

THE STATE OF SOUTH CAROLINA  
In the Court of  
Appeals

**RECEIVED**

**Aug 13 2024**

**SC Court of Appeals**

---

APPEAL FROM MARION COUNTY  
COURT OF COMMON PLEAS

H. Steven DeBerry, IV, Circuit Court Judge

---

Case No. 2023-CP-33-00472

Angela D. Young, as Personal  
Representative for the Estate of  
Chellie Nixon,

Appellant,

v.

Carolyn Johnson, as Personal  
Representative for the Estate of  
Samuel L. Davis,

Respondent.

---

**RECORD ON APPEAL**

---

Danny V. Butler, Esq.  
4420 Oleander Drive, Ste 203  
Myrtle Beach, SC 29577  
(843) 808-9224  
*Attorney for Appellant*

J. Rene Josey, Esq.  
Jeffrey L. Payne, Esq.  
1831 West Evans Street, Fourth Floor  
Florence, SC 29502-5478  
(843) 662-9008  
*Attorneys for Respondent*

INDEX

ORDERS:	<u>PAGE #</u>
Probate Court Order dated March 23, 2023.....	2
Probate Court Order dated July 17, 2023.....	5
Probate Court Order dated August 9, 2023.....	10
Circuit Court Order dated February 8, 2024.....	11
PLEADINGS:	
Complaint filed November 16, 2021.....	14
Answer dated December 2, 2021.....	19
Notice of Intent to Appeal to Circuit Court filed August 22, 2023.....	23
Notice of Appeal from Circuit Court filed March 15, 2024.....	24
TESTIMONY:	
Complete Transcript of Hearing held June 1, 2023.....	34
Deposition Transcript of Carolyn Johnson taken February 17, 2023, with Exhibits.....	82
Deposition Transcript of Ernestine Boston taken February 17, 2023.....	192
Deposition Transcript of Payton Warren taken January 28, 2022, with Exhibits.....	261
Deposition Transcript of Samuel L. Davis taken May 4, 2022, with Exhibits.....	309
Complete Transcript of Hearing held January 29, 2024.....	402
AFFIDAVITS:	
Affidavit of Carolyn Johnson dated November 7, 2022, with Exhibits.....	432
Affidavit of LaTonia Davis dated January 2, 2023, with Exhibits.....	449
Affidavit of Angela D. Young dated January 6, 2023, with Exhibits.....	453
MOTIONS:	
Motion for Summary Judgment dated November 23, 2022.....	475
Motion for Sanctions for Spoilation of Evidence dated February 21, 2023.....	477
Motion to Reconsider Order Granting Summary Judgment dated July 28, 2023.....	500
OTHER:	
Memorandum in Opposition to Defendant’s Motion for Summary Judgment dated February 21, 2023.....	505
Brief of Appellant in Appeal from Marion County Probate Court.....	557
Death Certification for Chellie Nixon.....	574
Letter from James C. Cox, Jr. to Robert E. Lee dated December 14, 2020.....	575

STATE OF SOUTH CAROLINA

COUNTY OF MARION

In Re: Chellie Nixon

Angela D. Young, as Personal Representative  
for the Estate of Chellie Nixon,

Petitioner,

v.

Estate of Samuel L. Davis,

Respondent.

IN THE PROBATE COURT

C/A # 2017-ES-33-00099

ORDER

This matter is before me on the Petitioner's Motion for Sanctions for Spoliation of Evidence. A hearing was held before me on Wednesday, March 8, 2023. In attendance at the hearing were Danny V. Butler, attorney for the Petitioner, Jeffrey L. Payne, attorney for the Respondent and Carolyn Johnson, Personal Representative for the Respondent.

The underlying claim set forth in the Petitioner's Complaint is that the Petitioner owned an interest in Young and Young Funeral Home, Inc., a funeral home located in Hartsville, South Carolina. The Respondent has denied any such claim.

The basis for the Petitioner's present motion revolves around a subpoena served on Samuel Davis on or about February 26, 2018 ("Subpoena"), almost four years before the Petitioner filed its Petition which was filed on December 7, 2021. The Subpoena requested that Mr. Davis produce "all documents which evidence the transfer of ownership of Young and Young Funeral Home, Inc. from Harold Young to Samuel L. Davis or the current owner of Young and Young Funeral Home, Inc."

The Petitioner's Motion is based on an allegation that documents responsive to the Subpoena were destroyed in 2020 by the Respondent. In support of its motion, the Petitioner has

**FILED**

MAR 23 2023

MARION COUNTY  
PROBATE JUDGE

offered the Affidavit of LaTonia M. Davis and some other items attached to its motion. In her Affidavit, Ms. Davis states that in 2020, she and others “destroyed corporate records, receipts, agreements, etc. for the funeral home in its operations”. In her Affidavit, Ms. Davis does not specify what documents were actually destroyed. The Respondent and the Petitioner have referenced the deposition of Carolyn Johnson which was recently taken by the Petitioner but no transcript was available. The Respondent notes that in that deposition Ms. Johnson states that only files of decedents were disposed of by Respondent. According to Ms. Johnson, those decedent files included a death certificate, obituary, payment ledger and other items relative to the decedent’s funeral handled by the funeral home. Ms. Johnson brought a sample of those files to the hearing for the court’s review. The Respondent also offered the affidavit of Carolyn Johnson that was previously filed with the Court in support of the Respondent’s motion for summary judgment which contained numerous records provided to the Petitioner that evidence the ownership of Young and Young Funeral Home, Inc.

After reviewing the evidence before Court and listening to the arguments of counsel, I deny the Petitioner’s Motion. The Petitioner has not offered any evidence that the Respondent has done anything to destroy any documents related to the ownership of Young and Young Funeral Home, Inc. Moreover, it has failed to present any order, document or evidence that the Respondent was under an obligation to refrain from disposing of random paperwork for over four years after the Subpoena was issued.

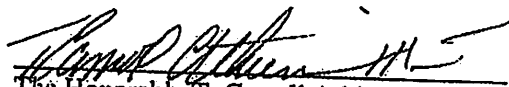
The Affidavit of Ms. Davis contains very general descriptions of the items disposed of. She does not specify exactly what type of “records” were destroyed. More importantly, she fails to describe any documents that pertain to the ownership of Young and Young Funeral Home, Inc. In contrast as is set forth in the affidavit of Carolyn Johnson, the Respondent has produced

**FILED**  
MAR 23 2023  
MARION COUNTY  
PROBATE JUDGE

to the Petitioner a copy of the Young and Young Funeral Home, Inc.'s Corporate Stock Book ("Stock Book"). The Respondent even brought the original Stock Book to the Court for its inspection. The Respondent has also produced to the Petitioner numerous IRS Form Schedule Gs from its corporate tax returns which indicate that Samuel L. Davis was the owner of 100% of the outstanding stock of Young and Yong Funeral Home, Inc.

Nothing before this Court indicates any effort by the Respondent to destroy any evidence that relates to the ownership of Young and Young Funeral Home, Inc. Consequently, I deny the Petitioner's Motion.

**AND IT IS SO ORDERED.**

  
The Honorable T. Carroll Atkinson, III  
Probate Judge for Marion County

March 23, 2023  
Marion, South Carolina

**STATE OF SOUTH CAROLINA**

**COUNTY OF MARION**

In Re: Chellie Nixon

Angela D. Young, as Personal Representative  
for the Estate of Chellie Nixon,

Plaintiff,

v.

Estate of Samuel L. Davis,  
Defendant.

**IN THE COURT OF COMMON PLEAS**  
C/A # 2017-ES-33-00099

**ORDER**

This matter comes before the Court upon the Defendant Estate of Samuel L. Davis' Motion for Summary Judgment pursuant to Rule 56 of the South Carolina Rules of Civil Procedure. In support of its motion the Defendant has offered the deposition testimonies of Peyton Warren, CPA, and Samuel L. Davis along with the affidavit of Carolyn Johnson. In opposition, the Plaintiff has offered the deposition testimonies of Samuel L. Davis, Ernestine B. Davis and Carolyn Cranford Johnson and the affidavits of Angela D. Young, and Latonia M. Davis. A hearing on the Defendant's motion was held by the Court on June 1, 2023.

**PROCEDURAL HISTORY**

This action concerns the ownership of a funeral home known as Young and Young Funeral Home, Inc. which operates in Hartsville, SC. Plaintiff filed its complaint on November 11, 2021 in which it requested a declaratory judgment and it raised a claim for fraud against Samuel L. Davis (who was then alive).

**FILED**

**JUL 17 2023**

**MARION COUNTY  
PROBATE JUDGE**

The Defendant filed its answer on December 7, 2021 in which it denied the Plaintiff's allegations. Samuel L. Davis died on October 2, 2022 and his estate was substituted as the defendant in this matter. After the parties conducted extensive discovery, the Defendant filed its Motion for Summary Judgment on November 30, 2022.

### **FACTUAL BACKGROUND**

Chellie Nixon f/k/a Chellie Young Mack died intestate on February 14, 2017. Her parents Harold L. Young and Dorothy J. Young predeceased her. Her father died on December 22, 1978 and her mother died shortly thereafter on January 16, 1979.

After the deaths of Harold and Dorothy Young, Chellie Nixon and Samuel L. Davis on April 9, 1979, filed articles of incorporation with the South Carolina Secretary of State and created the corporation Young and Young Funeral Home, Inc. ("Funeral Home") which operates a funeral home located at 711 South Sixth Street, Hartsville, SC. At the time of incorporation, Chellie Nixon owned sixty-five of the corporation's outstanding shares, while Sam Davis owned the other thirty-five outstanding shares.

On March 19, 1982, Chellie Nixon sold her sixty-five shares to Sam Davis for \$65,000. Since March 19, 1982, Sam Davis and now his estate have been the sole shareholder of the Funeral Home.

### **SUMMARY JUDGMENT STANDARD**

Summary judgment is appropriate when there is no genuine issue of material fact, and the moving party is entitled to judgment as a matter of law. Rule 56(c), SCRPC; *Graves v. CAS Med. Sys., Inc.*, 401 S.C. 63, 79, 735 S.E.2d 650, 658 (2012), *reh'g denied* (Dec. 12, 2012) (citing Rule 56(c), SCRPC); *Kreutner v. David*, 320 S.C. 283, 285, 465 S.E.2d 88 (1995). In ruling on a motion for summary judgment, the trial court must view the evidence, and all inferences which

**FILED**

**JUL 17 2023**

**MARION COUNTY  
PROBATE JUDGE**

can be reasonably drawn therefrom in the light most favorable to the non-moving party. *Koester v. Carolina Rental Ctr., Inc.*, 313 S.C. 490, 493, 443 S.E.2d 392 (1994).

However, “[w]hen a party makes a motion for summary judgment, an adverse party may not rest upon the mere allegations or denials of his pleadings, but his response, by affidavits or [other evidence], must set forth specific facts showing that there is a genuine issue for trial. If the adverse party does not respond accordingly, the trial court shall enter summary judgment against him if appropriate.” *Coker v. Cummings*, 381 S.C. 45, 54–55, 671 S.E.2d 383 (Ct. App. 2008) (internal quotation marks and citation omitted). Summary judgment is appropriate in this case because, viewing the evidence as favorably as possible to Plaintiff, there can be no viable or genuine issues for trial.

#### **DISCUSSION**

In its complaint the Plaintiff requests that the court issue an order for a declaratory judgment as follows:

- a. The Funeral Home was formed, and jointly owned by Harold L. Young and Dorothy J. Young and were the original shareholders thereto;
- b. Pursuant to the state’s intestacy laws, as a result of the death of Harold L. Young, the new shareholders of the Funeral Home were Dorothy J. Young and Chellie Nixon, with Dorothy J. Young being a 75% shareholder and Chellie Nixon being a 25% shareholder;
- c. Pursuant to the state’s intestacy laws, as a result of the death of Dorothy J. Young, the sole shareholder of the Funeral Home was Chellie Nixon;
- d. Pursuant to the state’s intestacy laws, as a result of the death of Chellie Nixon, the Funeral Home became an asset of the Nixon Estate subject to state’s intestacy laws;
- e. The Defendant Samuel L. Davis has no ownership interest in the Funeral Home.

As to its fraud claim, the Plaintiff alleges that Samuel Davis fraudulently claimed that he was the sole shareholder of the Funeral Home since 1982.

**FILED**  
JUL 17 2023  
MARION COUNTY  
PROBATE JUDGE

The gravamen of the Complaint is that Chellie Nixon was the sole owner of the Funeral Young at the time of her death. In order to reach this conclusion, the Plaintiff claims that the Funeral Home which was incorporated after her parents' deaths was somehow part of her parents' estates when they died and she as their only child ultimately inherited 100% of the Funeral Home. However, the Plaintiff's claims lack merit since, as is noted above, the Funeral Home was not incorporated until after her parent's deaths. Consequently, there was no way for her parents to have been shareholders in the Funeral Home. Moreover, the Funeral Home's stock book indicates that the initial shareholders were Chellie Nixon and Sam Davis. The Funeral Home's records and minutes further indicate that Chellie Nixon sold her sixty-five shares to Sam Davis on or about March 19, 1982. There is no evidence that Chellie Nixon ever owned any shares in the Funeral Home after March 19, 1982.

The Plaintiff has failed to present a scintilla of evidence to support its claim that Chellie Nixon owned 100% of the Funeral Home at her death, and in fact, the Plaintiff has failed to present a scintilla of evidence that Chellie Nixon owned any shares in the Funeral Home at her death.

On the other hand, the Defendant introduced the Funeral Home's stock book and minutes which indicated that Chellie Nixon sold her sixty-five shares on March 19, 1982 to Sam Davis. The book and further indicate that since that time Sam Davis owned all of the outstanding shares.

Additionally, the Defendant offered the deposition testimony of Peyton Warren, CPA, who acted as the Funeral Home's accountant for almost thirty years. Mr. Warren testified that during the thirty years that he was the accountant for the Funeral Home, Sam Davis was the sole shareholder of the Funeral Home. He further testified that during that time he had never heard of Chellie Nixon or Chellie Mack. Mr. Warren provided the Schedule G to numerous federal tax

**FILED**

JUL 17 2023

MARION COUNTY  
PROBATE JUDGE

returns filed by the Funeral Home. All of the Schedule G's indicate that Sam Davis owned 100% of the shares of the Funeral Home.

The Defendant also offered the deposition testimony of Sam Davis. In his testimony Sam Davis confirmed the testimony of Peyton Warren, CPA and the records of the Funeral Home all of which stated that he was the sole shareholder of the Funeral Home since March 19, 1982.

In reviewing the affidavits and testimony submitted by the Plaintiff, there is nothing contained therein that states that Chellie Nixon was a shareholder in the Funeral Home at her death or that she was receiving the benefits from being a shareholder in the Funeral Home. In fact, the affidavit of Latonia Davis states that she never witnessed a check or any other evidence of payment being made to Chellie Nixon from 1995 through approximately 2021.

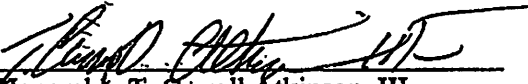
In this case the Plaintiff have failed to make s showing to establish that Chellie Mack was a shareholder in the Funeral Home at her death. Without such evidence, both of the Plaintiff's causes of action fail since they are predicated on Chellie Mack being a shareholder in the Funeral Home at her death. Thus, in light of the evidentiary submissions, the arguments presented, and the existing law, the Court concludes that no genuine issues exist for trial and the Defendant is entitled to a judgment as a matter of law.

**CONCLUSION**

Based on the foregoing, IT IS ORDERED that the Defendant's Motion for Summary Judgment IS HEREBY GRANTED and this action against Defendant is DISMISSED WITH PREJUDICE.

**IT IS SO ORDERED.**

July 17, 2023

  
Honorable T. Carroll Atkinson, III.  
Probate Judge for Marion County

**FILED**

**JUL 17 2023**

**MARION COUNTY  
PROBATE JUDGE**

STATE OF SOUTH CAROLINA

COUNTY OF MARION

In Re: Chellie Nixon

Angela D. Young, as Personal Representative  
for the Estate of Chellie Nixon,

Plaintiff,

v.

Estate of Samuel L. Davis,  
Defendant.

IN THE COURT OF COMMON PLEAS  
C/A # 2017-ES-33-00099

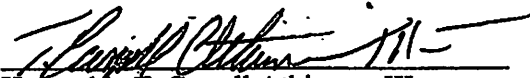
**ORDER DENYING  
MOTION TO RECONSIDER**

The Plaintiff has filed a Motion for Reconsideration of the Court's Order dated July 17, 2023 in which the Court granted the Defendant's Motion for Summary Judgment. In support of this Motion for Reconsideration, Plaintiff submitted a Motion. After careful consideration of the Plaintiff's Motion, and without the necessity of a hearing, the Court is unable to discover that any material fact or principle of law has been either overlooked or disregarded and hence, there is no basis for amending or setting aside the Order of the Court in the above-captioned case.

It is, therefore, ordered that the said Motion for Reconsideration be denied.

**IT IS SO ORDERED.**

August 9, 2023

  
\_\_\_\_\_  
Honorable T. Carroll Atkinson, III  
Probate Judge for Marion County

**FILED**

**AUG 09 2023**

**MARION COUNTY  
PROBATE JUDGE**

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

JUDGMENT IN A CIVIL CASE

CASE NO. 2023CP3300472

Angela D Young et al  
PLAINTIFF(S)

Carolyn Johnson 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 Court respectfully affirms the lower Court's decision.

**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 02/07/2024 .

Angela D. Young, Pr Of Est Of Chellie Nixon

**NAMES OF TRADITIONAL FILERS SERVED BY MAIL**

**Court Reporter:**

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

---



**Marion Common Pleas**

**Case Caption:** Angela D Young , plaintiff, et al VS Carolyn Johnson , defendant, et al

**Case Number:** 2023CP3300472

**Type:** Order/Electronic Form 4

H. Steven DeBerry, IV

Circuit Court Judge 2771

Electronically signed on 2024-02-07 12:08:44 page 3 of 3

STATE OF SOUTH CAROLINA )

IN THE PROBATE COURT )

COUNTY OF MARION )

CASE NO. 2017-ES-33-00099 )

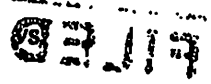
In Re: Chellie Nixon, )

Deceased, )

Angela D. Young,  
as Personal Representative for the  
Estate of Chellie Nixon, )

Plaintiff, )

**COMPLAINT**  
**(Declaratory Judgment)**  
**(Fraud)**

 Samuel L. Davis, Defendant.
---

Plaintiff, complaining of the Defendant, hereby respectfully alleges and shows the Court the following:

**JURISDICTION**

1. The Decedent Chellie Nixon died February 14, 2017 while a resident of Marion County, South Carolina.
2. The Plaintiff Angela D. Young is the duly appointed Personal Representative for the Estate of Chellie Nixon, a probate estate currently pending in Marion County, South Carolina.
3. The Defendant Samuel L. Davis is a citizen and resident of South Carolina.
4. The claims in this action arise out of dispute regarding ownership of Young and Young Funeral Home, Inc., a South Carolina corporation currently operating in Hartsville, South Carolina.
5. The Parties and the subject matter are properly before this Court.

**FIRST CAUSE OF ACTION**  
**(DECLARATORY JUDGMENT)**

6. The foregoing allegations are incorporated herein as if set forth verbatim.
7. Young and Young Funeral Home, Inc. (the "Funeral Home") was originally founded in the late 1970's by Harold L. Young and his spouse, Dorothy J. Young, who were the original shareholders thereto.
8. The Funeral Home operates a funeral home in Hartsville, South Carolina and has operated from such location since its inception.
9. Upon information and belief, the Defendant Samuel L. Davis is currently an employee of the Funeral Home and has been employed by the Funeral Home since its inception, or shortly thereafter.
10. Harold L. Young died intestate in December 1978 and was survived by his spouse Dorothy J. Young and daughter Chellie Nixon f/k/a Chellie Y. Mack.
11. No probate estate was opened for Harold L. Young.
12. Under the intestacy laws of South Carolina, as a result of the death of Harold L. Young, his fifty (50%) percent interest in the Funeral Home devolved to his surviving spouse and daughter, in equal shares. Therefore, after Harold's death, the Funeral Home was owned by Dorothy J. Young as 75% shareholder, and Chellie Nixon as 25% shareholder.
13. Dorothy J. Young died intestate on January 16, 1979 and was survived solely by her daughter Chellie Nixon.
14. A probate estate was opened for Dorothy J. Young in February 1979 (the "Dorothy Young Estate"), with Samuel L. Davis and Chellie Nixon being appointed as co-PRs for the estate.
15. Chellie Nixon was the sole heir to the Dorothy Young Estate.
16. Under the intestacy laws of South Carolina, as a result of the death of Dorothy J. Young, her entire seventy-five (75%) percent interest in the Funeral Home devolved to her daughter Chellie Nixon. Therefore, after Dorothy's death, the sole shareholder of the Funeral Home was Chellie Nixon.
17. Chellie Nixon died intestate on February 14, 2017 and was survived by her spouse John Williams and five (5) children: Harold L. Young, II, Angela D. Young, Tracey Mack Jackson, Lance D. Mack and Larry Mack, Jr.
18. The probate estate for Chellie Nixon (the "Nixon Estate") was opened in Marion County, South Carolina in April 2017, with Harold L. Young, II being appointed as the Personal Representative for the estate.
19. The sole asset of the Nixon Estate is the Funeral Home.

20. After being appointed as Personal Representative, Harold L. Young, II attempted to obtain information regarding the Funeral Home for purposes of administering the Nixon Estate. At such time, the Defendant Samuel L. Davis denied Harold L. Young, II access to the property and records of the Funeral Home on the basis that that he was the sole shareholder of the Funeral Home.

21. This was the first time that the Defendant Samuel L. Davis had ever represented to anyone that he had an ownership interest in the Funeral Home.

22. Despite repeated requests, the Defendant has failed to produce any evidence that any interest in the Funeral Home had ever been assigned or transferred to Defendant.

23. Upon information and belief, other than his allegations, there exists no evidence that any shares of the Funeral Home were ever assigned or transferred to Defendant.

24. A genuine dispute exists regarding the legal ownership of the Funeral Home which directly impacts the rights, status and legal relations of the parties hereto, including the legal heirs of the Nixon Estate.

25. Plaintiff was appointed as successor Personal Representative for the Nixon Estate on September 20, 2021.

26. Plaintiff asserts this claim under the Uniform Declaratory Judgments Act §§ 15-53-10 *et seq.* and seeks an Order declaring the following:

- a. The Funeral Home was formed, and jointly owned, by Harold L. Young and Dorothy J. Young, and were the original shareholders thereto;
- b. Pursuant to the state's intestacy laws, as a result of the death of Harold L. Young, the new shareholders of the Funeral Home were Dorothy J. Young and Chellie Nixon, with Dorothy J. Young being a 75% shareholder and Chellie Nixon a 25% shareholder;
- c. Pursuant to the state's intestacy laws, as a result of the death of Dorothy J. Young, the sole shareholder of the Funeral Home was Chellie Nixon;
- d. Pursuant to the state's intestacy laws, as a result of the death of Chellie Nixon, the Funeral Home became an asset of the Nixon Estate subject to state's intestacy laws; and
- e. The Defendant Samuel L. Davis has no ownership interest in the Funeral Home.

**SECOND CAUSE OF ACTION**  
**(FRAUD)**

27. The foregoing allegations are incorporated herein as if set forth verbatim.

28. The Defendant Samuel L. Davis made the following representations to Plaintiff and others:

- a. **Harold L. Young and/or Dorothy J. Young devised to Defendant 35% interest in the Funeral Home after their deaths, with the remaining 65% being devised to Chelle Nixon;**
- b. **Chelle Nixon subsequently sold her 65% interest in the Funeral Home to Defendant in 1982 for the sum of \$ 65,000.00 which payment was made by "certified funds" payable to Chelle Nixon; and**
- c. **As a result of the foregoing, Defendant is the sole shareholder of the Funeral Home and has been the sole shareholder since 1982.**

**29. The statements are false.**

**30. The statements are material in that it impacts the rights, status and legal relations of the parties hereto, including the heirs of the Nixon Estate.**

**31. The Defendant knew these statements were false at the time they was made or were made in reckless disregard of their truth or falsity.**

**32. The Defendant intended the representations to be acted upon e.g. that he be treated as the sole shareholder of the Funeral Home and be afforded the rights associated with such ownership. Among others, the Defendant has expressly denied Plaintiff access to the property and financial records of the Funeral Home and/or has instructed employees of the Funeral Home to do the same. Furthermore, the Defendant has caused the Funeral Home to file a civil lawsuit against Harold L. Young, II for actions taken by Harold L. Young, II in furtherance of his duties and obligations as Personal Representative of the Nixon Estate, which action has resulted in detrimental findings against Harold L. Young, II, all of which were issued based upon the Court's reliance on Defendant's false representations.**

**33. Plaintiff was ignorant of the falsity of the representations and relied on the representations in pursuing legal action relating thereto.**

**34. Plaintiff had a right to rely on Defendant's representations as he was the long-time employee of the Funeral Home and had exclusive access to its business records.**

**35. As a direct and proximate result of the Defendant's fraudulent representations, Plaintiff has been injured. Among others, Plaintiff has been denied access to the property and financial records of the Funeral Home and has incurred substantial legal fees and costs associated with contesting Defendant's fraudulent representations, all of which fall within the scope of Plaintiff's duties and obligations as Personal Representative of the Nixon Estate.**

**36. Plaintiff is entitled to a Judgment against the Defendant Samuel L. Davis for actual and punitive damages in an amount to be determined at the trial of this matter, plus legal fees and costs incurred by Plaintiff associated with Defendant's fraudulent representations.**

**WHEREFORE, Plaintiff prays for the following:**

- A. That the Court duly inquire into all matters alleged herein;**
- B. That the Court issue an Order declaring the following:**
  - i. At the time of its inception, the Funeral Home was jointly owned by Harold L. Young and Dorothy J. Young with each being a 50% shareholder;**
  - ii. As a result of the death of Harold L. Young, the shareholders of the Funeral Home became Dorothy J. Young (75% shareholder) and Chellie Nixon (25% shareholder);**
  - iii. As a result of the death of Dorothy J. Young, the sole shareholder of the Funeral Home became Chellie Nixon;**
  - iv. As a result of the death of Chellie Nixon, the Funeral Home became an asset of the Nixon Estate subject to South Carolina's intestacy laws; and**
  - v. The Defendant Samuel L. Davis has no ownership interest in the Funeral Home.**
- C. Judgment against the Defendant Samuel L. Davis for for actual and punitive damages in an amount to be determined at the trial of this case for his Fraudulent Representations;**
- D. That the Court award Plaintiff its attorney fees and costs in this action; and**
- E. For such other and further relief as this Court deems just and proper.**

**RESPECTFULLY,**

**BUTLER LAW**

*DB2*

---

**Danny V. Butler, S.C. Bar No. 72791  
4420 Oleander Drive, Ste 203  
Myrtle Beach, SC 29577  
Ph: (843) 808-9224  
Fax: (843) 781-6870  
Email: [dbutler@butlerlaw.net](mailto:dbutler@butlerlaw.net)  
*Attorney for the Plaintiff***

**Myrtle Beach, South Carolina  
Dated: November 11, 2021**

STATE OF SOUTH CAROLINA

COUNTY OF MARION

In Re: Chellie Nixon

Angela D. Young, as Personal Representative  
for the Estate of Chellie Nixon,

Plaintiff,

v.

Samuel L. Davis,

Defendant.

IN THE PROBATE COURT

C/A # 2017-ES-33-00099

ANSWER

The Defendant Samuel L. Davis hereby answers the Plaintiff's Complaint as follows:

**FOR A FIRST DEFENSE**

1. Each and every allegation not hereinafter specifically admitted is denied.
2. Upon information and belief, the Defendant admits that allegations contained in paragraphs 1, 2 and 3.
3. Answering the allegations contained in paragraph 4, the Defendant denies any dispute arising out of the ownership of Young and Young Funeral Home, Inc. and therefore, denies the allegations contained in paragraph 4.
4. The Defendant denies the assertions and allegations made in paragraph 5.
5. Answering the re-allegations contained in paragraph 6, the Defendant re-asserts and re-alleges each and every answer previously stated herein.
6. Answering the allegations contained in paragraph 7, the Defendant would admit that Young and Young Funeral Home, Inc. was incorporated on April 9, 1979. All remaining allegations are denied.
7. The Defendant denies the allegations contained in paragraph 8. Young and Young Funeral Home, Inc. was not incorporated until April 1979.
8. The Defendant admits the allegations contained in paragraph 9.

9. Answering the allegations contained in paragraph 10, the Defendant lacks sufficient information upon which to form a belief as to these allegations and therefore, denies same and demands strict proof thereof.

10. Answering the allegations contained in paragraph 11, the Defendant lacks sufficient information upon which to form a belief as to these allegations and therefore, denies same and demands strict proof thereof.

11. The Defendant denies the allegations contained in paragraph 12.

12. Answering the allegations contained in paragraph 13, the Defendant lacks sufficient information upon which to form a belief as to these allegations and therefore, denies same and demands strict proof thereof.

13. Answering the allegations contained in paragraph 14, the Defendant admits he was a Personal Representative of the Estate. The Defendant lacks sufficient information upon which to form a belief as to the remaining allegations and therefore, denies same and demands strict proof thereof.

14. Answering the allegations contained in paragraph 15, the Defendant lacks sufficient information upon which to form a belief as to these allegations and therefore, denies same and demands strict proof thereof.

15. The Defendant denies the allegations contained in paragraph 16.

16. Answering the allegations contained in paragraph 17, the Defendant lacks sufficient information upon which to form a belief as to these allegations and therefore, denies same and demands strict proof thereof.

17. Answering the allegations contained in paragraph 18, the Defendant lacks sufficient information upon which to form a belief as to these allegations and therefore, denies same and demands strict proof thereof.

18. The Defendant denies the allegations contained in paragraph 19.

19. Answering the allegations contained in paragraph 20, the Defendant admits that Harold Young attempted to obtain information regarding the Funeral Home. All remaining allegations are denied.

20. The Defendant denies the allegations contained in paragraph 21.

21. The Defendant denies the allegations contained in paragraph 22, 23 and 24.

22. Answering the allegations contained in paragraph 25, the Defendant lacks sufficient information upon which to form a belief as to any of these allegations and therefore, denies same and demands strict proof thereof.

23. The Defendant denies the allegations contained in paragraph 26.

24. Answering the re-allegations contained in paragraph 27, the Defendant re-asserts each and every answer previously stated herein.

25. Answering the allegations contained in paragraph 28, the Defendant denies the allegations contained in paragraph 28 (a). As to paragraph 28 (b), the Defendant admits that Chellie Nixon sold her 65 shares to the Defendant for \$65,000.00, but he lacks sufficient information as to whether she paid using "certified funds." As to the allegations in paragraph 28 (c), the Defendant admits that he has been the sole shareholder since 1982.

**FOR A SECOND DEFENSE**

26. The Plaintiff's causes of action fail to state facts sufficient to constitute a cause of action and therefore should be dismissed with prejudice pursuant to Rule 12 (b)(6) S.C.R.C.P.

**FOR A THIRD DEFENSE**

27. The Plaintiff's causes of action are barred by the applicable statute of limitations.

**FOR A FOURTH DEFENSE**

28. The Plaintiff's causes of action are barred by the doctrine of laches.

**FOR A FIFTH DEFENSE**

29. The Defendant is entitled to an award of his costs, expenses and reasonable attorney's fees as are allowed pursuant to S.C. Code § 62-1-111.

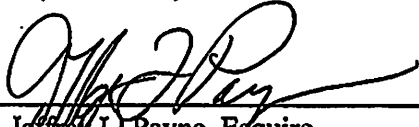
Wherefore, having answered the Plaintiff's Complaint, the Defendant would request that

the same be dismissed with prejudice and that the Court award him his costs and attorney's fees for defending this action.

Florence, South Carolina

December 2, 2021

TURNER, PADGET, GRAHAM & LANEY, P. A.

By:  \_\_\_\_\_

Jeffrey L. Payne, Esquire

Post Office Box 5478

Florence, South Carolina 29502

Telephone: (843) 662-9008

Fax: (843) 667-0828

Email: [jpayne@turnerpadget.com](mailto:jpayne@turnerpadget.com)

ATTORNEYS FOR THE DEFENDANT

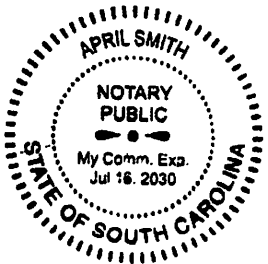
STATE OF SOUTH CAROLINA )  
 COUNTY OF MARION )  
 )  
 IN THE MATTER OF: )  
 CHELLIE NIXON )  
 (Decedent) )  
 Angela D. Young, as Personal Representative for )  
 the Estate of Chellie Nixon, )  
 )  
 vs. )  
 Carolyn Johnson, as Personal Representative for )  
 the Estate of Samuel L. Davis, )  
 )  
 Appellant(s), )  
 Respondent(s). )

IN THE CIRCUIT COURT  
 Appeal from Probate Court for Marion County  
 CASE NUMBER: 2017-ES-33-00099

**NOTICE OF INTENT TO APPEAL TO  
 CIRCUIT COURT**

Pursuant to SCPC 62-1-308, Appellant hereby provides his/her/its Notice of Appellant's Intent to Appeal the Order/Sentence/Decree of the Probate Court dated July 17, 2023. Said Order/Sentence/Decree was received by the Appellant or Appellant's counsel on August 14, 2023. A copy of said Final Order is attached.

SWORN to before me this 20<sup>th</sup>  
 day of August, 2023.  
 Notary Public for: SC  
 My Commission Expires: 2036



Respectfully submitted,  
 Signature: Angela D. Young  
 Print Name: Angela D. Young  
 Address: 135 Hornby Circle  
Goose Creek, SC 29445  
 Telephone (Work): \_\_\_\_\_  
 (Home): \_\_\_\_\_  
 (Cell): \_\_\_\_\_  
 Email: \_\_\_\_\_  
 Relationship to Decedent/Estate: Daughter / PR of Estate  
 Attorney: Danny V. Butler, Esq.  
 Address: 4420 Oleander Drive, Ste 203  
Myrtle Beach, SC 29577  
 Telephone: (843) 808-9224  
 Email: dbutler@butterlaw.net

**IMPORTANT:**

1. This Notice must be filed with the Probate Court, the Circuit Court, and all parties not in default within ten (10) days after receipt of written notice of the appealed-from order, sentence, or decree of the Probate Court. Parties must comply with requirements set forth in SCPC 62-1-308.
2. This form is not intended for appeals other than appeals to the County Circuit Court. An Appeal to a Court other than the County Circuit Court must follow SCPC 62-1-308(l) and the South Carolina Appellate Court Rules, as applicable.

**NOTICE OF APPEAL IN A CIVIL CASE**

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

APPEAL FROM MARION COUNTY  
Court of Common Pleas

H. Steven DeBerry, IV, Circuit Court Judge

Case No. 2023-CP-33-00472

Angela D. Young, as Personal  
Representative for the Estate of  
Chellie Nixon,

Appellant,

v.

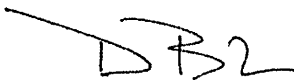
Carolyn Johnson, as Personal  
Representative for the Estate of  
Samuel L. Davis,

Respondent.

**NOTICE OF APPEAL**

Angela D. Young, as Personal Representative for the Estate of Chellie Nixon, appeals the judgment of the Honorable H. Steven DeBerry, IV dated February 7, 2024. Appellant received written notice of entry of this judgment on February 8, 2024.

March 7, 2024



Danny V. Butler, Esq.  
4420 Oleander Drive, Ste 203  
Myrtle Beach, SC 29577  
(843) 808-9224  
Attorney for Appellant

Other Counsel of Record:  
J. Rene Josey, Esq.  
Jeffrey L. Payne, Esq.  
Post Office Box 5478  
Florence, SC 29502-5478  
(843) 662-9008



**Court Reporter:**

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

---



Marion Common Pleas

**Case Caption:** Angela D Young , plaintiff, et al VS Carolyn Johnson , defendant, et al  
**Case Number:** 2023CP3300472  
**Type:** Order/Electronic Form 4

H. Steven DeBerry, IV

Circuit Court Judge 2771

Electronically signed on 2024-02-07 12:08:44 page 3 of 3

ELECTRONICALLY FILED - 2024 Feb 08 9:33 AM - MARION - COMMON PLEAS - CASE#2023CP3300472

ELECTRONICALLY FILED - 2024 Mar 15 11:22 AM - MARION - COMMON PLEAS - CASE#2023CP3300472

**STATE OF SOUTH CAROLINA**

**COUNTY OF MARION**

In Re: Chellie Nixon

Angela D. Young, as Personal Representative  
for the Estate of Chellie Nixon,

Plaintiff,

v.

Estate of Samuel L. Davis,  
Defendant.

**IN THE COURT OF COMMON PLEAS  
C/A # 2017-ES-33-00099**

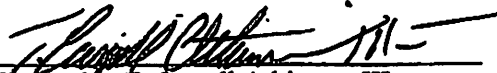
**ORDER DENYING  
MOTION TO RECONSIDER**

The Plaintiff has filed a Motion for Reconsideration of the Court's Order dated July 17, 2023 in which the Court granted the Defendant's Motion for Summary Judgment. In support of this Motion for Reconsideration, Plaintiff submitted a Motion. After careful consideration of the Plaintiff's Motion, and without the necessity of a hearing, the Court is unable to discover that any material fact or principle of law has been either overlooked or disregarded and hence, there is no basis for amending or setting aside the Order of the Court in the above-captioned case.

It is, therefore, ordered that the said Motion for Reconsideration be denied.

**IT IS SO ORDERED.**

August 9, 2023

  
\_\_\_\_\_  
Honorable T. Carroll Atkinson, III  
Probate Judge for Marion County

**FILED**

**AUG 09 2023**

**MARION COUNTY  
PROBATE JUDGE**

**STATE OF SOUTH CAROLINA**

**COUNTY OF MARION**

**In Re: Chellie Nixon**

**Angela D. Young, as Personal Representative  
for the Estate of Chellie Nixon,**

**Plaintiff,**

**v.**

**Estate of Samuel L. Davis,  
Defendant.**

**IN THE COURT OF COMMON PLEAS  
C/A # 2017-ES-33-00099**

**ORDER**

This matter comes before the Court upon the Defendant Estate of Samuel L. Davis' Motion for Summary Judgment pursuant to Rule 56 of the South Carolina Rules of Civil Procedure. In support of its motion the Defendant has offered the deposition testimonies of Peyton Warren, CPA, and Samuel L. Davis along with the affidavit of Carolyn Johnson. In opposition, the Plaintiff has offered the deposition testimonies of Samuel L. Davis, Ernestine B. Davis and Carolyn Cranford Johnson and the affidavits of Angela D. Young, and Latonia M. Davis. A hearing on the Defendant's motion was held by the Court on June 1, 2023.

**PROCEDURAL HISTORY**

This action concerns the ownership of a funeral home known as Young and Young Funeral Home, Inc. which operates in Hartsville, SC. Plaintiff filed its complaint on November 11, 2021 in which it requested a declaratory judgment and it raised a claim for fraud against Samuel L. Davis (who was then alive).

**FILED**  
**JUL 17 2023**  
**MARION COUNTY**  
**PROBATE JUDGE**

The Defendant filed its answer on December 7, 2021 in which it denied the Plaintiff's allegations. Samuel L. Davis died on October 2, 2022 and his estate was substituted as the defendant in this matter. After the parties conducted extensive discovery, the Defendant filed its Motion for Summary Judgment on November 30, 2022.

**FACTUAL BACKGROUND**

Chellie Nixon f/k/a Chellie Young Mack died intestate on February 14, 2017. Her parents Harold L. Young and Dorothy J. Young predeceased her. Her father died on December 22, 1978 and her mother died shortly thereafter on January 16, 1979.

After the deaths of Harold and Dorothy Young, Chellie Nixon and Samuel L. Davis on April 9, 1979, filed articles of incorporation with the South Carolina Secretary of State and created the corporation Young and Young Funeral Home, Inc. ("Funeral Home") which operates a funeral home located at 711 South Sixth Street, Hartsville, SC. At the time of incorporation, Chellie Nixon owned sixty-five of the corporation's outstanding shares, while Sam Davis owned the other thirty-five outstanding shares.

On March 19, 1982, Chellie Nixon sold her sixty-five shares to Sam Davis for \$65,000. Since March 19, 1982, Sam Davis and now his estate have been the sole shareholder of the Funeral Home.

**SUMMARY JUDGMENT STANDARD**

Summary judgment is appropriate when there is no genuine issue of material fact, and the moving party is entitled to judgment as a matter of law. Rule 56(c), SCRPC; *Graves v. CAS Med. Sys., Inc.*, 401 S.C. 63, 79, 735 S.E.2d 650, 658 (2012), *reh'g denied* (Dec. 12, 2012) (citing Rule 56(c), SCRPC); *Kreutner v. David*, 320 S.C. 283, 285, 465 S.E.2d 88 (1995). In ruling on a motion for summary judgment, the trial court must view the evidence, and all inferences which

**FILED**  
**JUL 17 2023**  
**MARION COUNTY**  
**PROBATE JUDGE**

can be reasonably drawn therefrom in the light most favorable to the non-moving party. *Koester v. Carolina Rental Ctr., Inc.*, 313 S.C. 490, 493, 443 S.E.2d 392 (1994).

However, “[w]hen a party makes a motion for summary judgment, an adverse party may not rest upon the mere allegations or denials of his pleadings, but his response, by affidavits or [other evidence], must set forth specific facts showing that there is a genuine issue for trial. If the adverse party does not respond accordingly, the trial court shall enter summary judgment against him if appropriate.” *Coker v. Cummings*, 381 S.C. 45, 54–55, 671 S.E.2d 383 (Ct. App. 2008) (internal quotation marks and citation omitted). Summary judgment is appropriate in this case because, viewing the evidence as favorably as possible to Plaintiff, there can be no viable or genuine issues for trial.

### **DISCUSSION**

In its complaint the Plaintiff requests that the court issue an order for a declaratory judgment as follows:

- a. The Funeral Home was formed, and jointly owned by Harold L. Young and Dorothy J. Young and were the original shareholders thereto;
- b. Pursuant to the state’s intestacy laws, as a result of the death of Harold L. Young, the new shareholders of the Funeral Home were Dorothy J. Young and Chellie Nixon, with Dorothy J. Young being a 75% shareholder and Chellie Nixon being a 25% shareholder;
- c. Pursuant to the state’s intestacy laws, as a result of the death of Dorothy J. Young, the sole shareholder of the Funeral Home was Chellie Nixon;
- d. Pursuant to the state’s intestacy laws, as a result of the death of Chellie Nixon, the Funeral Home became an asset of the Nixon Estate subject to state’s intestacy laws;
- e. The Defendant Samuel L. Davis has no ownership interest in the Funeral Home.

As to its fraud claim, the Plaintiff alleges that Samuel Davis fraudulently claimed that he was the sole shareholder of the Funeral Home since 1982.

**FILED**  
JUL 17 2023  
MARION COUNTY  
PROBATE JUDGE

The gravamen of the Complaint is that Chellie Nixon was the sole owner of the Funeral Home at the time of her death. In order to reach this conclusion, the Plaintiff claims that the Funeral Home which was incorporated after her parents' deaths was somehow part of her parents' estates when they died and she as their only child ultimately inherited 100% of the Funeral Home. However, the Plaintiff's claims lack merit since, as is noted above, the Funeral Home was not incorporated until after her parent's deaths. Consequently, there was no way for her parents to have been shareholders in the Funeral Home. Moreover, the Funeral Home's stock book indicates that the initial shareholders were Chellie Nixon and Sam Davis. The Funeral Home's records and minutes further indicate that Chellie Nixon sold her sixty-five shares to Sam Davis on or about March 19, 1982. There is no evidence that Chellie Nixon ever owned any shares in the Funeral Home after March 19, 1982.

The Plaintiff has failed to present a scintilla of evidence to support its claim that Chellie Nixon owned 100% of the Funeral Home at her death, and in fact, the Plaintiff has failed to present a scintilla of evidence that Chellie Nixon owned any shares in the Funeral Home at her death.

On the other hand, the Defendant introduced the Funeral Home's stock book and minutes which indicated that Chellie Nixon sold her sixty-five shares on March 19, 1982 to Sam Davis. The book and further indicate that since that time Sam Davis owned all of the outstanding shares.

Additionally, the Defendant offered the deposition testimony of Peyton Warren, CPA, who acted as the Funeral Home's accountant for almost thirty years. Mr. Warren testified that during the thirty years that he was the accountant for the Funeral Home, Sam Davis was the sole shareholder of the Funeral Home. He further testified that during that time he had never heard of Chellie Nixon or Chellie Mack. Mr. Warren provided the Schedule G to numerous federal tax

**FILED**  
JUL 17 2023  
MARION COUNTY  
PROBATE JUDGE

returns filed by the Funeral Home. All of the Schedule G's indicate that Sam Davis owned 100% of the shares of the Funeral Home.

The Defendant also offered the deposition testimony of Sam Davis. In his testimony Sam Davis confirmed the testimony of Peyton Warren, CPA and the records of the Funeral Home all of which stated that he was the sole shareholder of the Funeral Home since March 19, 1982.

In reviewing the affidavits and testimony submitted by the Plaintiff, there is nothing contained therein that states that Chellie Nixon was a shareholder in the Funeral Home at her death or that she was receiving the benefits from being a shareholder in the Funeral Home. In fact, the affidavit of Latonia Davis states that she never witnessed a check or any other evidence of payment being made to Chellie Nixon from 1995 through approximately 2021.

In this case the Plaintiff have failed to make s showing to establish that Chellie Mack was a shareholder in the Funeral Home at her death. Without such evidence, both of the Plaintiff's causes of action fail since they are predicated on Chellie Mack being a shareholder in the Funeral Home at her death. Thus, in light of the evidentiary submissions, the arguments presented, and the existing law, the Court concludes that no genuine issues exist for trial and the Defendant is entitled to a judgment as a matter of law.

**CONCLUSION**

Based on the foregoing, IT IS ORDERED that the Defendant's Motion for Summary Judgment IS HEREBY GRANTED and this action against Defendant is DISMISSED WITH PREJUDICE.

**IT IS SO ORDERED.**

July 17, 2023

  
Honorable T. Carroll Atkinson, III.  
Probate Judge for Marion County

**FILED**

**JUL 17 2023**

**MARION COUNTY  
PROBATE JUDGE**

State of South Carolina

In Probate Court

County of Marion

In Re: Chellie Nixon

Angela D. Young, as Personal  
Representative for the Estate of  
Chellie Nixon,  
Petitioner,

V. 2017-ES-33-00099

Estate of Samuel L. Davis,  
Respondent.

Hearing held before:  
Honorable T. Carroll Atkinson, III  
Probate Judge

Thursday, June 1, 2023  
10:24 a.m. - 11:21 a.m.

The hearing was taken before Ashley  
Rogers, court reporter and notary public for the  
State of South Carolina, on Thursday, June 1,  
2023.

Q & A Court Reporting Services  
Post Office Box 4563 (29502)  
181 E. Evans Street (29506)  
Suite 203  
Florence, South Carolina  
Local (843) 673-9845  
E-mail: [info@qacourtreportingonline.com](mailto:info@qacourtreportingonline.com)  
Visit: [www.qacourtreportingonline.com](http://www.qacourtreportingonline.com)

1 A P P E A R A N C E S

2 For the Petitioner:  
Butler Law  
3 4420 Oleander Drive  
Suite 203  
4 Myrtle Beach, South Carolina 29577  
By: Danny V. Butler, Esq.  
5 dbutler@butlerlaw.net

6  
For the Respondent:  
7 Turner Padgett Graham & Laney, P.A.  
1831 W. Evans Street  
8 Suite 400  
Florence, South Carolina 29501  
9 By: Jeffrey L. Payne, Esq.  
jpayne@turnerpadgett.com

10

11 Also present: Angela Young, Carolyn Johnson

12

13 I N D E X

14 Proceedings 3

15

16 E X H I B I T S

17 Pg/Ln Ex. Description  
(No exhibits proffered.)

18

19

20 \*\*uh-huh = affirmative  
huh-uh = negative

21

22

23

24

25

1 PROCEEDINGS:

2 THE COURT: All right. We've got a  
3 hearing scheduled for 10:30 this morning. It's in  
4 the -- for a respondent motion for summary  
5 judgment in probate court regarding Angela Young,  
6 as personal representative for the estate of  
7 Chellie Nixon, as petitioner, and the estate of  
8 Samuel Davis, as the respondent. For the record,  
9 I'd like to go around the room where the recorder  
10 can get everybody's name. We'll start with you,  
11 sir.

12 MR. PAYNE: Good morning, Judge. Jeff  
13 Payne here for the respondent, the estate of  
14 Samuel L. Davis.

15 MS. JOHNSON: Good morning, Judge.  
16 Carolyn Johnson, the estate of Samuel Davis.

17 MS. YOUNG: Hey, I'm Angela Young the  
18 representative for the estate of Chellie Nixon.

19 MR. BUTLER: And Danny Butler on behalf  
20 of Angela Young as personal representative for the  
21 estate of Chellie Nixon.

22 THE COURT: All right. I appreciate  
23 that. We'll -- we'll begin the hearing. I'll  
24 turn it over to Mr. Payne since you are the one  
25 that's filed the motion for -- the respondent's

1 motion for summary judgment. You filed for the  
2 hearing today and all parties are present that  
3 were involved in our previous hearing a couple  
4 months ago, so I'll turn it over to you.

5 MR. PAYNE: Thank you, Your Honor. As  
6 I mentioned, I'm here on behalf of the estate of  
7 Samuel Davis. Ms. Johnson here is the personal  
8 representative of the estate of Sam Davis, which  
9 is pending over in Darlington County. Your Honor,  
10 we have filed a motion for summary judgment  
11 pursuing the rule 56 of the South Carolina Rules  
12 of Civil Procedure. The basis of the motion is  
13 that there's no issue of material fact -- genuine  
14 issue of material fact for The Court to decide in  
15 this matter. The support that we have for our  
16 motion was the affidavit of Carolyn Johnson, which  
17 was filed on November 30th. I don't know if  
18 you've got that handy. I'm gonna refer to it in  
19 just a minute. We also filed the deposition of  
20 Mr. Payton Warren, who's a C.P.A. over in  
21 Florence. And then Mr. Sam Davis' deposition, I  
22 know we filed that as well.

23 A little bit of background, Your Honor,  
24 the -- the estate of Chellie Nixon is the  
25 plaintiff here. And they -- Ms. Nixon died in

1 February of 2017. Four years and almost nine  
2 months later, they filed this lawsuit for The  
3 Court claiming that they've got -- actually, I  
4 went back and looked at the pleadings today. They  
5 want to claim they are the 100 percent owner of  
6 Young and Young Funeral Home, Inc., which is a  
7 funeral home over in Darlington -- I mean, in  
8 Hartsville, South Carolina, Darlington County. So  
9 they want to claim they're 100 percent owner of  
10 Young and Young Funeral Home, Inc., which is a  
11 South Carolina corporation. Now, one of the key  
12 facts, if you look at their complaint, they're  
13 getting in to all kind of stuff related to the  
14 estate of Dorothy Young and Harold Young. These  
15 were the parents of the decedent in this case  
16 here. Ms. Nixon's parents were Dorothy Young and  
17 Harold Young. And as is set forth in Mr. Butler's  
18 petition, they died in '78 and January of '79.

19 Well, they're making a big deal about  
20 the laws of intestacy for that -- that estate  
21 where the parents died. She should have gotten  
22 100 percent of the funeral home. The problem is  
23 we're fighting over the corporation, Your Honor.  
24 The corporation was created in April of '79 after  
25 she died. Okay? The parents never owned a

1 corporation called Young and Young Funeral Home,  
2 Inc. So the whole basis of their first cause of  
3 action are the laws of intestacy and she -- she  
4 should have gotten this. Mr. Davis shouldn't have  
5 gotten anything.

6           They created this company in April of  
7 1979 and that is attached -- you'll see the  
8 articles of incorporation on the affidavit. I  
9 think Mr. Butler's got it on some of his  
10 materials, too. But you'll see on Exhibit A to  
11 the affidavit of Ms. Young -- I mean, Ms. Johnson,  
12 this entity was created in April of '79 after her  
13 parents died. So Mr. and Ms. Young, Ms. Nixon's  
14 parents, had nothing to do with it. So this  
15 corporation was formed and originally, it was  
16 owned by Ms. Nixon, who back then was called  
17 Chellie Mack. She owned 65 percent. Mr. Davis  
18 owned 35 percent. And if you look at the  
19 articles, you'll see they both were the initial  
20 incorporators.

21           In 1982, Ms. Mack sold her -- now known  
22 as Nixon, sold her shares to Mr. Davis for 65,000  
23 dollars. Exhibit C to Ms. Johnson's deposition or  
24 her affidavit are the minutes of a meeting that  
25 reflect the transfer and sale of those shares. So

1 those 65 shares were sold on March 19th, 1982.

2 THE COURT: For 65,000 dollars?

3 MR. PAYNE: Yes, 65,000 dollars. And  
4 for 40 years Mr. Davis runs Young and Young  
5 Funeral Home Incorporated, the corporation. He's  
6 done everything. Borrowed the money, fixed the  
7 house. You know, he's done all the rest involved  
8 with this business for 40 years. And now the  
9 estate's having to defend some lawsuit from --  
10 they're claiming they -- oh, no, we own this  
11 funeral home. Really? Okay. Well, tell us what  
12 your evidence is. So that's what we're here about  
13 today. They haven't produced any evidence that  
14 Chellie Mack is still an owner in Young and Young  
15 Funeral Home, Inc. -- or Chellie Nixon as she was  
16 known at her date of death. There's not one  
17 letter that Ms. Mack is fussing, you know, over  
18 this 40 year period. Why didn't I get any money?  
19 Where's the money?

20 There's nobody -- there's nothing where  
21 she's claiming she was an owner. There's no tax  
22 returns of hers before The Court that would show  
23 that she's an owner. We don't have any of those.  
24 There's nothing that shows that she's an owner of  
25 this company. And even though they have the

1 burden of proof to produce something, tell us why,  
2 what is it that leads you to think she's still an  
3 owner. We've gone out and gotten our evidence to  
4 show you what we have. And one of the key parts  
5 is Mr. Payton Warren, who's a C.P.A. over in  
6 Florence. And I've got his deposition in the  
7 file. We filed it November 30th along with our  
8 motion. Mr. Warren has been involved handling the  
9 estate, the bookkeeping, either as an employee of  
10 a firm or as his own firm since 1983.

11 And, Your Honor, he produced -- he -- he  
12 still had, what they call, schedule Gs, which are  
13 attached to the tax return. If you see  
14 Ms. Young's -- I'm sorry. I'm gonna call you  
15 Young 100 times here today probably -- Ms.  
16 Johnson's affidavit attached to it, Your Honor,  
17 were the schedule Gs of the tax returns. And a  
18 schedule G is a document that you attach to your  
19 corporate tax return and these -- these are --  
20 this is Exhibit D on her affidavit, Your Honor.

21 THE COURT: That was filed November  
22 30th?

23 MR. PAYNE: That -- yeah, that was part  
24 of her affidavit. Attached to it are these  
25 schedule Gs. And it all states there who's the

1 sole -- who's the shareholder, Samuel L. Davis,  
2 100 percent. And Mr. Warren went back as far as  
3 he found in his records, you know, they only have  
4 to keep 'em so long. But he had 2013 through '18.  
5 Every year he filed the tax return, those schedule  
6 Gs were attached to it. And then I -- you know, I  
7 questioned him at the deposition and I asked him  
8 -- do you have his deposition handy? Have you got  
9 it --

10 THE COURT: I got so much here I don't  
11 know.

12 MR. PAYNE: Yeah, I know. Here's --  
13 here's a copy, Judge, if you can flip over to page  
14 ten. And then I'm asking him about those schedule  
15 Gs. And then I say, well, who's listed as the 100  
16 percent shareholder of Young and Young -- and I  
17 previously had told him Young and Young Funeral  
18 Home, Inc. was Young and Young -- on each of the  
19 schedule Gs from 2013 to '18? Answer, Samuel  
20 Davis. Question, what percentage does it show him  
21 as owning in Young and Young? Answer, 100.  
22 Question, in the entire time you dealt with Young  
23 and Young, let's say from '83 forward, have you  
24 ever known anybody other than Sam to be the sole  
25 shareholder of Young and Young? No -- answer, no.

1 Have you ever heard of a Chellie Young? Answer,  
2 no. Or Chellie Mack? No. Have you heard of any  
3 interest that she might have in Young and Young  
4 Funeral Home? Answer, no. Have you seen any  
5 documents that said she was a owner or shareholder  
6 of Young and Young Funeral Home? Answer, no. And  
7 as far as you're concerned or can remember, on any  
8 tax return that you prepared, it was always  
9 listing Samuel Davis as the 100 percent  
10 shareholder? Answer, that's right. Question,  
11 give me one second. Sorry, Mr. Warren. I had  
12 asked you about whether you had heard the name of  
13 Chellie Young or Chellie Mack. Have you ever  
14 heard the name Chellie Nixon? Answer, no. Have  
15 you ever heard of Chellie Nixon having an  
16 ownership interest in Young and Young? The answer  
17 was no.

18 And if you read his deposition  
19 throughout the whole thing, he's been doing it,  
20 like I say, since 1983. Now, he worked for a firm  
21 at that point on his own, I can't remember the  
22 date, but he had his own firm, he was doing the  
23 bookkeeping and doing the tax returns. We're not  
24 just talking about somebody dumping documents in  
25 your lap and then you doing -- when you do the

1 bookkeeping you're involved in that business. And  
2 he says he did the booking and the tax returns for  
3 40 years -- no quite 40 years. So that's the  
4 evidence that we have. We've got it there from  
5 Payton Warren. He testifies he produced the  
6 schedule Gs. As far back as we could get were  
7 2013.

8           In addition to his testimony, we have  
9 the affidavit of Ms. Johnson and she produced the  
10 minutes of -- out of the stock book, Your Honor,  
11 this is the corporate stock book, the original.  
12 They -- in here, they've got the original ones if  
13 you want to look at it. I've given you a copy.  
14 These documents, Exhibit C, indicate that she sold  
15 the share for 65,000 dollars back on March 19th,  
16 1982. The minutes were signed by Samuel Davis and  
17 his wife at the time, Ernestine Davis. The depos  
18 of both Carolyn and Sam Davis, both indicate this  
19 took place, they bought the shares and that Sam's  
20 always been 100 percent owner since 1982 since he  
21 bought the shares.

22           So we've got Payton Warren. We've  
23 actually got the stock book. We've got the  
24 schedule Gs that have been filed. When you file  
25 that stuff with the I.R.S., it's under the penalty

1 of perjury. They ain't kidding when you file it.  
2 So those returns along with the stock book and the  
3 minutes, we've got the depositions of Carolyn  
4 Johnson and Sam Davis, both of which are alive and  
5 they all have indicated since 1982 Sam Davis was  
6 100 percent shareholder of Young and Young Funeral  
7 Home, Inc.

8           So, Your Honor, in conclusion, we don't  
9 think there's any kind of factual dispute to  
10 decide here. There's just no evidence to the  
11 contrary that somehow the decedent, Ms. Nixon, was  
12 an owner. And, like I said earlier, when you own  
13 a business like Mr. Davis did and you sweat and  
14 you toil and you borrow money and you do  
15 improvements and you take the risk and you deal  
16 with all those vendors and hold all these  
17 funerals, there ain't no guarantee these things  
18 are successful. But he busted his rear end and  
19 has made this business a successful business. Now  
20 40 years after the momma sold her shares, the  
21 family is coming forward wanting -- we want --  
22 it's ours. It's 100 percent ours. Really? Okay.  
23 Well, tell me why. I don't know. We think Momma  
24 owned it. It's all I can gather out of this.  
25 There's just no proof. So there's no facts in

1 dispute where Your Honor would -- would have to  
2 decide.

3 Therefore, we request that you grant the  
4 summary judgment, dismiss what we consider to be a  
5 very frivolous lawsuit, Your Honor. Thank you.

6 THE COURT: Okay. What -- what year  
7 did Mr. Sam Davis die?

8 MR. PAYNE: He just died the fall of --

9 MS. JOHNSON: October of last year,  
10 2022.

11 THE COURT: 2022, okay.

12 MR. PAYNE: We substituted him  
13 individually or the estate for him individually --

14 THE COURT: Okay.

15 MR. PAYNE: -- pursuant to an order  
16 here not too long. But, yeah, he's been deceased  
17 not quite a year. So we're administering that  
18 estate right now.

19 THE COURT: Okay. And that's being  
20 done in Darlington County?

21 MR. PAYNE: Yes, sir.

22 THE COURT: Okay. And you're the  
23 personal representative of his estate?

24 MS. JOHNSON: Yes, sir, I am.

25 THE COURT: All right. Mr. Butler,

1 I'll turn it over to you, sir.

2 MR. BUTLER: Thank you, Your Honor.

3 May it please The Court. Before I begin, Your  
4 Honor, I did not have an opportunity to file this  
5 morning. There's two deposition transcripts that  
6 I will be filing right after this.

7 THE COURT: Okay.

8 MR. BUTLER: It's the deposition  
9 transcript, the condensed version of Carolyn  
10 Johnson that was taken February 17th, 2023. And  
11 there's also a deposition transcript, condensed,  
12 of Ernestine Boston, that was also taken February  
13 17th, 2023. Mr. Payne certainly had access to the  
14 deposition transcripts, so he was aware of -- of  
15 the deposition --

16 THE COURT: Now, you're talking about  
17 this Ms. Johnson deposition?

18 MR. BUTLER: Correct. Yes -- yes, sir.

19 THE COURT: Okay.

20 MR. BUTLER: Yes, sir. So Mr. Payne, I  
21 believe, he has a copy of these deposition  
22 transcripts --

23 MR. PAYNE: We don't have any objection  
24 to introducing those, Your Honor. If he wants to  
25 file 'em, that's fine.

1 MR. BUTLER: Okay. And I -- I was just  
2 gonna make reference to it in my arguments, so I  
3 didn't want to...

4 THE COURT: Yeah. Okay.

5 MR. BUTLER: Your Honor -- and I don't  
6 want to belabor the point of the standard for  
7 summary judgment, but two keys things from a  
8 summary judgment motion -- first and foremost, all  
9 we have to prove is what they call a scintilla of  
10 evidence, a very low burden that there is a  
11 genuine issue in material fact. I'm gonna pause  
12 it here that there's a number of genuine issues  
13 and it's highly in dispute. In addition, Your  
14 Honor, the summary judgment standard also says  
15 that any and all reasonable inferences must be  
16 viewed in light of the non-moving party. So in  
17 other words, if there's any inference that can be  
18 drawn by -- by the facts in this case it's to be  
19 inferred for the benefit of the -- the petitioner.  
20 So in this case, there's two claims, two causes of  
21 action that have been filed. One is for  
22 declaratory judgment that by and through the  
23 state's intestacy statute as well as the Uniform  
24 Transfer on Death Security Registration Act,  
25 Chellie Nixon was the sole owner of the funeral

1 home at the time of her death. That's the claim  
2 being made on the declaratory judgment.

3 THE COURT: At the time...

4 MR. BUTLER: At the time of her death,  
5 correct.

6 THE COURT: Okay.

7 MR. BUTLER: Which was February 14th,  
8 2017. The second cause of action is for fraud.  
9 Basically, it's alleging that Sam Davis has taken  
10 the position that he's the sole owner, which is a  
11 misrepresentation of fact. And so just to start  
12 off, the -- the -- the law that supports our case,  
13 falls under two: One is under the probate code  
14 under the intestate statute. And Mr. Payne  
15 highlighted that during his argument. Basically,  
16 someone dies intestate, the statute provides and  
17 receives, so when Mr. Harold Young died, his sole  
18 heirs at that time were his wife, Dorothy, as well  
19 as Chellie Nixon. Now, during Mr. Sam Davis'  
20 deposition, he doesn't dispute that. In fact, in  
21 his deposition, he -- he admitted that Harold  
22 Young actually had a will and that that will left  
23 everything to his wife.

24 Now, no estate was ever opened for  
25 Harold Young. So we don't have that public

1 record, but we do have a copy of that will, which  
2 was attached to the affidavit of Angela Young that  
3 was filed in this case. Anyways, the will says  
4 everything goes to my wife. He doesn't dispute  
5 that. When Dorothy dies, she dies intestate. She  
6 did not have a last will and testament. And so  
7 during his deposition, Sam Davis doesn't dispute  
8 that Chellie Nixon was the sole heir to her  
9 estate. Okay? And so there's no issue of -- of  
10 fact on that because he's admitted it. So the  
11 really -- the only way that we can reach transfer  
12 of interest would have been from Chellie to Sam.  
13 And that's where the issues of fact come in.

14           And so the issues of fact really fall  
15 under two big genuine issues: One is what about  
16 that first 35 percent that Sam Davis claims he  
17 received from the Young family. Now, when he  
18 submit a sworn affidavit in this case and he's had  
19 his deposition taken and in both documents under  
20 sworn deposition, his original position was Harold  
21 gave it to me. And if you take a look at his  
22 deposition and I'll reference the pages here so  
23 you don't have to take a look, there was an  
24 alleged meeting that was held December 21st  
25 shortly before Harold's death. The meeting was

1 allegedly held at the funeral home. It was  
2 attended by Harold as well as Mr. Saleeby at the  
3 time. And there was also a bishop that was in  
4 attendance. So three folks in this meeting.

5 Now, was Sam Davis in the emeeting? No,  
6 he wasn't. In his deposition he said he was right  
7 next door. So he could overhear everything going  
8 on. So what did he testify to? Well -- Sam Davis  
9 said, well, I overheard what they were saying.  
10 Harold said he wanted to give me 35 percent of the  
11 funeral home. I heard him say that. Now, I  
12 followed up on his deposition. I said, well, did  
13 Harold ever do anything to make that happen, to  
14 transfer you that 35 percent? And Sam Davis said,  
15 no, he died shortly after, he never did anything.  
16 In fact, I asked him specifically on page 33, so  
17 it never came to fruition, the transfer? He said,  
18 no.

19 Okay. So an additional support for the  
20 35 percent on whether it was a genuine issue is  
21 Mr. Young's last will and testament. Again, that  
22 was attached as Exhibit E to the affidavit of  
23 Angela Young, where it says everything to my  
24 spouse, Dorothy. Again, Sam doesn't deny that.  
25 He admits that in his deposition under pages 19 to

1 21.

2           So then we go Ernestine Boston's  
3 deposition. Now, how does she convey information  
4 on the 35 percent issue? Well, in her deposition,  
5 she testifies specifically on pages 27 and 28 that  
6 Sam was, quote, hurt and disappointed, unquote,  
7 that Harold did not have a last will when he died.  
8 And she also said, Sam did not, quote, get  
9 anything from the funeral home when Harold died.  
10 And that was on page 28. And if The Court's not  
11 aware of this, but Ernestine Boston was Sam Davis'  
12 wife at the time. She was married to him for ten  
13 years and she was certainly with him at the time  
14 of this -- the death.

15           So we go the next chronological order  
16 here, when Dorothy Young died. Of course, she  
17 dies intestate and, again, as I mentioned earlier,  
18 Sam admits in his deposition that Chellie was the  
19 sole heir. That's on page 23. And he even admits  
20 that, hey, it was me and Chellie that was actually  
21 co-P.R.s of that estate. And there's no issue.  
22 Chellie got everything. Now, what did that  
23 include? Well, Mr. Payne wants to kind of divert  
24 the issue here and say, well, there was no funeral  
25 home corporation at the time. And he's correct.

1 There wasn't an actual legal entity. But Sam in  
2 his deposition admitted that any and all lands,  
3 properties that were transferred to the -- to the  
4 funeral home were in fact those assets of the  
5 funeral home. So there's -- the corporation was  
6 the funeral home. Before it was formally formed  
7 as a legal entity, it was being done as a sole  
8 proprietorship by Mr. Harold Young. Okay?

9           And so this leads me to, well, the only  
10 way the 35 percent interest could have been  
11 transferred to Mr. Davis is by and through Chellie  
12 Young. And we've asked Mr. Payne and we've asked  
13 his clients, hey, do you have anything signed by  
14 Chellie? Because The Court's well aware stock  
15 certificates are just like car titles. And if you  
16 -- if you want to transfer it or assign it to  
17 somebody, it's signed by the person who owns the  
18 stock. There are no documents signed by Chellie  
19 transferring that 35 percent interest to Mr. Sam  
20 Davis. None. We've asked for this and they don't  
21 have it. In fact, I asked Sam this. Sam, was  
22 there anything signed by Chellie saying that you  
23 had -- you could have 35 percent? He goes, no,  
24 she never signed anything. So I'm like well,  
25 what's the basis for you getting the 35 percent?

1 Well, she told me so.

2 Now, Mr. Payne made reference to Payton  
3 Warren. The important thing with Payton Warren is  
4 he was also -- I don't -- if I remember correctly,  
5 and I don't have the deposition transcript in  
6 front of me. He indicated that he was one of the  
7 C.P.A.s during the applicable periods of 1980 to  
8 1982, which was, you know, shortly after Harold  
9 Young died. According to Sam Davis' deposition,  
10 he was the 35 percent owner and Chellie was a 65  
11 percent owner. Well, I asked Mr. Payton -- I  
12 said, well -- and Mr. Payne actually brought that  
13 up. Have you ever heard of Chellie Nxon? No.  
14 Have you ever heard of a Chellie Young? No. And  
15 that's important because under Sam's deposition  
16 transcript, he said that from 1980 through 1982  
17 when he bought her out allegedly, they were  
18 receiving prorated distributions of net profits  
19 from the funeral home. He says, until I bought  
20 her out, she was getting, you know, 65 percent of  
21 the net profits and I was getting 35, because  
22 that's the ownership.

23 Well, I asked Jeff. I said, Jeff, you  
24 got anything like this? You got any documents to  
25 show the distributions of 35, 65? None. Okay.

1 So I asked the C.P.A. Well, that's -- that's  
2 strange that you've never heard of Chellie. So  
3 who's the one who provided you information for you  
4 to file your tax returns for the funeral home?  
5 Sam. I'm like, well, anybody else? Anybody --  
6 you know, anybody else give you information about  
7 the ownership of the funeral home? No, just Sam.  
8 So in other words, Your Honor, the documents  
9 they've submitted to support their motion for  
10 summary judgment is based solely on information  
11 provided by Sam to the C.P.A. Not by a  
12 third-party bookkeeper, not by some third-party  
13 accountant or anybody else within the funeral  
14 home. It was Sam to the C.P.A.

15 Now, Mr. Payne also makes reference to  
16 corporate minutes. Now, addressing the initial 35  
17 percent interest on the corporate minutes, first  
18 and foremost, there are no signatures on any of  
19 the corporate documents from Chellie. And  
20 Mr. Payne makes reference to some stock  
21 certificates. We have no idea who wrote it. We  
22 don't have any idea who -- there's -- there's no  
23 signature on it. We don't know when it was  
24 signed. There's no testimony from any witnesses  
25 as to who did it and when -- when it was done, why

1 it was done. The only thing that was signed, Your  
2 Honor, is corporate minutes. And I'm about to  
3 address that.

4           During the deposition of Ernestine  
5 Boston, I asked her. I said, well, you had this  
6 affidavit you signed before that said you attended  
7 this meeting on March 19th, 1982. First of all, I  
8 asked her, who gave that to you? My daughter,  
9 Latonya Davis gave it to me to sign. Okay. So I  
10 asked her, well, is it true, the affidavit? And  
11 she goes, well, I really don't remember anything  
12 that's in that affidavit. So I asked her, why did  
13 you sign it? Well, she goes -- well, I went to  
14 Sam and I said, I can't sign this. I don't  
15 remember any of this. He acknowledges that she  
16 doesn't remember it. And he goes, well, you need  
17 to sign it anyway. Now, at that point, she could  
18 have said no. But the problem at this point is  
19 apparently there was some sort of what Ernestine  
20 quoted in her deposition as being harassment.

21           But her daughter, Latonya Davis, who was  
22 still working at the funeral home, apparently  
23 Carolyn was on her all the time harassing her,  
24 putting pressure on her. In fact Latonya Davis --  
25 a lot of stress, she'd been there for 20-plus

1 years, Carolyn got on her back. And so to get  
2 Carolyn off Latonya's back, Ernestine, in her  
3 deposition, she said, that's the only reason I  
4 signed it. That's the only reason was because I  
5 wanted Carolyn to stop bothering my daughter. I  
6 said, well, let's take a look at your affidavit  
7 and see if in each of these specific things that  
8 you put on your affidavit. First of all, you  
9 indicated that Chellie told you that she received  
10 65,000 dollars for her 65 shares. On page 47 of  
11 her deposition, Ernestine says, no, I don't -- I  
12 don't remember that. But that's in your  
13 affidavit. I know -- I told Sam I didn't remember  
14 that, but I signed it anyway.

15 All right. Well, what about the meeting  
16 minutes reflecting the 1982 meeting? You signed  
17 your affidavit saying you signed that corporate  
18 minutes saying you attended. She goes, I don't  
19 remember that meeting. I'm like so, did the  
20 meeting happen or not? She goes, I don't know.  
21 It -- it may have happened. It may not have  
22 happened. But I don't remember the meeting  
23 though. Okay. And that's on pages 54 to 56 of  
24 her deposition. Well -- I said, well, according  
25 to your affidavit, you were made secretary for the

1 funeral home. Do you remember keeping records for  
2 the funeral home as a secretary? She goes, no, I  
3 -- I don't remember being appointed a secretary.  
4 I don't remember -- I -- I didn't keep any records  
5 for the funeral home. That's on page 57.

6 And here's the kicker, so these meeting  
7 minutes or this meeting allegedly happened at the  
8 Saleeby law firm office. Right? Very specific.  
9 There was a meeting that was held March 17th 1982.  
10 It was attended by Saleeby. It was attended by  
11 Sam Davis, Chellie Nixon and -- and also Sam. So  
12 I asked Ernestine -- Ernestine, your affidavit  
13 says you were there. Were you there? I've never  
14 been to Saleeby law office. In fact Mr. Payne was  
15 the one who asked her the question. Have you ever  
16 been to Saleeby law firm office? No, I've never  
17 been ever.

18 So based on all this, Your Honor, the  
19 affidavit and -- and everything they're submitting  
20 here, Your Honor, the corporate minutes, the  
21 C.P.A. documents, they're all in -- in dispute.  
22 Because they don't have any corroboration or  
23 verification. And so the sole basis for  
24 Ernestine's assumption that Sam owned the funeral  
25 home was simply what he told her. Just like the

1 sole provider of the information for the tax  
2 returns was Sam. So Sam told the C.P.A. who owned  
3 the funeral home. Sam verbally told his wife,  
4 yeah, I'm -- I'm the owner of the funeral home.  
5 But there is nothing signed by Chellie regarding  
6 any of this. All right. Now, and I made an  
7 earlier point about the distributions. And this  
8 is very important because it would have been a  
9 very easy document to find, distributions. That  
10 would have been part of any general accounting  
11 information for any corporation. And, of course,  
12 Sam testified that before I bought her out, I was  
13 getting 35 percent and she was getting 65 percent  
14 of the net profits. Okay? This is on page 53 of  
15 Sam's deposition.

16           When I asked Payton Warren about it, he  
17 said he's never heard of a Chellie Nixon or  
18 Chellie Mack, which doesn't make sense if Sam's  
19 telling the truth. Because if he was C.P.A.  
20 between 1980 and 1982, Sam would have told him,  
21 she's 35, I'm 65. But he said, I've never heard  
22 of her. I don't know who she is. And just as  
23 important, Your Honor, in 2022 and we had a  
24 hearing here before on the motion for spoliation.  
25 And Carolyn admitted in her deposition that she

1 intentionally shredded documents in 2022 while  
2 this case is still pending, while there was still  
3 a pending subpoena for any documents that predated  
4 2013. Now, she's testifying that all I did was I  
5 -- I -- I just destroyed case-specific files.  
6 Don't exactly know what the term she used, but  
7 just -- just case-specific stuff, not general  
8 financials of the -- of the funeral home.

9           But that's not true, Your Honor,  
10 according to -- we submitted an affidavit of  
11 Latonya Davis, who's been managing the -- the --  
12 the -- or she's been at least assisting with  
13 record-keeping for 20-plus years. In her  
14 affidavit, she said, no, that's not true. We got  
15 corporate ledger. We got financials. We got  
16 receipts. Funeral operations, it's not just  
17 case-specific stuff. Why is that important?  
18 Well, in -- in Latonya Davis' affidavit, she also  
19 said it dated back to 1950. So it would have  
20 included the -- the particular period of time 1980  
21 to 1982. It would have reflected the  
22 distributions of -- of the net profits. It would  
23 have reflected a balance sheet. Sam testified  
24 that he funded the 65,000 dollar purchase with a  
25 bank loan.

1           You're well aware, Your Honor, with bank  
2    loans for companies, there's a couple documents  
3    that's gonna reflect that, right? Balance sheet  
4    for long-term or short-term liabilities, cash flow  
5    statement that shows the income and expenses  
6    coming in and out of a corporation. Was that in  
7    the warehouse that was destroyed? I don't know.  
8    If we take as true, Latonya Davis, that -- sworn  
9    testimony that that included financial information  
10   including ledgers of the funeral home, yes, it  
11   would have. We'll never know that. And, of  
12   course, the inference to draw from that is, well,  
13   it would -- it may have contained documents that  
14   would have either hurt their case, helped our case  
15   or both.

16           And that's the inference The Court has  
17   to take because we don't have that in front of us.  
18   So that -- the issue on the 35 percent is hotly in  
19   dispute. We don't have any documents signed by  
20   Chellie allegedly transferring to herself. The  
21   only document we have is a corporate document that  
22   we have no idea who signed it, who -- who printed  
23   it. The only thing that's signed is the corporate  
24   minutes that Ernestine Boston said she had no idea  
25   if that actually happened and may not have

1 happened at all. So now we're to the 65 percent,  
2 the purchase. All right? And, again, this is a  
3 genuine issue of fact in dispute. Sam represented  
4 he purchased it for 65,000 dollars by a -- an  
5 office meeting that was held at Saleeby law firm  
6 on March 19th. What's interesting with Sam is he  
7 submitted an affidavit and he did not put  
8 Ernestine as being a person present at that  
9 meeting. When I asked him about it, I said, Sam,  
10 that's a pretty important transaction. How come  
11 you didn't list your wife as being present because  
12 she would have been, you know, a witness to this,  
13 right? He goes, ah, maybe I want to forget her  
14 completely, all right, page 51. In other words,  
15 his story changed. He had a sworn affidavit  
16 saying these were the only folks there. And then  
17 he had a deposition saying, nope, Ernestine was  
18 there also, who, shortly after that -- after his  
19 deposition, she submits an affidavit saying that  
20 she was at the meeting. So, again, you got to  
21 take a look at the whole forest rather than  
22 separate trees here.

23 Now, with Ernestine Boston deposition, I  
24 made reference to when she was approached to sign  
25 an affidavit. She specifically told Sam, I don't

1 -- I don't remember any of this stuff. He told  
2 her to sign it anyway. That was on page 42 of her  
3 deposition. She signed the affidavit to only stop  
4 Carolyn from harassing her daughter. That was on  
5 pages 44 and 45. When I asked specific things  
6 about her statements in her affidavit, she claimed  
7 she don't remember any of that and she didn't  
8 attend or she had never been to Saleeby law firm  
9 office at any time. Angela Young also submitted  
10 an affidavit here. Based on conversations and  
11 interactions with her mother, she always believed  
12 her mother to be the sole owner of the funeral  
13 home. Why is that? Well, she's had conversations  
14 with her mother up to the date of her death in  
15 2017, never mentioned selling the funeral home or  
16 transferring the funeral home to anybody.

17 In fact none of the family members have  
18 ever heard anyone -- heard Chellie tell them that,  
19 hey, I gave my interest over to Sam or I sold my  
20 interest to Sam. In fact shortly before her  
21 death, Sam actually visited Chellie at the  
22 hospital, the one time he visited her. And  
23 according to what the mother told Angela, who  
24 Angela was present at the hospital, Sam tried to  
25 get the mom, Chellie Nixon, to sign some

1 documents. And she refused and Sam left angry.

2 Now, we don't know what those documents  
3 are. He took it with him, but, again, the  
4 inference from that has to be in our favor here,  
5 Your Honor. Angela witnessed Sam leave the  
6 hospital, which corroborates her mother's  
7 testimony to her or representation to her that Sam  
8 tried to get her to sign something and left angry.  
9 And then we have the deposition of -- well, not  
10 deposition, the affidavit of Latonya Davis. She's  
11 been working there for 27 years. And Sam told  
12 her, her dad -- so Latonya is the daughter of Sam  
13 Davis. So Sam tells his daughter, quote, he was  
14 supposed to receive a portion of the funeral home  
15 from Harold's last will, but never did. So he  
16 even admits to his daughter, I'm supposed to get  
17 it, I just never got it.

18 Now, at the end of the day, all of this  
19 creates issues. The documents they've submitted,  
20 they're hotly in dispute. They were all created  
21 from information solely from the person that we're  
22 suing, not any independent third party. And so  
23 here are some inferences that arise from the  
24 disputed statements of fact as well as the  
25 spoilation of evidence. Clearly there are issues

1 with the documents they have submitted to this  
2 court. The corporate documents, they're not  
3 signed. The only signed document is a corporate  
4 minute that the person who signed it, Ernestine  
5 Boston, said she has no recollection of ever  
6 having a corporate meeting or doing any of this  
7 stuff. There's no witness with personal knowledge  
8 about the corporate stock certificates that are  
9 actually in there. So no one knows who wrote it.  
10 It's not signed. There's no indication of who the  
11 transferor is or transferee. It's -- all it says  
12 is 35 shares Sam Davis, 65 shares Sam Davis,  
13 that's it. Nothing signed by -- nothing signed by  
14 Chellie. And Ernestine in her deposition,  
15 testified she doesn't ever remember attending a  
16 corporate meeting in 1982 where she signed a  
17 corporate minute.

18 The tax returns, solely information  
19 provided by Sam to the C.P.A. And, again, I just  
20 want to reiterate the very important point the  
21 C.P.A. said, I have never heard of Chellie Nixon.  
22 That doesn't make sense. If Chellie was a part  
23 owner from 1980 until she was bought out in 1982,  
24 he would have heard about her. That just doesn't  
25 make sense. Again, inferences are in our favor.

1 Another important point, destruction of  
2 funeral home records, South Carolina Supreme Court  
3 says the effect of the doctrine of spoliation when  
4 applied in a defensive manner is to allow a  
5 defendant to exculpate itself from liability  
6 because the plaintiff has barred it from obtaining  
7 evidence. That's what happened here. It's  
8 crucial that we have the 1980 to 1982 documents,  
9 the financials. That was crucial. So the only  
10 inference we can have from that because we can't  
11 -- we can't know it was destroyed -- it's been  
12 destroyed, is that they probably contained  
13 documents that would have helped our case or hurt  
14 their case. The financial records maintained in  
15 the warehouse, Sam in his deposition, he  
16 testified, yes, records for the funeral home were  
17 kept at the warehouse. So he confirmed it wasn't  
18 just client-specific files.

19 Okay. So he -- he confirmed that there  
20 were ledgers as well in the warehouse. And that  
21 was on page 18 of his deposition. He confirmed  
22 that Carolyn maintained the records beginning in  
23 some time in 2019 and that Latonya maintained the  
24 records prior to that. And, again, she's been at  
25 the funeral home for 27 years. Latonya Davis'

1 affidavit, she worked at it for 27 years and yes,  
2 she confirmed financial records were maintained at  
3 the warehouse and included, quote, corporate  
4 records, receipts, agreements as far back as the  
5 1950s. Ernestine, when she was married to Sam,  
6 she said, yeah, financial, quote, ledgers,  
7 unquote, for funeral home were stored in the  
8 warehouse. And that was on page 31 and 32 of her  
9 deposition.

10           This leads us to the destruction of the  
11 records then. Latonya Davis' affidavit, she says  
12 in 2020, Carolyn came to me and Shirley and  
13 perhaps some other employees and she superficially  
14 instructed us, hey, go to the warehouse and  
15 destroy anything that is before 2013. That's  
16 what's in her affidavit, Latonya Davis. Of  
17 course, if you take a look at Carolyn Johnson's  
18 deposition, she says, no, I did it by myself. I  
19 didn't tell anybody to do it. But you've got two  
20 employees who say, no, she did. In fact we helped  
21 her. There were so many documents that had to be  
22 destroyed, it took a van to be taken to be  
23 shredded. Carolyn doesn't deny it. She admits  
24 purging files that were older -- that were older  
25 than two years. That's on pages 52 to 55 of her

1 deposition. And here's another pretty important  
2 part, when she destroyed it, she was clearly aware  
3 of a subpoena. This is on page 67 to 68. So she  
4 knew there was a subpoena saying, hey, give me all  
5 the records that reflect ownership interest in the  
6 funeral home and that would have been around the  
7 period 1980 to 1982. She knew that. She went  
8 ahead and destroyed records anyway.

9           So in light of the highly disputed  
10 documents, Your Honor, The Court really is going  
11 to have to focus on the credibility of the  
12 witnesses. 'Cause at the end of the day, those  
13 documents are hotly in dispute. So when you take  
14 a look at some of these witnesses and take a look  
15 at their credibility, I start off with Sam Davis.  
16 Based on Ernestine Boston's deposition, who was  
17 married to Sam for over ten years, Sam -- there  
18 was a series of infidelities on behalf of Sam.  
19 Why is that relevant? Well, it goes to the issue  
20 of -- of truthfulness. Quote, Sam was -- was  
21 obsessed with the funeral home. Quote, it was  
22 always about the funeral home and running the  
23 business. Well, I asked her, I said, well, what  
24 do you think about Sam's ability to be truthful?  
25 Well, she goes -- she didn't -- she wasn't -- she

1 didn't respond directly on it, but she goes, he  
2 was all about the money. Quote, it was all about  
3 his gain, what he gets. That's on page 22.

4           And then I asked her, well, do you think  
5 he would do anything underhanded to gain that  
6 money? And she quotes some of the things he did  
7 was, quote, underhanded. It was all about money.  
8 That's on page 23. Again, this addresses the  
9 credibility, right, 'cause Sam is the one who  
10 provided the information to everybody. And then  
11 she ends it off with, deep down, I knew something  
12 wasn't right. And that's on page 26. And she  
13 confirmed that Sam was, quote, hurt and  
14 disappointed, unquote, that Harold did not have a  
15 will that left him any part of the funeral home.  
16 And Sam did not get anything from the funeral home  
17 when Harold died. Of course, in her -- she also  
18 confirmed that she told Sam, listen, I don't want  
19 to sign this affidavit because I -- I don't  
20 remember any of that stuff. And that Sam told her  
21 to sign it anyway. She -- she testifies to that.  
22 So that goes to his credibility. And that's their  
23 primary witness.

24           Now, who else are potential witnesses  
25 here? Well, you got Latonya Davis, who is the

1 daughter. Okay. In her affidavit, she goes, any  
2 time I asked questions about Chellie and who owned  
3 the funeral home, Sam shut her down, wouldn't  
4 answer anything. Okay. That's fine. And then  
5 also in her affidavit, Sam knew that Carolyn was  
6 destroying documents and agreed to it. So he was  
7 complicit with the destruction of the documents.  
8 And then finally Sam told his daughter, he was  
9 supposed to receive a portion of the funeral home  
10 from Harold's last will and he didn't. So all of  
11 these -- they all create genuine issues of fact  
12 here.

13 Now, the credibility on Ms. Johnson,  
14 Ernestine Boston, she goes, Car--- Carolyn's very  
15 controlling, page 34. When I asked her what do  
16 you think about Carolyn as a truthful or honest  
17 person, well, page 34, she said, I don't consider  
18 her a truthful or honest person. And she --  
19 again, she signed the affidavit so that Carolyn  
20 would stop harassing her daughter Latonya. Now,  
21 Latonya, what does she think -- how does that  
22 relate to Carolyn? Well, in 2020, Carolyn was the  
23 one who directed her to destroy documents. When  
24 she asked about it, she goes, don't ask, just do  
25 it. So Latonya was trying to do the right thing

1 and she was shut down and so she just followed her  
2 instructions. Now, what about her actual  
3 representation so far -- sworn representation so  
4 far under oath in this case that affect her  
5 credibility? Well, one, she said the only files  
6 that were purged were, quote, descendants files,  
7 that's on page 59. Of course, I've got the  
8 affidavit of Latonya saying, no, that's not only  
9 descendants files. We destroyed financial  
10 documents.

11 What's another misrepresentation under  
12 oath? Well, Carolyn testified under oath that she  
13 was the only person who destroyed documents.  
14 Well, that's not true. Latonya said she told at  
15 least me and Shirley and possibly other people to  
16 destroy documents, so that's not true. That's  
17 under sworn deposition. And, of course, when I  
18 specifically asked her during her deposition, did  
19 you instruct Latonya Davis to destroy documents,  
20 she said no. Did you inten--- did you instruct  
21 Shirley Brewer to destroy documents? No. So,  
22 again, all of this just addresses the credibility  
23 because that's gonna be their main witness at this  
24 point.

25 So when you take a look at the entire

1 situation, Your Honor, there's a history and  
2 Ms. Davis and it's in her deposition, she's got a  
3 history of convictions for fraud and breach of  
4 trust. Based on the public records, based on my  
5 count, it's more than 40 times. It's on page 88  
6 to 90 of her -- her deposition. And she doesn't  
7 deny it. She goes, yeah, yeah, you know, I had a  
8 bad past, but I'm -- I'm beyond -- I'm beyond that  
9 now. That still addresses the issue here of  
10 credibility.

11 MR. PAYNE: Dan, you can't bring up  
12 something that happened 20 years ago for a  
13 criminal conviction. You know that rule.

14 MR. BUTLER: The issue is with  
15 credibility. You can bring that up.

16 MR. PAYNE: No, you can't.

17 MR. BUTLER: For breach of trust?

18 MR. PAYNE: You can't get in to  
19 people's prior convictions and stuff. We can get  
20 in to the prior P.R.'s conviction, who just got  
21 convicted a couple months ago for drug possession  
22 and stealing money from us. So --

23 MR. BUTLER: The -- the point of the  
24 matter, Your Honor, is because the documents are  
25 hotly in dispute and we certainly don't accept any

1 of what they're saying as true, The Court's gonna  
2 have to rely on -- on -- on witness testimony  
3 here. And that's why it's very relevant.

4 THE COURT: Well, let -- let me -- let  
5 me ask you one question and I -- I've heard so  
6 much, I might be -- I might be -- your clients had  
7 not received any funds from the funeral home for  
8 40 years?

9 MR. BUTLER: That's correct. They only  
10 discovered it when their mother died. They  
11 discovered -- that was the first time they found  
12 out that Sam took the position that he owned the  
13 funeral home. And they were always under the  
14 impression that their mother owned it. And that's  
15 why the lawsuit was started. Like, that doesn't  
16 make sense --

17 THE COURT: So they had no knowledge  
18 their mother --

19 MR. BUTLER: No knowledge.

20 THE COURT: -- wasn't -- wasn't  
21 receiving any funds from the funeral home --

22 MR. BUTLER: That's -- that's correct.  
23 That's correct.

24 THE COURT: Okay.

25 MR. BUTLER: And so, Your Honor, I go

1 back to the standard here, a scintilla of  
2 evidence. I just spent maybe 30 minutes in giving  
3 you a bunch of issues that are genuinely in  
4 dispute. Thirty-five percent, genuinely in  
5 dispute. There's nothing signed by Chellie. The  
6 65-percent purchase transaction, hotly in dispute.  
7 Ernestine says there's -- I never attended a  
8 meeting. I don't -- I don't know what they're  
9 talking about. And so in light of that and the  
10 inferences that you can draw from them destroying  
11 documents intentionally while this case is  
12 pending, I think at the very least, Your Honor,  
13 you've got more than a scintilla of evidence here  
14 to deny the motion. And that's what we're  
15 requesting. Thank you, Your Honor.

16 THE COURT: Thank you, sir. Mr. Payne?

17 MR. PAYNE: Just briefly, Your Honor.

18 I want to go back to the first point that I made  
19 as far as the -- the hurdle they have to get over  
20 is the connection between Harold Young's estate  
21 and Dorothy Young's estate. Their whole complaint  
22 is based on the fact that Dorothy Young and Harold  
23 Young's estate somehow left them this corporation.  
24 And it didn't. The corporation doesn't exist.  
25 And what happened is when the Youngs died,

1 Chellie, or whomever, got some assets. And then  
2 they put 'em in this corporation. And it became  
3 Young and Young Funeral Home, Inc. She deeded  
4 real estate over to the company. And they were in  
5 this thing together, 65, 35. But their whole  
6 basis of the -- they are 100 percent owner is all  
7 because, well, Sam, didn't get anything from their  
8 estate out of this company. Well, the company  
9 doesn't exist then.

10 So the whole complaint, which is based  
11 on the intestacy laws, somehow Chellie Nixon  
12 inherited 100 percent of Young and Young Funeral  
13 Home, Inc., which didn't exist, is just baloney.  
14 And as you just noted, they haven't showed up with  
15 one thing here to show that Ms. Nixon got any  
16 money from this company for 40 years. I mean,  
17 they -- they could go get tax returns. It's not  
18 hard. Go get her -- show us your tax returns.  
19 Where is she getting -- where is she listed as a  
20 owner? Where is she listed as getting any kind of  
21 income from this business? It's not hard. All  
22 you do is go to the I.R.S. and ask. But all they  
23 want to do is come in here with smoke and mirrors  
24 and all that.

25 But if you focus on the whole issue and

1 that is she sold what she had in 1982 and Sam's  
2 been the owner of it for 40 years. And we've got  
3 the -- I'll show you the original. Ms. Boston,  
4 who, bless her heart, she had to somehow change  
5 her affidavit that she gave to us, but the one  
6 thing she didn't admit was she said -- and it sure  
7 looked like her signature on these minutes. And  
8 the minutes were signed in 1982 showing that  
9 Chellie Mack was the -- in fact Ernestine's -- the  
10 originals here are in blue. And so she admits,  
11 yeah, it looks like my signature, okay, she  
12 changed her story and said, well, maybe I wasn't  
13 at a meeting. I don't remember the meeting. They  
14 forced me to sign my affidavit.

15           Anyway, there's -- there's the minutes  
16 there. The other thing I didn't talk about early  
17 on -- it's in the book, too, is we have the  
18 original certificate issued in the -- where they  
19 fill in the stock ledger book. And it shows Sam  
20 Davis, 35 shares. This is -- copies are on  
21 Carolyn's affidavit, Chellie Mack, 65 shares. And  
22 then here we are, share certificate number three,  
23 65 shares, where the new certificate was issued to  
24 him for the 65 shares that Chellie --

25           THE COURT: That was -- that was in

1 1982?

2 MR. PAYNE: '82, after Chellie had  
3 signed and sold her shares. So, yes, we don't  
4 have the certificates. I bet I've got 100 or 200,  
5 well, maybe not that many. If I went to 50  
6 different clients of mine and pulled out their  
7 corporate book, they couldn't find their share  
8 certificates. That's not an unusual world, but  
9 we've got the original book. She signed it. She  
10 sold it and that's the evidence. Now --

11 MR. BUTLER: She didn't sign anything.  
12 Just want to make sure that's on the record.

13 MR. PAYNE: I'm sorry. Chell---  
14 Ms. Boston signed the minutes. So as you know,  
15 there's a dead-man statute. They can't be getting  
16 in to what the decedent told them, you know, on  
17 their death bed. That's not allowed as testimony.  
18 And this whole bit about the filing cabinets, the  
19 subpoena they're basing this stuff is Robert Lee  
20 sends out a subpoena, it says, all documents which  
21 evidence the transfer of ownership of Young and  
22 Young Funeral Home, Inc. from Harold Young to  
23 Samuel L. Davis or the current owners of Young and  
24 Young Funeral Home, Inc. We have given 'em every  
25 piece of paper we have that relates to the

1 transfer of ownership of Young and Young, Inc.  
2 There were -- there's no prohibition of you having  
3 to clean out client ledgers, which Ms. Boston says  
4 a ledger was the ledger for that decedent, that  
5 person who died. They keep a little ledger and it  
6 had some information on it. But this whole, oh,  
7 well, we don't have any evidence, 'cause y'all  
8 destroyed the evidence, that's a great one.  
9 'Cause I'm gonna -- I'm gonna have to use that  
10 next time I try to get somebody to own a business  
11 they ain't been a part of for 40 years and I'm  
12 gonna say, well, y'all cleaned your file cabinets  
13 out. I bet there's some stuff in there. I don't  
14 have any evidence, but I'm gonna have to count on  
15 y'all -- everything's an excuse. Everybody's  
16 lying. Everybody's this.

17 But the fact of the matter is -- and  
18 Payton Warren is the accountant, he either's been  
19 lying to the I.R.S. for 40 years and Mr. Davis was  
20 lying for 40 years. And they don't bring in her  
21 tax returns so we can look at those of course.  
22 But they've been reporting it as Sam Davis is 100  
23 percent owner of this business all these years.  
24 Not one piece of paper for her fussing about I  
25 ain't getting my share. Where's my money?

1 Where's my check? None of that and yet we've got  
2 to defend this frivolous lawsuit and waste the  
3 estate's money. And this is nonsense. And they  
4 know it's nonsense and they have no evidence to  
5 prove their nonsense. And that's why I'm asking  
6 The Court to dismiss the case and grant the motion  
7 for summary judgment. Thank you.

8 THE COURT: I must tell y'all this is  
9 -- this is a coincidence. But I had an estate  
10 yesterday I was finalizing. And the -- the  
11 daughter, her mother passed away within those last  
12 two years and her mother owned 50 percent of a  
13 funeral home in Mullins. And she said -- and  
14 there's nobody but her and her brother. This lady  
15 can -- and -- which they had no problem. But she  
16 said, we can't find the certificates where Daddy  
17 -- where Daddy died years ago Momma got -- they  
18 say, well, we can't find the certificates. But  
19 they have no problems. But, anyhow, it reminds me  
20 of what we're talking about here in a way. Well,  
21 do you have anything else to say Mr. Butler?

22 MR. BUTLER: No. I would just be  
23 reiterating --

24 THE COURT: Okay.

25 MR. BUTLER: -- just the corporate

1 documents that he focused on, the certificates,  
2 the first two that are reflected, the 35 and 65.

3 THE COURT: Yeah.

4 MR. BUTLER: There's no signature on  
5 those. The one where it transferred the 65 to  
6 Sam, that's signed by Sammy. It's not signed by  
7 Chellie. And, typically, the stock certificates,  
8 the assignor, the person who owns the stock  
9 certificate is the one who signed it. So that's  
10 -- I just want to make that --

11 MR. PAYNE: And we can find 'em, they  
12 might be there, but like you say, those things are  
13 lost every day.

14 THE COURT: Okay. Well, I'll take this  
15 under consideration and get back in touch with  
16 both of you.

17 MR. PAYNE: Thank you, Judge --

18 MR. BUTLER: Thank you, Your Honor.

19

20

21

22 (The hearing concluded at 11:21 a.m.)

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

State of South Carolina  
County of Florence

I, Ashley Rogers, Court Reporter and Notary Public for the State of South Carolina, do hereby certify that the transcript of the foregoing proceedings contains a true record of the hearing in the above-captioned cause.

I further certify that I am neither attorney nor Counsel for, nor related to or employed by any of the parties connected to the action, nor am I financially interested in the action.

Witness my hand at Florence, South Carolina, this the 19th day of September, 2023.

\_\_\_\_\_  
Ashley Rogers  
MY COMMISSION EXPIRES:  
February 9, 2032

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

**DEPOSITION OF CAROYLN JOHNSON**

**TIME: 9:30a.m.**

**Date: February 17, 2023**

**IN RE: CHELLIE NIXON, ANGELA YOUNG PERSONAL  
REPRESENTATIVE FOR CHELLIE NIXON**

**VS.**

**CAROLYN CRANFORD JOHNSON AS PERSONAL REPRESENTATIVE FOR  
THE ESTATE OF SAMUEL DAVIS**

**CASE: 2017-ES-33-00099**

**PLACE: TURNER PADGET 1831 W. EVANS STREET, SUITE 400  
FLORENCE, SC 29501**

---

**Affordable Court Reporting  
4041 J & S Countryside Road  
Conway, South Carolina 29527  
(843) 241-2338  
Sandracourt2004@yahoo.com**

**APPEARANCES**

---

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

**Representing the Plaintiff(s) :**

**DANNY BUTLER,**  
**BUTLER LAW FIRM**  
**4420 Oleander Drive**  
**Myrtle Beach, SC 29577**

**Representing the Defendant(s) :**

**JEFFREY PAYNE**  
**TURNER PADGET**  
**1831 W. Evans Street, Suite 400**  
**Florence, SC 29501**

**INDEX**

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

<b>WITNESS</b>	<b>DIRECT</b>	<b>CROSS</b>
<b>Carolyn Johnson</b>	<b>Page 5,97</b>	<b>96</b>

**EXHIBITS**

<b>NUMBER</b>	<b>DESCRIPTION</b>	<b>PAGE NUMBER</b>
<b>Plt's #1</b>	<b>Subpoena Probate</b>	<b>67</b>
<b>Plt's #2</b>	<b>Affidavit of Carolyn Johnson</b>	<b>71</b>
<b>Plt's #3</b>	<b>Meeting Minutes</b>	<b>77</b>
<b>Plt's #4</b>	<b>Affidavit of Ernestine Boston</b>	<b>82</b>

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

### STIPULATIONS

It is stipulated and agreed that this deposition is being taken for the purpose of discovery, for possible use during the trial, and for all other purposes permitted under the applicable rules of procedure.

It is stipulated and agreed that all objections, except as to the form of the question, will be reserved until the time of the trial.

It is stipulated and agreed upon between counsel and the above witness that the reading and signing of the above deposition be, and the same, are hereby waived.

1           **Court Reporter:** Would you raise your right hand for  
2 me, and if you will scoot up to the table just a little  
3 bit, thank you. Do you swear or affirm that the  
4 testimony that you give to be the truth, the whole  
5 truth, and nothing but the truth?

6 A. I affirm.

7           **Court Reporter:** Okay. Thank you. You can put your  
8 hand and state your name for the record.

9 A. Carolyn Johnson.

10           **Court Reporter:** Thank you.

11           **Mr. Butler:** Good morning Ms. Johnson. My name is  
12 Danny Butler and I'm the attorney here on behalf of the  
13 Estate of Chellie Nixon, with regards to the claims and  
14 allegations in this lawsuit. It's a pleasure to meet  
15 you.

16 A. Likewise.

17 **Q.** During this deposition do you have a preference as  
18 to what I should call you, Ms. Johnson, Carolyn?

19 A. Whatever works for you. It's not up to me. I am  
20 both of them.

1 Q. Mrs. Johnson, have you ever participated in a  
2 deposition before?

3 A. Yes, I have.

4 Q. What kind of cases have you participated in  
5 depositions before?

6 A. Workers Comp.

7 Q. Was it a worker's comp claim that you had filed?

8 A. One was where I was the general manager of an  
9 establishment.

10 Q. Okay, and your deposition was taken as a result of  
11 some sort of claim made by an employee?

12 A. That is correct.

13 Q. Okay. Other than that, have you ever been involved  
14 in other depositions where your deposition was actually  
15 taken as well?

16 A. I was involved in a deposition where there was a  
17 racial something. I don't even know the name of the  
18 department, whatever the department with the state that  
19 handles racial issues. I was -- a deposition was taken  
20 on me, yes.

1 Q. Okay. All right. So, would it be fair to state  
2 that you're pretty familiar with how depositions work  
3 and what the purpose of a deposition is?

4 A. Yes, it is.

5 Q. Okay, and if I say anything about the deposition  
6 that you already know I apologize, but I just want to  
7 go ahead and put it on the record that your deposition  
8 under oath is being taken today and as you know  
9 depositions are basically a fact-finding procedure. I  
10 will basically ask you questions about what you  
11 personally know, and it may relate to the claims in  
12 this lawsuit, or it may not even relate to the claims  
13 in the lawsuit, and do you understand that unless your  
14 attorney instructs you otherwise, you have to answer  
15 whatever questions I ask you?

16 A. Yes, I do.

17 Q. Okay, and would it be fair to assume that if you do  
18 answer my question that you fully understand the  
19 question that was asked of you?

20 A. It would be fair.

1 Q. Okay. If there are any questions that I ask you  
2 that you do not understand or if you need me to  
3 rephrase it because it does not make sense because  
4 sometimes I do that, you are free to let me know, hey  
5 can you rephrase it or can you repeat it, is that fair?

6 A. I will.

7 Q. Very good. So, this is not you know something that  
8 I am trying to trick you with anything. So, if my  
9 questions sound tricky, I apologize that's not my  
10 purpose or intent. What I am trying to do is try and  
11 figure out what you know about the claims in this  
12 lawsuit, is that fair?

13 A. Yes, it is.

14 Q. Okay. So, before -- if you need to take a break for  
15 any reason I'm happy to take a break just let me know  
16 and if you need to do anything else where you need to  
17 stop the deposition for any period of time let me know  
18 that as well, okay?

19 A. Okay.

20 Q. And once the deposition starts and you do end up

1 going on a break you do understand you cannot speak  
2 with your attorney about anything related to this  
3 deposition or this lawsuit.

4 A. I do.

5 Q. Okay. You can talk to him about anything else, the  
6 weather or anything that's not related to this lawsuit  
7 but anything that relates to the lawsuit you cannot  
8 talk to him about.

9 A. Okay.

10 Q. Okay. Very good, and if there are any questions  
11 that are yes or no questions if you don't mind can you  
12 verbalize your responses so that the court reporter can  
13 understand what your response is?

14 A. I will.

15 Q. Very good. All right. Before today's deposition  
16 have you spoken with anyone at this Young and Young  
17 Funeral Home about your deposition today?

18 A. I have not.

19 Q. Okay. Have you spoken with any employees other than  
20 the Young and Young Funeral Home about the deposition

1 you are taking today?

2 A. I have not.

3 Q. Okay, have you spoken with Ernestine Boston ---

4 A. I have not.

5 Q. Before today.

6 A. I'm sorry. I have not.

7 Q. Oh that's okay. That's all right, and so you  
8 haven't spoken with anyone at all about your deposition  
9 being held this morning?

10 A. That is correct.

11 Q. Okay. Now, you indicated that your name was Carolyn  
12 Johnson?

13 A. That is correct.

14 Q. Is that your current legal name?

15 A. That is correct.

16 Q. And what is your maiden name?

17 A. Cranford, Carolyn Cranford.

18 Q. Okay. Is Cranford your middle name now?

19 A. No, it's Carolyn Ann Johnson.

20 Q. Okay, and you spell Ann with an E or no E?

1 A. No E.

2 Q. So, you don't use Cranford in any of your names  
3 currently?

4 A. No, you said legal.

5 Q. Correct, correct.

6 A. I use Cranford, my Facebook profile says Carolyn  
7 Cranford Johnson.

8 Q. Okay.

9 A. I do not use my middle name more times, it's Carolyn  
10 Johnson.

11 Q. And what does your driver's license say?

12 A. Carolyn Ann Johnson.

13 Q. Got you. So, other than the Facebook page is there  
14 any other sources where you designate yourself as  
15 Carolyn Cranford Johnson?

16 A. There may be.

17 Q. Do you know any other sources where you use that  
18 name Cranford in your name?

19 A. My business card has Carolyn Cranford Johnson.

20 Q. Is that the business card for the funeral home?

1 A. Yes, it is.

2 Q. Is there a reason why you're keeping -- you are  
3 using the Cranford in your name in your business card?

4 A. Because Carolyn Johnson is a very popular name.

5 Q. Okay.

6 A. And so to distinguish me from the twenty (20) others  
7 that live in the area -- that live in here in South  
8 Carolina I inject Cranford.

9 Q. Okay. That makes sense. Is there any reason you  
10 use Cranford instead of Ann?

11 A. Ann is an old people name.

12 Q. Okay. Fair enough. What is your date of birth?

13 A. 11-11-1965.

14 Q. And how about your social security number?

15 A. It is XXX-XX-0227.

16 Q. And what is your current phone number on your cell?

17 A. 843-858-9793.

18 Q. And what is your current home address?

19 A. 737 Boss Way, Elgin, South Carolina 29045.

20 Q. How far is that from the funeral home?

1 A. In miles I won't say because I don't count them.

2 Q. Sure.

3 A. Time, it's one (1) hour from my door to the funeral  
4 home door.

5 Q. And how long have you lived at 737 Boss Way, Elgin,  
6 South Carolina?

7 A. Since June of 2019.

8 Q. And where did you live before June 2019?

9 A. Sepia Court, 218 Sepia Court.

10 Q. And what city is that?

11 A. Columbia, South Carolina 29229.

12 Q. And how long did you live at that address, 218 Sepia  
13 Court?

14 A. I'm guessing when I say this probably about eight  
15 (8) years.

16 Q. Eight (8) years, okay. So, that would put it at  
17 about 2011 through 2019 you lived in 218 Sepia Court?

18 A. Again that would be a guess, but ---

19 Q. Okay.

20 A. But yes, about eight (8) years.

1 Q. Are you currently married?

2 A. I am not.

3 Q. Have you ever been married?

4 A. I have.

5 Q. And what was the name of your former spouse?

6 A. Demetrius Johnson.

7 Q. And when did you become married to Demetrius  
8 Johnson?

9 A. 2005, March of 2005.

10 Q. And did you terminate the marriage through a  
11 divorce?

12 A. I did.

13 Q. And what year was that divorce?

14 A. March of 2020.

15 Q. Okay, and did you and Demetrius Johnson have any  
16 children?

17 A. No, we did not.

18 Q. And did you have any children before you married  
19 Demetrius Johnson?

20 A. Yes, I do.

1 Q. And how many children did you have before you  
2 married Demetrius Johnson?

3 A. Four (4).

4 Q. And what are their names?

5 A. Jamaius J.A.M.A.I.U.S, Jeremey J.E.R.E.M.E.Y., Moses  
6 M.O.S.E.S., and Justin J.U.S.T.I.N.

7 Q. And where do your children live, do they all live  
8 close in South Carolina?

9 A. Moses lives in Georgia; Justin is in the hands of  
10 God.

11 Q. Okay and what about Jeremey and Jamaius?

12 A. They are both in Columbia.

13 Q. Got you, and all of them have the last name  
14 Cranford?

15 A. They do not.

16 Q. Oh, what are their last names?

17 A. Jeremey and Jamaius are White and Moses is Counts  
18 and Justin is Glenn.

19 Q. Two (2) N's?

20 A. That is correct.

1 Q. Okay. From an education standpoint where did you go  
2 to high school?

3 A. Hartsville High School.

4 Q. Did you graduate with a degree from -- or did you  
5 graduate from high school at Hartsville High School?

6 A. With a diploma in 1984.

7 Q. And did you go to college or secondary education  
8 after high school?

9 A. I did.

10 Q. And where did you attend?

11 A. South Carolina State, University of Phoenix, and  
12 Southern University.

13 Q. And is that in the order of attendance?

14 A. It is.

15 Q. So, with regards to SC State did you go attend SC  
16 State right after high school?

17 A. I did not.

18 Q. When did you attend SC State?

19 A. 1989.

20 Q. And did you complete your undergraduate, I assume?

1 A. I did not.

2 Q. Okay. How many semesters did you attend at SC  
3 State?

4 A. I did two (2) years at SC State.

5 Q. And did you obtain any sort of degree from SC State  
6 after two (2) years?

7 A. I did not.

8 Q. Okay, and when did you attend University of Phoenix?

9 A. 1982. I'm sorry 1992.

10 Q. Okay, and did you receive a certification or degree  
11 from University of Phoenix?

12 A. I did.

13 Q. And what was it that you received from University of  
14 Phoenix?

15 A. Bachelors in business.

16 Q. And how long did it take you to achieve the  
17 Bachelor's in business at the University of Phoenix?

18 A. Three (3) years.

19 Q. Okay, and when did you attend Southern University?

20 A. I attended Southern on and off from 2003 until 2009.

1 Q. And did you achieve a degree or certification from  
2 Southern University?

3 A. Yes I did.

4 Q. And what were those ---

5 A. Accounting ---

6 Q. Degrees?

7 A. Degree.

8 Q. Accounting Degree. Are you currently a certified  
9 public accountant?

10 A. I am not.

11 Q. Okay, and do you have a license to provide  
12 accounting services?

13 A. I do not.

14 Q. Are you employed by any companies that provide  
15 accounting services?

16 A. I do not --, I'm not, no.

17 Q. Okay. Do you provide tax preparation services for  
18 anyone?

19 A. For myself. I have my own business.

20 Q. So are you a tax preparer?

1 A. I am a tax professional.

2 Q. You say tax professional, is that just your term for  
3 it or ---

4 A. It is.

5 Q. Okay, and what do you do as a tax professional?

6 A. I accurately prepare taxes profit and loss and other  
7 tax needs that my clients may need.

8 Q. And you represent individuals, or do you represent  
9 companies?

10 A. Individuals and sole proprietors.

11 Q. And where do you operate this tax preparation  
12 service company?

13 A. 303 South 5<sup>th</sup> Street in Hartsville, South Carolina.

14 Q. Okay. How long have you been providing tax  
15 preparation services?

16 A. Since 1998.

17 Q. You have a business license to provide these  
18 services?

19 A. I do.

20 Q. And what is the name of your company called?

1 A. Resource One Affordable Tax Prep.

2 Q. Is that an LLC?

3 A. It is not.

4 Q. Is it a sole proprietorship?

5 A. Sole proprietors it is.

6 Q. Okay. So, currently what is your employment as of  
7 this morning in your deposition?

8 A. I am employed at Young and Young Funeral Home.

9 Q. And what is your position at -- currently with the  
10 funeral Home?

11 A. Director of Operations, Licensed Funeral Director.

12 Q. I'm not familiar with funeral services, do you -- do  
13 you have to have some sort of certification or other  
14 requirements in order to be a licensed funeral  
15 director?

16 A. Yes, you do.

17 Q. And did you achieve a certification to be a licensed  
18 funeral director?

19 A. Yes, I did.

20 Q. And how did you achieve that?

1 A. I achieved that by completing a two (2) year  
2 apprenticeship with the State of South Carolina and  
3 taking the South Carolina funeral directors course and  
4 successfully passing it.

5 **Q. Okay.**

6 A. The exam.

7 **Q. Did they issue a certificate of completion or ---**

8 A. They issue a license.

9 **Q. License. Got you, and how long have you had this**  
10 **license?**

11 A. Since May of 2022.

12 **Q. So, before May of 2022 you did not have a license to**  
13 **provide funeral services?**

14 A. Before May of 2022 I operated as a funeral director  
15 apprentice.

16 **Q. Got you, and who did you apprentice during this**  
17 **period before May 2022, was there a person above you**  
18 **that you were an apprentice for?**

19 A. I was apprenticed under Samuel L. Davis, owner of  
20 Young and Young.

1 Q. And that kind of leads me to my next question. How  
2 long have you known Samuel Davis?

3 A. Samuel Davis is my uncle. So, it would be fair to  
4 say since I was old enough to know anyone.

5 Q. Okay, and how would you describe your relationship  
6 with Sammy Davis? If you don't mind I'm going to call  
7 him Sammy. I'm so used to it in the lawsuit, is that  
8 okay?

9 A. I prefer you to use Sam.

10 Q. Sam, okay.

11 A. Yeah. He wouldn't like Sammy.

12 Q. Okay. With regards to Sam, how would you describe  
13 your relationship with Sam?

14 A. I mean we had an awesome relationship, he's my  
15 uncle. I mean I really don't know how to articulate  
16 and tell you. We respected each other, we loved each  
17 other, as on a personal level and then there is a boss.  
18 I respected him as a boss, and I mean he's my uncle.

19 Q. And now, you haven't been involved in this funeral  
20 home for very long ---

1 A. That is incorrect.

2 Q. Okay. When did you become involved with the funeral  
3 home?

4 A. As a high school student I often had to go to the  
5 funeral home and answer the phone after school.

6 Q. Okay, and you look young so I'm not going to try and  
7 guess how long ago that was. So, do you remember about  
8 the year that you were working as a high school student  
9 there?

10 A. I did -- first let me correct you. I did not say  
11 working because back then it wasn't working you had to  
12 just go there and answer the phones. Work means  
13 getting paid, and I don't remember getting paid.

14 Q. Oh I got you.

15 A. So, it was -- I'm a 1984 graduate of Hartsville High  
16 School.

17 Q. Okay.

18 A. So, it would have been during my high school years.  
19 So, I'm going to say sometime between the time frame of  
20 1980 and 1984 and I use that basis because most of us

1 do four (4) years in high school. So, it would be  
2 sometimes, and it would not be on a regular. It was  
3 just when needed, to assist him I would go and answer  
4 the phones.

5 **Q. I got you. So, it was a situation where he would**  
6 **ask you to come in and do some stuff at the funeral**  
7 **home and you would go and do it?**

8 A. That is correct.

9 **Q. Okay. So, it wasn't a thing where you had to go ---**

10 A. That is correct.

11 **Q. To the funeral home. At what point did you become**  
12 **compensated for the services you provided for the**  
13 **funeral home?**

14 A. Well, I am sure that back then there was a form of  
15 compensation I just don't recall him handing me five  
16 (5) dollars or six (6) dollars or whatever. I'm sure  
17 there was some type of compensation. I just don't  
18 recall what it is. My memory is -- you didn't guess my  
19 age; well, I'm going to tell you my age. I'm fifty-  
20 seven (57) and I have much more important stuff to

1 remember.

2 Q. I got you. I got you. You know when I graduated  
3 high school I needed to find a job to get some money,  
4 so after you graduated high school what did you do?

5 A. I went into the military.

6 Q. Oh.

7 A. Because I did not want to work at the funeral home.

8 Q. Got you and which service did you join?

9 A. Army.

10 Q. And how long did you serve in the Army?

11 A. Six (6) years. Four (4) active and two (2) years  
12 inactive.

13 Q. You said two (2) years active and four (4) years ---

14 A. Four (4) active and two (2) inactive.

15 Q. Got you.

16 A. Reserve.

17 Q. Got you and is there any reason why you stopped  
18 being on the Reserve?

19 A. Yeah, I didn't like the Army.

20 Q. And what did you do after you got out of the Army?

1 A. Went into the workforce.

2 Q. Got you and at that point what were you doing as  
3 employment or for compensation?

4 A. Mostly restaurants.

5 Q. Okay. Did any of this deal with being employed with  
6 the funeral home?

7 A. Just occasionally.

8 Q. Okay.

9 A. If needed if it was a busy week or something, a lot  
10 going on just when needed.

11 Q. And by this time you were making sure that you got  
12 paid this time if you worked at the funeral home?

13 A. I'm sure.

14 Q. At what point did you become fully a full-time  
15 employee with the funeral home?

16 A. May of 2019.

17 Q. And before 2019, you would come in sometimes  
18 intermittently when asked by Sam, but it was in May of  
19 2019 is when you became a full-time employee of the  
20 funeral home?

1 A. That is correct.

2 Q. Okay, and how did it come about that you became a  
3 full-time employee at the funeral home in May 2019?

4 A. There was a need for employment there and I filled  
5 in the gap.

6 Q. And was Sam the one that approached you and asked  
7 you if you wanted to be fully -- be a full-time  
8 employee at the funeral home?

9 A. That is correct.

10 Q. Okay, and was the offer to pay you a salary or were  
11 you going to be paid hourly for the work you performed  
12 at the funeral home?

13 A. I became an employee -- when I became a fulltime  
14 employee I became one as a salary employee.

15 Q. And what was your initial salary?

16 A. I would have to refer back to paperwork to be honest  
17 with you on that.

18 Q. Well, may I ask you this, were you paid a weekly  
19 salary?

20 A. Bi-weekly.

1 **Q. And how much would your checks be?**

2 A. So, that's the answer of direct deposit, I don't  
3 know.

4 **Q. Can you give an estimate, were you paid more than  
5 two thousand (2000) every two (2) weeks?**

6 A. I was paid at least eight hundred (\$800.00) dollars  
7 a week.

8 **Q. Okay.**

9 A. Again, I do not know the exact amount.

10 **Q. Whenever Sam approached you to become employed with  
11 the funeral home, did he offer the salary on an annual  
12 basis, like I'm going to pay you X amount as  
13 compensation per year?**

14 A. Sam is not vocal like that.

15 **Q. Oh okay.**

16 A. Sam called the CPA and told the CPA what to pay and  
17 anytime he wanted to do anything he would call the CPA  
18 and tell the CPA what to do. The conversations not so  
19 much with he and I until maybe after the fact. I will  
20 say my check was wrong, I got more money, he said yeah

1 I know.

2 Q. Okay.

3 A. So.

4 Q. So, it would be fair to state that your -- your bi-  
5 weekly checks were actually veering, depending on how  
6 much Sam told the CPA to pay you?

7 A. No, it would not. They -- he didn't change it  
8 wasn't a weekly or monthly thing where he did it. I'd  
9 say he may have increased twice in a year. It wasn't  
10 like he was calling every other week or something like  
11 that, no.

12 Q. Oh, I got you. So, in other words, if he wanted to  
13 give you extra money, for example for a bonus, there  
14 were certain times of the year where he would ask the  
15 CPA to give you a little bit more than your salary to  
16 account for that?

17 A. Yes or again if he wanted to give a raise because he  
18 saw or felt -- I can't speak on why he did what he did.

19 Q. Sure, sure.

20 A. But even if he wanted to give a raise he would call

1 the CPA more so than telling me Carolyn, I am giving  
2 you a raise, he would call the CPA.

3 **Q. Okay and just curious how do you know he called the**  
4 **CPA; did you hear him ---**

5 A. Because again when I got my check and I questioned -  
6 --

7 **Q. Got you.**

8 A. The CPA doing something wrong because I am a numbers  
9 person and if I see, notice in my deposit I got two (2)  
10 more dollars then, I will say the CPA did something and  
11 or I will call the CPA and say hey, did Sam do  
12 something and she will say yes, Sam told me to do XYZ.

13 **Q. Okay, and who was the primary CPA that you dealt**  
14 **with or spoke with?**

15 A. Katherine or Brandy at Holt & Holt CPA.

16 **Q. Is that firm -- a firm located in Hartsville?**

17 A. It is here in Florence.

18 **Q. Okay.**

19 A. 1520 American Drive.

20 **Q. Got you. When you were hired May of 2019, what was**

1 the position you were hired for?

2 A. Office Assistant.

3 Q. And what were the responsibilities that you had as  
4 an office assistant beginning in May 2019?

5 A. Assisting the funeral director and filing claims,  
6 recording bills, just various clerical duties.

7 Q. And when you reference the apprenticeship, this  
8 coincided with your employment as an office assistance,  
9 so while you were an employee of the funeral home you  
10 are also serving as an apprentice under Sam Davis?

11 A. No, sir.

12 Q. Okay.

13 A. My apprentice started in October of 2019.

14 Q. Okay.

15 A. October 3<sup>rd</sup>.

16 Q. Got you. So, on October 3<sup>rd</sup> of 2019, when your  
17 apprenticeship began under Sam Davis did you get a  
18 raise or was your position at the funeral home changed  
19 at that point?

20 A. I became an apprentice funeral director.

1 **Q. And as a funeral apprentice funeral director, did**  
2 **obligations and duties change with respect to the**  
3 **funeral home?**

4 A. They did.

5 **Q. And how did they change?**

6 A. I began to do the roll of -- of -- mimic the roll of  
7 a funeral director with the funeral director present. I  
8 met with families, assisted in the sale of funerals,  
9 directed funerals, ensured proper burial to place other  
10 funeral director responsibilities.

11 **Q. And is that a requirement of the apprenticeship that**  
12 **Sam had to be present when you did anything that**  
13 **required a licensed funeral director?**

14 A. The requirement was a licensed funeral director had  
15 to be present.

16 **Q. Got you.**

17 A. Did not have to be Sam. It could have been one of  
18 the other licensed funeral directors that was on staff  
19 at that time.

20 **Q. Got you. Other than Sam, how many other employees**

1 at the funeral home are licensed funeral directors?

2 A. Tyrone Speaks, Draper Myers, James Bell, I think  
3 that was it. Oh, and then Jade Sowell.

4 **Court Reporter: Can you spell that last name?**

5 A. S.O.W.E.L.L., Jade Sowell.

6 **Q. And currently does Tyrone, Draper, James, and Jade**  
7 **still work with the funeral home?**

8 A. So, let me first clarify work. There are  
9 contractors ---

10 **Q. Okay.**

11 A. With Young and Young. So, they're not obligated  
12 just to Young and Young.

13 **Q. Got you.**

14 A. They're -- they're contract laborers and yes they  
15 are all still affiliated with or will do contract work  
16 for Young and Young.

17 **Q. I Got you, so there's independent service agreements**  
18 **perhaps from the funeral home with each of these**  
19 **respected licensed funeral directors?**

20 A. Correct.

1 Q. Got you, and so as apprentice, you can actually  
2 apprentice under any of these licensed funeral  
3 directors in regard to the funeral home operations?

4 A. The apprenticeship is only under one (1) person.

5 Q. Okay.

6 A. As you are doing any funeral business it just has to  
7 be a licensed person.

8 Q. I got you.

9 A. In the room, so your apprenticeship is not under  
10 several people it's under one (1) person, one (1)  
11 entity.

12 Q. Okay.

13 A. But as you're doing funeral business as long as the  
14 person is licensed in the state of South Carolina they  
15 can -- you can do business with them there.

16 Q. Makes perfect sense. You explained that very well,  
17 thank you. At some point were you added as a signatory  
18 on the operating account for the funeral home?

19 A. Yes.

20 Q. Okay, and do you recall the date that you were added

1 as a signatory for the funeral home operating account?

2 A. I do not recall the date. I can tell you it was in  
3 2019.

4 Q. Would it have been after you were hired as a full-  
5 time employee in 2019?

6 A. Most definitely.

7 Q. Okay. You think it was before or after your  
8 apprenticeship began with Sam Davis?

9 A. Again, I cannot attest to the date.

10 Q. But it was definitely after May of 2019?

11 A. Yes.

12 Q. Do you remember what bank it was in May of 2019 that  
13 you were added to the signatory account?

14 Again, I do not know the date in 2019. I was added to  
15 the account at South State Bank.

16 Q. South State Bank, okay, and how many operating  
17 accounts did the funeral home have at that time?

18 A. The funeral home had an account -- a checking  
19 account and the funeral home has what we call a pre-  
20 need account.

1 Q. Is a pre-need account like a trust account?

2 A. It is.

3 Q. Okay and is that also held with South State Bank?

4 A. At that time it was.

5 Q. Okay. All right. At that time, were there any  
6 other operating accounts or any other kind of accounts  
7 in which the funeral home was the owner?

8 A. Not that I remember.

9 Q. Okay, and for what purpose or reason to your  
10 knowledge were you added as a signatory on the South  
11 State operating account for the funeral home?

12 A. To be able to conduct business as an office  
13 assistant.

14 Q. And when you say to conduct business does that  
15 include writing checks, making payments, stuff of that  
16 nature?

17 A. It does.

18 Q. And were there any other folks that were authorized  
19 signatories on the funeral account operating account?

20 A. During which time are we asking?

1 Q. The same time that you were added on as a signatory?

2 A. Yes, it was LaTonya Davis.

3 Q. Okay. So, it was you, Sammy or Sam, and LaTonya.

4 A. That is correct.

5 Q. To your knowledge anybody else that was authorized  
6 on that account?

7 A. Well, if you are talking about a specific time there  
8 -- there were times that we've had other employees and  
9 if they are employed there as a -- as an office  
10 assistant or would need to pay any bills they would add  
11 -- they would be added on.

12 Q. So, they would be added on and then taken off?

13 A. Yes, if they no longer worked there.

14 Q. Do you have any knowledge as to any other employees  
15 that were added on whether temporary or not?

16 A. Shirley Brewer.

17 Q. Okay. Anyone else to your knowledge that were added  
18 on throughout this period?

19 A. No.

20 Q. At some point, you were also added as a signatory on

1 **Sammy's personal or Sam's personal bank accounts, is**  
2 **that accurate?**

3 A. It is.

4 **Q. Do you know when they occurred?**

5 A. I'm unsure of the date. It was in 2019.

6 **Q. Would it have been on or about the same time that**  
7 **you were added on as a signatory on the funeral home**  
8 **account?**

9 A. It would.

10 **Q. Okay. At what bank or banks were you added as a**  
11 **signatory on Sam Davis's personal accounts?**

12 A. At South and then after South he transferred to the  
13 Citizens.

14 **Q. Citizens Bank?**

15 A. The Citizens.

16 **Q. And for what purpose or reason were you added as a**  
17 **signatory on Sam Davis's personal bank accounts?**

18 A. Because I handle all of Sam Davis's personal  
19 payments.

20 **Q. You mean personal payments, you talking about his**

1 **personal expenses?**

2 A. That is correct.

3 **Q. And what are some of the expenses that you were**  
4 **authorized to pay on behalf of Sam?**

5 A. Any and all. His electric bill, his hospital bill,  
6 his doctor bill, his -- his water bill, his whatever  
7 bill.

8 **Q. Sam ever make you his Power of Attorney?**

9 A. No.

10 **Q. Okay, and for what reason was a new operating**  
11 **account opened with Citizens Bank?**

12 A. Because a young man to deceive went into South State  
13 Bank and removed some money wrongfully and so because  
14 South State allowed that to happen there was a little  
15 bit of trust issues there with the way that the  
16 procedures were being handled and so he opted to do --  
17 to stop dealing with South State Bank.

18 **Q. Got you and do you know the approximate date that**  
19 **was done, the new account was opened at Citizens Bank?**

20 A. I cannot remember.

1 Q. Okay. Do you remember if it was in 2020?

2 A. I would have to refer.

3 Q. Okay. Do not remember, okay, and when the new  
4 operating account was opened at Citizens Bank for the  
5 funeral home were you added as a signatory on that  
6 account as well?

7 A. I was.

8 Q. Okay, and you were added on at the time the account  
9 was opened?

10 A. That is correct.

11 Q. Other than yourself and Sam were there any other  
12 folks added as signatories on that new operating  
13 account at Citizens Bank?

14 A. There was not.

15 Q. Okay, and from the point that the operating account  
16 was opened through today has anyone else ever been put  
17 on as an authorized signatory on that account?

18 A. No.

19 Q. Now, you had mentioned that LaTonya Davis and  
20 Shirley Brewer were prior authorized signatories on the

1 operating account for the funeral home. How come they  
2 weren't added as authorized signatories on the new  
3 account with Citizens Bank?

4 A. Shirley Brewer was no longer employed. Tonya Davis  
5 that's a Sam Davis question.

6 Q. Okay. So, you don't know?

7 A. I don't.

8 Q. And was a new personal bank account opened at  
9 Citizens Bank as well?

10 A. Yes.

11 Q. And was it opened at the same time or at about the  
12 same time as the new operating account for the funeral  
13 home?

14 A. Yes.

15 Q. And just like before were you added as a signatory  
16 on Sam Davis's personal accounts?

17 A. Yes.

18 Q. Okay. Are you a signatory on any other accounts  
19 that was owned by Sammy Davis other than The Citizens  
20 Bank and South State accounts?

1 A. No.

2 Q. Were there any other individuals who were authorized  
3 on Sammy's account other than yourself at Citizens  
4 Bank?

5 A. No.

6 Q. Okay.

7 A. Let me correct that. So, Shirley did not leave  
8 until after the exchange of banks the -- the change of  
9 banks. Shirley originally was on -- she too was on the  
10 Citizens and then -- and then just for a few months  
11 because she ended her employment moved to Charlotte.  
12 So, Shirley would have been on the personal and the  
13 business for a few months, never doing business there  
14 because she decided to leave, but yeah Shirley was on  
15 there just for a little.

16 Q. Okay, and in regard to Shirley, how would you -- how  
17 would you describe your relationship with Shirley, is  
18 she a friend of yours or is she just an employee that  
19 you had worked with?

20 A. I call everybody friend. She's -- it really is --

1 depended upon what you really constitute as a friend.

2 Again, I call you friend and I really don't know you so

3 I would say that she was friendly.

4 **Q. Is that how you would characterize your**

5 **relationship, it was a friendly relationship between**

6 **you too?**

7 A. Yes.

8 **Q. Okay. Did ya'll ever do anything social, go out for**

9 **drinks or go out to dinner or anything like that?**

10 A. We'd go to dinner.

11 **Q. You have anything personal against Shirley for any**

12 **reason?**

13 A. No.

14 **Q. Okay, and based on your experience with Shirley**

15 **would you consider her to be a truthful person?**

16 A. Yes.

17 **Q. What about Ernestine how would you -- Ernestine**

18 **Boston, how would you describe your relationship with**

19 **her?**

20 A. I -- I -- she's friendly.

1 Q. Okay. Did you have a good relationship or positive  
2 relationship with Ernestine?

3 A. Yes.

4 Q. And would you also agree that she was a truthful  
5 person as well?

6 A. I would hope so. I mean I can't judge a character  
7 of truthfulness because I didn't work with her.

8 Q. Okay.

9 A. You know she was married to my uncle many years ago.  
10 So, I speak to her in passing. So, I cannot attest to  
11 or say -- I would hope that anyone would be truthful is  
12 how I would answer that.

13 Q. Sure, yeah. I'm just going off your personal  
14 experience with her because obviously you're the only  
15 one ---

16 A. Yeah. So, there was -- I wouldn't say that there  
17 was so much of a personal relationship. I mean like  
18 you, if I see you I'm going to speak and keep going. I  
19 don't -- I don't know whether you really ate that fish  
20 that you told your mom you ate or not.

1 **Q. Got you.**

2 A. Or you hide it under the table because I don't know  
3 -- I don't have that rapport with you so, I would have  
4 to say the same with her. I don't have a rapport with  
5 her that would warrant me saying ---

6 **Q. Got you.**

7 A. Whether she's God fearing or the devil.

8 **Q. Got you. So, you say you didn't have enough**  
9 **experience's with her personally to make that ---**

10 A. I don't have the rapport.

11 **Q. Rapport, okay.**

12 A. Yeah. Experiences is a whole other something. I --  
13 I can witness you doing things and that becomes an  
14 experience than me being with you and hearing you talk  
15 or being able to hold you at your word is a whole other  
16 something. It creates a rapport. I can -- I can  
17 believe in you. I'm believing that you are going to --  
18 if the building is on fire you going to tell me so I  
19 can get out.

20 **Q. I got you.**

1 A. It's not that type of.

2 Q And you didn't have enough of a rapport with  
3 Ernestine to make a determination if she was truthful  
4 or not truthful person?

5 A. That is correct.

6 Q. Okay. What about LaTonya Davis, how would you  
7 describe your relationship with LaTonya?

8 A. LaTonya is my cousin, you know friendly, you know.

9 Q. Did you and LaTonya do social things like go out for  
10 dinner ---

11 A. No.

12 Q. Or have drinks.

13 A. No. Tonya -- Tonya is very withdrawn; she don't  
14 really do people.

15 Q. How would you describe your relationship with her,  
16 is it a friendly relationship?

17 A. Friendly.

18 Q. And I'm going to ask you the same question that I  
19 had before, do you have a rapport with LaTonya to the  
20 extent that you can have an opinion to her

1 **truthfulness?**

2 A. I wouldn't trust her, no.

3 **Q. Okay, and why wouldn't you trust her?**

4 A. It's just a -- a spirit of discernment that I have  
5 about people. There are some things that -- that she's  
6 done, said that's she's done that were not done and so  
7 forth, in the work -- in the work world you know. She  
8 was one that I would always have to go behind and check  
9 to make sure it was done and often times it was not.

10 **Q. Okay. Can you give me some explanation of what you**  
11 **are referring to?**

12 A. Yeah. Let's talk about a bank deposit.

13 **Q. Sure.**

14 A. She said I went to the bank and deposited it in the  
15 bank and two (2) months later the same bank deposit is  
16 sitting down beside the seat in the car.

17 **Q. And how many times has that happened where she did**  
18 **not deposit checks that she had told you she had**  
19 **deposited?**

20 A. Once.

1 Q. Okay. Other than the one time that she did not  
2 deposit a check she said she deposited, what other  
3 things does she do that made you feel that you could  
4 not trust LaTonya?

5 A. Just her word, just her word was -- was not good.  
6 She say that she couldn't work because she didn't feel  
7 good, and she be at a poetry event. You know just  
8 really her word. It doesn't take much for me to know  
9 that I can't trust you.

10 Q. That one (1) check that wasn't deposited, it was  
11 eventually deposited?

12 A. It was not a check.

13 Q. Oh.

14 A. It was a deposit that -- that consists of checks.

15 Q. Oh it was a batch of checks?

16 A. Yes.

17 Q. That was supposed to be deposited, was that batch of  
18 checks ultimately deposited?

19 A. Yes.

20 Q. Okay, and you also received through the funeral home

1 operations cash payments correct?

2 A. That is correct.

3 Q. Okay, and to your knowledge and in your experience  
4 working with LaTonya since -- full-time since May 2019,  
5 has she done anything to reflect that she's done --  
6 taken money or done anything wrong?

7 A. No.

8 Q. With the funeral home?

9 A. No. She wasn't dishonest like a thief, you just --  
10 she was spoiled.

11 Q. Okay, and in your limited time with LaTonya working  
12 at the funeral home, did she appear to be a good  
13 employee?

14 A. She was average.

15 Q. And LaTonya ultimately resigned, is that correct?

16 A. That is correct.

17 Q. And do you know what year she resigned?

18 A. Last year 2022.

19 Q. And do you know why LaTonya resigned?

20 A. I have no idea.

1 Q. Okay, and how long had LaTonya been working at the  
2 funeral home before she resigned in 2022?

3 A. On and off since she graduated from college with an  
4 associate degree. I don't know what year it was.

5 Q. Okay. She has been there for a good number of years  
6 before you came?

7 A. Oh and off, yes.

8 Q. And do you remember what her position was with the  
9 funeral home when you first started in 2019?

10 A. She -- a secretary. She too was pursuing her  
11 apprenticeship and I can't attest to what happened  
12 there.

13 Q. Sure. Now, does the funeral home have a policy, a  
14 written policy with regards -- with record keeping?

15 A. Not to my knowledge.

16 Q. And to your knowledge, is there any policy at all  
17 whether record keeping at the funeral home?

18 A. I am not understanding your question.

19 Q. Sure. So, if you have receipts, if you have  
20 ledgers, if you have corporate documents, agreements,

1. **what is the general policy about retaining that**  
2 **information and or documents in regard to the funeral**  
3 **home operations?**

4 A. So written is not one, but Sam kept records for a  
5 long time. There's at least twelve (12) years of  
6 records there now.

7 **Q. And the funeral home has been around for a lot more**  
8 **than twelve (12) years.**

9 A. Seventy-five (75).

10 **Q. What happened to the records that existed before**  
11 **twelve (12) years ago?**

12 A. As previously stated, I became full-time 2019, so  
13 that would be before me question.

14 **Q. So, the records that existed before twelve (12) were**  
15 **already gone at the time you started May 2019?**

16 A. I didn't say that.

17 **Q. Okay.**

18 A. You said all the way back. I can't talk about  
19 seventy-five (75) years. I'm cute, but I'm fifty-seven  
20 (57).

1 Q. Sure. I know, but you testified that there's twelve  
2 (12) years of records now.

3 A. Now, right.

4 Q. So, what happened to the records that existed before  
5 twelve (12) years ago?

6 A. So, twelve (12) from seventy-five (75) is what sixty  
7 (60) whatever years. I can't tell you what happened to  
8 all of those records. I can tell you that in 2019 --  
9 correction 2020, sometime during the year there was a -  
10 - a room was made, and some files were purged and when  
11 I say files these were -- I'm talking about records  
12 from funeral services, were -- were purged.

13 Q. Okay. So, at some time in 2020, you're saying that  
14 certain files were purged?

15 A. Not certain files, the descendant's files.

16 Q. So, you are saying that -- what about ledgers and  
17 corporate documents and agreements that existed before  
18 twelve (12) years?

19 A. I cannot speak on them.

20 Q. Well, let's talk about the purge, did the purge

1 **include files that included corporate documents for the**  
2 **funeral home?**

3 A. No, they did not.

4 **Q. They did not?**

5 A. They were files of descendants. People that were  
6 deceased. So, if you come in there's a file that is  
7 created for you that has your bill in it, your  
8 obituary, may have a death certificate, and an  
9 insurance claim that is a descendants file. Those are  
10 the files that were purged.

11 **Q. Okay. What about financial records for the company**  
12 **itself, the funeral home for example ledgers, tax**  
13 **returns, receipts were those purged in 2020 as well?**

14 A. The only thing that was purged in 2020 were files of  
15 the deceased meaning that file that talked about that  
16 descendant. There was no corporate, there was no  
17 accounting, ledgers none of that, when I did the purge  
18 in 2020.

19 **Q. So, the purge was per your instructions, in 2020?**

20 A. Break that, okay.

1 **Q. So, in 2020 when these various documents were purged**  
2 **it was by your instructions?**

3 A. It wasn't by my instructions, I did it.

4 **Q. Okay. Can you elaborate, how did you purge the**  
5 **files?**

6 A. So, there were files there for 2009 from when John  
7 Doe died. Everything that was done in 2009 on anybody  
8 that died in 2009 there was a file there on them. I  
9 took those files went through making sure that they was  
10 nothing in there like some money or something of value  
11 and I -- after seeing that it wasn't it was outside the  
12 ten (10) years scope is what were supposed to keep, I  
13 keep twelve (12) and it was outside of that time and so  
14 it was shredded.

15 **Q. Oh you shredded -- you physically shredded these**  
16 **files that were purged in 2020?**

17 A. Yes.

18 **Q. Were there any other employees that were instructed**  
19 **to shred these documents along with yourself?**

20 A. No.

1 Q. You have not instructed any other employee to purge  
2 documents in 2020?

3 A. That is correct.

4 Q. Okay. If anyone came forward and testified under  
5 oath that you instructed them to shred documents in  
6 2020, you are saying they would be lying?

7 A. I am.

8 Q. Okay, and as we sit here today in a sworn deposition  
9 you're saying that in 2020 when you instructed or used  
10 -- caused these files to be purged none of the  
11 documents that were purged included corporate or  
12 funeral operations documents like financials?

13 A. Let's be smart now. If a person died right inside  
14 of their folder is anything that happened with them.

15 Q. I understand that.

16 A. Okay. So, that means we're -- it's a funeral home  
17 so they in business ---

18 Q. Yeah. I understand that.

19 A. Right. So, what do they have to do, there was a  
20 contract there that says I'm going into to a gray

1 minimum metal and I'm using one (1) hearse and two (2)  
2 cars. That bill might of came up to be two thousand  
3 four hundred (\$2400.00) dollars. That bill was  
4 satisfied and there is no other need for this  
5 documentation.

6 Q. No, I understand that.

7 A. Because that is what was shredded.

8 Q. I understand. What you are saying is if something  
9 specific to a descendant someone who died, specific to  
10 that person only those were the files that were purged.  
11 I'm talking about as you know you are a CPA, well not  
12 CPA but you have an accounting degree that there are  
13 records, ledgers, PNL's, cash flow analyses any and all  
14 financials that's outside of a decedent's specific  
15 information, that's what I am asking about.

16 A. And as I stated ---

17 Q. Were any of those documents ---

18 A. Precisely ---

19 Mr. Payne: Hey.

20 Q. Let me -- let me, finish. Let me complete my

1 question ---

2 A. They were not destroyed.

3 Q. Okay.

4 Mr. Payne: How many times does she have to answer  
5 this question?

6 Mr. Butler: She hasn't answered. She hasn't ---

7 Mr. Payne: She has.

8 Mr. Butler: No, she hasn't.

9 Mr. Payne: She's answered it three (3) times. All  
10 she purged was descendants files, that's it.

11 Mr. Butler: I got you. I need her to testify ---

12 Mr. Payne: She said it three (3) times.

13 Mr. Butler: Jeff chill out.

14 Mr. Payne: Well, I'm sitting here ---

15 Mr. Butler: If I feel like she didn't answer my  
16 question I can ask her again.

17 Mr. Payne: No, you can't ---

18 Mr. Butler: Yes, I can ---

19 Mr. Payne: Sit here and ask ---

20 Mr. Butler: Because it's not clear.

1 Mr. Payne: The same question all right. She told  
2 you what she purged, okay. That's it. She told you.

3 Mr. Butler: All right. You need to chill out.

4 Mr. Payne: No.

5 Mr. Butler: This is my deposition.

6 Mr. Payne: I'm sick of listening to it.

7 Mr. Butler: I don't care if you're sick about it,  
8 it's my deposition.

9 Mr. Payne: Ask her specifically what she purged,  
10 and she's told you what she purged.

11 Mr. Butler: Right.

12 Mr. Payne: Now, you're asking her did she purge  
13 financial records.

14 Mr. Butler: That's right.

15 Mr. Payne: She told you no.

16 Mr. Butler: Because that wasn't part of my question  
17 right, it's a different question.

18 Mr. Payne: Ask the question specifically.

19 Mr. Butler: I did.

20 Mr. Payne: And quit using the word documents.

1 Q. In 2020, when files were purged at the funeral home  
2 did they include any corporate documents of the funeral  
3 home?

4 A. Again I say no.

5 Q. Okay. In 2020, when you instructed these files to  
6 be purged were any of the files that were purged  
7 financial documents of the funeral home?

8 A. In 2020, when I shredded -- I only shredded  
9 descendant's files.

10 Q. Okay. Again, you are not answering yes or no all  
11 right.

12 A. Well, because your question is wide open when you  
13 say financials and again, I tried to explain to you ---

14 Q. Okay. I'll -- I'll -- I will rephrase. I'll  
15 rephrase.

16 A. Inside of that folder is a financial piece of paper  
17 because it's a contract.

18 Q. Okay. I got you. Let me rephrase.

19 A. So, let me answer you again. There was nothing  
20 other than a financial contract that is entered into

1 that is within every file -- in every descendant's  
2 file. Other than that, there was nothing financially  
3 destroyed. There was no ledgers ---

4 **Q. Okay.**

5 **A. There was no -- any of that.**

6 **Q. So, no tax returns, no ledgers, no PNL statements if**  
7 **there were any, none of that stuff was purged it was**  
8 **only the descendants file?**

9 **A. Correct.**

10 **Q. Okay. Very good. Thank you. Now, when you came on**  
11 **in May 2019, there was a period shortly after where**  
12 **various employees were asked to sign non-compete, do**  
13 **you recall that?**

14 **A. That was actually before I came on.**

15 **Q. Before. When you came on, did you continue that**  
16 **particular I guess request of employees?**

17 **A. There was only two (2) employees and that would be**  
18 **LaTonya and myself. Latonya had already signed before I**  
19 **came on full-time and I too signed a non-compete.**

20 **Q. Okay, and did any of the employees receive**

1 compensation for signing non-competes with the funeral  
2 home?

3 A. Rephrase that.

4 Q. Yeah. Did they get paid, did they get a raise?

5 A. To sign a non-compete?

6 Q. Correct.

7 A. No.

8 Q. Okay, and whose idea to your personal knowledge was  
9 it to have your employees sign non-compete agreement  
10 agreements?

11 A. Not my employees, but Mr. Davis was under the advice  
12 of his attorney at the time.

13 Q. You don't have to tell me about any of that, but it  
14 was through advice of counsel?

15 A. Yes.

16 Q. Okay, and you said before you came on that other  
17 employees had already signed non-competes?

18 A. No. I said Tonya, LaTonya.

19 Q. Before you came on?

20 A. Yes.

1 Q. And there were no other employees that were asked to  
2 sign non-competes other than Tonya?

3 A. Again, LaTonya was the only employee.

4 Q. Oh okay. Where were the corporate records or the  
5 records of the funeral home maintained, location wise?

6 A. During what time?

7 Q. After May 2019, where were the -- after you came on  
8 as employee at the funeral home where were the records  
9 of the funeral home maintained?

10 A. In a safe.

11 Q. And where is the safe located?

12 A. In Mr. Davis's office.

13 Q. Are you telling me twelve (12) years of records are  
14 kept in a safe in Mr. Davis's office?

15 A. I'm telling you that when I came on financials were  
16 kept in the safe. I cannot attest to twelve (12) years  
17 before I was there. When we talked about the twelve  
18 (12) years, let me help you -- help you out.

19 Q. Sure.

20 A. We're talking about files that were purged. We were

1 not talking about financials. We were talking about  
2 descendant files in regard to where the financials were  
3 kept the -- any financial records when I came on in  
4 2019 they were in the safe in Mr. Davis's office.

5 **Q. And when you say financial records what do you mean,**  
6 **can you list specifically what sort of documents were**  
7 **in there?**

8 A. The tax returns, the checkbook, and whatever else he  
9 kept in the safe.

10 **Q. And did you have access to the -- that safe?**

11 A. I did not.

12 **Q. Where were the corporate records for the funeral**  
13 **home maintained?**

14 A. When you ---

15 **Mr. Payne: Object to the form.**

16 A. When you say corporate records ---

17 **Mr. Payne: Go ahead.**

18 **Mr. Butler: You can answer.**

19 A. When you say corporate records please describe ---

20 **Q. Sure.**

1 A. What corporate records you're talking about.

2 Q. Articles of Incorporation, agreements between the  
3 funeral home and other third parties, any transfer of  
4 shares of stock, stock ledger ---

5 A. All of that was held by the attorneys.

6 Q. So there -- it was not at the office at the funeral  
7 home?

8 A. The attorney's office was not at the office at the  
9 funeral home.

10 Q. Okay. Just to make it clear, the corporate records  
11 which includes the filings ---

12 A. So, let's make it even more clear, when you say  
13 corporate records, because ---

14 Q. All right. Let me ---

15 A. There is more in a corporate record than what is  
16 that you are stating.

17 Q. If you don't mind, can you list the specific ones  
18 and where they were maintained then?

19 A. As I listed before, the tax returns, the checkbook,  
20 and any other personal financials Mr. Davis had in

1 there were in his safe.

2 **Q. Okay.**

3 A. If I needed a check, Mr. Davis went to the -- to the  
4 safe. If I needed a copy of a prior tax return Mr.  
5 Davis went to the safe. Your second question or another  
6 question was where was anything dealing with the  
7 articles or ---

8 **Q. Minutes for ---**

9 A. From the South Carolina State ---

10 **Q. The meetings, things like that.**

11 A. That stuff was held by this attorney.

12 **Q. And who was that?**

13 A. Saleeby Law Firm.

14 **Q. And to your personal knowledge Saleeby Law Firm held**  
15 **all of these documents and not at the funeral home?**

16 A. That is correct.

17 **Q. Okay. Now, there is a warehouse behind the funeral**  
18 **home, is that correct?**

19 A. It is.

20 **Q. And what is that warehouse used for?**

1 A. Warehouse, storage just some -- little bit of  
2 everything back there, some caskets, some embalming  
3 machines, some of those files from many years back,  
4 file cabinets ---

5 **Q. File Cabinets?**

6 A. Stuff we need. Cotton, embalming fluid, couple of  
7 squirrels.

8 **Q. Does that also include records of the funeral home**  
9 **whether it be financials or these files that referenced**  
10 **that you purged, were they -- were they located in the**  
11 **warehouse as well?**

12 A. The descendant files that I shredded were.

13 **Q. And do you recall how far back the records went that**  
14 **were maintained at the warehouse?**

15 A. There were records out there at least to the year of  
16 2000.

17 **Q. And going back to the purge whose idea was it to**  
18 **purge the documents?**

19 A. Mine.

20 **Q. Okay. Was it in conjunction with Sam as well or**

1 just you solely?

2 A. Mine.

3 Q. Got you. I'm going to hand you, I guess we can mark  
4 it as an Exhibit, it's a subpoena. It's marked as  
5 Exhibit A but that's because it was part of something  
6 else. This is marked as plaintiff's exhibit one (1).  
7 Are you -- do you have personal knowledge about this  
8 subpoena, have you ever seen it before?

9 A. I have seen it.

10 Plaintiff's Exhibit Number One

11 Q. Okay, and what is the extent of your involvement  
12 with this subpoena?

13 A. None.

14 Q. Okay, when did you see a copy of this subpoena?

15 A. I can't give you an exact time. I was going through  
16 some papers and saw it.

17 Q. So, you would have seen it after you started working  
18 at the funeral home as a full-time employee?

19 A. That is correct.

20 Q. Okay. So, after May 2019?

1 A. That is correct.

2 Q. Okay. Would it be accurate to say you saw this in  
3 2019 sometime?

4 A. That is correct.

5 Q. And did you ever have discussions with Sam about  
6 this subpoena?

7 A. I wouldn't say about this subpoena, no.

8 Q. Have you ever had a discussion with anyone than Sam  
9 about this subpoena?

10 A. Not to my remembrance.

11 Q. Okay, and if you take a look at the middle of the  
12 first page it has documents that's requested, do you  
13 see that? It's all documents which evidence the  
14 transfer of ownership of Young and Young Funeral Home -  
15 --

16 A. I do.

17 Q. From Harold Young to Samuel L. Davis or the current  
18 owners. It's basically asking hey, you got any  
19 evidence here to show if any of the stocks have been  
20 transferred to anybody, correct?

1 A. It says all documents which evidence the transfer of  
2 ownership.

3 Mr. Payne: Yeah.

4 Q. And if you take a look at the last page of the  
5 exhibit under duties in responding to subpoena. It says  
6 that the person responding to a subpoena -- it says  
7 that a person responding to a subpoena to produce  
8 documents shall produce them as they are kept in the  
9 usual course of business. Okay. So -- and this  
10 subpoena and this lawsuit was pending at the time that  
11 you were hired as full-time employee with the funeral  
12 home, correct?

13 A. According to this, yes.

14 Q. Okay.

15 A. According to this paperwork.

16 Q. Okay, and so you were aware of this subpoena and the  
17 lawsuit also in 2020 when you purged documents from the  
18 funeral home?

19 A. As I stated I was not aware of a lawsuit. I saw  
20 this paperwork as I was going through files. This --

1 this as you can see is 2018. I came in May of 2019. I  
2 -- I didn't come in because there was a lawsuit or  
3 knowing anything about a lawsuit or that being a  
4 priority of my employment there.

5 **Q. You weren't aware of the lawsuit in May 2019 when**  
6 **you were first hired?**

7 A. I was not.

8 **Q. But you were aware of the subpoena that was part of**  
9 **this lawsuit?**

10 A. I said I saw this subpoena.

11 **Q. Okay. All right.**

12 A. I did not say aware. There is a difference in  
13 seeing something and being aware of it. If I'm just  
14 flipping through some paperwork I can see this right  
15 now and assume that it's 2023, that this was something  
16 that happened in 2018, I was not aware of a lawsuit.

17 **Q. Okay.**

18 A. When I became employed in May of 2019.

19 **Q. You feel it was not reasonable to go to Sam and say**  
20 **hey, I saw this, what is this?**

1 A. Did I say that I did not?

2 Q. No. Let me ask you then, did you talk to Sam about  
3 this subpoena?

4 A. I did.

5 Q. Okay, and what was your conversation with Sam about  
6 that subpoena?

7 A. That Jim Cox handled it. He has what they want and  
8 handled it.

9 Q. Okay, and after that, you had nothing else to do  
10 with that subpoena?

11 A. I really didn't ever have anything to do with this  
12 subpoena.

13 Q. And what I mean about that, I apologize. You didn't  
14 assist with responding to the documents requested in  
15 this subpoena?

16 A. That is correct.

17 Q. Okay. All right. Now, here's an affidavit that you  
18 had signed in this lawsuit and I'm going to have it  
19 marked.

20

PLAINTIFF'S EXHIBIT NUMBER TWO

1 Q. Want to take a few minutes just to go over that? Who  
2 provided the information that is reflected on the  
3 affidavit attached to the exhibit two (2) in front of  
4 you?

5 A. Conversation between Sam, myself, attorney's common  
6 knowledge of most of it.

7 Q. And you understand affidavits are based on your  
8 personal knowledge, do you understand that?

9 A. I do.

10 Q. okay. I'm just going to ask some questions about  
11 this affidavit. On number one (1), you say that you are  
12 the personal representative of the Estate of Samuel L.  
13 Davis. So has an estate, a probate estate been opened  
14 for Samuel L. Davis in which you have been appointed as  
15 Personal Representative?

16 A. It has.

17 Q. And do you know that date that it was open?

18 A. I do not.

19 Q. And do you know that date it was open?

20 A. I do not.

1 Q. Okay, and how did it come about that you are the  
2 Personal Representative, were you named as the executor  
3 on his last Will and Testament?

4 A. I was.

5 Q. And did you file an original last Will with the  
6 Probate Court to open the estate?

7 A. It was filed. I didn't file it.

8 Q. Okay. Who provided the original last Will to be  
9 filed in the estate of Sam Davis?

10 A. It was taken from his safe.

11 Q. And the safe you are referring to is the safe that  
12 was in his office at the funeral home?

13 A. It is not.

14 Q. It is not. Oh, okay. From what safe was the Last  
15 Will and Testament taken?

16 A. His safe at his home.

17 Q. And going back to my question you didn't answer it.  
18 Was an original Last Will and Testament taken to be  
19 filed with the Probate Court?

20 A. As I stated it was filed, but not by me.

1 Q. Okay, and it says here that the Personal  
2 Representative -- who does Sam designate to receive his  
3 assets in his probate?

4 A. His assets in his probate go fifty (50%) percent to  
5 me and fifty percent (50%) to Charles Davis.

6 Q. Charles Davis?

7 A. That is correct.

8 Q. And who is Charles Davis?

9 A. His nephew, my cousin.

10 Q. Is Charles Davis involved in the funeral home at  
11 all?

12 A. He is not.

13 Q. Was anything left to his daughter LaTonya?

14 A. There was an option to make a purchase of the home  
15 that she formally resided in.

16 Q. And other than the option to purchase, did she  
17 receive anything else from the estate?

18 A. No.

19 Q. And is the option to purchase at fair market value?

20 A. I don't know.

1 Q. Okay, and has LaTonya been notified of the estate  
2 opening and your appointment as the Personal  
3 Representative?

4 A. She has.

5 Q. Okay, and do you have any personal knowledge as to  
6 why LaTonya did not receive any other assets other than  
7 the option to purchase the home?

8 A. That would be a Sam Davis question.

9 Q. I didn't know if you knew, overheard conversations,  
10 or had ---

11 A. We are supposed to be talking about what I know.

12 Q. Exactly, thank you. So, you have no knowledge about  
13 that?

14 A. None.

15 Q. Okay. All right. So, on number four (4) of your  
16 affidavit you referenced a meeting that was held March  
17 19<sup>th</sup>, 1982, do you see that?

18 A. I do.

19 Q. You weren't personally there, correct?

20 A. That is correct.

1 Q. So, you have no personal knowledge about this  
2 meeting?

3 A. I would not say that.

4 Q. How do you have personal knowledge about this  
5 meeting that occurred in 1982?

6 A. Because I remember distinctly Sam tried to  
7 discourage Chellie from walking away from the funeral  
8 home.

9 Q. No. I'm talking about this meeting were you there  
10 physically?

11 A. Again, no I was not at the meeting.

12 Q. Okay. Okay. That's all ---

13 A. Knowledge of it, yes.

14 Q. And on number eight (8) you just make a blanket  
15 statement Sam Davis has been the sole shareholder of  
16 the corporation since March 19, 1982. Again, you have  
17 no personal knowledge of that, correct?

18 A. I made a factual statement that on March 19, 1982,  
19 Sam Davis made the purchase and became the one hundred  
20 (100%) percent shareholder.

1 Q. At a meeting that you did not attend?

2 A. That I had ---

3 Q Okay.

4 A. Full knowledge of.

5 Q. Okay. I got you. You make reference to meeting  
6 minutes, and you actually attached it as an exhibit to  
7 your affidavit.

8 PLAINTIFF'S EXHIBIT NUMBER THREE

9 A. Which -- which ---

10 Q. I will show you in a minute.

11 A. Which line are you referring to?

12 Q. I think it's that same line number four (4), after  
13 the meeting -- now where is it ---

14 A. You went back to number (4)?

15 Q. Makes reference to meeting minutes, just take a  
16 minute to look at that document.

17 A. I've seen this document, yes.

18 Q. So, this document wasn't produced until I believe  
19 sometime last year on behalf of the funeral home  
20 whether it be an attorney or through Sam. Is it fair to

1 state this is dated March 19<sup>th</sup>, 1982?

2 A. As I look at the signatures here there is a date to  
3 the left of it, March 19<sup>th</sup>, 1982.

4 Q. And it looks like it's -- there's a signature of Sam  
5 and Ernestine. I guess her last name used to be Davis  
6 because she was married at the time.

7 A. That is correct.

8 Q. Okay and you have no clue about the signing of this  
9 document, you weren't physically present there when you  
10 saw this signed, correct?

11 A. That is correct.

12 Q. Okay. Now, what's interesting to me is this is a  
13 1982 document so, it's what forty (40), forty-one (41)  
14 years old.

15 A. If you did the math and that's what it is.

16 Q. This is very clear and legible. This is the most  
17 legible document I have seen. I have documents less  
18 than one (1) year old that's not as legible as this.

19 A. Well, if you touched them all the time they probably  
20 wouldn't be.

1 Q. Sure and you see that the information on these  
2 minutes they are pre-set typing, and there is portions  
3 where someone went in and typed information on this  
4 document.

5 Mr. Payne: Dan you want the original?

6 A. That would be an assumption.

7 Mr. Payne: You want to see the originals.

8 Mr. Butler: No.

9 Mr. Payne: Here look at them.

10 Mr. Butler: Yeah. You are saying they're  
11 originals.

12 Mr. Payne: I mean they are. There's an original  
13 signature on it.

14 Mr. Butler: I got you.

15 Mr. Payne: I mean I don't know if you've seen it  
16 but there it is.

17 Mr. Butler: Yeah. I got the same paper in my  
18 office too.

19 Mr. Payne: No, you got a copy.

20 Mr. Butler: I've got that same nice paper in my

1 office.

2 Mr. Payne: And Mr. Cox gave us the book, go ahead.

3 Q. So, this document has -- looks like certain areas  
4 that are typed written. So, for example the second  
5 line on the exhibit is held at and then you see a  
6 different font Saleeby Law Firm, 311 West Home Ave,  
7 Hartsville, South Carolina, do you agree that's a  
8 different font and as the words before that term?

9 A. It could be.

10 Q. So, it looks like someone typed in the information,  
11 would that be fair to state?

12 A. I wasn't there.

13 Q. Sure, yeah.

14 A. I can't attest to that. I'd rather speak on what I  
15 know.

16 Q. Oh I know. You referenced it in your affidavit,  
17 that's why I'm asking you about in your affidavit.

18 A. Yeah. The affidavit simply says here that Exhibit C  
19 is true copy of the minutes of the meeting.

20 Q. Right.

1 A. The minutes of the meeting were received from the  
2 attorney from the corporation book that you spoke of  
3 early. So ---

4 **Q. And someone typed in this information.**

5 A. I can't attest to that, I wasn't there.

6 **Q. Sure. I got you, but you can agree that they're**  
7 **definitely different fonts on different sections of the**  
8 **---**

9 A. I mean if I was signing a lease agreement and I did,  
10 it would be one that is prefabricated you know so I  
11 mean I don't know the extent of this. Just as you look  
12 at the bottom of the page there is an SDM one (1) and  
13 two (2) and a Davis 0021, those are even different, so  
14 I don't know.

15 **Q. I agree.**

16 A. I can't -- I can't attest to that I wasn't there.

17 **Q. Great. So, you have no personal knowledge who typed**  
18 **this information on here?**

19 A. That is correct.

20 **Q. Okay. I'm going to hand you what's been marked as**

1 exhibit, plaintiff's exhibit four (4). Have you seen  
2 this document before?

3 A. I have.

4 Plaintiffs Exhibit Number Four

5 Q. And how did you come about that you have seen the  
6 affidavit of Ernestine Boston which is marked as  
7 plaintiff's exhibit four (4)?

8 A. As I was going through paperwork that Sam had  
9 received, I looked at it and of course, I notarized it  
10 so ---

11 Q. That's what I was going to ask you about, the  
12 notary. So, was Ernestine -- did she sign this in front  
13 of you?

14 A. She did.

15 Q. So, if she testifies that she did not she would be  
16 lying.

17 A. She would.

18 Q. Okay. So, you would attest that is her signature  
19 that's her actual signature?

20 A. It is.

1 Q. Because you witnessed?

2 A. Yes.

3 Q. Now, if you don't mind, look to the second page of  
4 exhibit three (3) and four (4) and I want you to sort  
5 of put close together the signatures of Ernestine on  
6 both these documents. I'm no handwriting expert ---

7 A. Neither am I.

8 Q. You're right, but to your -- just personal  
9 observation of these two (2) signatures, do they look  
10 like they are constant?

11 A. I would say, yes.

12 Q. So, with regards to the letter B, take a look at the  
13 one -- at the meeting minutes it sort of has a loop  
14 comes around and then around on signature the affidavit  
15 where you testified you watched her sign that has this  
16 little flick of the B.

17 A. It does.

18 Q. And those are totally different styles, do you  
19 agree?

20 A. I mean in 1984 how I wrote is not how I write today

1 in 2023, so ---

2 **Q. Sure, sure.**

3 A. I wouldn't put -- shine light on it that I just know  
4 that when she signed it in front of me I knew it was  
5 her.

6 **Q. And if you take a look at the letter E on both the**  
7 **meeting minutes and the affidavit it looks like it's**  
8 **more pronounced rounding of the E.**

9 A. Yeah. It looks like the one in 1982 was written by  
10 a secretary of the school that took the time to  
11 actually write ---

12 **Q. Oh.**

13 A. And on this one it looks like it was a seventy (70)  
14 something-year-old woman, that listens -- was like  
15 listen, let's get this done with.

16 **Q. And where do you base that testimony on?**

17 A. My signature.

18 **Q. Your Signature?**

19 A. Yes, because if you -- if you would take my  
20 signature from 1982 and look at the one now you would

1 be like well what happened in your life.

2 **Q. And if you look at the letter R I mean it's a little**  
3 **bit different right on each of these signatures?**

4 A. I'm not a handwritten expert.

5 **Q. Okay.**

6 A. So, again ---

7 **Q. I'm just going off -- yeah, so is this in your**  
8 **affidavit. You said that the meeting minutes you**  
9 **incorporated and then you also testified that you**  
10 **wanted Ernestine to sign her ---**

11 A. That is correct. I testified that I wanted her to  
12 sign on the affidavit that I notarized and I also  
13 testified that the meeting minutes that were received  
14 from the corporation book that -- that were a part of  
15 that corporation book were as they are.

16 **Q. Did you or did you not instruct Latonya Davis to**  
17 **shred and destroy records of the funeral home?**

18 A. I did not. Latonya's so lazy she wouldn't shred  
19 anything even if I told her.

20 **Q. Okay. Did you or did you not instruct Shirley**

1 Wooten Brewer to shred and destroy funeral records?

2 A. I did not.

3 Q. And earlier you testified that Shirley is an honest  
4 person that she would not lie about something like  
5 this, would that be fair to state?

6 A. It is very fair.

7 Q. So, if she comes forward and says no, Carolyn told  
8 me to shred and destroy she would be lying?

9 A. She would.

10 Q. Okay. Did you have the shredded documents placed in  
11 large trash bags and loaded and taken away by a utility  
12 van?

13 A. They were taken to a shred center where they could  
14 but they could not do them and so I actually had a --  
15 purchased a shred truck, the shred machine, shred it  
16 whatever do it yourself and did them.

17 Q. And what was the company that you rented the truck  
18 and or shredding machine from?

19 A. Shred it.

20 Q. Are they based out of Florence?

1 A. I don't know where they are based out of.

2 Q. But their called Shred it?

3 A. Yes.

4 Q. Okay. So, their records would reflect the date and  
5 time approximately of when you rented these items?

6 A. It would.

7 Q. Okay. I'm just going to take a quick break. Would  
8 you like a break, or do you want to keep going?

9 A. If you need one or we can keep going because ---

10 Mr. Payne: She needs to leave.

11 A. I need to -- no, I've got a funeral.

12 Mr. Butler: What time is it?

13 Mr. Payne: It's eleven (11).

14 Mr. Butler: All right. So, I don't have very much  
15 left.

16 A. Okay.

17 Mr. Butler: I appreciate your candor. Have you ever  
18 been charged with any crime or fraud?

19 A. Yes.

20 Q. Okay. Tell me about that.

1 A. I had bad check charge, yeah bad check.

2 Q. And what years -- let me take it back. How many  
3 charges have you received over your life leading to  
4 fraud with regard to checks?

5 A. Fraudulent checks here were numerous charges. I  
6 would say more than twenty (20).

7 Q. And what was the factual circumstances of these  
8 charges, in other words, was it because you signed  
9 someone else's signature on a check?

10 A. I take full responsibility ---

11 Q. I got you.

12 A. For every fraudulent check that was ever written and  
13 took full responsibility for -- for each charge that  
14 was given.

15 Q. Okay, and it stems all the way back to 1987?

16 A. 1987, right. All the way probably to 2000, when  
17 some of them came to light.

18 Q. And again, going back to my question, were these  
19 checks -- were these charges brought because you signed  
20 someone else's name on a document, the check?

1 A. They were my checks.

2 Q. Okay. They were your checks. Can you explain?

3 A. I wrote a check, and I didn't have the money that  
4 made the check. What we call back then, bounce.

5 Q. Okay.

6 A. And so ---

7 Q. So, these were from accounts that you owned?

8 A. Yes.

9 Q. So, these are bounced checks?

10 A. Yes.

11 Q. Okay, and you never had a charge against you for  
12 writing someone else's name on a check?

13 A. No.

14 Q. Okay, and in these incidences, did you have a number  
15 of convictions for these charges?

16 A. Each check that was written resulted in a  
17 conviction. I was guilty.

18 Q. And did you serve any time for that?

19 A. Yes, I did.

20 Q. And have you ever been charged with failing to

1 **return rented property?**

2 A. And that was -- I don't know the year but U-Haul say  
3 they didn't get a vehicle. Someone didn't do their  
4 job. The charge was dropped because they saw their  
5 era. So, yes that was dismissed for lack of someone  
6 doing their job.

7 **Q. And would you say you've been charged with fraud,**  
8 **fraudulent check on no less than forty (40) times?**

9 A. Well, I said more than twenty (20).

10 **Q. Okay.**

11 A. I make no mis -- no, excuse for it. Actually, today  
12 I thank God for it.

13 **Q. And have you ever been charged with something called**  
14 **breach of trust?**

15 A. Resulting from the check.

16 **Q. Got you.**

17 A. They combined a check together and that was just a  
18 creative way for the DA to do a job.

19 **Q. Okay. Have you ever been charged with simple**  
20 **assault?**

1 A. No.

2 Q. Okay. Never been charged?

3 A. That's not me. That was removed when I got my  
4 weapons. I learned about it then when I got my  
5 concealed weapons.

6 Q. Got you and do you recall the last year, the latest  
7 year you were charged with any charges with fraud?

8 A. I'm thinking it was 2000, but I want -- don't quote  
9 me on that and then it was something that was earlier  
10 years 2002, 2003 something like that.

11 Q. And how about lawsuits, civil lawsuits, not  
12 criminal, civil lawsuits, have you ever been a party to  
13 a civil lawsuit as of today?

14 A. Yes.

15 Q. Okay, and do you have any pending civil lawsuits in  
16 which you are a party?

17 A. I am.

18 Q. Okay, and what -- where is the court that currently  
19 has the pending lawsuit?

20 A. I would think it was Darlington County or Florence.

1 Q. Do you know if it's in civil court?

2 A. It's not in court. It's in mediation.

3 Q. I understand. When the lawsuit was filed they have  
4 to file it at a certain court, do you know ---

5 A. That's what I pay lawyers for to do their job.

6 Q. Got you.

7 A. I do dead people.

8 Q. Okay. So, you have one (1) lawsuit that is  
9 currently pending?

10 A. That I'm aware of.

11 Q. Okay, and who is the plaintiff in that lawsuit?

12 A. Angelo Timmons.

13 Q. And who are the defendants in that lawsuit?

14 A. Carolyn Johnson, Samuel Davis and Young and Young  
15 Funeral Home.

16 Q. And do you know what the charges are or what the  
17 allegations are in the complaint that was filed in that  
18 lawsuit?

19 A. I don't know them verbatim, no.

20 Q. Okay, and were any claims made against you

1 personally as opposed to against the funeral home?

2 A. No.

3 Q. Okay. Other than the currently pending civil action  
4 in which you think Darlington, or did you say Florence  
5 County?

6 A. Florence.

7 Q. Okay. Do you know of any other pending lawsuits in  
8 which you are a named party?

9 A. I do not.

10 Q. Okay. Before this case that's currently pending  
11 have you been named as a party to any other civil  
12 lawsuits?

13 A. I stated earlier, yes.

14 Q. Okay, and beginning with the earliest one, not the  
15 earliest one I'm sorry, the most recent one, can you  
16 tell me what courts they were previously filed in?

17 A. It was -- one (1) was in Richland County, I do not  
18 know the year of it.

19 Q. And were you named as a defendant in that lawsuit?

20 A. I was, yes.

1 Q. Do you remember who the plaintiff was?

2 A. I do not remember her name, no.

3 Q. And were you named personally, were there claims  
4 made against you personally in that lawsuit?

5 A. Yes.

6 Q. And do you remember what the claims were?

7 A. I -- it was a situation with a car that we couldn't  
8 get a title on, and they had paid for it and they just  
9 had to get their money back from the car.

10 Q. Oh, so you sold the car and there was an issue with  
11 the title and they sued you to either get the money or  
12 title?

13 A. Yes.

14 Q. Is that accurate?

15 A. That is correct.

16 Q. What happened with that lawsuit?

17 A. I just gave them the money.

18 Q. Okay. Other than the case in Richland County and  
19 also in Darlington County that is currently pending,  
20 any other civil lawsuits in which your name is a party?

1 A. Not that I remember.

2 Q. Okay. Now, your attorney prepared responses to  
3 certain questions I had in this lawsuit and I -- and  
4 you were listed as a witness regarding Samuel L. Davis  
5 has owned one hundred (100%) outstanding shares of  
6 Young and Young since 1982, correct?

7 A. Yes.

8 Q. You had testified in your affidavit about the sixty-  
9 five (65%) percent.

10 A. What about the sixty-five (65%), can you elaborate?

11 Q. Sure. Your affidavit says that in March of 1982  
12 Chellie sold her sixty-five (65) shares for sixty-five  
13 (\$65,000.00) thousand dollars. Let me clarify that the  
14 one before that the paragraph number three (3) you said  
15 1979, Sam Davis owned thirty-five (35) shares of the  
16 corporation. You don't have any personal knowledge  
17 about that do you, how he obtained that thirty-five  
18 (35) shares?

19 A. I do not.

20 Q. Okay. I think that's all I have. I appreciate it

1 and I thank you for being patient.

2 CROSS EXAMINATION OF CAROLYN JOHNSON BY ATTORNEY

3 JEFFREY PAYNE:

4 Mr. Payne: Just one (1) thing, Carolyn as far as  
5 the thirty-five (35) shares that Sam has in the stock  
6 book, in the stock ledger, does it indicate a  
7 certificate number one for thirty-five (35) shares was  
8 issued to Samuel L. Davis?

9 A. Yes.

10 Q. And what's the date of that entry in the share  
11 certificate ledger?

12 A. March 25<sup>th</sup>, 1980.

13 Q. Okay, and then the ledger indicates for certificate  
14 number two (2) six-fiver shares for Chellie Mack?

15 A. That is correct.

16 Q. And what's the date of that entry?

17 A. March 25<sup>th</sup>, 1980.

18 Q. Does any of the statements that you've made in your  
19 affidavit related to the ownership was all based on --  
20 based on the corporate records or the stock book, is

1 that right?

2 A. Yes sir, that's correct.

3 Mr. Payne: All right. That's all I have.

4 Mr. Butler: All right. Just a follow up on his.

5 Mr. Payne: Be gentle with those pages if you would,  
6 some of them are torn.

7 RE-DIRECT OF CAROLYN JOHNSON BY ATTORNEY DANNY BUTLER:

8 Mr. Butler: You attorney pointed out two (2) stock  
9 certificates one (1) -- one showing thirty-five (35)  
10 and one showing sixty-five (65) each of those pages are  
11 not signed would you confirm that?

12 A. I will confirm that there is no signature.

13 Q. Correct. So, someone had written Sam Davis on 3-25  
14 date putting it there doesn't mean it was done in 1980,  
15 would that be fair to state?

16 A. It would also be fair to state, yes. It would also  
17 be fair to state that -- that Chellie's signature looks  
18 rather similar to all of her other signatures.

19 Q. But you are not a handwriting expert?

20 A. That's correct. Point made.

1 Q. And in fact, Chellie didn't even sign either of  
2 these certificates either?

3 A. Well, the handwriting we were talking about.

4 Q. Oh, you know Chellie's handwriting?

5 A. Well, I've seen it on some of the other things, but  
6 no I don't know Chellie's handwriting and I'm sure not  
7 a handwriting expert.

8 Mr. Butler: Okay. Thank you.

9 END OF THE DEPOSITION OF CAROLYN JOHNSON

10

11

12

13

14

15

16

17

18

19

20



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

**IN WITNESS WHEREOF I have hereunto set my hand and seal this 9th day of March 2023.**

\_\_\_\_\_

**Sandra Allen, Notary Public**

**My Commission expires July 1, 2023**

STATE OF SOUTH CAROLINA

ISSUED BY THE PROBATE COURT IN THE COUNTY OF MARION



Harold Young, II as Personal Representative of the Estate of Chellie Nixon, Plaintiff

v.

SUBPOENA IN A PROBATE CASE

Samuel L. Davis, Registered Agent for the Young and Young Funeral Home, Inc., Defendant

Case Number: 2017-BS-33-99

Pending in Marion County

TO: Samuel L. Davis:

[ ] YOU ARE COMMANDED to appear in the above named court at the place, and time specified below to testify in the above case.

PLACE OF TESTIMONY: COURTROOM
DATE AND TIME: , AM

[ ] YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case.

PLACE OF DEPOSITION: DATE AND TIME: , AM

[X] YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects in your possession, custody or control at the place, date and time specified below (list documents or objects):

All documents which evidence the transfer of ownership of Young and Young Funeral Home, Inc., from Harold Young to Samuel L. Davis or the current owner(s) of Young and Young Funeral Home, Inc. 4/18

PLACE: Robert E. Lee, LLC, 111 Witcover Street, Post Office Box 1096, Marion, South Carolina 29571
DATE AND TIME: March 29, 2018, 10:00 AM

[ ] YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

PREMISES: DATE AND TIME: , AM

ANY SUBPOENAED ORGANIZATION NOT A PARTY TO THIS IS HEREBY DIRECTED TO RULE 30(b)(6), SOUTH CAROLINA RULES OF CIVIL PROCEDURE, TO FILE A DESIGNATION WITH THE COURT SPECIFYING ONE OR MORE OFFICERS, DIRECTORS, OR MANAGING AGENTS, OR OTHER PERSONS WHO CONSENT TO TESTIFY ON ITS BEHALF, SHALL SET FORTH, FOR EACH PERSON DESIGNATED, THE MATTERS ON WHICH HE WILL TESTIFY OR PRODUCE DOCUMENTS OR THINGS. THE PERSON SO DESIGNATED TESTIFY AS TO MATTERS KNOWN OR REASONABLY AVAILABLE TO THE ORGANIZATION

I CERTIFY THAT THE SUBPOENA IS ISSUED IN COMPLIANCE WITH RULE 45(e)(1), AND THAT NOTICE AS REQUIRED BY RULE 45(b)(1) HAS BEEN GIVEN TO ALL PARTIES.

Attorney/Issuing Officer's Signature: [Signature] Date: February 22, 2018 Print Name: Robert E. Lee, Esq.

---

---

Clerk of Court/Issuing Officer's Signature

Date

Print Name

Pro Se Litigant's Name, Address and Telephone Number :

---

---

**PROOF OF SERVICE**

<b>SERVED</b>	DATE <u>2-26-17</u>	<b>FEEES AND MILEAGE TO BE TENDERED TO WITNESS UPON DAILY ARRIVAL</b>  <input type="checkbox"/> YES <input type="checkbox"/> NO AMOUNT \$
	PLACE <u>900 EAST. OLO CANNON RD.</u>	
<b>SERVED ON</b>	<u>SAMUEL L. JAMES</u>	<b>MANNER OF SERVICE</b> <u>Hand Delivered</u>
<b>SERVED BY</b>	<u>M.T. McEnhill</u>	<b>TITLE</b> <u>Process Server</u>

**DECLARATION OF SERVER**

I certify that the foregoing information contained in the Proof of Service is true and correct.  
 Executed on 2-26-17 M.T. McEnhill  
 \_\_\_\_\_  
 SIGNATURE OF SERVER  
 \_\_\_\_\_  
 ADDRESS OF SERVER

Rule 45, South Carolina Rules of Civil Procedures, Parts (c) and (d):

**(c) Protection of Persons Subject to Subpoenas.**

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorney's fee.

(2)(A) A person commanded to produce and permit inspection and copying of designated electronically stored information, books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial. A party or an attorney responsible for the issuance and service of a subpoena for production of books, papers and documents without a deposition shall provide to another party copies of documents so produced upon written request. The party requesting copies shall pay the reasonable costs of reproduction.

(B) Subject to paragraph (d)(2) of this rule, a person commanded to produce and permit inspection and copying may, within 14 days after service of the subpoena or before the time specified for compliance if such time is less than 14 days after service, serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises—or to producing electronically stored information in the form or forms requested. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy the materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time in the court that issued the subpoena for an order to compel the production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3)(A) On timely motion, the court by which a subpoena was issued, or regarding a subpoena commanding appearance at a deposition, or production or inspection directed to a non-party, the court in the county where the non-party resides, is employed or regularly transacts business in person, shall quash or modify the subpoena if it:

(i) fails to allow reasonable time for compliance; or

(ii) requires a person who is not a party nor an officer, director or managing agent of a party, nor a general partner of a partnership that is a party, to travel more than 50 miles from the county where that person resides, is employed or regularly transacts business in person, except that, subject to the provisions of clause (c)(3)(B)(iii) of this rule, such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held; or

(iii) requires disclosure of privileged or otherwise protected matter and no exception or waiver applies; or

(iv) subjects a person to undue burden.

(B) If a subpoena:

(i) requires disclosure of a trade secret or other confidential research, development, or commercial information, or

(ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or

(b) requires a person who is not a party nor an officer, director or managing agent of a party, nor a partner of a partnership that is a party, to incur substantial expense to travel from the place where that person resides, is employed or regularly conducts business in person, the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

**(d) Duties in Responding to Subpoena.**

(1)(A) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(B) If a subpoena does not specify the form or forms for producing electronically stored information, a person responding to a subpoena must produce the information in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) A person responding to a subpoena need not produce the same electronically stored information in more than one form.

(D) A person responding to a subpoena need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or to quash, the person from whom discovery is sought must show that the information sought is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(3)(B). The court may specify conditions for the discovery.

(2)(A) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

(B) If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has and may not use or disclose the information until the claim is resolved. A receiving party may promptly present the information to the court under seal for a determination of the claim. If the receiving party disclosed the information before being notified, the receiving party must take reasonable steps to retrieve the information. The person who produced the information must preserve the information until the claim is resolved.

STATE OF SOUTH CAROLINA

COUNTY OF MARION

In Re: Chellie Nixon

Angela D. Young, as Personal Representative  
for the Estate of Chellie Nixon,

Plaintiff,

v.

Estate of Samuel L. Davis,

Defendant.

IN THE PROBATE COURT

C/A # 2017-ES-33-00099



AFFIDAVIT  
OF  
CAROLYN JOHNSON

Personally appeared before me the undersigned, having been duly sworn, deposes and says as follows:

1. I am the Personal Representative of the Estate of Samuel L. Davis and as such I am in charge of Young and Young Funeral Home, Inc. At his death, Samuel L. Davis ("Sam Davis") was the sole shareholder of Young and Young Funeral Home, Inc. and had been since March 19, 1982.
2. On April 9, 1979, Chellie Nixon f/k/a Chellie Young Mack and Sam Davis incorporated Young and Young Funeral Home, Inc. ("Corporation") which still operates a funeral home in Hartsville, South Carolina. (Exhibit A Articles of Incorporation)
3. Prior to April 1979, the funeral home had been unincorporated and was owned and operated by Harold and Dorothy Young. In 1979, Sam Davis owned 35 shares of the Corporation, while Chellie Nixon owned 65 shares. Exhibit B is a true and correct copy of the Corporation Stock Certificate Ledger.
4. On March 19, 1982, Chellie Nixon sold her 65 shares in the Corporation to Sam Davis for \$65,000. On this date, Chellie Nixon and Sam Davis had a shareholder meeting at the Saleeby Law Firm in Hartsville to effectuate the sale of her shares. In addition to Shelley Mack, Ernestine Davis, Ed Saleeby, Jr. and Sam Davis were present at the meeting. Exhibit C is a true and correct copy of the Minutes of the meeting.
5. As is reflected in the Minutes, Chellie Nixon had misplaced her Share Certificate

TPGL 13214783v1

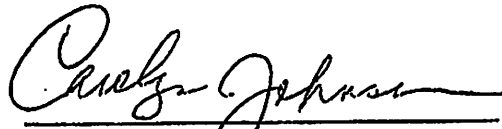
No. 2 and a new Certificate No. 3 was issued to Sam Davis on March 19, 1982. I cannot locate Certificate No. 3, but the Share Certificate Ledger attached hereto as Exhibit ~~A~~ indicates that <sup>Chellie</sup> ~~Shelley~~ Mack's 65 shares were transferred to Sam Davis.

6. Since March 19, 1982, Sam Davis has been the sole shareholder of the Corporation. The Corporation's tax returns have indicated that Sam Davis was the sole shareholder since that time.

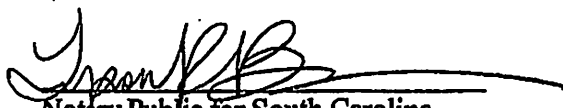
7. The Corporation's former accountant, Peyton Warren, CPA, was able to locate the Schedule G's from the Corporation's 2013 through 2018 tax returns. The Schedule G's attached hereto as Exhibit ~~D~~ are true and correct copies. The Schedule G's state that Sam Davis was the 100% shareholder of the Corporation.

8. Sam Davis has been the sole shareholder of the Corporation since March 19, 1982 and any allegations contained in the Plaintiff's Complaint that state otherwise are simply false.

FURTHER THE AFFIANT SAITH NOT.

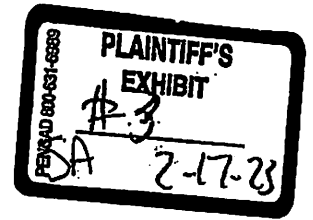
  
CAROLYN JOENSON

Sworn and subscribed to before me  
this 7<sup>th</sup> day of November, 2022

  
Notary Public for South Carolina  
Printed Name: Tyson Keon Brown  
My Commission Expires: 10/05/2032

MINUTES OF THE SPECIAL MEETING OF DIRECTORS  
of

YOUNG AND YOUNG FUNERAL HOME, INC.



The special meeting of directors of the corporation was held at Saleeby Law Firm, 311 W. Home Avenue, Hartsville, S. C. on March 19, 19 82 at 10:00 A. M.

The following directors were present:

Chellie Y. Mack  
Samuel L. Davis

being all the directors of the corporation and a quorum.

Samuel L. Davis was elected chairman of the meeting and Ernestine B. Davis was elected secretary of the meeting.

The secretary then presented and read a waiver of notice of the meeting, subscribed by all the directors of the corporation, and it was ordered that it be appended to the minutes of the meeting.

The chairman then stated that the meeting was called for the purpose of Chellie Y. Mack transferring her full interest in Young and Young Funeral Home, Inc., a total of 65 shares to Samuel L. Davis for \$65,000.00.

Ms. Mack had lost or misplaced her stock certificate and she therefore signed an Affidavit Of Loss and Personal Idemnification Agreement in Connection With Lost Securities.

Stock Certificate Number 3 was issued to Samuel L. Davis for 65 shares. This additional 65 shares gives Samuel L. Davis 100 shares of stock in Young and Young Funeral Home, Inc.

This meeting was also for the purpose of the election of new officers. The new officers are as follows:

Samuel L. Davis	President
Ernestine B. Davis	Secretary

There being no further business before the meeting, on motion duly made, seconded and carried, the meeting adjourned.

Dated March 19, 1982

  
\_\_\_\_\_ chairman

  
\_\_\_\_\_ secretary

The following have been appended to the minutes of the meeting:

Waiver of Notice

STATE OF SOUTH CAROLINA

COUNTY OF MARION

In Re: Chellie Nixon

Angela D. Young, as Personal Representative  
for the Estate of Chellie Nixon,

Plaintiff,

v.

Samuel L. Davis,

Defendant.

IN THE PROBATE COURT

C/A # 2017-ES-33-00099



AFFIDAVIT OF ERNESTINE BOSTON

Personally appeared before me, Ernestine Boston f/k/a Ernestine B. Davis who, being duly sworn, deposes and says as follows:

1. I am a lifelong resident of Darlington County, South Carolina.
2. On March 19, 1982, I attended a meeting ("Meeting") of the directors of Young and Young Funeral Home, Inc. ("Company") which was held at the Saleeby Law Firm in Hartsville, South Carolina.
3. In attendance at the Meeting were Samuel Davis, Chellie Mack, attorney Edward Saleeby, Jr., attorney Edward Saleeby, Sr. and myself.
4. The purpose of the Meeting was to address the sale of Chellie Mack's shares in the Company to Samuel Davis.
5. At the meeting Chellie Mack she sold her 65 shares to Samuel Davis for \$65,000. She stated that she lost her Share Certificate for her shares in the Company and Stock Certificate Number 3 was issued to Samuel L. Davis for 65 shares.
6. After the Meeting, the Saleeby Law Firm prepared the minutes attached hereto and I along with Samuel Davis signed them in 1982 at or about the time of the Meeting. The minutes accurately reflect the business that took place at the Meeting on March 19, 1982 and the fact that Chellie Mack sold all of her shares in the Company to Samuel Davis for \$65,000 in March 1982.

Davis 0051

[SIGNATURE PAGE TO FOLLOW]

FURTHER AFFIANT SAYETH NOT.

Ernestine Boston  
Ernestine Boston

Ernestine Boston

Sworn-to before me  
this 5<sup>th</sup> day of January, 2022.

Carolyn Johnson  
Print Name: Carolyn Johnson  
Notary Public for South Carolina  
My Commission Expires: 11/18/2029