

8

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM GREENWOOD COUNTY
Court of Common Pleas

R. Lawton McIntosh, Circuit Court Judge

Case No.: 2016-000077

RECEIVED
MAY 12 2016
SC Court of Appeals

Tony King and Rosella King,

Appellants,

v.

Christopher T. Miller

Respondents.

RECORD ON APPEAL

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FORM 4

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

JUDGMENT IN A CIVIL CASE
CASE NUMBER 2014CP2400396

Tony King

Rosella King

Christopher T Miller

PLAINTIFF(S)

DEFENDANT(S)

Submitted by:

Attorney for: ☐ Plaintiff ☐ Defendant
☐ Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- ☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☐ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered. ☐ See Page 2 for additional information.
- ☐ **ACTION DISMISSED (CHECK REASON):** ☐ Rule 12(b), SCRPC; ☐ Rule 41(a), SCRPC (Vol. Nonsuit);
☐ Rule 43(k), SCRPC (Settled); ☐ Other: _____
- ☐ **ACTION STRICKEN (CHECK REASON):** ☐ Rule 40(j) SCRPC; ☐ Bankruptcy;
☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other: _____
- ☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other: _____

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☐ See attached order: (formal order to follow) ☐ Statement of Judgment by the Court:

ORDER INFORMATION

This order ☐ ends ☐ does not end the case.

Additional Information for the Clerk: _____

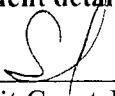
INFORMATION FOR THE JUDGMENT INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)

If applicable, describe the property, including tax map information and address, referenced in the order: _____

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. **Note: Title abstractors and researchers should refer to the official court order for judgment details.**


Circuit Court Judge

Judge Code

11/13/2015

Date

For Clerk of Court Office Use Only

This judgment was entered on **November 13, 2015**, and a copy mailed first class or placed in the appropriate attorney's box on **November 13, 2015**, to attorneys of record or to parties (when appearing pro se) as follows:

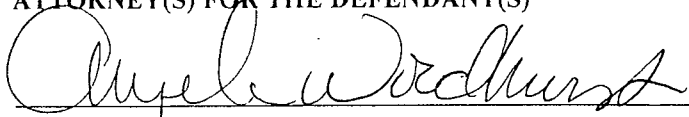
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ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)



Angela Woodhurst - Clerk of Court

Court Reporter

ADDITIONAL INFORMATION REGARDING DECISION BY THE COURT AS REFERENCED ON PAGE 1.

This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

STATE OF SOUTH CAROLINA

COUNTY OF GREENWOOD

TONY KING AND ROSELLA KING,

Plaintiff,

vs.

CHRISTOPHER T. MILLER,

Defendant.

IN THE COURT OF COMMON PLEAS

Civil Action No. 2014-CP-24-00396

**DEFENDANT'S ORDER GRANTING
SUMMARY JUDGMENT**

FILED
COMMON PLEAS
CLERK
2015 NOV 13 PM 4:36

This matter came before me on the Defendant's motion for summary judgment. For the reasons set forth below, the Defendant's motion is granted.

FACTUAL BACKGROUND

This case arises out of an accident on January 8, 2013 when the Plaintiff was up on a ladder repairing some shingles on the Defendant's house. The Defendant had discovered a leak, so he contacted Freddie Pope about fixing the leak. Mr. Pope gave the Defendant an estimate on the job and informed the Defendant that he needed to wait to get his roofing guy up there to do the job. The Plaintiff was that roofing guy. The Plaintiff was paying Mr. Pope directly for the job.

On the day of the accident, the Plaintiff and Mr. Pope arrived at the house around 9:00 a.m. The Defendant was home all day studying for an exam. Mr. Pope provided the ladder to do the work. The Defendant went outside a few times during the day to check on the progress of the job and to ask if Mr. Pope and the Plaintiff needed anything. The Defendant testified that at around 5:15 p.m., he went outside and turned some lights on because the Plaintiff and Mr. Pope were still working. The Plaintiff denied that any lights were on, but he testified he was already up on the ladder working anyway when the Defendant came outside.

According to the testimony of the Plaintiff, Mr. Pope had been holding the ladder for the Plaintiff the entire day and was actually holding it at that time when the Defendant came outside. The Plaintiff was up on the ladder working when Mr. Pope apparently let go of the ladder and started talking to the Defendant. At that time, the ladder came out from under the Plaintiff causing him to fall and injure himself. The Plaintiff subsequently filed this lawsuit against the Defendant.

STANDARD OF REVIEW

A trial court may properly grant a motion for summary judgment when “the pleadings, depositions, answers to interrogatories and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and the moving party is entitled to a judgment as a matter of law.” Rule 56(c) South Carolina Rules of Civil Procedure. In determining whether any material issues of fact exist, the court must view the evidence and all reasonable inferences that may be drawn from the evidence in the light most favorable to the non-moving party. Manning v. Quinn, 294 S.C. 383, 365 S.E.2d 24 (1988). The plain language of Rule 56(c) mandates the entry of summary judgment against the party who fails to make a showing sufficient to establish the existence of an element essential to the party’s case. Carolina Alliance for Fair Employment v. SC Department of Labor, Licensing and Regulation, 334 S.C. 476, 523 S.C.2d 795 (Ct. App. 1999). Once the party moving for summary judgment meets the initial burden of showing an absence of evidentiary support for the opponent’s case, the opponent cannot simply rest on mere allegations or denials contained in the pleadings. Regions Bank v. Schmauch, 354 S.C. 648, 582 S.E.2d 432 (Ct. App. 2003). Rather, the non-moving party must come forward with specific facts showing there is a genuine issue for trial. Peterson v. West American Ins. Co., 336 S.C. 89, 518 S.E.2d 608 (Ct. App. 1999). The non-moving party

must produce at least a scintilla of evidence to withstand a motion for summary judgment. Hancock v. Mid-South Management Company, 381 S.C. 326, 673 S.E.2d 801 (2009). The purpose of summary judgment is to expedite disposition of cases which do not require the services of a fact finder. Dawkins v. Fields, 354 S.C. 58, 580 S.E.2d 433 (2003); Rumpf v. Massachusetts Mut. Life Ins. Co., 357 S.C. 386, 593 S.E.2d 183 (Ct. App. 2004).

DISCUSSION

In order to recover in a negligence action, the Plaintiff must establish: 1) the Defendant owed a duty of care to the Plaintiff; 2) the Defendant breached the duty by a negligent act or omission; 3) the Defendant's breach was the actual and proximate cause of the Plaintiff's injury; and 4) the Plaintiff suffered an injury or damages. Moore v. Weinberg, 373 S.C. 209, 644 S.E.2d 740 (Ct. App. 2007). A crucial and important element in a cause of action for negligence is the existence of a legal duty of care owed by the Defendant to the Plaintiff. Burnett v. Family Kingdom, Inc., 387 S.C. 183, 691 S.E.2d 170 (Ct. App. 2010). This legal duty can be created by statute, status, contractual relationship, property interest or some other special circumstance. Madison v. Babcock Center, Inc., 371 S.C. 123, 638 S.C.2d 650 (2006). It is the Plaintiff's burden to establish the duty of care is owed to him by the Defendant. An essential element is the existence of the legal duty of care owed by the Defendant to the Plaintiff and without such a duty, a Plaintiff cannot establish negligence. McKnight v. S.C. Department of Corrections, 385 S.C. 380, 684 S.E.2d 566 (Ct. App. 2009). If no duty exists, then the Defendant is entitled to judgment as a matter of law. Chastain v. Hiltabidle, 381 S.C. 508, 673 S.C.2d 826 (Ct. App. 2009).

In South Carolina, one who controls the use of property has a duty of care not to harm others by its use. Miller v. City of Camden, 329 S.C. 310, 494 S.C.2d 813 (1997). An owner of

land has a general duty to warn others of latent hazardous conditions on his land. This duty arises from the owner's superior knowledge of conditions on the premises within his control. Byerly v. Conner, 307 S.C. 441, 415 S.E.2d 796 (1992). In this case, the Plaintiff was an invitee. The duty is only that of due care and if there is no negligence, there is no liability. A land owner owes a duty to exercise reasonable or ordinary care for the safety of the invitee and to warn only of latent or hidden dangers of which the land owner has knowledge or should have knowledge. Larmore v. Carolina Power and Light, 531 S.E.2d 535 (Ct. App. 2000).

I find the Plaintiff has not produced a scintilla of evidence to establish any breach of duty on the part of the Defendant. The Defendant hired Freddy Pope to do the work and in turn Mr. Pope hired the Plaintiff to do the actual roof repair. The Defendant had nothing to do with the work and did not even supply any of the materials including the ladder. According to the testimony of the Plaintiff, he had been going up and down the ladder from 9 in the morning until 5 with a few breaks and at all times the ladder was held by Mr. Pope. At no time was the Defendant responsible for holding the ladder or doing anything related to the roof repair. The evidence is clear that that is why Mr. Pope and the Plaintiff were hired to do the work.

At the time of the accident, the Defendant had walked outside and was talking to the Plaintiff and Mr. Pope, who was holding the ladder, when Mr. Pope walked away from the ladder. Immediately after Mr. Pope quit holding the ladder for the Plaintiff, the ladder came out from under the Plaintiff and he fell. The Defendant had nothing to do with causing the Plaintiff to fall. By the Defendant talking to the Plaintiff and Mr. Pope walking away from the ladder, it does not rise to the level of any negligence on behalf of the Defendant. Additionally, there were no latent or hidden dangers that the Defendant would have had superior knowledge and Defendant did not create any hazardous condition.

The Plaintiff argues that the Defendant was negligent in not turning on the outside lights. I find the Defendant did not owe the Plaintiff a duty to turn on the outside lights and even if he did owe a duty, he did not breach any duty. When the Defendant walked outside, the Plaintiff was already on the ladder working and had been doing so without any lights prior to the Defendant walking outside, and therefore there was no negligence in the part of the Defendant. I find the lights had nothing to do with the fall and was not the proximate cause of the Plaintiff's injuries.

CONCLUSION

I find there is no genuine issue of material fact and there is no evidence or legal theory to hold the Defendant liable. The Plaintiff has not produced a scintilla of evidence to withstand the Defendant's motions. It is therefore ordered, that the Defendant's Motion for Summary Judgment is granted.

RLM
November 9/12

This the ____ day of October, 2015


R. Lawton McIntosh, Presiding Judge

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

JUDGMENT IN A CIVIL CASE

CASE NO. 2014-CP-24-00396

Tony King and Rosella King

Christopher T. Miller

PLAINTIFF(S)

DEFENDANT(S)

Submitted by:

Attorney for : ☐ Plaintiff ☐ Defendant
or
☐ Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- ☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☒ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered. ☐ See Page 2 for additional information.
- ☐ **ACTION DISMISSED (CHECK REASON):** ☐ Rule 12(b), SCRPC; ☐ Rule 41(a), SCRPC (Vol. Nonsuit); ☐ Rule 43(k), SCRPC (Settled); ☐ Other
- ☐ **ACTION STRICKEN (CHECK REASON):** ☐ Rule 40(j), SCRPC; ☐ Bankruptcy; ☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other
- ☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☐ See attached order (formal order to follow) ☐ Statement of Judgment by the Court:

ORDER INFORMATION

PLAINTIFF'S RULE 59 MOTION TO RECONSIDER IS DENIED WITHOUT NECESSITY OF A HEARING; NO FORMAL ORDER REQUESTED

This order ☒ ends ☐ does not end the case.

Additional Information for the Clerk : _____

INFORMATION FOR THE JUDGMENT INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

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		\$
		\$
		\$

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FILED IN 14 PLEAS
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FORM 4

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

JUDGMENT IN A CIVIL CASE
CASE NUMBER 2014CP2400396

Tony King

Rosella King

Christopher T Miller

PLAINTIFF(S)

DEFENDANT(S)

Submitted by:

Attorney for: ☐ Plaintiff ☐ Defendant
☐ Self-Represented Litigant

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Circuit Court Judge

Judge Code

2/4/2015

Date

For Clerk of Court Office Use Only

This judgment was entered on **February 4, 2015**, and a copy mailed first class or placed in the appropriate attorney's box on **February 4, 2015**, to attorneys of record or to parties (when appearing pro se) as follows:

Robert Jamison Tinsley Jr. PO Box 49145 Greenwood, SC
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29602

Amanda Leigh Cheek Bradley PO Box 2980 Greenville, SC
29602-2980

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)



Court Reporter

Angela Woodhurst-- Clerk of Court

ADDITIONAL INFORMATION REGARDING DECISION BY THE COURT AS REFERENCED ON PAGE 1.

This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

Summary Judgment is favor of Defendant Miller
granted. Mr. Morgan to prepare formal
order. 

COPY

STATE OF SOUTH CAROLINA)

COUNTY OF GREENWOOD)

Tony King and Rosella King,)

Plaintiff,)

vs.)

Christopher T. Miller,)

Defendant.)

IN THE COURT OF COMMON PLEAS

EIGHTH JUDICIAL CIRCUIT

Case No. 2014-~~DR~~-24-

396

COMPLAINT

FILED COMMON PLEAS
8TH JUDICIAL CIRCUIT
GREENWOOD, S.C.

2014 MAR 26 AM 11:45

The Plaintiffs would respectfully allege and show unto the Court the following:

PARTIES, JURISDICTION, AND VENUE

1. The Plaintiffs are citizens and resident of Greenwood County, South Carolina.
2. Upon information and belief, the Defendant is a citizen and resident of Greenwood County, South Carolina.
3. This Court has jurisdiction over all the parties and the subject matter raised herein, and venue is proper in this Court.

FACTUAL ALLEGATIONS

4. On or about January 8, 2013, the Defendant hired Fred A. Pope ("Pope") to patch his roof at 105 Greenville Church Road, Donalds, SC 29638, in Greenwood County.
5. Pope hired Plaintiff Tony King ("Mr. King") to assist in or complete the job for the Defendant.
6. Tony climbed up a ladder to patch the roof while Pope held the bottom of the ladder.
7. It was dark when Mr. King climbed up the ladder so the Defendant agreed to go inside to turn on the outside lights for the house.

8. Instead of turning on the lights, the Defendant started a conversation with Pope that distracted Pope and caused him to walk away from the ladder.

9. When Pope walked away from the ladder, the ladder slid and fell, which caused Mr. King to fall violently to the deck from the top of the ladder and suffer serious pain and injuries.

**FIRST CAUSE OF ACTION
(Negligence)**

10. The Plaintiffs hereby reiterate and reallege Paragraphs 1-9 as though set forth herein verbatim.

11. Mr. King was an invitee of the Defendant because he was present on the Defendant's property at the express invitation of the Defendant to perform work the Defendant had sought and paid for.

12. The Defendant owed Mr. King the duty of due care to act as a reasonable person would under the same and similar circumstances when hiring someone to perform work at his house, and to warn of or eliminate any unreasonable risks on the property.

13. The Defendant breached this duty of due care owed to Mr. King in the following particulars:

- a. In interfering with Pope and Mr. King while they were completing the job he had hired them to do;
- b. In distracting Pope while he was holding the ladder while Mr. King was climbing the ladder;
- c. In failing to ensure Mr. King was working in a properly lit area even after expressly assuming the duty to turn on the outside lights;

14. As the direct and proximate result of the aforesaid negligent and careless acts or omissions of the Defendant, Mr. King:

- a. Was painfully injured;
- b. Was subject to the administration of medication;
- c. Was subject to pain, mental anguish, suffering and discomfort over a period of time;
- d. Has incurred substantial medical bills; and
- e. Has been limited in his participation in recreational activities from which, prior to the accident, he derived a great deal of personal enjoyment and satisfaction.

15. The Defendant acted in reckless and wanton disregard for the life and safety of Mr. King.

16. Mr. King is entitled to damages for his loss of enjoyment of life, compensation for limitations to his ability to participate in and derive pleasure from the normal activities of daily life, and his inability to pursue his talents, recreational interest, hobbies, and avocations.

17. Mr. King is entitled to damages for his pain and suffering because of physical discomfort and emotional response to the sensation of pain caused by the injury and mental anguish for shock, fright, emotional upset, and/or humiliation.

SECOND CAUSE OF ACTION (Loss of Consortium)

18. The Plaintiffs hereby reiterate and reallege Paragraphs 1-17 as though set forth herein verbatim.

19. Because of the Defendant's actions, the Plaintiff Rosella King ("Ms. King") has suffered a violation of the right to companionship, aid, society, and services" of her spouse.

20. Ms. King is informed and believes that she is entitled to damages for loss of consortium pursuant to Code Section 15-75-20.

WHEREFORE, the Plaintiffs pray for:

1. Actual, incidental, consequential, punitive, and special damages such as should be awarded by a jury at the trial of the case;
2. A trial by jury;
3. Costs and legal fees; and
4. Such other and further relief as the Court deems just, equitable, and proper.

TINSLEY & TINSLEY, P.C.
Attorney for Plaintiff



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Fax: (864) 377-8278

Greenwood, South Carolina

March 26, 2014

STATE OF SOUTH CAROLINA

COUNTY OF GREENWOOD

TONY KING AND ROSELLA KING,

Plaintiff,

vs.

CHRISTOPHER T. MILLER,

Defendant.

IN THE COURT OF COMMON PLEAS

Civil Action No. 2014-CP-24-00396

ANSWER

The Defendant answers the Complaint of the Plaintiff as follows

FOR A FIRST DEFENSE

1. The Defendant denies each and every allegation of the Complaint unless specifically admitted herein.
2. The Defendant admits the allegations of Paragraph 1 on information and belief.
3. The Defendant admits the allegations of Paragraph 2.
4. The Defendant admits the Plaintiffs plead jurisdiction and venue in Paragraph 3.
5. The Defendant admits the allegations of Paragraph 4.
6. As to the allegations of Paragraph 5, the Defendant admits that the Plaintiff came to the house with Pope purportedly to assist Mr. Pope in completing the work.
7. The Defendant does not have sufficient information to admit or deny the allegations of Paragraph 6 and therefore demands strict proof.
8. As to the allegations of Paragraph 7, the Defendant admits that at some point, he agreed to turn on the outside lights for the house.
9. The Defendant denies the allegations of Paragraph 8.

10. As to the allegations of Paragraph 9, the Defendant admits that the ladder slid and fell, causing the Plaintiff to fall and sustain injuries.

11. As to the allegations of Paragraph 10, the Defendant realleges and reincorporates the preceding paragraphs.

12. As to the allegations of Paragraph 11, the Defendant denies that the Plaintiff was on the property at the express invitation of the Defendant to perform work. The Defendant admits the Plaintiff was on the property with Pope to perform work on the property and the Defendant further alleges that he paid Pope for the job and not the Plaintiff.

13. The allegations of Paragraph 12 state a legal conclusion and therefore no response is required. To the extent any response is required, the Defendant denies that it breached any duty.

14. The Defendant denies the allegations of Paragraphs 13, 14, 15, 16 and 17.

15. As to the allegations of Paragraph 18, the Defendant realleges and reincorporates the preceding paragraphs.

16. The Defendant denies the allegations of Paragraphs 19, 20 and the remaining allegations of the Complaint.

FOR A SECOND DEFENSE

17. The Defendant pleads the law and doctrine of comparative negligence as a complete defense to this action and/or a reduction in the Plaintiff's damages on the grounds that the Plaintiff worked on the roof without proper precautions, failed to make sure the ladder and roof were safe to work on, failed to take precautions to have someone hold the ladder, worked on the roof with preexisting injuries or health issues and failed to act as a reasonable person would under the same or similar circumstances.

FOR A THIRD DEFENSE

18. Any damages sustained by the Plaintiffs were due to and proximately caused by the actions of third parties over which the Defendant had no control and therefore the Defendant is not liable.

FOR A FOURTH DEFENSE

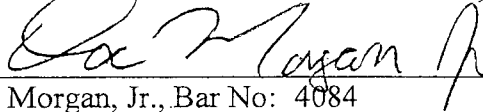
19. The Complaint fails to state facts sufficient to constitute a cause of action.

FOR A FIFTH DEFENSE

20. The Plaintiffs are not entitled to an award of punitive damages on the grounds that such an award would be in violation of the due process and equal protection clauses of the United States and South Carolina Constitutions.

WHEREFORE, having fully answered the Complaint, the Defendant demands that it be dismissed, for the costs of this action, and for such other and further relief as the Court deems just and proper.

MCANGUS GOUDELOCK & COURIE, L.L.C.



Doc Morgan, Jr., Bar No: 4084

Amanda L.C. Bradley, Bar No: 74950

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55 East Camperdown Way, Suite 300 (29601)

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(864) 239-4000

ATTORNEYS FOR DEFENDANT,
CHRISTOPHER T. MILLER

June 16, 2014

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admissible by the court.

MCANGUS GOUDELOCK & COURIE, L.L.C.

Doc Morgan, Jr.

Bar No: 4084

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Greenville, South Carolina 29602

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ATTORNEYS FOR DEFENDANT,
CHRISTOPHER T. MILLER

December 23 2014

STATE OF SOUTH CAROLINA

COUNTY OF GREENWOOD

Tony King and Rosella King,

Plaintiff,

vs.

Christopher T. Miller,

Defendant.

IN THE COURT OF COMMON PLEAS

EIGHTH JUDICIAL CIRCUIT

Case No. 2014-CP-24-00396

**PLAINTIFFS' MOTION TO ALTER OR
AMEND**

FILED COMMON PLEAS
8TH JUDICIAL CIRCUIT
GREENWOOD, S.C.
2015 NOV 25 AM 4:45

Pursuant to Rule 59, SCRCP, Plaintiff respectfully requests the Court reconsider and amend its Order granting summary judgment in this matter that was issued November 9, 2015; filed November 13; and received by Plaintiff's counsel on November 16, for the following reasons discussed herein.

Summary judgment is appropriate "if there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law." SCRCP 56(c). "[T]he non-moving party is only required to submit a mere scintilla of evidence in order to withstand a motion for summary judgment." Hancock v. Mid-South Management Company, 381 S.C. 326, 673 S.E.2d 801, 803 (2009).

This case stems from Plaintiff falling off of a ladder while working on a roof at Defendant's house. Defendant hired Freddie Pope to repair shingles on his roof. Pope then hired Plaintiff to actually perform the repairs on January 8, 2013. To complete the job, Plaintiff had to climb the ladder to perform shingle repairs while Pope held the ladder on the back deck, which was a composite deck. (Depo. Christopher Miller p. 33, ll. 11 – 12.) Defendant expressed concern about the safety of Plaintiff being on the ladder so Plaintiff told Defendant the job would be safe as long as Pope was holding the ladder. (Depo. Tony King, pp. 59 – 60, ll. 14 – 3.)

Plaintiff testified that after his many years of experience working on roofs he would never go on a ladder without someone holding it because it was too dangerous. (Depo. King p. 63, ll. 8 – 10.) At close to sunset, Plaintiff went up the ladder to perform repairs. Defendant was outside at this time. The parties dispute whether lights were on at that time. (Depo Miller pp. 16 – 17, ll. 14 – 9; Depo. King pp. 69-70, ll. 9 – 14.) Defendant called Pope over to talk with him while Plaintiff was performing the work. (Depo. King p. 62, ll. 6 – 10.) After Defendant called Pope over to talk while Plaintiff was on the ladder working, Pope walked away from the ladder, and it fell. (Depo. King pp. 71 – 73, ll. 10 – 10; Affidavit of Freddie Pope ¶ 3 – 4.) Defendant admitted he and Pope were talking when Plaintiff fell but denied he was the reason Pope was not holding the ladder or that he was responsible for the fall. (Depo. Miller pp. 18 – 20, ll. 14 – 5.) As a result, Plaintiff fell from the ladder onto the deck and broke his foot.

Plaintiff brought this case with a negligence cause of action against Defendant. Plaintiff alleged that Defendant owed him a “duty of due care to act as reasonable person would under the same and similar circumstances when hiring someone to perform work at his house....” (Complaint ¶12.) Plaintiff alleged Defendant breached this duty by interfering with Plaintiff and Pope while they were completing the job he hired them to complete, distracting Pope while he was holding the ladder for Defendant while Defendant worked on the roof, and failing to turn on the outside lights at sunset after agreeing to do so. (Complaint ¶13.) “A property owner owes an invitee or business visitor the duty of exercising reasonable or ordinary care and is liable for any injuries resulting from any breach of such duty.” Lanier Construction Company, Inc. v. Bailey & Yobs, Inc., 384 S.C. 275, 681 S.E.2d 909, 912 (Ct. App. 2009).

The Court determined that Defendant did not breach his duty to Plaintiff so he could not be held liable. The Court erred in finding that Defendant’s actions did not subject him to

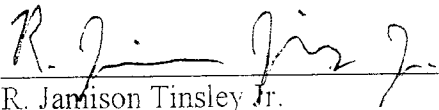
liability. Plaintiff informed Defendant earlier in the day that someone needed to hold the ladder for him at all times. "I told him, Don't worry about it, as long as I got somebody to hold the ladder." (Depo. King p. 59, ll.19-20.) Given that Plaintiff put Defendant on notice of the necessity of someone holding the ladder while he climbed it, Defendant breached the duty of due care he owed to Plaintiff by distracting Pope and interfering with the job. When he began talking to Pope while Plaintiff was on the ladder working on the roof, he knew or should have known he was putting Plaintiff in a dangerous condition. It was, therefore, foreseeable that the ladder would give way when Pope quit holding it to talk with Defendant and cause Plaintiff to be injured. Plaintiff would not have fallen off the ladder but for Defendant distracting Pope and causing him to move away from the ladder. Defendant acted negligently by talking with Pope rather than allowing Pope to hold the ladder for Plaintiff when Defendant knew the ladder needed to be held.

The Court also found Defendant did not owe Plaintiff a duty to turn on the outside lights, and if he had owed such a duty to Plaintiff he did not breach it. The Court's ruling is error because the evidence, when viewed in the light most favorable to Plaintiff, shows Defendant assumed a duty to turn on the lights. Plaintiff testified he told Defendant to turn on the lights, but "I don't know why he didn't cut them on. That's what he supposed to have been doing." (Depo. King p. 70, ll. 3-5.) Where a person voluntarily acts for the plaintiff's benefit he must act with due care. See Madison ex. rel. Bryan v. Babcock Ctr. Inc., 371 S.C. 123, 638 S.E.2d 650 (2006). The Court further found that Defendant did not breach a duty to turn on the lights even if he owed such a duty because Plaintiff climbed the ladder with the lights off. The Court erred in making such a finding because the jury should hear this evidence and decide whether Plaintiff was comparatively negligent by climbing the ladder before the lights came on when he believed

Defendant was turning them on. Plaintiff's actions are not the measure of whether Defendant breached his duty to turn on the lights after undertaking that duty. The evidence, when viewed in the light most favorable to Plaintiff, shows Defendant failed to turn on the lights in violation of the duty he owed Plaintiff.

For the reasons stated above, Plaintiff has produced at least a mere scintilla of evidence that Defendant breached the duty of due care he owed Plaintiff so the Court should overturn its prior order and deny Defendant summary judgment in this case.

TINSLEY & TINSLEY, P.C.
Attorney for Plaintiff



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Greenwood, South Carolina

November 25, 2015

IN THE COURT OF COMMON PLEAS

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1 **FEBRUARY 4, 2015**

2 (WHEREUPON, court convened with all parties
3 present and the following proceedings were had.)

4 THE COURT: This is a motion for summary
5 judgment; is that correct?

6 MR. MORGAN: Yes, sir, Your Honor.

7 THE COURT: And you are Mr. Tinsley?

8 MR. TINSLEY: Yes, sir, Your Honor.

9 THE COURT: Okay. And you practice here in
10 Greenwood?

11 MR. TINSLEY: Yes, sir, Your Honor.

12 THE COURT: Nice to see you.

13 MR. TINSLEY: Good to see you.

14 THE COURT: Okay. Give me one second. So
15 it's Mr. Miller's motion for summary judgment?

16 MR. MORGAN: Yes, sir, Your Honor.

17 THE COURT: Do you have any Affidavits to
18 submit?

19 MR. MORGAN: Depositions of the Plaintiff and
20 the Defendant, Your Honor.

21 THE COURT: Okay, sir. And do you have any
22 submissions, Mr. Tinsley?

23 MR. TINSLEY: I have some deposition
24 excerpts, as well as an Affidavit of a third party
25 witness.

1 THE COURT: Okay, sir. What is the
2 underlying nature of the case?

3 MR. MORGAN: Your Honor, my client hired a
4 guy named Freddie Pope to fix some shingles up on his
5 roof, do some roof work. He had a couple of leaks.
6 And a guy named Freddie Pope. And Mr. Pope got the
7 Plaintiff, Tony King, to do his roof work. Apparently
8 he's his roofer, is what he does. My guy is just the
9 homeowner. He hires -- and it's a guy Freddie Pope
10 who's done some work for him for years, and his father-
11 in-law.

12 THE COURT: Hang on for a second. For some
13 reason I'm not wrapping my arms around that. Let me
14 ... Okay.

15 MR. MORGAN: I represent the Defendant, Chris
16 Miller.

17 THE COURT: Okay.

18 MR. MORGAN: He's the homeowner. Owns the
19 house.

20 THE COURT: Homeowner; okay.

21 MR. MORGAN: And he hired Freddie Pope, who
22 you have the Affidavit from there. He hired Freddie
23 Pope to do some roof work. Well, Freddie Pope hired
24 the Plaintiff, who apparently is kind of his roofer.
25 Freddie Pope seems to be kind of a handyman guy. He's

1 done a lot of work for my client, my client's father-
2 in-law through the years. So my client had some issues
3 with his roof, had some shingle problems and had a
4 leak. And so he hired Mr. Pope to come out there and
5 do some work. Again, Mr. Pope hired Tony King. Now, I
6 want to -- before I tell you kind of about the facts, I
7 do want to mention that this Affidavit Plaintiff has
8 submitted ---

9 THE COURT: He did deposition excerpts.

10 MR. MORGAN: There's an Affidavit at the
11 back, Your Honor.

12 THE COURT: There are Affidavits?

13 MR. TINSLEY: There's one ---

14 THE COURT: Are they by any of the deponents?

15 MR. TINSLEY: No, sir, Your Honor. It's from
16 Freddie Pope. It's just a very brief account that he
17 gave me of ---

18 MR. MORGAN: Yes, sir. It's just -- and it's
19 irrelevant, but I want to address it before we really
20 talk about the ---

21 THE COURT: If it's irrelevant, do we need to
22 go over it though?

23 MR. MORGAN: I do want to mention it, yes,
24 sir, because I'm sure counsel will mention it. Again,
25 Freddie Pope is who my guy hired to do the work. Been

1 doing work for years. The Plaintiff testified that my
2 client hired Freddie Pope and that Freddie Pope got him
3 to do the work.

4 Well, the Plaintiff has gotten an Affidavit from
5 Freddie Pope saying that my client hired the Plaintiff
6 directly, which is in direct contravention to what the
7 Plaintiff himself testified and what my client
8 testified.

9 And so if there's any argument about creating kind
10 of issues of facts, you know, the Plaintiff can't
11 create their own issue of fact among themselves. But
12 even if, even if my client hired the Plaintiff, it
13 still doesn't matter as far as this motion and this
14 argument. All my client did was hire them to do some
15 roofing work.

16 THE COURT: Did he get injured or something?

17 MR. MORGAN: So he gets -- he's doing some
18 work, works out there all day. My client is actually
19 at the house studying for an exam. Goes out a couple
20 of times during the day, you know, checks on them, how
21 y'all doing, need anything? They get through with the
22 first part of the job and about five, five fifteen,
23 they move around to the back of the house to replace
24 this shingle up there. My client comes out. Guys,
25 y'all need anything? And they said, yeah, can you turn

1 the lights on? My guy turns the lights on, walks out
2 there, y'all need anything else? And by this time the
3 Plaintiff is up on the ladder. Freddie Pope, the guy
4 ---

5 THE COURT: Whose ladder was it?

6 MR. MORGAN: Freddie Pope's. Wasn't even my
7 client's. Freddie Pope -- the two of them had been
8 working all day, Freddie Pope and the Plaintiff. They
9 worked together. So the Plaintiff is up on the ladder.
10 My guy just walks out there, y'all need anything? And
11 as that -- as they're talking for a brief second, the
12 Plaintiff falls. What had happened is that Mr. Pope
13 was holding the ladder and let go of the ladder. The
14 Plaintiff was up on the ladder and the ladder falls.
15 And he's injured.

16 And he sues my client, the homeowner, who had
17 nothing to do with it, is not a roofer, hired Freddie
18 Pope and the Plaintiff -- well, hired Freddie Pope and
19 Freddie Pope got the Plaintiff to do the work. And
20 again, that's uncontradicted. Both the Plaintiff
21 himself says he wasn't hired by my client and my client
22 says he didn't hire the Plaintiff.

23 But even if he did, it doesn't matter because
24 there's no duty. And even if there was a duty, there
25 was no negligence on my part -- on my client's part.

1 All he did was hire the guys to do the work. My guy's
2 not a roofer, construction guy. He's just a homeowner
3 who happened to be in his house that day studying for
4 an exam, checked on them a couple of times. And then
5 when he walked out there to see if they needed anything
6 else, the Plaintiff is up on the ladder. Freddie Pope,
7 who's holding the ladder, apparently turns away to talk
8 to my client and that's when he falls.

9 So there's nothing that my client did at all. He
10 simply hired a guy to do some work on his roof and
11 unfortunately the guy fell. So if there was any kind
12 of liability for somebody -- if you or I or anybody
13 were to hire somebody to do some work, a plumber, a
14 landscaper, a yard guy, and they get hurt, there's
15 nothing -- there's no liability, there's no duty that
16 we have.

17 The only duty a landowner/homeowner has is to let
18 them know of any kind of defects that he knows or
19 should know that the person may not be aware of. But
20 that's not the case here. There's no defect. There's
21 no problem with the land or anything like that.
22 They're using Freddie Pope's ladders. They're using
23 their own stuff. To have liability of a homeowner in
24 this case would be -- I couldn't imagine that I hire
25 somebody and he falls and just because it happened on

1 my land or I'm talking -- I think, Your Honor, I'm not
2 sure, but the only thing I can gather the argument
3 that's going to be made is that my guy was talking to
4 Freddie Pope and Freddie Pope turned around to talk to
5 him and let go of the ladder. And because of that, for
6 some reason, my guy talking to see if they wanted to
7 know something or needed anything and for that he's
8 liable. There's just absolutely no liability in this
9 case at all because there's no duty. And even if there
10 was a duty, there's certainly no negligence.

11 I mean, I couldn't imagine that we would all be
12 liable for something in a situation like this when
13 you've got somebody on your property and you didn't do
14 anything; they didn't do anything. I mean, it's not
15 like my guy cut the ladder out from him or did anything
16 like that. So there's just absolutely no liability in
17 this case, Your Honor.

18 THE COURT: All right. Mr. Tinsley, may I
19 ask you a couple of questions, please, sir?

20 MR. TINSLEY: Yes, sir, Your Honor.

21 THE COURT: First, let me ask you this. Do
22 you agree with Mr. Morgan's assertion that there's no
23 allegation of there being a defective premises?

24 MR. TINSLEY: Yes, sir. The only ---

25 THE COURT: Or any blatant danger on this

1 premises?

2 MR. TINSLEY: The only issue, I would say,
3 with the premises is I think there's a question of fact
4 as to lighting. As he said, Mr. Miller testified that
5 he came out there and asked them if he could do
6 anything to help them with the job. At that point,
7 they said, yeah, turn on the lights.

8 THE COURT: Did he not turn on the lights?

9 MR. TINSLEY: Mr. Miller testified that he
10 turned them on. Mr. King testified that he didn't turn
11 on the lights. And so I believe that's a question of
12 fact. At that point he undertook the duty to assist
13 them, at least in that way, to turn on the lights. And
14 there's conflicting testimony on whether he turned on
15 the lights. So as far as the premises itself goes, I
16 would say the lighting would be the only issue.

17 THE COURT: Let me ask you this. Assuming
18 for the sake of argument that Mr. Pope did hire Mr.
19 King, what duty would Mr. Miller owe to Mr. King? And
20 tell me specifically what that duty is.

21 MR. TINSLEY: Mr. Miller would owe the duty
22 -- number one, like I said, I think he undertook the
23 duty to assist, at least in a minimal way, of turning
24 on the lights.

25 THE COURT: Okay.

1 MR. TINSLEY: Which we allege he did not.

2 THE COURT: I got that.

3 MR. TINSLEY: And also, there was discussion
4 between Mr. Miller and Mr. King because Mr. Miller
5 expressed concern about him getting up on the
6 ladder, because he could tell he wasn't moving right
7 because he had a previous knee injury. And so Mr. King
8 said, it's fine as long as somebody is holding the
9 ladder.

10 THE COURT: Say that again. Mr. King said,
11 I'm good to go if somebody holds the ladder?

12 MR. TINSLEY: That's right. That's right.

13 THE COURT: Okay. So tell me specifically
14 the duty Mr. Miller would owe beyond the premises
15 liability duties that we're familiar with.

16 MR. TINSLEY: I believe at that point he owed
17 the duty to not interfere with the ladder being held
18 when Mr. King was on it, going up there and coming down
19 on it.

20 THE COURT: Do you disagree with Mr. Morgan's
21 description of the events leading up to that?

22 MR. TINSLEY: There's testimony that -- I
23 think it's pretty undisputed that he was talking to Mr.
24 Pope and that's why Mr. Pope let go of the ladder.
25 They were discussing money -- we're told they were

1 discussing the money of the job. Don't know. Mr.
2 Miller testified that he was about six feet from the
3 ladder and Mr. Pope was close to it and turned talking
4 to him at that point, he guesstimated about two feet
5 from the ladder in his deposition. Had he not -- had
6 he waited for Mr. Pope to not be holding the ladder
7 when he came up to talk to him when he already had
8 knowledge that that was a -- that was basically the job
9 safety requirement requisite that Mr. King had notified
10 him of, is he's fine as somebody held the ladder. He
11 had a duty not to ---

12 THE COURT: Distract?

13 MR. TINSLEY: Distract.

14 THE COURT: Now, as to the lighting issue, do
15 you agree that all that occurred prior to the Plaintiff
16 going up on the ladder?

17 MR. TINSLEY: Let me ...

18 THE COURT: In other words, we need the light
19 cut on and the Defendant never cut on the light.

20 MR. TINSLEY: I do think that that is my
21 understanding. I don't think he hollered up while he
22 was ---

23 THE COURT: In other words, Mr. Tinsley, it's
24 not a situation where the Plaintiff cut on the light --
25 I mean, the Defendant cut on the light, the Plaintiff

1 goes up the ladder and then he cuts off the light while
2 he's up on the ladder?

3 MR. TINSLEY: Yes, sir, it was never cut on.
4 And what he testified to was he was asked, how long was
5 it from the time you asked to have the lights cut on
6 until the time that you went up the ladder? Mr. King
7 testified, probably five to ten minutes. I mean, it
8 wasn't long. And then he said -- then she asked, when
9 you went up the ladder were there any lights on outside
10 the house? He said, no.

11 THE COURT: All right. So if I understand
12 what you're telling me, the duties involved in this
13 case: Number one, duty to cut on the light, duty not
14 to distract Pope. Any other duties?

15 MR. TINSLEY: No, sir. Those are the only,
16 the only allegations, I believe.

17 THE COURT: All right. Mr. Tinsley, I asked
18 you the questions. I'll be glad to hear from you. Do
19 you want to add anything to it?

20 MR. TINSLEY: I think your questions hit all
21 my points. I think Mr. Miller admits he was talking to
22 Freddie Pope at the time of the fall. Pope wasn't,
23 therefore, holding the ladder. And he had been, he had
24 been informed that Mr. King was fine to go up the
25 ladder as long as somebody was holding it. And that

1 was pretty much the bulk of what Freddie Pope's job to
2 do was. And you know, I don't know as far as -- I do
3 tend to agree with him that it doesn't really matter
4 who hired Mr. King, because Mr. King did testify that
5 he didn't really have any direct dealings with Mr.
6 Miller. And Mr. Pope, in his Affidavit, stated that he
7 did hire him. But I don't think that, I don't think
8 that's really an issue here.

9 THE COURT: Okay. Very good.

10 MR. TINSLEY: Thank you, Your Honor.

11 THE COURT: Anything further, Mr. Morgan?

12 MR. MORGAN: Your Honor, this doesn't rise to
13 the level of negligence; distracting, you're talking to
14 somebody, you're just talking to somebody at your house
15 certainly doesn't rise to the level of negligence. I
16 mean, that means that if somebody is working at my
17 house, I can't have a conversation with them?

18 And it's Freddie Pope that's holding the ladder.
19 It's Freddie Pope that's supposed to be there. It's
20 Freddie Pope, if somebody's talking to him. And we're
21 talking, Your Honor, they're right here. I mean, it's
22 not like he's three feet, six feet from him. They're
23 sitting here talk -- they're talking. There's nothing
24 wrong with talking. There's nothing that rises to any
25 level of negligence of talking.

1 As far as the lights, he asked him, turn on the
2 lights. Okay. The question of fact, there's no
3 proximate cause that the light had anything to do with
4 it. In fact, the Plaintiff in his own testimony in his
5 deposition says he didn't hold the ladder. Freddie was
6 supposed to hold the ladder. He was supposed to hold
7 it. Didn't say anything -- it wasn't about the light.
8 He was just standing on the lighting -- ladder. He
9 wasn't even supposed to go up on the roof. He was just
10 going to fix it right there.

11 THE COURT: All right. Stop there. Mr.
12 Tinsley, do you disagree that the proximate cause was
13 the failure to hold the ladder and secure it, as
14 opposed to the lighting?

15 MR. TINSLEY: I mean, I'm not going to agree
16 that the lighting was not a proximate cause. I do
17 think that the holding of the ladder ---

18 THE COURT: Was the primary?

19 MR. TINSLEY: --- that that was the primary
20 cause. But I'm not going to say -- I'm not going to
21 concede that the lighting ---

22 THE COURT: I got you. All right, guys, I'm
23 going to read these deposition transcripts and I will
24 give you my decision. Thank you.

25 MR. TINSLEY: Thank you, Your Honor.

1 MR. MORGAN: Thank you, Your Honor.

2

3 [END OF REQUESTED TRANSCRIPT OF RECORD]

Tony King

STATE OF SOUTH CAROLINA
COUNTY OF GREENWOOD

COURT OF COMMON PLEAS

- - -

TONY KING and ROSELLA KING,
Plaintiffs,

C.A. NO.
2012-CP-23-07322

vs.

CHRISTOPHER T. MILLER,
Defendant.

DEPOSITION OF TONY KING

DATE TAKEN: Monday, December 8, 2014
TIME BEGAN: 10:30 a.m.
TIME ENDED: 12:15 p.m.
LOCATION: McAngus Goudelock & Courie, LLC
55 East Camperdown Way
Greenville, South Carolina

REPORTED BY: Lisa Garson, Court Reporter
EVERYWORD, INC.
P.O. Box 1459
Columbia, South Carolina 29202
803-212-0012

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18 ALSO PRESENT:

19 ROSELLA KING

20 CLARA KING

21 CHRISTOPHER MILLER

22

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I N D E X

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E X H I B I T S

(None marked.)

(It is hereby stipulated and agreed
by and among counsel for the respective
parties that this deposition is being
taken in accordance with the South
Carolina Rules of Civil Procedure, and
that the deponent waives reading and
signing of this deposition transcript.)

- - -

TONY KING, after having been first
duly sworn, was examined and testified
as follows:

- - -

EXAMINATION

- - -

BY MS. BRADLEY:

Q Good morning, Mr. King.

A Good morning.

Q My name is Amanda Bradley, and I represent
Mr. Miller in the lawsuit that you brought against
him, and we're here today to take your deposition.

Have you ever given a deposition before?

A Years back.

Q What kind of case was that?

A Workers' comp case.

Q Is that the only deposition you've given?

1 A Yeah.

2 Q Well, I'm just going to ask you some
3 questions, and I want you to answer them the best
4 that you can. If I ask you a question that isn't
5 clear to you, for any reason, please let me know,
6 and I'll be happy to repeat it or to rephrase it
7 for you.

8 A Okay.

9 Q If you answer the question, I'm going to
10 assume that you understood it. Is that fair?

11 A Yeah.

12 Q During the deposition, the court reporter
13 will be taking down everything that we say, so it
14 is important that you answer out loud, and say 'yes'
15 and 'no', and not 'uh-huh' and 'uh-uh'.

16 A Okay.

17 Q If I remind you to do that during the
18 deposition, I'm not trying to be rude. I just want
19 to make sure that it gets down on the record.

20 A No problem.

21 Q And it's also important that we not talk
22 over each other, so if you can wait until I finish
23 my question, before you start your answer, and I
24 will let you finish your answer, before I give you a
25 new question.

1 A Okay.

2 Q If you have any questions during the
3 deposition, I would ask that you direct those
4 questions to me, instead of your own attorney.

5 A Okay.

6 Q And if you need to take a break, for any
7 reason, please let me know, and we'll be happy to
8 do that.

9 A All right.

10 Q Could you state your full name for the
11 record, please.

12 A Tony Franklin King.

13 Q What is your date of birth?

14 A November 30, 1956.

15 Q Mr. King, I'm going to ask you your
16 Social Security and ask the court reporter not to
17 put it down on the record.

18 A Okay.

19 (Off the record.)

20 BY MS. BRADLEY:

21 Q What is your current address?

22 A 304 South Main, Donalds.

23 Q How long have you lived there?

24 A About a year now.

25 Q Who lives there with you?

1 A My wife.

2 Q Where did you live before that address?

3 A 4707 Main Street, Hodges.

4 Q How long did you live there?

5 A About five years. I'd say about five
6 years.

7 Q And your wife lived there with you, as
8 well?

9 A Yeah.

10 Q How long have you been married?

11 A Eight years now. My anniversary was
12 yesterday.

13 Q Happy anniversary.

14 A Thank you.

15 Q What is your wife's full name?

16 A Rosella, R-O-S-E-L-L-A, Ann King.

17 Q Do you have any children?

18 A Yes. I have three.

19 Q Do any of them live in Greenwood County?

20 A Yeah.

21 Q What are your children's names?

22 A Tabatha King.

23 Q How old is she?

24 A She's right at -- momma, ain't she about

25 30?

1 MRS. KING: She was born --

2 MR. TINSLEY: You can't speak, Mrs. King.

3 THE WITNESS: I think she's around 36.

4 She was born in 1980, if I'm not mistaken.

5 BY MS. BRADLEY:

6 Q And you have two other children.

7 A Yes.

8 Q What are their names?

9 A Tony Franklin King, Junior; and he lives
10 in Seattle, Washington.

11 Q And the other child?

12 A Kimberly Ann King.

13 Q Does she live in Greenwood County?

14 A Yeah.

15 Q Is Tabatha married?

16 A Yes, she is.

17 Q What is her husband's name?

18 A Steve. And I don't know his last name.

19 Q Does she have any children who are over

20 18?

21 A Yes. She has one over 18.

22 Q What is that child's name?

23 A Dylan Wayne King.

24 Q What about Kimberly, is she married?

25 A No.

1 Q Does she have any children who are over
2 18?

3 A No.

4 Q Do you have any other family members who
5 live in Greenwood County?

6 A Yeah. I got an aunt -- well, I got
7 several aunts living there.

8 Q What are their names?

9 A One is named Jenelle Pierson; Helen --
10 she used to be Helen LaRome, but she's got another
11 name. I can't remember her last name.

12 Q She used to be what?

13 A She used to be Helen LaRome, but I
14 don't -- like I say, I don't see that side of the
15 family very much. I haven't seen her in years.

16 Q Any other family?

17 A Christine Still.

18 Q All right.

19 A Sue Smith. I can't think of my other
20 aunt's name. I ain't seen her in over 20 years, so
21 I can't remember.

22 Q And we've got, also present here, is that
23 your mother here?

24 A That's my mother and my wife.

25 Q And does your mother live in Greenwood

1 County?

2 A Yes.

3 Q What is your mother's name?

4 A Clara King.

5 Q Do you have any brothers or sisters?

6 A Yes. I got a sister. She lives in

7 Columbia, and my brother is dead.

8 Q Is your mom married?

9 A No. My dad died. It will be three
10 years, January.

11 Q Sorry to hear that. Do you attend church
12 in Greenwood County?

13 A I don't go to church.

14 Q Are you a member of any type of clubs,
15 groups, or organizations, in Greenwood County?

16 A No.

17 Q Going back up to your addresses, where
18 did you live before the Hodges address?

19 A Seattle, Washington.

20 Q How long did you live in Seattle?

21 A About three years.

22 Q Where did you live before Seattle?

23 A Greenwood.

24 Q Were you born in Greenwood?

25 A Yes.

1 Q Have you been married, before your
2 current marriage?

3 A Yes.

4 Q How many times?

5 A One.

6 Q What was your former wife's name?

7 A Donna Jean Cockrell, now, because she got
8 remarried.

9 Q Does she live in Greenwood County?

10 A Yes -- well, no. I take that back. She
11 lives in Saluda County.

12 Q What was her maiden name?

13 A Donna Jean Riser,, R-I-S-E-R.

14 Q You mentioned before the deposition
15 started that you are taking medications. Do you
16 know what medications you are taking currently?

17 A I got a couple pain pills. I take
18 Valium, I got nerve pills. I mean, I can't -- I
19 take Tramadol, and they did have me on Oxycodone.

20 Q Do you still take Oxycodone?

21 A No. They got me off of it. Well, it was
22 before my knee surgery, before I got hurt. So I
23 ain't been taking it about a year now. And then
24 hydrocodone.

25 Q Do you currently take hydrocodone?

1 A Every now and then when I hurt bad.

2 Q Have you taken any hydrocodone today?

3 A No.

4 Q Have you taken the Tramadol today?

5 A Yes.

6 Q What about the Valium?

7 A Yeah. I took Valium, too.

8 Q And then you mentioned a nerve pill. Is
9 that the Valium or something else?

10 A It's a nerve pill. I can't think of the
11 name of it. It starts with T-R, but I can't think
12 of the name. I mean, I take a muscle relaxer.

13 It's a long name that starts with a C.

14 If I'd a known, I'd have brought my
15 bottles with me. I just didn't think of it.

16 Q Did you take the muscle relaxer today?

17 A Yes.

18 Q Are there any other medications that you
19 take? Anything for high blood pressure, or
20 anything like that?

21 A Well, I was on blood pressure medicine.
22 They said it's kind of got evened out now, so I'm
23 not taking it at present. But I go back to see my
24 doctor next month, so he might renew it.

25 They'll see how much my blood pressure is

1 when I go. The last couple years, it's gone up and
2 down. They put me on blood pressure medicine, and
3 I stayed on it for, like, almost a year, this past
4 time.

5 They took me off it once before. Blood
6 pressure, I guess, goes up and down.

7 Q Does the same doctor prescribe all of
8 your medications for you?

9 A No.

10 Q What doctor do you have a follow-up with
11 to prescribe blood pressure medication or check
12 you?

13 A I have Dr. Carter right now.

14 Q Where is Dr. Carter's office?

15 A Veterans Administration.

16 Q What other doctors do you see that
17 prescribe you medication?

18 A I don't see her no more, so I mean -- I
19 can't remember her name, but I see Dr. Young. He's
20 my orthopedic surgeon. He the one give me the
21 hydrocodone.

22 Q Is he also with the Veterans
23 Administration?

24 A Yes.

25 Q Do you see any doctors currently who are

1 not with the Veterans Administration?

2 A No.

3 Q Do any of the medications that you've
4 taken impair your ability to understand or answer
5 my questions?

6 A Well, if I took the Oxycodone, it would.
7 But, like I say, I ain't took it in, like, a year
8 now.

9 Q But none of the other medications affect
10 your ability to understand or answer my questions?

11 A No.

12 Q Since you are receiving care through the
13 Veterans Administration, I assume that means you
14 are a veteran.

15 A Right.

16 Q What branch did you serve in?

17 A Marine Corps.

18 Q What year did you serve?

19 A 1975.

20 Q Were you only in for one year?

21 A I was in a little over a year. I had a
22 knee problem there. Well, they had me on
23 rehabilitation, and I had to go see a psychiatrist,
24 and I got out on administrative leave.

25 I got honorably discharged, but it's

1 administrative.

2 Q Were you honorably discharged in 1975?

3 A '76.

4 Q Prior to 1975, when you went in the
5 Marine Corps, did you work?

6 A Yes.

7 Q Where did you work?

8 A With my father, King's Roofing.

9 Q How long did you work for King's Roofing?

10 A Since I was 12 years old.

11 Q What did you do?

12 A Roofer.

13 Q Did you do everything that had to do with
14 roofing? Or did you have a specific job you did?

15 A Well, I roofed, and I was crew boss when
16 I run a crew.

17 Q When you were doing that roofing before
18 1975, did you have any problems with your knees
19 then?

20 A No.

21 Q Did you have an injury while you were in
22 the Marines that injured your knees?

23 A Well, I was set back about a week because
24 my knee, on the PT course, and everything, I got
25 sent back to rehabilitation for a week. After that

1 I didn't have no problems.

2 What it is, I stepped in a hole when I
3 was on the PT course.

4 Q Did you injure both knees?

5 A No. Just one.

6 Q Which one?

7 A Right.

8 Q You said that you had one week of rehab
9 after that.

10 A Yeah.

11 Q After you finished your one week of
12 rehab, did you go back to the Marines?

13 A Well, yeah, I was at the Marines. I
14 mean, I was at rehabilitation. I mean, I was
15 serving 243, and I went back to 243.

16 Q When you went back after the rehab week,
17 how long did you stay in the Marines?

18 A Up to '76. I was at Parris Island when I
19 was at boot camp when I done that. Then I went to
20 Camp Pendleton, then I went on to Concord Naval
21 Weapon Station.

22 Q When you were -- you said that you were
23 put on administrative leave and then honorably
24 discharged.

25 A Yes.

1 Q Why were you put on administrative leave?

2 A Because I had a psychiatric problem.

3 Q What type of psychiatric problem?

4 A Well, my nerves. You know, they trained
5 me to kill and I was put on military police and I
6 couldn't handle it. I mean, when you're learning
7 how to kill, it's hard. A guy goes back to stand
8 on a post all night.

9 Q Was there ever a time after that, that
10 you went back into the Marines in a different
11 position other than military police?

12 A No.

13 Q Prior to going into the Marines, how far
14 did you go in school?

15 A Ninth grade.

16 Q Where were you in ninth grade?

17 A Northside Junior High School. I went to
18 tenth grade, but I just went, like, two or three
19 months.

20 Q Where did you go to the tenth grade for
21 that two or three months?

22 A Greenwood High School.

23 Q Did you go straight to work after that,
24 working with your dad?

25 A I went straight in the Marine Corps after

1 that. Well, I worked for -- I joined the Marine
2 Corps, and I worked for him until I went to Parris
3 Island. I went to Parris Island, March 15, 1975.

4 Q In 1976, after you were discharged from
5 the Marine Corps, did you go to work after that?

6 A Yeah.

7 Q Where did you go to work?

8 A King's Roofing Company.

9 Q After you were discharged and back
10 working with your dad; is that right?

11 A Yeah.

12 Q Did you continue to see a psychiatrist or
13 psychologist?

14 A No. I mean, I went to Beckman Center a
15 couple times, but, I mean, they put me on anxiety
16 pills. I can't think of the name of it. It
17 knocked me out.

18 Because I felt hyper so they tried to
19 find something to calm me down.

20 Q Was that also through the VA?

21 A No, no. Civilian.

22 Q What was the name of the --

23 A Beckman Center.

24 Q You said you went there twice.

25 A Well, I mean, I went there twice. I had

1 several sessions there, I mean, group therapy, and
2 stuff like that.

3 Q How long did you continue to go to
4 therapy at the Beckman Center?

5 A I really don't know. Over the course of
6 two years, I probably went, like I said.

7 Q After that, did you go to a different
8 place for treatment for your anxiety?

9 A With the VA. I mean, I went to VA and
10 they put me -- before -- I can't think of the
11 doctor's name. I think it was 2000, something like
12 that. I mean, I was on hydrocodone, and they give
13 me Valium.

14 Q Back in 2000, why were you on hydrocodone
15 and Valium?

16 A Well, I was hurting a little bit.

17 Q What was hurting?

18 A My back.

19 Q Did you have an injury to your back?

20 A Yes.

21 Q What type of injury did you have?

22 A Ruptured disk.

23 Q Was there something that caused your
24 ruptured disk?

25 A Well, I mean, working on a roof.

1 Q There wasn't a specific injury. It was
2 just working on a roof, and you ended up with a
3 ruptured disk.

4 A Yeah. I went to several doctors in
5 Greenwood, and finally, I went to the VA. And the
6 VA found the problem and they wanted to operate on
7 me.

8 Q Did you have surgery on your back?

9 A Yes.

10 Q How many surgeries did you have?

11 A I had three, altogether.

12 Q Do you remember what part of your back
13 you had surgery on?

14 A L4-L5.

15 Q All three surgeries were L4-L5?

16 A Yes.

17 Q You said before that you had given a
18 deposition in a workmen's comp case.

19 Was this the workmen's comp case that you
20 gave a deposition for, or was it something else?

21 A Well, yeah. My second back injury was in
22 1989. My first was in 1987.

23 Q Did you file workers' compensation claims
24 for both of those?

25 A No.

1 Q For which one?

2 A I was stupid on the first, 1989.

3 Q Were you working with King's Roofing at
4 that time?

5 A No.

6 Q Where were you working?

7 A I was working with Garrett Altmann, in
8 Greenville.

9 Q Is that Garrett or Gary?

10 A Garrett Altmann Construction.

11 Q How long did you work for Garrett
12 Altmann?

13 A Probably right at two years.

14 Q Would that have been 1987 to 1989?

15 A Yeah. Because I went back to work after
16 my first back operation. About three or four weeks
17 after that, I went back to work.

18 Q What were you doing for Garrett Altmann?

19 A Roofing.

20 Q Other than King's Roofing and Garrett
21 Altmann, have you worked any other places -- and
22 the Marine Corps?

23 A No.

24 Q Did you only work for Garrett Altmann for
25 two years?

1 A Yeah.

2 Q Did you have an attorney when you filed
3 the workmen's compensation claim?

4 A Yes.

5 Q Who was your attorney?

6 A Kathryn Williams, here in Greenville.

7 Q Did you receive money from the workmen's
8 compensation claim?

9 A Yes.

10 Q Do you remember how much you received?

11 A \$297 a week.

12 Q For how long?

13 A Two years.

14 Q After 1989, did you go back to work for
15 King's Roofing?

16 A No. I didn't go back to work after that.

17 Q So is 1989 the last time you've worked
18 somewhere?

19 A Yeah. I mean, I worked on jobs as far as
20 being foreman, or whatever, but I didn't roof. I
21 didn't actually get on the roof and roof.

22 Q What jobs did you have after 1989?

23 A I worked for a guy down in Augusta,
24 Georgia, but like I say, I didn't do no manual
25 labor. All I done is run the crew.

1 Q What was the name of the man or the
2 company?

3 A Paul Koon's Roofing.

4 Q How long did you work for Paul Koon's
5 Roofing?

6 A Off and on, over 20 years.

7 Q When you say 'off and on', did you just
8 work for him when he had a job?

9 A Well, whatever work around Greenwood, I
10 went wherever the work was. I worked in Florida; I
11 worked in Virginia; I worked in Georgia; I worked
12 in Seattle; I worked down in Texas; I worked down
13 in Alabama.

14 Q When you worked in all those places, did
15 you primarily work for roofing companies, even if
16 you weren't doing the actual roofing?

17 A Yeah. Sometimes I worked for daddy and
18 sometimes I worked for myself. I mean, when I say
19 'by myself', I mean I tried to find work ever since
20 I was 16-years old, I mean, when I went in the
21 Marine Corp and after I went in the Marine Corps,
22 after, when I got out.

23 Q Other than working for King's Roofing and
24 Garrett Altmann, have you done any other work for
25 roofing companies where you were actually doing the

1 manual labor?

2 A No.

3 Q So is the last time that you actually did
4 the manual labor of roofing, 1989?

5 A Yes. I mean, like I say, I placed a few
6 shingles here and there, but as far as being on the
7 roof and doing the actual roofing, like that, I
8 haven't done it.

9 Q Why haven't you done it since then?

10 A Well, I mean, I had -- my knee surgery
11 went bad and, you know, my back. I wasn't about to
12 hurt my back again.

13 So, I mean, the only time I do a job, I
14 would hire somebody to come and put the shingles up
15 there for me, and, you know, lay them out for me,
16 and hold the ladders, and such.

17 Q Have you received Social Security
18 Disability?

19 A Yeah. For hepatitis C.

20 Q When did you start receiving that?

21 A It was in 1990-something. I want to say
22 '97, somewhere along there.

23 Q Did you have an attorney to get your
24 Social Security Disability?

25 A Yes.

1 Q Who was your attorney for that?

2 A Up here in Greenville. I can't think of
3 his name. He's on TV all the time.

4 Q If you think of it, just let me know.

5 A Okay.

6 Q When were you diagnosed with hepatitis C?

7 A 1989.

8 Q That was at the same time you had your
9 back surgery?

10 A Yes. Well, yeah, I had my second back
11 operation then. But when I went for my third back
12 operation, up here in Greenville Memorial, my blood
13 count wasn't right.

14 So they sent me to Dr. Pittman, and he
15 discovered that I had hepatitis C.

16 Q Do you have any other medical conditions,
17 or anything like that, other than the hepatitis C?

18 A I've had gout real bad.

19 Q Any other medical conditions that you
20 have?

21 A No.

22 Q Have you ever been diagnosed with any
23 type of organ disease?

24 A Any kind of what?

25 Q Organ disease, any internal organ

1 diseases.

2 A Not that I know of.

3 Q Do you take medication for your gout?

4 A Yes.

5 Q What medication do you take for that?

6 A Endomycin.

7 Q What about for the hepatitis C, do you
8 take medication for that?

9 A Every now and then when I test positive,
10 I go and take shots. I give myself shots in the
11 stomach every week. That's the way -- I mean, when
12 I take medication, I can't work.

13 I can't do nothing because you feel like
14 you're dying when you take that. Matter of fact,
15 my cousin, two years ago, died from hepatitis C, so
16 I got the same thing he's got.

17 Q Do you see a doctor for your hepatitis C
18 treatment?

19 A The VA, I mean.

20 Q And we talked about your treatment, also,
21 for the anxiety. Do you still see someone for
22 treatment for anxiety?

23 A He was -- like I say, he was giving me
24 Valium and nerve pills. I mean, I just got tired
25 going to him. I got tired of him going -- I mean,

1 I stopped going to him.

2 Q When did you stop going?

3 A I don't remember. It was probably about
4 three years ago, probably.

5 Q Was that also with the VA?

6 A Yes.

7 Q Do you still receive the medication that
8 you were taking, the Valium and the nerve pills?

9 A Yeah. Because, I mean, I can't sleep. I
10 might sleep two or three hours a night, at most.

11 Q Other than the surgeries that you've had
12 on your back, have you had any other injuries that
13 required surgeries?

14 A Well, when I was a kid, I had surgery in
15 my left arm. I mean, I was about sixth grade then.

16 Q What was that for?

17 A Broken arm. Had to put pins in my elbow.

18 Q How did you break your arm?

19 A I had a fight.

20 Q Any other surgeries that you had?

21 A (Witness nodding.)

22 Q Is that a 'no'?

23 A Not that I know of. I can't remember
24 any.

25 Q You have to speak out loud, so that she

1 can --

2 A Well, I had my ankle -- surgery on my
3 ankle, I mean, two years ago, when I hurt it on
4 Miller's house.

5 Q Any other surgeries, other than the three
6 that you told me about: On your back, the one on
7 your left arm, and the one on your ankle?

8 A Well, I had surgery on my knee. I ain't
9 got no kneecap now.

10 Q When did you have surgery on your knee?

11 A Three years ago.

12 Q Why did you have to have surgery on your
13 knee?

14 A I had to have a new kneecap put in
15 because I had trouble on my knee for several years
16 there. And they kept giving me, I guess, steroid
17 shots, whatever, about every year, or every few
18 months, and everything, to keep me going.

19 And I had knee surgery for that and I had
20 another knee surgery. As a matter of fact, when I
21 hurt myself on Chris Miller's house, about that
22 week after, I was supposed to be going -- scheduled
23 to put my knee back in.

24 Q All right. You said you had problems
25 with your knees before.

1 A Well, I've had knee pain for several
2 years. I mean, you know.

3 Q Did you have any type of injury that
4 caused your knee pain?

5 A Well, working.

6 Q But nothing specific, just from the jobs.

7 A No. I mean, working on a roof over 20 --
8 I've been on a roof about 30-something years. I
9 mean, naturally, you know, you're gonna have
10 problems when you work up there three and four
11 stories. You gonna have problems.

12 Q Which knee was giving you problems?

13 A Right.

14 Q Is that the same knee that bothered you
15 in the Marine Corps?

16 A Yeah.

17 Q The pain that you were having before you
18 had the surgery, was it similar to the pain that
19 you had when you were in the Marine Corps?

20 A Well, no. I mean, ten times as bad.
21 Like I say, I mean, the Marine Corps, like I say, I
22 was in rehabilitation for a week, and I was off.

23 I ain't had no problem after that.

24 Q For the treatment for your right knee,
25 did you see any doctors who were outside the VA?

1 A No.

2 Q What type of surgery did you have on your
3 right knee at the VA?

4 A Well, it took my knee -- I had to have a
5 knee replacement, is what it was. I went in
6 Friday, I got released that Monday because I done
7 so good. They said if I could reach 90 degrees, I
8 could be released.

9 They said I was the first one that ever
10 got out in three days like that. I worked the
11 darned thing. I walked around the thing all during
12 the night, and stuff, and I was out Monday morning.

13 And three weeks later, I went to have the
14 stitches out. And three days after they took the
15 stitches out, I got infected.

16 Q About how long after you got out of the
17 hospital was it before you got the infection?

18 A Three weeks. Well, little over three
19 weeks. I mean, I done PT at home, and everything,
20 and I walked a little over a mile every day in the
21 PT. I mean, I walked from my house all the way
22 down, past Hodges, walked back.

23 I mean, I was doing great. I went back
24 to get them stitches out, and like I say, some kind
25 of virus in there, and everything. I mean, I got

1 the staph infection, and I guess the nurse didn't
2 clean the instruments, I don't know what. It
3 wasn't my fault.

4 After they took the stitches out, three
5 days later, my knee started running, and stuff, and
6 I could smell it. So I went back to the VA, and he
7 put in me the hospital that same day, and I was
8 there about seven weeks then.

9 Q And did you have any other surgeries
10 while you were in there for seven weeks?

11 A Well, yeah. They took my knee back out
12 because I was about to lose my leg. I mean, if
13 they hadn't got the knee out -- because like I say,
14 I had an infection. Then I was on antibiotics, and
15 I had to wait to that January and I kept going back
16 to him every week and I got better and, like I say,
17 the infection was gone.

18 I was cleared for surgery. In January, I
19 was supposed to go back and have my knee put back
20 in there, and that's when I got hurt. I got hurt
21 January 8th. And January 13th, when I supposed to
22 go back to the VA and reschedule my knee surgery, I
23 was already cleared.

24 Q Were you actually supposed to have
25 surgery on the 13th? Or were you supposed to --

1 A No. I was going pre-op then.

2 Q During the time after they took that
3 kneecap out that caused the infection, did they put
4 something else in your leg?

5 A I got a rod in there.

6 Q Is that what you still have?

7 A Yeah. That was what they was going to
8 take out that January. Instead of knee surgery, I
9 had ankle surgery.

10 Q When did you have the rod put in your
11 leg?

12 A Last March. I mean, that was when I
13 first had my knee surgery. I mean, three weeks
14 later, it got infected. I went back in there and
15 they put a rod. When they took the knee out, they
16 put a rod in there.

17 They had to wait for it to heal, and soon
18 as it healed, they were gonna go in and operate
19 again. Because after the infection cleared, they
20 were gonna put another knee in there.

21 Q So that would have been about the end of
22 March of 2012, that you had the rod put in your
23 leg.

24 A Probably 2011. Because I got hurt in
25 2012, I think, in Chris' house.

1 Q After you had the rod put in your leg,
2 did you have to have any type of physical therapy
3 after that?

4 A Well, I went to physical therapy down at
5 the VA, but, I mean, I mostly had to do it on my
6 own. They give me, you know, exercises to do when
7 I come home, you know, and walk, and, you know, get
8 the thing back in good shape, my muscles and
9 everything.

10 And like I say, I was cleared. I mean,
11 in November of 2010, I was cleared to have my knee
12 surgery. I went down there, and test, and I had no
13 infection, whatsoever. Then they scheduled me to
14 go back to orthopedics in January.

15 That was when my appointment was supposed
16 to be, and, you know, I go to pre-op the 13th.
17 Then, you know, they were gonna have surgery the
18 next week. They were gonna put another knee in
19 there, and I was gonna do rehab and be back to
20 normal.

21 Q After you had the rod put in there, how
22 long was it before they got the infection cleared
23 up?

24 A Probably about two months, because I took
25 out -- out of my arm, whatever you call it, I come

1 home, and my wife, she took care of me. I had a
2 home nurse come there twice a week, I guess. I had
3 antibiotics I took.

4 I mean, I was on them for, like, two
5 months. Then I got tested, and everything, and
6 they cleared me.

7 Q During the time after you got the rod put
8 in your leg, did the doctors give you any type of
9 suggestions or restrictions or anything that you
10 were supposed to be doing, or not doing?

11 A No. I mean, they told me to get all the
12 exercise I could. That was what he wanted me to
13 do. So even when I was almost back to normal,
14 before they operated on me, and I was back, I was
15 walking almost a mile and a half, two miles every
16 day.

17 Q During that time, were you working?
18 During that time you had the rod put in, after the
19 infection cleared.

20 A Off and on. As a matter of fact, I was
21 doing about three patch jobs for Chris Miller.

22 Q What do you mean by 'patch jobs'?

23 A Trim must have blowed off. I think two
24 leaks -- I went and fixed two leaks for him,
25 replaced a few shingles for him.

1 Q And that was on three different
2 occasions?

3 A I roofed the utility building for him.

4 Q You said that was on three different
5 occasions that you did that.

6 A Yeah.

7 Q During what years did you do work for
8 Chris Miller?

9 A Well, I think it was once before I had my
10 knee surgery, and twice after I had the rod put in.

11 Q Before you had the knee surgery, what
12 work did you do for Chris Miller?

13 A Same like I told you, patchwork.

14 Q On the roof?

15 A Well, yeah.

16 Q When you did the patchwork on the roof
17 before your surgery, were you working with Freddie
18 Pope? Or were you hired directly by Chris Miller?

19 A Well, Freddie Pope referred me to him, I
20 mean, but I ain't worked for Freddie Pope. I
21 worked for Chris Miller.

22 Q Were you paid by Chris Miller?

23 A Well, yeah. He paid me and Freddie,
24 both. Like I say, after I had my back surgery, and
25 stuff, I ain't put up no shingles. I mean, only

1 time I had to put shingles on, somebody had to tow
2 them to me and hold the ladder.

3 So that's what Freddie's job was, because
4 Freddie had the combination to get in his gate, and
5 I didn't have it. So, I mean, Freddie come up
6 there. He held the ladder for me, and I get up
7 there and do it.

8 Q When you came to do that, had you been
9 called directly by Chris Miller? Or had you been
10 --

11 A No. I ain't called by Chris Miller. I
12 mean, I met Chris Miller every time, but, I mean, I
13 wasn't called directly by him. Freddie called me
14 up, and said, You want to go do a patch job and
15 make a little? I said, Yeah.

16 So I mean, we go over there. If it was,
17 like, \$50, I split it with him because, you know, I
18 had to have somebody help me. Especially when he's
19 the one got it for me, because he always done the
20 work for Chris Miller.

21 He didn't do no roofing, so he referred
22 me to Chris Miller. I mean, anytime he needed any
23 kind of repair on the roof done, I mean, Chris go
24 through him and get me over there.

25 Q When Chris would go through him, would he

1 ask specifically for you? Or did he call Freddie
2 to get somebody out there to do the work?

3 A Well, he'd call Freddie and tell him, Get
4 your roofer out there, which, I mean, he knew me.
5 And like I say, I mean, I fixed the first leak. I
6 mean, naturally, he had other roofers out there,
7 and that's where he had the leak from then.

8 So I fixed up one leak, and I fixed
9 another, so I guess he trust me doing the work.

10 Q When was the first time that you met
11 Chris Miller?

12 A 2010.

13 Q How did you first meet him?

14 A Through Freddie Pope. Freddie took me
15 over, introduced me to him, and we done the work.

16 Q Was that when you did the first patchwork
17 on the roof?

18 A Yes.

19 Q Was that patchwork that you did on the
20 roof, was that on the main house? Or was that on
21 one of the buildings?

22 A Main building. Main house building on
23 the backside, in a valley.

24 Q On the backside in what?

25 A Backside in a valley. The valley was

1 leaking. Plus, I was doing the utility building
2 before I had the knee operation, too.

3 Q What did you do on the utility building?

4 A Roofed it.

5 Q The entire thing?

6 A Yeah. It wasn't that big. They put the
7 shingles up there for me. I mean, I had a helper
8 up there. Freddie got a helper up there for me,
9 and he was building the thing, done the carpentry
10 work, and I done the roof.

11 Q Who was the helper that you had?

12 A I can't remember. I mean, because I
13 helped him build the building, too. I mean, I
14 ain't just do the roof. I helped him build the
15 building, too. I was just a helper.

16 I mean, you know, I wasn't no carpenter,
17 so, I mean, I just helped.

18 Q Was that one where Freddie called you to
19 ask you again if you wanted to come and do the job?

20 A Well, I was already there, so naturally,
21 I mean, he knew I was a roofer. I mean, he's known
22 me all his life.

23 Q For the building itself, did Freddie call
24 you to see if you wanted to come help?

25 A Yeah.

1 Q How many people were working on the
2 building?

3 A Three of us.

4 Q And you don't remember the name of the
5 other person.

6 A I don't remember.

7 Q Was that somebody else that Freddie had
8 called?

9 A Well, yeah. Somebody helped Freddie all
10 the time.

11 Q Other than the two jobs that we've talked
12 about, and then the job after you had your knee
13 surgery, did you do any other work with Freddie
14 Pope?

15 A No. I mean, I had years back, but I
16 mean, you know, before I got hurt and everything, I
17 had done a couple jobs for him, but he be in
18 business with somebody else. Probably in the '70s,
19 I mean, late '70s.

20 I can't remember, it's been a long time
21 ago. I mean, every time I come into Greenwood, if
22 they have a roof to do, they always get me to do
23 it. I mean, because I had all kinds of friends in
24 Hodges and Greenwood.

25 I mean, any time I was in town, they got

1 me to do the roofs.

2 Q And that would have been since the 1970s.

3 A Yeah. I mean, like I say, off and on.

4 I've been doing roofing all my life, you know.

5 Give advice, make sure the roof is done right. I

6 went and helped a couple friends who had somebody

7 roofing a house. I go over there and make sure it

8 done right.

9 Q Working with Freddie, in particular, did
10 Freddie have a business?

11 A Well, yeah. He had, I guess, a small
12 company, I guess you'd say. I mean, he do the work
13 for the people. You know, do, like, the
14 construction part of it, and I go and do the roofs.

15 Q Was he a contractor?

16 A I don't know if he's called a contractor
17 or not. I mean, you know, he got no business or
18 nothing. He's just a small man trying to make a
19 living.

20 Q Other than the three jobs that you told
21 me about at Chris Miller's house, do you remember
22 any other jobs that you did working with Freddie?

23 A Well, no. I mean, before I hurt my
24 ankle, like I say, that's the last time I worked.

25 Q I'm talking about before that. You

1 remember those jobs, specifically. Do you remember
2 any other jobs that you did with --

3 A No. I didn't do nothing else, like I
4 say. Yeah, I did do a patch job for another
5 friend, Dale Bubba. I went over and patched his
6 roof. Like I say, I mean, people give me odd jobs.

7 I need a little extra money, now and
8 then. They knew I couldn't do much, so they give
9 me light work. They knew I can't do no roofs. As
10 a matter of fact, I done a patch job there, and he
11 got somebody else to roof his house later on.

12 I mean, because, like I say, I didn't do
13 no entire roof. Utility building was separate
14 because it was small building.

15 Q When you did work with Dale, was Freddie
16 there, also? Or was that just you?

17 A No, no, no. I mean, like I say,
18 Freddie -- I mean, I ain't worked with Freddie.
19 Like I say, I got friends that call me. I have
20 several friends.

21 I mean, Buddy -- I can't think of his
22 name. I patched his roof. I mean, Frankie Coates,
23 I patched his roof. I mean, like I say, I get
24 referred by everybody. I didn't just work with
25 Freddie Pope. Freddie Pope, he'd call me when he

1 had, like, Chris or anybody else.

2 Chris is the only one I worked with
3 Freddie with. But, like I say, Freddie wasn't the
4 only one I go do work for.

5 Q And going back to the 1970s, you said you
6 think you may have done work with Freddie back as
7 early as the 1970s; is that right?

8 A Well, yeah. I mean, I done work with him
9 when I was 16-years old.

10 Q And when you were 16, would you do the
11 same kind of work?

12 A Well, yeah. I wasn't no roofing company,
13 so, I mean, I was cheaper than a roofing company.
14 I had no overhead or anything. I went and done the
15 roof. I mean, anytime their parents need a roof, I
16 be the one roofing.

17 Q Your understanding is that Freddie Pope
18 had been doing that type of construction work since
19 the 1970s, at least.

20 A Well, he's got a cabinet shop. That's
21 what he was doing, mainly. Cabinet work and
22 carpentry work.

23 Q And had he been doing that type of work
24 since the 1970s, to your understanding?

25 A Yeah.

1 Q Had he been in that same area, in the
2 Greenwood area, that entire time?

3 A Yeah. Always in Hodges. It's a small
4 community, everybody knows everybody.

5 Q After you had the rod put in your leg,
6 was there anything that you were not able to do
7 because you had the rod in your leg?

8 A I mean, I couldn't run.

9 Q Was there any type of work that you were
10 unable to do because of the rod in your leg?

11 A Well, I mean, I couldn't get on a roof or
12 walk on a steep roof or nothing, but as long as it
13 was flat, I could get on it. It had to be flat,
14 because, I mean, there wasn't no way.

15 I mean, without a kneecap, you're not
16 going on a steep roof, naturally. Like I say, the
17 patch job I done with Chris, if he needed a new
18 roof, I couldn't have done it. I mean, on the
19 steep part, I couldn't have done it.

20 I mean, like I say, Freddie held the
21 ladder for me, or somebody always held the ladder
22 for me, because, like I say, I mean, I ain't get on
23 no ladder, I'm no fool, unless somebody else held
24 that, and I get up top and do the patchwork.

25 Q Other than being able to do an entire

1 roof, or being able to do the steep part of a roof,
2 was there any other type of work that you were not
3 able to do because of the rod in your leg?

4 A I won't even try to do nothing. They
5 didn't have nothing to do.

6 Q And we talked about, you received Social
7 Security Disability benefits; is that right?

8 A Yeah. I had hep C.

9 Q How much do you receive for Social
10 Security Disability?

11 A Now?

12 Q Yes.

13 A 500 a month.

14 Q Do you have any other income now, other
15 than the Social Security Disability?

16 A No.

17 Q What about before you injured your ankle,
18 did you have any income other than the Social
19 Security Disability?

20 A I had VA pension.

21 Q You don't still receive a VA pension?

22 A No.

23 Q When did you stop receiving that?

24 A Three years ago.

25 Q Why did you stop receiving a VA pension?

1 A I really don't know. I'm trying to find
2 out about it right now. My wife, I mean, she got
3 hurt, and everything, and got her check and
4 couldn't walk no more.

5 Q Your wife got hurt and she can't walk
6 anymore, is that you said?

7 A Well, she needs back surgery right now.
8 She's waiting on a doctor to do her back right now.

9 Like I say, she really shouldn't even be
10 up here.

11 Q But your wife's injury, that didn't
12 affect your VA pension, right?

13 A No. Like I say, I got my VA pension on
14 appeal right now, so I don't know. Like I say, the
15 Veterans Administration screwed up, so I don't know
16 what's going on.

17 I mean, I talked to Jeff Duncan,
18 Congressman, I think, trying to find out what's
19 going on, trying to get my records.

20 Q Did the VA give you any type of reason as
21 to why your pension was discontinued?

22 A Like I say, ma'am, that's really why I'm
23 appealing it. I don't know why.

24 Q Do you have an attorney for that? Or are
25 you doing it yourself?

1 A No. But I'm gonna get one. Because you
2 know, the Veterans Administration been investigated
3 for the last couple years, lot of corruption going
4 on, so I don't know what happened.

5 Q Prior to your ankle injury, did you have
6 any income from any source, other than the VA
7 pension and Social Security Disability?

8 A No.

9 Q Other than the 1975-1976, that we talked
10 about, do you have any other service in the
11 military?

12 A No.

13 Q Since you left school in the tenth grade,
14 have you had any other formal educational classes?

15 A I went to Piedmont Tech, took
16 electronics.

17 Q When did you do that?

18 A I'd say, 1979, is what I'd say. It's
19 probably around there. When I first got married to
20 my first wife, so I'd say around 1979.

21 Q How long did you attend classes then?

22 A A little over six months.

23 Q Other than the lawsuit we're here to talk
24 about today and the workers' compensation claim
25 that you filed, have you ever been involved in any

1 other lawsuits?

2 A No.

3 Q Have you ever had any other workers'
4 compensation claims, other than the one we talked
5 about?

6 A No.

7 Q Have you ever been arrested or convicted
8 of any crimes?

9 A Well, yeah.

10 Q Tell me about either the arrests or
11 convictions.

12 A Well, assault and battery. I was
13 planning on going back to the Marine Corps, and
14 they got me on assault and battery.

15 Q What happened?

16 A I broke the guy's jeep up.

17 Q What guy?

18 A I can't remember the name., I was about
19 18-years old.

20 Q How did you do it?

21 A With a shotgun.

22 Q Why did you shoot his jeep with a
23 shotgun?

24 A Because he had a .357 in his hand. He
25 said the Marine Corps wasn't shit, so we had it

1 out. He was in the Navy; I was in the Marines.

2 Q Where did that happen?

3 A Lee Brothers' Lounge, Highway 25.

4 Q What year was that?

5 A Probably '78. It wasn't too long after I
6 got out the Marine Corps, because after I got in
7 civilian life, I realized I couldn't cope with
8 civilian life, so I wanted to go back in the Marine
9 Corps.

10 As a matter of fact, I already went and
11 talked to a recruiter down there to help me get
12 back in. I was gonna go in the Marine Corps
13 Reserves, and like I say, next thing I know, I was
14 at Lee Brothers and it happened.

15 After that, I couldn't go in the Marine
16 Corps no more.

17 Q When you say you couldn't cope with
18 civilian life, what do you mean?

19 A Like I say, I went through extensive
20 training at Camp Pendleton. I was blowing stuff
21 up, taught to kill. You know, I mean, going in the
22 village, and everything, teach you how to kill,
23 period. You blow stuff up.

24 You know, when they pump that in your
25 head -- so when it ain't there no more, you can't

1 do it no more, all of a sudden, you psych out. You
2 don't put up with nobody's shit, in other words.

3 Q Is that when you were at the treatment
4 center that we talked about? Did you go to the
5 treatment center after that?

6 A Yeah.

7 Q Was that why you went to the treatment
8 center?

9 A Well, one reason, yeah. I mean, I had
10 bad anxiety, and everything, you know. Like I say,
11 you go through training, and everything, I was
12 hyper. I used to be a hippy before I went in
13 there.

14 I didn't believe in war; I didn't believe
15 in killing. All I done was peace. I walked around
16 with long hair. Marine Corps change you. When you
17 go through that training, you hope for a war.

18 Q Have there been any other arrests or
19 convictions, other than that one?

20 A I had another assault and battery, but I
21 beat it.

22 Q When was that?

23 A I don't remember. I mean, it was in, I'd
24 say, 1997. Somewhere around there.

25 Q Tell me what happened there.

1 A Guy at bar -- I mean, I was with a girl
2 and he told me get her out of there and I told him
3 I was getting her out of there. And then, all of a
4 sudden, he punched on my chest and I knocked the
5 hell out of him.

6 They sent five bouncers jump on him, and
7 I fought as best I could with him. And I went to
8 court after I had my own lawyer because I didn't
9 have no money to pay for a lawyer, and I beat it.

10 They had me just, like, destruction of
11 private property, and I beat it.

12 Q That was from the same --

13 A Same one. They threw me against the
14 jeep, and everything, and put a big old dent, and
15 he wanted to take me to jail for it. So I went to
16 court with my own lawyer, in both cases, and I beat
17 both of them.

18 Q Any other arrests that you've had?

19 A A DUI, a couple times, I mean, during the
20 years. Maybe open container, you know, minor
21 stuff.

22 Q How many DUIs have you had?

23 A It was two in the '70s.

24 Q Any since the '70s?

25 A No. I try to wait out the -- without the

1 law where I wouldn't have to go SR22, and, I mean,
2 I went about 20 years and got my license.

3 Q Have you had any arrests, other than the
4 one assault and battery in 1997? Any arrests since
5 the 1970s?

6 A Well, I told you, open container, DUIs.
7 I mean, minor stuff.

8 Q And I'm talking about after the 1970s.

9 A That's what I'm talking about.

10 Q How many DUIs or open container --

11 A I just got through telling you, two. I
12 went 20 years before I got my license, so whether
13 they knocked it off my record -- I mean, that's so
14 long ago. I mean, I still had to go to DUI school,
15 and I thought I'd get out of that, and I was gonna
16 have to wait 20 years before I get my license.

17 I got with open container a couple times,
18 that was it.

19 Q Was that also in the 1970s?

20 A No. It was in the '80s.

21 Q Any other arrests that you've had besides
22 the DUI, open container, and the assault and
23 battery?

24 A No.

25 Q Have you had ever had any treatment for

1 alcohol abuse?

2 A No.

3 Q Have you ever abused alcohol?

4 A No.

5 Q Have you ever been told by any doctors to
6 use less alcohol?

7 A Say what now?

8 Q Have you ever been told by any doctors to
9 use less alcohol?

10 A Well, with hepatitis C, they told me if I
11 drank alcohol, they wouldn't treat me. I mean, I
12 couldn't drink because the doctor said if they
13 found alcohol in my system, I wouldn't be able to
14 go to treatment because the treatment wouldn't do
15 me no good.

16 I mean, alcohol destroy your liver, so,
17 therefore, I mean, the medication I take when I
18 take it, it won't do me no good. They told me
19 straight, if they ever catch alcohol in my system
20 when I take the treatment, I wouldn't receive it.

21 Q So since you've been diagnosed with
22 hepatitis C, have you had any alcohol?

23 A Well, I drink a beer here and there, but,
24 I mean, you know, not regular. You know what I'm
25 saying?

1 Q When you say 'a beer here and there', you
2 just mean, like, one beer every once in a while?

3 A Yeah. Like a beer or two. I mean, not
4 over that, because, I mean, I want to live as long
5 as I can.

6 Q Other than alcohol, have you ever used
7 any other type of illegal drugs?

8 MR. TINSLEY: Objection.

9 You can answer.

10 BY MS. BRADLEY:

11 Q Have you ever used any illegal drugs?

12 THE WITNESS: Did you tell me not to?

13 MR. TINSLEY: No. I'm saying, do answer.

14 THE WITNESS: Yes. I use marijuana.

15 BY MS. BRADLEY:

16 Q Do you still use marijuana?

17 A If I can get it.

18 Q Have you ever been told by any doctors
19 not to use marijuana?

20 A Well, VA told me they'd rather me not use
21 marijuana, but, like I say, they got me hooked on
22 Oxycodone when I was taking it. I mean, I was
23 taking 300 Oxycodone a month.

24 So naturally, the marijuana helped me
25 relax, calm me down, I could sleep. Plus, I'm not

1 worried about dying of marijuana. People die all
2 the time of alcohol abuse. I ain't heard nobody
3 dying of marijuana.

4 Q How long have you used marijuana?

5 A Probably ever since -- I mean, off and
6 on, I mean, all my life, I guess. I mean, like I
7 say, you know, before I went in the Marine Corps, I
8 was a hippy.

9 I mean, we'd go to concerts and stuff. I
10 mean, everybody was doing it, so, I mean, you know.

11 Q Any illegal drugs other than marijuana?

12 A No. I don't mess around nobody that
13 does. As a matter of fact, the VA told me if they
14 ever caught any cocaine, or anything, in my system,
15 I'd be dropped from the program because they give
16 me a blood test every time I go to the VA.

17 As a matter of fact, last three times I
18 been there, I tested negative for marijuana
19 because, I mean, I got off of it.

20 Q Have you ever used cocaine?

21 MR. TINSLEY: Objection.

22 You can answer.

23 THE WITNESS: I don't recall. I might
24 have when I was 16-years old. I don't
25 remember. Back in them days, I mean, you're

1 talking about 50-years ago, almost.

2 I don't remember doing it, not unless
3 they put it in a joint I was smoking. Like I
4 say, I don't believe in that stuff.

5 I've had a couple friends die off of it,
6 and, I mean, I don't go around with nobody
7 that does it. If somebody come around me and
8 said they were doing cocaine, they gonna get
9 out of my house or get away from me where I'm
10 at.

11 I don't mess with that stuff. I don't
12 mess with nobody that does it.

13 BY MS. BRADLEY:

14 Q Moving on to the day of the accident at
15 Mr. Miller's house, do you remember what day that
16 occurred?

17 A Say what now?

18 Q Do you remember the day that the accident
19 occurred?

20 A Oh, yeah. January 8th.

21 Q Do you remember what year?

22 A 2011 -- no. It was 2012 when I got hurt.
23 2011 is when I had knee surgery.

24 Q Why were you at Mr. Miller's house that
25 day?

1 A Patching his roof.

2 Q Who called you to go to Mr. Miller's
3 house?

4 A Freddie.

5 Q Do you remember what time you got out
6 there that day?

7 A I went there before January 8th. I went
8 out there the week before. He wanted me to look
9 and see what was causing the leak. He had a leak
10 over the garage. A pipe coming out of the roof,
11 and everything, and he couldn't figure out why
12 water was coming in there.

13 So I looked at it, and I told Freddie,
14 you know, I don't know how many shingles it would
15 take, and he was telling me square shingles. But
16 like I told him, I gonna have to carry a few
17 shingles up there to get around.

18 So I went up there and he told me get two
19 square shingles. So he called me up that Monday
20 and asked me, Are you ready to go out there and do
21 that patch job? I said, Yeah.

22 So I went out there that Tuesday, which,
23 as a matter of fact, we met out there at 9 o'clock.
24 He told me to meet him at the front gate at 9
25 o'clock.

1 Q And when you say a week before, he wanted
2 you to look and see what was causing the leak, who
3 was it that wanted you to look?

4 A Chris called Freddie, of course, and
5 Freddie asked me if I wanted to go make a little
6 extra money. He said Chris had another leak over
7 there.

8 I think that day, I may have met his
9 wife. I don't think Chris showed up that day. I
10 think it was his wife that showed up, and we told
11 her to get two square shingles.

12 Q And that was the week before the January
13 8th?

14 A Yeah. A few days before that, right.

15 Q When you met Tuesday at 9 o'clock,
16 outside the gate, was that where you would
17 typically meet Freddie, if you were going to do
18 work?

19 A Yeah. Chris had put a code in on the
20 gate to get in there.

21 Q Did you know the code?

22 A No. I used Freddie.

23 Q Freddie knew the code?

24 A Yeah. Like I say, Freddie done all type
25 of work for him, I mean, you know.

1 Q Did you drive your own car when you went
2 out there?

3 A Yes.

4 Q Did you get there before or after
5 Freddie?

6 A He was there before I was.

7 Q When you got there, you go into the
8 property, what did you go to do first?

9 A Well, I got there, first, I opened my
10 trunk. Freddie went and got a ladder, put it on
11 top there. I got my tools out, got my flat board
12 out, went on top of the roof.

13 Freddie held the ladder. I went on top
14 of the roof and started tearing up the shingles.
15 Started at the very bottom and went up to find out
16 where the leak was coming, why he had water in
17 there.

18 So, I mean, I had to tear them up one at
19 a time, when I got up in there, and then I replaced
20 the shingles.

21 Q What area of the house were you?

22 A Front porch.

23 Q Did you do work on any area of the house
24 other than the front porch that day?

25 A Well, I went to work on the back, and

1 that's when I fell.

2 Q When you went to work on the back, had
3 you already completed all the work on the front
4 porch?

5 A Right.

6 Q Do you know about what time it was when
7 you moved around to the back?

8 A Probably, anywhere from 4:30, 5 o'clock.
9 Right when it's fixing to get dark. I mean, it was
10 in the late evening, because Chris and his wife
11 would come when I was still in the front, because
12 he made a comment, I really don't like you being up
13 there.

14 I said, Well, as long as somebody hold
15 the ladder. I said, As long as you got somebody to
16 hold the ladder for me to get the shingles up, I
17 ain't got no problem. He was a little nervous
18 about me being up there.

19 I told him, Don't worry about it, as long
20 as I got somebody to hold the ladder. He said, I
21 guarantee I want somebody holding the ladder for
22 you. I said, No problem, Freddie's doing it.

23 Q So when you told him that, you told him
24 Freddie was holding the ladder for you?

25 A Well, he knew Freddie was holding the

1 ladder. Freddie was on the ground with him and his
2 wife. I was finishing up and coming down the roof,
3 and Freddie come over and held the ladder for me.

4 Q Do you know why Mr. Miller said he was
5 concerned about you being up on the roof?

6 A I guess because of my knee, you know.

7 Q And you told him that it was okay, you
8 could do it.

9 A I told him as long as it was a flat roof,
10 and as long as somebody held the ladder for me, and
11 I said, you know, I have to have help. He knew
12 that.

13 Like I say, I mean, he understood that.
14 And the way he sounded, he was going to make sure
15 Freddie did hold the ladder.

16 Q And Freddie was your helper for that.

17 A Yeah.

18 Q And did Freddie hold the ladder for you?

19 A Yeah.

20 Q So from about 9 o'clock in the morning,
21 until about 4:30 or 5, you were working on the
22 front porch; is that right?

23 A Yeah. I mean, off and on. Like I say,
24 I'd take a break here and there, because, you know,
25 my leg get hurting, I take a break. I take an hour

1 off for lunch.

2 Freddie went and got us two hotdogs and
3 tea, and we tailgated the back of the truck and ate
4 the hotdogs and sit and talk about it.

5 Q When Freddie went to go get the hotdogs,
6 did you go with him?

7 A No.

8 Q What did you do while he was gone?

9 A I stayed on the ground.

10 Q Were you doing any type of work there on
11 the ground or just --

12 A No.

13 Q How long was Freddie gone to go get the
14 hotdogs?

15 A Probably about ten minutes. Walt's
16 Hotdogs is right up the street there.

17 Q Did Freddie go anywhere else that day?

18 A No.

19 Q So other than to go get hotdogs, was
20 Freddie at Mr. Miller's house from about 9 o'clock
21 in the morning, until 4:30, 5 o'clock?

22 A He was out there the whole time. Because
23 I wouldn't have been there, unless he was.

24 Q Was there ever a time, during that time
25 period, that you went up on the ladder, and Freddie

1 did not hold it?

2 A Well, on the back, he was holding it for
3 me. Then, all of a sudden, I mean, he got
4 distracted. He was probably on the phone when I
5 was up there doing the work.

6 Next thing, the ladder come out from
7 under me. If Chris hadn't called him away from
8 there, if Chris hadn't come up there -- Freddie was
9 at the bottom ladder. I mean, we was putting the
10 ladder up, Freddie was putting the ladder up.

11 The deck had a little hole with cracks in
12 it, with space. I put in there where the foot come
13 up, where deep down into the wood -- Freddie said,
14 we don't want to hurt the deck.

15 I mean Chris -- don't do that. Same way
16 Freddie put the feet up. I was -- you either need
17 to hold that or you need to come back and patch the
18 ceiling in front of the house.

19 And I was going up this ladder. I need
20 somebody to hold it. As a matter of fact, I think
21 Chris said, Yeah, hold that ladder. Same way when
22 I went up that ladder, Freddie was holding that
23 ladder, Chris was standing on the right-hand side
24 of me.

25 As a matter of fact, Chris probably going

1 inside to cut the light on.

2 Q Before that time, was there any time
3 during that day that you had gone up the ladder
4 that Freddie did not hold it for you?

5 A No.

6 Q Was there any time that you came down the
7 ladder that Freddie did not hold it for you?

8 A No. Like I say, I would not have went on
9 the roof, if somebody not holding the ladder. I'm
10 not stupid.

11 Q During that time that you were there,
12 from 9 o'clock until 4:30 or 5, was Mr. Miller home
13 the entire time?

14 A No.

15 Q Where did he go?

16 A I guess he works. Like I say, he usually
17 come home -- him and his wife, both of them come
18 home, kind of, similar, at the same time.

19 Like I say, I was still in the front
20 porch when Mr. Miller come home. Him and his wife,
21 both, out there looking at it.

22 Q When you got there at 9 o'clock that
23 morning, was Mr. Miller there?

24 A No.

25 Q Was Mrs. Miller there?

1 A No.

2 Q When was the first time you saw
3 Mr. Miller that day?

4 A When he come home from work.

5 Q Do you remember about what time that was?

6 A I told you. Around 5 o'clock.

7 Q What about his wife?

8 A His wife was there at about the same
9 time. As a matter of fact, both of them was
10 standing in the front, and everything, and me and
11 Freddie explained to them about the roof.

12 Like I say, he made a comment. He said,
13 I was kind of nervous about you being up there. I
14 said, No problem. I said, As long as I got
15 somebody to hold that ladder. I said, Freddie get
16 the shingles up there, I'll do it.

17 He understood that that was the reason
18 Freddie was there. I mean, every time else I been
19 there, I mean, both of the patch jobs, Freddie was
20 there. I mean, Freddie held the ladder.

21 I mean, like I say, I don't go up a
22 ladder, unless somebody's holding it. I done
23 roofing all my life and never had a ladder come out
24 from under me.

25 Q So Freddie was there to help you and hold

1 your ladder for you.

2 A Right.

3 Q Whose ladder was it?

4 A I really don't recall if it was Freddie's
5 or Chris'. I know when we left there, the ladder
6 stayed there. I know that. So I really don't
7 know.

8 Like I say, I was getting stuff out of my
9 trunk. I mean, Freddie was parked on the side, I
10 was parked in the front. I had my car parked right
11 in the front of the house. Freddie went to the
12 side of the house.

13 So I really don't know if I used Chris'
14 ladder or his ladder. I don't know because I think
15 one other patch job, I think Chris had his ladder
16 up there, and we used his ladder, if I'm not
17 mistaken.

18 I can't be positive because, like I say,
19 I always drove my car there and met Freddie there.
20 So I can't tell you, actually, for sure, whose
21 ladder it was. All I know, Freddie come around the
22 side of the building with a ladder.

23 Q So the conversation that you had with
24 Mr. Miller where he said that he was worried about
25 you being up there, that didn't happen until 5

1 o'clock, or so.

2 A Yeah. When he come home, like I say, I
3 was finishing up then. I was putting the last
4 couple shingles in, and Freddie was cleaning up the
5 mess.

6 Q And that was on the front porch.

7 A Yeah.

8 Q At that time when you had that
9 conversation with him, were you up on the roof or
10 were you down?

11 A I was on the roof.

12 Q By that time, had you been up and down
13 the ladder during that day from 9 o'clock until
14 about 5 o'clock?

15 A Yeah. Like I say, I took, you know,
16 several breaks. I mean, you know, I'd work a
17 little bit and come down. You know, I mean, I
18 couldn't work the whole time without taking breaks.
19 That was the way it was.

20 I mean, really, it was just a simple
21 patch job. I mean, it started out just three or
22 four shingles on there, and it turned out to be a
23 little more because, like I say, when you doing a
24 leak, fixing a leak, sometime you got to tear up a
25 few more shingles.

1 I mean, you tear up shingles, and you got
2 to tear up other shingles when you're trying to get
3 to it. It was supposed to be a simple job, that's
4 what it was supposed to have been. Because really,
5 if I knew it was to be that extensive, I never
6 would have went over and done it.

7 But after I tore into it, it was too late
8 to backup now.

9 Q I guess what I'm asking is, by this time,
10 it was 5 o'clock. You had already just about
11 finished that front porch, so you had been working
12 on the roof all day.

13 A Yeah. Off and on, yeah.

14 Q And you had been going up and down the
15 ladder all day.

16 A Right.

17 Q And every time you went up the ladder --

18 A Freddie held the ladder. He stayed at
19 the bottom, had his foot on the bottom rung.

20 Q Did you ever tell Freddie that you wanted
21 to make sure he held the ladder?

22 A Well, Freddie knew. I mean, when I
23 coming down the roof, I said, Freddie, you got the
24 ladder? Yeah, I got it, come on down.

25 As a matter of fact, up there at the top,

1 he even had it nailed off, had it roped around that
2 thing, which slipped. I mean, you know, he made
3 sure that that ladder was sturdy for me.

4 Q Was Freddie standing there when you told
5 Mr. Miller that you were okay to be working on the
6 roof, as long as somebody was there to hold the
7 ladder?

8 A Yeah. I mean, Freddie was right there
9 with him while he explained to him what I was
10 doing. As a matter of fact, I was up there, having
11 to get up there, and everything, because Freddie
12 had come up there to get trash off, and everything.

13 Freddie come up there and got the trash,
14 got off the bottom of the ladder, and I went down
15 after Freddie got down.

16 Q When Freddie came up to get the trash,
17 were you still up on the roof?

18 A Right.

19 Q Who held the ladder for Freddie?

20 A I don't guess nobody. I mean, you know,
21 Chris might have. I don't know. Like I say, I
22 can't be positive of that because, like I say, the
23 porch there, I mean, I couldn't even see Freddie.

24 I mean, the ladder is there. I can't see
25 who was there because I was sitting down, at the

1 time.

2 Q When you went around to the other side of
3 the house to start working, were Mr. Miller and
4 Mrs. Miller both home by that point?

5 A Well, yeah. Mrs. Miller was inside the
6 house.

7 Q Did Mr. Miller ever go inside the house?
8 Or did he stay out the entire time?

9 A He went inside. Like I say, he was
10 supposed -- he asked me, Anything to do out there?
11 And I said, Well, you can cut on the light, that'll
12 help out.

13 Q Where were you when you were talking
14 about the lights?

15 A I was walking up the steps on the porch,
16 and Freddie was putting the ladder up. Because I
17 wanted to make sure the ladder was, you know,
18 seated properly before I went up.

19 Q And Freddie was putting the ladder up for
20 you.

21 A Yeah.

22 Q Did the lights get turned on?

23 A No.

24 Q Were there any lights on outside?

25 A I think the streetlight was on.

1 Q What about on the house, were there any
2 lights on the house outside?

3 A I don't know. Like I say, I don't know
4 why he didn't cut them on. That's what he supposed
5 to have been doing.

6 Q How long was it from the time you asked
7 to have the lights cut on, until the time that you
8 went up the ladder?

9 A Probably five-, ten minutes. I mean, it
10 wasn't long. I mean, I was ready to get it done.
11 There was but one shingle to put on.

12 Q When you went up the ladder, were there
13 any lights on outside the house?

14 A No.

15 Q When you went up the ladder, where was
16 Mr. Miller?

17 A He was standing right beside the ladder
18 with Freddie.

19 Q What was he doing beside the ladder?

20 A Talking to Freddie, I guess. I mean, I
21 ain't really asked him. I mean, Freddie had the
22 ladder. All I wanted to do was put that one
23 shingle on there, get the hell out of there. That
24 was my goal.

25 I mean, I didn't even have to get off the

1 ladder. The shingle was right there on it. I
2 mean, all you had to do is lean over and put the
3 shingle on there. I mean, wasn't nothing to it. I
4 mean, I really didn't even have to get on the roof.

5 Q Could you hear anything they were talking
6 about?

7 A Well, no. I mean, a moment, you know, I
8 was going up the ladder. I don't care what they
9 talking about.

10 Q When you went up the ladder, was Freddie
11 holding the ladder?

12 A Yes.

13 Q If you could, tell me how the accident
14 occurred, from your recollection.

15 A Well, I said, The shingle up there? He
16 said, Yeah, just look through your wrap up there.
17 I took one more step, next thing I know, the ladder
18 come out from under me. I tried to grab ahold the
19 roof, and I hit on the ground and everything.

20 Freddie and Chris -- I mean, I had -- you
21 know, one of them said, You all right? And I said,
22 Well, I think my foot's broken, my foot turned
23 sideways. And Freddie supposed to be holding the
24 ladder. That was his job.

25 And if Chris stayed away from him, the

1 ladder never would have come down. Chris pulled
2 Freddie away from that ladder. Like I asked
3 Freddie, I said, Why did you leave that ladder? He
4 said, Well, Chris called me over for a minute. I
5 said, Well, I don't give a damn, you should have
6 held that ladder.

7 He got me to the truck. I told Freddie,
8 If I didn't hurt so bad, I'd knock the hell out of
9 you. In words, quote-unquote, that's what I told
10 him.

11 Q So to make sure I understand, when
12 Freddie walked away from the ladder, you were
13 already climbing up the ladder.

14 A I was already up there. I mean, you
15 know, you don't look down, climbing a ladder like
16 this. When you climbing a ladder, you looking up.
17 So in other words, I get on the ladder, Freddie's
18 there, Chris is over here.

19 So in my mind, the ladder is secure.
20 This man's holding the ladder. He held it all day
21 long, so why he ain't holding it on this deck? So
22 I didn't think about that because he held it all
23 day long. It didn't enter my mind.

24 So I get up the ladder, I go to reach for
25 that shingle. I said, Freddie, make sure you got

1 that ladder. Next thing I know, I was coming down.
2 And I didn't know he was over at the side. If I
3 had knowed that, I'd have came right back down that
4 ladder.

5 Like I say, he shouldn't have been over
6 on the side. I mean, I asked Freddie about it, and
7 he said, Well, Chris called me over to discuss the
8 price of the roof. I said, I don't give a damn,
9 that could have waited until I got down from the
10 roof.

11 Q After the accident happened, you said
12 that somebody helped you over to a truck.

13 A Chris and Freddie helped me to the truck.

14 Q At that point, did you know that your
15 ankle or your foot was --

16 A Oh, yeah. First thing come to my mind,
17 was my knee. I was fixing to have surgery. You
18 know, I want my knee fixed. I was happy because
19 next week, I'll go in and have a new knee put in.
20 A month later, I'll be walking like an ordinary
21 person, maybe go back to my ordinary life.

22 Because of this accident, I'm not
23 ordinary. In other words, I mean, that's the only
24 thing on my mind. Get up there, put the shingle
25 on, get down and go home.

1 I mean, you know, like I say, the ladder
2 been held all day long. Why in the world would I
3 suspect the ladder ain't being held then?

4 Q Did you call an ambulance?

5 A No.

6 Q Did anyone offer to call an ambulance for
7 you?

8 A Chris brought it up, Do we need to do
9 anything? Do you want me to call an ambulance? I
10 said, I ain't got no insurance. I said, I'll go to
11 the house and call the VA and see what the
12 orthopedic surgeon down there -- I knew -- plus, I
13 called.

14 The VA told me to go to the local
15 emergency room because they didn't know how bad it
16 was. So my mother, she come got me and took me to
17 the emergency room.

18 Q When did you go to the emergency room?

19 A The next morning. Because I went home,
20 like I say, I couldn't get in touch with a doctor
21 that night. I went to call the VA the next morning
22 to see what to do. I mean, I knew it was broken.
23 I could tell it was broken.

24 As a matter of fact, Freddie brought me a
25 few pain pills his wife had. She's a nurse at the

1 hospital. He asked what he could do. I said, you
2 know -- as a matter of fact, he stopped at the
3 store and got me some BC powder.

4 I said, Your wife got any pain pills? I
5 mean, I got off my pain pills because the doctor
6 said if I kept on taking pain medicine, that when
7 he done the surgery, it would take much more to
8 kill the pain.

9 So I made sure I got off the pain
10 medicine. I got off the pain medicine, like, that
11 October, November, before that. I wasn't taking no
12 pain medicine.

13 Q So you were able to get some pain
14 medication to get you through the night.

15 A Yeah. Freddie brought me, I think, four
16 tabs.

17 Q When you went to the emergency room the
18 next day, did they do x-rays?

19 A Yeah.

20 Q Did they tell you then that your ankle
21 was broken?

22 A Yeah.

23 Q Did you stay at the hospital? Or were
24 you able to leave?

25 A I left. They put a cast on. Put the

1 cast on, gave me pain medicine.

2 Q Did they give you any type of
3 recommendation? Did they tell you to follow-up
4 with someone else?

5 A They told me to follow-up with my
6 orthopedic. I said, Well, I got an appointment
7 with an orthopedic, who my doctor was. I said, I
8 got a VA doctor in Augusta. I said, I got an
9 appointment with him next week, as a matter of
10 fact, about my knee.

11 He said, well -- but he cast my leg and
12 everything. I said, Will I be all right? He said,
13 Yeah, unless you want to follow-up with Dr.
14 Christian. I said, I ain't got no insurance. He
15 said, Well, I'd recommend you go to the VA.

16 So three days went by. Well, I say
17 three, maybe four. That Sunday, that's what --
18 Sunday night, I think it was. Anyway, next thing I
19 know, my wife pull the cover up, blood showing
20 through my ankle, through the cast. It was
21 bleeding.

22 She called Freddie in a panic. She
23 called Freddie up, Come over here, because she
24 couldn't drive. I said, Freddie, I need you to
25 come over here. He said, Man, can't you get your

1 momma to come? I said, Yeah, damn it, I'll get my
2 momma to come. I said, You caused this damn shit.
3 I said, I can't understand why you can't follow-up.

4 I need you or Chris to come over here and
5 take me to the emergency room. So momma, she came
6 up there and took me to the emergency room. Went
7 in there, took the cast off. They took pictures of
8 the stuff. A big red thing on my ankle, right
9 there, blood coming out of it. They put a bucket
10 up there to catch the blood. They -- antibiotics
11 and things, wiped it down, and put me another cast
12 on there.

13 So anyway, I went, I guess two or three
14 days. That Wednesday, I went to the orthopedic
15 surgeon. As a matter of fact, he give me
16 antibiotics then. He said, You need to follow-up
17 with an orthopedic surgeon. I said, Will I be okay
18 until Wednesday? I said, I don't want no infection
19 out of that.

20 I had an infection in my knee, I don't
21 want no infection in my ankle. Oh, you'll be all
22 right. You take them antibiotics, go to your VA
23 doctor Wednesday, like you're supposed to, and they
24 didn't follow-up. He said, That's all we can do
25 here.

1 So I went down to the VA hospital
2 Wednesday. The doctor looked at it, and he raised
3 hell there. He said, I don't understand why they
4 didn't set your foot right before they put this
5 cast on it. He said, They shouldn't have even let
6 you leave the emergency room. So he admitted me
7 that same day; they operated on me the next
8 morning.

9 He said, I don't know if we can save your
10 leg, or not; we're gonna try, he said, because you
11 got a bad ankle. He said, The bones are crushed in
12 there, we don't know if we can fix it or not.

13 Only thing they can do is put this rod in
14 my ankle down there. I had rods coming all down my
15 leg. As a matter of fact, she had to get alcohol
16 and a peroxide thing and dampen that thing down
17 every couple hours, and everything, to keep
18 everything clean on the thing.

19 I wore that thing, I guess, four weeks,
20 five weeks, something like that, and I went down
21 there, they checked it and everything. So I had to
22 go back in the hospital again to go through another
23 surgery to get it out of there. At that time, they
24 said I still wasn't out of danger, but they put a
25 cast on there.

1 I had to go back every week to make sure
2 it didn't get infected. I started to get better.
3 I went down there, and he wanted me to start moving
4 my foot then. He said, You need to start moving it
5 to get some movement in it, because if you don't,
6 it's gonna heal like that. He said, I hate to put
7 you in braces, a metal plate -- we don't know.

8 He said, If we don't have to do it now,
9 ten years from now your arthritis will probably get
10 so bad in it, we'll have to put a metal plate in
11 it. All right? He said, You just take care of it.
12 I said, What about my knee surgery?

13 He said, We can't do nothing with your
14 knee until your ankle heals, because you ain't
15 gonna be able to go through the physical therapy.
16 So at that point, I go home. I kept that cast on
17 about seven, eight weeks, something like that. I
18 can't tell you, exact, how long.

19 I go back down there. They check it, and
20 everything, and make me move it, and everything. I
21 was down there a few hours; I don't know how long.
22 So he put a walking cast on and told me to keep
23 moving my legs, that that's the best thing I could
24 do, every day, to move that leg. Keep doing it all
25 day long, as much as I can stand.

1 He said, Try to go up and try to go down.
2 I was doing that. I'd go back every week until he
3 was satisfied, and I started going back every
4 month, and then every couple months until I healed
5 up. And then I went back in October. I was
6 supposed to be having knee surgery.

7 Well, next thing I know, he said, Well,
8 we don't know if the VA is capable of doing the
9 knee surgery you need now because it done healed
10 too -- that's why I wanted to do it that January.
11 They wouldn't operate on my knee that January when
12 I got hurt, so it wasn't quite a year.

13 All they was waiting on was for them to
14 fix it and get on with my knee. The ankle caused
15 me not to have knee surgery.

16 Q Okay. I want to go back through what you
17 told us about the ankle and having the ankle
18 surgery.

19 Did you do any type of physical therapy?
20 Or was your physical therapy at-home physical
21 therapy?

22 A It was at home. They wanted to see if I
23 could do it at home. They said if I couldn't do it
24 at home, they'd put me -- you know, I'd have to
25 stay down there. I could stay down there, instead

1 of coming back and forth every day.

2 But I got home, and I told them, I'd
3 rather do it at home, if I could. I come home. I
4 kept doing antibiotics and make sure there wasn't
5 no infection in my ankle, or nothing. I kept doing
6 that thing. I mean, I kept working it, working it,
7 working it.

8 I'd go back down and have it x-rayed
9 again. They'd tell me, Come back next week. I
10 just kept going back for, I guess, six months. I
11 kept going back to get x-rays. I mean, every week,
12 every time I went, they had to x-ray my ankle.

13 Q And that was in Augusta that you were
14 going?

15 A Augusta.

16 Q Other than the ER that you went to, to
17 begin with, have you had any treatment for your
18 ankle other than --

19 A Oh, no. I ain't never had any trouble
20 with my ankle.

21 Q No, no, I'm sorry. Since the ankle
22 accident, have you had treatment from anyone other
23 than the VA and the ER at Greenwood?

24 A No. As a matter of fact, I asked Chris,
25 I said, If you just take care of the doctor bills,

1 I don't care about that. You know, claim it on
2 your homeowner's insurance. I said, That's all I'm
3 interested in.

4 Well, you know, it kept going back, two
5 or three months, I don't know how long. Nobody's
6 getting in touch with me; I couldn't do a damn
7 thing. So I called Chris up, and I -- well, I
8 called Freddie to begin with. I said, You need to
9 go talk to Chris. He said, Tony, you need to talk
10 to him. He said, I ain't got nothing to do with
11 it.

12 So I called Chris. I said, you know, I
13 need you to make a claim on your homeowner's
14 insurance. I said, you know, A doctor bill, I been
15 getting a doctor bill, about \$5,000, I'm looking
16 at, and I ain't got no insurance. I don't have no
17 money. I said, The VA is doing the rest of it.

18 So he ain't called back, so I told
19 Freddie, he said -- he called Freddie, and he
20 should have called me. Well, I guess he didn't
21 want to talk to me because I get really excited. I
22 mean, I told you I -- I mean, I said, All you had
23 to do is take care of me.

24 I said, As a matter of fact, they'd have
25 probably done more work down at the ER, if you'd

1 have claimed me on your homeowner's insurance then.
2 I told him that, at the job site, I ain't got no
3 insurance. I go to the VA for all my stuff. I
4 mean, he knew I didn't have no insurance. He knew
5 it. I mean, he knew everything. Like I say, he
6 knew I was going to the VA, he knew it all.

7 Q Did you ever get to talk to Mr. Miller
8 after the accident?

9 A Yeah. I talked to him on the phone. I
10 told him, I said, You need to call your insurance.
11 He said, Well, let me look at my policy and see
12 what's on it. He said, I'll give you a call
13 Monday. Is it okay if I call you Monday? I said,
14 Yeah. He said, I'll know something Monday.

15 So anyway, Monday, he didn't call. I
16 called him and he didn't answer the phone. I left
17 a message on the recorder. I said, I'll give you
18 to tomorrow morning to call your homeowner's
19 insurance, or I'm getting a lawyer.

20 Insurance company called me Tuesday, said
21 she's gonna investigate, whatever, asked me a few
22 questions, and everything, and said, Don't get in
23 touch with a lawyer until I talk to you. I said,
24 Well, I got an appointment on Thursday, which is
25 Jamison. All right.

1 She called me up Thursday morning. I'd
2 already called Jamison. I said, I'm seeing a
3 lawyer. She said, I told you don't be seeing a
4 lawyer when I was talking to you. I ain't got time
5 for this. I said, You should have talked to me
6 then. I told you then, If you ain't called me,
7 I'll get a lawyer. I wasn't gonna let it drag out
8 no more.

9 Q How long was it between the time of the
10 accident, on January 8th, and the time that you
11 talked to Mr. Miller?

12 A Probably March when I talked to him. I'm
13 thinking it's March, I mean, you know, I give it a
14 little time. And like I say, I done took the rods
15 and everything out of me, you know.

16 Q Other than that one conversation that you
17 had with him on the phone, have you had any other
18 conversations with Mr. Miller?

19 A No. I ain't called him or Freddie,
20 either one of them.

21 Q What about before the accident happened?
22 Did you ever have any conversations on the phone
23 with Mr. Miller before the accident?

24 A Not on the phone, no.

25 Q Did you ever have any conversations with

1 Mr. Miller, other than conversations at his home
2 while you were doing work?

3 A No.

4 Q As we sit here today, has your ankle
5 healed now?

6 A Well, not completely. I mean, cold
7 weather hits, it hurts like the Dickens. I mean,
8 it's swollen up, and I only got certain movement to
9 it. But, you know, as of now, they tell me the
10 knee surgery is almost out of the question.

11 They said I could take a chance of losing
12 my leg now. I was supposed to have that
13 operation -- it'll be four years now. January, I'd
14 been cleared; and January, I was supposed to go to
15 them. I was supposed to have my new knee put in
16 and be a new man.

17 Instead, they had to operate on my ankle,
18 instead of my knee. And like I say, he couldn't do
19 nothing for my knee until my ankle healed up,
20 because, I mean, what good is to put a knee in
21 there, if I can't walk?

22 Q Have they told you why there would be a
23 problem doing knee surgery now?

24 A Because it's been so long. I mean, it
25 took over a year for this thing to heal before I

1 could even walk. I was in a wheelchair for, like,
2 nine months, and then I walked with a walker and
3 walked with a cane, because I won't take no chance
4 messing it up.

5 Q Have they told you why that length of
6 time has made it so that you can't have the knee
7 surgery now? Have they explained it?

8 A Yeah. He says it healed up so much, the
9 nerves and things, he'd have to cut into it. I
10 mean, he explained it to me. He said -- you know,
11 I was supposed to go back next month. I mean, they
12 supposed to talk to me about it, and they said they
13 gonna try to find another place to do the knee
14 surgery, because they can't do it at the VA,
15 because now it's not just a simple knee surgery.

16 It healed too much. It's been two years.
17 They wanted to do it within a year. Because of the
18 ankle, they didn't do it. I said, If I hadn't
19 messed my ankle up that month, I'd a had a new knee
20 put in.

21 Q When do you have an appointment with him
22 next month? Do you remember what day?

23 A I got a card in the mail telling me I
24 need to make an appointment with him.

25 Q And they said, at that point, they're

1 going to talk about whether they can get somebody
2 else to do it?

3 A Well, they said, Somebody else to do it.
4 They said they might go to, I think it's MCI
5 Hospital, right across the street from the VA.

6 I mean, it's -- anyway, that's where they
7 done the spinal tap when I hurt my back. Because
8 they got like a -- not a bridge, but a toll,
9 whatever you want to call it, to go from the VA
10 hospital over to MCI.

11 I think it's University Hospital, I
12 think, now, is what it is.

13 Q Other than that spinal tap that you had,
14 have you ever had anything else done at MCI
15 Hospital?

16 A No. Like I said, that was in 1987, when
17 I done that. Because they done the MRI, and
18 everything else, and couldn't find nothing wrong
19 with my back, so they done a spinal tap.

20 The doctors told me in Greenwood, they
21 treated me for muscle spasms. I had doctor -- I
22 can't think of his name, he was a neurosurgeon in
23 Greenwood. He put me in the hospital for two weeks
24 for my back, treating muscle spasm.

25 I went to the VA, and they couldn't find

1 anything, so they done a spinal tap, and that's
2 when they found my disk was ruptured. Because on
3 the day of the operation, I was walking. I think I
4 stayed in the hospital, three-days max. About two
5 weeks later, I was on a roof.

6 Q Have the doctors at the VA released you
7 from care for your ankle?

8 A Not yet. I'm still limping from my knee
9 and my ankle.

10 Q What treatment are you currently having
11 for your ankle?

12 A I just, probably, go for a follow-up. I
13 mean, that's all, I mean, it said in the thing.
14 They told me last time, they wanted to discuss it,
15 and they'd be getting in touch with me.

16 I got a letter Friday or Saturday,
17 telling me I need to call them and make an
18 appointment to follow-up on my ankle. And then,
19 like I say, they want to discuss my knee surgery.

20 Q Have they told you whether you're going
21 to get any other surgeries for your ankle?

22 A He said, Bad as it's broken, he said,
23 More likely, it's arthritis gonna set in so bad, he
24 said he could probably go in there and put a metal
25 plate in there.

1 Because, he said, as long as it takes,
2 and everything, because -- which, I really believe
3 that because the other week when it got so cold,
4 this thing hurt me so bad, I couldn't hardly walk
5 on it.

6 Q What doctor said that they may need to
7 put a metal plate in there?

8 A Dr. Young. He's the one operated on my
9 knee, he operated on my ankle, he done everything.

10 I mean, I been under his care for three
11 years, now.

12 Q Do you still do any type of exercises or
13 home physical therapy for your ankle?

14 A Oh, yeah. I still move it up and down.
15 Matter of fact, I sleep in a different room from my
16 wife. I mean, my foot, the way it is, and
17 everything, I do exercises. And I can't sleep and
18 I can't keep her awake.

19 Q Have you told any of the doctors that you
20 have trouble sleeping?

21 A Oh, yeah. That's why they give me Valium
22 and nerve pills.

23 Q Have they ever suggested any other
24 medication to help you sleep?

25 A I brought it up to them, but they don't

1 want to give me nothing to get started on, right
2 now. Like I say, right now, they want to see what
3 they can do with my knee.

4 When I follow up, they probably gonna do
5 an x-ray on my ankle and discuss my knee. Because
6 right now, all that's been discussed has been my
7 knee. Like he said, I need to do a follow up and
8 check the ankle one more time, and then they want
9 to discuss it.

10 Like I say, he don't know if they can do
11 it right there at the VA. Because when I went to
12 surgery, my ankle -- exact words he said -- he
13 said, I don't believe this will work, but we're
14 gonna try.

15 If it don't work, we'll amputate your
16 leg, right above the kneecap, because, he said, you
17 crushed your ankle so bad. He said, We don't know
18 if it's gonna work or not. He said, That's the
19 only thing we can do for it is put them rods in
20 there.

21 They told me that twice. Two days later,
22 I was in the hospital. I said, I hope you ain't
23 have to amputation. He said, Tony, it's too soon
24 for me to tell. He said, We just got to see. He
25 said, If it's successful, we probably won't. He

1 said, You'll never be back to normal -- exact words
2 he said.

3 He said, As a matter of fact, down the
4 road, you might have to have a metal plate put it,
5 because, like I say, it's crushed so bad. I mean,
6 completely crushed. All the bones inside are
7 crushed.

8 Q Since you had the surgery, has he told
9 you whether it's been successful?

10 A Well, he never come out and said,
11 successful. I mean, you know what I mean? He got
12 my foot moved it up and down, and everything. And
13 I said, What about my knee?

14 He said, Well, we're not sure we can do
15 it here. He said, We got to discuss this and make
16 sure. He said, Right now, to have successful knee
17 surgery, 75-percent negative and 25-percent
18 positive. He said, We're scared to do it because
19 we might have to amputate the leg, because of this.

20 Those are exact words he said. He said,
21 It'll be a more extensive knee surgery now, because
22 they want to take that rod out before the year is
23 out, and they couldn't do it. Right now,
24 everything healed, and everything. I mean, you
25 know, my muscles, and everything.

1 I mean, like he said, they do it, I'm
2 gonna have to learn how to walk again. He said if
3 he couldn't do it, I'm gonna be stuck like this the
4 rest of my life.

5 All because somebody can't hold a damn
6 ladder.

7 MS. BRADLEY: I think I'm just about
8 finished, if we can take a quick break.

9 (A recess transpired.)

10 BY MS. BRADLEY:

11 Q Just one or two. The jobs that you did
12 at Chris Miller's house with Freddie Pope -- well,
13 first, did you ever do any jobs at Chris Miller's
14 house, without Freddie Pope?

15 A No. I mean, like I said, I had to have a
16 helper.

17 Q The jobs that you did with Freddie, did
18 Freddie pay you? Did he split his money with you?

19 A What do you mean?

20 Q How did you get paid?

21 A Cash.

22 Q Who paid you?

23 A Well, Chris, I mean, handed it to
24 Freddie. I mean, Freddie, he held the ladder. The
25 last time, like I say, I hurt my leg, I wasn't

1 gonna get paid.

2 I mean, I got in the car and wanted to
3 get home. I didn't even say nothing to him about
4 money. It wasn't on my mind right then.

5 Q Did Freddie ever give you money for it?

6 A Yeah. Freddie -- we got on the road and
7 stopped at Walt's Hotdog and got BC Powder.
8 Freddie come up to the window, because I told
9 him -- earlier, he said, How much do you want to
10 charge Chris?

11 I said, I reckon \$150 will do. I said,
12 you know, I've been off and on, up there all day.
13 So Freddie handed me \$250. He said he give us
14 little bit extra. I said, Well that's okay,
15 because I told him \$150 and he give me 250.

16 Like I said, I had no idea how much
17 Freddie made. Like I say, I left there, like I
18 say, I didn't talk to him about nothing. All I
19 wanted to do is get home and get in bed.

20 Q Was that the same as all the other jobs
21 you did with Freddie? Did Freddie, then, give you
22 money out of what he got from Chris?

23 A Yeah. Chris was the only one there. I
24 mean, those jobs, like I say, was touch and go. It
25 was during the day when Chris was at work, and

1 Freddie come back and get the money and bring it to
2 my house.

3 MS. BRADLEY: Okay. I don't have any
4 other questions.

5 MR. TINSLEY: I don't have anything for
6 you.

7 MS. BRADLEY: You're all done.

8 MR. TINSLEY: We'll waive.

9 COURT REPORTER: Would you like to get a
10 copy?

11 MR. TINSLEY: Probably so, I guess.

12 - - -

13 (Deposition concluded at 12:15 p.m.)

14 - - -

15 (Witness excused.)

16 - - -

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Christopher Miller

STATE OF SOUTH CAROLINA
COUNTY OF GREENWOOD

COURT OF COMMON PLEAS

TONY KING and ROSELLA KING,
Plaintiffs,

C.A. NO.
2012-CP-23-07322

vs.

CHRISTOPHER T. MILLER,
Defendant.

DEPOSITION OF CHRISTOPHER MILLER

DATE TAKEN: Monday, December 8, 2014
TIME BEGAN: 12:50 p.m.
TIME ENDED: 1:25 p.m.
LOCATION: McAngus Goudelock & Courie, LLC
55 East Camperdown Way
Greenville, South Carolina

REPORTED BY: Lisa Garson, Court Reporter
EVERYWORD, INC.
P.O. Box 1459
Columbia, South Carolina 29202
803-212-0012

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19 ALSO PRESENT:

20 TONY KING

21 ROSELLA KING

22 CLARA KING
23
24
25

I N D E X

PAGE

Stipulation

4

EXAMINATION

By Mr. Tinsley

4

By Ms. Bradley

35

FURTHER EXAMINATION

By Mr. Tinsley

36

Certificate of Reporter

39

E X H I B I T S

(None marked.)

1 (It is hereby stipulated and agreed
2 by and among counsel for the respective
3 parties that this deposition is being
4 taken in accordance with the South
5 Carolina Rules of Civil Procedure, and
6 that the deponent waives reading and
7 signing of this deposition transcript.)

8 - - -

9 CHRISTOPHER MILLER, after having
10 been first duly sworn, was examined and
11 testified as follows:

12 - - -

13 EXAMINATION

14 - - -

15 BY MR. TINSLEY:

16 Q Mr. Miller, we met a couple hours ago,
17 before this started. Once again, I'm Jamison
18 Tinsley, representing the Kings here today.

19 I guess, first of all, have you ever had
20 your deposition taken before?

21 A No.

22 Q As I'm sure you heard your lawyer, Ms.
23 Bradley, go over the rules, it's pretty simple.
24 Try not to say 'uh-huh' or 'uh-huh' or shake your head
25 or nod your head, because it's hard for her to get

1 that down.

2 I'm as bad as anybody about doing it, so
3 we'll try to remind each other, if we start doing
4 that. And also, if you have any questions, I'd
5 just ask that you direct them to me, instead of
6 your attorney.

7 A Okay.

8 Q And if she objects to anything, it's just
9 to get it clear on the record. So unless she
10 instructs you not to answer, you still have to
11 answer the question. Do you understand?

12 A Yes.

13 Q If you answer a question, then we'll
14 assume that you understood it. Fair enough?

15 A Sure. Yes.

16 Q And if you need a break, at any time,
17 just let me know, and we'll take it.

18 What's your full name?

19 A Christopher Thomas Miller.

20 Q And what's your address?

21 A 105 Greenville Church Road, Donalds,
22 South Carolina, 29638.

23 Q How long have you lived there?

24 A Approximately, eight years.

25 Q Where did you live before that?

1 A It was on Lake Street...I believe it's
2 105 Lake Street, in Greenwood, South Carolina.

3 Q How long did you live there?

4 A For two years.

5 Q Where are you from?

6 A Greenwood.

7 Q What's your date of birth?

8 A 4/19/1975.

9 Q I'll ask the same that she did, and ask
10 the court reporter not to publish this.

11 What is your Social?

12 (Off the record.)

13 BY MR. TINSLEY:

14 Q What do you do for a living?

15 A I'm a board certified financial planner.

16 Q Who do you work for?

17 A Oak Capital Management Asset Advisers.

18 Q Where is your office?

19 A It is 1200 Woodruff Road, Suite A3, and
20 that's Greenville, South Carolina, 29607.

21 Q How long have you been doing that?

22 A Going on 17 years.

23 Q What's your educational background?

24 A Educated from the College of Charleston,
25 followed up with education, through work, and

1 business and board certifications, and other similar
2 certificates, throughout my career..

3 Q What is your wife's name?

4 A Jenny, J-E-N-N-Y, Miller.

5 Q Maiden name?

6 A R-E-I-G-H-L-E-Y.

7 Q Is she related to Faye Reighley?

8 A Correct.

9 Q What other relatives do you have in
10 Greenwood? What would their last names be?

11 A Tom and Bobby Miller are my parents.

12 Q Any cousins or aunts or uncles?

13 A No.

14 Q How many children do you have?

15 A Zero.

16 Q How about your wife? Is she related to
17 anybody, other than with the last name Reighley, in
18 Greenwood County?

19 A No.

20 Q When did you first meet Tony King?

21 A On January 8, 2013.

22 Q How did you come about meeting him?

23 A He was on the roof at my house. He came
24 out with Freddie Pope.

25 Q How long had you known Freddie?

1 A Better part of ten years that he'd been
2 doing work for my father-in-law.

3 Q How often had he been doing work for you?

4 A He built cabinets in our living room in
5 2008. I believe it was January 2008. He built an
6 outdoor building to house a lawn mower, and such,
7 in, I believe it was 2010.

8 He fixed a hot water drain, steam vent,
9 by putting some hot glue, like caulking, around
10 that. And then the incident on the 8th of January.

11 Q Do you remember when that hot water steam
12 vent, when he fixed that?

13 A That would have been 2010 or 2011.

14 Q When he did these jobs, was he doing them
15 solo?

16 A The cabinets, he did solo. The building,
17 he had four people working with him that day.

18 Q Do you know who those four people were?

19 A I do not.

20 Q Do you know if Tony King was one of the
21 four?

22 A I do not know.

23 Q So you do not know either way.

24 A I do not.

25 Q What about the steam vent?

1 A Freddie said he fixed it, and what he
2 needed to do to fix it. However, I was not on the
3 property, at that point, so I do not know.

4 Q How long did that job take him?

5 A According to Freddie?

6 Q Yeah. As far as you know, how long did
7 it take him?

8 A Freddie said about ten minutes.

9 Q All right. Now, let's go into the job on
10 January 8th. Tell us what you recall about hiring
11 Freddie.

12 A Well, originally, we attempted to hire C.
13 E. Bourne, and they were busy. And my
14 father-in-law said that he would contact Freddie,
15 if it were him. And I said, Sounds like a good
16 idea.

17 So I called Freddie, and he said that he
18 needed to come up and take a look at it.

19 Q And when did you contact him?

20 A About two weeks prior to the job actually
21 happening.

22 Q Did he come out and look at it?

23 A He did.

24 Q When did he do that?

25 A To be honest with you, probably about a

1 week before he did it because I can't remember.

2 Q Were you there when he came out and
3 looked at it?

4 A I was not.

5 Q What were you getting done? What were
6 you hiring him to do?

7 A A ridge shingle had come off the top of
8 the house, the very peak. And at that point,
9 Freddie also said that there was a problem where
10 the eaves met, and that he was going to need to
11 replace some stuff for a leak that was still
12 happening in the garage, the same area that he had
13 glued down the steam vent a couple years prior.

14 Q Now, is this stuff in front of the house
15 or in the back of the house?

16 A The ridge shingle was on the back of the
17 house, the additional problem was on the front of
18 the house.

19 Q Whenever Freddie came out to look at it,
20 was your wife there?

21 A She was.

22 Q Did she talk to him about what you were
23 doing?

24 A She did.

25 Q Do you have any knowledge about what they

1 talked about?

2 A I was told that I needed to pick up two
3 packs of architectural shingles for the job.

4 Q Did you do that?

5 A I did.

6 Q Where did you get those from?

7 A Snead Builders.

8 Q At that point, you arranged with Freddie
9 for him to actually do the work.

10 A Yes.

11 Q What were the terms of what --

12 A Freddie said it was going to be a fairly
13 easy job, and it would probably cost \$500.

14 Q Did he tell you whether he would be
15 working solo?

16 A He did say that he needed to wait to get
17 his roofing guy up there.

18 Q Did you know who his roofing guy was, at
19 that point?

20 A No.

21 Q The \$500 job, how was that to be paid?
22 Directly to Freddie?

23 A Yes.

24 Q And your understanding was that he would
25 take care of the roofing guy?

1 A I've always paid Freddie.

2 Q So can you tell us what they actually did
3 on the 8th of January?

4 A Well, they -- Mr. Pope showed up in his
5 truck, approximately, 9 o'clock, little after. I
6 was studying for an exam that day.

7 Q Studying at home?

8 A I was at home.

9 Q What happened when Freddie showed up?

10 A I just walked out to see if they needed
11 anything. Freddie had already set up the ladder,
12 and actually he said they were going to take a look
13 and then get started.

14 Q Freddie had the ladder?

15 A Yes.

16 Q That was his, as far as you know, that he
17 owned.

18 A Well, yeah. I don't own an ladder that
19 goes over 12-foot, so that would have had to have
20 been his. He, most of the time, carries one on top
21 of his truck.

22 Q What kind of truck was he driving?

23 A I believe it's an old Scottsdale or
24 Silverado. It's an older Chevy.

25 Q So did they need anything?

1 A Not at that point, no.

2 Q So what did you do then?

3 A I went back in and started studying.

4 Q Were you home studying all day?

5 A I was.

6 Q At that point, had Freddie's roofing guy
7 showed up?

8 A Yes.

9 Q Was that Mr. King?

10 A Yes.

11 Q Did you have any conversation, any
12 interaction, with Mr. King?

13 A Not at that point.

14 Q Did you check-up on them periodically
15 during the day?

16 A Actually, I did. I went out there, at
17 one point, because I noticed that Mr. Pope's truck
18 was no longer there, but I still heard movement up
19 on the roof.

20 So I went out and asked if Mr. King was
21 okay, at that point, and what was going on. And he
22 just said that Freddie needed to go quote a job in
23 Greenwood. But he was just up on the roof.

24 Q Front side of the house or back?

25 A Yes.

1 Q Front?

2 A Yes.

3 Q What time would you say this was?

4 A I'd say, around 11:15.

5 Q And he was on the roof. Was he working
6 or just kind of sitting there, at that point?

7 A Well, he was working, but he was sitting
8 down.

9 Q Was anything else said between you and
10 Mr. King, at that point?

11 A No.

12 Q Did Freddie come back?

13 A He did.

14 Q Do you know when he got back?

15 A It was a little bit after lunchtime.

16 Q How did you know he got back?

17 A Because they were sitting outside my home
18 office window, eating lunch.

19 Q Do you know what time this would have
20 been?

21 A I'm going to suppose, close to 1.

22 Q Did you hear Freddie when he drove back
23 up?

24 A Yeah.

25 Q Did you go outside and talk to him?

1 A I went outside to see what was, kind of,
2 the situation, at that point, and asked Freddie how
3 far we were into the process, and how it was
4 looking.

5 Freddie did tell me it was more extensive
6 than they thought, and that he may have to go pick
7 up another thing of shingles.

8 Q Did he have to?

9 A I don't believe so.

10 Q Did you go back in, at that point?

11 A I did.

12 Q What was the next interaction you had
13 with them?

14 A Probably closer to 4 o'clock, I went out.
15 Freddie was there again, and I asked him, when it
16 got close to dark, how close they were to being
17 finished.

18 Q What did he tell you?

19 A He said he was hoping to begin cleaning
20 right then, and they'd be moving onto the back.

21 Q So they had been in the front the entire
22 time.

23 A Yes.

24 Q Did they actually go ahead and clean up
25 then?

1 A Yes.

2 Q So then did they go around back, at that
3 point?

4 A It was probably closer to 5, 5:15, or
5 5:05, when they actually went back to the backside
6 of the property.

7 Q Were you with them when they went to the
8 backside?

9 A I did. I came through the house and came
10 out onto the porch and asked them if they were sure
11 they needed to get up on the roof with it getting
12 dark, because that was my biggest concern, at that
13 point.

14 And I said, Well, let me go back inside
15 and turn on the lights.

16 Q Did you go turn the lights on?

17 A No, I did not. My wife did.

18 Q Had your wife been home during this whole
19 time?

20 A She got home around ten to 5, and she was
21 actually in the part of the house where the flood
22 light, the coach light, for the back porch was, at
23 the time that I went in, so I asked her to cut them
24 on.

25 Q Can you describe the lighting that you

1 have for the back area of your house.

2 A It would illuminate that area, two big
3 floodlights that are focused off. One on the back,
4 facing the backside, and one facing the south side,
5 and then a coach light that would have been,
6 approximately, 12 feet, or less, from the ladder
7 and the roof area that was leaned against it.

8 Q And were all of these lights turned on?

9 A Those were. There was a set that was not
10 turned on, and that was the one I asked about when
11 I returned back onto the porch.

12 Q Where are these lights?

13 A It's actually under the roof that the
14 ladder was leaning on. It was like a porch with a
15 fan light.

16 Q Was it just one light?

17 A It was just one, and that one was not
18 turned on.

19 Q Any particular reason why it wasn't
20 turned on?

21 A Yeah. I asked if that was enough light,
22 do I need to turn on this one, and pointed to it.
23 And Freddie said, No.

24 Q So you said it was about 5:15, somewhere
25 in there, correct?

1 A Correct.

2 Q And how dark would you say it was in
3 early January?

4 A It was almost dark.

5 Q Tell me what work they did around back.
6 I know you said there was a ladder. Could you
7 describe to me what you saw.

8 A There was no work, actually, done around
9 back.

10 Q What happened?

11 A I exited the glass door, asked Mr. Pope
12 if that was the right light, if they needed more.
13 He said, No.

14 I came around the -- we have a column at
15 the far end of the porch where the two would meet,
16 and Mr. King was going up the ladder, at that
17 point. And I came around and asked Freddie if
18 there was anything else he needed.

19 And at that point, Mr. King was already
20 falling.

21 Q What was Freddie doing, at that point?

22 A Standing to the right of the ladder,
23 about two feet.

24 Q Was he touching the ladder?

25 A No.

1 Q Was he looking up the ladder at Mr. King?

2 A He was looking at the ladder but not up
3 the ladder.

4 Q So whatever his eye level would have
5 been.

6 A Right.

7 Q So you said you were going out, asking if
8 he need anything else.

9 A Correct. I opened the back door onto the
10 deck where they were, and first I asked if that was
11 enough light, do I need to turn on -- because there
12 was a light, pretty much, right above me. And
13 Mr. Pope said, No.

14 And I could understand that because it
15 was underneath where they were working. It
16 probably would not have been beneficial. So I then
17 shut the door and walked out and around the post,
18 and said, Is there anything else you need?

19 And Freddie is, approximately, three feet
20 from me, at that point, but he was facing the
21 ladder. So not exactly facing me, but not facing
22 away from me, either, just turned a little bit
23 towards the ladder.

24 Q What did he say to you when you asked if
25 they needed anything else?

1 A No.

2 Q Did you all have any other conversation
3 before Mr. King fell?

4 A It was in the middle of saying, So we're
5 good then? And that's when the ladder kicked out.

6 Q How high up was Mr. King?

7 A I'd say, ten feet. I mean, he was at the
8 roof.

9 Q So was he already high enough in a spot
10 where he could do the work they were doing back
11 there?

12 A No. He would have to get on the -- now,
13 the shingles were up there because it was one that
14 had blown loose, but it was actually -- that spot
15 was on up the roof a little ways where it had come
16 off.

17 Because the top of our house goes
18 straight across at the very top, and then it breaks
19 down at an angle on two eaves. And it was one of
20 the eaves that needed to be -- the ridge needed to
21 go on.

22 Q So he didn't need to actually get up on
23 the roof to fix it.

24 A Yes. But that part on the back was the
25 porch roof, and he used the porch roof to then go

1 to the house roof because they're connected.

2 Q All right. Let me make sure I
3 understand. So he was getting on the porch roof,
4 and it was the house roof that needed --

5 A Essentially.

6 Q But he was up to the roof when the ladder
7 gave way, and he fell.

8 A Yes.

9 Q Did you see him land?

10 A I did.

11 Q What did you see?

12 A I saw him hit on his feet first, and then
13 he went almost immediately to his back.

14 Q So after he falls to his back, what's he
15 do then?

16 A Well, he just laid there for a second.
17 The wind was knocked out of him. I yelled to my
18 wife to come out, to call the ambulance. I don't
19 believe she heard that part. She heard when
20 Mr. King actually hit and was already coming
21 towards the door.

22 But at that point, Mr. King didn't have
23 any air. You know, he had the wind knocked out of
24 him, so he sat up, and said, Let me just sit here
25 for a minute. And over the course of the next few

1 seconds, he proceeded to try to get air back in.

2 Q How long would you say it was before he
3 was able to get his air back?

4 A Within about 30 seconds, or so, he was
5 pretty with it, as far as being able to say that
6 his rib was hurting, and he thought that was maybe
7 cracked or broken. And he was pretty sure that his
8 ankle or lower leg was broken.

9 Q So did anybody ever call the ambulance?

10 A No.

11 Q Once he told you the rib was hurting and
12 the ankle was broken, what did he do then?

13 A I asked him to talk to me a little bit,
14 tell me what was going on. And he, basically, said
15 that he was hurting pretty bad. And Freddie said
16 he was going to go get his truck and to bring it
17 back through the backyard, so that we could get him
18 off the back porch and help him get around to the
19 front.

20 Q Did you all help him get off the porch?

21 A Yes.

22 Q What did you all do, put him in Freddie's
23 truck?

24 A It was dark, so I'm fairly certain that
25 Freddie was all the way in the backyard, through

1 the gate. But, yes. Then he got into Freddie's
2 truck and went around to the front.

3 Q So you have a fenced-in backyard?

4 A Yes. Just a small segment of it.

5 Q Around the house?

6 A Yeah.

7 Q Now, how did Mr. King get in the truck?

8 A Not very easily. He was in some pain.

9 Q Was he limping? Hopping?

10 A No, no. Mr. Pope and myself, we helped
11 him get --

12 Q Did each of you get around one arm and
13 practically carry him?

14 A Well, I mean, he still had one leg, but
15 he was in a lot of pain. But he had one arm on
16 each side and was able to go. The hard part that
17 we were more concerned with is going down the steps
18 and getting him, actually, to his car.

19 So I guess you could say, an arm over my
20 shoulder and an arm over Mr. Pope's shoulder.

21 Q So then Mr. Pope drove to the front yard.

22 A Yes.

23 Q What happened over in the front yard?

24 A Well, at that point, I asked him again if
25 we should call the ambulance, or was Freddie going

1 to take him into the hospital. I even suggested
2 that, if they needed to, one of us could drive. He
3 could leave his car there.

4 But at the same time, Mr. King was fairly
5 certain that he just wanted to not deal with the
6 ambulance and not deal with the emergency room that
7 evening.

8 Q How long do you think they stay out
9 front?

10 A Not very long. Mr. King's knee was
11 already, you know -- from a previous injury, he
12 said that he had a pretty good technique to get in
13 the car and drive, and he put his bad leg across
14 the other side and was able to drive with one leg
15 on the driver's side.

16 And he was more than capable, at that
17 point.

18 Q So he drove himself home?

19 A Well, he drove out of the driveway, yes,
20 sir. I don't know if he was able to make it all
21 the way home, or not, but that was his plan.

22 Q Was Freddie still there, at this point?

23 A Freddie was still there. As a matter of
24 fact, he said, Is it all right if I leave my
25 ladder? And I said, Sure. At that point, I was

1 still figuring that Freddie was going to try to
2 convince Mr. King to go to the hospital.

3 And I said, Is there anything that I need
4 to do? And Freddie said, Well, you know, it'll be
5 about \$500, and so I said, Okay. So I gave him the
6 \$500, and I asked him to give me a call the next
7 day, and let me know how he did.

8 Q How did you pay him? Cash?

9 A Yes.

10 Q Do you have any knowledge of the
11 arrangement between Mr. King and Freddie Pope?

12 A No. I hope he paid him, but I don't
13 know. I always dealt with Freddie.

14 Q You didn't give Mr. King any money.

15 A No.

16 Q How much longer would you say it was from
17 when Mr. King left and Freddie Pope left?

18 A Three minutes. I mean, it was under five
19 minutes because all I did was ran in and got the
20 cash and ran back out. It couldn't have taken that
21 long.

22 Q Did Freddie call you the next day?

23 A He did not.

24 Q Did you call him?

25 A I did.

1 Q What time was that?

2 A It was probably 3:30, 4 o'clock, the
3 following afternoon, and I just left him a message.

4 Q Did he return the call?

5 A The next day.

6 Q What did he have to say?

7 A He said Mr. King was busted up and needed
8 to go to the hospital. And at that point, what
9 Freddie said was that Mr. King had not gone to the
10 emergency room yet, but he asked me if I could turn
11 it in on my homeowner's insurance.

12 And I said, I don't know, because I
13 didn't. And Mr. Pope said, Check your policy and
14 give me a call back.

15 Q So did you check your policy?

16 A I did.

17 Q What did you find?

18 A It had a \$1,000 medical payment benefit
19 listed on the policy, so I called Mr. Pope and told
20 him that.

21 Q What did he say?

22 A He said, Okay, and then proceeded to tell
23 me that he could go to the VA, but that, due to
24 some errors in his surgery, I take it, with his
25 knee, that he wanted to go to a Greenwood doctor.

1 Q Did he say anything else?

2 A At that point, Freddie said, Well, I'll
3 give him a call and let him know.

4 Q Did you talk to anybody from the
5 insurance company?

6 A Not at that point because I, kind of,
7 expected to get a call back from Freddie.

8 Q Did you get a call back from Freddie?

9 A Not for a while.

10 Q But you did eventually.

11 A I did.

12 Q How far out do you think that was?

13 A Two months.

14 Q So we're talking, probably, March now.

15 A Very likely.

16 Q What happened when he called you?

17 A He said that Mr. King had been to the
18 doctor and that he had some medical bills and that
19 he was looking to see if I could cover it.

20 Freddie said he didn't have workers'
21 comp, or any of that, on the previous call, because
22 I asked him about it. And he wanted to see if I
23 could cover it, and if not, to turn it in on my
24 homeowner's.

25 And I, again, told Freddie -- well, I

1 read that amount to you. You know, I don't know
2 what else to do, as far as the homeowner's. And
3 then it really wasn't long after that, that I got a
4 phone call from Mr. King.

5 Q What did Mr. King have to say?

6 A He just let me know that he had medical
7 bills, and they needed to be covered. So I told
8 him, I said, Well, I've looked at the policy, but
9 I'm going to have to call my insurance agent.

10 And that was on a Friday, and I did call
11 the insurance agent, but it wasn't until Monday
12 that I got any response.

13 Q Did he tell you how much the meds were?

14 A He said approximately \$5,000. Didn't
15 really go into detail on that.

16 Q So when you talked to your insurance
17 company, what did they say?

18 A They referred me to someone in Charlotte
19 to do a claims-something or other, and that they
20 had to start the process, is basically how that
21 went.

22 Q Did you go through the process?

23 A Well, the young lady I spoke to on the
24 phone said that she would create a case number,
25 what have you, for it; that I was not to have any

1 contact with the injured party, or with Mr. Pope,
2 and that they would investigate the incident and
3 determine what the payout would be, if any.

4 That was basically what I was told.

5 Q Did you have any more involvement with
6 them after that?

7 A Them, who?

8 Q The people in Charlotte.

9 A Oh, the insurance company. Yes. They
10 sent out a person that looked at the property, took
11 a statement from me, and then that was, basically,
12 my involvement with them until I was served with
13 papers.

14 Q Did you ever talk with Mr. King again?

15 A No.

16 Q How about with Freddie?

17 A No.

18 Q Did you eventually get the back part of
19 your roof fixed?

20 A Well, the following day after the
21 accident, Freddie came out to pick up his ladder,
22 and he put the shingle on, at that point.

23 Q Have you hired Freddie for any work since
24 then?

25 A No.

1 Q Would you consider hiring him again?

2 A No.

3 Q Why?

4 A Well, if you don't have workmen's comp,
5 and you aren't going to take care of your people,
6 I'm not going to hire you.

7 Q When you went on the back porch, and they
8 were starting that job, did Mr. King tell you
9 anything about cutting the lights on?

10 A No. Freddie did.

11 Q Did you and Mr. King discuss anything, at
12 that point?

13 A No.

14 Q Can you describe what his ankle looked
15 like after he fell.

16 A Well, I mean, Mr. King had pants and
17 shoes on, and there wasn't any way to see his
18 actual ankle, so I don't know.

19 Q What about when Mr. King fell? You said
20 Freddie was never more than two feet from the
21 ladder.

22 A Approximately. The ladder, where it was
23 set up to get to the corner where I came around,
24 isn't more than six feet, and he was standing
25 between us, at that point.

1 Q Between you and the ladder?

2 A Correct.

3 Q So within a six-foot distance.

4 A Yeah. He wasn't right up on me.

5 Q But he wasn't holding the ladder.

6 A No.

7 Q Do you have any idea why he wasn't
8 holding the ladder?

9 A I don't do roofing or construction, so I
10 don't know.

11 Q Had you seen, anytime earlier in the day,
12 Mr. King climb up the ladder to the roof?

13 A I did.

14 Q When was that?

15 A When I went out to ask Freddie how things
16 were going, after lunch, and Freddie said,
17 basically, he had to do more than he expected, and,
18 you know, that whole story. Then Mr. King did go
19 back up the ladder.

20 The ladder was wedged into the ground on
21 the front side of the house, and it leaned against
22 the eve.

23 Q This is on the front side?

24 A The front side. So that's why I say, on
25 the front side. So I didn't see him, other than in

1 the front.

2 And at that point, I noticed that when
3 Mr. King went up the ladder, he had to, kind of, go
4 over the top because I really hadn't seen that his
5 leg didn't bend, until that point.

6 At which time, I asked Mr. Pope, I said,
7 Is it okay for him to be up there? And Mr. King
8 yelled down and said, you know, that he's more than
9 capable to get it done.

10 Q You said it was wedged in the ground.
11 Did Freddie have his hand on it, holding it?

12 A No. He was standing closer to me,
13 talking, at that point, than he was when we were on
14 the back porch.

15 But, you know, not knowing
16 construction...

17 Q Did anybody ever discuss -- either
18 Mr. King or Mr. Pope discuss holding the ladder,
19 that you heard?

20 A No. The discussion that I did hear was
21 that Freddie had to bring the shingles up to
22 Mr. King because he wasn't able to go up and down
23 the ladder, because of his stiff knee, while
24 holding the shingles.

25 But I only heard that part of the

1 conversation, so I do not know.

2 Q Is that on the front side of the house?

3 A It was. It was a pack of shingles, so
4 Freddie carried them up and handed them to
5 Mr. King.

6 Q And that was because of Mr. King's knee
7 injury.

8 A I suppose.

9 Q Was the ladder leaning on the back porch
10 when Mr. King fell?

11 A On the deck. It's a composite deck,
12 actually, made by Guardian.

13 Q So it wouldn't have been wedged in
14 anything like it was on the front side.

15 A Well, when the ladder fell, it took a
16 divot out of the material, out of two different
17 boards, so it was wedged into something.

18 Q From where the bottom had been?

19 A Correct.

20 Q How big a divot are we talking?

21 A Approximately, eight inches. Thicker at
22 the beginning, obviously, swiped to thin at the
23 end.

24 Q Did you just throw that away?

25 A No. It's still there. The stuff is too

1 hard to replace. You have to get in the way it was
2 done and replace all the boards to get to that one.

3 Q Is it noticeable?

4 A Yeah. It's there. It starts off about
5 three-quarters of an inch, and goes down to a
6 swipe, but it covers a good little bit of
7 territory.

8 Q Was your wife outside when he fell?

9 A No.

10 Q She said she could hear the bang from
11 either him or the ladder.

12 A Correct.

13 Q And the ladder didn't fall on top of him,
14 or anything, did it?

15 A No. Fortunately, the ladder, when it
16 came off the roof and fell towards the inside, it
17 actually hit my grill. My grill was covered,
18 sitting out near there.

19 So the end of it kicked the ladder over,
20 or Mr. King would have probably fallen on the
21 ladder and hurt himself even worse.

22 Q Have you ever been involved in any other
23 lawsuit?

24 A No, sir.

25 Q Have you ever been arrested or convicted

1 of a crime?

2 A No, sir.

3 MR. TINSLEY: We'll take a brief, little
4 break.

5 (A recess transpired.)

6 MR. TINSLEY: I think that's everything
7 that I've got.

8 MS. BRADLEY: I have just a couple of
9 very quick ones.

10 EXAMINATION

11 BY MS. BRADLEY:

12 Q You testified earlier that there was a
13 time where Mr. Pope had left the property.

14 A Uh-huh.

15 Q Do you know if Mr. King climbed the
16 ladder, while Mr. Pope was gone from the property?

17 A I know that he was down on the ground, at
18 that time that Mr. Pope left, because he walked
19 across my driveway and went to the far edge of the
20 ground and urinated.

21 So I do know that he had, at least, left
22 the roof, at that point.

23 Q Do you know if he got back up on the
24 roof?

25 A Yes. Because that's when I went out and

1 asked where Mr. Pope was, and he told me that he
2 had gone to quote a job.

3 Q So at that point, was there anyone to
4 hold the ladder for him to go down and back up?

5 A Well, he was already back up when I came
6 outside, so there wasn't anybody there.

7 MS. BRADLEY: I don't have any other
8 questions.

9 FURTHER EXAMINATION

10 BY MR. TINSLEY:

11 Q How long after Freddie Pope left, did you
12 see Mr. King walk across the property?

13 A About 11, 11:15.

14 Q What time did Mr. Pope leave?

15 A Well, I don't know. I just noticed that
16 I saw Mr. King go across the property, and I looked
17 out, and Mr. Pope's truck was no longer there.

18 Q Where did Mr. Pope have his truck parked?

19 A We have a turnaround circle, and it was
20 at the top of the turnaround circle.

21 Q How far from where they were climbing up
22 the ladder to go on the roof would that be?

23 A Oh, gosh, it's easier to do it in yards.
24 I'd say probably 20 yards.

25 Q You don't know exactly when Mr. Pope

1 left.

2 A No. I do not.

3 Q All right. How much longer after you saw
4 him walking across the property, did you walk
5 outside and see him up on the roof?

6 A About 15 minutes, at the most.

7 Q Did you actually see him when he climbed
8 up the ladder to the roof?

9 A No.

10 Q Do you know how long before Mr. Pope came
11 back?

12 A It was, approximately, 1 o'clock. It was
13 after lunch, because, at that point, then Mr. King
14 and Mr. Pope ate lunch on the back of Mr. Pope's
15 truck.

16 Q Did you see Mr. Pope when he drove back
17 up?

18 A I heard his truck.

19 MR. TINSLEY: No further questions.

20 COURT REPORTER: Would you like for him
21 to read?

22 MS. BRADLEY: He's going to waive.

23 - - -

24 (Deposition concluded at 1:25 p.m.)

25 - - -

1 (Witness excused.)

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COPY

STATE OF SOUTH CAROLINA)

IN THE COURT OF COMMON PLEAS

COUNTY OF GREENWOOD)

EIGHTH JUDICIAL CIRCUIT

Tony King and Rosella King,)

Case No. 2014-CP-24-00396

Plaintiff,)

AFFIDAVIT OF FREDDY POPE

vs.)

Christopher T. Miller,)

Defendant.)

Freddy Pope, having first been duly sworn, hereby deposes and states as follows:

1. I am eighteen (18) years old and competent to give this affidavit. This affidavit is based on personal knowledge.

2. On January 8, 2013, Christopher Miller hired Tony King to replace the shingles on his roof. I was present while Mr. King was doing the job and assisted Mr. King with toting the shingles up to the roof.

3. About dark, Mr. King fell off of the top of a ladder while doing the roofing job. Mr. Miller and I were both present, and he was talking to me when Mr. King fell. No one was holding the ladder at that time.

4. The ladder shot out from under Mr. King and he landed on his foot, which broke.

Freddy Pope
Freddy Pope

SWORN TO AND SUBSCRIBED BEFORE ME
this 24 day of January, 2015

R. J. J. Jr.
Notary Public for South Carolina
My Commission Expires: 11/30/2022

Certificate of Counsel

RECEIVED

MAY 12 2016

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

SC Court of Appeals



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