

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

RECEIVED

APPEAL FROM ALLENDALE COUNTY
Court of Common Pleas

May 16 2024

SC Court of Appeals

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.

3rd 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

Index

Orders

Order, In the Matter of Estate of Marion F. Riley Sr October 25 th 2002.....	3
Order, Riley vs. Riley Motion to Dismiss 2020CP 300176, Aug, 19 2021.....	5
Order, Voiding Power of Attorney 2020CP 300176 May 4 th 2023.....	8
Order Granting Defendant's Motion for a New Trial Absolute July 18 th 2023....	11

Pleadings

Complaint, Riley vs. Riley Probate 99ES0300042. Nov. 5, 2001.....	13
Amended Complaint, Riley vs. Riley 2020-CP-03-0176 July 28 2020.....	16
Amended Answer Riley vs. Riley 2020-CP-03-0176. Nov. 18 2020.....	21
Motion to Dismiss Pursuant to Rule 12 (b) Riley vs. Riley 2020CP 300176 Feb. 19 2021.....	23
Defendant's Motion for New Trial Absolute Pursuant to SCRCR Rule 59 (a) Riley vs. Riley 2020-CP-03-0176 Nov. 3 2022.....	25
Defendant's Motion to Alter or Amend Judgment Pursuant to SCRCR Rule (59) e. Riley vs. Riley 2020-CP-03-0176. Nov. 9 2022.....	28
Jury Verdict form Riley vs. Riley 2020-CP-03-0176. Nov. 1 2022.....	31
Request to Take Judicial Notice of Facts Riley vs. Riley 2020-CP-03-0176.....	32
Transcripts of the Trial November 1 2022.....	36

Trial Testimony

Marcus Riley.....	October 31 st Direct Pg. 38 Ln. 6. Cross Pg. 67 Ln. 1, Re-Direct Pg. 41 Ln 15, Re-Cross. Pg. 45 Ln 13. Redirect November 1 Examination Pg. 99 Ln. 18, Cross Pg. 110 Ln. 4
Janice Heard.....	October 31 st Direct Pg. 81 Ln. 14, Cross Pg. 94 Ln 1.
Dr. Laurie Hoeltzel PhD.....	October 31 st Direct Pg 96 Ln. 12, Cross Pg. 119 Ln. 1
Attorney Clyde Eltzroth Jr.....	November 1 Direct Pg. 134 Ln. 21 Cross Pg. 148 Ln. 1

June Bilka.....November 1 Direct Pg. 151 Ln. 14
Cross Pg. 156 Ln. 3

Chauncey Mcleod.....November 1 Direct Pg. 159 Ln. 25
Cross Pg. 168 Ln. 6

Renique Riley-Spiller.....November 1 Direct Pg. 169 Ln. 8, Cross
Pg. 188 Ln. 20

Dorothy Riley.....November 1 Direct Pg. 190 Ln. 8
Cross Pg. 206 Ln. 6. Re-Direct Pg. 210 Ln. 25

Exhibits

Last Will and Testament Marion F. Riley Sr. January 12th 1990.....280

Power of Attorney Marion F. Riley Sr. May 18th 1995.....282

Last Will and Testament Marion F. Riley Sr. June 22nd 1995.....287

Revocation of Power of Attorney Marion F. Riley Sr. May 25th 1998.....290

Power of Attorney Marion F. Riley Power of Attorney October 15th 1998.....292

Petition to informal probate of Will, Marion F. Riley Sr. May 18th 1999.....296

Last Will and Testament Marion F. Riley Jr. April 3rd 2008.....301

Affidavit of Publication, The People-Sentinel. August 30th 2018.....303

Other documents

Deed of Transfer from Marion F. Riley Rr. to Marion F. Riley Jr. February 26th
1999.....304

Deed of Transfer from Marion F. Riley Jr. to Renique Y.Riley April 14th 2014..310

Amended Inventory and Appraisement Estate of Marion F. Riley Sr 99-ES-03-
00176.....313

Affirmation of Laurie A. Hoeltzel Phd. Plaintiff's Expert November 22 2020...318

Memorandum in Support of Defendant's motion to dismiss Riley vs. Riley 2020-
CP-03-0176.....321

Certificate of Appellant.....330

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.

May 16, 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

STATE OF SOUTH CAROLINA)
COUNTY OF ALLENDALE)

IN THE PROBATE COURT

CASE NUMBER: 99-ES-03-00042

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

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

VIRGINIA PRIESTER and)
JANICE RILEY,)

Petitioners,)

ORDER

-v-)

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

Respondents.)

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

BB
#1

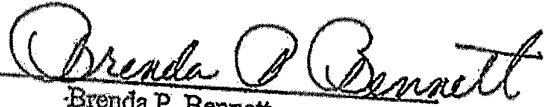
PA-3
P-268-69

DEFENDANT'S
EXHIBIT
10

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), SCRPC.

ELECTRONICALLY FILED - 2021 Aug 19 12:01 PM - ALLENDALE - COMMON PLEAS - CASE#2020CP0300176



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

ELECTRONICALLY FILED - 2021 Aug 19 12:01 PM - ALLENDALE - COMMON PLEAS - CASE#2020CP0300176

RA07

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 Itriss 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]

ELECTRONICALLY FILED - 2023 May 04 11:08 AM - ALLENDALE - COMMON PLEAS - CASE#2020CP0300176



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

ELECTRONICALLY FILED - 2023 May 04 11:08 AM - ALLENDALE - COMMON PLEAS - CASE#2020CP0300176

RAO10

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
COUNTY OF ALLENDALE

IN THE PROBATE COURT

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

CASE NUMBER: 99ES0300042

VIRGINIA PRIESTER and
JANICE RILEY,

PETITIONERS,

COMPLAINT

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.

A TRUE COPY

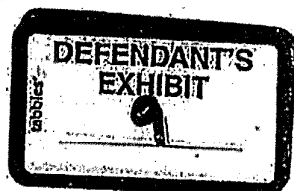
D. Keith Smith
D. Keith Smith
Probate Judge For
Allendale County

FILED FOR RECORD
01 NOV 85 PM 4:31
SUSAN 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-16
p. 301



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.


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

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 COMMON PLEAS
FOURTEENTH JUDICAL CIRCUIT

CASE NO.: 2020-CP-03-0176

AMENDED COMPLAINT
(Jury Trial Requested)

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 JURISDICTION

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, section1420 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

(843) 203-0193
(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
)	
	)	Case No.: 2020-CP-03-0176
MARCUS RILEY)	
)	
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 the applicable statute of limitations.~~

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,)

v.)

MOTION TO DISMISS)

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:

Itriss 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)
COUNTY OF ALLENDALE)

IN THE COURT OF COMMON PLEAS
FOURTEENTH JUDICIAL CIRCUIT

Case No.: 2020-CP-03-0176

MARCUS RILEY)
PLAINTIFF,)

DEFENDANT'S MOTION

v.)

FOR NEW TRIAL ABSOLUTE

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

PURSUENT TO

SCRCR 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:

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

ELECTRONICALLY FILED - 2022 Nov 09 1:42 PM - ALLENDALE - COMMON PLEAS - CASE#2020CP0300176

RAO29

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

ELECTRONICALLY FILED - 2022 Nov 09 1:42 PM - ALLENDALE - COMMON PLEAS - CASE#2020CP0300176

RAO30

STATE OF SOUTH CAROLINA

)

IN THE COURT OF COMMON PLEAS

)

COUNTY OF ALLÉNDALE

)

FOURTEENTH JUDICIAL CIRCUIT

MARCUS RILEY

Case No.: 2020-CP-03-0176

)

PLAINTIFF,

)

v.

)

VERDICT

)

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

)

)

)

)

DEFENDANTS.

)

)

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)

IN THE COURT OF COMMON PLEAS
FOURTEENTH JUDICIAL CIRCUIT

MARCUS RILEY

Case No.: 2020-CP-03-0176

PLAINTIFF,

v.

Request to Take Judicial

Notice of Facts

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, 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.

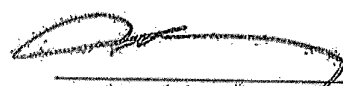
/s/J. Martin Harvey
J. Martin Harvey
SC BAR NO: 2785
jhm@hkattorney.net
HARVEY & KULMALA, LLC
Attorneys at Law
110 Main St.
P.O. Box 705
Barnwell, SC 29812

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
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

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

Marcus Riley,
Plaintiff,

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

Dorothy Riley, individually,
Defendant.

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

B E F O R E:

The HONORABLE BROOKS P. GOLDSMITH

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

Ittriss J. Jenkins, Representing the Plaintiff
J. Martin Harvey, Representing the Defendant

1

INDEX

2	Witness Name		Page	Line
	Examination By Mr. Jenkins		42	6
3	Cross By Mr. Harvey		71	1
	Re-Direct By Mr. Jenkins		80	15
4	Re-Cross By Mr. Harvey		84	13
	Examination By Janice Heard		85	14
5	Examination By Mr. Jenkins		85	16
	Cross By Mr. Harvey		94	1
6	Laurie Hoeltzel			
	Examination By Mr. Jenkins		100	12
7	Cross By Mr. Harvey		123	23
8		EXHIBITS		
9	PLF. EXH. EXH. A, Will; 1990		55	5
	PLF. EXH. EXH. A, Will; 1990		57	10
10	PLF. EXH. EXH. B, Will		57	12
	PLF. EXH. EXH. B, Will		59	14
11	PLF. EXH. EXH. C, Power of Attorney; 1995		59	16
12	PLF. EXH. EXH. C, Power of Attorney; 1995		62	9
13	PLF. EXH. EXH. D, Revocation of Power of Attorney; 5/98		62	11
14	PLF. EXH. EXH. D, Revocation of Power of Attorney; 5/98		63	10
15	PLF. EXH. EXH. E, Power of Attorney; 10/98		63	12
16	PLF. EXH. EXH. E, Power of Attorney; 10/98		65	14
17	PLF. EXH. EXH. F, Deeds; 2/99		65	16
	PLF. EXH. EXH. G, Deeds; 2/99		66	15
18	PLF. EXH. EXH. E, Power of Attorney; 10/98		67	15
19	PLF. EXH. EXH. G, Deeds; 2/99		67	17
	PLF. EXH. G, Complaint in Probate Court		92	22
20	PLF. EXH. G, Signature Slide		118	8
	PLF. EXH. H, Signature Slide		118	10
21	PLF. EXH. I, Signature Slide		118	12
	PLF. EXH. J, Signature Slide		118	14
22	PLF. EXH. K, Report; Handwriting		122	24
23	Exhibit Description		Page	Line
	DFT. EXH. 10, Copy of Order; 1995 will		97	2
24	DFT. EXH. 10, Copy of Order; 1995 will		97	14
	DFT. EXH. 11, Order Closing Estate		97	23
25	DFT. EXH. 11, Order Closing Estate		98	19

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

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

5 WHEREUPON:

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

9 MR. JENKINS: Thank you, Your Honor.

10 BY MR. JENKINS:

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

13 A Hello.

14 MR. JENKINS: Everybody okay?

15 BY MR. JENKINS:

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

17 A Marcus T. Riley.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 great relationship.

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

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

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

1 Q Now, we're going to move to your grandfather.

2 Tell me about your grandfather.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5 Q Which aunt are we talking about?

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

11 MR. HARVEY: Objection; hearsay.

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

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

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

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

22 BY MR. JENKINS:

23 Q Go ahead. Continue.

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

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

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

6 THE COURT: What was your question?

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

9 THE COURT: Question is withdrawn.

10 BY MR. JENKINS:

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

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

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

15 A I left them on the table.

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

18 THE COURT: Sure.

19 BY MR. JENKINS:

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

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

1 and share alike and give to everybody.

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

3 A Okay.

4 Q I'm going to show you what the plaintiffs --

5 (PLF. EXH. A, Will; 1990, was marked for

6 identification.)

7 BY MR. JENKINS:

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

10 A My granddad's original will.

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

12 A It looks like January 12th, 1990.

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

15 A Yes.

16 Q And where did you obtain that document from?

17 A In this courthouse.

18 Q So it was public record.

19 A Yes, sir.

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

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

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

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

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

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

15 A That's correct.

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

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

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

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

5 Q Thank you.

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

8 MR. HARVEY: No objection.

9 THE COURT: Without objection.

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

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

14 BY MR. JENKINS:

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

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

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

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

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

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

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

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

19 A Right.

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

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

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

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

8 Q Thank you.

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

12 MR. HARVEY: No objection.

13 THE COURT: Admitted without objection.

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

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

18 BY MR. JENKINS:

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

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

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

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

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

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

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

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

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

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

23 A Yes, sir.

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

1 that before he starts talking about, Your Honor.

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

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

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

14 THE COURT: Ask the question again.

15 BY MR. JENKINS:

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

18 A Yes, sir.

19 Q -- a certain date.

20 A May 4, 1995.

21 THE COURT: Overruled. Go ahead.

22 MR. JENKINS: Thank you, Your Honor.

23 BY MR. JENKINS:

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

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

1 Exactly two weeks after he was in the hospital.

2 Q Thank you.

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

6 MR. HARVEY: No objection.

7 THE COURT: Admitted without objection.

8 MR. JENKINS: Thank you, sir.

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

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

13 BY MR. JENKINS:

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

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

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

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

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

1 attorney?

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

5 Q Thank you.

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

8 MR. HARVEY: No objection.

9 THE COURT: Without objection.

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

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

14 BY MR. JENKINS:

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

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

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

22 A This was October 15, 1998.

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

25 A Uh-huh.

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

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

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

7 A Let me see. From the revocation?

8 Q 7?

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

14 Q There's another one that he --

15 A Yeah. After being revoked, yeah.

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

18 A Right.

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

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

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

2 And, you know --

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

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

9 Q All right. Thank you.

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

12 MR. HARVEY: No objection.

13 THE COURT: Admitted without objection.

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

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

18 BY MR. JENKINS:

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

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

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

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

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

5 A February 26, 1999.

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

8 A Right.

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

12 A Yes.

13 Q Which went directly to your father?

14 A Right.

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

17 BY MR. JENKINS:

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

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

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

25 A Yes.

1 Q And who is it transferring the property to?

2 A To my daddy.

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

4 A February 26, 1999.

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

7 A Right.

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

10 A Right.

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

13 MR. HARVEY: No objection.

14 THE COURT: Admitted without objection.

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

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

19 BY MR. JENKINS:

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

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

1 later, my grandfather passed.

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

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

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

16 A No.

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

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

21 Q You can continue.

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

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

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

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

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

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

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

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

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

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

23 THE COURT: Cross-examination.

24 MR. HARVEY: May it please the Court?

25 Thank you.

CROSS-EXAMINATION

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

BY MR. HARVEY:

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

A Not necessarily in the courtroom.

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

A No, I don't.

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

A No.

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

A I would imagine.

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

A In some ways, yes.

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

A That was my granddaddy's wife.

Q I'm sorry. Your granddaddy wife.

A Yes.

Q And she passed before your granddaddy?

A No, I think she out lived him.

Q Did they get divorced?

A I think so.

Q All right. So the part about Exhibit A leaving

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

3 A Something. Yeah.

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

7 A Right.

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

9 A Yes.

10 Q -- Janice --

11 A Yes, sir.

12 Q -- and Sonny, right?

13 A That's correct.

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

16 A Yes.

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

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

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

23 A Right.

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

1 A Okay.

2 Q You understand Miss Riley's position.

3 A Right.

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

7 A Are you talking about the '95?

8 Q The '95 will.

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

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

14 A According to that, yes.

15 Q Okay.

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

19 A Oh, okay. I think so.

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

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

25 Q You didn't see '98.

1 A No.

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

4 A I was in Oklahoma City.

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

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

9 Q Okay.

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

12 Q All right.

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

15 A Yes, sir.

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

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

21 Q Yeah.

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

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

1 A I did.

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

4 A Yeah.

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

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

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

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

12 Q '98, '99?

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

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

16 A Yes.

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

20 A Yes, sir.

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

23 A Yes, sir.

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

1 A My daddy was at the funeral home.

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

4 A No.

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

7 A Not to my enforcement.

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

10 A I don't know.

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

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

16 Q All right.

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

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

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

23 Q Thanksgiving 2014.

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

1 ones.

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

5 A In 2014?

6 Q 2014.

7 A I don't think so.

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

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

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

12 A I'm not sure where she went.

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

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

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

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

21 MR. HARVEY: Knowledge, Your Honor.

22 THE COURT: What's that?

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

25 MR. JENKINS: Your Honor --

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

2 BY MR. HARVEY:

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

6 A I don't remember any fence.

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

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

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

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

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

18 Your dad died in June 2018, Sonny?

19 A Yes.

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

22 A Yes.

23 Q Okay. Everybody was talking.

24 A Yes.

25 Q And you were part of the conversation where the

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

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

5 Q And then --

6 A That didn't happen.

7 Q And then a little bit later --

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

9 BY MR. HARVEY:

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

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

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

22 A I'm not sure.

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

24 A That's my phone number.

25 Q And your address is 14803 Sycamore Side Way,

1 Cypress, Texas?

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

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

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

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

11 A Yeah.

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

13 THE COURT: Any redirect?

14 MR. JENKINS: Just briefly, Your Honor.

15 REDIRECT EXAMINATION

16 BY MR. JENKINS:

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

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

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

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

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

1 A No, it did not.

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

4 A Yes.

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

8 A No, I didn't.

9 Q Is that correct?

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

12 Q Thank you.

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

16 A Pretty much.

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

19 A Dot.

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

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

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

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

1 Something like that.

2 Q 12 or 13?

3 A Yeah, about that many.

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

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

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

12 A Excuse me?

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

16 A They have access to it, yeah.

17 Q Okay. And that didn't happen?

18 A No.

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

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

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

25 A Yes.

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

3 A No.

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

6 A No.

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

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

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

19 A Do I feel -- yes.

20 Q Did you ever feel you had ownership?

21 A Ownership as far as?

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

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

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

1 understand how this works --

2 A Right.

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

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

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

12 MR. HARVEY: Recross?

13 RE-CROSS-EXAMINATION

14 BY MR. HARVEY:

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

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

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

24 A Yes, I never evicted her.

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

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

3 Another witness?

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

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

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

12 THE WITNESS: I do.

13 WHEREUPON:

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

16 DIRECT EXAMINATION

17 BY MR. JENKINS:

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

20 A My name is Janice Riley Heard.

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

23 A Marcus is my nephew.

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

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

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

3 A He's my brother known as Sonny.

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

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

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

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

20 A My role now is HR. I'm in human resources.

21 I represent HR, receptionist.

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

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

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

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

5 A Yes.

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

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

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

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

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

1 all before he got so ill.

2 Q And what about his hospital stays?

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7 MR. JENKINS: Thank you, Your Honor.

8 BY MR. JENKINS:

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

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

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

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

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

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

10 A Right. That's me.

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

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

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

20 A Correct.

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

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

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

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

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

10 A Uh-huh.

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

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

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

20 MR. HARVEY: No objection.

21 THE COURT: Admitted without objection.

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

24 BY MR. JENKINS:

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

1 that this was going on?

2 A The one --

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

6 A No, no.

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

9 A No.

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

12 BY MR. JENKINS:

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

15 A Say that again.

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

19 A No.

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

23 THE WITNESS: Okay.

24 THE COURT: Cross-examination.

25 MR. HARVEY: Thank you.

CROSS-EXAMINATION

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

BY MR. HARVEY:

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

A Yes.

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

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

Q Okay.

A They were representing Virginia.

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

A Who's father?

Q Virginia's husband. You said --

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

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

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

THE COURT: Certainly.

BY MR. HARVEY:

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

A All of his -- yes.

1 Q All four children?

2 A Yes.

3 Q And they were all living?

4 A Yes.

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

8 A I would think so.

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

12 A Yeah, I did know that.

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

15 A No.

16 Q Okay.

17 A Not that one.

18 Q All right.

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

22 A Uh-huh.

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

25 A Uh-huh.

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

3 A Correct.

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

6 A Yes.

7 Q Okay.

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

9 Q All right. But his cancer was prostate.

10 A Uh-huh.

11 Q And he had a pacemaker.

12 A Yeah.

13 Q He did not have a brain tumor.

14 A The cancer spread.

15 Q Metastasized.

16 A Right. Correct.

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

19 A Uh-huh.

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

22 A Uh-huh.

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

24 A Huh-uh.

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

1 I will.

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

4 BY MR. JENKINS:

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

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

9 Q That's it, right?

10 A Uh-huh.

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

13 THE COURT: Admitted without objection.

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

16 BY MR. HARVEY:

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

22 A Not that one, correct.

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

25 BY MR. HARVEY:

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

5 A No.

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

8 A No.

9 Q Okay.

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

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

13 A No.

14 Q Okay.

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

17 MR. JENKINS: No objection.

18 THE COURT: Admitted without objection.

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

21 BY MR. HARVEY:

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

1 it?

2 A No. I knew nothing of it.

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

4 MR. JENKINS: No redirect.

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

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

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

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

14 THE COURT: Plaintiff ready for the jury?

15 MR. JENKINS: Yes.

16 THE COURT: Defense ready for the jury?

17 MR. HARVEY: Yes, Your Honor.

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

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

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

24 Mr. Jenkins, call your next witness.

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

1 going to Laurie Hoeltzel to the stand.

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

6 THE WITNESS: I do.

7 MR. JENKINS: Thank you, Your Honor

8 WHEREUPON:

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

12 DIRECT EXAMINATION

13 BY MR. JENKINS:

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

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

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

19 A I'm a forensic document examiner.

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

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

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

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

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

22 A Yes.

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

24 A Yes.

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

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

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

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

18 So, have you ever been asked to testify?

19 A Yes, sir.

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

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

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

25 A Signature and handwriting.

1 Q What are you testifying to?

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

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

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

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

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

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

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

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

6 A Yes, sir.

7 Q Did you perform that task?

8 A I did.

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

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

15 Q Okay. Hold on for a second.

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

18 MR. HARVEY: No objection.

19 THE COURT: So qualified.

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

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

4 Now, you may go ahead.

5 BY MR. JENKINS:

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

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

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

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

15 BY MR. JENKINS:

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

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

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

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

2 Can everybody hear me okay?

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

5 COURT REPORTER: I can hear, yes.

6 THE COURT: She said she can hear you.

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

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

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

1 and then -- everybody has a difference.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 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 A Hoeltzel, yes, sir.

2 Q We haven't met.

3 A Nice to meet you.

4 Q Pleasure.

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

6 A I did not.

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

8 A I did not.

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

11 A Correct.

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

15 A Yes, I did.

16 Q You did?

17 A Yes, sir.

18 Q Okay.

19 A I have --

20 Q Please tell me which ones were.

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

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

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

13 A Provided by Marcus Riley.

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

16 THE COURT: Redirect?

17 MR. JENKINS: No redirect, Your Honor.

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

20 THE WITNESS: Thank you, Your Honor.

21 Call your next witness.

22 MR. JENKINS: Plaintiff rests.

23 (End of excerpt.)

24

25

RECEIVED

1

May 16 2024

SC Court of Appeals

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

4 Marcus Riley,

5 Plaintiff,

6 vs.

Transcript of Record
2020-CP-03-0176

7 Dorothy Riley, individually,

8 Defendant.

9

10

11

November 1, 2022
Allendale, South Carolina
(Excerpt of trial.)

12

13

B E F O R E:

14

The HONORABLE BROOKS P. GOLDSMITH

15

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

16

Ittriss J. Jenkins, Representing the plaintiff

17

J. Martin Harvey, Representing the Defendant

18

19

20

21

22

SHARON G. HARDOON, CSR
Official Circuit Court Reporter, III

23

24

25

RAO121

1 THE COURT: Let's go back to the case for
2 9:30.

3 Mr. Jenkins, are you ready to proceed?

4 MR. JENKINS: Yes, sir.

5 THE COURT: Mr. Harvey, are you ready to
6 proceed?

7 MR. HARVEY: Yes, sir.

8 THE COURT: I believe when we recessed, I
9 asked -- I think I asked Mr. Harvey to see if he
10 could find some law addressing the non-claim
11 statute.

12 MR. HARVEY: Your Honor, I did. I
13 emailed the Court yesterday at around 6:00 and
14 copied Mr. Jenkins with three opinions. The -- I
15 guess the lead case in South Carolina, so to
16 speak, is Phillips against Quick, a 2012 Court of
17 Appeals case where the Court discussed the
18 difference between a non-claim statute, which is
19 62-3-803, and a statute of limitations, and the
20 Court discussed the Alabama Supreme Court having
21 a -- having a -- addresses a non-claims statute.

22 The Court specifically held in the second
23 paragraph from the last of the opinion, "Because
24 we find no indication that our legislature
25 intended for the discovery rule to apply to the

1 non-claim statute, we conclude this rule does not
2 extend to 62-3-803," which I think directly
3 addresses the Court's concern.

4 And then the Supreme Court in 2014 in the
5 Beach First Nat'l Bank against The Estate of
6 Gurnham, 407 S.C. 194, 754 S.E.2d 875, apparently
7 having an opportunity to examine the *Phillips*
8 case, cited *Phillips* in response -- as a -- in
9 support of its decision of the non-claim statute
10 being not subject to the discovery rule. In other
11 words, in absolute bar.

12 And then just because the *Phillips* case
13 relied on the Supreme Court of Indiana, I found
14 the most recent opinion I could from Indiana where
15 they talk about non-claim statutes, again
16 distinguished between a non-claim statute and the
17 statute of limitations. And a non-claim statute
18 is an absolute bar within one year after death or
19 eight months after the notice to creditors is
20 published.

21 If the Court would like hard copies, I
22 have a hard copy.

23 THE COURT: I've looked at them.

24 Let's see what Mr. Jenkins has to say.

25 MR. JENKINS: Your Honor, may it please

1 the Court?

2 The problem I have with both of these
3 cases is, they're assuming that my client is a
4 creditor; therefore, filing a claim. I think what
5 I was trying to hammer home yesterday is, there
6 are two different people in an estate. When an
7 estate is opened, you have your advisees in
8 interest, then you have your creditors.

9 In Statute 628-21 of the Probate Code, it
10 goes through definitions of what things are. At
11 no time do they mix heirs and creditors. In fact,
12 creditors have to file what's called a claim.

13 At the end of Section Number 4, the claim
14 says, "The term does not include an estate where
15 inheritance taxes remain in dispute or regarding
16 title of a specific person or assets that are
17 alleged to be included in the estate."

18 That is our argument. We're saying that
19 there are assets in the estate that should not be
20 in the estate. We're not filing a claim, because
21 a claim is at the front of the statute where it
22 explains what a claim is and how you can be a
23 creditor.

24 Now, he can be both. You can be an heir
25 who has loaned money to the estate, you can be an

1 heir where the estate owes you money, like we do
2 with funerals. In the Probate Code, funerals come
3 first. So if I pay for the funeral of a loved
4 one, I'm first in line to get my money back even
5 if I'm an heir.

6 But being an heir and a creditor doesn't
7 mean that you're a creditor just because you're an
8 heir. The statute is very clear to differentiate
9 between the two. Because if you have to go down
10 to another statute, which is Section Number 20,
11 where it clearly defines heirs as "Neither of
12 those persons, including the surviving spouse, who
13 are entitled under the statute of intestate
14 succession to the property of a decedent."

15 So, as you notice, the statute says under
16 intestate succession, that makes you an heir. So
17 if the will is there and the will actually
18 disinherits you, that doesn't take you out from
19 being an heir. There you would move into a status
20 of what we call a disinherited heir, but you're
21 still an heir.

22 Once there's a will that survives leaving
23 property to a loved one, that one loved one is
24 also what we could call an devisee. So the case
25 law, I don't really look at Indiana case law, but

1 that Indiana case law, although not applicable in
2 South Carolina, still talks about a claim that's
3 filed against the estate.

4 With the first case, they're talking
5 about a deficiency judgment. My client is; not;
6 talking about a judgment against his father. My
7 client's not talking about money his father owes
8 him. My client is basically contesting the one
9 particular issue, which is, there were assets that
10 were in the estate that no longer should be in
11 that estate because it was obtained illegally.
12 That's the issue.

13 So if the estate owes money, he doesn't
14 know anything about that. He didn't get into
15 that. As I say, Your Honor, if you look at the
16 statute, it's extremely clear as to what an heir
17 is. These things -- the second case also talks
18 about another person who he owed money -- the quit
19 claim argument. So the claims were barred.

20 He's right. Absolutely right. The
21 claims are barred when you are in Probate Court
22 under 62-3-803. Barred. I understand. You have
23 one year to do it. If you don't do it within a
24 certain amount of time, you're barred for life.

25 He's not a creditor, and we're not

1 challenging an issue that a creditor would even
2 have access to. If I was at Bank of America and
3 the decedent owed me money, I can't challenge
4 what's in the estate as the validity of it. All I
5 will say is "I don't care, sell it all, give me my
6 money, because that's what I'm here for. That's a
7 creditor. Creditors file claims. Heirs have
8 interest.

9 So with this case law, I think it's
10 totally off the mark. The true issue is why my
11 client has standing. As an heir, he has standing
12 to challenge the estate. The statute says it.

13 Thank you.

14 THE COURT: All right. Help me out with
15 a couple other things.

16 MR. JENKINS: Sure.

17 THE COURT: Let's just talk about as far
18 as what you're asking the Court or the jury or --
19 I guess the Court to do as it relates to the
20 estate.

21 MR. JENKINS: Yes, sir.

22 THE COURT: What is it that you're
23 asking?

24 MR. JENKINS: We're asking for all the
25 assets in the estate that were obtained by illegal

1 power of attorney to be returned to where it's
2 supposed to be, which is the estate of his
3 grandfather.

4 THE COURT: All right. Let me see if I'm
5 following this right. That would require the
6 personal representative to sign a deed?

7 MR. JENKINS: Sign a quit claim deed.

8 THE COURT: Quit claim deed.

9 MR. JENKINS: Yes.

10 THE COURT: To who?

11 MR. JENKINS: To the estate. So what you
12 have to do is reopen the estate.

13 THE COURT: Reopen --

14 MR. JENKINS: The grandfather's estate.

15 THE COURT: The grandfather's estate.

16 MR. JENKINS: Yes, sir. I do it at least
17 twice a week. Reopen the estate and you say the
18 reason why is you filed additional assets.
19 Additional assets would be the additional assets
20 that the jury would have awarded, hopefully, in
21 this hearing.

22 So if that occurs, then once you reopen
23 the estate, once the jury -- then a PR is assigned
24 the same way you do with a regular estate. That
25 PR then would go about redistributing, according

1 to the grandfather's will. That's exactly what
2 we're asking. We're just asking for it to go
3 where the grandfather had intended it to go
4 originally.

5 THE COURT: And you want an order -- see
6 if I'm correct in this. You want an order that
7 says that the power of attorney and/or deed
8 following the power of attorney were invalid.

9 MR. JENKINS: Yes, sir.

10 THE COURT: Now, help me out with one
11 other thing.

12 MR. JENKINS: Okay.

13 THE COURT: 15-3-340 indicates you can't
14 bring an action for recovery of real property
15 unless you do it within ten years, et cetera,
16 et cetera. But that was argued yesterday.

17 MR. JENKINS: I'm sorry, Your Honor. I
18 need to look at that.

19 What section are we speaking of, Your
20 Honor? 15-3-340. I think I see, Your Honor, but
21 it's basically statutory, because, if you look at
22 15-3-535, fraud is always when it's discovered.

23 THE COURT: Hang on one second. 15 --

24 MR. JENKINS: 3-535. It talks about the
25 statute of limitations.

1 THE COURT: Okay.

2 MR. JENKINS: If you look at that
3 statute, fraud is always unique than any or other
4 statute and any other claim. Because it says, "It
5 must be commenced within three years after the
6 person knew or by the exercise of reasonable due
7 diligence should have known that he had a cause of
8 action."

9 My client didn't even have an idea that
10 this occurred until 2018 -- 2020 when he did that
11 research.

12 So our argument is his 10 years started
13 when he discovered. And here we are in '22. It's
14 only been two.

15 THE COURT: In other words, under your
16 theory, could you not go back and set trial, bring
17 an action to set aside the deed that had been done
18 50 years ago?

19 MR. JENKINS: Well, I've tried. I mean,
20 it's still pending. But, yes, sir, I believe you
21 can. If you can find evidence. The reason why --
22 I looked at the public policy last night. The
23 reason why they do it as a fraud is because once a
24 person is frauded, they very seldom know
25 immediately. In our case, they do, because we

1 have electronic means. We have all these things.

2 But usually when a fraud occurs -- I
3 guess the testimony heard kind of took that as an
4 example. She didn't know her brother did that.
5 She didn't know that years ago. So usually with
6 fraud, you don't notice it happens immediately.
7 You don't notice it happens until there's some
8 reason for you to look into it. I mean, we all go
9 home at night. We don't know. Somebody might
10 sign our house over to someone else. We have no
11 reason to go look back at the title or look at the
12 deed. So that's why the statute is put in place.
13 And that's why when you discover and you have
14 reasonable -- the word is reasonable diligence
15 should have discovered. And he had no reason
16 living in another state to believe that he would
17 have discovered when had happened until somehow he
18 had a phone call to say that this is a problem.

19 THE COURT: But now does that statute of
20 limitations apply to 15-3-34?

21 MR. JENKINS: Yes, sir, I believe it
22 does, because it doesn't say it's limited by
23 anything. There is nothing in the statute that
24 says there's a limitation on this statute.

25 THE COURT: Well, how do you reconcile

1 340 with 335?

2 MR. JENKINS: Because I think 335 is
3 talking about all cases and claims. It's not
4 talking about claims that we're talking about in
5 this circumstance. We're talking about fraud.

6 THE COURT: I understand. Mr. Harvey?

7 MR. HARVEY: Sir?

8 THE COURT: What do you say?

9 MR. HARVEY: First of all, Your Honor,
10 you know, conveniently Mr. Jenkins argues fraud,
11 fraud, fraud, fraud, fraud. But conveniently,
12 Mr. Jenkins forgets that fraud is a tort. This
13 suit is brought in fraud and brought in tort. And
14 Section 62-1-2014 under the definition of claims
15 includes torts.

16 And to me it's pretty disingenuous to
17 say, Oh, no, we're not a claimant, but we're suing
18 you for fraud, which is a tort, which means we get
19 to ignore the clear public policy of South
20 Carolina in ending estates and allowing estates to
21 be closed.

22 The other thing about heirs, Your Honor,
23 intestate heirs are determined as of the date of
24 death. Sure, you might be an heir for purposes of
25 family reunions long after someone has died. But

1 when someone dies, the heirs are determined. And
2 you are either a devisee. If there is no devisee,
3 you're an intestate heir.

4 The intestate heirs is clear in this
5 case. Virginia Priester, Evelyn Grant, Janice
6 Heard, and Marion F. Riley, Jr. They were all
7 living.

8 The grandson is not an intestate heir as
9 of the date of death of Marion F. Riley. So he's
10 either suing as a claimant because a fraud was
11 committed, a tort was committed, or he has no
12 standing because he's not an heir.

13 THE COURT: All right. I'm still going
14 to take it under advisement and think further on
15 this matter.

16 You-all ready for the jury to come in?

17 MR. HARVEY: I'm ready. I've got
18 witnesses ready to testify.

19 MR. JENKINS: I'm ready, Your Honor.

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

21 (Jury enters the courtroom at 10:12 a m.)

22 THE COURT: Good morning, ladies and
23 gentlemen. I apologize for making you wait. Some
24 other matters came up that I had forgotten about.

25 Were you able to select a foreperson to

1 represent the jury?

2 That would be who?

3 I'm sorry. Your name is what?

4 FOREPERSON: Martha Banks.

5 THE COURT: It was a wise decision the
6 jury made to appoint you. I agree. Thank you for
7 serving.

8 I believe we're ready to resume with the
9 presentation of evidence by the defense.

10 MR. HARVEY: I'm sorry, Judge.

11 THE COURT: You ready?

12 MR. HARVEY: I'm ready.

13 THE COURT: Okay. You may call your next
14 witness.

15 MR. HARVEY: Clyde Eltzroth, Jr.

16 THE CLERK: Do you solemnly swear or
17 affirm to tell the truth, the whole truth, and
18 nothing but the truth, so help you God?

19 THE WITNESS: I do.

20 WHEREUPON:

21 CLYDE ELZROTH, JR.

22 after having been sworn, testified as follows:

23 DIRECT EXAMINATION

24 BY MR. HARVEY:

25 Q State your name, please.

1 A Clyde A. Eltzroth, Jr.

2 Q Where do you live?

3 A 405 East Palmetto Avenue in Varnville,
4 South Carolina.

5 Q How long have you been there?

6 A Well, at that particular residence, over
7 40 years, but I've lived there all my life.

8 Q And are you presently retired?

9 A Yes, sir. I've been retired since back
10 surgery of 2010.

11 Q Okay. Before that, what did you do for a
12 living?

13 A General practice of law. Mostly personal
14 injury, but it covered pretty much -- whatever
15 came in the door, I was comfortable with handling.
16 I handled wills of people. I did powers of
17 attorney. Those I did without charging people
18 because it was something that the public needed.
19 People couldn't afford to have wills. I did that.
20 I did worker's comp, every kind of personal injury
21 case that you could imagine. I handled a few
22 estate contested cases.

23 Q Okay. Do you -- was Marion Riley, Sr. ever your
24 client?

25 A Yes, he was. I met Mr. Riley probably

1 sometime between 1973, when I was hired by
2 Eltzroth & Peters. And when my father became a
3 Circuit Court judge, he helped my father to win
4 the endorsement of the NAACP when he ran for
5 Circuit Court judge of the 14th Judicial
6 Circuit.

7 Q Okay. And it's your understanding he operated a
8 funeral home?

9 A Yes. He operated his funeral home in
10 Fairfax, South Carolina.

11 Q Okay. Was there any frequency of seeing him on a
12 business occasion or was it whenever he needed you?

13 A Well, he would come see me occasionally just
14 for legal questions. I can remember one time he
15 was involved with an estate. I don't know whether
16 he was the personal representative. I don't
17 believe I entered into the representation, but it
18 is an estate that didn't have enough money to pay
19 its bills.

20 So I helped him go through that process
21 of having an estate sale of the personal property,
22 which took place on the grounds of the funeral
23 home in Fairfax. I can recall showing up
24 afterwards and helping him with the paperwork and
25 to make sure everything was going smooth.

1 I also can remember a time he came in
2 with a disputed bill from Cade Vault Company in
3 Estill. His daughter Virginia ran the funeral
4 home in Hampton. And Marion, and I think his son,
5 had started helping in Fairfax.

6 In any event, Mr. Marion got the bill
7 from Cade funeral home in Estill, but the vaults
8 were delivered to Hampton, which he did not order,
9 and he was, kind of, upset. So I contacted Cade
10 for him and explained to them that he was not
11 going to pay that bill, and he didn't.

12 But there were various other times. If I
13 had cases pending on the roster up here, I would
14 call him up and usually ride up to Fairfax and go
15 over the jury list with him just to try to get
16 information to strike a juror. So I saw him on a
17 regular basis.

18 Q You knew him pretty well then.

19 A Yes, sir.

20 Q In 1995 -- strike that.

21 When I called you and asked you what you
22 might recall about Mr. Riley, you indicated you
23 needed to look in your calendar and daybooks.

24 A Correct.

25 Q Have you had an opportunity to review?

1 A Yeah, I did. I went up to the office
2 yesterday. And what I called the offices, it's
3 where I practiced law when the law firm moved up
4 to this private building. It's now called Parker
5 Law Group. I've been out of that practice of law,
6 and no financial interest with it since 2010,
7 really.

8 But I recorded in a daybook that I kept
9 on my desk with a calendar from each of day of the
10 year, and the law firm paid for it. And I don't
11 remember exactly what year I started, but I had
12 them back then.

13 So I went up and found it there on the
14 3rd floor storage. Parker Law Group is in charge
15 of, I guess, the records of the old law firm. And
16 if I can refer to my notes for looking at that
17 daybook, it has notes about Mr. Riley and, of
18 course, a lot of other clients that I did business
19 with as well.

20 But I went and reviewed it. Let me get
21 my glasses. But it was on a Thursday, May the
22 18th. It was the morning. There's a note that
23 reflects that Marion Riley, Sr. and his son came
24 to my office, and that's the date of the power of
25 attorney.

1 In instances like that where they come in
2 with a relative or a son or a daughter or anyone
3 else, I take them individually and everybody else
4 is out of my office. They have to wait in the
5 lobby or the waiting room, or whatever, but
6 they're not present when I discuss that with the
7 client.

8 And I went over with him why he may have
9 wanted the power of attorney, what it did, what it
10 allowed. He wanted to appoint Sonny as his power
11 of attorney. I explained the difference between
12 what I call a general power of attorney that
13 allows him to do just about anything and a
14 specific power of attorney that would just let him
15 perform one act, like a real estate closing. You
16 give them a power of attorney just to do that and
17 nothing else. He had a general power of attorney.

18 And I would have had that typed up as a
19 general thing that we have. It doesn't have to be
20 specific unless it is specific. So that was done.

21 I would have called in probably my
22 secretary or one of the other secretaries to
23 witness it and, perhaps, notarize it, or I may
24 have notarized it. So that's what happened with
25 that.

1 Q Okay. Let me -- let's stop.

2 A Okay.

3 Q I'm going to show Plaintiff's Exhibit C. And I'd
4 just ask you to identify this as the power of attorney
5 that you just talked about?

6 A Yes, it is. This would be the one that was
7 prepared in my office and that he did in my
8 presence. I also note that it looks like it was
9 filed with the clerk of the court on 10/24 of '95,
10 which would go into a further explanation that I
11 had given him and anybody else that comes in for a
12 power of attorney.

13 You don't have to file it with the clerk
14 of the court. You can just tell whoever you
15 appoint. You can appoint one person with your
16 power of attorney or you can appoint two or three
17 people within the same instrument and just let
18 them know where it is. It's in a safe place in
19 case you become incapacitated and cannot handle
20 your affairs.

21 The best thing to do would be to go ahead
22 and file it and get certified copies in case
23 something -- your house burned down, there would
24 be a record of it at the clerk of court's office.
25 It appears that's what he did.

1 Q Okay. You said it was filed?

2 A According to what I see on this stamp right
3 here, it looks like it was.

4 Q On October 24th of 1995.

5 A Correct.

6 Q Even though it was signed in May of 1995.

7 A That's what's...

8 Q Do your notes reflect that, at about the same
9 time, you spoke with Mr. Riley, Sr. about a will?

10 A No, I didn't. But when I looked for the date
11 of the will that he came in, that's not likely
12 that I would have prepared that that same day. So
13 most likely on the 18th when he came in about his
14 power of attorney, he also talked to me about a
15 will, and we went over that.

16 Of course, he knew who I was. I knew who he
17 was. He knew where he was, who he was. He went over
18 the -- who he wanted to inherit his property. He
19 wanted to leave the Hampton, any interest he had in
20 that, to his daughter Virginia, and any interest he
21 had in Fairfax to his son Sonny. I didn't call him
22 Marion Riley, Jr. I always knew his as Sonny.

23 Q Everybody does.

24 A So, yes, we went over everything about a
25 will. It was something that if he changed his

1 mind at a later date, he could revoke it and make
2 a new will, and just general information I give
3 people when I prepare a will for them.

4 Q Okay. Plaintiff's Exhibit B is in evidence as
5 Mr. Riley's 1995 will.

6 Do you recognize that?

7 A I do. That's the will I prepared, and
8 Mr. Riley signed it in my presence and I
9 notarized it.

10 Q No doubt he signed it?

11 A No doubt whatsoever.

12 Q Okay. Then when was the next time you spoke to
13 your client?

14 A Well, the next time I was directed by any of
15 the documents concerning this case, as far as I
16 know, I didn't check again until May the 28th of
17 1998. Did I go three years without seeing
18 Mr. Riley? Most likely, I did not. Most likely
19 I saw him at some point in time during those three
20 years, but I didn't check. I just went to this
21 date and this date in time.

22 It was on Thursday, and there is a note
23 that Mr. Riley came into my office after lunch.
24 That was no notation that anybody accompanied him,
25 or how he got there. He was by himself, according

1 to my records -- I say my records -- my law firm
2 records. And I didn't have a note that he had
3 called for an appointment or called to let me know
4 he was coming. He just was there.

5 At that time, he wanted to revoke the
6 power of attorney. I didn't go into any specifics
7 with him about why he wanted to do it. In fact,
8 he asked me if he could revoke it. I'd never done
9 a power of attorney revocation, and that was the
10 first and only one I've ever done.

11 I probably pulled the statute and the
12 code right by my desk, looked it up, prepared it,
13 and he signed that in my presence.

14 Q And that would be Exhibit D, correct?

15 A That's correct. That would be what I
16 prepared.

17 Q And that document was recorded as well, correct?

18 A Yes. According to this, it shows a true copy
19 of 5/18/99 signed by the clerk of the court of
20 Allendale County.

21 Q All right. Now, did I ask you to check your
22 records to see about a power of attorney that was
23 dated in 1998, later on that year?

24 A Yes, you did. And I also reviewed the
25 document and noted that the witnesses appeared to

1 have been from the law office where I practiced
2 law. But when I look, my calendar -- that was on
3 a Thursday, October 15th of 1998. But my calendar
4 in my daybook was blank that week Thursday and
5 Friday.

6 What I noticed on Friday was a notation
7 that I had a hearing in an estate case that I was
8 handling in Florida with an associated attorney
9 down there. So I would have probably left
10 Wednesday before this power of attorney was done
11 and probably driven down to Florida to Cocoa
12 Beach, spent the Thursday preparing and going over
13 the things for the hearing and then gone to the
14 hearing the next day.

15 Q Okay. For some reason, I can't find it among all
16 the exhibits, so I'm going to show what we have as
17 Defendant's Exhibit 5. You said you had reviewed and
18 that document was prepared by your office?

19 A According to these signatures of the
20 witnesses, yes, it does. Janet Laslo served as my
21 secretary for a number of years, served as
22 secretary to Johnny Parker for a number of years.
23 She also -- while she was working at the law
24 office, she served as secretary to the Hampton
25 County Election Commission when I was serving on

1 the election commission there. June Bilka, she
2 was Randy Murdaugh's secretary. At that time, I'm
3 not sure whether Randy was in the same building as
4 me and June, but they must have been for them to
5 do it. But they both were employed by the law
6 firm.

7 Q Okay. What training, if any, did your employees
8 have with respect to ensuring that a legal document
9 such as a power of attorney, a deed, a will was
10 properly executed?

11 A Well, first of all, I would think he would
12 have talked to an attorney to have that done. I
13 don't know who that might have been. It could
14 have been Randy. Possibly Johnny. But the staff
15 would have known that they have to be competent.
16 They have to know who they are, where they are.

17 If there's anything that appeared out of the
18 ordinary, if they seemed confused, or under the
19 influence, on any kind of medication, that they should
20 ask about that. And I don't know whether they asked
21 him about any undue influence. I don't know if anyone
22 accompanied him there or not.

23 But, typically, we would always exclude
24 relatives from the room and any other -- anybody else,
25 other than that particular person, while it was being

1 executed to make sure nobody is exercising undue
2 influence on them and that they knew what they were
3 doing and were competent and understand it and would
4 read it and we'd read it over to them. Just what you
5 would do with anyone that would come in asking for a
6 legal opinion. You want to know about them. The
7 history, about their well-being, that type of thing.

8 Q Signing a legal document such as a power of
9 attorney, a deed, a will, that was not something that
10 was done on a rare occasion at your office, was it?

11 A No. That was something that we would do for
12 people fairly frequently. It was something that
13 everybody was trained that this was a legal
14 document that had legal consequences about how it
15 would affect them, how it could affect their
16 property, their business, their finances, their
17 whole life. This is not something to be taken
18 lightly. We needed to make sure they were
19 competent and they knew what they were doing when
20 you did it.

21 Q So when Mr. Riley, Sr. signed his first power of
22 attorney in 1995, he knew about all of those
23 ramifications, if you will.

24 A Oh, yes.

25 Q So when he came back, is there any reason to

1 believe that he did not understand?

2 A No, because he was there in May of 1998 to
3 revoke the power of attorney that I had previously
4 done. I certainly talked with him and went over
5 everything with him.

6 I don't know whether he and Sonny had a
7 falling out, or something had upset him, and he didn't
8 want his son to have that power of attorney anymore.
9 He was positive about that. He was adamant about it.
10 He said, *Nope, I'm going to revoke it.* I said, *That's*
11 *fine. We'll handle it for you,* and I did it. No, he
12 was good.

13 Q But no other power of attorney was done in favor
14 of a different child at that point.

15 A Not that I'm aware of.

16 Q Okay. Were you aware at any time that you spoke
17 to Mr. Riley that he had gotten out of the hospital
18 on any of those occasions?

19 A No, I wasn't.

20 Q Okay. Mr. Eltzroth, thank you very much for
21 showing up today. I'm sure the Court appreciates it.
22 Mr. Jenkins will have cross.

23 THE COURT: Cross-examination,
24 Mr. Jenkins.

25 MR. JENKINS: Thank you, Your Honor.

CROSS-EXAMINATION

1

2 BY MR. JENKINS:

3 Q Mr. Eltzroth, once again, before I get started, I
4 want to say thank you for being here today.

5 A You're welcome.

6 Q Mr. Eltzroth, you have a really good memory.

7 A Well, I had to refresh my memory. I couldn't
8 remember this without going back and looking at
9 that date book. I wouldn't have had a clue about
10 what day of the week it was, what else I was doing
11 that week. I wouldn't have had a clue. On that
12 one occasion, I wasn't even in the office. I
13 wouldn't have remembered that just on my memory.
14 No, it was refreshing my recollection.

15 Q And you say the day of the 1998 power of attorney,
16 you weren't in the office?

17 A My notes reflected that. It was blank for
18 that and the day before and that Friday. And that
19 Friday, there was a note that I had a hearing on
20 an estate case in Florida. So I would have left
21 the office to go to Florida on Wednesday, spent
22 that day Thursday getting ready for whatever that
23 hearing was, and then we would have been in a
24 hearing in Florida on that Friday.

25 Q So we're contesting the validity of the signature

1 that happened on the 1998 power of attorney. You,
2 really can't speak to it because you technically
3 weren't there.

4 A No, I wasn't.

5 Q What you're saying is, your staff is trained to do
6 certain things.

7 A Correct.

8 Q So when Mr. Harvey asked you about, did he tell
9 you anything about a medical condition? If you
10 weren't there that day, he couldn't have told you
11 about a medical condition, right?

12 A Certainly not.

13 Q And you said your staff is trained in certain
14 matters, and I understand that. So they're trained to
15 ask questions to determine someone's ability.

16 A True. But I don't know whether he talked
17 with an attorney to have this done either.
18 Because, as I pointed out, Janet was Johnny
19 Parker's secretary, and June Bilka was Randy
20 Murdaugh's secretary.

21 Typically, to have something like this done,
22 you would first be directed to an attorney.

23 Q So the whole point that there wasn't an attorney
24 that was even there doing it --

25 A I don't know who did it. I haven't gone back

1 to check anybody else's records or talk to them to
2 see who may have prepared this.

3 Q So just out of curiosity, I guess the way the
4 statutes are today, is it legal for a legal document
5 to be performed outside the presence of an attorney?

6 A Yes, it is, as far as I know. They
7 typically -- back when we did real estate, they
8 would prepare deeds. Yes, whenever I'd get deeds,
9 my secretary writes them up. We had a form.
10 Basically, unless we had some restrictions to it,
11 a general power of attorney, we had that. Back
12 then we had computers, and we had one that pretty
13 much everyone in the office used. So I don't know
14 whether he talked to an attorney or not. I was
15 just saying the people I recognize, they were
16 secretaries for the attorneys.

17 Q If I'm speaking -- isn't it true that a secretary
18 performing a legal action outside of the supervision
19 of an attorney is the very definition of practicing
20 law without a license?

21 A I don't know.

22 Q Okay, thank you.

23 MR. JENKINS: No further questions, Your
24 Honor.

25 MR. HARVEY: No further questions, Your

1 Honor. This witness may be excused.

2 THE COURT: Thank you, sir. You may step
3 down and you're excused.

4 MR. HARVEY: We call June Bilka.

5 THE CLERK: Do you solemnly swear or
6 affirm to tell the truth, the whole truth, and
7 nothing but the truth, so help you God?

8 THE WITNESS: I do.

9 WHEREUPON:

10 JUNE BILKA,
11 after having been sworn, testified as follows:

12 DIRECT EXAMINATION

13 BY MR. HARVEY:

14 Q State your name, please.

15 A June Bilka.

16 Q What is your address?

17 A 804 5th Street E, Hampton, South Carolina.

18 Q How long have you lived there?

19 A Since 1991.

20 Q Okay. What is your present occupation?

21 A I'm retired.

22 Q And where are you retired from?

23 A From the Law Firm of Peters, Murdaugh,
24 Parker, Eltzroth & Detrick.

25 Q When did you retire?

1 A Approximately 2015. I don't remember exactly
2 the day, but it was since then.

3 Q While you were -- how long did you work for the
4 firm?

5 A For approximately 25 years. I went there
6 several years before Randy Murdaugh, IV graduated
7 from law school. And once he came to the law
8 firm, I was his secretary -- legal secretary for
9 the years until I retired.

10 Q And Randy Murdaugh, IV is the oldest son of
11 Randolph Murdaugh, who was the solicitor for the
12 Allendale County and other counties in the 14th
13 Circuit for years, correct?

14 A That's correct.

15 Q And the grandson of Mr. Buster Murdaugh, who was
16 the solicitor forever.

17 A That's correct.

18 Q What were your responsibilities in working for the
19 firm?

20 A To prepare legal documents as directed by
21 Randy, to meet with the clients when they came in
22 for problems that they had with accidents to do an
23 initial interview with them before he met with
24 them, get all the data for our records.

25 Q Did you have an occasion to prepare a will or a

1 power of attorney from time to time?

2 A I did, but always under the direction of an
3 attorney. I've never done one without an attorney
4 being present and instructing me to prepare it.

5 Q Let me show you Exhibit B, Plaintiff's Exhibit B,
6 and ask you if you've ever seen that.

7 A Yes, I was a witness.

8 Q All right. But you did not prepare it?

9 A No.

10 Q Okay. Do you recall any of the circumstances or
11 who might have been present when you were a witness?

12 A Well, the other paralegal was Lynn Manuel.

13 Q Okay.

14 A And it was notarized by Jack Eltzroth, so I'm
15 presuming that he did it and she was his paralegal
16 and prepared it.

17 Q To your recollection, was anyone else in the room
18 besides Mr. Marion Riley, Sr. and the witnesses and
19 the lawyer when it was signed?

20 A No.

21 Q And why would you recall something like that
22 27 years ago?

23 A Because that was our practice, that the
24 client was there and then witnesses were called in
25 by the attorney to witness when the client was

1 ready to sign.

2 Q All right. Did you -- prior to that day in 1995,
3 had you known Mr. Marion Riley, Sr.? Did you
4 recognize him? Did you have any reason to --

5 A I knew of him, but I did not know him
6 personally and had never had the occasion to
7 interact with him.

8 Q All right. I'll show you Defendant's Exhibit 5
9 and ask you if you can -- do you recognize that?

10 A I do.

11 Q And is your name as a witness on that document?

12 A It is.

13 Q Who else is listed and shown as a witness?

14 A Janet Palazzolo.

15 Q Okay. And she was who Mr. Eltzroth was just
16 talking about being Mr. Parker's secretary?

17 A Yes.

18 Q This time in 1998, you were working for
19 Randy Murdaugh, IV?

20 A Yes.

21 Q Do you have any recollection of which lawyer may
22 have prepared this document?

23 A I don't, but I'm confident that it was
24 prepared by an attorney, under the direction of an
25 attorney.

- 1 Q Okay.
- 2 A But I don't recall.
- 3 Q All right. But you signed this as a witness.
- 4 A I did.
- 5 Q And did you -- as far as you recall, was the firm
6 procedure followed?
- 7 A Yes.
- 8 Q No one else would have been in the room other than
9 the person signing it.
- 10 A Right.
- 11 Q Okay. Did you know Sonny Riley?
- 12 A I did not know him personally. I knew of
13 him. I had seen him come to the office.
- 14 Q You would have recognized him if he had been in
15 the room?
- 16 A Oh, yes.
- 17 Q And do you recall if he was in the room?
- 18 A He was not.
- 19 Q Do you know this lady (indicating)?
- 20 A I do not.
- 21 Q Never seen her before in your life?
- 22 A No.
- 23 Q So she wouldn't have been in the room either.
- 24 A No.
- 25 Q Thank you. No further questions. Thank you for

1 coming.

2 THE COURT: Cross-examination.

3 CROSS-EXAMINATION

4 BY MR. JENKINS:

5 Q Good morning.

6 A Good morning.

7 Q I'm going to show you this again. This is -- I
8 think it's marked Exhibit 5. And just look at it.

9 Can you tell me who the other people are
10 again?

11 A Janet Palazzolo was a paralegal at the law
12 firm. She worked for Mr. Parker.

13 Q Mr. Parker.

14 A Yes.

15 Q Okay. And it was you.

16 And, I'm sorry, who did you work for again?

17 A I was working for Randy Murdaugh, IV.

18 Q Randy Murdaugh, IV?

19 A Yes.

20 Q Okay. So the person who just testified, I believe
21 his name was Eltzroth?

22 A Yes.

23 Q Why didn't anybody that works for him, because it
24 sounded like it was his client? So nobody who worked
25 for him witnessed that document. Is that true?

1 A No. I'm assuming he wasn't present and
2 another attorney would have met with the client.

3 Q Another attorney would?

4 A Yes.

5 Q So you're just assuming. You don't know this for
6 sure. This is what your conjecture is.

7 A Yes.

8 Q Because it was so long ago.

9 A Yes.

10 Q I know you-all had a training process you went
11 through about signing documents and who does it and
12 who doesn't.

13 A Yes.

14 Q And you-all would ask questions to determine a
15 person's competency to understand the document.

16 A A legal secretary did not ask questions. The
17 attorney probably asked questions in our presence
18 since we were invited in the room to do the
19 witnessing and would establish who this was and
20 introduce us to the person who would be signing
21 the document.

22 Q So you didn't know personally -- if you signed
23 that, you didn't know personally that he understood
24 because the attorney was the person making the
25 assessment.

1 A Correct.

2 Q So what Mr. Eltzroth said must not have been
3 true. Because he said that he has to be there in
4 order for this to be. But he assumed that you-all
5 were there by yourselves.

6 A No. We would not have prepared a power of
7 attorney or a will without an attorney being there
8 and having reviewed it with the client.

9 Q So you and Mr. Eltzroth disagree with what the
10 policy was 27 years ago.

11 A I think he was speaking of himself, that he
12 would have been --

13 Q Well, I understand it was a firm. Usually a firm
14 has policies. This is how we execute these documents.
15 And it had more names than the lawyer. It had like
16 six names, right? I know Murdaugh was the serious
17 name. We all know what Murdaugh firm is going
18 through.

19 So considering the reputation, am I to assume
20 that the firm didn't even have policies that everybody
21 adhered to?

22 A Oh, absolutely. I --

23 Q This wasn't one of them.

24 A I would never have been present for the
25 signing of a will or a power of attorney if an

1 attorney had not advised the client and met with
2 him.

3 Q But you have no way of confirming that because
4 their attorney wasn't even there.

5 A I'm not saying the attorney wasn't there,
6 but he did not notarize the document, obviously,
7 because Ms. Palazzolo did.

8 Q Thank you.

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

11 MR. HARVEY: No further questions.

12 May this witness be released from her
13 subpoena?

14 THE COURT: Thank you, ma'am. You may
15 step down, and you'll be relieved from your
16 subpoena.

17 MR. HARVEY: Chauncey McLeod.

18 THE CLERK: Do you solemnly swear or
19 affirm to tell the truth, the whole truth, and
20 nothing but the truth, so help you God?

21 THE WITNESS: So help me God.

22 WHEREUPON:

23 CHAUNCEY MCLEOD,
24 after having been sworn, testified as follows:

25 DIRECT EXAMINATION

1 BY MR. HARVEY:
2 Q Good morning.
3 A Good morning.
4 Q State your name, please.
5 A Chauncey E. McLeod.
6 Q And what is your address?
7 A 9383 Leyton Drive, Harrisburg, North
8 Carolina.
9 Q Why in the world would you be in Allendale on a
10 bright, sunny Tuesday morning and not in North
11 Carolina?
12 A Because I'm here to speak the truth and I'm
13 here to speak the facts.
14 Q And your last name is McLeod.
15 A Absolutely.
16 Q Is your mother in the room?
17 A Absolutely.
18 Q Who is she?
19 A Dorothy S. Riley.
20 Q All right. Do you have a sister that's in the
21 room?
22 A Yes.
23 Q What is her name?
24 A Renique S. Riley.
25 Q Do you have some step-siblings in the room?

1 A Well, you can state that. You know, when
2 Sonny passed away, things changed.

3 Q Okay. How old were you when your mother married
4 Sonny?

5 A Thirteen.

6 Q All right. Did you have a relationship with Sonny
7 from that point until your adulthood?

8 A Absolutely. You know, if I can expound upon
9 it.

10 Q Did you live in the house with them?

11 A Yes. I stayed in the house until I moved
12 back to Hampton County with my grandmother.

13 Q All right. For how long would that have been?

14 A For about five years.

15 Q Did you graduate Wade Hampton or AF?

16 A Neither. Estill High School.

17 Q I'm sorry?

18 A Estill High School.

19 Q Estill High School.

20 A Yes.

21 Q I forget there are two sides of the swamp down
22 here.

23 A Yes.

24 Q In fact, Renique went to Estill High School.

25 A Yes, that was a good choice.

1 Q All right. And during the time you lived in the
2 household with your mother and Sonny, what
3 impressions, if any, did he make upon you?

4 A Well, again, by law, Sonny is my stepfather.
5 He chose to be my father. He taught me a lot of
6 life skills. When I was growing up, obviously, I
7 was rebellious. You know, when you're a teenager,
8 you know everything, but you don't know anything.

9 So as I became an adult, he saw my potential.
10 He said I was intelligent. If I focused, I could go
11 places in life.

12 Q He made you feel good about yourself.

13 A Exactly. He built my self-esteem and he
14 cared.

15 Q What, if anything, about the way he lived his life
16 reflected on what he was preaching to you?

17 A Yes. Integrity, hard work, and stay out of
18 trouble.

19 Q Okay. Do you recall his involvement with his
20 father's funeral home?

21 A Yes. From the time, obviously, when my
22 mother and Sonny got married, he was always
23 involved, always doing something with the funeral
24 home.

25 Q While his father was able, was he running the

1 funeral home with his father?

2 A Absolutely.

3 Q Okay. And then when Mr. Riley, Sr. passed, were
4 you around?

5 A I was. I was at the great University of
6 South Carolina. I was beginning graduate
7 school.

8 Q Okay. What knowledge, if any, did you have about
9 the operation of the funeral home at that point?

10 A From that point forward, Sonny started
11 running the show.

12 Q Okay. Did anybody else in the family know what
13 was going on, as far as you know?

14 A That was common knowledge.

15 Q By "common knowledge," what do you mean?

16 A Everybody knew.

17 Q Okay. 2003, where were you?

18 A I was in Goldsboro, North Carolina. I was
19 the officer in charge. I was on the first of many
20 mobilizations. We were doing Homeland Security in
21 Seymour Johnson Air Force Base.

22 Q So you were in the Air Force.

23 A Yes.

24 Q You said you got a graduate degree?

25 A Yes. I'm have a graduate -- my undergraduate

1 is in criminal justice and psychology. I have a
2 master's degree and license. I'm a licensed
3 clinical social worker by training.

4 Q Your criminal justice, was that inspired in any
5 way by your stepfather?

6 A I was going to be a lawyer, because I was
7 always debating people. But I had an epiphany. I
8 decided I wanted to help people.

9 Q Okay. Do you recall Sonny's funeral?

10 A Yes, absolutely.

11 Q Do you recall the day after Sonny's funeral?

12 A Yes. We had a meeting of the minds, as I'd
13 like to pontificate. I was there, both of my
14 sisters, Sonny's kids, my mom was there.

15 Q Okay. Stop a minute. You have another sister I
16 didn't ask about.

17 A Yes. Sherell McLeod. She's a nurse
18 practitioner by training. She lives in
19 Blythewood, South Carolina.

20 Q But she's not here today.

21 A No. She's unable to get off.

22 Q All right. Forgive me for interrupting, but I
23 just wanted to make sure that you named all the
24 players.

25 A Yes.

- 1 Q Your family -- is it at Dot's house?
- 2 A Yes.
- 3 Q And so what's going on?
- 4 A We were just, kind of, talking, you know.
- 5 Everybody is, you know, figuring out -- trying to
- 6 figure out where we're going to go forward to.
- 7 Q Okay.
- 8 A Because we were -- well, we were a blended
- 9 family.
- 10 Q Was Mr. Marcus Riley present?
- 11 A Absolutely.
- 12 Q Okay. And did you hear Mr. Marcus Riley say
- 13 anything about his daddy's estate?
- 14 A Yes.
- 15 Q What did he say?
- 16 A He said that everybody knew that my mom and
- 17 Renique was going to get everything.
- 18 Q He said that.
- 19 A Yes.
- 20 Q Anybody else say something in acknowledgement of
- 21 that?
- 22 A Everybody was pretty much in agreement.
- 23 Q Okay. Anything else you'd like to tell the Court
- 24 before I hand you over to --
- 25 A I want to go back to 2003.

1 Q Okay.

2 A -- because that's a pivotal point. By that
3 time, they were -- Sonny was needing to make some
4 renovations to the funeral home. At that time, he
5 didn't have the resources. I had the resources
6 and my sister Tonya had the resources. So we gave
7 him \$25,000 a piece to finish with the renovations
8 of the funeral home, because it was the right
9 thing to do and we had the resources.

10 Q In 2003, do you recall where Marcus was living at
11 that time?

12 A He was local. I think he was staying in his
13 grandfather's house, but he was local.

14 Q Was he aware that your sister, Tonya, and you were
15 helping Sonny out?

16 A I don't want to say yes.

17 Q That's fair.

18 A But he know we had the resources.

19 Q Okay.

20 A I looked at it, I didn't need to advertise
21 what I did with Sonny because of what he did for
22 me in my life.

23 Q Anything else? You came a long way.

24 A Yes. Five o'clock this morning.

25 One thing I always -- Sonny and I -- I would

1 say outside of his boys, I was probably -- no
2 probably. I was the closest male son to him. We
3 talked. We talked often. We talked about a lot of
4 things. He saw what I did in the military. He saw
5 what I did in my civilian job.

6 One thing he always -- he left -- he said to
7 me, make sure you take care of your mom, don't tell
8 right hand what your left hand is doing, and always do
9 the right thing. And I told him -- when I started
10 working with the Department of Veteran Affairs, I
11 started working with older veterans.

12 One thing that we always saw, veterans didn't
13 have wills when they pass away. So when I would come
14 home to South Carolina, I would always press it. I
15 would tell my mom and Sonny, you-all need to have some
16 wills in place because you-all have a blended family.
17 If something happens, this is going to be a mess. I
18 specifically -- every time I talked to Sonny, *What's*
19 *the status of your will?* Do you have anything in
20 writing? And he would say, *Yeah, I got everything*
21 *taken care of.* I was like, *Are you sure?* He's like,
22 *Yes, I got everything taken care of.*

23 Q All right. Thank you, Mr. McLeod. You answer
24 any questions Mr. Jenkins may have.

25 A You're welcome.

1 The COURT: Cross-examination, Mr.
2 Jenkins?

3 MR. JENKINS: Extremely brief.

4 CROSS-EXAMINATION

5 BY MR. JENKINS:

6 Q I'm sorry, sir. What's your last name?

7 A McLeod.

8 Q All right. Mr. McLeod, just to be clear, you
9 have no idea about any power of attorney that was
10 executed in 1998, right?

11 A No.

12 Q Okay. Thank you, sir.

13 A You're welcome.

14 MR. JENKINS: No further questions, Your
15 Honor.

16 THE COURT: You may step down.

17 MR. HARVEY: Your Honor, the next two
18 witnesses are going to take a while. Do you want
19 to give the jury a break? Or I can go ahead and
20 start.

21 THE COURT: You-all need a break or you
22 want to keep going?

23 MR. HARVEY: Renique Riley-Spiller.

24 THE CLERK: Do you solemnly swear or
25 affirm to tell the truth, the whole truth, and

1 nothing but the truth, so help you God?

2 THE WITNESS: I do.

3 WHEREUPON:

4 RENIQUE RILEY-SPILLER,

5 after having been sworn, testified as follows:

6 DIRECT EXAMINATION

7 BY MR. HARVEY:

8 Q State your full name, please.

9 A Renique Riley-Spiller.

10 Q Where do you live?

11 A 1087 Pickens Avenue, Fairfax, South Carolina,
12 29827.

13 Q What is your occupation?

14 A I am the coroner for Allendale County. I'm
15 also one of the owners and operators of M.F. Riley
16 Funeral Home in Fairfax, South Carolina.

17 Q How long have you been operating M.F. Riley
18 Funeral Home?

19 A Since my father's passing, but I also helped
20 him when I was younger.

21 Q Okay. Now, you're the only one in the room that
22 I'm going to dare to ask how old you are.

23 A I'm 34 years old.

24 Q All right. How long have you been helping in any
25 capacity at the funeral home?

1 A Since I was 11.

2 Q Since you were 11 years old.

3 A Yes.

4 Q What did you do when you were 11?

5 A I followed my father day to day around the
6 funeral home. I also -- he also had me going out
7 to services with him, I guess because he knew the
8 day was coming where I would take over after
9 him.

10 Q Is that something you-all talked about?

11 A Yes, on and off. He didn't force me to do
12 anything, but I didn't want my father to fail.

13 Q To your knowledge, did he encourage anyone else in
14 the family to get involved?

15 A He asked. At times, he had my sister Traci
16 in the funeral home. But one minute she liked my
17 daddy or she liked us, the next minute, she didn't
18 like us. So she wasn't consistent with helping.
19 But I was the one who stood by father no matter
20 what, because he was my daddy.

21 Q Was there -- did you make any personal sacrifices
22 to take up the family business?

23 A Yes, sir. After I received my bachelor's
24 degree in 2011 from Francis Marion University, I
25 think I made my father one of the proudest men to

1 walk this earth because I decided that I was going
2 to go to mortuary school. When I told him I was
3 going, he was thrilled. He didn't force me. He
4 said, *You want to go, I'm here for you.* I
5 completed mortuary school in 2013.

6 Q And you're licensed.

7 A I'm licensed.

8 Q Are you an embalmer?

9 A No, sir. I'm a funeral director.

10 Q Okay. All right. 1999, you were 11 years old?

11 A Yeah. Well, I turned 12 in November of
12 '99.

13 Q Okay. Do you recall the condition of the funeral
14 home at that point?

15 A Yes, sir. The funeral home was in a failing
16 position at that time. There were a lot of
17 renovations that needed to be done to include the
18 chapel, for one. Also, in the office. My daddy
19 didn't even have a working hearse. The hearse
20 that was left to him, the floor fell out of the
21 bottom.

22 The very first funeral that my daddy rendered
23 was my grandmother's, which is my mother's mother,
24 which was August of 1999. My father, he was able to
25 get a hearse for that service, but he ended up renting

1 limousines for that service.

2 Now, that particular service, two of my
3 siblings worked that service, which was Nicky Riley
4 and Eric Platts. I can recall my father calling them
5 afterwards to help the service that came after my
6 grandmother's service. They were either too busy or
7 they didn't want nothing to do with it, and then my
8 father just stopped calling the both of them.

9 Q Do you recall if he ever called and asked Marcus
10 in?

11 A To work a service? No.

12 Q Okay. What about the business itself, as far as
13 the gross income and that sort of thing?

14 A The business is successful now. Was it
15 always at that point? No, it was not. Because
16 when my father took over, his family actually
17 destroyed his character. They told the public
18 that my father needed money up front before you
19 could even have a service, which was not the
20 truth. Which was not the truth.

21 And I witnessed several families coming in
22 and said, *Well, Sonny, we're going to give you a try*
23 *because we heard that you wanted money up front.* They
24 came in and my daddy didn't ask for money up front.
25 And to this day, I don't ask for money up front.

1 We're here to serve the public and help the people,
2 and that's what we do.

3 Q Somehow, though, the word got out.

4 A Yes, it got out. And my father's character
5 of destroyed.

6 Yesterday, as I sat and listened to everyone
7 and they spoke about my daddy, that wasn't my daddy.
8 My daddy was the type of man that everyone loved and
9 respected. My daddy was of high caliber.

10 The ones who didn't like my daddy, that's
11 because my daddy did his job. And they couldn't
12 accept the fact that he did his job. So my daddy's
13 job was to uphold the law, and that's what he did. He
14 upheld the law.

15 And the public loved my father. He was
16 loved. He was honored and he was loved in the
17 community, as well as the State of South Carolina. My
18 father was just honored this past August. A highway
19 was named after him. That's because of what he did
20 for his community, as well as the State of South
21 Carolina.

22 Q The director of SLED came down and spoke.

23 A Yes, he did. Mark Keel.

24 Q Okay. So a man that upholds the law, can you
25 imagine him forging somebody's signature?

1 A No, sir. That is not my daddy's character.
2 My daddy knew the type of family he had. My daddy
3 said he didn't feel loved until he married my
4 mother, because her family showed my father so
5 much love. He didn't receive it off of his side.

6 Now, his sister Evelyn, they were extremely
7 close. I was close to Evelyn as well.

8 Q Let's go back now, your granddaddy, Marion Riley,
9 Sr., died in 1999.

10 A Yes.

11 Q Yesterday, you heard me -- you heard Mr. Marcus
12 Riley testify that in 2003, he came and lived in
13 Allendale.

14 A That's correct.

15 Q In his granddaddy's house.

16 A Yes.

17 Q What memories do you have of that?

18 A Okay. In 2003, I was a 16 years old. I was
19 a sophomore at Allendale Fairfax High School.
20 Marcus was living in my grandfather's house. I
21 rode to school with him, to and from school. He
22 was teaching mathematics at Allendale Fairfax High
23 School.

24 Now, he asked my father if he could live in
25 that house. He didn't ask anyone else, but he asked

1 my father if he could live there. And he stayed
2 roughly maybe a year, if that. And I'm thinking maybe
3 he had a rough time in Oklahoma, that's why he came
4 back.

5 Q He said yesterday -- I'm sure Mr. Jenkins will
6 correct me if I'm wrong. He said that the reason he
7 talked to his daddy was his Aunt Evelyn was so far
8 away and Aunt Virginia was sick and Aunt Janice was
9 also far away. That's why he went to his daddy about
10 having permission.

11 A He knew my daddy owned the house. My daddy
12 was the only one who could have put him in it.
13 Give him a key to go in, was only my daddy.

14 Q Okay. You rode to school with him every day.

15 A Yes, sir.

16 Q You had every opportunity to --

17 A I had every opportunity, yes, sir.

18 Q Now, I'm going to show you Exhibit 12,
19 Defendant's 12.

20 Do you recognize this?

21 A It's my daddy's will.

22 Q What does it say at the top?

23 A "Title to Real Estate."

24 Q Whose name is on this deed?

25 A My name.

1 Q Okay. And what property is that?

2 A 1087 Pickens Avenue, which is where my

3 grandfather used to live.

4 Q Now it's yours.

5 A It's mine, yes, sir.

6 Q How did this deed come to be prepared? Did you

7 know about it?

8 A Know about the deed?

9 Q Yes.

10 A Not when my father did it.

11 Q When did you find out?

12 A When he handed it to me.

13 Q When did he hand it to you?

14 A 2014.

15 Q Okay. Now, the deed is dated April 14th, 2014.

16 A Yes, sir.

17 Q All right. So, at some point, he handed it to

18 you.

19 A Yes, sir.

20 Q Were you living in it before then?

21 A Yes, sir, I was.

22 Q Did the family know you were living in it?

23 A The family did know.

24 Q Okay. What else do you recall happened in 2014

25 involving your brother Marcus and your sister Traci?

1 A In 2014, Traci was living in their aunt's
2 house. Not my aunt. Their mother's sister.
3 Traci was living there, her and her children.

4 And Marcus, along with the other siblings,
5 decided to put Traci and her children out. They took
6 all of their personal belongings and they placed them
7 in the middle of the yard. It was her clothes, her
8 children's trophies, their awards, everything they had
9 on the inside. Traci's furniture, everything was in
10 the middle of the yard.

11 So, at that point, Traci went to live with
12 her oldest daughter. For some reason, her and her
13 oldest daughter couldn't get along. Her oldest
14 daughter put her out. And then I allowed Traci to
15 move in with me, her and both of her children.

16 Q At the house your daddy had deeded to you.

17 A At the house my daddy deeded to me, yes.
18 Traci came and lived with me. But me and Traci,
19 we have two different living styles. When I say
20 "living styles," I mean as far as I believe in
21 keeping everything neat. Traci did not.

22 So what I did was because I didn't want to
23 make Traci homeless and for Traci to have to go out
24 there and try to find something, I called my daddy
25 over and I showed him the room that Traci was in, and

1 it was a mess.

2 So what myself and my daddy did was, we got
3 out -- and the house that Traci is currently renting
4 this date, my daddy and myself, we found it for Traci.
5 So when Traci -- once we find that house, when she
6 moved out, I gave her that entire bedroom suite
7 because I knew Traci didn't have one. So I gave it to
8 her. And the house that she's in today, like I said,
9 we found it for her.

10 Q Now, talking about Traci, you haven't said Marcus.

11 Do you know whether or not Marcus knew or was
12 involved or knew anything about all this?

13 A Yes. My daddy and -- Traci called Marcus,
14 and, of course, they had some words. So my daddy
15 was telling Marcus it wasn't done the legal way,
16 meaning they didn't file an eviction to put Traci
17 out. So they ended up going to magistrate court,
18 and my daddy was with Traci. And, of course,
19 Marcus was with his aunt.

20 Q His aunt?

21 A I think her name is Janelle.

22 Q Okay. His mother's sister?

23 A His mother's sister.

24 Q Now, you're talking about a different house.

25 Was there ever any ownership question about

1 the house your granddaddy -- that you had deeded to
2 you at this point?

3 A No. No. That same year, 2014, Thanksgiving,
4 Marcus came home. And Marcus was talking about
5 Traci like she wasn't even his sister. And I took
6 it for a little while. And then it got to the
7 point where I went back at Marcus, because I was
8 tired of him talking about Traci like she was
9 nobody.

10 And so I told him to get out of my house. He
11 told me he didn't have to go anywhere. I said, that's
12 fine. I called my daddy and I told my daddy what was
13 going on. My daddy told Marcus, if she says you have
14 to go, you have to go.

15 Q That was 2014.

16 A 2014. All of this was around the time with
17 Traci.

18 Q Okay. Now, do you recall when your Aunt Virginia
19 died?

20 A She died February 2015.

21 Q All right. Did Marcus Riley come to the
22 funeral?

23 A Yes, he did.

24 Q Did the family gather after the funeral?

25 A Yes. Actually, there was two gatherings. My

1 daddy had his, and the other side had theirs.

2 Q Okay. Where was Marcus?

3 A Marcus actually came to my house where my
4 daddy was.

5 Q Okay.

6 A Marcus and Nicky. Nicky never came on the
7 inside. He stood outside and he talked to my
8 daddy, but Marcus came on the inside. Nicky said
9 he didn't want to come on the inside.

10 Q Now, the conditions of your house, you said you
11 kept it different from your sister.

12 A Yes.

13 Q That's the way people are.

14 Was there any indication in that house at
15 that point that that house was -- still belonged to
16 your granddad?

17 A In 2014?

18 Q Yes.

19 A No.

20 Q New furniture?

21 A New furniture.

22 Q New dishes?

23 A New dishes. Top to bottom that house --

24 Q It didn't look your granddaddy's house anymore.

25 A No.

1 Q And then your brother Chauncey just talked about
2 the family gathering after your daddy's funeral.

3 Where was that?

4 A At my mom's house.

5 Q Okay. Were you there?

6 A Yes. I was there for a little while, but I
7 left because I had a body at the funeral home. So
8 I was actually robbed of the opportunity to grieve
9 my dad.

10 Q All right.

11 A While I was there, the majority of my
12 siblings was there. And I can name the ones who
13 was there. I can name part of the conversation
14 that took place. I can't say what happened after
15 I left, but I can say what happened while I was
16 there.

17 Q What did you hear specifically about Sonny's
18 estate?

19 A My mama said that she was going to pick up my
20 dad's will next week. And all of those ones who
21 was in the house said, we don't need to see
22 anything. We know he left everything to you and
23 Renique.

24 Q Yesterday we talked about a text message that your
25 mother sent.

1 And did you get that message?

2 A Yes, sir. I did.

3 Q Okay. And then after the text message was done,
4 what, if anything, do you know your mother did with
5 that information?

6 A She -- the paper, I don't know the proper
7 name for it. But once she opened the estate, it
8 was her responsibility to notify all of the heirs,
9 and that's what she did. I know she did it,
10 because the ones that was mailed, I was the one
11 who actually mailed it for her.

12 Q Okay.

13 A She hand-delivered a few as well.

14 Q All right. Was Marcus's name and address on one
15 of those?

16 A Marcus was the first one to respond to the
17 text.

18 Q Yes. But on the mailings --

19 A Yes.

20 Q -- marcus's name was on an envelope?

21 A Yes, sir.

22 Q At the address that he had given your mama?

23 A The address he gave my mother, yes.

24 Q That was sometime in July of 2018.

25 A Yes, sir. Actually, the text was sent

1 July 9, 2018 on Traci's birthday.

2 Q Let's go back a few more years before that.

3 Was there ever a question about the boundary
4 line at the funeral home?

5 A Yes. In 2011, I was actually getting ready
6 to go to mortuary school, and Virginia's husband
7 and her two children decided to come over to the
8 funeral home.

9 Now, before that, they buried pieces of
10 glass. And you bury pieces of glass because we would
11 drive across that part to get to the chapel if we have
12 service. So I guess they put the glass there to cut
13 our tires.

14 But they came out there that day and they
15 were saying that it was Virginia's land and they
16 wanted -- they were going to put a fence up.
17 Adrian Priester even jumped to fight my father. Vonda
18 even jumped to fight me. So, of course, I didn't back
19 down. But my daddy, he wasn't for it. And law
20 enforcement did come.

21 And they were saying that this belonged to --
22 this belonged to -- you know, this belonged to my mama
23 and we want it. So my daddy asked the question, *Is my*
24 *sister dead?* And they all replied, *No, she's not.* So
25 the next question he asked, *Well, why are you all here*

1 bothering me? She's not dead.

2 And that's how the fence got up beside the
3 funeral home. I asked my daddy did he want to take it
4 to court, did he want to fight. He said, no, he was
5 tired. He was tired of going back and froth with his
6 family.

7 Q Do you know whether or not Marcus had any
8 knowledge about that fence being put up?

9 A Yes, sir, he did. Right after that, he
10 called my daddy and he said, Daddy, why don't you
11 just give the funeral home in Fairfax, give
12 everything to Vonda. My daddy said, I will not
13 give it to her. This is my father's and he left
14 it to me.

15 Q He left it to you.

16 A He left it to me.

17 Q In 2000- --

18 A The funeral home?

19 Q When he talked with Marcus and they talked
20 about -- that phone conversation.

21 A Yes.

22 MR. JENKINS: Objection, Your Honor;
23 hearsay. Unless she was on the phone with him,
24 how could she verify --

25 THE WITNESS: I was in the house.

1 THE COURT: Hold on just one second.

2 Hold on one second.

3 Say it again.

4 MR. JENKINS: Unless she was on the phone
5 with him, how could she verify what Marcus said on
6 the other side of the line?

7 BY MR. JENKINS:

8 Q Ma'am?

9 A I was in the house.

10 Q Could you hear Marcus's voice?

11 A Yes, sir. Every time Marcus would call, my
12 father had him on speakerphone.

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

14 BY MR. HARVEY:

15 Q All right. That was before your daddy died.

16 A That was before my daddy died, yes, sir.

17 Q All right. Sometime after 2011.

18 A Yes.

19 Q Sometime around 2015 when your Aunt Virginia died?

20 A Yes. At my -- I called her Den. At Den's
21 funeral, my dad, along with my mom and myself, we
22 were standing on the side of the church while the
23 family was going into the sanctuary. No one
24 allowed us to get into the family line, but Traci
25 stopped to allow us to get in front of her. And

1 that's how we were able to walk in the funeral
2 processional with the family, because Traci
3 stopped to allow us to get in.

4 Now, once we got on the inside and had the
5 processional viewing, they didn't want my daddy to see
6 his sister. Adrian, he was like -- he was wanting to
7 hit my daddy at the service.

8 I was the only one who stood up for my daddy
9 that day. And when I got up there I said, *Why are you*
10 *doing my daddy like that?*

11 *But he don't need to see it.*

12 But this is my daddy's sister. He has just
13 as much right as you do. You shouldn't do him like --
14 treat him like that. And we had words at the casket.

15 And then once I took my seat, I sat by Traci
16 and my sister Torey, but her name is Latoya. And they
17 both said, *Don't worry about it, Renique. We'll get*
18 *him after the service.*

19 Of course, we didn't say anything to him. I
20 let it go, because my daddy said, *We're not going to*
21 *do that here.*

22 Q Okay. You wandered a little bit away from what I
23 was trying to ask you.

24 A Okay.

25 Q Was the fence put up before your Aunt Virginia

1 died or after your Aunt Virginia died?

2 A Before.

3 Q Before. So before February or January of 2015 --

4 A Yes.

5 Q -- the fence was up.

6 A The fence was up.

7 Q Thank you.

8 Is there anything else you'd would like to
9 say about your daddy that I haven't asked you?

10 A Yes. I'm going to start by saying I was a
11 daddy's girl. If you seen my daddy, you seen me
12 with him as well. There's no doubt in my mind he
13 loved me dearly. He loved my mama dearly.

14 My father, he was the man that everyone
15 wanted to be around. They respected Sonny Riley. And
16 my daddy -- him and his daddy knew the type of family
17 they was in. So my daddy actually shielded me from a
18 lot. And I made it clear to my daddy I will never
19 turn my back on him. I don't care what the
20 circumstances may be. I will never turn my back on
21 him.

22 Q And you're not turning your back on him today.

23 A I will not.

24 MR. HARVEY: That's all I questions I have.

25 I'm sorry, Your Honor. I thought that

1 Exhibit 12, the deed that Ms. Riley-Spiller
2 identified, was in evidence. It's not. I'd offer
3 it into evidence.

4 MR. JENKINS: No objection.

5 THE COURT: Without objection, it's
6 admitted.

7 (Defense Exhibit 12 in evidence.)

8 THE COURT: Ladies and gentlemen, you
9 okay? Let me know if we need a break.
10 Cross-examination.

11 MR. JENKINS: Can I request a sidebar,
12 please?

13 THE COURT: I'm sorry?

14 MR. JENKINS: Can I request a sidebar,
15 please?

16 THE COURT: Certainly.

17 (Bench conference off the record.)

18 CROSS-EXAMINATION

19 BY MR. JENKINS:

20 Q Miss Spiller, thank you for being here.

21 A You're welcome. You.

22 Q I really just have one question. Considering this
23 case is contesting the fraudulent act that would occur
24 in 1998, obtaining a power of attorney, I think when I
25 did the math, you weren't even born yet.

1 A I was born in 1987.

2 Q 1987?

3 A Yes, sir.

4 Q So at that age, you were --

5 A 11, 12.

6 Q So you have no idea about what happened.

7 A The transactions that happened at the
8 attorney's office? No, sir. I wasn't there.

9 Q So considering what we're contesting is that --
10 there's nothing you can really say about the true
11 issue about whether the fraud occurred or didn't
12 occur on that day.

13 A No, there's nothing I can say about it. I
14 was not there.

15 Q Okay, thank you so much.

16 MR. JENKINS: No further questions, Your
17 Honor.

18 MR. HARVEY: Nothing further for this
19 witness, Your Honor.

20 THE COURT: Thank you, ma'am. You may
21 step down.

22 MR. JENKINS: Ms. Dorothy Riley.

23 THE CLERK: Do you solemnly swear or
24 affirm to tell the truth, the whole truth, and
25 nothing but the truth, so help you God?

1 THE WITNESS: Yes, ma'am.

2 WHEREUPON:

3 DOROTHY RILEY,

4 after having been sworn to tell the truth, testified
5 as follows:

6 DIRECT EXAMINATION

7 BY MR. HARVEY:

8 Q It's finally your turn.

9 A Yes.

10 Q State your full name, please.

11 A Dorothy S. Riley.

12 Q Where do you live?

13 A I live on 329 Byrd Street in Fairfax.

14 Q How long have you lived there?

15 A Thirty-something years.

16 Q How did come to live in that house?

17 A Well, I came to live in the house when we got
18 married.

19 Q Okay. When you got married.

20 A Yes.

21 Q And your husband is Sonny Riley.

22 A Yes.

23 Q Okay. And what is your occupation?

24 A My occupation is the Honorable Mayor of the
25 Town of Fairfax. I'm also the administrative

1 assistant for the magistrate office for Allendale
2 County.

3 Q All right. Is that the main office or is it the
4 magistrate's office in Fairfax?

5 A It's the main office. It's one office.

6 Q I see, okay.

7 A Yes.

8 Q I get confused how they do court sometimes.

9 A Yes.

10 Q How long have you been the mayor of Fairfax?

11 A This is my second term. But before I became
12 a mayor, I was on council for, like, 16 years.

13 Q Okay.

14 A Yes.

15 Q When did you marry Sonny?

16 A July the 30th, 1987 -- excuse me -- 1989.

17 Q 1989.

18 And Renique is you-all's only child.

19 A Only child.

20 Q Okay. You have two children from a prior
21 marriage.

22 A I have two, and I also have a niece that
23 Sonny and I raised, Stephanie Brunson.

24 Q Okay.

25 A When my sister was deceased, Sonny and I took

1 her in and raised her.

2 Q How old was Stephanie?

3 A She was seven years old.

4 Q How old is she now?

5 A She is 44.

6 Q Does she live around here?

7 A Yes. She live in Fairfax.

8 Q All right. When you married Sonny, what was his
9 occupation?

10 A He was with South Carolina Law Enforcement,
11 better known as SLED.

12 Q How did you-all come to meet?

13 A Well, Chief Stilt sent Sonny down to be my
14 security guard, which was my bodyguard. My sister
15 was killed, and her husband made the threats, and
16 he called Sonny to be my bodyguard. Sonny took me
17 back and forth to work. And Chief Stilt told him
18 to make sure that nothing happens to me.

19 Q When you said "chief," is that the SLED chief?

20 A Yes. He took me back and forth. He would
21 buy me lunch every day. And after that, we
22 started talking. He called me and told me that he
23 was taking me home with him. I was soon to be his
24 wife.

25 Q Apparently, you didn't say no.

1 A I didn't.

2 Q All right. Did you think about it?

3 A Did I think about it? I couldn't let him
4 pass me by.

5 Q All right. So that's 1989, roughly?

6 A Yes.

7 Q All right. Was he helping his father at the
8 funeral home at that time?

9 A He was. He was doing embalming for both
10 funeral homes, Hampton and Fairfax.

11 Q Okay. Did any of his sisters, Sonny's sisters,
12 help with the funeral home?

13 A Yes. Virginia.

14 Q Okay. And by helping, what did she do?

15 A She basically, I guess, did all the
16 arrangements and everything for the service.
17 Sonny wasn't providing no service at that time.

18 Q Because he wasn't licensed.

19 A Right.

20 Q All right. And then at some point Virginia took
21 sick.

22 A Yes.

23 Q So who was helping Mr. Marion, Sr. and Sonny with
24 the funeral home at that point?

25 A It was -- what happened was, Sonny and Marcus

1 started working together, but he didn't want to be
2 involved in the funeral home. And so every day I
3 told her -- told Sonny he would take her away and
4 let her run Hampton and let Sonny would run
5 Fairfax.

6 Q Renique just testified that the funeral home
7 business was conducted over speakerphone at the house;
8 is that right?

9 A What now?

10 Q Renique just testified when there was something
11 being talked about as far as the funeral home was
12 concerned, Sonny would put it on speaker.

13 A At all times.

14 Q It wasn't just funeral home business. It was all
15 business.

16 A All business.

17 Q Hide goes through the hare.

18 A Yes.

19 Q Do you know whether Sonny ever asked any of his
20 children to help him with the funeral home?

21 A He did.

22 Q And what happened?

23 A They did. Only Traci. She was in and out.
24 She would help sometimes, and then she'd
25 disappear, then later she would come back.

1 Q Do you recall that -- on your mother's passing?

2 A Did Traci?

3 Q Do you recall the testimony about when your mother
4 passed? Do you recall Nick and Eric?

5 A Yes. They helped with that service that day
6 my mama passed.

7 Q Did they ever help again?

8 A Not again.

9 Q Okay. Tell me a little bit more about what made
10 you love Sonny. What about him --

11 A There was a lot about Sonny. When I first
12 saw his bald head, I loved it. I loved -- Sonny
13 was just about A perfect man. Sonny took care of
14 me just like I was a queen. I never had to cook.
15 I never had to clean. I didn't do any of that.
16 Sonny Riley did that. He was one of the best men
17 I've ever met.

18 I sit here and I listened yesterday how his
19 son tried to bring him down. Sonny Riley was a man.
20 He was a legend. He was a legend back here. And he
21 was just a loving person.

22 And when he got into my family, it was just
23 like his whole world changed. He said it to my
24 family. He said, "I have never felt love until I got
25 in this family." When I met his family, it was

1 turmoil. It was turmoil even with his last wife.
2 They even wanted to throw her out of the funeral. I'm
3 sitting right next to Janice at the service. She and
4 Vonda whispered and said, "What is she doing here? We
5 will get her after the funeral." I was sitting right
6 next to her.

7 Q Mr. Marion's last wife?

8 A Was Ruth.

9 Q Ruth.

10 A Yes.

11 Q Is she still living?

12 A She's still living. She lives there on
13 Myrtle. I stay in touch with her. One of the
14 sweetest ladies there is. She stated to me one
15 day, she said, "You have a child in the family. I
16 don't have to take it."

17 I said, "They will never run me from my
18 husband. I love him. He love me. And they dare
19 to put me out."

20 Q Ms. Riley, can you conceive that your husband was
21 the type of man that would forge his daddy's
22 signature?

23 A No. No.

24 Q Did you forge his daddy's signature?

25 A You know what? I had nothing to do with his

1 daddy. Mr. Marion, Sr. wasn't my husband.

2 Marion Riley, Jr. was my husband.

3 Q None of these signatures are yours.

4 A No.

5 Q Are any of these signatures Sonny's?

6 A No. Why would I -- I loved Mr. Marion. I
7 would never do -- Mr. Marion was a good person.
8 And I have to say this: Two weeks before
9 Mr. Marion died, Mr. Marion called me over there.
10 He said, "Baby, I need to talk with you."

11 MR. JENKINS: Hearsay, Your Honor.

12 BY MR. HARVEY:

13 Q You can't say what --

14 THE COURT: Sustained.

15 THE WITNESS: Okay, no problem. But
16 anyway, I'm going to say he was a good
17 father-in-law. And no question about my
18 husband.

19 BY MR. HARVEY:

20 Q You talked about turmoil. Was Marcus involved in
21 the turmoil?

22 A Sure, he was.

23 Q How was he involved?

24 A He called my house and make like he wanted to
25 talk to me. And Sonny would say to me, Marcus is

1 not for peace. Marcus is the type of person
2 calling for news so that he can take back, to keep
3 turmoil going.

4 Q Do you recall 2003?

5 A Yes.

6 Q Okay. Do you recall any -- were you a part -- or
7 listening to any conversation between Sonny and Marcus
8 about living in what was then called his granddaddy's
9 house?

10 A Yes. I recall he called and asked Sonny if
11 he could live there. He was rock bottom. He was
12 down on the bottom. He had nothing to live on or
13 live in. He asked Sonny could he live in that
14 house. Sonny told him yes.

15 Q He asked Sonny if he could live in the house.

16 A Yes.

17 Q Okay. Did you know that Sonny had put Mr. Riley,
18 Sr.'s house in Renique's name?

19 A No. I didn't get involved in his business.
20 Sonny was the type of person he did his own
21 things. When he do things, a lot of things, I
22 didn't even know about his will. I didn't until
23 Attorney Gooding called me.

24 Q Why would Attorney Gooding call you?

25 A Because he did the will.

1 Q I see.

2 When you saw the -- read the will, was there
3 any surprise?

4 A To be honest with you, when I picked it up I
5 was afraid to open it up. I didn't know how Sonny
6 had his will done, and neither did me and my
7 daughter Renique. My daddy would never do us like
8 that. And when we opened it up, that's what we
9 saw.

10 Q Was that after the funeral?

11 A After the funeral.

12 Q Were you in the room with the conversations that
13 Chauncey and Renique testified about where the other
14 children were talking?

15 A On that Sunday, after service, they were
16 around my table.

17 Q But do you recall the conversation? Do you recall
18 they said --

19 A They said he left everything to you and
20 Renique. After probably a year or so, Marcus came
21 down to my office one day when he found out about
22 the will. And that's when he thought the house
23 went to Traci, because Traci and them was in the
24 will.

25 And he came in there. We talked. I told

1 him Sonny's a smart man. Sonny knew what type of
2 family he had. He hugged me and he left.

3 Q I'm going to show you Exhibit -- Defendant's
4 Exhibit 2, which is evidence.

5 I'm sorry. That's the wrong exhibit.

6 Let me have that back. I got them mixed up.

7 Did you go to Probate Court with the will?

8 A I did.

9 Q Were you appointed as the personal
10 representative?

11 A Yes.

12 Q Then what was your next step?

13 A My next step was to send out -- notify all
14 the kids about the estate.

15 Q Did you have their addresses or did you --

16 A I didn't have all of their addresses.

17 Q And so what did you do?

18 A What I did, I got their address. I texted --
19 matter of fact, Marcus was the first person I
20 texted.

21 Q All right. He sent you back -- we talked about
22 that yesterday.

23 A Yes.

24 Q He sent you back his address.

25 A Yes, he did.

1 Q And you knew his phone number.

2 A I can tell you his phone number right now.
3 He stayed in contact with me wanting to know
4 what's going on.

5 Q Then you filed with the Probate Court the paper
6 that you were required to file showing that you had
7 sent everybody the will and --

8 A Yes.

9 Q -- the petition.

10 A Yes, sir.

11 Q You did that. You filed that.

12 A I did.

13 Q And Renique, did she mail them for you?

14 A She certified -- she didn't mail it. She
15 certified it.

16 Q Okay.

17 A Make sure that we get a copy back.

18 Q All right. And you know for a fact Marcus's name
19 was on one of those envelopes?

20 A No question.

21 Q Did you know about the lawsuit that was filed in
22 Mr. Marion, Sr.'s estate by Janice and Virginia?

23 A I knew about it. I didn't attend. I didn't
24 go. I never got involved in their business. But
25 I knew. I asked Sonny, did he want me to go, and

1 he told me no.

2 Q So you had nothing to do with it.

3 A Nothing to do with it.

4 Q Did anyone in -- from the time Mr. Riley, Sr. died
5 until the time Sonny died, did anybody in the family
6 ever complain to Sonny or to you or to Renique, to
7 your knowledge, that you-all were trespassing on
8 family land?

9 A No.

10 Q Did anyone ever demand that Sonny pay them rent
11 for using Mr. Marion's property?

12 A No.

13 Q Okay. Not Marcus for sure.

14 A No.

15 Q Never called you and said, "You're on my
16 granddaddy's land"?

17 A No.

18 Q Never said you owe rent?

19 A No.

20 Q Okay.

21 A He didn't.

22 Q Other than from the time Mr. Riley, Sr. got the
23 funeral home until now, to your knowledge, did anyone
24 else have a title -- a name on the title to that
25 place?

1 A No.

2 Q Did you go with Mr. Riley, Sr. to Hampton when he
3 signed his will in 1995?

4 A No.

5 Q Did you go with Mr. Riley, Sr. in 1998 to sign
6 that power of attorney?

7 A No.

8 Q I asked you whether these were your signatures.

9 Are they Sonny's?

10 A No.

11 Q Did Sonny sign his name like any of this?

12 A No.

13 MR. JENKINS: Objection, Your Honor.

14 Unless she's some writing specialist, she
15 can't attest to whether that was his signature or
16 not.

17 THE COURT: You have to lay a foundation
18 before you can ask her that question. Sustain the
19 objection at this point.

20 MR. HARVEY: I will.

21 BY MR. HARVEY:

22 Q How many times did you see your husband sign his
23 name?

24 A Never.

25 Q Yo never saw him sign his name?

1 A Oh, I seen him sign his name. Yes, I did.

2 Q All right. Again, any of those --

3 MR. JENKINS: Objection, Your Honor.

4 She's seen her husband sign his name.

5 MR. HARVEY: Correct.

6 MR. JENKINS: She hasn't seen her husband
7 sign his father's name.

8 MR. HARVEY: That's my question. Has
9 she seen her husband sign his name? Has she seen
10 anything off these documents that indicate that
11 her husband -- it looks like her husband's
12 signature.

13 MR. JENKINS: Your Honor, that's asking
14 for a comparison. Now, she's seen her husband
15 sign his name. I get that. But this is not his
16 name. This is the name of his father. So the
17 question would be, has she ever seen the father
18 sign his name, then I can see a comparison.

19 Then even with that, Your Honor, I'd want
20 to know how many times, I'd want to know where it
21 was, and I'd want to know how she did.

22 So, Your Honor, I just think this line of
23 questioning is inappropriate because she doesn't
24 have the knowledge to understand the signatures.

25 MR. HARVEY: He's alleging forgery. By

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 together. And I challenged the entire family to
2 Thanksgiving 1996 so we all could sit together and
3 have dinner.

4 And everybody came, maybe except for
5 probably uncle. Me and my uncle and my auntie, or
6 something like that. But, for the most part, most
7 everybody came. And we had a good and enjoyable
8 dinner. And I even put in the letter, you know, Dot
9 has been in our family for a while now. Family get
10 over whatever you're bickering about. So it's not
11 about that.

12 I brought -- when I found out what
13 happened, I know that's not what my granddaddy
14 wanted. That's not what he wanted.

15 It's not about -- it's more about his legacy.
16 That's why we're here. My granddaddy wanted everybody
17 to share and share alike. You see, I got that
18 attitude from him. That's why it hurts me so much to
19 have to even go through this, you know.

20 And I know I'm not going to popular with some
21 of the family, but, you know, that's why I pray to God
22 and I'm protected. I'll leave it at that.

23 MR. JENKINS: No further questions, Your
24 Honor.

25 THE COURT: Cross-examination?

1 MR. HARVEY: I hope briefly.

2 CROSS-EXAMINATION

3 BY MR. HARVEY:

4 Q Mr. Riley, from what I understand from what your
5 lawyer has been saying is you are contesting that the
6 1998 power of attorney was a forgery; is that right?

7 A Yes.

8 Q All right. And that you would like for this jury,
9 if they find that the statute of limitations doesn't
10 apply, to set aside the deed -- the power of attorney,
11 right?

12 A Well, what I want them to do is note --
13 pretty much I think that's what you're asking.

14 Q Right. Which will set aside the deed that your
15 daddy signed as power of attorney to himself.

16 You understand that's what will happen?

17 A What I want the jury to see is that when my
18 daddy got that second power of attorney, which was
19 fraudulent, when he got that second power of
20 attorney, he took all of my granddaddy's property
21 and transferred it to himself.

22 And then if you look at the dates and stuff,
23 then my granddaddy dies soon thereafter. And then
24 when he probated the estate, my granddaddy had -- he
25 didn't have the underwear on his back when he died.

1 So that's not -- I mean, that's not my granddaddy. I
2 want them to see that.

3 Q That's what I'm asking, Mr. Riley.

4 If the jury believes you and believes your
5 expert, what you're going to have is all that land go
6 back into your granddaddy's estate.

7 Is that what you --

8 A Yes.

9 Q Okay. And do you understand that under the '95
10 will, if it goes back into the estate, the funeral
11 home still goes to your daddy's estate?

12 A No. The '95 will was fraudulent.

13 Q But your lawyer is not targeting that anymore, is
14 he?

15 A No. He talking about the 1990 will.

16 Q All right.

17 A Because all that property that he took
18 included that funeral home.

19 Q I understand that.

20 A You're going back to that -- not the '95
21 will. You go back to the 1990 will, which was my
22 grandfather's will, which was share and share
23 alike.

24 My daddy created that will, and she said that
25 will was fraudulent. Those signatures was fraudulent.

1 So that will does not apply. That's what I'm hoping
2 for. That's what I want them to see.

3 That '95 will was fraudulent. The power of
4 attorneys were fraudulent. My daddy took his property
5 from my grandfather with these fraudulent documents,
6 and put everything back to where it supposed to be for
7 my granddaddy in accordance with the 1990 will.

8 Q All right. So you are wanting that will set aside
9 as well.

10 A Yes. It's fraudulent.

11 Q I'm trying to clarify this, because that's not
12 what I've been hearing, all right? Now I hear what
13 you're saying.

14 A Right.

15 Q Let's go back to the '90 will.

16 A Yes, sir.

17 Q All four of your granddaddy's children were
18 supposed to inherit under that, right?

19 A Share and share alike.

20 Q Right.

21 So 1/4th of whatever your granddaddy had
22 would go to Sonny, right?

23 A Yes.

24 Q 1/4th would go to Virginia's estate, right?

25 A Right.

- 1 Q 1/4th would go to Evelyn's estate, right?
- 2 A That's correct.
- 3 Q And 1/4th would go to Janice's estate, right?
- 4 A That's correct.
- 5 Q You're not contesting your daddy's will anymore,
6 right?
- 7 A My daddy's will? Which one?
- 8 Q The one that's in probate. The only will your
9 daddy had.
- 10 A Well, in accordance with my daddy's will,
11 yes. In accordance with that will, the residue of
12 his estate -- let me explain this to you. In that
13 estate, before Dot came along --
- 14 Q Hold on a second. You're not answering
15 my question.
- 16 A I'm talking about the residue of the estate.
- 17 Q I'm talking about your daddy's will probate date
18 2008 that's in probate --
- 19 A Yes.
- 20 Q -- that your lawyer stipulated was not signed
21 under any undue influence --
- 22 A Right.
- 23 Q -- or lack of capacity.
- 24 A Right.
- 25 Q It's valid. That will leaves everything your

1 daddy had to Dot and Renique, right?

2 A Pretty much.

3 Q You don't get anything.

4 A Yes, I do.

5 Q Under that will?

6 A Yes, I do.

7 Q All right. We'll let the jury read the --

8 A The residue of the estate.

9 Q We'll let the jury read that will.

10 MR. HARVEY: Thank you. No further
11 questions.

12 THE COURT: Thank you. You may step
13 down.

14 Anything else, Mr. Jenkins?

15 MR. JENKINS: Nothing, Your Honor.

16 MR. HARVEY: Nothing from the defense.

17 THE COURT: Nothing else.

18 We still need to have some motion hearings.

19 MR. HARVEY: Yes, sir.

20 THE COURT: Ladies and gentlemen, I'm
21 going to ask you to step in the jury room.

22 Hopefully, I'll be back in touch with you shortly.

23 I'll remind you, it's too early to begin

24 discussing the case. If you will, please step

25 into the jury room.

1 (Jury exits the courtroom at 1:22 p m.)

2 THE COURT: Motions.

3 MR. HARVEY: Your Honor, I renew my
4 motion for directed verdict made at the close of
5 the plaintiff's case. And, in addition, I wanted
6 to make sure on the record that Mrs. Riley
7 individually is no longer a party and that the
8 caption will be amended to reflect the lawsuit is
9 against Marcus Riley vs. Dorothy Riley, as the
10 personal representative.

11 THE COURT: I think that's by
12 agreement.

13 MR. JENKINS: Yes, sir, Your Honor.

14 MR. HARVEY: Secondly, Your Honor, I've
15 seen counsel's proposed requested charge. He's
16 submitting some charges about damages. Your
17 Honor, I don't have anything in my notes that
18 Mr. Riley testified that he had been damaged in
19 any way, and so, as to a question of damages, I'd
20 move for a directed verdict as to him not being
21 awarded damages.

22 THE COURT: Well, what do you say,
23 Mr. Jenkins?

24 MR. JENKINS: Your Honor, all I'm going
25 to ask for is reimbursement of attorney's fees.

1 MR. HARVEY: I don't think he's entitled
2 to it.

3 THE COURT: Under what theory or law are
4 you entitled to attorney's fees?

5 MR. JENKINS: That this was a lawsuit
6 that didn't have to be.

7 THE COURT: I'm sorry? Say it a little bit
8 louder.

9 MR. JENKINS: That this was a lawsuit
10 that didn't have to be and he had to go through
11 expenses in order for us to be here today.

12 THE COURT: I think the general rule is
13 that you can't get attorney's fees unless
14 specifically provided by a statute or agreement.

15 MR. HARVEY: That's my understanding,
16 Your Honor.

17 MR. JENKINS: I understand, Your Honor.

18 MR. HARVEY: As stated, same grounds as
19 before. That's all.

20 THE COURT: Do I have plaintiff's
21 requested charge?

22 MR. JENKINS: I have turned them in this
23 morning.

24 THE COURT: I'm sorry?

25 Give me a second here.

1 THE COURT: I'm a little concerned about
2 the charge on the plaintiff's request for charge
3 number 4 on fraud. I don't doubt that's a correct
4 statement of the law, but it sure seems to me it's
5 going to awfully confusing to the jury. You-all
6 both look at that.

7 MR. JENKINS: Sir, those were the
8 elements that I found and ways that you can find
9 fraud.

10 MR. HARVEY: Your Honor, my only problem
11 with number 4 is the last sentence. I believe
12 that's a comment on the facts.

13 THE COURT: Say it again.

14 MR. HARVEY: The last sentence of his
15 proposed 4, "If you feel Marcus Riley hadn't
16 obtained power of attorney by false pretenses," et
17 cetera, I think that's a commentary on the facts.
18 But that's -- that's my position.

19 MR. JENKINS: That's a proposed question,
20 Your Honor. You don't have to say that, Your
21 Honor. That's a proposed question that I was
22 going to say to the jury. Because these are the
23 elements of fraud. So my thought process was if
24 they find that these elements exist, therefore
25 fraud exists. So that was my whole process.

1 THE COURT: So are you okay with taking
2 that sentence out, then?

3 MR. JENKINS: Yes, sir.

4 THE COURT: What about the plaintiff's
5 requested charge of -- specifically request
6 number 6, I think is the -- excuse me --
7 defendant's number 6?

8 MR. JENKINS: Your Honor, defendant's
9 number 4 through 6, I contest. Because those are
10 the same issues we have in the directed verdict.
11 In the defense request for charge, I thought all
12 of those were legal questions and legal
13 background.

14 We're talking about statute of
15 limitations. We're talking about rules as far as
16 it relates what the judiciary should be deciding
17 on. I don't think that's for the jury to
18 determine.

19 MR. HARVEY: Your Honor, the question of
20 whether Mr. Riley knew of had reason to know --

21 THE COURT: I think that's the question.

22 MR. HARVEY: -- that he had a cause of
23 action that he should pursue, is a question of
24 fact for the jury?

25 MR. JENKINS: Your Honor, there was --

1 the 2, 4, and 5, to me, appeared to be questions
2 of law, questions that is a fact determination.

3 MR. HARVEY: Doesn't the Court, though,
4 charge the jury how to apply -- what law to apply
5 to the facts as it finds them?

6 MR. JENKINS: Your Honor, those are the
7 exact same issues that are in his directed
8 verdict. So once Your Honor decides the directed
9 verdict, then that would be enough for us then to
10 present again to the jury.

11 THE COURT: Okay. I'm going to deny all
12 of defendant's motions for directed verdict.

13 I'm going to charge plaintiff's number 4,
14 request concerning fraud with the exception, as
15 agreed, of the last sentence.

16 I'm going to charge defendant's request
17 to charge number 6. And in this process, I'm
18 going to tell the jury that their duty is to,
19 first of all, determine whether or not the statute
20 of limitations prohibits the bringing of this
21 lawsuit to begin with. And then I'm going to give
22 them the number 6 charge.

23 And then I'm going to tell them, if they
24 find that that statute of limitation bars the
25 lawsuit, then that's the end of the case. That's

1 all they have to do.

2 If they find that it does not bar this
3 lawsuit, then they must next decide whether or not
4 the power of attorney was fraudulent.

5 We'll give them a charge on fraud and
6 tell them that if they believe that it was a
7 forgery, then they must find for the plaintiff.
8 Same as the other two. If they find that the
9 statute of limitations bars this action, they must
10 find for the defendant.

11 Now, let's talk about the verdict form
12 again. We don't actually have one, do we? We've
13 talked about it, we've drafted one, but we don't
14 actually have one.

15 MR. HARVEY: I put one in the email and
16 then I forgot to print it out.

17 MR. JENKINS: Yes, sir. I didn't print
18 it out.

19 THE COURT: Can we send it to the clerk
20 and have it printed?

21 MR. HARVEY: No. I sent it directly to
22 the judge. It was the one with the four points --

23 THE COURT: We don't that anymore.

24 MR. HARVEY: We don't need that one
25 anymore.

1 THE COURT: Can you clean that one up and
2 send it to the clerk of the court?

3 MR. HARVEY: I think I can. If I can't,
4 my assistant surely can.

5 THE COURT: All right. We'll have the
6 clerk of court tell us who to send it to.

7 THE CLERK: Send it to me.

8 THE COURT: All right. Mr. Jenkins saw
9 it on my screen before I emailed it.

10 MR. JENKINS: Yes, Your Honor. I looked
11 at it.

12 (A break was taken from 1:40 to 1:46 p m.)

13 THE COURT: Are we ready for the jury?

14 MR. HARVEY: We are.

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

16 (Jury enters the courtroom at 1:47 p m.)

17 THE COURT: Welcome back, ladies and
18 gentlemen. Both sides have now rested, which
19 means they have presented to you all the evidence
20 that you're going to receive in this case, all the
21 information that you're going to be given, except
22 when I tell you about what the law is that applies
23 in the case.

24 In just a few moments, the attorneys will
25 begin making their closing arguments to you, where

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 the plaintiff.

2 Now, there's a difference between opinion
3 testimony by an expert and eyewitness testimony.
4 Opinion testimony is someone who is like the lady
5 that came in yesterday, Laurie Hoetzel, I think
6 her name was. She had all these comparisons.
7 Notice what she did. I appreciate her honesty.

8 She looked for signatures -- had someone
9 look for signatures in the public record of
10 Marion Riley, Sr. And what did she tell you? The
11 only signature she had was what Mr. Marcus Riley
12 sent her.

13 Now, think about this: If you're Marcus
14 Riley and you're wanting to win a lawsuit and the
15 only signatures you can get, you're going to find
16 the worst ones, aren't you? He's the one that
17 gave her all the information. She used -- she
18 made her opinion based upon all her information,
19 but he gave her nothing else. So think about
20 that.

21 And then we have the three people
22 involved in the actual execution of the document.
23 Well, I say two. Well, I'm sorry, just one.
24 Because all we're talking about is the power of
25 attorney of Ms. Bilko who was here this morning.

1 She testified. She was the who witnessed it.
2 Lawyer Eltzroth, told you the truth. He verified
3 that that was Marion Riley, Sr.'s signature on
4 that 1995 will, though, for sure. And then
5 Ms. Lynn Manuel yesterday, remember, she was there
6 when the 1995 will was signed. And she
7 remembered. It's sort of like -- you know, you
8 think about there are people you know and you
9 remember. You've got people like that in your
10 life. There are certain people that just stick
11 out.

12 To me Sonny Riley was one of those
13 people. I told you-all yesterday, I butted heads
14 with Sonny Riley when I was defending folks he
15 arrested. He stuck out to me. Marion Riley, Sr.
16 stuck out to Ms. Manuel. The specifics, she knew
17 it was him.

18 So the will is out of the way. And
19 Ms. Bilko says, I was there. And sure, she can't
20 say that she did all the examining. That's not
21 the -- that would be the person signing. That's
22 not -- that's not the administrative person's job.
23 Whoever the lawyer was, she couldn't remember,
24 that talked to Mr. Riley before he signed was
25 satisfied and had him sign it. She said it was

1 him. She also told you if he acted like he didn't
2 know what he was doing, or, if it wasn't him, she
3 wouldn't have put her name on that paper.

4 So you've got people who actually saw
5 things and you've got somebody who says, well, in
6 my opinion, that's a forgery.

7 But here's the thing you need to think
8 about: Not one person sat on that witness stand
9 and testified who the forger was. Nobody. Now,
10 Mr. Marcus Riley thinks it's his daddy, but was
11 there any evidence presented to you? Did you hear
12 anything else?

13 Think about this: Did the expert witness
14 say compare these signature with Mr. Marion
15 Riley's and Sonny Riley's own signature? Did you
16 hear her testify? Do you think if it was really
17 Sonny Riley who had been the one that forged she
18 wouldn't have been up there getting paid for what
19 she was testifying about and she wouldn't have got
20 up there and said, in my opinion, not only was it
21 forged, but Sonny Riley was who did it.

22 Crickets. Not a single witness. We
23 don't know, if it was a forgery, who forged it. I
24 submit to you that's one of the things you've got
25 decide in finding for the defendant. Because if

1 they can't prove who forged it, what do we do with
2 that? Was it Ms. Riley? They have no evidence it
3 was Ms. Riley who forged it. She said she never
4 even went to Hampton.

5 So I have noticed, as I've gone -- gotten
6 up in years, that my handwriting has changed as I
7 get older. You've probably got a loved one
8 somewhere. If you take them to the doctor's
9 office and they have to sign, chances are, if
10 they're old enough, their signature don't look
11 like it did 30 years ago, 10 years ago, maybe five
12 years ago.

13 So when you're thinking about how these
14 signatures might look different take into
15 consideration your own experience, because the
16 judge will tell you you don't leave your common
17 sense at the door when you go in there to decide.
18 You use your own personal experience to help you
19 decide a fact. People's signatures change.

20 So the second question, then, is when
21 should Marcus have had an idea something was not
22 to his liking? You heard a lot of things about
23 how things happened after Mr. Marion died as early
24 as 2003. The man is living in Allendale for a
25 whole year, taking his baby sister to school every

1 day, living in his granddaddy's house with his
2 daddy's permission, and yet he's not starting to
3 ask questions?

4 Let us give him the benefit of the doubt.
5 Let's get to 2014. His baby sister is living
6 there. It's remodeled. It don't look like his
7 granddaddy's house anymore. Don't you think he'd
8 start thinking, well, how is she getting away with
9 this if she don't own the place? The deed was on
10 the record. You heard her testify about it, 2014.

11 Don't you think at some point during that
12 year there was talk about it, about how Marion
13 Riley, Sr.'s estate got settled and who owned
14 everything?

15 And then February 2015, he's at his
16 Aunt Virginia's funeral. When you go to a
17 funeral, you don't talk about just the person
18 that's being buried, do you? You talk about --
19 you see people you know. You catch up. Some
20 people -- my family, we go to a funeral, it's like
21 a reunion, because we don't see each other enough
22 and you start talking about stuff. How are your
23 friends? How are your nephews and nieces?
24 They're at Virginia's funeral. You don't think
25 that came up?

1 You don't think that after Virginia's
2 husband and daughter had been involved in that
3 lawsuit with Janice in 2000 over Mr. Riley, Sr.'s
4 will, you don't think they were bitter over that?
5 You don't think -- you know, you get around bitter
6 people, all they can do is dwell on things like
7 that. We've been cheated. You don't think he
8 heard that?

9 And then Vonda and Adrian, his cousins,
10 they're so bitter, they put that fence up beside
11 the funeral home in Fairfax. Aren't you-all glad
12 you-all found out -- if you didn't find anything
13 else out, you found out the history of why that
14 fence is there. They put that fence up.

15 And Marcus is on the phone with the
16 speaker and he's talking to his daddy. And Marcus
17 says, Daddy, just give them the funeral home.
18 That's what he's wanting you to do now. Just give
19 them the funeral home. Take it away from Dot.
20 Take it away from Renique. Marcus knew.

21 One thing I want you to remember, as much
22 as anything, he's a lawyer. He's studied the law.
23 He may be a patent lawyer. I'm sure he's a very
24 good one. But when you take the bar exam, you
25 don't just take what you're specializing in. You

1 take it on all the law.

2 You have to answer questions. You have
3 to know what a statute of limitations is. The
4 judge will tell you, the statute of limitations
5 begins to run when a cause of action reasonably
6 ought to have been discovered.

7 Under this rule, a cause of action
8 accrues for purposes of the statute of limitations
9 when a plaintiff has notice that he might have a
10 remedy. And the statute runs from the day he
11 either knows or should have known by the exercise
12 of reasonable diligence that a cause of action
13 arises from wrongful conduct. He was put on
14 notice as late as 2015 that somebody didn't like
15 it that his daddy had that funeral home.

16 What did he do? He let his daddy die so
17 that when he decided to fight about it, he
18 wouldn't have to fight his daddy. He'd fight with
19 his stepmother. That's despicable. He talks
20 about loving his daddy and he didn't want to
21 confront his daddy. So he waited until his daddy
22 couldn't sit in here in front of you and sit on
23 that witness stand.

24 He sued in 2015, 2016 before COVID. He
25 ain't going to take COVID as an excuse now. 2015,

1 2016, it's hard to believe she was working back
2 then. He was going to be able to put his daddy on
3 that witness stand. His lawyer could have
4 cross-examined him. Then you might know, if this
5 is a forgery, who really signed it. But they
6 didn't get that opportunity. He wants you to
7 speculate, oh, yeah, it had to be him. It
8 couldn't have been anybody else. Well, it
9 couldn't have been anybody else but Marion Riley,
10 Sr. That's what we're trying to get you to
11 understand and find.

12 All right. Dot and Renique, Renique in
13 particular, took a funeral home that was doing --
14 in bad shape and did what she knew her daddy
15 wanted her to do. Keep running that funeral home.
16 And by reference, what her granddaddy wanted.
17 Because he's the one that started it, he's the one
18 that built it. It was down, and she brought it
19 back up.

20 And I want to close with this. I have
21 two things I want to tell you first. People
22 change their wills. People change their minds.
23 One of the last questions I asked Mr. Riley was
24 when was the last will and testament. I've got to
25 tell you, over my 40 years of being a lawyer, I've

1 had some favorite clients. I call them favorite
2 because they must love me, because they come to
3 see me an awful lot, and they come in and they
4 want to change their will.

5 There was one lady, I will forget never
6 forget her. She had no children. She was not --
7 had never been married. She had nieces and
8 nephews and she had a bunch of houses in
9 Blythewood. And depending on which ones of her
10 nieces and nephews were treating her right, she'd
11 change her will. She'd come in once a year and
12 she'd say, I want to take so-and-so out and put
13 so-and-so in. Why do you want to do that? Well,
14 they're not paying any attention to me.

15 I'd ask her the same type of questions
16 that Mr. Hoeltz to make sure she knew what she was
17 doing, make sure there wasn't going to be any
18 question. We'd rewrite her will. She'd sign it.
19 I don't know whether she couldn't get to me the
20 last time before she died or whether she wanted to
21 change her mind or not, but I guess that will be
22 between her and the Lord. People change their
23 minds. People change their wills.

24 And then my clients come in sometimes and
25 they're really, really conflicted. They have

1 three or four children. Some of them will live in
2 Houston, Texas, for example. Some of them will
3 live in Philadelphia, for example. Some of them
4 will live in Barnwell, Allendale. I do get
5 business from Barnwell. I have family there. And
6 they'll say, I want to be fair. But so-and-so may
7 say, my daughter, hasn't been willing to take care
8 of us. Well, my son has been the one looking
9 after us, our place. The other two don't have
10 anything to do with us. But I want to be fair.
11 This is what I tell them: Fair is what you say it
12 is. And I'll ask then, did they do anything to
13 help you gather and accumulate what you've got to
14 leave? And I bet you 98 percent of the time they
15 all sit there and say, nope, didn't do a thing. I
16 say, well, it's yours. They didn't do anything to
17 earn it. You do want you want with it. I'll bet
18 you Mr. Hoeltz said the same thing to his clients.
19 Most good lawyers, country lawyers. I know I do.

20 So the last thing I want to tell you is a
21 little story. You-all may have heard it before.
22 From the time I was born and carried home to
23 Brunson, South Carolina, the first five years of
24 my life, my family lived across the street from my
25 Aunt Barbie (ph). She did not want to be called

1 Aunt Barbie, but I couldn't say what she wanted me
2 to call her, and I called her that so that's -- it
3 stuck.

4 When I got old enough to be still and sit
5 on her lap and get read to. One of my favorite
6 books was *The Little Red Hen*. You-all remember
7 that story *The Little Red Hen*? I wish I had the
8 time to say it -- read it to you, because it's got
9 some great colorful depictions on it.

10 But the little red hen lived in the
11 barnyard, and she decided that she wanted to bake
12 some bread, because there wasn't any bread. So
13 she said, well, I've got to plant some wheat.
14 I've got to till the soil.

15 So she went around to the other animals
16 in the barnyard and said, Will you come help me?
17 We can have bread. And everyone one of them said,
18 Nope, I won't. There was a video. It says,
19 Forgive me for my sin. The cat says, I won't.
20 The dog says, I won't. I won't. I won't. I
21 won't. So she planted the wheat by herself. When
22 it came time to harvest, she went around, Who's
23 going to help me harvest my wheat? Not I, said
24 the cow. Not I, said the pig. Not I, said the
25 dog.

1 So she harvested the wheat by herself.
2 When it was ready to be milled, nobody would help
3 her even though she asked them. She milled the
4 wheat. Asked anybody if they would help bake the
5 bread. Nope.

6 And when she baked that bread, the smell
7 of that fresh bread was cooking and everybody
8 gathered around and everybody was wanting a piece
9 of bread.

10 That woman right there took her daddy's
11 business, took her daddy's business, granddaddy's
12 business and she tilled the ground and she rebuilt
13 that funeral home and she made it into a
14 prosperous business, and the rest of the people in
15 the barnyard want a piece of it.

16 THE COURT: Thank you, Mr. Harvey.

17 Mr. Jenkins, anything else?

18 MR. JENKINS: No, Your Honor.

19 THE COURT: Ladies and gentlemen, as I
20 told you yesterday, you are the sole and exclusive
21 judges of the facts in this case. What I think
22 about the facts of the case is totally irrelevant.
23 If I've done anything to cause you to believe that
24 I have an opinion about the facts of the case, put
25 that out of your mind. Because the law does not

1 permit me to express an opinion about the facts of
2 the case in your presence.

3 The same law that makes you the judges of
4 the facts of the case makes me the judge of the
5 law of the case. And the law as I give it to you
6 in a few minutes is the law that you must accept
7 and must apply. Even if you disagree with the
8 law, you must accept the law as I give it to you.

9 As you heard one of the attorneys say,
10 the burden of proof in this case is by a
11 preponderance of the evidence. And this simply
12 means the greater weight of the evidence. It is
13 evidence which as a whole shows that a fact sought
14 to be proved is more likely true than not true.

15 As you heard, this can be illustrated by
16 imagining a set the scales. And when the case
17 begins, the scales are even. And once the case is
18 over, if, in your opinion, the scales remain even
19 or dips slightly in favor of the defendant, then
20 the plaintiff would have failed to meet the
21 plaintiff's burden of proof and would not be
22 entitled to recover.

23 On the other hand, if the scales tip
24 slightly in favor of the plaintiff, the plaintiff
25 would have met the plaintiff's burden of proof and

1 you should return a verdict for the plaintiff.

2 The preponderance of the evidence is not
3 determined by the number of witnesses. It's
4 determined by the greater weight of all of the
5 evidence.

6 Necessarily, ladies and gentlemen, you
7 must determine the credibility of the witnesses
8 who have testified in this case, and this simply
9 means the believability of the witnesses. Because
10 it's your duty as jurors to evaluate the evidence
11 and determine which evidence convinces you that
12 it's true.

13 In determining the believability of the
14 witnesses who have testified, you may believe one
15 witness over several witnesses or several
16 witnesses over one witness. You may believe part
17 of the testimony of a witness and reject the
18 remaining part of the testimony of that very same
19 witness. You may believe the testimony of a
20 witness in its entirety or reject the testimony of
21 a witness in its entirety.

22 You may consider whether the witness has
23 an interest in the results of the trial, whether
24 other witnesses are prejudiced towards the
25 plaintiff or towards the defendant, and the

1 opportunity that any witness may have had to have
2 seen or observed the things about which the
3 witness may testimony.

4 As I told you earlier, the Rules of
5 Evidence ordinarily do not permit witnesses to
6 testify to opinions or conclusions. An exception
7 exists for witnesses that we call an expert
8 witness. That is a witness who by some education
9 or experience has become an expert in some art,
10 science, of profession. They are permitted to
11 give an opinion about the subject that the witness
12 claims to be an expert in. And they give their
13 reasons why they have an opinion.

14 You should consider an expert opinion
15 given by a witness like any other evidence. You
16 give it the weight you think it deserves. If you
17 decide that an expert witness's opinion is not
18 based on sufficient education and experience, or
19 if you decide that the reasons given in support of
20 the opinion are not sound, or that the opinion is
21 outweighed by other evidence, you may disregard
22 the opinion entirely.

23 An expert witness's testimony is to be
24 given no greater weight than that other witnesses
25 simply because that witness is an expert. You do

1 not have to accept an expert's opinion even though
2 it is uncontradicted.

3 The first thing you must decide, ladies
4 and gentlemen, during your deliberations is
5 whether or not the bringing of this lawsuit was
6 untimely or not timely. In other words, was it
7 brought too late in violation of what is called
8 the statute of limitations.

9 The statute of limitations begins to run
10 when a cause of action reasonably ought to have
11 been discovered. Under this rule, a cause of
12 action proves, for the purpose of the statute of
13 limitations, when a plaintiff has notice that he
14 might have a remedy for a harm. The statute runs
15 from the date the injured party knows or should
16 have known the exercise of reasonable diligence
17 that a cause of action arises from some wrongful
18 conduct.

19 The exercise of reasonable diligence
20 means if the injured party must act with some
21 promptness or the facts and circumstances of an
22 injury places a reasonable person of common
23 knowledge and experience on notice that a claim
24 against another person may exist. The fact that
25 the injured party may not comprehend the full

1 extent of the damage is immaterial.

2 Where facts and circumstances of injury
3 would put a person of common knowledge and
4 experience on notice that some right of his has
5 been violated or that some claim against another
6 party might exist, the statute of limitations
7 begins to run from this point and not from when
8 the advice of counsel is sought or full-blown
9 theory of recovery is developed.

10 Whether a particular plaintiff actually
11 knew he had a claim is not the test for you to
12 apply. Rather, it is for you to decide whether
13 the circumstances of the case would put a
14 reasonable person of common knowledge and
15 experience on notice that some right of his may
16 have been invaded or that some claim against
17 another party might exist.

18 If you find that this lawsuit was brought
19 too late and it was untimely, then you must find
20 for the defendant. If you find that the lawsuit
21 was timely brought, then you may consider whether
22 or not fraud exists in this case.

23 I lost my page, ladies and gentleman.

24 Under South Carolina law, the tort of
25 fraud requires the following elements to be

1 proven: Number 1, a factual representation;
2 number 2, that it's false; number 3, that it was
3 material; number 4, the knowledge of its falsity
4 or reckless disregard of the truth of falsity;
5 number 5, if the intent that the representation be
6 acted upon; number 6, that the hearer was ignorant
7 of the falsity; number 7, the hearer's reliance on
8 its truth; number 8, the hearer's right to rely on
9 the representation; and, number 9, the hearer's
10 consequent and proximate injury. A plaintiff must
11 prove fraud by clear and convincing evidence, and
12 the failure to prove any element is fatal to the
13 claim.

14 In this case, if you find that the power
15 of attorney in question was a forgery or
16 fraudulent, then you must find for the plaintiff,
17 unless you've already previously found for the
18 defendant on the grounds that the claim was
19 brought in an untimely manner.

20 Ladies and gentlemen, I will send to the
21 jury room a verdict form. And I'll ask our
22 foreperson if she will, on behalf of the jury,
23 complete the verdict form and sign her name.

24 For there to be a verdict, all of you
25 must agree.

1 So if you -- when you reach an agreement,
2 I'll ask our foreperson if she'll knock on the
3 door, let the bailiff know, then we'll receive you
4 back in the courtroom. If you'll retire to the
5 jury room now, we're going to gather up all the
6 exhibits and this verdict form and we'll send it
7 back to you shortly.

8 Thank you so much, ladies and gentlemen.

9 (Jury exits the courtroom at 2:34 p m.)

10 THE COURT: Have you-all looked at the
11 exhibits to see if they're all there?

12 MR. JENKINS: Yes.

13 (Off the record.)

14 THE COURT: I'll give this to our
15 bailiff, get him to take the exhibits back and
16 tell them it's time to go to work.

17 (Jury begins deliberations at 2:40 p m.)

18 MR. HARVEY: Judge, can I just note for
19 the record my exception to your not charging all
20 the requests that I asked for?

21 THE COURT: Yes. Go ahead.

22 MR. HARVEY: Respectfully, I take
23 exception to the Court's denial of my request to
24 charge 1, 2, I don't think you charged 3, 4, 5,
25 and 7. That was the judicial notice charge.

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?

1 MR. JENKINS: I'll be more than happy to,
2 sir. I'll be more than happy to send it to the
3 other side.

4 I just have to say, Your Honor, it may
5 take a minute because I have surgery on Monday.
6 So you may get it probably by the end of the
7 week.

8 THE COURT: Okay. One thing, and that
9 is, I thought the attorneys involved in this case
10 did an outstanding job in this case and an
11 outstanding job representing your respective
12 clients. Thank you so much.

13 MR. HARVEY: May I inquire, is it correct
14 for me to understand that the time for any appeal
15 would run from the time that the order is filed?
16 Is that -- if we wanted to appeal, are we going to
17 need 30 days from today or from the day the judge
18 signs his order? I just need to know it for my
19 calendar, Judge.

20 THE COURT: I'm not sure. I can tell you
21 what the Appellate Court rules would say.

22 MR. JENKINS: Your Honor, if I may?

23 THE COURT: Mr. Jenkins, you've got a
24 thought on this matter?

25 MR. JENKINS: Yes, sir. My understanding

1 is when the order was done. I truly believe that
2 it now, because the issues of the trial have no
3 bearing on the order itself, the actual writing of
4 it. So it's my understanding it's starting right
5 now once the verdict is handed down.

6 THE COURT: Suppose that notice of appeal
7 was filed tomorrow.

8 MR. JENKINS: Yes, sir.

9 THE COURT: Does that not exclude the
10 Court from jurisdiction of doing anything else on
11 the case?

12 MR. HARVEY: It stays in the lower court
13 when the notice of appeal is filed.

14 MR. JENKINS: You're absolutely right,
15 Your Honor. I'm fine with -- as I said, I think I
16 get get it expedited. I've just got to start the
17 process tomorrow for the surgery on Monday. But
18 as I said, I'll be more than happy to see if I can
19 get it expedited.

20 THE COURT: For what it's worth, and I'm
21 not sure it's worth anything, the Court would
22 agree that the time for beginning the appeal would
23 be the signing of the order. You might want to
24 make sure that the Court has the authority to do
25 that.

1 MR. HARVEY: Sure. As much as I need to
2 do it, I don't think I'm going to file a notice of
3 appeal tomorrow.

4 MR. JENKINS: I agree, sir.

5 THE COURT: All right. Best wishes to
6 both of you.

7 MR. HARVEY: Thank you, Your Honor.

8 MR. JENKINS: Thank you, sir.

9 (End of excerpt.)

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

CERTIFICATE OF REPORTER

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

I, SHARON G. HARDOON, Official Circuit Court Reporter for the State of South Carolina at Large, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Court of Common please, Allendal County, South Carolina.

I do further certify that I am neither kin, counsel, nor interest to any party hereto.

May 22, 2023

Sharon G. Hardoon, CSR
Official Circuit Court Reporter, III

EXHIBIT
A

COUNTY OF ALLENDALE.

LAST WILL AND TESTAMENT

I, MARION F. RILEY, SR., being of sound and disposing mind and memory and realizing the uncertainties of life, do hereby make, publish and declare this instrument to be my last Will and Testament, hereby revoking any and all wills or testamentary writings by me ever made.

ITEM I

I direct my Personal Representative hereinafter named to pay all of my just debts as soon after my death as may be practical.

ITEM II

I give, devise and bequeath unto my wife, Ruth Riley, my home and the property on which it is located, as well as its contents. In the event my wife should predecease me or we die in a common disaster then all of my property whether real or personal unto my children they to share and share alike.

ITEM III

All remaining property, whether it be real, personal, or mixed, of whatsoever nature and kind and wheresoever situate, I give, devise and bequeath unto my children to share and share alike.

ITEM IV

I nominate, constitute and appoint Ruth Riley as Personal Representative of this my Last Will and Testament and direct that she serve without bond.

1- Marion F. Riley Sr

Patricia R. Riley

I, Marion F. Riley, Sr., the testator, sign my name to this instrument this 12th day of January, 1990 and being first duly sworn do hereby declare to the undersigned authority that I sign and execute this instrument as my Last Will and that I sign it willingly, that I execute it as my free and voluntary act for the purpose 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.

We, Clyde A. Eltzroth and Patricia R. Dreyfuss, the witnesses, sign our names to this 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's signing, and 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.

Clyde A. Eltzroth
Patricia R. Dreyfuss

STATE OF SOUTH CAROLINA)
COUNTY OF HAMPTON)

Subscribed, sworn to and acknowledged before me by Marion F. Riley, Sr., the Testator and subscribed and sworn to before me by Clyde A. Eltzroth and Patricia R. Dreyfuss, witnesses this 12th day of January, 1990.

[Signature]
Notary Public for South Carolina
My Commission Expires: 11/10/93

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.

X

[Handwritten signature]

[Handwritten signature]

WITNESSES:

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

Marion F. Riley, Sr.

X

Marion F. Riley, Sr.

and about my affairs as fully 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 18th 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.

X

Witnesses: Marion F. Riley

0854
91

11/11/95
11/11/95
11/11/95

... PURPOSES... AND...
... OF SOUND MIND... AND UNDER NO CONSTRAINT OR UNDU...
MARION F. RILEY, SR.

no. SARAH J. ... and ...
the witnesses, sign our names to this the undersigned authority
that the Principal signs and executes this instrument 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.

Kathleen H. ... address Brampton, A.C.
Kathy Ann B. ... address ...

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

[Handwritten Signature]

X

M.F. Riley's Funeral Home - Fairfax, Va.

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

Marion F. Riley, Sr.

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

James A. Mamed
Notary Public for South Carolina
My Commission Expires: 3-1-99

Witnesses: Jackie...
Kerry Ann B. Long

Marion F. Riley, Sr.

X

STATE OF SOUTH CAROLINA,)
COUNTY OF ALLENDALE)

LAST WILL AND TESTAMENT

I, MARION F. RILEY, SR., being of sound and disposing mind, memory and understanding do hereby make, publish and declare this instrument to be my Last Will and Testament hereby revoking any and all other testamentary writings of any kind or nature by me ever made.

ITEM ONE.

I direct my Personal Representative hereinafter named to pay all of my just and legal debts as soon after my death as may be practical.

ITEM TWO.

I give, devise and bequeath unto my daughter, Virginia Priester, any interest I have in the funeral home located in Hampton.

ITEM THREE.

I give, devise and bequeath all my interest as well as the property, real and personal, connected with my funeral home in Fairfax unto my son, Marion F. Riley, Jr. This includes the several lots on which the funeral home business is located.

ITEM FOUR.

All the rest and residue of my property equally to my children Janice Riley, Evelyn Grant, Marion F. Riley, Jr. and Virginia Priester.

witnesses:

Marion F. Riley Sr.
James H. Dilke

W # P 50

M. F. Riley Sr. X

RAQ287

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 Seafair, S.C.

June H. Bilka address Hampton, S.C.

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.

X

June H. Bilka
Janet P. Palazzolo

We, June H. Bilka and

Janet P. Palazzolo, the witnesses,

EXHIBIT
C

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

A TRUE COPY

Document No. 79-147

1999
11/16/99
MARY JEAN 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 Marion F. Riley, Sr.,
a citizen of Allendale County, South Carolina do hereby revoke and
forever and take certain Power of Attorney to Marion F. Riley, Jr.,
dated May 18, 1995 and recorded in the office of the Clerk of Court
for Allendale County, South Carolina.

I, Marion F. Riley, Sr., the Principal, sign my name to this
instrument this 11th day of May, 1999, and being first 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 purposes herein 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.

Witness: John P. Anderson
John C. Anderson

vs. John P. Anderson and John C. Anderson
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

272

RAO290

constrained or under duress.

Berry P. Anderson address Hampton, SC
John P. Chappell address Hampton, S.C.

State of South Carolina
County of Horry

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) witness the execution thereof.

Berry P. Anderson witness
John P. Chappell witness

SWORN to before me this
26th day of May, 1968.
Berry P. Anderson
Notary Public for South Carolina
My Commission Expires: 4/15/1971

State of South Carolina, County of Abbeville
I hereby certify that this instrument was filed and recorded on this 26th day of May, 1968
at Hampton S.C. to Book 100
Page 273
John P. Chappell
Notary Public, S.C. & C.
Chief of County, Abbeville County, S.C.

273

8039210403 JOHNSON KERSE L&MPPSON JUL 17 02 0145P

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;

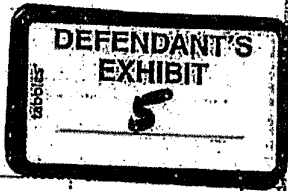
WITNESSES:
Gene D. [unclear]
Gene D. [unclear]

TRUE COPY

Date: 10/5/2002
Elaine [unclear]

143

BLAINE SABB
CLERK OF COURT
ALLENDALE, 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.

WITNESSES:
June H. Bilka
Janet P. Palazzo

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

ELECTRONICALLY FILED: 2022 Oct 19 3:21 PM - ALLENDALE - COMMON PLEAS - CASE#2020CP0300176
COMMON PLEAS - CASE#2020CP0300176

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.

Gene D. Bilke address Hampton, S.C.
James P. Pellegrino 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 James P. Pellegrino witnessed the execution thereof.

Gene D. Bilke

SWORN to before me this
15th day of October, 1998.

James P. Pellegrino
Notary Public for South Carolina
My Commission Expires: 11/27/2000

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

recorded this 15th day of Oct, 1998
at 8:20 A.M. P.M. in Quid Court 123

Page 113
Mary Jo Carlson
Mary Jo Carlson, C.C.C.P., R.N.C.
Clerk of Court, Allendale County, S.C.

146

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:
James W. Dilks
James P. Calvey

144

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
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:

4. 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

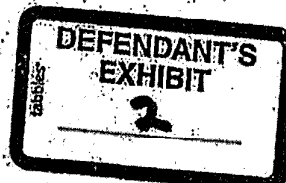
(use additional sheet if necessary)

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)

FORM #000PC (1/91)
62-3-203, 62-3-301, 62-3-303, 62-3-401, 62-3-402, 62-3-409,
62-3-410, 62-3-601, 62-3-704, 44-23-1090, 44-23-1120



PAGE 1 OF 5

RA0296

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

APR 2021

- 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.)
 NO YES If yes, please explain on page 3.
 xxx
- 6. To the best of your knowledge, was the decedent a patient in a South Carolina Mental Health facility during his/her lifetime?
 NO YES If yes, please explain on page 3.
 xxx
- 7. Has a guardian or conservator ever been appointed for this person?
 NO YES If yes, please explain on page 3.
 xxx
- 8. Has a personal representative of the decedent been appointed prior to this date by a Court in this state or elsewhere?
 NO YES If yes, please state details, including name and address of such Personal Representative, on page 3.
 xxx
- 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?
 NO YES If yes, please state details, including names and address, on page 3.
 xxx
- 10. Have more than ten years passed since the decedent's death?
 NO YES If yes, please state circumstances authorizing tardy probate on page 3.
 xxx
- 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 #950PC, 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?
 NO YES If yes, please explain on page 3 and then proceed to Section II.
 xxx

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

- 1. Regarding the decedent's will:
 - 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?
 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?
 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?
 YES NO If no, please explain on page 3.
 xxx
- 6. Do you believe the will defined in "1" above is the decedent's last will?
 YES NO If no, please explain on page 3.
 xxx

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, 1999.

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 [X] GRANTED [] DENIED informally this 18th day of May, 1999.

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

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

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 _____

SEE ATTACHED ORDER _____, Probate Court Judge

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: _____

A TRUE COPY

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

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

STATE OF SOUTH CAROLINA

COUNTY OF ALLENDALE

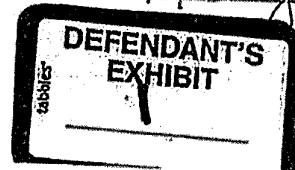
I, MARION F. RILEY, JR., of the County and State aforesaid, being of sound and disposing mind, memory and understanding, and desiring to make such disposition of my worldly estate as I deem best, DO HEREBY MAKE, PUBLISH AND DECLARE THIS TO BE MY LAST WILL AND TESTAMENT, hereby revoking any and all former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

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



RAO301

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.

Marian F. Riley (L.S.)

Cherry M. Vick
C. Patricia P. O'Neal



AFFIDAVIT OF PUBLICATION

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

A TRUE COPY
D. Kellie Smith
D. Kellie 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

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

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 #371PO with the Probate Court of Allendale County, the address of which is 292 Barnwell Highway, Allendale, SC 29511 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 or other delivery of this notice, whichever is later, (unless barred by operation of Section 62-3-303) 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 Filley, Jr.
Date of Death: 06-08-2018
Case Number: 2018-ES-03-00055
Personal Representative and address: Dorothy S. Filley 328 Byrd Street, Fairfax, SC 29827
914-8102-7882

RAO303

18-10-80 9:8:9

Document 99-154
State of South Carolina,
COUNTY OF ALLENDALE.

TITLE TO REAL ESTATE
Bonsell Lithographic, Rockville, MD

Form 16
(Revised 4-1-88)

ALLENDALE COUNTY
DOCUMENTARY
Tax: Exempt
Paid: 2-26-99
MARY JEAN CARLSON
RMC

Know All Men by These Presents, That Marion F. Riley, Sr.
(hereinafter whether singular or plural the "Grantor")

In the State aforesaid, for and in consideration of the sum of \$1.00 Love and Affection for my son, to the Grantor paid by Marion F. Riley, Jr. whether singular or plural the "Grantee") has granted, bargained, sold and released, and by these presents does grant, bargain, sell and release unto the said Grantee the following described property.

All that certain piece, parcel or lot of land, situate, lying and being in the Town of Fairfax, County of Allendale, State of South Carolina, and having the following boundaries and measurements, to wit: On the North by lot, now or formerly, of Rumelle Boone and measuring thereon one hundred and no/100 (100') feet, more or less; on the East by the right-of-way of a 20' alley and measuring thereon seventy-five and no/100 (75') feet, more or less; on the South by lot, now or formerly, of Neda T. Hoffman, et al., and measuring thereon one hundred and no/100 (100') feet, more or less; and on the West by the right-of-way of Pickens Street and measuring thereon seventy-five and no/100 (75') feet, more or less. This being the identical property acquired by the Grantor herein by deed of Rebecca D. Jenkins dated April 30, 1967 of record in the office of the Clerk of Court for Allendale County in Deed Book 40, at Page 87. TAX MAP NUMBER: 0123-08-08-042 AND -061.

ALSO

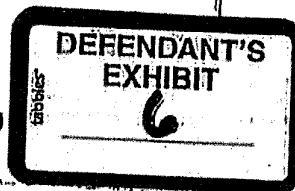
All that certain piece, parcel or lot of land, situate, lying and being in the Town of Fairfax, County of Allendale, State of South Carolina, and having the following boundaries and measurements, to wit: On the North by lot, now or formerly, of Jack Platts, et al., and measuring thereon one hundred and no/100 (100') feet, more or less; on the East by the right-of-way of a 20' alley and measuring thereon fifty and no/100 (50') feet, more or less; on the South by the right-of-way of 12th Street and measuring thereon one hundred and no/100 (100') feet, more or less; and on the West by the right-of-way of Pickens Street and measuring thereon fifty and no/100 (50') feet, more or less. This being the identical property acquired by the Grantor herein by Juannita M. Houck, Tax Collector, dated 12-30-85 of record in the office of the Clerk of Court for Allendale County in Deed Book 74, at Page 627. TAX MAP NUMBER: 0123-08-08-024.

ALSO

(SEE ATTACHED SCHEDULE "A" FOR ADDITIONAL DESCRIPTIONS)

Date: 10/5/2002
Elaine Sabe

ELAINE SABB
CLERK OF COURT
ALLENDALE, SC



ELECTRONICALLY FILED - 2002 Feb 12 9:20 AM - ALLENDALE - COMMON PLEAS - CASE#2020CP0300176

RA0304

TOGETHER with all and singular, the rights, members, hereditaments and appurtenances to the said premises belonging or in anywise incident or appertaining.

TO HAVE AND TO HOLD all and singular the premises before mentioned unto the said Grantee,

Marion F. Riley, Jr., his

Heirs and Assigns forever.

And the Grantor does hereby bind himself and his Heirs, Executors and Administrators, to warrant and forever defend all and singular the said premises unto the said Grantee and the Grantee's Heirs and Assigns, against the Grantor and the Grantor's Heirs and against every person whomsoever lawfully claiming, or to claim, the same or any part thereof.

WITNESS the Hand and Seal of the Grantor this 20th day of February in the year of our Lord one thousand nine hundred and ninety-nine and in the two hundredth and twenty-third year of the Sovereignty and Independance of the United States of America.

SIGNED, SEALED AND DELIVERED
IN THE PRESENCE OF

Kelly Collins
2-17-99

Marion F. Riley, Jr. (SEAL)
Marion F. Riley, Sr.
by his Attorney-in-fact.
Marion F. Riley, Jr. (SEAL)

2

STATE OF SOUTH CAROLINA. }
BAMBERG COUNTY. }

PERSONALLY appeared before me the undersigned witness and made oath that s/he saw the within named Grantor
Marion F. Riley, Sr., by his Attorney-in-Fact, Marion F. Riley, Jr.,
sign, seal and, as the Grantor's act and deed, deliver the within-written Deed for the uses and purposes therein mentioned
and that s/he, with the other witness whose signature appears above witnessed the execution thereof.

SWORN to before me this 21st

day of January, 1999 }
[Signature] (L.S.)
Notary Public of S.C.
My Commission Expires: 2-5-00

[Signature] }
Kelly Collins
Witness

State of South Carolina,

County of Alendale

Marion F. Riley, Sr.

TO

Marion F. Riley, Jr.

TITLE TO REAL ESTATE

I hereby certify that the within Deed was filed for record
in my office at 4:32 P.M. o'clock on the
26th day of February,
18⁹⁹ and was immediately entered upon the proper indexes
and duly recorded in Book 127 at Deeds,
page 1

Mary Spear Calver
Clerk of Court of Common Pleas and General Sessions for

County, S. C.

I hereby certify that the within Deed has been this

day of

19 A.D. 18⁹⁹ Recorded in

Book _____ at Deeds page _____

Book _____

for _____

County _____

FILED FOR RECORD
99 FEB 26 PM 4:32
ALLENDALE COUNTY, S.C.

SCHEDULE "A" - DESCRIPTIONS OF REAL ESTATE

ALSO

All that certain piece, parcel or lot of land, situate, lying and being in the Town of Fairfax, County of Allendale, State of South Carolina, and having the following boundaries and measurements, to wit: On the North by lot, now or formerly, of James Pinckney, et al., and measuring thereon one hundred and no/100 (100') feet, more or less; on the East by the right-of-way of a 20' alley and measuring thereon fifty and no/100 (50') feet, more or less; on the South by the right-of-way of 15th Street and measuring thereon one hundred and no/100 (100') feet, more or less; and on the West by the right-of-way of Pickens Street and measuring thereon fifty and no/100 (50') feet, more or less. This being the identical property acquired by the Grantor herein by deed of Lena White dated 9-5-59 of record in the office of the Clerk of Court for Allendale County in Deed Book 32, at Page 39.

TAX MAP NUMBER: 0123-08-09-008.

ALSO

All that certain piece, parcel or lot of land, situate, lying and being in the Town of Fairfax, County of Allendale, State of South Carolina, and having the following boundaries and measurements, to wit: On the North by lot, now or formerly, of Corinne Smorson, et al., and measuring thereon two hundred eleven and 6/10ths (211.6') feet, more or less; on the East by the right-of-way of Highway 321 and measuring thereon two hundred and no/100 (200') feet, more or less; on the South by the right-of-way of 17th Street and measuring thereon two hundred ten and 9/10ths (210.9') feet, more or less; and on the West by the right-of-way of Pickens Street and measuring thereon two hundred and no/100 (200') feet, more or less. This being the identical property acquired by the Grantor herein by deed of Marion F. Riley, Jr. dated 1-9-86 of record in the office of the Clerk of Court for Allendale County in Deed Book 75, at Page 316.

TAX MAP NUMBER: 0123-08-09-010.

ALSO

All that certain piece, parcel or lot of land, situate, lying and being in the Town of Fairfax, County of Allendale, State of South Carolina, and having the following boundaries and measurements, to wit: On the North by lot, now or formerly, of Virginia R. Priestler and measuring thereon one hundred and no/100 (100') feet, more or less; on the East by the right-of-way of Hampton Street and measuring thereon one hundred and no/100 (100') feet, more or less; on the South by the right-of-way of 12th Street and measuring thereon one hundred and no/100 (100') feet, more or less; and on the West by the right-of-way of a 20' alley and measuring thereon one hundred and no/100 (100') feet, more or less. This being the identical property acquired by the Grantor herein by deed of Lena White dated 9-5-59 of record in the office of the Clerk of Court for Allendale County in Deed Book 32, at Page 39.

TAX MAP NUMBER: 0123-08-09-011.

ALSO

All that certain piece, parcel or lot of land, situate, lying and being in the Town of Fairfax, County of Allendale, State of South Carolina, and having the following boundaries and measurements, to wit: On the North by lot, now or formerly, of F. M. Young, et al., and measuring thereon one hundred and no/100 (100') feet, more or less; on the East by the right-of-way of a 20' alley and measuring thereon fifty and no/100 (50') feet, more or less; on the South by lot, now or formerly, of the Estate of Annie Ferguson and measuring thereon one hundred and no/100 (100') feet, more or less; and on the West by the right-of-way of Hampton Street and measuring thereon fifty and no/100 (50') feet, more or less. This being the identical property acquired by the Grantor herein by deed of Sarah C. Lawton, et al., dated May 8, 1987 of record in the office of the Clerk of Court for Allendale County in Deed Book 79, at Page 231.

TAX MAP NUMBER: 0128-08-02-011 and -012.

5

ELECTRONICALLY FILED - 2021 Feb 12 9:20 AM - ALLENDALE - COMMON PLEAS - CASE#2020CP0500179

RAO308

SCHEDULE "A" CONTINUED - DESCRIPTIONS OF REAL ESTATE

ALSO

All that certain piece, parcel or lot of land, situate, lying and being in the Town of Fairfax, County of Allendale, State of South Carolina, and having the following boundaries and measurements, to wit: On the North by lot, now or formerly, of the Estate of Laurie Joe Felix, et al., and measuring thereon one hundred and no/100 (100') feet, more or less; on the East by the right-of-way of a 20' alley and measuring thereon twenty-five and no/100 (25') feet, more or less; on the South by lot, now or formerly, of the Estate of Annie Ferguson and measuring thereon one hundred and no/100 (100') feet, more or less; and on the West by the right-of-way of Hampton Street and measuring thereon twenty-five and no/100 (25') feet, more or less. This being the identical property acquired by the Grantor herein by deed of Christine Harter dated May 28, 1987 of record in the office of the Clerk of Court for Allendale County in Deed Book 79, at Page 227.

TAX MAP NUMBER: 0128-08-02-006.

ALSO

MFRSV
All that certain piece, parcel or lot of land, situate, lying and being in the Town of Fairfax, County of Allendale, State of South Carolina, and having the following boundaries and measurements, to wit: On the North by lot, now or formerly, of Johnson and measuring thereon one hundred and no/100 (100') feet, more or less; on the East by the right-of-way of Alken Avenue and measuring thereon twenty-five and no/100 (25') feet, more or less; on the South by lot, now or formerly, of Bernie Manuel, Jr. and measuring thereon one hundred and no/100 (100') feet, more or less; and on the West by the right-of-way of a 20' alley and measuring thereon twenty-five and no/100 (25') feet, more or less. This being the identical property acquired by the Grantor herein by deed of Juanita M. Houck, Tax Collector, dated 1-30-85 of record in the office of the Clerk of Court for Allendale County in Deed Book 74, at Page 623.

TAX MAP NUMBER: 0123-08-07-020.

ELECTRONICALLY FILED - 2025 OCT 18 3 21 PM - ALLENDALE - COMMON PLEAS - CASE#2020CP0300176
FILED - 2025 OCT 18 12 9 20 AM - ALLENDALE - COMMON PLEAS - CASE#2020CP0300176

FILED FOR RECORD
2014 APR 14 PM 3:16
CLERK OF COURT
ALLENDALE COUNTY, S.C.



2014-220 DATE: 04/14/2014
DEED Book: 248 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 these 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 (100th) feet, more or less; On the EAST by a 20' alley for a distance of one hundred (100th) feet, more or less; On the SOUTH by 15th Street for a distance of one hundred and no/100 (100th) feet, more or less; and On the WEST by Pickens Avenue for a distance of one hundred and no/100 (100th) 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 properly 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 Exempt
Paid 4-14-14
ELAINE SABB

RAO310

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. Sear
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.

STATE OF SOUTH CAROLINA

COUNTY OF: ALLEDALE

IN THE MATTER OF:
MARION F. RILEY, SR.
Decedent

IN THE PROBATE COURT
INVENTORY AND APPRAISEMENT

ORIGINAL
 SUPPLEMENTARY, AMENDED OR CORRECTED # 1

(must restate the unchanged information from the original inventory)
Amended per Order (2020 CP-03-00176) Filed
CASE NUMBER: 199ES03-00042 May 4, 2023

File the original inventory and appraisement with the Probate Court within ninety (90) days following the fiduciary appointment. A copy shall be sent to each interested person who has demanded it. A Proof of Delivery must be filed with the Court. The gross fair market value of all probate assets, regardless of location (whether in this state or elsewhere), should be listed as the date of death. Continue on additional sheets if necessary. A Supplementary, Amended, or Corrected Inventory should be utilized for correcting, adjusting or adding to an original inventory, and must restate the unchanged information from the original inventory. A qualified and disinterested appraiser may be employed to ascertain the value of any asset. If an appraiser is employed, his/her name and address must be indicated with the item or items he/she appraised.

RECAPITULATION

	Non-Probate (OPTIONAL)	Probate
Schedule A - Real Estate.....		\$0.00
Schedule B - Stocks and Bonds.....		\$0.00
Schedule C - Notes Due Decedent and Cash.....		\$0.00
Schedule D - Insurance on Person's Life: Part 1 - Payable to Estate.....		\$0.00
Part 2 - Payable to Beneficiary.....	\$0.00	
Schedule E - Jointly Owned Property.....	\$0.00	
Schedule F - Other Miscellaneous.....		\$0.00
Schedule G - Transfers during Decedent's life.....	\$0.00	\$0.00
Schedule H - Powers of Appointment.....	\$0.00	\$0.00
Schedule I - Annuities and Retirement Accounts.....	\$0.00	\$0.00
TOTAL GROSS VALUE OF PROBATE ESTATE.....		\$0.00
ENCUMBRANCES.....		\$0.00

The undersigned, being sworn, states: That the following schedules contain a complete and accurate inventory and appraisement of all probate real and personal property of this estate so far as the undersigned is informed; that he/she has estimated and/or appraised all listed property at its fair market value, according to the best of his/her knowledge and ability.

SWORN to before me this 30th day of June, 2023.
Melodie K. Ford
Notary Public for South Carolina
My Commission Expires: March 12, 2025

Personal Representative
Signature: [Signature]
Print Name: JANICE R. HEARD
Address: 3004 JOHN PAUL XING
AUGUSTA, GA 30906
Telephone (Work): _____
(Home): 706-793-9715
(Cell): 706-830-8852
Email: _____

Attorney: _____
Address: _____
Telephone: _____
Email: _____

Co-Personal Representative
Signature (if applicable): _____
Print Name: _____
Address: _____
Telephone (Work): _____
(Home): _____
(Cell): _____
Email: _____

WHEN COMPLETING THE FOLLOWING SCHEDULES LIST ALL PROBATE ASSETS, REGARDLESS OF LOCATION. ALL OUT-OF-STATE PROBATE ASSETS MUST BE DISCLOSED. NON-PROBATE PROPERTY NEED NOT BE DISCLOSED.

SCHEDULE A - REAL ESTATE List below any real estate in Decedent's name alone or tenants in common (not as joint with right of survivorship or tenants in the entirety). Describe each property by listing its full address, tax map number, deed book and page, and description consistently (for example: house, lot, buildings, acreage). Also list oil/mineral rights and time shares if it is real property. If none, so state. If the property is encumbered, list the full fair market value of the property here and the encumbrance on Encumbrance Schedule below. (For jointly owned property with right of survivorship, you may list in Schedule E.)

Item No.	Description	Fair Market Value	Value of Decedent's Interest (Indicate fraction, if not 100%)
	Tax Map Number: SEE ATTACHED		
	Tax Map Number:		
	Tax Map Number:		

TOTAL SCHEDULE A
(also enter under recapitulation, page 1)

SCHEDULE B - STOCKS AND BONDS List below all stocks in the Decedent's name alone or tenants in common (not as joint with right of survivorship). Identify each type of security and the number of shares. If none, so state. (For jointly owned property with right of survivorship, you may list in Schedule E.)

Item No.	Description	Face Value	Appraised Value

TOTAL SCHEDULE B
(also enter under recapitulation, page 1)

SCHEDULE C - CASH, BANK ACCOUNTS, NOTES RECEIVABLES. List all bank accounts owned by the decedent alone or as tenants in common (checking, savings, CDs, money market, brokerage, employment bonus, cash award, final paycheck, etc.), cash on hand, notes payable to Decedent, and survival action proceeds. If none, so state. List each separate account type and institution and last two digits of the account. (For jointly owned property with right of survivorship, you may list in Schedule E.)

Item No.	Description	Value

TOTAL SCHEDULE C
(also enter under recapitulation, page 1)

SCHEDULE D - Insurance (If none, so state.)
Part 1 - List the insurance on the life of the Decedent which is Payable to the Estate.

Item No.	Description	Value

TOTAL PART 1
(also enter under recapitulation, page 1)

(If more space is required, insert tax schedules or additional sheets of same size.)

Part 2 (OPTIONAL) - You may list here the insurance on the life of the Decedent which is payable to the beneficiaries.

Item No.	Description	Beneficiary	Value

TOTAL PART 2
(also enter under recapitulation, page 1)

SCHEDULE E - (OPTIONAL) JOINT WITH RIGHT OF SURVIVORSHIP - You may list below any non-probate jointly owned by the decedent with another with right of survivorship. List each separate account type and institution and the last two digits of each account.

Item No.	Description	Joint Owner(s)	Percentage Includible	Value of Decedent's Interest

TOTAL SCHEDULE E
(also enter under recapitulation, page 1)

SCHEDULE F - Other Miscellaneous Assets Payable to Estate. List below any tangible personal property, including household goods & furnishings, vehicles, boats/motors/trailers, mobile homes that are not de-itled, airplanes, equipment, interest in a partnership or unincorporated business, articles or collections having either artistic or intrinsic value, including coins, guns, artwork, jewelry, etc., and any other miscellaneous probate items not listed elsewhere, including any digital assets. If none, so state (For jointly owned tangible personal property with right of survivorship, you may list in schedule E.)

Item No.	Description (including ID # and VIN#)	Value

TOTAL SCHEDULE F
(also enter under recapitulation, page 1)

NOTE: FOR SCHEDULES G, H, AND I, LIST VALUES ONLY IF PAYABLE TO ESTATE.

SCHEDULE G - Transfers During Decedent's Life - List any transfers intended to take effect at death if such property is payable to the Estate. You may list in the "Optional" section below any non-probate transfers intended to take effect at death not payable to the Estate, including United States Government Bonds "Payable on Death," accounts which are "Transfer on Death," a trust created by Decedent in which income for life was retained by the Decedent, power to revoke or other incidents of ownership retained by the Decedent, lifetime transfers of real property in which Decedent retained life estate, etc. If none, so state.

List date and type of transfer and list total amount payable to estate:

(OPTIONAL) describe and list amount not payable to estate:

TOTAL SCHEDULE G
(also enter under recapitulation, page 1)

(If more space is required, insert tax schedules or additional sheets of same size.)

SCHEDULE H - Powers of Appointment. List property, both real and personal, over which Decedent possessed a Power of Appointment whether testamentary or otherwise, if such property is payable to the Estate. You may list property subject to such power if it was not payable to the Estate in the "Optional" section below. If none, so state.

Describe and list total amount payable to estate:

(OPTIONAL) describe and list amount not payable to estate:

TOTAL SCHEDULE H
(also enter under recapitulation, page 1)

SCHEDULE I - Annuities and Retirement Accounts (IRAs, 401(K), etc.). List any annuities or retirement accounts owned by the Decedent and payable to the Estate. You may list in the "Optional" section below any accounts payable to a beneficiary which is not payable to the Estate.

Describe and list total amount payable to estate:

(OPTIONAL) describe and list amount not payable to estate:

TOTAL SCHEDULE I
(also enter under recapitulation, page 1)

ENCUMBRANCES (e.g., mortgages, liens, judgements, etc., but not general debts of the estate) - List debts of the Decedent secured by assets on the above schedule and describe the debt and the specific asset encumbered.

Item No.	Schedule and Item Number Encumbered Thereby	Description & Amount

TOTAL ENCUMBRANCES
(also enter under recapitulation, page 1)

(If more space is required, insert tax schedules or additional sheets of same size.)

ESTATE OF MARION F. RILEY, SR.

1999-ES-03-00042

Inventory & Appraisalment--Schedule A

123-08-08-042	2 lots-Pickens Avenue	\$1,900.00	\$1,900.00
123-08-02-006	1 lot-Hampton Avenue	\$1,200.00	\$1,200.00
123-08-02-011	1 lot-Hampton Avenue	\$1,200.00	\$1,200.00
123-08-02-012	1 lot-Hampton Avenue	\$1,200.00	\$1,200.00
123-08-02-013	1 lots-Hampton Avenue	\$2,200.00	\$2,200.00
123-08-08-024	2 lots-Pickens Avenue	\$2,000.00	\$2,000.00
123-08-08-061	1 lot-Pickens Avenue	\$1,000.00	\$1,000.00
123-08-09-010	8 lots-Pickens Avenue	\$8,500.00	\$8,500.00
123-08-09-011	2 lots-Hampton Avenue(Funeral Home)	\$29,700.00	\$29,700.00
123-08-09-008	3 lots-Pickens Avenue(Home)	\$41,900.00	\$41,900.00
123-08-07-020	1 lot-Alken Avenue	\$1,000.00	\$1,000.00
137-04-01-018	4 lots-W. Davidson St(Park)	\$12,000.00	<u>\$12,000.00</u>
	TOTAL		\$103,800.00

Laurie A. Hoeltzel, PhDc
Forensic Document Examiner
2303 E. Hiddenview Dr. * Phoenix * AZ* 85048
PO Box 3528 * Crestline * CA * 92325
2520 McMullen Booth Rd* Suite B #229*Clearwater* FL * 33761
13915 W. 73rd St.* Arvada * CO *80005
Cell: 310-985-2807 *E. FL(O): 954-745-0752- W. FL(O): 727-213-5722- CO(O):
720-724-8077- TX(O): 832-827-3052- Fax: 866-652-9901
E-mail: lah78@msn.com
www.USHandwritingExpert.com
www.ArizonaHandwritingExpert.com
www.CaliforniaHandwritingExpert.com
www.FloridaHandwritingExpert.com
www.DenverHandwritingExpert.com
www.HoustonHandwritingExpert.com

AFFIRMATION

Subjects:

MARION F. RILEY, SR.

Date: November 22, 2020

I, LAURIE HOELTZEL, hereby affirm as follows:

I am a Court Qualified Forensic Document Examiner in the field of questioned documents. I am over the age of eighteen years, am of sound mind, having never been convicted of a felony or crime of moral turpitude; I am competent in all respects to make this Affirmation. I have personal knowledge of the matters declared herein, and if called to testify, I could and would competently testify thereto.

I have studied and was trained in the examination, comparison, analysis and identification of handwriting, discrimination and identification of writing, altered numbers and altered documents, handwriting analysis, trait analysis, including the discipline of examining signatures, with over twenty (20) years of experience in this field. A true and correct copy of my current Curriculum Vitae ("C.V.") is attached as "**Exhibit 1**".

An examination of handwriting included establishing patterns of writing habits to help identify the author. Handwriting is formed by repeated habits of writing by the author, which are created by neuro-pathways established in the brain. These

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,



Laurie A. Hoeltzel, PhDc

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

Defendant, by counsel, submits this Memorandum in support of her Motion to Dismiss filed pursuant to SCRCF Rule 12 and Rule 56. The stated grounds for the motion are:

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.

FACTS

Based on the allegations of the Amended Complaint, and Plaintiff's failure to respond to Defendant's Requests to Admit served upon Plaintiff's attorney on November 19, 2020, the uncontested facts upon which this Court should grant Defendant's motion are:

Plaintiff is the son of Marion F. Riley, Jr. Marion F. Riley, Jr. died on June 18, 2018. Defendant is his widow and the Personal Representative of his Estate.

Plaintiff is the grandson of Marion F. Riley, Sr., who died testate on May 10, 1999. His Last Will and Testament are dated May 22, 1995. The heirs at law of Marion F. Riley, Sr. are Virginia Priester, Janice Riley, Marion F Riley, Jr. and Evelyn Grant. They were all living when their father died. Marion F. Riley, Jr. was appointed Personal Representative of his father's estate.

Marion F. Riley, Sr. executed a Durable Power of Attorney on October 15, 1998, naming Marion F. Riley, Jr. as his attorney in fact. The Power of Attorney was recorded in the Office of the Clerk of Court for Allendale County in Deed Book 123, at page 143. On February 26, 1999, acting as his father's attorney in fact, Marion F. Riley, Jr. recorded a deed by which he conveyed title to 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.

Plaintiff's aunts, Virginia Priester and Janice Riley, filed a Complaint in the Probate Court for Allendale County on November 5, 2001, alleging that Marion F. Riley, Sr. lacked the mental capacity to enter in to the Will dated May 22, 1995. The Complaint further alleged that the signature of Marion F. Riley, Sr. on the Will dated May 22, 1995 was not his. 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..

Virginia Priester and Janice Riley's Complaint did not contest the validity of the Durable Power of Attorney dated October 15, 1998.

The Complaint was dismissed with prejudice by Order dated October 22, 2002.

DISCUSSION

1. Standing

In order to have standing to present a case before the courts of this State, a party must have a personal stake in the subject matter of the lawsuit. *Furman University v. Livingston*, 244 S.C. 200, 136 S.E.2d 254 (1964). As merely a family member, but one not entitled to inherit either under Marion F. Riley, Sr.'s Will or as an intestate heir, Plaintiff does not have a personal stake in the subject matter of this lawsuit.

The Supreme Court's most recent elaboration and discussion of standing is found in its opinion in Pres. Soc'y of Charleston v. S.C. Dep't of Health & Env't Control, 430 S.C. 200, 209–10, 845 S.E.2d 481, 485–86 (2020), reh'g denied (Aug. 7, 2020). The Court went to great detail in its discussion, stating:

“Standing has been called one of ‘the most amorphous [concepts] in the entire domain of public law.’ ” *Flast v. Cohen*, 392 U.S. 83, 99, 88 S.Ct. 1942, 20 L.Ed.2d 947 (1968) (alteration in original) (citation omitted). . . .In its most basic sense, “[s]tanding refers to a party's right to make a legal claim or seek judicial enforcement of a duty or right.” *S.C. Dep't of Soc. Servs. v. Boulware*, 422 S.C. 1, 7, 809 S.E.2d 223, 226 (2018) (quoting *Michael P. v. Greenville Cty. Dep't of Soc. Servs.*, 385 S.C. 407, 415, 684 S.E.2d 211, 215 (Ct. App. 2009)). “Standing to sue is a fundamental requirement in instituting an action.” *Joytime Distribs. & Amusement Co. v. State*, 338 S.C. 634, 639, 528 S.E.2d 647, 649 (1999). [emphasis added].

Marion F. Riley, Jr., was alive when plaintiff's grandfather, Marion F. Riley, Sr. died. S. C. Code Ann. §62-2-103 grants plaintiff no intestate inheritance, and therefore, no legal right to sue over his grandfather's estate. Plaintiff is not now, nor has he ever been, an intestate heir or devisee of his grandfather, Marion F. Riley, Sr. He would be an intestate heir only if his father, Marion Jr., had predeceased his grandfather. Not being an heir or devisee, he had no financial interest in the estate.

In order to have standing, Plaintiff would have to hold a right to make a legal claim. Plaintiff has no standing because he has no legal rights to assert. His legal claim is that his father defrauded his grandfather. The right to assert a fraud claim is legally owned by an intestate heir or a special administrator. *Fisher ex. Rel. Shaw v. Huckabee*, 422 S.C. 234, 811 S.E.2d 739 (2018) Plaintiff is neither.

2. Statute of Limitations

First, if the 1999 deed was fraudulently obtained, the cause of action to cancel the deed belonged to Riley Sr. Upon his death, his cause of action belonged to his estate. *Id.* With Riley, Jr., being the Personal Representative and potential defendant in the claim for fraud, it was up to the devisees or intestate heirs to assert the claim or to request appointment of a special administrator. Plaintiff's aunts accomplished this by their filing of the Complaint to set aside the deed on November 5, 2001. That Complaint was dismissed with prejudice a year later. No one attempted to refile or reassert the claim until the subject suit was filed when Dorothy Riley filed her paperwork with the Probate Court to close Marion F. Riley, Jr.'s estate.

The three-year statute of limitations for causes of action for fraud is governed by the "discovery rule," and does not begin to run until discovery of the fraud itself or of "such facts as would have led to the knowledge thereof, if pursued with reasonable diligence. *Burgess v.*

American Cancer Soc., South Carolina Div., Inc., 300 S. C. 182, 386 S.E.2d 798 (Ct.App. 1989). Plaintiff does not allege the date he first knew of the alleged fraud; however, he alleges in Paragraph 19 a lawsuit was filed in November 2001 and dismissed in October 2002. The Complaint is Exhibit A attached to Defendant's Request to Admit.

In applying the discovery rule, inquiry is focused upon whether the complaining party acquired knowledge of any existing facts "sufficient to put said party on inquiry which, if developed, will disclose the alleged fraud." Walter J. Klein Co. v. Kneece, 239 S.C. 478, 123 S.E.2d 870 (1962) Tucker v. Weathersbee, 98 S.C. at 408-409, 82 S.E. at 640. Either actual or constructive knowledge of facts or circumstances, indicative of fraud, trigger a duty on the part of the aggrieved party to exercise reasonable diligence in investigating and, ultimately, in pursuing a claim arising therefrom. In accordance with the aforesaid standards, a claim for fraud is barred if not filed by the proper party within six [now three] years of the time from which pertinent facts were actually known or could have been known through the exercise of reasonable diligence.

The date on which discovery of the cause of action should have been made is an objective, rather than a subjective, question. *Hedgepath*, 348 S.C. at 356, 559 S.E.2d at 336; *Joubert v. South Carolina Dep't of Soc. Servs.*, 341 S.C. 176, 534 S.E.2d 1 (Ct.App.2000). In other words, whether the particular plaintiff actually knew he had a claim is not the test. *Young*, 333 S.C. at 719, 511 S.E.2d at 416. Rather, courts must decide whether the circumstances of the case would put a person of common knowledge and experience on notice that some right of his has been invaded, or that some claim against another party might exist. *Id.*

The circumstances of the administration of the Estate of Marion F. Riley, Sr. indicate a contentious, tumultuous process. For Plaintiff to not have known about his aunts' challenge of

the conveyance is inconceivable. Plaintiff filed his Summons and Complaint on July 6, 2020. The Complaint filed in 2001 and dismissed with prejudice a year later challenged Marion F. Riley, Sr.'s mental capacity. [Amended Complaint, ¶33]. Since lack of capacity is a key element of Plaintiff's claim, Plaintiff clearly and objectively had notice of what he thinks is fraud at least 18 years before he filed this action.

The Plaintiff's claim to have the 1999 deed cancelled and returned to his grandfather's estate is further barred under S. C. Code Ann. §15-3-40:

No action for the recovery of real property or for the recovery of the possession of real property may be maintained unless it appears that the plaintiff, his ancestor, predecessor, or grantor, was seized or possessed of the premises in question within ten years before the commencement of the action.

Under this statute, Plaintiff should have filed suit not later than February 26, 2009.

In addition, as Plaintiff's claim is as much an attempt to re-litigate his grandfather's estate, the claim is time-barred by the his having failed to follow the mandate of S. C. Code Ann. §62-3-803(a)(1) and (2):

(a) All claims against a decedent's estate which arose before the death of the decedent, including claims of the State and any political subdivision thereof, whether due or to become due, absolute or contingent, liquidated or unliquidated, founded on contract, tort, or other legal basis, if not barred earlier by another statute of limitations or nonclaim statute; are barred against the estate, the personal representative, the decedent's heirs and devisees, and nonprobate transferees of the decedent; unless presented within the earlier of the following:

- (1) one year after the decedent's death; or
- (2) the time provided by Section 62-3-801(b) for creditors who are given actual notice, and within the time provided in Section 62-3-801(a) for all creditors barred by publication.

S.C. Code Ann. § 62-3-803

In *Rumpf v. Massachusetts Mut. Life Ins. Co.*, 357 S. C. 386, 593 S.E.2d 182 (Ct.App. 2004), a man entitled to benefits under a retirement annuity died. Ten years after his estate had been closed, his daughters discovered funds belonging to their father had been escheated. The

daughters sued the Personal Representative for breach of contract, fraud, breach of fiduciary duty among others. The lower court granted the Personal Representative summary judgment, ruling that the action was time-barred, and also barred by the Probate Court's discharge of the Personal Representative of all liability as Personal Representative.

Marion F. Riley Jr. died 2 years before this suit was filed. It is plainly time barred.

3. Res Judicata

Under the doctrine of **res judicata**, “[a] litigant is barred from raising any **issues** which were adjudicated in the former suit and any **issues** which might have been raised in the former suit.” *Plum Creek Dev. Co. v. City of Conway*, 334 S.C. 30, 512 S.E. 2d 106 (1999).

The fundamental purpose of **res judicata** is to ensure that “no one should be twice sued for the same cause of action. *First Nat’l Bank of Greenville v U.S. Fid. & Guar. Co.*, 207 S.C. 15m 35 S. E.2d 24 (1945).

As in this case, the 2001 lawsuit sought the setting aside of the 1999 deed because of Marion F. Riley Sr.’s lack of mental capacity. It is the identical issue raised in 2001 by intestate heirs who had standing. Marion F. Riley, Jr. having been sued over his conveyance of real property as his father’s attorney in fact, should not now have his estate sued on the identical grounds.

It is significant that the dismissal of the lawsuit by Order of the Probate Court dated October 22, 2002 was with prejudice. A case that is dismissed “with prejudice” indicates adjudication on the merits and, pursuant to **res judicata**, prohibits subsequent litigation to the same extent as if the action had been tried to a final adjudication. *Lawlor v. Nat’l Screen Serv. Corp.*, 349 U.S. 322, 75 S.Ct. 865, 99 L.Ed. 1122 (1955); *Nunnery v. Brantley Constr. Co.*, 289 S.C. 205, 345 S.E.2d 740 (Ct.App.1986).

CONCLUSION

Plaintiff's suit should be dismissed because he has no stake in this lawsuit and therefore no standing to sue. Even if the deed in question is set aside, he would not receive title under the terms of his Grandfather's Will.

Even if he has standing, Plaintiff's claims are barred by the running of the statute of limitations and by res judicata and this Court should dismiss this action.

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

August 4, 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

August 4, 2021
Barnwell, South Carolina

RAO329

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.

May 16th 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

RECEIVED
May 16 2024
SC Court of Appeals

ROA 330