

THE STATE OF SOUTH CAROLINA
In the Supreme Court

APPEAL FROM FLORENCE COUNTY
Court of Common Pleas
Honorable R. Knox McMahon

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S.C. SUPREME COURT

Case Nos. 2013-CP-21-1334 and 2013-ES-21-190
Court of Appeals Case No. 2013-002810

In the Matter of the Estate of Eris Singletary Smith

In re:

Eris Gail Smith, ... Petitioner,

v.

Judy Smith Jones, Jacquelyn Brown, James Ervin
Smith, Timothy David Smith, Jamie Smith, and
Mikie Smith Defendants,

Of whom Judy Smith Jones is the Respondent.

APPENDIX
VOLUME ONE

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THE STATE OF SOUTH CAROLINA
In The Court of Appeals

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DEC 23 2014

APPEAL FROM FLORENCE COUNTY
Court of Common Pleas
R. Knox McMahon, Circuit Court Judge

SC Court of Appeals

Case No. 2013-CP-21-1334 and 2013-ES-21-190
Appellate Case No. 2013-002810

In the Matter of the Estate of Eris Singletary Smith

In re:

Eris Gail Smith, ... Appellant,

v.

Judy Smith Jones, Jacquelyn Brown, James Ervin
Smith, Timothy David Smith, Jamie Smith, and Mikie
Smith, Defendants

Of whom Judy Smith Jones is the, ... Respondent.

RECORD ON APPEAL

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Attorneys for Respondent

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STATE OF SOUTH CAROLINA

COUNTY OF FLORENCE

In the Matter of
Estate of Eris Singletary Smith

Judy Smith Jones,

Petitioner,

v.

Eris Gail Smith

Respondent.

IN THE PROBATE COURT
C/A # 2013-ES-21-190

ORDER APPOINTING
SPECIAL ADMINISTRATOR

This matter is before the court on the Petitioner Judy Smith Jones' formal petition ("Petition") to be appointed as the personal representative of the Estate of Singletary Smith ("Estate") and for the informal probate of that Last Will and Testament of Eris Singletary Smith dated October 18, 2011 ("Will"). The Respondent Eris Gail Smith has filed a petition to object to the Petitioner's Petition and the Respondent has informed the court of her desire to conduct some discovery in this matter. Prior to the hearing on the Petitioner's Petition, the parties informed the court that they had reached a temporary resolution as is set forth below.

NOW THEREFORE, upon the consent of the parties, it is hereby ordered that Michael C. Abbott, Esquire is temporarily appointed as the Special Administrator of the Estate and he shall serve until the court issues its final order on the Petitioner's formal Petition for appointment and for the probate of the Will.

AND IT IS SO ORDERED

Florence, SC

April 19, 2013

W. Kenneth Eaton, Jr.
W. Kenneth Eaton, Jr.
Probate Judge for Florence County

TRUE COPY

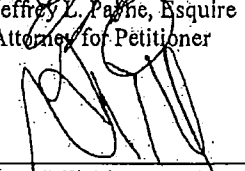
W. Kenneth Eaton, Jr.
Judge Florence County Probate Court

In The Matter of
Estate of Eris Singletary Smith
Case No.: 2013-BS-21-190

WE CONSENT


Jeffrey L. Payne, Esquire
Attorney for Petitioner

4-18-2013
Date


Gary I. Finklea, Esquire
Attorney for Respondent

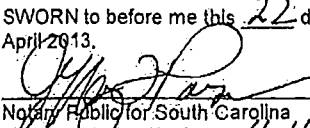
Date

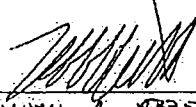
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2013 APR 19 PM 4:07

QUALIFICATION AND STATEMENT OF ACCEPTANCE

I accept appointment and agree to perform the duties and discharge the trust of the office of
Special Administrator of the estate of Eris Singletary Smith.

SWORN to before me this 22 day of
April 2013.


Notary Public for South Carolina
My Commission Expires: 4-11-2020

Signature: 
Name: MICHAEL E. ABBOTT
Address: P.O. Box 148
FLORENCE, S.C. 29503
E-mail: MLABBOTT@ABBOTTMLLAW.COM
Telephone (O): (843) 669-0019
(H): _____

STATE OF SOUTH CAROLINA
COUNTY OF FLORENCE

PROBATE COURT

IN THE MATTER OF: ERIS S. SMITH

CASE NUMBER : 2013ES2100190

CERTIFICATE OF APPOINTMENT

THIS IS TO CERTIFY THAT

MICHAEL ABBOTT

IS/ARE THE DULY QUALIFIED

☐ _PERSONAL REPRESENTATIVE

☐ _GUARDIAN

☐ _CONSERVATOR

☐ _TRUSTEE

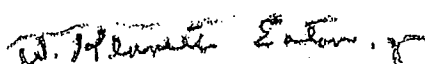
☒ _SPECIAL ADMINISTRATOR

IN THE ABOVE MATTER AND THAT THIS APPOINTMENT,
HAVING BEEN EXECUTED ON THE 19TH DAY OF
APRIL, IS NOW IN FULL
FORCE AND EFFECT, INCLUDING AUTHORIZATION TO RECEIVE
ALL MONIES, INCOME, PRINCIPAL, INTEREST & DIVIDENDS
BELONGING TO SAID ESTATE.

RESTRICTIONS:

EXECUTED THIS 22ND DAY OF APRIL, 2013

DO NOT ACCEPT A COPY OF
THIS CERTIFICATE WITHOUT
THE RAISED SEAL OF THE
PROBATE COURT. THIS
CERTIFICATE INVALID WITHOUT
RAISED SEAL.



W. KENNETH EATON, JR., JUDGE
FLORENCE COUNTY PROBATE COURT

FORM #141 PC (1/91)
62-1-305, 62-3-103, 62-5-304, 62-5-421, 62-7-201

13135

2013 MAY 14 PM 4:35

STATE OF SOUTH CAROLINA)
COUNTY OF FLORENCE)
In the Matter of :)
Eris Singletary Smith)

PROBATE COURT

ORDER

In Re: 2013-ES-21-190

Pursuant to Section 62-1-302, paragraph 6 D of the South Carolina Probate Code of Laws the undersigned removes this case to the Circuit Court and the Circuit Court shall proceed upon the matter de novo. All other administrative matters shall be under the Jurisdiction of the Probate Court.

Dated this 14th day of May, 2013.

W. Kenneth Eaton, Jr.
W. Kenneth Eaton, Jr., Judge
FLORENCE COUNTY PROBATE COURT

13135

STATE OF SOUTH CAROLINA
COUNTY OF FLORENCE

In the Matter of
Estate of Eris Singletary Smith

Judy Smith Jones,

Petitioner,

v.

Eris Gail Smith,

Respondent.

Eris Gail Smith,

Petitioner,

v.

Judy Smith Jones,

Respondent.

IN THE COURT OF COMMON PLEAS
C/A # 2013-CP-21-01334
C/A # 2013-ES-21-190

ORDER

FILED
2013 OCT 24 AM 11:38
CONNIE REEL-SHEARER
Clerk of Court
C.C.P. & G.S.
FLORENCE COUNTY, S.C.

This matter is before the court on the Petitioner/Respondent Judy Smith Jones' motion for summary judgment as to: (1) her Petition filed on March 13, 2013 to probate the last will and testament ("Will") of Eris Singletary Smith ("Decedent") dated October 18, 2011, and to appoint herself as the personal representative of the Decedent's estate ("Estate"); (2) the Petition filed by Eris Gail Smith on March 13, 2013 to probate a will signed by the Decedent on March 30, 2011 and to appoint herself as the personal representative of the Estate; and (3) the Petition filed by Eris Gail Smith on April 11, 2013 to challenge the October 18, 2011 Will. In support of her motion Judy Smith Jones offered the affidavit of attorney Robert E. Lee and the depositions of attorney Cyrus Sloan and Brittany Hooks. In opposition, Eris Gail Smith offered her deposition

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NOTIFIED: A TRUE COPY
Clerk of Court
Clerk of Court C.P. & G.S.
FLORENCE COUNTY, S.C.

and the deposition of Pam Jordan. All depositions were filed without objection. A hearing was held before me on August 7, 2013.

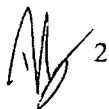
Prior to the hearing, the attorney for Eris Gail Smith requested that the hearing be continued so that he could take additional depositions that had been noticed for September 11, 2013. I held the request in abeyance until I listened to the arguments of counsel and reviewed the evidence presented to me. After listening to counsel's recitation of the purported testimony to be offered by such witnesses, it was obvious that none of them were present when the Will was signed on October 18, 2011 and they would be unable to offer any additional testimony that would affect my decision. Consequently, at the conclusion of the hearing I denied the request.

After listening to the arguments of counsel and reviewing the other evidence presented, and viewing this evidence in the light most favorable to the non-moving party Eris Gail Smith, and for the following reasons, I grant Judy Smith Jones motion of summary judgment. The October 18, 2011 Will shall be formally probated and Judy Smith Jones shall be appointed as the Personal Representative of the Estate of Eris Singletary Smith ("Estate").

BACKGROUND

The Decedent died on March 11, 2013. Seventeen months prior to her death, the Decedent signed her Last Will and Testament on October 18, 2011. The Will was properly executed by the Decedent, and properly witnessed and notarized such that it was a self-proving will. The Will revoked all prior wills which included the March 30, 2011 will ("Revoked Will") that the Decedent signed and that Eris Gail Smith is attempting to probate.

The Decedent signed her last Will on October 18, 2011 in Marion South Carolina at the law office of Robert Lee. Robert Lee had previously prepared a Will for the Decedent in 2001. All of the parties acknowledge that the Decedent possessed the necessary capacity to make the

A handwritten signature in black ink, appearing to be 'AL' followed by a superscript '2'.

Will. On October 18, 2011, the Decedent was taken to Marion by her granddaughter Rebecca Cain, Judy Jones' daughter, to meet with attorneys Robert Lee and Cyrus "Russ" Sloan to discuss her Will. At the meeting, the Decedent wrote notes and identified therein who she wanted to inherit her assets. In the notes she also stated that she wanted Judy Smith Jones to serve as the personal representative of her estate. She gave her notes to Robert Lee. After Robert Lee drafted the Will, he provided it to Russ Sloan who reviewed it carefully with the Decedent. While discussing her Will with Russ Sloan, the Decedent named each of her children and she listed her major assets for him. The Decedent even corrected Russ Sloan when he assumed that her grandsons that were named in the will were the children of her deceased son. Russ Sloan prepared notes of his meeting with the Decedent. Thereafter, the Decedent signed the Will in the presence of attorney Russ Sloan, Brittany Hooks and Sarah Carlson. The Decedent was taken back to her home in Florence by her granddaughter Pam Jordan.

Russ Sloan testified that during his meeting with the Decedent, she was relaxed and under no duress or stress. Russ Sloan further testified that no one was threatening her and she was under no undue influence that affected her ability to sign the Will. Russ Sloan's testimony is consistent with that of Robert Lee who states that the Decedent was under no undue influence that would have affected her ability to freely sign the Will. Likewise, Brittany Hooks, an employee of Robert Lee's testified that when she met with the Decedent on October 18, 2011 that the Decedent was very relaxed and she was under no stress at all.

ANALYSIS

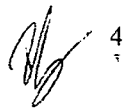
Rule 56(c) of the South Carolina Rules of Civil Procedure provides: "The judgment sought shall be rendered forthwith if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to

 3

any material fact and the moving party is entitled to a judgment as a matter of law." Summary judgment is proper when there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law. Osborne v. Adams, 346 S.C. 4, 550 S.E.2d 319 (2001); Baughman v. American Telephone & Telegraph Co., 306 S.C. 101, 111, 410 S.E.2d 537, 545 (1991); Fender & Latham, Inc. v. First Union Nat'l Bank of S.C., 316 S.C. 48, 446 S.E.2d 448 (Ct. App. 1994).

Eris Gail Smith argues that the Will is invalid because she claims that the Decedent was subjected to undue influence when she signed the Will. Eris Gail Smith has the burden of proof to prove such undue influence. S.C. Code § 62-3-407. "The mere existence of influence is not enough to void a will as all influences are not unlawful. For influence to vitiate a will, it must destroy free agency and amount to force and coercion." Hairston v. McMillan, 692 S.E.2d 549 (S.C.Ct.App. 2010) (citing Hembree v. Estate of Hembree, 428 S.E.2d, 3, 5 (S.C.Ct.App.1993)). "Circumstances must unmistakably and convincingly point to the substitution of another's will for that of the testator." *Id.* "Evidence of undue influence may include threats, force, restricted visitation, or an existing fiduciary relationship at the time of or before the will's execution." *Id.* "A contestant must show that the influence was brought directly to bear upon the testamentary act." *Id.* "General influence is not enough." *Id.*

In the instant case, the Respondent Eris Gail Smith has failed to meet her burden and provide any evidence of any acts of undue influence exerted upon the Decedent in regard to the Will. She has been unable to offer any evidence of any acts exerted upon the Decedent that would have destroyed the Decedent's free agency or that would have amounted to force and coercion upon her. Alternatively, the petitioner Judy Smith Jones has offered the testimony of the two attorneys who meticulously reviewed with the Decedent, her estate plan and her Will.



She has also offered the testimony of Brittany Hooks, an employee at the Robert Lee law firm, who met with the Decedent when she came to their office to sign the Will. All of the attorneys have testified that no such undue influence existed. Ms. Hooks testified that the Decedent was relaxed and under no duress to sign the Will.

Eris Gail Smith has claimed that the Decedent was not given a copy of the Will and that the Decedent called attorney Russ Sloan to obtain a copy of it but one was never sent to her. Although not pled in Ms. Smith's petition, Ms. Smith argued that the failure send the Will amounted to a fraudulent act that prevented her from revoking the Will. Such evidence does not amount to a fraudulent act or undue influence. Additionally, the alleged failure to send a will to a testator is not a recognized way to revoke a Will in South Carolina. See, S.C. Code § 62-2-506 (2009). Even if this was recognized by South Carolina as a method of revocation and if this was truly a problem for the Decedent, the Decedent had ample time to obtain a new will or to revoke the Will as the Will was signed seventeen months before her death. See, Hembree v. Estate of Hembree, 428 S.E.2d 3 (S.C. Ct.App. 1993) ("Even if a contestant does establish an inference of undue influence, the unhampered opportunity of the testator to change the will after the operation of undue influence destroys this conclusion." citations omitted).

As to the claim by Eris Gail Smith in her March 28, 2013 Petition, that the Decedent was "fraudulently induced" to execute the Will, Eris Gail Smith has failed to provide any evidence of such fraudulent inducement that would support such a claim as to a last will and testament. Consequently, Judy Jones' motion as to the fraudulent inducement cause of action is likewise granted.

CONCLUSION



It is therefore ordered, for the foregoing reasons that Judy Smith Jones' motion for summary judgment is granted. The Decedent's last will and testament dated October 18, 2011 shall be probated in this matter and Judy Smith Jones shall be appointed as the personal representative of the Estate.

AND IT IS SO ORDERED

Date: 22 Oct 13

R. Knox McMahon
R. Knox McMahon, Circuit Court Judge

FILED
2013 OCT 24 AM 11:38
CONNIE REEL-SHEARER
CCCP & GS
FLORENCE COUNTY, SC

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Connie Reel-Shearer
CLERK OF COURT C.P. & G.S.
FLORENCE COUNTY, S.C.

13135

2013-CP-21-1334

STATE OF SOUTH CAROLINA

COUNTY OF FLORENCE

Eris Gail Smith,

Plaintiff,

Vs.

Judy Smith Jones, Jacquelyn Brown,
James Ervin Smith, Timothy David
Smith, Jamie Smith, and Mikie Smith,

Defendants.

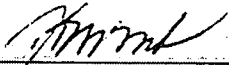
IN THE COURT OF COMMON PLEAS
TWELFTH JUDICIAL CIRCUIT
C/A # 2013-ES-21-190

ORDER DENYING PLAINTIFF'S
MOTION TO RECONSIDER

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CLERK OF COURT
COP & G.S.
FLORENCE COUNTY

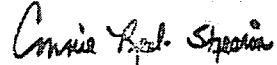
The Court issued an Order on October 22, 2013 granting Defendant's Motion for Summary Judgment. The Plaintiff requested the Court to Reconsider, Alter, or Amend the Order. The Court has reviewed the Plaintiff's Motion and finds that oral arguments would not assist in this matter and finds that any additional hearing would be redundant and unnecessary. Therefore, it is

ORDERED that the Plaintiff's Motion to Reconsider is Denied, and the prior ruling is reaffirmed in toto.


R. Knox McMahon
Presiding Judge,
Eleventh Judicial Circuit

Lexington, South Carolina
October 27, 2012
Nov

Received 12-9-13

CERTIFIED: A TRUE COPY

CLERK OF COURT C.P. & G.S.
FLORENCE COUNTY, S.C.

STATE OF SOUTH CAROLINA

COUNTY OF: FLORENCE

IN THE MATTER OF: ERIS Singletary Smith

IN THE PROBATE COURT

*ONLY COMPLETE IF FILING PETITION FOR
FORMAL TESTACY AND/OR APPOINTMENT

CASE NUMBER: 2013ES2100190

*

Petitioner

vs.

*

Respondent(s) (if applicable)

APPLICATION FOR

INFORMAL

(check any that apply)

- ☒ PROBATE OF WILL
☒ APPOINTMENT

*PETITION FOR

FORMAL

- ☐ TESTACY
☐ APPOINTMENT

✓ Applicant/Petitioner: ERIS Gail Smith
✓ Address: 1414 Gregg Ave Florence, S.C. 29501
✓ Telephone: (843) 229-3227

I. ALL APPLICANTS/PETITIONERS MUST COMPLETE THIS SECTION.

1. Give your relationship to the decedent, if any, and your interest in this proceeding. DAUGHTER

2. Decedent Information

Name: ERIS Singletary Smith
Last Four Digits of Social Security Number: XXX-XX-
Date of Birth: DEC. 22 1926
Date of Death: MARCH 11, 2013
Age at date of death: 86
Domicile at date of death: FLORENCE, S.C.
(county) (state)

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

- ☒ Decedent was domiciled in this county at date of death.
☐ Decedent was not domiciled in South Carolina, but property of Decedent was located in this county at date of death.
☐ Decedent has a right to take legal action in this county because:

- 4.a. Names and addresses of devisees in the Will, including dates of birth of minors. If there are no minors, so state.

Name	Date of Birth	Address	Relationship to Decedent
<u>Eric Gail Smith</u>	<u>9-22-51</u>	<u>1414 Gregg Ave. Florence, SC. 29501</u>	<u>DAUGHTER</u>
<u>Jackie S. Brown</u>			<u>DAUGHTER</u>
<u>Judy S. Jones</u>			<u>DAUGHTER</u>
<u>James E. Smith</u>			<u>SON</u>
<u>Timothy D. Smith</u>			<u>SON</u>

- 4.b. Names and addresses of intestate heirs who are not devisees, including dates of birth of minors. If there are no minors, so state. Intestate heirs are the persons who would inherit if the decedent left no will.

Name	Date of Birth	Address	Relationship to Decedent

(use additional sheet if necessary)

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

12. After the exercise of reasonable diligence, are you aware of any unrevoked Will and/or Codicil(s), other than the one(s) attached hereto, relating to property in this State?

☒ NO

☐ YES If yes, please explain on page 3 and then proceed to Section II.

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

1. Regarding the decedent's Will:

☒

The original is attached

☒

The original is in the Court's possession

☐

An authenticated copy of a Will probated in another jurisdiction is attached

☐

An authenticated copy of a Will not probated in another jurisdiction is attached

☐

The Will is lost, destroyed, or otherwise unavailable, however, a description of its contents is attached

2. Do you believe, to the best of your knowledge, the Will described above was validly executed?

☒ YES

☐ NO If no, please explain on page 3.

3. The date of execution of the Will was: MARCH 30, 2011
Codicil(s): _____

4. Are you aware of any instrument or document amending or revoking the Will?

☒ NO

☐ YES If yes, please explain on page 3.

5. Have you exercised reasonable diligence to determine there is no instrument or document revoking the Will?

☒ YES

☐ NO If no, please explain on page 3.

6. Do you believe the Will defined in "1" above is the decedent's last Will?

☒ YES

☐ NO If no, please explain on page 3.

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

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

1. The name(s) and address(es) of the proposed Personal Representative(s) is/are:
2. Priority for this appointment is:
 - ☒ named as Primary Personal Representative in Will
 - ☐ named as Alternate Personal Representative in Will
 - ☐ nominee of above Primary Personal Representative in Will
 - ☐ nominee of above Alternate Personal Representative in Will
 - ☐ surviving spouse of decedent who is devisee of decedent or nominee of said spouse
 - ☐ other devisee of decedent, (describe): _____ or nominee of said devisee
 - ☐ surviving spouse of decedent or nominee of said spouse
 - ☐ other heir of decedent (describe): _____
 - ☐ creditor (Forty-five days after death must have passed), or nominee of creditor
 - ☐ other (describe): _____
3. List below the names of any other persons, if any, having a prior or equal right of appointment (see priority above).

IV. ALL APPLICANTS/PETITIONERS MUST COMPLETE VERIFICATION.

VERIFICATION

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

SWORN to before me this 12th day of
March, 20 13
Charlotte K Feresten
Notary Public for South Carolina
My Commission Expires: 7-3-22

Signature: [Signature]
Name: ERIS GAIL SMITH
Address: 1414 GREGG AVE. FLORENCE, S.C. 29502
E-mail: _____
Telephone (O): 843-229-3227
(H): _____

Signature: _____
Name: _____
Address: _____
E-mail: _____
Telephone (O): _____
(H): _____

ORDER OF INFORMAL PROBATE

IT IS HEREBY ORDERED that the above application for probate of a will be ☐ GRANTED ☐ DENIED informally
this _____ day of _____, 20 _____.

W. Kenneth Eaton, Jr., Probate Court Judge

ORDER OF FORMAL TESTACY

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

The Court further finds that

☐ the decedent died intestate. The heirs are:

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

Executed this _____ day of _____, 20____

W. Kenneth Eaton, Jr., Probate Court Judge

SEE ATTACHED ORDER

ORDER OF APPOINTMENT

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

Executed this _____ day of _____, 20____

W. Kenneth Eaton, Jr., Probate Court Judge

QUALIFICATION AND STATEMENT OF ACCEPTANCE

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

Signature: _____

Name: _____

Address: _____

E-mail: _____

Telephone (O): _____

(H): _____

Signature: _____

Name: _____

Address: _____

E-mail: _____

Telephone (O): _____

(H): _____

Attorney: _____

Address: _____

E-mail: _____

Telephone (O): _____

Last Will and Testament of

of

ERIS SINGLETARY SMITH

FILED
2013 MAR 12 PM 1:16
CLERK OF COURT
FLORENCE COUNTY, S.C.

10p 1
555

KNOW ALL MEN BY THESE PRESENTS, that I Eris Singletary Smith, a resident of the County of Florence, State of South Carolina, being of sound mind, memory and understanding, but being mindful of the uncertainty of life and the certainty of death, do hereby make, will, ordain, publish and declare that this to be my Last Will and Testament hereby revoking any and all Wills, Testaments and/or Codicils heretofore made by me.

17a
TEA
[Signature]

ITEM I. I first direct that my Personal Representative make proper disposition of my remains. Burial arrangements have already been made through Stoudenmire-Dowling Funeral Home.

ITEM II. I hereby direct my Personal Representative hereinafter named, to pay all my just debts, which may be legally owing, as soon after my death as is practical.

ITEM III. I hereby give, will, devise and bequeath to the individuals listed herein such furnishings and personal property as is indicated to each person:

- A. Jacquelyn Deloris Brown: the secretary from my living room, the oak chest from my den and the white milk-glass pitcher with eight glasses;
- B. Judy Elaine Jones: the curio cabinet from the den, the small velvet love seat from the living room, the baker's rack and the picture of the old Effingham Supply;

- C. Jeri Brown: the chaise lounge and the picture of Niagara Falls;
- D. Debra Brown Kennedy: the antique table in the living room with the lamp that goes on it, the Christmas Village and my ceramics;
- E. Eris Gail Smith: the china cabinet (with the china), my sterling silver (all settings and serving pieces), my mink stole, the mauve love seat, the electric fireplace, the picture of the girl holding a pillow, the mahogany curio, the picture of Daddy and Hoyt and all porch furniture;
- F. James Ervin Smith: the white leather couch, the white leather chair, the big television from the den, the single bed from the front bedroom, the oak table and six chairs from the den, the picture showing the path of Hurricane Hugo and my bedroom suite including all pictures on the wall;
- G. Michael B. Smith: the bedroom suite from the middle bedroom;
- H. Thomas James Smith: the stereo;
- I. Timothy David Smith: the glider-rocker, my lift-chair, the little oak chair (Sunday School), my Wearever pots and pans, the picture of the old Effingham Depot and the picture showing my family tree;
- J. Hope Carroway: the big mauve couch,;
- K. Caleb Carroway: the small mahogany desk from the den;
- L. Rebecca Cain: antique table from the den and the pink rose tea set;
- M. Jerald Brown: my sewing machine, the pie crust edged table and the "Blueboy" picture;
- N. Brandon Smith: the television from the kitchen with the table it sits on;
- O. Gail and Al Brown: the two antique straight-backed chairs in the den, the tobacco barn picture and the magazine rack.
- P. Pamela Jordan: Pictures of the "Seeds of Florence" from the den, the marble topped table with the lamp and the mirror from the den.

2
JEA
ESS

JMA
JEA
MD

Q. Sharon Graham, any remaining clothes and shoes that I may own along with the sum of \$500.00.

ITEM IV. I further hereby give, will, devise and bequeath to the individuals listed herein such furnishings and personal property as is indicated to these persons:

A. Each of my living children is to receive one of my quilts. If, after this distribution, there are any quilts remaining, then I direct that Thomas James Smith and Michael B. Smith each receive one as well.

age
3
SS
B. I direct that all remaining glassware shall go to Eris G. Smith, Judy E. Jones, Jacquelyn Brown and James E. Smith, share and share alike.

C. Such automobiles that I may own shall go to Jacquelyn Brown, Judy Jones, James Smith, Eris G. Smith and Timothy Smith, share and share alike.

ITEM V. I hereby give, will, devise and bequeath to the individuals listed herein such jewelry as is indicated to each person:

A. My wedding band and engagement ring to Michael B. Smith;

B. My diamond necklace to Jacquelyn D. Brown;

C. My class ring to Haighan Smith;

D. One bangle bracelet to Judy E. Jones;

E. My slide bracelet to Jeri Brown;

F. One bangle bracelet to Eris Gail Smith;

G. Such remaining jewelry as I may own is to be divided among my grandchildren as determined by my Personal Representative.

ITEM VI. I hereby give, will, devise and bequeath my home to Jacquelyn Brown, Judy Jones, James Smith, Eris G. Smith and Timothy Smith, share and share alike. Provided, however, this bequest is made with the contingency that Eris G. Smith shall be allowed to purchase the remaining shares from her siblings at fair market value.

ITEM VII. I hereby give, will, devise and bequeath all the rest and residue of my estate, of every kind and nature, both real and personal, wherever situate and whether now owned or hereafter obtained, unto Jacquelyn Brown, Judy Jones, James Smith, Eris G. Smith and Timothy Smith, share and share alike, to be theirs, absolutely, in fee simple.

ITEM VIII. I hereby nominate, constitute and appoint Eris Gail Smith, to serve as personal representative of my estate, and direct that she serve without bond. In the event that Eris Gail Smith is unable or unwilling to serve in this capacity, then, I hereby nominate, constitute and appoint my attorney, F. A. Hoefer, II, to serve as Personal Representative and that he also serve without bond.

I, Eris Singletary Smith, the testatrix, sign my name to this instrument this 30th day of March, 2011, and being first duly sworn, do hereby declare to the undersigned authority that I sign and execute this instrument as my last will and that I sign it willingly (or willingly direct another to sign for me), that I execute it as my free and voluntary act for the purposes therein expressed, and that I am eighteen years of age or older, of sound mind, and under no constraint or undue influence.

Eris Singletary Smith
Eris Singletary Smith

We Juniene N. Adams and J. Ellis Arrington

the undersigned witnesses, sign our names to this instrument, being first duly sworn, and do hereby declare to the undersigned authority that the testatrix signs and executes this instrument as her last will and that she signs it willingly (or willingly directs another to sign for her), and that each of us, in the presence and hearing of the testatrix, hereby signs this will as witness to the

testatrix's signing, and that to the best of our knowledge the testatrix is eighteen years of age or older, of sound mind, and under no constraint or undue influence.

Juniene N. Adams
WITNESS

J. Ellis Arrington
WITNESS

THE STATE OF SOUTH CAROLINA)
COUNTY OF FLORENCE)

Subscribed, sworn to, and acknowledged before me by Eris Singletary Smith, the testatrix, and subscribed and sworn to before me by Juniene N. Adams and J. Ellis Arrington, witnesses, this 30th day of March, 2011.

[Signature]
Notary Public for the
State of South Carolina
My Commission Expires: 4/21/19

STATE OF SOUTH CAROLINA)
COUNTY OF FLORENCE)

IN THE PROBATE COURT
Case No.: 2013-ES-21-190

IN THE MATTER OF:)
ERIS SINGLETARY SMITH)

Judy Smith Jones)
Petitioner)

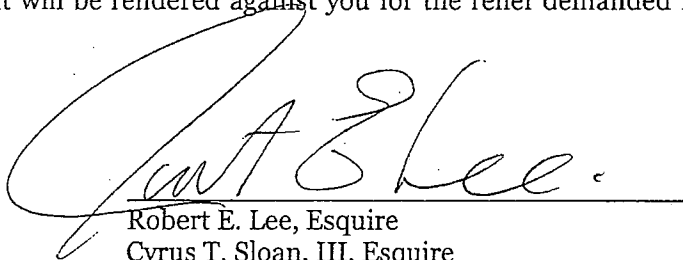
vs.)

Eris Gail Smith)
Respondent)

FILED
2013 MAR 13 PM 4:03
FLORENCE COUNTY

TO THE RESPONDENT(S) ABOVE-NAMED:

YOU ARE HEREBY SUMMONED and required to answer the Petition herein, a copy of which is herewith served upon you, and to serve a copy of your Answer to this Petition upon the subscriber, at the address shown below, within thirty (30) days after service hereof, exclusive of the day of such service, and if you fail to Answer the Petition, Judgment by Default will be rendered against you for the relief demanded in the Petition.



Robert E. Lee, Esquire
Cyrus T. Sloan, III, Esquire
Post Office Box 1096
Marion, South Carolina 29571
Telephone - (843) 423-1313
Facsimile - (843) 423-1397
rel@rellawfirm.com

**ATTORNEY FOR THE PETITIONER,
JUDY SMITH JONES**

March 13, 2013
Marion, South Carolina

STATE OF SOUTH CAROLINA)

COUNTY OF: FLORENCE)

IN THE MATTER OF: ERIS SINGLETARY)
SMITH)

IN THE PROBATE COURT

*ONLY COMPLETE IF FILING PETITION FOR
FORMAL TESTACY AND/OR APPOINTMENT

CASE NUMBER: 13-ES-21-190

*JUDY SMITH JONES

Petitioner

vs.

*ERIS GAIL SMITH

Respondent(s) (if applicable)

APPLICATION FOR

INFORMAL

☒ PROBATE OF WILL
☐ APPOINTMENT

(check any that apply)

*PETITION FOR

FORMAL

☐ TESTACY
☒ APPOINTMENT

Applicant/Petitioner: Judy Smith Jones

Address: 5404 Callie Young Road, Effingham, South Carolina 29541

Telephone: 843-669-1333

I. ALL APPLICANTS/PETITIONERS MUST COMPLETE THIS SECTION.

1. Give your relationship to the decedent, if any, and your interest in this proceeding.

Daughter of the Decedent - Named as personal representative in the Last Will & Testament dated October 18, 2011.

2. Decedent Information

Name: Eris Singletary Smith

Last Four Digits of Social

Security Number: XXX-XX-4751

Date of Birth: December 22, 1926

Date of Death: March 11, 2013

Age at date of death: Eighty-Six (86)

Domicile at date of death: Florence South Carolina
(county) (state)

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

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

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

- 4.a. Names and addresses of devisees in the Will, including dates of birth of minors. If there are no minors, so state.

Name	Date of Birth	Address	Relationship to Decedent
See - Attached			
"Schedule 4.a"			

(use additional sheet if necessary)

- 4.b. Names and addresses of intestate heirs who are not devisees, including dates of birth of minors. If there are no minors, so state. Intestate heirs are the persons who would inherit if the decedent left no will.

Name	Date of Birth	Address	Relationship to Decedent

(use additional sheet if necessary)

5. Did decedent have a change of marital status or the birth or adoption of any children after execution of this will, if one exists, or has any child of the decedent been born since his death, or is any birth of a child of the decedent anticipated? (This includes illegitimate children.)
- ☒ NO ☐ YES If yes, please explain, on page 3.
6. To the best of your knowledge, was the decedent a patient in a South Carolina Mental Health facility during his/her lifetime?
- ☒ NO ☐ YES If yes, please explain, on page 3.
7. Has a guardian or conservator ever been appointed for this person?
- ☒ NO ☐ YES If yes, please explain on page 3.
8. Has a personal representative of the decedent been appointed prior to this date by a Court in this state or elsewhere?
- ☒ NO ☐ YES If yes, please state details, including name and address of such Personal Representative on page 3.
9. Have you received or are you aware of any demands for notice of any probate or appointment proceeding concerning the decedent that may have been filed in this state or elsewhere?
- ☒ NO ☐ YES If yes, please state details, including names and addresses on page 3.
10. Have more than ten years passed since the decedent's death?
- ☒ NO ☐ YES If yes, please state circumstances authorizing tardy probate on page 3.
11. The decedent died with a personal estate of about the value of NOT ASERTAINABLE AT THIS TIME and real estate of about the value of NOT ASERTAINABLE AT THIS TIME. (A full inventory and appraisal, Form #350PC, must be filed within 90 days.) If decedent was non-resident, please attach South Carolina Commission form ET 101.
12. After the exercise of reasonable diligence, are you aware of any unrevoked Will and/or Codicil(s), other than the one(s) attached hereto, relating to property in this State?
- ☒ NO ☐ YES If yes, please explain on page 3 and then proceed to Section II.

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

1. Regarding the decedent's Will:
- ☐ The original is attached
- ☒ The original is in the Court's possession
- ☐ An authenticated copy of a Will probated in another jurisdiction is attached
- ☐ An authenticated copy of a Will not probated in another jurisdiction is attached
- ☐ The Will is lost, destroyed, or otherwise unavailable, however, a description of its contents is attached
2. Do you believe, to the best of your knowledge, the Will described above was validly executed?
- ☒ YES ☐ NO If no, please explain on page 3.
3. The date of execution of the Will was: October 18, 2011
- Codicil(s): N/A
4. Are you aware of any instrument or document amending or revoking the Will?

☒ NO

☐ YES If yes, please explain on page 3.

5. Have you exercised reasonable diligence to determine there is no instrument or document revoking the Will?

☒ YES

☐ NO If no, please explain on page 3.

6. Do you believe the Will defined in "1" above is the decedent's last Will?

☒ YES

☐ NO If no, please explain on page 3.

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

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

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

Judy Smith Jones
5404 Callie Yound Road
Effingham, South Carolina 29541

2. Priority for this appointment is:

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

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

None

IV. ALL APPLICANTS/PETITIONERS MUST COMPLETE VERIFICATION.

VERIFICATION

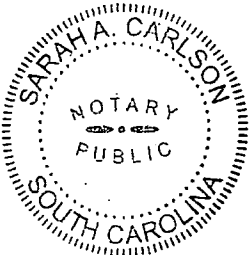
The undersigned, being sworn, states that the facts set forth in the foregoing statement are true to the best of the undersigned's knowledge, information and belief, and hereby submits to the Court's jurisdiction in this matter.

SWORN to before me this 13 day of
March, 20 13

Sarah A. Carlson
Notary Public for South Carolina

My Commission Expires: 8-31-21

Signature: Judy Smith Jones
Name: Judy Smith Jones
Address: 5404 Callie Young Road
Effingham, South Carolina 29541
E-mail: jjones3926@aol.com
Telephone (O): _____
(H): 843-669-1333



Signature: _____
Name: _____
Address: _____
E-mail: _____
Telephone (O): _____
(H): _____

ORDER OF INFORMAL PROBATE

IT IS HEREBY ORDERED that the above application for probate of a will be ☐ GRANTED ☐ DENIED informally
this _____ day of _____, 20 ____.

W. Kenneth Eaton, Probate Court Judge

ORDER OF FORMAL TESTACY

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

The Court further finds that

☐ the decedent died intestate. The heirs are:

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

Executed this _____ day of _____, 2013.

W. Kenneth Eaton, Probate Court Judge

SEE ATTACHED ORDER

ORDER OF APPOINTMENT

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

Executed this _____ day of _____, 2013.

W. Kenneth Eaton, Probate Court Judge

QUALIFICATION AND STATEMENT OF ACCEPTANCE

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

Signature: Judy Smith Jones
Name: Judy Smith Jones
Address: 5404 Callie Young Road
Effingham, South Carolina 29541
E-mail: jjones3926@aol.com
Telephone (O): _____
(H): 843-669-1333

Signature: _____
Name: _____
Address: _____
E-mail: _____
Telephone (O): _____
(H): _____

Attorney: Robert E. Lee, Esq. & Cyrus T. Sloan, III, Esq.
Address: Post Office Box 1096
Marion, South Carolina 29571
E-mail: rel@rellawfirm.com
Telephone (O): 843-423-1313

Application for Probate of Will

And

Petition for Formal Appointment

4a.

<u>Name</u>	<u>DOB</u>	<u>Address</u>	<u>Relationship To Deceased</u>
Judy S. Jones	21+	5404 Callie Young Road Effingham, SC 29541	Daughter
Eris Gail Smith	21+	1414 Gregg Avenue Florence, SC 29501	Daughter
Jackie Brown	21+	3262 Brandy Circle Florence, SC 29505	Daughter
James Smith	21+	924 West Alpine Drive Florence, SC 29501	Son
Tim Smith	21+	5212 Callie Young Road Florence, SC 29541	Son
Karen Smith	21+	5212 Callie Young Road Florence, SC 29541	Daughter-In-Law
Jamie Smith	21+	2565 Swamp Road Timmonsville, SC 29161	Grandson
Mikie Smith	21+	924 West Alpine Drive Florence, SC 29501	Grandson
Haighan Smith	12/18/1997 15 years old	2565 Swamp Road Timmonsville, SC 29161	Great Granddaughter
Austin Smith	03/15/2004 8 years old	2565 Swamp Road Timmonsville, SC 29161	Great Grandson
Pamela Jordan	21+	2521 Harleston Green Drive Florence, SC 29505	Granddaughter
Becky Cain	21+	2703 Francis Marion Road Florence, SC 29505	Granddaughter
Phillip Jones	21+	528 Arbor Drive Florence, SC 29501	Grandson

Hope Carraway	21+	3580 Breckridge Circle Florence, SC 29505	Granddaughter
Caleb Carraway	10/02/2003 9 years old	3580 Breckridge Circle Florence, SC 29505	Great Grandson
Brandon Smith	21+	5212 Callie Young Road Effingham, SC 29541	Grandson
Jeri Brown	21+	1575 Highway Church Road Elgin, SC 29045	Granddaughter
Jerald Brown	21+	2600 Whitestone Drive Florence, SC 29505	Grandson
Debra Kennedy	21+	2223 Pine Forest Drive Florence, SC 29505	Granddaughter
Blaine Kennedy	21+	2223 Pine Forest Drive Florence, SC 29505	Great Grandson
Brad Kennedy	21+	212 R Bar M Ranch Road Lot 22 Florence, SC 29501	Great Grandson
Al Brown	21+	2170 N. Lake Drive, Apt 1211 Columbia, SC 29212	Grandson

Respondent.

**PETITION TO CHALLENGE THE
PURPORTED LAST WILL AND
TESTAMENT OF
ERIS SINGLETARY SMITH
DATED OCTOBER 18, 2011
AND TO SUBSTITUTE PERSONAL
REPRESENTATIVE AND TO
DEMAND AN ACCOUNTING**

1

5. During that excursion for "brunch", apparently, the decedent was requested to execute a Healthcare Power of Attorney, which was something she had been meaning to do for some period of time upon the suggestion of her daughter, Eris Gail Smith.
6. Upon returning, the decedent disclosed to a number of people that she had in fact executed a number of papers so that she would in fact have a Healthcare Power of Attorney. She also stated that she appointed her daughters, Eris and Judy, in that order, as the agents for that purpose.
7. In the months following the execution of that document, a number of incidences arose wherein the decedent reaffirmed her intent that Eris serve as her Healthcare Power of Attorney and Judy serve as alternate and also reaffirmed her understanding that her Last Will and Testament was that document executed in March 2011.
8. Prior to the decedent's death, a number of events transpired which caused some family members and sitters concern as to Judy's activities, but those involved merely wrote it off as Judy's typical conduct.
9. Following the decedent's death, the Petitioner herein went to the Probate Court to file the decedent's Last Will and Testament. At that exact date and time, surprisingly, the attorney for Judy Smith Jones filed a subsequent will which was executed October 18, 2011.
10. The Petitioner herein and most of her family and close friends are aware that the document dated October 18, 2011, was not executed with Eris Singletary Smith's belief that it was her Last Will and Testament. The facts and

evidence would show that subsequent to the questioning of the documents that were executed in Marion, the decedent contacted her granddaughter, Pam Jordan, who was Judy's daughter and the one that took her to Marion for "brunch" and to execute a Healthcare Power of Attorney was requested to provide a copy of the documents that were executed by the decedent. Although those documents were promised on a multitude of occasions, they were never delivered. On another occasion, one of the decedent's sitters and the decedent contacted Attorney Cyrus T. Sloan who was reported to be one of the witnesses, and he advised something along the lines that he did not prepare the will of Eris Singletary Smith and any document(s) signed was prepared by the decedent's granddaughter who worked at the firm. In that conversation, Attorney Sloan confirmed with Pam Jordan that she would deliver copies of the documents to the Healthcare Power of Attorney and any other documents executed to the decedent. Again, no documents were delivered, but Mr. Sloan stated that he was not aware that the decedent executed a will.

11. Simply stated, the decedent was not aware that the purported documents she purportedly executed was a Last Will and Testament and that all the time up until her death, she believed that the documents she executed with Attorney Frederick A. Hoefer, II, was still her valid will. She would not have used a law firm in Marion to prepare any subsequent documents as she did not have a liking for that office, but her attorney was Frederick A. Hoefer, II. Further, the decedent did not trust her daughter, Judy Brown, and in fact became more

distrustful of her before her death as it became apparent that she had a ploy to undermine the decedent's wishes, not only as it relates to the disposition of property but for the care and treatment she was to receive up until the time of her passing.

FOR A FIRST CAUSE OF ACTION
(Undue Influence)

12. The Petitioner is informed and believes that at the time the decedent executed the Last Will and Testament on October 18, 2011, the documents were executed while the decedent was subject to undue influence and while the decedent was competent, she was led to believe the document she was executing was merely a Healthcare Power of Attorney.
13. The granddaughter who transported the decedent to execute the document shared a confidential and family relationship with the decedent. Further, she had the motive, opportunity, and understanding to know how to prepare a will and substitute her mother's judgment for that of the testator's.
14. The decedent was in fact susceptible to undue influence and others had the opportunity to execute that exercise. As a result of this undue influence, dispositions and changes to the will were made, which were not the wishes of the decedent but rather Judy Smith Jones.

FOR A SECOND CAUSE OF ACTION
(Fraud)

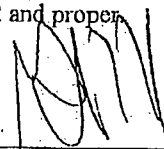
15. The Petitioner reiterates and incorporates the paragraphs stated hereinabove by reference as if fully repeated herein verbatim.

16. In this particular case, the decedent was led to believe she was going to "brunch" in Marion and while there it was offered that a Healthcare Power of Attorney be prepared for her.
17. During that same visit and without the decedent's knowledge, she was fraudulently induced into executing a Last Will and Testament.
18. The decedent would not have made this Last Will and Testament dated October 18, 2011, but for the fraudulent misrepresentations by those who had a motive to substitute their judgment for that of the testator's.
19. Based upon the deception and misrepresentations, this will should be set aside.

BASSED UPON THE FOREGOING, the Petitioner respectfully requests the Court to declare as invalid the Last Will and Testament purporting to be that of Eris Singletary Smith dated October 18, 2011; to revoke the appointment of Judy Smith Jones as Personal Representative; to demand a full accounting of all personal property removed from the home within ten (10) days; to appoint Eris Gail Smith or another suitable Personal Representative to serve; to award the Petitioner attorney's fees and costs; and for such other and further relief as the Court deems just and proper.

Florence, South Carolina

March 28, 2013


GARY I. FINKLEA
Attorney for Petitioner
Finklea Law Firm
814 W. Evans Street
Post Office Box 1317
Florence, SC 29503
(843) 317-4900
(843) 317-4910 (fax)
GFINKLEA@FINKLEALAW.COM

IN THE PROBATE COURT

C/A NO.: 2013-ES-21-190

PROOF OF DELIVERY

Estate of Eris Singletary Smith

On the 20th day of March, 2013, I mailed or delivered the following document: **Summons and Petition to Challenge the Purported Last Will and Testament of Eris Singletary Smith dated October 18, 2011, and to Substitute Personal Representative, and to Demand an Accounting**

xx A copy of which is attached hereto and incorporated herein, or
The original of which is on file with the Court and incorporated herein.

Delivery was accomplished by the following method:

_____ personal delivery xx ordinary first class mail
 _____ certified mail _____ registered mail

to each of the following persons at the address shown:

Eris Smith
1414 Gregg Avenue
Florence, SC 29501

Jeffrey L. Payne, Esquire
Turner Padgett Graham & Laney, P.A. - Florence
P.O. Box 5478
Florence, SC 29502

Robert E. Lee, Esquire
Law Firm of Robert E. Lee
Post Office Box 1096
Marion, SC 29571

March 28, 2013
Florence, South Carolina

Lauren Actman

Lauran D. Altman
Secretary for Gary I. Finklea
Finklea Law Firm
814 W. Evans Street
Post Office Box 1317
Florence, SC 29503
Phone: (843) 317-4900
Fax: (843) 317-4910

STATE OF SOUTH CAROLINA

COUNTY OF FLORENCE

In the Matter of
Estate of Eris Singletary Smith

Eris Gail Smith,

Petitioner,

v.

Judy Smith Jones,

Respondent.

IN THE PROBATE COURT
C/A # 2013-ES-21-190

ANSWER

The Respondent Judy Smith Jones hereby answers the Petitioner's petition as follows:

FOR A FIRST DEFENSE

1. Each and every allegation not hereinafter specifically admitted is denied.
2. The Respondent admits the allegations contained in paragraph 1.
3. Answering the allegations contained in paragraph 2, the Respondent admits that the Petitioner is the daughter, beneficiary and heir of Eris Singletary Smith. All remaining allegations are denied.
4. Answering the allegations contained in paragraph 3, the Respondent lacks sufficient information to form a belief as to the allegations contained in the first sentence of paragraph 3 and therefore denies same and demand strict proof thereof. The Respondent denies the remaining allegations contained in paragraph number 3.
5. The Respondent denies the allegations contained in paragraphs 4, 5, 6, 7, and 8.
6. Answering the allegations contained in paragraph 9, the Respondent admits that the Petitioner attempted to file a Last Will and Testament on behalf of the Petitioner at a time when she knew that her mother had executed a subsequent Will.

7. The Respondent denies the allegations contained in paragraphs 10, 11, 12, 13, and 14.
8. Answering the reallegations contained in paragraph 15, the Respondent would reassert each and every answer previously stated herein.
9. The Respondent denies the allegations contained in paragraph 16, 17, 18, and 19.

FOR A SECOND DEFENSE

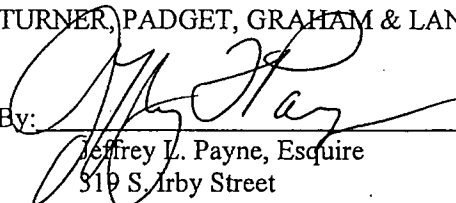
10. The Petitioner has failed to state facts sufficient to constitute a cause of action therefore the Respondent request that the Petitioner's petition be dismissed with prejudice.

WHEREFORE, having answered the Petitioner's petition, the Respondent would request that the same be dismissed and that the court appoint her as the personal representative of the Estate of Eris Singletary Smith and that the court probate that Will dated October 18, 2011 which is currently on file with the court along with such other and further relief as it deems just and proper.

Florence, South Carolina

April 18, 2013

TURNER, PADGET, GRAHAM & LANEY, P. A.

By: 

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ATTORNEYS FOR THE RESPONDENT
JUDY SMITH JONES

STATE OF SOUTH CAROLINA) COURT OF COMMON PLEAS
COUNTY OF FLORENCE) TWELFTH JUDICIAL CIRCUIT
CASE NO. 2013-CP-21-1334

ERIS GAIL SMITH,
IN RE: ESTATE OF ERIS
SINGLETERY SMITH,

Plaintiff,

-vs-

JUDY SMITH JONES,

Defendant.

TRANSCRIPT OF RECORD

August 7, 2013
Florence, South Carolina

B E F O R E:

THE HONORABLE R. KNOX MCMAHON, Judge

A P P E A R A N C E S:

GARY FINKLEA, Esquire
Attorney for the Plaintiff

JEFFREY L. PAYNE, Esquire
Attorney for the Defendant

KRYSTAL J. SMITH
Court Reporter

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I N D E X

<u>WITNESS/DESCRIPTION</u>	<u>PAGE NUMBER</u>
Motion for Summary Judgment.....	3
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E X H I B I T S

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EV.</u>
C-1	Last Will and Testament		16
C-2	Deposition		16

1 AUGUST 7, 2013

2 (WHEREAS this matter was scheduled for a non-jury motion
3 hearing, the parties appeared with counsel of record.

4 The hearing began at 11:17 a.m.)

5 THE COURT: This is 2013-CP-21-1334, Estate of Eris
6 Singletary Smith. Eris Gail Smith, petitioner, versus Judy
7 Smith Jones. Let's see, 1334. All right. Mr. Finklea, you
8 represent the plaintiffs?

9 MR. FINKLEA: I do, Your Honor.

10 THE COURT: Mr. -- is this Mr. Lee or Mr. Payne?

11 MR. PAYNE: Yes, sir, Your Honor. Jeff Payne here.
12 There's actually dueling petitions here, Your Honor. There's
13 one estate number. Two petitions to probate wills were filed
14 with the Court. My client is Judy Jones. So we're petitioner
15 on one and respondent on one, and my motion was on behalf of
16 my client, Judy Jones, but Mr. Finklea had something he wanted
17 to ask before we start here today.

18 THE COURT: All right. Give me just a moment. All
19 right. And what -- what I have on the roster is a motion for
20 summary judgment.

21 MR. PAYNE: That's correct, Your Honor.

22 THE COURT: All right. All right, Mr. Finklea.

23 MR. FINKLEA: Thank you, Your Honor. May it please the
24 Court. I appreciate Mr. Payne allowing me just to briefly
25 make a remark to the Court even though it's Mr. Payne's

1 motion. This is essentially a will contest. Both parties
2 presented a will to the Probate Court and petitions to be
3 appointed.

4 THE COURT: Both parties submitted ---

5 MR. FINKLEA: Different wills.

6 THE COURT: --- different wills?

7 MR. FINKLEA: That is correct, Your Honor, to the Probate
8 Court and then subsequently we filed a summons and complaint
9 for a petition to challenge the purported last will and I
10 think Mr. Payne and I had some concern whether or not that
11 actually reached your file, but I've got an extra copy
12 regardless.

13 But this is a will contest, Judge. The decedent passed
14 March. These pleadings were filed in April and I wanted to
15 let the Court know to some extent what my position was in
16 regard to the motion so we could listen to that while Mr.
17 Payne was presenting his argument, but we have additional
18 witnesses lined up in this case. Depositions are scheduled on
19 September the 11th. This is a -- in my opinion, a very unique
20 and even novel issue of law that we addressed and for those
21 reasons I'm just going to ask the Court to defer summary
22 judgment until we have a full and fair opportunity to conduct
23 these depositions. So if I could ask at least the Court to
24 listen to that issue while Mr. Payne proceeds.

25 THE COURT: All right. Mr. Payne?

1 MR. PAYNE: Thank you, Your Honor. Your Honor, we have
2 had -- this is not any novel issue. It's a -- it's a claim.
3 It's actually a little unusual. There's no claim that the
4 decedent lacked the capacity to make a will. It is simply a
5 claim of undue influence. The will is not a deathbed will.
6 It was a will signed a year before she died and we've taken
7 numerous depositions. They know every party that is -- was
8 there the day the will was signed. They have -- we've deposed
9 most of them. I've submitted the Court the affidavits from
10 them. I've got the deposition from one of the lawyers. We've
11 got an affidavit from one of the lawyers.

12 This motion was filed in May. I don't hear one word for
13 two months about depositions until last Friday. They want to
14 take some depositions and they call my paralegal and then I
15 tell Mr. Finklea no way we're stopping on this thing. This is
16 a clear -- they've got no evidence of any undue influence.
17 They've talked to everybody who has been there. There's no
18 affidavit before the Court as to what they couldn't do to get
19 an affidavit and we're tired of it and we're ready to move
20 forward on this thing.

21 It's just nothing but an attempt to stall the inevitable,
22 and my client is named as the PR in this will. She actually
23 -- unlike every other will fight I get into, she comes out
24 worse financially under the will she wants to probate. She
25 gets a sixth under this will. Under her will, she gets a

1 fourth. But it's all because she's named as the PR in this
2 will that we're getting this thing drug out and we're getting
3 money-whipped with them. They actually started out they
4 wanted to take twenty more depositions. Now it's down to
5 eight or ten.

6 So we're ready to go forward today. I've got a memo.
7 I've got some depositions I'd like to give Your Honor and
8 we're ready to go. We're ready to get this -- get this issue
9 before the Court and get it resolved.

10 THE COURT: All right. All right.

11 MR. FINKLEA: We're ready.

12 MR. PAYNE: All right. May it please the Court. Your
13 Honor, we've got a little memo here with a deposition of two
14 of the parties and the affidavit of Mr. Lee, Robert Lee, who
15 is -- his affidavit is actually attached to the -- the motion,
16 Your Honor, but just for simplicity's sake, I was going to --
17 excuse me.

18 MR. FINKLEA: Your Honor, I just received a copy of the
19 memorandum also.

20 MR. PAYNE: The -- attached to it is Mr. Lee's affidavit
21 and then Mr. Sloan's deposition. Those were the two attorneys
22 that were involved who reviewed the will and went over it with
23 the decedent, but let me start here a little bit. I represent
24 Ms. Judy Jones, who is the named personal representative in
25 the last will and testament of Mrs. Eris Singletary Smith.

1 The respondent here is Eris Gail Smith. So I'm going to just
2 call the decedent the decedent for simplicity's sake here,
3 Your Honor.

4 Ms. Jones, my client, is the decedent's daughter. She's
5 one of six people that are named in the most recent will that
6 is looking to have this will probated. And as I mentioned
7 earlier, we're dealing with dual petitions. My client filed a
8 petition. The other side has filed a petition with an earlier
9 signed will and they've also filed a petition to challenge the
10 most recent will, which was dated October 18th, 2011, Your
11 Honor.

12 As I also mentioned, this is not a lack of capacity case.
13 Both sides acknowledge the decedent was very competent. She
14 handled her own business affairs. Ms. Smith acknowledged all
15 these checks that were written to her, that she said her
16 mother knew what she was doing when she wrote those checks to
17 her. This is not your typical case where it's a deathbed
18 will. This will was signed a year and a half before the
19 decedent died. She could have changed it. She could have
20 gone and gotten another lawyer. She could have done anything
21 in that year and a half. Not a deathbed will.

22 And lastly, it's not a situation where my client is
23 trying to come in here with a brand new will and she wants to
24 get the whole estate to the detriment of her brothers and
25 sisters. This is a case where she wants to do what her

1 mother's last wishes were and that was to give all these six
2 people the estate. She was going to act as the PR and that's
3 all it is.

4 Now, I've submitted Your Honor some of the law that
5 governs undue influence and I'm sure you're aware of those.
6 There's a recent case called Hairston v. McMillan, as well as
7 a more frequently cited case that's called Hembree v. the
8 Estate of Hembree. And in those cases, Your Honor, they
9 outline what's required to prove undue influence and they say
10 the influence that you're complaining about must be such that
11 it destroys the free agency and amount to force and coercion.

12 They go on in the case -- in the McMillan case, which
13 cites Hembree, and says the evidence of undue influence
14 includes threats, force, restricted visitation, an existing
15 fiduciary relationship. All of those things would relate to
16 undue influence.

17 And it says the contestant of a will -- we have the most
18 recent will. Ms. Smith, the contestant, she's got to show
19 that that influence brought directly to bear upon the
20 testamentary act. There has been no evidence from
21 depositions, no affidavits submitted to this Court that shows
22 any kind of undue influence and, to the contrary, the date
23 that Ms. -- the decedent wanted her will changed, she goes to
24 Marion, South Carolina, and she meets with attorney Russ Sloan
25 and Robert Lee, who are in Marion. The deposition of Mr.

1 Sloan is attached in the little booklet I gave you. The
2 affidavit of Mr. Lee is attached to my motion.

3 They state in their -- and Robert Lee states in his
4 affidavit that the decedent met with him. He had her to write
5 down who her beneficiaries were that she wanted of her will,
6 who she wanted to be the PR. She signed it and dated it, and
7 that's attached to his affidavit. Then she goes over after
8 they've typed up the will -- they actually had on their system
9 an earlier will from 2001. They changed it, which the only
10 change was to add two of her grandchildren to the world -- to
11 the -- to the -- to the will. Before, she had had five
12 children. One of those had died so she kept her four children
13 in the will and she added two grandchildren that she had
14 helped raised, and those six people are named in the will.
15 She wrote them down in the notes.

16 The will is prepared. She goes and meets with Mr. Russ
17 Sloan. Attorney Sloan sits down with her. He says he went
18 over it in great detail with her. He took notes of that
19 meeting. Those notes are attached to his deposition.

20 They then testify. Both of them said she was under no
21 stress, no duress. She was relaxed. She came over there.
22 She was in good spirits. She signed it. One of the office
23 workers -- her deposition is in the little folder I gave you
24 -- she said the same thing. Nobody forcing her to do one
25 thing. She met with these attorneys individually.

1 THE COURT: Who -- who was the office worker?

2 MR. PAYNE: Her name was Brittany Hooks I believe, Your
3 Honor.

4 THE COURT: Thank you.

5 MR. PAYNE: She was one of the people who escorted her
6 into the conference room. She said the decedent was sitting
7 there, wanted to watch TV. She said I remember she wanted to
8 watch ---

9 THE COURT: What age was the ---

10 MR. PAYNE: The decedent?

11 THE COURT: Yes, sir.

12 MR. PAYNE: She was -- at the time the will was signed,
13 eighty-four to eighty-five. She was eighty-six when she died,
14 I know that.

15 THE COURT: Thank you.

16 MR. PAYNE: And so, Your Honor, based on the evidence
17 that we've presented to the Court, there's no genuine issue of
18 material fact as to the undue influence claim. In addition,
19 in the petition that they filed to challenge the October 2011
20 will, they make a claim of fraudulent inducement as one of the
21 causes of action.

22 Now, I did some research last night. I've never seen
23 fraudulent inducement. I couldn't find any cases that dealt
24 with it in the will context. As you know, that's normally a
25 defense to a contractual claim. So I don't think such a cause

1 of action exists, but even if it did, there's been no evidence
2 here before the Court that would rise to the level of some
3 kind of undue influence.

4 And we would ask that you grant our motion, probate the
5 will -- the October 18th, 2011, will, the decedent's last will
6 and testament, and that you appoint Ms. Judy Jones the
7 personal representative, who is specifically stated in there,
8 and fulfill the decedent's wishes. Thank you.

9 THE COURT: And this -- this will is the most recent
10 will?

11 MR. PAYNE: Yes, sir. October the 28th [sic] 2011, the
12 will that -- the other will that they're attempting to probate
13 was a March 2011 will and as I said, she died, Your Honor, in
14 March of 2013. So a year and a half passes, and if you look
15 at some of these cases, Your Honor, that's an important fact
16 on these undue influence cases. In fact, the two that I cite
17 you, the Court goes this person got around, they're
18 independent. They were doing this stuff. What kept them from
19 going and making another will? And there's -- there's no
20 evidence that we enslaved her so that she couldn't go do that
21 before, that anybody did anything to keep her from going to
22 get another will. We deny that there's any ---

23 THE COURT: Prior to -- prior to the March 11th will,
24 there would have been in ---

25 MR. PAYNE: 2001.

1 THE COURT: In Mr. Lee and Mr. Sloan's system that was
2 2001?
3 MR. PAYNE: That's correct.
4 THE COURT: Okay.
5 MR. PAYNE: And the evidence is there's another -- I
6 didn't give you the deposition of one of the other workers for
7 Mr. Lee.. Ms. Jordan is here, but she testified ---
8 THE COURT: What's her name?
9 MR. PAYNE: Ms. Pam Jordan. She said it was in their
10 system and they made some changes. To add the two
11 grandchildren to the will was the major change.
12 THE COURT: The only reason I keep asking those names is
13 I have a cousin that works in the law community in Marion,
14 Renee Burch, and I want to make sure that Renee was not
15 involved in -- and I didn't know what ---
16 MR. PAYNE: I don't have any Renees.
17 THE COURT: --- firm or firms she works with.
18 MR. PAYNE: She's not, Your Honor.
19 THE COURT: All right. That's why -- that's the only
20 reason I asked is I ---
21 MR. PAYNE: Okay.
22 THE COURT: --- keep making -- making sure of that. All
23 right. Yes, sir.
24 MR. FINKLEA: May it please the Court, Your Honor. Good
25 morning.

1 THE COURT: Hold on just a minute.

2 MR. FINKLEA: Yes, sir.

3 THE COURT: Now, you fully addressed the issue of
4 additional discovery at the beginning you think?

5 MR. PAYNE: Yes, sir. Your Honor, Rule 56(f) is quite
6 clear. It says, look, if you need more time, you tell the
7 Court in an affidavit why you can't get an affidavit from
8 somebody that you think matters, but the deal is they know
9 everybody who was there the day the will was signed and I
10 don't know what they're -- why they can't get an affidavit
11 from somebody, but that's not here now and we've spent a ton
12 of money. We've taken six depositions. I don't know if that
13 many. Five or six and all over nothing. That's the thing.
14 It's just a waste of time and money and we're ready to move on
15 with the estate.

16 THE COURT: I just wanted to make sure you had covered it
17 to your satisfaction. Thank you very much. I didn't mean to
18 interrupt as I interrupted.

19 MR. PAYNE: No, you didn't, Your Honor. Thank you.

20 MR. FINKLEA: Thank you very much.

21 THE COURT: Yes, sir. Certainly.

22 MR. FINKLEA: Your Honor, first, I don't have control
23 over the witnesses that are deposed. I have spoken with two
24 of the witnesses who are or were Ms. Smith's -- the decedent's
25 healthcare providers at her last days, and they are anxious to

1 give a deposition and, you know, there is no doubt I could
2 have probably done affidavits. There's nothing physically
3 preventing me from that, but I've got the deposition
4 scheduled, which in my opinion is a lot better than
5 affidavits. We're willing to go through the cost of the
6 deposition to do it. Opposing counsel doesn't have to get a
7 copy. I'm paying for the depositions because I want to know
8 not only what the healthcare workers say, but the others. But
9 -- so for that reason, Your Honor, we need more time for that.
10 We believe -- and I'll allude to what we believe the testimony
11 will reflect.

12 Also, Your Honor, this is a novel issue. I spent four
13 hours last night trying to look at issues from all around the
14 country and I'm going to tell you the best law I found was
15 from Great Britain dating back to the 17- 1800s it seemed
16 like, some old treatises that were copied. And this is a
17 novel issue and for that reason we at least want the facts to
18 be fleshed out.

19 I'll tell the Court, too, this is an important matter.
20 You know, despite -- and I know counsel didn't mean this in a
21 -- in a rude manner, but, you know, Ms. Smith -- this is why
22 we're here and her last wishes and what she wanted is why
23 we're here today and that's the purpose. My client wants to
24 appeal this and so we need to develop a factual record if she
25 doesn't prevail.

1 Now, she, too -- I think Mr. Payne referenced the
2 difference. I think in one will the difference would be a
3 five sixths, and the other will it would be six sixths. So
4 one-fifth split and the other will one-sixth. So it is not a
5 lot of money that we're talking about. It is principle that
6 we're talking about, but principle is just as important in the
7 eyes of the law as money.

8 With that being said, Your Honor, we do request a
9 continuance to conduct the depositions. Outside of that, Your
10 Honor, I would like to please pass forward the original
11 deposition of Pam Jordan, as well as mark as an exhibit Ms.
12 Smith's we believe her last will and testament.

13 THE COURT: All right.

14 (Whereupon, the Last Will and Testament is marked as
15 Court's Exhibit Number 1 and the deposition is marked as
16 Court's Exhibit Number 2.)

17 MR. FINKLEA: Your Honor, also let the record reflect I
18 have no objection to the copies of the other two exhibits
19 being admitted into evidence in lieu of originals. I would
20 also let the Court know that I don't think we've even received
21 the originals yet of the last depositions that we took and
22 that's just -- that, quite frankly, was another reason for
23 waiting on lining up more witnesses so I could compare
24 deposition transcripts of each testimony.

25 Your Honor, we believe the facts in this case will show,

1 particularly when viewing those in the light most favorable to
2 us, that the decedent -- if it please the Court, I'm going to
3 refer to her as Granny because that's what I think she was
4 affectionately known as by the family. Granny believed she
5 was going to Marion to execute a healthcare power of attorney.
6 She was taken there by the -- the purported personal
7 representative's daughter for a brunch -- under the guise of a
8 brunch.

9 She went to Marion and the personal representative's
10 daughter works at the law firm there and the attorney of the
11 law firm, Robert Lee -- I don't know if it's a two-way street,
12 but I think Mr. Lee thought he was a part of the family or I
13 know he's part of the family at least to some part of the
14 family. I don't know about the decedent, but I know to some
15 members he's a very close, personal friend to many of them.

16 She went over there and she thought that she was merely
17 executing a healthcare power of attorney. The evidence will
18 show that if she executed a will, she did not know that it was
19 a will that she was executing, but a healthcare power of
20 attorney. We also think the facts will show that she would
21 have never used Attorney Lee to draft a will for her because
22 she had a belief that her brother's will was manipulated or
23 forged who died years before.

24 THE COURT: Now, who ---

25 MR. FINKLEA: The witnesses will ---

1 THE COURT: Who -- who -- who had drafted her 2001 will?

2 MR. FINKLEA: Robert Lee did and then in 2004, '05 or '06
3 -- when did her brother die?

4 UNKNOWN FEMALE: 2010.

5 MR. FINKLEA: 2010 her brother died and that's when they
6 discovered a will that was not what the brother reflected to
7 Granny his wishes were and that last will was done by Mr.
8 Lee's office. That's what the witnesses are going to say and
9 they will testify that's what Granny believed. I'm not saying
10 it's true, but Granny held that belief and it was well-known
11 among the witnesses that we'll call.

12 That the biggest issue, Your Honor, is that she -- that
13 she never received a copy of any of the documents that she
14 executed in Marion. Never and that is borne out by the
15 deposition testimony of Mr. Sloan and Ms. Jordan. The
16 testimony will reflect that she came -- became suspicious of
17 what she executed in Marion and therefore called Attorney
18 Sloan on the phone, called him at his house on Saturday, and
19 he said I don't know who you are. I never did any legal work
20 for you. And we'll have a witness to that -- to that
21 conversation. Mr. Sloan verified it as well in his
22 deposition.

23 Mr. Sloan testified and the witnesses will also bear out
24 that Mr. Sloan began to think about it and he discovered, oh
25 yeah, that was Pam's grandmother, Ms. Jordan's grandmother,

1 and I did do something for her. I witnessed. I was a witness
2 for her to the document, but I did not prepare her will.
3 Robert Lee and Pam prepared the will. I didn't prepare the
4 will.

5 The evidence will reflect that in that -- that in that
6 conversation, Mr. Sloan called Granny and it's my
7 understanding that conversation was recorded by Granny's
8 healthcare worker and she's got a tape of that, and that will
9 bear out in the conversation where Mr. Sloan said I didn't
10 prepare your will, Robert Lee did, but I did witness some
11 documents for you. When he made that call, he called Ms.
12 Jordan into his office, put it on speakerphone, and Ms. Jordan
13 overheard that call.

14 In that call, Mr. Sloan said it was obvious that -- and
15 Mr. Sloan never used the word will in that call. Neither did
16 -- will Sharon. She always referred to it as documents. I
17 want those documents I signed at Robert Lee's office. I want
18 those documents. It was obvious to Mr. Sloan as borne out in
19 his deposition that she never had any of those documents and
20 he said, okay -- well, he didn't say this exactly, but he left
21 it with Pam to provide her copies of those documents. Pam
22 admitted in her deposition that she never delivered copies of
23 those documents to her grandmother.

24 Next, there were a multitude of representations from
25 Granny that -- not only that she had never used Robert Lee to

1 do her will, but a number of representations that her will was
2 at Rick Hoefer's office. Rick Hoefer is a well-known, well-
3 respected lawyer in Florence. He never did any work for
4 Granny before. He will testify that she came to his office by
5 herself. In other words, I guess he met with her by himself.
6 A caretaker probably took her there, but she came two, three,
7 four times to get her will straight. She was very methodical,
8 very meticulous on what she wanted.

9 He also confirmed the fact that Granny did nothing
10 without a book, a black book. She kept copious notes on her
11 daily activities, exactly what she did. Surprisingly, that
12 book is missing and the healthcare worker will testify that --
13 that ---

14 MR. PAYNE: Your Honor?

15 MR. FINKLEA: --- the personal ---

16 THE COURT: Yes, sir?

17 MR. FINKLEA: --- representative took that book.

18 MR PAYNE: I object to what she's going to testify to and
19 all this.

20 THE COURT: All right.

21 MR PAYNE: They can ---

22 THE COURT: I'll sustain --- I'll sustain the objection.

23 MR. PAYNE: They can go up there and get those
24 affidavits.

25 MR. FINKLEA: Well, that's not ---

1 THE COURT: I'll sustain the objection.

2 MR. FINKLEA: In my opinion, Your Honor, to grant summary
3 judgment, we've got to assume all those things are true
4 because that's what these depositions will bear out we
5 believe, and if counsel is not willing to stipulate to those
6 facts, then I don't think summary judgment is appropriate
7 because these are the factual basis for which I'm going to ask
8 the judge to apply law that's really not very well developed
9 in this area.

10 THE COURT: Well, let me ask you something. What --
11 besides what healthcare workers are going to testify to, do
12 you disagree to these other statements that Mr. Finklea has
13 stated?

14 MR. PAYNE: Your Honor, I -- there's so many that he's
15 rambled, I don't know exactly what he ---

16 THE COURT: I'll let you ---

17 MR. PAYNE: All I know is ---

18 THE COURT: I didn't notice him rambling. I mean he was
19 talking about Granny calling the lawyer whose office she was
20 at, Mr. Sloan, at home and saying I don't even know you. I
21 don't know what you're talking about.

22 MR. PAYNE: Judge, you need to read his deposition.

23 THE COURT: Thank you for ---

24 MR. PAYNE: He's got ---

25 THE COURT: --- giving me that suggestion.

1 MR. PAYNE: He's got in there that they call him at home
2 and he doesn't remember who she is, doesn't know who she is,
3 but the deposition, Your Honor, is clear. He said I went over
4 it in excruciating detail with her. I went over every
5 paragraph with her. He knew she knew she was signing a will
6 and so that -- that's why I haven't -- I mean his -- his
7 deposition. Now, he talks about phone calls and this where
8 they called back and that kind of stuff, but just -- his
9 deposition is clear she knew, she was under no duress, and ---

10 MR. FINKLEA: His deposition is clear, Your Honor. At
11 page 16 to 18, he discusses that conversation and, in fact,
12 confirms what I just reflected -- which I just reported to the
13 Court. So that's why Pam Jordan's deposition also confirms
14 that fact on page 25, line 3, through page 27, line 4. This
15 is a known fact. This -- these aspects of it.

16 And in regard to Mr. Sloan's deposition, on page 16, it
17 actually begins at line 10 that he got a call from somebody at
18 my house on Saturday morning and it ends up saying I may have
19 told them at the time I didn't know who she was and didn't
20 even do a will, and then somebody called later here at the
21 office and Pam came in and we had it on speakerphone and they
22 were talking about it and I told the person that time I did
23 not prepare the will. I think I told them I thought that Pam
24 had prepared the will. I think she did that. I don't know
25 how much input Robert had, but as I found out later, he had

1 more input than I knew about about the will. And if anybody
2 asked for copies, I was going to leave that to Pam and Robert
3 because I didn't know. I didn't consider myself -- consider
4 this my client or my case and I wasn't going to be involved
5 with it any more than I had to be. I didn't want to get in
6 the middle of a family feud.

7 And then there was -- and then I asked him to confirm
8 that on line 18, page 17. So there was another call at the
9 office? I think it was -- I wouldn't swear to it, but I think
10 at that time somebody mentioned something about copies and Pam
11 was standing there and I just assumed she would take care of
12 whatever she -- it was her -- her grandmother. I think there
13 was somebody called on behalf of Ms. Smith and then Ms. Smith
14 got on the phone.

15 And then down to line 15, page 18. Based upon that
16 conversation, were you left with the belief that Ms. Smith
17 didn't have a copy of the documents that were executed? I
18 would assume that would be why she would ask the question, but
19 I didn't -- I didn't know whether she did or not. Do you know
20 if the documents were ever subsequently delivered to her? I
21 have no idea. Ms. Jordan's deposition bears that fact out,
22 too, that she never delivered copies to her grandmother.

23 But there's more inconsistencies and questions and what I
24 consider to be fraudulent conduct, Your Honor, and fraudulent
25 conduct can always defeat the statute of frauds. What we

1 believe in this case and our argument would be that, first, if
2 -- if she knew she was executing a will -- we don't think she
3 did, that it was a mistake if she executed a will -- that she
4 didn't know or didn't believe that she executed it later on.
5 When she got home when she started getting suspicious about
6 what happened, nobody could produce for her a copy of the
7 will. She asked for a copy of the will. They couldn't
8 produce a copy of the will. She repeatedly told people that
9 my will is Rick Hoefer's will and that's the only will that
10 she had and that she knew that she had.

11 There's no case out there, Your Honor, that I could find
12 where it said how do you revoke by physical act a will which
13 you don't have a copy of. You can't tear it. You can't
14 mutilate it. You can't write on it. You can't do any of
15 those things if you don't have a copy of it.

16 My position is, Your Honor, that she revoked that will.
17 First, she mistakenly made it. Second, that fraud kept her
18 from revoking a will or confirming the Rick Hoefer will in
19 writing. That is in essence our argument and the facts, Your
20 Honor, would bear that out.

21 Now, there's a number of inconsistencies which I think
22 reflect some -- some fraud and some inconsistencies with what
23 went on. First of all, the Rick Hoefer will was stolen from
24 Granny's at some time or another. Pam testified that Granny
25 took the Rick Hoefer will to Robert Lee's office. That's not

1 what Sharon is going to testify to. Sharon is going to say
2 the only thing that Granny took was this piece of paper that
3 related to healthcare that said I don't want to be put in a
4 nursing home. She didn't take any will. Despite that, Pam
5 testified that she knew about the Rick Hoefer will. That will
6 was not anywhere in Robert Lee's file despite the existence of
7 notes of other wills and other documents.

8 Exhibit Number 6, Your Honor, to Pam Jordan's deposition
9 is a will that appears out of nowhere, but quite frankly --
10 and this will was prepared by Robert Lee's office. Robert Lee
11 and Pam basically said all we did was switch some names out in
12 an '01 will. Well, that's not what Exhibit Number 6 to Pam
13 Jordan's deposition is. This will is completely different,
14 not in regard necessarily to the disposition of the items
15 percentage-wise, but the method of distribution, including
16 that Eris has the first right to purchase, and that proviso
17 comes from Rick Hoefer's will. That is the first note in
18 there of Rick Hoefer's will of that fact.

19 Now, another unique issue is -- and I've got to look at
20 my notes, Judge, because there's a lot of inconsistencies --
21 that Robert Lee and Russ Sloan both testified by way of
22 affidavit of what they did. None of them mentioned having the
23 Rick Hoefer will to go by for the question and I find that
24 very odd that neither of those lawyers testified to that,
25 although Pam stated that Granny allegedly brought that will.

1 Our belief is that will was stolen, taken from Granny's home.

2 Ms. Jordan testified later in her deposition that she
3 knew where that will was and knew that it was between the
4 mattresses. So she -- she at least knew where it was, which
5 would provide her notice of what that will said and therefore
6 why it needed to be changed because it did, in fact, favor
7 Eris to some extent more than her mother.

8 Another inconsistency is, Your Honor, in the handwritten
9 notes that Robert Lee swore that Ms. Smith made, Exhibit
10 Number 2. She misspelled the names of one of her
11 grandchildren and she would never misspell Nicky's name, yet
12 it is misspelled on Exhibit Number 2, which raises a red flag
13 as -- was that exhibit really written by Ms. Smith or was that
14 a document that was created to support what allegedly occurred
15 at that time?

16 The other issue was Mr. Sloan made no reference to any
17 discussion of inventory, what we generally refer to as the
18 memorandum that is attached to a will regarding personal
19 property. In '01, a detailed memorandum was done. Mr. Sloan
20 didn't make any reference to any details in regard to that
21 memorandum. Ms. Jordan, however, testified that that
22 memorandum, all it did basically was give the grandchildren
23 the items that the deceased son had. Well, that's not the
24 case. The new memorandum purportedly gives over fifty percent
25 of the items to her mother, not anyone else, again evidence of

1 -- or at least a reason for some fraudulent conduct.

2 Now, I would also point out, Your Honor, that the big
3 surprise in all this is that Eris was the one who knew her
4 mother's details. It is clear, Your Honor, that everyone --
5 all these siblings loved the mother and vice versa. So this
6 is not about who loved each other more. All of them did what
7 they could for their mother, but it's clear that Eris did the
8 most and it's because she could. She had the ability to do
9 that. She knew all the details of her funeral arrangement,
10 where the keys to everything were, all of her intricate
11 details, and yet the purported will by Robert Lee's office
12 appoints the mother of the legal assistant.

13 There's interesting things in Robert Lee's affidavit. In
14 addition to the name being misspelled, in addition to the
15 Hoefer will not being included, he says that she didn't want
16 to keep the originals. Well, if she didn't want the originals
17 or any copies, why did she call Russ Sloan's office twice
18 trying to get it?

19 Things just don't add up, Your Honor, and the biggest
20 thing that we're missing is the book, Granny's book. It
21 contains everything and attorney Rick Hoefer will testify that
22 that book is the Bible. That book is just as good as a will
23 because that reflects what she wants and what she doesn't
24 want.

25 From a practical standpoint, Your Honor, there's no

1 reason not to at least let us flesh these issues out through
2 discovery. The estate is, in fact, being probated. Judge
3 Eaton appointed a special administrator, local competent
4 attorney in town, Mike Abbott, who, quite frankly, can
5 probably do a better job than both of these ladies right here
6 and can do it without ruffling anybody's feathers and without
7 any problems with any other family members. He is probating
8 the estate or administering the estate and there's no reason
9 that there's an urgent need that this be done now. No
10 distributions will be made until four or five months. There
11 is -- so there's no urgency to this, Your Honor.

12 Second, the -- I want to point out that the relief
13 requested if the Court does get to this is -- and I'll admit
14 to the Court this is the first one that I've had waived up and
15 Judge Eaton, the probate judge, didn't bat an eye in waiving
16 this one up to let the Court deal with these tough factual
17 issues. But it's my understanding that the only issue before
18 this Court would be whether or not -- which will is valid or
19 which will should be probated, and the administration, the
20 appointment of a PR, and all those administrative details
21 should be handled by the Probate Court, and I think that's
22 reflected in Judge Eaton's order waiving this case up where it
23 says this Court retains administration -- jurisdiction over
24 administration. So I point that out.

25 And, Judge, I will -- I will -- you know, I'll admit to

1 the Court I've told my client that the -- the case law, you
2 know, supports, you know, written documents. They don't like
3 parole evidence. That we have a strong burden, but we believe
4 that we can meet that burden in this particular case based
5 upon the fraudulent conduct, the fact that it was -- it was
6 mistakenly made and she didn't know she made it. She didn't
7 have an opportunity to revoke it because they -- they
8 fraudulently didn't give her a copy of the will.

9 But we at least want to see what these -- these witnesses
10 confirm these facts and finally, Your Honor, I think there's
11 case law out there also that when we've got novel issues,
12 summary judgment isn't important as well. Thank you, Your
13 Honor.

14 THE COURT: Thank you. Yes, sir?

15 MR. PAYNE: Thank you, Your Honor. Just a few things,
16 Your Honor. If -- if you look at Mr. Sloan's -- he was very
17 careful when he gave his deposition. In fact, the first
18 question from Mr. Finklea says I'm here today to discuss the
19 will that you prepared for Ms. Smith and, of course, you --
20 and then his answer was let me back up. I didn't prepare it.
21 That's his first question. So he is the witness and reviewed
22 it with her, and I think that distinction needs to be in there
23 somewhere with some of his later testimony about the phone
24 calls and all that.

25 Mr. Lee typed the will, made the corrections, had her --

1 his affidavit is clear, Your Honor, she's sitting in his
2 office and I've attached the notes that she signed and dated
3 the day of what she wanted and who she wanted to be the
4 personal representatives. And Mr. Sloan goes through and he
5 talks about how he did review the will with her.

6 Mr. Lee's affidavit is quite clear as to how he went
7 through the will with her and he attaches Mr. Sloan's notes,
8 which are also in Mr. Sloan's deposition, and in those notes
9 he goes over it. He goes over who she wants to be the PR, who
10 are her children, what are her assets, what does she have. In
11 fact, Ms. -- the decedent actually corrected Mr. Sloan one
12 time. Mr. Sloan assumed the two grandchildren being added
13 were the children of her deceased child and, in fact, that was
14 not the case. She was adding two grandchildren of one of her
15 children who was still alive. So he said she noted that to
16 him and she corrected that with him. But his notes are
17 attached to his deposition.

18 Mr. Lee's affidavit is before the Court and he goes
19 through. She knew what she was doing. There's just no
20 dispute that the day she signed it, they've talked to
21 everybody involved on that particular day, she knew what she
22 was doing and there's no influence upon her that would have
23 changed it. This is not somebody that's dying and is sitting
24 there under the effects of morphine or some other drugs that
25 would have affected her. It's just not the case.

1 Now, a couple of interesting things. The Rick Hoefer
2 will, somehow she's ended up with the -- the original because
3 that's what's gotten probated. I wasn't aware of missing or
4 stolen Rick Hoefer wills and Ms. -- Mr. Hoefer's firm is
5 actually -- Ms. Smith has used them before in another will
6 contest that I happened to defend. So she takes them over
7 there to her own lawyer to do that will. Now, she used Kevin
8 Barth in that other case, but this is not just her grandmother
9 deciding -- or her mother deciding to go over to the Barth
10 Hoefer firm to get a will done.

11 If you look at the cases that I submitted, Your Honor,
12 the -- the Hembree case, the facts are pretty interesting
13 there. In that case, the -- one of the children, her name was
14 Carolyn, she worked at an attorney -- worked for an attorney.
15 Carolyn's husband takes the decedent over to where Carolyn
16 works to meet with an attorney in that office. At that time,
17 Carolyn was there. She met with the testator. She didn't go
18 into the room with them, but she obviously worked at that law
19 firm. So I don't think the fact that one of the family
20 members worked for Mr. Lee has any bearing whatsoever,
21 especially when you read through the rest of this -- this
22 case.

23 And the Court goes on to just -- tell me what unduly
24 influenced the testator in this decision. There's nothing
25 here that rises to that level that is something that she

1 couldn't do. They say they weren't in the room when the will
2 was executed. My client doesn't even know about this will, as
3 she testified to, until a year later. She has no idea that
4 she's been named the PR of this particular will. She's not
5 there. She's not in the room. She doesn't drive her over
6 there. She doesn't do any of this stuff, but her mother
7 writes down notes and gives them to Robert Lee as to what she
8 wants to happen and is very clear.

9 So even in -- with all of those facts facing the Court in
10 the Hembree case, they said there's no -- there's just no
11 evidence of undue influence. The testator had plenty of time
12 in that case to change or revoke his will if there had been.
13 His death was not until almost a year after the will's
14 execution. During this time, he remained active. Our client
15 was the same way, Your Honor. She was active. She had the
16 capacity.

17 This is nothing more than a power struggle that's going
18 on and we're ready to put an end to it, Your Honor. I don't
19 think there's any evidence that's been presented today if you
20 focus on the issue, which is the undue influence, that says
21 what was the undue influence on the day she signed this will.
22 What is it? Was there coercion? Is there threats? Is there
23 anything that affected her as to why she signed this will?

24 And I asked Ms. Smith this in her deposition. You know,
25 they have a nice, loving family. The mothers or the

1 decedents, they're always under a lot of pressure and they
2 tell one person one thing and they tell one person the other
3 thing, and you've seen it, too. They all tell every -- trying
4 to keep everybody happy because they don't want anybody mad at
5 them and fussing with them.

6 I don't know what all she's telling all these people, but
7 when she got behind those doors and it was her and the
8 lawyers, one one time and she met with Mr. Sloan and they
9 review it and she writes down -- that was when she was at
10 peace and she wrote down her wishes and she did them on that
11 day. What she tells people and all this other stuff they want
12 to bring up, the caregiver this or -- I've got eight people
13 here on a notice of deposition, none of which were there the
14 day the will was signed, nobody. I don't think -- there may
15 have been one that saw her that day, but everybody else has
16 got nothing to do with the day and it's just all this drama
17 and just constantly keeping this going.

18 And for the sake of this family, Your Honor, I just
19 request you grant the motion for summary judgment and let's
20 get the will going. We don't need to be paying another lawyer
21 \$200 an hour to help us do this thing. It's ridiculous and we
22 ask that you grant this motion for summary judgment. Thank
23 you.

24 THE COURT: Thank you. Any response?

25 MR. FINKLEA: Your Honor, the Rick Hoefer will, Rick kept

1 the original, but, of course, he gave Ms. Smith, the decedent
2 Granny, a copy. So that's the copy that we believe that was
3 stolen. Granny chose that will where Sharon will bear out the
4 fact that that -- of that fact Eris had nothing to do to it.
5 I'm sure Carolyn in the case referenced got a copy of her will
6 and had an opportunity to review it after the fact and revoke
7 it if she deemed it appropriate.

8 I encourage the Court not just to focus on the date of
9 execution, but the fraudulent conduct which occurred after
10 that event, Ms. Smith from knowing what she did and having the
11 opportunity to take action to undo that if it had, in fact,
12 happened. Thank you, Your Honor.

13 THE COURT: I think the focus should be on 18 October,
14 2011, on the day she executed the most recent will. That was
15 a year and a half prior to her death March of 2013?

16 MR. PAYNE: That's correct, Your Honor.

17 THE COURT: March what.

18 MR. PAYNE: March 11th.

19 THE COURT: March 11th of 2013. In reviewing the
20 documents you signed up here, although there may be
21 inconsistencies within those documents, that's not unusual to
22 find inconsistencies that are not necessarily material. She
23 goes to a law office. She's familiar with the individuals at
24 the law office, one of whom is a relative of hers?

25 MR. PAYNE: The paralegal in that office, Your Honor.

1 MR. FINKLEA: Her granddaughter.

2 MR. PAYNE: It was a granddaughter.

3 THE COURT: Granddaughter.

4 MR. FINKLEA: Daughter of the PR.

5 THE COURT: I've looked at the written document that is
6 handwritten by -- by Granny and it compares to the -- to the
7 will itself. Given the fact that there are no affidavits
8 presented from healthcare workers or otherwise that there was
9 some type of undue influence that overcome Granny's will on
10 October 11th -- October 18th of 2011, I find no genuine issue
11 of any material fact and I'm granting the motion for summary
12 judgment.

13 MR. PAYNE: Thank you, Your Honor.

14 THE COURT: Please prepare me a formal order.

15 MR. FINKLEA: Thank you, Your Honor.

16 THE COURT: Prepare it and I would say this. I want you
17 to address the discovery issue in there, too. I am generally
18 very lenient in the continuation of discovery, but in
19 listening to -- and Mr. -- you both are very fine attorneys
20 that's been before me before, but in listening to those that
21 he may want to -- to depose doesn't -- doesn't -- from what I
22 hear him saying, it would not change my opinion.

23 Now, that -- that's almost an anticipatory ruling in that
24 regard, but from what was presented today and I heard -- you
25 objected to it. You objected to me hearing it, but even if I

1 assume that in there -- so address the discovery issue, both
2 as far as a failure to present affidavits and the timeframe of
3 this. If you'll prepare an order, give it to opposing
4 counsel, email first, and then email to my law clerk.

5 MR. PAYNE: All right, sir.

6 THE COURT: All right.

7 MR. PAYNE: Thank you.

8 THE COURT: Thank you very much. Good luck to you.

9 Thank you.

10 MR. FINKLEA: Thank you, sir.

11 THE COURT: Good luck.

12 (Whereupon, the proceedings end at 12:07 p.m.)

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14 --- END REQUESTED TRANSCRIPT ---

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STATE OF SOUTH CAROLINA

COUNTY OF FLORENCE

In the Matter of:

Estate of Eris Singletary Smith

Eris Gail Smith,

Petitioner,

vs.

Judy Smith Jones,

Respondent.

IN THE PROBATE COURT
TWELFTH JUDICIAL CIRCUIT

C/A #: 2013-ES-21-190

DEMAND FOR JURY TRIAL

FILED
2013 MAY -7 PM 3:25
FLORENCE, S.C.

YOU WILL PLEASE TAKE NOTICE that the undersigned as attorney for the Plaintiff hereby demands to preserve his right to a jury trial on any and all issues on which there is a right to jury trial in this matter.

May 6, 2013

Florence, South Carolina



GARY I. FINKLEA

Attorney for the Petitioner

Finklea Law Firm
814 West Evans Street
Post Office Box 1317
Florence, SC 29503
Phone: (843) 317-4900
Fax: (843) 317-4910
gfinklea@finklealaw.com

STATE OF SOUTH CAROLINA

COUNTY OF FLORENCE

In the Matter of
Estate of Eris Singletary Smith

Judy Smith Jones,

Petitioner,

v.

Eris Gail Smith,

Respondent.

Eris Gail Smith,

Petitioner,

v.

Judy Smith Jones,

Respondent.

IN THE COURT OF COMMON PLEAS

C/A # 2013-CP-21-01334

C/A # 2013-ES-21-190

MOTION FOR SUMMARY JUDGMENT

TO: RESPONDENT ERIS GAIL SMITH ABOVE-NAMED

YOU WILL PLEASE TAKE NOTICE that ten days after service of this notice upon you or as soon thereafter as counsel may be heard, counsel for the Petitioner Judy Smith Jones will move before the Court of Common Pleas for Florence County for an order pursuant to Rule 56 of the South Carolina Rules of Civil Procedure granting summary judgment in favor of the Petitioner against the Respondent Eris Gail Smith as to her Petition and all causes of action set forth in the Respondent's Petition. The ground for this motion is that, Respondent has failed to produce any evidence that the decedent Eris Singletary Smith was subject to any undue influence or fraudulently induced to sign her last will and testament dated October 18, 2011 ("Will") that is

currently filed with the Probate Court for Florence County. Contrary to the unsupported allegations contained in Eris Gail Smith's petition, the evidence from attorneys Russ Sloan and Robert E. Lee is that the decedent freely and voluntarily signed her Will and that no one threatened, forced or unduly influenced her to sign it.

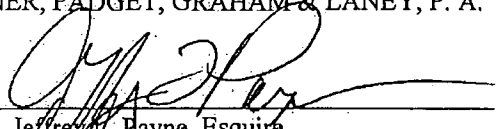
The Petitioner, would therefore request that the court issue an order admitting the Will into probate and that the Personal Representative named in the Will, Judy Jones, be named as Personal Representative of the Estate.

This motion is based upon the pleadings before the court, the affidavit of Robert E. Lee, depositions of Russ Sloan, Brittany Hooks, and Pam Jordan and the substantive and procedural law of the State of South Carolina.

Florence, South Carolina

May 31, 2013

TURNER, PADGET, GRAHAM & LANEY, P. A.

By: 

Jeffrey L. Payne, Esquire
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Florence, South Carolina 29501
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ATTORNEYS FOR THE PETITIONER JUDY JONES

STATE OF SOUTH CAROLINA

COUNTY OF FLORENCE

In the Matter of
Estate of Eris Singletary Smith

Judy Smith Jones,

Petitioner,

v.

Eris Gail Smith,

Respondent.

Eris Gail Smith,

Petitioner,

v.

Judy Smith Jones,

Respondent.

IN THE COURT OF COMMON PLEAS

C/A # 2013-CP-21-01334

C/A # 2013-ES-21-190

AFFIDAVIT OF
ROBERT E. LEE

Not
1

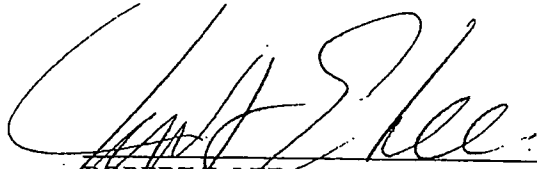
PERSONALLY APPEARED before me Robert E. Lee who, being duly sworn, deposes and says as follows:

1. On October 17, 2011 I received a call from Ms. Eris Singletary Smith. During that call, Ms. Smith indicated that she wanted to meet with me to discuss revising her will.
2. On October 18, 2011 Ms. Smith met with me in my office in Marion, South Carolina and we discussed her desires for her Will. During our meeting, I asked Ms. Smith to write down exactly what she wanted in her Will and to sign and date those instructions. A true and correct copy of Ms. Smith's instructions are attached hereto as Exhibit A.
3. I discussed Ms. Smith's estate with her, her currently living heirs and other parties that she desired to receive assets from her, along with the particulars of the various assets that

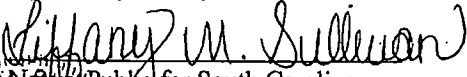
she owned. I specifically asked Ms. Smith if she was being coerced in any way to change her Will and she told me that she was not and that she wanted to make certain that her grandsons Jamie Smith and Mikie Smith were included in her Will such that they would receive a 1/6th interest in her estate.

4. Once I initially met with her and received her written instructions, I had my staff to modify the last will and testament that I had prepared for her in 2001.
5. After the Will was prepared, I reviewed and provided it to her and Russ Sloan, an attorney that works in my office. Mr. Sloan met with Ms. Smith and reviewed the Will with her. Mr. Sloan's hand written notes his conversation with Ms. Smith are attached hereto as Exhibit B.
6. Ms. Smith signed the Will in my office this same day (October 18, 2011) and Russ Sloan and Brittany Hooks acted as the witnesses to the Will. Sarah Carlson, an employee in my office, acted as the notary public and notarized Ms. Smith's signature. A true and correct copy of the will is attached hereto as Exhibit C.
7. After Ms. Smith signed the Will, I also printed out a personal written memorandum that Ms. Smith had my office previously prepare. Ms. Smith made some changes on the previous version of the written memorandum and ultimately signed on October 18, 2011, the memorandum attached hereto as Exhibit D.
8. Ms. Smith requested that I keep the original Will and memorandum in my office, which I did.
9. At no time on October 18, 2011 was Ms. Smith under any duress. Ms. Smith freely and voluntarily signed the Will attached hereto. No one forced her to sign the document and there was no evidence of any threats, force, restricted visitation or any coercion that was being applied to her to force her to sign the Will.

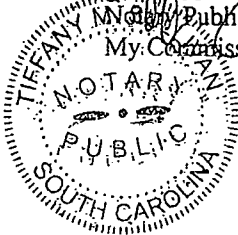
TPGL 5121827v1


ROBERT E. LEE

SWORN to before me this
30th day of May, 2013



Notary Public for South Carolina
My Commission Expires: 02-21-2022




12/2
3

10-18-11

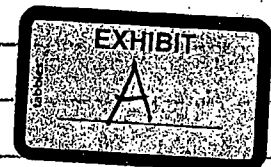
P.R. 1. Judy Jones
2. Blakey Cain

Divided by six
Judy Jones
Eric Moul Smith
Jackie Brown
Jim Smith

Gamer Kevin Smith
Jarvis and Michelle Smith

Sharon Graham \$500.00 plus remaining
of other and shares

Eric Singleton Smith



Kirk Dadrin

85 in December

NO medicine for mental

Celebrex + Cymbalta

Husband died 11 years

had 6 - now 5

JACKIE BROWN

Judy Voner

JAMES EARL SMITH

ERIC GAIL SMITH

Timothy David Smith

Wade Smith (deceased)

House 2 and 3 acres across road

First Federal } less than 100,000
B.P. & T }

old life policy no stocks

old Cadillac

no debts funeral prepaid

TAMIE SMITH MICKIE SMITH

my grand children, children of JAMES EARL
SMITH



Last Will and Testament
of
ERIS SINGLETARY SMITH

I, **ERIS SINGLETARY SMITH** a resident of and domiciled in the County of Florence and State of South Carolina, do hereby make, publish and declare this to be my Last Will and Testament, hereby revoking all Wills and Codicils at any time made by me.

ITEM I

I direct that all my debts, secure and unsecured, be paid as soon as practicable after my death. I direct that my personal representative may cause any debt to be carried, renewed and refinanced from time to time upon such terms and with such securities for its repayment as my personal representatives may deem advisable taking into consideration the best interest of the devisees hereunder.

ITEM II

If I shall leave any written memorandum directing the disposition of items of tangible personal property, I direct my personal representative to abide by the memorandum.

ITEM III

I direct my personal representative, hereinafter named, to give \$2,000.00 in my name to each of the following organizations: American Cancer Society, Singletary Cemetary Fund located in Coward, South Carolina and McLeod Hospice House of South Carolina.

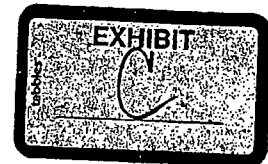
ITEM IV

I direct my personal representative, hereinafter named, to give any remaining clothes and shoes which the family does not want to **SHARON GRAHAM** along with \$500.00.

ITEM V

I direct my personal representative, hereinafter named, to sell all of my property, both real and personal. I direct my personal representative not to sell any of my property, unless directed to do so by order of a Court with competent jurisdiction, until the passage of (9) months after my death except as follows:

During the nine (9) months after my death any of my children or their lineal descendants may purchase items of personal property and/or real property from my estate provided they pay the fair market value of the item(s) purchased as determined by an independent qualified appraiser selected by my personal representative. Also, any purchase or sale of my real property must be approved by the appropriate Court if purchased by a family member.



I direct my personal representative to distribute the funds generated from the sale of my property, real and personal to my children and grandchildren as follows:

Jackie Brown	1/6 th
Judy Jones	1/6 th
James Ervin Smith	1/6 th
Eris Gail Smith	1/6 th
Timothy David Smith	1/6 th
Jamie Smith and Mikie Smith	1/6 th

Provided if any of the above named beneficiaries should predecease me I direct that the predeceased beneficiary's share shall to his or her lineal descendants per stirpes, and in default of lineal descendants his or her share shall be distributed to the remaining beneficiaries share and share alike.

ITEM VI

I hereby appoint my daughter, JUDY SMITH JONES to serve as personal representative of my estate without bond. Should she be unable or unwilling to serve for any reason I appoint my grand-daughter, REBECCA JONES CAIN as my personal representative to serve without bond.

ITEM VII

By way of illustration and not of limitation and in addition to any inherent, implied or statutory powers granted to Personal Representatives generally, my Personal Representative is specifically authorized and empowered with respect to any property, real or personal, at any time held under any provision of this my Will: to allot, allocate between principal and income, assign, borrow, buy, care for, collect, compromise claims, contract with respect to, continue any business of mine, convey, convert, deal with, dispose of enter into, exchange, hold, improve, incorporate any business of mine, invest, lease, manage, mortgage, grant and exercise options with respect to, take possession of, pledge, receive, release, repair, sell, sue for, to make distributions or division in cash or in kind or partly in each without regard to the income basis of such asset and in general to exercise all of the powers in the management of my Estate which any individual could exercise in the management of similar property owned in his or her own right, upon such terms and conditions as to my Personal Representative my seem best and to execute and deliver any and all instruments and to do all acts which my Personal Representative may deem proper or necessary to carry out the purposes of this Will, without being limited in any away by the specific grants of power made and without the necessity of a Court order.

ITEM VIII

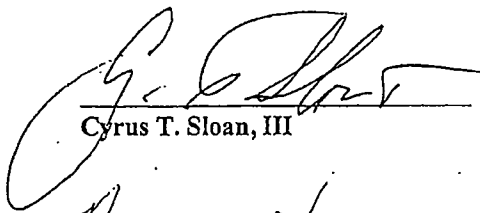
ITEM VIII

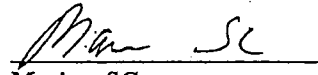
Subject to the rights and limitations expressed and set out above, if any share or property hereunder becomes distributable to any beneficiary who has not attained the age of Twenty Five (25) years old or if any real property shall be devised to a person who has not attained the age of Twenty Five (25) years old at the date of my death, then such share or property shall immediately vest in such beneficiary but notwithstanding the provisions herein, my Personal Representative, acting as Trustee shall retain possession of such share or property in trust for such beneficiary until such beneficiary attains the age of Twenty Five (25) years old, using so much of the net income and principal of such share or property as my Personal Representative deems necessary to provide for the proper support, medical care and education of such beneficiary, taking into consideration to the extent my Personal Representative deems advisable any other income or resources of such beneficiary or his or her parents known to my Personal Representative. Any income not so paid or applied shall be accumulated and added to principal. Such beneficiary's share or property shall be paid over, distributed and conveyed to such beneficiary upon attaining the age of Twenty Five (25) years old, or if he or she shall sooner die, to his or her personal representative or administrators. Whenever my Personal Representative determines it appropriate to pay any money for the benefit of a beneficiary for whom a trust is created hereunder, then such amounts shall be paid out by my Personal Representative deems best: 1) directly to such beneficiary; 2) to the legally appointed guardian of such beneficiary; 3) to some relative or friend for the care, support and education of such beneficiary; 4) by my Personal Representative using such amounts directly for such beneficiary's care, support and education. My Personal Representative as trustee shall have with respect to each share or property so retained all the powers and discretions conferred upon it as Personal Representative.

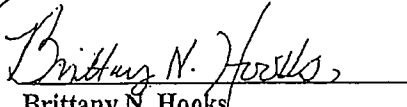
IN WITNESS WHEREOF, I hereunto set my hand and seal this 18 day of October, 2011.

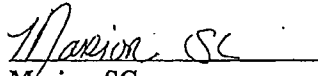
Eris Singletary Smith
Eris Singletary Smith

Signed, sealed, published and declared by ERIS SINGLETARY SMITH and for her Last Will and Testament, in the presence of us, who in her presence and in the presence of each other, at her request, have subscribed our names as witnesses.


Cyrus T. Sloan, III


Marion, SC

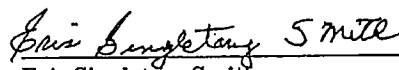

Brittany N. Hooks

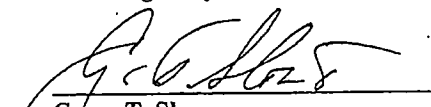

Marion, SC

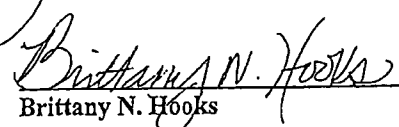
STATE OF SOUTH CAROLINA)
COUNTY OF FLORENCE)

SELF PROVING AFFIDAVIT

We, ERIS SINGLETARY SMITH, CYRUS T. SLOAN and BRITTANY N. HOOKS, the testatrix and the witnesses, respectively, whose names are signed to the attached or foregoing instrument, being first duly sworn, do hereby declare to the undersigned authority that the testatrix signed and executed the instrument as her Last Will and Testament on October 18, 2011 and that she signed willingly (or willingly directed another to sign for her) and that she executed it as her free and voluntary act for the purposes therein expressed, and that each of the witnesses, in the presence and hearing of the testatrix signed the Last Will and Testament as witness and to the best of his/her knowledge the testatrix was at that time eighteen years of age or older, of sound mind, and under no constraint or undue influence.


Eris Singletary Smith


Cyrus T. Sloan


Brittany N. Hooks

SS
INH
SD
O

Subscribed, sworn to, and acknowledged before me by Eris Singletary Smith,
the testatrix, and subscribed and sworn to before Cyrus T. Sloan, III and Brittany N.
Hooks, witnesses, this the 18th day of October, 2011.

Sarah L. Cullen (L.S.)
Notary Public of South Carolina
My Commission Expires: Aug 31, 2021

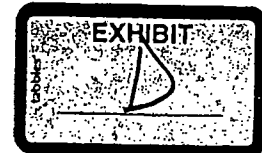
55
NH
✓

MEMORANDUM TO LAST WILL AND TESTAMENT OF
ERIS SINGLETARY SMITH

DEN

Pie Crust Table:
Round Light Oak Table:
Coffee Table:
Couch:
Glider Chair:
Leather Comfortable Chair:
Mantel Rocking Chair:
Bunk Bed:
Bunk Bed:
O. S. Table:
Desk and Lamp:
Floor Lamp:
Coat Rack:
VCR:
TV:
Antique Trunk:
11 inch Rocking Chair:
Child's Rocking Chair:
Charleston Print:
Antique Round Table with 6 chairs:
Brass Bakers Rack with everything on it:
Wall Clock:
Picture "THE STORM":
Plate Rack with Plates:
Curio Cabinet:
Antique Chair (Rocking):
Oval Antique Table with Ceramic Lamp:
Cane Rocking Chair (suffered):
Oval Oak Table:
Sofa:
2 Antique Stuffed Chairs:
Niagara Falls Print:
Framed Picture of Grandchildren:
Ronald Reagan Invitation:
Child's Straight Chair:
Family Tree:
Silhouettes:
Picture "Pretty In":
Picture "Effingham Supply":
Picture "Whistle Stop Silent":
Picture "Sunday Depot":

Becky Jones
Jerald Brown
Eris Gail Smith
Hope Smith
Tim Smith
Mike Smith
Pam Jordan
James Smith
Judy Jones
Tim Smith
Al Brown
James Smith
Becky Jones
Phillip Jones
James Smith
Becky Jones
Mikie Smith
Becky Jones
Phillip Jones
Judy Jones
Judy Jones
James Smith
Debra Kennedy
Jamie Smith
Al Brown
James Smith
Brandon Smith
Judy Jones
Mike Smith
Becky Jones
Jerald Brown
Debra Kennedy
Judy Jones
Tim Smith
Philip Jones
Eris Gail Smith
James Smith
Pam Jordan
Pam Jordan
Caleb Carraway



Picture "Morning in Sleepy Hollow":
Wood Picture Book:
Granddaddy Smith's Watch:
"The Thinker":
Cut Glass Bowls:
Clemson Plaque:
Fern stand and dried arraignment:
Pam and Kirby's wedding picture:
Wedding Picture:
Ceramic Cats:
Brass Floor Lamp:
Blue Picture:
Hoyt and Jack's Picture:
Magazine Rack:
Swivel Chair:
1 Small Trunk:
1 Small Trunk:

Al Brown
Eris Gail Smith
James Smith
Mikie Smith
James Smith
Tim Smith
Jackie Brown
Pam Jordan
Pam Jordan
Hagan Smith
Jamie Smith
Jeri Brown
James Smith
Brandon Smith

Brad Kennedy
Blaine Kennedy

KITCHEN

Wear-ever Pots:
Kitchen Round Oak Table with 5 chairs:
T.V.:
Square Antique Table:
Microwave:
Magazine Rack:

Tim Smith
James Smith
Mikie Smith
James Smith
Eris Smith
James Smith

HALL

Heart Shape Table:

James Smith

MY BEDROOM

Bedroom Suit:
Jewelry Armoire:
Chase Lounge:
Love Letters Print:
Antique Oak Chester Drawers:

Mikie Smith
Debra Kennedy
Jeri Brown
Jeri Brown
Mikie Smith

MY BATHROOM

3 Gold Frame Prints:

Jamie Smith

MIDDLE BEDROOM

Jacks Bedroom Suit:
Quilt Rack:
Cedar Chest:
Leather Rocker:
S Print:
World Book Encyclopedia:
Child Craft:
The Bradman Bible Commentary (Jacks Bible):
4 Season Plaque:
4 Bird Pictures:
2 Bird Pictures (Gold Frames):
Quilt Rack:
T.V.:
Small Chest:
Antique Lamp:

James Smith/Mikie Smith
James Smith
Hope Smith Carraway
James Smith
Eris Gail Smith
Mikie Smith
Austin Smith
Tim Smith
James Smith
Mikie Smith
Jamie Smith
Judy Jones
James Smith
James Smith
Debra Kennedy

BACK BEDROOM

Antique Oak Wash Stand:
Wash Bowl and Pitcher:
Men's Valet Chair:

Judy Jones
Judy Jones
James Smith

DINING ROOM

65.5
3
Cherry Dining Room Table with six chairs:
Table Pads/Clothes:
Cherry Buffet:
Round Table:
1 Fern Stand:
1 Antique China Closet:
Sewing Machine:
His Mom's Cross Stitch Picture:
Birthday Picture (Oct.):
Birthday Picture (Dec.):
Basket Picture:
Magnolia Picture:
Still Life Picture:
Flower Arrangement on Buffet:
Nortika China:
Stainless Silverware:
Silver Serving Pieces:
Flat Ware- Service for 8:
Everyday Johnson China:
2 Ceramic Plaques:

Pam Jordan
Pam Jordan
Pam Jordan
Debra Kennedy
Jackie Brown
Becky Jones
Jamie Smith
Mikie Smith
Jackie Brown
Hagan Smith
James Smith
Jeri Brown
Jeri Brown
Eris Gail Smith
Pam Jordan
James Smith
Jackie Smith/Judy Jones (split 50/50)
Jackie Smith/Judy Jones (split 50/50)
Hope Smith Carraway
Debra Kennedy

Fern Stand:
Cross Stitch Bell Pull:
Angle Picture:

Judy Jones
Jeri Brown
Hope Smith Carraway

LIVING ROOM

Rocking Chair:
Antique Marble Top Table with Mirror & Lamp:
Velvet Love Seat and Angel Picture above:
Marble Secretary:
Antique Cane Chair:
1 Large - 2 Small Magnolia Rugs:
Curio Table:
Velvet Chair:
Magazine Rack:
Tapestry Antique Sofa:
2 Leaf End Tables with everything on them:
2 Oval Pictures (Flower & Bird with dark frame):
2 Small Oval Pictures:
Coffee Table with everything on it:
Bible:
Little Boy Antique Picture:
1 Marble Stand:
Antique Picture of the Ten Commandments:
Antique Picture of the Lady and the Stairs:

Jackie Brown
Becky Jones
Eris Gail Smith
Jackie Brown
Jamie Smith
Debra Kennedy
Eris Gail Smith
Eris Gail Smith
Jerald Brown
Judy Jones
Judy Jones
Jeri Brown
Becky Jones
Judy Jones
James Smith
Brandon Smith
Karen and Tim Smith
Mikie Smith
Jackie Brown

ESS 4
Erin Singleton Smith 10.18.11

STATE OF SOUTH CAROLINA

COUNTY OF FLORENCE

In the Matter of
Estate of Eris Singletary Smith

Judy Smith Jones,

Petitioner,

v.

Eris Gail Smith,

Respondent.

Eris Gail Smith,

Petitioner,

v.

Judy Smith Jones,

Respondent.

IN THE COURT OF COMMON PLEAS

C/A # 2013-CP-21-01334

C/A # 2013-ES-21-190

ORDER

Proposed

This matter is before the court on the Petitioner/Respondent Judy Smith Jones' motion for summary judgment as to her Petition filed on March 13, 2013 to probate the last will and testament ("Will") of Eris Singletary Smith ("Decedent") dated October 18, 2011, as to the Petition filed by Eris Gail Smith on March 13, 2013 to probate a will signed by the Decedent on March 30, 2011 and as to the Petition filed by Eris Gail Smith on or about March 28, 2013 to challenge the October 18, 2011 Will. In support of her motion Judy Jones offered the affidavit of attorney Robert E. Lee and the depositions of attorney Cyrus Sloan and Brittany Hooks. In opposition, Eris Smith offered her deposition and the deposition of Pam Turner. A hearing was held before me on August 7, 2013.

TPGL 5253421v1

Prior to the hearing, the attorney for Eris Smith requested that hearing be continued so that he could take additional depositions. After listening to counsel's recitation of the purported testimony to be offered by such witnesses, it was obvious that none of them were present when the Will was signed on October 18, 2011 and they would be unable to offer any additional testimony that would affect my decision. Consequently, I denied that request.

After listening to the arguments of counsel and reviewing the other evidence presented, and viewing this evidence in the light most favorable to the non-moving party Eris Smith, and for the following reasons, I grant Judy Jones motion of summary judgment. The October 18, 2011 Will shall be formally probated and Judy Smith Jones shall be appointed as the Personal Representative of the Estate of Eris Singletary Smith ("Estate").

BACKGROUND

Ms. Eris Singletary Smith ("Decedent") died on March 11, 2013. Seventeen months prior to her death, the Decedent signed her Last Will and Testament ("Will") on October 18, 2011. The Will was properly executed by the Decedent, and properly witnessed and notarized such that it was a self-proving will. The Will revoked all prior wills which included the March 30, 2011 will ("Revoked Will") that Eris Gail Smith is attempting to probate.

The Decedent signed her last Will on October 18, 2011 in Marion South Carolina at the law office of Robert Lee. All of the parties acknowledge that the Decedent possessed the necessary capacity to make the Will. On October 18, 2011, the Decedent travelled to Marion to meet with attorneys Robert Lee and Cyrus "Russ" Sloan to discuss her Will. At the meeting, the Decedent wrote notes down identified therein who she wanted to inherit her assets and that she wanted Judy Jones to serve as the personal representative of her estate. She gave her notes to Robert Lee. After Robert Lee drafted the Will, he provided it to Russ Sloan who reviewed it

carefully with the Decedent. While discussing her Will with Russ Sloan, the Decedent named each of her children and she listed her major assets for him. Russ Sloan prepared notes of his meeting with the Decedent. Thereafter, the Decedent signed the Will in the presence of attorney Russ Sloan, Brittany Hooks and Sarah Carlson.

Russ Sloan testified that during his meeting with the Decedent, she was relaxed and under no duress or stress. Russ Sloan further testified that no one was threatening her and she was under no undue influence that affected her ability to sign the Will. Russ Sloan's testimony is consistent with that of Robert Lee who states that the Decedent was under no undue influence that would have affected her ability to freely sign the Will. Likewise, Brittany Hooks, an employee of Robert Lee's testified that when she met with the Decedent on October 11, 2011 that the Decedent was very relaxed and that she was under no stress at all.

ANALYSIS

Rule 56(c) of the South Carolina Rules of Civil Procedure provides: "The judgment sought shall be rendered forthwith if 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." Summary judgment is proper when there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law. Osborne v. Adams, 346 S.C. 4, 550 S.E.2d 319 (2001); Baughman v. American Telephone & Telegraph Co., 306 S.C. 101, 111, 410 S.E.2d 537, 545 (1991); Fender & Latham, Inc. v. First Union Nat'l Bank of S.C., 316 S.C. 48, 446 S.E.2d 448 (Ct. App. 1994).

Eris Smith argues that the Will is invalid because she claims that the Decedent was subjected to undue influence when she signed the Will. "The mere existence of influence is not

enough to void a will as all influences are not unlawful. For influence to vitiate a will, it must destroy free agency and amount to force and coercion." Hairston v. McMillan, 692 S.E.2d 549 (S.C.Ct.App. 2010) (citing Hembree v. Estate of Hembree, 428 S.E.2d, 3, 5 (S.C.Ct.App.1993)). "Circumstances must unmistakably and convincingly point to the substitution of another's will for that of the testator." *Id.* "Evidence of undue influence may include threats, force, restricted visitation, or an existing fiduciary relationship at the time of or before the will's execution." *Id.* "A contestant must show that the influence was brought directly to bear upon the testamentary act." *Id.* "General influence is not enough." *Id.*

In the instant case, the Respondent Eris Smith has provided no evidence of any acts of undue influence exerted upon the Decedent. She has been unable to offer any evidence of any acts exerted upon the Decedent that would have destroyed the Decedent's free agency or that would have amounted to force and coercion upon her. Alternatively, the petitioner Judy Jones has offered the testimony of the two attorneys who meticulously reviewed with the Decedent, her estate plan and her Will. She has also offered the testimony of the employees who met with the Decedent when she came to their office to sign the Will. All of the attorneys have testified that no such undue influence existed and the other parties who observed and spoke with the Decedent on October 11, 2011 have stated that the Decedent was relaxed and under no duress to sign the Will.

Eris Smith has claimed that the decedent was not given a copy of her will and that she called attorney Russ Sloan to obtain a copy of it but one was never sent to her. Such evidence does not amount to undue influence. If this was truly a problem for the Decedent, the Decedent had ample time to obtain a new will or to revoke the Will as the Will was signed seventeen months before her death. See, Hembree v. Estate of Hembree, 428 S.E. 2d 3 (S.C. Ct.App. 1993)

("Even if a contestant does establish an inference of undue influence, the unhampered opportunity of the testator to change the will after the operation of undue influence destroys this conclusion." citations omitted).

As to the claim by Eris Gail Smith in her March 28, 2013 Petition, that the Decedent was "fraudulently induced" to execute the Will, not only has Ms. Smith failed to provide any evidence of such fraudulent inducement but there are no known decisions in South Carolina that would support such a claim as to a last will and testament. Such a claim is a contractual claim. See generally, Baeza v. Robert E. Lee Chrysler Plymouth, 309 S.E.2d 363 (S.C. Ct.App. 1983). Consequently, the "fraudulent inducement" cause of action should also be dismissed

CONCLUSION

It is therefore ordered, for the foregoing reasons that Judy Smith Jones' motion for summary judgment is granted. The Decedent's last will and testament dated October 18, 2011 shall be probated in this matter and Judy Smith Jones shall be appointed as the personal representative of the Estate.

AND IT IS SO ORDERED

DATE: _____

R. Knox McMahon, Circuit Court Judge

STATE OF SOUTH CAROLINA

COUNTY OF FLORENCE

In the Matter of
Estate of Eris Singletary Smith

Judy Smith Jones,

Petitioner,

v.

Eris Gail Smith,

Respondent.

Eris Gail Smith,

Petitioner,

v.

Judy Smith Jones,

Respondent.

IN THE COURT OF COMMON PLEAS

C/A # 2013-CP-21-01334

C/A # 2013-ES-21-190

**MEMORANDUM IN SUPPORT OF
JUDY SMITH JONES'
MOTION FOR SUMMARY JUDGMENT**

The Petitioner/Respondent Judy Smith Jones hereby submits this memorandum in support of her motion for summary judgment as to her Petition filed on March 13, 2013 and as to the Petition filed by Eris Gail Smith, filed on March 28, 2013.

THE FACTS

Ms. Eris Singletary Smith ("Decedent") died on March 11, 2013. Prior to her death, the Decedent signed her Last Will and Testament ("Will") on October 18, 2011. (See Exhibit C to Affidavit of Robert Lee) The Will revoked all prior wills which included the March 30, 2011 will ("Revoked Will") that Eris Gail Smith is attempting to probate.

TPGL 5217305v1

The Will provided that one-sixth of the Decedent's estate was to be left to each of her children Jackie Brown, Judy Jones, James Eris Smith, Eris Gail Smith, Timothy David Smith and one-sixth to be left jointly to her grandsons Jamie Smith and Mikie Smith. The personal property was to be divided pursuant to a memo that the Decedent left.

Interestingly, the Revoked Will that Eris Gail Smith is attempting to probate, provided that the Decedent's children would each receive one fourth of the majority of the assets of the Estate.

The Decedent signed her last Will on October 18, 2011 in Marion South Carolina at the law office of Robert Lee. On that day the Decedent travelled to Marion to meet with attorneys Robert Lee and Cyrus "Russ" Sloan to discuss her Will. At the meeting, the Decedent wrote down exactly who she wanted to inherit her assets and that she wanted Judy Jones to serve as the personal representative of her estate. She gave her notes to Robert Lee. (See Exhibit A to Affidavit of Robert Lee.) After Robert Lee drafted the Will, he provided it to Russ Sloan who reviewed it carefully with the Decedent. While discussing her Will with Russ Sloan, the Decedent named each of her children and she listed her major assets for him. Russ Sloan prepared notes of his meeting with the Decedent. (See Exhibit B to Affidavit of Robert Lee; and Russ Sloan Deposition Exhibit 1.) Thereafter, the Decedent signed the Will in the presence of attorney Russ Sloan, Brittany Hooks and Sarah Carlson.

Russ Sloan testified that during his meeting with the Decedent, she was relaxed and under no duress or stress. (See Depo of Cyrus Sloan p. 26-27.) Russ Sloan further testified, that no one was threatening her and she was under no undue influence that affected her ability to sign the Will. (Depo. Cyrus Sloan p. 28, lines 21-p. 29 line. 2.) Russ Sloan's testimony is consistent with that of Robert Lee who states that the Decedent was under no undue influence that would

have affected her ability to freely sign the Will. (See Affidavit of Robert Lee par. 9.). Likewise, Brittany Hooks, an employee of Robert Lee's testified that when she met with the Decedent on October 11, 2011 that the Decedent was very relaxed and that she was under no stress at all. (Depo Brittany Hooks p. 9, lines 22-p. 10.)

On March 11, 2013, the Decedent died. On March 12, 2013, the Respondent Eris Gail Smith attempted to file with the Probate Court a petition to file the Revoked Will and to appoint herself as the personal representative of the Decedent's estate. Thereafter, on March 13, 2013, the Petitioner Judy Jones filed a petition to probate the Will and for the appointment of herself as the personal representative as was specifically set forth in the Will.

On March 18, 2013 Eris Smith also filed a petition to challenge the Will and the appointment of Judy Jones as the personal representative. The basis for Eris Gail Smith's petition is that the Decedent was unaware that the document she signed was her last will and testament and that she was under undue influence and fraudulently induced to sign the Will.

Eris Smith admits that the Decedent was sane and possessed the necessary capacity to make a Will as well as any other decisions for herself.

ARGUMENT

The Respondent Eris Smith's petition to challenge the Will is primarily based on a claim that the Decedent was subjected to undue influence when she signed the Will. "The mere existence of influence is not enough to void a will as all influences are not unlawful. For influence to vitiate a will, it must destroy free agency and amount for force and coercion." Hairston v. McMillan, 692 S.E.2d 549 (S.C. Ct.App. 2010) (citing Hembree v. Estate of Hembree, 428 S.E.2d, 3, 5 (S.C. Ct.App. 1993)). "Circumstances must unmistakably and convincingly point to the substitution of another's will for that of the testator." *Id.* "Evidence of

undue influence may include threats, force, restricted visitation, or an existing fiduciary relationship at the time of or before the will's execution." *Id.* "A contestant must show that the influence was brought directly to bear upon the testamentary act." *Id.* "General influence is not enough." *Id.*

In the instant case, the Respondent Eris Smith has provided no evidence of any acts of undue influence exerted upon the Decedent. That is because there were no such acts and there certainly were no such acts that would have destroyed the Decedent's free agency or that would have amounted to force and coercion upon her. Alternatively, the petitioner Judy Jones has offered the testimony of the two attorneys who meticulously reviewed with the Decedent, her estate plan and her Will. She has also offered the testimony of the employees who met with the Decedent when she came to their office to sign the Will. All of the attorneys have testified that no such undue influence existed and the other parties who observed and spoke with the Decedent on October 11, 2011 have stated that the Decedent was relaxed and under no duress to sign the Will.

As to the claim by Eris Gail Smith that the Decedent was "fraudulently induced" to execute the Will, not only has Ms. Smith failed to provide any evidence of such fraudulent inducement but there are no known decisions in South Carolina that would support such a claim as to a last will and testament. Such a claim is a contractual claim. See generally, Baeza v. Robert E. Lee Chrysler Plymouth, 309 S.E.2d 363 (S.C. Ct.App. 1983). Consequently, the "fraudulent inducement" cause of action should be dismissed.

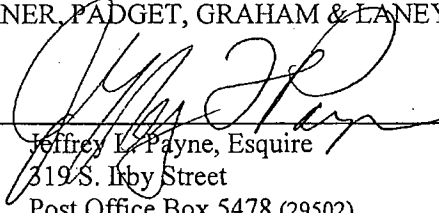
CONCLUSION

All of the parties admit that the Decedent had the capacity to make the Will. The uncontroverted evidence before the court is that the Decedent was under no undue influence when she signed the Will. The Respondent Eris Gail Smith has failed to submit any evidence of undue influence to support her claims. Consequently, the Court should grant Judy Jones' motion to probate the Decedent's last will and testament dated October 18, 2011 and to appoint her as the personal representative of the Estate as is set forth in the Will.

Florence, South Carolina

August 6, 2013

TURNER, PADGET, GRAHAM & LANEY, P. A.

By: 

Jeffrey L. Payne, Esquire
319 S. Ivy Street
Post Office Box 5478 (29502)
Florence, South Carolina 29501
(843) 662-9008
(843) 667-0828 fax
Email: jpayne@turnerpadget.com

ATTORNEYS FOR THE PETITIONER/RESPONDENT
JUDY JONES

STATE OF SOUTH CAROLINA

COUNTY OF FLORENCE

In the Matter of
Estate of Eris Singletary Smith

Judy Smith Jones,

Petitioner,

v.

Eris Gail Smith,

Respondent.

Eris Gail Smith,

Petitioner,

v.

Judy Smith Jones,

Respondent.

-
1. Affidavit of Robert E. Lee
 2. Deposition of Cyrus Sloan
 3. Deposition of Brittany Hooks

IN THE COURT OF COMMON PLEAS

C/A # 2013-CP-21-01334

C/A # 2013-ES-21-190

INDEX

Submitted
@ Hearing
on S.J. Motion

STATE OF SOUTH CAROLINA

COUNTY OF FLORENCE

In the Matter of
Estate of Eris Singletary Smith

Judy Smith Jones,

Petitioner,

v.

Eris Gail Smith,

Respondent.

Eris Gail Smith,

Petitioner,

v.

Judy Smith Jones,

Respondent.

IN THE COURT OF COMMON PLEAS

C/A # 2013-CP-21-01334

C/A # 2013-ES-21-190

AFFIDAVIT OF
ROBERT E. LEE

FILED
2013 MAY 31 PM 3:11
CONNIE REEL-SHEARIN
CCJP & GS
FLORENCE COUNTY, SC

Per
PERSONALLY APPEARED before me Robert E. Lee who, being duly sworn, deposes
and says as follows:

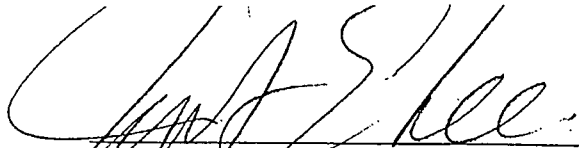
1. On October 17, 2011 I received a call from Ms. Eris Singletary Smith. During that call, Ms. Smith indicated that she wanted to meet with me to discuss revising her will.
2. On October 18, 2011 Ms. Smith met with me in my office in Marion, South Carolina and we discussed her desires for her Will. During our meeting, I asked Ms. Smith to write down exactly what she wanted in her Will and to sign and date those instructions. A true and correct copy of Ms. Smith's instructions are attached hereto as Exhibit A.
3. I discussed Ms. Smith's estate with her, her currently living heirs and other parties that she desired to receive assets from her, along with the particulars of the various assets that

CERTIFIED TRUE COPY
Connie Reel Shearin
CLERK OF COURT C.P. & G.S.
FLORENCE COUNTY, S.C.
TPGL 5121827V1

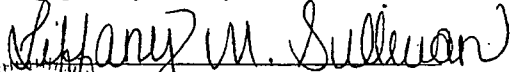
she owned. I specifically asked Ms. Smith if she was being coerced in any way to change her Will and she told me that she was not and that she wanted to make certain that her grandsons Jamie Smith and Mikie Smith were included in her Will such that they would receive a 1/6th interest in her estate.

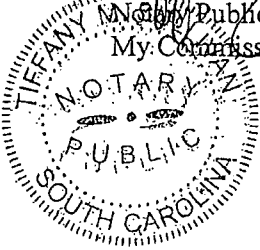
4. Once I initially met with her and received her written instructions, I had my staff to modify the last will and testament that I had prepared for her in 2001.
5. After the Will was prepared, I reviewed and provided it to her and Russ Sloan, an attorney that works in my office. Mr. Sloan met with Ms. Smith and reviewed the Will with her. Mr. Sloan's hand written notes his conversation with Ms. Smith are attached hereto as Exhibit B.
6. Ms. Smith signed the Will in my office this same day (October 18, 2011) and Russ Sloan and Brittany Hooks acted as the witnesses to the Will. Sarah Carlson, an employee in my office, acted as the notary public and notarized Ms. Smith's signature. A true and correct copy of the will is attached hereto as Exhibit C.
7. After Ms. Smith signed the Will, I also printed out a personal written memorandum that Ms. Smith had my office previously prepare. Ms. Smith made some changes on the previous version of the written memorandum and ultimately signed on October 18, 2011, the memorandum attached hereto as Exhibit D.
8. Ms. Smith requested that I keep the original Will and memorandum in my office, which I did.
9. At no time on October 18, 2011 was Ms. Smith under any duress. Ms. Smith freely and voluntarily signed the Will attached hereto. No one forced her to sign the document and there was no evidence of any threats, force, restricted visitation or any coercion that was being applied to her to force her to sign the Will.

TPGL 5121827v1


ROBERT E. LEE

SWORN to before me this
30th day of May, 2013


Tiffany M. Sullivan
Notary Public for South Carolina
My Commission Expires: 02-21-2022




12/2
3

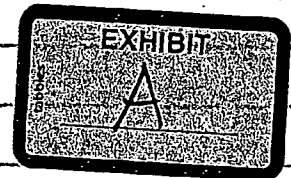
10-18-11

P.R. 1. Judy Jones
2. Bishop Cain

Divided by six,
Judy Jones
Chris Paul Smith
Jackie Brown
Jim Smith
James Kevin Smith
Janie and Michie Smith

Sharon Graham \$500.00 plus remaining
father and Phoebe

Earl Singleton Smith



Kirk Dadrill

85 in December.

NO medicine for mental
Celebrex + Cymbalta

Husband died 11 years
had 6 - now 5

Jackie Brown

Judy Voner

JAMES EARL SMITH

ERIC GAIL SMITH

Timothy David Smith

Wade Smith (deceased)

House 2000 / JACKS ACROSS ROAD
First Federal } less than 100,000
B.P. & T

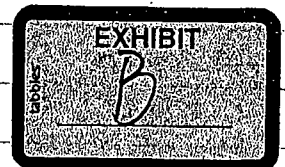
old life policy no stocker

old Cadillac

No debts funeral prepaid

TAMIE SMITH MICKIE SMITH

my grand children, children of JAMES EARL
SMITH



Last Will and Testament
of
ERIS SINGLETARY SMITH

I, **ERIS SINGLETARY SMITH** a resident of and domiciled in the County of Florence and State of South Carolina, do hereby make, publish and declare this to be my Last Will and Testament, hereby revoking all Wills and Codicils at any time made by me.

ITEM I

I direct that all my debts, secure and unsecured, be paid as soon as practicable after my death. I direct that my personal representative may cause any debt to be carried, renewed and refinanced from time to time upon such terms and with such securities for its repayment as my personal representatives may deem advisable taking into consideration the best interest of the devisees hereunder.

ITEM II

If I shall leave any written memorandum directing the disposition of items of tangible personal property, I direct my personal representative to abide by the memorandum.

ITEM III

I direct my personal representative, hereinafter named, to give \$2,000.00 in my name to each of the following organizations: American Cancer Society, Singletary Cemetary Fund located in Coward, South Carolina and McLeod Hospice House of South Carolina.

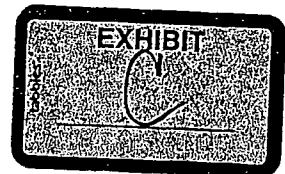
ITEM IV

I direct my personal representative, hereinafter named, to give any remaining clothes and shoes which the family does not want to **SHARON GRAHAM** along with \$500.00.

ITEM V

3^B
NH
JH
I direct my personal representative, hereinafter named, to sell all of my property, both real and personal. I direct my personal representative not to sell any of my property, unless directed to do so by order of a Court with competent jurisdiction, until the passage of (9) months after my death except as follows:

During the nine (9) months after my death any of my children or their lineal descendants may purchase items of personal property and/or real property from my estate provided they pay the fair market value of the item(s) purchased as determined by an independent qualified appraiser selected by my personal representative. Also, any purchase or sale of my real property must be approved by the appropriate Court if purchased by a family member.



I direct my personal representative to distribute the funds generated from the sale of my property, real and personal to my children and grandchildren as follows:

Jackie Brown	1/6 th
Judy Jones	1/6 th
James Ervin Smith	1/6 th
Eris Gail Smith	1/6 th
Timothy David Smith	1/6 th
Jamie Smith and Mikie Smith	1/6 th

Provided if any of the above named beneficiaries should predecease me I direct that the predeceased beneficiary's share shall to his or her lineal descendants per stirpes, and in default of lineal descendants his or her share shall be distributed to the remaining beneficiaries share and share alike.

ITEM VI

I hereby appoint my daughter, JUDY SMITH JONES to serve as personal representative of my estate without bond. Should she be unable or unwilling to serve for any reason I appoint my grand-daughter, REBECCA JONES CAIN as my personal representative to serve without bond.

ITEM VII

SS
NH
[initials]

By way of illustration and not of limitation and in addition to any inherent, implied or statutory powers granted to Personal Representatives generally, my Personal Representative is specifically authorized and empowered with respect to any property, real or personal, at any time held under any provision of this my Will: to allot, allocate between principal and income, assign, borrow, buy, care for, collect, compromise claims, contract with respect to, continue any business of mine, convey, convert, deal with, dispose of enter into, exchange, hold, improve, incorporate any business of mine, invest, lease, manage, mortgage, grant and exercise options with respect to, take possession of, pledge, receive, release, repair, sell, sue for, to make distributions or division in cash or in kind or partly in each without regard to the income basis of such asset and in general to exercise all of the powers in the management of my Estate which any individual could exercise in the management of similar property owned in his or her own right, upon such terms and conditions as to my Personal Representative my seem best and to execute and deliver any and all instruments and to do all acts which my Personal Representative may deem proper or necessary to carry out the purposes of this Will, without being limited in any way by the specific grants of power made and without the necessity of a Court order.

ITEM VIII

ITEM VIII

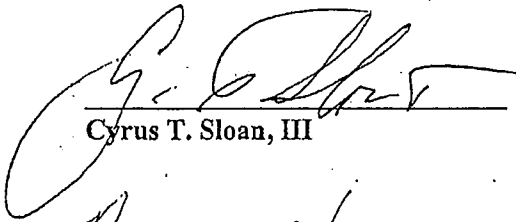
Subject to the rights and limitations expressed and set out above, if any share or property hereunder becomes distributable to any beneficiary who has not attained the age of Twenty Five (25) years old or if any real property shall be devised to a person who has not attained the age of Twenty Five (25) years old at the date of my death, then such share or property shall immediately vest in such beneficiary but notwithstanding the provisions herein, my Personal Representative, acting as Trustee shall retain possession of such share or property in trust for such beneficiary until such beneficiary attains the age of Twenty Five (25) years old, using so much of the net income and principal of such share or property as my Personal Representative deems necessary to provide for the proper support, medical care and education of such beneficiary, taking into consideration to the extent my Personal Representative deems advisable any other income or resources of such beneficiary or his or her parents known to my Personal Representative. Any income not so paid or applied shall be accumulated and added to principal. Such beneficiary's share or property shall be paid over, distributed and conveyed to such beneficiary upon attaining the age of Twenty Five (25) years old, or if he or she shall sooner die, to his or her personal representative or administrators. Whenever my Personal Representative determines it appropriate to pay any money for the benefit of a beneficiary for whom a trust is created hereunder, then such amounts shall be paid out by my Personal Representative deems best: 1) directly to such beneficiary; 2) to the legally appointed guardian of such beneficiary; 3) to some relative or friend for the care, support and education of such beneficiary; 4) by my Personal Representative using such amounts directly for such beneficiary's care, support and education. My Personal Representative as trustee shall have with respect to each share or property so retained all the powers and discretions conferred upon it as Personal Representative.

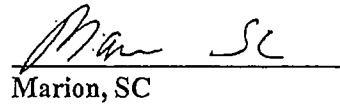
IN WITNESS WHEREOF, I hereunto set my hand and seal this 18 day of
October, 2011.

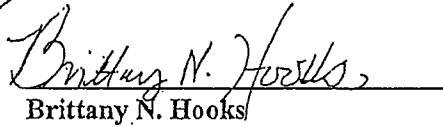
Eris Singletary Smith
Eris Singletary Smith

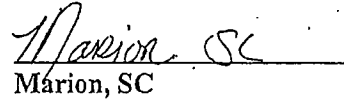
SS
BUT
CS

Signed, sealed, published and declared by ERIS SINGLETARY SMITH and for her Last Will and Testament, in the presence of us, who in her presence and in the presence of each other, at her request, have subscribed our names as witnesses.


Cyrus T. Sloan, III


Marion, SC

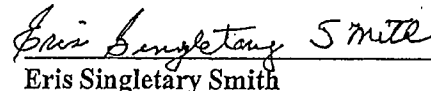

Brittany N. Hooks

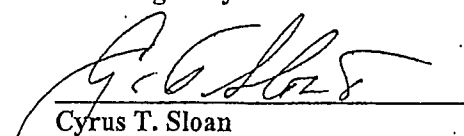

Marion, SC

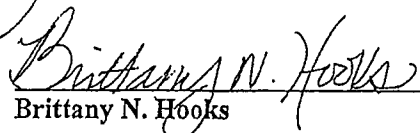
STATE OF SOUTH CAROLINA)
COUNTY OF FLORENCE)

SELF PROVING AFFIDAVIT

We, ERIS SINGLETARY SMITH, CYRUS T. SLOAN and BRITTANY N. HOOKS, the testatrix and the witnesses, respectively, whose names are signed to the attached or foregoing instrument, being first duly sworn, do hereby declare to the undersigned authority that the testatrix signed and executed the instrument as her Last Will and Testament on October 18, 2011 and that she signed willingly (or willingly directed another to sign for her) and that she executed it as her free and voluntary act for the purposes therein expressed, and that each of the witnesses, in the presence and hearing of the testatrix signed the Last Will and Testament as witness and to the best of his/her knowledge the testatrix was at that time eighteen years of age or older, of sound mind, and under no constraint or undue influence.


Eris Singletary Smith


Cyrus T. Sloan


Brittany N. Hooks

SS
NH
CJ

Subscribed, sworn to, and acknowledged before me by Eris Singletary Smith,
the testatrix, and subscribed and sworn to before Cyrus T. Sloan, III and Brittany N.
Hooks, witnesses, this the 18th day of October, 2011.

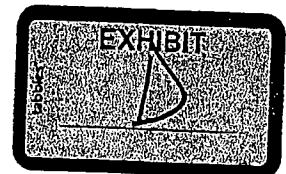
Saul A. Coulter (L.S.)
Notary Public of South Carolina
My Commission Expires: Aug 31, 2021

SS
NH
☒

MEMORANDUM TO LAST WILL AND TESTAMENT OF
ERIS SINGLETARY SMITH

DEN

2551
(
Pie Crust Table:
Round Light Oak Table:
Coffee Table:
Couch:
Child's Chair:
Leather Couch and Chair:
Mantel Clock and Chair:
Glass Cabinet:
Zebra End Table:
Oak Stairs Inlaid:
Desk and Lamp:
Floor Lamp:
Coat Rack:
VCR:
TV:
Antique Trunk:
11 inch Rocking Chair:
Child's Rocking Chair:
Charleston Print:
Antique Round Table with 6 chairs:
Brass Bakers Rack with everything on it:
Wall Clock:
Picture "THE STORM":
Plate Rack with Plates:
Curio Cabinet:
Antique Chair (Rocking):
Oval Antique Table with Ceramic Lamp:
Cane Rocking Chair (stuffed):
Oak Chest with pictures:
Stereo:
2 Antique Straight Chairs:
Niagara Falls Print:
Framed Picture of Grandchildren:
Ronald Reagan Invitation:
Child's Straight Chair:
Family Tree:
Silhouettes:
Picture "Pretty In":
Picture "Effingham Supply":
Picture "Whistle Stop Silent":
Picture "Sunday Depot":
Becky Jones
Jerald Brown
Eris Gail Smith
Hope Smith
Tim Smith
Mike Smith
Pam Jordan
James Smith
Becky Jones
Jerald Brown
Tim Smith
Al Brown
James Smith
Becky Jones
Phillip Jones
James Smith
Becky Jones
Mikie Smith
Becky Jones
Phillip Jones
Judy Jones
Judy Jones
James Smith
Debra Kennedy
Jamie Smith
Al Brown
James Smith
Brandon Smith
Ned Jones
Mike Smith
Becky Jones
Jerald Brown
Debra Kennedy
Judy Jones
Tim Smith
Philip Jones
Eris Gail Smith
James Smith
Pam Jordan
Pam Jordan
Caleb Carraway



Picture "Morning in Sleepy Hollow":
Wood Picture Book:
Granddaddy Smith's Watch:
"The Thinker":
Cut Glass Bowls:
Clemson Plaque:
Fern stand and dried arraignment:
Pam and Kirby's wedding picture:
Wedding Picture:
Ceramic Cats:
Brass Floor Lamp:
Blue Picture:
Hoyt and Jack's Picture:
Magazine Rack:
Swivel Chair:
1 Small Trunk:
1 Small Trunk:

Al Brown
Eris Gail Smith
James Smith
Mikie Smith
James Smith
Tim Smith
Jackie Brown
Pam Jordan
Pam Jordan
Hagan Smith
Jamie Smith
Jeri Brown
James Smith
Brandon Smith

Brad Kennedy
Blaine Kennedy

KITCHEN

Wear-ever Pots:
Kitchen Round Oak Table with 5 chairs:
T.V.:
Square Antique Table:
Microwave:
Magazine Rack:

Tim Smith
James Smith
Mikie Smith
James Smith
Eris Smith
James Smith

HALL

Heart Shape Table:

James Smith

MY BEDROOM

Bedroom Suit:
Jewelry Armoire:
Chase Lounge:
Love Letters Print:
Antique Oak Chester Drawers:

Mikie Smith
Debra Kennedy
Jeri Brown
Jeri Brown
Mikie Smith

MY BATHROOM

3 Gold Frame Prints:

Jamie Smith

MIDDLE BEDROOM

Jacks Bedroom Suit:
Quilt Rack:
Cedar Chest:
Leather Rocker:
S Print:
World Book Encyclopedia:
Child Craft:
The Bradman Bible Commentary (Jacks Bible):
4 Season Plaque:
4 Bird Pictures:
2 Bird Pictures (Gold Frames):
Quilt Rack:
T.V.:
Small Chest:
Antique Lamp:

James Smith/Mikie Smith
James Smith
Hope Smith Carraway
James Smith
Eris Gail Smith
Mikie Smith
Austin Smith
Tim Smith
James Smith
Mikie Smith
Jamie Smith
Judy Jones
James Smith
James Smith
Debra Kennedy

BACK BEDROOM

Antique Oak Wash Stand:
Wash Bowl and Pitcher:
Men's Valet Chair:

Judy Jones
Judy Jones
James Smith

DINING ROOM

Cherry Dining Room Table with six chairs:
Table Pads/Clothes:
Cherry Buffet:
Round Table:
1 Fern Stand:
1 Antique China Closet:
Sewing Machine:
His Mom's Cross Stitch Picture:
Birthday Picture (Oct.):
Birthday Picture (Dec.):
Basket Picture:
Magnolia Picture:
Still Life Picture:
Flower Arrangement on Buffet:
Nortika China:
Stainless Silverware:
Silver Serving Pieces:
Flat Ware- Service for 8:
Everyday Johnson China:
2 Ceramic Plaques:

Pam Jordan
Pam Jordan
Pam Jordan
Debra Kennedy
Jackie Brown
Becky Jones
Jamie Smith
Mikie Smith
Jackie Brown
Hagan Smith
James Smith
Jeri Brown
Jeri Brown
Eris Gail Smith
Pam Jordan
James Smith
Jackie Smith/Judy Jones (split 50/50)
Jackie Smith/Judy Jones (split 50/50)
Hope Smith Carraway
Debra Kennedy

Fern Stand:
Cross Stitch Bell Pull:
Angle Picture:

Judy Jones
Jeri Brown
Hope Smith Carraway

LIVING ROOM

Rocking Chair: Jackie Brown
Antique Marble Top Table with Mirror & Lamp: Becky Jones
Velvet Love Seat and Angel Picture above: Eris Gail Smith
Marble Secretary: Jackie Brown
Antique Cane Chair: Jamie Smith
1 Large - 2 Small Magnolia Rugs: Debra Kennedy
Curio Table: Eris Gail Smith
Velvet Chair: Eris Gail Smith
Magazine Rack: Jerald Brown
Tapestry Antique Sofa: Judy Jones
2 Leaf End Tables with everything on them: Judy Jones
2 Oval Pictures (Flower & Bird with dark frame): Jeri Brown
2 Small Oval Pictures: Becky Jones
Coffee Table with everything on it: Judy Jones
Bible: James Smith
Little Boy Antique Picture: Brandon Smith
1 Marble Stand: Karen and Tim Smith
Antique Picture of the Ten Commandments: Mikie Smith
Antique Picture of the Lady and the Stairs: Jackie Brown

ESS
4
Eris Singletary Smith 10.13.11

State of South Carolina
In Probate Court
County of Florence

In the Matter of the Estate of
Eris Singletary Smith

Judy Smith Jones,
Petitioner,

V. 2013-CP-21-190

Eris Gail Smith,
Respondent.

Deposition of: Cyrus Sloan
Location: 111 Witcover Street
Marion, South Carolina

Date: Wednesday, May 1, 2013

Time: 10:06 a.m. - 10:40 a.m.

Court Reporter: Roger R. Williamson

The deposition is taken pursuant to notice and/or
agreement, in the above-entitled cause pending in
the above-named court and pursuant to the South
Carolina rules of civil procedure.

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Q&A Court Reporting

APPEARANCES

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By: Jeffrey L. Payne, Esq.

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Florence, SC 29501
By: Gary I. Finklea, Esq.

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Further Examination by Mr. Finklea	30
Further Examination by Mr. Payne	32

EXHIBITS

Pg/ln	Ex.	Description
Post Marked	1	Mr. Sloan's Notes

** uh-huh = affirmative
huh-uh = negative

questions is for you just to explain what involvement you did have with it so I can direct my questions and be a little more specific.

A Sometime, I don't remember how long before, Ms. Smith came in -- Pam had said that her grandmother had called and wanted to change her will, and that Robert wanted to know if I would be willing to be a witness or review it with her. I said, sure. And I -- I don't know how long it was after that, that she came in. And all I did was take the will that was prepared and come in here and sit down and review it with her and go over it in some detail. And make sure that everything was the way she wanted and let her sign it.

Q Okay.

A And I did do a power of attorney that same day.

Q Okay. And was it a -- a -- a healthcare power of attorney or a --

A No, it was a general power of attorney.

Q General attorney -- all right.

A And I prepared that. I think it was kind of a last minute thing, and I had it on the -- I have power of attorney files on my computer, and all I had to do was just plug in the

STIPULATIONS

It is stipulated between counsel that this deposition is being taken pursuant to the South Carolina rules of civil procedure and that all objections except as to the form of the question are reserved until the time of trial.

It is also stipulated between counsel for the respective parties and the deponent that the deponent will waive the right to read and sign this transcript.

Thereupon,

Cyrus Sloan,
having been first duly sworn by the court reporter, testified as follows:

EXAMINATION

BY MR. FINKLEA:

Q Mr. Sloan, I -- I'm sure that you are aware that you're here today to discuss your involvement in the will that you prepared for Ms. Smith and, of course, you --

A Let me back up. I didn't prepare it.

Q Okay. Well, very good. Well -- well, let me say then your involvement with that will. So and -- and so I don't waste too much time in skirting around the issue, one of my first

names.

Q Okay. All right. And -- and, of course, the document that you prepared I don't think there's any dis-- dispute about that. But it would have been the will that was dated October 18th, 2011. Is that --

A That was the will I went over with her and witnessed with her.

Q Okay.

A I did not prepare it.

Q Right. Okay. And -- and -- and tell me a little bit about if you can recall -- and -- and I know you have some notes here, and I'm might just mark those as an exhibit, too, before we leave just as Exhibit 1. And that may --

A Uh-huh.

Q -- probably the only exhibit here today. But, you know, reviewing your notes or from -- from your recollection if you could just walk me through what you learned from her and the steps you took to review the will.

A She got -- I don't know what time she got here, but she was here for some time before I talked to her. Pam -- I think it was Pam.

Somebody came back and said that Ms. Smith's here.

Page 6	Page 8
1 You know, she's ready for you to come in and talk 2 to her. So I came in. It was just Ms. Smith and 3 I in this room. And I asked her several 4 questions, and got these notes from her responses 5 to my questions. And it seemed to me like she 6 knew who her children were, grandchildren -- 7 you -- basically what she owned and all that kind 8 of stuff. She seemed, you know, competent to me. 9 Q Okay. 10 A She knew what was going on. I then 11 took the will and started going through it 12 paragraph by paragraph and explained to her what 13 the will said. I asked her if that's what she 14 wanted. She said, yes. I think before we 15 started, I said something to the effect that, you 16 know, the will was in here when I got -- got in 17 here. I said, is this your will? Have you had a 18 chance to look at it? Do you have any questions 19 about it? And she said something about this is 20 the one that has -- I think it was the two 21 grandchildren, Jamie and Mikey, I think. And I 22 said, yes, ma'am, I think so. And so then we 23 started going through it. 24 Q Okay. 25 A And, you know, I -- I probably -- let	1 and all that kind of stuff. I didn't read it 2 verbatim. I went over every paragraph, but some 3 of them I didn't read verbatim. 4 Q Okay. And but -- and -- and then you 5 pointed to the paragraphs that you thought you 6 read verbatim and you pointed to item number 7 two -- 8 A Three -- 9 Q -- item three -- 10 A -- four, five and six. 11 Q Okay. 12 A I did not read verbatim item seven and 13 eight. I told them what -- basically what -- what 14 they were. Because they didn't really, you know, 15 those are kind of boiler plate language of a will. 16 Q Was a memorandum attached to the will 17 when you prepared it? 18 A Again, I didn't -- 19 Q All right. And -- 20 A -- prepare it. 21 Q -- and -- and I apologize. You're 22 right, sir, yeah. 23 A I had seen a memorandum, but I did not 24 go over the memorandum with her. And the reason I 25 didn't go over a memorandum with her was because
Page 7	Page 9
1 me see the will a second. I probably -- some of 2 these items I didn't read verbatim that was just 3 kind of housekeeping kind of things. But when we 4 got down to the -- when -- when she was giving 5 property away, I would read that paragraph and 6 read -- excuse me -- the other paragraphs. I 7 probably did not read this one to her about the 8 powers of the personal representative. I told her 9 who she had chosen as her P.R. and the backup P.R. 10 and that kind of thing. 11 Q And -- and for the record, you -- you 12 were pointing, and it looks like, I think you 13 said, you probably didn't review or read verbatim 14 items one -- 15 A I -- 16 Q -- and two. 17 A -- items one -- I probably did read 18 item two. I didn't read this part. Didn't read 19 item one. 20 Q Okay. Didn't read the introductory 21 paragraph. 22 A Right, didn't read it. 23 Q The whole item one. 24 A No, I -- I just told I said, you know, the first paragraph says you'll pay all your debts	1 there's no requirement that it be witnessed or 2 anything else. And my -- I don't re--- I don't 3 remember whether the memorandum was in here with 4 her. I don't think that it was. 5 Q Okay. 6 A It -- it may have been. I just can't 7 remember. But I do remember making the statement 8 that I had seen one earlier somewhere. You know, 9 that I understand you've got a memorandum or 10 here's your memorandum. And I'm not going to go 11 over that with you because you can do that at home 12 if you want to. You -- I mean, nobody -- you 13 don't have to have a lawyer. You don't have to 14 have it witnessed or anything else. And so I 15 don't know when that was signed or anything else 16 about it. I never saw it after it was signed. 17 Q Do you believe it was in existence, 18 though, before you reviewed the will with her? 19 A Either -- either that or some form of 20 that. Now, it may have gotten changed before she 21 signed. I don't know. 22 Q Okay. 23 A But it may have been the memorandum 24 that she had with the will she did years earlier. 25 Q Okay.

3 (Pages 6 to 9)

Q&A Court Reporting

Page 10	Page 12
1 A That -- the one that I saw. I -- I 2 can't remember, but I do remember seeing something 3 with -- with all that on it. 4 Q And I want to ask you some questions a 5 little bit about other than specifically reviewing 6 the items in the will, just what you inquired in 7 regard to her background, and why she was there 8 and just overall what she wanted to do. And 9 you -- your notes may help you with that, but you 10 know, I -- I -- if you recall, how did you start 11 it out and... 12 A Well, I told her that Robert had wanted 13 me to go over this with her. And I asked her 14 questions about how old she was, you know, was she 15 on any medication. I asked her a little bit about 16 her family history and she told me that her 17 husband had died 11 years ago. She had six 18 children. Now, she only had five. She told me 19 she had a house and two acres and then three acres 20 across the road. She banked at First Federal and 21 BB&T. She had an old life insurance policy. She 22 had no stocks. She had an old Cadillac. No debts 23 and her funeral was prepaid. 24 Now, before she came, I'm pretty sure 25 Pam -- because that's who I talked to primarily	1 A No. Huh-uh. 2 Q Okay. 3 A Not to me. 4 Q Did you have an idea about -- and I see 5 you have some notes in regard to her -- her real 6 estate, the house and the acreage, and you, of 7 course, went over some bank accounts. And I see 8 some notes to the side less than 100,000. 9 A That's what she told me. 10 Q Okay. Did -- other than those notes 11 with the house and the money, do you have -- did 12 you have an idea of the -- what her estate was 13 consisted of? 14 A Other than -- other than what's on this 15 paper, I had no idea. Other than I usually ask 16 people is your estate worth more or less -- I 17 think at that time I think it was 18 5,000,000 dollars that you could pass tax free. 19 And just make sure it's not a taxable estate. But 20 other than that, that's all I would have done. 21 Q As -- as you may be aware, the -- the 22 issue in this case is that Ms. Smith had made a 23 prior will -- well, I'll ask if you're aware. Are 24 you aware that -- now, are you aware that -- 25 A I am aware of it now, and I may have
Page 11	Page 13
1 about this -- had said that she wanted to change it 2 and that one of the children had died, and she 3 wanted to add two grandchildren. And I had just 4 assumed that the two grandchildren that she was 5 adding was the children of the son who had died. I 6 must have said something to that because she 7 corrected me down at the bottom. I got that the 8 Jamie and Mikey are the children of James Erwin 9 Smith, not of Wade Smith. And so she -- she did 10 tell me that. 11 And then I said, it's my understanding 12 that you want your two grandchildren involved. She 13 told me that almost first thing when I walked in the 14 room that when we started talking about her will. 15 She said, now, of my grandchildren are in here. And 16 I said, that's -- that's what I understand you want. 17 And so we just went over it and that's pretty much 18 it. 19 Q Did she state why she was excluding 20 James, who I -- I understand stand to be Jamie and 21 Mikey's father? 22 A That she was excluding? 23 Q Well, did she make any statement why 24 she was including them then, treating them 25 differently than the other grandchildren?	1 been aware of it then. I -- 2 Q Okay. 3 A It kind of runs together. 4 Q And -- and we haven't deposed the 5 lawyer who did that. His name was Rick Hoefer 6 and -- 7 A Yeah. 8 Q -- and he testified how deliberate 9 Ms. Smith was, and how many times she came to the 10 office to visit. And so to some extent, it 11 surprises us that she would have come and -- and 12 changed that will. 13 A Uh-huh. 14 Q Did -- did she -- did -- I guess one -- 15 and you've already made one reference -- 16 A Uh-huh. 17 Q -- to it. Were you aware of how old 18 her prior will was when you met with her? 19 A The one that I was referring to was the 20 one that Robert had done I think back in 2001. I 21 did not know when the -- Rick Hoefer -- I didn't 22 know that -- at the time that she came in, I don't 23 think I knew when that one was made. 24 Q When she came in to make the -- when -- 25 when you reviewed the will with her, did she have

4 (Pages 10 to 13)

Q&A Court Reporting

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1 a little book or any notes with her --

2 A I don't --

3 Q -- that you recall?

4 A -- I don't remember.

5 Q You've already --

6 A I think --

7 Q I'm sorry.

8 A -- I think she met with Robert for a

9 while before I was called in. So you know, he may

10 know something more about that. I don't.

11 Q Do you know how long the physical

12 document was pre--- prepared before you reviewed

13 it with her?

14 A No, I -- I think the final draft was

15 done probably that day.

16 Q Okay.

17 A I don't know that but...

18 Q Do you recall how long of a time period

19 that you met with her when you reviewed the will?

20 Excluding the power of attorney, but the will.

21 A That was all done at the same time.

22 I -- long enough that I could go over all of this

23 with her and get all this information and be

24 comfortable that I felt that she was competent and

25 that this was what she wanted to do, but anything

Page 15

else would just be a guess.

2 Q And she made no reference as to why she

3 may have been doing things different from another

4 occasion, another will or...

5 A The only thing I got was that she had

6 called her granddaughter about wanting to change

7 the will. And Pam had told me some days earlier

8 that she wanted to add these two grandchildren in.

9 And I couldn't tell you whether -- when that was.

10 And then I think she wanted to come in the day

11 before she actually signed this will, but I was

12 not available that day. And I didn't see her, and

13 so she came in that -- the next day or a day --

14 two days later or something. But she wanted --

15 she had wanted to come in one time when I was not

16 going to be available. And so we had -- she had

17 to reschedule for this date. I don't know whether

18 that was the day before or three days before.

19 Q After you reviewed the will and the

20 power of attorney, do you know -- did you provide

21 her copies of any of those documents, or did you

22 let staff sort of wrap it up?

23 A After -- after we signed it, I told

24 them we've got everything signed, you know, here

it is. I mean I had -- this was -- and I've known

Page 16

1 Pam a long time. It's Pam's grandmother. I was

2 just, you know --

3 Q I understand

4 A -- just trying to be accommodating.

5 Q Right. Do you know if you ever

6 received a telephone call from Ms. Smith or

7 someone on her behalf after the fact regarding

8 obtaining copies of those documents or questioning

9 what she may have signed or did?

10 A I got a call from somebody at my house

11 on a Saturday morning. And to be honest with you,

12 they mentioned a name, and I think they -- and it

13 took -- I didn't know who they were talking about.

14 Because this was not something that was -- you

15 know, she wasn't a regular client of mine. It

16 wasn't something that would have just stuck in my

17 head. And I don't remember what we talked about

18 that time other than I tried it impress upon

19 them -- I may have told them, at the time, I

20 didn't know who she was and didn't even do a will.

21 And then somebody called later on here at

22 the office, and Pam came in and we had it on speaker

23 phone. And they were talking about that. And I

24 told the person that time that I did not prepare the

25 will. I think I told them I thought that Pam had

Page 17

1 prepared the will. I think she did that -- I don't

2 know how much input Robert had had, but as I found

3 out later, he had more input than I knew about,

4 about the will. And if anybody asked for copies, I

5 was going to leave that to Pam and Robert because I

6 didn't know -- I didn't consider this my client or

7 my case, and I wasn't going to be involved with it

8 any more than I had to be. I didn't want to get in

9 the middle of a family feud.

10 Q The -- so the call Saturday, whatever

11 response you gave, that was, you know --

12 A It come out of the blue.

13 Q And I understand all of us lawyers are,

14 you know, can call and ask about a random client

15 it'd be very hard to speak from memory in -- in

16 that regard --

17 A Uh-huh.

18 Q -- but there -- there was another call

19 at the office.

20 A And I think that was -- I wouldn't

21 swear to it, but I think at that time, somebody

22 mentioned something about copies and Pam was

23 standing there. And I just assumed she would take

24 care of whatever she -- it was her -- her

25 grandmother. I think there was somebody called on

5 (Pages 14 to 17)

Q&A Court Reporting

Page 18 1 behalf of Ms. Smith and then Ms. Smith got on the 2 phone, I think, but... 3 Q Did it appear to be an -- an African 4 American -- 5 A It did. 6 Q -- lady? 7 A Uh-huh. 8 Q Okay. And then you believe Ms. Smith 9 got on the phone? 10 A (No verbal response.) 11 Q And -- and -- was that a yes? 12 A Yes. 13 Q Yeah. 14 A Uh-huh. 15 Q And based upon that conversation, were 16 you left with the belief that Ms. Smith didn't 17 have a copy of the documents that were executed? 18 A I would assume that would be why she 19 would ask the question. But I didn't -- I didn't 20 know whether she did or didn't. 21 Q Do you know if documents were ever 22 subsequently delivered to her? 23 A I have no idea. 24 Q If -- if -- and -- and I -- I need the 25 answer just -- just to clear it primarily for my	Page 20 1 A No, I do not. 2 Q And therefore, Pam wouldn't have been 3 your employee -- 4 A No. 5 Q -- at this time? 6 A No. That's -- I specifically have in 7 there that I don't have any control over the 8 people working here or any ability to give them 9 directions. 10 Q And through your of counsel 11 relationship, in connection with that financial 12 relationship, you don't share of any -- the fruits 13 of any of Attorney Lee's work product? 14 A No. 15 Q Is that correct? 16 A The only thing I do, is anything 17 that -- my old clients, anything that I do myself, 18 I get a percentage of what work I do. And I play 19 golf a lot more than I practice law, so I don't 20 get a whole lot of money out of this. 21 Q You had made some reference to your 22 involvement or what involvement went into this 23 will before you reviewed it. Can you tell me what 24 you understand Robert and/or Pam's involvement was 25 before -- in -- in generating or drafting this
Page 19 1 client's sake. So if -- 2 A Uh-huh. 3 Q -- if -- if -- if you don't mind, just 4 briefly explaining your relationship with Pam, and 5 that may involve explaining your business 6 relationship with Robert a -- a little bit. 7 A I sold this law practice to Robert and 8 Chuck McLean back in 2008 and became of counsel 9 with them. And when they split up, I -- I wasn't 10 going to move to Florence, so I stayed here and 11 I'm of counsel to Robert. And Pam is in the 12 office next to mine. She does her stuff, and I do 13 my stuff. Very -- most of the things that I do 14 are for my former clients that'll come in. About 15 all I do now is probate work, and very rarely I'll 16 ask of the other secretaries to do something for 17 me, but I usually -- I've got all the forms. I do 18 all my own typing and all that kind of stuff. And 19 occasionally, they'll ask me a question. But 20 other than seeing each other here in the office, I 21 have no other relationship with them. 22 Q Do you have any employees in the 23 office? 24 A Me personally? 25 Q Yes, sir.	Page 21 1 document? 2 A I'm -- I -- I'm just speculating that 3 Pam's grandmother talked to her and that Pam 4 talked to Robert. And that the things that -- 5 that Ms. Smith wanted was to add these two 6 grandchildren. That they had an old will that he 7 had done back in 2001 where it was divided among 8 the living children. And that Robert talked to 9 Ms. Smith by telephone and in person and that when 10 she came in that day, he had her come in the 11 office and he talked to her. I don't know if he 12 took any notes. I think she gave him some 13 handwritten notes. And the will was finalized at 14 that time, and I would assume that he went over it 15 with her. I don't know. I hadn't talked to him 16 about that. 17 Q Okay. 18 A And -- and they called me in. It was 19 after he had talked to Ms. Smith and she had been 20 here for, I don't know how long. I mean, I didn't 21 pay any attention to when she got here. I might 22 not have even known when she got here. My office 23 is in the back back -- back there, and I don't 24 know who comes and goes a lot, and that's kind of 25 the way I like it.

6 (Pages 18 to 21)

Q&A Court Reporting

Page 22	Page 24
1 Q The issue with the personal 2 representatives, did -- did Ms. Smith share any 3 information with you as to why she appointed Judy 4 and alternatively Rebecca in the will that you 5 reviewed with her? 6 A She did not tell me any reasons why. I 7 just said, these are the people who you have 8 appointed. Is that what you want? And she said, 9 yes. 10 Q Did she talk about any of the 11 relationship she had with any of her other 12 children or anything like that why she may favor 13 or disfavor one or another? 14 A Not that I know of. I didn't get into 15 that with her. She didn't -- and she didn't 16 volunteer it. 17 Q And did she review with you which child 18 or children did more of her business on a 19 day-to-day basis, currently? 20 A No. 21 Q I assume the power of attorney 22 appointed the same persons as the -- 23 A Right. 24 Q -- personal representatives? 25 A Uh-huh.	1 I started encouraging my clients to keep it 2 because I didn't want to have to keep them all 3 here and worry about getting rid of them when I 4 retired. Because I knew it was going to retire, 5 and then when Robert came, that kind eased that 6 burden a little bit. So I wasn't -- but we've -- 7 I've got a ton of wills that my partner and I have 8 done over the last 45, 50 years. 9 Q In the file that you mentioned that 10 Robert may have, do you know if the original will 11 is in that file or do you know what Robert's 12 practice is? 13 A I don't know. 14 Q Okay. And do you know if that -- if 15 the original may be in that file? 16 A I'm assuming the original has been 17 filed with the court by now. 18 Q Okay. 19 MR. PAYNE: It's at the Probate Court. 20 MR. FINKLEA: It -- the original is, 21 Jeff? Okay. 22 THE DEPONENT: But I mean I don't know 23 that. 24 BY MR. FINKLEA: 25 Q Okay.
Page 23	Page 25
1 Q The notes or the file notes that you're 2 aware of is what you brought today with the 3 deposition, correct? 4 A I think -- I think that I have seen 5 some other notes since then. But this was the 6 only thing that I -- that I had any involvement 7 with. 8 Q Okay. 9 A And I don't think I've seen -- I didn't 10 see anything until after she died. 11 Q Okay. And those other notes, they 12 would not be your file notes. They -- if they 13 exist, they would may be Robert's notes. 14 A Actually, these notes I consider 15 Robert's notes. I gave it to them for them to use 16 to put in the file. And I -- I do not have a 17 separate file. I didn't keep anything on it. 18 Q Is -- is it -- and I'll ask this 19 question for you first. Is it your practice to 20 retain the original will or to give it to the 21 client? 22 A We used to keep the original wills 23 here. Since I sold my practice, I have left that 24 up to Robert and to the client. And probably the last two or three years before I sold my practice,	1 MR. FINKLEA: Jeff, do you have some 2 questions? 3 MR. PAYNE: I did -- are you through? 4 MR. FINKLEA: I'm going to ask him. 5 MR. PAYNE: Do you want me to go 6 outside? 7 MR. FINKLEA: Do -- do you mind if I 8 ask Eris after your cross, and then ask -- okay, 9 so we don't -- so we don't have to go out twice? 10 MR. PAYNE: Sure. 11 MR. FINKLEA: Or do you want me to -- 12 MR. PAYNE: What y'all -- 13 MR. FINKLEA: -- go in order. 14 MR. PAYNE: -- I mean, you can go talk. 15 MR. FINKLEA: Okay. All right. 16 MR. PAYNE: I -- 17 MR. FINKLEA: All right. Let me -- if 18 you'll -- 19 MR. PAYNE: Sure. 20 MR. FINKLEA: -- for one moment. 21 (Off-the-record Discussion.) 22 BY MR. FINKLEA: 23 Q Mr. Sloan, the power of attorney that 24 you prepared, was that filed with the clerk? 25 A I believe so. I believe -- I gave it

7 (Pages 22 to 25)

Q&A Court Reporting

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1 to Pam and told her she needed to file it. So
 2 I --
 3 Q Okay.
 4 A -- think she did.
 5 MR. FINKLEA: Thank you very much.
 6 That's all the questions I have. Thank you, sir.
 7 EXAMINATION
 8 BY MR. PAYNE:
 9 Q Mr. Sloan, I'm Jeff Payne, and I'm here
 10 today on behalf of the Estate of Eris Smith, and
 11 the personal representative, Judy Jones, who's
 12 been a--- who's been named in the most recent will
 13 that's filed with the Probate Court of Florence
 14 County. Just a few questions. When you met with
 15 Ms. Smith, were -- and you were in this room?
 16 A I was.
 17 Q And the two of y'all were by yourself?
 18 A Right.
 19 Q And how did she appear at that --
 20 A Fine.
 21 Q Was she stressed out looking?
 22 A She did not appear to be stressed. She
 23 was affable, I guess is a good -- I mean, she was
 24 ea--- easy to talk to. She was able to give me
 25 the answers to the questions that I asked her

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without any trouble. She didn't seem to be upset
 2 about anything.
 3 Q Okay. And was anybody coercing her to
 4 make her stay in this room with you?
 5 A No.
 6 Q And you ultimately saw her sign the
 7 will?
 8 A I did.
 9 Q And the power of attorney that you
 10 referred to?
 11 A Yes. Uh-huh.
 12 Q And was anybody threatening her to make
 13 her sign that document?
 14 A No.
 15 Q You -- and in your notes, which have
 16 been marked as Exhibit 1, I see that you asked her
 17 something about her medicines. What --
 18 A Right.
 19 Q And what was her response?
 20 A She said she was -- she said no
 21 medicine for any mental condition. She was taking
 22 Celebrex and Cymbalta.
 23 Q Okay. And it was clear from your
 24 discussions with her that she wanted to add the
 grandchildren to the will?

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1 A She made that very clear to me.
 2 Q And your note down here at the bottom,
 3 what does that mean, or why did you write that one
 4 down?
 5 A Well, like I said, I had been under the
 6 impression that the two grandchildren she wanted
 7 to add were the children of her deceased son. And
 8 when she gave me the names, I said something about
 9 that. And she told me, no, they were children
 10 James Erwin Smith. So that's why I added that --
 11 I had -- I just -- I had put Jamie and Mikey as
 12 the two she wanted to add. And then I mis--- must
 13 have made a comment that you were giving Wade's
 14 children something. She said, oh, no, they're not
 15 Wade's children. And so I put that on there just
 16 so that I'd remember it about children of
 17 James Erwin Smith.
 18 Q And so in your mind she was, number
 19 one, competent to sign the will?
 20 A Sure.
 21 Q And -- and was not under any kind of
 22 duress or undue influence that would have affected
 23 her ability to sign the will?
 24 A None -- none that I could perceive at
 25 all. You know, she was -- from all that I could

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1 get out of her from everything that was going on,
 2 she was quite anxious to get here to do the will.
 3 Q And when you went over the will with
 4 her, she knew that the personal representative was
 5 going to be Judy Jones?
 6 A She did.
 7 Q And that she knew all of the
 8 individuals that were listed in item three were
 9 going to get a one sixth interest?
 10 A She did.
 11 Q Okay. And that she knew that the
 12 substitute personal representative was going to be
 13 Rebecca Jones Cain?
 14 A She did.
 15 Q Okay. And I think you testified on the
 16 personal represent--- or the power of attorney
 17 that you prepared for her, Judy Jones was her
 18 agent?
 19 A Right.
 20 Q Was there a substitute agent of backup
 21 agent?
 22 A The same -- Rebecca whatever.
 23 Q Becky -- or Rebecca Jones Cain.
 24 A Uh-huh. And I pointed that out to her,
 25 you know, I gave her the names in both instances

8 (Pages 26 to 29)

Q&A Court Reporting

Page 30 1 in the personal representative and when I 2 discussed the power of attorney. 3 Q And that's -- she understood that and 4 that's what she wanted? 5 A That's right. 6 Q Okay. 7 MR. PAYNE: That's all we've got. 8 FURTHER EXAMINATION 9 BY MR. FINKLEA: 10 Q Mr. Sloan, the -- you mentioned the 11 telephone call -- not the one at your house, but 12 the -- the one at the office. Do you recall how 13 long that may have been in relationship to when 14 the will was executed? The will was executed on 15 October the -- 16 A That telephone call to my office was 17 within the last two or three months I would say. 18 I -- I -- I'm trying to remem--- I -- I don't 19 remember whether that telephone call was before 20 she died or after she died. But it was 21 sometime -- 22 Q Well, the -- 23 A -- close to that time. 24 Q Well, you said that Ms. Smith actually 25 spoke.	Page 32 1 of the will? 2 A No, if who had any? 3 Q Brittany if -- 4 A I think all she did was just come in 5 here and be a witness. 6 Q Okay. 7 MR. FINKLEA: Thank you. That's all I 8 have. 9 THE DEPONENT: Uh-huh. 10 FURTHER EXAMINATION 11 BY MR. PAYNE: 12 Q One -- one follow up. On the phone 13 call that you weren't real sure about the date, 14 were you sure that was Ms. Smith -- the 15 decedent -- 16 A I wasn't -- 17 Q -- Ms. Smith? 18 A I wasn't positive that it was. 19 Q Okay. 20 A But I -- I got the impression that it 21 was. 22 Q And how about the previous phone call 23 they made to your house? Did -- did you know who 24 it was that was calling? 25 A I did not know who it was, but again, I
Page 31 1 A Well, so I guess it had to have been 2 before she died. 3 Q Okay. Ms. Smith passed March 11th so 4 it would have been -- 5 A It was -- 6 Q -- you think Fe--- a little closer to 7 the time of March than it was to the execution of 8 the will then? 9 A It was definitely -- I mean it was -- 10 it was -- I would have to say it would have been 11 in February or early March. 12 MR. FINKLEA: And -- and, Jeff, you 13 didn't ask this if you'd allow me this extension. 14 BY MR. FINKLEA: 15 Q The Brittany was also -- 16 Brittany Hooks, I believe, was one of the 17 witnesses. 18 A Right. I think she worked here at that 19 time. 20 Q Right. Are you aware -- you -- you 21 mentioned Pam's -- 22 A Uh-huh. 23 Q -- of course, involvement. Do you know 24 if Brittany had any involvement based on what 25 you've heard around the office in what the content	Page 33 1 think in both instances they said it was 2 Eris Smith. And in the first instance, I didn't 3 know who Eris Smith was at that -- I mean at 4 first. It was -- we talked for a minute or two, 5 and Pam -- the name of Pam's grandmother came up 6 and then I -- it kind of jogged a little bit. But 7 the second time, because the -- the first time was 8 at home. The second call was the one that came to 9 the office. And both of them have been since the 10 first of the year. I haven't had one call and 11 another. I was more attuned to who Eris Smith was 12 at that -- on the second call than I was the first 13 call or at least the name. I -- you know, I 14 couldn't tell you who it was on the other end, but 15 my impression was that it was Pam's grandmother. 16 And I think Pam told me that because she was in 17 there listening to it. 18 Q Okay. 19 MR. PAYNE: That's all I have. 20 MR. FINKLEA: Nothing further. Thank 21 you, Mr. Sloan. 22 THE DEPONENT: Uh-huh. 23 (Witness excused.) (Whereupon, at 10:40 a.m., 24 the taking of the foregoing deposition was 25 concluded.)

9 (Pages 30 to 33)

Q&A Court Reporting

1 CERTIFICATE OF REPORTER
2 State of South Carolina
3 County of Florence

5 I, Roger R. Williamson, Court Reporter and
6 notary public for the State of South Carolina, do
7 hereby certify that the deponent in the foregoing
8 deposition was, by me, first duly sworn to testify
9 to the truth, the whole truth and nothing but the
10 truth; that said deposition transcript was taken
11 via stenomask with backup; that the foregoing
12 transcript contains a true record of the
13 deposition of said deponent.

14 I further certify that I am neither attorney
15 nor counsel for, nor related to or employed by any
16 of the parties connected to the action, nor am I
17 financially interested in the action.

18 Witness my hand at Florence, South Carolina,
19 this the 4th day of June, 2013.
20

21
22 Roger R. Williamson
23 MY COMMISSION EXPIRES:
24 March 1, 2022
25

State of South Carolina
In Probate Court
County of Florence

In the Matter of the Estate of
Eris Singletary Smith

Judy Smith Jones,
Petitioner,

V. 2013-CP-21-190

Eris Gail Smith,
Respondent.

Deposition of: Brittany Hooks

Location: 111 Witcover Street

Marion, South Carolina

Date: Wednesday, May 1, 2013

Time: 11:56 a.m. - 12:03 p.m.

Court Reporter: Roger R. Williamson

The deposition is taken pursuant to notice and/or
agreement, in the above-entitled cause pending in
the above-named court and pursuant to the South
Carolina rules of civil procedure.

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(No exhibits were proffered.)

** uh-huh = affirmative
huh-uh = negative

STIPULATIONS

It is stipulated between counsel that this deposition is being taken pursuant to the South Carolina rules of civil procedure and that all objections except as to the form of the question are reserved until the time of trial.

It is also stipulated between counsel for the respective parties and the deponent that the deponent will waive the right to read and sign this transcript.

Thereupon,

Brittany Hooks,
having been first duly sworn by the court reporter, testified as follows:

EXAMINATION

BY MR. FINKLEA:

Q Brittany, thank you for appearing today for this deposition. Even though you work in a law office -- or used to work in a law office, and you're fixing to come back. Is that right or no?

A I'm not sure.

Q You're not sure, okay. I think maybe Chuck was hoping you would so maybe you haven't committed. But and -- and -- and Mr. Payne gave you some brief pointers before you got started and

I -- we're going to be very brief with you. So I'm -- but if you don't understand my question, just ask me to repeat that, and I'll make sure it's clear for you to answer.

A Okay.

Q But and if you need to take a break, even though we're not going to be long, you're more than welcome to do that, okay?

A Okay.

Q Do you know why you're here today?

A Yes, sir.

Q Okay. And why -- and why are you here? Why do you think you're here?

A They don't -- I guess the will is -- she's -- there are kind of complications not understanding, you know, I -- the lady that came and signed the will, trying -- just trying to make sure she was okay when she signed the will and was alert and know what was going on.

Q And who -- how did you become aware of what we're doing here today, or what the issue was with the will?

A Well, I just got a phone call saying I might need to come up here and talk with y'all about what was going on with the will.

Q Okay.

A Because I -- I witnessed it.

Q Okay. And who made that phone call to you?

A Tiffany, I think her name.

Q Okay. Have you talked with anyone else about your testimony today other than Tiffany?

A The attorney.

Q Okay. Mr. Payne?

A Yes, sir.

Q All right. The will we're talking about is a will from Eris Singletary Smith, and I'll show you your signature here. Have -- have you seen this will since it was executed?

A No, sir.

Q Okay. Does that appear to be your signature?

A That is.

Q And there's two spots on this page, and it's not a numbered page, but both signatures appear to be yours?

A Yes, sir, they are.

Q Okay. Tell me what you observed in regard to the execution of this will by Ms. Smith.

A I just witnessed her sign her

STATE OF SOUTH CAROLINA **FILED** IN THE COURT OF COMMON PLEAS
COUNTY OF FLORENCE 2013 AUG 29 PM 4:15 C/A #: 2013-CP-21-1334
PROBATE CASE# 2013-ES-21-190

Eris Gail Smith,

Plaintiff,

Vs.

Judy Smith Jones,

Defendant.

CONNIE REEL-SHEARIN
CCCP & GS
FLORENCE COUNTY, SC

OBJECTIONS TO ORDER
AND SUPPLEMENTAL
MEMORANDUM IN OPPOSITION
TO SUMMARY JUDGMENT

In response to the Proposed Order of Judy Smith Jones, Eris Gail Smith hereby submits these Objections to Order and further submits this document as a Supplemental Memorandum in Opposition to Summary Judgment. This matter is an action to contest the Last Will and Testament of Eris Singletary Smith (hereafter, "Decedent") dated October 18, 2011. It appears from the record that the decedent's daughter, Eris Gail Smith (hereafter "Plaintiff"), was in the Probate Court in Florence County on March 13, 2013, completing the necessary paperwork to probate what many believed to be the decedent's Last Will and Testament dated March 30, 2011, which was prepared by Attorney Rick Hoeffler (hereafter "Hoeffler Will"). While in the offices of the Probate Court, Attorney Robert Lee entered to file a Petition to Probate a Will that he prepared on October 18, 2011 (hereafter "Lee Will"). Following the filing of those two Petitions, the Plaintiff filed a Summons and Petition to Challenge the Lee Will. The record consists of the Affidavit of Attorney Robert E. Lee and the depositions of Attorney Cyrus Sloan, Brittany Hooks, Pam Jordan, Eris Gail Smith, and Judy Smith Jones¹. Additionally, the

¹ The Smith and Jones depositions were taken May 17, 2013. Both deponents requested to read and sign. The originals were delivered August 7, 2013 after the hearing. Counsel for both parties submitted copies of the depositions in their "read and sign" form without objection for the Court's consideration.

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record consists of all of the pleadings filed in Probate Court to date. A hearing was held before the undersigned on August 7, 2013.

The decedent expired March 11, 2013 at the age 86. Prior to her death, she seemingly was of sound mind and able to manage her affairs, although she was hindered by physical limitations. The first will appearing in the record in this case was prepared by Attorney Robert E. Lee on May 30, 2001. For purposes of background, Pam Jordan, Attorney Lee's Paralegal, is the granddaughter of the decedent and the daughter of Judy Smith Jones, who was named as the Personal Representative in the Lee Will. Jordan worked with Lee when the 2001 will was executed and continuously since. The next will was prepared by Attorney Rick Hoeffler being dated March 30, 2011. Finally, the Lee Will dated October 18, 2011. While there are some differences in the Hoeffler and Lee Wills, they are not significant. The primary changes relate to the disposition of personal property, which are itemized in the Hoeffler Will and attached as a memorandum to the Lee Will; the Personal Representative in the Hoeffler Will is Eris Gail Smith and the alternate Attorney Rick Hoeffler and the Personal Representative in the Lee Will is Judy Smith Jones and the alternate is Rebecca Jones Cain, Judy's daughter. In regard to the disposition of the majority of the estate in the Hoeffler Will, the estate is divided among the five living children, whereas the Lee Will divides the Estate into six portions with each of the five living children receiving a 1/6 share and another 1/6 being divided between Jamie Smith and Mikie Smith². There are other obvious changes, but these appear to be the most significant.

² These grandchildren are not the children of Wayne Smith, the Decedent's son who predeceased, but actually the children of James Smith, the Decedent's living son who receives a 1/6 interest under the Lee Will.

Eris Gail Smith challenges the Lee Will on the grounds it was executed under undue influence, the decedent was fraudulently induced into executing the will, or alternatively, that the Lee Will should be deemed revoked as a result of the post-execution concealment of the existence of that will precluding the testator from revoking that will or discovering that the Hoeffler Will was not her Last Will and Testament.

Prior to the hearing, the Plaintiff requested that the hearing be continued so that he could take additional depositions that were noticed for September 11, 2013,³ and conduct other discovery to adequately investigate the facts in the case. The Plaintiff contends the Motion for Summary Judgment is premature and that the depositions and other evidence sought to be elicited would provide factual support to establish her claims. The Court held the request in abeyance until discovering the issues and arguments of counsel⁴. After listening to counsel's recitation of the purported testimony to be offered

³ The deponents noticed on this date and time were Fran Hawley (the decedent's longtime friend), Mary Alice Thompkins (family friend and cousin of decedent), Sharon Graham and Rachel Pringle (decedent's care providers/sitters for over six years), Janet Altman (family friend), and Hoyt Smith (decedent's brother-in-law).

⁴ Although the reasons more particularly appear on the record, the non-moving party argued that these depositions would show that the decedent thought she was being taken to execute a Healthcare Power of Attorney; that the testator did not realize she executed a will any time after she returned from Marion; that she would have never used Attorney Robert Lee to participate in drafting a will because she believed he had some part in wrongfully altering her son's will; that the testator did not receive a copy of the will though she requested copies of the documents she executed; that the testator believed the will prepared by Attorney Rick Hoeffler was her Last Will and Testament; that the testator became suspicious in regard to the documents she signed in Marion and therefore called Attorney Sloan who in the first phone call denied knowing her; in a subsequent call initiated by Attorney Sloan to the testator, along with Pam Jordan on speakerphone, clarified that he did play a limited role in the execution of her documents, but that he did not have a copy, did not prepare the documents, and asked Pam to provide copies of the documents; Pam never did so; that the will made at Attorney Hoeffler's office was knowing, intentional, and deliberate, because she made at least three visits to his office over a couple of weeks with her "notebook", instead of making one random and quick visit to a lawyer's office; that the testator's "notebook", where she kept all of the details of her personal business recorded, has allegedly been taken by the Personal Representative; that the purported documents produced in Robert Lee's affidavit were not written by the testator with the exception of one page of Exhibit 4 expressing her health care needs; that the document marked as Exhibit A to Robert Lee's Affidavit purported to be the testator's writing, is not hers, as she would never misspell the name of her grandson, Mikie (not Mickie); that Pam and Attorney Lee claimed to have received a copy of the Hoeffler will on October 18, 2011, but that will was not in their file at their office when the original file was inspected during the depositions on May 17th, and Russ Sloan never testified that the Decedent brought that will to the meeting.

by such witnesses, it was obvious to the Court that none of the witnesses were present when the Will was signed on October 18, 2011 and they would be unable to offer any additional testimony that would affect the Court's decision which was based upon the Decedent's capacity, competence and state of mind on the date of the execution of the will. Consequently, at the conclusion of the hearing, the Court denied the request to continue the case to complete discovery⁵.

After listening to the arguments of counsel and reviewing the evidence presented, the Court granted Judy Smith Jones' motion for Summary Judgment and directed that her attorney prepare a proposed Order. A proposed Order was submitted and although both attorneys had input in to the language of the proposed Order, there were a few issues counsel could not resolve and which Plaintiff desired to present to the Court prior to executing a Final Order. The Court graciously allowed Plaintiff to state those objections for the record.

OBJECTIONS

I. Fraudulent Inducement

The first objection relates to language in the last paragraph of the Analysis that states fraudulent inducement is not a recognized cause of action in a dispute to challenge a will. That was not a ground stated in the movant's Motion or one which was relied upon by the Court in reaching its conclusion. The ground for relief stated in the motion was purely related to the "failure to produce evidence" not the legal sufficiency or existence of such ground.

⁵ The pertinent dates relating to the procedural posture of the case are as follows: March 11, 2013 – Decedent's date of death; April 1 – date of filing this Complaint/Petition; April 19 – Order from Probate Judge appointing a Special Administrator; May 1 – First Round of depositions for Sloan, Jordan and Hooks; May 17 – Second Round of Depositions of Smith and Jones; August 7 – Date of Hearing; August 7 – Date of Delivering Smith and Jones final depositions; September 11 – Third Round of Depositions.

Nonetheless, South Carolina Courts have indicated, though not expressly stated, that a cause of action exists for fraudulent inducement to alter a will. The courts of other jurisdictions as well as legal encyclopedias expressly recognize such a cause of action.

South Carolina Law

Although South Carolina's courts have not recently discussed the cause of action for fraudulently inducing another to change his will, in several older cases the Supreme Court indicated that this claim was a permissible cause of action. In *Johnson v. Johnson*, 160 S.C. 158, 158 S.E. 264, 264-65 (1931), the plaintiff alleged that the decedent's will was "the result of fraudulent representations made to her as to the subject and contents and effects of the instrument." The probate judge ruled that the evidence did not support this claim but that the will was invalid for other reasons. The executor appealed to the trial court. At the trial court, the underlying plaintiff again raised the claim that the decedent signed the will "as a result of fraudulent representations made to her . . . for the purpose of inducing her against her will" to devise all her property to someone else. *Id.* at ___, 158 S.E. at 265. The trial court allowed this issue and several others to proceed to the jury. On appeal, the Supreme Court held that the trial court had not erred in submitting these issues to the jury.

In *In re Huntley's Will*, 67 S.C. 55, 45 S.E. 132 (1903), the parties opposing the validity of the decedent's will alleged that the will's beneficiaries had "fraudulently conspired together to induce, and did induce" the decedent to sign the will. After the probate court ruled that the will was valid, the parties contesting the will's validity appealed to the trial court. The trial court intended to submit the various claims to a jury. The parties opposing the will appealed, arguing that the trial court should not conduct a

trial de novo of the issues. The Supreme Court disagreed and remanded to the trial court for trial. The Supreme Court did not expressly discuss the fraudulent inducement cause of action, though by remanding that claim and others for trial, it implicitly recognized the cause of action's validity.

In addition, several more recent South Carolina cases have mentioned, though not discussed or relied upon, a party's claim that a decedent was fraudulently induced to create or not alter his will. In *Truluck v. Snyder*, 362 S.C. 108, 111 n.2, 606 S.E.2d 792 n.2 (Ct. App. 2004), abrogated on other grounds by *Fulmer v. Cain*, 380 S.C. 466, 670 S.E.2d 652 (2008), the court noted that a party seeking to intervene had alleged, among other things, fraudulent or reckless inducement in the creation of the decedent's will. The court made no other mention of this claim. Similarly, in *Madden v. Madden*, 237 S.C. 629, 118 S.E.2d 443 (1961), the plaintiffs alleged that the defendant—their step-mother—had made the decedent a fraudulent promise for the purpose of inducing him not to revoke or change his will. The Supreme Court, however, did no more than simply mention this claim. There is no discussion of it, and the case was decided on other grounds.

South Carolina Statutes

Certain sections of the South Carolina probate code provide some tangential support for the idea of a cause of action for fraudulent inducement of a will. For example, the probate code's statute of limitations expressly does not apply to a claim that a will was fraudulently induced:

The last sentence of this section, however, excepts from this section actions "relating to fraud practiced on a decedent during his lifetime which affect the succession of his estate"

such as fraud inducing the execution or revocation of a will. *There is some general authority for the proposition that one who is damaged by fraud which interferes with the making of a will may maintain an action for damages against the person who commits the fraud*, 79 Am. Jur. 2d, Wills Section 414. In such a case, the six-year limitation provided by Section 15-3-530(7) of the 1976 Code should continue to apply. In cases involving direct contest of wills which are allegedly the result of fraud, however, the provisions of Section 62-3-108 would be applicable and a formal probate proceeding would have to be commenced within the later of twelve months from the informal probate or three years from the decedent's death, at which time the allegations of fraud would be considered.

S.C. Code Ann. § 62-1-106 Reporter's Comment (emphasis added). Another code section notes that "[a] trust is voidable to the extent its creation was induced by fraud, duress, or undue influence." S.C. Code Ann. § 62-7-406. Yet another section of the probate code notes that a person who fraudulently induces another to execute a health care power of attorney is liable to criminal prosecution. *See* S.C. Code Ann. § 62-5-504.

Other Authorities

The courts of other jurisdictions have recognized that "a will is invalid if anything destroys the testator's freedom of volition, such as fraudulent practices upon the testator's fears, affections, or sympathies; misrepresentations; . . . or undue influence." *Harper v. Harper*, 554 S.E.2d 454, 455 (Ga. 2001) (citing O.C.G.A. § 53-4-12); *see also In re Roblin's Estate*, 311 P.2d 459, 463 (Or. 1957) ("Courts set aside wills whose provisions reflect the testator's belief in false data arising from fraudulent misrepresentations made to him by a beneficiary.") (citation omitted); *In re Estate of Hoover*, 615 N.E.2d 736 (Ill. 1993) (holding that trial court in will contest action erred by refusing to allow plaintiffs' motion to amend complaint to allege fraud in the inducement).

Courts discussing the cause of action have both recognized it and have set out tests for determining whether a will is invalid because it was fraudulently induced. *See, e.g., In re Estate of Mumby*, 982 P.2d 1219, 1223-34 (Wash. Ct. App. 1999); *In re Grahlman's Will*, 81 N.W.2d 673, 684 (Iowa 1957) (“The issue of fraud should not be submitted to the jury in the absence of substantial evidence that the alleged fraud induced the making of the will, or that the fraudulent representations were relied on by the testator, or that the fraudulent [sic] representations caused the testator to make a disposition different from what otherwise would have been made.”) (quoting 95 C.J.S., Wills, § 463).

In addition, treatises have recognized that “[f]alse representations . . . constitute fraud if it can be shown that they were designed to and did deceive the testator into making a will different in its terms from that which he would have made had he not been misled.” Scoles, et al., *Problems & Materials on Decedents' Estates and Trusts* at 679 (4th ed. 1987) (quoting *In re Newhall's Estate*, 214 P. 231 (Cal. 1923)). In *Newhall's Estate*, the California Supreme Court held that there was not sufficient evidence to support an inference of undue influence but there was sufficient evidence to present a jury question of whether the decedent was fraudulently induced to disinherit her daughter. 214 P. at 235.

Other treatises recognize that “[i]f it can be shown that a will was induced by the fraudulent representation made by a person benefiting from the will, the will may be set aside.” 79 Am. Jur. 2d Wills § 381; *see also id.* at § 379 (“A will procured by a fraud may be deemed invalid.”) (citations omitted); CJS Wills § 354 (“A will can be invalidated, either in whole or in part, on the ground of fraud, whether it is fraud in the execution or

fraud in the inducement.”) (citations omitted); CJS Wills § 499 (“The probate of a will may be opposed or contested on various grounds including . . . that it was induced by fraud or undue influence.”) (citation omitted).

Jurisdictions differ as to whether fraudulent inducement and undue influence are distinct causes of action:

Fraud in the procurement of a will is generally considered a species of undue influence though the two are not exactly synonymous; that is, undue influence may result from a fraud, as well as from coercion, the fraud being employed as a means of securing that influence over the testator which compels the testator to the testamentary act. However, some jurisdictions consider fraud and undue influence as distinct though both are equally destructive of the will.

19 Am. Jur. 2d § 380 (citations omitted). In Georgia, for example, “[f]raud is a distinct head of objection to the validity of a will, from importunity and undue influence; usually they are the very opposites of each other. Both are equally destructive of the validity of a will.” *Edwards v. Shumate*, 468 S.E.2d 23, 25 (Ga. 1996) (citations omitted).

See also *Sianis v. Jensen*, 294 F.3d 994 (8th Cir. 2002) (holding that the district court did not have jurisdiction over claim that beneficiary fraudulently induced testator to execute a will because that claim was cognizable only in Nebraska probate court); *In re Estate of Coleman*, 360 S.W.3d 606, 611 (Tex. Ct. App. 2011) (holding that affidavit of party contesting will’s validity was insufficient to raise issue of fact as to fraudulent inducement of executor); *In re Estate of Kessler*, 977 P.2d 591 (Wash. Ct. App. 1999) (holding that parties contesting validity of will failed to show sufficient evidence of fraudulent inducement).

Based upon the foregoing authorities, the Plaintiff believes it improper to grant the Motion for Summary Judgment on the basis that allegations of fraudulent inducement are not recognizable grounds to contest a will. At most this is a novel issue since there is not a South Carolina case directly on point and summary judgment is therefore not proper. It is also improper since this was not a ground stated in the motion. Finally, the motion is premature in light of the pending depositions and additional discovery relating to the fraudulent inducement claim, among other claims.⁶

II. Revocation based on a Fraudulent Concealment

South Carolina Code Section 62-2-506 lists the following methods to revoke a will:

A will or any part thereof is revoked: (1) by a subsequent will which revokes the prior will or part expressly or by inconsistency; or (2) by being burned, torn, canceled, obliterated, or destroyed, with the intent and for the purpose of revoking it by the testator or by another person in his presence and by his direction.

In the event the will was originally executed without undue influence or sufficient evidence of fraudulent influence, at some point in time the Decedent questioned whether she executed a will at Robert Lee's office. There is no dispute that she contacted Attorney Sloan to inquire in that regard and Sloan advised he would have Pam Jordan provide her a copy of the documents she executed. There is no dispute Jordan never provided these documents. The testimony to be taken in September would reflect that the Decedent on multiple occasions professed that attorney Rick Hoeffer prepared her last Will, that she did not desire the service of attorney Robert Lee based on believed improprieties with her son's will and that she was under the belief she had only executed

⁶ Counsel has prepared an affidavit and attached the same to this pleading which recites the grounds for the Motion to Continue which was made in open Court.

a Health Care Power of Attorney at Lee's office. This evidence is just a portion of that anticipated from the case witnesses.

This issue is one that developed after the filing of the original Petition and has evolved as more facts have been discovered. Although there are multiple authorities suggesting a cause of action exists for fraudulent inducement to alter a will, there are few to none that could be found for this ground as it is truly novel based on the unique facts of this particular case.

Pitts v. Jackson Nat. Life Ins. Co., 574 S.E.2d 502, 352 S.C. 319 (S.C.App. 2002)

provides a review of fraudulent concealment as it relates to contract law:

"Nondisclosure is fraudulent when there is a duty to speak." Ardis, 314 S.C. at 517, 431 S.E.2d at 270. Non-disclosure becomes fraudulent concealment only when it is the duty of the party having knowledge of the facts to make them known to the other party to the transaction. Lawson v. Citizens S. Natl. Bank of S.C., 259 S.C. 477, 481-82, 193 S.E.2d 124, 126 (1972). Thus, the issue is whether Jackson National had a duty to disclose facts which it did not disclose. In Ardis, this Court stated: The duty to disclose may be reduced to three distinct classes: (1) where it arises from a preexisting definite fiduciary relation between the parties; (2) where one party expressly reposes a trust and confidence in the other with reference to the particular transaction in question, or else from the circumstances of the case, the nature of their dealings, or their position towards each other, such a trust and confidence in the particular case is necessarily implied; (3) where the very contract or transaction itself, in its essential nature, is intrinsically fiduciary and necessarily calls for perfect good faith and full disclosure without regard to any particular intention of the parties[352 S.C. 336]. Ardis, 314 S.C. at 517, 431 S.E.2d at 270 (quoting Jacobson v. Yaschik, 249 S.C. 577, 585, 155 S.E.2d 601, 605 (1967)).

In reviewing indicia of fraudulent concealment in Holly Hill Lumber Co. v. McCoy, 23 S.E.2d 372, 201 S.C. 427 (S.C. 1942) the Supreme Court observed the following as important factors weighing heavily toward finding concealment:

"When the accompanying incidents are inequitable and show bad faith, such as concealment, misrepresentations, undue advantage, oppression on

the part of the one who obtains the benefit, or ignorance, weakness of mind, sickness, old age, incapacity, pecuniary necessities, and the like, on the part of the other,--these circumstances, combined with inadequacy of price, may easily induce a court to grant relief, defensive or affirmative." Pom.Eq.Jur., Vol. 2, Sec. 928.

In this case, we have an 82-year-old lady who is cared for around the clock by sitters. She was being taken from Florence to Marion by one of Judy Jones' daughters to meet another daughter of Judy Jones to purportedly prepare her Health Care Power of Attorney. In the end she ended up changing her will made with the assistance of a lawyer detached to the family, even though she made another months before after many consultations. Further, the changes in the new challenged will favor Judy Jones and her daughters and the documents which she the decedent purportedly executed were never provided to the decedent even though she requested the same and even though she was advised by Attorney Sloan that copies would be provided.

While these facts may not necessary reflect competency issues generally at the time of the execution of the will, they do reflect a plot to prevent the Decent from discovering if she executed another will or if the Hoeffler remained her last testamentary disposition and to trick her in this regard. Had the decedent known that the Hoeffler will was not her last, the witnesses proclaim that the decedent would have taken action to revive the Hoeffler will. The overriding issue in will construction is the intent of the testator and the Plaintiff believes sufficient evidence exists that the Testator did not intend that the Lee Will be her last will. Additionally, "[r]evocation is a question of intention." Charles Library Soc. v. Citizens & Southern Nat. Bank, 20 S.E.2d 623, 200 S.C. 96 (S.C. 1942). Had others not fraudulently concealed the existence of the Lee Will, the Testator would have revoked the Lee Will. Because a copy of the Lee Will was never

provided to the Testator, she could not revoke that will although she did in fact reaffirm the Hoeffler will.

Like the issue raised in the first objection, this too is at most a novel issue as applied to wills and therefore should not be decided on summary judgment. Further, the motion is premature in light of the pending depositions and additional discovery relating to the Plaintiff's claims.

III. Appointment of Smith

The conclusion of the Order mandates that the Probate Judge appoint Judy Smith Jones as personal representative. The Court never ordered this appointment from the bench but merely indicated that the will of October 18, 2011 should be probated. All issues of administration, including the appointment of the Personal Representative, were and are retained with the Probate Judge. In fact, Judge Eaton's Order of May 14, 2013, states "Pursuant to Section 62-1-302, paragraph 6 D of the South Carolina Probate Code of Laws the undersigned removes this case to the Circuit Court and the Circuit Court shall proceed upon the matter de novo. All other administrative matters shall be under the jurisdiction of the Probate Court." Although the Court has indicated the will should be probated, there are other factors to appointment not raised before the Circuit Court. South Carolina Code Section 62-3-203 recites not only the priorities for appointment but the qualifications for appointment. The statute provides that the Court must find any appointee "suitable" and other statutes such as Sections 62-3-103, 414, 611 and 614 imply the appointment must be in the best interest of the Estate. In the Plaintiff's opinion, neither she nor Judy Jones' appointment is in the best interest of the estate based upon the distrust and acrimony existing between each other and among other family

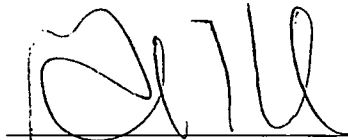
members. As a result, the Plaintiff will request the Court not terminate the appointment of the Special Administrator (*see* S.C. Code Section 62-3-614) and that his continued service is in the best interest of the estate.

CONCLUSION

Based on the above, the undersigned requests that this Court not sign the Order proposed and instead deny the motion for summary judgment at this time.

Respectfully Submitted,

August 29, 2013

A handwritten signature in black ink, appearing to read 'G. I. Finklea', written over a horizontal line.

GARY I. FINKLEA
Attorney for Plaintiff, Eris Gail Smith
Finklea Law Firm
Post Office Box 1317
Florence, SC 29503
Phone: (843) 317-4900
Fax: (843) 317-4910
ginklea@finklealaw.com

STATE OF SOUTH CAROLINA)

COUNTY OF FLORENCE)

Eris Gail Smith,)

Petitioner/Plaintiff,)

Vs.)

Judy Smith Jones,)

Respondent/Defendant.)

IN THE COURT OF COMMON PLEAS
TWELFTH JUDICIAL CIRCUIT
C/A # 2013-ES-21-190

AFFIDAVIT

FILED
2013 AUG 29 PM 4:16
CONNIE REEL-SHEARIN
CLERK OF COURT C.P. & G.S.
FLORENCE COUNTY, S.C.

Personally appeared before me, Gary I. Finklea, Esquire, who being duly sworn states as follows:

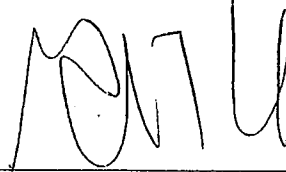
1. My name is Gary I. Finklea and I am the attorney of record for Eris Gail Smith.
2. I submit this affidavit in support of my client's request for this motion hearing to be continued and in opposition to Defendant's Motion for Summary Judgment.
3. It is my opinion that the Motion for Summary Judgment is premature. Material discovery in the case remains outstanding and ongoing.
4. The parties initiated discovery as soon as this matter was filed and all involved have been very diligent in prosecuting the case.
5. This case was filed on April 1, 2013. The first round of depositions were held on May 1, 2013. The second round was held on May 17, 2013. The next round is scheduled to occur September 11, 2013. The transcripts from the May 17, 2013 were not released following each deponent reserving the right to read and sign until August 7, 2013.
6. Prior to the depositions in September, I wanted to have an opportunity to thoroughly review the depositions taken in May and analyze the elements of proof, applicable law and other issues prior to the next round of fact witnesses. The witnesses' testimony

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Connie Reel-Shearin
CLERK OF COURT C.P. & G.S.
FLORENCE COUNTY, S.C.

scheduled for September 11, 2013, as the court noted, may not greatly impact the competency issue of the testator as of October 18, 2011 but the witnesses would be able to testify of the facts surrounding the execution of the will as well as those following the execution of the will of which the undersigned believes important to adequately explore the fraudulent inducement and implied revocation due to fraudulent concealment arguments. Based upon the limited witness interviews conducted prior to noticing the depositions, the undersigned believes that there will be testimony offered which would consist of the following:

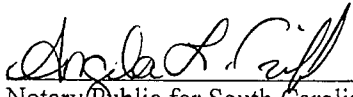
- the decedent thought she was being taken to execute a Healthcare Power of Attorney
- that the decedent did not realize she executed a will any time after she returned from Marion
- that she would have never used Attorney Robert Lee to participate in drafting a will because she believed he had some part in wrongfully altering her son's will
- that the testator did not receive a copy of the will though she requested copies of the documents she executed
- that the testator believed the will prepared by Attorney Rick Hoeffler was her Last Will and Testament
- that the testator became suspicious in regard to the documents she signed in Marion approximately a year later and therefore called Attorney Sloan who in the first phone call denied knowing her
- in a subsequent call initiated by Attorney Sloan to the testator, along with Pam Jordan on speakerphone, Sloan clarified that he did play a limited role in the execution of her documents, but that he did not have a copy, did not prepare the documents, and asked Pam to provide copies of the documents
- Pam never did so
- that the will made at Attorney Hoeffler's office was knowing, intentional, and deliberate, because she made at least three visits to his office over a couple of weeks with her "notebook", instead of making one random and quick visit to a lawyer's office
- that the testator's "notebook", where she kept all of the details of her personal business recorded, has allegedly been taken by the Personal Representative
- that the purported documents produced in Robert Lee's affidavit were not written by the testator with the exception of one page of Exhibit 4 expressing her health care needs
- that the document marked as Exhibit A to Robert Lee's Affidavit purported to be the testator's writing, is not hers, as she would never misspell the name of her grandson, Mikie (not Mickie)
- that Pam and Attorney Lee claimed to have received a copy of the Hoeffler will on October 18, 2011, but that will was not in their file at their office when the original file was inspected during the depositions on May 17th, and Russ Sloan never testified that the Decedent brought a will to the meeting.

8. While the affiant recognizes the Court focused its attention on witness testimony relating to the date the will was executed, I genuinely believe that the parties have not had a full and fair opportunity to complete the discovery at least as it relates to the fraudulent concealment and implied revocation issues which deal with facts primarily occurring after the date of execution of the will. In my opinion this is a novel issue as well which further supports the need to fully develop the facts.



GARY I. FINKLEA

Subscribed and sworn to before me
this 24th day of August 2013.



Notary Public for South Carolina

My Commission Expires: 9/20/21

A FALSE STATEMENT CONCERNING THE FACTS CONTAINED IN THIS AFFIDAVIT MAY SUBJECT THE PERSON MAKING THE FALSE STATEMENT TO CRIMINAL PENALTIES AS PROVIDED BY LAW AND FURTHER RENDER ANY ACTION TAKEN IN RELIANCE UPON THIS AFFIDAVIT AS NULL AND VOID.



FINKLEA LAW FIRM
ATTORNEYS AND COUNSELORS AT LAW

rec'd 10/10/2013
42246/01500
Gary I. Finklea
Charlie J. Blake, Jr.
J. Gregory Hendrick
Joshua A. Bailey
B. Hicks Harwell, Jr.
(1933-2012)

October 8, 2013

VIA FEDERAL EXPRESS

Honorable R. Knox McMahon
Lexington County Judicial Center
205 E. Main Street
Lexington, SC 29072

Re: Estate of Eris Singletary Smith
Case No.: 2013-ES-21-190
Our File No.: 13135

Dear Judge McMahon:

I hope this letter finds you well. You may recall that you have under advisement a Motion for Summary Judgment in the above captioned matter. My client requested additional time to conduct depositions of witnesses with knowledge we thought pertinent to the controversy. Those depositions were scheduled for September 11, 2013. The Court was kind enough to allow me to proffer the testimony of those witnesses anticipated testimony on the record. It was the Court's opinion since none of the anticipated testimony related to the testator's capacity or incapacity on the date the will was made, they were not necessary for the Court to render a decision at the summary judgment stage.

The court granted the Motion for Summary Judgment. My client still requested I depose these witnesses. Since the discovery phase was technically ended by the Court's ruling from the bench, in lieu of depositions my client requested I obtain affidavits or alternatively recorded statements. I have attached statements of some of the witnesses named in our discovery responses.

Rather than burdening you with a review of all of them, in totality, these statements support the evidence I proffered but they do not relate to the will execution or the Testator's capacity in that regard. They do however support our arguments. Please let me know if I can provide the Court with further information or take any action on behalf of the Court.

With kindest regards, I am

Very truly yours,

GIF
GARY I. FINKLEA

 **COPY**

GIF/dth

Enclosures

cc: Eris Smith – Without Attachments
C. Mitchell Brown, Esquire – With Attachments (Via U.S. Mail) ✓
Jeffrey L. Payne, Esquire – With Attachments (Via Hand Delivery)

814 W. Evans Street (29501) • Post Office Box 1317, Florence, SC 29503 • (P) 843.317.4900 • (F) 843.317.4910 • (E) gfinklea@finklealaw.com

PERSONAL INJURY • LITIGATION • SOCIAL SECURITY DISABILITY • WORKERS' COMPENSATION • CONSUMER LAW
REAL ESTATE • CRIMINAL LAW • DOMESTIC • PROBATE • BUSINESS TRANSACTIONS

ROA_0148

Appendix_00151



FINKLEA LAW FIRM
ATTORNEYS AND COUNSELORS AT LAW

Gary I. Finklea
Charlie J. Blake, Jr.
J. Gregory Hendrick
Joshua A. Bailey
B. Hicks Harwell, Jr.
(1983-2012)

October 8, 2013

VIA HAND DELIVERY

Honorable Connie Reel-Shearin
Florence County Clerk of Court
180 North Irby Street
Florence, South Carolina 29501

Re: Estate of Eris Singletary Smith
C/A#: 2013-ES-21-190
Our File No.: 13135

Dear Mrs. Reel-Shearin:

Enclosed for filing in the above matter are copies of the transcripts of the witness statements taken on September 11, 2013 as follows: **The Examination Under Oath of Mary Alice Tomkins, The Examination Under Oath of Rachell Pringle, The Examination Under Oath of Sharon J. Graham, The Examination Under Oath of Janet Altman, The Examination Under Oath of Hoyt Legette Smith, and Affidavit of Karen Deas McCall.** I would appreciate your office filing the statements. I appreciate your cooperation and assistance.

With kindest regards, I am

Very truly yours,


GARY I. FINKLEA



COPY

GIF:dh

Enclosures

cc: Eris Smith

C. Mitchell Brown, Esquire, Nelson Mullins Riley & Scarborough, LLP ✓
Jeffrey L. Payne, Esquire, Turner Padgett Graham & Laney, P.A.

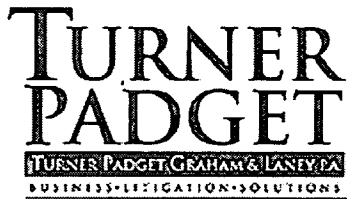
814 W. Evans Street (29501) • Post Office Box 1317, Florence, SC 29503 • (P) 843.317.4900 • (F) 843.317.4910 • (E) gfinklea@finklealaw.com

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ROA_0149
Appendix_00152

From: Payne, Jeff L.
Sent: Wednesday, October 09, 2013 10:53 AM
To: kcmahonj@sccourts.org
Cc: kcmahonlc@sccourts.org; gfinklea@finklealaw.com
Subject: Judy Jones v. Eris Smith (Florence County Action 2013-CP-21-1334).

Judge McMahon, I just received a copy of a letter from opposing counsel Gary Finklea in which he has now forwarded statements from witnesses to your honor for consideration for a hearing that was held in August in Florence. Obviously, I object to these statements being submitted to your honor. As you will remember this matter was heard in August and your honor ruled that based on the deposition testimony and affidavits from the attorneys present on the date the will was signed, that no undue influence was exerted upon the decedent. We are simply waiting on the signed order. The defendants failed to submit any affidavits of any type such as they are now trying to submit to the court and I therefore object to their last grasp attempts to alter the court's ruling. Thank you.



Jeff L. Payne
Attorney
PO Box 5478 | Florence, SC 29502
319 South Irby Street | Florence, SC 29501
843-656-4432 | Fax 843-413-5825
jpayne@turnerpadget.com
[Bio](#) | [vCard](#) | [Location](#)



FINKLEA LAW FIRM
ATTORNEYS AND COUNSELORS AT LAW

uc'd 11/13/13
42246/01500

Gary I. Finklea
Charlie J. Blake, Jr.
J. Gregory Hendrick
Joshua A. Bailey
B. Hicks Harwell, Jr.
(1933-2012)

November 11, 2013

VIA HAND DELIVERY

Honorable Connie Reel-Shearin
Florence County Clerk of Court
180 North Irby Street
Florence, South Carolina 29501

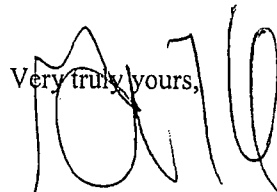
Re: Estate of Eris Singletary Smith
C/A#: 2013-ES-21-190
Our File No.: 13135

Dear Mrs. Reel-Shearin:

Enclosed for filing in the above matter are an original and two (2) copies of a Motion to Reconsider and Certificate of Mailing. I would appreciate your office filing and returning the certified copies. I have also enclosed a firm check in the amount of \$25.00 representing the filing fee. I appreciate your assistance.

With kindest regards, I am

Very truly yours,


GARY I. FINKLEA

GIF:dlb

Enclosures

cc: Eris Smith
C. Mitchell Brown, Esquire
Jeffrey L. Payne, Esquire

814 W. Evans Street (29501) • Post Office Box 1317, Florence, SC 29503 • (P) 843.317.4900 • (F) 843.317.4910 • (E) g@finklea.com

PERSONAL INJURY • LITIGATION • SOCIAL SECURITY DISABILITY • WORKERS' COMPENSATION • CONSUMER LAW
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ROA_0151
Appendix_00154



FINKLEA LAW FIRM
ATTORNEYS AND COUNSELORS AT LAW

Gary I. Finklea
Charlie J. Blake, Jr.
J. Gregory Hendrick
Joshua A. Bailey
B. Hicks Harwell, Jr.
(1933-2012)

November 11, 2013

Honorable R. Knox McMahon
Lexington County Judicial Center
205 E. Main Street
Lexington, SC 29072

Re: Estate of Eris Singletary Smith
C/A#: 2013-ES-21-190
Our File No.: 13135

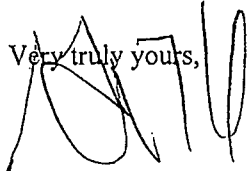
Dear Judge McMahon:

Please find enclosed a copy of a Motion to Reconsider. I have enclosed for your benefit a copy of the Order which you signed, a previous filing which we made titled Objections to Order and Supplemental Memorandum in Opposition to Summary Judgment, as well as a recently filed Motion to Reconsider. I recognize that the Court did not rush or hastily execute the Order. Although the movant would respectfully request the Court to reconsider the issues, the primary purpose of this Motion is for issue preservation. I recognize this matter can be resolved without the necessity of a hearing, but if the Court requests one, I will be more than glad to facilitate a hearing or conference.

I greatly appreciate the Court's consideration.

With kindest regards, I am

Very truly yours,


GARY I. FINKLEA

GIF:dlb

Enclosures

cc: Eris Smith
C. Mitchell Brown, Esquire
Jeffrey L. Payne, Esquire

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	TWELFTH JUDICIAL CIRCUIT
COUNTY OF FLORENCE	)	C/A # 2013-ES-21-190
	)	
Eris Gail Smith,	)	
	)	
Plaintiff,	)	MOTION TO RECONSIDER
	)	
Vs.	)	
	)	
Judy Smith Jones, Jacquelyn Brown,	)	
James Ervin Smith, Timothy David	)	
Smith, Jamie Smith and Mikie Smith,	)	
	)	
Defendants.	)	

YOU WILL PLEASE TAKE NOTICE that the undersigned attorney, on behalf of Eris Gail Smith, hereby moves pursuant to Rule 59(e), SCRPC that the Court reconsider and alter or amend its Order dated October 22nd, and filed with the Florence County Clerk of Court's office on October 24, 2013 (the "Order"). The undersigned represents a copy of this Order was received on October 28, 2013. This motion is based on the following grounds: 1. all prior arguments (written or oral) and prior submissions filed opposing the motion for summary judgment in advance of this Court's Order; and 2. the below issues of fact and points, which may not have been considered by the Court or which may have been overlooked:

1. The inability of the Defendants to explain why the Decedent executed another Will seven (7) months after executing a prior will under the direction of Attorney Rick Hoeffler, an attorney neutral and detached from the family. The execution of the Hoeffler Will was a conscious, intentional and deliberate exercise which was the final product of a number of visits to the lawyer. On

the other hand, the Lee Will was purportedly prepared by an attorney the decedent disliked, didn't trust, and was the product of a quick trip where the decedent was taken to Lee's office by the putative Personal Representative's granddaughter under the guise of executing a Health Care Power of Attorney and having brunch – not with the purpose of executing a will. In fact, Witness Brittany Hooks testified the testator was only in the office for an hour, clearly not enough time to provide the requisite information to prepare a will, POA and HCPOA, prepare those documents and execute those documents.

2. The fact that the Decedent would not have sought the assistance of Attorney Robert E. Lee when she had a very strong disliking for him, forbade people to speak of him in her presence, and thought Lee had something to do with altering the will of her son Wayne, who predeceased her. The suspicions increase when we learn from Attorney Russ Sloan that apparently Attorney Lee had more to do with the will preparation than Sloan was initially let to believe based upon his testimony at page 17 of his deposition.
3. The unanswered question of why the Decedent was never provided a copy of the Will after its purported execution;
4. The failure to explain why the Decedent was never provided with a copy of her will after she requested a copy of any documents she executed before Attorney Lee after directly speaking with Attorney Sloan in a phone call and requesting such.

5. The conduct of Lee's legal assistant and Decedent's Granddaughter, Pam Jordan, in concealing a copy of the documents the Decedent purportedly executed although she promised to provide a copy to the Decedent when the decedent contacted Attorney Sloan and Sloan directed Jordan to do so. This issue is more significant when reviewing the self-serving testimony of Jordan in her deposition at page 26 which conflicts all of the other witnesses, even that of Attorney Sloan.
6. The uncontroverted fact that the decedent went to her grave believing that her last Will was the one prepared by Rick Hoeffler and not Robert E. Lee.
7. The effect that if the Decedent had known of the existence of the Lee Will that she would have therefore had the knowledge that she needed to revoke it by re-executing the Hoeffler Will.
8. The fact that revocation is a question of intention and the Testator's intent was that the Hoeffler Will be her Last Will and Testament.
9. The effect the fraudulent conduct of those in making the Lee Will and precluding the Testator from having a copy of the documents she purported executed and whether the fraudulent concealment or conduct would be sufficient to constitute or cause a revocation or invalidity.
10. The fact that revocation or invalidity of the will based upon fraudulent concealment is a novel issue and should not be decided on summary judgment.
11. The fact that the decedent was displeased with the manner in which Judy Jones served as personal representative of her son Wayne's estate and

therefore would have never knowingly appointed Judy Jones to serve as personal representative over hers.

12. The fact that although the decedent loved all of her children, she looked to Eris to handle all of her financial affairs, health care needs and personal needs and yet the Lee will appoints Judy Jones who seldom assisted with any of these needs until she helped Eris and her mom with her mom's health care issues in the months before her death.
13. The conflict in having the decedent's granddaughter and the law office where she was office manager and head paralegal prepare a will which appointed the paralegal's mother as personal representative and sister (who never assisted with the decedent's affairs) as alternate personal representative.
14. The fact that if Judy Jones was supposed to be the Personal Representative, why she knew absolutely nothing of her mother's funeral arrangements and Eris knew everything.
15. The fact that if Judy Jones was supposed to be the Personal Representative, why the decedent didn't share with her the contents or assets locked within the store, regarding which Eris knew everything.
16. The fact that if Judy Jones was supposed to be the Personal Representative, why the decedent didn't provide Judy a key to the store or key that locked and secured the contents within the store, but Eris had both keys.
17. The Court's mandate in its written order that the Probate Court appoint Judy Smith Jones as the Personal Representative is inappropriate in light of the other issues of qualifications which rest in the sound discretion of the Probate

Judge prior to making an appointment. Further, the Court never ordered the appointment of Judy Smith Jones at the hearing but this was additional language added by opposing counsel. Neither the Court nor the parties ever addressed the qualifications and the propriety of Judy Smith Jones serving as the Personal Representative, instead addressing only the validity of the Wills.

Based upon: 1) the foregoing; and 2) all prior arguments (written or oral) and prior submissions filed opposing the motion for summary judgment in advance of this Court's Order, Plaintiff respectfully moves the Court to reconsider its prior decision, deny the motion for summary judgment, and allow the parties to fully prepare this case for trial and have a jury resolve the issues of fact in this case. Plaintiff also request that such portion of the Order appearing to appoint Judy Jones as a proper Personal Representative be stricken.

November 8, 2013

Florence, S.C.



GARY I. FINKLEA
Attorney for the Plaintiff
Finklea Law Firm
814 West Evans Street
Post Office Box 1317
Florence, SC 29503
Phone: (843) 317-4900
Fax: (843) 317-4910
gfinklea@finklealaw.com

Last Will and Testament
of
ERIS SINGLETARY SMITH

I, ERIS SINGLETARY SMITH a resident of and domiciled in the County of Florence and State of South Carolina, do hereby make, publish and declare this to be my Last Will and Testament, hereby revoking all Wills and Codicils at any time made by me.

ITEM I

I direct that all my just debts, secure and unsecured, be paid as soon as practicable after my death. I direct that my personal representative may cause any debt to be carried, renewed and refinanced from time to time upon such terms and with such securities for its repayment as my personal representatives may deem advisable taking into consideration the best interest of the devisees hereunder.

ITEM II

If I shall leave any written memorandum directing the disposition of items of tangible personal property, I direct my personal representative to abide by the memorandum.

ITEM III

SS
#1
RLL
CWS

I direct my personal representative, hereinafter named, to sell all of my property, both real and personal. I direct my personal representative not to sell any of my property, unless directed to do so by order of a Court with competent jurisdiction, until the passage of nine (9) months after my death except as follows:

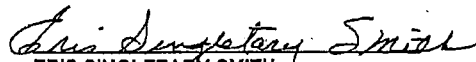
During the nine (9) months after my death any of my children or their lineal descendants may purchase items of personal property and/or real property from my estate provided they pay the fair market value of the item(s) purchased as determined by an independent qualified appraiser selected by my personal representative. Also, any purchase or sale of my real property must be approved by the appropriate Court if purchased by a family member.

I direct my personal representative to distribute the funds generated from the sale of my property, real and personal to my children, share and share alike, with the share of any pre-deceased child going to their lineal descendants per stirpes. Should any child not survive by lineal descendants, his or her share shall be distributed to my children, share and share alike.

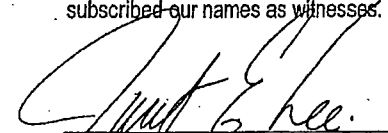
ITEM IV

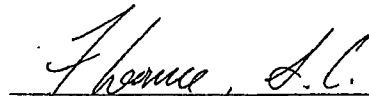
I hereby appoint my son, **ALMON WAYNE SMITH** to serve as personal representative of my estate without bond. Should he be unable or unwilling to serve for any reason I appoint my grand-daughter, **PAMELA J. JORDAN** as my personal representative to serve without bond.

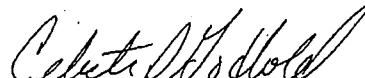
IN WITNESS WHEREOF, I hereunto set my hand and seal this 30 day of May, 2001.

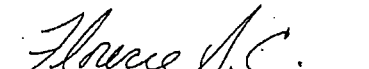

ERIS SINGLETARY SMITH

Signed, sealed, published and declared by **ERIS SINGLETARY SMITH** and for her Last Will and Testament, in the presence of us, who, in her presence, and in the presence of each other, at her request, have subscribed our names as witnesses.


ROBERT E. LEE

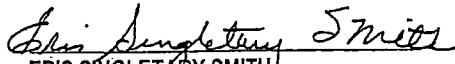

FLORENCE, SOUTH CAROLINA

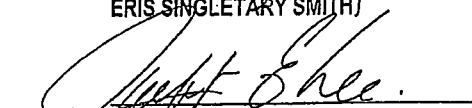

CELESTE S. GODBOLD

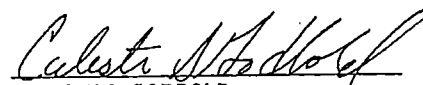

FLORENCE, SOUTH CAROLINA

STATE OF SOUTH CAROLINA)
) SELF PROVING AFFIDAVIT
COUNTY OF FLORENCE)

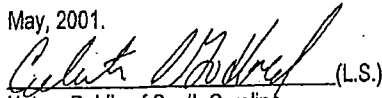
We, ERIS SINGLETARY SMITH, ROBERT E. LEE, and CELESTE S. GODBOLD, the testator and the witnesses, respectively, whose names are signed to the attached or foregoing instrument, being first duly sworn, do hereby declare to the undersigned authority that the testator signed and executed the instrument as her Last Will and Testament on May 30, 2001 and that she signed willingly (or willingly directed another to sign for her) and that she executed it as her free and voluntary act for the purposes therein expressed, and that each of the witnesses, in the presence and hearing of the testator signed the Last Will and Testament as witness and to the best of her knowledge the testator was at that time eighteen years of age or older, of sound mind, and under no constraint or undue influence.


ERIS SINGLETARY SMITH


ROBERT E. LEE


CELESTE S. GODBOLD

Subscribed, sworn to, and acknowledged before me by ERIS SINGLETARY SMITH, the testator, and subscribed and sworn to before ROBERT E. LEE and CELESTE S. GODBOLD, witnesses, this the 30 day of May, 2001.

 (L.S.)
Notary Public of South Carolina
My Commission Expires: 2-10-10

MEMORANDUM TO LAST WILL AND TESTAMENT OF
ERIS SINGLETARY SMITH

DEN

Pie Crust Table:	Becky Jones
Round Light Oak Table:	Wayne Smith
Coffee Table:	Eris Gail Smith
Couch:	Hope Smith
Glider Chair:	Tim Smith
Leather Couch and Chair:	Mikie Smith
Maple Rocking Chair:	Pam Jordan
Blue Recliner:	James Smith
Brown Recliner:	Wayne Smith
Oak Stack Tables:	Jeri Brown
Desk and Lamp:	Tim Smith
Floor Lamp:	Wayne Smith
Coat Rack:	James Smith
VCR:	Becky Jones
TV:	Phillip Jones
Antique Trunk:	Wayne Smith
11 inch Rocking Chair:	Becky Jones
Child's Rocking Chair:	Mikie Smith
Charleston Print:	Becky Jones
Antique Round Oak Table With 6 Chairs:	Phillip Jones
Brass Bakers Rack With Everything On It:	Judy Jones
Wall Clock:	Wayne Smith
Picture "THE STORM":	Wayne Smith
Plate Rack with Plates:	Debra Kennedy
Curio Cabinet:	Jamie Smith
Antique Chair (Rocker):	Wayne Smith
Oval Antique Table With Ceramic Lamp:	James Smith
Cane Rocking Chair (stuffed)	Brandon Smith
Oak Chest with pictures:	Judy Jones
Stereo:	Mikie Smith
2 Antique Straight Chairs:	Becky Jones
Brass Standing Fan:	Jamie Smith

Niagara Falls Print:	Jeri Brown
Framed Picture of Grandchildren:	Debra Kennedy
Ronald Reagan Invitation:	Judy Jones
Child's Straight Chair:	Tim Smith
Family Tree:	Phillip Jones
Silhouettes:	Eris Gail Smith
Picture "Pretty In":	James Smith
Picture" Effingham Supply:	Pam Jordan
Picture" Whistle Stop Silent":	Wayne Smith
Picture " Sunday Depot	
Morning in Sleepy Hollow":	Al Brown
Wood Picture Book:	Eris Gail Smith
Granddaddy Smith's Watch:	James Smith
"The Thinker":	Mikie Smith
Cut Glass Bowls:	James Smith
Clemson Plaque:	Wayne Smith
Fern Stand and Dried Arrangement:	Jackie Brown
Pam and Kirby's Wedding Picture:	Pam Jordan
Ceramic Cats:	Haighan Smith
Brass Floor Lamp:	Jamie Smith
Blue Picture:	Jeri Brown
Hoyt and Jack's Picture:	Wayne Smith
Magazine Rack:	Brandon Smith
Swivel Chair:	Wayne Smith
1 Small Trunk:	Brad Kennedy
1 Small Trunk:	Blaine Kennedy

KITCHEN

Wear-ever Pots:	Tim Smith
Kitchen Round Oak Table with 5 Chairs:	James Smith
T.V.:	Mikie Smith
Square Antique Table:	James Smith
Microwave:	Eris Smith
Magazine Rack:	James Smith

HALL

Heart Shape Table: James Smith

MY BEDROOM

Bedroom Suit: Wayne Smith
Jewelry Armoire: Debra Kennedy
Chase Lounge: Jeri Brown
Love Letters Print: Jeri Brown
Antique Oak Chester
Drawers: Wayne Smith

MY BATHROOM

3 Gold Frame Prints: Jamie Smith

MIDDLE BEDROOM

Jacks Bedroom Suit: James Smith/Mikie Smith
Quilt Rack: James Smith
Cedar Chest: Hope Smith
Leather Rocker: James Smith
S Print: Eris Gail Smith
World Book Encyclopedia: Mikie Smith
Child Craft: Jamie Smith
The Bradman Bible
Communtary (Jacks Bible): Tim Smith
4 Season Plaque: James Smith
4 Bird Pictures: Mikie Smith
2 Bird Pictures
(Gold Frame): Jamie Smith
Quilt Rack: Judy Jones
T.V.: James Smith
Small Chest: James Smith
Antique Lamp: Debra Kennedy

BACK BEDROOM

Antique Oak Wash Stand: Wayne Smith
Wash Bowl and Pitcher: Wayne Smith
Mens Valet Chair: James Smith

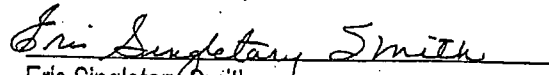
DINING ROOM

Cherry Dining Room Table
With Six Chairs: Pam Jordan
Table Pads/Clothes: Pam Jordan
Cherry Buffet: Pam Jordan
Round Table: Debra Kennedy
1 Fern Stand: Jackie Brown
1 Antique China Closet: Becky Jones
Sewing Machine: Jamie Smith
"His Mom" - Cross
Stitch Picture: Mikle Smith
Birthday Picture(Oct.): Jackie Brown
Birthday Picture(Dec.): Haighan Smith
Basket Picture: James Smith
Magnolia Picture: Jeri Brown
Still Life Picture: Jeri Brown
Flower Arrangement
On Buffet: Eris Gail Smith
Nortika China: Pam Jordan
Stainless Silverware: Wayne Smith/James Smith (each split 50/50)
Silver Serving Pieces: Jackie Smith/Judy Jones (each split 50/50)
Flat Ware- Service for 8: Jackie Smith/Judy Jones (each split 50/50)
Everyday Johnson China: Hope Smith
2 Ceramic Plaques: Debra Kennedy
Fern Stand: Judy Jones
Cross Stitch Bell Pull: Jeri Brown
Angel Picture: Hope Smith

LIVING ROOM

Rocking Chair:	Jackie Brown
Antique Marble Top	
Table with Mirror & Lamp:	Becky Jones
Velvet Love Seat and	
Angel Picture above:	Eris Gail Smith
Marble Secretary:	Jackie Brown
Antique Cane Chair:	Jamie Smith
1 Large - 2 Small	
Magnolia Rugs:	Debra Kennedy
Curio Table:	Eris Gail Smith
Velvet Chair:	Eris Gail Smith
Magazine Rack:	Jerald Brown
Tapestry Antique Sofa:	Judy Jones
2 Leaf End Tables with	
Everything on it:	Judy Jones
2 Oval Pictures (Flower &	
Bird with Dark Frame:	Jeri Brown
2 Small Oval Pictures:	Becky Jones
Coffee Table with	
Everything on it:	Judy Jones
Bible:	Wayne Smith
Little Boy Antique	
Picture:	Brandon Smith
1 Marble Stand:	Karen & Tim Smith
Antique Picture of the	
Ten Commandments:	Phillip Jones
Antique Picture of the	
Lady and the Stairs:	Jackie Brown

I declare that this is my memorandum directing the disposition of items of tangible personal property to be distributed by my Personal Representative to each and every individual listed above. I declare that this memorandum is true and accurate and shall be distributed exactly as listed above.


Eris Singletary Smith

STATE OF SOUTH CAROLINA)

COUNTY OF FLORENCE)

POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS THAT I, ERIS SINGLETARY SMITH ,
now residing in the County of Florence, State of South Carolina, hereby appoints, **ALMON WAYNE SMITH** as my true and lawful attorney, to act in, manage and conduct all of my affairs, and for that purpose in my name and on my behalf to do and execute all or any of the following acts, deeds and things that is to say:

1. To ask, demand, sue for, recover and receive all sums of money, debts, dues, goods, wares, merchandise, chattels, effects, and things of whatsoever nature or description which now are or hereafter shall be or become due, owing, payable, or belonging to me in or by any right, title, ways, or means howsoever, and upon receipt thereof or of any part thereof to make, sign, execute and deliver such receipts, releases, or other discharges for the same respectively as **ALMON WAYNE SMITH** shall think fit or be advised.

2. To settle any account or reckoning whatsoever wherein I now am or at any time hereafter shall be in any wise interested or concerned with any person whomsoever, and to pay or receive the balance thereof as the case may require.

3. To receive every sum of money which now is or hereafter shall be due or belonging to me upon the security or by virtue of any mortgage and on receipt of the full amount secured thereby to execute a good sufficient release or other discharge of such mortgage by deed or otherwise.

4. To compound with or make allowances to any person for or in respect to any debt or demand whatsoever which now is or shall at any time hereafter become due and payable to me, and to take and receive any composition or dividend thereof or thereupon, and to give releases or other discharges for the whole of such debts or demands, or to settle, compromise, or submit to arbitration every such debt or demand and other right, matter, and thing due to or concerning me as my attorney shall think best, and for that purpose to enter into and execute and deliver such bonds of arbitration or other instruments as my attorney may deem advisable in the premises.

5. To commence, prosecute, discontinue, or defend all actions or other legal proceedings touching my estate or any part thereof, or touching any matter in which I or my estate may be in anywise concerned.

6. To enter into and upon all and singular my real estate, and to let, manage, and improve the same or any part thereof, and to repair or otherwise improve or alter, and to insure any buildings thereon.

7. To contract with any person for leasing for such periods, at such rents and subject to such conditions as my attorney shall see fit, all or any of my said real estate, and any such person to let into possession thereof, and to execute all such leases and contracts as shall be necessary or proper in that behalf, and to give notice to quit to any tenant or occupier thereof, and to receive and recover from all tenants and occupiers thereof or of any part thereof all rents, arrears or rent, and sums of money which now are or shall hereafter become due and payable in respect thereof, and also on nonpayment thereof or of any part thereof to take all necessary or proper means and proceedings for determining the tenancy or occupation of such tenants or occupiers, and for ejecting the tenants

or occupiers and recovering the possession thereof.

8. To sell, either at public or private sale, or exchange any part or parts of my real estate or personal property for such consideration and upon such terms as my attorney shall think fit, and to execute and deliver good and sufficient deeds or other instruments for the conveyance or transfer of the same, with such covenants of warranty or otherwise as my attorney shall see fit, and to give good and effectual receipts for all or any part of the purchase price or other consideration.

9. To deposit any monies which may come to **ERIS SINGLETARY SMITH** hands as such attorney with any bank or banker in my name, and any such money or any other money to which I am entitled which now is or shall be so deposited to withdraw, and either employ as **ALMON WAYNE SMITH** shall think fit in the payment of any debts, or interest, payable by me, or taxes, assessments, insurance, and expenses due and payable or to become due and payable on account of my real and personal estate or in or about any of the purposes herein mentioned, or otherwise for my use and benefit, or to invest in my name in any stocks, shares, bonds, securities or other property, real or personal, as **ALMON WAYNE SMITH** may think proper, and to receive and give receipts for any income or dividends arising from such investments, and all and any such investments or other investments to vary or dispose of for my use and benefit as **ERIS SINGLETARY SMITH** may think fit.

10. To borrow any sum or sums of money on such terms and with such security, whether real or personal property, as my attorneys may think fit, and for that purpose to execute all promissory notes, bonds, mortgages, and other instruments which may be necessary or proper.

11. To engage, employ, and dismiss any agents, clerks, servants, or other persons in

and about the performance of these presents as my attorney shall think fit.

12. To vote at the meetings of stockholders or other meetings of any corporation or company, or otherwise to act as my attorney or proxy in respect of any stocks, shares or other instruments now or hereafter held by me therein, and for that purpose to execute any proxies or other instruments.

13. For all or any of the purposes of these presents to enter into and sign, seal, execute, acknowledge, and deliver any contracts, deeds, or other instruments whatsoever, and to draw, accept, make, endorse, discount, or to otherwise deal with any bills of exchange, checks, promissory notes, or other commercial or mercantile instruments.

14. In general, to do all other acts, deeds, matters and things whatsoever in or about my estate, property, and affairs, or to concur with persons jointly interested with myself therein in doing all acts, deeds, matters and things herein, either particularly or generally described, as fully and effectually to all intents and purposes as I could do in my own proper person if personally present.

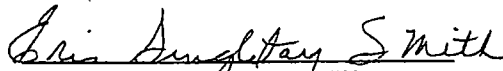
And I, **ERIS SINGLETARY SMITH** hereby ratifies and confirms and promises at all time to ratify and confirm all and whatsoever my attorney, **ALMON WAYNE SMITH** shall lawfully do or cause to be done in and about the premises by virtue of these presents, including anything which shall be done between the revocation of these presents by my death or in any other manner and notice of such revocation reaching my attorneys; and I hereby declare that as against me and all persons claiming under me everything which my attorney shall do or cause to be done in pursuance hereof

after such revocation as aforesaid shall be valid and effectual in favor of any person claiming the benefit thereof who before the doing thereof shall not have had notice of such revocation.

This Power of Attorney shall not be affected by physical disability or mental incompetence of the principal which renders the principal incapable of managing **ERIS SINGLETARY SMITH** own estate.

My Attorney-in-Fact under this Power of Attorney shall serve without bond and without any obligation created on my part for any report to be made by them to any court.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this 30 day of May, 2001.


ERIS SINGLETARY SMITH

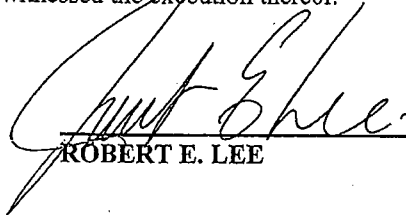
Signed, sealed, published and declared by **ERIS SINGLETARY SMITH** as her act and deed, in the presence of us who, at her request and in her presence and in the presence of each other, have subscribed our names as witnesses hereto.


ROBERT E. LEE


PAMELA J. JORDAN

STATE OF SOUTH CAROLINA)
)
COUNTY OF FLORENCE)

PERSONALLY APPEARED before me **ROBERT E. LEE**, who, being first duly sworn, deposes and says that he saw the within named **ERIS SINGLETARY SMITH** sign, seal and as her act and deed, deliver the foregoing Power of Attorney, for the uses and purposes therein set forth, and that he with **PAMELA J. JORDAN** duly witnessed the execution thereof.



ROBERT E. LEE

SWORN to before me this 30 day
of May, 2001.

 (L.S.)
Notary Public for South Carolina
My Commission Expires: 6/29/2008

HEALTH CARE POWER OF ATTORNEY

1. DESIGNATION OF HEALTH CARE AGENT

I, Eris S. Smith hereby appoint:

Almon Wayne Smith
1124 Julip Lane
Florence, South Carolina 29505
(843) 665-8086

as my agent to make health care decisions for me as authorized in this document.

2. EFFECTIVE DATE AND DURABILITY

By this document I intend to create a durable power of attorney effective upon, and only during, any period of mental incompetence.

3. AGENT'S POWERS

I grant to my agent full authority to make decisions for me regarding my health care. In exercising this authority, my agent shall follow my desires as stated in this document or otherwise expressed by me or known to my agent. In making any decision, my agent shall attempt to discuss the proposed decision with me to determine my desires if I am able to communicate in any way. If my agent cannot determine the choice I would want made, then my agent shall make a choice for me based upon what my agent believes to be in my best interests. My agent's authority to interpret my desire is intended to be as broad as possible, except for any limitations I may state below.

Accordingly, unless specifically limited by Section E, below, my agent is authorized as follows:

- 159
257
#1
RSC
CWS
- A. To consent, refuse, or withdraw consent to any and all types of medical care, treatment, surgical procedures, diagnostic procedures, medication, and the use of mechanical or other procedures that affect any bodily function, including, but not limited to, artificial respiration, nutritional support and hydration, and cardiopulmonary resuscitation;
 - B. To authorize, or refuse to authorize, any medication or procedure intended to relieve pain, even though such use may lead to physical damage, addiction, or hasten the moment of, but intentionally cause, my death;

8. **SUCCESSORS**

If an agent named by me dies, becomes legally disabled, resigns, refuses to act, becomes unavailable, or if an agent who is my spouse is divorced or separated from me, I name the following as successors to my agent, each to act along and successively, in the order named.

Pamela J. Jordan
918 Brunwood Drive
Florence, South Carolina 29501
(843) 679-0823

9. **ADMINISTRATIVE PROVISIONS**

- a. I revoke any prior Health Care Power of Attorney and any provisions relating to health care of any other prior power of attorney.
- b. This power of attorney is intended to be valid in any jurisdiction in which it is presented.

10. **UNAVAILABILITY OF AGENT**

If at any relevant time the Agent or Successor Agents named herein are unable or unwilling to make decisions concerning my health care, and those decisions are to be made by a guardian, by the Probate Court, or by a surrogate pursuant to the Adult Health Care Consent Act, it is my intention that the guardian, Probate Court, or surrogate make those decisions in accordance with my directions as stated in this document.

*REV
CAY*
BY SIGNING HERE I INDICATED THAT I UNDERSTAND THE CONTENTS OF THIS DOCUMENT AND THE EFFECT OF THIS GRANT OF POWERS TO MY AGENT.

I sign my name to this Health Care Power of Attorney on this 30 day of May, 2001.

My current home address is:

6309 Pamplico Highway
Effingham, South Carolina 29541

Signature:

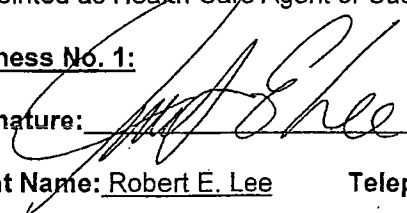
Eris Singletary Smith
ERIS SINGLETARY SMITH

WITNESS STATEMENT

I declare, on the basis of information and belief, that the person who signed or acknowledged this document (the principal) is personally known to me, that he/she signed or acknowledged this Health Care Power of Attorney in my presence, and the he/she appears to be of sound mind and under no duress, fraud, or undue influence.

I am not related to the principal by blood, marriage, or adoption, either as a spouse, a lineal ancestor, descendant of the parents of the principal, or spouse of any of them. I am not directly financially responsible for the principal's medical care. I am not entitled to any portion of the principal's estate upon his/her decease, whether under any will or as an heir by intestate succession, nor am I the beneficiary of an insurance policy on the principal's life, nor do I have a claim against the principal's estate as of this time. I am not the principal's attending physician, nor an employee of the attending physician. No more than one witness is an employee of a health facility in which the principal is a patient. I am not appointed as Health Care Agent or Successor Health Care Agent by this document.

Witness No. 1:

Signature: 

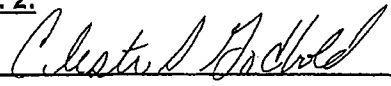
Date: 5/30/01

Print Name: Robert E. Lee

Telephone No.: (843) 669-8787

Address: 181 East Evans Street, Suite 409
Florence, South Carolina 29506

Witness No. 2:

Signature: 

Date: 5/30/01

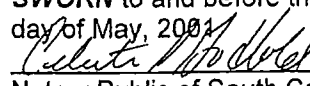
Print Name: Celeste S. Godbold Telephone No.: (843) 669-8787

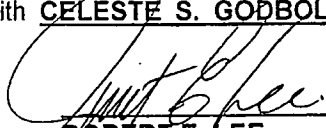
Address: 181 East Evans Street, Suite 409
Florence, South Carolina 29506

STATE OF SOUTH CAROLINA)
COUNTY OF FLORENCE) **PROBATE**

PERSONALLY APPEARED before me **ROBERT E. LEE** and made oath that he was present and saw the above named sign, seal and as his act deliver the within Health Care Power of Attorney, and that he with **CELESTE S. GODBOLD**, witnessed the execution thereof.

SWORN to and before this 30
day of May, 2001


Notary Public of South Carolina
My Commission Expires: 2-10-10


ROBERT E. LEE

of

FILED

Page 1
55

5-12
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[Signature]

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- 5-12
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[Signature]

8

- 28
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- JEA
M
- C. Jeri Brown: the chaise lounge and the picture of Niagra Falls;
 - D. Debra Brown Kennedy: the antique table in the living room with the lamp that goes on it, the Christmas Village and my ceramics;
 - E. Eris Gail Smith: the china cabinet (with the china), my sterling silver (all settings and serving pieces), my mink stole, the mauve love seat, the electric fireplace, the picture of the girl holding a pillow, the mahogany curio, the picture of Daddy and Hoyt and all porch furniture;
 - F. James Ervin Smith: the white leather couch, the white leather chair, the big television from the den, the single bed from the front bedroom, the oak table and six chairs from the den, the picture showing the path of Hurricane Hugo and my bedroom suite including all pictures on the wall;
 - G. Michael B. Smith: the bedroom suite from the middle bedroom;
 - H. Thomas James Smith: the stereo;
 - I. Timothy David Smith: the glider-rocker, my lift-chair, the little oak chair (Sunday School), my Wearever pots and pans, the picture of the old Effingham Depot and the picture showing my family tree;
 - J. Hope Carroway: the big mauve couch;
 - K. Caleb Carroway: the small mahogany desk from the den;
 - L. Rebecca Cain: antique table from the den and the pink rose tea set;
 - M. Jerald Brown: my sewing machine, the pie crust edged table and the "Blueboy" picture;
 - N. Brandon Smith: the television from the kitchen with the table it sits on;
 - O. Gail and Al Brown: the two antique straight-backed chairs in the den, the tobacco barn picture and the magazine rack.
 - P. Pamela Jordan: Pictures of the "Seeds of Florence" from the den, the marble topped table with the lamp and the mirror from the den.

Q. Sharon Graham, any remaining clothes and shoes that I may own along with the sum of \$500.00.

ITEM IV. I further hereby give, will, devise and bequeath to the individuals listed herein such furnishings and personal property as is indicated to these persons:

A. Each of my living children is to receive one of my quilts. If, after this distribution, there are any quilts remaining, then I direct that Thomas James Smith and Michael B. Smith each receive one as well.

5-5
B. I direct that all remaining glassware shall go to Eris G. Smith, Judy E. Jones, Jacquelyn Brown and James E. Smith, share and share alike.

C. Such automobiles that I may own shall go to Jacquelyn Brown, Judy Jones, James Smith, Eris G. Smith and Timothy Smith, share and share alike.

ITEM V. I hereby give, will, devise and bequeath to the individuals listed herein such jewelry as is indicated to each person:

- 7-2
JEA
JMS
- A. My wedding band and engagement ring to Michael B. Smith;
 - B. My diamond necklace to Jacquelyn D. Brown;
 - C. My class ring to Haighan Smith;
 - D. One bangle bracelet to Judy E. Jones;
 - E. My slide bracelet to Jeri Brown;
 - F. One bangle bracelet to Eris Gail Smith;
 - G. Such remaining jewelry as I may own is to be divided among my grandchildren as determined by my Personal Representative.

ITEM VI. I hereby give, will, devise and bequeath my home to Jacquelyn Brown, Judy Jones, James Smith, Eris G. Smith and Timothy Smith, share and share alike. Provided, however, this bequest is made with the contingency that Eris G. Smith shall be allowed to purchase the remaining shares from her siblings at fair market value.

ITEM VII. I hereby give, will, devise and bequeath all the rest and residue of my estate, of every kind and nature, both real and personal, wherever situate and whether now owned or hereafter obtained, unto Jacquelyn Brown, Judy Jones, James Smith, Eris G. Smith and Timothy Smith, share and share alike, to be theirs, absolutely, in fee simple.

ITEM VIII. I hereby nominate, constitute and appoint Eris Gail Smith, to serve as personal representative of my estate, and direct that she serve without bond. In the event that Eris Gail Smith is unable or unwilling to serve in this capacity, then, I hereby nominate, constitute and appoint my attorney, F. A. Hoefer, II, to serve as Personal Representative and that he also serve without bond.

I, Eris Singletary Smith, the testatrix, sign my name to this instrument this 30th day of March, 2011, and being first duly sworn, do hereby declare to the undersigned authority that I sign and execute this instrument as my last will and that I sign it willingly (or willingly direct another to sign for me), that I execute it as my free and voluntary act for the purposes therein expressed, and that I am eighteen years of age or older, of sound mind, and under no constraint or undue influence.

Eris Singletary Smith
Eris Singletary Smith

We Juniene N. Adams and J. Ellis Arrington the undersigned witnesses, sign our names to this instrument, being first duly sworn, and do hereby declare to the undersigned authority that the testatrix signs and executes this instrument as her last will and that she signs it willingly (or willingly directs another to sign for her), and that each of us, in the presence and hearing of the testatrix, hereby signs this will as witness to the

testatrix's signing, and that to the best of our knowledge the
testatrix is eighteen years of age or older, of sound mind, and
under no constraint or undue influence.

Juniene N. Adams
WITNESS

J. Ellis Arrington
WITNESS

THE STATE OF SOUTH CAROLINA)
COUNTY OF FLORENCE)

Subscribed, sworn to, and acknowledged before me by Eris
Singletary Smith, the testatrix, and subscribed and sworn to before
me by Juniene N. Adams and J. Ellis Arrington,
witnesses, this 30th day of March, 2011.

[Signature]
Notary Public for the
State of South Carolina
My Commission Expires: 4/21/19

Last Will and Testament
of
ERIS SINGLETARY SMITH

I, **ERIS SINGLETARY SMITH** a resident of and domiciled in the County of Florence and State of South Carolina, do hereby make, publish and declare this to be my Last Will and Testament, hereby revoking all Wills and Codicils at any time made by me.

ITEM I

I direct that all my debts, secure and unsecured, be paid as soon as practicable after my death. I direct that my personal representative may cause any debt to be carried, renewed and refinanced from time to time upon such terms and with such securities for its repayment as my personal representatives may deem advisable taking into consideration the best interest of the devisees hereunder.

ITEM II

If I shall leave any written memorandum directing the disposition of items of tangible personal property, I direct my personal representative to abide by the memorandum.

ITEM III

I direct my personal representative, hereinafter named, to give \$2,000.00 in my name to each of the following organizations: American Cancer Society, Singletary Cemetery Fund located in Coward, South Carolina and McLeod Hospice House of South Carolina.

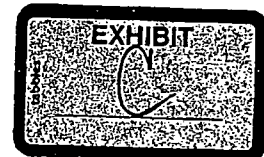
ITEM IV

I direct my personal representative, hereinafter named, to give any remaining clothes and shoes which the family does not want to **SHARON GRAHAM** along with \$500.00.

ITEM V

I direct my personal representative, hereinafter named, to sell all of my property, both real and personal. I direct my personal representative not to sell any of my property, unless directed to do so by order of a Court with competent jurisdiction, until the passage of (9) months after my death except as follows:

During the nine (9) months after my death any of my children or their lineal descendants may purchase items of personal property and/or real property from my estate provided they pay the fair market value of the item(s) purchased as determined by an independent qualified appraiser selected by my personal representative. Also, any purchase or sale of my real property must be approved by the appropriate Court if purchased by a family member.



I direct my personal representative to distribute the funds generated from the sale of my property, real and personal to my children and grandchildren as follows:

Jackie Brown	1/6 th
Judy Jones	1/6 th
James Ervin Smith	1/6 th
Eris Gail Smith	1/6 th
Timothy David Smith	1/6 th
Jamie Smith and Mikie Smith	1/6 th

Provided if any of the above named beneficiaries should predecease me I direct that the predeceased beneficiary's share shall to his or her lineal descendants per stirpes, and in default of lineal descendants his or her share shall be distributed to the remaining beneficiaries share and share alike.

ITEM VI

I hereby appoint my daughter, JUDY SMITH JONES to serve as personal representative of my estate without bond. Should she be unable or unwilling to serve for any reason I appoint my grand-daughter, REBECCA JONES CAIN as my personal representative to serve without bond.

ITEM VII

By way of illustration and not of limitation and in addition to any inherent, implied or statutory powers granted to Personal Representatives generally, my Personal Representative is specifically authorized and empowered with respect to any property, real or personal, at any time held under any provision of this my Will: to allot, allocate between principal and income, assign, borrow, buy, care for, collect, compromise claims, contract with respect to, continue any business of mine, convey, convert, deal with, dispose of enter into, exchange, hold, improve, incorporate any business of mine, invest, lease, manage, mortgage, grant and exercise options with respect to, take possession of, pledge, receive, release, repair, sell, sue for, to make distributions or division in cash or in kind or partly in each without regard to the income basis of such asset and in general to exercise all of the powers in the management of my Estate which any individual could exercise in the management of similar property owned in his or her own right, upon such terms and conditions as to my Personal Representative my seem best and to execute and deliver any and all instruments and to do all acts which my Personal Representative may deem proper or necessary to carry out the purposes of this Will, without being limited in any away by the specific grants of power made and without the necessity of a Court order.

ITEM VIII

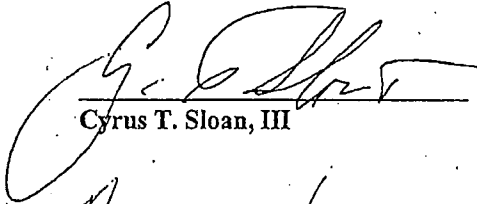
ITEM VIII

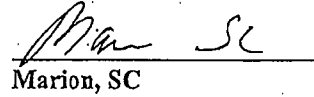
Subject to the rights and limitations expressed and set out above, if any share or property hereunder becomes distributable to any beneficiary who has not attained the age of Twenty Five (25) years old or if any real property shall be devised to a person who has not attained the age of Twenty Five (25) years old at the date of my death, then such share or property shall immediately vest in such beneficiary but notwithstanding the provisions herein, my Personal Representative, acting as Trustee shall retain possession of such share or property in trust for such beneficiary until such beneficiary attains the age of Twenty Five (25) years old, using so much of the net income and principal of such share or property as my Personal Representative deems necessary to provide for the proper support, medical care and education of such beneficiary, taking into consideration to the extent my Personal Representative deems advisable any other income or resources of such beneficiary or his or her parents known to my Personal Representative. Any income not so paid or applied shall be accumulated and added to principal. Such beneficiary's share or property shall be paid over, distributed and conveyed to such beneficiary upon attaining the age of Twenty Five (25) years old, or if he or she shall sooner die, to his or her personal representative or administrators. Whenever my Personal Representative determines it appropriate to pay any money for the benefit of a beneficiary for whom a trust is created hereunder, then such amounts shall be paid out by my Personal Representative deems best: 1) directly to such beneficiary; 2) to the legally appointed guardian of such beneficiary; 3) to some relative or friend for the care, support and education of such beneficiary; 4) by my Personal Representative using such amounts directly for such beneficiary's care, support and education. My Personal Representative as trustee shall have with respect to each share or property so retained all the powers and discretions conferred upon it as Personal Representative.

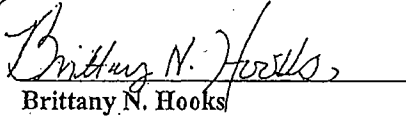
IN WITNESS WHEREOF, I hereunto set my hand and seal this 18 day of
October, 2011.

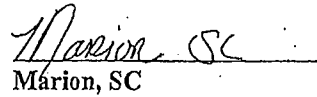
Eris Singletary Smith
Eris Singletary Smith

Signed, sealed, published and declared by ERIS SINGLETARY SMITH and for her Last Will and Testament, in the presence of us, who in her presence and in the presence of each other, at her request, have subscribed our names as witnesses.


Cyrus T. Sloan, III


Marion, SC

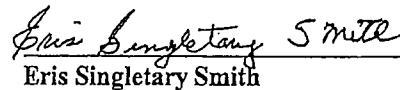

Brittany N. Hooks

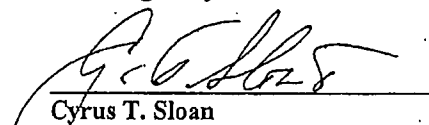

Marion, SC

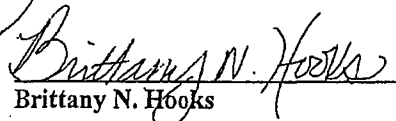
STATE OF SOUTH CAROLINA)
COUNTY OF FLORENCE)

SELF PROVING AFFIDAVIT

We, ERIS SINGLETARY SMITH, CYRUS T. SLOAN and BRITTANY N. HOOKS, the testatrix and the witnesses, respectively, whose names are signed to the attached or foregoing instrument, being first duly sworn, do hereby declare to the undersigned authority that the testatrix signed and executed the instrument as her Last Will and Testament on October 18, 2011 and that she signed willingly (or willingly directed another to sign for her) and that she executed it as her free and voluntary act for the purposes therein expressed, and that each of the witnesses, in the presence and hearing of the testatrix signed the Last Will and Testament as witness and to the best of his/her knowledge the testatrix was at that time eighteen years of age or older, of sound mind, and under no constraint or undue influence.


Eris Singletary Smith


Cyrus T. Sloan


Brittany N. Hooks

SS
BNH
ET

Subscribed, sworn to, and acknowledged before me by Eris Singletary Smith,
the testatrix, and subscribed and sworn to before Cyrus T. Sloan, III and Brittany N.
Hooks, witnesses, this the 16th day of October, 2011.

Cyrus T. Sloan, III (L.S.)
Notary Public of South Carolina
My Commission Expires: Aug 31, 2021

SS
Wf
[initials]

STATE OF SOUTH CAROLINA

COUNTY OF FLORENCE

FILED

2011 DEC 20 PM 4:11 GENERAL POWER OF ATTORNEY

(With Standby)

CONNIE REEL-SHEARIN
CCCP & GS

KNOW ALL MEN BY THESE PRESENTS, that as principal (the "Principal") I, **Eris Singletary Smith**, a resident of Florence County, State of South Carolina, have made, constituted and appointed and by these presents do make, constitute and appoint my daughter, **Judy Smith Jones**, my true and lawful attorney ("Attorney") for the purposes hereinafter set forth.

Subject to the limitations set forth in this paragraph, I have also made, constituted and appointed and by these presents do make, constitute and appoint as my true and lawful attorney my granddaughter, **Rebecca Jones Cain**, for the purposes hereinafter set forth. So long as the limitations described below shall apply to **Rebecca Jones Cain**, he/she shall be referred to herein as "Standby Attorney". The term "Attorney" as used herein shall apply to any Standby Attorney at such time as the limitations described below no longer apply.

(a) The limitations referred to above upon the authority of my Standby Attorney to act hereunder are as follows:

(i) Except as provided in paragraph (d) below, in no event is **Rebecca Jones Cain** authorized to act hereunder so long as **Judy Smith Jones** is living, competent to act and has not resigned nor been removed.

(b) The limitations upon the authority to act of a Standby Attorney shall not apply if such Standby Attorney has executed and delivered an affidavit setting forth that the limitations described above upon such Standby Attorney's authority to act do not then apply. Upon the execution and delivery of such an affidavit by a Standby Attorney, such Standby Attorney shall be authorized to act as Attorney and no person acting in reliance upon such affidavit shall incur liability to me or to my estate.

(c) A Standby Attorney is subject to removal as provided in Article II, paragraph D, hereof.

ARTICLE I

Empowerment of Attorney

Attorney is authorized in Attorney's absolute discretion from time to time and at any time with respect to my property, real or personal, at any time owned or held by me and without authorization of any court and in addition to any other rights, powers or authority granted by any other provision of this Power of Attorney or by statute or general rules of

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law (and regardless of whether I am mentally incompetent or physically or mentally disabled or incapable of managing my property and income), with full power of substitution, as follows:

A. Powers in General

To do and perform all and every act, deed, matter, and thing whatsoever in and about my estate, property and affairs as fully and effectually to all intents and purposes as I might or could do in my own proper person, if personally present, the specifically enumerated powers described below being in aid and exemplification of the full, complete, and general power herein granted and not in limitation or definition thereof.

B. Powers Relating to Management of Assets

1. To buy, receive, lease as lessor, accept or otherwise acquire; to sell, convey, mortgage, grant options upon, hypothecate, pledge, transfer, exchange, quit-claim, or otherwise encumber or dispose of; or to contract or agree for the acquisition, disposal, or encumbrance of any property whatsoever (real or personal or other) or any custody, possession, interest, or right therein, for cash or credit and upon such terms, considerations and conditions as Attorney shall think proper; and no person dealing with Attorney shall be bound to see to the application of any monies paid;

2. To take, hold, possess, invest or otherwise manage any or all of my property or any interest therein; to eject, remove or relieve tenants or other persons from, and recover possession of; such property by all lawful means; and to maintain, protect, preserve, insure, remove, store, transport, repair, build on, raze, rebuild, alter, modify, or improve the same or any part thereof; and/or to lease any property, real or personal for me or my benefit, as lessee, with or without option to renew; to collect, receive and receipt for rents, issues and profits of my property;

3. To make, endorse, accept, receive, sign, seal, execute, acknowledge, and deliver deeds, assignments, agreements, certificates, endorsements, hypothecations, checks, notes, mortgages, vouchers, receipts, consents, waivers, releases, undertakings, satisfactions, acknowledgments and such other documents or instruments in writing of whatever kind and nature as may be necessary, convenient, or proper in the premises in dealing with any of my property real, personal or other;

4. To subdivide, develop or dedicate real property to public use or to make or obtain the vacation of plats and adjust boundaries, to adjust differences in valuation on exchange or partition by giving or receiving consideration, and to dedicate easements to public use without consideration;

5. To invest and reinvest all or any part of my property in any property and undivided interests in property, wherever located, including bonds, debentures, notes, secured or unsecured, stocks of corporations regardless of class, interests in limited

partnerships, real estate or any interest in real estate whether or not productive at the time of investment, interests in trusts, investment trusts, whether of the open and/or closed fund types, and participation in common, collective or pooled trust funds or annuity contracts without being limited by any statute or rules of law concerning investments by fiduciaries;

6. To continue and operate any business owned by me and to do any and all things deemed needful or appropriate by Attorney, including the power to incorporate the business and to put additional capital into the business, for such time as Attorney shall deem advisable, without liability for loss resulting from the continuance or operation of the business except for Attorney's own negligence; and to close out, liquidate, or sell the business at such time and upon such terms as Attorney shall deem best;

7. To transfer all of my stock and/or securities to my Attorney, as agent (with the beneficial ownership thereof remaining in me) if necessary or convenient in order to exercise the powers with respect to such stock and/or securities granted herein;

8. To sell or exercise stock subscription or conversion rights;

9. To refrain from voting or to vote shares of stock owned by me at meetings of shareholders, meetings in person or by special, limited, or general proxy and in general to exercise all the rights, powers and privileges of an owner in respect to any securities constituting my property;

10. To participate in any plan of reorganization or consolidation or merger involving any company or companies with respect to stock or other securities which I own and to deposit such stock or other securities under any plan of reorganization or with any protective committee and to delegate to such committee discretionary power with relation thereto, to pay a proportionate part of the expenses of such committee and any assessments levied under any such plan, to accept and retain new securities received by Attorney pursuant to any such plan, to exercise all conversion, subscription, voting and other rights, of whatsoever nature pertaining to such property, and to pay any amount or amounts of money as Attorney may deem advisable in connection therewith.

11. To purchase, maintain, surrender, collect, or cancel (a) life insurance or annuities of any kind on my life or the life of any one in whom I have an insurable interest, (b) liability insurance protecting me and my estate against third party claims (c) hospital insurance, medical insurance, Medicare supplemental insurance, custodial care insurance, and disability income insurance for me or any of my dependents and (d) casualty insurance insuring assets of mine against loss or damage due to fire, theft, or other commonly insured risk; to pay all insurance premiums, to select any options under such policies, to increase coverage under any such policy, to borrow against any such policy, to pursue all insurance claims on my behalf; to adjust insurance losses, and the foregoing powers shall apply to private and public plans, including but not limited to Medicare, Medicaid, SSI and Worker's Compensation.

12. To represent me in all tax matters; to prepare, sign, and file federal, state, and local income, gift and other tax returns of all kinds, including, where appropriate, joint returns, FICA returns, payroll tax returns, claims for refunds, requests for extensions of time to file returns and pay taxes due, to file extensions and waivers of applicable periods of limitation, protests and petitions to administrative agencies or courts; to collect and make such disposition of refunds as my Attorney shall deem appropriate, post bonds, receive confidential information and contest deficiencies determined by the Internal Revenue Service or any other authority; to exercise any election I may have under federal, state or local tax law; to allocate any generation-skipping tax exemption to which I am entitled, and generally to represent me or obtain professional representation for me in all tax matters and proceedings of all kinds and for all periods before all officers of the Internal Revenue Service and state and local authorities and in any and all courts, to engage, compensate and discharge attorneys, accountants and other tax and financial advisers and consultants to represent or assist me in connection with any and all tax matters involving or in any way related to me or any property in which I have or may have an interest or responsibility; and on my behalf to execute IRS Form 2848 and appoint my Attorney or any suitable person selected by my Attorney as my representative before the Internal Revenue Service.

C. Additional Powers Relating to Management of Assets

1. To prepare, execute and file joint or separate income and other tax returns and amended returns and declarations of estimated tax for any year or years; to prepare, execute and file gift tax returns reporting gifts made by me or on my behalf for any year or years; to consent to treat as a split gift any gift made by my spouse, to utilize or make any tax election; and to prepare, sign and file claims for refund of any tax and other governmental reports, applications, requests, and documents;

2. To deposit in my name and for my account, with any bank, banker or trust company or any building or savings and loan association or any other banking or similar institution, all moneys to which I am entitled or which may come into Attorney's hands as such attorney-in-fact, and all bills of exchange, drafts, checks, promissory notes and other securities for money payable to or belonging to me, and for that purpose to sign my name and endorse each and every such instrument for deposit or collection; and from time to time, or at any time, to withdraw any or all moneys deposited to my credit at any bank, banker or trust company or any building or savings and loan association or any other banking or similar institution having moneys belonging to me, and, in connection therewith, to draw checks or to make withdrawals in my name; to make, do, execute, acknowledge and deliver, for and upon my behalf and in my name, all such checks, notes and contracts;

3. To endorse, receive, and collect checks payable to my order drawn on the Treasurer or other fiscal officer or depository of the United States, or any sovereign state or authority, or any political subdivision or instrumentality thereof; or any private person, firm, corporation, or partnership;

4. To have access at any time or times to any safe deposit box rented by me,

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wheresoever located, and to remove all or any part of the contents thereof; and to surrender or relinquish said safe deposit box, and any institution in which any such safe deposit box may be located shall not incur any liability to me or my estate as a result of permitting Attorney to exercise this power;

5. To make, do, and transact all and every kind of business of any nature or kind whatsoever, including the receipt, recovery, collection, payment, compromise, settlement, and adjustment of all accounts, legacies, bequests, interests, dividends, annuities, demands, debts, taxes, and obligations, or any rebate, refund, or discount thereon, which may now or hereafter be due, owing, or payable by me or to me;

6. To institute, prosecute, defend, abandon, compromise, arbitrate, and dispose of legal, equitable, or administrative hearings, actions, suits, attachments, arrests, distresses or other proceedings, or otherwise engage in litigation involving me, my property or any interests of mine;

7. To borrow money and to encumber, mortgage or pledge any and all of my property in connection with the exercise of any power vested in Attorney;

8. To deal with Attorney in Attorney's individual, or any fiduciary capacity, in buying and selling assets, in lending and borrowing money, and in all other transactions, irrespective of the occupancy by the same person of dual positions;

9. To employ and dismiss and compensate agents, accountants, investment advisers, brokers, attorneys-in-fact, attorneys-at-law, tax specialists, real estate agents and/or brokers, and other assistants and advisors deemed by Attorney needful for the proper administration of my property, and to do so without liability for any neglect, omission, misconduct, or default of any such agent or professional representative provided such agent or professional representative was selected and retained with reasonable care;

10. To apply for, settle, deposit and expend for my benefit any cash, rights or entitlements due me from any governmental agency or body, such as Supplemental Social Security, Medicaid, Medicare, and Social Security Disability Insurance and for the purposes of receiving social security benefits, my Attorney is hereby appointed my "Representative Payee"; to utilize all lawful means and methods to recover such assets and/or rights, to qualify me for such benefits and claim such benefits on my behalf; and to compromise claims and grant discharges in regard to the matters described herein;

11. To apply for a Certificate of Title upon, and endorse and transfer title thereto, any automobile, truck, pick-up, van, motorcycle or other motor vehicle, boat or camper and to represent in such transfer assignment that the title to said vehicle is free and clear of all liens and encumbrances except those specifically set forth in such transfer assignment;

12. To insure my property against damage or loss and Attorney against liability with respect to third persons;

13. To pay and adjust debts incurred by me or by my attorney-in-fact in connection with any power authorized hereunder;

14. To elect to take any elective share due me from my deceased spouse, if appropriate; to retain any property which I have the right to elect to retain; to file petitions pertaining to the election, and to take all other actions that my Attorney deems appropriate in order to effectuate the election, and if any such actions by my Attorney require the approval of any court, to seek such approval;

15. To withdraw and/or receive the income or corpus of any trust over which I have a right of receipt or withdrawal; to request and receive the income or corpus of any trust with respect to which the trustee thereof has the discretionary power to make distributions to or on my behalf; and to execute and deliver to such trustee or trustees a receipt and release or similar document for the income or corpus so received;

16. To renounce or resign any fiduciary position to which I have been or may be appointed, including but not limited to Personal Representative, trustee, guardian or attorney-in-fact, to file an accounting with a court of competent jurisdiction or to otherwise settle such matters in the manner as my Attorney shall deem appropriate;

17. To renounce and disclaim any property or interest in property or powers to which for any reason and by any means I may become entitled, whether by gift, testate or intestate succession; to release or abandon any property or interest in property or powers which I may now or hereafter own, including any interests in or rights over trusts, including the right to alter, amend, revoke or terminate. In exercising such discretion, my Attorney shall consider any reduction in estate or inheritance taxes that may be due upon my death, and the effect of such renunciation or disclaimer upon persons interested in my estate and persons who would receive the renounced or disclaimed property; provided, however, that my Attorney shall make no disclaimer that is expressly prohibited by other provisions of this instrument.

D. Powers Relating to Custody of Person

1. To establish where I shall reside, including the exact physical location, and the city, county, and state of residence and, if necessary to make all necessary arrangements for me at any hospital, convalescent institution, nursing home or similar establishment, to have and exercise all rights on my behalf which I may have and possess at such residence or institution and to report such address as my official address to the United States Post Office and any other person, firm, corporation or governmental agency as may be necessary, desirable, convenient or appropriate;

2. To employ, dismiss and compensate medical personnel including physicians, surgeons, dentists, medical specialists, nurses, and paramedical assistants deemed by Attorney needful for the proper care, custody and control of my person and to do so without liability for any neglect, omission, misconduct or default of any such physician or other

medical personnel, provided such physician or other medical personnel were selected and retained with reasonable care;

3. To authorize any and all kinds of medical procedures and treatment including but not limited to medication, therapy, surgical procedures, and dental care, and to consent to all such treatment, medication or procedures where such consent is required; to obtain the use of medical equipment, devices or other equipment and devices deemed by Attorney needful for proper care, custody and control of my person and to do so without liability for any neglect, omission, misconduct or fault with respect to such medical treatment or other matters authorized herein;

4. To purchase, dispose of and abandon clothing, food, medicine, household and personal effects of all kinds;

5. To arrange for transportation and travel for me for any purpose, including for medical treatment or recreation;

6. To make advance arrangements for funeral services including but not limited to purchase of a burial plot and marker and such other and related arrangements for services, flowers, ministerial services, transportation and other necessary, related, convenient or appropriate goods and services as my Attorney shall deem advisable or appropriate under the circumstances;

7. To apply for, elect, deposit and utilize on my behalf all benefits payable by any governmental body or agency, state, federal, county, city or other and to obtain, make claim upon, collect and dispose of insurance and insurance proceeds for my care, custody and control;

8. To house (or provide for housing), support and maintain any animals which I own and to contract for and pay the expenses of proper veterinary care and treatment for such animals, or if the care and maintenance of such animals shall become unreasonably expensive in Attorney's opinion to dispose of such animals.

ARTICLE II

Termination Amendment Resignation and Removal

A. Power not Affected by Principal's Incapacity

This power of attorney shall not be affected by physical disability or mental incompetence of the principal which renders the principal incapable of managing his/her own estate. It is my intent that the authority conferred herein shall be exercisable notwithstanding my physical disability or mental incompetence.

B. Termination

This power of attorney shall remain in full force and effect until the earlier of the following events: (i) Attorney has resigned as provided herein; (ii) I have revoked this General Power of Attorney by written instrument recorded in the public records of the county aforesaid, or (iii) a conservator shall have been appointed for me by a court of competent jurisdiction. This power of attorney may be amended by me at any time and from time to time but such amendment shall not be effective as to third persons dealing with Attorney without notice of such amendment unless such amendment shall have been recorded in the public records of the county aforesaid.

C. Resignation

In the event that Attorney shall become unable or unwilling to serve or continue to serve, then Attorney may resign by delivering to me in writing a Copy of Attorney's resignation and recording the original in the public records of the county aforesaid. Upon such resignation and recording, Attorney shall thereupon be divested of all authority under this General Power of Attorney.

D. Removal

Any person named herein as Attorney may be removed by written instrument executed by me and recorded in the public records of the county aforesaid.

ARTICLE III
Incidental Powers and Binding Effect

In connection with the exercise of the powers herein described, Attorney is fully authorized and empowered to perform any other acts or things necessary, appropriate, or incidental thereto, with the same validity and effect as if I were personally present, competent, and personally exercised the powers myself. All acts lawfully done by Attorney hereunder during any period of disability or mental incompetence shall have the same effect and inure to the benefit of and bind me and my heirs, devisees, legatees and personal representatives as if I were mentally competent and not disabled. The powers herein conferred may be exercised by Attorney alone and the signature or act of Attorney on my behalf may be accepted by third persons as fully authorized by me and with the same force and effect as if done under my hand and seal and as if I were present in person, acting on my own behalf and competent. No person who may act in reliance upon the representations of Attorney for the scope of authority granted to Attorney shall incur any liability to me or to my estate as a result of permitting Attorney to exercise any power, nor shall any person dealing with Attorney be responsible to determine or insure the proper application of funds or property.

ARTICLE IV
Miscellaneous

A. Exculpation

Attorney, Attorney's heirs, successors and assigns are hereby released and forever discharged from any and all liability upon any claim or demand of any nature whatsoever by me, my heirs or assigns, the beneficiaries under my will or under any trust which I have created or shall hereafter create or any person whomsoever on account of any action or failure to act of Attorney pursuant to this power of attorney, except for willful misconduct or gross negligence.

B. Definitions

Whenever the word "Attorney" or any modifying or substituted pronoun therefor is used in this Power of Attorney, such words and respective pronouns shall be held and taken to include both the singular and the plural, the masculine, feminine and neuter gender thereof.

C. Severability

If any part of any provision of this Power of Attorney shall be invalid or unenforceable under applicable law, said part shall be ineffective to the extent of such invalidity only, without in any way affecting the remaining parts of said provision or the remaining provisions of this Power of Attorney.

D. Compensation

Attorney shall be entitled to reimbursement for all reasonable costs and expenses actually incurred and paid by Attorney on my behalf pursuant to any provision of this Power of Attorney, but Attorney shall not be entitled to compensation for services rendered hereunder.

E. Restrictions

Notwithstanding any provision herein to the contrary, Attorney shall not satisfy the legal obligations of Attorney out of any property subject to this power of attorney, nor may Attorney exercise this power in favor of Attorney, Attorney's estate, Attorney's creditors or the creditors of Attorney's estate.

F. Reservations

Notwithstanding any provision hereto to the contrary, Attorney shall have no power or authority whatever with respect to (a) any policy of insurance owned by me on the life of Attorney, and (b) any trust created by Attorney as to which I am a trustee.

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G. Construction

It is my intention that no property subject to this power shall be includable in the gross estate (for federal or South Carolina estate tax purposes) of Attorney under the Internal Revenue Code of 1986, as amended, or any other applicable section, if any, of federal and/or South Carolina law.

H. No Disruption of Estate Plan

If it becomes necessary for my Attorney to liquidate my assets in order to provide support for me, or if liquidation or conversion of assets becomes necessary for any other reason, whether specified in this instrument or otherwise, or such liquidation is deemed by my Attorney to be appropriate or convenient, I direct that my Attorney, to the extent reasonably possible, avoid disrupting the dispositive provisions of any estate plan of mine known to my Attorney, whether or not such estate plan is embodied in a Will, a Trust, non-probate property, or otherwise. For example, if I own stocks or property that are specifically bequeathed to someone in my Will, I would want them to be the last sold for my care. If it is necessary to disrupt the dispositive provisions of such plan, then my Attorney is directed to use my Attorney's best efforts to restore the dispositive provisions of such plan as and when the opportunity to do so is available to my Attorney. My Attorney shall make reasonable efforts to obtain and review my estate plan and any person having knowledge thereof or possession of any documents implementing such estate plan is authorized to make disclosure thereof to my Attorney, and to furnish my Attorney with copies of such documents.

I. Health Care Power of Attorney

If I execute a South Carolina statutory Health Care Power of Attorney or other similar health care power of attorney, then any provision therein that conflicts with any power given herein shall take precedence over and thus supersede any authority given in this Power of Attorney.

IN WITNESS WHEREOF, as principal, I have executed this Power of Attorney as of this 18th day of October, 2011, I have directed that photographic copies of this power be made which shall have the same force and effect as an original.

Eric Singleton Smith (SEAL)
Principal

STATE OF SOUTH CAROLINA

ATTESTATION

COUNTY OF MARION

The foregoing General Power of Attorney was this 18th day of October 2011, signed, sealed, published and declared by the principal as the principal's appointment and empowerment of an attorney-in-fact, in the presence of us who at the principal's request and in the principal's presence and in the presence of each other, have hereunto subscribed our names as witnesses hereto.

Brittany N. Hooks
[Signature]

STATE OF SOUTH CAROLINA

PROBATE

COUNTY OF MARION

PERSONALLY appeared deponent and made oath that deponent saw the within named principal sign, seal and as the principal's act and deed deliver the within General Power of Attorney and that deponent, with the other witness whose name is subscribed above, witnessed the execution thereof.

SWORN to before me this 18th
day of October, 2011.

Brittany N. Hooks

[Signature] (L.S.)
Notary Public for South Carolina
My Commission expires: 1/28/12

State of South Carolina
In Probate Court
County of Florence

In the Matter of the Estate of
Eris Singletary Smith

Judy Smith Jones,
Petitioner,

V. 2013-CP-21-190

Eris Gail Smith,
Respondent.

Deposition of: Pam Jordan

Location: 111 Witcover Street
Marion, South Carolina

Date: Wednesday, May 1, 2013

Time: 10:51 a.m. - 11:55 a.m.

Court Reporter: Roger R. Williamson

The deposition is taken pursuant to notice and/or
agreement, in the above-entitled cause pending in
the above-named court and pursuant to the South
Carolina rules of civil procedure.

Q & A Court Reporting Services
Post Office Box 4563 (29502)
Florence, South Carolina
Toll Free (866) 673-9845 Local (843) 673-9845
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Q&A Court Reporting

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By: Gary I. Finklea, Esq.

page
Examination by Mr. Finklea 3

Pg/ln	Ex.	Description
Premarked	2	Ms. Eris Smith's Notes
Premarked	3	Eris Smith Will 2001
20/19	4	Eris Smith Notes
20/19	5	Aiken Bridges File
38/3	6	Will Draft

*† uh-huh = affirmative
huh-uh = negative

A -- prior to the 18th of October. And I

It is stipulated between counsel that this deposition is being taken pursuant to the South Carolina rules of civil procedure and that all objections except as to the form of the question are reserved until the time of trial.

It is also stipulated between counsel for the respective parties and the deponent that the deponent will waive the right to read and sign this transcript.

Thereupon,

Pam Jordan,
having been first duly sworn by the court
reporter, testified as follows:

BY MR. FINKLEA:

Q Pam, thank you for appearing before us for this deposition to share what you know?

A The execution of your grandmother's will. I'm sure that you know everything about a deposition up to the part where it stops until afterwards, but I don't know if you've been involved in any depositions, actually, during the process of a deposition. Is that --

A I have.

told her we could not do it over the weekend. To call -- we'll call on Monday and see who's in the office. She called on Monday. Russ wasn't here. So then he would be back in the office on that Tuesday. So then she made arrangements to come here on Tuesday the 18th.

Q Before coming here on Tuesday the 18th, were you aware of what changes she wanted to have made to the will?

A She wanted -- Wayne had pas--- passed away, so she wanted to add Jamie and Mikey as -- as the sixth.

Q When did she relay that -- those changes to you? On the phone or when --

A On the phone.

Q -- she got here? Okay. When she said she wanted to make changes to the will, what will -- will do you believe that she was referring to?

A The Hoefer will.

Q Okay. Did you have a copy of the Hoefer will?

A No.

Q How do you know she was referring to the Hoefer will?

Page 6	Page 8
1 A Because she said that Eris took her to 2 see Hoefer. 3 Q When did the drafting of the document 4 begin? 5 A The 18th. 6 Q Okay. The format that was used on -- 7 on this will, I assume, was the standard form that 8 your office typically uses? 9 A We already had the will in our system 10 from '01. 11 Q Okay. All right. When your Granny got 12 over here on the 18th, tell me what happened and 13 who did she meet with. 14 A She came in and I'm not sure who 15 brought her into this room first. And I -- I 16 never spoke with her. I think Robert came in 17 first, spoke with her. She wrote down what she 18 wanted. He made the changes and then he gave them 19 to me to me to draft it. Brought them back in 20 here. Russ met with her, the two witnesses, the 21 notary, and then he brought back the memorandum. 22 Told me to make the changes because Wayne was 23 still in the memorandum. Wayne is deceased. 24 Therefore, she made changes and put in some great 25 grandchildren or grandchildren in those spots. We	1 Q And who took her home? 2 A I did. 3 Q Did -- 4 A Because Becky got a call to go back to 5 work. 6 Q Okay. 7 A So I took her home. 8 Q And where is that -- 9 A And I had time to come back here. So 10 it had to be around one or two. 11 Q And where did Becky work? 12 A I think she worked in Sumter at that 13 time. 14 Q Doing what type of work? 15 A She's a physical -- a occupational 16 therapist. 17 Q Did your Granny make any notes as to 18 the changes she wanted to have -- 19 A Yes. 20 Q -- made? And what notes did she make? 21 A She made these notes. 22 Q Okay. And you're referring to -- 23 A Exhibit 2. 24 Q -- Exhibit Number 2. Okay. And did 25 she bring those with her when she came in, or did
Page 7	Page 9
1 made those changes. He brought her back in here 2 and she signed it. 3 Q The -- was the memorandum -- or how 4 long did it -- if you recall, do you know like 5 about what time -- well, how did she get here 6 first of all? 7 A My sister, Becky, came. 8 Q And do you know what time she got here? 9 A Don't know. 10 Q Was it morning? 11 A Morning. 12 Q Do you know how long she stayed? 13 A I don't. 14 Q Do you know when she left? 15 A I don't. I mean, midday, lunch maybe. 16 Q Did she leave before lunchtime or after 17 lunchtime? 18 A I would say around lunch -- after 19 lunch. I say between 12 and two. 20 Q And did -- did any of those questions, 21 or thinking about that, cause you to remember how 22 long she may have been here. 23 A I'd say she probably got here at 10 and 24 left at two -- at 12. By the time she got home, 25 it was between one and two.	1 she make them while she was here? 2 A She made them while she was here. 3 Q And do you know why she made those? 4 A We wanted them in writing. We wanted 5 her to write her -- in her own writing what did 6 she want. 7 Q Okay. Is that something that -- is 8 customary that your office does request the -- 9 the -- 10 A Sometimes we do and sometimes we don't. 11 Q Were you present when she wrote those? 12 A No. 13 Q Do you know if Robert was present when 14 she wrote those? 15 A You'd have to ask him. 16 Q When did the changes to the will begin 17 to occur -- the -- the -- 18 A The day of -- 19 Q -- this one right here. 20 A -- the 18th. 21 Q Okay. And when did they occur? After 22 Robert met or after she gave the -- this form -- 23 Exhibit Number -- 24 A After -- 25 Q -- 2?

3 (Pages 6 to 9)

Q&A Court Reporting

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1 A -- that form and after they marked
 2 through -- we always print -- if we already have
 3 one in the system, he meets with them. We mark
 4 through it, what changes she wanted to make and
 5 so -- then he hands it to me. I make the changes.
 6 Give it back to him, and he meets with the client.
 7 Q The items on the memorandum --
 8 A Uh-huh.
 9 Q -- were they also typed into the office
 10 computer --
 11 A Yes.
 12 Q -- and saved?
 13 A Since 2001.
 14 Q And tell me, did you know if the items
 15 on the memorandum were printed at the same time
 16 the will was printed and marked through --
 17 A Yes.
 18 Q -- or did you do the will first then
 19 the memorandum?
 20 A I want to say the will was printed
 21 because he also did -- I'm not sure if he printed
 22 the memorandum or I printed the memorandum, but it
 23 was marked through. Wayne was marked through and
 24 then she made the changes. And I typed in the
 25 changes.

Page 11

1 Q Okay.
 2 A Because I'm not sure if it came all to
 3 my desk at one time or if it came twice in the
 4 same morning.
 5 Q Okay. And -- and tell me what you mean
 6 by coming to your desk.
 7 A He would bring it to me.
 8 Q Okay. Do you -- is it your office's
 9 custom to prepare memorandums for clients?
 10 A Yes.
 11 Q What, I guess, percent of your clients
 12 do you think you'd prepare memorandums for? Half,
 13 a 100 percent, 90 percent?
 14 A I'd say 30 or 40.
 15 Q Okay. The documents that were marked
 16 through that -- that -- did you retain a copy of
 17 the -- like the memorandum that you marked through
 18 by chance?
 19 A No. The first one, the 2001 I do have.
 20 Q Okay. That --
 21 A The 2001, when she brought it in, was
 22 handwritten. Then she typed it. We asked her to
 23 be more detailed and mailed it to her. She sent
 24 it back, and then that's the original you're
 25 looking at right now.

Page 12

1 Q Okay.
 2 A In 2001 after it was typed.
 3 Q So back in 2001, she started off with a
 4 handwritten list?
 5 A Correct.
 6 Q You typed a handwritten list.
 7 A Uh-huh.
 8 Q Is that a yes?
 9 A Yes. I'm sorry.
 10 Q And then you wanted more detail after
 11 you typed it up, and she responded with more
 12 detail.
 13 A Right.
 14 Q And then you added the detail for that
 15 list.
 16 A Correct.
 17 Q And --
 18 A Before she came in to sign the will.
 19 Q And that final list was attached to the
 20 Exhibit Number 3, the 2001 will?
 21 A Correct.
 22 Q Now, can you tell me -- do you know why
 23 your -- your Nanny -- Granny wanted to add Jamie
 24 and Mike to the will?
 25 A Yes.

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1 Q And why is that?
 2 A Because she raised them.
 3 Q Did you have any conversations with her
 4 in that regard?
 5 A No.
 6 Q And how do you -- how do you know that
 7 then? Are you assuming?
 8 A I'm assuming because she came in and
 9 added them. And she -- and they lived with her
 10 all their life prac--- practically.
 11 Q Do you know why she appointed your
 12 mother as personal representative as compared to
 13 another family member?
 14 A I don't know.
 15 Q Okay. And, you know, I'm -- I'm fixing
 16 to ask you a question that you -- you -- that may
 17 be tough for you to answer. But what's -- what's
 18 the relationship between Judy and Eris?
 19 A They're sisters. That's it.
 20 Q Okay. Well, let me go further than
 21 that. Not the family relationship, but the
 22 day-to-day relationship. Do they like each other?
 23 Is it like oil and water or can --
 24 A Are you talking about today, or are you
 25 talking pre--- before?

4 (Pages 10 to 13)

Q&A, Court Reporting

Page 14	Page 16
1 Q Well, let's talk about them before your 2 Granny passed if -- if that's appropriate -- or 3 did it change ever, maybe? 4 A It changed often. 5 Q Okay. Well, tell me a little bit about 6 the ups and the downs then. 7 A I don't know how to explain it. 8 Q Do -- do your very best in -- in doing 9 that because I -- I just want to know. 10 A I mean, sometimes they got along and 11 sometimes they didn't. 12 Q Do -- do you know if they trusted each 13 other? 14 A I would say so, yes. 15 Q Did they get along for your -- as far 16 as your mother's issues are concerned -- or 17 Granny's issues were concerned? 18 A They did not get along with that, no. 19 Q Okay. And -- and tell me what the -- 20 give me some examples of why didn't they get 21 along. 22 A It was just certain things. I -- I 23 don't know how to pinpoint it. 24 Q Was it dealing with her healthcare 25 needs, or was it her finances or was it --	1 A You'll have to ask her. I don't know. 2 I -- I really don't know. 3 Q How about before the time that your 4 mother passed, any noticeable differences in the 5 relationship then? 6 A When they pa--- when she passed? 7 Q Before and -- 8 A Oh, during the time she was -- 9 Q Sick or -- 10 A -- dying? 11 Q -- or passed? 12 A Yes, absolutely. 13 Q And what was the -- what were the 14 issues then? 15 A Because my mother was taking care of 16 her and making sure that she was taken care of. 17 Home health come in. Eris was fighting about who 18 was going to be there. You know, my grandmother 19 did not want to be in a nursing home, but if it 20 was up to Eris, she'd be in a nursing home. 21 Q Who had provided for your -- if you 22 know -- for your Granny's day-to-day needs? 23 A My mother. 24 Q And was that -- how long had your 25 mother done that? In other words, was it three
Page 15	Page 17
1 A Mainly finan--- 2 Q -- day-to-day? 3 A -- finances. 4 Q And -- and what about them? 5 A I -- I -- I really don't -- I mean, it 6 was always a money issue. Always a money issue 7 with Granny and Eris and Judy always. Who paid 8 for what and all that jive. But as far as them 9 getting along, sometimes they did, sometimes they 10 didn't. 11 Q And as far as paying for what? Do you 12 mean like was one trying to pay for more than the 13 other, or the issues with what Granny would have 14 to reimburse them for? 15 A What they would have to reimburse. She 16 would never write a check to Judy, but she would 17 write a check to Eris every time for who knows 18 what. 19 Q And when I asked you to describe the 20 relationship, you -- you -- you responded with 21 when or, you know, that it changed. So was that, 22 basically, the ups and down with it? The issues 23 with the -- that part of the financing as far as 24 you know with their relationship -- Eris and your 25 mother?	1 months before she passed, or was it three years? 2 You know, give me a time -- 3 A Well, it was off and on. She was 4 always over there. 5 Q Was she -- 6 A But as far as every day, probably the 7 past eight months on a regular basis. I know the 8 past four months before she passed away, she 9 stopped taking care of grandchildren and was full 10 time. 11 Q So -- and this is as far as you know. 12 I know your mother -- 13 A Yes, she would be -- 14 Q -- know better but -- 15 A -- better asking these questions. 16 Q To the extent you know, you believe 17 your mother was there on a daily basis? 18 A Absolutely. 19 Q About -- 20 A Even when hospice was there. Even 21 there when Nightingale was there, she was still 22 there. 23 Q Okay. What about the issues with the 24 care providers? 25 A Okay.

5 (Pages 14 to 17)

Q&A Court Reporting

Page 18 1 Q Do you know why they were -- their 2 services were no longer desired or needed or 3 requested? 4 A They were there. 5 Q Okay. Who were her care providers, 6 Sharon and... 7 A Sharon and Rochelle was there. Also 8 hospice, also Nightingale. She had plenty of 9 people taking care of her. 10 Q Okay. Did your grandmother ever 11 confide in you as to why she may have selected 12 Judy as compared to the Hoefer will where Eris 13 was -- 14 A She never confided in me about that. 15 We never discussed anything like that. 16 Q Tell me a little bit about the dynamics 17 if -- if you're aware -- among your aunts and 18 uncles, the rest of the family. Sometimes there's 19 cliques in families just like there's cliques in, 20 you know, in your school days. Can -- can you 21 tell me a little bit about those dynamics. Who, 22 you know, the -- does two or three of you get 23 along better than the other two or three or is 24 your family divided or -- 25 A No --	Page 20 1 brought. 2 Q And we've marked that as Number 2, 3 correct? 4 A As another one. 5 Q Okay. 6 A Handwritten notes. Those -- that's the 7 memorandum. There's some in -- in the memo that 8 Robert did, it's attached to that. 9 Q And is that in the -- for 2001 or for 10 2011, the notes you're referring to? 11 A 2011. 12 Q Okay. Do you mind looking through the 13 file, and see if you can find those, please. 14 A It's right on the back. I see it right 15 there. 16 MR. PAYNE: Oh, those notes. And what 17 I'm going -- let's go off the record for a second. 18 (Off-the-record Discussion.) 19 (Respondent's Exhibit Number 4 and 5 20 marked for identification.) 21 BY MR. FINKLEA: 22 Q Pam, we went off the record to look in 23 the file and make some copies of some documents in 24 there, and I'm going to show what we marked as 25 Exhibit Number 4, and see if you can recognize
Page 19 1 Q -- a case like? 2 A -- we all get along. 3 Q Okay. Do you believe that if called to 4 testify in this case, that all of them will tell 5 the truth, and -- and their testimony would not be 6 biased based upon their affection for one sibling 7 or another? 8 A No. 9 Q So you do not believe they'd testify 10 truthfully? 11 A No, I do believe. 12 Q Okay. Very good. And that's my fault 13 maybe -- 14 A Okay. 15 Q -- in getting -- I set up -- set up 16 that question. Okay. When your -- well, they -- 17 the documents that we have marked, Exhibit 18 Number 1 was Mr. Sloan's notes, and Exhibit Number 19 2 and then the will. Are you aware of any other 20 documents within the file relating to your 21 Granny's will? Any other notes that she had made? 22 Any other comments -- 23 A No. 24 Q -- or anything like that? 25 A Besides the handwritten notes she	Page 21 1 that and describe what that is. 2 A That's some handwritten notes from 3 Eris Singletary Smith. 4 Q Okay. And that -- 5 A That's my Granny. 6 Q Okay. Did she bring those notes -- 7 A She brought them to the table on 8 the 18th. 9 Q Okay. And those -- tell me what those 10 notes state in your own words, or did you -- you 11 used those notes in formulating her will? 12 A I did not. 13 Q Okay. Did -- do you know if Robert 14 did? 15 A You'll have to ask him. 16 Q Okay. When you -- you didn't meet with 17 your Granny. Robert did -- 18 A I did not. 19 Q -- correct? Okay. So how would -- 20 what would have Robert have done if you recall? 21 Do you recall what Robert did to make the changes 22 to the '01 will? Did he bring you some notes, or 23 did he stand over your shoulder or... 24 A No, he -- he would have printed the old 25 one -- will, and it'd have been marked up.

6 (Pages 18 to 21)

Q&A Court Reporting

Page 22

1 Q Okay. There is -- I see on -- it looks
 2 like the -- the top -- the first paragraph on the
 3 left basically stating that she has no debts that
 4 she's aware of.
 5 A Correct.
 6 Q And are you aware of any significance
 7 in writing that?
 8 A Because -- I'm assuming she just wanted
 9 to make sure that everybody knew that they were
 10 paid in full.
 11 Q The second paragraph, she provides some
 12 money to some charities; is that correct?
 13 A Correct.
 14 Q It looks like that was not in her 2001
 15 will; is that correct?
 16 A I'd have to look at it.
 17 Q Okay. You don't recall off the top of
 18 your head?
 19 A No.
 20 Q Okay.
 21 A She didn't have cancer at the time, so
 22 that's probably why that is not in there. As far
 23 as Singletary cemetery, that's always been in
 24 there I'm assuming since every -- she's lost her
 25 husband and a son, she wanted to make sure she put

Page 23

1 money back in it.
 2 Q Okay. And hos--- McLeod Hospice is in
 3 the will, but not on her handwriting notes. Do
 4 you know how that --
 5 A Came about?
 6 Q Yes.
 7 A I don't.
 8 Q Okay. And then the right side has
 9 something to do with her care; is that correct?
 10 A Correct.
 11 Q Basically her wishes that she not be
 12 placed in a funeral home. I mean, in a nursing
 13 home.
 14 A Correct.
 15 Q The -- other document that we marked as
 16 Exhibit Number 5 and could you just explain to us
 17 what that reflects or what file that is.
 18 A This is the Aiken Bridges file and --
 19 of 2001.
 20 Q And I believe we've marked some of
 21 those documents separate. For example, the 2001
 22 will we've marked as Exhibit Number 3. And then
 23 also attached to that I believe is a transmittal
 24 letter. Well, also attached is a memorandum
 25 that's executed. And then there's a healthcare

Page 24

1 power of attorney that she executed in 2001 as
 2 well?
 3 A Yes.
 4 Q Is that correct?
 5 A Correct.
 6 Q And then there is a transmittal letter
 7 from your office to her asking her to make
 8 revisions to the memorandum.
 9 A Correct.
 10 Q And then after that letter is a
 11 memorandum with some written -- handwritten
 12 notations on it; is that correct?
 13 A Correct.
 14 Q Whose handwritten notations are those
 15 if you're aware?
 16 A Those are hers. That's her writing.
 17 Q And that being Granny?
 18 A The -- yes, it's Granny's. Because in
 19 the letter -- transmittal letter it says be more
 20 detailed because like she would put two pictures.
 21 You need to be -- and she wrote in two bird
 22 pictures. So she needed to be more specific
 23 because she does have a lot of stuff.
 24 Q Okay.
 25 A So she was told to update it and be

Page 25

1 more detailed and she was and then she sent it
 2 back.
 3 Q Okay. All right. Who retained the
 4 original of your Granny's will in 2011?
 5 A We did.
 6 Q Okay. Was your Granny given a copy?
 7 A She did not want to take anything back
 8 home.
 9 Q And do you know why?
 10 A Because she did not want anybody to
 11 know about it.
 12 Q Okay. Do you know if she ever called
 13 the office requesting copies after she -- after
 14 August 2011?
 15 A She --
 16 Q Okay. Are you aware if anyone called?
 17 A Yes.
 18 Q Who called?
 19 A Well, she -- Sharon called.
 20 Q Okay. Did -- was anyone else on the
 21 phone with Sharon?
 22 A Not that I know a hundred percent.
 23 Q Were you a party to that conversation,
 24 or did you overhear it?
 25 A Russ -- I overheard it because he had

7 (Pages 22 to 25)

Q&A Court Reporting

Page 26 1 it on -- he put her on speaker. He called me into 2 his office. 3 Q And tell me what you recall that 4 conversation consisting of. What was said? 5 A She -- it was very hard to hear because 6 there was other people on the line. And she said 7 do you have my will. And she's, you know, at -- 8 trying to talk over because it was very crackly. 9 So Russ -- 10 Q And by she was trying to talk over, who 11 do you mean, Granny? 12 A Granny was trying to talk and -- well, 13 she couldn't hear. 14 Q Okay. 15 A Because I think other people were on 16 the line. 17 Q Uh-huh. 18 A And then she said I just want to make 19 sure you have my will, and I wanted to make sure 20 Mikey and Jamie had a sixth and you have 21 everything in your vault. And that was it. 22 Q And did -- did she ask for a copy of 23 her will during that conversation? 24 A Not that I know of. 25 Q So --	Page 28 1 A She's never told me anything about a 2 book. 3 Q Okay. 4 A I've heard of a book. From who, I 5 don't -- I mean, I think everybody knew she had a 6 book. I never saw the book. 7 Q Did your Granny ever talk about the 8 book? 9 A Not to me. 10 Q Was there -- did your Granny have any 11 problems or issues or protest any of your mother's 12 actions, as far as her healthcare is concerned, 13 the last few months that she lived? 14 A No. 15 Q Is there -- your Granny was in 16 agreement and supported the decisions and the 17 steps and the care that your mother lined up? 18 A As far as I know. 19 Q When your -- this could be before your 20 Granny passed or after she passed. What are you 21 aware of happened as far as securing her property 22 is concerned? What steps did -- and I assume your 23 mom took, but -- but -- but I don't want it to 24 limit it to your mom. What steps are you aware 25 that some -- any -- someone may have taken to
Page 27 1 A Because I -- you know, I was just 2 overhearing on a conference call. 3 Q As far as you know -- so as far as you 4 know, your Granny never had a copy of the will 5 that was executed August of 2011? 6 A No, because there was so many people 7 coming in and out of her house, she said she did 8 not want a copy. 9 Q Okay. Did your Granny -- it's my 10 understanding your Granny had a -- a notebook and 11 I want to say a black notebook, but I'm -- I'm -- 12 I'm assuming, when I say black notebook, I could 13 be wrong, though. But did your Granny have a 14 notebook, that you're aware of, that she recorded 15 all of her business or any books like that that 16 you're aware of? 17 A I've heard of a notebook. I've never 18 seen the notebook. 19 Q Okay. And that was my next question. 20 If you're aware or saw it at any time during the 21 execution of the will or handling any of her 22 business? 23 A No. 24 Q Has your ma--- mother ever mentioned a 25 book like that?	Page 29 1 secure your Granny's property? In other words, 2 to lock it up, to secure it, to take it, to 3 inventory it and things like that. 4 A She just called Somerset and changed 5 the locks and the security code. I do know that. 6 Q Okay. It's my understanding there is 7 certain items that may be at this office or were 8 at this office. Te--- tell me how that came 9 about. 10 A There was items in the store that 11 needed to be secured. And they were transported 12 over here and put in the vault. 13 Q And when were they obtained? 14 A Date wise, I have no idea. It was 15 after she passed away. 16 Q Do you know days wise in relationship 17 to after she passed? Was it the next day or after 18 the funeral, a week or you're not certain. 19 A I'm not certain. I know -- I want to 20 say it was a Friday. I don't know. 21 Q And how was entry gained into that? 22 A To the -- I wasn't there. 23 Q Okay. 24 A So just -- I guess they -- you'd have 25 to ask whoever else. I wasn't there.

8 (Pages 26 to 29)

Q&A Court Reporting

Page 30	Page 32
1 Q And who is it your understanding who 2 was there? 3 A Judy and Becky. 4 Q Okay. And did they have -- what -- do 5 you know -- what do you refer to the building 6 which they gained entry? Is she -- 7 A I think the store. That's what -- 8 Q The store. 9 A -- we call it. 10 Q Okay. All right. Did they have a key 11 to the store? 12 A They did. 13 Q Okay. 14 A But there was so many nails and stuff 15 in it that Eris had put in the door, that they -- 16 oh, Becky's husband, Rob, was with them. Because 17 they needed to take the nails out the wood across 18 it. So they took all that down and then invent--- 19 and then -- I guess took the stuff out. 20 Q Okay. And do you know anything about 21 what they found within the store? 22 A Coins, guns, I don't know of value or 23 not. Just coins, money, old watches and some old 24 guns. 25 Q Do you know if any of those items were	1 then there was a fourth party. I don't know 2 who -- independent person that was told to go with 3 them. 4 Q And do you know why that independent 5 person was requested? 6 A Because everybody else was a family 7 member. So the other party -- I'm not sure her 8 name. 9 Q Do you know why that person was a -- 10 why -- what was the issue of having an independent 11 witness there? 12 A Because you're going into a building 13 where you're going to have issues because there is 14 stuff in there. 15 Q And why did -- do you know why your 16 mother perceived there were going to be issues? 17 A Because Eris had it locked up like 18 Fort Knox. There was obviously something in 19 there. 20 Q Okay. And who transported those items 21 to -- 22 A Marion? 23 Q -- your office here? 24 A I did. 25 Q And how did you obtain them?
Page 31	Page 33
1 secured by a further lock or any other lock 2 container? 3 A We have a safe. 4 Q And not here, but when they were 5 obtained from the store? 6 A Like when are you talking about? 7 Q In other words, when your mother and 8 her -- 9 A When they -- 10 Q No, I'm sorry. You said -- 11 A -- were transported? 12 Q No, you said your mother and -- 13 A Becky, my sister. 14 Q Becky -- Becky, okay. When they went 15 in -- 16 A Uh-huh. 17 Q -- were any of the items within the 18 store locked up? Were they in a -- you know, a -- 19 a box that had a lock on it, any other lock that 20 you're aware of? 21 A No. 22 Q And -- 23 A They did have a third party. I don't 24 know her name. I can't remember or whatever a 25 fourth party now. There was Becky, Judy, Ron and	1 A I got a call and asked what -- we need 2 to do something with this stuff we've located. 3 And I told them it needed to go to a secure place. 4 Didn't need to go their house. So we brought it 5 to the vault. 6 Q And who was -- 7 A And it was videotaped by Marion Brown. 8 Q And -- and who brought it? Did Marion 9 bring it or did -- 10 A Marion was already over here. He met 11 me over here. 12 Q Okay. And so you brought it from 13 Florence. 14 A I brought it from Florence. Marion 15 videoed and filmed it as it was coming out of the 16 car into the vault. 17 Q Did anybody -- or were there any videos 18 or inventories taken at the house -- 19 A No. 20 Q -- or at the store? 21 A No. It went from the store, to the 22 back of my car, to here. 23 Q And has Mike Abbott come yet -- 24 A Yes. 25 Q -- to inventory those?

9 (Pages 30 to 33)

Q&A Court Reporting

Page 34

1 A Absolutely.

2 Q They still in y'all's possession?

3 A Yes, he took care of it.

4 Q Did -- are you aware if your mother or

5 anyone else went through your Granny's home trying

6 to find any paperwork or any other paperwork

7 reflecting any of her business?

8 A Not that I know of.

9 Q Did your mother have access to the

10 home?

11 A Yes.

12 Q Did she secure the home?

13 A Yes.

14 Q Was your -- you know, normally,

15 folks -- well, when they -- and -- and some of

16 this is assuming, but, you know, personal

17 representative will go look for insurance policies

18 and, you know, bank statements and other --

19 A She had all that, my mom did already.

20 Q Okay.

21 A She already gave it to her.

22 Q Did your mom have a copy of the

23 Rick Hoefer will?

24 A No.

25 Q Are you aware of where that will was

Page 35

1 located?

2 A I do now.

3 Q And where is it to your understanding?

4 A It was under her -- between her bed --

5 under her bed -- what you call it, mattresses.

6 Q Okay.

7 A And she said that, you know, she

8 brought that day that we changed it. That's how I

9 found about -- found out about it.

10 Q So she brought --

11 A The Hoefer will to us on the 18th.

12 Q Okay. Do you have a copy of that in

13 the file?

14 A I'm not sure.

15 MR. PAYNE: I've got one, but I don't

16 know where it came from.

17 THE DEPONENT: I'm sure she brought it

18 that day, and we put it in the file. I -- I don't

19 shred old -- old wills just in case we need them.

20 So it might have been in our original file

21 of 2011.

22 MR. FINKLEA: Do you have that --

23 MR. PAYNE: I've got a copy, but I

24 don't know where it came from. It could have come

25 from y'all's things.

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1 BY MR. FINKLEA:

2 Q Do you have the 2011 -- is the 2011

3 file not here with us?

4 A Yes. Uh-huh.

5 Q Where is it?

6 A I've got it in my office.

7 Q Well, why don't we -- do you mind and

8 let's take a short break and let me let you grab

9 that.

10 A Sure.

11 Q Okay.

12 (Whereupon, a break was taken

13 from the proceedings.)

14 BY MR. FINKLEA:

15 Q Pam, we took another break and you

16 brought the -- the 2011 file that you maintain in

17 the office. And in that file you had a copy of

18 the will which your Granny made in March of 2011;

19 is that correct?

20 A Correct.

21 Q Did -- did you have any conversation

22 with your Granny about this will?

23 A No.

24 Q Also in there -- for that will there

25 appears to be -- it's an unsigned draft or just an

Page 37

1 unsigned document dated November, 2011. Will you

2 take a look at that and see if you can tell me

3 what the signi--- significance of that document

4 is.

5 A I want to say -- I think this is just a

6 draft of something off the computer. I don't -- I

7 don't know what it is. It's not my font or

8 anything. So I'm not sure why that's in there.

9 But there's a -- it's drafted. I'm not sure. I

10 think it's just a will that we drafted, but then

11 we went back to the one that we already had where

12 it divvies up the six -- just a different -- I

13 mean it's the same information. It's just divvied

14 up. It's written in different font.

15 Q Okay. If I could, I'm going to just

16 pull that one out. Because that appears to be the

17 only new document in there. We'll just mark this

18 as the --

19 MR. PAYNE: You want a copy of it --

20 BY MR. FINKLEA:

21 Q -- Exhibit --

22 MR. PAYNE: -- for you?

23 THE DEPONENT: Please.

24 MR. PAYNE: Yeah.

25 MR. FINKLEA: Yeah.

10 (Pages 34 to 37)

Q&A Court Reporting

Page 38 1 MR. PAYNE: Yeah, let him -- 2 MR. FINKLEA: Yeah, let's. 3 (Respondent's Exhibit Number 6 4 marked for identification.) 5 BY MR. FINKLEA: 6 Q Pam, we just marked as Exhibit Number 6 7 on the document that also came out of the 2011 8 file. And I believe you described this -- I'll 9 just let you describe it again so I won't misstate 10 how you described it earlier. 11 A I'm assuming it's just a draft. 12 Because it's got the same people and it's got the 13 same stuff. I think we just liked the font and 14 everything better in the other one. Because it 15 broke down the six, the six, the six. I think 16 that's why we used that instead of this font. 17 Q The power of attorney -- I'm looking at 18 this file. It looks like the power of attorney 19 was not recorded until December 20th of 2011. Do 20 you know the delay or the reason for the delay in 21 filing the power of attorney? 22 A Because my mom didn't need it until 23 December. 24 Q What occurred in December that caused 25 your mom to need it?	Page 40 1 A Absolutely. 2 Q And would that have been up to her 3 death or the days before her death? 4 A I would say probably some days were 5 better than other -- others, I guess. It just 6 depends on if she was up and moving. 7 Q And -- and are we talking about a -- a 8 week before her passing or a month? 9 A I'd say a month. 10 Q Okay. So up -- up until a month, she 11 had good days where she could attend to her 12 business and bad days where she may not could 13 have? 14 A Correct. 15 Q And on those bad days where she could 16 not have it, is it because of a physical 17 disability or because a mental disability? 18 A Just physical. She was tired. 19 Q So mentally she was alert. 20 A Absolutely, up to the day she died. 21 Q Okay. Have you compared on the 22 memorandum attached to the -- on the one that was 23 prepared in August of 2011, have you compared the 24 changes in the memorandum with the memorandum of 25 2001 to determine if any one particular family
Page 39 1 A I'm assuming writing checks, paying 2 bills. 3 Q Was your Granny still able to write 4 checks and pay bills in December? 5 A Yes. 6 Q Do you know -- do you know -- if you 7 don't know -- do you know why your mom needed it, 8 and then why it became necessary for her to pay 9 checks and write bills? 10 A I don't. 11 Q Do you know if your Granny -- did your 12 mom ever take from your Granny her checks or her 13 pocketbook or any -- 14 A No. 15 Q -- business documents that you're aware 16 of? 17 A No. 18 Q Did you ever notice, prior to her 19 death, a time where she was unable to attend to 20 her business decisions? 21 A No. 22 Q Up until her death, do you believe -- 23 and -- and I guess maybe up until the last illness 24 that resulted in her death, was she able to attend 25 to her business affairs?	Page 41 1 member received more property? 2 MR. PAYNE: I think you got the dates 3 wrong. 4 THE DEPONENT: Yeah, I think you do. 5 BY MR. FINKLEA: 6 Q Have -- have you compared the 7 memorandum from 2001 to 2011? And -- and do you 8 have an opinion -- 9 A I have looked at both of them. 10 Q Do you have an opinion as to what 11 changes if -- if any particular family member 12 benefited more than another family member from 13 those changes? 14 A From the 2--- no, I -- I don't know who 15 would benefit more. I think they're right there 16 together all of it. I think the ones that she 17 changed from Wayne went to -- if I remember, the 18 stuff that she marked out from Wayne went to Al 19 and Gerald and people like that. But I don't know 20 for sure. As far as I remember, there were 21 certain things that went to Gerald and Al. 22 Q I've asked you a little about what your 23 mom did for your Granny on a daily basis. 24 A Uh-huh. 25 Q What did -- what are you aware of that

11 (Pages 38 to 41)

Q&A Court Reporting

Page 42	Page 44
1 Eris did for your Granny on a daily basis? 2 A I don't know. 3 Q Why are you aware of what your mom did? 4 Based upon your conversations -- 5 A Because I -- 6 Q -- with your mom? 7 A -- talk to her every day. 8 Q Okay. When your mom was diagnosed 9 with -- when your Granny was diagnosed with 10 cancer, do you know who took her to Charleston? 11 A My mom and Eris. 12 MR. FINKLEA: Will you please excuse us 13 for a moment. 14 (Off-the-record Discussion.) 15 BY MR. FINKLEA: 16 Q Pam, what role did Brittany Hooks have 17 in regard to the execution of the will? 18 A She's a witness. 19 Q Did she have any involvement in 20 discussing the contents of the will, that you're 21 aware of, with your Granny? 22 A No. 23 Q So she purely would have been a -- a 24 witness. 25 A Just a witness, yes. And she set up	1 CERTIFICATE OF REPORTER 2 State of South Carolina 3 County of Florence 4 5 I, Roger R. Williamson, Court Reporter and 6 notary public for the State of South Carolina, do 7 hereby certify that the deponent in the foregoing 8 deposition was, by me, first duly sworn to testify 9 to the truth, the whole truth and nothing but the 10 truth; that said deposition transcript was taken 11 via stenomask with backup; that the foregoing 12 transcript contains a true record of the 13 deposition of said deponent. 14 I further certify that I am neither attorney 15 nor counsel for, nor related to or employed by any 16 of the parties connected to the action, nor am I 17 financially interested in the action. 18 Witness my hand at Florence, South Carolina, 19 this the 4th day of June, 2013. 20 21 22 <u>Roger R. Williamson</u> 23 MY COMMISSION EXPIRES: 24 March 1, 2022 25
Page 43	
1 the appointment, and then she talked to her, all 2 that kind of stuff. Because she's the re--- she's 3 the receptionist during that time. 4 Q Thank you. That's all the questions I 5 have. 6 A Okay. 7 MR. PAYNE: I don't have any. 8 (Witness excused.) 9 (Whereupon, at 11:55 a.m., 10 the taking of the foregoing 11 deposition was concluded.) 12 13 14 15 16 17 18 19 20 21 22 23 24 25	

12 (Pages 42 to 44)

Q&A Court Reporting

State of South Carolina
In Probate Court
County of Florence

In the Matter of the Estate of
Eris Singletary Smith

Judy Smith Jones,
Petitioner,

V. 2013-CP-21-190

Eris Gail Smith,
Respondent.

Deposition of: Cyrus Sloan
Location: 111 Witcover Street
Marion, South Carolina

Date: Wednesday, May 1, 2013

Time: 10:06 a.m. - 10:40 a.m.

Court Reporter: Roger R. Williamson

The deposition is taken pursuant to notice and/or
agreement, in the above-entitled cause pending in
the above-named court and pursuant to the South
Carolina rules of civil procedure.

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Page 2 1 APPEARANCES 2 For the Plaintiff: 3 Turner, Padgett, Graham and Laney, P.A. 4 319 South Irby Street 5 Post Office Box 5478 6 Florence, SC 29501 7 By: Jeffrey L. Payne, Esq. 8 9 For the Defendant: 10 Finklea Law Firm 11 814 West Evans Street 12 Post Office Box 1317 13 Florence, SC 29501 14 By: Gary I. Finklea, Esq. 15 16 17 INDEX 18 page 19 Examination by Mr. Finklea 3 20 Examination by Mr. Payne 26 21 Further Examination by Mr. Finklea 30 22 Further Examination by Mr. Payne 32 23 24 25 18 EXHIBITS 19 Pg/ln Ex. Description 20 Post Marked 1 Mr. Sloan's Notes 21 22 ** uh-huh = affirmative 23 huh-uh = negative 24 25	Page 4 1 questions is for you just to explain what 2 involvement you did have with it so I can direct 3 my questions and be a little more specific. 4 A Sometime, I don't remember how long 5 before, Ms. Smith came in -- Pam had said that her 6 grandmother had called and wanted to change her 7 will, and that Robert wanted to know if I would be 8 willing to be a witness or review it with her. I 9 said, sure. And I -- I don't know how long it was 10 after that, that she came in. And all I did was 11 take the will that was prepared and come in here 12 and sit down and review it with her and go over it 13 in some detail. And make sure that everything was 14 the way she wanted and let her sign it. 15 Q Okay. 16 A And I did do a power of attorney that 17 same day. 18 Q Okay. And was it a -- a -- a 19 healthcare power of attorney or a -- 20 A No, it was a general power of attorney. 21 Q General attorney -- all right. 22 A And I prepared that. I think it was 23 kind of a last minute thing, and I had it on 24 the -- I have power of attorney files on my 25 computer, and all I had to do was just plug in the
Page 3 1 STIPULATIONS 2 It is stipulated between counsel that this 3 deposition is being taken pursuant to the South 4 Carolina rules of civil procedure and that all 5 objections except as to the form of the question 6 are reserved until the time of trial. 7 It is also stipulated between counsel for 8 the respective parties and the deponent that the 9 deponent will waive the right to read and sign 10 this transcript. 11 Thereupon, 12 Cyrus Sloan, 13 having been first duly sworn by the court 14 reporter, testified as follows: 15 EXAMINATION 16 BY MR. FINKLEA: 17 Q Mr. Sloan, I -- I'm sure that you are 18 aware that you're here today to discuss your 19 involvement in the will that you prepared for 20 Ms. Smith and, of course, you -- 21 A Let me back up. I didn't prepare it. 22 Q Okay. Well, very good. Well -- well, 23 let me say then your involvement with that will. 24 So and -- and so I don't waste too much time in 25 skirting around the issue, one of my first	Page 5 1 names. 2 Q Okay. All right. And -- and, of 3 course, the document that you prepared I don't 4 think there's any dis-- dispute about that. But 5 it would have been the will that was dated 6 October 18th, 2011. Is that -- 7 A That was the will I went over with her 8 and witnessed with her. 9 Q Okay. 10 A I did not prepare it. 11 Q Right. Okay. And -- and -- and tell 12 me a little bit about if you can recall -- and -- 13 and I know you have some notes here, and I'm might 14 just mark those as an exhibit, too, before we 15 leave just as Exhibit 1. And that may -- 16 A Uh-huh. 17 Q -- probably the only exhibit here 18 today. But, you know, reviewing your notes or 19 from -- from your recollection if you could just 20 walk me through what you learned from her and the 21 steps you took to review the will. 22 A She got -- I don't know what time she 23 got here, but she was here for some time before I 24 talked to her. Pam -- I think it was Pam. 25 Somebody came back and said that Ms. Smith's here.

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Page 6 1 You know, she's ready for you to come in and talk 2 to her. So I came in. It was just Ms. Smith and 3 I in this room. And I asked her several 4 questions, and got these notes from her responses 5 to my questions. And it seemed to me like she 6 knew who her children were, grandchildren -- 7 you -- basically what she owned and all that kind 8 of stuff. She seemed, you know, competent to me. 9 Q Okay. 10 A She knew what was going on. I then 11 took the will and started going through it 12 paragraph by paragraph and explained to her what 13 the will said. I asked her if that's what she 14 wanted. She said, yes. I think before we 15 started, I said something to the effect that, you 16 know, the will was in here when I got -- got in 17 here. I said, is this your will? Have you had a 18 chance to look at it? Do you have any questions 19 about it? And she said something about this is 20 the one that has -- I think it was the two 21 grandchildren, Jamie and Mikey, I think. And I 22 said, yes, ma'am, I think so. And so then we 23 started going through it. 24 Q Okay. 25 A And, you know, I -- I probably -- let	Page 8 1 and all that kind of stuff. I didn't read it 2 verbatim. I went over every paragraph, but some 3 of them I didn't read verbatim. 4 Q Okay. And but -- and -- and then you 5 pointed to the paragraphs that you thought you 6 read verbatim and you pointed to item number 7 two -- 8 A Three -- 9 Q -- item three -- 10 A -- four, five and six. 11 Q Okay. 12 A I did not read verbatim item seven and 13 eight. I told them what -- basically what -- what 14 they were. Because they didn't really, you know, 15 those are kind of boiler plate language of a will. 16 Q Was a memorandum attached to the will 17 when you prepared it? 18 A Again, I didn't -- 19 Q All right. And -- 20 A -- prepare it. 21 Q -- and -- and I apologize. You're 22 right, sir, yeah. 23 A I had seen a memorandum, but I did not 24 go over the memorandum with her. And the reason I 25 didn't go over a memorandum with her was because
Page 7 1 me see the will a second. I probably -- some of 2 these items I didn't read verbatim that was just 3 kind of housekeeping kind of things. But when we 4 got down to the -- when -- when she was giving 5 property away, I would read that paragraph and 6 read -- excuse me -- the other paragraphs. I 7 probably did not read this one to her about the 8 powers of the personal representative. I told her 9 who she had chosen as her P.R. and the backup P.R. 10 and that kind of thing. 11 Q And -- and for the record, you -- you 12 were pointing, and it looks like, I think you 13 said, you probably didn't review or read verbatim 14 items one -- 15 A I -- 16 Q -- and two. 17 A -- items one -- I probably did read 18 item two. I didn't read this part. Didn't read 19 item one. 20 Q Okay. Didn't read the introductory 21 paragraph. 22 A Right, didn't read it. 23 Q The whole item one. 24 A No, I -- I just told I said, you know, 25 the first paragraph says you'll pay all your debts	Page 9 1 there's no requirement that it be witnessed or 2 anything else. And my -- I don't re--- I don't 3 remember whether the memorandum was in here with 4 her. I don't think that it was. 5 Q Okay. 6 A It -- it may have been. I just can't 7 remember. But I do remember making the statement 8 that I had seen one earlier somewhere. You know, 9 that I understand you've got a memorandum or 10 here's your memorandum. And I'm not going to go 11 over that with you because you can do that at home 12 if you want to. You -- I mean, nobody -- you 13 don't have to have a lawyer. You don't have to 14 have it witnessed or anything else. And so I 15 don't know when that was signed or anything else 16 about it. I never saw it after it was signed. 17 Q Do you believe it was in existence, 18 though, before you reviewed the will with her? 19 A Either -- either that or some form of 20 that. Now, it may have gotten changed before she 21 signed. I don't know. 22 Q Okay. 23 A But it may have been the memorandum 24 that she had with the will she did years earlier. 25 Q Okay.

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Page 10 1 A That -- the one that I saw. I -- I 2 can't remember, but I do remember seeing something 3 with -- with all that on it. 4 Q And I want to ask you some questions a 5 little bit about other than specifically reviewing 6 the items in the will, just what you inquired in 7 regard to her background, and why she was there 8 and just overall what she wanted to do. And 9 you -- your notes may help you with that, but you 10 know, I -- I -- if you recall, how did you start 11 it out and... 12 A Well, I told her that Robert had wanted 13 me to go over this with her. And I asked her 14 questions about how old she was, you know, was she 15 on any medication. I asked her a little bit about 16 her family history and she told me that her 17 husband had died 11 years ago. She had six 18 children. Now, she only had five. She told me 19 she had a house and two acres and then three acres 20 across the road. She banked at First Federal and 21 BB&T. She had an old life insurance policy. She 22 had no stocks. She had an old Cadillac. No debts 23 and her funeral was prepaid. 24 Now, before she came, I'm pretty sure 25 Pam -- because that's who I talked to primarily	Page 12 1 A No. Huh-uh. 2 Q Okay. 3 A Not to me. 4 Q Did you have an idea about -- and I see 5 you have some notes in regard to her -- her real 6 estate, the house and the acreage, and you, of 7 course, went over some bank accounts. And I see 8 some notes to the side less than 100,000. 9 A That's what she told me. 10 Q Okay. Did -- other than those notes 11 with the house and the money, do you have -- did 12 you have an idea of the -- what her estate was 13 consisted of? 14 A Other than -- other than what's on this 15 paper, I had no idea. Other than I usually ask 16 people is your estate worth more or less -- I 17 think at that time I think it was 18 5,000,000 dollars that you could pass tax free. 19 And just make sure it's not a taxable estate. But 20 other than that, that's all I would have done. 21 Q As -- as you may be aware, the -- the 22 issue in this case is that Ms. Smith had made a 23 prior will -- well, I'll ask if you're aware. Are 24 you aware that -- now, are you aware that -- 25 A I am aware of it now, and I may have
Page 11 1 about this -- had said that she wanted to change it 2 and that one of the children had died, and she 3 wanted to add two grandchildren. And I had just 4 assumed that the two grandchildren that she was 5 adding was the children of the son who had died. I 6 must have said something to that because she 7 corrected me down at the bottom. I got that the 8 Jamie and Mikey are the children of James Erwin 9 Smith, not of Wade Smith. And so she -- she did 10 tell me that. 11 And then I said, it's my understanding 12 that you want your two grandchildren involved. She 13 told me that almost first thing when I walked in the 14 room that when we started talking about her will. 15 She said, now, of my grandchildren are in here. And 16 I said, that's -- that's what I understand you want. 17 And so we just went over it and that's pretty much 18 it. 19 Q Did she state why she was excluding 20 James, who I -- I understand stand to be Jamie and 21 Mikey's father? 22 A That she was excluding? 23 Q Well, did she make any statement why 24 she was including them then, treating them 25 differently than the other grandchildren?	Page 13 1 been aware of it then. I -- 2 Q Okay. 3 A It kind of runs together. 4 Q And -- and we haven't deposed the 5 lawyer who did that. His name was Rick Hoefer 6 and -- 7 A Yeah. 8 Q -- and he testified how deliberate 9 Ms. Smith was, and how many times she came to the 10 office to visit. And so to some extent, it 11 surprises us that she would have come and -- and 12 changed that will. 13 A Uh-huh. 14 Q Did -- did she -- did -- I guess one -- 15 and you've already made one reference -- 16 A Uh-huh. 17 Q -- to it. Were you aware of how old 18 her prior will was when you met with her? 19 A The one that I was referring to was the 20 one that Robert had done I think back in 2001. I 21 did not know when the -- Rick Hoefer -- I didn't 22 know that -- at the time that she came in, I don't 23 think I knew when that one was made. 24 Q When she came in to make the -- when -- 25 when you reviewed the will with her, did she have

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1 a little book or any notes with her --

2 A I don't --

3 Q -- that you recall?

4 A -- I don't remember.

5 Q You've already --

6 A I think --

7 Q I'm sorry.

8 A -- I think she met with Robert for a

9 while before I was called in. So you know, he may

10 know something more about that. I don't.

11 Q Do you know how long the physical

12 document was pre--- prepared before you reviewed

13 it with her?

14 A No, I -- I think the final draft was

15 done probably that day.

16 Q Okay.

17 A I don't know that but...

18 Q Do you recall how long of a time period

19 that you met with her when you reviewed the will?

20 Excluding the power of attorney, but the will.

21 A That was all done at the same time.

22 I -- long enough that I could go over all of this

23 with her and get all this information and be

24 comfortable that I felt that she was competent and

25 that this was what she wanted to do, but anything

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1 else would just be a guess.

2 Q And she made no reference as to why she

3 may have been doing things different from another

4 occasion, another will or...

5 A The only thing I got was that she had

6 called her granddaughter about wanting to change

7 the will. And Pam had told me some days earlier

8 that she wanted to add these two grandchildren in.

9 And I couldn't tell you whether -- when that was.

10 And then I think she wanted to come in the day

11 before she actually signed this will, but I was

12 not available that day. And I didn't see her, and

13 so she came in that -- the next day or a day --

14 two days later or something. But she wanted --

15 she had wanted to come in one time when I was not

16 going to be available. And so we had -- she had

17 to reschedule for this date. I don't know whether

18 that was the day before or three days before.

19 Q After you reviewed the will and the

20 power of attorney, do you know -- did you provide

21 her copies of any of those documents, or did you

22 let staff sort of wrap it up?

23 A After -- after we signed it, I told

24 them we've got everything signed, you know, here

25 it is. I mean I had -- this was -- and I've known

Page 16

1 Pam a long time. It's Pam's grandmother. I was

2 just, you know --

3 Q I understand

4 A -- just trying to be accommodating.

5 Q Right. Do you know if you ever

6 received a telephone call from Ms. Smith or

7 someone on her behalf after the fact regarding

8 obtaining copies of those documents or questioning

9 what she may have signed or did?

10 A I got a call from somebody at my house

11 on a Saturday morning. And to be honest with you,

12 they mentioned a name, and I think they -- and it

13 took -- I didn't know who they were talking about.

14 Because this was not something that was -- you

15 know, she wasn't a regular client of mine. It

16 wasn't something that would have just stuck in my

17 head. And I don't remember what we talked about

18 that time other than I tried to impress upon

19 them -- I may have told them, at the time, I

20 didn't know who she was and didn't even do a will.

21 And then somebody called later on here at

22 the office, and Pam came in and we had it on speaker

23 phone. And they were talking about that. And I

24 told the person that time that I did not prepare the

25 will. I think I told them I thought that Pam had

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1 prepared the will. I think she did that -- I don't

2 know how much input Robert had had, but as I found

3 out later, he had more input than I knew about,

4 about the will. And if anybody asked for copies, I

5 was going to leave that to Pam and Robert because I

6 didn't know -- I didn't consider this my client or

7 my case, and I wasn't going to be involved with it

8 any more than I had to be. I didn't want to get in

9 the middle of a family feud.

10 Q The -- so the call Saturday, whatever

11 response you gave, that was, you know --

12 A It come out of the blue.

13 Q And I understand all of us lawyers are,

14 you know, can call and ask about a random client

15 it'd be very hard to speak from memory in -- in

16 that regard --

17 A Uh-huh.

18 Q -- but there -- there was another call

19 at the office.

20 A And I think that was -- I wouldn't

21 swear to it, but I think at that time, somebody

22 mentioned something about copies and Pam was

23 standing there. And I just assumed she would take

24 care of whatever she -- it was her -- her

25 grandmother. I think there was somebody called on

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Page 18 1 behalf of Ms. Smith and then Ms. Smith got on the 2 phone, I think, but... 3 Q Did it appear to be an -- an African 4 American -- 5 A It did. 6 Q -- lady? 7 A Uh-huh. 8 Q Okay. And then you believe Ms. Smith 9 got on the phone? 10 A (No verbal response.) 11 Q And -- and -- was that a yes? 12 A Yes. 13 Q Yeah. 14 A Uh-huh. 15 Q And based upon that conversation, were 16 you left with the belief that Ms. Smith didn't 17 have a copy of the documents that were executed? 18 A I would assume that would be why she 19 would ask the question. But I didn't -- I didn't 20 know whether she did or didn't. 21 Q Do you know if documents were ever 22 subsequently delivered to her? 23 A I have no idea. 24 Q If -- if -- and -- and I -- I need the 25 answer just -- just to clear it primarily for my	Page 20 1 A No, I do not. 2 Q And therefore, Pam wouldn't have been 3 your employee -- 4 A No. 5 Q -- at this time? 6 A No. That's -- I specifically have in 7 there that I don't have any control over the 8 people working here or any ability to give them 9 directions. 10 Q And through your of counsel 11 relationship, in connection with that financial 12 relationship, you don't share of any -- the fruits 13 of any of Attorney Lee's work product? 14 A No. 15 Q Is that correct? 16 A The only thing I do, is anything 17 that -- my old clients, anything that I do myself, 18 I get a percentage of what work I do. And I play 19 golf a lot more than I practice law, so I don't 20 get a whole lot of money out of this. 21 Q You had made some reference to your 22 involvement or what involvement went into this 23 will before you reviewed it. Can you tell me what 24 you understand Robert and/or Pam's involvement was 25 before -- in -- in generating or drafting this
Page 19 1 client's sake. So if -- 2 A Uh-huh. 3 Q -- if -- if -- if you don't mind, just 4 briefly explaining your relationship with Pam, and 5 that may involve explaining your business 6 relationship with Robert a -- a little bit. 7 A I sold this law practice to Robert and 8 Chuck McLean back in 2008 and became of counsel 9 with them. And when they split up, I -- I wasn't 10 going to move to Florence, so I stayed here and 11 I'm of counsel to Robert. And Pam is in the 12 office next to mine. She does her stuff, and I do 13 my stuff. Very -- most of the things that I do 14 are for my former clients that'll come in. About 15 all I do now is probate work, and very rarely I'll 16 ask of the other secretaries to do something for 17 me, but I usually -- I've got all the forms. I do 18 all my own typing and all that kind of stuff. And 19 occasionally, they'll ask me a question. But 20 other than seeing each other here in the office, I 21 have no other relationship with them. 22 Q Do you have any employees in the 23 office? 24 A Me personally? 25 Q Yes, sir.	Page 21 1 document? 2 A I'm -- I -- I'm just speculating that 3 Pam's grandmother talked to her and that Pam 4 talked to Robert. And that the things that -- 5 that Ms. Smith wanted was to add these two 6 grandchildren. That they had an old will that he 7 had done back in 2001 where it was divided among 8 the living children. And that Robert talked to 9 Ms. Smith by telephone and in person and that when 10 she came in that day, he had her come in the 11 office and he talked to her. I don't know if he 12 took any notes. I think she gave him some 13 handwritten notes. And the will was finalized at 14 that time, and I would assume that he went over it 15 with her. I don't know. I hadn't talked to him 16 about that. 17 Q Okay. 18 A And -- and they called me in. It was 19 after he had talked to Ms. Smith and she had been 20 here for, I don't know how long. I mean, I didn't 21 pay any attention to when she got here. I might 22 not have even known when she got here. My office 23 is in the back back -- back there, and I don't 24 know who comes and goes a lot, and that's kind of 25 the way I like it.

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Page 22 1 Q The issue with the personal 2 representatives, did -- did Ms. Smith share any 3 information with you as to why she appointed Judy 4 and alternatively Rebecca in the will that you 5 reviewed with her? 6 A She did not tell me any reasons why. I 7 just said, these are the people who you have 8 appointed. Is that what you want? And she said, 9 yes. 10 Q Did she talk about any of the 11 relationship she had with any of her other 12 children or anything like that why she may favor 13 or disfavor one or another? 14 A Not that I know of. I didn't get into 15 that with her. She didn't -- and she didn't 16 volunteer it. 17 Q And did she review with you which child 18 or children did more of her business on a 19 day-to-day basis, currently? 20 A No. 21 Q I assume the power of attorney 22 appointed the same persons as the -- 23 A Right. 24 Q -- personal representatives? 25 A Uh-huh.	Page 24 1 I started encouraging my clients to keep it 2 because I didn't want to have to keep them all 3 here and worry about getting rid of them when I 4 retired. Because I knew it was going to retire, 5 and then when Robert came, that kind eased that 6 burden a little bit. So I wasn't -- but we've -- 7 I've got a ton of wills that my partner and I have 8 done over the last 45, 50 years. 9 Q In the file that you mentioned that 10 Robert may have, do you know if the original will 11 is in that file or do you know what Robert's 12 practice is? 13 A I don't know. 14 Q Okay. And do you know if that -- if 15 the original may be in that file? 16 A I'm assuming the original has been 17 filed with the court by now. 18 Q Okay. 19 MR. PAYNE: It's at the Probate Court. 20 MR. FINKLEA: It -- the original is, 21 Jeff? Okay. 22 THE DEPONENT: But I mean I don't know 23 that. 24 BY MR. FINKLEA: 25 Q Okay.
Page 23 1 Q The notes or the file notes that you're 2 aware of is what you brought today with the 3 deposition, correct? 4 A I think -- I think that I have seen 5 some other notes since then. But this was the 6 only thing that I -- that I had any involvement 7 with. 8 Q Okay. 9 A And I don't think I've seen -- I didn't 10 see anything until after she died. 11 Q Okay. And those other notes, they 12 would not be your file notes. They -- if they 13 exist, they would may be Robert's notes. 14 A Actually, these notes I consider 15 Robert's notes. I gave it to them for them to use 16 to put in the file. And I -- I do not have a 17 separate file. I didn't keep anything on it. 18 Q Is -- is it -- and I'll ask this 19 question for you first. Is it your practice to 20 retain the original will or to give it to the 21 client? 22 A We used to keep the original wills 23 here. Since I sold my practice, I have left that 24 up to Robert and to the client. And probably the 25 last two or three years before I sold my practice,	Page 25 1 MR. FINKLEA: Jeff, do you have some 2 questions? 3 MR. PAYNE: I did -- are you through? 4 MR. FINKLEA: I'm going to ask him. 5 MR. PAYNE: Do you want me to go 6 outside? 7 MR. FINKLEA: Do -- do you mind if I 8 ask Eris after your cross, and then ask -- okay, 9 so we don't -- so we don't have to go out twice? 10 MR. PAYNE: Sure. 11 MR. FINKLEA: Or do you want me to -- 12 MR. PAYNE: What y'all -- 13 MR. FINKLEA: -- go in order. 14 MR. PAYNE: -- I mean, you can go talk. 15 MR. FINKLEA: Okay. All right. 16 MR. PAYNE: I -- 17 MR. FINKLEA: All right. Let me -- if 18 you'll -- 19 MR. PAYNE: Sure. 20 MR. FINKLEA: -- for one moment. 21 (Off-the-record Discussion.) 22 BY MR. FINKLEA: 23 Q Mr. Sloan, the power of attorney that 24 you prepared, was that filed with the clerk? 25 A I believe so. I believe -- I gave it

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1 to Pam and told her she needed to file it. So 2 I -- 3 Q Okay. 4 A -- think she did. 5 MR. FINKLEA: Thank you very much. 6 That's all the questions I have. Thank you, sir. 7 EXAMINATION 8 BY MR. PAYNE: 9 Q Mr. Sloan, I'm Jeff Payne, and I'm here 10 today on behalf of the Estate of Eris Smith, and 11 the personal representative, Judy Jones, who's 12 been a--- who's been named in the most recent will 13 that's filed with the Probate Court of Florence 14 County. Just a few questions. When you met with 15 Ms. Smith, were -- and you were in this room? 16 A I was. 17 Q And the two of y'all were by yourself? 18 A Right. 19 Q And how did she appear at that -- 20 A Fine. 21 Q Was she stressed out looking? 22 A She did not appear to be stressed. She 23 was affable, I guess is a good -- I mean, she was 24 ea--- easy to talk to. She was able to give me 25 the answers to the questions that I asked her	1 A She made that very clear to me. 2 Q And your note down here at the bottom, 3 what does that mean, or why did you write that one 4 down? 5 A Well, like I said, I had been under the 6 impression that the two grandchildren she wanted 7 to add were the children of her deceased son. And 8 when she gave me the names, I said something about 9 that. And she told me, no, they were children 10 James Erwin Smith. So that's why I added that -- 11 I had -- I just -- I had put Jamie and Mikey as 12 the two she wanted to add. And then I mis--- must 13 have made a comment that you were giving Wade's 14 children something. She said, oh, no, they're not 15 Wade's children. And so I put that on there just 16 so that I'd remember it about children of 17 James Erwin Smith. 18 Q And so in your mind she was, number 19 one, competent to sign the will? 20 A Sure. 21 Q And -- and was not under any kind of 22 duress or undue influence that would have affected 23 her ability to sign the will? 24 A None -- none that I could perceive at 25 all. You know, she was -- from all that I could
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1 without any trouble. She didn't seem to be upset 2 about anything. 3 Q Okay. And was anybody coercing her to 4 make her stay in this room with you? 5 A No. 6 Q And you ultimately saw her sign the 7 will? 8 A I did. 9 Q And the power of attorney that you 10 referred to? 11 A Yes. Uh-huh. 12 Q And was anybody threatening her to make 13 her sign that document? 14 A No. 15 Q You -- and in your notes, which have 16 been marked as Exhibit I, I see that you asked her 17 something about her medicines. What -- 18 A Right. 19 Q And what was her response? 20 A She said she was -- she said no 21 medicine for any mental condition. She was taking 22 Celebrex and Cymbalta. 23 Q Okay. And it was clear from your 24 discussions with her that she wanted to add the 25 grandchildren to the will?	1 get out of her from everything that was going on, 2 she was quite anxious to get here to do the will. 3 Q And when you went over the will with 4 her, she knew that the personal representative was 5 going to be Judy Jones? 6 A She did. 7 Q And that she knew all of the 8 individuals that were listed in item three were 9 going to get a one sixth interest? 10 A She did. 11 Q Okay. And that she knew that the 12 substitute personal representative was going to be 13 Rebecca Jones Cain? 14 A She did. 15 Q Okay. And I think you testified on the 16 personal represent--- or the power of attorney 17 that you prepared for her, Judy Jones was her 18 agent? 19 A Right. 20 Q Was there a substitute agent of backup 21 agent? 22 A The same -- Rebecca whatever. 23 Q Becky -- or Rebecca Jones Cain. 24 A Uh-huh. And I pointed that out to her, 25 you know, I gave her the names in both instances

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1 in the personal representative and when I 2 discussed the power of attorney. 3 Q And that's -- she understood that and 4 that's what she wanted? 5 A That's right. 6 Q Okay. 7 MR. PAYNE: That's all we've got. 8 FURTHER EXAMINATION 9 BY MR. FINKLEA: 10 Q Mr. Sloan, the -- you mentioned the 11 telephone call -- not the one at your house, but 12 the -- the one at the office. Do you recall how 13 long that may have been in relationship to when 14 the will was executed? The will was executed on 15 October the -- 16 A That telephone call to my office was 17 within the last two or three months I would say. 18 I -- I -- I'm trying to remem--- I -- I don't 19 remember whether that telephone call was before 20 she died or after she died. But it was 21 sometime -- 22 Q Well, the -- 23 A -- close to that time. 24 Q Well, you said that Ms. Smith actually 25 spoke.	1 of the will? 2 A No, if who had any? 3 Q Brittany if -- 4 A I think all she did was just come in 5 here and be a witness. 6 Q Okay. 7 MR. FINKLEA: Thank you. That's all I 8 have. 9 THE DEPONENT: Uh-huh. 10 FURTHER EXAMINATION 11 BY MR. PAYNE: 12 Q One -- one follow up. On the phone 13 call that you weren't real sure about the date, 14 were you sure that was Ms. Smith -- the 15 decedent -- 16 A I wasn't -- 17 Q -- Ms. Smith? 18 A I wasn't positive that it was. 19 Q Okay. 20 A But I -- I got the impression that it 21 was. 22 Q And how about the previous phone call 23 they made to your house? Did -- did you know who 24 it was that was calling? 25 A I did not know who it was, but again, I
Page 31	Page 33
1 A Well, so I guess it had to have been 2 before she died. 3 Q Okay. Ms. Smith passed March 11th so 4 it would have been -- 5 A It was -- 6 Q -- you think Fe--- a little closer to 7 the time of March than it was to the execution of 8 the will then? 9 A It was definitely -- I mean it was -- 10 it was -- I would have to say it would have been 11 in February or early March. 12 MR. FINKLEA: And -- and, Jeff, you 13 didn't ask this if you'd allow me this extension. 14 BY MR. FINKLEA: 15 Q The Brittany was also -- 16 Brittany Hooks, I believe, was one of the 17 witnesses. 18 A Right. I think she worked here at that 19 time. 20 Q Right. Are you aware -- you -- you 21 mentioned Pam's -- 22 A Uh-huh. 23 Q -- of course, involvement. Do you know 24 if Brittany had any involvement based on what 25 you've heard around the office in what the content	1 think in both instances they said it was 2 Eris Smith. And in the first instance, I didn't 3 know who Eris Smith was at that -- I mean at 4 first. It was -- we talked for a minute or two, 5 and Pam -- the name of Pam's grandmother came up. 6 and then I -- it kind of jogged a little bit. But 7 the second time, because the -- the first time was 8 at home. The second call was the one that came to 9 the office. And both of them have been since the 10 first of the year. I haven't had one call and 11 another. I was more attuned to who Eris Smith was 12 at that -- on the second call than I was the first 13 call or at least the name. I -- you know, I 14 couldn't tell you who it was on the other end, but 15 my impression was that it was Pam's grandmother. 16 And I think Pam told me that because she was in 17 there listening to it. 18 Q Okay. 19 MR. PAYNE: That's all I have. 20 MR. FINKLEA: Nothing further. Thank 21 you, Mr. Sloan. 22 THE DEPONENT: Uh-huh. 23 (Witness excused.) (Whereupon, at 10:40 a.m., 24 the taking of the foregoing deposition was 25 concluded.)

9 (Pages 30 to 33)

Q&A Court Reporting

1 CERTIFICATE OF REPORTER
2 State of South Carolina
3 County of Florence
4

5 I, Roger R. Williamson, Court Reporter and
6 notary public for the State of South Carolina, do
7 hereby certify that the deponent in the foregoing
8 deposition was, by me, first duly sworn to testify
9 to the truth, the whole truth and nothing but the
10 truth; that said deposition transcript was taken
11 via stenomask with backup; that the foregoing
12 transcript contains a true record of the
13 deposition of said deponent.

14 I further certify that I am neither attorney
15 nor counsel for, nor related to or employed by any
16 of the parties connected to the action, nor am I
17 financially interested in the action.

18 Witness my hand at Florence, South Carolina,
19 this the 4th day of June, 2013.
20

21
22 Roger R. Williamson
23 MY COMMISSION EXPIRES:
24 March 1, 2022
25

State of South Carolina
In Probate Court
County of Florence

In the Matter of the Estate of
Eris Singletary Smith

Judy Smith Jones,
Petitioner,

V. 2013-CP-21-190

Eris Gail Smith,
Respondent.

Deposition of: Brittany Hooks
Location: 111 Witcover Street
Marion, South Carolina

Date: Wednesday, May 1, 2013
Time: 11:56 a.m. - 12:03 p.m.
Court Reporter: Roger R. Williamson

The deposition is taken pursuant to notice and/or
agreement, in the above-entitled cause pending in
the above-named court and pursuant to the South
Carolina rules of civil procedure.

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Q&A Court Reporting

Page 6 1 signature. 2 Q Okay. 3 A That's about it. 4 Q Did -- did you actually witness her 5 sign it, or did someone say -- you know, bring you 6 in after the fact and acknowledge that Ms. Smith 7 signed it? 8 A I do not recall. 9 Q Okay. Do you recall what -- what do 10 you recall about Ms. Smith? 11 A I carried on a conversation with her in 12 here. 13 Q Okay. And by in here, you're referring 14 to the room -- 15 A This conference -- 16 Q -- that we are in. 17 A -- room. 18 Q Okay. 19 A Yes, sir. 20 Q And -- and just if you remember what 21 was the conversation about. 22 A I was pregnant at the time, so we just 23 talked about my -- she asked me about my 24 pregnancy. And then she -- she asked me could she 25 watch -- she wanted to watch the news channel and	Page 8 1 A Yes, sir. 2 Q Okay. What did you observe from your 3 desk as far as what was going on with Ms. Smith, 4 who was coming and going or what was going on? Do 5 you recall? 6 A Just Russ Sloan, I just remember him. 7 He came in and talked to her, and then he went 8 back to his office. 9 Q Okay. Do you remember Ms. Smith 10 meeting with Robert? 11 A I don't recall. 12 Q Okay. Or Pam? 13 A I don't recall. 14 Q Okay. When did you end your employment 15 here? 16 A December. 17 Q And was that due to your pregnancy 18 or -- 19 A Yes, sir. 20 Q Okay. And have -- do you live in 21 Marion now? 22 A Yes, sir. 23 Q Have you lived in Marion consistently 24 for the past few years? 25 A Yes, sir.
Page 7 1 I couldn't find it on the T.V. 2 Q Okay. Do you know how -- well, did 3 you -- are you -- or did you talk to Ms. Smith at 4 any time before she came to Marion on August 18th? 5 A No, sir. 6 Q On the telephone or anything like that 7 that you're aware of? 8 A No, sir. Not that I'm aware of, I 9 haven't. 10 Q Okay. Do you know who made the 11 appointment for her to come in? 12 A I'm not sure. 13 Q Okay. Do you know about how long she 14 stayed here, when she got here, when she left or 15 something like that? 16 A It was probably about -- maybe an hour. 17 Q And is there anything that would help 18 you remember the time, or why do you assume an 19 hour? You know, is it based on the news show, is 20 it based on lunch, is it based on an appointment? 21 Is there any point of reference that you're using 22 to come up with that time period? 23 A No, sir. 24 Q Okay. During that time, were you the 25 receptionist?	Page 9 1 Q Okay. And right now are you employed? 2 A No, sir. 3 Q Are you looking or considering? 4 A I would be considering. I would -- I 5 would like to start working. 6 Q Okay. 7 MR. FINKLEA: Thank you. That's all I 8 have. 9 THE DEPONENT: Okay. Thank you. 10 MS. SMITH: Thank you, young lady. 11 THE DEPONENT: Thank you. 12 MS. SMITH: Sorry to bother your day, 13 but it didn't take long. 14 EXAMINATION 15 BY MR. PAYNE: 16 Q Just a couple of questions. When -- 17 did you bring Ms. Smith into this conference room? 18 A I did not. 19 Q Okay. And did you come in here when 20 she was by herself? 21 A I did. 22 Q Okay. And did she look relaxed? 23 A She was very relaxed. 24 Q Did she look like she was under stress? 25 A Not at all. She just wanted to watch

3 (Pages 6 to 9)

Q&A Court Reporting

1 the news.
2 Q Anybody threatening her to make her
3 stay in here telling her she couldn't leave?
4 A No, sir.
5 Q Were you in here when the will was --
6 when Russ reviewed the will with her?
7 A I don't -- I don't recall.
8 MR. PAYNE: That's all I have.
9 (Witness excused.)
10 (Whereupon, at 12:03 p.m.,
11 the taking of the foregoing
12 deposition was concluded.)
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4 (Pages 10 to 11)

Q&A Court Reporting

State of South Carolina
In Probate Court
County of Florence
In the Matter of: Estate of Eris Singletary Smith

Eris Gail Smith,
Petitioner,

V. 2013-CP-21-190

Judy Smith Jones.,
Respondent.

Deposition of: Judy Smith Jones
Location: 814 West Evans Street
Florence, South Carolina

Date: Friday, May 17, 2013
Time: 12:47 a.m. - 2:28 p.m.
Court Reporter: Erica Norwood

The deposition is taken pursuant to notice and/or agreement, in the above-entitled cause pending in the above-named court and pursuant to the South Carolina rules of civil procedure.

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Page 22 1 1 1 1 1 1 1 1 1 1 2 2 2 2 2 2	Page 24 1 treatments. We went -- they got there on a Monday 2 morning. She had it Monday, Tuesday, and 3 Wednesday and Thursday. I took her Monday and I 4 stayed until Wednesday afternoon. Eris came in 5 that afternoon and stayed Wednesday night and 6 brought her back home that Thursday. And I made 7 sure they had a copy, you know, on file because 8 I -- 9 Q Were, you -- 10 A -- knew she was taking the treatment 11 and stuff. But they -- I already had that first 12 copy I gave them. 13 Q Were you surprised to learn that you 14 were the -- appointed as the attorney? 15 A Yes, I was. 16 Q And who did you think she had -- was 17 going to appoint as attorney? 18 A I thought it might have been Eris 19 because Eris had done more than I had, personally, 20 far as funding stuff and -- and doing. But she 21 seemed -- I don't know why she called Eris because 22 she was more or less available at times when I 23 knew I wasn't. But I always tell her, you know, 24 if you've got appointments, let me know. I just 25 have to change around and get the other grandma
Page 23 1 Charleston, I don't remember if I gave it the first 2 time or not. But I know the second time I went down 3 there with her, I gave the nurse there or whoever 4 answered -- the receptionist there. And I told the 5 nurse, I said, make a copy of this. I have a extra 6 copy at home, but if you would make a copy. And I 7 -- I'm pretty sure they kept that copy because I 8 told them I had another copy at home. They didn't 9 make a copy. 10 Q Now, the first time you went was in 11 February, 2013, you said, with the healthcare 12 power of attorney or... 13 A No, it was February of 2012 we went to 14 Charleston or the first of March. Her -- her 15 admit date was the 5th of March, I think. Or was 16 it the 12th? 17 Q And when was the second time? 18 A The second time I went with her -- 19 let's see, she had a treatment and stuff that week 20 of -- in April there. We had four days of it. 21 And we -- we -- 22 Q What year -- 23 A -- on a Monday. 24 Q What year? 25 A 2012 -- 2012. She had four-day	Page 25 1 to keep the grandchildren and stuff. But like I 2 say, she just kind of leaned on Eris and, you 3 know, I appreciate all she did for her. I always 4 told her that. 5 Q What about -- were you surprised at who 6 the alternate attorney -- 7 A Yes -- 8 Q -- that was designated on the document? 9 A -- I was. 10 Q Okay. And what were you surprised 11 about that? 12 A Well, I just figured she ad another one 13 of the siblings. 14 Q You -- you would probably -- 15 A I thought -- I thought it'd been Eris. 16 Q Okay. And would you agree that 17 probably of all the -- I guess the other choice is 18 Jackie. Because of her condition or other issues 19 that she would have been one of the last ones to 20 be chosen? 21 A No, not really. Like I say, Jackie 22 made it be known that she said, you know, I just 23 can't do for mama like you and Eris does. 24 Q Okay. 25 A And she didn't feel bad that she wasn't

7 (Pages 22 to 25)

Q&A Court Reporting

Page 26	Page 28
1 appointed or anything like that. She wasn't 2 expecting that. 3 Q Now, I -- I want to go back and ask 4 those same -- 5 A That's all right. 6 Q -- questions that we've done now as far 7 as -- 8 A Uh-huh. 9 Q -- what Eris did. 10 A Uh-huh. 11 Q Do you know what Eris did for your mom 12 in regard to her banking or her daily financial 13 needs or issues? 14 A Well, like I -- we were saying, Eris 15 did support mama far as in the finances. But I 16 think mama returned it in checks and stuff. She 17 didn't, you know -- like I say, I know -- I just 18 glanced through the checkbook and -- and checks 19 and stuff. And it wasn't that mama was living off 20 of Eris Gail far as support and stuff. And I was 21 told by Roshell and Sharon -- they were sitting 22 right there in my mama's den when mama got so 23 sick -- because Sharon -- Roshell brought it up. 24 She says, Judy, I don't know where it's got out 25 that Eris paid for me and Sharon -- me and mama to	1 one you viewed in is, I guess what financial 2 support maybe Eris provided your -- your mother 3 and I think you've -- 4 A Yes. 5 Q -- answered that. 6 A Right. 7 Q And then how about not necessarily 8 providing financial support, but just support by 9 doing things for her on a daily basis. Meeting 10 her daily needs such as the banking needs? In 11 other words, you mentioned taking your mom to the 12 bank. Do you know -- 13 A Yeah. 14 Q -- what Sharon -- if -- if Eris like 15 helped her balance her checkbook or helped her do 16 anything with her accounts? 17 A I imagine she probably did. Like I 18 say, she didn't -- I didn't aware of that until 19 she got this sick this last time. 20 Q Okay. 21 A I never saw her checkbook or anything 22 until after this -- this happened. 23 Q Well, what about who provided or who 24 saw to it that your mom was at the doctor and had 25 her meds and things like that?
Page 27	Page 29
1 stay with your mama while Wayne was sick here in 2 your mama's house. She said, but your mama paid 3 for -- Wayne paid me, Roshell, and your mama paid 4 for mama, you know, Sharon. And I said, well, I 5 don't know where it's coming from, but I had heard 6 several times that Eris had supported y'all 7 those -- almost a year and a half or two years 8 there after Wayne -- after -- yeah, after Wayne 9 died. Of course, we didn't think mama had -- I 10 mean -- yeah -- no, from 2008. Da-- it was 2008 11 to 2000-- about two years there. And I said, 12 well, this is the first time I'm hearing this. 13 And I said, well, are y'all -- are you -- you need 14 to tell Eris this because I said, she's telling 15 mama that mama owes her, you know, this much 16 money. And mama said, you know, I don't think so. 17 I didn't pay her -- them 10 dollars an hour. 18 And -- and she said, well, your mama, you know, 19 paid me -- Sharon -- what my mama -- Sharon -- my 20 paid Sharon, my mama, and Roshell said Wayne paid 21 for her. And so I don't know where the lie come 22 from. I didn't see no money exchanged. I'm 23 just -- this is hearsay. 24 Q Okay. And -- and -- and I guess that 25 was -- could be question for you two senses in the	1 A Well, Eris -- Eris took me most of the 2 time to the doctors. But usually if I went to 3 pick her up and take her up there, Eris always had 4 to meet me there. She felt like she had to be 5 there with mama. And so I didn't fuss or 6 anything. I said, well, Eris, you didn't have to 7 come. I'm here and I got a wheelchair because 8 like I -- she mentioned earlier about the 9 wheelchair. Becky made sure she had one and 10 stuff. And so I said, I had wheelchair even 11 though she says she keeps one in her car. And I 12 said, well, I can lift it. I -- I'm a certified 13 nursing assistant. I know how to lift the 14 wheelchair. But anyway, like I say, she was there 15 to help her far as getting her things. And then I 16 did pick up medicine before for her and take it 17 down there to her when she ran out at the last 18 minute and stuff. 19 Q And who -- who would help you -- or 20 would Eris -- what would Eris do for your mama at 21 house like tend to her -- for her needs of her 22 home and her yard? 23 A Eris would go down there and help cut 24 back the shrubbery. She cut grass. She did 25 whatever it could be out there with James Ervin

8 (Pages 26 to 29)

Q&A Court Reporting

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1 and Mikie's help. But far as, like I say, she
 2 picked up meals. She picked up, you know, food at
 3 the grocery store and stuff. But I feel like mama
 4 re-- paid her back.
 5 Q And -- and --
 6 A Even though she was there to help.
 7 Q I'm going to ask you some questions
 8 now --
 9 A Okay.
 10 Q -- Ms. Jones, and I don't want you to
 11 think I'm asking them for the purpose of who cared
 12 for her or loved their mother more, which sibling
 13 did.
 14 A Right.
 15 Q But I'm -- I'm asking sort -- sort as
 16 you said you were surprised to see your name as
 17 the -- the attorney in fact on the healthcare
 18 power of attorney. I'm --
 19 A Right.
 20 Q -- I'm -- the reason I'm asking is
 21 because Eris was too. And the reason I'm asking
 22 is because -- and you don't have to agree with
 23 me, I'm just giving you a statement -- is that,
 24 you know, often times the person who does those
 25 things before the person becomes unable to do

Page 31

1 themselves, will continue to do that after --
 2 A Uh-huh.
 3 Q -- the fact, so --
 4 A Uh-huh.
 5 Q -- would you agree with me that Eris
 6 provided for most of your mother's healthcare
 7 needs at least before the time she got sick in
 8 January of 2013?
 9 A She probably did.
 10 Q Would you agree that Eris provided for
 11 your mom's banking needs? Not loaning her money
 12 or -- or supporting her financially, but helping
 13 her transact and keep up with her financial
 14 affairs?
 15 A I know she did one or two times because
 16 the bank called mama and she wanted -- she called
 17 Eris to go up there to fix -- you know, she had a
 18 overdraft or something. And I think, you know --
 19 of course, that's no, no when her name's not on
 20 the bank account and stuff. And I think Eris got
 21 upset because they didn't want to handle it. So
 22 they had to get mama on the phone, I think, to
 23 straighten out, you know, because this -- the
 24 person that's standing here or whatever.
 25 Q Would you agree that Eris would have

Page 32

1 been the one that would -- had helped your mom
 2 mostly with her maintaining her home and the
 3 operation of her home?
 4 A Well, she had people coming in there
 5 beforehand far as, you know, getting paid to help
 6 keep the house and the yard. I mean, you know,
 7 not yards per se. But the house and -- and making
 8 sure she takes her meds and stuff. Eris was -- I
 9 mean, she was in and out. But, I mean, Eris
 10 wasn't hiring people to come in there to take care
 11 of her. I mean, mama was paying for her help.
 12 Q But you would agree that Eris helped
 13 line that up?
 14 A I don't know who lined up Sharon and --
 15 and Roshell.
 16 Q But who -- did -- but if your mother's
 17 home needed repairs, who would line those repairs
 18 up?
 19 A Well, Eris would go down there and --
 20 and fix a lot of the stuff. She did it her own.
 21 Which mama had money. She could have had it fixed
 22 the same way the last year she did stuff.
 23 Q So you would agree that Eris would have
 24 been the one that your mom relied upon to make
 25 sure that her home was fixed and maintained

Page 33

1 properly?
 2 A Well, she relied on Eris because Eris
 3 had ten rental houses, and she knew Eris would
 4 probably do a good job. Which that's the reason
 5 she asked her to come down there down and do
 6 stuff. But she paid the materials and the labor.
 7 Q Now, have you ever heard your -- your
 8 mother -- and do you refer to her as mother or
 9 Granny?
 10 A Well, I call her Granny or mama. It
 11 doesn't --
 12 Q Okay.
 13 A -- I mean, whichever way you would
 14 prefer me to call her.
 15 Q Did you ever hear your mother complain
 16 about the way that Eris provided for her or
 17 supported her or helped care for her needs?
 18 A Ever complain? No, I didn't ever hear
 19 her complain. She said when she'd go to Sam's,
 20 she'd pick up more than what she'd wanted her to
 21 bring back. And she'd tell her, I don't need all
 22 that. You know, why did you pick it up, you know.
 23 And she would complain about how much she brought
 24 back. When she asked for two or three things, she
 25 would bring back a carload as I say. And so she,

9 (Pages 30 to 33)

Q&A Court Reporting

Page 34 1 you know, that was the only thing. She said, I 2 wish she'd just bring back what I needed. 3 Q Now, I'm going to ask you a -- a -- it 4 might be a difficult, deep tough question, but do 5 you have an -- there's obviously some tension 6 between you and Eris or some issues there. Do you 7 have any reason as to why those issues may be 8 there? Do you sense a tension, in other words, 9 between you and Eris? 10 A Well, when this came up, I just 11 couldn't believe she would do this. 12 Q And by this, what do you mean? 13 A The way she's acted and stuff. I mean, 14 there's no sense in her carrying on like this. 15 This, you know, being a P.R. like the same with 16 Wayne's. I mean, she got all up in my face 17 because there's no way Wayne could have left you 18 much as I done for him. And I said, I surprised 19 as you was Eris. When Robert Lee called me that 20 next day after he died, he asked me, he said do 21 you know who -- I said, no. I said, I might be -- 22 it must Eris or something. He said, no, he's got 23 you. He said out of all your brothers and 24 sisters, he thought you would do the right thing. 25 Q And you were also surprised that you	Page 36 1 nothing from it. I felt guilty, you know, just 2 taking the amount much less the extra. And I -- 3 like I say, material things don't mean that much 4 to me. And I -- and that's what I'm saying. I 5 don't -- I don't -- you know, like I say, it 6 upsets me because Eris wants to go through all 7 this. 8 She knows what I've done. She's known 9 what -- she knows what kind of person -- I'm not the 10 person that she described me in that thing that you 11 sent me what she said that I -- I am. I'm not that 12 type of person. And I don't think she's that type 13 of person. I don't know where she got all them 14 words from. But I'm not that type of person. 15 Q And do you know what -- are you 16 referring to what I sent you? Would that be 17 the -- the pleading and the -- your lawyer 18 knows -- 19 A That I'm trickery, I mean -- 20 Q No. 21 A -- not treating my mama like she should 22 have when she got so sick. And deceitful and all 23 that. I don't know where we coming from that. 24 I -- I mean I've always been a loving caring 25 person. I do a lot of volunteer work, too, in the
Page 35 1 were the P.R. in that particular case? 2 A Right. I really -- 3 Q And -- 4 A -- was -- 5 Q And -- 6 A. Because I felt like I -- you know, I 7 probably maybe could have done more at that -- you 8 know, I knew he was sick. For five years he had 9 that cirrhosis of the liver. But he -- I don't 10 think he ever admitted, you know, to anybody how 11 sick he was. You know, we could -- if you stayed 12 around him long enough you could see it. But like 13 I say, I just felt like I -- I'm -- I -- I'm 14 guilty because I didn't do more for him. But, you 15 know, I'm glad he left me in charge. I tried to 16 handle his estate as well as I thought he would 17 have. 18 Q Did you get a fee for handling that 19 estate? 20 A Yes, I got whatever the P.R. fee is. 21 It was extra. I think -- I wasn't aware of that 22 until Robert told at the end. He said, you know, 23 you get so much percent off the estate. And I 24 said, well, you know -- like I say, I do for other 25 people because I enjoy doing. And I didn't expect	Page 37 1 nursing homes and stuff. I know how people feels. 2 I try to treat people like I want to be treated. 3 I do for others because I have the love of God in 4 my heart. I don't do for others because I want 5 a -- a badge on my head or whatever. But I -- I 6 just -- it just upsets me because she wants to do 7 this -- what -- and I know mama -- you know, like 8 I say, before mama died, she told me -- she said, 9 Judy, I don't want y'all -- nobody come in here 10 and taking things out the house. You get those 11 locks changed before I die. 12 And I am sorry that we had to wait until 13 that day that she died to get them done. Because 14 Mr. Somerset said he had it on his to-do list for 15 two weeks. And I am sorry it happened the day she 16 died. And so that's the reason I had it done. And 17 it just fell that way. And she said, I don't want 18 nobody to come in here and take nothing out of my 19 house like Vera and Gerddy's, her two sisters that 20 had an estate. And so I don't feel guilty about 21 what I did or what I said because that's what my 22 mama said. 23 She said -- and I told several times 24 before she died. I said, I'm handling your 25 finances. And she kept bringing it, I don't have

10 (Pages 34 to 37)

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Page 38 1 any money. I said, mama, you got money in the bank. 2 And Sharon would keep saying, Ms. Eris, you got a 3 lot of money in the bank. And I did say something 4 to her one day. I said, Sharon, you don't need to 5 be talking like that. Well, she took me to the bank 6 one day and she told me that she had a lot of money. 7 I know she -- I saw the figures. And I -- I did say 8 something to her. I said, Sharon, let's don't talk 9 about that anymore. You're not a part of the 10 family. I said, you're -- you're a worker and you 11 know mama. But I said -- and another thing, she 12 brought about all her jewelry and stuff. I said, 13 you don't need to be discussing that. I mean, 14 that's between you and mama. Y'all -- you just, you 15 know, don't talk about it. So anyway... 16 Q What -- what do you know about your -- 17 your mother executing or preparing the wills? I 18 think you said you -- what are you aware of that? 19 A I didn't know about any of it. I knew 20 she went to Hufner -- or Hoefer, whatever his name 21 was that time. But far as this last will, I 22 didn't have any knowledge of it. 23 Q How did you know she had went to 24 Rick Hoefer's office? 25 A I think after the fact that she had	Page 40 1 your mama was living? 2 A Not as I know of. It never was 3 discussed. 4 Q Until -- before -- before this 5 litigation got started, were you aware that your 6 mom had been to Robert Lee's office in 7 October of 2011? 8 A I didn't know about it until it must 9 have been about the middle of December. Because 10 that's when -- it seemed like Eris or somebody was 11 bringing up something about wills and stuff. And 12 I said, you know, I haven't seen the will or 13 nothing like that. And so when she got real sick 14 and we found out that she had the bone cancer in 15 January, Pam brought me a copy of the will then. 16 That's the first time I had seen this last will 17 that I'm ex-- that I'm supposed to be the P.R. 18 That is the first time -- and it surprised me and 19 I even told my mama, you know, if that's what you 20 want, then I'll do the best I can just like I did 21 Wayne's. And she said, I know you will. And so 22 that's the first time when we were in the hospital 23 that first -- must have been about the second week 24 that she was there in January. And that's the 25 first time I'd known all about it.
Page 39 1 gone. Seemed like the next day or somebody told 2 me that she had gone up there. But I, you know, 3 I'm one of these -- I don't pry into people's 4 personal lives. And I -- I knew it didn't involve 5 me per se, and I knew my mama, if that's what she 6 wanted to do, I'd let her do it. 7 Q Was Pam aware that your mother -- are 8 you aware whether or not Pam knew that your mother 9 went to Rick Hoefer's to prepare a will? 10 A I don't know if she knew after the fact 11 or not. I -- I don't know -- 12 Q Did you tell her -- 13 A -- you'd have to ask Pam. 14 Q Okay. Did you ever tell her or have a 15 discussion with her about your mama going to 16 Rick Hoefer's office? 17 A No. 18 Q Did your mom ever show you the will 19 from Rick Hoefer? 20 A No. 21 Q Do you know if Pam ever showed you the 22 wi-- will from Rick -- Rick Hoefer? 23 A No, sir. 24 Q Do you know if Pam ever obtained a copy 25 of the will from Rick Hoefer be-- before -- while	Page 41 1 Q Do you know why your mom would have 2 chosen you and then Becky as an alternate over 3 Eris to serve as the personal representative over 4 her estate? 5 A I would not know and she didn't -- I 6 asked her, I said, mama, why did you do -- she 7 said I figured you'd do a good job. That's all. 8 Q Let me ask you some questions about the 9 issues with Wayne's estate and his will. 10 A Okay. 11 Q Now, is it true that your mom believed 12 that Wayne's will was changed? 13 A I never heard that, no. 14 Q Are you aware which attorney prepared 15 Wayne's last will? 16 A Robert Lee did, didn't he? 17 Q Was your daughter working for him at 18 the time? 19 A Yes, she was. 20 Q Now, you -- I think you said you were 21 surprised that you were Wayne's personal 22 representative also. And is it true that Eris and 23 Wayne were in business together? 24 A Yes, they were. 25 Q Did you believe Eris would have known

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Page 42 1 his affairs better than you? 2 A Finances she probably would have 3 dealing with the cars. But far as the other, you 4 know, I.R.A.'s and bank accounts because he had 5 several bank accounts at Bank of America. And she 6 might have -- she might have probably would have 7 known, because I didn't. I wasn't aware of any of 8 them until after the fact. 9 Q Who took -- are you aware if it was 10 Eris who took care of most of Wayne's healthcare 11 needs such as going to the doctor in Charleston? 12 A I -- I went with him several times to 13 Charleston. I took him to several doctors' 14 appointments here in Florence. But like I say, I 15 wasn't available like Eris was. She made sure she 16 was available. She felt like she was in charge of 17 everybody. She's always been that way. 18 Q And so it would be true that she was 19 probably the one that was mostly responsible for 20 him or -- or did it? 21 A Yeah, she did because she was 22 available. She made herself available. 23 Q So did -- did -- did your mom ever have 24 any conversation to you about a dislike or 25 displeasure for Robert Lee?	Page 44 1 A Yes, sir. 2 Q And she is -- I would be safe to say 3 they have a close personal re--- relationship. 4 A Yes, she does. 5 Q In addition to them -- them working 6 together, do you know whether or not, you know, 7 Robert has been to Pam and her husband's house 8 some for -- for personal reasons like for suppers 9 or things like that? 10 A I don't know when Robert's been to 11 their house. No. 12 Q Do -- do you know if they have a 13 relationship outside of the office, in other 14 words. Do -- 15 A No. 16 Q -- do they do stuff with the other 17 families, or do they go out to dinners together or 18 anything like that? 19 A I have never heard that. And I've been 20 keeping her youngins for eight years, no. 21 Q Were -- when you mentioned to -- you 22 just described a conversation you had with your 23 mother about you serving as personal 24 representative. I think that occurred in 25 mid-February.
Page 43 1 A No, she did not. 2 Q Have you ever been -- are you aware 3 whether or not your mother ever said don't mention 4 Robert Lee's name in her house after Wayne's 5 death? 6 A She has never said that to me. I never 7 heard her say that. 8 Q Do you know who your mother considered 9 to be her attorney? 10 A I reckon Robert. She's never mentioned 11 anybody else. I mean -- because Pam did call her 12 and tell her about that healthcare. I know was 13 aware -- I -- you didn't -- you didn't know my 14 mama, personally, but she -- I think what it was, 15 she wanted all the children to get along. She 16 didn't want -- she'd tell me one thing, and then 17 she'll tell Eris something else because she didn't 18 want no rift between us. She'd satisfy my -- 19 whatever I wanted to ask her. She would satisfy 20 Eris. And Jackie said the same thing. Why didn't 21 mama discuss -- tell us. She knew what was right 22 and what she saying was wrong. But she didn't 23 want to cause a rift. That's the way my mama was. 24 Q What is -- Pam's worked for Robert for 25 a number of years. Is that correct?	Page 45 1 A Yeah. 2 Q Did your mother say, you know, I didn't 3 execute that document, or I've been waiting for 4 that document, or anything like that? 5 A No, she didn't say. She didn't 6 question it. Huh-uh. 7 Q Did she say anything about the 8 Rick Hoefer will? 9 A No. 10 Q Your mother kept detailed -- a detailed 11 journal. Is that correct? 12 A I don't know what Eris was talking 13 about. I haven't seen any journal or anything 14 laying around. We -- I -- when I started going 15 there in January or February, I -- I -- we had a 16 daily, you know, write down whoever came in. They 17 wrote down what they did for mama, you know, who 18 came, what she had, you know, B.M.'s and all this 19 stuff. But that's, I mean, if that's what you 20 call a journal, it's a notebook, yes. With all 21 the way up to the morning she died -- 22 Q And -- 23 A -- during that time. 24 Q -- and that would have been more of 25 like an appointment she had at her house like a

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Page 46 1 visitor's sheet? 2 A Yeah, yeah. So when the nur-- hospice 3 nurse came in, the Nightingale nurse, anybody that 4 came in, they would just say, this is what she 5 did. Each day was broken down. And far as, you 6 know, a ledger saying far as what she paid out 7 or -- or I have never seen nothing like that. I 8 haven't. 9 Q How about a composition book which 10 almost is a journal of where she goes, what she 11 wants, confirming her thoughts? 12 A No, I haven't seen anything like that. 13 Q Okay. 14 A I have not looked for it to be honest 15 with you. I didn't know -- because she wouldn't 16 even -- we buy the little things to make grocery 17 lists to sit by the chair, and she acted like she 18 didn't need a grocery list. But you'd go to town 19 and buy 20 or 30 dollars worth of groceries and 20 come back, well, I forgot this. She didn't 21 believe in making notes, I reckon. Being a clerk, 22 I always -- and even now, I don't work. I make 23 notes and she didn't like to make notes. I -- 24 when you brought up that a while ago, I said, I 25 don't remember her doing anything like that. I	Page 48 1 minutes and I'll come back. I said, I'll give 2 y'all some time to talk. And she said, no, don't 3 worry about it. She'll find out sooner or later. 4 Q And that -- 5 A And so. 6 Q -- was February of 2013 -- 7 A Right. Uh-huh. 8 Q -- when she was first ill. 9 A When we go -- was coming home. We 10 stopped there at Wendy's, and -- and I kept 11 telling her, I said, mama, you need to tell 12 somebody. I said, you know, I don't want them, 13 you know, on my back after something happens or 14 whatever. But she -- 15 Q You -- 16 A -- kept saying, you know, they'll find 17 out sooner or later. 18 Q And in January or so, did you take your 19 mother's checkbook and pocketbook -- 20 A I -- 21 Q -- from her? 22 A -- took a checkbook. Yes, I did. 23 Q And when did you take that? 24 A I didn't take it until -- I think the 25 first check I started writing out of it was 2/7.
Page 47 1 know she said she let the girls, Sharon and 2 Roshell, keep up with their hours. And I did fuss 3 at her one time about that. I said, mama, I know 4 how they are. They come in and work two hours and 5 gone for three or four, and you forget that you've 6 already paid them, I mean, you know, hours and 7 stuff. And she said, well, they're not -- they're 8 not going to cheat me out of anything. So, I 9 mean, she put a lot of trust in them two women. 10 Q Are you aware whether or not your 11 mother asked you and/or Pam for paperwork that she 12 may have signed at Pam's office? 13 A I'm not sure now, but I know Pam gave 14 me those copies. And -- and Granny was aware of 15 that -- that I had them. Because I know the 16 second time she was coming home from the 17 hospital -- that was February the 1st -- we 18 stopped at Wendy's and Eris went in and paid for 19 our lunch, which I offered to pay, and we was 20 sitting in the car. And I raised up in the 21 backseat and I said, mama, you need to tell Eris 22 that I'm the -- remind her I'm the healthcare 23 attorney and the power of attorney. I said, she 24 still doesn't believe that I am. She said -- I 25 said, when I get home, I'll run home for a few	Page 49 1 Q You -- 2 A Or 2-- 2/1 -- 2/1, Nightingale was 3 that first check. Or Tucker's, Tucker's. That 4 Friday I went and paid the rental stuff. Got her 5 bed and mattress and whatever else we needed to go 6 home with from the hospital that day. 7 Q And when did you -- and I understand 8 your answer was when you wrote the first check. 9 When did you take it? When did you obtain 10 possession of those items? 11 A It must have been -- no, let's back up. 12 I told you wrong just then. I did not write the 13 first check out of her account until the -- I 14 believe it was the 7th of February. I wrote the 15 first check out of my -- I got eight checks I 16 wrote out of my personal check because I did not 17 write on her account until I was had time to go to 18 the bank and see what she had in that checking -- 19 which checking I was on. And I went up there. It 20 must have been a few days afterwards. And that's 21 when I started, you know -- but I wrote most of 22 all the checks except for the ones that hadn't get 23 paid -- Sharon and Roshell and the washing machine 24 man. It tore up and I had to pay him. But I -- 25 like I say, I don't remember the first check

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Page 50 1 because I didn't have all the information anymore. 2 I gave it all to Mr. Abbot. But -- but she was 3 aware of what checks I was writing. 4 Q Okay. 5 A And I mean I would bring it to the bed. 6 I said, do you want to sign them. She says, no. 7 Because of the check we gave Eris that two or 8 three weeks before there, and she owed for the 9 taxes. It was over 1600 dollars. And I asked 10 her, I said, do you want to sign this check or do 11 you want me to sign it. And she signed that 12 check. And that's what I'm saying, you know, she 13 was aware of what I was writing. I would tell 14 her, mama, I'm paying Nightingale right now. 15 Because I'm not sure how much you got in the bank 16 in this account. So I paid Nightingale those two 17 different times. One was over 2500 and one was 18 3,000 and something. So I still got that in my 19 pocket plus the equipment I got from Tucker's that 20 day was 538 dollars. Rental -- what I bought, but 21 I had to rent a lot of that, too. But like I say, 22 there's about eight or ten checks Mr. Abbot's got 23 right now that he's going to try to her reimbursed 24 for. 25 Q And -- and so I'm -- I'm going to --	Page 52 1 know whatever checks I wrote that day I totaled 2 them up to the time she wasn't conscious -- I 3 mean, not conscious, but wasn't able to 4 understand. I would say -- and she would just 5 kind of nod her head and stuff. So I didn't keep 6 nothing from my mama far as finance and stuff. 7 And I left her pocketbook in the closet where it 8 was. And I just took -- I took -- did take her 9 I.D.'s out and I took her checkbook. And I took 10 them to my house and locked them up in the safe 11 there. 12 Q Did your mother ever ask for those -- 13 her checkbook or pocketbook back? 14 A She did and I told her where they were. 15 She said -- one day I think the preacher came and 16 she always gave the church a check every time he 17 came every week at least. And I told Mr. Service 18 (ph) -- even at the hospital, she was asking. She 19 aid give Mr. Service a check for the church. And 20 I said, mama, your pocketbook and your 21 billfold -- your checkbook's at home locked up at 22 my house. I said, I'll be going home tomorrow and 23 I'll get it. And I told Mr. Service, I said, let 24 me just hold off on giving to the church until 25 let's see how mama's doing. That was before we
Page 51 1 A And I probably said -- 2 Q -- I appreciate that info-- 3 A -- I probably skipped around. 4 Q Well, I appreciate that information -- 5 A Yeah. 6 Q -- but what I want -- what I want to 7 know specifically -- 8 A Yeah. 9 Q -- is when you obtained possession of 10 her purse and her checkbook? When did you put -- 11 get it in your possession to the exclusion of her 12 others? 13 A It had to be probably that -- when we 14 came back home from that hospital that first week 15 in February. Because I knew far as things had to 16 be paid. Sharon and all of them had to be paid 17 and stuff. And I didn't have no extra cash money 18 on me at that time. 19 Q And where did you take it from? Where 20 was it at? 21 A It was in the closet. I just took the 22 checkbook out of her pocketbook, and I told her I 23 have the checkbook, and I'm going to hold onto it, 24 mama. Because I said, you're not being able to 25 write right now and stuff. And I -- I let her	Page 53 1 found out she had bone cancer. And then after he 2 came to the house several times after she came 3 home and he said, don't worry about no check right 4 now. He said, I know I'll get some from y'all as 5 a family. And so that's -- that's the -- 6 Q So -- 7 A -- way it's been. 8 Q -- did -- did -- so the checkbook 9 wasn't kept in at Granny's -- in Granny's closet? 10 It was kept at your house? 11 A It was. 12 Q Okay. So when did you start taking it 13 to your house and out of her closet? 14 A Well, like I say, it must have been 15 about that second week in February because I knew 16 I had to get some -- write Sharon and them a check 17 so I brought it back from my house and I kept it 18 there at mama's because I was there at mama's 19 about all the time then. 20 Q What other information -- particular 21 financial information did you remove from your 22 mother's house? 23 A Well, like Eris handed me the bag of 24 checks and canceled checks and statements that was 25 in the desk or that little recorder thing the old

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Page 54 1 phono--- phonograph thing. And she handed me that 2 right after we came home from the hospital that 3 last time. She said, you don't need to leave 4 these checks and stuff out here. Mikie -- or 5 somebody might bother it. That's what she said. 6 She didn't call no name I don't think. And so I 7 put -- she put them in my trunk of my car, and I 8 took them home and locked them up in the -- that 9 safe at home. 10 Q And was anything else that you took 11 beyond what Eris put in that bag? 12 A No, I didn't take nothing else. 13 Q Why would Eris give you those -- that 14 paperwork if she wasn't aware that you had the 15 power of attorney? 16 A I don't know. That's why I said, well, 17 do I need to take that, Eris? I said, it's been 18 in there -- mama knows where her checks and stuff 19 is, though. She said, well, I -- I'm scared -- no 20 telling who come in here and start writing checks. 21 I said, well, you know, if they ain't done nothing 22 before now, I don't know. And mama wasn't one 23 that checked her statements every month either. I 24 knew that. Because especially when she had that 25 overdraft and stuff. She said, well, I got money	Page 56 1 were? 2 A No. 3 Q Were you aware that Eris knew that your 4 mother -- 5 A Oh, I knew Eris had taken her. We 6 didn't know that either, until after the fact, she 7 took her there. 8 Q You didn't know what until after the 9 fact? 10 A After she had already taken mama to the 11 funeral home because Jackie wanted to know why she 12 didn't include me -- me and her in it since we're 13 the oldest daughters. 14 Q And what did she say? 15 A She said, well, Eris was available, so 16 I just told her let's go. We were out doing 17 something or a doctor's appointment or something. 18 She said, I just figured Eris was available, so I 19 just asked her to go. I just passed it off, like 20 I say, you know, that's her doings. If that's 21 what she wanted to do. 22 Q So when you went to the -- when you 23 went -- to Stoudemire Dowling to arrange for the 24 funeral services here, were you surprised to learn 25 that things were already prearranged?
Page 55 1 in the bank. But she, you know, just because she 2 had money in one account, she thought it was going 3 to cover it all I think, so -- she wasn't the type 4 that -- I even asked her several times. I said, 5 mama, you don't check your bank account? She 6 said, no. She said, I trust them up there, so 7 anyway. But I took all those statements home and 8 they're in a folder there at the house. 9 Q The -- were you aware of what your 10 mother desired for her funeral arrangements? 11 A Far as funeral arrangements, no. I -- 12 I know she wanted an open casket type thing. She 13 wanted to buried down at cem--- Sing--- Singletary 14 Cemetery. I knew she had picked out her, you 15 know, things and all. After -- let's back up. 16 When we started -- one of those Nightingale nurses 17 found a folder in there. She had her Stoudemire 18 where she had the thing. And so I -- I kind of 19 opened it and I knew she -- she had told me 20 beforehand that she had already paid for her 21 funeral arrangements, which I knew that. But far 22 as detail what she had picked out, no, I did not 23 until I saw that from Stoudemire where she had 24 paid it off. 25 Q Did you ever ask Eris what the details	Page 57 1 A No, I knew it was already pre--- she 2 had already paid for it and all. I knew she had 3 picked out everything. She told me beforehand. 4 She said, I -- I've got everything picked out. 5 She said, I wanted blue -- I want a blue or a 6 beige dress. Well, Sharon had told me that 7 because she had talked to her before. And so we 8 went to the closet and she showed me the two 9 dresses. She said, either one your mama's picked 10 out. So I took one of them to have it dry cleaned 11 and the other one -- she said, I think she wanted 12 a blue. And I said, well, okay. Here's the blue 13 then a aqua. So we buried her in that. And I had 14 the beige one cleaned so anyway. 15 But far as -- she said everything was 16 paid for except the casket spray. And she made a 17 joke. She said, I hope y'all can scrape up enough 18 money to buy me a casket spray and make it real 19 pretty. I said, I know, mama, because you love 20 flowers. So that's the only thing that I knew, you 21 know, that -- she just said everything, you know -- 22 and I wasn't aware that she had already picked out 23 the pall bearers and stuff either. 24 Q And did you learn that when you went to 25 the funeral?

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Page 58 1 A Right. Uh-huh. Sharon told me that's 2 when the little Calcutt boy showed me and I said, 3 well, I wasn't aware of that. Because he was 4 going over the pall bearers and stuff. 5 Q Who -- during -- James had an episode 6 of kidney stones or -- and surgery. 7 A Yeah. 8 Q Do you know who Granny told to keep a 9 close check on James during that time? 10 A I think she James Ervin, I mean, told 11 Eris Gail because she made sure she was available. 12 But we all -- all our children, we checked on him. 13 I went and took a meal over there for the family 14 and stuff the day after he had it. 15 Q Was your mother having chest pains or 16 unusual -- or health symptoms in October or 17 September of 2011? 18 A 2011? 19 Q Yes, September or October, 2011. 20 A I don't remember that. No, I do not 21 recall that. 22 Q Are you aware of any telephone calls 23 that your mother had with Mr. Sloan? 24 A After the fact I heard. 25 Q And -- and by after the fact, you	Page 60 1 from the hospital, I told her, I said, Pam has 2 given me a copy of the will, mama. Everything is 3 like you wanted. I said, everything is itemized. 4 You -- I -- I know I'm P.R. and I said, we going 5 to handle it the best we can. And I didn't even 6 mention Becky being the alternate or anything like 7 that. I said, far as your finances, I'm going to 8 handle it just like you wanted me to. I said, you 9 left me in charge and I -- you know, I appreciate 10 it and stuff. But I said -- she got antsy there 11 right toward the end. She -- you couldn't 12 understand what she was saying. 13 But even some of the people from 14 Nightingale they said she acts like she's upset 15 about something. I said, well, I kept going to the 16 bed at night and day. And I said, mama, 17 everything's going to be all right. I -- I've 18 taken care of things like you wanted, like you've 19 left it. And I -- I'll do the best I can. And I -- 20 I -- I don't know, you know, what she was upset at 21 that time. 22 Q Did they ever tell you that she was 23 looking for a will? 24 A No. She didn't ever ask me for no will 25 or I -- I -- she didn't ever say to -- I want to
Page 59 1 mean -- 2 A I wasn't there. 3 Q -- after she passed? 4 A I wasn't there. When I heard that -- 5 my sister Jackie told me that she looked up the 6 telephone number for Mr. Sloan. And I think mama 7 called him the next following day or something. 8 But that was after all this -- this rigmarole and 9 stuff. 10 Q Do you know why your mother was calling 11 Mr. Sloan at that time? 12 A Well, she was, I don't know -- I won't 13 say confused. She was just questioning to make 14 sure be that she had the will fixed like she 15 wanted it. I don't think she was questioning what 16 was on there. She wanted to make sure Mike and 17 Jamie was in that will. And her not having a copy 18 of it, that was our mistake. I should have gave 19 her a copy. I thought she had a copy. 20 Q So you -- you would agree that she was 21 searching for -- she was never provided a copy 22 and, she was looking for a copy of it? 23 A Right. She wanted to make sure it was 24 like it was. And I did verify that with her 25 before she died. That second time she came home	Page 61 1 see a copy of it or anything. She never asked me 2 for it. I told her I had a copy. Pam had given 3 me a copy. And she must have been satisfied that 4 everything was -- I told her everything was what 5 you, you know, you had signed it and everything -- 6 that she had signed it. And I felt like 7 everything was what she wanted. I know there were 8 several things, you know, far as the great great 9 grandchildren. I thought she would have left them 10 something, but I don't know if that's what she was 11 trying to add, you know, to them even my own 12 grand -- and my grandchildren and stuff. But like 13 I say, material things don't mean that much to my 14 children and stuff. 15 Q When your mother passed, tell me what 16 action was taken in regard to the store beside the 17 home. 18 A The action? 19 Q Yes, what -- what happen? 20 A Well, Eris had it boarded up for one 21 thing. 22 Q And she had that boarded up during your 23 grandmother's lifetime -- I mean, during your 24 mother's lifetime, correct? 25 A She -- she made sure nobody went in

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Page 62 1 there but her. 2 Q Okay. And so you felt the need after 3 your mother's death to go in there? 4 A Well, mama told me up front, she said, 5 I don't want nothing taken out of this house and 6 nothing taken out of that store. That's your 7 daddy's stuff and my stuff that we worked for. 8 And I don't want nobody coming in and taking 9 anything after nine months. That's what the will 10 says. That's exactly what -- she remembered what 11 was in the will. I said, no, mama, we're not 12 going to have it like your two sisters' wills went 13 through -- the nieces and nephews on the other 14 side. 15 I mean, they misused her -- you know, and 16 she didn't want nothing like that to happen. And I 17 think that's the reason she wanted the locks changed 18 on the house and she wanted to make sure that I 19 carried out like she wanted it. And I tried to tell 20 her that. I said, mama, I'm working on it far as 21 getting the locks changed, and I'll make sure 22 everything is carried out like you wanted. And 23 that's what I told her. 24 Q And who did you -- who -- did you call 25 Somerset or your mother?	Page 64 1 A Well, because I was afraid something 2 would -- somebody would break in the store and 3 stuff and whatever was in there. I didn't know 4 what was in there. But Eris had gone over there 5 prior to about a month or two before. The alarm 6 was going off in the store, and she went over 7 there, wanted me to go with her. And we changed 8 the alarm and I was questioning why didn't she 9 call the alarm company to change the alarm. 10 Because I know what -- I don't have an alarm on my 11 house. I shouldn't be advertising that, but I 12 know Pam and Becky does. And she said, well, 13 their alarm company comes out and changes their 14 alarm when their battery in their alarm when it 15 starts acting up. 16 And -- but I went in with her that day 17 and stuff, and that's when she was saying the 18 freezer back there it looks like the lock's been 19 changed on it and all that. And I said, Eris, this 20 is the first time I've been back in the store since 21 daddy died. I don't know what's been changed in 22 here. I mean, I felt like, you know, I was -- 23 shouldn't have been in there either. But she wanted 24 me to come in there with her. So... 25 Q So tell me what happened -- I guess it
Page 63 1 A I called Somerset. 2 Q And he's a local locksmith? 3 A Yes, sir. 4 Q Where does Pam's husband work? 5 A He works at American Stainless out of 6 Cheraw. 7 Q Did he used to work at Somerset -- or 8 with Mr. Somerset? 9 A I don't know if he ever worked for him 10 or not. 11 Q What kind of work did your son-- 12 A He worked at Ferguson before he worked 13 at American Stainless. 14 Q What's Pam's husband's name? 15 A Kirby Jordan. 16 Q Did he ever work at a locksmith or 17 security company? 18 A Unless it was way back yonder before I 19 knew him. 20 Q Do you have any family members that 21 worked with Somerset or a company like that? 22 A No. 23 Q Okay. Why, if your mother didn't want 24 things removed, did you go the next day and move 25 those things?	Page 65 1 was the day after your mother passed or -- 2 A Yeah. 3 Q -- after the funeral -- the day after 4 the funeral -- 5 A It was that Friday after the funeral 6 was on Thursday. 7 Q Okay. What -- what happened to the 8 store? 9 A We went over there. 10 Q Who's we? 11 A We had called the sheriff's department. 12 We called the alarm company and told them what we 13 were doing. 14 Q Who's we first of all? 15 A It was Becky Kaye, her husband Ron and 16 me and Leona Cumbie, C-U-M-B-I-E, a girl I grew up 17 with that lives over there in Effingham. A real 18 good Christian woman. She was scared to death the 19 whole time she was with us. And I'm trying to 20 think of the other little girl. She married a 21 Moore -- a Moore boy that lives down there -- 22 there. What was her name? I can't think of the 23 first name right now. I can see her face. But 24 anyway, that was -- we were the four that went in 25 there.

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Page 66 1 Q And why did you choose those people to 2 go with you? 3 A Well, I personally didn't want to go, 4 but I felt like, you know, why leave that stuff 5 there. Nobody's staying at mama's house and 6 stuff. And I didn't know what was in the store. 7 It must have been a gold mine or something 8 because the way Eris carried on, nobody knew that 9 to go in there but her. She was in the only had a 10 key. So -- and then she was talking about that 11 freezer was locked up with a big badge on it. And 12 I said, well, wonder what's in there because, you 13 know, I didn't know what was in the store. 14 Q Well, why didn't you call Eris since 15 she had the keys and everything? 16 A Well, I didn't think I wanted her to be 17 involved in it because she was so security (sic). 18 She didn't want me and Jackie or nobody to know 19 what was in it -- in the freezer. She would never 20 tell us what was in the freezer. It was none of 21 our concern. That's the exact words she said. 22 And Timmy, my brother, told me after the fact. He 23 said, well, you could have called me and I could 24 have told you. I said, well, I didn't know who 25 was -- when y'all -- whoever put the stuff in the	Page 68 1 unscrew a screw in the door like she had it. And 2 the house was messed up. 3 Q Well, if somebody did that, don't you 4 think that -- would that not indicate to you that 5 whatever there -- in there was important to them 6 or special to them and they want it disturbed? 7 A Well, it wasn't her right to do that to 8 start with. We told Eris, why are you acting like 9 nobody's supposed to go over there. You the only 10 one that's got a key. 11 Q Was your mother aware of what she did? 12 A Yes. Yeah, mama always asked her, why 13 are you -- why are you doing that, Eris. 14 Q So your mother objected to that 15 happening? 16 A She didn't appreciate what -- how Eris 17 was carrying on like she owned everything around 18 there, yeah. 19 Q Did she ever tell Eris to take it off? 20 A No, she didn't. 21 Q So your mother was aware of what -- 22 A Yeah -- 23 Q -- what was -- 24 A -- she was aware. But she didn't 25 like -- my mama, like I say, you didn't know my
Page 67 1 freezer. I knew Eris was involved in it because 2 she'd already told me. I know what's in there, 3 so... 4 Q So what did you have to do to get into 5 the store? 6 A Oh, it took us about three hours. She 7 had some screws long as I don't know what bored 8 into the door facing and everything else just like 9 she's done the house. She going to have to 10 replace two of them doors, somebody is. 11 Q So -- 12 A Or the estate is. 13 Q -- she -- she did that -- 14 A To keep anybody out. You couldn't just 15 unlock the door. 16 Q So what -- what was different from the 17 way the store was secured from the time you went 18 in a few months before your mother's death until 19 after? 20 A Where she put all them screws and crap 21 in the door. You couldn't -- I mean, like 22 Mr. Abbot said to the house, you would never have 23 got them long screws out. You had to have a 24 special tool or screw -- on the tip to get in 25 those type screws. You just don't go around and	Page 69 1 mama personally. With the six of us and we get -- 2 grew up -- grew up together. You know, mama was 3 15 and 16 and we had six youngins like doorsteps. 4 And mama never -- I don't think us growing up, we 5 never really fussed and carried on. We done more, 6 as she says, after we got grown and married than 7 we did when we was growing up. She didn't like 8 friction between the children. And she still 9 didn't as long as she lived. 10 Q So you knew Eris had a key to the 11 store, but you didn't call her, correct? 12 A Right. 13 Q You knew that Eris knew what was in the 14 store, but you didn't call her. 15 A Right. 16 Q You knew Eris had boarded up the store 17 because she was concerned about the safety of the 18 contents in there and you didn't call her. 19 A I did (sic). 20 Q You didn't call any of your other 21 siblings, either, to go with you in the store. 22 A No. 23 Q You were aware that Eris had a -- are 24 you aware that Eris had a key to the storm door 25 hasp lock?

18 (Pages 66 to 69)

Q&A Court Reporting

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1 A The storm door pass lock?

2 Q The hasp lock on the storm door in the

3 store. How many locks did you have to break to

4 get in -- to where you got in that day?

5 A The one key opened all of it except

6 that padlock she had on the door. We had to saw

7 that off.

8 Q Okay. Are you aware that she had a key

9 to that lock?

10 A She probably did. Nobody else did.

11 Q Was anything else within the store

12 locked that you broke into?

13 A No, nothing. We just went to the

14 freezer. I figured that's -- well, it's pride and

15 joy that day we went in for the alarm. She

16 thought -- that's why the only thing I thought was

17 everything what she was trying to hide or take

18 care of was all in the freezer. I feel sure

19 there's other stuff around the store there.

20 Q Why would you go to that treasure

21 without having other family members there?

22 A Well, I just felt like I was in -- mama

23 had left me in charge, and I was going to -- I

24 didn't want nobody breaking in the store like I

25 say. That's the reason I went to do it. And, you

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1 know, maybe it was a mistake, but I feel like I

2 didn't take nothing out of there. Somebody said

3 that they thought I took half the stuff home. I

4 did not take nothing home that night. Everything

5 went in Pam's truck. We went straight to Marion

6 and put it in the vault there. And whatever is

7 missing out of there, it was missing before I got

8 into the freezer. And I've heard there's some

9 stuff missing. So --

10 Q Were there any --

11 A -- I'll put it like there.

12 Q Were there any other locks? Like was

13 there a lock on the freezer?

14 A Yes, there was.

15 Q Did you have to break that lock, too?

16 A Yes, we had to saw it off.

17 Q Did you not feel that you should call

18 Eris to open that lock?

19 A No, I didn't think I needed to call

20 Eris for nothing. She made sure she was in charge

21 all these years. And I was going to show her that

22 I'm in charge now, okay? Right. Mama said, carry

23 it out like I want it carried out here. So that's

24 what I tried to do. And I feel like she

25 appreciates what I've done so far. I don't feel

Page 72

1 guilty about anything that I've done for her or

2 said about her or done for her, you know. I

3 don't.

4 Q The -- so when you -- when did you call

5 Pam to come down there?

6 A I called that night, but she was -- I

7 waited for Kirby to come to keep the children.

8 Q So when did she get to the store?

9 A Must be about 8:30 or quarter to nine.

10 Q That night?

11 A Yes, it was.

12 Q And how long did it take her to get

13 there from the time that you opened up the store?

14 A Probably less than -- because we didn't

15 call until after we got everything on the floor

16 right there at the door. And when she drove up to

17 with that long truck of hers, we went out the back

18 door with it and put it in her car or truck.

19 Q And you put it in her truck.

20 A Right.

21 Q And then -- then what happened to it?

22 A She took it to Marion. Becky and Ron

23 followed. I did not follow.

24 Q Ron who?

25 A Ron Cain, Becky's husband.

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1 Q Was it hard for Becky to get there for

2 this event?

3 A No, she was off.

4 Q And Becky and Ron followed her to

5 Marion?

6 A Yes, they did.

7 Q They went that night?

8 A Yeah, they went straight on over there.

9 Q Did you take an inventory of the items

10 that were removed from the store?

11 A Yes, I did.

12 Q And do you have that inventory?

13 A I don't have it with me.

14 Q Where --

15 A I'll be glad to get you a copy of it.

16 Q Okay. Where is it?

17 A It's at home in a folder.

18 Q Has that been turned over to your

19 lawyer or the probate court here?

20 A They've got a copy of it. Mr. Abbot's

21 already got a copy of it.

22 Q Okay. And when did you make that

23 inventory?

24 A We made it that night. And they made

25 another inventory when they got to Marion, too.

19 (Pages 70 to 73)

Q&A Court Reporting

Page 74 1 Q And who made it? Did you make it? 2 A No, I didn't make it. 3 Q Who made it? 4 A Robert was over there and Pam and -- 5 Q Robert who? 6 A Robert Lee made it. 7 Q Robert Lee the attorney? 8 A Yes, he was. He was over there. 9 Q He was at the store to -- 10 A No, he was at the law office when they 11 got over there. 12 Q Okay. Who made the inventory at the 13 house? 14 A I did. 15 Q So there's one in your handwriting? 16 A Yes. 17 Q Okay. And it'll have everything that 18 came out of the store? 19 A Yes, it will. 20 Q Once you got in the freezer, did you 21 have to open up any items within the freezer? 22 A There was a big old metal box sitting 23 up there with bags of money in it. 24 Q Did you have to break that open? 25 A No, it was already opened.	Page 76 1 Q Was electricity on in the store? 2 A Yes, it was. 3 Q And -- and, you know, you -- you made a 4 comment about Eris running things during her 5 lifetime. Well, what -- what about your other 6 siblings? What about calling, you know, Jackie or 7 Tim or James or one of them to come when you were 8 opening that up? 9 A No, I -- I just felt like, you know, 10 mama had left me in charge, I felt like, and I was 11 going to do -- because she said make sure that 12 store don't get disturbed. So I figured that's 13 what I was going to get whatever was in there out. 14 And that's what I did or tried to. 15 Q Were any of the items taken by other 16 people and distributed out at that time? 17 A No. 18 Q You -- we -- there was a discussion, I 19 think -- 20 A Uh-huh. 21 Q -- on Eris's deposition about some 22 money of Wayne's that was found. Did -- did you 23 find 20 some thousand dollars in Wayne's closet in 24 a metal box? 25 A It was up there in the top shelf piled
Page 75 1 Q Did you count it? 2 Q No, I haven't counted anything. I 3 don't know if they even did an inventory or what's 4 been over there -- I mean, I know what they got 5 in, but as far as all those coins, there was bags 6 and bags of bank -- it looked like bags of from 7 bank depo--- deposits or something. I don't know 8 what the coin -- I mean there's a lot of -- lot of 9 coins. That's all I can say. 10 Q Was any of this videotaped? 11 A Yes, it was. 12 Q And how much of it was videotaped? 13 A Everything that was coming out that 14 freezer. That and Mr. Abbot's got pictures, too, 15 we made on a little small camera. 16 Q So as things were removed as a -- and, 17 basically, I want to know when the camera got cut 18 on. As you opened up the freezer for the first 19 time, was the camera rolling for the first time? 20 A Yes, it was. 21 Q Okay. How about like when you first 22 opened the door to the store, was the camera 23 rolling from that time? 24 A I think it was. Now, I don't -- I -- 25 I'm not sure about that.	Page 77 1 on top of some jeans and stuff and she was 2 standing right there with me -- 3 Q And -- 4 A -- when it was done. 5 Q -- what happened to that money? 6 A I put it in the bank, and that's how he 7 paid his funeral arrangements. We spent over 8 15,000 on his funeral. 9 Q Who -- 10 A The rest of it went in the bank. 11 Q Do you know who -- that money, was it 12 wrapped in any particular wrapping? 13 A She was mentioning about that. I don't 14 remember -- recalling that with the dates and 15 stuff like that. She said it was daddy's money. 16 I don't remember that. I really don't now. I 17 should have remembered that. I remembered there 18 was -- it was -- seemed like it had rubber bands 19 around it. But I don't remember no paper stuff, 20 now. I might be wrong. 21 Q Do you remember your dad's named signed 22 to those papers? 23 A No, I don't. 24 Q Could you -- could you be mistaken? 25 A I could be mistaken, but I -- I'm --

20 (Pages 74 to 77)

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1 when she mentioned that, I -- I, you know, I was
 2 thinking.
 3 Q Did --
 4 A I don't remember.
 5 Q Did Eris tell you that wasn't Wayne's
 6 money. That that was your --
 7 A She mentioned that some of those dollar
 8 bills looked like some of it should have been
 9 daddy's money.
 10 Q And based on that fact, what did you
 11 do?
 12 A Well, I told her, you know, I wouldn't
 13 think Wayne would steal from daddy. But, you
 14 know, it might have been some of the money from
 15 that was in the freezer or whatever. I don't
 16 know. But I knew it wasn't my money, so that's
 17 the reason I went on ahead and took it to the
 18 bank. I didn't...
 19 Q Now -- so when was this going on? In
 20 2010?
 21 A No -- yeah, 2010. It was about a --
 22 probably -- let's see, he died on a Monday, the
 23 5th and it must have been -- because Eris -- at
 24 the funeral home she had -- was in charge. She
 25 was going to pay for the -- signed for paying for

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1 his funeral or upfront or whatever. And it must
 2 have been at least a couple of weeks after then
 3 that we went and paid his funeral arrangement off.
 4 Q You mentioned the fact that you didn't
 5 know whether this money came out the freezer. So
 6 you would agree that you were aware that normally
 7 valuables were kept in that freezer including
 8 cash?
 9 A No, I didn't know at the time, no.
 10 Q Well --
 11 A I didn't know what was in the freezer
 12 until all this here blew up in my face.
 13 Q Well, what freezer were you talking
 14 about when you -- when you said I didn't know
 15 whether that 20,000 came from the freezer. And I
 16 thought you said something like that. I -- I may
 17 not be reciting it exactly right. But I
 18 understood you to say something like --
 19 A Well, that's what I'm saying. I had
 20 heard there's cash money should be in there. I
 21 didn't see no cash money. One of the bags -- one
 22 of that metal box I'm talking about there's
 23 supposed to be so much big money in there, there
 24 was about 20 two dollars bills wrapped up in a --
 25 a rubber band. I have not seen any other cash

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1 money. I didn't go to the bottom of them bags of
 2 the money. They might be at the bottom of the
 3 bags. But that's what my brother, Timmy, says.
 4 He was standing there when they put the stuff --
 5 him and Eris and -- and James Ervin. And Timmy
 6 said there should be a big thing of money in a
 7 metal box outside the freezer.
 8 Q And --
 9 A I have not looked for no metal box.
 10 There was a big heavy box inside the freezer with
 11 some bags in it. And that's all I've seen, and
 12 that's all we took out. And he claimed -- he -- I
 13 told him there was two big long carpet runners
 14 laying on top of the freezer. As -- as you opened
 15 the freezer, that was there. He said, well, that
 16 wasn't put in there when I -- I was standing there
 17 and we was putting stuff in the freezer. He said
 18 that big metal box you're talking about, that was
 19 outside with money in it. I -- cash money. I
 20 said, well, I -- I don't know. That's what I'm
 21 just telling you now. This is after the fact and
 22 now that's been years, so you can figure that. It
 23 could have been that money that Wayne took it and
 24 he put it to his house there. But I don't
 25 remember -- I do not recall seeing daddy's name on

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1 no kind of papers that was wrapped around money.
 2 I did not believe that. And Wayne was one that
 3 was real tight with his money. You can tell what
 4 he had left. And mama wouldn't have this here
 5 riff and raffing now if she didn't have all this
 6 extra money to have to worry about which won't be
 7 nothing left by the time we finish probably.
 8 Q Did Eris tell you that that money was
 9 Granny's from the store that you give to Granny?
 10 A Do what now?
 11 Q Did Eris tell you when that money was
 12 found in Wayne's closet that that was Granny's
 13 money and that you should give it to Granny?
 14 A No, I didn't tell you that. I didn't
 15 say that money came from the store. She was
 16 trying to tell me that it was probably them old
 17 dollar bills from daddy's from the store. I said,
 18 well, you don't know that.
 19 Q And -- and so she --
 20 A Was I supposed to take that money back
 21 to mama and throw it at her face then. No, I
 22 don't think so. This was in Wayne's property --
 23 house. I don't care what it -- if it had daddy's
 24 name on it, I would have said something about
 25 that.

21 (Pages 78 to 81)

Q&A Court Reporting

Page 82 1 Q Did you -- 2 A But it didn't have daddy's name on it. 3 I know it didn't. 4 Q Did you ask your mother about that? 5 A No, I didn't. 6 Q Do you think since Eris said it was 7 your mother's money that it would have been 8 appropriate to at least -- 9 A I don't remember -- 10 Q -- ask her? 11 A -- her saying that. I don't. I really 12 don't. I think we're trying to put some words in 13 somebody's mouth. But I -- I did not do that or 14 say that. No, she didn't say that. She might be 15 saying it now, though. 16 Q You just gave me an answer a minute ago 17 and I -- I was going to ask you when that 18 conversation occurred. But we've talked about 19 another conversation in the meantime so I can't 20 ask that, but -- 21 A Okay. 22 Q -- but I asked you a question -- or you 23 were giving me an answer when you were -- you said 24 you were talking to Tim and some people about 25 there being some money beside the freezer. And do	Page 84 1 at the store that night? 2 A No, they met us over there at -- Becky 3 and Ron and Robert, they had gone to a rehearsal 4 thing. Her son got married that following 5 Saturday what was the 16th. They had been to a 6 rehearsal party over there out from Marion. And 7 they -- Becky or Pam one called them and told me 8 to come back by the office there. They had -- 9 what they had done that night. 10 Q Did you -- 11 A And they stopped and so they were -- 12 they were among the witness to what was put in 13 the -- 14 Q And I'm sorry who -- who was the 15 witness? Becky? 16 A Jackie came by, Marion Brown, Deborah's 17 son, Blane Kennedy, and there -- there was other 18 three that came up. 19 Q So Jackie and Marion were in Marion? 20 A They were out from Marion. Went from 21 Marion and Mullins. They went to a rehear-- 22 rehearsal thing for the grandson. 23 Q And they came by Robert's office? 24 A Right. 25 Q Do you -- do you know why they would be
Page 83 1 you recall giving me that answer? 2 A Yeah -- 3 Q When -- 4 A -- Timmy told me that. He told me that 5 about after we -- I went into the freezer. He 6 said, I'll tell you what was in that freezer -- 7 what we put in the freezer. And he said, I know 8 what went in that freezer, and he -- and he said, 9 tell me what you took out and -- and I told him. 10 He said, that ain't the way it was put in. It's 11 exact words he said. 12 Q And my question was going to be -- 13 A Uh-huh. 14 Q -- when did this conversation occur? 15 After your mother's funeral? 16 A Right. Right. It was a -- 17 Q Not after Wayne's -- 18 A After -- 19 Q -- but after your mother's? 20 A After Wayne -- after mama's. It was -- 21 we went that Friday after her funeral, what was it 22 on the 15th then or whatever. It was that Friday. 23 The funeral was on the 14th. It was that Friday 24 afternoon, later, yeah. 25 Q Was Jackie and/or Marion Brown present	Page 85 1 asked to come by the office? 2 A I don't know. I -- unless -- that's 3 what I said, unless Becky or Pam one called them. 4 I know I didn't call them. They didn't -- I mean, 5 I don't know. 6 Q Did anybody think to call Eris yet -- 7 A No. 8 Q -- to let her know? 9 A No. Well, she was busy calling the 10 sheriff because she saw -- said some Creel man -- 11 must have been that boy down the road -- saw 12 somebody taking stuff out the store. So she had 13 called the sheriff's department and, of course, 14 that one on duty, he wasn't aware of what was 15 going on. So they act like it's nothing -- 16 nothing disturbed or whatever by the time they got 17 there. 18 Q Now, you and Eris, this relationship, 19 what I mean -- and you said some kind things about 20 Eris. 21 A Yeah. Yeah. 22 Q And Eris has done for you throughout 23 your adult life. 24 A Right. 25 Q Would that be correct?

22 (Pages 82 to 85)

Q&A Court Reporting

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1 A Right. Yeah. 2 Q I think she -- 3 A That's what I said. I don't have -- 4 this is really throwed me for a loop. 5 Q The -- did -- did your mother ever tell 6 you in January, February or March before she 7 passed to, you know, I don't like what you're 8 doing. Get out my house, stop, leave me alone. 9 Did she ever object to what you were doing? 10 A No, she had -- she was real firm 11 sometimes. I mean, she had her way about doing 12 things and stuff. She would -- I mean, no, she's 13 never told me to get out of my -- her own -- my 14 own house -- her house, no. She maybe didn't like 15 some things that far as doing, but I -- I -- I -- 16 I know I helped my mama. I mean, I was there. 17 And, I mean, I know I -- I didn't -- I wasn't 18 there harming her if that's what they're trying to 19 say or whatever. Because I was there fixing -- 20 when she got where she couldn't eat table food, I 21 would blend -- make these smoothies and 22 vegetables, whatever she felt like she could eat. 23 Go to town. She wanted fish. I'd go to town and 24 get fish -- fried fish she wanted. And I mean, 25 whatever she felt like she could eat that day, I	1 get right into your -- the personal business. And 2 I know, probably, because -- since she had been 3 there a long time, mama probably did talk to her 4 and do and stuff. But like I told -- I called her 5 from the -- that second time she was in the 6 hospital -- no, it was the first time. She 7 started bathing -- going up there and bathing mama 8 in the mornings. And I tried to tell her, I said, 9 Sharon, we -- she's at the hospital. Let the 10 nurses bathe mama. I said, if she falls, I said, 11 it'll be your fault and not the hospital. 12 Well, your mama wants me -- I said, I'm 13 telling you, my daughter works in the nursing homes. 14 You don't handle people like that and stuff. You're 15 not certified, period. You're just a sitter more or 16 less. You've never been to any kind of nursing 17 stuff -- I said, you -- even though you got 18 experience, it's not like health. I said, that's my 19 mama and you know the condition she's in now. The 20 least move she could break something. And I -- I 21 did call her twice at home, two different times 22 within a couple of weeks there. I said, Sharon, why 23 are you keep bathing mama. I said, I'm telling you, 24 if she falls and hits that floor and breaks 25 something, I said, you going to -- you going to be
Page 87	Page 89
1 made sure that she had it cooked, squash, whatever 2 she wanted. So, no, I -- I feel like I did what I 3 could do for my mama at that time. But I regret I 4 didn't do more beforehand. But like I say, I was 5 tied down with grand youngins and I -- I did and 6 called as much as I could. 7 Q Did your mother want the Nightingale 8 nurses in her home? 9 A She never objected. That couple of 10 nights there where I was home by myself and I told 11 her, I said, mama, I cannot handle you by myself. 12 I said, I'm going to have to get some extra help. 13 She said, well, do whatever you need to do. And I 14 told her, I said, I'm going to call somebody in 15 the morning. Because she was crying and I was too 16 and I said, I can't handle you. 17 Q Did -- did you ever want to fire or get 18 rid of or no longer need the services of Sharon or 19 Rachel (sic)? 20 A No -- no, I didn't ever -- no. 21 Q Were you satisfied with the service 22 they were rendering to your mom? 23 A They were -- they were doing their 24 part, and I didn't have no objections. But the 25 only thing about it, like I say, Sharon wanted to	1 liable for it. The hospital's not. 2 Q And when did you call her? 3 A I called her twice within those two 4 weeks that she -- those -- she gave -- went in on 5 the 8th. I know it must have been about the 6 middle of the next week and the next week. And I 7 mean, I really got ugly with her. I said, Sharon, 8 I'm telling you. 9 Q Why didn't you just tell her when you 10 were at the house there? 11 A She wasn't at the house. This was the 12 time she was at the hospital. When she would come 13 up there, I would tell her, you know, Sharon, 14 we're not going -- you're not going to bathe her 15 today. And I would -- you know, if I did stay up 16 there that full time during while she was at that 17 first time at the hospital. I know the second 18 time I stayed a good bit with her, and then I went 19 home with her. 20 Q Did your mother ever ob-- protest or 21 object to you being the power -- the healthcare 22 power of attorney in front of third parties that 23 you're aware of? In other words, you know, there 24 was a conversation in front of her that you were 25 her power of attorney -- healthcare power of

23 (Pages 86 to 89)

Q&A Court Reporting

Page 90	Page 92
1 attorney. Did your mother ever object that you're 2 aware of? 3 A No, she didn't ever say yea or nay. 4 The only time, like I told you, that second time 5 we was coming home from the hospital and I told 6 her. I said, mama, Eris still doesn't think that 7 I'm the healthcare attorney. And that's all she 8 would answer and say. She said she'll soon out -- 9 soon find out soon enough. And I said, well, you 10 need to tell her, remind her. I said, you know -- 11 and we just -- I don't know. 12 Q At -- when your mother got home from 13 the hospital -- 14 A Uh-huh. 15 Q -- did -- did the tension sort of rise 16 a couple of times where -- where Eris was told to 17 butt out or things sort of that nature? 18 A Well, the only time I can think about 19 was whenever she came to mama's bedside on that 20 Saturday about two weeks before she got so sick, I 21 was sitting right there beside the bed and she 22 come in there and right in mama's face, she said, 23 mama, if you want your will changed, Hood Temple 24 said he would get it changed for you and not 25 include Judy B-- Judy and her crowd being in	1 girls that came in, she would make sure she got down 2 there if it was three times a day, she would come 3 and check who was coming in the house. Informing me 4 you don't know who's coming in mama's house. 5 And no -- no telling what kind of people you got 6 coming in here. But anyway, she baled it down there 7 that night about a quarter to eight. And I thought 8 she was coming after a copy of the thing. 9 But she didn't even bring it up. She 10 came and flopped down in the chair. And Gwen was 11 sitting there because she had already come -- the 12 black girl -- and she said that -- she said 13 something about -- she started -- any of the new 14 girls she would question from one end to the other. 15 How long you been there. Where you live. How many 16 children. I mean, just giving her one side or the 17 other. And finally she -- Becky came in right after 18 then. Becky went into mama's room and started 19 talking about going to Belks and all this stuff and 20 Gwen got up and went in there. And Becky closed the 21 door, because me and Eris was getting in it. 22 Eris -- I brought up about why do you act 23 like you in charge of people and want to get awards 24 when you do for other people. I didn't bring no 25 names up. Didn't have nothing to say about nobody.
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1 charge. And she said, don't worry about it. And 2 I -- I'm usually the type to sit back and don't 3 say nothing, but like I told the people I've 4 gotten stronger over the years. And I just got up 5 on the edge of that chair and I said, Eris, I 6 don't want to hear Hood Temple's no more name in 7 this house. And that was last said. And she 8 didn't bring it up anymore. I didn't bring it up 9 anymore. But that's the only time I raised my 10 voice. 11 And then that Thursday night before mama 12 died that Monday, Eris come baling down there. She 13 called that afternoon about 6:30 or 7:00 and said, I 14 want a copy of that healthcare, to me. I don't 15 think you're in charge. And I said, Eris, I am. 16 She said, well, I'm coming after a copy. I said, 17 well, I don't have a copy here. The -- the only 18 copy I got is at the house locked up in the safe. 19 Well, I'm going to get a copy. I'll call hospice in 20 the morning and talk to Tiffany and she'll give me a 21 copy. I said, well, I don't know if she will or not 22 like that. 23 And so within a -- we had a new girl 24 coming on that night about a quarter to eight, and 25 Eris made a habit if she didn't have met those other	1 I just brought it up. I said, why is it that you 2 wanting to be controlling to everybody? I said, you 3 know, I do for other people because I want to. I 4 don't expect nothing in reward. If I give you 50 5 dollars and I don't say I don't want it back or I 6 don't tell you I want it back, that's gone out the 7 window. If I give somebody anything, that's between 8 me and them. You don't have to tell me what, you 9 know -- anyway I got into that with her. 10 And she act like -- I said something 11 about -- we brought up something, and it must have 12 hit a nerve. And she said, they in there laughing 13 and talking. Mama needs to rest. I said, well, 14 mama slept all day. I said, mama don't feel good. 15 I said, they act like they're having a good time. 16 Well, Becky had closed the door when we got too loud 17 out there in the den. And anyway, after about a 18 hour or so, she jumped up and she said, it's getting 19 late. I got to go home. And she went and jerked 20 the door open. 21 And -- well, I thought Becky had closed 22 it because of -- of having to change a diaper or 23 something, but it wasn't. Becky said that she could 24 hear we were getting heated argument. But anyway, 25 she went in there and walked out and that little

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1 girl, Gwen -- Becky had walked out to the car to get 2 a Belks coupon or something -- they had some sale -- 3 and she told this girl -- never seen her before -- 4 you better keep your ears open because what you've 5 heard tonight you might have to go to court with. 6 And that little girl act like she was scared to 7 death. She come back in and she said, she's 8 threatening me. I said, just ignore it. I said, 9 that's just the way she talks to everybody. And 10 that's the way she's got to show her authority, so, 11 you know. 12 Q Did Phillip ever sort of holler and 13 tell you to throw everybody out the house? 14 A Yeah, he got fed up the way that she 15 was treating me. Yeah, she was, yeah. 16 Q And about when was that? What time 17 frame was that? 18 A That was -- I reckon it must have been 19 right before mama died or right after she died. 20 Because I remember he called me. He said, I'm 21 going to call her and bless her out. She ain't 22 going to talk to my mama like that. I said, well, 23 she has a way of expressing herself. Not the way 24 I normally do. I try to talk to people like I 25 got -- got some sense. But I said, she acts like	1 stuff. But this is just put the hammer on the 2 nail. 3 Q And now in January and February and 4 March of 2013, you were no longer babysitting for 5 Pam? 6 A I'm babysitting, but she had to put 7 them -- her two children in early daycare and 8 after care until I took care of mama. 9 Q And so she -- 10 A I take care of them now. 11 Q -- but in January, February and March 12 of 2013, while your mom was alive, you didn't 13 provide for their care any longer? 14 A No, I did not. I wasn't able to. And 15 Phillip's baby, too. After she had to get another 16 lady to come in and keep her. But that's what I 17 said, I told mama, I said I'll get Pam and Phillip 18 to pay somebody to come in. Because I didn't -- I 19 don't take money from either one of mine. I just 20 do it because I enjoy the children. 21 Q Have you had any conversation with 22 Jackie, Tim, James, Jamie or Mike sort of -- you 23 know, about this litigation about what's going on? 24 A I just told -- I talked to Jackie day 25 before yesterday. I told her. I said, I don't
Page 95	Page 97
1 everybody's crazy but her. I said, I've heard her 2 talk to some of her landlord -- land--- renters. 3 And I said -- told Eris to her face, I said, I 4 would not talk to people like you do. I said, 5 they way people are now, I said, you might think 6 you're strong, but I'll tell you, I wouldn't be 7 talking to people -- these renters like that. I 8 said, they could knock you down and you wouldn't 9 ever know it. But I said, that's just the way she 10 talks and I've kind of ignored it. And forgive 11 and forget. And that's what I've always tried to 12 do when people mistreat me. 13 Q How about James? Did you ever like 14 tell James to leave or have an issue with him 15 coming around? 16 A Far as leaving? I don't remember ever 17 saying anything to -- to hurt his feelings. Now, 18 like I say, I told him one time about how mama was 19 handing out money to him. I said, you can't 20 keep -- mama can't keep supporting you and Mikie. 21 But I don't remember -- I mean, I called and 22 talked to him, you know, and stuff. I even went 23 to see him several times since mama died and 24 stuff. But I -- I haven't, you know, we all like 25 I say brothers and sisters have quarrels and	1 know why the whole thing even started. I said, 2 you know, far as material things don't mean that 3 much to me. And I know what my mama told me. And 4 I know what she wanted out of what she asked for. 5 And I'm going to try to carry it out the best I 6 can. But Jackie said, I'm -- I'm all for you. 7 Timmy is saying that. Jamie is and like I say, 8 Jackie's children and all. I just don't 9 understand why we even in this here -- this 10 predicament like we are now. 11 Q You -- 12 A I don't think mama wanted this and I -- 13 I know she didn't. 14 Q If I had to take vote from Jackie, 15 Jamie, Mike, James and Tim, who they wanted to 16 serve as personal representative, do you -- do you 17 know -- have you had the conversation with them as 18 who they would want to serve? 19 A No, Jackie my oldest sister, she said, 20 Judy, I -- I know you're doing a good job. That's 21 all she said. She didn't te--- say Eris would do 22 a better job. She said if you get it, she says I 23 know you're going to do a good job. That's all 24 she said to me. 25 Q Have you ever had any conversation with

25 (Pages 94 to 97)

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Page 98 1 the others, James, Jamie, Mike, Tim about who 2 should serve? 3 A Timmy and Jamie did tell me. Said, 4 Aunt Judy, I think you going to do a good job if 5 you get the responsibility. And I'll work with 6 you. 7 Q Are you going to request a fee from 8 your service as personal representative? 9 A I didn't request one for Wayne, but 10 Robert said that was up, you know -- that -- you 11 know, that's normally what they do. And that's 12 the reason I, you know, I accept it from Wayne. 13 Q So are you -- 14 A If I don't have to have it, I -- no, 15 I -- I won't request it. If it's not -- I thought 16 that went along with the -- the will, I mean, 17 whatever litigations or whatever you call it. 18 Q And so you're not -- 19 A I wasn't aware of that until Robert 20 told me that. I didn't know that was extra of 21 being a -- but as much work you have to do, I know 22 with Wayne's. Because I had to pull for 23 everything. He didn't have nothing. He had a 24 safe deposit box and didn't even have a will in 25 it. And not even the money either for that matter	Page 100 1 think -- 2 A Yeah. 3 Q -- didn't you say -- 4 A Timmy he called me because he said 5 something about he had details about what was in 6 the freezer. And he said, I'll be glad to tell, 7 you know, whoever. And I said, well, let me get 8 my -- my stuff over with, like I told Jeff, and if 9 he needs to talk to you, he will, you know, and 10 stuff. But -- but like I said, he said -- and his 11 wife and his children, you know, they -- they 12 said, Aunt Judy, I think you'll do a good job, 13 whatever, you know, comes your way. I know mama 14 wanted you -- if she wanted you, then I know 15 she'll handle it. 16 Q And how about James or Mikie? 17 A I haven't talked to James or Mikie 18 about this. No, I didn't bring it up and I 19 know -- you know... 20 Q Did they ever tell you that, we thought 21 mama wanted Eris to serve? 22 A No, they never said that. Not to me. 23 I know they were close to mama. But like I say, 24 James Ervin -- mama raised his two children. So I 25 know she might have told him some things that she
Page 99 1 so... 2 Q So if -- if you have the right to waive 3 your fee, you're willing to waive your fee? 4 A I will. I will. Yeah. No, I don't 5 expect anything. That's why I said, I -- I -- I 6 told mama. I'll do whatever it takes to get this 7 will like you want it to do because I know what 8 your two sisters went through. 9 Q Did your mom have any short-term or 10 long-term memory issues or was she forgetful in 11 the months before she passed? 12 A I wouldn't say that either. Because 13 I'm 68 and she was 86. We all have little memory 14 lapse and stuff. She'd forget things. And like I 15 say, she was the type she didn't want children 16 fussing with each other. She would agree with 17 Eris, and then turn around and say just the 18 opposite to me and stuff. And I'd say, well, 19 mama, that's not what you just told me. Well, 20 y'all just be quiet. I want it like -- I mean, 21 now, she -- she didn't want no fussing. So that's 22 what I'm saying. I don't think she had memory 23 loss. She just didn't want the children fussing. 24 Q How about Tim? Have you had any -- I 25 think you said -- I know you said Jamie, I	Page 101 1 didn't tell us other children. 2 Q And you haven't found, again, a 3 composition book or a journal or any notes like 4 that of your mother's regarding her daily 5 activities or what she wanted or things like that? 6 A I haven't really looked for it. 7 Because like I say, I used to buy those little 8 grocery notes and put by her chair. You know, and 9 I said, mama, do this, you know, and stuff. I 10 don't need to make no notes. I mean, she would 11 literally say that. And so, no, I haven't seen 12 that. It might be at the house. I haven't looked 13 for it. 14 Q Okay. Who has a key to the house now? 15 A Mr. Abbot does. 16 Q Is he the only one that has a key -- 17 A He's the only one -- 18 Q -- to everything? 19 A -- that's got one. Uh-huh. 20 MR. FINKLEA: Jeff, I would like to ask 21 my client -- or have you decided if you want to 22 ask anything now or -- y'all excuse me for a 23 minute. 24 THE DEPONENT: Okay. 25 (Whereupon, a break was taken

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Page 102 1 from the proceedings.) 2 MR. FINKLEA: Ms. Jones, I don't -- 3 THE DEPONENT: Yeah. 4 MR. FINKLEA: -- have any other 5 questions for you. But -- 6 THE DEPONENT: Right. 7 MR. FINKLEA: -- I would like to ask 8 you or give you the opportunity if -- and I know 9 you haven't had a lot of time to go back and think 10 on it, but if there's any answer that you would 11 like to elaborate on or to change or to explain 12 yourself, I want to give you the opportunity to do 13 that before we -- we recess the deposition. 14 THE DEPONENT: Uh-huh. 15 MR. FINKLEA: Do you feel the need for 16 that? 17 THE DEPONENT: I don't think of any, 18 but I might have could have rambled on a bit 19 longer, but I tried not to. I got carried away 20 there a couple of times. But, no, I -- I feel 21 like, you know, I told the truth. And I felt like 22 what mama had -- I told my mama before she passed 23 and what I felt like she wanted out of me. And 24 like I say, it's just, you know... 25 MR. PAYNE: We're going to read it and	Page 104 1 CERTIFICATE OF REPORTER 2 State of South Carolina 3 County of Florence 4 5 I, Erica Norwood, Court Reporter and 6 notary public for the State of South Carolina, do 7 hereby certify that the deponent in the foregoing 8 deposition was, by me, first duly sworn to testify 9 to the truth, the whole truth and nothing but the 10 truth; that said deposition transcript was taken 11 via stenomask with backup; that the foregoing 12 transcript contains a true record of the 13 deposition of said deponent. 14 I further certify that I am neither attorney 15 nor counsel for, nor related to or employed by any 16 of the parties connected to the action, nor am I 17 financially interested in the action. 18 Witness my hand at Florence, South Carolina, 19 this the 5th day of July, 2013. 20 21 22 Erica Norwood, 23 MY COMMISSION EXPIRES: 24 March 2, 2022 25
Page 103 1 sign it. If we have something she needs to 2 change, she'll, you know. 3 MR. FINKLEA: Thank you. That's all I 4 have. 5 THE DEPONENT: And thank you, too. 6 MR. PAYNE: And that's -- I don't have 7 any questions. 8 THE DEPONENT: Okay. 9 (Witness excused.) 10 (Whereupon, at 2:28 p.m., 11 the taking of the foregoing 12 deposition was concluded.) 13 14 15 16 17 18 19 20 21 22 23 24 25	Page 105 1 1 1 1 1 1 1 1 1 1 2 2 2 2 2 2

State of South Carolina

In Probate Court

County of Florence

In the Matter of: Estate of Eris Singletary Smith

Eris Gail Smith,

Petitioner,

V.

2013-CP-21-190

Judy Smith Jones.,

Respondent.

Deposition of: Eris Gail Smith

Location: 814 West Evans Street

Florence, South Carolina

Date: Friday, May 17, 2013

Time: 10:07 a.m. - 12:37 p.m.

Court Reporter: Erica Norwood

The deposition is taken pursuant to notice and/or agreement, in the above-entitled cause pending in the above-named court and pursuant to the South Carolina rules of civil procedure.

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Page 10 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	Page 12 1 when he was sick also dying in 2008. 2 Q But none of the sitters or caregivers 3 stayed there overnight? 4 A Overnight? 5 Q Yeah. 6 A My sister stayed there overnight some 7 when my mother was sick for about the last, oh, 8 month or so. 9 Q Okay. But before that last month or 10 so, really, she was able to live by herself and 11 take care of herself? 12 A Predominantly. My brother was with her 13 a lot before he died. 14 Q Okay. 15 A He would tend to go spend the night 16 with her. 17 Q When -- when did he die? 18 A In July 5th, 2010. 19 Q And his name is Wayne? 20 A Almon Wayne, A-L-M-O-N, Wayne Smith. 21 Q And when did your mom discover that she 22 had cancer? When was that discovered? 23 A We discovered that in the early fall of 24 2011. In fact, I was at my sister Judy's house 25 when the doctors from Charleston called me.
Page 11 1 before she died? 2 A She was in her home. 3 Q Okay. Where is that? 4 A It's 309 Pamplico Highway, Effingham. 5 Q And when did your father die? 6 A 2000 -- September of 2000. 7 Q Okay. And your mother lived by herself 8 after your father's death? 9 A Mostly, yes. 10 Q When did she have, I guess, the 11 caregivers come in there and live with her some? 12 When did that start? 13 A I hired them back in 2008. 14 Q Why did you hire them in 2008? 15 A My mother didn't have the funds to hire 16 them. 17 Q Okay. And what -- what were they doing 18 in 2008? 19 A Housekeeping. 20 Q When did somebody physically live, 21 though, in her house with her? When did that 22 start? Not just helping her out, but I mean 23 didn't people live there with her at some -- 24 starting at some point? 25 A Other than my brother living with them	Page 13 1 Q And up until that time, she had good 2 health? 3 A Predominantly other than, well, back 4 trouble from mercer staff. 5 Q All right. Which private nursing 6 companies did y'all use to provide her with care? 7 This is right before her death? 8 A Well, my mother and I, we didn't want 9 that. 10 Q Okay. 11 A But Judy and her daughter chose -- I 12 believe it was Nightengale. 13 Q Okay. Any other ones that were used? 14 A Not agencies. 15 Q Yeah. 16 A Not that I know of. 17 Q Right. And that's what I was talking 18 about, agencies. Who -- who paid Nightengale's? 19 Your mom paid them? 20 A My mom, I'm sure. 21 Q Yeah, and who arranged for them to help 22 your mother? 23 A Well, I imagine Judy and Becky did. 24 Q And when did they start? 25 A Without looking at my book, I would

4 (Pages 10 to 13)

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1 have to say somewhere -- we came back from the 2 hospital the second time the later part of 3 February. 4 Q Of 2013? 5 A Yes. 6 Q Did they stop -- did -- did y'all stop 7 using them, or did Judy and them stop using 8 Nightengale's at some point? Or did they help her 9 all the way through her death until she went to 10 hospice? 11 A She didn't go to hospice. 12 Q Well, hospice came in to help at some 13 point, didn't they? 14 A They were there since the second time 15 we came out of the hospital. 16 Q Yeah, right before -- 17 A A hospice nurse -- 18 Q -- her death. Yeah, a hospice -- 19 A -- came -- 20 Q -- nurse would come by and check on 21 her. 22 A About three weeks prior to her death. 23 Q But the Nightengale's, was 24 Nightengale's used up until her death? 25 A Yes.	1 A I could only quote what my mother said. 2 She thought she was missing some stuff. 3 Q Okay. 4 A Some items in her house was missing. 5 But then again, my mother is 86 years old. 6 Q Okay. But you -- you never said that? 7 A Well, I've -- I mean, if my mother said 8 it, I probably did repeat it. 9 Q Okay. 10 A And I pro--- and I know definitely I 11 probably said it whoever was in my mother's 12 house, my sitters -- her sitters. 13 Q Yeah, who else was sitting with them 14 besides the Nightengale's people would come by and 15 help. Who else was helping her? 16 A The ones I hired. 17 Q All right. Who-- 18 A They were there up until her death. 19 Q And who is that? 20 A Sharon Graham. 21 Q Graham? 22 A Graham, G-R-A-H-A-M. 23 Q All right. 24 A And Roshe'll Pringle, P-R-I-N-G-L-E. 25 They're mother and daughter.
Page 15	Page 17
1 Q Okay. Did you -- did you ever think 2 that some of the sitters might be stealing from 3 your mother, anything? 4 A Stealing from my mother? 5 Q Yeah. 6 A No. 7 Q Never mentioned that to Judy or anybody 8 that -- that you thought that some of the 9 sitters -- 10 A The Nightengale nurses? 11 Q Any of them. That somebody might be -- 12 some of the other people that were sitting with 13 her might be stealing from her? 14 A My mother said once that she was -- 15 thought she was missing some stuff. 16 Q Okay. 17 A She was missing some stuff. 18 Q And what was she missing? 19 A Oh, I don't know. 20 Q Okay. 21 A She looked for a statute for a long 22 time, but they finally found it in attic so... 23 Q All right. But you never told anybody 24 that you thought some of the sitters were taking 25 anything from your mother?	1 Q All right. Where do they live? 2 A Pamplico. 3 Q And who paid for them? With -- who -- 4 who paid them for their time? 5 A Initially I did. 6 Q Okay. And then your mother would start 7 paying them? 8 A After she received from funds from 9 Wayne's estate, she did. 10 Q And that would have been after 2010? 11 A Right. 12 Q Okay. And I see a number -- I've seen 13 the checks. There's a lot of checks that are 14 being written to you. 15 A Uh-huh. 16 Q Was that to pay you back for the 17 sitters, or would your mother just pay the sitters 18 directly? 19 A No, my mother paid the sitters most of 20 the time. Now, if I were down there and they had 21 to get paid, sometime I would pay them. My mother 22 kept a tab. She and the nurses kept little 23 receipts. 24 Q Yeah. 25 A Stuck them on a board. I may pick up

5 (Pages 14 to 17)

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Page 18	Page 20
1 groceries 80 dollars here. Pick up prescriptions 2 90 dollars here and total them up. And at the end 3 of two or three weeks, Granny would reimburse me. 4 She and Sharon would add up the receipts and 5 reimburse me. 6 Q And write you a check? 7 A There's receipts now that Granny had 8 when I -- 9 Q And you've got copies of the receipts 10 that -- for all the checks that she wrote to you, 11 you would have the receipts -- 12 A No, Granny -- 13 Q -- that would -- 14 A -- had the receipts. 15 Q -- justify. Who does? 16 A Granny does. 17 Q Who's Granny? 18 A Granny did. My mother. That's what 19 she was called by her -- her children. 20 Q Okay. 21 A My mother was def-- identified as 22 Granny. Because we both had the same name. 23 Q Where did she keep those receipts? 24 A In a desk drawer in the den. 25 Q And she would review the receipts and	1 Q But you didn't keep the -- any of the 2 receipts? You -- you -- they're all in that desk 3 drawer in the den? 4 A My accountant and I, we have a -- a 5 catalogue -- a notebook with everything that I've 6 bought for my mother from July of 2008 to 7 July of 2010. All those receipts, Sharon, Roshell 8 and my mother had. 9 Q Okay. Let me make sure I'm clear. 10 You've got copies of the receipts or you don't -- 11 A I have -- 12 Q -- have copies. 13 A -- copies of the information that it 14 was spent for. 15 Q Okay. And what -- what is -- is that 16 just something you wrote -- 17 A Groceries -- 18 Q -- down? 19 A -- groceries, prescriptions. 20 Q Is -- is it just something you filled 21 out or is it a -- it's not a receipt. Is -- is 22 that what I'm gathering from your answer? 23 A That's the inventory of everything that 24 I spent down there. 25 Q Who prepared the inventory?
Page 19	Page 21
1 then write you a check? 2 A She and Sharon would add everything up. 3 Q And if I saw like gas, if she's paid 4 you for gas, what is that -- 5 A That -- 6 Q -- reimbursing you for? 7 A I don't know what gas would be. I'd 8 have to see the check. 9 Q Did you -- did you -- if you took her 10 to Charleston, did you make her pay your -- your 11 gas for driving her down there? 12 A No, she -- 13 Q Okay. 14 A -- paid one time. My mother offered a 15 25 dollar fee after we stopped at the store to pay 16 for gas. All the other dozens of times, no. 17 Q But if you were buying her groceries 18 and stuff, you would ask her to reimburse you for 19 that? 20 A Yeah, because you -- that's what we're 21 talking about five and ten dollars. Sometimes 22 we're talking about a 100 dollars at one store. 23 Q Right. 24 A And my mother said she had the money to 25 pay it.	1 A I did. 2 Q Okay. 3 A From receipts. Sharon and I and Granny 4 did it in her den. 5 Q Okay. 6 A Month by month. 7 Q And who's your accountant? 8 A My -- my -- does my taxes, Kim. 9 Q I'm talking about the accountant who 10 has this ledger that you're talking about? 11 A I've got a ledger. 12 Q You've got the ledger, okay. Now, did 13 Sharon or Roshell, would they borrow money from 14 your mother? 15 A Yes. 16 Q All right. Did they pay her back what 17 they owed her? 18 A Well, if they borrowed it directly from 19 Granny, that was between Granny and them. 20 Q Okay. Do you think they paid them 21 back -- paid your mother back what they owed her? 22 A Well, all the information would be in 23 the desk drawer. 24 Q Okay. And you -- did your mother keep 25 up with loans that she made to them?

6 (Pages 18 to 21)

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Page 22	Page 24
1 A Yes. 2 Q Okay. Do either Sharon or Roshell owe 3 you any money? 4 A I believe both of them may owe me a 5 small amount of money. 6 Q How much is left owing to you? 7 A Maybe a couple hundred each, and this 8 was during the time that Granny was sick. 9 Q How much did you -- have you loaned 10 them over the years? 11 A Oh, goodness. Whenever Granny told me 12 to. 13 Q I'm talking about you, personally, out 14 of you money loaning -- 15 A That's what I'm saying. 16 Q -- them money. Okay. 17 A Only when my mother -- 18 Q But -- 19 A -- told me to, that's what I did. 20 Q And how did they repay you what they -- 21 what you loaned to them? 22 A You mean check or cash? 23 Q Yeah. 24 A Oh, usually cash. 25 Q And did -- are they supposed to come	1 Q -- to pay her back? 2 A The past week -- 3 Q All right. 4 A -- right before she went to the 5 hospital. 6 Q But you weren't at the hospital when 7 one time -- it was either Sharon or Roshell came 8 to the hospital. Your mother's in the hospital, 9 and they asked your mother for money so they could 10 pay a power bill or some other type of utility 11 bill? 12 MR. FINKLEA: I'm going to object to 13 form. Go and ask -- answer it. 14 THE DEPONENT: Say that one time -- one 15 more time, please. 16 BY MR. PAYNE: 17 Q Yeah, that's a long question. Were you 18 up at the ho-- well, let's back up a little bit. 19 Where was your mom in the hospital back in 2013? 20 Which hospital was she in? 21 A McLeod. 22 Q McLeod. Okay. And were you at 23 McLeod Hospital when it's either Sharon or Roshell 24 came to McLeod -- 25 A Uh-huh.
Page 23	Page 25
1 pay you weekly, monthly? 2 A No, sir. 3 Q When -- what are the terms of when 4 they're supposed to repay you? 5 A When they have the funds, they come pay 6 me. 7 Q Okay. Now, were you ever at the 8 hospital when Sharon or Roshell came up there to 9 ask your mother to loan them some money? 10 A Did I hear them say that, no. 11 Q Were you aware of that incident when 12 they came up to the hospital, when your mother was 13 in the hospital, to borrow money from her? 14 A My mother never said that. 15 Q No, but I'm not asking if she said it. 16 Were you aware that they had done that? 17 A I believe on the -- I've got it in my 18 notes -- but one date Granny told me to give 19 Sharon the 104 dollars she owed her, which was 20 prior -- the week prior she worked before she went 21 to the hospital. My sister, Jackie, was sitting 22 in the room, and I gave Sharon a 104 dollars. 23 Q And that -- was that an advance on work 24 she was going to do or was that -- 25 A No.	1 Q -- and asked your mother to loan them 2 some money to pay a utility bill? 3 A There was a time -- now, whether it was 4 when she was in room 1004 or whether it was the 5 time we went back the second time with Dr. Sitti 6 (ph) when she was in room 804. There is an 7 incident and Granny directed me to give -- it 8 was -- whether it Sharon or Roshell -- it's in my 9 notes -- but one of them I did loan the 250 10 dollars for Granny. I did. 11 Q Okay. And did Judy fuss at them for 12 coming up there borrowing money? 13 A I didn't hear Judy fuss at them. 14 Q Okay. They didn't tell you that Judy 15 had fussed at them for coming up to the hospital 16 to borrow money from your mother? 17 A I could ask them now, and they might 18 tell but... 19 Q Okay. You weren't aware -- you were 20 aware of the loan, but not that they were get-- 21 they got fussed at -- 22 A Uh-huh. 23 Q -- by somebody? Now, does Sharon and 24 Roshell currently work for you? 25 A No, they do some light housework for me

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Page 26 1 when they have time. 2 Q And that's what I mean. When -- when's 3 the last time they -- 4 A Oh. 5 Q -- worked for you? 6 A Maybe -- I can go back and look but -- 7 maybe right after Granny died, maybe. But more -- 8 I think that was more of a consoling thing. 9 Q But since March of 2013, they haven't 10 done any work for you in any capacity? 11 A Sharon came up to the Granny's house 12 one day when I was cutting grass. But she wasn't 13 paid, no. 14 Q What did she come up to the house for? 15 A She knew I was going to be up there 16 cleaning the yard up. 17 Q How did she know you were going to be 18 there? 19 A Because we probably had talked about 20 it. 21 Q And where did that conversation take 22 place? 23 A On the phone. 24 Q Okay. And did you call her or did she 25 call you?	Page 28 1 Q Okay. And then you gave her a credit 2 against the money that she owed you? 3 A That's true. 4 Q Okay. What's -- what's Sharon's phone 5 number? 6 A I don't know without looking at it. Is 7 that what you want me to do? 8 Q If you've got it in your -- 9 A Yeah. 10 Q -- phone. If you would, look up both 11 of theirs for me. That'll help. 12 A Judy should have the numbers. She's 13 called them. 14 MS. JONES: I don't have my phone with 15 me. 16 THE DEPONENT: Sharon is 610-0754. 17 Roshell, I got 593-2147. 18 BY MR. PAYNE: 19 Q And besides the one time one of them 20 came by your house to do some light housework, 21 have they done any further work for you since your 22 mother's death? 23 A Well, it -- it could have been one 24 times, it could have been four times. If I look 25 at my -- my journal here, I can tell you exactly.
Page 27 1 A It could have been either way. 2 Q And what was -- why were you calling 3 her? 4 A Because I was directed by Granny before 5 she died to stay in touch with some people, and 6 those were one -- some of the people. 7 Q So after your mother's death, you 8 called -- was it Sharon or Roshell? 9 A It could have been both. 10 Q Okay. And just to talk? 11 A That's right. 12 Q And since your mother's death, they 13 have done some light housework for you somewhere 14 or they haven't? 15 A I think -- I cleaned the attic out, but 16 I think that was way before Granny died. I think, 17 now. In fact, I know it was, yeah. And I think 18 one time Roshell did come help me to pay back some 19 of the money that she owed me. That is correct. 20 Q Where was that? 21 A At my hou--- residence -- my residence, 22 1414 Gregg. 23 Q Just cleaning? What kind of work was 24 she doing? 25 A Just housekeeping.	Page 29 1 Q Okay. 2 A But I can't say definite. 3 Q And when's the -- when's the last time 4 you had them doing some work for you roughly? 5 Since you -- yeah. 6 A Well, Roshell just had a stroke about a 7 month ago. So I know she hasn't been in my house 8 in the last month or so. She's getting over that 9 now. 10 Q All right. What about Sharon? 11 A Sharon? 12 Q The last time she did some work for 13 you. 14 A Oh, eight nine months -- ten -- a year 15 maybe. I don't know. 16 Q But you didn't know which one was 17 helping you the last time, so it could have been 18 Sharon -- 19 A No -- 20 Q -- that was helping you. 21 A -- it wasn't Sharon. 22 Q It was not Sharon? It was Roshell that 23 helped you? 24 A Yes. 25 Q Okay. Sharon's the daughter?

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Page 30	Page 32
1 A Roshe'll's the daughter. 2 Q And she had a stroke? 3 A Yeah. 4 Q How old is she? 5 A I would say she's probably in her 40s. 6 I don't exactly know. 7 Q Okay. Sharon would be how old? 8 A Sharon's a little bit younger than I 9 and I'm 62 -- almost 62. 10 Q Just so -- I mentioned to you about 11 some of these checks that were -- 12 A Uh-huh. 13 Q -- written to you. I'm just going to 14 show you a few. 15 A Uh-huh. 16 Q And let me just show you -- I'm going 17 to -- and we might mark some of these exhibits. 18 This is check number 1226 -- 19 A Uh-huh. 20 Q -- on your mother's -- 21 A Uh-huh. 22 Q -- account at First Federal. 23 A Uh-huh. 24 Q Say -- say yes or no. 25 A Yes.	1 assuming? 2 A You want me to tell you what it was 3 for? 4 Q Yeah, I was going to ask you that. 5 What -- what was it for? It doesn't -- doesn't 6 have a notation on it. 7 A Am I allowed to look at my journal -- 8 Q Sure. 9 A -- Mr. Finklea? At 13:30 on the 10th, 10 I went to Sam's and got Christmas gifts for 11 grandchildren. Pick up Granny's prescriptions, 12 went to Evergreen and vacuumed her den. I went to 13 Home Depot and got Granny a -- a mat for her 14 shower so she wouldn't slip. Picked up light 15 bulbs. Picked up 20 something throws for the 16 grandchildren and great grandchildren for 17 Christmas. 18 Q All right. What are -- 19 A Like cloth throws. 20 Q Oh, okay. 21 A With U.S.C. and Clemson. 22 Q Okay. 23 A Yeah. 24 Q All right. So that check 1226 -- is it 25 1226 you're looking at there?
Page 31	Page 33
1 Q Okay. 2 A Yes, I see it. 3 Q All right. And then that one's for -- 4 what's the date of it? 5 A October 10th, 2011. 6 Q Okay. What's the amount of that check? 7 A Best I can read that is 495.28. 8 Q And is that your mother's handwriting 9 on that check? 10 A It appears to be. 11 Q And your -- and your mom -- what's the 12 date of it? 13 A October 10th -- 14 Q Which -- 15 A -- 2011. 16 Q She's competent then, right? There's 17 nothing wrong with her mental state? 18 A Well -- 19 Q What is that? 20 A -- she was agitated a lot, but I don't 21 think she was crazy, no. 22 Q She knew what you had purchased in 23 order to get that particular check -- 24 A Uh-huh. 25 Q -- if she wrote it to you, I'm	1 A I don't know. I have trouble seeing. 2 That's 1226, isn't it? 3 MR. FINKLEA: Jeff, she's asking the 4 check number? 5 MR. PAYNE: Yeah. 6 MR. FINKLEA: 1226 which I -- 7 MR. PAYNE: Okay. 8 MR. FINKLEA: -- believe that's the 9 correct number. 10 BY MR. PAYNE: 11 Q All right. And so -- 12 A Uh-huh. 13 Q -- that check was to reimburse you for 14 those items? 15 A Yes, sir. 16 Q Okay. And -- and your mother you 17 showed her the receipts and she -- she agreed and 18 that's her handwriting and she wrote this check 19 out to you? 20 A She had the receipt. 21 Q Okay. 22 A She kept the receipt. 23 Q And like I say, she was competent at 24 this time to know what's going on and who to write 25 checks to and that kind of --

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Page 34	Page 36
1 A Yes. 2 Q -- thing, right? Okay. All right. 3 Look at the next one. And I'm not going to go 4 through all these. I'm just -- 5 A Okay. 6 Q -- go -- flip back one. I think it 7 goes the other way. Yeah, and then that's check 8 number 1229 -- 9 A Uh-huh. 10 Q -- for 128 dollars. Is that your 11 mother's handwriting on check number 1229? 12 A It appears to be. 13 Q And -- 14 A I'm not going to -- 15 Q -- and your mother signed that check? 16 A Yes, sir. 17 Q Okay. And what -- what was that one 18 for? 19 A Well, I know for a fact right here it 20 says, picked up nandina plants for Granny. Went 21 to Aldi, picked up groceries, went to 22 Dollar General, 128 -- and I have 128 even -- 128. 23 Q Okay. And you showed her your receipt 24 and you -- and she re--- repaid you for what you'd 25 purchased for her?	1 Yeah, there you go. Twelve -- that's check 1244 2 for -- 3 A Uh-huh. 4 Q -- like 48 dollars written on 5 October -- 6 A Uh-huh. 7 Q -- 27th, 2011. Are you looking at that 8 check? 9 A Uh-huh. What -- 10 Q Is it -- 11 A What does that say, 48 dollars? 12 Q Yeah, if you look down at the bottom, 13 it has it typed out there from -- on the 14 particular bank statement. 15 A Uh-huh. 16 Q Okay. And well, let me ask you this. 17 Is that your mother's handwriting on that check? 18 A It could be. It could be. 19 Q Does it look like it? 20 A It's similar, yes. 21 Q Okay. And, I mean, was anybody else 22 signing checks for her to reimburse you? 23 A No. 24 Q Did you sign any to reimburse yourself? 25 A No.
Page 35	Page 37
1 A Yes. 2 Q Okay. She knew what she'd doing then? 3 A Yes. 4 Q Okay. All right. Flip to the next -- 5 A Backwards or forward? 6 Q Go back to the front, yeah. Right, 7 they've got them in the reverse order here for -- 8 that's 12--- check number 1234 for like \$83.88. 9 A Uh-huh. 10 Q What was that one for? 11 A And she wrote it on the 17th? Well, I 12 had Danny Turner at Granny's that day and CP&L 13 trying to figure out why the house lights were 14 flickering. Let me go to that one. Sometimes it 15 was for repair, and then I'll put it -- All I show 16 here is Danny Turner paid to be at Granny's on the 17 17th. He's an electrician. Granny's lights 18 were -- 19 Q Oh, Danny -- 20 A -- flickering. 21 Q -- not the glass -- Danny Turner, the 22 glass guy. Danny Turner's an electrician? 23 A Yeah. 24 Q Okay. All right. Then flip on back 25 the other way. Go -- yeah, pull that one down.	1 Q Never? 2 A No, I've never signed any of Granny's 3 checks. 4 Q Not -- so -- okay. But any reason to 5 dispute that's your mother's signature? Let me 6 ask you that one more time, Eris. 7 A Yes. 8 Q The -- there's no reason to doubt that 9 that's your mother's signature on the check, is 10 there? 11 A Well, at this particular time, prior to 12 2012, no one was on my mother's account. 13 Q That's right. So she would be -- this 14 is her signature, isn't it? 15 A No one else should have been signing my 16 mother's name. 17 Q That's right. 18 A That's true. 19 Q And she knew what she's doing back 20 during this time period. No doubt about that. Is 21 that right? 22 A Uh-huh. 23 Q Say -- 24 A Yes, sir. 25 Q Okay. All right. Yeah, look and see

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Page 38 1 what that was for. And we'll get through this 2 little exercise then. 3 A I see where I paid for prescriptions is 4 all. But I don't show exactly a 48 dollars. 5 Q Okay. 6 A I don't see. 7 Q All right. Look at -- 8 A I'm listening. 9 Q I'm sorry, okay. You think you bought 10 some prescriptions and that's -- 11 A Uh-huh. 12 Q -- what she's reim-- you were 13 reimbursed for? And then flip over to the next 14 check, 1259 -- 15 A Uh-huh. 16 Q -- for 290-- 17 THE COURT REPORTER: Was that a yes? 18 BY MR. PAYNE: 19 Q Yeah. All right. You -- do you have 20 1259, check number 1259 there? 21 A It's 57 -- 59. 22 Q Okay. Now, that one -- 23 A Uh-huh. 24 Q -- has Belks down there. Is that what 25 that word is?	Page 40 1 A Well, I wouldn't have had -- 2 Q On the -- 3 A -- I wouldn't have wrote that on that 4 day because she -- Granny was paying -- 5 Q Yeah, I didn't know -- 6 A -- me -- 7 Q You -- you've -- 8 A Oh. 9 Q -- been able to slip through your book 10 and see what -- 11 A Yeah. 12 Q -- you bought why she's reimbursing 13 you. I just was -- 14 A Well, it was her items. 15 Q But your records don't show -- 16 A Huh-uh. 17 Q -- what you got at Belks, for instance? 18 A No. Huh-uh. Part of the time we came 19 home and she paid me right then. 20 Q Got you. 21 A She just took the receipts, added them 22 up and paid me. 23 Q All right. That's good. And you -- 24 whenever you would buy something for your mother, 25 you would get her to reimburse you fairly soon
Page 39 1 A Yes, sir. 2 Q And what else is written there in the 3 for line? 4 A I probably can read it better if I -- 5 Granny and I had gone to the Pecan Festival on 6 that particular day. And we had gone to Belks. 7 The bottom word down there is shoes, 43. And I 8 don't know -- 9 Q Okay. 10 A -- that word bu--- it says fair bought 11 or that's the Pecan -- 12 Q Okay. 13 A -- the fair. 14 Q Twenty-nine dollars and something for 15 that it looks like? 16 A No, I'm showing 294. 17 Q No, no, no, no, the -- the -- by the 18 for line it -- it's got Belks \$194.38 19 A Thirty-eight, yes. 20 Q Shoes -- 21 A Uh-huh. 22 Q -- 43 dollars and then fair, 29? 23 A Twenty-nine something is over there. 24 Q Okay. What do -- what do your records 25 show that you bought?	Page 41 1 thereafter after you bought it? 2 A No, sir. 3 Q Not really? 4 A Sometimes she and Sharon and Roshell 5 would hold receipts -- receipts maybe for a month 6 sometimes. 7 Q Oh, really. Did she -- did you end up 8 getting everything she owed you back for stuff 9 you'd bought her? 10 A No, sir. 11 Q Did your mom repay? 12 A No, sir. 13 Q No? How much did she -- did she still 14 owe -- owe you? 15 A Well, for the first two years, I paid 16 for Sharon and Roshell. 17 Q When was that? 18 A In July of 2008 to July of 2010. 19 Q And how much were you paying for them? 20 A Ten dollars per hour. 21 Q All right. 22 A Ten dollars per hour. 23 Q And what were they doing? 24 A Housekeeping and after we saw that no 25 one else was going to help down there but Sharon

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1 and Roshell and I, I bought a car and took it down 2 there and left it for Sharon to take my mother 3 places. 4 Q All right. And what kind of car was 5 it? 6 A A Lexus. 7 Q And where is that car now? 8 A It's in my driveway. 9 Q And are you using it? 10 A I haven't driven it much, but I have 11 driven it some. 12 Q So the -- you let the sitters use your 13 car to help you -- what were they doing with the 14 car? 15 A Taking Granny to Dollar General. 16 Taking Granny to the IGA at Greenwood because it 17 saved me from having to drive all the way down to 18 Evergreen two or three times a day. I was already 19 going once per day. 20 Q Right. And the -- and the time -- and 21 how much does -- how much is owed? 22 A For the balance of everything for 23 appliances, for repairmen, for taxes, for 24 insurance on different things. 25 Q Because these add up to 33,000 dollars.	1 A Yes, sir, I do. 2 Q All right. Now, do you still have any 3 of the recordings that's -- you were taking inside 4 the house -- 5 A No -- 6 Q -- at your mother's house? 7 A -- I don't. 8 Q No, what did you do with those? 9 A I let different individuals listen to 10 them because I wanted to make sure that I 11 understood what my mother was telling me. 12 Q Where -- you let people listen to them, 13 but where are the reco--- was it on a tape 14 recorder? 15 A Yes. 16 Q And are there tapes somewhere of 17 those -- 18 A No, they've been destroyed. 19 Q Been destroyed. And who destroyed 20 them? 21 A I did. 22 Q And when did you destroy those? 23 A Right before my mother passed away. 24 Q And who's conversations were you 25 recording?
Page 43	Page 45
1 I'm -- I'm just curious -- 2 A That's -- 3 Q -- as to -- 4 A -- I -- I can agree with that. 5 Q What -- 6 A I can agree with that. 7 Q -- what else does -- what else -- what 8 do they owe you for? 9 A 20,541 dollars. 10 Q She never repaid you that? 11 A No, she talked about it a lot, but we 12 did -- never saw the -- the pressure or need to do 13 it. 14 Q July of 2008 through when? 15 A July -- probably about mid-July or 16 whenever Wayne -- Granny got Wayne's settlement. 17 I say in the end of July. 18 Q Okay. All right. And you've got 19 records of those -- 20 A I do and -- 21 Q -- amounts. 22 A -- Sharon and Roshell and Granny all 23 sat down and added them up. 24 Q You -- you've got some kind of list of 25 how you get up to 20,541 dollars?	1 A My mother's. 2 Q Okay. And -- 3 A My mother's. 4 Q And who were parties -- 5 A -- and my brother -- 6 Q -- to the conversations? 7 A My brother, Timmy, my brother -- my 8 mother tell -- telling me that my brother was 9 going down there telling her to give him her 10 house. But, see, my mother wasn't on morphine 11 yet. She was taking Ultram for the pain in her 12 back. 13 Q And she started taking Ultram, when, 14 2013 sometime? 15 A When she was -- when she came out of 16 the hospital the first time. 17 Q Which is -- 18 A And went home in Feb--- 19 February the 1st. 20 Q Thirteen? 21 A Yeah, that's what she was given for 22 the -- 23 Q Okay. 24 A -- vertebra pain. 25 Q All right. Timmy, your brother?

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1 A Yes. 2 Q What's his full name? 3 A Timothy David Smith. 4 Q All right. And so were you present 5 when those conversations were being recorded? 6 A No. 7 Q So those were just between your mom 8 and -- and -- 9 A And Timmy -- 10 Q -- Timmy. 11 A -- and the nurse. 12 Q And the nurse, okay. And who would cut 13 the recorder on or was it voice activated? 14 A Voice. 15 Q Okay. Where was the recorder placed in 16 the house? 17 A One time I -- Granny had me put it in 18 the bedroom. One time Granny had me put in the 19 den. 20 Q She knew you were putting them there? 21 A Yes, she most certainly did. 22 Q Okay. Who else besides the 23 conversations with Timmy and the sitters were 24 recorded? 25 A Some of Judy's and Granny's	1 A Because my mother was so agitated for 2 about six months. She cried for about six months 3 trying to convince me that my brother's will had 4 been changed. And it was hard for me to 5 understand that. And then she just kept saying 6 some things and she said -- she said like you just 7 wait until so and so gets here this weekend and -- 8 and you listen. So we had certain individuals 9 that would go to my mother's house on some -- 10 certain afternoons. So I did like she told me, 11 recorded it. She, Sharon, whoever happened to be 12 working that next day would listen to it. And 13 Granny said, you see, I'm telling you. This is 14 not right. 15 Q And that would have been -- I think 16 Wayne died around July of 2010? 17 A Yes, sir. 18 Q And win--- what's the window we're 19 talking about? Sometime after that point through 20 when were y'all recording those conversations? 21 A It might have been for a year or so off 22 and on. 23 Q And those recordings have been 24 discarded, too? 25 A Yes.
Page 47	Page 49
1 conversations, fussing. Granny and my niece, 2 Becky, those conversations recorded. My sister, 3 Jackie, and my mother. My mother was telling me 4 some things that it was hard for me to believe. 5 And I said, Granny, I haven't heard that now. You 6 know what daddy always said. If I haven't heard 7 it, I don't know it. And she said, well, you just 8 come down here and record it then like you did 9 before. Because she had me do it once before 10 years ago. 11 Q All right. But the -- the recordings 12 were -- you star--- you put the recorder out after 13 2013, after she came back from the hospital? Is 14 that what you said or -- 15 A Predominantly. 16 Q -- that's what -- 17 A Predominantly, yes. 18 Q Any time you were record -- or recorded 19 conversations prior to 2013? 20 A Yes, I have. 21 Q All right. When -- when was that? 22 A When my brother died. 23 Q And why were you recording 24 conversations in her home when -- when your 25 brother died?	1 Q And you -- you destroyed those? 2 A Yes. 3 Q The -- the -- the people that were 4 being recor--- who was being recorded at that time 5 right after Wayne's death? 6 A Well, the first incident was the -- my 7 brother died one night. The very next morning my 8 brother, Timmy -- when I got down to Granny's she 9 said, Timmy's on the way down here. And I said, 10 Granny, don't -- don't let anything upset you this 11 morning. This is not about anybody but Wayne 12 right now. And when Timmy got there him and his 13 daughter just blew up and it was a mess. My 14 mother had to tell him, if you don't get out of my 15 house I'll call the Sheriff. And he -- he finally 16 left and then we went to plan my brother's 17 funeral. 18 Q And Timmy was pressuring her for money 19 or something like that? 20 A No, Timmy -- Timmy down at Evergreen 21 telling my mother that he knew that he was Wayne's 22 personal representative. And I said, well, Timmy, 23 if you know that, you know something we don't know 24 yet. We don't have Wayne's will. And Granny 25 says, I know you are not Wayne's personal

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Page 50 1 representative, Timmy. I know that. I saw 2 Wayne's will. I've read it. But he just kept 3 insisting and so adamant about it and I -- and -- 4 and finally I just asked him, I said, Timmy, if 5 you would just leave. Let Granny get so -- her -- 6 her son just died. And then I finally got him 7 calmed down a little bit, and they left and -- and 8 we went to do the funeral. 9 Q You need to take a break? 10 A No -- 11 Q You need to take a break? 12 A -- I'm fine. 13 Q Okay. 14 A I've been doing this for months. 15 Q Did -- 16 A That was one of the instances about the 17 recording. My mother said it's going to hit the 18 fan here this morning here. Come on down here 19 right now. And I -- like I said, after she 20 threatened to throw him out of the house, I called 21 the Sheriff's Department. Everything got calmed 22 down for a little bit. 23 Q Did -- who ultimately was the P.R. of 24 Wayne's will? 25 A Well, after I -- I had been told	Page 52 1 That's not Wayne's money. And, of course, she 2 didn't know what we were talking about. Because 3 we were told never to tell the Jones and Browns 4 that we had hid money in the store. 5 Q Did you -- did he -- did Wayne have a 6 will? Did he ultimately -- did they find a will? 7 A Yeah, we -- Judy found it. 8 Q And who was the P.R. of it? 9 A On the one that she produced -- 10 Q Or -- 11 A -- she was. 12 Q Judy was -- okay. 13 A Yeah. 14 Q And Timmy thought he should be have 15 been -- 16 A Well, Timmy was just -- 17 Q -- would have been -- 18 A -- going by word of mouth because I 19 asked him later. Did you ever see -- did Wayne 20 tell you that or he show you something? No. 21 Q Is -- is -- and then I was going to 22 ask -- it's not unusual for people to tell people 23 different stories as to who's going to be in 24 charge of their estate, is there? I mean you've 25 been in that -- that's not unusual, is it?
Page 51 1 certain things for years and after Granny said she 2 had looked at a will she and Sharon had read with 3 Wayne, but when the will was found at my mother's 4 brother's house -- Judy and I went to his house to 5 try to find a will. Him being a man -- well, 6 Wayne did not keep housekeeping real well, and it 7 was July. The house -- the air had been off for a 8 month. We went over there. We looked for a will. 9 We looked for hours. I was looking for 10 Hyman Law Firm because that's the firm I took my 11 brother to for two or three years to get his 12 disability for cancer. And after two or three 13 hours we hadn't found anything. And I said, I 14 just don't see anything with the Hyman Law firm. 15 And Judy said we're not looking for Hyman Law 16 Firm. We're looking for Robert Lee. I said, 17 we're looking for what? I said, no. And in a 18 little bit she found a box of money in my 19 brother's closet. We found a will. The box of 20 money had 20 plus thousand dollars in it and old, 21 old 100 dollar bills wrapped in Williamsburg State 22 Bank with my daddy's name written on every 23 wrapper. And I -- I told Judy then, I said, 24 that's my mother's money. That's the money that 25 came out of the store when it was robbed in 2000.	Page 53 1 A But what upset my mother was the fact 2 that she had read -- she had read Wayne's will 3 months before he died. She read a copy at her 4 house, she and her nurse. 5 Q And that's what -- 6 A I hadn't read it. 7 Q Okay. Your mother had told you that? 8 A (No verbal response.) 9 Q All right. And -- but now like I say, 10 it's not unusual for somebody in bad health to 11 tell different people different things about who's 12 going to be -- 13 A No. 14 Q -- in charge? 15 A The Bar in Columbia told me it's -- 16 it's happening every day, young lady. It's 17 happening every day. 18 Q Because they -- the -- the person 19 doesn't want to hurt people's feelings especially 20 amongst family members, do they? 21 A Well, I wouldn't do that, but there are 22 some people that would just say, yeah, you are -- 23 you are -- I wouldn't do that. 24 Q Well, I know. And Wayne might have 25 done that. He might have told Timmy something and

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Page 54 1 he might have told -- 2 A Just to appease him. 3 Q That's right. And you say the Bar has 4 been telling y'all that same thing that to be on 5 the lookout for -- 6 A Yeah, I've been in contact wanting to 7 know if this something unusual or is this 8 something -- 9 Q Yeah. 10 A -- and my understanding from elder 11 abuse and everyone that this is ongoing. This is 12 nothing new. It's been back since Biblical time. 13 This is nothing new. 14 Q The -- the -- the dying person is going 15 to tell different family members -- 16 A No. 17 Q -- different things? 18 A No, wills being changed, no. 19 Q Oh, no, I'm talking about the -- 20 somebody like Wayne's who's dying telling Timmy 21 one thing -- hey, you going to be P.R. and -- 22 A I'm not saying -- 23 Q -- then -- 24 A -- I'm not saying Wayne told Timmy. 25 Q All right. But I'm just saying	Page 56 1 Wayne -- not property, but items. My Aunt Gerddy 2 died a month before my brother did. 3 Q So who -- I know Gloria Taylor -- 4 A Uh-huh. 5 Q -- you -- you were taking care of 6 Ms. Taylor, right? 7 A Yes. 8 Q You weren't re-- related to her -- 9 A No, her relatives -- 10 Q -- any, were you? 11 A -- didn't come down. 12 Q Okay. And you got Robert Lee to go 13 over there -- 14 A Uh-huh. 15 Q -- and change Ms. Taylor's will. 16 A No, I didn't. I did not get Robert Lee 17 to go over there. 18 Q You contacted Robert Lee. 19 A Miss -- Ms. Taylor -- 20 Q But you -- 21 A -- spoke with Robert Lee in her house. 22 Q But you spoke -- you got Robert over 23 to -- 24 A No. 25 Q -- her house?
Page 55 1 anybody. That's not unusual. 2 A No, I was with Wayne too much. 3 Q But for anybody, is that usual -- 4 unusual that they don't tell -- 5 A Huh-uh. 6 Q -- different things? 7 MR. FINKLEA: Object to the forms. 8 THE DEPONENT: I don't know. I don't 9 know. I can't speak for a person other than 10 myself. I can't speak what you would do versus 11 what I would do. 12 BY MR. PAYNE: 13 Q But your -- in your line of work, you 14 haven't seen people at the nursing home telling 15 family members different things about what their 16 will says? And it -- and once you read it, it's 17 totally different -- 18 A I've -- 19 Q -- than what they've said? 20 A -- I've -- I've never spoke with anyone 21 in the nursing home about a will. I mean, I 22 wouldn't know to -- leading to there. 23 Q Well, how many times have you inherited 24 property under a will? 25 A Aunt Gerddy, Ms. Taylor, my brother,	Page 57 1 A No. 2 Q How did Robert get over there? 3 A Robert Lee and Ms. Taylor went to the 4 same church. 5 Q She called him -- 6 A Ms. Taylor had contacted a Mister -- 7 what's the new guy -- a Mr. Crawford that had done 8 her will to come to her house that she wanted to 9 make some changes. Well, Mr Crawford didn't come. 10 She called him twice in front of not myself, in 11 front of her friends from DuPont. 12 Q And Ms. Taylor added you to her will? 13 A I found that after she died. After she 14 died. 15 Q You were at the house the day she did 16 it. 17 A Uh-huh. I didn't know what the will 18 said. I was taking care of Ms. Taylor. She 19 told -- told the -- the guy that was standing 20 there reading something, it's your job to take 21 care of Ms. Taylor's health. 22 Q Did Ms. Taylor tell you that she was 23 going to put you in -- in her will? 24 A She -- did she tell me? No, she didn't 25 tell me directly, no.

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Page 58 1 Q All right. What other ones? You've 2 inherited something from Wayne. You -- 3 A All of our -- all the siblings of my 4 family inherited from Wayne. 5 Q Okay. 6 A All the siblings had inherited from 7 Aunt Gerddy, my mother's sister that died in -- in 8 June. 9 Q How about Mr. Gene Jackson? 10 A What did I get from Gene Jackson? His 11 estate? 12 Q Yeah. 13 A Nothing. 14 Q You didn't inherit -- inherit 15 anything from Gene? 16 A Nothing. 17 Q How about a life insurance policy? 18 A Nothing. 19 Q Never got anything -- 20 A Nothing. 21 Q -- from Gene? The house that you live 22 in now, you didn't inherit that from somebody? 23 A Inherit, it? No, I bought from 24 Charles Phillip Marshall. 25 Q All right. And who is that?	Page 60 1 A She -- 2 Q -- she knows -- 3 A She didn't -- 4 Q -- where the bank accounts are? 5 A She didn't know where anything was in 6 the store because where she -- we were told not to 7 tell her. 8 Q Okay. Well, and then I'll ask you 9 about that because I want to make sure -- 10 A Uh-huh. 11 Q -- we get everything accounted for. 12 But as far as life insurance policies, are you 13 aware of anything that your mother had as far as 14 life insurance? 15 A My mother said something about a life 16 insurance policy when Wayne died. But they 17 couldn't find the little policy thing. Which 18 Granny said she'd looked at. And I told her just 19 call the insurance company. I said, Granny, 20 people do stuff everyday. You call and make sure 21 nobody's tried to cash it in. But you couldn't do 22 that without a death certificate. Now whether 23 Granny ever called about it, I reminded her two or 24 three times -- two or three times. Granny, you 25 need to check that balance.
Page 59 1 A My Uncle Kinsey owned that home. 2 Q Okay. 3 A And when he passed away, I bought it 4 from his son, Charles Phillip Marshall. 5 Q How about from the Glover Estate? You 6 didn't inherit anything from that? 7 A Nothing. 8 Q Really? 9 A Nothing. 10 Q And so that's it. Those are the only 11 people you've ever -- Ms. Taylor would be the only 12 non-family member that you've ever inherited from? 13 A That's true. 14 Q You've been added to a will? 15 A That's true? 16 Q Okay. What -- what was some of your 17 mother's major assets? She had a house. 18 A She had her -- her house that they 19 had -- 20 Q Is there anything that Judy wouldn't 21 know about far as an asset if -- when she becomes 22 the personal representative that she'll need to 23 know where they are? 24 A No. 25 Q If I can --	Page 61 1 Q Okay. But you -- you're not aware of 2 any life insurance on your grandmother's -- I mean 3 on your mother's life anywhere? 4 A It -- well, if there's anything, it'd 5 be a minimum thing. 6 Q Bank accounts, First Federal, where 7 else did she have money? Do you know? 8 A She put Wayne's retirement -- his 9 I.R.A. is up there at BB&T with Paul Williams. 10 Q Okay. Anywhere else do you -- any 11 other banks she's got money at? 12 A Not unless she's opened something else 13 that I don't know of. But Granny did some stuff 14 last summer I wasn't aware of until right before 15 she died. 16 Q What was that? 17 A Well, she said she'd gone to the 18 First Federal where when Wayne had died Judy had 19 put her name on one of the checking accounts. And 20 she made sure that -- I think the lady's name was 21 Rosser (ph) or something like that she had made 22 sure that Judy was not on any accounts. She 23 couldn't write checks off of her account. 24 Q She gave Judy a power of attorney. 25 A No.

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1 MR. FINKLEA: Object to the form. 2 BY MR. PAYNE: 3 Q Your mother didn't give Judy a power of 4 attorney? 5 A No. 6 Q Why do you say that? 7 A No. Because my mother's never told me 8 that. 9 Q I -- okay. But just because she didn't 10 tell you that didn't mean your mama didn't do, did 11 she? 12 A Well, my mother was real close to me -- 13 very close. 14 Q Did she tell you that she'd given Judy 15 a healthcare power of attorney? 16 A No, my mother thought that she had 17 signed a healthcare power of attorney at -- with 18 Mr. Sloan, but Mr. Sloan told her on the phone 19 that, Ms. Smith, I have never advised you, never 20 wrote nothing for you. 21 Q Well, some of the healthcare decisions 22 that were being made for your mother -- 23 A Uh-huh. 24 Q -- say at M.U.S.C., didn't you know at 25 that point that Judy had a healthcare power of	1 healthcare power of attorney? 2 A Yes, and Granny has too. 3 Q All right. I'm not talking about 4 Granny. I'm talking about you. 5 A Yes. 6 Q Did you ask anybody at M.U.S.C. to see 7 her -- 8 A The reason -- 9 Q -- healthcare -- 10 A -- the reason -- 11 Q Wait, let -- let me finish. Did you 12 ever ask anybody at M.U.S.C. to see your mother's 13 healthcare power of attorney? 14 A Not at M.U.S.C. 15 Q Okay. 16 A I did ask at McLeod. 17 Q There you go. All right. When -- and 18 when was that that you asked McLeod to see the 19 healthcare power of attorney for your mother? 20 A When Judy got my mother upset one night 21 by telling her that she and her daughter, Becky, 22 was over her health. And Granny -- oh, she went 23 irate. Cussing in front of the nurses and 24 everybody wanting to know what in the hell is 25 Becky and Judy got to do with her health.
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1 attorney? 2 A I was with my mother. 3 Q When did you first learn that Judy had 4 a healthcare power of attorney for your mother? 5 A I've never heard of it. Never seen it. 6 I've asked for the copy. My mother and I since 7 January of this year, we asked for -- since 8 January the 8th through the period she died, we 9 kept asking -- she and Pam. I want to see this 10 piece of paper you got. 11 Q You -- 12 A Granny asked Pam on the phone with 13 Mr. Sloan. 14 Q I'm talking about healthcare power of 15 attorney now. 16 A That's what I'm talking about. 17 Q All right. Because the healthcare 18 power of attorney, she -- Judy Jones was using 19 that back in 2012 for -- 20 A She -- 21 Q -- your mother, wasn't she? 22 A She's never showed it to anyone. 23 Q You've never seen it? 24 A Never. 25 Q Have you asked anybody for that	1 Q And when was this? 2 A This was in January. 3 Q Of what year? 4 A In 2013. 5 Q Okay. So that's the first time you 6 asked about your mother's healthcare power of 7 attorney? 8 A I had to ask them. 9 Q Okay. And where -- who did you ask at 10 McLeod? 11 A I asked the nurses. 12 Q All right. And did -- did they show 13 you a copy of it? 14 A Of course, they wouldn't. 15 Q Okay. 16 A Confidentiality, if there was one. 17 Q Did they tell you that Judy had it? 18 A No. No. 19 Q Well, how did this whole issue come 20 about? 21 A We were wanting to see something in 22 hand. My mother wanted to see something in hand. 23 We couldn't ever get our hands on anything. 24 Q Why was the issue coming up? 25 A Because Judy was saying that she and

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1 her daughter was over my mother's health. And 2 it -- it just made my mother so mad. Because 3 why -- why had -- she just kept saying, what 4 has -- what has Becky ever done for me. What has 5 Becky ever done for my health. Becky has never 6 even went to a doctor with me. Becky has never 7 took me to a hospital. Becky has never done 8 anything for me, period. 9 Q Did anybody from McLeod ever tell you 10 that Judy had the healthcare -- 11 A No. 12 Q -- power of attorney? Nobody ever told 13 you that Judy had the healthcare power -- 14 A No. 15 Q -- of attorney for your mother? 16 A Dr. Sitti didn't realize that. She 17 talked with me. 18 Q She ultimately learned it, didn't she? 19 A I don't know. 20 Q Okay. Well, who's making the decisions 21 for your mother? 22 A I was making a lot of them. 23 Q Okay. And didn't it come to a point 24 that they told you to stop because you did not 25 have the healthcare power of attorney?	1 No coughing, no fever, no anything. In my mind my 2 mother was going to outlive me. We had beat cancer. 3 We had gone down and took radiation. We 4 had beat cancer. A treatment that I told my mother 5 we couldn't do here in Florence because it would 6 take 32 doses. My mother would be dead. So I took 7 her back and forth to Charleston to make sure she 8 got the best treatment. 9 Q What was she going to M.U.S.C. for back 10 in 2012? 11 A That was the last day we went down 12 there November the 8th. 13 Q But in March of 2012, she went in for 14 cancer issues? 15 A We went for a consultation with two 16 different doctors, Dr. Kline and Dr. Decker. 17 Q In -- 18 A At first it was said that we were going 19 to do surgery down there because her cancer was in 20 her lung, not against a body wall. They thought 21 they could go in there and surgically remove the 22 cancer. 23 Q And didn't Judy go down there? 24 A She did go one time right at the 25 beginning. Yes, she did. Most of the times Judy
Page 67	Page 69
1 A No. No, I've never been told that. 2 Q Nobody. 3 A I've never. No, sir. 4 Q Okay. Nobody at McLeod at the -- 5 A No, sir. 6 Q Not at Sitti's office? Who -- what 7 other doctors was she seeing? 8 A When my mother went back to McLeod for 9 the second visit in February -- when I -- when I 10 called Dr. Sitt in for a consult with my mother, I 11 had Dr. Sitti to run some CAT scans and find out 12 what's -- why is my mother's back hurting. She 13 has no pneumonia. Dr Sitti came to me and told me 14 that she saw the T6 vertebra had been crushed due 15 to cancer. And I said, well, we just got a -- on 16 Novem-- November the 8th when I took Granny to 17 Charleston with -- that was our first six-months 18 checkup to be cancer free. Granny rang the bell. 19 Granny rang the bell. A picture that I told my 20 siblings that I had. No one ever asked to look at 21 it. I took that of my mother and she rang a bell. 22 She was cancer free in November the 8th of 2012. 23 We were cancer free. 24 And then within two months we're in the 25 hospital with pneumonia -- with walking pneumonia.	1 couldn't go because she was babysitting. 2 Q When did she hurt her leg? Didn't she 3 hurt her leg at some point? 4 A She broke her leg, I believe. 5 Q Yeah, when was that? 6 A Oh, that was several years ago now. 7 That wasn't when my mother was having cancer 8 stuff. 9 Q How about her divorce? When was Judy's 10 divorce? You remember going through that? 11 A A couple of years ago because she had 12 to come live with me for six to eight months. 13 Q What documents did you ever remove from 14 your mother's house? 15 A What documents? 16 Q Yeah. 17 A I mean, what -- where -- what 18 documents? What you want -- what are you -- give 19 me an example of what you're speaking of? 20 Q I'm just asking, have you ever removed 21 any documents from your mother's house? 22 A No, but my mother had her original will 23 that was made at Robert Lee's office in 2001, it 24 disappeared. Which that will my brother Wayne and 25 her housekeeper Sharon saw prior to it getting

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Page 70 1 removed from the house. 2 Q The original, but you don't know who 3 removed it? 4 A No, I don't. 5 Q Did you ever see the original -- 6 A No, I didn't. 7 Q -- Robert Lee will? 8 A No. 9 Q You've seen it now. You've seen -- 10 A I saw -- 11 Q -- a copy of it. 12 A I saw something the other day. I do 13 want to put my hands on another copy of that, 14 though. 15 Q And do you have any reason to doubt 16 that when she signed that will in 2001 that that 17 was a valid will for her? 18 A I don't know, sir. I don't know. 19 Q But did you -- have you removed any 20 documents from her house before her death or after 21 her death? 22 A I mean, I don't -- I don't know what 23 you're leading to. 24 Q I'm just asking. I don't know. I'm 25 trying to get an accounting of whatever --	Page 72 1 did you remove any paperwork from your mother's 2 house? 3 A After my mother's death? 4 Q Yeah. 5 A No, sir. 6 Q Okay. Before your mother's death, 7 other than trash, but have you removed any type of 8 paperwork, contract, notes, notebooks anything 9 like that from your mother's house -- 10 A No. 11 Q -- that you remember? Okay. 12 Q All -- all my mother's financial stuff 13 and now her little book she kept -- my mother was 14 like me. She kept good journals. She -- she -- 15 she was meticulous about business because she took 16 care of my father's business next door. 17 Q And Robert Lee had prepared a will for 18 your mother in 2001. Is -- did you know that 19 prior to your mother's death? 20 A Yes, we'd talked about it. 21 Q Okay. 22 A She and I and Wayne. 23 Q All right. And did she tell you she 24 also had a -- what we call a memo -- 25 A No.
Page 71 1 A Oh, no -- 2 Q -- or what happened to everything -- 3 A Have I ever stole my mother's desk 4 paperwork, no. Did I remove my mother's desk 5 paperwork? No, sir. 6 Q I -- I'm talking about anything. 7 Whether it's paperwork, wills, power of attorneys, 8 any kind of document? 9 A No, sir. 10 Q A contract -- 11 A I mean, if you -- if you could help me 12 out here. 13 Q I don't know of any -- 14 A You're leading to something -- 15 Q -- I'm just asking. 16 A If you want me to -- to admit to 17 something, just help me out there. 18 Q I will if I knew -- 19 A Okay. And I -- I'd be glad to respond 20 to you, but -- 21 Q All right. Well, let's just be 22 clear -- 23 A I did so much for my mother, I can't -- 24 I don't know. 25 Q All right. After your mother's death,	Page 73 1 Q -- where it listed where her stuff 2 wanted to go -- 3 A No, sir. 4 Q -- no. Okay. She didn't talk to you 5 about it? 6 A No, sir. 7 Q Do you doubt that she had one? 8 A Yes. 9 Q You do? 10 A Yes. 11 Q All right. Why is that? Why would you 12 doubt that she had one? 13 A That's not my mother. 14 Q Okay. Is that your mother's 15 handwriting on this document? 16 MR. PAYNE: We can mark this. 17 (Respondent's Exhibit Number 7 18 marked for identification.) 19 THE DEPONENT: I -- I can't tell you 20 that. I can't tell you if it is or not. I mean, 21 I -- I don't know. 22 BY MR. PAYNE: 23 Q Does it look like your mother's 24 handwriting or not? 25 A I'd say it looks too good for Granny to

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Page 74 1 tell you the truth. But then you're speaking 2 about 13 years ago. 3 Q All right. Let me show you Exhibit 7. 4 Let's be specific here. I'm going to show 5 Exhibit 7 -- 6 A Uh-huh. 7 Q -- page one. Does that look like your 8 mother's handwriting on that document, the first 9 page of it? 10 A The writing looks almost too big. 11 Q Too big, okay. So can you identify 12 your mother's handwriting when you see it? 13 A No, sir. It's according to how my 14 mother felt on certain days. Was she walking 15 good, was she standing good. 16 Q How about in 2001, was she in good 17 health then? 18 A Until Granny had back surgery -- 19 Q When -- 20 A -- she was in pretty good health. 21 Q -- when was the back surgery? 22 A It was about 2002 -- '03. 23 Q Okay. So you don't think this is your 24 mother's handwriting -- 25 A I can't --	Page 76 1 Q Do you think Mr. Sloan's lying? 2 A I sent my mother to her lawyer. She 3 should have went to Rick Hoefer. I told Granny, I 4 said, now before we start going to Charleston, 5 you're going to have -- I said, in Florence here, 6 everybody knows you and I. I've never needed any 7 kind of health power of attorney to get you 8 treatment, Granny. But now we going to be going 9 out of town. You need a healthcare power of 10 attorney form for Judy and I to get you a 11 treatment at Charleston. As soon as I told her 12 that, she called me back. It wasn't the very next 13 day. Said, Pam said she'd write me one for free. 14 I said, all right, Granny. You know, I've 15 already -- already told you how I felt about that 16 mess. You cried for months and you said Wayne's 17 will had been changed. Don't get yourself wrapped 18 up in that again. You just call Mr. Hoefer and do 19 like you need to be doing. You got a car. 20 Sharon's there. Go up and get it done. And then 21 she tells me later that she went over there -- 22 supposed to go -- be going to a brunch. Sharon 23 said when they came and picked her up, Becky came 24 and picked her up. Rushed her over to Marion. 25 When she got back, Granny was so flustered and
Page 75 1 Q -- on this? 2 A -- I can't -- I can't vouch -- 3 Q Okay. 4 A -- and say for sure. 5 Q All right. Do you think your mother's 6 hand -- your mother signed the will over in 7 October of 2011 at Robert Lee's office? 8 A My mother didn't realize she was 9 signing a will. No, sir. 10 Q Okay. I didn't ask you that. Did -- 11 did -- does that look like her handwriting on that 12 particular document? 13 A I can't vouch -- I'm -- I'm not a hand 14 expert. I can't -- 15 Q You think -- 16 A -- tell you. 17 Q -- all those people are lying that we 18 heard testify the other day that said she came 19 over to Mr. Robert Lee's and Mr. Sloan's office 20 and signed the will? 21 MR. FINKLEA: Object to the form. 22 BY MR. PAYNE: 23 Q Do you think they're lying? Yes, no? 24 A My mother did not perceive that she had 25 written another will.	Page 77 1 upset. And in Granny's words, I'm a nervous jerk. 2 That's just a old saying I guess. And Sharon said 3 it took her all day to get her calmed down. She 4 was nervous jerk because she knew she was supposed 5 to be at the house that morning with CP&L. I had 6 two engineers down there trying to find out why 7 her house lights were coming off and on for no 8 reason. Uh-huh. 9 Q All right. I'll get into specifics 10 here in a minute. I'll show you some things. Let 11 me ask you a couple of more things about the -- 12 the documents. How about things -- items, did you 13 remove any items from your mother's house after 14 her death? 15 A My mother died at 2:00 on 16 March the 11th. Before I could drive from the 17 hospital to my house to change clothes and drive 18 to my mother's house, which is only 11 and a half 19 or 12 miles out, before I could get down there, 20 Judy and her daughter had Fludds down there 21 changing my house -- my mother's house locks. Not 22 just on the house, but the store which had not 23 been tampered with since 2000 when my father died. 24 Q You'd already boarded up the store 25 though, hadn't you?

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Page 78 1 A I did. 2 Q Yeah. 3 A But it had to be unboarded. 4 Q Why did you board up the store? 5 A Because I was told to. Me and my 6 brother were told years ago to secure the store. 7 Q Okay. And how do you know they weren't 8 told to -- 9 A They were not told -- 10 Q -- change the locks? 11 A -- no. 12 Q How do you know? 13 A No. Because Granny said up until she 14 died, don't the Bro-- the Jones and the Browns 15 come haul off what your daddy and I have worked 16 for. She didn't just tell me. She told everyone 17 that walked in the house the last few weeks -- a 18 few months -- for months. 19 Q But they -- but you were told to board 20 up the store? 21 A Yes. 22 Q And how do I know that's true? 23 A Well, Judy was involved in -- in 24 boarding the store up. I was taking -- 25 Q She was?	Page 80 1 Q Okay. Did you any of this stuff or 2 they just told you -- 3 A No. 4 Q -- that? 5 A No, Sharon and -- and Roshell helped my 6 mother. 7 Q Okay. 8 A Because she used to -- had a bad habit 9 of leaving her -- her rings and stuff on the 10 dresser. And when they started bringing in -- 11 people that Granny didn't want that -- Nightengale 12 people. I told Granny one morning, I said, 13 Granny, these people you don't know. You got 14 people floating in here every six to eight hours. 15 You don't know them. I don't know them. We don't 16 know whether they just got out of jail. I said, 17 you can't leave this stuff sitting around no more, 18 Granny. 19 Q Because you were worried about it 20 getting stolen? 21 A Yes. 22 Q And she would leave her stuff out, 23 wouldn't she? 24 A Initially it was, but it was all put up 25 in the drawers.
Page 79 1 A -- I was taking her to Florida on a 2 vacation after her divorce. And that's when I 3 told mama. I said, we're going to be gone now 4 about a week, Granny. 5 Q All right. Let me be specific here. 6 Did you remove anything from the house after your 7 mother's death? 8 A I was -- I didn't go in the house but 9 once or twice after my mother died, no. 10 Q Okay. You didn't take anything out of 11 there? 12 A No, sir. My mother -- my -- the whole 13 world was there. 14 Q Do you know where the engagement ring 15 is or a diamond necklace is? 16 A Well, it was in my mother's jewelry. 17 Sharon and my mother had put all the jewelry up 18 only -- 19 Q And -- 20 A -- about a week, week and a half before 21 she died. 22 Q Where -- where did they put it up? 23 A They put it in my -- what I was told by 24 Sharon and Granny, we put everything in little 25 boxes and put them in the dresser drawer.	Page 81 1 Q And that was about a week before her 2 death? 3 A No, that was the first of January? 4 Q Okay. All right. I can't remember if 5 we answered it or not. Did you remove anything 6 from the house after your mother's death? Any 7 items? 8 A No, I'm talking about it -- that I 9 didn't -- couldn't -- 10 Q What -- what are you going into the 11 house for after your mother's death? Why are you 12 going in there? 13 A Well, we went down the day she died. 14 Q Okay. 15 A The day she died we were down at my 16 mother's house. 17 Q All right. 18 A Everybody was down there. Everybody 19 was calling me come down here. The -- the Jones's 20 have changed -- changing the house locks. Wanted 21 to know why. My brother -- 22 Q Who's -- who's everybody calling? 23 A My brother James crying. 24 Q All right. 25 A My nephew Mikey, Sharon, Roshell, all

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Page 82 1 standing in my mother's yard and calling me on the 2 cellphone back to back. Get down here, Eris. We 3 got a mess down here. Just like Granny said. 4 It's a mess. 5 Q Besides right after the -- your 6 mother's death, you said you went in there a 7 couple of times. What else -- why -- why else are 8 you -- 9 A Well -- 10 Q -- going into the house? 11 A -- that day -- the next day I went down 12 there because I don't know what your family does 13 things, son, but in our family when someone dies, 14 someone's at the home. And you go down and visit. 15 And when I went down there, my sister, Jackie, was 16 there. Judy's daughter was there. My niece, 17 Becky -- Hope was there one day. 18 Q Right. 19 A And we walked in. I took a friend with 20 me. 21 Q And that's not unusual -- 22 A I took a friend with me. 23 Q -- is it? 24 A We walked in, we spoke and stayed for 25 about five, ten minutes, and I turned around and	Page 84 1 go back in your mother's house? 2 A I couldn't get in my mother's house. 3 Q Okay. I don't know if you could -- I'm 4 just asking. 5 A No. 6 Q Okay. Now -- 7 A The locks had been changed. 8 Q -- what about when -- when Mikey was 9 trying to get into the house here recently, did 10 you know that? 11 A Mikey wasn't trying to get in the 12 house. Mikey and Danielle, I sent them there. We 13 were in South Florence working on one of my 14 houses. 15 Q Okay. 16 A And they wanted to take some stuff to 17 the trash dumpster. And I said, now, if you would 18 go on down to Evergreen and feed the cats. 19 That'll save me a 30-minute trip. They went to 20 Evergreen. As soon as they got there, they called 21 me and said, Eris Gale, this bathroom window and 22 another window on the opposite of the house, the 23 window's unlocked. I said, really, Mikey. I 24 said, does it look like anyone's been in the 25 house? He says, I can't tell, the blind's open.
Page 83 1 walked out. 2 Q Okay. I mean, that's what people do. 3 They go to -- back to their parents' house and 4 that's where you visit -- 5 A That's it. 6 Q -- and that kind of thing. That's not 7 unusual, is it? 8 A No. 9 Q Okay. 10 A That's what you're supposed to do. 11 Q Any time after that, did you go back 12 into the house? 13 A I went in there on the night of my 14 visitation -- my mother's visitation. I was told 15 that afternoon when I went down there, prior to 16 the visitation, that they were all going to go 17 back to my mother's after the visitation. I said, 18 well, good, because I don't want anything to eat 19 now. So after the visitation, I drove back to 20 Evergreen. 21 Q All right. How about after that? Any 22 other times? 23 A The day of my mother's funeral we had 24 lunch there for the church. 25 Q Okay. After the funeral, did you ever	Page 85 1 Anybody -- it could have been the blind was left 2 open. And I said, well, just don't touch 3 anything. And by that time he was telling me 4 that, Judy drove up. And he told Judy the 5 bathroom window here is unlocked. 6 Q Was it unlocked or was it open? 7 A It was unlocked. That was all. It was 8 unlocked. 9 Q Not open? 10 A No, sir. 11 Q He -- 12 A Unlocked. 13 Q -- and he hadn't been in the house? 14 A No, sir. No. 15 Q Do -- does Mikey work for you? 16 A Me? 17 Q Does he do things for you -- 18 A Oh, yeah -- 19 Q -- to help out? 20 A -- to make money, yes. 21 Q And you pay him? 22 A Cut grass -- cut grass or whatever, 23 yeah. 24 Q And does he owe you money? 25 A No.

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1 Q You hadn't loaned him money? 2 A No. 3 Q You're not taking care of him? 4 A No. I'm going to do what -- 5 Q But if he works -- 6 A -- I'm going to do what my mother says. 7 Watch after him and James. 8 Q Okay. So why are you objecting to the 9 will? 10 A Because my mother said that she did not 11 do anything else. When Judy made a comment to my 12 mother's nurse the first time she was home after 13 the hospital -- she wasn't on any morphine -- they 14 were sitting at the kitchen table and Judy says to 15 Roshell, I'm not only over Granny's health, I'm 16 over her estate. Well, Roshell, time Judy went to 17 go to babysit that day, she walked straight in 18 there and told Granny, said Granny it's getting 19 worse. And Granny said, what is it? She said, 20 Judy says she's over your estate. Oh, my Lordy it 21 was early in the morning. Granny calls me. She's 22 not talking. She's screaming on the phone. 23 Q When was -- 24 A Eris Gail, you just down here. 25 Q -- when was that?	1 Q Okay. Your mother didn't -- 2 MR. FINKLEA: -- she -- she -- 3 BY MR. PAYNE: 4 Q Your mother didn't -- 5 MR. FINKLEA: -- she -- 6 BY MR. PAYNE: 7 Q -- your mother knew. 8 A My mother -- my mother thought Eris and 9 Judy was her healthcare power of attorney. She 10 said it from every time we went in the hospital. 11 She said it every time we went to Charleston. She 12 said every time we went to her family doctor, 13 Hyler. She said it to Dr. Sitti. She said it the 14 last time we went in the hospital, who is your 15 healthcare power of attorney, Eris Smith and 16 Judy Jones. 17 Q This -- this last conversation with 18 your mother -- 19 A Uh-huh. 20 Q -- that was, you said, after her 21 pneumonia. 22 A Uh-huh. 23 Q And that was what, February -- 24 A She went back -- 25 Q -- of 2013?
Page 87	Page 89
1 A When she got home from pneumonia from 2 the hospital. 3 Q And this -- 4 A The first of February. 5 Q February, okay. 6 A And I went down there and I said, 7 Granny, what is wrong. She says, now the hussy's 8 saying that she's over my estate. You know and I 9 know, Eris, that I would never have the Jones's 10 involved in my finances. You know that. You know 11 that. Just like Wayne wouldn't have had him -- 12 them involved in his finances. 13 Q But she knew she had the healthcare 14 power of attorney, didn't she, at that point? 15 A She knew it. We didn't know it. 16 Q Your mother didn't -- 17 MR. FINKLEA: And -- and -- 18 BY MR. PAYNE: 19 Q -- know it? 20 MR. FINKLEA: -- and -- yeah, if 21 you'll -- you'll -- 22 BY MR. PAYNE: 23 Q Okay. Your mother didn't -- 24 MR. FINKLEA: -- she was -- 25 BY MR. PAYNE:	1 A She went back home February 1st. She 2 was in the hospital from January the 8th to 3 February the 1st. 4 Q Okay. And when did she start getting 5 the morphine? When was the morphine administered? 6 A The last of -- if I remember right the 7 first of March. 8 Q And who -- where was your mother's 9 pharmacist? Which one did she use? 10 A Medicine Mart. 11 Q That's here in Florence? 12 A Right on Irby Street. 13 Q Okay. 14 A Right near the Sav-Way. 15 Q I asked you a little bit about -- is it 16 Mikey? 17 A Mike -- well, we call him Mikey. 18 Q Mike. 19 A But his name is Mike. 20 Q Mikey, all right. James is Mikey's 21 father? 22 A Yes. 23 Q All right. Do they live together? 24 A Yes. 25 Q Do you support James any?

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1 A Meaning? 2 Q Mon--- monetarily, do you pay James's 3 bills? 4 A I've never had to pay James's bills. 5 I've -- I've made him loans just like I have the 6 whole family. 7 Q Does -- does James currently owe you 8 any money on those loans? 9 A No. 10 Q He's paid them all back? 11 A Uh-huh. 12 MR. FINKLEA: And for the record, was 13 that an affirmative? 14 THE DEPONENT: Yes. 15 MR. FINKLEA: Okay. 16 THE DEPONENT: That's true. 17 BY MR. PAYNE: 18 Q Now, did you ever at any time confront 19 James about borrowing or getting money from your 20 mother? 21 A Yes, I have. 22 Q Okay. And -- because at some point 23 James and Mikey were getting large sums from your 24 mother, weren't they? 25 A Well, what I didn't agree with was	1 Q Now, you object to the fact that James 2 and Mi--- or Mikey and -- what's your other 3 nephew's name -- are getting one sixth -- 4 A James and Mikey. 5 Q -- under the will? 6 A No, if that's what my mother had put in 7 her will, I wouldn't object to it. In fact, when 8 she said she was going to see Rick Hoefer I said, 9 now, why Granny. I stood with my mother in 10 Rick Hoefer's lobby and asked this lawyer -- he 11 wasn't my lawyer -- and the only way Granny knew 12 him was through some -- a problem Mikey had gotten 13 in years before. That's the only reason she knew 14 this man. Why are you coming here? If you want 15 to amend your will, Granny, do anything to it. Go 16 back to who wrote it. But she went ballistic in 17 the little waiting room and said, oh, no, I'm 18 getting my stuff away from Robert Lee's office. 19 You see what happened to Wayne's aid I'm not 20 having that happen to mine when I'm dead. 21 Q All right. What -- I'm -- maybe I'm -- 22 I'm not asking a good question, but -- 23 A Uh-huh. 24 Q -- the -- Mikey and what's your 25 nephew's name?
Page 91	Page 93
1 Granny just writing checks for nothing. I used to 2 cut -- I have cut my mother's grass since my 3 father died every week. I would take my tractor. 4 I would go to Evergreen and cut the grass. But 5 when things didn't pan out good for Mikey, and the 6 last few years especially, and Granny had the 7 funds to help Mikey out, to her it was helping 8 Mikey. Then she started paying Mikey to cut her 9 grass. 10 Q And Mikey and James were getting other 11 money from her without doing work, weren't they? 12 A Sometime they -- Granny would -- she'd 13 call it helping just like she did Timmy. She 14 wrote Timmy big checks. I didn't understand that. 15 I still don't like it. 16 Q You -- 17 A I don't like anyone to sponge off a 18 older person. I just don't like it. 19 Q Your mother, I think, raised Mikey. Is 20 that right? 21 A Well, James got a divorce when both the 22 boys were little. 23 Q And from that moment on, your mother 24 pretty much raised them. 25 A Somewhat, yeah -- yeah.	1 A Jamie. 2 Q Jamie are not mentioned in that will 3 that Rock Hoefer did? 4 A No. 5 Q All right. Do -- do you object to the 6 fact that they're inheriting something under 7 the -- the will that Mr. Sloan -- 8 A No, see -- 9 Q -- prepared? 10 A -- I'm not -- I'm not here fighting 11 over material things or money. That's not my 12 reason for being here. Let's get that straight 13 first. 14 Q Well, what are you fighting about? 15 Why -- 16 A I -- I'm -- 17 Q -- are you here? 18 A -- this is my mother's name, her 19 respect, her principle. That's why I'm here. My 20 mother said when she was dying not only to me, 21 several people, Eris is going to continue 22 fighting, and Eris promised me she won't give 23 up. I even -- 24 Q What are you fighting about? That's 25 what I don't understand.

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Page 94 1 A For my mother's respect. That you 2 don't -- you don't do something to disrespect my 3 mother. You don't break into a store next door. 4 You don't do things like that. That's 5 disrespectful to my mother. 6 Q Who broke into the store? 7 A Judy and her family. 8 Q When? 9 A On Febr--- on March the 15th. 10 Q Oh -- 11 A The day after I buried my mother. 12 Q They broke into the store? 13 A They sure did. 14 Q Okay. All right. And what -- well, 15 let me ask you this, what have you ever removed 16 from the store? 17 A Removed from the store? 18 Q Yeah. 19 A You mean stole out of the store? 20 Q Removed, I am not saying -- 21 A Nothing. 22 Q -- you took it. 23 A Nothing. 24 Q I'm just saying -- 25 A Nothing.	Page 96 1 Q All right. And so what was taken out 2 of this freezer by Judy and her family? 3 A Everything I imagine. 4 Q What was in it? 5 A My daddy's and my granddad -- my great 6 dad -- Granddaddy Smith's shot guns, old coins and 7 hopefully there's a 20 dollar gold piece in there 8 worth a great sum of money. 9 Q And how do you know about the 20 dollar 10 gold piece? 11 A It was put in the freezer and locked 12 up. 13 Q Did you see them put it in there? 14 A No, my brother, Timmy, my brother, 15 Wayne, Jamie and Clayton Flowers. I called 16 Clayton Flowers myself to have a real big hasp put 17 on the freezer. And my brother, Wayne, put a 18 master lock on it. My brother, Wayne, had the key 19 until right before he got sick. And then he gave 20 the key to my mother. 21 Q All right. What else it -- was 22 supposedly in the freezer prior to your mother's 23 death? 24 A You want me to give you a catalogue of 25 everything in there?
Page 95 1 Q -- what did you ever take out of it? 2 A Nothing. 3 Q Nothing. 4 A If I removed -- my brother and I, we 5 own Smith Auto Sales. The store since 2000 had 6 been used for Smith Auto Sales' lot. 7 Q But Wayne -- 8 A My brother and I went there all the 9 time. 10 Q Did Wayne take the cash out of the 11 store? That box of 20,000 dollars you were 12 telling me about? 13 A Yes. 14 Q He had taken it out of the store? 15 A And put it in his house? 16 Q Why? 17 A Because we -- he didn't put in the 18 freezer with the rest of the money. 19 Q Okay. Did he have permission to do 20 that? 21 A Yes, he would have. 22 Q All right. And how do you know? 23 A How do I know? Because my mother knew 24 what was not in the freezer and what was in the 25 freezer.	Page 97 1 Q Yeah, you got one? 2 A Huh-uh. Not with me, no. 3 Q Just while we're here, what -- what 4 else do you remember, significant items, that were 5 in there? 6 A There's a lot of stuff. In fact, 7 there's one box that was sitting beside the 8 freezer. 9 Q What was in that -- 10 A A old yellow box. 11 Q -- box? 12 A Money. 13 Q Okay. And how much was in there? 14 A And it had been there since 2000. Old 15 coins. 16 Q Just coins. No -- 17 A Silver and dimes and, you know, stuff 18 like that. 19 Q Cash? 20 A Yes. 21 Q And how much are we talking about? 22 A I don't know. My mother and I and 23 James were going over there this past fall and 24 start going through it, but as soon as we started 25 to do that, Jackie Brown came up, my older sister

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1 and that halted that. 2 Q You started going in it when? Fall of 3 2000--- 4 A We wanted to go over there and start 5 inventorying stuff. 6 Q 2012? 7 A Yeah, we wanted to go over there and do 8 it, but -- 9 Q Who -- who wanted -- 10 A -- every time -- 11 Q Who wanted to do it? 12 A Granny was going to go, James and 13 myself. 14 Q All right. And did y'all actually -- 15 A No. 16 Q -- go into the store? 17 A We didn't go over there because about 18 the time we were going to, my sister Jackie came 19 up. 20 Q When did you board it up, the store 21 that is? 22 A Wayne died in 2010. It had to be -- it 23 was sometime a couple of years ago. 24 Q And who helped you? 25 A When I initially boarded it up, it was	1 A There was so much stuff in the store. 2 Q Do you? 3 A Exactly, no, I don't. 4 Q All right. 5 MR. PAYNE: Let's -- All right, let's 6 see, where are the exhibits here, Madame Court 7 Reporter, I... 8 (Respondent's Exhibit Number 5 9 marked for identification.) 10 BY MR. PAYNE: 11 Q All right. Ms. Smith, let me show you 12 Exhibit Number 5. 13 A Uh-huh. 14 Q If you would look at the second page of 15 that Exhibit, 16 A Uh-huh. 17 Q It -- does that look like your mother's 18 signature? 19 A That could be, yes. 20 Q And this was the 2001 will we were 21 referring to. 22 A Uh-huh. 23 Q Do you have any reason to believe that 24 this was not a valid will for her back in 25 May of 2001?
Page 99	Page 101
1 me and James. But Granny said just to make sure 2 the store is secure. That's all she kept saying, 3 make sure the store is secure. 4 Q Okay. And I don't think we've got a -- 5 and have you -- an inventory of what was in there. 6 Or do you -- received an inventory of what was in 7 the store? 8 A Mr. Abbott is going to get one. 9 Q Okay. 10 MR. FINKLEA: I don't think -- I think 11 he's going to give us an inventory of what was 12 brought to him. But -- 13 THE DEPONENT: Yeah, what was left. 14 Yeah, what was left over. I don't know what was 15 removed from Evergreen to Marion to Robert Lee's 16 office. 17 BY MR. PAYNE: 18 Q But you don't know what was in there 19 either, do you? 20 A Huh-uh. Well, between my brother, 21 Timmy's, eyesight and my brother James, they 22 probably can right narrow it down. 23 Q But you personally do not know what was 24 in that store prior to your mother's death, do 25 you?	1 A Well, I know for a fact, because Wayne 2 and I talked to Granny, that she felt pressured in 3 having to go do a will. We didn't understand why 4 she had to do a will so recently after my father 5 just died in September. 6 Q Okay. 7 MR. PAYNE: Now, let me hold 5 if you 8 would. Let her have the whole exhibit. 9 BY MR. PAYNE: 10 Q The pages aren't numbered, but there is 11 a memorandum here. 12 A Uh-huh. 13 Q And about -- I'm going to flip you over 14 a few pages. Does that look like your mother's 15 signature at the bottom of that particular 16 document that's -- 17 A It could be. 18 Q -- the memorandum? 19 A It could be. 20 Q Do you have any reason to believe that 21 she did not sign that memorandum that's attached 22 to Exhibit 5? 23 A At this point, son, I can't tell you. 24 Q Did she ever tell you about the fact 25 that she had provided Robert Lee a list of how she

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Page 102 1 wanted her personal effects to be left? 2 A Well, I can definitely say for the last 3 two years, since July of 2010, that we learned 4 real quick not to even say the name Robert Lee in 5 the house. 6 Q And why is that? 7 A Because she just did not want any part 8 of it, no part. 9 Q Now, you were talking about Rick Hoefer 10 being your -- 11 A Uh-huh. 12 Q -- your mother had used him before 13 as -- as her -- or as Mikey's attorney, I guess. 14 Is that right? 15 A Some -- some problem Mikey -- when he 16 was younger. I -- I don't know something about a 17 ball field or -- I didn't understand it. I 18 probably didn't even get involved in that then. 19 Q Well, you had had Kevin Barth to 20 represent you before, right? 21 A Yes. 22 Q Okay. And Kevin Barth works in 23 Rick Hoefer's office, doesn't he? 24 A Yes. 25 Q All right. And did you tell your	Page 104 1 marked for identification.) 2 THE COURT REPORTER: Yes. 3 BY MR. PAYNE: 4 Q Ms. Smith, let me back you up on what 5 we were just talking about with Rick Hoefer. You 6 did not suggest to your mother to use Rick Hoefer 7 to help Mikey with his problems? 8 A No, I didn't -- I didn't know about 9 that problem. I mean, I didn't know what -- it 10 was after the fact. Somebody said something 11 about -- I don't even know if it was a probation. 12 I mean, I couldn't even tell you what the 13 circumstances -- something about a ball field and 14 a little building. And where it was, I don't 15 know. 16 Q All right. And I'm going to show what 17 I've marked as Exhibit 8. 18 A Uh-huh. 19 Q And this is the will that Mr. Hoefer 20 prepared. Is that correct? 21 A It appears to be. Yes, sir. In 22 March of 2011. 23 Q Okay. And you tried -- have attempted 24 to probate this will with the Probate Court of 25 Florence County?
Page 103 1 mother about Rick Hoefer when she needed a 2 lawyer -- 3 A No. 4 Q -- for Mikey? 5 A No, because I asked her, why -- why are 6 you going to Rick Hoefer? She said, well, he's a 7 good man. I like him and he helped Mikey. That's 8 all I was told. 9 Q All right. And how did she end up 10 using Rick Hoefer to help Mikey? 11 A Some kind of problems he got in to help 12 with the probation. I don't know what it was. 13 Something about a ball field -- break into a ball 14 field. A little building at the ball field or 15 something. I mean, I don't know. 16 Q You don't know how she picked 17 Rick Hoefer to help Mikey? 18 A I don't know. It wasn't -- I know it 19 wasn't me, I mean -- 20 Q And -- 21 A -- someone -- I don't know. Maybe my 22 brother, James. I don't know. 23 MR. PAYNE: Let's mark that one. 24 What -- is that Exhibit 8? 25 (Respondent's Exhibit Number 8	Page 105 1 A Yes. 2 Q Is that right? 3 A Mr. Hoefer-- 4 Q Attempted to file it? 5 A Mr. Hoefer said when I contacted him 6 that he had my mother's original will. He said, 7 because it was left here in my office. 8 Q And you took your mother over to 9 Mr. Hoefer's office the day Exhibit Number 8 was 10 signed, didn't you? 11 A No, sir. 12 Q You didn't? How did she get there? 13 A No, sir. Sharon. 14 Q Sharon. 15 A Her nurse took her there. 16 Q And did you talk to your mother about 17 why you were going over -- why she was going over 18 to Mr. Hoefer's office? 19 A I don't -- I didn't know what day she 20 even signed her will. 21 Q When's the first time you saw Exhibit 22 Number 8? 23 A When Mr. Hoefer handed it to me. 24 Q So when did you go get it from 25 Mr. Hoefer?

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1 A The -- the day after my mother passed 2 away. 3 Q And then you took it immediately to the 4 Probate Court and filed it? 5 A That's what I was told. He said, 6 Ms. Smith, the only way I can hand you this 7 will -- because this is the original, you lose 8 this you're up the creek. Sharon and Roshell was 9 with me. I took them with me. 10 Q And then you went up to the Probate 11 Court and filed it? 12 A Myself and my friend, Janet Altman, 13 went with me because I didn't know about any of 14 this and I -- in fact, I asked Mr. Hoefer, can't 15 this wait for a few weeks? Because I promised my 16 mother nothing is going to be stirred up for 17 several weeks after she passes away. 18 Q How did you know Mr. Hoefer had 19 prepared a will for her? 20 A Granny had kept telling me and Sharon 21 since January when -- when my sister told my 22 mother that she was over her estate. And Granny 23 says, oh, no. My -- my will is at Mr. Hoefer's 24 office. 25 Q All right.	1 Rick Hoefer, and tell him I just died. When my 2 mother died at the hospital, Sharon had rode up 3 there with Judy. Sharon come running to me saying 4 I can't tell Judy to take me over to Rick Hoefer's 5 office. Will you take me over to Rick Hoefer? I 6 said, what for Sharon, what for? She said, I 7 promised Granny. I would tell him if he was open, 8 and I'm going to go tell him. 9 She walked in the office, of course, she 10 didn't see Mr. Hoefer. And she saw the lady at the 11 window -- and I apologized to the lady that we had 12 to come busting in like that. And Sharon said, I 13 just you to give Mr. Hoefer a message. Tell -- let 14 him know that Ms. Eris Smith has just passed away. 15 The lady said, thank you, and then Sharon said, now 16 when can I see him. And the lady gave us 17 appointment for the next day, and that's when we 18 went back and that was it. 19 Q So that's the first thing y'all do is 20 y'all run to the lawyer's -- 21 A Oh, no -- 22 Q -- office to get -- 23 A -- no, it wasn't no y'all. 24 Q It wasn't -- it was Sharon. 25 A Sharon had --
Page 107	Page 109
1 A This was -- this was the -- the will 2 here. 3 Q When was the -- when -- when was your 4 mother's funeral? 5 A March the 14th. 6 Q So you're at the Probate Court with 7 this will before your mother had died? 8 A Per -- per Mr. Hoefer. The only way I 9 could have that will in my hand was to go get it 10 probated. 11 Q What time of day did she die in -- on 12 March the 11th? 13 A She died at 2:00, 1400 hours. 14 Q So you went over to Mr. Hoefer's that 15 same day and picked up the will or the next day? 16 A The next day. 17 Q All right. And you -- 18 A All I had -- I had an appointment with 19 him. 20 Q And when did you first call Mr. Hoefer 21 about getting the will? 22 A He told me the day my mother died, 23 Sharon had promised my mother weeks and weeks 24 before, if I die, Sharon, and it's during banking 25 hours, she said, you go directly to my lawyer,	1 Q You didn't send -- 2 A -- made my mother a promise. 3 Q You didn't send Sharon -- 4 A I know -- 5 Q -- over there? 6 A -- I know how to handle business. 7 That's not the way I would handle business nor my 8 mother would. I know finances and I know what the 9 protocol is. But the thing is this, Sharon had 10 made my mother a promise, and it was very 11 important to her to do it. 12 Q And you didn't send Sharon over to -- 13 A No. 14 Q -- Mr. Hoefer's office -- 15 A No, sir. 16 Q -- to ask him about the will? 17 A No, sir. I didn't have to. 18 Q Because Sharon was going to do that on 19 her own? 20 A Whatever. She just knew she didn't 21 have a car. 22 Q The babysitter or the sitter -- 23 A The nurse. 24 Q -- the nurse is going to go -- 25 A Had been with my --

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Page 110 1 Q -- to the lawyer's office -- 2 A -- mother since 2--- 3 Q -- to get a will? 4 A -- 2--- 2008. Sharon knew more about 5 my family than a lot of my family. 6 MR. PAYNE: Let's mark that. 7 (Respondent's Exhibit Number 9 8 marked for identification.) 9 BY MR. PAYNE: 10 Q And so Sharon goes over there -- when 11 does Sharon call you about the appointment and 12 what time y'all needed to be at Mr. Hoefer's 13 office and all that? Was it the day your 14 mother -- 15 A She -- she -- 16 Q -- died or that night -- 17 A She told me -- 18 Q -- or when? 19 A She told me that day, yeah. 20 Q Said we need to go up -- 21 A She told me that day. 22 Q -- and so. 23 A I said, Sharon, we'll just have to work 24 around it. I said, I'll be at the funeral home in 25 the morning. We have to get my mother's newspaper	Page 112 1 mother's signature on page three of Exhibit 2 Number 9? 3 A This is the one that several people in 4 the county questioned that either Granny was 5 agitated or it wasn't -- something's wrong. 6 Q Well, you heard all the witnesses 7 testify. Did any of them say she was agitated 8 when she signed this Exhibit Number 9? 9 A I know she told me and Sharon when she 10 got back that day. She didn't know she had signed 11 a will. My mother never said she went to Marion 12 to sign a will. 13 Q Well, let me back up. The -- the 14 witnesses that have testified about your mother's 15 state on -- 16 A Uh-huh. 17 Q -- October 18th, 2011, did any of them 18 say that she was agitated, nervous, under any 19 pressure to be there? 20 A Well, she was upset when she got home. 21 I do know that. 22 Q And look at the last page of Exhibit 23 Number 9. Does that look like your mother's 24 signature? 25 A The -- the handwriting's too big.
Page 111 1 article and everything. I said, well, the funeral 2 has already been planned. Granny and I did the 3 funeral several years ago. 4 Q But you were able to squeeze it in to 5 get over to Rick Hoefer's office to pick up the 6 will? 7 A No, I went and did my mother's funeral 8 thing. And then when that was over, that's when I 9 went. 10 Q But you got -- you had to get over 11 there before 1:00. 12 A Yes, sir. 13 Q The next day? 14 A We had an appointment at the funeral 15 home the next morning -- that morning at nine 16 something. 17 Q What time was the appointment with 18 Mr. Hoefer? 19 A I think it was around 10:30, 10, 20 somewhere around there. 21 Q Okay. Let's show you Exhibit Number 9. 22 And this is the -- the will that Mr. Sloan 23 testified about -- 24 A Uh-huh. 25 Q -- the other day. Is that your	Page 113 1 The -- the lettering itself is -- my mother didn't 2 write big. 3 Q But you've told me before you can't 4 recognize her handwriting. 5 A But that's -- 6 Q Is that right? 7 A -- that's big writing. My mother 8 wouldn't write big. 9 Q All right. What about on page three? 10 A On page three, what I see and what 11 several people in the family have looked at it and 12 said, it's like she forgot what her name was. 13 Q Do you think she signed it or not? 14 A I can't swear to that, son. 15 Q That won't -- do you -- do you think it 16 looks like her handwriting or not? 17 A Well, Eris does look like her 18 handwriting. Singletary and Smith is like -- I 19 don't know what happened. 20 Q Do you think Mr. Sloan was lying when 21 he said he saw her sign Exhibit Number 9? 22 A No, I'm not saying that. 23 Q Do you think Robert Lee is lying when 24 he says your mother signed Exhibit Number 9? 25 MR. FINKLEA: Object to form.

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1 THE DEPONENT: I know that my mother 2 did not talk to Robert Lee the day she went to 3 Marion. I know that for a fact. 4 BY MR. PAYNE: 5 Q In fact, the day she goes over on 6 October the 18th of 2011, you knew she was at 7 Robert Lee's office, didn't you? 8 A No, I found out. 9 Q Okay. Well, that day at some point on 10 October 18th -- 11 A I -- 12 Q -- you knew she was over at 13 Robert Lee's office, didn't you? 14 A When Granny came home. She was going 15 to get a healthcare power of attorney. 16 Q But you called. 17 A For she and I. Oh, yes. 18 Q No, I'm talking about you called on 19 October the 18th -- 20 A Yes. 21 Q -- to Robert Lee's office -- 22 A And I -- 23 Q -- didn't you? 24 A -- asked is my mother over there. I 25 can't find her nor the nurse and the car is	1 A Well, I was told she was not. 2 Q Okay. And -- 3 A I was told she was not. 4 Q Why did you think to call Robert's 5 office? 6 A Because I called Sharon and couldn't 7 find Sharon. Called Roshell and couldn't find 8 Roshell. My car that I had left for mother to -- 9 to use is sitting in Evergreen. I'd already drove 10 to Evergreen with the CP&L men, engineers, left 11 them there. Came -- 12 Q Okay. 13 A -- back to Florence. I'm -- 14 Q So you're looking -- 15 A -- by that time -- 16 Q -- for her? 17 A No, what it is, about the same time 18 Granny had been taking about different home 19 invasions. But my mother's house hadn't been 20 broke into. But where is Granny? Where is 21 Sharon. I had just talked with her the night 22 before and said CP&L engineering -- two big old 23 bucket trucks and four engineers is going to be at 24 Evergreen for us to isolate this problem with your 25 house. I know, Eris, I'll be there. I'll be
Page 115	Page 117
1 sitting here at Evergreen. 2 Q You called before your mother got home. 3 from Marion on October 18th, 2011 -- 4 A No. 5 Q -- didn't you? 6 A No, no. I was standing in Evergreen. 7 I was standing in Evergreen. 8 Q All right. Well, let's -- what time of 9 day was it when you called Robert Lee's office on 10 October 18th -- 11 A It had to be -- 12 Q -- of 2011? 13 A -- right after noon -- right after 14 noon. 15 Q Okay. Your mother -- 16 A Because I was standing there with two 17 CP&L engineers and two big bucket trucks. 18 Q And your mother wasn't home then, was 19 she? 20 A Huh--- Right at noon, no. 21 Q And did the -- when you called Robert's 22 office on October 18th, 2011, your mother was not 23 home then, was she? She was actually -- 24 A No. 25 Q -- at Robert's office.	1 right there, Eris Gail. And then when I get down 2 there with all these engineers, no one's in 3 Evergreen. Can't find Sharon. 4 So after a while I -- I keep calling and 5 I said, well, let me call Judy. I call my sister, 6 Judy. I said, Judy, where is Granny at. I don't 7 know. I said, you don't know where Granny is? I 8 said, well, I can't find her either. I called my 9 brother, James. I called Mikey. I called Jackie. 10 Couldn't find them. And I said, well, something's 11 wrong. Granny doesn't have any appointments today. 12 There's nothing wrote down for her to be anywhere, 13 but Granny's missing. And they -- I don't think 14 they could understand the seriousness of it. My 15 mother just didn't do that. I knew where my mother 16 was all the time. I was there every day. 17 Q To -- and -- 18 A So after a while, I said, I'm going to 19 call my brother, Timmy. Now, why, had to be a 20 Holy Ghost thing there. Why would I call Timmy. 21 Timmy doesn't do anything for my mother. I called 22 Timmy and I said, Timmy, do you happen to know 23 where Granny is. He said, yeah. I said, you do? 24 Where is Granny? Well, she's gone to have brunch. 25 I said, she's gone to what, Timmy? Tell me that

30 (Pages 114 to 117)

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Page 116 1 one more time. She's going to have brunch. I 2 said, where -- where Timmy? She's supposed to be 3 in Evergreen. There's two engineers standing here 4 and we're paying them. Well, what is going on 5 here? He said, well, she went to have brunch with 6 Becky. 7 So I called Becky on her phone. She 8 didn't answer it the first time. So I said, well, 9 she's going to have brunch with Becky. So then I 10 said, let's call Pam. Pam and Becky talk. They're 11 sisters. I called Pam's office. I said, is my 12 mother over there. I'm looking for my mother. I 13 can't find her. No. I said, my mother's not over 14 there, and you haven't talked with Becky? No. And 15 see when I'm making this phone call, I have someone 16 standing in my house with me. That -- when I'm 17 making this phone call to Marion. 18 Q And that's all you said when you'd 19 called over there? 20 A Yeah, because see, later on my sister 21 told me that I had called ranting and -- and 22 raising and -- and carrying on like something from 23 another planet. And when she told my mother that, 24 my mother looked at me. She said, Eris Gail, you 25 probably need to do that, but I know you didn't do	Page 120 1 for a wheelchair that her granddaughter. Becky, 2 had brought in the house. Some big old bulky 3 wheelchair that we didn't need at the house. She 4 kept telling Judy to take it out the house. 5 Because I had already bought a transport 6 wheelchair years earlier. But for some reason, 7 there was a big old new wheelchair sitting in the 8 den that Granny didn't understand why her Medicare 9 had to pay for. But she went over there to do a 10 healthcare power of attorney because we were going 11 to need it to go to Charleston. 12 And me and Sharon said, well, Granny, 13 where is your healthcare power of attorney paperwork 14 at. If -- if you went and did one, where is it? 15 She said, Eris Gail, they had me sign so much 16 paperwork, I couldn't tell you what was going on 17 over there. I said -- I said, well, Granny where's 18 your copies? Pam's going to get my copies. I said, 19 we're going to need them, Granny, before we go to 20 Charleston. We never got them. I never worried 21 about any paperwork. Like I told my mother for the 22 last 20 years, Granny, I don't need paperwork to 23 take care of you. 24 Q Did you -- the time you called 25 Robert Lee's office on October 18th, 2011, how
Page 119 1 that. Like from another planet. 2 Q So you called over to Robert Lee's 3 office. 4 A Have you seen my mother? 5 Q And you spoke with who? 6 A Whoever answered the phone. 7 Q Okay. And what did you ask them? 8 A And is my mother, Eris Smith -- have 9 anybody in that office seen my mother, Eris Smith. 10 She's supposed to be with her granddaughter, 11 Becky. If you would ask Pam. Nobody knew she -- 12 where she was, if she had been there. 13 Q Okay. And you talked to the 14 receptionist in the office, then. 15 A Whoever it was. 16 Q Yeah, you called Robert's main -- 17 A The main number. 18 Q -- phone number? Right. 19 A Whoever answered the phone that 20 particular day. 21 Q Okay. And when your mother got home, 22 did she tell you she'd been to Robert's office? 23 A She was -- she said we were supposed to 24 go to brunch, Eris. But I went to do that 25 healthcare power of attorney and about paperwork	Page 121 1 many times did you call his office that day? 2 A That one time. 3 Q Just once. 4 A They said they didn't know where she 5 was. 6 Q The receptionist told you that? 7 A Whoever answered the phone. 8 Q Okay. And that's all you -- that's the 9 only person you talked to at Robert's office on 10 October -- 11 A Yes. 12 Q -- the 18th? Have you -- 13 A I had called all my -- my resources up. 14 I already called the whole family. I mean, I 15 didn't know who else to call. 16 Q Now, prior to your mother's death, did 17 you try to get your mother to change her will? 18 A Prior to my mama's death? 19 Q Yeah, at any time did you try to tell 20 her to go change her will? 21 A Why -- I mean -- no. 22 Q You never -- I'm just asking now. 23 I'm -- I'm -- 24 A No. 25 Q Okay.

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Page 122 1 A No. 2 Q You never a--- a--- talked to your 3 mother about changing her will? 4 A No. 5 Q And did you ever voice your concerns 6 with your mother about Mikey and your other nephew 7 receiving anything under the will? 8 A She said one time she said to me -- 9 Sharon and I were talking about this the other 10 day. My mother mentioned that to me one time. 11 She thought about putting Mikey and Wayne in the 12 place -- Mikey and Jamie in the place of Wayne. And 13 I said, I don't have a problem with that, Granny. 14 It's your money. You do what you want to with it. 15 And that was the only time it's mentioned. It was 16 never mentioned since then. But Granny felt there 17 was other people in the family that wouldn't like 18 it. The other grand-- these grandchildren or 19 nieces or whatever would be mad -- madder with 20 Mikey and Jamie. 21 Q Now, you and Sharon were talking the 22 other day about that. When was that? 23 A Whatever day she called to tell me -- I 24 asked her about how Roshell's stroke stuff and 25 how's her treatment going.	Page 124 1 because we had to wait about an hour and something 2 just to get help that day because it was so busy. 3 And then the clerk comes and tell our clerk, we 4 got a problem here. The estate you're working on, 5 someone -- she didn't say Robert Lee, but we saw 6 him -- Janet saw him bring it in -- someone has 7 just brought a second will. And that's how it was 8 found out. And right at that very minute, I 9 turned around. I said, please tell me this is not 10 happening. And the lady said, well, I'm afraid it 11 is young lady. She took both of the wills. She 12 stamped them and I said, now, since it's public 13 knowledge now, can I have a copy of what you got. 14 And she made me a copy right then. And that's how 15 I got my hands on that. 16 Q Look at Exhibit 9 if you would for me. 17 A Uh-huh. 18 Q It's got some initials on the 19 memorandum that's attached to the will. You see 20 some initials on the left-hand side of those last 21 four pages of the Exhibit Number 9? 22 A Uh-huh. 23 Q Does that look like your mother's 24 handwriting? 25 A No, sir. That -- that E-S and the S
Page 123 1 Q Okay. So y'all just started talking 2 about your mother? 3 A We talk about Granny all the time. 4 That's about our conversation is about Granny. 5 Q And her will? 6 A Her will, no. We don't talk about her 7 will. We talk about Granny. 8 Q Well, you were talking about it the 9 other day the fact that Mikey and your nephew were 10 named in her will. 11 A No, I didn't -- I didn't talk about 12 Mikey and them being listed in my mother's will. 13 Q Okay. 14 A No. 15 Q When did you first learn about Exhibit 16 Number 9, the will that Mr. Sloan had witnessed? 17 A The day I went to the courthouse to 18 probate my mother's will, within -- we had just 19 finished all the paperwork out. I had signed all 20 Granny's probate paperwork. And about that time, 21 my friend Janet -- because I'm not looking at the 22 door -- she says, Robert Lee just walked in this 23 door. I said, so? And then he walks over and 24 hands up one of the clerk's paperwork. The clerk 25 walks over to the clerk that was helping us	Page 125 1 right there does not. 2 Q Have -- and -- did your mother ever 3 tell you anything about how she wanted her 4 personal effects to be left? 5 A Yes, sir. She -- she left information 6 with Sharon and I and Roshell for the last six, 7 seven months. Different things I've wrote down in 8 my journals. Some things that she wanted to be 9 done -- 10 Q And what was -- 11 A -- when she died. 12 Q -- what -- 13 A One thing is she didn't want my -- 14 Aunt -- her -- my Aunt Vera, when she bi--- she 15 died, there was a big rhubarb with that estate, 16 too. And my aunt's stuff was thrown in a yard 17 sale. And Granny says, please don't let family 18 members come in and act like heathens and start 19 hauling my stuff out of my house. I don't want 20 nothing in my house touched for several weeks. 21 Q And is there anything on this 22 memorandum that's attached to this part of Exhibit 23 9 that -- 24 A Not in that one. No, sir. 25 Q -- causes you any -- I mean, any reason

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Page 126 1 to think this isn't your mother's wishes? 2 A My -- my mother didn't do stuff like 3 this. This is not my mother. 4 Q Just like Exhibit 7, you don't think 5 your mother hand wrote that and gave it to 6 Robert Lee? 7 A I don't know. My mother may have hand 8 wrote that, but it was not put in a will. No, 9 sir. 10 Q Why -- 11 A No. 12 Q -- why is she handwriting Exhibit 13 Number 7 and giving it -- 14 A Because she -- 15 Q -- to Robert Lee? 16 A -- she probably asked to go -- she was 17 asked for her to go through her house and what 18 items would she think somebody might would want. 19 But like you said, that was what, 2001? 20 Q Right. 21 A Her husband had just died. 22 Q And you don't think that's something 23 that she did that she would have wanted to do? 24 A I -- I would put that in part of 25 coercion, no.	Page 128 1 just one second, please? 2 (Respondent's Exhibit Number 10 3 marked for identification.) 4 THE DEPONENT: Do what now? Oh, excuse 5 me. 6 THE COURT REPORTER: Just one second. 7 BY MR. PAYNE: 8 Q Now, if you would look at page four, 9 paragraph number 12. 10 A Uh-huh. 11 Q And in that particular paragraph -- 12 well, read it just for a second. 13 A Number 12? 14 Q Yeah, page four. 15 A Yes, sir. 16 Q All right. In -- in there you say that 17 the documents were executed while the decedent was 18 subject to undue influence. 19 A Uh-huh. 20 Q What -- what was she subjected to 21 that -- 22 A Well -- 23 Q -- is undue influence? 24 A -- well, that morning that she was told 25 that she had to go to Marion that morning. She
Page 127 1 Q All right. I think I asked you this. 2 Did you ever sign any -- your mother's name to any 3 checks? 4 A Not -- no. Huh-uh. I can't think of 5 anything. One time at Belks she had her hand full 6 of clothes and everything and I was writing -- I 7 filled the check out, and then I handed it to 8 Granny. And she said, oh, you just sign it. I 9 said, no, no, no, no. No, I don't do no stuff 10 like that. You don't mess with my checkbook and I 11 don't mess with yours. 12 Q All right. Have you seen the complaint 13 that y'all filed in this case? Have you reviewed 14 that? 15 A Yes, sir. 16 Q And you went over that before 17 Mr. Finklea filed -- 18 A Uh-huh. 19 Q -- the lawsuit? 20 A We discussed everything. 21 THE COURT REPORTER: You want to mark 22 that? 23 MR. PAYNE: Let's mark that, I mean, if 24 you would please. 25 THE COURT REPORTER: May I see it for	Page 129 1 had to be at Marion that morning. And she told 2 Sharon that -- and Sharon kept telling her, you 3 know, CP&L is going to be down here and Eris is 4 going to be upset if you're not down here because 5 she's already hired these people to come down 6 here. And Granny, says, I know, but they said 7 this is the only morning I can go. This is the 8 only morning they could come get me. I got to go 9 today. I got to go today. And Sharon said, well, 10 Granny, you want me to go with me. And Granny 11 wanted Sharon to go with her. But when Becky got 12 there, Becky said, oh, no, no. No, Granny and I 13 are going to go to brunch. 14 Q All right. But you weren't there 15 when -- you're -- you're basing your testimony on 16 what Sharon's telling you? You weren't -- 17 A That's right. 18 Q -- you weren't there, were you? 19 A No, but I know my mother, though. 20 Q All right. So other than what Sharon 21 has told you, is -- what other evidence is that 22 your mother had to go to Marion? You got anybody 23 else that's told you that? 24 A No, because my brother thought that 25 Granny was going to brunch. I mean -- I mean, I

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1 don't know what else to tell you.
 2 Q All right. So what -- what other
 3 examples of she was subject to undue influence,
 4 what else.
 5 A Well, I know -- I think in my journal,
 6 Becky had went down to my mother's house the night
 7 before. But she always went to my mother's house
 8 when nobody else was there. Me and Granny laughed
 9 about that a lot of times. She called it sneaking
 10 into her house at 9 and 10 o'clock at night. My
 11 mother went to bed about dark. So she'd have to
 12 get up with the walker, get the doors unlocked,
 13 let Becky in. Becky wanted to bring supper down
 14 there which it started in the afternoon at 2 or
 15 3:00, but Becky wouldn't never show up until eight
 16 or nine.
 17 Q All right. So Becky going to your
 18 mother's house was undue influence and that
 19 made --
 20 A Well, every time -- what --
 21 Q -- that was it?
 22 A I know for myself and I have two other
 23 people or three people that knows that when
 24 Becky Jones went to my mother's at night, the next
 25 day or two my mother would be so agitated and just

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1 all she could say, I'm a nervous jerk. I don't
 2 know why they think that they can tell me
 3 everything I need to be doing.
 4 Q What else was undue influence? What...
 5 A Well, because of her age and all. She
 6 didn't want to be aggravated. My mother didn't
 7 want to be aggravated.
 8 Q Okay. Who -- who --
 9 A I knew my limits with my mother.
 10 Q Who aggravated her?
 11 A Well, my sister, Judy, sure -- she
 12 fussed all the time. I felt like a referee. If
 13 we ever -- if we all three had to get together at
 14 one time. I -- I knew from years experience of
 15 being with my mother, if my mother said that was
 16 blue and I knew it was green, it's just blue.
 17 I -- I didn't argue with my mother over trivial
 18 matters. It didn't matter.
 19 Q All right. What else do we have that
 20 showed that your mother was unduly influenced?
 21 A She was just too upset when she got
 22 home that day.
 23 Q Okay. But what --
 24 A She was too upset.
 25 Q Before she went, is there any other

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1 evidence, proof that you have that she was under
 2 undue influence?
 3 A I think in my journal it's in -- a
 4 couple of days before she made a comment. She
 5 said, I don't know why the Jones's think they're
 6 supposed to have everything your daddy and I've
 7 worked for. Those comments. My mother just
 8 didn't say those blatantly. Just to say them for
 9 no reason. My mother -- that was her children.
 10 Judy is my sister.
 11 Q Why does she think that the Jones's --
 12 A I don't know.
 13 Q -- why did she make that statement?
 14 A I don't know. I don't know. I can't
 15 tell you why. I don't know.
 16 Q Because under Rick Hoefer's will,
 17 Judy Jones would actually get more than she would
 18 under this will we're trying to probate, wouldn't
 19 she?
 20 A I don't know. I say, I'm -- I'm not
 21 fighting for material things.
 22 Q Well, let's -- let's make sure we're
 23 clear. The Rick Hoefer will says Judy gets one
 24 fourth, doesn't it? Says you get a fourth. Is
 25 that right?

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1 A There's five of us.
 2 Q Well, have you looked at the will?
 3 A There's only one sibling dead. There
 4 were six children and one's dead.
 5 Q Well, let me double check. I might be
 6 wrong.
 7 A I don't know. Unless I misread it.
 8 There were six children and one died. I would
 9 think that'd be one fifth.
 10 Q You're right. One, two, three, four,
 11 five. That's right. So under the Rick Hoefer
 12 will, you would get a fifth and Judy would get a
 13 fifth. Is that right?
 14 A Yeah --
 15 Q Okay.
 16 A -- as one part of a sibling, yes.
 17 Q And under this Exhibit Number 9, the
 18 will that Mr. Sloan prepared, y'all get a sixth,
 19 right?
 20 A And?
 21 Q That's less -- she's probating a will
 22 where she gets less under that will than she would
 23 under the other will. Is that not right?
 24 A Well --
 25 Q I'm -- I'm confused how the Jones's are

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Page 134 1 supposedly going to walk away and get everything 2 when they're getting less under the will that they 3 purport -- purport to probate than the will that 4 you -- 5 A Because it's -- 6 Q -- purport to probate? Is that not 7 right? 8 A When I got my hands on this copy right 9 here -- 10 Q Right. 11 A -- I had someone in another firm go 12 through this here list of items. 13 Q Okay. 14 A Obviously I couldn't see it because I 15 don't read that well. Start with from my strokes. 16 But when I looked over the list, it doesn't look 17 too bad. It doesn't -- I mean, I'm saying, okay. 18 That -- that's fine. It looks -- you know, it 19 looks all right to me. I mean, it really doesn't 20 look that uneven. 21 Q And you're pointing to Exhibit 22 Number 9. 23 A Yes, sir. The -- the Marion will. 24 Q That's right. 25 A And I said, it doesn't look that bad.	Page 136 1 me. And I said, well, Granny, that's your stuff. 2 Just like my stuff is mine. I worked for it. If I 3 choose to give everything I have to Abundant Life 4 Church, that's my choice. If you want to give 5 everything you have to Charleston, Roper, that's 6 your choice, Granny. It's nothing to do with me. 7 Your children are grown. You owe them nothing. And 8 she said, well, Eris Gail, I don't know how that 9 would look. I said, looks don't matter, Granny. 10 Looks doesn't matter. It's what you want. So see, 11 it's not things. It's not things. But when you put 12 it on a spreadsheet and it's presented to me and I 13 go, something is wrong. Something is wrong. 14 Q Why -- why do you say that? 15 A Because it -- the -- the comparison is 16 much different. 17 Q You just love talking about a number of 18 stuff. Somebody gets a candlestick -- 19 A It's not -- 20 Q -- versus a -- 21 A -- it's not number of stuff. It's my 22 mother's possessions. It -- it should mean some 23 sentimental value. It -- it -- to my mother you 24 wouldn't take her stuff and put it in a yard sale. 25 Q Have you ever looked or compared --
Page 135 1 But when it was put out in a -- in a spreadsheet 2 compared to what my mother's will -- and I'm 3 calling my mother's will the one that was written 4 in March -- when I put it -- it was put on the 5 spreadsheet, compared this one to this one, oh, 6 it's visibly -- visibly different. 7 Q Is that -- is -- what's valuable of 8 this personal property? 9 A It's -- it's not -- it's not the 10 material part. It's my mother's wishes. If my 11 mother had wrote this will -- if she had wrote 12 this will and had given me zero, that was my 13 mother's wishes. If my mother had written this 14 will here and if -- we joked about it one time 15 when Wayne died. I said, Granny, you know, I 16 don't have any husband or no children. I have no 17 beneficiaries. I have a lot of property. But you 18 know what I think I might do, Granny, I might give 19 it to Humane Society. And Granny says, oh, that 20 would be good, Eris. 21 And then when we started going to 22 Charleston, she said, you know, I'd love to have a 23 place like the Roper House down here. I would love 24 to have a -- a place for my -- for -- in my name 25 that would treat other patients like they treated	Page 137 1 A Her sisters -- 2 Q -- what's on Exhibit 9 with what's on 3 Exhibit 7? Have you ever -- 4 A I -- I saw -- 5 Q -- have you ever compared it? 6 A -- a spreadsheet on the two, yes. 7 Q All right. 8 A And who got what, yes. 9 Q All right. And -- 10 A I -- I saw one item -- and let me just 11 throw this out and my attorney might not even want 12 me to say it -- but I know when my mother bought 13 from my brother's estate a big old T.V., which my 14 brother didn't need with a little 235 home, but he 15 had a big old T.V. And when she bought that T.V., 16 on that date, she told every preacher that came in 17 the house, she told every bingo person, she told 18 every prayer group that came to the house, you see 19 that big T.V. right there, I'm going to give that 20 to James when I die. When I die, James gets that 21 big T.V. And you know when I knew that was for 22 sure, when I saw my mother's will. I heard my 23 mother say it. But I knew for a fact that big 24 T.V. -- she told everybody in the family. She had 25 said it on occasions of family functions. That's

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1 a nice T.V. And they'd say, oh, Granny, that's a 2 pretty T.V. Yeah, and when I die, it belongs to 3 James. 4 Q Well, why didn't -- 5 A And James. -- 6 Q -- why didn't she do something to the 7 Roper House since y'all were talking about her 8 giving money to the Roper House? 9 A Her never got time. She never got time 10 to -- 11 Q And the -- 12 A -- do it 13 Q -- Humane Society, why didn't she do 14 something for the -- 15 A She never got time. 16 Q -- Humane Society? 17 A Because Granny loved animals. 18 Q Well, she had time to go to 19 Rick Hoefer's office and sign that exhibit, didn't 20 she? 21 A That was -- this was after the fact. 22 This is after we went to Charleston. 23 Q So she just didn't have time. She had 24 time before then, but not after y'all went to 25 Charleston? Couldn't get Sharon to drive her down	1 transported her to sign Exhibit Number 9, was who? 2 Becky, is that her name? 3 A Becky took her and -- and Pam brought 4 her home. 5 Q All right. Becky -- it says she shares 6 a confidential -- and then it says and family 7 relationship. What kind of confidential 8 relationship did Becky have with your mother? 9 A I don't know. In Pam's testimony she 10 said that Becky took her. She brought her home. 11 Q Okay. But you don't know of anything 12 other than Becky happens to be your grandmother's 13 niece or grandchild? 14 A Great grandchild. 15 Q Great grandchild, I'm sorry. Okay. 16 Other than that, what other relationship did she 17 have with your mother? 18 A She didn't. 19 Q Okay. She didn't hold -- 20 A She didn't -- 21 Q -- a power of attorney -- 22 A She didn't -- 23 Q -- for your mother, did she? 24 A She didn't held -- or helped my mother. 25 She never took my mother to a doctor. She never
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1 there? 2 A No, Sharon wouldn't drive my mother to 3 Charleston by herself, no. 4 Q No, over to Rick Hoefer's office and 5 then -- 6 A I don't know. 7 Q -- would have changed this will. 8 A See, I don't know. I just knew what 9 was in mother's heart. The way she felt about 10 things. 11 Q Okay. And what if she told Judy and 12 some of the other kids something totally 13 different? Do you think that was in her heart 14 when she was telling them or she -- 15 A I don't know. 16 Q -- was lying to them? 17 A I don't know what she told them. I 18 know what she told her family members. I know 19 what she told some aunts and uncles. 20 Q Well, they're family members. 21 A I know what she told the aunt and 22 uncles that -- that's come to me now. 23 Q All right. What about the next 24 allegation here, paragraph four -- I mean, on page 25 four, paragraph 13. Your granddaughter who	1 did anything for my mother -- 2 Q You talking about Becky? 3 A Becky. 4 Q Okay. But Becky would come over to try 5 to bring your mom food now and then -- 6 A When -- 7 Q -- didn't she? 8 A When -- 9 Q Well, you said she'd come over there at 10 9:00 at night bringing food. 11 A Bring supper for her and Granny. Bring 12 a plate for her and Granny to eat supper. 13 Q Okay. 14 A She didn't bring food to my mother's 15 household, no. 16 Q Well, she brought your mother a meal to 17 eat. 18 A Well, my mother ate at 5:30. 19 Q Okay. All right. 20 A Okay. 21 Q Maybe the timing was off, but she's -- 22 she's doing something. You can't say she never 23 did anything. 24 A It -- it aggravated my mother. She 25 would start calling my mother in the morning when

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1 Sharon got there. And all day long, Granny said, 2 now, where is Becky. Where is Becky. And Becky 3 would call. Well, Granny, I -- I got to do this 4 one more thing and I'll be there. I got to do one 5 more thing and I'll be there. It was an all day 6 event and that just got -- my mother is 80 7 something years old. Those kind of things excite 8 an old person. And they did -- they just don't 9 like it. If I called my mother and said I'll be 10 there in a half hour, if it was a hour or 11 something, she'd get upset, too. 12 Q All right. Do you have any evidence 13 that anybody forced your mother to go to Marion on 14 October 18, 2011? 15 A Force, no, other than the fact than 16 come up and drive up and say come on, Granny, 17 let's go. 18 Q Now, your -- your Granny -- your mother 19 could have told them no -- 20 A Because I told her -- 21 Q -- and felt -- 22 A -- we're going to be going to 23 Charleston -- 24 Q All right. Let me finish. 25 A We have to have --	1 A She -- 2 Q -- felt? 3 A You know, I don't know what was said to 4 her the night before. You're absolutely right. I 5 don't know what was said to her the night before. 6 Q And you don't know what was said to her 7 on the morning before she left to go to Marion on 8 October -- 9 A Well, I know -- 10 Q -- the 18th -- 11 A -- I know that Becky did not -- 12 Q -- 2011, do you? 13 A Becky did not want her -- her nurse to 14 go with her. I knew that. 15 Q Say that again, now, I'm sorry. 16 A Becky did not want Sharon to go with 17 Granny. Because Sharon said -- Granny said, 18 Sharon, why don't you just ride with us? And I -- 19 Becky, said, no, Granny. No, Granny. So, well, 20 what was wrong with Sharon riding with them? I 21 mean -- 22 Q She -- your mother -- 23 A I didn't understand that. 24 Q -- could have insisted that Sharon ride 25 with them.
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1 A -- some paperwork. 2 Q All right. You -- your mother could 3 have told them, no, I don't feel like going today, 4 couldn't she? 5 A Well, yeah, she should have. 6 Q She should and she could have. 7 A No. No. 8 Q Why couldn't she? 9 A Sharon -- Sharon had got there that 10 morning. Got her showered. My mother didn't walk 11 other than a walker. It -- it -- to give my 12 mother a shower, you're not talking about a 15 13 minute ordeal. It's a two hour ordeal. 14 Q She could have told Becky I don't feel 15 like going today, and I don't want to go, couldn't 16 she? 17 A Well, she should have, yes. 18 Q She should have and she could have. 19 A Because she had other obligations. 20 Q Back up. She could have told her, no, 21 I've got other obligations. I don't need to be 22 going to Marion. 23 A She might have felt that she -- she had 24 to go. 25 Q But you don't know how she --	1 A Well, that's what she should have done. 2 Q Yeah. 3 A That's what she should have done. 4 Q She could have done it. 5 A I don't know. 6 Q But you don't have any evidence that 7 she somehow was not under her own -- 8 A Other -- 9 Q -- free will -- 10 A -- other than what she -- 11 Q -- that she was -- 12 A -- said to people. 13 Q Okay. 14 A Huh-uh. 15 Q Now, you say that she was defrauded 16 somehow in your next few paragraphs to go sign the 17 will over in Marion. Tell me what all -- look -- 18 what -- what all -- look at number 17. It says, 19 during the visit and without decedent's knowledge, 20 she was fraudulently induced into executing a last 21 will and testament. 22 A Uh-huh. 23 Q All right. 24 A My mother -- from the time that she 25 went there, when she came home, Eris Gail, all 1

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Page 146 1 can tell you is, I signed all kind of paperwork 2 for healthcare power of attorney and for -- for 3 that G.D. wheelchair. That was my mother's exact 4 words. And I said, well, Granny, well, where is 5 your copies at. We're going to have to have them 6 to go down to Charleston. She said, they didn't 7 give me none. Pam -- Pam will give me a copy. 8 That next week -- the next week we're going to 9 Charleston without any paperwork. But the nurses 10 already -- the doctors already talked to me 11 numerous times on the phone about Granny's health. 12 Q And you didn't know when you're taking 13 her down to Charleston that Judy had the 14 healthcare -- 15 A Judy never -- 16 Q -- power of attorney? 17 A -- produced nothing. I never saw 18 nothing in her hand. She never said anything to 19 Granny. When Granny would talk to the nurses at 20 the registration and if they had -- because see 21 they would only do that at the initially time -- 22 but when initial time was, Ms. Smith, who's your 23 healthcare power of attorney? Eris Smith and 24 Judy Jones. Eris Smith, Judy Jones. 25 Q And you don't know what they have on	Page 148 1 on the weekend. He said he didn't know her. He 2 said, Ms. Smith, I don't know you but I will. 3 When I go to the office Monday or Tuesday, I'll 4 see what this is about. There's witnesses that 5 heard Granny and that man talking on the 6 speakerphone. 7 Q Okay. Well -- 8 A Okay. And -- 9 Q -- and -- 10 A -- then he called Granny back on a 11 Tuesday. Thank God. Thank God. Nightingale 12 wasn't there. See, Judy was babysitting. 13 Nightingale -- Sharon was there with my mother. 14 And when the phone rang, Sharon said, I think this 15 is that man that Roshell called for you this 16 weekend when Jackie and Roshell looked the number 17 up for you. My sister Jackie and Roshell had 18 looked up Sloan's home number. They called Sloan 19 at home. 20 Q Yeah. 21 A And then Sloan called my mother's house 22 back. And said, Ms. Smith, I'm looking at a piece 23 of paper now that you might be talking about. But 24 Ms. Smith -- this is word for word. It was 25 recorded, word for word. Ms. Smith, I have never
Page 147 1 file at McLeod or at M.U.S.C. or any place? 2 A Well, she may have given them one later 3 on, yes. But it was out -- my mother's -- knew 4 she was doing it on me. But my bro--- my mother 5 asked me about that when she came -- was in the 6 hospital with pneumonia. Eris Gail, you ever seen 7 this here healthcare power of attorney with you 8 and Judy? I said, no, ma'am, I haven't seen it. 9 I said, have you Granny? Have you seen it? She 10 said, no, I haven't. 11 Q All right. So what -- what -- how did 12 they fraudulently induce your mother to sign the 13 will over in Marion? 14 A She went with intentions to sign a 15 healthcare power of attorney for Judy and I. 16 Q What did they do that -- 17 A And instead -- 18 Q -- defrauded your mother? 19 A -- instead she signed -- she didn't 20 know. When she called Mr. Sloan on the phone, all 21 she said to Mr. Sloan and Mr. Sloan said back to 22 her on the phone to Sharon in her house when 23 Mr. Sloan called her -- 24 Q No, she called Mr. Sloan. 25 A No, no. No. No. She called Mr. Sloan	Page 149 1 advised you. My name is Cyrus -- whatever he said 2 his full name was -- Cyrus T. Sloan. Gave his 3 full name twice. He said, Ms. Smith, do you 4 understand me? Yes, sir, I do. My name is Cyrus 5 T. Sloan. I work out of the office that used to 6 be mine and Robert Lee's. And that was one thing 7 to say wrong. She didn't want to hear Robert Lee 8 was involved in nothing. 9 She said, well, what about it now? 10 What's -- what's all this here paperwork about? I 11 got a daughter telling that she's over -- that she 12 and her -- her daughter is over my health and I know 13 better than that. Furthermore, now, she's telling 14 people that she's over my estate. And I know that's 15 a lie. I know that's a lie, Mr. Sloan. He said, 16 well, Ms. Smith, all I can tell you -- I'm going to 17 tell you one more time, Miss -- Ms. Smith. I have 18 never represented you. I have never wrote any 19 docets--- or documents for you. I can tell you, I 20 am looking at a piece of paper. I am looking at a 21 piece of paper where I witnessed -- I witnessed for 22 you. 23 And he said -- and he said, who's that on 24 the phone. I hear you talking to someone. She 25 said, that's my nurse, Sharon. He said, well, let

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1 me speak to her. And he put Sharon on the phone.
 2 He said, Ms. Graham, my name is Cyrus T. Sloan. Let
 3 me tell you for -- for a fact right now, I have
 4 never advised Ms. Smith of no paperwork. I have
 5 never wrote any paperwork for her. I am looking at
 6 a document here sitting on this desk in Robert Lee's
 7 office where I witnessed, witnessed something for
 8 her. And Granny said, well, what is that paper? He
 9 said, I don't know, Ms. Smith. I don't know, Ms.
 10 Smith. All I can tell you, I witnessed a signature
 11 for you.
 12 And she said, well, Mr. Sloan, can you
 13 come to my house. Can you come to Evergreen and
 14 talk to me about this. Mr. Sloan, said, Ms. Smith,
 15 are you on the phone? Yeah. Ms. Graham? Yeah.
 16 Let me put y'all on speakerphone in my office here
 17 so everyone in this office can hear your -- your and
 18 I conversation. And he puts it on speakerphone.
 19 Sharon can hear us on speakerphone. And then he
 20 says, Ms. Smith, one more time. I have never
 21 advised you. I never wrote anything for you. I
 22 witnessed a piece of paper for you. And what I'm
 23 being told -- and -- and Sharon could hear someone
 24 in the background talking to him. What I'm being
 25 told, Ms. Smith, is Becky Jones wrote this document.

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1 Pam Jordan typed it. And Granny said, well,
 2 whatever that paperwork is -- my mother never called
 3 it a will -- my mother -- and Mr. Sloan never said,
 4 will, on the phone.
 5 Well, whatever that paperwork is, is
 6 that -- is that Pam there? And Pam answered Granny
 7 on the speakerphone. Yes, Granny, this is Pam.
 8 Well, look here. You bring whatever paperwork y'all
 9 think I signed over there, you bring me a copy
 10 today. Yes, ma'am, I will. I'll -- I'll bring --
 11 I'll bring you a copy. No -- no, that's not what I
 12 said. You bring what I signed to me to my house.
 13 And Pam, said, Granny I'll bring it to you tomorrow.
 14 It never got to my mother. And that was several
 15 weeks before she died.
 16 Q Okay. I was going to ask you. This is
 17 all like March, 2013?
 18 A No, no.
 19 Q February, 2013?
 20 A Yeah.
 21 Q Okay. So --
 22 A And see --
 23 Q -- back to the question. What
 24 fraudulent did they do that made your mother sign
 25 the will back in 2011 over in Marion?

Page 152

1 A My mother -- my moth-- mother never
 2 went to sign a will, period.
 3 Q Okay. You told me that. Anything else
 4 that they did to -- they defrauded her somehow?
 5 A She thought she was signing a
 6 healthcare power of attorney --
 7 Q Okay.
 8 A -- for she and I to go to Charleston.
 9 Q And how do you know that what -- do you
 10 have any evidence of what they told her during the
 11 meetings that -- right before she signed the will
 12 in 2011? They being Mr. Sloan?
 13 A I know for a fact when Granny got home,
 14 I said, I heard -- I heard you had brunch. She
 15 said, no, we went over to Marion to Mr. Sloan's
 16 office. She never said Robert Lee's office.
 17 Q And you heard Mr. Sloan testify the
 18 other day, and he provided the notes that he took
 19 when he met with your mother.
 20 A Uh-huh.
 21 Q Okay. And any reason to doubt that
 22 these are the notes that he took when he met with
 23 your mother?
 24 A Sharon and I questioned Granny. Said,
 25 Granny, what happened over there? They had all

Page 153

1 kind of paperwork for that healthcare power of
 2 attorney and for that dem wheelchair that I told
 3 Medicare wasn't going to pay for.
 4 Q All right. Anything else that would --
 5 that they did besides what you just testified --
 6 A Just coercion.
 7 Q -- to that could --
 8 A That's all I can say.
 9 Q Okay.
 10 A And I know what that is.
 11 Q All right. You mentioned there was
 12 some recording when Mr. Sloan and --
 13 A Uh-huh.
 14 Q -- y'all were speaking in
 15 February of 2013? Where is that recording?
 16 A Sharon had it on her cellphone. That's
 17 how I heard it.
 18 Q Okay.
 19 A And Roshell.
 20 Q She still got it?
 21 A I hope she does. I know she's got one
 22 where she made -- when she called Mr. Sloan that
 23 Sunday when Jackie and Roshell looked the number
 24 one. She's got that one I heard several times.
 25 Q Okay. All right. Let's see what else

39 (Pages 150 to 153)

Q&A Court Reporting

Page 154 1 we've got here. 2 A Sharon said in Granny's logbook that's 3 in the kitchen -- I'd like to see a copy of that, 4 too, or -- or get my hands on it right now. 5 Sharon said in the logbook that was put in the 6 kitchen for Granny that she wrote in the logbook 7 the day that Mr. Sloan called, what he said on the 8 phone. And that Granny was all upset and she 9 wanted to go to the bank and she wanted to go 10 Rick Hoefer's office. It's logged in the logbook. 11 My mother sat down at the kitchen table and made 12 sure Sharon wrote it in the book. 13 Q That she wanted to go to Mr. Hoefer's 14 office -- 15 A That's right. 16 Q -- in -- and -- 17 A She said, there's a serious problem 18 here. 19 Q And -- 20 A But now, she's found out that this 21 Sloan man, not Robert Lee, was writing a 22 healthcare power of attorney. 23 Q And are you saying Robert wasn't there 24 the -- in October of 2011, when your -- 25 A My mother --	Page 156 1 Q Well, it's in the will that Mr. Sloan 2 witnessed. 3 A If that's in my mother's will. 4 Q You don't count that as your 5 mother's -- 6 A No. 7 Q -- will? 8 A Huh-uh. 9 Q Okay. So you think that you ought to 10 get a fourth of her estate under the will you're 11 trying to probate with the -- 12 A I'm going to do -- 13 Q -- court? 14 A -- as my mother said. 15 Q All right. 16 A I'm going to take care of my brother. 17 Q All right. Well, your mother's will -- 18 and it's not a fourth, it's a fifth. Under the 19 Rick Hoefer will, your nephews are not mentioned 20 in that will. Are you going to give them a share 21 of your -- 22 A I -- 23 Q -- mother's estate? 24 A -- I will continue taking care of them. 25 I will --
Page 155 1 Q -- mother was? 2 A -- didn't see Robert Lee. 3 Q Really. 4 A No. Mama -- you don't understand the 5 situation. My mother loved her son. And when she 6 felt that her -- his will had been altered, that 7 was all she wrote. Huh-uh. 8 Q Okay. What about the other people that 9 witnessed the will that she signed over in Marion? 10 Do you think she saw them? 11 A Well, the young lady that talked that 12 day that Brittany woman, she didn't know if she -- 13 if Granny was present or not when she signed it. 14 I mean, I -- I can't tell you anything about that. 15 But I'm sure when we got to trial, I mean, all 16 that's going to come out. 17 Q Yes, it will. 18 A Uh-huh. This is not something that I 19 want to do. I'd rather to be have time to mourn 20 my mother. I would rightly do that. 21 Q And you're okay with your -- your 22 nephews getting a sixth of the estate and 23 everybody getting a sixth? 24 A If that's in my mother's will, I'm 25 tickled to death about it.	Page 157 1 Q I'm not asking you whether you're going 2 to continue taking -- taking care of them. Do you 3 think they're entitled to get a portion of your 4 mother's estate? 5 A My mother had done and done for the 6 boys. And she knows that I will continue. That's 7 all I can tell you. 8 Q You -- well, if you probate -- 9 A My mother didn't -- 10 Q -- the will for -- 11 A If my mother went to Mr. Hoefer -- she 12 didn't write a will on a brunch trip. She went to 13 Mr. Hoefer and wrote a will over weeks. 14 Q Well, if you -- 15 A If she didn't put it in there, that's 16 not what she wanted, son. 17 Q Well, you testified earlier that she 18 wanted them to get some of your estate. 19 A No, I didn't say -- 20 Q Some of her estate. 21 A -- I said she mentioned it one time. 22 Q Okay. And she mentioned the Humane 23 Society -- 24 A Uh-huh. 25 Q -- getting something and she didn't

40 (Pages 154 to 157)

Q&A Court Reporting

Page 155 1 put -- 2 A This -- 3 Q -- it in that. 4 A -- this is when she's -- she's being 5 fixed to be put on morphine that she -- 6 Q Well, the time -- 7 A -- wanted -- 8 Q -- y'all are talking to Mr. Sloan is it 9 two weeks before she dies, right? 10 A About three weeks. 11 Q Three weeks, okay. I mean, things 12 change, don't they? People's minds change. 13 A They just don't -- 14 Q They have different intention. 15 A -- time. 16 Q Huh? 17 A She -- she thought she could die at the 18 next minute. 19 Q Okay. And things change. There are -- 20 your mind changes. Everybody's mind -- 21 A Uh-huh. 22 Q -- changes every day, doesn't it? 23 A Yeah. I -- I believe if Mr. Hoefer had 24 went to Evergreen, if she'd have gotten -- when 25 she called -- she and Sharon called Mr. Hoefer's	Page 160 1 CERTIFICATE OF REPORTER 2 State of South Carolina 3 County of Florence 4 5 I, Erica Norwood, Court Reporter and 6 notary public for the State of South Carolina, do 7 hereby certify that the deponent in the foregoing 8 deposition was, by me, first duly sworn to testify 9 to the truth, the whole truth and nothing but the 10 truth; that said deposition transcript was taken 11 via stenomask with backup; that the foregoing 12 transcript contains a true record of the 13 deposition of said deponent. 14 I further certify that I am neither attorney 15 nor counsel for, nor related to or employed by any 16 of the parties connected to the action, nor am I 17 financially interested in the action. 18 Witness my hand at Florence, South Carolina, 19 this the 5th day of July, 2013. 20 21 _____ 22 Erica Norwood, 23 MY COMMISSION EXPIRES: 24 March 2, 2022 25
Page 159 1 office a few times. If he had came to Evergreen, 2 it'd be a different ball game right now. 3 Q All right. Give me one second and we 4 are about through. 5 A Uh-huh. 6 (Whereupon, a break was taken 7 from the proceedings.) 8 MR. PAYNE: All right. Thank you for 9 your time. 10 THE DEPONENT: Thank you, young man. 11 MR. PAYNE: That's all I have. 12 THE DEPONENT: Thank you. 13 (Witness excused.) 14 (Whereupon, at 12:37 p.m., 15 the taking of the foregoing 16 deposition was concluded.) 17 18 19 20 21 22 23 24 25	Page 161 1 STATE OF SOUTH CAROLINA 2 County of Florence 3 4 I hereby certify that I have read the 5 foregoing deposition by me given and that the 6 statements contained therein are true and correct 7 (as stated) (as corrected), to the best of my 8 knowledge and belief. 9 10 11 12 _____ 13 Eris Gail Smith 14 15 16 17 Sworn to and subscribed before me 18 This ____ Day of _____, 2013. 19 20 21 22 23 _____ 24 NOTARY PUBLIC, STATE OF SOUTH CAROLINA 25 MY COMMISSION EXPIRES: JUNE 15, 2014

41 (Pages 158 to 161)

Q&A Court Reporting

ROA_0282
Appendix_00285

STATE OF SOUTH CAROLINA

IN COMMON PLEAS COURT

COUNTY OF FLORENCE

In the Matter of the Estate
of Eris Singletary Smith.

 COPY

The Examination Under Oath of Mary Alice Tompkins

Location: 814 West Evans Street
Florence, South Carolina 29503

Date: Wednesday, September 11, 2013

Time: 12:15 p.m. - 12:36 p.m.

Court Reporter: April Llewellyn

The examination under oath was taken pursuant to
notice and/or agreement, in the above-entitled
cause pending in the above-named court.

Q & A COURT REPORTING SERVICES
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Q&A Court Reporting

1 Q Okay. I want to specifically ask what
2 you may or may not know about Ms. Smith's will.
3 And I -- I used the word Eris earlier. And of
4 course, one of her girls was named Eris. And of
5 course, if I used the word Ms. Smith, there's a
6 lot of Ms. Smith's out there.

7 A Yeah.

8 Q How do you refer to Eris Singletary
9 Smith? What do you refer to her as?

10 A Well, I always called Eris, but then I
11 got to where I called her Granny, like everybody
12 else did. Because people get confused and don't
13 know which Eris I was talking about.

14 Q Well, I'm -- I'm going to refer to her
15 as Granny as well. Okay?

16 A That's fine.

17 Q So we won't get mixed up. So I want
18 to ask you what you knew about Granny's will,
19 about her wishes following her death. And first,
20 did you ever see a will that Granny ever executed?

21 A No, I haven't.

22 Q Did you have an opportunity to have
23 any conversation or be a party to any conversation
24 that Granny was involved in regarding what she
25 wanted or what she stated in her will?

Q&A Court Reporting

1 A Other than that meeting on October,
2 when Timmy, her son, brought up -- and I don't
3 know how he knew this -- what she was going to do
4 with her house when she passed. And she's told
5 him that -- that she -- she -- Eris would have
6 first chance at it because she had did so much for
7 her and everything. And if she chose not to buy
8 it, she would then see if anybody else in the
9 family wanted to buy it. And if -- my brain
10 stopped. Anyway, she said if they didn't want it
11 -- want to buy it, then they -- they would sell it
12 and the money would be divided five ways. But if
13 Eris bought it, the money would divided four ways.

14 Q Okay. And this meeting is one you
15 referred to in your statement that we attached to
16 -- to your examination --

17 A Yeah.

18 Q -- under oath. And this was a meeting
19 that happened in October of 2012.

20 A That's correct.

21 Q On a Sunday afternoon?

22 A Yeah.

23 Q Who do you recall being present; not
24 only present at the house, but who -- who would've
25 heard Granny's conversation about the house?

Q&A Court Reporting

1 A Jackie, Judy, Eris, Timmy, Timmy's
2 wife, Timmy's daughter, James Ervin, and Mickey
3 and his girlfriend.

4 Q Okay. Now, in addition to details
5 about the house, did -- was there any other
6 conversation about Granny's wishes? In your
7 statement, you mentioned that -- how the property
8 would be divided.

9 A Uh-huh.

10 Q And whether or not Mickey and Jamie
11 would be included.

12 A No -- she -- she had been paying his
13 college tuition and things. And she had been
14 helping him. So she said no, that he would not be
15 included in it.

16 Q And you said she had been paying those
17 things. Is that something she stated in response
18 to Tim especially?

19 A Oh, I -- I -- she had talked -- well,
20 she told in response to that, but I knew that she
21 had been --

22 Q Okay.

23 A -- doing that.

24 Q So you knew of it, but in addition to
25 that, when Tim asked --

Q&A Court Reporting

1 A Yeah.

2 Q -- she said because I'm doing this --

3 A Yeah.

4 Q -- he's not going to be in the will?

5 A That's correct.

6 Q Okay. And then I think you -- do you
7 know anything about Jamie, whether or not he was
8 to be included or not?

9 A I -- I don't think -- I've never se---
10 met Jamie. And they -- he was never mentioned, so
11 I -- I wouldn't think.

12 Q Did you -- do you know -- in your
13 statement, you said that Granny was -- loved all
14 of her kids.

15 A Uh-huh.

16 Q But do you know if Granny had a real
17 close relationship with Jamie, or Jamie had a real
18 close relationship to Granny?

19 A I -- I -- I don't -- I really don't
20 know. Like I say, I -- that -- he grew up kind of
21 when I was away. You know, I lived away, so I
22 never knew.

23 Q Did Granny ever mention Jamie to you
24 when you were there visiting?

25 A She keeps -- ke--- she had bring him

Q&A Court Reporting

1 up every once in awhile, but not -- not very
2 often.

3 Q Okay. Now, one of the wills produced
4 in this case was prepared by Attorney Robert Lee,
5 whose -- whose office is now in Marion. Do you
6 personally know Robert Lee?

7 A No. I don't personally know him.

8 Q Okay. Were you aware of Granny's
9 relationship or what she thought about Robert Lee?

10 A She did not like him, that she thought
11 he was a -- didn't deal properly with his clients
12 and things.

13 Q Okay.

14 A And then --

15 Q Now, was there something specific
16 close to Granny that caused her to form that
17 opinion about Robert Lee?

18 A Well, she thought that he had
19 something to do with the will being -- Wayne's
20 will being changed. And she said she had to get
21 her will out of -- you know, away from there.

22 Q Okay.

23 A And so I knew she had went to another
24 attorney, but I didn't know who he was.

25 Q Okay. What -- what did -- what did

Q&A Court Reporting

1 Granny tell you -- but I don't want you to just
2 assume what Granny may have thought.

3 A Uh-huh.

4 Q I want to know what Granny told you
5 about what Granny thought about Robert based upon
6 Wayne's will.

7 A Well, she just -- like I say, she just
8 -- she kept bringing that up. And I know she
9 said, I've cried over it and cried over it.

10 Q Okay.

11 A So many times that -- and I know that
12 that wasn't the will that was orin--- that Wayne
13 wanted --

14 Q Okay.

15 A -- to be put in probate.

16 Q And is it your understanding that
17 Granny actually read one of Wayne's wills before
18 he died?

19 A Yeah. I've heard her make that
20 statement. And she said that's the reason that I
21 know the will that came forth after his death was
22 not the w--- original will.

23 Q And is it your understanding that
24 Robert Lee's the one that came forward with
25 Wayne's will after he died?

Q&A Court Reporting

1 A Now, I don't -- I don't really know
2 that, but I -- I -- that's what she said.

3 Q Okay. All right. Whether or not it's
4 true or not, that's what Granny said.

5 A Uh-huh. Yeah.

6 Q Okay. And based -- based upon the
7 conversation you had with Granny, do you think
8 that she would ask Robert Lee to prepare a will
9 for her?

10 A No, sir, not under Granny's
11 circumstances. Huh-uh.

12 Q Now, Granny actually did -- we found
13 out did have a will with Robert Lee in 2001. And
14 I think you made the statement that Granny said
15 she wanted to get her will out of Robert Lee's
16 office or something along those lines --

17 A Yes.

18 Q -- is that correct?

19 A Yes.

20 Q Okay. All right. So the fact that
21 she made another will with Rick Hoefer -- you
22 didn't know anything about the Rick Hoefer will,
23 did you?

24 A No. I didn't. I didn't even know,
25 you know, anything about this until, you know,

Q&A Court Reporting

1 after the fact and...

2 Q Okay. But you knew that Granny had
3 stated that she wanted to get her will away from
4 Robert Lee?

5 A That's correct.

6 Q And that she had a distrust for him
7 based upon the issues with Wayne's will?

8 A Yes.

9 Q Okay. Now, you -- you -- a lot of
10 your statement deals with the relationship Granny
11 had with her various kids --

12 A Uh-huh.

13 Q -- and relationship her kids had with
14 their mother.

15 A Uh-huh.

16 Q And I don't want to throw stones here
17 today, but based upon your conversations with
18 Granny, which child did Granny rely upon generally
19 to take care of her physical needs, her -- you
20 know, her house needs, her food needs, medical
21 needs, things like that?

22 A Eris Gail.

23 Q Okay. Now, would you be in the
24 position to know who Granny relied on?

25 A Yes, I would, because I've been in and

Q&A Court Reporting

1 out of her house and -- and I've -- she -- if we
2 -- I would come down for a visit. In fact, one of
3 the first times that I went back down there, she
4 called and she said, Eris, she said, go buy some
5 food, we all going to have -- eat together. And
6 so Eris picked up the food and brought it all the
7 way back down to Evergreen and we ate. And -- but
8 she -- she needed anything -- I've -- I've --
9 she's picked -- I've been there many times. She'd
10 pick it up -- she'd pick up the phone and say,
11 Eris, I need you to do so and so, you know. And I
12 know she depended on her.

13 Q In addition to you overhearing Granny
14 asking Eris for certain things, would -- would
15 Granny talk about her kids or things she did with
16 the kids or things the kids --

17 A Oh, yes.

18 Q -- did for her? Okay. Now, in your
19 conversations with Granny, do you think that Eris
20 did -- and I want you to try to quantify your
21 answer, because, you know, sometimes there's
22 always -- obviously one kid that's probably going
23 to do a little bit more.

24 A Uh-huh.

25 Q The next one maybe a little less, the

1 next one a little bit less. I wanted you to try
2 to quantify how much Eris did for Granny as
3 compared to the next kid, if you can.

4 A They did very little for her. They'd
5 come out and visit her on Sunday or -- or, you
6 know, give her a little bit of attention and
7 everything. But it -- Eris done everything they
8 -- she did and gave up herself wholeheartedly and
9 with a free heart.

10 Q Did -- did you ever overhear Granny
11 make any comments about who was going to tend to
12 her business after she died?

13 A She told me that Eris would handle all
14 of it, you know. And -- well, I -- I believed
15 her, you know.

16 Q In -- in regard to Wayne's will, you
17 said that Granny -- the -- the will that was
18 probated, the final will was not the one that
19 Granny read or that Granny --

20 A Huh-uh.

21 Q -- expected. What do you believe
22 Granny was upset about Wayne's will? What -- what
23 was it, if you know, was wrong about Wayne's will?

24 A I really -- really don't know what --
25 what particularly upset her except that it wasn't

1 worded like the original was. And I don't know,
2 you know, who he bequeath everything to or
3 anything, but I know he was fair to all of them.
4 I mean, I -- I feel like he would be because I've
5 always thought he was a nice person. And he --
6 she just was upset because the thing had been
7 changed and something -- and she knew that
8 something underhanded had been done. That really
9 upset her. And she -- when she was dying, that
10 thing just worried her and it worr--- worried her
11 about what happened -- was going to happen.

12 Q Okay. So the issues with Wayne's will
13 is something that she just didn't forget about?

14 A No. No, she did not.

15 Q She took it to her grave. I mean,
16 literally --

17 A Yes, she did.

18 Q It's something she contemplated her --
19 considerably before she died?

20 A There was many tears shed over that as
21 many tears shed over this.

22 Q Okay.

23 A What we're going through.

24 Q Do you know who the personal
25 representative in Wayne's will was, who actually

1 served?

2 A I think Judy did.

3 Q Okay. Do you believe -- do you know
4 if that was one of the problems with the will?

5 A Yeah. That -- that -- that was --
6 that was one of the main stickler points, because
7 she knew when she read that other will that she
8 was not the one that was supposed to be the
9 personal representative.

10 Q Who was closest to Wayne? Who --
11 which sibling, or who did the most business with
12 Wayne, or for Wayne?

13 A Eris.

14 Q Okay.

15 A They had business together and
16 everything and worked together in the same plant.

17 Q Okay.

18 A And I mean, I know of that because my
19 family members worked there too, so...

20 Q Is that one of the issues that
21 surprised Granny?

22 A Yes. It -- yes. Because, I mean, she
23 was heartbroken over it, was -- was the way I
24 would put it.

25 Q Okay. Now, there was some -- even

Q&A Court Reporting

1 now, there's a -- there's been a lot of talk about
2 the manner in which property was accrued from the
3 store after Granny's death and issues with Wayne's
4 property that may have been in the store.

5 A Uh-huh.

6 Q What -- was Granny ever suspicious or
7 concerned about any money that may have been
8 wrongfully taken from Wayne's estate that you're
9 aware of?

10 A Yeah. I think there was some question
11 of some old money. I -- I knew about that.

12 Q Okay. And what did Granny -- what do
13 you recall Granny talking about the old money?

14 A She didn't say much about it, but I
15 know that she had Eris -- and I've been there and
16 I've heard her talk, not to let the Jones and the
17 Browns in that store. And she had her to get in
18 there and lock it and board it up so that they
19 couldn't get in there because she didn't want --
20 she knew their character, I guess. She knew that
21 they were curious about what was in there and
22 everything. She -- she just didn't want them in
23 there.

24 Q Now, is that something Granny talked
25 to you about specifically?

Q&A Court Reporting

1 A Yeah. I heard her say that over and
2 over again. Don't you let -- let them go in the
3 store. I think it was probably something that
4 would be brought out after her death, you know,
5 and be divided. But she didn't want them in there
6 bothering that stuff because Eris -- Eris and her
7 husband worked hard for what they had. They
8 worked hard all their life and what they had, she
9 -- was theirs. And I think that all that money
10 should've been given back to -- to Eris.

11 Q Okay. And instead, what did Granny
12 think happened to that money?

13 A She thought that the same conniving
14 people that had changed the will had got the
15 money.

16 Q Okay.

17 A Got their hands on the money.

18 Q And whether or not that's true or not,
19 that's what Granny thought in her mind?

20 A That's what Granny thought.

21 Q Okay. And based upon those concerns,
22 you don't believe she would have ever gone to
23 Robert Lee --

24 A No.

25 Q -- to prepare her will?

Q&A Court Reporting

1 A No. No.

2 Q Okay. And do you think that she would
3 have appointed Judy Jones to -- to administer her
4 estate based on that?

5 A No, I don't. I -- I don't think that
6 Judy has the ability to -- to do it properly. I
7 mean, she handled none of her mother's business,
8 as far as I know.

9 Q Well, in addition to what you think, I
10 want to know what you -- what you believe Granny
11 thought based upon those -- that information you
12 shared with me.

13 A Uh-huh.

14 Q Do you think Granny would've asked
15 Judy --

16 A No.

17 Q -- to be over her estate?

18 A No.

19 Q Now, sometimes people answer questions
20 and they might just be 50 percent sure it's a yes
21 or 60 percent sure or 90 percent sure. How sure
22 are you that Granny would've never used Robert Lee
23 to prepare her last will?

24 A I'm positive.

25 Q Any doubt in your mind --

Q&A Court Reporting

1 A No.

2 Q -- at all?

3 A No.

4 Q Any -- any hesitation?

5 A No.

6 Q Okay. Any hesitation that she
7 would've appointed someone other than Eris to
8 administer her estate?

9 A No, because she had total confidence
10 in Eris. And I -- I -- I know she wouldn't have
11 asked her to do it.

12 Q Okay.

13 A After -- you know, after the --
14 what -- what had happened with the other will, I
15 know she wouldn't.

16 Q All right. Well, that's all the
17 questions I have. If there's anything that you
18 want to add to this statement or take away from
19 it, now's the time to do it. Do you have
20 anything?

21 A Other than I just hate this had
22 happened and everything. And I -- I -- I think I
23 tried to really think of everything that I knew I
24 might -- there might be some things that have
25 slipped my mind, but, you know...

Q&A Court Reporting

1 Mr. Finklea: Well, thank you very
2 much for sharing with us what you did.

3 The Witness: I hope it helps.

4 Mr. Finklea: Thank you, ma'am.

5 (Witness excused.)

6 (Whereupon, at 12:36 p.m.,
7 the taking of the foregoing
8 examination under oath was
9 concluded.)

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Q&A Court Reporting

STATE OF SOUTH CAROLINA

IN COMMON PLEAS COURT

COUNTY OF FLORENCE

In the Matter of the Estate
of Eris Singletary Smith.

 COPY

The Examination Under Oath of Sharon J. Graham

Location: 814 West Evans Street
Florence, South Carolina 29503

Date: Wednesday, September 11, 2013

Time: 2:13 p.m. - 3:10 p.m.

Court Reporter: April Llewellyn

The examination under oath was taken pursuant to
notice and/or agreement, in the above-entitled
cause pending in the above-named court.

Q & A COURT REPORTING SERVICES
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Q&A Court Reporting

A P P E A R A N C E S

Finklea Law Firm
814 West Evans Street
Post Office Box 1317
Florence, SC 29503
By: Gary I. Finklea, Esq.

Also Present: Eris Gail Smith

I N D E X

Examination by Mr. Finklea 3

E X H I B I T S

pg/ln ex. description
(No exhibits proffered.)

** uh-huh = affirmative
huh-uh = negative

S T I P U L A T I O N S

IT IS STIPULATED that the witness will
waive the right to read and sign this transcript.
THEREUPON,

Sharon J. Graham,
BEING FIRST DULY SWORN BY THE COURT REPORTER, AS
HEREINAFTER CERTIFIED, TESTIFIED AS FOLLOWS:

E X A M I N A T I O N

By Mr. Finklea:

Q Would you please state your full name?

A My name is Sharon J. Graham.

Q And your address?

A My address is P--- 310 River Road,
Pamplico, South Carolina. My P.O. Box is P.O. Box
755.

Q And how did you know Eris Singletary
Smith?

A I learned of her through Ms. Evans --
Mr. Evans, because he was a friend of Wayne,
Ms. Eris' son. And he was -- she was looking for
a care taker to take care of her. That's how I
learned of her.

Q When did you begin taking care of her?

A In the earliest -- 2008, her daughter
called me, Eris S. Smith. She called me -- Eris

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1 Gail Smith, she called me and asked me to come
2 over to meet Granny.

3 Q Okay. Did you have an opportunity to
4 sit with Granny while Wayne was alive?

5 A Yes, I did.

6 Q Okay.

7 A Uh-huh.

8 Q About how long before Wayne passed did
9 you sit?

10 A Oh, over a year.

11 Q Okay.

12 A Wayne would come and spend the night.
13 I would be there in the daytime and Wayne would
14 come and spend the night with Granny.

15 Q Okay. Okay. We're here today, of
16 course, under an examination under oath, and you
17 understand your presence here is completely
18 voluntary --

19 A Uh-huh.

20 Q -- is that correct?

21 A Yes.

22 Q And you don't have to give this
23 statement, but you're willing to do so; is that
24 correct?

25 A That's right.

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1 Q Okay.

2 A Yes.

3 Q I primarily want to ask you a little
4 bit about what you know about Eris Singletary
5 Smith's wishes in regard to her estate, what you
6 know about her will primarily. Okay?

7 A Okay.

8 Q First of all, what's the first thing
9 you ever remember Granny talking about a will? Do
10 you remember when Granny first started talking
11 about a will?

12 A The first time that I noticed Granny
13 talking about a will, when Eris -- Eris S. Smith
14 and Judy Jones, when they went and they were --
15 was remodeling Granny's house. And Granny went
16 down to stay with her other daughter, Jackie, at
17 Myrtle Beach. And so when she came back, she was
18 kind of aggravated because her stuff was switched
19 around in the house. And so she told me to get
20 the folder, the green big folder out her closet.
21 So when she looked in the closet, looked in the
22 folder, fumbled through the folder, she couldn't
23 find her will.

24 And so she got very upset and so she
25 said, Sharon, she said, my will is gone. And so

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1 she called -- she said, call Eris Gail. So I
2 called Eris Gail. And she called Judy to ask who
3 moved her will from out of the house. And that --
4 from that point on, she was very upset about the
5 will going out of her house.

6 Q Was that before Wayne died or after?

7 A That was before Wayne died.

8 Q Okay.

9 A Uh-huh.

10 Q What's the next mention that you knew
11 of? What -- did Granny do anything as a result of
12 that?

13 A She was calling around, steady calling
14 attorney trying to find out. And she had called
15 Mr. Ric--- Rick Hoefer to tell Mr. Rick Hoefer
16 that her -- her will was gone out of her property
17 place and what she could do about it. And so I --
18 I told her -- I said, well, Granny -- I said,
19 Granny, they cannot do nothing with your will. I
20 said, not unless, you know, they'll sign over.
21 Ain't nothing they can do with your will. They
22 can't turn it on if you're living. But she said,
23 well, Wayne's will -- will is missing too. And
24 she said, and Wayne's will is not here. I said,
25 well, Granny, they can't do nothing with Wayne's

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1 will. I said, you -- if you representor over
2 Ja--- Wayne's will, they cannot do nothing with
3 it. I said, my -- I went through the same thing
4 when my mother passed away. And my sister had
5 took the will, but I was the power of attorney
6 over my mother's will. So when my sister went to
7 go cash in, she couldn't do nothing without me.
8 They informed me. They asked for my social
9 security information. And she couldn't do it. So
10 that's how I -- that's how I told Granny, ain't
11 nothing they can do with the will. They've got
12 the will.

13 Q All right. When Wayne passed away,
14 are you aware of any issues with the will that was
15 produced for Wayne?

16 A Yes. Eris, she told me several times
17 about when Wayne -- that she was over Wayne's
18 estate, about Wayne's will. But then it come up
19 to find out that Judy said she was. And so she
20 wanted to know if she -- so they somehow got in
21 conflict about Robert Lee. And so when they got
22 into it about Robert Lee, then that set Granny
23 off. I mean, that set her off. And she got so
24 aggravated about it. When she was talking to Judy
25 until I couldn't handle her. She just had gotten

1 the shakes. And so she told me to call Eris Gail.
2 Anytime anything happens, she'd tell me, call Eris
3 Gail. So I called Eris Gail. You need to get
4 down here and come calm your mama because I cannot
5 do nothing with her. And so at the time, she had
6 got so upset about Judy and told Judy that y'all
7 have done something crooked. And then she said,
8 I'm going to find out what y'all had done. You
9 know, that's the way she used her lan--- language.
10 I'm going to find out what y'all had did. And,
11 you know -- from then on, her and Eris Gail was
12 talking about the will.

13 Q What do you believe that Granny
14 thought was wrong about Wayne's will?

15 A She said that -- that it was changed.
16 She said it was changed because it was changed
17 around. And she said something that -- that they
18 did it in the office -- of Robert Lee's office and
19 -- and changed that will. And she said that's why
20 my -- that's why my will's missing out of this
21 here house. And then she said she was looking for
22 her will and something that they had did. That's
23 some of the things she kept saying. She was using
24 profanity words. Because if Granny ever gets
25 upset, she will use them, especially if Judy come

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1 around. She will get fla--- I mean, she would
2 just get all out of proportion. And she said, but
3 I'm going to find out what y'all Jones did. She
4 said, y'all Jones -- she said, I'm going to get
5 y'all. I'm have y'all put in jail. She said, I'm
6 going to have y'all locked up. And, you know,
7 this -- this went on back and forth, bickering
8 like that and everything and stuff like. And so,
9 you know...

10 Q How do you know what Granny knew what
11 was in Wayne's will?

12 A Well, I -- when -- when Granny was
13 talking about the will, Granny -- one thing,
14 Granny got real close to me. Granny told me a
15 whole lot of things and the things to do, and if
16 anything comes up, you know, wrong about it, she
17 told me a whole lot. And she said that when she
18 got -- had read it in the will -- she s--- read in
19 the will, how everything was changed up on Gran---
20 on -- on Wayne's will. She said because she know
21 that she was the power of attorney and that Eris
22 Gail was the representative. Because me, Wayne,
23 and Granny have sit at the table and he -- he has
24 told Eris to make sure that everything get taken
25 care of and make sure that Granny are taken care

1 of.

2 And when he died, he said -- he told
3 -- right at the table, he told -- he said, mama,
4 he said, I've got money in three places in my
5 house. And he told her in three places, I'd hide
6 it in my house. And he said, whenever Eris Gail
7 does go there, make sure they show you that the
8 money in the house is in three places.

9 Ms. Smith: Uh-huh.

10 The Witness: That we bring that money
11 -- give that money to Junior.

12 Ms. Smith: Uh-huh.

13 The Witness: That's what -- that's
14 what Wayne said at the table.

15 Ms. Smith: Uh-huh.

16 The Witness: And that why...

17 By Mr. Finklea:

18 Q And so based on that, when -- to begin
19 with, did -- did Granny ever tell you she read
20 Wayne's will?

21 A Yes. She said she'd read Wayne's
22 will.

23 Q Okay.

24 A Uh-huh.

25 Q And so the will that was produced by

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1 Judy, or whoever, was different from the will that
2 Granny had read?

3 A Yes. Uh-huh.

4 Q Okay. And why -- what -- how did
5 Robert Lee get involved in this? How did -- why
6 did -- what feeling did Granny have in regard to
7 Robert Lee after this other will was produced?

8 A Because of Judy -- because of Judy
9 Jones. And see, Becky, Pam worked with Robert
10 Lee. And so she said she know y'all crooks, done
11 went up -- they done done something crooked
12 against Wayne's will. So that's why that will
13 went missing out the house, because she had in
14 there on the table the whole while. She had it
15 right there in Gertie -- her sister, Gertie, she
16 had it on the table the whole while --

17 Ms. Smith: Uh-huh.

18 The Witness: -- and she was telling
19 me -- she would say, Sharon, just read it. But I
20 said, Granny, you know, I don't want to read
21 nobody else's will or nothing like that. And she
22 would just, you know, tell me things -- different
23 things to do and everything. And, you know...

24 By Mr. Finklea:

25 Q Did --

1 A I just --

2 Q Did Wayne ever express anything to you
3 before his death about him changing his will?

4 A No. He never...

5 Q Did he ever reaffirm the provisions in
6 his will before he died with you?

7 A Not with me. Huh-uh.

8 Q Okay. Do you know if he ever did it
9 with his mother?

10 A I -- no, not -- not with me present
11 there.

12 Q Okay.

13 A Not that I know of.

14 Q Okay.

15 A Huh-uh.

16 Q All right. But when Wayne died, the
17 will that was probated was different from what
18 Granny expected?

19 A Than what Granny had expected, yeah.

20 Q Do you believe that Wayne would have
21 told his mother if he had made some changes to
22 that will?

23 A He would have told his mother.

24 Q Okay.

25 A He was just like that with his mother.

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1 Q Okay. And you held up two fingers
2 indicating they were close.

3 A Close.

4 Q Okay.

5 A Real close, yeah.

6 Q All right.

7 A Real close. Uh-huh. Now, he also
8 told her -- he said, mama, you won't have to -- he
9 said, you don't have to worry about -- if anything
10 happens to me, you won't have to worry about
11 nothing the rest of your life. He said, you keep
12 Sharon and Rachell here all you want.

13 Ms. Smith: Uh-huh.

14 The Witness: He said, you won't have
15 to worry about nothing.

16 By Mr. Finklea:

17 Q Are -- in addition to Judy being
18 appointed, are you aware if Judy did anything
19 improperly with Wayne's estate, or even if Granny
20 thought Judy did anything wrong with Wayne's
21 estate?

22 A Yes, because Granny kept talking about
23 that. You know, when they was talking about
24 first, for the old money that was found in the
25 house. And she made several occasions to me --

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1 she said, that huzzy didn't go pic--- to put that
2 money in the bank. And she said she's supposed to
3 have brought and given her that money. But during
4 the fact that she said that, Judy supposed to
5 bring her that money. She said Judy -- I mean, it
6 was just -- Judy just act like she deliberately
7 hate her mother.

8 Ms. Smith: Uh-huh.

9 The Witness: And so at that time, all
10 of a sudden she was saying some things to Judy.
11 Judy came t--- over and she was talking about the
12 will. She said, mama, I ain't got no will and
13 everything. She said, huzzy, you got it. She
14 said, you got it. She said, you got it. And so
15 she just stand there. She said, mama, you never
16 worked in your life and everything. You never
17 done nothing and now sh--- you just sit here
18 wanting somebody to do something for you all the
19 time. Said, you ain't got -- you don't need
20 Sharon here to do nothing for you. Ain't nothing
21 wrong with you. You just need to get up. Said,
22 you just always -- she just talked down to her
23 mother. And so that when her mama say, you hear
24 that conniving B? I said, Granny, don't -- don't
25 call her that. Don't say that, Granny. Because I

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1 -- you know, I just can't stand to hear nothing --
2 nobody, you know, talk like that. I said, don't
3 call her nothing. She said, that's what she is.
4 She said, she -- that's what she is.

5 By Mr. Finklea:

6 Q Well, what about the old money? Did
7 Granny think she didn't turn it all over or she
8 put it in the bank and wasn't supposed to? What
9 did Granny think Judy did wrong, if anything?

10 A She -- Granny -- she went by there.
11 She told Granny that she put the money in the
12 bank. And she said, Judy -- she said, don't you
13 know that that money worth something that your
14 daddy kept all these many years. She said, well,
15 mama -- she said -- said, at the bank, they say a
16 dollar ain't nothing but a dollar. That just what
17 she told her. And so then she say -- she say, you
18 a lying huzzy. She said, you ain't put that money
19 in the bank. That just what she told Judy.

20 Then they fly off and went off again.
21 So I walked around in another area because they
22 were going off at it. And I came back and I said,
23 Granny -- I said, you need to calm down, I said,
24 before you get yourself upset. And so then Judy,
25 she had got mad and she slammed the -- she had the

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1 book she slammed down on the table and she left
2 out the house. And stuff like that.

3 Q And -- and I -- I still don't know if
4 I've got the answer yet to my question. Is -- did
5 -- what was it about the money that Granny was
6 upset about? Did she think that Judy didn't
7 deposit it all in the bank --

8 A Yes.

9 Q -- and took some, or was she mad
10 because Judy deposited it all in the bank rather
11 than leaving it as cash?

12 A She got mad because Judy said she took
13 it to the bank and deposited it in the bank. Even
14 though on the outside of the seal -- see, it had
15 Mr. Jack's name on it and the name of the bank.
16 And so that money supposed to had went to Granny.
17 Because see, Wayne already done told Granny that
18 the money -- when he die, they go to the house,
19 they money's going to be hers.

20 Ms. Smith: Uh-huh.

21 The Witness: And she ought to get
22 that money. Wayne already done had told Granny
23 that.

24 Ms. Smith: Uh-huh.

25 The Witness: So that what made Granny

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1 upset.

2 MR. FINKLEA: Okay.

3 The Witness: And so Judy said, well,
4 I've got it in the bank. I took it to the bank
5 and I deposited it all in the bank. She said,
6 well, you go back to the bank and you get that
7 money.

8 Ms. Smith: Uh-huh.

9 The Witness: She said because that
10 money is worth a whole lot. Your daddy been
11 saving up. She said, well, they say the dollar
12 ain't nothing but a dollar. So this is -- just
13 went on like that.

14 By Mr. Finklea:

15 Q Okay. Tell me what Granny thought
16 about Robert Lee after this happened, after
17 Wayne --

18 A You couldn't even say Robert Lee's
19 name around Granny.

20 Q Okay.

21 A Granted, I made a mistake and I told
22 her to call Robert Lee. And Granny cussed me out.
23 She said, okay, Judy Jones -- that what she called
24 me. She said, okay, Judy Jones, which one you
25 want to be? That's what she told me. So I said,

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1 okay, Granny, okay. I said, wait --

2 Q When -- when did that happen?

3 A I --

4 Q Was it closer to her death or
5 closer --

6 A It -- it was closer to her death.
7 Because I was trying to get Granny to calm down.
8 Because she just kept saying -- Granny -- them
9 Jones' done done something. She don't know what
10 it is, but they done done something. Just like
11 how they did Wayne's will. They done messed up
12 something. Because she -- when I went to the hall
13 -- when I was at the hospital, she told me, she
14 s--- when I came in there -- when she got the
15 minister's wife to call me to come up there.
16 Because Judy didn't want me up there. And Granny
17 had me coming up there every day to wash, bathe
18 her and everything. So Judy was saying, well,
19 Sharon don't need to come -- they never did care
20 for me being around Granny because Granny was so
21 close to me. She said, Sharon don't need to be up
22 here like this here. And so that day -- day when
23 she called the -- minister's wife called me to
24 come up there, she said, Sharon -- she said, I
25 signed a whole bunch of papers. She said, I don't

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1 know what it was.

2 Ms. Smith: Uh-huh.

3 The Witness: I said, well, Granny,
4 you better call Eris and see what you signed. And
5 so from then on, that's when Judy stepped up. And
6 Judy said --

7 Ms. Smith: Uh-huh.

8 The Witness: -- well, I'm over
9 everything. She said, the H you is. And caused
10 the -- the orderly, he was in there, too. And
11 she -- when she went off on Judy. The orderly, he
12 just stand up there and laughed. And I was just
13 standing back and like this -- Eris, please get
14 here, Eris, please get here. That way. I was
15 saying, please get here. And --

16 By Mr. Finklea:

17 Q Well, let me ask you some questions
18 then about -- before we get to that
19 conversation. Did Granny hold that feeling
20 against Robert Lee through her death?

21 A Yes, she did.

22 Q And why do you -- why do you say that?

23 A Because you couldn't say -- don't say
24 Robert Lee's name to Granny.

25 Q Okay.

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1 A Don't say Robert Lee's name to Granny.

2 Q Are you aware of a will that Granny
3 prepared at Rick Hoefer's office?

4 A Yes.

5 Q Okay. Tell me what your knowledge of
6 that is or that process in having that will done
7 is.

8 A Okay. When Granny went to Mr. Hoefer
9 to do her will, I took her several times. And we
10 went first -- when we went there and she talked to
11 Mr. Hoefer -- well, she told Mr. Hoefer -- because
12 I was outside. She went into his office with him
13 and she came back outside. And so she said,
14 Sharon, we going to have to go to the house. And
15 she said, I need to write down some things. So me
16 and Granny went to write down some things in the
17 house, what she want Eris to have, what she want
18 Judy and James, all them to have. We went and
19 made a list. This converted list of everything,
20 you know, she wanted them to have and what she
21 say. So we took that paper back to Mr. Rick
22 Hoefer's office. And what he did, he just put it
23 in the file, right the -- the yellow paper where
24 we -- he just put it right in the file with her
25 file. And so she told me, she said, Sharon, she

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1 said, anything happen to me, she said, I want you
2 to go to Rick Hoefer. She said, when I close my
3 eyes, I want you to go up to Rick Hoefer. And so
4 later on, we went on back home. And then when we
5 went on back home, that's when she got me to sign
6 a note that I would stay with her until her end
7 duration. She said, you promised me, Sharon. She
8 said, y'all be promised me. So she -- when she --
9 that next week when I came to work, she called
10 Mr. Rick Hoefer on the phone and told Mr. Rick
11 Hoefer she was adding me to her will. And then
12 her -- and I was in the kitchen and she was
13 talking to Mr. Rick Hoefer on the phone.

14 Ms. Smith: Uh-huh.

15 The Witness: And so that's -- that's
16 all I know, you know.

17 By Mr. Finklea:

18 Q Did you ever take her back up to Rick
19 Hoefer's to sign anything that you're aware of?

20 A She went back up there again because
21 she was -- she had mentioned about putting Mikey
22 and Jamie in her will. I said, well, Granny -- I
23 said, now, Granny, now, you got other
24 grandchildren. I said, if you do that, I said,
25 the other grandchildren going to feel left out.

1 But she said, Sharon -- she said, I raised them as
2 little boys -- as my boys when their mother left
3 them. That's what she told me. And so she called
4 Mr. Rick Hoefer on the phone and she was talking
5 about it. But rather did she did it, I don't
6 know. But she was talking about it at home about
7 doing this --

8 Q Okay.

9 A -- for Mikey, Jamie.

10 Q Okay.

11 A Uh-huh.

12 Q Do -- are you aware of any other
13 issues with Rick Hoefer, Rick Hoefer's will, and
14 Granny?

15 A No, not that I know of. She told me
16 whenever she closed her eyes to just to go to Rick
17 Hoefer.

18 Q Did you -- did she ever have you call
19 Rick Hoefer or go to Rick Hoefer's office anymore
20 after the time we talked about?

21 A No. I -- no more than that -- that
22 last time we went. That's all.

23 Q And by the last time, you mean when
24 you took the paper -- the yellow paper back?

25 A No. When she -- when she went up

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1 there to go take -- take some more papers up there
2 to Rick Hoefer. About -- she come talk to Rick
3 Hoefer about Gertie -- Gertie, her sister,
4 inheriting -- and see what had happened, the
5 nieces supposed to have gave her half share of
6 Ms. Gertie's house and they didn't do it. They
7 just sent her a check for \$900. So she went back
8 to Rick Hoefer -- that's when I took her back to
9 Mr. Rick Hoefer to get that -- she wanted Mr. Rick
10 Hoefer to work on that. So that what that had to
11 do with her sister, Gertie, will -- estate then.

12 Q Okay.

13 A And I took her back up there.

14 Q Okay. All right. Now, let me ask you
15 about Robert Lee's will. Okay? Are you aware if
16 Granny ever went to Marion to execute any
17 documents?

18 A No. I -- what -- how I witnessed this
19 is, Granny -- Granny granddaughter, Pam, told her
20 she was going to take her for brunch. I had got
21 in that morning. And when I got in that morning,
22 Becky already was there. She said, I'm going to
23 take Granny for brunch and I'll bring her back.
24 So Granny told me he -- she said, Sharon -- she
25 said this. She say, you want to go? So Becky say

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1 -- Pam said, no. She said, no. She said, well,
2 let us take you to brunch and bring you back. So
3 Granny said, Sharon, you want to stay here? I
4 said, Granny, now, you know I ain't going to stay
5 in your house by myself. I'm just not going to
6 stay here by myself. I said, I'll go back home.
7 Whenever y'all come back from brunch, I said, you
8 can call me. I said, because you know the light
9 company coming to fix that pole out there. I
10 said, you just call me back. Because she tried to
11 get me to stay to wait for the light people to
12 come, but I wouldn't stay there. Never did would
13 stay there by myself. So I say, when y'all get
14 back, you call me and I'll come right back.
15 Because I just live right in Pamplico. Didn't
16 take me long to get to Evergreen. I said, you
17 call me and I'll come back up there. And so
18 whenever -- later on, probably about an hour or
19 so, that's when Eris Gail called me. Sharon, you
20 know where my mama at? I said, no, she gone with
21 Pam to go get some brunch and they supposed to be
22 coming back. And then -- then after awhile,
23 that's when Eris Gail said -- replied, she said,
24 oh, H. Just like that. She said, all them done
25 told me they ain't know where Granny at. I said,

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1 well, she gone with Pam -- in Pam truck. Because
2 the white big truck came and picked her up. I
3 said, I helped her got in the truck. I said, she
4 gone with Pam. And so that's all I knew. She
5 gone with Pam. So then after awhile, she said,
6 well, the man up here at Evergreen. So I left
7 from home, come and went back up there to
8 Evergreen because Eris said the light man was up
9 there. She was up there with the light man. And
10 so then that's the -- at that time, that's when
11 Pam truck was bringing Granny back to the house.
12 And when I got ready to get -- they was rushing
13 her so much to get out the truck because Eris was
14 fixing to come across the road. She hollered at
15 me because I was trying to take -- get her out the
16 truck, right. And she hollered at me. She said,
17 wait a -- wait a minute. Just wait a minute.
18 Like she was just so agitated. So I just say -- I
19 say, Granny, I said, what's the matter? I said,
20 how was lunch? She said, I ain't had -- she said,
21 had no D lunch -- brunch. She said, I ain't had
22 no D brunch. And so she said -- she said, help --
23 I was going helping her getting in the house. And
24 she was just -- she was just aggravated. Because
25 when the light man said something to her, she

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1 was -- talked nasty to him. I'm telling him at
2 this moment how -- how it look -- because she was
3 done aggravated and all upset and everything about
4 going -- when she went -- went with Pam.

5 Q What did -- did you have any
6 conversation about what she did in -- with -- with
7 Pam?

8 A No. She just was all upset. And that
9 next -- that next day, she was talking about
10 something about some papers. But it had to do --
11 she say something about the -- they was doing --
12 getting a wheelchair for her. I said, well,
13 Granny, I said, you know what you signed? She
14 said, I don't know why I signed. She said, all
15 that she had to sign some papers for this for a
16 wheelchair. And she said, I don't even like the
17 wheelchair. Because the wheelchair was so big and
18 heavy. And see, I couldn't lift it because I have
19 hip problems myself. And so she said, it was so
20 heavy to lift. And so that's all I know that what
21 she said about that. Until later on --

22 Q Okay.

23 A -- when she --

24 Q Now --

25 A -- took sick and Judy was at the

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1 hospital.

2 Q Uh-huh.

3 A And Judy mentioned that she was her
4 representative for her power -- of her medical --
5 medical power of attorney. And she said, oh, H,
6 you ain't. She said, you and Eris Gail is. And
7 so that -- that's when -- went on, so... When she
8 got back home -- that's when she got back home.
9 So when she got back home -- then when she went
10 hom--- back home, that first week, I was sick.
11 And see, I have a lot of asthma -- problems with
12 my asthma. I was sick so my daughter take over.
13 When I'm sick, my daughter takes over. So my
14 daughter was there that week. So then she -- when
15 she got off, she said, oh, mama, she said, Judy
16 and those got Gra--- Granny wide open. She said,
17 she just steady calling asking for you to come
18 there and come there. But I was sick. But even
19 though I was sick, I still yet went and seen
20 Granny. Because seems like when I got there, she
21 would calm right down. She would calm right down.
22 And she said, you know what that huzzy did? She
23 said, that huzzy done done something she ain't had
24 no business. So I said, oh, Granny, it going to
25 be all right. It going to be all right. Because

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1 I thought the medicine had her -- the medicine
2 they had her on what had her losing it. You know,
3 because she was saying -- just saying things and
4 stuff like that. But then she just kept on, kept
5 on, kept on, and kept on. And she told me when I
6 got back to work that Monday -- Chell had told me
7 she had called Mr. Sloan. And so she had left a
8 message with Mr. Sloan. And she recorded the
9 message with Mr. Sloan to call Granny back. And
10 so when I got there that Monday, Mr. Sloan had
11 called Granny back. So what we did, we called --
12 I called and then he called back. Because I
13 called -- first called because Granny told me to
14 call over there. And so when I called over
15 there -- so when he called back, he said Ms. Eris
16 Smith call -- answered the phone. I said, no. I
17 said, this -- this is Sharon. I said, Granny is
18 -- is, you know, laying down. So he said, can you
19 put her on the phone? So when she got on the
20 phone, she told Mr. Sloan -- she said, can you
21 bring me those documents you got at your office
22 that I supposedly had signed? And so Mr. -- and
23 can you come to my house and bring it so I can
24 talk to you? And so Mr. Sloan, he said,
25 Ms. Smith, he said, personally, I don't know you.

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1 He said, so I can't come to your house.
2 Personally, I don't know you. But he said, I have
3 in my hand a document that I witnessed and
4 Brittany Hooks, she witnessed. But she's no
5 longer in this state. That what she -- that what
6 he told Granny. So he said, well, wait a minute.
7 So he said, Sharon -- he had -- he called me
8 Sharon. So evidently -- he said, is -- let me put
9 her on speaker phone. So when he put her on
10 speaker phone -- phone, he said, Ms. -- again, he
11 said, Ms. Smith, he said, I never did type up no
12 papers for you. He said, I never did type up no
13 papers for you. He said, Pam, though, typed up
14 the papers. He said, I just was a witness of the
15 papers. And he said, and Brittany Hooks. He said
16 it again. Brittany Hooks is a witness. But she
17 no longer in this -- in the state. And so after
18 they got, you know, went through the conversation
19 of that, he said, well, furthermore -- he said,
20 let me get Pam and let you speak to Pam. So when
21 Pam got on the phone, Pam said, hi, Granny, just
22 like that. She said, hi, Granny. And Granny
23 said, hey, she said, he -- she said, I'm going to
24 bring those papers over there to you. She said,
25 well, you bring those papers over there to me, and

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1 she said, you bring them to me today. She said,
2 okay, Granny, I'll bring those papers to you. She
3 said, no, I want those papers I'd supposedly
4 signed. She said, you bring them over there to
5 me. So that Tuesday passed by, Pam ain't brought
6 no papers. That Wednesday passed by, Pam ain't
7 brought no papers. All the way up until I was
8 there until that Friday, Pam ain't brought no
9 papers. So Granny started getting aggravated. So
10 Judy came in there. So when Judy came in there,
11 she said, Judy, she said, I want my pocket book,
12 my checkbook and all of my papers that you took
13 out of this house and everything. And she
14 practically begged Granny, tears in her eyes,
15 begged Granny to bring her papers, her check book,
16 and everything, her pocket back to her. But
17 Granny -- but Judy would not bring it back to her.
18 She would not. She said, I'm handling things,
19 mama, now. She said, I'm handling now. You's not
20 going to get these here papers. And so then
21 again, get on the phone, call Eris Gail and tell
22 Eris Gail to get here now. She looked up at me
23 and she said, Sharon, she said, do you think Eris
24 Gail will get everything straightened out? I
25 said, Granny, let me tell you something. Eris is

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1 just like a soldier in the Army. And I said,
2 she'll get it done. And so she just kind of smiled
3 a little bit. And she said, Sharon, you promised
4 me. She said, you promised me. So I guess she
5 was talking about going to a nursing home or what.
6 She said, you promised me. I said, Granny, I'm
7 going to be with you until your duration. I said,
8 I don't care how sick I'll be -- and when I was up
9 there at the hospital with her, I was sick that
10 week, but I went anyhow because I made that
11 promise to Granny.

12 Ms. Smith: Uh-huh.

13 The Witness: And me -- cause me and
14 Granny had gotten so close. But every time I
15 would go up there that morning, Judy would be
16 sitting right there in the corner. She couldn't
17 stand me up there with Granny. She couldn't stand
18 it because Granny would just call me and do this
19 and do that. And, you know, she just felt so
20 comfortable. And so when Judy said something to
21 her, she just, you know, flinch like she don't
22 want Judy to touch her. She'd say, Judy, you can
23 take your A home. You ain't got to be up here.
24 Sharon up here with me. She'd said, well, I'm
25 going to stay right up here. That's, you know,

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1 what Judy saying. I ain't got nothing to do. She
2 said, well, go on. Go get them children. Ain't
3 you got to go babysit. So Bryson didn't get out
4 -- the little baby didn't get out until 12:00. So
5 she, well, I'll leave at 12:00 to go pick up the
6 baby and everything, so...

7 Mr. Finklea: Okay.

8 The Witness: But --

9 By Mr. Finklea:

10 Q Okay. The -- who pro--- met most of
11 Granny's needs or provided for Granny family wise
12 for the last two, three years of her life?

13 A Eris Gail.

14 Q How often would Eris Gail see or speak
15 with her mother?

16 A If she -- every day. If Granny -- if
17 Eris Gail didn't come, Eris Gail would call her on
18 the phone. Judy didn't ever call. Jackie would
19 call every now and then. James would call just
20 about every other day. Timmy sure didn't call.
21 Sh--- Timmy didn't call. Only time he would call
22 is when he wanted something. That's when Timmy
23 would call. And Judy -- I say, Granny, Judy ain't
24 call you today? She'd say, no, she ain't called
25 me. Asked -- ain't asked how she was doing. I

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1 said, Lord, it don't make no sense. I said, they
2 won't even call and ask you how you're doing. So
3 whenever Gra--- Judy would come over there, she
4 would come sometime. Mama, I brought you -- like
5 she cooked some food and she would have it in a
6 container. And she just come and sling it on the
7 table. I brought you something. This is what I
8 had, put it in the refrigerator. You can eat
9 that. And, you know, something like that. And
10 she just say it with a hateful tone. Walk in, has
11 her head up, walk in and walk back out -- walk
12 back out. I said, oh, my God. I said, oh, my
13 God. I mean, it would hurt me so that Granny got
14 treated the way she got treated.

15 Q Uh-huh.

16 A Because on this one occasion when I
17 left Granny that Friday -- you see, Eris was sick
18 because Eris had surgery done. And I left Granny
19 on that Friday. Nobody been by to check on
20 Granny.

21 Ms. Smith: Uh-huh.

22 The Witness: And she fell on the
23 floor.

24 Ms. Smith: Uh-huh.

25 The Witness: And when I got there

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1 that morning, she was on the floor.

2 Ms. Smith: Uh-huh.

3 The Witness: And her arm blew all up.

4 I said, Granny -- she said, I couldn't get up,

5 baby. She said, I couldn't get to the phone. I

6 said, Granny, you couldn't -- couldn't call

7 nobody? She said, I couldn't get up. She was

8 face down laying on the floor, arm all blew all

9 up. And I blew it up. I called Eris Gail. I

10 even got on Eris Gail, too.

11 Ms. Smith: Uh-huh.

12 The Witness: I said, nobody didn't

13 care to come and check on Granny and she on this

14 floor and I can't get her up by myself. So Eris

15 said, go to the store, get somebody to help you

16 get her up. And I wasn't going to the store

17 because I didn't want to leave her. She said, I'm

18 on my way. Eris Gail said, I'm on my way. So I

19 had to take whatever strength that I had and I got

20 Granny up off that floor.

21 Ms. Smith: Uh-huh.

22 The Witness: And it had hurt me

23 because she laid on that floor the whole weekend.

24 Ms. Smith: Yeah.

25 The Witness: And nobody come and

1 check on her. And she -- and her arm was blew all
2 up. The whole weekend, she laid. Because I
3 didn't -- I got -- I think of Granny as a --

4 Ms. Smith: Uh-huh.

5 The Witness: -- grandmother to me.
6 Because see, when I -- whenever I had got that
7 job, I was at church.

8 Ms. Smith: Uh-huh.

9 The Witness: And I'm a firm believer
10 in God because I'm evangelist. I kneeled at that
11 alter and I asked God to send me somebody that'll
12 love me that I can love back. And Granny said she
13 prayed that same prayer --

14 Ms. Smith: Yep.

15 The Witness: -- and that next
16 weekend, I was there at her house. She prayed
17 that same prayer. And that next day -- and so
18 that's why we -- we got so close, drawn to one
19 another, because I had Mr. -- Mr. Charles and
20 Mr. -- and his wife, I think Mr. Turner, before
21 they died. And then I had started working with
22 Granny. Because see, I would work with them in
23 the mornings, work with Granny in the afternoon,
24 and until my health started, you know, failing on
25 me.

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1 But this -- this is what happened.
2 She laid the whole weekend, nobody came by.
3 Because Eris Gail couldn't come. And the only
4 time that -- every now and then James and those
5 would come, but most the only time they come is
6 when they come to cut grass or get something done
7 or something like that. And it just...

8 By Mr. Finklea:

9 Q Do you -- who -- who did Granny call
10 if she needed something around the house medical
11 wise or anything?

12 A Eris -- Eris Gail.

13 Q Would she ever call Judy for anything?

14 A She wouldn't never call -- Granny
15 don't call Judy. Because the last time when Judy
16 came there to fix her medicine, Grann--- her and
17 Judy had to into it. And Judy called her some
18 kind of word and her and Judy got into it. And it
19 was a hateful word that she called her. I looked
20 at Judy, you call your mama that? And she had --
21 at that time, Granny had on some kind of little
22 cooler shorts like come down to her knees and she
23 insult Granny so much with that -- what she had
24 on. You don't need to wear nothing like that, and
25 how she had looked and everything. That had hurt

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1 Granny's feelings. It really hurt me because
2 that's her mother.

3 Ms. Smith: Yeah.

4 The Witness: And it really had hurt
5 me when she said that. And after she came there
6 to fix that medicine and everything, Judy ain't
7 been back to that house until when Granny got sick
8 in the hospital.

9 Mr. Finklea: And --

10 The Witness: That's when she came and
11 started taking over everything. Then we couldn't
12 even hardly come see Granny. We couldn't even say
13 nothing to Granny. All Granny people wanting to
14 come and see her. Granny didn't need to
15 visitor -- Granny don't need no visitor. Her
16 brother -- her son, James, he cried. He wanted to
17 come and see his mama. She said, you don't come.
18 You don't come and you don't bring that baby and
19 everything. Because Granny don't need that.
20 Nobody couldn't come and see Granny. Even when
21 Eris came one day, she told Eris, you get out of
22 there talking to mama before I call the police on
23 you.

24 Ms. Smith: Uh-huh.

25 The Witness: Because the -- the

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1 Poston guys was fixing the washing machine. Even
2 he came out to look at Judy.

3 Ms. Smith: Uh-huh.

4 The Witness: And like he was scared
5 to say anything. He said, I just want to say I'm
6 finished with the washing machine and done, like
7 that. And so I just walked out and I went and
8 talked to the Poston guy, because her and Eris was
9 having words, you know, back and forth. And I
10 said, y'all -- y'all don't do that in front of
11 Granny. I said, Granny hears everything that
12 y'all are saying and how y'all bickering and
13 everything and stuff like that. So that went on
14 until that next week. It was time for me to get
15 paid. So Judy signed my check. So Granny say,
16 Sharon, you got your money? I said, yeah. She
17 said, who signed my check? I said, Judy signed
18 it. She said, oh, no, she ain't got no authority
19 to sign it. Because see, what Judy didn't know --
20 well, I know, but Eris Gail don't know nothing
21 about it. Granny took me to her bank and she made
22 Ms. Rosco tell me everything that she got in that
23 bank. Why? I don't know. I don't know. But she
24 made me -- and she told me everything she had at
25 B&B (sic). And she said, take Judy name off of

Q&A Court Reporting

1 the account.

2 Because wasn't nobody's name on there,
3 nothing but Judy and Wayne. And she said, take
4 Judy name -- she said, you sure you want to do
5 that, Ms. Smith? She said, yeah, take her name
6 off. She said, well, do you want to leave the --
7 Wayne's name on there? And so she said, yeah, let
8 Wayne's name stay on there. And so when we got
9 back home and everything and stuff like that,
10 Granny just was saying -- she said, Sharon, she
11 said, I'm ashamed to say I raised a bunch of
12 children like this.

13 Ms. Smith: Uh-huh.

14 The Witness: That is her words what
15 she was saying. I said, Granny, I see, and
16 everything and stuff like that. Because mostly
17 when all the rest of them come in -- like -- like
18 a use you situation. They all -- when they come,
19 they want -- if they come and do something, they
20 want something more, you know. They'll come and
21 do the flowers, water the flowers or do the little
22 yards, cut the yards and everything. And she
23 would pay them and everything and stuff like that.

24 But that's like one time the rest of
25 them never come. They won't. She'll call them,

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1 call them, come and cut the grass. Call them,
2 call them, you know, and then Eris will come.
3 She'll come and she'll cut the grass and
4 everything. Be sick and everything. I'll tell
5 Eris to come in the house because you could tell
6 by her speech -- I said, Eris, you going to get
7 too hot out there, but you going to have another
8 stroke. I said, you going to have another stroke.
9 But see, Granny always liked her yards pretty.
10 She liked her yards and she loved her flowers.
11 She loved everything. And Eris would be sick
12 sometimes and she'll come and cut it. Because she
13 done called James. She done called -- she done
14 called all of them to come and cut the grass and
15 nobody would come and cut the grass.

16 By Mr. Finklea:

17 Q Do you believe that Granny would've
18 appointed Judy to be her personal representative?

19 A No, not -- huh-uh.

20 Q Did Granny ever tell you who the
21 personal representative of her estate was supposed
22 to be?

23 A She -- no, she never did tell me. She
24 -- the only thing when we was in Charleston and
25 they asked about her representative -- medical --

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1 for the medical and she told the lady at the
2 doctor's office, Eris and Judy is my medical
3 representative. So she said that they'll be
4 handling it, you know, when she goes in the
5 hospital and everything. But she said it was Eris
6 and Judy. She never did say nothing about power
7 of attorney of her estate. Never said nothing
8 about who was over that, never. She just told me
9 whenever she closed her eyes, you go to Rick
10 Hoefer. She said -- she asked me, she said, do
11 you think Mr. Rick -- Mr. Hoefer would be honest
12 to my children because he's -- she said that he
13 was the representative of her estate. She said,
14 do you think he'll be fair? I said, well, Granny,
15 you know him more than I do. I said, I -- I'm
16 pretty sure he'll be fair. She said, because the
17 reason why she done that, she said she -- she put
18 him on there, she said she going to want to make
19 sure that each one of the children get equal what
20 they supposed to be getting all there. And so
21 Mr. -- when I went and told Mr. Rick Hoefer --
22 when Mr. Rick Hoefer hand that will -- got that
23 will, he didn't even know he had the original his
24 self. He said Granny was so persuasive, he
25 thought that he had the copy, she had -- and she

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1 had the original. Granny didn't have -- Granny
2 had the copy will and I took it and put it -- she
3 said, Sharon, I want you to put it up where nobody
4 can't find this will because they going to take
5 this one. And I took it and put it up under the
6 middle of her mattress. I said, Granny, you
7 sleeping on it so if anybody gets it from up here,
8 they going to have to get you up out of the bed to
9 get it. I said, you sleeping on it. So that's
10 where I had took.

11 So back here whenever she went for
12 that brunch, that will got missing. She -- that
13 will got missing from up under there -- up under
14 the mattress. And so when she asked me to go back
15 where -- her, James and Mickey to go get that
16 will, that will -- they had done tore the bed down
17 and the will was gone.

18 Ms. Smith: Uh-huh.

19 By Mr. Finklea:

20 Q Now, tell me about that. Who tore the
21 bed down?

22 A Judy went there. They went there and
23 they done had the bed tore down by the time me and
24 James got there. The bed was tore down and
25 everything. And she said, well, y'all stay here

1 until the guys come to put the other hospital bed
2 in there, but they had done had -- had the bed
3 tore down and everything. Everything piled up.
4 Nothing moved just tore the bed down and
5 everything. Had everything tore down.

6 Q Do you believe that's when Judy
7 discovered the other will?

8 A I believe that's when she got -- had
9 to be because Granny was -- Granny was sleeping on
10 that will. And me and Granny was the only one
11 that knew where that will was.

12 Q And when was the bed tore down?

13 A When she was -- right before she got
14 ready to come home, they had to put a hospital bed
15 in there about two weeks prior to -- you know,
16 before her -- she -- her death.

17 Q How often would you see Jackie at the
18 house, or Carl?

19 A Jackie would only come -- she used to
20 come like every other Sunday. She'll come and do
21 her toes. And Jackie would come -- like if she
22 got a hair appointment, Jackie would take her to
23 get her hair done, but she'll bring her back.
24 She'll say, you know, Jackie, I want to ride out
25 somewhere or something like that. Jackie said,

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1 well, mama, I don't feel like it. I'm -- I think
2 it was -- I don't know if they was ashamed because
3 they had to push her in a wheelchair or what.
4 Because see, whenever Granny went somewhere, she
5 had to be pushed in a wheelchair and so they would
6 never take her to the mall or nothing like that.
7 They didn't never have time. They'll bring her
8 right back home within, you know, an hour's time
9 after she get her hair done.

10 And then after awhile, her and Jackie
11 had got into it about something, so I started
12 taking Granny to get her hair done. And I would
13 wait right there until she get her hair done and
14 everything. But mostly on Sunday when she come,
15 she'll come and do her toes and that. Like as far
16 as the weekdays, nothing. Now, Jackie will call
17 every now and then, Granny, how you doing?
18 Because always calling Granny. Granny, how you
19 doing? And Granny will tell her how she's doing
20 or something like that.

21 Q Have you had an opportunity to look at
22 the inventory in the Robert Lee will?

23 A No more than what they send me in the
24 -- in the mail.

25 Q Okay. And did you have a chance to

1 look at the Rick Hoefer will, the inventory of the
2 Rick Hoefer will?

3 A Yes. Uh-huh.

4 Q Did Granny ever tell you who she
5 wanted to get what in her house?

6 A Yes. I made the list.

7 Q Okay. All right. So was what Granny
8 -- I guess, whose list is right based on what
9 Granny told you last?

10 A The last thing that I knew was
11 Granny -- the one at Rick Hoefer, that's the one
12 that I knew about. Plus, the other one, I didn't
13 know until I got that in the mail because she
14 didn't have all that stuff on there like that on
15 that other will. She just went picked through
16 some -- certain little things in the house and
17 everything else, like her jewelry and everything,
18 the grandchildren get that. But Mikey gets the
19 wedding ring, but the grandchildren get all the
20 other stuff. And each one of her children get a
21 quilt besides the stuff that she named for them to
22 get.

23 Q Okay. Did she ever, before she died,
24 change her mind that you're aware of, of anything
25 that she told you when you wrote the list out?

Q&A Court Reporting

1 A No, she never did tell me. Huh-uh.
2 She just tell me to go to Rick Hoefer. That's all
3 she could tell me. Go to Rick Hoefer.

4 Q Did -- are you aware of any books or
5 records that Granny kept to keep up with who she
6 owed and who owed her?

7 A Yeah.

8 Q Do you know what happened to those
9 books when she died?

10 A That's what I was trying to find out,
11 where those books is, because she always -- in her
12 recliner, we kept the books right there. And
13 every week, that -- when I got paid or whatever,
14 we write down my hours and everything. Anything
15 Granny -- Eris go to Sam's and get, we'll write it
16 down and Eris will bring the receipt. We'll put
17 it up on the little bulletin board time you walk
18 in the door and everything. And see, me, Granny
19 -- me, Granny, both us composition was right in
20 there. And whether if I write, Granny sign. And
21 then what I write in my book, I'll sign. We'll
22 sign one another's. We keep up with what -- what
23 going and what's this and what's that.

24 Ms. Smith: Uh-huh.

25 The Witness: And see, both of those

Q&A Court Reporting

1 books was gone. And even whenever Judy said she
2 had power of attorney over everything, she had a
3 list that -- a tablet on there for me to sign and
4 write everything that happened. But that day when
5 I called Rick Hoefer and I put it in that book,
6 that next day that book was gone. She took it
7 out.

8 By Mr. Finklea:

9 Q Do you know who was at the house the
10 next day?

11 A It -- Judy was there all that night.
12 She was all day -- after I had got off, Judy was
13 there.

14 Q Okay. Was the debt book there the
15 night before, too?

16 A Yes. All that was there.

17 Q And so when you left, the next day
18 when you came back, by that morning -- did you
19 come back the next morning?

20 A I came back on that morning, 8:00 that
21 morning.

22 Q Okay. When did you leave that night
23 before?

24 A I leave -- I always leave right about
25 4:30.

Q&A Court Reporting

1 Q Okay.

2 A Something like that.

3 Q Who was there at the house when you

4 left?

5 A When I left, the little short girl

6 from Nighting--- not Nightingale -- I think

7 Nightingale. She came in on work and then Judy

8 was there, but Judy always leave and then come

9 back. So the Nightingale girl -- girl, she had

10 called me because she said Granny was asking for

11 me to come back up there, could I come back up

12 there and everything and stuff like that. She

13 wanted me to come up there and stay, or either she

14 wanted Rachell to come. And then when, you know,

15 she was telling me -- she said, well, that little

16 -- when I went back the next morning, she said,

17 that little gal just asked me all kinds of

18 questions. I told her everything she wanted to

19 hear, too. I said, Granny, you did? She said,

20 yeah. She said, I don't want them girls in my

21 house. She just -- she made a statement she did

22 not want the girls from Nightingale there, she

23 said, plundering through my house. Somebody's

24 plundering through my house, getting my stuff out

25 the house. That's what she kept saying. I said,

Q&A Court Reporting

1 well, Granny, I said, I don't know. I don't know
2 nothing about these Nightingale. Well, I know
3 whenever I hit that door, they'll -- they'll say
4 Granny been asking you, you the Sharon Granny been
5 asking for. One will work this night and another
6 one will work the next night and they'll always
7 meet me at the door. You the Sharon who Granny
8 talking about? That's what they always say. I
9 said, yeah, I'm Sharon that Granny be talking
10 about. Because me, Rachell promised Granny that
11 we would take care of her and I would be there in
12 the daytime and Chell would come and work at
13 night. And Judy said she'll be there, but
14 whenever I come in, in the morning time, Judy will
15 leave because she has to go get the babies and
16 that just was just the last couple of months that,
17 you know, she was there with Granny. Other than
18 that, Judy ain't been there.

19 Q So when you came back to the house the
20 next morning, who was there?

21 A When I came back the next morning, the
22 girl was there --

23 Q The Nightingales?

24 A Uh-huh. Nightingale's girl was there
25 and Judy was there.

Q&A Court Reporting

1 Q Okay.

2 A And --

3 Q Are you aware of -- did they tell you
4 that Granny had any other visitors or anything?

5 A No.

6 Q Okay. All right. And after that
7 time, you never saw the debt book again?

8 A I -- I never did saw it no more.
9 Huh-uh. Since Judy had took over -- see, Judy
10 came -- Judy had came and took over. She just got
11 everything. Everything. And I'm thinking the
12 book, me and Granny's little book, is in the chair
13 until I get ready to get the book so we'll have
14 everything. The book wasn't in the chair, so then
15 that's when I asked them about the book. Nobody
16 ain't know where the book was, so I left it alone
17 because Granny always said, keep up with the book,
18 Sharon. I said, okay, Granny, I'll keep up with
19 the book. Because she always say that she -- when
20 she die, that's when Eris Gail gets paid the
21 money, what Granny -- what Eris had paid before
22 Granny started paying. Because see, Eris Gail was
23 paying me at first because Granny's income wasn't,
24 you know, large enough to keep up. And everything
25 we kept in that book, I don't care if it was -- we

Q&A Court Reporting

1 bought a pencil -- if we bought a pencil or if we
2 bought anything, we would put it in that book. We
3 would put it in that book, and if I need something
4 or whatever. If I tell Granny -- I say, well,
5 Granny, I got a little -- you know, because we do
6 a lot of traveling and going and stuff like that.
7 If I tell Granny I got a special event, she'll
8 call Eris Gail. Eris Gail all right, Sharon's
9 going somewhere, go to Belk's and get her
10 something. Eris Gail would go get it. She'll go
11 get it. That's just -- that's how Granny was
12 about me and I loved her, too. I'd do anything
13 for her, anything.

14 Q Tell me a little bit about the -- the
15 money that Granny owed Eris. You said that -- at
16 some point, did Eris pay you?

17 A Eris paid me for the first two years,
18 yes.

19 Q Okay. And do you know what other
20 bills Eris made -- may have paid for Granny?

21 A Only thing -- like, if she go to, like
22 Sam's, Eris would pay that, you know, and bring
23 the receipt. We'll put it on there. Eris paid
24 Jack whenever they remodeled the house. Eris paid
25 Jack. Eris also paid Rachell. Wayne paid her

1 sometimes, but sometimes Wayne didn't have it so
2 Eris Gail would pay because Wayne had gotten so
3 sick that he couldn't hardly care for his self.
4 You know, so he was at Granny's house and he
5 wasn't going because sores and stuff was breaking
6 out all over him.

7 Q So was all of that in the black book?

8 A All of that in that book.

9 Everything's write down in that book.

10 Q Do you ever remember Granny totaling
11 up what Eris had paid or what Eris was owed?

12 A As far as Granny totaling, I don't --
13 I have -- I don't know as far as Granny totaling
14 it up.

15 Q Okay.

16 A You know, because Eris had her book,
17 too. And me and Granny had our books.

18 Q And when is it your understanding that
19 Eris was going to be repaid that money?

20 A Granny said whenever she died, that's
21 when Eris gets her money. That's what she said.
22 She said that when she die, Eris would get her
23 money. She said, we'll get it when I die. You
24 going to get your money. That's what she say.
25 And then the last time when she was coming from

Q&A Court Reporting

1 the -- she came home from the hospital, before
2 they put her on that morphine, she said, Sharon,
3 she said, I know it's going to be some mess. She
4 wanted to go to the bank. I want to give you what
5 you -- what I left for you now because you need
6 your money now. She also told Rachell the same
7 thing. Judy was standing up in there. Eris was,
8 standing up in the house also, too. And she said,
9 I want to give, and she want to pay Eris back the
10 tax -- Eris went and paid the taxes when she was
11 in the hospital on her land and everything. So
12 she said, Eris, I'm going to go ahead and pay you
13 back with Jackie and Judy and Eris. All of us was
14 present when she said that. That I want to pay
15 you back for the taxes -- for paying the taxes on
16 the land. And so whenever that next morning, she
17 had to go -- she wanted to go to the bank and she
18 wanted -- and she had a doctor's appointment -- so
19 she said, Sharon, you come early. She said, you
20 come early. Me and you and Eris Gail going to go
21 so we can go to the bank. She said, I don't want
22 Judy to go. That -- this what she said. But time
23 we got there, Judy had done come. And so Judy --
24 when Judy -- Judy said, I'm going with y'all.
25 Leave my car here, I'm going. She said, no, you

Q&A Court Reporting

1 drive your own car. That's what she told Judy.
2 Judy said, I'm going. So Judy got in the car with
3 us and we -- she went along with us. We ain't
4 been gone out the lane five minutes, her and Judy
5 done got into it. She said, I told you to drive
6 your own car. I didn't tell you to try -- drive
7 your own car. I don't want to hear it. Just shut
8 your mouth. Just shut your mouth. Shut your
9 mouth. That's what she said. And I was just back
10 there because I said, Lord, have mercy. I wish I
11 hadn't gotten in this here car to go nowhere,
12 because tell you the truth, a lot of my -- my
13 stress and everything, my blood sugar gone up is
14 just listening to all of that, especially going
15 down to Charleston. I couldn't go the next time.
16 I said, Granny, I'm not going.

17 Q Did you ever hear Granny tell Eris,
18 these are some things I want you to do for me
19 after I die?

20 A Yeah.

21 Q Did you ever hear her tell Judy
22 there's some things I want you to do for me when I
23 die.

24 A Huh-uh. No. Granny didn't talk to
25 Judy like that. Granny didn't hold a conversation

Q&A Court Reporting

1 with Judy like that.

2 Q Who -- who did you think -- what did
3 you hear? What are some of the things that you
4 heard Granny tell Eris that she wanted Eris to do
5 before when she died?

6 A She told her that Eris -- she said, I
7 want you to make sure that Jamie -- that Mikey get
8 a car with air conditioning in it for that baby,
9 and the little pretty girl, because she called Jay
10 -- his -- Mickey's little girl pretty girl. And
11 make sure that pretty girl be taken care of. She
12 said, I want you to watch out for Debra, because
13 she said -- how she said it in a way -- they ain't
14 got sense enough to watch out for Debra. She
15 said, and I want you to take care of Debra and
16 Sharon and make sure everything is all right. And
17 she said, don't you let James come to my funeral
18 with just old something on. She said, you go to
19 Belk's and you get them a nice suit and put on,
20 because she said, make sure their hair cut.
21 That's what she said. Make sure their hair cut.
22 But she said, you get them something nice. And
23 she even told her to get Danielle something, too,
24 nice to wear to my funeral. If anything happens
25 to me, you make sure that they be taken care of.

Q&A Court Reporting

1 That was some of the things that I knew, I
2 witnessed that she said. She stated that she
3 didn't want them Jones' taking care -- didn't want
4 Jones getting nothing of hers. She didn't want
5 because her and Judy just -- I don't know. I
6 don't know what it was about her and Judy, but
7 they couldn't set horses and everything. They
8 couldn't -- I mean, her -- her and Jackie could
9 hold a conversation. Her and James could hold a
10 conversation. She loved James, now. I believe --
11 nobody could say nothing to James. Not even Eris
12 Gail could say nothing to James.

13 Ms. Smith: Uh-huh.

14 The Witness: Not to James. They
15 didn't -- if they mentioned James' name, both
16 them, they would get cussed out. They would.
17 They would get cussed out, so... Judy -- I got --
18 I don't know what it was. I just want -- I -- I
19 just don't know what it was, but Judy, if you --
20 if Judy ever come around, Granny would go
21 ballistic. Only thing Judy got do is say one
22 wrong word to her and she'll -- she'll blow up.

23 By Mr. Finklea:

24 Q If we had Granny's debt book, that
25 would answer whether or not she owed anybody any :

Q&A Court Reporting

1 money --

2 A Uh-huh.

3 Q -- is that correct?

4 A If you get -- if you get that book, it
5 will tell you everything in that book because we
6 write it down. It would tell you everything in
7 that book -- them two books, them black
8 composition books, and the one Judy had on the
9 table. If you get them books, that will tell you
10 everything y'all need to know.

11 Ms. Smith: Uh huh.

12 The Witness: And y'all get them,
13 y'all will see.

14 By Mr. Finklea:

15 Q Tell me about the other book. Not the
16 debt book where money's owed. What's the --
17 what's in the other book?

18 A The other book's is Judy write --
19 whenever -- whatever we -- like, whatever we give
20 Granny, whatever Granny say, and whatever's done.
21 Who comes by and visit Granny and everything, all
22 that was write in that book. So Judy wanted us to
23 write a book so when Granny started saying the
24 things that she was saying about the lawyer and
25 everything and things Granny was saying, Judy

Q&A Court Reporting

1 wouldn't be a part of her -- her check book and
2 her pocket book. All that right in that book.

3 Q Okay.

4 A But see, that when we called Sloan,
5 and I write it in that book and what Sloan said.
6 That book was gone.

7 Q Okay. So you actually wrote down to
8 confirm the conversations you had with Sloan --

9 A Yeah. It's wrote down in the book.

10 Q -- that Pam would bring the document
11 by --

12 A Uh-huh.

13 Q Okay.

14 A -- everything's in the book?

15 Q And did Judy read that book?

16 A Judy had -- Judy the only one that's
17 got that book.

18 Q Okay.

19 A That was Judy's book. Judy made that
20 book.

21 Q And --

22 A And every --

23 Q -- that book and the debt book are the
24 ones that were missing when you left the house
25 with Judy and the Nightingale nurse?

Q&A Court Reporting

1 A Yes. That -- that was gone. Uh-huh.
2 It was gone. I don't know who got them, only
3 thing I know is they was gone. Now who got them,
4 I don't know.

5 Q Do you believe that Granny believed
6 that she executed a will at Robert Lee's office
7 when she went to brunch?

8 A I don't -- I don't know. She said
9 something about a document. That's all she said
10 about a document. She wanted that document. She
11 supposedly signed. That's all she said. She
12 didn't say nothing about a will. She didn't say
13 nothing about power of attorney. She said the
14 document. I want that document. And I -- the
15 last time when she said -- because she said when
16 she gets that document, she said, I'm going to
17 tear that S up. She said, I'm going to tear it
18 up. She said -- that's what she said. I'm going
19 to tear it up.

20 Q Do you believe -- do you believe that
21 Pam would have brought those documents and if it
22 would have been a will where Judy would have been
23 appointed PR over Granny and tore it up?

24 A Granny would have tore it up.

25 Q If it had been a health care power of

Q&A Court Reporting

1 attorney where Eris was not on that health care
2 power of attorney, would she have torn it up?

3 A She would have tore it up.

4 Q Okay.

5 A She -- she always say, share and share
6 alike. That's how she always puts the two
7 children. And the reason why she had Judy and
8 Eris, because the rest of them, they didn't care
9 nothing about doing no kind of nothing. And see,
10 Judy -- Granny just -- I don't know. Granny
11 wouldn't have did it, because see, Judy couldn't
12 handle her own affairs. That made Granny mad.
13 That made -- when Granny -- when Judy got her
14 divorce from her husband and let her husband got
15 everything was there, after he got that child --
16 and see, I know all of this because me and Granny
17 just sit and just talk. Granny -- Granny did --
18 she said, ain't no way in the world. She said,
19 ain't no way in the world. And Granny got furious
20 about that, how she let the man came -- Ray came
21 and how they did Judy and they -- from then on,
22 they just -- they do her more vicious then. More
23 vicious then. I tell you, it was something else.

24 Q In -- in the last few years of
25 Granny's life, who was the person that she was

Q&A Court Reporting

1 closest to?

2 A James and Eris Gail.

3 Q And I mean, anybody, not even family,
4 of anybody in the world.

5 A She tells me a whole lot. She's tell
6 Mr. Hart, her brother-in-law, her -- they would
7 come by. And Barbara, they would all come by and
8 they would sit down. I don't care who Granny
9 would tell how she feel. She was telling how she
10 feels about Judy because I had to shut Granny up
11 sometimes myself. I'd say, Granny, don't say
12 that, don't do that. Don't -- don't do that. And
13 she -- she said, well, it's the truth. And she
14 would just tell them what -- she don't care. If
15 she -- in the general bible school and somebody
16 ask about, she's going to tell them how she felt,
17 and I -- I -- you know, sometimes I would be shame
18 to take her to the store. I did. I did because
19 the things she was saying. I'm serious.

20 Q Has -- do you know if she's told you
21 more about her wishes or feelings about her family
22 than any other family member?

23 A I do believe because --

24 Q Do you believe she's confided in you
25 more than anybody else in the world?

Q&A Court Reporting

1 A I do believe she did, because whenever
2 she told me about -- when she told me about the
3 money, she was telling me I -- I have some
4 statements of money, because she say she don't
5 want them children to get -- one get all and
6 nobody get nothing. And she said, you make sure,
7 Sharon, that they give you because if they say --
8 because Judy made appointment -- Sharon will get
9 her money if anything be left. And Granny went
10 ballistic. She said, oh, Sharon going to get
11 before you get. That just what she told Judy.
12 She said, Sharon will get before you get. And so
13 when Judy made the thing -- statement, Granny, you
14 ain't got no money, I said, no, wait a minute
15 Judy. Granny got money. I said, because Granny
16 done told me, and went and took me to the bank,
17 she even took me to Stoudenmire where she paid for
18 her furniture and everything. She went and showed
19 me her casket. She even bought flowers to go --
20 more flowers that day.

21 Q Are you aware -- which I think we
22 covered this in her deposition -- but are you
23 aware if Judy knew what her mom's funeral
24 arrangements were before she died?

25 A Not as I know of.

Q&A Court Reporting

1 Q Were you aware of what your -- what
2 her funeral arrangements were before she died?

3 A Yes.

4 Q Was anybody else aware of the funeral
5 arrangements before she died?

6 A Eris Gail knew. Uh-huh. Because the
7 first time Eris Gail took her -- and then she come
8 back and she told me, whenever she took me to the
9 bank, we went to Stoudenmire Funeral Home that
10 day. Just like she was just knew this was going
11 to happen. She was taking me step by step the
12 things to do, step by step. Step by step of
13 things to do. And she said, you make sure they do
14 the -- they do -- Mickey and that baby be taken
15 care of. Make sure Eris Gail taken care of and
16 Mickey and that baby. Now, she was crazy about --
17 I'm telling you, she was crazy about Mickey.

18 Ms. Smith: Uh-huh.

19 The Witness: She was just crazy about
20 Mickey.

21 MS. SMITH: Uh-huh.

22 By Mr. Finklea:

23 Q That's all I have. Is there anything
24 else that you would like to add that you think's
25 important that I may have left out?

Q&A Court Reporting

1 A No. I just -- I just pray to God that
2 her children will just pull their self together
3 because their mother may be gone, but they got to
4 live with one another for the rest of their life
5 until they die. And none of them going to know
6 who they're going to need. None of them know who
7 they're going to need. But just like I told
8 Granny, Granny, I done went through so much with
9 you and done seen so much how they treat you.
10 Ain't none of them couldn't get me to work for
11 them.

12 Ms. Smith: Uh huh.

13 The Witness: Because of the way
14 Granny was taught -- I -- I mean, done Granny. I
15 told them, the only thing I can say, I pray to God
16 that they get their self together because they got
17 to answer to God one day. That's all.

18 Mr. Finklea: Thank you very much.

19 The Witness: Okay. Well, that's all
20 a good day then.

21 Mr. Finklea: Thank you.

22 (Witness excused.)

23 (Whereupon, at 3:10 p.m.,
24 the taking of the foregoing
25 examination under oath was

concluded.)

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Q&A Court Reporting

CERTIFICATE OF REPORTER

State of South Carolina

County of Florence

I, April Llewellyn, Court Reporter and
Notary Public for the State of South Carolina, do
hereby certify that the Witness in the foregoing
examination under oath was, by me, first duly
sworn to testify to the truth, the whole truth and
nothing but the truth; that said examination under
oath was taken via stenomask with backup; that the
foregoing transcript contains a true record of the
testimony of said witness.

I further certify that I am neither
attorney nor Counsel for, nor related to or
employed by any of the parties connected to the
action, nor am I financially interested in the
action.

Witness my hand at Florence, South
Carolina, this the ____ day of _____, 2013.

April Llewellyn

MY COMMISSION EXPIRES:
June 23, 2023

Q&A Court Reporting

STATE OF SOUTH CAROLINA

IN COMMON PLEAS COURT

COUNTY OF FLORENCE

In the Matter of the Estate
of Eris Singletary Smith.

 COPY

The Examination Under Oath of Rachell Pringle

Location: 814 West Evans Street
Florence, South Carolina 29503

Date: Wednesday, September 11, 2013

Time: 12:46 p.m. - 1:59 p.m.

Court Reporter: April Llewellyn

The examination under oath was taken pursuant to
notice and/or agreement, in the above-entitled
cause pending in the above-named court.

Q & A COURT REPORTING SERVICES
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Q&A Court Reporting

A P P E A R A N C E S

Finklea Law Firm
814 West Evans Street
Post Office Box 1317
Florence, SC 29503
By: Gary I. Finklea, Esq.

Also Present: Eris Gail Smith

I N D E X

Examination by Mr. Finklea 3

E X H I B I T S

pg/ln	ex.	description
66/11	1	Written Statement of Ms. Pringle and Written Notes

** uh-huh = affirmative
huh-uh = negative

S T I P U L A T I O N S

IT IS STIPULATED that the witness will
waive the right to read and sign this transcript.
THEREUPON,

Rachell Pringle,
BEING FIRST DULY SWORN BY THE COURT REPORTER, AS
HEREINAFTER CERTIFIED, TESTIFIED AS FOLLOWS:

E X A M I N A T I O N

By Mr. Finklea:

Q Could you please state your name for
the record?

A My name is Rachell Pringle.

Q And where -- what is your address?

A 411 1st Avenue, Pamplico, South
Carolina.

Q And your telephone number?

A My telephone number is (843) 758-1691.

Q How -- how do you know Eris Singletary
Smith?

A I've been knowing her for the past
couple of years. I know it's got to be about
eight years now. My mother first started out
doing private health care with her. And before I
started working with her, you know, I would stop
through to see my mom sometime on my way to my

Q&A Court Reporting

1 other job. And, you know, we just all hit it off.

2 And ever since from the first day I met her, I
3 always called her Granny.

4 Q Did you serve as her nurse and nursing
5 assistant for a while?

6 A Yes, I did.

7 Q And when did you begin that?

8 A Had to be about 2003.

9 Q Where -- first, you're here today to
10 -- to participate in what I would call an
11 examination under oath. Do you understand that?

12 A Yes, sir.

13 Q And we don't have any legal ability to
14 -- to make you come, but you're here on your own
15 free will because you just want to share with what
16 you know --

17 A Uh-huh.

18 Q -- regarding Granny and will; is that
19 correct?

20 A Yes.

21 Q Okay. Well, thank you for doing so.
22 Let me ask you some questions. We're primarily
23 here in regard to which will Granny intended to be
24 her last will and testament. So I want to ask you
25 some questions, what you know about wills,

Q&A Court Reporting

1 Granny's declarations as to what she wanted when
2 she passed and things like that primarily. Okay?

3 A Okay.

4 Q First, when's the first time you ever
5 remember Granny talking about her will?

6 A Going on now -- it probably would be
7 about two years ago.

8 Q What -- what do you -- what do you
9 recall about it? That might help, too. What do
10 you recall?

11 A At that time, my mother was doing
12 weekdays and I was doing weekends and some nights
13 with her. And she had told me about the -- the
14 trip that she had took with Becky and them over to
15 Marion. They was making a big fuss and wanted her
16 to change up her will. And she said that she
17 wasn't going to change up her will, you know, and
18 stuff. They was having a problem with it because
19 she said that some altercations or whatever that
20 happened with Wayne's will.

21 And, you know, she been -- I remember
22 her getting on Wayne about his will, you know, and
23 making sure he had his affairs straight and stuff
24 like that. And he told her that he did. And, you
25 know, he mentioned to me how he had his things

Q&A Court Reporting

1 also, but you know, it turned out different. But,
2 you know, at that time, who was I to say, you
3 know, to get in family affairs. I was closer to
4 Granny, you know, than Wayne. And she told me
5 about that. And they was having an issue about,
6 you know, Mikey, the grandson, that she raised as
7 her own and the baby Taylor, with whatever she was
8 leaving them or whatever. And issue -- that Judy
9 and them was having an issue about her leaving me
10 and my mother anything. And, you know, I told
11 her, you know, Granny, all we can do is pray. I
12 said, you have to pray harder for your family
13 members than you do anyone else in the church.
14 And she said, yeah. She said she just didn't
15 understand or whatever.

16 So the next thing that happened when
17 this year came in, she was like she wanted her
18 will. She wanted to see it. And she wanted me to
19 go and look in the closet and see whether it was
20 in there, because she was like, where she had it,
21 it was not there. And I was like, well, Granny, I
22 never seen it, you know, and any paperwork or
23 anything like that. Because the most she would
24 have me put up is -- like, when I go to the
25 mailbox, we go through her mail, whatever bills or

Q&A Court Reporting

1 whatever she wanted to send out. You know, she
2 always had us to call Eris if it was something
3 major. If it was something minor, she could send
4 out from the house. I done that. But I went to
5 go look in the closet, and she was like, it should
6 be where Papa Jack's old will and also Aunt
7 Gertie's will. That was in there, the copy that
8 she had from it. And I was like, no. I said,
9 well, I don't see anything but Aunt Gertie's in
10 here. But I said, well, you have to ask Judy.
11 Because when I came in one day, Judy and one of
12 the nurses from Nightingale was rearranging
13 Granny's closet and room.

14 And Granny is real particular about
15 her stuff because she know where she have each and
16 every -- I don't care if it's a piece of jewelry,
17 clothes, or what. She always could tell you where
18 she got everything at. And I say, so you have to
19 ask them. I say, because I remember you had Aunt
20 Gertie and them wills at the foot of your bed in
21 this basket over a little trunk she had down
22 there. And I said, now they're in a closet. And
23 she was like, well, they shouldn't be in there.
24 She said, well, take all that stuff down and see
25 if you see my will. She said, I been asking that

Q&A Court Reporting

1 Judy and them whether they seen my will. She
2 said, but I know they got to be got it. So she
3 was like, I need to call my lawyer. I said,
4 Granny, what is his name? She said, you know him.
5 Said, he's on Irby Street. She said, I need you
6 to go find him and tell him, you know, I don't
7 care if he charges me. I need him to come out
8 here where I'm at. But I didn't know because I
9 wasn't the one that took the trips with her to the
10 lawyer's office, which office it was. And really,
11 the buildings that I was checking, all I had to do
12 was just go a couple of offices down and would've
13 been at him. I was checking, you know, on my own
14 because she was telling me to keep hush about it,
15 but I could never find him.

16 So then she did remember his name.
17 And when she did, I was like, well, I don't know
18 him. She said, well, I took you and Sharon with
19 me, but I said, must be mama. So she had me to
20 call mama and I called mama. Mama was like it was
21 her. And mama was like, the best thing to do is
22 call Eris. Because if she's upset, you know, she
23 always wanted us to get Eris. And Eris did --
24 handled her business. And we'd called -- Eris
25 came and Eris asked her, you know, why would Judy

Q&A Court Reporting

1 and them think they was over anything, you know,
2 health care, you know, anything else. And she
3 asked Granny did she sign anything else and Granny
4 was like, no. She -- and I said -- so when Eris
5 was like, well, Granny, first, we got to find
6 that. She said, but I don't want to get involved.
7 And then they think that, you know, she was
8 brainwashing Granny or whatever, you know, to her
9 favor or whatever. And Granny was like -- she
10 didn't care what she -- what they thought. She
11 wanted Eris to get it straight for her because she
12 knew something crooked was going on. That's all
13 she kept saying. Too many thieves around me; I
14 don't trust them. She started crying. She didn't
15 want me leaving her at all. She was like, no
16 matter what the cost was, if I had to stay over,
17 if I had to bring my babies to her house, she
18 wanted me there. She didn't want to be left
19 alone, you know, with Judy and them.

20 And so I told her we would figure out
21 whatever. So because of us keeping everything
22 daily in the books, from the medicine, bath,
23 whatever she talked about, we kept them in the
24 books. Until Judy started, you know, getting more
25 cautious. And she was like -- she didn't want me

Q&A Court Reporting

1 no more in the evenings, me and my mother to share
2 mornings. Because really, she didn't see why
3 Granny would want me and mom there. She had
4 Nightingale. So of course that made Granny upset.
5 Had to call Eris once more to come down there and
6 tell -- make sure that me and my mother stayed
7 because we promised Granny we would stay until her
8 duration. And she was like, you know what, she
9 said, when you come tomorrow when we're here by
10 ourselves, she said, I want to talk to you because
11 I got a feeling nothing is going to go like I, you
12 know, planned it. So that's when she starts
13 telling me -- she kept asking me for like the
14 whole week, Chell, what do you want, baby? And I
15 was like, Granny, what you mean? She said, just
16 tell me, you know, what you want. She said, I got
17 -- she said, I got this money. She said, Judy is
18 lying about I don't have no money to pay y'all.
19 She said, I have this money.

20 Granny told me the full amount what
21 she had in BB&T. And she told me the amounts that
22 she had at First Federal. And I was like, wow,
23 you know, because I knew she got to the nitty
24 gritty with my mother and my mother would know.
25 But, you know, the amounts and stuff like that, I

Q&A Court Reporting

1 never talked to her about stuff like that. She
2 said, so whatever you charge me or whatever she
3 said y'all promised me, y'all was going to stay
4 with me. She was going to pay it or whatever.
5 She said, but -- my motor had just blew in my car.
6 And she was like, I know you need a car or
7 whatever. But she said, your mother been with me
8 longer, you know, and I got something put away for
9 your mother. But she said she wanted me to have
10 something too. But because of how Judy and them
11 was acting, you know, I was like, well, Granny,
12 no. I don't want to tell you, you know,
13 something. And then they be like, you know, I'm
14 just with you for money or trying to get money
15 from you. I said, whatever you say is fine with
16 me, like that. And she said, well, what you want
17 out the house? She said, because -- I said, what
18 you mean, furniture? She said, no. She said, I
19 got all my furniture and stuff to who I want it to
20 go to and everything.

21 That's when she went with me through
22 the den. And James supposed to get the big screen
23 TV, which she had first got from Wayne. And the
24 white leather living room suit in there was
25 supposed to go to James and Mikey. The bedroom

1 suits that was in the house, she wanted them to
2 have them, including like in her room, the
3 pictures, every -- every single thing in there.
4 The only thing that I know I -- one of the
5 bedrooms was supposed to go to someone else, was
6 the little chase, little lounge with the two
7 matching pictures to go to it, and that was
8 supposed to go to, I think, a granddaughter named
9 -- it's Debra's sister, that she doesn't live
10 around, but she will call or whatever.

11 Q Did --

12 A But --

13 Q Did you ever take her -- what about --
14 you said when she talked to Sharon, she found out
15 who the lawyer was on Irby Street. Did anything
16 ever happen with that that you're aware of?

17 A She -- she wanted to call him, but she
18 never got to call him. But she wanted to go see
19 him. So Granny was like -- that day before I
20 left, she had me to -- because she had a doctor's
21 appointment also. And this doctor's appointment
22 was to, you know, see how she was doing and
23 everything. Because she was talking good, doing
24 good. Like, the pain medicine they had her on,
25 she wouldn't even let me give her that. If Granny

Q&A Court Reporting

1 was in pain, the most she was going to let you
2 give her that day was two Tylenol. That was it.
3 You know, so she was doing fine. Actually, had
4 her like out the bed, sitting in the -- the den
5 watching TV, sitting at the table eating. You
6 know, when she wanted to walk to the porch, the
7 front porch or whatever, she was doing a lot. But
8 she got me to get up her clothes and stuff as
9 usual. You know, I got up her clothes, jewelry
10 and everything for that next day. And she called
11 my mama. She wanted my mom to go with her, of
12 course, and Eris. Because Judy was saying she was
13 going to take Granny to the doctor and she didn't
14 want nobody else to go. Granny told her -- you
15 know, in Granny's words, she ain't taking her
16 nowhere, that she ain't trusting going nowhere
17 with her and she don't want her around her. That
18 Eris and Sharon is going with me to the doctor.
19 And she told me whenever I thought for me to call
20 and see when they would be back from the doctor to
21 meet them at their house.

22 And her plans were to go by her
23 doctor's office, by the lawyer's office and to the
24 bank. Whatever it was she said that she had for
25 me and my mother, she was going to get it that day

Q&A Court Reporting

1 and give it to us or she was going to give it to
2 Eris. Because she knows Eris will make sure that
3 we got it. And she was going to go by her
4 lawyer's office for whatever else she wanted in
5 her will and to see her will. Because she knew
6 what she had was just a copy and he had the
7 original. And, you know, even though she was
8 telling us that, I've never known a lawyer to keep
9 your original will. That's something you usually
10 bring with you. But because of when she went to
11 the doctor, Judy still went to the doctor also.
12 And they ended up putting Granny in the hospital.
13 Then Granny's on a morphine pump and drugged up,
14 so she can't lon--- you know, talk or anything,
15 you know, like how she usually talked and stuff.

16 And so that's when she asked us to go.
17 And that's when me, Eris, and my mother made a
18 trip to her lawyer's office. My mother knew exact
19 -- you know, and he knew my mother. And he told
20 us she was telling the truth. She did have the
21 will. When he did last speak to her, she did tell
22 him that she was coming in to change it, you know,
23 to add a few more things on there. But he even
24 had the list that matched what she told me and my
25 mother with who get what --

Q&A Court Reporting

1 Q Okay.

2 A -- and everything.

3 Q So the changes that were going to be
4 made were to -- that you're aware of, was personal
5 property in the house?

6 A Personal property and my name on
7 there. Because when they first did it, just my
8 mother was with her. I wasn't with her then.

9 Q Okay.

10 Ms. Smith: Uh-huh, because I was with
11 her.

12 By Mr. Finklea:

13 Q All right. Well, let me back up then.
14 And you -- when you first started talking about
15 issues with Wayne's will --

16 A Uh-huh.

17 Q And I want to ask you what you're
18 personally aware about -- I don't -- I don't want
19 to know what your grandma -- what your mother may
20 have told you happened --

21 A Uh-huh.

22 Q -- but I want you to tell me is what
23 you personally observed with Granny in regard to
24 Wayne's will. Were you sitting with your
25 mother -- with Granny when Wayne died?

Q&A Court Reporting

1 A Uh-huh.

2 Q Is that a yes?

3 A Yes.

4 Q Okay. What did Granny -- were you
5 aware when Wayne's will was like published or
6 probated?

7 A Yeah. I was aware.

8 Q What --

9 A Because --

10 Q What was Granny's response to the will
11 that was probated, that was produced to the court?

12 A The first thing, she was -- you know,
13 she was cursing, saying her Sunday school words
14 and stuff was when she first found out that Judy
15 was over it. Because when I took care of
16 Mr. Wayne, Mr. Wayne always told me this, that
17 Eris was the only one that came and took them to
18 the doctor. You know, whatever I called and
19 needed from Mr. Wayne, she was the one that
20 brought it. I used to be there with him when he
21 would cry and get upset. Call the other siblings
22 to at least just come spend time with him. They
23 wouldn't. He even tried to get his brothers to
24 come to just ride with him to the car wash to get
25 his truck detailed. They wouldn't. Because right

Q&A Court Reporting

1 before he was last put in the hospital, I was
2 supposed to take him to go get his truck detailed
3 and take him to go see Mr. Evans in Pamplico. He
4 could never get any of them to do anything and it
5 would get him upset. And of course, because
6 Granny had Wayne's fall. It got her upset
7 whenever he would be upset. But he told me, he
8 said, Rachell, that's all right. He said, when I
9 die, he said, my mother's going to be taken well
10 care of. He said, Eris is left over everything,
11 and said, the rest of them bet not come and ask my
12 mom for one penny or look for anything. Because
13 he wanted it to go to his -- to his mother.
14 And --

15 Q So this is something that you actually
16 talked to Wayne directly about?

17 A Uh-huh.

18 Q How -- is that a yes?

19 A Yes.

20 Q How -- that conversation that you
21 described, how close was that before his death?
22 Two years before his death, a month --

23 A No.

24 Q -- before his death?

25 A No. This is like -- this is like

Q&A Court Reporting

1 maybe two weeks before --

2 Q Okay.

3 A -- his death.

4 Q So when the -- when the will was
5 published, you said the first thing -- or the will
6 that was presented --

7 A Uh-huh.

8 Q -- the first thing was the fact that
9 Judy was over it?

10 A The fact that Judy was over it. And I
11 didn't know who this Robert guy was, but Granny
12 was going off about him.

13 Q Okay. And what did Granny say about
14 -- and by the Robert guy, I assume you're talking
15 about Robert Lee, the attorney?

16 A The attorney. Yes.

17 Q Okay. What did Granny say -- well,
18 let me back up first. You told me what you knew
19 Wayne said about his will.

20 A Uh-huh.

21 Q Did you ever have any conversation
22 with Granny, or were you ever in Granny's presence
23 when she and Wayne had conversation about his
24 will?

25 A Yes.

Q&A Court Reporting

1 Q Okay.

2 A She told him to make sure that, you
3 know, all of his -- of his affairs were, you know,
4 straight and everything, and that make sure
5 whoever he had preparing it and stuff was
6 trustworthy and stuff. And, you know, he'll be
7 like, ma, you know -- you know, I got that. You
8 know, it's taken care of and this and that. But
9 after it came out about the will -- you know,
10 because even if I wasn't there, Granny always
11 called. And she -- well, guess what's going on
12 now or guess what's going on with my children, or
13 this and that.

14 And she was, like, that damn Robert
15 Lee done messed over my baby's will. She said,
16 and I know what Wayne told me. I said, yeah,
17 Granny, I know what he told me. She said, well,
18 it's nothing like what he said.

19 Q Okay. And -- and what I'm trying to
20 get at is, did Granny also believe that Eris was
21 supposed to be over Wayne's will?

22 A Yes.

23 Q Did Granny also believe that she was
24 supposed to take primarily under Wayne's will?

25 A Uh-huh.

Q&A Court Reporting

1 Q Is that a yes?

2 A Yes.

3 Q And how do you know Granny knew that?

4 A Because we all -- all three of us was
5 sitting at the table. Like, if you --

6 Q And that's what I want to know. You
7 were present during the --

8 A At the table --

9 Q -- conversation --

10 A -- the conversation.

11 Q -- where Wayne implied or said or did
12 something --

13 A Yes.

14 Q -- that Eris is over my estate?

15 A Yeah.

16 Q You get my estate, mom?

17 A This -- Mr. Wayne always kept his
18 folder with his business in it on a table and that
19 arm would rest on that table. He sat at that
20 kitchen table. You know, all during the day,
21 unless I was going to bathe him, take him to the
22 restroom or whatever. But that's where he sat,
23 had his phone calls and everything and that's
24 where he watched TV at. If you ever met Granny,
25 you could come over if it's breakfast time, Granny

Q&A Court Reporting

1 is not going to eat in her house and you be
2 working or, you know, sitting there. Everybody
3 got to eat along with her. I don't care if she's
4 just having tea or coffee. Everybody got to have
5 tea and coffee with her. So in the morning when I
6 prepare Wayne's breakfast, that's number one rule,
7 whether I wanted to eat or not, I was going to sit
8 right there and chit chat with Granny for an hour
9 before the day got started. That was our routine.
10 So I was there when he told Granny and Granny was
11 right there when he told me.

12 Q Okay. All right. And I just need to
13 establish that, to make sure it's nothing you
14 dreamed up.

15 A Uh-huh.

16 Q I have to establish the foundation of
17 where you gained that knowledge.

18 A Got you.

19 Q Okay. Now -- and I'm not asking you
20 -- did you ever see Wayne's will? Did you ever
21 read it?

22 A Huh-uh. I --

23 Q Was that a no?

24 A No. I haven't --

25 Q And the court reporter, it's hard for

Q&A Court Reporting

1 her to pick up uh-huh's and huh-uh's.

2 A Oh, okay.

3 Q So that's why I keep saying for you to
4 do a --

5 A Oh, okay.

6 Q -- yes or no. Do you know if Granny
7 ever read Wayne's will?

8 A Granny had.

9 Q Okay. So she actually saw the will
10 where Eris was appointed as personal
11 representative?

12 A Uh-huh.

13 Q Is that --

14 A Yes.

15 Q -- a yes? How do you know that? Were
16 you present --

17 A Because --

18 Q -- did she tell you?

19 A I was present. But after breakfast,
20 my routine is to go prepare her bathroom for her
21 to take her a shower and stuff. And Wayne would
22 always -- then I'll start on his room. But, you
23 know, I'm walking back and forth checking on them
24 and going to her bathroom and checking. But they
25 were talking about it, and, you know, she was

Q&A Court Reporting

1 looking at it and reading it.

2 Q Okay.

3 A Going through it.

4 Q Okay. So to fast forward a little
5 bit. When Wayne died, Granny was really upset?

6 A Uh-huh.

7 Q Is that --

8 A Yes.

9 Q And tell me -- I guess you already
10 have, but she was upset at the terms of the will
11 that was probated; is that correct?

12 A Yes.

13 Q And she was -- and how did she -- what
14 did Robert Lee have to do with it? Do you know
15 how he came into the picture?

16 A She said that Robert Lee has messed up
17 his -- messed up his will because it's nothing
18 like how Wayne had wanted it. And said that she
19 knew how Wayne said he wanted his will. And told
20 Robert Lee, but he didn't have it that way. And
21 that she would never get Robert Lee's crooked ass
22 to ever do anything for her. She couldn't stand
23 him.

24 And from that day on, nobody even --
25 you know, the day after when Wayne -- when they

Q&A Court Reporting

1 was talking about Wayne's will again -- and my
2 mother was there. The rule was nobody could
3 mention Robert Lee's name. If they did, you know,
4 we heard the Sunday school words and everything
5 like that. She just didn't trust him or anything.
6 And she just felt -- she say something just ain't
7 right, you know, with the conniving ass, you know,
8 Brown's, and with Judy and them and with Robert
9 Lee.

10 Q Okay. Now, do you know if her -- her
11 opinion of Robert Lee ever changed before her
12 death?

13 A Huh-uh.

14 Q Is that a no?

15 A No.

16 Q And why do you think it didn't change?
17 Did anything happen? Did you see anything?

18 A Because when she had me looking for
19 her lawyer -- and I was like, Granny, what was his
20 name? And she was like, he's on, you know, Irby
21 Street. I was like, you know, was it this Robert
22 Lee, because that was like the only lawyer name I
23 ever heard like them or the family mention. And
24 she was like, hell no, not no Robert Lee. I would
25 never go to him and this and that. You know,

Q&A Court Reporting

1 going -- going off like she usually do. And I was
2 like, okay, Granny. Well, you know, it's not
3 Robert Lee. I got that or whatever, but she
4 strongly felt like that. And, you know, even when
5 Judy and them was claiming and saying that, you
6 know, that's who done the health care and this.
7 And that put, you know, them over Granny's health
8 care and affairs. She was like, Chell, I know
9 that's a lie. You know I would never trust or go
10 near no damn Robert Lee, and most of all, I would
11 not put them thieves over anything of mine.
12 Because point blank, when Granny told me how much
13 she had in the bank and stuff like that, she never
14 wanted her children to know. Because she said she
15 knew how they will react and they will start
16 fussing and fighting.

17 Even on her deathbed, she asked me do
18 you -- are they getting along better and stuff.
19 And I'm really -- actually, they had been for like
20 three or four days. Nobody was arguing or fussing
21 or whatever or, you know, aggravating Granny about
22 can I have this, give me that, this and that. You
23 know what I'm saying? We trying to keep her calm
24 and let her, you know -- and keep her s--- you
25 know, stable and her mind off things like that.

Q&A Court Reporting

1 But you wouldn't believe how they was coming in
2 and calling, who you left this, I wanted that, can
3 I have this, you know, who you leaving the house
4 and this and that. And to the point to where
5 whenever I was there, I didn't let them talk to
6 her anymore because her health was my main
7 concern. And through the years, you know, she
8 really became my grandma. That was my grandma and
9 I didn't want no one getting her upset or
10 anything. So I told her to keep her calm. Yeah,
11 they getting -- they getting along, they doing
12 fine. She said, so you reckon everything going to
13 be okay? She said, well, y'all went and checked
14 on my will and it's up there. I said, yeah. I
15 said, Mr. Hoefer says he has it. She said, all
16 right then.

17 So after that day, it was what she
18 wanted everybody to wear to her funeral. If Judy,
19 Becky, Pam, or Pam and Becky's husband, any one of
20 them shed a tear over her, Granny's last words
21 with me was to promise her that I would beat the
22 shit out of them if they even came to her funeral
23 all sad or cried at -- at her funeral. She didn't
24 want -- she didn't want them nowhere around and
25 stuff. And like when Judy did put me on day

Q&A Court Reporting

1 shift, Becky and Pam was coming late at night.
2 Granny was telling me this. And, you know, this
3 was when she could talk and stuff, even with the
4 morphine pump. Because we would not give her that
5 morphine. Because I knew how good she could get
6 up. I didn't mind bathing her in the bed or, you
7 know, anything like that. Came in one morning,
8 Granny is drugged up. And -- but she is crying
9 and she wouldn't let my hand go. So, you know, I
10 sat her up some, rubbed her back and tried to talk
11 to her. And she kept pointing and she was saying
12 Eris. She wanted me to call Eris and she wanted
13 me to call my mother. I said, well, Granny, tell
14 me what's wrong, you know, what's bothering you,
15 like that. And she had -- she was pulling the
16 strap, because the morphine pump is strapped to
17 the rails, pulling it -- she pulled the straps for
18 them to pull off.

19 And that's when I knew. I said, is
20 someone giving you medicine, like that. And she
21 said, yeah. I said, well, who pressed the pump?
22 And I asked her was it Judy, and she told me. She
23 nodded her head and said yes. I said, okay, then
24 I'm going to call Eris and I'm going to call my
25 mom. But when I tried to leave from beside the

Q&A Court Reporting

1 bed, she cried. So I had to pull the chair closer
2 and sit by her bed all that day. She didn't want
3 Judy and them to coming through her room or
4 anything. And when Mikey stopped by, that's how I
5 got the cell -- got him to give me the cordless
6 phone. And I called my mother and called Eris.

7 Q And I -- if you -- thank you for
8 sharing that.

9 A Uh-huh.

10 Q And I know, because I've heard it from
11 you before and from Eris, about some concerns with
12 the quality of care that Granny received before
13 she passed.

14 A Uh-huh.

15 Q And I'm not going to go into that too
16 much here. Even though I appreciate you sharing
17 it because it does reflect upon, you know --

18 A Uh-huh.

19 Q -- why Granny believed what she did --

20 A Uh-huh.

21 Q -- about Judy. So -- but I don't want
22 to go down that path and spend a lot of time on
23 that. Okay?

24 A Uh-huh.

25 Q But you -- if you get down it again,

Q&A Court Reporting

1 so I might just call you back a little bit.

2 A Okay.

3 Q I asked you a little bit about Wayne's
4 will.

5 A Uh-huh.

6 Q Let me talk to you a little bit now
7 about a will that was produced by Judy Jones. It
8 was reportedly executed on March 13th, 2013.

9 Ms. Smith: That's Granny's will.

10 By Mr. Finklea:

11 Q Let's see. We've -- we've got another
12 one, October 18th, 2011. So I want to ask you
13 about the October 18th, 2011. That one was -- was
14 done in Marion. Okay.

15 A Uh-huh.

16 Q Do you know -- what do you know about
17 any trip that Granny took to Marion to execute any
18 documents or anything about that in October 2011?

19 A She told me that her granddaughter was
20 supposed to be -- have been taking her out to
21 lunch. Said she -- that heifer was supposed to
22 been taking me out to lunch. And said, she took
23 me some place over there. Say, they been trying
24 to get me -- to try to change my will because they
25 upset about what she was leaving Mikey and his

Q&A Court Reporting

1 brother. And said they was upset about me wanting
2 to leave you and your mother something. She said,
3 but who is they to tell me what to do with my
4 things or my money and I can never get them to
5 come and see me. Because first of all, I'm
6 shocked because her granddaughters never come.
7 When I actually saw Becky and Pam face to face was
8 right before Granny's funeral.

9 Q That's the first time you had ever met
10 them?

11 A No. In the hospital when she died.

12 Q Okay.

13 A And when they came up to me, I didn't
14 know who they was. And this is out of all the
15 years that I have been there. And I don't need
16 nothing but one hand to count the years that I've
17 been taking care of Granny until 2013, the number
18 of times that I saw Jackie and Judy together. I
19 don't need nothing but one hand. They never came.
20 You know what I'm saying?

21 And so when she told me that her
22 granddaughter to take her out to lunch, I was
23 like, really, Granny. You know, I'm excited, you
24 know, for her until she tells me, no, that
25 conniving little B end up taking me over there,

Q&A Court Reporting

1 and say, now I'm all upset. They just all in my
2 business. Just got me all confused, you know, and
3 this that. Because she was all out of the wood
4 works when --

5 Q Okay.

6 A -- you know, I came.

7 Q Were you working with Granny when she
8 left or that day or did you hear about it
9 afterwards?

10 A I -- I heard it the next day, that
11 evening.

12 Q Okay.

13 A When I worked for her. My mother was
14 with her that day.

15 Q Okay. So --

16 A That she actually went.

17 Q -- the next day is when you had the
18 conversation with Granny?

19 A Uh-huh.

20 Q Was that a yes?

21 A Yes.

22 Q And did Granny ever tell you what she
23 executed?

24 A Huh-uh.

25 Q Was she -- and that's a --

Q&A Court Reporting

1 A No.

2 Q Was she -- was she confused about what
3 she executed or didn't execute?

4 A She -- from my understanding with what
5 Granny told me, Granny didn't do a will or
6 anything. They were talking to her about it, and
7 said that whatever it was that they was looking
8 at, it didn't have Mikey and James -- Mikey and
9 James, their names on it. And she said that
10 wasn't right. She wasn't going to do that because
11 Mikey and James' names were supposed to be in it.

12 Q Okay. Did she -- you said -- what was
13 her reaction to it? I mean, what --

14 A She was upset about it because she
15 realized that, you know, they was trying to
16 underhand her, that they had something going on.
17 And it -- you know, it had her mad. But then she
18 was confused with why were they acting that way.
19 Because Granny always said -- if she told me and
20 my mother anything about her affairs, money, or
21 whatever, she always like, well, did you tell
22 them? I was like, no, Granny, I didn't tell them
23 anything. Because I say, I don't see them. She
24 said, well, they acting like that for something.
25 Somebody done found out something, like that.

Q&A Court Reporting

1 Q Is it your understanding that Granny
2 wanted Mikey and James included in the will --

3 A Yes.

4 Q -- or excluded?

5 A Huh-uh. Included.

6 Q Included. Okay. And -- and those
7 were her grandkids?

8 A Her -- James' two sons. Granny raised
9 those two as her own. Because -- you know,
10 whatever happened with their mother being out the
11 picture early. You know, and she helped James
12 with them and she raised them as her own. And the
13 way she feel about those two and the baby girl,
14 Taylor, nobody, not nobody is going to get one
15 penny from Granny if they don't get. That's --
16 that's just how Granny was. Mikey and them going
17 to always get. I don't care what it is. They
18 going to always get before anybody else get.

19 Q Now, what about the -- the girl,
20 Taylor, whose child --

21 A That's Mikey --

22 Q -- is she?

23 A -- baby.

24 Q Okay.

25 A Uh-huh. Granny alwa--- well, Granny

Q&A Court Reporting

1 always called her pretty girl. That's the
2 nickname the family gave her.

3 Q So on October 19th, did Granny tell
4 you she signed any documents in -- well --

5 A No.

6 Q -- did she say where she went?

7 A She told me that --

8 Q What did she say?

9 A -- they was supposed to take her --
10 take her out to brunch, and ended up she didn't go
11 out to brunch, that the heifer took her over there
12 to Marion. And said, they ain't nothing but a
13 bunch of con artists. Said, they just want to
14 find out her business. They don't want Mikey and
15 his brother in the will. And they mad about me
16 wanting to leave you and your mother something.

17 Q Okay. Do you know -- did she say what
18 law office she went to and where she went to
19 Marion?

20 A Mr. Sloan.

21 Q Okay. Did she -- is that the first
22 time you had ever heard her mention Mr. Sloan?

23 A The first time I ever heard her
24 mention Mr. Sloan.

25 Q Did she mention anything about that

Q&A Court Reporting

1 being Robert Lee's office?

2 A Huh-uh.

3 Q Is that a --

4 A No. That's a no. I know for a fact
5 if -- no. Trust -- the way my Granny felt about
6 Mr. Robert, she ain't going to go nowhere near
7 him.

8 Q Okay.

9 A Nowhere near him. You just would have
10 to know my Granny to know, but no.

11 Q So the -- the day after she went to
12 Marion to Mr. Sloan's office, she was aware that
13 she had went to the lawyer's office?

14 A Uh-huh.

15 Q Do you know what documents -- did she
16 tell you what she executed or didn't execute?

17 A No, she didn't.

18 Q Okay. All right. Now, let me back up
19 a few months to March, 2013.

20 A Uh-huh.

21 Q Granny also executed a will at Rick
22 Hoefer's office on Irby Street.

23 A Yes.

24 Q What, if anything, do you know about
25 that will or that process?

Q&A Court Reporting

1 Q When was that phone call? Was it --
2 do -- do you know when it was? Was it a -- two
3 months before she passed, a year before she
4 passed? Do you have any time frame when that may
5 have been?

6 A Maybe a month before she passed.

7 Q Okay. All right. Do you know what
8 circumstances led Granny to make that call? Why
9 was she questioning what she did?

10 A Because Judy wanted just Nightingale
11 there taking care of Granny. And before Granny
12 came home in the hospital, she double checked with
13 my mother and me to make sure that we was going to
14 keep our word to take care of her. And she was
15 like, Chell, instead of you doing just weekends on
16 the daytime or, you know, days that your mom can't
17 come in, she said, I'm going to need you at night
18 and your mother in the daytime. And I said, okay,
19 Granny. I said, I can arrange, you know, that.
20 And I said, my mother said that she would have my
21 kids when I worked at night.

22 So that was the thing when we got to
23 -- home, Judy didn't want it that way. And Granny
24 was like, no, I only want Sharon and Chell here
25 with me, and said that, you know, they promised me

Q&A Court Reporting

1 this. And she was like, no, we're going to get
2 Nightingale. I'm over you. I don't care how you
3 feel about it. You the one got me over you and
4 this is how it's going to go. So of course it,
5 you know, made Granny upset. And she was like,
6 you know, Judy, who the hell is you? I wouldn't
7 dare put you, you know, over anything with me and
8 why would I put you? Judy said, well, you got me
9 and if I can't perform my duties, Becky's supposed
10 to take over. Granny said, why in the hell would
11 I have Becky to be in any of my affairs when they
12 don't do shit for me? I have children that's
13 living that I could have over me. I wouldn't put
14 you over -- any damn thing over me. So she was --

15 Q These were Granny's exact words?

16 A Granny exact --

17 Q Okay.

18 A -- words to her. And she was like,
19 well, I don't care. You're not going to do it and
20 you don't have any money anyway to pay Sharon and
21 Rachell. Granny said, you a damn lie. I know I
22 got money. And she looked at me. She said,
23 didn't I tell you, Rachell, that I got money? I
24 said, yeah, Granny, you did. I said, but if Judy
25 checking it and -- because at that time Granny was

Q&A Court Reporting

1 paying me \$10 an hour to stay at night. If you
2 worked daytime, it was \$8 an hour. And Judy
3 didn't want to pay me the \$10. So I said,
4 Granny -- I said, well, if you need me to go back
5 down to \$8, you know, I will do that. I said,
6 I'll even go to \$7. I said, I got to make some
7 type of income, but I said, I'll do that because
8 you're like a grandma to me. I said, but don't
9 tell the other people, you know, let it get out to
10 the other client.

11 So, you know, she laughed and she was
12 like, no. She said, we ain't going down. She
13 said, because I know what I got and you and them
14 babies got to make a living. You got to make a
15 living for your babies. So Judy stood up and was
16 like, she be damn if she was going to pay me that.
17 And before she let Granny pay me that she would
18 put Granny in a nursing home.

19 Ms. Smith: Uh-huh.

20 The Witness: So that's what started
21 it. Granny kept begging her to show her these
22 papers, which she never did. And so that when
23 Granny wanted to start calling around and --
24 By Mr. Finklea:

25 Q Very good.

Q&A Court Reporting

1 A -- finding out herself.

2 Q Very good. All right. Did -- after
3 that phone call you made to Russ Sloan, was there
4 any other conversation that you're aware of about
5 health -- we call it health care power of
6 attorney.

7 A Uh-huh.

8 Q You know, who's over her. Did any
9 other -- do you recall any other conversations
10 about that with Granny?

11 A Nothing, but with her and Judy still
12 going back and forth about it. She even spoke
13 with Jackie about it to see if Jackie knew
14 anything. And Jackie was like, well, Judy did
15 show me a paper, mama, so she is, you know, over
16 your health care. And she was like, well, Judy
17 ain't come to show me, you know, shit. Why she
18 showing you and not me? If I supposedly have done
19 this, I want her to show me. Because Granny
20 always told me, you know, out her mouth that if
21 anything happened with her Eris was over her
22 health care.

23 Even if we went and drove Granny to
24 the doctor, Eris would come meet us there at the
25 doctor or whatever. She'll be like, no. She tell

Q&A Court Reporting

1 the nurse, whoever come that when we check her in,
2 wait until Eris come. Eris knew about her
3 medicine, this and that, that her daughter Eris
4 was over her health care. Always so -- when -- it
5 was shocking to me too that Judy was saying this,
6 but Judy never showed, you know, any of us.
7 Because Granny even had, you know, us asking her.
8 And she was like, well, Becky and them say she
9 don't have to show anything.

10 Ms. Smith: Uh-huh.

11 The Witness: You know, and it upset
12 Granny or whatever. So that's when she had us
13 calling this and that -- you know, calling her
14 lawyer, calling Mr. Sloan, you know, trying to
15 find out what was going on and everything. And,
16 you know, as far as I knew for a while, Judy still
17 wasn't showing it. Then one day I went to the
18 bank to cash one of my paychecks and I got held up
19 at the bank. And they asked me who signed the
20 check, and I said Judy, the daughter.

21 And this is actually -- this is why I
22 didn't get to see Granny before she closed her
23 eyes, because I was held up at the bank for like
24 an hour. And they called Judy on the phone in
25 front of me and told her, said, Ms. Judy, didn't

Q&A Court Reporting

1 we t--- you know, told you that you could not sign
2 any of her checks and stuff until you come show us
3 where the papers that you're her power of
4 attorney. And Judy said, yes, she know -- I know
5 what y'all told me, and hung up. I'm standing
6 there. She hung up on her.

7 By Mr. Finklea:

8 Q How did you hear that?

9 A Because Demetrius was on the phone
10 with her --

11 Q Okay.

12 A -- in front of me. I'm standing there
13 in front of her when she called.

14 Q Okay.

15 A And -- because they had -- they had me
16 there for so long, they wanted to let me know that
17 they didn't -- they wasn't finding me at fault,
18 but Judy wasn't supposed to be signing our checks.
19 And I was like, well, she been signing Granny's
20 name for the longest, but, you know, even then
21 they wanted to see the copy also. And she never
22 showed it to them.

23 Q Tell -- did Granny ever tell you who
24 was supposed to be over her affairs when she died?

25 A Eris. Eris is supposed to be over her

Q&A Court Reporting

1 health care. And if Eris could not do it, then
2 Judy as far as health care. As far as her will,
3 she told me that she was going to have the lawyer
4 over it.

5 Q Okay.

6 A That he was going to be over it. So
7 when we went to Mr. Hoefer off--- office after she
8 died, I was shocked, you know, like everyone else
9 that it was Eris. Because Granny always told me
10 that she didn't want her kids to bicker and fuss
11 over anything with her, you know, of hers. So I
12 was shocked also.

13 Q Do you believe that any of Granny's
14 kids can do Granny's business without the other
15 bickering about it?

16 A Can any of her other kids?

17 Q Yes. Can any of the kids do Granny's
18 business without another kid bickering about,
19 complaining about it, second guessing it?

20 A No. I mean, in the beginning I used
21 to feel, you know, Eris could do it. Because Eris
22 always was hands on and knew everything that was
23 going on from day to day. So I knew that Eris
24 could do it, but I feel like now, they'll think
25 that she was in some type of cahoots or

Q&A Court Reporting

1 brainwashed Granny or whatever.

2 But Granny always told us, call Eris,
3 or whatever. I was there as a witness and Mikey
4 when she made us -- made Eris promise her that she
5 wanted everything -- Eris to take them to court.
6 She wanted them in jail, you know, because she
7 knew that they was doing something dirty. She
8 knew that they had done been stealing money from
9 her, you know, and everything. And she made Eris
10 promise that she was going to handle it.

11 Q Okay. Who -- how often would Granny
12 be in contact with Eris and Eris in contact with
13 Granny on a daily basis?

14 A All day, every day.

15 Q Well --

16 A All day, every day. Because first of
17 all, in the morning, Eris was going to call to
18 make sure we made it there with her, have Granny
19 took her first medicine, what she has to take.
20 She has to take that one early in the morning and
21 that's like an hour or so before she even gets
22 breakfast or anything.

23 Then, she'll call back again, has
24 Granny got up yet, has she took a bath yet? Well,
25 I'm at Sam's or wherever. I called to see whether

Q&A Court Reporting

Mr. Finkler

Rachell Pringle

1. When did you begin helping Granny ?

In 2008, I helped when my mother Sharon was not able to go to work due to sickness, appointments, etc.

2. Who paid your salary and how much were you paid ?

From 2008 until a few months before Wayne died Eris paid us. Our pay, my mother and I was \$10.00 per hour until just before Wayne died and our pay was lowered to \$8.00 per hour because on some days, my mother and I were at Granny's. Sharon would be helping Granny, and I would help Wayne at Granny's house.

3. When Eris was paying your salary, how did you keep up with your hours ?

Eris was at Granny's house every day. She knew when / hours we worked. Granny had told Eris to get a tablet and keep up with the amount of money she was spending at Granny's.

Eris brought 2 black composition books that we wrote every receipt down in Granny's book and Eris would copy our book after every month or 2 months.

Sharon & I would put the receipts on the kitchen door where we kept Grannys Dr. appointments. Every few weeks Granny would tell us to fill out the book and tell Eris to complete her book.

Before Wayne died the TOTAL in the books was \$20,000.00 + (twenty thousand) This was groceries, prescriptions, house repairs, stove, dishwasher, Sam's, etc.

4. Did any of Granny's other children offer to help Eris pay for your salary or Granny's expenses ?

Eris asked all of the children before we were hired. Granny said nobody would give Eris a dollar to help out. Wayne didn't help until a few months before he died and that was because I was at Granny's helping him.

5. Who could Granny depend on for EVERYTHING ?

Wayne was always there in agreement with Eris that Granny needed help, but he never offered to help pay until Eris told him that she needed some help in 2010. Granny knew that Eris had some extra expenses on her rental houses like A/C units, major plumbing problems, Taxes, Insurance increases.

EXHIBIT

I have seen Eris bring lunch to Granny's for everybody, but not eat herself. If Granny had the Bingo ladies visit, or preacher Severance and his wife, Mrs. Topsy, Mrs Mary Alice, Uncle Hoyt / Barbara; she would call Eris to bring a cake, pie, or pizza for them to eat.

Shortly, Eris would be back down at Granny's with something.

Eris had promised Papa Jack that she would take care of Granny and NOT let ANYONE take advantage of Granny. Granny told me this herself.

6. Has any of Granny's children / grandchildren gotten money from her ?

I was there one time when Tim came and borrowed \$3000.00 from Granny. Granny wrote him a check and Tim wrote her a check for repayment.

I called Sharon (my mom) and told her, and she said that Tim had just been at Granny's and borrowed \$3000.00 and he wrote a check for Granny.

Sharon told me to call Eris and tell her about the \$3000.00 loan, because Granny told Sharon to do that when she saw Granny write Tim a check also.

I called Eris and told her. Eris asked Granny about the loan and Granny said Tim is going to pay it back. Well, Tim got Wayne's estate money and he DID NOT pay Granny back the money. Granny told Eris to be sure and keep up with Tim's debt for her estate.

Mikie was paid \$80.00 by Granny to cut all of the grass, Granny's yard, store, and the house next door. Granny also bought the new lawnmower to be used. Usually it took Mikie, James and Danielle 2 days to cut all of the grass. Therefore, if Mom was working or I was, we cooked a big meal on both days for them. Some days Eris would bring Pizza or hot dogs , so we would not have to cook.

Granny would give James some money sometime because she knew that he was supporting ALL of them in his house, James, Mikie, Danielle, Derick, Taylor on his SS check.

Granny told Eris that she gave the money to Mikie and James and to not write it down as a loan. Eris had no problem with this because she also would help James and Mikie with extra money when needed. Eris would pay Mikie and James to do work at Granny's house.

7. What happened to Granny's black composition book with the records of money owed to Eris and the money owed from Tim ?

When Granny came home from hospital the first of February 2013, I saw Judy in the den taking everything out of Granny's desk and putting it in a garbage bag. Nobody was at Granny's house then except, Judy, Granny, and me.

I told Granny what Judy was doing and granny told Judy, "Hussie, you put my paperwork, bank statements, check books back in my desk ": This was about the same time Judy told me at the breakfast table that she and Becky was over Granny's estate. Granny cussed Judy saying, "Why in the HELL would I have the Jones' over my finances , you see what she did to Wayne's. " While crying and yelling , Granny would ALWAYS say to call Eris and tell her what the Jones' were doing.

Eris would say, I'll be back down there soon..... and she would.

8. Did Judy ever take Granny's purse and checkbook away from Granny ?

When Granny went into the hospital in January 2013, Eris was driving her truck with no trunk, so she told Judy to put Granny's purse in her car trunk and lock it up good. In Feb 2013, when Granny came home, Judy would NOT give Granny her purse and check book. Granny was furious. Granny told Judy many times, " Hussie, you can't write checks, cause I took you OFF of the bank account you put yourself on when Wayne died." Rev Severance and his wife had to calm Granny down one day about Judy having her pocketbook and checkbook.

9. Who did Granny rely on for ALL of her needs for the last 8 years ?

Eris Eris never questioned Granny if she was told to do something. Sometimes she may tell Granny her opinion, but she did what Granny said.

10. Did Granny tell you who had taken care of Mr. Smith ?

Eris Granny would tell Sharon and I of the many times Eris stayed all night with her father at the hospital and send Granny home.... Then Eris would go to her job the next day.

11. Did Eris help others ?

Eris helped EVERYBODY ... family, friends, strangers, it didn't matter...

12. Why did Eris bring a vehicle to Granny's for You and Sharon to use ?

About a year after we started helping Granny, Eris was having to get ALL of Granny's groceries, meds, appointments but she was also having to do the same for Wayne and his house and taking Wayne to Charleston every month..... plus Granny's sister at the Heritage Nursing home..... Eris would try to get everybodys appointments from week to week lined up.

It was too much eventually, so Eris had bought herself a new Lexus, and she told Granny that she would leave her cadillac with Granny for us to help out with transportation to Florence for appointments, groceries, meds

When Eris drove the new car down to Granny's, Granny said she wanted to keep the new car. Eris left the Lexus with Granny for us to have dependable and safe transportation for Granny.

13. What do you know first hand about Wayne's WILL ?

I know that Granny, Sharon and me read Waynes will when he brought it to let Granny read it. It stayed on the den table for weeks.... but it disappeared one weekend.

We all knew that ERIS was suppose to be over Wayne's estate by the WILL we had read.

Eris took care of Wayne 24 / 7 She even continued to sell enough cars for years to keep her and Wayne's dealer license when he was too sick.

Eris took care of all the monthly taxes to be paid for the car lot.

Eris would make sure that Wayne's every need was met.

To this day, we don't know how Eris did ALL that she did for EVERYBODY !!

14. How did Granny feel about Wayne's Personal Representative of his estate ?

Granny was furious, she cried for months telling Eris that Wayne's will was changed by Robert Lee and the Jones' . Eris would tell Granny, show me something I can prove it with.

I think Eris was just so tired from taking care of Aunt Gertie until her death in June 2010. ... then Wayne's death in July 2010.

Eris brings some copies of the OLD MONEY found in Wayne's house that belonged to Papa Jack and now Granny..... about \$24,000.00 in one hundred dollar bills. Eris and Granny looked up in Papa Jacks coin books pictures of the old money and their worth.

Eris told Granny that this was the money from the store. Eris told Judy the money was Granny's because each wrapper was Williamsburg bank in Kingstree with Papa Jacks name wrote on each wrapper.

Judy never brought the money to Granny. Eris calls Judy one day from

Granny's and asks Judy to bring the money to Granny. Judy tells Eris that Pam and Robert Lee told her to deposit it into the bank. Judy tells Eris this and she and Granny tell Judy .. " Judy you can't be this crazy, Granny and I told you to NOT get rid of the OLD money, if needed, Granny would write you a check for the \$24,000.00

Well, now the fussing starts again..... Becky makes the mistake and calls Granny after she has cussed Judy and tells Granny..... "Granny the bank will only give you one hundred dollarrs for a \$100.00 bill."

Granny tells Becky, " you must think I'm stupid just like you and your mother, that OLD money was NOT deposited into the bank, you Jones' Browns and Robert Lee have MY old money. Judy told Granny , "you already got ALL of Wayne's bank accounts".. Granny told Judy, " Yeah, and I want MY OLD MONEY that your daddy and I worked for and saved".

Eris just kept telling everybody, I told Judy 50 times... DO NOT GET RID OF THE OLD MONEY.

**** NOTE: WAS THERE EVER A TIME THAT GRANNY DID NOT want Robert Lee's name mentioned in her home or around her ?

YES From the time she realized that Wayne's Will was changed until her death.

In 2008, Eris had loaned Robert Lee a lot of money to OPEN the new office in Marion, S.C. , This is when Granny found out that Robert Lee had lost his license to practice for almost a year because he had done something illegally. Granny told Eris she better get her money from that Robert Lee. Eris told Granny that Robert Lee had paid off the large debt after Wayne died.

Granny said, " yeah, probably with the old money they stole from me"

15. Did Granny have any WILLS stolen from her house ?

Yes. Granny showed Sharon a Will in 2008 -2009 that Robert Lee had done after Papa Jack died in 2000. Well it disappeared, Granny called Eris and Wayne and Eris told us that Granny's WILL wasn't of any use to anybody except the office and people who wrote it..... that those people could change it and commit FRAUD.

Granny asked Judy and Pam several times to get her another copy of her will..... but they never did.

About 9 months after Wayne died, Granny kept telling anyone who would listen, that Wayne's WILL was changed..... and that if she DID NOT get her WILL away from Robert Lee's office, it would be changed too.

Sharon took Granny to Mr. Hoeffer's office 4+ times to make a WILL. over 4-5 weeks. Sharon and Granny put the copy under the bed mattress. Well in the summer of 2011, Sharon tells Granny her Will is missing. Granny calls Eris and tells her that the WILL thief has struck again. Granny told us to not worry, that her REAL WILL is at Mr. Hoeffer's office. Sharon and myself knew that Becky had come to Granny's one night prior to the WILL being taken.

16. What happened when Granny got sick in Jan 2013 ?

The last trip to the Emergency room, Sharon said that Eris told the ER doctor that Granny was not going home without some tests ... why is she sick ???

17. Who was with Granny in the hospital everyday ?

Eris, Sharon and myself (Rachell) Judy was baby sitting everyday and on the weekend sometimes for her son's new baby or Pam's children.

Eris made sure she ordered every meal for Granny and was there to feed her. Eris was there early and left late at night.

18. Did Granny get upset in the hospital at the very beginning ?

Yes Granny was answering some questions from her nurse..... she asked Granny who is your Health Care Power of Attorney... Granny said Eris and Judy. well, Judy heard this and told Granny that she and Becky was the Health Care POA..... Granny hollered at Judy, saying, " You dumb hussie, don't you think I know who is over my health, Why would I have Becky on anything, all she has ever done is upset me about what I own and who should have everything. "Eris has been the one who has taking care of me, NOT YOU or BECKY ".

19. Did Judy's children Becky, Pam or Phillip ever help Granny in any way ?

NO In fact, Granny always said to everyone that visited..... Judy and Jackies children don't come about me unless it is the holidays.

Eris, Wayne, James, Mikie, Danielle, Derick, Taylor were the only ones at Granny's very often.

20. Was there any Children, Grandchildren or others that Granny was closer to.

Of Course Eris, Wayne, James
and Mikie, Danielle, Taylor
and Debra (Jackies daughter) Granny would always tell Eris to watch over and take care of Debra.

When Eris told Granny that Jackie said that she and Marion had bought a HORSE TROUGH to give Debra a bath in

Granny said, " For God sakes Eris, please go fix it so Debra can bathe like a human being."

and like always, Eris took her time and money (about \$5,000 and rebuilt a new handicap bathroom at Debra's house.

21. When did Granny realize that Mr. Sloan HAD NOT written a Health Care POA document for her ?

Granny asked me to look up Mr. Sloans one day when Jackie was at Granny's in Feb 2013. I could not find it but Jackie found it immediatly.

Granny would not call while Jackie was there, but waited until Jackie left.

22. Do you remember the call ?

Yes I recorded it Granny wanted Eris to know what he said. Granny had been telling Sharon , Eris and me for months that the Jones' were up to something.

I called the number Jackie had wrote for Granny , told him what Granny wanted a copy of the Health Care that he WROTE for Eris Smith.

Mr. Sloan said he did not know a Eris Smith. He then talks to Granny and tells her that he will call her back when he goes to his office.

23. Who have you let hear the recording of the call with You, Granny and Mr. Sloan ?

Eris, Granny, my Mom Sharon numerous times. Several Night-n-Gale nurses would have heard the recording at Granny's.

24. Do you have that phone with you today ?

NO The screen to that phone messed up and I had to get a new phone.

25. Did Mr. Sloan return Granny's call ?

Yes in several days Granny had Sharon call and he called her back later. Mr. Sloan told Granny that HE had NOT wrote any Health Care document for Granny.

Granny had Sharon call me and Eris and tell us what Mr. Sloan said.

26. What happened when Granny found out that Mr Sloan did not write the Health Care POA ?

Granny told Eris, Sharon and myself (Rachell) to call Mr. Hoeffler and go see him and make sure that the Jones' has not gotten her REAL (original) WILL out of his safe.

Eris makes an appointment, After I got off work from Granny's, Sharon and I meet Eris at Mr. Hoeffler's office.

Eris tells Mr.Hoeffler about Granny being upset about what Judy and Becky are saying about being over her health and her estate. Then Sharon and I tell Mr Hoeffler about the call to Mr. Sloan.

Mr. Hoeffler leaves the room, comes back with a file, does not show us the file, but says to tell Granny that she is correct and that HE HAS her REAL (original) WILL in his safe.

Mr. Hoeffler tells Eris several things she can do to STOP the Jones' from doing this to Granny ... something about Guardianship or something.

Mr. Hoeffler tells us to have Granny call him and if he needed to, he would go to Granny's house.

We went back to Granny's and told her what Mr. Hoeffler had said. Granny seemed content with what Mr. Hoeffler had said, and she told us that she knew the DAMN Jones' were NOT over her estate.

February 12 2013

Judy removed all of Grannie bank statements and paperwork from Grannie's house. She said she think Eric Hail done found out that she's power of attorney over Grannie health and Estate and that Becky is his assistant.

She said Becky took Grannie over to the lawyer's office where Pam works and had the papers done.

February 9

Grannie and Judy passed words about Grannie's account and her checkbook. Judy said she refuse to pay me \$8/hr at nite to keep Grannie that she will put Grannie in a nursing home first, that's when Grannie said she's the one paying me that she got the money in bank. Judy yelled back she aint got no money in the bank and walked out.

Feb. 10, 2013

Grannie asked Judy for her checkbook and Judy seemed to get upset. Grannie has been begging me to call her lawyer because she didn't leave Judy in charge and she don't want Judy in her house.

February 12, 2013

Timmy called and wanted to talk to Grannie. It about 5:30 p.m. I told him she was sleeping - he said why is she sleeping - that I better not be letting Judy give her anything. I just said ok to keep the peace and hung-up.

February 18th, 2013,

Very restless night

for granma - she said she's worried bout
Taylor - she wants me to take her
to First Federal and B.B.T Banks. She
said Judy stole all her money from B.B.T.

* Feb, 19, 2013

Grannie said she ready to go home and leave all the thieves. She want me to go buy her pretty dress for her funeral and Taylor a pretty sweater. She said she wants James & Mikey to have bedroom suits in the house.

* On Feb 20, 2013

Grannie said Timmy gonna keep calling begging her for her house and he's not gonna get it. The house is for all her children. Eris can buy she fix it up. She been crying off and on all nite.

She also stated that she's afraid of Judy and don't wanna be alone with her. That Judy done stole all her money.

On February 21st

Grannie said Enis was taking her to bank. She was gonna get what she wanted me and mama to have out the bank after her appointment. That she love me but she gotta go. She wanted me to go find her lawyer on irby street - he got my will - he will fix it cause she want an audit over her accounts - that those damn Jones was stealing from her and she want them in jail.

STATE OF SOUTH CAROLINA

IN COMMON PLEAS COURT

COUNTY OF FLORENCE

In the Matter of the Estate
of Eris Singletary Smith.

 COPY

The Examination Under Oath of Janet Altman

Location: 814 West Evans Street
Florence, South Carolina 29503

Date: Wednesday, September 11, 2013

Time: 3:22 p.m. - 3:38 p.m.

Court Reporter: April Llewellyn

The examination under oath was taken pursuant to
notice and/or agreement, in the above-entitled
cause pending in the above-named court.

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Q&A Court Reporting

1 well you knew her. The best way to do that is,
2 how often you saw her or spoke with her. So tell
3 us a little bit about your relationship, maybe in
4 the last five years before her death.

5 A Okay. I would go down with Ms. Eris
6 to visit her mama. And I'd go down there quite
7 often, you know, over the years. And also, I -- I
8 met with -- with Granny, you know, when we went to
9 like her church service, at Ms. Eris' church,
10 whenever they had like Christmas get togethers and
11 stuff like that. But otherwise -- other than
12 that, it -- I would just go with her like when she
13 took Granny groceries on the weekends and when she
14 just went down to visit her on Sunday afternoons.
15 And just odd times when Ms. Eris would ask me, you
16 want to ride to go see Granny? And I said, oh,
17 yeah, I'll go with you, you know.

18 So it was that type of relationship
19 that we had. But Granny and I were close.
20 Because she was like -- kind of like, I'd lost my
21 mama and I just loved her like I did my mama. So
22 I just really looked up to Granny.

23 Q Tell me, did you ever overhear any
24 conversations that Granny made regarding her will?

25 A Well, I know she was very upset about

1 the documents that she had signed at Mr. -- over
2 in Marion at Mr. Sloan's office. And I -- I know
3 for a fact that she did call over there. And she
4 was highly upset. Because she could not get a
5 copy of it or anything for her peace of mind to
6 know what she had signed. Now, she did say that
7 and -- I mean, she's been furious and it's not
8 just one time. It wasn't just one time that she
9 was still -- I'm not saying on that gig or
10 whatever. But numerous of times, Granny was upset
11 about that Pam had not brought the document that
12 she signed because she didn't actually know what
13 she had signed.

14 Q Did she give you any indication of
15 what she thought she signed?

16 A No, sir. She had no idea what she
17 signed.

18 Q And I -- were these conversations that
19 you had with Granny?

20 A Yes, sir. Her hou--- at -- at -- at
21 Granny's house.

22 Q Did Granny ever give you any
23 indication of what she wanted to happen in her
24 will?

25 A No, sir. Huh-uh.

1 Q Did you ever overhear Granny talk
2 about her relationship or like for Robert Lee?

3 A All I can tell you is, that's bad
4 news, sir. It was -- I mean, I hate to say that
5 she cussed, but she'd cuss. I mean, she had no
6 use whatsoever for him. And especially, it was
7 really bad after her son died. When she stated
8 the fact that -- that Wayne's will was not what
9 Wayne had originally -- in other words, that
10 wasn't his will.

11 Q What did Granny believe that Robert
12 Lee had to do with that?

13 A The main thing was the person -- the
14 personal representative, because she knew that
15 Ms. Eris and Judy was supposed to have been the
16 personal representative. But whenever -- after
17 Wayne passed, it was just Ms. Judy was the only
18 one that was the personal rep.

19 Q And is this something you learned from
20 Wayne or something you learned from --

21 A No.

22 Q -- Granny?

23 A It was from Granny. From Granny.
24 Yes, sir.

25 Q Based upon that -- or is that why

Q&A Court Reporting

1 Granny had the concern with Robert Lee?

2 A I guess. Uh-huh. Yes.

3 Q Okay. How -- how did she get over
4 that?

5 A No, she never got over it.

6 Q And how do you know that?

7 A Because she kept cussing about it.

8 Q Okay. And what's the last time you
9 remember Granny having a -- expressing her concern
10 or dislike for Robert Lee?

11 A Oh, she'll tell you that a lot of
12 times when you go down there.

13 Q Why would his name come up? I mean,
14 why would that even be a subject of conversation?

15 A Because she just -- well, she just had
16 no use for him at all. I guess I would say
17 because he had made her will out a long time ago,
18 and so she was really ticked off then about -- if
19 he had changed or something happened to her son's
20 will, she didn't know what might would happen to
21 her will. And so she didn't want him to have
22 nothing to do with her will.

23 Q Okay. All right. Now, you linked --
24 earlier, you testified that you were aware that
25 Granny had made contact with Mr. Sloan. Is that

1 something that Granny told you she did?

2 A Yes, sir.

3 Q Okay.

4 A That -- well, she went over to the
5 Marion office -- you know, to a -- a Mr. Sloan's
6 office, is what she said.

7 Q Okay. Did she ever say she went to
8 Robert Lee's office?

9 A No, sir. No, sir.

10 Q Did Granny ever tell you where her
11 will was or who had her will or who made out her
12 last will?

13 A Mr. Hoefer.

14 Q And --

15 A Mr. Hoefer.

16 Q Is that something Granny told you?

17 A Yes, sir.

18 Q And when did that come up? Why did it
19 come up? Tell me a little bit about those
20 conversations.

21 A Because she was worried about what she
22 had signed over at Mr. Sloan's office. She was
23 thinking it was a health care power of attorney,
24 is what she thought that she signed, but she's --
25 bottom line was, she didn't know what she'd

Q&A Court Reporting

1 signed. And I know -- she did tell me there was a
2 bunch of papers she'd signed. And so -- but she
3 did not know that it was a will or what document.
4 She just told me, I don't know what documents I
5 signed.

6 Q And how did Robert -- Rick Hoefer's
7 name come up or issues with his will come up?

8 A Well, she just said she knowed that --
9 that her will was in Mr. Hoefer's office and that
10 -- that -- that it -- her will had done been laid
11 out.

12 Q Okay.

13 A And -- and that was -- I mean, you
14 know, but she still was concerned about what she
15 had signed over there at Mr. Sloan's office.

16 Q Okay.

17 A And that's why she was so concerned
18 about getting them because she didn't have any
19 copied -- she didn't have a copy or she didn't
20 have an original.

21 Q Do you know what caused her to be
22 concerned about what she signed at Mr. Sloan's
23 office?

24 A I -- I guess, because I know when she
25 talked to -- she told me when she talked to.

1 Mr. Sloan that Pam would bring her the papers that
2 she had signed. Well, Pam never brought the
3 papers. So I'm assuming that -- that, you know,
4 the fact that she didn't bring the papers, I would
5 be very concerned myself if I couldn't see what I
6 was -- supposedly had signed. But -- but -- but
7 she kept telling me that her will was at
8 Mr. Hoefer's office, you know. So I said, well,
9 Granny, if your will's at Mr. Hoefer's office,
10 don't worry. But she said, you know, some words,
11 and that -- that she still wanted to see what she
12 had signed over in Marion.

13 Q Did Granny ever express to you who she
14 wanted to serve as personal representative over
15 her estate?

16 A Ms. Eris. Ms. Eris was supposed to
17 be, and Ms. Judy. Ms. Eris and Ms. Judy.

18 Q Both of them together?

19 A No. I'm telling you -- not -- I'm --
20 I need to back up on that, because no. What she
21 told me about Mr. Hoefer was, Mr. Hoefer was going
22 to be the -- be the personal representative. So I
23 need to -- that to be corrected. Because it was
24 Mr. Hoefer who was going to be -- the will's in
25 Mr. Hoefer's office and Mr. Hoefer was going to be

Q&A Court Reporting

1 the personal representative --

2 Ms. Smith: Uh-huh.

3 The Witness: -- is what she said.

4 And that's all she said. She didn't say nothing
5 about Ms. Eris being on there, but Mr. Hoefer was
6 going to be her personal rep.

7 By Mr. Finklea:

8 Q Who do you believe had -- who do you
9 believe Granny believed had her will when she
10 died?

11 A Mr. Hoefer. No doubt in my mind.

12 Q Did she express that as her last will
13 and testament?

14 A Yes, sir. She said it was -- that
15 Mr. Hoefer had it in his office. That's what she
16 told me.

17 Q You're not a beneficiary in that will?

18 A No, sir.

19 Q And you're not a beneficiary in the
20 Robert Lee will?

21 A No, sir.

22 Q Okay. Why don't we take a brief
23 break.

24 A Okay.

25 (Whereupon, a break was taken

Q&A Court Reporting

1 from the proceedings.)

2 By Mr. Finklea:

3 Q Ms. Altman, that's all the questions I
4 had for you. I do appreciate you being here. And
5 of course, before we went on the record we talked
6 a little bit, but this is an examination under
7 oath, and I understand you -- you understand your
8 -- you don't have to be here to do this; correct?

9 A Correct.

10 Q And you just voluntarily participated
11 in this, so you can set the record straight on
12 what you know and don't know.

13 A Yes, sir.

14 Q Okay. Is there anything that you
15 would like to add to this statement before we
16 conclude it?

17 A Well, I -- I know for a fact that
18 Granny blew her top whenever she come home from
19 the hospital, when Judy made the statement that
20 she was over her estate. And Granny was very
21 upset. Very upset that -- and she said, like, you
22 know what, she ain't over my estate or nothing.
23 No.

24 Q Was that -- do you know if that
25 statement was before Granny talked about Russ

Q&A Court Reporting

1 Sloan or --

2 A No, sir. That was when she come home
3 from the hospital.

4 Q Okay.

5 A That was when she come home from the
6 hospital. Because I don't think that she was
7 aware of the fact that Judy was the -- just the
8 health care power of attorney person and that
9 Becky was the alternate. And she wasn't aware of
10 that because she was in the hospital.

11 Q Okay.

12 A And so needless to say, she told the
13 nurse that -- that Ms. Eris and Judy was. And so
14 she got very upset in the hospital about that.
15 But then when she got home, then Judy made the
16 statement that it was -- she was not only over her
17 health care power of attorney, but she was over
18 her estate, and Granny heard that.

19 Q And wh---

20 A And I know Granny -- Granny -- Granny
21 told me and she was just livid about it. And she
22 just said, well, her will was at Mr. Hoefér's
23 office and that -- that no Jones was going to be
24 over her -- her health care or her will.

25 Q And those are the beliefs that Granny

Q&A Court Reporting

1 took to her grave as far as you know?

2 A Oh, yes, sir.

3 Q Okay. If Granny would have seen a
4 will from Russ Sloan's office that would have put
5 Judy over the estate, what do you think she would
6 have done?

7 A She wouldn't have signed it.

8 Q Okay.

9 A She would not have signed it. I can
10 tell you that right now.

11 Q If you would have given Granny a copy
12 of the will that you know now exists from Robert
13 Lee's office, when she came back from the
14 hospital, what do you think she would have
15 physically done with that will?

16 A She would've tore it up and said the
17 hell with that.

18 Q Okay.

19 A Yes, sir. Because Ms. Eris is the one
20 -- Ms. Eris is the one that's been there for her
21 24/7 and also from -- from Mr. -- Mr. Smith. I
22 mean, Ms. Eris has always been there for both of
23 them. And -- and Ms. Eris did everything for
24 Granny. And I'm not saying that Judy -- I'm not
25 saying that Judy didn't do things for Granny. I'm

1 just saying who did the majority day-to-day,
2 in-and-out things. And especially through the
3 hospitals. I mean, Ms. Eris, in my opinion, just
4 -- like that was her life.

5 Q Who did Granny look to for her health
6 care needs, her daily living needs, her household
7 needs?

8 A It was Ms. Eris. And she would pick
9 up her -- her medicine, her groceries, anything
10 that Granny needed. She would take her shopping.
11 Just all of Granny's needs that I'm aware of,
12 Ms. Eris took care of that for her. She did not
13 have to worry.

14 Q Very good. Anything else that you
15 would like to add?

16 A No, sir, not that comes to my mind at
17 this time.

18 Mr. Finklea: Very good. Well, thank
19 you very much.

20 The Witness: Thank you. I appreciate
21 that sir.

22 (Witness excused.)

23 (Whereupon, at 3:38 p.m.,
24 the taking of the foregoing
25 examination under oath was

Q&A Court Reporting

STATE OF SOUTH CAROLINA

IN COMMON PLEAS COURT

COUNTY OF FLORENCE

In the Matter of the Estate
of Eris Singletary Smith.

The Examination Under Oath of Hoyt Legette Smith

Location: 814 West Evans Street
Florence, South Carolina 29503

Date: Wednesday, September 11, 2013

Time: 3:50 p.m. - 4:08 p.m.

Court Reporter: April Llewellyn

The examination under oath was taken pursuant to
notice and/or agreement, in the above-entitled
cause pending in the above-named court.

Q & A COURT REPORTING SERVICES
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Q&A Court Reporting

Page 6 1 Q Uh-huh. 2 A And she trusted me. And... 3 Q Did she have anybody else that you are 4 aware of her age or from her -- her generation? 5 In other words, she have any other sibling or any 6 other in-laws from your generation that you are a 7 aware of? 8 A Only -- only one. 9 Ms. Smith: No. Aunt Gertie had just 10 died. 11 The Witness: Yeah. 12 Ms. Smith: Her sister -- the last 13 sister had just died. 14 The Witness: Uh-huh. 15 By Mr. Finklea: 16 Q You weren't aware of any other family, 17 you would be the -- 18 A Other than my sister, which is 90--- 19 she is 93. 20 Q Okay. 21 A But they -- they did not visit that 22 much. 23 Q Okay. All right. Well, based on that 24 relationship, did she ever have any conversations 25 with you about her will or about what she wanted	Page 8 1 A I don't know what his name is -- name, 2 but I -- 3 Q Okay. It's -- would Rick Hoefer -- 4 A But what is it, Hoefer? 5 Q Okay. 6 A H-O-E-F-E-R, something like that. 7 Q Okay. All right. Very good. 8 A But -- well, I mean, I just can't 9 pronounce it. 10 Q That's good. 11 A But anyway, she made the comment that 12 if he could not handle her estate, Eris Gail was 13 to do it. 14 Q And do you know when you had that 15 conversation with her? Was it a month before she 16 died, was it two years before she died? Do you 17 have an idea about times? 18 A Yeah. I think it was the -- the 19 summer before she died the next year. 20 Q Okay. 21 A I can't -- well, I mean, I don't -- 22 why would I make notes? You know what I mean? 23 Q Right. Uh-huh. Okay. Did she 24 express -- other than that conversation in the 25 summer of 2012, were there any other conversations
Page 7 1 to do with her property? 2 A Well, right after Wayne died, her son, 3 I went down there. I'd pop in a lot of times, 4 might stay 30 minutes. And she was kind of upset. 5 I asked her what was wrong and she said he changed 6 my will. He changed Wayne's will. I said, who. 7 And that's when she said, I believe Robert Lee, 8 whatever his name, he changed the will. Because 9 Wayne had told me that Eris Gail was supposed to 10 be administrator. And if she could not do it, 11 Judy could be it. But Eris was supposed to be it. 12 Because they had been in business for 30 years. 13 And -- and every time after that, she would -- she 14 would -- if Lee's name was mentioned, she would 15 get highly upset. And... 16 Q Do you know if anything changed about 17 her, that issue and -- and Robert Lee before she 18 passed? 19 A No. She -- she was adamant about him. 20 She -- I went down there one day and she said 21 she'd made a will. She said, got a copy under my 22 mattress. And my lawyer, Mr. Heffern (sic) has -- 23 has the original. 24 Q Okay. And -- and you -- it sounded 25 like you said Heffern.	Page 9 1 that you are aware of about her will or what -- 2 what somebody was getting or who was supposed to 3 be personal representative or anything like that? 4 A Eris Gail was supposed to be her 5 personal representative. 6 Q And -- and -- 7 A Because -- 8 Q How do you know that? 9 A Because she told me. 10 Q Okay. Any other times did she tell 11 you Eris Gail was supposed to be her personal 12 representative? 13 A She said Eris had tol-- Eris and 14 Wayne are the only two that did anything for her. 15 Q Okay. 16 A And she, I'm sure, was highly upset 17 one morning I went in. And she -- that -- of 18 course, I asked her what was wrong. She said that 19 Judy, she comes in here and tells me what to do 20 and what I can do and can't do. And she to -- she 21 can't do anything for me. She's already 22 babysitting. 23 I mean, I would go down there three or 24 four times during the summer to carry peaches, a 25 box of peaches during the summer time. And we'd

3 (Pages 6 to 9)

Q&A Court Reporting

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Appendix_00440

Page 10 1 always have good conversation. And usually at 2 Christmas time -- Thanksgiving and Christmas, I 3 usually cook on the -- I got a big grill and I 4 usually cook roast pork on it. And used to carry 5 her one, two during the Christmas holidays. 6 Q And during those times, did she ever, 7 I guess, indicate or reaffirm who she wanted to 8 serve as personal representative, or did she talk 9 about a relationship with any of her kids or who 10 was doing what for her and who wasn't doing what 11 for her? 12 A Well, she said -- one of the 13 conversations, she said, I don't want the Jones or 14 the Browns to have anything to do with my 15 business. I just looked at her. She was sitting 16 in the recliner right there and I was sitting 17 right here, and I said, what? She said, I don't 18 want the Jones or the Browns to have anything to 19 do with my business. I didn't ask for it. She 20 just told me. 21 Q Did she tell you why or go into any 22 detail? 23 A No. But -- well, she did say that 24 Judy -- at one time, she told me Judy would come 25 in and was telling her what to do and how to do	Page 12 1 Q Right. Okay. 2 A And then she asked me who did mine. 3 Q So y'all had some conversations then 4 about preparing a will? 5 A Yeah. 6 Q Is there any doubt in your mind that 7 she would not have wanted Robert Lee to do her 8 will? 9 A She would get so upset when his name 10 was mentioned because she thought that he changed 11 Wayne's will, for Eris Gail was supposed to be the 12 administrator of it, and Judy was the 13 administrator. And she was adamant about that. 14 Q Now, I know before we went on the 15 record, you were -- sounded like you were a little 16 concerned and you didn't particularly want to be 17 here because you told me that, you know, you're 18 uncle to all these kids. 19 A Yeah. 20 Q Sort of hesitated to sort of get in 21 the middle or express anything, but I want to give 22 you an opportunity before I conclude just for you 23 to offer anything else that you want to say. If I 24 missed anything or if there anything you want to 25 state, to give you that opportunity to do that.
Page 11 1 it, and would even use a lot of cutting remarks, 2 which she didn't tell me what they were. And 3 Jackie would come in as a guest. She -- she was 4 like she was just visiting. 5 Q And how -- when was that last 6 conversation were Ms. Smith said that -- that she 7 didn't want them in her business in relationship 8 to maybe when she passed? 9 A Well, it was -- it was during the 10 later part of, I guess, 2012. 11 Q Okay. 12 A Because she -- she's sharp. There was 13 any -- she was at sound mind. And she was a 14 pretty smart woman, too. 15 Q Any other mention of -- of wills that 16 you are aware of? You already mentioned her 17 concern or dislike for Robert Lee. You mentioned 18 Rick Hoefer had her will, or did her will. 19 A Uh-huh. 20 Q Eris was supposed to be her personal 21 representative. Any other conversations that you 22 can recall maybe in the last two years of her 23 life? 24 A Well, other than what -- about Wayne's 25 will being changed.	Page 13 1 A I got some notes. 2 Q Okay. 3 A Oh, yeah. When my brother -- not 4 about the will. My brother, he collected silver 5 money and old money. And after I -- I retired in 6 '99 -- I went on sick leave in January of '99. 7 And I was going to stay out until 2000, maybe 8 March or April. I had that much sick leave at the 9 Post Office. But a friend of mine passed away, so 10 I got -- got out in June. But I would go down and 11 wrap it up after I retired. Jack couldn't drive. 12 That's my brother. So we would just go talk. He 13 told me about several thousand of dollars and 14 hundred dollar bills that was -- he said coins. 15 It's redeemable in gold. He said, I even got a 16 \$20 gold piece. And he told me about his silver 17 dollars. He had quite a few of those. Because he 18 told me that the president of Williamsburg 19 Banking -- Williamsburg State Bank at the 20 Kingstree called him one day and wanted him to 21 come over there because that's where it was in 22 there. That's where he kept his silver dollars. 23 And he had a buyer from a collector or 24 somebody from New Jersey, New York, and they went 25 through them. And I don't -- whether it was 130

4 (Pages 10 to 13)

Q&A Court Reporting

Page 14 1 or 100 -- he didn't -- I can't remember the exact 2 number. Whether it was a 100 that the fellow -- 3 the -- bought -- bought them from him. And he 4 purchased some land over the back of the church. 5 Ms. Smith: Uh-huh. 6 The Witness: He used that money to 7 buy some land over back in the -- in the back of 8 the church. He said, I made quite a bit off of 9 those 100 and something coins and silver dollars. 10 But one night he told me about that big -- that 11 100 bill. He said some of them are in sequence 12 behind one another. 13 By Mr. Finklea: 14 Q And -- and by that, what did -- what 15 did that mean to him, that they were in sequence 16 and... 17 A They were valuable. 18 Q Okay. In other words, they were more 19 valuable than their face value? 20 A Oh, yeah. Well, yes. Uh-huh. 21 Because they were redeemable in gold. And that's 22 a collector's items, he said, because he had the 23 book. He was looking at. And he said he had 24 several thousand of them and he said a good many 25 of them was in sequence right behind one another.	Page 16 1 Q Well, that's all I have, and I 2 appreciate you adding what you did. Is there 3 anything else that you want to add? 4 A Well, I -- that's about -- that's 5 about all I know. Other -- you can glance at 6 them, if you don't mind. 7 Ms. Smith: (Inaudible.) There must 8 have been something about old people writing in -- 9 my daddy and my mother's age group and Uncle Hoyt 10 and Aunt Barbara, they write everything, you know. 11 By Mr. Finklea: 12 Q Do -- do you have any objection just 13 to me saving this and marking this as part of the 14 record? These look like a lot of notes that you 15 just told us about. 16 A Well, that's fine with me. 17 Q Is that okay? 18 A Okay. 19 (Exhibit number 1 20 marked for identification.) 21 By Mr. Finklea: 22 Q Very good. Very good. That way, if 23 I -- 24 A Like -- like I told you earlier, 25 Mr. Finklea, I have -- I just want what's right.
Page 15 1 Q You know what ever happen to those -- 2 that money? 3 A I don't. I do not know. 4 Q You believe he -- 5 A He didn't spend them. 6 Q Okay. 7 A He wouldn't. He wouldn't even do away 8 with a silver dollar. 9 Ms. Smith: Uh-huh. 10 By Mr. Finklea: 11 Q Do you believe they should have been 12 in existence when Wayne died? 13 A Yes, sir. 14 Q You know if they're in existence now? 15 A I do not know nothing. 16 Q Okay. 17 A But he -- he had -- he didn't tell me 18 all his business. We were -- we were close. 19 Q Very good. Well, as you sit here 20 today, do you believe that Eris Singletary Smith 21 believed that the will that Rick Hoefer made was 22 her last will and testament? 23 A I sure do. Yes, sir. Because she 24 told me that -- that she had made several trips to 25 get it right, that she wanted it.	Page 17 1 Ms. Smith: Uh-huh. 2 The Witness: What she'd wanted done. 3 By Mr. Finklea: 4 Q Very good. Well, thank you very -- 5 well, let me ask that. Do you -- do you know 6 what's happening right now with the estate? 7 A Very little. 8 Mr. Finklea: Okay. All right. Very 9 good. That's all I have and thank you very much. 10 The Witness: I know it's -- I believe 11 it's in litigation somewhere down the line. 12 Mr. Finklea: Yes. Yes. 13 The Witness: Because I see her 14 occasionally and she -- she gets really upset. 15 Mr. Finklea: Okay. And you're 16 pointing to Eris Gail. Okay. Very good. Thank 17 you. Thank you for coming. That's all I have. 18 The Witness: Yes, sir. 19 (Witness excused.) 20 (Whereupon, at 4:08 p.m., 21 the taking of the foregoing 22 examination under oath was 23 concluded.) 24 25

5 (Pages 14 to 17)

Q&A Court Reporting

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM FLORENCE COUNTY
Court of Common Pleas
Honorable R. Knox McMahon

Case Nos. 2013-CP-21-1334 and 2013-ES-21-190
Appellate Case No. 2013-002810

In the Matter of the Estate of Eris Singletary
Smith

In re:

Eris Gail Smith,.....

Appellant,

v.

Judy Smith Jones, Jacquelyn Brown, James Ervin
Smith, Timothy David Smith, Jamie Smith, and
Mikie Smith, Defendants

Of whom Judy Smith Jones is the..... Respondent.

CERTIFICATE OF COUNSEL

The undersigned certifies that the Record on Appeal contains all material
proposed to be included by any of the parties and not any other material.

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December 9, 2014

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM FLORENCE COUNTY
Court of Common Pleas
Honorable R. Knox McMahon

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SC Court of Appeals

Case Nos. 2013-CP-21-1334 and 2013-ES-21-190
Appellate Case No. 2013-002810

In the Matter of the Estate of Eris Singletary Smith

In re:

Eris Gail Smith, ... Appellant.

v.

Judy Smith Jones, Jacquelyn Brown, James Ervin
Smith, Timothy David Smith, Jamie Smith, and Mikie
Smith, Defendants

Of whom Judy Smith Jones is the, ... Respondent,

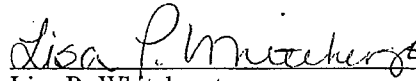
PROOF OF SERVICE

I, the undersigned Administrative Assistant of the law offices of Nelson Mullins
Riley & Scarborough LLP, attorneys for Appellant, do hereby certify that I have served
all counsel in this action with a copy of the pleading(s) hereinbelow specified by email
and by mailing a copy of the same by United States Mail, postage prepaid, to the
following address(es):

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Lisa P. Whitehurst
Administrative Assistant

December 10, 2014

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM FLORENCE COUNTY
Court of Common Pleas
Honorable R. Knox McMahon

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SC Court of Appeals

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Appellate Case No. 2013-002810

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In re:

Eris Gail Smith, ... Appellant,

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Judy Smith Jones, Jacquelyn Brown, James Ervin
Smith, Timothy David Smith, Jamie Smith, and
Mikie Smith, Defendants

Of whom Judy Smith Jones is the Respondent

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STATEMENT OF ISSUE ON APPEAL

Did the trial court err by granting the drastic remedy of summary judgment because there existed genuine issues of material fact regarding undue influence and fraudulent inducement surrounding the decedent's execution of a purported will, and because it was premature to grant the motion before an opportunity for full and fair discovery had been had?

STATEMENT OF THE CASE

This appeal arises from the trial court's grant of summary judgment in a dispute alleging fraud and undue influence relating to the assets and estate of Eris Singletary Smith (hereinafter "the decedent"). On March 13, 2013, two days after the decedent's death, Eris Gail Smith ("Ms. Smith") filed a petition to probate the decedent's will and to be appointed as personal representative. (R. 12.) Later that day, Judy Jones (Ms. Jones") filed a petition to probate a different will purportedly executed by the decedent and to appoint herself as personal representative of the estate. *See* Jones Petition (R. 23).

On April 1, 2013, Ms. Smith filed a petition challenging the purported will brought forward by Ms. Jones, alleging that the purported will was a product of fraudulent inducement and undue influence and that the decedent was unaware she had signed the supposed will. *See* Smith Petition (R. 33). Ms. Jones answered the petition on April 19, 2013. *See* Jones Answer (R. 39). That same day, the probate court temporarily appointed a special administrator to serve until the resolution of the parties' petitions for probate of the wills and for appointment of a personal administrator. *See* Order Appointing Special Administrator (R. 1). On May 14, 2013, the probate court removed the matter to the circuit court. *See* Removal Order (R. 4).

Ms. Jones moved for summary judgment on May 31, 2013, arguing that Ms. Smith had failed to produce any evidence that the decedent was subject to any undue influence or was fraudulently induced to sign the purported will. *See* Jones Mot. for SJ (R. 78). The circuit court held a hearing on August 7, 2013, at which Ms. Smith's attorney argued that summary judgment was inappropriate in part because Ms. Smith had not had the opportunity to complete the scheduled depositions of witnesses whose

testimony would further demonstrate the existence of genuine issues of material fact. *See* Hearing Transcript at 5, 14-15 (R. 54-55). After that hearing, Ms. Smith's counsel conducted certain examinations under oath ("EOUs") of a number of the decedent's relatives, healthcare providers, and friends. On October 8, 2013, Ms. Smith submitted the transcripts of those EOUs to the circuit court in further opposition to the motion for summary judgment. *See* Letter and Filing Letter dated October 8, 2013 (R. 148).

In an order signed on October 22, 2013 and filed two days later, the trial court granted Ms. Jones' motion for summary judgment and ordered the probate of the purported will and the appointment of Ms. Jones as personal representative. Ms. Smith filed a motion for reconsideration on November 11, 2013. *See* Motion to Reconsider (R. 153). The court denied the motion on December 4, 2013. *See* Order Denying Motion to Reconsider (R. 11). This appeal followed.

STATEMENT OF THE FACTS¹

The decedent lived in Effingham, South Carolina, a town located about ten miles from Florence, South Carolina. Several of her children—including Ms. Smith and Ms. Jones—and grandchildren lived and worked nearby. In 2001, the decedent executed a will drafted by Robert E. Lee, an attorney in the nearby town of Marion. *See* Will dated May 30, 2001 (R. 158). At the same time, she executed a power of attorney and a healthcare power of attorney, both of which appointed her son—Almon Wayne Smith—as her agent to manage her affairs and to make health care decisions. *See* Power of

¹ Many of the facts are disputed by the parties. Accordingly, this recitation of the facts sets forth both sides' views on any matters where the witnesses' accounts diverge. Of course, the court should construe the facts in the light most favorable to the non-movant, Appellant.

Attorney dated May 30, 2001 (R. 166); Health Care Power of Attorney dated May 30, 2001 (R. 172).

The decedent's son, Wayne, died in July, 2010. *See* Dep. of Eris Smith at 12 (R. 245). The decedent questioned the validity of Wayne's will, which was also drafted by Robert E. Lee, and which differed from what Wayne had told the decedent regarding the disposition of his assets and the appointment of his personal representative. *Id.* at 48, 51 (R. 254 & 255); *see also* EUO of Mary Tompkins at 18 (noting the appointment of Ms. Jones as Wayne's personal representative was a "stickler point" to the decedent, who knew that Ms. Jones "was not the one that was supposed to be the personal representative") (R. 295); EUO of Sharon Graham at 8-12 (R. 308-312); EUO of Rachell Pringle at 16, 18-19 (R. 382, 384-85).

As a result, the decedent harbored suspicions of and animosity toward Robert E. Lee—views she did not change prior to her passing. *See* Dep. of Eris Smith at 92, 102, and 149-50 (discussing the decedent's dislike for Robert E. Lee and quoting the decedent as saying she would not use him for legal work) (R. 265, 268, 279-80); EUO of Mary Tompkins at 11-14 (noting the decedent thought Robert E. Lee had something to do with Wayne's will being changed and that Lee did not deal properly with clients) (R. 288-91); *id.* at 20 (stating the decedent thought that "conniving people" had changed her predeceased brother's will and as a result the decedent would never have relied on Robert E. Lee to prepare her own will) (R. 297); EUO of Sharon Graham at 17 ("You couldn't even say Robert Lee's name around Granny.") (R. 317); *id.* at 19 (noting the decedent harbored suspicion of Robert E. Lee until her death) (R. 319); EUO of Rachell Pringle at 23 (quoting decedent as having said "that she would never get Robert Lee's crooked ass

to ever do anything for her” and noting that “[s]he couldn’t stand him”) (R. 389); *id.* at 24 (noting the decedent did not change her view of Robert E. Lee prior to her death) (R. 390); EUO of Janet Altman at 6-7 (R. 426-27); EUO of Hoyt Smith at 7 (R. 437).²

Because the decedent’s will executed in 2001 named Wayne as her personal representative, his death necessitated a new will. Accordingly, on March 30, 2011, the decedent executed a new will. *See* Will dated March 30, 2011 (R. 175). This will named the decedent’s daughter, Ms. Smith, as personal representative. *Id.* (R. 175). The will was the product of a fairly lengthy and deliberate process in which the decedent paid several visits over a period of weeks to the offices of Rick Hoefer, an attorney in Florence, South Carolina, who drafted the will. *See* Dep. of Eris Smith at 157 (R. 281); EUO of Sharon Graham at 20-21 (R. 320-21); EUO of Hoyt Smith at 15:19-25 (R. 439). The decedent kept her copy of this will hidden under her mattress. *See* EUO of Sharon Graham at 42-43 (R. 342-43).³

About six months later, on October 18, 2011, decedent’s granddaughter, Becky, took her to Marion, South Carolina, ostensibly for brunch. *See* Dep. of Eris Smith at 76 (R. 261); Dep. of Pam Jordan at 7 (R. 198); EUO of Sharon Graham at 23 (R. 323). The decedent had been very recently diagnosed with cancer.⁴ *See* Dep. of Eris Smith at 12

² Ms. Jones’ testimony about these facts is in start contrast to the testimony of the witnesses cited above. *See* Dep. of Judy Jones at 43-45 (stating the decedent considered Robert E. Lee to be her attorney and was never was angry about him) (R. 228).

³ The decedent’s copy of the March 30, 2011 will disappeared several weeks prior to the decedent’s death, right around the time Ms. Jones and her associates dismantled the decedent’s bed, ostensibly to make way for a hospital bed. *See* EUO of Sharon Graham at 42-43 (R. 342-43).

⁴ The decedent, who at this time was in her 80s, was dependent on the assistance of paid local caregivers. *See* EUO of Sharon Graham at 3-4 (R. 303-04); EUO of Rachell Pringle at 3-4 (R. 369-70). After her diagnosis with cancer, this in-home care continued until the

(noting that the diagnosis was made in “the early fall of 2011”) (R. 245). While in Marion, Becky suggested they visit the law office of Robert E. Lee, where Becky’s sister, Pam—another of decedent’s granddaughters⁵—worked as a paralegal, so decedent could execute a healthcare power of attorney. *See* Dep. of Eris Smith at 119-20 (R. 272); EUO of Rachell Pringle at 29-30, 34 (R. 395-96, 400). While decedent was at Robert Lee’s office, Becky was allegedly called back to work, so she left the decedent—with no independent means of transportation—at Robert E. Lee’s office, for Pam, the paralegal granddaughter, to take home. Dep. of Pam Jordan at 7-8 (R. 198).

The parties’ and witnesses’ testimony differs as to what happened next. According to Ms. Jones, after being left at Robert E. Lee’s office, the decedent supposedly prepared and executed a new will naming Ms. Jones as personal representative, and executed a new healthcare power of attorney naming Ms. Jones as the decedent’s agent to make healthcare decisions. *See* Will dated October 18, 2011 (R. 180); Health Care Power of Attorney dated October 18, 2011 (R. 185) According to Ms. Jones and the witnesses she relies upon, the decedent knowingly and intentionally executed this will. For example, Robert E. Lee testified that he spoke with the decedent, had her write down her wishes for the disposition of her assets, and then had his staff—namely, Pam, the daughter of the newly named personal representative—prepare the will. *See* Affidavit of Robert E. Lee at ¶¶ 2-6 (R. 80-81); Dep. of Pam Jordan at 6 (R. 198); Dep. of Cyrus Sloan at 16-17 (R. 212). Similarly, Ms. Jones testified that she had a discussion with the

time of her death and was supplemented by the in-home private nursing company Nightingale’s Nursing and Attendants in the final few months of decedent’s life. *See* Dep. of Eris Smith at 13, 16-17 (R. 245, 246).

⁵ Both Becky and Pam are Ms. Jones’ daughters.

decedent in which the decedent stated she was confident in her choice of Ms. Jones as personal representatives. *See* Dep. of Judy Jones at 40 (R. 227).

Other testimony, however, on which Appellant relies, reveals that the decedent had no intent to sign yet another will and did not realize she had done so. When the decedent returned home, she was extremely agitated, and the next day stated she had signed lots of papers but was unsure what she had signed. *See* Dep. of Eris Smith at 112 (“She didn’t know she had signed a will. My mother never said she went to Marion to sign a will.”) (R. 270); EUO of Sharon Graham at 25-26 (R. 325-26); EUO of Janet Altman at 5 (“She had no idea what she signed.”) (R. 425). The decedent’s confusion and agitation was exacerbated by the fact that Robert E. Lee’s office had not and would not provide her with a copy of any of the documents she had signed. *See* EUO of Janet Altman at 5 (“[S]he was highly upset. Because she could not get a copy of it or anything for her peace of mind to know what she had signed.”) (R. 425).

Yet again, the witnesses’ testimony differs as to why no copies had been provided or were forthcoming after the decedent requested them. The decedent’s caretaker testified that the decedent called Robert E. Lee’s office to request copies of any documents she had signed and that Pam—who worked at that law office—promised, but failed, to provide copies of the documents. *See* EUO of Sharon Graham at 27-30, 59-60 (R. 327-30, 359-60). In contrast, Pam—who drafted the will naming her mother as personal representative—testified that the decedent did not take a copy of the will when she left because she did not want anyone to know about the will. *See* Dep. of Pam Jordan at 25 (R. 202). In addition, Pam denied that the decedent had called to request a copy of any documents, testifying that the decedent had called to be sure Robert E. Lee’s office had a

copy of her will and that the disposition of her assets included distribution to two grandchildren. *Id.* at 25-26 (R. 202-03).

Over the course of the next year, the decedent made numerous statements indicating her belief that her true and effective will was the March 30, 2011 will drafted by Rick Hoefer. *See* Dep. of Eris Smith at 106:20-24 (R. 269); EUO of Janet Altman at 8-10 (R. 428-30); *see also* EUO of Mary Tompkins at 8-9 (stating that in October of 2012, when the decedent explained to all the beneficiaries how her house would be disposed of, that explanation mirrored the March 30, 2011 will, not the October 18, 2011 will, and that the decedent had stated she did *not* intend for the two grandchildren to be included) (R. 285-86).

Similarly, the testimony indicates the decedent did not intend for Ms. Jones to be the personal representative of her estate and did not think that was the case. *See* Dep. of Eris Smith at 86-87 (noting that in February of 2013, when the decedent heard that Judy was claiming to be “over her estate,” the decedent was furious) (R. 264); EUO of Sharon Graham at 19 (noting that when the decedent heard that Judy was claiming to be “over everything,” the decedent stated “the H you is”) (R. 319); EUO of Rachell Pringle at 42 (quoting the decedent as telling Judy “I wouldn’t dare put you . . . over anything with me” and “I wouldn’t put you over—any damn thing over me”) (R. 403); *id.* at 46-47 (noting that the decedent told others that when she died, Ms. Smith was to be over her affairs) (R. 407-08); EUO of Janet Altman at 12-14 (R. 432-33). Likewise, in January of 2013, when the decedent learned that Ms. Jones and Ms. Jones’ daughter, Becky, were named in her healthcare power of attorney, she became extremely upset. *See* Dep. of Eris Smith at 64-65 (R. 258).

The decedent passed away on March 11, 2013. Immediately thereafter, Ms. Jones recruited several friends to go into the store adjacent to the decedent's home, which was previously operated by the decedent and her late husband. *Id.* at 66-67 (R. 259). This group did not call Ms. Smith—the only person with a key to the store—but instead went to great lengths to remove the store's security measures and to gain access into locked containers within the store.⁶ *Id.* at 69-71 (R. 259-60). Ms. Jones conducted this operation without calling Ms. Smith because Ms. Jones wished “to show her that I’m in charge now.” *Id.* at 71 (R. 260). This store contained a large number of valuable objects, including numerous old Federal Reserve notes and other items. *See* Dep. of Eris Smith at 96-97 (r. 266); *see also id.* at 51-52 (R. 255); Dep. of Judy Jones at 74-82 (R. 236-38); EUO of Hoyt Smith at 13-15 (R. 438-39).

On March 13, 2013, Ms. Smith filed a petition to probate the March 30, 2011 will and to appoint herself as the personal representative of the estate. On that same date, Ms. Jones filed a petition to probate the October 18, 2011 will and to appoint herself as personal representative of the estate. This litigation followed.

STANDARD OF REVIEW

“Summary judgment is a drastic remedy which should be cautiously invoked so that a litigant is not improperly deprived of a trial on disputed factual issues.” *Madison ex rel. Bryant v. Babcock Ctr., Inc.*, 371 S.C. 123, 134, 638 S.E.2d 650, 655 (2006). (citing *Baughman v. American Tel. and Tel. Co.*, 306 S.C. 101, 112, 410 S.E.2d 537, 543 (1991)). A trial court may properly grant a motion for summary judgment only when “the

⁶ Ms. Smith had previously installed those security measures at the decedent's request, because the decedent did not wish for the Joneses and Browns to have access to the store. *See* EUO of Mary Tompkins at 19-20 (R. 296-97); *see also* EUO of Hoyt Smith at 10 (R. 438).

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 that the moving party is entitled to a judgment as a matter of law.” Rule 56(c), SCRCF; *see also Madison*, 371 S.C. at 134, 638 S.E.2d at 655 (2006).

“In determining whether any triable 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.” *Madison*, 371 S.C. at 134, 638 S.E.2d at 655 (citing *Manning v. Quinn*, 294 S.C. 383, 365 S.E.2d 24 (1988)). In a dispute alleging that a will was the product of fraud or undue influence, summary judgment is not appropriate if there is conflicting evidence or testimony regarding the influence exerted on the testator or the circumstances surrounding the will. *See Howard v. Nasser*, 354 S.C. 279, 291, 613 S.E.2d 64, 70 (Ct. App. 2005).

ARGUMENT

The Trial Court Erred in Granting Summary Judgment because such was Premature and because there Existed Genuine Issues of Material Fact Precluding Summary Judgment.

Summary judgment is a “drastic remedy” that should not be used to deprive a litigant of his or her day in court to resolve disputed factual issues. *Madison*, 371 S.C. at 134, 638 S.E.2d at 655. Here, despite the numerous material factual disputes presented to the trial court, and despite the fact that Ms. Smith’s counsel explained that further discovery was needed to flesh out these factual disputes, the trial court nevertheless imposed the drastic remedy of summary judgment to deprive Ms. Smith of the opportunity for a jury to determine whether the October 18, 2011 will was a product of fraudulent inducement or undue influence.

In the Order granting summary judgment, the trial court concluded there were no issues of material fact as to whether any acts exerted on the decedent destroyed her free will, amounted to force or coercion, or fraudulently induced her to sign the supposed will. *See* Order at 4-5 (R. 8-9). This ruling ignores the glaring factual disputes over the critical questions of whether the decedent wished to execute a new will, whether she was tricked into signing the purported will, whether she even knew what she had signed, and whether the document she signed actually reflected her wishes.

As to the question of whether the decedent actually wished to execute a will on October 18, 2011 or whether she was compelled to do so, the witnesses' testimony is irreconcilably conflicting and raises unavoidable questions of material facts. According to attorneys Robert E. Lee and Cyrus Sloan, the decedent intended to execute a will, deliberately did so, and was aware of what she was doing. *See* Affidavit of Robert E. Lee at 1-2 (R. 80); Dep. of Cyrus Sloan at 4-6; (R. 209-10). The decedent's granddaughter, Pam Jordan, who worked for Robert E. Lee, likewise stated that the decedent approached her shortly before October 18, 2011 with the desire of changing her will. *See* Dep. of Pam. Jordan at 4-5 (R. 197).

In contrast, numerous witnesses testified exactly the opposite—that the decedent had no intention to execute a new will, was unaware she had signed a will, and thought that her prior will from March 30, 2011 was still in effect. *See, e.g.*, Dep. of Eris Smith at 106:20-24 (“Granny had kept telling me and Sharon since January . . . Granny says, oh, no. My – my will is at Mr. Hoefer’s office.”) (R. 269); *id.* at 112 (“She didn’t know she had signed a will. My mother never said she went to Marion to sign a will.”) (R. 270); *id.* at 147:12-20 (testifying that the decedent did not know what she signed) (R. 279); *id.* at

149:9-15 (recounting decedent's insistence that Ms. Jones was not, in fact, the personal representative named in her will) (R. 279); EUO of Sharon Graham at 26:12-20 (recounting conversation with decedent immediately after she returned from Robert E. Lee's office and was confused about what papers she had signed) (R. 326); EUO of Janet Altman at 5 ("She had no idea what she signed.") (R. 425); *id.* at 8:25-9:11 ("[B]ottom line was, she didn't know what she'd signed. . . . She did not know that it was a will or what document. She just told me, I don't know what documents I signed. . . . She just knewed that — that her will was in Mr. Hoefer's office.") (R. 428-29).

Similarly, the testimony is hopelessly divided on the question of whether the purported will the decedent signed on October 18, 2011 actually reflected her wishes for the disposition of her assets and the administration of her estate. *See* EUO of Mary Tompkins at 8-9 (stating that in October of 2012, when the decedent explained to all the beneficiaries how her assets would be disposed of, that explanation mirrored the March 30, 2011 will) (R. 285-86); Dep. of Eris Smith at 86-87 (noting that when the decedent heard that Ms. Jones was claiming to have been named personal representative, the decedent was furious) (R. 264); EUO of Sharon Graham at 19 (same) (R. 319); EUO of Rachell Pringle at 42 (same) (R. 403); *id.* at 46-47 (noting that the decedent told others that when she died, Ms. Smith was to be over her affairs) (R. 407-08).

In addition, the circumstances around the execution of the purported will—the decedent was lured to brunch with no plan to visit an attorney's office and was then left at an attorney's office with no means of transportation—at *minimum* give rise to issues of material fact, if not a presumption, regarding undue influence. *See Howard v. Nasser*, 364 S.C. 279, 286, 613 S.E.2d 64, 67 (Ct. App. 2005) ("A presumption of undue influence

arises if the alleged wrongdoer was in a confidential relationship with the donor and there were suspicious circumstances surrounding the preparation, formulation, or execution of the donative transfer”) (quoting Restatement (Third) of Property: Wills and Other Donative Transfers § 8.3 cmt. f (2003)). Indeed, one of the supposed witnesses to the purported will cannot even recall whether she did, in fact, witness the decedent sign that will. *See* Dep. of Brittany Hooks at 6 (R. 220).

Similarly, the facts surrounding the execution of the October 18, 2011 will, when combined with the fact that it did not reflect the decedent’s wishes, gives rise to issues of material fact as to whether the will was fraudulently induced:

A will procured by a fraud may be deemed invalid. The elements of fraud in the procurement of a testamentary instrument are the same as those required to vitiate a contract. The fraud sufficient to invalidate a will exists only when it is shown that a testator relied on a misrepresentation and was deceived. The type of fraud that will invalidate a will must be a fraud which operates upon the testator, such as in the procurement of the execution of a will by misrepresentations made to the testator.

79 Am. Jur. 2d Wills § 379 (citations omitted); *see also id.* at § 381 (“If it can be shown that a will was induced by the fraudulent representation made by a person benefiting from the will, the will may be set aside.”) (citation omitted). In sum, the numerous issues of material fact make summary judgment inappropriate.

In addition, the grant of summary judgment was premature. The trial court noted in its Summary Judgment Order that the other witnesses identified by Appellant’s counsel as ones he wanted to depose prior to the court’s consideration of summary judgment were irrelevant because “none of them were present at the time of the Will was signed.” *See* Order at 2 (R. 6). There is no requirement that a witness observe the actual execution of a

will to provide evidence respecting questions of undue influence or fraudulent inducement. *See Byrd v. Byrd*, 279 S.C. 425, 308 S.E.2d 788 (1983) (relying on testimony of witnesses not present at execution of will regarding facts and statements made long before and after execution of will and holding there was sufficient evidence of undue influence to submit question to the jury); *see also Dyer v. Souther*, 528 S.E.2d 242, 244-45 (Ga. 2000) (reversing trial court's grant of directed verdict in light of factual disputes in testimony and evidence from before and after execution of purported will and noting that "an attack on a will as having been obtained by undue influence may be supported by a wide range of testimony" and "the question of undue influence is generally for the factfinder"); *In re Will of Jones*, 669 S.E.2d 572 (N.C. 2008) (reversing trial court's grant of summary judgment and holding a jury should resolve question of undue influence in light of testimony and evidence relating to the testator's statements and abilities *after* execution of his will); *Cook v. Huff*, 552 S.E.2d 83, 85-86 (Ga. 2001) (holding that trial court rightly submitted issue of undue influence to the jury in light of the disputed questions of fact regarding actions and occurrences both before and after execution of will); *Bishop v. Kenny*, 466 S.E.2d 581 (Ga. 1996) (noting that when analyzing a claim of undue influence, the fact-finder had properly considered testimony regarding interactions with testator months after execution of will); *In re Duke's Will*, 85 S.E.2d 332, 336 (N.C. 1955) (analyzing challenge to validity of a will on basis of undue influence and noting that "the general rule is that in the absence of some other reason for the exclusion of the declaration, the mere fact that it was made after the execution of the will does not render it inadmissible") (citation omitted); 79 Am. Jur. 2d Wills § 422 ("The rule that a testator's declarations are admissible where undue influence is in issue

to show a state of mind and susceptibility to influence is applicable *whether the declarations were made before or subsequent to the execution of the will* for the purpose of showing the state of the testator's mind.") (citations omitted; emphasis added); 79 Am. Jur. 2d Wills § 411 ("An attack on a will as having been obtained by undue influence may be supported by a wide range of evidence and testimony. Indeed, any evidence which shows opportunity or a result indicative of undue influence is relevant or admissible in a will contest. Circumstantial evidence may be admissible; since fraud and undue influence are subtle things, ordinarily operating in secrecy, they can rarely be established by direct proof and must necessarily be susceptible of proof by circumstances from which they may be inferred.") (citations omitted).

In addition, the court precluded Appellant from discovering and submitting her complete evidence by prematurely ruling on summary judgment. South Carolina's courts recognize that a grant of summary judgment is premature where a plaintiff has not yet had the chance to complete discovery necessary to establish its claims. *See Baughman v. American Tel. & Tel. Co.*, 306 S.C. 101, 112, 410 S.E.2d 537, 543-54 (1991) ("Since it is a drastic remedy, summary judgment 'should be cautiously invoked so that no person will be improperly deprived of a trial of the disputed factual issues.' [] This means, among other things, that *summary judgment must not be granted until the opposing party has had a full and fair opportunity to complete discovery.* [] Under the circumstances, we agree with Plaintiffs that the grant of partial summary judgment on the personal injury claims was premature.") (emphasis added) (citations to numerous treatises and cases omitted).

Here, the trial court granted summary judgment prematurely, improperly weighed evidence, and failed to acknowledge the existence of genuine issues of material fact. The drastic step of summary judgment was thus improperly taken by the trial court to deprive the Appellant of her discovery rights and of her day in court. This Court must reverse.

CONCLUSION

For the foregoing reasons, Appellant respectfully requests this Court reverse the trial court's Order granting summary judgment.

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December 23, 2014

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM FLORENCE COUNTY
Court of Common Pleas
Honorable R. Knox McMahon

Case Nos. 2013-CP-21-1334 and 2013-ES-21-190
Appellate Case No. 2013-002810

In the Matter of the Estate of Eris Singletary
Smith

In re:

Eris Gail Smith, ...

Appellant,

v.

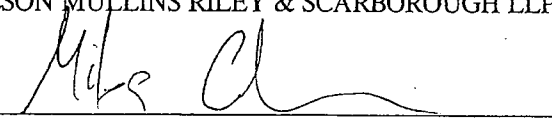
Judy Smith Jones, Jacquelyn Brown, James Ervin
Smith, Timothy David Smith, Jamie Smith, and
Mikie Smith, Defendants

Of whom Judy Smith Jones is the..... Respondent.

CERTIFICATE OF COUNSEL

The undersigned certifies that this Final Brief complies with Rule 211(b), SCACR.

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APPEAL FROM FLORENCE COUNTY
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RECEIVED

DEC 23 2014

SC Court of Appeals

In the Matter of the Estate of Eris Singletary Smith

In re:

Eris Gail Smith, ...

Appellant.

v.

Judy Smith Jones, Jacquelyn Brown, James Ervin Smith,
Timothy David Smith, Jamie Smith, and Mikie Smith,
Defendants

Of whom Judy Smith Jones is the, ...

Respondent,

PROOF OF SERVICE

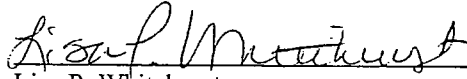
I, the undersigned Administrative Assistant of the law offices of Nelson Mullins
Riley & Scarborough LLP, attorneys for Appellant, do hereby certify that I have served
all counsel in this action with a copy of the pleading(s) hereinbelow specified by email
and by mailing a copy of the same by United States Mail, postage prepaid, to the
following address(es):

Pleadings:

Final Brief of Appellant

Counsel Served:

J. René Josey, Esquire
Jeffrey L. Payne, Esquire
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December 23, 2014