

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

I N D E X

Opening statement - Court 19

Opening statement - Plaintiff 29

Opening statement - Defendant 31

Defense Motion for Directed Verdict 60

<u>WITNESS/DESCRIPTION</u>	<u>PAGE NO.</u>
----------------------------	-----------------

Nathaniel Barnesdirect.....	34
Nathaniel Barnescross.....	52
Nathaniel Barnesredirect.....	57
Nathaniel Barnesrecross.....	59

EXHIBITS:

Plaintiff's Exhibit No. 1 42

Plaintiff's Exhibit No. 2 44

Plaintiff's Exhibit No. 3 48

Plaintiff's Exhibit No. 4 50

Plaintiff's Exhibit No. 5 51

Certificate of Court Reporter 64

1 THE COURT: Thank you. Please be seated this is the
2 matter of the Nathaniel Barnes versus Gary Geiger. 2014-CP-
3 40-3748.

4 I understand there are some motions or at least one
5 motion that we need to take up.

6 MR. CURIALE: We would object to the introduction of
7 the phone conversations between Mr. Geiger and Mr. Barnes.
8 I object on hearsay, and also not relevant. The
9 conversation between plaintiff and defendant regarding the
10 conversation between Mr. Geiger and alleged plaintiff's
11 mother. A lot of it was cursing and swear words. It had
12 nothing to do with the case at hand. It's about a two minute
13 conversation. There is a transcript that I believe was
14 prepared, if you'd like to go over it. None of it is
15 relevant.

16 THE COURT: Why don't you tell me a little bit about
17 this case to begin with so I've got some framework.

18 MR. CURIALE: All right. Originally -- this is our
19 version of the facts. Originally Mr. Barnes owned the
20 property and at some point ^{Lic} (1996 or '97) I believe it was
21 foreclosed on by his bank or his mortgage company. The
22 master in equity here issued a master's deed as a result of
23 foreclosure. The bank at that time bought the property from
24 *no bank (trust) sold property to G.E. property NOT of-sale.*
the sale. Mr. Geiger, here, then bought the property
25 himself and proceeded to rent the property back to Mr.

1 is yours and Mr. Geiger -- Mr. Barnes could not get Mr.
2 Geiger to convey the property to him. That's what's led to
3 this.

4 THE COURT: All right. From the complaint it looks
5 like there were a number of causes of action. Are these --
6 are you still proceeding on all those causes of action?

7 MR. WHITE: I think there are some that have to do with
8 debt collection. I probably need to withdraw that.

9 THE COURT: Okay. Well, let's just go through. Unfair
10 trade practice?

11 MR. WHITE: We do feel that what happened was an unfair
12 trade practice.

13 THE COURT: Unfair debt collection practices?

14 MR. WHITE: No, I don't think he's a debt collector so
15 that's --

16 THE COURT: Okay. So that's withdrawn. Fraud?

17 MR. WHITE: Yes.

18 THE COURT: Looks like there are two causes of action
19 for fraud. Breach of contract accompanied by fraudulent
20 acts?

21 MR. WHITE: Yes, ma'am.

22 THE COURT: Okay. Defamation of credit?

23 MR. WHITE: We'll withdraw that. I don't think that's
24 applicable.

25 THE COURT: Equitable relief quiet title?

1 MR. WHITE: Yes. He thinks the property should have
2 been conveyed by Mr. Geiger to him some time ago.

3 THE COURT: Okay. Slander of title?

4 MR. WHITE: A twist of this is there are two adjoining
5 pieces of property one of which is still in Mr. Barnes name.

6 THE COURT: Okay.

7 MR. WHITE: And --

8 THE COURT: So slander of title.

9 MR. WHITE: Yes.

10 THE COURT: And trespass to try title?

11 MR. WHITE: Yes.

12 THE COURT: Conversion?

13 MR. WHITE: Yes, Your Honor, because of the confusion
14 between the two tracts of property.

15 THE COURT: And it says in the complaint that you were
16 seeking punitive damages. Are you still seeking punitive
17 damages?

18 MR. WHITE: We are. Yes, Your Honor.

19 THE COURT: Okay. All right. And you say a transcript
20 of this conversation between the plaintiff and the
21 defendant, is that right?

22 MR. WHITE: Yes, Your Honor. The conversation was
23 between the two parties.

24 THE COURT: Thank you. What portion of this transcript
25 in this conversation does the plaintiff asserts relevance to

1 this action?

2 MR. WHITE: Pages two through five. On Page 17 there's
3 a discussion about how much money Mr. Barnes has spent on
4 the house. On Page 29 there's another conversation about
5 the house being Mr. Barnes' house. There more discussion on
6 Page 33 and also on 41 and 42. And again on 45.

7 THE COURT: Was your client aware that he was being
8 recorded?

9 MR. CURIALE: No, ma'am, Your Honor.

10 THE COURT: Well, I think this is going to take me a
11 good amount of time to read through and I may have to -- I
12 may have to go through it later and take this up a little
13 bit later. You all are saying that this is the conversation
14 that you believe these portions are relevant to this
15 particular, the nature of the transaction; is that correct?

16 MR. WHITE: Yes, Your Honor. There are some admissions
17 by the defendant at the beginning of the tape that says your
18 call is recorded through an automated voice message system.

19 THE COURT: I'm wondering, I'm thinking there is a
20 voicemail that begins this -- I think that might be the --
21 that might be the --

22 MR. CURIALE: That was off his voicemail, You Honor.

23 THE COURT: Okay.

24 MR. CURIALE: And he left a message and it starts
25 another call.

1 THE COURT: Okay. All right. I'm sorry will you go
2 over again for me the particular admissions that you think
3 are in this particular transcript

4 MR. WHITE: There are repeated admissions.

5 THE COURT: Okay.

6 MR. WHITE: This is your home, I'd never take it from
7 you.

8 THE COURT: Okay. All right. I'm going to take a look
9 at that transcript. I don't know what the situation is with
10 the jury. I don't know if they're waiting on us right now.

11 THE CLERK: They're downstairs, waiting.

12 THE COURT: I'll tell you what. Let's turn to
13 selecting the jury and then I may let them go. By that time
14 it will be close to lunch hour. I let them go to lunch and
15 that will give me time to read this transcript and then we
16 can just start -- hit the ground running after lunch.

17 You said you had one voir dire question, what's is
18 that?

19 MR. CURIALE: Whether a juror has been involved in a
20 foreclosure action or if they know anybody who's been
21 involved in a foreclosure action.

22 THE COURT: Well, I think lots of people know somebody
23 who has been involved in a foreclosure action but I'd say
24 any member of the jury panel or member of their immediate
25 family.

1 MR. CURIALE: Yes, ma'am. Last time there were about
2 three or four that stood up for that.

3 THE COURT: All right. Did you have a chance to look
4 at the plaintiff's proposed voir dire?

5 MR. CURIALE: I have no objections.

6 THE COURT: Okay. All right. And you said two
7 witnesses. Can y'all just give me a short statement of the
8 facts that I can inform the jury what this case has to do
9 with? Property that is located where?

10 MR. CURIALE: Richland Count, Columbia, South Carolina.

11 THE COURT: Exactly where is it located?

12 MR. CURIALE: 612 --

13 MR. WHITE: 612 Scarsdale Drive.

14 THE COURT: Scarsdale Drive.

15 MR. WHITE: Yes, Your Honor.

16 THE COURT: This action concerns a property at 612
17 Scarsdale Drive in Columbia, in Richland County. The
18 property was formerly owned by the plaintiff and was the
19 subject of a prior ^{lien} foreclosure. The dispute here today is
20 as to the nature of the agreement or lease agreement between
21 the plaintiff and the defendant.

22 MR. WHITE: I have no objection to that, Your Honor.

23 MR. CURIALE: That's good.

24 THE COURT: All right. Anything else we need to take
25 up before we call for our panel?

1 MR. WHITE: No, Your Honor.

2 MR. CURIALE: No, Your Honor.

3 THE COURT: All right. We'll go with one alternate.

4 MR. WHITE: One alternate is fine.

5 THE COURT: If you would let them know to send the jury
6 up.

7 (Clerk calls downstairs asking for the jury to be sent up.)

8 THE COURT: The counterclaim for this case; do you
9 still have counterclaims? I know you have affirmative
10 defenses.

11 MR. CURIALE: Yes, we do, Your Honor.

12 THE COURT: Okay. I just going to be honest with you,
13 as far as this charge is concerned, this is looking like
14 this will be one of the longest jury charges I've ever
15 given.

16 MR. CURIALE: I'm sorry, Your Honor.

17 THE COURT: That's okay. That's fine. It's a short
18 case with a very long charge with y'all cause of action and
19 all the counterclaims are still included. I would not be
20 prepared to charge this jury until tomorrow.

21 MR. CURIALE: Okay.

22 THE COURT: I'm just letting y'all know where that
23 stands. If y'all want to talk about some of them and there's
24 some of them you could let go by the wayside, I might -- I
25 might can get it done over the lunch hour. I think it's

1 pretty lengthy even if I did have my law clerk here to do
2 it.

3 (Jury panel enters the courtroom at 11:31 a.m.)

4 THE COURT: Good morning, ladies and gentlemen. My
5 name is Leticia Verdin and I'm a Circuit Court judge and I
6 am from Greenville/Pickens County, the Thirteenth Circuit,
7 and I am very happy to be here with you today in the Fifth
8 Circuit, in Richland County.

9 You all must have been living pretty right because I
10 tell you you are a jury panel that has drawn what looks to
11 be a very short case, and I know that's good news. I'm not
12 under any delusions that anybody is thrilled to be called to
13 jury duty today, but one of the things that I find
14 fascinating about my job is when jurors actually do get to
15 serve on a jury they will tell me at the end of the week or
16 end of the trial they will tel me that this was a great
17 experience, one of the best experiences of my life. I
18 really hope it turns out to be that for you. The folks here
19 in Richland County are second to none in looking out for you
20 and wanting this to be the best experience for you and I do
21 too.

22 I did not know what method Judge Newman used this
23 morning when he was asking you all questions to find out if
24 you were qualified to serve, but I need to find out if
25 you're more particularly qualified to serve on this

1 particular case.

2 What I'm going to do is I'm going to ask you a series
3 of questions. Most of them are whether or not you know
4 anybody involved in this case or anything about this
5 particular case. If you respond, if you'll stand I'll call
6 on you and if you will give me your name and jury number.
7 This lady right here is taking down everything that we say
8 and just so the record is clear and I know who I'm talking
9 to if you will tell me your name and juror number when you
10 stand.

11 Now, one or two of these questions might call for some
12 personal information, if they do -- if it does and you want
13 to come forward and speak with me with the attorneys here at
14 bench, I'm more than happy to do that. Don't know if it
15 would happen or not, but if you do, feel free to just say
16 can I come up there and talk to you. I'm happy to do that.

17 All right. With that being said, we're going to go
18 through a few questions as I told you.

19 This is the case, Nathaniel Barnes verses Gary Geiger.
20 Nathaniel Barnes and Gary Geiger are the plaintiff and
21 defendant in this case and they are the witnesses, the
22 only witnesses in this particular case. I'm going to ask
23 you some questions in just a moment after you had an
24 opportunity to introduce -- for them to introduce themselves
25 to you.

1 Attorney for the plaintiff, do you mind standing and
2 introducing yourself and your client, please?

3 MR. WHITE: I'm Gary White. I have an law office in
4 Columbia. This is Mr. Nathaniel Barnes who is the plaintiff
5 in this case.

6 THE COURT: All right. Is any member of the jury panel
7 related by blood or marriage or otherwise acquainted with,
8 in any way, Mr. White or Nathaniel Barnes and if so please
9 stand.

10 And none are standing.

11 And I'll ask you more particularly about Mr. White.
12 Any member of the jury panel been represented by, involved
13 in a case with, have any contact on a professional level
14 with Mr. White and if so please stand?

15 And none are standing.

16 And, sir, do you mind introducing yourself and your
17 client to the jury panel?

18 MR. CURIALE: My name is Philip Curiale from the Law
19 Office of Brian Boger and this is my client, Gary Geiger.

20 THE COURT: Any member of the jury panel related by
21 blood or marriage or otherwise acquainted with Mr. Gary
22 Geiger or acquainted with Mr. Curiale or anyone with the law
23 office of Brian Boger? Every been represented by him or
24 anyone in his law off or ever had a case with him. If so
25 please stand.

1 None are standing.

2 I'm getting to give you just the barest facts about
3 this particular case just to see if you know anything about
4 it whatsoever. If you do please stand.

5 This action concerns property that is located at 612
6 Scarsdale Drive in Columbia, here in Richland County. The
7 plaintiff owned this property and it was subject of a prior
8 foreclosure. This dispute it to determine the nature of an
9 agreement or lease agreement between the plaintiff and the
10 defendant that followed this foreclosure.

11 Any member of the jury panel, if he or she knows
12 anything about the fact of this case, if you do so please
13 stand? Anyone know anything about the subject property on
14 Scarsdale Drive, if so please stand?

15 None are standing.

16 All right. I'm going to go through a couple questions
17 just to see if anyone has any particular experience with any
18 of the topics we're talking about here today.

19 Any member of the jury panel ever had a ownership
20 interest in a mortgage, a mortgage company and if so please
21 stand?

22 None are standing.

23 Any member of the jury panel ever worked for a mortgage
24 company, if so please stand?

25 None are standing.

1 Would any member of the jury panel tend to disfavor or
2 favor someone because of their sophistication or lack of
3 sophistication regarding real estate, if so please stand?

4 None are standing.

5 And finally, does any member of the jury panel or
6 member of your immediate family ever been involved in a
7 foreclosure action, if so please stand.

8 None are standing.

9 All right. That was pretty quick. Let me just ask, any
10 member the jury panel, you've met the attorneys involved in
11 the case, you've met the parties, you've actually met all
12 the witnesses that are going to testify. You've heard a
13 little bit about the nature of this particular lawsuit.
14 Does any member of the jury panel believe he or she for any
15 reason whatsoever could not be a fair and impartial juror
16 and let me explain what that is. Fair and impartial juror
17 means you can listen to all the evidence of the plaintiff,
18 all the evidence of the defendant, not make your mind up
19 about any facts whatsoever until you've heard both sides and
20 you begin deliberating and could you can give a fair trial
21 to the plaintiff and the defendant. Any member of the jury
22 panel believe for any reason you could not be a fair and
23 impartial juror in the trial of this particular case, if so
24 please stand.

25 None are standing.

1 All right, are there any matters that we need to take
2 up with the attorneys before we began?

3 MR. WHITE: Nothing for the plaintiff.

4 MR. CURIALE: Nothing, Your Honor.

5 THE COURT: All right, ladies and gentlemen, let me
6 tell you how this is going to work. You've got a jury
7 number on your tag and if this were a normal week where you
8 had tons and tons of trials going on you would get to know
9 that jury number like the back of your hand, but let me tell
10 you this, in just a moment you're going to hear first the
11 plaintiff and then the defendant call out certain numbers.
12 If you hear your number we're not talking about you, I
13 promise. We are going to jumble you in the computer and
14 give you a brand new number. So you won't know who we're
15 talking about. So we're going to go through and give the
16 attorneys the opportunity to strike particular jurors. Now,
17 for no reason whatsoever, nothing personal, nobody knows
18 you, the strike isn't for anything personally, but we're
19 going to go back and forth, strike jurors and then you -- if
20 you are on the trial of this case you'll hear the clerk call
21 your name and number and you'll be seated in the jury box
22 and you will serve as a juror on this case. It goes pretty
23 quickly once we get going.

24 Do either of the attorneys need a moment with the
25 strike list? Everybody good?

1 MR. WHITE: I'm good.

2 MR. CURIALE: Yes, ma'am.

3 THE COURT: All right. Very good. We're ready to go.
4 You'll just kind of be spectators for a moment and then
5 we'll tell you who's seated as a juror. All right. Yes,
6 ma'am.

7 THE CLERK: Please exercise your strikes using the
8 numbers to the left, please.

9 MR. WHITE: Plaintiff strikes No. 16.

10 THE CLERK: Plaintiff strikes 16.

11 MR. CURIALE: Defendant strikes No. 5.

12 THE CLERK: Defendant strikes No. 5.

13 MR. WHITE: Plaintiff strikes No. 6.

14 THE CLERK: Plaintiff strikes No. 6.

15 MR. CURIALE: Defendant strikes No. 8.

16 THE CLERK: Defendant strikes No. 8.

17 MR. WHITE: Plaintiff's strikes No. 1.

18 THE CLERK: Plaintiff strikes No. 1.

19 MR. CURIALE: Defendant strikes No. 11.

20 THE CLERK: Defendant strikes No. 11.

21 THE COURT: All right. If you'll strike another one
22 from one to twenty.

23 MR. WHITE: Plaintiff strikes No. 13.

24 MR. CURIALE: Defendant strikes No. 7.

25 THE COURT: All right. Then one from twenty-one to

1 twenty-three for the alternate.

2 MR. WHITE: Plaintiff strikes No. 22.

3 MR. CURIALE: Defendant strikes No. 23.

4 THE CLERK: Okay, for the plaintiff strikes we have
5 Nos. 1, 6, 13, 16 and 22?

6 MR. WHITE: That's correct.

7 THE CLERK: For the defendant we have Nos. 5, 7, 8, 11,
8 23.

9 MR. CURIALE: That is correct.

10 THE CLERK: As I call your names, please bring your
11 belongings with you to the jury box.

12 Juror No. 203, Ivy Pearce; Juror No. 96, Candice Greer
13 Chastain; Juror No. 87, Kimberly Gillstrap; Juror No. 249,
14 Lawrence Smith; Juror No. 7, Cheryl Alcomb; Juror No. 270,
15 Frankie Tucker; Juror No. 244, Brenda Sim; Juror No. 159,
16 Danny Martin; Juror No. 140, Barbara Kelly; Juror No. 137
17 Sherita Jordan; Juror No. 32 Amy Campbell; Juror No. 145,
18 McKenzie King; Juror 312, Mary Peay.

19 THE COURT: Any objection to the manner in which the
20 jury was selected?

21 MR. WHITE: None from the plaintiff.

22 THE COURT: From the defendant?

23 MR. CURIALE: None for the defendant.

24 THE COURT: Ladies and gentlemen who not selected for
25 service on this particular jury we will probably not see you

1 again this week. Thank you so much for your service. If you
2 will return your jury room for further instructions. Thank
3 you.

4 (Remaining jury panel excused from the courtroom at 11:54
5 AM.)

6 THE COURT: Ladies and gentlemen, I don't know how
7 lucky you were to get stuck with me today and maybe for a
8 little bit of tomorrow but, if you were looking with envy at
9 those folks leaving, they're going to be put in another pool
10 to be in another trial and a much longer day. So believe
11 me, y'all really did luck out.

12 Do you mind swearing the jury for me?

13 THE CLERK: Please stand and raise your right hand.

14 (WHEREUPON, the jury panel was duly sworn.)

15 THE COURT: Ladies and gentlemen, I'm just going to
16 five you a few instructions. I'm going to give you my
17 initial instruction then we'll break for lunch and I'm going
18 to let y'all take up one matter of business in your jury
19 deliberation room and then break for lunch. We'll come back
20 and hear definitely all of the testimony this afternoon.

21 What I'm going to do now if instruct you on some of the
22 procedures that we'll follow throughout this trial, although
23 it's a very short trial. I'm going to instruct you on the
24 law at the end. So your job is to sit and listen as
25 attentively as you can to the witnesses on the witness stand

1 and look at any evidence that might be presented. You've
2 been selected as fair and impartial jurors and your purpose
3 is to find and determine the facts in this case. You are the
4 sole judge of the facts in this case and I cannot make any
5 comment regarding the facts. If, throughout the trial of
6 this case, I make any comments on the facts of this
7 particular case disregard those comments because you are to
8 make up your own mind as to what the facts are. You are to
9 determine that from the testimony and evidence that is
10 presented here today in this courtroom. On the other hand
11 and with equal emphasis, the same law that makes you the
12 judge of the facts makes me the judge on the law. I'm going
13 to give you the law and you will apply it to the facts as
14 you find them to be to come up with your verdict. Even if
15 you disagree with what the law is, have a different idea
16 about what the law should be you must take the law as I give
17 it to you, exactly as I give it to you and apply it to the
18 facts as you find them. Then you will come up with your
19 verdict in this case.

20 Until I have asked you to begin your deliberations you
21 must not discuss this case with anyone. I know at this point
22 you really don't know enough to discuss it with anyone
23 anyway and we may not have too any breaks in the trial, but
24 you may not discuss it with anyone including your fellow
25 jurors. I heard about a trial not long ago, literally, a

1 couple of weeks ago, where the judge was talking to -- got a
2 note from one of the jurors and said I need to talk to you.
3 They brought the juror in and he said some of the jurors are
4 back there talking about this case. And the judge brought
5 the jurors in and said, have you been talking about this
6 case. They said, oh, no, judge we were just going over some
7 of the evidence. So that -- you can't, you don't do that.
8 You can't discuss the case in any way with one another until
9 you begin your deliberations and the reason is that we want
10 you to have a full picture before you begin your
11 deliberations and not let anybody make up your mind for you,
12 so to speak.

13 After lunch you're going to hear the attorney for the
14 plaintiff make what's called an opening statement where he
15 will explain to you what he believes the issues are in this
16 case. We'll also hear the attorney for the defendant make
17 an opening statement and he will tell you what he believes
18 the issues to be. What the attorneys tell you is not
19 evidence in this case. They are just pointing out issues to
20 you.

21 From time to time the attorneys may need to approach or
22 they may need to take up a matter of law outside your
23 presence. I tell you this just to say that we are not
24 hiding the ball from you in any way. We'll be brief if we
25 have any matters to take up, however, sometimes when ruling

1 on the matters of law sometimes I have to make a comment on
2 the facts and so as not to influence you in any way we will
3 excuse you to your jury deliberation room or I'll call the
4 attorneys to the bench if it's something very short.

5 You are going to have to determine the believability of
6 the witnesses in this case. You -- that is solely at your
7 discretion to determine the believability of the witnesses.
8 You may do that the same way you do in your everyday life.
9 You look at how someone acts on the witness stand. You
10 think about whether that person has any bias or interest in
11 the outcome of the case. You look at any physical evidence
12 that might have been presented to see how that matches up.
13 And from that you will determine who in this case you
14 believe. You can believe part of a witnesses testimony or
15 none of witnesses testimony or all of a witnesses testimony.
16 That is in your discretion and you may use anything in the
17 record that will help you to determine the credibility of
18 the witness.

19 Now I'm going to ask you in a just a moment to step to
20 your jury deliberation room and I'm going to ask you to pick
21 a foreperson in this case. You'll choose that from among
22 the twelve, not the alternate in this case. So from the
23 twelve of you and that person will sit in this seat right
24 here where this lady is sitting right now and you will sit
25 there for the balance of the trial.

1 Let's see -- Ms. Peay, you are our alternate in the
2 case. It is a short case. If something were to happen, if
3 I would need to remove a juror, which I sincerely hope I
4 would never have to do, but if I were to have to remove a
5 juror for some reason then you would step in and act as one
6 of the twelve jurors just as if you'd been one of the twelve
7 jurors all along.

8 I thank you all so much for your service. I am going
9 to have to ask and remind everyone to please be attentive
10 throughout the trial and if anyone wants to take a break at
11 any time, if you need to stand, to stretch or to do anything
12 like that, we can do that but I must insist that you be
13 attentive throughout the entire trial otherwise I'd have to
14 deal with that situation.

15 All right, that being said I'm going to excuse you for
16 kind of a long lunch break. I will give you until 1:45. The
17 bailiffs are going to show you where the jury deliberation
18 room is and if you will go in there, in the jury
19 deliberation room so you'll know where to return to, but
20 also take a moment and choose the foreperson. The
21 foreperson in this case, as in any case, they will simply
22 lead the discussion in the jury room. That person will also
23 sign and date the verdict form when you come up with a
24 verdict, but I do need for you to choose someone from among
25 the twelve.

1 Again, I say on behalf of the attorneys in this case
2 and everyone in this case thank you so much for your service
3 and I will see you back at 1:45. Thank you.

4 (Jury out for lunch at 12:03 p.m.)

5 THE COURT: All right. I'm going to take some time
6 over the lunch break to read this conversation and I'll have
7 a ruling when we come back from lunch. Let's plan to
8 reconvene at 1:30 just to up the matters and then we'll be
9 ready to begin taking testimony in this case.

10 All right. Anything else before we break?

11 MR. WHITE: Nothing from the plaintiff.

12 MR. CURIALE: Nothing, Your Honor.

13 THE COURT: All right. Thank you.

14 (Court in recess for lunch at 12:04 p.m.)

15 (Court in session after lunch at 1:42 p.m.)

16 THE COURT: Please be seated.

17 I had an opportunity to review the transcript over the
18 lunch break. I had an opportunity to review the transcript
19 over the lunch break. And Mr. White my concern is that
20 while reading it I'm having a difficult time finding where
21 there is a statement against interest in this transcript. I
22 think there is some very -- I guess vigorous debate between
23 the two about -- about their opinions of the case or the
24 situation, but I don't see -- I'm having a difficult time
25 reading certain parts that would be clearly a statement

1 against interest. I know there are places where he said I
2 don't want -- I wouldn't take you out of your home. And I
3 -- but as I understand the case I don't see that as a
4 statement against interest because I assume this is the time
5 in which he was ^{lie} paying his rent or whatever it was and
6 furthermore, am I correct -- we talked about this briefly
7 this morning, but I -- am I correct, you've got a valid
8 eviction order that ^(lie) was unappealed from magistrate's court?

9 MR. CURIALE: The magistrate was unappealed on an
10 eviction order, Your Honor.

11 THE COURT: Okay.

12 MR. WHITE: Mr. Barnes did file an answer where he did
13 bring up the title to the property but he -- was put out on
14 the street. So --

15 THE COURT: Sure, sure. You're saying it is on appeal.

16 MR. WHITE: No. No.

17 THE COURT: It was not appealed?

18 MR. WHITE: It was not appealed. He was put out of the
19 house.

20 THE COURT: Right. So evicted, an unappealed order.

21 MR. WHITE: Right.

22 THE COURT: In some ways this feels like a collateral
23 attack on the unappealable order. Do you have a response?

24 MR. WHITE: There was no ruling on whether the house -
25 - by the magistrate. Said that's not something I want to

1 get into. So that matter is unsettled.

2 THE COURT: Okay. All right. What in this transcript,
3 anything that you see that is clearly a statement against
4 interest. I will tell you that to a person just seeing this
5 transcript and reading it and I read it two or three times
6 over -- I read it entirely twice and read certain portions
7 of it three times. The transcript itself is somewhat
8 confusing in parts.

9 MR. WHITE: It is. It does -- there is in the
10 transcript itself. Mr. Geiger is giving Mr. Barnes the
11 impression that this is your home. Yes, I'm going to get
12 the property at some point.

13 THE COURT: But even if you were to give him that
14 impression, this is your home and I'm going to give the
15 title -- he clearly -- the statements that he makes in the
16 transcript, at least my reading of it, is he says -- it
17 looks like they're talking about giving title over and the
18 defendant in this case says yes, I'm happy to give title
19 over, but the payoff amount is different than what's on the
20 statements, on the mortgage statement. In other words, you
21 know, he's saying you've got to pay off the mortgage to get
22 this house, and if I'm understanding that didn't happen; is
23 that correct?

24 MR. CURIALE: That's correct, Your Honor.

25 THE COURT: I think there are certainly places where

1 there is not a meeting of the minds here, but I don't see
2 any place where the defendant ever said that he was supposed
3 to give -- that he was supposed to sign this house over at
4 some point. And is there anything in writing like a lease
5 to own?

6 MR. WHITE: No, Your Honor. That's why we're here.
7 Mr. Barnes was given the impression that this is your house
8 and you make the payments and it's going to be yours.

9 THE COURT: Well, that's my question. If -- if there's
10 nothing in writing about it being a lease to own, he's
11 living there and making payments -- I believe the Landlord
12 Tenant Act is what controls in this case and it's --

13 MR. WHITE: There's been no motion for summary
14 judgment. I haven't had an opportunity to brief that.

15 THE COURT: I understand, but I'm just saying that this
16 is a lease agreement that's not in writing. I just don't
17 know how we make the jump that there's any evidence here
18 that it's so -- that -- let me say this, I've got some real
19 concerns, I haven't heard your evidence yet, but I've got
20 some real concerns that, for instance, on the unfair trade
21 practices -- I tell you what, let's go off the record for
22 just a minute.

23 COURT REPORTER: We are off the record.

24 (Off the record bench conference with counsel and the Court
25 in Judge Gee's chamber at 1:47 p.m until 2:02 p.m.)

1 THE COURT: All right. Here's what I'm going to do.
2 I'm going to allow -- and I understand Mr. Curiale that you
3 certainly have an objection to this -- I'm going to allow
4 pages two through five of the transcript in. The remainder
5 I'm going to exclude pursuant[?] to hearsay and there are large
6 portions that I think we all agree on but haven't gone
7 through and necessarily taken out, but they are completely
8 irrelevant to this particular action and the remainder of
9 the transcript I find would be extremely confusing to a
10 jury. Yes, sir.

11 MR. CURIALE: I would just ask that the last line of
12 page 5 it talks about the mother giving him money?

13 THE COURT: Yeah. What we started getting into the
14 money it'll stop and it will end at line seventeen. Five
15 through line seventeen, and the remainder of it -- I'm not
16 going -- I'm won't allow it to be admitted.

17 MR. CURIALE: You're not allowing -- the question if
18 the mother would give him money?

19 THE COURT: Oh, I'm sorry. Back -- I'm sorry. I
20 thought that's where it started. Okay. I'm sorry. It will
21 go through line twelve. I apologize. Through line twelve.

22 MR. CURIALE: Thank you, Your Honor.

23 THE COURT: All right. Are we ready to bring the jury
24 back in?

25 MR. WHITE: Plaintiff is ready, Your Honor.

1 THE COURT: Is defense ready?

2 MR. CURIALE: Yes, Your Honor.

3 THE COURT: All right.

4 Mr. Barnes, Mr. Barnes, I understand that -- I
5 understand that this might be one of your first times in
6 court, but that mic is picking up what you say. I'm not
7 listening to it. I'm not listening to it. I just want to
8 let you know that just in case.

9 MR. BARNES: Thank you, Your Honor.

10 THE COURT: All right.

11 (Jury in at 2:04 p.m.)

12 THE COURT: Ladies and gentlemen, thank you so much for
13 your patience with us. I assure you we were working while
14 y'all were waiting. Just hammering out a few things to make
15 this case go even more quickly, hopefully.

16 All right. Mr. White, are you ready to give your
17 opening statement?

18 MR. WHITE: I am, Your Honor.

19 Good afternoon. On behalf of Mr. Barnes, I want to
20 thank you for your service here this afternoon. Outside of
21 military service this is the highest service you can do for
22 your country. Mr. Barnes, himself, is an Air Force veteran,
23 and we're here today seeking justice on Mr. Barnes' behalf
24 in a confused, crooked situation that we're trying to
25 straighten out.

1 Mr. Barnes in about 2000 was married, had a home. He
2 was in a pretty serious automobile accident. As a result of
3 that accident his wife left him. In a depressive state she
4 quit paying his bills. About the same time he lost his job
5 and he found out he was way behind on his mortgage and his
6 house was about to go into foreclosure. Mr. Barnes was
7 acquainted with Mr. Geiger. Mr. Geiger said, well, I've got
8 good credit, I can help you out here. So he was going to
9 help Mr. Barnes out and Mr. Barnes was going to make
10 payments to him and Mr. Barnes' understanding of the
11 situation was that he would make a few months payments and
12 he would get his title back from the foreclosure. He would
13 get his house back. And for many years, Mr. Barnes paid not
14 only Mr. Geiger for the mortgage, he paid the mortgage on a
15 ^{*} HUD mortgage he had. But every intention, every thought was
16 Who paid all his bills 2001-Feb-2002
17 this is my home. And when he talked to Mr. Geiger and he
18 asked Mr. Geiger, I need some paper work and I need to get
19 title back in my name.

19 So Mr. Geiger had everything off the books. Mr. Barnes
20 is not a sophisticated person and had no other choice. As
21 sailors say, any port in a storm. This was his only way of
22 keeping his house. He went along with it although it was
23 done off the books. Not a happy situation but not a
24 situation he had any help in. So he paid off the HUD loan, (2011)
25 he bought a piece of adjoining property, thinking this home

1 is mine because Mr. Geiger had said this home was mine. And
2 then he wouldn't convey title to Mr. Barnes and Mr. Geiger
3 went to the magistrate and put him out on the street.
4 Evicted him. That's a very twisted and crooked situation,
5 but it's a situation that came from Mr. Geiger wanting to do
6 things off the books. Mr. Geiger is a bit more
7 sophisticated than Mr. Barnes.

8 That's where we are today and we're just asking you to
9 listen to the evidence and you make some sense out of it and
10 straighten it out. Thank you.

11 THE COURT: Thank you, Mr. White. Mr. Curiale.

12 MR. CURIALE: Good afternoon. My name is Philip
13 Curiale, I'm with the law firm of Brian Boger. I represent
14 Mr. Geiger.

15 I understand Mr. Barnes is confused. I feel bad for
16 him about the confusion, but that confusion doesn't give you
17 a right to property if you're losing in [?] ~~foreclosure~~ ^{NA}.

18 Unfortunately that can happen. Mr. Barnes actually -- the
19 property was sold. Mr. Geiger took it upon himself to buy
20 it from the bank [?] after foreclosure. Of course, the bank
21 brought it back. I'm not sure if you're familiar with the
22 way a foreclosure works. Once the foreclosure happens the
23 property is gone. Mr. Geiger bought it back from the bank. ^{? lie}
24 He bought it from the bank at essentially market value. It
25 was a lesser value that what was on the mortgage beforehand.

1 He bought it back under his own name, he titled it under
2 himself. He agreed to allow Mr. Barnes to live in the
3 residence while paying the mortgage rate for rent. He
4 didn't actually ask for any rent, but the mortgage rate and
5 to pay taxes and insurance. We all have mortgages and are
6 aware of how the mortgage system works.

7 Mr. Geiger then -- the agreement originally was buy the ^(Lie)
8 property back from Mr. Geiger. That was supposed to be
9 within a certain time frame. And that time frame didn't
10 occur until ^(Lie) 2002 or 2003 or so. Because of that Mr. Barnes
11 continued making payments, making payments on the rent
12 essentially. Never sought financing for himself to buy the
13 property back. Never received -- never sought a contract to
14 purchase the property. Never took any action whatsoever to
15 buy the property back. After a couple of years, many years
16 went by he thought he could just get the title back because
17 he had been paying it for so long. You know you don't get
18 the title back if you're paying ^(Lie) rent or paying some of the
19 mortgage. That's not how it works. So he decided he didn't
20 want to pay the mortgage any more or the rent. So he was
21 actually evicted because of that because Mr. Geiger can't
22 afford to pay a mortgage for a second house without income
23 from that mortgage. He does not live in this residence. He
24 was primarily doing it as a ^(Lie) service to a friend. After the
25 eviction took place -- let me back up here. There was an

1 incident that took place that we allege happened. There was
2 an alarm system installed in property and in order to have
3 it installed you have to have the ^{Lie} owners of the property
4 which is Mr. Geiger, the owners ^{Lie} social security number as
5 well as his signature. ^(Lie) Mr. Geiger never provided that
6 information yet somehow it was installed. So we allege that
7 Mr. Barnes had the social security number as well as signing
8 the necessary paper work that was required to install that
9 security system. ^(Lie) That's part of our identify theft claim. ^(Lie)

10 What we are going to show you today is that there was
11 no contract and that Mr. Geiger has rightful and full
12 ownership to this property regardless of what happened
13 during the time of that tenancy. I believe you will be
14 able to see that justice will be done if you rule in favor
15 of Mr. Geiger. Thank you.

16 THE COURT: Thank you.

17 Mr. White, are you ready to call you first witness?

18 MR. WHITE: I am, Your Honor.

19 THE COURT: All right.

20 MR. WHITE: I call Nathaniel Barnes.

21 THE COURT: All right, sir. Come forward and be sworn.

22 (WHEREUPON, Nathaniel Barnes
23 was duly sworn.)

24 THE CLERK: Thank you. Take a seat in the witness box
25 and state your name for the record, please.

1 MR. BARNES: My name is Nathaniel Earl Barnes, Sr.

2 NATHANIEL BARNES - DIRECT EXAMINATION

3 BY MR. WHITE:

4 Q Mr. Barnes, are you a veteran?

5 A Yes.

6 Q Tell us about your service?

7 A I joined the military in 1962 as an aircraft mechanic.
8 And I had an honorable discharge in 1966. I joined a second
9 entrance as an aircraft mechanic. I was discharged in 2007 -
10 I mean 1970 as an aircraft inspector. Then I worked for the
11 highway department and I got hurt on there and I got
12 disability retirement in 2003 as an ~~aircraft~~ ^{graph} engineer.

13 Q And have you been married?

14 A I've been married four times; I've got four kids.

15 Q Could you tell us what happened to your last marriage?

16 A My last marriage, after I got hurt on the job, my wife
17 decided she didn't want to be married no more. She didn't
18 pay no bills and stuff like that. I didn't know it until I
19 got hurt and as I was coming home from the hospital she gave
20 me the foreclosure[?] on my house and told me she didn't want
21 to be married no more. Then twenty minutes later the highway
22 department called and the boss said they'd fired me at the
23 same time. So now I'm out of work. I've got bills to pay
24 and I can't pay them.

25 Q Well, what did you do?

1 A. Well, Gary Geiger is a friend of a friend of mine,
2 which is -- he told me that Gary had good credit and
3 everything by working at this computer business. I needed
4 money and I needed money quick or I lose my house. So what
5 happened, Gary came over and agreed to stand in for me and
6 pay the bill for me. My mama told me that she didn't want
7 me to lose my house so she took a loan out on her house and
8 give the money to Gary Geiger --

9 MR. CURIALE: Objection, Your Honor.

10 A to take down to the courthouse.

11 MR. CURIALE: He can't say that.

12 THE COURT: Well, I'll allow him to testify on something
13 that was done, not said. Go ahead.

14 A Well, she gave the money to Gary Geiger to pay the
15 bills, go down to the courthouse, because me not having a
16 job nobody wouldn't talk to me because I didn't have no
17 income coming in, but at the same time I had Social Security
18 check coming in but it hadn't started yet. So Gary say he
19 will do the paper work and go down there and pay the bill
20 for me. My mama gave him the money so he went down there
21 and paid it. Then I had said when he paid it to bring me
22 the paper work that he signed but he never did. I asked him
23 for fourteen -- thirteen years to give me the paper work he
24 never gave it to me, but every time he came to my house I
25 asked him for the paper work. He never gave it to me, but

1 in the meantime, for thirteen years he was trying to put me
2 out of my house. Every time he come to my house he tell me
3 I got to pay a loan that he took out on the house that I
4 didn't sign for. If I didn't pay the loan I had to get out.
5 But I wasn't going to get out. I've been in my house since
6 1974, and I ain't had no reason to get out of my house. I'm
7 thinking that the bill already been paid down to the
8 courthouse, but I'm paying HUD out of my check, my Social
9 Security check, and I didn't get through paying for the HUD
10 loan until 2012. They took my house in 2002. I don't how
11 they can do that, I've got a loan on my house I'm paying.
12 And I asked him how he did that. He didn't tell me how he
13 did it. He just told me his name on there and he done made
14 a loan, he made a loan on my house for \$82,000 and I have to
15 pay or get out. He done worried me for thirteen years and
16 I'm about to go crazy about it. I am.

17 Q What was that agreement when you talked to him?

18 A He told me -- well, when he went down there and paid he
19 supposed to have brought the paper back, that paper work
20 back to me because that was the bill he had to pay, not
21 buying my house. But he went down there and told the people
22 that he was buying my house. He wasn't buying my house. He
23 was going to payt he bill that I owe. And my mama give him
24 the money to do that. Then he bring me a mortgage that he
25 done took out the house for \$82,000 two years later and I

1 got to pay it. And I paid it because I didn't want to get
2 thrown out my house. No lawyer wouldn't take it because Mr.
3 Strickland had his name on there where he done signed the
4 title off saying it was legal. I talked to Mr. Strickland,
5 Mr. Strickland said -- he looked at it and checked it and he
6 say well all I can tell you, Mr. Barnes, you need to get you
7 a lawyer, because he admit -- actually he admit he did
8 wrong, because he didn't check my title --

9 MR. CURIALE: Your Honor, objection.

10 A -- to see whether my title --

11 THE COURT: Hold on one second. I'm sorry.

12 MR. CURIALE: He's saying that what Judge Strickland
13 said to him.

14 THE COURT: Sustained.

15 BY MR. WHITE:

16 Q Mr. Barnes, you talked to Mr. Geiger about getting
17 title to your house?

18 A I told -- I been talking to him ever since this
19 happened, about getting the title to my house.

20 Q And what was your understanding about what was supposed
21 to happen?

22 A He told me I need to give him \$17,000 --

23 MR. CURIALE: Objection, Your Honor.

24 A -- before I can even start

25 THE COURT: What?

1 MR. CURIALE: You're saying --

2 THE COURT: And this is from Mr. Geiger?

3 MR. BARNES: Yes, ma'am.

4 THE COURT: All right. I'm going to allow that. Go
5 ahead.

6 A He told me I had to give him \$17,000 before he could
7 even start the paper work to give me my house back. And
8 just lately he told his attorney to tell my attorney to tell
9 me to give him \$6,000 and he'll take his name off my title.
10 And they just did that. I don't think it's fair for him to
11 ask me to pay him for my property.

12 THE COURT: Will the attorneys approach for just a
13 moment.

14 (Off the record bench conference with counsel and the
15 Court.)

16 ③ THE COURT: Ladies and gentlemen, the testimony that you
17 -- the last portion of the testimony that you just heard
18 about offers to buy back a house. Those are to be stricken
19 from the record and you may not consider it in any way.

20 All right, sir. Go ahead.

21 BY MR. WHITE:

22 Q Mr. Barnes, you were talking about the HUD loan?

23 A Yes, sir.

24 Q Could you identify these copies?

25 A Yes. This is the HUD claim that I had on my house and

1 it's got the claim number. The day it started, February 21,
2 2002 and it was closed at October 2, 2012.

3 MR. WHITE: We'd offer this as an exhibit, Your Honor.

4 THE COURT: All right. Any objections?

5 MR. CURIALE: Can we have just a minute, Your Honor.

6 THE COURT: Certainly.

7 MR. CURIALE: I do object, Your Honor. It's not relevant
8 to the case at hand.

9 THE COURT: All right. Just so I'm clear, is the loan
10 secured by this piece of property?

11 MR. CURIALE: It used to be. After the foreclosure this
12 is the loan that was used to purchase the property.

13 MR. WHITE: Actually, that was a home improvement loan,
14 Mr. Barnes took out separately.

15 THE COURT: I think we're going to need a little bit
16 more foundation about what this is, Mr. White.

17 MR. WHITE: All right.

18 THE COURT: So if you would just lay a little bit of
19 foundation with your client.

20 BY MR. WHITE:

21 Q Mr. Barnes, why did you get a loan from HUD?

22 A I got a loan from HUD before I lost my job at the
23 highway department. Before I got hurt. I had -- I was
24 doing some addition to my home and I got hurt and couldn't
25 make the payment. The people took the loan and turned it

1 over to HUD and I was paying HUD when all this went down.

2 Q Did you pay HUD off?

3 A I paid HUD off in 2012. And he took ownership of my
4 home in 2002.

5 Q And why were you making a mortgage paying on this
6 property for HUD?

7 A I was doing renovations to my house. Additions and
8 stuff like that. Add a garage and deck, den. I was adding
9 that to the house. And I got hurt during that process and
10 the only way I could pay it, I had to go through HUD to pay
11 it.

12 THE COURT: Will the attorneys approach.

13 (Off the record bench conference with counsel and the
14 Court.)

15 THE COURT: All right. And so just to put this on the
16 record, Mr. White, if I'm understanding this was a home
17 improvement loan that was taken out prior to foreclosure on
18 the first mortgage; is that correct?

19 MR. WHITE: Yes, Your Honor. And paid of after --
20 afterward.

21 THE COURT: It was paid off afterwards. Mr. Geiger was
22 not involved in that transaction in any way; is that
23 correct?

24 MR. WHITE: No, he was not.

25 THE COURT: All right. I'll sustain your objection to

1 that. All right. Go ahead.

2 BY MR. WHITE:

3 Q Who lives in the property in question?

4 A Who live there now?

5 Q Who lived there after the foreclosure.

6 A I did. I lived at 612 Scarsdale Drive until 14 months
7 ago until I was evicted on a -- excuse my language -- on a
8 lie, because Gary told the magistrate that I was a renter
9 and I had paper in the courthouse showing that I wasn't no
10 renter that I was an owner. And I filled out paper work
11 when I went to the magistrate that it was a property
12 dispute. And he told the judge that I was a renter and the
13 judge evicted me from my house and I lost all my stuff and
14 everything because of that.

15 Q Who were you making payments to during this fourteen
16 year period?

17 A I sent it to him, Gary Geiger. On a financed loan.

18 Q And do you have receipts --

19 A Yes, sir.

20 Q Can you identify these?

21 A That's 99 percent of all the receipts I sent to Gary
22 Geiger.

23 Q So you were getting back these payments?

24 A I was supposed to be getting my house back. No, I was
25 supposed to get him name off my mortgage. But he refused to

1 take his name off.

2 Q Why did he refuse to take his name ^{my talk} off your ^{his} mortgage?

3 A Well, at the end he told me he need to move in the
4 house, he wasn't going to sell the house. He needed to move
5 in the house and stay there and take ^{care} of his sick mama.
6 That's what he told me. He never lived in my house. Never.

7 MR. WHITE: We'd offer these receipts in evidence.

8 MR. CURIALE: I have no objection, Your Honor.

9 THE COURT: All right. They will be so admitted as a
10 group exhibit, Plaintiff's Exhibit No. 1.

11 (Plaintiff's Exhibit No. 1, group
12 of receipts, was marked and entered.)

13 BY MR. WHITE:

14 Q Did you know from conversations with Mr. Geiger about
15 staying in your home?

16 A Yes, I did.

17 Q And what did he say?

18 A He told me he would talk to me when he come down on the
19 weekend about the situation about him and his mama and him
20 moving in the house. And that's the last time I had a
21 conversation with him.

22 Q Refer to that conversation, what had he told you about
23 you staying in the house?

24 A He told me I wasn't -- I wouldn't tell you to move out
25 the house but we'll work on something. That's it.

1 Q What did he tell you regarding your getting title to
2 the house?

3 A He talked about if you want to pay it off with the
4 title I'm to have to get all this paper work together to see
5 what we can come up with, but he never did that.

6 Q He never did that; how often did you ask him about the
7 title?

8 A I asked him every time I seen him, most of the time,
9 but he tell me he forgot. He forgot.

10 Q Was there any reason for him keeping it off the books?

11 A That's the only reason I can think of, he wasn't going
12 to give it to me.

13 Q Did you have a telephone conversation with Mr. Geiger
14 regarding this?

15 A Yes. Yes, I did and he told me we'll just have to get
16 together on it. He said if you pay it off, if you want to
17 pay it off you can pay it off. And then it's going to be a
18 penalty on it, which I found out later wasn't no penalty on
19 the loan that he got. I even been to the company and the
20 company say wasn't no penalty, but he told me was a penalty
21 on it. He didn't have nothing to say about that, but I just
22 wanted to get his name off my title.

23 Q Is this a DVD of --

24 A Yeah, that's the DVD I had made.

25 Q And --

1 A A conversation between Gary Geiger and myself. And he
2 said the house was mine.

3 MR. WHITE: And subject to the Court's ruling we'd offer
4 the first portion of this DVD into evidence.

5 THE COURT: All right. Ladies and gentlemen, I've
6 reviewed the transcript of this DVD. Let me just explain
7 this to you. I've reviewed the transcript of the DVD. I
8 have determined that only certain portions of this
9 conversation are relevant to this action, and we've talked
10 about specifically which ones. Although the DVD will be
11 admitted I'm not going to allow you to use that in your
12 deliberations. Rather you can use a written transcript of
13 that. Just so there's no confusion whatsoever, plus, I
14 think the transcript would be a little clearer, as well.

15 Yes, sir. So that's Plaintiff's Exhibit No. 2.

16 (Plaintiff's Exhibit No. 2, DVD,
17 was marked and entered.)

18 COURT REPORTER: Plaintiff's No. 2, Judge.

19 THE COURT: Thank you.

20 MR. WHITE: Should be play it for the jury or read from
21 the transcript or what?

22 THE COURT: I don't mind if you just read from the
23 transcript those certain lines that we discussed.

24 MR. WHITE: All right. This is a transcript that a
25 court reporter has done from the audiotape that the

1 plaintiff thinks has to do with his understanding of what
2 was wrong with this house -- This is Mr. Barnes: Well I need
3 you to let me know what's going on with my -- with this
4 house. I've been trying to get you to change this thing
5 back to my name for ten years and it seems like you ain't
6 going to do that. You've been trying to do what, now -- I
7 said I've been trying to get you to change this house back
8 in my name for ten years and it seem like you ain't going to
9 do that. Man, you know that wasn't the case -- this is Mr.
10 Geiger -- Now, I wasn't going to sign my name obligating me
11 for nothing when you was trying to get that worked out. I
12 never tried to deny you from getting the house back. I know
13 you told me the last time you was going to pay the whole
14 thing off. That's what you're trying to do now then I need
15 to go ahead and initiate the amount process.

16 THE COURT: The amount, the payoff amount.

17 MR. WHITE: And then we've got Mr. Barnes: What -- you
18 need to get me straight in my head as to what I have been
19 holding in my head for ten years. I think I got this wrong
20 idea of what gone on with this house. What's wrong man?
21 Well, you -- the loan took over the house you were supposed
22 to have it back, you never did get back to me. Then -- Mr.
23 Geiger -- Now, you can get it back any time. Mr. Barnes:
24 Now, when? Mr. Geiger: You know if you want to sign it, you
25 know, sign it back over the only thing to do is the payment

1 is not the same as on the mortgage they send you on the
2 statement. That's --

3 THE COURT: And then just so we're clear, if you would
4 continue to read until page five, line twelve. Start with:
5 You have to submit.

6 MR. WHITE: You have to submit them for a payoff. They
7 say if you pay it off early there is going to be a penalty
8 they are going to charge you. You know how them damn banks
9 want to make all that money. There's a charge to give you a
10 payoff so it will be a little bit higher than what is
11 actually on the monthly statements. Mr. Barnes: Well -- Mr.
12 Geiger: There are some people that I can call and initiate
13 that if you're ready to pay it off and get it back over in
14 your name. Mr. Barnes: Well, but -- Mr. Geiger: I don't
15 have any problem with that.

16 BY MR. WHITE:

17 Q. Did you have other conversations?

18 A. No more conversations.

19 Q Well, what happened with the payments?

20 A I had Grace Foundation, a company that helps G.I.
21 personal problems and property problems and what they do is
22 they help G.I. get their problems straightened out. What it
23 is is Mr. James Bend, the founder of Grace Finance they
24 investigated my property and history and they found out that
25 Gary Geiger was pulling a scam on me.

1 MR. CURIALE: Your Honor --

2 THE COURT: Sustained.

3 A He advised me --

4 THE COURT: Excuse me. Strike that. Anything that
5 someone else said or found is not admissible. All right.
6 Go ahead.

7 BY MR. WHITE:

8 Q Mr. Barnes, is there a second piece of property in
9 addition to your home?

10 A Yes, adjoining to the rear of it.

11 Q And when did you purchase that property?

12 A I don't exact know what year it was. I can't remember
13 right now what year it was.

14 Q Can you identify this document?

15 A The 30 March 2004.

16 Q What is that document that you are looking at?

17 A It's a copy of my deed to my property, my second piece
18 of property behind the property we're talking about.

19 Q Well, when did you purchase that property?

20 A I purchased that property to make my yard bigger. I
21 didn't have no yard outside the building then.

22 Q This picture on the back of this --

23 A This picture right here shows two piece of property.
24 Probably one -- probably two acre house and probably one on
25 my property that I just bought.

1 MR. WHITE: We'd offer that as an exhibit.

2 MR. CURIALE: Objection to relevancy.

3 THE COURT: I'm going to allow that. Plaintiff's No. 3.

4 MR. CURIALE: Also, is this supposed to be recorded?

5 MR. WHITE: That's what we have.

6 MR. CURIALE: I'm going to object -- this is a copy but
7 I have not seen the original and there are no recorded marks
8 from the county. I don't know everything about the deed.

9 THE COURT: I'm still going to allow it and it will just
10 go to the weight of the evidence.

11 MR. CURIALE: All right, Your Honor.

12 THE COURT: Y'all want to get that and get it marked as
13 Plaintiff's No. 3.

14 (Plaintiff's Exhibit No. 3, deed,
15 was marked and entered.)

16 COURT REPORTER: Plaintiff's No. 3, Judge.

17 THE COURT: Thank you.

18 BY MR. WHITE:

19 Q Mr. Barnes, what happened with respect to that second
20 piece of property?

21 A Well, the magistrate restricted me from going on my
22 second piece of property when he restricted me from going to
23 my home. In the second piece of property I got storage on
24 that second piece with my furniture and my lawn mower and
25 all that stuff in it. And I have '84 Seville Cadillac parts

1 there also, which he had towed away, my '84 Cadillac. Gary
2 Geiger had it towed away. He had my dogs and my cat took
3 also that I had on that land. He cut the locks on the fence
4 and took my dog and my cats. I raised all of them from
5 babies and that hurt me.

6 Q Did you get the Cadillac back?

7 A I never get my Cadillac back. Matter of fact, -- that
8 he used, the magistrate told the sheriff department that all
9 that all that stuff back there belonged to Gary Geiger so I
10 couldn't go on the property to move it. I couldn't get my
11 stuff.

12 Q What was the value of the Cadillac?

13 A I wanted \$30,000 for the Cadillac because it's got
14 47,000 miles on it.

15 Q What was the value of the property you had in the
16 storage building?

17 A I had about \$27,000 worth of tools and stuff in it,
18 plus my riding lawn mower and all my tools.

19 Q Do you know the total of payments you made to Mr.
20 Geiger on your house?

21 A The last thing I remember was \$100,500.00 I gave him,
22 straight up. Not counting the money he requested from me on
23 the side that he really need in emergencies.

24 Q How much was that?

25 A Well, I hadn't added them up but one was \$700 one time,

1 \$1300 one time. He come call me in the middle of the month
2 and say, look I need this money right now and you got to
3 come up with it and I had to come up with it.

4 Q What was that money for?

5 A Something he wanted -- I don't know. He said I need to
6 pay me neither. I asked for receipts for that. He give me
7 no receipt. He just threaten to put me out if I don't give
8 it to him.

9 Q And that didn't go to your mortgage?

10 A No, didn't go to no mortgage. That was money on the
11 side that he wanted.

12 Q Can you identify this document?

13 A This is what was said from Mr. Strickland the Master in
14 Equity.

15 Q When your property was foreclosed on?

16 A Right.

17 MR. CURIALE: No objection.

18 THE COURT: All right then, it will be admitted as
19 Plaintiff's Exhibit No. 4.

20 (Plaintiff's Exhibit No. 4, Master
21 in Equity documents, was marked and entered.)

22 BY MR. WHITE:

23 Q I'll ask you if you can identify that?

24 A Yeah, it's a special warranty deed from GE Capital
25 Mortgage for \$82,000. And this is the \$82,000 he brought me

1 a paper saying \$82,000 from City Finance Mortgage that I had
2 to pay, same amount.

3 MR. WHITE: We'd like to admit this.

4 MR. CURIALE: No objection.

5 THE COURT: All right. Plaintiff's --

6 (Plaintiff's Exhibit No. 5, special
7 warranty deed, was marked and entered.)

8 COURT REPORTER: Plaintiff's No. 5, Judge.

9 THE COURT: Thank you.

10 BY MR. WHITE:

11 Q Do you know how many times you discussed with Mr.
12 Geiger giving you title to your property?

13 A I know at least six years of that time I asked him out
14 of the twelve years, I asked.

15 Q Did you ever get any sort of paper work from him?

16 A None. Nothing but that loan that he made to City
17 Finance.

18 Q Did you want paper work as to what was supposed to
19 happen?

20 A I wanted paper work but he never gave it to me.

21 Q And what did -- when did this come to a head when did
22 you decide you weren't going to get it?

23 A When this other business suggest that I don't give him
24 no more money. But at that time I was sending him \$777 a
25 month.

1 Q All right. I want you to answer any questions Mr.
2 Curiale has.

3 THE COURT: Yes, sir.

4 NATHANIEL BARNES - CROSS-EXAMINATION

5 BY MR. CURIALE:

6 Q Mr. Barnes, I just have a few questions for you.

7 A Excuse me?

8 Q I just have a few questions for you. Where are you
9 living right now?

10 A I living 353 Nina Lee Drive.

11 Q Would it be 359 Nina Lee?

12 A Excuse me. I can't hear you.

13 Q Would it be 359 Nina Lee? When did you buy that
14 property?

15 A April.

16 Q Of this year?

17 A (Nods in the affirmative)

18 Q What year were you divorced?

19 A 2003.

20 Q Do you have a written contract with Mr. Geiger --

21 A No.

22 Q -- regarding the purchase of the property? Is your
23 name on the deed currently of the property?

24 A No.

25 Q No. Was your name on the mortgage that your attorney

1 gave up to you just a minute ago?

2 A Yes.

3 Q It was on that mortgage? Can I see that mortgage
4 again? Can you show me, please where your name is on that
5 mortgage?

6 A No, I'm wrong. That's the special warranty. Wasn't on
7 that.

8 Q Thank you. You mentioned that Mr. Geiger towed your
9 car. Where was the car located at the time it was towed?

10 A On my second lot. 612 Scarsdale.

11 Q How do you know that he was the one that towed your
12 car?

13 A Because the person who towed it told me he had it
14 towed. I was there when he towed it.

15 Q How close is your second lot?

16 A They are hooked together.

17 Q Hooked together?

18 A Matter of fact I got --

19 Q Do you have photographs or any evidence to show us that
20 your car was on that lot?

21 A Yes, behind my shed.

22 Q Do you have any evidence like a photograph or a video
23 going to prove it's location?

24 A I have some at home. I ain't got it with me.

25 Q You don't have anything? Who released the animals from

1 your shed?

2 A I don't know. He broke down my sign and stuff that I
3 had out there, No Trespassing. And neighbors across the
4 street said he got rid of them, had the dog pound come and
5 get them.

6 Q So you weren't there --

7 A The lady at the dog pound place say he did.

8 Q You weren't there when the animals were removed?

9 A I wasn't what?

10 Q You weren't there when the animals were removed?

11 A No.

12 Q Why weren't you there?

13 A I was evicted already. They evicted me off the
14 property.

15 Q Do you have any proof or evidence that shows that Mr.
16 Geiger was the one that removed those animals?

17 A I got a witness, but he's not here.

18 Q The recording that Mr. White recited to the jury, the
19 transcript -- I'm sorry -- when was that recorded?

20 A 2013.

21 Q Did you tell Mr. Geiger that you were recording him?

22 A Did I do what?

23 Q Did you tell Mr. Geiger that you were recording him?

24 A No. It was on a telephone recording.

25 Q You stated earlier that your mother gave Mr. Geiger

1 some money. Do you have evidence, records or anything to
2 show that your mother gave money to Gary Geiger?

3 A I don't have none of the paper work.

4 Q Do you know where your Cadillac was towed to?

5 A Yes.

6 Q Where was it towed to?

7 A Off North Main to a guy named (inaudible) garage.

8 Q How much was it going to cost you to get that car back?

9 A I ain't ask.

10 Q You didn't ask?

11 A No, they just bought it because they moved it off my
12 property.

13 Q You didn't try to get the car back from the towing
14 company?

15 A No, because they took it.

16 Q Would you agree with me that Mr. Geiger didn't have
17 possession of that car?

18 A Excuse me?

19 Q You would agree with me that Mr. Geiger didn't have
20 possession of that car; would you not?

21 A No. I don't agree with that because he's the one that
22 had the people to move it.

23 MR. CURIALE: One moment.

24 THE COURT: Mr. White I think he's just checking to see
25 if he has any other questions.

1 BY MR. CURIALE:

2 Q Do you own that Cadillac that was towed?

3 A Yes.

4 Q Do you have title of that Cadillac with you?

5 A No.

6 Q Do you have any proof with you today that you owned
7 that Cadillac?

8 A With me today, no I don't have it with me.

9 Q What proof would you have?

10 A I had the car checked out and registered from the owner
11 that had the car in Tennessee. I had the letter where he
12 sent back. The car was abandoned at the Waffle House. The
13 people at the Waffle House, the owner told me to move the
14 car. I moved the car because it was abandoned at the Waffle
15 House. And I don't had from -- I had it seven years.

16 Q Was it functional?

17 A It was functional.

18 Q It was functional? Did you have a security system
19 installed?

20 A Yes.

21 Q On the property?

22 A Yes.

23 Q Who did you have install that security system?

24 A Iso Electronic (sp).

25 Q Do they require a signature and the approval by Mr.

1 Geiger?

2 A No, by me.

3 Q Just by you?

4 A I signed his name on there and they asked me who name
5 was on the title to the house. And I said Gary Geiger,
6 because Gary Geiger wouldn't sign his name, so I signed his
7 name so I have protection on my property inside my house.
8 He wouldn't let me put a security system in the house. And
9 I didn't use his social security number. That's what he
10 said. But I didn't use it because I didn't know it.

11 Q Do you know what the password was to the security
12 system?

13 A Not now. Been so long ago I done forget it. I got
14 another password.

15 Q Where are the bills for the -- the security company
16 sent?

17 A To me.

18 Q To you?

19 A I was having it taken out of my check at State Credit
20 Union.

21 MR. CURIALE: I have no further questions, Your Honor.

22 THE COURT: All right. Mr. White?

23 NATHANIEL BARNES - REDIRECT EXAMINATION

24 BY MR. WHITE:

25 Q Mr. Barnes, you were asked if there was a written

1 contract. Why wasn't there a written contract?

2 A A written contract for what?

3 Q For your property.

4 A He never brought it up about no written contract for my
5 property. That never was discussed. He was supposed to
6 sign -- pay the bills at the courthouse and bring me the
7 paper work where he paid.

8 Q And you --

9 A And it took about two years later he come with a
10 mortgage on my house.

11 Q All right. You testified Mr. Geiger took down your No
12 Trespassing signs?

13 A He took down my No Trespassing on the property behind
14 the house which I had cordoned off because of my property --
15 I had my valuables in the storage back there plus my dogs
16 and cats. And he had all that removed. Matter of fact, I
17 can't even go in my shed now and get the rest of my stuff.

18 Q How do you know this?

19 A The cop -- about three weeks ago I was down there
20 trying to get my stuff out, he called the sheriff's
21 department and tell them to tell guy who take the stuff off
22 to put it back in the shed because it belonged to Gary
23 Geiger.

24 Q Did your mother and Mr. Geiger ever meet regarding
25 this?

1 A Yes. When I first had the problem with the bills out
2 here in the courthouse.

3 Q And what did Mr. Geiger say?

4 A He said he would help me. Give the money to him and he
5 would take care of the paper work and everything down here
6 by paying the bill for me. That's what he did. But instead
7 of him bringing the receipt and stuff where he paid it he
8 went and took a mortgage out on my house.

9 Q Thank you, Mr. Barnes.

10 THE COURT: Mr. Curiale?

11 MR. CURIALE: Yes, one or two questions.

12 NATHANIEL BARNES - RE-CROSS EXAMINATION

13 BY MR. CURIALE:

14 Q You mentioned you were supposed to pay the bill; what
15 bill are you talking about?

16 A The bill down here for GE.

17 Q Okay. You mean the mortgage?

18 A Uh-huh. (Affirmative response)

19 Q You just mentioned the sheriff's said something about
20 -- repeat that what you said?

21 A He asked me did I have a problem with my property.
22 Well, I went down there to get some of my stuff out of the
23 shed I got on my separate property. And when the guy -- I
24 had my guy load it on the truck, he had the sheriff's
25 department come there and tell the guy to take it off

1 because it belonged to him.

2 Q So the sheriff's department came out from Mr. Geiger?

3 A They made contact some kind of way because the sheriff
4 said Mr. Geiger said all this stuff is his, and the guys had
5 to take it off and put it back in the building.

6 MR. CURIALE: Nothing further.

7 THE COURT: Anything else Mr. White?

8 MR. WHITE: Nothing further.

9 THE COURT: Sir, you can step down.

10 MR. BARNES: Thank you, ma'am.

11 THE COURT: Thank you.

12 MR. WHITE: Plaintiff rests.

13 THE COURT: All right. Ladies and gentlemen, we've come
14 to a point for a break. If you'll step to your jury
15 deliberation room briefly, we'll be back with you in just a
16 moment. Please don't discuss the case with anyone. Thank
17 you.

18 (Jury out at end of plaintiff's case at 3:01 p.m.)

19 THE COURT: We'll take a quick break before we take up
20 any motions.

21 (Court in recess for short break.)

22 (Court in session after short break.)

23 THE COURT: All right.

24 MR. CURIALE: I move for a directed verdict against all
25 the plaintiff's causes of action --

1 THE COURT: All right, and that would be an other than a
2 motion for sanctions. Other than that, that would be
3 decided as a bench matter. Then that would conclude all
4 cause of action for which we'd need a jury. I hate to keep
5 popping up and down, coming in and out, but I'm going to
6 release the jury and then I'm going to come back and hear
7 some argument on sanctions. I will tell you that is a
8 matter that I'd like to take under advisement and give some
9 thought to and look at the file as a whole. But I -- I'll
10 come back in just a moment. I'm literally going to let the
11 jury go and that's it. Thank you.

12 (Jury released at 3:24 p.m.)

13 COURT REPORTER: Mr. White, you can have these exhibits
14 back. They won't go to the clerk.

15 (Plaintiff's Exhibit Nos. 1 through 5 were given to Mr.
16 White.)

17 THE COURT: All right. Thank you. Okay. Yes, sir.

18 MR. CURIALE: Your Honor, the defendant moves that --
19 pursuant to Rule 11 of the South Carolina Rules of Civil
20 Procedure and the South Carolina Torts Claims Act, that you
21 issue an award of damages and attorneys fees and punitive
22 damages for this lawsuit that was due to the purposes of
23 harassment and with no -- not in good faith and without
24 merit. This is has been vicious and on-going for a couple
25 of years now. That's cumulated to this jury trial that he's

1 not be able to attain in over a couple of years that he
2 hasn't been able to obtain just to keep his home which he
3 has no reason for suit.

4 THE COURT: Okay. Anything in response?

5 MR. WHITE: Your Honor, Mr. Geiger has \$100,000 piece of
6 property that is a windfall. So this is not frivolous at
7 all. I understand the lack of trust but still based on Mr.
8 Barnes testimony and his believes it certainly wasn't done
9 for harassment. He has no reason for harassment. He was
10 interested in trying to keep his home.

11 THE COURT: And in no way do I -- am I meaning in any
12 way to embarrass Mr. Barnes, I just want to ask a couple of
13 quick questions of you, Mr. White.

14 Your client served in the military; that's right?

15 MR. WHITE: He did, Your Honor. He was in the Air
16 Force.

17 THE COURT: And did he -- how far did he go in school,
18 do you know?

19 MR. WHITE: He says he has an associate's from Midland
20 Tech.

21 THE COURT: All right. Good.

22 MR. WHITE: He is suffering from PTSD.

23 THE COURT: Okay. That was my next question. I thought
24 I understood from his testimony he might have been under
25 some form of treatment from the VA; is that correct?

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

MR. WHITE: Yes. That's for PTSD.

THE COURT: Okay.

MR. WHITE: He is under treatment for PTSD.

THE COURT: Has he had any other diagnosis from the VA?

MR. BARNES: Diabetes.

THE COURT: Okay. All right. I'm going to take those factors into consideration and I certainly will take into consideration my ruling as to a directed verdict on the case. And I'll be issuing a decision on that very shortly.

Thank you very much.

MR. WHITE: Thank you, Your Honor.

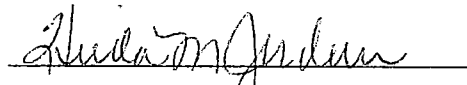
(This proceeding was concluded.)

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

C-E-R-T-I-F-I-C-A-T-E

I, THE UNDERSIGNED HILDA M. JORDAN, CVR-M, OFFICIAL COURT REPORTER FOR THE FIRST JUDICIAL CIRCUIT OF THE STATE OF SOUTH CAROLINA, DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE, ACCURATE AND COMPLETE TRANSCRIPT OF RECORD OF THE HEARING IN THE CAPTIONED CAUSE, IN THE COURT OF COMMON PLEAS FOR RICHLAND COUNTY, SOUTH CAROLINA, ON THE 3 DAY OF AUGUST, 2015.

I DO FURTHER CERTIFY THAT I AM NEITHER OF KIN, COUNSEL, NOR INTEREST IN ANY PARTY HERETO.



Hilda M. Jordan, CVR-M

November 23, 2016