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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 3

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GUARDIAN AD LITEM FOR CLAUDIA
TROYER MILES

1 A: Certainly. This is a USAA bank statement
2 for the account ending in 9365, which is
3 a savings account. It's named Claudia T.
4 Miles Trustee for the Claudia T. Miles
5 Living Trust. It has a starting balance
6 of \$349,453.29. It's dated -- I
7 apologize, I should've said this. It's
8 dated 12/31/18 through 2/28/19. So,
9 again, the starting balance is
10 \$349,453.29. The statement, the closing
11 statement balance is \$348,874.14.

12 MR. RHODES: I WANT TO MOVE TO
13 INTRODUCE THIS AS
14 RESPONDENT MILES'
15 NUMBER 3.

16 THE COURT: ANY OBJECTIONS?

17 MR. BOYD: NO OBJECTION.

18 MS. HARRISON: NO OBJECTION.

19 MS. LOCHOCKI: NO OBJECTION.

20 **RESPONDENT MILES' EXHIBIT NUMBER 3**
21 **ADMITTED INTO EVIDENCE.**

22 Q: I do want to ask you, on this account, on
23 the second page it looks like a summary,
24 and on February 22nd there's an entry --
25 Actually, let's go back to the first

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ROA 0999

1 page, it's more descriptive. There's an
2 entry on February 22nd for \$1,088.48.

3 A: Uh-huh (affirmative response).

4 Q: Would you tell the Court what that entry
5 is for?

6 A: Yes, absolutely. On February 22nd,
7 \$1,088.48, an overdraft -- excuse me,
8 overdraft transfer out for overdraft
9 protection which was in place to checking
10 account ending in 9373.

11 Q: We're going to get to 9373, but that
12 indicates that there was a shortage in
13 9373 that had to come out of this
14 account?

15 A: Yes, and it's an automatic process. Yes.

16 Q: Do you recall what that shortage was?

17 A: I do.

18 Q: Would you explain to the Court how that
19 happened?

20 A: Yes. It was an oversight. The account
21 9365, I think ---

22 Q: 9373, I believe.

23 A: I'm sorry, 9373, which is, you know, a
24 checking account was being used for ACH
25 or Automatic Clearing House, automatic

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ROA 1000

1 withdrawals for certain approved
2 entities, SYNERGY, for example, the
3 Certified Nursing Assistant entity we had
4 hired. I had authorized to do a direct
5 withdrawal for their, their billings, and
6 I just -- I missed it and one of their
7 billings went through and it caused an
8 overdraft and the proper procedure
9 occurred, the savings account
10 supplemented that and ---

11 Q: And has there been any other overdrafts
12 in any other of your mother's accounts?

13 A: I can't recall. I don't believe so. I
14 can't recall, I mean, it's not a -- if
15 there was, it was an oversight, I mean,
16 it's managing a lot of accounts, but I
17 can't recall.

18 Q: Well, you haven't received notification
19 of any overdrafts or seen any other
20 overdrafts on the statements, have you?

21 A: I, you know, for the entire period that
22 I've been managing all of these accounts,
23 I honestly cannot recall, so.

24 Q: I have to ask, isn't that important that
25 you're able to recall the amount of money

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ROA 1001

1 in these accounts and the amount that
2 you're writing out of them if you're
3 managing your mother's money?

4 A: It is very important. I made a mistake.
5 The automatic, the automatic withdrawals
6 vary in dollar amount. I was
7 transferring funds, I was still chasing
8 tremendous, spending a tremendous amount
9 of time trying to ascertain my mother's
10 assets and obtain access, if possible,
11 while managing all of the medical issues
12 going on. That occurred after my mother
13 had moved into my house, so, and after we
14 had had a snow of the century, which
15 brought fourteen inches for a week to
16 Tacoma. So there was a lot going on at
17 that time, but it is ---

18 Q: I understand that, ---

19 A: It is a serious -- yeah.

20 Q: --- and the overdraft that you explained,
21 you know, is not good, but what I'm more
22 concerned about is your statement that
23 you don't know whether there's been any
24 others, there's too much going on.

25 A: I don't believe that there have been, I

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1 mean, this is not, this is not a business
2 practice, and so ---

3 Q: But isn't it important if you're managing
4 your mother's money to know the status of
5 her accounts?

6 A: Absolutely, and that's why I set up the
7 only way that I could, per USAA, a
8 dedicated working capital, if you will,
9 account under my name, last four digits
10 1888, so that I could consolidate all of
11 the expenditures. I let the existing
12 ACHs, the automatics for Franke Tobey
13 Jones dwindle out, 'cause that was done,
14 so.

15 Q: Let me interrupt you. So the Franke
16 Tobey Jones automatic draft is no more,
17 they're done ---

18 A: They're done.

19 Q: --- since she's been discharged?

20 A: Yeah.

21 Q: But the SYNERGY automatic draft is
22 ongoing; is it not?

23 A: It is, I just have not gotten around to
24 redirecting that to the Michelle account
25 1888, and then in light of the recent

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1 order to cease all activity, you know, I
2 was much more focused on moving my mom
3 and dealing with the snow storm and all
4 of that. I've halted everything and I'm
5 -- so I'm just making sure that money is
6 in the account.

7 Q: Now, as far as these accounts and the
8 automatic drafts, do you periodically,
9 you check those as those statements come
10 in?

11 A: Yes.

12 Q: Okay. And are you aware of any improper
13 charges to your mother's account?

14 A: I'm not.

15 Q: This automatic draft, I believe you
16 stated, was through SYNERGY out ---

17 A: Yes.

18 Q: --- of that account that caused the
19 overdraft?

20 A: Yes.

21 Q: Have you rectified that so it doesn't
22 happen again?

23 A: Yes, I -- yes, I actually -- yeah, I did.

24 Q: Now, I want to go back. We're in Section
25 "B" on the original first document, the

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1 summary of accounts.

2 A: Uh-huh (affirmative response).

3 Q: I think we just looked at the 9365?

4 A: Uh-huh (affirmative response), yes.

5 Q: So that basically, that account, except

6 for the overdraft protection that was

7 drawn on it hasn't been utilized?

8 A: Correct.

9 Q: I'm going to ask you if you can identify

10 that document?

11 A: Okay. This is a bank statement from USAA

12 in the name of Claudia T. Miles Trustee

13 for the Claudia T. Miles Living Trust.

14 It is dated 11/9 to 12/10/2018. It's for

15 account ending in 9373. It's a checking

16 account, as, as balance last statement,

17 so basically a starting balance of

18 \$3,881.55, and it has an ending balance

19 of \$864.70.

20 Q: Is that the Section "B", the number two

21 account ---

22 A: Uh-huh (affirmative response).

23 Q: --- referred to there as 9373?

24 A: Uh-huh (affirmative response).

25 Q: And I guess there's three statements here

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1 beginning 11/9/18 and running through
2 February 8th, 2019?
3 A: Uh-huh (affirmative response).
4 Q: So this is the account overdraft went
5 into, but that overdraft is not showing
6 because that was on the 22nd, and I think
7 I'm testifying.
8 MR. BOYD: YOU ARE.
9 MR. RHODES: SORRY.
10 Q: But, anyway, what's the last date that
11 statement is through?
12 A: February -- well, the three statements,
13 the, the final statement goes through
14 February 8th of 2019.
15 Q: Does that February 8, 2019 show the
16 overdraft being deposited from the
17 account we just talked about?
18 A: No. No, it does not.
19 Q: That is the account it went into?
20 A: Yes.
21 Q: And what is that account used for?
22 A: This account receives an automatic
23 deposit from Social Security of \$1,920,
24 ACH, a direct deposit, and it looks like
25 USAA was set up to put in incidental

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ROA 1006

1 interest credits. This -- would you like
2 me to continue with the activity on this?

3 Q: Yes, I just want to know what, if any,
4 bills or expenses are paid out of that
5 account.

6 A: Well, my ---

7 Q: Go ahead.

8 A: Well, my mother, still to this day, has
9 an ongoing ACH debit with the Y -- YMCA
10 of Coastal, South Carolina, for \$57.60,
11 and on 12/10, a credit card payment was
12 paid for \$140.63 on December 10th.

13 Q: Now, is that credit card payment also an
14 automatic withdrawal or would you have
15 ---

16 A: No.

17 Q: --- written a check or a credit card, a
18 debit card for that?

19 A: If I paid it, then it would've been
20 online, so, and then there's a \$5,000
21 USAA funds transfer to M. Michelle Miles,
22 checking number 5256, which is my
23 personal checking account.

24 Q: What was that for?

25 A: That was in -- in order to provide, okay,

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1 in order to provide working capital for
2 my mother, my -- when we started out, we
3 had two sources. My brother, John
4 Strasswimmer, provided \$5,000 ---

5 Q: I hate to interrupt you, but you talked
6 about a transfer to your personal
7 account, what was that for, ---

8 A: Okay.

9 Q: --- then I'll let you explain?

10 A: Okay. What that was for was to put funds
11 into the newly established account ending
12 in 1888 in USAA under the name Mary
13 Michelle Miles. I was directed by USAA
14 to set up a separate, set up an account
15 in my name, not my mother's name. They
16 would not allow me to do that, so in
17 order to get the funds to start using
18 that 1888, which is, to this day, the
19 working capital account for my mother, I
20 had to transfer through my personal
21 account because USAA, my mother already
22 had my personal account listed as an
23 authorized transfer account. In order to
24 add a different account, even with USAA,
25 it takes a very long time to have USAA

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ROA 1008

1 process and approve a new transfer
2 account, so.

3 Q: I think what you're saying, ---

4 A: So that was her working capital.

5 Q: --- don't let me put words in your mouth,
6 but trying to get to the point is, that
7 deposit in your personal account, 5262,
8 whatever it was, that was in order to
9 establish a new account?

10 A: I'm sorry, I got to get back to the --
11 yes. So 12/7 was the first date that I
12 had access to USAA funds, because I
13 didn't have a fiduciary letter and stuff,
14 so yes, I immediately transferred \$5,000
15 because we were using the funds my
16 brother had already provided and the only
17 way to get it into the new working mom
18 account under my name ending in 1888 was
19 to transfer it through on the same day,
20 my personal checking account. It was a
21 one-time event. I do not like running
22 money through my account, so on 12/7, the
23 money came from my mother's checking
24 account ending in 9373 for \$5,000, went
25 into my personal account ending in 5256

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1 for \$5,000, and that same day, 12/7, was
2 transferred into the account ending in
3 1888 under my name, which I call the mom
4 account.

5 Q: And why wasn't it transferred directly to
6 the 1888 account?

7 A: Because USAA has a lengthy approval
8 process to add any new transfer accounts
9 to any account, even if it's another USAA
10 account. There's a whole approval
11 process and it takes -- my recollection
12 is it can take seven days or whatever.
13 It takes a long time.

14 Q: Well, then, how were you to transfer it
15 from your personal account to the new
16 account if it took so long? It would
17 take the same amount of time, wouldn't
18 it?

19 A: Well, because that was within the
20 Michelle Miles sandbox of accounts. To
21 transfer money from one account holder,
22 one individual, one member of USAA to
23 another member, so from Claudia Miles to
24 Michelle Miles, I was -- it was
25 fortunate, it was fortuitous that my

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1 mother long ago apparently had added my
2 personal checking account as a transfer
3 account, so fortunately, I was able to
4 move \$5,000 from my mom's assets into my
5 account as simply a pass-through to get
6 it to the 1888 account, which is used for
7 day to day ongoing expenses.

8 Q: So the same delay doesn't apply when you
9 transfer it from one of your accounts to
10 another one of your accounts?

11 A: No.

12 MR. RHODES: WE'D MOVE TO INTRODUCE
13 THIS AS ---

14 THE COURT: NUMBER 4, ANY
15 OBJECTIONS?

16 MS. HARRISON: NO.

17 MS. HOCHOCKI: NO OBJECTION, YOUR
18 HONOR.

19 MR. BODY: NO OBJECTIONS, YOUR
20 HONOR.

21 **RESPONDENT MILES' EXHIBIT NUMBER 4**
22 **ADMITTED INTO EVIDENCE.**

23 Q: Now, looking at the other statements in
24 that packet, were there any other
25 transfers of that account ---

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1 MR. BOYD: I'M SORRY, CHARLES,
2 WHAT WERE YOU JUST
3 SAYING TO THE WITNESS?
4 MR. RHODES: THE SAME ONE, USAA ---
5 MS. MILES: 9373.
6 MR. RHODES: 9373. WE'RE STILL ON
7 THE SAME STATEMENT. I
8 JUST SWITCHED WITH THE
9 JUDGE, BECAUSE SHE'S
10 GOT THE MARKED ONE.
11 A: So the question ---
12 Q: I'm sorry, would you look through those
13 statements, ---
14 A: Uh-huh (affirmative response).
15 Q: --- I think there's two or three there,
16 ---
17 A: Uh-huh (affirmative response).
18 Q: --- and identify any other transfers from
19 that account to an account in your name?
20 A: Okay. I do not see any.
21 Q: And I think when we got there, you were
22 going through them, I was asking you what
23 that account was used for? Can you tell
24 me in general what it's used for, and are
25 there any automatic payments from that

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ROA 1012

1 account?

2 A: From this 9373 account?

3 Q: Yes, ma'am.

4 A: So, no, and the reason was, at the time,
5 I did not have the debit card or the
6 checkbook for this account, those were in
7 the possession of David King, and so I
8 wanted to make sure that I had adequate
9 funds protected to use as needed for my
10 mother, so I did not set this up for any
11 automatic withdrawals.

12 Q: But is that not the account that had the
13 overdraft?

14 A: No, I think it was the other one, the
15 9365.

16 Q: I'm going to show you ---

17 A: I mean, I, I could be wrong, I'm sorry,
18 but ---

19 Q: Show you what's been introduced as
20 Plaintiff's (Petitioner's) Number 3 ---

21 A: Okay.

22 Q: --- and ask you to see where a draft went
23 to?

24 A: Oh, okay, I apologize. Well, that's
25 2/22. These, these go through 2/9, 2/8.

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ROA 1013

1 Okay, so ---

2 Q: That's what I'm saying, your testimony
3 was, correct me if I'm wrong, that the
4 overdraft was a result of an automatic
5 payment ---

6 A: Uh-huh (affirmative response).

7 Q: --- that has slipped through ---

8 MR. BOYD: I'M GOING TO HAVE TO
9 OBJECT. MR. RHODES,
10 YOU'RE, AGAIN, LEADING
11 THE WITNESS. I'M NOT
12 SURE WHAT YOU'RE DOING.
13 I THINK YOU'RE
14 REHABILITATING HER
15 TESTIMONY. YOU'RE NOT
16 ACTUALLY LEADING HER,
17 BUT WHATEVER YOU'RE
18 DOING, I OBJECT TO IT.

19 MR. RHODES: YOUR HONOR, I WAS JUST
20 REPEATING HER TESTIMONY
21 IN ORDER TO CLARIFY AN
22 ISSUE FOR THE COURT,
23 THE ISSUE BEING WHAT
24 THE CAUSE OF THE
25 OVERDRAFT WAS, AND

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1 SHE'S NOW TESTIFIED TO
2 TWO DIFFERENT THINGS,
3 AND I KNOW SHE'S MY
4 WITNESS, BUT I WANT TO
5 GET THIS STRAIGHT FOR
6 THE COURT. THAT'S WHY
7 I'M ASKING THE
8 QUESTION.
9 THE COURT: CLARIFICATION.
10 MR. BOYD: IF YOU'LL JUST RESTATE
11 THE QUESTION IN A MORE
12 ---
13 MR. RHODES: LESS LEADING?
14 MR. BOYD: --- LESS LEADING
15 FASHION, YOUR HONOR,
16 I'LL BE HAPPY TO HEAR
17 FROM HER.
18 THE COURT: JUST REPHRASE YOUR
19 QUESTION, MR. RHODES,
20 MORE SPECIFIC.
21 MR. RHODES: I WILL TRY TO REPHRASE
22 IT, YOUR HONOR.
23 Q: Let's go back to this account, the 9365.
24 Now, what was your testimony as far as
25 what caused that overdraft of \$1,088.48

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ROA 1015

1 A: My recollection was that it was due to a
2 SYNERGY charge, and it was short by
3 1,088, and then there's an automatic
4 coverage set up whereby the savings
5 account credits the checking account for
6 the deficit.

7 Q: Okay. And is that account, that's what I
8 was asking, is it used for the SYNERGY
9 automatic draft?

10 A: Well, not in this set of statements. You
11 know, the SYNERGY automatic payments, I
12 used more than one account. I didn't
13 have access to my mother's accounts until
14 12/7. Before that, payments, if I recall
15 correctly, BB&T did allow me to set up
16 automatic withdrawals for SYNERGY and for
17 Franke Tobey Jones, and then at some
18 point I had to, when those were closed,
19 move to USAA as a source for automatic
20 payments for SYNERGY, so.

21 Q: So my question again is, what caused the
22 shortage in that account if it wasn't an
23 automatic payment; do you recall?

24 A: I, I -- what I recall is that the
25 shortage was due to automatic payment, I

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ROA 1016

1 mean, I, I could be misremembering right
2 now, I mean, this is an extremely
3 complicated time where I was dealing with
4 multiple financial institutions and going
5 through extreme level of documentation
6 requests and what have you, managing
7 multiple creditors and attending to my
8 mother, so.

9 Q: So could it have been a payment that you
10 made?

11 A: It could've been. It could've been a
12 check, you know, it would be documented,
13 so. Oh, wait. I recall, I'm sorry. It
14 was a check that I wrote for the -- I'm
15 sorry, it was a check I wrote, I believe,
16 for the mediation fee, the South Carolina
17 mediation fee firm, which was roughly
18 around \$1,400 or so that had been mailed
19 and then it came in and was deposited and
20 it caught me off guard or I was not
21 diligent enough to track and ensure that
22 an outstanding check had balanced.
23 That's -- I'm sorry, that may have been
24 the case.

25 Q: Well, and, again, I'll ask you, isn't

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ROA 1017

1 that important for you to be on top of?
2 A: Oh, it's very important, absolutely,
3 yeah, everything is important.
4 Q: I'm looking at that list of your mother's
5 summary of accounts, going down to number
6 three under the USAA account. I'm going
7 to ask you if you can identify that
8 document?
9 A: Yes. This is a USAA annual investment
10 statement. This is a new annual
11 investment statement dated January 1 to
12 December 31, 2018. It is for an IRA
13 under the name Claudia T. Miles, has a
14 portfolio balance starting at 51,681.98,
15 and an ending portfolio balance of
16 47,168.44.
17 MR. RHODES: YOUR HONOR, I MOVE
18 THIS, INTRODUCE THIS AS
19 NUMBER 5, I BELIEVE.
20 THE COURT: ANY OBJECTIONS?
21 MS. HARRISON: NO OBJECTION, YOUR
22 HONOR.
23 MR. BOYD: NO OBJECTION, YOUR
24 HONOR.
25 MS. LOCHOCKI: WHAT NUMBER WAS THAT,

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CHARLES?

MR. RHODES: NUMBER 5.

**RESPONDENT MILES' EXHIBIT NUMBER 5
ADMITTED INTO EVIDENCE.**

Q: Now, if you look at that statement, are there any withdrawals from that account, any disbursements?

A: Yes. Would you like me to read it?

Q: Yes.

A: I see a distribution in the amount of \$2,349.18.

Q: What is the date on that statement if you hadn't already read it? It might be on the first page.

A: I don't, I don't see the date of the actual activities. Oh, it's an annual statement, I'm sorry, I thought you meant the date of the disbursement.

Q: No, the statement date.

A: The statement date is January 1st to December 31st, 2018, and this is for the IRA for Claudia T. Miles.

Q: And that disbursement from the IRA, does it say what account it went into?

A: Does not appear to, it just shows it as a

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ROA 1019

1 distribution.

2 Q: Okay. That is a source of income for
3 your mother?

4 A: Yes.

5 Q: And you've made no disbursements or no
6 withdrawals from that account?

7 A: No. No.

8 Q: I'm still going down the list. This
9 should be the next account. Can you
10 identify that account?

11 A: So this is the USAA account named Claudia
12 T. Miles, account number ending in 5169.
13 It is a checking account. This statement
14 is 12/24/2018 to 1/24/2019. The
15 beginning balance is zero, and the ending
16 balance is \$127.27.

17 Q: I'm going to back up a minute. Going
18 back to the list of your mother's
19 accounts, actually, I think the next
20 account is a Certificate of Deposit. Can
21 you tell the Court what happened with
22 that certificate?

23 A: Absolutely. So my mother also held a CD
24 in an account number ending in 8507. It
25 was titled Claudia T. Miles Trustee for

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1 the Claudia T. Miles Living Trust. It
2 was closed by me and deposited into USAA
3 savings account number ending 9365 on
4 December 7th.

5 Q: 9365?

6 A: I'm sorry, the question?

7 Q: What account was it deposited into?

8 A: 9, 9 -- 9365. That was the existing
9 savings account in my mother's name.
10 Actually, in the trust's name, pardon me.
11 Yeah.

12 Q: Do you recall what the balance of that CD
13 was?

14 A: I want to say it was fifty some odd
15 thousand, sixty some odd thousand. Let's
16 see. I -- it was somewhere between fifty
17 and sixty thousand. I, I honestly can't
18 remember. I've looked at a lot of
19 different accounts and banks and stuff
20 like that, but I can, I can verify for
21 you.

22 Q: Well, I'll look at that account.

23 A: It would be in the bank statement for
24 9365.

25 Q: Okay. I want to go back to this account

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ROA 1021

1 you just looked at, 5169.
2 A: Uh-huh (affirmative response).
3 MR. RHODES: I WANT TO MOVE FIRST TO
4 INTRODUCE THIS AS ---
5 THE COURT: NUMBER 6.
6 MR. RHODES: --- NUMBER 6?
7 THE COURT: ANY OBJECTIONS?
8 MS. HARRISON: NO OBJECTION, YOUR
9 HONOR.
10 MS. LOCHOCKI: NO OBJECTION, YOUR
11 HONOR.
12 MR. BOYD: I'M SORRY. CHARLES
13 WHAT ARE YOU
14 INTRODUCING, THE 12727?
15 MR. RHODES: NO, THE 5169. DID I
16 GIVE YOU THE WRONG ONE?
17 MR. BOYD: NO, YOU'RE GOOD, YOU'RE
18 GOOD. NO OBJECTION.

19 **RESPONDENT MILES' EXHIBIT NUMBER 6**

20 **ADMITTED INTO EVIDENCE.**

21 Q: There's two disbursements on 12/31, and
22 there's one on 1/16 I'd like for you to
23 expound on. Look at the one for 12/31.
24 A: Okay. So this in the USAA account, my
25 mother's name, Claudia T. Miles, ending

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1 in 5169, and checking account, and on
2 12/31 there were two transfers, \$3,219.99
3 was transferred to my account, personal
4 checking, ending in 5256. Also, on that
5 day, transferred -- \$5,246.43 was
6 transferred to my account, my personal
7 account ending in 5256.

8 Q: What were those transfers for?

9 A: Those transfers were for reimbursements,
10 partial reimbursements, I might add, that
11 both my mother and David had approved
12 multiple times to reimburse me for
13 expenses incurred on my personal credit
14 cards. In this case, these, these are
15 attributed to a single Capital One credit
16 card for all of the travel and joint
17 expenses incurred and, you know, hotel
18 and everything since my mother became
19 sick in October. So both my mother and
20 David repeatedly said, "We will repay you
21 for everything," and I did provide those
22 schedules to the Guardian ad Litem.

23 MR. RHODES: YOUR HONOR, SOMEHOW I
24 FAILED TO MAKE A COPY
25 OF THIS EXHIBIT, IF I

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1 COULD TAKE A SHORT
2 BREAK ---
3 THE COURT: SURE.
4 MR. RHODES: --- AND MAKE COPIES.
5 THANK YOU, YOUR HONOR.

6 ******OFF THE RECORD******

7 **(ON THE RECORD.)**

8 **MR. RHODES CONTINUES:**

9 MR. RHODES: THANK YOU, YOUR HONOR.

10 Q: I apologize for the interruption. You
11 were talking about the charges on your
12 Capital One account.

13 A: Yes, sir.

14 Q: See if you can identify that document.

15 A: Yes. This was a spreadsheet I prepared
16 for the Guardian ad Litem based on my
17 October Capital One Visa personal card
18 statement and my November Capital One
19 Visa personal card statement, and I'm
20 sorry it's in a font that is miniscule,
21 but -- So, what this is -- Would you like
22 me to ---

23 Q: Yes, in relation to this disbursements.

24 A: Yes. What this is, is a line item and a
25 description of all expenses to correlate

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1 with the transfers, so correlate to, to
2 show all the costs, purpose, the date
3 they occurred, and the general category
4 for which I was told I would be
5 reimbursed, and therefore, I reimbursed
6 for travel to and from, and on behalf of
7 David and Mom for food and what have you,
8 clothing. For example, the cleaners,
9 Sunny Cleaners for David was \$39, the vet
10 was \$172, you know, when we were
11 preparing to leave, so those kinds of
12 things.

13 MR. RHODES: WE'D MOVE TO INTRODUCE
14 THIS AS NUMBER 7.

15 THE COURT: ANY OBJECTIONS TO THAT?

16 MS. HARRISON: NO OBJECTION.

17 MS. LOCHOCKI: NO OBJECTION.

18 MR. BOYD: YOUR HONOR, MY ONLY
19 OBJECTION IS, JUST I
20 WOULD NOTE FOR THE
21 RECORD, THIS PURPORTS
22 TO BE A CAP ONE VISA
23 ACCOUNT OR SUMMARY OF
24 SOME TYPE, BUT IT'S
25 OBVIOUSLY NOT A VISA

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1 DOCUMENT, SO SUBJECT TO
2 OUR OPPORTUNITY TO
3 CHALLENGE THE RECORD IF
4 IT DOESN'T PURPORT WITH
5 THE ACTUAL VISA
6 DOCUMENT, WE'LL ACCEPT
7 IT. IT IS WHAT IT IS.
8 IT SPEAKS FOR ITSELF.
9 THE COURT: THANK YOU, SIR. PLEASE
10 PROCEED, MR. RHODES.
11 MR. RHODES: THANK YOU, YOUR HONOR.

12 **RESPONDENT MILES' EXHIBIT NUMBER 7**

13 **ADMITTED INTO EVIDENCE.**

14 Q: So, those disbursements on December 31st
15 were reimbursement for October and
16 November; okay?

17 A: On, on one credit card. I expended more
18 money than that on behalf of, not only
19 the trips out there, but behalf of my
20 mother and David. That's one credit
21 card.

22 Q: Okay. And these disbursements were made,
23 those disbursements were made in
24 December.

25 A: Yes.

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1 Q: Okay. And there's another disbursement
2 that was made in January 16th. Would you
3 ---

4 A: Uh-huh (affirmative response).

5 Q: --- explain to the Court what that is?

6 A: On January 16th, a \$2,000 transfer was
7 made to my personal named account,
8 Account Number 1888, which is the working
9 capital account I established for all
10 day-to-day and virtually all expenses
11 related to Mom for auditing purposes.

12 Q: So, that's the account you keep referring
13 to as the Mom Account.

14 A: Yes, it's named as the Mom Account in my
15 USAA. And again, USAA required, that was
16 the only way that I could get a debit
17 card in my name.

18 Q: There's another disbursement on January
19 2nd. Explain to the Court what the
20 purpose of that disbursement.

21 A: On January 2nd, there's a \$10,000
22 transfer to Claudia Miles' Checking
23 Number 9373. I would have to look at the
24 records, this was so long ago, but it
25 most likely was to cover expense that I

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1 had established, possibly an ACH because
2 initially, I didn't have access to any
3 funds, other than Mom's original two USAA
4 accounts. Mom was already in Franke
5 Tobey Jones, there were already bills
6 being occurred. That, that's my belief.
7 I'd have to look at that document, but
8 ---

9 Q: But that's the 9373 account we were just
10 talking about with the overdraft?

11 A: Yes. Out of that account, too, I might
12 add, I was also writing checks to the
13 Guardian ad Litem, to Julie Forkasdi so,
14 you know, that was a fluid -- but I
15 didn't want to keep a lot of money in
16 that account for, unfortunately the
17 reason that was, that I still did not
18 have a debit card on that account and
19 that David King was in control with debit
20 card and checks on that account and so.

21 Q: Did you see anything in the accounts
22 where anyone other than you had been
23 accessing them?

24 A: No. Charles, may I add on to that last
25 answer?

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1 Q: Ma'am?

2 A: May, may I expound on that last answer?

3 No, when you asked if there had been, I
4 think, any evidence of activity.

5 Q: Was there any evidence that anybody had
6 taken any money out of these accounts?

7 A: Not taken any money.

8 Q: Okay. Had there been any evidence ---

9 A: Excuse me. I'm sorry. I do recall, I
10 believe, that David King made a Visa
11 payment to my mother's Visa using, I
12 think, her credentials -- it was before
13 December 7th -- and he had logged in and,
14 under her, and had made a payment. You
15 know, in good faith, I guess, a Visa
16 payment. I'm just trying to be truthful,
17 so.

18 Q: Well, did he take any funds or use ---

19 A: No, nothing. No, not that I'm aware of.

20 Q: --- the credit card or ---

21 A: No, no. No, no, no.

22 Q: So, there was nothing that you saw once
23 you gained access to the accounts where
24 anybody other than you were using the
25 accounts?

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1 A: Correct. It was just an abundance of
2 caution, it was just one less thing for
3 me to worry about, you know, a debit card
4 floating out there in the universe, I
5 don't know where it is, so.

6 Q: I'm going to ask you if you can identify
7 that document and where those funds came
8 from.

9 A: Okay. So, this is a USAA account under
10 the name Claudia T. Miles. It's a
11 savings account. It ends in 5177. The
12 statement is December 24th through
13 December 31st, 2018. The starting
14 balance is zero, ending balance of
15 \$191,272.91. This was an account set up
16 solely to receive the BB&T savings assets
17 on the closed BB&T savings account.

18 MR. RHODES: I'D LIKE TO INTRODUCE
19 THIS AS NUMBER 8.

20 THE COURT: ANY OBJECTIONS?

21 MS. HARRISON: NO OBJECTIONS, YOUR
22 HONOR.

23 MR. BOYD: NO OBJECTIONS.

24 MS. LOCHOCKI: NO OBJECTIONS.

25 **RESPONDENT MILES' EXHIBIT NUMBER 8**

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ADMITTED INTO EVIDENCE.

Q: Can you tell me what the beginning
balance of that was?

A: This is the same statement that you had
just presented to me, and the beginning
balance was zero.

Q: The ending balance.

A: Oh, the ending balance, \$191,272.91.

Q: What's the date on that account?

A: The statement period is 12/24 to 12/31,
the deposit was made 12/26 by mail.

Q: If you could look at the last page on
that and tell me what the ending balance
is and the date of that ending balance.

A: Okay. So, the next two pages are for the
statement period 12/31 to 1/31, and so
you want me to look at the last page?

Q: I want to know what the ending balance is
for that statement.

A: Okay. The ending balance as of January
31st was \$99,322.74.

Q: Okay. And would you look at the
disbursements ---

A: Uh-huh (affirmative response).

Q: --- and tell the Court what those

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ROA 1031

1 disbursements were for?

2 A: Absolutely. So, on January 7th, there
3 was a \$22,953.24 ACH, automated
4 clearinghouse debit to Bandido Solution
5 Sale.

6 Q: Who is Bandido?

7 A: Bandido is Bandido Construction, that is
8 the general contractor I hired for the
9 remodels to my house, the remodel to my
10 house.

11 Q: Okay.

12 A: The next transaction is on January 8th
13 for \$20,000, a direct transfer to the Mom
14 Account under my name, ending in 1888.
15 The next debit is January 9th, \$4,480, a
16 direct ACH debit for SYNERGY HomeCare.
17 The next debit is January 11th for
18 \$10,654, ACH debit for SYNERGY HomeCare.
19 The next item is January 14th, \$600, a
20 direct transfer to Checking Number 9373.
21 The next two debits are also on January
22 14th. The first is for \$3,030.36 to 9373
23 and the second, or the third, actually,
24 on 1/14, \$4,136.04, a direct transfer to
25 Account 9373.

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ROA 1032

1 The next one is January 18th, \$5,418, an
2 ACH debit for SYNERGY HomeCare. January
3 25th, \$5,208, a direct ACH debit for
4 SYNERGY HomeCare. January 28th, a
5 \$10,000 direct transfer to the Mom
6 Account in my name ending in 1888. 1/31,
7 \$5,488, an ACH debit, SYNERGY HomeCare.
8 Q: What was the transfer to what you call
9 the Mom Account for?
10 A: Working capital.
11 Q: Go ahead.
12 A: That is the end of the debits on this
13 statement.
14 Q: Okay.
15 A: Is this an exhibit? Do you want me to
16 keep this?
17 Q: No, that's your copy.
18 A: Okay.
19 Q: Let's see if you can identify that
20 document.
21 A: Yes, sir. So, this is a USAA bank
22 statement in the name of Mary Michelle
23 Miles, account ending in 1888, which I
24 had titled the Mom Account. It's a
25 checking account, statement period

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ROA 1033

1 12/7/18 through 1/7/19, beginning balance
2 zero, ending balance \$312.33.

3 Q: Okay. Now, this is the account you call
4 the Mom Account?

5 A: Yes, this is the work -- It's literally
6 titled as such in USAA, yes.

7 Q: And all the deposits made to this account
8 are from your mother's other accounts?

9 A: All of the deposits for all time.

10 Q: All the deposits into this account are
11 your mother's money?

12 A: I can't -- Yes. I would say yes, but not
13 from Mother's -- I mean, my mother was
14 receiving paper checks for year-end
15 distributions, so not all of the monies
16 deposited probably came only from USAA
17 accounts, if that is your question.

18 Q: Let me rephrase the question.

19 A: Yeah.

20 Q: The deposits in this account, were there
21 any funds, other than your mother's,
22 deposited into this account?

23 A: If -- Not that I'm aware of. If there
24 were, it might've been me -- Not that I'm
25 aware of. I mean, no.

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ROA 1034

1 MR. RHODES: I'D MOVE TO INTRODUCE
2 THIS AS NUMBER 9, I
3 BELIEVE.

4 THE COURT: ANY OBJECTIONS?

5 MR. BOYD: NO OBJECTION, YOUR
6 HONOR.

7 MS. HARRISON: NO OBJECTION, YOUR
8 HONOR.

9 MS. LOCHOCKI: NO OBJECTION, YOUR
10 HONOR.

11 **RESPONDENT MILES' EXHIBIT 9**
12 **ADMITTED INTO EVIDENCE.**

13 Q: Again, there's a couple on 12/17 and
14 12/18, would you talk about those two
15 disbursements?

16 A: Okay. So, 12/17, \$1900, a direct
17 transfer to my personal checking account,
18 5256, for, like I said for \$1900; and on
19 12/18, \$2,970 direct transfer to my
20 account ending in 5256.

21 Q: What were those for?

22 A: Those were reimbursements for airline
23 tickets and the other was for airline --
24 I opened up a new American Airline's Citi
25 card to take advantage of a reduction in

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ROA 1035

1 cost, so that would've included airline
2 travel and hotel, to the best of my
3 recollection. I haven't looked at that
4 statement in a long time.

5 Q: Okay. Why weren't those paid directly by
6 or from these accounts instead of passing
7 through your account?

8 A: What do you mean instead of?

9 Q: Okay. Instead of you paying for them and
10 being reimbursed, why weren't they paid
11 directly out of the account here?

12 A: Well, first of all, I opened a new
13 American Airlines credit card because I
14 needed more credit because I wasn't
15 earning income to some degree, but I also
16 got a big discount on the ticket
17 purchase. It was, I think it was \$500 or
18 what have you. So, to answer your
19 question, I, you know, those, those were
20 expenses that were in my name. I'm going
21 onto my account to log air travel, and I
22 would use my credit card. I don't recall
23 the dates of these travel, but I would
24 tell you that again, I did not have
25 access to my mother's funds until, until

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ROA 1036

1 December 7th, and I had already made
2 quite a few trips. So, I would surmise
3 that these trips occurred before I even
4 had access to my mother's funds, and then
5 furthermore, -- Yeah, I guess that's what
6 I would say, is that these trips probably
7 occurred before I had access to my
8 mother's funds.

9 Q: I want to go back up to the deposits, the
10 one on 12/7.

11 A: Uh-huh (affirmative response).

12 Q: Could you explain that deposit?

13 A: So, that was the pass-through deposit to
14 -- The origin was my mother's account.
15 The only transfer account, the, the
16 approved transfer account that she had
17 listed for me was my personal 5256
18 account. Fortunately, it was in there.
19 So, I had to do, on the date that I
20 gained access to my mother's monies, do a
21 pass-through transfer from my mother's
22 account into my personal checking account
23 and then that same day, I transferred
24 into this 1888 account, which I had
25 established.

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ROA 1037

1 Q: Is that the transfer we were looking at
2 earlier ---

3 A: Yes.

4 Q: --- that I was asking you about why it
5 went directly into that account?

6 A: Yes. And again ---

7 Q: Okay.

8 A: Do you want me -- Okay.

9 Q: Now, as far as this account in general,
10 explain to the Court why you had to have
11 that account in your name, even though it
12 was all your mother's funds.

13 A: I will. USAA declined to put me on my
14 mother's accounts as an authorized user
15 because I did not have a Power of
16 Attorney, and I was simply a temporary
17 guardian. So, what they decided was that
18 I would need to establish an account in
19 my name and then establish transfer,
20 transfers as needed. Furthermore, even
21 if I -- Furthermore, I needed to have a
22 debit card in my name. I was not
23 comfortable with, I believe that it would
24 be against the law, I don't know if I'm
25 correct or not, but certainly I was not

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1 comfortable with presenting a debit card
2 for payment in my mother's name. You
3 know, I, it just didn't make any sense to
4 me. But USAA did require that, or did
5 not allow me to be placed on her
6 accounts.

7 Q: Did you seek any legal advice as far as
8 the use of your mother's debit cards or
9 credit cards?

10 A: The question was did I seek any legal
11 advice?

12 Q: Did you ask somebody, "Hey, can I use --
13 I'm the temporary guardian, can I use
14 these things?"

15 A: No.

16 Q: Okay. Now, I also got to ask you is
17 you're using the Mom Account, which is
18 the 1888 account in your name. I think
19 you were using the 9373 account, that's
20 the one that had the overdraft, and I
21 believe there was one more account you
22 were using that we just talked about, and
23 I can't remember which one it was. I
24 think it was the savings account, the
25 5177.

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ROA 1039

1 A: Yes. Uh-huh (affirmative response).

2 Q: Okay. The question is, if you were
3 trying to consolidate things and you were
4 trying to get a handle on the finances
5 and you were trying to make it so you
6 could have access to funds, why all three
7 accounts? Why not just dump everything
8 into the 1888 account or everything into
9 one of the other accounts and just
10 operate out of one account, so you've got
11 one record of expenses?

12 A: So, my mother began incurring expenses
13 before I even had access to her funds,
14 which occurred on December 7th. The fact
15 of the matter is, is that I was, at that
16 time, juggling a few plates. My mother
17 had just transitioned in Franke Tobey
18 Jones. I had no certified nursing
19 assistants at that time. I was tending
20 to her. I was attempting and working
21 extensively to try and figure out where
22 my mother's financial accounts were, what
23 steps needed to occur, i.e. for USAA to
24 get access to those, and furthermore, it
25 took time to get the Fiduciary Letter and

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1 the Certificate of Appointment. I didn't
2 receive those until, I think, the end of
3 November or something like that.
4 Everything took so much time.

5 So, I guess, to your
6 question, there was a lot going on and my
7 priority was my mother's medical care and
8 making sure that she was as peaceful and
9 as healthy as possible, and I spent, oh,
10 my gosh, 10 to 14 hours a day with her,
11 and Wifi reception is really poor in the
12 room, by the way, so I couldn't do a lot
13 of work there. But, I did the best that
14 I could with the tools that I had at the
15 time, and frankly, I knew -- I mean, as I
16 -- Everything is auditable. This was
17 simply, you know, it's not perfect, but
18 this was simply the best that I could do
19 at the time, given the time that I had,
20 the energy, the mental energy, handling
21 everything, so, you know.

22 The other thing is that
23 everything does take time. So, it wasn't
24 until December 7th that I finally got
25 access to my mother's funds. Hallelujah.

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1 Guess what? Another extensive wait
2 period for me to establish an approved
3 transfer account for my mother's funds,
4 accounts, to the new 1888 account. There
5 was a wait time for that. There was a
6 wait time for a debit card because it's a
7 new account.

8 So, all of these
9 things, meanwhile, I have to pay SYNERGY,
10 which started, I think, December 11. I
11 have to pay Franke Tobey Jones, you know,
12 I have to bring food to my mother's room
13 that she'll eat. You know, so there's
14 just -- It, it was low on the priority
15 list. I knew that, I knew, I know
16 everything's auditable, you know? I
17 mean, ---

18 Q: Let me ask you this then, because on one,
19 at least one maybe two of your mother's
20 accounts there were automatic drafts set
21 up for SYNERGY, there were ---

22 A: Uh-huh (affirmative response).

23 Q: --- automatic drafts set up Franke Tobey
24 Jones.

25 A: Uh-huh (affirmative response).

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1 Q: You didn't need debit cards. You had
2 access to those funds in her name.
3 A: Uh-huh (affirmative response). They were
4 originally, ---
5 Q: So, why set up the Mom Account and
6 complicate things to pass through to your
7 account number?
8 A: So, originally, the ACH debits were set
9 up on the BB&T accounts. They did agree
10 to do that, and when those accounts were
11 closed, which I think was December 19th,
12 I had to mail those checks to USAA.
13 There was no other way to get those funds
14 deposited, because they were so large.
15 So, the 1888, I also had to go through
16 this extensive research process with USAA
17 ---
18 Q: I'm going to interrupt you there.
19 A: Okay.
20 Q: My question is about your mother's
21 account ---
22 A: Uh-huh (affirmative response).
23 Q: --- and I don't remember which one it
24 was, I think it might've been, not the
25 7095, it might've been the 5177 or the

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1 9373, but one of those two accounts had
2 SYNERGY being paid by automatic draft.

3 A: I might -- I had -- Yeah, I was forced to
4 migrate any automatic payments from BB&T
5 when they were closed to the USAA
6 accounts.

7 Q: So, in order to pay SYNERGY and in order
8 to pay Franke Tobey Jones, you didn't
9 need a debit card, you didn't need
10 checks. You had them coming out of her
11 money.

12 A: Right. Yeah.

13 Q: Again, I'll ask you the question, why set
14 up the 1888 account? What was the need
15 for that?

16 A: Well, ongoing, day-to-day expenses that
17 related to my mother. My mother had no
18 clothing around. She had no shoes. We
19 had to ---

20 Q: Is that why you thought you needed a
21 debit card in your name, to take care of
22 those?

23 A: Well, yes, and furthermore, I knew all
24 along that what would be best for me and
25 I thought best for evidentiary purposes

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1 was to have a single account from which
2 expenses were paid related to Mom, and I
3 have accomplished that to a very large
4 degree. I've written a few checks on her
5 other USAA accounts, but most recently,
6 for example, my last check to the
7 Guardian ad Litem was out of the 1888
8 account. These things all take time, but
9 that was my goal. Meanwhile, I am
10 dealing with doctors, appointments, and
11 mom, but yeah, I wanted a single account
12 and USAA would not put me on any of her
13 accounts so I had to create an account in
14 my name. Then I had to wait for USAA to
15 allow money to be transferred into that
16 and I was not going to continue to route
17 money through my personal account. No
18 way. I did it one time, you know.

19 Q: So, the 1888 account was to eventually
20 have one account ---

21 A: Uh-huh (affirmative response).

22 Q: --- that all your mother's expenses were
23 paid out of and all the money went in ---

24 A: Uh-huh (affirmative response).

25 Q: --- and to leave the other accounts

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1 alone, except for transferring funds as
2 needed to 1888 account?

3 A: Yes. I haven't gotten around to changing
4 the ACH for SYNERGY yet. I just
5 physically haven't gotten around to that
6 task, but that's the plan.

7 Q: I'm looking at my list here. I think
8 that's all the USAA accounts. Did you
9 open any other account in your name,
10 anybody else's name, to put money in, I
11 take that back, to put your mother's
12 money in to pay your mother's expenses?

13 A: No, I did not. I opened an account my
14 brother funded for \$5,000 because we had
15 no money from any other source and that
16 account remains open. We needed that
17 money initially.

18 Q: Was any of your mother's funds
19 transferred to that account?

20 A: Yes. Yes. I transferred -- It was
21 opened with \$5,000 from my brother, an
22 account I created in my name prior to, or
23 maybe at the same time as, I can't
24 remember, 1888. We needed working
25 capital right then. We were not able to

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1 get any working capital anywhere else,
2 and since then, I mean, that's John's
3 funds, I have transferred \$5,000 sitting
4 there, back into that account ending in
5 7634, just sitting there, so.

6 Q: Did the funds that Dr. Strasswimmer put
7 in were spent?

8 A: Oh, yes, absolutely.

9 Q: So, you reimbursed the account the
10 original amount he put in?

11 A: Yes.

12 Q: And that money is still there, you say?

13 A: Yes.

14 Q: And that's a USAA account?

15 A: Yes.

16 MR. RHODES: COURT'S INDULGENCE,
17 YOUR HONOR.

18 MR. BOYD: I'M SORRY. KEEP
19 WORKING, BUT CAN YOU
20 LET US KNOW HOW MUCH
21 LONGER YOU'RE GOING TO
22 BE ON YOUR DIRECT, JUST
23 BALLPARK?

24 MR. RHODES: I THINK PROBABLY AT
25 LEAST ANOTHER HOUR.

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1 UNDER OATH.
2 MS. MILES: YES, MA'AM.
3 **MR. RHODES CONTINUES:**
4 Q: I believe when we left off, Ms. Miles, we
5 were going through the summary of
6 accounts of your mother.
7 A: Yes, sir.
8 Q: I failed to mention that the, I think,
9 the last account we looked at of USAA
10 1888, is actually is not on this list at
11 the time this was prepared. Was that
12 account in existence at the time this was
13 prepared?
14 A: Well, if it wasn't ---
15 MS. MILES: IS THIS ON? CAN
16 ANYBODY HEAR ME?
17 THE COURT: TRY AGAIN.
18 MS. MILES: HELLO? HELLO?
19 THE COURT: PROBABLY NEED TO UNMUTE
20 THAT MIC.
21 MS. MILES: HELLO?
22 COURT REPORTER: THERE IT IS.
23 MR. RHODES: THERE WE GO.
24 MS. MILES: HELLO. THERE WE GO.
25 MR. RHODES: THERE YOU GO. THERE

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1 Q: It would be included in her list of
2 accounts and her assets for the
3 conservatorship of estate?

4 A: It would be, absolutely. Those are her
5 funds, yeah.

6 Q: Okay.

7 A: Absolutely.

8 Q: I'm going to hand you a document. I'd
9 ask you to flip through that and see if
10 you can tell me what that is?

11 A: This is a Fidelity, looks like a monthly
12 statement dated February 1 through
13 February 28, 2019. It is named in
14 Claudia T. Miles, and it appears to have
15 an account number ending in BBXX. You
16 want me to continue?

17 Q: Excuse me?

18 A: Want me to continue like before?

19 Q: Yes, please.

20 A: The portfolio value at that time is
21 \$377,599.29.

22 Q: Okay. Continue on to go through the
23 statement until you identify all the
24 statements.

25 A: Okay. So, comprised, within that 377

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1 thousand and change, there are two
2 separate accounts. The first is a
3 Fidelity Funds account ending in 3059,
4 and the second is a personal retirement
5 rollover IRA in Claudia T. Miles's name
6 only. I am named as a Guardian on the
7 prior one, but I'm not named on the IRA
8 ending in 3858.

9 The Fidelity Funds
10 account on which I am named as Guardian,
11 ending in 3059, has a beginning value of
12 291,537 and an ending value of
13 \$297,484.93.

14 The IRA, which I'm not
15 named on, ending in 3858 has a beginning
16 balance of \$77,950.39 and an ending
17 balance of \$80,114.36.

18 MR. RHODES: WE'D MOVE TO INTRODUCE
19 THIS AS RESPONDENT
20 MILES' ---

21 THE COURT: NUMBER 10.

22 MS. HARRISON: NO OBJECTION.

23 MS. LOCHOCKI: NO OBJECTION, YOUR
24 HONOR.

25 MR. BOYD: NO OBJECTION, YOUR

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HONOR.

RESPONDENT MILES' EXHIBIT NUMBER 10

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Q: The date of this statement, February 1st through February 28, 2019. Since this statement has come out, has any withdrawals or any funds been transferred to these accounts?

A: Yes.

Q: What has been transferred?

A: Two separate transfers into the account under my name -1888 and the dollar -- I'd have to look, the exact dollar amounts, I can't remember, but generally it's about 110,000.

Q: Both, together?

A: Yeah, combined.

Q: Okay.

A: Uh-huh (affirmative response).

Q: What would the purpose of those withdrawals, the reason behind those withdrawals?

A: Uh-huh (affirmative response). I had observed over the time it took me to get access to that, I looked at it a lot, a

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1 precipitous drop in the value of that
2 account in the fall, late 2018, a really
3 big drop in the value. My mother's very
4 conservative. I was able to identify the
5 fund that, that primary account with the
6 277,000 in it is comprised of three
7 separate funds, and I identified the one
8 that I believed to be the one who, which
9 was most risky and had lost the most
10 money, and I opted, to preserve her
11 estate, to move that, those funds over to
12 this working capital account. And then,
13 you know, this is a working capital
14 account, we're still paying for SYNERGY
15 and everything, so I can move them into
16 the other account, but I received notice
17 recently, I just hadn't gotten around to
18 it, I received notice recently to not do
19 anything, not change the status or
20 anything, so.

21 Q: So, if you were withdrawing from this
22 Fidelity account because of poor
23 performance, why didn't you put it in a
24 savings account or a CD?

25 A: Well, I just -- Well, a checking account

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1 is just as -- they're all FDIC insured.
2 Number two, I have no idea how long I may
3 need to continue to facilitate finances
4 for my mother. A CD is a locked product.
5 I did not feel empowered with a Temporary
6 Guardianship to make any dramatic
7 changes. I feel it's appropriate if I
8 see a high-risk issue to try to mitigate
9 that, but to decide that this money will
10 now go into this type of investment
11 vehicle was beyond the scope. I just
12 wanted to get it into a, a stable
13 protected account with no risk.

14 Q: Did you talk to Fidelity about moving it
15 out of that fund into a more safer fund?

16 A: The only way that they would do that is
17 -- I'm trying to remember. While they
18 placed my name on my mother's account,
19 and I seem to recall, I talked to them so
20 much, I seem to recall this had to do
21 again with me not being Power of Attorney
22 and that I was Temporary Guardian. They
23 allowed me to open up an account under my
24 name, but they would not open an account
25 under my name and my mother's name, i.e.

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1 a more stable account, and I thought I'm
2 not going to have another account
3 floating out there in another
4 institution. I need to keep this simple.
5 And again ---

6 Q: You said that the Fidelity account that
7 you removed money from had three
8 components to it, did I understand you to
9 say that correctly, there were three
10 funds under it?

11 A: Correct. Yeah, three separate investment
12 funds.

13 Q: And the total of that particular account
14 was 289 or 277, I think you said?

15 A: Yeah, the ending balance 289 or whatever.

16 Q: I took your exhibit from you.

17 A: Yeah.

18 Q: So, you didn't deplete that fund?

19 A: No.

20 Q: So, there was a fund there that you
21 didn't feel, ---

22 A: Yeah.

23 Q: --- you felt like it was okay?

24 A: No. This is a, this is a decision I made
25 based on what I believe to be an, a

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1 necessary and a valid risk to the assets
2 in the estate.

3 Q: My question I'm driving at is you left
4 some money in one of the funds, why did
5 you not transfer the money out of the
6 fund that you felt unsafe about into the
7 one you left?

8 A: Because these funds are buy-share funds,
9 so I'd have to sell funds and then buy
10 funds. In order to move this, I had to
11 sell funds, but I did not feel
12 comfortable making investment decisions
13 about what funds to buy.

14 Q: Selling funds is not an investment
15 decision?

16 A: To me, it was a protective exercise.

17 Q: And the account that you moved it into,
18 the Mom Account, the operating account,
19 is it an interest-bearing account?

20 A: Off the top of my head, I don't know. I
21 think it's a classic checking. I don't
22 think -- I don't know. I could find out
23 for you. They all don't pay much.

24 Q: If you'd put it in an interest-bearing
25 account, it would at least earn your

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1 mother some interest over time, would it
2 not?

3 A: Yes, and I'm happy to. This just
4 occurred. You know, again, I was simply
5 looking to preserve what I perceived to
6 be an unacceptable, unacceptable risk.

7 Q: Can you tell the Court if you recall the
8 amount of loss we're talking about,
9 either dollar or percentage?

10 A: Yeah. I'm trying to remember the chart.
11 Oh, gosh. I want to say the total, it
12 was like 25 or 30 percent value. It was
13 huge. You know, when the market did its
14 dive. It might've been October,
15 November, December, somewhere in the
16 fall, but it was a substantial amount of
17 money. My mother has always been very
18 risk-averse and furthermore, I felt it
19 was my duty to protect her money.

20 Q: And did you talk with anybody at Fidelity
21 about that account, how it performed over
22 time, whether it was going, would bounce
23 back or did they feel like it was going
24 to continue to lose?

25 A: Well, first of all, you can't predict the

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1 future. I mean, this is all, these are
2 all stock. These are all exchange traded
3 funds.

4 Q: My question is, did you talk to anybody
5 at Fidelity about the account before you
6 moved the money ---

7 A: Of course, I did.

8 Q: --- to get their advice?

9 A: I did not seek investment advice from
10 Fidelity because I was not looking for
11 investment advice.

12 Q: Okay. The funds that were transferred to
13 the operating account, the 1888 account,
14 are those funds still in that account?

15 A: Thirty thousand, thirty thousand of those
16 funds I have recently moved into the
17 account which is still being used, I
18 believe, for the SYNERGY ACH withdrawals.
19 Again, I could look at these accounts ---

20 Q: So, the 110 that you moved out of the
21 Fidelity account, approximately eighty of
22 it is still in the Mom Account and thirty
23 of it went to another account to cover
24 the automatic payment?

25 A: Yeah. Mr. Rhodes, may I add onto that?

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ROA 1059

1 Q: Certainly.

2 A: So, my mother is in a state right now
3 where she is doing quite well, relatively
4 speaking, but Dr. McGranahan and Dr.
5 Bryan Morris-Ward have both told us
6 countless times that the type of cancer
7 and tumor that she has can grow and go
8 like that (snaps). That took a while to
9 facilitate and liquidate, and I wanted to
10 make sure we had enough money if my
11 mother needed to go back into a full-care
12 facility that we could do it and move
13 fast, and again, so you know, I just was
14 really looking to make sure that we had
15 that capital and it was out of a risky
16 vehicle, that's it.

17 Q: See if you can identify this document.

18 A: Uh-huh (affirmative response). So, this
19 is a copy of a very old insurance policy
20 from John Hancock. The insured name is
21 Claudia Strasswimmer. The sum insured is
22 \$10,000 and the issue date is April 14th,
23 1970. It says, "Life Insurance and
24 Accidental Death Benefit of 10,000."
25 There's some children's insurance of 2500

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1 each, up to the 25th birthday. After a
2 lot of digging, I found out that John
3 Hancock was purchased by a Canadian
4 company called Manulife, and this
5 Manulife appeared on the 2017 1040s that
6 David King prepared. It took me until
7 the end of December to get that figured
8 out, and that's all I know about it. I,
9 I don't think ---

10 Q: And go back to our Exhibit Number 1, ---

11 A: Uh-huh (affirmative response).

12 Q: --- under Section D, ---

13 A: Uh-huh (affirmative response).

14 Q: --- that's information you had gleaned in
15 some of the other papers, but this is all
16 you've been able to document on those
17 accounts; is that right?

18 A: That is correct. I may have received a
19 yearend 1099. I mean, I've been
20 receiving 1099s on behalf of my mother
21 from Manulife. I honestly haven't opened
22 them, but they just go to the CPA that
23 will look at it, but other than that, no,
24 I really don't know much about it.

25 Q: So, there still could be a life insurance

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1 policy or some other account out there,
2 but you've listed what you've found on
3 1099?

4 A: Yeah.

5 Q: And you're still trying to investigate
6 that to see what's there?

7 A: Actually, I, I'm no longer investigating
8 finances.

9 Q: Okay.

10 A: Yeah, I'm focusing on my mom.

11 Q: So, whoever is appointed Conservator,
12 surely you would turn that information
13 over to them, whatever you found?

14 A: Oh, absolutely.

15 MS. LOCHOCKI: YOUR HONOR, I'D JUST
16 LIKE TO POINT OUT, I
17 DON'T BELIEVE I'VE EVER
18 SEEN THIS BEFORE.

19 THE COURT: MR. RHODES, HAVE YOU
20 PRESENTED THIS TO THE
21 PARTIES?

22 MR. RHODES: I'M GOING MOVE TO
23 INTRODUCE THIS. MA'AM?

24 THE COURT: HAVE YOU PRESENTED THIS
25 TO THE OTHER PARTIES

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1 BEFORE THE HEARING?
2 MR. RHODES: AGAIN, YOUR HONOR, I
3 THOUGHT THIS WAS IN THE
4 DOCUMENTS PRESENTED TO
5 THE GUARDIAN, BUT
6 APPARENTLY NOT. SO, I
7 HAVE NOT UNTIL JUST
8 NOW. I HAVEN'T SENT IT
9 DIRECTLY, NO, MA'AM.
10 THE COURT: ANY OBJECTIONS TO
11 ADMITTING THIS AS
12 EXHIBIT NUMBER 11?
13 MR. BOYD: YOUR HONOR, SUBJECT TO
14 IT COMING IN, I DON'T
15 OBJECT TO IT. IT DOES
16 APPEAR TO A VALID
17 DOCUMENT. I DON'T
18 THINK THERE'S ANY
19 REASON TO EXCLUDE IT AT
20 THIS JUNCTURE, BUT I
21 DON'T CONSIDER THE
22 GUARDIAN'S ---
23 MS. LOCHOCKI: I AGREE. I DON'T ASK
24 THE COURT TO EXCLUDE
25 IT, BUT TO NOTE THAT

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ROA 1063

1 IT'S THE FIRST TIME
2 I'VE SEEN IT.

3 MS. HARRISON: NO OBJECTION.

4 THE COURT: THANK YOU.

5 **RESPONDENT MILES' EXHIBIT NUMBER 11**

6 **ADMITTED INTO EVIDENCE**

7 A: May I add something, Mr. Rhodes?

8 Q: Yes, ma'am.

9 A: If it pleases the Court, this original
10 document, I have in my possession, it was
11 in the shared safe deposit box for
12 Claudia Miles and David King for years.
13 My mother saved it. Who knows why?
14 Maybe it's got something going on, maybe
15 it doesn't, but David perhaps knows
16 something. I don't know. It just had
17 her name on it and that's all I know.

18 MR. RHODES: I BELIEVE THIS WAS ALSO
19 IN THE GUARDIAN PACKAGE
20 SENT TO THE GUARDIAN BY
21 MY CLIENT. IF NOT,
22 PLEASE, LET ME KNOW.

23 Q: Let me show you a document and see if you
24 can identify that.

25 A: Yes, sir. So, this is a bank printout

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1 from First Palmetto Bank that I obtained
2 in person for a savings account ending in
3 3486, titled Claudia T. Miles. The
4 account appears to, well, the records and
5 I guess the account appears to have been
6 in existence since February 28th, 2014,
7 and it's an asset/debit, excuse me,
8 credit/debit, basically a P&L since then.

9 Q: Is that account still active?

10 A: No. They told me they closed all three
11 accounts.

12 Q: And the reason I present that, that at
13 the time, if you'll look at Exhibit 1,
14 was that account included on the list in
15 Section E?

16 A: (Reviews document.) Yes. Well, yes. It
17 says separate checking and savings
18 account under the name Claudia T. Miles
19 since 2014; uh-huh (affirmative
20 response).

21 Q: So, there's actually no funds in that
22 account. I do want you to look at the
23 last page of that exhibit.

24 A: Okay.

25 Q: I want you to describe to the Court what

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1 that is.

2 A: So this is a USAA checking statement for
3 the period of 11/9/18 through 12/10/18
4 and the, titled to Claudia T. Miles
5 Trustee for the Claudia T. Miles Living
6 Trust.

7 Q: Okay. The deposit made on 12/7, would
8 you explain that to the Court?

9 A: And this is, by the way, account ending
10 in 9373. The deposit on 12/7 for \$100
11 came from First Palmetto Savings and to
12 the best of my recollection is
13 reimbursement for the \$100 that I, the
14 estate, had to pay in order to request
15 statements for this account, for the
16 First Palmetto Account, excuse me.

17 Q: So, you paid \$100 to request the records,
18 but they sent you this and then refunded
19 the money?

20 A: Yeah. I believe I got this in first, and
21 I recall that at that point, back then, I
22 was like, well, I don't see why we would
23 ever need statements on something that
24 only pretty much had deposits in it, and
25 very little, almost virtually no

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1 withdrawals until Mom started pulling
2 money out at the end of 2017.

3 MR. RHODES: I'D MOVE TO INTRODUCE
4 THIS AS PLAINTIFF'S 12.

5 THE COURT: 12, ANY OBJECTIONS?

6 MS. HARRISON: NO OBJECTION, YOUR
7 HONOR.

8 MR. BOYD: NO OBJECTION, YOUR
9 HONOR.

10 MS. LOCHOCKI: YOUR HONOR, I, I DON'T
11 BELIEVE I'VE SEEN THIS,
12 EITHER, BUT I HAVE NO
13 OBJECTION.

14 THE COURT: THAT'LL BE NOTED FOR
15 THE RECORD.

16 **RESPONDENT MILES' EXHIBIT NUMBER 12**

17 **ADMITTED INTO EVIDENCE**

18 Q: If you look on your Exhibit 1 there,
19 Section E, ---

20 A: Yes, sir.

21 Q: --- Number 3, ---

22 A: Uh-huh (affirmative response).

23 Q: --- can you tell the Court about that
24 account?

25 A: Well, what it reads is, "Checking at

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1 First Palmetto: Funds of transferred,"
2 oh, "Funds transferred," I guess "to BB&T
3 checking by Claudia Miles prior to
4 action. Account not closed by Claudia T.
5 Miles but only had a \$3 balance as of
6 December 2018, closed by Temporary
7 Guardian."

8 Q: So, that account had also been closed?

9 A: Yes.

10 Q: So, you included it on this list for what
11 reason?

12 A: Because it was, if I recall, it was this
13 third account. It was sort of -- Either
14 that, it was either the third account or
15 maybe -- No, it was the checking account.
16 I remember that the teller said, "Oh,
17 there's a balance in this." So, I said,
18 "Well, it looks like she wanted them
19 closed. Let's close it," so.

20 Q: On Exhibit 1, the funds that were in the
21 previous account that I did submit as an
22 exhibit the 3486 account, ---

23 A: Uh-huh (affirmative response).

24 Q: --- where were those funds moved to?
25 Where did you discover they were moved to

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1 with investigation?

2 A: Funds were transferred to BB&T savings by
3 Claudia Miles. There were multiple
4 withdrawals, but ---

5 Q: As far as you've been able to find, there
6 is no current active account at First
7 Palmetto?

8 A: Oh, no. No. I, I received affirmation
9 of that in person when I returned to the
10 bank.

11 Q: Now, on Section F on Number 1, there's a
12 mention of a TIAA account.

13 A: Yes.

14 Q: Were you able to find anything, any
15 documents on that account?

16 A: I'm trying to think. Well, the 1099
17 related to the 2017 tax returns, but I
18 think that I did. I'm trying to
19 remember. Well, it says here I received
20 email notice of regulatory documents. I,
21 I did. I believe I received -- I mean,
22 the balance is 19,000. I was able to get
23 ahold of them by phone finally and that's
24 all I know, and I'm sure I have the 1099
25 for, for 2018 at this point as well.

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1 Q: Your recollection, have those funds been
2 transferred or moved from that account?

3 A: No.

4 Q: Okay. The next one, the Investco
5 Investment, were you able to find any
6 statement or any balance on that account?

7 A: No, but I received a vague letter from
8 Investco like just last week. I
9 should've brought it with me. It was
10 just like a general -- I don't know. I
11 can't remember. Just like a general
12 letter to thank you for your business and
13 dah-da-da-da-dah, but no. You know, at
14 some point, I just stopped looking for
15 all this to focus on Mom.

16 Q: And the Great West Retirement Services,
17 were you ever able to find out about a
18 balance or an account on that one?

19 A: I cannot recall finding out a balance on
20 that; however, I did bring some paperwork
21 with me. You know, this was provided, I
22 think, on January 21st so I can look in
23 my bag, but off the top of my head, I
24 can't think of any monetary value that
25 I've seen related to that. I don't know

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1 what it is really.

2 Q: And then the last one on that page, ---

3 A: Uh-huh (affirmative response).

4 Q: --- is the South Carolina Retirement
5 System.

6 A: Uh-huh (affirmative response).

7 Q: Were you able to verify those funds?

8 A: Yes.

9 Q: And those are distributed monthly,
10 annually, or how are they?

11 A: She gets a monthly check. Let's see. I
12 want to say it's \$2300 and change. It's,
13 it's in her, it would be in her BB&T
14 statements. Obviously when those were
15 closed, we started getting paper checks,
16 and I have copies of those checks, of
17 course, now, because I'm able to deposit
18 them in the USAA account. Yeah.

19 Q: Back up one to Great West. Did she
20 receive any disbursements from them that
21 you're aware of?

22 A: I can't recall. She may have received a
23 yearend distribution. She didn't -- I
24 can't recall, but I can look at my
25 records. I mean, it's got everything.

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1 Q: So, those two accounts, the Great West
2 Retirement and South Carolina Retirement
3 ---

4 A: Oh, wait, wait.

5 Q: Yes, ma'am.

6 A: I just remembered. I seem to recall in
7 one of my many, many conversations with
8 all of these, most of these institutions,
9 is that Great West is affiliated with
10 TIAA somehow, I think. There's a,
11 there's a -- Either TIAA or South
12 Carolina. Like maybe they manage a part
13 of the portfolio, like South Carolina,
14 maybe they manage the deferred comp
15 versus this South Carolina managing the
16 401 and the 457. I don't know. I seem
17 to recall that they were sort of an
18 ancillary account to one of the others,
19 but.

20 Q: Other than the monthly disbursement from
21 the South Carolina Retirement System,
22 have any of those funds been invaded or
23 used?

24 A: They've not been invaded or used by me,
25 but there have been requirement minimum

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1 distribution checks received and
2 deposited by me.

3 Q: Okay.

4 A: Uh-huh (affirmative response).

5 Q: Let's talk about Dr. Miles's income.
6 What are her sources of income right now?

7 A: That \$1900 in Social Security, about
8 \$2300 in South Carolina Retirement, I
9 think about \$1440 for VA, I think that's
10 pretty much it. Oh, she receives some
11 small, not so small, interest income,
12 maybe \$140 or so for her USAA account
13 balances that are automatically deposited
14 into her USAA account.

15 Q: That income, does it all go in the same
16 account?

17 A: I would have to look at the records. I
18 mean, it was originally -- Well, one of
19 them is still being direct-deposited into
20 USAA. I have not changed any direct
21 deposits. Anything that was deposited
22 directly into BB&T ceased, of course,
23 doing so when they closed those accounts
24 and we now receive paper checks, so.

25 Q: Where do you deposit those checks?

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1 A: Well, I -- over time, I have deposited
2 checks in various accounts. They're in
3 the statements, so. Remember, there,
4 there was a lag time until I had my
5 working Mom capital account set up, so.

6 Q: Where did you deposit the last checks you
7 received?

8 A: I may have deposited them into the
9 working capital or I may have deposited
10 them into Mom's account, I can't recall.
11 Remember, the spirit of the working
12 capital account is to have in one place
13 as much recordkeeping as possible to hand
14 off to whomever the Conservator is, but
15 you know, I may have put them in a USAA
16 account that, you know, had a lagging ACH
17 payment, like the SYNERGY, the USAA
18 account that SYNERGY is still using. I
19 can't recall but it's of record and I'm
20 happy to produce it.

21 MR. BOYD: YOUR HONOR, I APOLOGIZE
22 FOR INTERRUPTING MR.
23 RHODES, BUT THIS WILL
24 BE EASIER. I'M JUST
25 TRYING TO STREAMLINE,

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1 OTHER THAN TRYING TO
2 CORRECT THIS UNDER
3 CROSS EXAMINATION.
4 THERE'S NOW TWO
5 DEPOSITS THAT YOU'VE
6 ASKED HER ABOUT, THE
7 GREAT WESTERN [sic] AND
8 THE MOST RECENT INCOME
9 PAYMENTS THAT SHE'S
10 REFERRED TO USAA
11 ACCOUNTS. BECAUSE
12 THERE ARE NUMEROUS USAA
13 ACCOUNTS, COULD YOU ASK
14 HER TO SPECIFY WHICH
15 USAA ACCOUNTS SHE'S
16 REFERRING TO WHEN SHE
17 ANSWERS USAA?
18 MR. RHODES: YES, I WILL.
19 MR. BOYD: THANK YOU.
20 Q: Do you know which USAA account you
21 would've deposited it in?
22 A: I mean, ---
23 Q: Let me rephrase it.
24 A: Yeah.
25 Q: Since you've been receiving paper checks,

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1 have you deposited the paper checks into
2 the same account?

3 A: No.

4 Q: Okay. And if the goal is to have a
5 single account with all the funds in it,
6 why wouldn't you deposit them all in the
7 same account?

8 A: Because there was a time period there, in
9 December ---

10 Q: There was a what?

11 A: There was a period of time, certainly in
12 December, where there was a great deal
13 of, there was a lot of complex financial
14 things going on, setting up ACHs, making
15 sure that the BB&T funds were deposited,
16 deciding do I do ACH for this account or
17 that account, you know, working hard to
18 get that separate Mom account established
19 under my name. So, you know, I, for me,
20 it was easier, as-needed, to transfer
21 funds between USAA accounts to cover, for
22 example, we set up ACH accounts for
23 Franke Tobey Jones, than it was for me to
24 go to Franke Tobey Jones and say, "Okay,
25 can you please stop doing it out of this

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1 account and I'm going to give you
2 paperwork, and can you start doing it on
3 this account?" I mean, I was just simply
4 trying to simplify my life, knowing that
5 this was fully auditable, knowing that
6 this, there's, you know -- My, my primary
7 goal was not to make sure I deposited
8 checks into the same account. My primary
9 goal was to focus on the health of my
10 mother, but I'm happy to produce whatever
11 you need.

12 Q: So, as far as the monthly income you
13 received the paper checks once the BB&T
14 accounts were closed?

15 A: Uh-huh (affirmative response).

16 Q: Were any of those deposited, if you
17 recall, into the USAA account 1888?

18 A: I do not recall. Like I say, I can look
19 it up. I do not recall.

20 Q: Looking on the third page of Exhibit 1.

21 A: Uh-huh (affirmative response). This is
22 ---

23 Q: You've identified several debts there.

24 A: Uh-huh (affirmative response). Yes. Mr.
25 Rhodes, may I add something ---

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1 Q: Yes, ma'am.

2 A: --- on the previous line of discussion or
3 questioning? So, before the 1888 account
4 was set up through the USAA process to be
5 a direct transfer account approved by
6 USAA so that I could move funds directly
7 from any of those four accounts into the
8 account under my name, I recall that
9 there was a check received, I believe,
10 for the Prius total written to Claudia T.
11 Miles and at that time, we have very
12 little working capital and so I may have
13 deposited it into that account, but
14 again, it's all of record.

15 Q: I'm looking at Section K, ---

16 A: Uh-huh (affirmative response).

17 Q: --- those debts, and I don't want to go
18 into a lot detail, but just for the
19 record and for the Court, what were the
20 debts you knew of at the time this was
21 prepared?

22 A: The mortgage, the homeowner's insurance,
23 the USAA car insurance, and then my
24 mother has a separate policy for the
25 Austin Healey through a private insurance

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1 company. In terms of debts, my mother
2 had, I don't know, a tiny balance of \$140
3 or what have you on it, I've also since
4 paid another balance off on that. She's
5 using her own Visa, which is great. And
6 I confirmed with BB&T that the credit
7 line was closed and I cannot see anywhere
8 in any records that Mom ever used the
9 Barclay card, upon that she was an
10 authorized signer of, per her credit
11 report.

12 Q: And these debts listed here in
13 miscellaneous information, did you find
14 anything additional since this was
15 prepared?

16 A: The only thing that I recently found, and
17 I don't know if it has value or not, is I
18 just started going through some of my
19 mother's 2018 journals before she was,
20 like early 2018, and she notes something
21 called SBLI, which I Googled it and I
22 found a website and it appears to be
23 either a life insurance or an annuity
24 company, and that's as far as I got.
25 Like, that occurred in, in the last week.

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1 I don't, I don't ---

2 Q: Any account number you found?

3 A: No. No, no, no, no. No, just a note. I
4 don't think there's an account number. I
5 could look, I mean, I have the journal,
6 but I haven't done anything.

7 Q: Other than that possibility, have you
8 found any life insurance on your mother
9 or found any health insurance on your
10 mother?

11 A: I'm only aware of Medicare, South
12 Carolina, and the Champus for health
13 insurance.

14 Q: I'll hand you a document and ask if you
15 can identify that for me.

16 A: Uh-huh (affirmative response). This is
17 an invoice for the general contractor I
18 hired to do the remodels on my house,
19 Bandito Solutions. This is dated
20 12/5/2018 with a due date of April 30th,
21 2019, and the first page is blank. Do
22 you want me to go on?

23 Q: Yeah. Would you tell the Court, either
24 by using that document or from your
25 memory, what work you've had done to

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1 your, or what actually has been done to
2 your house at this point?

3 A: Uh-huh (affirmative response). Okay,
4 yeah. So, the scope of work, which has
5 been completed at my house, has been a
6 gut remodel of the primary bathroom,
7 which is two steps from my mother's
8 bedroom entrance. I had an original
9 bathroom from 1960 with an iron tub,
10 which was listing and failing, so they
11 gutted that to put in a shower, a curb-
12 less shower that one could roll right in,
13 in a wheelchair. They insured that the
14 doorway entrance was at least 30 inches
15 and they installed a pocket door so that
16 Mom could go in there freely, regardless
17 of whether she was in a wheelchair or
18 not. They put in two sinks instead of
19 one, and then Mom selected a beautiful
20 countertop, and she selected the floor
21 tiles. The same toilet is there.

22 Q: Why was it necessary to go from one sink
23 to two?

24 A: Well, Mom wanted this countertop and
25 there is a big, long, wide space there

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1 and I thought to myself, it was a nominal
2 expense to put in two, and I thought, and
3 at the time, I'm living with her, but I
4 thought at some point, you know, maybe
5 somebody will be living with her or not,
6 you know, I don't know. So, anyway, and
7 then a custom vanity was built and the
8 reason for that was that it was an
9 unusually long space, and then the
10 cabinetry. It's nothing fancy. It's all
11 flat-faced and what have you, but he
12 built in a toe kick that's eight inches
13 in to accommodate, again, a wheelchair to
14 reach the sink or sinks. Now that I
15 think about the sinks -- Jimmy is the
16 contractor's name. Now that I think
17 about the sinks, what we discussed is
18 that if Mom got out of the shower and
19 wanted to go directly to a sink, there's
20 one there versus having to go over to the
21 sink in front of the toilet. So, there's
22 a sink in front of the toilet, and
23 there's a sink in front of the shower.
24 So, there was a functional aspect to
25 this, too. That has a heated floor that

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1 cost, I think, \$500. Mom loves it.
2 And the shower doors, which are glass
3 right now can be very easily removed
4 should that need to be necessary. So,
5 that's the first part of the remodel and
6 the most expensive part.

7 The second part is the
8 exterior railing, they were original, is
9 now complete, with the exception of a
10 secondary railing, which is going to be a
11 small pipe railing right underneath the
12 main 2X4 railing, which is easier to
13 grip. This is a railing that had to be
14 customized because of my, my stairs, my
15 plateaus, but that is complete, except
16 for that little -- There's a small
17 railing that's going to be put on the
18 three-step back-porch door.

19 The interior doors were
20 replaced, several of them. I only have
21 five, six -- Six were replaced. Several,
22 several of them were failing; one
23 wouldn't close. I'm trying to think.
24 The front storm door was not closing,
25 that was replaced. And the backdoor, as

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1 a safety reason, was very old and I was
2 concerned about it being a security
3 issue, furthermore, and, you know, the
4 doorjamb was kind of rotting and I wanted
5 my mom to have safe access in and out of
6 the house, so I put in a new backdoor,
7 and of course, a new storm door there,
8 too.

9 Q: Why did the interior doors need to be
10 replaced?

11 A: Several of them, not all of them, but
12 there was only six or five. I'd have to
13 count. There was six. Several of the
14 non-garage door, so of the five, several
15 were either not closing or the hinges
16 were not working, these, these were the
17 original doors, cracking, and
18 furthermore, I thought, well, you know,
19 if you replace one or two, it looks
20 funky. I wanted Mom to have a nice place
21 to live in. She wanted to live in a nice
22 place. It is a nice place.

23 The garage door was
24 replaced with a steel door for security
25 purposes. It's very easy to break-in to

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1 my garage through glass windows, and so,
2 you know, my mom is the most precious
3 thing, person that I know, so. That's
4 it.

5 Q: What else has been done?

6 A: Well, I had a survey done because,
7 initially, what Jimmy and I talked about
8 was specing out a ramp. The way my house
9 is configured, the only logical place for
10 a ramp is to go up to the left -- It
11 might be helpful if people have a picture
12 of my house -- to the left of the
13 driveway where there are currently some
14 shrubs and a walkway, and then turn and
15 go in front of the house where it can
16 just go onto the front porch. Okay, that
17 was the most straightforward, but in
18 order for us to engineer that out, I had
19 to know where the lot line was and there
20 was no lot, there was no survey recent
21 enough that would pass mustard with any
22 engineer or City. So, that was done and
23 you have that.

24 And then the other
25 thing that was done is since then, I

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1 talked to Jimmy and we now have
2 information on what I think is a much
3 better solution, which is an interior
4 stair lift with my existing garage
5 stairs. They go straight from the living
6 room, right down to the two-car garage so
7 that someone can drive right in, open the
8 door, covered space, no rain, Mom can get
9 out, walk two or three steps or be
10 pushed, sit in this chair, go right up,
11 it turns, and she's in the living room,
12 so.

13 Q: Let me stop you there. You say a
14 survey's been done.

15 A: Yes.

16 Q: But the ramp has not.

17 A: No. No.

18 Q: And the chairlift has not?

19 A: No. No. These are just ---

20 Q: Okay. Well, let's go back to what has
21 been done.

22 A: Yes. So, the last thing I mentioned,
23 what has been done is the survey. I'm
24 just trying to think of anything else.
25 Nothing comes to mind.

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ROA 1086

1 Q: If you could go back to ---

2 A: Uh-huh (affirmative response).

3 MR. RHODES: LET ME MOVE THE INVOICE
4 FROM BANDITO SOLUTION,
5 WE'D MOVE TO INTRODUCE
6 THAT AS 13.

7 THE COURT: THIS IS EXHIBIT 13, ANY
8 OBJECTIONS?

9 MS. HARRISON: NO OBJECTION, YOUR
10 HONOR.

11 MS. LOCHOCKI: NO OBJECTION.

12 MR. BOYD: YOUR HONOR, I MAY BE
13 MISTAKEN. I DON'T
14 RECALL SEEING THIS
15 DOCUMENT. I WOULD JUST
16 NOTE, AS BEEN
17 PREVIOUSLY NOTED, THAT
18 I DON'T THINK THIS HAS
19 BEEN PROVIDED BUT I
20 DON'T SEE ANY REASON TO
21 EXCLUDE IT.

22 THE COURT: THANK YOU.

23 MR. RHODES: IT HAS HAD NOT, YOUR
24 HONOR. I THOUGHT I
25 TOLD YOU THAT WHEN I

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18 | RESPONDENT MILES' EXHIBIT NUMBER 13

19 | ADMITTED INTO EVIDENCE

23 | A: Uh-huh (affirmative response).

24 Q: --- and the amount, if any, that has been
25 paid on there.

1 A: The amount that had or had not been paid?

2 Q: Had.

3 A: Has been. So, the total, the total
4 estimate -- This is the most recent
5 document I received. It includes this
6 very recent request on my part for the
7 interior chairlift. I met the specialty
8 company, what have you, so it includes
9 basically \$25,000 for that, and it also
10 duplicate includes a \$30,000 estimate for
11 the ramp, which is a carryover from the
12 original bid. So, keeping that in mind,
13 the, before a 10 percent tax, the bill is
14 102,912, and then backing out one or the
15 other of the -- And so, in terms of
16 what's been paid, I have paid, I've paid
17 close to \$75,000 to Bandito Construction.
18 The work -- knowing, knowing at the time,
19 expecting and knowing that one of those
20 two options were going to be done. The
21 Guardian ad Litem said that a ramp was
22 appropriate and then this is, I think,
23 hopefully a better option, but any money
24 not spent will be returned to the estate.

25 Q: Okay. So, going to the last page, ---

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1 A: Uh-huh (affirmative response).
2 Q: --- the amount adjacent to payment, what
3 amount is that?
4 A: \$76,953.24.
5 Q: And the estimate, including tax, is how
6 much?
7 A: Let me -- Oh, I'm sorry, 113,306, but
8 there is a duplicate ---
9 Q: I understand that. If we back that out,
10 ---
11 A: Uh-huh (affirmative response).
12 Q: Let's take the easy one, it's a more
13 round number.
14 A: The 30,000 for the ramp?
15 Q: If we put 30,000 for the ramp, backing
16 that out, that leaves about 83,000?
17 A: Uh-huh (affirmative response). Yes, sir.
18 Q: Okay. And according to your statement,
19 you've paid seventy-six, almost 77,000.
20 Have you advanced some funds for work
21 that hasn't been done yet?
22 A: Yes.
23 Q: Do you have any idea how much?
24 A: \$25,000, I added up the work that's been
25 done to-date. The survey, I don't have

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1 the exact number on but it, it was
2 estimated at \$3,000. The total came to
3 \$48,899. I think that includes the 10
4 percent tax. In our market, it's very
5 difficult to find a contractor to do, not
6 only this kind of work, but to do it fast
7 and to do it well. It's very hard.

8 Q: The remodel to your bathroom, I believe
9 your testimony was to provide access to
10 your mother, or for your mother, not to
11 your mother.

12 A: Not only access, the existing bathtub was
13 sinking so one way or another, for my
14 mother to live there, something needed to
15 be put in. But, yeah, I wanted, I wanted
16 access for her at all stages of her life,
17 through the end of her life, that is what
18 happens.

19 Q: Then, going on to the third page.

20 A: Uh-huh (affirmative response).

21 Q: The estimate for the chairlift, that work
22 hasn't been done at all, has it?

23 A: No. No, no.

24 Q: The demolition and disposal of the
25 bathroom content was 2500?

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1 A: Uh-huh (affirmative response). That's
2 what it says, yeah.
3 Q: Okay. Tell me what the reconfiguration
4 cost was for the bathroom.
5 A: Would you like me to read all of that?
6 Q: No, what the cost was.
7 A: \$4,235.
8 Q: Has that work been done?
9 A: Yes.
10 Q: It's been completed?
11 A: Yes.
12 Q: Okay. I'm showing you the Guardian ad
13 Litem report that's in the record. I'm
14 looking at Page 74 of the report, and ask
15 if you can identify that photograph.
16 A: I can. That is partially, that's a mid-
17 stage picture of the bathroom, which was
18 remodeled.
19 Q: Okay. Now, what does that show?
20 A: That shows a shower with a showerhead and
21 a toilet.
22 Q: Is that the handicap accessible shower or
23 is that before that?
24 A: Yes. Uh-huh (affirmative response).
25 Q: So, that's after the work has been, the

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1 tub had already been removed?

2 A: Yes.

3 Q: Okay. And this being, the following
4 picture on Page 75?

5 A: That's my existing toilet that I
6 retained, and then it includes two grab
7 bars, able to support, I think, 600
8 pounds, I think.

9 Q: And the picture on Page 76 ---

10 A: Uh-huh (affirmative response).

11 Q: --- I believe has a caption to it. What
12 is that a picture of?

13 A: Well, I don't know why it says, "Dining
14 room table." If I wrote that, I must've
15 made a mistake. This is a picture of
16 partially finished vanity that was built
17 by the contractor in his shop to
18 configure to the space. It includes the
19 toe kick and includes the countertop that
20 my mom selected.

21 Q: That's the custom vanity ---

22 A: Yes, sir.

23 Q: --- that the estimate talks about?

24 A: Uh-huh (affirmative response).

25 Q: I'll ask you if you can identify that

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1 photograph.

2 A: Yes. This is a picture of the front of
3 my home with the new railing installed
4 with the handrails complete, except for
5 the additional one to be placed
6 underneath the wood.

7 Q: And that's the railing that the Bandito
8 Company installed?

9 A: They installed it, uh-huh (affirmative
10 response). They did not manufacture it.

11 MR. RHODES: WE MOVE TO INTRODUCE
12 THIS AS PLAINTIFF'S
13 (RESPONDENT MILES') 14.

14 THE COURT: NUMBER 14, ANY
15 OBJECTIONS?

16 MS. HARRISON: NO OBJECTION, YOUR
17 HONOR.

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

20 MS. LOCHOCKI: NO OBJECTION, YOUR
21 HONOR.

22 **RESPONDENT MILES' EXHIBIT NUMBER 14**

23 **ADMITTED INTO EVIDENCE**

24 Q: Let's see if you can identify that
25 photograph.

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1 A: That is a picture of the front of my
2 house with the railing complete by
3 Bandito Construction and what it does
4 show is that I have a graduated series of
5 steps up to the front of my house, and a
6 two-car garage, so.

7 Q: And is it an accurate representation,
8 fair and accurate representation of what
9 your railing in your house looks like, on
10 the front of your house?

11 A: Yes.

12 Q: Okay. And since the railing has been up,
13 is your mother able to negotiate or ---

14 A: Uh-huh (affirmative response).

15 Q: --- able to navigate the steps?

16 A: Oh, yeah. She actually likes walking the
17 steps she says. She does it for
18 exercise.

19 Q: Okay.

20 A: It's ADA compliant. It's high enough.
21 It's very strong.

22 MR. RHODES: WE'D MOVE TO INTRODUCE
23 THIS AS ---

24 THE COURT: NUMBER 15.

25 MR. RHODES: --- NUMBER 15.

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1 THE COURT: ANY OBJECTIONS?
2 MS. HARRISON: NO OBJECTION, YOUR
3 HONOR.
4 MS. BOYD: NO, YOUR HONOR.
5 MR. LOCHOCKI: NO, YOUR HONOR.

6 **RESPONDENT MILES' EXHIBIT NUMBER 15**
7 **ADMITTED INTO EVIDENCE.**

8 Q: You feel like the estimate from Bandito,
9 the construction they done, that was to
10 make your house appropriate for your
11 mother?

12 A: Yes.

13 Q: Okay. And all the work that was done and
14 all the work that's in that estimate was
15 solely for her?

16 A: Yes.

17 Q: Okay. And you feel that those expenses,
18 because I'm not familiar with Washington,
19 are reasonable?

20 A: Yes. I feel they're -- I know they're
21 reasonable based on, you know, the
22 research that I've done, but also knowing
23 that to find a general contractor who can
24 do ADA work, do exceptional work, show up
25 on time, and work around somebody who

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1 has, is in the condition of my mother and
2 be respectful of her schedule, and build
3 out a custom vanity that will accept a
4 wheelchair, yeah, absolutely, I think we
5 got a deal to be frank.

6 Q: Did you talk with -- How did you find
7 Bandito? Did you take bids or what was
8 the process?

9 A: I went onto Home Advisor, which is an app
10 and I spoke to several contractors
11 describing the project. I received
12 rejections. I received no calls back on
13 some. I interviewed Jimmy and he's, he
14 told me about his background.

15 Q: You can't tell me what he said.

16 A: I'm sorry.

17 Q: Based on that ---

18 A: Based on my ---

19 Q: --- that conversation?

20 A: Yeah. Based on that conversation, I
21 decided that Jimmy was a, the right fit
22 and he committed to accommodating
23 timeline and adjustments as we go if
24 needed, and being very forthright, and
25 he's done all of that and more. It's

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1 very hard for generals to find subs, too,
2 because they're all working a bunch of
3 different jobs. Jimmy has six going
4 right now. So, yeah, he's, he's been
5 amazing and I tell you, thank God, yeah.

6 Q: Did you interview any other contractors?

7 A: I talked to a couple on the phone,
8 described the scope of the project. I
9 was really busy at the time, doing a lot
10 of things with my mom, so I didn't really
11 have a lot of time and my prioritization
12 was not to get the best price possible,
13 but get the best work done in the fastest
14 time possible within reason and with
15 somebody who understood ADA needs. Jimmy
16 said he had done six prior jobs, speced
17 to ADA.

18 Q: And you felt that was the best, most
19 reasonable solution?

20 A: Solution?

21 Q: You felt that Jimmy Bandito was the best,
22 most reasonable solution?

23 A: Uh-huh (affirmative response). Yes.

24 Q: Did you get prices from any other
25 contractors?

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1 A: No, because they were phone interviews
2 and ---

3 Q: They were what? I'm sorry.

4 A: Well, actually, I may have over the phone
5 with one. It was very difficult to get
6 somebody to even come out and look, you
7 know, and I had very limited time. This
8 was, you know, a lot had to be done in a
9 short period of time. It takes time to
10 order-in. The countertop took, I don't
11 know, four weeks or something, so. The
12 tile took a long time. The railing took
13 forever, you know, so I had to move fast.
14 I explained to him my background, that I
15 had underwritten construction loans and
16 builders for many years. I understood
17 the process, and I let him know that I
18 was perfectly comfortable keeping him to
19 task, so.

20 MR. RHODES: COURT'S INDULGENCE.

21 Q: Hindsight's always 20/20, but looking
22 back at the handling of the accounts, the
23 deposits, the transfers, and the opening
24 of the Mom account, looking back, do you
25 think that was the best way you could've

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1 done that?

2 A: Looking back, no. Well, let me, let me

3 qualify this. If the situation was the

4 same and I was doing everything I could

5 to take care of my mother medically; set

6 up everything with Franke Tobey Jones and

7 the certified nursing assistants; getting

8 her up to Seattle and to her other doctor

9 appointments; trying to investigate, you

10 know, accounts and then get access;

11 looking back, I think I did a very good

12 job. I do think that I could have been

13 more -- I could have made things a little

14 more simple, but my priorities were --

15 you know, simple, in terms of the

16 accounts. But remember, there was this

17 cascading timeline thing that I was

18 dealing with, and I honestly did not

19 place a very high priority on making

20 everything as neat and tidy from, you

21 know, the, the banking perspective

22 because I knew that it was all at USAA.

23 Basically, all the activity was at USAA.

24 I've been an auditor, too; I know that

25 the numbers are there. And yeah, so, I

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1 mean, if I'd had more time or less
2 responsibility, I could've done things
3 differently and I would've. So, I
4 could've done a better job, but I did the
5 best I could.

6 Q: You talked about when Dr. Strasswimmer
7 advancing the funds ---

8 A: Uh-huh (affirmative response).

9 Q: --- in the beginning.

10 A: Uh-huh (affirmative response).

11 Q: Did you advance any funds to your
12 mother's estate in the beginning?

13 A: I advanced funds to take care of my
14 mother, but I did not place any funds
15 into her accounts.

16 Q: Okay. Well, let me rephrase the
17 question. Did you spend any of your own
18 money in the care of your mother in the
19 beginning when you were appointed
20 Temporary Guardian?

21 A: Well, yes, and before then.

22 Q: Okay. And have you reimbursed yourself
23 for all those funds?

24 A: Pretty much. I haven't reimbursed
25 myself, I believe, for the Verizon bill.

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1 You know, I got her own cell phone, I
2 think, in November. You know, and
3 honestly, I don't -- but the big
4 expenses, yeah. Yeah, I think so.

5 Q: And you basically had used USAA as a
6 paper trail showing what you were
7 reimbursed and what it was for?

8 A: Yeah, I bank at USAA and, so all of that
9 activity. I do have two credit cards
10 that are not USAA, which is Capital One
11 and the Citi card for American Airlines,
12 which is really new, but then everything
13 else is through USAA.

14 Q: So, when the Conservator is appointed,
15 you'll be able to show ---

16 A: Absolutely,

17 Q: --- what was done, and you understand
18 that when a Conservator's appointed, all
19 these finances that you have, all your
20 mother's accounts, ---

21 A: Uh-huh (affirmative response).

22 Q: --- investment accounts, bank accounts,
23 ---

24 A: Uh-huh (affirmative response).

25 Q: --- everything has to be turned over ---

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1 A: Uh-huh (affirmative response).

2 Q: --- to the Conservator, as well as you
3 have to perform or submit an accounting
4 to The Court of all the money you
5 received, ---

6 A: Uh-huh (affirmative response).

7 Q: --- all the money that has been in your
8 control ---

9 A: Uh-huh (affirmative response).

10 Q: --- and all the money you spent.

11 A: I'm looking forward to that day; I really
12 am.

13 Q: So, your testimony is your priority was
14 your mother's healthcare?

15 A: My priority was my mother's healthcare.
16 Although she was in a very good
17 healthcare facility, my priority was my
18 mother's wellbeing, which includes her
19 mental and emotional state, her
20 environment, social engagement, yeah.

21 Q: You understand that your mother's
22 healthcare is also tied into her
23 financial wellbeing?

24 A: Yes, it costs money to obtain healthcare.
25 Is that what you're asking? Yes.

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1 Q: Okay.

2 A: Yeah.

3 Q: So, it was important that the funds be
4 conservatively used for that purpose?

5 A: Yes, absolutely.

6 Q: Do you feel like you did that?

7 A: Yes.

8 Q: Okay. Do you feel like -- I have to ask
9 this question, do you feel like a \$77,000
10 investment in your home was necessary for
11 your mother's wellbeing and health?

12 A: Well, the investment in my home to-date
13 is not 77,000, it's closer to 50,000
14 because the ramp or the chairlift have
15 not been done yet, but yes, absolutely.
16 My mother said all along that she wanted
17 to live with me, ever since I was 10.
18 She wanted to pick out the finish work to
19 the degree that she could in the
20 bathroom. She was fully engaged. She
21 chose her own furniture. She chose her
22 bedroom furniture. She chose her
23 recliners and couch. She wants a new
24 coffee table, but I told her I can't buy
25 her one because things are on hold.

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1 Frankly, I feel like my mother -- There
2 are more things that could've been done
3 for my mother, you know, more
4 expenditures, which some may view as
5 frivolous, like maybe taking a train trip
6 to Portland or something, but, no. Yeah,
7 she's using all of my furniture with the
8 exception of her bedroom set, her
9 recliners, and her sofa, and her dining
10 room table, which I didn't have one.

11 Q: Dr. Strasswimmer has, as we said earlier,
12 filed a petition to have you appointed
13 Guardian. If appointed, you're willing
14 to serve in that capacity?

15 A: Yes, sir.

16 Q: We talked about the qualifications. Do
17 you feel like you meet the qualifications
18 and can serve in that capacity?

19 A: I do now, absolutely. And furthermore,
20 Washington State has a series of courses
21 and webinars, obviously, for someone
22 who's not going to operate in a business
23 model type thing, but there are courses
24 that I'm absolutely ready to take. I'm
25 ready to do anything necessary, yes. I

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1 feel like I've done a good job on that
2 part.

3 Q: Are you opposed to Mr. King being
4 appointed Guardian?

5 A: Am I opposed?

6 Q: Yes, ma'am.

7 A: I have concerns.

8 Q: What are those concerns?

9 A: I just, I have concerns about judgment.
10 I've observed some instances of judgment,
11 poor judgment so that would be about it.

12 Q: Can you give us an example of the poor
13 judgment you're talking about?

14 A: Uh-huh (affirmative response). Yes, I
15 can. Most recently, we had a huge
16 snowstorm, a one-in-a-century snowstorm
17 in February. We lost power for days. We
18 got 14 inches of snow at my house; it was
19 crazy. We were homebound for days.
20 David -- Nobody was driving. David
21 rented a Ford, a small Ford Focus or
22 whatever, and decided that he was going
23 to drive over, which is fine, and somehow
24 ended up taking a right instead of a left
25 to my house, -- he's been there a hundred

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1 times, a hundred thousand times -- and
2 got his car stuck down a half a block
3 from my house, and then for some reason,
4 showed up in a pickup truck. He's a half
5 a block from my house, stuck in the snow,
6 to give him a ride to my house. So, I
7 thought that was kind of odd. Poor
8 judgment would include, you know, when
9 my, when David and my mother were at the
10 Silver Cloud the first week of November,
11 and the glucometer that David had been
12 using, which he said was old and didn't
13 work sometimes -- I got frustrated and I
14 think this is after the first trip to the
15 ER, and I said, "David, please go to
16 Walgreens or whatever and get two
17 glucometers, one for you and one for me.
18 That way we have a backup."

19 And he left and he came
20 back and he said, "Well, I went to
21 Walgreens."

22 And I said, "Well, did
23 you get them?"

24 And he said, "Well,
25 they didn't have any that were Bluetooth

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1 compatible." And I thought that was very,
2 very strange.

3 David left my mother
4 alone in the Silver Cloud hotel room once
5 to do laundry. My mother, at that time,
6 could really barely walk. If she did, it
7 was with assistance. I arrived and he
8 was not in the room, and Mom had no water
9 next to her bed. And he came in and I
10 said, "David, you cannot leave Mom alone.
11 What if there was a fire? You know?
12 Nobody's going to hear her scream, or
13 what if she has to go to the bathroom and
14 falls over?" So, he promised me he would
15 not leave her alone.

16 And then, several days
17 later, he -- Several days later, he
18 rented a car. He was returning the car.
19 Actually, it may not have been that week,
20 I can't remember, but, he rented a car --
21 No, he went to go pick up the rental car.
22 And he called me from the rental car and
23 said, "Hey, your mom's back at the hotel.
24 I'm getting a ride to Enterprise."

25 I said, "David, why

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1 would you leave my mom alone again?"

2 There's -- I mean, let
3 me just sit and think, because there are
4 instances where poor judgment would
5 include choosing to go to Myrtle Beach on
6 the day of discharge, October 23rd, from
7 MUSC. I've never been through a
8 discharge in my life. That is a crazy
9 day, and he was gone all day. Here's
10 another example. He said he didn't feel
11 well. I went with him to the ER at MUSC
12 and I sat there with him in the ER so
13 that they could do some tests. The first
14 day, they found inconclusive. He didn't
15 have the flu. The second day, they
16 decided or concluded that he had a UTI
17 and prescribed him some antibiotics. I
18 have both of those discharge summaries
19 because he handed them to me. So, after
20 being seen by ER for two days in a row
21 for a UTI, the next day, he announces to
22 us that he is going up to Myrtle Beach to
23 go see his friend for an appointment who
24 is a urologist. This is Zoltan, this a
25 very close personal friend of his, and

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1 Mom looked at him and said, "You're
2 abandoning me?" And, you know -- I don't
3 think I can say that. I'm sorry, I said
4 that wrong.

5 But, "David," I said,
6 "Why in the world? You're at a hospital
7 and you just had ER docs look at you."

8 "No, no. I'm going to
9 go." So, he left and he went up and then
10 called us in the afternoon, very chipper.
11 That was Mom's word, not I. You know, we
12 had him on speaker, "Hey, I'm coming
13 back," because he had told us he was
14 going to stay the night. "Hey, I'm coming
15 back."

16 "Oh, did you see
17 Zoltan?"

18 "Yeah, just for like an
19 outpatient thing but, you know, it's
20 funny, just driving I feel better. So,
21 I'm going to head back and I'll see you
22 guys soon." And I'm like ---

23 Q: Let me interrupt you there. Have you
24 given any consideration to the
25 possibility that he is struggling as much

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1 as you are with the loss of a companion
2 for thirty-eight years?
3 A: I have absolutely, absolutely. I, I gave
4 David a lot of compassionate
5 consideration, and I'm going to cry here,
6 because I grieve for this man, who came
7 into our lives when I was fourteen. I
8 was closer to David than he was to his
9 two kids and to my brother, and that is
10 something that he and I discussed a lot,
11 and that is something that he told me.
12 I encouraged David and Mom to get married
13 for years. I used to yell at my mom, and
14 she'd say, "I'm not marrying him. He's
15 not working. No, I'm not going to do it.
16 Blah-blah-blah." Anyway.
17 Q: Could that contribute to some of what you
18 call poor judgment is him dealing with
19 this situation in his own way?
20 A: Well, when -- Okay. And as my brother
21 had -- Another example, the Florence
22 Hurricane, bulls eye was Briarcliffe
23 Acres.
24 Q: I understand that, but my question is ---
25 A: Okay.

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1 Q: --- could that be how he's dealing with
2 this situation? What you call poor
3 judgment is his way of dealing with the
4 situation?

5 A: It could be, however, it is not in my
6 mother's best medical interest, how he's
7 dealing with it.

8 Q: Fair enough. I want to show you the
9 Guardian's report one more time. I'm
10 looking on -- Let's see, it's ---

11 A: And I mean, I can expound on other
12 medical, impactful, medical poor judgment
13 situations if you'd like, but ---

14 Q: Well, I think we need to move on.

15 A: Okay.

16 Q: Exhibit B, we're looking on Page eight,
17 and I am looking at the statement at the
18 top ---

19 A: Uh-huh (affirmative response).

20 Q: --- asking the Guardian at that point,
21 based on her calculations, estimates you
22 spent how much money?

23 A: \$182,000 between 12/11 and January 31st.

24 Q: Okay. Since January 31st, do you have an
25 estimate of how much you have spent?

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1 A: No, I didn't prepare for that, but I
2 mean, the primary expenses are pretty
3 straightforward. The Guardian ad Litem
4 has the SYNERGY bills through a certain
5 date, and yeah, I mean ---

6 Q: Okay. So, let's do it this way. The
7 Bandito exhibit shows that you had
8 deposited with them, ---

9 A: Uh-huh (affirmative response).

10 Q: --- paid them almost \$77,000.

11 A: Uh-huh (affirmative response).

12 Q: If you back that out of that number,
13 that's a little over \$100,000.

14 A: Uh-huh (affirmative response).

15 Q: Four and a half months, do you think
16 that's living expenditures for your
17 mother's care?

18 A: Well, I do. I do. You know, I don't
19 know that I can go through line by line
20 and pick this out, but I will tell you,
21 for example, Franke Tobey Jones was
22 sixteen plus a month. So, there's
23 30,000.

24 Q: Sixteen plus?

25 A: \$16,000 plus a month, and then you've

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1 just mentioned the Bandito, of which the
2 25,000 postdates that, so this more than
3 fifty. There's the SYNERGY costs
4 incurred during that time, and I don't
5 know off the top of my head how much that
6 was, but I would guess that it was
7 probably close to \$20,000. You know,
8 that's it. I did a spreadsheet for the
9 time period noted here, for the account
10 1888, the \$37,000, which was spent out of
11 that, and I have categorized it and there
12 are eight tabs for each category. So,
13 it's very clear, for example, where
14 \$37,000 between 12/11 and 1/31 were spent
15 out of 180. So, that is available.

16 Q: Now, we were using the Guardian report.
17 You had an opportunity to read it over
18 the last week or so.

19 A: Uh-huh (affirmative response).

20 Q: And the Guardian is recommending a third-
21 party -- the Guardian ad Litem, I'm
22 sorry, is recommending a third-party
23 Guardian and Conservator, Mr. Tracy
24 Rabon, we discussed that ---

25 A: Uh-huh (affirmative response).

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ROA 1114

1 Q: --- and you prefer to be appointed
2 Guardian.

3 A: Well, ---

4 Q: I'm asking, do you prefer to be appointed
5 as Guardian or do you have any objection
6 to Tracy Rabon being appointed as
7 Guardian?

8 A: I have absolutely no objection to a
9 professionally vetted third-party
10 Guardian whatsoever, Tracy Rabon, for
11 example.

12 Q: Okay.

13 A: Do I prefer? You know, to be frank, I
14 was thrust into this not, with no idea of
15 what the Guardianship duties were and no
16 guidance on what the fiduciary duties
17 were. My understanding now, after doing
18 some research and being in this, is that
19 the Guardianship duties are actually far,
20 far less than what I've been doing. And
21 with the Conservatorship duties being
22 removed, which I cannot wait for, then I
23 see it feasible. However, I do not yet
24 know what those entail. I am the one
25 that has been most vigilant with my

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1 mother. I caught her pneumonia early. I
2 caught her five blood-clot DVT early.
3 All the doctors commended me for that.
4 It requires somebody who was there, so, I
5 think I would be a very, very good
6 Guardian, and I would want to be my
7 mother's Guardian. My mother does not
8 have very long to live, and I have been
9 her Guardian for a long time. I mean,
10 she's now five months post-surgery, but
11 whatever the Court decides in terms of a
12 third-party Guardian or me, I do not
13 oppose. I just -- Is that an adequate
14 answer?

15 Q: If that's your answer. So, if the Court
16 would appoint a third-party Guardian, and
17 I think I may have already asked you and
18 if I did, I apologize, as far as your
19 mother living in your home, ---

20 A: Uh-huh (affirmative response).

21 Q: --- what is the living situation there
22 now as far as you and your mother are
23 concerned?

24 A: Well, I don't really live in my home. I
25 mean, when I sleep there, which is

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1 infrequently, I sleep on a couch. I have
2 been moving into my boyfriend's house
3 gradually, and my mother wants her
4 autonomy, and she wants to have her own
5 space. So, I do not plan on living with
6 my mother and I'm moving out, so.

7 Q: And you're willing to make your home
8 available to her as a leased premise that
9 the Guardian recommended or, I think, the
10 seven or eight premises that she found,
11 you're willing to say, "Hey, she can stay
12 there. I'll move out?"

13 A: Oh, yeah, absolutely. I'm already moving
14 out, I mean, because my expectation was
15 for however much longer I was Temporary
16 Guardian or Guardian. Regardless who is
17 Guardian, my mother needs a safe,
18 comfortable, high-quality, ADA, good
19 neighborhood, familiar property to live
20 in that accepts cats, and a woman dying
21 of brain cancer. And I did not look in
22 detail at the properties that you so
23 kindly found. My boyfriend glanced
24 through them and said, "Huh, it doesn't
25 look any" ---

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1 Q: You can't tell us what he said.

2 A: Oh, sorry, sorry, sorry. It's very
3 difficult to find a property, as I
4 discovered and John discovered, in Tacoma
5 with all of those qualifications,
6 including a third-party lessee, like a
7 Guardian, I ran into that trying to find
8 something for Mom and David, excuse me,
9 for Mom before. So, in answer to your
10 question, I think that Tacoma is very
11 limited in inventory, and my house is the
12 best place for my mom.

13 Q: As far as reasonable rent, what would you
14 consider reasonable under these
15 circumstances?

16 A: Well, a fair market rent, I think is
17 reasonable. I want my mother to be in
18 that place that she wants to be, and if
19 she wants to be someplace else, fine. I
20 want her to be happy. But fair market
21 rent for a property like mine, that is
22 unfurnished, that is less, lower quality,
23 that does not have a view of the
24 mountains, et cetera, is, is less than --
25 It's about \$3,000. So, I arrived at a

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1 \$3,000 rent.

2 Q: If the lease so provided, would you have
3 any objection to the locks being changed
4 so that you would not have access without
5 going through the Guardian or the
6 caregiver?

7 A: No. No.

8 Q: So, basically, you're saying you're okay
9 with being locked out of your own house?

10 A: No, it's a rental. It's my mom's house.

11 Q: I do have to ask this question.

12 A: Uh-huh (affirmative response).

13 Q: Under the circumstances of the funds that
14 have been used of your mother's to
15 renovate your house, do you still think
16 \$3,000 a month is a reasonable rent?

17 A: Well, when you say reasonable, I mean, it
18 is fully furnished. I don't know. I
19 want above anything else for my mother to
20 be in a place that she wants to be, that
21 is safe and appropriate and quiet, and
22 that she knows. Pretty soon, she's going
23 to forget where the front door is, you
24 know. So, yeah, I think that that's
25 reasonable, given that my priority is to

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1 make sure that my mother -- If I was
2 renting this to somebody else fully
3 furnished, I would charge a higher
4 amount.

5 Q: During our discussions, we talked about
6 seeking some compensation for the time
7 that you have spent in Guardian duties
8 and tracking down expenses. I'm going to
9 ask you to identify this document, which
10 is a spreadsheet you prepared.

11 A: Uh-huh (affirmative response). Yes, this
12 is a document that I prepared to estimate
13 in some cases what I have spent in terms
14 of time, and to organize it so that the
15 medical visits are, I guess, now Page one
16 and two. I'm not really -- Yeah.
17 Anyway, yes, this is a document that I
18 prepared.

19 Q: Okay. Now, just to be clear, you did not
20 keep time records concurrent with the
21 time you were spending.

22 A: I have kept some records. I did not keep
23 records -- Well, at Franke Tobey Jones, I
24 was there all the time, but in terms of
25 Guardianship duties at Franke Tobey

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1 Jones, surprisingly, there were quite a
2 few. There was making sure that the CNAs
3 were there, et cetera. There was --
4 So, yes, I do have some records and I, I
5 can go back in time and just pull my
6 phone logs alone. I guarantee you.

7 Q: Well, what I'm asking is, you didn't do
8 like us attorneys do, you didn't keep a
9 timesheet every time you did something.
10 You may have kept some, but you didn't
11 keep them every time?

12 A: No, not every time.

13 Q: But some of that information on there is
14 an estimate, going back and looking at
15 your calendar or whatever?

16 A: Uh-huh (affirmative response).

17 Q: Okay.

18 A: Yes.

19 Q: And does that encompass all the time you
20 feel like you spent actually doing
21 Guardian duties?

22 A: No. No, definitely, not.

23 Q: Okay. So, what is the rate that you
24 applied to those hours to come with the
25 figure that you have on there?

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1 A: What is the first part you said?

2 Q: The hourly rate.

3 A: The hourly rate that I have requested is
4 \$95 an hour.

5 Q: And where did you come up with that?

6 A: I came up with that after seeing the
7 invoices from Julie Forkasdi, who I
8 believe charged \$150 or so for the
9 facilitation services, Beth Stone's rate
10 of pay, and obviously the Guardian ad
11 Litem, who's an attorney, with all due
12 respect. But, yeah, the level --
13 This is commensurate, actually, with what
14 I was earning. Not that I -- I don't
15 know if that's relevant or not, but I
16 have consistently earned this. And
17 again, yes, I have shortchanged myself in
18 some areas. The financial, the financial
19 -- The forensic accounting, to try and
20 figure out where and how and what to do
21 to get to this, and the phone calls alone
22 aren't really in here, and that was
23 hours, and hours, and hours.
24 Q: So, even though you used the \$95 an hour,
25 you are willing to accept whatever the

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ROA 1122

1 Court deems reasonable?

2 A: Of course I'm willing to accept whatever
3 the Court deems reasonable, and I'm happy
4 to provide a more detailed accounting if
5 the Court would like.

6 Q: So, the information that you want the
7 Court to really pay attention to on that
8 document is the time spent, not so much
9 the hourly rate.

10 A: Yes, I mean, ---

11 MR. RHODES: WE'D LIKE TO INTRODUCE
12 THAT AS 16, I BELIEVE.

13 THE COURT: ANY OBJECTIONS TO
14 EXHIBIT NUMBER 16?

15 MS. HARRISON: NO OBJECTION, YOUR
16 HONOR.

17 MR. BOYD: NO OBJECTION, YOUR
18 HONOR, BUT THE SAME
19 COMMENT, AS COUNSEL HAS
20 ALREADY NOTED, I'VE
21 NEVER SEEN THIS
22 DOCUMENT UNTIL RIGHT
23 NOW, BUT I'M HAPPY IF
24 YOU ADMIT IT.

25 THE COURT: SO NOTED.

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1 MS. LOCHOCKI: YES, YOUR HONOR, I'VE
2 NEVER SEEN THIS BEFORE
3 AND I'VE NEVER HAD A
4 DISCUSSION WITH MS.
5 MILES ABOUT KEEPING
6 RECORDS LIKE THIS, SO
7 I, I'M HAPPY FOR IT TO
8 BE ADMITTED AS AN
9 ESTIMATE.
10 THE COURT: THANK YOU, SO NOTED.
11 MR. BOYD: YES, I'M SORRY, YOUR
12 HONOR. BESS JUST
13 REMINDED ME SOMETHING
14 THAT I SHOULD CLARIFY.
15 I DON'T ACCEPT THIS
16 DATA FOR WHAT IT IS,
17 AND SHE'S ADMITTED IT'S
18 NOT A CONTEMPORANEOUS
19 RECORD. SO, CERTAINLY,
20 I'LL CROSS EXAMINE HER
21 ON IT, BUT I'M NOT
22 ACCEPTING IT FOR THE
23 TRUTH OF ANY ITEMS,
24 INCLUDING THE DOLLAR
25 AMOUNT.

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1 THE COURT: THANK YOU, MR. BOYD.
2 **RESPONDENT MILES' EXHIBIT NUMBER 16**
3 **ADMITTED INTO EVIDENCE.**
4 MR. RHODES: JUST ONE MOMENT, YOUR
5 HONOR.
6 MS. MILES: YOUR HONOR, WHAT WILL
7 BE BEST FOR ME TO GET
8 SOME WATER? SHOULD I
9 WALK OVER ---
10 THE COURT: SHE NEEDS SOME WATER.
11 MS. MILES: SHOULD I WALK OVER?
12 YEAH.
13 MR. BOYD: I WILL.
14 MS. MILES: OH, THANK YOU.
15 THE COURT: THANK YOU.
16 **MR. RHODES CONTINUES:**
17 Q: If the Court appoints a third-party
18 Guardian, you understand that that person
19 will be in charge of your mother's health
20 and welfare ---
21 A: Absolutely.
22 Q: --- which will include her time with you,
23 Dr. Strasswimmer, and Mr. King?
24 A: Uh-huh (affirmative response), yes.
25 Q: Okay. And you understand that she will

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1 have the authority over that, ---
2 A: Uh-huh (affirmative response).
3 Q: --- and your only recourse would be to
4 come back to court ---
5 A: Uh-huh (affirmative response).
6 Q: --- if she fails to take prudent care of
7 your mother?
8 A: Yes.
9 Q: Okay.
10 MR. RHODES: I BELIEVE THAT'S ALL
11 THE QUESTIONS I HAVE,
12 MS. MILES. THANK YOU
13 SO MUCH. PLEASE ANSWER
14 ANYBODY WITH OTHER
15 QUESTIONS.
16 MS. MILES: THANK YOU.
17 THE COURT: THANK YOU, MR. RHODES.
18 **(MR. RHODES IS FINISHED WITH CROSS-**
19 **EXAMINATION OF MS. MARY MICHELLE MILES.)**
20
21
22
23
24
25

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1 MS. HARRISON: THANK YOU, MR. RHODES.

2 THE COURT: MS. HARRISON.

3 MS. HARRISON: THANK YOU, JUDGE.

4 **CROSS EXAMINATION**

5 **BY MS. HARRISON:**

6 Q: Just briefly, Ms. Miles. Did I hear you
7 say you need water?

8 A: I'm sorry, I received some from Mr. Boyd.
9 Thank you very much.

10 Q: Why did you take your mom's name? I
11 believe somebody said that you took your
12 mom's name.

13 A: A lot of reasons. I respect my mom
14 tremendously. We're very close. Because
15 my birth father died so young, I didn't
16 find that there's an emotional attachment
17 or affiliation to it, grew up to my
18 brother's chagrin, I did not take the
19 name, Strasswimmer, because, again, you
20 know, for me as a woman today, I wanted
21 to have my last name represent the, the
22 identity that I'm -- anyway, I admire my
23 mother and Miles was the name that I
24 chose, and, again, we're just -- we're
25 so-so close, so, you know. She walked me

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1 down the aisle for my first marriage and
2 she walked me down the aisle for my
3 second marriage.

4 Q: That's wonderful. We talked a little bit
5 about her autonomy and how you try to
6 preserve that in her care to this day.
7 I'd like for you to get the medical
8 records in front of you, which is
9 Petitioner's Exhibit 1, ---

10 A: Yes.

11 Q: --- and to turn to page 207 for me.

12 A: Yes, I have it.

13 Q: This is a March 7th visit with Dr.
14 McGranahan, correct?

15 A: Yes.

16 Q: And if you would turn to the fourth page
17 of that where it talks about the
18 assessment, ---

19 A: Yes.

20 Q: --- I'm sorry, the next page talks about
21 after clinic visit discussion with
22 daughter.

23 A: Yes.

24 Q: So that states that during the visit she
25 asked if Dr. Miles would like for you or

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1 Mr. King to come into the room, so at
2 that March 7th visit, you let Dr. Miles
3 go in on her own?
4 A: As I do with every visit now.
5 MR. BOYD: WHAT PAGE ARE YOU ON?
6 MS. HARRISON: I APOLOGIZE. THIS IS
7 PAGE 211.
8 MR. BOYD: OKAY.
9 Q: And this is just three weeks ago; is that
10 right?
11 A: That would be correct.
12 Q: And Mr. King was with you at Dr.
13 McGranahan's visit?
14 A: Yes.
15 Q: Do you welcome him to attend those ---
16 A: Yes.
17 Q: --- types of events with you and Mom?
18 A: Yes.
19 Q: And you obviously respect her ability to
20 be in that setting on her own and to make
21 the decision as to who is in the room
22 with her?
23 MR. BOYD: I'M GOING TO HAVE TO
24 OBJECT TO THE QUESTION,
25 YOUR HONOR. MS.

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1 HARRISON IS FREE TO ASK
2 HER QUESTIONS, BUT
3 SHE'S LEADING HER
4 WITNESS OR THIS
5 WITNESS.
6 THE COURT: JUST REPHRASE YOUR
7 QUESTION, MS. HARRISON.
8 MS. HARRISON: THIS IS NOT MY WITNESS.
9 MR. BOYD: WELL, YOUR HONOR, IT'S
10 NOT HER WITNESS, BUT
11 SHE STILL CAN'T ---
12 THE COURT: LEAD.
13 MR. BOYD: --- TESTIFY AND THEN
14 ASK HER TO CONFIRM A
15 QUESTION THAT IS
16 ESSENTIALLY TESTIMONY.
17 MS. HARRISON: OKAY. I'LL REPHRASE
18 IT.
19 THE COURT: THANK YOU.
20 Q: Is this just another example of you
21 preserving your mother's autonomy by
22 letting her go into these visits by
23 herself?
24 A: It is, and if you don't mind, I would say
25 it's encouraging. I want my mother's

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1 autonomy to grow, not just be static.

2 Q: I'm going forward to page 221.

3 A: Yes.

4 Q: Again, was this a visit that you attended

5 with Mr. King?

6 A: I'd have to read the notes. Off the top

7 of my head, I can't -- well, if this was

8 an Avastin infusion, no, 'cause he hasn't

9 been to any of those, but this was Tresa

10 McGranahan. Okay. I don't remember, but

11 I would imagine it's in the notes. Would

12 you like me to determine that?

13 Q: That's fine. I was just looking at the

14 note on page 221 that states that she's

15 accompanied to that visit by her daughter

16 who assisted with the history, ---

17 A: Oh, yes. Yes.

18 Q: --- and that when asked if she'd like her

19 daughter to come in, she agreed, but when

20 asked if she'd like her husband to come

21 in, she said, "No." Is that what that

22 says?

23 A: That is what that says, and I do remember

24 this visit.

25 Q: Okay. I think that Mr. Rhodes covered

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1 this, but I wanted to make sure, I had a
2 note here, you don't believe at any point
3 in time that Mr. King was trying to
4 intentionally hurt your mother, right?

5 A: No.

6 Q: Do you think that's his intentions today?

7 A: No.

8 Q: We talked about some decisions that he
9 had made that you didn't agree with; is
10 that correct?

11 A: Yes.

12 Q: We discussed her not being able to walk
13 without assistance, and tell me about the
14 wheelchair that you rented while you were
15 in Tacoma.

16 A: Would this be while they were staying at
17 the Silver Cloud that first week of
18 November?

19 Q: That's correct.

20 A: Okay, sure. So Mom needed a walker and a
21 wheelchair, and she may have already had
22 the walker, I can't remember, can't
23 remember, and so I went, as I do, to
24 Bellevue Healthcare and rented,
25 basically, like a transport chair and

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ROA 1132

1 brought it back, and Mom needed it. She
2 got exhausted very easily. So I also
3 purchased, while I was there, a shower
4 stool, because the ADA room that they
5 were in only had a bathtub, and Mom had
6 great difficulty lifting her legs and I
7 was concerned about slipping and fall
8 with just David there to assist her. So,
9 anyway, Mom used that, and I would -- I
10 was not in attendance for the November
11 6th initial meeting with Dr. McGranahan,
12 because I had a job interview, but I
13 later came to find out that David
14 returned that wheelchair without telling
15 me, even though I was paying for it, and
16 apparently did so before that November
17 6th appointment at this enormous
18 facility, the University of Washington,
19 which requires, you know, a lot of
20 walking. They do have transport chairs
21 there, but it was really strange, and,
22 again, irrational to return it and, and
23 then not tell me. Mom would still need
24 it while looking at apartments, for
25 example, that kind of thing. So that's

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ROA 1133

1 what I remember.

2 Q: And that was on November 6th when she met
3 with Dr. McGranahan to discuss her
4 treatment plan in Seattle, correct?

5 A: Yes. I, I wasn't there, but that was a
6 very important visit. I, I really wanted
7 to go, but I decided that it was more
8 important for me to do my fourth
9 interview with this company so I could
10 have employment.

11 Q: And did Mr. King give any inclination why
12 he returned that wheelchair?

13 A: No, not that I can recall. No.

14 Q: And your mom had more than one
15 appointment that day at that facility,
16 correct?

17 A: I wasn't there, but I, I, I -- I've seen
18 the notes, ---

19 Q: Okay. That's fine.

20 A: --- and, yeah.

21 Q: If you don't know, that's fine. Did your
22 mother use a wheelchair at the airport in
23 Myrtle Beach when she was leaving to go
24 to Seattle/Tacoma?

25 A: Which time? You mean the time ---

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ROA 1134

1 Q: The first time a week after surgery?
2 A: I can't remember, but I would say she
3 would have -- yeah, she would've. Yes.
4 Yes, she did, and now I remember the
5 second time as well.
6 Q: And when she arrived at the airport in
7 Seattle, did she use a wheelchair then as
8 well?
9 A: Yeah.
10 Q: So she was pretty dependent on that
11 device, especially in large facilities?
12 A: Yes, and furthermore, large crowded
13 facilities, my mother gets -- at that
14 time was overwhelmed and very
15 uncomfortable, busy, loud places, lots of
16 people, so in order to sort of keep her
17 calm as well as enable her to get from
18 point A to point B that was really
19 important.
20 Q: If you'll go to page 143 in the medical
21 records, this appears to be the notes
22 from that appointment on November 6th.
23 It starts at page 142.
24 A: Okay. Yes.
25 Q: This is with Dr. McGranahan on November

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1 6th, and the next page at 143 about
2 midway through the page there's a section
3 that starts, "While her husband."

4 A: Yes.

5 Q: It says, "While her husband is out of the
6 room she expressed that she is concerned
7 her husband will make a mistake with all
8 her medications and their schedule. She
9 did confirm that he should be in charge
10 of her medications." Did you see times
11 when you had concerns? So, apparently,
12 she had concerns, but did you see times
13 when you had concerns about his ability
14 to manage her medications?

15 A: Yes, both while here in the
16 Seattle/Tacoma area and also while at
17 their home in Myrtle Beach, but
18 significantly during that week where
19 three ER trips were required. I
20 witnessed one time -- oh, I'm sorry,
21 would you like me to go on?

22 Q: You can go ahead.

23 A: Okay. I witnessed frequently that my
24 mother did not have water by her bed, and
25 when I would mention that or ask her if

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ROA 1136

1 she wants -- "Yeah, I want water." She
2 needed to be, you know, encouraged to
3 drink and what have you. I witnessed my
4 mother kind of yell at David, "David, why
5 don't you leave me water," and that time
6 that he went to go do laundry, she had no
7 water. In terms of medications, I
8 witnessed my mother remind David, "Isn't
9 it time for my shot, my, my, my insulin
10 in the morning," and on at least one
11 other occasion, you know, "Isn't it time
12 for my medication" at night? Yeah, she
13 -- but this also was occurring, believe
14 it or not, just a couple, few weeks after
15 her surgery when we were in Myrtle Beach,
16 and so, anyway, that was one of the
17 reasons that I was so concerned that we
18 had a working glucometer that, of course,
19 never arrived.

20 Q: Did you suggest to Mr. King that he keep
21 a log of her medications and when they
22 should be administered and whether they
23 had been administered?

24 A: Yeah.

25 MR. BOYD: AGAIN, YOUR HONOR, I'M

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ROA 1137

1 JUST GOING TO HAVE TO
2 OBJECT. SHE CAN ASK,
3 "DID YOU EVER SUGGEST
4 TO MR. KING THAT HE
5 KEEP RECORDS," BUT SHE
6 CAN'T ASK -- THE ISSUE
7 IS NOT IS SHE HER
8 WITNESS, THE ISSUE IS,
9 IS IT AN ADVERSE
10 WITNESS. A PETITIONER
11 IS QUETSIONING A
12 PETITIONER, SO THEY'RE
13 NOT ADVERSE AND SHE
14 CAN'T LEAD HER TO THAT
15 DEGREE. SHE CAN ASK,
16 "DID YOU EVER ENCOURAGE
17 DAVID TO KEEP RECORDS
18 OF MEDICATIONS AND WHEN
19 IT WAS DISPENSED, BUT
20 SHE CAN'T ASK A DEGREE
21 OF LEADING THAT WAS IN
22 THAT LAST QUESTION, IF
23 THAT MAKES SENSE TO THE
24 COURT.

25 THE COURT:

WOULD YOU REPHRASE THE

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ROA 1138

1 QUESTION, MS. HARRISON?
2 MS. HARRISON: I WILL, BUT -- YES, I
3 WILL.
4 THE COURT: THANK YOU.
5 Q: Did you ever suggest to Mr. King that he
6 document your mother's medications or
7 keep a medication log?
8 A: Yes, both in Myrtle Beach and while in
9 Tacoma for that first trip; furthermore,
10 I asked him to notify me because he did
11 not or he would not keep a written log.
12 He wrote it down a few times, but nothing
13 consistent and nothing certainly
14 reliable, so then I, again,
15 compassionately, recognizing this is
16 difficult and overwhelming, hard, and
17 we're all tired, "David, why don't you
18 just text me when you administer, what
19 her blood sugar is and what you do, and
20 that way, I can, while not sleeping with
21 you guys and, you know, not living with
22 you, say, 'Hey, looks like we're missing
23 this or that.'" I really didn't know
24 what to do about the water. I, I bought
25 cases of water during that week. I made

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1 sure there was always a case of water in
2 the car, 'cause there were times there
3 was no water in the car, but yes, I did.

4 Q: And you, as temporary guardian, is it
5 your understanding that you had control
6 of the person, of your mother, correct?

7 A: Yes.

8 Q: Did anybody call you the day that your
9 attorney questioned you about when Mr.
10 King was at Franke Tobey Jones and he was
11 asking, "Hey, can I take Dr. Miles out
12 for a ride" or whatever was happening? I
13 don't want to mischaracterize what was
14 happening with them, I apologize. When
15 that incident happened, though, prior to
16 the caregiver calling and saying,
17 alerting you that something was going on,
18 did anyone call you, as temporary
19 guardian, to ask you whether or not your
20 mother should leave the facility?

21 A: No.

22 Q: Did Mr. King call you?

23 A: No.

24 Q: Did the facility call you?

25 A: No.

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1 Q: Did the Guardian ad Litem call you?
2 A: No.
3 Q: Did the elder advocate call you?
4 A: No.
5 Q: We discussed some information about your
6 mother's financial records and I just
7 wanted to clarify the numbers. About
8 182,500 that's included in the Guardian's
9 Report ---
10 A: Yes.
11 Q: --- that was spent, of that amount, and I
12 did some real brief calculations here
13 during the testimony, but it looks like
14 19,000 of that was for legal expenses for
15 the guardian, along with the elder care
16 advocate; would you say that's accurate?
17 MR. BOYD: YOUR HONOR, I
18 COMPLETELY OBJECT TO
19 THAT QUESTION.
20 MS. HARRISON: OKAY. I'LL JUST GO ---
21 MR. BOYD: WE JUST SAT HERE AND
22 LISTENED TO HOURS OF
23 EXTREMELY DISJOINTED
24 TESTIMONY ON THE ISSUE
25 OF FINANCES AND I AM

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1 NOT GOING TO ALLOW THIS
2 ATTORNEY TO SPOONFEED
3 ANSWERS TO THIS WITNESS
4 AND LET HER CONFIRM
5 THEM. IF SHE WANTS TO
6 ASK HER IF SHE CAN
7 PROVIDE THE COURT WITH
8 AN ESTIMATE FOR ANY
9 PARTICULAR EXPENSE, I'M
10 HAPPY TO HEAR IT, BUT
11 WE CANNOT ALLOW HER TO
12 LEAD THIS WITNESS ON
13 THAT ISSUE.
14 MS. HARRISON: THAT'S OKAY, YOUR
15 HONOR, I'LL GO DIRECTLY
16 TO THE FINANCIAL
17 RECORDS AND WALK
18 THROUGH IT.
19 THE COURT: THANK YOU, MS.
20 HARRISON.
21 Q: Ms. Miles, if you will please look at --
22 Let me find the correct bank statement,
23 hold on one second. Let's start with the
24 BB&T account, and I believe that is the
25 Exhibit 1 that was introduced today.

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1 Will you please tell me on that bank
2 statement ---
3 MS. LOCHOCKI: I'M SORRY, ANGELA,
4 WHICH BB&T ACCOUNT?
5 MS. HARRISON: SO THIS IS FOR -- THIS
6 IS EXHIBIT 1 ---
7 THE COURT: THAT'S EXHIBIT 2, I
8 BELIEVE.
9 MS. HARRISON: --- EXHIBIT 2 THAT
10 CHARLES INTRODUCED
11 TODAY. THIS IS THE
12 4306 BB&T.
13 MS. LOCHOCKI: OKAY.
14 Q: Ms. Miles, on this statement, were there
15 expenses to Synergy Home Care that was
16 paid during this period that's shown on
17 this statement?
18 MR. BOYD: WHAT'S THE DATE OF THE
19 STATEMENT, I'M SORRY,
20 WHAT ---
21 MS. HARRISON: EXHIBIT 2.
22 MR. BOYD: EXHIBIT 2. THANK YOU.
23 MS. HARRISON: BB&T 4306.
24 Q: It looks like there might be more than
25 one account, so 7095.

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1 A: Uh-huh (affirmative response), yes.
2 Q: Can you tell me during the period of
3 November 30th through December 19th, was
4 there any payments to Synergy Healthcare?
5 A: Yes.
6 Q: How much?
7 A: Two thousand dollars.
8 Q: During this period of November 30th
9 through December 19th, was there a charge
10 to Franke Tobey Jones?
11 A: Yes.
12 Q: Are both of those expenses related to
13 your mother's healthcare?
14 A: Yes.
15 Q: The next statement that I am looking at
16 is for account number 9365. It does not
17 look like there were any expenses in or
18 out of that account; is that correct?
19 A: Off the top of my head, I would say
20 that's correct. That's probably my
21 mother's trust savings account.
22 Q: The next statement I have is from account
23 number 9373. It should be there in front
24 of you, and I might have the wrong
25 number. I believe that it is Exhibit 4.

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1 A: Yes, I have Exhibit 4.

2 Q: On this statement, are there any payments
3 on behalf of your mother for her legal
4 expenses?

5 A: Yes, there's a check written or, or
6 processed one for number 2001 for
7 \$4,136.04, and if I recall, that was to
8 Julie Forkasdi.

9 Q: Is that the check that's included in that
10 package if we go back ---

11 A: Yes. Yes.

12 Q: --- pages?

13 A: Uh-huh (affirmative response).

14 Q: And on the last page of that statement
15 there are some other checks, and Julie
16 Forkasdi was the elder care advocate that
17 was chose, I'm not sure, because I wasn't
18 in this case at that time, but she was
19 chosen to act on behalf of your mother
20 for the Guardian ad Litem; is that
21 correct? Well, who was Julie Forkasdi?
22 I'll just not lead you.

23 A: That's kind of an interesting question,
24 who was Julie Forkasdi? As it was
25 initially explained to me, she was to be

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1 the eyes and the ears of the Guardian ad
2 Litem and to facilitate visits and
3 interview my mother and assess her, and I
4 guess overall be -- play the watchful
5 role on behalf of my mother that a
6 Guardian ad Litem would typically do if
7 they were in close proximity. That was
8 my understanding.

9 Q: Other than the check for 41,036.04 to Ms.
10 Forkasdi that we previously referenced,
11 were there other payments to Ms. Forkasdi
12 from this account, the one that we were
13 just looking at, the 9373?

14 A: It appears, yes, on 1/18, 303036. May I
15 add a comment to the previous answer?

16 Q: Yes, ma'am.

17 A: Thank you. So Julie's role, as I recall
18 and as was described to me, I stated, but
19 interestingly, the last day that I saw
20 her, I sat down with her and I said,
21 "Julie, I, I don't" -- "Can you help me
22 understand your role here?" And she
23 said, "I really don't know what my role
24 is."

25 MR. BOYD:

OBJECT, YOUR HONOR, SHE

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ROA 1146

1 CAN'T ---
2 A: I'm sorry, I can't testify, so sorry, so
3 sorry.
4 MS. LOCHOCKI: YOUR HONOR, I JUST ---
5 A: I'm sorry.
6 MS. LOCHOCKI: --- WOULD LIKE TO
7 INTERJECT, AND I
8 APOLOGIZE, MS.
9 HARRISON, BUT IT SEEMS
10 THAT WE ARE NOW GOING
11 BACK THROUGH ALL OF THE
12 BANK STATEMENTS. FOR
13 ONE, I JUST WOULD LIKE
14 TO SAY THAT IT'S JULIE
15 FORKASDI AND I
16 UNDERSTAND, YOU KNOW,
17 WE'RE MISPRONOUNCING HER
18 NAME, BUT IT'S
19 FORKASDI, AND I THINK
20 THAT I HAVE PROBABLY
21 SPENT MORE TIME THAN
22 ANYONE IN THIS ROOM
23 GOING OVER ALL THE BANK
24 STATEMENTS. I HAVE A
25 SUMMARY ON PAGE EIGHT

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ROA 1147

1 IN THE GAL REPORT. WE
2 ARE ALREADY AFTER FOUR
3 O'CLOCK ON DAY TWO.
4 MR. KING HAS NOT BEEN
5 ABLE TO TAKE THE
6 WITNESS STAND, I HAVE
7 NOT HAD ANY
8 OPPORTUNITY. I JUST
9 WOULD ASK THAT WE PUSH
10 THROUGH THESE BANK
11 STATEMENTS IN SOME WAY.
12 MS. HARRISON: AND, YOUR HONOR, THAT
13 IS WHY I WAS TRYING TO
14 JUST SUMMARIZE THE
15 INFORMATION THAT HAD
16 BEEN GIVEN AS TO THE
17 LEGAL EXPENSES AND THE
18 MEDICAL EXPENSES THAT
19 CAME OUT, AND THAT WAS
20 ALL I WAS TRYING TO DO,
21 BUT I CERTAINLY DON'T
22 WANT TO LEAD THE
23 WITNESS OR PUT WORDS IN
24 ANYBODY'S MOUTH. SO
25 I'M TRYING TO DO IT THE

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ROA 1148

1 BEST WAY I KNOW HOW.
2 THANK YOU.
3 THE COURT: I CONCUR WITH THE
4 GUARDIAN AD LITEM
5 STATEMENT. IT'S IN THE
6 RECORD. IT'S BEEN
7 DISCUSSED ALL DAY LONG,
8 IF WE COULD MOVE
9 FORWARD FROM THIS AS
10 QUICKLY AS POSSIBLE.
11 MS. HARRISON: I WILL MOVE ON.
12 Q: Well, actually, in the Guardian Report, I
13 don't think we talked about it in these
14 terms and it's right there laid out. We
15 went through how much had been taken out.
16 Of that amount, the guardian determined
17 that \$32,000 of it was for Franke Tobey
18 Jones, \$31,000 of it was for Synergy.
19 Those are both healthcare related
20 expenses for your mother, correct?
21 A: Yes.
22 Q: And Waccamaw Law there was a check for
23 12,000, and Julie Forkasdi there was a
24 check for seven or there was estimated
25 \$7,000, correct?

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ROA 1149

1 A: Correct, I mean, I have not audited that,
2 but yes.

3 Q: And those were legal expenses on behalf
4 of your mother?

5 A: Yes.

6 Q: Thank you. I wanted to briefly go over,
7 and this is my last question, I wanted to
8 briefly go over your mother's income and
9 where it is deposited, because I did have
10 a question about that.

11 A: Uh-huh (affirmative response).

12 Q: I can see that ---

13 MS. HARRISON: I'M SORRY, REESE, IF
14 YOU WILL JUST BEAR WITH
15 ME, I AM GOING TO LEAD
16 HER A LITTLE BIT, BUT
17 ONLY ON THE THINGS THAT
18 I KNOW, SO THAT SHE CAN
19 TELL ME WHAT I DON'T
20 KNOW, IF THAT'S OKAY.

21 MR. BOYD: YOU CAN LEAD HER TO THE
22 EXTENT NECESSARY TO
23 FACILITATE THE ASKING
24 OF A QUESTION. YOU
25 CAN'T FACILITATE HER

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ROA 1150

1 ANSWER, IN MY OPINION.
2 I'M SORRY, YOUR HONOR,
3 I SHOULDN'T ---
4 THE COURT: THAT IS CORRECT. THANK
5 YOU.
6 MR. BOYD: COUNSEL ADDRESSED ME, I
7 ADDRESSED HER, I
8 APOLOGIZE.
9 THE COURT: THANK YOU, SIR.
10 Q: Her Social Security is approximately
11 \$1,920 a month, correct?
12 A: Yes.
13 Q: And that appears to be deposited into
14 account number 9373?
15 A: Yes, automatic deposit.
16 Q: Do you know if that continues to be
17 deposited into that account?
18 A: Yes, I have not changed any -- anything
19 there.
20 Q: Her pension from -- Well, her pension is
21 approximately \$2,300, you testified; is
22 that correct?
23 A: Yes.
24 Q: It appears that that is being deposited
25 into account number 5169; is that

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ROA 1151

1 accurate?

2 A: I, I, I don't have the records in front
3 of me. If you see a deposit into 5169, I
4 would say it's accurate.

5 MR. BOYD: CAN WE IDENTIFY THESE
6 ACCOUNTS BY EXHIBIT
7 NUMBER, AND I'M NOT
8 SURE SHE TESTIFIED THAT
9 SHE KNEW WHERE THAT
10 MONEY WAS GOING, YOUR
11 HONOR. I'D HAVE TO
12 LOOK AT -- I DON'T
13 KNOW. WHAT ACCOUNT ARE
14 WE SPECIFICALLY
15 REFERRING?

16 MS. HARRISON: SHE DID NOT TESTIFY
17 WHERE IT WAS GOING, SO
18 I LOOKED IN THE RECORDS
19 AND I DETERMINED WHERE
20 THESE WERE COMING FROM.

21 Q: So if you'll look at Exhibit 4.

22 MR. BOYD: WELL, THAT'S MY
23 OBJECTION, YOUR HONOR.
24 SHE CAN'T LOOK IN THE
25 RECORDS AND ASK THE

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ROA 1152

1 QUESTION, A LEADING
2 QUESTION THAT EXPLAINS
3 TO THE WITNESS WHAT THE
4 ANSWER IS TO A QUESTION
5 SHE WAS PREVIOUSLY
6 ASKED BY HER OWN
7 COUNSEL AND DID NOT
8 KNOW THE ANSWER TO, SO
9 I HAVE TO OBJECT TO
10 THIS LINE OF
11 QUESTIONING.
12 MS. LOCHOCKI: I AGREE, YOUR HONOR,
13 ASKED AND ANSWERED.
14 THE COURT: YOU WANT TO
15 SPECIFICALLY ASK YOUR
16 QUESTION OR REPHRASE?
17 MS. HARRISON: I WILL, YOUR HONOR.
18 THE COURT: THANK YOU.
19 Q: Okay. Going to Exhibit 4, this is
20 account number 9373?
21 A: Yes.
22 Q: There is a deposit on November 13th.
23 Will you tell me what that is?
24 A: On November 13th there is a \$1,920 direct
25 deposit from Social Security.

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ROA 1153

1 Q: Is that how much your mother continues to
2 receive on a monthly basis?

3 A: Yes. There might've been a slight
4 increase for 2019, but yeah, it's 1,900
5 and some.

6 Q: And does that amount continue to be
7 deposited into that account ending in
8 9373?

9 A: Yes.

10 Q: If you'll go to Exhibit 6, can you tell
11 me what the deposit on January 14th is in
12 the amount of \$2,321.03?

13 A: Yes. That would be her, her South
14 Carolina pension deposit.

15 Q: Does that amount continue to be deposited
16 every month in the account ending in
17 5169?

18 A: I don't recall right now, I mean, I --
19 I'd have to look at the bank statements.

20 Q: And to get to the question that I haven't
21 been able to figure out is, where are her
22 VA benefits deposited?

23 A: Well, they would be in either the --
24 well, we receive a paper check for those
25 as well, so those would be either in her

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ROA 1154

1 checking account or savings account that
2 are newer 5169 and 5177. I don't know, I
3 might have deposited it into 9373 which
4 is her original checking account, and I
5 possibly could've deposited it into the
6 working Mom account if, you know, it's
7 all about when it was received, you know,
8 was it more convenient for me to just
9 deposit it or, or transfer funds.

10 Remember, that transferring funds was
11 something that has to be set up, so I --
12 I'm happy to provide whatever you want,
13 but I guess I didn't, didn't know that
14 that was something that needed to be
15 either tracked or be disciplined in some
16 way.

17 Q: Looking at Exhibit 12, the funds that
18 were deposited into the Palmetto State,
19 what were those funds that were deposited
20 on a monthly basis?

21 A: Well, do you want me to look at more
22 recent? It looks like ---

23 Q: Exhibit 12.

24 A: Uh-huh (affirmative response), US
25 Treasury three -- it looks like VA 1346

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ROA 1155

1 going back to 2014 and up through
2 December 2017.

3 Q: Does she continue to receive that on a
4 monthly basis?

5 A: She does. It's about \$1,440, I think.

6 Q: And can you show me on either of the bank
7 statements for your mother where that is
8 being deposited on a monthly basis?

9 A: No, I cannot, but these are only two of
10 four of her accounts, so.

11 Q: Okay. That was the only question that I
12 had from her income and where it was that
13 I couldn't resolve and that I was hoping
14 that you could tell the Court where
15 that's being deposited.

16 A: Well, I certainly can. I can pull up the
17 mobile app right now and print out a
18 statement.

19 MS. HARRISON: THAT'S THE ONLY
20 QUESTIONS I HAVE, YOUR
21 HONOR.

22 THE COURT: WE CAN TAKE A TEN
23 MINUTE BREAK.

24 ****OFF THE RECORD****

25 (ON THE RECORD.)

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ROA 1156

1 **#THE TESTIMONY OF JULIE FORKASDI IS VIA**
2 **TELEPHONE.**

3 **(4:29 PM - 6:35 PM)**

4 THE COURT: GOOD AFTERNOON.

5 MS. FORKASDI: HI, THIS IS JULIE
6 FORKASDI.

7 THE COURT: HELLO, JULIE. THIS IS
8 JUDGE WARD. WE ARE ALL
9 HERE IN THE COURTROOM
10 THIS AFTERNOON. IT'S
11 IN THE MATTER OF
12 CLAUDIA T. MILES. HOW
13 ARE YOU TODAY?

14 MS. FORKASDI: OH, I'M GOOD. THANK
15 YOU.

16 THE COURT: CAN YOU HEAR ME OKAY?

17 MS. FORKASDI: I CAN. HOW ABOUT YOU?

18 THE COURT: YES. CAN EVERYONE
19 HEAR? I TRY TO PUT THE
20 VOLUME UP JUST A LITTLE
21 BIT MORE.

22 MS. FORKASDI: OKAY.

23 THE COURT: OKAY. YOU'RE AS LOUD
24 AS I CAN GET YOU AT THE
25 MOMENT.

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ROA 1157

1 MS. FORKASDI: OKAY. THANK YOU FOR
2 ACCOMMODATING ME.
3 THE COURT: OH, ABSOLUTELY. OUR
4 PLEASURE. AND NOW AT
5 THIS TIME, IF YOU'LL
6 RAISE YOUR RIGHT HAND,
7 I'M GOING TO SWEAR YOU
8 IN, EVEN THOUGH I CAN'T
9 REALLY SEE YOU AND YOU
10 CAN'T SEE US, BUT ---
11 MS. FORKASDI: OKAY.
12 THE COURT: YOU SWEAR THE TESTIMONY
13 YOU'RE ABOUT TO GIVE,
14 TO BE THE TRUTH, THE
15 WHOLE TRUTH AND NOTHING
16 BUT THE TRUTH, SO HELP
17 YOU GOD?
18 MS. FORKASDI: I DO.
19 JULIE FORKASDI, AFTER HAVING BEEN CALLED
20 TO THE STAND AND DULY SWORN TESTIFIED AS
21 FOLLOWS:
22 THE COURT: THANK YOU. WHO WISHES
23 TO -- MS. HARRISON, YOU
24 WANT TO BEGIN?
25 MS. HARRISON: YOUR HONOR, THIS IS NOT

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ROA 1158

1 MY WITNESS.
2 MR. BOYD: I WAS GOING TO GIVE
3 CHARLES THE
4 OPPORTUNITY,
5 THE COURT: CHARLES?
6 MR. BOYD: BUT HE JUST MOTIONED TO
7 ME, YOUR HONOR.
8 THE COURT: ALL RIGHT. YOU WANT TO
9 STEP UP A LITTLE CLOSER
10 SO SHE CAN HEAR YOU?
11 MR. BOYD: YES, I WOULD.
12 **DIRECT EXAMINATION**
13 **BY MR. BOYD:**
14 Q: Ms. Forkasdi, this is Reese Boyd, can you
15 hear me okay?
16 A: I can hear you, Reese. You sound a
17 little bit far away, but I think I can
18 hear you just fine.
19 MR. BOYD: MAY I APPROACH, YOUR
20 HONOR?
21 Q: Ms. Forkasdi, is this better?
22 A: Yeah, it's a little bit louder, so that
23 helps.
24 Q: Okay, I'll try to stand here right in the
25 witness box. I'm not used to this

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ROA 1159

1 perspective, so bear with me.

2 A: Yeah. Well, I'm not used to doing this

3 on the phone, so.

4 Q: Well, we appreciate your agreeing to

5 appear. It's rather unusual that we have

6 witnesses that testify by telephone, but

7 it can be done and we appreciate you and

8 the Court accommodating this and you

9 making yourself available. If you could,

10 Julie, tell the Court a little bit about

11 your -- First of all, where do you live?

12 And, can you give the Court your address

13 for the record?

14 A: Sure. I live in Burien, Washington, and

15 my address is 11216 25th Avenue,

16 Southwest.

17 Q: Okay.

18 A: And the zip code is 98146.

19 Q: Okay. Thank you. And Burien, can you

20 help the Court understand, because you're

21 a long way away, can you help the Court

22 understand where that is, say in relation

23 to Seattle and Tacoma?

24 A: Right. It's basically on the border of

25 Seattle, it's not even a mile outside of

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ROA 1160

1 the Seattle city limits and it is about
2 40, 45 minutes from Tacoma.

3 Q: Okay. And tell the Court a little bit
4 about your educational background, if you
5 would.

6 A: I have a degree in social work and a
7 certificate in aging studies.

8 Q: Okay. And where did you attain those
9 degrees or certificates?

10 A: I went to the University of Iowa.

11 Q: Okay. Were you from Iowa originally?

12 A: I was born in Omaha, Nebraska.

13 Q: And how long have you been in the Seattle
14 area?

15 A: Since 1987.

16 Q: Okay. Can you tell the Court a little
17 bit about your employment history?

18 A: Yes. I have been doing geriatric care
19 management, really since the late 1980s
20 on some level. I started doing some work
21 with guardianship agencies and over the
22 years did other jobs as well, but that's
23 been consistent work that I've done my
24 whole life. And since, I'm trying to
25 think, since the birth of my daughter,

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ROA 1161

1 almost 16 years ago, I've been working in
2 private practice doing care management
3 and power of attorney work for people.

4 Q: And when you say power of attorney work,
5 can you explain for the Court what your
6 understanding of that phrase is?

7 A: Yeah, I serve as power of attorney for
8 individual clients who are not able to
9 make their own healthcare decisions. So
10 I serve in that capacity to make
11 decisions on their behalf based on what I
12 can gather from their history and from
13 what their current wishes might be, if
14 they're able to make them known to me.

15 Q: Okay. And of your current professional
16 work, what percentage of it would you say
17 is geriatric care management and, or this
18 service as a healthcare attorney, in
19 fact, do you have a ---

20 A: Oh yeah. It's 100 percent, is what I'm
21 -- yeah.

22 Q: Okay. Very good.

23 A: I've been doing this work just fully
24 full-time since 1999.

25 Q: Okay. And do you work in a firm? Are

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ROA 1162

1 you a sole practitioner? How is your
2 business arranged?

3 A: I'm a sole practitioner. I also have a
4 couple clients with a guardianship
5 service in Seattle.

6 Q: Okay. And tell me a little bit, and to
7 the extent that it, I don't know that
8 it's relevant to the case, but what is
9 the guardianship service in Seattle that
10 you're affiliated with?

11 A: It's called PIC Trust.

12 Q: Okay. E-I-C?

13 A: Oh, it used to be called Partners in Care
14 and then they've shortened it to P as in
15 Paul, I-C so P-I-C Trust.

16 Q: Okay. Partners in Care is the -- All
17 right.

18 A: Correct.

19 Q: PIC Trust. Okay. Well, let's talk about
20 this case specifically, Ms. Forkasdi. If
21 you could, tell me, when did you first
22 become aware or when did you first meet
23 Claudia? How did you come to know about
24 the case, if you recall?

25 A: I got a call from Barb from Lee Moore's

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ROA 1163

1 office probably mid-November and I'm not
2 sure where Barbara got my information
3 from, but Barbara and I talked a bit and
4 my first meeting with Claudia and
5 Michelle was November 30th.

6 Q: Okay. And where did that meeting take
7 place?

8 A: At the nursing home Tobey Jones.

9 Q: Okay. And did you understand that you
10 were being retained at that meeting?
11 What was your understanding? Were you
12 being evaluated or ---

13 A: Yeah, yeah, the initial call from Barbara
14 was to meet a couple times with Dr. Miles
15 and try to establish a rapport with her
16 in order to get some sense of what Dr.
17 Claudia, sorry, Dr. Miles, what her
18 wishes would be for where she wanted to
19 live and if she wanted to see her
20 husband, David.

21 Q: And I don't recall, did you ever execute
22 any sort of written retainer agreement in
23 this case?

24 A: I did not.

25 Q: Okay. So you began work after this

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ROA 1164

1 meeting, I presume. And can you describe
2 for the Court what you understood your
3 role to be in the matter, perhaps you
4 touched on it, but maybe answer that in a
5 little more detail, if you could?

6 A: Well, I think originally, my
7 understanding was that it was really just
8 going to be a couple meetings with Dr.
9 Miles to try to see if I could understand
10 what her wishes were. And then, after a
11 week or two, then I was being asked to
12 help coordinate the visit between David
13 and Dr. Miles and then also in
14 coordination with Michelle. And then my
15 role just went on from there.

16 Q: And how did your role evolve from there
17 as you say?

18 A: Well, what happened was, is I became the
19 person, kind of the boots on the ground
20 person, who was not attached to this case
21 in any way, other than trying to
22 coordinate these visits. And, in some
23 ways, I saw my role as to be an advocate
24 for what Claudia's wishes were as much as
25 I could learn from her. And what

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1 happened was, well, anyway, that's the
2 answer.

3 Q: Well, go, go ahead. You were about to
4 say something. What happened was? I
5 don't, I don't want to cut you off. What
6 were you about to say?

7 A: Oh, no. I mean, I think because I was
8 there in the building, I was seeing what
9 was happening from day to day and I was
10 talking to staff in the building and I
11 had spent quite a bit of time with David
12 on and off while we were trying to
13 navigate some of those visits. So I had
14 some time with David and staff and I
15 became very involved in the case as the
16 weeks went on.

17 Q: Okay. As the weeks went on, what did you
18 spend the bulk of your time doing on this
19 case?

20 A: Well, the first part was trying to
21 coordinate between David and Michelle and
22 Claudia, getting David's visits. That's
23 kind of what it morphed into because the
24 Court was allowing David to visit Dr.
25 Miles. And so I was really trying to

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1 navigate that time for David and Dr.
2 Miles to spend together. And it was time
3 consuming at first, especially, because
4 Claudia -- David would go in and out of
5 the room as he was establishing rapport
6 with her in the very beginning. And I
7 stayed there to help facilitate those
8 visits, both as support to the staff at
9 the nursing home, but also to support
10 Claudia, to make sure she was okay with
11 the visits. And also that David was
12 following the instructions of the Court.

13 Q: Did you find David to be generally
14 compliant in following the instructions
15 of the Court?

16 A: I did. Yes.

17 Q: Can you think of any incident, is there
18 anything you can point to where he did
19 not follow the instructions of the Court
20 in your estimation?

21 A: None that I can think of.

22 Q: Okay. Let me ask you this. Let's go
23 back to Dr. Miles for a second. You said
24 you came into this case attempting to
25 establish a rapport with her and

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1 attempting to assess what you felt her
2 wishes would be. How successful do you
3 feel that you were in establishing a
4 rapport with Dr. Miles?

5 A: Well, it was difficult, but I would say
6 after, I think I visited three days in a
7 row and some of those days were quite
8 long and going in and out of her room at
9 different times, giving her break. And
10 by the end of I think the first or second
11 day, I was able to at least sit in her
12 room quietly. And as I say, I just was
13 able to hold space with her where she
14 wasn't upset that I was there, but she
15 also wasn't super talkative, but she did
16 allow me to sit with her.

17 Q: And were you ever able to communicate
18 with Dr. Miles? Did you ever get a sense
19 of what any of her independent wishes are
20 in this matter?

21 A: That's difficult to say because Dr. Miles
22 wasn't super verbal with me. I feel like
23 I had a sense of what she felt. I felt
24 like she was kind of confused about her
25 situation. Staff reported that she was

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ROA 1168

1 very unhappy being there. When I asked
2 her specifically, in those early days, if
3 she wanted to go back home or if she
4 wanted to stay there at the nursing home,
5 or if she wanted to go to Michelle's, she
6 would respond, "I don't care." Or she
7 just would not respond at all. So it was
8 very difficult to, at least in that time,
9 to really know what her wishes were.

10 Q: Did you ---

11 A: She just seemed unhappy.

12 Q: Well, that was my next question. Did you
13 receive multiple reports from staff that
14 she was not happy at the nursing home or
15 do you recall any sense of how many
16 reports, is the first question? Could
17 you answer that if you know?

18 A: Well, there were, there was, of course,
19 casual conversation in the hallways that
20 we would talk about ---

21 MR. RHODES: YOUR HONOR ---

22 A: --- Dr. Miles' status and, you know,
23 there was no ---

24 MR. RHODES: --- I'M GOING TO
25 OBJECT. SHE'S TALKING

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ROA 1169

1 ABOUT ---
2 Q: Julie, just one second. There's an
3 objection on the floor.
4 A: Okay.
5 Q: Just one second.
6 THE COURT: YES, SIR, MR. RHODES?
7 MR. RHODES: I'M GOING TO OBJECT.
8 SHE'S TALKING ABOUT
9 SHE'S HAVING CASUAL
10 CONVERSATION WITH
11 SOMEBODY IN THE
12 HALLWAY.
13 MR. BOYD: SHE HASN'T YET SAID
14 ANYTHING, YOUR HONOR,
15 THAT SHE'S ASSERTING
16 FOR THE TRUTH OF WHAT
17 SHE'S STATING. SO SHE
18 HASN'T ACTUALLY SAID
19 ANYTHING YET. YOU CAN
20 TESTIFY THAT YOU
21 ENGAGED IN
22 CONVERSATIONS. SHE
23 HASN'T QUOTED ANYBODY
24 YET, TO MY KNOWLEDGE.
25 THE COURT: OKAY. PLEASE PROCEED

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ROA 1170

1 MS. BOYD.

2 Q: Julie, you can't say under the Court
3 rules -- and I don't know, I should have
4 asked you earlier, have you ever
5 testified in a court proceeding before?

6 A: No.

7 Q: Well, and I'm pleased to leave it at
8 that. We will ask you this question,
9 Julie.

10 A: Okay.

11 Q: Do you recall the number of times that
12 staff reported to you about her happiness
13 or unhappiness? Was it a frequent event
14 or did it happen once or twice? I'm just
15 curious at how many times did it happen.
16 I'm not asking you to tell me what any
17 particular individual told you.

18 A: Okay. Yes, there were at least three
19 times that staff said that Dr. Miles was
20 not happy. In fact, very unhappy staying
21 there at the nursing home.

22 MS. HARRISON: OBJECTION, YOUR HONOR.

23 Q: We'll -- Nevermind. Let me ask you this
24 question. What was your own independent
25 impression, based on your own

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1 observations, Julie, whether Dr. Miles
2 was happy in the nursing home or not?
3 A: My impression was that she was not
4 unhappy and very restless to leave when
5 she had the opportunity to leave.
6 Q: Okay. I'm going to ask you a few
7 questions, Julie, about the report that's
8 been filed in this matter by the guardian
9 ad litem. Have you had a chance to
10 review the guardian ad litem's report in
11 this matter?
12 A: I have.
13 Q: Okay. And do you have a copy of that
14 report available to you?
15 A: It's right in front of me.
16 Q: Okay. Can you turn to the section about
17 a third of the way through the document?
18 It's page 35 of 140. And ---
19 A: Okay. Hang on a second. I just have ---
20 Q: It's part of Exhibit A.
21 A: Okay. Exhibit C, Exhibit B. Okay. I
22 don't see that.
23 Q: Okay.
24 A: Can you give me -- what can ---
25 Q: Then, let me describe it to you, if I

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1 may.

2 A: Okay.

3 Q: And I will ask you if you recognize the
4 document that I am describing. It
5 appears to be a piece of paper folded in
6 half along the horizontal line in the
7 middle of a standard page, such that you
8 have essentially a half sheet or maybe
9 it's just a letter paper turned in
10 landscape. I don't know how big it
11 actually is, but it appears that on the
12 left hand side of this landscape oriented
13 document to have a photograph of David
14 King and on the right hand side of the
15 document, it says, in someone's
16 handwriting, "David Vreeland King. Date
17 of birth, 4-5-44. South Carolina
18 resident. Typically stays at Silver
19 Cloud in "Tacoma". Hair is grayer,
20 sparser. Approximately six feet.
21 Slender build. And then there's some
22 additional contact information which
23 appears to be a contact number for APS or
24 Adult Protective Services."

25 A: Uh-huh. I know what you're talking

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1 about.

2 Q: Okay. When do you recall seeing that
3 document?

4 A: You mean the day that I saw it?

5 Q: Well, if you recall, I'm asking for the
6 best recollection that you can give me,
7 if you recall a specific date ---

8 A: Yeah, I would have to go through my notes
9 to give you the exact date when I saw
10 that.

11 Q: Well, why don't you describe for the
12 Court, the circumstances under which you
13 saw it, if you recall the circumstance.

14 A: I know it was the day after -- I believe
15 it was the day after that David -- I'm
16 just not sure on the date. I'm sorry.

17 Q: It's not a problem.

18 A: Okay.

19 Q: Where did you see the document, if you
20 recall? If you don't recall when, where
21 did you see the document for the first
22 time?

23 A: Well, I was having a brief meeting with
24 both the nurse care managers and the head
25 nurse. And they were the ones who showed

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1 me this picture, this piece of paper and
2 the help wanted sign, or, not the help
3 wanted, but the lookout for this person.

4 Q: Do you know if there had been any
5 instructions to be on the lookout for
6 David?

7 A: Yeah. So this piece of paper that they
8 had was left at the nurses station.

9 Q: Okay.

10 A: But no one handed them, it was just left
11 there and when they got to work in the
12 morning, it was there and they showed it
13 to me and I took a photo of it.

14 Q: And do you have any idea why that
15 photograph and the contact for APS was
16 left at the nurses' station for Franke
17 Tobey Jones?

18 A: Well, I can only speculate. I mean, I
19 don't ---

20 Q: Well, let me ask you this ---

21 A: I mean, Michelle left it there. We found
22 out that it was Michelle who had left it
23 there, but I don't, I can't say why she
24 put it there.

25 Q: Well, I'm not asking you to tell me why

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1 she put it there. I'm asking you if you
2 found out subsequently who put it there.

3 A: Yeah. The nursing staff were the ones
4 who told me that Michelle put it there.

5 Q: Okay. Well, let me ask you this
6 question. Do you have any idea what
7 might have prompted that information to
8 be placed -- Was there any particular
9 event or episode that occurred at Franke
10 Tobey Jones that would've prompted that
11 sort of information to be posted about
12 David King?

13 A: Well, I believe that was the day, right
14 around the time when David had asked if
15 he could take Claudia out for a drive.

16 Q: Okay. And what was your recollection of
17 that event? Can you explain that, what
18 happened, to the Court, in a little more
19 detail than just ---

20 A: Sure.

21 Q: I assume there was more to it than David
22 asked to take Claudia for a drive.

23 A: Yes. David and Claudia were sitting in
24 the dining room having breakfast
25 together, and I was in a completely

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1 different hallway waiting for their visit
2 to be over. And after, I don't know,
3 about an hour or so, after they went down
4 for breakfast, one of the nursing
5 directors came in and got me and said,
6 "David is asking to take Claudia out for
7 a drive. Can you please come to my
8 office?" And so I went to the office and
9 David was there and the nurse was there
10 and she had the Court order there and she
11 was trying to review it. There was a lot
12 of confusion with the nursing staff on if
13 it should be okay, can David take Claudia
14 out for a drive? And I said, "Well, let
15 me give Beth a call, the guardian ad
16 litem." So I stepped out of the office
17 and called Beth to talk to her about what
18 she thought and Beth felt like it was
19 probably okay in that moment.

20 Q: Julie, Beth is available, and she'll be
21 able to testify what she said.

22 A: Okay.

23 Q: But did you get any inkling that this
24 should not happen? Did anyone ---

25 A: No. Well, no. While I was stepping out

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1 of the nurse's office, John was calling
2 the nurse's office and was wanting to
3 talk to me, but I chose to take the other
4 call from Beth. And then John also was
5 texting me and calling me on my phone
6 while I was talking to Beth. And then I
7 decided, since time was kind of passing,
8 maybe 15 minutes had passed already, and
9 David only had a limited amount of time
10 in his visit and it was kind of wrapping
11 up. And so I just suggested to David
12 that, in front of Claudia, because
13 Claudia was also there with her coat on
14 and ready to go, and she was kind of
15 anxious to get out. And I said, "Why
16 don't we wait on the drive and try to
17 coordinate it in a way that's more
18 organized. But if Claudia still wants to
19 go out, --" and I asked her if she wanted
20 to still go out and she was, "Yes, I want
21 to leave." And so I said, "It's a
22 beautiful day, why don't the two of you
23 go for a walk?" And so that's when David
24 and Claudia went for a walk along with
25 Joyce, the caregiver, followed them out

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1 the door.

2 Q: So they never got in the car that day.

3 Is that correct?

4 A: Correct.

5 Q: And did they ever leave the premises of
6 Franke Tobey Jones, to your knowledge?

7 A: No. No.

8 Q: And, and let me ask you this question,
9 Julie, did you enjoy your work with Dr.
10 Miles? And if you don't want to answer
11 that, I'll respectfully let you decline.

12 A: No.

13 Q: I'm just curious.

14 A: I, I love my job and it was a really
15 interesting case to take on and I really
16 had a lot of compassion for everyone in
17 that room today.

18 Q: Do you feel like you had the cooperation
19 of all the parties, if I can say in the
20 room, I know you're not here, but all the
21 parties to this proceeding, as you
22 attempted to do your work for Dr. Miles,
23 as you said? Let me ask you an easier
24 question.

25 A: I ---

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1 Q: I'm sorry, go ahead. If you would like
2 to answer or I can parse the question.

3 A: Oh, I was just going to say, I had quite
4 a few struggles coordinating the visits
5 with Michelle and Michelle not following
6 the Court order as I understood it.

7 Q: Can you give me an example of how
8 Michelle failed, in your opinion, to
9 follow a court order?

10 A: There's so many visits and it gets
11 complicated, but in those early days of
12 David visiting, Michelle was not supposed
13 -- to my understanding, Michelle was not
14 supposed to be there and every morning we
15 would show up and Michelle would be in
16 the room with Dr. Miles or would be in
17 the facility and it made it more
18 difficult to coordinate and have those
19 visits between David and Dr. Miles with
20 Michelle there.

21 Q: And anything in particular that you could
22 point to? Do you recall any specific
23 example?

24 A: Well, besides Michelle being there a
25 couple times in the mornings, when I

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1 don't think she was supposed to be there,
2 there was one day where Michelle came out
3 of Dr. Miles's room and told me that the
4 staff decided that David shouldn't see
5 Dr. Miles anymore, that it was too
6 stressful for her and that the visits had
7 to end for the rest of the day. And so I
8 went and followed up with the director of
9 nursing and it turns out that the staff
10 did not say that. And so that was one
11 example of, I feel like Michelle was
12 difficult to work with and blocking what
13 we were trying to do, which was establish
14 rapport between David and Dr. Miles.

15 Q: Any other examples that you can think of?
16 And just to be clear, any other examples
17 of Michelle not complying with the court
18 order, is the question.

19 A: Well, there was another time that stands
20 out to me where, you know, all the visits
21 were coordinated between me and Michelle
22 and then we told David what they were
23 basically, because he had more
24 flexibility. And so Michelle and I had
25 coordinated the visit this one particular

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1 day and so David and I showed up for the
2 visit and I believe that David hadn't
3 even gone into the room yet to check in
4 with Dr. Miles, but we got a message from
5 the nursing staff saying that Dr. Miles
6 had an appointment with a hairdresser to
7 have her head shaved in preparation for
8 her upcoming afternoon appointment to get
9 her -- I'm sorry, I don't remember the
10 name of what that hat that she would wear
11 for the treatment.

12 Q: Are you referring to the cap?

13 A: Yeah, the cap.

14 Q: Okay.

15 A: And it was really, in my opinion, a
16 disservice to the schedule that we had
17 already worked on together because it was
18 right in the middle of David's, I think
19 his three hour window, two or three hour
20 window. And it was a stressful thing for
21 Claudia to have her head shaved, and so
22 that could have also affected the visit
23 with David. So, in the end, I had
24 requested that David get to spend a
25 little time longer and he was able to do

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1 so and Claudia was receptive to that
2 visit. But that was just another example
3 of frustrating scheduling issues that I
4 had with Michelle.

5 Q: And to your knowledge, did Dr. Miles in
6 fact have an appointment with a
7 hairdresser?

8 A: There was no hairdresser. I believe it
9 was Michelle who shaved her mom's head.

10 Q: And where did that take place?

11 A: In Claudia's room.

12 Q: So, was the appointment that we're
13 referring to actually a meeting with
14 Michelle?

15 A: Correct.

16 Q: Okay. And how was that scheduled in
17 relation to the visitation? Just clarify
18 that for me, if you would.

19 A: I believe, let's see, I'm actually trying
20 to look and see in my notes. I think
21 that day David was scheduled to be there
22 from nine to noon and we got word
23 probably around, I don't know, maybe
24 nine-30, that Michelle was coming in or
25 that there was an appointment, a hair

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1 appointment for Claudia and that lasted
2 about an hour where Michelle was there.
3 And so it was about two hours into
4 David's time that he actually got to go
5 into visit with Claudia.

6 Q: Okay. Any other examples that you can
7 think of in relation to Michelle Miles
8 not following the orders of this court?

9 A: I'm trying to remember the -- I don't
10 think so.

11 Q: Okay. Let me ask you this question. Do
12 you have any impression or what is your
13 opinion of how effective David was at
14 establishing a rapport, based on your
15 observations, with Dr. Miles at Franke
16 Tobey Jones?

17 A: Could you repeat that?

18 Q: You said that one of the things that we
19 were trying to accomplish was establish a
20 rapport between David and his wife. I'm
21 just curious, based on your observations,
22 if you thought that in fact did occur or
23 if that was a challenge?

24 A: I absolutely think that occurred during
25 my time working with everyone.

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1 Q: Are there any specific observations that
2 you recall that would support that
3 opinion?

4 A: Well, David was able to, in the
5 beginning, sit with her quietly as I was
6 able to do in her room. And from that
7 point on, really that was maybe the
8 second week it might have started that --
9 No, it actually was, I think the second
10 visit, second or third visit where David
11 was able to sit quietly in Claudia's room
12 and then it just went from there. It
13 seemed to build, their rapport seemed to
14 build. The day before I decided to
15 resign, that was the day that they were
16 having breakfast together in the dining
17 room.

18 Q: Okay. And was that a pleasant meeting as
19 far as you observed, the breakfast in the
20 dining room?

21 A: Oh, yes. I peeked around the corner with
22 Joyce, the caregiver just to check on
23 them and it seemed very relaxed. Claudia
24 seemed comfortable. She was eating.
25 Yeah.

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1 Q: Let me ask you this question, in all of
2 your observations of Claudia Miles and
3 David King, did you ever witness any
4 activity or action on the part of David
5 King that you considered to be a threat
6 or potential harm to the medical
7 wellbeing, health, safety, or any aspect
8 of Claudia Miles?

9 A: Absolutely not.

10 Q: Did you ever witness -- I'm sorry, go
11 ahead.

12 A: Oh, I didn't say anything.

13 Q: Okay. Did you ever witness David express
14 physical affection for Claudia in any
15 way?

16 A: Many of their visits were in Claudia's
17 room and I was standing outside of the
18 door, giving them privacy and also trying
19 to encourage the caregiver to give them
20 privacy. So I did not spend a lot of
21 time with the two of them. I would just
22 pop my head in and do quick check ins to
23 make sure everything was okay.

24 Q: Okay.

25 A: So I didn't see a lot of their, their

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1 visits together.

2 Q: Okay. Fair enough. You mentioned
3 previously, the breakfast meeting comment
4 was followed by something about you
5 resigned. As I understand that you
6 resigned fairly abruptly in this case?
7 I'm sorry, I shouldn't characterize your
8 resignation. How did you come to resign
9 in this case? I don't want to ---

10 A: It was, it was the week of, the week of
11 David trying to, you know, asking to take
12 Claudia out for a drive. That week, I
13 was assessing whether I was being helpful
14 in this case or not, and really doing
15 some discernment about that. I was
16 feeling like there was a divide between
17 me against Michelle and John, and that
18 was not my intention, but I was sensing
19 that. So, after the incident with David
20 requesting to take Claudia out and the
21 escalation that happened with that
22 request, both from John and Michelle, it
23 made it very clear to me that they didn't
24 trust me and that I didn't feel like I
25 could do my job anymore, in a way that I

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1 wanted to. And so it was the next day
2 that I decided that I should resign.

3 Q: And is that when you sent the email that
4 is contained in the guardian ad litem's
5 report?

6 A: Yes.

7 Q: I believe that's page 39 of 140. I'm
8 sorry, I believe you just testified, you
9 don't have Exhibit A.

10 A: I'm missing, I think a lot of pieces to
11 the guardian ad litem's report.

12 Q: Okay. Well, let me ask you this. Do you
13 recall what portions of the guardian ad
14 litem report that you have read?

15 A: Well, I can tell you exactly which ones I
16 have.

17 Q: Could you do that for me, please?

18 A: I have -- Yes. I have the final GAL
19 report. I have Exhibit B.

20 Q: I'm sorry, when you say you have the
21 final GAL report, how many pages is that
22 document, if you can ---

23 A: Well, it's only nine pages.

24 Q: Well, that's the right number, so,

25 A: Okay.

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1 Q: And you also have ---

2 A: And then I have -- So I have Exhibit B,
3 Exhibit C, D, E. Maybe I do have it all
4 of them. F, G. And what is this one?
5 Exhibit I.

6 Q: So, just to clarify, you believe you have
7 in your possession, the initial nine page
8 report of the guardian ad litem and also
9 Exhibits B, C, D, E, F, G and I?

10 A: Correct.

11 Q: Okay. And can you tell the Court, and
12 you didn't expect this question probably,
13 but can you tell me how many of those
14 exhibits you have read?

15 A: I've read them all.

16 Q: Okay. And I assume you've read the
17 initial nine pages of the report?

18 A: Yes.

19 Q: Okay.

20 A: Yes.

21 Q: Is there anything in the report that Ms.
22 Lochocki has written, that you disagree
23 with or that you would take issue with or
24 that you feel you would want to correct,
25 or that you, as you read it, you said,

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1 "No, that's not correct or accurate"?

2 A: No.

3 Q: And in the Exhibit A that you indicated
4 that you do not have, at pages 36 and 37,
5 Ms. Lochocki has included an email, or
6 she's included two pages. It's not an
7 email, it's a text message. It's pages
8 36 and 37, and it purports to be a text
9 message from Dr. John Strasswimmer to
10 you, Julie. And I believe that these
11 text messages were sent about the time
12 that we were just discussing. Do you
13 recall receiving those text messages?

14 A: Yes.

15 Q: And since you don't have it, I'm just
16 going to read it very briefly for you as
17 a question. The text message that the
18 guardian ad litem has included in her
19 report reads as follows. "Julie, you did
20 not answer my call three times today.
21 Furthermore, you ran out of the room when
22 I was put on speaker phone with you and
23 David and the nurse in the room at Franke
24 Tobey Jones today. Your business card
25 says Elder Advocate. I hope you think

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1 about your professional obligations to my
2 mother's health in this situation, John
3 Strasswimmer." Do you recall receiving
4 that text message from Dr. Strasswimmer?

5 A: Yes.

6 Q: And I believe you may have spoken to it,
7 but what was your reaction to that text
8 message?

9 A: Well, when it first came in, I didn't
10 really, I didn't have time to address it
11 because I was addressing the issues that
12 were actually unfolding in the moment at
13 Franke Tobey Jones. And by the time I
14 got the text and explained myself, I
15 guess I felt, it was upsetting to me, but
16 I'm used to that in my work, so it's kind
17 of par for the course.

18 Q: And when you say par for the course, what
19 course are we referring to?

20 A: Well, I've been doing guardianship work
21 my whole career and I've worked with very
22 many difficult families with lots of
23 feelings and lots of emotions. And so
24 it's not something I'm unfamiliar with,
25 people being upset.

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1 Q: Certainly. Let me ask you this question.
2 We talked about Michelle Miles in a
3 specific light in terms of, do you recall
4 episodes of her violating a court order.
5 I want to take a step back and discuss
6 address all of the parties that you dealt
7 with. How would you describe, if you can
8 describe it in summary form, your
9 interactions with Michelle Miles through
10 this process?

11 A: It was very challenging and at times
12 frustrating, because as I said earlier
13 there were agreed times that David was
14 going to visit and it seemed like
15 Michelle was purposely compromising those
16 visits, by showing up during the visit or
17 being in the room when she wasn't
18 supposed to be in the room. And so it
19 felt like she wasn't cooperating. It
20 felt like I kept bumping up against
21 things that Michelle and I had decided.
22 And then the next day it would be
23 something different. Michelle would
24 change it. And so it made the scheduling
25 difficult.

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1 Q: Okay. Anything else?

2 A: No.

3 Q: And how would you describe, if you can
4 describe -- And that was exactly the
5 length of answer I was looking for, so
6 thank you. How would you describe your
7 interaction with John Strasswimmer
8 throughout this case? If you could
9 summarize those interactions for the
10 Court?

11 A: Oh, I had very little interaction with
12 John, except for, we met once in the hall
13 while I was down there. Shook hands and
14 it was a very polite, nice interaction.
15 And then the next interaction was the day
16 that David tried to take Claudia out for
17 the drive.

18 Q: And the following day you resigned?

19 A: Yes.

20 Q: Okay. And, how would you describe in
21 summary form, if you can, for the Court,
22 your interactions with David King, in
23 this matter?

24 A: I found David to be very easy to work
25 with. He was flexible. He was even-

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1 keeled. In fact, I had said to him a
2 couple times that I was surprised at how
3 steady and even-keeled he was during all
4 the chaos of some of the meetings and
5 some of the days that we were, that we
6 went through together, so it was very
7 easy working with David.

8 Q: And how much time would you say you spent
9 with David throughout this case? I'll
10 call it a case.

11 A: I couldn't say hours. I could, if I had
12 time I could add them up. Essentially,
13 the early ---

14 Q: A rough ---

15 A: Oh, go ahead.

16 Q: A rough guesstimate, I think will suffice
17 for purposes of this answer.

18 A: Well, I spent quite a few hours with
19 David during the breaks that he would
20 take from his visits with Claudia. And
21 so I would be sitting in a common area
22 down the hall from Claudia's room, and
23 David would also be sitting there. We
24 would sit together, while we were waiting
25 for the next opportunity for him to go

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1 and visit. So, you know, I spent quite a
2 bit of time with him, especially in the
3 beginning of when they were establishing,
4 getting to know each other again. Once,
5 they, once Dr. Miles was more open to
6 David being in the room with her, I
7 didn't spend as much time with David
8 because he would be in the room with Dr.
9 Miles. So, I would just be down the hall
10 in the waiting room or outside the door
11 waiting.

12 Q: Okay. What sort of things, when you were
13 with David in these waiting rooms or side
14 rooms, as you described them, what sort
15 of things would you and David talk about?

16 A: A lot of what we would talk about --
17 Well, so two things. One would be just
18 the logistics of the day. How he was
19 going to navigate the visit, how much
20 time he should be in the room, when
21 should he go back and try to visit, so a
22 lot of logistics. If Michelle was there,
23 how would we work with staff, and
24 Michelle, and that kind of thing? So we
25 would be navigating and managing the time

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1 of his visits. And then the rest of it
2 was sometimes just quiet, sitting
3 together quietly, or we would talk about
4 some of he and Claudia's visits, trips
5 that they've taken. What their life was
6 like, what their house looked like,
7 things like that. Just getting to know
8 the life of Claudia and David together.
9 We would just visit about that.

10 Q: Okay. Did David King ever say anything
11 in your presence that would cause you to
12 question his judgment?

13 A: No.

14 Q: And remind me of the date of your
15 resignation, Julie.

16 A: I believe it was on the 29th. Yeah, I
17 think it was about, I think I sent that
18 letter on the 30th.

19 Q: Okay.

20 A: It was my last day working, so I might
21 have sent the note then on the 29th. I'm
22 not sure if I'm getting to the date
23 right.

24 Q: Okay.

25 A: End of January.

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1 Q: I think that will suffice just for the
2 record and we'll send you a copy of
3 Exhibit A, just so you'll have it.

4 A: Okay.

5 Q: Your email is on page 39 for the record.
6 That email was on page 39 of the Exhibit
7 A that you don't have.

8 A: Okay.

9 Q: During that time that you did serve
10 working for Dr. Miles, Julie, and I don't
11 know if you formed an opinion, but did
12 you form an opinion, as to what you
13 believe ultimately to be in the best
14 interest of Dr. Miles, in terms of what
15 placement would be most appropriate for
16 her?

17 MS. HARRISON: OBJECTION, YOUR HONOR.

18 MR. RHODES: YOUR HONOR, I'M GOING
19 TO OBJECT. THAT'S THE
20 ISSUE THAT GOES BEFORE
21 THE COURT.

22 MR. BOYD: I THINK SHE'S ENTITLED
23 TO HER OPINION AND THE
24 COURT CAN TAKE IT OR
25 NOT. SHE'S A LONG-

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ROA 1197

1 SUFFERING PROFESSIONAL
2 IN THE FIELD, YOUR
3 HONOR.
4 MR. RHODES: THAT'S WHAT WE'RE HERE
5 FOR THE COURT TO
6 DECIDE, YOUR HONOR.
7 MS. HARRISON: THAT'S THE JOB OF THE
8 GUARDIAN AD LITEM, NOT
9 THIS INDIVIDUAL, WHO IS
10 INVOLVED IN THAT SMALL
11 PORTION OF THE CASE.
12 MR. BOYD: I CAN PERHAPS DIFFUSE
13 THE ISSUE.
14 Q: Julie, do you have an opinion? You may
15 not afford an opinion.
16 A: Yeah, I do.
17 MR. BOYD: OKAY. MS. FORKASDI HAS
18 AN OPINION.
19 THE COURT: THE COURT WILL ALLOW
20 IT. SHE WAS HIRED TO
21 FACILITATE THIS. I
22 THINK SHE CAN CERTAINLY
23 RESPOND TO THAT
24 QUESTION.
25 MR. BOYD: THANK YOU, YOUR HONOR.

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1 MS. HARRISON: THANK YOU, JUDGE.
2 Q: And Julie, what is your opinion on the
3 subject, if you care to share that, or if
4 you will share that with the Court?
5 A: On what would be the best placement for
6 Claudia?
7 Q: Yes.
8 A: Well, my opinion would be that Claudia
9 and David be together in a situation that
10 allows them privacy, such as I have to
11 also say that I haven't seen Dr. Miles
12 since the end of January, so I don't know
13 her current status. But if they could be
14 back in their home together, in some type
15 of -- if she needed assisted living
16 apartment together, some type of
17 situation that would allow them to be
18 together where she could get care if she
19 needed it.
20 Q: Okay. Julie, I want to thank you for
21 your time today and for your work for Dr.
22 Miles. Please answer any questions that
23 the other counsel may have for you.
24 THE COURT: MS. HARRISON.
25 MS. HARRISON: THANK YOU, JUDGE.

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ROA 1199

CROSS EXAMINATION

BY MS. HARRISON:

Q: Ms. Forkasdi, I am Angela Harrison. Can you hear me?

A: I can. Would it be possible to get a little bit closer to the phone?

Q: Absolutely. I'm going to come over here where Mr. Boyd was standing.

A: Okay. Thank you.

Q: So, you and I have never gotten the opportunity to work together, but I am an attorney in Lee Moore's office and I have taken over this case.

A: Okay.

Q: I appreciate you being available today for us to speak with. I just have a few questions regarding your testimony and you probably went over this, but I need some clarification, as to whether your job was to be boots on the ground for Ms. Lochocki, as the guardian ad litem, or if you saw your job as something else?

A: Oh, no. I didn't see myself as the boots on the ground for the guardian ad litem.

Q: Okay.

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ROA 1200

1 A: I just felt like I was an independent
2 party that was there observing things
3 that were happening.

4 Q: What was the purpose of those
5 observations?

6 A: Well, I guess it's twofold. I was there
7 to really coordinate those visits between
8 David, and Dr. Miles, and Michelle. But
9 being there multiple days in a row for
10 many weeks, I was witness to things that
11 were happening there on a day-to-day
12 basis. I did share my thoughts and
13 insights with the guardian ad litem.

14 Q: Okay. You indicated that you spent a
15 great deal of time -- Oh, I'm sorry. I
16 don't want to mischaracterize what you
17 said. Was it your testimony that you
18 spent a good deal of time with Mr. King?

19 A: I did spend a lot of time with Mr. King.

20 Q: Would you say that you spent the same
21 amount of time with Mrs. Miles and Dr.
22 Miles?

23 A: I spent more time with David because
24 that's who I was, I was supporting him
25 and Dr. Miles with their visits, and so I

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1 just was, I just was with him more. I
2 always was available to Michelle Miles
3 and had offered that. I was there. I
4 was just sitting in that room for anyone
5 to visit with me, but I was available.
6 Yeah.

7 Q: But during Mr. King's visitations, Ms.
8 Miles was not allowed to be there,
9 correct?

10 A: There were many times that Michelle did
11 come and talked to me, and/or talked to
12 me and David because she was in and out
13 of the facility.

14 Q: Okay. And you stated that you were not
15 aware of any instances where Mr. King had
16 not followed the instructions of the
17 Court?

18 A: Correct.

19 Q: I was reviewing your billing records.
20 Are you aware of an incident where Mr.
21 King was roaming the halls of UW Medical
22 Center, that was reported to you by
23 somebody at the hospital?

24 A: I, I -- No one -- I said that in my
25 billing? I don't think so, because I've

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ROA 1202

1 never spoken to anyone at the hospital.
2 Q: Do you have a copy of your ---
3 MR. BOYD: IF THE WITNESS IS GOING
4 TO BE QUESTIONED ABOUT
5 A DOCUMENT AND SHE'S
6 NOT INTRODUCED IT, AND
7 IT'S NOT IN THE GAL
8 REPORT, WE'RE GOING TO
9 HAVE TO FIGURE OUT A
10 WAY TO GET IT IN FRONT
11 OF THE WITNESS.
12 THE COURT: HAS IT BEEN INTRODUCED?
13 MS. HARRISON: THIS HAS NOT YET BEEN
14 INTRODUCED.
15 MR. BOYD: WELL, THEN I WOULD
16 OBJECT TO HER
17 QUESTIONING HER ON A
18 DOCUMENT THAT SHE
19 HASN'T SEEN AND HASN'T
20 BEEN INTRODUCED.
21 THE COURT: ANYWAY YOU CAN?
22 MS. HARRISON: THIS IS MS. FORKASDI'S
23 BILLING RECORDS THAT'S
24 BEEN PROVIDED TO THE
25 PARTIES THROUGHOUT THIS

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ROA 1203

1 ACTION.
2 MS. LOCHOCKI: I HAVE NOT REVIEWED ALL
3 OF MS. FORKASDI'S
4 BILLING RECORDS.
5 MR. BOYD: WHO PROVIDED THEM TO
6 THE PARTIES? IS IT IN
7 DROPBOX?
8 MS. HARRISON: I DON'T KNOW. THIS WAS
9 WHAT WAS SENT TO
10 MICHELLE MILES AS
11 BILLING RECORDS BY MS.
12 FORKASDI.
13 MR. BOYD: OKAY. THAT DOESN'T
14 PROVE ANYTHING ABOUT
15 SERVICE TO THE PARTY
16 THOUGH.
17 THE COURT: I DON'T THINK WE CAN
18 ADDRESS THAT IF IT
19 HASN'T BEEN GIVEN TO
20 EVERYBODY. IS THERE
21 SOME WAY YOU CAN
22 REPHRASE THE QUESTION?
23 MS. HARRISON: THAT'S FINE. YES, YOUR
24 HONOR, I CAN REPHRASE
25 THE QUESTION.

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ROA 1204

1 Q: Did you ever receive a report that Mr.
2 King was roaming the hallways of a
3 facility?

4 A: Okay. That's different than the first
5 question. Michelle had texted me that
6 David was roaming the hall of the nursing
7 facility. I did not ever hear a report,
8 other than from Michelle, from that text
9 message from Michelle.

10 Q: Was roaming the halls, was Mr. King's
11 actions that were complained of, would
12 that have been in keeping with the
13 Court's order?

14 A: Well, I ---

15 MR. BOYD: YOUR HONOR, IT HASN'T
16 BEEN ESTABLISHED THAT
17 HE WAS, IN FACT,
18 ROAMING THE HALL. SHE
19 COULD ASK, BUT SHE
20 CAN'T SPECULATE ON
21 WHETHER AN ACTIVITY
22 WOULD'VE VIOLATED THE
23 COURT ORDER OR NOT, IF
24 SHE DOESN'T KNOW
25 SPECIFICALLY WHAT THE

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ROA 1205

1 ACTIVITY WAS. SHE JUST
2 TESTIFIED THAT SHE ONLY
3 RECALLS RECEIVING A
4 TEXT MESSAGE FROM
5 MICHELLE.

6 THE COURT: THANK YOU, SIR. YOU
7 CAN ANSWER THE QUESTION
8 TO THE BEST OF YOUR
9 KNOWLEDGE, MS. JULIE.

10 A: Would you mind repeating that again?

11 Q: If you had been aware of an incident, in
12 which Mr. King was roaming the halls of
13 the FTJ facility, would that have been in
14 violation of the order?

15 A: Well, you know, I don't know. That was
16 very, very early on, I believe. It was
17 just a text message, like I said, from
18 Michelle and I didn't have any, I didn't
19 follow-up on that. No one in the nursing
20 home reported that to me. I don't even
21 know if it was true. I just don't know.
22 David was allowed to be there, so I don't
23 know. I guess I don't understand the
24 question.

25 MS. HARRISON: YOUR HONOR, IF I HAD

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ROA 1206

1 KNOWN THAT WE WERE
2 GOING TO BE QUESTIONING
3 MS. FORKASDI ABOUT
4 THINGS, THAT I WAS NOT
5 GOING TO BE ABLE TO
6 QUESTION HER REGARDING
7 HER BILLING RECORDS AND
8 THAT WE WERE GOING TO
9 BE DOING THIS TODAY,
10 THEN I CERTAINLY
11 WOULD'VE SENT THOSE TO
12 HER PRIOR TO NOW, BUT I
13 CAN'T QUESTION HER
14 ADEQUATELY ABOUT WHAT'S
15 IN HER BILLING RECORDS
16 THAT HER TESTIMONY NOW
17 IS DIFFERENT. I DON'T
18 KNOW WHAT TO DO ABOUT
19 THAT.
20 MR. BOYD: YOUR HONOR, IF I MAY.
21 I DISCUSSED WITH LEE
22 MOORE WEEKS AGO, THAT
23 WE INTENDED TO CALL
24 JULIE FORKASDI. THIS
25 IS NO SURPRISE. IT WAS

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ROA 1207

1 CALENDARED BY THIS
2 COURT AS A TWO DAY
3 TRIAL, APRIL 1ST AND
4 APRIL 2ND, WEEKS AGO ON
5 A CONFERENCE CALL. I
6 APOLOGIZE THAT IT
7 WASN'T THIS SPECIFIC
8 ATTORNEY, BUT THE
9 FIRM'S PREDECESSOR IN
10 THIS CASE PARTICIPATED
11 IN. IF THEY WANTED TO
12 SEND BUILDING RECORDS
13 TO JULIE FORKASDI TO
14 QUESTION HER DURING
15 THIS TRIAL, THEY HAD
16 MORE THAN AMPLE NOTICE
17 OF THE NEED TO DO THAT.
18 TO RAISE THAT ISSUE NOW
19 IS COMPLETELY SPURIOUS,
20 YOUR HONOR.

21 MS. HARRISON:

MY ISSUE IS THAT MS.
22 FORKASDI HAS BEEN
23 ALLOWED TO TESTIFY AS
24 TO DOCUMENTS THAT SHE
25 DOES NOT HAVE IN HER

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ROA 1208

1 POSSESSION, WHICH ARE
2 BEFORE THE COURT, AND
3 THESE DOCUMENTS ARE IN
4 HER POSSESSION. THEY
5 ARE HER BILLING
6 RECORDS. THEY ARE ALSO
7 BEFORE THE COURT, SO
8 I'M NOT SURE WHY THAT
9 WOULDN'T BE GERMANE TO
10 AND PROPER FOR
11 QUESTIONING.
12 MR. BOYD: WELL, YOUR HONOR, I
13 ASKED HER ABOUT A
14 QUESTION -- I ASKED MS.
15 FORKASDI ABOUT A
16 DOCUMENT THAT IS IN THE
17 COURT'S RECORD, AND SHE
18 DOES HAVE THE DOCUMENT
19 IN FRONT OF HER, EXCEPT
20 FOR EXHIBIT A, WHICH
21 SHE ADVISED THAT SHE
22 DIDN'T. I JUST SIMPLY
23 DESCRIBE THE DOCUMENT
24 TO HER AND SHE'S
25 WELCOME TO DO THAT. IF

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ROA 1209

1 SHE WANTS TO DESCRIBE
2 THE BILLING RECORD TO
3 HER, SHE CAN DO THAT.
4 BUT IT'S A PREJUDICE TO
5 ME AND TO US, TO HAVE
6 TO RESPOND TO THAT WHEN
7 WE DON'T HAVE THE
8 RECORDS, I DON'T HAVE
9 THE RECORDS.
10 THE COURT: AND THIS IS A RECORD
11 THAT JULIE PREPARED
12 HERSELF, IS THAT WHAT
13 YOU'RE SAYING?
14 MS. HARRISON: YES, IT IS AN INVOICE.
15 IT HAS MS. FORKASDI'S
16 ADDRESS THAT SHE CITED
17 INTO THE RECORD. IT
18 PURPORTS TO HAVE A
19 BREAKDOWN OF TIME SPENT
20 IN EACH VISIT TO THE
21 FACILITY, ALONG WITH A
22 TOTAL AT THE BOTTOM
23 THAT SAYS, "PLEASE SEND
24 PAYMENT WHEN INVOICED.
25 THANK YOU, JULIE."

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ROA 1210

1 THERE'S THREE OF THOSE
2 INVOICES THAT
3 CORRESPOND WITH THE
4 PAYMENTS THAT WERE
5 MADE, PURSUANT TO BANK
6 RECORDS THAT WE SAW
7 EARLIER TODAY.
8 MR. BOYD: YOUR HONOR, I'M FAIRLY
9 CERTAIN THESE DOCUMENTS
10 ARE NOT ON DROPBOX. IT
11 HASN'T BEEN SHARED, BUT
12 I'M CONFIDENT IN MS.
13 FORKASDI'S ABILITY TO
14 SEND A FAIR AND
15 ACCURATE BILLING RECORD
16 TO MS. MILES. SO IF
17 SHE WANTS TO ASK HER
18 QUESTIONS ABOUT THE
19 DOCUMENT THAT MS. MILES
20 HAS CREATED, AS LONG AS
21 MS. MILES FEELS
22 COMFORTABLE ANSWERING
23 THE QUESTION, THEN AS
24 WITH ALL THE OTHER
25 SURPRISES WE'VE SEEN

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ROA 1211

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ROA 1212

1 DID COUNSEL ANTICIPATE
2 THAT WAS GOING TO
3 HAPPEN?
4 MS. HARRISON: AGAIN, I CAN OBTAIN
5 COPIES OF THESE
6 DOCUMENTS. I DO NOT
7 HAVE THEM RIGHT NOW.
8 THE COURT: GO AHEAD WITH YOUR
9 QUESTION. THE COURT
10 WILL ALLOW IT.
11 MS. HARRISON: THANK YOU, JUDGE.
12 THANK YOU, YOUR HONOR.
13 Q: Ms. Forkasdi, I am looking at a document
14 that says, again, has your address at the
15 beginning, states contracted care
16 management for Dr. Claudia Miles. Then
17 at the end totals up hours and says,
18 "Please send payment." It appears that
19 the services provided indicate November
20 27th through December 17th. Do you have
21 your billing records available to you?
22 A: I, actually, while I've been sitting
23 here, I just looked them up.
24 Q: Okay. And so are you aware of on
25 December 4th, there's an entry call from

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ROA 1213

1 Michelle Miles reported D. King showed up
2 at UW Medical Center, as reported by
3 hospital social worker?

4 A: Yeah, I see that. That's, that's
5 Michelle calling me and telling me that
6 David showed up at the UW Medical Center.

7 Q: Okay. And then two lines down it states,
8 "Call to D. King requesting no contact
9 with C. Miles." Does that indicate that
10 you contacted Mr. King and asked him to
11 have no contact with Ms. Miles?

12 A: Okay.

13 Q: With Dr. Miles?

14 A: Yeah, this is going back way back. So, I
15 believe at that time, I was very new on
16 this case. It seems to me that Dr. Miles
17 was in the hospital at this time, this
18 was before I even had met anyone. I
19 don't even know if I had seen the Court
20 report by then or the Court order. So, I
21 was going by what Michelle was telling me
22 to do. Yes, I called David and told him
23 he couldn't visit Claudia in the
24 hospital.

25 Q: On November 29th, it indicates that you

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1 had time for reviewing court order. So
2 would that indicate the date that you had
3 done that?

4 A: Yeah. I see that, I see that. Yeah.
5 Sorry. I'm looking, I'm going from
6 December back to November.

7 Q: You also indicated that Dr. Miles was
8 restless at FTJ and was very happy to
9 leave the facility, correct?

10 A: Yes.

11 Q: Did you talk to Ms. Miles about whether
12 or not Dr. Miles got out regularly, and
13 what kind of activities she did to leave
14 the facility?

15 A: Yes. Michelle always, Michelle multiple
16 times told me how important it was for
17 Dr. Miles to get out and how often her
18 and her mom went out. And during one of
19 my visits with Michelle and Dr. Miles,
20 Dr. Miles was saying, "Come on, Michelle.
21 Let's go, let's go. When are we going?"
22 Didn't want to hang out, was excited to
23 go out with Michelle.

24 Q: And you indicated that it was very
25 difficult for you to coordinate with Ms.

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ROA 1215

1 Miles, the visitation times. What were
2 the difficulties in coordinating those
3 visitations?

4 A: Well, I can tell you, we'll go back to
5 January, the end of January, the most
6 recent of my visits. I showed up at the
7 appointed time that Michelle, David, and
8 I, all agreed to, along with the guardian
9 ad litem. I showed up on that morning,
10 and Michelle's boyfriend was sitting in
11 front of Dr. Miles's room, as if standing
12 guard. And it was reported by staff that
13 Michelle had spent the night illegally in
14 the room next to Dr. Miles, which is not
15 allowed. And, so, David was not able to
16 do his visit that day because of, I'm
17 just going to say, the chaos that
18 Michelle created that morning with her
19 boyfriend there, and her spending the
20 night. David, I don't think he, I don't
21 know, I'm not sure if he ended up meeting
22 with Claudia. Maybe later in the day he
23 did, I might have to review my notes.

24 Q: Did Dr. Miles ever tell you that she
25 wanted to see Mr. King?

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ROA 1216

1 A: No.

2 Q: Did you ever ask Dr. Miles if she wanted
3 to see Mr. King?

4 A: I did.

5 Q: And what did she tell you?

6 A: Well, in the very beginning, one of my
7 very first visits, which I think you have
8 in your hand, was November 30th, Dr.
9 Miles didn't understand why I was there;
10 why I was asking if she should see her
11 husband. She didn't want to see him and
12 she stuck to that, but was not really
13 very communicative that day.

14 Q: Did you ever visit Ms. Miles' home?

15 A: No.

16 Q: So, you would not be able to venture an
17 opinion as to whether or not that's an
18 appropriate place for Dr. Miles to live?

19 A: I wouldn't specifically be able to
20 comment on the layout of it. I could, I
21 have an opinion about, given my
22 relationship with Michelle, and Dr.
23 Miles, and David, on what I feel about
24 that. But in terms of the safety of the
25 home, I cannot share that.

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ROA 1217

1 Q: The other issue that you talked about was
2 this time when Mr. King asked Dr. Miles
3 if she wanted to go for a ride off of FTJ
4 grounds, correct? When that occurred,
5 when you were notified that had occurred,
6 did you call Michelle?

7 A: No. Joyce called Michelle.

8 Q: Did you think that as the temporary
9 guardian, that Michelle might be the
10 person that needed to be contacted to
11 make that decision?

12 A: It didn't get to that point because Joyce
13 had already called Michelle. I was
14 talking to the nurse. All of this kind
15 of unfolded in like 15 minutes and it was
16 very, very chaotic. And, so, I was just
17 trying to -- I knew that Michelle had
18 been contacted. I knew John had been
19 contacted. I was just trying to work
20 with the staff and David on what was the
21 best thing we should do for Dr. Miles.

22 Q: Why did you believe that Dr. Miles, if
23 she was indicating a desire to not see
24 Mr. King, why did you believe that it's
25 in her best interest that she see him?

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1 A: I believe that they had a long term
2 relationship together over 30 years and
3 to suddenly after this medical condition,
4 that she suddenly doesn't want to see him
5 anymore, it just seemed odd to me. The
6 way that I was -- the way Michelle told
7 me about how this all played out, the way
8 Lee Moore and her paralegal, Barbara,
9 gave me the history on this case, it just
10 seemed strange to me that Dr. Miles all
11 of a sudden after 30 years, has brain
12 surgery and suddenly doesn't want to see
13 your husband anymore. It felt like she
14 and David deserved time to reestablish
15 their relationship and to see if that was
16 what they wanted to do, if they wanted to
17 be together.

18 Q: Did Dr. Miles actually express discomfort
19 at having to see Mr. King?

20 A: Discomfort, no.

21 Q: Did she ever yell out, "No," or "Get out
22 of my room"?

23 A: Oh, yeah. She did the very first day
24 that David tried to meet with her. She
25 was very angry and did not want to see

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ROA 1219

1 him.

2 Q: So what about forcing those visits was in
3 Dr. Miles' best interest?

4 A: They were very brief in the very
5 beginning. The nurse would walk in with
6 David and they were minutes long and if
7 there was any kind of disagreement or
8 negative feelings from Dr. Miles, David
9 would leave. So, it could be one minute
10 maybe that he would stay in there, and if
11 she didn't want him in there, he would
12 leave. And then it was over a day or two
13 that she acquiesced, and seemed to appear
14 to enjoy his visit.

15 Q: No further questions.

16 MS. LOCHOCKI: YOUR HONOR, I JUST
17 OBJECT TO
18 CHARACTERIZING THAT MS.
19 FORKASDI OR ANYONE
20 FORCED THE VISITS
21 BETWEEN DAVID KING AND
22 HIS WIFE, THAT THOSE
23 VISITS WERE PURSUANT TO
24 A COURT ORDER.

25 THE COURT: YOU ARE CORRECT. THAT

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ROA 1220

1 WAS SPECIFICALLY STATED
2 IN THE COURT ORDER AND
3 THEY WERE FOLLOWING THE
4 COURT ORDER. MR.
5 RHODES?

6 MR. RHODES: THANK YOU, YOUR HONOR.

7 **CROSS EXAMINATION**

8 **BY MR. RHODES:**

9 Q: Ms. Forkasdi, is that how you say that?
10 Am I close?

11 A: That's correct.

12 Q: Okay. My name's Charles Rhodes. I
13 represent Ms. Michelle Miles. I just
14 have a couple questions for you. Can you
15 hear me okay? I tend to moan.

16 A: Yes, I can hear you. Thank you.

17 Q: Okay, just curious, when you retained,
18 you talked about Ms. Moore's office
19 giving you a history of the case. Can
20 you relate to the Court what that history
21 was?

22 A: Yes. Hang on. I'm seeing if I can
23 actually look at my notes. Well, I think
24 mostly they were just saying that, giving
25 me some history that Claudia, Dr. Miles,

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1 had brain cancer, brain tumor, had had
2 surgery, was in South Carolina and her -
3 it, you know, they just gave me all the
4 history of it. Do you want me to go over
5 every piece of it?

6 Q: No, let's don't do that, let's don't do
7 that. I'll ask the questions, ---

8 A: Okay.

9 Q: --- and you tell me if you were made
10 aware. So you were aware that she had a
11 brain tumor and brain cancer, you just
12 said that. Were you aware that there was
13 an incident when the family went to the
14 State of Washington and Tacoma, that Ms.
15 Michelle Miles and Dr. Strasswimmer lost
16 contact with Mr. King and Dr. Miles for a
17 period of 12 to 24 hours?

18 A: I do. Yes.

19 Q: Okay.

20 A: I knew that. I didn't know the exact
21 hours. I thought it was just overnight,
22 but yeah.

23 Q: Well, it could have been overnight about
24 12 hours or so. Were you made aware that
25 trip was impromptu and nobody had notice

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ROA 1222

1 of it?

2 MR. BOYD: YOUR HONOR, I'M GOING

3 TO HAVE TO OBJECT ON

4 THIS BASIS. HE'S

5 ASKING HER QUESTIONS

6 THAT ARE PREDICATED ON

7 FACTS, FOR WHICH THERE

8 HAS BEEN NO ORDER AND

9 NO FINDING OF FACT.

10 AND IF MR. RHODES WANTS

11 TO ASK HER, IS SHE

12 AWARE THAT IT WAS

13 ALLEGED BY CERTAIN

14 PARTIES THAT MR. KING

15 AND DR. MILES RETURN TO

16 SOUTH CAROLINA?

17 HOWEVER, IF HE WANTS TO

18 CHARACTERIZE THE

19 ALLEGATION, HE'S FREE

20 TO DO THAT, BUT HE

21 CAN'T ASK HER A

22 QUESTION PREDICATED ON

23 FACT, FOR WHICH THERE'S

24 BEEN NO FINDING BY THIS

25 COURT. THAT IS A FACT

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1 A: Oh, no. Not at all.
2 Q: Not at all?
3 A: It wasn't like that.
4 Q: Okay. Let me ask you this then. You
5 say, I believe in your testimony, that
6 Joyce called Michelle. Now, I'm not
7 asking you to repeat what was said, I'm
8 asking you know -- were you a part of
9 that conversation?
10 A: I was not a part of that conversation
11 between Joyce and Michelle.
12 Q: Okay. I'm not asking you what was said,
13 but did at any time, Joyce relay to you
14 what she told Ms. Michelle? Not what she
15 said.
16 A: No.
17 Q: Okay. Did you instruct Joyce to call Ms.
18 Miles?
19 A: I did not.
20 Q: Okay. Now, when you were first involved,
21 when you were first retained on the case,
22 after you received the history from Ms.
23 Moore's office, did you have an occasion
24 to interview all the parties before
25 facilitating the visits between Dr. Miles

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1 and Mr. King?

2 A: No. Michelle and I met at Franke Tobey
3 Jones before I met with Dr. Miles.

4 Q: And did you have a chance to talk with
5 her about the circumstances?

6 A: Uh-huh. Yes.

7 Q: Okay. And was there any concerns that
8 she shared with you that she wanted you
9 to be aware of?

10 A: Well, Michelle told me her part of the
11 full story, so I heard the whole story
12 from Michelle on that very first day.
13 And then we had many other conversations
14 about it on and off throughout my time.

15 Q: Okay. And do you know of your own
16 personal knowledge, whether Michelle knew
17 that Mr. King and Dr. Miles were seeking
18 permission for a trip and not actually
19 going on a trip?

20 A: Seeking permission to go on what kind of
21 trip? I'm ---

22 Q: That, that -- I'm sorry. You go right
23 ahead. That day at Franke Tobey Jones,
24 when they were seeking permission to take
25 the trip.

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1 A: Oh, okay.

2 Q: Do you know of your own knowledge,
3 whether Ms. Miles or Ms. Michelle Miles
4 knew whether they were asking permission
5 to take a trip or they were actually
6 getting ready to take a trip?

7 A: David was asking permission if he could
8 take Dr. Miles out for a drive. Is that
9 what you're asking?

10 Q: No, ma'am. I'm asking you if the
11 information related to Michelle, if you
12 know of your own personal knowledge, was
13 she told they're taking a trip or he's
14 wondering if he can take a trip?

15 A: I have no idea.

16 Q: Okay.

17 A: Because I wasn't a part of that
18 conversation.

19 Q: Now going back to the text message that
20 you received from Michelle alleging that
21 Mr. King was roaming the halls at Franke
22 Tobey Jones, did you ask Mr. King at any
23 time whether he had done that?

24 A: I did not discuss that with Mr. King.

25 Q: Okay.

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1 A: There's two different things. The woman
2 who just talked to me, asked me about one
3 of my billing entries. Is that what
4 you're referring to, because there's two
5 different?

6 Q: Okay. Well, you tell the two different,
7 because I'm not sure. I thought you had
8 said you received a text message from
9 Michelle stating that Mr. King was, for
10 lack of a better word, roaming the halls
11 at Franke Tobey Jones.

12 A: Yes. I believe I got a text regarding
13 saying that from Michelle.

14 Q: Okay. And what I'm asking you, did you
15 discuss that or ask Mr. King if that was
16 in fact true?

17 A: I did not.

18 Q: Hold on just one second for me, Ms.
19 Julie. (Paused for a moment.) Just a
20 couple more questions. When you stated
21 that, I think Ms. Michelle spent the
22 night illegally at Franke Tobey Jones.
23 Did you ---

24 A: Yes, sir.

25 Q: Did you talk with the staff to see if she

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1 had asked anyone for permission?

2 A: It was the staff that reported to me
3 that Michelle had spent the night and
4 they were the ones who told me that it
5 was not allowed.

6 Q: Did you ask them, or did they -- Okay,
7 never mind.

8 A: I didn't. Yeah, they told me.

9 Q: Okay. And, I want to go back to the
10 point you were retained. One more time,
11 just to ask you another question. At the
12 point you were retained, who retained
13 you?

14 A: Well, Lee Moore's office, I guess,
15 retained me, but after about, a week or a
16 few days, they told me to start directing
17 my reports to the guardian ad litem.

18 Q: Okay. And at the time you were retained,
19 did they specify or did they say, "Here's
20 what we're wanting you to do. This is
21 why we're hiring you?"

22 A: Yeah, and then it changed. It kept
23 changing.

24 Q: Okay. What was the initial, what they
25 retained you?

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1 A: Initial was to meet with Dr. Miles, to
2 find out what her wants and desires were,
3 in terms of where she wanted to live, in
4 what city, in what type of -- You know,
5 if she wanted to stay in the nursing
6 home; if she wanted to move to
7 Michelle's; if she wanted to go back home
8 to South Carolina with David. And then,
9 also, if she wanted to have visits with
10 David.

11 Q: Okay. And when did it change? How long,
12 approximately, not a date.

13 A: Well, yeah. Right. It changed pretty
14 quickly because I think there was a court
15 order, that came out not long after I was
16 hired that stated, that Mr. King could
17 have visits with Dr. Miles. And so, at
18 that time, that's when it changed where I
19 became the person coordinating those
20 visits. And in some ways, I was
21 supervising those visits.

22 Q: And is that about the same time you were
23 instructed to rescind your reports to the
24 guardian ad litem?

25 A: Yes. I think I even have, let me see

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1 here. Yeah, that was in early December,
2 that I was told by Barbara, from Lee
3 Moore's office, to start talking to the
4 guardian ad litem.
5 Q: And from talking to the guardian ad
6 Litem, did you receive instructions as
7 far as your duties or your performance
8 from the guardian ad litem at that point?
9 A: Yeah, we tried to clarify what my role
10 was.
11 Q: Okay. That's all the questions I had.
12 Thank you very much.
13 A: You're welcome.
14 THE COURT: THANK YOU. MS.
15 LOCHOCKI?
16 **CROSS EXAMINATION**
17 **BY MS. LOCHOCKI:**
18 Q: Hello, Julie.
19 A: Hello.
20 Q: This is Bess Lochocki, the guardian ad
21 litem and I think all the parties realize
22 that I have talked with you on many
23 occasions.
24 A: Uh-huh.
25 Q: Would you agree with that, that we have

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1 talked with each other on a frequent
2 basis, since you came onto this case?

3 A: Yeah. Yes.

4 Q: Julie, would you explain to the Court
5 your impression of the caregivers at
6 Franke Tobey Jones and their role
7 monitoring David and Claudia's visits?
8 And let me clarify that I'm talking about
9 the caregivers from SYNERGY, who were not
10 employees of Franke Tobey Jones, the
11 SYNERGY caretakers. How would you
12 explain their role monitoring or just
13 being involved with David King's visits,
14 with his wife at Franke Tobey Jones?

15 A: They were actually not cooperative,
16 according to the Court order and it was
17 very difficult for them to understand
18 that they needed to provide privacy, for
19 David and Claudia, during those visits.
20 And at one point, I believe on January
21 15th, we had a Court order saying that he
22 could have a minimum of 10 minutes with
23 Claudia alone and Joyce refused to leave
24 the room, even after showing the
25 document. And the regular nurse on duty

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1 at Franke Tobey Jones felt comfortable
2 leaving David and Claudia alone, and they
3 tried to talk to Joyce as well and she
4 just refused to leave and it created some
5 tension in the room that day. There was
6 nothing else I could do at that point. I
7 bumped into that a couple times with the
8 caregiver.

9 Q: Was Joyce Bittok the primary caregiver,
10 while Claudia was at Franke Tobey Jones?

11 A: Yes.

12 Q: Okay. Could you explain to the Court,
13 please, the issue of Claudia being a fall
14 risk and the caregiver's role as it
15 relates to her fall risk?

16 A: Well, that was confusing for me, because
17 I never saw, in a care plan, that there
18 was, that Claudia was a fall risk to
19 begin with. I know she had, she did have
20 a fall, and after that fall, she had a
21 bed monitor on, I believe. And so, I
22 think Joyce felt it was her job to stay
23 by Dr. Miles' side because of this fall
24 risk. But I'm not sure who said that she
25 wasn't a fall risk. So, that's one of

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1 the reasons Joyce didn't want to leave.

2 Q: Julie, in your professional opinion, why

3 would it be in Claudia's best interest to

4 have some privacy with David King, during

5 her visits with David King?

6 A: Because I think as an adult woman and she

7 deserved to have privacy and not have

8 someone in her room, monitoring her every

9 minute. I felt like she deserved privacy

10 and so did David.

11 Q: Thank you. Do you have an opinion about

12 whether Joyce Bittok is biased towards

13 Michelle Miles or David King?

14 A: Yes, I do have an opinion. It was very

15 clear, the way Joyce was acting. It was

16 as if she had been told that David, was

17 evil and dangerous.

18 MS. HARRISON: OBJECTION, YOUR HONOR.

19 A: Because she was very, very nervous when

20 David was there.

21 MS. HARRISON: OBJECTION.

22 THE COURT: EXCUSE ME, JUST A

23 MOMENT. PLEASE

24 PROCEED, MS. HARRISON.

25 MS. HARRISON: I OBJECT TO THE

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1 TESTIMONY THAT IT WAS
2 AS IF SHE HAD BEEN TOLD
3 X, Y, Z. THAT'S
4 COMPLETE SPECULATION
5 AND I DON'T BELIEVE
6 IT'S BASED ON ANY FACT
7 THAT SHE'S AWARE OF.
8 MR. BOYD: BUT, IF I MAY, YOUR
9 HONOR, SHE'S DESCRIBING
10 A PRESENT IMPRESSION.
11 SHE'S NOT SAYING
12 SOMEBODY SAID, "DAVID'S
13 EVIL OR DAVID'S X, Y,
14 Z." SHE'S JUST GIVING
15 HER MENTAL IMPRESSION,
16 WHICH SHE'S FREE TO
17 RECOUNT. SHE CAN
18 TESTIFY TO HER MENTAL
19 IMPRESSION AT A GIVEN
20 DATE AND TIME.
21 THE COURT: PLEASE ANSWER THE
22 QUESTION. YOU WERE
23 THERE AND YOU SAW THIS
24 FROM YOUR OWN
25 PERSPECTIVE, SO YOU CAN

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1 CERTAINLY ANSWER THE
2 QUESTION. DO YOU
3 REMEMBER WHAT THE
4 QUESTION WAS?

5 A: Okay. No.

6 THE COURT: MS. LOCHOCKI?

7 A: Yeah, if it could be repeated, I'd
8 appreciate that.

9 Q: In your professional opinion, do you have
10 a professional opinion about whether
11 Joyce Bittok, the professional caregiver,
12 is biased in any way towards Michelle
13 Miles or David King?

14 A: And I answered, yes. I think that I
15 would say that Joyce is on Michelle's
16 side and Joyce is against David's side.
17 If I could just put it so bluntly.

18 Q: Okay. And could you explain to the Court
19 in an estimate similar to the one you
20 gave earlier, about how much time you
21 spent with Joyce Bitok?

22 A: How much time? Well, Joyce and I had
23 many conversations over those weeks.
24 Standing outside of Dr. Miles's room, if
25 Joyce was willing to do that. There were

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1 times that, eventually, Joyce would allow
2 David to be alone with Claudia, and so
3 she and I would talk. Not all the time,
4 but we would check in with each other
5 about how Claudia was doing. Was she
6 walking? Was she not walking? Just
7 those kinds of updates.

8 Q: Okay. And is it correct that you
9 testified earlier that in your
10 professional opinion, you find it in
11 Claudia's best interest to spend more
12 time with David King privately, perhaps
13 at home together, or in a -- You know,
14 outside of a nursing home, or a hospital
15 setting together, privately?

16 A: Yes, I do. I feel that David seems to
17 have a real calming effect on Claudia,
18 and they seem to really enjoy their time
19 together.

20 Q: And to be clear, Julie, how do you feel
21 about Claudia spending time with her
22 daughter and her son?

23 A: Well, I think it's important for Claudia
24 to spend time with Michelle and John. I
25 think, I can only speak what I witnessed

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1 with Michelle and her interactions with
2 Claudia. I think Michelle is very
3 loving, and a very caring daughter.
4 Michelle's anxiety about her mom's
5 healthcare issues are very high and that
6 creates a lot of tension and a lot of
7 anxiety, I think in the space of -- what
8 am I trying to say? In the environment.

9 Q: Thank you. Okay. Let's talk again about
10 the date that David sought permission to
11 take his wife on an outing from Franke
12 Tobey Jones. Are we on the same page
13 about that date?

14 A: January 30th or was it the 30th, or the
15 29th? I'm not -- No, it was the ---

16 Q: I honestly don't have the date in front
17 of me, but the ---

18 A: Okay. So, it doesn't matter what the
19 exact date was. I know what you're
20 talking about.

21 Q: Yeah, maybe I should say the day, that
22 day.

23 A: Okay.

24 Q: Okay. Could you explain to us, so that I
25 don't put words in your mouth, how that

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1 idea even came to be, to the outing that
2 day?

3 A: Well, I'm not sure because, I wasn't, you
4 know, it wasn't my idea. It was David's
5 idea and it was something that he didn't
6 share with me. He went straight to the
7 staff to ask permission. And then the
8 nursing staff came and got me.

9 Q: Okay. And I know I was, I was called. I
10 want to -- I believe David King called me
11 and you called me. Do you remember
12 calling me that day?

13 A: I called you. Yes.

14 Q: Did you call Michelle Miles?

15 A: I did not.

16 Q: Okay. Did you call John Strasswimmer?

17 A: I did not.

18 Q: Okay.

19 A: I did text John, telling him that I
20 couldn't talk because I believe I was
21 talking to you, but I would have to look
22 exactly what my wording was, in my text
23 message to John. I'm not sure exactly
24 what I said, but I did respond.

25 Q: And, did Michelle show up at Franke Tobey

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1 Jones that day, during this time period,
2 discussing the outing?

3 A: Yeah. She showed up on the walk, which I
4 was not on. I had suggested instead of
5 taking the ride, because it was so late
6 in the day already that Claudia and David
7 go take a walk. And Michelle hooked up
8 with David and Claudia outside on their
9 walk.

10 Q: Okay. Could you tell us about how much
11 time transpired between the time you
12 first were notified David was asking
13 permission to go on an outing, and to
14 when you suggested that David and Claudia
15 go for a walk? About how much time
16 transpired?

17 A: It seems like it was, it was very
18 chaotic, but it seems like it was 15
19 minutes maybe. Not much longer than
20 that.

21 Q: Okay. And do you remember how much time
22 transpired, between David and Claudia
23 venturing out on a walk and when Michelle
24 arrived?

25 A: Well, I wasn't on the walk, so I don't

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1 know when Michelle arrived. But they
2 went on their walk about 15, 20 minutes
3 after David asked. After we all sort of
4 came up with this plan, it was only about
5 15 minutes-ish, that they left for their
6 walk.

7 Q: Okay. Did you interact with Michelle
8 Miles, when she arrived at that time?

9 A: After Michelle met up with David and
10 Claudia, she came inside and she and I
11 talked.

12 Q: Okay. Was she upset?

13 A: She was very upset. She was livid. And
14 I don't want to say she was yelling at
15 me, but she was very angry, about what
16 had gone down. And she had the Court
17 order in her hand and she was kind of,
18 waving it at me as, "have you read this
19 document" kind of thing, and shaking it
20 in my face.

21 Q: Okay. During this ---

22 A: Yeah.

23 Q: Sorry.

24 A: Sorry.

25 Q: During these events, at any time did John

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1 Strasswimmer call in, like on a telephone
2 line to speak to his mother?

3 A: I don't know about that.

4 Q: Okay.

5 A: I think, what I do know is when I, I
6 think I was just finished talking to you,
7 I came out and Claudia was sitting with
8 Joyce. And Joyce handed the phone to Dr.
9 Miles and I believe that it was John on
10 the phone, who was telling Claudia to not
11 go out with David.

12 Q: Okay. Could you interpret whether John
13 was very upset at that point?

14 A: Well, from his text message, he seemed
15 upset.

16 Q: Okay. All right. And I know you don't
17 have Exhibit A in front of you. We
18 referred back to that earlier, when the
19 other lawyers were asking you questions
20 to page 39 and 40 of the GAL documents,
21 your emails resigning. You did send a
22 follow up email, is that correct, to all
23 counsel, in this case about your
24 resignation?

25 A: Yes.

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1 Q: Okay. And why did you send that email?

2 A: Well, you know what, I'm not sure I'm
3 understanding the question. And I don't
4 have the document in front of me.

5 Q: Okay.

6 A: I sent the initial email resigning from
7 the case. And then, you're asking me if
8 I sent a follow up email?

9 Q: Yes. And do you remember sending a more
10 detailed email maybe the next day or a
11 couple days later, explaining more about
12 the reasons why you resigned?

13 A: Well, I know that both Lee Moore and
14 Reese, had asked for clarification on why
15 I was leaving. And I just honestly,
16 can't tell you, I can't remember who I
17 sent the email to.

18 Q: Okay.

19 A: I could certainly look in my documents,
20 but I don't remember that email.

21 Q: That's okay. Julie, during your time on
22 this case, what time period would you say
23 Dr. Miles was most receptive to visits
24 with David?

25 A: Well, he started the visits -- I'm just

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1 going to look, when we first started was
2 -- when was that? Okay. The first
3 visit was middle of December, December
4 13th. And I would say by the 15th, David
5 was able to sit quietly in the room with
6 her.

7 Q: The 15th of what month? I'm sorry.

8 A: I'm sorry. I'm skipping way ahead. And
9 I apologize. I'm looking at something
10 from January 15th. I'm looking at two
11 different documents. I was just trying
12 to figure out the first visit. The
13 original visit was mid-December. And
14 then, yeah, I mean, there was court
15 hearings and people traveling. And so I
16 think the next visit was probably not
17 until early January. That's when he
18 started being able to make more of an
19 effort to spend time with her.

20 Q: Is it accurate, to say that the more time
21 David King had opportunity to visit with
22 his wife, the more receptive Claudia
23 became?

24 A: Yes. Very much so. By the time I left,
25 I mean, there wasn't ever -- they just

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1 spent time together. There was no
2 question, about was Claudia unhappy or
3 being forced, or anything like that. No,
4 it was just very easy and sweet visits.

5 Q: And how would you describe how receptive
6 Claudia was to David the last week of
7 January?

8 A: Very receptive. She seemed, you know,
9 she was very happy to be with him and go
10 eat, have meals with him. It was good.

11 Q: And was that immediately prior, to the
12 events that led up to your resignation?

13 A: Yes.

14 Q: Okay. And you resigned about January 30?

15 A: Yeah.

16 Q: Okay. Thank you, Julie. I don't have
17 any more questions. There may be some
18 more questions from counsel.

19 A: Okay.

20 THE COURT: MR. BOYD, ANY FURTHER
21 QUESTIONS, SIR?

22 MR. BOYD: YES, YOUR HONOR.

23 **RE-DIRECT EXAMINATION**

24 **BY MR. BOYD:**

25 Q: Julie, thank you again for your time. I

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1 just have two brief questions in follow
2 up. First of all, you were asked about
3 whether you had an opinion, as I
4 understood the questioning, about Dr.
5 Miles placement, in the Michelle Miles
6 residence and you responded that you did
7 not feel able to opine about the layout,
8 as I recall you said the layout or words
9 to that effect.

10 A: Uh-huh.

11 Q: But as I understood your response, you
12 said you did have an opinion. Did I hear
13 you correctly?

14 A: Yes.

15 Q: Okay.

16 A: Yes.

17 Q: Well, I don't believe counsel asked you
18 for that opinion. Can you share that
19 opinion with the Court? And let me be
20 clear, the original question was, do you
21 have an opinion about Dr. Miles being
22 placed in the Michelle Miles residence?

23 A: Yes. My concern for Dr. Miles living
24 with Michelle would be, really managing
25 and coordinating the visits between David

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1 and Claudia. That would be my main
2 concern there. That it would be more
3 difficult for the two of them to spend
4 quality time together at Michelle's
5 house.

6 Q: And why did you feel that, that would be
7 a concern to you?

8 A: Because, Michelle doesn't trust David.
9 She feels that he makes bad choices and
10 she thinks that he would just let her do
11 anything that wasn't safe. And so I
12 don't think that Michelle would feel
13 comfortable letting the two of them spend
14 long periods of time together.

15 Q: Okay. Fair enough. You were also asked
16 a series of questions by Mr. Rhodes, who
17 represents Michelle about, what you
18 understood, and he specifically asked you
19 some questions about the introductory
20 background that you received when you
21 were initially retained in this matter
22 and whether that background included
23 certain, I'm going to refer to them as
24 alleged facts, because that's what they
25 are. And you went through that series of

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1 questions. But I just want to clarify
2 for the record, from whom did you receive
3 your introductory factual, I'm going to
4 use that term loosely, factual background
5 about this case?

6 A: Originally it was from Barbara at Lee's
7 office, Lee Moore's office.

8 Q: Okay. And Lee Moore, to your knowledge,
9 represents who in this case?

10 A: John.

11 Q: And so, I'll leave it at that. Mr.
12 Rhodes attempted to ask you if the
13 factual background included certain,
14 again, I'm going to clarify it, alleged
15 facts, and he went through a series of
16 questions with you. Let me ask you this
17 question. Did you learn anything today,
18 from the questions that you have been
19 asked by Mr. Rhodes or from any counsel,
20 or me in this matter today that -- Have
21 you learned any fact today from this
22 session that you didn't already know
23 before this phone call?

24 A: No.

25 Q: And has your testimony here today, or the

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1 questions that you've been asked, and I
2 would say the facts that you've learned,
3 but you've already testified you didn't
4 learn any, but the questions that you've
5 thought about and answered today, has
6 anything that you've heard here today, or
7 anything that you've thought about or
8 said today, changed any of your opinions
9 about this case?

10 A: No.

11 Q: No further questions for me, your honor.
12 Thank you, Julie.

13 THE COURT: THANK YOU, MS. HARRISON, DO YOU
14 HAVE FOLLOW UP
15 QUESTIONS?

16 MS. HARRISON: JUST ONE BRIEFLY.

17 **RE-CROSS EXAMINATION**

18 **BY MS. HARRISON:**

19 Q: Ms. Forkasdi, it's Angela Harrison again,
20 counsel for John Strasswimmer. Did I
21 hear you correctly that, you did not
22 believe that Dr. Miles was a fall risk?

23 A: I wasn't sure because I never saw it in
24 any of her medical documents.

25 Q: Did you review her documents admitting

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1 her to Franke Tobey Jones?

2 A: I did not. I attended a care conference,
3 where I learned some things about her
4 case.

5 Q: Had you been aware whether or not Dr.
6 Miles was a fall risk, would that have
7 changed either, advice you gave to Mr.
8 King or your feelings about whether or
9 not a caregiver should have more
10 voluntarily left those visitations?

11 MR. BOYD: I'M GOING TO OBJECT TO
12 THE FORM OF THAT
13 QUESTION, YOUR HONOR.

14 MS. HARRISON: I CAN REPHRASE THAT.

15 THE COURT: PLEASE REPHRASE THE
16 QUESTION.

17 Q: Let's assume that Dr. Miles was a fall
18 risk, if you had been aware of that fact,
19 would you have given Mr. Miles advice
20 different than what you gave him on how
21 to conduct these visits?

22 A: No.

23 Q: If Dr. Miles had in fact been a fall risk
24 and you had been aware of that. Would it
25 have been necessary to put some

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1 precautions in place, as to what if Dr.
2 Miles needed to go to the restroom?

3 A: All of that was -- We did discuss all of
4 that, you know, with David.

5 Q: Okay.

6 A: If Dr. Miles had to go to the bathroom,
7 the caregiver was right there, but during
8 the visit, Dr. Miles wasn't walking
9 around. She was either sitting in bed,
10 or sitting at a table.

11 MS. HARRISON: NO FURTHER QUESTIONS.

12 THE COURT: MR. RHODES?

13 MR. RHODES: I DON'T BELIEVE I HAVE
14 ANY FURTHER QUESTIONS
15 YOUR HONOR.

16 MS. LOCHOCKI: I JUST HAVE ONE
17 QUESTION.

18 **RE-CROSS EXAMINATION**

19 **BY MS. LOCHOCKI:**

20 Q: Julie, this is Bess Lochocki. Could you
21 please describe for the Court, the
22 lodging Claudia had at Franke Tobey
23 Jones? What was her room like?

24 A: Sure. It looked like it was a pretty
25 large room. It was at the end of the

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1 hall, the furthest from the nurses
2 station. And it had two big windows in
3 it, that it had a view, a far view of, I
4 think the mountains. I'm not sure, but
5 kind of a nice far view, but the close
6 view was of the dumpsters, and the
7 raccoons going through the dumpsters,
8 which we kind of laughed about together.
9 And in that room, was a hospital bed.
10 And then there was a little table with
11 two chairs there. And then a few weeks
12 into my time, Michelle had bought, I
13 believe two recliners, for Claudia's
14 room. And so there was then the two
15 recliners and the chair, in the room.

16 Q: Okay. Was Claudia in the skilled nursing
17 facility?

18 A: Yes.

19 Q: Okay. Could you describe what that
20 means, and what's the difference between
21 the skilled nursing facility and the
22 assisted living portion of Franke Tobey
23 Jones?

24 A: A skilled nursing facility is for someone
25 who is very seriously ill, who needs very

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1 intensive monitoring, and attention from
2 the nursing staff. Dr. Miles didn't
3 require that kind of care by the time I
4 came on. And then assisted living is
5 more independent living. Where the
6 individual has their private apartment.
7 But gets help with medication, sometimes
8 with bathing, but is independent. It's
9 more independent than in a skilled
10 nursing facility.

11 Q: Okay. Is it fair to say that the skilled
12 nursing facility was comparable to a
13 hospital room?

14 A: Yeah. I would say it was probably bigger
15 than a hospital room. Most hospital
16 rooms are smaller, but yeah. It was like
17 a hospital room, with a table and some
18 chairs.

19 Q: And were ---

20 A: It was a larger, larger size nursing home
21 room.

22 Q: Were nurses coming in and out? Were
23 nurses active in the hallway?

24 A: Yes.

25 Q: Okay. Thank you.

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1	THE COURT:	ANYTHING FURTHER FOR
2		THIS WITNESS ON THE
3		TELEPHONE, BEFORE WE
4		---
5	MR. BOYD:	NO, MA'AM.
6	MS. HARRISON:	NO, MA'AM.
7	THE COURT:	JULIE, I THINK WE ARE
8		DONE. THANK YOU SO
9		VERY MUCH.
10	MS. FORKASDI:	YOU'RE WELCOME.
11	THE COURT:	THANK YOU. HAVE A
12		GREAT NIGHT.
13	MS. FORKASDI:	OKAY. BYE-BYE.
14	THE COURT:	BYE-BYE THANK YOU. IT
15		IS 25 TILL SEVEN. IF
16		YOU WANT TO PROCEED
17		FURTHER, OR WOULD YOU
18		LIKE TO ADJOURN FOR THE
19		EVENING AND RECONVENE
20		TOMORROW AT NINE?
21	MS. HARRISON:	I WOULD LIKE TO
22		ADJOURN.
23	MR. RHODES:	YES, YOUR HONOR. I
24		WOULD LOVE TO FINISH
25		MORE, BUT I HAVE A

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1 PERSONAL FAMILY
2 COMMITMENT TONIGHT, AND
3 I REALLY HAVE ALREADY
4 COMPROMISED MY ABILITY
5 TO PARTICIPATE AT THIS
6 MOMENT. I WOULD LOVE
7 TO ADJOURN AT THIS
8 TIME. IF EVERYBODY'S
9 IN AGREEMENT TO DO IT.
10 THE COURT: WE WILL ADJOURN AND
11 RECONVENE TOMORROW
12 MORNING AT NINE AM.
13 THANK YOU VERY MUCH.
14 MR. RHODES: THANK YOU, JUDGE.
15 *****OFF THE RECORD*****
16 (6:35 PM)
17
18
19
20
21
22
23
24
25

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Day 3
Wednesday, April 3, 2019

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ROA 1256

1 **(RECONVENING MARY MICHELLE MILES' TESTIMONY.)**
2 THE COURT: THIS IS APRIL THE 3RD,
3 2019, DAY THREE OF THE
4 CLAUDIA T. MILES
5 MATTER. I BELIEVE WE
6 LEFT OFF WITH MS. MILES
7 ON THE STAND; IS THAT
8 CORRECT? REESE BOYD,
9 ARE YOU READY?
10 MR. BOYD: YES, MA'AM, THAT'S
11 CORRECT. JUST A BRIEF
12 HOUSEKEEPING ---
13 THE COURT: YES, PLEASE.
14 MR. BOYD: --- MEASURE, YOUR
15 HONOR. WE'VE HAD SOME
16 CONFERENCE THIS
17 MORNING, ALL COUNSEL,
18 AND I THINK WE'RE GOING
19 TO TRY TO DO TWO
20 TELEPHONE INTERVIEWS
21 DUE TO THE TIMING OF
22 THE WITNESSES. MR.
23 CLIFF TALL, ---
24 THE COURT: YES.
25 MR. BOYD: --- WHO YOUR HONOR

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ROA 1257

1 KNOWS, I THINK, IS
2 GOING FIRST, BESS?
3 TEN?
4 THE COURT: I HAVE HIM AT 10:00
5 A.M. ---
6 MR. BOYD: 10:00 A.M.
7 THE COURT: --- AND JOYCE AT
8 ELEVEN.
9 MR. BOYD: AND THEN JOYCE BITTOCK
10 AT ELEVEN, ---
11 MS. LOCHOCKI: THAT'S CORRECT, YOUR
12 HONOR.
13 MR. BOYD: --- IF EVERYBODY IS IN
14 AGREEMENT. SO WE WON'T
15 ACTUALLY HAVE MUCH TIME
16 TO DO CROSS, BUT I
17 SUGGEST WE START.
18 THE COURT: GREAT. MS. MILES, IF
19 YOU'LL PLEASE PLACE
20 YOUR LEFT HAND ON THE
21 BIBLE, RAISE YOUR RIGHT
22 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: MR. BOYD.
2 MR. BOYD: THANK YOU, YOUR HONOR.
3 YOUR HONOR, I'M GOING
4 TO USE THE LECTERN, IF
5 IT PLEASE THE COURT.
6 THE COURT: SURE.

7 **CROSS EXAMINATION**

8 **BY MR. BOYD:**
9 Q: Good morning, Ms. Miles.
10 A: Good morning.
11 MR. BOYD: YOUR HONOR, WERE YOU
12 GOING TO SWEAR THE
13 WITNESS IN?
14 THE COURT: I ALREADY HAVE.
15 MR. BOYD: I'M SORRY, I COMPLETELY
16 MISSED THAT. I'M IN
17 THE ZONE, YOUR HONOR.
18 Q: Ms. Miles, you've been sworn in. Let me
19 first -- I don't know that we've ever
20 been formally introduced. My name is
21 Reese Boyd. I'm sure you recognize by
22 now that I represent David King in this
23 matter. Let me first ask you a question.
24 Have you discussed your testimony that
25 you gave in court yesterday or this case

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ROA 1259

1 with anyone since you left the witness
2 stand yesterday?

3 A: No.

4 Q: I want to spend a little bit of time
5 going back through your testimony
6 yesterday and then I'll have a few more
7 questions, but we don't have a lot of
8 time before we're going to have to break
9 for the next witness, but we'll figure
10 out a way to make this work, and I'm
11 going to try not to keep you on the stand
12 too long. I've got a few questions,
13 several questions, in fact, that are
14 related to your testimony yesterday that
15 I just want to clarify and give you a
16 chance to help me understand what your
17 testimony is, frankly. First, tell me a
18 little bit about your background, if you
19 would.

20 A: What, what do you mean by my background?

21 Q: Well, let me be more specific, I
22 apologize. How about your educational
23 background, briefly. Let's start with
24 that, just very briefly.

25 A: Certainly. I completed high school. I

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1 attended culinary school. Do you want me
2 to migrate into my professional
3 background?

4 Q: So that's your educational background,
5 high school and culinary school?

6 A: Other than some continuing ed. or related
7 professional certification programs
8 throughout my career, correct.

9 Q: Tell me a little bit about your
10 professional background just briefly,
11 very brief.

12 A: Sure. So, initially, I was a chef, I
13 think a pretty accomplished one for
14 several years, enjoyed that very much in
15 my, in my early twenties. I then moved
16 into mortgage underwriting in, gosh, the
17 early nineties, was very successful at
18 that, became a senior underwriter at
19 Norwest, which was -- then became Wells
20 Fargo, had very high approval authority,
21 did a lot of delegated underwriting,
22 responsible for training others and doing
23 audits, due diligence audits, et cetera.
24 I also was a senior underwriter for
25 Columbia Bank. I sat on the loan

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1 committee, helped developed portfolio
2 programs, did audits, I worked with the
3 FDIC in, in both institutions on their
4 audits. I then moved into the sales side
5 of mortgages and also into the wealth
6 management side. I became a private
7 mortgage banker for Wells Fargo where I
8 had underwriting authority as a
9 salesperson up to a million dollars,
10 construction loan approval and worked
11 only with high net worth clients. I
12 became very skilled and adept at
13 analyzing tax returns, very complex tax
14 returns. I worked with high value, not
15 only wealth management customers, but
16 commercial bankers, et cetera. I then,
17 you know, the, the housing crash kind of
18 came and I tried to -- I decided I wanted
19 to shift my career. I took a position as
20 a -- I was vice-president at Columbia
21 Bank for mortgaging banking, and then I
22 became vice-president as a private banker
23 where I was given the largest portfolio
24 in a private bank group to manage, it was
25 nearly a hundred million in assets and

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1 loans, and I worked with the Columbia
2 Bank within that capacity as a private
3 banker for Columbia Bank for about a
4 year. It was also during the time when
5 my marriage was ending and I decided to
6 leave. I took a couple of months off,
7 and then I joined this really neat
8 company, 'cause I wanted to change
9 careers completely, called Zillow. It
10 weren't yet public and I have been
11 following them for several years, so I
12 joined their employment. I stayed with
13 them for six years. I had five
14 promotions while I was there. I enjoyed
15 that tremendously, I learned a lot, and I
16 left in September of 2017.

17 Q: You left in September of 2017?

18 A: Yes, sir.

19 Q: So when is the -- And I apologize, some
20 of these questions are going to seem
21 private, but I just have to ask some of
22 these questions for the record. When was
23 the last time that you were gainfully
24 employed, was that with Zillow?

25 A: Yes.

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ROA 1263

1 Q: What was your approximate income in 2018?

2 A: In 2018?

3 Q: Yes, ma'am.

4 A: Well, it was quite low. It was
5 unemployment. I would think that was
6 probably about \$9,000. I had residuals
7 from the negotiated settlement I
8 received.

9 Q: Sure, certainly.

10 A: And, yeah, that, that was it.

11 Q: What has been your income in 2019 thus
12 far? I understand we're only three
13 months ---

14 A: I've been, I've been living off my
15 savings and my credit cards.

16 Q: Well, you have a, -- and I didn't hear
17 you touch on it just now. Yesterday, in
18 your testimony, I heard you say that you
19 had been an auditor; is that fair?

20 A: Part of my job description at multiple
21 positions as an underwriter, part of the
22 job description is auditing, both
23 internally and externally, performing due
24 diligence, whether it be within the
25 department itself or on one occasion, I

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1 was flown to Arizona to do due diligence
2 for a branch which was closing. I also
3 had to prepare audit documents for the
4 FDIC and for our internal auditors. I
5 also had to occasionally audit for our
6 secondary market partners, Fannie Mae,
7 Freddie Mac, VA, and FHA, they would do
8 periodic audits. So I did not have a job
9 description as solely as an auditor, but
10 that was a portion of my job.

11 Q: So you had prepared audit documents for
12 the FDIC, you prepared audit documents
13 for Fannie Mae, Freddie Mac. I heard you
14 mention senior underwriter at the
15 institution that became Wells Fargo,
16 vice-president at Columbia Bank, vice-
17 president at a private bank. This is
18 very impressive.

19 A: Thank you. I worked hard.

20 Q: Is it fair to say that as it relates to
21 financial matters, you are not a babe in
22 the financial woods, you have significant
23 financial experience?

24 A: I feel that significant is a subjective
25 term. I'm proud of what I accomplished.

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ROA 1265

1 I certainly know that there are people
2 with vastly more experience than I do,
3 but without a college education, being
4 mainly self-taught, I, I did well.

5 Q: But if you had served as an auditor for
6 the FDIC or for Freddie Mae [sic] or
7 Fannie Mac [sic] and somebody handed you
8 a, for instance, a stack of papers on a
9 desk and said, "These are our corporate
10 books," you know your way around; is that
11 a fair statement?

12 A: No. Let me clarify what I, what I meant
13 by auditing. My role as a bank employee
14 and a bank officer when I would prepare
15 documents, that would be gathering
16 documents, ordering documents, putting
17 them in order, not necessarily providing
18 justification or use statements,
19 occasionally being interviewed by
20 auditors, but at all of those
21 institutions we had on-staff a complete
22 team of auditors.

23 Q: Sure.

24 A: I was just involved in the process.

25 Q: Let's take a step back. Let me ask you a

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1 question. What is your understanding --
2 I'll just ask you a few finance
3 accounting terms. What is your
4 understanding of a balance sheet? Do you
5 know what a balance sheet is?
6 A: I, I have an understanding of a balance
7 sheet.
8 Q: And what is that understanding?
9 A: That's an asset liability sheet.
10 Q: It shows the assets on one column, the
11 liabilities on another column or however
12 it's arranged?
13 A: Uh-huh (affirmative response).
14 Q: What's the purpose of that document, in
15 your understanding?
16 A: To show the moment in time the assets and
17 liabilities of an individual or a
18 corporation, or an entity, I should say.
19 Q: Exactly. It's a snapshot, correct?
20 A: Uh-huh (affirmative response).
21 Q: Let's compare that to an income
22 statement. What's your understanding of
23 an income statement?
24 A: Well, an income statement, I, what I --
25 do you mean a profit and loss statement?

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1 Q: There's a number of terms, income
2 statement, profit/loss, P&L, yes, profit/
3 and loss.
4 A: I'm familiar with profit/loss?
5 Q: Sure, absolutely. What's a profit/loss
6 statement?
7 A: So a profit and loss statement shows
8 income and expenditures over a period of
9 time, during a period of time.
10 Q: How is that period of time determined?
11 A: By the individual preparing it or
12 requesting it.
13 Q: And I'm just asking you to help me
14 understand your understanding, there's a
15 starting point, correct, and then there's
16 inflows and outflows, and then there's an
17 ending point, correct?
18 A: Uh-huh (affirmative response), correct.
19 Q: And that's all clear in your mind?
20 A: What's all clear?
21 Q: I mean, you obviously understand that
22 there's a start, there are ins, there are
23 outs, and there's an end?
24 A: Yes. Yes, I understand the concept of
25 and the purpose of a P&L.

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1 Q: What is your understanding, how is an
2 accounting different from a P&L? What's
3 an accounting and what's your
4 understanding of that word?
5 A: I don't have an understanding of how an
6 accounting is different from a P&L.
7 Q: Would they not essentially be the same?
8 A: I don't have an understanding of how an
9 accounting is different from a P&L.
10 Q: Well, if I ask you for an accounting at
11 this moment, what would you understand me
12 to be asking you for?
13 A: That term, unfortunately, is too vague
14 for me.
15 Q: Well, you get a bank statement from your
16 bank every month, correct?
17 A: I do.
18 Q: So the bank ---
19 A: Some every three months, but yes.
20 Q: The bank provides you every month an
21 accounting of the business you have
22 transacted; is that not correct?
23 A: If you -- yes, I, I suppose that is an
24 example of an accounting. I'm not
25 attempting to -- just accounting, to me,

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1 is, is kind of vague term, so in the
2 context of this discussion, I'd like to
3 understand.
4 Q: I'm just simply trying to help us define
5 some common terms, ---
6 A: Okay.
7 Q: --- Ms. Miles. So you receive bank
8 statements regularly and I trust that you
9 know how to read a bank statement,
10 correct?
11 A: I do.
12 Q: Okay. And, so, there's a starting
13 balance, correct?
14 A: Right.
15 Q: And there's a list of deposits, and then
16 there is a list of checks or something
17 similar, debits, credits?
18 A: There's debits and there's credits.
19 Q: Obviously, we can interchange multiple
20 terms for these concepts.
21 A: Start, debit, credit, end, yes.
22 Q: And, then, usually it concludes with an
23 ending balance, correct?
24 A: Correct.
25 Q: And that simple document, you understand

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1 that, I assume?

2 A: I understand that that's the format of

3 most bank statements.

4 Q: Certainly, you could not have had the

5 career that you have had in finance if

6 you did not understand these basic

7 accounting concepts, correct?

8 A: These basic account concepts meaning

9 understanding what a P&L, a balance sheet

10 ---

11 Q: Yes, absolutely.

12 A: --- and a bank statement is?

13 Q: Yes.

14 A: Absolutely, you are accurate.

15 Q: So let me ask you to take a look at what

16 was introduced by your counsel.

17 MR. BOYD: MAY I APPROACH, YOUR

18 HONOR?

19 THE COURT: YES, SIR.

20 Q: I'd ask you to take a look at what your

21 counsel introduced to this Court as your

22 Exhibit Number 1.

23 THE COURT: MR. BOYD, EXCUSE ME, I

24 HATE TO INTERRUPT YOU,

25 I'M GOING TO GO AHEAD

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1 AND GET THE CONFERENCE
2 CALL READY. IT'LL TAKE
3 ME JUST MOMENT.
4 MR. BOYD: YES, MA'AM. DO YOU
5 WANT ME TO STOP, YOUR
6 HONOR, OR ---
7 THE COURT: FOR JUST A SECOND, ---
8 MR. BOYD: YES.
9 THE COURT: --- AND THAT WAY WHEN
10 MR. TALL CALLS IN,
11 WE'LL BE ABLE TO ---
12 *****OFF THE RECORD*****
13 (ON THE RECORD.)
14 THE COURT: OKAY, READY TO PROCEED.
15 MS. LOCHOCKI: YOUR HONOR, EXCUSE ME,
16 ---
17 THE COURT: YES.
18 MS. LOCHOCKI: --- COULD I CONFIRM
19 WITH YOU ON THE PHONE
20 NUMBER, 915 ---
21 THE COURT: --- 5699.
22 MS. LOCHOCKI: 5699.
23 THE COURT: I'M SORRY, MR. BOYD.
24 THANK YOU.
25 MR. BOYD: NO PROBLEM, YOUR HONOR.

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1 **MR. BOYD CONTINUES:**

2 Q: So, Ms. Miles, I want to ask you, you've
3 obviously seen that document, correct?

4 A: Yes, I have.

5 Q: And do you know when that document was
6 produced to the parties in this case?

7 A: I believe it was produced to the parties
8 in this case, to the Guardian ad Litem,
9 December, excuse me, January 21st.

10 Q: And as you understand the term, as we've
11 discussed it today, does that document
12 constitute an accounting?

13 A: This, this -- the, the term, accounting,
14 is, again, to me, a very broad and
15 defined term. So what this represents to
16 me is a summary of accounts in a pretty
17 ordered fashion defined by institution,
18 so, you know, I don't mean to, again, be
19 difficult whatsoever, just the term,
20 accounting, is so broad.

21 Q: Let me ask you this question.

22 A: Uh-huh (affirmative response).

23 MR. BOYD: AND, YOUR HONOR, IF WE
24 NEED TO STOP AT ANY
25 TIME, I ---

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1 THE COURT: NO, YOU'RE FINE. WE'LL
2 HEAR THE BEEP.
3 MR. BOYD: OKAY.
4 Q: Does it have a beginning balance?
5 A: In some cases, I mean, does this entire
6 document have a beginning balance?
7 Q: Is there a single balance that represents
8 the assets that you're reporting?
9 A: Is there a summary? Are you asking me is
10 there a summary of all ---
11 Q: I'm asking you, does that constitute, in
12 your mind, an accounting, and if it does,
13 all you have to do is say yes, it's
14 accounting, if it's ---
15 A: It is, I suppose ---
16 Q: --- sufficient in your mind.
17 A: It is an accounting, sure. Yeah, it's a
18 summary of accounts, so that could fall
19 into that.
20 Q: Does it reflect outflows from any of the
21 accounts in question?
22 A: No, it appears to be a static
23 representation such as a balance sheet
24 would reflect. I'm not saying that this
25 is a balance sheet, but this appears to

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1 be a static representation of the moment
2 in time for known accounts and known
3 balances at known institutions.

4 Q: So it's really going back to the terms
5 that we've been discussing, it's really
6 more of a balance sheet than an income
7 statement or an accounting, correct?

8 A: It is more of a balance sheet format and
9 presentation than a P&L. I can't speak
10 to the third term, because, again, that's
11 not a familiar term for me.

12 Q: Let me ask you this.

13 A: Uh-huh (affirmative response).

14 Q: If you were working as a ---

15 MR. BOYD: IS THAT IT, YOUR HONOR?

16 THE COURT: GOOD MORNING, MR. TALL.
17 GIVE US ONE SECOND,
18 PLEASE, SIR.

19 MR. TALL: THANK YOU.

20 THE COURT: THANK YOU.

21 ******OFF THE RECORD******

22 **(ON THE RECORD 1:15 P.M.)**

23 **#THE TESTIMONY OF CLIFFORD TALL IS VIA**
24 **TELEPHONE.**

25 **(10:00 AM - 10:45 AM)**

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ROA 1275

1	THE COURT:	GOOD MORNING, MR. TALL.
2		GIVE US ONE SECOND
3		PLEASE, SIR.
4	MR. TALL:	THANK YOU.
5	THE COURT:	THANK YOU.
6	MR. BOYD:	WOULD YOU LIKE THE
7		WITNESS TO STEP DOWN?
8	THE COURT:	YES, I THINK THAT WOULD
9		BE GOOD AT THIS TIME.
10	MR. BOYD:	THANK YOU.
11	THE COURT:	MR. TALL, WE ARE ALL
12		HERE IN THE COURTROOM
13		THIS MORNING. THIS IS
14		THE MATTER OF CLAUDIA
15		MILES. I APPRECIATE
16		YOU CALLING IN TODAY.
17	MR. TALL:	THANK YOU, YOUR HONOR.
18	THE COURT:	AND IF YOU DON'T MIND,
19		IF YOU WILL RAISE YOUR
20		RIGHT HAND AND ALLOW ME
21		TO SWEAR YOU IN.
22	MR. TALL:	YES, MA'AM.
23	THE COURT:	YOU SWEAR THE TESTIMONY
24		YOU'RE ABOUT TO GIVE TO
25		BE THE TRUTH, THE WHOLE

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1 TRUTH AND NOTHING BUT
2 THE TRUTH, SO HELP YOU
3 GOD?
4 MR. TALL: I DO.
5 THE COURT: PLEASE STATE YOUR NAME,
6 SIR.
7 MR. TALL: CLIFFORD TALL.
8 THE COURT: THANK YOU.
9 MS. LOCHOCKI: YOUR HONOR, THIS IS MY
10 WITNESS.
11 THE COURT: OKAY, THAT WAS MY NEXT
12 QUESTION. THANK YOU.
13 MR. TALL: I'M SORRY, YOUR HONOR.
14 I DIDN'T HEAR.
15 THE COURT: MS. BESS LOCHOCKI IS
16 STANDING HERE AND SHE
17 WILL ASK YOU SOME
18 QUESTIONS, SIR. AND
19 I'M GOING TO TRY TO
20 MAKE YOUR VOICE LOUD
21 ENOUGH FOR EVERYONE TO
22 HEAR AND TELL US IF YOU
23 CANNOT HEAR US, AS
24 WELL.
25 CLIFFORD TALL, AFTER HAVING BEEN CALLED

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1 TO THE STAND AND DULY SWORN TESTIFIED AS
2 FOLLOWS:

3 **DIRECT EXAMINATION**

4 **BY MS. LOCHOCKI:**

5 Q: Good morning, Mr. Tall. This is Attorney
6 Bess Lochocki. Can you hear me?

7 A: I can. Thank you.

8 Q: How are you this morning?

9 A: Doing well.

10 Q: I am calling to ask you some questions
11 about a client of yours, Claudia Troyer
12 Miles. Do you recognize that name?

13 A: Yes.

14 Q: Did you prepare any power of attorney
15 documents for Claudia Miles?

16 A: I did.

17 Q: Okay. Could you tell us from your memory
18 or if you're checking a file, if you
19 could tell us what you're checking, what
20 documents you prepared for her and if you
21 know the year that you prepared them?

22 A: Oh, I apologize. I don't have the file
23 in front of me. I want to think that
24 it's maybe 2008, but in addition to a
25 trust document and a pour-over will and a

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1 memorandum, I did prepare two powers of
2 attorney that you're referring to, one
3 for making financial decisions, one for
4 making healthcare decisions.

5 Q: Okay.

6 A: Now, I do have the file in front of me so
7 I can be more specific and April of 2008
8 was when the documents were prepared.

9 Q: Great, thank you. And Mr. Tall, we have
10 exhibits and court documents in front of
11 us that obviously you do not have, but
12 I'm going to just point the Court to the
13 GALs documents in Exhibit A, just pages
14 17 through 20, which is a transcription
15 of two voicemails that you sent me, Mr.
16 Tall. Do you remember sending me, first
17 of all, a voicemail ---

18 MS. HARRISON: OBJECTION, YOUR HONOR.

19 MR. RHODES: YOUR HONOR.

20 MS. HARRISON: WE WOULD OBJECT TO ANY
21 TESTIMONY BEING IN THE
22 RECORD RELATED TO
23 PRIVILEGED INFORMATION
24 BETWEEN AN ATTORNEY AND
25 CLIENT. THAT

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1 INFORMATION IS
2 PROTECTED BY RULE 1.6
3 OF THE PROFESSIONAL
4 RULES OF CONDUCT, ALONG
5 WITH THE ATTORNEY-
6 CLIENT PRIVILEGE. BOTH
7 OF THOSE, THAT ANY
8 WAIVER UNDER THOSE TWO
9 DOCTRINES CAN ONLY BE
10 MADE BY THE CLIENT, AND
11 THE CLIENT IS UNABLE
12 AND HAS NOT MADE SUCH A
13 WAIVER THAT WE ARE
14 AWARE OF.
15 MR. RHODES: GOING TO SAY THE SAME
16 THING, YOUR HONOR.
17 THE COURT: Thank you.
18 MR. BOYD: YOUR HONOR, I BELIEVE
19 THE ---
20 THE COURT: OKAY.
21 MR. BOYD: MAY I?
22 THE COURT: YES.
23 MR. BOYD: I BELIEVE THE CASE LAW
24 ON THIS POINT IS CLEAR,
25 YOUR HONOR. THE

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1 PRIVILEGE SURVIVES THE
2 INCAPACITY OF THE
3 INDIVIDUAL, AND THE
4 PRIVILEGE RESIDES WITH
5 THOSE COURT-APPOINTED
6 INDIVIDUALS OR OTHER
7 GUARDIANS OR
8 CONSERVATORS WHO ARE
9 SUBSEQUENTLY APPOINTED
10 TO REPRESENT THE
11 INTEREST OF THAT
12 INDIVIDUAL. JUST
13 BECAUSE YOU MAY BECOME
14 INCAPACITATED DOES NOT
15 MEAN THAT YOUR
16 ATTORNEY-CLIENT
17 PRIVILEGE DOCUMENTS GET
18 DROPPED IN A HOLE,
19 NEVER TO BE RESUMED.
20 THE PRIVILEGE LIVES ON,
21 YOUR HONOR. THE CASE
22 LAW IS VERY CLEAR AND
23 WE CAN TAKE A BREAK,
24 AND I CAN GO PULL THE
25 CASE LAW, BUT THIS IS

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1 NOT A DEBATABLE
2 QUESTION. THE
3 PRIVILEGE SURVIVES THE
4 INCAPACITY OF THE
5 INDIVIDUAL AND THE
6 PRIVILEGE AUTOMATICALLY
7 TRANSFERS TO PEOPLE
8 LIKE MS. LOCHOCKI, WHO
9 ARE APPOINTED TO
10 REPRESENT THE
11 INDIVIDUAL HERE TODAY.
12 AND THEY'RE HERE
13 SEEKING HER INCAPACITY,
14 BY THE WAY. SO IT'S
15 RATHER CONVENIENT FOR
16 THEM TO SUGGEST TO THIS
17 COURT THAT HER ESTATE
18 PLAN AND THAT PRIVILEGE
19 HAS DIED, BUT IT'S
20 SIMPLY NOT THE RULE.
21 SHE OWNS THE PRIVILEGE
22 AND SHE CAN WAIVE THAT
23 PRIVILEGE ON DR. MILES'
24 BEHALF FOR PURPOSES OF
25 THIS DISCUSSION.

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1	THE COURT:	THANK YOU. DO YOU
2		MIND, MR. BOYD, PULLING
3		THAT CASE LAW SO THAT
4		WE CAN HAVE IT FOR THE
5		RECORD?
6	MR. BOYD:	I WILL, CERTAINLY, YOUR
7		HONOR.
8	THE COURT:	THANK YOU. IT'LL JUST
9		TAKE A MOMENT TO GET
10		THAT.
11	MS. HARRISON:	AND YOUR HONOR, I WANT
12		TO MAKE CLEAR THAT I
13		DON'T DISAGREE THAT THE
14		PRIVILEGE SURVIVES
15		INCAPACITY. WHAT I
16		DISAGREE WITH MR. BOYD
17		ABOUT IS WHO GETS TO
18		WAIVE THAT PRIVILEGE ON
19		BEHALF OF DR. MILES AND
20		I WAS NOT ABLE TO
21		LOCATE ANY CASE THAT
22		SAID THAT THE GUARDIAN
23		AD LITEM COULD WAIVE
24		THAT PRIVILEGE ON
25		BEHALF OF ANYONE.

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ROA 1283

1 MR. RHODES : CORRECT .
2 MS. LOCHOCKI : YOUR HONOR, THE
3 PETITIONER'S COUNSEL IS
4 ARGUING TO UPHOLD A
5 PRIVILEGE TO DISCOURAGE
6 DISCLOSING INFORMATION
7 THAT DIRECTLY IMPACTS
8 THE ISSUE BEFORE THE
9 COURT AS TO WHETHER
10 CLAUDIA TROYER MILES
11 WILLINGLY LEFT
12 WASHINGTON STATE AROUND
13 NOVEMBER 8TH, 2018, AND
14 RETURNED TO SOUTH
15 CAROLINA WITH HER
16 HUSBAND. AS HER
17 ADVOCATE AND GUARDIAN
18 AD LITEM APPOINTED, I
19 HAVE REVIEWED THE
20 INFORMATION THAT I AM
21 TRYING TO PRESENT TO
22 THE COURT AND I FIND
23 THIS INFORMATION IS
24 ABSOLUTELY CRITICAL TO
25 THE COURT'S REVIEW ON

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ROA 1285

1 A: She had told me it was from Washington
2 State.

3 Q: Could you explain to the Court what that
4 call consisted of?

5 A: Yes. Dr. Miles had been in Washington
6 State to confer with some physicians
7 about her condition and she shared with
8 me something to the effect that she
9 preferred to be at home in South
10 Carolina, that the services that were
11 available in Washington State were not
12 better than what she could receive while
13 she was here.

14 Q: Did she have any concerns about traveling
15 back to South Carolina?

16 A: I didn't hear them from her, but I raised
17 concerns with her and I had the
18 impression that she understood those
19 concerns that I raised.

20 Q: Did you ask Dr. Miles any questions to
21 evaluate her mental capacity during that
22 call?

23 A: Not so much asked her questions, but we
24 had a conversation. And I shared with
25 her my concern that she was likely going

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1 to disappoint some members of her family
2 by returning to South Carolina, and that
3 there was likely going to be a contest
4 regarding whether or not she had the
5 ability to make a decision to return to
6 South Carolina. I shared with her
7 concerns that I had that, that if her
8 husband was assisting in her return to
9 South Carolina, he may likely be the
10 subject of criticism, that he was
11 attempting to influence her, and that the
12 Court and others would always be
13 interested to know whether the decision-
14 making was hers. And I selected an
15 example, which I often give to clients.
16 It's a little silly, perhaps, but I often
17 remind clients who don't focus on how
18 important sometimes these issues are.
19 And so, I said something like, "If we
20 were going out for pizza, you have to be
21 the one to decide whether there are
22 anchovies on the pizza or not." And she
23 laughed, which gave me the impression
24 that she understood that it's important
25 for others when she's about to make a

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1 decision, when a client's about to make a
2 decision, that it's clear that the client
3 is making the decision, and not that
4 others are trying to influence the client
5 one way or another. She said she
6 understood.

7 In that regard, I did
8 two things. One is I encouraged her to
9 consider seeing a Washington State
10 attorney, who could evaluate her
11 capabilities. And I also made a trip not
12 far from my office to see her physician,
13 who I am familiar with. And so, I went
14 to her treating physician's office to see
15 if he potentially would get on the phone
16 and with his skills make an evaluation as
17 to whether or not she was in her proper
18 mind, whether we were dealing with a
19 lucid interval. And this was because Dr.
20 Miles had recently had surgery associated
21 with cancer and that it had been the
22 subject of discussion among many family
23 members that she had lost the capability
24 to make decisions. And now, she was
25 trying to make a large decision about

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ROA 1288

1 leaving Washington State and coming back
2 to South Carolina, that it was a smart
3 thing that she demonstrate her abilities
4 in that regard. Otherwise, there was
5 likely going to be a contest.

6 Q: Thank you, Mr. Tall. And did her
7 physician get in contact with her?

8 A: My understanding is that his office may
9 have. I was not able to see him. He was
10 busy with other patients, but I did get
11 the understanding that an appointment had
12 been made. The doctor is Chad Huberty at
13 the corner of 82nd Avenue and the 17
14 Bypass, and it did come to my attention
15 that some appointment had been made for
16 Dr. Miles to see Dr. Huberty on the
17 following day, on presumption that she
18 had decided to come from Washington State
19 to South Carolina.

20 Q: Thank you, Mr. Tall. To your knowledge,
21 was David King present? Was David King
22 in Dr. Miles' presence during this phone
23 call with you?

24 A: Yes, I had spoken with him, as well. I
25 believe they might've been on a

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ROA 1289

1 speakerphone.

2 Q: Okay. How did the call with Dr. Miles
3 end?

4 A: I took an additional step besides
5 speaking with her, besides going to Dr.
6 Huberty's office. At her direction, I
7 prepared a new healthcare power of
8 attorney. She had indicated that she
9 wanted her husband, David King, to be the
10 only agent under that power of attorney
11 and to revise the power of attorney which
12 had both her husband and her daughter on
13 that power of attorney. I don't believe
14 David King was her husband at the time in
15 2008 when that power of attorney had been
16 signed, so there were co-agents. And I
17 thought it best, instead of following her
18 instructions to prepare a power of
19 attorney that listed only David King as
20 the agent, to send up to Dr. Miles' hotel
21 a blank South Carolina power of attorney
22 and that was my way of encouraging, if
23 Dr. Miles was going to sign a new power
24 of attorney, it would be probably better
25 that, in front of witnesses that had to

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1 sign that document, she again confirmed
2 her wishes to have her husband as the
3 agent. Rather than her bringing a pre-
4 prepared document to witnesses, I thought
5 her expression of what she wanted as to
6 who she wanted as the agent in front of
7 Washington State witnesses would be more
8 powerful, more helpful to her and that's
9 why I sent to her hotel a blank form.

10 Q: And you did, Mr. Tall, your office faxed
11 a blank healthcare power of attorney to a
12 hotel in Washington, where you understood
13 Dr. Miles was staying?

14 A: Yes, we tried to send that by email and
15 they encouraged us to send it by fax
16 instead.

17 Q: Okay. Did you receive any other contact
18 from Dr. Miles in the following days?

19 A: The following day, I received a phone
20 message from Dr. Miles. She had called
21 my cellphone. I was not available to
22 pick up the line when she called. And I
23 think there's something of a transcript
24 that we put together as to what she said,
25 essentially that she was back in South

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1 Carolina and I saved the voicemail, and I
2 think we had it transcribed.

3 Q: Is that the voicemail that you emailed to
4 me at my request, Mr. Tall?

5 A: Yeah.

6 MS. LOCHOCKI: AND INCIDENTALLY, YOUR
7 HONOR, THAT IS THE
8 TRANSCRIBED VOICEMAIL
9 ON PAGE 19 AND I DO
10 HAVE THE AUDIO
11 RECORDING ON MY LAPTOP,
12 IF THE COURT WOULD LIKE
13 TO HEAR IT. I DON'T
14 HAVE ANYMORE QUESTIONS
15 FOR MR. TALL.

16 Q: Mr. Tall, please answer questions from
17 Counsel.

18 A: Thank you.

19 THE COURT: MS. HARRISON.

20 **CROSS EXAMINATION**

21 **BY MS. HARRISON:**

22 Q: Good morning, Mr. Tall. This is Angela
23 Harrison. I am stepping in for Attorney
24 Lee Moore and I represent the Petitioner,
25 John Strasswimmer, in this action. How

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1 are you doing this morning?

2 A: I'm well. Thank you.

3 Q: Thanks for being available for us. You
4 indicated that you sent a blank power of
5 attorney form to Dr. Miles. Did you have
6 concerns about her capacity at that time?

7 A: I don't think I put a judgment on it,
8 except to myself remark that she seemed
9 to be clear of mind. She seemed to
10 understand the concept of there likely
11 being a contest and her husband being the
12 subject of that contest in that many
13 people who had concerns about her
14 capacity would likely question that
15 capacity. So, my understanding from our
16 conversation is that she understood the
17 likelihood of there being a contest. And
18 if you're asking me whether I made a
19 judgment as to whether or not she was
20 lucid and capable of signing a document,
21 I would say that, in the brief
22 conversation I had with her, I was
23 impressed with her abilities, but I
24 thought how much more powerful it would
25 be that, that if she was in the presence

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1 of people who were witnesses and they
2 could question what she was doing with a
3 new document, that that would be the
4 essential part of determining capability
5 to sign a document. So, I sort of let
6 myself off the hook. I wasn't seeing
7 her. We only had a brief conversation
8 and to accomplish what she and I were
9 talking about, it would require her
10 signature in the presence of witnesses,
11 who would've had a greater opportunity to
12 evaluate her than I would've had in the
13 brief conversation that we shared.

14 Q: And to your knowledge, after you sent the
15 blank power of attorney to the hotel --
16 By the way, was that on the same date
17 that you had the telephone conversation
18 with her?

19 A: Yes. It was an afternoon, probably
20 something afternoon here, but of course I
21 recognize there's a three-hour time
22 difference. So it might've been
23 somewhere around the noon hour in the
24 West Coast. And so, following that
25 telephone conversation, my trip to Dr.

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1 Miles' treating physician, I then
2 forwarded this document to the hotel. I
3 think we also made an effort to see if we
4 could locate some Washington State
5 attorneys who can be available in short
6 notice and we weren't successful in doing
7 that.

8 Q: Was that a weekday or a weekend?

9 A: I'm pretty clear it was a Wednesday or a
10 Thursday afternoon.

11 Q: And to your ---

12 A: Thursday afternoon.

13 Q: Oh, I apologize. I didn't mean to cut
14 you off. To your knowledge, did Dr.
15 Miles ever sign another healthcare power
16 of attorney?

17 A: I don't know whether she did or not.

18 Q: But you've never been provided with a
19 newer power of attorney that she
20 executed?

21 A: That's correct. I have not been provided
22 with that.

23 Q: Did you ever receive any written
24 correspondence that she had revoked that
25 healthcare power of attorney that was in

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1 place, that was executed in 2008?

2 A: I have not received anything like that.

3 Q: Was that the first contact that you had
4 had with Dr. Miles after her surgery in
5 October?

6 A: Yes, I think that's correct. There had
7 been a time after her surgery on a
8 weekend where, on a number of occasions,
9 I visited her residence. Her husband,
10 her son and daughter were all present.
11 And then, after my visit to her
12 residence, it became my understanding
13 that she had traveled to Washington
14 State. And the first time I had
15 communicated with her after the time of
16 visiting with her in her residence
17 following her surgery was that telephone
18 conversation that we've described.

19 Q: Okay. Did you have an opportunity to
20 view Dr. Miles when you were at her home
21 in October after her surgery?

22 A: Yes.

23 Q: And what was her condition at that time?

24 A: Let's see. I would say that she was
25 recovering. I would say that she

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1 continued to have an interest in what was
2 going on. I recall some of the parties
3 discussing with her the options of
4 remaining in South Carolina, traveling to
5 Washington State. I recall her repeating
6 a question that had been presented to
7 her. She gave the impression of someone
8 who hadn't slept well, who you had to be
9 careful to describe things to her. I can
10 share with you that the financial power
11 of attorney I had prepared was one that
12 lawyers refer to as a springing power of
13 attorney, which is to say that agents
14 don't have authority until there is a
15 determination of incapacity. And in the
16 document I prepared, it called for two
17 physicians to reach a decision about
18 incapacity so that the agents could start
19 handling things of a financial nature.
20 And there was discussion between the
21 husband and two children that I should
22 help them with their collective
23 assistance to Dr. Miles, and in that
24 regard, I went and prepared the kind of
25 statement which a physician who would

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1 further examine Dr. Miles might sign to
2 establish incapacity under this springing
3 power of attorney.

4 So, the way in which I
5 would say Dr. Miles was demonstrating a
6 lack of capability, some lack of
7 functioning, as I say, she gave the
8 impression of being someone deprived of
9 sleep, not exactly understanding what
10 someone was saying to them, but I did
11 recall her asking again for someone to
12 repeat what was said. The kind of thing
13 that I would not have felt uncomfortable
14 if someone said, "This is a person who is
15 no longer able to handle her finances."
16 Again, that was going to be determined by
17 some physicians who would examine her,
18 according to terms of the springing power
19 of attorney, but that gives you the
20 impression of how she was demonstrating
21 abilities when I visited with her in
22 October. And I would say that her
23 responsiveness to me on the phone during
24 our November telephone conversation
25 showed a marked difference from the

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1 person that I saw when I visited with her
2 in October of 2018.

3 Q: And when you previously said that, at
4 that meeting in October at Dr. Miles'
5 house, that many parties were discussing
6 with Dr. Miles and I just want that to be
7 clear, was that the two children, John
8 and Michelle, along with the husband,
9 David?

10 A: I think those are the only three people
11 that I recall having been there and I
12 think I made three trips in the course of
13 a couple of days.

14 Q: And did anyone else seek your advice on
15 this matter other than at the family
16 meeting and then on the phone with Dr.
17 Miles?

18 A: Any other person asking me for my opinion
19 about Dr. Miles?

20 Q: At the time in October when these family
21 meetings were occurring, other than the
22 family meetings that you had with John
23 and Michelle and David, did any of the
24 parties seek your advice independently?

25 A: About Dr. Miles' capabilities?

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1 Q: About her condition or amending documents
2 or having physicians declare her
3 incapacitated?

4 A: I don't recall anyone asking me to offer
5 my opinion about her incapacity.

6 Q: Did you ever meet with Mr. King privately
7 related to this matter without John and
8 Michelle, or Dr. Miles?

9 A: No, I did not meet with him.

10 Q: Okay, no questions. Thank you so much,
11 Mr. Tall.

12 MR. RHODES: JUST A MOMENT, YOUR
13 HONOR.

14 THE COURT: MR. TALL, MR. RHODES
15 WILL BE QUESTIONING YOU
16 IN JUST A MOMENT.

17 MR. TALL: THANK YOU.

18 MR. RHODES: YOUR HONOR, I ACTUALLY
19 HAVE NO QUESTIONS FOR
20 THIS WITNESS.

21 THE COURT: OKAY. HE HAS NO
22 QUESTIONS. MR. BOYD.

23 **CROSS EXAMINATION**

24 **BY MR. BOYD:**

25 Q: Mr. Tall, good morning, this is Reece

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1 Boyd.

2 A: Mr. Boyd, hello.

3 Q: Just a couple of very brief follow up
4 questions. First of all, do you recall
5 earlier preparing an affidavit in this
6 case? I believe it was in support of a
7 motion and just to clarify again, I
8 represent David King in this matter, the
9 husband, but do you recall preparing an
10 affidavit? It was actually prepared, Mr.
11 Tall, on the 7th of January and I believe
12 it was filed later. It was filed in
13 March. Do you recall preparing that
14 affidavit in relation to this case?

15 A: I do.

16 Q: Do you happen to have a copy of that
17 affidavit with you?

18 A: I do.

19 Q: Okay. Let me ask you, if you would, to
20 take a moment if you're not already --
21 I'm sure you're familiar generally with
22 the contents of that affidavit, but if
23 necessary, take a moment to refresh what
24 you had set out in that affidavit, if you
25 would, please.

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ROA 1301

1 A: All right, I'm familiar.

2 Q: Okay. Is there anything, and again, you
3 recall executing this affidavit. Do you
4 recall -- Let me ask you this question.
5 Is there anything in that affidavit that
6 you previously wrote, have you learned
7 anything in this case or acquired any
8 additional information or for any reason,
9 are there any statements that you set
10 forth in that affidavit that you
11 wouldn't, that you would find not, that
12 you would not be able to set forth in an
13 affidavit today? Has your opinions or
14 your recollections or any factual
15 assertions that you've set forth in that
16 affidavit, have any of those items
17 changed in the intervening time since
18 January when you executed that affidavit?

19 A: I don't have any additional information
20 that would cause me to want to change
21 what's in this affidavit.

22 Q: Okay.

23 MR. BOYD: YOUR HONOR, ON THE
24 BASIS, AND THIS IS
25 ALREADY ON FILE WITH

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1 THE COURT, BUT ON THE
2 BASIS OF MR. TALL'S
3 TESTIMONY, I WOULD ASK
4 THAT THIS AFFIDAVIT
5 THAT'S ON FILE WITH THE
6 COURT BE ADMITTED INTO
7 EVIDENCE IN THIS
8 PROCEEDING.
9 THE COURT: ANY OBJECTIONS?
10 MR. LOCHOCKI: NO, YOUR HONOR.
11 MS. HARRISON: NO OBJECTION, YOUR
12 HONOR.
13 MR. RHODES: NO OBJECTION, YOUR
14 HONOR.
15 THE COURT: THANK YOU.
16 RESPONDENT KING'S EXHIBIT NUMBER 12
17 ADMITTED INTO EVIDENCE.
18 Q: And Mr. Tall, I just wanted to ask you to
19 clarify a couple of things. You said in
20 the -- you spent some time talking with
21 Ms. Lochocki about the conversation that
22 occurred via telephone on November the
23 8th. Do you recall how long that
24 conversation was in terms of time?
25 A: Maybe 10 or 12 minutes.

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1 Q: Did you ever prepare any billing records
2 that would reflect that conversation?

3 A: I did not.

4 Q: You did not. Did you ever bill anyone
5 for the work that was done that you've
6 referenced in your testimony today?

7 A: I have a billing that shows the seven
8 point one hours of time between October
9 26 and October 29 associated with my
10 communications with the family members
11 and my travels to Dr. Miles' residence.

12 Q: And did you ever attempt to reduce those
13 seven hours to a bill?

14 A: I have it here, but my understanding is
15 that, well, I did get a phone -- I got an
16 email message in response to something I
17 sent out. It was a carbon copy from Dr.
18 Strasswimmer to David King suggesting
19 that my services would not be required
20 any further.

21 Q: Okay. And so, that would explain perhaps
22 why you've not heard further or received
23 further information in relation to this
24 case, correct?

25 A: Well, it's my explanation. At one time,

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1 I was asked to come and participate, and
2 sometimes this happens. You come, and
3 you try and offer assistance and then,
4 you go back to the office, prepare a
5 letter of engagement and before that
6 letter of engagement had been prepared
7 and offered and signed, I was essentially
8 disengaged.

9 Q: Okay. You mentioned in your testimony
10 that you noted, if I understood you
11 correctly, a marked difference in Dr.
12 Miles' presentation in October versus
13 November, but I didn't hear you elaborate
14 on what the difference was. Was she
15 better? Was she worse or what were the
16 differences, if you can recall those?

17 A: I think earlier in questioning, I spoke
18 to how Dr. Miles expressed an
19 understanding of what I was attempting to
20 share, that it might be one thing for her
21 to express her wishes to return to South
22 Carolina. It's another thing altogether
23 to recognize that others might be
24 concerned about her, concerned about
25 whether she was being influenced by

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1 someone other than herself, that others
2 in attempt to look after her best
3 interest might suggest that she's making
4 a mistake by changing course from
5 Washington State to South Carolina. And
6 as a result of that, it might be a good
7 idea for her to see someone, talk to
8 someone soon who could evaluate her
9 mental capability. She gave me the
10 impression that she understood these
11 concerns that I had expressed. That
12 happens often when a client comes to talk
13 to an attorney that the attorney shares
14 concerns that the client wasn't even
15 thinking about. And so, we had that kind
16 of conversation and I took it from Dr.
17 Miles' responses that she understood the
18 reasons why I was encouraging her to
19 consider a new document, to consider
20 seeing someone else who could evaluate
21 her.

22 Q: And did you, in fact, have -- Let me ask
23 it this way. Strike that. Was your
24 actions to interactions with Dr. Miles,
25 and I understand one was largely by

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1 telephone, one was in person, but your
2 impression of Dr. Miles at the October 24
3 meeting or, excuse me, the October
4 meeting versus the November 8 telephone
5 call, did you have an impression on
6 either of those locations or at either
7 time, excuse me, at either time, how
8 would her ability to represent her own
9 interests, was she, in your opinion, in
10 more need of a guardian or someone to
11 make her decisions for her in October or
12 in November, or was there a difference?

13 A: Well, there was a difference. And some
14 of this might be my own perceptions. I
15 had understood that this is someone who
16 had just come from brain surgery, who did
17 not have a good prognosis for continuing
18 to be with us much longer. And by the
19 way, at that time, there appeared to be
20 harmony among the two children and David
21 King, looking out for Dr. Miles' best
22 interest. So Dr. Miles gave the
23 impression of being tired, lethargic,
24 disengaged. And those are things that I
25 didn't even think to question from

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1 someone who had just come from the kind
2 of surgery that had been described to me.
3 A: So, my feeling was that it was actually a
4 little surprising to see Dr. Miles up and
5 around, and asking questions and being
6 engaged in conversation. Had she been
7 unresponsive altogether, that wouldn't
8 have surprised me based upon the kind of
9 operation and the kind of condition I was
10 told she was in, but I think I try and
11 hold onto a healthy sense of my own
12 limitations. I'm not medically trained.
13 I do know, as a commonsense individual,
14 when I'm having a conversation with
15 someone and they appear to understand
16 what I'm saying, but in terms of whether
17 or not Dr. Miles hadn't slept well and
18 was uncomfortable, or whether it was the
19 lack of her brain functioning, that was
20 beyond my ability to offer an opinion,
21 but she did seem to be someone that
22 concern should be expressed about in
23 October. And in November, she seemed to
24 be someone who had a little more grasp as
25 to what it was that she was facing and

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1 what she wanted to do about it.

2 Q: And that's fine. Certainly, I'm not
3 asking you to render an expert opinion,
4 but just I'm asking for your recollection
5 of your present impressions at the time
6 of both interactions, so I appreciate
7 that. In the next and very near the end,
8 Mr. Tall, you also indicate in the
9 affidavit we've discussed, "I also
10 prepared a trust resignation form." I'm
11 at the bottom of paragraph four on page
12 two, "I also prepared a trust resignation
13 form," referring to the October meeting
14 is the reference there, "I also prepared
15 a trust resignation form that Dr. Miles
16 could sign if she was well enough to
17 understand." What would the purpose have
18 been for that resignation, just to
19 clarify that for the Court's record?

20 A: Similar to the issue in the springing
21 power of attorney, where you have a
22 couple of physicians render an opinion
23 about someone's capabilities so that the
24 agent can get started, you have a similar
25 provision in a trust document that I've

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1 prepared that physicians would declare
2 her incapable and what's attempted to be
3 done in a document like that is to avoid
4 the need of two lawyers, a guardian ad
5 litem and a couple of physicians going to
6 a court hearing. So, there are similar
7 provisions in a springing power of
8 attorney and in the trust document that I
9 prepared. But in the trust document,
10 it's kind of simple, I thought, that, if
11 someone's well enough to understand what
12 it is to resign from being the trustee,
13 until there's a determination of
14 incapacity, Dr. Miles was the trustee of
15 her own trust, if she was well enough to
16 understand what it was to resign as
17 trustee, she could simply do that and
18 that would empower her successor trustee
19 to take over without the need of having
20 been seen by physicians who would render
21 an opinion.

22 Q: And did you -- Well, this is a redundant
23 question. I apologize, but did you have
24 any understanding of why Dr. Miles never,
25 in fact, resigned from the trust or you

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1 were never contacted about the
2 resignation?

3 A: I prepared that resignation form and
4 before I was able to deliver it, had an
5 understanding that my services were no
6 longer desired by ---

7 Q: Understood, understood.

8 A: --- the children and Dr. King, or excuse
9 me, Mr. King.

10 Q: Thank you, Mr. Tall. I have no further
11 questions. Thank you.

12 THE COURT: ANYTHING FURTHER?

13 **RE-DIRECT EXAMINATION**

14 **BY MS. LOCHOCKI:**

15 Q: Mr. Tall, this is Bess Lochocki. I just
16 have one more question. Are you there?

17 A: Yes, I am.

18 Q: Oh, sorry. Do you have an outstanding
19 invoice for Dr. Miles?

20 A: I do.

21 Q: Okay.

22 A: I suppose the question is, is it for Dr.
23 Miles, or is it for Dr. Strasswimmer and
24 David King, but I do have an outstanding
25 bill, yes.

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ROA 1311

1 Q: Do you know the total due?

2 A: It's seven point one hours at \$300 an
3 hour, \$2,130.

4 Q: Okay. Thank you, Mr. Tall.

5 A: And that's for services through October
6 29th.

7 Q: Okay. Thank you, Mr. Tall. Thanks for
8 being on the phone today.

9 THE COURT: ANYTHING FURTHER?

10 **RE-CROSS EXAMINATION**

11 **BY MS. HARRISON:**

12 Q: Just three questions, Your Honor. Mr.
13 Tall, this is Angela Harrison again.
14 Just three quick questions. Do you
15 recall indicating to Dr. Strasswimmer
16 and/or Mr. King when you were at Dr.
17 Miles' and Mr. King's home in October
18 that, if there was a conflict between any
19 of the co-agents as to how they'd carry
20 out their duties or make decisions, that
21 that would need to be resolved by the
22 Court?

23 A: There was no discussion of conflict when
24 I was at the home.

25 Q: And do you agree that, in order to make

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1 an evaluation as to somebody's capacity,
2 that you need to see them in person?

3 A: I think that's the better practice.

4 Q: I believe you stated that, or maybe you
5 didn't, was a letter of engagement ever
6 prepared in this matter?

7 A: I did prepare one.

8 Q: Okay. And who was that addressed to?

9 A: My letter of engagement has David King
10 and John Strasswimmer for Claudia T.
11 Miles.

12 Q: And did you list any description of scope
13 of services or what the matter was
14 related to?

15 A: It says regarding disability
16 administration for Dr. Claudia T. Miles.

17 Q: And if you were doing a disability
18 administration type of matter, what would
19 that entail?

20 A: I think it's along the lines of observing
21 Dr. Miles in October in her residence and
22 my following up with a form that would be
23 executed by physicians, if they
24 determined, indeed, that she was
25 disabled. And on the other hand, I

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1 prepared a resignation form for her.
2 She'd have to be well enough to sign
3 that. So, I think the question was still
4 up in the air. And in October of 2018,
5 there was an attempt by the three other
6 parties to explain to Dr. Miles what was
7 happening. She was responding back, so
8 we had a situation of not someone
9 unconscious or someone who is clearly out
10 of the realm of making choices. I think,
11 for example, there might've been someone
12 who asked her whether she'd like a glass
13 of water or whether she was comfortable.
14 She was responding, but the thought was,
15 because of the serious nature of her
16 disease and operation, that the
17 likelihood is that she was not someone
18 who was going to return to handling her
19 financial and other affairs.

20 Q: All right. Thank you again, Mr. Tall.

21 THE COURT: MR. RHODES, DO YOU HAVE
22 ANY QUESTIONS?

23 MR. RHODES: NO QUESTIONS, YOUR
24 HONOR.

25 THE COURT: MR. BOYD, FOLLOW UP?

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1 MR. BOYD: NOTHING FURTHER, YOUR
2 HONOR.
3 THE COURT: IF THERE ARE NO FOLLOW
4 UP QUESTIONS, I THINK
5 THAT'S ALL FOR MR.
6 TALL. IS THAT CORRECT?
7 MS. HARRISON: YES, YOUR HONOR.
8 MR. BOYD: YES.
9 MR. RHODES: YES, YOUR HONOR.
10 THE COURT: THANK YOU SO MUCH, MR.
11 TALL. I THINK WE HAVE
12 COMPLETED YOUR
13 TESTIMONY. THANK YOU
14 SO MUCH.
15 MR. TALL: THANK YOU, YOUR HONOR.
16 THE COURT: BYE-BYE.
17 MR. TALL: BYE-BYE.
18 THE COURT: OKAY, WE'VE GOT ABOUT
19 15 MINUTES BEFORE WE
20 HAVE OUR NEXT TELEPHONE
21 WITNESS. YOU WANT TO
22 TAKE A BREAK? YOU WANT
23 MS. MILES TO COME BACK
24 ON THE STAND?
25 MR. BOYD: ACTUALLY, YOUR HONOR, I

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ROA 1315

1 THINK THIS WOULD BE
2 PROBABLY A GOOD TIME
3 FOR A BREAK, BECAUSE
4 IT'S GOING TO ---
5 THE COURT: I THINK SO.
6 MR. BOYD: --- TAKE YOU A FEW
7 MINUTES TO GET THE
8 WITNESS ON THE PHONE.
9 THE COURT: SURE.
10 MR. BOYD: AND I COULD ACTUALLY
11 USE A BREAK.
12 MS. HARRISON: SURE, THAT'S FINE WITH
13 ME.
14 THE COURT: ALL RIGHT. WE'LL TAKE
15 ABOUT A 15 MINUTE
16 BREAK.
17 *****OFF THE RECORD*****
18 (ON THE RECORD.)
19 THE COURT: ALL RIGHT. WE ARE BACK
20 ON THE RECORD. I THINK
21 WE HAVE ABOUT FIVE
22 MINUTES BEFORE OUR
23 CONFERENCE CALL
24 TESTIMONY. AND WHOSE
25 WITNESS IS THIS?

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ROA 1316

1 MR. RHODES: IT'D BE MY WITNESS,
2 YOUR HONOR.
3 THE COURT: THANK YOU, SIR. CAN I
4 SPEAK WITH THE
5 ATTORNEYS FOR JUST A
6 MOMENT?
7 *****OFF THE RECORD*****
8 (ON THE RECORD.)
9 #THE TESTIMONY OF JOYCE BITTOK IS VIA
10 TELEPHONE.
11 (11:02 AM - 12:38 PM)
12 THE COURT: OKAY. GOOD MORNING.
13 IS THIS MS. JOYCE
14 BITTOK?
15 MS. BITTOK: YES, THIS IS.
16 THE COURT: GOOD MORNING. THIS IS
17 JUDGE WARD. WE ARE
18 HERE IN THE COURTROOM
19 IN THE MATTER OF
20 CLAUDIA MILES. HOW ARE
21 YOU TODAY?
22 MS. BITTOK: I'M FINE. THANK YOU.
23 THE COURT: CAN YOU HEAR ME OKAY?
24 MS. BITTOK: YES, I CAN.
25 THE COURT: ALL RIGHT. I NEED TO

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ROA 1317

1 SWEAR YOU IN. IF YOU
2 DON'T MIND, IF YOU'LL
3 RAISE YOUR RIGHT HAND,
4 PLEASE.
5 MS. BITTOK: I HAVE.
6 THE COURT: DO YOU SWEAR THE
7 TESTIMONY YOU'RE ABOUT
8 TO GIVE TO BE THE
9 TRUTH, THE WHOLE TRUTH
10 AND NOTHING BUT THE
11 TRUTH, SO HELP YOU GOD?
12 MS. BITTOK: I DO.
13 THE COURT: THANK YOU. MR. RHODES
14 IS GOING TO ASK YOU
15 SOME QUESTIONS.
16 MR. RHODES: THANK YOU, YOUR HONOR.
17 JOYCE BITTOK, AFTER HAVING BEEN CALLED
18 TO THE STAND AND DULY SWORN TESTIFIED AS
19 FOLLOWS:

20 **DIRECT EXAMINATION**

21 **BY MR. RHODES:**

22 Q: Ms. Bittok, this is Charles Rhodes. I
23 represent Ms. Michelle Miles in this
24 matter. I just have a few questions for
25 you, but first I want to start with some

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1 basic information. Would you state your
2 name?
3 A: Joyce Bittok.
4 Q: And where do you currently live?
5 A: I live at 1335 North Heatherwood East in
6 Tacoma, Washington.
7 Q: And what is your current employment or
8 occupation?
9 A: I'm a caregiver for SYNERGY HomeCare.
10 Q: Okay. And how long have you worked in
11 that field?
12 A: With SYNERGY, I have worked with them
13 since -- I did one assignment in November
14 with them. And then in December I was
15 given this assignment and have been with
16 them since then.
17 Q: Okay. And how long have you been in this
18 field of care?
19 A: Over 15 years.
20 Q: And you say you were given an assignment
21 in November?
22 A: Yes.
23 Q: Okay. And what was that assignment?
24 A: It was with a different client that
25 needed assistance, caregiving assistance.

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ROA 1319

1 Q: Okay. And did you have an occasion to
2 work with a Dr. Claudia Miles?

3 A: Beg your pardon?

4 Q: Did you have an occasion to work with a
5 Dr. Claudia Miles?

6 A: Not in November.

7 Q: Okay. But I'm saying ---

8 A: I did not work with her till December,
9 mid-December.

10 Q: Late December. Okay. So you began
11 working with her in late December.

12 A: Yes.

13 Q: And what were your duties when you began
14 working with Dr. Miles? Were you given
15 any specific instructions as far as her
16 care?

17 A: Yes, the instructions I was given was
18 that she was a fall risk and unstable on
19 her feet. And the care that was needed
20 was basically to be somewhat of a
21 companion, somewhat of a caregiver. So,
22 it was a dual role. And because she was
23 unstable on her feet, I needed to be able
24 to reach her in case she lost balance if
25 she was moving or if she was unsteady on

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ROA 1320

1 her feet.

2 Q: Okay. Were you given any other specific
3 instructions for her care?

4 A: No. Those were the initial instructions
5 I was given.

6 Q: Okay. And just for the Court, and those
7 were specific instructions. What are
8 your duties general in any situation when
9 you're giving caregiving? What are your
10 duties?

11 A: Duties range from daily living skills,
12 which is basically assisting with
13 personal healthcare, personal hygiene,
14 meal preparation, light housekeeping.
15 And so it's a range of activities that we
16 can provide assistance with. In the
17 facility where Dr. Miles was, that did
18 not include administering medication
19 because she was in a care facility. So
20 they did that. So the role as a
21 caregiver was different at the facility
22 and now as she's home in Tacoma.

23 Q: Okay. Let me talk a little bit about
24 that. So, when you first were engaged or
25 given this assignment, where was Dr.

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ROA 1321

1 Miles?

2 A: Dr. Miles was at a care facility at
3 Franke Tobey Jones.

4 Q: Okay. And what did you -- What were your
5 duties or what were your services offered
6 to Dr. Miles while she was at Franke
7 Tobey Jones?

8 A: It was when I came in the morning, I'd
9 assist with personal hygiene if needed.
10 She was able to do most of it herself,
11 but we went through a period of like two
12 weeks where we were basically doing all
13 her personal hygiene for her.

14 Q: And you say she could do her personal
15 hygiene except for that two-week period.
16 Did she require any prompts for those
17 type of activities?

18 A: Yes, she required prompts. And basically
19 when I say she was not able to do the
20 personal care, it was a situation where
21 I'd come in in the morning and she was
22 laying on a wet bed and just prompting
23 her to get out of bed and get the bed
24 changed or those are time I had to change
25 the bed when she was in it, because she

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1 did not want to leave the bed. And so it
2 was situations where we'd come in and I'd
3 come in and I'd find -- No two days are
4 ever the same in caregiving, but it's a
5 situation where I come in, I start
6 getting her berries and yogurt ready for
7 breakfast. That's what she usually has
8 before her main breakfast. So I'd get
9 that ready, make sure she's clean and
10 dry. But we went through these two weeks
11 that she was incontinent and we had to
12 basically keep prompting her to get out
13 of bed or at least allow us to change her
14 so that she's in clean bedding.

15 Q: Now that two week period, can you tell us
16 about when that was, if you recall?

17 A: I believe that was around either the end
18 of December or the beginning of January.

19 Q: Okay. And up until that time, how was
20 she as far as following prompts and
21 getting out of bed?

22 A: When I first started working with her,
23 she was independent and was able to do
24 everything for herself. And the only
25 issue was the fall risk because she was

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1 unstable on her feet.

2 Q: Had anything changed as far as her care
3 or her condition those two weeks that
4 would have caused her to not follow the
5 prompts?

6 A: Not that I could tell.

7 Q: Okay. Now you mentioned, were you --
8 You started in December. Have you been
9 continuously Dr. Miles' caregiver since
10 then?

11 A: Yes.

12 Q: Okay. And do you recall an incident, or
13 do you recall if there was an incident,
14 the end of January involving Dr. Miles
15 and Mr. King and the staff at Franke
16 Tobey Jones?

17 A: What incident? What -- I guess I don't
18 understand the question. What incident?

19 Q: Do you recall there being a stir up or
20 something that happened at the end of
21 January involving, I guess, an outing
22 with Dr. Miles?

23 A: There was a visitation that Mr. King
24 came for and Dr. Miles was in her room.
25 She eventually agreed to go down for

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1 breakfast in the cafeteria. And I tagged
2 along with them. I was at a close
3 distance. But after breakfast, David was
4 going back to the room to get their
5 jackets and I said, "What do you need
6 jackets for?" And he said, "Dr. Miles
7 wants to go for a car ride." So the
8 facility assistant DNA was passing by and
9 I asked, "Do the visitations include
10 leaving the property, leaving the
11 facility?"

12 And she said, "No, they
13 shouldn't."

14 So, David came back
15 with the coats. We walked towards the
16 entrance of the healthcare unit and he
17 talked to the DNA, the DON. So, I sat
18 with Dr. Miles and then while he was
19 still talking with the DON, Julie came
20 over and she was talking with her. And
21 then David went and brought his car
22 around. I heard him tell Julie that,
23 "I'll pull my car around." And so he
24 pulled his car to the front of the
25 entrance.

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1 And I told Julie, "If
2 he's taking Dr. Miles for a ride, then I
3 need to be with them."

4 So something, I don't
5 know what happened between the
6 conversation with Julie and the facility
7 administration and I think Beth was also
8 included. And so Julie ended up saying,
9 "If they're making such a fuss about it,
10 then maybe you can go for a walk." And
11 so I redirected them to the front of the
12 Franke Tobey Jones entrance, not the
13 healthcare entrance, which would be the
14 opposite side of the building as there
15 was a better sidewalk there for walking.
16 And that's basically what ended up
17 happening. And so I tagged along,
18 walking behind them just to ensure that
19 Dr. Miles doesn't fall or anything.

20 Q: And so they never ---

21 A: And I then I helped them ---

22 Q: I'm sorry, I didn't mean to talk over
23 you.

24 A: And so I showed David how to use the
25 brakes on her walker in the event that

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1 she wants to sit down. Cause she'd walk
2 a distance, sit down, and then get back
3 up and walk a distance and sit down. And
4 so I showed him how to lock the brakes
5 whenever she wanted to sit. But I was
6 just at a clear distance from them.

7 Q: Now, so just to be clear, they never left
8 the facility in a vehicle?

9 A: They did not.

10 Q: Okay. Did you call anyone and advise
11 them of what was going on?

12 A: I only called Michelle to ask if the
13 visitation included leaving the premises.

14 Q: Okay. Were you given any details about
15 the plans or who was going on the trip?

16 A: No. He just said, "I was thinking Dr.
17 Miles wants to go for a ride."

18 Q: Okay. As far as Mr. King's visits, you
19 say you tagged along when you were at a
20 distance. What was the purpose of you
21 being there?

22 A: As a caregiver for Dr. Miles, it is my
23 responsibility to ensure her safety. And
24 so based on her presence, wherever she
25 is, I felt it was my responsibility to

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1 ensure that she's not at risk of falling.
2 We cannot prevent risk, but at least we
3 need to be there to assist if needed.
4 And so I'm not sure if Dr. King, I mean
5 Mr. King, is aware of her risk fall. So
6 I just took it upon myself as a caregiver
7 to ensure that she needs to be safe
8 wherever she is.

9 Q: Now have you been -- Think I've already
10 asked this question. Let me back up a
11 second. Was there any problem at Franke
12 Tobey Jones with Dr. Miles taking her
13 medication, if you know?

14 A: There were several instances that she
15 wouldn't take her medications, but those
16 instances tended to line up with dates
17 that she had visitations.

18 Q: Visitation with who?

19 A: Mr. King.

20 Q: Now, since she has transitioned to Ms.
21 Michelle Miles' homes, have there been
22 instances where she refused to take
23 medication there?

24 A: No.

25 Q: And how is she as far as -- Not sure how

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1 to ask the question. Let me back up.

2 How would you describe her demeanor, her
3 attitude, while she was at Franke Tobey
4 Jones?

5 A: This is my personal opinion, and I don't
6 know if it matters or not. I think Dr.
7 Miles' feelings of being in the facility
8 were, she did not like the place. And
9 from my personal opinion and observation,
10 it was just based on how she was being
11 treated at the facility. I think her
12 mental capability was slightly higher
13 than most of the clients there. So, when
14 caregivers from the facility would
15 approach her, or even the administration
16 from the facility, they would approach
17 her from an angle as though her mental
18 capability was diminished. And so I
19 think based on that, she did not like
20 being there. But the room she had, she
21 had very good view. And sometimes in the
22 morning she'd like her windows open and
23 she'd just see the beautiful sunrise.
24 And she had a good view and the food was
25 not geared for somebody that's diabetic.

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1 So, we had to pick and choose what we
2 could serve her and what we could not
3 serve her. So, I think the facility
4 itself was not the right place for her.
5 And that is just my personal opinion and
6 my observation. The facility, the
7 healthcare unit where she was, seemed to
8 be more geared at somebody that needed
9 more care and was of less mental capacity
10 and awareness than Dr. Miles.

11 Q: Since she's transitioned to Miss Michelle
12 Miles' home, how would you describe her
13 attitude?

14 A: Since the transition, I think the first
15 week after she got here we had a
16 snowstorm and that was something that she
17 kept saying she did not like the cold,
18 she did not like about the weather. But
19 since then, I have seen tremendous
20 improvement in just her physical
21 wellbeing and her mental wellbeing. We
22 have gone from having to provide
23 assistance with showers to where now she
24 is able to do it on her own. We just
25 need to be there just in case. She has

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1 gone from wanting us to do stuff for her,
2 to wanting to do stuff for herself. For
3 example, making her bed, picking out her
4 clothes. And just even when I'm fixing
5 dinner at night, she'll ask me, "Can I
6 set the table for you?"

7 So I will say, "Okay,
8 put this here and then we'll go set it
9 together." So, I'll say I'll take the
10 mats and I'll take the plates and she can
11 take the mats and she can put the mats
12 down.

13 But we still have that
14 unsteadiness on her feet. So even though
15 we are seeing all these leaps and bounds
16 and improvement, there is still that
17 unsteadiness. And like yesterday, I was
18 in the kitchen making breakfast and I
19 hear the front door open and I go there
20 and she's saying, "I want to see who's
21 passing by."

22 And so I said, "You
23 can't be moving that fast because I'm
24 just one of me here." And so it's just,
25 there is the physical and the mental

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1 improvement that you see happening.

2 Lately she started
3 going out. The other day she said, "I
4 want to go eat Vietnamese food." As her
5 caregiver, I just looked for Vietnamese
6 restaurant and provided transportation.
7 We went to the Vietnamese restaurant, she
8 paid for it with her credit card. And
9 then when she was doing the tip, her
10 numbers were off. And then, so I showed
11 her that her addition was not accurate.
12 So she fixed that. But a week ago we
13 went to the exact same Vietnamese
14 restaurant and she did the tip and
15 everything. It took about 30 minutes
16 just doing the calculation, but she got
17 it right. So, I personally am seeing a
18 lot of improvement, but at the same time
19 there is unsteadiness on her feet. She
20 may decide to do something quickly and
21 fast, like get out of a reclining chair
22 without lowering her feet or she will
23 forget that she had done something and go
24 do it again, like forget that she had
25 brushed her teeth and go back and brush

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1 her teeth.

2 Q: Okay. Well, and since she's been at Miss
3 Michelle Miles' house, has visitation
4 between her and Mr. King occurred?

5 A: Yes. There's been several visits.

6 Q: And how have they gone in your opinion?

7 A: There's some visits that went very well
8 and some visits that did not go so well,
9 in my opinion. All visits that he came
10 and he brought lunch and they had lunch
11 together, there have been visits that
12 he's come right about lunch and has had
13 them have lunch together. There have
14 been times that lately in the month of
15 March that he did come, even with lunch,
16 and she said, "I don't want to see you."
17 So the visitations have been, some are
18 good, some are not good. And that's just
19 my opinion. As in, she doesn't want to
20 see him. She'll ask, "Who asked you to
21 come here? Why are you here? Can you
22 leave?"

23 Q: Okay. And on the visits that have gone
24 well, how have they interacted?

25 A: The interactions? Based on my

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1 observation, you can tell they've been
2 together for long based on what they're
3 talking about. Like he'll say, "Oh, like
4 that time or this time." So it looks
5 like they have a history and they'll talk
6 about it. And after that, everything is
7 fine.

8 And sometimes she'll
9 just say, "Okay, just be quiet for a
10 minute." And she wants that peace and
11 quiet. And then when he's leaving, she
12 says, "Why are you leaving? Where are
13 you going? When will I hear from you?"
14 So those are the good visits. And then
15 there are the other visits that she'll
16 say, "I don't want to see you." The very
17 last visit she even said that she could
18 call the police on him. And so it's
19 just, I guess, both ends of the spectrum
20 as far as being good or bad.

21 Q: Yeah. As far as Dr. Miles and Ms.
22 Michelle Miles, how would you describe
23 their interaction?

24 A: Their interaction is a very loving mother
25 and daughter relationship, and that said,

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1 I can tell from the interaction that
2 there are moments where the relationship
3 is strained, because this is a situation
4 where the daughter's now taking almost
5 like a parent role. So, there's that
6 parent-daughter role reversal, and I
7 think it's hard, it's harder on Dr. Miles
8 to have to be in the position where her
9 daughter has to take care of her. They
10 have very good family dynamic, it's just
11 that the situation they're in currently
12 sometimes makes it very difficult, where
13 for lack of a better word, Michelle has
14 to play "bad cop" because it's in the
15 best interest of her mother.

16 For instance, if she
17 needs to be on task with getting
18 medication done, we do medication, but if
19 it needs to be, this is what needs to
20 happen. There is that are instances
21 where it's harder for Michelle as a
22 daughter to be having to deal with some
23 situations with her mother, because of
24 just the dynamic. Whereas if it's me as
25 a third party, take for example, we went

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1 to the clinic and they needed the urine
2 sample, Michelle is trying to get Dr.
3 Miles to give her urine sample, Dr. Miles
4 says, "No, no, no." And so, Michelle has
5 me step in and we go get the urine
6 sample, so that dynamic is sometimes
7 harder when it's a daughter and mother
8 situation, unlike if it was a mother
9 dealing with a child, a sick child. But
10 when it's a daughter dealing with a sick
11 mother, sometimes it's hard for parents
12 to switch into that role. And so, the
13 dynamic becomes strained because Michelle
14 is trying to provide the best for her
15 mother, but it's frustrating for her
16 mother because I take it that Dr. Miles
17 was a very independent person, so I think
18 sometimes losing that independence is
19 frustrating, and that frustration comes
20 out as anger. But when all is said and
21 done, I think they have a really good
22 relationship.

23 Q: Have you ever seen or observed Ms.
24 Michelle Miles force Dr. Miles to take
25 any medication that she didn't want to

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1 take at the time?

2 A: I don't think I have observed any. You
3 really can't make somebody do something,
4 is my belief, so I don't think -- Maybe
5 persuading, but not forcing.

6 Q: Ms. Bittok, I believe that's all the
7 questions I have. Thank you very much,
8 please answer any questions other lawyers
9 have.

10 **CROSS EXAMINATION**

11 **BY MS. HARRISON:**

12 Q: Excuse me. Good morning, Ms. Bittok, how
13 are you doing?

14 A: I'm good, how are you?

15 Q: I'm good. This is Angela Harrison, I'm
16 the attorney that represents John
17 Strasswimmer, and I just have a couple
18 follow up questions for you. When you
19 stated your address, is that the same
20 address that Dr. Miles lives at?

21 A: Yes, I am live-in caregiver.

22 Q: Okay, and what is your schedule with Dr.
23 Miles as far as when you are on shift and
24 off shift? How many hours a day do you
25 spend with her?

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1 A: I work 12 hours a day, seven AM to seven
2 PM.

3 Q: Okay. Do you believe that Dr. Miles is
4 comfortable where she lives?

5 A: That's a difficult question to answer,
6 because there's some days she loves it
7 here, and there's some days like the week
8 is snowed, she did not love it here. I
9 guess that's a relative question,
10 depending on the day.

11 Q: Okay, and did she ---

12 A: She loves that it's a very quiet
13 neighborhood, and the sunsets are
14 beautiful, and the backyard is -- We go
15 back in the backyard and she loves that
16 we have deer that come around. There
17 were some deer in the backyard yesterday,
18 there was a possum the other day. Those
19 are the times she'll call me and say,
20 "Come look at this!" So generally, yes,
21 she likes it here, but when the weather's
22 bad and cold and gloomy, then I guess
23 that would be depressing for anybody.

24 Q: Does she ever tell you that she would
25 like to live somewhere else?

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1 A: She has said she does not know why she'd
2 want to live. Sometimes she says,
3 "Florida sounds warm." We went to lunch
4 on Sunday and on our way back, she did
5 mention that, "Everybody is discussing me
6 in this case, but nobody has asked me
7 where I want to live."

8 And I asked her, "So,
9 where do you want to live, Dr. Miles?"

10 And she said, "That's a
11 difficult question to answer. I can tell
12 you where I do not want to live."

13 And I said, "Where do
14 you not want to live?"

15 And she said, "I do not
16 want to live in Ohio, South Carolina or
17 Atlanta," and then she said, "Just the
18 state of Georgia, I don't want to live in
19 the state of Georgia."

20 And I said, "Those are
21 specific states. Do you have a reason
22 why?"

23 And she said, "It's
24 difficult to get into that, and I said,
25 "Okay." I asked her,

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1 "Would you have wanted somebody to ask
2 you where you want to live?"

3 And she said, "I would
4 want somebody to at least ask me."

5 And I said, "I believe
6 Bess would have asked you when she was
7 here."

8 And she said, "I don't
9 remember if she did ask me, but I don't
10 think anybody has asked my opinion on
11 anything."

12 So I asked her, "Do you
13 feel that your voice is not being heard?"

14 And she said, "Exactly,
15 that's how I feel. I feel like I don't
16 matter anymore."

17 Q: Thank you for sharing that. So, Mr. King
18 has visited on several occasions, you
19 stated. Have you noticed anything that
20 interferes with his ability to visit with
21 his wife at Ms. Michelle Miles's house?

22 A: Not that I know of, because ever since --
23 It was kind of different at the facility,
24 but here at Michelle's house, she always
25 leaves when he's coming over. We were

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1 informed that he can show up any time,
2 but the last time -- There was a day he
3 had visited with Beth Stone, and Dr.
4 Miles said, "I don't like when people
5 just come randomly, I need to be
6 informed. You set up the appointment
7 with Michelle, but that was not with me.
8 I need to be informed."

9 Just yesterday, we had
10 an RN coming in and the RN called the
11 house fine. She said she was coming for
12 her usual appointment, and I said,
13 "Okay," so I did inform Dr. Miles that
14 Jen, the RN, is coming at 11:00, and
15 later, Dr. Miles said, "You did not ask
16 me if I was okay with Jen coming in."

17 And so I said, "I'm
18 sorry. I take full responsibility. I
19 did not ask you about that, I just
20 informed you about it."

21 And she said, "I like
22 people asking me what I want, and not
23 just telling me what I need to do."

24 Q: Has Dr. Miles had any issues with
25 mobility within Ms. Miles' house?

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1 A: What do you mean by mobility?
2 Q: Is she able to ---
3 A: As in moving around in the house?
4 Q: Yes, ma'am.
5 A: No, she hasn't.
6 Q: Dr. Miles, has she ever had any falls, in
7 the time that you've known her?
8 A: She has had several falls. She has had
9 more at Franke Tobey Jones than she has
10 had here. She has had one fall here, but
11 at Franke Tobey Jones, she had several
12 falls, so, we had to be -- which is why
13 we had to be close by her, because of her
14 unsteadiness on her feet. She tends to
15 lose balance every once in a while, and
16 there's been instances where it's almost
17 a fall, but it's not a fall because we're
18 able to catch her before she goes, or
19 she'll lean on us. But there was an
20 incident where she had a fall here at the
21 home in, I believe it was in February,
22 either late February or early March. I
23 can't remember for sure, but I think it
24 was February. She had gone to use the
25 bathroom, and she was with David, and she

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1 had a fall in the bathroom. I was not
2 right there to see the incident happen,
3 but it was after the incident had
4 happened that we did help her get cleaned
5 up, and get up and back on her feet. But
6 that's the only fault she has had here at
7 the home.

8 Q: Is Dr. Miles able to call people on the
9 telephone?

10 A: Yes, she's able to.

11 Q: Who does she generally call on the
12 telephone?

13 A: I think I've seen her call John and
14 Michelle on the telephone. I'm not very
15 sure if she's the one that initiated the
16 call, or if Uncle Glenn called her, I'm
17 not sure who initiated that call. She
18 has called Beth Stone and left messages
19 for Beth Stone on her phone. And those
20 are calls she personally initiated, Dr.
21 Miles did.

22 Q: Have you ever seen Dr. Miles call Mr.
23 King?

24 A: Not that I can think of.

25 Q: And does Dr. Miles ask to see people?

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1 A: She will ask of so-and-so's whereabouts,
2 like one of the girls that works here,
3 she'll ask for. "Where's Nina?"

4 And I'll say, "She's
5 off today, she's coming on my days off."

6 And she'll say, "Oh,
7 okay. I've not seen her in a while."
8 But other than that, not really, not that
9 I've heard of.

10 Q: Were you present for a telephone call
11 that was made to the guardian ad item and
12 Bess Lochocki by Dr. Miles?

13 A: When?

14 Q: In January, while Dr. Miles was still at
15 Franke Tobey Jones.

16 A: There was a phone call that David made on
17 behalf of Dr. Miles, and he talked to
18 Bess, and then when he gave Dr. Miles the
19 phone, she asked, "Who's this?" And so,
20 I guess Bess must have explained to talk
21 to her, and it was about going home, and
22 she kept saying, "He said, 'I want to go
23 home,'" or something to that effect. I'm
24 not quoting word for word, but I'm
25 paraphrasing what the conversation was

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1 like. She kept saying, "He said, 'I want
2 to go home. Where is home?'" So, Dr.
3 Miles is asking David, "Where is home?"
4 And then she responds, "He said, 'South
5 Carolina.'" That was the conversation
6 that I was able to hear from where I was
7 sitting.

8 Q: And when was ---

9 MS. LOCHOCKI: I JUST WANT TO JUST PUT
10 AN OBJECTION ON THE
11 RECORD. I WOULD LIKE
12 TO CONTINUE HEARING
13 WHAT JOYCE HAS TO SAY
14 ABOUT THAT PHONE CALL,
15 BUT I MEAN, IT'S TO THE
16 EXTENT THAT IT'S
17 HEARSAY.

18 THE COURT: THANK YOU, SO, NOTED.

19 MS. HARRISON: OKAY. THANK YOU, YOUR
20 HONOR.

21 MS. LOCHOCKI: SORRY TO INTERRUPT YOU.

22 Q: When Mr. King does have these visits with
23 Dr. Miles, and she indicates that she
24 doesn't want to see him, or indicates --
25 What is his reaction?

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1 A: Sometimes he, I don't know how to put
2 this. Sometimes it's like he ignores
3 what Dr. Miles is saying. The last time
4 I was like, I stepped in and I said,
5 "Please respect her wish, and leave if
6 she doesn't want to see you." There was
7 a day that he came and right at the door,
8 she's like, "I don't want to see him, go
9 away." He did not even come into the
10 house, but this particular time that I
11 did tell him, "Please respect her wish,"
12 he was in the house.

13 Q: And that was after she had indicated that
14 she didn't want to see him?

15 A: Yes.

16 Q: Is Dr. Miles able to take her medication
17 on her own?

18 A: She can take some of it on her own. We
19 give it to her in a container and her
20 pills. She takes them on her own, but
21 she has two injections that she gets,
22 that we administer. She has an insulin
23 injection, and she has a Lovenox blood
24 thinner injection that she gets. We have
25 to administer those.

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1 Q: Does she remember on her own to take her
2 medication?

3 A: When we give it to her, or just randomly,
4 "Is it time for my medication?"

5 Q: That's correct. If she were living
6 independently, would she be able to
7 remember that, "It's time for me to have
8 my medicine"?

9 A: I don't think so, and so she keeps saying
10 time to her is -- She says she doesn't
11 have good concept of time.

12 Q: And within Ms. Miles' home, when Mr.
13 King comes for visitation, or comes to
14 visit her and they do spend time
15 together, are they able to have privacy?
16 Are there places there where they can
17 enjoy privacy together?

18 A: Yes, we give them all the privacy they
19 need.

20 Q: All right, I don't have any other
21 questions. There are some other
22 attorneys who are going to ask you
23 questions, so thank you so much.

24 A: Thank you.

25 THE COURT: MR. BOYD.

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1 MR. BOYD: THANK YOU, YOUR HONOR.

2 CROSS EXAMINATION

3 BY MR. BOYD:

4 Q: Ms. Bittok, is your last name pronounced
5 Bittok?

6 A: Yes, Bittok.

7 Q: Bittok. Ms. Bittok, I am Reese Boyd, and
8 I represent David King in this matter. I
9 just have a few questions for you. First
10 of all, if you would tell me, where are
11 you located at this moment?

12 A: In Tacoma, Washington.

13 Q: And specifically in Tacoma, where are
14 you?

15 A: At the Miles residence.

16 Q: Is there a particular location in the
17 Miles residence where you are sitting?

18 A: In the room.

19 Q: In which room?

20 A: In my bedroom.

21 Q: Okay. Is Dr. Miles with you now?

22 A: No, but there are two other caregivers
23 that are with her right now.

24 Q: Okay. Let me ask you this, do you have
25 any notes with you in your bedroom?

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1 A: No.

2 Q: Are you referring to any documents as you
3 provide your responses to your testimony
4 here today?

5 A: No.

6 Q: Okay. Have you had a chance to review
7 the report that has been filed in this
8 matter by Ms. Bess, the guardian ad
9 litem?

10 A: By Ms. Bess?

11 Q: Bess Lochocki.

12 A: No.

13 Q: Okay. Have you reviewed any other
14 documents in preparation for your
15 testimony today?

16 A: No. The only court document that I have
17 reviewed is the visitation order at
18 Franke Tobey Jones, because David came
19 for visitation and I wasn't aware of what
20 the Court order stated. And so, I asked
21 the assistant director of nursing if I
22 could read the Court order so that I know
23 what the boundaries of the Court order
24 is.

25 Q: Do you still have a copy of that court

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1 order?

2 A: I did not take a copy. I just read her
3 copy and gave it back to her.

4 Q: Okay. Excuse me. Did you find that
5 court order understandable?

6 A: It was understandable, but I think, and
7 this is my personal opinion, some things
8 were unrealistic because it did not
9 factor in the health condition in which
10 Dr. Miles was in. To me, when I read the
11 Court order, it treated Dr. Miles as just
12 a regular, healthy human being that is
13 able to be anywhere and with anybody at
14 any time. It did not factor in, her
15 health risk in relation to her diabetes.
16 It did not factor in, her medication
17 schedule at the facility. It did not
18 factor in, what her eating schedule needs
19 to be. So, it was, it's difficult to say
20 in order of the order, when there are
21 other factors that have to be considered.
22 For instance, if David comes in at eight
23 in the morning and it's time for
24 breakfast or her medication, then
25 something has got to be affected by that

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1 visitation. Either her taking her
2 medication, or her being able to get up
3 early enough to be ready for that
4 visitation. At seven in the morning
5 visitation, she's not even out of bed
6 yet. So, I think it's sometimes
7 difficult when you're dealing with a
8 court order that does not factor in the
9 actual condition of the patient, or the
10 person that is being visited. And that
11 was just my personal opinion.

12 Q: Well, I would assume, do you recall that
13 there was a role in the court order for
14 Ms. Lochocki, the guardian ad litem, and
15 I also believe a role for a local elder
16 advocate, I think initially it was Ms.
17 Julie Forkasdi, to coordinate those
18 issues in scheduling visitation? Is that
19 a fair statement?

20 A: That is information that I was aware
21 about Bess and about Julie, but to
22 personally coordinate those with me, I
23 was not part of that.

24 Q: Would you ---

25 A: What I got informed was, "There's a

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1 visitation at this time to this time."

2 Q: Okay.

3 A: And the communication to make that
4 happen, I was not a part of that.

5 Q: Okay. So, you would've included
6 additional terms in the court order if
7 you had been asked to write it, is that a
8 fair statement?

9 A: Can you say that again?

10 Q: Well, let me state it this way. Would
11 you agree with me that the Court that
12 issues the order cannot know every single
13 detail about Dr. Miles's day-to-day
14 schedule, and every little detail of her
15 day-to-day existence, correct?

16 A: That is correct, but I believe that is
17 what the role of Julie and Bess would be,
18 to seek what that schedule is so that
19 they at least work around it or in
20 consideration of it.

21 Q: Exactly, and my question to you just a
22 moment ago was, did you understand those
23 two individuals to have a role in
24 scheduling visitation?

25 A: Yes.

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1 Q: For those very reasons, I might add.

2 A: Yes.

3 Q: Okay, and how did that process work, in
4 your estimation? I will clarify the
5 question in case it's not clear. Did you
6 find in your observation, was it
7 relatively straightforward for Ms.
8 Forkasdi to schedule visitation?

9 A: I do not know, because she did not
10 schedule it with me, so I cannot have an
11 answer for you on that. What I can tell
12 you is, I was informed of when the
13 visitations are, not the details of how
14 that visitation came to being made.

15 Q: Okay. Let me ask you this question. You
16 mentioned in your earlier testimony, in
17 referring to the incident at Franke Tobey
18 Jones, where you discussed David grabbing
19 his coat and suggesting that he and
20 Claudia wanted to go for a ride. I heard
21 you state, "I called Michelle to see if
22 they could leave the premises." I
23 believe you were asking for her
24 interpretation of the court order, but I
25 didn't hear you indicate if she advised

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1 that it was okay under the order, or not
2 okay. Did she give you a decision?

3 A: No.

4 Q: She did not tell you it was not okay?

5 A: I called Michelle to let her know that
6 David's intention was to take Dr. Miles
7 out of the premises. I wasn't seeking
8 guidance or any clarification as to,
9 "Should he take her, or should he not
10 take her?" I just said, "My
11 understanding of the court order is that
12 they're not supposed to be leaving here."
13 So, I was just giving her my observation
14 of what was going on.

15 Q: I thought I understood you earlier to say
16 you asked her if that was okay under the
17 court order? Ms. Bittok?

18 A: I did ask the assistant DON if that was
19 okay under the court order. Kathy, the
20 assistant DON.

21 Q: And I'm sorry, you asked who?

22 A: Kathy, the assistant DON.

23 Q: Okay, and based on that conversation,
24 what was your understanding?

25 A: That it was not okay for them to leave

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1 the facility.

2 Q: Okay. You also said in your earlier
3 testimony, and I will say, if I
4 understood you correctly, and if I'm
5 misquoting your testimony, please correct
6 me, but you indicated, as I understood
7 you, that the FTJ facility was not the
8 best place for Dr. Miles. Is that a fair
9 recollection of mine?

10 A: I said that was my personal opinion.

11 Q: Okay.

12 Q: Did you ever share that opinion with
13 anybody else?

14 A: I think I shared it with Bess, when she
15 called me and asked me what I thought of
16 FTJ. And I said, if there's something
17 that's under service, then I would
18 consider that as the place was
19 underserved the needs of Dr. Miles in the
20 sense that the way the caregivers, the
21 facility caregivers and staff, approached
22 her, it undermined her physical and
23 mental capability. For lack of a better
24 word, let me say, they treated her like
25 she was no longer -- that she in -- like

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1 she couldn't reason anymore. Sometimes
2 when people are in a care facility, their
3 mental ability to reason and to function
4 has diminished drastically. And
5 basically she was being lumped up as
6 somebody who is of that state of which
7 mentally and physically she's much
8 improved than most of the clients there.

9 Q: Do you think in your opinion, and I'm
10 just asking your opinion, obviously, do
11 you think that the stay at Franke Tobey
12 Jones was appropriate, did it assist Dr.
13 Miles in her recovery or was it
14 inappropriate, did it retard her
15 recovery?

16 A: That's difficult for me to say, because I
17 did not know Dr. Miles prior to that. So
18 I have no baseline to base on what Franke
19 Tobey Jones did compared to what it was
20 before.

21 Q: Fair enough.

22 A: But if you ask me how her stay at Franke
23 Tobey Jones is compared to here at
24 Michelle's house, I can give a comparison
25 on that.

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1 Q: And you testified to that. Let me ask
2 you a few questions about Michelle's
3 house. You mentioned that she currently
4 is having issues with balance and
5 unsteadiness on her feet. Is that a
6 continuing issue?

7 A: It happens once in a while, but it's
8 something that we have to be aware of
9 because it happens anytime, it can happen
10 anytime.

11 Q: And when you say once in a while, could
12 you give us a rough approximation of how
13 often once in a while is? Once a week?

14 A: For instance we can go, we can go for a
15 couple days without seeing her being
16 unstable, unsteady, but then the next
17 thing, when she's getting out of her
18 chair, you see her wobble out of the
19 chair, or when she's coming out of the
20 bathroom, she might get up too fast and
21 lose balance. So, it's not something
22 that's happening continuously. It's not
23 every minute of her waking time, but it
24 happens randomly.

25 Q: In the front yard of Michelle Miles'

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1 home, there's a long series of steps,
2 leading from a lower elevation up to the
3 porch. And I'm speaking from memory. I
4 don't have the photograph in front of me,
5 so please correct me if I mischaracterize
6 it. But I understand there's a long
7 series of steps with a rail to the left
8 hand side that was recently renovated and
9 it leads up to a deck or porch area where
10 the entrance to the residence is. Is
11 that a fair statement?

12 A: Yes. The rail is on the left side if
13 you're coming towards the house. It's on
14 the right side. If you're leaving the
15 house.

16 Q: Exactly. You were more precise than I
17 was. Thank you. I was pretending I was
18 walking up the steps and it is on the
19 left. And if you're leaving the house,
20 then it would be on the right. Does that
21 arrangement, does that physical feature,
22 does that present any concerns for you as
23 a CNA given her unsteadiness and balance
24 issues?

25 A: No, because whenever Dr. Miles is leaving

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1 the house, she'll have at least one or
2 two caregivers with her. And the new
3 rail that has been put in has actually
4 made it much easier for Dr. Miles to go
5 up and down the stairs, because the
6 height difference compared to the old
7 rail that used to be there, is adequate
8 for her to hold onto and it's a good
9 support. And sometimes just for exercise
10 right now, Dr. Miles tells us, we need to
11 go up and down the stairs. So, we are
12 even using that as a form of exercise,
13 just going up and down the stairs, but
14 she will always have somebody with her.

15 Q: Okay. Let me ask you this question, the
16 shower in the home, does it have grab
17 rails in the shower that Dr. Miles uses?

18 A: Yeah.

19 Q: It does? Okay. Tell me a little bit
20 about your schedule as a live-in
21 caregiver, if you would. You obviously
22 live in Michelle Miles's residence?

23 A: Yes.

24 Q: And you are on duty. You said seven AM
25 to seven PM. Did I recall that

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1 correctly?

2 A: Yes.

3 Q: And what do you do, if I may ask, and I'm
4 again, not trying to pry, I'm just trying
5 to understand what it means as a live-in
6 caregiver. What is your schedule between
7 seven PM and seven AM?

8 A: So, my day starts at seven AM. Basically
9 I get up at seven when the, when the
10 shift starts, I ensure that if Dr. Miles
11 is up, then we will do her blood sugar
12 test, her fasting blood sugar test, and
13 then give her fruit and some berries and
14 yogurt for the first part of her
15 breakfast. And then I will cook a
16 protein based breakfast and she'll have
17 that with either toast or waffles, or
18 maybe an oatmeal or something like that.
19 So, basically just eat a full breakfast.
20 She'll have her full breakfast, and then
21 we will administer her medication after
22 she's done eating breakfast. Most times
23 Dr. Miles will wake up and eat breakfast
24 in her pajamas. After she is done with
25 breakfast, I'll encourage her to get

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1 dressed for the day, and kind of tell her
2 what the schedule is like for that day,
3 and if she has anything she wants to do
4 or feels like doing.

5 After breakfast, she'll
6 get dressed. And maybe she'll relax for
7 a bit after breakfast. And I'll do like
8 just simple house chores, like cleaning
9 up after breakfast and emptying the
10 dishwashers, stuff like that. And then
11 if that's all done, we sometimes come
12 back to Dr. Miles's room. While she's
13 getting dressed, I tidy up the room. And
14 then if we have an activity where during
15 that morning, then we'll go out and do
16 the activity. If not, then we'll stay
17 till about noon, eleven o'clock noon, do
18 her midday blood sugar fast, see what
19 that is, and then have lunch. If we're
20 out in the community, then we have to
21 carry that with us so that we can be able
22 to administer that while we are out in
23 the community. And so that takes care of
24 most of the morning.

25 Sometimes the mornings

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1 are slower than the afternoons.

2 Sometimes we leave in the morning and
3 come back in the afternoon. And then the
4 afternoon after lunch, if we are home,
5 most probably she'll just take a short 30
6 minute nap. And that is when I would, if
7 laundry is running or stuff like that,
8 then get that going. Or if any cleaning
9 needs done, get that going.

10 And then when Dr. Miles
11 needs to go out and leave the home, if
12 Michelle is not here, then I'm the one
13 who does her transportation for her. I
14 will take her, and we will go wherever we
15 needed to go and do whatever we needed to
16 get done. And then come back later. And
17 then towards evening, about four 30,
18 dinner gets started, cook dinner, and
19 then before she eats dinner, she does her
20 blood sugar fast test and administer
21 medication if needed and based on the
22 sugar test. And then we'll eat, we do
23 family style dinner, and sometimes she'll
24 offer to help set the table or something
25 like that. Tell her, "Okay, here, take

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1 the mats and I take the plates," and
2 we'll just walk hand in hand to the table
3 and do the table setting, the plate
4 setting. And then we eat dinner
5 together. And basically by the time
6 dinner's done, which is about six 30-ish
7 going to seven, it's about time for me to
8 get done and clock out. So the other
9 night staff comes in at seven o'clock and
10 she takes over.

11 Q: And at seven, when the night staff comes
12 in, where will you spend the night in the
13 residence or will you?

14 A: Yeah, I will clock out. And then, that's
15 my own personal time. So, I'm here, but
16 I'm not here type of thing.

17 Q: And do you have shift schedules? Do you
18 work seven on, or you must have a break
19 at some point, there must be breaks in
20 your schedule? Certainly you don't work
21 seven days a week, every week, do you
22 not?

23 A: No, no, no, no. I work five days a week.
24 I work Sunday through Thursday and then
25 Nina works Saturday -- Friday, Saturday.

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1 Q: I'm sorry. What is her name?
2 A: Nina.
3 Q: Nina. And ---
4 A: And there's a caregiver that comes at
5 night.
6 Q: Yes. And so, and not ---
7 A: And there's a second day caregiver that
8 comes eleven to eight PM.
9 Q: I'm sorry. A second day caregiver who
10 comes when?
11 A: Eleven AM to eight PM.
12 Q: Okay. And ---
13 A: And the reason for that is because, with
14 Dr. Miles' unsteadiness, and sometimes
15 she is rash to get up and do something,
16 we need to have eyes on her at all times.
17 So, that in event that anything, if she's
18 unsteady on her feet or she gets up and
19 goes for the door, and I'm maybe in the
20 bathroom, at least there'll be somebody
21 there able to keep eye. And so it's more
22 of a safety issue. I guess you can never
23 prevent a risk, but it's better to try.
24 Q: So if I may just to make sure, I want to
25 make sure I understand what we have.

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1 From seven AM to seven PM, and let's set
2 aside the two days off, it's you or
3 somebody in your place, but from seven AM
4 to seven PM, you are there.

5 A: Okay.

6 Q: And then from eleven AM to eight PM,
7 there's also a second CNA who is there.

8 A: Yeah.

9 Q: And from seven PM to seven AM, you're off
10 duty though you are in the residence and
11 there's a single night caregiver who's in
12 the house while you are off duty.

13 A: Yes.

14 Q: And while you are in your bedroom off
15 duty overnight, where does the single
16 overnight CNA caregiver stay?

17 A: There is recliner in Dr. Miles' bedroom
18 and that is where the night caregiver CNA
19 is.

20 Q: Okay. And on an average day, how much
21 would you say based on your observations,
22 is Michelle Miles actively participating
23 in this care or available to assist with
24 fall risk and other issues as you've
25 described?

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1 A: Michelle, what has taken up most of
2 Michelle's time is all that's going on
3 that right now with all the court stuff
4 that is required of her and all that, but
5 other than that, she is present most of
6 the time. And this is just my personal
7 opinion, I've done caregiving for so
8 long, and compared to other families have
9 taken care of their loved ones, Michelle
10 and John put in so much time. And I tell
11 her, I've never seen that before. This
12 is a first, because you don't find
13 families that are so involved in the care
14 of their parents. And that is just my
15 personal opinion.

16 Q: Let me ask you this question. Are you
17 familiar with the billing practices of
18 SYNERGY that you work for a company
19 called SYNERGY, correct?

20 A: Uh-huh.

21 Q: Are you familiar with the billing
22 practices of SYNERGY?

23 A: No.

24 Q: Do you have any idea how much SYNERGY
25 charges for your services?

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1 A: No, I'm just here as their caregiver. I
2 do not get involved in the financial part
3 of what SYNERGY charges for me being
4 here. I am not privy to that
5 information.

6 Q: Certainly.

7 A: And I don't think I'd want to be privy to
8 that information either because that
9 would affect my objectivity as a
10 caregiver.

11 Q: And I didn't expect that you necessarily
12 would be familiar with those practices,
13 but I needed to ask that question. So I
14 appreciate your answering. So, if
15 Michelle is available throughout the day
16 and active in the process, I take it from
17 your comment that, that's important in
18 your opinion, the opinion that you just
19 expressed?

20 A: Well, it's, it's not -- I don't know how
21 to phrase this. Let me put it in simple
22 terms. It is a welcome sight to see,
23 because in the field you don't find a lot
24 of people as involved in their loved ones
25 care. You don't. I have worked in

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1 places where you don't see a family
2 member for a year. You only see a
3 Christmas card come in the mail.

4 Q: Understood. Let me ---

5 A: And so for me to see how they're
6 involved, it's like a breath of fresh
7 air, because it's not typical to see
8 that.

9 Q: Sure. Let me ask you this question. If
10 there was an option that was being
11 discussed in this proceeding, that would
12 have Michelle not live in the residence,
13 but have Dr. Miles live in the residence
14 with the company solely of professional
15 CNA paid caregivers, how do you think, in
16 your opinion, having spent a significant
17 amount of time with Dr. Miles, how do you
18 expect that she would respond to that?

19 A: This is just my opinion, that would be a
20 welcome idea, just because of that
21 parent-mother role, parent-daughter role
22 dynamic that sometimes tends to rise.
23 And sometimes you can see the frustration
24 that Dr. Miles is facing when Michelle
25 has to tell her mom, "You have to do

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1 this, it's good for your health," or "We
2 need to do this, we need to do that." So
3 sometimes, my observation is that Dr.
4 Miles is a very independent woman, and so
5 being told what to do, when to do it,
6 makes her feel that she has no choice.
7 And so that dynamic sometimes causes a
8 strain in their relationship. Dr. Miles
9 loves Michelle, and she loves Michelle
10 being here. And their conversation and
11 their body language, you can just see
12 this as a mother-daughter relationship
13 that is full of love. At the same time,
14 that same relationship can be so strained
15 to the point where you're like, "Oh gosh,
16 what is going to happen? Are they going
17 to argue, are they going to yell at each
18 other?" So it is normal in family
19 dynamics, it is normal when those roles
20 are reversed. We see that a lot in the
21 healthcare field, but will it be for the
22 best interest of both of them? Most
23 probably, yes.

24 Q: And do you have any educational training?
25 Do you have any educational training in,

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1 Ms. Bittok, that would qualify you to
2 render an opinion, a general opinion of
3 that nature? What is your educational
4 background?

5 A: No, I do not have the educational
6 background. That's why I said that was
7 my personal opinion.

8 Q: Okay. I just wanted to clarify.

9 A: Yeah.

10 Q: I just wanted to clarify. Thank you.

11 A: Yeah. That's just my personal opinion.

12 Q: So, if I could summarize your testimony,
13 it seems, I hear you saying that Dr.
14 Miles and Michelle love one another, but
15 they'd like to love one another from a
16 respectable distance. Is that a fair
17 summary?

18 A: Not, not, not too far a distance. She
19 can be here and not here. You know that,
20 let me put it this way, when it comes to
21 the primary role of being her care
22 provider, her caregiver, her medication
23 administrator, I believe it's best for
24 Michelle to be out of that role and let
25 us, the caregivers, do that. But when

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1 she's coming from a mother/daughter,
2 mother caring for her daughter role, then
3 she is fabulous in what she does.

4 Q: Let me ask you this question. Have you
5 ever witnessed David King doing anything
6 in your presence that would cause you to
7 question his judgment?

8 A: I think personally when he took Dr. Miles
9 to the bathroom, I think he should have
10 had us do that just based on her -- I
11 think just how the dynamic of her using
12 the bathroom and stuff like that, maybe
13 he was not aware that she loses balance
14 and stuff like that. So, I think we
15 would have been in a better position to
16 assist her then, but other than that, I
17 don't know David personally. So, it's
18 hard for me to make a judgment on whether
19 I can speak to that. That's just the one
20 incident that I have seen.

21 Q: Understood. And I ---

22 A: The other incident that I saw that kind
23 of threw me off, was he brought yogurt
24 that had 19 grams of sugar, but she's
25 diabetic.

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1 Q: And when did that happen?
2 A: When we were at Franke Tobey Jones.
3 Q: I'm sorry?
4 A: When Dr. Miles was at Franke Tobey Jones.
5 Q: And also I'd ask you, have you ever
6 witnessed Michelle Miles do anything that
7 would lead you to question her judgment?
8 A: As far as Dr. Miles care is concerned?
9 Q: Judgment is a open subject. Judgment,
10 and if you want to qualify the question,
11 you can, it's a general question. You
12 can answer it as you have knowledge, I
13 would ask the question specifically
14 related to her medical care, if you have
15 examples or just generally in any sense,
16 if you have other examples.
17 A: No, I think Michelle's judgment on most
18 things are very much on point for
19 instance, when Dr. Miles' right foot was
20 swelling, and I had done a pedicure for
21 her the previous day, and Michelle was
22 rubbing Dr. Miles' head and she noticed
23 her right leg was swollen. So, she made
24 a judgment call. We went to the ER, and
25 lo and behold, they found she had blood

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1 clots in her right leg. So that is a
2 medical -- an observation she made of her
3 mother's foot and the action she took was
4 very much needed.

5 Q: Let me ask you this question. Do you
6 feel -- Strike that. Let me ask you,
7 we've talked about education, we've
8 talked about employment history. Let's
9 go back to the beginning of this case who
10 hired you in this case to assist Dr.
11 Miles?

12 A: SYNERGY.

13 Q: SYNERGY hired you.

14 A: SYNERGY, I work for SYNERGY. SYNERGY
15 sent me on an assignment.

16 Q: And who first ---

17 A: SYNERGY has all these clients that they
18 get referrals on. And so if they have a
19 client that needs a caregiver, they will
20 send us on an assignment. And so that's
21 basically how I ended up being in this
22 role.

23 Q: And do you recall who you first spoke
24 with among the following individuals; Dr.
25 Strasswimmer, Dr. John Strasswimmer,

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1 Michelle Miles, Dr. Claudia Miles, David
2 King, Bess Lochocki, Beth Stone, Julie
3 Forkasdi? Among those individuals, who
4 do you recall first having a conversation
5 with about Dr. Miles?

6 A: It would be Michelle Miles.

7 Q: And how did SYNERGY instruct you to call
8 her? Did you get an email from SYNERGY
9 that advised you ---

10 A: No. When I got to the facility for the
11 assignment, Michelle introduced herself
12 and said, "This is my mother, Dr. Miles."

13 Q: Okay.

14 A: So, when I got to the facility, Michelle
15 came and met me as she does all other
16 caregivers that come to care for her mom.
17 She, she makes it a point of being there,
18 introducing herself and introducing her
19 mother to the caregiver. It's not one of
20 those, it was not an assignment where I
21 got there and just read the information
22 off of a care plan and continued my work.

23 Q: And briefly describe that introductory
24 meeting for the Court, if you would.

25 A: It was just, as I told you, "My name is

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1 Michelle Miles, and this is my mother,
2 Dr. Claudia Miles."

3 Q: Well, certainly she would've told you
4 more than that, correct?

5 A: In the introductory, no.

6 Q: She, she just said ---

7 A: And so I said, "I'm Joyce. I'm a
8 caregiver from SYNERGY."

9 Q: She said, "I'm, I'm Michelle Miles, and
10 this is my mother." And that was the end
11 of the meeting?

12 A: Yes. Not the meeting. End of that
13 conversation, the introduction.

14 Q: Okay. Then ---

15 A: After that, Dr. Miles got dressed and
16 then we went down for breakfast.

17 Q: And when did you first recall at that
18 point, you were apparently, knowing, if
19 I'm misstating your testimony, please,
20 correct me, you were apparently knowing
21 the following, you knew that, you had
22 just been introduced to Michelle Miles,
23 you'd been introduced to her mother and
24 you were having breakfast? When did you
25 first learn about the existence of a

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1 husband and the existence of a dispute
2 between Dr. Miles' children and the
3 husband?

4 A: It was not until the visitation piece of
5 it.

6 Q: Okay. And how long between the breakfast
7 meeting and that visitation, when you
8 first learned of the potential conflict
9 between the families?

10 A: No, the visitation was much later because
11 that's when the nurse brought the court
12 orders, the assistant DON brought the
13 court order stuff.

14 Q: Okay, so how long would you estimate --
15 what was the time, the length of time
16 that lapsed between that apparently very
17 succinct introductory meeting and
18 breakfast, until you had the first
19 visitation and became aware that there
20 was a dispute between Dr. Miles' husband
21 and her children? And it doesn't have to
22 be precise your best ---

23 A: Maybe two weeks.

24 Q: Two weeks? Okay.

25 A: Yeah, when they mentioned that there was

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1 going to be the visitation and Cassie,
2 and I told Cassie, "What does the court
3 order say," because I needed to know what
4 the boundaries were for the court order,
5 what my role was, and what the
6 expectation was.

7 Q: And who is Cassie?

8 A: She's the assistant DON at the facility.

9 Q: And during that two week period, what had
10 your role been for Dr. Miles?

11 A: Just the caregiver.

12 Q: And were you all on 24 hour duty or half
13 day duty or what was your schedule for
14 this period?

15 A: I just come in on my scheduled days, work
16 and leave. I do seven AM to seven PM.

17 Q: Okay. Did ---

18 A: My, my role as being the primary
19 caregiver for Dr. Miles kind of changed
20 after we left Franke Tobey Jones, because
21 before then, we all had different
22 schedules and were sent to different
23 assignments. And then eventually I was
24 offered -- my boss asked me if I was able
25 to work more days, because before I'd do

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1 two days here, two days there, a day
2 here, day there and go. And then that's
3 when he asked, "Are you able to fill in
4 more because of that consistency and
5 care?"

6 When we went through
7 the period where Dr. Miles wouldn't get
8 out of bed and was going through a hard
9 time, it was evident that when she had
10 different caregivers coming in, then the
11 continuation of care was being
12 interrupted. So it was more like, "Okay,
13 today I have to learn a new face. I have
14 to learn a new name." Everybody's care
15 style is different. And so it's like
16 you're reinventing the wheel every day.
17 And then I guess when once I started
18 being there more consistently, four days
19 a week, then that's when now a pattern
20 started forming in where we are able to
21 say, "Okay, this is what we are doing
22 today or that's what we are going to do
23 in future," because of that continuous
24 care from the same caregiver.

25 Q: And let me ask you this question and I'm

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1 going to try to wrap up because we're
2 trying to move along. On a day-to-day
3 basis, how would you assess Dr. Miles'
4 memory and the continuity of her memory
5 from hour-to-hour, day-to-day, week-to-
6 week? You've discussed a couple of
7 conversations that you had with her
8 recently. Do you think she will remember
9 those conversations tomorrow or the next
10 day or how is her current recollection of
11 the day-to-day events that you engage in
12 with Dr. Miles? How is her recollection
13 of those events over time as you
14 currently observe it?

15 A: There's some things she'll remember.
16 There's some things she won't remember.
17 For example, sometimes I'll go on my day
18 off and when I come back, she won't
19 remember I went for four days off. And
20 when I came back, she could remember my
21 face and she knows my name, but she
22 couldn't put the two together. And then
23 recently when I came back, I had gone for
24 spring break. And when I came back, she
25 could remember me. She got up and she

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1 gave me a big hug, and she could remember
2 my face and my name. There are places
3 we'll go. She'll say, "Well, you've
4 brought me here before." There are places
5 she'll say, "I don't remember being
6 here." So it's a touch and go some days
7 she'll remember stuff. Some days she
8 doesn't remember stuff. There are days
9 she'll brush her teeth and after two
10 hours, she'll brush them again. There
11 are days she'll remember that she had had
12 her medication. Some days she won't
13 remember she had it. And so her memory
14 is not all -- it's there and not there.
15 Some days are worse than others. And so
16 it's not something that I can say, "Will
17 she remember a conversation I had with
18 her yesterday?" She might, or she might
19 not. It's not a given.

20 Q: Let me ask you this question. You said
21 in your testimony, if I understood you
22 correctly, that Dr. Miles recently
23 expressed frustration to you that no one
24 was listening to her. Is that a fair
25 assessment or a fair recollection?

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1 A: Based on what's happening in court, yes.

2 Q: Do you think she was specifically
3 referring to this court proceeding?

4 A: Yes. She asked me, "Where is Michelle?"

5 And I said, "Michelle
6 is in South Carolina." This is the
7 conversation that was prior to her saying
8 how she felt. So I said, "Michelle is in
9 South Carolina."

10 She said, "What is she
11 doing in South Carolina?"

12 And I said, "As she
13 told you last week, she was going there
14 for the Court hearing." And then that's
15 when now she shared that with me.

16 Q: And just to clarify, what specifically
17 did she say?

18 A: She stated that nobody had asked her
19 opinion ---

20 Q: But of course ---

21 A: --- about all this.

22 Q: Okay. Let me ask you this question. If
23 the Court were to call Dr. Miles and ask
24 her her opinion, do you think she would
25 be interested in having that phone call?

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1 A: I asked her yesterday at dinner and she
2 said no, because she doesn't know what
3 the Court rules are for that court. I
4 asked her that very question at dinner
5 last night.

6 Q: And if she is frustrated in the fact that
7 she believes no one is listening to her,
8 and this will just have to be an opinion,
9 which I think you can share based on the
10 amount of time you spend with Dr. Miles,
11 why would she not exert more effort in
12 making her opinions known in this
13 proceeding?

14 A: I don't think I can answer that question
15 because I don't know. I do believe that
16 she called Beth Stone and left her
17 messages. I don't think they ever met
18 after that. And so I cannot say for sure
19 why she hasn't exerted herself. And
20 sometimes she can make a statement and
21 then not follow up on it in the sense
22 that maybe she's forgotten about it. But
23 the time that she did make an effort to
24 reach out to Beth Stone, I think that was
25 an effort that she had really gone above

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1 what I have seen before.

2 Q: Do you know who ---

3 A: And -- Huh?

4 Q: I'm sorry, I didn't mean to interrupt

5 you.

6 A: And I think for her to actually pick up

7 her phone and call Beth Stone, well, some

8 of it was with guidance because she

9 couldn't remember who Beth was and the

10 way Beth is saved in her phone is she is

11 her advocate here in Washington State.

12 And so I said, "You can call her and let

13 her know that you want to meet with her."

14 But I don't think, I don't know if they

15 met. I don't know if there was a follow

16 up call from Beth concerning that phone

17 call that she had put into Beth.

18 Q: And when did this conversation happen?

19 A: Huh?

20 Q: When did that conversation happen? When

21 did you explain to -- Let me rephrase.

22 When did you remind Dr. Miles who Beth

23 Stone was?

24 A: There was a visitation that Beth Stone

25 and David came for.

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1 Q: No, I -- Well, I'm sorry, go ahead.

2 A: So during that visitation, Beth Stone
3 reintroduced herself to Dr. Miles. And
4 she stated who she was, what her role
5 was. And she was honest and said, "I
6 don't really know even what my role is.
7 It's an evolving role." And so Dr. Miles
8 said, "Okay, in your developing role, can
9 I meet with you one on one?" And Beth
10 agreed to that. She was to go look at
11 her calendar and call Dr. Miles back. I
12 am not aware if she ever called Dr. Miles
13 back. But the following week, Dr. Miles
14 did mention that she was supposed to meet
15 with Beth. She said, "I was supposed to
16 meet that lady that came here."

17 And I told her, "Give
18 her a call on your phone and leave her a
19 message if she doesn't answer." So Dr.
20 Miles did call and left her a message.
21 Beth Stone called her back and left her a
22 message. So, they kind of played phone
23 tag most of that day. But I'm not aware
24 if they eventually met, not that I'm
25 aware of or if Beth Stone ever called her

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1 back.

2 Q: When did that happen, to the best of your
3 recollection? What day was that day when
4 they exchanged these phone messages?

5 A: Oh gosh, I wouldn't have an exact -- It's
6 sometime in March. I know that for sure.
7 But the exact date I would have to maybe
8 go back and see if we have some record of
9 that.

10 Q: Would it have been early March, mid-
11 March?

12 A: I'm thinking early March.

13 Q: So early March, March 5, March 10?

14 A: I cannot be sure. I cannot tell you for
15 sure. All I remember is we had gone to
16 Seattle and on our drive back -- I'm
17 tempted to say March 7th.

18 Q: Okay.

19 A: Because we had driven up to the treatment
20 center in Seattle and on our way back, I
21 was driving and Dr. Miles was in front
22 with me and that's when she realized she
23 had a phone message from Beth Stone. And
24 they kept going back and forth calling
25 each other and leaving messages for each

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1 other.

2 Q: Approximately how many messages were
3 exchanged, if you recall?

4 A: I'm not sure.

5 Q: Two? Four?

6 A: I at least know of two.

7 Q: Okay. So that would've been, if it was
8 March 7th, great, if it was March five,
9 March 10 somewhere around there.

10 A: Yes.

11 Q: If you understood that Dr. Miles was
12 trying to reach out to meet with the
13 elder advocate that she had been
14 introduced to at the meeting that you
15 referred to, and she had independently
16 expressed to you a desire to connect with
17 her, which it sounds like that's what
18 happened, then when you subsequently
19 learned that, in fact they had not
20 connected, be it because Beth Stone did
21 not call Dr. Miles back or Dr. Miles
22 forgot about the project for lack of a
23 better term, would that not have been
24 something that you would've thought to
25 follow up on to perhaps reach out to Beth

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1 Stone and say, "Hey, Beth Stone, Dr.
2 Miles wants to talk to you?"

3 A: From the best of my recollection, the
4 following day, I believe I may have been
5 on a day off for the next two days. So I
6 don't know if the caregiver that came in
7 the next day took care of that.

8 Q: Well, let me ask this question. When did
9 you learn that they had not connected?
10 When did you get -- you testified that
11 later you learned that based on the best
12 of your recollection, in fact, they had
13 never had a conversation?

14 A: Just going through reading documentation
15 that is available. I don't see anywhere
16 where Beth Stone is stated as having come
17 over.

18 Q: And what documentation are you referring
19 to?

20 A: Just the communication log that we keep.

21 Q: Okay, are you looking at that
22 communication log now?

23 A: No.

24 Q: Well, I thought you just testified that
25 you had a conversation with Dr. Miles

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1 where you realized as a result of that
2 conversation that she and Beth Stone had
3 never connected.

4 A: So what is your question?

5 Q: Well, my question is you've now given me
6 two reasons that you learned that Dr.
7 Miles and Beth Stone had never connected.
8 The first reason that I understood from
9 your earlier testimony was you had a
10 conversation with Dr. Miles at a
11 subsequent date. It would've been after
12 March 5, after March 7, whatever the date
13 was, but subsequently, and I got the
14 impression from your initial testimony
15 that it was sometime later, but you
16 realized that you had been made aware
17 initially in early March that Dr. Miles
18 was trying to reach out to communicate
19 with Beth Stone and then subsequently you
20 learned that as a result of that effort
21 that Dr. Miles had initiated or responded
22 to at the very least that they had
23 nonetheless never actually spoken. Is
24 that fair?

25 A: Yes.

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1 Q: And did you learn that from a
2 conversation that you had with Dr. Miles?
3 A: No. I just didn't see any documentation
4 that Beth Stone had come over.
5 Q: Okay. Then I'll rephrase my question.
6 When did you review the communication log
7 and learn that there had been no
8 communication or no visit by Beth Stone?
9 A: I can't remember what the exact date, but
10 when I came back on shift, after my time
11 off, I did look and I didn't see
12 anything, any mention of Beth Stone
13 having visited and I was gone for a week
14 in the month of March. But shortly after
15 my time off, I did leave and I did not
16 come back until I believe it was the 26th
17 of March.
18 Q: You believe it's been -- so you believe
19 it was the 26th of March that you learned
20 by -- and I don't have a calendar in
21 front of me -- Was that a day you
22 returned back in the office after a
23 vacation?
24 A: Yes, back to work.
25 Q: And do you recall what day of the week

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1 that would've been?

2 A: I came back to work on Wednesday the
3 27th.

4 Q: Okay, and is it on that day, do you
5 recall, reviewing the communications log
6 where you learned that Beth Stone had not
7 visited?

8 A: I don't remember what day it was.

9 Q: Well, was it shortly after you returned?
10 Was it ---

11 A: It would have to be shortly after I
12 returned.

13 Q: Okay. So, since you returned from
14 vacation and learned that Dr. Miles and
15 Beth Stone had never communicated, did it
16 occur to you to perhaps call Beth Stone
17 and follow up?

18 A: I believe I asked Michelle about it.

19 Q: And when did you ask ---

20 A: But I can't ---

21 Q: And when did that take place?

22 A: It would have been some time, not recent
23 but wouldn't even be after -- I just --
24 shortly after those missed calls, I asked
25 if they were going to meet. But I can't

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1 remember ---

2 Q: Shortly after ---

3 A: --- if anything was done on Michelle's
4 part.

5 Q: Shortly after the missed call ---

6 A: My ---

7 Q: I'm sorry.

8 A: So, my role ---

9 Q: Ma'am, ma'am, I'm going to stop you. The
10 way this works is I ask a question and
11 you answer it. And it doesn't work if we
12 both talk at the same time. So, I'm
13 going to ask you a question and then I
14 will ask you to answer that question, if
15 that's okay.

16 A: Okay.

17 Q: So I just heard you to say, after the
18 missed calls, you asked somebody if they
19 had ever spoken again. And when did that
20 happen?

21 A: It must have been a week or so after
22 that.

23 Q: And who did you ask?

24 A: It could have been a conversation with
25 Michelle.

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1 Q: And do you recall what Michelle indicated
2 to?

3 A: No, I don't.

4 Q: So you ask her if Beth Stone and her
5 mother had ever spoken, since you had
6 been aware they had played phone tag and
7 you don't recall what Michelle said in
8 response to that inquiry?

9 A: What I know is that John and Michelle had
10 met with Beth Stone and David on a day I
11 was off and so I can't remember if that
12 was after the phone tag or before the
13 phone tag. I can't remember for sure,
14 because it was a conversation that had
15 happened while I was off and I was aware
16 that a meeting did happen between John
17 and Michelle and David King.

18 Q: But you were also aware that Dr. Miles
19 was trying to reach out by phone to Beth
20 Stone, correct?

21 A: Yes.

22 Q: And it appears that you can't really
23 testify consistently one way or the other
24 about whether they've spoken or not.

25 A: I don't know if they spoke or not.

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1 Q: Okay, let me ask this question. Do you
2 think if someone in Dr. Miles' condition
3 and in her position is trying to reach
4 out to the person who has been appointed
5 to be her elder advocate, do you think
6 that that is a conversation that you
7 should help to facilitate or that you
8 should not worry about?

9 A: Can you repeat your question?

10 Q: You are with Dr. Miles a large portion of
11 most of the days, five days a week. And
12 if in the course of that interaction as
13 her primary, one-on-one caregiver, you
14 become aware that Dr. Miles is trying to
15 reach out to the person who has been
16 appointed in these proceedings to be her
17 elder advocate, do you feel that you have
18 any role in assisting her? Should you
19 follow up? Should you assist in
20 facilitating and assuring that
21 conversation takes place? Or is it
22 something in the alternative that you
23 just don't need to be worried about?

24 A: To the best of my understanding, I'm not
25 sure when that meeting between David and

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1 Michelle and ---
2 Q: Ma'am, I'm not, I'm not -- Ma'am, I'm
3 going to ask you to answer my question.
4 You're not -- I'm not asking you about
5 the meeting. I'm asking you -- I'm going
6 to make this very simple. If Dr. Miles
7 tells you, "I'd like to talk to David
8 today," is that a conversation that you
9 should try to facilitate in your role, or
10 is that a request that you would ignore?
11 A: She's never asked me that.
12 Q: If she asked you, "I'm trying to reach
13 Beth Stone," is that a conversation that
14 you should try to facilitate, or is that
15 a request that you should ignore?
16 A: Which I believe, based on what I said
17 earlier, she did call Beth Stone.
18 Q: And as I understand, you testified, she
19 got ---
20 A: And they had phone tag.
21 Q: Well, yes.
22 A: And there was a meeting between Michelle,
23 David and John.
24 Q: Ma'am, with all due respect, we've heard
25 about the meeting and the meeting took

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1 place prior to the phone tag. The phone
2 tag occurred after the meeting. The
3 meeting occurred earlier. The phone tag
4 happened by your testimony on or about
5 March 7, March 5, or March 10 or
6 thereabouts. We don't need to go back to
7 the meeting again. I am past the
8 meeting. I'm talking about the phone tag
9 that you witnessed on March the 7th, by
10 your own testimony, when Dr. Miles
11 indicated a desire to speak with Bess --
12 Excuse me, strike that, -- with Beth
13 Stone. And I'm asking you to explain to
14 the Court what have you done since March
15 7th to assist in facilitating that
16 conversation? And if the answer is
17 nothing, then just say nothing. That's
18 fine. If you don't feel that's your
19 responsibility, you're entitled to your
20 assessment of your role in these
21 proceedings.

22 MR. RHODES: YOUR HONOR, I'M GOING
23 TO OBJECT. I JUST
24 BELIEVE AT THIS POINT
25 HE'S BADGERING THE

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1 WITNESS. HE'S OFFERING
2 SUGGESTED ANSWERS AND
3 HE'S GETTING - - -
4 MR. BOYD: I'LL WITHDRAW THE
5 QUESTION.
6 THE COURT: THANK YOU.
7 MR. BOYD: NO FURTHER QUESTIONS
8 FOR THIS WITNESS.
9 Q: Actually, one final question, Ms.
10 Bittok. I apologize for getting
11 frustrated with you. But do you know, as
12 of this date, that since you witnessed
13 the phone tag exchange on March 7th, do
14 you know if there's been a conversation
15 between Beth Stone and Dr. Miles?
16 A: I don't know.
17 Q: Okay, no further questions.
18 MS. LOCHOCKI: I DON'T HAVE ANY
19 QUESTIONS FOR THIS
20 WITNESS, THANK YOU.
21 THE COURT: YOU HAVE ANY FURTHER
22 QUESTIONS, MR. RHODES?
23 MR. RHODES: I DON'T BELIEVE I DO,
24 YOUR HONOR. THANK YOU
25 VERY MUCH.

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1 THE COURT: MS. HARRISON?
2 MS. HARRISON: NO QUESTIONS, YOUR
3 HONOR.
4 THE COURT: MS. BITTOK, THANK YOU
5 FOR YOUR TESTIMONY THIS
6 MORNING. THIS IS JUDGE
7 WARD. I HAVE ONE
8 QUESTION. I KNOW IT'S
9 STILL FAIRLY EARLY
10 THERE, WHERE YOU ARE,
11 BUT COULD YOU TELL US
12 HOW DR. MILES IS DOING
13 TODAY?
14 A: I have not been able to make an
15 assessment of how she's doing today
16 because I've been on this phone call.
17 THE COURT: RIGHT, THERE'S ANOTHER
18 CARETAKER THERE WITH
19 HER?
20 A: Yes, there's another caretaker with her.
21 THE COURT: OKAY. I WAS JUST
22 CURIOUS AS TO HOW HER
23 DAY WAS GOING. I
24 APPRECIATE YOUR ANSWER.
25 THANK YOU SO MUCH, AND

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1 I THINK THAT IS ALL WE
2 NEED FROM YOU TODAY.
3 THANK YOU VERY MUCH.
4 MS. BITTOK: THANK YOU.
5 THE COURT: BYE-BYE.
6 MS. BITTOK: BYE.
7 THE COURT: DO WE WANT TO TAKE A
8 BREAK?
9 MS. HARRISON: YES, PLEASE.
10 MR. BOYD: YES PLEASE, YOUR HONOR,
11 THANK YOU.
12 THE COURT: HOW LONG DO YOU NEED?
13 MS. LOCHOCKI: TEN MINUTES IS GOOD FOR
14 ME.
15 THE COURT: TEN MINUTES?
16 MR. BOYD: I SAY WE JUST RECONVENE
17 AT ONE, YOUR HONOR.
18 I'M GOING TO GO GRAB A
19 SNACK OF SOME TYPE.
20 THE COURT: ONE O'CLOCK?
21 MR. BOYD: YES.
22 THE COURT: OKAY.
23 *****OFF THE RECORD*****
24 (ON THE RECORD.)
25 THE COURT: I'M GOING TO GO AHEAD

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1 AND SWEAR YOU IN AGAIN,
2 BECAUSE WE HAVE HAD SO
3 MUCH BACK AND FORTH.
4 MARY MICHELLE MILES, AFTER HAVING BEEN DULY
5 SWORN, TESTIFIED AS FOLLOWS:
6 THE COURT: PLEASE BE SEATED. MR.
7 BOYD, WHENEVER YOU'RE
8 READY.
9 MR. BOYD: THANK YOU, YOUR HONOR.
10 THE COURT'S INDULGENCE,
11 YOUR HONOR. IN THE
12 INTERIM THE DOCUMENT
13 THAT I WAS USING
14 APPEARS TO HAVE
15 DISAPPEARED ON ME, SO
16 GIVE ME ONE SECOND, IF
17 YOU WOULD, PLEASE.
18 **MR. BOYD CONTINUES:**
19 Q: All right, Ms. Miles, let's try this one
20 more time.
21 A: Let's restart.
22 Q: So when we left your testimony earlier
23 this morning, and I didn't realize we'd
24 be taking such a lengthy break, but it is
25 what it is, we were discussing your

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1 background, your financial background,
2 and your experience and various positions
3 that you held and we talked about
4 different accounting terms, income
5 statements, accountings, reports that
6 cover periods of time, reports that are
7 snapshots, the income statement versus
8 the balance sheet, et cetera, et cetera.
9 Let me ask you again, and I know we
10 touched on this, but I never really got
11 an answer from you, based on your
12 recollection of and your knowledge that
13 you've acquired over the various
14 positions that you described to the
15 Court, do you consider this document, and
16 I'll hand it to you again, at this time
17 I'll remember you've got it, do you
18 consider that to be a full and complete
19 accounting for the assets that you
20 control of your mother as of the date it
21 was prepared?

22 A: Would you repeat that question? I want
23 to make sure I understand every word that
24 you're asking.

25 Q: I just asked you if you consider that to

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1 be a full and complete accounting of your
2 mother's finances as of the date it was
3 prepared?

4 A: As of the date that it was prepared?

5 Q: Yes, ma'am.

6 A: That's my recollection. This is the
7 knowledge that we had about things. It
8 was rather early on.

9 Q: And when was that document prepared, ---

10 A: I did not ---

11 Q: --- if you can recall?

12 A: I did not prepare this, but it appears it
13 was dated January 15th.

14 Q: I'm sorry, it's dated when?

15 A: I did not prepare this, but it, it
16 appears to be dated January 15th on page
17 two.

18 Q: And have you, since that time, and we
19 discussed some of the things that are not
20 included in that document, but have you
21 since that time prepared any updated
22 accounting documents?

23 A: I have provided to the Guardian ad Litem,
24 at her request, a substantial spreadsheet
25 specific to her request and a lot of

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1 additional financial statements and
2 documents. I don't have a copy of that
3 with me.

4 Q: Well, let me ask you this question. Have
5 you ever prepared a document and
6 submitted it to the guardian or the
7 parties that you would consider to be a
8 full and complete accounting of the funds
9 that you have taken control of on behalf
10 of your mother?

11 A: Would you please define taking control
12 of?

13 Q: That have come under your control.

14 A: Meaning that I have access to or that I'm
15 aware of?

16 Q: That you have access to, I mean,
17 obviously if you've taken responsibility,
18 if you have access to funds and you've
19 taken control of them, if you can go to
20 the bank and access funds out of an
21 account, you're in control of that
22 account and you're also responsible for
23 that account?

24 A: Uh-huh (affirmative response), yes.

25 Q: Is that fair?

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ROA 1402

1 A: Yes, absolutely.

2 Q: So, again, my question to you is, have
3 you ever provided to the Guardian ad
4 Litem or to any party here a document
5 that you would consider to be a full and
6 complete accounting of the assets that
7 you've taken control of, those funds that
8 you have access to, those funds that
9 you're using, those funds that you are
10 administering on behalf of your mother?

11 A: I don't recall preparing a summary
12 document, but what I do recall providing
13 at the direct request of the Guardian ad
14 Litem are statements for all of the
15 accounts as described, you know. So I
16 have provided what I have been asked to
17 do.

18 Q: Are you aware that we have asked for an
19 accounting?

20 A: We meaning you and your office?

21 Q: Yes.

22 A: I am aware, yeah.

23 Q: And do you realize that that request has
24 been outstanding for some time?

25 A: I don't recall the exact date of it, but

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ROA 1403

1 I do recall that it was -- I want to say
2 -- well, this was prepared for the
3 mediation which occurred in January, so.

4 Q: But you've already acknowledged that
5 that's not really a full and complete
6 accounting, correct?

7 A: I stated that this appears to be, based
8 on this date, what we knew at the time,
9 what I knew at the time of generally my
10 mother's assets or potential assets and
11 liabilities.

12 Q: Is there any single document that you can
13 point to that shows all the, and for the
14 initial one, we would assume the starting
15 balance is zero, but is there any
16 document that you've prepared that shows
17 a starting balance of zero and that says,
18 "Over a period of time I have collected
19 some or not -- either collected or I've
20 assumed control of these funds, these are
21 the funds that I now have under my
22 control, these are the expenses that I
23 have made out of those funds, these are
24 the collections that I've added into
25 these funds," and so we start with zero

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1 and then we add the deposits and we take
2 away the expenses and there's an ending
3 balance? Have you provided or prepared
4 any document that would resemble that?

5 A: I have at the request of the Guardian ad
6 Litem and I prepared an Excel spreadsheet
7 for, I believe, a defined time period,
8 breaking down in multiple tabs
9 expenditures. One of the tabs lists the
10 income sources that I was aware at that
11 moment in time, do recall that at that
12 point I was starting to receive paper
13 checks. In terms of the overall balance
14 sheet, I don't recall that I have, but
15 I'm happy to. It wouldn't take long to
16 put together, I mean ---

17 Q: Well, and you said that yesterday. I
18 noted in my notes to your testimony that
19 in several instances, multiple instances,
20 more than a handful of instances, as I
21 recall, you responded that you would be
22 happy to do something or you could
23 prepare something or you would have to
24 refer to your records. When are you
25 going to be in a position to prepare an

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1 actual accounting for the funds that you
2 have administered for your mother since
3 you were appointed temporary guardian in
4 November or do you ever plan to do that?

5 A: I will do whatever it is that is
6 requested of me, and to answer your first
7 question, now that we went through what
8 was a very busy, chaotic, fun, difficult
9 transition in February to bring my mother
10 into the Heatherwood house to get it
11 furnished, to take her to the many, many
12 infusions and doctors' visits, make sure
13 she stayed on keel, multiple ER visits,
14 outside of my primary duties to take care
15 of my mother and her health, I had a very
16 limited amount of time, and I, I spent
17 hundreds of hundreds of dollars and
18 dozens and dozens of hours preparing sets
19 of documents for -- at the request of
20 this Court, so ---

21 Q: At the request of the Court or at the
22 request of ---

23 A: I'm sorry, at the request of the
24 guardian.

25 Q: --- the guardian?

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ROA 1406

1 A: The Guardian ad Litem.
2 Q: I'm sorry, I don't want to interrupt you.
3 A: And, so, thank you very much for that.
4 So now that we -- and, of course, all of
5 the trips out here, which, you know, add
6 a day on either side for travel have
7 limited my time. So now that things are
8 much more settled, Mom is settled. She
9 has come -- she's much better in terms of
10 being comfortable, and the caregiver
11 staff is solid. We have consistent
12 primary caregivers. I am relieved more
13 and more and have more and more time. So
14 to answer your question, yes, but it has
15 been difficult to find the time to
16 prepare what was requested after January,
17 after our mediation, which I don't
18 recall. That was late January, I think.
19 Q: It was in January.
20 A: It was in late ---
21 Q: I had initially requested of Mr. Rhodes
22 an accounting in advance of the mediation
23 so that we could consider that, and I
24 reiterated that request in advance of the
25 mediation, so we have been requesting an

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1 accounting since January.

2 A: And is this, is the document? I believe
3 this is the document that was provided
4 before the mediation.

5 Q: Well, I'm supposed to ask, you're
6 supposed to answer.

7 A: No, no, I, I don't know.

8 Q: You are correct. That is the document
9 that Mr. Rhodes prepared on the eve of
10 mediation. I believe he provided it
11 after business hours on the eve of
12 mediation, but with all due respect, that
13 is not an accounting, but let me ask you
14 this question. Since you have some time
15 issues, and I believe I heard you say
16 yesterday that some of the questions that
17 Mr. Rhodes was asking you, yes, you had
18 wanted to do that, and I'm speaking
19 primarily about the preparation of an
20 accounting, but that it was your mother's
21 health needs that were your priority and
22 that that just was not a priority; is
23 that a fair assessment of your testimony?

24 A: The second half is not fair. It was ---

25 Q: Not fair, okay.

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1 A: It was not, not a priority. The first
2 part -- my mother's medical situation is
3 very fluid, for example, she's been to
4 the ER now three times, one time of which
5 I was here in March 21st, I believe. So
6 there's that, and then the fact of the
7 matter is that I had wanted to hire a
8 CPA. My mother's taxes need to be done.
9 Somebody needs to file an extension on
10 her behalf, and I had identified, we had
11 identified a CPA to proceed. I sent
12 thousands and thousands of receipts. I
13 keep virtually every receipt. I have
14 Hefty Bag after -- or Glad Bag or Glad
15 Bag of receipts. So I was poised to be
16 able to provide, at cost, a more
17 professional thorough accounting, but
18 then I was advised that that would not be
19 appropriate at the time, don't recall who
20 said that, so I pulled back from that,
21 and I had relied on that being the
22 solution for more than a week, and so
23 remember, so we have our mediation in
24 January 20, whatever it was, and then we
25 moved my mother in February 1, and then

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1 we have a seven day snow storm that we
2 literally can't leave the house, and then
3 we have scheduled visits, ER, and here we
4 are end of March. So my time now is more
5 open and I am more than willing. I'm
6 totally committed to providing this
7 Court, all parties here with whatever it
8 is that I can do to the best of my
9 financial accounting abilities or ---

10 Q: And based on your background, those
11 abilities should be fairly substantial,
12 correct?

13 A: I, I believe that I have the capacity to
14 sit and go through two thousand receipts
15 and tally them up, sure. It's going to
16 take some time or I could hire a
17 professional who has a staff and a
18 machine that can go through and audit and
19 add, and so I ---

20 Q: Well, either way, and I'm not suggesting
21 that you have to sit, physically,
22 yourself and do it, but either way, the
23 job has to be done; would you agree with
24 me on that?

25 A: Oh, I totally agree, absolutely.

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ROA 1410

1 Q: And I want to go back, you objected to my
2 characterization. You objected to the
3 characterization, my characterization of
4 your testimony, but I have here in my
5 notes at page five of about twelve pages
6 of notes, for whatever that means, of
7 your testimony, that you said when Mr.
8 Rhodes had asked you about certain
9 accounting records not being done, as I
10 wrote your response, and obviously this
11 is not an official transcript, so
12 according to my notes, you said you
13 weren't terribly concerned about it
14 because it's auditable ---
15 A: Uh-huh (affirmative response).
16 Q: --- and it was low on the priority list.
17 Do you recall saying that?
18 A: I recall saying lower.
19 Q: Oh, lower?
20 A: Yes, and I believe there's a distinction.
21 Q: But is it fair to say it wasn't your
22 highest priority?
23 A: You're correct.
24 Q: But even though that was apparently not
25 your highest priority, you found time to

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1 produce what you have introduced into
2 evidence as Exhibit Number 16, which is a
3 fairly detailed summary of your hours
4 with a corresponding bill for your time;
5 is that not correct?

6 A: I did provide a summary and, and it was
7 not terribly difficult to put together,
8 because I did not go through, for
9 example, an audit, four to five months of
10 phone records, to go through all my
11 emails and audit all of the financial
12 institution time I spent. I didn't audit
13 all of the drive time. I didn't audit, I
14 mean, that, that is a underestimate,
15 underestimate of the time that I spent.
16 I chose to not take the time to do a deep
17 dive on all of the time that I spent, and
18 I did think that it was appropriate for
19 me to present ---

20 Q: Ma'am -- I'm sorry.

21 A: No, go ahead. Yeah, go.

22 Q: Please finish. You thought it was
23 appropriate to ---

24 A: To produce a document.

25 Q: Reflecting your time?

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1 A: Reflecting an estimate of my time. It's
2 a very simple document to show largely
3 what I have been doing as the primary, as
4 the temporary guardian.

5 Q: But I believe your testimony yesterday
6 was that you spent countless hours
7 working on that document; did I mishear
8 you yesterday?

9 A: I would have to see the context of
10 perhaps the transcript. I spent a lot of
11 hours gathering financial documents and
12 other documents to provide to the
13 Guardian ad Litem ---

14 Q: No. Ma'am, ---

15 A: --- once communications ---

16 Q: --- let's make sure -- excuse me. I
17 don't want to interrupt you, but let's
18 make sure we're on the same page. My
19 understanding is, and I'm asking you
20 about Exhibit Number 16, which is a
21 recap. You advised yesterday it was not
22 a contemporaneous record, but that you
23 went back and prepared it after the fact,
24 summarizing the time that you've spent in
25 your service to your mother as the

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ROA 1413

1 temporary guardian and it adds up, the
2 total hours of 212 on one summary and
3 392.75 on another summary with respective
4 bills of \$20,200 and 37,300, which add up
5 to approximately \$57,000.

6 A: Correct.

7 Q: And my understanding of your testimony
8 yesterday was that you said you spent,
9 yesterday, you said you spent countless
10 hours working on this document; do you
11 recall saying that?

12 A: I do not recall saying that.

13 Q: So now your testimony is that this was a
14 fairly simple document that you put
15 together in fairly short order?

16 A: My testimony is I do not recall saying
17 that.

18 MR. BOYD: YOUR HONOR, MAY I
19 INQUIRE OF THE COURT
20 REPORTER BRIEFLY?

21 THE COURT: SURE.

22 MR. BOYD: MADAM COURT REPORTER,
23 DO YOU HAVE THE ABILITY
24 TO READ BACK A
25 TRANSCRIPT FROM

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ROA 1414

1 YESTERDAY OR IS THAT,
2 ---
3 COURT REPORTER: NO, SIR, ---
4 MR. BOYD: --- WOULD YOU NOT HAVE
5 THAT CAPABILITY?
6 COURT REPORTER: --- NOT AT THIS POINT.
7 Q: So is it your testimony, sitting here
8 today, that yesterday when you were
9 testifying about Exhibit Number 16 that
10 you did not say you spent countless hours
11 preparing this document?
12 A: No, my testimony is that I do not recall.
13 Q: Okay. But it is your intention, as I
14 understand your testimony today, that you
15 intend to produce an accounting; is that
16 your intent?
17 A: It is, I think, my obligation to do so.
18 I would prefer to hire a professional
19 because it is a vast amount of
20 documentation, particularly if you want
21 to drill down the categorizations as to
22 whether it was a Save-Way charge or going
23 to get Vietnamese food, et cetera, but
24 yes, I think that that's critically
25 important, both for David's peace of mind

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1 and wellbeing, for my brother's peace of
2 mind and wellbeing, and I think that it
3 is an accountability thing, I mean, money
4 is -- money management, fiscal management
5 is important. It was not my top priority
6 in terms of accounting for monies while I
7 was focused on taking care of my mother's
8 critical and non-critical medical and
9 wellbeing needs, but I kept receipts, I
10 kept everything, virtually.

11 Q: But you know these documents have been
12 requested by my office, by Mr. King's
13 counsel, by the Guardian ad Litem, you're
14 aware of those requests, correct?

15 A: I am aware of seeing emails to that
16 effect, yeah.

17 Q: And when do you anticipate -- now that
18 you have more time, when do you
19 anticipate that you would be able to
20 prepare an accounting, with or without
21 assistance?

22 A: Well, I think a lot of that depends on
23 the outcome of the decision of this Court
24 and my role going forward, and, also, it
25 depends on the outcome of this Court and

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1 the choice of conservator, and if the
2 conservator approves a professional
3 service, then it probably wouldn't take
4 very long. If the Court does not approve
5 of a -- or excuse me, if the conservator
6 approved by the Court allows the expense
7 for a professional CPA firm who would
8 also do my mother's taxes, to, to take
9 what I have and talk with me, I, I would
10 imagine it wouldn't take long, I don't
11 know. We are in tax season, so it might
12 have to wait 'til after, after April
13 15th. If the Court does -- if, if the
14 conservator appointed by the Court does
15 not approve a professional to do this,
16 then I would imagine, in all fairness,
17 depending on whether I am my mother's
18 medical guardian or not with those
19 responsibilities, and as I look to obtain
20 employment, it's really difficult for me
21 to estimate, because there are literally,
22 I would say, thousands of receipts.

23 Q: Do you understand -- but you do agree
24 with me, regardless of when it happens,
25 that you would owe this Court an

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1 accounting, ---
2 A: Absolutely.
3 Q: --- regardless of the Court's decision
4 ---
5 A: Absolutely.
6 Q: --- in this matter?
7 A: Absolutely, I understood from day one.
8 Q: And let me ask you this question, what
9 would you describe for me as the process
10 -- Well, strike that. Let me ask this
11 question. If you're concerned about
12 whether a conservator would approve an
13 accountant to assist you, why wouldn't
14 you have already retained an account to
15 -- when the requests were initially made,
16 why not retain an accountant to assist
17 you then?
18 A: I did speak with an accountant to whom I
19 provided an overnight delivery with a
20 full copy set, which took me hours to
21 make, of receipts I had accrued to-date
22 and shipped it to her, but did not sign a
23 retainer to start that, because after
24 discussion with various parties, it was
25 concluded that I probably, maybe didn't

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1 have the authority to spend my mother's
2 funds on an accounting and I did not want
3 to get in trouble, and at that point, I
4 did not proceed with this. Am I
5 answering your question?

6 Q: Yes.

7 A: Okay.

8 Q: Were those people who advised you, and I
9 don't want to hear anything that Mr.
10 Rhodes talked with you about, but were
11 they accountants, were they lawyers,
12 where did you seek that advise?

13 A: They were professionals.

14 Q: Professional dancers?

15 A: Well, I don't know, you know, they --
16 well, would you, would you, would go back
17 and say what you just said about Mr.
18 Rhodes?

19 Q: No, I do not -- I'm not asking you
20 specifically if Mr. Rhodes is the
21 individual who told you ---

22 A: Uh-huh (affirmative response).

23 Q: --- not to get an accountant. I don't
24 want to know about those communications,
25 I'm just asking you, where did you go

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1 seeking this advice? I'd like to know,
2 if there are folks that you sought advice
3 from other than Mr. Rhodes, I'd like to
4 know who those individuals are.

5 A: Well, I spoke with my brother to
6 evaluate, you know, that because I didn't
7 have clarity, ever, on my
8 responsibilities and accountabilities on
9 the financial side, all due respect, from
10 the guardian, and perhaps I -- Guardian
11 ad Litem, perhaps I could've done some
12 research into South Carolina law, but I
13 just didn't. I -- yeah, I talked to a
14 friend of mine who is a prior banker and
15 I thought about it on my own. I used my
16 own counsel and I decided that the risk
17 is not worth the reward. Something like
18 that, that endeavor, I would imagine,
19 separate from the taxes being prepared
20 would probably have cost at least \$5,000
21 and I did not feel comfortable spending
22 that kind of money in my current role,
23 which was to spend money for my mother,
24 her wellbeing, her medical care, et
25 cetera. An accounting, I didn't know

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1 that there was a direct correlation, and,
2 again, I had not been made aware that a
3 live, sort of real time, ongoing -- I
4 could've been more organized in that. I
5 still don't know if I would've had the
6 time to produce a robust documentation
7 throughout this journey of my mother's
8 illness and transfer to my home, but I
9 hope I'm answering your question that I
10 did the best I could with the guidance
11 that I received and I chose to be
12 conservative in terms of spending my
13 mother's money. I just didn't want to
14 get in trouble.

15 Q: I believe, and I appreciate that answer,
16 that is responsive. Thank you. So you
17 agree that an accounting is proper and
18 necessary?

19 A: Uh-huh (affirmative response).

20 Q: And you will prepare one or have one
21 prepared, but the question that I also
22 would have for you is, did you have any
23 sense -- I heard quite a bit yesterday
24 about sort of a lack of appreciation of
25 your role as a fiduciary. Do you

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1 understand what it means to be a
2 fiduciary?

3 A: Would you -- if, if you don't mind, and I
4 don't know if this is appropriate, could
5 you rephrase the first statement that you
6 made? It seemed like it was perhaps a
7 bit presumptive and I'm not sure what,
8 what you're staging that.

9 Q: Let's just start with a simple premise.

10 A: Okay.

11 Q: Strike that.

12 A: Okay.

13 Q: What is your understanding of the concept
14 of a fiduciary?

15 A: A fiduciary to me is a broad term that
16 covers accountants and bankers and
17 auditors and that kind of thing, so a
18 fiduciary is, in my personal opinion,
19 someone who acts responsibly, someone who
20 saves records, someone who always has the
21 best -- has the ethical responsibility to
22 execute funds in this role, in this role,
23 in my, my assigned role as temporary
24 guardian, to expend funds, to ensure that
25 the ward, her medical, her, her housing,

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1 her, her entertainment, her needs, her
2 clothing, of which she had none, were all
3 met and accounted for, and that if, say,
4 my mom wanted to go and buy a Maserati,
5 that my responsibility would be to say,
6 "No," but if my mom wanted to pick out a
7 countertop that she loves for her
8 bathroom and it was expensive, yes, that
9 was important to my mom. Does that
10 answer your question?

11 Q: Well, somewhat. Let me ask this
12 question. If you had -- Let's pick up on
13 what you said about spending money
14 responsibly. You testified yesterday
15 that you've spent and you've reported
16 that you've spent a substantial amount of
17 your mother's money since you became the
18 temporary guardian; is that a fair
19 assessment?

20 A: I don't recall what I testified and the
21 exact words I used; however, a
22 substantial amount of my mother's money
23 has been spent, for example, on one-time
24 expenses that are non-recurring, that
25 were necessary, i.e., Franke Tobey Jones

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1 housing, Synergy Care Services for my
2 mother's safety and medical wellbeing,
3 Guardian ad Litem costs, Julie For -- I,
4 I always get her name wrong, I apologize,
5 Julie.

6 Q: I think we covered that yesterday.

7 A: Yeah.

8 Q: I think we covered a lot of that.

9 A: And that's a -- very, very quickly, and,
10 and the remodel of my home where my mom
11 stated she wanted to live and has always
12 stated that she wanted to live with me
13 ever since I was ten when she got old,
14 just saying, so.

15 Q: And I believe you testified and you've,
16 in fact, reported to the Guardian ad
17 Litem and she shared that information in
18 her report that since you became
19 guardian, temporary guardian, excuse me,
20 temporary guardian through the end of
21 January, January 31, that you had spent
22 approximately \$180,000; is that your
23 recollection?

24 A: I, I did read that in the report.

25 Q: Well, you provided the information to the

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1 Guardian ad Litem, correct?

2 A: Uh-huh (affirmative response).

3 Q: And do you have any sense of how much
4 money you have spent since February 1 in
5 connection with this case of your
6 mother's funds?

7 A: Not really, because the Synergy bills
8 are, are Automatic Clearinghouse, they
9 are direct debited. I, again, did not
10 understand -- I was not told, I should
11 say, that my role should include an
12 ongoing, nearly real time bookkeeping, if
13 you will, and, again, February was pretty
14 crazy between the snow storm and the time
15 spent out there and getting my mom to her
16 appointments and dealing with a lot of
17 other things. There's only so many hours
18 in the day. I am happy to produce bank
19 statements, I mean, so, but for Synergy,
20 for example, February, we had a snow
21 storm, buses weren't running, it's
22 fourteen inches, and I'm telling you
23 this, sir, because it's important. Only
24 two of our CNAs have cars, Joyce and
25 Nina, nobody else drives, they all take

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1 buses. Some of them take buses for two
2 hours one way. So we lost power, so I
3 made a decision that I believed was in
4 the best interest of my mother to
5 authorize that three of them stay with
6 us, because we were landlocked and I did
7 not want to run the risk that any one of
8 them leave and I might be alone with my
9 mother and my mother may not be able to,
10 you know, people need to sleep, so
11 there's an extraordinary expense there.

12 Q: And when you say, "Stay with us," explain
13 that.

14 A: Stay in the house that I own.

15 Q: So you have three caregivers?

16 A: For a period of several days, that that
17 would be a substantial expense.

18 Q: Additional expense?

19 A: Yes, and, and ---

20 Q: How many caregivers would be there on an
21 ordinary basis?

22 A: Well, we have 24/7 care, so we have seven
23 to seven and seven to seven, so it's two
24 caregivers, and then we have an eleven to
25 eight, so we have every day in a twenty-

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1 four hour period three caregivers, two,
2 twelve hour shifts, and then a third.

3 Q: So it's, rough numbers, it's about one
4 and a half people days in any twenty-four
5 hour period?

6 A: Yeah. Yeah.

7 Q: Is that a fair assessment?

8 A: That's fair.

9 Q: So what you're telling me is for seven
10 days you had three people around the
11 clock; is that what you're telling me?

12 A: No, I didn't say ---

13 Q: I'm not trying to put words in your
14 mouth, I'm just asking you if I
15 understood you correctly?

16 A: No, I never said seven days.

17 Q: Okay. Well, explain, please, what did
18 you say?

19 A: I, I believe it's for a few days. It may
20 have been up to five. I'd have to look
21 at my calendar, ---

22 Q: Okay, sure.

23 A: --- but there is no way, as David could
24 attest to since he was stuck twice in my
25 neighborhood trying to drive, there is no

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1 way for these women to get to a bus,
2 never mind, I couldn't rely on them
3 returning, and I needed them to be there
4 for my mother. I could not rely on one
5 or two people, myself included, to go
6 without sleep in case my mother had an
7 emergency, so. So I'm just -- the reason
8 I brought that up is that when you're
9 asking me for how much was spent, the
10 largest expense is Synergy. Synergy, I
11 signed new care plans February 1, and I
12 did bring those with me, and one of them
13 was for a live-in, because that was for
14 me since I was in the process of moving
15 out, anyway, and I, I was not staying at
16 my house many, if not, most nights, I
17 wanted, I wanted someone there who had a
18 car, who would be there as a backup,
19 should, should an emergency occur, and my
20 boyfriend's house is about twelve,
21 fifteen miles away, but just wanted to
22 make sure, so.

23 Q: Do you have any idea what the -- You
24 said, and, again, I'm not trying to put
25 words in your mouth, I thought you said

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1 you thought that was a substantial
2 additional expense.
3 A: For the snow storm?
4 Q: For the three caregivers?
5 A: During the snow storm period?
6 Q: Whenever you expanded the staff for
7 purposes of making sure that you had
8 assistance ---
9 A: No.
10 Q: --- during the snow storm?
11 A: Oh, during the snow storm?
12 Q: Yes.
13 A: Well, yes, they all received a daily
14 rate, and the daily rate is, I believe,
15 \$525.
16 Q: And, so, additional expense to the
17 estate, for lack of a better word, the
18 additional expense to your mother
19 would've been approximately -- do you
20 have any idea?
21 A: I believe that the rate is \$28. It
22 varies, if they have a car, but I think
23 it's \$23 to \$28, just going off memory,
24 per hour, and so, gosh, I'm sorry, I
25 usually can do this math in my head.

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1 Q: Let me ask you this question, maybe this
2 will be ---

3 A: Twenty-four hours in a day times twenty,
4 so we're basically at \$500.

5 Q: Let me ask you a little more of a general
6 question which may be a little more
7 approachable.

8 A: So we probably spent, I'm sorry, about
9 \$3,000 more.

10 Q: Okay, 3,000.

11 A: I guess.

12 Q: When you are anticipating or
13 contemplating an expense or have
14 contemplated or anticipated expenses on
15 behalf of your mother during the period
16 that you've been temporary guardian, ---

17 A: Uh-huh (affirmative response).

18 Q: --- how do you evaluate the
19 reasonableness of those expenses,
20 typically, do you have a system or an
21 approach that you can describe?

22 A: Yeah. I have, I have a pretty logical
23 brain. I, I -- and I don't mean to
24 boast, but I do a risk analy -- excuse
25 me, a benefit reward or a cost benefit

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1 analysis for extraneous expenses. Some
2 expenses cannot be avoided and are
3 necessary, such as groceries, clothing,
4 transportation, meals when we're at the
5 hospital, that kind of thing. When I am
6 -- and it's been pretty rare. The snow
7 storm is really the primary, if any, the
8 only example I can think of where there
9 was an atypical event, which in my view,
10 the benefit will outweigh the expense.
11 Again, we had lost power for a day, I
12 didn't know if I was going to lose power
13 again, needed those women there with me,
14 so. I don't know if I'm answering your
15 question. I don't think that I've been
16 faced with a situation where I've had to
17 determine any significant expenses that
18 might affect my mother's estate, which by
19 the way, my mother who was so
20 hardworking, she had a masters in
21 entomology, she became a psychiatrist,
22 she saved her money, she's going to live
23 a very short period of time, and so my
24 mother has plenty of money, but I'm not
25 spending it except to take care of her.

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1 The other side of this is that my mother
2 is finally enjoying life in a way that
3 she has not been able to, physically, and
4 what that means is that there are longer
5 and longer drives that she wants to go
6 to. Well, we've always kind of taken her
7 to movies. She goes out now without
8 seeking my permission, I mean, that's
9 happened multiple times. It kind of
10 throws me into a panic, but, you know,
11 the caregivers tell me it's okay, you
12 know, as long as Joyce or Nina are with
13 her and she's in their car and they've
14 got the other person with them, fine, so.
15 My mother is also using her own Visa,
16 which I've been so happy. I told her I
17 wanted her to start using it. She told
18 me her wallet was pathetic, 'cause she
19 has no I.D. in it except the black and
20 white copies of her passport and her
21 South Carolina I.D., so I gave her her
22 Visa, and I said, "Mom, it's time for you
23 to start doing this," and she, as Joyce
24 had testified, is becoming stronger and
25 stronger with that, and she has said to

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1 me that she is looking forward to having
2 more control over her money, so what I'm
3 trying to do is introduce financial
4 concepts and responsibilities back into
5 my mother's life. I start -- I'm
6 starting to show her bills. She wants to
7 know what things are costing and, you
8 know, showing her her assets, I mean, I
9 am very transparent with my mother, so.

10 Q: And we've wondered, I'm going to ask you
11 one question and I'm going to try to rein
12 this back in, and I appreciate your
13 efforts on, you know, behalf of your
14 mother, let me ask you this question.
15 You have spent a significant amount of
16 money, you mentioned remodeling your
17 residence; is that correct?

18 A: Uh-huh (affirmative response), correct.

19 Q: What's your approximation of that amount
20 that you've spent remodeling your
21 residence, and I believe you testified to
22 this yesterday?

23 A: Sure. I believe hard costs to-date are
24 around \$50,000. So the railing was about
25 sixteen, maybe, maybe higher. I honestly

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1 -- I don't have it in front of me, ---

2 Q: I know.

3 A: -- but please ---

4 Q: For purposes of this discussion, I'll
5 accept that estimate. Let's just accept
6 that estimate ---

7 A: I mean, the numbers are there.

8 Q: --- for purposes of this discussion. Let
9 me ask you this question.

10 A: Uh-huh (affirmative response).

11 Q: Do you think it's reasonable to spend
12 50,000 of your mother's dollars on a
13 remodel of your house when you are the
14 temporary guardian?

15 A: The Guardian ad Litem expressed multiple
16 times her strong -- desire is not the
17 right word, because it's not a
18 professional word, but her strong belief
19 that my mother needed to be out of Franke
20 Tobey Jones as soon as possible. I
21 humped hard to find a contractor, a
22 general contractor who was legitimate,
23 had the experience, had ADA remodeling
24 experience, has a software background, is
25 highly analytical. He jumped through

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1 hoops during a busy time, through snow
2 storms, during the holidays, and he got
3 it done, so, you know, if your question
4 is, are the expenses, excuse me, the
5 reason for the expenses are that my
6 mother said to many people, to doctors,
7 to myself, to my brother, to David, to
8 the three of us many, many times when she
9 had returned to Washington the second
10 time that she wanted to live with
11 Michelle. Michelle's home needed to
12 have, you know, I wanted my mother to
13 live in, not only a safe and ADA
14 compliance space, which basically my
15 house was, except for the fact that the
16 bathroom right across from her bedroom
17 had a tub that had rotten wood around it
18 and was not stable and that was dangerous
19 for her to get it and out of. I already
20 had a standing shower at the far side of
21 the house and that was the shower that,
22 you know, I use when I use a shower, and
23 the hand railing was a custom design
24 because of the graduated steps, you know,
25 these are plateaus on these steps. So,

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1 yeah, I felt it was an immediate need and
2 I felt that I was following the direction
3 and the urgency expressed by the Guardian
4 ad Litem who ---

5 Q: Well, let me ask you this question. If
6 the number had been higher, let's say it
7 hadn't been your tub that was soft, say
8 your whole foundation in your home had
9 been soft and you had to go in and raise
10 the foundation to make the house stable,
11 let's assume you had the bill up in a
12 hundred thousand or 125,000, would that
13 have been reasonable?

14 A: No, 'cause these were -- these are very
15 specific minor in scope projects, two
16 primary projects, get the bathroom not
17 only functional and in anticipation of a
18 time when perhaps my mother might need a
19 Hoyer Lift, hence the pocket door,
20 measurements were taken and that's why
21 we're looking at the chair, the interior
22 chairlift and the railing. The railing
23 had to be redone, so no, absolutely not.
24 I would've reached out to the Guardian ad
25 Litem, I would've talked to my attorney,

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1 I would've said, "What's our solution
2 here," but to be frank, to find a place
3 that will accept a person in Mom's
4 condition to rent an apartment when a
5 third party is paying and she has months
6 to live and she has a cat and is in a
7 good neighborhood and is large enough and
8 in a high enough quality and safe enough
9 to -- that's -- we tried looking for
10 that. We ended up with one place and it
11 was, it was a direct lease. The indirect
12 lease part, that's -- so. But no, I
13 would, I would've sought advice.

14 Q: Well, let me ask you this question. You
15 said in your answer, if I understand you
16 correctly, that 100,000 would not have
17 been reasonable, you would've sought
18 advice, but yet, 50,000 was reasonable,
19 apparently?

20 A: Well, my answer was not in response to
21 the dollar value, it was in response to
22 the scope of work. You described
23 replacing the entire foundation. I was
24 focused on the project and to complete
25 the project.

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ROA 1437

1 Q: Then, let me rephrase the question. If
2 the bill to renovate your bathroom from
3 Bandito Construction had been \$100,000
4 ---

5 A: That would've been unreasonable and
6 unacceptable to me.

7 Q: Okay, then I'll ask you again.

8 A: Uh-huh (affirmative response).

9 Q: If 100,000 on the bathroom renovation
10 would've been unreasonable and you
11 would've sought counsel or advice, why
12 not seek advice in anticipation of a
13 \$50,000 renovation of the bathroom?
14 Would that not also have been prudent?

15 A: Well, the railing was nearly \$17,000,
16 okay, so the bathroom, and, again, I
17 don't have the most recent invoice in
18 front of me. The thing about remodels is
19 that, you know, there's this thing called
20 scope creep, so when the tub was removed,
21 guess what, rot everywhere, mold, things
22 that had to be mitigated, and, you know,
23 you know, that takes labor, that takes
24 time. My mom chose, and I'm so grateful
25 she did, Joyce was with us that day,

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1 chose her own flooring for the tile, she
2 loved how it felt and it's beautiful, and
3 her own countertop, which was probably
4 one of the most expensive countertops
5 that place carried, but it's beautiful,
6 okay, so, but my mom was excited to be
7 involved. But there are expenses that
8 were unforeseen, and also having these
9 guys jump through all of my mother's
10 schedules, dealing with the snow storm,
11 dealing with the holidays, they have six
12 other jobs going, yeah, there's, there's
13 going to be an upcharge, I'm sure, for
14 getting this done, but I was focused
15 solely on getting it done to get Mom in
16 there as soon as Franke Tobey Jones felt
17 it was appropriate to release her.

18 Q: And I understand those issues arise and
19 delays occur and there are costs and your
20 mother wanted the most expensive
21 countertop ---

22 A: Well, she wanted the one she liked, it
23 just happened to be that.

24 Q: But it just happened to be the most
25 expensive, you said?

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1 A: Right.

2 Q: But, again, you're not answering my
3 question. My question was, was it
4 reasonable to spend your mother's funds
5 in that amount without consulting -- It
6 would've been very simple to consult the
7 Guardian ad Litem and say, "We've got a
8 bathroom that needs remodeling, Mom is
9 going to have to spend "X" number of
10 dollars, she wants this, she wants that,"
11 I mean, did you contemplate having any of
12 those discussions with anybody?

13 A: No. I felt it was within my purview,
14 along with my other responsibilities, to
15 ensure that my mother had a safe,
16 accessible quality of life, a standard
17 that she's accustomed to and that she
18 would enjoy since this is likely the
19 place, if the Court approves, that she
20 will probably die in, that that was
21 within my purview, and in the scope of my
22 mother's assets, \$50,000 is not, I mean,
23 you know, if, if, if I was, if I was
24 putting my mother's estate at risk of
25 depleting it, that it might put her at

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1 risk of not having funds necessary for
2 her care should she survive a year, which
3 we hope, for example, then absolutely,
4 but no, my goal was to get it done fast,
5 I was under that directive, and I wanted
6 it to be done nice, and we had to work
7 around my -- we were still doing
8 construction, finished construction in
9 February.

10 Q: So let's pursue that line of thought
11 since you have answered it in that
12 fashion. Let me ask you this question.
13 Do you understand what your mother's
14 total assets to be, ballpark?

15 A: Yeah. This is from a long time ago, so
16 assuming that the house is worth, I
17 think, roughly \$500,000, and assuming
18 that it is decided that she is -- has
19 half the equity, 'cause the mortgage is
20 virtually paid off, that's \$250,00. She
21 has a vehicle, her Austin-Healey, which I
22 haven't checked out, but I think that's
23 probably worth \$70,000 or so, so now
24 we're at 300 plus, her IRAs, I mean, I
25 had no idea. I thought she had \$200,000

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1 in a USAA account, but, you know, she had
2 these IRAs I eventually discovered at TI,
3 TIA. I think together, they're about
4 \$500,000. I'm trying to look and see.
5 She had a Fidelity account that I
6 discovered that had like -- well,
7 \$377,000 on the last statement. So long
8 story short is it appeared that my mom
9 had about a million dollars in cash
10 assets, roughly, because she had the BB&T
11 account as well. Maybe it was a little
12 bit less, maybe it was 800, somewhere in
13 that, plus the equity in the house, which
14 I understand David has a life estate for.
15 So that took -- I, I will tell you that
16 when the time -- when this accounting is
17 done for the Court, I am really looking
18 forward to accounting for the time that I
19 spent trying to get this out. This was
20 really hard, sorry, but ---

21 Q: And I'm sorry, Michelle, to have to ask
22 you these questions, it does not ---

23 A: Of course. Of course, ask me anything, I
24 mean, I'm tearing up because it's just
25 very sad.

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1 Q: So let's take your number, let's assume
2 your mother's estate -- we don't have a
3 balance sheet, but let's assume your
4 mother's estate is a million dollars ---

5 A: Yeah, that's just a guess. That doesn't
6 include artwork or whatever, I don't
7 know.

8 Q: Well, it's your number and I'm taking
9 your number, because that's all I have,
10 and if you have spent, by your report
11 between November and February, 180,000,
12 what would you guesstimate that you've
13 spent between, and I know you couldn't
14 give me an estimate earlier, but can you
15 give any kind of guesstimate as to how
16 much money you spent between March 1 and,
17 excuse me, February 1 and March 31, that
18 two month period?

19 A: Let's see if I can think about the
20 Synergy, and, and I'd like to point out
21 -- I don't know, maybe this is semantics,
22 but many of these expenses were
23 unavoidable, ---

24 Q: Ma'am, I'm ---

25 A: --- so I just want to point that out.

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1 Q: I'm not asking whether the expenses are
2 unavoidable, that's a judgment call.
3 A: I would guess ---
4 Q: I'm just asking you to give me the best
5 guess ---
6 A: Sure.
7 Q: --- that you can give, ---
8 A: Okay. So if I had to guess ---
9 Q: --- and I just want -- let me finish my
10 question, ---
11 A: Okay.
12 Q: --- because we'll do better if I finish
13 my question and you give me an answer.
14 A: Yeah, of course.
15 Q: I'm just looking, and I've been trying to
16 get this number for a while now and I'd
17 like to move along, ---
18 A: Uh-huh (affirmative response).
19 Q: --- I'd just like the best guess that you
20 can give the Court ---
21 A: Uh-huh (affirmative response).
22 Q: --- at this moment for the total amount
23 of money that you spent between February
24 1 ---
25 A: Uh-huh (affirmative response).

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1 Q: --- and March 31 ---

2 A: Uh-huh (affirmative response).

3 Q: --- out of your mother's funds for her
4 care or benefit or for whatever.

5 A: Uh-huh (affirmative response). And, so,
6 I -- the process I need to go through is
7 just to break it down, so just bear with
8 me for a second.

9 Q: Certainly.

10 A: And, then, secondly, I ---

11 Q: I would say we've got all day, but we
12 don't, ---

13 A: No.

14 Q: --- but take your time.

15 A: Yeah. Yeah, but I ---

16 Q: I'm not rushing you. We'll work this
17 out.

18 A: So I would guess that Synergy in February
19 was probably somewhere between twenty and
20 \$30,000, and I would guess that Synergy
21 in March, I don't know if I've received
22 the most recent bill, but it was probably
23 15,000. Well, now that Joyce is there as
24 a full-time, it may be closer to \$20,000.
25 I would guess that -- I'm trying to think

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1 of the other major expenses, my travel.
2 I don't know how many times I've been out
3 here. Let's -- I don't know, say \$5,000.
4 Mom likes to go out and eat. We keep the
5 house well stocked with groceries. Mom
6 had no clothes, so I'd say clothing maybe
7 two to \$3,000. She's pretty well
8 equipped now. So all in and the
9 groceries and gas, whatever,
10 entertainment, I would guess another few
11 thousand dollars a month. Now remember,
12 that with groceries, we are -- I'm sorry,
13 with the groceries, we are feeding
14 myself, not all meals all days, we are
15 feeding my mother, we are feeding three
16 CNAs a day, and we are feeding two cats,
17 and then gasoline. I don't, you know, do
18 the mileage accounting thing, I just
19 simply fill my car with gas, because I
20 travel, I mean, I take my mom on trips
21 and, you know, I know Joyce does a
22 mileage accounting. I think I
23 shortchange myself by doing gas instead
24 of mileage, but. So that's just off the
25 top of my head, and then my mother spent

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1 \$1,000 this last month on going out to
2 eat.

3 Q: I'm sorry, she spent how much?

4 A: About \$1,000. I just printed up her Visa
5 statement on going out to eat.

6 Q: And, so, if that math is correct ---

7 A: Oh, and I'm sorry, I'm sorry, one more, I
8 apologize. There is another deposit I
9 made to Bandito Construction. I don't
10 recall if that was the end of February,
11 the beginning of March, but that was in
12 anticipation of the, either the ramp as
13 per what the, the Guardian ad Litem had
14 recommended in her report or what I
15 believe to be a better and safer and
16 healthier and less expensive alternative,
17 which is that interior chairlift, and
18 that's been bid out at about \$25,000. So
19 that money that's not spent, if we halt
20 everything today, that money comes right
21 back in to my mother's assets.

22 Q: I'm confused. What money comes back into
23 your mother's assets?

24 A: Any, any unspent funds held right now by
25 Bandito Construction to commence the work

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1 that I thought was going to commencing
2 already to either start an engineered
3 ramp or an interior access, but was
4 halted with the most recent Court Order,
5 so.

6 Q: And, so, Synergy runs approximately 20 to
7 30,000 per month; is that what your
8 testimony is?

9 A: Well, I, I feel really uncomfortable
10 doing this, because, again, February is
11 unusual. I have the numbers, and if it
12 pleases the Court, perhaps it would be
13 most efficient if I just do a simple
14 accounting of February and March and
15 provide that to the Court.

16 Q: Well, my question to you -- May I call
17 you Michelle?

18 A: Oh, you're welcome, of course.

19 Q: My question to you, Michelle, is why
20 hasn't that already happened? With all
21 due respect, it's not Rocket Science, and
22 I think, just from the expenses that
23 we've outlined here today, you've burned
24 through a -- if we're assuming that it's
25 a million dollar estate, you apparently

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1 have burned, and this doesn't count the
2 57,000 that you've asked for in personal
3 fees, by my rough calculations here,
4 you've burned through a third of your
5 mother's estate.

6 A: I'm surprised you're using the term,
7 burnt. That has such negative
8 connotations.

9 Q: Well, I'm sorry. Let me ask you this
10 question. You said that your goal was to
11 preserve your mother's estate?

12 A: My goal is to take care of my mother's
13 health.

14 Q: Well, I believe you said earlier --
15 Clearly, if your mother runs out of
16 money, that will affect her health; will
17 it not?

18 A: Absolutely, and many of these expenses,
19 as already explained yesterday and today,
20 were one-time expenses, not to be
21 reoccurring, Franke Tobey Jones, for
22 example. I anticipate that soon there
23 will be a time where we will no longer
24 require, thank goodness, because the
25 Avastin is doing its work, no longer

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1 require that third day caregiver, but at
2 this point, I'm not allowed to make any
3 changes to the status of my mother, but
4 my mother is doing much better.

5 Q: And do you understand why these
6 interested parties have asked this Court
7 for injunctive relief to prevent you from
8 making these expenditures?

9 A: No, I, I don't.

10 Q: Do you understand if we have ---

11 A: Wait, wait, I'm sorry, sir, these
12 expenditures, what do you mean by these
13 expenditures?

14 Q: You've talked about the Bandito
15 Construction project is halted, correct?

16 A: No. Well, I chose to halt it. The, the,
17 the injunction, as I understood it, was
18 to, I don't have it in front of me, but
19 basically stop making anything other than
20 only like sustenance.

21 Q: Ordinary, reasonable, customary expenses
22 necessary to support the day to day ---

23 A: Uh-huh (affirmative response).

24 Q: --- health and wellbeing of your mother?

25 A: Correct.

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1 Q: A heated floor does not apply, a
2 stairwell out front does not apply; are
3 we in agreement?

4 A: Going forward, right, those -- no, no
5 more construction is occurring at my
6 house, no more expense, no. We, we are
7 at a moratorium and have been since that
8 date.

9 Q: And my question to you was, do you
10 understand why these interested parties,
11 well, not that side of the room, but why
12 these interested parties were concerned
13 enough to ask the Court to include that
14 injunctive relief in her interim orders?

15 A: Yes, I can understand that. I don't, I
16 don't take offense to it.

17 Q: Do you understand that we have no sound
18 basis to evaluate the situation because
19 there has been no complete accounting?

20 A: Was that a question?

21 Q: Yes.

22 A: Complete accounting.

23 MR. RHODES: YOUR HONOR, JUST THIS
24 ONE QUESTION, HE'S
25 ASKING THE WITNESS TO

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1 TELL HIM WHY THESE
2 PARTIES THINK
3 SOMETHING. I DON'T
4 THINK THAT'S
5 APPROPRIATE.
6 MR. BOYD: YOUR HONOR, THIS
7 WITNESS IS TRYING TO
8 ANSWER QUESTIONS BY
9 SHIFTING THE BURDEN ON
10 THIS COURT FOR HER
11 ORDERS, AND I'M ASKING
12 THIS WITNESS IF SHE
13 DOESN'T UNDERSTAND WHY
14 THOSE INJUNCTIVE
15 PROVISIONS ARE IN
16 THERE.
17 THE COURT: PLEASE PROCEED, MR.
18 BOYD.
19 MR. BOYD: I'LL MOVE ALONG.
20 Q: But in truth, if your mother's estate is
21 a million dollars, as you have suggested,
22 round numbers, ---
23 A: Well, yes, we don't know anything about
24 life insurance, et cetera, but yes.
25 Q: --- it is fair to say that in her

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1 maintenance and upkeep for her health and
2 wellbeing and also in the repairs and
3 refit of your residence ---

4 A: Uh-huh (affirmative response).

5 Q: --- since you were appointed temporary
6 guardian, ---

7 A: Yes.

8 Q: --- you have expended out of your
9 mother's funds a significant portion of
10 her net worth; is that not a fair
11 assessment?

12 A: I think that's a very fair assessment. I
13 consider that to be a, for example, a
14 startup cost for a new business, and as,
15 as things plateau, fixed and ongoing
16 expenses will be stable, which is why I
17 offered a very low rent for my fully
18 furnished home that is completely
19 remodeled to meet my mother's standards
20 and quality of life and she enjoys. So
21 even at a burn rate, I, I guess is --
22 even at an expenditure rate, let's say
23 that it's \$25,000 a month for Mom
24 ongoing, I mean, she already has her
25 wheelchair and she has an emergency

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1 wheelchair that we can use and she really
2 has everything except some spring
3 clothes, okay, assuming she doesn't want
4 to buy a car. So let's just say it's
5 \$25,000 a month, theoretically, going
6 forward, so let's do that. If my mom has
7 a year to live and it's \$25,000 a month,
8 then we're looking at what, \$300,000? So
9 I don't understand the concern. She
10 saved her money to take care of herself.

11 Q: Michelle, she did save her money, and I'm
12 going to ask you about that, but you're
13 totally missing the point of my question.

14 A: Okay.

15 Q: My question was premised on the fact that
16 you are the temporary guardian and what
17 are you going to do on behalf of your
18 mother if this Court orders that that
19 placement is not appropriate. The
20 Guardian ad Litem has already filed a
21 report with this Court saying that your
22 residence is not an appropriate
23 placement, what is your mother going to
24 do and what are you going to do if, not
25 as a guardian, not as a temporary

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1 guardian, just as a daughter, what are
2 you going to do on behalf of your mother
3 if whoever the guardian is when we walk
4 away from these proceedings says, ---

5 A: Uh-huh (affirmative response).

6 Q: --- "She's not living in your house,"
7 what are you going to do then? More
8 precisely, what is your mother going to
9 do?

10 A: Well, that would be up to whoever is
11 assigned her guardian.

12 Q: And what are they going to do with the
13 hundreds of thousands of dollars that she
14 has spent under your care on your
15 residence?

16 A: I have no idea.

17 MR. RHODES: OBJECTION, YOUR HONOR.
18 I DON'T BELIEVE THERE'S
19 ANY EVIDENCE THAT ---

20 MR. BOYD: I APOLOGIZE, YOUR
21 HONOR. I'M NOT ---

22 MR. RHODES: --- HUNDREDS OF
23 THOUSANDS OF DOLLARS ON
24 HER RESIDENCE.

25 MR. BOYD: I MISSPOKE, YOUR HONOR,

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1 I APOLOGIZE. I'M JUST
2 ASKING BUT THE QUESTION
3 REMAINS.

4 Q: What will become of the investment that
5 your mother has made in your residence
6 under your fiduciary hand?

7 A: I have no idea. I rely on whoever the
8 person in charge, the conservator, the
9 Court, whomever it is to make those
10 decisions. I have no idea.

11 Q: Michelle, you just testified that you
12 didn't rely on anyone, and I would remind
13 you that you are a fiduciary, you are in
14 charge. You just indicated that you made
15 the decision to remodel your house
16 without consulting anyone?

17 A: I made the decision to make specific
18 accommodations necessary for my mother to
19 live there comfortably and safely.

20 Q: You say you are going to rely on who's in
21 charge. This Court has been relying on
22 you. We've been relying on you.

23 A: Yes.

24 Q: Do you understand that?

25 A: Absolutely, I do.

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1 Q: You mentioned your mother did not like to
2 spend money. As I recall your testimony
3 yesterday, when you moved your mother to
4 Washington, you commented in your
5 response to one of Mr. Rhodes' questions
6 that her luggage was decrepit.

7 A: Uh-huh (affirmative response).

8 Q: Did I get that correct?

9 A: Yes.

10 Q: How was her luggage decrepit?

11 A: It was held together with duct tape,
12 different colors, ragged, compromised
13 zippers, so I went to TJ Maxx and I
14 purchased an \$89 hard-sided blue suitcase
15 for my mother who joyfully sat in her
16 office as we packed the clothing that she
17 chose that she wanted to take, her
18 limited jewelry that she wanted to take
19 and a few other person items, i.e., her
20 journals. That's really about it. That
21 suitcase I purchased for my mother,
22 unfortunately, I came back from, I think,
23 the vet or something, 'cause this was a
24 very condensed time period, I think we
25 had two days to do this, and David was

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1 using that brand-new suitcase that I
2 bought for my mother to pack his things.
3 I didn't say anything, I just, just
4 packed my mother's stuff. So when I,
5 when I say, if I said that my mother,
6 "Doesn't like to spend money," first of
7 all, that's like a really broad term. My
8 mother has been conscientiously frugal
9 throughout her working career so that she
10 can ensure that she has a comfortable
11 lifestyle and enough money to take care
12 of her medically and travel a bit and
13 whatever in her retirement, okay? And,
14 so, what she's told me all along is that,
15 and, and she said this to doctors and she
16 said this to other parties, including my
17 brother, is that she wanted to live at my
18 house initially with me, now not so much,
19 and believe me, I am so good with that.
20 I'm -- I've already basically been living
21 at Adrian's. My bedroom furniture is
22 over there, my cat is over there, one of
23 my cats, and I'm, I'm out of there.

24 Q: We'll come back to that. Let me ask you
25 this question. You didn't approve of the

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1 luggage. I believe your brother, John,
2 testified that he did really approve of
3 David's car. Have you considered the
4 possibility that your mother and David
5 King are just very frugal people?

6 A: I've known David King as long as my
7 mother has. I've known my mother longer
8 than David has, so is there a question?

9 Q: I'll take that as a yes. Have you
10 considered the fact that it is a lifetime
11 of frugal living by your mother and David
12 that has created the million dollars that
13 you are now spending on her behalf?

14 A: I'd like to break that down a little bit.

15 Q: Sure, break it down.

16 A: I believe that David's frugality is
17 related to the fact that he largely, as
18 voiced frequently by my mother, did not
19 work consistently or full-time for 20
20 years or something, I mean, she
21 complained about that all of the time,
22 which is why she chose to keep finances
23 completely separate and refused to marry
24 him, even though I asked and begged for
25 years that she marry him. Going to my

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1 mother's strategy, as she has explained
2 it to me over many years, yes, she was
3 frugal, shopped at Stein Mart, every
4 month spend about \$1,000 on her Visa,
5 going to Kohl's and whatever, because my
6 mother's conservatism, I think, was back
7 to her childhood, being homeless, being
8 in a foster care, wanting to make sure
9 that she could provide for her own
10 wellbeing, and furthermore, that she
11 wanted to travel. They went to Spain.
12 They came out to see me twice in 2018 for
13 a total of four or five weeks. My mother
14 was planning on buying her first new car.
15 She has this 2005. She was talking about
16 Tesla, then sounds like they were talking
17 about a Honda. My point is, is my
18 mother, when she was taking painting
19 classes, you know, she was in a book
20 club, she was doing all of these things
21 and she wanted to travel, so that money,
22 that frugality was by design and for a
23 purpose, it was for a reward, it was
24 healthy. It was not a -- it was
25 intentional and by design with a goal in

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1 mind. Their house is beautiful, by the
2 way.

3 Q: But you'd agree with me that they're both
4 very frugal people?

5 A: They have been, absolutely, except,
6 except that they do buy nice things.
7 Their house is beautiful. They have
8 beautiful artwork. They have beautiful
9 rugs. They have oriental rugs. They
10 have repairs all the time. The floors
11 have been refinished, both bathrooms have
12 been remodeled, you know, all of the
13 windows, I mean, they have a
14 housecleaner, you know, they, they -- so
15 frugality, you know, when we were single
16 -- when my mom was a single mother and
17 she had three kids and she gave us a
18 dollar every day for our food, and then
19 when she became a doctor and started
20 earning a reasonable income for a woman
21 of her intellect, she had a lot of
22 catching up to do. So, yes, she remained
23 frugal, meanwhile, she was very concerned
24 consistently. Her frugality extended
25 into her financial relationship with

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1 David. She did not want to comingle and
2 it's evidenced by all of the
3 documentation I have provided to the
4 Guardian ad Litem. So her frugality was
5 to protect herself in her old age.

6 Q: Being as frugal as she was, how do you
7 think your mother would feel about these
8 proceedings if she fully understood the
9 cost of these proceeding?

10 A: The cost of these proceedings or ---

11 Q: Legal proceedings, all these lawyers, all
12 these lawyers sitting around talking
13 about this situation?

14 A: Oh, I think she, she would, she would be
15 viscerally -- she'd have a visceral
16 reaction that, that people get paid that
17 much, you know, for, for example. I
18 think that she would be shocked and
19 disappointed that it took so long. She
20 already has expressed that, "Why are you
21 going again?" And, but in the end, she
22 wants control of her money, she says that
23 again and again. I hope she gets there
24 some day. She wants this to be over for
25 my health and John's health. She's very

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1 concerned about that, particularly mine,
2 and she wants to enjoy the time that she
3 has without worrying about whether or not
4 she's going to be forced to move, because
5 her wishes have never been heard.

6 Q: You mentioned several times that your
7 mother has expressed numerous times
8 throughout her life that she wanted to
9 grow old, and please correct me if I'm
10 not summarizing your testimony
11 accurately, that she wanted to grow old
12 and spend out her waning years with you
13 in your home. Who has she said that to?

14 A: I beg your pardon?

15 Q: Who has she expressed that to?

16 A: Well, what I, what I was -- what I
17 thought I had communicated was that --
18 I'm sorry, I've never lost a mother and
19 I've never been in this situation before,
20 and I'm still grieving for the loss of
21 the person that I loved as a father and I
22 trusted completely and all of the things
23 that have come to light, so forgive my
24 emotionality. Would you please repeat
25 the question?

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ROA 1463

1 Q: You said a couple of times in your
2 testimony ---
3 A: Oh, yes.
4 Q: --- that your mother had expressed
5 numerous times ---
6 A: Uh-huh (affirmative response).
7 Q: --- that she wanted to grow old living
8 with you in your home, apparently that
9 ---
10 A: What she said to me, actually, since I
11 was about ten, and I always said, "No
12 way, not going to happen," is that,
13 "Michelle," and I was her oldest and
14 certainly closest as, as we became
15 adults, child, "You are not going to put
16 me in a home, I'm going to come live with
17 you." She said that all the time ever
18 since I was a little girl. She said it
19 in front of David. Her, her overarching
20 desire is to not be placed in a home and
21 that is what she wants, and that is what
22 she has continued to express in recent
23 months, so.
24 Q: When you gained control of your mother's
25 placement, where did you place her?

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1 A: I was following the, the direction -- I
2 didn't place her. The hospital, the, the
3 specialized medical, the neuro,
4 neurological unit, she needed a level of
5 care that was 24/7, and so I placed her
6 at the finest institution in the south
7 sound as far as I can determine and many
8 others in terms of its location, its
9 proximity to me. Her room, by the way,
10 Ms. Forkasdi testified inaccurately, I
11 believe, I hope I don't get in trouble,
12 but her room did not have a view of the
13 mountains, it had a view of Commencement
14 Bay, of the water. It had two huge
15 windows and nothing but trees. She was
16 next to Point Defiance Park, her favorite
17 place in Tacoma. Point Defiance Zoo &
18 Park, she could hear the monkeys in the
19 morning. It was -- the room itself,
20 dated, yes, hospital setting, yes, but
21 there was no choice. I didn't say,
22 "Okay, no, Mom has to go here." I'm not
23 making decisions about the level of care
24 that she needed at that time.
25 Q: But you trust the judgment and the

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1 opinions of Dr. McGranahan in this
2 matter; do you not?

3 A: I, I trusted the judgment and opinions of
4 all of the doctors who were attending to
5 her. There were multiple doctors. There
6 was a team of at least three or four.
7 Dr. McGranahan is a neuro-oncologist, but
8 there are neurologists involved. There
9 really was a team of three or four
10 doctors that consistently worked with my
11 mother, and I trust the judgment of the
12 in-house doctor, Dr. Leo Panlasigui. I
13 always have a hard time with his last
14 name, and the in-house doctor at Franke
15 Tobey Jones who made the assessment and
16 ongoing assessments in writing about the
17 status of my mother, the anticipated
18 discharge date of 2/28. He made that
19 assessment in January, you know, I mean,
20 I, I am a daughter with a new role,
21 learning a lot of new things, dealing
22 with an out of state court and trying to
23 get my house ready so that soon as we
24 can, soon as we're allowed, we can move
25 Mom to where she wanted to be. That was

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1 it.

2 Q: I'm trying to recall what my question
3 was.

4 A: Take your time.

5 Q: I will. I'm trying to understand. I
6 asked you about your mother's statements
7 that she wanted to live in your home when
8 she grew old, and then we were talking
9 about Franke Tobey Jones, and you do
10 understand that Dr. McGranahan, who is
11 the lead neuro-oncologist, as I
12 understand it, has testified and it's in
13 the reports and it's in the medical
14 records, I'm not going to pull them in
15 the interest of time, but that there was
16 no medical reason for her placement at
17 Franke Tobey Jones?

18 A: My non -- my, my own personal opinion is
19 that the, the subject matter expert of my
20 mom's best placement capacity going
21 forward and even at the time when we
22 first took Mom to Dr. Bryan Morris-Ward
23 is that he is the subject factor. This
24 is a global health issue, this is not a
25 neuro-oncology treatment for her brain

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1 cancer assessment. There, there are non-
2 medical reasons that affect a patient's
3 care longevity. Dr. Bryan Morris-Ward,
4 has stated that multiple times in his
5 notes as recently as 3/5 and 3/15, and
6 furthermore, we are poised. We had a
7 referral to have Puget Sound Home Health
8 come in, have an R.N. assessment for an
9 hour and a half to get in-home PT, OT,
10 whatever "T" Mom needs and wants five
11 days a week, and then, you know, we are
12 -- we're waiting, but now I don't want to
13 make any change in status. I don't know
14 what the status means, so I'm just
15 halted. I do not -- I -- my
16 understanding of Dr. McGranahan's --
17 she's excellent, her -- my understanding
18 of her job and her role is to treat
19 and/or provide comfort care related only
20 to my mother's brain cancer and her
21 tumor.

22 Q: Let's move on. I trust that when you
23 state your mother has indicated a desire
24 to live with you in your home, you're not
25 relying on statements that she made when

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1 you were ten years old?

2 A: No.

3 Q: When is the most recent time that she
4 made such statements to you?

5 A: Recently, she has expressed that she
6 wants to live alone, which I applaud,
7 because that indicates that -- continues
8 to demonstrate, I should say, her growing
9 autonomy and her cognitive growth, but
10 she has stated that in the most recent
11 time, probably last week when I asked
12 her, "Mom you'd like to live alone?"
13 "Okay." "Where would you like to live?"
14 "Well, here is good for now." I said,
15 "Okay, well, where, where else would you
16 like to live?" "I don't know." I said,
17 "Okay, well, Mom, you know you can live
18 anywhere you want, you know that right?"
19 And she can. I'm not sure if I'm
20 answering your question, but it's an
21 ongoing dialogue. My mom needs to be as
22 happy as she can be.
23 Q: But in point of fact, she cannot live
24 anywhere she wants to live; isn't that
25 correct?

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1 A: Yes, but my mother needs to hear that.

2 Q: I'm sorry?

3 A: My mother needs to hear positive
4 statements.

5 Q: But what is going to happen with your
6 mother if she runs out money?

7 A: I cannot foresee that happening, and if
8 that were to be the case, then I would
9 pay to take care of my mother and I'm
10 confident my brother would as well, and
11 I'm confident our Uncle Glen would, and I
12 assume David.

13 Q: Well, we've discussed your income in 2018
14 and thus far in 2019, ---

15 A: Uh-huh (affirmative response).

16 Q: --- and with all due respect, I don't
17 know that your resources will be
18 sufficient to allow that expense to be
19 taken care of.

20 A: May I, may I interject there?

21 Q: Yes.

22 A: So my historical earnings have been
23 between, and this is going back twenty
24 years with the exception of a couple of
25 years, let's go back fifteen years, my

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1 historical earnings have always, pretty
2 much, been over \$100,000, and I had a
3 year where I made 225, I had a year where
4 I made 185, I made about 120 to 150,000 a
5 year at Zillow for the last several years
6 I was there, you know, I'm in sales. I,
7 I make over a hundred grand, no matter
8 what. That's the level of job that I'm
9 seeking now.

10 Q: And how long have you been seeking
11 employment?

12 A: Well, now that my mom is stabilize,
13 thriving and to use doctors' words, and
14 becoming more autonomous, I actually have
15 an interview in April 8th. It'll be my
16 fifth interview with this person and I
17 hope that I can accept the job and
18 offered the job. It will keep me close
19 to my mother. It's a sales position that
20 covers the territory, so I'll have
21 autonomy, but, you know, I'm, I'm, I'm
22 eager, believe me, I'm eager to.

23 Q: Understood. What is your approximate net
24 worth at present?

25 A: Well, it's been significantly depleted,

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1 but see, I think between -- around
2 500,000, five to 600,000 outside of
3 household furnishings and car, yeah.

4 Q: With this 500,000, what are those assets
5 composed of?

6 A: Equity in my home, and that's a ballpark,
7 I mean, personal retirement accounts. I
8 had some CDs, cashed those in. I have
9 some jewelry, yeah.

10 Q: So what I hear you saying is your 500,000
11 in assets is based on your home, your
12 retirement accounts, and personal
13 property, your jewelry?

14 A: Yeah, forget the jewelry, I mean, yeah.
15 Let's just say, let's say its ---

16 Q: I'm trying to follow you.

17 A: Let's just say it's financial accounts
18 and house, roughly.

19 Q: Well, retirement accounts, we would
20 assume you will one day retire and that
21 you, also like your mother, will not be
22 able to work and you will need those
23 retirement accounts, correct?

24 A: My goal is to find a job that is high
25 income and/or find a job that has a very

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1 good pension plan, and if I need to find
2 a job that pays less, I'm going to weigh
3 that out, you know, I'm very strategic.
4 I recognize that I am fifty-five years
5 old and I plan on finding a job that will
6 get me where I want to be by the age of
7 sixty-five, and that's going to happen.
8 I've always done it.

9 Q: So I think we can discount retirement
10 accounts as a resource for taking care of
11 your mother, and if you're going to take
12 care of your mother in your home, I
13 presume you're not going to sell your
14 home to use those funds to take care of
15 your mother; is that a fair presumption?

16 A: Well, if, if I might, I'd like to
17 understand this. My mother has a life
18 expectancy now of what, six months.
19 Would you, would you agree with that?

20 Q: Ma'am, I'm asking questions. I'm just
21 trying to understand your testimony. I
22 think we can all agree that your mother
23 ---

24 A: But I feel like this is like a
25 hypothetical thing. I'll tell you what,

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1 I'll make it easy. John has offered to
2 pay for my mother's ongoing expenses,
3 because David is not. John has a lot of
4 money, period, and I can make that easy
5 for you.

6 Q: Understood, understood, but I'm asking
7 you what you are prepared to do, and
8 you'd indicated that you were ---

9 A: I would do anything.

10 Q: --- prepared to pay, that you,
11 personally, were prepared to make those
12 payments, but, in fact, you don't have
13 the resources to make those payments.

14 A: Well, should my mother outlive her
15 assets, which would be wonderful, at that
16 point my guess is that she will be in a
17 assisted living or in a full-time
18 healthcare unit and at that point not be
19 living in my house. Our goal, my goal,
20 my mother's goal is to have her remain in
21 my home in comfort, in a safe, known warm
22 place with her cat and in -- and, and die
23 there, I mean, that is what I believe to
24 be best for my mom, but circumstances can
25 change.

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1 Q: Let me ask you this question. Yesterday,
2 you testified that there were various VA
3 benefits that you were aware, but you
4 weren't sure where they were being
5 deposited, counsel for your brother then
6 asked you some follow-up questions. I'm
7 not sure that she got an answer. I'd
8 like to ask you again today, do you know
9 where the VA benefits that your mother
10 receives are being deposited? Have you
11 had an opportunity to think about that
12 overnight? Do you have any thought as to
13 where that money is presently going?

14 A: Any paper checks I receive, I deposit
15 into my mother's accounts. I do not -- I
16 audited the 188, the mom account, under
17 my name, and I did not see any deposits,
18 so I have not gone in and audited, but my
19 mother -- here's the other thing. I got
20 a new mailbox because, and a P.O. Box.
21 If my mother remains at my house, all
22 mail is going to go the P.O. Box, because
23 my mother, bless her heart, I found out
24 on one of these trips out here, I came
25 back, "Where's the mail?" "Oh, your mom

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1 has been going through it." "Oh, great.
2 Well, where is it?" "Well, she threw a
3 lot of stuff away." I'm serious, I, I, I
4 think that we have not received some VA
5 checks. I think we are missing checks
6 and I have not had time, nor have I been
7 inclined since I'm a temporary guardian,
8 to get involved in the process and not
9 even know if it's appropriate to re-
10 direct direct deposits. So that's
11 something that, you know, they're not,
12 they're not getting stuffed in a cookie
13 jar.

14 Q: Well, are you aware of the fact, and I
15 heard you testify yesterday that you
16 wanted to get a debit card in your own
17 name; is that something that you said
18 yesterday?

19 A: I needed to have a debit card in my own
20 name.

21 Q: Are you aware that when the VA pays
22 benefits and those benefits are paid to
23 an individual in trust to someone else on
24 behalf of that beneficiary that there are
25 various requirements that are imposed on

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1 that payment?

2 A: The checks that I receive, any paper
3 checks that I received are made out to
4 Claudia Miles, so I'm not quite following
5 your question.

6 Q: But you are receiving those checks on
7 behalf of your mother; are you not, or
8 ostensibly are receiving those checks?
9 We've identified ---

10 A: I have deposited at least one, so any
11 paper checks that I receive for any
12 income sources, which, which are made out
13 to my mother, I sign on the back per
14 U.S.A instructions for deposit only to
15 Claudia Miles account number, da-da-da-
16 da-dah.

17 Q: And I understand that, and based on your
18 testimony, as I understand it, we still
19 don't know exactly where the VA checks
20 are going, but we believe that you are
21 receiving them; is that correct?

22 A: I -- yeah. I'm actually starting to get
23 a little suspicious 'cause I feel like
24 it's been a while and I'm afraid my
25 mother may have thrown one or two out.

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1 I'd have to look at the, the four bank
2 statements, really three, to see, but ---

3 Q: Do you understand that the Veteran's
4 Administration has very specific
5 regulations that deal with how those
6 funds are to be handled by people who are
7 conservators or guardians over the
8 individual that's receiving those
9 benefits?

10 A: No, I'm not aware of that.

11 Q: Then, you won't know, I take it, I'll ask
12 you anyway, do you understand that
13 there's a specific VA regulation that
14 says there cannot be a debit card on
15 those accounts?

16 A: On, on what accounts?

17 Q: The accounts into which the VA benefits
18 are deposited?

19 A: But the VA benefits are not being
20 deposited into the account that I have a
21 debit card on.

22 Q: Well, I haven't been able to ascertain
23 where the VA benefits are going.

24 A: Well, I've been able to ascertain, as I
25 just testified, that I did not see any VA

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1 benefits being deposited into the account
2 under my name which I use the debit in my
3 name.

4 Q: Are you aware that the Veteran's
5 Administration Medicare Fraud Unit and
6 various government agencies, State
7 Attorney General's office, office of
8 Medicare, that they track these benefits
9 when they come in and that they get ---

10 A: I'm not aware of that.

11 Q: Well, there are actually attorneys that
12 work for the DOJ and the Veteran's
13 Administration that prosecute these cases
14 where these funds are not accounted for
15 properly; do you have any knowledge about
16 that?

17 A: I have no knowledge about that, but I
18 have complete confidence that's the case,
19 I mean, I worked in banking for twenty
20 years and my boyfriend is a DEA agent, so
21 I'm confident that the government has
22 recourse, criminal recourse for misuse of
23 funds.

24 Q: I want to ask you a question about the
25 accounting summary document, if you still

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1 have that with you.

2 A: I do.

3 Q: There are various accounts that you've
4 been referring to as the USAA accounts,
5 and as you testified earlier, there are
6 actually several USAA accounts; are there
7 not?

8 A: That is correct. There are two savings,
9 two checking, and IRA and a Visa in terms
10 of bank accounts or financial accounts,
11 and then there are the insurance
12 accounts, yeah.

13 Q: And the initial account, the 9365
14 account, what's the current balance or
15 what's the balance shown on that
16 document?

17 A: Three hundred forty-nine thousand, four
18 hundred and fifty-three, the balance as
19 of January 21.

20 Q: I believe you testified yesterday that
21 that balance has not been touched,
22 correct?

23 A: I do not recall what I testified to
24 yesterday, so whatever I testified to, I
25 testified to.

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1 Q: Well, let's look at the exhibit. You
2 produced a bank statement from USAA for
3 9365, which your counsel has marked, I
4 believe, as Exhibit ---

5 MR. BOYD: IS THIS ONE, CHARLES?

6 MR. RHODES: NO, IT'S ---

7 COURT REPORTER: THREE, NUMBER 3.

8 Q: Take a look at that statement, if you
9 would.

10 A: Okay.

11 Q: Advise the Court the date of that
12 statement.

13 A: This is for the account 9365 in the name
14 of Claudia T. Miles for the Claudia T.
15 Miles Living Trust opening for the period
16 of 12/31 to 2/28/19, opening balance,
17 349,453 and change, balance of statement
18 348,874 and change with 509 deposits made
19 and a 1,088 debit.

20 Q: Just remind the Court of the ending
21 balance, if you would, of that account.

22 A: Three hundred and forty-eight thousand,
23 eight hundred and seventy-four dollars
24 and fourteen cents.

25 Q: Thank you. And, so, essentially, the

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1 money that was there is still there,
2 correct?
3 A: Is that a ---
4 Q: Question.
5 A: Are you asking me if that document is
6 accurate?
7 Q: Well, no, I'm asking you that the money
8 that was -- I asked you if you testified
9 yesterday that this money, referring to
10 this account, I understood you to testify
11 that that money had not been touched. We
12 just looked at a relatively current
13 statement, more current, ---
14 A: Uh-huh (affirmative response).
15 Q: --- I should say, ---
16 A: Uh-huh (affirmative response).
17 Q: --- and the balance is approximately ---
18 A: The same.
19 Q: --- the same.
20 A: Uh-huh (affirmative response).
21 Q: And, so, that is consistent, correct, the
22 money has not been touched, essentially?
23 A: Well, you're asking me if there's been
24 activity between this time period and
25 that statement, I believe; is that what

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1 you're asking?

2 Q: No, I'm asking you if the amount of money
3 that you initially accounted for in that
4 account, is it approximately the same as
5 the current balance? Over the last six
6 months, how much of that money have you
7 spent?

8 A: Those are ---

9 Q: Excuse me, over the last four and a half
10 months.

11 A: Okay. So there's a new question. So you
12 were asking me if the balance on this
13 summary is similar to the balance on that
14 statement?

15 Q: Yes.

16 A: And that is true.

17 Q: That is true.

18 A: So what's the next question?

19 Q: The next question is, on that summary
20 where does the summary indicate that that
21 money goes upon the death of your mom?

22 A: On this document that I did not prepare,
23 it says in Mom's Will this is designated
24 for Michelle and John.

25 Q: Yes, and you didn't prepare that?

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1 A: No.

2 Q: Do you know who did prepare that
3 document?

4 A: I don't recall, off the top of my head.
5 It was, it was fast and furious. I know
6 I provided information, obviously.

7 Q: Did counsel provide it without your
8 assistance?

9 A: Well, he would've -- if he, if he
10 prepared it, it would've been with my
11 assistance.

12 Q: And did you have an opportunity to review
13 it before it was produced to the Guardian
14 ad Litem?

15 A: I don't recall, but I -- I'm confident
16 that I would've, because Charles has me
17 review things.

18 Q: So it, in effect, is your report,
19 correct?

20 A: I, I -- yes, I mean, in effect, this is
21 what was presented to the Court ---

22 Q: Yes.

23 A: --- and so I will take responsibility for
24 this.

25 Q: Okay, and that's my question. Then, the

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1 next question, if you would, I'd ask you
2 about ---

3 A: Uh-huh (affirmative response).

4 Q: --- is the account ending in 9373.

5 A: Yes.

6 Q: And what is the amount of the balance of
7 9373 at USAA when that document was
8 prepared in January?

9 A: The balance as of January 21st was
10 13,699.

11 Q: And do you recall what you testified to
12 yesterday as the -- do you know, I'm not
13 trying to trick you, the approximate
14 current balance of that account?

15 A: Not off the top of my head, but we have
16 exhibits. I can pull a statement.

17 Q: I'll pull the exhibit. I believe it's
18 Exhibit Number 4, take a look at that, if
19 you would, and confirm that that's the
20 same account.

21 A: Thank you. Yes, it ends in 9373 and it
22 is in the name of Claudia T. Miles
23 Trustee for the Claudia T. Miles Living
24 Trust. The statement period is 11/9/18
25 through 12/10/18, which predates this

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1 statement.

2 Q: So in the intervening period between the

3 summary and that balance, how has the

4 balance in that account changed?

5 A: So, so this predates this?

6 Q: Yes, this is the first balance. This is

7 your account, your accounting summary ---

8 A: Uh-huh (affirmative response).

9 Q: --- from January, and this is your

10 statement?

11 A: From November to December of 2018, and

12 this is 2019, so this predates that.

13 MR. BOYD: DID I PULL THE RIGHT

14 EXHIBIT?

15 A: I mean, if there's -- with all due

16 respect, if you have a straightforward

17 question for me, I'm happy to ---

18 Q: You feel like by straightforward ---

19 MR. RHODES: IF I COULD INTERJECT?

20 MR. BOYD: YES.

21 MR. RHODES: MR. BOYD, IF YOU'LL

22 LOOK, THERE'S ANOTHER

23 STATEMENT ATTACHED TO

24 THAT THAT'S MORE

25 CURRENT, IF YOU'LL FLIP

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1 ON TO THE BACK.

2 Q: My apologies, there is a more current

3 statement, and I didn't mean to confuse

4 you.

5 A: I wasn't confused, I just want to answer

6 what you, what you'd like me to respond

7 to.

8 Q: And, so, if you would, ---

9 A: Uh-huh (affirmative response).

10 Q: --- what is the current balance of that

11 account?

12 A: Okay. Let me, let me get to the balance

13 page.

14 Q: The most current balance that you can

15 provide.

16 A: I'm just going to get to the balance

17 page. Here we are, so. So this

18 statement period for 9373 classic

19 checking from 1/9 -- January 9th, '19 to

20 February 8th, '19, the balance at the end

21 of this statement is \$643.52.

22 Q: And would you agree with me that that's a

23 significant decline in that account over

24 the course of this reported balance to

25 the current balance, January to the most

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1 current data?

2 A: I, I don't know if I'd say it's a
3 significant decline. There were
4 significant expenses, so, I mean, it is a
5 very different number.

6 Q: A very different number?

7 A: Yeah, absolutely.

8 Q: And where does the summary indicate that
9 that account -- what's the disposition of
10 this account according to the estate
11 plan, according to that account itself?

12 A: So, on this document again, underneath
13 the balance statement it says, "In Mom's
14 Will this is for David King."

15 Q: May I hold this exhibit?

16 A: Of course.

17 Q: The CD account that's indicated as --
18 excuse me, the Mutual Fund IRA ending in
19 3277, do you recall what you testified to
20 as the net change in that account
21 overtime?

22 A: Certainly, and I would like to just make
23 a note ---

24 Q: Sure.

25 A: --- back to this 9373.

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1 Q: Yes.

2 A: This account, David King still had in his
3 possession. I witnessed that he still
4 had in his possession the debit card. I
5 did not witness, but assumed he had the
6 checks on this account. David King did
7 not contribute money to our mother for
8 the expenses that were necessary, so I
9 thought it was appropriate, since this
10 was her money, that we ensure that her
11 money, which was perhaps vulnerable, be
12 spent. I just wanted to clarify that.

13 Q: I'll allow you to clarify. Let me ask
14 you another question. This account
15 that's referenced, ---

16 A: The IRA?

17 Q: Yes.

18 A: Uh-huh (affirmative response).

19 Q: --- can you identify that account, 37 ---

20 A: 3277, it's a Mutual Fund IRA named
21 apparently in Claudia T. Miles, balance
22 as of January 21, 50,602. Would you like
23 me to continue?

24 Q: And do you recall what the transition or
25 what the more current balance that you

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1 testified to yesterday with regard to
2 that USAA account was?

3 A: I think it was a little lower. I think
4 ---

5 Q: Slightly lower, perhaps?

6 A: I, I seem to recall maybe 47,000. I
7 think there was a market change or
8 something. I don't recall.

9 Q: I will submit to you that I think you
10 testified to about 47,000 on that
11 account.

12 A: Okay. Okay.

13 Q: And what's the disposition of those funds
14 according to the account summary?

15 A: Beneficiaries, primary, myself, Mary
16 Michelle Miles, 100 percent, secondary,
17 John Michael Strasswimmer, my brother 100
18 percent.

19 Q: And, then, lastly, there's a CD that's
20 referenced.

21 MR. BOYD: YOUR HONOR, I'M
22 WRAPPING UP.

23 Q: There's a CD that's referenced in that
24 account?

25 A: Yes.

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1 Q: In that account summary?
2 A: Uh-huh (affirmative response), uh-huh
3 (affirmative response).
4 Q: And that was about how much in a CD
5 account, as you recall?
6 A: CD number 8507.
7 MR. BOYD: I'M SORRY.
8 THE COURT: I'M SORRY, HE THOUGHT I
9 WAS MOTIONING TO HIM,
10 BUT I WAS MOTIONING TO
11 THE SOLICITOR, SORRY.
12 Q: Just to clarify, what has been done with
13 those CD proceeds since, as you testified
14 to? I believe you testified those funds
15 have been transferred?
16 A: Yeah. It states right here, "Closed by
17 temporary guardian and deposited into
18 USAA savings number 9365 on December
19 7th."
20 Q: And, again, what is the disposition of
21 9365 under the estate account?
22 A: It states here on this, "In Mom's Will
23 this is designated for Michelle and
24 John."
25 Q: So is there any correlation between the

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1 funds that seem to be shrinking being
2 destined for David and the funds that
3 seem to more stable being destined to you
4 and your brother?

5 A: What I just stated regarding this account
6 9373 was that I felt that this was
7 vulnerable based on past activity on
8 David's part by logging into my mother's
9 accounts at USAA. He held the debit
10 card, he holds still the I.D. passport
11 and military I.D. of my mother, and I
12 thought it appropriate since he had not
13 paid any money for my mother's expenses
14 that we use this money first.

15 MR. BOYD: I THINK WE NEED TO TAKE
16 A BREAK, YOUR HONOR.

17 THE COURT: WE WILL ADJOURN UNTIL
18 AROUND FIVE O'CLOCK.

19 MR. BOYD: THANK YOU, YOUR HONOR.

20 ******OFF THE RECORD******

21 **(ON THE RECORD AT 5:27 P.M.)**

22 THE COURT: WE'VE HAD A COUPLE OF
23 HOURS. HAS THERE BEEN
24 ANY TYPE OF AGREEMENT
25 OR ANY STATUS UPDATES?

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1 MR. BOYD: I HAVE NO AGREEMENT TO
2 REPORT, YOUR HONOR. I
3 WISH THAT I DID, BUT I
4 DO NOT.

5 THE COURT: WE SHALL MOVE FORWARD.
6 MARY MICHELLE MILES, AFTER HAVING BEEN DULY
7 SWORN, TESTIFIED AS FOLLOWS:

8 **MR. BOYD CONTINUES:**

9 Q: Ms. Miles, we are back again. I'm going
10 to try to wrap this up this time without
11 another break, so I'd appreciate it if
12 you would bear with me. When we left
13 prior to the most recent break, I was
14 asking you some questions about the
15 residence. Can you hear me okay from
16 back here?

17 A: Not really. I, I am hard of hearing, but
18 you don't need to stand ---

19 Q: Perfectly all right. That is not a
20 problem. Is it better now?

21 A: Yeah.

22 Q: When we were last in the courtroom, I
23 asked you a couple of questions about the
24 cost that had been incurred in the
25 remodeling of your house. I do want to

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1 ask you a couple of follow up questions,
2 and I'm going to ask you, if you would,
3 to take a look with me at what you have
4 introduced as Exhibit 13.

5 A: Okay.

6 Q: I believe that's an invoice from Bandito
7 Construction.

8 A: Yes. Yes. Is this on? Yes.

9 Q: Yes, ma'am.

10 A: Okay.

11 Q: And I believe there was discussion, you
12 can take a moment to flip through it.

13 A: No, I'm familiar with it, I just wanted
14 to make sure it was the most current
15 version.

16 Q: What's the date of that invoice?

17 A: Well, it has a date of 12/5, 'cause he's
18 got it stuck in a software, but I just
19 received it recently because it should
20 have the chairlift on it, which it does.

21 Q: I was a little confused about the date.
22 I was looking at it ---

23 A: Yeah.

24 Q: --- and I didn't fully understand, ---

25 A: He -- he's a contractor.

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1 Q: --- that's why I asked. So you haven't
2 had that particular sheet of paper since
3 December?

4 A: No. No, this is a fluid project.

5 Q: Well, let me ask you this question. Help
6 me understand, there's a couple of items,
7 if you'll turn to the page where I have
8 the highlights, ---

9 A: Yes.

10 Q: --- highlighted a couple of items, you'll
11 see there's a \$30,000 item, ---

12 A: Uh-huh (affirmative response).

13 Q: --- and can you describe to the Court
14 what that -- and just for the record, I
15 think we're on page, if I may hold this
16 one second, one, two, three, four, for
17 the record, we're on page five of Exhibit
18 15 as your counsel provided it to me
19 yesterday or day before. Those two items
20 that are highlighted, can you describe
21 those two items, the amount and what
22 those amounts are for?

23 A: Certainly, and when you ask me to
24 describe them, would you like me to read
25 the scope of the project?

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1 Q: If you prefer to read, that's fine, if
2 you'd just like to briefly summarize it,
3 whatever you prefer.

4 A: Okay. So the first item has a bid amount
5 of \$30,000 that has not occurred. "This
6 is an approximate budget estimate, ADA
7 ramp in front and rear entrance to
8 residence, left plain of property
9 adjacent to neighboring yard, ramp with
10 handrails and metal space between thirty-
11 six and forty-eight inches, ramp
12 structure lamination to second level of
13 residence and floating concrete entryway.
14 Anchoring to garage opening and subfloor
15 with supporting joists to ground surface.
16 Railing in structural metal with metal
17 cable work for stabilizations. Partial
18 covering with weather-tempered glass as
19 discovered, as -- excuse me, as discussed
20 with customer. Rear opening to match
21 front ramp features in similar finishes.
22 Initial survey has been ordered and is
23 set for completion on 3/1/2019, total
24 expense of 30k budget spent is about
25 three, is about 3,000 which includes, "

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1 what expenses -- Oh, I understand, "is
2 about 3,000 which includes drawings and
3 designs by Jimmy Davidson and meeting
4 discussions with the engineering firm."
5 Would you like me to continue to the
6 second one?

7 Q: Well, let me ask you a question about
8 that. So the survey that's referenced in
9 that item has been completed, is my
10 understanding?

11 A: Yeah. Yes, it has.

12 Q: And what was the approximate cost of the
13 survey?

14 A: I -- well, here it says about 3,000. I
15 don't know that I actually have a bill.
16 I'd have to look in my email. I just
17 received the survey, but surveys when I,
18 when I had researched them with survey
19 firms last summer or spring or something,
20 they were about \$2,500 just for a lot
21 line survey, not for a height survey or
22 anything.

23 Q: Have you paid for that survey?

24 A: Well, my contractor has taken care of
25 that. That's part of his ---

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1 Q: But you will owe the contractor,
2 obviously?
3 A: Well, the monies that the contractor
4 holds, he depletes, I would imagine, what
5 he must have ---
6 Q: Okay, fair enough.
7 A: --- as his trust account for expenses as
8 they come.
9 Q: So he's holding money on deposit ---
10 A: Yes.
11 Q: --- from which he has paid for the
12 survey?
13 A: I, I don't know for sure that he's paid,
14 I would imagine he has, 'cause they
15 probably would not have given it to him.
16 Q: That's a fair assessment, I would
17 imagine. And if the purpose of the
18 survey, just so I understand it, was to
19 determine if a ramp, if the ramp that's
20 proposed there could be constructed?
21 A: Yes. Would you like -- yes.
22 Q: Yes, a short answer would be appreciated,
23 ---
24 A: Yes.
25 Q: --- but yes. Yes. And, then, let's look

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