

THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM THE PROBATE COURT
NINTH JUDICIAL CIRCUIT

Tamara C. Curry, Judge

Case No. 2013-ES-10-1054

RECEIVED

OCT 18 2017

S.C. SUPREME COURT

Richard Stein, Sarah Stein, and Nichole Stein Jones..... Respondents,

v.

Victoria Martindale Stein, Personal Representative of the Estate of Paul J. Stein
..... Appellant.

**PETITION TO CERTIFY CASE FOR REVIEW
IN THE SUPREME COURT**

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Victoria Martindale Stein, in her capacity as Personal Representative of the Estate of Paul J. Stein has appealed the Judgment entered by the Honorable Tamara C. Curry in favor of the Respondents. Said appeal was taken from the Probate Court to the Supreme Court pursuant to Probate Code § 62-1-308 (l), by written consent of the parties.

Should the Supreme Court consider referring this appeal to the South Carolina Court of Appeals, this Petition seeks an Order certifying this appeal for review by the Supreme Court. Generally, SCRAP, Rule 204(b) allows this Court to agree to hear an appeal from lower courts, other than the South Carolina Court of Appeals, when the appeal concerns a matter of public interest or a legal principle of major importance. For the reasons set forth herein, Appellant submits that this appeal meets both considerations.

I. BACKGROUND

Respondents are three (3) adult children of the decedent Paul Stein (Stein Children). Appellant Victoria Stein (Tori Stein) is the wife of the decedent Paul Stein, the sole heir under his will, and the personal representative of his Estate. Paul Stein died on July 2, 2013, leaving a will he had executed in 2008. At his death, Paul had a substantial art collection, which included: (1) art which he had collected himself; (2) art he and his wife Victoria Stein had collected together during their marriage, and (3) art he received decades before from his mother, Barbara Rawling. (Exhibit A Trans. 479).¹ The portion of the art collection Paul received from his mother originated from Paul's grandmother who died in the early 1980s in Germany. ("German Art"). *Id.*

Paul Stein had never been forthcoming about his will or its contents. (Tr.56, Exhibit B Ewert Tr. 41). Neither Mrs. Stein nor any of the Stein Children had ever seen his will prior to his

¹ Paul Stein had substantial non-probate assets: an investment account containing \$1.8 million payable on death to his children, and several life insurance policies received by Appellant in the amount of approximately \$1.75 Million. (Tr. 451, 501-02).

death. (Tr. 234-35). Appellant was the sole beneficiary of the will, and the personal representative. Other than a general reference to the ability to leave a written memorandum of personal property, the will made no specific disposition or reference to the art collection. No memorandum of personal property was located.

Respondents filed this case against Tori Stein seeking to have certain email communications declared as satisfying the requirements of S.C. Probate Code § 62-2-512 for “separate writings” to dispose of personal property under a will. The children claimed two (2) emails sent from Paul Stein’s email account to one child and a sister, respectively, should have resulted in the German Art collection and other items passing to them under the will.

It is undisputed that no South Carolina case nor any other jurisdiction has interpreted the meaning of this “separate writings” provision as found in many probate codes, nor has any other court interpreted this statute or similar probate statutes in the context of email communications. Appellant, through an early motion for judgment on the pleadings and later motion for summary judgment, sought to have the question of whether the subject emails satisfied the statutory requirements answered pretrial. Those motions were denied, and appeal disallowed. The non-jury trial was held in Probate Court, and on September 14, 2017, the court ruled that the two (2) emails satisfied the “separate writings” statute and ordered that the children were entitled to the art collection and other items. A Motion to Alter or Amend was timely filed, and denied on October 4, 2017. This appeal ensued.

The first email at issue was sent on February 20, 2013 from Paul Stein’s account to his sister in Germany Marian Stein-Steinfeld. (See Exhibit C). The email contains the following header:

Von: Paul Stein paul@abicomcast.biz.net
Betreff: Update
Datum: 20. Februar 2013 23:26
An: Marian Stein Steinfeld Marian-Steom-Stinefeld@gmx.net

The body of the email is structured like a journal containing entries for February 20, February 19, and February 12, and includes eleven (11) paragraphs. (Tr. 124). The email concludes with the pre-programmed signature block Paul had named "husband:"

Love, Paul
843.452.6981
011.49.1512.7404 Germany

and a March 2013 calendar insert. (Tr. 324). The court found that two paragraphs from the middle of this journal-like correspondence constituted a signed statement subject to the probate code provision on "separate writings identifying bequest of tangible property" and that the contents of the email directed the children receive the German Art and other items referenced therein.

In March 2013, Paul Stein underwent an experimental stem-cell transplant procedure scheduled for March 29, 2013 at MUSC. Paul Stein kept his laptop computer with him in the hospital, and stored his passwords on a piece of paper inside of his laptop. (Tr. 71, 136-37). The second email in dispute was sent on March 28, 2013 from Paul Stein's email account to Respondent Nichole Jones. (See Exhibit D). Jones testified she and Paul were alone in the hospital room, and that while the two of them were there alone Paul sent her several emails as they discussed his estate plans. (Tr. 189-92). In fact, seven (7) emails were sent from Paul's computer that day, and all were emailed to Nichole Jones' email account in a span of about one (1) hour. (Tr. 313).

The first two (2) of the seven (7) emails are identical, other than the time on which they were sent, and it is this email that forms part of the Stein Children's claim. The email contains the following header:

From: Paul Stein paul@abi.comcastbiz.net>
Subject: Art bought by Paul & Tori.xlsx
Date: March 28, 2013 2:43:15 PM CDT
To: "Nichole Stein (nicholestein@gmail.com)" <nicholestein@gmail.com>

This email is blank with an attached spreadsheet. The subject line of the email is the name of the attached spreadsheet file -- Art bought by Paul & Tori.xlsx. The body of this email contains nothing -- no salutation, nor text. It contains no signature or closing of any kind. (Tr. 317).

The spreadsheet itself includes two sheets: the first sheet is a chart identifying art owned by Paul and Tori Stein by artist, name, and size (no reference to anyone receiving any piece); the second sheet contains tables with insurance policy numbers, amounts of insurance, amounts of cash, and columns with different totals for Tori, Richard, Nichole, Sara, and Alex (Paul's stepdaughter who in fact received nothing under the will). At the bottom of that second sheet, there are three (3) lines of text (without any punctuation) which references that the collection of art from HBvR and heirlooms from HBvR are to be given to Richard, Nichole, and Sarah; and a stamp and coin collection to be given to Sarah. (Tr. 240-45). No part of the email with attached spreadsheet is signed in any way.

All seven (7) of the March 28, 2013 emails were located by a computer forensics expert on Paul Stein's laptop. But, sometime after they were sent, someone moved them one-by-one from the Sent email folder to the Deleted email folder. (Tr. 345-47). Tori has never denied that Paul

had intended for the art collection to eventually go to his children. (T. 57, 66, 86).²

III. ARGUMENT

The Supreme Court should certify this appeal for review because it addresses a novel interpretation of a statute which has a substantial role in the disposition of personal property in South Carolina, and a holding that emails such as these satisfy the requirements of the statute risks profound impacts on the duties of personal representatives to search for emails making reference to some disposition of personal property, and on the nature of and number of those asserting claims against Estates for personal property mentioned in some otherwise unsigned email communication. The issues are both novel issues of law and of great public importance.

“All rules of statutory construction are subservient to the one that the legislative intent must prevail if it can be reasonably discovered in the language used, and that language must be construed in the light of the intended purpose of the statute.” Kiriakides v. United Artists Commc'ns, Inc., 312 S.C. 271, 275, 440 S.E.2d 364, 366 (1994) (citing Bohlen v. Allen, 228 S.C. 135, 141, 89 S.E.2d 99, 102 (1955)). Under the plain meaning rule of statutory construction, the court is not permitted to change the meaning of a clear and unambiguous statute. Hodges v. Rainey, 341 S.C. 79, 85, 533 S.E.2d 578, 581 (2000). Where the statute's language is plain, unambiguous, and conveys a clear, definite meaning, the court may not impose a different meaning and need not employ rules of statutory interpretation. Gay v. Ariail, 381 S.C. 341, 345, 673 S.E.2d 418, 420

² Tori Stein counterclaimed against the Stein Children that it was always Paul's intent that the proceeds from the sale of one valuable piece of art [Jawlensky] several months prior to his death were to fund his medical bills and the income taxes arising from the sale of that piece of art. (Tr. 79). Other witnesses confirmed both of these statements. (See Exhibit E, Welch Tr. 573). However, it does not appear that Paul effectively did either of these two things. His will did not provide that the art go to his children, and he did not leave a written memorandum bequeathing the art to the Stein Children. The investment account which held the art sale [Jawlensky] proceeds was designated payable on death to his children, and did not provide the Estate or his wife with funds to pay the medical bills or substantial taxes. That investment account was subject to a counterclaim by Tori Stein against the children, but is not the subject of this appeal.

(2009). Probate Code § 62-2-512 is entitled “Separate writing identifying bequest of tangible property,” and provides:

A will may refer to a *written statement or list to dispose of items* of tangible personal property not otherwise specifically disposed of by the will, other than money and property used in trade or business. To be admissible under this section as evidence of the intended disposition, *the writing must either be in the handwriting of the testator or be signed by the testator* and must describe the items and the devisees with reasonable certainty. The writing may be referred to as one to be in existence at the time of the testator's death; it may be prepared before or after the execution of the will; it may be altered by the testator after its preparation; and it may be a writing that has no significance apart from its effect upon the dispositions made by the will.

(emphasis added). This provision of the Probate Code has been unchanged since 1986.

This appeal addresses (1) whether the emails at issue qualify as a “written list or statement of items to dispose of items of tangible personal property not otherwise disposed of by the will;” and (2) whether the emails, if qualified under subsection (1), are “signed by” the testator. The Probate Court concluded that both emails, separately and together, met the requirements of the statute, despite the many irregularities therein.

The February 20th email to Paul Stein’s sister is merely a letter containing general correspondence on a variety of subjects, and even contains entries similar to a journal. The subject line of this email was “update,” and there is nothing in this email which indicates that Paul Stein intended this email to dispose of the art effective upon his death. This email is run-of-the-mill correspondence between siblings discussing all sorts of things, past, present, and future. There is no handwritten text, nor handwritten signature. The email ends with one of Paul Stein’s automatic signatures.

The March 28th email to Nichole Sein Jones is similarly deficient. It contains no salutation, no text, and no kind of closing, much less a signature. The email itself contains neither a list or statement and appears as a blank email, simply attaching an excel file. The first sheet of

the attachment lists art collected by Paul and Tori, not the German art collection, and it does not indicate any disposition of even that art to anyone. And, Tori Stein testified that the list itself was incomplete. (Tr. 121-22). The second page of the excel file is a spreadsheet with all sorts of information and money figures; however, most of the content in the second page did not take place, nor was expressed in the will. There is no kind of signature at all.

Respondents alleged that these emails constituted some electronically signed statement under the statute. Recently, the Probate Code was significantly amended, effective January 1, 2014, and the Legislature made no effort to amend or clarify section 62-2-512, nor did it address electronic signatures, email, or electronic wills anywhere within the context of the Probate Code. It is undisputed that neither of the emails at issue are in Paul Stein's handwriting, nor do they contain his handwritten signature. One email contains no kind of signature, and the other email concludes with an automatic email signature used frequently by Paul Stein.

The Legislature addressed the force and effect of electronic signatures in several different areas of the law. It did so when it enacted the South Carolina Uniform Electronic Transaction Act of 2004 (SCUETA) setting forth the legal parameters of enforceable "electronic signatures" in "electronic transactions." S.C. Code Ann. § 26-6-30(A). "Signature" is a defined term to include "an electronic sound, symbol, or process . . . executed and adopted by a person with the intent to sign the electronic record." *Id.* § 26-6-20 (8). "Transactions" is a defined term as "an action or set of actions occurring between two or more persons relating to the conduct of business, commercial, and governmental affairs." *Id.* § 26-6-20 (17). Tellingly, in the SCUETA, the General Assembly expressly excluded any transactions involving the "law governing the creation and execution of wills, codicils, or testamentary trusts." *See* S.C. Code Ann. § 26-6-30 (B) (2)(a). The South Carolina Probate Code is the "law governing the creation and execution of wills,

codicils, or testamentary trusts.” See also S.C Code Ann. § 44-117-310 (3), (4) (defining digital and electronic signatures within the context of electronic prescription processing requiring that the electronic symbol or process be “executed and adopted by a person with the intent to sign the record”); SC Rules of Professional Conduct, Rule 1.0 (r) (defining writing as: a tangible or electronic record of communication or representation, including handwriting, typewriting, printing, photostating, audio or video conferencing and email. A “signed writing” includes electronic sound, symbol or process attached to or logically associated with a writing and executed or adopted by a person with the intent to sign).

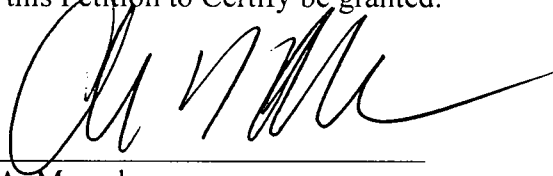
The Probate Court adopted the argument of the Respondents, and applied case law and guidance taken from cases interpreting the Statute of Frauds. Appellant submits that the application of the statute of frauds is erroneous because the underpinnings of the Statute of Frauds are inapposite in this particular context. Further, without some indication of legislative intent, the court should not apply case law concerning email signatures within the commercial context where the parties to the subject transaction are living to one where the person whose intent the court is charged with determining is no longer living and cannot testify. Admitting any email from a testator discussing his thoughts or wishes with regard to persons to receive his personal property upon his death under section 512 would not “simplify and clarify the law concerning the affairs of decedents,” nor “promote a speedy and efficient system for liquidating estates.”

IV. CONCLUSION

The Probate Court’s Order allowed two very different email communications to satisfy the requirement of the “separate writings” provision in the Probate Code, where neither appears on their face to constitute “a list or statement to dispose of items,” and neither is in the handwriting of or signed by the testator in any typical manner. This Court should certify this appeal for Supreme

Court review because issues related to which types of signatures and writings, in the digital age, are permitted under this provision of the Probate Code is of great public interest and presents novel issues of law.

Appellant respectfully requests that this Petition to Certify be granted.



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ATTORNEYS FOR APPELLANT

CHARLESTON, SC

October 17, 2017

EXHIBIT "A"

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IN THE PROBATE COURT
FOR THE STATE OF SOUTH CAROLINA
CHARLESTON COUNTY

HEARING

IN RE: THE ESTATE OF
PAUL J. STEIN
CASE NO. 2013-ES-10-1054

BEFORE: THE HONORABLE TAMARA C. CURRY

DATE: APRIL 17, 2017

TIME: 10:37 A.M.

LOCATION: CHARLESTON COUNTY JUDICIAL
BUILDING
CHARLESTON, SC

REPORTED BY: RUTH L. MOTT, RPR, CRR
CLARK & ASSOCIATES, INC.
P.O. Box 73129
Charleston, SC 29415
843-762-6294
WWW.CLARK-ASSOCIATES.COM

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IN THE PROBATE COURT
FOR THE STATE OF SOUTH CAROLINA
CHARLESTON COUNTY

HEARING - VOLUME II

IN RE: THE ESTATE OF
PAUL J. STEIN
CASE NO. 2013-ES-10-1054

BEFORE: THE HONORABLE TAMARA CURRY

DATE: APRIL 18, 2017

TIME: 9:44 A.M.

LOCATION: CHARLESTON COUNTY JUDICIAL
BUILDING
CHARLESTON, SC

REPORTED BY: RUTH L. MOTT, RPR, CRR
CLARK & ASSOCIATES, INC.
P.O. Box 73129
Charleston, SC 29415
843-762-6294
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IN THE PROBATE COURT
FOR THE STATE OF SOUTH CAROLINA
CHARLESTON COUNTY

HEARING - VOLUME III

IN RE: THE ESTATE OF
PAUL J. STEIN
CASE NO. 2013-ES-10-1054

BEFORE: THE HONORABLE TAMARA CURRY

DATE: APRIL 19, 2017

TIME: 9:03 A.M.

LOCATION: CHARLESTON COUNTY JUDICIAL
BUILDING
CHARLESTON, SC

REPORTED BY: RUTH L. MOTT, RPR, CRR
CLARK & ASSOCIATES, INC.
P.O. Box 73129
Charleston, SC 29415
843-762-6294
WWW.CLARK-ASSOCIATES.COM

1 Q. There was a time in which you thought or you
2 said that he was going to give you the business
3 known as Atlantic Builders; is that correct?

4 A. Yes.

5 Q. Did that happen?

6 A. No.

7 Q. Do you recall Paul creating a new will in
8 2008?

9 A. Yes.

10 Q. What do you know about that new will?

11 A. Not much. He never showed it to me.

12 Q. Did he ever show you any of his
13 estate-planning documents?

14 A. No, he was -- he kept things like that close
15 to the chest.

16 Q. So whatever plans he was making, whatever
17 conversations he was having, he never discussed
18 those with you?

19 A. He never showed me a will.

20 Q. Okay. Did he ever tell you what the
21 contents of his will were?

22 A. No.

23 Q. Did you ever discuss with him the Hanna vom
24 Bekker vom Rath art collection?

25 A. Yes.

1 Q. What did he tell you about that?

2 A. He told me the history of it, how he -- how
3 it came to the family, how -- how it was
4 distributed between Hanna vom Bekker's daughters
5 and how it came to him and Tasha, yes.

6 Q. And did he tell you what he wanted to happen
7 to the art collection after he passed?

8 A. Yes.

9 Q. What did he tell you?

10 A. He said that the art collection would
11 eventually go to all of his children.

12 Q. Was Paul Stein consistent in that statement
13 that he always wanted the art collection, the
14 German art collection --

15 A. Right.

16 Q. -- to go to his three children?

17 A. Yes.

18 Q. To be divided equally among them?

19 A. Yes.

20 Q. He never wavered from that?

21 A. No.

22 Q. And you agree that was his intent?

23 A. That was his intent, also to use the
24 proceeds from the sale of the art to pay for his
25 medical bills and taxes.

1 A. Correct.

2 Q. Did that ever change during the time period
3 that you knew Paul?

4 A. No.

5 Q. He always wanted the art collection and the
6 furniture from Hanna vom Bekker Rath to go to his
7 three children?

8 A. Eventually, yes.

9 Q. Is it not true that Paul discussed with you
10 the fact that he needed to create a list of the
11 German artwork?

12 A. Yes.

13 Q. Did he tell you that he was creating a list
14 of the artwork owned by you and he together?

15 A. No.

16 Q. Did you know he was working on such a list?

17 A. No.

18 Q. Did you ever see such a list?

19 A. No.

20 Q. But he did discuss with you the fact that he
21 could dispose of the artwork and other personal
22 property by a written memorandum?

23 A. No.

24 Q. How about look at page 60 of your
25 deposition, line 3.

1 A. It would all be guesswork. I don't know.

2 Q. Is it true that you and Paul had multiple
3 conversations about the artwork and what was to
4 happen to it?

5 A. Yes, we talked about it on and off.

6 Q. And did he always state that his intent was
7 for the artwork to go to his children?

8 A. Yes.

9 Q. And by that he meant the German artwork?

10 A. Yes.

11 Q. Okay. Did you have access to Paul's
12 computer?

13 A. Yes. We all did.

14 Q. And is it true that Paul took his laptop
15 with him to the hospital when he went?

16 A. Yes.

17 Q. Did you have a password for that computer?

18 A. His passwords were kept on a piece of paper
19 inside the computer.

20 Q. And you knew where that was?

21 A. Yes.

22 Q. And you had the authority basically to
23 access his computer?

24 A. Yes.

25 Q. And check his emails if you wanted to?

1 Q. And the reason you haven't given the artwork
2 to the children is because you want those taxes and
3 the medical expenses paid?

4 A. I do.

5 Q. And you want the children to pay that?

6 A. I want the proceeds from the art, the sale
7 of the art to pay for the taxes and the medical
8 bills, yes.

9 Q. But we've already agreed, you agreed that
10 the artwork should belong to the children?

11 A. I do eventually.

12 Q. Okay. But your intention is to hold the
13 artwork, sort of hold it hostage, until the
14 children agree to pay some amount of money to
15 redeem their artwork?

16 A. I see -- I see what you're saying, but the
17 artwork and the sale of the Jawlensky, see, we
18 always saw it all as one piece. And we're -- I see
19 that you guys are trying to separate it here, but
20 Paul and I had long conversations on how things
21 were going to be done.

22 And eventually the children would get the
23 art, but part of the whole scenario was him selling
24 the art to pay for the medical bills because we
25 didn't have the money.

1 today too.

2 Q. Exactly. And all those times you have
3 agreed --

4 A. Right.

5 Q. -- that the -- that Paul's intent was for
6 his children to have the Hanna vom Bekker art
7 collection.

8 A. Correct. Eventually they will get it.

9 Q. Well, let's not talk about eventually.
10 Let's just talk about what your understanding was
11 from Paul. Your understanding from Paul is that
12 his children would inherit his art collection.

13 A. Correct.

14 Q. Okay. Paul did not mention to you that he
15 had sent an email to Nichole that contained the
16 list of the artwork?

17 A. No.

18 Q. Do you know why the life insurance was
19 changed? You've seen the documents that change the
20 life insurance from going to you to going to his
21 estate.

22 A. I've seen that, yes.

23 Q. All right. Do you know why that was done?

24 A. No.

25 Q. Did you discuss that with Mr. Slotchiver?

1 A. Correct.

2 Q. All right. And so the -- you were shown a
3 couple of lists and I'll refer you to them in
4 plaintiffs' exhibit notebook. First, if you would,
5 please, take a look at Exhibit No. 3 in plaintiffs'
6 notebook.

7 Are you there?

8 A. Yes.

9 Q. And this is an email from
10 PaulStein@ABI.Comcastbiz.net to Nichole Stein,
11 correct?

12 A. Correct.

13 Q. Now, attached to it is a list of what looks
14 like art, and we've seen the third page of this
15 document on a poster board which also lists some
16 life insurance, etc.?

17 A. Yes.

18 Q. Got that?

19 A. Yes.

20 Q. Now, what is this list here?

21 A. This list is the -- is a partial list of the
22 art that Paul and I had purchased together since we
23 were married.

24 Q. Okay. Not a complete list then, but just a
25 partial one; is that right?

1 A. That is correct. It's not a full list.

2 Q. Okay.

3 A. It's a partial list.

4 Q. Now, I believe you were also shown a list,
5 and give me a moment to flip over to it. It looks
6 slightly different than that one that has art
7 purchased by Paul and Tori at the top?

8 A. Yes.

9 MR. MASSALON: And forgive me, Your
10 Honor, I'll find it in a second.

11 THE WITNESS: It's Exhibit No. 21.

12 Q. Oh, thank you.

13 Okay. So Exhibit No. 20 is actually titled,
14 Art Purchased by Paul and Tori.

15 A. Right.

16 Q. And is that list the same or substantially
17 the same as the one that we just looked at in
18 Exhibit No. 30?

19 A. It's different.

20 Q. Okay. And is it also incomplete?

21 A. Yes.

22 Q. Okay. So neither one of these two lists in
23 No. 3 or No. 21 are complete lists of the art that
24 you and Mr. Stein purchased?

25 A. That's correct.

1 of the kind of email that you would typically see
2 Paul send?

3 A. Yes. You always looked forward to getting
4 an email from Paul. It was always a story. It was
5 also very flowery. His inability to tell stories,
6 but he sure could do it when he was writing it. He
7 had plenty of time to do it, yes.

8 Q. Now, the section you were asked to read is
9 over on, I guess, the second page of this exhibit,
10 and when you look at this, there were actually
11 three days' worth of writings in this one email; is
12 that right?

13 A. Yes, it looks like he's -- he started it on
14 February 12th, then he picked it back up on
15 February 19th and then he finished it the next day
16 on February 20th.

17 MR. MASSALON: Okay. And, again, Your
18 Honor, I won't belabor it and ask her to read it,
19 but if I may just publish the full contents of this
20 email, not just the section that was read.

21 THE COURT: That's fine.

22 MR. MASSALON: Which is just a couple
23 paragraphs.

24 Q. Now, you were asked a number of times by
25 Mr. Rosen about communications between you and

1 that period between March and July?

2 A. Yes.

3 Q. Okay. So about a little over half the time
4 you were actually physically in the hospital?

5 A. Correct.

6 Q. Now, during that time period, did
7 Mr. Stein's children visit him?

8 A. Yes.

9 Q. And about how often did he see his children?

10 A. Nichole lived in Memphis. She would come in
11 about once a month for several days as long as she
12 could.

13 Richard was living in Greenville. He was
14 going to school and held a job, so he came in as
15 often as he could, but not as often as Nichole.

16 Then Sarah was in town. Seems like she was
17 getting her master's at the Citadel, and so she
18 would come in several times a week, at least two or
19 three times.

20 Q. And when Mr. Stein was in the hospital, did
21 he have his laptop computer with him?

22 A. Always.

23 Q. And Mr. Rosen asked you a question, again,
24 somewhat like this: Did you have access to his
25 computer and passwords? And you said something

1 like, we all did.

2 A. Correct.

3 Q. And when you said, we all did, who did you
4 mean by that?

5 A. Anybody that was in there visiting with him
6 that also knew that he kept all his passwords
7 inside his laptop.

8 Q. Okay. And would that have included his
9 children?

10 A. Yes.

11 Q. Okay. Now, when he was in the hospital, was
12 he active? And by that I mean was he in
13 communication with people outside the hospital?
14 Did he get a lot of visitors or was he pretty sick
15 and quiet most of the time?

16 A. No, I mean, in the beginning we were all
17 energetic. We played jokes on the nurses. They
18 played jokes on us. We walked around the halls.
19 Yes, I mean, basically visitors would be -- my
20 daughter and the children, I lived there. Well, I
21 lived there, but -- and I had friends, my friends
22 that would come in and visit, but that's about it.

23 Q. And there was some mention and I can't
24 remember if it was a question or an answer,
25 somebody mentioned that he was in the quarantine

1 MR. BLANCHARD: Your Honor, during the
2 cross-examination of Tori Stein that occurred
3 earlier, Mr. Massalon went through questions about
4 her conversations with Paul about his estate, so I
5 think the door's been opened.

6 MS. ALLEN: Your Honor, with regard to
7 Ms. Stein's testimony, she's not claiming an
8 interest in the art. I don't think it's the same
9 credibility issue as it relates to the claims that
10 Nichole Stein Jones is making in her testimony.

11 THE COURT: I'm going to allow it
12 because I thought the door was opened through
13 Tori Stein.

14 Q. To get back to my question, during your
15 conversation with your father at the hospital at
16 MUSC on March 28, 2013, did you talk with him about
17 his estate at that time?

18 A. We did.

19 Q. What did you discuss?

20 A. He told me that he had -- he pulled up his
21 list.

22 THE COURT: Can I go back? He asked
23 what you discussed. You can't say what he told
24 you. You can say what was discussed.

25 THE WITNESS: Okay. We discussed an

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1 Excel document that he had created that he had
2 decided to list all the pieces that were not in the
3 Hanna Bekker vom Rath collection. He said that
4 he -- it was much easier of a task and so he had,
5 you know, completed that.

6 Q. Okay. So based on your conversations with
7 your father, it was easier for him to create a
8 document that listed out the pieces of art that
9 Paul, your father, and Tori had acquired together;
10 is that correct?

11 A. That's correct.

12 Q. And then did he indicate what he wanted to
13 do with the rest of his art?

14 A. Yes. He pointed out that the collection,
15 the Hanna Bekker vom Rath collection and all the
16 furniture pieces, which there are only a few, would
17 go to the three children and he was specific about
18 the stamp collection and the coin collection going
19 to my younger sister.

20 They had been working on that for the last
21 couple of years, I think. She would stop by and it
22 was an entertaining way for him to take his mind
23 off of things and so he wanted her to have that.

24 MS. ALLEN: Your Honor, same objection
25 for the record.

1 THE COURT: Thank you.

2 Q. I'm going to ask you to look at exhibits in
3 the book, binder. We'll start with Exhibit No. 3
4 and I'm actually going to ask you some questions
5 about Exhibits 3, 4, all the way to Exhibit 10, so
6 3, 4, 5, 6, 7, 8, 9 and 10, and I'll give you a
7 chance just to kind of thumb through those if you
8 need to, but just let me know when you're ready.

9 A. I think I'm ready.

10 Q. Let's start with Exhibit 3. Can you just
11 tell me what that is?

12 A. So this is the list that was discussed that
13 he pointed out the stamp and coin collection would
14 be given to Sarah, and then he pointed out that the
15 art collection would be divided between the three
16 of us.

17 Q. And just for the record, Exhibit No. 3 is an
18 email from Paul Stein dated March 28, 2013 and it
19 is addressed to your email address; is that
20 correct?

21 A. That is correct.

22 Q. And tell me the circumstances of when this
23 email would have been sent. What was going on at
24 that time?

25 A. We were talking about how he had updated

1 things, how he told me everything was okay and not
2 to worry, so, you know...

3 Q. But was this email sent while you were
4 physically present with your father?

5 A. Yes, I was sitting on his bed and he had his
6 laptop on the tray, so...

7 Q. Did he tell you that he was sending you
8 emails or sending you things?

9 A. He did, yes.

10 MS. ALLEN: Same objection, Your Honor.
11 Again, I may just, for the record, repeat it
12 throughout the record for these emails with regard
13 to what he may have said.

14 THE COURT: That's fine.

15 Q. Who sent the email which is Exhibit No. 3?
16 Who sent that email to you?

17 A. My dad.

18 Q. The email itself at the top in the header,
19 it has your father's name typed; is that correct?

20 A. That's correct.

21 Q. In the from field, do you see that?

22 A. Yes.

23 Q. And whose email address is that in the front
24 field?

25 A. In the from field, it's Paul Stein.

1 Q. And the middle of the email, which is the
2 part from you, appears to be dated February 8th.
3 Do you agree with that?

4 A. I do.

5 Q. Okay. And you look down in that email, it
6 looks like you were writing your aunt in Germany,
7 right?

8 A. Yes.

9 Q. And you say here that you had talked to your
10 dad several times about wanting him to update his
11 will with regard to the art, right?

12 A. Yes, that's what it says.

13 Q. Okay. And what does it say with regard to
14 the efforts that you had made?

15 A. I have tried in email, in person, and on the
16 phone.

17 Q. So prior to February 9th, you had been
18 trying to ask your dad about his will and the art.
19 You tried by email, right?

20 A. Yes, I did, presumably.

21 Q. You tried by phone?

22 A. Yes.

23 Q. And you even said you tried in person.

24 A. Yes.

25 Q. Right. And it looks like here you indicate

1 that he would just respond with excuses; is that
2 right?

3 A. He responded with the fact that he reassures
4 me that he has a verbal agreement with Tori and
5 that she understood his wishes. That was his
6 response.

7 Q. Okay. And you were upset by that even in
8 early February?

9 A. I don't know if I was upset. I was
10 concerned.

11 Q. Okay. You were concerned enough to send
12 your aunt in Germany an email and ask her to speak
13 with him about it?

14 A. Yes.

15 Q. Okay. And then again in March, on
16 March 22nd, you texted your dad and asked him for a
17 copy of his will, right, and he still didn't send
18 it to you?

19 A. That's correct.

20 Q. Let me show you what has been marked as
21 Defendant's Respondent's Exhibit No. 13.

22 MS. ALLEN: Frank, do you have that
23 one?

24 (Attorneys confer.)

25 MS. ALLEN: Your Honor, could we take

1 THE COURT: Okay.

2 Q. And really my question is not as complicated
3 as maybe I'm making it. My question is the exhibit
4 that I just handed you, that is what it looked like
5 when it came to you on your email on March 28th,
6 right?

7 A. On March 28th when my father and I were
8 talking, he sent it from Paul.

9 Q. Okay. And so you received an email from
10 your dad's email address?

11 A. Yes.

12 Q. And all it had was an Excel spreadsheet
13 attached to it?

14 A. As far as I can remember, yes. I mean --

15 Q. And you say that he sent you that twice?

16 A. Yes.

17 Q. And it didn't say, dear Nichole, please find
18 attached the list that we've been talking about?
19 It didn't say that?

20 A. I was sitting right there. I don't know why
21 he would have written something to me if I was
22 sitting there, so no, it did not say that.

23 Q. Okay. And that's the same with regard to
24 all of the emails that you received that day. I
25 think there was a total of seven --

1 A. That's correct.

2 Q. -- right? None of them had any salutation
3 to you?

4 A. So they -- when you're saying salutation, I
5 don't think I really understand what you're --

6 Q. Okay. None of them said, dear Nichole,
7 please find attached a list that we've been talking
8 about.

9 A. That's correct.

10 Q. It didn't say, dear Nichole, here is the
11 Sotheby's statement that shows the money that was
12 put into your account. It didn't say anything like
13 that.

14 A. Because we were talking in person, that's
15 correct.

16 Q. Okay. And all seven of them are identical
17 in that sense.

18 A. They appear -- yes.

19 Q. Okay. If you would, take a look at the Art
20 Bought By Paul and Tori XLS file which is printed
21 and attached to several of these emails. And if I
22 could direct your attention to the -- sort of
23 the -- what I would call the spreadsheet on the
24 back page that has all the life insurance numbers?

25 A. Okay.

1 Q. Okay? You -- if you'll look down sort of in
2 the third column of numbers, you'll see some life
3 insurance references, right?

4 A. In the third column of numbers.

5 Q. In the third column of information that
6 starts with Jefferson Pilot and it has your name,
7 Richard, Nichole and Sarah, with a bunch of numbers
8 underneath, do you see those columns?

9 A. Okay. Yes.

10 Q. And it looks like they're dividing up some
11 amount of money or funds pursuant to this chart,
12 right?

13 A. That's what it looks like.

14 Q. And neither you, your sister or your
15 brother, you guys didn't receive any part of any
16 life insurance policy, right?

17 A. That's correct.

18 Q. And in this particular chart, it also has a
19 notation that says cash, and then under each of
20 your names, it has \$333,333 for each of you, which
21 is a million dollars, right?

22 You guys didn't receive any cash
23 distribution or provision in his will for a million
24 dollars split in thirds from your dad?

25 A. You're asking me if we received a million

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1 dollars in cash directly from his will?

2 Q. I'm asking you if you got \$333,333 from your
3 dad pursuant -- after his death?

4 A. The only thing -- and you're talking about
5 from his will or --

6 Q. Just after his death, have you received any
7 money other than through the Merrill Lynch bank
8 account?

9 A. No, no, no.

10 Q. So whatever's on this chart with your name,
11 Richard's name and Sarah's name and Alex's name, to
12 your knowledge, with regard to all these dollar
13 figures, none of this actually happened, right?

14 A. That's correct.

15 Q. Okay. And did your dad tell you that day
16 what all this stuff was on this spreadsheet?

17 A. He went over that he had updated his
18 insurance policies, that he wanted the artwork to
19 go to the three children, the stamp and the coin
20 collection should go to Sarah and that -- you know,
21 we didn't go into the specifics of each cell on
22 this sheet.

23 Q. Okay. You said you were sitting on his
24 bed --

25 A. Yes.

1 Q. -- right?

2 A. Yes.

3 Q. And that you were maybe looking over his
4 shoulder while he was sending it to you?

5 A. No, he had -- in the hospital they have a
6 tray that can be slid over a bed and can move to
7 the side, so it wasn't something that I was looking
8 at all the time with him. He wasn't pointing. We
9 were talking. More than looking at documents, we
10 were talking.

11 Q. Okay. Do you recall looking at this
12 particular document that day?

13 A. Briefly, yes.

14 Q. Okay. And do you recall asking your dad,
15 what's all this stuff about all these life
16 insurance policies and the money?

17 A. Like I said, I wasn't going -- I was
18 listening to him talk. I wasn't -- I was -- wasn't
19 going to interrupt with specifics that I didn't
20 have any reason to ask.

21 Q. Okay. Did he say anything about all these
22 life insurance numbers and divisions of money?

23 A. Just that he had updated his estate.

24 Q. Okay. And other than the sentence at the
25 bottom of this document, you're not claiming that

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1 the rest of this document has to do with anything
2 in this case, are you?

3 A. We're most concerned with the fact that the
4 artwork that has been in our family for three
5 generations stays in our family.

6 Q. Okay. So the answer to that is nothing
7 other than the sentence at the bottom of this page?

8 A. That's correct.

9 Q. And you don't have any idea about what all
10 this other stuff is?

11 A. I don't know if Tori has distributed
12 \$100,000 to Alex or any of those things. I have no
13 idea.

14 Q. Okay. But you heard her testify earlier
15 today that that did not happen, right?

16 A. I heard testimony earlier that the moneys
17 were paid to her. I don't know what she's done
18 with them.

19 Q. But you know, for example, that under this,
20 Nichole, you didn't get \$125,000 from any Jefferson
21 Pilot policy, right?

22 A. That's correct.

23 Q. And you didn't get 162 from the State Farm?

24 A. I did not.

25 Q. You did not get 162.5 from the third State

Clark and Associates Inc.

1 Q. And what are those documents?

2 A. These are copies of emails sent from the
3 email account of Paul Stein to Nichole Stein.

4 Q. And are all the emails dated March 28th,
5 2013?

6 A. Yes, sir, they are.

7 Q. And were they sent within about an hour's
8 time period?

9 A. Yes, sir.

10 Q. If you look at the first one, it has a time
11 of 3:43 p.m., that's Exhibit 3, and then the last
12 one, Exhibit 10, has a time of 4:10 p.m.

13 A. Yes, sir, that's correct.

14 Q. The from field on these emails gives what
15 information?

16 A. They give the information that the -- they
17 list the email account that these emails were sent
18 from.

19 Q. And whose account was that?

20 A. The display name is Paul Stein. It's
21 Paul@ABI.Comcastbiz.net.

22 Q. What information is in the to field on each
23 of these emails?

24 A. The information -- the email account these
25 items were being sent to, which is Nichole Stein,

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1 emails were sent that are marked as Exhibits 3
2 through 10?

3 A. It was located either on or in close
4 proximity to the Medical University to be able to
5 connect to their network.

6 Q. Were you able to reach any opinions as to
7 whether the emails that are marked as Exhibits 3
8 through 10 use any preprogrammed signature blocks?

9 A. Some had signatures and some didn't that I
10 recall.

11 Q. And if you look at Exhibits 3 and 4, do
12 those emails use a preprogrammed signature block?

13 A. They use no signature.

14 Q. And as I understand your testimony from
15 earlier, that would have been the default on
16 Paul's --

17 A. There was no default. You would have to
18 choose each time. It would not automatically put
19 anything. So I guess in a roundabout way you could
20 say that it was a default setting if you had to
21 choose and otherwise you have nothing.

22 Q. So what this indicates is that no signature
23 block was actually chosen.

24 A. That's correct.

25 Q. And then I think if you look at Exhibits 5,

1 A. Yes, sir. And the reason I say that is the
2 first date in his multipart section says February
3 12th. If he had started composing it as a draft,
4 then I would have expected to find that information
5 within the email program itself, and I did not.

6 Q. If you'll turn to -- the Exhibit has some
7 page numbers at the bottom. If you'll turn to page
8 116, and on that page does the email contain a
9 signature block?

10 A. Yes, sir, it does. This is the one that is
11 listed in his account as "husband".

12 Q. And the signature says, "Love, Paul," is
13 that correct?

14 A. And phone numbers, yes, sir.

15 Q. And were you able to determine whether that
16 was one of the signature blocks that was on Paul's
17 computer?

18 A. Yes, sir, as I said, when you create
19 signatures, you have to give them a name, and this
20 particular one was named husband.

21 Q. And in order for this signature block to
22 have been part of this email, what would the sender
23 have had to have done?

24 A. Had to go, as they're composing the email,
25 click on the signature icon and choose that

1 29th, I'm sorry, March 28th, 2013, emails, did you
2 look in Mr. Stein's deleted files folder to see
3 what happened to them after they were sent?

4 A. I'm sorry. Can you rephrase that, sir?

5 Q. Sure. Let me ask you perhaps a better
6 question. You were asked some questions about Mr.
7 Abrams' affidavit.

8 A. Yes, sir.

9 Q. And I'm going to show you a copy of it, and
10 it's got some big Xs on some paragraphs that look
11 like this (indicating) because the Judge said that
12 we can't talk about that.

13 A. Yes, sir.

14 Q. But I would like for you to look at
15 paragraph No. 7 and then let me know when you're
16 done.

17 A. Yes, sir, they are located in the deleted
18 section of his email.

19 Q. Okay. And did you examine the deleted
20 section of Mr. Stein's email to see if it was his
21 routine practice to send an email and then delete
22 it?

23 A. I did not take a look at it for that
24 purpose, no, sir.

25 Q. When you looked, did you notice that all the

1 emails that were sent from his computer on March
2 the 28th had been deleted and were in the deleted
3 folder?

4 A. I'm aware of that, yes, sir.

5 Q. Okay. But you didn't look at the ones
6 before it or after it to see if that happened all
7 the time when he sent email.

8 A. No, sir.

9 Q. And I'm correct that essentially this
10 process would be required to accomplish that thing,
11 the email would have been sent, then someone would
12 have had to go from the inbox folder to the sent
13 items folder and then, either one at a time or by
14 holding down the -- is it the Alt key or the Ctrl
15 key to highlight them all?

16 A. You can do Ctrl A or the Ctrl key.

17 Q. And then they have to hit delete to move
18 them from the sent file to the deleted file.

19 A. Yes, sir.

20 Q. And the only way to get them completely out
21 of the deleted file would be then to go to the
22 deleted file and delete them from there.

23 A. Well, that would put them in the trash.

24 Q. Well, that would put them in the trash.
25 You're right. And then to get them out of the

1 trash you'd have to throw your computer away,
2 right?

3 A. Delete them from trash.

4 Q. All right. But you don't know or have any
5 opinions about whether that was the standard thing
6 for Mr. Stein to do with email that he sent, to
7 promptly delete it, or whether he just did it for
8 these seven emails.

9 A. I have no idea why he would have done it.

10 Q. Do you know how long after they were sent
11 they were moved from the sent folder to the deleted
12 folder?

13 A. No, sir.

14 MR. MASSALON: Okay. Let me see if I
15 have any more questions about the Abrams affidavit.

16 Your Honor, I know we talked about
17 doing this, but I don't think we ever actually
18 moved the redacted Abrams affidavit.

19 THE COURT: You haven't.

20 MR. MASSALON: May I move that into
21 evidence?

22 THE COURT: Do you have an objection?

23 Why don't we do this, when we take a
24 recess, give him time to look and then we'll --

25 MR. MASSALON: Sure, absolutely.

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1 move Exhibit 8 into evidence, please.

2 MR. ROSEN: No objection.

3 (Respondent's Exhibit 8 admitted into
4 evidence.)

5 Q. Do these three statements show the
6 distributions that were made from the account under
7 the transfer on death agreement?

8 A. Yes.

9 Q. Okay. And if we look just at the summary
10 page of each on the first one, starting with the
11 August 1 statement or August 1 to August 30
12 statement, it shows that cash of \$1,074,706 was
13 paid out during that period?

14 A. That's what it appears on the, you know,
15 from looking at the cover sheet.

16 Q. And you don't have any reason to think this
17 isn't right, do you?

18 A. I don't, no.

19 Q. And the same August 1 to August 30 statement
20 shows 751,953 in securities that were transferred
21 out, correct?

22 A. Correct.

23 Q. And so the total transferred out of this
24 account in August of 2013 was \$1,826,659.81?

25 A. Correct.

1 mother which is what he refers to as his garmon
2 artwork collection," and should that be German
3 artwork collection?

4 A. It should.

5 Q. "Separately, he and his wife have collected
6 some artwork, as well as his wife had artwork prior
7 to their marriage." Is that an accurate summary of
8 information that Mr. Stein would have told you
9 during this meeting on March 12?

10 A. My recollection was that he had artwork that
11 he collected himself, he had artwork that he had
12 received from his family, he had artwork that he
13 had collected with Tori, and that Tori had separate
14 artwork that she had collected.

15 Q. The artwork that he referred to as his
16 German artwork collection, that would have been art
17 pieces that he would have collected from his
18 family, either his mother or his grandmother.

19 A. That's my understanding.

20 Q. And is that what Paul Stein told you during
21 the meeting on March 12?

22 A. That's my recollection.

23 Q. The memorandum keeps on that, "in lieu of
24 the significant volume of artwork that he has
25 inherited/received from his family, he's going to

1 Q. I wanted to ask a few follow-up questions
2 about the elective share issue. As far as the
3 discussion that you had with Mr. Stein about that
4 issue on March 12, the elective share discussion is
5 only important if Paul Stein had intended to leave
6 significant assets to someone other than Tori
7 Stein; is that correct?

8 A. If he intended to leave assets that were --
9 yes, that's correct, a significant portion of his
10 estate, that's correct.

11 Q. If Paul intended to leave more than one
12 third of his probate estate to Tori Stein, then
13 there would be no reason for Tori Stein to file an
14 elective share if Paul died.

15 A. That's correct, be no basis.

16 Q. I just kind of wanted to go through with you
17 the numbers that you have in your memorandum and
18 sort of do this elective share calculation. Mr.
19 Stein told you that he had \$2.5 million in a
20 Merrill Lynch account, correct?

21 A. That's correct.

22 Q. He told you that he had 2.5 to \$3 million in
23 artwork, although he did not tell you specifically
24 how much of that money would have been allocated
25 towards the German art collection; is that correct?

1 A. That's correct.

2 Q. He told you he had real estate worth about
3 \$400,000.

4 A. Yes.

5 Q. And he told you the amount of the life
6 insurance that he had, and your recollection is
7 that it was somewhere over a million dollars?

8 A. That's my recollection.

9 Q. The life insurance that we've gone over in
10 this case totaled to about \$1.75 million. Is that
11 consistent with what Mr. Stein would have told you
12 during the meeting of March 12?

13 A. I do not recall what the amount was. My
14 recollection was it was more than a million, but I
15 don't recall what the exact amount was.

16 Q. I think the record's going to reflect that
17 all of these life insurance policies would have
18 predated his meeting with you on March 12, 2013.
19 Do you believe that those policies are what he's
20 referring to when he was meeting with you on March
21 12th?

22 A. Well, I hate to assume, but I would assume
23 so here. Once again, he was supposed to send me a
24 list of them, but that didn't happen.

25 Q. Well, if you assume for purposes of this

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1 was going to be selling the artwork?

2 A. His plan was, as he explained it to me, that
3 he could sell one of the pieces of art and pay for
4 the surgery, and my comment to him at the time was
5 that a sale of that art would create taxes so he
6 had to make sure that the funds were available to
7 pay the tax and anticipated medical expenses.

8 Q. Okay. And you said you think you recall
9 having lunch with him?

10 A. Yes.

11 Q. Were you guys -- I know you said he was your
12 client, but was he also a friend or an acquaintance
13 outside of the work?

14 A. He was somewhat of, yes, of an acquaintance.
15 You know, we had -- one of our best friends were
16 mutual friends of ours, and I knew Paul outside of
17 the the office and his family.

18 Q. Okay. And so you said you think you had
19 lunch -- you remember having lunch with him, and is
20 that the first time he told that he had cancer?

21 A. Yes.

22 Q. So you have a specific recollection of that
23 question.

24 A. Yes. We had lunch at the Harbour Club, and
25 it was such a shock when he told me, I still

1 (Court's Exhibits 1-2 marked for
2 identification.)

3 MR. BLANCHARD: Your Honor, if I could
4 just hand up to you, we have designated excerpts
5 from Marian Stein-Steinfeld's deposition. Opposing
6 counsel has also counter-designated some pages, and
7 we've included both designations and the documents
8 as well as the pages from the transcript, which I'm
9 going to hand up to Your Honor. We would ask that
10 that be admitted.

11 THE COURT: Okay. Thank you.

12 MS. ALLEN: Your Honor, Respondent has
13 also designated designations from Marian
14 Stein-Steinfeld and Natalie or Tasha Ewert. The
15 Marian Stein-Steinfeld designation is page 29,
16 lines 9 through 20. And the Tasha Ewert
17 designations are pages 7 through 8, lines 22
18 through 9 on the 8th page, and lines 41 -- I'm
19 sorry, page 41, lines 2 through 19, all of which
20 are also attached here, and I'd like to pass that
21 up and have it admitted.

22 THE COURT: Okay. Thank you.

23 MR. BLANCHARD: Christy, do those
24 include our designations?

25 MS. ALLEN: No.

EXHIBIT “B”

1 (Court's Exhibits 1-2 marked for
2 identification.)

3 MR. BLANCHARD: Your Honor, if I could
4 just hand up to you, we have designated excerpts
5 from Marian Stein-Steinfeld's deposition. Opposing
6 counsel has also counter-designated some pages, and
7 we've included both designations and the documents
8 as well as the pages from the transcript, which I'm
9 going to hand up to Your Honor. We would ask that
10 that be admitted.

11 THE COURT: Okay. Thank you.

12 MS. ALLEN: Your Honor, Respondent has
13 also designated designations from Marian
14 Stein-Steinfeld and Natalie or Tasha Ewert. The
15 Marian Stein-Steinfeld designation is page 29,
16 lines 9 through 20. And the Tasha Ewert
17 designations are pages 7 through 8, lines 22
18 through 9 on the 8th page, and lines 41 -- I'm
19 sorry, page 41, lines 2 through 19, all of which
20 are also attached here, and I'd like to pass that
21 up and have it admitted.

22 THE COURT: Okay. Thank you.

23 MR. BLANCHARD: Christy, do those
24 include our designations?

25 MS. ALLEN: No.

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STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)

IN RE ESTATE OF:)
PAUL J. STEIN)

RICHARD STEIN, SARAH STEIN,) IN THE PROBATE COURT
and NICHOLE STEIN JONES,)
) Case No. 2013-ES-10-1054

) Petitioners,)

) vs.)
))
VICTORIA MARTINDALE STEIN,)
Personal Representative of the)
Estate of PAUL J. STEIN,)
) Respondent,)

))
MARIAN STEIN-STEINFELD,)
))
Intervening Respondent.)

- - -

VIDEOCONFERENCE DEPOSITION OF NATALIE EWERT

DATE: Wednesday, November 21, 2016, at 9:00 a.m.
PLACE: Collins Reporting Service
615 Adams Street
Toledo, Ohio 43604
REPORTER: Lillian J. Altpeter, RPR
Notary Public

- - -

Collins Reporting Service, Inc.
615 Adams Street Toledo, Ohio 419-255-1010

1 A I do not.

2 Q Did Paul ever tell you what was -- well, let
3 me ask you this: Did Paul ever share his will with you?

4 A He did not.

5 Q Did he ever tell you what was in it?

6 A He did not.

7 Q Did Paul ever tell you what he was doing
8 with the art as it relates to his will?

9 A He did not.

10 Q What did you know -- well, let me strike
11 that.

12 Were you aware that Paul sold a Dolinsky
13 painting several months prior to his death?

14 A I was not aware of it.

15 Q When did you become aware of that?

16 A After his death or before his death. I was
17 not -- no, I was not aware of it.

18 Q But he did not discuss that with you?

19 A No.

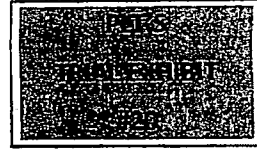
20 Q Did you and Paul ever discuss the cost of
21 the medical treatment he was undergoing?

22 A No, not really. No, we did not. All I --

23 Q Did you and Paul ever talk about the income
24 taxes which arise generally from the sale of your or his

EXHIBIT “C”

Von: Paul Stein paul@abi.comcastbiz.net
Betreff: Update
Datum: 20. Februar 2013 23:26
An: Marian Stein-Steinfeld Marian.Stein-Steinfeld@gmx.net



February 12, 2013

Dear Marian,

Thank you for your kind words of encouragement in your resent email. Word does get around fast with the internet. I am in good spirits although once in a while I feel used and worn out. Thank you for thinking of Tori also; she was delighted with your consideration. This letter will be disjointed because I started and stop the letter several times

Before I go on I can't remember if I thanked you for the catalog so I maybe repeating myself none the less I can't thank you enough. Many thanks for the "Phanomen Expressionismus" catalog; it arrived in a plastic sleeve; somewhere in transit your letter was exposed to water and your written note was not discernible. However the stamps and catalog survived. I will be taking it with me to Largo this weekend and leave it with Barbara to read at her leisure. Sarah has taken some time from work and will accompany me on the drive; I am so delighted with her company.

Last Thursday (Feb. 8th) we had our first real rain fall since the beginning of the New Year. Normally by this time of the year we would have had 160 cm of rain. 50 cm of rain fell last Thursday; yesterday, Monday another 50 cm of rain fell to the ground and today it appears that an additional 60 cm is accumulating on the ground. The skies have been gray for the past two days unloading their liquid elixir.

The garden is in ready for spring; forsythia bush is in full bloom with it small yellow leafy peddles; the crabapple tree has opened its blooms; the 20 camellias are all covered in their various hue blossoms and the azaleas have multi-color early bloomers. It's a wonderful sight to see and enjoy the spring time festive colors so early.

2/19/2013

I had originally thought that I would finish this letter in Largo but after we arrived I developed a fever and had to start taking antibiotic to combat a cold over all I felt gloomy. Our visit was a very brief short visit mid-day Friday retuning at 4:30 to take her out to dinner; Saturday was the same; always

Petitioners 00114

keeping a distance with the hope of not introducing my cold to her. About four weeks ago Barbara had a fall while walking home from the dining area one evening. No broken bones or teeth just contusions on her knees, hands and nose. Looking at her during our visit there was no tell-tail signs of her mishap. Her friends jokingly told me she was racing one of the golf carts and tripped.

We stayed at the same Hampton Inn that we stayed at for Barbara's 91st birthday. Sunday we departed for Charleston early morning arriving in Charleston before 6 PM. Sarah was a tremendous help by driving both ways solo while I dozed waking up at key moments with directions. In between my dozing we would talk through many topics; one topic of concern was how the remaining pieces from the HBvR estate would convey to them (my children).

So I explained to Sarah that my solicitor suggestion was to catalog the art and itemize the furniture pieces to whom I want to be the recipient. The furniture was an easy task since there are only 4 major pieces. The art on the other hand has been daunting because he also wanted appraised values for each piece. What I did to simplify the issue was to list the art pieces that Tori and I have collected together and listed them, all remaining art, sculptures (wood, stone & bronze) and the contents of the two grey cabinets will belong to the HBvR estate which is to be passed on to my three children. Should a question arise as to whether a certain piece is in fact part of the HBvR estate that you would be the mediator.

Once while Nichole was visiting I downloaded a copy of my photo catalog files which has been sitting in my computer because I lacked the talent to organize it into a finish product.

The CT-scan that was performed last Monday the 11th displayed some to no reduction in size of the internal lymph nodes. The periportal and periaortic nodes (these are near the kidneys) have increased in size by as much as .5 cm. I was scheduled to have the T-cell infusion On March 1st but it has been changed to March 15th (at my request) and today I learned that the date my change to March 22nd; I will learn in the morrow a final date. There is a lot of coordination behind the scenes that occur to dovetail the many schedules involved.

Yesterday I had a consultation with a radiation oncologist and today I spent several hours in a prone position while oncologist physics measured me from head to toe, fingertip to fingertip in addition to my thick and thin areas in preparation

Petitioners 00115

for a Total Body Irradiation (TBI).

February 20, 2013

I thought I would wait until I could provide you with a firm date of the T-cell infusion before sending this off to you and it just arrive so I will make it an attachment to this email.

Love,
 Paul
 843.452.6981 US
 011.49.1512.058.7404 Germany

March 2013						
Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22 PICC line placement	23
24 Holdings Infusion 10:30 Admit to ART 5 West	25 Day -4 Fludarabine	26 Day -3 Fludarabine	27 Day -2 Fludarabine	28 Day -1 TBI	29 Day 0 Transplant	30 Day +1 Possible Discharge
31						

Petitioners 00116



Petitioners 00117

EXHIBIT “D”

From: Paul Stutz <psst@atl.com>
Subject: Ad bought by Paul A. Tolsted
Date: March 20, 2013 2:43:15 PM CDT
To: "Nichole Steln" <nicholesteln@gmail.com>



Attachment: 18 KB

Ad bought... 18 KB

Behrens, Howard	<i>Roof Top Garden (Mexico)</i> Giclee on paper	2003	30 x 37 1/2 inches
		106/175	
Chihuly, Dale	<i>Ikebana Geysers</i> Intaglio/Lithograph with handwork	2007	25 x 37 inches
		96/175	
Godard, Michael	<i>Ganster Martini (2 shots & a splash)</i> Giclee on canvas	2004	28 x 37 1/2 inches
		152/300	
Nechita, Alexandra	<i>Winning Together</i> Lithograph	1998	24 x 19 inches
		330/2500	
Simbari, Nicola	<i>Caribbean Fruit</i> Serigraph	168/175	31 x 43 inches
		168/175	
Sutzkever, Rina	<i>Untamed Beauty</i> Embellished lithograph on board	2003	28 x 20 inches
		2003	
Dr. Seuss	<i>Horton Line Drawing</i> Pigment Print on Somerset Enhanced Satin Paper	159/850	15 x 21 inches
		159/850	
	<i>Horton Hears A Who</i> Line Drawing	1285/2500	9 x 12 inches
		1285/2500	
	<i>They've Proved They Are Persons</i>		

		9 x 12 inches
	1443/2500	
	<i>Artist Worrying About His Next Book</i>	
		11 1/4 x 15 1/4 inches
	CP28/155	
Nakisa, Seika	<i>Romantic Escape</i>	
	Giclee on silver foil	
		12 x 16 inches
	44/195	
Steynovitz, Zamy	<i>The Wedding II</i>	
	Serigraph	
	1995	
		6 1/2 x 4 7/8 inches
	16/300	
	<i>Shabbat Bouquet</i>	
	Serigraph	
	1995	
		4 3/4 x 6 3/8 inches
	A/P	
Walt Disney	Anamation	
	<i>Bambi</i>	
	Serigraph	
		11 3/4 x 8 1/8 inches
	Anamation	
	<i>How to Play Golf</i>	
	Serigraph	
		11 3/4 x 8 inches

Life Insurance on Paul Stein

Jefferson-Pilot	JP5241675	\$	500,000.00		To the Estate of
State Farm	1973-5678		\$750,000.00	Term	To the Estate of
State Farm	1934-2832	\$	250,000.00	Universal Life	To the Estate of
State Farm	2283-8363	\$	<u>280,000.00</u>	Term	Tori
		\$	1,780,000.00		

			Tori		
			1780	\$	400,000.00
Jefferson-Pilot	JP5241675	LI/ est of		\$	125,000.00
State Farm	1973-5678	LI/ est of		\$	187,000.00
State Farm	1934-2832	LI/ est of		\$	62,500.00
State Farm	2283-8363	Tori		\$	<u>280,000.00</u>
				\$	1,054,500.00

			Richard	Nichole	Sarah
Jefferson-Pilot	JP5241675	LI/ est of	\$ 125,000.00	\$ 125,000.00	\$ 125,000.00
State Farm	1973-5678	LI/ est of	\$ 162,500.00	\$ 162,500.00	\$ 162,500.00
State Farm	1934-2832	LI/ est of	\$ 62,500.00	\$ 62,500.00	\$ 62,500.00
			\$ 350,000.00	\$ 350,000.00	\$ 350,000.00
		cash	\$ <u>333,333.00</u>	\$ <u>333,333.00</u>	\$ <u>333,333.00</u>
			\$ <u>683,333.00</u>	\$ <u>683,333.00</u>	\$ <u>683,333.00</u>

Collection of Art from Hanna Bekker vom Rath (HBvR) are to be divided between Richard, Nichole & Sarah
 Heirlooms from HBvR such as Frankfurter Cabinet, 3 chairs, and chest are to be given to Richard, Nichole & Sarah
 All stamp and coin collection to be given to Sarah

Alex
\$ 100,000.00
\$ -
\$ 0
\$ 100,000.00

EXHIBIT “E”

1 STATE OF SOUTH CAROLINA
2 COUNTY OF CHARLESTON IN THE PROBATE COURT
3 IN RE ESTATE OF
4 PAUL J. STEIN
5 RICHARD STEIN, SARAH STEIN, and
6 NICHOLE STEIN JONES,
7 Petitioners,
8 vs. CASE NO. 2013-ES-10-1054
9 VICTORIA MARTINDALE STEIN, Personal
10 Representative of the Estate of
11 PAUL J. STEIN,
12 Respondent,
13 MARIAN STEIN-STEINFELD,
14 Intervening Respondent.
15 VIDEO TELECONFERENCE
16 DEPOSITION OF: MARIAN IRENE STEIN-STEINFELD
17 DATE: May 27, 2016
18 TIME: 8:30 a.m.
19 LOCATION: Wills, Massalon & Allen
20 97 Broad Street
21 Charleston, SC
22 TAKEN BY: Counsel for the Respondent
23 REPORTED BY: Janice N. Shepherd, RPR
24
25 A. WILLIAM ROBERTS, JR., & ASSOCIATES
Fast, Accurate & Friendly
Charleston, SC Hilton Head, SC Myrtle Beach, SC
(843) 722-8414 (843) 785-3236 (843) 839-3376
Columbia, SC Greenville, SC Charlotte, NC
(803) 731-5224 (864) 234-7030 (704) 573-3919



A. WILLIAM ROBERTS, JR., & ASSOCIATES (800) 743-DEPO
scheduledepo.com

1 Do you see that paragraph?

2 A. Yeah.

3 Q. Was this the first notice that you
4 received of Mr. Stein's decision to sell that
5 particular piece?

6 A. That I don't recall. Maybe he has
7 mentioned it before. Maybe that was the first
8 time. I don't -- I don't remember.

9 Q. Okay. At the time that he informed you
10 of his plans, do you know why he was selling it?

11 A. Well, he was already very sick at that
12 time, and so I think -- or the way I understood it
13 was partially also to have the financial resources
14 for his treatments.

15 Q. Okay. Did he speak to you about the
16 financial costs of his treatments?

17 A. No.

18 Q. Did he tell you what he planned to do
19 with the money from that particular piece?

20 A. No.

21 Q. And you mentioned earlier that you
22 passed on his, I guess, offer to Maximiliane and
23 that she was not able to purchase it at that time?

24 A. Yes, that's right.

25 Q. Did you do anything else to -- in an

THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM THE PROBATE COURT
NINTH JUDICIAL CIRCUIT

Tamara C. Curry, Judge

Probate Court Case No. 2013-ES-10-1054

RECEIVED

OCT 18 2017

S.C. SUPREME COURT

Richard Stein, Sarah Stein, and Nichole Stein Jones..... Respondents,

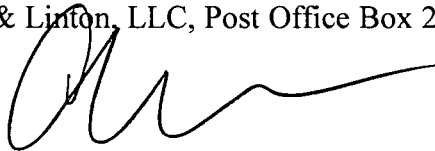
v.

Victoria Martindale Stein, Personal Representative of the Estate of Paul J. Stein
..... Appellant.

PROOF OF SERVICE

I certify that I have served Appellant's Petition to Certify Case for Review in the Supreme Court by depositing a copy of it in the United States Mail, postage prepaid, on October 17, 2017, addressed to their attorneys of record, Jack D. Cordray, Esquire, Cordray Law Firm, Post Office Drawer 22857, Charleston, South Carolina 29413, Richard S. Rosen, Esquire and Daniel F. Blanchard, III, Esquire, Rosen, Rosen & Hagood, LLC, Post Office Box 893 Charleston, South Carolina 29402, and on Intervening Respondent addressed to her attorneys of record, G. Trenholm Walker, Esquire, Walker Gressette Freeman & Linton, LLC, Post Office Box 22167, Charleston, South Carolina 29413.

October 17, 2017



John A. Massalon, Esquire
Christy Ford Allen, Esquire
WILLS MASSALON & ALLEN LLC
Post Office Box 859
Charleston, South Carolina 29402
(843) 727-1144
jmassalon@wmalawfirm.net
callen@wmalawfirm.net

ATTORNEYS FOR APPELLANT