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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM ALLENDALE COUNTY
Court of Common Pleas

Brooks P. Goldsmith, Circuit Court Judge

Case No. 2023-001281

MARCUS RILEY

Appellant,

v.

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

Respondent.

5th AMENDED RECORD ON APPEAL

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

October 3rd, 2024

/s/ Ittriss J. Jenkins
Ittriss J. Jenkins
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The undersigned hereby certifies that the Record on Appeal contains all material proposed to be included by any parties and not any other material.

October 3, 2024

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

STATE OF SOUTH CAROLINA

COUNTY OF ALLENDALE

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

VIRGINIA PRIESTER and
JANICE RILEY,

Petitioners,

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

Respondents.

IN THE PROBATE COURT

CASE NUMBER: 99-ES-03-00042

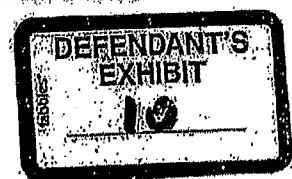
A TRUE COPY

D. Keith Smith
Probate Judge For
Allendale County

ORDER

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

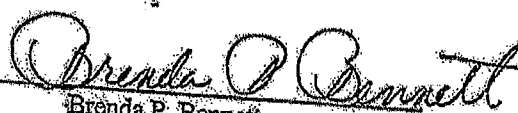
Based upon the above, respondent's moved that the contest of the will be dismissed and barred. South Carolina Code Section 62-3-108(3) clearly limits the contest



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

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

ORDERED, Petitioners petitioner is dismissed with prejudice.


Brenda P. Bennett
Judge of Probate, Allendale County

Allendale
Hampton, South Carolina

October 25, 2002.

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

FORM 4

JUDGMENT IN A CIVIL CASE

CASE NO. 2020CP0300176

Marcus Riley
PLAINTIFF(S)

Dorothy S Riley et al
DEFENDANT(S)

DISPOSITION TYPE (CHECK ONE)

- ☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☒ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ☐ **ACTION DISMISSED (CHECK REASON):** ☐ Rule 12(b), 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 matter came before the Court as Defendant Dorothy S. Riley's Motion to Dismiss heard on August 9, 2021 in Allendale County.

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

ORDER INFORMATION

This order ☐ ends ☒ does not end the case.

☐ See Page 2 for additional information.

For Clerk of Court Office Use Only

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

NAMES OF TRADITIONAL FILERS SERVED BY MAIL

Court Reporter:

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



Allendale Common Pleas

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

IT IS SO ORDERED!

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

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

STATE OF SOUTH CAROLINA
COUNTY OF ALLENDALE

IN THE COURT OF COMMON PLEAS
FOURTEENTH JUDICIAL CIRCUIT

MARCUS RILEY

Plaintiff,

vs.

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

Defendants.

CASE NO.: 2020-CP-03-00176

ORDER

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

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

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

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED:

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

IT IS ALL SO ORDERED.

Brooks Goldsmith
Circuit Court Judge, Active Retired

[JUDGE'S E-SIGNATURE PAGE FOLLOWS]



Allendale Common Pleas

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

It is so Ordered

Brooks P. Goldsmith, Circuit Court Judge

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

STATE OF SOUTH CAROLINA
COUNTY OF ALLENDALE

IN THE COURT OF COMMON PLEAS
FOURTEENTH JUDICIAL CIRCUIT

MARCUS RILEY

Plaintiff,

vs.

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

Defendants.

CASE NO.: 2020-CP-03-00176

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

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

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

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

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

presented in this case does not justify the verdict.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED:

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

Brooks Goldsmith
Circuit Court Judge, Active Retired

[JUDGE'S E-SIGNATURE PAGE FOLLOWS]

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

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

PARTIES AND JURISDICTION

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

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

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

GENERAL FACTUAL ALLEGATIONS

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

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

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

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

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

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

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

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

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

FOR THE FIRST CAUSE OF ACTION
(Fraud)

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

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

FOR THE SECOND CAUSE OF ACTION

(Lack of capacity)

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

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

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

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

WHEREFORE, Plaintiff, respectfully prays:

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

Respectfully Submitted,

s/Ittriss J. Jenkins
ITTRISS J. JENKINS
S.C. Bar No. 76902
Attorney for the Plaintiff
652 Rutledge Ave. Suite A
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July 5th, 2020

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

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

AS A FIRST DEFENSE

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

AS A SECOND DEFENSE

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

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

AS A THIRD DEFENSE

With respect to the Estate of Marion F. Riley, Sr., the allegations of the Complaint are ~~barred by the applicable statute of limitations.~~

AS A FOURTH DEFENSE

The allegations of the Complaint are barred by the applicable ~~statute of limitations.~~

AS A FIFTH DEFENSE

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

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

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

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

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

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

Paragraphs 32, 33, 34 and 35 are denied.

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

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

November 19, 2020.

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

TO PLAINTIFF ABOVE NAMED

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

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

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

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

February 12, 2021
Barnwell, South Carolina

CERTIFICATE OF SERVICE

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

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

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

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

February 12, 2021
Barnwell, South Carolina

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

Defendant, by counsel, submits this Memorandum in support of her Motion to Dismiss filed pursuant to SCRCF Rule 12 and Rule 56. The stated grounds for the motion are:

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

should be set aside were dismissed with prejudice by Order of Court should grant judgment on the pleadings.

FACTS

Based on the allegations of the Amended Complaint, and Plaintiff's failure to respond to Defendant's Requests to Admit served upon Plaintiff's attorney on November 19, 2020, the uncontested facts upon which this Court should grant Defendant's motion are:

Plaintiff is the son of Marion F. Riley, Jr. Marion F. Riley, Jr. died on June 18, 2018. Defendant is his widow and the Personal Representative of his Estate.

Plaintiff is the grandson of Marion F. Riley, Sr., who died testate on May 10, 1999. His Last Will and Testament are dated May 22, 1995. The heirs at law of Marion F. Riley, Sr. are Virginia Priester, Janice Riley, Marion F. Riley, Jr. and Evelyn Grant. They were all living when their father died. Marion F. Riley, Jr. was appointed Personal Representative of his father's estate.

Marion F. Riley, Sr. executed a Durable Power of Attorney on October 15, 1998, naming Marion F. Riley, Jr. as his attorney in fact. The Power of Attorney was recorded in the Office of the Clerk of Court for Allendale County in Deed Book 123, at page 143. On February 26, 1999, acting as his father's attorney in fact, Marion F. Riley, Jr. recorded a deed by which he conveyed title to real property owned by Marion F. Riley, Sr. to himself. The deed is recorded in the Allendale County records in Deed Book 127 at page 1.

Plaintiff's aunts, Virginia Priester and Janice Riley, filed a Complaint in the Probate Court for Allendale County on November 5, 2001, alleging that Marion F. Riley, Sr. lacked the mental capacity to enter in to the Will dated May 22, 1995. The Complaint further alleged that the signature of Marion F. Riley, Sr. on the Will dated May 22, 1995 was not his. The

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

Virginia Priester and Janice Riley's Complaint did not contest the validity of the Durable Power of Attorney dated October 15, 1998.

The Complaint was dismissed with prejudice by Order dated October 22, 2002.

DISCUSSION

1. Standing

In order to have standing to present a case before the courts of this State, a party must have a personal stake in the subject matter of the lawsuit. *Furman University v. Livingston*, 244 S.C. 200, 136 S.E.2d 254 (1964). As merely a family member, but one not entitled to inherit either under Marion F. Riley, Sr.'s Will or as an intestate heir, Plaintiff does not have a personal stake in the subject matter of this lawsuit.

The Supreme Court's most recent elaboration and discussion of standing is found in its opinion in *Pres. Soc'y of Charleston v. S.C. Dep't of Health & Env't Control*, 430 S.C. 200, 209–10, 845 S.E.2d 481, 485–86 (2020), reh'g denied (Aug. 7, 2020). The Court went to great detail in its discussion, stating:

"Standing has been called one of 'the most amorphous [concepts] in the entire domain of public law.' " *Flast v. Cohen*, 392 U.S. 83, 99, 88 S.Ct. 1942, 20 L.Ed.2d 947 (1968) (alteration in original) (citation omitted). . . . In its most basic sense, "[s]tanding refers to a party's right to make a legal claim or seek judicial enforcement of a duty or right." *S.C. Dep't of Soc. Servs. v. Boulware*, 422 S.C. 1, 7, 809 S.E.2d 223, 226 (2018) (quoting *Michael P. v. Greenville Cty. Dep't of Soc. Servs.*, 385 S.C. 407, 415, 684 S.E.2d 211, 215 (Ct. App. 2009)). "Standing to sue is a fundamental requirement in instituting an action." *Joytime Distribs. & Amusement Co. v. State*, 338 S.C. 634, 639, 528 S.E.2d 647, 649 (1999). [emphasis added].

Marion F. Riley, Jr., was alive when plaintiff's grandfather, Marion F. Riley, Sr. died. S. C. Code Ann. §62-2-103 grants plaintiff no intestate inheritance, and therefore, no legal right to sue over his grandfather's estate. Plaintiff is not now, nor has he ever been, an intestate heir or devisee of his grandfather, Marion F. Riley, Sr. He would be an intestate heir only if his father, Marion Jr., had predeceased his grandfather. Not being an heir or devisee, he had no financial interest in the estate.

In order to have standing, Plaintiff would have to hold a right to make a legal claim. Plaintiff has no standing because he has no legal rights to assert. His legal claim is that his father defrauded his grandfather. The right to assert a fraud claim is legally owned by an intestate heir or a special administrator. *Fisher ex. Rel. Shaw v. Huckabee*, 422 S.C. 234, 811 S.E.2d 739 (2018) Plaintiff is neither.

2. Statute of Limitations

First, if the 1999 deed was fraudulently obtained, the cause of action to cancel the deed belonged to Riley Sr. Upon his death, his cause of action belonged to his estate. *Id.* With Riley, Jr., being the Personal Representative and potential defendant in the claim for fraud, it was up to the devisees or intestate heirs to assert the claim or to request appointment of a special administrator. Plaintiff's aunts accomplished this by their filing of the Complaint to set aside the deed on November 5, 2001. That Complaint was dismissed with prejudice a year later. No one attempted to refile or reassert the claim until the subject suit was filed when Dorothy Riley filed her paperwork with the Probate Court to close Marion F. Riley, Jr.'s estate.

The three-year statute of limitations for causes of action for fraud is governed by the "discovery rule," and does not begin to run until discovery of the fraud itself or of "such facts as would have led to the knowledge thereof, if pursued with reasonable diligence. *Burgess v.*

American Cancer Soc., South Carolina Div., Inc., 300 S. C. 182, 386 S.E.2d 798 (Ct.App. 1989). Plaintiff does not allege the date he first knew of the alleged fraud; however, he alleges in Paragraph 19 a lawsuit was filed in November 2001 and dismissed in October 2002. The Complaint is Exhibit A attached to Defendant's Request to Admit.

In applying the discovery rule, inquiry is focused upon whether the complaining party acquired knowledge of any existing facts "sufficient to put said party on inquiry which, if developed, will disclose the alleged fraud." Walter J. Klein Co. v. Kneece, 239 S.C. 478, 123 S.E.2d 870 (1962) *Tucker v. Weathersbee*, 98 S.C. at 408-409, 82 S.E. at 640. Either actual or constructive knowledge of facts or circumstances, indicative of fraud, trigger a duty on the part of the aggrieved party to exercise reasonable diligence in investigating and, ultimately, in pursuing a claim arising therefrom. In accordance with the aforesaid standards, a claim for fraud is barred if not filed by the proper party within six [now three] years of the time from which pertinent facts were actually known or could have been known through the exercise of reasonable diligence.

The date on which discovery of the cause of action should have been made is an objective, rather than a subjective, question. *Hedgepath*, 348 S.C. at 356, 559 S.E.2d at 336; *Joubert v. South Carolina Dep't of Soc. Servs.*, 341 S.C. 176, 534 S.E.2d 1 (Ct.App.2000). In other words, whether the particular plaintiff actually knew he had a claim is not the test. *Young*, 333 S.C. at 719, 511 S.E.2d at 416. Rather, courts must decide whether the circumstances of the case would put a person of common knowledge and experience on notice that some right of his has been invaded, or that some claim against another party might exist. *Id.*

The circumstances of the administration of the Estate of Marion F. Riley, Sr. indicate a contentious, tumultuous process. For Plaintiff to not have known about his aunts' challenge of

the conveyance is inconceivable. Plaintiff filed his Summons and Complaint on July 6, 2020. The Complaint filed in 2001 and dismissed with prejudice a year later challenged Marion F. Riley, Sr.'s mental capacity. [Amended Complaint, ¶33]. Since lack of capacity is a key element of Plaintiff's claim, Plaintiff clearly and objectively had notice of what he thinks is fraud at least 18 years before he filed this action.

The Plaintiff's claim to have the 1999 deed cancelled and returned to his grandfather's estate is further barred under S. C. Code Ann. §15-3-40:

No action for the recovery of real property or for the recovery of the possession of real property may be maintained unless it appears that the plaintiff, his ancestor, predecessor, or grantor, was seized or possessed of the premises in question within ten years before the commencement of the action.

Under this statute, Plaintiff should have filed suit not later than February 26, 2009.

In addition, as Plaintiff's claim is as much an attempt to re-litigate his grandfather's estate, the claim is time-barred by the his having failed to follow the mandate of S. C. Code Ann. §62-3-803(a)(1) and (2):

(a) All claims against a decedent's estate which arose before the death of the decedent, including claims of the State and any political subdivision thereof, whether due or to become due, absolute or contingent, liquidated or unliquidated, founded on contract, tort, or other legal basis, if not barred earlier by another statute of limitations or nonclaim statute; are barred against the estate, the personal representative, the decedent's heirs and devisees, and nonprobate transferees of the decedent; unless presented within the earlier of the following:

- (1) one year after the decedent's death; or
- (2) the time provided by Section 62-3-801(b) for creditors who are given actual notice, and within the time provided in Section 62-3-801(a) for all creditors barred by publication.

S.C. Code Ann. § 62-3-803

In *Rumpf v. Massachusetts Mut. Life Ins. Co.*, 357 S. C. 386, 593 S.E.2d 182 (Ct.App. 2004), a man entitled to benefits under a retirement annuity died. Ten years after his estate had been closed, his daughters discovered funds belonging to their father had been escheated. The

daughters sued the Personal Representative for breach of contract, fraud, breach of fiduciary duty among others. The lower court granted the Personal Representative summary judgment, ruling that the action was time-barred, and also barred by the Probate Court's discharge of the Personal Representative of all liability as Personal Representative.

Marion F. Riley Jr. died 2 years before this suit was filed. It is plainly time barred.

3. Res Judicata

Under the doctrine of res judicata, "[a] litigant is barred from raising any issues which were adjudicated in the former suit and any issues which might have been raised in the former suit." *Plum Creek Dev. Co. v. City of Conway*, 334 S.C. 30, 512 S.E. 2d 106 (1999).

The fundamental purpose of res judicata is to ensure that "no one should be twice sued for the same cause of action. *First Nat'l Bank of Greenville v U.S. Fid. & Guar. Co.*, 207 S.C. 15m 35 S. E.2d 24 (1945).

As in this case, the 2001 lawsuit sought the setting aside of the 1999 deed because of Marion F. Riley Sr.'s lack of mental capacity. It is the identical issue raised in 2001 by intestate heirs who had standing. Marion F. Riley, Jr. having been sued over his conveyance of real property as his father's attorney in fact, should not now have his estate sued on the identical grounds.

It is significant that the dismissal of the lawsuit by Order of the Probate Court dated October 22, 2002 was with prejudice. A case that is dismissed "with prejudice" indicates adjudication on the merits and, pursuant to res judicata, prohibits subsequent litigation to the same extent as if the action had been tried to a final adjudication. *Lawlor v. Nat'l Screen Serv. Corp.*, 349 U.S. 322, 75 S.Ct. 865, 99 L.Ed. 1122 (1955); *Nunnery v. Brantley Constr. Co.*, 289 S.C. 205, 345 S.E.2d 740 (Ct.App.1986).

CONCLUSION

Plaintiff's suit should be dismissed because he has no stake in this lawsuit and therefore no standing to sue. Even if the deed in question is set aside, he would not receive title under the terms of his Grandfather's Will.

Even if he has standing, Plaintiff's claims are barred by the running of the statute of limitations and by res judicata and this Court should dismiss this action.

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

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

August 4, 2021
Barnwell, South Carolina

CERTIFICATE OF SERVICE

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

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

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

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

August 4, 2021
Barnwell, South Carolina

STATE OF SOUTH CAROLINA
COUNTY OF ALLENDALE

IN THE COMMON PLEAS
FOURTEENTH JUDICIAL CIRCUIT

CASE NO.: 2020-CP-03-0176

MARCUS RILEY
Plaintiff,
v.

**MEMORANDUM IN OPPOSITION
TO MOTION TO DISMISS**

DOROTHY RILEY, INDIVIDUALLY
AND DOROTHY RILEY IN HER ROLE
AS PERSONAL REPRESENTATIVE OF
THE ESTATE OF MARION F RILEY Jr.

Defendants.

1. In South Carolina, the Circuit and Probate Court have concurrent jurisdiction on probate matters. The matter of Fraud is within the jurisdiction of the Circuit Court. Therefore, this Court has subject matter jurisdiction to hear this matter.

According to SC Code § 62-1-302 (2013): Notwithstanding the exclusive jurisdiction of the probate court over the matters set forth in subsections (a) through (c), if an action described in subsection (d) is removed to the circuit court by motion of a party, or by the probate court on its own motion, the probate court may, in its discretion, remove any other related matter or matters which are before the probate court to the circuit court if the probate court finds that the removal of such related matter or matters would be in the best interest of the estate or in the interest of judicial economy. For any matter removed by the probate court to the circuit court pursuant to this subsection, the circuit court shall proceed upon the matter de novo.

2. The fraud alleged in this action is not relating to the probating of an estate nor was committed after the death of Marion Riley Sr. The Fraud by forgery was committed while Marion Sr. was alive. That action allows this Court to maintain jurisdiction over the case.

STATE OF SOUTH CAROLINA

COUNTY OF ALLENDALE

IN THE COURT OF COMMON PLEAS

FOURTEENTH JUDICIAL CIRCUIT

MARCUS RILEY

PLAINTIFF,

 $\gamma,$

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

DEFENDANTS.

Case No.: 2020-CP-03-0176

DEFENDANT'S MOTION

FOR NEW TRIAL ABSOLUTE

PURSUENT TO

SCRCP RULE59(a)

TO PLAINTIFF AND HIS ATTORNEY:

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

In support of her motion, Defendant asserts:

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

ROA

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

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

HARVEY & KULMALA, LLC

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

November 3, 2022

CERTIFICATE OF SERVICE

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

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

/s/ J. Martin Harvey
J. Martin Harvey

November 3, 2022
Barnwell, South Carolina

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
COUNTY OF ALLENDALE	)	FOURTEENTH JUDICIAL CIRCUIT
MARCUS RILEY	)	Case No.: 2020-CP-03-0176
	)	
PLAINTIFF,	)	
	)	DEFENDANT'S MOTION
v.	)	TO ALTER OR AMEND
	)	JUDGMENT PURSUENT TO
DOROTHY RILEY, INDIVIDUALLY AND	)	SCRCP RULE59(e)
Dorothy Riley, in her role as	)	
Personal Representative of the	)	
ESTATE OF MARION F. RILEY, JR.	)	
	)	
DEFENDANTS.	)	

TO PLAINTIFF AND HIS ATTORNEY:

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

In support of her motion, Defendant asserts:

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

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

HARVEY & KULMALA, LLC

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

November 9, 2022

CERTIFICATE OF SERVICE

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

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

/s/ J. Martin Harvey
J. Martin Harvey

November 9, 2022
Barnwell, South Carolina

STATE OF SOUTH CAROLINA

COUNTY OF ALLENDALE

MARCUS RILEY

PLAINTIFF,

v.

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

DEFENDANTS.

IN THE COURT OF COMMON PLEAS

FOURTEENTH JUDICIAL CIRCUIT

Case No.: 2020-CP-03-0176

VERDICT

We the jury in the referenced case, unanimously find:

✓ for the plaintiff Marcus Riley.

 For the defendant.

October 2022

November 1, 2022

Masha Banks

Foreman

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

MARCUS RILEY

Case No.: 2020-CP-03-0176

PLAINTIFF,

v.

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

DEFENDANTS.

Request to Take Judicial
Notice of Facts

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

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

Defendant's Exhibit 1 and 2.

3. Defendant Dorothy Riley was nominated in her husband's Will as Personal Representative of his estate and was appointed by the Probate Court accordingly. Defendant's Exhibit 1 and 2.
4. Marcus T. Riley is one of Marlon F. Riley Jr.'s legitimate children and a grandson of Marion F. Riley, Sr.
5. In observance of S. C. Code §62-3-801(a) Dorothy Riley caused a Notice to Creditors to be published for 3 consecutive weeks beginning on July 18, 2018 and ending on August 1, 2018. Defendant's Exhibit 3.
6. The eight month period for creditors to file claims against the estate expired on April 1, 2019.
7. On February 19, 2020 Marcus Riley filed a demand for hearing in the Probate Court, in which he challenged his father's competency to make a Will. Defendant's Exhibit 4.
8. On October 15, 1998, a document entitled "Power of Attorney" for Marlon F. Riley Sr. appointing Marlon F. Riley Jr. as his attorney in fact was recorded in the Office of the Clerk of Court for Allendale County in Deed Book 123 at page 143. Defendant's Exhibit 5.
9. On February 26, 1999, Marlon F. Riley, Jr. executed a deed on behalf of his father by which he conveyed title to

1 Original certified copies are in counsel's possession and will be submitted

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

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

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

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

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

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

15. Virginia Priester and Janice Riley sought through their

at trial.

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

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

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

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

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

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

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

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

October 18, 2022.

CERTIFICATE OF SERVICE

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

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


J. Martin Harvey

October 18, 2022
Barnwell, South Carolina

STATE OF SOUTH CAROLINA

COUNTY OF: ALLENDALE

IN THE MATTER OF:

MARION FRANCIS RILEY, JR
(Decedent)

IN THE PROBATE COURT

DEMAND FOR HEARING (ESTATES ONLY)
Pursuant to Notice of Right to Demand Hearing

CASE NUMBER: 2018ES0300065

Pursuant to SSCP 62-3-1001, I demand a hearing in the above-referenced estate.

The estate issues I would like addressed are:

My Father's competency to make a will, Challenge the PR performance of his sister within the estate, Whether my father was susceptible to undue influence, signatories on all documents, Ownership of all property, Proper notice to all heirs and beneficiaries

(attach additional sheets if necessary)

Executed this 19th day of February, 2020.

Signature: [Signature]

Print Name: MARCUS T. RILEY

Address: 14803 Sycamore, Side Way
Cypress Tx 77429

Telephone (Work): 571-270-1581

(Home):

(Cell): 508-207-2026

Email: MARCUS.RILEY@USPTO.GOV

Relationship to Decedent/Estate: SON

Attorney:

Address:

Telephone:

Email:



FILED FOR RECORD
20 FEB 19 PM 3:28
CLERK OF COURT
ALLENDALE COUNTY
STATE OF SOUTH CAROLINA

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

5 Q Thank you.

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

8 MR. HARVEY: No objection.

9 THE COURT: Without objection.

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

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

14 BY MR. JENKINS:

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

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

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

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

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

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

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

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

19 A Right.

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

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

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

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

8 Q Thank you.

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

12 MR. HARVEY: No objection.

13 THE COURT: Admitted without objection.

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

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

18 BY MR. JENKINS:

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

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

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

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

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

7 When daddy got that power of attorney, four
8 days later he come up with that will that we just
9 talked talk about, the fraudulent will. The one that
10 I said that I thought I had a problem with.
11 Granddaddy was in the hospital. It was two weeks
12 later that daddy got a power of attorney. And then
13 four days later, he got a will. Those were red flags
14 to me, and so I tested the signatures on everything.

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

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

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

23 A Yes, sir.

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

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

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

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

7 A Let me see. From the revocation?

8 Q 7?

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

14 Q There's another one that he --

15 A Yeah. After being revoked, yeah.

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

18 A Right.

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

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

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

2 And, you know --

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

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

9 Q All right. Thank you.

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

12 MR. HARVEY: No objection.

13 THE COURT: Admitted without objection.

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

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

18 BY MR. JENKINS:

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

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

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

1 A No.

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

4 A I was in Oklahoma City.

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

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

9 Q Okay.

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

12 Q All right.

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

15 A Yes, sir.

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

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

21 Q Yeah.

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

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

1 A I did.

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

4 A Yeah.

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

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

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

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

12 Q '98, '99?

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

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

16 A Yes.

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

20 A Yes, sir.

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

23 A Yes, sir.

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

1 A My daddy was at the funeral home.

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

4 A No.

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

7 A Not to my enforcement.

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

10 A I don't know.

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

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

16 Q All right.

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

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

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

23 Q Thanksgiving 2014.

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

1 all before he got so ill.

2 Q And what about his hospital stays?

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7 MR. JENKINS: Thank you, Your Honor.

8 BY MR. JENKINS:

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

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

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

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

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

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

10 A Right. That's me.

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

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

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

20 A Correct.

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

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

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

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

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

10 A Uh-huh.

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

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

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

20 MR. HARVEY: No objection.

21 THE COURT: Admitted without objection.

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

24 BY MR. JENKINS:

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

1 that this was going on?

2 A The one --

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

6 A No, no.

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

9 A No.

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

12 BY MR. JENKINS:

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

15 A Say that again.

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

19 A No.

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

23 THE WITNESS: Okay.

24 THE COURT: Cross-examination.

25 MR. HARVEY: Thank you.

CROSS-EXAMINATION

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BY MR. HARVEY:

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

A Yes.

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

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

Q Okay.

A They were representing Virginia.

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

A Who's father?

Q Virginia's husband. You said --

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

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

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

THE COURT: Certainly.

BY MR. HARVEY:

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

A All of his -- yes.

1 Q All four children?

2 A Yes.

3 Q And they were all living?

4 A Yes.

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

8 A I would think so.

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

12 A Yeah, I did know that.

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

15 A No.

16 Q Okay.

17 A Not that one.

18 Q All right.

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

22 A Uh-huh.

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

25 A Uh-huh.

58
1 Q And in paragraph 7 you allege that he was mentally
2 incompetent, your father, correct?
3 A Correct.
4 Q And that as of May 22nd, 1995, that you believed
5 that to be true; is that right?
6 A Yes.
7 Q Okay.
8 A Yes, that's when he had cancer.
9 Q All right. But his cancer was prostate.
10 A Uh-huh.
11 Q And he had a pacemaker.
12 A Yeah.
13 Q He did not have a brain tumor.
14 A The cancer spread.
15 Q Metastasized.
16 A Right. Correct.
17 Q You allege in paragraph 5 that the signature on
18 that will in 1995 was not your father's signature?
19 A Uh-huh.
20 Q And you allege that, you asked that the court set
21 aside that will, didn't you?
22 A Uh-huh.
23 Q Okay. The court didn't, did it?
24 A Huh-uh.
25 Q And, in fact -- I don't think Mr. Jenkins did, but

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

4 Now, you may go ahead.

5 BY MR. JENKINS:

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

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

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

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

15 BY MR. JENKINS:

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

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

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

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

2 Can everybody hear me okay?

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

5 COURT REPORTER: I can hear, yes.

6 THE COURT: She said she can hear you.

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

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

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

1 and then -- everybody has a difference.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25 And that's the analysis of all of these

1 signatures.

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

5 MR. HARVEY: No objection.

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

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

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

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

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

16 BY MR. JENKINS:

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

21 A No one does.

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

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

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

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

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

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

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

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

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

11 A I'm sorry.

12 Q Principles.

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

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

25 However, when you see tremors in a signature,

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

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

13 A In this matter, Marcus Riley.

14 Q And what were you asked to do?

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

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

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

25 Q If you could, just name them.

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

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

23 A Yes, sir.

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

1 BY MR. JENKINS:

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

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

9 Q Thank you.

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

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

14 May we approach, Your Honor?

15 (Bench conference off the record.)

16 BY MR. JENKINS:

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

20 A No.

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

23 CROSS-EXAMINATION

24 BY MR. HARVEY:

25 Q Forgive me, Hoeltzel?

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

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

13 A Provided by Marcus Riley.

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

16 THE COURT: Redirect?

17 MR. JENKINS: No redirect, Your Honor.

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

20 THE WITNESS: Thank you, Your Honor.

21 THE COURT: Call your next witness.

22 MR. JENKINS: Plaintiff's close, Your
23 Honor. Plaintiff's close.

24 THE COURT: Plaintiff rests.

25 Ladies and gentlemen, I'm going to ask

1 you to step into the jury room for just a few
2 minutes while I talk to the attorneys about some
3 matters outside your presence. I hope to be back
4 with you shortly. I remind you, it's too early to
5 begin discussing the case.

6 (Jury exits the courtroom.)

7 THE COURT: Plaintiff rests.

8 MR. HARVEY: Your Honor, I have a motion
9 for directed verdict.

10 THE COURT: Okay.

11 MR. HARVEY: First of all, I move that
12 plaintiff's failure to comply with the nonclaims
13 statute South Carolina Code Section 62-3-804
14 deprives the court the power to adjudicate the
15 claim. I've cited the code section, but the
16 claim -- the claim, if it was a claim, was filed
17 one year -- more than one year after the
18 decedent's death, certainly more than eight months
19 after the notice to creditors. The discovery rule
20 doesn't apply.

21 Your Honor, further we move to dismiss
22 because the plaintiff does not having standing to
23 sue. I cited Furman University against
24 Livingston. Mr. Riley has testified he doesn't
25 have a personal stake in this lawsuit, and that's

1 one of the criteria for having standing, that you
2 got to have a personal stake in the lawsuit.

3 He's a family member, but he's not one
4 entitled to inherit. Miss Heard testified clearly
5 that all four of her father's children were living
6 and Mr. Riley, as a grandchild, was not an
7 intestate heir.

8 I cited to the court Presbyterian Society
9 of Charleston against DHEC, and in its most basic
10 sense, standing refers to a party's right to make
11 a legal claim or to seek judicial enforcement of a
12 duty or a right. Standing to sue the fundamental
13 requirements to the action. He doesn't have
14 standing, Your Honor. He is not -- had no dog in
15 the fight, so to speak, other than having hurt
16 feelings. But he has no -- even if he won, he's
17 not going to get title back to the land he's
18 seeking to have taken over.

19 He's asserting that his father defrauded
20 his grandfather, but the right to assert a fraud
21 claim is legally owned by an intestate heir or a
22 special administrator. That's Fisher S. Shaw
23 against Huckabee. The plaintiff is neither. He
24 neither an intestate heir and he's not a special
25 administrator.

1 There are a number of statute of
2 limitations that ran before this suit was filed
3 that do not apply -- the discovery rule does not
4 apply.

5 15-3-340 is the 10-year statute.
6 15-67-210 is hand-in-hand with that. If one does
7 not have -- if one has title and is ousted and
8 doesn't take action for ten years, then their
9 claim is barred. If one never has title and
10 doesn't take action -- and hasn't taken action for
11 10 years after the deed -- the color of title deed
12 is filed, then the deed is final fraud or no
13 fraud.

14 Section 62-38-803(a), 1 and 2, "All
15 claims against a decedent's estate which arose
16 before the death of the decedent, including claims
17 of the estate, political subdivision, founded on
18 contract, tort, or other legal basis, if not
19 barred earlier by another statute or nonclaim
20 statute; are barred against the estate, the
21 personal representative, and the decedent's heirs
22 and devisees."

23 Mr. Riley is both a personal
24 representative and a devisee under the will. That
25 had to have been filed one year after the

1 decedent's death or within the time provided for
2 creditors who have given to you actual notice.

3 I've cited to you the Rutherford vs.
4 Massachusetts case where more than 10 years had
5 gone by. They were -- the heirs were trying to
6 assert a claim against some personnel
7 representative, a bank, and the court said, *You*
8 *waited too long. It doesn't matter whether they*
9 *did anything wrong or not.*

10 So -- and then 15-3-353, if the deed --
11 if the 1990 deed was fraudulently obtained,
12 Marion Riley, Sr. was alive when it was recorded,
13 the cause of action that canceled the deed
14 belonged to Mr. Riley and to his estate when he
15 died.

16 The people who had standing to sue sought
17 to do that and their case was dismissed with
18 prejudice.

19 And because of the lack of capacity is no
20 longer an issue, I'm not -- that's the sum and
21 substance of my motion.

22 THE COURT: All right, sir. Mr. Jenkins.

23 MR. JENKINS: Thank you, Your Honor.

24 What I will agree on the most is that
25 Mr. Riley did not -- did have standing, or does

1 have standing to bring this action. One of the
2 things that the Huckabee case talked about is, it
3 says, "If you are an intestate heir, then you have
4 standing to bring action." Or you have an
5 interest. Interest is more of the key here, Your
6 Honor. It's not like you actually a beneficiary.
7 Where I think my counsel is mixed up is with
8 People's National Bank of Rock Hill, which is
9 28 S.C. 10, 1950. The court always
10 differentiates. What is an intestate heir and
11 what is a beneficiary?

12 In this case, as long as you are a
13 natural born child of somebody, you're an
14 intestate heir. If they make a will, that means
15 now the beneficiaries will take under the will.
16 My client is not refuting that he is the son of
17 Marion F. Riley, Jr.

18 So when you look at standing, Your Honor,
19 my client definitely has an interest in what's
20 going on in this problem.

21 If you also look at the St. Paris
22 Episcopal, they also show that holding that
23 standing of the action is whether there is title
24 to property.

25 Now, I want to also talk about the fraud.

1 The fraud is not barred by statute of limitations
2 because if you look at 15-3-530(7), it basically
3 says, "The cause of action in this case is not
4 considered to have occurred until discovery by
5 the aggrieved party."

6 When this occurred, my client had no idea
7 what was going on. In fact, the time that lapsed
8 before then --

9 THE COURT: That's under which statute,
10 I'm sorry?

11 MR. JENKINS: It's 15-3-530(7). My
12 client had no knowledge of what was going on. And
13 we testified to that earlier. In fact, it was
14 said this was on Janice. She didn't know that --
15 she didn't tell him. He was living in Oklahoma
16 City. So the statute of limitation did not apply
17 to him until he discovered it. And the reasonable
18 discovery was when he actually flew down and
19 looked at the documents himself. This was
20 something he didn't have to do. So, really, that
21 was an unreasonable discovery.

22 But when he discovered this, then he
23 immediately took action. He immediately started
24 talking. He immediately -- and then within a
25 short period of time this action was filed.

1 I believe he talked about res judicata.

2 I don't remember.

3 MR. HARVEY: I didn't.

4 MR. JENKINS: You didn't, okay.

5 So, Your Honor, with those two things
6 together, what we're showing is my client does
7 have standing as an heir in the estate to
8 challenge assets in the estate. What he's
9 challenging is how these assets got into the
10 estate. They were fraudulently -- or allegedly
11 fraudulently brought into the estate.

12 And now these the statute of limitations
13 will not apply to my client, because when he
14 discovered it, then he took action.

15 THE COURT: Now, we're talking about --
16 you were just about 15-3-530.

17 MR. JENKINS: Yes, sir. And that stands
18 for the statute of limitations that my client --
19 that Mr. Harvey is saying that my client missed
20 the statute of limitation to file this lawsuit
21 because such a time has passed. And what I'm
22 saying is, he hasn't because in that statute it
23 says when it's discovered from. It's different
24 than the other ones.

25 THE COURT: But he also is referring to

1 62-3-803.

2 MR. HARVEY: Yes, sir. That's defines --
3 that's a probate statute, and that basically
4 defines his heir as an intestate heir to the
5 estate of his father.

6 THE COURT: But it puts a limitation on
7 when you have to file a claim. Isn't that
8 correct?

9 MR. HARVEY: Yes, it does. But as
10 testified on the stand, the claim is also not
11 valid to my client because my client never
12 received any notice. You're also entitled to get
13 notice that the estate is opened. At that time,
14 you have -- the statute is very clear and the case
15 law is very clear that you cannot leave someone
16 out of an estate and then have this limitation on
17 when they should know what's going on.

18 So he was four months late. But from the
19 time that he found out about this whole thing is
20 when he actually got involved and started
21 discovery, all these documents.

22 THE COURT: Well, let's go back to
23 62-3-803, all right?

24 MR. JENKINS: Yes, sir.

25 This is where he's talking about going to

1 the circuit court.

2 THE COURT: The two time periods referred
3 to in that statute, I read it correctly --

4 MR. JENKINS: Yes, sir.

5 THE COURT: -- the earliest of any of the
6 two following times --

7 MR. JENKINS: Yes, sir.

8 THE COURT: -- was a year after death.
9 And the other is the time given for creditors --
10 to creditors after notice.

11 MR. JENKINS: Yes, sir.

12 But he wasn't -- Your Honor, he wasn't
13 really filing as a creditor. This statute really
14 talks about filing as a creditor. He's not saying
15 the estate owes him any money. What he's
16 challenging is the estate is usually what happens
17 at the end of the probate process. That's why at
18 the end of the probate process, you have a notice
19 of hearing that you have 30 days to contest
20 anything that's in the estate for distribution to
21 others.

22 THE COURT: But he's suing the estate,
23 isn't he?

24 MR. JENKINS: Yes, sir. But he's not
25 suing as a creditor.

1 THE COURT: He's asserting he has a claim
2 against the estate.

3 MR. JENKINS: He's challenging the assets
4 of the estate. He's saying there are assets in
5 the estate that should not be there because of
6 fraudulent means.

7 THE COURT: Which means he has a claim
8 against the estate.

9 MR. JENKINS: Which means he has an
10 interest in the estate. If he does, it's an
11 intestate lienor.

12 THE COURT: Isn't that what this is
13 saying though, is he would have to file -- any
14 such claims would have to be filed within year?

15 MR. JENKINS: Your Honor, I think the
16 semantics is where you and I are getting -- it
17 doesn't -- if I have an interest, it doesn't mean
18 I have a claim. A claim usually applies to a
19 creditor where the person of the decedent has been
20 loaned money, or somehow has a debt that he has to
21 repay, and then somehow by filing a claim against
22 the estate, if I have an interest in the estate,
23 that means the gentleman who passed or the woman
24 who passed is a father, mother, descendant of
25 mine, therefore I have a claim against -- I have

1 an interest in the estate until the estate is
2 transferred to whoever is designee.

3 THE COURT: Well, the Massachusetts's
4 case that the defendant cites is someone who
5 claimed an actual interest.

6 MR. JENKINS: You said the defendant's
7 cites?

8 MR. HARVEY: Right. I cited it.
9 Rutherford vs. Massachusetts.

10 THE COURT: Massachusetts. They were
11 seeking an asset of the estate and suing the
12 personnel representative.

13 MR. JENKINS: Yes, sir. I totally
14 understand. I didn't quote that case, though.
15 And I truly believe that that statute does apply
16 to people who were coming into the estate because
17 they feel like the estate owes them something.
18 That's not my argument.

19 My argument is, as an heir of the estate,
20 you're intestate, you have different rights that
21 apply than if, you know, I loaned you money or got
22 some money that you owe me. So I think we were
23 talking about, as I said, different things. I
24 didn't quote that case, so I assume

25 MR. HARVEY: Your Honor, the Rutherford

1 case -- sorry, Mr. Jenkins.

2 MR. JENKINS: Go ahead. Go ahead.

3 MR. HARVEY: The Rutherford case, a man
4 was alive, and there was some stock involved, and
5 IRA and some other investments, and the man died.
6 And his PR was a bank, and then there was some
7 other financial institutions involved. And then
8 many years later, the people in the family found
9 out, wait a minute, this stock is not defunct
10 after all. It's worth something. So they made a
11 demand and they got a settlement, believe it or
12 not. And then they turn around and sued the PR
13 and sued the bank because they didn't collect the
14 money to begin with for their lost investment
15 opportunity, and the court said, *You waited way*
16 *too long. You had your chance when the year was*
17 *running, and you didn't do it, and you've lost*
18 *your claim.* And there was some language in there,
19 and maybe they did do wrong, but too bad.

20 And to respond quickly to Mr. Jenkins,
21 all claims, whether due or become due, absolute or
22 contention, liquidated or unliquidated, founded on
23 contract, tort, or other legal basis, if not
24 barred earlier by another statute of limitations
25 or a nonclaim statute, are barred against the

1 estate. The law is very strict in the -- the
2 probate code is strict. If you got a problem with
3 somebody who's dead, if you don't bring it in a
4 year or less, then you're out. That's what I'm
5 arguing.

6 MR. JENKINS: Your Honor, if that was
7 true, then we have an issue to close an estate.
8 We would not have to let all the people of
9 interest know that we're closing an estate. The
10 statute --

11 THE COURT: We wouldn't have to let who?
12 Say it again. We wouldn't have to do what?

13 MR. JENKINS: When a probate lawyer is
14 closing an estate, it's his responsibility to send
15 what's called a notice of hearing. That notice of
16 hearing, you send it to everybody who has
17 interest. When you send it to all the heirs who
18 have interest or don't have interest, they have an
19 opportunity then to challenge the distribution and
20 what's happened with the assets of the estate.

21 If what we're saying, that every creditor
22 bars everybody from the interest, then that would
23 not be the case.

24 What we're saying is not that there's any
25 amount of money that Marion F. Riley, Jr. owes

1 Marcus Riley.

2 What we're saying is, as an heir of the
3 estate, we're looking at some assets in the estate
4 and saying that was obtained fraudulently, so that
5 should not be in the estate.

6 THE COURT: All right. Mr. Jenkins, help
7 me distinguish the defendant's argument on
8 15-3-340.

9 MR. JENKINS: I'm sorry, Your Honor. I
10 don't have that. Can you tell me what it is?

11 THE COURT: It talks about, it can't --
12 it's the 10-year rule. Tell me why that isn't
13 warranted?

14 MR. JENKINS: Because the 10 years
15 applies to when you find out.

16 THE COURT: The 10 years applies to what?

17 MR. JENKINS: When you find out. When
18 you're talking about fraud, the one thing that
19 differentiates fraud from most things is, fraud
20 doesn't begin until you knew or should have known.
21 My client was never in a position to know what
22 occurred. He didn't live in Allendale County. He
23 comes back up just to visit. And so even in the
24 incidents in which he did find out, he was doing
25 it to be a peacemaker.

1 So when he actually found out,
2 technically, by the rules, that's where it
3 started.

4 THE COURT: The case you cited for the
5 authority?

6 MR. JENKINS: It's a statute, Your Honor.
7 It's 15-3-530(7).

8 THE COURT: 15-3-340?

9 MR. JENKINS: 530(7).

10 THE COURT: 530?

11 MR. JENKINS: Yes, sir.

12 MR. HARVEY: You've already asked him ont
13 hat, Judge.

14 THE COURT: I'm sorry.

15 MR. HARVEY: That's the one he just
16 argued. You asked him about 15-3-340, which is
17 the 10-year quiet title -- I mean, the color of
18 title statute.

19 MR. JENKINS: And also, Your Honor, I'm
20 also looking at the case of Walter vs. Klein -- I
21 mean, Walter Klein vs. Neece. This is 123 S.C.2d
22 870. And, at that time, the case was another one
23 about fraud, but limitation was six years. And it
24 basically came out and said, the cause of action
25 does not need to accrue until discovery by the

1 agreed party of facts constituting the fraud.

2 THE COURT: I don't have a copy that. Do
3 you have a copy?

4 MR. JENKINS: I can give it to you. I
5 have a copy here, sir.

6 THE COURT: Mr. Harvey, do you agree with
7 that? Has he seen that case?

8 MR. HARVEY: I have seen the case, Your
9 Honor, however, The case says that it's not actual
10 knowledge. It's knowledge of any facts sufficient
11 to put the said property on inquiry, which, if
12 developed, will disclose the alleged fraud.

13 He testified in 2003 that he let him stay
14 in his granddaddy's house. He said that he knew
15 his daddy's was running this funeral home in 2003.
16 He had knowledge as early as then that he should
17 have started doing some investigation.

18 MR. JENKINS: Well, Your Honor, with one
19 sister living in Florida and the other sister
20 living in Augusta, it seems natural that the only
21 person that would have given him permission is the
22 person who said you can stay here. That has no
23 indication that he would think that, oh, there
24 must be some type of fraud or dispute.

25 So as Mr. Harvey just said, he said

1 actual or constructive. He had none. So the
2 statute of limitation didn't apply to him until he
3 found out.

4 THE COURT: All right. Anything else,
5 Mr. Jenkins?

6 MR. JENKINS: Nothing, Your Honor. Thank
7 you.

8 THE COURT: Any reply, Mr. Harvey?

9 MR. HARVEY: Nothing else, Your Honor.
10 Thank you.

11 THE COURT: I'm going to take this under
12 advisement.

13 Now, where are we with the defendant's
14 case?

15 MR. HARVEY: I have one witness that's
16 subpoenaed, Your Honor. She will be 15 minutes or
17 less. And, you know, I can proceed with
18 Miss Renique Riley after that. But this person
19 outside, I'd like to go ahead and get her up and
20 down.

21 THE COURT: Do you have somebody here
22 today? I didn't understand what you said.

23 MR. HARVEY: Outside. She's in the lobby
24 outside. Yes, sir. I have a witness that I
25 subpoenaed and she's waiting to come in and

1 testify.

2 THE COURT: Let's do that.

3 THE CLERK: Get the jury.

4 THE COURT: And let's get our jury in
5 here, Mr. Bailiff.

6 (Jury enters the courtroom at 4:02 p.m.)

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

10 THE WITNESS: I do.

11 THE CLERK: You can be seated.

12 WHEREUPON:

13 LYNN MANNUEL,
14 after having been duly sworn, testified as follows:
15 BY MR. HARVEY:

16 Q Thank you for waiting, ma'am. Would you please
17 state your name and address?

18 A My name is Lynn Mannuel. My address is 2479
19 Sandy Drive, Fairfax, South Carolina.

20 Q And how long have you lived in Fairfax?

21 A I've been married for 33 years, so probably a
22 little over 32.

23 Q Who is your husband?

24 A Larry Mannuel.

25 Q Did he want to come in and cross-examine you while

1 you were still under oath?

2 A Yeah, he did mention that.

3 Q Where did you go -- do you have a college degree?

4 A I do.

5 Q Where did you go to school?

6 A University of South Carolina.

7 Q All right. And your first job after coming out of
8 college was working where?

9 A At Speights & Runyon Law Office.

10 Q And who was your supervisor?

11 A Marty Hardy.

12 Q And after that, after Marty Hardy left, did you
13 stay on with the --

14 A I did for a little while, and I worked
15 directly for Mr. Alan Runyon.

16 Q After you left there?

17 A I went to work for Jack Eltzroth at the
18 Peters, Murdaugh, Parkers, Eltzroth & Detrick.

19 Q Okay. Were you employed at Peters, Parker, et
20 cetera, or whatever. I'm sorry.

21 A That's okay.

22 Q In May of 1995?

23 A I was.

24 Q I want to show you what is Plaintiff's Exhibit B
25 and ask you if you recall that?

1 A I do because that's my signature there, and I
2 remember Mr. Riley rather vividly.

3 Q Okay. What do you mean by rather vividly?

4 A He had a very nice conversation with me while
5 he was in the office, and that might have been the
6 first time that I got to meet them directly. I
7 knew who he was because of where I lived and where
8 his business was, but he was a very kind witty
9 gentleman. I enjoyed meeting him and conversing
10 with him outside of having to do this.

11 Q Okay.

12 A This was more formal, but I did get to speak
13 with him a little informally while he was there.

14 Q Did you also have a reason to know him as a
15 resident of Fairfax.

16 A Yes, sir. I knew exactly where his business
17 that owned and operated was. And, as far as I
18 know, he's been there my whole life, even though I
19 hadn't been there my whole life.

20 Q Okay. Now, you said after you recognized your
21 signature as a witness on that document.

22 A Uh-huh.

23 Q Who else is a witness on the document?

24 A Miss June Bilka.

25 Q And who notarized it?

1 A Well, Clyde Eltzroth. Also know as Jack
2 Eltzroth.

3 Q Was there a procedure by which Mr. Eltzroth
4 required his clients to sign wills and powers of
5 attorney?

6 A Yes, sir. Usually, they would come in and
7 tell him what he wanted, because, you know, we
8 have standard forms and stuff and he would adjust
9 it to whatever they wanted. He normally would go
10 over all of that with whoever the client was, or
11 what have you, and then he would have me, because
12 I worked directly for him -- and then Miss Bilka
13 was also in the office next door -- or not next
14 door. Right beside me. We were in the same
15 office. So, usually, you know, we would witness.
16 Or if she wasn't available, whoever else was in
17 the office.

18 Q So, to your recollection, was there anybody else
19 in the room when this will was signed besides you,
20 Miss Bilka, and Mr. Eltzroth?

21 A I don't recall, but normally it was just the
22 witnesses, whoever notarized it, and the client.

23 Q All right. Miss Mannuel, thank you for being so
24 patient with us. That's all the questions I have.
25 Answer any -- and Mr. Jenkins will probably want to

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

3 Mr. Jenkins, are you ready to proceed?

4 MR. JENKINS: Yes, sir.

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

7 MR. HARVEY: Yes, sir.

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

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

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

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

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

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

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

23 THE COURT: I've looked at them.

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

25 MR. JENKINS: Your Honor, may it please

1 the Court?

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

13 Thank you.

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

16 MR. JENKINS: Sure.

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

21 MR. JENKINS: Yes, sir.

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

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

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

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

7 MR. JENKINS: Sign a quit claim deed.

8 THE COURT: Quit claim deed.

9 MR. JENKINS: Yes.

10 THE COURT: To who?

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

13 THE COURT: Reopen --

14 MR. JENKINS: The grandfather's estate.

15 THE COURT: The grandfather's estate.

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

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

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

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

9 MR. JENKINS: Yes, sir.

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

12 MR. JENKINS: Okay.

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

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

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

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

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

1 THE COURT: Okay.

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

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

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

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

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

1 have electronic means. We have all these things.

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

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

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

25 THE COURT: Well, how do you reconcile

1 340 with 335?

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

6 THE COURT: I understand. Mr. Harvey?

7 MR. HARVEY: Sir?

8 THE COURT: What do you say?

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

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

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

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

4 The intestate heirs are the children of this
5 case, Virginia Prester, Evelyn Grant, Janice
6 Heard, and Marion F. Riley. They were all
7 living.

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

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

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

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

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

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

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

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

25 Were you able to select a foreperson to

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

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

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

18 Q You knew him pretty well then.

19 A Yes, sir.

20 Q In 1995 -- strike that.

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

24 A Correct.

25 Q Have you had an opportunity to review?

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

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

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

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

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

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

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

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

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

2 A Okay.

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

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

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

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

1 Q Okay. You said it was filed?

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

4 Q On October 24th of 1995.

5 A Correct.

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

7 A That's what's...

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

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

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

23 Q Everybody does.

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

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

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

6 Do you recognize that?

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

10 Q No doubt he signed it?

11 A No doubt whatsoever.

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

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

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

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

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

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

14 Q And that would be Exhibit D, correct?

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

24 A Oh, yes.

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

1 believe that he did not understand?

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

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

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

15 A Not that I'm aware of.

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

19 A No, I wasn't.

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

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

25 MR. JENKINS: Thank you, Your Honor.

1 power of attorney from time to time?

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

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

7 A Yes, I was a witness.

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

9 A No.

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

12 A Well, the other paralegal was Lynn Mannuel.

13 Q Okay.

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

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

20 A No.

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

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

1 ready to sign.

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

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

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

10 A I do.

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

12 A It is.

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

14 A Janet Palazzolo.

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

17 A Yes.

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

20 A Yes.

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

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

1 Q Okay.

2 A But I don't recall.

3 Q All right. But you signed this as a witness.

4 A I did.

5 Q And did you -- as far as you recall, was the firm

6 procedure followed?

7 A Yes.

8 Q No one else would have been in the room other than

9 the person signing it.

10 A Right.

11 Q Okay. Did you know Sonny Riley?

12 A I did not know him personally. I knew of

13 him. I had seen him come to the office.

14 Q You would have recognized him if he had been in

15 the room?

16 A Oh, yes.

17 Q And do you recall if he was in the room?

18 A He was not.

19 Q Do you know this lady (indicating)?

20 A I do not.

21 Q Never seen her before in your life?

22 A No.

23 Q So she wouldn't have been in the room either.

24 A No.

25 Q Thank you. No further questions. Thank you for

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

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

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

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

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

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

22 MR. HARVEY: Thanks for ruling for us.

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

1 the 2, 4, and 5, to me, appeared to be questions
2 of law, questions that is a fact determination.

3 MR. HARVEY: Doesn't the Court, though,
4 charge the jury how to apply -- what law to apply
5 to the facts as it finds them?

6 MR. JENKINS: Your Honor, those are the
7 exact same issues that are in his directed
8 verdict. So once Your Honor decides the directed
9 verdict, then that would be enough for us then to
10 present again to the jury.

11 THE COURT: Okay. I'm going to deny all
12 of defendant's motions for directed verdict.

13 I'm going to charge plaintiff's number 4,
14 request concerning fraud with the exception, as
15 agreed, of the last sentence.

16 I'm going to charge defendant's request
17 to charge number 6. And in this process, I'm
18 going to tell the jury that their duty is to,
19 first of all, determine whether or not the statute
20 of limitations prohibits the bringing of this
21 lawsuit to begin with. And then I'm going to give
22 them the number 6 charge.

23 And then I'm going to tell them, if they
24 find that that statute of limitation bars the
25 lawsuit, then that's the end of the case. That's

1 all they have to do.

2 If they find that it does not bar this
3 lawsuit, then they must next decide whether or not
4 the power of attorney was fraudulent.

5 We'll give them a charge on fraud and
6 tell them that if they believe that it was a
7 forgery, then they must find for the plaintiff.
8 Same as the other two. If they find that the
9 statute of limitations bars this action, they must
10 find for the defendant.

11 Now, let's talk about the verdict form
12 again. We don't actually have one, do we? We've
13 talked about it, we've drafted one, but we don't
14 actually have one.

15 MR. HARVEY: I put one in the email and
16 then I forgot to print it out.

17 MR. JENKINS: Yes, sir. I didn't print
18 it out.

19 THE COURT: Can we send it to the clerk
20 and have it printed?

21 MR. HARVEY: No. I sent it directly to
22 the judge. It was the one with the four points --

23 THE COURT: We don't that anymore.

24 MR. HARVEY: We don't need that one
25 anymore.

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

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

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

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

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

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

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

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

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

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

25 Now, if he came home because his family

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

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

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

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

25 So what would be the logic to all of a

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

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

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

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

2 THE COURT: Okay, so noted.

3 We are still at ease waiting on the jury.

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

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

8 Is the plaintiff ready to receive the
9 verdict?

10 MR. JENKINS: Yes.

11 THE COURT: Defense?

12 MR. HARVEY: Yes.

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

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

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

19 THE FOREPERSON: Yes, Your Honor.

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

22 THE FOREPERSON: Yes, sir.

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

25 THE CLERK: In the State of South

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

6 THE COURT: Thank you.

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

9 MR. JENKINS: Nothing, Your Honor.

10 THE COURT: From the defense?

11 MR. HARVEY: Nothing, Your Honor.

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

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

16 THE FOREPERSON: No, sir.

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

19 JURY PANEL: No.

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

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

A TRUE COPY

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

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

STATE OF SOUTH CAROLINA

COUNTY OF ALLENDALE

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

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

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

Cherry M. Vick
Cynthia P. O'Neal

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



ROA

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

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

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

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

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

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

Marion F. Riley (U.S.)

Cherry M. Vick
Cynthia S. O'Neal

STATE OF SOUTH CAROLINA
COUNTY OF ALLENDALE

PROBATE COURT

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

CASE NUMBER 99-ES-03-00042

APPLICATION FOR

(check any that apply)

PETITION FOR

INFORMAL
☒ PROBATE OF WILL
☒ APPOINTMENT

FORMAL
☐ TESTACY
☐ APPOINTMENT

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

I. ALL APPLICANTS/PETITIONERS MUST COMPLETE THIS SECTION.

1. Nature of interest of undersigned:

named and nominated in the last will and testament

2. Decedent information

Name: MARION F. RILEY SR.
Social Security Number: 251-08-4095
Date of Birth: 5-14-18
Date of Death: May 10, 1999
Age at date of death: 82
Domicile at date of death: Allendale South Carolina
(County) (State)

A TRUE COPY

D. Keith Smith
Probate Judge For
Allendale County

3. Venue for this proceeding is proper in this county because:

☒ Decedent was domiciled in this county at date of death.

☐ Decedent was not domiciled in South Carolina, but property of Decedent was located in this county at date of death.

☐ Decedent has a right to take legal action in this county because:

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

Name	Date of Birth	Address	Relationship to Decedent
Virginia Priester	5-14-40	PO Box 415 Fairfax, SC 29827	child
Marion F. Riley, Jr.	10-3-42	PO Box 836 Fairfax, SC 29827	child
Janice Riley	over 21	3004 John Paul Crossing, Augusta, GA 30906	child
Evelyn Grant	over 21	8418 NW 14th Ave, Miami, FLA 33147	child

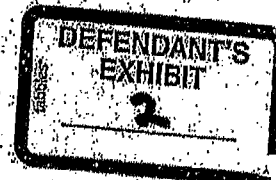
(Use additional sheet if necessary)

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

Name	Date of Birth	Address	Relationship to Decedent
same as above			

(Use additional sheet if necessary)

FORM #300EC (1/94)
62-3-203, 62-3-301, 62-3-309, 62-3-401, 62-3-402, 62-3-409,
62-3-411, 62-3-501, 62-3-704, 44-23-1080, 44-23-1120



PAGE 1 OF 5

ROA

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

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

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

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

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

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

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

2. Priority for this appointment is:

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

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

none

IV. ALL APPLICANTS/PETITIONERS MUST COMPLETE VERIFICATION.

VERIFICATION

The undersigned, being sworn, states that the facts set forth in the foregoing statement are true to the best of the undersigned's knowledge, information and belief; and hereby submits to the Court's jurisdiction in this matter.

SWORN to before me this 18th day of May, 1999.

Brenda P. Bennett
Notary Public for South Carolina
My Commission Expires: 5-21-08

Signature: Marion F. Riley, Jr.

Name: MARION F. RILEY, JR.

Signature: _____

Name: _____

ORDER OF INFORMAL PROBATE

IT IS HEREBY ORDERED that the above application for probate of a will be ☒ GRANTED ☐ DENIED informally this 18th day of May, 1999.

Brenda P. Bennett

BRENDA P. BENNETT, Probate Court Judge

ORDER FOR HEARING ON FORMAL PETITION

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

DATE:

TIME:

PLACE:

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

Executed this _____ day of _____, 19____

_____, Probate Court Judge

ORDER OF FORMAL TESTACY

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

The Court further finds that

☐ the decedent died intestate. The heirs are:

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

Executed this _____ day of _____, 19 _____

_____, Probate Court Judge

☐ SEE ATTACHED ORDER

ORDER OF APPOINTMENT

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

Executed this 18th day of May, 19 99

Brenda P. Bennett

BRENDA P. BENNETT Probate Court Judge

QUALIFICATION AND STATEMENT OF ACCEPTANCE

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

Signature: *Marion F. Riley, Jr.*

Name: MARION F. RILEY, JR.

Address: PO BOX 836

FAIRFAX, S.C. 29827

Telephone (O): _____

(H): 632-3049

Signature: _____

Name: _____

Address: _____

Telephone (O): _____

(H): _____

Attorney: _____

Address: _____

Telephone: _____

DEFENDANT'S
EXHIBIT
3

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

D. Keith Smith
Probate Judge For
Allendale County

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Jonathan Vickery
Jonathan Vickery


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

April 30, 2028

ROA

STATE OF SOUTH CAROLINA.

POWER OF ATTORNEY

COUNTY OF ALLENDALE.

10/24/93
[Signature]
MARY JEAN CARLSON
CLERK OF COURT
ALLENDALE COUNTY, S.C.

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

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

Witnesses:
[Signature]
[Signature]

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

Marion F. Riley Sr.

X

Marion F. Riley

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

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

POWER OF ATTORNEY FOR MARION F. RILEY, SR.
PAGE 2 OF 5

Marion F. Riley, Sr.

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

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

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

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

I, Marion F. Riley, Sr., the principal, sign my name to this instrument this 18th day of May, 1993, and being first duly sworn, do hereby declare to the undersigned authority that I sign and execute this instrument as my Power of Attorney and that I sign it willingly, that I execute it as my free and voluntary act for

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

Marion F. Riley Sr.

X

Witnesses:
L. BOG.MF Riley
05/18/93
91

[Handwritten initials and date]
17
5/18/93

the purpose of this instrument and I am eighteen years of age or
older, of sound mind and under no constraint or undue influence.

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

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

Katherine H. M. M. address Brunson, S.C.

Kerry A. O. Long address Chillicothe, S.C.

State of South Carolina

County of Hampton.

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

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

Marion F. Riley, Sr.

X

M.F. Riley's Funeral Home - Fairfax, Va.

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

Marion F. Riley

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

James A. McNeill
Notary Public for South Carolina
My Commission Expires: 3-1-99

Witnesses:

Marion F. Riley
Kerry Ann B. Long

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

Marion F. Riley

X

STATE OF SOUTH CAROLINA,)
COUNTY OF ALLENDALE)

LAST WILL AND TESTAMENT

I, MARION F. RILEY, SR., being of sound and disposing mind, memory and understanding do hereby make, publish and declare this instrument to be my Last Will and Testament hereby revoking any and all other testamentary writings of any kind or nature by me ever made.

ITEM ONE.

I direct my Personal Representative hereinafter named to pay all of my just and legal debts as soon after my death as may be practical.

ITEM TWO.

I give, devise and bequeath unto my daughter, Virginia Priester, any interest I have in the funeral home located in Hampton.

ITEM THREE.

I give, devise and bequeath all my interest as well as the property, real and personal, connected with my funeral home in Fairfax unto my son, Marion F. Riley, Jr. This includes the several lots on which the funeral home business is located.

ITEM FOUR.

All the rest and residue of my property equally to my children Janice Riley, Evelyn Grant, Marion F. Riley, Jr. and Virginia Priester.

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

Marion F. Riley Sr.

ROA

WITNESSES:

Wm. D. H. H. H.
Gene H. Diller

W. H. P 50

ITEM FIVE.

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

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

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

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

Lynn F. Manuel address Scottdale, A.C.

Jane H. Bilka address Hampton, A.C.

or cause to be done by virtue hereof;

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

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

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

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

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

We, June H. Bilka

Janet P. Pizzolo

and
the witnesses,

STATE OF SOUTH CAROLINA
COUNTY OF ALLENDALE

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

VIRGINIA PRIESTER and
JANICE RILEY,

PETITIONERS,

vs.

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

RESPONDENTS.

IN THE PROBATE COURT

CASE NUMBER: 99ES0300042

COMPLAINT

A TRUE COPY

D. Keith Smith
Probate Judge For
Allendale County

FILED FOR RECORD
01 NOV 35 PM 4:31
D. Keith Smith
Probate Judge For
Allendale County
STATE OF SOUTH CAROLINA

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

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



4. The Respondent Marion F. Riley, Jr. contends that the deceased prepared a Will dated May 22, 1995. This Will has been presented to the Court as the Last Will and Testament of the deceased.

5. The Petitioners are informed and believe that the May 22, 1995, Will is not the last Will of the deceased.

6. The Petitioners are informed and believe that the deceased lack the mental capacity to enter into the Will dated May 22, 1995.

7. The Petitioners are informed and believe that the deceased was mentally incompetent on the date of the Will dated May 22, 1995.

8. The Petitioners are informed and believe that the deceased was not capable of understanding the instrument that has been presented to the Court as his Last Will and Testament.

9. The Petitioners are informed and believe that the signatures on the Will dated May 22, 1995, are not those of the deceased.

10. The Petitioners are informed and believe that the Court should set aside the Will dated May 22, 1995, and declare the Will dated January 12, 1990, to be the valid Will of the deceased.

11. The Petitioners are informed and believe that a Deed dated February 26 1999, transferring ownership of property (Tax Map # 0123-08-042 and -061; 0123-08-08-024; 0123-08-09-008, 010, 011; 0128-08-02-011 and -012) to the Respondent Marion F. Riley, Jr. was executed without the knowledge and/or consent of the deceased.

12. The Petitioners are informed and believe that the ownership of said property should be return to the estate of the deceased.

13. The Petitioners are informed that they should be appointed the joint Personal Representative of the estate of the deceased.

2
J. 16
D. 302

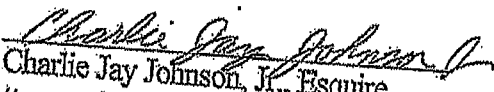
14. The Petitioners are informed and believe that the Respondent, Marion F. Riley, Jr. should be required to pay their attorney fees and costs associated with this matter.

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

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

Dated this 5th day of Nov. 2001.

SMALLS LAW FIRM, P.C.


Charlie Jay Johnson, Jr., Esquire
Attorney for Petitioners

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

J-16³
p. 303

STATE OF SOUTH CAROLINA
COUNTY OF ALLENDALE

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

VIRGINIA PRIESTER and
JANICE RILEY,

Petitioners,

-v-

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

Respondents.

IN THE PROBATE COURT

CASE NUMBER: 99-ES-03-00042

A TRUE COPY

D. Keith Smith
Probate Judge For
Allendale County

ORDER

10/18/22
#1

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

Pd-3
P. 268-69

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

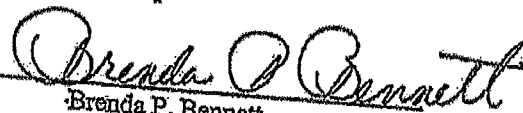


ROA

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

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

ORDERED, Petitioners petitioner is dismissed with prejudice.



Brenda P. Bennett
Judge of Probate, Allendale County

Allendale,
Hampton, South Carolina

October 25, 2002.

STATE OF SOUTH CAROLINA
COUNTY OF ALLENDALE

PROBATE COURT

IN THE MATTER OF MARION F. RILEY, SR.

CASE NUMBER 99-ES-03-00042

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

ORDER CLOSING ESTATE

Upon the consideration of the Petition for Settlement, it appears to the Court that the allegations and statements in the Petition are true and correct; that all required notices have been given; that this estate has been administered according to the laws of South Carolina and the Orders of this Court; that the Estate should be closed in accordance with the Court's Order and

- ☒ (Testate-Complete Settlement) That the decedent's will dated May 22, 1995, and codicil(s) dated None, which was/were previously admitted to probate, constitute the valid unrevoked Last Will and Testament of the decedent.
- ☐ (Intestate-Complete Settlement) That the decedent died leaving no valid unrevoked Last Will and Testament.
- ☐ (Other:)

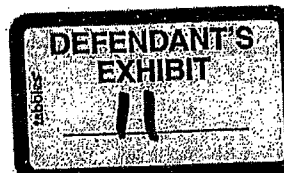
IT IS HEREBY ORDERED:

- ☐ 1. That the final account and proposal for distribution is approved.
- ☐ 2. That the Personal Representative(s) is/are authorized and directed to deliver and distribute title and possession of the assets of this estate to the distributees in the amount and manner set forth in the Proposal for Distribution.
- ☐ 3. That, upon compliance with this Court's Order as set forth in #2 above and upon presentation of proper proof of such compliance, the appointment of the Personal Representative(s) shall be terminated and the estate closed.
- ☐ 4. That the Personal Representative(s) is/are released and discharged as the Personal Representative(s).
- ☒ 5. That the appointment of the Personal Representative(s) is/are hereby terminated and this estate is closed.
- ☐ 6. (Other:)

Executed this 8th day of April, 2003

Brenda P. Bennett
BRENDA P. BENNETT, Probate Court Judge

JCE-2
p.158



FILED FOR RECORD
2014 APR 14 PM 3:16
CLERK OF COURT
ALLENDALE COUNTY, S.C.

2014-220 DATE: 04/14/2014
DEED Book: 246 Page: 98-100
Filed for Record in ALLENDALE COUNTY ROD.
Deed

Space above this line for recording information

STATE OF SOUTH CAROLINA)
COUNTY OF ALLENDALE)

TITLE TO REAL ESTATE

KNOW ALL MEN BY THESE PRESENTS, THAT

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

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

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

TIN: 123-08-09-008



ALLENDALE COUNTY
DOCUMENTARY
Tax
Paid
EX-10-10
ELAINE SABB

ROA

GRANTEE'S ADDRESS:

RENIQUE Y. RILEY

P.O. Box 836

FAIRFAX, SC 29827

TOGETHER with all and singular, the Rights, Members, Hereditaments and Appurtenances to the said Premises belonging, or in anywise incident or appertaining.

TO HAVE AND TO HOLD, all and singular, the said Premises before mentioned unto the said, **RENIQUE Y. RILEY**, Her Heirs and Assigns forever in Fee Simple.

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

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

SIGNED, SEALED AND DELIVERED
IN THE PRESENCE OF:

Laura J. Sear
WHL

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

STATE OF SOUTH CAROLINA)
COUNTY OF ALLENDALE)

ACKNOWLEDGMENT

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

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

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

THIS DEED PREPARED BY THE LAW OFFICE OF WALTER H. SANDERS, JR., P. O. BOX 240, FAIRFAX, SC 29827, WITHOUT BENEFIT OF TITLE SEARCH AND NO REPRESENTATIONS ARE MADE AS TO THE STATUS OF TITLE, THE PAYMENT OF TAXES, THE DESCRIPTION OF THE PROPERTY OR THE OWNER(S) THEREOF.

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

POWER OF ATTORNEY

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

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

TRUE COPY

Date

10/5/2022

Marion F. Riley, Jr.

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CLERK OF COURT
ALLENDALE, SC



ELECTRONICALLY FILED - 2021 Feb 12 9:20 AM - ALLENDALE - COMMON PLEAS - CASE#2020CP0300176

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

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

WITNESSES:

James H. Dilks

James O. Callaghan

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or cause to be done by virtue hereof;

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

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

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

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

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

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

WITNESSES:
June H. Bilka
James P. Palazzolo

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

June D. Bille address Hampton, S.C.
James P. Pellegrino address Hampton, S.C.

State of South Carolina
County of Hampton.

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

June D. Bille

SWORN to before me this

15th day of October, 1998.

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

State of South Carolina, County of Allendale
I hereby certify that this instrument was indexed and
recorded this 15th day of Oct, 1998.

At 4:00 AM, in Ord Book 233

Page 143

Mary Joa Harrison
Mary Joa Harrison, C.C.P., R.M.C.
Clerk of Court, Allendale County, S.C.

146

EXHIBIT

Riley's Funeral Home - Fall 64, SC - 801.832.3422 - 1.800.MH.0111

A TRUE COPY

Document No. 19, 197

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

STATE OF SOUTH CAROLINA
COUNTY OF ALLIANCE

REVOCATION OF POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS, that I, Marion F. Riley, Sr., a citizen of Alliance County, South Carolina do hereby revoke and forever end and take certain Power of Attorney to Marion F. Riley, Jr., dated May 18, 1975 and recorded in the office of the Clerk of Court in Alliance County, South Carolina;

I, Marion F. Riley, Sr., the Principal, sign my name on this instrument this 18th day of May, 1975, and being first duly sworn, do hereby declare to the undersigned authority that I sign and execute this instrument willingly, that I execute it as my free and voluntary act for the purpose herein expressed and I am eighteen years of age or older, of sound mind, and under no constraint or undue influence.

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

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

PAGE 1 OF 2

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constraint or under influence.

James P. Anderson address Hampton, VA
James P. Anderson address Hampton, VA

State of South Carolina
County of Hampton

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

SWORN to before me this
25th day of May, 1978.
James P. Anderson
Notary Public for South Carolina
My Commission Expires: 11/25/80

State of South Carolina, County of Abbeville
I hereby certify that the foregoing was properly and
correctly filed for record on the 25th day of May, 1978
at 11:51 AM in Book 100, Page 100.
Notary Public
James P. Anderson
Notary Public for South Carolina
My Commission Expires: 11/25/80

PAGE 1 OF 2

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Document 99-154
State of South Carolina,
COUNTY OF ALLENDALE.

TITLE TO REAL ESTATE
Bonnie Lithographic, Greenville, SC

Form 14
(Revised 4-1-88)

ALLENDALE COUNTY
DOCUMENTARY

Box Exempt

Paid 2-26-99

MARY JEAN CARLSON

RMC

Know All Men by These Presents, That Marion F. Riley, Sr.
(hereinafter whether singular or plural the "Grantor")

In the State aforesaid, for and In consideration of the
sum of \$1.00 Love and Affection for my son, Dollars
to the Grantor paid by Marion F. Riley, Jr. (hereinafter
whether singular or plural the "Grantee") has granted, bargained, sold and released, and by these presents does grant,
bargain, sell and release unto the said Grantee the following described property.

All that certain piece, parcel or lot of land, situate, lying and being in the Town of Fairfax,
County of Allendale, State of South Carolina, and having the following boundaries and
measurements, to wit: On the North by lot, now or formerly, of Rumelle Boone and measuring
thereon one hundred and no/100 (100') feet, more or less; on the East by the right-of-way of a
20' alley and measuring thereon seventy-five and no/100 (75') feet, more or less; on the South
by lot, now or formerly, of Neda T. Hoffman, et al., and measuring thereon one hundred and
no/100 (100') feet, more or less; and on the West by the right-of-way of Pickens Street and
measuring thereon seventy-five and no/100 (75') feet, more or less. This being the identical
property acquired by the Grantor herein by deed of Rebecca D. Jenkins dated April 30, 1967 of
record in the office of the Clerk of Court for Allendale County in Deed Book 40, at Page 87.
TAX MAP NUMBER: 0123-08-08-042 AND -061.

ALSO

All that certain piece, parcel or lot of land, situate, lying and being in the Town of Fairfax,
County of Allendale, State of South Carolina, and having the following boundaries and
measurements, to wit: On the North by lot, now or formerly, of Jack Platts, et al., and measuring
thereon one hundred and no/100 (100') feet, more or less; on the East by the right-of-way of a
20' alley and measuring thereon fifty and no/100 (50') feet, more or less; on the South by the
right-of-way of 120th Street and measuring thereon one hundred and no/100 (100') feet, more or
less; and on the West by the right-of-way of Pickens Street and measuring thereon fifty and
no/100 (50') feet, more or less. This being the identical property acquired by the Grantor herein
by Juanita M. Houck, Tax Collector, dated 12-30-85 of record in the office of the Clerk of Court
for Allendale County in Deed Book 74, at Page 627.

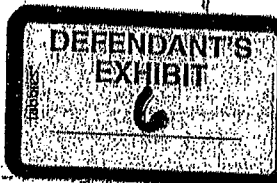
TAX MAP NUMBER: 0123-08-08-024.

ALSO

(SEE ATTACHED SCHEDULE "A" FOR ADDITIONAL DESCRIPTIONS)
TRUE COPY

Date 10/5/2002
Edna S. Sasser

ELAINE SASSER
CLERK OF COURT
ALLENDALE, SC



ELECTRONICALLY FILED - 2024 Feb 12 9:20 AM - ALLENDALE - COMMON PLEAS - CASE#2020CP0300176

ROA

TOGETHER with all and singular, the rights, members, hereditaments and appurtenances to the said premises belonging or in anywise incident or appertaining.

TO HAVE AND TO HOLD all and singular the premises before mentioned unto the said Grantee,

Marion F. Riley, Jr., his

Heirs and Assigns forever.

And the Grantor does hereby bind himself and his Heirs, Executors and Administrators, to warrant and forever defend all and singular the said premises unto the said Grantee and the Grantee's Heirs and Assigns, against the Grantor and the Grantor's Heirs and against every person whomsoever lawfully claiming, or to claim, the same or any part thereof.

WITNESS the Hand and Seal of the Grantor this 26th day of January
in the year of our Lord one thousand nine hundred and ninety-nine
and in the two hundredth and twenty-third year of the Sovereignty
and Independence of the United States of America.

SIGNED, SEALED AND DELIVERED
IN THE PRESENCE OF

Kelly Collins
210 R. R. 1

Marion F. Riley, Jr. (SEAL)
Marion F. Riley, Sr.,
by his Attorney-in-fact, (SEAL)
MARION F. RILEY, JR.

State of South Carolina,

County of Alendale

Marion F. Riley, Sr.

TO

Marion F. Riley, Jr.

TITLE TO REAL ESTATE

I hereby certify that the within Deed was filed for record
in my office at 4:32 P.M. on the
16th day of February,
1999 and was immediately entered upon the proper indices
and duly recorded in Book 187 of Deeds,
page 1

Mary Jean Longenecker

Clerk of Court of Common Pleas and General Sessions for

County, S.C.

I hereby certify that the within Deed has been this

day of

14th, A.D. 1999, Recorded in

Book _____ of Deeds, page _____

Index for

for _____ County _____

FILED FOR RECORD
99 FEB 26 PM 11 32
ALLENDALE COUNTY, S.C.

SCHEDULE "A" - DESCRIPTIONS OF REAL ESTATE

ALSO

All that certain piece, parcel or lot of land, situate, lying and being in the Town of Fairfax, County of Allendale, State of South Carolina, and having the following boundaries and measurements, to wit: On the North by lot, now or formerly, of James Plackney, et al., and measuring thereon one hundred and no/100 (100') feet, more or less; on the East by the right-of-way of a 20' alley and measuring thereon fifty and no/100 (50') feet, more or less; on the South by the right-of-way of 15th Street and measuring thereon one hundred and no/100 (100') feet, more or less; and on the West by the right-of-way of Pickens Street and measuring thereon fifty and no/100 (50') feet, more or less. This being the identical property acquired by the Grantor herein by deed of Lena White dated 9-5-39 of record in the office of the Clerk of Court for Allendale County in Deed Book 32, at Page 39.

TAX MAP NUMBER: 0123-08-09-008.

ALSO

mfrs
All that certain piece, parcel or lot of land, situate, lying and being in the Town of Fairfax, County of Allendale, State of South Carolina, and having the following boundaries and measurements, to wit: On the North by lot, now or formerly, of Corinne Jimerson, et al., and measuring thereon two hundred eleven and 6/10ths (211.6') feet, more or less; on the East by the right-of-way of Highway 321 and measuring thereon two hundred and no/100 (200') feet, more or less; on the South by the right-of-way of 17th Street and measuring thereon two hundred ten and 9/10ths (210.9') feet, more or less; and on the West by the right-of-way of Pickens Street and measuring thereon two hundred and no/100 (200') feet, more or less. This being the identical property acquired by the Grantor herein by deed of Marion F. Riley, Jr. dated 1-9-86 of record in the office of the Clerk of Court for Allendale County in Deed Book 75, at Page 516.

TAX MAP NUMBER: 0123-08-09-010.

ALSO

All that certain piece, parcel or lot of land, situate, lying and being in the Town of Fairfax, County of Allendale, State of South Carolina, and having the following boundaries and measurements, to wit: On the North by lot, now or formerly, of Virginia R. Priestley and measuring thereon one hundred and no/100 (100') feet, more or less; on the East by the right-of-way of Hampton Street and measuring thereon one hundred and no/100 (100') feet, more or less; on the South by the right-of-way of 12th Street and measuring thereon one hundred and no/100 (100') feet, more or less; and on the West by the right-of-way of a 20' alley and measuring thereon one hundred and no/100 (100') feet, more or less. This being the identical property acquired by the Grantor herein by deed of Lena White dated 9-5-39 of record in the office of the Clerk of Court for Allendale County in Deed Book 32, at Page 39.

TAX MAP NUMBER: 0123-08-09-011.

ALSO

All that certain piece, parcel or lot of land, situate, lying and being in the Town of Fairfax, County of Allendale, State of South Carolina, and having the following boundaries and measurements, to wit: On the North by lot, now or formerly, of F. M. Young, et al., and measuring thereon one hundred and no/100 (100') feet, more or less; on the East by the right-of-way of a 20' alley and measuring thereon fifty and no/100 (50') feet, more or less; on the South by lot, now or formerly, of the Estate of Annie Ferguson and measuring thereon one hundred and no/100 (100') feet, more or less; and on the West by the right-of-way of Hampton Street and measuring thereon fifty and no/100 (50') feet, more or less. This being the identical property acquired by the Grantor herein by deed of Samh O. Lawton, et al., dated May 8, 1987 of record in the office of the Clerk of Court for Allendale County in Deed Book 79, at Page 231.

TAX MAP NUMBER: 0128-08-02-011 and -012.

SCHEDULE "A" CONTINUED - DESCRIPTIONS OF REAL ESTATE

ALSO

All that certain piece, parcel or lot of land, situate, lying and being in the Town of Fairfax, County of Allendale, State of South Carolina, and having the following boundaries and measurements, to wit: On the North by lot, now or formerly, of the Estate of Laurie Joe Felix, et al., and measuring thereon one hundred and no/100 (100') feet, more or less; on the East by the right-of-way of a 20' alley and measuring thereon twenty-five and no/100 (25') feet, more or less; on the South by lot, now or formerly, of the Estate of Annie Ferguson and measuring thereon one hundred and no/100 (100') feet, more or less; and on the West by the right-of-way of Hampton Street and measuring thereon twenty-five and no/100 (25') feet, more or less. This being the identical property acquired by the Grantor herein by deed of Christine Harter dated May 28, 1987 of record in the office of the Clerk of Court for Allendale County in Deed Book 79, at Page 227.

TAX MAP NUMBER: 012B-08-02-006.

ALSO

MFRSV
All that certain piece, parcel or lot of land, situate, lying and being in the Town of Fairfax, County of Allendale, State of South Carolina, and having the following boundaries and measurements, to wit: On the North by lot, now or formerly, of Johnson and measuring thereon one hundred and no/100 (100') feet, more or less; on the East by the right-of-way of Alken Avenue and measuring thereon twenty-five and no/100 (25') feet, more or less; on the South by lot, now or formerly, of Bernie Manuel, Jr. and measuring thereon one hundred and no/100 (100') feet, more or less; and on the West by the right-of-way of a 20' alley and measuring thereon twenty-five and no/100 (25') feet, more or less. This being the identical property acquired by the Grantor herein by deed of Juanita M. Houck, Tax Collector, dated 1-30-83 of record in the office of the Clerk of Court for Allendale County in Deed Book 74, at Page 623.

TAX MAP NUMBER: 0123-08-07-020.

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Laurie A. Hoeltzel, PhDc
Forensic Document Examiner
2303 E. Hiddenview Dr. * Phoenix * AZ* 85048
PO Box 3528 * Crestline * CA * 92325
2520 McMullen Booth Rd* Suite B #229* Clearwater* FL * 33761
13915 W. 73rd St.* Arvada * CO * 80005
Cell: 310-985-2807 *E. FL(O): 954-745-0752- W. FL(O): 727-213-5722- CO(O):
720-724-8077- TX(O): 832-827-3052- Fax: 866-652-9901
E-mail: lah78@msn.com
www.USHandwritingExpert.com
www.ArizonaHandwritingExpert.com
www.CaliforniaHandwritingExpert.com
www.FloridaHandwritingExpert.com
www.DenverHandwritingExpert.com
www.HoustonHandwritingExpert.com

AFFIRMATION

Subjects:
MARION F. RILEY, SR.
Date: November 22, 2020

I, LAURIE HOELTZEL, hereby affirm as follows:

I am a Court Qualified Forensic Document Examiner in the field of questioned documents. I am over the age of eighteen years, am of sound mind, having never been convicted of a felony or crime of moral turpitude; I am competent in all respects to make this Affirmation. I have personal knowledge of the matters declared herein, and if called to testify, I could and would competently testify thereto.

I have studied and was trained in the examination, comparison, analysis and identification of handwriting, discrimination and identification of writing, altered numbers and altered documents, handwriting analysis, trait analysis, including the discipline of examining signatures, with over twenty (20) years of experience in this field. A true and correct copy of my current Curriculum Vitae ("C.V.") is attached as "Exhibit 1".

An examination of handwriting included establishing patterns of writing habits to help identify the author. Handwriting is formed by repeated habits of writing by the author, which are created by neuro-pathways established in the brain. These

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Laurie Hoeltzel Affirmation- Marion F. Riley, SR.

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

OBSERVATION, DESCRIPTIONS AND/OR LIMITATIONS

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

METHODOLOGY

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

EXAMINATION

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

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

ANALYSIS

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

OPINION

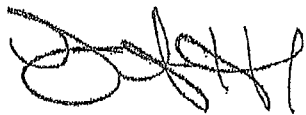
Based upon thorough analysis of these items, and from an application of accepted forensic document examination tools, principles and techniques, it is my professional expert opinion that the person who authored the signatures of Marion F. Riley, SR. on the known documents did not author the signatures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

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

DECLARATION

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

Respectfully submitted,



Laurie A. Hoeltzel, PhDc

STATE OF SOUTH CAROLINA

COUNTY OF: ALLENDALE

IN THE MATTER OF:
MARION F. RILEY, SR.
Decedent

IN THE PROBATE COURT

INVENTORY AND APPRAISEMENT

☐ ORIGINAL

☒ SUPPLEMENTARY, AMENDED OR CORRECTED # 1

(must restate the unchanged information from the original inventory)

Amended per Order (2020 CP-03-00176) Filed
CASE NUMBER: 199ES03-00042 May 4, 2023

File the original inventory and Appraisement with the Probate Court within ninety (90) days following the fiduciary appointment.

A copy shall be sent to each interested person who has demanded it. A Proof of Delivery must be filed with the Court. The gross fair market value of all probate assets, regardless of location (whether in this state or elsewhere), should be listed as the date of death. Continue on additional sheets if necessary. A Supplementary, Amended, or Corrected Inventory should be utilized for correcting, adjusting or adding to an original inventory, and must restate the unchanged information from the original inventory. A qualified and disinterested appraiser may be employed to ascertain the value of any asset. If an appraiser is employed, his/her name and address must be indicated with the item or items he/she appraised.

RECAPITULATION

	Non-Probate (OPTIONAL)	Probate
Schedule A - Real Estate.....		\$0.00
Schedule B - Stocks and Bonds.....		\$0.00
Schedule C - Notes Due Decedent and Cash.....		\$0.00
Schedule D - Insurance on Person's Life: Part 1 - Payable to Estate.....		\$0.00
Part 2 - Payable to Beneficiary.....	\$0.00	
Schedule E - Jointly Owned Property.....	\$0.00	\$0.00
Schedule F - Other Miscellaneous.....	\$0.00	\$0.00
Schedule G - Transfers during Decedent's Life.....	\$0.00	\$0.00
Schedule H - Powers of Appointment.....	\$0.00	\$0.00
Schedule I - Annuities and Retirement Accounts.....		\$0.00
TOTAL GROSS VALUE OF PROBATE ESTATE.....		\$0.00
ENCUMBRANCES.....		\$0.00

The undersigned, being sworn, states that the following schedules contain a complete and accurate inventory and appraisement of all probate real and personal property of this estate so far as the undersigned is informed; that he/she has estimated and/or appraised all listed property at its fair market value, according to the best of his/her knowledge and ability.

SWORN to before me this 30th day of

June, 2023.

Melodie K. Ford
Notary Public for South Carolina

My Commission Expires: March 12, 2025

Personal Representative

Signature: Janice R. Heard

Print Name: JANICE R. HEARD

Address: 3004 JOHN PAUL XING

AUGUSTA, GA 30908

Telephone (Work):

(Home): 706-793-9716

(Cell): 706-830-8862

Email:

Co-Personal Representative

Signature (If applicable):

Print Name:

Address:

Telephone (Work):

(Home):

(Cell):

Email:

Attorney:

Address:

Telephone:

Email:

WHEN COMPLETING THE FOLLOWING SCHEDULES LIST ALL PROBATE ASSETS, REGARDLESS OF LOCATION. ALL OUT-OF-STATE PROBATE ASSETS MUST BE DISCLOSED. NON-PROBATE PROPERTY NEED NOT BE DISCLOSED.

SCHEDULE A - REAL ESTATE List below any real estate in Decedent's name alone or tenants in common (not as joint with right of survivorship or tenants in the entirety). Describe each property by listing its full address, tax map number, deed book and page, and description consistently (for example: house, lot, buildings, acreage). Also list oil/mineral rights and time shares if it is real property. If none, so state. If the property is encumbered, list the full fair market value of the property here and the encumbrance on Encumbrance Schedule below. (For jointly owned property with right of survivorship, you may list in Schedule E.)

Item No.	Description	Fair Market Value	Value of Decedent's Interest (Indicate fraction, if not 100%)
	Tax Map Number: SEE ATTACHED		
	Tax Map Number:		
	Tax Map Number:		

TOTAL SCHEDULE A
(also enter under recapitulation, page 1)

SCHEDULE B - STOCKS AND BONDS List below all stocks in the Decedent's name alone or tenants in common (not as joint with right of survivorship). Identify each type of security and the number of shares. If none, so state. (For jointly owned property with right of survivorship, you may list in Schedule E.)

Item No.	Description	Face Value	Appraised Value

TOTAL SCHEDULE B
(also enter under recapitulation, page 1)

SCHEDULE C - CASH, BANK ACCOUNTS, NOTES RECEIVABLES. List all bank accounts owned by the decedent alone or as tenants in common (checking, savings, CDs, money market, brokerage, employment bonus, cash award, final paycheck, etc.), cash on hand, notes payable to Decedent, and survival action proceeds. If none, so state. List each separate account type and institution and last two digits of the account. (For jointly owned property with right of survivorship, you may list in Schedule E.)

Item No.	Description	Value

TOTAL SCHEDULE C
(also enter under recapitulation, page 1)

SCHEDULE D - Insurance (If none, so state.)
Part 1 - List the insurance on the life of the Decedent which is Payable to the Estate.

Item No.	Description	Value

TOTAL PART 1
(also enter under recapitulation, page 1)

(If more space is required, insert tax schedules or additional sheets of same size.)

Part 2 (OPTIONAL) - You may list here the Insurance on the life of the Decedent which is payable to the beneficiaries.

Item No.	Description	Beneficiary	Value

TOTAL PART 2

(also enter under recapitulation, page 1)

SCHEDULE E - (OPTIONAL) JOINT WITH RIGHT OF SURVIVORSHIP - You may list below any non-probate jointly owned by the decedent with another with right of survivorship. List each separate account type and institution and the last two digits of each account.

Item No.	Description	Joint Owner(s)	Percentage Includible	Value of Decedent's Interest

TOTAL SCHEDULE E

(also enter under recapitulation, page 1)

SCHEDULE F - Other Miscellaneous Assets Payable to Estate. List below any tangible personal property, including household goods & furnishings, vehicles, boats/motors/trailers, mobile homes that are not de-titled, airplanes, equipment, interest in a partnership or unincorporated business, articles or collections having either artistic or intrinsic value, including coins, guns, artwork, jewelry, etc., and any other miscellaneous probate items not listed elsewhere, including any digital assets. If none, so state (For jointly owned tangible personal property with right of survivorship, you may list in schedule E.)

Item No.	Description (Including ID # and VIN#)	Value

TOTAL SCHEDULE F

(also enter under recapitulation, page 1)

NOTE: FOR SCHEDULES G, H, AND I, LIST VALUES ONLY IF PAYABLE TO ESTATE.

SCHEDULE G - Transfers During Decedent's Life - List any transfers intended to take effect at death if such property is payable to the Estate. You may list in the "Optional" section below any non-probate transfers intended to take effect at death not payable to the Estate, including United States Government Bonds "Payable on Death," accounts which are "Transfer on Death," a trust created by Decedent in which income for life was retained by the Decedent, power to revoke or other incidents of ownership retained by the Decedent, lifetime transfers of real property in which Decedent retained life estate, etc. If none, so state.

List date and type of transfer and list total amount payable to estate:

(OPTIONAL) describe and list amount not payable to estate:

TOTAL SCHEDULE G

(also enter under recapitulation, page 1)

(If more space is required, insert tax schedules or additional sheets of same size.)

SCHEDULE H - Powers of Appointment. List property, both real and personal, over which Decedent possessed a Power of Appointment whether testamentary or otherwise, if such property is payable to the Estate. You may list property subject to such power if it was not payable to the Estate in the "Optional" section below. If none, so state.

Describe and list total amount payable to estate:

(OPTIONAL) describe and list amount not payable to estate:

TOTAL SCHEDULE H

(also enter under recapitulation, page 1)

SCHEDULE I - Annuities and Retirement Accounts (IRAs, 401(K), etc.). List any annuities or retirement accounts owned by the Decedent and payable to the Estate. You may list in the "Optional" section below any accounts payable to a beneficiary which is not payable to the Estate.

Describe and list total amount payable to estate:

(OPTIONAL) describe and list amount not payable to estate:

TOTAL SCHEDULE I

(also enter under recapitulation, page 1)

ENCUMBRANCES (e.g., mortgages, liens, judgments, etc., but not general debts of the estate) - List debts of the Decedent secured by assets on the above schedule and describe the debt and the specific asset encumbered.

Item No.	Schedule and Item Number Encumbered Thereby	Description & Amount

TOTAL ENCUMBRANCES

(also enter under recapitulation, page 1)

(If more space is required, insert tax schedules or additional sheets of same size.)

ESTATE OF MARION F. RILEY, SR.

1999-ES-03-00042

Inventory & Appraisement--Schedule A

123-08-08-042	2 lots-Pickens Avenue	\$1,900.00	\$1,900.00
123-08-02-006	1 lot-Hampton Avenue	\$1,200.00	\$1,200.00
123-08-02-011	1 lot-Hampton Avenue	\$1,200.00	\$1,200.00
123-08-02-012	1 lot-Hampton Avenue	\$1,200.00	\$1,200.00
123-08-02-013	1 lots-Hampton Avenue	\$2,200.00	\$2,200.00
123-08-08-024	2 lots-Pickens Avenue	\$2,000.00	\$2,000.00
123-08-08-061	1 lot-Pickens Avenue	\$1,000.00	\$1,000.00
123-08-09-010	8 lots-Pickens Avenue	\$8,500.00	\$8,500.00
123-08-09-011	2 lots-Hampton Avenue(Funeral Home)	\$29,700.00	\$29,700.00
123-08-09-008	3 lots-Pickens Avenue(Home)	\$41,900.00	\$41,900.00
123-08-07-020	1 lot-Aiken Avenue	\$1,000.00	\$1,000.00
137-04-01-018	4 lots-W. Davidson St(Park)	\$12,000.00	<u>\$12,000.00</u>
	TOTAL		\$103,800.00

RECEIVED

Oct 04 2024

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of
Appeals

APPEAL FROM ALLENDALE COUNTY
Court of Common Pleas

Brooks P. Goldsmith, Circuit Court Judge

Case No. 2023-001281

MARCUS RILEY

Appellant,

v.

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

CERTIFICATE OF COUNSEL

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

October 3 2024

/s/ Ittriss J. Jenkins
Ittriss J. Jenkins
Bar No. 76902
652 Rutledge Ave. Ste. A
Charleston SC 29403
(843) 203-0193
Attorney for Appellant

ROA 183

RECEIVED

Oct 04 2024

SC Court of Appeals

PROOF OF SERVICE OF A RECORD ON APPEAL

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM ALLENDALE COUNTY
Court of Common Pleas

Brooks P Goldsmith, Circuit Court Judge

Case No. 2023-001281

Marcus Riley,

Appellant,

v.

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

PROOF OF SERVICE

I certify that I have served the Record on Appeal on J. Martin Harvey, Alison Hood and Aaron Ness by the electronic mail to the addresses located on the Attorney Information System.

I certify that I have served the Notice of Appeal on the Honorable Brooks P. Goldsmith by the electronic address listed in the South Carolina Judicial Website.

October 3rd 2024

/s/ Ittriss J. Jenkins
Ittriss J. Jenkins
Bar No. 76902
652 Rutledge Ave. Ste. A
Charleston SC 29403
(843) 203-0193
Attorney for Appellant