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Feb 10 2025

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM HORRY COUNTY
Honorable Alex B. Hyman, Circuit Court Judge

Appellate Case No. 2024-000599
Circuit Court Case No.: 2022-CP-26-03314

Claudia Troyer Miles, David V. King, and John M. Strasswimmer.....Respondents,

v.

Mary Michelle Miles Appellant.

RECORD ON APPEAL

VOLUME 2

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GUARDIAN AD LITEM FOR CLAUDIA
TROYER MILES

1 Huberty.

2 Q: After discovering that your mom had the
3 brain tumor, what did you think in
4 regards to the incidents that had
5 happened in the past as the brain tumor
6 may have affected those?

7 A: Well, I was concerned about a few things.
8 These types of tumors, it's my
9 understanding, are very slow growing, and
10 they're very hard to diagnose because
11 they don't produce a lot of outward
12 symptoms that might cause people to get,
13 seek treatment right away. For example,
14 they don't hurt a lot, or you don't
15 suddenly wake up paralyzed in one day.
16 This was a large tumor, as described by
17 the doctors at the time of diagnosis, and
18 I was concerned that this tumor probably
19 had been growing for longer than those
20 four months, and particularly the
21 location where it's growing is in, is in
22 a judgment part of the brain, the frontal
23 lobe, which is an area that is damaged,
24 for example, people with Alzheimer's who
25 develop poor judgment.

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ROA 0499

1 Q: Going back to the decision for treatment,
2 treatment did not happen in Charleston.
3 Where did treatment take place?

4 A: Treatment -- That's a good question.
5 Treatment did, did not take place in
6 Charleston. We made plans based on mom's
7 decision to get treatment at the
8 University of Washington. There were
9 initial discussions and plans to get
10 treatment, but ultimately mom's first
11 treatment after her surgery was a short
12 course of radiation at MUSC.

13 Q: Did she visit another facility in between
14 -- before getting that treatment?

15 A: Yes. She went to the University of
16 Washington, Seattle Cancer Care Alliance,
17 Fred Hutchinson Cancer Center, the
18 specific program called the Alvord brain
19 tumor program.

20 Q: Tell me how she ended up there.

21 A: We had discussions as a family as to
22 where she might go, one option being to
23 stay at MUSC. Another option would be
24 going to Duke. Briefly, we touched on
25 Florida, but I kind of discounted that

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1 because our only significant cancer
2 center is very far from where I live. In
3 other words, the place where I work is
4 not the level of MUSC and not the level
5 of University of Washington. We
6 discussed the University of Washington.
7 Mom said she wanted to go to Washington,
8 and we all had a conversation with her
9 about that. We all agreed that mom would
10 go to Washington, and we made plans for
11 that.

12 Q: What plans did you make, and how did you
13 get her there?

14 A: Well, we made plans to buy airplane
15 tickets. Michelle helped identify a
16 place for mom and David to live so they
17 could continue to live together, a
18 suitable apartment. She found leasable
19 apartments. David started the process of
20 securing a lease, put down a deposit,
21 with the understanding that they would
22 need to be out there for at least two
23 months, maybe three, but at least two
24 months. Then we could see about the next
25 step in her care about where she and we

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1 all thought would be best for her to
2 continue her care. David forwarded the
3 mail out there. Mom wanted her cat to
4 come, so Michelle went to the vet and got
5 the papers updated for the cat. We paid
6 the extra fee to get the cat as a carry-
7 on with us and they all went out to
8 Washington.

9 Q: How long was your mom in Washington?

10 A: My mother arrived in Washington on a
11 Thursday and it's not clear when mom
12 departed Washington. I haven't seen any
13 records of her travel back from
14 Washington, but I know she was still
15 there as of the following Wednesday,
16 meaning about six days. Then I know that
17 she arrived back in Myrtle Beach two days
18 later on that Friday. So she was, as far
19 as I know, in Washington for about a
20 week.

21 Q: During that week, what did she do, what
22 did she do?

23 A: Well, during that week, she and David
24 visited potential places to live. You
25 know, it was a challenge of places to

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1 live, to find something that would be
2 suitable for her, nice for her, that
3 would accept a cat, that would accept me
4 paying the lease in part, because David
5 and I weren't sure about how the
6 financing would come up with the lease
7 and I offered to basically sign and pay
8 for the whole lease, but having a third-
9 party person sign a lease is not
10 comfortable for a lot of leasing agents.
11 So, they visited those locations, and
12 they went to the University of Washington
13 to consult with the doctors there.

14 Q: Did you have any concerns regarding your
15 mother's care when she was in Washington?

16 A: Yes. The day after my mother arrived,
17 Michelle called me and said that, "I'm
18 concerned. Mom's hand is twitching a
19 little bit." I wasn't sure what to make
20 of that. Then she told me the same day,
21 "Mom's kind of dragging her foot."

22 I said, "Well,
23 Michelle, I don't know what's going on,
24 but it's way out of my medical expertise.
25 Mom needs to go to an emergency room."

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1 Q: What happened then?

2 A: My understanding is that David was
3 reluctant to bring Mom to the emergency
4 room. He said that Mom didn't want to go
5 to the emergency room. So I ---

6 Q: How did your mom get to the -- Did your
7 mom get to the emergency room?

8 A: Yes. My mother got her to the emergency
9 room.

10 Q: How did she get there?

11 A: I told Michelle that she should go and
12 make sure Mom gets to the emergency room
13 even if that means going to the hotel
14 where they were staying and calling an
15 ambulance.

16 Q: At the emergency room, what was going on
17 with your mom?

18 A: It was confirmed that my mom had early
19 hemiparesis, in other words, some
20 worsening movements, but also, by the
21 imaging scan, that she had significant
22 brain swelling.

23 Q: Was she treated for that there that day?

24 A: Yes. She received treatment that day,
25 including starting on corticosteroids at

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ROA 0504

1 a high dose.

2 Q: I just want to go back to when she was in
3 MUSC. So in addition to the aphasia, was
4 your mom determined to have capacity at
5 that time by the doctors to make health
6 care decisions?

7 A: I'm sorry. When?

8 Q: Did the doctors at that time look to your
9 mother to make health care decisions?

10 A: In the emergency room?

11 Q: Back at MUSC, I apologize, after surgery.

12 A: At MUSC, they relied upon whomever else
13 was with my mother at the time, my sister
14 and David, to provide more information
15 and to try to make decisions by
16 consensus.

17 Q: I'm just looking at page 18 of those
18 medical records, it appears that there
19 was a note that at that time she was
20 alert and oriented to person but not
21 place or time.

22 A: Yes, I can see that.

23 Q: Was that a problem that she had when she
24 was in MUSC after the surgery?

25 A: Oh, I'm sorry. This is dated 10/21. So,

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1 this is an out -- MUSC, 10/21.

2 Q: This appears to be on 10/16, even before

3 the surgery.

4 A: I guess I might not be on the right page.

5 Q: I'm sorry. It's page 18.

6 A: Yes.

7 MR. BOYD: I'M SORRY. WHAT PAGE

8 ARE YOU ON AGAIN?

9 MS. HARRISON: 18. IT SHOULD BE THE

10 NOTES FROM THE

11 EMERGENCY DEPARTMENT.

12 A: Oh, I see, yeah. It's, it's, it's --

13 Because it's labeled as creation time,

14 10/16, but then it says filed 10/21.

15 Maybe that's because the doctors, I don't

16 know, sign off on their notes later on.

17 So, 10/16, okay, yes.

18 Q: At that time she was not alert as to

19 place or time?

20 A: That's correct. That's right.

21 Q: Did that continue after the surgery?

22 A: Yes.

23 Q: When your mother was in Washington, so

24 the first visit to the ER, she was

25 diagnosed with brain swelling?

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ROA 0506

1 A: Yes.

2 Q: Do you know what date that was on?

3 A: That would've been the Friday after they,
4 after the travel date. So, they traveled
5 on a Thursday, and that was on that
6 Friday. I'd have to pull out my
7 calendar. I can't remember what ---

8 Q: And your mother was seen at the
9 University of Washington?

10 A: Yes.

11 Q: Did she meet with the cancer team there?

12 A: Yes. She met with the cancer team there.

13 Q: What was the treatment plan for her
14 there?

15 A: The treatment plan for her was also the
16 Stupp regimen consisting of simultaneous
17 administration of radiation and
18 chemotherapy, and the Stupp regimen
19 being, again, that combined of those two
20 treatments at the same time, radiation
21 and chemo, followed by single-agent
22 chemotherapy alone afterwards. The
23 amount of treatment doses, I was told by
24 several doctors, can be customized. So,
25 in other words, there was a non-

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1 inferiority study that said that while
2 mostly people have been getting 30
3 treatments, that can be a lot, so they
4 found that it's acceptable to have it in
5 15 doses to make it a little bit easier
6 on people for treatment. I believe
7 that's what she was offered.

8 Q: Did she get that treatment in Washington?

9 A: No, she did not.

10 Q: Okay. Do you know why?

11 A: Because my mother was transported out of
12 the State of Washington.

13 Q: Tell me about that. When did you learn
14 that your mother had been transported
15 outside of Washington?

16 A: After the first emergency room visit, it
17 became increasingly difficult to
18 communicate with my mother and with
19 David. After that first emergency room
20 visit, there were two more emergency room
21 visits and it was more and more difficult
22 to communicate, to reach my mother and
23 also to speak with David. There was a
24 period of time where I had no
25 communication with them. On Friday

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ROA 0508

1 morning, I received a message that they
2 were back in South Carolina.

3 Q: Did your mother or David discuss that
4 with you prior to flying back to South
5 Carolina?

6 A: They did not discuss that they were
7 traveling back to South Carolina.

8 Q: You mentioned other ER visits. Tell us
9 about those.

10 A: Well, after the first ER visit, mom had a
11 second ER visit. I called and spoke with
12 her on that Sunday. I asked David if I
13 could speak with her, he said, "She's in
14 the room resting right now." This was
15 sort of midday, maybe sometime between
16 ten and one PM-ish, Pacific time.

17 I said, David, "That's
18 not a time for resting. My mother
19 shouldn't be resting at that time.
20 There's probably something wrong with
21 her. She needs to go to the ER."

22 He said, "No, she's
23 just resting."

24 I said, "David, she
25 needs to go to the ER." I spoke with

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1 Michelle, and I asked Michelle to please
2 go over there to check on Mom and if she
3 thought Mom was not right to, again, get
4 her to the hospital even if that meant
5 calling an ambulance. She went, she
6 ended up going to the ER on that day.

7 Q: What was wrong with her that day?

8 A: She was found to be disoriented, required
9 hydration, and also needed adjustment of
10 insulin.

11 Q: Were there only two visits to the ER?

12 A: There was a third visit during that same
13 six days that she was in Tacoma.

14 Q: Tell us about that.

15 A: The third visit was, was on the day, so,
16 it was on Wednesday, so it was the day
17 after Mom consulted with her new cancer
18 team at the University of Washington and
19 she was also not feeling well. And
20 again, I asked them, Mom had very high
21 blood sugars at that point as well, and
22 so I asked David to bring her back to the
23 emergency room. He, again, disagreed.
24 So again, I asked Michelle to please go
25 and make sure Mom went back to the

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1 emergency room, and Mom was, again,
2 treated in the emergency room.

3 Q: What was wrong with her that day?

4 A: She was, again, dehydrated and needed
5 adjustment of her insulin. I spoke
6 directly with the attending ER physician
7 that time and told him that I was very
8 concerned that my mother didn't seem to
9 have adequate home medical care. In
10 other words, her circumstance of living
11 in a hotel room under David's care were
12 such that Mom was not being consistently
13 hydrated correctly, perhaps not being fed
14 correctly, and certainly not having her
15 blood sugars managed the way that she
16 needs to keep them safe.

17 Q: Okay. You indicated that you became
18 aware that they had gone back to Myrtle
19 Beach on Friday?

20 A: That's right. My wife was about to drive
21 me to an early morning flight to fly out
22 to Washington. Since my mother's
23 illness, I've been wanting to spend time
24 with her. So, I was about to board a
25 flight, and we got the message that

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1 instead she was going to be in Myrtle
2 Beach. So, I was able to change my
3 ticket and fly to Myrtle Beach.

4 Q: When you got to Myrtle Beach, did you
5 check on your mother?

6 A: Yes. I did a home safety visit on her.

7 Q: Tell us about that visit.

8 A: Well, I drove my rental car to the house,
9 and I saw a car in the driveway I didn't
10 recognize. I knew that David's car had
11 been smashed up by a valet at MUSC, so I
12 wasn't sure what he was driving. I
13 thought that might be another rental car.
14 I pulled in the driveway and went to the
15 front door and knocked and rang the bell.
16 There was no answer. I knocked again.
17 There was still no answer. I knocked
18 again. There was still no answer and
19 then a woman opened the door.

20 Q: Tell me what happened when the woman
21 opened the door.

22 A: She said, "Who are you?" which I thought
23 was strange. South Carolina's a pretty
24 friendly place, but she said, "Who are
25 you?"

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1 I said, "I'm John
2 Strasswimmer. I'm Claudia Miles' son.
3 Is she home?"

4 She said, "Yes, she is,
5 but she's resting."

6 I said, "I need to see
7 my mother."

8 She said, "Well, she's
9 resting," and I went in and I saw my
10 mother.

11 Q: Tell me what condition was your mom in
12 when you saw her.

13 A: When I walked in the room, she was with
14 the bedsheets up over her head like that
15 as if she had seen a ghost, I mean,
16 scared. Like, I've never seen her
17 looking like that. I approached her, and
18 I gently touched her on her arm. She put
19 down her sheets and looked at me and
20 said, "Get out of my bedroom. Get out."
21 I've never heard her speak like that
22 before. Mom's been angry at me, believe
23 me, over the years. That was not a
24 normal way of communicating by any means,
25 and that was reminiscent of the last

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1 communication I had had with her on the
2 Thursday of that week before.

3 Q: What was that, that communication?

4 A: Well, as I said during the week that Mom
5 was living with David in the hotel room,
6 it became progressively more difficult to
7 speak with my mother and to speak with
8 David or to get David even to respond to
9 text messages. He would routinely say,
10 for example, I said, "David, can I speak
11 with my mother?"

12 "Well, she has her cell
13 phone on."

14 "Well, David, she's not
15 answering it."

16 "Well, you know, she
17 has her phone. You can call her phone."

18 I said, "David, could
19 you please pass me your phone to her?"
20 And he would be reluctant to do that.

21 On the Thursday, which
22 would be, at least from my calculation,
23 maybe we'll find out today when David
24 actually got on the airplane with my mom,
25 I was able to call them. I said, "Okay,

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1 David, where are you guys? Where's my
2 mother?"

3 He said, "Oh, we're out
4 doing errands."

5 I said, "What errands
6 are you doing?"

7 "Well, we're waiting
8 for some prescriptions to get filled, so
9 we're just doing some shopping."

10 I said, "What
11 prescriptions are you waiting to get
12 filled?" and he listed off a couple of
13 over-the-counter items. I said, "David,
14 those are over-the-counter items. Those
15 don't need to get filled. You're not
16 waiting for prescriptions. Where are
17 you?"

18 He paused and he said,
19 "Oh, we're out enjoying a nice day for a
20 drive. It's sunny. It's a nice day.
21 We're going for a drive."

22 I said, "David, may I
23 please speak with my mother?" He put my
24 mother on the phone, and my mother did
25 not at all sound like the woman whom I

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1 had seen when I drove her to the airport
2 with them one week prior.

3 Q: How did she sound?

4 A: She sounded paranoid, and she was
5 speaking at a very aggressive tone with
6 me. She said, "You just want my money."

7 I said, "Mom, Mom, I'm
8 a dermatologist in Florida. You know I
9 don't want your money."

10 "Yes. You just want my
11 money."

12 I said, "Mom, that's
13 not right. Where are you?"

14 "I'm not telling you.
15 I don't have to tell you anything." That
16 was the last I heard about my mother, and
17 that made me very worried.

18 I told my sister about
19 that phone call. I said, "I don't know
20 where they are. I don't know where
21 they're going. David won't tell me where
22 they are." I'm very worried about my
23 mother. She's acutely ill. She had
24 basically right fresh out of a brain
25 surgery with glucose out of control,

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1 being dehydrated, hurting her medical
2 status. She might have an infection.
3 That's something that could be causing
4 her to behave more weird like that as
5 well.

6 So, I called Michelle
7 and we talked about what to do. I
8 recommended to Michelle, I said, "Why
9 don't you -- I know in Florida we have
10 these things called silver alerts when
11 older people go missing." I said, "You
12 must have something similar in
13 Washington. Why don't we see if we can
14 activate a silver alert?"

15 Q: Going back to when your mother was in
16 Myrtle Beach, what steps did you take
17 after, after seeing her in that
18 condition?

19 A: Well, I came out and I asked the woman
20 who was there, who had told me her name
21 was Betsy, and I said, "Betsy, where's
22 David?"

23 She said, "Oh, he's
24 out, he's out shopping."

25 I said, "Okay." So, I

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ROA 0517

1 used their, I think I used their kitchen
2 phone they had there and I called David.
3 I said, "David, this is John. I'm in
4 your house. My mother's not well, where
5 are you?"

6 He said, "Oh, I'll be
7 back in a few minutes." He came back
8 very quickly and then we spoke.

9 And I said, "David, my
10 mother's not well. Has she seen a doctor
11 since you guys came back?"

12 "No, she hasn't."

13 I said, "Did you call
14 her doctors to let them know that she's
15 here?"

16 "No, I didn't."

17 I said, "Well, why
18 not?"

19 "Well, because, you
20 know, doctor's office is closed on Friday
21 afternoon."

22 I said, "David, primary
23 care doctors all have coverage 24/7."

24 He said, "Well, they
25 have a PA on the weekends but, you know,

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ROA 0518

1 he's not really very much help."

2 I said, a PA is better
3 than nobody. They'll at least help to
4 triage care for Mom." And I, so, I used
5 David's phone and I called Mom's primary
6 care doctor. Well, let me rephrase that.
7 I had heard the word, Dr. Huberty, I
8 think because maybe Michelle was
9 scrolling through Mom's cell phone. Mom
10 had given Michelle access to her phone.
11 She gave Michelle her pin and the name
12 Huberty I had heard. I thought, well,
13 maybe Mom has a doctor named Huberty.

14 So, I went to Google
15 and I found through Google a Dr. Huberty,
16 could be the person. I called that
17 office. They said, "Yes, she's one of
18 our patients. Dr. Huberty's partner is
19 on call and I'll put the message through
20 to him." So, I got in contact with Dr.
21 Huberty's on-call partner.

22 Q: Okay. Did you ask David who her doctor
23 was?

24 A: I don't know if I asked him or not. I
25 think, I had heard him mention the name

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ROA 0519

1 Huberty in the past, because in the past
2 he had mentioned that a Dr. Huberty and a
3 dermatologist as being Mom's two closest
4 doctors in the area.

5 Q: Okay. Based on that conversation, what
6 did you think needed to happen with your
7 mom's care that day?

8 A: I needed to explain to a physician, to
9 Mom's primary care physician or a similar
10 physician, what I thought the status was,
11 what my concerns are and listen to their
12 recommendations.

13 Q: Did you think your mom needed to seek
14 medical treatment that day?

15 A: I thought she did, but I wanted to wait
16 and see what the doctor thought.
17 Sometimes when we call doctors worried
18 about things, they can triage things over
19 the phone. So, I was open to whatever
20 that doctor recommended.

21 Q: What was your concerns based on your
22 mother's behavior?

23 A: That my mother had a change, that my
24 mother had a change in mental status,
25 which could be delirium and delirium can

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ROA 0520

1 represent an acute medical emergency in
2 people and needs to be addressed.

3 Q: Was your mother seen by a doctor that
4 day?

5 A: No.

6 Q: When was she seen by a doctor?

7 A: She was seen by a doctor two days later.

8 Q: Do you know who set that visit up?

9 A: Yes. After I finished my visit with my
10 mother in the house, I called my mother's
11 oncology team. They were very
12 responsive. I explained that my mother
13 is back in town. Could they please -- I
14 spoke with the doctor. He answered the
15 phone on that weekend day and he said,
16 yes, they could accommodate Mom. They
17 would try to make the visits -- Because
18 she'd need to see both doctors. There
19 was some concern that one of the doctors
20 was out at the suburban campus and one
21 was downtown at MUSC, but they would try
22 to get her seen for sure on that Monday,
23 that we could have that open. I told
24 David that. I said, "David," I said, "I
25 called, you know, Mom needs to be able to

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ROA 0521

1 see her cancer doctors, as well as her
2 primary doctor."

3 Q: Okay. And just to go through the
4 timeline, so Dr. Miles went to Washington
5 November 1st. Does that sound right?

6 A: Yes.

7 Q: Okay. Do you know what day it was when
8 you were in her home, when you went to go
9 check on her?

10 A: That would probably, I believe it's
11 Saturday, November 10th.

12 Q: And during that time, at that time she
13 had been in South Carolina for at least
14 24 hours; would you say?

15 A: That's correct.

16 Q: Are you aware that David made any
17 arrangements for your mother to see the
18 care team in Charleston upon their
19 return?

20 A: I asked him if he had done that and he
21 told me no, but that he would send an
22 email through the portal. I explained to
23 him, "Mom's care is more important than
24 an email through the portal. You need to
25 pick up the telephone, too."

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ROA 0522

1 Q: Okay, and going to the medical records at
2 page 154.

3 A: Okay.

4 Q: There is an email from Dr. Miles to Dr.
5 McGranahan. Now, that's the doctor at
6 Alvord Brain Tumor Center, correct?

7 A: Yes. She's the neuro-oncologist at the
8 Alvord Brain Tumor Center at the
9 University of Washington.

10 Q: Okay. What did that email say?

11 A: It says, "Thank you for your time and
12 attention. Unfortunately, I have decided
13 to return to my home in Myrtle Beach,
14 South Carolina. I'm considering
15 treatment at the Medical University of
16 South Carolina, "MUSC", where I had
17 appointments with their neuro-oncologists
18 for treatment options prior to coming to
19 you. Sincerely, Claudia T. Miles DO."

20 Q: Was your mother on November 10th able to,
21 based on your knowledge of your mother's
22 abilities at that time, was she able to
23 write a message like that?

24 MR. BODY: I'M GOING TO OBJECT TO
25 THE QUESTION, YOUR

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1 HONOR. I'M NOT SURE IF
2 HE HAS DIRECT KNOWLEDGE
3 AT THAT MOMENT. HE'S
4 SPECULATING AND HE'S
5 NOT ADMITTED AS AN
6 EXPERT IN THIS MATTER.

7 A: May I refer to the medical record?

8 MR. BOYD: SURE.

9 A: So, in the medical record it's documented
10 that my mother had intention tremor.
11 meaning that when she would reach for
12 something, her hand would become
13 increasingly shaking. It was, it was
14 called a high amplitude, low frequency
15 tremor. Dr. McGranahan documented that
16 in her consultation visit. So, it was a
17 shake that's like, if I'm reaching for
18 this microphone, as you get there, your
19 hand gets more and more shaky. That's in
20 the medical record from Dr. McGranahan's
21 initial consultation with my mother.
22 While my mother was at MUSC, one of the
23 discussions was, she would need
24 occupational therapy. That's also on the
25 medical record, I believe. Occupational

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1 therapy specifically works with people
2 with fine motor coordination. I had seen
3 my mother not able to use, for example,
4 her phone while she was at MUSC the first
5 time. Which is why she gave Michelle the
6 pin for her phone and let Michelle scroll
7 through and read things with Mom at that
8 time. And then as the further part of
9 the record, my understanding, my mother
10 was not able to communicate in complex
11 sentences.

12 Q: So, based on that knowledge, do you
13 believe this email was sent by your
14 mother?

15 A: I do not believe this email was sent by
16 my mother.

17 Q: When your mother was seen at MUSC as a
18 follow-up on November 12th, what did they
19 do at that visit?

20 A: Let's see. Do you have a page for that?
21 I don't have my calendar in front of me,
22 November 12th. Was that a Monday?

23 Q: Yes. That would be page 54, is where
24 that starts.

25 A: Okay, let me flip that out further.

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ROA 0525

1 MR. BOYD: IS THAT BATES NUMBER
2 54?

3 MS. HARRISON: PAGE 54, YES.

4 A: Yeah. So, my mother was seen in the ER
5 at MUSC on November 12th. I don't see
6 the note. I believe my mother earlier
7 that day had gone to see Dr. Kakaiya.
8 I'm sorry, Dr. Cooper, the radiation
9 oncologist, to reestablish care. And Dr.
10 Kakaiya was so concerned about my
11 mother's status that he decided not to do
12 the evaluation and planning that he had
13 anticipated for that day, and instead
14 instructed David to take her directly to
15 the downtown MUSC emergency room, where
16 she went.

17 Q: Okay. And what treatment did she receive
18 at that time?

19 A: She was admitted to the hospital and as
20 part of the workup for her delirium,
21 there was a concern that she might be
22 having subclinical active seizures.

23 Q: Okay. How long was your mother in the
24 hospital at that time?

25 A: My mother stayed in the hospital that

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ROA 0526

1 time from the 12th until the 23rd.

2 Q: Now, your mother did have a healthcare
3 power of attorney and a living will that
4 she had executed. Is that correct?

5 A: I found, I found out about that after my
6 mother was discharged from her initial
7 care at MUSC.

8 MS. HARRISON: MAY I APPROACH, YOUR
9 HONOR?

10 THE COURT: YES.

11 A: Thank you.

12 MS. HARRISON: YOUR HONOR, THESE
13 DOCUMENTS HAVE ALSO
14 BEEN SHARED WITH
15 OPPOSING COUNSEL AND
16 THE GUARDIAN. I SPOKE
17 TO THEM PRIOR TO
18 TODAY'S HEARING. BUT
19 THESE ARE DR. MILES'
20 ESTATE-PLANNING
21 DOCUMENTS AND WE WOULD
22 MOVE TO HAVE THEM
23 INTRODUCED AS EXHIBIT
24 2.

25 THE COURT: ANY OBJECTIONS?

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ROA 0527

1	MR. BOYD:	WELL, YOUR HONOR,
2		AGAIN, MS. HARRISON,
3		HASN'T ACTUALLY GIVEN
4		ME A COPY OF WHAT SHE'S
5		PRESENTED TO THE COURT.
6		I UNDERSTAND WITH
7		MEDICAL RECORDS. I'M
8		ASSUMING THAT WHAT
9		SHE'S HANDED YOU
10		MATCHES WHAT'S ON THE
11		DROPBOX. I DIDN'T
12		REALIZE THAT WE WERE
13		GOING TO TREAT EXHIBITS
14		IN THIS FASHION. IT'S
15		A LITTLE BIT
16		CUMBERSOME, BUT
17		RESERVING MY RIGHT TO
18		MAKE SURE THAT WHAT
19		PHYSICALLY WAS
20		PRESENTED TO THE COURT
21		MATCHES WHAT WE HAD
22		ACCESS TO IN DROPBOX.
23		I WON'T OBJECT FOR IT.
24	THE COURT:	THANK YOU, MR. BOYD.
25	MS. LOCHOCKI:	YOUR HONOR, I SHARE THE

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ROA 0528

1 SAME CONCERNS AS MR.
2 BOYD. I DIDN'T
3 UNDERSTAND THAT I WOULD
4 NOT BE PROVIDED A
5 PRINTED COPY, BUT I
6 HAVE REVIEWED THE
7 INFORMATION ON DROPBOX
8 AND AS LONG AS I HAVE
9 THE OPPORTUNITY TO
10 CONFIRM IT'S ALL THE
11 SAME, I HAVE NO
12 OBJECTION.
13 THE COURT: THANK YOU.
14 MR. RHODES: I HATE TO BE THE STICK
15 IN THE MUD, YOUR HONOR,
16 BUT I AM
17 TECHNOLOGICALLY INEPT
18 AND IF THEY GO IN DROP-
19 OFF, I MISSED THEM. IF
20 IT'D BE POSSIBLE, IF I
21 COULD QUICKLY SCAN THE
22 DOCUMENT?
23 MS. HARRISON: I HAVE A COPY THAT I
24 CAN -- I'M NOT SURE
25 THEY ARE -- I'M SORRY.

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ROA 0529

1 I'M COMING INTO THIS
2 CASE LATE, TAKING OVER
3 FOR LEE AND I THOUGHT
4 THEY HAD ALREADY BEEN
5 INDEXED IN OUR OFFICE,
6 SO I THOUGHT THEY HAD
7 ALSO ALREADY BEEN
8 SHARED AND INDEXED AND
9 I APOLOGIZE. BUT I
10 CERTAINLY, I DON'T
11 NECESSARILY HAVE -- I
12 DON'T KNOW THAT THERE'S
13 A QUESTION. IF MY
14 CLIENT WAS JUST TO
15 TESTIFY AS TO WHAT'S IN
16 THEM, I DON'T KNOW
17 THAT'S A QUESTION,
18 THEN.

19 A: My only question is -- I mean, it seems
20 like these documents are right here what
21 Michelle and I had physically handed to
22 us, together at the same time with David,
23 other than the deeds. Michelle and I are
24 in the loop about this and we've shared
25 this with our lawyers. So, I don't know

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ROA 0530

1 why the lawyers don't have it.

2 MR. BOYD: WELL, YOUR HONOR ---

3 Q: I think the problem just is that they

4 want to make sure that what I'm

5 presenting to the Court, what we have all

6 seen.

7 A: Okay. Thank you.

8 MR. RHODES: YOUR HONOR, I HAVE NO

9 OBJECTIONS OTHER THAN,

10 IT APPEAR TO BE

11 DOCUMENTS THAT I HADN'T

12 BEEN PROVIDED. I HAVE

13 NO OBJECTION.

14 MR. BOYD: AND THESE APPEAR

15 MAGICAL. WE UNDERSTAND

16 THE ESTATE-PLANNING

17 DOCUMENTS. I JUST HAVE

18 CONCERNS ABOUT THE

19 PROCEDURAL ISSUE BEFORE

20 THE COURT AND WHETHER

21 THE EXHIBIT IS PROPERLY

22 ADMITTED OR NOT. AND

23 THAT'S NOT A QUESTION

24 FOR THE WITNESS, THAT'S

25 A QUESTION FOR YOUR

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ROA 0531

1 HONOR TO DECIDE. BUT
2 HAVING LOOKED AT THIS
3 NOTEBOOK BRIEFLY, YOUR
4 HONOR, I DON'T BELIEVE
5 WE HAVE ANY CONCERNS
6 ABOUT THESE DOCUMENTS.
7 THE COURT: THANK YOU.
8 MR. BOYD: BUT I WOULD LIKE TO
9 JUST RESERVE THAT
10 QUESTION FOR THE
11 RECORD, IF I MAY.
12 THE COURT: YES. THANK YOU. AT
13 THIS TIME, THE COURT
14 WILL ALLOW THE EXHIBIT
15 TO BE INTRODUCED.
16 **PETITIONER'S EXHIBIT NUMBER 2**
17 **ADMITTED INTO EVIDENCE.**
18 Q: If you'll go to the sixth tab there in
19 those documents, your mother had a
20 declaration of the desire for a natural
21 death, correct?
22 A: Yes. I have that in front of me. Yes.
23 Q: Okay. Did she appoint agents to enforce
24 that document or over that document?
25 A: Yes, she did.

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ROA 0532

1 Q: And who were those agents?

2 A: David King and Michelle, at the time
3 named Montieth, Michelle subsequently got
4 divorced. When she got divorced, rather
5 than revert to her own maiden name or the
6 names we had as children, Michelle chose
7 to have my mother's name of Miles. So,
8 it says Michelle Montieth, but it's
9 Michelle Miles.

10 Q: And they were appointed as joint agents?

11 A: Yes.

12 Q: The next document at tab seven is your
13 mother's healthcare power of attorney.
14 Is that correct?

15 A: Yes.

16 Q: Going back to the last page of that
17 document, what year was that signed
18 there?

19 A: 2008.

20 Q: Who was named as agents to make
21 healthcare decisions for your mother in
22 that document?

23 A: Michelle, also known as Mary, Michelle
24 Miles. As written here, Michelle
25 Montieth and David King.

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ROA 0533

1 Q: Did your mother name alternate co-agents?

2 A: Yes. She named alternate co-agents as a
3 first and as a second.

4 Q: Who were those?

5 A: The first alternate co-agent named is me,
6 and the second is her brother who's now
7 deceased.

8 Q: Do you have a belief as to why your
9 mother would have named co-agents?

10 A: Yes. Lawyers I've spoken with about this
11 say they don't like this idea, that it
12 drives them crazy, that they counsel
13 people against doing this. My mother is
14 a Quaker and consensus is very, very
15 important in our community. So, I
16 believe that my mother put two people
17 together because she believed that
18 working together would be much better for
19 ultimately decision making than one
20 person acting alone.

21 Q: Why did you bring this petition? So,
22 this petition was brought in November.
23 Why did you bring it?

24 A: Well, let's see. The first reason is, I
25 had concern after I found out that -

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ROA 0534

1 after I discovered this document, David
2 had told me previously, before I found
3 this, I received this document, that he
4 was the Power of Attorney. Those were
5 his verbatim words and I took him on
6 that. So, until I saw this document, I
7 didn't realize that was not the case.
8 When I saw this document, I thought this
9 was something my mother made when she was
10 clearly healthy, right? We're talking a
11 decade before her illness, and that she
12 wanted Michelle and David to work
13 together for her care. It was clear that
14 Michelle and David were not working
15 together for her care.

16 Q: So, you are asking the Court to appoint
17 somebody to handle medical decisions for
18 your mother?

19 A: Yes.

20 Q: Okay. During her stay at MUSC the second
21 time, there were several issues that
22 arose. Tell us briefly about those.

23 A: So, the, the first issue was when Mom was
24 back at MUSC was ensuring that Michelle,
25 given that this document existed, that

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ROA 0535

1 Michelle would have equal access and
2 equal decision making around my mother's
3 care. And I was concerned that she was
4 being increasingly excluded from all
5 those, both by David actively, physically
6 moving away from her when there was time
7 to make a decision. So, for example, if
8 they were in the ER for a thing and a
9 physician came over, or David saw a
10 physician, my understanding is that he
11 would go over and immediately start
12 talking to the person addressing, saying,
13 "I'm the husband. That's my wife. Let's
14 talk about what's going on," and leave my
15 sister to go scurrying behind with this
16 legal document saying, "No, no. Please,
17 Doctor, you're required to speak to me as
18 well." I thought that was heartbreaking.
19 My mother was always a very independent,
20 liberated woman who had made her own way
21 in the world and I thought that if she
22 knew that her daughter was in that
23 situation, not acting the way Mom
24 intended, that that would not be the way
25 Mom wanted things done.

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ROA 0536

1 Q: And what other issues arose while your
2 mom was at MUSC?

3 A: So, the other issues that arose were we
4 needed to get behind a treatment plan for
5 my mother. So, Mother was supposed to
6 get the Stupp protocol, which has been
7 shown to alter the course of this
8 disease. This is a terminal disease.
9 People will die from this disease, but
10 it's a disease for which there exists a
11 treatment which will prolong life, which
12 has relatively modest cost to the person
13 taking it. Mom was supposed to have
14 received that at MUSC, had she stayed
15 there the first time, would have received
16 it at UDub, had she stayed there the
17 second time I believe. Then my concern
18 was that this, the window of time was
19 closing or perhaps had closed, for her to
20 still be offered the same treatment
21 option.

22 Q: So, when you were at MUSC, was she
23 offered the Stupp regimen the second
24 time?

25 A: No, no, she was not.

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ROA 0537

1 Q: And why was that?

2 A: We had a family conference. The doctors
3 at MUSC continued to continuously just
4 refer and speak with David about these
5 things. Sometimes out of professional
6 courtesy, they would speak with me. One
7 of the doctors, who was not Mom's primary
8 doctor during that time, I knew
9 indirectly through another doctor, so he
10 would occasionally speak with me about
11 this and he advised me, and the rest of
12 the staff advised me, to get this issue
13 settled by speaking to the legal
14 department at the hospital. So, it was
15 the medical team that said that this not
16 working together situation of David and
17 Michelle had to be resolved by the legal
18 department. They told me to talk to
19 legal. So I talked to legal and legal
20 said, "You got to go to court," once they
21 had reviewed. I gave them a copy of this
22 document and their hospital attorney at
23 MUSC said, "You got to go to court."

24 MR. BOYD: YOUR HONOR, I'M JUST
25 GOING TO OBJECT TO

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ROA 0538

1 THAT. THAT'S HEARSAY,
2 OF COURSE.
3 THE COURT: YOU CAN'T STATE, YOU
4 CAN'T STATE ---
5 A: I'm sorry.
6 THE COURT: --- WHAT SOMEBODY ELSE
7 HAS SAID. SORRY.
8 A: Oh, I'm sorry. Okay.
9 Q: What was your mom's condition while she
10 was at MUSC the second time?
11 A: Not well.
12 Q: What was going on with her?
13 A: She continued to have challenges, as far
14 as her willingness to participate in her
15 care. She waxed and waned about how much
16 she wanted to do. At one point she said,
17 "I'm not going to live to see my
18 birthday." I didn't know where that had
19 come from, because the original prognosis
20 we were given was for all comers with
21 this disease, a one to two-year survival
22 window. My mother's subtype, meaning
23 this is a large tumor, which was not
24 adequately resected, she's older,
25 wouldn't have that same length of

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ROA 0539

1 prognosis, but certainly, six months was
2 very realistic. So, for her to have in
3 her head that here we are in October and
4 she said the belief that she wouldn't
5 make it to her birthday in December, I
6 thought was unfortunate and that she
7 might be feeling very demoralized. So,
8 we worked very hard to work with her to
9 keep her moralized and engaged and loved.

10 Q: Did your mother have issues -- What other
11 issues did she have at that time?

12 A: My mother had medical issues. My mother
13 had the ongoing issues of controlling her
14 diabetes and also in participating in the
15 care plans of the hospital.

16 Q: And what, if any, treatment did she
17 receive for the tumor while she was at
18 MUSC the second time?

19 A: She had a short course of radiation.

20 Q: Was that the same as the Stupp regimen?

21 A: It differs from the Stupp regimen in two
22 ways. First of all, it does not include
23 the concurrent administration of single
24 pill chemo with radiation. From my
25 understanding, from other tumors I work

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ROA 0540

1 with, sometimes those things work
2 synergistically. That's why you put them
3 together. But also the total amount of
4 radiation dose that's in the step
5 protocol is a certain number of ray
6 units, and what they were proposing was
7 about half of that.

8 MR. BOYD: YOUR HONOR, AGAIN, I
9 HATE TO OBJECT, BUT I'M
10 GOING TO HAVE TO OBJECT
11 BECAUSE IT'S
12 EFFECTIVELY RENDERING A
13 MEDICAL OPINION. HE'S
14 NOT AN EXPERT WITNESS.
15 IF THERE ARE
16 INDICATIONS IN THE
17 RECORD THAT DR.
18 STRASSWIMMER CAN REFER
19 TO, BUT HE CAN'T SIT
20 HERE AND OPINE AS AN
21 EXPERT ON THE BASIS OF
22 HIS PERSONAL KNOWLEDGE.

23 A: Okay. Well, shall I refer to the record?

24 THE COURT: IS IT IN THE RECORD
25 WHAT YOU'RE SPEAKING OF

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ROA 0541

1 RIGHT NOW?
2 A: Yes. So the Stupp protocol specifies the
3 total number of rays of radiation that
4 would have been administered and the
5 planned treatment, which Mom ended up
6 getting, was for a different number of
7 rays of radiation.

8 MS. LOCHOCKI: YOUR HONOR, MR.
9 STRASSWIMMER, CAN YOU
10 REFER TO A SPECIFIC
11 PAGE IN THE MEDICAL
12 RECORD REGARDING THE
13 STUPP REGIMEN AND WHEN
14 THAT WAS RECOMMENDED?

15 A: Well, this is a binder that I ---

16 THE COURT: IF YOU CANNOT, YOU
17 CAN'T DISCUSS THAT,
18 SIR. BECAUSE YOU CAN'T
19 GIVE US YOUR MEDICAL
20 OPINION, AS FAR AS
21 THAT. CAN YOU FIND IT
22 IN THE RECORD?

23 A: It would take me some time to find it in
24 the record. I'm not sure, it'd probably
25 take a half an hour to do that, so I'm

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ROA 0542

1 happy to just to not, not opine on that.
2 MS. LOCHOCKI: YOUR HONOR, I AM NOT
3 FAMILIAR WITH THE STUPP
4 REGIMEN AS A PART OF
5 THE MEDICAL RECORD,
6 WHICH IS WHY I HAVE A
7 QUESTION ABOUT WHERE IT
8 MIGHT BE.
9 A: May I clarify that?
10 MS. HARRISON: YOUR HONOR, I WOULD
11 DIRECT THE COURT TO
12 PAGE 69 OF THE MEDICAL
13 RECORDS. THIS APPEARS
14 TO BE A SUMMARY BY DR.
15 LINDHORST.
16 MR. BOYD: JUST, JUST -- I'M SORRY
17 ---
18 MR. HARRISON: I'M SORRY. THE FIRST
19 PAGE IS 68.
20 Q: Going to this, this appears to be a
21 consult with Dr. Lindhorst on November
22 13th. Who was Dr. Lindhorst?
23 A: Dr. Lindhorst was one of the attending
24 neuro-oncologists at MUSC.
25 Q: At the beginning of page 69, the summary

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ROA 0543

1 is continued. Can you please read that
2 for the Court?

3 A: Yes. ?Plans were made for the potential
4 Stupp regimen, concurrent RT/temozolomide
5 at 75 milligrams per meter squared per
6 day. Following these initial plans, the
7 decision was made by the patient and her
8 family to move her to Seattle, to undergo
9 RT/temozolomide via the University of
10 Washington. The patient was evaluated by
11 neuro-oncology in Seattle, specific
12 provider unclear. However, following
13 this meeting, there was apparently
14 hesitancy on the part of the patient and
15 her husband to proceed with this therapy
16 in Seattle. They ultimately returned to
17 Myrtle Beach, South Carolina. She had a
18 number of visits to the ED for changes in
19 mental status and uncontrolled blood
20 sugars."

21 Q: And going down further that's indicated,
22 there's a note regarding your mother's
23 condition on that day in regards to
24 participation in the exam. Can you
25 please read that for the Court?

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ROA 0544

1 A: Let me see. On the same page?

2 Q: Yes. I'm sorry.

3 A: Oh, "Today the patient is reluctant to
4 participate in an exam. She notes no
5 pain."

6 Q: So, this was when she was at MUSC for the
7 second time?

8 A: Yes.

9 Q: Continuing on with your mother's stay at
10 MUSC, were there other concerns in
11 regards to your mother's just daily
12 condition?

13 A: Yes. As we previously discussed, Mom was
14 frequently not oriented. And hospitals
15 often have a protocol or just good
16 nursing practices they do, to keep people
17 oriented. Some places call it memory
18 care or attention care, or something like
19 that, or delirium protocol. It means
20 trying to encourage the patient to be
21 awake during the day. So, lights on,
22 shades open and to sleep at night. It's
23 quiet, no disturbances and dark at night.
24 And there was one episode in particular
25 where that didn't happen and it

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ROA 0545

1 interfered with my mother's ability to
2 get care.

3 Q: So based on your opinion of how things
4 were going at that time, you filed this
5 petition?

6 A: That's correct.

7 MR. BOYD: I OBJECT TO THE
8 QUESTION, YOUR HONOR.

9 Q: I apologize.

10 MR. BOYD: SHE CAN RESTATE.

11 Q: What did you do based on or why did you
12 file this petition?

13 A: I filed the petition because the first
14 time I was given this document in my
15 hand, the lawyer who put that document in
16 my hand, I asked, "Well, what happens if
17 you have two people and they can't
18 agree?"

19 That lawyer said,
20 "Well, that has to be resolved in court."
21 I'm sorry.

22 Q: You can't testify as to what somebody
23 else said.

24 A: Oh, I'm sorry. I'm sorry about that.
25 Okay. I sought the advice of the medical

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ROA 0546

1 team about how to get this resolved and I
2 was advised to go to legal. Can I say
3 that?

4 Q: That's fine. So, the order went to the
5 probate court, correct? The petition
6 went to the probate court?

7 A: Yes.

8 Q: And what did the Court do?

9 A: The Court issued an emergency order
10 granting my sister emergency temporary
11 medical guardianship status.

12 Q: Okay, that was on November 15th. correct?

13 A: Yes.

14 Q: At that time, was David still coming to
15 the hospital?

16 A: Yes.

17 Q: Were there any orders issued related to
18 who was able to visit your mother?

19 A: During the time my mother was at the
20 hospital, my mother initiated a request
21 for privacy.

22 Q: Okay, and that appears on page 110 of the
23 medical records? Is that the ---

24 A: Yes.

25 Q: --- document you're talking about? What

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1 did this document state? What was the
2 purpose of this document?

3 A: My mother initiated this document without
4 talking to me about it at all. She said
5 that she never wanted to see David King
6 that day, and never wanted to see him
7 again.

8 Q: And based on that, did -- Who actually
9 prepared this document?

10 A: I believe then when my mother went and
11 made the request to the nurse manager,
12 the nurse manager notified Michelle, as
13 they were aware that Michelle had been
14 given temporary guardianship status.
15 That Michelle would have to go fetch a
16 form from the security department for Mom
17 to sign. Michelle did that, took it to
18 the security department. They started
19 the process going. And then at some
20 point somebody said, "Well, if she's the
21 guardian, then Michelle should co-sign
22 it." So then it was subsequently co-
23 signed by Michelle.

24 Q: Did you want to keep David away from your
25 mother?

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1 A: No.

2 Q: Do you have a close relationship with
3 David?

4 A: I used to. I mean, I used to, and I'd
5 like to. In fact, it was very painful
6 for me. I've never been in court before,
7 so I apologize that I'm not speaking and
8 I'm opining more than I should. I've
9 never been in court before. I've never
10 been served before. I've just seen these
11 things on TV and it broke my heart when
12 we had to serve David. Because I had to
13 work with a service processor saying,
14 that's David. I called him over. I
15 said, "David, she has something for you."
16 It broke my heart to have to do that to
17 him. And we ended up having a pretty
18 good afternoon together. He and I sat
19 together with my mother. I explained to
20 my mother that day why I went to court;
21 why the order for temporary guardianship
22 was given. I explained my reasons.
23 David explained his reasons to Mom. And
24 then later that evening I took David out
25 for dinner. We had a nice dinner alone

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1 at a restaurant that he and my mom have
2 enjoyed dining over the years in downtown
3 Charleston.

4 Q: Your mother was eventually released from
5 MUSC?

6 A: Yes.

7 Q: Okay, and what happened after that?

8 A: We met with the newly appointed guardian
9 ad litem very briefly. Actually, I don't
10 think I met with her directly, but
11 Michelle did. We explained to her
12 through our attorneys that our intention
13 was to move Mom back to Washington to get
14 care with Michelle and the University of
15 Washington.

16 Q: So, how did you guys get your mom to
17 Washington?

18 A: Well, I bought four tickets. I asked my
19 wife to come down and she helped,
20 because, you know, Mom had mobility
21 issues. She variably walks, uses a
22 walker or wheelchair, depending on her
23 choice, her mood and her fatigue. And so
24 my wife came down and we got on an
25 airplane and we flew out there.

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1 Q: And once your mother got to Washington,
2 where was her next doctor's appointment
3 or the next visit she had at a medical
4 facility?

5 A: The next visit she had at a medical
6 facility was later that same day upon
7 arrival at the emergency room. As part
8 of the preparation for travel, we
9 consulted with the medical team and they
10 instructed that Mom should have a
11 separate, independent neurology
12 consultation before they would okay her
13 travel. And also they instructed us to
14 give an extra high dose of
15 corticosteroids for her one hour before
16 boarding the flight, which we did.

17 Q: What were the issues that your mom was
18 having that she went to the emergency
19 room after the flight?

20 A: During the flight she started having some
21 behavior issues. She wasn't drinking.
22 We were queueing her and asking her to
23 drink. She wasn't drinking. At one
24 point, she refused to get up out of her
25 seat when it was time to exit the

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1 aircraft. She just refused. She said,
2 "I'm not ready. I'm not ready." I had
3 to physically kind of hoist her out of
4 the seat a little bit to get her to walk
5 forward. She was not happy about that,
6 till we got her in the waiting
7 wheelchair, for example. And then she
8 slowly became more and more uncooperative
9 or refusing to drink and I was concerned
10 that she was about to spiral out of
11 control, and so we got her to the
12 emergency room.

13 Q: And was she discharged from the emergency
14 room?

15 A: No, she was admitted to the hospital.

16 Q: Okay. How long did she stay in the
17 hospital for that visit?

18 A: About a week.

19 Q: What were her medical issues at that
20 time?

21 A: Steroid-induced psychosis and her ongoing
22 diabetes, and her ongoing diabetes issues
23 and dehydration.

24 Q: Was she cooperative with physicians at
25 that time?

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1 A: Mostly no. Occasionally a little bit,
2 but mostly no.

3 Q: As she was treated there, when she was
4 released, how did the discharge go?

5 A: Discharge was a challenge. So, we -- As
6 part of the discharge planning, we had
7 originally planned to get Mom to
8 Michelle's house, but during the week
9 that Mom was in that hospital, it was
10 clear that Mom wasn't participating in
11 her care. She was variably participating
12 in her care. And I was concerned quite
13 frankly, that her next step might be
14 death. In other words, if she was
15 refusing medicine and refusing to drink,
16 there's not a lot to keep somebody alive
17 at that point. So, we contacted a
18 facility which could provide Mom care,
19 and we arranged for Mom to go to that
20 facility. Mom did not want to leave the
21 hospital on the day of discharge, though
22 the medical team said she had no reason
23 for being there because she was not
24 participating in her care. So, it was
25 kind of ironic that on the one hand Mom

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1 didn't want to participate in care at the
2 hospital, and she'd also didn't want to
3 leave her hospital bed. She at one point
4 demanded a lawyer, that she has Medicare
5 rights and even though she wouldn't let
6 them use, for example, the IV access in
7 her arm, she wouldn't let them give her
8 fluids, she also wouldn't allow them to
9 remove the IV access from her arm. So,
10 these are not very clear thinking. In
11 order to get her out of the hospital,
12 they actually had to sedate her and have
13 the whole security team physically
14 present to hold her down and sedate her,
15 and to get that IV out of her arm so she
16 could be discharged.

17 Q: And where was she discharged to?

18 A: She was discharged to the adult living
19 center, Franke Tobey Jones in Tacoma,
20 Washington.

21 Q: What was the setup at Franke Tobey Jones?

22 A: So, Franke Tobey Jones is a continuous
23 care facility, which provides a spectrum
24 of options for people to live, including
25 independent detached cottages, for

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1 example, for couples who might want
2 occasionally dine there, all the way
3 through memory care for people with
4 Alzheimer's and hospice as well. So they
5 have all levels of services available.

6 Q: And how long was your mom at Franke Tobey
7 Jones?

8 A: My mother was there for two months.

9 Q: And tell us about how she did there.

10 A: Once she got there, she began to
11 participate in care. So, she started
12 taking her medicines, started eating and
13 drinking and started participating in
14 physical therapy.

15 Q: Compare -- How was your mother's
16 disposition different when she left
17 Franke Tobey Jones versus when she came
18 there?

19 A: Oh, when she left Franke Tobey Jones, she
20 was fully cooperative with her medical,
21 medical regimen. In other words, taking
22 her insulin, eating, taking her
23 prescribed medications, attending
24 doctor's appointments, bathing,
25 showering, cleaning, going for walks,

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1 participating in physical therapy and
2 enjoying excursions.

3 Q: And after your mother was discharged from
4 Franke Tobey Jones, where did she go to
5 live?

6 A: She went to live at Michelle's house in
7 Tacoma.

8 Q: Do you recall when that was?

9 A: I think that was Friday, February 1st.

10 Q: Have you been able to see your mother,
11 both while she was at Franke Tobey Jones
12 and since she's been living with
13 Michelle?

14 A: Yes. I fly out every weekend to spend
15 time with my mother, with the exceptions
16 of the times that we've had scheduled
17 court dates here in Myrtle Beach, in
18 which case I came here instead or
19 anticipated coming here instead. The
20 other exception is when I went with my
21 wife to go visit her demented mother over
22 at Christmas, which ironically we spent
23 in a hospital there as well.

24 Q: How is your mother doing now?

25 A: My mother is thriving.

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1 Q: Okay. Tell me more about her mental
2 status.

3 A: Well, my mother has deficits. For
4 example, she has a very poor, short-term
5 memory right now. She needs to be
6 reminded now of what day it is, and
7 events that are going to happen that day,
8 as well as in the next few days ahead.
9 She's able to read. She's able to
10 communicate and laugh at jokes.

11 Q: Is she able to call people on the
12 telephone?

13 A: Yeah. She calls me on a regular basis
14 and I call her on a regular basis.
15 Sometimes she doesn't answer her cell
16 phone so I call the house landline, but
17 she calls me and leaves me voicemails if
18 I don't answer.

19 Q: Who takes care of her at Michelle's
20 house?

21 A: So at Michelle's house, mother has
22 licensed, certified nursing assistants
23 who are with her 24/7. And she also has
24 a private duty registered nurse who comes
25 in to do medication management,

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1 medication checks, ensure that refills
2 are done and also to do a nursing
3 assessment of her three times a week as
4 well.

5 Q: Has your mother had to go to the
6 emergency room since she's been living
7 with Michelle?

8 A: Yes, a few times.

9 Q: What were those visits for?

10 A: One visit I recall was -- I recall I
11 think three visits. One visit was,
12 Michelle was concerned that Mom had
13 developed a cough and I believe she
14 contacted the primary care doctor, and
15 then Mom ended up going to the emergency
16 room and was diagnosed with early
17 pneumonia and treated. A second time,
18 Michelle had noticed some swelling on one
19 of my mother's legs. From the medical
20 record, the nursing assessment the day
21 before, that was not noted, that swelling
22 and based on Michelle's notice of that
23 swelling, Mom ended up going eventually
24 to the emergency room and was diagnosed
25 with a deep vein thrombosis blood clot of

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1 the leg.

2 Q: Do you know when that was?

3 A: That was a couple of weeks ago.

4 Q: Do you believe your mother is doing well

5 at Michelle's house?

6 A: I believe my mother's doing well.

7 Q: Has your mother been able to visit with

8 David? Has he been involved with her?

9 A: Yes.

10 MS. HARRISON: OKAY. YOUR HONOR, IF I

11 CAN APPROACH?

12 THE COURT: YES.

13 Q: Would you please identify these

14 documents?

15 MR. BOYD: I'M SORRY, WHAT?

16 A: These are current pictures, mostly

17 current pictures of my mother. There's

18 some pictures of my mother right at the

19 time of surgery and then at the time in

20 Charleston, I mean, Myrtle Beach, when we

21 all decided that Mom wanted to go to

22 Washington. But these are mostly Mom's

23 current pictures of life at Michelle's

24 house and in Tacoma.

25 MS. HARRISON: YOUR HONOR, I'D MOVE TO

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1 HAVE THESE INTRODUCED
2 AS PLAINTIFF'S EXHIBIT
3 FOUR.
4 THE COURT: ANY OBJECTIONS?
5 COURT REPORTER: IT SHOULD BE THREE.
6 MS. HARRISON: THREE, I APOLOGIZE.
7 MR. BOYD: YOUR HONOR, IT'S A
8 LITTLE UNCLEAR IF MR.
9 STRASSWIMMER HIMSELF
10 TOOK THESE PHOTOS. I
11 REALLY DON'T THINK A
12 REAL ADEQUATE
13 FOUNDATION HAS BEEN
14 LAID, BUT I DON'T THINK
15 WE HAVE AN OBJECTION TO
16 IT.
17 THE COURT: WHO TOOK THE PHOTOS?
18 A: So, I could go through one by one with
19 the photos. It's a variety of -- I took
20 ---
21 THE COURT: MS. HARRISON, DO YOU
22 HAVE A SET FOR THE
23 COURT?
24 A: I'm sorry.
25 MS. HARRISON: I DO, YOUR HONOR.

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1 A: Would you like me to go and identify the
2 individual photos or in general?

3 THE COURT: NO, JUST WAIT.

4 A: Oh, I'm sorry.

5 THE COURT: MS. HARRISON, COULD YOU
6 ESTABLISH WHO TOOK
7 THESE PICTURES?

8 Q: Who took those photos, John?

9 A: I took some of the pictures. Michelle
10 took some of the pictures. One of the
11 pictures was from, was taken by a
12 certified nursing assistant while Mom was
13 out on an excursion, visiting a dog and
14 horse ranch. Michelle took some of the
15 pictures. I think that's the origin of
16 the pictures.

17 MR. BOYD: NO OBJECTION, YOUR
18 HONOR.

19 THE COURT: THANK YOU. PLEASE
20 CONTINUE, MS. HARRISON.

21 **PETITIONER'S EXHIBIT NUMBER 3**

22 **ADMITTED INTO EVIDENCE.**

23 Q: All right, if we could just go through
24 these photos briefly. The first page
25 appears to be a photo of you and your mom

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1 in a vehicle?

2 A: Yes, that's my rental car and we're about
3 to go out for an excursion with my
4 mother. You can't see in the back seat,
5 but in the back seat are the two CNAs who
6 accompany us to help Mom with her bathing
7 needs and mobility needs when we go out.
8 And that's my sister saying goodbye to us
9 before we leave.

10 Q: Okay. And regarding activities of daily
11 living or ADLs, what help does your mom
12 need with toileting, bathing, medication
13 reminders?

14 A: Okay. You're going to have to remind me
15 of those. Those are three separate
16 things. I'll start with medication
17 reminders, because you just said that.
18 My mom needs active medication
19 management. In other words, she needs to
20 have her medications ordered, supplied,
21 stocked, laid out for her and she needs
22 to be told when to take them and also
23 what she's taking them for.

24 Q: Is she able to go to the restroom on her
25 own?

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1 A: She's able to, you know, pull down her
2 pants and squat most of the time.
3 Although one time I was with her, she sat
4 on the toilet and urinated without
5 pulling down her pants. Another time,
6 she decided to get dressed herself after
7 using the toilet and put on her Depends
8 on the outside of her pants. So, she
9 needs assistance dressing properly, going
10 to the toilet and she's incontinent. So,
11 she needs to be told sometimes that she's
12 soiled herself and to be brought to the
13 bathroom. And she is, she has stability
14 issues. So if she's trying to, you
15 know, get one pair of pants off, she
16 needs somebody with her there to actually
17 help do that and she weighs 170 pounds
18 now.

19 Q: Looking at the other photographs, there's
20 a photograph of your mother sitting on
21 what appears to be a porch. Where is
22 that?

23 A: So, that's the, that's the porch of
24 Michelle's house and that's the new ADA-
25 designed railing specifically for my

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1 mother. My mother is wearing her cap
2 that I gave her from our Dermatology
3 Medical Missions organization. I think
4 Mom is proud that we do that work.

5 Q: Okay. Are these photographs just taken
6 of her -- When were they taken? Just
7 most of them, or rather these four, when
8 were they taken?

9 A: Within the past few weeks.

10 Q: Okay. The next page shows a bathroom and
11 a bedroom that appears. Can you tell the
12 Court what that is?

13 A: Yes. The bedroom is Mom's bedroom. You
14 can see her bed, which is designed so
15 that it's low to the ground. It's lower
16 than most beds. It's specifically
17 designed so it's powered, so she can sit
18 up or down depending on her comfort level
19 and in her needs, and also it's got a
20 specific moisture-wicking, yet waterproof
21 cover, so, that -- because she is
22 incontinent of feces as well as urine, so
23 that she can be cleaned and that her bed
24 can maintained in a clean fashion. A
25 little bit, you can't see it too well,

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1 but next to the bed stand, one of the bed
2 stands, is a little armchair, and that's
3 where one of the CNAs sits at night with
4 Mom. Mom will spontaneously get up and
5 want to go to the bathroom and she
6 continues to be a fall risk. So
7 somebody's with her to guide her to the
8 bathroom so she doesn't trip and fall,
9 and can take care of her needs. And
10 that's Mom's cat sitting on top.

11 Q: So your mom's cat lives with her in
12 Washington now?

13 A: Yes.

14 Q: All right. And looking at the next page,
15 there's another photo of the bathroom and
16 it looks -- the two photos on the side,
17 tell us what those are.

18 A: So, the two photos on the side, one is a
19 more expanded view of the bedroom, a
20 little bit wider angle. So you can see
21 the chair where the overnight certified
22 nursing assistant stays with Mom.
23 There's another chair sitting there so
24 that if she has a visitor over, that
25 visitor can sit and talk to her

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1 comfortably, or if Mom wants to sit in
2 that chair. She has a collection of
3 things that she has picked out. The
4 flowers, the vases, all that Mom has
5 picked out herself and Mom also picked
6 out the furniture from a choice of
7 selections. Below that is the kitchen
8 area of Michelle's house. It's a modern,
9 clean, large kitchen for food preparation
10 and on the left is the bathroom to which
11 Mom has direct access. It's immediately
12 across the hallway from her. And this
13 was remodeled specifically for her
14 current needs, as well as her anticipated
15 needs. As we anticipate Mom will
16 eventually have in-home hospice care and
17 that Mom will spend the rest of her life
18 in there.

19 Q: All right. On the next page, can you
20 tell us what these photos are?

21 A: Yes. This is a picture of Mom at my
22 sister's boyfriend's house, Adrian, who's
23 a DEA agent. Mom has known him for a
24 long time. Likes him, likes his
25 personality. That's one of Michelle's

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1 cats that is living over at Adrian's
2 house. Michelle's started the process
3 already of moving there in anticipation
4 of the suggestions of the guardian ad
5 litem. I don't know if I went off course
6 there. But that's one of Michelle's cats
7 and Mom likes the cat, and that's Mom
8 writing in her notebook that day.

9 Then on that top right
10 picture, you can see a picture, that's
11 Mom sitting next to the window, reading
12 some stuff back in Michelle's house. And
13 below is Mom putting on one of her wigs
14 with one of her CNAs, as they're about to
15 go out.

16 Q: All right. And these next photos, tell
17 us what these are.

18 A: Let's see, which? I want to make sure I
19 have the right order. Is that the one
20 with the wine glass or the napping in the
21 sun?

22 Q: There's a boat on this one. No, I don't
23 ---

24 A: Okay. I'm sorry. I'm a little bit off
25 order. Okay, with the boats? Yeah.

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1 Okay. So this is one of Mom's regular
2 close-by excursions she loves to do.
3 There's a beautiful tourist spot called
4 Gig Harbor, which is about a ten minute
5 drive away from Michelle's house. It's a
6 tourist place. It's year around. It
7 still is a working fishing port, but it's
8 still been very gentrified. They have a
9 fair number actually of adult retirement
10 communities there. It's a very pretty
11 area. Mom likes going there. Sometimes
12 she likes to get out and walk. Sometimes
13 she doesn't, so you can see her sitting
14 in the car. She's just enjoying the view
15 from the car there. This is a local,
16 kind of, equivalent of the greasy spoon
17 restaurant that she likes, called the
18 Harbor General Store. That's the typical
19 kind of food that she eats when we go
20 out. So we are able to find her healthy,
21 diabetic-friendly food when we go out.

22 Q: All right. The next photo I have appears
23 to show your mom laying out in the sun.

24 A: I'll take a look with that one. Yes.
25 That's Michelle's backyard. Michelle's

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1 backyard is accessed by a door that's
2 just one step down into the yard. So,
3 Mom can kind of -- Well, I don't know how
4 many steps down into the yard, but it's
5 an easy walk down for her into the yard
6 and Mom goes there with her caregivers.
7 It's very private. There's a big privacy
8 hedge around that area, as you can see
9 from the pictures. There's a lot of
10 nature in that area as well. So, the
11 area has deer, rabbits. I've seen red-
12 shouldered hawks. I'm told there are
13 bald eagles in the area. It's got a lot
14 of nature and Mom loves being in the
15 yard, and it's safe for her to move
16 around there.

17 Q: Okay. The next photo that I have is you
18 and your mom ---

19 MR. BOYD: YOUR HONOR, I APOLOGIZE
20 TO THE WITNESS AND THE
21 COUNSEL, BUT MY CLIENT
22 HAD TO LEAVE. HE HAD
23 TO USE THE RESTROOM.
24 CAN WE TAKE ABOUT A
25 FIVE-MINUTE BREAK? I

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1 APOLOGIZE.
2 THE COURT: WE'LL TAKE A FIVE-
3 MINUTE BREAK. THANK
4 YOU.
5 *****OFF THE RECORD*****
6 (ON THE RECORD.)
7 THE COURT: ALL RIGHT, MS.
8 HARRISON. AND, SIR,
9 YOU ARE STILL ON YOUR
10 OATH, PLEASE REMEMBER
11 THAT.
12 MR. STRASSWIMMER: YES.
13 THE COURT: MS. HARRISON.
14 MS. HARRISON: THANK YOU, YOUR HONOR.
15 MAY IT PLEASE THE
16 COURT.
17 Q: All right. We were going through some
18 photographs. The next one that I have
19 appears to be two pictures of you and
20 your mother.
21 A: Yes, those are pictures of after my
22 mother was released from her first time
23 at MUSC, when we were all together at her
24 home in Myrtle Beach.
25 Q: The last set of photographs, the first

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1 one is your mom holding a wine glass.

2 Tell us about those.

3 A: Yes. So, Mom did an excursion. It's a
4 winery in the area, so Mom did an
5 excursion just to get out of the house
6 for a day. Mom is, I guess, toasting,
7 happy. She doesn't drink wine anymore,
8 she used to. Occasionally, she'll have a
9 sip, but she won't drink a glass now, at
10 least I haven't seen her have that at
11 all, but looking happy. And there's a
12 picture of me in bed with Mom, right
13 after her surgery, her initial surgery
14 and resection. And then below that is a
15 picture of Mom on another excursion with
16 one of her certified nursing assistants
17 who takes her out to something Mom looks
18 forward to, which is reconnecting with
19 horses. She did horseback riding when
20 she was little, so I've been
21 investigating whether she might be a
22 candidate for equine therapy at some
23 point, and Mom looks happy there.

24 Q: Do you believe that your mother is doing
25 well in Washington?

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1 A: Yes.

2 Q: Do you think that she should stay there?

3 A: Yes.

4 Q: Why?

5 A: She should -- I think she should stay
6 there because my mother stated she wanted
7 to go to Washington when we initially
8 asked her as a family and we made initial
9 plans to move there. When Michelle
10 received the temporary emergency medical
11 guardianship, we again asked Mom what she
12 wanted to do and where she wanted to go.
13 She, again, said she wanted to go back to
14 Washington. Now that she's in
15 Washington, she's told me multiple times,
16 she wants to stay in Washington, in
17 Tacoma.

18 Q: Tell me about her care team there in
19 Washington.

20 A: So her care team is headed by her
21 palliative care physician, Dr. Bryan
22 Morris-Ward. So, Dr. Bryan Morris-Ward
23 is a board certified physician whose
24 subspecialty expertise is in the
25 subspecialty of medicine called

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1 palliative care medicine.

2 Q: The treatment that your mother is
3 receiving, is that palliative care at
4 this point?

5 A: My mother is part of a continuous
6 palliative care plan, which means that
7 the treatments that she's receiving will
8 be changing with time based on my
9 mother's needs and her desires.

10 Q: What other treatment professionals does
11 she see?

12 A: So, one part of her, one part of her
13 treatment is her current oncology
14 treatment under the direction of Dr.
15 McGranahan.

16 Q: Are you aware of what medications Dr.
17 McGranahan prescribes for your mother?

18 A: The primary medication she prescribes for
19 my mother now is Avastin. It's my
20 understanding, and from some of
21 information I shared with the guardian ad
22 litem, that this medication is primarily
23 for control of Mom's symptoms and to
24 decrease Mom's need for these
25 corticosteroids.

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1 Q: And other than Dr. McGranahan and Dr.
2 Morris-Ward, does she see any other
3 doctors?

4 A: Well, she will see the doctors at the
5 local emergency room. I believe that on
6 two of her trips to the emergency room,
7 she saw the same emergency room doctor
8 there, and she also has a registered
9 nurse who sees Mom three times a week as
10 part of her continuity of care as well.

11 Q: Does that RN see her at her home?

12 A: Yes, she does home visits. The RN is one
13 who specialized in hospice care, so she
14 worked previously for a hospice agency
15 for several years.

16 Q: I want to review some portions of the
17 medical record with you if we could look
18 at some specific areas.

19 A: Okay. The other part of her team, you
20 asked about doctors and I mentioned the
21 nurse, but the other part of her team are
22 the certified nursing assistants who do
23 her medication administration, her
24 glucose checks, and give her her shots,
25 including her blood thinner that she

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1 needs to be on now, as well as her
2 insulin.

3 Q: If you'll turn with me to page 52 of the
4 medical records.

5 A: Okay.

6 Q: This appears to be a visit with Dr.
7 Cooper that begins on page 49, the
8 relevant portion of it, which is on page
9 52. Who is Dr. Cooper?

10 A: Dr. Cooper is a radiation oncologist at
11 MUSC.

12 Q: can you tell what date this evaluation
13 was done?

14 A: It says encounter date 10/24/2018.

15 Q: So, that was your mother's second stay at
16 MUSC, correct?

17 A: 10/24? 10/24?

18 Q: Oh, I apologize.

19 A: Yeah, this is, this is Mom's initial
20 outpatient consultation in anticipation
21 of her plan for going on the Stupp
22 regimen. So, this is meeting with her
23 radiation doctor who's one half of that
24 double plan.

25 Q: So, this is about a week after surgery?

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1 A: That's right.

2 Q: So, going to page 52 of that doctor's
3 evaluation of your mother that day, there
4 is a paragraph that states
5 recommendations. Can you read that
6 paragraph for the Court?

7 A: Yes. "Recommendations. Given Dr.
8 Miles', age, STR and," STR I believe
9 means subtotal resection, "wild type
10 IDH1," that's a genetic marker, I
11 believe, "she has a poor prognosis in
12 terms of overall survival and
13 progression-free survival." And he cites
14 there a PubMed reference to -- Usually
15 that's a reference to an article PMID
16 with a colon is a reference to an
17 article. "In accordance with the 2016
18 ASTRO, American Society of Therapeutic
19 Radiation Oncology, guidelines for the
20 management of unresectable glioblastoma
21 multiform, I would recommend chemo,
22 radiation therapy followed by
23 chemotherapy where the target volume will
24 be treated with hypofractionated
25 radiation. A recent study published in

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1 the New England Journal of Medicine
2 demonstrated that the addition of
3 temozolomide to hypofractionated
4 radiation scheme, 40 Gy," stands for
5 grays, "in 15 fractions resulted in
6 longer survival than that of short course
7 radiotherapy alone."

8 Q: Going on to the next page, if you'll
9 continue.

10 A: "The logistics, risks, benefits and
11 alternatives to irradiation were
12 discussed in detail. Possible acute
13 toxicities include, but are not limited
14 to fatigue, skin irritation, redness,
15 peeling, nausea, vomiting, headache,
16 worsening neurological symptoms requiring
17 steroids and hair loss within the
18 treatment field. Possible late
19 toxicities include pigmentary changes,
20 permanent hair loss, cognitive and memory
21 deficits, decreased vision, cataracts,
22 endocrine dysfunction, damage or scarring
23 to normal brain tissue resulting in
24 neurological deficits such as weakness,
25 numbness, et cetera, radionecrosis or

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1 secondary malignancy. She was given the
2 opportunity to ask questions. All of her
3 questions were answered to her
4 satisfaction. Dr. Miles agreed to
5 undergo irradiation. She would like to
6 be treated here and stay at the Hope
7 Lodge. Informed consent was signed. She
8 will now return tomorrow for CT sim with
9 a plan to start in about two weeks (only
10 a week from surgery now)."

11 Q: So, that reflects the initial treatment
12 plan before the family meeting in Myrtle
13 Beach, at which you guys decided to go to
14 Seattle; is that correct?

15 A: Yes.

16 Q: Moving to page 60 of the record, tell us
17 what this is.

18 A: This is an emergency room provider note
19 record by Dr. Jennings from November 12,
20 2018.

21 Q: Is this from an MRI that was performed on
22 your mother?

23 A: This looks like this was a multiplanar
24 multisequence MRI of the brain with and
25 without intravenous contrast.

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1 Q: Where it state's impression, can you
2 please read that for the Court?

3 A: "Post-surgical changes of left frontal
4 craniotomy for tumor resection, the
5 residual peripherally enhancing mass and
6 the left frontal lobe measures 5.7x5
7 centimeters previously 4.7x3.1
8 centimeters."

9 MR. BOYD: YOUR HONOR, I
10 APOLOGIZE. COULD YOU
11 IDENTIFY THE PAGE
12 NUMBER THAT HE'S
13 READING FROM?

14 MS. HARRISON: PAGE 60. I APOLOGIZE.

15 MR. BOYD: THANK YOU.

16 A: Would you like me to start over?

17 Q: No, that's fine. You can continue.

18 A: Okay. "Slightly increased surrounding T2
19 prolongation in the left frontal parietal
20 lobe. However, there's slight
21 improvement in midline shift, measuring
22 four millimeters, previous eight
23 millimeters."

24 Q: So, at this point when your mother was
25 brought back to MUSC after being in

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1 Washington, had the tumor grown at that
2 point?

3 A: It appears that the tumor was a larger
4 size than it was previously when she
5 left.

6 Q: Then moving on to page 156 of the medical
7 records. Actually, I'm going to stop you
8 at page 147.

9 A: Okay.

10 Q: Can you tell the Court what this is?

11 A: Let's see, page 147? Okay. Page 147
12 appears to be a continuation of a note
13 starting on page 145, radiation oncology
14 outpatient consultation note dated
15 November 6, 2016.

16 Q: What provider is this?

17 A: The attending physician is Dr. Tseng, T-
18 S-E-N-G, and there's also a resident
19 listed on there as well.

20 Q: All right. On page 147 under the
21 recommendations, the third paragraph,
22 will you read that for the Court?

23 A: Yes, please. "By the end of the
24 consultation, the patient was becoming
25 more tired and having more frequent

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1 difficulty understanding the discussion.
2 She appeared to be more frustrated and
3 reported feeling pressured. Thus, she
4 did not provide consent today and her CT
5 simulation was canceled. She and her
6 husband will call us when they feel ready
7 to move forward with radiotherapy. We
8 discussed our preference to begin sooner
9 than later as her surgery was on
10 10/18/18. She met earlier this morning
11 with Dr. McGranahan, neuro-oncology, who
12 feels she is appropriate candidate for
13 temozolomide. Dr. McGranahan instructed
14 Dr. Miles to decrease her dexamethasone
15 to four milligrams, BID from TID."

16 Q: All right. The treatment that they were
17 proposing at Washington was the same
18 treatment as the Stupp regimen at MUSC,
19 correct?

20 A: Yes.

21 Q: All right. Now moving forward to page
22 156. Can you tell the Court what this
23 is?

24 A: Let's see. Okay. This looks like a
25 report of a communication documented by

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1 Dr. McGranahan from the University of
2 Washington Alvord Brain Tumor Center on
3 November 20th.

4 Q: Okay. This is Dr. McGranahan just
5 asking, basically communicating with
6 MUSC, correct?

7 A: Yes.

8 Q: At the end of that note, there was some
9 discussion about Avastin. Can you read
10 that for the record?

11 A: Okay. "Given DM," diabetes mellitus "and
12 high dose steroids, I asked if they had
13 discussed Avastin with the family. They
14 have not."

15 Q: So MUSC had not offered Avastin as a
16 treatment option for Dr. Miles. Is that
17 correct, based on this record?

18 A: I have, I have -- Based on that record,
19 that's correct.

20 Q: Moving forward to page 210 of the medical
21 records.

22 MR. BOYD: I APOLOGIZE AGAIN.
23 WHAT PAGE WERE YOU JUST
24 READING AND WHAT PAGE
25 WERE YOU MOVING TO?

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1 MS. HARRISON: 156 WAS WHERE WE JUST
2 WERE.
3 MR. BOYD: OKAY, AND YOU'RE MOVING
4 TO WHERE?
5 MS. HARRISON: 210.
6 MR. BOYD: THANK YOU.
7 MS. HARRISON: YES, SIR.
8 Q: Can you tell the Court what this is?
9 A: Let's see, 210. Okay. This appears to
10 be a record from Dr. Tresa McGranahan at
11 the UW Alvord Brain Tumor Center with a
12 date of service of 03/07/2019, and it
13 appears to be a follow-up note.
14 Q: All right. Under the assessment portion,
15 the third line up from the bottom, can
16 you read what Dr. McGranahan states in
17 that assessment?
18 A: Okay. Let's see. Okay. "We reviewed
19 the risk," I'm sorry. "We reviewed the
20 risks and benefits of the medication, but
21 this would be reviewed in far more depth
22 if and when the tumor grows and she
23 decides to start chemotherapy. I believe
24 that the significant improvement in her
25 symptoms is due to the Avastin infusions,

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1 so she will continue this at the lowest
2 effective dose. She will return for
3 another MRI and visit with me two to
4 three months from her prior MRI. I told
5 her she could choose when."

6 Q: Moving forward to page 212 of that same
7 record, can you tell the Court what that
8 is under the Alvord Brain Tumor Center?

9 A: Yep. This appears to be an after visit
10 note. So this is the type of thing
11 that's given to patients when they leave
12 a doctor's visit to summarize what went
13 on that day and kind of what next steps
14 are.

15 Q: All right. Number one there, if you'll
16 read that for the Court.

17 A: "1) Keep going on your Avastin infusions.
18 They are clearly helping you out
19 immensely."

20 Q: Okay. Then finally, if you'll skip
21 forward to page 464. I'm sorry, 463. If
22 you can identify this document for the
23 Court.

24 A: Yes. So, this appears to be a letter
25 written by Mom's palliative care

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1 physician, Dr. Bryan Morris-Ward
2 regarding my mother, Claudia Miles,
3 living at Michelle's House, 1335 North
4 Heatherwood East in Tacoma, Washington.

5 Q: Okay. Can you read the last paragraph of
6 that letter?

7 A: "Based on the patient's current
8 condition, her physical and medical
9 needs, I would not recommend air travel
10 due to the discomfort, difficulty and
11 risks to the patient."

12 Q: Okay. In fact, every time that your
13 mother has flown, she has ended up in the
14 ER after that flight.

15 A: Yes.

16 Q: There are a couple of areas in the record
17 that I want to touch on, because one of
18 the questions here before the Court today
19 is whether your mom has capacity to make
20 decisions.

21 A: Okay.

22 Q: If you could look with me at page 239.

23 A: Okay.

24 Q: Again, tell the Court what this document
25 is.

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1 A: Let's see, this is a document with the
2 name of Dr. Tresa McGranahan, the neuro-
3 oncologist at University of Washington at
4 the Alvord Brain Tumor Center, which
5 appears to be also an after visit note.
6 In other words, a summary that's given
7 for patients when you leave the office,
8 so they know what happened and what's
9 coming up next.

10 Q: All right. If you'll read paragraph four
11 of that after visit summary.

12 A: "Today, you were not able to consistently
13 answer questions correctly for me. You
14 mainly gave single word answers and it
15 was not clear if that was correct or not.
16 Sometimes when you were asked, 'What do
17 you think?'" I'm sorry. "Sometimes when
18 you were asked, what do you think and
19 then the other things you were not able
20 to understand. This is due to the
21 language area of your brain having tumor
22 involvement."

23 MR. BOYD: YOUR HONOR, I
24 APOLOGIZE. IT'S VERY
25 HARD TO FOLLOW THE

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1 WITNESS WHEN I ONLY
2 HAVE AN ELECTRONIC
3 COPY. CAN YOU REMIND
4 THE PAGE YOU SAID?
5 MS. HARRISON: 239.
6 MR. BODY: THANK YOU.
7 A: Okay.
8 Q: If you'll start again at the beginning of
9 paragraph four.
10 A: Okay. Okay. "Today you were not able to
11 consistently answer questions correctly
12 for me. You mainly gave single word
13 answers and it was not clear if that was
14 correct or not. Sometimes when you were
15 asked what to do, you were able and do
16 those things. That was true of simple
17 things, but more complicated things like
18 doing one thing, and then the other, you
19 were not able to understand. This is due
20 to the language area of your brain having
21 tumor involvement." Pardon me. "That
22 makes it so that you will not be able to
23 answer questions like, where do you want
24 to live, or who do you want to see?"
25 Q: Finally, going to page 223 of the record.

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1 A: Okay.

2 Q: Can you tell the Court what this is?

3 A: This appears to be a neuro-oncology
4 follow-up note written by Dr. Tresa
5 McGranahan for the Alvord Brain Tumor
6 Center from February 12, 2019.

7 Q: All right. Under the neurological exam,
8 it states under MS, if you'll read that,

9 A: Okay. "Alert and oriented to person place
10 and time, once given cues for a year.
11 Language significantly improved from
12 prior visits. She was able to answer
13 questions and short phrases and
14 sentences, unable to name the president,
15 or recognize his name from a list. Able
16 to name stroke card items, although
17 unable to name, rare word, hammock, able
18 to repeat, able to follow three-step
19 commands for the first time since
20 12/07/2018. Memory was intact to some
21 details of history, but not all.
22 Attention is impaired."

23 Q: All right. In the previous two pages at
24 page 221, there is an interval history
25 section there. Will you read that for

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1 the Court?

2 A: Yes. "Claudia Troyer Miles is a 76-year-
3 old female accompanied to this visit by
4 her daughter who assisted with her
5 history. Dr. Miles was seen alone
6 initially, and then when asked if she'd
7 like her daughter to come in, she agreed
8 to it, but when asked if she'd like her
9 husband to come in, she said, 'No.' He
10 joined us at the end of the visit to
11 discuss travel safety."

12 Q: You can continue on.

13 A: "She is living with her daughter,
14 Michelle, in Tacoma, and has the help of
15 caregivers all day. She likes living
16 there and it is much better than the
17 facility she was living in. She
18 expresses that she'd prefer to live
19 alone, but because it is necessary that
20 she lives with someone, she prefers her
21 daughter to be this person. She reports
22 that things are still challenging between
23 her husband and children and declines
24 discussing further. With her daughter
25 and husband present, when asked if she'd

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1 like to move to South Carolina, visit
2 South Carolina or not discuss this
3 further, she said option three, and
4 subsequently that she did not want to
5 discuss this or make a decision today.

6 Dr. Miles has had three
7 Avastin infusions so far, which she has
8 no complaints about. She's able to walk
9 around her house occasionally without
10 assistance, short distances, but she
11 predominantly uses her walker to walk.
12 She denies weakness, pain, nausea,
13 vomiting, incontinence, visual changes,
14 or aura, numbness in the saddle area,
15 delirium or hallucinations seizures,
16 headaches. She is sleeping well, per
17 Michelle, although Dr. Miles reports that
18 she tried the Optune, but it wasn't for
19 her."

20 Q: The Optune, can you tell the Court what
21 that is?

22 A: Yes. I shared information about the
23 Optune device with the guardian ad litem.
24 I don't know if she has those with her,
25 but there it's a device, which is a new

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1 concept in how we can treat cancers using
2 tumor treatment electric fields. So the
3 device works on the theory that low
4 level, continuous electricity passing
5 through an area where there are cancer
6 cells disrupts the ability for those
7 cancer cells to multiply. In an area of
8 the brain where the normal healthy cells
9 are not usually multiplying, it's a way
10 to selectively stop the growth of
11 multiplying cells, cancer cells, while
12 allowing the regular cells to continue to
13 survive, and discussions with the
14 doctors, it's FDA approved specifically
15 for glioblastoma and is reported to
16 potentially double somebody's life
17 expectancy.

18 Q: Your mother did begin this treatment?

19 A: Yes, she did.

20 Q: But she has since discontinued it?

21 A: That's true.

22 Q: Based on your testimony here today, do
23 you believe that your mother is able to
24 make medical decisions for herself?

25 A: I do not believe my mother is able to

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1 understand the consequence of medical
2 decisions, meaning that she could make a
3 medical decision, "Do I want to band aid
4 on or not?" Potentially, but something
5 that requires somebody to understand the
6 consequences, side effects of doing or
7 not doing something I do not believe
8 she's able to make those decisions.

9 Q: Do you think that she is able to
10 effectively communicate her decisions
11 related to her healthcare management or
12 management of where she lives or with
13 whom?

14 A: No, I do not believe she is able to.

15 Q: So do you believe that a permanent
16 guardian needs to be appointed to provide
17 continuing care and supervision of your
18 mother?

19 A: Yes, I do.

20 Q: Okay. Who do you think the appropriate
21 person to do that is?

22 A: The appropriate person is the person
23 who's been doing that job de facto as
24 temporary guardian, Michelle Miles.

25 Q: You and I have reviewed the guardian's

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1 report in this case as well, correct?

2 A: Yes, we have.

3 Q: The guardian has suggested that there be
4 an independent third party appointed as
5 guardian for your mother.

6 A: Yes.

7 Q: Do you have a problem with that, if
8 that's what the Court decides to do?

9 A: I don't have a problem at all with that.

10 Q: What are your concerns with David as they
11 relate to whether or not he would be a
12 good guardian for your mom?

13 A: My mother's original intentions were to
14 have Michelle and David work together.
15 That was in her documents that she wrote
16 in 2008. And David demonstrated very
17 early on that he was not willing to work
18 together, either with me over question of
19 finances or my sister over medical
20 decision that can share. He asserted
21 early on before we had these documents
22 that he was the power of attorney before
23 we knew about these. So I believe he
24 didn't follow through with my mother's
25 prior directives to work together for

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1 these things. In addition, I'm very
2 concerned about his judgment and a lot of
3 things related to somebody who's really
4 the chaperone of my mother who will
5 decide where my mother goes, where she
6 stays, how she travels and what type of
7 vehicle and so forth, I'd become
8 increasingly concerned over his ability
9 to make those correct judgments and to be
10 able to care for my mother safely.

11 Q: Regarding finances, do you think that
12 your mother is capable of making
13 decisions related to her finances and
14 effectively managing her finances?

15 A: No, I do not.

16 Q: Talk to me about the relationship between
17 Mr. King and your mother in regards to
18 finances?

19 A: From the time that David moved in with
20 us, I've always understood that David
21 participated in the household expenses,
22 meaning sharing the mortgage or the rent,
23 potentially groceries, utilities, but
24 that Mom and Dave for the previous 37
25 years lived completely separate financial

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1 lives. They had one common small bank
2 account into which they each put an equal
3 amount of money to share those equal
4 costs that went for those things. As
5 part of the work that I've done to try to
6 understand a little bit more about my
7 mother's finances, I was concerned that
8 there was a little bit of change recently
9 about that.

10 Q: Okay. In your mother's estate planning
11 documents, did she execute a power of
12 attorney?

13 A: I, I believe so.

14 Q: I apologize. Let me go get my copy of
15 that. Do you still have those there in
16 front of you?

17 A: This one, ma'am?

18 Q: Yes.

19 A: This one? Yes. I do have that still in
20 front of me.

21 Q: And at the fifth tab.

22 A: Okay.

23 Q: Can you tell the Court what that document
24 is?

25 A: Just want to make sure I have the correct

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1 one then.

2 Q: The fifth tab.

3 A: Okay. Oh, I see. Okay. I'm sorry. The
4 document that states State of South
5 Carolina, County of Horry, Power of
6 Attorney?

7 Q: Yes.

8 A: Okay.

9 Q: If you'll go to the last page of that
10 document or actually the page right
11 before?

12 A: Yes.

13 Q: Does that appear to be your mother's
14 signature on that document in 2008?

15 A: Yes, it does.

16 Q: Okay. Who does this document name as a
17 power of attorney to handle financial
18 matters for your mother?

19 A: David V. King and John Strasswimmer, or -
20 - Yeah.

21 Q: I apologize ---

22 A: Okay. Well, yes, David V. King and John
23 Strasswimmer.

24 Q: Were there successor agents appointed as
25 well?

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1 A: Yes. The successor agents, Michelle
2 Monteith, or Donald Brown, my mother's
3 deceased brother.
4 Q: Your mother had also established a trust;
5 is that correct?
6 A: Yes.
7 Q: I'm going to the first tab in that estate
8 planning binder.
9 A: Okay.
10 MR. BOYD: I DON'T HAVE THAT.
11 *(INAUDIBLE DISCUSSION BETWEEN MR. BOYD AND*
12 *MS. HARRISON.)*
13 Q: On that document, will you read paragraph
14 one and two, please?
15 A: So this is the memorandum of trust?
16 Q: Yes.
17 A: Paragraph one, "On April 23, 2008,
18 Claudia T. Miles has created the Claudia
19 T. Miles Living Trust, which is revocable
20 in nature." Paragraph two, "Claudia T.
21 Miles is named as trustee. David V. King
22 and John Strasswimmer have been named as
23 successor, co-trustees in the event that
24 Claudia T. Miles is unable or willing to
25 serve."

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1 Q: Okay. So you were named as a co-agent on
2 your mother's financial power of attorney
3 and you were also named as a co-trustee,
4 a successor co-trustee to serve with
5 David. Is that correct?

6 A: That's correct.

7 Q: Have you been able to get an idea of what
8 your mother's financial condition is
9 right now?

10 A: Yes. I've been able to get an idea of my
11 mother's current financial condition
12 right now.

13 Q: Okay. How have you been able to do that?

14 A: With a lot of work.

15 Q: Okay. Talk to the Court about that.

16 A: Okay. When my mother initially became
17 ill, I was wondering if my mother had
18 done like my wife and I have done,
19 whether she had any prior directives at
20 all. Did she have a DNR? Did she have
21 anything like that? So I asked David if
22 my mother had that and he said, "I don't
23 know. Your mother's very private. She
24 keeps all that stuff to herself."

25 I said, "Well, David,

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1 does my mother have a lawyer?"

2 He said, "I don't know.
3 She keeps all that stuff to herself.
4 She's very private. You can go look in
5 her office. She has everything on
6 paper."

7 I said, "Okay." We
8 subsequently found out my sister was
9 given access, given the pin code for
10 Mom's phone, we flipped through the
11 phone.

12 When I was back at
13 work, Michelle sent me a contact. She
14 said, "I found somebody's name that has
15 Esq. after their name. Sounds like that
16 could be a lawyer." So I called that
17 lawyer and I called his office twice and
18 left messages for him on that Thursday.
19 So, this was coinciding with the time
20 after Mom had left MUSC and was still
21 hanging out in Charleston getting the
22 initial outpatient visits with the cancer
23 treating team. I called him twice and I
24 left a message with the secretary twice
25 on that Thursday, didn't hear back.

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"Hold one second,

1 please."

2 Q: You don't have to go through the details

3 of the phone call.

4 A: Okay.

5 Q: But the end result is that the attorney

6 came to the house, correct?

7 A: Yes.

8 Q: Okay.

9 A: And provided documents, yeah.

10 Q: He provided you with these estate

11 planning documents, ---

12 A: Yes.

13 Q: --- at that time?

14 A: Yes.

15 Q: Were you surprised that David hadn't told

16 you about these documents?

17 A: Yes, because the lawyer said that he had

18 prepared documents for my mother and

19 David around the same time.

20 Q: Okay. Have you asked David to help you

21 in finding out what assets your mother

22 has so that you guys can work together to

23 help her manage those?

24 A: Yes. It's open in our family, we all use

25 USAA as a bank. So, I assumed that Mom

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1 would have something at USAA. So, I
2 asked David, I said, "David, does Mom
3 have -- what kind of assets does she
4 have? She's going to need some money for
5 care. What does she have?"

6 He said, "I don't know,
7 your mother's very private. She keeps
8 everything to herself."

9 I said, "David, you
10 don't have any records of her."

11 "I don't know. She
12 likes to keep everything paper. You can
13 go look around her office and maybe you
14 can find something there." So, Michelle
15 and I were left wondering about that.
16 Subsequently, I discovered that David had
17 filed my mother's taxes for 2017, meaning
18 the 1099s and all those tax statements
19 that go with all of these bank accounts
20 that Mom had to report, David is the one
21 who apparently filed Mom's taxes and
22 therefore, had intimate knowledge of at
23 least a portion of Mom's financial
24 records and had them, at least part of it
25 computerized.

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1 Q: To date, has Mr. King provided you with
2 any financial information about your mom?

3 A: I received that one tax return from 2017
4 with its accompanying 1099s and relevant
5 tax statements, but no other information.

6 Q: Okay. What have you been able to
7 discover about, well, let's talk first
8 about your mom's house? Does she own the
9 house that she lives in?

10 A: I believe your office helped me identify
11 that there is a deed for the house and
12 that the deed lists my mother as one of
13 the owners, and that the house also
14 contains South Carolina language so that
15 each one of them has rights of
16 survivorship and able to use the home
17 should one predecease the other.

18 Q: Okay. I'm going to direct your attention
19 to that estate planning book that's there
20 in front of you to tab number three.

21 A: Okay.

22 Q: Okay. Looking at this first deed that's
23 there under tab three, this appears to be
24 a deed deeding one half of the property
25 from Claudia Miles to the Claudia Miles

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1 Living Trust. Correct?

2 A: If that's the document that says State of
3 South Carolina County of Horry, and
4 begins with, "KNOWN ALL MEN BY THESE
5 PRESENTS, that I, Claudia Miles," that
6 document?

7 Q: That's correct.

8 A: Okay. I want to make sure I'm on the
9 correct page.

10 Q: Yep. You can continue reading there if
11 you want to.

12 A: Okay. "That I, Claudia T. Miles, here
13 and after called Grantor in the State
14 aforesaid, and in consideration of sum of
15 Five dollars in hand paid to Grantor by
16 Claudia T. Miles Trust, of 241 Center
17 Drive, Myrtle Beach, South Carolina.
18 Grantor has granted bargain sold and
19 released, and by these presents, does
20 grant bargain, sell and release unto the
21 same Grantee, its successor assigns
22 forever subject to life estate reserved
23 onto Claudia Miles, all my right, title
24 and interest, and to the below described
25 property to wit, see Exhibit A."

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ROA 0604

1 Q: Looking at Exhibit A, which is the third
2 page of that document. That's an
3 undivided one-half interest in the
4 property that your mother lives in,
5 correct?

6 A: Correct.

7 Q: Going one document further, this one has
8 some blacked out areas of it. I
9 apologize. This is the only copy that my
10 office had, but it looks like David's
11 interest was also transferred into his
12 trust.

13 A: Yes.

14 Q: All right. In addition to the house,
15 does your mother have bank accounts?

16 A: Yes, my mother has several bank accounts.

17 Q: Okay. How are those bank accounts held?
18 Just in her name? Jointly with David?

19 A: Most of the accounts are, most are held
20 just with by my mother, some of them are
21 named with my mother and my mother's
22 trust. There's one that I'm aware of,
23 which is a joint account between David
24 and my mother.

25 Q: Does your mother have any credit cards?

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1 A: Yes, she has one USAA issued credit card.
2 Q: Okay. Then how about retirement
3 accounts, have you been able to figure
4 out if she has any retirement accounts?
5 A: Yes. I don't know if I'm allowed to
6 editorialize, but somebody will stop me
7 if I do. It's been a monumental amount
8 of work to try to find out if Mom has
9 retirement accounts, if Mom has State of
10 South Carolina pension money or some
11 other benefits available to her, because
12 I've been relying on my sister as
13 temporary guardian to use that temporary
14 guardian status to request access. Every
15 financial institution has had variable
16 willingness to recognize that and provide
17 Michelle with that information. It's
18 very eye-opening for me. It's run the
19 gamut from one account that was able to
20 literally give her paper checks to close
21 an account to other accounts that's to my
22 understanding, still are reluctant to
23 give her the ability to manage any of
24 those funds or have access to those
25 accounts.

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ROA 0606

1 Q: So, there are still questions out there
2 as to what assets your mother has?

3 A: There are a lot of questions and
4 particularly, we don't know about any
5 insurance products Mom might have. She
6 was a very traditional, conservative
7 fiscal person, and we suspect that she
8 might have a life insurance, potentially
9 a long-term care policy, and we've not
10 been able to find any information about
11 that.

12 Q: Obviously, this is limited based on the
13 knowledge that you've been able to obtain
14 within this period of time, but do you
15 have a basic idea of what the value of
16 the assets that your mother has that she
17 would need help with handling?

18 A: You mean, in other words, how much money
19 belongs to my mother, whether directly or
20 in her trust? Yes, I do.

21 Q: Okay. What is that?

22 A: It's probably in the million dollar range
23 and it depends on whether you calculate
24 her theoretical half interest in the
25 house. Also, as I said, it's not clear

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1 what other assets she might still have
2 out there.

3 Q: Okay. Now you have petitioned for you to
4 be named as conservator, correct?

5 A: Yes.

6 Q: Talk to me about your ability to take on
7 that job.

8 A: Well, in my professional life, I hold
9 three hats where I have separate fiscal
10 responsibility. So first of all, I'm a
11 partner in a medical practice, so I'm
12 responsible for knowing our finances and
13 our fiduciary responsibilities being a
14 part in our medical practice. Second,
15 I'm the president of a small non-profit
16 organization, which requires separate
17 accounting as a non-profit organization.
18 Third, I'm also the recipient of research
19 grants, some from non-profit
20 organizations, one from Pfizer
21 Corporation, and I'm responsible for all
22 the correct documentation and reporting
23 that go into those as well. One of these
24 grants, for example, I received from our
25 National American Academy of Dermatology.

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ROA 0608

1 I actually awarded most of those funds to
2 David on a consulting project that he
3 helped me with a few years ago.

4 Q: Okay. Have you been able to locate firms
5 or other professionals that would assist
6 you in carrying out your duties as a
7 conservator?

8 A: Yes.

9 Q: Okay. Tell the Court about that.

10 A: I've identified a large accounting firm,
11 EisnerAmper, which has presence in every
12 state in the United States, including
13 South Carolina and Florida, where I live
14 and Washington where Michelle lives as
15 well. It's a full service accounting
16 agency and they signed a letter of intent
17 stating that they can provide accounting,
18 auditing, bookkeeping, and bill pay
19 services as requested.

20 Q: You and I have talked about that the
21 Court is going to have some requirements
22 of you as conservator if you are
23 appointed as conservator, correct?

24 A: That's correct.

25 Q: Okay. You understand that those

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1 requirements are that you're going to
2 have to file an annual accounting?

3 A: Correct.

4 Q: You also understand that you will have to
5 obtain a bond for the value of whatever
6 funds are under the conservatorship. Is
7 that correct?

8 A: Correct.

9 Q: Do you foresee any trouble in being able
10 to obtain a bond?

11 A: No, I don't. I've reviewed the
12 California statutes. The guardian ad
13 litem provided me with a good link for
14 those, the South Carolina statutes, not
15 California statutes about those. I'm
16 familiar with those and comfortable with
17 those.

18 Q: You've never been convicted of any
19 crimes, correct?

20 A: Correct.

21 Q: Have you ever filed bankruptcy?

22 A: No.

23 Q: What is your current credit score?

24 A: 720.

25 Q: Okay. Do you have any creditor issues?

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ROA 0610

1 A: No.

2 Q: So, you believe you would be able to
3 carry out the duties of conservator?

4 A: Yes, I do.

5 Q: You and I have also discussed the
6 guardians report wherein she's made some
7 recommendations that a third party be
8 appointed as conservator. Do you have a
9 problem with that if that's what the
10 Court decides to do?

11 A: I don't have a problem with it. I have a
12 concern, which I'd like to share if
13 that's okay.

14 Q: Absolutely.

15 A: In Florida, there's been a lot of stuff
16 on the news, I'm not sure about South
17 Carolina where private, for-profit
18 guardians really run up bills on the
19 estates of people who are in this
20 situation. I know that I understand that
21 the State of South Carolina has an
22 understood amount of money that can be
23 spent in exercising of their duties. I'm
24 concerned that spending that money would
25 further deplete my mother's assets. As

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1 part of what my mother's put together is
2 that David could be able to live off of
3 the residuals as he needs going forward,
4 so there'd be less money for David down
5 the road as well. As we discussed, I'd
6 be happy to not seek to collect any such
7 charges for myself.

8 Q: If you were to serve as conservator?

9 A: That's right. But otherwise I have no
10 problem with the person that the guardian
11 ad litem has selected.

12 Q: What would you like to see your mother's
13 funds used for?

14 A: I would like my mother's funds used to
15 support her usual quality of life. She
16 and David live very frugal lives, but
17 they enjoy their nice things in life.
18 So, they enjoyed nice dining out. They
19 just came back from a three-week trip to
20 Spain. They were looking forward to
21 buying a new car together. My mother
22 likes reasonable clothes. They're not
23 extravagant, so I'd like my mother to be
24 able to continue to enjoy life. I'd also
25 like her to be able to have the

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1 professional services that would make her
2 daily quality of life. Medicare, Mom's
3 eligible for Medicare services and
4 certainly, at some point there will be an
5 official trigger that notifies Medicare,
6 that she's a candidate for Medicare paid
7 for services. I'm concerned that what
8 Medicare pays for a loan would not be
9 enough for my mother as far as the number
10 of nursing visits and the number of
11 household staff, and so I would like my
12 mother to be able to continue to have,
13 for example, 24/7 CNAs with her.

14 Q: When you say Medicare, do you mean
15 Medicare or Medicaid?

16 A: Medicare. My understanding is my
17 mother's not even close to being a
18 candidate for Medicaid.

19 Q: Okay.

20 A: She's fortunately too frugal and too
21 wealthy. And I don't foresee, especially
22 given the prognosis that the guardian ad
23 litem shared with us, I don't foresee my
24 mother spending through all of her
25 assets, but my wife and I have discussed

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1 this and my wife and I would certainly
2 pay my mother's ongoing costs should she
3 outlive her money.

4 Q: In the beginning of this process, when
5 you and Mr. King were needing to work
6 together to determine how money was spent
7 for your mother's care, did you have
8 trouble doing that?

9 A: Yes.

10 Q: Okay. Tell me what some of the concerns
11 were.

12 A: Initially, the only financial assets I
13 knew my mother had was, I suspected, her
14 ownership of the house, which would not
15 be readily available, and USAA account,
16 which within her USAA that we found out
17 she had a savings account, a checking
18 account, and a CD. When we thought about
19 spending those, I had my own trust lawyer
20 in Florida that's worked with my wife and
21 me to make our estate planning documents,
22 give me what he thought his opinion was
23 to read these documents.

24 Q: You can't state any opinion of anybody
25 else.

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1 A: Okay. I'm sorry. Okay. Okay.

2 Q: Okay. So continue on, but don't say any

3 ---

4 A: I'm sorry.

5 Q: --- out-of-court testimony.

6 A: Okay. Thank you. Okay. But from my
7 understanding of my mother's estate
8 planning documents, she was very specific
9 about what she would like to happen with
10 some of her things when she passes and
11 that she had some other things that she
12 was not specific about.

13 Q: Okay. Did you and David have
14 conversations about how your mother's
15 care and treatment was going to be
16 funded?

17 A: Yes, we did.

18 Q: Okay. Tell me about those conversations.

19 A: Well, we discussed that again at the
20 time, the only money that I knew my
21 mother had was, within USAA which
22 consisted of one savings account, which
23 by my interpretation of my mother's trust
24 document would go to my sister and me
25 when Mom passed. One checking account,

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1 again, with my interpretation of Mom's
2 trust documents would go to David when
3 Mom passed, and one CD containing about
4 \$62,000, which was not automatically
5 named for anybody, so I asked David if we
6 can work together and we can get Mom's
7 working together, could we tap that
8 \$62,000, because that would be more than
9 enough money to get Mom and you moved out
10 and settled in Washington to live
11 comfortably. As I mentioned, David's car
12 had been trashed. They could buy a new
13 car, they could live comfortably there,
14 pay the lease, pay medications and live
15 very comfortably Mom's last month's
16 together with David there.

17 Q: What was his response?

18 A: He was adamantly against that. He said,
19 "No." He said, "The only money to spend
20 is the money in that savings account,
21 because that account is the money that
22 your mother used as her working bank
23 account. She regularly took in money
24 there and spent money out of there for
25 her expenses." And so he and I were in

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1 disagreement about that.

2 Q: Okay. Was it your belief that David was
3 not willing to spend assets for mother's
4 care?

5 A: Well, I explained to David, I said,
6 "David, if we can't come to some
7 agreement about these accounts ---" I
8 have learned that that savings account
9 was largely stagnant over about the past
10 eight years, so it was not true that she
11 was receiving money in and spending out
12 of that account as David had said. I
13 again said, "David, why don't we tap this
14 CD? If we can figure out how to do that
15 with the help of the lawyers?"

16 And he said, "No".

17 I said, "Well, David,
18 we got to move Mom out to Washington.
19 You guys have a joint account."

20 "Yes," he said, "but
21 there's not very much money in there."

22 I said, "How much?"

23 He said, "Well, about
24 \$5,000."

25 I said, "Well, that's

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ROA 0617

1 not quite enough, David. Do you have any
2 other money, because we can't access any
3 of Mom's money?"

4 He said, "Yes, I have
5 some money."

6 I said, "Well then,
7 David, you need to put that money into
8 the joint account, and you can use that
9 joint account to pay Mom's expenses."

10 He said, "No, that
11 money is for me and for my kids."

12 Q: Okay. Were there other times where you
13 felt David should have spent some money,
14 whether it was your mom's or joint for
15 your mother's care that he didn't?

16 A: Well, was that -- after we had that
17 conversation, I then further explained to
18 him. I said, "Dave, my understanding is
19 you're married. Now you showed us --"
20 It was either that day or the day before
21 finally the marriage certificate, which
22 he had been reluctant to produce or
23 clarify for us. I said, "I don't know
24 what the laws are in South Carolina, but
25 I know about marital duty. When I sat

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1 with Karen in the church, I made a duty
2 to look after Karen and I would spend
3 money to care for my wife. You need to
4 spend your money to care for your wife."
5 He was very upset about that. He
6 subsequently did put some money into that
7 account and they used that account to pay
8 for the airplane tickets to go out to
9 Washington.

10 Q: As far as monthly income that your mother
11 receives, what monthly income does she
12 receive?

13 A: My mother receives her Social Security.
14 She receives, she receives mandatory
15 disbursements from her retirement
16 accounts. She receives still some widows
17 benefit from my father killed in Vietnam.

18 Q: All right. Just a few follow-up
19 questions, I'm almost done. There's been
20 some question about your mother stay at
21 Franke Tobey Jones and she was there --
22 how long was she there?

23 A: She was there at Franke Tobey Jones for
24 two months.

25 Q: Okay. Why do you believe that it was

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1 important for her to be there?

2 A: My mother required nursing level care to
3 keep her alive initially, and she
4 required the range of services that she
5 got at Franke Tobey Jones to get her
6 stable enough so that she could live in
7 an outpatient setting with my sister in
8 her home.

9 Q: What was your mother's condition when she
10 first was admitted at Franke Tobey Jones?

11 A: My mother had to be drugged in order to
12 be brought out of the hospital from
13 University of Washington and transported
14 to Franke Tobey Jones. She was not
15 cooperating with her medical care. She
16 was not taking her medicine. She was not
17 eating. She was not drinking, and she
18 was not cooperating with physician care.

19 Q: Your mother now, how is she cooperating
20 with care?

21 A: Completely, as far as I know.

22 Q: Do you believe that it's a good idea for
23 your mom to come back to South Carolina?

24 A: I do not.

25 Q: Okay. How do you think that would affect

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1 your mom?

2 A: I think it would uproot her from her
3 palliative care team that she has in
4 place with Dr. Bryan Morris-Ward, with
5 the private duty RN who sees Mom
6 regularly, with Mom's oncologist, and
7 with the CNAs who are with Mom, and also
8 from Michelle, who directly has been able
9 to examine Mom every day and identified
10 on two occasions to life threatening
11 things very early on for my mother. In
12 addition, any move for somebody who is
13 brain-damaged, any move that's for
14 somebody who's an older person is very
15 traumatic and very upsetting for them.
16 Once you're oriented to your
17 surroundings, you know where your
18 bathroom is, you know where you like to
19 go for walks in the neighborhoods, you
20 know the neighbors, anything uprooting
21 them is very unsettling, in my opinion.

22 Q: I have no further questions for this
23 witness.

24 THE COURT: WE MAY BE AT A GOOD
25 STOPPING POINT 12:30.

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ROA 0622

1 CONSERVATORSHIP
2 REGARDING CLAUDIA
3 MILES. SIR, PLEASE
4 REMEMBER YOU ARE STILL
5 UNDER OATH.
6 MR. STRASSWIMMER: YES, MA'AM.
7 THE COURT: THANK YOU.
8 MS. HARRISON: YOUR HONOR, IF I MAY
9 BRIEFLY, I KNOW THAT I
10 SAID THAT I WAS DONE,
11 BUT I DID NOT ADDRESS
12 THE ISSUE OF ATTORNEY'S
13 FEES WITH MY CLIENT.
14 SO, ---
15 THE COURT: THANK YOU.
16 MS. HARRISON --- I BEG THE COURT'S
17 INDULGENCE TO DO THAT.
18 THE COURT: THAT WILL BE FINE,
19 THANK YOU.
20 MS. HARRISON: THANK YOU SO MUCH.
21 THEY BROUGHT ME AN
22 UNSIGNED, WITH NO
23 COPIES. SO CAN WE
24 ADDRESS THAT LATER?
25 THE COURT: YES, MS. HARRISON, YOU

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ROA 0623

1 MAY.
2 MS. HARRISON: THANK YOU, YOUR HONOR.
3 I APOLOGIZE.
4 THE COURT: MR. RHODES, DO YOU HAVE
5 ANY QUESTIONS FOR THIS
6 WITNESS?
7 MR. RHODES: I DO, YOUR HONOR.
8
9 **CROSS EXAMINATION**
10 **BY MR. RHODES:**
11 Q: Dr. Strasswimmer, may I call you John?
12 A: Please do, I'm only Dr. Strasswimmer if
13 you're wearing a gown in my exam room.
14 Please call me John.
15 Q: I know I'm going to mess it up, so I'm
16 just going to call you John. I think you
17 touched on it briefly, but just kind of
18 to clarify, your mother had some health
19 issues before this tumor was discovered.
20 Is that not right?
21 A: That's correct.
22 Q: What were those issues?
23 A: My mother had diabetes and my mother had
24 some depression, which apparently was
25 well controlled, in as far as I could
tell as her son.

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1 Q: And both the diabetes and the depression
2 seemed to be well controlled?

3 A: Yes. And after diagnosis, I learned
4 through her medical records that she was
5 also on a medication for ADHD. I wasn't
6 aware of that before her diagnosis.

7 Q: Okay. And so when the diagnosis for the
8 tumor and the change in medicine, the
9 operation all that, those previous health
10 issues just complicated the situation; is
11 that right? Is that a simple summary?

12 A: That's a correct summary.

13 Q: Okay. And I want to -- Most of my
14 questions are clarifying basically some
15 of the things you said. Now you said
16 that there was a family meeting after the
17 surgery, that a family conference on the
18 second visit to MUSC and I just want to
19 clarify, family. That was you and
20 Michelle and David?

21 A: Yes.

22 Q: Okay. And so throughout that whole
23 process, Mr. King was considered family?

24 A: Yes.

25 Q: Okay. Is he still considered family?

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1 A: Absolutely.

2 Q: And the Stupp treatment, I think that's
3 S-T-U-P-P. Is that right?

4 A: Yes.

5 Q: Okay. And that was offered at MUSC.
6 That was also offered at University of
7 Washington?

8 A: Yes.

9 Q: Okay. And was there any differences in
10 that treatment from what MUSC had talked
11 about and what University of Washington
12 had talked about?

13 A: The initial discussions at MUSC were that
14 a standard way of giving this would be 30
15 doses, but they would give 15 doses for
16 my mother. I was a little concerned if
17 they were sort of, might be potentially
18 shortchanging her, just because they
19 might have assumed it'd be too much for
20 them to drive down, but in further
21 clarification I was educated that the 15
22 or 30 doses is equivalent for somebody in
23 her state and her age.

24 Q: Okay. And was that the same at
25 University of Washington?

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1 A: That's the same at University of
2 Washington.

3 Q: Okay. And so, it wasn't necessarily the
4 treatment that the family decided to go
5 to Washington for. So I ask you, what
6 factors were considered in making the
7 decision, where the family made a
8 decision to go to Washington? What were
9 those factors, the treatment was
10 basically the same?

11 A: My mother's stated wish was the first
12 factor. The second factor was that they
13 would be close to Michelle, and Michelle
14 was not working, and Michelle was willing
15 to help look after Mom and look after
16 David, because caregivers need support,
17 too.

18 Q: And so based on what you just said, that
19 the plan was for Dr. Miles and Mr. King
20 to reside together in Washington with
21 support from Michelle?

22 A: Yes.

23 Q: Okay. So Mr. King was going to be the
24 primary caregiver?

25 A: Yes.

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1 Q: And then Michelle was going to basically
2 support him in the care of her mother, as
3 well as support him if he needed it?

4 A: Yes.

5 Q: Okay. And based on your testimony, that
6 plan wasn't going to work because David
7 wasn't being cooperative?

8 A: Well, the first part, David didn't follow
9 through on the things necessary to get
10 Mom stabilized. So for example, finding
11 suitable housing in an apartment, rather
12 than staying in a hotel where they didn't
13 have a kitchen, they didn't have
14 comfortable living quarters, that was the
15 first limitation there. And then the
16 second limitation was the increasing loss
17 of communication between Michelle and
18 David.

19 Q: Excuse me. And far as the treatment, we
20 keep throwing the word out treatment, and
21 I just want to clarify that. We're not
22 talking about any kind of cure. We're
23 not talking about anything that will put
24 this in remission. We're not talking
25 about life saving treatment. We're

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1 talking about treatment to control the
2 situation, possibly extend her life, but
3 not necessarily put this disease in
4 remission. And is that right?

5 A: That's correct. May I expand a little
6 bit?

7 Q: Absolutely, that's why I'm asking.

8 A: In the guardian ad litem report, she
9 describes the conversation she had with
10 Dr. McGranahan, where Dr. McGranahan used
11 a calculator that calculates prognosis
12 for people with this diagnosis. And it
13 takes into factors, age, age at time of
14 diagnosis, somebody's functional status,
15 are they kind of gorked out or are they
16 completely with it. How much of the
17 tumor was resected and a few other
18 factors. And that created the prognosis
19 numbers that the guardian ad litem had in
20 the report that she shared with us about
21 a week ago. The basis of that calculator
22 that she used is a published article that
23 describes the survival statistics for two
24 large cohorts of people with this tumor.
25 In the introductory part of that, the

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1 introduction says the standard of care
2 for treatment is this protocol treatment.
3 So people -- The standard is to get this
4 treatment because it prolongs life in
5 those people who can receive it and
6 choose to receive it.

7 Q: And you're talking about the Stupp
8 protocol?

9 A: That's correct.

10 Q: Okay. So when we talk about treatment in
11 this hearing, we're talking about those
12 kinds of treatment. We're not talking
13 about something that's going to cure Dr.
14 Miles, something's going to put this in
15 remission?

16 A: That's correct.

17 Q: Okay. And the treatment that everybody
18 has recommended since the surgery has
19 been palliative care?

20 A: Yes.

21 Q: Okay. So even the Stupp was a form of
22 palliative care?

23 A: Yes. We used the term continuing
24 palliative care in my mom's case.

25 Q: Okay. And so in the discussion with the

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1 doctors and the family discussion, the
2 treatment or the palliative care that
3 discussed always takes in the effect it
4 has on her quality of life, is that not
5 correct?

6 A: That's correct.

7 Q: Okay. So there is chemotherapy that is
8 available for her that could affect the
9 tumor ---

10 A: Yes.

11 Q: --- but would adversely affect her
12 quality of life?

13 A: Perhaps.

14 Q: Perhaps. Okay. And she's even discussed
15 that with Dr. McGranahan?

16 A: Yes. At present, she and Dr. McGranahan
17 continue to have discussions about the
18 addition, at some point, of single agent
19 chemotherapy.

20 Q: Okay. But at this point that has not
21 been a course they followed?

22 A: Correct.

23 Q: Okay. Now, in talking about the family
24 conferences, the Dr. Miles is included in
25 those, too? I think I left her out.

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1 A: Bank in the family, in the family
2 conference, the initial one we had at
3 home, when we all decided to move Mom to
4 Washington, that family conference?
5 Q: Yes.
6 A: Yes, Mom was included in that one.
7 Q: Okay. And the family meeting after the
8 surgery at MUSC, was she able to
9 participate in that one?
10 A: Upon the second trip to MUSC?
11 Q: The first one, after the surgery.
12 A: Okay. After the surgery, Mom was
13 involved in conversations as much as she
14 could participate and she was involved
15 with her doctor's care. And then when we
16 were all at home, back at her home, Mom
17 was involved in that conversation, our
18 family discussion. Yes.
19 Q: And, I guess my point is, she's not been
20 left out any of this?
21 A: Absolutely not.
22 Q: And as much as she can contribute or
23 input, y'all as a family have tried to
24 uphold her wishes?
25 A: Yes.

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ROA 0632

1 Q: Okay. And some days she can contribute
2 more than others?

3 A: Yes.

4 Q: And I understand that -- And now she's
5 doing fairly well, and can contribute a
6 good deal?

7 A: Yes.

8 Q: Matter of fact, I believe the last visit
9 she had with Dr. McGranahan-

10 MR. BOYD: YOUR HONOR, I'M GOING
11 TO OBJECT. HE'S
12 LEADING THE WITNESS IN
13 A SIGNIFICANT ---

14 MR. RHODES: OKAY. I'LL REPHRASE
15 THAT.

16 Q: Last visit she had with Dr. McGranahan,
17 who was in the meeting with her and Dr.
18 McGranahan?

19 A: I was not ---

20 Q: If you know.

21 A: I was not in the meeting with her and Dr.
22 McGranahan, so I don't know who was in
23 that meeting.

24 Q: Okay. Fair enough. Think you also
25 talked about a window of treatment.

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ROA 0633

1 A: Yes.

2 Q: And that was early on.

3 A: Yes.

4 Q: As far as Dr. Miles' treatment, brain not
5 working just right for a second there.

6 Would you explain, I think you were going
7 to expand on what that window of
8 treatment was, but I don't think you did
9 in your testimony? If I did, I
10 apologize. If you wouldn't mind doing
11 that again, as to what you were talking
12 about that window of treatment and what
13 treatment you were talking about.

14 A: The standard of care for this tumor is
15 that the Stupp protocol, if it's going to
16 be initiated, should be initiated shortly
17 after surgery.

18 Q: And when you say shortly, is there a
19 recommended time, or that window you're
20 talking about, what length of time are we
21 talking about?

22 A: The guidance we received was to initiate
23 sometime between two weeks after surgery,
24 up to four weeks after surgery.

25 Q: Okay. So that was what y'all were

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1 looking at when you looked at going to
2 Washington?

3 A: Correct.

4 Q: And the treatment at MUSC as well?

5 A: Yes.

6 Q: Okay. And I think you entered into the
7 record in your testimony, a report said
8 that the tumor had grown, I think the
9 second trip to MUSC?

10 A: Correct.

11 Q: Okay. Now, was that window of treatment
12 closed because of the passage of time or
13 because the tumor had grown?

14 A: The window had closed because Mom's
15 medical team at MUSC decided they would
16 only offer radiation with a limited
17 amount of doses.

18 Q: Okay. So the Stupp treatment wasn't
19 recommended anymore by her care team at
20 that time?

21 A: That's correct.

22 Q: And when your mother was at Franke Tobey
23 Jones, did she ever express to you how
24 she felt about being there?

25 A: She didn't like being at Franke Tobey

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1 Jones.

2 Q: Okay. And what was the plan when she was
3 admitted to Franke Tobey Jones?

4 A: The plan when she was admitted to Franke
5 Tobey Jones was to get her medically
6 stable. So, first of all, we could
7 figure out if she was going to live or if
8 she was going to die. While she was at
9 University of Washington, during that
10 week, she was refusing care. So when we
11 arrived at Franke Tobey Jones, we didn't
12 know if she was going to basically refuse
13 all care and therefore potentially die
14 very quickly, or whether we could get her
15 re-engaged in her care and she could live
16 and potentially thrive. And the goal was
17 to get her stabilized so that she could
18 go to an outpatient, better place, a
19 home. And also at the same time, make
20 sure that the home is set up optimally
21 for our mother at the same time.

22 Q: Okay. And that took approximately two
23 months?

24 A: Yes.

25 Q: Okay. And during that time now, as I

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1 understand, at Franke Tobey Jones, was a
2 private paid facility?

3 A: Yes.

4 Q: Okay. And so you could have checked her
5 out at any time you wanted or not?

6 A: I don't know the legal restrictions on
7 that. I don't know the answer. I didn't
8 inquire as to, I could check her out or
9 not. My understanding is she has a
10 physician there and everything has to go
11 through the physician when Mom's there.
12 In other words, she's under the care of
13 the facility physician while she's there.
14 So I can't imagine somebody kind of
15 yanking somebody out without the
16 physician okaying it.

17 Q: Now you just talked about her not being
18 compliant with medication refusing
19 medication when she was discharged from
20 the University of Washington hospital.
21 Since she's been discharged from Franke
22 Tobey Jones to Michelle's house, do you
23 know personally whether she's being
24 compliant with her medications and
25 treatment?

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1 A: I do know personally because when I go, I
2 take a look at her medication records.
3 The CNAs, the certified nursing
4 assistants, who look after Mom, they log
5 and they monitor all of her medications.
6 And then also whether or not she's taking
7 her medications, so I look through that.
8 And then also her private duty RN nurse,
9 the hospice nurse who cares for Mom, she
10 reviews that and she shares notes with us
11 as well.

12 Q: And has she been compliant?

13 A: Yes, she's been largely compliant.

14 Q: Okay. And that's what I say, so not a
15 hundred percent. She's missed some, is
16 it because she refused or was there other
17 reasons she didn't take the medication?
18 Do you know?

19 A: I'm not sure why she hasn't, but I know
20 that her treatment now is much more
21 cumbersome than what she had as an
22 inpatient at University of Washington, or
23 she's had before. She's getting today, I
24 think, a total of five or maybe six shots
25 a day in her stomach, which is a lot.

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1 And she's willfully putting up with that.
2 Q: I want to talk about these ER visits. I
3 think you testified the three emergency
4 room visits in Tacoma, when she first
5 went, her and Mr. King. And then there
6 was one ER visit at MUSC upon her return
7 to South Carolina. And then there were
8 two ER visits when she went back to
9 Tacoma with Michelle. That sound -- I
10 believe that was your testimony.

11 A: Two ER visits when she went back to
12 Tacoma with Michelle, there was one ER
13 visit, when we went back, my wife, Karen,
14 myself, and Michelle, when we took Mom.

15 Q: Okay. So three in Tacoma when you went
16 back?

17 A: Could be the initial one that put her in
18 UW. And subsequently, since she's been
19 either at Franke Tobey Jones or at
20 Michelle's house, Mom has had occasional
21 visits to the ER.

22 Q: Now is that unusual to go to the ER, when
23 someone has the diagnosis your mother has
24 and the medication she had?

25 A: In my experience as the husband of a wife

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1 who has well controlled asthma, I can
2 tell when my wife has had her asthma act
3 up, the primary care doctor says, "Well,
4 don't bother us. Go straight to the ER,
5 because you're going to need nebulizers
6 anyway." And so that's my understanding,
7 that sometimes the primary care doctors
8 prefer people to kind of get quickly to
9 the ER, where they can have multiple
10 things like imaging tests.

11 Q: So my question is this.

12 A: Yeah.

13 Q: What was it about the ER visits when Dr.
14 Miles was with Mr. King, that gives you
15 concern that the ER visits when she was
16 with Michelle don't?

17 A: Because when the concern came up that my
18 mom might potentially need to go to an
19 ER, when she was under the care of David,
20 David was reluctant to bring her. When
21 there have been concerns, when she's been
22 under the care of Michelle and about
23 doing that, Michelle has not been
24 reluctant to take Mom to the ER.

25 Q: Okay. So it's not the fact she needed to

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1 go to the ER, it's how quickly the
2 situation was addressed that gives you
3 concern?

4 A: Well, it's also about how it could have
5 not been concerned. I'm still concerned
6 that had Michelle not intervened in
7 Tacoma and my mother had been solely
8 under the care David, that my mother's
9 health might have ended differently. May
10 I add one other thing also?

11 Q: Absolutely.

12 A: So, my sister and I have done a lot of
13 travel for these legal things, coming
14 back to this coast. And incidentally,
15 Michelle and I were back out this way,
16 and Mom herself was not feeling well and
17 called, and called and spoke to me and
18 spoke to Michelle. And we spoke to the,
19 or Michelle spoke to the relevant medical
20 people there and recommended Mom go to
21 the ER to get checked out and Mom very
22 willingly went with just Mom plus her
23 CNAs to the ER. So Mom doesn't mind
24 going to the ER, so she doesn't need
25 Michelle or me or David to kind of drag

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ROA 0641

1 her there.

2 Q: As far as we're provided, I think you
3 mentioned Dr. Morris-Ward. Did I get
4 that right?

5 A: Yes, Dr. Brian Morris-Ward.

6 Q: Morris-Ward and Dr. McGranahan?

7 A: Yes.

8 Q: And if you can answer these questions, as
9 far as the scope of Dr. McGranahan's
10 treatment of your mother, can you address
11 that for the Court?

12 A: Yes. Dr. McGranahan is a neuro
13 oncologist. Her role is in the active
14 treatment of my mother's tumor. When
15 there is no more active treatment of my
16 mother's tumor, as will be the case,
17 either because my mother chooses not to
18 or Dr. McGranahan decides that there's
19 probably no more role for an active
20 treatment, Dr. McGranahan's role with my
21 mother will cease.

22 Q: And the scope of Dr. Morris-Ward's
23 treatment of your mother?

24 A: Dr. Brian Morris-Ward is a subspecialist
25 internist who specializes in geriatrics

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ROA 0642

1 and in hospice care. He first started
2 caring for my mother in December 1st, and
3 he oversees my mom's total health status
4 and is planning to be the physician who
5 will care for her up to the moment that
6 she passes under hospice.

7 Q: Now you said something about, or
8 testified and if I get it wrong, please
9 correct me, that your mother has the
10 capability to make some decisions, but
11 she doesn't necessarily understand the
12 consequences of her decision. Did I get
13 that right?

14 A: Yeah, I believe that's correct.

15 Q: Okay. So, she could decide to refuse
16 treatment but might not necessarily
17 understand the consequences to her health
18 for refusing that treatment?

19 A: That's correct. Autonomy has always been
20 very, very important to my mother.

21 Q: Okay. So, the guardian would need to be
22 able to recognize when that happens, in
23 order to ---

24 MR. BOYD: YOUR HONOR, I'M GOING
25 TO HAVE TO OBJECT. I

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ROA 0643

1 APOLOGIZE, BUT COUNCIL
2 IS TESTIFYING. HE
3 CAN'T DO THAT.
4 MR. RHODES: I APOLOGIZE, YOUR
5 HONOR.
6 MR. BOYD: HE'S FIGURE OUT A WAY
7 TO ASK THESE QUESTIONS,
8 SUCH THAT THEY ARE
9 ACTUALLY QUESTIONS.
10 MR. RHODES: AND I APOLOGIZE. I
11 WILL TRY TO DO THAT.
12 IT'S DIFFICULT WHEN
13 YOU'RE TRYING TO PHRASE
14 IT AS IT COMES OUT YOUR
15 MOUTH. SO, LET ME
16 REPHRASE THAT QUESTION.
17 Q: As best as you can tell, if you know,
18 your mother refusing to take a certain
19 treatment or a certain medication, is she
20 capable of understanding that the
21 consequences of not taking that
22 medication?
23 A: I believe she's not capable of
24 understanding the consequences. So for
25 example, we can explain to her, "Mom, you

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1 have blood clots in your legs."

2 And she might some days
3 say "Yes." Some days she'll say, "So I'm
4 told."

5 And so we'll sometimes
6 need to encourage her, "Mom, got to give
7 you your shots."

8 "Oh."

9 "Mom, we got to give
10 you your shots." So there's an art in
11 caring for somebody to encourage them to
12 do something that they might not
13 understand why they need to put up with
14 things, such as multiple shots a day into
15 the belly.

16 Q: Yeah. And, and as far as the family's
17 plan to give her autonomy, and to allow
18 her as much input as possible in her
19 decision and decisions made about her
20 care, are those type decisions she make
21 honored?

22 A: Yes.

23 Q: Okay. And so she is still very much
24 having input into her care, even at this
25 point, even though she might not

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1 necessarily understand the consequence?
2 A: That's correct.
3 Q: Okay. And that's because, why?
4 A: Mother sat with her oncologist. So,
5 initially my sister took Mom to Dr. Brian
6 Morris-Ward to find out about creating a
7 POLST order, Physician Orders for Life-
8 Sustaining Treatments, to talk about what
9 to do with Mom. What if she chokes on a
10 peanut, do we do chest compressions to
11 get rid of it? What if she needs to be
12 intubated? Those kind of discussions,
13 and Dr. Brian Morris-Ward at the time
14 wanted Dr. McGranahan to do that. So Mom
15 had a private conversation initially,
16 with Dr. McGranahan that went through
17 several steps of life decision treatment
18 and that's been guiding Mom's care ever
19 since. And included in that, has been
20 the understanding that Mom has the right
21 to refuse treatment at any time if she
22 chooses.
23 Q: Okay. So as far as you know, no one's
24 forcing her to take any treatment against
25 her will?

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ROA 0646

1 A: That's correct.

2 Q: I believe that's all the questions I
3 have. Thank you very much.

4 A: Thank you.

5 Q: Answers questions from anybody else.

6 THE COURT: THANK YOU, MR. RHODES.
7 MR. BOYD?

8 MR. BOYD: THANK YOU YOUR HONOR.

9 **CROSS EXAMINATION**

10 **BY MR. BOYD:**

11 Q: Dr. Strasswimmer, as you know, I
12 represent David King in this matter. I'm
13 Reese Boyd. And I have -- I want to go
14 back over your testimony, on a couple of
15 points you raised before I move into
16 other questions that I had for you. As I
17 understood just now in questioning from
18 Mr. Rhodes, you clarified and I want to
19 make sure, that you consider -- Let's go
20 back to this window of treatment idea
21 that's been discussed. There's been some
22 conversation about that and Mr. Rhodes
23 just asked you about that. You made a
24 comment about, in your testimony just
25 now, if I recall, that the MUSC therapy

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ROA 0647

1 team, did they have a role in missing a
2 window of treatment? Did I understand
3 you to say that?

4 A: I'm not sure that I said they -- Well,
5 first of all, please call me John. I've
6 got a long last name. But second, I'm
7 not sure that I said they had a role in
8 missing the window of opportunity. Maybe
9 you could remind me of where I said that.

10 Q: Well, we were discussing the Stupp
11 protocol, and as I understood your
12 testimony, you said the radiation, if I'm
13 paraphrasing you correctly, and please
14 correct me if I'm not, you said the
15 radiation team at MUSC didn't recommend
16 treatment. And that was the ---

17 A: I'm sorry, could you -- I'm sorry. I'm
18 not trying to be difficult. I'm just
19 trying to say -- the MUSC team when
20 didn't recommend what?

21 Q: Well, the window of treatment, let's go
22 back to my question. We're just begin.

23 A: Okay, yes.

24 Q: The Stupp protocol requires the therapy
25 to begin within a certain time

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1 postoperative, correct?

2 A: The standard of care is that it begin
3 within a window of opportunity following
4 surgery. I'm not sure I used the word
5 requirement for that, but there's a
6 window where that standard of care says
7 it should be initiated.

8 Q: And did you say that was approximately
9 two to four weeks, in your testimony?

10 A: From the, from the medical records and
11 the notes found from doctors, yes.

12 Q: And did that in fact happen in this case?

13 A: No.

14 Q: And in your estimation, why did that not
15 happen?

16 A: The plan was for my mother to initially
17 get that within that timeframe at MUSC.
18 When we as a family decided that David
19 and my mother would move out to be close
20 to Michelle in Washington, that Mom would
21 get that same treatment at the University
22 of Washington.

23 Q: So in fact, it was the move to Washington
24 and not, if I understood your prior
25 testimony correctly, it really wasn't the

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1 MUSC radiation recommendation, the
2 recommendation from the healthcare
3 providers at MUSC. Was it not the
4 decision to go to Washington that caused
5 this window of treatment that you're
6 referencing to be missed?

7 A: No.

8 Q: And how do you square that with what you
9 just said?

10 A: I said, the window of opportunity is two
11 to four weeks. The window of opportunity
12 was available to my mother, had she
13 stayed MUSC. The window of opportunity
14 was available to my mother, had she
15 stayed at University of Washington.

16 Q: Do you believe that either of those
17 decisions are attributable to David King?

18 A: Which decision?

19 Q: Well, the family, as I understand it, the
20 family made the first decision, correct?
21 Is that your testimony?

22 A: Yes. Our family arrived at consensus
23 that David and my mother would move out
24 to Washington.

25 Q: And as it relates to the other decision?

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1 A: What's the other decision?

2 Q: From the decision at Washington, at the
3 University of Washington?

4 A: The decision to stay in the University of
5 Washington for treatment, or the decision
6 to leave the state of Washington? I'm
7 not sure I understand your question, Mr.
8 Boyd.

9 Q: Well, to leave. I assume you're saying
10 that the treatment window was missed
11 because the decision was made to leave.

12 A: The decision was made to leave, and it
13 was not arranged for Mom to still somehow
14 get that same Stupp protocol initiated
15 within that timeframe, that is the
16 standard of care.

17 Q: Is it fair to say -- Well, let me just go
18 back. Let me go back to this. Is it
19 fair to say that your mother should have
20 a hand in her own decision making, you've
21 said repeatedly that you value autonomy?

22 A: Yes.

23 Q: Okay. Why is it that I see throughout
24 this case, so many indications of her
25 autonomy being ignored?

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ROA 0651

1 A: I'm not sure you've enumerated those.
2 Perhaps you could enumerate those and I
3 could react to it.

4 Q: Well, let me just suggest this. When you
5 say the decision to leave Washington and
6 return to South Carolina, do you
7 attribute that decision to David, or do
8 you discount fully the possibility that
9 your mother could have made that
10 decision?

11 A: In the medical record, it was documented
12 on around November 6th, that my mother
13 did not have medical decision making
14 capacity. That she could not understand
15 the consequences of medical decisions.
16 Therefore, my mother or whoever was
17 caring for my mother has, in my mind, the
18 ethical burden to look after my mother's
19 needs and to act on her behalf. And
20 David took that unilaterally without
21 consulting with my sister.

22 Q: But the medical record in fact, is
23 replete with instances of your mother
24 attempting to assert her own free will
25 and that free will being accorded by Dr.

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ROA 0652

1 McGranahan, as recently as January and
2 February. Is that not correct?

3 A: Yes, that's true.

4 Q: So I see in this case, a decision of
5 certain parties wishing to afford their
6 mother autonomy, you and your sister,
7 wishing to afford your mother autonomy,
8 as long as she's expressing the
9 healthcare decision making that you want
10 her to make.

11 A: As long as it's clear, who is authorized
12 or directed to guide my mother's care.
13 So in my mother's prior directives that
14 she made in 2008, it was apparent to me
15 that my mother wanted David and Michelle
16 to work together, to make my mother's
17 decisions for her or with her, if my
18 mother were ever in the situation that
19 she could not think clearly enough for
20 herself.

21 Q: But you would agree with me that she does
22 have moments where she's thinking
23 clearly, she's making medical decisions
24 on her own free will and accord, as
25 recently as within the last month?

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1 A: I'll give the example that I used a
2 little bit earlier. My mother can make
3 the medical decision, for example, as to
4 whether or not she wants a band aid. She
5 can understand the consequences of that.
6 However, my mother cannot understand the
7 multi-step consequences, necessarily, of
8 refusing certain medications right now.

9 Q: Let me ask you something you said, you
10 said your mother has receptive aphasia
11 and expressive aphasia, if I understood
12 your testimony. And I understood you to
13 say that she can generate a thought, but
14 the language processing center of the
15 brain can't quite get that thought out of
16 her mouth, is that expressive aphasia, as
17 you understand?

18 A: That's my layperson's understanding. I'm
19 a dermatologist, that's outside of my
20 medical expertise.

21 Q: And you don't dispute the fact that your
22 mother has the ability to compose
23 thoughts, that she has a will and a
24 desire for her own life?

25 A: That's correct.

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ROA 0654

1 Q: Do you agree with that?

2 A: I do.

3 Q: Okay. And would the events of this case,
4 I'm just asking you to think about this
5 question, you said, "Mom wanted to go to
6 Washington," if I understood your
7 testimony. Where is the evidence, aside
8 from the fact that you have said that,
9 where is the evidence that you can point
10 to, that your mother wanted to go to
11 Washington?

12 A: We sat down, David, Michelle and I with
13 Mom, and we all sat with her and asked
14 her if she wanted to stay and get care at
15 MUSC or go to Washington. And it was
16 phrased multiple ways. Do you want to go
17 to Washington or South Carolina? Do you
18 want to go to South Carolina, go to
19 Washington? She consistently answered,
20 "Washington."

21 And we all looked at
22 each other in agreement, David was in
23 agreement, "Yes. Okay, we'll go to
24 Washington."

25 And I said, "Okay, I'll

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1 start helping make some preparation."
2 Shortly thereafter, David stormed out of
3 the house. And I went after him and he
4 looked very angry at me. And I said,
5 "David, what's the matter?"

6 And he said, "Your
7 mother doesn't want to go."

8 And I said, "David, she
9 just said she wants to go. What do you
10 mean?"

11 "Well, she said she
12 wants to go to Washington, but she's
13 afraid of going to Tacoma."

14 I thought that was -- I
15 said, "What do you mean she's afraid of
16 going to Tacoma? I'd never heard her say
17 that. She loves Tacoma. She went twice
18 to Tacoma in early 2008. You and she
19 spent more than a month total there in,
20 between January and August of 2008, in
21 Tacoma. What do you mean she's afraid of
22 Tacoma. When did she say that?"

23 And he said, "Well --"

24 I said, "Dave, my mom
25 can barely get a full sentence out."

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ROA 0656

1 He said, "Well, when
2 you've been together with somebody for 38
3 years, you can communicate without spoken
4 words."

5 And that got me -- That
6 raised some concern in me. I said,
7 "David, well, the plan is to go to
8 Washington. Are you going to cooperate
9 with you and Mom moving out to
10 Washington?"

11 And he said, "Yes."
12 And we moved forward on plans to move out
13 there.

14 Q: But is there any other -- like there's
15 evidence in the record, and I would
16 submit to you -- have you considered the
17 possibility that your mother's in a
18 frequent failure to cooperate with
19 medical providers, frequent failure to
20 cooperate generally? And we've discussed
21 numerous instances of her failure to
22 cooperate and the record is replete of
23 that. There's evidence in the record
24 that you can independently point to that
25 suggest she was not happy about

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1 transitioning to Washington and being in
2 Washington. You talked about the
3 problems that you had on the aircraft,
4 which we'll get to. You talked about the
5 problems that you had checking her out of
6 the University of Washington Medical
7 Center. The record is just replete with
8 anecdote after anecdote of the fact that
9 she wasn't happy, and by all outward
10 appearances, she didn't want to be there.
11 Where is the picture of your mother
12 holding up the mug that says, I love
13 Seattle? I don't see anything in the
14 record that I can point to that
15 independently suggests to me she wanted
16 to be there, other than the fact that
17 you're telling me so.

18 A: Okay. Well you've used the gerund verb
19 present, several times in that, what you
20 just threw right there. So if it's okay,
21 maybe we could work through your question
22 in level points so, ---

23 Q: You can take it piecemeal if you like,
24 sure.

25 A: Yes. So ask me one question and I'll try

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1 to answer that for you.

2 Q: Well, again, I see very little
3 information in the record. There are
4 numerous indications in the record,
5 piecemeal indications throughout the
6 record, that your mother is not
7 cooperating. She wasn't cooperating up
8 on the plane. She wasn't cooperating on
9 the way out to Washington. She wasn't
10 cooperating at the university of
11 Washington Medical Center, during the
12 first visit. You said yourself, you were
13 in the ironic position that she didn't
14 want treatment, but she didn't want to
15 check out. So the record is just
16 replete.

17 A: Okay, so, ---

18 Q: Instances of her failure to communicate.

19 A: Okay.

20 Q: To cooperate, excuse me.

21 A: So it sounds like we need to go through
22 this a little bit chronologically,
23 because you're kind of jumping over a lot
24 of areas in time. So if you'd like, I'll
25 start addressing each one of those

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1 chronologically.

2 Q: Let me ask, it's my job to ask the
3 questions ---

4 A: Yes, sir.

5 Q: --- with all respect. And I'm asking
6 you, why are there no indications in the
7 record that we could point to, that are,
8 what I would call, independent indicators
9 of your mom's satisfaction with her
10 current location, with her current
11 treatment? Just point to them. Show me
12 where they are.

13 A: May I show Exhibit, whatever this one
14 was, Your Honor?

15 THE COURT: EXHIBIT 3.

16 A: The pictures? So, here's one. It's also
17 the current medical record that my mother
18 is cooperating with going to doctor's
19 visits. My mother is cooperating with
20 taking her medications. My mother is
21 looking forward to starting with physical
22 therapy. My mother is eating correctly.
23 My mother is not getting upset when
24 Michelle and I say she can't have a bear
25 claw, for example. So at present, my

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1 mother is cooperating and is objectively
2 happy in Washington.

3 Q: Okay, let's go back. Let's go back to
4 the beginning.

5 A: Okay.

6 Q: You said initially, if I understood you
7 correctly, that really the objective was
8 to make sure that your sister cooperated
9 or was allowed to cooperate in
10 participating in the medical decisions.
11 Is that a fair assessment of when the
12 dispute that we're talking about here
13 today first arose?

14 A: The way -- My sister and David were to
15 act as co-agents for my mother, and when
16 the dispute arose, as David began to no
17 longer act as a co-agent with my sister.

18 Q: And when did that, when did -- Did you
19 bring that to your sister's attention or
20 did she bring that to your attention?

21 A: I think we both, we both were interacting
22 with David, and so we both realized that
23 he was not cooperating as a co-agent
24 either with my sister concerning medical
25 care, or myself concerning financial

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1 issues.

2 Q: And when did you make that determination?

3 A: I'm not sure I ever flipped a switch on
4 that and as I said, I always, I kept the
5 line open for David throughout most of
6 this very early process up to, and
7 including after, the award of the
8 emergency guardianship. In other words,
9 I'm an optimist. And I always thought
10 that through love, through the fact that
11 David has been part of our family for 38
12 years, that we could get us all to work
13 together.

14 Q: So, how did you learn, specifically, that
15 you, or rather your sister was the co-
16 agent for healthcare decision making?
17 How did you learn that information?

18 A: An attorney provided us copies of what
19 were reported to be my mother's estate
20 planning documents.

21 Q: And was that at the Attorney Cliff Tall?

22 A: Yes.

23 Q: Okay. And do you recall when you first
24 reviewed those documents?

25 A: I don't, I think he brought them on the

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1 Friday when he came with us. And by
2 reviewed, I'm a layperson, I haven't
3 reviewed any estate planning documents
4 since my lawyer made that for my wife and
5 me, many, many years ago. So I relied on
6 Cliff Tall to explain to me what was in
7 them and then I subsequently sought some
8 outside review to help explain to me what
9 they were and what they meant.

10 Q: So, that was, if I recall correctly that
11 -- Do you recall the date of that
12 meeting? You said Friday?

13 A: Yeah, it would've been Friday after Mom
14 was discharged from MUSC.

15 Q: So that would've been late October?

16 A: You have the calendar in front of you, I
17 don't have that. Perhaps you could find
18 the date on there.

19 Q: Prior to that time, what was your
20 impression of the decision making that
21 would be made in your mother's behalf, if
22 she became incapacity?

23 A: You mean prior to uncovering those
24 documents?

25 Q: Yes.

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1 A: I had no idea. I didn't know that my
2 mother was married. David had asserted,
3 after finally -- I was able to get out --
4 He was evasive for the first week about
5 whether or not he and my mother were
6 married. And finally produced, he told
7 me that he had power of attorney, which I
8 view as a layperson as being a separate
9 status from being married, and he said he
10 had power of attorney and they were
11 married. And it wasn't until finally
12 that I got in front of me, a marriage
13 certificate, that I understood they
14 actually were married and that meant that
15 David had some formal say in my mother's
16 care. And that coincided also with when
17 we received these estate planning
18 documents.

19 Q: And did Mr. Tall, he met with y'all at
20 the residence, correct?

21 A: As I previously said, I reached out to
22 Mr. Tall three times by phone because my
23 sister found contact information for him
24 and I thought he might potentially be a
25 lawyer for my mother and I called him

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1 three times, and then yes, he came and
2 met with us at my mother's home and
3 David's home.
4 Q: And again, I understood from your earlier
5 testimony that your objective was to --
6 I understood you to say that we, I assume
7 you were approaching your family, value
8 consensus. Is that a fair statement?
9 A: That's a fair statement.
10 Q: Were you try -- I got the sense from your
11 earlier testimony that you were not
12 trying to exclude David, but you simply
13 wanted to assure that Michelle had her
14 role as co-agent. Is that a fair
15 statement?
16 A: That they were 50/50.
17 Q: Okay.
18 Q: John, I've got a copy of the text message
19 here.
20 A: Thank you.
21 Q: That I would like for you to take a look
22 at and let me know if you recognize that
23 text message.
24 A: (Reviewing document.)
25 Q: Have you had a chance to review that

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1 document?

2 A: Not recently.

3 Q: No, have you had a chance to review it

4 just now on the stand?

5 A: I'm a slow reader.

6 Q: Okay, go ahead.

7 A: If that's okay.

8 Q: Yes.

9 A: Thank you. Incidentally, I made it

10 through school by reading everything one

11 time. So, I read things very slowly if

12 that's okay. I'm sorry about that, if

13 it's taking too much time.

14 Q: Well, that's good for you. I have to

15 read things about eight times.

16 A: Okay, thank you. Yes, I've had time to

17 read this.

18 Q: Oh, if you could, please, if you could

19 just read your message. It's not that

20 long. Just read your message into the

21 record.

22 A: Okay.

23 Q: Let's start with, just read the

24 highlighted portion, if you would, you

25 and David.

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ROA 0666

1 A: Okay. Starts, "It was nice speaking with
2 ---
3 Q: The ---
4 A: Okay high ---
5 Q: I apologize.
6 A: Oh, the real part. Okay.
7 Q: John, we got to handle one more issue.
8 A: The microphone?
9 Q: No, I'm going to admit it. If the Court
10 will allow that.
11 MR. BOYD: YOUR HONOR, I'D LIKE TO
12 GET THIS ADMITTED.
13 THE COURT: ANY OBJECTIONS?
14 MS. HARRISON: NO OBJECTION, YOUR
15 HONOR.
16 THE COURT: THANK YOU.
17 MR. RHODES: NO OBJECTION.
18 MR. BOYD: THANK YOU, YOUR HONOR.
19 **RESPONDENT KING'S EXHIBIT NUMBER 1**
20 **ADMITTED INTO EVIDENCE.**
21 Q: Now, John. I apologize.
22 A: Thank you.
23 Q: Read that as you were.
24 A: Okay to David, "I've just finished my day
25 of work and saw this email. I called

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1 you, David, this morning, but no answer
2 at the house. I'll try you again in a
3 bit, now. In the meantime, please ensure
4 that Cliff understands that he must
5 retain the original copies of my mother's
6 documents. That was her wish in 2008,
7 and it needs to stay like that for now.
8 They should not leave Cliff's storage
9 facility for any reason until requested
10 by another lawyer And that will be when
11 the three of us, David, Michelle, and I
12 are in agreement with moving any
13 documents out of storage. It is
14 premature to make her sign any documents
15 or forms about my mother being declared
16 incompetent. Please do not approach any
17 physicians now, whether those are her
18 friends, doctors with whom she has a
19 physician/patient relationship, her
20 professional colleagues, or other third
21 party physicians. The time to do that
22 will be when the three of us, David,
23 Michelle, and I, are in agreement about
24 declaration of competency. Please do not
25 retain Cliff Tall at this moment to act

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1 on behalf of my mother or of her trust.
2 Please make sure that Michelle's copied
3 on any emails about my mother's legal or
4 medical status. Please respond to my
5 emails, text or phone calls with a timely
6 manner since my mother's status, time is
7 of the essence. I've written these out
8 clearly, because I know you have a lot on
9 your plate and I hope to give you
10 guidance for her care."

11 Q: And what's the date on that? Do you see
12 the date at the top left?

13 A: Let's see, 10/30/18.

14 Q: Okay. And if you'll pardon me, I don't
15 see a search for consensus in this
16 document. Can you explain to the Court
17 what you were trying to accomplish with
18 this email?

19 A: "The time will be when the three of us,
20 David, Michelle and I are in agreement."

21 Q: You've given him very specific
22 instructions; have you not? Do not
23 retain Cliff Tall, et cetera; is that a
24 fair statement?

25 A: Yes. I instructed him not to retain

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And he said on the first day, "Oh, I'd just like to talk first. I'd just like us to kind of get to each other and have some open discussion."

I thought that was very generous for an attorney to do that. I took him at his word. The next day when he came, I again asked him, because my

And he said at that time, "Well, I would like you and David to retain me to represent your mother."

A: Mr. Tall drafted proposed, such proposed documents.

Q: It would have allowed the Trust to address certain expenses and resolve a lot of the issues that are now being

1 litigated. Isn't that correct?

2 A: He drafted a document which would have
3 required my mother to be able to read her
4 2008 documents, understand them, and then
5 be able to amend them, which I didn't
6 think my brain-damaged mother was capable
7 of doing at that moment.

8 Q: But that was in your opinion?

9 A: Right. So, my concerns, as I laid out
10 here, was that before anybody put a paper
11 and pen in front of my mother, that there
12 should be some formal process, and I was
13 new to how that happens, but I thought
14 there should be some formal process other
15 than my mother's living room with me,
16 David, Michelle, and Cliff Tall, sitting
17 around putting a pen and paper in front
18 of my mother, as Cliff Tall proposed to
19 do.

20 Q: What would've been improper about someone
21 assessing your mother's competency at
22 that time?

23 A: Oh, nothing would've been improper about
24 having a formal competency assessment.

25 Q: Did you not direct him not to pursue any

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1 - "The time to do that will be with the
2 three of us, David, Michelle and I, are
3 in agreement about the Declaration of
4 Competency?"

5 A: Yes. David, David had proposed Mom's
6 dermatologist and Mom's primary care
7 doctor as people to potentially sign a
8 Declaration of Competency. As a
9 practicing dermatologist and one who
10 specifically directs complex melanoma
11 cancer patients, I found it uncomfortable
12 to think that a community dermatologist
13 in practice in Myrtle Beach, South
14 Carolina would potentially sign a
15 competency declaration for somebody
16 coming out of brain tumor surgery.

17 Q: So, it was no follow up with Mr. Tall,
18 but ultimately without any consensus,
19 without any attempted agreement, you
20 brought this petition?

21 A: Oh, I'm sorry, you've just jumped forward
22 by several weeks here. Could you please
23 ---

24 Q: In fact, you allude, you said you saw a
25 consensus. You allude to the fact that

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1 we were going to seek agreement, but in
2 fact, there was never any agreement that
3 was made or attempted to be made, as I
4 understand it, before you brought this
5 petition in the probate court.

6 A: There are probably many pages of texts
7 and emails and phone calls between David
8 and me, David and Michelle, David,
9 Michelle, and me, where we tried to
10 maintain consensus and coordination in
11 sharing of information about my mother's
12 status and my mother's location.

13 Q: Let me ask you about the decision to go
14 to MUSC. Were you satisfied with the
15 decision initially for your mother to
16 seek treatment at MUSC?

17 A: Yes.

18 Q: You mentioned in the early going at MUSC
19 that the family drove, as I understood
20 your testimony, the family drove the
21 medical decision making. And that
22 included, and Charles clarified, as I
23 understand your testimony, a question
24 that I was going to ask you, did that
25 include David King? And I believe your

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25 | MR. BOYD: MAY I APPROACH, YOUR

1 HONOR?
2 THE COURT: YES.
3 Q: So I'm going to show you another page
4 from the medical records that had been
5 introduced by your counsel. I'm going to
6 ask you to take a look at that.
7 A: Okay. Thank you.
8 Q: Give Exhibit 1 back to our court
9 reporter.
10 Q: Do you recognize that, Doctor?
11 A: Yes. May I take a second to familiarize
12 myself?
13 Q: Yes.
14 A: Thank you. Yes. Thank you. I've had a
15 chance to familiarize myself with this
16 document.
17 Q: If you would, on, where it says page two
18 of two, I've highlighted the section
19 where it notes a contact and you'll note
20 the date of this record is November 24.
21 A: Yes.
22 Q: On page two, there's a contact note. Can
23 you read that contact note for me please?
24 A: "Contact: Daughter and DPOA. Michelle
25 Miles, phone number 253-691-6000. She

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1 wishes to be the sole contact. Patient's
2 husband is not to be contacted or receive
3 information about the patient".

4 Mr. boyd: Your Honor, I ask that this record
5 be admitted. It's a redundant record,
6 but I'd still like to just put it in for
7 ---

8 THE COURT: ANY OBJECTIONS?

9 MR. RHODES: I JUST ASK FOR
10 CLARIFICATION. I THINK
11 COUNSEL SAID THIS IS
12 THE RECORD FROM MUSC?

13 THE COURT: WHAT'S THE PAGE NUMBER
14 OF THAT?

15 MR. RHODES: I BELIEVE THIS IS THE
16 RECORDS FROM UNIVERSITY
17 OF WASHINGTON MEDICAL
18 CENTER.

19 A: That's correct. It is. I was going to
20 say something. You were asking me.

21 MR. BOYD: OH, I APOLOGIZE.

22 A: David. You were asking me counsel about
23 what was going on MUSC and then you just
24 gave me a document about Mom's first day
25 at the hospital at UDub, when she went

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1 the second time.

2 MR. RHODES: I HAVE NO OBJECTION TO
3 THE DOCUMENT ITSELF, IF
4 THE CLARIFICATION IS
5 FROM UNIVERSITY OF
6 WASHINGTON MEDICAL
7 CENTER.

8 MR. BOYD: MY APOLOGIES, YOUR
9 HONOR.

10 **RESPONDENT KING'S EXHIBIT NUMBER 2**
11 **ADMITTED INTO EVIDENCE.**

12 Q: The question, John, remains, if the
13 decision was to merely assure that your
14 sister and David participated together in
15 the healthcare decision making process,
16 why would he have been excluded from
17 receiving any information about the
18 process?

19 A: Again, I'm unsure about the timeframe
20 where you are now, Mr. Boyd. So, you
21 were asking me previously about Mom at
22 MUSC? You said MUSC. You just gave me a
23 document about University of Washington.
24 Are we now talking about the time at MUSC
25 or the time at University of Washington?

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1 Q: Let me ask this question.

2 A: Okay.

3 Q: Were there efforts to merely exclude or
4 include your sister or were there also
5 efforts to exclude David in the process
6 at, as early as MUSC on the second visit?

7 A: At MUSC in the second visit, after we had
8 a formal family conference called by the
9 ethics committee, which included the
10 ethics, the hospital pastor, the head of
11 the security department, the hospital
12 attorney representative, the head of
13 nursing, representatives from Mom's
14 medical team, as well as residents, so
15 multiple people, there must have been at
16 least ten, 15 people in the room with us,
17 we worked on consensus. So that was, we
18 all to agreement that day, that Mom
19 needed to proceed with that short course
20 radiation therapy option. We all came to
21 that agreement.

22 The next day, if I've
23 got this chronologically, correct, David
24 was served with the emergency order. And
25 David and I, again, it's a way to try to

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1 work consensus, sat together with Mom
2 quietly, the two of us in the room. I
3 explained to Mom that there had been an
4 emergency order generated and that
5 Michelle was now the emergency appointed
6 temporary guardian, medical guardian and
7 I explained my perspective why I went to
8 court, and David explained to Mom his
9 part. We were working in consensus at
10 that time. The following morning,
11 Saturday, David and I ---

12 Q: Can you give the approximate date just so
13 we can, the Court can keep this together
14 chronologically, John?

15 A: Yeah. So, I'd ask you Mr. Boyd, I was
16 limited what I can bring up here, but
17 y'all have a calendar somewhere with the
18 dates.

19 Q: I'm glad to share with your chronology.

20 A: I'm sorry?

21 Q: I'm glad to share with your chronology if
22 that'll help.

23 A: Yeah. Thank you. But that would've
24 been, if the Court order was the 15th of
25 November, the 16th, David and I sat

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1 together with Mom and had a nice
2 conversation. Saturday, the 17th, David
3 and I sat together a little bit with Mom
4 and then David and his sister and his
5 brother-in-law came and sat with Mom and
6 they had time alone together and then
7 they all left and went back to Myrtle
8 Beach. I spent that Saturday afternoon
9 with my mom, took her downstairs in the
10 wheelchair, saw the herbal garden that
11 they have out there. She enjoyed. Left
12 her for the evening.

13 And then it was that
14 Sunday morning when I came back to say
15 goodbye before going to the airport, that
16 Mom, as I was approaching her room, came
17 out with her walker, went to the nursing
18 station, as I previously described, I
19 didn't know what she was doing. She
20 walked past me, ignored me, turned around
21 back with her walker, came back in the
22 room. I went in the room with her and
23 she said, "I don't want to see David
24 Vreeland King today. I don't want to see
25 David Vreeland King tomorrow. I don't

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1 ever want to see David Vreeland King
2 again."

3 And I said, "Okay, I
4 don't know how we do that." So, in other
5 words, the work and consensus as of then,
6 it certainly went up to that time that
7 the Court order was generated, included
8 the day David was served, him and me
9 sitting together with Mom. It included
10 the day that David was served after we
11 sat together with Mom, that I took David
12 out to dinner at a restaurant he and Mom
13 enjoyed, and included the following day
14 when David's relatives came to visit Mom.

15 Q: I'll share with you your timeline. And I
16 apologize, ---

17 A: Thank you.

18 Q: --- some of these medical records, the
19 footers on the copies get awfully close
20 to the bottom of the page.

21 A: Okay. Thank you.

22 Q: Refer to that, if you need to. Let me
23 share with you, and this is from MUSC.
24 Let me share with you another medical
25 record. It is an MUSC record.

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1 MS. HARRISON: REESE, HOW MANY PAGES
2 IS THAT?
3 MR. BOYD: IT'S FOUR PAGES.
4 Q: You can take a minute to ---
5 A: This is 11/14. The order was generated
6 on the 15th. Good. Okay. Thank you.
7 Q: I'm particularly curious about the
8 section, this paragraph. If you could
9 just read the paragraph with the
10 highlighting, if you would.
11 A: Okay. May I start by reading the date
12 and the time that this was done by the
13 consultation?
14 Q: Sure. Yes.
15 A: So this was November 14th, 2018 at 4:17
16 pm. So, the end of the workday around
17 most hospitals. And this is the day
18 prior to the Court issuing the order,
19 which happened, I believe on the 15th,
20 right?
21 So, this is a
22 psychiatry consult liaison initial
23 assessment to evaluate my mother. And
24 the reason for the consultation, capacity
25 evaluation. Okay. Then it goes through

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1 her summary of her illness. And then
2 I'll read the areas that you've
3 highlighted for me. "Of note, patient's
4 primary medical team has determined that
5 the patient intermittently has capacity
6 to make this medical decision. The
7 patient's son, who is a physician,
8 demanded that psychiatry evaluate the
9 patient for capacity. Patient's husband
10 and daughter share HCPOA," I guess it's
11 healthcare power of attorney, "and the
12 patient's son has financial POA." Power
13 of attorney. "Patient's husband is not
14 the father of patient's children. Per
15 nursing staff report, there is concerned
16 that the patient's children are coercing
17 patient in some fashion, specifically
18 into stating that the patient has asked
19 her husband to be barred from visiting,
20 for example."

21 Q: Now you are a practicing physician, John,
22 correct?

23 A: I'm a board certified dermatologist, yes.

24 Q: And it's certainly my understanding that
25 if something makes its way into the

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1 patient's medical record, there is a
2 reason for it. What would the basis be
3 for the last statement of that paragraph?
4 Her nursing staff report, "There is
5 concern the patient's children are
6 coercing patient in some fashion,
7 specifically into stating that the
8 patient has asked her husband to be
9 barred from visiting?"

10 A: Okay. On that day, the 14th, I'm glad
11 you brought this, Attorney Boyd, on that
12 day, there was a critical issue that
13 happened with my mother. And that issue
14 was the nurses had gone to do their
15 morning normal duties, I came in the
16 morning to visit my mother and my mother
17 was, the nurse said, "She's not letting
18 people in the room."

19 And I said, "What do
20 you mean she's not letting in the room?"

21 And the nurses said,
22 "She's in the room. She won't let us go
23 in there and do our duties."

24 So I opened the door
25 and I found, morning, the lights off, the

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1 shade's drawn, and David in bed with my
2 mother and my mother yelling, "Get out,
3 get out." So I left the room and I was
4 very concerned that my mother had been
5 put into a mental state where she could
6 not cooperate with the nursing care.
7 That's what started in the morning.
8 That's why I asked about this time. This
9 was done at four o'clock in the evening.
10 So, that was around eight o'clock in the
11 morning.

12 I was concerned because
13 the nurses were not able to care for Mom,
14 not able to help her bathe and do their
15 nursing duties. I asked to speak with
16 the charge nurse on the floor and
17 reviewed the situation with her. And she
18 agreed that was a nursing hindrance, at
19 that time. I proposed to her, I said,
20 "Well, Mom has brain damage. And you
21 guys normally do what I've experienced in
22 other hospitals, which is brain damaged
23 people need to stay oriented, meaning
24 during the daytime lights on, shades up,
25 and the person needs to stay oriented.

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1 And at nighttime everything's dark and
2 for the same reasons."

3 And she said, "Yes."

4 And I said, "Well, I'm
5 concerned that David being in the room
6 right now, is making my mother into the
7 state that she is right now. I suggest
8 that you ask David to leave and stay off
9 the floor. And I will also leave and
10 stay off the floor. My mother has a good
11 relationship with my sister. I propose
12 that my sister go in the room and try to
13 work with your nurses to get engaged and
14 start bathing and taking the medicines."

15 And the nursing manager
16 created that order that day, that David
17 and I should be, stay off of the floor
18 that day and that Michelle could go in
19 with Mom and help Mom kind of get
20 refocused. And Michelle was able to get
21 Mom to bathe and clean and cooperate with
22 the rest of the nurses that day. Within
23 the nursing staff, there were people who
24 possibly viewed it as bunch of kids
25 coming, kicking out the poor stepfather

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1 and so I suspect that's where that came
2 from.

3 We succeeded in getting
4 Mom reoriented that day, reengaged in her
5 care, re-participating in her care that
6 day. That precipitated a series of
7 conversations throughout the day with
8 different medical staff, including Mom's
9 cancer team, including the request for
10 psychiatry capacity determination.
11 Because at this point I thought it was
12 clear my mother wasn't thinking clearly
13 enough to make her own medical decisions.
14 And because Mom had this prior document
15 that listed Michelle and David as co-
16 agents, I thought it would be appropriate
17 time for Mom to have a capacity
18 determination and I requested that.

19 I was also directed,
20 and I don't know if this goes into
21 hearsay, to talk to the hospital legal
22 stuff. Can I say that or is that
23 hearsay?

24 Q: Well, let me say this, John. I
25 understand you, it appears you had an

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1 episode that led you to conclude that
2 your mother needed to be alone, or as you
3 said, that you would be excluded and
4 David would be excluded, but that is not
5 responsive to my question, ---

6 A: Okay.

7 Q: --- which is why would MUSC staff have
8 sensed that the patient's children were
9 coercing the patient to tell MUSC that
10 David should be barred from the facility?
11 You provided a great answer, but it's not
12 the answer to my question.

13 A: I don't know. There are a lot of
14 different people with different opinions.
15 I do know that for example, the nursing
16 staff, once the nursing order came clear
17 and once Mom's privacy status was clear
18 and she became under the privacy protocol
19 and David was directed not to visit her
20 in the hospital, that it appears that one
21 of the very senior nursing staff might
22 have helped to sidestep that, to allow
23 David to come and see Mom on the floor.
24 So, I can't speak for a hospital that has
25 a thousand or more employees, that what

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1 the murmurings might have been amongst
2 the staff. I can't, I can't speak for
3 that.

4 Q: Okay.

5 MR. BOYD: WE'D ASK THAT BE
6 ADMITTED, YOUR HONOR.

7 THE COURT: ANY OBJECTIONS?

8 MS. HARRISON: NO OBJECTION, YOUR
9 HONOR.

10 MR. RHODES: NO OBJECTION, YOUR
11 HONOR.

12 MR. BOYD: WHAT NUMBER IS THAT,
13 THREE?

14 COURT REPORTER: NUMBER THREE.

15 **RESPONDENT'S EXHIBIT NUMBER 3**

16 **ADMITTED INTO EVIDENCE.**

17 Q: Let me show you another MUSC record,
18 John. And I'll ask you to take a moment
19 to orient yourself on that document, but
20 I'll ask you again to read this section
21 we've highlighted, if you would.

22 A: Yes. Okay. This is a note by Dr. Scott
23 Lindhorst, who is a neuro oncologist
24 dated 11/13. So, this would be Mom's
25 second time back at MUSC following the

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1 trip to University of Washington. And
2 this is dated 11/13 at 11:30 in the
3 morning. "The diagnosis prognosis, 12 to
4 19 months, estimated potential overall
5 survival and potential treatment plans,
6 three to six weeks of Stupp regimen,
7 concurrent RT temozolomide, were reviewed
8 10/22/18 with the patient in her family.
9 Conflict currently exists between the
10 goals of the patient's husband, (and
11 potentially the patient) which at present
12 seemed to lean away from starting
13 therapy, and the patient's children who
14 at present prefer to move forward with
15 therapy. The difference of opinion was
16 expressed during our meeting today. The
17 patient at present cannot adequately
18 participate in these goal of cares
19 conversations. She was able to
20 definitively express her desire for DNR
21 status, however. With more time on high
22 dose dexamethasone, her cognitive
23 abilities may improve such that she could
24 deliberately express her thoughts."

25 Q: And how do you describe, or how would you

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1 explain the apparent reference to a
2 conflict between where it says conflict
3 currently exists between the goals of the
4 patient's husband and potentially the
5 patient? Why would you suggest I take
6 that to mean that the physician who
7 drafted this note interpreted David's
8 goals and your mother's goals to be
9 aligned? Is that a fair assessment?

10 A: I do not think that's a fair assessment.

11 Q: How would you interpret that?

12 A: Well, I think as it says, the conflict
13 exists between the patient's husband and
14 the patient's children. And he puts in a
15 parenthesis (and potentially the
16 patient). My reading of the medical
17 records is that he is referring to
18 perhaps some other notes in the medical
19 records that he could not clearly
20 understand. That's why it's in
21 parenthesis and says, and potentially.

22 Q: It's a parenthetical record, correct.
23 But he could have just as easily written,
24 Mom appears to agree with the kids,
25 couldn't he?

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1 A: And he could have just as easily written
2 conflict exists between the goals of the
3 patient's husband and the patient in
4 conflict with the children. But he did
5 not.
6 Q: If you will look on the -- I just want to
7 point out. Let me get you to -- If you
8 look on the reverse of that document.
9 A: Okay.
10 Q: I just note for the record ---
11 A: This side, yeah. Okay.
12 Q: --- that, again, an indication that your
13 mother was not excited about cooperative
14 treatment; is that a fair statement?
15 A: At that moment in time, it is documented
16 that, "The patient is reluctant to
17 participate in an exam at that moment in
18 time."
19 MR. BOYD: ANY OBJECTIONS?
20 MS. HARRISON: NO OBJECTIONS.
21 MR. RHODES: NO OBJECTIONS.
22 **RESPONDENT'S EXHIBIT NUMBER 4**
23 **ADMITTED INTO EVIDENCE.**
24 Q: We talked about your estate planning
25 documents earlier, and those have been

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1 admitted to evidence. You can pull
2 those.

3 A: This book?

4 Q: Pull that folder if you want to.

5 A: Okay.

6 Q: And you expressed in the text message
7 earlier that we talked about, expressed
8 in that text message earlier, a desire
9 that the desires set forth in the 2008
10 documents be respected. Is that fair to
11 say?

12 A: At the time I sent the message, it was my
13 lay understanding of my reading of these
14 documents, about what my mother's stated
15 wishes were in 2008.

16 Q: What is your understanding? I understand
17 you're not a lawyer. You're a board
18 certified dermatologist. But what is
19 your understanding, certainly as a
20 dermatologist even, or just as a
21 layperson, what is the practical purpose
22 of executing a Declaration of Desire for
23 Natural Death?

24 A: So, these are, these are part of
25 documents that I'm happy that my mother

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1 put together because they provide
2 guidance when it's time to make decisions
3 about what ultimately will happen to her.

4 Q: And to the extent that you can glean a
5 desire from the Declaration of Desire for
6 Natural Death, which is part of the
7 estate planning package that has been
8 introduced into evidence, what would you
9 glean from that document?

10 A: From the document that was drafted in
11 2008 or the current pulse document that
12 she made with the Respondent?

13 Q: The 2008 document. I'm talking about
14 what's in evidence, that your counsel
15 introduced into evidence.

16 A: Thank you. I haven't read that for a
17 while, but if you'd like me to open it,
18 I'll look at.

19 Q: Okay.

20 A: Thank you. Okay. I've had some time to
21 review this.

22 Q: Okay. It starts, I'll just ask you this,
23 it starts with a little legal -- It's not
24 substantive, but I would ask you to take
25 a look at the third paragraph if you

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1 would.

2 A: Okay.

3 Q: And read that paragraph.

4 A: Okay. "If at any time I have a condition
5 certified to be a terminal condition by
6 two physicians who have personally
7 examined me, one of whom is my attending
8 physician, and the physicians have
9 determined that my death could occur
10 within a reasonably short period of time
11 without the use of life sustaining
12 procedures, or if a physician certified
13 that I'm in a state of permanent
14 unconsciousness and where the application
15 of life sustaining procedures would serve
16 only to prolong the dying process, I
17 direct that the procedures be withheld or
18 withdrawn, and that I'd be permitted to
19 die naturally only with the
20 administration of medication or the
21 performance of any medical procedure
22 necessary to provide me with comfort
23 care."

24 Q: Okay. And there's then an opportunity
25 for your mother to direct that she wants

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1 either artificial hydration and
2 nutrition. And did she ask for, if you
3 look at the document, can you see that
4 she has not initialed for either of those
5 to be provided?

6 A: She -- In the first section, she
7 initialed the part where it says, "I
8 direct that nutrition hydration not be
9 provided in the above situation."

10 Q: And you've testified here today, it's ---

11 A: And Mr. Boyd ---

12 Q: Yes.

13 A: I think you implied something I'd like to
14 correct, if I may. The subsequent part,
15 "Initial one of the following statements,
16 if I'm in a persistent vegetative state,"
17 she didn't initial either of them.

18 Q: Well, if I'm in a persistent vegetative
19 state or other condition of permanent
20 unconsciousness. Would you agree with me
21 that neither of those apply to the
22 current condition of your mother?

23 A: Well, I would just like to point out that
24 my mother didn't complete this form. In
25 other words, you're directed to initial

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1 one of the following statements and she
2 chose not to initial either.

3 Q: Well, certainly she did not initial
4 either one, but that is on a provision
5 that is not applicable to the current
6 circumstances. Is that fair?

7 A: Well, it's applicable. The purpose of
8 these documents, the reason we make them
9 I believe, is that it helps give guidance
10 to people for a variety of scenarios that
11 come up and on this thing, Mom gave very
12 specific, but limited guidance to one
13 scenario. She didn't provide more
14 guidance.

15 Q: Is it fair, is it fair to say that maybe
16 she didn't -- It's fair to say, maybe she
17 just made a mistake in the execution of
18 the document?

19 A: I'm not sure. My mother, on the other
20 documents, looks like she's filled out
21 everywhere and signed everywhere
22 correctly. So, I don't, I would not
23 believe that my mother made a mistake
24 that.

25 Q: But my question to you is in the

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1 provision that relates to terminal
2 conditions, and you would agree with me
3 that her current condition is terminal,
4 correct? Is her current condition
5 terminal?

6 A: Well, it's a complete sentence and maybe
7 consider ---

8 Q: I'm not asking you to interpret the
9 document, John, I'm asking you is your
10 mother, and you've already testified on
11 this point, I'm asking you, is your
12 mother's current condition terminal?

13 A: Yes.

14 Q: Okay. That's all I'm asking.

15 A: Okay.

16 Q: To the extent that you infer any intent
17 on your mother's part from this document,
18 how would you interpret, I'll ask you
19 that?

20 A: Okay. I would interpret that physicians
21 have determined that my death could occur
22 within a reasonably short period of time
23 without the use of life sustaining
24 procedures and it goes on. And as the
25 guardian ad litem in her report

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1 documents, my mother's death is not
2 anticipated to occur within a reasonably
3 short period of time.

4 Q: But to the extent that the conditions
5 that would trigger this declaration, your
6 mother has expressed -- Is it fair to say
7 your mother has expressed a preference in
8 this document away from extraordinary
9 life sustaining measures?

10 A: In the situation where her death would
11 occur within a reasonably short period of
12 time.

13 Q: Let's go back to the initial period of
14 time in early November when your mother
15 and David -- There's been some
16 discussion, what transpired in the period
17 following this meeting with Cliff Tall,
18 John, I'm going to ask you, tell me if
19 you recognize that document.

20 A: Okay. Thank you. Yes. I recognize this
21 document.

22 Q: And what's the date on that document?

23 A: Document is November 8th, 2018.

24 Q: And what is that document?

25 A: This is a letter that I sent to the one

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1 bank I knew Mom had, USAA.

2 Q: And what was the purpose of that
3 document?

4 A: The purpose was to alert USAA that I had
5 become aware that there had apparently
6 been some attempt by somebody to log on
7 to Mom's USAA account and I wanted them
8 to be aware that there was a potential
9 for fraud.

10 Q: And how did you become aware of it?

11 A: I became aware of that because there were
12 alerts that Michelle shared with me, I
13 believe they popped up on Mom's iPhone or
14 on the computer.

15 Q: And if you would, share with me, read for
16 the Court and for the record, how do you
17 introduce yourself in the first sentence
18 of that letter to USAA?

19 A: Okay. Well, I address it with my home
20 address and the topic is potential fraud
21 involving Claudia Miles, USAA member,
22 number 217644. It's addressed to, "Dear
23 USAA Banking. I'm the son of Claudia
24 Miles and enclose a power of attorney,
25 that list me as attorney in charge. I'm

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1 concerned that my mother's USAA accounts
2 may have been accessed by someone other
3 than her and she is acutely ill. Since
4 October 15th, she has not been able to
5 access her USAA accounts on her own. I
6 hope USAA ---"

7 Q: You don't have to read the whole thing.

8 A: Okay.

9 Q: Let me ask you about that first sentence.

10 A: Yes.

11 Q: Tell me again how you describe your
12 relationship to your mother.

13 A: Son.

14 Q: And what's your role as in the documents
15 that you're -- What role do you ascribe
16 to yourself as her agent?

17 A: So, I ascribe to myself, my understanding
18 of as a power of attorney document, which
19 was the document that listed David and me
20 as co-agents for my mother, which I
21 imposed when I sent that to them.

22 Q: But you actually say that the document
23 lists you as the attorney in charge; is
24 that not correct?

25 A: I provided them in their banking

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1 department with a full document.

2 Q: Okay. Is it fair to say under the
3 documents, the estate planning documents
4 that we're discussing, that you are
5 identified as the attorney in charge?

6 A: I'm not the attorney in charge.

7 Q: Okay. So if you're not the attorney in
8 charge, why would you have indicated to
9 USAA that you are the attorney in charge?

10 A: Because I didn't seek legal counsel
11 before writing that and find out what
12 wording I should have used. And I used,
13 as my best term, to express to them that
14 I had a documented legal status
15 concerning my mother's financial matter
16 should she become incapacitated, and that
17 I wanted them to review that document and
18 potentially put a freeze on her account
19 so that if there was some activity going
20 on with her account, it would be stopped
21 until they could do a fraud, potential
22 fraud investigation.

23 Q: Right. What was the date of that letter?

24 A: November 8th.

25 Q: And when did you learn of the estate

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1 planning documents in question?
2 A: The estate planning documents in
3 question, so, Cliff Tall gave them to me
4 back ---
5 Q: Approximately a week earlier.
6 A: I think so. I think that's about right.
7 Q: And, had your mother been judged
8 incompetent in the interim?
9 A: No. My mother had not been judged
10 incompetent in the interim.
11 Q: And so you, in fact, were not the
12 attorney in charge by any sense, legal or
13 otherwise?
14 A: So, my mother was clearly partially
15 incapacitated by my lay assessment. My
16 mother was injured, my mother was
17 recovering from surgery. My mother had a
18 partially treated brain tumor and
19 somebody had logged on to her USAA
20 account, as I could tell, and it was my
21 filial duty, I felt, to try to make sure
22 that the bank could be aware that
23 somebody was trying to log onto my
24 mother's account.
25 MR. BOYD: ANY OBJECTIONS TO

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1 ADMITTING INTO
2 EVIDENCE?
3 MS. HARRISON: NO OBJECTION TO NUMBER
4 5.
5 MR. RHODES: NO OBJECTION.
6 THE COURT: THAT'S NUMBER 5.
7 **RESPONDENT KING'S EXHIBIT NUMBER 5**
8 **ADMITTED INTO EVIDENCE.**
9 Q: There was a lot of discussion in your
10 testimony, John, about visits to the ER
11 and how David handled those visits versus
12 the way other -- Michelle handled visits.
13 I understand you to have some concerns
14 about the manner in which David did or
15 did not seek ER treatment at various
16 times. Is that a fair statement?
17 A: Yes.
18 Q: Is it, and Charles, Mr. Rhodes asked you
19 this as well, is it not correct that in
20 someone of your mother's condition, that
21 a trip to the ER is not uncommon?
22 A: I have a hard time with double negatives,
23 a trip to the ER is not uncommon.
24 Q: It's fairly common for her?
25 A: It's common for somebody in my mother's

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1 condition to need to go to the ER.

2 Q: We've discussed more than a handful of ER

3 visits today?

4 A: That's right.

5 Q: And you are, I'm sure, aware because

6 we've made reference to it, that the

7 guardian included in her report, she

8 investigated and found that the issue

9 related to ER visits was not a suitable

10 proxy for assessing David's care.

11 Correct?

12 A: I can't speak to what the guardian

13 assessed or what she thought about that

14 is being proxy for David's care. I can't

15 speak to that.

16 Q: Let me just show you a page from her

17 report.

18 A: Okay.

19 Q: And this is on file or I don't prefer not

20 to make the individual pages exhibits.

21 I'm sure Bess is going to enter her

22 report, but let me just ask you to take a

23 look at -- This is exhibit B from the

24 guardian ad litem's report.

25 A: Okay.

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1 Q: And if you would just read the paragraph
2 where she responds to item B.

3 A: Okay.

4 MR. RHODES: YOUR HONOR, I THINK MR.
5 STRASSWIMMER TESTIFIED
6 THAT HIS INTERPRETATION
7 OF THE ER VISITS AND
8 WHY THEY WERE
9 DIFFERENT, I THINK I
10 ASKED THAT SPECIFIC
11 QUESTION. FOR COUNSEL
12 TO NOW PRESENT THE
13 GUARDIAN'S REPORT TO
14 HIM, IS PITTING ONE
15 WITNESS AGAINST ANOTHER
16 AND I WANT OBJECT ON
17 THOSE GROUNDS.

18 THE COURT: I'LL ALLOW IT AT THIS
19 TIME, THANK YOU, MR.
20 RHODES.

21 MR. RHODES: THANK YOU, YOUR HONOR.

22 THE COURT: PROCEED, MR. BOYD.

23 Q: Go ahead.

24 A: I'm sorry. Now ---

25 MR. BOYD: THANK YOU, YOUR HONOR.

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1 A: What do you want, what would you like me
2 to ---

3 Q: What was the Guardian's conclusion on
4 that issue, as it's been raised by you
5 and your testimony?

6 A: Okay. So, this is GAL Exhibit B, the
7 page, paragraph before this is, "Dr.
8 Miles' has consistently refused
9 medications, blah, blah, blah." Okay.
10 Section two, "GAL Summary of John and
11 Michelle's major concerns with David."
12 Okay. "A) David took Dr. Miles from
13 Washington to South Carolina against her
14 will and thereby ---"

15 Q: I'm ---

16 A: I'm sorry, which one?

17 Q: We're looking only at the ---

18 A: You're pointing with two things. Which
19 one are you pointing at?

20 Q: I'm pointing with the ---

21 A: This one? Okay. Okay. GAL Section B.
22 "That David was negligent as Dr. Miles'
23 primary caretaker, which resulted in
24 three trips to the ER Tacoma." So, first
25 of all, I'd agree with that. I never

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1 said that to the guardian ad litem. I
2 never said David was negligent, which
3 resulted in three trips to the ER. I
4 said my concern, I'll say it again. So
5 we can all be clear. My concern was Mom
6 needed to go to the ER three times
7 because Mom was sick and David was
8 reluctant to bring her. I did not say
9 there was a causality about, or imply in
10 any way that David's poor care resulted
11 in Mom needing of the ER. Mom was very
12 ill with the tumor and with her diabetes
13 and her steroids. So, I'm not sure how
14 you'd like the -- Can I ask you a
15 question?

16 Q: Yes.

17 A: I mean, this is my first time in court,
18 ever.

19 Q: Yes.

20 A: Why isn't the GAL asking me these
21 questions?

22 Q: I'm asking, I'm asking you about a report
23 that's been filed by the guardian ad
24 litem. I'm asking -- This is my
25 opportunity to ask your impression.

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1 A: Yes, sir. Okay. So, I'll - So, most of
2 my impression is section B is not as, I'm
3 not sure what the right word would be --
4 Correct. How about that? So, if we're
5 going to start with her concept that
6 David was that, "Summary of John and
7 Michelle's major concerns with David. B)
8 That David was negligent as Miles'
9 primary caretaker, which resulted in
10 three trips to the ER Tacoma." I don't
11 know how I can reply to this. I disagree
12 with that statement. So her response,
13 but I'll read for you, her response,
14 "Based upon: GAL's multiple interviews
15 and phone calls with John and Michelle."
16 Would you like me to continue reading?
17 Q: Let me point out one thing. In the final
18 analysis.
19 A: Okay.
20 Q: Paragraph C. Excuse me. At the end of
21 paragraph B, that is the paragraph where
22 she indicates after her investigation. "
23 I find trips to the ER ---"
24 A: Okay. So, that I agree with, "I find
25 three trips to the ER are not an

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1 appropriate measure of whether caretaker,
2 husband, has been negligent with her." I
3 agree with that. As I said, it's not
4 David's fault Mom ended up in the ER
5 three times. Mom was sick and my
6 disagreement was David was reluctant to
7 allow Mom to go to the ER those three
8 times.

9 Q: And that's why I'm wanting to ask you
10 these questions, because I want to
11 clarify what you agree with, what you
12 don't agree with, what you attribute to
13 David, and what you don't. Would you
14 agree with me that the decision to go or
15 not to go to the emergency room is a very
16 personal decision that is oftentimes
17 difficult to assess when you're not
18 present?

19 A: I believe my mother was not able to make
20 the decision at those times as to whether
21 or not she needed to go to the emergency
22 room.

23 Q: Would you agree with me that it's
24 entirely possible that your mother was
25 expressing a desire not to go to the

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1 emergency room on more than perhaps?

2 A: I don't doubt it.

3 Q: Do you?

4 A: She expressed a lot of desires. When we
5 flew her to Washington, her first desire
6 was when we landed, was to eat a bear
7 claw and she wolfed it down. So Mom
8 expresses desires, but it's incumbent
9 upon those people who are looking after a
10 critically ill person to act upon that
11 person's health and wellness first,
12 particularly while they're in this very
13 fragile medical state.

14 Q: Bear with me just one second, John. I
15 believe you testified earlier that you
16 understood your mom's intention in the
17 estate planning documents was to have
18 David and Michelle work together. Is
19 that correct?

20 A: For medical decision making, yes, that's
21 correct.

22 Q: And we've talked about the University of
23 Washington medical record where it's been
24 instructed that David not be provided or
25 given access to medical information.

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1 Were you aware of that decision?

2 A: Okay, so I'm sorry. We're jumping a
3 little bit. Okay. So we're, I just have
4 to reorient myself a little bit. Okay.
5 I'm aware of that decision. Yes.

6 Q: Let me show you the University of
7 Washington medical record, John. This is
8 from University of Washington. Let me
9 ask you to take a look at that one, if
10 you would.

11 A: Okay. (Pauses while reviewing.) Thank
12 you. I just had to -- I'm sorry, Mr.
13 Boyd, I just had to find out where on the
14 timeline this fits. Okay. So, this is a
15 record dictated by Dr. McGranahan on
16 November 29th, 2018. That her, it was
17 her neuro-oncology consultation note for
18 November 29th, 2018.

19 Q: And what does the paragraph that we've
20 highlighted at the bottom of that page,
21 where it says per her children ---

22 A: Okay. I'll read that for you. Okay.
23 "Per her children, during the flight, she
24 went on a thirst strike refusing to
25 drink. She worsened when they arrived at

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1 the hotel here on Seattle and she was
2 brought to the ED. There's concern for
3 steroid psychosis and her Decadron has
4 been decreased. She was on 8/4/4,
5 currently on three milligrams TID,
6 without decline in language or motor per
7 her children. Patient has refused exam
8 throughout admission. During this
9 admission, her medical wishes have again
10 fluctuated and a code status is
11 fluctuated from comfort care to full code
12 with modification of DNI. At this point,
13 the discharge plan that she will be in
14 assisted living facility with dedicated
15 nursing."

16 Q: So, what is the thirst strike that you
17 described to the University of Washington
18 staff or to Dr. McGranahan that's
19 reflected in this letter?

20 A: So shortly after my mother was, had her
21 surgery at MUSC, she was able to start --
22 my mother is board certified
23 psychiatrist, as we've described, which
24 means she's also trained in somewhat of
25 neurology. That's part of psychiatry

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1 training. And my mother started keeping
2 records and notes of her deficits. So
3 for example, she would write down, "I
4 can't taste anything. I don't -- I can't
5 -- I don't feel when I have to urinate."
6 And she also was clear and she told me,
7 she said, "I don't feel thirst. I know I
8 have to drink." And she said, "Someday,
9 I will stop drinking."

10 And I said to her at
11 that time, I said, "Mom, that's okay."
12 That when she would decide she would stop
13 drinking, I was not going to pour water
14 down her throat or hook up an IV or
15 anything like that to her. That would be
16 her decision. One thing she could
17 control.

18 During the flight Mom
19 needed to be, and even today still needs
20 to be cued to drink. She still doesn't
21 have much of a sense of thirst. She
22 still has the ongoing diabetes requiring
23 insulin because she's on the steroids and
24 because she has history of diabetes, she
25 needs to be cued to drink. On the flight

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1 out there, Mother was on a pretty high
2 dose of steroids already at MUSC. When
3 we obtained clearance to get her, make
4 sure it was safe for us to fly her out
5 there, the medical team at MUSC ordered
6 an independent neurology baseline
7 consultation to make sure she was okay to
8 fly. They warned us about the potential
9 risk for somebody with a brain tumor
10 flying of herniation, meaning the brain
11 will swell and because there's no place
12 for the brain to swell, it'll go down
13 into the spinal column, which is sharp
14 and kill somebody instantly.

15 They therefore directed
16 us to give Mom an extra, very large dose
17 on top of her already heavy dose one hour
18 before boating, the airplane, which we
19 did. And Mom during the travel time
20 became more and more uncooperative with
21 us. And part of that was she wouldn't
22 drink fluid, although Michelle and I were
23 constantly, we were all sitting together,
24 we were constantly trying to get her to
25 drink. She wasn't drinking.

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ROA 0716

1 Q: And she also resisted changing planes on
2 the trip; did she not?

3 A: That's correct.

4 Q: And again, is this not a recurring theme
5 that we see from your mother again and
6 again, this refusal to cooperate with
7 these efforts to make her healthcare
8 decision on her behalf?

9 A: No, it's not. My mother, at that time,
10 shortly after, shortly after this episode
11 of being on a thirst strike, she was seen
12 at the hospital and diagnosed with having
13 steroid induced psychosis.

14 Q: Well, this isn't the only example of her
15 failure cooperate, correct?

16 A: You're asking me about this thirst strike
17 to clarify. So I clarified that. I'm
18 happy to answer your next question.

19 MR. BOYD: YOUR HONOR, I'D LIKE TO
20 INTRODUCE THIS INTO
21 EVIDENCE.

22 THE COURT: ANY OBJECTIONS?

23 MS. HARRISON: NO OBJECTIONS.

24 MR. RHODES: NO OBJECTIONS, YOUR
25 HONOR.

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ROA 0717

1 THE COURT: NUMBER SIX. NUMBER
2 SIX.

3 RESPONDENT KING'S EXHIBIT NUMBER 6
4 ADMITTED INTO EVIDENCE.

5 MR. RHODES: YOUR HONOR, IT'S BEEN
6 ABOUT TWO HOURS SINCE
7 WE STARTED BACK. CAN
8 WEE TAKE A SHORT BREAK?

9 THE COURT: EVERYONE WANT TO TAKE
10 ABOUT FIVE, SIX MINUTE
11 BREAK?

12 MR. BOYD: THAT'S FINE, YOUR
13 HONOR.

14 *****OFF THE RECORD*****
15 (ON THE RECORD.)

16 THE COURT: AND PLEASE REMEMBER,
17 SIR, YOU ARE STILL
18 UNDER OATH.

19 MR. STRASSWIMMER: YES. YES, YOUR HONOR.

20 THE COURT: MR. BOYD.

21 MR. BOYD: THANK YOU, YOUR HONOR.

22 Q: John, I want to go back briefly to the,
23 an item that I left and I don't think I
24 closed the loop on it fully, this window
25 of treatment notion that we've discussed.

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1 Let me ask you, do you recall, and you've
2 got your chronology in front of you, do
3 you recall the date of the initial tumor
4 resection in Charleston?

5 A: So, the chronology says 10/18.

6 Q: Okay. So, 10/18. And what was the date
7 that Claudia returned to South Carolina?

8 A: As far as I know, they arrived in Myrtle
9 Beach on Friday, November 9th.

10 Q: And as I understood, you testified you
11 were aware that they had immediately made
12 an appointment to go back to MUSC. Is
13 that correct?

14 A: That's incorrect. I didn't say that.
15 And I'd like to be reminded where you
16 believe that I said that.

17 Q: Well, for the following Monday is --
18 Well, let me ask you this question. Do
19 you know the date that they went to see
20 Dr. Cooper at MUSC after their return to
21 South Carolina?

22 A: Yes.

23 Q: And what is that date?

24 A: The date is two days after I called to
25 schedule that appointment for them. So,

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1 that date is Monday.

2 Q: Monday?

3 A: Monday the 11/12.

4 Q: November 12th. And so technically, the
5 timeline that you've suggested as the
6 window of treatment, their return to
7 South Carolina did not necessarily
8 prevent them from meeting that treatment
9 window in Charleston, correct?

10 A: I disagree.

11 Q: Well, is it more than four weeks after
12 surgery when they presented to Dr.
13 Cooper, by your testimony just now?

14 A: As documented in the medical record for
15 somebody to begin the Stupp protocol, it
16 requires at least two advanced planning
17 things, and it requires the patient to be
18 able to cooperate with those. So the
19 advanced planning things are fitting for
20 a radiation mask, which fortunately was
21 retained at MUSC, so that was ---

22 Q: She was already fitted for the mask,
23 right?

24 A: That's right. And that was good news
25 they had, they had kept that mask.

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ROA 0720

1 The second part is
2 there needs to be chemo teaching. So at
3 the University of Washington, they had
4 scheduled David to -- for an appointment
5 for chemotherapy teaching so that the
6 family and the patient could understand
7 what's involved in actually starting the
8 chemotherapy.

9 The third part is that
10 the patient needs to be able to cooperate
11 with that, with those actual onset of
12 treatments. And as this timeline here
13 says, the appointment with Dr. Cooper, he
14 was concerned that my mother was so
15 acutely ill, as I had found on Saturday,
16 and as Mom's covering primary care doctor
17 had instructed David to take her to the
18 ER, which he didn't do, that Dr. Cooper
19 thought Mom was so acutely ill that she
20 had to go straight to the emergency room
21 to get whatever her acute issue was,
22 stabilized before any further treatment
23 could commence.

24 Q: Would it not have been better But that's
25 your opinion, correct? You're not able

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1 to sit here and say conclusively that the
2 treatment window at MUSC would not have
3 been a feasible window of treatment for
4 that protocol?

5 A: The scheduled appointment with Dr. Cooper
6 was to reestablish Mom to get her quickly
7 back on treatment. When she came to Dr.
8 Cooper, he found Mom in such a state of
9 sickness that he was unable to restart
10 that treatment and directed her to go the
11 emergency room.

12 Q: Well, isn't it possible that all this
13 traveling all over the country did not
14 help her not get really sick when she
15 went back to Dr. Cooper's?

16 A: There's a lot of double negatives in
17 there. I'm sorry.

18 Q: A lot of negatives in there. Isn't it
19 possible that all this travel ---

20 A: Yes.

21 Q: --- merely exacerbated her condition and
22 that she really would've been much
23 better, overall, just to stay at MUSC?

24 A: I mean, would it have been better ---

25 Q: Yes.

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ROA 0722

1 A: --- if Mom had stayed at MUSC the whole
2 time, the first time, and Mom had not
3 said she wanted to go to Washington and
4 we had not agreed with her to go to
5 Washington, is that what you're asking
6 me?

7 Q: Let me ask you this.

8 A: Thank you.

9 Q: There's a high correlation between your
10 mother traveling coast to coast, and ER
11 visits. Is there not?

12 A: Yes. These coast-to-coast travels take a
13 tremendous toll on my mother.

14 Q: Would it not have been better for your
15 mother, in your opinion, in hindsight,
16 simply to remain at MUSC after the
17 initial surgery in October?

18 A: No.

19 Q: And why not?

20 A: Because, as discussed, she wanted to go
21 to Washington and our entire family was
22 in agreement to go to Washington ---

23 Q: You had spent -- Go ahead. Finish your
24 question.

25 A: Yeah, I'm sorry. And also because the

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1 same treatment plan was available for her
2 at the University of Washington, so she
3 could have continued to get that
4 treatment plan at the University of
5 Washington.

6 Q: You spent a fair amount of time
7 convincing or attempting to convince the
8 Court today that she was not, and is not,
9 in a condition to make those decisions,
10 to understand the long-term consequences
11 of her medical decision making. Correct?

12 A: That's correct.

13 Q: Okay. And so now what I hear you saying
14 is that Washington was okay because Mom
15 wanted to go.

16 A: What you're hearing me say is Mom
17 understood and agreed with what David and
18 Michelle and I wanted for Mom and what
19 her cancer team had recommended, had
20 offered for Mom for treatment, which is
21 the Stupp regimen. Mom's decision was
22 limited to, "Do you want to have it in
23 South Carolina or do you want to have it
24 in Washington?" We were not asking Mom
25 to make complex medical decisions.

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ROA 0724

1 Q: Let me show you another record from MUSC.
2 Take a look at that, John. Let me know
3 if you recognize that record.
4 A: Okay. (Pauses while reviewing document.)
5 Q: Refresh your recollection on that record?
6 A: I don't want to waste everybody's time,
7 but as I said, I'm a slow reader and I do
8 need ---
9 Q: I'm sorry. Take your time.
10 A: My mother's had medical records now going
11 back to October and we're now in March,
12 so I'm trying to -- I just need a second
13 to re-read this, if you don't mind.
14 Q: Take your time.
15 A: Thank you. Yes, thank you. I've had a
16 chance to refresh my memory.
17 Q: I want to ask you about a specific, if I
18 can just point this out to you. There's
19 a comment, if you could just read the
20 first part of the last paragraph on that
21 page, John. I'm most curious about the
22 sentence that's been highlighted. If you
23 could read through that sentence, please.
24 A: Okay. "She stated she cannot decide and
25 would be happy for her family members to

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1 decide about RT," radiation therapy, "and
2 she would do what they want. It sounds
3 like all three family members are in
4 agreement for five fractions of RT. She
5 stated her biggest fear with agreeing to
6 RT is that would open the door to other
7 treatments she would not want." Would
8 you like me to continue or ---

9 Q: No. I have a question for you.

10 A: Yes.

11 Q: If you had to give me an opinion, what
12 was your impression of your mother's
13 fear?

14 A: I'm sorry?

15 Q: What was your mother afraid of, as far as
16 you could tell?

17 A: Can I hold onto that document a little
18 bit longer?

19 Q: Yes.

20 A: Well, this is something she shared with
21 her doctor, Dr. Cooper, here, that she
22 did not want to open the door to other
23 treatments she would not want.

24 Q: Do you have any idea what other
25 treatments she was concerned about that

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ROA 0726

1 she did not want?

2 A: I don't know.

3 Q: Okay. There's a recommendation there,
4 that I think the family supported, for
5 five palliative RT treatments. Is that
6 fair to say?

7 A: I'm sorry. That there's a recommendation
8 that ---

9 Q: "Dr. Miles acknowledged my recommendation
10 of five palliative radiation therapy as a
11 treatment option"?

12 A: Yes.

13 Q: Okay. And do you recall if your mother
14 actually underwent all five fractions?

15 A: She did not undergo all five fractions.

16 Q: What happened with fifth fraction? How
17 many did she undergo?

18 A: Mother refused some of her treatment.
19 And as part of refusing her treatment, at
20 that point, Michelle was the temporary
21 medical guardian, and Michelle had to
22 make a decision about whether or not to
23 kind of, I guess in theory, force Mom to
24 undergo a radiation treatment if she did
25 not want it. And that would, of course,

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1 involve drugging somebody, sedating them,
2 strapping them in a thing and putting
3 them in the radiation tube.

4 And so Michelle
5 respected Mom's desire not to have
6 treatment. That messed with the
7 schedule. These radiation things are
8 hard to do, because you've got to get a
9 technician in. You have other patients
10 who are scheduled in a busy center like
11 MUSC, to get people in those slots. So,
12 Mother -- During that treatment time, at
13 one point, Mother did not want to have
14 treatment. Michelle and I respected that
15 and we went back to the hotel and we
16 cried.

17 On Tuesday morning at
18 two AM, Mother called me and said, "I
19 want to live. Help me live."

20 I said, "Well, Mom,
21 that means you've got to eat. You've got
22 to drink. You've got to take your
23 medications and you've got to do your
24 radiation."

25 And she said, "Okay."

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1 I said, "Okay, Mom,
2 then I'll come over to the hospital and
3 I'll see what I can do to move things
4 along for you."

5 THE COURT: ANY OBJECTIONS IN
6 ENTERING NUMBER 7 INTO
7 EVIDENCE?

8 MS. HARRISON: NO OBJECTION.

9 MR. RHODES: NO OBJECTION, YOUR
10 HONOR.

11 **RESPONDENT KING'S EXHIBIT NUMBER 7**
12 **ADMITTED INTO EVIDENCE.**

13 Q: But yet in this document we see a
14 continuing tension in this testimony,
15 continuing tension between others,
16 pushing your mother for treatments and
17 your mother resistant treatment. Is that
18 fair to say?

19 A: No. Nobody pushed my mother to getting
20 these five treatments. This document
21 that you just said, I don't have it in
22 front of me, but what I think I just read
23 says that Dr. Cooper offered the short-
24 course radiation for Mom and she was
25 agreeable to it. And during the course

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1 of those short-course treatments, at one
2 point, Mom said she didn't want it
3 anymore. And then we did not push for
4 her to get more.

5 Q: And her decision not to undergo all five
6 fractions, my question is, is that not
7 yet another example of her declining
8 treatment, not cooperating with a
9 treatment plan?

10 A: She declined treatment, and then she got
11 reengaged with her treatment and stayed
12 reengaged with her treatment.

13 Q: Jumping back to the University of
14 Washington now.

15 A: Okay.

16 Q: John, I'm jumping around a bit trying to
17 move this along.

18 A: 12/28.

19 Q: Discharge summary. And I think you would
20 see on page two of this document.

21 A: Okay. Thank you. Yes. Thank you.

22 Q: Okay.

23 THE COURT: WHAT IS THAT DOCUMENT,
24 MR. BOYD?

25 MR. BOYD: THAT IS A DISCHARGE

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ROA 0730

1 SUMMARY, YOUR HONOR,
2 FROM THE UNIVERSITY OF
3 WASHINGTON MEDICAL
4 CENTER AND IT IS DATED
5 11/29/2018.

6 THE COURT: THANK YOU.

7 A: Thank you.

8 Q: Thank you. If you would, John, take a
9 look at the provision that's been
10 highlighted on that record, when you have
11 a minute. Refresh your recollection of
12 the document, sir.

13 A: (Pauses while reviewing document.) Okay.
14 Thank you. I've had time to review this.

15 Q: Take a look at the provision, the section
16 that we've highlighted here on page two
17 of the records. And again, if you would,
18 just read that second paragraph for us.

19 A: Okay. This -- okay. "Per discussion
20 with family, Dr. Miles was initially
21 transitioned to comfort care, consistent
22 with Dr. Miles' stated preferences for
23 comfort status." Do y'all know what
24 comfort status is or -- It was new to me
25 at the time so I had to learn what

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1 comfort status was. May I expand?

2 Q: Well, can you just read the record and

3 then I'll ask you a question about

4 comfort status?

5 A: Okay. Thank you. "But Dr. Miles

6 subsequently stated to her daughter that

7 she did not want to be DNR, but also did

8 not want to be intubated. I discussed

9 code status again with DPOA daughter,

10 Michelle, on 11/27, AM We discussed that

11 CPR was not in line with Dr. Miles'

12 previously stated goal of focusing on

13 comfort rather than prolonging life. But

14 Dr. Miles declined to discuss goals of

15 care or code status with the team and

16 Michelle strongly preferred to revoke DNR

17 status to be in line with Dr. Miles' most

18 recently stated preference. Michelle

19 understands that Dr. Miles is not

20 currently capable of fully understanding

21 the ramifications of code status and

22 making an informed decision, but still

23 feels that remaining modified full code

24 with DNI is the best decision for her

25 mother." Would you like me to continue?

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1 Q: Read the next sentence that's actually
2 underlined.

3 A: Okay. "We discussed the possibility of
4 transition to a less intensive diabetic
5 regimen with the family to focus on
6 quality of life, but they would like to
7 resume her outpatient regimen on BID
8 Novolin and mealtime Aspart, correction
9 on discharge."

10 Q: Okay. That was it?

11 A: "We discussed the possibility of
12 transition to a less intensive diabetic
13 regimen with a family focus on quality of
14 life, but they would like to resume her
15 outpatient BID Novolin and mealtime
16 Aspart." Okay, thank you.

17 Q: And how do you interpret that sentence?

18 A: Would you like me to discuss the first
19 paragraph or the second one first?

20 Q: Well, I'll ask you that. Since you just
21 read it, I want to ask you about what do
22 you interpret that sentence to mean, if
23 you can explain your interpretation of
24 that sentence?

25 A: Okay. Mom had very bad steroid-

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1 exacerbated diabetes, requiring her to
2 get insulin shots. This discussion right
3 here, we discussed the possibility
4 transition to a less intensive diabetic
5 regimen, would imply the focus on quality
6 of life, would imply not giving Mom
7 insulin shots, but they would like to
8 resume her outpatient regimen on insulin
9 shots.

10 Q: Okay. And in the previous paragraph, I
11 believe you had a comment that you wanted
12 to share about comfort care?

13 A: Yes. Comfort care was a relatively new
14 concept for me in my mother's status.
15 So, comfort care means, my understanding
16 of it, that you have a treatment plan and
17 you say, "Mom, here's what you need. You
18 have the prerogative to refuse any
19 treatment, any time you want." It also
20 can mean you try to sort of consolidate
21 things a little bit more. So, if
22 normally a medical team, say, would want
23 a blood test every day, you try to say,
24 "Well, could we make it every other day?"
25 To make the person comfortable. In other

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1 words, you're still treating the patient,
2 but you're giving them the autonomy to
3 say "No," anytime they want.

4 Q: Okay. Do you agree with me that this
5 record reflects more of the ongoing
6 tension between your mother's expressed
7 desires for her healthcare and what
8 others would, would -- the decisions that
9 others would make for her?

10 A: I believe that medical record documents
11 that Mom was admitted to the hospital
12 with steroid-induce psychosis and that
13 psychosis and that behavior was
14 persistently a problem during that
15 hospitalization, such that she had to be
16 sedated against her will just to get her
17 out of the hospital.

18 Q: Well, what you agree with me that this
19 record indicates that Michelle, as agent,
20 is pursuing treatment directives that are
21 inconsistent with your mother's prior
22 expressed goals of care?

23 A: My mother's expressed goals of care were
24 constantly changing at the time. That's
25 why she was under the Comfort Care Plan.

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1 So for example, when you, when you --
2 I've tried to share this with the
3 guardian ad litem, but I'll express a
4 little bit more. In the old days, you
5 put something up, this person, their code
6 is either they're DNR or they're full
7 code, meaning that if they suck down a
8 candy down their windpipe and they were a
9 DNR, nobody would come to try to get that
10 out of them and get them back going
11 again.

12 We now have in 2018 and
13 '19 a more sophisticated way to have
14 discussions with family and with patients
15 about what their specific needs are. And
16 that means that my mother's stated goal,
17 from what I understood from her document
18 that we reviewed, which is if she's in
19 the case where she has a short life
20 expectancy, does not apply to this status
21 while she was there.

22 Q: So you don't see any difficulty in the
23 recommendations that are made that are
24 inconsistent with -- I think what we have
25 here is another example of the ongoing

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1 tension that appears to exist between
2 your mother's stated desires and the
3 family's desires. Would you agree with
4 that?

5 A: I disagree. My mother, during that week,
6 had a unique medical condition, which she
7 had not had at any other time during her
8 course, which is steroid-induced
9 psychosis. And that portion that you're
10 referring was happening during Mom's
11 steroid-induced psychosis episode at the
12 hospital.

13 Q: But regardless of the context, it always
14 seems that your mother is resisting care,
15 avoiding extraordinary measures, and the
16 people around her, namely her children,
17 seem to be advocating for more care, more
18 extraordinary measures, more
19 resuscitation. Is that not a fair
20 statement?

21 A: That's not a fair statement. Nobody has
22 ever forced my mother to go into an MRI
23 tube, a CAT scan or any radiation
24 treatment rooms. And all of those --
25 I've never had any of those things. I

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1 had a wrist CT myself one time, but I
2 didn't like that. I've never gone
3 through these things, but I understand
4 they're cumbersome and uncomfortable.
5 And Mom has gone through those multiple
6 times and continues to.

7 THE COURT: ANY OBJECTION TO THE
8 ADMISSION OF EXHIBIT
9 NUMBER 8?

10 MS. HARRISON: NO OBJECTION, YOUR
11 HONOR.

12 MR. RHODES: NO OBJECTION.

13 **RESPONDENT KING'S EXHIBIT NUMBER 8**
14 **ADMITTED INTO EVIDENCE.**

15 Q: Earlier in your testimony, John, we
16 discussed an email that was sent by your
17 mother after she returned to South
18 Carolina. And you had indicated, as I
19 understood in your testimony, correct me
20 if I'm wrong, I think you'd indicated
21 that she had some sort of motor skill
22 deficit that you thought prevented her
23 from, I assume, preparing or sending the
24 email. Am I correct in ---

25 A: The medical record documented that my

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1 mother had a motor deficit.

2 Q: Your mother was often -- Did she keep a

3 journal, to your knowledge?

4 A: Well, she kept a book into which she

5 wrote notes. That's correct.

6 Q: And do you have any knowledge about a

7 journal that she kept throughout this

8 process? Do you know where any such

9 journal might exist?

10 A: I know she was writing in one, but I

11 don't know where they are.

12 Q: To your knowledge, did she keep a journal

13 when she was at Franke Tobey Jones?

14 A: I think so, yeah. Because in fact, I

15 think as a gift, my wife bought for my

16 mother some books because she knew Mom

17 liked writing.

18 Q: And in fact, throughout this process, she

19 has, as I understand it, she's kept a

20 fairly active journal, correct?

21 A: Active is an accurate term. Yes, it is

22 active, although I don't know that she's

23 still doing that.

24 Q: Let me show you this medical record.

25 That is from MUSC. Take a look at that,

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1 if you would.

2 A: Okay. Let me see. 11/14. (Pauses while
3 reviewing document.) I believe this is
4 the same medical record you gave me
5 earlier.

6 Q: Let me ask you to take -- This is
7 somehow, this wound up in a different
8 folder altogether.

9 A: That's okay. A lot of papers here.

10 Q: I'll ask you, this is Exhibit 3 here.
11 Where are they?

12 *****OFF THE RECORD*****

13 (ON THE RECORD) .

14 CONTINUATION BY MR. BOYD:

15 Q: So, let me again show you what has
16 previously been marked as Exhibit 3.

17 A: Okay.

18 Q: John, I'm going to ask you a quick ---

19 A: Thank you. I think this is the document
20 we looked at earlier today or earlier
21 this ---

22 Q: Yes.

23 A: Okay.

24 Q: Can you turn to page 29 of Exhibit 3?

25 A: I don't see a 29. I see a 37.

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1 Q: Let's see. I don't know how we managed
2 to do this.

3 MR. BOYD: CAN I JUST CONFIRM WITH
4 COUNSEL FOR A MINUTE?
5 THEY'RE JUST NOT
6 MATCHING UP.

7 THE COURT: YES.

8 *****OFF THE RECORD*****
9 (ON THE RECORD) .

10 CONTINUATION BY MR. BOYD:

11 MR. BOYD: MY APOLOGIES, YOUR
12 HONOR. SOMEHOW WE
13 PRINTED THESE,
14 ELECTRONIC EXHIBITS
15 HERE.

16 MR. RHODES: WHAT PAGE ARE YOU
17 PUTTING IN?

18 MR. BOYD: THIS IS PAGE 29 FROM A
19 TREATMENT NOTE FROM
20 NOVEMBER 14, FROM MUSC.
21 IT'S A CONSULT WITH DR.
22 BECKER.

23 MR. RHODES: ARE WE'RE STRIKING THE
24 ---

25 MR. BOYD: AND THE REVERSE,

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1 APPARENTLY, IS PRINTED
2 SOMEHOW INCORRECTLY.
3 SO I'M STRIKING IT.
4 I'M JUST ADMITTING IT
5 FOR THE PURPOSES OF
6 THIS EXHIBIT. IT'S
7 SOLELY PAGE 29 FROM THE
8 NOVEMBER 14 RECORD.
9 MR. RHODES: OKAY.
10 Q: I'll just ask you to briefly review to
11 that, John.
12 A: I think this is a continuity of what you
13 had showed me earlier, ---
14 Q: Yes.
15 A: --- psychiatrist consultation note?
16 Okay. Yes. Okay.
17 Q: And what is the reference in the note
18 that we've highlighted here for you?
19 A: So, this is the consult, this is the
20 consult by David Robert Becker, who I
21 believe is a psychiatrist who consulted
22 on Mom. And what's highlighted is a
23 portion of the sentence, "Interviewer
24 asked patient if she would like an
25 explanation for the consult, at which

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1 point the patient wrote down one of the
2 phrases the interviewer used and then
3 repeated the phrase multiple times.
4 Patient noted to have significant
5 deficits with language comprehension and
6 word-finding difficulties."
7 Q: Is it true that, and the actual
8 highlighted sentence is -- could you read
9 the highlighted part there?
10 A: Oh, so you want me to repeat?
11 Q: Yes.
12 A: Okay. "At which point the patient wrote
13 down one of the phrases interviewer used
14 and then repeated this phrase multiple
15 times. Patient noted to have significant
16 deficits with language comprehension and
17 word-finding difficulties."
18 Q: Is it true, as I understand it -- Thank
19 you. Is it true that at times throughout
20 this process, that your mother has found
21 it easier to communicate in writing than
22 verbal? I believe you said that earlier,
23 I'm just asking you to clarify.
24 A: Well, let's see. Easier to communicate?
25 Well, I believe Mom knows she has

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1 limitations of communications so she's
2 tried verbal things and also written
3 things. I don't know that it's easier
4 for her to communicate by writing, but I
5 think Mom has used every tool at her
6 disposal, including writing.

7 Q: And she has, to your knowledge, kept a
8 diary throughout this process?

9 A: I know for a long time of this process,
10 she was writing in notebooks.

11 Q: And so is it fair to say that if she can
12 write in a notebook, as you've seen and
13 we have all seen notes that she has made,
14 is it not also fair to say that she
15 probably has the motor skills to send an
16 email?

17 A: No. Those, those are two different types
18 of tasks. So, to be able to send an
19 email, you need to be able to unlock your
20 phone, remember the pin, type in the pin,
21 go to the correct app, open the correct
22 app, tap on the correct button to do a
23 button. This is multi-step processing
24 you're asking somebody to do. For
25 somebody to write, it involves picking up

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1 something they've been familiar with
2 since they were in kindergarten and
3 putting it on a piece of paper.

4 Q: Let me ask you this question. The email
5 that you referenced earlier, that your
6 mom sent from South Carolina back to
7 Washington ---

8 A: The email that is reported, that my
9 mother sent.

10 Q: Reported.

11 A: Thank you.

12 Q: Obviously, you've testified that you
13 didn't think she could do that. Do you
14 know for a fact that she sent that email
15 on her phone?

16 A: Oh, I don't know any fact about how that
17 email was created or how it was generated
18 or how it ended up in the medical record.

19 Q: So, it could have been sent from a home
20 computer?

21 A: It could have been. Oh, sure, it could
22 have been sent from a home computer.

23 Q: So all the issues about dexterity and
24 opening a small phone to send an email
25 may not have even been applicable.

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1 A: Well, when we asked David to bring Mom's
2 laptop at one point, he said, "Well, that
3 laptop's really old and she can't really
4 use it much anymore," and he didn't bring
5 the laptop. So, ---

6 Q: But you don't know that she didn't use
7 that laptop to send that email?

8 A: Oh, of course, I don't know. I don't
9 know who used what piece of electronic
10 communication to generate that email and
11 send it, that's correct.

12 Q: So the bottom line, the purpose of my
13 questioning, obviously is, you really
14 can't say that she didn't send the email,
15 based on her motor skills deficit or any
16 reason, correct?

17 A: Well, again, logging on a laptop, I know
18 my laptop, I need to open it up. I need
19 to remember my password to log in. Then
20 I need to find the correct application
21 I'm going to use to generate the email.
22 I need to type in the address of the
23 email of the recipient. I need to type
24 in the message. I need to be able to
25 write, as that email had, beautiful,

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1 correct grammar, spelling, and
2 punctuation, and then make sure that it
3 is sent and that it fully went out.

4 Q: But in truth, when you tell the Court
5 that you don't believe your mother could
6 write that email, you're really
7 speculating. Is that not a fair
8 statement?

9 A: I'm not an attorney, but I know the word
10 speculation. But I don't understand how
11 somebody who has multi-step language
12 processing could go through all the steps
13 as I described. And Dr. McGranahan's
14 medical record, when she evaluated Mom on
15 November 6th, for example, she said Mom
16 had trouble following multi-step
17 commands. Literally that means, for
18 example, "Please go to the refrigerator,
19 get the carton of milk and pour it into a
20 glass." That's a multi-step command.
21 And Mom was not able to follow through
22 with multi-step commands. She was able
23 to do single-step things, "Drink that
24 glass of milk." Or "Pour the milk into
25 the glass," but not multi-step commands.

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ROA 0747

1 THE COURT: THIS IS EXHIBIT NUMBER
2 9. ANY OBJECTIONS?
3 MS. HARRISON: NO OBJECTIONS.
4 MR. RHODES: NO OBJECTIONS, YOUR
5 HONOR.

6 **RESPONDENT KING'S EXHIBIT NUMBER 9**
7 **ADMITTED INTO EVIDENCE.**

8 MR. STRASSWIMMER: YOUR HONOR, MAY I STEP
9 OVER AND GET SOME MORE
10 WATER, PLEASE?

11 THE COURT: SURE.

12 MR. STRASSWIMMER: THANK YOU.

13 Q: John, I want to ask you a question. I
14 want to go back to the visit that you
15 paid to your mother's home. You
16 mentioned that after you learned she was
17 coming back to South Carolina, that you
18 flew to Myrtle Beach instead of
19 Washington. Is that correct?

20 A: That's correct.

21 Q: And let me ask you this. You previously
22 testified that David did not tell you, or
23 your mother did not tell you, that they
24 were going back to South Carolina.

25 A: That's correct.

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ROA 0748

1 Q: When you transferred your mother or your
2 mother was transferred from MUSC, from
3 South Carolina, when you transferred her
4 back to Washington, did you tell David
5 that you had transferred?

6 A: Are you asking about the second time ---

7 Q: Yes, yes.

8 A: --- Mom went from MUSC to Washington?

9 Q: Yes. After the second time returning her
10 to Washington.

11 A: My mother had, on her own, executed a
12 privacy status where she wanted privacy,
13 and she did not want David to know her
14 whereabouts at the hospital. So, the
15 answer is no, I did not tell David.

16 Q: You testified earlier that ---

17 A: I did tell the guardian ad litem.

18 Q: Excuse me?

19 A: We shared it with the guardian ad litem.

20 Q: Okay. There's a document that's been
21 included in the guardian ad litem report,
22 that I want you to take a look at. It's
23 in front of you. It's page, it's the
24 Guardian ad Litem Exhibit A.

25 A: I'm sorry, are we talking about this one

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ROA 0749

1 you just gave me or is this another
2 document?
3 Q: Yes. If you could look at paragraph
4 eight of that document for me.
5 A: Okay. This is the document from Betsy
6 Smith?
7 Q: Yes.
8 MR. RHODES: YOUR HONOR, I WOULD
9 RENEW MY OBJECTION
10 UNLESS MS. SMITH IS
11 HERE TO TESTIFY
12 INTRODUCING THIS INTO
13 THE ---
14 MS. HARRISON: AND I AGREE ON THAT
15 OBJECTION, YOUR HONOR.
16 MR. BOYD: YOUR HONOR, IT'S AN
17 AFFIDAVIT THAT WAS
18 SUBMITTED IN SUPPORT OF
19 THE MOTION. IT'S IN
20 THE COURT'S FILE. AND
21 I ---
22 THE COURT: IT IS IN THE COURT'S
23 FILE. IT HAS ALREADY
24 BEEN ADMITTED EARLIER
25 TODAY WITH THE GUARDIAN

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ROA 0750

1 AD LITEM REPORT.
2 MR. RHODES: THANK YOU, YOUR HONOR.
3 THE COURT: WE WILL PROCEED. THANK
4 YOU.
5 MS. HARRISON: I'M SORRY. WHAT PAGE
6 IS IT IN THE GUARDIAN
7 REPORT?
8 MS. LOCHOCKI: I THINK IT'S EXHIBIT 8
9 MR. BOYD: YOU CAN'T FIND IT IN
10 THE GUARDIAN REPORT?
11 MS. LOCHOCKI: PAGE 14.
12 Q: Look at paragraph eight, if you would,
13 because you testified earlier about some
14 things that happened during the visit.
15 And I would just ask you to draw your
16 attention to what he woman that you
17 mentioned, you said you were surprised
18 when she answered the door, and that was
19 Ms. Smith who has prepared this
20 affidavit.
21 A: Okay.
22 Q: If you would, could you just share the
23 paragraph eight, which is related to the
24 visit?
25 A: You'd like me to read paragraph eight?

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1 Q: Yes, if you would please.

2 A: "After returning from the trip to
3 Seattle, David texted to let us know that
4 they were home. The following day, David
5 called to ask if I would visit with
6 Claudia so that he could pick up some
7 groceries as he did not want Claudia to
8 be alone. During our two-hour visit,
9 Claudia was alert, direct in her speech
10 and advised me that she was dying.
11 Claudia did mention that she has
12 disconnect and wanted me to be aware that
13 she might have difficulty communicating
14 at times. Claudia asked me if I was
15 aware of her diagnosis and she mentioned
16 that she felt that something was wrong
17 before her trip to Spain, but decided to
18 go on the trip anyway.

19 During our visit, the
20 doorbell rang and Claudia asked me not to
21 answer it, and that if John was at the
22 door to not let him in. I thought this
23 was possibly the "disconnect" that
24 Claudia mentioned, since John was in
25 Florida. I proceeded to answer the door

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1 and John forced his way into the house.
2 I advised, his mother did not want to see
3 him, and his reply was, 'You know I'm a
4 doctor.' John asked me for my name and
5 phone number so that he could contact me
6 to get information about his mother. He
7 proceeded to knock on Claudia's bedroom
8 door as he --" At what point would you
9 like me to point out some errors?

10 Q: If you'll read the paragraph, then I'll
11 ask you if you have an opinion about any
12 of the ---

13 A: "He proceeded to knock on Claudia's
14 bedroom door, as he indicated he wanted
15 to make sure his mother was 'okay.' When
16 he entered the room, Claudia screamed at
17 John repeatedly to get out. I apologized
18 to Claudia for letting him in, and she
19 assured me that it was 'Okay, and that
20 it's hard to stop him.' John waited in
21 the living room for David's return and
22 insisted that David call Claudia's
23 doctor. David said that it was the
24 weekend, and they would contact the
25 doctor on Monday. John called the doctor

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1 and put David on the phone to answer
2 questions. Shortly after that, David
3 came into the bedroom to let us know John
4 had left and Claudia said, 'David, you
5 know they're going to win.'"

6 Q: Do you have any reaction to that? You
7 said there was something that you wanted
8 to clarify.

9 A: Well, may I hold onto this?

10 Q: Sure, absolutely.

11 A: Thank you. Well, part of the chronology
12 is wrong. In other words, I didn't ask
13 her -- In other words, what she's typing
14 here is, part of the chronology is wrong.
15 That's her first thing. Okay. Let's
16 see. "I proceeded to answer the door and
17 John forced his way into the house."
18 That's incorrect. I knocked and asked if
19 my mother was home. So she said, "Yes,
20 your mother's home." I didn't force my
21 way into the house.

22 "I advised that his
23 mother did not want to see him and his
24 reply was, 'You know I'm a doctor.'"
25 That was not my reply. She did not say,

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ROA 0754

1 "She didn't want to see him." She said,
2 "She's in the bedroom and she's resting
3 right now."

4 And I said, "Who are
5 you?"

6 And she said, "I'm
7 Betsy."

8 I said, "Are you a
9 friend?"

10 "Yes, I'm a friend."

11 I said, "My name is
12 John Strasswimmer. I'm Claudia Miles'
13 son. I need to see her."

14 Q: Okay.

15 A: And then she said, "She's resting right
16 now."

17 And I said, "I need to
18 check on her. I am a physician, like my
19 mother." So that's true.

20 Then she says, "John
21 asked me for my name and phone number so
22 that he could contact me to get
23 information for his mother. He proceeded
24 knock on Claudia's bedroom door." So, I
25 asked -- That's actually chronologically

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1 out of order, as well. So, I didn't ask
2 her for her name and phone number until I
3 concluded everything, including the visit
4 with the primary care doctor, when the
5 primary care doctor directed David to
6 take Mom to the emergency room and David
7 refused. That was afterwards, after that
8 was done with. I then asked her for her
9 contact information because I thought I
10 might need that in the future.

11 Q: You asked Ms. Smith for her contact
12 information?

13 A: At the end, yes. After, after the
14 primary care doctor directed David to
15 take Mom to the emergency room and David
16 refused. I at that point, thought this
17 could be a serious situation and I was
18 worried about my mother's health. And
19 because she was there, I wanted to make
20 sure that if there were ever a need for a
21 witness, at least I knew who this woman
22 was and so forth. So, I asked her for
23 her name and phone number and she gave it
24 to me.

25 Q: Okay. Okay.

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1 A: Then she goes on to say, "John called the
2 doctor," so she's very attentive as to
3 supposedly knowing what the heck happened
4 there, right? "John called the doctor
5 and put David on the phone to answer
6 questions." Lots of lack of information.
7 "Shortly after, David came in the bedroom
8 to let us know John had left." So, there
9 was a tremendous amount of time between
10 when John called the doctor and John left
11 the house, that she's omitted here. I'd
12 just like to clarify that.

13 Q: I can't speak to what she hasn't written.
14 All I can speak to is what she's written.

15 A: I understand that. But for our
16 discussion here, you're starting with an
17 affidavit from somebody who's testifying
18 about what she observed happening that
19 day. I'd just like to point out it's
20 incomplete. And I apologize to the
21 Court, I've never been here before so I
22 don't know if it's my role to say that
23 that's not a very complete document at
24 all.

25 Q: And you're entitled to that opinion and

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1 I'm happy for you to provide it.

2 A: Thank you.

3 Q: The possibility certainly exists that she
4 may have moved in and out of the
5 discussion, perhaps if a call was made to
6 a doctor, perhaps she gave you and David
7 space. Is that a reasonable possibility?

8 A: It's also possible, since this was
9 collected -- I don't know when this was
10 information was collected, but this was
11 collected from her memory, and that her
12 memory might be incorrect because she's
13 got some things chronologically out of
14 order. She's got some things factually
15 incorrect, and she's omitted a large part
16 of what actually happened, which is the
17 key part to that critical day in my
18 mother's care.

19 Q: When she ends the paragraph stating,
20 "Shortly after David came into the
21 bedroom to let us know that John had
22 left, Claudia said, 'David, you know
23 they're going to win.'" What do you
24 think Claudia was referring to?

25 A: I don't know.

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1 Q: Win what?

2 A: I wasn't there and I don't know that my
3 mother said that.

4 Q: Well, I'm asking you if in fact -- You
5 weren't there, correct?

6 A: I was not there when Betsy Smith states
7 my mother said those, I don't know if my
8 mother said those or not. And I wasn't
9 there either.

10 MS. HARRISON: I WOULD OBJECT. NOT
11 ONLY DO WE HAVE AN
12 AFFIDAVIT, WHICH IS AN
13 OUT-OF-COURT STATEMENT,
14 BUT IT'S A HEARSAY
15 WITHIN THE AFFIDAVIT
16 SAYING WHAT SOMEBODY
17 ELSE SAID AND THEN
18 COUNSEL IS ASKING MY
19 CLIENT TO SPECULATE ON
20 WHAT THAT PERSON MIGHT
21 HAVE MEANT, AND I DON'T
22 THINK THAT THAT'S -- I
23 OBJECT.

24 MR. BOYD: NO FURTHER QUESTIONS
25 ABOUT THIS DOCUMENT,

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1 YOUR HONOR.

2 THE COURT: THANK YOU.

3 Q: Let me ask you this question, John. You
4 previously testified that -- Tell me
5 again how you cleared your mother for
6 flight when you flew her to Washington
7 for the second visit?

8 A: I asked the medical team caring for my
9 mother, "Is there anything we need to do?
10 We intend to fly her back out to
11 Washington."

12 Q: And when you said you asked the medical
13 team, which medical team specifically did
14 you ask?

15 A: Well, as you might be aware, when
16 somebody's admitted to a hospital,
17 they're usually admitted by one official
18 physician and so sometimes that could be
19 they're admitted to internal medicine,
20 even though they've got a brain tumor,
21 just because that happens to be the
22 admitting team. It can be sometimes,
23 with the case in Washington, for example,
24 when the neurology service has an
25 admitting service and they are the

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1 official doctors overseeing somebody's
2 care.

3 I don't recall if, at
4 MUSC, if it was the neurology service or
5 the oncology service or the general
6 medicine service that was officially
7 Mom's admitting team. I think it was
8 probably one of the internal medicine
9 services, just because the bureaucracy of
10 the hospitals, when somebody gets put in,
11 somebody's got to be in charge. For
12 example, if I have a bad melanoma patient
13 and I want them to go to the hospital,
14 dermatologists don't admit patients at
15 our hospitals. They go and a hospitalist
16 or an internist is officially their
17 doctor, even though they don't know that
18 much about what the care is needed, they
19 request consultations as necessary.

20 Q: Let me simplify that. Do you recall how
21 it was that you were cleared? Did you
22 receive medical advice that it was safe
23 to transport your mother?

24 A: We received medical advice that if we
25 were to transport our mother, that it

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1 would be risky to transport our mother
2 and that we would need to take
3 precautions in order to transport her.

4 Q: But you flew with her to Washington
5 anyway, correct?

6 A: We followed the doctor's instructions.
7 We received those medical consultations
8 and the additional medical therapy and
9 flew with our mother to Washington.
10 That's correct.

11 Q: Let me ask you to take a look at that one
12 other item from the MUSC record.

13 A: Okay.

14 Q: If you could just briefly look at that
15 and refresh your recollection.

16 A: Okay. 11/20. Okay, yes. This is a
17 discharge summary by the doctor. And
18 again, the name here, Malshundria
19 Prophet, this gets back to what we were
20 just previously discussing. That doctor,
21 I suspect, is not a neurologist. He's
22 probably one of the internal medicine
23 doctors, whose job is to be the official
24 inpatient doctor writing orders. And so
25 this doctor is writing a discharge

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1 summary, to kind of recap things a little
2 bit right here. Would you like me to
3 read what you've highlighted?

4 Q: Sure.

5 A: Okay. "Prior to boarding a plane, she
6 will take an additional eight milligrams
7 CTH on 1/22, with no evidence of
8 hemorrhage or increase in edema.
9 Neurology discussed with family that
10 there is no guarantee she is safe to
11 fly."

12 Q: Okay.

13 MR. RHODES: EXCUSE ME. I'M SORRY.

14 MR. BOYD: YES.

15 MR. RHODES: MY COPY'S NOT
16 HIGHLIGHTED. WHERE ARE
17 WE?

18 MR. BOYD: CHARLES, WE ARE ON PAGE
19 25 OF THE RECORD. I
20 APOLOGIZE. IF YOU FLIP
21 TO THE THIRD PAGE AND
22 WE ARE ABOUT THREE
23 INCHES DOWN, BOTTOM OF
24 THE FIRST PARAGRAPH.
25 YOU'RE HONOR, I'D LIKE

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1 TO ADMIT THAT IF
2 THERE'S NO OBJECTION.
3 THE COURT: WHAT'S THE DAY ON THAT
4 REPORT?
5 MR. BOYD: YOUR HONOR, THIS IS AN
6 MUSC DISCHARGE NOTE, AS
7 DR. STRASSWIMMER JUST
8 TESTIFIED, AND IT IS
9 DATED 11/22.
10 THE COURT: THANK YOU. THIS IS
11 NUMBER 10. ANY
12 OBJECTIONS?
13 MS. HARRISON: NO OBJECTIONS.
14 MR. RHODES: NO OBJECTIONS, YOUR
15 HONOR.
16 MR. BOYD: THANK YOU, YOUR HONOR.
17 MS. LOCHOCKI: I'M SORRY. NUMBER 10?
18 THE COURT: YES.
19 **RESPONDENT KING'S EXHIBIT NUMBER 10**
20 **ADMITTED INTO EVIDENCE.**
21 Q: Did you feel that that was a prudent
22 decision to fly with your mother, even
23 though you received that advice from
24 neurology?
25 A: Let's see. How do I phrase this?

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1 Everything is a risk/benefit and they
2 were clear about there being no
3 guarantees on flying, which is different
4 than other opinions of other doctors in
5 the medical records, as well. So, they
6 said there was no guarantee that it's
7 safe to fly. And in another portion of
8 my medical record, there's at least one
9 physician, I believe, who believes that
10 flying might potentially be a reasonable
11 option.

12 Q: Let's move the discussion to Franke Tobey
13 Jones, if we may. Earlier, what was your
14 impression of your mother's response to
15 being placed at Franke Tobey Jones?

16 A: My mother went from her initial day of
17 placement there where she was
18 uncooperative with her care,
19 uncooperative with staff, uncooperative
20 with bathing and hygiene, to the point
21 where, when we got her discharge, she was
22 cooperative with bathing, hygiene,
23 medication, with staff and with therapy.

24 Q: When she -- How long was she at Franke
25 Tobey Jones? I know you testified to

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1 this, but how long was she at Franke
2 Tobey Jones?

3 A: She was there for two months.

4 Q: And what do you attribute, if there was
5 in fact a change in her demeanor, what do
6 you attribute that to?

7 A: To the excellent care provided by her
8 staff at Franke Tobey Jones. And my
9 sister's daily visits and looking after
10 Mom's needs and her encouragement, and my
11 wife's encouragement.

12 THE COURT: Thank you.

13 Q: Let me ask you to look at this record
14 from Franke Tobey Jones.

15 A: Okay. 12/29. Okay. So, this looks like
16 this is a nurse's note from Franke Tobey
17 Jones, dated 12/29 at around ten PM
18 Would you like me to read it?

19 Q: Yes, go ahead.

20 A: Okay. "The resident consumed more than
21 50 percent of meals for supper, took PM
22 meds and blood sugar check. She refused
23 HS," it means nighttime Seroquel, "and
24 refused to change underwear. Re-
25 approached several times. Explained

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1 consequence of refusing to change wet
2 underwear. Asked what we can do for her
3 to agree to do care, but refused and
4 drove me and the CNA out of the room,
5 yelling 'Leave, leave. I don't need to
6 change.' Informed POA that we did
7 everything we can, but resident adamantly
8 refused. POA stated she's aware of her
9 constant refusal and that we just have to
10 continue to re-approach the patient.
11 Resident denies pain."

12 Q: What is the date of that record, John?

13 A: That is the evening note for 12/29.

14 Q: Let me show you another record. And at
15 that point, 12/29, how long had she been
16 in Franke Tobey Jones?

17 A: She had been at Franke Tobey Jones, I
18 think for -- That would've been just
19 under one month.

20 Q: Okay. And ---

21 A: Or maybe one month.

22 Q: Let me show you another treatment note
23 from Franke Tobey Jones. And Your honor,
24 I'm going to combine three treatment
25 notes, progress notes from Franke Tobey

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1 Jones, into one exhibit, just to speed
2 this up, if that's okay with the Court?

3 THE COURT: YES.

4 Q: Okay. And what's the date of that note,
5 John?

6 A: This is a nurse's note dated January
7 11th, 2019 at approximately 7:00 PM.

8 Q: And if you would look at the highlighted
9 section that we've marked in the first
10 paragraph of that record, and read that
11 for me, if you would.

12 A: Okay. May I familiarize myself?

13 Q: Yes, absolutely. Please do. Please do,
14 of course.

15 A: Okay. (Pauses while reviewing document.)
16 So, this page that you gave me has two
17 nurses' notes, one dated 1/10/2019, an
18 evening note at around nine PM. And then
19 the one above that is dated 1/11/2019 at
20 around seven PM. They're both nurses'
21 notes.

22 Q: Okay. And let me ask you if you could
23 hold up the document for one second. If
24 you would, just go ahead and read that
25 note that we highlighted, if you would.

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1 I don't want to select it from the --
2 Make a selection from it. Can you read
3 that for the Court?
4 A: Yes. May I read it in context or just
5 that one? Are you directing me just to
6 read that one?
7 Q: You can read the whole note if you'd
8 like.
9 A: Okay. So, I'll start with 1/10 because
10 this is important to have in context.
11 The nurse's note says that, this is the
12 day before what Attorney Boyd is asking
13 me to read, "Resident returned from
14 appointment with oncologist, according to
15 daughter, Michelle, resident ---"
16 Q: Well, my question, John, ---
17 A: Yes.
18 Q: --- is actually -- Unless you really need
19 to read that, I'm more interested in the
20 note at the top, but go ahead. Read the
21 note you've selected.
22 A: Thank you. "Resident had her first
23 Avastin infusion as part of her cancer
24 treatment. No new order from oncologist
25 with instructions to monitor post

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1 infusion, to monitor for abdominal pain.
2 Resident alert, verbal, blood sugar
3 checked and given insulin per order, per
4 sliding scale, compliant and took bedtime
5 medications without issues. Resident
6 denied pain, such as headaches, abdominal
7 pain, vomiting. Denies no significant
8 change in condition." Okay. The next
9 date that you're asking me to read on
10 January 11th and I'll skip to the area
11 that you highlighted to be expeditious.
12 "Refused further neuro checks, wanting to
13 sleep, not opening her eyes again or
14 answering any questions."

15 Q: Okay. And let's fast forward a couple of
16 days, which takes us, I think, to January
17 13th.

18 A: Okay.

19 Q: There's a nurse's note at the top of that
20 page. Would you read that note for us?

21 A: Okay. This is dated January 13th at
22 around seven PM. "Resident returned to
23 facility after an outing with daughter
24 and caregiver. Resident initially
25 refused to have blood sugar check but

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1 finally agreed after eating her supper.
2 Caregiver stated resident had a lot of
3 food intake before supper. Blood sugar
4 result was 430. Resident refused Lispro
5 and NPH insulin coverage, explained
6 possible consequences. Said that, 'I
7 heard you, but, no.' Re-approached
8 several times and encouraged to allow
9 this LN to give her coverage, but
10 adamantly refused. Talked to Dr. Pan --
11 Panlasiqui and report blood sugar.
12 Informed that resident refused insulin
13 coverage despite explanation of possible
14 consequences. Dr. Panlasiqui stated to
15 document refusal. No new order was
16 given."

17 Q: And I take this first page you showed me.

18 MR. BOYD: YOUR HONOR, IF THERE'S
19 NO OBJECTION, I'D LIKE
20 TO ADMIT THESE AS A
21 COMPOSITE EXHIBIT.

22 THE COURT: THIS WILL BE NUMBER 11.

23 MS. HARRISON: NO OBJECTION, YOUR
24 HONOR.

25 MR. RHODES: NO OBJECTION.

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1 MR. BOYD: THANK YOU, YOUR HONOR.

2 RESPONDENT KING'S EXHIBIT NUMBER 11

3 ADMITTED INTO EVIDENCE.

4 Q: So, is it fair to say that, even as her
5 time at Franke Tobey Jones extended, that
6 there was still numerous bouts of lack of
7 cooperation expressed by your mother?

8 A: Yes. During Mom's time at Franke Tobey
9 Jones, there were sometimes where Mom did
10 refuse her medications. That's correct.

11 Q: And again, that's a recurring theme with
12 your mother; is it not?

13 A: It is. It has occurred at different
14 times that Mom has refused medications,
15 and she's been in periods where she's
16 been very compliant with medications and
17 periods where she has kind of, I don't
18 even know if the word is suddenly, but
19 has become less compliant with
20 medications. And, as that document
21 showed, at the same time, Mom was
22 compliant with driving up to the
23 University of Washington and going for
24 her initial infusion of Avastin. The
25 initial infusion of Avastin was a very

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1 long, slowly administered thing. That
2 medication can usually be given as a
3 relatively short infusion, but the first
4 one was a long one. Mom was compliant
5 with going up there, getting the
6 necessary blood work beforehand and
7 sitting there for all of the hours it
8 took to get that slow infusion, the day
9 before you've drawn our attention to,
10 Attorney Boyd.

11 Q: Thank you. I note in your testimony
12 earlier, John, you mentioned that -- I, I
13 found it curious some of the things you
14 noted when you raised concerns about
15 David in your testimony. One of the
16 things that I note that you testified
17 regarding, was the decision to evacuate
18 and whether that decision was prudent on
19 David's part. Are you familiar or do you
20 recall that during the last hurricane,
21 there was an evacuation order for which
22 our governor was widely ridiculed?

23 A: I'm not familiar with your governor nor
24 the local politics. I have enough with
25 my time in Florida.

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1 Q: So, you're not aware of that?
2 A: I don't know what you're talking about.
3 I'm sorry. Could you be more clear?
4 Q: Well, I was just curious. You criticized
5 David for the decision, apparently, I'm
6 noting in your earlier testimony today,
7 you've criticized David apparently for
8 his decision not to timely evacuate in
9 advance of an approaching hurricane. Is
10 that a fair ---
11 A: Yes.
12 Q: --- assessment?
13 A: Yes. In other words, David is free to
14 evacuate or not free, but since we now
15 know that my mom was in a not very well
16 brain functioning status at that time, I
17 was concerned. I'm concerned that my
18 mother didn't have the opportunity to
19 evacuate in a timely fashion.
20 Q: And as I also understood you today
21 earlier, too, and the concerns when you
22 were asked by counsel, your counsel,
23 about your concerns regarding my client,
24 David King. I think you also said he
25 drove a car with perpetually leaking

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1 tires.

2 A: That's my understanding.

3 Q: And so you guys have filed this petition,
4 which has wound up significantly
5 hampering, if not destroying, a
6 relationship that David King had with
7 your mother for in excess of 35 years.

8 A: Okay. Attorney Boyd ---

9 Q: I'm not ---

10 A: But I'm going to ask you to address this
11 one at a time. You talked about leaky
12 tires, a relationship of 35 years.

13 Q: If you'll let me ask my question. It's
14 my job to ask questions and it's your job
15 to answer the questions that I ask you,
16 if you know the answer.

17 A: I'm sorry.

18 Q: So you guys have brought a petition. You
19 are the petitioner, correct, John
20 Strasswimmer, is the petitioner, fair
21 enough?

22 A: Yes, I am.

23 Q: And in the process of bringing this
24 petition, there's obviously, we could
25 certainly have a debate about whether or

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1 not this entire proceeding is in your
2 mother's best interest and the various
3 expenses that have been incurred, but
4 among the things that you criticized for
5 today, David for today, if I heard you
6 correctly, was that he failed to evacuate
7 in a timely fashion in advance of a
8 hurricane and his car has leaky tires.
9 Am I not correct in understanding your
10 testimony today?

11 A: Yes. We discussed that earlier today.

12 Q: We talked about the ER visits. I also
13 heard you express concern about speaking
14 of whether or not this ultimately is all
15 in your mother's best interest. I also
16 heard you express concern about cost of
17 professional guardians. Is that a
18 concern that you have?

19 A: It's a, it's a -- Let's see, what's the
20 right word? I trust professional
21 guardians. I trust our healthcare system
22 in general. I trust that whomever the
23 guardian ad litem has identified and
24 selected would be professional. I'm just
25 also aware that, in Florida, we have a

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1 big problem at present in Florida, I
2 don't know about Carolina or Washington
3 State, but we have a big problem with
4 professional guardians and people's
5 assets.

6 Q: Are you aware, and I'm sure you are, but
7 I'll ask you anyway, are you aware that
8 since your sister became the temporary
9 guardian pursuant to these proceedings,
10 between December the 11th and January
11 31st, she has expended in excess of
12 \$180,000 of your mother's funds?

13 A: My sister became temporary guardian,
14 November 15th. You quoted a start date
15 and a finish date, what's that?

16 Q: Well, let's give her the benefit of the
17 doubt, shall we. Let's go back to the
18 date of the appointment.

19 A: Okay. Thank you.

20 Q: And then let's go through January 31. Do
21 you have any idea, ---

22 A: Okay.

23 Q: --- during that period of time, how much
24 of your mother's finances or resources
25 that your sister, as the temporary

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1 guardian, as the temporary guardian, has
2 expended?

3 A: As I mentioned before, it's been
4 exceedingly difficult to identify my
5 mother's total assets.

6 Q: That's not my question.

7 A: Okay. Mr. Boyd, you asked me for a ---

8 Q: I asked you if you had any idea how --
9 This is not about identifying your
10 mother's assets. This is a question that
11 asks you to expound, if you can, ---

12 A: Yes.

13 Q: --- on whether you know how much your
14 sister has spent since she became
15 temporary guardian. It doesn't have
16 anything to do with finding accounts or
17 looking for resources.

18 A: I'm sorry. I misunderstood. I thought
19 you were asking me to expound, to comment
20 on that amount of expenditure ---

21 Q: No.

22 A: --- as a portion of my mother's assets.

23 Q: I'm not asking for a percentage.

24 A: Okay.

25 Q: I'm asking you, since your sister was

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1 appointed as temporary guardian pursuant
2 to your petition, ---

3 A: Yes.

4 Q: --- do you have any idea how much money
5 she has spent of your mother's assets,
6 regardless of how or where she got them
7 or found them?

8 A: Yes.

9 Q: And what's that?

10 A: I think you just quoted a number.

11 Q: And?

12 A: It's in excess of \$100,000.

13 Q: That's not what I said. In excess of
14 \$180,000.

15 A: Correct. Excess of 180,000 is in excess
16 of 100,000, so I'll repeat what you said,
17 excess of \$180,000. That's correct.

18 Q: So, you don't disagree with the
19 guardian's conclusion in her report, in
20 that regard?

21 A: I don't have the guardian's report in
22 front of me, so I can't read her
23 conclusion. I'd be happy to, but if
24 you're telling me that the number right
25 now is at 180,000 plus, I absolutely

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1 believe you.

2 Q: Okay. And do you have a concern about
3 that? You expressed a concern about the
4 expense of the professional guardian that
5 the GAL recommended in her report, you
6 went at some length in questioning
7 previously about your concern about your
8 mother's financial wellbeing and these
9 expenses. My question to you is, do you
10 have a concern about the amount of money
11 your sister has spent since she became
12 the temporary guardian?

13 A: I have a concern at looking for expenses
14 and trying to minimize expenses, provided
15 that don't impact my mother's care or her
16 quality of life.

17 Q: And do you also understand or have
18 knowledge that in addition to the -- and
19 by the way, the 180,000 does not include
20 February. So, there are now two more
21 months, February and March, as of today,
22 that would need to be contended with in
23 any up-to-date accounting. Are you aware
24 of that?

25 A: I'm aware that the accounting also

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1 possibly includes expenses that were made
2 prior to the award, potentially awarded
3 to custody guardianship, and that the
4 ongoing expenses for my mother, a lot of
5 what you quoted in that 180 number, are
6 one-time expenses.

7 Q: Okay. But if the expenditures were to
8 continue at that burn rate, would you
9 agree with me that your mother would,
10 even given her limited life expectancy,
11 she would have a serious problem?

12 A: You're raising a hypothetical that
13 doesn't exist. Inside that \$180,000, are
14 a lot of fixed one-time costs which shall
15 not be repeated.

16 Q: Are you aware that your sister is seeking
17 compensation for her services as
18 guardian?

19 A: Yes.

20 Q: Do you have any idea how much she's
21 seeking?

22 A: I think around \$57,000. I don't have
23 that document in front of me.

24 Q: I'll agree with you, 57,000. Do you
25 consider that to be a reasonable number?

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1 A: I consider that to be a reasonable
2 number.
3 Q: Okay. How would you have made that
4 assessment? What is your basis for
5 concluding and we're talking about how
6 many months of work?
7 A: So, my basis for assessment is ---
8 Q: Strike that. How many months of work are
9 we talking about in our example? How
10 long has your sister been temporary
11 guardian?
12 A: My sister's been temporary guardian since
13 November 15th.
14 Q: So approximately three months.
15 A: Let's see. So it's December 15th.
16 Sorry. I have to think this way.
17 December 15th, January 15th, February
18 15th, March 15th. So, we're getting up
19 there.
20 Q: So, for four and a half months, three
21 months, January 1 through March 31st is
22 three months, the last time I checked.
23 A: Yeah.
24 Q: And November 15 to the end of the year
25 for 2018, the last time I checked, that

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1 was six weeks, two and a half or one and
2 a half months.

3 A: Let me see. I'm going to start again.
4 So, February 15th to January 15th,
5 February 15th, March 15th. So yes, that
6 would be about three, three and a half
7 months.

8 Q: Let's give her the benefit of the doubt.
9 Let's go with four months.

10 A: Okay.

11 Q: November 15th to the end of November is
12 one half.

13 A: Okay.

14 Q: December.

15 A: Yep.

16 Q: January.

17 A: Yep.

18 Q: February, March.

19 A: Yes.

20 Q: Four and one half months.

21 A: Okay.

22 Q: Are you with me?

23 A: I'm with you.

24 Q: So, 57,000 for less than six months of
25 work would annualize to, if I'm capable

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1 of basic math, would annualize to an
2 annual paycheck of about a minimum of
3 125,000, correct?

4 A: Which is lower than any of the guardians,
5 excluding the guardian ad litem, who's an
6 attorney, but the professional guardian
7 rates to date who have been dealing with
8 my mother, the Court-appointed people,
9 their billing rate, I believe is \$150 an
10 hour, which turns into an annualized rate
11 of \$300,000 a year.

12 Q: And are you familiar with any prior
13 payments that David has ever taken in
14 exchange for his work caring for your
15 mother?

16 A: It's been very difficult to find out what
17 David has been doing with money or not
18 doing with money. So, for example, there
19 is a joint bank account that David has
20 access to, which I understand Michelle
21 has not been able to get access to and
22 we're not clear of all the statements,
23 but I'm aware that some of those
24 statements off of that joint bank account
25 are being written to a credit card

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1 controlled by David and payments to a
2 corporation owned by David.

3 Q: And you're aware that based on what?

4 A: Based on bank statements that we received
5 from BB&T Bank.

6 Q: Okay. Are you satisfied with the way
7 your sister has handled your mother's
8 finances?

9 A: With the way my sister has handled my
10 mother's finances? Yes.

11 Q: I'm sorry. I didn't hear you.

12 A: The answer is yes.

13 MR. BOYD: YOUR HONOR, CAN WE TAKE
14 A SHORT RECESS FOR
15 MAYBE FIVE MINUTES. I
16 MAY HAVE A COUPLE MORE
17 QUESTIONS?

18 THE COURT: OKAY. THANK YOU.

19 *****OFF THE RECORD*****

20 (ON THE RECORD) .

21 THE COURT: WE ARE BACK ON THE
22 RECORD. PLEASE
23 REMEMBER, SIR, YOU ARE
24 STILL UNDER OATH.

25 MR. STRASSWIMMER: YES, YOUR HONOR.

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1 MR. BOYD: YOUR HONOR, I HAVE NO
2 FURTHER QUESTIONS, NO
3 FURTHER ANSWERS. I
4 HAVE NO FURTHER ANSWERS
5 OR QUESTIONS FOR THIS
6 WITNESS.
7 THE COURT: THANK YOU, MR. BOYD.
8 MR. BOYD: THANK YOU.
9 THE COURT: MS. LOCHOCKI?
10 MS. LOCHOCKI: YOUR HONOR, MAY IT
11 PLEASE THE COURT?
12 THE COURT: SURE.
13 MS. LOCHOCKI: IF IT SUITS THE COURT,
14 YOUR HONOR, I MAY JUST
15 STAY SEATED AND ASK ---
16 THE COURT: SURE, THAT'D BE FINE.
17 MS. LOCHOCKI: --- SOME QUESTIONS
18 RIGHT HERE SINCE ---
19 THE COURT: THAT'LL BE FINE.
20 MS. LOCHOCKI: --- WE'RE ALREADY SO,
21 CLOSE TO EACH OTHER.

22 **CROSS EXAMINATION**

23 **BY MS. LOCHOCKI:**

24 Q: John, when did you decide to seek counsel
25 to file for guardianship and

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1 conservatorship?

2 A: The first time the antenna came up in me
3 was when we were with Cliff Tall at Mom
4 and David's house, and I asked Cliff to
5 review the documents a little bit with
6 us. And I said, "So this means that,
7 like over financial stuff, David and I
8 have to agree?"

9 He said, "Yes."

10 And Michelle and David
11 would have to agree on medical
12 decisions?"

13 He said, "Yes."

14 I said, "What happens
15 if you don't agree?"

16 And he said, "Well,
17 then you have to go to court."

18 I thought, "Oh," so
19 that stayed in the back of my mind. That
20 was the first inkling that, at some
21 point, we might need to go to court.

22 Q: Okay. It seems from the timeline that
23 I've reviewed it was between November 8th
24 and November 14th where you sought
25 counsel to actually file petitions?

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1 A: That could be. I don't remember when I
2 started the phone tree, trying to find
3 out. It's a Venn diagram of where do you
4 find an attorney who knows about probate
5 and is a litigator and is here in Horry
6 County. You're a very specialized subset
7 of attorneys willing to take on these
8 kind of cases.

9 Q: Well, November 8th was the date that your
10 mother and David King returned from
11 Washington to South Carolina. Would you
12 agree with that?

13 A: I know they were in, they were in --
14 That's what I think. I'm sure that's
15 what happened. I never saw a travel
16 record, but yeah, they were in, they were
17 in, as far as I know, Washington on that
18 Thursday and on Friday, they were back in
19 Myrtle Beach.

20 Q: Okay. So is it accurate that, between
21 their return to South Carolina and the
22 date of the actual order, which is
23 November 15th, you sought counsel to file
24 ---

25 A: Oh, yes. Oh, yes, yes.

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1 Q: Okay. And could you ---

2 A: Well, I'm not sure I sought counsel to
3 file. I started seeking counsel for
4 advice. I had no idea what to do in this
5 situation. The attorneys that I work
6 with deal with business law, with just
7 our run-of-the-mill estates stuff that
8 Karen and I have, estate planning. And I
9 have to deal with medical malpractice
10 lawyers, as well. I wanted to find
11 somebody here who could just read these
12 documents for me, because my own personal
13 lawyer that Karen and I use said, "Well,
14 I'm not a South Carolina lawyer, but I'll
15 give you my opinion about them, but you
16 need to find somebody locally to do
17 that." And that's why I started the
18 process of trying to find somebody.
19 First by calling in Charleston, and then
20 kind of referred me up the coast and
21 ended up with some names around here.

22 Q: Okay. Did you do some consultations?

23 A: No, it was actually very hard. As I
24 said, it's very hard to find people in
25 your specialty. Yeah, so I didn't do

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1 consultations. Phone calls, try to find
2 out, explain what I thought my concerns
3 are, what I need help with, and then they
4 would say, "Well, I think you can call
5 this person or that person," or whatever.
6 And then, eventually the name came up to
7 Lee Moore.

8 Q: Okay. How quickly after you found a
9 lawyer to help you did you file the
10 petitions?

11 A: I don't know. The petition was filed on
12 the 15th.

13 Q: Okay, the same day it was signed by the
14 judge?

15 A: I think that's when she filed it.

16 Q: Okay.

17 A: I mean, I didn't -- You know, I wasn't --
18 I didn't physically come to Horry County
19 to do that.

20 Q: Okay, that was my next question. Were
21 you at your lawyer's office before the
22 petition was filed?

23 A: I was at my lawyer's office once to meet
24 her, like a meet and greet kind of thing,
25 but other than that, I don't remember.

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1 I'd have to look at my travel records,
2 which again I don't have currently, but I
3 honestly don't remember if I made a
4 second visit to her office. I think the
5 answer is, no, just the initial meet and
6 greet thing. And then, everything else
7 was phone and emails.

8 Q: Okay. And I believe you stated, but is
9 it your understanding that the petitions
10 were filed on the 15th of November 2018?

11 A: I, I think so.

12 Q: Okay.

13 A: I mean, honestly, I don't know. I think
14 so.

15 Q: Okay.

16 A: I mean, I don't know your legal process.
17 Like, I don't know if they go, they get a
18 petition, and then the judge decides
19 whether or not he or she will consider
20 the petition, and then it goes. I don't
21 know that multi-step, if it's a multi-
22 step process or not. I don't know the
23 answer.

24 Q: Right, and I don't expect you to. And
25 honestly, I didn't ask you to explain the

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1 process of what happened after it was
2 filed, but to your understanding, it was
3 filed on the 15th and we've seen the
4 order, which was signed on the 15th. To
5 your understanding, did you ask for that,
6 for the petitions for guardianship and
7 conservatorship, to be filed on an
8 emergency basis?

9 A: Yes.

10 Q: Okay. And what were your grounds for
11 this being an emergency?

12 A: That my mother needed medical decisions
13 made and that the two people who my
14 mother had entrusted to work together to
15 make decisions on her behalf were not
16 cooperating.

17 Q: Who were those two people?

18 A: David and Michelle.

19 Q: David and Michelle, okay. And is it
20 correct that you filed the petitions
21 because you believe that you and your
22 sister, Michelle, should be in control of
23 your mother's care and her finances, and
24 not David King?

25 A: Do you mean the petition we're hearing

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1 today or the emergency petition request?
2 Q: Well, I would argue that it's one and the
3 same.
4 A: I'm just trying to be honest here.
5 Q: Sure.
6 A: My understanding today is we're talking
7 about guardianship and conservatorship.
8 In other words money today, discussions
9 are about Mom's whole pot of money. The
10 discussions back then were specifically
11 about making medical decisions for Mom
12 and also her lifestyle decision, where to
13 live, but also about spending money on
14 Mom's behalf for Mom's medical care but
15 not the other thing. So at the time, my
16 focus was on the medical care of my
17 mother and the funds relative to be able
18 to get my mother the medical care using
19 her own money.
20 Q: Okay. Well, let's ---
21 A: Does that ---
22 Q: --- for the sake of these questions,
23 limit my questions to the emergency
24 petitions, okay?
25 A: Okay.

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1 Q: Is it correct that you filed the
2 emergency petitions because you believe
3 that you and your sister, Michelle,
4 should be in control of your mom's care
5 and not David King?

6 A: The answer is yes. It came to that
7 point.

8 Q: Okay. Before the November 15th order,
9 did you try to work out the conflict, the
10 differences in care decisions with David?

11 A: Yes.

12 Q: Okay. Would you tell us more about that?
13 And really, limit it to November 8th or
14 9th when they returned to South Carolina
15 until the petitions were filed, during
16 that timeline.

17 A: Yes. Oh, absolutely. So for example, on
18 the day I did the wellness check on my
19 mother, David had told me that he had not
20 initiated any medical care for my mother.
21 He had not contacted any doctors for my
22 mother, neither her primary care doctor
23 nor the cancer team to let her know she
24 was back and that she might be needing
25 care nor to make sure she was there. I

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1 engaged him by trying to help him,
2 because he seemed to be under this belief
3 that a primary care doctor is just not
4 available on the weekend, so I'm trying
5 to engage him by showing him, say, "Guess
6 what? I'm going to show you what we do.
7 Let's call right now, and I'll show you
8 that I can get him or his partner on the
9 phone." And we did that.

10 I put the doctor on
11 speakerphone and we had a conversation on
12 speakerphone with the doctor, David and
13 me all on speakerphone, and I explained
14 my concerns. David explained his
15 concerns. That primary care doctor
16 directed David to take Mom to the
17 emergency room and David refused. I then
18 attempted to continue to talk to David
19 about the next steps and I said, "David,
20 what can I do to help you? I want to
21 help you." I said, "I'm not here trying
22 to take over. David, I want to help
23 you." And I was genuine about that.

24 And he said, "What you
25 can do is leave."

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1 I said, "David, are you
2 telling me to leave the house now?"

3 "Yes, I want you to
4 leave right now. Your mother wants you
5 to leave and I want you to leave this
6 house."

7 And because Briarcliffe
8 Acres is a one-cop town, whom they know,
9 I didn't want to be in the situation
10 where a cop showed up and the owner of
11 the house with his sick wife have this
12 kid in the house who's not welcome, so I
13 left. And as I was leaving, I said,
14 "David, please, Mom really needs to go to
15 the hospital. Please make sure she gets
16 care. Please make sure you contact the
17 team in Charleston to let them know she's
18 there. I'm going to call and I'll let
19 them know that she's here, and I'll try
20 to see what I can do to facilitate this."

21 Q: Okay.

22 A: I mean, this is a real conversation I had
23 as I was walking out of the house to my
24 car.

25 Q: Thank you. And then, you were all at

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1 MUSC together; is that correct?
2 A: No, then I went back to Florida to go
3 back to work.
4 Q: Okay. Was this around November 11th or
5 12th?
6 A: Well, that was Saturday, November 10th.
7 So, after David told me to leave the
8 house, I left the house.
9 Q: Okay, you left and went back to Florida.
10 A: Yeah.
11 Q: Okay. And then, you came back to
12 Charleston?
13 A: Yes.
14 Q: Okay. Do you remember what day?
15 A: I don't know if it was Tuesday or
16 Wednesday. I don't remember. I'd have
17 to look at my calendar.
18 Q: Okay. And do you remember, Tuesday or
19 Wednesday, calling attorneys to file
20 guardianships?
21 A: I remember discussions about that and the
22 way it happened. Can I give you more ---
23 Q: Yeah.
24 A: Okay. I don't think we've had this
25 discussion. You and I had an initial

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1 talk. I don't know that we talked about
2 this or not ---

3 Q: Yeah.

4 A: --- but I did ---

5 Q: I would agree. I don't know that I've
6 asked you these questions before.

7 A: So what happened was, at the hospital,
8 David kept acting unilaterally and
9 speaking to doctors saying, "I'm the
10 husband. I make decisions here."

11 And my sister would be
12 scurrying afterwards with this estate
13 planning document from 2008. "My
14 mother's saying, no, I need to be
15 involved. I need to be involved, too."

16 And I would do my part
17 to try to explain to the doctors,
18 "Please, my mother's prior directives is
19 that, if she's ill, she wants both people
20 to be involved in her care. Please
21 respect that. Please keep my sister in
22 the loop," meaning that both of them
23 should agree. Both of them should cosign
24 any consent forms and so on and so forth,
25 and that was an ongoing challenge.

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1 At one point, the
2 medical team told me. They said, "Well,
3 I can't get involved in this thing about
4 --" Because when it came to the decision
5 of the radiation, for example, they said,
6 "Well ---"

7 I said, "Well, somebody
8 has to consent her for radiation." And I
9 said, "You need both of them to do that."

10 And they said, "Well, I
11 don't know. We can't get involved. You
12 need to talk to our hospital legal
13 department." So I called the hospital
14 legal department. She asked for a copy
15 of the documents. I gave those to her
16 and she said, "Yes, this needs to be
17 resolved. You need to go to court."

18 MR. BOYD: YOUR HONOR, I'M JUST
19 GOING TO OBJECT TO THAT
20 ON THE BASIS THAT IT'S
21 HEARSAY.

22 THE COURT: THAT IS HEARSAY, SIR.
23 YOU CAN'T REPEAT WHAT
24 SOMEONE ELSE HAS SAID.

25 MR. STRASSWIMMER: OKAY, MA'AM. CAN I

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1 REPHRASE THAT, THEN?

2 A: So, I spoke to multiple staff members at
3 the hospital. And based on my
4 conversations with the hospital, I spoke
5 with Attorney Lee Moore and we discussed
6 going to court.

7 Q: Okay.

8 A: Is that better? Thank you.

9 Q: Was there a family visitation plan
10 implemented at MUSC during this same time
11 period?

12 A: Yes. We cooperated and came up with a
13 mutually agreeable family visitation plan
14 with David, Michelle, and me, and the
15 nursing staff.

16 Q: Okay. Was that under the organization of
17 MUSC, like, a high level of
18 administration? Was there any input from
19 hospital administrators about your family
20 visitation plan?

21 A: Let's see. Well, it came about with the
22 charge nurse, who had suggested that, and
23 then, at one point, she had a more senior
24 nurse there involved who said, "Yes, you
25 guys are going to come up with a

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1 visitation plan. We don't care how you
2 do it, but we want you guys to have a
3 visitation plan." And Michelle, David
4 and I sat down, and we made a visitation
5 schedule in discussions with the nurse
6 manager and we wrote it up and we put it
7 on Mom's room, and we all signed up for
8 spots that we thought would give time for
9 us to be with Mom and also time for Mom
10 to potentially rest. And we did it with
11 the understanding that, if Mom wanted us
12 to leave, we would leave. Mom wanted us
13 to stay longer into her alone time, we
14 could stay longer and that we would try
15 to work together with that plan.

16 Q: Okay. And how long did that plan work,
17 if at all?

18 A: The plan worked on those days. I think
19 the discussions came about, I'd have to
20 remember. I think it was Wednesday when
21 it kind of came to a head, and then I
22 think it was Thursday the plan was in
23 place and working. Friday, the plan was
24 in place and working. Saturday, the plan
25 was in place and working. Sunday, the

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1 plan was in place and working. And what
2 changed was that, on the Sunday, Mom
3 initiated the privacy policy.

4 Q: Okay. That confuses me, because the
5 dates as I understand are that Claudia,
6 Dr. Miles and David King returned to
7 Myrtle Beach, you know, Thursday,
8 November 8th, Friday, November 9th,
9 whenever they landed.

10 A: Okay, yes.

11 Q: Okay. So Friday, the 9th, and then is it
12 correct that you showed up at your
13 mother's house, you visited your mother's
14 house, I'm sorry, Saturday, November
15 10th, and then you left?

16 A: Yes.

17 Q: You went back to Florida. You came back
18 there Sunday the 11th, Monday the 12th.
19 So we're really right up against the
20 November 15 order.

21 A: That's correct.

22 Q: Okay. So, the visitation plan, was that
23 before the order was ---

24 A: Yes.

25 Q: Okay. So, did that visitation plan, now

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1 that we've just gone over the dates,
2 maybe refresh your memory, was it more a
3 day or two of the visitation plan?
4 A: Well, again the visitation plan was in
5 place, I believe, on the day the order
6 was -- So, the order was granted in the
7 evening of the 15th. The visitation plan
8 was in effect that day, for sure. I
9 believe it kind of started the evening
10 before. It was in effect and working on
11 Friday, the day that David was served in
12 the morning. It was functioning on that
13 day. It was functioning on Saturday, the
14 day that David's sister and brother-in-
15 law came to visit, and it was functioning
16 on Sunday and we had not made a plan yet
17 further than that. And it was ---
18 Q: Okay.
19 A: --- it was interrupted when Mom on Sunday
20 morning contacted the nursing staff.
21 Q: Okay. So, the family visitation plan at
22 MUSC went into effect after the November
23 15th court order?
24 A: It went into effect before the November
25 15th court order. As I just explained,

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1 the November 15th court order was
2 assigned, I believe, November 15th in the
3 evening. November 15th, daytime, it was
4 in effect and I believe it was also in
5 effect the day before.

6 Q: Okay. So you remember, to the best of
7 your knowledge, the family visitation
8 plan went into effect the Wednesday
9 before the Court order, Wednesday,
10 November 14th?

11 A: Yeah, I think it was Wednesday evening
12 when we put that into effect.

13 Q: Okay. So, it went into effect on the
14 14th and about 24 hours later, we have an
15 emergency order from the Court. Is that
16 correct?

17 A: That's correct.

18 Q: Okay. Do you remember at any time when
19 David's family was at MUSC or when they
20 weren't at MUSC, do you remember at any
21 time stating to David King that you had a
22 team of lawyers that you were going to
23 consult?

24 A: I never stated to David King that I had a
25 team of lawyers I was going to consult.

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1 Q: Okay. Did you make that statement to
2 anyone that you remember around this
3 timeline?

4 A: I don't think verbatim that, but if you'd
5 like to, we could go into more detail
6 about the conversation, because I think
7 that's -- I don't know if it's one of the
8 affidavits, or I don't know if Marcy's
9 going to testify or not, but we can go
10 through that at some point if you find it
11 helpful.

12 Q: I'm just asking, do you remember making a
13 statement that you would consult a team
14 of your lawyers? Did you make a
15 statement like that to David or anyone of
16 his family around November 15th?

17 A: I made a statement to one of David's
18 family members, "As you've heard, your
19 brother was served yesterday."

20 And she asked why, "Why
21 did you do that?"

22 And I said, "Because my
23 mother's in a clinical decision and
24 decisions had to be made. Michelle and
25 David were not working together."

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1 A: Yeah, that's it.

2 Q: You stated earlier today, and please
3 correct me if I'm wrong, but you stated
4 earlier that you have not tried to keep
5 David King from your mother; is that
6 correct?

7 A: So, my mother signed a privacy order and
8 MUSC respected that privacy order, and I
9 respected that privacy order. But if
10 you're talking about the here and now,
11 Mom is at Michelle's house and the answer
12 is, no. We welcome David visiting my
13 mother. In fact, David, Michelle, and I,
14 sat with Beth Stone three weeks ago and
15 in the room, we all discussed David's
16 visitations, that would he be comfortable
17 spending more time with Mom, particularly
18 the fact that Michelle might need to come
19 and go during the day, and he said he'd
20 be okay with that. However, if
21 Michelle's in the room, he'd be okay with
22 that and I said, "Wonderful." And I
23 said, "David, you should be spending 12
24 to 15 hours a day with Mom seven days a
25 week. She's your wife. She's very ill

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1 and she needs you there."

2 Q: Okay. So, I think we are referring to

3 page 110 in the medical record. Do you

4 still have a copy of those medical

5 records that are ---

6 A: This binder? Yes.

7 Q: Yes, sir.

8 A: Let me check it.

9 Q: Page 110, I believe, should be the

10 privacy list that your counsel referred

11 to earlier.

12 A: One ten, 110, okay, 110, 110, please

13 hold.

14 Q: And I don't have that printed right, so

15 is that correct?

16 A: It's good, yeah.

17 Q: Do you think? Okay.

18 MR. BOYD: DO YOU NEED A COPY OF

19 IT?

20 MS. LOCHOCKI: I'M GOOD.

21 Q: Just do you see the privacy list?

22 A: Yes.

23 Q: Okay. And David King's not listed there.

24 A: This is a privacy list from four months

25 ago and David King is not listed four

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1 months ago.

2 Q: Okay. And Mr. Boyd presented you some
3 exhibits. Do you still have those in
4 front of you? I have ---

5 A: Probably not.

6 Q: I have Exhibit 3 from Mr. Boyd, which is
7 the 11/14/2018 Robert Beckett M.D.,
8 psychiatry analysis.

9 A: Yeah, I think that's ---

10 Q: Right, and the highlighted ---

11 A: To the respondent, yes.

12 Q: --- portion there.

13 A: Yes, ma'am.

14 Q: That very last sentence about -- If you
15 don't mind just reading that last
16 sentence again, "Per nursing staff
17 report."

18 A: Okay. Okay, "Patient's husband and
19 daughter share, and son has financial
20 POA. Patient's husband is not the father
21 of the children. Per nursing staff
22 report, there is concern that the
23 patient's children are coercing patient
24 in some fashion, specifically into
25 stating that the patient has asked her

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1 husband to be barred from visiting, for
2 example."

3 Q: Okay. And what's the date of that
4 report?

5 A: 11/15.

6 Q: 11/14?

7 A: Well, it says filed 11/15, three PM

8 Q: I read at the very top, "Consults by
9 David, Robert Beckert, ending at 11/14 at
10 eight."

11 A: Oh, yeah. And then, down below, it says
12 11/15, filed at 11/15, three PM. That
13 might be when he finally signed off on
14 the note. Sometimes, it's a day or two
15 between when doctors write it and when
16 they actually officially finalize it.
17 Yes, 11/14, four PM.

18 Q: Okay.

19 A: Right.

20 Q: And have you asked your counsel since
21 November 15th that David King not be
22 allowed to visit with your mother alone?

23 A: David King not be allowed to visit with
24 my mother alone. I've asked counsel that
25 David should be allowed to visit with my

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1 mother but that there should be somebody
2 for my mother's safety, because she's a
3 fall risk, that she should have somebody
4 close by and that there should be
5 somebody to monitor so that, if Mom says
6 to David, "Leave," that David should
7 follow as your order that you and the
8 Court generated that David should leave
9 the room. It's the perennial thing, if a
10 tree falls in a forest.

11 So if Mom says leave
12 and David doesn't leave, and there's
13 nobody there to hear, there's no way to
14 make sure that Mom's wishes are being
15 fulfilled. So I did ask that David have
16 visitations but that it be done with a
17 professional person nearby.

18 Q: Okay. Have you and your mother ever
19 discussed her end-of-life care?

20 A: Not that I recall, not significantly.

21 Q: Okay.

22 A: Well, let me say, that's not true. She
23 did always talk about how, when she's an
24 older lady, she wanted -- She was going
25 to live with one of our cars and her car

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1 that she has, the Healey, that we've
2 mentioned before she was going to keep
3 that so that one of us kids would drive
4 her around in it.

5 Q: Okay.

6 A: That was the extent of her end-of-life
7 care discussions.

8 Q: Sure. We've looked at a medical record
9 where your mother expressed concern that,
10 if she agreed to some treatment, it might
11 open the door to more treatment. Do you
12 remember that?

13 A: Well, I'd like you to correct me if I'm
14 wrong or I'd like somebody to correct me
15 if I'm wrong, but I believe that was the
16 radiation note when the plan of the
17 radiation oncologist was to do the very
18 short course of treatments for Mom.
19 That's right.

20 Q: Okay, all right. Does that statement
21 that your mother was wary of opening the
22 door to more treatment, does that comport
23 with your understanding of what your
24 mother's wishes are for her medical
25 treatment?

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1 A: Yes, I think so.

2 Q: Okay. And would you clarify, in your
3 opinion and not as an expert but in your
4 opinion, because you studied her care
5 options extensively and you have an
6 extensive knowledge of her care options
7 just being a doctor yourself, but if you
8 could clarify for us the Stupp regimen
9 versus the three-week course?

10 A: Okay. Okay, so the Stupp regimen is the
11 name for the treatment protocol, which is
12 referenced in the survival statistics
13 that you cited. So in your report when
14 you had that nice meeting with Dr.
15 McGranahan and went on to say, "How bad
16 was this tumor? How long does she really
17 have to live based on her time of
18 diagnosis and her characteristics and
19 diagnosis?" That calculator that Dr.
20 McGranahan used, Case Western I believe,
21 is based upon a research study that talks
22 about all-comers. So they looked at all-
23 comers. This is a bad tumor. Let's look
24 at everybody who survives. And again,
25 I'm going to use a very amateur thing,

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1 not an expert. All-comers can expect a
2 one to two-year survival prognosis with
3 this tumor, but that includes young,
4 healthy people. That includes people who
5 have tiny tumors. That includes people
6 who had it completely resected, who are
7 physically fit. When you factor in Mom's
8 health things, as Dr. McGranahan did,
9 that gives her a poor prognosis.

10 So in other words, Dr.
11 McGranahan trusts that calculator as, I
12 guess, you trust Dr. McGranahan's use of
13 that calculator. That calculator is
14 based upon this studied publication and
15 that publication says in the introductory
16 paragraph the standard of care is the
17 Stupp regimen.

18 Q: Okay. Well, so Stupp regimen is the
19 combination of radiation and the chemo
20 pill, correct?

21 A: Administered simultaneously.

22 Q: Administered simultaneously, so it's a
23 regimen. It's a combination of these two
24 cancer treatments that most of us are
25 familiar with, chemotherapy and

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1 radiation.

2 A: May I elaborate a little bit, please?

3 Q: Sure.

4 A: So when most people think of
5 chemotherapy, you might think about a
6 relative who lost their hair, had sore
7 gums, got multiple infections and so
8 forth. Those are multidrug regimen
9 chemotherapy options, okay, that have
10 those horrible side effects, horrible
11 quality of life. We now have in cancer
12 treatment in general, certainly in my
13 field and as I've learned from this field
14 as well, neuro-oncology, sometimes
15 single-agent chemotherapy options, which
16 can be very gentle for the patient. So
17 the word chemotherapy has a big baggage
18 of connotations because of the historical
19 use of multiple pills at high doses for
20 people. The use of this thing is a
21 single pill. It is still called
22 chemotherapy, because you are giving a
23 chemistry drug to do that, but it's very
24 different from what people in the past
25 associate with chemotherapy.

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1 Q: Okay. Would you agree that the Stupp
2 regimen is a combination of radiation and
3 a low-dose chemotherapy?

4 A: Well, I'm not sure it's low-dose. It's a
5 single-agent chemotherapy. I don't know
6 and I don't mean to be jerky about this,
7 but there is, for example, there is a --
8 I use a low-dose chemotherapy agent for
9 some of my pills. At high-dose, it's
10 used to cure colon cancer. At low-dose,
11 we can use it to actually prevent skin
12 cancers. So, I don't know that the pill
13 use is low or high-dose, but they're
14 given simultaneously.

15 Q: In your opinion, okay, from the research
16 that you've done about your mother's
17 care, the chemo dosage associated with
18 Stupp regimen, would that have a dramatic
19 impact on a patient's quality of life?

20 A: I think it would not have a dramatic
21 impact on a patient's quality of life and
22 it's also a reversible impact on a
23 patient's quality of life. In other
24 words, once you start it, if you find
25 that you don't like the side effects, you

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1 can always stop it.

2 Q: Okay. And the three-week course, is that

3 strictly radiation treatment?

4 A: I'm not sure what you mean by a three-

5 week course, ma'am.

6 Q: Okay. Well, we've referred to Dr. Miles'

7 care options by labels, okay?

8 A: Okay.

9 Q: And I think it would be easier for us to

10 continue using those labels. So in my

11 mind and hopefully I can bring that to

12 light for everyone here, I think of the

13 Stupp regimen, which is the combination

14 of the chemo and the radiation, and then

15 the three-week course, which is a

16 radiation regimen only with no

17 chemotherapy.

18 A: Okay, but the Stupp regimen can and does

19 include three weeks. In other words, I

20 think ---

21 Q: Okay, fair enough.

22 A: Just to be clear, it might be Stupp

23 regimen, which is three weeks of chemo

24 plus a single pill versus potentially

25 three weeks of radiation alone versus

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1 potentially what Mom got, which is a very
2 short course of radiation.

3 Q: Okay. Your mother had -- She was
4 prescribed by Dr. Cooper at MUSC five
5 radiation treatments. Is that correct?

6 A: That's correct.

7 Q: Okay. And is it correct to refer to
8 those five radiation treatments as the
9 three-week course or would you disagree
10 with that label?

11 A: I disagree with that label.

12 Q: Okay, all right. I will call it the five
13 radiation treatments, okay? And did she
14 actually undergo the five radiation
15 treatments?

16 A: No, she underwent four radiation
17 treatments.

18 Q: Okay. Did she refuse the fifth
19 treatment?

20 A: She refused one of her scheduled five
21 treatments. When they were scheduling
22 it, this was a difficult time, because it
23 involves weekends and it involved
24 Thanksgiving. And Dr. Cooper, kept
25 explaining that it was hard for him to

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1 bring in techs, for example, on Sundays
2 and on holidays and the upcoming long
3 Thanksgiving weekend when the doctors and
4 tech people were all going to be out of
5 town, it was very difficult for him to
6 make sure that it could be staffed all
7 those times.

8 Q: Okay. Are you testifying that your
9 mother did not refuse the final radiation
10 treatment due to scheduling problems?

11 A: Let's see. My mother refused one of the
12 five treatments.

13 Q: Okay. Do you remember which of the five
14 treatments it was?

15 A: It was one of the early-on ones. I don't
16 remember which one.

17 Q: My investigation shows it was the last
18 treatment. It was the very last
19 treatment she refused.

20 A: I'm sorry. No, that's wrong. I mean,
21 from the day they started, Mom did not go
22 down for sequential therapy, boom, boom,
23 boom, boom, boom. She skipped one of
24 those ones. The final one she got, this
25 number four, was her final dose that she

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1 received and she had skipped earlier on
2 in that week one of those doses.

3 Q: Okay.

4 A: And then, we hit the hard wall of that
5 being Thanksgiving, long weekend and
6 people out of town and that kind of
7 stuff.

8 Q: You hit a wall with not being able to
9 take her to the radiation treatment
10 because of the Thanksgiving holiday?

11 A: As I previously mentioned, Dr. Cooper and
12 his team explained that it was very
13 difficult for them to get technicians and
14 doctors to be around for these kind of
15 treatments.

16 Q: Okay. And do you remember the day that
17 you and your sister flew back to
18 Washington with your mother?

19 A: Yeah, let's look at the report here.

20 Q: Was it Friday, November 23rd?

21 A: Yes.

22 Q: Was that the day after Thanksgiving?

23 A: Yes.

24 Q: Okay. We looked at medical records Bates
25 stamped page 68 and 69, where I think Dr.

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1 Lindhorst stated that there were plans
2 for the potential Stupp regimen.
3 A: I'm sorry.
4 Q: Sure, take your time.
5 A: Yes. Yes, I have that note. That's the
6 consult note by Dr. Lindhorst dated
7 11/13/2018, yes, where he says, "Plans
8 were made for the potential Stupp regimen
9 concurrent RT/temozolomide." Yeah, I
10 have that.
11 Q: Okay. Okay, so the Stupp regimen is
12 different than the five radiation
13 treatments, correct?
14 A: That's correct.
15 Q: Okay. So, did your mom ever agree to the
16 Stupp regimen or did she only agree to
17 the five radiation treatments?
18 A: Mom agreed to the Stupp regimen during
19 her initial inpatient and then her
20 initial consultation with the MUSC team
21 the first time she was at MUSC.
22 Q: Okay. Do you think that your mother
23 could have understood the difference
24 between the Stupp regimen and the five
25 radiation treatments at that time?

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1 A: You mean at the time when she got the
2 five treatments? I don't think she
3 could've understood the multi-step
4 reasoning to understand there was, again,
5 five treatments and the extended
6 treatment plan of the Stupp regimen.
7 Q: Okay. And again, Stupp regimen is a
8 combination of chemo and radiation?
9 A: Administered over usually three or six
10 weeks.
11 Q: Okay. And she only underwent the five
12 radiation treatments. She did not
13 undergo the Stupp regimen. Is that
14 correct?
15 A: Right. Mother to this date has not
16 received chemotherapy other than Avastin
17 and I wouldn't put Avastin in the same
18 category as chemotherapy.
19 Q: Okay. Is the Stupp regimen palliative
20 care?
21 A: That's a great question. That depends on
22 who you ask. So, Mom has a terminal
23 illness for which we can affect her
24 prognosis. So in other words, her cancer
25 cannot be put into remission. So the

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1 goal of treatment initially was to
2 prolong Mom's life and the standard of
3 care to prolong Mom's life was to
4 administer the Stupp regimen, okay?

5 Q: Uh-huh.

6 A: Palliative care is commonly known as a
7 way to give somebody some treatment to
8 potentially slow down a disease progress
9 or to improve symptoms of something like
10 that, so that's palliative care.

11 Q: Okay. Are you answering my question yes?
12 Should I repeat the question?

13 A: I think you can repeat the question. And
14 again, I don't want to be difficult with
15 this, but it's a nuanced question. If I
16 tell you, you have a cancer. For
17 example, let me give you an example. I
18 have patients who have cutaneous lymphoma
19 and I know Attorney Boyd didn't like when
20 I was talking as a doctor, but I will.
21 Cutaneous lymphoma is a disease, Mr. T
22 had it from The A-Team. Well, you're not
23 old enough to remember Mr. T.

24 Q: I love that show.

25 A: Okay. He had it. That is a lymphoma

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1 that will kill people if untreated. It's
2 very difficult. We don't ever actually
3 put it into remission, however we control
4 it. And people can live 20, 30 years
5 with it in control, but they'd never stop
6 treatment.

7 Q: Okay.

8 A: Okay? So, I don't know if somebody can
9 say palliative care or not palliative
10 care. So for my mother's case, when she
11 was under initial treatment. The initial
12 plan was for a treatment, not for what a
13 lot of people would use the term as
14 palliation, meaning we would like to be
15 able to give this person this standard of
16 care to really make an impact on the
17 disease, but now we're going to hold off
18 and give something less impact.

19 Q: Okay, all right. I'm going to continue
20 asking questions about your mother's
21 health status and ---

22 A: Okay. And I'll try to give you yes and
23 no answers. I'm sorry.

24 Q: I know. This is different material and I
25 understand this is sensitive, but is her

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1 condition terminal?

2 A: Yes.

3 Q: Okay. And we've been through the
4 prognosis. I don't know that we've
5 looked exactly at the page number in the
6 GAL report. I can pinpoint it where Dr.
7 McGranahan has given a prognosis based on
8 recent research.

9 A: Right, I'm familiar with that.

10 Q: Okay, all right.

11 A: So if you can find the page, I recall
12 that somewhat in my mind.

13 Q: Well, you stated earlier that you did not
14 consider those timelines to be a
15 reasonably short period of time. I
16 believe that your mother, according to
17 Dr. McGranahan's prognosis, she could
18 live 24 months from the day of surgery,
19 correct? There's a ten to 12 percent
20 chance that she could.

21 A: I think that's right. Yeah, I think
22 that's the timetable she laid out.
23 That's right.

24 Q: And those are estimates. That's ---

25 A: Yes.

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1 Q: In your mind, John, is the 24 month
2 period, is that a reasonably short period
3 of time or not?

4 A: Oh, if you have a bad cancer, in my mind,
5 that's a very long time. You can do a
6 lot of wonderful things in that very long
7 time.

8 Q: Okay. What would you consider to be a
9 reasonably short period of time if we
10 could tell, if we could know she only has
11 six months, she only has three months,
12 she has only one year? Would any of
13 those three options in your mind stand
14 out as a short period of time?

15 A: Probably the three-month one. I would
16 consider six months to be a long time.

17 Q: Okay, all right. And is this brain tumor
18 going to kill her?

19 A: Yes.

20 Q: And does she understand that it's going
21 to kill her?

22 A: Yes.

23 Q: Okay. And you say that she can't
24 understand the consequences of refusing
25 medications and that she can't understand

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1 the consequences of multistage
2 treatments, right?

3 A: Well, she has a hard time with multi-step
4 reasoning, so she doesn't have a full
5 understanding of the consequences of
6 things. That's right.

7 Q: Okay. Well, what are the consequences,
8 John, if she stops all the treatment?

9 A: The treatment that she's - You mean, for
10 example, right now?

11 Q: Right.

12 A: So, my understanding from Dr. McGranahan
13 is, at this point, the medication that
14 she's on, Avastin, is really for symptom
15 control. As Dr. McGranahan explained to
16 me when I met with her, there was a
17 clinical trial of the use of the Avastin
18 for glioblastoma. And it failed in what
19 they were looking for, which was to
20 prolong life in people with this tumor.
21 It failed in that regard, but in a sub-
22 analysis, it improved quality of life of
23 people. And so, that was Dr.
24 McGranahan's, one of her reasons for
25 offering this therapy and the second one

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1 being, as she caught on very early back
2 in November, this is a woman for whom the
3 steroids are ripping her apart and
4 causing a lot of hard work for her
5 caregivers, for people checking on her
6 like David. And that would be a second
7 use of that, but it is not to prolong her
8 life. My understanding, and I would need
9 to have another conversation with Dr.
10 McGranahan about this, is that Mom still
11 has at present another option, which is
12 potentially to start at some point a
13 single-agent chemotherapy pill, but my
14 understanding is that would also probably
15 be something more about prolonging her
16 quality of life, but I don't expect
17 either of these to change when the Grim
18 Reaper's coming for her.

19 Q: Okay. So, would you agree that the
20 treatments that she's actively partaking
21 in, okay, which are the Avastin, right?

22 A: Yes.

23 Q: She's decided not to use the Optune
24 headpiece treatment. Is that right?

25 A: That's right.

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1 Q: And she most recently opted herself not
2 to start the single-pill chemo dose,
3 correct?

4 A: Honestly, I don't know about that. I
5 don't know that the single-dose chemo
6 pill was offered, what it would've been
7 offered for or if Mom refused. I just
8 generally don't know that. I will tell
9 you Mom is currently under other
10 treatments. She's under active treatment
11 for her DVT blood clot, which involves
12 several painful shots a day. And she's
13 under active treatment of her diabetes,
14 which involves less painful shots every
15 day.

16 Q: Okay, all right. Well, would you agree,
17 John, that the question for her
18 caregivers now is how she is allowed to
19 die, under what circumstances is she
20 permitted to succumb to this tumor?

21 A: Oh, yes, that's one of the questions for
22 caregivers, for sure.

23 Q: Okay, all right. And you stated that you
24 agreed to appointing an independent
25 guardian, someone other than yourself,

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1 other than your sister, Michelle, and
2 someone other than David King.

3 A: That's right.

4 Q: Okay. And that independent guardian, you
5 would agree, could manage these
6 circumstances to help your mother through
7 the end of her life?

8 A: Yes. In my professional capacity, I've
9 worked with professional guardians, and I
10 find that their roles -- And you'll help
11 us clarify what their roles will be, but
12 their role is to be there to help make
13 these decisions. So they're available
14 when you call them. You ask them. You
15 explain the circumstances and they make
16 the decisions. They sign the consent
17 forms themselves.

18 Q: Okay. The Optune headband treatment, the
19 Optune device, ---

20 A: Yes.

21 Q: --- that required her to shave her head.
22 Is that correct?

23 A: Yes.

24 Q: And did your mother express that she was
25 unhappy about shaving her head?

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1 A: Well, she enthusiastically shaved her
2 head and was looking forward to trying
3 this device, and then shortly thereafter
4 decided she didn't want the device
5 anymore and that she wanted her hair to
6 grow out. In fact, in the medical
7 record, Dr. McGranahan, prior to the
8 placement of the Optune device, my mother
9 and Dr. McGranahan had discussed that Mom
10 was concerned about her hair loss, which
11 Dr. McGranahan, I believe, suggest it
12 could've been a side effect from the
13 radiation. And Dr. McGranahan in a very
14 touching way said, "Well, if you're
15 willing to shave your head for the
16 Optune, that'll address your hair-loss
17 problem."

18 And Mom said, "Okay."

19 And Mom agreed to proceed with the hair
20 shave to prepare to use the Optune
21 device.

22 Q: Okay. And the shots that she's receiving
23 in her stomach, I'm assuming she pinches
24 some skin and it's a short-needle
25 injection?

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1 A: Yeah. She now tells them where.

2 Q: Okay. And what is that for?

3 A: So there's two different shots. One are
4 the insulin shots, which are insulin. A
5 lot of people take those. And the other
6 ones is heparin, because Mom was always
7 at high risk for developing a deep vein
8 thrombosis blood clot, which can be an
9 acute cause of death. She subsequently
10 developed that blood clot and she needs
11 basically treatment doses using the
12 short-acting heparin. Mom's palliative
13 care physician had recommended that she
14 start on Warfarin, coumadin, which is a
15 pill that you take, but Dr. McGranahan
16 stepped in and changed, stated that she
17 should be on the shots. And I don't know
18 if you want me to go into medical
19 explanation or not, but I don't have to.
20 But yeah, that's why she's getting the
21 shots, for the blood clots.

22 Q: Okay. And did you encourage your mother
23 to fly to Seattle for treatment back
24 around November 1st, so the first trip to
25 Washington from Charleston?

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1 A: I encouraged my mother to have discussion
2 with David, Michelle, and me to tell us
3 what she wants. And I explained to her
4 the options were to stay in South
5 Carolina, potentially go to a third place
6 like Duke, because Duke has a very famous
7 brain cancer center, or go to Washington.

8 Q: Okay. And you've testified today that
9 she wanted to go to Washington and she
10 flew on an airplane. Is that correct?

11 A: Yes.

12 Q: Did you fly on the airplane with her
13 around November 1st?

14 A: I flew up especially for the day from
15 Florida, rented a big car, and I picked
16 Mom, David, Michelle and the cat up from
17 the house and drove them all the airport
18 with her luggage. I escorted them
19 through security and waited with them at
20 the gate. At the gate -- You guys all
21 known the Charleston airport, I guess,
22 pretty well. So they have these little
23 seats that are like this two
24 configuration with a mini table and Mom
25 was sitting at one, and there was an

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1 empty seat. And Mom asked that I sit
2 next to her during that time before she
3 left.

4 Q: Okay. And you also encouraged her to fly
5 on an airplane from Charleston to Seattle
6 on November 23rd, the day after
7 Thanksgiving. Is that correct?

8 A: I asked my mother, does she want to go to
9 Washington or does she want to stay in
10 South Carolina, or would you like to go
11 somewhere else? And she said Washington
12 and I said, "That means going on an
13 airplane. I'll arrange the tickets."

14 Q: Okay. Well, if you could have decided
15 without asking your mother on November
16 23rd, would you have kept her in
17 Charleston or would you have taken her to
18 Seattle?

19 A: I'm not sure what you mean by if I had
20 decided. I asked my mother what she
21 wanted.

22 Q: Well, I'll ask you again. Did you
23 encourage your mother to fly to Seattle
24 on November 23rd?

25 A: It was my mother's wish and I said, "Yes,

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1 I'll make that possible for you."
2 Q: Okay, but you've also stated a few times
3 today that she's not really capable of
4 understanding ---
5 A: That's right.
6 Q: --- multitask ---
7 A: That's ---
8 Q: --- options.
9 A: That's correct. That is true, yes. That
10 is true.
11 Q: Well, did you fly with her on that
12 airplane on the 23rd?
13 A: Yes.
14 Q: Okay. And you are now taking the opinion
15 that she should not fly on an airplane.
16 Is that correct?
17 A: That's correct.
18 Q: Okay. And you and your counsel produced
19 a letter earlier today from Dr. Bryan
20 Morris-Ward discouraging your mother's
21 air travel. Is that correct?
22 A: That's correct.
23 Q: Okay. And I heard you refer to Dr.
24 Morris-Ward as your mother's palliative
25 care physician. Is that ---

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1 A: Yes.

2 Q: --- a label you were using? Could you
3 explain that? I've only heard him
4 referred to as her primary care physician
5 and that's the first time I've heard
6 someone call him her palliative care
7 physician.

8 A: Okay. Well, if you have Google, you can
9 pull up his practice website where he's
10 listed as a palliative care physician,
11 that his practice is limited to
12 geriatrics, hospice and palliative care.

13 Q: Okay.

14 A: And that is now a recognized subspecialty
15 medicine. For example, at Harvard,
16 there's a division of palliative care,
17 which means that, say for example, at a
18 cancer center when the cancer doctors are
19 done with their stuff, the patient then
20 reverts back to the palliative care team.
21 So the palliative care team is the
22 overall care manager from time early on.
23 The oncology team is in the middle. And
24 when the oncology team has done their
25 job, then the palliative care team

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1 reverts and finishes up.

2 Q: Okay. And John, do you suggest that we
3 should refer to Dr. Morris-Ward, the
4 palliative care physician, for a
5 determination on whether or not your
6 mother should fly on an airplane over the
7 recommendations of Dr. McGranahan, the
8 neuro-oncologist?

9 A: Well, I don't want to talk as a
10 physician, because I need to talk as a
11 layperson here, so I'll talk as a
12 layperson. Dr. Morris-Ward, his job is
13 to understand every part of my mother's
14 needs as part of a palliative care
15 physician. And those needs, as are in,
16 for example, the guardianship book that I
17 got, include not just the physical needs
18 of the body but the total needs,
19 including the care team. But also, as a
20 trained internist, his job is to be aware
21 of lungs and diagnosing and treating
22 pneumonia, diagnosing and treating blood
23 clots, diagnosing and treating
24 infections, et cetera, et cetera, et
25 cetera. So he is Mom's complete

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1 caregiver.

2 Q: Okay. So, you value his opinion about
3 your mother flying on an airplane over
4 the opinion of Dr. McGranahan, the neuro-
5 oncologist?

6 A: It's hard to value different opinions.
7 Dr. McGranahan is a very specialized
8 doctor. She's a board-certified
9 neurologist, not an internist, with
10 subspecialty training in neuro-oncology.
11 Dr. Bryan Morris-Ward is an internist who
12 now practices the subspecialty of
13 geriatrics, palliative care and hospice.
14 And I suspect, if what you're concerned
15 about here is, is there a conflict of who
16 should we took, this is the way medicine
17 happens. You get those two doctors on
18 the phone to talk about it. I can't
19 imagine that those two getting on the
20 phone couldn't come up with a consensus
21 for the guardian when he or she is
22 appointed.

23 Q: I agree with you and I'm glad you made
24 that statement. My interpretation of
25 your answer is that it would be best to

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1 consult as many of your mother's doctors
2 as we can to determine the risks involved
3 with her flying on an airplane. Would
4 you agree with that?

5 A: Yes. And the risks of flying on an
6 airplane, I don't know if we're going to
7 discuss that, is one part of my mother's
8 care and one part of the risk to my
9 mother's life in the short-term.

10 Q: Okay. And why was your mother admitted
11 to Franke Tobey Jones? It was because
12 she had the steroid-induced psychosis
13 condition?

14 A: Yes, and she was not cooperating with
15 care, including the ability of physicians
16 to examine her.

17 Q: And she was admitted into the skilled
18 nursing facility at Franke Tobey Jones?

19 A: When somebody goes to a facility like
20 Franke Tobey Jones, which has the whole
21 spectrum of services, ranging from
22 independent cottages where couples can
23 live together and have their own car,
24 come and go at will, maybe dine or see
25 the doctors onsite if they want, all the

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1 way up to memory care, meaning
2 Alzheimer's care and all the way up to
3 hospice care. When you make a request to
4 a facility for somebody to go there, it's
5 up to the admitting facility to, A)
6 determine whether they can accept that
7 person or want to accept that person, and
8 then, B) to determine what level of
9 services that person will require.

10 Q: Does Franke Tobey Jones have an assisted
11 living facility, which is less invasive
12 than the skilled nursing facility?

13 A: As I described, Franke Tobey Jones is
14 what they're now branding as an adult
15 continuous care facility. And so, the
16 idea is you can go in, husband and wife,
17 with your car in your little cottage.
18 And as your needs progress, you can stay
19 on the same campus and your needs can
20 progress, and you can eventually die
21 there if that's how you would like
22 things.

23 Q: If the care options available at Franke
24 Tobey Jones were to be arranged on a
25 spectrum, ---

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1 A: Yes.

2 Q: --- is it fair to say that the cottages
3 would be on one end of the spectrum as
4 independent living with options ---

5 A: Yes.

6 Q: --- and that the skilled nursing facility
7 would be towards the opposite end of that
8 spectrum with a lot of invasive care,
9 almost like a hospital room?

10 A: Well, you've left out the other two
11 things, which is dementia care and then
12 death, the death ward, right?

13 Q: Okay, I ---

14 A: So I ---

15 Q: I don't mean to represent that ---

16 A: That's ---

17 Q: --- skilled nursing facility is the
18 absolute end of the spectrum, ---

19 A: Right.

20 Q: --- but it would be ---

21 A: In the middle.

22 Q: In the middle.

23 A: Yes.

24 Q: Okay. And where would the assisted
25 living ward fall on the spectrum?

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1 A: I'm not sure what you mean by assisted
2 living ward, because what you do is you'd
3 have a conversation with them about what
4 your needs are for yourself or your
5 client, what the daily things are, and
6 they would tell you where physically that
7 person would live. So for example, as I
8 described, they have these independent
9 living cottages, which have a year wait
10 list and you got to put down a deposit
11 of, I think, a hundred grand, but those
12 are available onsite for people for whom
13 they want to live there and the facility
14 thinks that it's appropriate for them.

15 Q: Okay. Is there a care option in between
16 the cottages and the skilled nursing
17 facility on that spectrum?

18 A: Probably, yeah.

19 Q: All right. And did your mother's
20 insurance cover any of the costs at
21 Franke Tobey Jones?

22 A: I don't think so, no.

23 Q: Okay. And so, those were out-of-pocket
24 expenses ---

25 A: Yes.

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1 Q: --- for your mother? And is that because
2 the skilled nursing facility at Franke
3 Tobey Jones was not required by the
4 neuro-oncology team?

5 A: No, that has nothing to do with it. So,
6 some of us are a long way away from
7 getting Medicare, some people a little
8 bit closer to Medicare, but if you wait
9 until you find a facility, whether it's a
10 retirement home, assisted living, nursing
11 home, memory care ward, which will accept
12 you based on your Medicare insurance
13 availability only, those facilities are
14 not necessarily the nicest places where
15 you might want to be, where you might
16 want to put your client or where you
17 might want to put your loved one. Franke
18 Tobey Jones is really a premier community
19 that specifically does not take Medicare
20 assignment.

21 So, in other words, the
22 decision was not if we could, you know,
23 -- Say we could have gotten Mom on
24 Medicare and got a Medicare facility to
25 put Mom in, okay, great, good news.

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1 Mom's got Medicare and there's Joe's
2 Retirement Home that'll take Mom and will
3 take Medicare, and Mom's money will be
4 untouched. My mother worked very, very
5 hard her entire life. My mother was
6 really never unemployed. My mother saved
7 very hard her entire life. My mother was
8 very frugal. She drove an old Honda.
9 She ate out at the nice restaurants that
10 y'all have here. She and David took some
11 nice travel trips and were increasing
12 their expenditures for these travel trips
13 over the past years. My mother had a lot
14 of money and it is my opinion that my
15 mother in her dying months should be able
16 to be at a nicer facility based on the
17 fact that she has those money.

18 Q: Okay. And it is your opinion that she
19 needed to be in a skilled nursing
20 facility?

21 A: It is my opinion that Franke Tobey Jones
22 made the decision about where my mother
23 needed to be.

24 Q: Okay. Did the neuro-oncology team ever
25 recommend that your mother be in a

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1 skilled nursing facility?

2 A: The inpatient neuro -- So, the inpatient
3 -- So, my mother was cared for by an
4 inpatient neurology team, okay? And I
5 don't mean to be nitpicky here, but again
6 when you get admitted to a hospital and
7 that person is there for an acute
8 problem, like steroid-induced psychosis,
9 the treating team is the neurology team
10 that's dealing with somebody with
11 steroid-induced psychosis. They're not
12 there to address Mom's cancer needs, per
13 se. And so, their job was to get her
14 stabilized and get her so she could get
15 out of the hospital, basically.

16 So the neuro-oncology
17 role during that time, Mom was not
18 cooperative with examination during that
19 time, so I don't know that the neuro-
20 oncologist ever had a role in saying in
21 Mom's disposition as to where she would
22 go to. She might've consulted, might've
23 got an opinion. I just don't know that
24 in the record. You'd have to share that
25 with me.

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1 Q: Yes. Could you please turn to page 208

2 --

3 A: Okay, thank you.

4 Q: --- in the medical record?

5 A: Yes.

6 MR.BOYD: YOUR HONOR, I
7 APOLOGIZE. I DON'T
8 KNOW HOW MUCH LONGER
9 THE GUARDIAN IS GOING
10 TO GO ON. I HAVE
11 PLENTY OF TIME, BUT I
12 NEED TO RESPOND TO A
13 FAMILY TEXT FOR ABOUT
14 TWO MINUTES. CAN WE
15 HAVE A TWO MINUTE
16 BREAK?

17 MS. LOCHOCKI: I DON'T HAVE THAT MUCH
18 LONGER.

19 *****OFF THE RECORD*****

20 (ON THE RECORD.)

21 CONTINUATION BY MS. LOCHOCKI:

22 Q: John, would you look at page 208 in the
23 medical record and just please read item
24 five aloud?

25 A: Okay. Item five, "Clarification

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1 regarding SNF level of care. I explained
2 that I did not recommend SNF level of
3 care and my review of the inpatient stay
4 there was not a medical indication for
5 SNF care."

6 Q: Okay. And is that a medical record
7 entered by Dr. McGranahan?

8 A: This is a medical record from March where
9 apparently she had a lunchtime
10 conversation with you and addressed that
11 question.

12 Q: Yes. Okay. And in your opinion, John,
13 did you prefer that your mother was in a
14 skilled nursing facility if there were
15 other options for her care at Franke
16 Tobey Jones?

17 A: No, I wanted to my mother to go to
18 Michelle's house.

19 Q: Okay. Why didn't she go?

20 A: She didn't go because my mother was
21 whacked out of her gourd. So, as we, as
22 -- During the time that she was
23 inpatient, and I'd like to clarify, Dr.
24 McGranahan was not the treating physician
25 during my mom's inpatient stay. She was

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1 available and she very kindly on the day
2 of Mom's discharge, agreed to come back.
3 We reached out to her to ask her to
4 reconnect with Mom, because we were
5 trying to get Mom treated for cancer. So
6 she came, met with Mom, clarified that
7 she couldn't examine Mom because Mom
8 wouldn't allow her to be examined. But
9 at least we set the work, leave the door
10 open for potentially bringing Mom back.
11 That was Dr. McGranahan's role.

12 Q: Did your mother see Dr. McGranahan while
13 she was a patient at Franke Tobey Jones?
14 Did she leave Franke Tobey Jones to go
15 see Dr. McGranahan on more than one
16 occasion?

17 A: Oh, yes, yes.

18 Q: Okay.

19 A: We were very successful. But after this
20 date when Dr. McGranahan saw Mom that one
21 time, while Mom was inpatient at UW, we
22 succeeded in getting Mom and Dr.
23 McGranahan reconnected under her care.

24 Q: Okay. Who was your mother's primary
25 neuro-oncologist while she was at Franke

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1 Tobey Jones?

2 A: Primary neuro-oncologist while she's at

3 -- Oh, it's the same neuro-oncologist,

4 Dr. McGranahan.

5 Q: Dr. McGranahan.

6 A: Yes.

7 Q: Okay. And you wanted your mother to

8 leave Franke Tobey Jones but she needed

9 to be there, is that what you're saying?

10 A: Yes.

11 Q: Okay. And she was there for how long?

12 A: Two months.

13 Q: Okay. And even though there were less

14 invasive, less restrictive parts of

15 Franke Tobey Jones facility, your mother

16 remained in the skilled nursing facility;

17 is that correct?

18 A: Well, you've used the term less invasive,

19 less restrictive. My mother was under

20 restrictions. My mother's a fall risk,

21 my mother's a wander risk, like somebody

22 with memory issues. So, forgetting the

23 fact that Mom needed somebody to monitor

24 her medical needs, and make sure she took

25 her medicine, and ate and drank

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1 correctly, I don't know that Franke Tobey
2 Jones would have allowed her just to be
3 in some random room somewhere. I can't
4 speak for that. It was Franke Tobey
5 Jones's determination.

6 Q: Okay. Did you prefer for her to be in
7 the skilled nursing facility so that you
8 could control who had access to her?

9 A: Oh, God, no.

10 Q: Okay. So you're saying you didn't prefer
11 her to be in skilled nursing facility
12 because you could control how David King
13 could visit with her?

14 A: No.

15 Q: Okay. And did she express that she was
16 unhappy at Franke Tobey Jones in the
17 skilled nursing facility?

18 A: Yes.

19 Q: Okay. And she said that to nurses on
20 almost a daily basis. Would you agree
21 with that?

22 A: And to her son almost on a daily basis.

23 Q: Okay. And did that concern you?

24 A: Yes.

25 Q: Okay. And did you explore other options

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1 at Franke Tobey Jones where maybe she
2 would have been more comfortable?

3 A: I did not believe that my mother's
4 frustration with being at Franke Tobey
5 Jones was a function of the specific room
6 or the specific room setting it was in.
7 I think she resented being in a facility.

8 Q: Okay.

9 A: Whether that facility had been one of
10 these cute cottages and she was still
11 under the restriction that she couldn't
12 come and go at please, that would have, I
13 believe, kept her unhappy as well.

14 Q: Are you aware that your mother had any
15 sort of anxiety related to nursing homes
16 or being in a hospital?

17 A: Well, I don't know about the word
18 anxiety, but I think she, like most of
19 us, doesn't like the idea of being locked
20 up in a nursing home or in a hospital.

21 Q: Okay. All right. Let's go back in time
22 to November 10th, ---

23 A: Okay.

24 Q: --- which is the day that you went to
25 visit your mother at her home in Myrtle

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1 Beach.

2 A: Okay.

3 Q: And you knocked on the door and a woman

4 answered the door.

5 A: Yes.

6 Q: And you went inside and visited your

7 mother in her bedroom. Is that right?

8 A: Yes.

9 Q: And did you say that she had the covers

10 over her head and she yelled at you to

11 get out?

12 A: Yes.

13 Q: Okay. And you took that to be delirium;

14 is that right?

15 A: I took that to be a possible indicator of

16 delirium. My mother was in a very sick

17 state, freshly operated brain tumor,

18 diabetes out of control, and three ER

19 visits within a week, so I was very

20 concerned about that. My job was to do a

21 health and wellness check on my mother.

22 Q: Okay. And I think you stated earlier,

23 did your mother tell you that she was

24 going to marry David King?

25 A: No.

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1 Q: Okay. And did she tell you after she
2 married David King or how did you find
3 out?
4 A: I found out about it from my sister.
5 Q: About when?
6 A: Really close to the time of diagnosis.
7 Q: Okay. And did your mother tell you that
8 she wanted to leave Washington State
9 around November 8th and return to South
10 Carolina?
11 A: No.
12 Q: Okay.
13 MS. LOCHOCKI: I DON'T HAVE ANY MORE
14 QUESTIONS, YOUR HONOR.
15 THE COURT: MS. HARRISON, WOULD YOU
16 LIKE TO REDIRECT?
17 MS. HARRISON: YES, IS THAT
18 APPROPRIATE OR SHOULD
19 MR. RHODES HAVE BEEN
20 OFFERED, OR YOU WENT
21 FIRST DIDN'T YOU?
22 MR. RHODES: YOU WENT FIRST.
23 MS. HARRISON: OKAY, SORRY. IT'S BEEN
24 A LONG DAY.
25 THE COURT: I'M NOW GOING TO ASK

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1 YOU TO REDIRECT FIRST.

2 MS. HARRISON: I DO HAVE SOME
3 REDIRECTS SO THANK YOU,
4 YOUR HONOR.

5 **RE-DIRECT EXAMINATION**

6 **BY MS. HARRISON:**

7 Q: Okay, so we've been through a lot of
8 stuff and there's a couple things that I
9 want to clarify for the record. There's
10 been some question over whether or not
11 your mom wanted to go to Washington,
12 didn't want to go to Washington. But
13 what factors indicate to you that there
14 was a family agreement, and that
15 everybody was on board that you guys were
16 going to go to Washington?

17 A: Those factors include that we had two
18 days of discussion, some of which had
19 Cliff Tall present where we could talk
20 about a lot of issues around Mom and her
21 healthcare. Factors also include me,
22 Michelle, David, and Mom sitting together
23 in the living room and having this
24 discussion. Having the opportunity to
25 ask mom these questions and listen to her

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1 answers. The factors include the
2 decision by all of us to move forward to
3 implement this plan.

4 A: Whether that's buying the airplane
5 tickets, starting the process of putting
6 a deposit down on a lease as David did,
7 having the mail forwarded as David did.
8 Getting the cat ready for transportation,
9 buying a suitcase. These kind of nitty-
10 gritty, packing, preparing the house,
11 talking to neighbors, talking to the one
12 town cop I alluded to before, to let him
13 know that they were going to be out of
14 the house for a while.

15 Q: And all of those things were done?

16 A: Yes.

17 Q: Were all of those things done by you?

18 A: Oh no, this was a team effort.

19 Q: Okay. I also want to clarify the
20 treatment options that were available to
21 your mom after her surgery.

22 A: Okay.

23 Q: At that time, was the five radiation
24 treatment an option right after the
25 surgery?

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1 A: It was not offered as an option.

2 Q: What were the options that were offered
3 right after the surgery?

4 A: The options that were offered were the
5 Stupp regimen protocol, that's what was
6 offered to Mom. And as part of that is
7 the option not to participate, to not do
8 that.

9 Q: And did your mother decide to participate
10 in the Stupp regimen?

11 A: Yes.

12 Q: If you'll go to the medical records at
13 page 52.

14 A: Okay.

15 Q: You may need to go back a page to figure
16 out which doctor visit, but if you could
17 just tell the Court when this encounter
18 was and with whom?

19 A: I have the timelines that help get me
20 centered here a little bit. So this is a
21 note from Dr. Samuel Cooper, who's the
22 radiation oncologist, and it's dated
23 10/24/2018.

24 Q: Okay. And this was after your mother's
25 surgery?

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1 A: Yes, this is after my mother's surgery.

2 Q: How long after?

3 A: One day after her discharge, and it would
4 be about one week, one week after her
5 surgery.

6 Q: And under the recommendations portion, I
7 believe we've already read that into the
8 record, but continuing onto the next page
9 at page 53, going up four lines where it
10 states, "She was given the opportunity,"
11 will you just read that?

12 MR. BOYD: YOUR HONOR, IF I MAY, I
13 APOLOGIZE FOR
14 INTERRUPTING. I NEED
15 TO NOTE AN OBJECTION
16 FOR THE RECORD. I'M
17 NOT EXACTLY SURE WHERE
18 COUNSEL'S GOING, BUT
19 THE OBVIOUS INTENT OR
20 PURPOSE OF REDIRECT IS
21 TO CLARIFY ANY
22 QUESTIONS THAT HAVE
23 BEEN OFFERED IN CROSS
24 AND I DON'T RECALL HIM
25 BEING CROSSED ON THIS

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1 DOCUMENT BY ANYBODY
2 ELSE. IT LOOKS LIKE
3 SHE'S CHARTING NEW
4 TERRITORY HERE. IF
5 SHE'S GOING TO REAFFIRM
6 OR TO EXPAND HER
7 DIRECT, IT'S NOT AN
8 APPROPRIATE LINE OF
9 QUESTIONING.
10 MS. HARRISON: YOUR HONOR, THERE WAS
11 BROUGHT UP THE QUESTION
12 BY THE GUARDIAN AD
13 LITEM AS TO THE
14 DIFFERENCE BETWEEN THE
15 STUPP REGIMEN, THE
16 THREE WEEK TREATMENT,
17 THE FIVE TREATMENT. I
18 AM TRYING TO CLARIFY
19 THAT FOR THE RECORD, AS
20 TO WHEN TREATMENTS WERE
21 OFFERED, WHAT THEY
22 CONSISTED OF, AND
23 WHETHER OR NOT DR.
24 MILES CONSENTED TO
25 THOSE.

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1 THE COURT: PLEASE PROCEED, MS.
2 HARRISON.
3 MS. HARRISON: THANK YOU, YOUR HONOR.
4 Q: So if you would read for the Court four
5 lines up from the bottom, "She was given
6 the ---"
7 A: Okay. "She was given the opportunity to
8 ask questions. All of her questions were
9 answered to her satisfaction. Dr. Miles
10 agreed to undergo the radiation. She
11 would like to be treated here and stay at
12 the Hope Lodge. Informed consent was
13 signed. She will return tomorrow for CT
14 SIM, with a plan to start in about two
15 weeks (only one week from surgery now.)"
16 Q: And so does that document indicate that
17 on October 24th, one week after surgery,
18 your mother consented to the Stupp
19 regimen?
20 A: Yes.
21 Q: Now, it's been your testimony that after
22 that, there was discussion that she would
23 travel to Washington. Is that correct?
24 A: Yes.
25 Q: In that discussion, what was the

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1 treatment option that she was going to
2 pursue at the University of Washington?

3 A: The Stupp regimen.

4 Q: Okay. And at page 145 of the medical
5 records, if you can state the date of the
6 visit and the provider for the record.

7 A: The date of service is marked as
8 11/6/2018. The provider is Dr. Yolanda
9 Diana Tseng as the head physician, and
10 she's the radiation oncologist. This is
11 an outpatient consultation note.

12 Q: And so this was when your mother traveled
13 to Washington with David right after
14 being discharged from MUSC the first
15 time, correct?

16 A: Yes.

17 Q: Will you go to the bottom of that page
18 with the paragraph that starts, "After
19 consultation," and will you read that
20 into the record?

21 A: "After consultations with MUSC, Rad Onc
22 and Med Onc, she was recommended to
23 receive hypofractionated radiotherapy
24 with concurrent temozolomide. She has a
25 daughter who lives in Tacoma, Washington

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1 area, and a son who is a Mohs surgeon.
2 After family conference, Dr. Miles
3 decided to be moved to Washington to be
4 nearer to her daughter and is
5 transferring care here to UDub MC."

6 Q: Continue, please.

7 A: "Today she's accompanied by her husband.
8 She and her husband confirmed the above
9 history. They report stable symptoms
10 since surgery, with persistent word
11 finding difficulty and patient reporting
12 occasional difficulty understanding
13 others."

14 Q: And so that treatment that they were
15 there seeking, the radiotherapy with
16 concurrent temozolomide. I apologize,
17 that's not a word that is part of my
18 vocabulary, but that treatment, what is
19 that treatment?

20 A: The Stupp regimen.

21 Q: Okay, thank you. The five treatment
22 radiation that she was offered at MUSC
23 after she had been transported back to
24 South Carolina, is that the same thing as
25 the Stupp regimen?

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1 A: No, it's not.

2 Q: Is that palliative care?

3 A: Yes, it is.

4 Q: And the Stupp regimen you went through

5 earlier, is care that would've prolonged

6 her life?

7 A: Care that has been demonstrated to

8 prolong life in people who receive it and

9 is the standard of care.

10 Q: And it was MUSC that stated that the

11 Stupp regimen was no longer an

12 appropriate treatment for your mother.

13 Is that correct?

14 A: That's correct.

15 Q: If you'll go to page 103 of the records

16 and again, state the date and the

17 physician.

18 A: Okay. This is a consult by Dr. Samuel

19 Cooper, November 15th at 11:48 in the

20 morning. Dr. Cooper is a radiation

21 oncologist at MUSC.

22 Q: I apologize. And so this is your

23 mother's second visit to MUSC after

24 returning from Tacoma, correct?

25 A: Yes.

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1 Q: Under recommendations, if you will read
2 the first two lines for me.

3 A: Recommendations, "Dr. Miles has improved
4 cognition since Monday. She's still not
5 able to understand complex treatment
6 decisions. Neuro-onc is no longer
7 willing to give concurrent chemo with RT
8 due to PS. I recommend five fractions of
9 RT alone, 25 grades over five fractions.
10 This was given in a randomized study and
11 was non-inferior to 40 grades over 15
12 fractions." I'm sorry. "This would
13 allow treatment to be completed prior to
14 Thanksgiving if initiated later this
15 week. I'm not sure that doing three
16 weeks logistically is possible, or is the
17 right thing to do. If she did well with
18 RT and was MGMT methylated, then she
19 could do Temodar after RT as a
20 consolidation. This could be assessed at
21 the one month follow-up.

22 Q: Can you tell me in a layperson's what
23 that means?

24 A: That means that my mother was doing
25 better on that day, but she was still not

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1 able to make decisions on her own.
2 That's the first sentence right there.
3 It also says that the other half of the
4 team, the neuro-oncology there, is no
5 longer willing to give the Stupp regimen
6 and that he has recommended five
7 fractions of treatment.

8 Q: Okay. And so it was only after your
9 mother had flown out to Washington. Was
10 she eligible for the Stupp regimen in
11 Washington?

12 A: Yes.

13 Q: And then your mother was flown back to
14 MUSC. And after she was flown back to
15 MUSC, was your mother eligible for the
16 Stupp regimen any longer?

17 A: According to the medical record, no.

18 MR. BOYD: YOUR HONOR, I'M JUST
19 GOING TO RAISE AN
20 OBJECTION. THE RECORD
21 SPEAKS FOR ITSELF.
22 THIS DOCUMENT SPEAKS
23 FOR ITSELF, AND HE'S
24 INTERPRETING THIS
25 DOCUMENT. HE'S GIVING

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1 AN OPINION, BUT HE'S
2 NOT AN EXPERT. HE'S
3 JUST A PARTY, HE'S A
4 SON AND SO TO THE
5 EXTENT THAT HE READS
6 THE RECORD TO CONCLUDE
7 THAT, THAT'S HIS
8 OPINION, BUT HE'S JUST
9 A PARTY. I JUST WOULD
10 LIKE TO NOTE THAT
11 CONCERN FOR THE RECORD.
12 THE COURT: THAT IS CORRECT, SIR.
13 THAT IS YOUR OPINION AT
14 THIS TIME.
15 A: Yes, ma'am.
16 Q: There was also some questioning related
17 to when you sought the assistance of
18 counsel, correct?
19 A: Yes.
20 Q: And some questions about what your
21 concerns were when you sought the
22 assistance of counsel?
23 A: Yes.
24 Q: When you filed your emergency petition,
25 that petition was filed along with an

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1 affidavit. Is that correct?

2 A: Yes.

3 Q: And that affidavit was signed by you and
4 by your sister?

5 A: Yes.

6 MS. HARRISON: MAY I APPROACH, YOUR
7 HONOR?

8 Q: This affidavit is part of the Court's
9 file, but it was filed on November 15th
10 with your petition for emergency
11 guardianship, correct?

12 A: Yes.

13 Q: Would the statements that are in that
14 affidavit accurately represent the
15 concerns that you were having, in regards
16 to your mother's care at the time this
17 petition was filed?

18 A: Yes.

19 Q: There was also discussion about whether
20 or not you had tried to work with Mr.
21 King to try to resolve this, the issues
22 that had arisen prior to filing this
23 motion, the petition, correct?

24 A: Yes.

25 Q: From the time of November 8th until the

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1 time the petition was filed, tell me
2 about the communication between you and
3 David, or you and Michelle and David.

4 A: So from November 8th, as I previously
5 described, David had cut off
6 communication largely. When I asked on
7 November 8th, "Where are you, David?" He
8 first told me a lie. He said they were
9 out doing shopping while they were
10 waiting for prescriptions to be filled.
11 When I said, "What prescriptions?" He
12 told me about some items. I said,
13 "David, those are all over-the-counter
14 items. Those don't require a
15 prescription. Where are you, David, with
16 my mother?"

17 He then paused and
18 said, "We're enjoying a nice day out for
19 a drive." And so, that was
20 characteristic of David's communication.
21 And after that point, I lost
22 communication with him, until he sent --
23 Well, until a text message was
24 communicated, that indicated that my
25 mother was back in Myrtle Beach.

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1 Q: And after that, did you ask for updates?

2 Did you ask, did you send text messages?

3 A: Yes.

4 Q: Were those responded to?

5 A: Either not responded or not in a timely
6 fashion.

7 Q: And did you ask to be able to speak with
8 your mother?

9 A: Yes.

10 Q: And were you able to speak with your
11 mother?

12 A: No.

13 Q: And did you ask Mr. King to help
14 facilitate that conversation?

15 A: Yes.

16 Q: And did he do so?

17 A: No.

18 Q: You were also questioned in regards to
19 the healthcare power of attorney, or I'm
20 sorry, the Declaration of a Desire for a
21 Natural Death. That was a part of your
22 mother's estate plans

23 A: Right here. Yes.

24 Q: This document, if your mother is able to
25 tell physicians what she wants or doesn't

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1 want to have done, is this document
2 controlling?
3 A: I'm not sure what you mean.
4 Q: So, if your mother was able to say, "I
5 want Avastin injections."
6 A: Yes.
7 Q: Would somebody, a doctor, come in and
8 say, "Oh, no, you don't want any life-
9 sustaining treatment"?
10 A: That's correct. My mother would be able
11 to exercise her free will.
12 Q: And so this document, that's talking
13 about life-sustaining procedures, that's
14 not really the treatment that we're
15 talking about when we're talking about
16 Avastin injections, or her diabetes
17 medication, or her blood thinners?
18 A: Well, that's correct. The blood thinners
19 are life-sustaining because if mom gets a
20 blood clot, that can spread to her lung
21 and kill her.
22 Q: And it also states that she'd permitted
23 to die naturally with only the
24 administration of medication, or the
25 performance of any medical procedure

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1 necessary to provide her with comfort
2 care?

3 A: Yes.

4 Q: And comfort care is what she is under
5 right now; is that correct?

6 A: Yes.

7 Q: You said that Avastin is symptom control.
8 Would that fall under the comfort care
9 umbrella?

10 A: Yes.

11 Q: Your mother shaved her head for the
12 Optune treatment, correct?

13 A: Yes.

14 Q: There was some discussion about whether
15 or not she was happy to do that or not do
16 that.

17 A: Well, how do I say, she did it. If mom
18 had said no, nobody would've come near
19 her with a clipping device.

20 Q: On page 256 of the medical records, can
21 you go to that record, please?

22 A: Yes.

23 Q: And can you tell the Court what this is
24 from?

25 A: This is a -- Sorry. This is a

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1 continuation -- This is a continuation --
2 This is a note from ---
3 Q: 256. I'm sorry. Did I say the right
4 number, 256?
5 A: Yeah.
6 Q: Oh, I'm sorry. That starts at 253, so
7 you'll know where you are.
8 A: Yeah, I found the start page.
9 Q: Okay.
10 A: Okay. Yeah. It is a neuro-oncology
11 follow-up note authored by Dr. Tresa
12 McGranahan, mom's neuro-oncologist, and
13 it's dated 12/7/2018.
14 Q: And on page 256, the last paragraph.
15 A: Yes.
16 Q: There's a sentence there that states Dr.
17 Miles, can you read that?
18 A: "Dr. Miles states that she would not be
19 bothered by shaving her head and perhaps
20 it would be better than the current
21 bothersome hair loss."
22 Q: All right. And one other place, if I
23 could direct you to page 208 of the
24 medical record.
25 A: Okay.

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1 Q: And again, I believe on the page right
2 before that, you can find out who
3 authored the note and the date.

4 A: Yes. Dr. Tresa McGranahan authored on
5 3/7/2019.

6 Q: Okay. And there's a history on page 208.
7 "It says interval history provided by Dr.
8 Miles."

9 A: Yes.

10 Q: And within there, it states, "Dr. Miles
11 was actually unaware -" Can you read
12 that into the record please?

13 A: "Dr. Miles was actually unaware that she
14 receives injections twice a day into her
15 abdomen. On exam, there were evidence of
16 the injections. Dr. Miles was not
17 bothered by the bruising or the inability
18 to remember the injections."

19 Q: Okay. And we talked about Dr. Morris-
20 Ward and the distinction in a palliative
21 care physician, as opposed to a primary
22 care physician, correct?

23 A: Yes.

24 Q: I only have one copy of this, because I
25 did not expect to introduce it into

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1 evidence, but I'm just going to pass it
2 to counsel for them to look at. Can you
3 please identify this document?

4 A: This is labeled MultiCare. It has a nice
5 picture of Dr. Bryan Morris-Ward. And
6 this is, I suspect, probably from his
7 webpage of Dr. Bryan Morris-Ward.

8 Q: And in that document, I'm actually going
9 to look over your shoulder because I
10 don't have a copy of that.

11 A: Okay.

12 Q: In that document, what does it state as
13 to his certification?

14 A: It states that Dr. Bryan Morris-Ward is
15 certified by the American Board of Family
16 Medicine and also the American Board of
17 Hospice and Palliative Medicine.

18 Q: And under more info, if you could please
19 read, I think the first sentence of that.

20 A: Okay. "Dr. Bryan Morris-Ward is board-
21 certified in family medicine, and hospice
22 and palliative care. He specializes in
23 geriatrics, with interest in elder care
24 and public health. Dr. Morris-Ward is an
25 active consultant in hospice and

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1 palliative care medicine."
2 Q: Okay. And so is that why you ---
3 MS. HARRISON: I WOULD MOVE TO HAVE
4 THIS ENTERED IN AS
5 PLAINTIFF'S EXHIBIT 4.
6 THE COURT: OKAY. ALL RIGHT. ANY
7 OBJECTIONS?
8 MR. BOYD: NO OBJECTION, YOUR
9 HONOR.
10 MS. LOCHOCKI: NO, YOUR HONOR.
11 MR. RHODES: NO OBJECTION, YOUR
12 HONOR.

13 **PETITIONER'S EXHIBIT NUMBER 4**
14 **ADMITTED INTO EVIDENCE.**

15 Q: That's why you speak to him being a
16 palliative care physician, because that
17 is what he specializes in?
18 A: Yes.
19 Q: If someone at Franke Tobey Jones had come
20 to you or your sister had come to you and
21 said, "They came in, the administrator or
22 the social worker came in today, and
23 said, 'Mom doesn't need to be in this
24 room.'" Would you guys have moved her
25 down to whatever level they felt was

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1 appropriate for her?

2 A: Yes.

3 Q: And did anybody at Franke Tobey Jones
4 ever tell you that she did not need to be
5 in the room that she was in?

6 A: No. Nobody told us that.

7 Q: I think that is all that I have.

8 THE COURT: THANK YOU, MS.

9 HARRISON.

10 **RE-CROSS EXAMINATION**

11 **BY MR. RHODES:**

12 MR. RHODES: MAY I APPROACH THE
13 WITNESS, YOUR HONOR?

14 THE COURT: SURE.

15 Q: I'm going to show you what's been marked
16 as Respondent Exhibit Number 8 and I
17 might not highlight it, so I'm going to
18 point it to you and just ask you if you
19 would read that first sentence, just stop
20 after the first sentence, starting per
21 discussion.

22 A: Okay. "Per discussion with family, Dr.
23 Miles was initially transitioned to
24 comfort care, consistent with Dr. Miles
25 stated preferences for comfort focus.

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1 But Dr. Miles subsequently stated to her
2 daughter that she did not want to be DNR,
3 but also did not want to be intubated. I
4 discussed code status."

5 Q: Let's just stop there. Okay. I think
6 Mr. Boyd asked you about that particular
7 paragraph, and talked about your mother
8 not being cooperative at all and trying
9 to force care on her that she didn't
10 want. So, actually when Ms. Miles,
11 Michelle Miles, talked with the doctor
12 about changing her current DNR, she was
13 actually following what her mother had
14 asked her to do. Is that not right?

15 A: That's correct.

16 Q: Okay. And if I may. I'm sorry, I'm
17 taking the wrong one too quick. In the
18 next paragraph, if you'll continue
19 reading, you don't need to read it out
20 loud, but to answer the question. Is the
21 doctor actually tried to convince
22 Michelle not to change it?

23 A: That's correct.

24 Q: Okay. And Michelle, based on your
25 mother's wishes, and I think it says

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1 strongly urge the change to be made.

2 A: Yes.

3 Q: Okay. Thank you. I think you also
4 discussed, if we can look in the medical
5 record that you have there on page 305
6 and 306, and you talked to him about your
7 mother's POLST.

8 A: Yes.

9 Q: And I believe that's a copy of it if I'm
10 on the right page.

11 A: Yes. I have that right here in front of
12 me.

13 Q: And is it my understanding that is the
14 one in effect now?

15 A: Yes.

16 Q: Okay. And would you explain to the
17 Court, read that to the Court exactly
18 what are your mother's wishes that are in
19 place now, as far as do not resuscitate,
20 do not intubate feeding and medication?
21 Could you just expand on that for the
22 Court?

23 A: This is the physician orders for life-
24 sustaining treatment, signed by Dr.
25 McGranahan on December 7th, 2018. And

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1 there are categories here and decisions
2 to be made about how Mom would like to
3 address her impending, well, her knowing
4 death. First of all, category A)
5 Cardiopulmonary resuscitation is defined
6 as a person that has no pulse and is not
7 breathing. And at that point, she
8 selected do not attempt resuscitation
9 (allow natural death).

10 Section B) Medical
11 interventions. This is a situation where
12 a person has a pulse and/or is breathing.
13 And she selected selective treatment.
14 Goals of treating medical conditions,
15 while avoiding burdensome measures
16 includes care as described below. Use
17 medical treatment, IV fluids, cardiac
18 monitors indicated, do not intubate. May
19 use less invasive airway support, such as
20 a CPAP. A CPAP is what used for people
21 who snore a lot now, incidentally. A
22 BiPAP and/or transfer to hospital if
23 indicated. Avoid intensive care if
24 possible.

25 And then on the last

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1 part, on the second page is a section D)
2 Non-emergency medical treatment
3 preferences, is a question of
4 antibiotics. Use antibiotics for
5 prolongation of life, or do not use
6 antibiotics. And she selected it's
7 indicated use antibiotics for
8 prolongation of life. Final question,
9 medically assisted nutrition. No
10 medically assisted nutrition by a tube.

11 Q: And can you tell me the two people that
12 signed that POLST?

13 A: Yes. Well, actually signed by Dr. Tresa
14 McGranahan, by Michelle and by, I think,
15 that's my mother's signature at the
16 bottom.

17 Q: I think the record from indicating that
18 it was changed from DNR to full code was
19 dated November 29th. And what's the date
20 on the POLST?

21 A: The date on the POLST is December 7th.

22 Q: Okay. So, your mother went from a do not
23 resuscitate, do not intubate, to a full
24 code do not intubate, back to a POLST,
25 which contained do not resuscitate?

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1 A: This is the order that was updated on
2 12/7. Yes, sir.
3 Q: Okay. The POLST was discussed with Dr.
4 McGranahan signing off on it?
5 A: I'm sorry, Dr. McGranahan?
6 Q: Signing off on it.
7 A: Yes.
8 Q: Okay. So again, that's following your
9 mother's wishes. Not trying to force her
10 to do anything that she doesn't want to
11 do. Not trying to push her into any care
12 that she doesn't want to have.
13 A: That's correct.
14 Q: Okay. I think Mr. Boyd characterized
15 several instances, your mother refusing
16 care by being uncooperative, but not
17 wanting be there and not being happy.
18 Well, that could just as easily be
19 characterized, as Michelle and you giving
20 her autonomy. Allowing her to do what
21 she wants, because she doesn't want to be
22 there, she doesn't want the care. So,
23 you are giving her that freedom to do
24 that. Not being uncooperative, you're
25 just saying, "Well, Mom, if you don't

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1 want it, that's fine."

2 A: Correct.

3 Q: The last question is, Mr. Boyd talked

4 about your concerns over Mr. King's leaky

5 tires, and failure to evacuate, and being

6 the reason you brought the petition.

7 Those were just several factors,

8 including the ER visits in Tacoma and

9 leaving, not the ER visits, but his delay

10 in going to the ER and then bringing your

11 mother back without any discussion.

12 Those just all added together, gave you

13 concern about his judgment?

14 MR. BOYD: I HAVE TO OBJECT, YOUR

15 HONOR. ANOTHER SERIES

16 OF QUESTIONS, WHERE

17 COUNSEL'S DOING A LOT

18 TESTIFYING TO THE

19 WITNESS.

20 THE COURT: ARE YOU ASKING

21 QUESTIONS, OR MAKING

22 STATEMENTS?

23 MR. RHODES: I WAS ASKING A

24 QUESTION, IF THAT WAS

25 HIS CONCERN.

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1 MR. BOYD: IT SOUNDED A LOT LIKE
2 TESTIMONY, YOUR HONOR.
3 MR. RHODES: I'LL REPHRASE THE
4 QUESTION.
5 THE COURT: THANK YOU.
6 Q: Those items that you indicated ---
7 A: Yes.
8 Q: --- and then Mr. Boyd characterized the
9 leaky tires and failure to evacuate a
10 hurricane ---
11 A: Yes.
12 Q: --- were not the reasons that you filed
13 the petition, those were evidences of Mr.
14 King's poor judgment?
15 A: That's correct. Those were not items
16 that are indicated in the request for
17 emergency petition. That's correct.
18 Q: Okay. So it wasn't any one factor, it
19 was all those taken together?
20 A: Yes.
21 Q: It gave you concern about his ability to
22 make proper decisions for your mother's
23 care?
24 A: Yes.
25 Q: That's all the questions I have. Thank

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1 you very much.

2 A: Thank you.

3 THE COURT: THANK YOU. RECROSS,
4 MR. BOYD.

5 MR. BOYD: THANK YOU, YOUR HONOR.

6 Q: I'll try to keep this brief. Let me ask
7 you one question about this discussion
8 that seems to be circular, but I need to
9 ask you again. If there was agreement,
10 why did you ask your mother, if there was
11 general acceptance and agreement with
12 the, with the effectiveness of your
13 mother being treated at MUSC, why did you
14 have to ask her if she wanted the POLST?
15 Why was that a discussion that was
16 undertaken?

17 A: Because my mother's entitled to have
18 dignity.

19 Q: Well, she'd already signed the release at
20 MUSC. She was moving forward. The
21 treatment that was within every standard
22 of care that you've propounded as the
23 standard, correct? On October 24th, as
24 you just testified.

25 A: Yes. Yes, sir. Yes.

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1 Q: Okay. And so my question is why and I
2 think it was page on 53 from the medical
3 record, you just testified within one
4 week of surgery, she consented to the
5 Stupp regimen?

6 A: Yes.

7 Q: So we were good. Why ask your mother,
8 why engage your mother in the discussion
9 to pressure her in effect, or to engage
10 her in a discussion aimed at bringing her
11 to up to Washington?

12 A: Because my mother deserves dignity of
13 being asked.

14 Q: Well, it just seems to me throughout this
15 whole proceeding that we want to give mom
16 dignity when the decisions that she's
17 evidencing are decisions we like. But
18 when she's evidencing decisions that we
19 don't like, she doesn't understand a
20 multi-sequence process.

21 MS. HARRISON: OBJECTION, YOUR HONOR.

22 MR. BOYD: I WITHDRAW THE
23 QUESTION.

24 Q: So, you mentioned that FTJ, that first of
25 all, I understood your testimony earlier

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1 that her stay at FTJ was medically
2 necessary and appropriate. I'm
3 paraphrasing. If you want to restate
4 that, please do or if you don't disagree.

5 A: The staff of FTJ made the placement
6 decision for my mother, as to what level
7 of care my mother required.

8 Q: And is there a specific consult that you
9 recall, where they indicated specifically
10 that level of care?

11 A: I reviewed some records. So to give a
12 little background, when somebody goes to
13 a facility, there's ---

14 Q: I don't really need the background. I
15 would like to know if you were at the
16 consult?

17 A: I believe it's written in the medical
18 record that mother required certain level
19 of services, including RN level services,
20 including LPN level services, including
21 CNA level of services, and nurse manager
22 level of services.

23 Q: But did I understand you to testify
24 earlier that when you were asked, why was
25 she at FTJ, and it may have been the

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1 guardians' question, you said something
2 to the effect of, if I understood you
3 correctly, that she was basically out of
4 her gourd?

5 A: Yes. I think that was verbatim what I
6 said.

7 Q: Well, when you say she's at FTJ and we
8 you'd already agreed with the guardian's
9 testimony that Dr. McGranahan had
10 indicated that her stay at FTJ was not
11 medically indicated.

12 A: I'm sorry. Could you rephrase that?

13 Q: That series of questioning followed your
14 discussion with the guardian about Dr.
15 McGranahan's opinion, that there were no
16 medical indications in the record, in her
17 record at least, to support a stay at
18 FTJ.

19 A: So what I saw and reviewed with the
20 guardian ad litem, is that the guardian
21 ad litem and Dr. McGranahan had the
22 discussion approximately about four
23 months after mom was in the hospital,
24 during which time that Dr. McGranahan was
25 not the treating physician. Dr.

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1 McGranahan was not able to complete a
2 full examination of my mother at that
3 time. That they had this, I don't know
4 if the term's POLST talk discussion about
5 that.

6 Q: Well, you don't disagree with me that Dr.
7 McGranahan has opined that there was
8 nothing medically in the record that
9 indicated that she should be placed in
10 FTJ?

11 A: I agree that as is been documented, there
12 is that statement in the medical record.

13 Q: And you indicated that you just noted my
14 recollection was accurate. You said she
15 was out of her gourd.

16 A: Yes.

17 Q: When you say that, aren't you really
18 saying that Michelle could not take care
19 of your mother?

20 A: That certainly Michelle could not take
21 care of my mother because no layperson
22 could take care of a person, who is in
23 acute psychosis refusing to eat, refusing
24 to drink, refusing to allow either an IV
25 access line to be used for hydration to

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1 keep somebody healthy, and potentially
2 snap them back into good judgment or to
3 have it removed so that it doesn't cause
4 an infection, since those lines are
5 required to be changed every few days.

6 Q: You said nobody at FTJ, make sure I quote
7 you correctly, you said nobody at FTJ
8 ever told you that she didn't need to be
9 there. Is that a fair statement?

10 A: I don't recall anybody at FTJ saying that
11 my mother does not need to be at FTJ.

12 Q: Do you recall any intermittent consults
13 throughout the two and a half months
14 where they said, "You should not take her
15 home? You can't leave with your mother."
16 Did you receive any indication along
17 those lines?

18 A: I don't recall any of those.

19 Q: But yet you testified that virtually
20 every day, your mother told you that she
21 didn't want to be there.

22 A: That's correct.

23 Q: And the records replete with that, I
24 won't go back through it. I think she
25 called the place a prison; did she not?

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1 A: Let's see, I'm not sure how to answer
2 that.

3 Q: Well, if you don't recall, you don't
4 recall.

5 A: Right. That might be in the record, she
6 might have said that. Yes, correct.

7 Q: And yet from my impression, her discharge
8 from FTJ happened rather abruptly, as
9 there was very little notice to the
10 parties that she was going to be
11 discharged, as I recall. Is that your
12 ---

13 A: So the preparations for mom to be able to
14 leave FTJ involve getting mom medically
15 stable, getting Michelle's house ready to
16 accommodate her, and also the logistics
17 of being in a hospital. So when you're
18 doing something in a hospital, things can
19 get very complicated. For example, in
20 the medical record we reviewed earlier
21 today, that Mom's anticipated date of
22 discharge after her initial brain
23 resection by the neurosurgeon, he said
24 could be within 24 hours. Mom's
25 discharge didn't happen until many days

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1 after that. So in medical situations, it
2 can be incredibly complicated to get all
3 the pieces together, to get somebody able
4 to be physically moved.

5 Q: Sir, I understand that.

6 A: Okay.

7 Q: Did anybody at FTJ tell you it's time for
8 your mom to leave?

9 A: No. I don't think anybody said it's time
10 for her to leave.

11 Q: It's my recollection that the discharge
12 from FTJ was really correlated, frankly,
13 with the complaints that the guardian was
14 making about her placement there. Is
15 that a fair assessment?

16 A: No, I think they coincided. The guardian
17 knew that Michelle was working to get her
18 house improved. I think the guardian had
19 been able to review Mom's medical records
20 to see that Mom was participating in care
21 and mom was able to potentially be moved
22 to an outpatient setting, provided once
23 we had outpatient CNA and RN care
24 available for her there.

25 Q: So, is it your testimony to this court

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1 that every day your mother spent at FTJ,
2 which I think everyone would agree she
3 did not want to be there, but every day
4 that she spent at FTJ was medically
5 appropriate?

6 A: Well, that's a term, which is difficult.
7 It gets back into a little bit what
8 somebody's discussing about Medicare,
9 like Medicare paying for something or
10 not. In other words, there are
11 guidelines that exist for what insurance
12 companies will pay for and whatnot and
13 sometimes people use that to make medical
14 decisions. Sometimes people make medical
15 decisions on the overall picture, but my
16 mother required professional nursing care
17 during her time at FTJ.

18 Q: Let me ask you this question. You
19 mentioned that you were frustrated or I
20 don't want to say you were frustrated,
21 you mentioned that you found out from
22 your sister, that David and your mother
23 had gotten married. Is that your
24 testimony today?

25 A: Yes. I heard that they had gotten

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1 married, yes, from my sister.

2 Q: Did you find out otherwise, before you
3 heard from your sister?

4 A: No. I wasn't sure if that was true,
5 because I asked David and David turned
6 and walked away and wouldn't give a
7 straight answer.

8 Q: Is it fair to say, in your assessment,
9 I've seen this throughout the record, but
10 is your mother a private person?

11 A: My mother is a community person. She has
12 friends, she has family, she enjoys
13 activities. She also enjoys time at
14 home. My mother is a well-balanced
15 person.

16 Q: Is it possible that some of these areas
17 where you were not provided information,
18 for instance, you mentioned information
19 related to finances earlier in your
20 testimony; you mentioned the difficulty
21 of getting some information from David;
22 you mentioned the fact that you learned
23 about the marriage subsequently from
24 Michelle, apparently in a time and
25 fashion that you didn't necessarily

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1 approve of, but would you agree with me
2 that it's possible that your mother was
3 just a private individual and that she
4 directed David not to share certain
5 information with other people?

6 A: David lied to me on several occasions and
7 I do not believe my mother would have
8 directed David to lie to me.

9 Q: But it is possible that she could have
10 said, "David, I don't want anybody to
11 know about our trip to get married," or
12 this or anything for that matter, because
13 they were married? Well, they were
14 together in a live relationship for 37
15 years. You'd agree with me on that much,
16 would you not?

17 A: I do not believe my mother would direct
18 David to lie.

19 Q: Well, there's two issues.

20 A: Thank you. Please clarify those.

21 Q: There's two issues.

22 A: Okay.

23 Q: There's what your mother -- There's the
24 instructions that your mother gave David,
25 and then there's how David chose to

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1 implement those instructions. David may
2 have chose to implement those
3 instructions in a manner you don't
4 approve of, but that doesn't mean that
5 your mother didn't give him instructions
6 not to disclose information to you,
7 correct?

8 A: I'm not a lawyer here, but it seems like
9 you're trying to get me -- you'd like me
10 to ask about hypothetical instructions
11 that Mom might have given to David, that
12 might have explained David's behavior.
13 I'm sorry, I'm not trying to be
14 difficult. I just don't ---

15 Q: I'm just asking you -- I'll restate. I'm
16 asking you to consider for a moment, the
17 possibility that you can acknowledge that
18 a lot of what you're complaining here
19 today, whether it's the disclosure of the
20 marriage, whether it's the apparent
21 resistance, in your opinion, to travel to
22 the ER, whether it is any number of
23 things, virtually, everything that you've
24 complained about, frankly, much of those
25 complaints that you attribute to David,

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1 that you have brought in a manner that
2 has been extremely punitive, largely,
3 singly on this man is entirely possible
4 that much of that is actually
5 attributable to your mother, giving
6 instructions to David to deal with issues
7 in the manner that she wanted them dealt
8 with. It just happens to be not what you
9 wanted, correct?

10 A: My mother, as far as I know, has never
11 lied to me. So, I can't imagine her
12 directing somebody or working with
13 somebody, who would then be empowered to
14 lie on her behalf.

15 Q: Well, again, you'd make a very good
16 lawyer, Doctor.

17 A: Yes.

18 Q: I'll just leave it at that.

19 MR. BOYD: NO FURTHER QUESTIONS,
20 YOUR HONOR.

21 MS. LOCHOCKI: NO QUESTIONS, YOUR
22 HONOR.

23 MR. RHODES: NO QUESTIONS.

24 THE COURT: ALL RIGHT. IT IS 15
25 TILL SEVEN. IF

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1 EVERYONE IS IN
2 AGREEMENT, WE WILL
3 ADJOURN FOR THE DAY AND
4 RECONVENE IN THE
5 MORNING AT 9:00 AM.
6 *****OFF THE RECORD*****
7 (6:45 PM)
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Day 2
Tuesday, April 2, 2019
(9:40 AM - 6:35 PM)

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ROA 0897

1 THE COURT: WE ARE NOW BACK ON THE
2 RECORD. THIS IS APRIL
3 THE 2ND, 2019 IN THE
4 MATTER OF CLAUDIA
5 MILES. YESTERDAY, WE
6 HAD TESTIMONY FROM THE
7 SON OF MS. CLAUDIA
8 MILES, AND I THINK
9 WE'RE MOVING ON TO
10 PERHAPS A SECOND
11 WITNESS. MS. HARRISON,
12 DO YOU HAVE A SECOND
13 WITNESS AT THIS TIME?
14 MS. HARRISON: NO, YOUR HONOR, I DO
15 NOT.
16 THE COURT: MR. RHODES?
17 MR. RHODES: I DO, YOUR HONOR. I
18 CALL MARY MICHELLE
19 MILES TO THE STAND.
20 THE COURT: PLEASE PLACE YOUR LEFT
21 HAND ON THE BIBLE,
22 RAISE YOUR RIGHT HAND.
23 MARY MICHELLE MILES, AFTER HAVING BEEN CALLED
24 TO THE STAND AND DULY SWORN TESTIFIED AS
25 FOLLOWS:

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1 THE COURT: THANK YOU, PLEASE BE
2 SEATED. MR. RHODES.
3 MR. RHODES: IF IT PLEASE THE COURT.

4 **DIRECT EXAMINATION**

5 **BY MR. RHODES:**

6 Q: Please state your name.

7 A: My name is Mary Michelle Miles.

8 Q: And, Ms. Miles, where do you live?

9 A: I reside in Tacoma, Washington.

10 Q: And how long have you been -- What's your
11 address?

12 A: 1335 North Heatherwood East, Tacoma,
13 Washington 98406.

14 Q: And how long have you lived at that
15 address?

16 A: I have owned that home and lived at that
17 address since 19, late 1998 or early '99,
18 so twenty years.

19 Q: Excuse me?

20 A: About twenty years.

21 Q: I'm going to ask you to do the math, I'm
22 not good at that in my head. Are you
23 currently employed?

24 A: I am not.

25 Q: And where was your last employment or

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1 when was your last employment?

2 A: I left my prior employer, Zillow, in
3 September of 2017 after working there for
4 about six years.

5 Q: What did you do at Zillow, what was your
6 job title?

7 A: When I left, I was a senior business
8 consultant. I primarily worked in the
9 sales department with enterprise
10 accounts, managing strategic
11 implementations of our advertising
12 products, doing a lot of presentations
13 and webinars. I was there six years and
14 so I held a lot of different titles. I
15 had five promotions during my time there,
16 but primarily sales.

17 Q: And after you left, did you seek other
18 employment?

19 A: I did.

20 Q: Were you able to find any?

21 A: Not any that I was able to take or
22 qualified for, and that was my choice.
23 When I left Zillow, I might add, I
24 received a very substantial severance
25 package and so I also made a decision

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1 that I would take some time off to, you
2 know, do some work around the house and
3 that kind of thing.

4 Q: Let me back up a little bit. When you
5 left Zillow, did you voluntarily leave or
6 was it involuntarily?

7 A: It was involuntarily, yeah.

8 Q: Can you explain to the Court the
9 circumstances of that?

10 A: Certainly. I was subject to significant
11 ageism and gender discrimination and had
12 had multiple complaints which created an
13 internal investigation over a period of
14 more than a year. They hired an outside
15 counsel to come in, and it got to the
16 point where Zillow decided that they
17 would fire me. I, of course, had
18 obtained an attorney, and the Net-Net is
19 that Zillow requested that we go to
20 mediation rather than go to trial, and my
21 boyfriend was with me during that very
22 long mediation process, and the end
23 result was that I was very satisfied with
24 the dollar amount that Zillow agreed to
25 pay me rather than go to trial.

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1 Q: So you were not officially fired, it was
2 a severance package and a mediated
3 separation?

4 A: Yes. I was not fired for cause.

5 Q: Okay. Now, you said that you hadn't
6 found any employment that you could take,
7 would you expound on that for the Court?
8 Why couldn't you take it?

9 A: After commuting to Seattle during rush
10 hour for six years, which on average was
11 twenty hours a week of commute time, at
12 that time in my life, I decided that that
13 was a very poor quality of life, my
14 health had deteriorated, you know, and I
15 really wanted to seek employment and as
16 close to my hometown, Tacoma, Washington.
17 I love my town. It's grown a lot and
18 there's a lot of really interesting
19 economic things going on, the area is
20 growing, and so I really wanted to focus
21 on working as close as possible or in
22 Tacoma. So the job opportunities for my
23 skillset are, I mean, I was balancing out
24 compensation.

25 Q: Let me ask you this, did you have any

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1 interviews ---

2 A: I did.

3 Q: --- recently, not recently, but did you
4 have interviews that resulted in any job
5 offers?

6 A: I -- yes. I had a fourth interview,
7 ironically, on November 6th with a
8 company I was very interested in working
9 with and which is why I did not attend
10 the November 6th appointment in Seattle
11 with David and Mom, and that position was
12 perfect. I ended up not taking that
13 position because of the situation with
14 Mom; however, I do have -- that same
15 hiring person just reached out to me.
16 She's at a new company and I have an
17 interview with her on April 8th, so I
18 will likely ---

19 Q: Let me back up a minute. You say you
20 didn't take the position because of the
21 situation with your mom, would you kind
22 of expound on that a little bit? What
23 did you mean by that?

24 A: Well, I just spent -- my mom had been
25 diagnosed and had her surgery in Mid-

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1 October, so that's, you know, three, four
2 weeks of a pretty crazy time and flying
3 back and forth, and I recognize that
4 regardless of what occurred, I wanted to
5 be able, at least in the near term, to
6 not take on a very high pressure sales
7 job, which is what this is. This is a
8 really significant territorial, spend a
9 lot of time on the road, be very
10 accountable, very high production number
11 type job. It was not the right type of
12 job.

13 Q: Was the job offer made to you before or
14 after your family conference when you
15 discussed the plans of your mother moving
16 to Washington, your mother and Mr. King
17 moving to Washington?

18 A: After.

19 Q: It was after?

20 A: Yeah.

21 Q: Okay. So you had already committed to
22 assisting them in her care?

23 A: Well, to the degree that I understood
24 that, I mean, I didn't know what that
25 would encompass. The position itself was

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1 a very autonomous one, you know, again,
2 one would have a territory, drive around,
3 identify and/or pick up a book of
4 business of clients, self-employed
5 businesses, and as long as one produces
6 the numbers, then your time is your own.
7 My goal in supporting David and Mom while
8 they lived independently in Tacoma, in my
9 mind at the time, was to simply be there
10 to comfort them, to, if need be, if David
11 was unavailable, to take Mom to a
12 doctor's appointment, to just simply be a
13 daughter, so.

14 Q: I don't want to put words in your mouth,
15 I'm trying to understand. You said you
16 didn't take the job offer because of the
17 situation with your mom, but did I just
18 understand you to say that you could've
19 done the job and still have been able to
20 assist him or did I misunderstand that?

21 A: No. I'm sorry, would you please repeat
22 the question?

23 Q: Sure. Certainly. I don't want to put
24 words in your mouth, so please don't let
25 me do that, but my understanding from

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1 your testimony was that you didn't take a
2 job offer ---

3 A: Uh-huh (affirmative response).

4 Q: --- because of the situation with your
5 mother, ---

6 A: Uh-huh (affirmative response).

7 Q: --- but, then, I thought you just said
8 that the job was kind of work on your own
9 pace so you would've still been available
10 to assist them?

11 A: Uh-huh (affirmative response).

12 Q: Did I misunderstand that second part?

13 A: No.

14 Q: Okay. So I ask you again, why didn't you
15 take the job offer?

16 A: I'm sorry, because, you know, at the
17 time, you know, the situation was
18 evolving with my mom. I witnessed that
19 week before my mother and David left
20 Seattle without notice my mother in an
21 extremely decrepit physical condition and
22 mental condition. I recognized that my
23 mother and David would most likely need
24 much more help and assistance than I had
25 ever imagined, and so, you know, as

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1 things changed, so did my evaluation.

2 Q: Okay. So based on, and, again, don't let
3 me put words in your mouth, I'm trying to
4 understand the situation here. So based
5 on how you saw your mother when she came
6 out to Washington and her condition had,
7 I guess, worsened from what you thought
8 it was before they got there, ---

9 A: Yes, I mean ---

10 Q: --- then that was why you didn't take the
11 job?

12 A: Yeah, I mean, you know, the ER visits on
13 November 2nd and November 4th, and then,
14 of course, there's one on November 7th,
15 but that alone was enough to sort of,
16 kind of knock me in the head and say,
17 "This is a very serious and likely very
18 time consuming commitment."

19 Q: Now, I think you alluded to in your
20 testimony that you had heard from the
21 same company or the same person you
22 interviewed with?

23 A: The latter. She left -- she runs, ran
24 the West Coast division for the company I
25 was interviewing with. She left that

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1 company soon thereafter, and out of the
2 blue about a week ago, called me, wants
3 to talk. We've spoken, and she's at a
4 bigger company, similar position, and I'm
5 meeting with her and the owner on April
6 8th.

7 Q: Now, we're here today because your
8 brother filed a petition asking the Court
9 to name a guardian for your mother.

10 A: Uh-huh (affirmative response), yes.

11 Q: We've talked about the qualifications of
12 a guardian. Now, I just want to walk
13 through those with you as far as, have
14 you ever had any treatment for mental
15 illness?

16 A: Yes, I have taken medication for
17 depression, situational. By that, I
18 mean, post-divorce, you know, traumatic
19 events. I'm not on any depression
20 medication now, and I have ADD and I take
21 Methylphenimine (phonetically spelled)
22 and I'm at the same prescription. I've
23 had the same physician for about twenty
24 years, the same prescription level,
25 honestly, for probably the last fifteen

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1 years, daily dose.

2 Q: Now, as far as the situation on
3 depression and you say you're not on any
4 medication now, when's the last time you
5 took any medication for depression?

6 A: Well, I'm on, I am on Wellbutrin, which I
7 suppose is a depression medication, so,
8 but I'm just on it because my doctor has
9 not told me to come off it. I haven't
10 seen my doctor in quite a while. I've
11 been really busy and missed some doctor
12 appointments and that kind of thing, so,
13 and frankly, this has been a pretty
14 traumatic time, but ---

15 Q: Has the Wellbutrin controlled the
16 depression or anxiety?

17 A: I guess, I mean, I feel that I am anxious
18 frequently because there is a lot of
19 change in, you know, circumstances.
20 There's been a lot of travel and a lot of
21 documentation preparation, and then, of
22 course, my mother has been very sick and
23 has in and out of the ER and hospitals
24 and the trauma that surrounds her cancer.
25 That being said, we have a very stable

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1 environment now for my mother. We now
2 have a fantastic Certified Nursing
3 Assistant team, the regular R.N. visits.
4 My mother is stable in our home. She is
5 stable with the Avastin treatment per her
6 oncologist, so things have really
7 stabilized significantly.

8 Q: Have you had any difficulty or has your
9 medication or your ADD, I believe you
10 said, interfered with your ability to
11 make decisions for your mother or with
12 your mother?

13 A: No. No, huh-uh (negative response).

14 Q: And you've made those decisions in
15 conjunction with the doctor in
16 consultation with your brother and with
17 Mr. King when possible?

18 A: Absolutely, yeah.

19 Q: Now, as far as your physical health, ---

20 A: Uh-huh (affirmative response).

21 Q: --- do you have any problem there, any
22 heart condition, any other kind of lungs
23 or pulmonary or ---

24 A: Fortunately, no, I'm very health.

25 Q: And have you ever been charged with or

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1 convicted of a breach of fiduciary duty?

2 A: No.

3 Q: And is there any pending legal action
4 against you for money owed or money due?

5 A: No.

6 Q: Do you have any judgments in Washington
7 or this state or any other state, for
8 that matter, against you as a judgment
9 creditor?

10 A: No.

11 Q: Are you wanted by any law enforcement
12 agency for any charges or any warrants or
13 any investigation?

14 A: No.

15 Q: Now, you've changed your name. What was
16 your maiden name?

17 A: My birth name was Troyer. My Father, as
18 John mentioned yesterday, died in
19 Vietnam. My mother remarried Roger
20 Strasswimmer who adopted John and I, so
21 then my name became Strasswimmer. I then
22 married a man named Graham Welsh, so I
23 took the last name Welsh, my first
24 husband, we divorced. I then married a
25 man named Joel Monteith. I took his

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1 name, so my name became Monteith. When
2 we divorced in 2012, I elected to take my
3 mother's name, Miles, so does that answer
4 your question?

5 Q: Yes, ma'am.

6 A: Okay.

7 Q: Do you have any judgments, any criminal
8 charges, any warrants for your arrest or
9 any outstanding issues with law
10 enforcement in any of those names?

11 A: No, I mean, I've not been notified of
12 any, but no.

13 Q: Now, I believe we talked, have you filed
14 bankruptcy in the last ten years?

15 A: Yes.

16 Q: Would you explain to the Court the
17 circumstances surrounding that ---

18 A: Certainly.

19 Q: --- and whether that was discharged or
20 not?

21 A: Yes, that bankruptcy was discharged in
22 August of 2012. From what I recall, the
23 Federal Court requires a six-month period
24 from filing to discharge. That was
25 really an unfortunate circumstance. My

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1 then husband, Joel Monteith, was involved
2 in a very serious car accident very soon
3 after finally becoming a commercial
4 airline pilot. I, as the sole wage
5 earner for the family for many years, had
6 spent probably close to a hundred
7 thousand dollars on his various flight
8 trainings and certifications and what
9 have you. He was hired at Sky West as a
10 first officer, which pays nothing, based
11 out of Fresno, a lot of expense around
12 that, and then he was in a car accident
13 and he was out of work for over a year.
14 I want to say he was out of work for
15 close to eighteen months. That, combined
16 with the fact that Joel and I were
17 already plaintiffs in a substantial land
18 lawsuit against the seller of some
19 property that we had purchased who failed
20 to disclose a moratorium on building on
21 the property, which, of course, we had
22 already started to do some grading, that
23 legal expenses there were over a hundred
24 thousand dollars, so those two events
25 combined forced us into bankruptcy.

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1 Q: And when was that?

2 A: The discharge was August of 2012.

3 Q: I think you said that, I apologize.

4 A: That's okay.

5 Q: Since 2012, have you had to file any
6 bankruptcy protection or any other kind
7 of credit protection.

8 A: No. No.

9 Q: Okay. I'm going to kind of switch gears
10 here. Well, let me back up a minute as
11 far as the qualifications. You
12 understand that if you were appointed
13 guardian that you're required to make an
14 annual report to this Court?

15 A: Absolutely.

16 Q: You also understand that you would then
17 be responsible for the care of Dr. Miles?

18 A: Yes.

19 Q: And, in fact, you've been doing that
20 since November, I believe?

21 A: I have been legally assigned that role
22 since November. I've been doing that
23 since October.

24 Q: But you've been temporary guardian since
25 November 15th, I believe, was the

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1 testimony yesterday?

2 A: Yes, sir.

3 Q: And in that role, with Dr. Miles'
4 decision, do you seek her input into
5 those decisions?

6 A: Oh, all the time, absolutely.

7 Q: When a doctor -- Well, let me ask you
8 this, how do you approach her care when
9 you approach the doctor as far as what
10 should be done for her?

11 A: If I understand you correctly, for
12 example, when we go to a doctor's
13 appointment or are you talking about ---

14 Q: When you go to a doctor's appointment
15 when she, for example, when she, after
16 surgery when the family had the
17 conference as far as what the next step
18 would be, how do you approach that with
19 the doctor?

20 A: With the doctor?

21 Q: Yes, ma'am.

22 A: Well, first and foremost, I approach it
23 with my mom, you know, and make sure that
24 she's fully included in the conversation,
25 assuming that, you know, she's conscious,

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1 I mean, if we're going back to her
2 surgery days and have you. With the
3 doctors that we currently have, the
4 palliative care physician, Dr. Bryan
5 Morris-Ward and with Dr. Tresa
6 McGranahan, I always leave those
7 appointments with ensuring that Mom has
8 private time with those doctors if she so
9 chooses, and she frequently, most all of
10 the time, does with Dr. McGranahan and
11 recently has with Dr. Morris-Ward, and
12 then I'm called in and we discuss things.
13 Am I answering your question?

14 Q: A little bit. We're going to get there.
15 You're a little bit ahead of me. I'm
16 talking about as far as the options for
17 her care when you speak to the doctor and
18 the doctor gives you options for care,
19 how do you approach that with your mom?

20 A: I tell her completely if she's not there
21 in the room, and even if she is there in
22 the room, I look at her and I -- and say,
23 "Mom, do you understand this is option,
24 this is option, do you have any questions
25 for the doctor," and I make sure as best

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1 I can, and it's usually not that
2 difficult that my mother and the doctor
3 dialogue. My mother these days usually
4 has questions, actually always. So,
5 yeah, it's completely inclusive. I want
6 my mother to make these decisions. She's
7 able to do so, generally speaking, about,
8 about what she wants.

9 Q: And you mentioned that she's doing better
10 now, able to dialogue some?

11 A: Oh, yes.

12 Q: Does she have opportunity, and I think
13 you may have said this in your statement,
14 does she have opportunity to talk with
15 the doctor one on one?

16 A: Oh, absolutely.

17 Q: And in those one on one conversations, is
18 she often or is she able to choose from
19 the options presented?

20 A: In recent visits, I'm, I'm going on
21 recollection, she has. I'm remembering
22 her most recent visit, I believe, March
23 7th with Dr. McGranahan where they spent
24 actually quite a bit of time together
25 where they discussed her current options

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1 and future options should her tumor grow,
2 and so -- and then -- and I'm going to
3 even the post-order. That was something
4 that Dr. McGranahan talked to my mother
5 about.

6 Q: And as far as the conversation with Dr.
7 McGranahan about her options, what were
8 her options at her last visit?

9 A: Well ---

10 Q: What was discussed? I shouldn't say
11 options. What was discussed?

12 A: Well, I wasn't in that discussion. It
13 was a lengthy discussion, so I have the
14 notes from Dr. McGranahan, and I did talk
15 with Dr. McGranahan afterwards. So my
16 understanding is that Dr. McGranahan, the
17 purpose of that visit was to discuss
18 chemotherapy or options for treatment,
19 I'm just going off of memory, and then
20 Dr. McGranahan explained to Mom that her
21 tumor, which she had also said at the
22 prior visit, fortunately, is, I guess
23 static, not growing, and while it remains
24 in that state, she's not a candidate for
25 chemotherapy, the Avastin is doing its

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1 job. It was a very positive appointment
2 per my conversation with Dr. McGranahan
3 afterwards, and that if and when the
4 tumor grew again that Dr. McGranahan
5 would -- she named the, the medicine that
6 I can't quite pronounce off the top of my
7 head. It was CeeNN (CeeNU) or something
8 versus Tolalicide (phonetically spelled),
9 so Dr. McGranahan spoke with my mother
10 about her treatment options. I can't
11 recall if it was in this appointment or
12 in the prior appointment where my mother
13 stated to Dr. McGranahan, when I was not
14 in the room, that she wanted to be more
15 aggressive in the treatment of her
16 disease and was seeking treatment
17 options, seeking information.

18 Q: To answer my question, did they discuss
19 chemotherapy?

20 A: Yeah.

21 Q: And your mother declined that?

22 A: I'm sorry, the first question?

23 Q: And your mother declined chemotherapy at
24 the time?

25 A: Charles, I'm sorry, would you back up?

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1 I'm hard of hearing.
2 Q: Okay, I'm sorry.
3 A: So the, the first question was what?
4 Q: First question, I believe your testimony
5 was, is at that last visit they discussed
6 chemotherapy?
7 A: Uh-huh (affirmative response).
8 Q: Is that correct?
9 A: Yes, that's what I remember from the
10 notes.
11 MR. RHODES: JUST ONE MOMENT, YOUR
12 HONOR.
13 A: And the notes are on the table.
14 MR. RHODES: GIVE ME JUST ONE
15 SECOND.
16 A: May I speak, Charles? Charles, may I
17 speak?
18 Q: Excuse me?
19 A: May I speak?
20 Q: No, I'm going to ---
21 MR. RHODES: DO WE HAVE AN EXHIBIT,
22 THE MEDICAL RECORDS?
23 IS THAT WHAT THAT IS?
24 COURT REPORTER: THAT'S THE MEDICAL
25 RECORDS.

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ROA 0920

1 Q: I'm going to hand you this. It's been
2 marked Plaintiff's (Petitioner's) Exhibit
3 1.

4 A: Uh-huh (affirmative response).

5 Q: The page numbers are up in the upper
6 right-hand corner.

7 A: Okay.

8 Q: I'm going to ask you to turn to page 212.
9 I believe that is the summary, if you
10 could tell the Court what that is, page
11 212? I believe that is the summary of
12 the visit that starts on 207.

13 A: Okay. So you would like me to turn to
14 page 207 to start?

15 Q: What I'm saying, I want you to turn to
16 page 212, ---

17 A: Yeah.

18 Q: --- and I believe that that is a summary
19 of the visit that starts on 207 ---

20 A: Uh-huh (affirmative response), uh-huh
21 (affirmative response).

22 Q: --- and just ask you if you can identify
23 that document, if that's a visit that
24 your mother had with Dr. McGranahan.

25 A: Yes. This, this is a summary document,

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1 what patients are given immediately after
2 discharge, is what this appears to be.
3 The format is a little different. It
4 might be the print. Yeah, this is the
5 medications and what have you.

6 Q: And if you look on page 212 at number
7 seven ---

8 MR. BOYD: I'M SORRY, CHARLES, CAN
9 YOU CLARIFY WHERE
10 YOU'RE LOOKING IN THE
11 RECORD?

12 MR. RHODES: I'M SORRY, NOT 212,
13 213. I'M ON PAGE 213.

14 MR. BOYD: AND IT'S BATES NUMBER,
15 WHAT?

16 MR. RHODES: IT'S PAGE NUMBER 212,
17 THE BEGINNING OF THE
18 NOTE, AND I'M REFERRING
19 TO PAGE 213 NOW.

20 Q: If you look at item number seven on page
21 213, ---

22 A: Yes.

23 Q: --- if you could read, beginning with the
24 third sentence that begins with
25 "Because."

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ROA 0922

1 A: Okay, "Because your tumor is not growing
2 and because your tumor does not have MGMT
3 methylation, I do not think it makes
4 sense to start a chemotherapy now. If
5 you start having new symptoms, I would
6 need to know, this would mean we should
7 take an MRI and look for growth. If
8 there was tumor growth, I would recommend
9 a type of chemotherapy pill called CeeNU.
10 This is a pill taken one night every six
11 weeks. We typically get MRIs every two
12 cycles (so twelve weeks)."

13 Q: Now, did you make that appointment for
14 your mother?

15 A: I believe I did. I, I recall that I did.

16 Q: And do you recall the purpose of that
17 appointment?

18 A: My mother wanted to discuss her treatment
19 options.

20 Q: And at that point, had Dr. McGranahan
21 recommended any treatment option that you
22 were going to begin on that appointment?

23 A: No, I mean, not that I recall.
24 Recommended any -- no. To begin on that,
25 no, and pardon me, there are -- in

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1 addition to the summary, what I was
2 referring to are the doctor's notes which
3 are much more extensive. It's a
4 narrative that the doctor prepared that
5 goes into greater detail about her
6 conversation with my mother behind closed
7 doors, and I do have that.

8 Q: I'm just asking you ---

9 A: Okay.

10 Q: --- if you made the appointment and the
11 appointment was made to begin any sort of
12 treatment or was it just to discuss
13 options?

14 A: My recollection was that it was to
15 discuss options, I mean, I, I wouldn't be
16 able to drive beginning treatment, I
17 mean, I'm not a doctor, so.

18 Q: So when a doctor talks about options to
19 you, how do you see those, do you see
20 those as recommendations or
21 possibilities, I mean, how do you refer
22 to those when you tell, say, if you
23 wanted to tell your brother what the
24 doctor told you as far as what your
25 options are?

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1 A: Yeah, I mean, you know, if the doctor
2 says, "You can use a Band-Aid for this
3 cut, you can use glue or you can let it
4 bleed," those are the, those, those are
5 those things. I would then tell my
6 brother, "Well, the doctor recommends if
7 I want to treat it, I have these three
8 options."

9 Q: Okay. So when you told the guardian that
10 McGranahan had recommended chemotherapy,
11 had McGranahan recommended you start
12 chemotherapy or was she saying that's an
13 option?

14 A: She's saying that was an option.

15 Q: And, so, there may be some confusion on
16 the words used, you didn't tell the
17 guardian ---

18 MR. BOYD: I'M GOING TO HAVE TO
19 OBJECT, YOUR HONOR.
20 I'VE BEEN TRYING TO
21 GIVE MR. RHODES A GREAT
22 DEAL OF LATITUDE AND
23 ---

24 MR. RHODES: AM I DOING IT AGAIN?

25 MR. BOYD: YOU'RE DOING IT AGAIN,

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1 SIR.
2 MR. RHODES: I'M SORRY.
3 MR. BOYD: YOU'RE TESTIFYING FOR
4 YOUR WITNESS.
5 MR. RHODES: I GET CAUGHT UP IN A
6 MOMENT. I APOLOGIZE,
7 MR. BOYD.
8 Q: So what word did you use when you told
9 the guardian that you were going to see
10 Dr. McGranahan and what you were going to
11 see her for?
12 A: I do not recall the exact words I used
13 when I spoke with the guardian, I
14 honestly don't.
15 Q: I'm going to back up and I don't want to
16 go, try to spend a whole lot of time on
17 it, we talked about it a good deal
18 yesterday, but I want to get a little bit
19 of your point of view. After your
20 mother's surgery when you had the family
21 conference and discussed moving to
22 Washington, would you describe what steps
23 was taken, and if you recall, who took
24 those steps in moving your mother to
25 Washington?

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ROA 0926

1 A: You mean, the physical occurrences, the
2 time I ---

3 Q: Yes, ma'am.

4 A: Okay. Yes, after we, as a family, agreed
5 and actually Mom stated her decision that
6 she wanted to go to Washington for
7 treatment to be near me, among other
8 reasons, then it was all systems go.
9 What I recall is that John and Karen
10 purchased tickets and made those
11 arrangements. My mother and I went
12 through her clothing together, her
13 limited jewelry she had at home and some
14 of her files in her office, and together,
15 we packed, along with her cat. My mother
16 was excited. I went and did errands on
17 behalf of my mother and David, including
18 picking up prescriptions for David,
19 picking up luggage, because the luggage
20 was decrepit. I went to TJ Maxx to pick
21 up some luggage, actually new luggage,
22 which was for my mom, but David used,
23 it's okay, and I took their cat, Juanita,
24 to the vet, because I found out last
25 minute that Washington State requires

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1 certain paperwork to allow domestic
2 animals to come in, i.e., a rabies
3 certificate. So I drove Juanita to the
4 pet, to the vet, excuse me, and paid for
5 that out of pocket and we got what we
6 need. I went and purchased a carrier for
7 the cat and did some grocery runs, and I
8 picked up David's dry cleaning at his
9 request. So that kind of all occurred
10 within like two days, that was kind of my
11 tasks. David packed, and that's what I
12 recall.

13 Q: And when you got to Washington, what
14 steps were taken then?

15 A: So I had reserved a room at the Silver
16 Cloud Inn which is where Mom and David
17 prefer to stay if they're not staying
18 with me in Tacoma, Washington, and I
19 asked David to make sure to give them his
20 credit card, because I could not afford
21 to have the room charged to my credit
22 card which we had to put down in order to
23 reserve the room, and he did, I believe,
24 when we got there, and they checked into
25 that room and I went home. I live very

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ROA 0928

1 close. Tacoma is small, so, you know,
2 five miles away, whatever.

3 Q: Do you recall what date that was?

4 A: I would think that was November 1st. I'd
5 have to look at the airplane ticket, so.

6 Q: And were there any other steps taken as
7 far as implementing the family plan that
8 y'all had talked about?

9 A: Oh, absolutely, yeah. So the most
10 important thing, well, the second most
11 important after, you know, I mean, from
12 what I recall, the, the appointments were
13 already set with Dr. McGranahan, Dr.
14 Singh, for the 6th and I think there was
15 a follow up appointment, but the most
16 important thing was housing, so I located
17 -- it's very, very difficult to locate
18 housing that was in a good neighborhood
19 that had at least two bedrooms so that
20 Mom and David could have family join
21 them, if they so chose, that would accept
22 cats, that would accept a short-term
23 lease, very difficult. I narrowed it
24 down, because my mother had very limited
25 stamina, she was using a wheelchair and a

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ROA 0929

1 walker at all times. She had a very
2 difficult time walking. Oh, I rented a
3 wheelchair for my mother and a walker,
4 and I purchased a shower chair for their
5 time there, but anyway, they had -- David
6 and I and Mom went and looked at three
7 apartments. Mom chose an apartment at
8 Point Ruston which is a beautiful place,
9 it had a view, because, of course, we,
10 she believed she'd be spending ---

11 Q: You say she chose the apartment?

12 A: She chose it, yeah.

13 Q: What steps was taken, if any, to secure
14 the apartment?

15 A: So David and Mom conversed in the car
16 separately, they closed the door to, to
17 make that final decision about whether
18 they were going to rent that particular
19 apartment, and they were in the car for
20 about ten minutes and I sat outside on a
21 bench, and it opened up and David said,
22 "We're going to do it." So David went
23 inside at the Copperline Apartments at
24 Point Ruston and completed the paperwork
25 and the application, provided whatever

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ROA 0930

1 the deposit was to facilitate the
2 paperwork and the credit check and
3 subsequently was approved. The other
4 thing is to find something that was
5 readily available. So their move in
6 date, that occurred, I think, on November
7 5th. I'm just going off the top of my
8 head, but their move in date was
9 originally, I believe, to be the 8th, but
10 the apartment company wanted to put a new
11 carpet. So their move in date was
12 November 9th. November 8th was -- my
13 mother was in the ER November 7th until
14 about seven o'clock at night. November
15 8th was the day that we had to go around,
16 go to my house, see what furniture I
17 could donate temporarily or permanently,
18 bookcases, what have you, I had an extra
19 bed set, and then go to a furniture store
20 or a rental store to get the basic things
21 set up so that they can move in on
22 November 9th, arrange moving services and
23 be ready to begin Mom's treatment the
24 following week.

25 Q: And let's talk about the events of

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1 November 8th, I understand that, the
2 testimony yesterday, that your brother
3 was not in Washington on that date?

4 A: No.

5 Q: So tell me what you and Mr. King and your
6 mother had planned for November 8th.

7 A: November 8th, we were to meet. I was to
8 come down to the Silver Cloud at 9:00
9 a.m. and we were going to travel together
10 to start to go look at, first, at my
11 house and then look at different places
12 for furniture, furnishings, you know,
13 they needed everything, they needed
14 silverware and what have you. A lot of
15 that, I could do, go to Target, but the
16 most important thing was to get the basic
17 furniture needs, either rented,
18 purchased, or borrowed from my house,
19 because I would then have to hire like a
20 service, like a dolly, which I use a lot
21 to move and what have you, and that was
22 all perfectly feasible to do that day,
23 and when -- and I got a message and I
24 have it ---

25 Q: Wait a minute, wait a minute. Did you go

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1 to the hotel at nine?
2 A: I did not, because I got a message from
3 David that they were -- I can't remember
4 if it was out, I saw in the text, out for
5 breakfast and doing some errands or
6 something like that and waiting for a
7 prescription, which is strange, because
8 the night before, the hotel, excuse me,
9 the hospital had issued a prescription
10 that was not avail -- or there was a
11 problem with the insurance, the pharmacy,
12 I guess. David said he didn't have the
13 right Medicare card, so I ran to
14 Walgreens right before they closed and
15 obtained the only prescribed item on the
16 discharge list for Mom and David. I also
17 picked up dinner that David had ordered
18 for them. So all that was left to pick
19 up, from my recollection, were over-the-
20 counter items, and so when he said he was
21 waiting for a prescription and they were
22 kind of driving around, I thought, "Huh,
23 I don't really recall any" -- "That's
24 fine, you know, they, they need some
25 time, whatever." Then, I received

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1 another notification. I want to say it
2 was around ten-thirty that they were
3 still waiting for prescriptions and going
4 to get some breakfast, and I'm, I'm
5 getting impatient now, 'cause the time is
6 going by, and I said, "So when, when can
7 we meet," and I conferred with them, and,
8 again, this is off my recollection, but
9 it is certainly in text records and calls
10 that we agreed that we would meet at the
11 hotel, I think, around twelve-thirty. I
12 got another message that they had decided
13 that they were just going to drive
14 around, and I can't remember if I was
15 told this over the phone or in text that
16 they were looking at other options, other
17 living options, like an extended stay or
18 something, so.

19 Q: Did they say what those other options
20 were?

21 A: Yeah, the, the word was extended stay in
22 like another hotel, I guess. I know my
23 area very well. There is one, that I'm
24 aware of, and it's down by the port and
25 it's a terrible place.

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1 Q: After that message, what happened?

2 A: After that message, I did not -- let me
3 think. I remember expressing whether it
4 was through phone calls/voicemails, I, I
5 started to have difficulty getting hold
6 of them and ---

7 Q: Let me ask you this, did they meet you at
8 the hotel at twelve-thirty?

9 A: I did not see David or my mother after
10 the night of November 7th, so at one
11 point, I mean, I was getting very
12 agitated, "I need to talk to you, what's
13 going on, this is the day we're supposed
14 to" -- I just didn't understand. This
15 seemed to be poor judgment. It was very
16 irrational and I was really concerned,
17 'cause I wanted my mother to be stable
18 and relaxed and have a few days outside
19 of a hotel in a calm place before she
20 commenced her next phase of her medical
21 treatment, so I asked the hotel, I
22 called, you know, I was on a first --
23 like everybody in the hotel knew me. I
24 had a key to their room, I was there
25 every day. I stopped by the hotel, I

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1 think, about one-thirty and asked the
2 hotel receptionist, "Have you seen my
3 folks?" They were staying in the
4 handicap room right adjacent to the
5 lobby, like literally you could see the
6 door. "No, no, no, we haven't seen
7 them." I said, "Well, will you do me a
8 favor, if they come in, can you just give
9 me a call and let me know, they're out
10 doing some shopping, but I just, you
11 know, I just want to know when they're
12 back and then I'll touch bases," just
13 very casual." "Sure, sure, sure, we can
14 do that." And, then, again, there was a
15 call that David -- John finally got a
16 hold of David and we had a very brief
17 conference call and Mom sounded really
18 disjointed. She wouldn't really talk on
19 the, she didn't talk on the phone, but
20 David said, "We're just doing our own
21 thing, we're, we're looking at other
22 options, we, you know, you don't," you
23 know, I can't remember, but it was just a
24 very ---

25 Q: Do you recall about what time that

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1 conference call was?

2 A: That was probably about two-thirty or
3 three. So, then, I was called by the
4 hotel. It was a very brief conversation.
5 It was inconclusive. It was clear that
6 nothing was happening that day in terms
7 of getting settled into this new
8 apartment.

9 Q: Y'all had a conference call or a call
10 from the hotel?

11 A: No, I'm talking about the conference call
12 after that call. It was clear, it was in
13 the middle of the afternoon, that they
14 were looking at extended stay places,
15 that ---

16 Q: And you said the hotel called you after
17 that?

18 A: Yes, and they said that my folks had
19 returned, and, and I was concerned about
20 my mom. Remember, I had rented a walker
21 and a wheelchair for her, and I said,
22 "Well, how did" -- I, I think they called
23 -- I don't know if they called at three-
24 thirty or if they said they came back
25 around three-thirty, and I said, "Oh,

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1 good." I said, "Well, can you tell me,
2 how did my mom look, you know, was she,
3 was she walking okay," and the person who
4 called me said ---

5 Q: Well, now, you can't testify what
6 somebody told you unless they're a party.

7 A: Oh, okay, I'm sorry.

8 Q: So based on that phone call from the
9 hotel, what did you do?

10 A: I stayed put, so I understood that my
11 folks had arrived at the hotel, good,
12 Mom's tired, she can rest. Remember,
13 she'd just been in the ER the night
14 before, and then I called the hotel again
15 and I said, "Would you please let me
16 know, my folks are tired and they need
17 their space, need to relax, would you
18 please just let me know" -- I started to
19 have an inkling that something was up --
20 "would you please let me know if they
21 leave or if they check out?" And I got a
22 call much later, I want to say it was
23 around -- and, I, I believe I was still
24 attempting to reach them and, and text
25 them and what have you, like around seven

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1 or seven-thirty or something, "You had
2 asked us to call you, by the way, your
3 folks ---
4 Q: You can't testify what somebody told you,
5 so based on, ---
6 A: I'm sorry.
7 Q: --- based on that phone call later, ---
8 A: Yes.
9 Q: --- what did you do?
10 A: Based on that phone call later, can I say
11 when I understood that my folks had
12 checked out of the hotel? Can I say
13 that?
14 Q: That's fine, ---
15 A: Okay.
16 Q: --- but what did you do when you
17 understood that?
18 A: My action, yeah, my action. Well, first
19 of all, I, I panicked, I was like, "This
20 is so out of character, we spent every
21 single day together," so I ---
22 Q: Let me interrupt you real quick, but
23 between the time you were supposed to
24 meet them at the hotel and the text
25 before that and at that point, had you

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1 had any indication from any texts,
2 voicemails or conversations with your
3 mother or Mr. King that they were
4 planning to check out of the hotel?

5 A: No, of course not. No.

6 Q: So what did you do when you found out?

7 A: I recall that I went down to the hotel to
8 speak to the, the Desk, and the person on
9 duty was not the person who checked them
10 out. I was told that, I discovered that
11 there was a pile of belongings that was
12 left for Michelle to pick up, that the
13 rental car ---

14 Q: When you say pile of belongings, you mean
15 ---

16 A: Personal belongings of ---

17 Q: -- your mother and Mr. King's ---

18 A: Yes.

19 Q: --- belongings?

20 A: Uh-huh (affirmative response), uh-huh
21 (affirmative response, which I had not
22 been told about by my folks. I was -- I
23 found out that the rental car had been
24 left at the hotel and, oddly, the rental
25 car key had been left with the front

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1 desk, so, and that they checked out.

2 And, so, I called my brother and let him
3 know, 'cause my brother was on route to
4 come out that weekend, because we were
5 going to all help them settle into their
6 new place. I was ---

7 Q: They were coming out for the move in day
8 the following day of the 9th?

9 A: Well, yeah, for, for the weekend, for as
10 much time as they could spend. Somewhere
11 in that mix, I think I got a message from
12 the Copperline property manager,
13 Copperline, the apartment units, saying,
14 "Hey, we haven't heard from" ---

15 Q: Remember, you can't testify ---

16 A: I'm sorry, I'll quit doing it. I
17 apologize.

18 Q: --- what somebody said.

19 A: I apologize.

20 Q: All right. So you received a call from
21 the property manager of the apartment
22 that they were looking at?

23 A: Either a call or an email, uh-huh
24 (affirmative response).

25 Q: What did you do based on that

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1 information?

2 A: Well, then, I recognized that I believed
3 that they were going to either be leaving
4 or that something bad had happened. This
5 was a very irrational situation. We had
6 been ---

7 Q: Let me stop you there. Why do you say
8 it's an irrational situation?

9 A: Because we had been in close contact.
10 We, as a family unit, had been together
11 every single day, we had discussed every
12 single decision. We were communal and
13 communally supportive of my mother. My
14 mother, who is in dire medical condition,
15 David had exercised some poor judgment,
16 in my view, during that week in terms of
17 managing my mother's medications and
18 providing her hydration, and so I was
19 very concerned about my mother's health,
20 so when I found out that they'd checked
21 out abruptly, I called my brother and
22 then I, I contacted the police, because I
23 didn't know, I thought, "I need to do a
24 Silver Alert." I, I didn't know if they
25 had been abducted, if they had wandered

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1 off, if my mother had wandered off and
2 David had tried to find her and something
3 happened to him, I did not know, or that
4 they were leaving, and I thought, "Well,
5 if they're leaving, they would've told
6 me," right, that's something that you
7 plan ahead and if they decided to leave.
8 So I called the police, I spoke to a
9 Detective, I think, Harland or something,
10 initially. He told me ---
11 Q: Wait a minute.
12 A: Oh, go ahead, I'm sorry.
13 Q: You can't testify what somebody told you
14 unless they're a party.
15 A: Yeah, thank you.
16 Q: So what, if anything, happened after you
17 talked with the police officer?
18 A: The police officer told me that I ---
19 Q: No, you can't tell you.
20 A: Okay, what, if anything, happened?
21 Q: What happened for them to ---
22 A: Okay, I then contacted ---
23 Q: Was there a police report issued?
24 A: I don't know if a police report was
25 issued. I had a conversation with a

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1 detective, I believe a Detective Harland.
2 I then called the Adult Protective
3 Services which was the protocol per that
4 conversation to file a report.

5 Q: Based on your conversation with the
6 police officer, ---

7 A: Yeah.

8 Q: --- you called Adult Protective Services?

9 A: Yes, to file a report, to establish a
10 case. I then called the police back,
11 this is what I remember, to pursue
12 obtaining a Silver Alert. I was very
13 concerned that one or both of my parents,
14 I view David as a parent, of course, we
15 always called him that, were in danger or
16 at risk, and I was told, after an
17 extensive conversation, that that
18 detective ---

19 MR. BOYD: OBJECTION.

20 A: Sorry, sorry, sorry, sorry, I keep doing
21 it.

22 Q: Not what somebody told you.

23 A: I'm so, so sorry, I apologize.

24 Q: So based on that conversation with the
25 police, did you take any action at that

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1 time?

2 A: I was unable to file a Silver Alert based
3 on my discussions. I don't know what to
4 ---

5 Q: You were unable to file based on what?

6 A: Based on the information I was given in
7 my discussion, the situation with two
8 spouses being together and not telling
9 anybody where they were, regardless of
10 the circumstances, apparently did not
11 warrant a Silver Alert at eight o'clock
12 at night.

13 MR. RHODES: COURT'S INDULGENCE FOR
14 A MINUTE, YOUR HONOR.
15 MAY I APPROACH THE
16 WITNESS, YOUR HONOR?

17 THE COURT: YES, SIR.

18 Q: I'm going to show you what's been filed
19 with the Court, the Guardian's Report.
20 I'd like to ask you if you can identify
21 that document which is part of Exhibit
22 "A"?

23 A: Sure, it is. It is a Tacoma Police
24 Department Incident Report with a number
25 and a date of 11/8 and a second date of

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1 11/9.

2 MR. BOYD: EXCUSE ME, CHARLES,

3 WHAT PAGE OF THE GAL

4 REPORT ARE YOU

5 REFERRING?

6 MR. RHODES: I'M SORRY, IT'S PAGE

7 124 OF 40, OF 140, I'M

8 SORRY, PAGE 124 OF

9 EXHIBIT "A". I

10 APOLOGIZE TO THE COURT.

11 Q: And on page 126, does that summary

12 document what transpired on that day?

13 A: Would you like for me to read it or do

14 you want me to just read it myself?

15 Q: Just scan over it ---

16 A: Okay.

17 Q: --- and let me know if that ---

18 A: On this date, what date is this?

19 MS. HARRISON: I'M SORRY, WHAT PAGE?

20 MR. RHODES: WE'RE ON PAGE 126 NOW.

21 IT WAS 124 AT THE

22 BEGINNING AND THEN 126

23 MS. HARRISON: OKAY.

24 A: Pardon me, but the context, I'm not sure.

25 This is printed on 11/9, so I assume that

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1 this statement on this date, although
2 it's not dated, is 11/8 or 11/9, but
3 okay.

4 Q: Would that accurately reflect the events
5 that you relayed just now to us?

6 A: (Pause while reviewing document). Yes,
7 it does. This must've been generated
8 once I knew that they were in South
9 Carolina.

10 Q: In the second paragraph on the second
11 sentence of that, I just want you to read
12 that second sentence of the second
13 paragraph.

14 A: (Pause while reviewing document). No.

15 Q: Would you read that ---

16 A: Oh, I'm sorry.

17 Q: --- to the Court, please?

18 A: O/Miles claimed or claimed that she
19 believes O/King is trying to harm O/C.
20 Miles.

21 Q: Did you tell the police officer you felt
22 Mr. King was going to harm your mother?

23 A: No.

24 Q: Why would that wind up in the report?

25 A: My guess is that because I expressed that

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1 my mother was in dire medical condition,
2 that she had been to the ER three times,
3 that she was diabetic, that she was
4 unable to walk most of the time, unable
5 to make decisions affecting her safety
6 and wellbeing, and so I was concerned
7 that, you know, based on the events of
8 the 8th and this bizarre situation, I
9 didn't know -- I just was concerned for
10 the wellbeing of my mother and being, you
11 know.

12 Q: Let's talk a minute about the ER visits
13 you mentioned, if you would look at
14 Exhibit 1 that you have in front of you.

15 A: Exhibit 1, Dr. Huberty?

16 Q: No, if you'll look at page 326

17 A: Okay.

18 Q: That documents a visit to the ER with
19 your mother on what date?

20 A: November 4.

21 Q: Do you recall the events that led to that
22 ER visit on that date

23 A: You know, there were three visits in
24 rapid succession. There were
25 consistencies in each. I don't know if I

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1 can recall the exact events on that date,
2 but ---

3 Q: Were the events similar for all three of
4 them?

5 A: They were. My mother ---

6 Q: Well, let's talk about all three of them
7 in general.

8 A: Okay.

9 Q: And just for the record, the first one
10 you just mentioned was November the 4th,
11 2018, that's page 326, and the second
12 one, if you would turn to page 339 and
13 tell the Court what date that one was.

14 A: November 7th.

15 Q: Okay, then if you would turn to page 352,
16 tell the Court what date that one was.
17 Well, I'm sorry, let me back up a minute.
18 That's the wrong one. Go back to page
19 307. I got them out of order.

20 A: November 2nd.

21 Q: We're looking at November the 2nd,
22 November the 4th, and November the 7th?

23 A: Uh-huh (affirmative response), yes,
24 that's correct.

25 Q: And can you tell the Court in general,

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1 not specific to either one, but in
2 general what happened on those three
3 occasions?

4 A: Yes. In general, I arrived at the hotel
5 room, Mom was in bed. Mom was -- well,
6 if I might give some context, there was
7 an ongoing issue with the glucometer that
8 David was using, which he stated was old
9 and gave misreadings frequently.

10 Q: I didn't hear that. What did you say?
11 What was it that was old?

12 A: The glucometer, which ---

13 Q: What is that for?

14 A: That is for testing, testing blood sugar
15 for a diabetic person to endure you're
16 administering the correct amount of
17 insulin ---

18 Q: Thank you. Go ahead.

19 A: --- and, and diet. So I had that in my
20 head, of course, so. On these occasions,
21 generally, I arrived in the hotel room.
22 Mom was in bed. She was lethargic. At
23 that time she could not walk without
24 assistance and even then it's very
25 difficult for her. That first date,

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1 November 2nd, David told me that he had
2 observed, and I can't remember if this
3 was in a phone call before I arrived,
4 'cause I, I, I call before I arrive, you
5 know, and make sure I give them some
6 heads-up, and, and that Mom had been
7 dragging her right foot, and then when I
8 got there, from what I recall, he showed
9 me and it wasn't just dragging, it was
10 dragging off at an angle and her right
11 side, her right arm was, was not working,
12 she wasn't able to use it and it was kind
13 of droopy. I was really concerned she
14 was having a stroke, so I, I said, "We
15 need to take Mom to the ER, we, we need
16 to go right now," and my recollection of
17 that first time was, "Oh, no, she's fine,
18 she just needs to relax," you know, and,
19 and what have you, and I insisted. I
20 said, "No, this is, this is serious."
21 And, so, we went to the ER and Mom didn't
22 resist, you know, and we all know -- do I
23 need to voice what was discovered now or
24 ---

25 Q: Excuse me?

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1 A: I'm sorry, is that enough information for
2 that particular visit?

3 Q: Well, I was going to ask you, when you
4 say your mom didn't resist, did she
5 complain about going, did she say, "I
6 don't want to go?" Did she offer any
7 comment, not physically resisted, but did
8 she offer any verbal resistance?

9 A: No. No. No.

10 Q: And once you insisted, did Mr. King
11 assist in taking her?

12 A: After I convinced David firmly that this
13 was going to happen, then he assisted, I
14 mean, physically. He drove, you know, he
15 had a rental car. I think he drove. I
16 can't remember if he drove or I drove,
17 'cause I had my car, and we went, and he
18 was generally compliant once he concurred
19 that we needed to go to the ER.

20 Q: Did he participate and attend as much as
21 he could with the visit at the hospital?

22 A: To my recollection, he did. The hospital
23 notes would indicate whether or not there
24 were times when my mother did not want
25 David in the room and I don't recall if

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1 that occurred during any of these visits,
2 but ---

3 Q: So the hospital notes will reflect, most
4 likely, that you and Mr. King took your
5 mother to the hospital?

6 A: Yes.

7 Q: But it wouldn't reflect those events that
8 you described prior to going to the
9 hospital?

10 A: No.

11 Q: Okay. And was that basically the
12 scenario for all three of those visits?

13 A: Basically, except that with each, with
14 each of the two subsequent visits, my
15 mother, between -- so during that very
16 short five-day period, I observed, let's
17 say on November 3rd and November 5th, for
18 example, times where my mother would
19 remind David that, "David, isn't it time
20 for me to get my, you know, insulin," and
21 I would observe frequently that Mom did
22 not ---

23 Q: What I'm asking you is, you described it
24 as a situation where you went to see your
25 mother, you saw something that gave you

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1 concern, ---

2 A: Yes.

3 Q: --- Mr. King didn't think it was such a
4 big deal, ---

5 A: Yes.

6 Q: --- and you insisted that they go to the
7 emergency room? I'm saying was that the
8 scenario for the other two visits in
9 general?

10 A: Yes.

11 Q: When you went to the emergency room, were
12 there any issues with her health or
13 whether or not the doctor said, "Don't be
14 concerned, thank you for bringing her
15 in?"

16 A: No, every single time it was a warranted
17 visit. It was a medically necessary
18 visit, in my view.

19 Q: Do you remember what the issues were?

20 A: Well, the first ---

21 Q: Okay. Go ahead, I'm sorry

22 A: On November 2nd, what I, what I recall, I
23 was told by ---

24 Q: You can't testify ---

25 A: I'm sorry, sorry

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1 Q: --- what you've been told.
2 A: I take it back. I'm sorry, take that
3 back.
4 Q: Okay. What does the record reflect?
5 A: I'm sorry. So you're asking me what the
6 record reflects?
7 Q: Right, if you recall.
8 A: Are you asking me what I recall or what
9 the record reflects, I'm sorry? I'm
10 confused.
11 Q: Did you not get a copy of the record when
12 you went to the hospital?
13 A: I don't recall.
14 Q: Well, then, ---
15 A: Okay.
16 Q: --- refresh your memory with the document
17 in front of you.
18 A: Okay.
19 Q: And I believe you're looking at page ---
20 A: 307.
21 Q: --- 307, the first visit.
22 A: Uh-huh (affirmative response). (Pause
23 while reviewing document). Okay. Do you
24 want me to continue reading?
25 Q: What was the issue with your mother at

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1 that time, what was ---
2 A: What was the diagnosis?
3 Q: Yes, ma'am.
4 A: Let me find that, 'cause I'm not a
5 medical professional, so I'm looking for
6 -- I'm not familiar with this format.
7 What I recall is that her brain was
8 swelling.
9 Q: Okay. That's what I'm asking.
10 A: That's what I recall, and what I recall
11 is that it was a life-threatening
12 situation.
13 Q: And that's what was resulting with the
14 partial ---
15 A: Yes.
16 Q: --- paralysis on the right side?
17 A: With the cumulative partial paralysis,
18 the increasing paralysis and word use and
19 what have you and ---
20 Q: And if that had continued, that would be
21 harm to your mother?
22 A: I believe it would've been cataclysmic.
23 Q: Okay, but nothing intentional on Mr.
24 King's part?
25 A: Not that I'm aware of.

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1 Q: So you didn't say to the police officer
2 that you thought he was going to harm
3 your mother, ---

4 A: No.

5 Q: --- but that your mother may suffer harm
6 in his care?

7 A: Yeah. Well, I don't even know if he used
8 the word harm, but yes, yes.

9 Q: So those three ER visits, that was your
10 concern, not that he was doing anything
11 on purpose?

12 A: No. No, no, no, no, no, no. No just
13 judgment and awareness.

14 Q: And I think the last visit was on
15 November the 7th, which was the day
16 before you described getting ready for
17 the move in date?

18 A: Uh-huh (affirmative response).

19 Q: And let's get back to that, I think
20 that's where we left off, the police
21 report, so after you talked with the
22 police and they declined or no Silver
23 Alert was issued, what action did you
24 take at that time?

25 A: I think I was so exhausted at that point,

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1 I may have spoken to my brother again who
2 had decided by then to change his travel
3 plans. He was on route to Seattle and
4 decided to change his mid-route to go to
5 Myrtle Beach in the hopes that that's
6 where they ended up. Meanwhile, I also
7 ---

8 Q: Let me ---

9 A: Okay.

10 Q: let me stop you there. At that time, had
11 you had any contact -- How long had it
12 been since you had any contact with Mr.
13 King or your mother at the time you had
14 the conversation with Mr. Strasswimmer?

15 A: The last time I had contact was in a
16 short conference call around, I think,
17 two-thirty or three on November 8th.
18 Before that and after that, I have
19 extensive texts, emails, and voicemails
20 to both Mom and David pleading with them,
21 "Tell me what's going on."

22 Q: Well, I'm asking you, the last time you
23 had contact from them was about two-
24 thirty that afternoon; is that what you
25 said?

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1 A: On the 8th, yeah.

2 Q: On the 8th?

3 A: Uh-huh (affirmative response).

4 Q: And about what time was it you called Dr.
5 Strasswimmer?

6 A: I don't recall, I mean, I know that I
7 spoke with him at the conclusion of the,
8 the decision by the police to not file a
9 Silver Report, which I think was probably
10 around somewhere eight or nine at night.

11 Q: So you talked to him after that?

12 A: I, I believe so, just to give him an
13 update.

14 Q: And when was the next time you had any
15 contact from your mother or Mr. King?

16 A: I received a single text message.
17 Actually, I take that back. I received a
18 text message, I believe, from David after
19 more pleadings and, "Call your mother,
20 she usually has her phone with her, she
21 has her phone with her." I have that
22 text. I called, there's no answer, so
23 then I ---

24 Q: Do you remember about what time that text
25 was?

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1 A: It would've been, I think, in the
2 afternoon their time, so probably late
3 morning my time. I can, I looked, I
4 mean, it's in my text record.

5 Q: That would've been on the 9th?

6 A: It's on the 9th, yeah.

7 Q: On the 9th.

8 A: And, then, subsequent to that, I received
9 a text on Mom's or from Mom's phone after
10 I tried to call her and could not reach
11 her and then responded to David that I
12 could not reach her as he had suggested I
13 do, which is call. He may have
14 responded, and, again, it's all in my
15 text thread. At that ---

16 Q: At that time, were you aware where they
17 were, did you know where they were at the
18 time you received that text on the 9th?

19 A: You know, actually, I -- that, that text
20 might have been after the text I received
21 from my mother's phone, which was a very
22 well composed couple of sentences that
23 they were, they were back in South
24 Carolina. I don't remember the exact
25 verbiage, "We are tired, we are fine,

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1 love Mom, heart," from her phone.

2 Q: So that would've been late the 8th or

3 early the 9th?

4 A: No. No, that would've been on the 9th,

5 yeah, yeah.

6 Q: So several hours passed with no contact

7 from either one of them?

8 A: Yeah, I mean, more, more than several

9 hours, I would say close to 24.

10 Q: Almost 24 hours?

11 A: Almost, I mean, it would've been the --

12 so the last contact being mid-afternoon

13 on the 8th and then the next contact

14 being sometime, I, I recall, late morning

15 my time, and that was only via text.

16 Q: And, so, just want to make sure, there

17 was no police action taken?

18 A: No.

19 Q: And the Adult Protective Services, now

20 you can't tell me what anybody told you,

21 ---

22 A: Yes.

23 Q: --- but what action did they take?

24 A: They followed up. So the 9th would've

25 been Friday, so they followed up with me,

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1 I believe, the next week with a phone
2 call, the caseworker, to introduce
3 herself, to talk to me, and it's, it's
4 difficult, this was so long ago to
5 recall, you know, exactly when, but at
6 some point, I did speak and file a report
7 with her and would've told her that Mom
8 was out of state at that point, and
9 that's all I can recall.

10 Q: Do you know if that case is still active
11 in Washington?

12 A: I don't know. No, I don't know. I was
13 told that they ---

14 Q: No, you can testify ---

15 A: Okay, I'm sorry.

16 Q: --- what you've been told.

17 A: You're right.

18 Q: Have you received any paperwork saying
19 that it was closed?

20 A: No, not that I'm aware of, huh-uh
21 (negative response).

22 Q: I want to spend just a little bit of time
23 on your mother's current providers, I
24 think from testimony yesterday are Dr.
25 McGranahan and Dr. Morris-Ward?

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1 A: Uh-huh (affirmative response).

2 Q: Is that correct?

3 A: Yes.

4 Q: Are there any others that she regularly
5 sees?

6 A: Jennifer Garrett, the R.N. who comes and
7 makes, the private duty nurse, who comes
8 to the house three times a week.

9 Q: And she is associated with what facility?

10 A: She, she is sourced through SYNERGY, the
11 entity who also provides our, our
12 Certified Nursing Assistance.

13 Q: So she's with SYNERGY to provide the home
14 health care?

15 A: Yes, she was routed through them. I
16 believe she's an independent contractor.

17 Q: Okay. So she comes on how many days a
18 week?

19 A: She's scheduled to come Tuesday,
20 Thursday, and Saturday, so three days a
21 week.

22 Q: What is the current care plan for your
23 mother?

24 A: The current care plan is that we have --
25 effective February, we have a live-in,

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1 Certified Nursing Assistant, Joyce
2 Bittok, who has been working with my mom
3 since December. Am I'm answering your
4 question correctly?
5 Q: What I'm driving at is, is the plan to
6 aggressively fight the tumor or ---
7 A: Oh.
8 Q: --- is there some other plan or there is
9 no plan? I'm talking about as far as the
10 doctors in conjunction, what is the total
11 plan for your mother, not the day to day
12 plan?
13 A: Okay, I apologize.
14 Q: That's okay. I didn't make it very
15 clear.
16 A: My, my understanding of the current
17 treatment plan or the palliative
18 treatment plan, the care, the comfort
19 plan is that Mom is going to remain on
20 Avastin. The intervals have now been
21 expanded to three weeks rather than two,
22 Mom is very compliant with those, and to
23 have an MRI. The next one is scheduled
24 for April the 11th, and at that point Dr.
25 McGranahan and the radiologist, I guess,

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1 will assess the, the tumor status.

2 The other care plan is
3 to -- we received a referral. I
4 requested a referral from the palliative
5 care physician, Dr. Bryan Morris-Ward,
6 for a company recommended to me by Beth
7 Stone called Puget Sound Home Health to
8 get an R.N. in-home assessment so that we
9 could start the process of having Mom
10 have PT, OT and any other therapies
11 provided in-house to start and to get Mom
12 on a program where she is, you know,
13 working towards health and strength.
14 Outside of the doctors, my mother has
15 recently rejoined the YMCA and has been
16 there. She's been a YMCA member for
17 years in Myrtle Beach, and then I -- we
18 do a lot of other things to keep her
19 physically active and engaged, but I'll
20 stop there, because I don't ---

21 Q: So I think you said she goes back April
22 11th for an MRI?

23 A: Yes.

24 Q: And, then, you're going to discuss with
25 the radiologist and Dr. McGranahan steps

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1 from there, depending on the results of
2 that?

3 A: Yeah. Dr. McGranahan communicates the
4 radiologist's findings, so, I mean, I
5 don't discuss with the radiologist, just
6 to clarify, but yeah.

7 Q: That's fine. So you'll meet with Dr.
8 McGranahan ---

9 A: Yeah.

10 Q: --- and go over the results ---

11 A: Yes.

12 Q: --- and any options at that time?

13 A: Uh-huh (affirmative response).

14 Q: Now, your mother, you said she's doing
15 well on Avastin?

16 A: Avastin.

17 Q: I don't know how to pronounce that.

18 A: Avastin, yeah.

19 Q: Avastin. And I think we were going to
20 talk about, she basically met with Dr.
21 McGranahan alone at the last visit?

22 A: On virtually all the visits. I, I
23 started doing that early on. I, I think
24 that it's really healthy. Mom values her
25 autonomy and has grown tremendously in

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1 terms of that, and this is her healthcare
2 and I don't want -- so, yes, I -- Mom
3 goes in, and this last time, I wasn't
4 called in to participate in the joint --
5 so I did ask Dr. McGranahan to ask the
6 temporary guardian to give me a debrief
7 on what they discussed and, of course,
8 got the notes.

9 Q: So as much as your mother is able to
10 participate and control her own
11 healthcare, you're allowing that?

12 A: Yeah, of course.

13 Q: And as guardian, you're following up with
14 the doctor to find out what those
15 decisions are?

16 A: Well, yes, following up to find out what
17 those decisions are, if any. For
18 example, the last visit with Dr. Bryan
19 Morris-Ward, I asked Mom, "Did you want
20 to" -- I've been with her at every single
21 one of those visits for the entire visit,
22 and I asked her, "Did you want to talk
23 with Dr. McGranahan alone?" She looked
24 at me, she goes, "Yes." I said, "Okay."
25 So as I left the room, the doctor was

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1 coming in and I said, "Mom wants to meet
2 with you one on one first," and so they
3 did for, I don't know, seven, ten minutes
4 or whatever and then he popped out and
5 said, "We'd like you to come in."

6 MR. BOYD: OBJECTION, YOUR HONOR.
7 THERE'S ---

8 A: I'm sorry?

9 Q: You can't testify to what somebody said.

10 MR. BOYD: SHE'S NOT ALLOWED TO
11 SAY WHAT HEARSAY SAID
12 TO HER.

13 A: I'm, I'm so sorry I keep doing that. I'm
14 very sorry to the Court.

15 Q: Now, you said Dr. Morris-Ward and then
16 you switched to McGranahan, so who was
17 it?

18 A: I'm sorry?

19 Q: You started to say the last visit with
20 Morris-Ward, for example, and then you
21 said you talked with Dr. McGranahan, so
22 which was it that you were meeting with?

23 A: So they're two separate visits, Dr.
24 McGranahan on, on March 7th.

25 Q: So on both of those visits your mother

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1 wanted to talk to them individually?

2 A: Yes.

3 Q: Okay, I understand.

4 A: Yes.

5 Q: I just want to get it clear.

6 A: Yeah.

7 Q: And have you ever, after finding out what

8 they talk about and the options your

9 mother chose, told y'all, "No, we're not

10 doing that, we're going to do something

11 else?"

12 A: No.

13 Q: It came up yesterday in Dr.

14 Strasswimmer's testimony about a DNR

15 being changed, do you recall those

16 events?

17 A: I vaguely recall that day, very busy,

18 hectic day. I recall that my mother was

19 -- she noticed the DNR on the wall. This

20 is at the University of Washington Neuro

21 Unit floor where she had been staying and

22 she stayed there for about week.

23 Q: So the University, they post DNR on the

24 door or the wall, so that ---

25 A: They had posted it. I don't recall if

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1 it's on -- in an interior wall of her
2 room, I kind of think it was, or on the
3 exterior, I really recall.

4 Q: But it's posted where anyone could see
5 it?

6 A: It was posted, yeah, and my mother
7 noticed it, said, "What's this," and
8 became very agitated and insisted that it
9 be changed, and at the time, my sister-
10 in-law, Karen Strasswimmer, was in the
11 room as well and she and I observed this,
12 and I, as sort of a novice to, you know,
13 certainly a novice to the protocols,
14 would've asked the medical team, "What do
15 we do here, this is, this is what my
16 mother wants, so what's next," you know,
17 that's what I recall.

18 Q: Do you recall your conversation with Dr.
19 McGranahan?

20 A: I don't recall the conversation.

21 Q: Do you recall whether the DNR was changed
22 at that time?

23 A: I honestly don't recall if it was changed
24 or not.

25 Q: You were here in the courtroom yesterday

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1 talking about it being changed; you don't
2 recall that?

3 A: Yes, but I guess I just don't recall the
4 details. There was something about
5 changing it to full code, but no
6 intubation; am I remembering that
7 correctly?

8 Q: I think so. And subsequent to that, did
9 your mother and Dr. McGranahan have a
10 conversation again about DNRs and no
11 intubation or issues like that?

12 A: Well, on December 7th when my mother and
13 I met with Dr. McGranahan and the POLST
14 was successfully completed with a lot of
15 discussion between Dr. McGranahan and my
16 mom, the decisions were made by my
17 mother, and then I signed that document,
18 along with Dr. McGranahan and my mother.

19 Q: And that document requires either the
20 patient's signature or the legal
21 guardian's signature ---

22 A: Yes.

23 Q: --- before it goes into effect?

24 A: Yes, that's my understanding.

25 Q: If it was your desire for her not to have

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1 a DNR, would you have signed that form to
2 change it?

3 A: I'm -- if it was my desire to ---

4 Q: If it was your desire that your mother be
5 resuscitated, would you have signed a
6 POLST saying that she was not to be
7 resuscitated?

8 A: I would've signed whatever my mother
9 wanted. That was my mother's decision.
10 That was a conversation between her and
11 her doctor.

12 Q: Well, let's talk about Franke Tobey
13 Jones, excuse me, I think your brother
14 has testified extensively about the
15 discharge from the hospital at Franke
16 Tobey Jones, so I don't want to go into
17 that. What I want to talk to you about,
18 if you'll look at page 369, and this one
19 is turned sideways, so the number is kind
20 of hid up next the ring binder.

21 A: Okay, I got it.

22 Q: Do you recognize what that document is?

23 A: This appears to be a document issued by
24 the, I guess, in-house doctor, Dr. Leo
25 Panlasigui, a report he produced

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1 periodically on the general status of my
2 mother's condition.

3 Q: This report runs from page 369 to page
4 376, but I just want to look on that
5 front page. There was a lot of
6 discussion yesterday about why your
7 mother was at Franke Tobey Jones for so
8 long.

9 A: Uh-huh (affirmative response).

10 Q: And I think Dr. Strasswimmer's testimony
11 responded to that. I just want you to
12 look at where it says on that report, the
13 top heading says, the first one says,
14 "Diagnosis," the second one says, "Goal."

15 A: Uh-huh (affirmative response).

16 Q: Would you read just that very first one
17 where it talks, "Resident will?"

18 A: Certainly. "Resident will have decreased
19 frequency of care refusals."

20 Q: What date was that initiated?

21 A: Date initiated 11/30/2018, target date,
22 February 28, 2019.

23 Q: And the square below that under
24 diagnosis, the square, it starts with
25 "Discharge."

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1 A: Uh-huh (affirmative response).
2 Q: And would you read the target date
3 associated with discharge?
4 A: Oh, in the, in the next column?
5 Q: In the next column, yes, ma'am.
6 A: Oh, sure, sure, sure. "The target date
7 remains February 28th, 2019" in three
8 separate places.
9 Q: Did you, Dr. Strasswimmer or Dr. Miles
10 have any input into those reports?
11 A: No.
12 Q: So that was the physician and medical
13 staff at Franke Tobey Jones that was
14 determining those dates?
15 A: Yeah. Yes.
16 Q: And, in fact, I believe the testimony
17 yesterday was that your mother was
18 actually discharged on the 1st, ---
19 A: Yeah.
20 Q: --- which was well ahead of their target
21 date?
22 A: Yes. Yeah.
23 Q: Do you recall an incident at Franke Tobey
24 Jones in which you called the police --
25 Well, let me rephrase that question, in

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1 which the police came because of an
2 incident involving Mr. King and your
3 mother?

4 A: Yes.

5 Q: You do? Okay. Would you tell the Court
6 what you recollect of that day?

7 A: If the date you're referring to is in
8 January of 2019, because the police were
9 called twice, so I want to make sure.

10 Q: Well, let's talk about both of them, ---

11 A: Uh-huh (affirmative response).

12 Q: --- talk about the January one first.

13 A: Okay. So ---

14 Q: Tell me what you recollect of the police
15 being called and the events that led up
16 to it.

17 A: Uh-huh (affirmative response). Well,
18 earlier that day, I asked David in the
19 day room, which is down the hall from my
20 mother's room, little meeting area for
21 family and what have you, if he had
22 brought my mother's passport, military
23 I.D. and Social Security, I mean, the
24 South Carolina I.D. and her medical cards
25 for which I'd been asking in writing and

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1 verbally since November 18th. He's
2 repeatedly promised to bring them out and
3 he repeatedly failed, he forgot,
4 whatever. He provided me a Baggie with
5 some library cards and some medical
6 cards, but told me he did not have my
7 mother's medical IDs, excuse me, my
8 mother's personal identifications, her
9 passport, her, her I.D. and her military
10 I.D. she really, really wants, and I told
11 him that I was done pursuing this, and he
12 told me his attorney told him that he ---

13 Q: Wait a minute. You can't talk about what
14 ---

15 A: I'm sorry, sorry, sorry, sorry.

16 Q: --- somebody else said, much less what
17 ---

18 A: I'm so sorry.

19 Q: --- somebody said somebody else said.

20 A: I'm so sorry. Okay. The documents
21 requested for then more than two months
22 were not produced. I told him I was
23 going to stop asking for those through
24 him. I left. The Court Order, as I
25 recall, was that I was not to be on the

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1 premises for an hour before the visits,
2 and then later, I received a message from
3 the Certified Nursing Assistant on duty,
4 Joyce Bittok, that, that David and Mom
5 were going to go for a drive off the
6 grounds and that really concerned me.

7 Q: Let me ask you there, the information you
8 received was that your mother and David,
9 just the two of them were going off-
10 ground?

11 A: That's what I was told, yeah.

12 Q: Did you receive any information what led
13 up to that possibly happening?

14 A: No. She was just relaying what was real
15 time, real time events.

16 Q: Based on that information, what did you
17 do?

18 A: I, I said to her, "Oh, my gosh, that
19 can't happen, the, the Court Order says
20 that Mom can't leave the grounds," and I
21 was very concerned, because my mother was
22 weak, my mother -- yeah, just, it was
23 just bizarre, so I went down to Franke
24 Tobey Jones. I don't remember how long
25 it took me to get down there, probably

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1 twenty minutes or thirty minutes or
2 something, and found my mother and David
3 sitting out front in the sunshine at the
4 front of this very large building. The
5 healthcare unit is in the far back of the
6 building, and Joyce, the CNA.

7 Q: So let me stop you there. So when you
8 got there, they were still there?

9 A: Uh-huh (affirmative response), yes.

10 Q: They hadn't gone anywhere?

11 A: They were still at the facility.

12 Q: What I'm asking, they hadn't left and
13 come back before you got there?

14 A: Well, I wasn't there, so I don't know, I
15 mean, technically, I don't know. My
16 understanding is they did not.

17 Q: Did you receive any information whether
18 they took a trip before you got there?

19 A: Before I got there, no. All I knew was
20 that that was the plan.

21 Q: So you arrive there and they're still
22 there, so go ahead.

23 A: So I found out that Julie Forkasdi was
24 there, and I was -- I found out that ---

25 Q: Just for the Court's information, who is

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1 Julie Forkasdi?

2 A: Julie Forkasdi is a woman who was hired
3 to be an elder advocate to, per her own
4 words, facilitate visits between David
5 and my mother.

6 Q: So she was there when you got there, your
7 mom, ---

8 A: Uh-huh (affirmative response).

9 Q: --- and Mr. King?

10 A: Yes.

11 Q: Okay, go ahead.

12 A: So I sat down with Julie, and I may not
13 have the exact sequence right, but I sat
14 down with Julie and I said, "What's going
15 on," and Mom, she -- my understanding was
16 that David got approval to take Mom for a
17 ride with Julie. I think that that
18 evolved initially. My understanding was
19 it was going to be a drive off the
20 grounds with just David and my mother,
21 and then Julie offered to participate,
22 and then at some point I was made aware
23 that Bess, the Guardian ad Litem, had
24 said that that was okay, and the Franke
25 Tobey Jones staff also had been agreeable

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1 to this excursion in violation of the
2 Court Order and, frankly, in my opinion,
3 putting my mother at risk for many
4 reasons, nothing to do with David,
5 everything having to do with leaving the
6 medical facility who was in charge of
7 caring for a very sick woman with a very
8 strict medical schedule and so.

9 Q: But when you initially received the call,
10 it just your mother and Mr. King?

11 A: Yes, and it was not from -- yes, it was
12 not from anybody other than the Certified
13 Nursing Assistant. I didn't know what
14 was going on.

15 Q: Had you known that precautions were being
16 taken for your mother's safety, would you
17 have had a problem with that trip?

18 A: If proper precautions were, were in place
19 and I had assurances from the Guardian ad
20 Litem that this was not a violation of
21 the Court Order, because I felt that I
22 would've been responsible if I had also
23 approved this, and no, I would not have.

24 Q: So the issue was just not knowing what
25 was going on?

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1 A: Not knowing what was going on and also
2 being concerned about the Court Order.

3 Q: And we started this conversation about
4 the police showing up there, so how does
5 this tie in the police?

6 A: So much later, much later that day, I,
7 you know, the day went on. I can't
8 remember when I contacted the police. It
9 was probably late afternoon and I wanted
10 -- I decided, I decided that it was time,
11 I'd waited long enough to file a theft
12 report for my mother's identifications.
13 In order to get, as I understand, a
14 passport, other identifications replaced,
15 military I.D. and an I.D., state I.D.,
16 it's either lost or it's stolen, it's one
17 or the other, so it's lost. Well, if you
18 report it lost, you need a police report
19 number, so that's what I did. That
20 policeman did not show up until, I think,
21 seven-thirty at night and took the
22 report, and in the course of that
23 discussion, he asked me, he may have been
24 aware of a prior report, I don't know how
25 their system works ---

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1 Q: Prior report of what?

2 A: The, the prior report that I, when I
3 called to request the Silver Alert. I
4 don't know what their data base looks
5 like, but he engaged and asked me, "So
6 how, how are things going, what else is
7 going on," and I -- so I described some
8 of the situation that we were in, but the
9 purpose of that call was simply to file
10 the necessary documentation so I could
11 get my mother her identity back.

12 Q: And why was it so important to receive
13 the documents if your mother was already
14 in Franke Tobey Jones receiving treatment
15 and you were already appointed Guardian
16 ad Litem?

17 A: A lot of reasons, for example -- a lot of
18 reasons. Without having original
19 identification, and most physicians and
20 hospitals require that you show
21 identification, proper identification,
22 not a photocopy, in order to receive
23 services. The countless hours that I
24 spent going, attempting to locate and
25 then gain enough access to gain

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1 information on or gain access to funds
2 with all these financial institutions,
3 all required something other than, you
4 know, the guardianship papers.
5 Fortunately, to-date, because we still do
6 not have the originals, we were allowed,
7 probably because of my mother's
8 incredibly traumatic medical, medical
9 condition, to show photocopies of her
10 passport and her, her I.D., but I think
11 equally important, my mother, she wants
12 them. She says, "I have no identity."
13 She has a wallet. She uses her Visa. If
14 anybody asks for her to have I.D. for a
15 Visa, she's going to get shut down, but
16 she looked at her wallet two weeks ago
17 and said, "This is pathetic." I made
18 photocopies of her license and her
19 passport and they're in there, I'm sorry.
20 My mother is very aware that she is, I
21 mean, she's, she's very aware that she
22 does not have her personal identification
23 and I think that that really tears at her
24 since the autonomy. Her autonomy is one
25 of the biggest parts, I believe, of her

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1 ongoing mental wellbeing.

2 Q: And what action, if any, was taken after
3 you filed that report?

4 A: I did not file a stolen passport, I, I
5 did not file anything stolen with any
6 government agency. I talked about it and
7 ---

8 Q: I'm talking about after you talked with
9 the police about it and initiated with
10 them, what action, if any, did they take,
11 not what they told you, but any action
12 they took?

13 A: Did the police take?

14 Q: Yes, ma'am.

15 A: Nothing, that I'm aware of.

16 MR. RHODES: MAY I APPROACH THE
17 WITNESS, YOUR HONOR?

18 THE COURT: YES.

19 Q: This is a copy of a report that's
20 attached to the Guardian's Report, and
21 I'm going to unclip this. I'm going to
22 try to keep it in order, looking at page
23 117, page 117 of Exhibit "A", the
24 Guardian's Report ---

25 A: Okay.

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1 Q: --- and ask you if you can identify that
2 document?

3 A: This is a -- well, it's covered, but it
4 appears to be a police report with an
5 incident number taken on January 29th,
6 2019.

7 Q: Would that coincide with the incident you
8 just described, that date?

9 A: Yes.

10 Q: And what was that report heading, what
11 was it filed for?

12 A: Theft.

13 Q: And if you could flip over and look at
14 the narrative, looking on the other page,
15 ---

16 A: Okay.

17 Q: --- and it's page 122, okay, and what
18 does the narrative -- If you would read,
19 let me see, if you would read the
20 synopsis for the Court.

21 A: "Victim is terminally ill with
22 compromised cognition. Suspect is
23 estranged husband who is withholding
24 documents (reportedly on advice of
25 counsel). Reporting party is victim's

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1 daughter who has been granted temporary
2 guardianship per a South Carolina Civil
3 Court Order. In addition to theft of
4 documents, reporting party detailed
5 recent history of neglect by suspect and
6 reported suspect may attempt to take
7 victim from care facility against the
8 parameters of a separate South Carolina
9 Order which dictates terms of
10 visitation."

11 Q: So the initial call for this report was
12 theft, ---

13 A: Uh-huh (affirmative response), yes.

14 Q: --- but he just happened to show up on
15 the day that incident happened?

16 A: Well, that was also the day that I -- the
17 final straw that David showed up without
18 the documents.

19 Q: But that final straw occurred before the
20 incident with the trip; is that not right
21 or did it happen after that?

22 A: I believe it happened after that, because
23 the trip occurrence, I believe, was in
24 the morning. I can't recall exactly. I
25 really can't recall.

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1 Q: Okay.

2 A: Yeah, I can't recall. It must've
3 happened after, because ---

4 Q: Well, let me ask you this, did you call
5 the police because of the incident?

6 A: No.

7 Q: But when they showed up because of the
8 theft report, ---

9 A: Yes.

10 Q: --- you discussed it with him?

11 A: I was asked questions and, yes, I, I
12 discussed the, the -- he said, "Well,
13 what's going on here," you know, 'cause
14 it was kind of a strange situation, you
15 know, why would the husband, you know,
16 da-da-da-dah, and so, yeah, I described
17 some things. I didn't, you know.

18 MR. RHODES: YOUR HONOR, IF WE MAY
19 TAKE A SHORT BREAK, I'M
20 GOING TO BEGIN WITH
21 SOME HEAVY DUTY
22 EXHIBITS. SO WE MIGHT
23 WANT TO TAKE A BREAK
24 BEFORE WE DO THAT.

25 THE COURT: WE'LL TAKE ABOUT A

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1 FIVE-MINUTE BREAK.
2 MR. RHODES: THANK YOU, YOUR HONOR.
3 ****OFF THE RECORD****
4 (ON THE RECORD.)
5 THE COURT: MR. RHODES, YOU MAY
6 PROCEED WHENEVER YOU'RE
7 READY.
8 MR. RHODES: THANK YOU, YOUR HONOR.
9 MAY I APPROACH THE
10 WITNESS, YOUR HONOR?
11 THE COURT: YES.
12 **MR. RHODES CONTINUES:**
13 Q: This may already be in the Guardian
14 Report, I think, I don't recall, but can
15 you identify that for the Court?
16 A: Yes, this is a summary of accounts, page
17 one of three for what I believed, I, we
18 believed to be my mother's general assets
19 back, I think, January 15thish.
20 Q: And this was supplied to the parties at
21 the time of mediation?
22 A: I know that was provided to the Guardian
23 ad Litem. I don't know who ---
24 Q: This was prepared in anticipation of
25 mediation?

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1 A: Oh, absolutely, yes. Yes.
2 MR. RHODES: YOUR HONOR, I MOVE TO
3 INTRODUCE THIS AS
4 RESPONDENT MILES 1, I
5 GUESS.
6 THE COURT: ANY OBJECTIONS?
7 MS. LOCHOCKI: NO OBJECTION, YOUR
8 HONOR.
9 MR. BOYD: NO YOUR HONOR.
10 MS. LOCHOCKI: NO, YOUR HONOR. IT'S
11 ALSO PAGE 32 IN THE
12 GUARDIAN AD LITEM
13 REPORT.
14 MR. RHODES: IT IS. I THOUGHT IT
15 WAS.
16 **RESPONDENT MILES' EXHIBIT NUMBER 1**
17 **MARKED FOR IDENTIFICATION.**
18 Q: Let's just go line by line now. What
19 were the first accounts listed there on
20 that?
21 A: In Section "A", BB&T accounts.
22 Q: Can you tell me a little bit about those
23 accounts when you went to access them?
24 A: I'm sorry, I can't quite hear your
25 question.

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1 Q: I'm sorry, I was talking to the table,
2 wasn't I?

3 A: Yeah.

4 Q: I apologize.

5 A: That's okay.

6 Q: Those accounts were in your mother's
7 name?

8 A: The BB&T accounts, A and B, were, yes,
9 were in my mother's name and/or Claudia
10 T. Miles Trust. There's also listed a
11 joint account my mother had with David
12 King and another random account, balance
13 unknown, so there are four accounts being
14 there.

15 Q: For purposes of your investigation, those
16 two were the accounts that you were able
17 to get access to; is that correct?

18 A: Yes. The word access is broad. Limited
19 access, I think I would prefer to say.

20 Q: You were able to close those two
21 accounts, though, weren't you?

22 A: I was not able to close. BB&T chose and
23 forced the closure of those accounts.

24 Q: Excuse me?

25 A: I did not close those accounts. BB&T

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1 forced closure of those accounts.

2 Q: Okay, but you were able to obtain the
3 money from those accounts?

4 A: Eventually, BB&T issued two Cashier's
5 Checks for the balances in those accounts
6 to which I deposited to USAA.

7 Q: I ask you if you can look through those
8 documents and tell me what those are?

9 A: These are bank statements and printouts
10 generated by BB&T which were given to me.
11 I was refused online access to BB&T, and
12 so this was the only documentation at
13 that time that I could obtain from them.
14 So the first page is for an account
15 ending in 4306 in the name of Claudia T.
16 Miles. It shows two payroll deposits
17 from South Carolina Retirement Systems,
18 and it's dated on 10/31 and 11/30.

19 The next series of
20 pages is the consolidated statement for
21 my mother's two accounts at BB&T dated
22 11/20/2018. It's pages two and three.
23 Page four is a bank printout on account
24 number 7095, which shows transactions
25 from November 1st, I'm sorry, from 11/30,

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1 November 30th to 12/19, and the second
2 page shows a printout of that same
3 account, 7095, with transactions from
4 November 1st to December 17th.

5 The next five, I think
6 it's a five-page document. The next four
7 pages is an email that summarizes, to
8 some degree, the dialogue and the efforts
9 and the decisions by BB&T, the efforts by
10 me and the dialogue with BB&T and the
11 decision by BB&T as to what they were
12 going to do with these accounts from Ms.
13 Faye Greely who is the banker most
14 familiar with my mother, myself. I've
15 known Faye since whenever the safe
16 deposit box was put in my name and I
17 assume David King, so this was after
18 many, many, many weeks and ---

19 Q: Well, these are documents pertaining to
20 those two accounts in Section "A" of the
21 list?

22 A: Well, yes. In addition ---

23 Q: And if you'd keep going through and ---

24 A: And, then, this, this is a check on one
25 of the accounts produced by BB&T per

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1 their decision, to which I -- into which
2 I deposited USAA, a new account to
3 provide a clear paper trail for that
4 money and a separate check for the
5 savings account which I deposited into a
6 new account for audit purposes as a
7 savings account into USAA.

8 MR. RHODES: YOUR HONOR, I MOVE TO
9 INTRODUCE THIS AS
10 RESPONDENT 2.

11 THE COURT: ANY OBJECTIONS?

12 MS. HARRISON: NO.

13 MS. LOCHOCKI: NO OBJECTIONS, YOUR
14 HONOR.

15 MR. BOYD: YOUR HONOR, I DON'T
16 BELIEVE -- I DON'T KNOW
17 THAT THERE'S ANYTHING
18 IN HERE THAT -- I DON'T
19 THINK WE'VE SEEN THIS
20 DOCUMENT BEFORE NOW.
21 HAVE I SEEN THIS
22 DOCUMENT?

23 MR. RHODES: I THOUGHT THAT THEY'D
24 BEEN EMAIL TO THE
25 GUARDIAN AND SHE HAD

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1 SUPPLIED THEM TO
2 EVERYBODY.
3 MR. BOYD: DO YOU HAVE THAT
4 DOCUMENT?
5 MS. LOCHOCKI: I HAVE THAT DOCUMENT.
6 MR. BOYD: YOU HAVE THAT DOCUMENT.
7 OKAY.
8 MS. LOCHOCKI: I MAY HAVE UPLOADED IT
9 INTO THE DROPBOX
10 SHAREHOLDER, BUT
11 HONESTLY, I'M NOT SURE.
12 I'D HAVE TO CHECK THE
13 DROPBOX.
14 MR. BOYD: WELL, I CAN SAY THIS
15 MUCH, YOUR HONOR. IT
16 IS A DOCUMENT THAT'S
17 NEVER BEEN FORMERLY
18 PRODUCED TO ME. I
19 DON'T RECALL READING
20 IT, BUT I'LL JUST
21 WITHDRAW THE OBJECTION.
22 THE COURT: THANK YOU, SIR. PLEASE
23 PROCEED, MR. RHODES.
24 **RESPONDENT MILES' EXHIBIT NUMBER 2**
25 **ADMITTED INTO EVIDENCE.**

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1 Q: Now, if you could go back to what you
2 described as correspondence with BB&T and
3 read to the Court BB&T's position on
4 those accounts.

5 A: Okay. So would you like me to read my,
6 my request ---

7 Q: Yes, read your request ---

8 A: --- and then the response?

9 Q: --- and their response.

10 A: Okay. Okay. So one of the requests,
11 "Complete bank statements for the last
12 twelve months, including cancelled checks
13 on the jointly owned BB&T account and a
14 printout of current balance, all
15 activity, and cancelled checks for the
16 last statement through Wednesday,
17 December 19th, 2018. This account is
18 owned equally by our mother, Claudia T.
19 Miles, and as such per the Court Order, I
20 should have full access to all
21 information." BB&T response ---

22 Q: Let me pause you. What page are you on?

23 A: I'm sorry, I'm on page two of the email.

24 Q: Page two of the email?

25 A: Yes. Is that what you wanted me to ---

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1 Q: Let's see, that would be page six, seven
2 of the total document.

3 A: Okay.

4 MR. RHODES: I APOLOGIZE, YOUR
5 HONOR, LADIES.

6 Q: Go ahead.

7 A: Okay. BB&T response, this came from Faye
8 Greely, she sent this to me: "Request
9 completed, cancelled
10 checks/statements/transaction history
11 have been provided (see documents labeled
12 number one). Please note that, that
13 following; the following recurring debits
14 that are drawn on this account, Vonage
15 America, Santee Cooper, BB&T mortgage
16 payment, TWC. Closing account will
17 immediately stop all monthly bill
18 payments." Would you like me to
19 continue?

20 Q: May I?

21 A: Of course.

22 Q: Looking on the next page and the third
23 bulleted paragraph, if you would read
24 your request and then their response.

25 A: Uh-huh (affirmative response). I wrote a

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1 request, "Signature cards for all of
2 Claudia T. Miles' accounts and/or any
3 paperwork needing my signature as legal
4 guardian to ensure full access as stated
5 within the legal guardianship order dated
6 November 2018." BB&T response: "Per
7 BB&T legal review, due to the temporary
8 nature of the Court Order and as guardian
9 is not local, BB&T is not prepared to
10 bank/and/or manage associated accounts.
11 BB&T will initiate closing accounts.
12 Official checks for the balance in each
13 account will, will be, sorry, will be
14 prepared, issued payable to Mary Michelle
15 Miles, guardian for Claudia T. Miles."

16 Q: That was done?

17 A: Yes.

18 Q: Will you tell the Court the amount that
19 the two checks were written for?

20 A: Uh-huh (affirmative response), yes. So
21 for -- this doesn't show the account.
22 Oh, it does. Anyway, for the checking
23 account, the Cashier's Check was
24 \$19,120.48, issued on December 20th,
25 2018, and for the savings account, the

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1 dollar amount was \$191,244.77 dated
2 December 20th, 2018.

3 Q: Thank you. What did you do with those
4 funds once you received them from BB&T?

5 A: I -- for -- I created two new USAA
6 accounts in my mother's name, titled the
7 same as on the BB&T, from my
8 recollection, but in my mother's name.
9 One was a checking account, one was a
10 savings account. I deposited the
11 checking account Cashier's Check into the
12 new USAA checking account, and I
13 deposited the savings account Cashier's
14 Check into the new USAA savings account.

15 Q: I think, according to that document,
16 Plaintiff's 1, that was, not Plaintiff's,
17 but your Exhibit 1, the savings account
18 went into the USAA account ending ---

19 A: It's either 5169 or 5177, those are the
20 two.

21 Q: We'll get to those. I thought they were
22 next, but instead of me digging through,
23 I'll go ahead and go to the next account.
24 Ask you if you can identify that
25 document?

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