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SC Court of Appeals

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.

RECORD ON APPEAL

Volume 1 of 3

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CERTIFICATE OF APPELLANT

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

July 26, 2024

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STATE OF SOUTH CAROLINA	**IN THE PROBATE COURT**
COUNTY OF MARION	**C/A # 2017-ES-33-00099**
In Re: Chellie Nixon	
Angela D. Young, as Personal Representative for the Estate of Chellie Nixon, Petitioner, v. Estate of Samuel L. Davis, Respondent.	**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

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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

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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 THE COURT OF COMMON PLEAS C/A # 2017-ES-33-00099
In Re: Chellie Nixon Angela D. Young, as Personal Representative for the Estate of Chellie Nixon, Plaintiff, v. Estate of Samuel L. Davis, Defendant.	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).

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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), SCRCP; *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), SCRCP); *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

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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.

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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

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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

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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

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MARION COUNTY
PROBATE JUDGE

FORM 4

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), SCRCP; ☐ Rule 41(a), SCRCP (Vol. Nonsuit); ☐ Rule 43(k), SCRCP (Settled); ☐ Other

☐ **ACTION STRICKEN** (*CHECK REASON*): ☐ Rule 40(j), SCRCP; ☐ 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

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

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.

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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

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,	)	COMPLAINT (Declaratory Judgment) (Fraud)
Plaintiff,	)	
vs.	)	
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

Myrtle Beach, South Carolina
Dated: November 11, 2021

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STATE OF SOUTH CAROLINA	IN THE PROBATE COURT
COUNTY OF MARION	C/A # 2017-ES-33-00099
In Re: Chellie Nixon Angela D. Young, as Personal Representative for the Estate of Chellie Nixon, Plaintiff, v. Samuel L. Davis, Defendant.	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

ATTORNEYS FOR THE DEFENDANT

STATE OF SOUTH CAROLINA	)	IN THE CIRCUIT COURT
COUNTY OF MARION	)	Appeal from Probate Court for Marion County
IN THE MATTER OF: CHELLIE NIXON (Decedent)	)	CASE NUMBER: 2017-ES-33-00099
Angela D. Young, as Personal Representative for the Estate of Chellie Nixon, Appellant(s), vs. Carolyn Johnson, as Personal Representative for the Estate of Samuel L. Davis, Respondent(s).	)	**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.

Respectfully submitted,

SWORN to before me this 20th day of August, 2023.

Notary Public for: S.C
My Commission Expires: 2030

APRIL SMITH NOTARY PUBLIC My Comm. Exp. Jul 16, 2030 STATE OF SOUTH CAROLINA

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@butlerlaw.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.

FORM #356ES (1/2014)
62-1-308

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

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.
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(843) 662-9008

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

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

FORM 4

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), SCRCP; ☐ Rule 41(a), SCRCP (Vol. Nonsuit); ☐ Rule 43(k), SCRCP (Settled); ☐ Other

☐ **ACTION STRICKEN** (*CHECK REASON*): ☐ Rule 40(j), SCRCP; ☐ 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

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

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

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.

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

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

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 FILED - 2024 Mar 15 11:22 AM - MARION - COMMON PLEAS - CASE#2023CP330472

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

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**

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

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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), SCRCP; *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), SCRCP); *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

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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.

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MARION COUNTY
PROBATE JUDGE

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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

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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

ELECTRONICALLY FILED - 2024 Mar 15 11:22 AM - MARION - COMMON PLEAS - CASE#2023CP330472

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)
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A P P E A R A N C E S

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For the Respondent:
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By: Jeffrey L. Payne, Esq.
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Also present: Angela Young, Carolyn Johnson

I N D E X

Proceedings 3

E X H I B I T S

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

**uh-huh = affirmative
huh-uh = negative

P R O C E E D I N G S:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

THE COURT: For 65,000 dollars?

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

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

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

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

THE COURT: That was filed November 30th?

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

MS. JOHNSON: October of last year, 2022.

THE COURT: 2022, okay.

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

THE COURT: Okay.

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

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

MR. PAYNE: Yes, sir.

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

MS. JOHNSON: Yes, sir, I am.

THE COURT: All right. Mr. Butler,

I'll turn it over to you, sir.

MR. BUTLER: Thank you, Your Honor. May it please The Court. Before I begin, Your Honor, I did not have an opportunity to file this morning. There's two deposition transcripts that I will be filing right after this.

THE COURT: Okay.

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

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

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

THE COURT: Okay.

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

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

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

THE COURT: Yeah. Okay.

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

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

THE COURT: At the time...

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

THE COURT: Okay.

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

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

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

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

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

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

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

21.

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

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

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

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

Well, she told me so.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

documents. And she refused and Sam left angry.

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

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

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

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

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

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

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

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

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

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

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

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

Now, who else are potnential witnesses here? Well, you got Latonya Davis, who is the

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

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

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

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

So when you take a look at the entire

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

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

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

MR. PAYNE: No, you can't.

MR. BUTLER: For breach of trust?

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

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

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

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

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

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

MR. BUTLER: No knowledge.

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

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

THE COURT: Okay.

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

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

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

MR. PAYNE: Just briefly, Your Honor. I want to go back to the first point that I made as far as the -- the hurdle they have to get over is the connection between Harold Young's estate and Dorothy Young's estate. Their whole complaint is based on the fact that Dorothy Young and Harold Young's estate somehow left them this corporation. And it didn't. The corporation doesn't exist. And what happened is when the Youngs died,

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

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

But if you focus on the whole issue and

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

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

THE COURT: That was -- that was in

1982?

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

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

MR. PAYNE: I'm sorry. Chell--- Ms. Boston signed the minutes. So as you know, there's a dead-man statute. They can't be getting in to what the decedent told them, you know, on their death bed. That's not allowed as testimony. And this whole bit about the filing cabinets, the subpoena they're basing this stuff is Robert Lee sends out a subpoena, it says, 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 owners of Young and Young Funeral Home, Inc. We have given 'em every piece of paper we have that relates to the

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

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

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

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

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

THE COURT: Okay.

MR. BUTLER: -- just the corporate

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

THE COURT: Yeah.

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

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

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

MR. PAYNE: Thank you, Judge --

MR. BUTLER: Thank you, Your Honor.

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

CERTIFICATE OF REPORTER

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

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

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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.

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

A. I affirm.

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

A. Carolyn Johnson.

Court Reporter: Thank you.

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

A. Likewise.

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

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

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

A. Yes, I have.

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

A. Workers Comp.

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

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

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

A. That is correct.

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

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

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

A. Yes, it is.

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

A. Yes, I do.

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

A. It would be fair.

Q. Okay. If there are any questions that I ask you that you do not understand or if you need me to rephrase it because it does not make sense because sometimes I do that, you are free to let me know, hey can you rephrase it or can you repeat it, is that fair?
A. I will.
Q. Very good. So, this is not you know something that I am trying to trick you with anything. So, if my questions sound tricky, I apologize that's not my purpose or intent. What I am trying to do is try and figure out what you know about the claims in this lawsuit, is that fair?
A. Yes, it is.
Q. Okay. So, before -- if you need to take a break for any reason I'm happy to take a break just let me know and if you need to do anything else where you need to stop the deposition for any period of time let me know that as well, okay?
A. Okay.
Q. And once the deposition starts and you do end up

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

A. I do.

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

A. Okay.

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

A. I will.

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

A. I have not.

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

you are taking today?

A. I have not.

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

A. I have not.

Q. Before today.

A. I'm sorry. I have not.

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

A. That is correct.

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

A. That is correct.

Q. Is that your current legal name?

A. That is correct.

Q. And what is your maiden name?

A. Cranford, Carolyn Cranford.

Q. Okay. Is Cranford your middle name now?

A. No, it's Carolyn Ann Johnson.

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

A. No E.

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

A. No, you said legal.

Q. Correct, correct.

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

Q. Okay.

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

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

A. Carolyn Ann Johnson.

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

A. There may be.

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

A. My business card has Carolyn Cranford Johnson.

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

A. Yes, it is.

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

A. Because Carolyn Johnson is a very popular name.

Q. Okay.

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

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

A. Ann is an old people name.

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

A. 11-11-1965.

Q. And how about your social security number?

A. It is XXX-XX-0227.

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

A. 843-858-9793.

Q. And what is your current home address?

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

Q. How far is that from the funeral home?

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

Q. Sure.

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

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

A. Since June of 2019.

Q. And where did you live before June 2019?

A. Sepia Court, 218 Sepia Court.

Q. And what city is that?

A. Columbia, South Carolina 29229.

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

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

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

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

Q. Okay.

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

Q. Are you currently married?

A. I am not.

Q. Have you ever been married?

A. I have.

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

A. Demetrius Johnson.

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

A. 2005, March of 2005.

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

A. I did.

Q. And what year was that divorce?

A. March of 2020.

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

A. No, we did not.

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

A. Yes, I do.

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

A. Four (4).

Q. And what are their names?

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

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

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

Q. Okay and what about Jeremey and Jamaius?

A. They are both in Columbia.

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

A. They do not.

Q. Oh, what are their last names?

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

Q. Two (2) N's?

A. That is correct.

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

A. Hartsville High School.

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

A. With a diploma in 1984.

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

A. I did.

Q. And where did you attend?

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

Q. And is that in the order of attendance?

A. It is.

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

A. I did not.

Q. When did you attend SC State?

A. 1989.

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

A. I did not.

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

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

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

A. I did not.

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

A. 1982. I'm sorry 1992.

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

A. I did.

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

A. Bachelors in business.

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

A. Three (3) years.

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

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

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

A. Yes I did.

Q. And what were those ---

A. Accounting ---

Q. Degrees?

A. Degree.

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

A. I am not.

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

A. I do not.

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

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

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

A. For myself. I have my own business.

Q. So are you a tax preparer?

A. I am a tax professional.

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

A. It is.

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

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

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

A. Individuals and sole proprietors.

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

A. 303 South 5th Street in Hartsville, South Carolina.

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

A. Since 1998.

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

A. I do.

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

A. Resource One Affordable Tax Prep.

Q. Is that an LLC?

A. It is not.

Q. Is it a sole proprietorship?

A. Sole proprietors it is.

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

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

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

A. Director of Operations, Licensed Funeral Director.

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

A. Yes, you do.

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

A. Yes, I did.

Q. And how did you achieve that?

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

Q. Okay.

A. The exam.

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

A. They issue a license.

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

A. Since May of 2022.

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

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

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

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

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

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

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

A. I prefer you to use Sam.

Q. Sam, okay.

A. Yeah. He wouldn't like Sammy.

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

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

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

A. That is incorrect.

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

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

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

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

Q. Oh I got you.

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

Q. Okay.

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

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

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

A. That is correct.

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

A. That is correct.

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

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

remember.

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

A. I went into the military.

Q. Oh.

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

Q. Got you and which service did you join?

A. Army.

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

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

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

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

Q. Got you.

A. Reserve.

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

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

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

A. Went into the workforce.

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

A. Mostly restaurants.

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

A. Just occasionally.

Q. Okay.

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

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

A. I'm sure.

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

A. May of 2019.

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

A. That is correct.

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

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

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

A. That is correct.

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

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

Q. And what was your initial salary?

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

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

A. Bi-weekly.

Q. And how much would your checks be?

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

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

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

Q. Okay.

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

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

A. Sam is not vocal like that.

Q. Oh okay.

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

I know.

Q. Okay.

A. So.

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

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

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

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

Q. Sure, sure.

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

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

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

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

Q. Got you.

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

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

A. Katherine or Brandy at Holt & Holt CPA.

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

A. It is here in Florence.

Q. Okay.

A. 1520 American Drive.

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

the position you were hired for?

A. Office Assistant.

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

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

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

A. No, sir.

Q. Okay.

A. My apprentice started in October of 2019.

Q. Okay.

A. October 3rd.

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

A. I became an apprentice funeral director.

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

A. They did.

Q. And how did they change?

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

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

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

Q. Got you.

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

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

at the funeral home are licensed funeral directors?

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

Court Reporter: Can you spell that last name?

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

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

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

Q. Okay.

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

Q. Got you.

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

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

A. Correct.

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

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

Q. Okay.

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

Q. I got you.

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

Q. Okay.

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

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

A. Yes.

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

as a signatory for the funeral home operating account?

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

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

A. Most definitely.

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

A. Again, I cannot attest to the date.

Q. But it was definitely after May of 2019?

A. Yes.

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

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

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

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

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

A. It is.

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

A. At that time it was.

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

A. Not that I remember.

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

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

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

A. It does.

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

A. During which time are we asking?

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

A. Yes, it was LaTonya Davis.

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

A. That is correct.

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

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

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

A. Yes, if they no longer worked there.

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

A. Shirley Brewer.

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

A. No.

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

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

A. It is.

Q. Do you know when they occurred?

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

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

A. It would.

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

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

Q. Citizens Bank?

A. The Citizens.

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

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

Q. You mean personal payments, you talking about his

personal expenses?

A. That is correct.

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

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

Q. Sam ever make you his Power of Attorney?

A. No.

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

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

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

A. I cannot remember.

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

A. I would have to refer.

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

A. I was.

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

A. That is correct.

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

A. There was not.

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

A. No.

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

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

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

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

A. I don't.

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

A. Yes.

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

A. Yes.

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

A. Yes.

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

A. No.

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

A. No.

Q. Okay.

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

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

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

depended upon what you really constitute as a friend. Again, I call you friend and I really don't know you so I would say that she was friendly.

Q. Is that how you would characterize your relationship, it was a friendly relationship between you too?

A. Yes.

Q. Okay. Did ya'll ever do anything social, go out for drinks or go out to dinner or anything like that?

A. We'd go to dinner.

Q. You have anything personal against Shirley for any reason?

A. No.

Q. Okay, and based on your experience with Shirley would you consider her to be a truthful person?

A. Yes.

Q. What about Ernestine how would you -- Ernestine Boston, how would you describe your relationship with her?

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

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

A. Yes.

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

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

Q. Okay.

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

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

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

Q. Got you.

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

Q. Got you.

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

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

A. I don't have the rapport.

Q. Rapport, okay.

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

Q. I got you.

A. It's not that type of.

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

A. That is correct.

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

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

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

A. No.

Q. Or have drinks.

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

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

A. Friendly.

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

truthfulness?

A. I wouldn't trust her, no.

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

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

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

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

Q. Sure.

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

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

A. Once.

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

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

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

A. It was not a check.

Q. Oh.

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

Q. Oh it was a batch of checks?

A. Yes.

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

A. Yes.

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

operations cash payments correct?

A. That is correct.

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

A. No.

Q. With the funeral home?

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

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

A. She was average.

Q. And LaTonya ultimately resigned, is that correct?

A. That is correct.

Q. And do you know what year she resigned?

A. Last year 2022.

Q. And do you know why LaTonya resigned?

A. I have no idea.

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

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

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

A. Oh and off, yes.

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

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

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

A. Not to my knowledge.

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

A. I am not understanding your question.

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

what is the general policy about retaining that information and or documents in regard to the funeral home operations?

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

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

A. Seventy-five (75).

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

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

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

A. I didn't say that.

Q. Okay.

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

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

A. Now, right.

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

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

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

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

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

A. I cannot speak on them.

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

include files that included corporate documents for the funeral home?

A. No, they did not.

Q. They did not?

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

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

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

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

A. Break that, okay.

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

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

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

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

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

A. Yes.

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

A. No.

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

A. That is correct.

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

A. I am.

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

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

Q. I understand that.

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

Q. Yeah. I understand that.

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

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

Q. No, I understand that.

A. Because that is what was shredded.

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

A. And as I stated ---

Q. Were any of those documents ---

A. Preciously ---

Mr. Payne: Hey.

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

question ---

A. They were not destroyed.

Q. Okay.

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

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

Mr. Payne: She has.

Mr. Butler: No, she hasn't.

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

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

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

Mr. Butler: Jeff chill out.

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

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

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

Mr. Butler: Yes, I can ---

Mr. Payne: Sit here and ask ---

Mr. Butler: Because it's not clear.

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

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

Mr. Payne: No.

Mr. Butler: This is my deposition.

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

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

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

Mr. Butler: Right.

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

Mr. Butler: That's right.

Mr. Payne: She told you no.

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

Mr. Payne: Ask the question specifically.

Mr. Butler: I did.

Mr. Payne: And quit using the word documents.

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

A. Again I say no.

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

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

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

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

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

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

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

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

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

Q. Okay.

A. There was no -- any of that.

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

A. Correct.

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

A. That was actually before I came on.

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

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

Q. Okay, and did any of the employees receive

compensation for signing non-competes with the funeral home?

A. Rephrase that.

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

A. To sign a non-compete?

Q. Correct.

A. No.

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

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

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

A. Yes.

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

A. No. I said Tonya, LaTonya.

Q. Before you came on?

A. Yes.

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

A. Again, LaTonya was the only employee.

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

A. During what time?

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

A. In a safe.

Q. And where is the safe located?

A. In Mr. Davis's office.

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

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

Q. Sure.

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

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

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

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

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

A. I did not.

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

A. When you ---

Mr. Payne: Object to the form.

A. When you say corporate records ---

Mr. Payne: Go ahead.

Mr. Butler: You can answer.

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

Q. Sure.

A. What corporate records you're talking about.
Q. Articles of Incorporation, agreements between the funeral home and other third parties, any transfer of shares of stock, stock ledger ---
A. All of that was held by the attorneys.
Q. So there -- it was not at the office at the funeral home?
A. The attorney's office was not at the office at the funeral home.
Q. Okay. Just to make it clear, the corporate records which includes the filings ---
A. So, let's make it even more clear, when you say corporate records, because ---
Q. All right. Let me ---
A. There is more in a corporate record than what is that you are stating.
Q. If you don't mind, can you list the specific ones and where they were maintained then?
A. As I listed before, the tax returns, the checkbook, and any other personal financials Mr. Davis had in

there were in his safe.

Q. Okay.

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

Q. Minutes for ---

A. From the South Carolina State ---

Q. The meetings, things like that.

A. That stuff was held by this attorney.

Q. And who was that?

A. Saleeby Law Firm.

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

A. That is correct.

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

A. It is.

Q. And what is that warehouse used for?

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

Q. File Cabinets?

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

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

A. The descendant files that I shredded were.

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

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

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

A. Mine.

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

just you solely?

A. Mine.

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

A. I have seen it.

Plaintiff's Exhibit Number One

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

A. None.

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

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

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

A. That is correct.

Q. Okay. So, after May 2019?

A. That is correct.

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

A. That is correct.

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

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

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

A. Not to my remembrance.

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

A. I do.

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

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

Mr. Payne: Yeah.

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

A. According to this, yes.

Q. Okay.

A. According to this paperwork.

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

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

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

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

A. I was not.

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

A. I said I saw this subpoena.

Q. Okay. All right.

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

Q. Okay.

A. When I became employed in May of 2019.

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

A. Did I say that I did not?

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

A. I did.

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

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

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

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

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

A. That is correct.

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

PLAINTIFF'S EXHIBIT NUMBER TWO

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

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

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

A. I do.

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

A. It has.

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

A. I do not.

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

A. I do not.

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

A. I was.

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

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

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

A. It was taken from his safe.

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

A. It is not.

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

A. His safe at his home.

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

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

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

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

Q. Charles Davis?

A. That is correct.

Q. And who is Charles Davis?

A. His nephew, my cousin.

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

A. He is not.

Q. Was anything left to his daughter LaTonya?

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

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

A. No.

Q. And is the option to purchase at fair market value?

A. I don't know.

Q. Okay, and has LaTonya been notified of the estate opening and your appointment as the Personal Representative?

A. She has.

Q. Okay, and do you have any personal knowledge as to why LaTonya did not receive any other assets other than the option to purchase the home?

A. That would be a Sam Davis question.

Q. I didn't know if you knew, overheard conversations, or had ---

A. We are supposed to be talking about what I know.

Q. Exactly, thank you. So, you have no knowledge about that?

A. None.

Q. Okay. All right. So, on number four (4) of your affidavit you referenced a meeting that was held March 19th, 1982, do you see that?

A. I do.

Q. You weren't personally there, correct?

A. That is correct.

Q. So, you have no personal knowledge about this meeting?

A. I would not say that.

Q. How do you have personal knowledge about this meeting that occurred in 1982?

A. Because I remember distinctly Sam tried to discourage Chellie from walking away from the funeral home.

Q. No. I'm talking about this meeting were you there physically?

A. Again, no I was not at the meeting.

Q. Okay. Okay. That's all ---

A. Knowledge of it, yes.

Q. And on number eight (8) you just make a blanket statement Sam Davis has been the sole shareholder of the corporation since March 19, 1982. Again, you have no personal knowledge of that, correct?

A. I made a factual statement that on March 19, 1982, Sam Davis made the purchase and became the one hundred (100%) percent shareholder.

Q. At a meeting that you did not attend?

A. That I had ---

Q Okay.

A. Full knowledge of.

Q. Okay. I got you. You make reference to meeting minutes, and you actually attached it as an exhibit to your affidavit.

PLAINTIFF'S EXHIBIT NUMBER THREE

A. Which -- which ---

Q. I will show you in a minute.

A. Which line are you referring to?

Q. I think it's that same line number four (4), after the meeting -- now where is it ---

A. You went back to number (4)?

Q. Makes reference to meeting minutes, just take a minute to look at that document.

A. I've seen this document, yes.

Q. So, this document wasn't produced until I believe sometime last year on behalf of the funeral home whether it be an attorney or through Sam. Is it fair to

state this is dated March 19th, 1982?

A. As I look at the signatures here there is a date to the left of it, March 19th, 1982.

Q. And it looks like it's -- there's a signature of Sam and Ernestine. I guess her last name used to be Davis because she was married at the time.

A. That is correct.

Q. Okay and you have no clue about the signing of this document, you weren't physically present there when you saw this signed, correct?

A. That is correct.

Q. Okay. Now, what's interesting to me is this is a 1982 document so, it's what forty (40), forty-one (41) years old.

A. If you did the math and that's what it is.

Q. This is very clear and legible. This is the most legible document I have seen. I have documents less than one (1) year old that's not as legible as this.

A. Well, if you touched them all the time they probably wouldn't be.

Q. Sure and you see that the information on these minutes they are pre-set typing, and there is portions where someone went in and typed information on this document.

Mr. Payne: Dan you want the original?

A. That would be an assumption.

Mr. Payne: You want to see the originals.

Mr. Butler: No.

Mr. Payne: Here look at them.

Mr. Butler: Yeah. You are saying they're originals.

Mr. Payne: I mean they are. There's an original signature on it.

Mr. Butler: I got you.

Mr. Payne: I mean I don't know if you've seen it but there it is.

Mr. Butler: Yeah. I got the same paper in my office too.

Mr. Payne: No, you got a copy.

Mr. Butler: I've got that same nice paper in my

office.

Mr. Payne: And Mr. Cox gave us the book, go ahead.

Q. So, this document has -- looks like certain areas that are typed written. So, for example the second line on the exhibit is held at and then you see a different font Saleeby Law Firm, 311 West Home Ave, Hartsville, South Carolina, do you agree that's a different font and as the words before that term?

A. It could be.

Q. So, it looks like someone typed in the information, would that be fair to state?

A. I wasn't there.

Q. Sure, yeah.

A. I can't attest to that. I'd rather speak on what I know.

Q. Oh I know. You referenced it in your affidavit, that's why I'm asking you about in your affidavit.

A. Yeah. The affidavit simply says here that Exhibit C is true copy of the minutes of the meeting.

Q. Right.

A. The minutes of the meeting were received from the attorney from the corporation book that you spoke of early. So ---

Q. And someone typed in this information.

A. I can't attest to that, I wasn't there.

Q. Sure. I got you, but you can agree that they're definitely different fonts on different sections of the ---

A. I mean if I was signing a lease agreement and I did, it would be one that is prefabricated you know so I mean I don't know the extent of this. Just as you look at the bottom of the page there is an SDM one (1) and two (2) and a Davis 0021, those are even different, so I don't know.

Q. I agree.

A. I can't -- I can't attest to that I wasn't there.

Q. Great. So, you have no personal knowledge who typed this information on here?

A. That is correct.

Q. Okay. I'm going to hand you what's been marked as

exhibit, plaintiff's exhibit four (4). Have you seen this document before?

A. I have.

Plaintiffs Exhibit Number Four

Q. And how did you come about that you have seen the affidavit of Ernestine Boston which is marked as plaintiff's exhibit four (4)?

A. As I was going through paperwork that Sam had received, I looked at it and of course, I notarized it so ---

Q. That's what I was going to ask you about, the notary. So, was Ernestine -- did she sign this in front of you?

A. She did.

Q. So, if she testifies that she did not she would be lying.

A. She would.

Q. Okay. So, you would attest that is her signature that's her actual signature?

A. It is.

Q. Because you witnessed?

A. Yes.

Q. Now, if you don't mind, look to the second page of exhibit three (3) and four (4) and I want you to sort of put close together the signatures of Ernestine on both these documents. I'm no handwriting expert ---

A. Neither am I.

Q. You're right, but to your -- just personal observation of these two (2) signatures, do they look like they are constant?

A. I would say, yes.

Q. So, with regards to the letter B, take a look at the one -- at the meeting minutes it sort of has a loop comes around and then around on signature the affidavit where you testified you watched her sign that has this little flick of the B.

A. It does.

Q. And those are totally different styles, do you agree?

A. I mean in 1984 how I wrote is not how I write today

in 2023, so ---

Q. Sure, sure.

A. I wouldn't put -- shine light on it that I just know that when she signed it in front of me I knew it was her.

Q. And if you take a look at the letter E on both the meeting minutes and the affidavit it looks like it's more pronounced rounding of the E.

A. Yeah. It looks like the one in 1982 was written by a secretary of the school that took the time to actually write ---

Q. Oh.

A. And on this one it looks like it was a seventy (70) something-year-old women, that listens -- was like listen, let's get this done with.

Q. And where do you base that testimony on?

A. My signature.

Q. Your Signature?

A. Yes, because if you -- if you would take my signature from 1982 and look at the one now you would

be like well what happened in your life.

Q. And if you look at the letter R I mean it's a little bit different right on each of these signatures?

A. I'm not a handwritten expert.

Q. Okay.

A. So, again ---

Q. I'm just going off -- yeah, so is this in your affidavit. You said that the meeting minutes you incorporated and then you also testified that you wanted Ernestine to sign her ---

A. That is correct. I testified that I wanted her to sign on the affidavit that I notarized and I also testified that the meeting minutes that were received from the corporation book that -- that were a part of that corporation book were as they are.

Q. Did you or did you not instruct Latonya Davis to shred and destroy records of the funeral home?

A. I did not. Latonya's so lazy she wouldn't shred anything even if I told her.

Q. Okay. Did you or did you not instruct Shirley

Wooten Brewer to shred and destroy funeral records?

A. I did not.

Q. And earlier you testified that Shirley is an honest person that she would not lie about something like this, would that be fair to state?

A. It is very fair.

Q. So, if she comes forward and says no, Carolyn told me to shred and destroy she would be lying?

A. She would.

Q. Okay. Did you have the shredded documents placed in large trash bags and loaded and taken away by a utility van?

A. They were taken to a shred center where they could but they could not do them and so I actually had a -- purchased a shred truck, the shred machine, shred it whatever do it yourself and did them.

Q. And what was the company that you rented the truck and or shredding machine from?

A. Shred it.

Q. Are they based out of Florence?

A. I don't know where they are based out of.

Q. But their called Shred it?

A. Yes.

Q. Okay. So, their records would reflect the date and time approximately of when you rented these items?

A. It would.

Q. Okay. I'm just going to take a quick break. Would you like a break, or do you want to keep going?

A. If you need one or we can keep going because ---

Mr. Payne: She needs to leave.

A. I need to -- no, I've got a funeral.

Mr. Butler: What time is it?

Mr. Payne: It's eleven (11).

Mr. Butler: All right. So, I don't have very much left.

A. Okay.

Mr. Butler: I appreciate your candor. Have you ever been charged with any crime or fraud?

A. Yes.

Q. Okay. Tell me about that.

A. I had bad check charge, yeah bad check.

Q. And what years -- let me take it back. How many charges have you received over your life leading to fraud with regard to checks?

A. Fraudulent checks here were numerous charges. I would say more than twenty (20).

Q. And what was the factual circumstances of these charges, in other words, was it because you signed someone else's signature on a check?

A. I take full responsibility ---

Q. I got you.

A. For every fraudulent check that was ever written and took full responsibility for -- for each charge that was given.

Q. Okay, and it stems all the way back to 1987?

A. 1987, right. All the way probably to 2000, when some of them came to light.

Q. And again, going back to my question, were these checks -- were these charges brought because you signed someone else's name on a document, the check?

A. They were my checks.

Q. Okay. They were your checks. Can you explain?

A. I wrote a check, and I didn't have the money that made the check. What we call back then, bounce.

Q. Okay.

A. And so ---

Q. So, these were from accounts that you owned?

A. Yes.

Q. So, these are bounced checks?

A. Yes.

Q. Okay, and you never had a charge against you for writing someone else's name on a check?

A. No.

Q. Okay, and in these incidences, did you have a number of convictions for these charges?

A. Each check that was written resulted in a conviction. I was guilty.

Q. And did you serve any time for that?

A. Yes, I did.

Q. And have you ever been charged with failing to

return rented property?

A. And that was -- I don't know the year but U-Haul say they didn't get a vehicle. Someone didn't do their job. The charge was dropped because they saw their era. So, yes that was dismissed for lack of someone doing their job.

Q. And would you say you've been charged with fraud, fraudulent check on no less than forty (40) times?

A. Well, I said more than twenty (20).

Q. Okay.

A. I make no mis -- no, excuse for it. Actually, today I thank God for it.

Q. And have you ever been charged with something called breach of trust?

A. Resulting from the check.

Q. Got you.

A. They combined a check together and that was just a creative way for the DA to do a job.

Q. Okay. Have you ever been charged with simple assault?

A. No.

Q. Okay. Never been charged?

A. That's not me. That was removed when I got my weapons. I learned about it then when I got my concealed weapons.

Q. Got you and do you recall the last year, the latest year you were charged with any charges with fraud?

A. I'm thinking it was 2000, but I want -- don't quote me on that and then it was something that was earlier years 2002, 2003 something like that.

Q. And how about lawsuits, civil lawsuits, not criminal, civil lawsuits, have you ever been a party to a civil lawsuit as of today?

A. Yes.

Q. Okay, and do you have any pending civil lawsuits in which you are a party?

A. I am.

Q. Okay, and what -- where is the court that currently has the pending lawsuit?

A. I would think it was Darlington County or Florence.

Q. Do you know if it's in civil court?

A. It's not in court. It's in mediation.

Q. I understand. When the lawsuit was filed they have to file it at a certain court, do you know ---

A. That's what I pay lawyers for to do their job.

Q. Got you.

A. I do dead people.

Q. Okay. So, you have one (1) lawsuit that is currently pending?

A. That I'm aware of.

Q. Okay, and who is the plaintiff in that lawsuit?

A. Angelo Timmons.

Q. And who are the defendants in that lawsuit?

A. Carolyn Johnson, Samuel Davis and Young and Young Funeral Home.

Q. And do you know what the charges are or what the allegations are in the complaint that was filed in that lawsuit?

A. I don't know them verbatim, no.

Q. Okay, and were any claims made against you

personally as opposed to against the funeral home?

A. No.

Q. Okay. Other than the currently pending civil action in which you think Darlington, or did you say Florence County?

A. Florence.

Q. Okay. Do you know of any other pending lawsuits in which you are a named party?

A. I do not.

Q. Okay. Before this case that's currently pending have you been named as a party to any other civil lawsuits?

A. I stated earlier, yes.

Q. Okay, and beginning with the earliest one, not the earliest one I'm sorry, the most recent one, can you tell me what courts they were previously filed in?

A. It was -- one (1) was in Richland County, I do not know the year of it.

Q. And were you named as a defendant in that lawsuit?

A. I was, yes.

Q. Do you remember who the plaintiff was?

A. I do not remember her name, no.

Q. And were you named personally, were there claims made against you personally in that lawsuit?

A. Yes.

Q. And do you remember what the claims were?

A. I -- it was a situation with a car that we couldn't get a title on, and they had paid for it and they just had to get their money back from the car.

Q. Oh, so you sold the car and there was an issue with the title and they sued you to either get the money or title?

A. Yes.

Q. Is that accurate?

A. That is correct.

Q. What happened with that lawsuit?

A. I just gave them the money.

Q. Okay. Other than the case in Richland County and also in Darlington County that is currently pending, any other civil lawsuits in which your name is a party?

A. Not that I remember.

Q. Okay. Now, your attorney prepared responses to certain questions I had in this lawsuit and I -- and you were listed as a witness regarding Samuel L. Davis has owned one hundred (100%) outstanding shares of Young and Young since 1982, correct?

A. Yes.

Q. You had testified in your affidavit about the sixty-five (65%) percent.

A. What about the sixty-five (65%), can you elaborate?

Q. Sure. Your affidavit says that in March of 1982 Chellie sold her sixty-five (65) shares for sixty-five ($65,000.00) thousand dollars. Let me clarify that the one before that the paragraph number three (3) you said 1979, Sam Davis owned thirty-five (35) shares of the corporation. You don't have any personal knowledge about that do you, how he obtained that thirty-five (35) shares?

A. I do not.

Q. Okay. I think that's all I have. I appreciate it

and I thank you for being patient.

CROSS EXAMINATION OF CAROLYN JOHNSON BY ATTORNEY JEFFREY PAYNE:

Mr. Payne: Just one (1) thing, Carolyn as far as the thirty-five (35) shares that Sam has in the stock book, in the stock ledger, does it indicate a certificate number one for thirty-five (35) shares was issued to Samuel L. Davis?

A. Yes.

Q. And what's the date of that entry in the share certificate ledger?

A. March 25th, 1980.

Q. Okay, and then the ledger indicates for certificate number two (2) six-fiver shares for Chellie Mack?

A. That is correct.

Q. And what's the date of that entry?

A. March 25th, 1980.

Q. Does any of the statements that you've made in your affidavit related to the ownership was all based on -- based on the corporate records or the stock book, is

that right?

A. Yes sir, that's correct.

Mr. Payne: All right. That's all I have.

Mr. Butler: All right. Just a follow up on his.

Mr. Payne: Be gentle with those pages if you would, some of them are torn.

RE-DIRECT OF CAROLYN JOHNSON BY ATTORNEY DANNY BUTLER:

Mr. Butler: You attorney pointed out two (2) stock certificates one (1) -- one showing thirty-five (35) and one showing sixty-five (65) each of those pages are not signed would you confirm that?

A. I will confirm that there is no signature.

Q. Correct. So, someone had written Sam Davis on 3-25 date putting it there doesn't mean it was done in 1980, would that be fair to state?

A. It would also be fair to state, yes. It would also be fair to state that -- that Chellie's signature looks rather similar to all of her other signatures.

Q. But you are not a handwriting expert?

A. That's correct. Point made.

Q. And in fact, Chellie didn't even sign either of these certificates either?

A. Well, the handwriting we were talking about.

Q. Oh, you know Chellie's handwriting?

A. Well, I've seen it on some of the other things, but no I don't know Chellie's handwriting and I'm sure not a handwriting expert.

Mr. Butler: Okay. Thank you.

END OF THE DEPOSITION OF CAROLYN JOHNSON

STATE OF SOUTH CAROLINA

COUNTY OF HORRY

I, Sandra Allen, Professional Verbatim Reporter and Notary Public for the State of South Carolina, certify that Sandra Allen, a Notary Public for the State of South Carolina did have the deposition of Carolyn Johnson on February 17, at 9:30 a.m. in Florence, South Carolina; at the Turner Padget Law Office. That the witness was duly sworn to tell the truth, the whole truth, and nothing but the truth; that the foregoing pages constitute a true and accurate transcript of the testimony given at that time and place.

I further certify that I am not of counsel or kin to any of the parties to this cause of action, nor am I interested in any manner in its outcome.

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-ES-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

☒ 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 of 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. YES

PLACE	DATE AND TIME
Robert E. Lee, LLC 111 Witcover Street Post Office Box 1096 Marion, South Carolina 29571	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(c)(1), AND THAT NOTICE AS REQUIRED BY RULE 45(b)(1) HAS BEEN GIVEN TO ALL PARTIES.

Attorney/Issuing Officer's Signature
Indicate if Attorney for Plaintiff or Defendant
Attorney's Address and Telephone Number:

February 22, 2018
Date

Robert E. Lee, Esq.
Print Name

SCCA 254 (05/2015)

(See Rule 45, South Carolina Rules of Civil Procedure, Parts (c) & (d) on pages 2 and 3)

Clerk of Court/Issuing Officer's Signature | Date | Print Name

Pro Se Litigant's Name, Address and Telephone Number :

PROOF OF SERVICE

SERVED	DATE 2-26-19	FEES AND MILEAGE TO BE TENDERED TO WITNESS UPON DAILY ARRIVAL
	PLACE 900 EAST. OLD CAROLINA RD.	☐YES ☐NO AMOUNT $

SERVED ON Samuel L. Davis	MANNER OF SERVICE Hand Delivered
SERVED BY M.T. McEachin	TITLE Process Server

DECLARATION OF SERVER

I certify that the foregoing information contained in the Proof of Service is true and correct.

Executed on 2-26-19

Matthew T. McEachin

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

(See Rule 45, South Carolina Rules of Civil Procedure, Parts (c) & (d) on pages 2 and 3)

(iii) 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 where that person resides, is employed or regularly transacts 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)(6)(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,

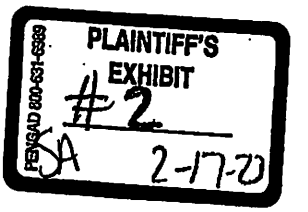
v.

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

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 ~~Shelley~~ Chellie 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 B are true and correct copies. The Schedule G's state that Sam Davis was the 100% shareholder of the Corporation.

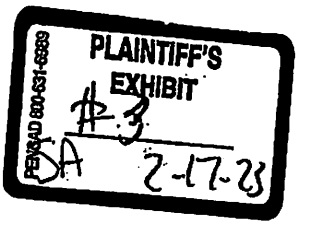
8. Sam Davis has been the sole shareholder of the Corporation since March 19, 1982 and any allegations contained in the Plaintiff's Complaint that state otherwise are simply false.

FURTHER THE AFFIANT SAITH NOT.

Carolyn C. Johnson
CAROLYN JOHNSON

Sworn and subscribed to before me
this 1st day of November, 2022

Tyson Keon Brown
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

Samuel L. Davis
chairman

Ernestine B. Davis
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.

[SIGNATURE PAGE TO FOLLOW]

FURTHER AFFIANT SAYETH NOT.

Ernestine Boston

Ernestine Boston

Sworn to before me
this 5th day of January, 2022.

Print Name: Carolyn Johnson
Notary Public for South Carolina
My Commission Expires: 11/18/2029