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SC Court of Appeals

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1 STATE OF SOUTH CAROLINA
2 IN THE COURT OF COMMON PLEAS
3 COUNTY OF ALLENDALE

3 Marcus Riley,
4
5 Plaintiff,

6 vs. Transcript of Record
7 2020-CP-03-0176

8 Dorothy Riley, individually,
9
10 Defendant.

9

10

11 October 31, 2022
12 Allendale, South Carolina
(Excerpt of trial.)

13 B E F O R E:

14 The HONORABLE BROOKS P. GOLDSMITH

15

A P P E A R A N C E S:

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17 Ittriss J. Jenkins, Representing the Plaintiff

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18 J. Martin Harvey, Representing the Defendant

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1 THE COURT: Thank you. Mr. Jenkins, you may
2 call your first witness.

3 MR. JENKINS: Thank you, Your Honor. I
4 want to call Mr. Marcus Riley.

5 WHEREUPON:

6 MARCUS RILEY,
7 after having been sworn to tell the truth, testified
8 as follow:

9 MR. JENKINS: Thank you, Your Honor.

10 BY MR. JENKINS:

11 Q Mr. Riley, I know the jury is kind of close, but
12 can you see if they can hear on the mic?

13 A Hello.

14 MR. JENKINS: Everybody okay?

15 BY MR. JENKINS:

16 Q Can you state your name for the Court, please?

17 A Marcus T. Riley.

18 Q Mr. Riley, tell us a little something about you.
19 Where were you born, where were you raised, tell us
20 about yourself?

21 A I was born in Fairfax, South Carolina. I was
22 raise in Fairfax, South Carolina, all my life. I
23 when to elementary school in Fairfax Elementary.
24 I went to middle school in Fairfax Middle School.
25 Allendale High School. Went to Allendale Fairfax

1 Elementary, Fairfax Middle School, and Allendale
2 Fairfax High School. And I played little league
3 baseball. I actually played in Allendale for
4 Fairfax. They didn't have a team. And I'm from
5 here. I was born and raised here. This is where
6 my family is from. I always come back home.

7 Q Tell me, where did you go as far as education
8 after you left the Fairfax Allendale County area?

9 A After I left high school, I had a football
10 scholarship to play at Bishop College and I was in
11 a car accident and I had to transfer to Prairie
12 View A&M University. Being in the car accident, I
13 couldn't play sports no more. And so I graduated
14 from Prairie View A&M University with a degree in
15 electrical engineering technology.

16 Moved back home to South Carolina and I
17 couldn't get a job. And I woke up one morning, packed
18 my bags and moved back to Texas. Started flipping
19 burgers and working odd jobs. I went back to school
20 and got another degree. Paid for it myself. And
21 finally, I graduated with electrical engineering this
22 time.

23 Then I left and moved to Oklahoma City,
24 Oklahoma. I was there at Oklahoma City. I left. I
25 worked there five, six years. I worked for the

1 Department of Defense, Tinker Air Force Base. Left
2 there, and I came back home to South Carolina working
3 at Parris Island at a Marine base. I worked there.
4 And that job didn't work out, so I left there and I
5 started back teaching. I was teaching math, geometry,
6 calculus. And after I taught there that spring, I got
7 a letter in the mail about law school. And I was
8 sitting at my desk, and I enjoyed teaching, but it
9 just wasn't making -- it was making -- it wasn't
10 fulfilling -- it was fulfilling, but I wasn't making
11 no money.

12 So I got the letter and I prayed sitting at
13 my desk. I sad, God, you open this door, I'm going.
14 And so I prayed and I applied to the law school in
15 Massachusetts. And I got accepted. I went. I
16 graduated in '06 and I ended up moving to Virginia.

17 That's where I am now. That was in D.C.
18 When I was working there, they allowed me to work from
19 home.

20 And so two little girls that I raised that
21 were not biologically mine needed to get in school, so
22 I decided to move to Houston. When I moved to
23 Houston, I went and came back and got the baby girl
24 and I put her in college. She went to the school I
25 went to. And then after her sister graduated. I

1 raised her sister five years. That's when I dated the
2 mama. I'm not with her no more, but I still played
3 the dad role for them.

4 And so I put them in school. They both
5 graduated. And they're in Texas with me now. That's
6 where I currently reside, in Houston.

7 Q So how often do you come home to Allendale
8 County?

9 A I came home, like I said, I was staying here
10 from time to time. When I would come home, like
11 holidays, spring festival, Thanksgiving, stuff
12 like that, Christmas, you know. Sometimes I pop
13 up out of nowhere, go see my daddy, something like
14 that. That's what I would do.

15 Q Since you mentioned your father, tell me about the
16 relationship between you and your father?

17 A Me and my daddy -- me and my daddy had a good
18 relationship. When I was small, me and my
19 brother, my brother Nick, we would follow my daddy
20 every weekend to play baseball. He -- that's when
21 they used to have these sandlot teams playing
22 baseball at Allendale Fairfax, Sycamore, everybody
23 had a team. When I was a little kid, I always
24 followed my daddy, everywhere I went, you know.
25 And everywhere he went, we followed him. We had a

1 great relationship.

2 And my daddy, he was tough on me. He was
3 always -- I think he was always tough on me because,
4 you know, I think he saw something. He didn't want me
5 to fail. He always said I was the good child, that's
6 what he always said. He was tough on me. I didn't
7 see it, but, you know, that he was my daddy.

8 I would call him, talk to him. I'd call on
9 the phone, I'd be like, call -- I'd call the house,
10 *Hey, boy*, and he'd put the phone down and give it to
11 Dot. And Dot get on the phone and say, it's Marcus.
12 And he said, *He ain't call me no boy*. So he would get
13 the phone and get it back, *Hey, Daddy. Oh, that's*
14 *better*. We had that type of relationship, you know.

15 Like he came up in Virginia. He was up there
16 and I went over there. And I gave him his medicine,
17 his alcohol, really. But, you know, he just have
18 those types of days. We have a little drink together
19 when I come home. When I get home, the first thing I
20 would do is, I would stop by the house, see if he was
21 there. If he's not at the house, I go by the funeral
22 home. If he's not there, I go by the fire station. I
23 normally catch him at one of them three places and sit
24 and talk to him for a couple hours, and then I leave.
25 I'd say we had a great relationship.

1 Q Now, we're going to move to your grandfather.
2 Tell me about your grandfather.

3 A My granddaddy, you know, my granddaddy, he
4 was everything to me. My granddaddy, he was the
5 -- if he did for one, he did for all. Every
6 Saturday morning, my grandmother would call my
7 mother. She'd say, Claudia, send that boy over
8 here. This is what she say, don't send the red
9 one. Send the black one. My grandmother, she's
10 about 80, 90 years old. I'd get on my bicycle and
11 my mama watched me go across the street. My great
12 granddaddy would watch me come across the street.
13 I go in there, and my granddad say, *Son, why your*
14 *grandma don't answer?* And I go in the back, and
15 when I go in the back, and I get in the back and
16 my grandma say, *Go up to the store and get me a*
17 *six pack of Coke* -- and something. I don't
18 remember what it was. I'd ride my bike. And I
19 did that every Saturday morning.

20 And, you know, my granddaddy, I used to
21 follow him to the funerals. I was a little kid. I go
22 to the funerals and see everybody crying, not
23 understanding. I used to work for my granddaddy at
24 the funeral home. We used to wash cars before the
25 funerals. Like, back then, we had this base station,

1 like a CB radio station. When he would go to the
2 funerals, there was no answering machine. And so we
3 would -- I go to the hospital and he would go to the
4 funeral. I would take the messages on the phone. And
5 then, you know, radio it to him from the funeral home.
6 My granddaddy is responsible for me being who I am.
7 He always told me, he said, *Son, stand up for*
8 *yourself, even -- stand up for yourself even if you*
9 *have to stand by yourself.* He said, *You don't go*
10 *along to get along. You always do what's right.* And
11 that was always something he'd say. *If you don't know*
12 *something, Son, you ask somebody.* That's why I asked
13 him any questions, you know.

14 And he was -- I just know my granddaddy, man.
15 He was -- my granddaddy, when he gave one, he give
16 all. I know that. When I was a kid -- it was all us
17 kids. It was all us kids. He gave everybody \$50. He
18 bought everybody a bicycle. When that happened -- I
19 mean, that's just the way my granddaddy was, and I
20 knew it. So that -- my granddaddy was the world to
21 me.

22 Q All right. I'm just going to ask a basic
23 question: Tell me, why are we here today?

24 A Well, I was in Houston sitting at my desk.
25 And I get a call from my baby sister. They would

1 call me because they know if they call me, I'm
2 going to do everything to make it right. They
3 know I don't take nobody's side. I'm going to do
4 what's right.

5 When she called me, she said, Tracy is not my
6 sister no more. Tracy is not my sister. What you
7 talking about? I had no clue what she was talking
8 about. Tracy not my sister. What is -- Tracy paid
9 the taxes on my house. It seemed like a good gesture
10 to me. I wasn't understanding it.

11 So I just there sat there. Twenty, 30
12 minutes later, she called back complaining again.
13 Tracy not my sister. All this and that. She was mad
14 because Tracy paid the taxes or whatnot. I don't know
15 what's going on. I'm in Houston. I'm not dealing
16 with nothing about that.

17 And the next thing you know, I called Dot,
18 and I said, *Dot, what's going on with Nicki and Tracy*
19 *down there? Dot's like, I don't know. I don't know*
20 *what's going on. I said, Well, she's complaining*
21 *about Tracy paying the taxes on the house. Why is she*
22 *complaining? Dot was like, I don't know, you know. I*
23 *told her, Dot, I tell you what, I come home next week.*
24 *I'll go to the courthouse and I'll see what the big*
25 *fuss is about.*

1 And so then next week, I flew home, got in
2 Monday, I went to that courthouse -- went to this
3 courthouse and I start digging. And when I started
4 seeing this information and that, I was trying to put
5 everything together, it was so much, and I was hurt at
6 what I saw. I was hurt by what I saw.

7 What I was discovering was, I had looked at
8 my daddy's will and I saw that the house was willed to
9 Tracy, and that's what I saw it at that time. I
10 didn't know it was deeded to me a couple days later.
11 I had got all this information and I was trying to put
12 everything together.

13 And when I finally got enough information --
14 oh, that first day, I was here. Nobody knew I was
15 coming home, but Dot and my brother Nick. After that
16 first day I was here, I stopped to the store, I said,
17 man, that was a lot of information. I got to stop and
18 get me something to drink or something. I started to
19 the hotel room, and I start reading this information.
20 I got a text on my phone and it said something like --
21 said something to the effect that the house was willed
22 to Tracy. It explained the situation that I was
23 finding. The house was willed to Tracy in 2008 or
24 something. It was deeded to me. In text said, the
25 deed trumps a will. So I tried to call the number

1 back. I couldn't get through. And I texted the
2 number back. It wouldn't go through. And that's what
3 happened.

4 So by the time, I found out the information I
5 was looking for -- the stuff I was discovering, by the
6 end of that week, I went by Dot's office. I wanted to
7 know what she knew, did she have anything to do with
8 it. So I went by her office, I started explaining to
9 Dot. I said, *Dot, what my daddy did was wrong.*

10 Q Mr. Riley, just to be clear, when they say Dot, you
11 mean the defendant?

12 A Yeah, right, right. Dot, my cousin, we had a
13 great relationship too. And I said, *Dot, what my*
14 *daddy did was wrong.* I mean, he just took
15 everything from granddaddy and gave it to -- he
16 took everything for himself from granddaddy, took
17 it from his brothers and sisters, and then
18 everything goes to you. I said, *Dot, that's not*
19 *right.* And then I started -- I said, I see now
20 why Nick was upset. Because Tracy paid the taxes,
21 I guess she gets the house. I don't know. I see
22 why the family is upset because of all of this. I
23 see why the families are separated. I see why one
24 side of the family got Fairfax and one side of the
25 family got Hampton. All of this is making sense

1 now. Dot kept saying, *Well, your daddy was a*
2 *smart man. He was a smart man.* That's what she
3 kept saying, *He was a smart man.*

4 I was trying to say, *Well, Dot -- I wanted to*
5 *see what she wanted to. Okay, come to the table.*
6 *Sonny was wrong with this. Let's get this right.* I
7 didn't get that.

8 And when I mentioned the part about the will,
9 I mean, where it -- I want to mention the part about
10 the will, that's where she said when daddy deeded the
11 house to me, and she said, *Well, you know, a deed*
12 *trumps a will. You're an attorney. You ought to know*
13 *that.* When she said that, I said, I knew she was
14 involved. At that moment, I looked at her and I said,
15 *Dot, I don't like this, and I don't know where I go*
16 *from here.* She said -- that's what she said. *Well,*
17 *if you want to go to court, we can.* And I said, *Dot,*
18 *I may just have to get inside the house.*

19 And then, as I was walking out, about to go
20 out the door, Dot said to me -- she said to me, *No*
21 *hard feelings?* I turned around. I looked at her dead
22 in the face, hugged her, kissed her on the cheek, *No*
23 *Dot, ain't no hard feelings.* And was real upset at
24 that time. I was getting together. I hadn't gotten
25 everything together. And I wrote this note, it's over

1 there. I wrote little notes. When I got back, I
2 started notes about what had happened. But before I
3 got back, I called my aunt and I told my aunt, which
4 is my daddy's sister.

5 Q Which aunt are we talking about?

6 A Janice. I called her, I said, *Aunt Janice, I*
7 *went to the courthouse, this is what I saw.* I
8 started explaining to her how everything was done
9 and how -- I explained to her what my dad had
10 done. And that's what she said.

11 MR. HARVEY: Objection; hearsay.

12 MR. JENKINS: I mean, he's saying what he
13 said. He said he explained to her. I'm not sure
14 how -- how could he hearsay himself?

15 MR. HARVEY: I thought I heard him say
16 "she said."

17 MR. JENKINS: No. He's explaining
18 himself. He's saying I said -- he started to
19 explain.

20 THE COURT: I'll overrule he objection if
21 that's what he said.

22 BY MR. JENKINS:

23 Q Go ahead. Continue.

24 A I was talking to my aunt and I said -- I
25 explained to her everything that happen, and she

1 told me to do whatever I got to do. She said,
2 *Son, put my --*

3 MR. HARVEY: Again, Your Honor, now he's
4 talking about what Miss Janice Heard said, which
5 is hearsay.

6 THE COURT: What was your question?

7 MR. JENKINS: We'll withdraw it, Your
8 Honor.

9 THE COURT: Question is withdrawn.

10 BY MR. JENKINS:

11 Q Is that it. Do you want to continue?

12 A Yes. I left all my notes, what I wrote
13 down.

14 Q Would you like me to get them for you?

15 A I left them on the table.

16 MR. JENKINS: Beg the Court's indulgence,
17 Your Honor.

18 THE COURT: Sure.

19 BY MR. JENKINS:

20 Q Just to be clear, these notes are just to refresh
21 your memory.

22 A Right. This is what -- when I got back, I
23 started learning everything that been going on.
24 And I realized my granddad had a will in 1990, and
25 that will gave everything to his siblings to share

1 and share alike and give to everybody.

2 Q Okay. Let's talk about that will.

3 A Okay.

4 Q I'm going to show you what the plaintiffs --
5 (PLF. EXH. A, Will; 1990, was marked for
6 identification.)

7 BY MR. JENKINS:

8 Q This is Plaintiff Exhibit A. For identification
9 purposes, can you tell me what that is?

10 A My granddad's original will.

11 Q And tell me, what's that will's date?

12 A It looks like January 12th, 1990.

13 Q Is that one of the documents you discovered when
14 you were doing your research?

15 A Yes.

16 Q And where did you obtain that document from?

17 A In this courthouse.

18 Q So it was public record.

19 A Yes, sir.

20 Q Let me ask you: When you look at the distribution
21 list on that will, I believe it's section -- I believe
22 it's section 2 and section 3. Can you read those
23 sections to the jury, please?

24 A 2 and 3. "I give, devise, and bequeath unto
25 my wife, Ruth Riley, my home and the property on

1 which it's located, as well as its contents. In
2 the event my wife should previously decease me or
3 we die in a common disaster, then all of my
4 property whether real or personal unto my
5 children, they share and share alike."

6 Item 3: "All remaining property whether it
7 be real or personal or a mixed of whatsoever nature
8 and kind, I give, devise and bequeath unto my children
9 to share and share like."

10 Look's like they have it the way he would
11 have done it.

12 Q So in 1999, your grandfather's intent is to make
13 sure that everybody -- I believe words were share and
14 share alike. Did you just read that?

15 A That's correct.

16 Q So what did you think overall when you saw that
17 will?

18 A This is the way my granddaddy wanted it.
19 That's just the way it was. He wanted to give to
20 all his kids. You cannot make me believe, since I
21 was a kid, that he would just give one child and
22 not give the rest. That's not what -- ever since
23 I was a kid, he gave every child equally without a
24 doubt.

25 Q So you would just say that's his character?

1 A That's my grandfather. That's who he was.
2 He was fair across the board. And that's where I
3 get my personal type from. Being fair and
4 straight-minded, love all the same way.

5 Q Thank you.

6 MR. JENKINS: Your Honor, I move this in
7 as Plaintiff's A.

8 MR. HARVEY: No objection.

9 THE COURT: Without objection.

10 (PLF. EXH. A, Will; 1990, was entered into
11 evidence.)

12 (PLF. EXH. B, Will, was marked for
13 identification.)

14 BY MR. JENKINS:

15 Q Mr. Riley, I'm going to show you a document that's
16 been labeled Plaintiff's Exhibit B. Can you identify
17 that document for me?

18 A That looks like -- that's my dad's -- this is
19 the will that my daddy had made up as my
20 granddaddy's will.

21 Q That's an allegation. Tell me, why did you deduce
22 that?

23 A Well, I knew how my granddaddy was. When I
24 read his will, I knew something was wrong. It
25 gave me a red flag because it says, "I give and

1 devise and bequeathed unto my daughter, Virginia
2 Priester, any interest I have in the funeral home
3 in Hampton." And, see, my granddaddy would have
4 never separated those funeral homes.

5 And another thing -- and then the next one,
6 he gave the -- "I give, devise, and bequeath all
7 interest, as well as the real property, real and
8 personal connected with the funeral home in Fairfax to
9 my son and the Riley children. This includes several
10 licenses on which the funeral home business is
11 located. And with that said, I know my granddaddy
12 would have never separated the funeral home.

13 And, see, what the real red flag was, my aunt
14 already owned that funeral home. It was hers
15 outright. So my granddaddy would have never put it in
16 his will because he didn't own it.

17 Q Okay. Let's be clear, you're saying that there's
18 a funeral home in the will.

19 A Right.

20 Q Which? When you say that funeral home, which one
21 are you talking about?

22 A I'm talking the funeral home in Hampton.
23 That funeral home already belonged to my aunt, but
24 they work together at both Riley's funeral homes.
25 When was it put in here -- granddaddy couldn't put

1 it there because he didn't own it. They had the
2 title to that, but they work together. So that
3 was a red flag.

4 When you have property, he could not put
5 something in there that didn't belong to him, and
6 that's how I knew this had to be fraudulent. So I
7 tested the signatures. That was a red flag to me.

8 Q Thank you.

9 MR. JENKINS: Your Honor, I'm going to
10 move for this to be entered as Plaintiff's Exhibit
11 B.

12 MR. HARVEY: No objection.

13 THE COURT: Admitted without objection.

14 (PLF. EXH. B, Will, was entered into
15 evidence.)

16 (PLF. EXH. C, power of attorney; 1995, was
17 marked for identification.)

18 BY MR. JENKINS:

19 Q Mr. Riley, I'm going to show you what I have
20 marked as Plaintiff's Exhibit C. For identification
21 purposes, can you tell the jury what that is?

22 A Let me see. It's a power of attorney, 1995.

23 Q Tell me about that power of attorney. Who is it
24 from and who is it giving power to?

25 A It gave power to my dad. And that's when I

1 notice -- after my grandfather's will, the 1990
2 will -- and grandfather went in the hospital. He
3 went in the hospital May 4th of 1995. This was
4 one of them. He was in the hospital May 4, 1995.
5 Exactly two weeks later, May 18, 1995, daddy got
6 this power of attorney.

7 When daddy got that power of attorney, four
8 days later he come up with that will that we just
9 talked talk about, the fraudulent will. The one that
10 I said that I thought I had a problem with.

11 Granddaddy was in the hospital. It was two weeks
12 later that daddy got a power of attorney. And then
13 four days later, he got a will. Those were red flags
14 to me, and so I tested the signatures on everything.

15 Q Let me ask you, you say that you knew the dates so
16 you actually got medical records.

17 A Yeah, I pulled the medical records. I pulled
18 every document they had in this courthouse.

19 Q And even though you're not a medical professional,
20 you could, of course, read them to determine that.
21 You did determine that your grandfather was in the
22 hospital?

23 A Yes, sir.

24 MR. HARVEY: If he's going to talk about
25 what those records say, I'm going to object to

1 that before he starts talking about, Your Honor.

2 MR. JENKINS: Your Honor, I think I
3 haven't mentioned anything. I just asked about a
4 date on something that he found out. I didn't ask
5 him to go into the content. I didn't ask him to
6 do a medical diagnosis. I didn't ask him to talk
7 about prescriptions. Those are all the things
8 that you need a medical professional for.

9 THE COURT: He's quoting a document
10 that's not in evidence. Isn't that right?

11 MR. JENKINS: He's just saying what he
12 got from a document. He's not quoting what's in
13 the document.

14 THE COURT: Ask the question again.

15 BY MR. JENKINS:

16 Q So from that document, you determined that your
17 grandfather was in the hospital --

18 A Yes, sir.

19 Q -- a certain date.

20 A May 4, 1995.

21 THE COURT: Overruled. Go ahead.

22 MR. JENKINS: Thank you, Your Honor.

23 BY MR. JENKINS:

24 Q So on that -- what is the date of that document?

25 A The date of this document is May 18th, 1995.

1 Exactly two weeks after he was in the hospital.

2 Q Thank you.

3 MR. JENKINS: Your Honor, I'm going to
4 move for this to be entered as Plaintiff's Exhibit
5 C.

6 MR. HARVEY: No objection.

7 THE COURT: Admitted without objection.

8 MR. JENKINS: Thank you, sir.

9 (PLF. EXH. C, Power of Attorney; 1995, was
10 entered into evidence.)

11 (PLF. EXH. D, Revocation of power of
12 attorney; 5/98, was marked for identification.)

13 BY MR. JENKINS:

14 Q I'm going to show you another document. For
15 identification purposes, can you tell me what that
16 document is?

17 A This is the revocation of the power of
18 attorney dated May 28th -- let's see. It looks
19 like May -- this is revocation of the power of
20 attorney.

21 Q And is it legible? Can you tell what date the
22 power of attorney was?

23 A May 28, 1998, I think that's what it says.
24 Yes. Yeah, May 27th or May 28th, 1998.

25 Q Just to be clear: Who is revoking the power of

1 attorney?

2 A My granddad. He revoked that power of
3 attorney that my daddy got back in 1995. He took
4 it away.

5 Q Thank you.

6 MR. JENKINS: Your Honor, I asked that
7 this be entered as Plaintiff letter D.

8 MR. HARVEY: No objection.

9 THE COURT: Without objection.

10 (PLF. EXH. D, Revocation of power of
11 attorney; 5/98, was entered into evidence.)

12 (PLF. EXH. E, power of attorney; 10/98, was
13 marked for identification.)

14 BY MR. JENKINS:

15 Q Mr. Riley, I'm going to ask you to identify this
16 document for me.

17 A That's another power of attorney that my
18 daddy got from my granddaddy. He just got another
19 power of attorney.

20 Q Can you tell what date that power of attorney has
21 on it?

22 A This was October 15, 1998.

23 Q So just looking at a time line, there was a
24 power of attorney that was accumulated in '95.

25 A Uh-huh.

1 Q And then there was a revocation in May of '98, and
2 then there was another one. And who is power of
3 attorney for?

4 A For my daddy. It was given to my daddy.

5 Q Which, if I count correctly, is that five months
6 later?

7 A Let me see. From the revocation?

8 Q 7?

9 A October -- let me see. I took my notes here.
10 He revoked it May 28, 1998. May, June, July,
11 August, September, October, November, five, six
12 month later, daddy got another power of
13 attorney.

14 Q There's another one that he --

15 A Yeah. After being revoked, yeah.

16 Q It sounds like the revocation and new power of
17 attorney came really close in time?

18 A Right.

19 Q And, as far as you understand it, was your
20 grandfather in good health at that time?

21 A As far as I understand around that time. I
22 think granddad -- especially after that last power
23 of attorney, my granddad was getting up in age,
24 and I don't say he had Alzheimer's, but he didn't
25 remember a whole lot. You would talk to him, he

1 just wasn't granddaddy. You know what I mean?

2 And, you know --

3 Q At any time, were you aware that there was this
4 change in documents or there was a revocation and
5 another one that was brought about?

6 A I was living in Oklahoma City at the time
7 working on the Air Force base. I had no idea this
8 stuff was going on. I had no clue.

9 Q All right. Thank you.

10 MR. JENKINS: Your Honor, I want to enter
11 this as Plaintiff's Exhibit E.

12 MR. HARVEY: No objection.

13 THE COURT: Admitted without objection.

14 (PLF. EXH. E, power of attorney; 10/98,
15 was marked for identification.)

16 (PLF. EXH. F, Deeds; 2/99, was marked for
17 identification.)

18 BY MR. JENKINS:

19 Q I'm going to show you a document that's labeled
20 Plaintiff's Exhibit F. Can you identify that for the
21 Court, please?

22 A These are the deeds that my daddy was deeded
23 the property.

24 Q Can you tell me on those deeds, who is it from and
25 who is it to?

1 A It's from my granddaddy. It looks like from
2 my granddaddy to -- it says the sum of one dollar
3 -- from my granddaddy to my daddy.

4 Q And tell me, what's the date on that deed?

5 A February 26, 1999.

6 Q So there was a power of attorney that was inquired
7 in October.

8 A Right.

9 Q And then October, November, December, January,
10 February, four months later there's a transfer of
11 property.

12 A Yes.

13 Q Which went directly to your father?

14 A Right.

15 (PLF. EXH. G, Deeds; 2/99, was marked for
16 identification.)

17 BY MR. JENKINS:

18 Q I'm going to ask you to look at this last
19 document. Can you identify that document for me?

20 A This is all the property. This is all
21 granddad's property, the deeds. It's the deeds to
22 everything my granddaddy owned.

23 Q Do you see, are those deeds transferring the
24 property?

25 A Yes.

1 Q And who is it transferring the property to?

2 A To my daddy.

3 Q And can you tell me the date on that?

4 A February 26, 1999.

5 Q So, that was the same date as the deed I just
6 showed you?

7 A Right.

8 Q So on that day he transferred property again. Or
9 there was a transfer of property again?

10 A Right.

11 MR. JENKINS: Your Honor, I want to enter
12 these as Plaintiff's exhibit F and G.

13 MR. HARVEY: No objection.

14 THE COURT: Admitted without objection.

15 (PLF. EXH. E, power of attorney; 10/98, was
16 entered into evidence.)

17 (PLF. EXH. G, Deeds; 2/99, was entered into
18 evidence.)

19 BY MR. JENKINS:

20 Q When you finished your research and you got those
21 documents, tell me, what did you think?

22 A What I saw -- after my daddy got that second
23 power of attorney, and then a few months later, I
24 looked at my daddy -- transferred everything to
25 him, and I knew that wasn't right. A few month

1 later, my grandfather passed.

2 My granddaddy -- oh, let me tell you. When
3 my granddaddy passed, he didn't have -- he -- he
4 didn't own anything. He took everything my granddaddy
5 started since the 1950s. He took all his property.
6 He took the house. He took the funeral home, and
7 everything was in his name. Everything. And I
8 said -- when my granddaddy died, he had nothing. He
9 had nothing.

10 And I kept going through the applications,
11 and when my granddaddy died, my daddy filed in court
12 for probate and he stated that granddaddy had \$10,000
13 worth of cash.

14 Q And just to be clear, you didn't know this when
15 this happened.

16 A No.

17 Q This is what you learned later on when you were
18 doing your research?

19 A Right. I learned this in 2020 or
20 something.

21 Q You can continue.

22 A And with the -- he had filed for probate and
23 said that my granddaddy had \$10,000 cash and
24 \$215,000 of real estate property. That's with
25 everything. That's when he filed it.

1 I guess he didn't realize when he filed it
2 like that, he had to produce all of that. But he
3 couldn't produce it because he had taken everything.
4 And so when it came time for him to produce -- the
5 production, I looked at the records, he kept delaying
6 the records for production. Delaying the inventory,
7 and delaying it.

8 And when he finally produced it, all he said
9 my granddaddy had -- if you know anything about that
10 funeral home, there's about eight or nine wrecked cars
11 around that funeral home. And I guess my daddy sold
12 those. He sold nine cars for \$900 because they were
13 wrecked. It totaled \$8900. So when it came down to
14 inventory for the Court, when my granddaddy died, all
15 he had was those wrecked cars and that's what he
16 reported to the Court.

17 He didn't have the funeral home. He didn't
18 have a house. He didn't have nothing but those
19 wrecked cars. And that's all he said he got in
20 production. That's what I discovered.

21 Q And let's be clear, there was a dispute about
22 around that time. Did you have knowledge of the
23 dispute?

24 A No, I didn't know. Well -- and I kept, like
25 I said, I kept studying, and the documents are

1 full. My aunt had sued my daddy back then. They
2 were suing him, because he -- daddy had taken
3 everything. And that court -- being an attorney,
4 I know that court was never -- it was never on its
5 merits. They didn't go to court. And daddy just
6 ended up just getting a judgment. He ended up
7 with everything, and that just wasn't right.

8 Q Marcus, tell the jury, what are you asking for
9 today?

10 A I'm asking the jury -- well, I want you-all
11 -- I want the jury to understand something. I'm
12 not here to bash my daddy. I love my daddy. My
13 daddy would remind me. I was disappointed by what
14 he did. And he we don't always get everything
15 right. He just didn't get this right. And I'm
16 asking the jury to right this wrong. That's
17 what -- I want them to put my granddaddy's stuff
18 back the way it's supposed to be. That's all I'm
19 asking. Do the right thing. That's what my
20 granddaddy would have wanted.

21 MR. JENKINS: No further questions, Your
22 Honor.

23 THE COURT: Cross-examination.

24 MR. HARVEY: May it please the Court?
25 Thank you.

CROSS-EXAMINATION

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BY MR. HARVEY:

Q Mr. Riley, you don't practice law, do you?

A Not necessarily in the courtroom.

Q You don't practice country law, do you?

A No, I don't.

Q And you never had a client come into an office and say, I want to change my will, have you?

A No.

Q Are you aware that clients do that from time to time?

A I would imagine.

Q Isn't that why it's called a last will and testament because the last will is the one that's good?

A In some ways, yes.

Q Now, the 1990 will -- Ruth Riley was your mother?

A That was my granddaddy's wife.

Q I'm sorry. Your granddaddy wife.

A Yes.

Q And she passed before your granddaddy?

A No, I think she out lived him.

Q Did they get divorced?

A I think so.

Q All right. So the part about Exhibit A leaving

1 everything to his wife, you understand, when divorce
2 happens, that part of the will is no good anyway?

3 A Something. Yeah.

4 Q Okay. So in 1990, it was your granddaddy's wish
5 by this will, Exhibit A, that everything gets divided
6 among his four children.

7 A Right.

8 Q And his four children were Virginia, Evelyn --

9 A Yes.

10 Q -- Janice --

11 A Yes, sir.

12 Q -- and Sonny, right?

13 A That's correct.

14 Q Okay. Now, In 2000 -- in 1995, in early May, your
15 granddaddy went in the hospital.

16 A Yes.

17 Q Okay. And got out of the hospital and then that
18 will -- and power of attorney were done?.

19 A I'm not sure when he got out.

20 Q Okay. But a will was done and a power of attorney
21 was done roughly in the same period of time, do you
22 agree?

23 A Right.

24 Q Okay. And assuming that -- if you will, bear with
25 me a minute. I understand your position.

1 A Okay.

2 Q You understand Miss Riley's position.

3 A Right.

4 Q Assuming that this signature is, in fact, your
5 granddaddy's signature, what he wanted was different
6 than from the 1990 will?

7 A Are you talking about the '95?

8 Q The '95 will.

9 A The '95, it was -- yeah, those two were
10 different.

11 Q He pretty much wanted the funeral home and the
12 lots that it was located to go just to Sonny,
13 according to this will?

14 A According to that, yes.

15 Q Okay.

16 All right. So then in 1998, do you recall
17 that your father went into the hospital in September
18 of 1998? Not father, sorry. Your grandfather.

19 A Oh, okay. I think so.

20 Q And then he got out of the hospital, and that's
21 when the 1998 power of attorney was done.

22 A I recall him going in the hospital. From the
23 record I saw, the '95 in the hospital. I didn't
24 see the '98.

25 Q You didn't see '98.

1 A No.

2 Q Do you recall he also went in the hospital in
3 January of '99?

4 A I was in Oklahoma City.

5 Q All right. Do you recall that he went into the
6 hospital in late April of '99 right before he
7 passed?

8 A At those times, I was in Oklahoma City.

9 Q Okay.

10 A I went through the records that I saw in the
11 courthouse.

12 Q All right.

13 So you talked to A.F. for a little while; is
14 that right?

15 A Yes, sir.

16 Q And your sister Renique was going to A.F. about
17 that same time, wasn't she?

18 A I think she was, but I know she went -- I
19 think she was. I think she went to A.F. at that
20 time. In 2003?

21 Q Yeah.

22 A Yeah, she probably was. I can't quite
23 remember, but I think so.

24 Q And, in 2003 when you were teaching at A.F., you
25 lived in your granddaddy's house, didn't you?

1 A I did.

2 Q And your daddy was going to let you live there,
3 wasn't he?

4 A Yeah.

5 Q Okay. Then your Aunt Virginia took sick before
6 your granddaddy died, didn't she?

7 A I think she -- I'm not -- I think so because
8 she wasn't at the funeral.

9 Q And so the funeral home in Hampton was being run
10 by your cousins, correct?

11 A What year is this that they were running it?

12 Q '98, '99?

13 A I think that's when they were running it.

14 Q And your cousins are Adrian and Vonda; is that
15 right?

16 A Yes.

17 Q And then in 2015, around February of 2015, your
18 Aunt Virginia died and you came to the funeral, didn't
19 you?

20 A Yes, sir.

21 Q In 2003, when you were living in your granddaddy's
22 house --

23 A Yes, sir.

24 Q -- who was running Riley's Funeral Home in
25 Fairfax?

1 A My daddy was at the funeral home.

2 Q Did you have anything to do with the business
3 then?

4 A No.

5 Q Did Adrian or Vonda have anything to do with that
6 knowledge?

7 A Not to my enforcement.

8 Q In fact, your daddy, at one point, he got to be a
9 licensed embalmer in the late '60s, right?

10 A I don't know.

11 Q But he wasn't a licensed mortuary or funeral home
12 director until right around the time your granddaddy
13 died; is that right?

14 A I have no idea what qualifications my daddy
15 had.

16 Q All right.

17 A I know he was an embalmer. I did know
18 that.

19 Q 2014, Thanksgiving, do you remember being home for
20 a visit?

21 A 2014. Where was I living? I was living in
22 Houston. Thanksgiving of 2014?

23 Q Thanksgiving 2014.

24 A I'm not sure. I came home for some
25 Thanksgivings. I just don't remember which

1 ones.

2 Q Isn't it true that, at that point, your sister
3 Tracy was living in your mother's sister's house in
4 Allendale?

5 A In 2014?

6 Q 2014.

7 A I don't think so.

8 Q All right. Isn't it true that you evicted her
9 from that house?

10 A No, I didn't evict her from the house.

11 Q And Tracy went to live with her daughter, right?

12 A I'm not sure where she went.

13 Q And then you fell out with Renique over evicting
14 Tracy. Isn't that where it all started?

15 A I fell out with Renique because she evicted
16 Tracy.

17 Q Renique took Tracy's side, didn't she?

18 MR. JENKINS: I got to object. I'm not
19 sure what's the relevance of this line of
20 questioning.

21 MR. HARVEY: Knowledge, Your Honor.

22 THE COURT: What's that?

23 MR. HARVEY: Knowledge. Things that are
24 going on that would give rise to him having --

25 MR. JENKINS: Your Honor --

1 THE COURT: Overruled. I'll permit it.

2 BY MR. HARVEY:

3 Q Do you remember calling your daddy in 2015 and
4 talking about the fence that was put up by the lot
5 beside the funeral home in Fairfax?

6 A I don't remember any fence.

7 Q You don't recall Adrian and Vonda deciding they
8 didn't like the boundary line and so they put that
9 cycling fence up?

10 A I had nothing to do with that. I had no clue
11 about the fence, or anything to do with like
12 that.

13 Q And you deny telling your daddy just give it to
14 them?

15 A No, I don't recall all that. No.

16 Q All right. One last thing. One last line of
17 questions.

18 Your dad died in June 2018, Sonny?

19 A Yes.

20 Q Okay. And then you-all are at Dot's house after
21 the funeral, right, the next day?

22 A Yes.

23 Q Okay. Everybody was talking.

24 A Yes.

25 Q And you were part of the conversation where the

1 rest of the family said, *Dot*, we know *Daddy* left
2 everything to you.

3 A Oh, no. No, no, no, no, no, no. That didn't
4 happen.

5 Q And then --

6 A That didn't happen.

7 Q And then a little bit later --

8 MR. HARVEY: Bear with me, Your Honor.

9 BY MR. HARVEY:

10 Q Did -- first of all, let me ask you. I didn't
11 hear this on direct. When did you first know that *Dot*
12 had opened your daddy's estate?

13 A I didn't. I didn't find out about my daddy's
14 estate until I came -- when my sister had called
15 me complaining about *Tracy*. I didn't know what
16 was going on. And that's when I said I'll come
17 home and see what the big fuss was about, then I
18 found out about the estate about to be probated
19 and all of this. That's how I find out.

20 Q You don't recall texting everyone on July 9th of
21 2018 asking for everybody's address?

22 A I'm not sure.

23 Q Is your phone number (508) 207-2026?

24 A That's my phone number.

25 Q And your address is 14803 Sycamore Side Way,

1 Cypress, Texas?

2 A Yeah, that's it. Yes, she did text me. I
3 didn't know what it was for.

4 Q You didn't have anymore conversations, is your
5 testimony?

6 A As far as with Dot? I talked to Dot. We had
7 a great relationship.

8 Q You do acknowledge, at least, that there was a
9 text message in July of 2018 asking for your -- the
10 address. You acknowledge that?

11 A Yeah.

12 MR. HARVEY: That's all I have.

13 THE COURT: Any redirect?

14 MR. JENKINS: Just briefly, Your Honor.

15 REDIRECT EXAMINATION

16 BY MR. JENKINS:

17 Q Mr. Riley, just briefly, when you look at this
18 text, what does it say?

19 A It says, "Please text me your address,
20 Thanks, Dot Riley."

21 Q Does it ever say, *Text me because I'm opening your*
22 *father's estate?*

23 A No, I don't say anything like that.

24 Q Did it say, I need you to send me your address so
25 I can send you probate information?

1 A No, it did not.

2 Q And what I just added was a sentence; is that
3 correct?

4 A Yes.

5 Q So, if you received that text, which you did, you
6 received no other texts explaining why she needed your
7 address?

8 A No, I didn't.

9 Q Is that correct?

10 A Not to my knowledge. I don't remember all
11 the texts now.

12 Q Thank you.

13 So what you're telling the Court is, you
14 didn't know that the estate was open until you did
15 independent research?

16 A Pretty much.

17 Q And when you did independent research, who was the
18 PR of the estate?

19 A Dot.

20 Q And when you saw the estate open, did you think it
21 was her obligation to contact you?

22 A She was supposed to contact me, all my
23 brothers and sister.

24 Q Now, how many brothers and sisters do you have?

25 A Oh, man. About, what, 12 or 13 of us.

1 Something like that.

2 Q 12 or 13?

3 A Yeah, about that many.

4 Q Okay. I thought I was high at seven. Out of
5 those 12 or 13 siblings you have, does everybody know
6 your address?

7 A To my knowledge, I don't know if anybody
8 knows my address. I know they know I live in
9 Houston.

10 Q So did anybody have access to call you and say,
11 *Hey, I received these documents?*

12 A Excuse me?

13 Q Did anybody have access to you that they could
14 call you and say, *Hey, I received some documents, and*
15 *that was your address?*

16 A They have access to it, yeah.

17 Q Okay. And that didn't happen?

18 A No.

19 Q I'm going to ask you about the house that you
20 lived in. I guess the question was asked before, did
21 your father allow you to live there. Was that the
22 question?

23 A You're talking about granddaddy's house?

24 Q Yes. When you stayed there I think it was in '03.

25 A Yes.

1 Q Did you have any dispute from your aunt's who were
2 living about you living there?

3 A No.

4 Q Did they ever speak to you and tell you how they
5 had disdain about you living there?

6 A No.

7 Q So, in your mind, did you feel like you only had
8 your father's permission or you thought you had
9 everybody's permission?

10 A Well, I just came home from -- like, when I
11 moved back here and I was out on Parris Island, I
12 was, kind of, like between places before I went to
13 law school and I was teaching. I said, *Dad, I'm*
14 *going to move into granddaddy's house.* He said,
15 *Okay.* That's how it was.

16 Q Do you ever feel you had ownership of any of the
17 properties that are either your grandfather's estate
18 or your estate?

19 A Do I feel -- yes.

20 Q Did you ever feel you had ownership?

21 A Ownership as far as?

22 Q You had a deed and title with your name on it that
23 you control over those properties?

24 A I didn't have a deed and title.

25 Q So do you feel, since you're an attorney. You

1 understand how this works --

2 A Right.

3 Q -- that you had the ability to even kick Tracy out
4 if you could?

5 A I couldn't kick her out. I didn't own the
6 house to kick no one out or do -- what's it?
7 Evict nobody. I didn't have that power. I'm not
8 licensed in South Carolina anyway, so I couldn't
9 do it.

10 MR. JENKINS: No further questions, Your
11 Honor.

12 MR. HARVEY: Recross?

13 RE-CROSS-EXAMINATION

14 BY MR. HARVEY:

15 Q Just to be clear, you admit you never had a title
16 to any land that formerly belonged or at one time
17 belonged to Marion Riley, Sr.? You never had a title
18 to any land that belonged to Marion Riley, Sr.

19 A I'm an heir. I don't own nothing. I never
20 owned any of granddaddy's property, no.

21 Q Now, the house I asked you about evicting Tracy,
22 that was your mother's sister's property, to be clear.
23 You deny evicting Tracy from that house?

24 A Yes, I never evicted her.

25 MR. HARVEY: Thank you. That's all.

1 THE COURT: Thank you. You may step
2 down.

3 Another witness?

4 MR. JENKINS: I'm going to call
5 Miss Janice Heard.

6 THE COURT: Let me check with the jury.
7 Jurors, you okay? If you need a break let me
8 know. If not, we'll keep going.

9 THE CLERK: Do you swear or affirm to
10 tell the truth, the whole truth, and nothing but
11 the truth so help you God?

12 THE WITNESS: I do.

13 WHEREUPON:

14 JANICE HEARD,
15 witness after having been sworn, testified as follows:

16 DIRECT EXAMINATION

17 BY MR. JENKINS:

18 Q Okay. Ma'am, can you state your name for the
19 record?

20 A My name is Janice Riley Heard.

21 Q Miss Heard, tell us, what's is your relationship
22 to Mr. Marcus Riley?

23 A Marcus is my nephew.

24 Q So, in turn, that would make Mr. F. Riley, Sr.
25 your?

1 A Marion F. Riley, Sr. is my father.

2 Q And how about Marion F. Riley, Jr.?

3 A He's my brother known as Sonny.

4 Q Miss Riley -- Miss Riley Heard, tell us about your
5 background.

6 A I was born in Fairfax, South Carolina,
7 Allendale County. Raised up there. Actually,
8 that's my home. But when I left there in the
9 '60s, I went to college. Paine College in
10 Augusta, Georgia. Coming back and forth to
11 Fairfax in school with my mom being sick and then
12 passed away. But I made my residence in Augusta,
13 Georgia. I attended Paine College.

14 I eventually got a job at Piedmont of
15 Augusta, which is now -- well, it's Piedmont of
16 Augusta now, which is part of the Farming University
17 Health Care System. I worked there. I have been
18 there for 50 years and some months.

19 Q And tell me, what's your role in the hospital?

20 A My role now is HR. I'm in human resources.
21 I represent HR, receptionist.

22 Q And through your 50 years, have you always been
23 doing that specific role or that specific thing?

24 A I started out on the units, what they call as
25 a unit clerk. I moved from unit clerk to a

1 clerical supervisor at that time. And now I'm in
2 HR. And, hopefully, to retire one day.

3 Q Tell me, is that the same hospital that your
4 father was being treated at?

5 A Yes.

6 Q And tell me what was your role as far as working
7 or helping your father when he had to go to that
8 hospital?

9 A My role was mainly to help my brother at the
10 time. Because I worked there in the hospital, I
11 knew the physicians, I was able to set up
12 appointments for him, and I did that. My oldest
13 sister, which was living in Miami, which is
14 deceased now, but she would come home to help out
15 with getting him to the appointments.

16 At some point, there were times where my
17 other nephew, he would bring him to his appointments.
18 But most of the time, it was my older sister.

19 Q So when you say helping out or looking into, what
20 did you exactly do?

21 A Well, when he would come for his
22 appointments, I would always meet him there. I
23 would be at the doctor's office to make sure he
24 was understanding the instructions, what he had to
25 do when he went home. That was the beginning of

1 all before he got so ill.

2 Q And what about his hospital stays?

3 A The hospital stays was -- it wasn't long
4 stays. He stayed maybe one or two days. Some of
5 the procedures was more or less overnight stays.
6 He did well with that.

7 Q Do you remember what he was diagnosed with or what
8 his problems were?

9 A Well, eventually my daddy was having
10 shortness of breath. So, he eventually had to get
11 a pacemaker.

12 And after he got the pacemaker, there were
13 times when the doctors suggested different labs,
14 different labs, and things started coming up. And
15 they ran some tests and he was having trouble with his
16 prostate.

17 So he had several rounds of radiation
18 therapy, and then he got -- he was very tired with
19 that. He didn't want to do that anymore. Then
20 eventually we found out that he had cancer. Prostate
21 cancer.

22 So, long story short with that, he was having
23 a little dementia, Alzheimer's, wasn't remembering
24 things, and he eventually went home on hospice. And
25 that was -- that was hard for everybody. My sister

1 was Florence was home and was home with him, and we
2 were able to get nurses at that point as well.

3 Q So, when you-all were together, which sounds like
4 it was frequent, especially towards the end, did he
5 talk about his plans for his estate?

6 A His estate -- he would always talk before he
7 got sick -- let me just say this about the house.

8 Back when I was going to school, my mom was
9 ill and he always wanted the house completed. I
10 helped him furnish the house. I helped him with
11 everything in the house. She was still -- she was
12 able to be in the house for a number of months until
13 she passed away.

14 So, when -- I say that to say all of this, he
15 would always mention to me, *Janice, anything happen to*
16 *me, you know, you and the children, it's for you and*
17 *the children.*

18 But honestly say I saw the estate, I did not.
19 But I can only by what he said and tells me.

20 Q And, at any time, did he ever tell you he wanted
21 you to have something, or particular people to have --

22 MR. HARVEY: Your Honor, that's dead man
23 statute prohibited, a transaction between the
24 declarant and the witness.

25 MR. JENKINS: Your Honor, it's really yes

1 and no. It's really a yes or a no. I'm not
2 asking her to repeat what he said in a
3 conversation, but I'm just asking if this was ever
4 said to her.

5 THE COURT: No. I'll sustain the
6 objection.

7 MR. JENKINS: Thank you, Your Honor.

8 BY MR. JENKINS:

9 Q So, Miss Riley, when did you find out about the
10 property transfer or the will in your father's
11 estate?

12 A Well, this was after he passed away. And
13 there were several things about -- that's when we
14 noticed -- we did a hearing, that was the first
15 one. And we got nowhere with that. That's when I
16 found out that everything was with my brother. I
17 was told that he was power of attorney. I wasn't
18 told anything -- about any transferring of any
19 properties. As far as the house, I mentioned to
20 him at one point after my dad passed that I needed
21 some items out of the house. I had wedding
22 pictures.

23 When I went to the house and discovered that
24 I couldn't get in, that was because they had monitored
25 protection on the house and I didn't know the code.

1 Q I'm going to hand you a document. Can you
2 identify this document for me, please?

3 A Yes, sir. Virginia Priestly, Janice Riley,
4 petitioner for Marion Riley, Jr. This was --
5 yeah, back in 2001. A complaint that we made
6 against my brother.

7 Q And when it says Virginia Priestly and
8 Janice Riley, we're talking about you, Janice Riley
9 Heard.

10 A Right. That's me.

11 Q Can you tell me, what were the allegations in this
12 complaint?

13 At allegations were that my daddy was not
14 in sound mind. I feel that he was taken advantage
15 of, because he did have cancer. He would say
16 things and not remember saying things, and we felt
17 that this was taking advantage of my dad.

18 Q So, at that time, you had suspicions about the
19 estate?

20 A Correct.

21 Q And you brought a lawsuit. Did it ever go to a
22 trial, something like this?

23 A No, no. It went to a hearing pretty much. I
24 -- well, my niece and her husband was representing
25 my sister, because at the time she was unable

1 because she had been sick for years. So she
2 wasn't able to go through it all, so they were
3 representing her. And it was like a hearing. And
4 it when nowhere.

5 And when I say nowhere, it was null and void.
6 I think because we didn't have enough evidence to
7 prove our case.

8 Q So it was more of an evidence thing, that you
9 feel?

10 A Uh-huh.

11 Q Were you active in that? Did your attorney -- If
12 you can remember, I know it's a while.

13 A One attorney -- we had two attorneys. One
14 attorney is deceased. I'm not sure where the
15 other attorney is now.

16 MR. JENKINS: Your Honor, I'd like to
17 mark this as Plaintiff's Exhibit -- I believe it's
18 G. It's the complaint filed in the probate
19 court.

20 MR. HARVEY: No objection.

21 THE COURT: Admitted without objection.

22 (PLF. EXH. G, Complaint in Probate Court,
23 was marked and entered into evidence.)

24 BY MR. JENKINS:

25 Q Miss Heard, is this lawsuit, was Marcus ever aware

1 that this was going on?

2 A The one --

3 Q Let me ask you. I know you can't speak for him.
4 Did you ever alert Marcus that this whole lawsuit was
5 happening?

6 A No, no.

7 Q Have you ever seen any notices from this hearing
8 that would be going to Marcus?

9 A No.

10 MR. JENKINS: Beg the Court's indulgence,
11 Your Honor.

12 BY MR. JENKINS:

13 Q So as far as the dismissal of this, you never
14 filed again, did you?

15 A Say that again.

16 Q As far as the complaint, where you said it came up
17 with no evidence, you never filed anything else, did
18 you?

19 A No.

20 MR. JENKINS: All right. No further
21 questions, Your Honor. Please answer any
22 questions Mr. Harvey may have.

23 THE WITNESS: Okay.

24 THE COURT: Cross-examination.

25 MR. HARVEY: Thank you.

CROSS-EXAMINATION

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BY MR. HARVEY:

Q You said your sister Virginia was sick at about the time your father passed and had been sick for a while?

A Yes.

Q And so her children, or daughter and son-in-law were involved in the lawsuit that was filed in the probate court?

A My niece Vonda and her husband -- I'm sorry -- and her father.

Q Okay.

A They were representing Virginia.

Q I see. Who was -- what's the father's name?

A Who's father?

Q Virginia's husband. You said --

A Bernie Christie, that's Virginia's husband.

Q All right. Now, ma'am, this complaint --

MR. HARVEY: May I approach, Your Honor?
May I approach?

THE COURT: Certainly.

BY MR. HARVEY:

Q -- all of your father's children were living when your father passed, right?

A All of his -- yes.

1 Q All four children?

2 A Yes.

3 Q And they were all living?

4 A Yes.

5 Q Okay. Did anyone ever explain to you if someone
6 died without a will the people who inherit are the
7 children first?

8 A I would think so.

9 Q Yeah. Grandchildren don't get anything unless
10 they got a parent that's deceased. Is that your
11 understanding?

12 A Yeah, I did know that.

13 Q All right. Marcus had no reason to be notified of
14 this proceeding, would he?

15 A No.

16 Q Okay.

17 A Not that one.

18 Q All right.

19 Now, this Paragraph 5 here in Exhibit G, you
20 allege that you did not believe that the 1995 will was
21 Sonny's -- was your father's last will, correct?

22 A Uh-huh.

23 Q And you allege that your father lacked mental
24 capacity, correct?

25 A Uh-huh.

1 Q And in paragraph 7 you allege that he was mentally
2 incompetent, your father, correct?

3 A Correct.

4 Q And that as of May 22nd, 1995, that you believed
5 that to be true; is that right?

6 A Yes.

7 Q Okay.

8 A Yes, that's when he had cancer.

9 Q All right. But his cancer was prostate.

10 A Uh-huh.

11 Q And he had a pacemaker.

12 A Yeah.

13 Q He did not have a brain tumor.

14 A The cancer spread.

15 Q Metastasized.

16 A Right. Correct.

17 Q You allege in paragraph 5 that the signature on
18 that will in 1995 was not your father's signature?

19 A Uh-huh.

20 Q And you allege that, you asked that the court set
21 aside that will, didn't you?

22 A Uh-huh.

23 Q Okay. The court didn't, did it?

24 A Huh-uh.

25 Q And, in fact -- I don't think Mr. Jenkins did, but

1 I will.

2 (DFT. EXH. 10, Copy of Order; 1995 will, was
3 marked for identification.)

4 BY MR. JENKINS:

5 Q Defendant's Exhibit 10, do you believe that's a
6 certified copy of the order that goes with this
7 lawsuit that was filed in your father's estate?

8 A The one that we filed in -- yes.

9 Q That's it, right?

10 A Uh-huh.

11 MR. HARVEY: Your Honor, this is one of
12 my exhibits that I believe counsel stipulated.

13 THE COURT: Admitted without objection.

14 (DFT. EXH. 10, Copy of Order; 1995 will, was
15 entered into evidence.)

16 BY MR. HARVEY:

17 Q And, Miss Heard, there is some legal language in
18 there on the last on that order that says petitioner's
19 petition is dismissed with prejudice. You understand
20 those words means it's over. You-all can't go back
21 and argue about it again.

22 A Not that one, correct.

23 (DFT. EXH. 11, Order Closing Estate; was
24 marked for identification.)

25 BY MR. HARVEY:

1 Q Okay. And then later on, Exhibit 11 here, your
2 brother filed a petition asking that your father's
3 estate be closed. Did you get any of those papers
4 that you recall?

5 A No.

6 Q All right. This is a certified copy of the order
7 closing the estate of Marion F. Riley, Sr.

8 A No.

9 Q Okay.

10 A I have nothing -- none of these documents.

11 Q Did you ever know that his estate had been closed,
12 that it was over?

13 A No.

14 Q Okay.

15 MR. HARVEY: Again, this is something
16 counsel had agreed to, Your Honor, Exhibit 11.

17 MR. JENKINS: No objection.

18 THE COURT: Admitted without objection.

19 (DFT. EXH. 11, Order Closing Estate; was
20 entered into evidence.)

21 BY MR. HARVEY:

22 Q So you asked the court -- you challenged your
23 father's 1995 will on a number of grounds. You wanted
24 the court to set aside that deed that Sonny had signed
25 as power of attorney, and none of that happened, did

1 it?

2 A No. I knew nothing of it.

3 MR. HARVEY: That's all, Your Honor.

4 MR. JENKINS: No redirect.

5 THE COURT: Thank you. You may step
6 down.

7 Let's take a ten-minute recess, ladies
8 and gentlemen. I remind you, it's too early to
9 begin discussing the case. So please retire to
10 the jury room.

11 (Jury exits the courtroom at 2:43 p.m.)

12 THE BAILIFF: All rise. Court back in
13 session.

14 THE COURT: Plaintiff ready for the jury?

15 MR. JENKINS: Yes.

16 THE COURT: Defense ready for the jury?

17 MR. HARVEY: Yes, Your Honor.

18 THE COURT: Let's bring the jury in.

19 (Jury enters the courtroom at 3:00 p.m.)

20 THE COURT: Welcome back, ladies and
21 gentlemen. I believe we're ready to resume the
22 presentation of evidence by the State -- excuse
23 me -- by the plaintiff.

24 Mr. Jenkins, call your next witness.

25 MR. JENKINS: Thank you, Your Honor. I'm

1 going to Laurie Hoeltzel to the stand.

2 THE CLERK: Raise your right hand. Do
3 you solemnly swear or affirm to tell the truth,
4 the whole truth, and nothing but the truth so help
5 you God?

6 THE WITNESS: I do.

7 MR. JENKINS: Thank you, Your Honor

8 WHEREUPON:

9 LAURIE HOELTZEL,

10 after having been sworn to tell the truth, testified
11 as follows:

12 DIRECT EXAMINATION

13 BY MR. JENKINS:

14 Q Can you state your name and spell your last name
15 for the record?

16 A Yes. Laurie, L-a-u-r-i-e, Anne, Hoeltzel,
17 H-o-e-l-t-z-e-l.

18 Q And, Miss Hoeltzel, what's your profession?

19 A I'm a forensic document examiner.

20 Q And how many years have you been experienced in
21 this field?

22 A I have over 25 years of experience in
23 forensic document examination.

24 Q All right. I need you for the jury, can you
25 explain just what is a forensic expert?

1 A A forensic -- in this case, a forensic
2 document examiner expert has multiple years of
3 training under a court-qualified document
4 examiner, and then graduates through them. We go
5 through verbal testing, physical testing, all
6 these different tasks while we're going through
7 our training. And, at that point, then we
8 graduate from that training program, and then we
9 are forensic document examiners, which means we
10 look over handwritings, signatures, different
11 parts of letters, print of documents, anything
12 that encompasses handwriting, signatures,
13 essentially. I do an analysis on that. Which
14 means I get comparison signatures, multiple
15 comparison signatures, and I look at those
16 comparison signatures. I look to see if there are
17 similarities and differences within a known
18 subset, and I also look at the differences and
19 similarities between the question subset, if that
20 makes sense.

21 Q You'll have to break that down --

22 A Yes.

23 Q -- as if we were talking to my nephew.

24 A Yes.

25 Someone calls me, they say, I have a question

1 about a signature. I say, okay, send me that
2 signature and send as many known signatures that
3 you-all have. Pretty much, you sign your name and who
4 signed your name, and I want to see all those so I can
5 analyze all those signatures. So say that signature
6 is from 1995, I want some signatures as close as we
7 get to that so I can have some sort of comparison.
8 Because every time we sign our name it's slightly
9 different. So there's kind of a range variation.

10 So what I am trying to figure out is, you
11 signed your name 20 times and I have 20 signatures and
12 I look at this other signature. I have all these 20
13 signatures where I see you sign your name and all the
14 similarities and differences, does that all follow the
15 same set as this question signature.

16 Q Thank you. That was for me. I appreciate that.
17 I didn't understand it myself.

18 So, have you ever been asked to testify?

19 A Yes, sir.

20 Q And how many times have you been asked to
21 testify?

22 A Fifty times between the U.S. and the Bahamas.

23 Q Okay. So that's 50 different times you've
24 appeared in court and testified as to a signature?

25 A Signature and handwriting.

1 Q What are you testifying to?

2 A It depends on the case. So, in some cases
3 it's this person did not sign, and, in some cases,
4 it's this person did sign this document or
5 documents.

6 Q Okay. And tell me, what methodology do you
7 usually use when you're making an opinion?

8 A We use a scientific methodology, which all it
9 is, is I look at the signatures, I make my
10 hypothesis, and then I use scientific equipment,
11 like my microscope, my magnifying glass loops,
12 power points, scanners, light tables, I use all of
13 those equipment to prove or disprove by original
14 hypothesis.

15 Q Okay. Because I didn't do well in science, that's
16 why I became a lawyer, when you say hypothesis, I
17 mean, what does that mean?

18 A So, essentially, what that means is, when
19 someone gives me known signatures and the question
20 signatures, I will take a look at both. And my
21 initial -- my initial thoughts when I'm looking at
22 the signatures and I'm looking at the comparisons,
23 do I originally go, yes, this person did all that,
24 or, no, they didn't.

25 And then whenever I make that -- that's my

1 hypothesis, and then I use all the scientific
2 equipments to prove it would be right or it would be
3 wrong.

4 Q Okay. So, in this case, you were asked to analyze
5 the signature of Mr. Marion F. Riley, Sr:

6 A Yes, sir.

7 Q Did you perform that task?

8 A I did.

9 Q So when you started performing that task, what was
10 your original hypothesis?

11 A My original hypothesis was that I had
12 multiple differences within a signature when I
13 initially looked at it, so I was leaning towards
14 that Mr. Riley did not author those signatures.

15 Q Okay. Hold on for a second.

16 MR. JENKINS: Your Honor, I would like
17 this witness to be qualified as an expert.

18 MR. HARVEY: No objection.

19 THE COURT: So qualified.

20 Ladies and gentlemen, this means that
21 this particular witness has been so qualified and
22 may be permitted to offer her opinion in the
23 matters within her area of her qualification,
24 unlike other witnesses that are restricted to
25 things they heard, or experienced, or seen, or

1 heard. You take this testimony just like you take
2 the testimony of any other witness and you give it
3 the weight that you believe it deserves.

4 Now, you may go ahead.

5 BY MR. JENKINS:

6 Q All right. I'm going to put up a document.

7 MR. JENKINS: Your Honor, I'm going to
8 put a document up here so the jury can see it.
9 Would you mind if she steps down?

10 THE COURT: I do not mind. We're going
11 to permit defense counsel to move over here so he
12 can observe.

13 MR. HARVEY: She can get down. I'll wait
14 on her.

15 BY MR. JENKINS:

16 Q Okay. Could you tell the jury what we're looking
17 at here?

18 A So what I did, I was given eight different
19 signatures that were in question, and then I was
20 given six comparison signatures. So all of these,
21 these are some of the comparison signatures, and
22 these are the first two signatures.

23 During my analysis, what I'm about to tell
24 you or show you after I did my analysis, I found
25 multiple differences in every signature. I'm just

1 going to, kind of, show you where they are.

2 Can everybody hear me okay?

3 THE COURT: Can she hear you? Madame
4 Court Reporter?

5 COURT REPORTER: I can hear, yes.

6 THE COURT: She said she can hear you.

7 THE WITNESS: So here's the first one.
8 This is on that power of attorney, the 1995. So
9 what I'm looking at is, I'm looking at this
10 signature and compare it to all his knowns. What
11 do I see? Do I see similarities, differences?

12 What I first noticed was, on the left
13 side of this M, there's this horizontal line here.
14 This is a deliberate mark that it is made, so that
15 is something different. I looked through all his
16 knowns, we don't have that. So that's a
17 difference that we start off with.

18 Now, we have the bottom side, the bottom
19 right side of the M. This itself, this, kind of,
20 loop right there, this is an additional pen
21 stroke. What that means is, when you go down to
22 sign your signature, most people sign their first
23 name, middle initial, last name, all in one
24 stroke. The first name one stroke, middle
25 initial, or sometimes we'll do the first initial,

1 and then -- everybody has a difference.

2 In Mr. Riley's case, he only made this
3 once and it doesn't even look like that, and there
4 was no second stroke. So what I mean by second
5 stroke, this is -- they took their pen up, they
6 put it back down to make this look more one-sided,
7 which this does not occur in this gentleman's, as
8 you can see.

9 The M -- so now I'm looking at the rest
10 of the signature. What I took is this M
11 formation. It doesn't really look like an M.
12 It's just that horizontal line followed by that
13 vertical line.

14 So then we go through all of the knowns.
15 Do I have any of that formation, horizontal and
16 vertical, and then in my Ms? No, I do not. So
17 that was another difference.

18 This was F formation, I also noticed that
19 -- you see the cross? This crosses underneath.
20 This is connected. So the cross is going to make
21 that upside down loop crossing the M.

22 I look at the S. Now, I don't have on
23 the right side any downward stroke, so now that's
24 another difference. That means it's different
25 than that.

1 This is the R. This is where things
2 start getting a little more interesting because
3 Mr. Riley has two ways of signing his Rs. He has
4 this way, which is one stroke, and then he has
5 this way which is one, sometimes two strokes
6 always starting in the middle. Always starting in
7 the middle. And then these two -- or it's this
8 way. So we got this way or this way. But this
9 doesn't look like any of that. It starts on the
10 bottom left. This one pen stroke. So that's one.
11 Then we have another one in here, so that's two,
12 and this one is three, and the whole circle itself
13 is four. The normal strokes for Mr. Riley is two.
14 We got one, two, that's it. We have four strikes
15 to make the R.

16 And what I also noticed was this R is
17 done with the pen. So when you're signing
18 something, you just did that whole thing. You
19 drag it. It's more like a drag. It's a pen.
20 It's something unconscious that people do. I
21 found no examples of him ever doing that in any of
22 his signatures. So that's different.

23 Another difference is this whole thing,
24 the whole formation on top of this is wide, and
25 you'll notice there's some tremors in here.

1 Tremors are indicators of forgery. People that
2 are trying to trace names, or just going slow,
3 methodically in trying to get all the strokes.
4 Unfortunately that didn't work.

5 So, overall, I found seven significant
6 differences in that one signature compared to the
7 known.

8 Now, we go to page 2. Now, on page 2, on
9 this signature, I found 11 differences.

10 So the first difference was this open
11 formation. He had this on this. The thing is,
12 it's always on the top left. So here's the M, and
13 it's on the top left. This one goes all the way
14 down almost to the bottom of the vertical line in
15 that. This is much bigger and longer and further
16 down than any of the known ones that we have.

17 This formation, that we talked about,
18 this one is actually connected. It goes off to
19 the right forming that oval circular formation,
20 around here and then up. Again, never observed in
21 any of the known signatures that we have.

22 Remember how we are talking about
23 strokes? The name Marion with the F formation, if
24 that's what you want to call it, this is all one
25 stroke. This never happened. So it's the M, and

1 then an A, M, and then A. The M and the A are
2 connected. Here they are. The F is never
3 connected to Marion, but it's connected to what's
4 supposed to that.

5 If you notice close, there's a lot of
6 little tremors within that signature. Tremors
7 again are when you start out really slow and you
8 start doing it methodically and they just didn't
9 get it right.

10 The R, there's four strokes, again, in
11 this R as well. So four separate strokes with --
12 yeah, one and two. At the bottom on the side, we
13 have a right hook. See that little hook, that
14 little U formation. Never have I seen it in any o
15 his known signatures.

16 There's also -- following the L, there's
17 supposed to be an E. See this little left hook up
18 under whatever that formation is supposed to be.
19 Again, never observed in any known.

20 And then we have a Y, which is at huge loop.
21 And again, we don't have that in any of that in any of
22 the knowns that we have. We have this small loop.
23 Not to size. It's a very small compared to this.

24 In Sr., we have this little cup that
25 starts the S. Again we have Sr., there's never a

1 little cup. It's just a vertical line and that's
2 it.

3 I believe that's about it. There's a
4 total of 10 differences between that signature.
5 And in our career, it takes one unexplainable
6 difference you can't explain. It's never in the
7 known to state that. It's forgery. That's the
8 standard in the field. So, again, I count 10, so
9 obviously we're well above one.

10 Okay. So we have some that they look
11 somewhat like those, but, again, there's a lot of
12 differences. So we see this oval, usually starts
13 right here, there's a line here. That never occurs in
14 any of -- that does not occur in any of his knowns.
15 So that's, kind of, of a difference. And it's more
16 triangular, which does happen, but just something to
17 note.

18 We also have at the bottom an extra line
19 on this bottom vertical side of the M. That's not
20 observed in any of the knowns.

21 And then we have this formation, which is
22 kind of a formation with an independent stroke.
23 Again, never observed in any of the knowns
24 signatures.

25 If you look at the F, you see how it

1 curves. It's very much curved that way. And see
2 the size of how big that is? It's bigger than the
3 M. The S and M are bigger and never curves that
4 far to the left than in any of the known
5 exemplars.

6 The R formation with the pen I described
7 earlier, again, you see this is three, possibly
8 four strokes. It's typical in the application
9 because the pen lifts. So that was an objective
10 difference. It just looks like they're tremors
11 during the formation.

12 And then this at the bottom of Y has
13 tremors, which is natural. It's this little hook
14 right here. I'm not sure what that is. I didn't
15 observe that in any of the known signatures.

16 And so, moving on to turn page 4. If we
17 look at this M, you see it's flat compared to the
18 vertical M cap. It's slanted far to the right.
19 It's a just little bit more flat. I never
20 observed that in any of the known exemplars.

21 Also, we have an extra line over to the
22 left side of the M. That never occurs in any of
23 known exemplars as well.

24 Following the M formation, there is just
25 a line. Mr. Riley, he never did that in any of

1 the known signatures that I had. He signed
2 something of some sort, but never just a line. So
3 that's obviously significant.

4 And then, obviously I had -- we talked
5 about that curve right here. I'm not even sure
6 what that is, but he never made it that way.

7 And then if you look at the R formation, you
8 can see that there's a of tremors within the R
9 formation itself, which is not consistent with how he
10 did his formation of his R.

11 So following this R formation, which has
12 four to five strokes, those are one or two. There
13 a line there, as we talked talk about in the other
14 one, and not a line in any of the known exemplars.

15 Again, another stroke of E that has a
16 little tremor within the top of it. That's never
17 observed in the known.

18 The Y is much larger than in most of the
19 known signatures, and it's open right here with.
20 This signature is not observed in any of the known
21 exemplars.

22 And this at the beginning of the senior,
23 Sr., it starts way to the left. Almost at the Y
24 formation, elongated. This is his Sr.s. You see
25 them. There's not a long line in the R formation.

1 Again, it's not observed in any of these two
2 signatures.

3 Now, we're on to 5, which we don't have.
4 Do you want to pass?

5 Unfortunately, I just saw that these were
6 brought up twice, so we're just going to say we're
7 two signatures. We're going to pass that
8 analysis.

9 On the top part, see it says page 5,
10 1598. So we look at that M. There's a slant on
11 that M as well, and there seems to be some
12 tremors. It's not a perfectly circular oval in
13 terms of the volume and so forth, and there's an
14 extra line there on the left side of the vertical
15 line of the M. Again, that's never observed in
16 the known exemplars.

17 There is no horizontal line in the F
18 formation. So, we have a horizontal line. They
19 omitted that. That's never been noted in any of
20 the known formations.

21 The R formation is two to three strokes.
22 Although it's never -- that R formation itself
23 doesn't look anything like the exemplars. So,
24 unfortunately, that's not how he does his R.

25 In the name of Riley, if you look at the

1 L formation on the bottom right, there's no
2 tremors throughout those. That is, again, typical
3 of a forgery. And then I think that was about it
4 on that one.

5 And then moving forward to Q-2, page 1,
6 so the loop on the left going down and up on the
7 left side of the M, is different than of the
8 knowns. That bottom formation, forming that
9 triangular formation, goes down the right side
10 again, up and towards the left. That's formation,
11 that stroke that he never makes in any of his
12 writings, in his signature.

13 Again, following the M formation, when he
14 writes Marion F., the F formation has an elongated
15 horizontal line with a sideways U. It's looks
16 like nothing in any of the known exemplars that we
17 were given for comparison.

18 At the beginning of the R, if you notice
19 the beginning of the R, on Q-2, page 1, it starts
20 to the left. So it starts to the left of the R
21 right there on the left-hand side right on the
22 signature line, he never starts it. When he does
23 that formation with the circular R, he always
24 starts in the middle. So that's another
25 significant difference.

1 vertical line with a little hook over here. So,
2 again, it would be a completely different stroke.

3 The last one is, this one was done at
4 10/15/1998. Again, we have a stroke that goes
5 down, goes to the right, and a loop down to the
6 left. That doesn't happen. He does it in only
7 this one case. It goes down and then up. He
8 never has a circle or an oval on the right side of
9 the M formation.

10 So following that, I'm not sure this
11 is -- I assume it's supposed to be an F, but it
12 doesn't look anything like an F. This was done in
13 two different strokes. You have a bottom stroke
14 where it's a little movement. There's an
15 additional circle on top on that. Nothing about
16 how he's ever authored his signature.

17 Again, the beginning of the R, just like
18 before. It starting at the line and it has ovals,
19 and does the circles. He starts in the middle.
20 This is a different formation.

21 This also, as you can see yourself, it's
22 flat up here. It's just natural. It's full of
23 tremors inside of the R indicating someone other
24 than him authored the signature.

25 And that's the analysis of all of these

1 signatures.

2 MR. JENKINS: Your Honor, we wanted to
3 enter these one, two, three slides as 4 with the
4 printer as Exhibits G, H, I, J.

5 MR. HARVEY: No objection.

6 THE COURT: It's to be admitted without
7 observation.

8 (PLF. EXH. G, Signature Slide, G was marked
9 for identification.)

10 (PLF. EXH. H, Signature Slide, was marked
11 for identification.)

12 (PLF. EXH. I, Signature Slide, was marked
13 for identification.)

14 (PLF. EXH. J, Signature Slide, was marked
15 for identification.)

16 BY MR. JENKINS:

17 Q That was a thorough analysis. And my question is
18 -- I know a lot of people are thinking like I'm
19 thinking. I can't say I sign my signature all the
20 time the exact same way.

21 A No one does.

22 Q The time when I'm leaning over and the time when
23 I'm sitting up, I never sign it the same way. Can
24 that account for some of the discrepancies that we see
25 up here with the signature?

1 A No. And the reasoning is, is I had a large
2 amount of span of years to where -- as you
3 mentioned, nobody signs their name the same way
4 twice. But we have a range of variation raising.
5 Meaning, I've seen signatures to where they sign
6 on the line, sometimes in, sometimes out. Those
7 sometimes you just can't do anything. And
8 sometimes, unfortunately, in cases like that to
9 where the range of variation outweighs -- there's
10 nothing I can do. Because if there's no
11 consistency within the signature, we have no base
12 line to work from.

13 With Mr. Riley's, I had a good span of years
14 and I had consistency. He does certain thing. You
15 know, with the R, there's one or two ways. That's it.
16 In all those examples I had, it's one or two ways.
17 There's not a third way or a fourth way. It's just
18 one or two ways.

19 And that's how pretty much it is for all
20 of the letters. I look through all the known
21 exemplars. Now, do these question signatures fall
22 within those range of the variation? What I found
23 was, they didn't.

24 As I mentioned, it takes one
25 unexplainable difference to show that's a

1 potential forgery. I have multiple, multiple
2 significant differences on each signature.

3 Q Is in doing your analysis, did you prove or
4 disprove your hypothesis?

5 A I proved my hypothesis, that Marion Riley did
6 not -- Sr. did not author the signature on this
7 document.

8 Q And we saw a lot of opinions -- tell me, when
9 you're doing that, what types of principles are you
10 using?

11 A I'm sorry.

12 Q Principles.

13 A Principles, yes. So we follow -- the
14 scientific working group of document examiners
15 sets forth our range of principles. How we should
16 be educated. The one significant difference. All
17 of those principles weigh in.

18 What we do as document examiners, we make
19 that hypothesis and then I use all of my
20 scientific equipment to prove or disprove my
21 hypothesis, which I did here. I looked at it
22 under a microscope. I looked for little small
23 things like the tremors we were discussing, all of
24 those could be easily found under a microscope.

25 However, when you see tremors in a signature,

1 especially someone who doesn't have Parkinson's or,
2 you know, that sort of issue that would cause that,
3 when they do occur, you will observe that it is
4 because someone is trying to forge another person's
5 name. It's very slow. When you starting a tremor,
6 you're just writing very slow. Which, when you sign
7 your name -- you know, most people don't sign it like
8 that. They sign it really fast and fluid. The more
9 slow and labored the signature, the more of a
10 possibility of fraud there is.

11 Q I'm going to ask you, who contacted in this
12 matter?

13 A In this matter, Marcus Riley.

14 Q And what were you asked to do?

15 A I was asked -- he said he had a last will and
16 testament and a power of attorney that he was not
17 sure about the authenticity of the signatures. On
18 October 22nd, he contact me and asked me if I
19 could do an analysis of signatures that he was not
20 sure for her grandfather's will.

21 Q So where did you get -- what documents did you get
22 these from?

23 A Sure. You want to go through each one,
24 sir.

25 Q If you could, just name them.

1 A Absolutely. So, the documents in question
2 was the power of attorney and the last will and
3 testament. And then all the known signatures,
4 which were indicated by the K and the date. So
5 just the top two were the ones in question. All
6 those are all known. One was from a South
7 Carolina death notification that was authored in
8 1987. So that's a signature prior to this. And
9 then I have a last will and testament from 1990.
10 I have, it looks like another last will and
11 testament from January 12, 1990, just another
12 signature. I had his South Carolina driver's
13 license from 1992. A burial removal transit
14 permit and death notification authored on July 10,
15 1993. Another one of those documents authored on
16 August 12th, 1993. A consent for treatment, which
17 was authored in 1995. A relocation of power of
18 attorney authored May 28, 1998. And those are the
19 documents that I was given by Marcus Riley along
20 with the questioned documents.

21 Q Did you prepare a report after you did your
22 analysis?

23 A Yes, sir.

24 (PLF. EXH. K, Report; Handwriting, was
25 marked for identification.)

1 A Hoeltzel, yes, sir.

2 Q We haven't met.

3 A Nice to meet you.

4 Q Pleasure.

5 You didn't do this for free, did you?

6 A I did not.

7 Q Okay. And you didn't come down here for free?

8 A I did not.

9 Q And the exemplars that you were given were
10 provided by your client?

11 A Correct.

12 Q You didn't go out and try to find something on
13 your own that would have been a, quote, known
14 signature?

15 A Yes, I did.

16 Q You did?

17 A Yes, sir.

18 Q Okay.

19 A I have --

20 Q Please tell me which ones were.

21 A Absolutely. I have a researcher who has a
22 couple different sites that they can go onto to
23 get into public records with the court cases and
24 so forth. My researcher did conduct -- I guess
25 she spent two and a half hours trying to research

1 Mr. Riley, which she found Mr. Riley was born and
2 raised here. Never left. Built his one house,
3 and that was it. So not a whole lot for us.
4 Because that's where we can usually find them if
5 they are not from family members. Any time you're
6 married, divorced, you know, anything that has to
7 do with court, you know, tickets or anything, if
8 you need to find some sort of signatures. Not
9 from Mr. Riley. He built his house and that was
10 it.

11 Q All right. So, the signatures that you relied
12 upon were provided by who?

13 A Provided by Marcus Riley.

14 MR. HARVEY: Thank you. That's all I
15 have.

16 THE COURT: Redirect?

17 MR. JENKINS: No redirect, Your Honor.

18 THE COURT: Thank you. You may step
19 down.

20 THE WITNESS: Thank you, Your Honor.

21 Call your next witness.

22 MR. JENKINS: Plaintiff rests.

23 (End of excerpt.)

24

25