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Apr 18 2024

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM ALLENDALE COUNTY
Court of Common Pleas

Brooks P. Goldsmith, Circuit Court Judge

Case No. 2023-001281

MARCUS RILEY

Appellant,

v.

Dorothy Riley, individually and Dorothy Riley in her role as Personal Representative of
the Estate of Marion F. Riley Jr. Respondent.

AMENDED RECORD ON APPEAL

Alison Dennis Hood
Ness & Jet, LLC
P.O. Box 909
Bamberg, SC 29003

R. Aaron Ness
Ness & Jet, 909
Bamberg, SC 29003

J. Martin Harvey
110 Main Str.
Barnwell SC 29812

Honorable Brooks P. Goldsmith
Active/Retired Circuit Court Judge
P O Box 895
Edisto Island, SC 29438

April 18 2024

/s/ Ittriss J. Jenkins

Ittriss J. Jenkins

Bar No. 76902

652 Rutledge Ave. Ste. A

Charleston SC 29403

(843) 203-0193

Attorney for Appellant

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The undersigned hereby certifies that the Record on Appeal contains all material proposed to be included by any of the parties and not any other material.

April 18^h 2024

/s/ Ittriss J. Jenkins
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(843) 203-0193
Attorney for Appellant

STATE OF SOUTH CAROLINA

COUNTY OF ALLENDALE

IN THE MATTER OF THE
ESTATE OF MARION F. RILEY,
SR.,

VIRGINIA PRIESTER and
JANICE RILEY,

Petitioners,

MARION F. RILEY, JR.,
Individually and in his Capacity of
Personal Representative of the Estate
Of Marion F. Riley, Sr., and Evelyn
Grant,

Respondents.

IN THE PROBATE COURT

CASE NUMBER: 99-ES-03-00042

A TRUE COPY

D. Keith Smith
D. Keith Smith
Probate Judge For
Allendale County

ORDER

BB
#1
This matter came before the court on petitioners Petition wherein they seek to contest the will of Marion F. Riley, Sr., which was admitted to probate on May 18, 1999, eight days following his death on May 10, 1999. Petitioners filed their petition with this court in November 2001. Respondents answered and asserted, in part, the statute of limitations as a defense. The probate file contains a notice regarding informal probate and proof of delivery to petitioners dated May 18, 1999 wherein they were given notice of the filing of the will. Their argument was that they hadn't seen the will and the statute didn't run until they had been served with a copy. They did not dispute service of the notice and neither came to the Probate Court to see the will nor requested a copy.

Based upon the above, respondent's moved that the contest of the will be dismissed and barred. South Carolina Code Section 62-3-108(3) clearly limits the contest

DEFENDANT'S
EXHIBIT

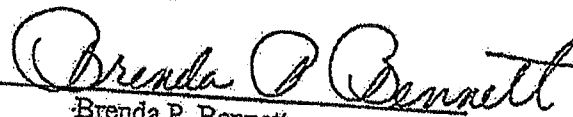
10

ROA3

of a will to be within the later of eight (8) months from the informal probate or one (1) year from decedent's death. Accordingly petitioners right to contest the will is barred by Code Section 62-3-108(3) of the South Carolina Code of Laws 1976 as amended.

Petitioners also sought to set aside a deed of real estate executed prior to decedents death on or about February 26, 1999. Respondents moved to dismiss on the grounds this court lacked jurisdiction. South Carolina Code of Laws Section 14-5-350 grants unto the circuit courts the power to hear matters concerning real estate and this court lacks subject matter jurisdiction. Based upon the above it is

ORDERED, Petitioners petitioner is dismissed with prejudice.



Brenda P. Bennett
Judge of Probate, Allendale County

Allendale
Hampton, South Carolina

October 25, 2002.

FORM 4

STATE OF SOUTH CAROLINA
COUNTY OF Allendale
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NO. 2020CP0300176

Marcus Riley
PLAINTIFF(S)

Dorothy S Riley et al
DEFENDANT(S)

DISPOSITION TYPE (CHECK ONE)

- ☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☒ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ☐ **ACTION DISMISSED (CHECK REASON):** ☐ Rule 12(b), SCRPC; ☐ Rule 41(a), SCRPC (Vol. Nonsuit); ☐ Rule 43(k), SCRPC (Settled);
☐ Other
- ☐ **ACTION STRICKEN (CHECK REASON):** ☐ Rule 40(j), SCRPC; ☐ Bankruptcy;
☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award;
☐ Other
- ☐ **STAYED DUE TO BANKRUPTCY**
- ☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
☐ Affirmed; ☐ Reversed; ☐ Remanded;
☐ Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☐ See attached order (formal order to follow) ☒ Statement of Judgment by the Court:

This matter came before the Court as Defendant Dorothy S. Riley's Motion to Dismiss heard on August 9, 2021 in Allendale County.

Defendant Dorothy S. Riley's Motion to Dismiss is denied.

ORDER INFORMATION

This order ☐ ends ☒ does not end the case.

☐ See Page 2 for additional information.

For Clerk of Court Office Use Only

This judgment was electronically entered by the Clerk of Court as reflected on the Electronic Time Stamp, and a copy mailed first class to any party not proceeding in the Electronic Filing System on 08/18/2021 .

NAMES OF TRADITIONAL FILERS SERVED BY MAIL

Court Reporter:

E-Filing Note: The date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgment to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRCP.



Allendale Common Pleas

Case Caption: Marcus Riley VS Dorothy S Riley , defendant, et al
Case Number: 2020CP0300176
Type: Order/Electronic Form 4

IT IS SO ORDERED!

/s Hon. Bentley D. Price, Circuit Judge 2766

Electronically signed on 2021-08-18 13:10:34 page 3 of 3

ROA7

STATE OF SOUTH CAROLINA
COUNTY OF ALLENDALE

IN THE COURT OF COMMON PLEAS
FOURTEENTH JUDICIAL CIRCUIT

MARCUS RILEY

Plaintiff,

vs.

DOROTHY RILEY, INDIVIDUALLY AND
DOROTHY RILEY, in her role as Personal
Representative of The Estate of Marion F.
Riley, Jr.

Defendants.

CASE NO.: 2020-CP-03-00176

ORDER

THIS CAUSE came to be heard before the Court on October 31, 2022, on a case filed by the Plaintiff Marcus Riley, through his attorney Ittriss J. Jenkins of the Charleston County Bar. The Defendant replied with an answer through her attorney J. Martin Harvey of the Hampton County Bar.

AND IT FURTHER APPEARING TO THE COURT that the Plaintiff appeared in Court along with his Counsel, and the Defendant appeared in Court individually and as the Personal Representative of the Estate of Marion F. Riley Jr., along with her counsel. The case was heard before a jury.

The parties stipulated that should the jury find in favor of Plaintiff, the Power of Attorney in question would be declared void, as would other documents executed under the authority of said Power of Attorney. The verdict of the jury was for the Plaintiff.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED:

The Power of Attorney recorded in DEED BOOK 123, page 143, in the Office of the Clerk of Court for Allendale County, South Carolina, is hereby declared void ab initio.

IT IS ALL SO ORDERED.

Brooks Goldsmith
Circuit Court Judge, Active Retired

[JUDGE'S E-SIGNATURE PAGE FOLLOWS]



Allendale Common Pleas

Case Caption: Marcus Riley VS Dorothy S Riley , defendant, et al

Case Number: 2020CP0300176

Type: Order/Other

It is so Ordered

Brooks P. Goldsmith, Circuit Court Judge

Electronically signed on 2023-05-04 08:16:51 page 3 of 3

ROA10

STATE OF SOUTH CAROLINA
COUNTY OF ALLENDALE

IN THE COURT OF COMMON PLEAS
FOURTEENTH JUDICIAL CIRCUIT

MARCUS RILEY

Plaintiff,

vs.

DOROTHY RILEY, INDIVIDUALLY AND
DOROTHY RILEY, in her role as Personal
Representative of The Estate of Marion F.
Riley, Jr.

Defendants.

CASE NO.: 2020-CP-03-00176

**ORDER GRANTING DEFENDANT'S
MOTION FOR NEW TRIAL ABSOLUTE**

THIS MATTER came before the Court and was tried to a jury verdict on October 31, 2022. The verdict of the jury was for the Plaintiff. On November 3, 2023 Defendant, Dorothy Riley, in her role as Personal Representative of the Estate of Marion F. Riley, Jr., by counsel, moved this Court for a New Trial Absolute Pursuant to SCRCP 59(a). A subsequent Motion to Alter or Amend Judgment Pursuant to SCRCP Rule 59(e) was filed by Defendant on November 11, 2023. Plaintiff submitted a memorandum opposing Defendant's Motions on July 5, 2023.

Defendant's Motion for a new trial asserts that there was not clear and convincing evidence that the October 1998 power of attorney was a forgery, and that "the plaintiff failed to prove by a preponderance of the evidence that he did not have a reasonable basis to know of the suspected forgery three years before the filing of this action."

Under South Carolina's thirteenth juror doctrine, a trial judge may sit as the thirteenth juror and find that the evidence does not support the verdict, and then grant a new trial based solely upon the facts. Norton v. Norfolk S. Ry. Co., 350 S.C. 473, 567 S.E.2d 851 (2002)

Upon due consideration of all submissions made, this Court finds that the evidence

presented in this case does not justify the verdict.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED:

Defendant's Motion for a new trial absolute is GRANTED.

Brooks Goldsmith
Circuit Court Judge, Active Retired

[JUDGE'S E-SIGNATURE PAGE FOLLOWS]

STATE OF SOUTH CAROLINA	)	IN THE COMMON PLEAS
	)	FOURTEENTH JUDICIAL CIRCUIT
COUNTY OF ALLENDALE	)	
	)	
	)	CASE NO.: 2020-CP-03-0176
	)	
MARCUS RILEY	)	AMENDED COMPLAINT
Plaintiff,	)	(Jury Trial Requested)
v.	)	
	)	
DOROTHY RILEY, INDIVIDUALLY	)	
AND DOROTHY RILEY IN HER ROLE	)	
AS PERSONAL REPRESENTATIVE OF	)	
THE ESTATE OF MARION F RILEY Jr.	)	
	)	
Defendants.	)	

The Plaintiff above-named through his attorney Ittriss J. Jenkins complains of the defendant herein, would respectfully show unto this Honorable Court as follows:

PARTIES AND JURSDICTION

1. The Plaintiff is an individual, based in Houston Texas and the son of Marion F. Riley Jr.
2. The Estate Marion F. Riley Jr. is open in Allendale County Probate Court, located in Allendale County South Carolina.
3. Dorothy Riley is the Personal Representative of the Estate Marion F. Riley Jr. and Mr. Riley's widow.
4. The fraudulent transfer of real-estate alleged in this complaint occurred in Allendale County, South Carolina.
5. All other potential co-conspirators live in Allendale County, South Carolina.
6. This Court has jurisdiction over all civil cases worth more than \$7500.

7. This Court as jurisdiction over the counts related to the Act pursuant to U.S.C. 1719, which provides concurrent jurisdiction over suits in equity and actions at law brought to enforce any liability or duty created by this title. Any suit or action may be brought in the district where the offer or sale took place if the Defendant participated therein....” Furthermore, section 1420 also provides “no case arising under this title and brought in any State court of competent jurisdiction shall be removed to any court of the United States.”

8. Plaintiff is informed and believe that Jurisdiction is proper in Allendale County, South Carolina

GENERAL FACTUAL ALLEGATIONS

9. This case began with some transactions that occurred by Marion F. Riley Jr. without his father’s Marion F. Riley Sr knowledge.

10. On May 18 1995 Marion F. Riley Jr. produced a fraudulent Power of Attorney making him attorney in fact over his father Marion F. Riley Sr.

11. With that Power of Attorney, Plaintiff is informed and believes that Marion F. Riley Jr. produced a fraudulent will.

12. On May 28th 1998, Marion F. Riley Sr, discovered the fraudulent will and revoked the Power of Attorney.

13. On October 15th 1998, Marion F. Riley Jr. obtained another fraudulent Power of Attorney over his father.

14. With that Power of Attorney, Marion F. Riley Sr. transferred all the property and interest belonging to Marion R. Riley Sr. to himself.

15. Marion F. Riley Sr. passed on May 10th 1999.

16. Marion F. Riley Jr. opened the Estate for his father on May 18th 1999.

17. Throughout the probate process Marion F. Riley Jr. made many false claims and he was delinquent on production.
18. The probate estate was without any real property because Marion F. Riley Jr already transferred the assets with a fraudulent Power of Attorney.
19. There was a lawsuit filed on November 5th 2001 but it was dismissed on October 23rd 2002.
20. Marion F. Riley Jr. died with a will on June 8th 2018.
21. His estate is now being transferred has described in his will.
22. There is property in his Estate that was obtained by fraudulent means.
23. The Decedent was married to Dorothy Riley at the time the transfers occurred, therefore we are informed and believe that she has knowledge of or participated in the fraudulent acts.
24. Plaintiff is informed and believes that the fraudulent actions of the Defendants were a direct and proximate cause of damages.

FOR THE FIRST CAUSE OF ACTION
(Fraud)

25. Plaintiff believes that the Defendants committed Fraud when they obtained an invalid Power of Attorney and transferred property and interest to Marion F. Riley Jr.
26. The Defendants received the benefits from their fraudulent actions.
27. The transferring of the assets belonging from Marion F. Riley Sr. to Marion F. Riley Jr. was fraudulent because Marion F Riley Jr. used a fraudulent Power of Attorney.
28. Marion F. Riley Jr. knew he did not have a legal Power of Attorney.
29. The reversal of the fraudulent actions would be equitable under the circumstances.
30. This action also contradicts the public policy requirement of self-dealing that accompanies many Power of Attorneys in South Carolina.

31. The actions of Marion F. Riley Jr. also contradicts the wishes of Marion F. Riley Sr. in his will that his children will share and share alike all assets.

FOR THE SECOND CAUSE OF ACTION

(Lack of capacity)

32. Plaintiff reaffirm and reiterate all the allegations in the First Cause of Action as is fully repeated and is incorporated herein verbatim.

33. Plaintiff is informed and believes that during the time the Power of Attorney was supposedly executed by Marion F. Riley Sr. when he was in an incapacitated state. This did not allow him to have the capacity to sign a Power of Attorney.

34. Marion F. Riley Sr. suffered from physical complications that hindered his ability to make sound decisions.

35. The Power of Attorney should also be deemed fraudulent due to lack of capacity.

WHEREFORE, Plaintiff, respectfully prays:

1. For a finding of fraud on behalf of the Decedent.
2. For a finding that the Decedent lacked the capacity to sign a valid Power of Attorney.
3. Void all transfers that occurred with the fraudulent Power of Attorney and return the assets to the Estate of Marion F. Riley Sr.
4. In the alternative a jury trial on the issue of fraud and lack of capacity.
5. Any such relief as this Court may deem just, equitable and proper.

Respectfully Submitted,

s/Ittriss J. Jenkins
ITTRISS J. JENKINS
S.C. Bar No. 76902
Attorney for the Plaintiff
652 Rutledge Ave. Suite A
Charleston, SC 29403

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(866) 307-5541
ittriss@jenkinslaw1.com

July 5th, 2020

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
COUNTY OF ALLENDALE) FOURTEENTH JUDICIAL CIRCUIT

MARCUS RILEY)
) Case No.: 2020-CP-03-0176
)
PLAINTIFF,)
) AMENDED ANSWER
v.)
)
DOROTHY RILEY, INDIVIDUALLY AND)
Dorothy Riley, in her role as)
Personal Representative of the)
ESTATE OF MARION F. RILEY, JR.)
)
DEFENDANTS.)
)

Defendant, Dorothy Riley, individually and as Personal Representative of the Estate of Marion F. Riley, Jr., by counsel, answers the Complaint herein, alleging:

AS A FIRST DEFENSE

This Court lacks ~~subject matter jurisdiction~~ over this action in that Plaintiff does not have standing to sue. Plaintiff seeks relief based upon allegations of fraudulent conduct between Marion F. Riley, Sr., his grandfather, and Marion F. Riley, Jr., his father. He alleges Marion F. Riley, Sr. died before Marion F. Riley, Jr., which is admitted. Upon information and belief, Plaintiff was neither a devisee nor an heir at law of Marion F. Riley, Sr. As such, he has not now, nor has he ever had, ~~standing~~ to sue to challenge transactions between his grandfather and father.

AS A SECOND DEFENSE

The allegations of the Complaint are barred by ~~res judicata~~. The estate of Marion F. Riley, Sr. is closed. Any and all claims involving the mental capacity of Marion F. Riley, Sr., have been,

or should have been, litigated and cannot now be re-opened.

AS A THIRD DEFENSE

With respect to the Estate of Marion F. Riley, Sr., the allegations of the Complaint are ~~barred by p.ene admistrative~~.

AS A FOURTH DEFENSE

The allegations of the Complaint are barred by the applicable ~~Statute of Limitations~~.

AS A FIFTH DEFENSE

Each and every allegation of the Amended Complaint is denied unless herein admitted, modified or explained.

Paragraphs 1, 2, 3, and 6 are admitted.

Paragraph 4 is denied to the extent it alleges any transfers of real estate were fraudulent.

Paragraphs 5, 7, 8, 9, 10, 11, 12, 13, 14, 17, 18, 19, 22 and 24 are denied.

Paragraphs 15 16, 20, 21, and 23 are admitted.

Paragraphs 25, 26, 27, 28, 29, 30 and 31 are denied.

Paragraphs 32, 33, 34 and 35 are denied.

WHEREFORE, Defendant demands dismissal of this action and her costs.

/s/J. Martin Harvey
J. Martin Harvey
SC BAR NO: 2785
jhm@hkattorney.net
HARVEY & KULMALA, LLC
Attorneys at Law
110 Main St.
P.O. Box 705
Barnwell, SC 29812

November 19, 2020.

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF ALLENDALE	)	FOURTEENTH JUDICIAL CIRCUIT
	)	
MARCUS RILEY	)	Case No.: 2020-CP-03-0176
	)	
	)	
PLAINTIFF,	)	
	)	MOTION TO DISMISS
v.	)	
	)	PURSUANT TO RULE 12
DOROTHY RILEY, INDIVIDUALLY AND	)	
Dorothy Riley, in her role as	)	
Personal Representative of the	)	
ESTATE OF MARION F. RILEY, JR.	)	
	)	
DEFENDANTS.	)	
	)	

TO PLAINTIFF ABOVE NAMED

Pursuant to Rule 56 South Carolina Rules of Civil Procedure, Defendant moves for summary judgment on the grounds that:

1. Plaintiff does not have standing to sue in that he was neither a devisee nor an intestate heir of Marion F. Riley, Sr., and this court lacks subject matter jurisdiction.
2. The facts alleged in the Amended Complaint indicate the suit was filed more than 6 years after the alleged fraudulent conduct stated in the Amended Complaint and this action is barred by the applicable Statute of Limitations.
3. The closing of the Estate of Marion F. Riley, Sr. is res judicata as to issues that could have been raised as to Marion F. Riley's mental competence or Marion F. Riley Jr.'s fraud. Moreover, the issues raised in the Amended Complaint were raised and litigated in the Probate Court and the claims that Marion F. Riley, Sr. lacked mental capacity to execute a Will and to have the deed of Marion F. Riley, Jr. as his father's attorney in fact should be set aside were dismissed with prejudice by Order of Court should grant judgment on the pleadings.

HARVEY & KULMALA, LLC
P.O. Box 705
Barnwell, SC 29812
(803) 259-5531

/s/ J. Martin Harvey
Harvey and Kulmala, LLC
Attorney for Plaintiff
SC Bar No: 2785
Po Box 705
Barnwell SC 29812

February 12, 2021
Barnwell, South Carolina

CERTIFICATE OF SERVICE

I, J. Martin Harvey, Attorney, do hereby certify that I have served the foregoing document by mailing a copy of same, postage prepaid, on the date shown below as follows:

Ittriss J. Jenkins
652 Rutledge Ave. Suite A
Charleston SC 29403

HARVEY & KULMALA, LLC
P.O. Box 705
Barnwell, SC 29812
(803) 259-5531

/s/ J. Martin Harvey
Harvey and Kulmala, LLC
Attorney for Plaintiff
SC Bar No: 2785
Po Box 705
Barnwell SC 29812

February 12, 2021
Barnwell, South Carolina

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
COUNTY OF ALLENDALE) FOURTEENTH JUDICIAL CIRCUIT

MARCUS RILEY)
))
PLAINTIFF,)
))
v.) DEFENDANT'S MOTION
))
DOROTHY RILEY, INDIVIDUALLY AND) FOR NEW TRIAL ABSOLUTE
Dorothy Riley, in her role as)
Personal Representative of the) PURSUENT TO
ESTATE OF MARION F. RILEY, JR.) SCRPC RULE59(a)
))
DEFENDANTS.)

TO PLAINTIFF AND HIS ATTORNEY:

Defendant, Dorothy Riley, in her role as Personal Representative of the Estate of Marion F. Riley, Jr., by counsel, hereby moves pursuant to Rule 59(a), S.C.R.C.P. for an Order of this Court granting a new trial absolute in that there was not clear and convincing evidence that the October 1998 power of attorney was a forgery. Further a new trial should be granted because the plaintiff failed to prove by a preponderance of the evidence that he did not have a reasonable basis to know of the suspected forgery three years before the filing of this action.

In support of her motion, Defendant asserts:

- A. The only evidence that the signature on the power of attorney was a forgery was expert opinion. No lay person testified on behalf of the plaintiff that the signature on the power of attorney was not that of Marion F. Riley, Sr.
- B. One of the witnesses to the power of attorney testified that Marion F. Riley, Sr. had signed it in her presence and in the presence of another witness.
- C. The plaintiff's expert witness admitted she had no source of an exemplar signature of Marion F. Riley, Sr. other than what the plaintiff provided.
- D. There is ample evidence in the record that the plaintiff had notice that his father, Marion F. Riley, Jr. had title to all of Marion F. Riley Sr.'s real estate as early as 2003 when he asked for permission to live in his grandfather, Marion F. Riley, Sr.'s house. The

plaintiff knew about his father's giving of his grandfather's residence to his sister, Renique in 2014. The plaintiff knew that there was a boundary dispute over property owned by his cousins and the Riley funeral home in 2015.

- E. As the Thirteenth juror, the Court should find that the evidence does not justify the verdict.

HARVEY & KULMALA, LLC

/s/ J. Martin Harvey
J. Martin Harvey
P.O. Box 705
Barnwell, S.C. 29812
(803) 259-5531
Attorney for Plaintiff

November 3, 2022

CERTIFICATE OF SERVICE

I, J. Martin Harvey, Attorney, do hereby certify that I have served the foregoing document by mailing a copy of same, postage prepaid, on the date shown below as follows:

Ittriss J. Jenkins
652 Rutledge Ave. Suite A
Charleston SC 29403

/s/ J. Martin Harvey
J. Martin Harvey

November 3, 2022
Barnwell, South Carolina

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
COUNTY OF ALLENDALE) FOURTEENTH JUDICIAL CIRCUIT

MARCUS RILEY)
) Case No.: 2020-CP-03-0176
) PLAINTIFF,)
) DEFENDANT'S MOTION
) v.)
) TO ALTER OR AMEND
) DOROTHY RILEY, INDIVIDUALLY AND)
) JUDGMENT PURSUENT TO
) Dorothy Riley, in her role as)
) SCRCF RULE59(e)
) Personal Representative of the)
) ESTATE OF MARION F. RILEY, JR.)
) DEFENDANTS.)
)

TO PLAINTIFF AND HIS ATTORNEY:

Defendant, Dorothy Riley, in her role as Personal Representative of the Estate of Marion F. Riley, Jr., by counsel, hereby moves pursuant to Rule 59(e), S.C.R.C.P. for an Order of this Court altering or amending its bench order entered on November 1, 2022 denying the Defendant's motions for directed verdict and for judgment notwithstanding the verdict. The Court was not specific in its denials and this motion is for purposes of more clearly defining the issues on appeal.

In support of her motion, Defendant asserts:

- A. The trial court erred in declining to dismiss this matter for plaintiff's lack of standing.
- B. The trial court erred in declining to dismiss this matter pursuant to S. C. Code Ann. §§15-3-340 and 15-67-210 for plaintiff's failure file suit within ten (10) years after recording of the deeds in 1999.
- C. The trial court erred in declining to dismiss this matter for plaintiff's failure to timely comply with S.C. Code Ann. §62-3-803 nonclaim statute.
- D. The trial court erred in declining to accept Defendant's Request to Charge Nos. 1, 2, 3, 4, 5, 6 and 7.
- E. The trial court failed to dismiss this action *sua sponte* for lack of subject matter jurisdiction pursuant to S. C. Code §62-1-302 (a) in that the Probate Court had exclusive

jurisdiction over this action and (d) as there was no evidence in the record that the amount in controversy exceeded \$5,000.00 and defendant testified on reply that he was not asking for monetary damages.

HARVEY & KULMALA, LLC

/s/ J. Martin Harvey
J. Martin Harvey
P.O. Box 705
Barnwell, S.C. 29812
(803) 259-5531
Attorney for Plaintiff

November 9, 2022

CERTIFICATE OF SERVICE

I, J. Martin Harvey, Attorney, do hereby certify that I have served the foregoing document by mailing a copy of same, postage prepaid, on the date shown below as follows:

Ittriss J. Jenkins
652 Rutledge Ave. Suite A
Charleston SC 29403

/s/ J. Martin Harvey
J. Martin Harvey

November 9, 2022
Barnwell, South Carolina

STATE OF SOUTH CAROLINA
COUNTY OF ALLENDALE

IN THE COURT OF COMMON PLEAS
FOURTEENTH JUDICIAL CIRCUIT

MARCUS RILEY

Case No.: 2020-CP-03-0176

PLAINTIFF,

v.

DOROTHY RILEY, in her role as
Personal Representative of the
ESTATE OF MARION F. RILEY, JR.

DEFENDANTS.

VERDICT

We the jury in the referenced case, unanimously find:

✓

for the plaintiff Marcus Riley.

for the defendant.

October ____ 2022

November 1, 2022

Martha Banks

Foreman

STATE OF SOUTH CAROLINA

COUNTY OF ALLENDALE

MARCUS RILEY

PLAINTIFF,

v.

DOROTHY RILEY, INDIVIDUALLY AND
Dorothy Riley, in her role as
Personal Representative of the
ESTATE OF MARION F. RILEY, JR.

DEFENDANTS.

IN THE COURT OF COMMON PLEAS

FOURTEENTH JUDICIAL CIRCUIT

Case No.: 2020-CP-03-0176

Request to Take Judicial

Notice of Facts

Defendant, Dorothy Riley, individually and as Personal Representative of the Estate of Marion F. Riley, Jr., by counsel, and pursuant to Rule 201(d) South Carolina Rules of Evidence, requests the Court to take judicial notice of the following facts that are either generally known within the territorial jurisdiction of the Fourteenth Judicial Circuit or are capable of accurate and ready determination by resort to sources whose accuracy cannot be reasonably questioned, i.e., records of the Probate Court and Clerk of Court, copies of which are attached:

1. Defendant's husband, Marion F. Riley, Jr., died on June 8, 2018. Defendant's Exhibit 2.
2. Marion F. Riley Jr. left a Will dated April 3, 2008 which was admitted to informal probate on June 27, 2018.

real property owned by Marion F. Riley, Sr. to himself. The deed is recorded in the Allendale County records in Deed Book 127 at page 1. Defendant's Exhibit 6.

10. Marion F. Riley, Sr. died on May 10, 1999. Defendant's Exhibit 7.

11. Marion F. Riley, Sr.'s Last Will and Testament dated May 22, 1995 was admitted to informal probate on May 18, 1999 and is of record in the Allendale County Probate Court in file no. 99-ES-03-00042. Defendant's Exhibits 7 and 8.

12. Marion F. Riley, Sr.'s heirs at law were his children, Virginia Priester, Janice Riley, Marion F Riley, Jr. and Evelyn Grant. They were all living when their father died. Defendant's Exhibit 8.

13. On November 5, 2001, while Marion F. Riley, Sr.'s estate was pending, two of Marcus Riley's aunts -- his father's sisters -- Virginia Priester and Janice Riley, filed a Complaint in the Allendale County Probate Court. Defendant's Exhibit 9.

14. Virginia Priester and Janice Riley alleged in their Complaint that Marion F. Riley, Sr. lacked the mental capacity to enter into the Will dated May 22, 1995. Defendant's Exhibit 9.

15. Virginia Priester and Janice Riley sought through their

at trial.

Complaint to have the Probate Court disregard the 1995 Will and instead proposed that a Will Marion F. Riley, Sr. had executed in 1990 govern the disposition of their father's estate. Defendant's Exhibit 9.

16. The November 5, 2001 Complaint further alleged that the signature of Marion F. Riley, Sr. on the Will dated May 22, 1995 was not that of Virginia Priester and Janice Riley's father. Defendant's Exhibit 9.

17. The Complaint also alleged that a deed Marion F. Riley, Jr. recorded on February 26, 1999, by which he conveyed title to real property owned by Marion F. Riley, Sr. to himself, was executed without the knowledge and/or consent of their father, Marion F. Riley, Sr., and sought to have it set aside and ownership of the property returned to the estate of Marion F. Riley, Sr. Defendant's Exhibit 9.

18. The Complaint was dismissed with prejudice by Order dated October 22, 2002. Defendant's Exhibit 10.

19. Marion F. Riley Sr.'s estate was closed and Marion F. Riley, Jr., the Personal Representative, was discharged by Order of the Probate Judge on April 8, 2003. Defendant's Exhibit 11.

21 The anniversary of the death of Marion F. Riley, Jr. was June 8, 2019.

Pursuant to SCRE Rule 201(g) the facts stated herein as judicially noticed shall be instructed to the jury that these are conclusive for their deliberations.

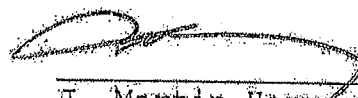
/s/J. Martin Harvey
J. Martin Harvey
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October 18, 2022.

CERTIFICATE OF SERVICE

I, J. Martin Harvey, Attorney, do hereby certify that I have served the foregoing document by hand-delivering a copy of same on the date shown below as follows:

Ittriss J. Jenkins
652 Rutledge Ave. Suite A
Charleston SC 29403


J. Martin Harvey

October 18, 2022
Barnwell, South Carolina

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 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 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 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. Virgina 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 Virgina 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 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 Now, we go back. Page 2. So, this is
2 question 2. So what I first saw was the M. One
3 was taller. I'll saw some tall ones. I never got
4 a horizontal line starting with the M formation
5 going down. Not in any of these writings or
6 anything with like that. Nor do I have an example
7 of the horizontal line on the bottom left-hand
8 side. Those are two quite significant differences
9 between that signature.

10 The A R and the I O N, it increases from
11 the space from the signature line as it goes -- as
12 the letters go up. It either goes down or stays
13 the same. They suddenly increase away from the
14 signature line. That's another significant
15 difference that I observed.

16 This R formation, we have four different
17 strokes. We have an outside one, this second one,
18 a middle one, and it comes around and picked up
19 here and back around. So four different strokes
20 within that. Again, he does the O as two. Again,
21 we have a large O, which again he doesn't have
22 these little small ones. They were never that
23 large.

24 And then the Sr., this Sr., again one stroke.
25 This S and R, this has as a line to the right, a

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 BY MR. JENKINS:

2 Q I'm going to show you what has been labeled
3 Plaintiff's Exhibit K. For identification purposes,
4 can you tell the jury what that is?

5 A Yes. It's an affirmation. Pretty much just
6 a letter that I can submit to the client or
7 attorney to where he can file it in a court of
8 law.

9 Q Thank you.

10 MR. JENKINS: Your Honor, I'm going to
11 ask that be entered into evidence as Exhibit K.

12 MR. HARVEY: Can I see that again,
13 please? Thank you.

14 May we approach, Your Honor?

15 (Bench conference off the record.)

16 BY MR. JENKINS:

17 Q Miss Hoeltzel, in your professional opinion, Mr.
18 F. Riley, Sr. sign all of the documents that you
19 reviewed?

20 A No.

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

23 CROSS-EXAMINATION

24 BY MR. HARVEY:

25 Q Forgive me, Hoeltzel?

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 innuendo, somebody in this courtroom has been
2 alleged to have forged his signature. She's
3 entitled to defend herself.

4 MR. JENKINS: And, Your Honor, I disagree
5 with that. I never said she did.

6 THE COURT: I've sustained the
7 objection.

8 BY MR. HARVEY:

9 Q All right. Thank you, Ms. Riley. Do you have
10 anything else you'd like to talk to us about about
11 Sonny?

12 A I just want to say, first of all, my
13 father-in-law, Mr. Marion, was sick. His daughter
14 Evelyn in Miami was the only one. And she would
15 call Sonny. Mr. Marion used my car for Evelyn to
16 take him -- he had to go to Augusta every week.

17 Out of all his grandkids, none of them
18 offered him a car. He had to use my car to go up and
19 down to Augusta every week. Evelyn came down and here
20 stayed with him every week. Evelyn was the one that
21 took care of him between her and Sonny. But they did
22 so much love their granddaddy.

23 And another thing, I wasn't married to
24 Mr. Marion. I was married to Mr. Marion, Sr.

25 Q Thank you. Answer any questions on

1 cross-examination.

2 THE COURT: Cross-examination.

3 MR. JENKINS: Briefly.

4 CROSS-EXAMINATION

5 BY MR. JENKINS:

6 Q Good morning, Ms. Riley.

7 A Good morning.

8 Q I just want to just clear a few things up.

9 You just said that when he got sick that he
10 borrowed your car.

11 A Use -- his daughter used my car every week to
12 take him to Augusta to the doctor. Every week.

13 Q I totally understand. That was very noble for you
14 to do. That was really --

15 A I appreciated doing it. He was a good man.

16 Q Marcus, he was in Oklahoma. So borrowing his car
17 would have, kind of, been out of the question.

18 A Marcus wasn't concerned. He would have
19 called and asked somebody else in the family. I
20 was just the in-law.

21 Q So, you know, we appreciate your gesture. That
22 wasn't a smack to say that Marcus didn't try to take
23 care of his family members, because he couldn't have
24 done it from where he was anyway.

25 A Well, he could have called his sisters, his

1 siblings in Fairfax to use their car.

2 Q And you have no way absolutely to know that he
3 didn't, because you don't know a conversation that had
4 happened --

5 A No. I can only say what I did.

6 Q I noticed you said that Marcus was I think you
7 said the problem person.

8 Didn't you call him the golden child because
9 of all he achieved and what he had gone through and
10 how he was an attorney? Didn't you call him the
11 golden child to Sonny?

12 A Golden what?

13 Q The golden child. Didn't you refer to him as the
14 golden child at one time?

15 A No. No, I never done that.

16 Q You said you didn't know that the property was
17 transferred to Renique.

18 A I didn't.

19 Q And I think your quote was, "I didn't get into
20 Sonny's business."

21 A Excuse me?

22 Q Your quote was, "I didn't get into Sonny's
23 business."

24 A I didn't.

25 Q So you wouldn't know whether that document was

1 forged in 1998.

2 A Well, I mean, he did it in front me and my
3 daughter. Took him off. And they were together,
4 and I didn't know. They were just that close.

5 Q So you cannot confirm whether or not on May 4th of
6 1998, Sonny Riley forged a document so that he could
7 get power of attorney.

8 A No doubt in my mind Sonny didn't do that.
9 There's no question in my mind.

10 Q But the question is, were you there?

11 A I wasn't there.

12 Q Because you didn't get in Sonny's business, right?

13 A No. He didn't tell me. Because being his
14 job he had. He was a quiet person.

15 Q I totally understand. Yes, ma'am.

16 A Okay.

17 Q When you filed an information in heirs to make
18 sure that the heirs -- you said you mailed one to
19 Marcus.

20 A I did.

21 Q Do you remember the address?

22 A No, not in my mind. Not his exact address.

23 Q Do you remember the city, anyplace, where he was
24 at that time?

25 A I don't know. The only thing I did is mail

1 the letter.

2 Q If you don't mind me asking: Where did you get
3 the address from?

4 A From him. It was on the paper that we showed
5 yesterday when he texted it to me.

6 Q Well, to my understanding from yesterday,
7 Mr. Harvey asked my client, did he respond, and he
8 said he didn't.

9 A He did. He told me, "Thank you."

10 Q He did and told you, "Thank you"?

11 A Yeah, it was on that paper yesterday.

12 Q I went and pulled this from the probate office.
13 And it says proof of delivery, which is what you're
14 supposed to file.

15 Did you file a proof of delivery?

16 A I filed everything I needed to do.

17 Q And -- because when I pulled this proof of
18 delivery, it didn't have anything on the back.

19 So are you saying the court lost the
20 document?

21 A I don't know if the court did. But I did
22 what I was supposed to.

23 Q So, technically, you really don't have anything
24 but your word to say that this is what you did and you
25 sent this to me.

1 A Oh, he received it.

2 MR. JENKINS: Okay. No further
3 questions, Your Honor.

4 THE COURT: Redirect?

5 MR. HARVEY: Your Honor, I thought we had
6 marked the text screen shots. So if I can, I'd
7 like to please --

8 THE COURT: I thought it was introduced
9 yesterday.

10 MR. HARVEY: Well, I'll double kill it
11 then.

12 MR. JENKINS: Your Honor, may I review
13 that?

14 MR. HARVEY: This is what we passed
15 around yesterday.

16 MR. JENKINS: No, this is not -- this is
17 not what what you passed around yesterday.
18 Yesterday was asking a question about where it
19 was.

20 Your Honor, may we approach, please?

21 (Bench conference off the record.)

22 MR. JENKINS: No, objection.

23 REDIRECT EXAMINATION

24 BY MR. HARVEY:

25 Q Just to make sure, this is the screen shot of the

1 text from your phone that you sent me that I printed
2 out.

3 A Yes, sir.

4 Q This is Defendant's 12.

5 A Yes.

6 Mr. HARVEY: I have no further questions.

7 THE COURT: Did you introduce that? Did
8 you just introduce that as an exhibit?

9 MR. HARVEY: Yes, sir. And He said no
10 objection.

11 THE COURT: I just wanted to make sure
12 for the record.

13 MR. JENKINS: Yes, sir.

14 MR. HARVEY: I'm done.

15 THE COURT: All right. Thank you, ma'am.
16 You may step down.

17 MR. HARVEY: Defendant rests.

18 THE COURT: Ladies and gentlemen, it
19 seems like it's a great time for us to take a
20 lunch break. We'll come back about 1:00. See you
21 then. And we'll see what's going to happen this
22 afternoon. I remind you, don't talk to anybody
23 about the case.

24 (Jury exits the courtroom at 11:50 a m.)

25 THE COURT: We'll take a break until

1 12:30-ish or thereabouts. We'll come back and
2 talk some before they return.

3 MR. JENKINS: Yes, sir.

4 (A break was taken from 11:50 a.m. to
5 12:37 p m.)

6 THE BAILIFF: All rise. This court will
7 come to session.

8 THE COURT: Please keep your seats,
9 ladies and gentlemen.

10 Okay. If I recall, the defense has
11 rested. The plaintiff's going to call a witness
12 in reply.

13 MR. JENKINS: Yes, sir.

14 THE COURT: Any motions in the meantime?

15 MR. JENKINS: No, sir.

16 THE COURT: Well, I guess we're ready.

17 Well, let me ask you this other question.

18 Let's keep moving ahead of ourselves to see where
19 we're going. I still have these motions under
20 consideration, but let's just suppose again for the
21 sake of argument that the Court denies all the
22 motions.

23 Are you-all prepared and ready to go and
24 argue to the jury?

25 MR. HARVEY: That's correct, Your Honor.

1 MR. JENKINS: Yes, sir.

2 MR. HARVEY: I will have an additional motion
3 for a directed verdict.

4 THE COURT: Assuming the Court denies
5 that one.

6 MR. HARVEY: I'm ready to argue.

7 THE COURT: I'm trying to go down that
8 road.

9 Now, yesterday we talked about a verdict
10 form. We talked about a very simple verdict form
11 for the plaintiff, for the defendant. We might
12 have a separate form other than that?

13 MR. HARVEY: Your Honor, after I had some
14 thought, I emailed you a copy. Mr. Jenkins and I
15 thought, well, there's two defendants, and so
16 there can be a finding against one defendant as --
17 Ms. Riley as personal representative or a finding
18 against Ms. Riley individually or both.

19 So I suggested four possible verdicts
20 finding for the plaintiff -- in favor of plaintiff
21 against the estate, in favor of the defendant
22 against -- I mean, in favor of the plaintiff
23 against the individual, in favor of the plaintiff
24 against both, and then in favor of the defendants.
25 That was my suggestion.

1 THE COURT: And you thought it might be
2 confusing.

3 MR. JENKINS: I thought it might be a
4 little confusing, Your Honor. What we didn't
5 do -- unless the judge is going to give
6 instructions to the jury so they'll have an
7 understanding, but at no time have I alleged that
8 Ms. Riley had done anything wrong. I put her
9 individually, as we name people all the time.

10 Really, I think it should be -- they're
11 seeing seems this section as the defendant. So I
12 think it should be either plaintiff or
13 defendant.

14 MR. HARVEY: My motion -- additional
15 motion was to going to be to dismiss Ms. Riley
16 individually because there's nothing in the record
17 indicating that she did anything, individually,
18 wrong.

19 MR. JENKINS: I'll stipulate to that.

20 THE COURT: That was an easy motion,
21 wasn't it?

22 MR. HARVEY: Thanks for ruling for us.

23 THE COURT: Would it make any real
24 difference -- from what you-all told me yesterday,
25 the jury will be asked to find for one or the

1 other, and then the results of this finding by the
2 jury would be agreed upon by the parties as to
3 what the meaning of it is.

4 MR. HARVEY: Correct. We would agree
5 that the Court will then issue the order. If the
6 plaintiff prevails, then the Court would issue an
7 order canceling that 1999 deed.

8 MR. JENKINS: Plus we're asking for all
9 expenses.

10 THE COURT: Does that mean --

11 MR. JENKINS: No, no, no, no. We're
12 canceling the power of attorney. So everything
13 that was transferred while he was power of
14 attorney of his father would then be transferred
15 back.

16 MR. HARVEY: You still have to cancel the
17 deed, though.

18 MR. JENKINS: Yeah, I just didn't want to
19 limit it to the deed.

20 MR. HARVEY: I understand.

21 MR. JENKINS: Just in case there were
22 other things that were done while he was power of
23 attorney. Everything that was done when he
24 utilized that power of attorney should be
25 reversed.

1 THE COURT: All right. So the power of
2 attorney would be canceled.

3 MR. JENKINS: Yes, sir.

4 THE COURT: Declared invalid.

5 MR. HARVEY: Yes, sir.

6 THE COURT: I guess would be a way to say
7 it.

8 Once that occurs -- let's suppose that it
9 goes that way, the Court signs an order that says
10 just that, we need, then, to reopen the estate?

11 MR. JENKINS: Yes, sir, of his
12 grandfather, which is Mr. Marion F. Riley, Sr.

13 MR. HARVEY: That would be -- the next
14 step would be to reopen the estate to administer
15 that property under the 1995 rule.

16 THE COURT: But that would be a separate
17 procedure.

18 MR. HARVEY: Yes, sir, in the Probate
19 Court.

20 THE COURT: We wouldn't be doing this.

21 MR. HARVEY: No, sir.

22 THE COURT: Which brings me to this
23 question: Is the only question for the jury to
24 determine then, is the validity of the power of
25 attorney?

1 MR. HARVEY: And when Mr. Riley should
2 have reasonably known that he had a potential
3 claim.

4 MR. JENKINS: Your Honor, I don't think
5 that's -- it really is limited to what you just
6 said. The question for the jury is whether or not
7 the 1998 will -- I mean, power of attorney is
8 valid.

9 MR. HARVEY: But if he had reason to know
10 that either in 2003, 2014, whenever, more than
11 three years before he filed the suit, then the
12 jury needs to be so instructed.

13 MR. JENKINS: Your Honor, I think --

14 THE COURT: Wouldn't that be part of the
15 instructions to the jury --

16 MR. HARVEY: Yes, sir.

17 THE COURT: -- is that the law -- in
18 other words, it's a factual issue for the jury as
19 to what notice, when he knew or should have known.

20 MR. HARVEY: Correct.

21 THE COURT: Wouldn't that be just part of
22 what the jury has told that they must decide in
23 reaching their verdict?

24 MR. HARVEY: Yes, sir, and that's what we
25 requested in our charges.

1 THE COURT: Okay. Of course, you don't
2 know if you're going to try to put anything back
3 up after you hear this reply.

4 MR. HARVEY: Don't have a clue right now,
5 Judge.

6 THE COURT: Okay. I'm still puzzling
7 over these motions. I keep reading. But that's
8 the only thing, apparently, left to do, except to
9 get the verdict form squared away.

10 So, I don't know, I guess are we ready
11 for the jury, then? Are they ready?

12 THE CLERK: I doubt it, Judge. Let me
13 check.

14 THE COURT: Whenever they're ready.

15 THE CLERK: Okay.

16 MR. HARVEY: Your Honor, can we get the
17 Court to clarify, it's my understanding under the
18 rule reply testimony is limited to what was put up
19 by the defense case.

20 THE COURT: Nothing new.

21 MR. HARVEY: Nothing new that wasn't
22 raised in the plaintiff's case.

23 MR. JENKINS: Yes, sir, this is all
24 reply.

25 MR. HARVEY: I didn't want to have t

1 object again in front of the jury.

2 THE COURT: All right.

3 Okay. Let's bring the jury in.

4 (Jury enters the courtroom at 1:01 p m.)

5 THE COURT: Welcome, ladies and
6 gentlemen. If you'll recall, the defense has
7 rested. The plaintiff now has the opportunity to
8 present reply testimony or evidence in reply if
9 the plaintiff so chooses.

10 Mr. Jenkins?

11 MR. JENKINS: Yes, sir. We would like to
12 call Marcus Riley back to the stand.

13 THE COURT: I remind you, sir, you are
14 still under oath.

15 THE WITNESS: Thank you.

16 DIRECT EXAMINATION

17 BY MR. JENKINS:

18 Q Mr. Riley, there were a lot of allegations and
19 stories about you in the last few things as far as
20 testimony.

21 A Yes, sir.

22 Q I think, first and foremost, I would like to ask
23 you, how do you feel about your father?

24 A My daddy -- my daddy was my -- he was -- my
25 daddy was my hero. Like I said, I followed him

1 everywhere. My daddy was a pillar of the
2 community. He was well-respected. Everybody
3 wanted to be like Sonny Riley, such as me, and all
4 the friends. And, you know, he just had that aura
5 about himself.

6 And he was always -- I mean, you know, father
7 and son, we'd go back and forth. But me and my daddy,
8 we was always on good, you know -- we was always -- we
9 was always on good terms. But we would go back and
10 forth from time to time. He was a hero, and, you
11 know...

12 Q So what do you say to people who say that you're
13 bringing this suit to somehow bring down your father's
14 name or diminish your father's legacy?

15 A It's not about bashing my dad. That's not
16 what this is about. My daddy was a hero. He was
17 a legend, so to speak. And I'm not here to bash
18 my daddy. I'm here to tell the truth on what
19 really happened.

20 And like I said, my dad -- we -- in life, my
21 daddy did a lot of great things for a lot of great
22 people, and we don't always get everything right. And
23 with this, he just didn't get it right.

24 That's why I'm here, to preserve my
25 grandfather's legacy. My daddy just got this wrong.

1 That's it. I love my daddy. Always have. You know,
2 just like when, you know -- things were said about me
3 like when -- when my daddy died, the first person Dot
4 called was me. She was crying on the phone and
5 explaining to me that Sonny just left me. And I was
6 consoling her. I said that I'd be home. Just keep me
7 posted. Then I reached out to everybody else to let
8 them know daddy had passed.

9 Like Chauncey said earlier, we were all -- we
10 were all good, you know, especially at the hospital
11 with my daddy.

12 And what bothers me is to see my -- one of
13 the biggest things is to see my family separated.
14 That -- that -- that really hurts, you know. To see
15 all of this is -- it's just -- it's just not right,
16 you know?

17 And I -- I never -- I was always the one to
18 try to make stuff right. It seemed like -- my
19 granddad always told me, he said, "Son," like I told
20 you yesterday, "stand up for yourself even if you have
21 to stand by yourself." Now I know what he means, you
22 know. All those years he was telling me that. Now I
23 know.

24 Here I am, I'm trying to tell the truth of
25 everything. I've never been a person to -- I do my

1 best to do everything right. Just like this morning
2 when I walked in here, walking through that gate, Dot
3 was at the gate and I was there. I opened the gate
4 for her. She said, "Thank you." Even though we going
5 through all of this, it's not about that.

6 I have no ill feelings toward her, towards my
7 baby sister, Chauncey, nobody. It's like I saw my
8 baby sister in the hallway yesterday. I said that's
9 my baby sister. "I love you. Ain't nothing you can
10 do about it." That's just I way I am. I always try
11 to do the right thing.

12 What was said about me -- about me evicting
13 my sister, first of all, I can't evict her because,
14 one, I wasn't living here. I'm not licensed here. My
15 license is in Connecticut, so I don't have the power
16 to do that.

17 My sister stayed over there, and she was not
18 the most tidiest person, so to speak. And she left
19 the house.

20 And so I'm sitting in Virginia at the time.
21 I'm sitting at my desk, and my aunt calls me. I was
22 at work on a Saturday. She called me and said,
23 "Marcus, are you busy?"

24 I said, "No, ma'am. What's going on?" --

25 She was like, "I need to talk to you." My

1 mom was 70-something years old. "I need to talk to
2 you."

3 I said, "What's going on?"

4 She said, "Your sister is suing me."

5 I'm like "Suing you? What you mean my
6 sister's suing you?"

7 And she started trying to tell me about it,
8 and she really wasn't -- I wasn't getting it. I said,
9 "Just read it to me." She started reading the
10 complaint. And that's when I said -- and my aunt
11 started crying. I said Janelle -- this is my mama's
12 sister. My daddy was married to my mama first. Then
13 my mother passed in '81. And then he remarried Eric's
14 mother, Ms. Gloria. And then they divorced, and then
15 he married Dot.

16 But back to my Aunt Janelle, I said -- when
17 she started crying, I said, "Aunt Janelle, send it to
18 me and I'll take care of it." See, that's what a
19 family does to me. Here I am, I'm always trying to do
20 what's right, and then you come up and you bash me.

21 Because I'm -- and, you know, even though
22 that happened, I still got love for my family, you
23 know? Regardless of what was said, I'm going to love
24 them. Ain't nothing you can do about it. That's just
25 how I am.

1 So after I got -- after my aunt sent me the
2 complaint, I read it. I said, "Wow." Pretty much
3 Traci was suing my Aunt Janelle. That's when I -- I
4 know my sister Traci. She wasn't going to do that
5 without the direction of my dad. That's just my dad.
6 You know, that's when me and my dad, we were in a
7 debate.

8 So I was living in Virginia. I drove home
9 and I talked to my brother Roger. I said, "Roger" --
10 I think he was named in the lawsuit, too. And the
11 next thing you know, I said -- told him about the
12 lawsuit. He said, "I know. He didn't like it." And
13 I said, "Roger, you know nobody but daddy doing this."
14 He said, "Well, go over there and talk to daddy and
15 see what happens," you know?

16 The next thing you know, I went over to
17 daddy's house and we started talking about the
18 lawsuit. I said, "Daddy, Traci is suing my aunt."

19 He said, "I know. I know that. That's not
20 news."

21 I said, "Dad, I can't let Traci sue my mama's
22 sister."

23 "Well, they kicked her out of the house."

24 I said, "Nobody kicked her out of the house.
25 Traci left the house, daddy. I'm not going to let you

1 sue my daddy's [sic] sister." She heard the whole
2 conversation, you know? I said, "Dad, you need to
3 drop this lawsuit." And I said, "If you don't drop
4 this lawsuit, daddy, I'm going to have to place a
5 countersuit on you. I cannot let you sue my mama's
6 sister." I said, I told him, "I'll go to my grave
7 before I let you sue my mama's sister."

8 My daddy, we was -- like I said, we debating.
9 He was leaning back in his chair and said, "Yeah, I'm
10 going to test your law degree." That's what he told
11 me. I looked at him. I said, "Daddy, all right, if
12 that's the way you want it."

13 So I drove back to Virginia, called the firm
14 I used to work for in Beaufort when I was a paralegal
15 during my law school, filed the countersuit, and
16 nothing else was heard from then -- since that point
17 on.

18 That's what I'm saying. He and I were
19 talking. I am always trying to do what's right.
20 That's who I am. I -- like I said, my daddy was my
21 role model. He was my hero. He didn't get everything
22 right. That's why we're here.

23 And Dottie knows -- everybody in the family
24 knows when something goes wrong, they're going to call
25 me. They know I don't care who it is.

1 Q In fact, let me ask you, how did you even find out
2 about a situation that was going on? Because you were
3 in Texas.

4 A No. At that time, I was living in Virginia.

5 Q In Virginia.

6 A Yes.

7 Q For this dispute that happened after your father
8 passed --

9 A Which one now?

10 Q The last one.

11 -- what made you do research? What --
12 someone, you said, called. Who called -- how did you
13 even get into this?

14 A I was minding my business sitting at my desk,
15 and my baby sister called me because she knew --

16 Q You say your baby sister.

17 A Yea.

18 Q You mean Ms. Riley?

19 A Yeah, she called me. And when she called me
20 and she said, "Traci's not my sister." I said,
21 "What is wrong with you? What's this about?" And
22 then I didn't pay no attention at first. And
23 then she called back. "Traci's not my sister.
24 Paying taxes." I said, "That seems like a good
25 gesture to me" And that's when I called Dot.

1 And then Dot was telling me, "Well, I don't
2 know, you know. I don't know what they fussing
3 about." That's when I told her, "I'll come home.
4 I'll go through the house, which is this one, and I'll
5 see what the big fuss is about."

6 MR. HARVEY: Your Honor, he's testifying
7 like he did on his direct. If he's not going to
8 put anything new to put in, I object.

9 THE COURT: I'll overrule the objection.
10 You may proceed.

11 THE WITNESS: That's how I got involved
12 at that moment. I started digging, started
13 digging, and that's what I saw.

14 BY MR. JENKINS:

15 Q There was also a question about -- or a comment
16 about an incident that happened at a house in 2003.

17 A 2003?

18 Q I believe it was someone's funeral where you-all
19 were congregating at the house and there was a
20 discussion. And you said, You cannot kick -- it's
21 going to go to -- we know everything is going to go to
22 Dot and Renique.

23 A That wasn't 2003.

24 Q Help me with the date.

25 A Oh, after my daddy's funeral, you know, like

1 I said, we are all family. We were all together
2 sitting at the table. Everybody emotional. We
3 was talking.

4 And nobody was trying to kick Dot out of no
5 house. We wasn't going to do all that. I'm not that
6 type of person to say, "Well, daddy gone, you gone."
7 No. No, you can't do that. That's just not right.
8 I wouldn't allow that. I would have stood up for her.

9 Like I said, I feel like I'm by myself by
10 doing the right thing, trying to keep the family in
11 place.

12 Let me see. I took some other notes about
13 what they were saying about me.

14 Oh, yeah. They say that -- they say I never
15 contacted family about anything. They say I was
16 always the problem child. That's not true, because
17 back in 1996, I'll never forget it. I was in Oklahoma
18 City. And at the time, I was in and out of school. I
19 was working for the Government, working for Air Force
20 base. And I was feeling some kind of way because my
21 family was separated.

22 And what I did, I decided to write everybody
23 in the family. I wrote a letter to everybody in the
24 family. And I was saying that we all need to be
25 together. We all need to -- we all need to be

1 they try to convince you to see the case the way
2 they see it. Then I'll tell you about the law
3 that applies in the case.

4 What the attorneys say to you in their
5 closing arguments is not evidence. It's merely a
6 statement of what the attorney, or attorneys
7 believe the evidence showed. In other words, if,
8 for instance, an attorney says on a certain date
9 it was raining and your recollection of the
10 testimony is it was not raining at all, then your
11 collective recollection determines what the facts
12 were, not what the attorney said.

13 Having said all that, we'll begin with
14 closing arguments.

15 Plaintiff?

16 MR. JENKINS: Thank you, Your Honor.

17 THE COURT: Yes, sir.

18 CLOSING ARGUMENT

19 MR. JENKINS: Good afternoon.

20 Now, I know it's been and long two days.
21 You've heard a lot of stuff yesterday and today.
22 But I just want to first say thank you. This is
23 really from the bottom of my heart. People don't
24 understand how it feels to be on a jury until
25 you're actually on a jury and you have to sit

1 there and listen to us talk and talk and talk.

2 And so believe it or not, Mr. Harvey and
3 I can dress up and wear suits and come in here and
4 talk. We're not the important part of this whole
5 system. You are. The Constitution doesn't say
6 that we have to dress and talk, but it does say
7 that you all have to be here. Because we know
8 that a jury of your peers is very, very, very
9 important.

10 So it takes a special person. I know so
11 many people try to get out of jury duty. So many
12 people try to, you know, come in here and fake
13 seizures and everything else. You all came in and
14 you sat here and you looked at the facts. I
15 really appreciate it.

16 You'll remember when I first started
17 talking about this case, I talked about, of
18 course, my grandfather. And I said one of the
19 things that he always told me, which is my guiding
20 light, "Right is right; wrong is wrong. If you
21 see a right -- if you see a wrong, it's your job
22 to make it right." Honestly, that's all Mr. Riley
23 is trying to do here, to make it right.

24 You heard him on the stand just now.
25 That's what he does. Every time when he says I'm

1 going home, he went. Even with this situation,
2 his sister called him. She told him of a problem.
3 He lives in Houston, Texas. He took time out of
4 his schedule, dropped everything, came out here
5 for two days so that he could try to make it
6 right.

7 We heard his testimony. There was a
8 dispute going on. He didn't know what was going
9 on. He was in Houston. Like a lot of people do,
10 that's their problem. Let them worry about it.
11 He didn't. He came down here. He did the
12 research. He came up with all these documents.

13 You looked at the documents. He said, my
14 dad's a great man. I'm just going to go ahead and
15 let this go. I'm the only person that probably
16 did this. Did he do that? No. He decided to
17 take it a further step and making sure a forensic
18 expert looked over the documents, before he even
19 said anything about the accuracy of it or whether
20 it's bad or not. Did he take that documentation
21 and do anything? No.

22 Then he speaks to the defendant, the PR
23 of the estate, says, hey, this is what I found.
24 All he received then was, your daddy is smart man.
25 Well, that's not right. How could you say, well,

1 he's just a smart man? So what?

2 And that's what brought us here today,
3 trying to make it right. You saw the will from
4 1999 -- I mean, 1990. That will he said is his
5 father -- his grandfather. Everything is share
6 and share alike.

7 In fact, you've heard no other testimony
8 that said that Mr. Marion F. Riley, Sr. would have
9 wanted anything different than for his family to
10 share and share alike. You heard nothing about a
11 dispute. You heard nothing like, oh, he was mad
12 at so-and-so. That's why he did this. Nothing.

13 Everybody who came on that stand and
14 talked about Marion F. Riley, Sr. said, great man.
15 Loved his whole family. Did something for
16 everybody. Every time he did it for one, he did
17 it for the others.

18 So, of course, when he pulled the 1995
19 will and saw that now certain people are getting
20 things, and even there's a transaction in the 1995
21 will that he didn't even own, that's going to put
22 up instant, why did he do that? That's not his
23 character. That's not him.

24 So then, finally, we get another power of
25 attorney in 1995 that's also included in that will

1 that was later revoked by Mr. Marion F. Riley, Sr.
2 The interesting thing about it is once Marion F.
3 Riley got sick, then all of a sudden appears
4 another power of attorney.

5 So there's nothing about that that says
6 that's wrong. So therefore, in Marcus Riley's
7 thought process, he had to make it right. What he
8 realized is the major transfer of other
9 properties, including the property where the
10 funeral home sits on, was transferred after the
11 1998 power of attorney.

12 Now, as I said, we didn't make it up.
13 These are the documents. You'll get a chance to
14 review the documents when you go back. That is
15 the story.

16 So you heard a lot of bashing of Marcus.
17 He's a rebel-rouser. I guess, as I said, which is
18 why he had to talk to you-all, a person that would
19 fly home from Virginia, they would come from
20 Oklahoma City, they would come home from Texas so
21 that they could cause trouble in Allendale.
22 Beautiful City, by the way. But come home to
23 cause trouble? It just didn't quite resonate with
24 me.

25 Now, if he came home because his family

1 was here, the family he loves and the town he
2 admires because he wanted to make it right, that
3 would seem to make more sense.

4 So then we have testimony from his aunt,
5 Janice Heard. She said that it was a community
6 effort as far as the children were taking care of
7 the grandfather. She had her role. One sister
8 came from here.

9 So if you think about the roles and how
10 everyone -- why would all of a sudden one thing go to
11 one child? Everybody else, whatever. Good luck.
12 That's what occurred in the final documents to
13 where -- when Mr. Marion F. Riley passed, he had very
14 little, if anything, to his name. Could that have
15 possibly been his intent, to give power of attorney to
16 his son so his son can discredit everybody else and
17 put all the property to himself? I don't think so.

18 Ms. Heard is fairly accomplished. She
19 worked in the medical field. In fact, she worked
20 in the very same hospital where he got most of his
21 treatments. I haven't heard anything or any
22 testimony about any dispute from Ms. Heard. I
23 haven't heard about anything from Vonda Priester,
24 who was the other sister.

25 So what would be the logic to all of a

1 sudden give a person who had a power of attorney,
2 got the power of attorney revoked, then got
3 another power of attorney so that he could
4 transfer all the assets before death? It just
5 doesn't make sense. To me, it just seems like a
6 wrong which we've got to make right.

7 We have this forensic expert, and I know
8 their analysis -- her analysis was pretty detailed
9 and convoluted. But what she wanted to show you
10 is that when she's giving her opinions -- I think
11 we mentioned this before -- she said it was a
12 hypothesis, she tested it, then she does other
13 things. She uses microscopes. She uses tools.
14 She's been certified in 50 different states to
15 testify. Expert. This isn't just two lawyers
16 saying, hey, these signatures don't look the same.
17 This is an expert who said there is no way in the
18 world that a person who did this signature did
19 this signature. Her testimony.

20 And there was nothing to refute her
21 methodology. There was nothing to refute her
22 abilities. There was nothing to refute her
23 credentials. She went through documents upon
24 documents. She did her own independent research,
25 didn't find much, to show she wasn't biased. She

1 used the public documents that Marcus gave her.
2 This shows that there exactly was some forgery
3 that went on on the third power of attorney that
4 transferred all the property before death.

5 You know, when you get into a case, it
6 gets so detailed that it starts getting a bit
7 much. You know, you see a lot of facts. That
8 lady, she talked for a while. It was very fast.
9 So I do understand. But, you know, all the
10 evidence led one way: That in 1998, Mr. Riley
11 didn't sign that document. Mr. Riley F., Sr.
12 didn't sign the document.

13 So then we have presentations on the
14 defense side. We get one lady -- I believe her
15 was Ms. June -- who said, you know what, I was
16 there. He was a pleasant man. We had a great
17 conversation.

18 Oh, yeah? What did you talk about?

19 I don't know. It was a long time ago.

20 Then we say, okay, well, I understand that.
21 So tell me anything you remember.

22 I don't remember. It was so long ago. I
23 remember that and the birth of my child.

24 How are those two even comparable? As I
25 say, I buy really good dinners for my kids every

1 day, but my wife tells me what happened with the
2 birth of my child? Why would you even compare
3 those? This is something that she did, in her
4 words, repeatedly, all the time. But you remember
5 one person who came in one day.

6 Then we have Attorney Eltzroth. Well,
7 she just confirmed everything. He said he wasn't
8 even there. That's his client. So that just sent
9 up, of course, a red flag. If anybody gets legal
10 documents, it's usually done by an attorney.

11 So we get to the last person who says
12 there wasn't even a set policy. Now, we
13 understand with the Murdaugh law firm that they're
14 pretty prevalent these days, where she can't even
15 guarantee that a set policy was formed in order to
16 determine whether a person has the ability and is
17 even there to ensure that they know what they're
18 signing.

19 So they might have signed this document.
20 I wouldn't bet against it. But I can tell you one
21 thing that I have in evidence too, I bet he didn't
22 sign a power of attorney in 1998. Because
23 clearly, I can't find anybody -- they couldn't
24 present anybody who was actually there to say this
25 was done.

1 And I understand it's 27 years ago. I
2 totally get that. But they're coming to you to
3 tell you what they know. I'm saying what they
4 know can be questioned.

5 And, lastly, we have the family members.
6 Listen, I get it. I never met Mr. Riley, Jr. He
7 sounded like a phenomenal man. We're not here to
8 say -- because listen, as long as you have flesh,
9 everybody is going to do something wrong. None of
10 us walk on water. There's only one person who
11 did, and we know where he is.

12 We're not saying anything is wrong with
13 him. But as Marcus eloquently said it, we're not
14 saying he's a bad guy. We're just saying he got
15 this wrong.

16 As a jury, we're asking you-all to step
17 into our shoes and make it right. This is your
18 opportunity to make this right.

19 Marion F. Riley, Sr. really wanted his
20 family to share and share alike. That would have
21 been right. We shouldn't let fraud take him away
22 from what he would have wanted.

23 We're asking that that power of attorney
24 be invalid, like it never happened. We are asking
25 for the assets to put right back where they were

1 supposed to be so they can be redistributed the
2 way Mr. Marion F. Riley, Sr. wanted. We're not
3 asking for the moon, the stars, and the mountains.
4 We're just asking for that to occur that so we can
5 get what's right, we can get what's supposed to
6 be. That's what we're asking.

7 Once again, I thank you-all for listening
8 to me, and thank you for your activities in this
9 case. Thank you.

10 MR. HARVEY: Thank you. If it pleases
11 the Court, Mr. Jenkins.

12 I want to tell you-all something. I
13 probably have to tell my wife once a day, not once
14 a week. I was wrong. I told you-all yesterday
15 you-all would be leaving by lunchtime, and I'm
16 sorry. If you run into my wife in the reopened
17 Walmart, tell her that I admitted I was wrong to
18 you-all, too.

19 Mrs. Riley, Renique, Chauncey, we all
20 appreciate you being here. We all appreciate you
21 listening. I've been watching. The family's been
22 watching. We know you-all are paying attention.
23 And we appreciate it.

24 Now, remember, when I started yesterday,
25 there were two things I told you you had to

1 decide: Was the '95 will and power or attorney a
2 forgery and how long ago did Mr. Marcus Riley know
3 about it?

4 Well, forgive me. Maybe my hearing isn't
5 as good as it once was, but all I heard
6 Mr. Jenkins argue is whether that power of
7 attorney was a forgery. I didn't hear him arguing
8 to you at all about that 1995 will of Mr. Marion
9 Riley, Sr. You might remember, but I don't think
10 I heard that.

11 So if we consider that, then we can
12 consider how long did Mr. Marcus Riley know
13 something. The plaintiff -- the judge will tell
14 you that the plaintiff has the burden of proving
15 to you by what's called a preponderance of the
16 evidence that the facts are as they say they are
17 and not as the defendants have said that they are.

18 The preponderance of the evidence, if you
19 imagine old scales in the old stores or antique
20 places, they start out equal. The plaintiff comes
21 in and puts the evidence. The defendant comes in
22 and puts the evidence. If the defendant doesn't
23 bring -- if it gets back to equal, then you find
24 for the defendant. If it's heavier for the
25 plaintiff's side just a little bit, you find for

1 Again, that's for the record, respectfully, sir.

2 THE COURT: Okay, so noted.

3 We are still at ease waiting on the jury.

4 (A break was taken from 2:41 p.m. to
5 3:21 p m.)

6 THE COURT: The bailiff indicated they
7 reached a verdict.

8 Is the plaintiff ready to receive the
9 verdict?

10 MR. JENKINS: Yes.

11 THE COURT: Defense?

12 MR. HARVEY: Yes.

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

14 (Jury enters the courtroom at 3:21 p.m.)

15 THE COURT: Welcome back, ladies and
16 gentlemen. Let me ask our foreperson: The
17 bailiff indicates he believes the just has reached
18 a verdict; is that correct?

19 THE FOREPERSON: Yes, Your Honor.

20 THE COURT: Is it a unanimous verdict,
21 all agreed?

22 THE FOREPERSON: Yes, sir.

23 THE COURT: I'll get our clerk to publish
24 the verdict form.

25 THE CLERK: In the State of South

1 Carolina, the County of Allendale, Marcus Riley
2 vs. Dorothy Riley, in her role as personal
3 representative of the Estate of Mr. F. Riley, Jr.,
4 we, the jury in the referenced case, unanimously
5 find for the plaintiff Mr. Marcus Riley.

6 THE COURT: Thank you.

7 Anything else before the jury is
8 discharged from the plaintiff?

9 MR. JENKINS: Nothing, Your Honor.

10 THE COURT: From the defense?

11 MR. HARVEY: Nothing, Your Honor.

12 THE COURT: Ladies and gentlemen, I want
13 to thank you for your service.

14 Did anybody have any questions, any
15 problems, anything that we can solve?

16 THE FOREPERSON: No, sir.

17 THE COURT: You don't want to just hang
18 around?

19 JURY PANEL: No.

20 THE COURT: Ladies and gentlemen, you're
21 excused. Thank you so much for your service.

22 THE CLERK: If anyone needs any excuse or
23 anything for work, I'd ask that you head to my
24 office and my staff will give you one. Will you
25 please leave your badges with the bailiff.

1 THE COURT: Thank you again.

2 (Jury exits the courtroom.)

3 THE COURT: Any motions from either side?

4 MR. HARVEY: Your Honor, if it please the
5 Court, I'd like to move for a motion for judgment
6 notwithstanding the verdict on the grounds I
7 stated in the previous motions. I'm not going to
8 belabor the Court with any more impassioned
9 argument. I think I briefed it and argued it as
10 strongly as I possibly can.

11 THE COURT: I understand the motion. I
12 understand the reason for it and the grounds for
13 the motion, but I'll deny the motion as previously
14 indicated.

15 Anything else?

16 MR. JENKINS: I have nothing, Your
17 Honor.

18 MR. HARVEY: Nothing.

19 THE COURT: If I recall correctly, this
20 means there still needs to be a supplemental order
21 prepared, does it not?

22 MR. JENKINS: Yes, sir. Yes, sir, it
23 does.

24 THE COURT: Are you going to prepare that
25 order?

A TRUE COPY

D. Keith Smith
Probate Judge For
Allendale County

LAST WILL AND TESTAMENT OF MARION F. RILEY, JR.

STATE OF SOUTH CAROLINA

COUNTY OF ALLENDALE

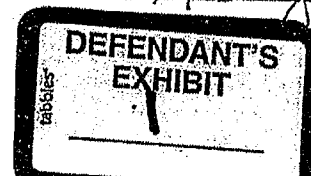
I, MARION F. RILEY, JR., of the County and State aforesaid, being of sound and disposing mind, memory and understanding, and desiring to make such disposition of my worldly estate as I deem best, DO HEREBY MAKE, PUBLISH AND DECLARE THIS TO BE MY LAST WILL AND TESTAMENT, hereby revoking any and all former Wills and Codicils whatsoever made by me.

ITEM I. I direct the payment by my Personal Representative of all my just debts and funeral expenses as soon after my death as may be practicable.

ITEM II. By way of illustration and not of limitation and in addition to any inherent, implied or statutory powers granted to executors generally, my Personal Representative is specifically authorized and empowered with respect to any property, real or personal, at any time held under any provision of this my Will to allot, allocated between principal and income, assign, borrow, buy, care for, collect, compromise claims, contract with respect to, continue any business of mine, convey, convert, deal with, dispose of, enter into, exchange, hold, improve, incorporate any business of mine, invest, lease manage, mortgage, grant and exercise options with respect to, take possession of, pledge, receive release, repair, sell, sue for, to make distributions in cash or in kind partly in each without regard to the income tax basis of such asset and in general, to exercise all of the powers in the management of my Estate which any individual could exercise in the

Cherry M. Vick
Cynthia P. Deed

Marion F. Riley, Jr. (T.S.)



ROA109

management of similar property owned in its own right, upon such terms and conditions as to my Personal Representative may seem best, and to execute and deliver any and all instruments and to do all acts which my Personal Representative may deem proper or necessary to carry out the purposes of this my Will, without being limited in any way by the specific grants of power made, and without the necessity of a court order.

ITEM III. I give and devise my funeral home and property in which it is on, located in Fairfax South Carolina to my beloved wife, **DOROTHY RILEY** and daughter, **RENIQUE RILEY**, share and share alike, absolutely and forever, in fee simple.

ITEM IV. I give and devise my father's home to my beloved daughter, **TRACY RILEY**, absolutely and forever, in fee simple.

ITEM V. All the rest, residue and remainder of my property, both real and personal, of which I may die seized and possessed or to which I may be entitled to receive at my death, I give and devise to my beloved wife, **DOROTHY RILEY**, and daughter, **RENIQUE RILEY**, share and share alike, absolutely and forever, in fee simple.

ITEM VI. I nominate and appoint my wife, **DOROTHY RILEY**, as the Personal Representative of this my Last Will and Testament, and I direct that she not be required to furnish any surety or sureties on her official bond.

IN WITNESS WHEREOF, I have hereunto set my hand and seal at Allendale, South Carolina, this 3rd day of April, 2008.

Marion F. Riley (S.)

Cherry M. Vick
Cynthia S. O'Neal

STATE OF SOUTH CAROLINA
COUNTY OF ALLENDALE

PROBATE COURT

IN THE MATTER OF (Decedent Name) MARION F. RILEY, SR.

CASE NUMBER 99-ES-03-00042

APPLICATION FOR

(check any that apply)

PETITION FOR

INFORMAL
☒ PROBATE OF WILL
☒ APPOINTMENT

FORMAL
☐ TESTACY
☐ APPOINTMENT

Applicant/Petitioner: Marion F. Riley, Jr.
Address: PO Box 836 Fairfax, SC 29827
Telephone: 632-3049

I. ALL APPLICANTS/PETITIONERS MUST COMPLETE THIS SECTION.

1. Nature of interest of undersigned:
named and nominated in the last will and testament

2. Decedent Information
Name: MARION F. RILEY SR.
Social Security Number: 251-03-4095
Date of Birth: 5-14-16
Date of Death: May 10, 1999
Age at date of death: 82
Domicile at date of death: Allendale South Carolina
(county) (state)

A TRUE COPY
D. Keith Smith
Probate Judge For
Allendale County

3. Venue for this proceeding is proper in this county because:
☒ Decedent was domiciled in this county at date of death.
☐ Decedent was not domiciled in South Carolina, but property of Decedent was located in this county at date of death.
☐ Decedent has a right to take legal action in this county because:

Names and addresses of devisees, including dates of birth of minors:

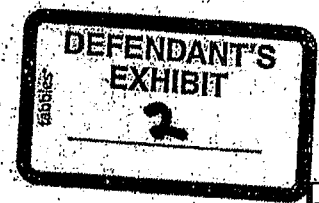
Name	Date of Birth	Address	Relationship to Decedent
Virginia Priester	5-14-40	PO Box 415 Fairfax, SC 29827	child
Marion F. Riley, Jr.	10-3-42	PO Box 836 Fairfax, SC 29827	child
Janice Riley	over 21	3004 John Paul Crossing, Augusta, GA 30906	child
Evelyn Grant	over 21	8448 NW 14th Ave. Miami, FLA 33147	child

(use additional sheet if necessary)

4b. Names and addresses of intestate heirs who are not devisees, including dates of birth of minors:

Name	Date of Birth	Address	Relationship to Decedent
same as above			

(use additional sheet if necessary)



5. Did decedent have any change of marital status or the birth or adoption of any children after execution of the Will (if one exists), or has any child of the decedent been born since his death, or is any birth of a child of the decedent anticipated? (This includes illegitimate children.)
~~xxx~~ ☒ NO ☐ YES If yes, please explain on page 3.
6. To the best of your knowledge, was the decedent a patient in a South Carolina Mental Health facility during his/her lifetime?
~~xxx~~ ☒ NO ☐ YES If yes, please explain on page 3.
7. Has a guardian or conservator ever been appointed for this person?
~~xxx~~ ☒ NO ☐ YES If yes, please explain on page 3.
8. Has a personal representative of the decedent been appointed prior to this date by a Court in this state or elsewhere?
~~xxx~~ ☒ NO ☐ YES If yes, please state details, including name and address of such Personal Representative, on page 3.
9. Have you received or are you aware of any demands for notice of any probate or appointment proceeding concerning the decedent that may have been filed in this state or elsewhere?
~~xxx~~ ☒ NO ☐ YES If yes, please state details, including names and address, on page 3.
10. Have more than ten years passed since the decedent's death?
~~xxx~~ ☒ NO ☐ YES If yes, please state circumstances authorizing tardy probate on page 3.
11. The decedent died with a personal estate of about the value of 10,000.00 and real estate of about the value of 215,000.00. (A full inventory and appraisal, form #350PC, must be filed within 90 days.) If decedent was a non-resident, please attach South Carolina Tax Commission form ET 101.
12. After the exercise of reasonable diligence, are you aware of any unrevoked will and/or codicil(s), other than the one(s) attached hereto, relating to property in this State?
~~xxx~~ ☒ NO ☐ YES If yes, please explain on page 3 and then proceed to Section II.

II. IF A WILL EXISTS, PLEASE COMPLETE THIS SECTION.

1. Regarding the decedent's will:
~~xxx~~ ☒ the original is attached
☐ the original is in the Court's possession
☐ an authenticated copy of a will probated in another jurisdiction is attached
☐ an authenticated copy of a will not probated in another jurisdiction is attached
☐ the will is lost, destroyed, or otherwise unavailable; however, a description of its contents is attached
2. Do you believe, to the best of your knowledge, the will described above was validly executed?
~~xxx~~ ☒ YES ☐ NO If no, please explain on page 3.
3. The date of execution of the will was: May 27, 1995
 codicil(s): same
4. Are you aware of any instrument or document amending or revoking the will?
~~xxx~~ ☒ NO ☐ YES If yes, please explain on page 3.
5. Have you exercised reasonable diligence to determine there is no instrument or document revoking the will?
~~xxx~~ ☒ YES ☐ NO If no, please explain on page 3.
6. Do you believe the will defined in "1" above is the decedent's last will?
~~xxx~~ ☒ YES ☐ NO If no, please explain on page 3.

COMPLETE EXPLANATION(S) FOR QUESTIONS IN SECTIONS I AND II HERE.
(If more space is required, use additional sheet.)

III. IF APPLYING FOR INFORMAL OR FORMAL APPOINTMENT, PLEASE COMPLETE THE FOLLOWING.

1. The name(s) and address(es) of the proposed Personal Representative(s) is/are:

MARION F. RILEY, JR.
PO BOX 836
FAIRFAX, SC 29827

2. Priority for this appointment is:

- ☒ named as Primary Personal Representative in will or nominee of Primary Personal Representative
☐ named as Alternate Personal Representative in will or nominee of Alternate Personal Representative
☐ surviving spouse of decedent who is devisee of decedent or nominee of said spouse
☐ other devisee of decedent (describe): _____ or nominee of said devisee
☐ surviving spouse of decedent or nominee of said spouse
☐ other heir of decedent (describe): _____ or nominee of said heir
☐ creditor (Forty-five days after death must have passed) or nominee of creditor
☐ other (describe): _____
☐ nominee of any of the above

3. List below the names of any other persons, if any, having a prior or equal right of appointment (see priority above).

none

IV. ALL APPLICANTS/PETITIONERS MUST COMPLETE VERIFICATION.

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; and hereby submits to the Court's jurisdiction in this matter.

SWORN to before me this 18th day of May, 19 99.

Brenda P. Bennett

Notary Public for South Carolina

My Commission Expires: 5-21-08

Signature: Marion F. Riley, Jr.
Name: MARION F. RILEY, JR.

Signature: _____
Name: _____

ORDER OF INFORMAL PROBATE

IT IS HEREBY ORDERED that the above application for probate of a will be ☒ GRANTED ☐ DENIED informally this 18th day of May, 19 99.

Brenda P. Bennett

BRENDA P. BENNETT, Probate Court Judge

ORDER FOR HEARING ON FORMAL PETITION

IT IS HEREBY ORDERED that a hearing on this matter be set for:

DATE:

TIME:

PLACE:

Pursuant to Section 62-1-401, the petitioner is ordered to give notice of this hearing to all interested persons at least twenty (20) days prior to the hearing.

Executed this _____ day of _____, 19 ____

Probate Court Judge

ORDER OF FORMAL TESTACY

Of the above petition, this Court finds that the person is deceased, venue is proper, and the proceeding was commenced within appropriate time limits.

The Court further finds that

☐ the decedent died intestate. The heirs are:

☐ the decedent died testate. IT IS THEREFORE ORDERED, that the Last Will and Testament of the above-named decedent dated _____, be admitted formally to probate,

Executed this _____ day of _____, 19 _____

_____, Probate Court Judge

☐ SEE ATTACHED ORDER

ORDER OF APPOINTMENT

IT IS HEREBY ORDERED that the above application/petition for appointment be granted upon the filing of a bond as appropriate, qualification and acceptance.

Executed this 18th day of May, 19 99

Brenda P. Bennett

BRENDA P. BENNETT Probate Court Judge

QUALIFICATION AND STATEMENT OF ACCEPTANCE

I accept this appointment and agree to perform the duties and discharge the trust of the office of Personal Representative of this estate.

Signature: *Marion F. Riley, Jr.*

Name: MARION F. RILEY, JR.

Address: PO BOX 836

FAIRFAX, S.C. 29827

Telephone (O): _____

(H): 632-3049

Signature: _____

Name: _____

Address: _____

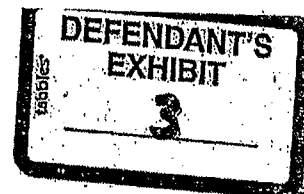
Telephone (O): _____

(H): _____

Attorney: _____

Address: _____

Telephone: _____



AFFIDAVIT OF PUBLICATION

THE PEOPLE-SENTINEL

PO Drawer 1255
Barnwell, SC 29812
(803) 259-3501 phone
(803) 259-9441 fax

A TRUE COPY
D. Keith Smith
D. Keith Smith
Probate Judge For
Allendale County

STATE OF SOUTH CAROLINA
COUNTIES OF BARNWELL & ALLENDALE

Personally appeared before me, Jonathan Vickery, who being duly sworn on oath says he is the Managing Editor of *The People-Sentinel*, a weekly newspaper published and circulated in the State of South Carolina; that the notice, of which a true copy is hereby attached, was published in said issue(s) of July 18, 25 & Aug. 1, 2018

Jonathan Vickery

Jonathan Vickery

Sworn to before me this 1st day
of August 2018

Laura J. McKenzie
Laura J. McKenzie, Notary Public for S.C.

My commission expires:

April 30, 2028

NOTICE TO CREDITORS

OF ESTATE. All persons having claims against the following estate are required to deliver or mail their claims to the indicated Personal Representative, appointed to administer the estate, and to file their claims on Form #371PC with the Probate Court of Allendale County, the address of which is 292 Barnwell Highway, Allendale, SC 29810, on or before the date that is eight months after the date of the first publication of the published Notice to Creditors or within sixty days from the mailing of other delivery of this notice, whichever is later, (unless barred by operation of Section 62-3-803), or such persons shall be forever barred as to the claims. All claims are required to be presented in written statements, indicating the name and the address of the claimant, the basis of the claim, the amount claimed, the date when the claim will become due, the nature of any uncertainty as to the amount claimed and the date when due and a description of any security as to the claim.

Estate: Marion Francis Riley, Jr.

Date of Death: 06-08-2018

Case Number: 2018-ES-03-00055

Personal Representative and address:

Dorothy S. Riley
329 Byrd Street, Fairfax, SC 29827

81-10-80 p.18, B.18
911-8-102

ROA116

FILED - 2022 Oct 18 3:21 PM - ALLENDALE - COMMON PLEAS - CASE#2020CP0300176

STATE OF SOUTH CAROLINA,
COUNTY OF ALLENDALE.

POWER OF ATTORNEY

MARY JEAN CARLSON
CLERK OF COURT
ALLENDALE COUNTY, S.C.

KNOW ALL MEN BY THESE PRESENTS, that I, MARION F. RILEY, SR., a citizen of Allendale County, South Carolina do hereby constitute and appoint Marion F. Riley, Jr. my true and lawful attorney for me and in my name, place and stead:

To lease, let, take possession, bargain, sell, assign, convey, pledge, mortgage and encumber, repair, insure and generally manage, any and all property, both real and personal, which I own, or may hereafter acquire from any source; to sign, execute and deliver any and all legal documents in connection therewith, and in all ways and in every way to deal with all property real and personal which I may at any time hereafter own, and with all rights or interest at any time owned or possessed by me with respect to any such property, and with all or any part of such property rights and interest in any and all lawful ways in which I could myself deal with such property, rights and interest, and each part thereof. To convey, waive, release and relinquish all and every dower rights, all and every homestead estates, and all and every rights under and by virtue of the homestead exemption laws. To deposit any monies received from any source whatever for me, and in my name with any bank, and to draw and deliver checks in my name against said monies and other monies to be deposited in my name or to my credit; to endorse, discount, sell, and extend upon such terms as my attorney may deem best, all checks, drafts, notes,

POWER OF ATTORNEY FOR MARION F. RILEY, SR.
PAGE 1 OF 5

Marion F. Riley Sr.

RQA117

Handwritten: 2

bills of exchange, trade and bankers' acceptances, and other negotiable or nonnegotiable papers, payable to me or to my order; and to accept and pay any note, draft, check, trade acceptances or bills of exchange drawn upon me in relation to said matters; to sell, transfer, and assign all and any stock, or certificates thereof, standing in my name, and to collect all dividends, coupons and interest on any stock, bonds, or other securities now or hereafter owned by me; to ask, demand, sue for, recover, collect, settle, compound, compromise and adjust, by payment or otherwise, any and all debts, claims or demands due or to become due to me or against me, and to make, give and execute full release, acquittance or other discharge for the same, whether under seal or otherwise; to execute vouchers in my behalf for any and all allowances and reimbursements properly payable to me by the United States; to take possession and order the removal and shipment of any property from any post, warehouse, depot, dock or other place of storage or safekeeping, government or private; to execute any forms which may be necessary to effect any allotment of or deduction from any pay and allowances; to execute any form which I may be required to execute in connection with obtaining dependence allowances under any authority statutory or otherwise; to do all things necessary concerning any insurance policies, including the right to change beneficiary.

I do hereby give full power to perform all and every act and thing whatsoever requisite and necessary to be done in

Handwritten signature: Marion F. Riley, Sr.

Handwritten X

and about to, aforesaid as full as all intents and purposes as I might or could do if personally present at the doing thereof, with full power of substitution or revocation, hereby ratifying and confirming all that my said attorney substitute shall lawfully do or cause to be done by virtue hereof;

I HEREBY DECLARE, that any act or thing lawfully done hereunder by my said attorney, shall be binding on myself and my heirs, assigns, legal and personal representatives. I hereby ratify all that my attorney may do in the premise by virtue of this Power of Attorney, which shall remain in full force and effect until written notice of its revocation, signed by me, shall have been received by the grantee herein.

IT IS MY FURTHER INTENTION, that all express words and terms, used herein granting powers and rights, be construed in their broadest sense to include all synonymous terms and implied powers thereunder.

This Power of Attorney shall not be affected by physical disability or mental incompetence of the principal, which renders the principal incapable of managing his estate.

I, Marion F. Riley, Sr., the principal, sign my name to this instrument this 13th day of May, 1995, and being first duly sworn, do hereby declare to the undersigned authority that I sign and execute this instrument as my Power of Attorney and that I sign it willingly, that I execute it as my free and voluntary act for

POWER OF ATTORNEY FOR MARION F. RILEY, SR.
PAGE 3 OF 5

Marion F. Riley Sr.

ROA111d

the purpose of the instrument and a full understanding of the nature and effect of same and under no constraint or undue influence

Marion F. Riley, Sr.
MARION F. RILEY, SR.

We, Sister M. Moore and Kerry Ann D. Long,
the witnesses, sign our names to this the undersigned authority
that the Principal signs and executes this instrument as and for
his Power of Attorney and that he signs it willingly, and that each
of us, in the presence and hearing of the Principal and in the
presence and hearing of each other, hereby signs this Power of
Attorney as witness to the Principal's signing, and that to the
best of our knowledge the Principal is eighteen years of age or
older, of sound mind, and under no constraint or undue influence.

Katherine H. Brown address Brunson, SC

Kerry Ann D. Long address Mill, SC

State of South Carolina

County of Hampton.

PERSONALLY appeared before me the undersigned witness and
made oath that (he/she) saw the within named Marion F. Riley, Sr.,

POWER OF ATTORNEY FOR MARION F. RILEY, SR.
PAGE 4 OF 5

Marion F. Riley, Sr.

X

ROA120

Principal, sign, seal and as (his/her) att and exec. deliver the
within written Power of Attorney, and (he/she) with
Kerry Ann B. Long witnessed the execution thereof.

Notary Public for South Carolina

SWORN to before me this
18th day of May, 1995.

James J. Manning
Notary Public for South Carolina
My Commission Expires: 3-1-99

Witnesses: Marion F. Riley, Sr.
Kerry Ann B. Long

POWER OF ATTORNEY FOR MARION F. RILEY, SR.
PAGE 5 OF 5

Marion F. Riley, Sr.

X

LAST WILL AND TESTAMENT

ITEM ONE.

ITEM TWO.

ITEM THREE.

ITEM FOUR.

LAST WILL AND TESTAMENT OF MARION F. RILEY, SR.
PAGE 1 OF 3

M. J. Riley Jr

RQA122

[illegible]

W. H. P. 50

ITEM FIVE.

I nominate and appoint MARION F. RILEY, JR., as Personal Representative of this my Last Will and Testament, he to serve without bond.

I, Marion F. Riley, Sr., the testator, sign my name to this instrument this 22nd day of May, 1995, and being first duly sworn, do hereby declare to the undersigned authority that I sign and execute this instrument as my Last Will and Testament and that I sign it willingly, that I execute it as my free and voluntary act for the purposes therein expressed, and that I am eighteen years of age or older, of sound mind, and under no constraint or undue influence.

Marion F. Riley Sr.
MARION F. RILEY, SR. X

We, Lynn F. Manuel and June H. Bilka, the witnesses, sign our names to this instrument, being first duly sworn, and do hereby declare to the undersigned authority that the testator signs and executes this instrument as his Last Will and that he signs it willingly, and that each of us, in the presence and hearing of the testator and in the presence and hearing of each other, hereby signs this Will as witness to the testator's signing, and that to the best of our knowledge the testator is eighteen years of age or older, of sound mind, and under no constraint or undue influence.

Lynn F. Manuel address Seibert SC

June H. Bilka address Hampton, SC.

or cause to be done by virtue hereof;

I HEREBY DECLARE, that any act or thing lawfully done hereunder by my said attorney, shall be binding on myself and my heirs, assigns, legal and personal representatives. I hereby ratify all that my attorney may do in the premise by virtue of this Power of Attorney, which shall remain in full force and effect until written notice of its revocation, signed by me, shall have been received by the grantee herein.

IT IS MY FURTHER INTENTION, that all express words and terms, used herein granting powers and rights, be construed in their broadest sense to include all synonymous terms and implied powers thereunder.

This Power of Attorney shall not be affected by physical disability or mental incompetence of the principal, which renders the principal incapable of managing his estate.

I, MARION F. RILEY, SR., the principal, sign my name to this instrument this 15th day of October, 1998, and being first duly sworn, do hereby declare to the undersigned authority that I sign and execute this instrument as my Power of Attorney and that I sign it willingly, that I execute it as my free and voluntary act for the purposes therein expressed, and I am eighteen years of age or older, of sound mind, and under no constraint or undue influence.

Marion F. Riley, Sr.
MARION F. RILEY, SR.

We, June H. Bilka and
Janet P. Palazzolo, the witnesses,

STATE OF SOUTH CAROLINA

COUNTY OF ALLENDALE

IN THE MATTER OF THE ESTATE
OF MARION F. RILEY, SR.

VIRGINIA PRIESTER and
JANICE RILEY,

PETITIONERS,

vs.

MARION F. RILEY, JR.,
Individually And In His
Capacity of Personal
Representative of the Estate
OF Marion F. Riley, Sr., and
Evelyn Grant,

RESPONDENTS.

IN THE PROBATE COURT

CASE NUMBER: 99ES0300042

COMPLAINT

A TRUE COPY

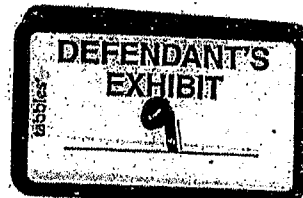
D. Keith Smith
D. Keith Smith
Probate Judge For
Allendale County

FILED FOR RECORD
01 NOV 25 PM 4:31
KATHA P. BENNETT
PROBATE JUDGE
ALLENDALE COUNTY
STATE OF SOUTH CAROLINA

NOW COMES the Petitioners who will show unto this Court that:

1. The Petitioners are devisees of the estate of Marion F. Riley, Sr. The Petitioner Virginia Priester is a citizen and resident of Fairfax, South Carolina. The Petitioner Janice Riley is a citizen and resident of Augusta, Georgia.
2. The Respondent Marion F. Riley, Jr. is a citizen and resident of Fairfax, South Carolina. The Respondent Evelyn Grant is a citizen and resident of Miami, Florida.
3. The parties are the children of Marion F. Riley, Sr. who died on May 10, 1999. The deceased prepared a Will on January 12, 1990. The Respondent Marion F. Riley, Jr. has refused to probate this Will.

J-14
p. 301



ROA125

4. The Respondent Marion F. Riley, Jr. contends that the deceased prepared a Will dated May 22, 1995. This Will has been presented to the Court as the Last Will and Testament of the deceased.
5. The Petitioners are informed and believe that the May 22, 1995, Will is not the last Will of the deceased.
6. The Petitioners are informed and believe that the deceased lack the mental capacity to enter into the Will dated May 22, 1995.
7. The Petitioners are informed and believe that the deceased was mentally incompetent on the date of the Will dated May 22, 1995.
8. The Petitioners are informed and believe that the deceased was not capable of understanding the instrument that has been presented to the Court as his Last Will and Testament.
9. The Petitioners are informed and believe that the signatures on the Will dated May 22, 1995, are not those of the deceased.
10. The Petitioners are informed and believe that the Court should set aside the Will dated May 22, 1995, and declare the Will dated January 12, 1990, to be the valid Will of the deceased.
11. The Petitioners are informed and believe that a Deed dated February 26 1999, transferring ownership of property (Tax Map # 0123-08-042 and -061; 0123-08-08-024; 0123-08-09-008, 010, 011; 0128-08-02-011 and -012) to the Respondent Marion F. Riley, Jr. was executed without the knowledge and/or consent of the deceased.
12. The Petitioners are informed and believe that the ownership of said property should be return to the estate of the deceased.
13. The Petitioners are informed that they should be appointed the joint Personal Representative of the estate of the deceased.

2
J. H. 16
P. 302

14. The Petitioners are informed and believe that the Respondent, Marion F. Riley, Jr. should be required to pay their attorney fees and costs associated with this matter.

WHEREFORE, based on the foregoing, the Petitioners pray that:

1. The Court determines the validity of the Will presented to the Court as the Last Will and Testament of the deceased.
2. The Court declares the Will dated January 12, 1990, to be the valid Will of the deceased.
3. The Court return ownership of the property transferred by the Deed dated February 26, 1999 to the estate of the deceased.
4. The Court appoints the Petitioners joint Personal Representatives of the estate of the deceased.
5. The Court requires the Respondent Marion F. Riley, Jr. to pay the Petitioners' attorney fees and costs associated with this matter.
6. The Court grants the Petitioners such other and further relief as the Court deems just and proper.

Dated this 5th day of Nov. 2001.

SMALLS LAW FIRM, P.C.


Charlie Jay Johnson, Jr., Esquire
Attorney for Petitioners

Post Office Box 11723
Columbia, SC 29211
(803) 779-8802

J-16³
p. 303

ROA127

FILED FOR RECORD

2014 APR 14 PM 3:16

CLERK OF COURT
ALLENDALE COUNTY, S.C.



2014-220 DATE: 04/14/2014
DEED Book: 245 Page: 98 - 100
Filed for Record in ALLENDALE COUNTY ROD.
Deed

Space above this line for recording information

STATE OF SOUTH CAROLINA)

COUNTY OF ALLENDALE)

TITLE TO REAL ESTATE

KNOW ALL MEN BY THESE PRESENTS, THAT

I, MARION F. RILEY, JR. in the State aforesaid, County aforesaid, for and in consideration of the sum of FIVE AND 00/100 (\$5.00) DOLLARS and NO OTHER CONSIDERATION to me in hand paid at and before the sealing of these presents by RENIQUE Y. RILEY in the State aforesaid, County aforesaid, the receipt whereof is hereby acknowledged, have granted, bargained, sold and released and by these Presents do grant, bargain, sell and release unto the said RENIQUE Y. RILEY, Her Heirs and Assigns, the following described property, to-wit:

ALL those certain pieces, parcels or lots of land with improvements thereon situate, lying and being on Pickens Avenue in the Town of Fairfax, County of Allendale, State of South Carolina. Said lots are bounded and measure, now or formerly, as follows, to wit: On the NORTH by lot of James Pinkney, et al for a distance on one hundred and no/100 (100") feet, more or less; On the EAST by a 20' alley for a distance of one hundred (100") feet, more or less; On the SOUTH by 15th Street for a distance of one hundred and no/100 (100") feet, more or less; and On the WEST by Pickens Avenue for a distance of one hundred and no/100 (100") feet, more or less. Said lots are shown and designated as Lots 1 and 2 in Block 68 on a Plat of the Town of Fairfax recorded in Plat Book 6 at Pages 59-61 in the Office of the Clerk of Court for Allendale County, South Carolina.

BEING property conveyed to Marion F. Riley, Jr. by deed of Marion F. Riley, Sr. dated February 26, 1999 and recorded February 26, 1999 in Deed Book 127 at Page 1 in the Office of the Clerk of Court for Allendale County, South Carolina.

TMN: 123-08-09-008



ALLENDALE COUNTY
DOCUMENTARY
Tax 5.00
Paid 4-14-14
ELAINE SABB

ROA128

GRANTEE'S ADDRESS:

RENIQUE Y. RILEY

P.O. Box 836

FAIRFAX, SC 29827

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, **RENIQUE Y. RILEY, Her Heirs and Assigns** forever in Fee Simple.

AND I do hereby bind myself and my Heirs and Assigns, to warrant and forever defend, all and singular, the said Premises unto the said **RENIQUE Y. RILEY, Her Heirs and Assigns**, against me and my Heirs and Assigns and all persons whomsoever lawfully claiming or to claim the same, or any part thereof.

WITNESS my Hand and Seal this 14th day of April in the year of our Lord Two Thousand Fourteen and in the Two Hundred and Thirty Seventh Year of the Sovereignty and Independence of the United States of America.

SIGNED, SEALED AND DELIVERED
IN THE PRESENCE OF:

Lana J. Searcy
WHS

Marion F. Riley, Jr.
Marion F. Riley, Jr.

STATE OF SOUTH CAROLINA)
COUNTY OF ALLENDALE)

ACKNOWLEDGMENT

I do hereby certify that MARION F. RILEY, JR. personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

SWORN to before me this 14th
day of April, 2014.

WHS
Notary Public for South Carolina
My Commission Expires: 01/11/2017

THIS DEED PREPARED BY THE LAW OFFICE OF WALTER H. SANDERS, JR., P. O. BOX 840, FAIRFAX, SC 29827, WITHOUT BENEFIT OF TITLE SEARCH AND NO REPRESENTATIONS ARE MADE AS TO THE STATUS OF TITLE, THE PAYMENT OF TAXES, THE DESCRIPTION OF THE PROPERTY OR THE OWNER(S) THEREOF.

Document 98-951
STATE OF SOUTH CAROLINA,
COUNTY OF ALLENDALE

POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS, that I, MARION F. RILEY, SR. a citizen of Allendale County, South Carolina do hereby constitute and appoint MARION F. RILEY, JR. my true and lawful attorney for me and in my name, place and stead:

To lease, let, take possession, bargain, sell, assign, convey, pledge, mortgage and encumber, repair, insure and generally manage any and all property, both real and personal, which I own, or may hereafter acquire from any source; to sign, execute and deliver any and all legal documents in connection therewith, and in all ways and in every way to deal with all property real and personal which I may at any time hereafter own, and with all rights or interest at any time owned or possessed by me with respect to any such property, and with all or any part of such property rights and interest in any and all lawful ways in which I could myself deal with such property, rights and interest, and each part thereof. To convey, waive, release and relinquish all and every dower rights, all and every homestead estates, and all and every rights under and by virtue of the homestead exemption laws. To deposit any monies received from any source whatever for me, and in my name with any bank, and to draw and deliver checks in my name against said monies and other monies to be deposited in my name or to my credit; to endorse, discount, sell, and extend upon such terms as my attorney may deem best, all checks, drafts, notes, bills of exchange, trade and bankers' acceptances, and other negotiable or nonnegotiable papers, payable to me or to my order;

HITNESSES
James H. Hays
Queen D. Chappell

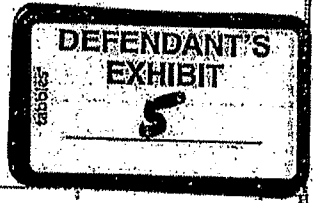
TRUE COPY

Date: 10/5/2022

Elaine SABB

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ELAINE SABB
CLERK OF COURT
ALLENDALE, SC



and to accept and pay any note, draft, check, trade acceptances or bills of exchange drawn upon me in relation to said matters; to sell, transfer, and assign all and any stock, or certificates thereof, standing in my name, and to collect all dividends, coupons and interest on any stock, bonds, or other securities now or hereafter owned by me; to ask, demand, sue for, recover, collect, settle, compound, compromise and adjust, by payment or otherwise, any and all debts, claims or demands due or to become due to me or against me, and to make, give and execute full release, acquittance or other discharge for the same, whether under seal or otherwise; to execute vouchers in my behalf for any and all allowances and reimbursements properly payable to me by the United States; to take possession and order the removal and shipment of any property from any post, warehouse, depot, dock or other place of storage or safekeeping, government or private; to execute any forms which may be necessary to effect any allotment of or deduction from any pay and allowances; to execute any form which I may be required to execute in connection with obtaining dependence allowances under any authority statutory or otherwise; to do all things necessary concerning any insurance policies, including the right to change beneficiary.

I do hereby give full power to perform all and every act and thing whatsoever requisite and necessary to be done in and about my affairs as full to all intents and purposes as I might or could do if personally present at the doing thereof, with full power of substitution or revocation, hereby ratifying and confirming all that my said attorney substitute shall lawfully do

WITNESSES:

Gene W. Diltz

James P. Calverly

or cause to be done by virtue hereof;

I HEREBY DECLARE, that any act or thing lawfully done hereunder by my said attorney, shall be binding on myself and my heirs, assigns, legal and personal representatives. I hereby ratify all that my attorney may do in the premise by virtue of this Power of Attorney, which shall remain in full force and effect until written notice of its revocation, signed by me, shall have been received by the grantee herein.

IT IS MY FURTHER INTENTION, that all express words and terms, used herein granting powers and rights, be construed in their broadest sense to include all synonymous terms and implied powers thereunder.

This Power of Attorney shall not be affected by physical disability or mental incompetence of the principal, which renders the principal incapable of managing his estate.

I, MARION F. RILEY, SR., the principal, sign my name to this instrument this 15th day of October, 1998, and being first duly sworn, do hereby declare to the undersigned authority that I sign and execute this instrument as my Power of Attorney and that I sign it willingly, that I execute it as my free and voluntary act for the purposes therein expressed, and I am eighteen years of age or older, of sound mind, and under no constraint or undue influence.

Marion F. Riley Sr.
MARION F. RILEY, SR.

WITNESSES:

June H. Bilka
James P. Palazzolo

We, June H. Bilka and James P. Palazzolo, the witnesses,

sign our names to this the undersigned authority that the Principal signs and executes this instrument as and for his Power of Attorney and that he signs it willingly, and that each of us, in the presence and hearing of the Principal and in the presence and hearing of each other, hereby signs this Power of Attorney as witness to the Principal's signing, and that to the best of our knowledge the Principal is eighteen years of age or older, of sound mind, and under no constraint or undue influence.

Jane H. Bille address Hampton, S.C.

James P. Pelizzolo address Hampton, S.C.

State of South Carolina
County of Hampton.

PERSONALLY appeared before me the undersigned witness and made oath that (he/she) saw the within named MARION F. RILEY, JR., Principal, sign, seal and as (his/her) act and deed, deliver the within written Power of Attorney, and (he/she) with JANET P. Pelizzolo witnessed the execution thereof.

Jane H. Bille

SWORN to before me this

15th day of October, 1998.

James P. Pelizzolo
Notary Public for South Carolina
My Commission Expires: 11/25/2000

State of South Carolina, County of Allendale
I hereby certify that this instrument was indexed and

recorded this 15th day of Oct, 1998

at 4:00 PM in Book 123

Page 143

Mary Joa Burton
Mary Joa Burton, C.C.P., R.R.G.
Clerk of Court, Allendale County, S.C.

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EXHIBIT
5

Riley's Funeral Home - Fairfax, SC - 803.632.3422 - 1.800.MR.MILLER

A TRUE COPY
5-18-99

Document No. 15:147

MARY EAN CARLSON
CLERK OF COURT
ALLENDALE COUNTY, S.C.

STATE OF SOUTH CAROLINA
COUNTY OF ALLENDALE

REVOCATION OF POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS, that I, Marlon F. Riley, Sr., a citizen of Allendale County, South Carolina do hereby revoke and forever end this certain Power of Attorney to Marlon F. Riley, Jr., dated May 18, 1993 and recorded in the office of the Clerk of Court for Allendale County, South Carolina.

I, Marlon F. Riley, Sr., the Principal, sign my name to this instrument this 18th day of May, 1998, and being then duly sworn, do hereby declare to the undersigned authority that I sign and execute this instrument willingly, that I execute it as my free and voluntary act for the purpose herein expressed and I am eighteen years of age or older, of sound mind, and under no constraint or undue influence.

Marlon F. Riley, Sr.
MARLON F. RILEY, SR.

WITNESSES
Jerry B. Sanders
James P. O'Leary

We, *Jerry B. Sanders* and *James P. O'Leary*, witnesses, sign our names to this the undersigned authority that the Principal signs and executes this instrument as and for his Revocation of Power of Attorney and that he signs it willingly, and that each of us, in the presence and hearing of the Principal and in the presence and hearing of each other, hereby signs this Revocation of Power of Attorney as witness to the Principal's signing, and that to the best of our knowledge the Principal is eighteen years of age or older, of sound mind, and under no

PAGE 1 OF 2

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ROA135

Consent to be Under Influence.

James P. Henderson address Hampton, SC
James P. O'Leary address Hampton, S.C.

State of South Carolina
County of Hampton

PERSONALLY appeared before me the undersigned witness and made oath that (he/she) saw the within named Marion F. Riley, Sr., Principal, sign, seal and as (his/her) act and deed, deliver the within written Revocation of Power of Attorney, and (he/she) with James P. Henderson witnessed the execution thereof.

SWORN to before me this

26th day of May, 1988.

James P. Henderson
Notary Public for South Carolina
My Commission Expires: 11/18/2007

State of South Carolina, County of Abbeville
I hereby certify that this instrument was Voluntary and
executed this 26th day of May, 1988
at Hampton, S.C. in front of me
Page 273
James P. O'Leary
Notary Public, S.C.
County of Abbeville, S.C.

PAGE 2 OF 2

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neuro-pathways control muscular and nerve movement for writing, whether the writing is done by the hand, foot, or mouth.

OBSERVATION, DESCRIPTIONS AND/OR LIMITATIONS

The identification of any signature/handwriting is based on the agreement, without unexplainable difference, of the handwriting characteristics displayed. These characteristics include the form of the letters, the beginning, connecting, and ending strokes, the proportions of letters, size, and curvature of the writing/printing, the spacing and arrangement, the skill of the writer. The alignment, positioning and outstanding significant features are other factors used to analyze, compare and evaluate. The elimination or identification of an author is based on a lack of some or all of the above-noted characteristics.

METHODOLOGY

A meticulous examination of the questioned signatures to the comparison signatures was conducted using a side-by-side comparison with the unaided eye, handheld magnifying loupes, microscope, photocopy enlargements, a light table, and metric measuring devices. The scientific methodology used in this examination consists of the "ACE" method, which means "Analyze, Compare and Evaluate". This method was applied to both the known and the questioned documents, independently as well as comparatively. The FBI, U.S. Treasury Department, and the US Postal Services reportedly use this reliable method in their questioned document laboratories.

EXAMINATION

I have examined six (6) documents with the known (K) signatures of Marion F. Riley, SR. For the purpose of this examination, I have labeled these exhibits 'K1' through 'K6'.

Today I have compared the signatures of Marion F. Riley, SR. on the 'K' documents to the purported signatures of Marion F. Riley, SR. on the questioned documents labeled as 'Q1' and 'Q2'. I was asked to determine if the author of the Marion F. Riley, SR. signatures on the known documents was same person who authored the purported signatures of Marion F. Riley, SR. on the Questioned documents.

ANALYSIS

The signatures on the Q documents were enlarged and examined scientifically in a side-by-side comparison to the known samples, under a microscope and on a light table. Measurements of letter height, length, angles, spacing, and slant were taken to verify authorship. Differences of the handwriting characteristics revealed in the size, letter formations, connectivity, and spacing of the questioned signatures when compared to the comparison signatures of Marion F. Riley, SR. on the 'K1' through 'K6' documents.

OPINION

Based upon thorough analysis of these items, and from an application of accepted forensic document examination tools, principles and techniques, it is my professional expert opinion that the person who authored the signatures of Marion F. Riley, SR. on the known documents did not author the signatures of Marion F. Riley, SR. on the questioned documents.

It is my professional expert opinion that it is probable that Marion F. Riley, SR. did not author the signatures on the Power of Attorney for Marion F. Riley, SR. and the Last Will & Testament of Marion F. Riley, SR., labeled as 'Q1' and 'Q2' documents.

DECLARATION

I declare under the penalty of perjury under the laws of the State of South Carolina that the foregoing is true and correct and that this affirmation was executed on the 23rd day of November, 2020.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Laurie A. Hoeltzel', written over a horizontal line.

Laurie A. Hoeltzel, PhDc

RECEIVED

Apr 18 2024

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of
Appeals

APPEAL FROM ALLENDALE COUNTY
Court of Common Pleas

Brooks P. Goldsmith, Circuit Court Judge

Case No. 2023-001281

MARCUS RILEY

Appellant,

v.

Dorothy Riley, individually and Dorothy Riley in her role as Personal Representative of
the Estate of Marion F. Riley Jr. Respondent.

CERTIFICATE OF COUNSEL

The undersigned Attorney certified that this Record on Appeal complies with
Rule 210 and Rule 211 (b) of the SCACR.

April 18th 2024

/s/ Ittriss J. Jenkins

Ittriss J. Jenkins

Bar No. 76902

652 Rutledge Ave. Ste. A

Charleston SC 29403

(843) 203-0193

Attorney for Appellant

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