WITNESS: Well, I keep getting asked the same thing 20 times.

MR. TOPOREK: Well, you answered 18 times every time.

THE WITNESS: Well, okay. This is very

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confusing. I don't know why I can't answer it once.

BY MR. KEYS:

Q. Exhibit 21. We are almost wrapped up.

MR. TOPOREK: 21.

(PLF. EXH. 21, E-MAIL FROM PATRICIA CLARKIN SMITH TO KELLEY EVANS, DATED 12/11/17, was marked for identification.)

BY MR. KEYS:

Q. It's an e-mail from you to Kelley Evans, dated December 11th, 2017. You are asking for the HELOC payment.

A. God, don't get me started on the HELOC payment. Are you serious? I have got paperwork right here.

MR. TOPOREK: Back up. Hold on. He is asking you about this e-mail.

THE WITNESS: Yes.

MR. TOPOREK: December 11, 2017.

THE WITNESS: Yes. The day I got in trouble at work over this. Please, God, tell me does it need to be paid. I don't want it paid late. It's due on the 10th. I didn't get anything in the mail.

MR. TOPOREK: You are not talking to

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me. He is asking you about an e-mail, Patricia. That's it.

THE WITNESS: Okay. An e-mail on a day that caused me a lot of hot water at work, Alan.

MR. TOPOREK: Okay. All right.

THE WITNESS: On a simple communicate.

BY MR. KEYS:

Q. You are asking for statements so that you understand what the status of the HELOC payment is, right?

A. It's the 10th. It's the due date. I'm asking if it's been paid, yes or no.

Q. Okay.

A. I say the bank closes at five.

Q. Okay.

A. And I say I don't get to leave work until four. And then look at what time I made the call. I did it from work. I wasn't on break, and I got caught. You don't make a personal call on the job sometimes when you are told not to. But I was so worried that this payment would be late --

She'd ignore me, ignored me, ignored me.

-- that I took the risk. I got caught. I got suspended from work, and I still didn't find

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out until, like, two days later. Do you have her response and what that date is?

Q. The next e-mail I have in this group is September 28th, 2017.

A. Oh, well, that's cushy. You see what I'm asking Kelley, but you don't see how many days she took to tell me the answers, which meant I paid it. I went down there and paid it --

Q. Okay.

A. -- and didn't get the $13 charge. Lost time from work. Got in trouble. Got a write-up. I mean, communication.

Do you know how many months it took me to settle the delinquency that she never even told me about, she didn't tell the court about in June? It was two months delinquent in June.

Q. Has Family Services ever -- after you paid the $15,000 that you borrowed from the HELOC, you paid it back with interest, correct?

A. Extra interest, yes, correct.

Q. Did Family Services ever ask you to make a payment on the HELOC?

A. Absolutely. It is recommended, August 8th letter. I've got it. I read that thing, and I'm for real. I said: Oh, my gosh. Judge Curry

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has agreed that Mama doesn't have the funds to make this payment. What is going on? And I was boiling inside.

Q. They told you to make the payment?

A. You read it yourself: Recommended. Kelley's letters are very broadly worded: Recommended. Just read the first sentence: Patricia and Bridget have both received funds. Both received funds. This girl paid it off eight months ago, so don't go calling it both received funds. Say Patricia has paid off her $15,000, and Bridget has outstanding.

And, oh, by the way, when I took the stand in June 2017, I failed to tell the court that Bridget was two months delinquent, and I failed to tell Patricia, and I didn't tell either in July and I didn't tell either in August. The only way I got caught not telling anybody that Patricia's house was getting foreclosed on is the lady came to take pictures on Saturday evening at 6 p.m. She was my age, and I let her walk around and take them, and she told me she was a subcontractor for Wells Fargo. And she's listening to me and my neighbor Terry talk. Terry Palmer, my friend, we were planting flowers. 7:00. I said: My affairs are

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in order. It's not my finances. It's got to be the HELOC. This house is collateral.

Q. When you took deed to the --

A. And this is a Saturday evening. No. No. I mean, come on. How do you not tell somebody for five months? That house was being foreclosed on. They were taking -- Wells Fargo was taking pictures. And she hadn't told the court and she hadn't told me. I hope she told her boss.

Q. Is your name on the account?

A. On the HELOC?

Q. Yes.

A. No.

Q. When you --

A. But the judge deserved to know.

Q. When you accepted the deed in 2013, were you aware that the HELOC was sitting as a mortgage upon the property?

A. That's why I took 50 percent.

Q. When you did the second deed transferring the other 50 percent, were you aware that the mortgage was on the property?

A. That was the whole point.

MR. TOPOREK: Yes or no? Yes or no? Just answer the question.

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THE WITNESS: Yes. I was aware.

MR. TOPOREK: That's it. That's the answer to the question.

THE WITNESS: Yes, I was aware.

Well, I'm a little heated about this, Alan. This is a big mess in my life, finding my house getting foreclosed on and I stop it with an online banker. Thank God they have 24-hour service. And I randomly paid $1,220 on a Sunday, just a shot in the dark that it would keep it from being foreclosed on, and it did.

BY MR. KEYS:

Q. Did you request Family Services to fill out an authorization form for Wells Fargo to allow you information about the account?

A. No. I requested information from Family Services and got nothing. So then Wells Fargo, I asked them what the procedure was, and they told me -- the first person told me to just have a letter written from Family Services. And Ms. Iris Albright (phonetic), bless her soul, she did it within five minutes. Boom. It was in my e-mail, and it was off to Wells Fargo.

Down the road --

Q. So Family Services provided you with an

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authorization so Wells Fargo could speak to you upon your request, correct?

A. Only that one day it worked. And then after that, Wells Fargo wanted their own form filled out. And it took Kelley, I kid you not, seven weeks. Four tries to fill out that form correctly so I can sign it. She sent me a blank form. Would you sign a blank form? I won't.

Q. Did they provide you the form that required the authorization?

A. Who?

Q. Did Family Services provide you --

A. No. Well, Wells Fargo provided the form, and then Family Services filled out their part. And then they sent it to me, only their part was blank, and so I sent it back. And then they sent it to me, and it was partially blank, and I sent it back. Then they sent it back again, but it was filled out, but it had the wrong date. I wasn't letting Wells Fargo think I had gone seven weeks filling out a form. So then on the fourth time, she filled it out correctly. They got it.

Now, here is my question to you. She has got all the --

MR. TOPOREK: No. You don't ask him

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questions.

THE WITNESS: That's right. I don't ask questions. Never mind. I won't know.

BY MR. KEYS:

Q. You have access to the Wells Fargo account because Family Services provided you the authorization you needed, correct?

A. Correct.

Q. Okay. When did Family Services ever ask you to make a payment on the HELOC?

A. They -- I didn't say they ever asked me to make a payment on the HELOC. What they did, what Kelley did, is wrote a very broad letter. If you read this letter -- go ahead and read it. I mean, you read this letter --

MR. TOPOREK: Do you have the letter with you?

THE WITNESS: Yeah. I mean, I know I've got it. But if you read this letter, it is the one that said --

Kelley, you can tell them what it said. You can't talk.

But shoot. If you read this letter, it says -- it doesn't even mention that it's five months delinquent.

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MR. TOPOREK: Do you either have the letter or not have the letter?

THE WITNESS: Here you go. You want to read it or you want me to read it?

BY MR. KEYS:

Q. I would love to read it.

MR. TOPOREK: Let me look at it first.

THE WITNESS: I brought you evidence on -- well, I have to wait to be asked questions.

MR. TOPOREK: Why do you have to do that?

THE WITNESS: Because, Alan, I'm the one who almost lost their house.

MR. TOPOREK: What's the date of that letter?

MR. KEYS: Dated August 8, 2017.

THE WITNESS: And that's after I called her phone and leave a message: What's going on. And then I have to go three months to settle up with Wells Fargo because she won't tell me a balance. Instead I have to wait until Wells Fargo gives me a balance. It's ridiculous.

BY MR. KEYS:

Q. Family Services never instructed you to make those payments, correct?

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A. She recommended. No. The way I read that, I thought that the judge had approved the recommendation that I be given the responsibility. Until I sat here today just now, I have from day one, August 8, thought -- because it made no sense to me. And she can tell you. I have written her: Answer this simple question. Did you ever tell Judge Curry Muriel is the guarantor of the loan? Yes or no? Does Judge Curry know there is a guarantor of the loan?

Q. Is there any signed document that shows that?

A. Not on your lawsuit. You don't even mention Muriel in your lawsuit. You haven't interviewed me either, and I've got tons of evidence for you.

MR. TOPOREK: Answer the questions. Is there anything --

BY MR. KEYS:

Q. Is there a written guarantee showing Muriel as guarantor of the HELOC?

A. You've already asked me that, and I've told you in our family your word is your bond, and that is your signature, and we don't have anything in writing. That's why Mama is in this fix.

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MR. TOPOREK: Okay. The answer is no, there is nothing in writing.

THE WITNESS: No.

(PLF. EXH. 22, STATE FARM STATEMENT, DATED 11/5/14, was marked for identification.)

BY MR. KEYS:

Q. All right. Let's go to Exhibit 22. Last one.

A. Okay.

Q. Flip one more. Flip the pink.

A. The pink? Okay. Gotcha. Okay.

Q. Okay. This is a State Farm's statement, dated November 5, 2014. Flip to the next one. It is addressed to Charles and Muriel Clarkin.

A. Daddy's name is still on it? That's funny.

Q. 2014.

A. Okay.

MR. TOPOREK: You say go to the next page?

MR. KEYS: Yes.

BY MR. KEYS:

Q. The bottom of the little box there, it says: Rental dwelling, 602 Atlantic Street.

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A. Yeah. I took out that policy with Jackie way back when.

MR. TOPOREK: Just answer the question.

THE WITNESS: Okay. Sorry.

BY MR. KEYS:

Q. So in 2014, 602 Atlantic was insured as a rental property?

A. In 1995 602 Atlantic was insured as a rental property.

MR. TOPOREK: Look at the date on that.

THE WITNESS: Yes. That's correct.

BY MR. KEYS:

Q. Okay.

A. Cheaper that way.

Q. Is there anything you would like to correct?

A. Anything I would like to correct? I'm not sure if you've got where I misspoke. A couple of times I misspoke on that recording when I flipped something around in what I said on the recording. I can't remember what it was now, but I remember saying on the recording saying I misspoke. Another time, sometime during the day, I said I misspoke. And I can think of at least twice where I misspoke. That's about it.

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Q. Okay.
A. Anything I would like to correct?
Q. Yes.
A. I would like to correct the fact that we are even sitting here wasting my mother's money when Wells Fargo's user agreement states that the user agreement -- the account owner is responsible for the debt. I would like to correct the fact that three and a half years of interest-only is nonsense. It's not prudent behavior at all. I would like to correct the fact that the 1,500 was for an outside wire on the same day. I can show invoices where I spent thousands, okay, and then came up short when he saw something as he was leaving. I would like to correct the fact that the $6,000 in our family retirement to take care of your mother because I am dying obviously from Parkinson's, that is a gift. I would like -- you're sick. You are going to be out of work two to three months, maybe longer. Here is money from the emergency funds, $6,000. That is a gift in my mother's eyes, in my father's eyes. In my eyes, the minute I can pay them back, I'm going to pay them back because they gave me a really wonderful, lovely life. So in their eyes, it's a gift. In my

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eyes, yeah, it's a gift because I'm their daughter and I'm going to respect them. But in my heart, I'm going to pay them back. And right here sits twenty to $30,000. We are done.

MR. KEYS: Okay. I don't have any more questions.

MR. TOPOREK: I don't have any questions. And I don't care for a copy.

(The witness, after having been advised of her right to read and sign this transcript, does not waive that right.)

(The deposition was concluded at 3:00 p.m.)

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SIGNATURE OF DEPONENT

DEPONENT: PATRICIA CLARKIN SMITH
DEPOSITION DATE: JULY 24, 2018
REPORTER: KAREN NELLIUS
CASE CAPTION: FAMILY SERVICES, INC., AS CONSERVATOR FOR MURIEL W. CLARKIN vs. PATRICIA CLARKIN SMITH

(Please return both Signature of Deponent pages)

I, the undersigned, PATRICIA CLARKIN SMITH, do hereby certify that I have read the foregoing deposition and find it to be a true and accurate transcription of my testimony, with the following corrections, if any:

| PAGE | LINE | CHANGE | REASON |
|---|---|---|---|

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SIGNATURE OF DEPONENT (CONTINUED)

DEPOSITION DATE: JULY 24, 2018
REPORTER: KAREN NELLIUS
CASE CAPTION: FAMILY SERVICES, INC., AS CONSERVATOR FOR MURIEL W. CLARKIN vs. PATRICIA CLARKIN SMITH

| PAGE | LINE | CHANGE | REASON |
|---|---|---|---|

_____

PATRICIA CLARKIN SMITH Date

I, Karen Nellius, Notary Public for the State of South Carolina at Large, do hereby certify that the deponent was advised of his or her right to read and sign said deposition both verbally and in writing. If the deponent fails to execute and return foregoing Signature of Deponent pages within the thirty (30) days allowed pursuant to the Rules of Civil Procedure, the original transcript may be filed with the court.

Karen A. Nellius NOTARY PUBLIC SOUTH CAROLINA

Karen Nellius

_____

Karen Nellius, RPR
My Commission expires
November 14, 2024

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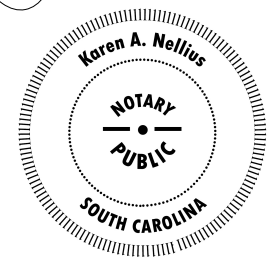
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CERTIFICATE OF REPORTER

I, Karen Nellius, Court Reporter and Notary Public for the State of South Carolina at Large, do hereby certify that the foregoing transcript is a true, accurate, and complete record.

I further certify that I am neither related to nor counsel for any party to the cause pending or interested in the events thereof.

Witness my hand, I have hereunto affixed my official seal this 1st day of August, 2018 at Charleston, Berkeley County, South Carolina.




Karen Nellius, RPR
My Commission Expires
November 14, 2024

I N D E X


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| BY MR. KEYS | | |
| SIGNATURE OF DEPONENT | 228 | 1 |
| CERTIFICATE OF REPORTER | 230 | 1 |


REQUESTED INFORMATION INDEX

(No requested information.)

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| PLF. EXH. 23, NOTICE OF DEPOSITION | 3 | 18 |

The following exhibits were marked but not referred to:

Exhibit 2 - Answer of Defendant Patricia Clarkin Smith

Exhibit 3 - Amended Complaint

Exhibit 4 - Letter from D. Conor Keys to Alan D. Toporek, dated January 25, 2018

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Exhibit 5 - Letter from Alan D. Toporek to David Conor Keys, dated 6/19/18

Exhibit 6 - Letter from Alan D. Toporek to David Conor Keys, dated 7/18/18

Exhibit 7 - Defendant's Responses to Plaintiff's Requests for Admissions

Exhibit 18 - Title to Real Estate

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AFF EX 4 EXHIBIT B MTN SJ EXHIBIT A MTN DISMISS

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# SAMSUNG SGH-T999 Messaging

**Phone: Murielcell(843[redacted])**

Received at Date: 09-16-2012 13:37:20

[redacted]

Received at Date: 09-17-2012 16:25:58

[redacted]

Received at Date: 09-18-2012 13:36:39

[redacted]

Sent at Date: 09-18-2012 19:49:32

[redacted]

Received at Date: 09-19-2012 12:17:35

[redacted]

Received at Date: 12-03-2012 10:08:05

[redacted]

Received at Date: 12-17-2012 09:39:43

[redacted]

Sent at Date: 12-17-2012 09:40:19

ELECTRONICALLY FILED - 2020 Oct 06 8:17 PM - CHARLESTON - COMMON PLEAS - CASE#2017CP1005427

Received at Date: 05-17-2013 11:57:24

[redacted]

Sent at Date: 05-17-2013 11:58:36

[redacted]

Sent at Date: 05-27-2013 12:32:39

M has 450 rent in her wallet good luc
k in getting a deposit slip I tried

Received at Date: 06-14-2013 13:15:59

[redacted]

Sent at Date: 06-14-2013 14:51:42



Received at Date: 06-14-2013 14:59:56

[redacted]

Sent at Date: 07-03-2013 12:30:28

[redacted]

Sent at Date: 07-06-2013 16:03:41

[redacted]

Received at Date: 07-06-2013 16:27:26

Ok

AFF EX 4 EXHIBIT B MTN SJ EXHIBIT A MTN DISMISS

Ok I'll look. I need to deposit momm a money. When will u have jan. I hav e to pay taxes. Don't forget James bd ay party is sat 5 to 8. I'll have Chinet take mom n Michael u could all go to gether

Sent at Date: 01-04-2014 08:32:37

[redacted]

Sent at Date: 01-04-2014 08:39:09

[redacted]

Received at Date: 01-04-2014 08:49:24

[redacted]

Sent at Date: 01-04-2014 08:50:38

[redacted]

Sent at Date: 01-07-2014 20:37:22

[redacted]

Received at Date: 01-07-2014 20:42:18

[redacted]

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ELECTRONICALLY FILED - 2020 Oct 06 8:17 PM - CHARLESTON - COMMON PLEAS - CASE#2017CP1005427

[redacted]

Sent at Date: 03-27-2014 21:08:44

[redacted]

Received at Date: 03-31-2014 08:19:35

[redacted]

Sent at Date: 03-31-2014 08:49:43

[redacted]

Sent at Date: 03-31-2014 08:50:45

[redacted]

Sent at Date: 03-31-2014 08:58:07

[redacted]

Sent at Date: 03-31-2014 10:05:06

Paid mama the balance of February $300 cash it is in her drawer $200 is i n her drawer that she doesn't want y ou to know about. Owe for March in April will pay it during April. Used my March in April rent money for the em ployment lawyer. I always pay mama every cent I borrow

AFF EX 4 EXHIBIT B MTN S J EXHIBIT A MTN DISMISS

[redacted]

Received at Date: 04-01-2014 08:33:28

[redacted]

Sent at Date: 04-01-2014 08:35:35

[redacted]

Sent at Date: 04-01-2014 08:41:22

Please get your boat and mule like w e discussed for goat island. Then go have fun with the residents. I will be with Mama

Received at Date: 04-01-2014 08:57:03

It will be a cold day in hell before I ta ke a penny from her after the way sh e talked to me and I will never tolera te her downing Bridget that put me o ver the edge. Keep her there until I c an get out I'm done

Sent at Date: 04-01-2014 09:07:28

Okay I have an easier plan. My short term disability is 9000 over the next 3 months. I owe mom a 6000 for reti rement and 1500 for electrical. I will give it to you for goat island. Please don't say no just think about it for a while

Received at Date: 04-01-2014 09:16:05

Give it to momma. I am calling big jo hn he MUST start paying her back. S he has 15000 in Ac , 1800 for tree an d now will need paid help daily. Billy i s to pay her 500/mo or u and Billy 55 0 ea. you will pay the taxes and insur ance from here on out. Go change At

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AFF EX 4 EXHIBIT B MTN SJ EXHIBIT A MTN DISMISS

Received at Date: 04-11-2014 10:26:46

[redacted]

Received at Date: 04-11-2014 10:27:01

[redacted]

Sent at Date: 04-11-2014 10:43:52

[redacted]

Sent at Date: 04-12-2014 16:36:09

, Mama's cell. EMS at house. On my way there. Going to East Cooper hos pital. Which hospital should I take he r to for her hip.

Sent at Date: 04-12-2014 16:40:50

What medications is mama on

Sent at Date: 04-12-2014 16:41:59

Regardless of what mama says Micha el and I both want her to be checked out at the hospital she may have had a dizzy spell

Sent at Date: 04-12-2014 16:42:55

Already left message for Dr Mercola . Said we are going to East Cooper hos pital

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Sent at Date: 04-12-2014 17:15:15

Call Dr Mercola and changed it to Mo unt Pleasant Grove St Francis Hospita l

Sent at Date: 04-12-2014 17:15:30

, I already called

Sent at Date: 04-14-2014 20:20:07

[redacted]

Received at Date: 04-14-2014 20:21:51

[redacted]

Sent at Date: 04-14-2014 20:22:30

[redacted]

Sent at Date: 04-15-2014 15:19:18

[redacted]

Sent at Date: 04-15-2014 15:20:27

[redacted]

Received at Date: 04-16-2014 08:17:17

AFF EX 4 EXHIBIT B MTN SJ EXHIBIT A MTN DISMISS

[redacted]

Sent at Date: 04-16-2014 08:20:46

[redacted]

Received at Date: 04-16-2014 08:26:44

[redacted]

Sent at Date: 04-16-2014 08:28:35

[redacted]

Received at Date: 04-16-2014 08:31:10

[redacted]

Sent at Date: 04-16-2014 08:32:11

[redacted]

Received at Date: 04-16-2014 11:37:23

[redacted]

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ELECTRONICALLY FILED - 2020 Oct 06 8:17 PM - CHARLESTON - COMMON PLEAS - CASE#2017CP1005427

Received at Date: 04-21-2014 19:34:56

[redacted]

Sent at Date: 04-22-2014 09:38:31

[redacted]

Sent at Date: 04-22-2014 09:39:36

[redacted]

Sent at Date: 04-22-2014 10:03:58

[redacted]

Received at Date: 04-22-2014 10:04:55

[redacted]

Sent at Date: 04-22-2014 10:05:38

[redacted]

Sent at Date: 04-23-2014 15:06:55

Please call me right away it is import ant thanks Patricia

Sent at Date: 04-23-2014 15:11:22

AFF EX 4 EXHIBIT B MTN SJ EXHIBIT A MTN DISMISS

I cannot find mama. Do I need to go to Shimla it? I also need to talk to yo u about other things important good thing. Please call

Sent at Date: 04-23-2014 16:02:34

[redacted]

Received at Date: 04-23-2014 16:05:33

Momma told u she wasn't doing it I h eard her tell u and heard her call and cx loan

Sent at Date: 04-23-2014 16:06:31

That did not happen after all. Please what time is convenient for you on Fr iday. [redacted]

Received at Date: 04-23-2014 16:07:32

I won't sign

Sent at Date: 04-23-2014 18:45:21

[redacted]

Sent at Date: 04-23-2014 18:51:27

Mama only has 18,000 in the bank. I have already paid the closing costs. Heritage Trust loan is at 4 percent. W e only need to sign the title documen t. Mama signs all the loan papers in h er name only. I cannot touch the mo ney.

Received at Date: 04-23-2014 18:52:19

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That is of no concern of mine.Do not text or try to call you are deleted aga in

Sent at Date: 05-02-2014 17:34:05

[redacted]

Sent at Date: 05-02-2014 17:37:32

[redacted]

Sent at Date: 05-02-2014 17:37:32

[redacted]

Sent at Date: 05-08-2014 09:59:41

I borrowed 8800 in paid back 10800 i n 3 years 36 months. I paid way too much interest the first time. The prob lem is I need to fix my house structur ally. Do Bridget working with her par ents need to move the loan. There is plenty of equity between the properti es that Bridget has her name on. I al so owe the federal government a few thousand dollars when I have always received refund in the past. I need a loan in my name on my house so I ca n fix it structurally an itemized on my taxes.

Received at Date: 05-08-2014 11:22:37

You choose to fix the Cadillac and bu t john a corvette instead of doing the much needed repairs on the house. I repeat that was YOUR decision. NOO NE is responsible for YOUR debt but YOU. Sell vette and caddy and FIX th e house. You cannot have your cake and eat it too !!! Bridget pays her tax es and insurance and now you do to. Comparing apples to apples. You bot

AFF EX 4 EXHIBIT B MTN SJ EXHIBIT A MTN DISMISS

h have name on house deeds. Your t axes are 200.87/mo and insurance is 148.75/mo total is 349.62 due now a nd monthly. 600 in rent is due for Ma y Now... Immediately.....! Pay me no t momma I handle her finances for th e millionenth time PAY ME!!!!! I don't do bookkeeping half ass like you

Sent at Date: 05-08-2014 11:32:26

I already paid my rent. My cars are n one of your business. My ability to ge t a loan on my house is your busines s. Bridget needs to move her loan no w. Her parents have plenty of equity. she can owe her parents instead of h er grandmother. This is very upsettin g for Mama! Per Dr hope my financial arrangement with Mama is none of y our business. I always pay my rent. I will pay it in June to mama! Deal wit h it

Received at Date: 05-08-2014 11:46:34

Bridget is none of your business per arrangement made between Bridget and momma. Mommas finances ARE my business. What you have done to momma is against the law. Per every dr. And attorney I have talked to. Sta y away from me or I will crush you li ke a bug. Big mistake to underestima te me. You are under the microscope so to speak. Stop running to momma like a kindergarten kid. You should b e ashamed of yourself exploiting her. The law is on MY side

Sent at Date: 05-08-2014 11:48:46

She has asked you to move out sever al times. I lived with her for 1 year a nd 6 months. With no problem! Pleas e move out and I will move in then s he might be happy again.

Sent at Date: 05-08-2014 11:49:13

Please do not text me again I enjoye d being deleted

Received at Date: 05-08-2014 11:50:03

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Deleted again sick sob

Sent at Date: 05-10-2014 13:53:05

[redacted]

Sent at Date: 05-10-2014 13:55:57

[redacted]

Sent at Date: 05-11-2014 18:57:03

[redacted]

Sent at Date: 05-12-2014 15:53:00

[redacted]

Sent at Date: 05-12-2014 15:57:43

[redacted]

Received at Date: 05-13-2014 20:55:51

[redacted]

Sent at Date: 05-13-2014 21:11:44

AFF EX 4 EXHIBIT B MTN S.J. EXHIBIT A MTN DISMISS

[redacted]

Received at Date: 05-14-2014 07:40:20

[redacted]

Sent at Date: 05-14-2014 07:43:16

[redacted]

Received at Date: 05-14-2014 18:35:20

[redacted]

Sent at Date: 05-14-2014 18:37:39

[redacted]

Received at Date: 05-14-2014 18:38:57

[redacted]

Sent at Date: 05-14-2014 19:28:18

[redacted]

Sent at Date: 05-21-2014 11:31:50

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AFF EX 4 EXHIBIT B MTN S.J EXHIBIT A MTN DISMISS

ELECTRONICALLY FILED - 2020 Oct 06 8:17 PM - CHARLESTON - COMMON PLEAS - CASE#2017CP1005427

[redacted]

Sent at Date: 05-21-2014 11:46:01

[redacted]

Received at Date: 05-21-2014 12:01:32

[redacted]

AFF EX 4 [redacted] HIBIT A MTN DISMISS

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[redacted]

s my final text. I will not read your re sponse. I only wish you to find health and happiness . Your sister Patricia

Received at Date: 08-08-2014 13:02:46

[redacted]

Received at Date: 09-30-2014 16:23:07

Momma just bill from sparky for 700 to replace screens at michaels and no w she needs a new refrigerator. Plea se bring her money over so I can pay her bills. Thanks

Received at Date: 09-30-2014 18:07:44

Sparky is coming over for his check t onite. I'll come over to get money fro m you if your bus. I need to deposit i t tom

Received at Date: 10-24-2014 18:24:43

[redacted]

Received at Date: 11-16-2014 18:09:51

Please have momma call me. I'm ho me the phone works fine

AFF EX 4 EXHIBIT B MTN SJ EXHIBIT A MTN DISMISS

Received at Date: 12-06-2014 09:47:51

Sent at Date: 12-06-2014 15:03:59

Just read mama the entire book I wr ote you last night. Read it twice and stopped periodically to make sure sh e understood what I just said. She no w has full knowledge of the message. Read your messages to me from Mar ch 2014 until present. Remember, pe r Dr Hope, you were informed that I would not ever read texts from you, yet you kept sending them. I did not open them as instructed by Dr Hope/ Dr DeHaven. If you want to make am ends, that would be wonderful. The p ast, meaning March until right now, must be buried forever. Amends mus t be based on facts, such as my pres ent medical discharge paperwork, ma ma's mental stability..
I am following my present plan until my doctor team includes you in it. It i

[redacted]

Sent at Date: 12-14-2014 14:43:34

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Content-Type: multipart/mixed; boundary="089e010d882ec74c80051361ef07"
Return-Path: patriciaclarkinsmith1962@gmail.com
X-EOPAttributedMessage: 0
X-Forefront-Antispam-Report: CIP:209.85.212.177;CTRY:US;IPV:NLI;EFV:NLI;
X-DkimResult-Test: Passed
X-Microsoft-Antispam: UriScan:;BCL:0;PCL:0;RULEID:(3001015);SRVR:BLUPR05MB152;

Final-Recipient: rfc822;kevans@fsisc.com
Action: failed
Status: 5.1.10
Diagnostic-Code: smtp;550 5.1.10 RESOLVER.ADR.RecipientNotFound; Recipient not found by SMTP address lookup

---------- Forwarded message ----------
From: patricia clarkin Smith <patriciaclarkinsmith1962@gmail.com>
To: <kevans@fsisc.com>
Cc: Alan Toporek <alan@uricchio.com>
Date: Fri, 10 Apr 2015 13:17:18 -0400
Subject: Patricia Clarkin Smith $12,000 Wells Fargo - $10,800 boat slip rental, $500 boat repair
Muriel W Clarkin

Kelley,

Muriel explained at mediation that she subtracted her boat slip rental from the State Farm insurance payout for the totaled pontoon in spring, 2014 that my mother gave her.

After you provide me the date the pontoon moved to dry stack storage, we should be able to determine the following balance for me: $12,000 - ($10,800 + $500) = $700

1. Please check the amount State Farm paid for the totaled pontoon. I am pretty sure we had a replacement cost policy.

2. Please note the attached Goat Island Deed that my mother deeded 100% to Muriel on August 14, 2012. As the sole owner, Muriel has been responsible for the storage fees since that date.

3. Please also check the date Muriel registered her pontoon boat - around April, 2014. I believe her State Farm boat policy payments have been drafted from my mother's Wells Fargo checking account since that date.

4. Please provide me the date Muriel moved the pontoon to dry stack storage. I paid the 3 years ($900 per quarter) we kept boats, a Key West and then a Bentley pontoon, at a wet slip prior to Muriel taking her turn. The date will help me request my documentation.

5. I also paid approximately $500 for a mobile marine mechanic to replace the stater on the pontoon. Frank Blair can provide a statement.

Wells Fargo: My mother gave me $6,000 in October, 2012 to help me retire from the state and join the TERI program. The other $6,000 in November, 2014 was to help me while I was on medical leave.

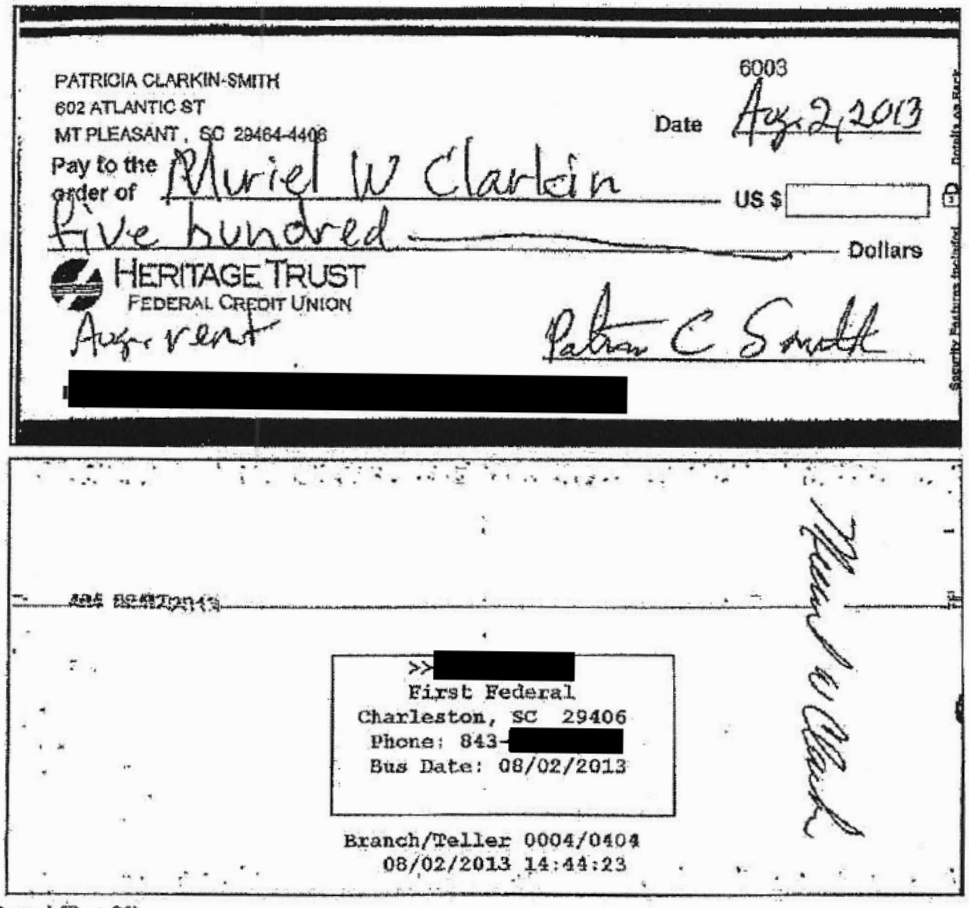
Thank you,
Patricia

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PayLOGICS Item Summary ECE Institution ISN: [redacted] PayLOGICS ISN: [redacted]

Cash Letter / Bundle Summary

| Origin RT | Destination RT | Business Date | Cash Letter Count | Cash Letter Amount | Cash Letter Id | Bundle Count | Bundle Amount | Bundle Id |
|---|---|---|---|---|---|---|---|---|
| | | | | | | | | |




Check Detail Record (Type 25)

| Auxiliary On-Us | EPC | Payor Bank RT | Check Digit | On-Us | Amount | ECE Institution ISN | Doc Type | Return Accept. | MICR Valid | BOPD | Conv. Indicator | Archive Type |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | [redacted] | | | | $500.00 | [redacted] | G | 8 | 0 | U | 0 | |

Check Addendum A Records (Type 26)

| Return RT | BOFD Business Date | BOFD ISN | Deposit Account at BOFD | BOFD Deposit Branch | Payee Name | Truncation Indicator | BOFD Conv. Indicator | BOFD Corr. Indicator |
|---|---|---|---|---|---|---|---|---|
| [redacted] | 8/2/2013 | [redacted] | | 00404 | | Y | 2 | 0 |

Check Addendum C Records (Type 28)

| Endorsing Bank RT | Endorsement Date | Endorsing Bank ISN | Truncation Indicator | Conversion Indicator | Correction Indicator | Return Reason | User Field | Endorsing Bank ID |
|---|---|---|---|---|---|---|---|---|
| [redacted] | 8/5/2013 | [redacted] | N | 7 | 6 | | | |

**TITLE NEITHER EXAMINED NOR CERTIFIED**

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BP0351348

STATE OF SOUTH CAROLINA )
)
COUNTY OF CHARLESTON )

**TITLE TO REAL ESTATE**

KNOW ALL MEN BY THESE PRESENTS, THAT I, **MURIELWALSH CLARKIN** (the "Grantor"), for and in consideration of the sum of FIVE AND NO/100 ($5.00) DOLLARS and love and affection, to the Grantor in hand paid, before the sealing of these presents by **MURIEL WALSH CLARKIN and PATRICIA CLARKIN SMITH**, in the State aforesaid, the receipt and sufficiency of which are hereby acknowledged, have granted, bargained, sold and released, and by these presents do grant, bargain, sell and release unto **MURIEL WALSH CLARKIN and PATRICIA CLARKIN SMITH, a joint tenancy with rights of survivorship, and not as tenancy in common**, the following described property, to-wit:

ALL that certain lot, piece or parcel of land, together with all buildings and improvements thereon, situate, lying and being in Mt. Pleasant Heights, Christ Church Parish Number 5, Charleston County, State of South Carolina, and known on the plat or plan of a re-subdivision of Mt. Pleasant Heights made by J. O'Hear Sanders, Jr., January 1950, recorded in the R.M.C. Office for Charleston County in Plat Book G, Page 99-A as Lot No. 63.

Measuring and containing in front of Atlantic Street sixty (60') feet; the same on the back line and one hundred eighty (180') feet in depth.

Butting and bounding Southeast on Atlantic Street; Northwest on a ten-foot (10') roadway; Northeast on Lot No. 64 on said plats; and Southwest on Boundary Street; all as is more fully shown on the plat hereinabove referred to and on the plat of J. O'Hear Sanders, Jr., dated January 25, 1952, which said plat is made a part and parcel of this conveyance.

BEING the same property devised to the Grantor herein from the Estate of Muriel Monica Dean Walsh (Estate File No.: 1997-ES-10-00254) pursuant to a deed of distribution dated January 5, 1998, and recorded on January 5, 1998 in the RMC Office for Charleston County in Book J-295, Page 592.

TMS# 532-06-00-129
Grantees' Address: 602 Atlantic Street, Mt. Pleasant, SC 29464

TOGETHER with all and singular, the Rights, Members, Hereditament and Appurtenances to the said Premises belonging, or in anywise incident or appertaining.

TO HAVE AND TO HOLD, all and singular, the said Premises before mentioned unto the said **MURIEL WALSH CLARKIN and PATRICIA CLARKIN SMITH** as joint tenants with rights of survivorship, not as tenants in common, their Heirs, Successors

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and Assigns forever.

AND the said **MURIEL WALSH CLARKIN and PATRICIA CLARKIN SMITH** do hereby bind their Heirs, Personal Representative, Executors and Administrators to warrant and forever defend, all and singular, the said Premises unto the said **MURIEL WALSH CLARKIN and PATRICIA CLARKIN SMITH,** as joint tenants with rights of survivorship, not as tenants in common, their Heirs, and Assigns and against all persons whomsoever lawfully claiming, or to claim the same or any part thereof.

WITNESS her Hand and Seal, this 30 day of July in the year of our Lord Two Thousand and Thirteen and in the two hundred and thirty-seven year of the Sovereignty and Independence of the United States of America.

SIGNED SEALED AND DELIVERED
IN THE PRESENCE OF

Cheri T. Warren

Muriel Walsh Clarkin
**MURIEL WALSH CLARKIN**

STATE OF SOUTH CAROLINA )
) ACKNOWLEDGEMENT
COUNTY OF CHARLESTON )

WE, CHERI T. WARREN and Charles M. Gibson Jr.
do hereby certify that **MURIEL WALSH CLARKIN** personally appeared before us this day and acknowledged the due execution of the foregoing instrument.

Cheri T. Warren

SWORN to before me this 30 day of July, 2013.

(SEAL)
NOTARY PUBLIC FOR SOUTH CAROLINA
MY COMMISSION EXPIRES: Feb. 2, 2019

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STATE OF SOUTH CAROLINA )
COUNTY OF CHARLESTON )

Date of Transfer of Title
Closing Date: July 30, 2013

# AFFIDAVIT

**Personally appeared before me the undersigned, who, being duly sworn, deposes and says:**

1. The undersigned has read the information on this affidavit and understands such information.
2. The property is being transferred by MURIEL WALSH CLARKIN to MURIEL WALSH CLARKIN and PATRICIA CLARKIN SMITH, a joint tenancy with rights of survivorship, not as tenancy in common on or about July 30, 2013.
3. The Deed is _____ subject to the Deed recording fee as a transfer for consideration paid or to be paid in money or money's worth.
   X exempt from the Deed recording fee because Consideration is Five Dollars.
4. The fee is computed on the consideration paid or to be paid in money or money's worth in the amount of $.
5. A lien or encumbrance existed on the land, tenement or realty before the transfer and remained on the land, tenement or realty after the transfer: ____Yes __X__ No
6. The Deed recording fee is computed as follows:
   a. $ _____ the amount listed in item #4, above
   b. $ _____ the amount listed in item #5, above (or zero)
   c. $ _____ subtract line 6b from 6a and place result here
7. As required by Code Section 12-24-70, the undersigned states that he/she is a responsible person connected with the transaction as the Grantor/Grantee/Legal Representative.
8. Check if property other than real property is being transferred with this deed:
   _____ Mobile Home
   _____ Other
9. Deed of Distribution, Attorney's Affidavit: In the Estate of _____, Case No. _____, personally appeared before me the undersigned attorney who, being duly sworn, certified that (s)he is licensed to practice law in South Carolina; that (s)he has prepared the Deed of Distribution for the Personal Representative in the above Estate; and that the Grantee(s)n therein are correct and conform to the Estate file for the above named decedent.
10. The undersigned understands that a person required to furnish this affidavit who wilfully furnishes a false or fraudulent affidavit is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than one year, or both.

_____
**Grantee, Grantor or Legal Representative**
C. Mac Gibson, JR

**SWORN to before me**
**this 31 day of July, 2013.**

Cheri T. Warr
**Notary Public for South Carolina**
**My Commission expires:** 12/22/2018

AFF EX 4 EXHIBIT D MTN SJ EXHIBIT A MTN DISMISS

# RECORDER'S PAGE

*NOTE*: This page MUST remain with the original document

**Filed By:**

C MAC GIBSON JR

1118 SAVANNAH HIGHWAY
CHAS SC 29407 (MAILBACK)

## RECORDED

Date: August 7, 2013
Time: 9:36:47 AM

| Book | Page | DocType |
|---|---|---|
| 0351 | 348 | Deed |

Charlie Lybrand, Register
Charleston County, SC

**MAKER:**
CLARKIN MURIEL W

**RECIPIENT:**
CLARKIN MURIEL W AL

**Note:**

**# of Pages:** 4

| | |
|---|---|
| Recording Fee | $ 10.00 |
| State Fee | <EXEMPT> |
| County Fee | <EXEMPT> |
| Extra Pages | $ - |
| Postage | $ - |
| Chattel | $ - |
| TOTAL | $ 10.00 |

DRAWER Drawer 3
CLERK ECP

**Original Book:**

**Original Page:**

AUDITOR STAMP HERE
RECEIVED FROM RMC
AUG - 8 2013
PETER J. TECKLENBURG
CHARLESTON COUNTY AUDITOR

PID VERIFIED BY ASSESSOR
REP MKD
DATE 8/8/13
21

| 0351 | 348 | 08/07/2013 | 4 |
|---|---|---|---|
| Book | Page | Recorded Date | # Pgs |

| | | D | 09:36:47 |
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| Original Book | Original Page | Doc Type | Recorded Time |



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**STATE OF SOUTH CAROLINA**
**COUNTY OF CHARLESTON**

# TITLE TO REAL ESTATE

**KNOW ALL MEN BY THESE PRESENTS,** that **I, MURIEL WALSH CLARKIN,** (the "Grantor"), for and in consideration of the sum of TEN AND 00/100 ($10.00) DOLLARS, to the Grantor in hand paid, before the sealing of these presents by **PATRICIA CLARKIN SMITH** in the State aforesaid, the receipt and sufficiency of which are hereby acknowledged, have granted, bargained, sold and released, and by these presents do grant, bargain, sell and release unto the said **PATRICIA CLARKIN SMITH,** (the "Grantee), her heirs and assigns, all my right, title and interest in and to the following described property, to wit:

See Attached Exhibit "A" for Legal Description

Grantee's Mailing Address:
602 Atlantic Street
Mt. Pleasant, SC 29464

**TOGETHER** with, all and singular, the rights, members, hereditaments, and appurtenances to the said Premises belonging, or in anywise incident or appertaining.

**TO HAVE AND TO HOLD,** All and singular, the said Premises before mentioned unto the said Grantee, her heirs and assigns, forever.

AND subject to any and all Restrictive Covenants, Easements, Rights-of-Way and Conditions, the said Grantor does hereby bind herself and her heirs and assigns, to warrant and forever defend, all and singular, the said Premises unto the said Grantee, her heirs and assigns, against herself and her heirs and assigns, and all persons whomsoever lawfully claiming or to claim the same or any part thereof.

MWC

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The singular number as used herein shall include the plural. Wherever there is reference in the covenants and agreements herein contained to any of the parties hereto, the same shall be construed to mean the parties hereto, as well as the heirs, representatives successors, and assigns of the same.

**IN WITNESS WHEREOF**, the Grantor has caused these presents to be executed in her name this 17th day of November, 2014.

Witness #1 Sign Here

Muriel Walsh Clarkin
**MURIEL WALSH CLARKIN**

~~Notary~~ Sign Here as Witness **#2**

**STATE OF SOUTH CAROLINA )**

**COUNTY OF CHARLESTON )**

## PROBATE

PERSONALLY appeared before me the undersigned Witness and made oath that (s)he saw the within named Grantor, **MURIEL WALSH CLARKIN** sign, seal and as her act and deed, deliver the within written instrument, and that (s)he along with the other subscribing witness herein, witnessed the execution hereof.

signature / Witness #1

SWORN to before me this
17 day of November, 2014.

(SEAL)
Notary Public for South Carolina
My commission expires: 5/20/26

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**"EXHIBIT A"**
**LEGAL DESCRIPTION**

**ALL that certain lot, piece, or parcel of land, together with all buildings and improvements thereon, situate, lying and being in Mt. Pleasant Heights, Christ Church Parish umber 5, Charleston County, State of South Carolina, and known on the Plat or plan of a re-subdivision of Mt. Pleasant Heights made by J. O'Hear Sanders, Jr. dated January, 1950, recorded in the RMC Office for Charleston County, SC in Plat Book G, Page 99-A as LOT NO. 63.**

**MEASURING AND CONTAINING in front on Atlantic Street sixty (60') feet; the same on the back line and one hundred eighty (180') feet in depth.**

**BUTTING AND BOUNDING Southeast on Atlantic Street, Northwest on a ten-foot (10') foot roadway; Northeast on Lot No. 64 on said Plats; and Southwest on Boundary Street; all as is more fully shown on the Plat hereinabove referred to and on the Plat of J. O'Hear Sanders, Jr. dated January 25, 1952, which said Plat is made a part and parcel of this conveyance.**

**TMS # 532-06-00-129**

**This conveyance is subject to any and all Restrictions, Covenants, Easements, Rights-of-Way, Matters and Conditions of record affecting said property, including without limitation, the matters set forth on the Plat referred to above, as the same may affect the within property; rules and regulations of applicable governmental authorities; real property taxes for the year of delivery hereof.**

**This being the same property devised to Muriel Walsh Clarkin from the Estate of Muriel Monica Dean Walsh, Estate File No: 1997-ES-10-00254, pursuant to a Deed of Distribution dated January 5, 1998, and recorded on January 5, 1998, in the RMC Office for Charleston County, SC in Book J-295, Page 592; and by Deed of Muriel Walsh Clarkin to Muriel Walsh Clarkin and Patricia Clarkin Smith, as joint tenants with rights of survivorship, and not as tenants in common, dated July 30, 2013, recorded in the RMC Office for Charleston County, SC on August 7, 2013 in Deed Book 0351, Page 348.**

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STATE OF SOUTH CAROLINA )
COUNTY OF CHARLESTON )

Date of Transfer of Title
Closing Date: 11/17/14

# AFFIDAVIT

Personally appeared before me the undersigned, who, being duly sworn, deposes and says:

1. The undersigned has read the information on this affidavit and understands such information.
2. The property is being transferred by MURIEL WALSH CLARKIN to PATRICIA CLARKIN SMITH on or about November 17, 2014.
3. The Deed is _____ subject to the Deed recording fee as a transfer for consideration paid or to be paid in money or money's worth.
   √ exempt from the Deed recording fee because: Transfer from mother to daughter.
4. The fee is computed on the consideration paid or to be paid in money or money's worth in the amount of $ .00.
5. The Deed recording fee is computed as follows:
   a. $ .00 the amount listed in item #4, above
   b. $ .00 the amount listed in item #5, above (or zero)
   c. $ .00 subtract line 6b from 6a and place result her.

As required by Code Section 12-24-70, the undersigned states that he/she is a responsible person connected with the transaction as the Grantor/Grantee/Legal Representative.

6. A lien or encumbrance existed on the land, tenement or realty before the transfer and remained on the land, tenement or realty after the transfer: ____Yes ___ No
7. Check if property other than real property is being transferred with this deed:
   _____ Mobile Home
   _____ Other
8. Deed of Distribution, Attorney's Affidavit: In the Estate of _____, Case No. _____, personally appeared before me the undersigned attorney who, being duly sworn, certified that (s)he is licensed to practice law in South Carolina; that (s)he has prepared the Deed of Distribution for the Personal Representative in the above Estate; and that the Grantee(s)n therein are correct and conform to the Estate file for the above named decedent.
9. The undersigned understands that a person required to furnish this affidavit who wilfully furnishes a false or fraudulent affidavit is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than one year, or both.

Muriel W Clarkin
Grantee, Grantor or Legal Representative
Muriel Walsh Clarkin
Print Name

SWORN to before me
this 17 day of November, 2014.
_____(SEAL)
Notary Public for South Carolina
My commission expires: 5/2015

AFF EX 4 EXHIBIT E MTN SJ EXHIBIT A MTN DISMISS

# RECORDER'S PAGE

***NOTE*: This page MUST remain with the original document**

**Filed By:**

PATRICIA CLARKIN SMITH

602 ATLANTIC STREET
MT PLEASANT, SC 29464

## RECORDED

| | |
|---|---|
| Date: | November 18, 2014 |
| Time: | 3:45:34 PM |

| *Book* | *Page* | *DocType* |
|---|---|---|
| 0441 | 484 | Deed |

**Charlie Lybrand, Register**
**Charleston County, SC**

**MAKER:**
CLARKIN MURIEL W

**RECIPIENT:**
SMITH PATRICIA C

**Original Book:**

**Original Page:**

**Note:**

**# of Pages:** 5

| | |
|---|---|
| Recording Fee | $ 10.00 |
| State Fee | <EXEMPT> |
| County Fee | <EXEMPT> |
| Extra Pages | $ - |
| Postage | $ 0.50 |
| Chattel | $ - |
| **TOTAL** | **$ 10.50** |

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|---|---|
| DRAWER | Drawer 2 |
| CLERK | JBA |

AUDITOR STAMP HERE
RECEIVED From RMC
NOV 19 2014
PETER J. TECKLENBURG
Charleston County Auditor

PID VERIFIED BY ASSESSOR
REP MKD
DATE 11/20/14
21

0441 Book

484 Page

11/18/2014 Recorded Date

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URICCHIO, HOWE, KRELL, JACOBSON, TOPOREK, THEOS & KEITH, P.A.
ATTORNEYS AT LAW
17½ BROAD STREET
CHARLESTON, SC 29401

PAUL N. URICCHIO, JR. (1922-2000)
ARTHUR G. HOWE (1927-2004)
BARRY KRELL
CARL H. JACOBSON
ALAN D. TOPOREK
JERRY N. THEOS
GREGORY D. KEITH
JONATHAN F. KRELL
JEFF BUNCHER, JR.
MARGARET THEOS GUERRY
J. DEVEAUX STOCKTON

MAILING ADDRESS:
P.O. BOX 399
CHAS., SC 29402-0399

TELEPHONES:
(843) 723-7491
1-800-899-1683
FAX (843) 577-4179

June 19, 2018

David Connor Keys, Esquire
Post Office Box 14225
Charleston, South Carolina 29422

Re: Family Services, Inc Conservator for Muriel W. Clarkin vs.
Patricia Clarkin Smith and Wells Fargo Bank, NA
Case No: 2017-CP-10-5427

Dear David:

Enclosed please find Defendant's Answers to Plaintiff's First Set of Interrogatories and Responses to Plaintiff's Requests for Production relative to the above referenced matter.

With kindest personal regards,

URICCHIO HOWE KRELL JACOBSON
TOPOREK THEOS & KEITH, P.A.

Alan D. Toporek

ADT/lc
Enclosures

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| | |
|---|---|
| STATE OF SOUTH CAROLINA | )IN THE COURT OF COMMON PLEAS |
| | )FOR THE NINTH JUDICIAL CIRCUIT |
| COUNTY OF CHARLESTON | ) CASE NO: 2016-CP-10-5427 |
| | ) |
| FAMILY SERVICES, INC., as Conservator For Muriel W. Clarkin, | ) |
| | ) **DEFENDANT, PATRICIA CLARKIN** |
| | ) **SMITH, ANSWERS TO PLAINTIFFS** |
| Plaintiff, | ) **FIRST SET OF INTERROGATORIES** |
| | ) |
| Vs. | ) |
| | ) |
| PATRICIA CLARKIN SMITH and WELLS FARGO BANK, N.A. | ) |
| | ) |
| Defendant. | ) |

**TO: DAVID CONOR KEYS, ATTORNEY FOR PLAINTIFF:**

The Plaintiff, pursuant to Rule 33 of the South Carolina Rules of Civil Procedure, hereby Answers to the Defendant's Interrogatories as follows:

1. Give the names and addresses of persons known to the party or counsel to be a witness concerning the facts of this case and/or persons You intend to use as a witness at a trial in this matter, and indicate whether or not written or recorded statements have been taken from the witness and indicate who has possession of such statements.

**ANSWER:** Patricia Clarkin Smith
602 Atlantic Street
Mt. Pleasant, South Carolina 29464

Patricia Clarkin Smith is one of the Defendants in this action. She is expected to testify concerning the issues of this action and the results thereof. No written or recorded statement has been taken from this witness.

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Teri and Steve Roberts
Address Unknown
(843-303-7410)

Teri and Steve Roberts are neighbors of Defendant Smith. These witnesses are expected to testify concerning conversations had with Muriel W. Clarkin about her desired ownership of the 602 Atlantic Street property. No written or recorded statement has been taken from these witnesses.

Mary Clarkin Taylor
Address Unknown
843-884-8981/843-270-5447

Mary Clarkin Taylor is a niece of Defendant Smith. She is expected to testify concerning a conversation she had with Muriel W. Clarkin concerning the monies raised in the Complaint of this action. No written or recorded statement has been taken from this witness.

Mary Mamie Bennett
Address Unknown
843-559-6052

Mary Mamie Bennett is a former sister-in-law of Defendant Smith. She is expected to testify concerning the relationship between the Muriel W. Clarkin and Defendant Smith. No written or recorded statement has been taken from this witness.

Dr. John Roberts
Roper St. Francis Physician
843-881-0455

Dr. John Roberts is a board certified psychiatrist. He is currently licensed to practice medicine in South Carolina and is an affiliated with the Medical University of South Carolina. He is expected to testify regarding the competency test used to measure Muriel W. Clarkin. No written or recorded statement has been taken from this witness.

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2. Set forth a list of photographs, plats, sketches, or other prepared documents in possession of the party that relate to the claim or the defense in the case. For any document identified in this response please produce said document as part of Your response to Plaintiff's Requests for Production of Documents. If you respond by referring to a document produced in discovery, please specifically identify that document including a citation to bates numbers and explain how it responds to this interrogatory.

**ANSWER:** Defendant Smith is in possession of a handwritten note from Muriel C. Clarkin concerning her finances, a handwritten note from Muriel C. Clarkin concerning the property at Shemwood and Wells Fargo letter dated December 16, 2014 regarding the HELOC Payoff. .

3. List the names and addresses of any expert witness whom the party proposes to use as a witness at the trial of the case.

**ANSWER:** Defendant Smith has not yet named any expert in this action and reserves the right to supplement this interrogatory as discovery continues.

4. For each expert witness identified in Interrogatory No. 3, provide a brief summary of the opinion(s) you anticipate the expert will render in this case.

**ANSWER:** None.

5. For each person known to the parties or counsel to be a witness concerning the facts of the case, set forth either a summary sufficient to inform the other party of the important facts known to or observed by such witness, or provide a copy of any written or recorded statements taken from such witness.

**ANSWER:** Please see Defendant Smith answer to Interrogatory No. 1.

6. List all exhibits you propose to introduce into evidence at trial. For any document identified in this response please produce said document as part of Your response to Plaintiff's Requests for Production of Documents. If you respond by referring to a document produced in discovery, please specifically identify that document including a citation to bates numbers and explain how it responds to this interrogatory.

**ANSWER:** Defendant Smith has not yet listed any exhibits to introduce as evidence at trial, however, reserve the right to supplement this interrogatory as discovery continues.

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7. If a defendant is improperly identified, give the property identification and state whether you will accept service on an amended summons and pleading reflecting the correct information.

**ANSWER:** Upon information and belief, the Defendant is properly identified.

8. Please state all information, knowledge, and documentation in your possession or control which refers or relates to the drafting, creation, execution, and recording of that certain deed alleged to have been executed on November 17, 2014 and recorded on November 18, 2014, in Book 0441 at Page 484 on the Charleston County Register of Deeds Office. For any document identified in this response please produce said document as part of Your response to Plaintiff's Requests for Production of Documents. If you respond by referring to a document produced in discovery, please specifically identify that document including a citation to bates numbers and explain how it responds to this interrogatory.

**ANSWER:** This deed was drafted by Attorney Dennis O'Neil of Mt. Pleasant. Mr. O'Neil was called by Defendant Smith to draft the deed and provide all paperwork to complete this transaction. Attorney O'Neil was paid for preparing the Deed.

9. Please state any basis or assertion why you believe you do not have an obligation to repay Plaintiff for the $6,000.00 you obtained from Defendant on November 18, 2014.

**ANSWER:** Defendant Smith was given the $6,000.00 by the Plaintiff to assist in maintaining her bills while she was out of work on medical leave. Defendant Smith agreed to repay the Plaintiff upon receipt of monies she realized from her employment Charleston County School District. Defendant Smith began to pay bills on her mother's behalf as of August 8, 2017, more specifically the HELOC delinquencies in the amount $590.00 and $660.00 per month to present date. As such, Defendant Smith feels that she has more than satisfied the $6,000.00 loan.

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10. Please state all information, knowledge and documentation in Your possession or control which you allege provided You with a basis to take a $10,000.00 cash advance on December 23, 2014, from Plaintiffs Wells Fargo credit card account bearing an account number with the last four digits 5793. For any document identified in this response please produce said document as part of your response to Plaintiffs Requests for Production of Documents. If you respond by referring to a document produced in discovery, please specifically identify that document including a citation to bates numbers and explain how it responds to this interrogatory.

**ANSWER:** Defendant Smith utilized the Plaintiff's credit card to withdraw $10,000.00 to satisfy the legal fees to Attorney Alan Toporek who represented her in the onset of the legal action. Defendant Smith, at the time, believed she was retaining Mr. Toporek for her mother's sake until Mr. Toporek made it clear to her that he was not Plaintiff's counsel.

11. For the period from 2012 through February of 2015 please identify every bank account and/or credit union account, including but not limited to any Heritage Trust Federal Credit Union account, for which 1) you are or were a named owner on the account; 2) You are or were an authorized user; and 3) from which you accessed funds of Plaintiff. For each account identified please state the name of the owner or owners of the account, the name of the bank or credit union, and the account number in full. For any document identified in this response please produce said document as part of Your response to Plaintiff's Requests for Production of Documents. If you respond by referring to a document produced in discovery, please specifically identify that document including a citation to bates numbers and explain how it responds to this interrogatory.

**ANSWER:** Defendant Smith has a personal checking and savings account and line of credit at Heritage Trust Federal Credit Union since on or before early 2000s.

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Defendant Smith closed Clarkin Trust Savings and Clarkin Trust Checking last month. Defendant Smith does not have anyone else associated with these accounts. Defendant Smith also has bank accounts with Wells Fargo. Defendant Smith is the only person on these accounts. Defendant Smith will supplement account numbers upon receipt of the same.

12. Please state whether you every paid Muriel Clarkin (Your Mother) rent for Your occupation the Subject Property. For every payment please state the amount of the payment, the date made, the method of payment, and whether you deposited money into a bank account as payment of said rent. For any document identified in this response please produce said document as part of Your response to Plaintiffs Requests for Production of Documents. If you respond by referring to a document produced in discovery, please specifically identify that document including a citation to bates numbers and explain how it responds to this interrogatory.

**ANSWER:** Defendant Smith has not paid rent to her mother.

13. For the period from 2012 through February of 2015 please identify any and all documentation in your possession or control which is or was located on any cell phone, blackberry, 'phone, IPad, or other mobile communication device, including an itemization of any incoming and outgoing calls, text messages, emails, picture files, as well as an indication of the sender and/or recipient, which relate to you obtain, borrowing, or paying money to the Plaintiff Muriel Clarkin, including rent payments. For any document identified in this response please produce said document as part of Your response to Plaintiffs Requests for Production of Documents. If you respond by referring to a document produced in discovery, please specifically identify that document including a citation to bates numbers and explain how it responds to this interrogatory.

**ANSWER:** Defendant Smith does not understand this request.

14. Please identify any and all information and/or documentation which would evidence that you paid back Plaintiff the amounts claimed owed and referenced in Paragraphs 11, 18, and 32 of the Complaint filed on October 20, 2017 in this matter. For

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any document identified in this response please produce said document as part of Your response to Plaintiffs Requests for Production of Documents. If you respond by referring to a document produced in discovery, please specifically identify that document including a citation to bates numbers and explain how it responds to this interrogatory.

**ANSWER:** Defendant Smith will produce bank statements and receipts from Wells Fargo proving she has satisfied the delinquent balance of the HELOC on behalf of Muriel Clarkin.

15. Please state the date you agreed to begin paying Muriel Clarkin (Your Mother) monthly rent for Your residing in the Subject Property, and the amount of the rent you were suppose to pay each month. Further please state the date of the last payment of rent and the amount paid. For any document identified in this response please produce said document as part of Your response to Plaintiffs Requests for Production of Documents. If you respond by referring to a document produced in discovery, please specifically identify that document including a citation to bates numbers and explain how it responds to this interrogatory.

**ANSWER**: Defendant Smith has not paid rent to her mother, however, she has given her monies on a monthly basis, at no set amount, beginning August, 2012 to present.

16. Have you withheld any information and/or documentation regarding or related to any of these Interrogatories or not produced any requested documents in response to the Requests for Production? If so, please identify the information or those documents withheld and describe the legal and/or factual basis for their non-production.

**ANSWER:** None at this time. Defendant Smith reserves the right to supplement this interrogatory as discovery continues.

Respectfully submitted this 19 day of June, 2018.

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**URICCHIO, HOWE, KRELL, JACOBSON, TOPOREK, THEOS & KEITH, P.A.**

Alan D. Toporek
17 ½ Broad Street
Post Office Box 399
Charleston, South Carolina 29401
Phone: 843/723-7491
Facsimile: 843/577-4179
alan@uricchio.com
Attorney for the Defendant

Charleston, South Carolina

NeighborWorks CHARTERED MEMBER

FAMILY SERVICES, INC.
4925 LACROSS ROAD, SUITE 215
NORTH CHARLESTON, SC 29406-6513
843.744.1348 • 843.744.2886 (F) • 800.232.6489
www.fsisc.org

United Way Trident United Way

CONSUMER CREDIT COUNSELING
FINANCIAL MANAGEMENT

BEHAVIORAL HEALTH
EMPLOYEE ASSISTANCE PROGRAM

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March 4, 2015

Alan D Toporek , Esq.
17 ½ Broad Street
P.O. Box 399
Charleston, South Carolina 29401

RE: Muriel Clarkin
Case #2014GC10-0209

Dear Mr. Toporek:

As you know, Charleston County Probate Court has appointed a Conservator for Ms. Muriel Clarkin. It has come to my attention that there may be a bank account holding funds for Ms. Muriel Clarkin; specifically, rent money paid to Ms. Clarkin by Ms. Smith.

Can you please confirm with Ms. Smith if there is an account jointly held by Ms. Clarkin and Ms. Smith? If so, then please let me know which bank and provide a copy of the bank statement. If Ms. Smith is holding funds that belong to Ms. Clarkin, then I would ask that these funds be turned over to the Conservator immediately.

Please feel free to contact me at (843) 735-7828 if you have any questions or concerns. Thank you for your assistance.

Sincerely,

Kelley Evans

Kelley Evans
Conservator Counselor

/ke

AFF EX 4

EXHIBIT H MTN SJ

EXHIBIT A MTN DISMISS

FAMILY SERVICES, INC.
4925 LACROSS ROAD, SUITE 215
NORTH CHARLESTON, SC 29406-6513
843.744.1348 • 843.744.2886 (F) • 800.232.6489
www.fsisc.org

CONSUMER CREDIT COUNSELING
FINANCIAL MANAGEMENT

BEHAVIORAL HEALTH
EMPLOYEE ASSISTANCE PROGRAM

April 30, 2015

Patricia Smith
602 Atlantic St.
Mt. Pleasant, SC 29464

RE: Muriel Clarkin
Case #2014GC10-0209

Dear Ms. Smith:

Family Services, Inc. has been appointed to serve as Conservator for your mother by Charleston County Probate Court. At this time, we will need to address the $6,000 debt that is owed to your mother from November 2014. A payment plan will need to be set up in order for you to pay this balance back.

Please let me know how much you are able to pay each month so that we can set up a formal payment plan. All payments should be made payable to "Family Services, Inc. as Conservator for Muriel Clarkin" and mailed to 4925 Lacross Rd, Ste 215, North Charleston, SC 29406.

Please feel free to contact me at (843) 735-7828 if you have any questions or concerns.

Sincerely,

Kelley Evans
Conservator Counselor

Cc: Charleston County Probate Court



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AFF EX 4

EXHIBIT H MTN SJ

EXHIBIT A MTN DISMISS

FAMILY SERVICES, INC.
4925 LACROSS ROAD, SUITE 215
NORTH CHARLESTON, SC 29406-6513
843.744.1348 • 843.744.2886 (F) • 800.232.6489
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FINANCIAL MANAGEMENT
BEHAVIORAL HEALTH
EMPLOYEE ASSISTANCE PROGRAM

June 19, 2015

Patricia Smith
602 Atlantic St.
Mt. Pleasant, SC 29464

RE: Muriel Clarkin
Case #2014GC10-0209

Dear Ms. Smith:

Family Services, Inc. has been appointed to serve as Conservator for your mother by Charleston County Probate Court. On November 14, 2014, you received a sum of $6,000 from your mother. After speaking with both you and Ms. Clarkin, it is clear that both parties had an understanding that these funds would be paid back.

Please let me know how much and when you are able to pay towards this balance each month so that I can set up a formal payment agreement.

All payments should be made payable to "Family Services, Inc. as Conservator for Muriel Clarkin" and mailed to 4925 Lacross Rd, Ste 215, North Charleston, SC 29406. Please put "Muriel Clarkin - Loan" in the memo line.

Please feel free to contact me at (843) 735-7828 if you have any questions or concerns.

Sincerely,

Kelley Evans
Conservator Counselor

Cc: Charleston County Probate Court



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AFF EX 4 EXHIBIT H MTN SJ EXHIBIT A MTN DISMISS

FAMILY SERVICES, INC.
4925 LACROSS ROAD, SUITE 215
NORTH CHARLESTON, SC 29406-6513
843.744.1348 • 843.744.2886 (F) • 800.232.6489
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CONSUMER CREDIT COUNSELING
FINANCIAL MANAGEMENT
BEHAVIORAL HEALTH
EMPLOYEE ASSISTANCE PROGRAM

July 29, 2015

Patricia Smith
602 Atlantic St.
Mt. Pleasant, SC 29464

RE: Muriel Clarkin
Case #2014GC10-0209

Dear Ms. Smith:

I am writing to follow up on my correspondence sent to you on June 19, 2015. You received $6,000 on November 14, 2014 from your mother that will need to be reimbursed.

Please let me know how much and when you are able to pay towards this balance each month so that I can set up a formal payment agreement.

All payments should be made payable to "Family Services, Inc. as Conservator for Muriel Clarkin" and mailed to 4925 Lacross Rd, Ste 215, North Charleston, SC 29406. Please put "Muriel Clarkin - Loan" in the memo line.

Please also respond to my letter regarding a quit claim deed for the 911S Shem Dr. property.

Thank you for your assistance. Please feel free to contact me at (843) 735-7828 if you have any questions.

Sincerely,

Kelley Evans
Conservator Counselor

Cc: Charleston County Probate Court
Alan Toporek, Attorney



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FAMILY SERVICES, INC.
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CONSUMER CREDIT COUNSELING
FINANCIAL MANAGEMENT

BEHAVIORAL HEALTH
EMPLOYEE ASSISTANCE PROGRAM

March 28, 2016

Patricia Smith
602 Atlantic St.
Mt. Pleasant, SC 29464

RE: Muriel Clarkin
Case #2014GC10-0209

Dear Ms. Smith:

I have contacted you several times regarding the $6,000 that you received from your mother's account on November 14, 2014 that still needs to be reimbursed.

It is also my understanding that you received $10,000 from a cash advance on your mother's Wells Fargo credit card on December 23, 2014.

Please let me know how much and when you are able to pay towards these balances each month so that I can set up a formal payment agreement.

All payments should be made payable to "Family Services, Inc. as Conservator for Muriel Clarkin" and mailed to 4925 Lacross Rd, Ste 215, North Charleston, SC 29406. Please put "Muriel Clarkin – Payment plan" in the memo line.

Thank you for your assistance. Please feel free to contact me at (843) 735-7828 if you have any questions.

Sincerely,

Kelley Evans
Conservator Counselor

Cc: Charleston County Probate Court
Alan Toporek, Attorney



ELECTRONICALLY FILED - 2020 Oct 06 8:17 PM - CHARLESTON - COMMON PLEAS - CASE#2017CP1005427

AFF EX 4 EXHIBIT H MTN SJ EXHIBIT A MTN DISMISS

FAMILY SERVICES, INC.
4925 LACROSS ROAD, SUITE 215
NORTH CHARLESTON, SC 29406-6513
843.744.1348 • 843.744.2886 (F) • 800.232.6489
www.fsisc.org

CONSUMER CREDIT COUNSELING
FINANCIAL MANAGEMENT
BEHAVIORAL HEALTH
EMPLOYEE ASSISTANCE PROGRAM

June 30, 2016

Patricia Smith
602 Atlantic St.
Mt. Pleasant, SC 29464

RE: Muriel Clarkin
Case #2014GC10-0209

Dear Ms. Smith:

On December 23, 2014, you signed for a $10,000 cash advance from your mother's Wells Fargo credit card. This debt, of course, must be paid back to Wells Fargo.

Unless you can provide documentation that the $10,000 was used for your mother's benefit, then this debt belongs to you. As you know, your mother's resources are being directed towards 24/7 caregivers and this is extremely expensive. It is unreasonable that she should be paying off a $10,000 debt for funds that were taken by you.

From this point on, I am going to be forwarding her credit card bill to you and expect that you will begin making payments towards this balance.

Please feel free to contact me at (843) 735-7828 if you have any questions.

Sincerely,

Kelley Evans

Kelley Evans
Conservator Counselor

Cc: Charleston County Probate Court
Alan Toporek, Attorney



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URICCHIO, HOWE, KRELL, JACOBSON, TOPOREK, THEOS & KEITH, P.A.
ATTORNEYS AT LAW
17½ BROAD STREET
CHARLESTON, SC 29401

PAUL N. URICCHIO, JR. (1922-2000)
ARTHUR G. HOWE (1927-2004)
BARRY KRELL
CARL H. JACOBSON
ALAN D. TOPOREK
JERRY N. THEOS
GREGORY D. KEITH
JONATHAN F. KRELL
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MAILING ADDRESS:
P.O. BOX 399
CHAS., SC 29402-0399

TELEPHONES:
(843) 723-7491
1-800-899-1683
FAX (843) 577-4179

July 6, 2016

Family Services, Inc.
ATTN: Kelley Evans
4925 LaCross Road Suite 215
North Charleston, South Carolina 29406-6513

Re: Muriel Clarkin Kennedy vs Muriel W. Clarkin, et al
Case No: 2014-GC-10-0209

Dear Ms. Evans:

I am in receipt of your letter of June 30, 2016, directed to Patricia Smith. Insofar as you did not become involved in this case until after December 23, 2014, I do not believe that this cash advance should be your concern. However, I do intend to discuss this with Patricia Clarkin Smith.

With kindest personal regards,

URICCHIO HOWE KRELL JACOBSON
TOPOREK THEOS & KEITH, P.A.

Alan D. Toporek

ADT/lc
cc: Patricia Clarkin Smith
Charleston County Probate Court

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Record and return to:
Law Office of Jocelyn G. Bolling
Post Office Box 2039
Mount Pleasant, SC 29465-2039
Title Not Examined

BP0545374

# PGS: 4

STATE OF SOUTH CAROLINA )
) TITLE TO REAL ESTATE
COUNTY OF CHARLESTON )

KNOW ALL MEN BY THESE PRESENTS, That I, PATRICIA CLARKIN SMITH, hereinafter referred to as Grantor, in the State aforesaid, have granted, bargained, sold and released, and by these presents do grant bargain, sell and release unto PATRICIA CLARKIN SMITH, TRUSTEE OF THE PATRICIA CLARKIN TRUST dated March 31, 2016, hereinafter referred to as Grantee, the following described property:

ALL that certain lot, piece or parcel of land, together with all buildings and improvements thereon, situate, lying and being in Mt. Pleasant Heights, Christ Church Parish Number 5, Charleston County, State of South Carolina, and shown on the Plat or plan of a re-subdivision of Mt. Pleasant Heights made by J. O'Hear Sanders, Jr. dated January 1950, recorded in the RMC Office for Charleston County, SC in Plat Book G, Page 99-A as LOT NO. 63.

MEASURING AND CONTAINING in front on Atlantic Street sixty (60') feet; the same on the back line and one hundred eighty (180') feet in depth.

BUTTING AND COUNTING Southeast on Atlantic Street, Northwest on a ten-foot (10') foot roadway; Northeast on Lot No. 64 on said Plats; and Southwest on Boundary Street; all as is more fully shown on the Plat hereinabove referred to and on the Plat of J. O'Hear Sanders, Jr. dated January 25, 1952, which said Plat is made a part and parcel of this conveyance.

TMS #532-06-00-129

This conveyance is subject to any and all Restrictions, Covenants, Easements, Rights-of-Way, Maters and Conditions of record affecting said property, including without limitation, the matters set forth on the Plat referred ot above, as the same may affect the within property; rules and regulations of applicable governmental authorities; real property taxesf or the year of delivery hereof.

This being the same property devised to Patricia Clarkin Smith by deed of Muriel Walsh Clarkin dated November 17, 2014 and recorded in the RMC Office for Charleston County on November 18, 2014 in Book 0441 at Page 484.

Grantee's Address: 602 Atlantic Street, Mount Pleasant, SC 29464



PCS

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TOGETHER with all and singular, the rights, members, hereditaments and appurtenances to the said premises belonging or in anywise incident or appertaining.

TO HAVE AND TO HOLD all and singular the premises before mentioned unto said Grantee, its Heirs and Assigns forever.

And the Grantor does hereby bind himself and his Heirs, Executors and Administrators, to warrant and forever defend all and singular the said premises unto the said Grantee, their Heirs and Assigns, against said Grantor and their Heirs and against every person whomsoever lawfully claiming, or to claim the same or any part thereof.

WITNESS their hands and seals this 31st day of March, 2016.

P Kelley Snyder
(Signature of First Witness)

Patricia Clarkin Smith L.S.
Patricia Clarkin Smith

(Signature of Notary Witness)

STATE OF SOUTH CAROLINA )
)
COUNTY OF CHARLESTON )

PERSONALLY appeared before me the undersigned witness and made oath that (s)he saw the within named Patricia Clarkin Smith, sign, seal and as her act and deed, deliver the within written instrument, and that (s)he with the other witness whose name appears above, witnessed the execution thereof.

Kelley Snyder
(Signature of First Witness)

SWORN TO AND SUBSCRIBED BEFORE ME
this 31st day of March 2016.

Notary Public for South Carolina
My Commission Expires: 10/5/22

State of South Carolina
Notary Public
Jocelyn G Bolling
My Commission Expires 10/5/2022



PCS

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STATE OF SOUTH CAROLINA }
COUNTY OF CHARLESTON }

# AFFIDAVIT FOR EXEMPT TRANSFERS

PERSONALLY appeared before me the undersigned, who being duly sworn, deposes and says:

1. I have read the information on this affidavit and I understand such information.

2. The property being transferred is located at 604 Atlantic Street bearing Charleston County Tax Map Number 532-06-00-129, was transferred by Patricia Clarkin Smith to Patricia Clarkin Trust on _____.

3. The deed is exempt from the deed recording fee because ( See Information section of affidavit):
#8 - transfer to trust

If exempt under exemption # 14 as described in the Information section of this affidavit, did the agent and principal relationship exist at the time of the original sale and was the purpose of this relationship to purchase the realty? Check Yes _____ or No _____

4. As required by Code Section 12-24-70, I state that I am a responsible person who was connected with the transaction as:
Grantor

5. I understand that a person required to furnish this affidavit who wilfully furnishes a false or fraudulent affidavit is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than one year, or both.

Patricia Clarkin Smith
Responsible Person Connected with the transaction

Patricia Clarkin Smith
Print or Type Name Here

Sworn this 31st Day of March 20 16

Notary Public for South Carolina

My Commission Expires: 10/5/22

State of South Carolina
Notary Public
Jocelyn G Bolling
My Commission Expires 10/5/2022

PCS

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# RECORDER'S PAGE

***NOTE*: This page MUST remain with the original document**

**Filed By:**

JOCELYN G BOLLING, ESQUIRE
PO BOX 2039

MT PLEASANT, SC 29465-2039

## RECORDED

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| Date: | April 6, 2016 |
| Time: | 8:55:20 AM |

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| 0545 | 374 | Deed |

Charlie Lybrand, Register
Charleston County, SC

**MAKER:**
SMITH PATRICIA C

**RECIPIENT:**
SMITH PATRICIA C TR AL

**Original Book:**

**Original Page:**

**Note:**

**# of Pages:** 4

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| Recording Fee | $ 10.00 |
| State Fee | <EXEMPT> |
| County Fee | <EXEMPT> |
| Extra Pages | $ - |
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| Chattel | $ - |
| TOTAL | $ 10.00 |

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AUDITOR STAMP HERE
RECEIVED From RMC
APR 07 2016
Peter J. Tecklenburg
Charleston County Auditor

PID VERIFIED BY ASSESSOR
REP MKJ
DATE 4/8/16
42

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STATE OF SOUTH CAROLINA
COURT OF COMMON PLEAS
COUNTY OF CHARLESTON

Family Services, Inc. as Conservator
for Muriel W. Clarkin,

Plaintiff,

vs. CASE NO. 2017-CP-10-5427

Patricia Clarkin Smith and
Wells Fargo Bank, N.A.,

Defendants.

Hearing before the Honorable Mikell R. Scarborough, reported by Christine A. Smith, Court Reporter and Notary Public, at 10:58 a.m. on May 11, 2021 at 100 Broad Street, Courtroom 2A, Charleston, South Carolina.

Christine A. Smith, Court Reporter
Master-in-Equity
100 Broad Street
Suite 266
Charleston, SC 29401
(843) 367-9596
csmith@adacounty.id.gov

APPEARANCES OF COUNSEL:

ATTORNEYS FOR THE PLAINTIFF:

David Conor Keys, Esq.
The Law Office of David Conor Keys, LLC
P.O. Box 14225
Charleston, SC 29422
(843) 906-3998
Conor@dconorkeys.law.com

ATTORNEYS FOR THE DEFENDANT:

Patricia Clarkin Smith, Pro Se
602 Atlantic Street
Mt. Pleasant, SC 29464

P R O C E E D I N G S

THE COURT: So Ms. Wilkerson, my new law clerk has gone back because Ms. Patricia Clarkin Smith has called into her. I don't expect her. She was informed yesterday by my staff that she could show up today. I guess that's how you-all got the notice to be here, and we're back where we are. When you-all get situated I'm going to set the record the best I can and we'll go from there. Okay? I'm sure she wants to call in.

(A recess transpired.)

THE COURT: The case before the Court is captioned Family Services, Inc. as Conservator for Muriel W. Clarkin, Plaintiff versus Patricia Clarkin Smith and Wells Fargo Bank, N.A., Defendants. The case number is 2017-CP-10-5427.

We're before the Court today on Plaintiff's Motion for Summary Judgment on multiple causes of action. Mr. Conor Keys is here present for the Plaintiff along with --

MR. KEYS: Kelly Evans, Your Honor.

THE COURT: Ms. Kelly Evans.

MS. EVANS: With Family Services.

THE COURT: Yes. Ms. Kelly Evans with Family

Services. Mr. Keys has filed his motion. That was back in October of last year, and supported it with multiple exhibits, some of which I have before me, not all of them. One of them was the 233-page deposition which I haven't printed.

Let me give you a little background on this case at least as far as I know it to be. This is a 2017 action and was commenced by Family Services. Ms. Clarkin Smith was originally represented by Alan Toporek. Mr. Toporek was relieved as counsel in April of 2019. Wells Fargo was essentially let out of the case. They have a mortgage on at least one of these properties if not more than one.

MR. KEYS: It's just one property.

THE COURT: Just one. And their interest is protected through the mortgage, so they sort of backed out of it. Let me see. Mr. Toporek left as counsel for Ms. Clarkin Smith then and she went to Attorney Karen DeJong. Ms. DeJong was then disqualified as counsel for Ms. Clarkin Smith by order of Judge Roger Young in October of 2019.

She informed the Court in November, 2019 that she would be proceeding pro se. She asked for her first continuance in writing in January of 2020. This case was then referred over here to the

Master-in-Equity on February 12th of 2020 by Judge McCoy. The Court must have set it for a hearing on February 25th of 2020. She asked for her first continuance in writing in Court at that time. So she's had two written continuances. She's had other requests orally including -- I think it was yesterday or the day before. I forget when it was.

MR. KEYS: I think Your Honor heard the Motion to Enforce back in June. I think between that motion and this motion requests go back to 2019, and we're at seven or eight requested continuances. Not all of them got filed.

THE COURT: It's time to proceed. Let's see. I issued an order in July of last year pursuant to the Plaintiff's Motion to Enforce a Settlement Agreement that was dated in December of '18. The Motion to Enforce was filed in July of '19. At that time she hired Mr. Rick Hyman for the limited appearance to argue against the agreement being enforced.

I denied the enforcement of the agreement under Rule 43(k), I believe because it had not yet been approved by the Court pursuant to that Rule and also relieved Mr. Hyman as her attorney and provided that she was to obtain new counsel and ordered to

proceed to trial within 90 days. That order was issued in July of 2020. It is now May of 2021. I think it is probably time to move this case along.

MR. KEYS: Yes, Your Honor.

THE COURT: Any other matters before we proceed with the motion?

MR. KEYS: I, though I wouldn't usually do this, but for your benefit, Your Honor, I would probably give you a little bit of background about some of the other litigation going on because she's probably going to bring it up.

THE COURT: I don't want to get into that. Let me just say this: She has a wealth of health issues. She's talked to my office staff multiple times. I can't even begin to tell you what they are, but she's got a lot of them. She claims that she can't be here. I advised her yesterday through my staff that this is not a criminal case, and therefore she has no right of confrontation, and under the Constitution and the laws of South Carolina and the USA, she's certainly welcome to come if she can come. If she can't come she could appear by WebEx.

When she couldn't appear by WebEx and we had one hearing -- which I think I did abort because she couldn't hear and she couldn't do this and she

couldn't do that.

MR. KEYS: She was on the phone.

THE COURT: Yes. We had one hearing and I just pushed that one off.

MR. KEYS: So she's not present on the phone or she is?

MS. WILKERSON: I think she's hoping to appear in person but is not here yet.

THE COURT: Well, if she comes in, she will come in, but you have the burden of proof on the Motion for Summary Judgment. I have reviewed briefly your memoranda. There are lots of causes of action here. This is an ongoing dilemma with the Probate Court.

MR. KEYS: There were some alternative causes of action. Just in a quick synopsis, I would boil it down into three different things.

THE COURT: All right.

MR. KEYS: You have got these different disbursements of money on one. You've got a question as to payment of rent, that's two. Then you've got a question of voiding a deed interest out there.

THE COURT: Okay.

MR. KEYS: Now Ms. Clarkin is 88.

THE COURT: She's still alive.

MR. KEYS: She's still alive.

THE COURT: Where is she physically?

MR. KEYS: Ms. Clarkin lives with her son, Michael Clarkin in Isle of Palms. They live together. Michael was in a bad -- he was a dock worker and he was in a bad accident a number of years ago, so they're both actually under conservatorships under the Probate Court.

THE COURT: I've got you.

MR. KEYS: They both require assisted living care, so it kind of works that they're together and share assisted living.

THE COURT: He was the one -- Pray For Clarkin, all the bumper stickers around town, had a box dropped on him or something if I remember right; is that the guy?

MR. KEYS: Yes.

THE COURT: Oh, yes. I do remember that. Okay.

MR. KEYS: So she has four living children. You have Charlie, who doesn't seem to get very involved in the family affairs. You have Muriel Kennedy, the oldest daughter. Then you have Patricia Smith, the next daughter, and then you have Michael, who I believe was the youngest. There's also

multiple grandchildren.

In 2014, she had two properties titled in her name. You have Shemwood, which is in Mt. Pleasant, and that was this generation's family, and then you have Atlantic Street, which is the subject of this action. Atlantic Street was actually Ms. Clarkin's childhood home, I believe. She eventually took title to it through the estate. This is just going back, but not necessarily relevant to what's going on.

THE COURT: Atlantic is in the Old Village area?

MR. KEYS: Yes, it is. If I may approach, I can give you a Zillow I printed off.

THE COURT: That's fine.

MR. KEYS: I also sent you some of the underlying Probate Court orders and petitions, but I didn't want to file them just to keep them out of the public record for privacy's sake.

So in 2013, Mac Gibson, who had always acted as Ms. Clarkin's counsel, does a lot of work for her. He deeds -- and this is all basically all at the same time. He deeds a half interest to Ms. Smith in Atlantic Street, a right of survivorship. He does a power of attorney for Ms. Clarkin naming Muriel Kennedy as having power of attorney. Then Ms. Smith

is named as the alternate in the event that Ms. Kennedy is unable to perform. He does a will, and he deeds out a third interest in the other property I'm speaking of, Shemwood, to both -- a third to Ms. Smith and a third to Ms. Kennedy. That's with rights of survivorship just like the Atlantic Street property.

So then in 2014, Ms. Smith testified in her deposition, and it's cited in the memo, Your Honor, that Ms. Kennedy approaches her in October of 2014 and says, you know, Mom's having trouble with her memory and basically said, you know, I think we need to put a conservatorship in place. Will you sign this paperwork? Ms. Smith said she stated, No. Hell no. That's when my red lights -- my warning lights went off. So that's October of '14.

Then you get to November 18th of 2014. Ms. Smith takes Ms. Clarkin and gets her to execute a deed conveying the other half interest of Atlantic Street to Ms. Smith because just the year prior Attorney Mac Gibson, on Ms. Clarkin's behalf, drafted a deed to Atlantic giving Ms. Smith a half interest with right of survivorship.

So she gets her to do the second half on November 18, 2014. No consideration is paid. Mac

Gibson, who had just done all this work and had been Ms. Clarkin's attorney for years does not do the drafting of this. Ms. Smith is the one who records it herself, and then on the same day, while she was at it, she also took Ms. Clarkin to the bank and got Ms. Clarkin to withdraw $6,000 for Ms. Smith. So that's November of '18.

Then you get to -- and I would note -- she starts going into Alzheimer's assessment studies in October/November. So on the petition for conservatorship, which was filed 12/22/14, which I'll get to in a second here, they attach some medical records, and one of them is dated 11/12/14 when Ms. Clarkin is going into Roper to be assessed for Alzheimer's.

It was a determination of whether or not she could make an informed consent as to her rights in the study of Ms. Smith. They made a determination on 11/12/14 that she lacked the capacity to do that. So that's attached to the petition that was filed with the Court.

There is also an 11/26/14 report from her doctor with regard to that Alzheimer's research where he states in there that he does not believe that she should be controlling her financial affairs and

property any longer, that she's no longer capable of making these decisions.

THE COURT: That doctor's name is what?

MR. KEYS: Minkota (phonetic). It is listed in the memo. It is also attached to the Probate records that I e-mailed to you last night, Your Honor, or to your clerk.

THE COURT: Okay.

MR. KEYS: I believe it's Minkota.

THE COURT: I'm going to have you do an order probably. Just reference his name in the order, if you would, please, and the date. The date is important. So there was an assessment on 12th of November?

MR. KEYS: Right. And then she does a follow-up on the 26th.

THE COURT: Two weeks later.

MR. KEYS: In between --

THE COURT: In the meanwhile a half interest conveyed --

MR. KEYS: Half interest conveyed out, plus the $6,000 in cash, and this is a month after her sister said, hey, you know, we should probably get a conservatorship in place. Will you sign these documents.

THE COURT: Okay.

MR. KEYS: So then you get to a week later, 12/8. She goes out and gets another power of attorney drafted, even though Mac Gibson drafted one just the year prior, that made Kennedy, her sister, attorney-in-fact, and made her the alternative in the event Kennedy couldn't serve.

She goes out and gets another one from her attorney, Jocelyn Bolling, not Mr. Gibson, who had always worked with Ms. Clarkin, and it's a dual power of attorney, so she gets Ms. Clarkin to execute that. That's 12/8. Then you get to 12/22. Ms. Kennedy files a petition with the Probate Court to have Ms. Clarkin declared incapacitated, and to have Ms. Kennedy appointed as conservator and guardian.

THE COURT: Who filed that in December?

MR. KEYS: On December 22nd, 2014, Muriel Kennedy, who is the eldest daughter.

THE COURT: Ms. Kennedy filed it?

MR. KEYS: Yes. The one who had originally talked to Ms. Smith in October of '14 and said, We need to file some paperwork to have mom declared incapacitated.

THE COURT: Guardian and conservatorship both?

MR. KEYS: Yes. So her basis asserted --

again, I provided you these certified records from the Probate Court, were a number of the issues that we just talked about dealing with with Ms. Smith. She said, Ms. Smith is out here getting my mother to sign legal documents and withdraw money from the bank.

She said, There was an agreement in place so in August of 2013 when the half interest in Atlantic Street was deeded to Ms. Smith, she began residing there. Attached to the motion as Exhibit E is what I believe to be her first rent check made to Ms. Clarkin for $500 a month.

THE COURT: I do see it now. She didn't write the number down. She wrote the figure, $500 down?

MR. KEYS: That is correct. So that was another thing that Ms. Kennedy, her sister, listed in the petition, is that she's paying my mother rent but she's supposed to be paying it to me because Ms. Kennedy had the power of attorney, and was at that point in time kind of controlling Ms. Clarkin's finances. She said, It's not coming here.

THE COURT: So that rent, that August 2, 2013 -- the notice for August rent of $500 --

MR. KEYS: Two days after the deed giving her a half interest --

THE COURT: The half interest deed was filed July 30th?

MR. KEYS: Right. And then you've got -- so she starts paying monthly rent. So then that was one of the other reasons Kennedy asserted in the petition. She attached the two doctors' letters I spoke of.

December 23rd -- the Court on December 22nd issued an ex parte order declaring Ms. Clarkin incapacitated and naming Ms. Kennedy, her daughter, as the temporary conservator. Then December 23rd, Ms. Clarkin, is at Atlantic Street with Ms. Smith and the cops show up and serve her with the order declaring her incapacitated and informing her of what is going on. Ms. Smith is present and in the room.

So after the cops leave, Ms. Smith goes out and goes to the bank and withdraws $10,000 out of an account titled only in Ms. Clarkin's name using a credit card that Ms. Smith apparently had never actually used before but was an authorized user of. This is after she and her mother have both been informed that her mother was declared incapacitated by the State. So the authority is lacking.

Family Services didn't know that at the time, but we've come to find out later that that money went

to Mr. Toporek to represent Ms. Smith, not Ms. Clarkin. Mr. Toporek made that very clear as is evidenced by the interrogatories attached.

THE COURT: Right. It was a cash advance on a Wells Fargo credit card is what that was?

MR. KEYS: It was a cash withdrawal, so it didn't show up on the statements as actually going to Mr. Toporek or anything like that, but yes, it was a Wells credit card account.

THE COURT: Okay.

MR. KEYS: So that's the 23rd. There is a hearing on January 9th in the Probate Court, and they are addressing Ms. Smith's Motion to Dismiss the action. The Court denies the motion. The Court appoints Family Services at that point in time as temporary conservator. The Court orders two independent assessments from doctors to determine capacity and sets a formal final hearing for March 13th or March 19th of 2015.

March 19, 2015, both the doctors testify. You have the order. It's dated 3/27/15, and they both come to the conclusion that she should be permanently declared incapacitated. It is noteworthy that Dr. Mulberry, I believe, states that he believes that she is susceptible to undue influence.

But in between you have the January 9th temporary hearing, and then on January 27th, after she was present at that temporary hearing, Ms. Smith again charges that credit card account $7,500, and this time it was a straight charge off the credit card, so it showed Mr. Toporek's law firm as having received those funds.

Once Family Services comes in, they wrote a letter to Mr. Toporek and said, Those funds were not authorized. We need you to return them. He did return that $7,500. That is not an issue in dispute.

(Off-the-record discussion.)

THE COURT: Go ahead.

MR. KEYS: So we have the $10,000 on 12/23 that she took out. We have the $6,000 on 11/18/14 she took out. You also have $6,000 that was taken out on -- she received on ^^11/1/23. And in Exhibit A, which is the deposition transcript, Page 105 to 108, she testifies that she owed the amount of both the $6,000 from the 2014 amount and the $6,000 from the 2012 amount to her mother.

One was -- she called it the TERI program and the other was for medical leave. And she is leaving a voice message. This is a recording of a voice message she left on Ms. Evans' phone. It was played

to her during the transcript. She says, I can get that back. I can pay off that portion, and I can also pay off the portion of the equity loan. We talked about the HELOC that was Wells Fargo. In 2014 she actually got $15,000 out of that.

(Off-the-record interruption.)

THE COURT: Go ahead.

MR. KEYS: So she leaves two voice messages in February of 2015, when Family Services just appointed Kelly Evans. She talks about paying -- that she will pay it back, and it's her responsibility to pay the $6,000 she received from her mother in 2012 what she calls the TERI program, and the $6,000 that she received in 2014 that she says was for medical leave or something.

She also talks about repaying the HELOC amount she received because in April of 2013 she received -- or 2014 she received $15,000 from the HELOC that Wells Fargo is the lender on that is secured by Atlantic Street.

She was not good about paying that. That was another reason that her sister brought the conservatorship. Once Family Services came in, they were invoicing her monthly. She did make payments, and she did eventually pay that off in 2017 so that

is not an issue here. It is just an ongoing saga of how this woman always was able to get money. She said she was going to pay her mother back, and we're dealing with the issues where she didn't.

THE COURT: Okay.

MR. KEYS: Then there is one more -- so that's $12,000 there plus the $10,000 to Toporek, and then you have $1,500 on 8/21/13, which in the complaint. We allege that she received the funds and she had stated that she was obligated to repay those funds and she admitted that in her answer to the complaint.

She also states in Exhibit D, which is text messages between her sister, Muriel Kennedy, and her. On Page 21 she talks about, I owe the $6,000 to mom from 2012, and I owe the $1,500 in 2013. There's another statement where she's conceding that she owes this money that she hasn't repaid to her mother.

That is $23,500. We would assert that under our causes of action, which includes conversion on just enrichment, money not received, quantum meruit. We're not seeking to get four times here, but just different causes of action to get at it.

Under those, you are entitled, if the Court were to find, to prejudgment interest. So we would request prejudgment interest, not from the various

times that the monies were received, but just going from when the conservatorship was put in place. There are records in the motion where we've asked for these sums at various times and in various manners from her over the years, Family Services has. So they were first appointed by order of 1/16/15, and we would request prejudgment interest from that date.

Next, Your Honor, you get to the question of rent that we talked about briefly.

THE COURT: Okay.

MR. KEYS: The deed is recorded, 7/30/13. The first check she makes for her first rent payment, 8/2/13, in the amount of $500. The petition which Ms. Kennedy filed with the Probate Court says she was supposed to be paying $600.

Exhibit B to the motion is the text messages back and forth with Ms. Kennedy and Ms. Smith, and it evidences that she regularly in 2013 and 2014, so when she first obtained titled, was paying monthly rent to her mother.

Pages 144 through 151 of the deposition, she testified that she gave her mother money every month, between $400 and $500. So though she paid in 2013 and 2014 -- as soon as the conservatorship comes in place in 2015 she stops paying on the agreement they

had.

Again, she never received any consideration for that transfer, and she testified in her deposition, and it's noted in the motion, that the reason they made the half interest transfer in July 30th, 2013, half interest in Atlantic Street regarding survivorship was because -- I believe she had just gotten divorced. So she's moving in there and they wanted to bring the taxes down. They wanted to get out of the 6 percent and go to the 4 percent, which we all know is more than 2 percent.

THE COURT: Right.

MR. KEYS: And so she said, That was why I actually made that transfer in the first place. Then we are just requesting rent at the low dollar. She said $450 to $500. Kennedy says $600. We're requesting monthly rent of $450.

THE COURT: I'll give you $500. If it was up to me it would be $1,500 but that's not my deal.

MR. KEYS: And we're requesting it just from when the conservatorship came in until the date of the order.

THE COURT: January 15th?

MR. KEYS: Yes.

THE COURT: Okay.

MR. KEYS: And we would also assert that you could award prejudgment interest. We're asserting this under promissory estoppel and on just enrichment, Your Honor.

THE COURT: Okay. All right.

MR. KEYS: Now we get on to the deed. So this is the --

THE COURT: We're up to seven years, six and a half years of rent due now, right?

MR. KEYS: Yes, six and a half. You've got the 11/18/14 deed that was not drafted by Mac Gibson, drafted only a year after Mac Gibson gives her a half interest with right of survivorship.

In the deposition I asked her, Do you know what right of survivorship means? She said she did. It's quoted in the motion. She goes on to say, But I needed to be able to take out a mortgage for Ms. Smith's benefit and use Atlantic Street as secured collateral for her to get that loan for her benefit, and she said, And my sister came to me a month before she had this deed executed and before she personally recorded it and said, You know, I think mom needs to be declared incapacitated. Will you sign the paperwork?

And she testified to this in her deposition.

I believe it's Page 105 or 108. It's noted in the motion. If her mother was declared incapacitated, her mother wouldn't be able to sign a mortgage. Then she wouldn't be able to get that loan that Ms. Smith wanted for Ms. Smith's benefit using Atlantic Street.

So she basically said that that's why she wanted that deed to be recorded. Again, it's kind of crazy because she already had right of survivorship, and the original deed corresponds with -- that's why I also brought up the (unintelligible) deed, Your Honor. In that she gave each of her daughters a one-third interest with right of survivorship in the (unintelligible) deed. She retained an interest. It looks like a pattern and practice when she was using her counsel to retain an interest in her properties and then gift out a partial interest to her daughters.

This second one was not done by Mac. No consideration was paid, and the same day she goes out and forces her mother to take $6,000 out of the bank. So we would assert that there's undue influence there, Your Honor. Now, there's a couple of different ways to skin this cat. Is there a confidential relationship? We would assert there is.

She, in fact, admitted there was in responding

to the complaint. You also have two powers of attorney. The 2013 -- she is listed as an alternate, and the December 8, 2014 power of attorney, which she got Ms. Clarkin to execute naming her as power of attorney. So you've got fiduciary duties there. You've got a parent/child relationship. So we would assert that there is a confidential relationship there.

We would also assert that under the laws of our state, you don't have to find the existence of a confidential relationship, and you don't even have to prove the incapacity of Ms. Clarkin at the time that she executed the deed.

If you'll look at our Supreme Court's decision in Brooks v. Kay, which is 339 SC 479, it's a 2000 case. They said, Even acts in a confidential relationship, this Court has several times proved the principal that the imposition or undue influence upon a grantor will be inferred from proof of great mental weakness not amounting to incapacity to execute a deed, but accompanied by gross inadequacy of consideration. There was no consideration paid for the 11/14 deed.

They went on to say, regarding Ms. Brooks in that case, even if Brooks was mentally competent

enough to execute the deed, there was no doubt that she was rapidly approaching senility. If not already suffering from Alzheimer's disease, responsible for her commitment to the state hospital only one year after the transaction.

In this case, she had already been diagnosed with Alzheimer's disease before the transfer, and it's a matter of weeks before the Court declares her incapacitated, not a year after the transaction.

So it would say that even though -- we would assert that she was incapacitated at the time she executed the deed, but if you were to find that she was -- that she lacked evidence to do so, you can show from the specs and circumstances, that there was a great mental infirmity coupled with a lack of -- there was an inadequacy of the purchase price that you can make an inference of undue influence.

THE COURT: Okay.

MR. KEYS: So moreover, we would also say that there was a confidential relationship, and the burden shifted to Ms. Smith to show by clear and convincing evidence that the transaction wasn't bona fide and that there was consideration paid. There is definitely inferences of broad going along with the confidential relationship. We also have fraudulent

conveyance, Your Honor.

Fraudulent conveyance, again, no consideration paid, so you don't actually have to show intent to defraud. We would assert, though, that there are numerous badges of fraud that you could actually find there was fraud in the transaction. Again, you have the mother/daughter relationship. You have essentially a landlord/tenant relationship. No consideration was paid. You've got the confidential relationship I just talked about. Pendency of threat of litigation. Her sister told her the month before, Let's do a conservatorship, and a month later her sister filed an action to do a conservatorship, and Ms. Smith challenged it and moved to dismiss it.

You've got sequency or concealment of the act. Again, if they were using the traditional means, which Ms. Clarkin had always operated under, and this also goes to departure from usual methods of business, they would have gone to Mac Gibson and gotten him to draft something. He had always done her work. Why was it not done in this circumstance? At the time, the HELOC was in place and Ms. Clarkin's entire interest was thereby transferred to that 11/14 deed. That is a lot of badges of fraud such that you could infer actual intent to defraud on the part of

Ms. Smith at the time that she caused the 11/14 deed to be executed and recorded.

Even if there wasn't lack of consideration, you don't have to find it, Your Honor. It's just the fact that this transfer was made. It was made just before the conservatorship was put in place, and she knew that her sister was talking about that. So it looks like she's trying to hide property -- it doesn't have to be a creditor -- from anybody who would have an interest in that property.

Then we go on to quiet title, Your Honor. There is one other deed that I need to bring up. So that's the 11/14/18 deed. Conservatorship gets put in place in March of 2015. That Probate case, unfortunately, is a litigious unhappy mess. It has been for six years.

THE COURT: All right.

MR. KEYS: And so a year later she's a party to that action. She's aware that Guardians ad Litems and Family Services are starting to wonder whether that transfer on 11/14 of the deed was appropriate. She goes out and transfers the property again into a trust of which she is the beneficiary and the trustee.

THE COURT: Have you-all seen any evidence of

the creation of the trust? How was the trust created other than by the deed; do you know?

MR. KEYS: It was created, I believe, by Jocelyn Bolling. The deed references the date the trust was created, the same day it was executed.

THE COURT: That was in '16, I think it was, wasn't it?

MR. KEYS: Yes. March of '16 and Ms. Smith, although it's not in here --

THE COURT: Recorded April 6 of '16?

MR. KEYS: Yes.

THE COURT: I've got it. Okay.

MR. KEYS: She's the beneficiary and she's the trustee.

THE COURT: Now, is the trust a named party, or do you seek to have the trust named as a party?

MR. KEYS: I don't. We're asserting bona fide -- again, she's the trustee, Your Honor. They weren't a bona fide purchaser for value. They knew there were issues there.

THE COURT: Same theory as the other deed?

MR. KEYS: Yes.

THE COURT: Fraudulent conveyance?

MR. KEYS: We're just trying to unwind it. That's where you get to the acquired title action.

The deed going back to August -- July 30, 2013, where she gets a half interest. Ms. Clarkin retains a half interest, right of survivorship.

We would request that you void out the '14 deed, you void out the trust '16 deed, and return clear, clean title as it stood when Mr. Gibson drafted the deed.

THE COURT: Okay. Very good. So let's do this -- I was going through your Summary Judgment. Frankly, I think under the theory of money not received, you're entitled to judgment on the -- is it $23,500?

MR. KEYS: Yes, Your Honor.

THE COURT: $23,500. That's a sum certain capable of being reduced. You can either get the full amount from the last payment, which looked to have been in December of '14 --

MR. KEYS: All of the payments predate when the conservatorship comes in, which is why we're asking for interest from the date --

THE COURT: Just from the date of January of '15? All right. I'll give you that. $23,500 plus interest, and that's either unjust enrichment or money that hasn't been received, same difference really.

Under the promissory estoppel, yes. She should be paying rent. I'll set that rent at an agreed upon price. Per the initial agreement, payment was $500 per month, so I'll award you the amount of rent from that period. That's going to be fairly substantial.

MR. KEYS: And we're drawing from January of 2015?

THE COURT: I think that was January of '15 as well. I hope you-all have a record of what was paid and what was not paid? If you don't have it --

MR. KEYS: Again, that's why we're just asking for when the conservatorship comes in. She was making payments before that, but --

THE COURT: Sporadic or whatever, okay. I'll do that under promissory estoppel. I think you-all had another theory for that one as well.

MR. KEYS: Unjust enrichment and quantum meruit.

THE COURT: Unjust enrichment, yes.

MR. KEYS: Different names for similar vehicles.

THE COURT: And then finally the fraudulent conveyance. I think you-all brought it as fraudulent conveyance, quiet title --

MR. KEYS: Declaratory judgment, and fraudulent conveyance and just a quiet title to try and clean things up.

THE COURT: I'll grant that relief as well. She would have the opportunity to come in and challenge it, but she has not done so. She has the right to have an attorney, but has not done so. She has been very easily able to pick up the telephone and make phone calls. She has not done so.

MR. KEYS: The only other --

THE COURT: I think there needs to be some substantial findings in the record about her ability to appear -- her inability to appear for the hearing. Okay? Multiple requests for continuance, multiple attorneys engaged in the matter. The whole shebang, you just need to set the picture before we get to the merits of the hearing.

MR. KEYS: The only other request is on declaratory judgment equity, the Court does have the ability to award attorney's fees as to that cause of action.

THE COURT: I'll leave the record open for you to submit that. I did see a request for attorney's fees. I'll have to run that one again and take a look at it. It's either going to be statute or

contract. Clearly, there's no contract here.

MR. KEYS: There's case law on declaratory judgment. It's equitable discretion.

THE COURT: All right. Well, I'll allow you to submit an affidavit and request attorney's fees, and then cite me to some law for that one as well. Okay? All right, Mr. Keys, very good.

MR. KEYS: Thank you very much, Your Honor.

THE COURT: Ms. Evans, anything you want to add?

MS. EVANS: No.

THE COURT: I think there was an affidavit in the record from you; was there not?

MR. KEYS: This is one of four lawsuits going on with this family.

THE COURT: You can go back and check the record, but I would supplement the record with her affidavit as well. This is the problem she's had. Whatever. Whatever. Whatever. Just make sure you're supported because I don't know where this case is going to go. I saw some misfiled documents in a successive case. I think it ended in '07.

MR. KEYS: Yes. A Motion to Reconsider in a sister case which is currently on appeal. It got filed in this one and accepted in this one, and then

the next morning I realized it was the wrong one.

THE COURT: Well, when you have a lot of cases going on it's easy to do. Very good. I'm going to get into my next hearing. Okay?

MR. KEYS: Thank you, Your Honor.

THE COURT: Are you Patricia Clarkin Smith?

MS. SMITH: I'm Patricia.

THE COURT: Ms. Clarkin Smith, I have just concluded that hearing. We only had it for half an hour. I granted them the relief that they requested. Mr. --

MS. SMITH: Sir?

THE COURT: I'm talking right now.

MS. SMITH: Yes, sir.

THE COURT: I've asked Mr. Keys to draft an order. I'll make sure he runs that order by you as well.

MS. SMITH: I've been here. I've been going around. What are you saying?

THE COURT: Well, I'm going to move into my next hearing, so I'll let you-all talk outside. Okay?

MR. KEYS: I'll send it to you. I'll send you an e-mail.

MS. SMITH: I appreciate it.

THE COURT: I think we're about ready to start. Thank you, Mr. Keys.

(The proceedings were concluded at 11:43 a.m.)

State of South Carolina)
)
County of Charleston ) C E R T I F I C A T E

I, Christine A. Smith, Court Reporter and Notary Public for the State of South Carolina at Large, do hereby certify that the foregoing transcript is a true, accurate, and complete record.

I further certify that I am neither related to nor counsel for any party to the cause pending or interested in the events thereof.

Witness my hand, I have hereunto affixed my official seal this 20th day of October, 2021 at Charleston, Charleston County, South Carolina.

_____
Christine A. Smith
Notary Public
My Commission Expires
May 12, 2021